

PCRA WEBINAR

RULE 4000

Saturday, August 27, 2016

- SCOPE:

- These rules

- Are implemented to govern the making, preserving, and transcribing of the proceedings in judicial districts.
 - apply *only* to judicial districts. The Commonwealth Court was removed because of their limited capacity as a court of original jurisdiction.
 - 4001(B)(2)... to ensure that qualified court reporting services are available in each judicial district **AND that court reporters are fairly compensated**

4001

- Court Reporter means ... court reporters employed, *contracted*, or utilized by a court ...
 - ~THIS INCLUDES FREELANCE REPORTERS AND PER DIEM REPORTERS USED IN THE COURTROOM~

- **DEFINITIONS**

- Clarifications were made to some definitions -
- Distinguished Court Administrator from District Court Administrator
- Expanded the term “President Judge” to include situations when a judge other than the PJ has authority to issue rules or adopt procedures.
- Added definitions of “ordinary transcript” and “same day delivery.”
- Removed definitions of financial institution account identifiers

- Committee on Court Reporting and Transcripts
 - Expanded the membership of the Committee to include two members of the County Commissioners Association of Pennsylvania due to the financial impact this Rule creates on County governments

- QUALIFICATIONS

- “Certify” and “certification” were removed as those terms have specialized meanings in the field of court reporting.
 - REPORTERS ARE NOT REQUIRED TO OBTAIN RPR (or higher) CERTIFICATION.
- Added requirement for continuing education to maintain qualification for employment in the judicial districts.
 - THIS APPLIES TO ANY REPORTER PROVIDING SERVICES TO THE JUDICIAL DISTRICT ~ INCLUDING FREELANCE REPORTERS AND PER DIEM REPORTERS

- Qualifications cont'd
 - ~Counties are NOT required to test reporters; the PJ merely has to approve that the reporter meets the minimum criteria (which mimics graduation requirements from a court reporting program and the RPR testing criteria[4004(B)(1)&(2), (C)]
 - PJ can do this based on the reporter's work experience, administering a timed test, accepting a CSR from another state, to state a few
 - ~Reporters currently employed in a judicial district are considered qualified
 - ~Reporters who hold a certification are considered qualified
 - ~*requalification* is achieved by obtaining 30 hours of continuing professional education every three years. [4004(D)(1)]

4004

- **TRANSCRIPTIONISTS**

- Must be approved by the President Judge. This is especially relevant in judicial districts where ER is used to capture the proceedings.

- One of the main goals of this provision is to ensure transcript deadlines are met.

Court
reporters

courtroom

- Be flexible

- It may be necessary to reassign reporters to achieve this goal.

Appellate
transcript
deadlines

4006



No employment outside of your official duties, unless permitted under §VI(f) [regarding conflicts of interest]

AND

Permission is obtained by your President Judge

AND

You are in substantial compliance with these rules regarding timeliness of transcripts

**4006(D) – Code of Conduct for
Employees of the UJS [§VI(f)]**

4006(E)

Make sure
there is a
central
backup

procedure
in place to
ensure

transcripts
can be
produced

- Reporters must prepare a monthly report of pending appellate transcripts and provide it to DCA
- A *quarterly* report will be provided to AOPC by the Ct. Admin

4006(F)

**SIMPLEST
SCENARIO**

Reporter
sends
litigants
copies, if
ordered,
upon
payment of
costs.
4009(D)

Private litigant
requests a
non-appeal
transcript and
pays deposit.
4007(D)(1)

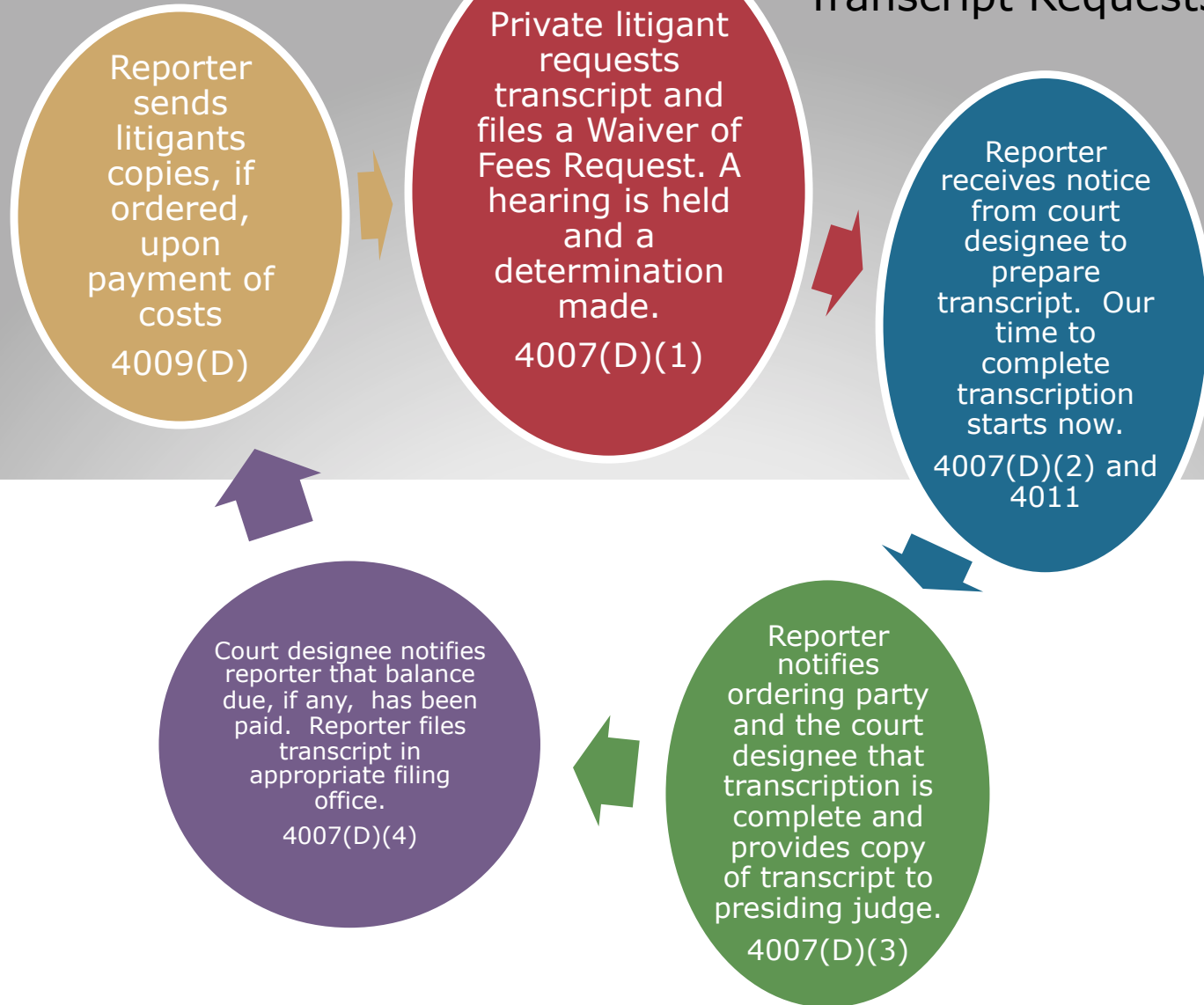
**Transcript
requests -
4007**

Reporter
receives notice
from court
designee to
prepare
transcript. Our
time to
complete
transcription
starts now.
4007(D)(2) and
4011

Reporter notifies the
ordering party and
the court designee
that transcription is
complete and
provides copy of
transcript to
presiding judge.
4007(D)(3)

Court designee
notifies reporter that
balance due has
been paid. Reporter
files transcript in
appropriate filing
office.
4007(D)(4)

Transcript Requests - 4007



As stated in the comments for Rule 4007: It is anticipated that court reporters shall continue to be compensated for the preparation of transcripts pursuant to local rule or practice. It is not contemplated that this rule shall interfere with or otherwise limit the income of court reporters. In this regard, the Committee recognizes that in certain jurisdictions, court reporters earn a substantial portion of their income through the preparation of transcripts. It shall remain the duty of the president judge and district court administrator to assure that the implementation of these rules does not unfairly limit the ability of court reporters to be properly compensated for their professional services.

- Rule 4000 does not eliminate transcript income; it does, however, change the way we receive payment for transcripts.
 - The maximum rates called out in the Rule apply to all private-pay individuals who are requesting a transcript unless a Waiver or Reduction of Fees has been granted.
 - The rates in the Rule apply to transcripts for all proceedings, both criminal AND civil.
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- Requires Judicial Districts to enact a local rule to include:
 - Procedure to request a transcript (AOPC to provide the request form)
 - Procedure to request a fee waiver
 - What do reporters get paid in the event of fee waiver/reduction being granted?
 - Fees charged to the public for all court reporting products
 - Electronic transcript requests
 - Surcharges for realtime and technical matters
 - Who prepares the invoice for the transcript

- TRANSCRIPT FORMAT
 - Adopted the NCRA guidelines.
 - This *requires* all transcripts prepared to be formatted using the NCRA guidelines.

Transcript Deadlines – 4011

Pa.R.A.P. 1922 imposes a 14-day transcript deadline. This Rule simply incorporates a requirement which has always existed.

Appeal Transcript

Within 14
days of
notice from
district
court admin
or designee

Ordinary Transcript

Within 30
days of
notice
(which
occurs upon
payment of
deposit)

Non-ordinary Transcripts

Within 45
days of
notice
(which
occurs upon
payment of
deposit)

Upon showing of good cause to PJ, reporters may request a one-time extension of 30 days to complete transcription, regardless of the category of transcript. Children's Fast Tracks take priority.

- SANCTIONS FOR DELAYED TRANSCRIPTS
 - At the discretion of the President Judge
 - *** IMPORTANT *** This final version of Rule 4000 *eliminated* the provision permitting the DCA to require one reporter to transcribe the notes of another reporter.

- **CERTIFICATION OF TRANSCRIPT**
 - Add a provision to your certification page that the transcript is ..."true and correct and meets the format specifications established by the Supreme Court of Pennsylvania in Rule 4010."

- REDACTION OF PERSONAL DATA IDENTIFIERS

- Granted at the discretion of the presiding judge
- Redacted information is *only redacted from the Original filed in the appropriate filing office AND in any copy provided to a non-party (such as the media)*. The copies provided to the Court and the parties shall be UNREDACTED.

- **OWNERSHIP OF NOTES**

- All media (including audio, steno notes, backup tapes, SD cards, etc.) are the sole property of the judicial district.
- ***IMPORTANT*** court reporting software and equipment purchased by the court reporter shall remain the property of the court reporter.
- *** IMPORTANT *** unfortunately, the COMMENT section includes a note that "nothing in these rules prohibits someone who has lawfully obtained a transcript from making a copy." We were unsuccessful in our attempt to include the limiting language of "...for their own purposes." WE NEED TO EDUCATE OUR ATTORNEYS ABOUT WHY THEY SHOULD NOT PROVIDE A FREE COPY OF THE TRANSCRIPT TO OPPOSING COUNSEL.

- STORAGE AND RETENTION

- Removed the provisions regarding exhibits because it is outside the scope of these Rules. A separate rule is being promulgated.
- Each Judicial District must provide for the archiving, storing, and retrieving of the notes of testimony to ensure a transcript can be produced even in the event of the death, incapacity, or unwillingness of a court reporter to produce the transcript.

Rates at a Glance

Civil and Criminal Proceedings

Ordinary Original and Copy

- \$2.50 Electronic delivery of original
- \$0.25 Surcharge for paper delivery of original
(if condensed, \$0.25 surcharge is for
each condensed sheet, regardless of
the number of transcript pages
contained thereon)
- \$0.50 Electronic delivery of copy
- \$0.75 Paper delivery of copy

Rates at a Glance

Civil and Criminal Proceedings

Expedited Original and Copy

- \$3.50 Electronic delivery of original
- \$0.25 Surcharge for paper delivery of
original (if condensed, \$0.25
surcharge is for each condensed
sheet, regardless of the
number of transcript pages
contained thereon)
- \$0.50 Electronic delivery of copy
- \$0.75 Paper delivery of copy

Rates at a Glance

Civil and Criminal Proceedings

Daily Original and Copy

- \$4.50 Electronic delivery of original
- \$0.25 Surcharge for paper delivery of
original (if condensed, \$0.25
surcharge is for each condensed
sheet, regardless of the
number of transcript pages
contained thereon)
- \$0.50 Electronic delivery of copy
- \$0.75 Paper delivery of copy

Rates at a Glance

Civil and Criminal Proceedings

Same-Day Original and Copy

- \$6.50 Electronic delivery of original
- \$0.25 Surcharge for paper delivery of original (if condensed, \$0.25 surcharge is for each condensed sheet, regardless of the number of transcript pages contained thereon)
- \$0.50 Electronic delivery of copy
- \$0.75 Paper delivery of copy

Rates at a Glance

Civil and Criminal Proceedings

Complex Litigation Original and Copy

- A judicial district may enact a local rule that permits a trial judge to impose a reasonable surcharge in cases such as mass tort, medical malpractice, or other unusually complex litigation where there is a need for court reporters to significantly expand their dictionary.

Rates at a Glance

Civil and Criminal Proceedings

Realtime Feed Original and Copy

- Pursuant to local rule, a reasonable fee may be charged for a secure electronic feed which instantaneously delivers the translated notes from the court reporter to a laptop, tablet, phone or other portable electronic device via cable, wifi, router or Bluetooth to parties, the media, or other interested individuals. There shall be no fee charged to the court for such a connection.

Rates at a Glance

Civil and Criminal Proceedings

Court/County-Paid Original and Copy

- These rates must be negotiated with your President Judge.
- The categories of Ordinary, Expedited, Daily, IFP (including Legal Aid clients), Economic Hardship (both full and partial waiver of fees), and Rough Draft should be addressed.

TYPICAL FEE SCENARIO

- An attorney requests a transcript. The Original is paperbound because your judicial district does not have electronic filing and he wants his copy paperbound.


\$2.75 for the Original (\$2.50 + \$0.25 surcharge paperbound)

\$0.75 for the ordering attorney's copy (paperbound)

– **TOTAL PER PAGE: \$3.50**


- OPPOSING PARTY'S COPY EITHER \$0.75 OR \$0.50

WHAT TO NEGOTIATE WITH THE PRESIDENT JUDGE



The rates paid TO THE COURT REPORTER for private-pay transcripts
Surcharge for Complex Litigation
Surcharge for Realtime Feed
Court/County-Paid rates
Membership in PCRA/NCRA and payment for CEUs

Heads up to freelance reporters



The maximum page rates set forth in this rule apply to you, too

Transcript request procedure goes through court designee, not directly with you

Adjust appearance fee to offset any financial impact from page rates

Represented by a Union?

- **Because reporter page rates won't be set by Rule, but will be established by the President Judge of each Judicial District, reporter page rates become an economic issue.**

◦ **Suggested verbiage:**

◦ **For all transcripts produced:**

- **Court reporters will be compensated for original pages produced, and copies therefrom, at the full rates established in Pa. R.J.A. 4008, et seq., which shall be paid as a direct pass-through in the same pay period within which proper documentation of completion of transcription is submitted.**

Seek professional advice on the impact of these

- o **US Department of Labor changes
regarding employee classification
status beginning December 1, 2016:
www.dol.gov/whd/overtime/final2016**
- o **HR 1225, Court Reporter Fair Labor
Amendments of 1995:
[www.congress.gov/bill/104th-congress/
house-bill/1225](http://www.congress.gov/bill/104th-congress/house-bill/1225)**