

Superior Court of California, County of Santa Clara

Civil Division and Probate Division Court Reporters

Effective July 24, 2017, this policy regarding PRIVATELY RETAINED COURT REPORTERS is applicable to all Civil and Probate courtrooms, except as noted below.

POLICY OF THE SANTA CLARA SUPERIOR COURT

TITLE: PRIVATELY RETAINED COURT REPORTERS

PURPOSE: A party has the right to arrange, at the party's own expense, for the services of a court reporter if the services of an official court reporter are not available for a proceeding. (Government Code Section 68086 and California Rules of Court, rule 2.956.) This document establishes the policy for a party arranging for a privately retained court reporter when an official reporter is not available and establishes requirements for qualifying as an official reporter pro tempore.

APPLICATION OF THIS POLICY: This policy applies only to hearings and trials in the Civil Division and the Probate Division in unlimited civil matters, limited civil matters to the extent not electronically recorded and probate matters. Court reporters will be provided by the Court in all of the following cases: felony criminal, family, dependency, Lanterman-Petris-Short (LPS) Act, guardianships of the person or estate, civil harassment and civil contempt – including any of these cases that are assigned for trial or hearing to the Civil Division, or to be heard by a Judge assigned to the Civil Division.

POLICY:

1. If the services of an official court reporter are not available for a proceeding, a party may privately arrange for court reporter services at the party's own expense, pursuant to Government Code Section 68086 and California Rule of Court, rule 2.956.
2. A party must make arrangements for a reporter in advance of the proceeding if the party wishes the proceedings to be reported. Parties retaining a reporter must file a *Stipulation and Appointment of Official Reporter Pro Tempore* (CV-5100) with the court at least 5 days prior to the hearing. All parties or counsel who

wish the proceedings to be reported by the reporter to be appointed must sign the stipulation. If the judicial officer has not received the Stipulation in time to approve it before the hearing, the Court has discretion to deny the request.

- A. When a party arranges for a reporter, the reporter must be appointed as an official reporter pro tempore before the hearing begins. Every reporter must complete and sign sections 1, 2, and 3 of the *Stipulation and Appointment of Official Reporter Pro Tempore* (CV-5100).
 - B. The Judicial Officer must sign the order appointing the reporter as an official reporter pro tempore, using the *Stipulation and Appointment of Official Reporter Pro Tempore* (CV-5100), before the reporter may report the proceeding.
3. By signing the *Stipulation and Appointment of Official Reporter Pro Tempore* (CV-5100), the reporter agrees to the following:
- A. The reporter has a valid, current California Certified Shorthand Reporter License and is in good standing with the Court Reporters Board of California.
 - B. The reporter is not a current full-time employee of the court and appointment as an official reporter pro tempore will not interfere with the reporter's obligations as a court employee.
 - C. The reporter will provide current contact information with the court.
 - D. All fees for reporting services, including appearance, transcript and real-time fees, are the responsibility of the party or parties who arranged for the reporter services and may not be charged to the court.
 - E. The reporter will comply with statutes and rules applicable to official reporters pro tempore, including the duty to timely prepare transcripts, including those for appeals, in the proper form.
 - F. The reporter will demonstrate the highest standards of ethics and impartiality in the performance of his/her duties.
 - G. The reporter will comply with the court's requirements regarding uploading electronic archiving of notes within 48 hours of the date of the proceedings except in extenuating circumstances and as approved in advance by the Director of Court Services, or make other arrangements if the only notes are in paper form.

- H. The reporter will follow directions from the court and will be subject to the jurisdiction of the court to the same extent as an official reporter.
- I. The reporter will be available for read-back of notes taken during a jury trial within 30 minutes of the court's request.
- J. If providing real-time reporting or other litigation support services (e.g. LiveNote), the reporter is responsible for providing and connecting the necessary equipment. Instructions will be provided by the Director of Court Services.

4. Additional Information for Parties and Reporters

A. Only One Official Record

There can be only one official record of court proceedings, and only a reporter appointed by the court may report a court proceeding. (Code of Civil Procedure Section 273; Government Code Sections 70043 and 70044; *Redwing v. Moncravie* (1934) 138 Cal. App. 432, 434.) Only one reporter will be allowed to report a court proceeding at any given time. If the parties cannot agree on a reporter, the judicial officer will make the selection. The transcript may not be modified except on court order.

B. Payment for Official Reporter Pro Tempore Services

The party arranging for an official reporter pro tempore is responsible for paying the reporter's fees, although the parties may arrange to share the fees at terms the parties negotiate. (California Rules of Court, rule 2.956(c).) All fees must be paid directly to the court reporter.

C. Fee Waivers Not Applicable

In cases where the court does not provide court reporters, litigants – including litigants with fee waivers – are not entitled to have the court provide or pay for a court reporter. Fee waivers apply only to fees charged by the court. They do not apply to court reporter fees and costs in cases where the court is not providing the court reporter. Privately retained court reporters are not paid by the court.

D. Transcripts

- 1) The judicial officer may order any party who arranges for the transcription of proceedings by the official reporter pro tempore to lodge a copy of the transcript with the court. (Code of Civil Procedure Section 128(a).)
 - 2) Transcripts produced by an official reporter pro tempore will be treated, for court purposes, identically to transcripts prepared by official reporters. Reporting notes of an official reporter pro tempore are official records of the court. (Government Code Section 69955(a).) The notes of an official reporter pro tempore, when transcribed and certified, are prima facie evidence of the testimony and proceedings. (Code of Civil Procedure Section 273(a).)
 - 3) Certified transcripts are admissible as evidence to the extent otherwise permitted by law. Transcripts prepared by a privately retained certified shorthand reporter appointed by the court as an official reporter pro tempore are admissible as evidence to the extent otherwise permitted by law. (Code of Civil Procedure Section 273(a).)
5. The *Stipulation and Appointment of Official Reporter Pro Tempore* (CV-5100) is available as a form attachment to the Local Rules at www.scscourt.org.
 6. This policy shall be posted on the court's website at www.scscourt.org.