

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

RE:)
ADOPTION OF MANAGEMENT PLAN) GENERAL ORDER NO. 292
FOR COURT REPORTING AND)
RECORDING SERVICES)

The attached Management Plan for Court Reporting and Recording Services was adopted by the Judges of this District on July 8, 1992, and approved by the Judicial Council of the Ninth Circuit on October 27, 1992.

DATED: October 28th, 1992.

FOR THE COURT:

[Signature]
ROBERT E. COYLE, Chief Judge
Eastern District of California

MANAGEMENT PLAN FOR COURT REPORTING
AND RECORDING SERVICES

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

ADOPTED BY COURT July 8, 1992
(Date)

APPROVED BY NINTH CIRCUIT JUDICIAL COUNCIL October 27, 1992
(Date)

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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

PLAN FOR EFFECTIVE UTILIZATION
OF COURT REPORTERS

I. STATEMENT OF ADOPTION OF PLAN BY COURT

This Plan for Effective Utilization of Court Reporters in the United States District Court for the Eastern District of California has been approved and adopted by the court subject to approval of the Ninth Circuit Judicial Council.

II. APPLICABILITY OF PLAN

This Plan is applicable to all reporters/recorders employed by the court.

III. SUPERVISION OF COURT REPORTERS

The court will designate the Clerk of the United States District Court responsible for the day-to-day management and supervision of an efficient reporting service within the court. The Clerk of this Court or designee shall have duties and responsibilities which shall include, but not be limited to, the following:

(1) Reviewing transcripts to assure full compliance with format requirements of the Administrative Office of the United States Courts and the Judicial Conference of the United States.

(2) Reviewing transcript billings to assure that authorized transcript rates are charged and that billing is in proper form. (See Appendix A for rates and Appendix B for information required to be included on all billings.)

(3) Reviewing the time records of the court reporters/recorders to assure proper maintenance and accuracy.

(4) Reviewing the records of the court reporters/recorders to assure the timely filing of all reports required by the Administrative Office of the United States Courts and the Judicial Conference of the United States.

(5) Acting as liaison to the Court of Appeals as to matters pertinent to court reporters/recorders and transcript production.

(6) Performing such other duties relating to court reporting/recording services as shall be directed by the court.

(7) Meeting with all court reporters at the time of separation to ensure that (a) all notes and tape recordings have been filed in accordance with Title 28, United States Code, Section 753 and with paragraph XIII of this Plan; (b) the court reporters understand their responsibility for preparing any transcripts currently ordered but not yet filed or which might be ordered after separation and properly execute a certification in this regard. (See Appendix E for certification form.)

IV. ASSIGNMENT OF REPORTERS

(1) Reporters shall be primarily assigned to an individual judge. However, it is the policy of this District that court reporters are not employed by or permanently assigned to an individual judge. They are employed by the court en banc. It is the policy of this court that a reporter shall continue to retain employment at the will of the court en banc regardless of the death, resignation, or retirement of an individual judge. In the period between such occurrence and the appointment of a new judge, reporters shall continue to serve other active judges, senior judges and magistrate judges.

(2) Whether a reporter is available to cover proceedings for judicial officers other than the judge to whom he/she is primarily assigned depends on the extent of his/her other commitments on actual in-court/chambers services. Transcript preparation requirements may be considered by the Clerk when insuring adequate courtroom coverage, but do not in themselves free reporters from their responsibilities to record proceedings for judges, senior judges or magistrate judges.

V. FREELANCE REPORTING

Court reporters placed under the Leave Act are not permitted to perform any private (freelance) work of any kind during their regular tours of duty.

VI. MAGISTRATE JUDGES

(1) Proceedings before United States Magistrate Judges may be recorded by electronic sound recording or by a court reporter. The magistrate judge shall determine which technique is to be used as to each case or hearing, taking into account the provisions of 28 U.S.C. §§ 753(b) and 636(c)(7), and any other applicable authorities.

(2) Should a magistrate judge feel that it is necessary that the services of a court reporter be utilized in a particular case, a request to provide a reporter shall be directed to the Clerk of this Court or designee.

VII. UTILIZATION OF CONTRACT REPORTERS TO REPLACE OFFICIAL REPORTERS

Contract reporters will not be paid by the court to relieve official reporters to help alleviate transcript backlogs. Reporters have a continuing responsibility for transcript production of substitute reporters they hire, including the making of requests for extension of time.

Contract/freelance reporters may be utilized only when all official court reporters/recorders are occupied in court reporting proceedings pursuant to the policies of the Judicial Conference of the United States.

Contract/freelance reporters may be utilized in the place of official reporters/recorders on authorized leave pursuant to the

terms of the Leave Act when no official reporter/recorder is available to replace the reporter/recorder on such leave.

Travel of contract/freelance reporters within the district shall be limited to those occasions when no official reporter/recorder is available to travel to the location requiring reporting services and when such use of a contract/freelance reporter would be less costly to the government overall than utilizing an official reporter/recorder in travel status.

VIII. PRODUCTION OF HOURLY/DAILY TRANSCRIPTS

Production of hourly or daily transcripts are not to be subsidized by the court. If extra reporters are required to provide such transcripts, the cost of such reporters shall be paid by the official reporter out of the earnings derived from the higher transcript rates as established by the Judicial Conference. This provision does not, however, prohibit other official reporters from assisting in producing such transcripts if there are no other official proceedings to record, including those of senior judges and magistrate judges and when no substantial transcript backlog will result.

IX. FEEES FOR TRANSCRIPTS FOR OFFICIAL PROCEEDINGS

(1) All transcripts shall be produced in the format required by the Judicial Conference of the United States.

(2) No court reporter, whether official or contract, shall charge fees for transcripts of official proceedings exceeding

those recommended by the Judicial Conference of the United States, and adopted by the court.

(3) A copy of the allowable fees (see Appendix A) shall be posted in the Clerk's Office. The posting shall be prominently displayed in an area generally available to the public.

(4) Each court reporter/transcriber shall furnish to the Court Reporter Supervisor a copy of each billing for official transcripts, together with the court's free copy of the transcript for filing. (See Appendix B for information required to be included on all billings.) The term "official transcript" shall be deemed to be any transcript of any proceeding before a judge or magistrate judge of this court, whether conducted in chambers or in open court, and regardless of the reason the transcript may be produced.

(5) Each court reporter/transcriber is required to certify on each invoice that the fees charged and page format used conform to the regulations of the Judicial Conference of the United States. (See Appendix B.)

(6) For transcripts in non-appellate cases the full price may be charged only if the transcript is delivered within the required time frame. For example, if an expedited transcript is not delivered within seven (7) calendar days, payment would be at the ordinary rate. For transcripts not delivered within thirty (30) calendar days, payment would be reduced to 90% of the ordinary rate. (See Appendix C for computation of transcript delivery dates.)

(7) For transcripts in cases on appeal the full price may be charged only if the transcript is delivered within thirty (30) days or within such other time as may be prescribed by the Court of Appeals. (See Appendix C for computation of transcript delivery dates.) Reduced rates for late delivery are as follows:

(a) 90% for transcripts delivered between thirty-one to sixty (31 to 60) days;

(b) 80% for transcripts delivered after sixty (60) days. No fee may be charged which would be higher than the fee corresponding to the actual delivery time.

In the case of a transcript which is subject to Fed. R. App. P. 11(b), the reduction in fee may be waived by the Clerk of the Court of Appeals for good cause shown.

Nothing contained herein should be construed as sanctioning untimely delivery, nor should this provision be considered the only penalty which can be imposed by the court or Circuit Council on habitual offenders.

X. CJA TRANSCRIPTS

(1) All transcripts produced for and on behalf of Criminal Justice Act defendants shall be billed on CJA form 24.

(2) The routine apportionment of accelerated transcript costs among parties in criminal cases is prohibited.

(3) In multi-defendant cases involving CJA defendants, no more than one (1) transcript should be purchased from the reporter/transcriber on behalf of CJA defendants. One of the

appointed counsel or the Clerk of this Court should arrange for the duplication, at commercially competitive rates, of enough copies of the transcript for each of the CJA defendants from whom a transcript has been approved. The cost of such duplication will be charged to the CJA appropriation.

(4) The respective court reporter/recorder is responsible for assisting the ordering party in the proper preparation of form CJA 24.

(5) In individual cases involving cases involving requests for accelerated transcripts, the court may grant an exception to the policy set forth in subparagraph (3) of this paragraph based upon a finding that application of the policy will unreasonably impede the delivery of accelerated transcripts to persons proceeding under the CJA. Such finding should be reflected on the transcript voucher.

(6) The Clerk of this Court is hereby designated to verify receipt of CJA transcripts and ascertain the propriety of each voucher before submitting the same to the appropriate judicial officer for approval. Payment shall be made by the Clerk upon approval of the judge or magistrate judge as may be appropriate.

XI. TIME LIMITS FOR DELIVERY OF TRANSCRIPT

All transcripts of official proceedings produced by the court reporters for this District for the purpose of appeal to the Ninth Circuit Court of Appeals shall be delivered to the ordering party and filed with the Clerk of this Court within the time

prescribed by the Ninth Circuit Court of Appeals. Transcripts being produced for use by judicial officers of this court shall be delivered to the ordering party and filed with the Clerk of this Court within the time prescribed by that judicial officer. This schedule shall not be deviated from unless an extension has been obtained from the appropriate Clerk of the Court, i.e., the Clerk of the Court of Appeals in cases involving appeal transcripts and the Clerk of this Court in all other cases. A reporter who fails to meet the prescribed time limits for the delivery of a transcript may be subject to fee reductions imposed by the Judicial Conference or be required to obtain substitute reporters while they prepare overdue transcripts.

Where practical, all orders for transcripts shall be in writing. Copies of requests for transcripts shall be made available to the Clerk for inspection upon request. First priority shall be given to the production of transcripts which involves incarcerated defendants, especially those cases which challenge the imposition of the death penalty and cases on appeal. Transcripts for criminal appeals which challenge sentences imposed under the sentencing guidelines issued by the U.S. Sentencing Commission pursuant to 18 U.S.C. § 3742, shall be a priority.

XII. FILING OF SHORTHAND NOTES AND ELECTRONIC RECORDINGS

(1) The shorthand notes prepared by the official reporters will be maintained in the area designated by the Clerk. Those notes of contract reporters will be certified and filed with

the Clerk within thirty (30) days of completion of the proceeding.
(See Appendix D.)

(2) Pursuant to the provisions of 28 U.S.C. § 753(b), reporters must transcribe and certify all arraignments, pleas and proceedings in connection with the imposition of sentence in criminal cases unless they have been recorded by electronic sound recording and such recordings have been certified and maintained in the office of the official reporters. Official and contract reporters shall file with the Clerk transcripts of such proceedings within thirty (30) days of their occurrence unless an electronic recording device was utilized, in which event the electronic recording, accompanied by a certification of the official reporter, shall be filed as soon as the recording, cassette, reel, etc., has been used to capacity. (See Appendix D and E.)

XIII. REPORTS REQUIRED TO BE FILED

At regular intervals as specified by the Clerk of this Court, each court reporter/recorder shall file with the Clerk of this Court an attendance report which details the amount of time that court reporter/recorder actually served in court, together with a detailed report describing any transcript backlog which may exist at the time of filing the report. The report shall be in the format prescribed by the Clerk of this Court.

XIV. SANCTIONS

Any violation of this Plan shall be referred to the Chief Judge for appropriate action.

XV. EMPLOYMENT

(1) Court reporter services shall be provided to the court from the following sources:

- (a) Salaried permanent staff reporters
- (b) Salaried temporary staff reporters
- (c) Contract court reporters

(2) Court reporters shall be appointed in accordance with the provisions of 28 U.S.C. § 753 of the United States Code and the policies and procedures of the Administrative Office of the United States Courts and the Judicial Conference of the United States. Only fully qualified reporters pursuant to 28 U.S.C. § 753 shall be appointed. Court reporters shall serve at the pleasure of the court. Court reporters who do not perform in a competent and satisfactory manner or who do not comply with the requirements of this Plan shall be subject to dismissal.

To be eligible for employment an application must:

(a) Be certified by the National Shorthand Reporters Association or the California Certified Shorthand Reporters Board.

(b) Have at least four years experience as a court reporter.

XVI. HOURS OF ATTENDANCE AND LEAVE POLICIES

Salaried permanent and temporary staff court reporters for the Eastern District of California will be available in the courthouse for assignment between the hours of 8:00 a.m. and 5:00 p.m. on normal business days unless otherwise excused and shall earn annual and sick leave in accordance with the provisions of 5 U.S.C. § 6301, et seq. Except in emergencies, requests for annual leave will be made in advance and approved by the Clerk or designee.

(1) Leave records for official court reporters shall be maintained by the Clerk of this Court in the same manner as those of deputy clerks. All requests for leave shall be submitted on Form SF-71, Application for Leave.

(2) Annual and sick leave are chargeable in one-hour increments. All annual leave requested must be accrued before it may be used. Planned sick leave (i.e., appointments, treatments, etc.) must be requested far enough in advance to permit the scheduling of an alternate reporter.

(3) Other provisions governing use of annual and sick leave are contained in the Personnel Manual of this Court.

(4) Court reporters placed under the Leave Act are not permitted to perform any private (freelance) work of any kind during their regular tours of duty.

(5) It is the court reporters' responsibility to inform the court when fatigue suggests the inability to maintain an accurate record. If hours are extended beyond the normal business

day routinely, discussions should be held with the administration and court to obtain relief help to ensure the integrity of the record.

XVII. REPORTS TO BE FILED WITH THE ADMINISTRATIVE OFFICE OF THE U.S. COURTS

The following reports are to be filed with the Court Reporting and Interpreting Section of the Administrative Office, United States Courts by each salaried permanent or temporary official reporter:

(1) The Report of Attendance and Transcripts of United States Court Reporters (AO 40-A) shall be submitted quarterly during each calendar year of official reporting. A report for each calendar quarter is to be mailed so that it reaches the office within twenty (20) days after the end of a quarter, a copy of which will be directed to the Clerk of this Court.

(2) The Statement of Earnings of United States Court Reporters (AO 40-B) shall be prepared annually by all official court reporters. The report shall be mailed within sixty (60) days after the end of the calendar year, a copy of which will be directed to the Clerk of this Court. This report shall be kept confidential by the Clerk.

XVIII. SUBSTITUTE COURT REPORTERS

In the event it is determined that a reporter has overdue transcript(s), said reporter may be required to hire and pay

substitute reporter(s) until such time as the overdue transcripts have been prepared. The reporter shall have the responsibility for the transcript production of any substitute reporter(s) so hired. A reporter shall not use substitute reporter(s) without the prior approval of the Clerk of this Court.

XIX. RECORDS TO BE MAINTAINED BY COURT REPORTERS

In order to permit the routine audit and inspection of records, official reporters must maintain accurate, legible, and up-to-date records of their expenses, attendance in court, transcript orders, and invoices. Such records shall be maintained on forms prescribed by the Judicial Conference of the United States and shall include, but are not limited to, the following:

- (1) AO 37 -- Expense Ledger
- (2) AO 38 -- Attendance Ledger
- (3) AO 39 -- Transcript Order/Collections Ledger
- (4) AO 44 -- Invoice

XX. TRANSCRIPT BACKLOGS

The Court Reporter Supervisor is authorized to take necessary steps to reduce or eliminate transcript backlogs or production delays. Such steps may include, but are not necessarily limited to the following:

- (1) Use of substitute or additional reporters;
- (2) Reassignment or rotation of official reporters/
recorders;

(3) Requiring official reporters to hire substitutes at their own expense;

(4) Institution of progressive discipline as may be provided for in the Personnel Manual of this Court. Termination of any official reporter must be approved by the court en banc.

XXI. MISCELLANEOUS PROVISION

Whenever a court reporter is separated (resigns, retires or is dismissed), he or she shall be required to meet with the Clerk or designee and execute a certification form (See Appendix D) regarding his/her responsibilities for the (a) filing of all official notes and tape recordings; (b) preparation of all transcripts which are currently ordered but not yet filed or which might be ordered after separation.

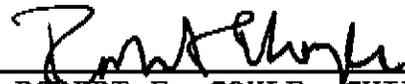
(1) The work of all court reporters shall be "notereadable" so that the notes of a court reporter can be read by another reporter if necessary.

(2) The marking, filing and storing of all notes and tapes shall be in accordance with the note storage procedures outlined in this Plan. (See Appendix D.)

XXII. CONCLUSION

As may be expected with any new program, unanticipated problems will arise that will necessitate amendments to this Plan. Every effort will be made to involve the court reporters in the decision-making process before such amendments are adopted.

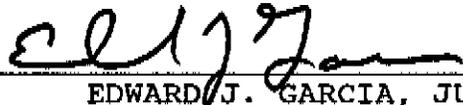
The above Plan for Efficient Utilization of Court Reporters is HEREBY ADOPTED and shall become effective this 8th day of July, 1992.



ROBERT E. COYLE, CHIEF JUDGE
U. S. District Court



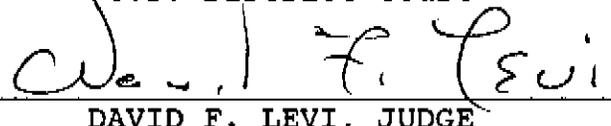
LAWRENCE K. KARLTON, JUDGE
U.S. District Court



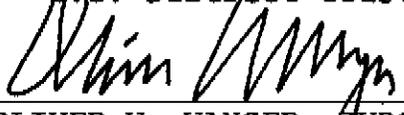
EDWARD J. GARCIA, JUDGE
U.S. District Court



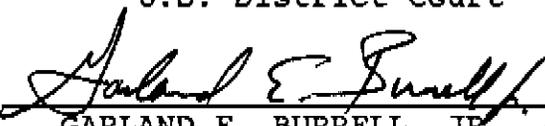
WILLIAM B. SHUBB, JUDGE
U.S. District Court



DAVID F. LEVI, JUDGE
U.S. District Court



OLIVER W. WANGER, JUDGE
U.S. District Court



GARLAND E. BURRELL, JR., JUDGE
U.S. District Court

APPENDIX A
TRANSCRIPT FEE RATES

(As approved by the Judicial Conference, U.S., September 1990)

| | <u>Original</u> | <u>1st Copy to Each Party</u> | <u>Each Additional Copy to Same Party</u> |
|-----------------------|-----------------|-----------------------------------|-----------------------------------------------|
| <u>ORDINARY RATE</u> | \$ 3.00 | \$.75 | \$.50 |
| <u>EXPEDITED RATE</u> | \$ 4.00 | \$.75 | \$.50 |
| <u>DAILY RATE</u> | \$ 5.00 | \$ 1.00 | \$.75 |
| <u>HOURLY RATE</u> | \$ 6.00 | \$ 1.00 | \$.75 |

The above rates are applicable to each page of transcript, excluding the certification page which must be at the end of each volume of transcript.

DEFINITION OF METHOD OF TRANSCRIPTION:

ORDINARY: Transcripts to be delivered within thirty (30) days.

EXPEDITED: Transcript to be delivered within seven (7) days.

DAILY: Transcript to be delivered following adjournment and prior to normal opening hour of court on following morning whether or not it actually be a court day.

HOURLY: Transcript (ordered under usual circumstances) to be delivered within two (2) hours.

NOTE: For multi-defendant criminal cases involving CJA defendants, please refer to Section X(3) of this Plan.

APPENDIX B

INFORMATION REQUIRED TO BE INCLUDED ON ALL BILLINGS

- (1) Name of Client.
- (2) Criminal or Civil.
- (3) Date Ordered.
- (4) Date Delivered.
- (5) In the Matter of.
- (6) Number of Pages.
- (7) Number of Copies.
- (8) Type of Delivery Schedule.
- (9) Discount.
- (10) Refunds.
- (11) Total Due.
- (12) Certification of Reporter or Transcription Firm of Compliance with Fee and Transcript Format Prescribed by the Judicial Conference.

Form AO 44, Invoice, is available (free of charge) from the Administrative Office of the U.S. Courts for use by court reporters.

APPENDIX C

COMPUTATION OF TRANSCRIPT DELIVERY DATES

Transcripts delivery dates are computed from:

- (a) The date on which satisfactory financial arrangements are made, except for transcripts to be paid for by the United States or free copies ordered by the court;
- (b) The date on which the appropriate Transcript Order or CJA 24 form is received by the reporter/transcriber when the transcript is to be paid for by the United States;
- (c) The date on which the court order is provided to the reporter/transcriber when a transcript has been ordered by a judicial officer.

APPENDIX D

PROCEDURES FOR STORAGE OF COURT REPORTERS' NOTES AND TAPES

All shorthand notes and tapes are to be turned over to the Clerk of Court within ninety (90) days after the conclusion of the proceeding. If a transcript is ordered in a case on which the notes have been submitted to the Clerk, the court reporter shall retrieve the notes from storage and shall refile the notes when the transcript is completed.

Procedures For Storage of Shorthand Notes.

(1) All notes shall be filed chronologically and placed in FRC boxes which can be obtained from the Clerk's Office.

(2) The outside of the box should be marked with a label indicating the court reporter's full name, the calendar year, the month and date and case numbers on the notes contained therein. (See Appendix F.)

(3) If the notes for a particular month are too voluminous to be stored in one box, the reporter shall use as many boxes as necessary and identify them in sequence; e.g., Box 89-1(A), Box 89-1(B), Box 89-1(C), would all contain notes for January 1989. Conversely, if the notes for a particular month do not fill one box, the notes for several months may be stored in one box as long as it is identified as follows: Box 89-01, 89-02, 89-03.

(4) Each packet of notes shall be certified and include the case number, case caption, presiding judge, date of proceeding and court reporter's full name.

(5) In order to maintain the security of their shorthand notes, it is recommended that each reporter place their notes in containers on a daily basis and secure them at the end of the day within their office.

Procedures for Storage of Original Tape Recordings.

In accordance with 28 U.S.C. § 753(b), court reporters are required to file with the Clerk of Court either a transcript or an electronic sound recording of all arraignments, pleas, sentences, and other proceedings required by the court. Accordingly, all tape recordings of official proceedings are to be turned over to the Clerk of Court within ninety (90) days after conclusion of a proceeding. Each tape, or series of tapes if they pertain to one trial, must be accompanied by a Filing Certificate Form for Tape Recordings (Enclosure 2).

APPENDIX E

CERTIFICATION OF COURT REPORTER UPON SEPARATION

NAME _____ DATE OF SEPARATION _____

ADDRESS _____

CITY _____ STATE _____ TELEPHONE NO. _____

The following certification is made to the Clerk of this Court upon my separation:

- (1) That all of my stenographic/shorthand notes or tape recordings have been filed with the Clerk of this Court.
- (2) That I am responsible for preparing any transcripts currently ordered but not yet filed and any transcripts ordered after my separation.
- (3) That I will immediately inform the Clerk of this Court of any change in my address or telephone numbers in order to facilitate the preparation of transcripts.

Court Reporter's Signature

Date

Court Reporter Supervisor's Signature

Date

ENCLOSURE 1

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

FILING CERTIFICATION FOR ORIGINAL NOTES

In accordance with 28 U.S.C. § 753(b), I hereby certify that these original notes are a true and correct record of proceedings held in the United States District Court for the Eastern District of California on _____ pertaining to the following:

| <u>Case Number</u> | <u>Case Caption</u> | <u>Judicial Officer</u> |
|--------------------|---------------------|-------------------------|
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |

By _____
(Signature of Court Reporter)

ENCLOSURE 2

CERTIFICATE OF OFFICIAL COURT REPORTER

TO: CLERK, UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT
OF CALIFORNIA

I, _____, certify that I am a duly appointed official court reporter for the United States District Court named above, and that I was present in the courtroom of said court on the _____ day of _____, 19__ and in the regular course of my profession made an electronic sound recording of the proceedings, including the arraignment, plea, and sentence proceedings had in the following cases:

| <u>Docket Number</u> | <u>Name of Defendant</u> | <u>Nature of Proceeding</u> (Arraignment, plea, sentence) |
|----------------------|--------------------------|-----------------------------------------------------------------|
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |

I have played back said recording and certify that it is a true and correct record of the proceedings had, that it is sufficiently intelligible when played on a _____
(Make & Model of Machine)
that it can be transcribed without undue difficulty, and that I have filed the original of said recording in the envelope to which this certificate is attached.

I further certify that I have filed my original (shorthand notes) (other record) taken of these proceedings with the Clerk as required by 28 U.S.C. § 753(b) as amended.

(Signature)

(Place)

(Date)