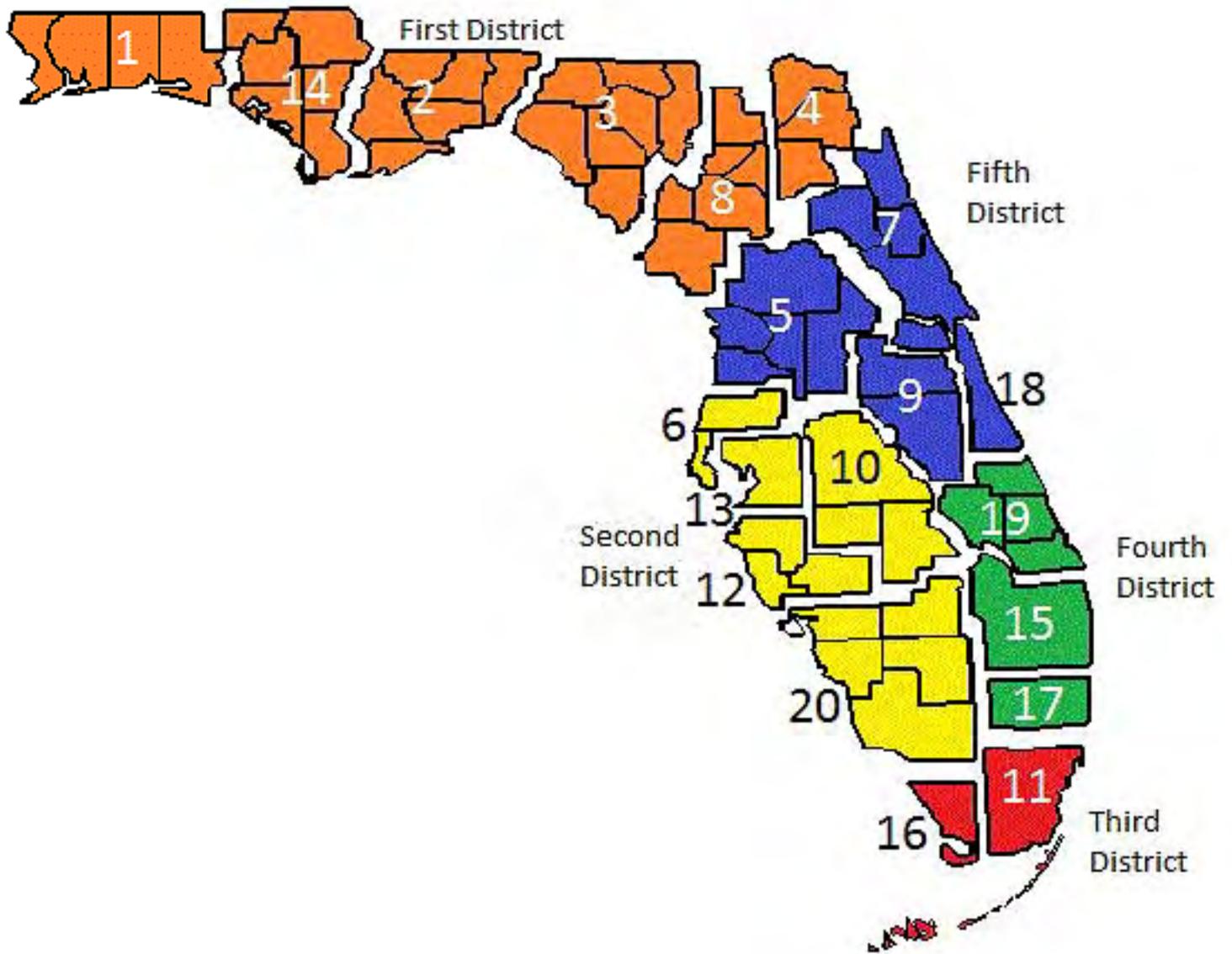


Section I

General Reference

Items



(B) If a child has been found incompetent to proceed, any order staying the proceedings on a state appeal shall have no effect on any order entered for the purpose of treatment.

(d) **References to Child.** The appeal shall be entitled and docketed with the initials, but not the name, of the child and the court case number. All references to the child in briefs, other papers, and the decision of the court shall be by initials.

(e) **Confidentiality.** All documents that are filed in paper format under seal shall remain sealed in the office of the clerk of court when not in use by the court, and shall not be open to inspection except by the parties and their counsel, or as otherwise ordered.

Committee Notes

1996 Adoption. Subdivision (c)(2) is intended to make clear that in non-final state appeals, the notice of appeal must be filed before commencement of the adjudicatory hearing. However, the notice of appeal must still be filed within 15 days of rendition of the order to be reviewed as provided by rule 9.140(c)(3). These two rules together provide that when an adjudicatory hearing occurs within 15 days or less of rendition of an order to be reviewed, the notice of appeal must be filed before commencement of the adjudicatory hearing. This rule is not intended to extend the 15 days allowed for filing the notice of appeal as provided by rule 9.140(c)(3).

Subdivision (d) requires the parties to use initials in all references to the child in all briefs and other papers filed in the court in furtherance of the appeal. It does not require the deletion of the name of the child from pleadings or other papers transmitted to the court from the lower tribunal.

RULE 9.146. APPEAL PROCEEDINGS IN JUVENILE DEPENDENCY AND TERMINATION OF PARENTAL RIGHTS CASES AND CASES INVOLVING FAMILIES AND CHILDREN IN NEED OF SERVICES

(a) **Applicability.** Appeal proceedings in juvenile dependency and termination of parental rights cases and cases involving families and children in need of services shall be as in civil cases except to the extent those rules are modified by this rule.

(b) **Who May Appeal.** Any child, any parent, guardian ad litem, or any other party to the proceeding affected by an order of the lower tribunal, or the appropriate state agency as provided by law may appeal to the appropriate court within the time and in the manner prescribed by these rules.

(c) **Stay of Proceedings.**

(1) **Application.** Except as provided by general law and in subdivision (c)(2) of this rule, a party seeking to stay a final or non-final order pending review shall file a motion in the lower tribunal, which shall have continuing jurisdiction, in its discretion, to grant, modify, or deny such relief, after considering the welfare and best interest of the child.

(2) **Termination of Parental Rights.** The taking of an appeal shall not operate as a stay in any case unless pursuant to an order of the court or the lower tribunal, except that a termination of parental rights order with placement of the child with a licensed child-placing agency or the Department of Children and Families for subsequent adoption shall be suspended while the appeal is pending, but the child shall continue in custody under the order until the appeal is decided.

(d) **Retention of Jurisdiction.** Transmittal of the record to the court does not remove the jurisdiction of the lower tribunal to conduct judicial reviews or other proceedings related to the health and welfare of the child pending appeal.

(e) **References to Child or Parents.** When the parent or child is a party to the appeal, the appeal shall be docketed and any documents filed in the court shall be titled with the initials, but not the name, of the child or parent and the court case number. All references to the child or parent in briefs, other documents, and the decision of the court shall be by initials.

(f) **Confidentiality.** All documents that are filed in paper format under seal shall remain sealed in the office of the clerk of the court when not in use by the court, and shall not be open to inspection except by the parties and their counsel, or as otherwise ordered.

(g) **Special Procedures and Time Limitations Applicable to Appeals of Final Orders in Dependency or Termination of Parental Rights Proceedings.**

(1) **Applicability.** This subdivision applies only to appeals of final orders to the district courts of appeal.

(2) **The Record.**

(A) **Contents.** The record shall be prepared in accordance with rule 9.200, except as modified by this subdivision.

(B) Transcripts of Proceedings. The appellant shall file a designation to the court reporter, including the name(s) of the individual court reporter(s), if applicable, with the notice of appeal. The designation shall be served on the court reporter on the date of filing and shall state that the appeal is from a final order of termination of parental rights or of dependency, and that the court reporter shall provide the transcript(s) designated within 20 days of the date of service. Within 20 days of the date of service of the designation, the court reporter shall transcribe and file with the clerk of the lower tribunal the transcripts and sufficient copies for all parties exempt from service by e-mail as set forth in the Florida Rules of Judicial Administration. If extraordinary reasons prevent the reporter from preparing the transcript(s) within the 20 days, the reporter shall request an extension of time, shall state the number of additional days requested, and shall state the extraordinary reasons that would justify the extension.

(C) Directions to the Clerk, Duties of the Clerk, Preparation and Transmittal of the Record. The appellant shall file directions to the clerk with the notice of appeal. The clerk shall electronically transmit the record to the court within 5 days of the date the court reporter files the transcript(s) or, if a designation to the court reporter has not been filed, within 5 days of the filing of the notice of appeal. When the record is electronically transmitted to the court, the clerk shall simultaneously electronically transmit the record to the Department of Children and Families, the guardian ad litem, counsel appointed to represent any indigent parties, and shall simultaneously serve copies of the index to all non-indigent parties, and, upon their request, copies of the record or portions thereof. The clerk shall provide the record in paper form to all parties exempt from service by e-mail as set forth in the Florida Rules of Judicial Administration.

(3) Briefs.

(A) In General. Briefs shall be prepared and filed in accordance with rule 9.210(a)–(e), (g), and (h).

(B) Times for Service. The initial brief shall be served within 20 days of service of the record on appeal or the index to the record on appeal. The answer brief shall be served within 20 days of service of the initial brief. The reply brief, if any, shall be served within 10 days of the service of the answer brief.

(4) Motions.

(A) Motions for Appointment of Appellate Counsel; Authorization of Payment of Transcription Costs. A motion for the appointment of appellate counsel, when authorized by general law, and a motion for authorization of payment of transcription costs, when appropriate, shall be filed with the notice of appeal. The motion and a copy of the notice of appeal shall be served on the presiding judge in the lower tribunal. The presiding judge shall promptly enter an order on the motion.

(B) Motions to Withdraw as Counsel. If appellate counsel seeks leave to withdraw from representation of an indigent parent, the motion to withdraw shall be served on the parent and shall contain a certification that, after a conscientious review of the record, the attorney has determined in good faith that there are no meritorious grounds on which to base an appeal. The parent shall be permitted to file a brief pro se, or through subsequently retained counsel, within 20 days of the issuance of an order granting the motion to withdraw.

(C) Motions for Extensions of Time. An extension of time will be granted only for extraordinary circumstances in which the extension is necessary to preserve the constitutional rights of a party, or in which substantial evidence exists to demonstrate that without the extension the child's best interests will be harmed. The extension will be limited to the number of days necessary to preserve the rights of the party or the best interests of the child. The motion shall state that the appeal is from a final order of termination of parental rights or of dependency, and shall set out the extraordinary circumstances that necessitate an extension, the amount of time requested, and the effect an extension will have on the progress of the case.

(5) Oral Argument. A request for oral argument shall be in a separate document served by a party not later than the time when the first brief of that party is due.

(6) Rehearing; Rehearing En Banc; Clarification; Certification; Issuance of Written Opinion. Motions for rehearing, rehearing en banc, clarification, certification, and issuance of a written opinion shall be in accordance with rules 9.330 and 9.331, except that no response to these motions is permitted unless ordered by the court.

(7) The Mandate. The clerk shall issue such mandate or process as may be directed by the court as soon as practicable.

(h) Expedited Review. The court shall give priority to appeals under this rule.

Committee Notes

1996 Adoption. The reference in subdivision (a) to cases involving families and children in need of services encompasses only those cases in which an order has been entered adjudicating a child or family in need of services under chapter 39, Florida Statutes.

Subdivision (c) requires the parties to use initials in all references to the child and parents in all briefs and other papers filed in the court in furtherance of the appeal. It does not require the deletion of the names of the child and parents from pleadings and other papers transmitted to the court from the lower tribunal.

2006 Amendment. The title to subdivision (b) was changed from “Appeals Permitted” to clarify that this rule addresses who may take an appeal in matters covered by this rule. The amendment is intended to approve the holding in *D.K.B. v. Department of Children & Families*, 890 So.2d 1288 (Fla. 2d DCA 2005), that non-final orders in these matters may be appealed only if listed in rule 9.130.

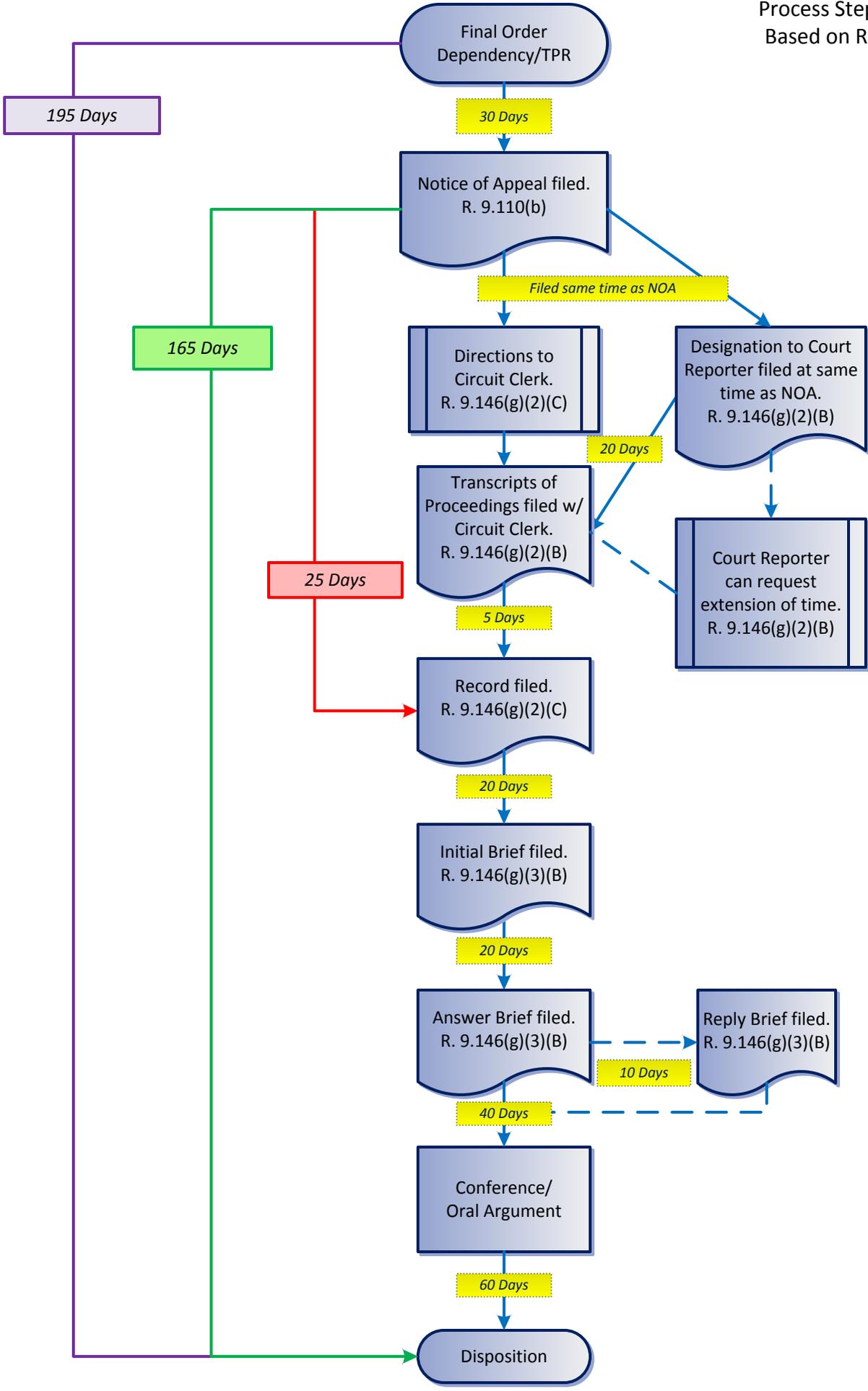
2009 Amendment. The rule was substantially amended following the release of the Study of Delay in Dependency/Parental Termination Appeals Supplemental Report and Recommendations (June 2007) by the Commission on District Court of Appeal Performance and Accountability. The amendments are generally intended to facilitate expedited filing and resolution of appellate cases arising from dependency and termination of parental rights proceedings in the lower tribunal. Subdivision (g)(4)(A) authorizes motions requesting appointment of appellate counsel only when a substantive provision of general law provides for appointment of appellate counsel. Section 27.5304(6), Florida Statutes (2008), limits appointment of appellate counsel for indigent parents to appeals from final orders adjudicating or denying dependency or termination of parental rights. In all other instances, section 27.5304(6), Florida Statutes, requires appointed trial counsel to prosecute or defend appellate cases arising from a dependency or parental termination proceeding in the lower tribunal.

RULE 9.147. APPEAL PROCEEDINGS TO REVIEW FINAL ORDERS DISMISSING PETITIONS FOR JUDICIAL WAIVER OF PARENTAL NOTICE OF TERMINATION OF PREGNANCY

(a) Applicability. Appeal proceedings to review final orders dismissing a petition for judicial waiver of parental notice of the termination of a pregnancy shall be as in civil cases, except as modified by this rule.

(b) Fees. No filing fee shall be required for any part of an appeal of the dismissal of a petition for a judicial waiver of parental notice of the termination of a pregnancy.

(c) Record. If an unmarried minor or another person on her behalf appeals an order dismissing a petition for judicial waiver of parental notice of the termination of a pregnancy, the clerk of the lower tribunal shall prepare and electronically transmit the record as described in rule 9.200(d) within 2 days from the filing of the notice of appeal.



FIRST DCA	GOAL	FY08-09	FY09-10	FY10-11	FY11-12	FY12-13	FY13-14	FY14-15*
Final Judgment to Disposition	195	196	149	132	125	135	121	110
Notice of Appeal to Disposition	165	170	125	108	102	113	98	86
Notice of Appeal to Record	25	57	37	32	37	32	33	75
Record to Initial Brief	20	46	27	24	19	26	30	29
Initial Brief to Answer Brief	20	35	27	21	18	17	21	23
Answer Brief to Reply Brief	10	23	9	7	10	7	15	9
Answer Brief to Conference/OA	40	64	27	27	30	27	25	28
Conference/OA to Disposition	60	8	10	9	10	8	15	9

SECOND DCA	GOAL	FY08-09	FY09-10	FY10-11	FY11-12	FY12-13	FY13-14	FY14-15*
Final Judgment to Disposition	195	255	254	161	168	179	190	185
Notice of Appeal to Disposition	165	233	233	139	148	161	169	161
Notice of Appeal to Record	25	77	84	57	61	62	56	43
Record to Initial Brief	20	43	32	26	29	34	57	53
Initial Brief to Answer Brief	20	27	27	23	25	27	25	25
Answer Brief to Reply Brief	10	24	21	17	14	14	10	13
Answer Brief to Conference/OA	40	70	75	24	20	26	30	23
Conference/OA to Disposition	60	8	8	7	10	7	9	8

THIRD DCA	GOAL	FY08-09	FY09-10	FY10-11	FY11-12	FY12-13	FY13-14	FY14-15*
Final Judgment to Disposition	195	215	178	162	150	152	141	139
Notice of Appeal to Disposition	165	203	157	137	126	124	124	123
Notice of Appeal to Record	25	70	56	38	42	44	41	35
Record to Initial Brief	20	27	34	20	27	19	24	28
Initial Brief to Answer Brief	20	25	26	24	24	28	25	26
Answer Brief to Reply Brief	10	14	18	13	21	17	15	10
Answer Brief to Conference/OA	40	34	27	10	13	19	17	9
Conference/OA to Disposition	60	37	21	38	23	24	42	33

FOURTH DCA	GOAL	FY08-09	FY09-10	FY10-11	FY11-12	FY12-13	FY13-14	FY14-15*
Final Judgment to Disposition	195	167	186	182	168	168	154	131
Notice of Appeal to Disposition	165	143	166	165	141	144	130	114
Notice of Appeal to Record	25	39	63	39	41	37	62	42
Record to Initial Brief	20	39	38	41	33	39	27	46
Initial Brief to Answer Brief	20	27	28	26	22	28	27	27
Answer Brief to Reply Brief	10	8	14	16	12	11	13	10
Answer Brief to Conference/OA	40	55	56	55	39	40	38	33
Conference/OA to Disposition	60	9	5	6	5	5	21	7

FIFTH DCA	GOAL	FY08-09	FY09-10	FY10-11	FY11-12	FY12-13	FY13-14	FY14-15*
Final Judgment to Disposition	195	180	202	209	187	157	140	123
Notice of Appeal to Disposition	165	162	180	189	169	131	124	105
Notice of Appeal to Record	25	66	64	40	51	54	51	44
Record to Initial Brief	20	15	17	29	26	33	37	30
Initial Brief to Answer Brief	20	25	28	31	34	28	28	25
Answer Brief to Reply Brief	10	13	12	16	15	12	12	10
Answer Brief to Conference/OA	40	105	105	99	86	21	28	25
Conference/OA to Disposition	60	15	6	6	NA	9	8	6

* 1st and 2nd quarters of FY14-15 (July through December 2014).

Section II

Court Reporting Managers

Survey Results

Circuit	Job Title	1. What is the current court reporting method utilized for preparing dependency/TPR transcripts?	2. Who is responsible for ensuring the appellate transcript is timely filed?	3. If utilizing outside vendors to perform transcription services (steno or digital), who is responsible for requesting any necessary extensions?	4. If utilizing in-house or contracted personnel to transcribe dependency/TPR proceedings, about how often are extensions requested?	5. If providing digital recording to counsel, are you routinely made aware whether the recording is being utilized for appeal purposes?	6. From whom do you receive the designation to the court reporter in dependency/TPR appeals?	7. Are you aware of the duty to give appeals in dependency/TPR proceedings priority as required by Rules 2.535(j) and 2.215(g), Florida Rules of Judicial Administration?
1	Court Reporting Manager	Employee Digital	Manager of Court Reporting Services	Manager of Court Reporting Services	Rarely - This office has never requested an extension on a dependency/TPR proceeding.	Yes	Circuit Court Clerk	Yes
2	Managing Reporter	Contract Steno - Premier Reporters, Tallahassee, FL, has the contract with DCF to report and prepare all TPR trials in the 2nd Circuit.	Other - Premier Reporters	Contract transcriptionist	Do not know - TPR transcripts are the only things not covered by our staff in the 2nd Circuit. Premier Reporters has a contract with DCF to report and prepare the appeal transcripts for TPR trials, and therefore this office does not know if transcripts are filed timely or if extensions are requested. You would need to contact the owner Debbie Krick at Premier Reporting, 850-894-0828. 114 W. 5th Avenue, Tallahassee, FL 32303.	No	Other - TPR trials is the only thing that is contracted out and I assume they go directly to Premier Reporting who has the contract with DCF.	Yes
3	Administrative Services Manager	Employee Steno	Other court administration employee - Administrative Services Manager	Other - Administrative Services Manager	Rarely - Workload	No	Trial Counsel	Yes
4	Court Reporting Manager	Contract Steno	Other - Contract Court Reporting Service	Other - Contract Court Reporting Service	Rarely - Large number of pages due at the same time. Transcriptionist had family emergency.	No	Other - Circuit Court Clerk sends the designation to the Contractor.	Yes
5	Court Reporting Services Manager	Audio provided to Counsel	Appellate Counsel	Appellate Counsel	Do not know	No	Other - We do not receive the designation in DP/TPR appeals.	No
6	Digital Court Reporting Dept. Spvr.	Employee Steno	Manager of Court Reporting Services	Contract transcriptionist - If staff steno reported the proceedings, staff stenographers prepare the Acknowledgment and M/Extension. If contract steno reported the proceedings, the contract steno prepares the Acknowledgment and M/Extension.	Rarely - Designations to the Court Reporter are not sent to the Court Reporting Department. Quite often a late notice from the clerk's office is the first alert that DTCR have been filed in a case.	No	Trial Counsel	Yes

Circuit	Job Title	1. What is the current court reporting method utilized for preparing dependency/TPR transcripts?	2. Who is responsible for ensuring the appellate transcript is timely filed?	3. If utilizing outside vendors to perform transcription services (steno or digital), who is responsible for requesting any necessary extensions?	4. If utilizing in-house or contracted personnel to transcribe dependency/TPR proceedings, about how often are extensions requested?	5. If providing digital recording to counsel, are you routinely made aware whether the recording is being utilized for appeal purposes?	6. From whom do you receive the designation to the court reporter in dependency/TPR appeals?	7. Are you aware of the duty to give appeals in dependency/TPR proceedings priority as required by Rules 2.535(j) and 2.215(g), Florida Rules of Judicial Administration?
7	Manager, Court Reporting Services	Employee Steno	Manager of Court Reporting Services	Other - Electronic Court Reporter Manager	Rarely - Since we are mandated to provide the record on appeal in 20 days, there are virtually no extensions requested. A dependency/TPR appeal that comes into our office receives immediate attention and the reporter may need to ask for an extension on another type of appeal in order to get the dependency/TPR trial prepared in the 20-day time limit. Also, if the reporter assigned to the case is out of the office on sick leave or for some other reason, one of the other reporters would prepare the dependency/TPR trial appeal transcript.	Yes	Other - From trial or appellate counsel and/or the clerk's office	Yes
7	7th Circuit - Court Reporting contract provider - Volusia Reporting Co.	Employee Steno	Other - Court reporting contract provider - Volusia Reporting Co.	Other - Electronic Court Reporter Manager	Rarely - Our company policy is NOT to ask for any extensions for dependency/TPR/Capital transcripts regardless whatever the issue may be. In over 10 years, it has been extremely rare that our steno court reporters will request an extension; however, extensions may be requested by others and beyond the steno reporter's control due to the following reasons: 1) Designation untimely sent by the trial attorney to the court reporting contract provider. 2) Attorney improperly completing the Designation as to correct court dates and therefore Designation needs to be Amended and resent. Appellate time still is ticking and transcription may be delayed. 3) After receiving Designation, steno court reporter is required to be sent Judge's signed Order by trial attorney, to ensure payment, before beginning transcription. This routinely takes a 2-4 days before receiving. 4) Criminal Conflict & Civil Regional Counsel requiring reporting contract provider to provide an advanced cost estimate letter of court proceedings for CCRC approval BEFORE reporter can complete Designation and forward to Clerk of Appeals. This approval process can take up to 5 days and may further delay transcription. 5) Digitally recorded proceedings provided on CDs can take 2-5 days to be sent to our office, and some counties take longer due to different DAR systems which, again, cuts into transcription time. 6) Some court proceedings are 2 or 3 full days long (400 - 500 pages in length) and when dealing with above explanations, can dramatically cut into the transcription time necessary to provide a timely transcript. 7)Appeal Designations sent to unqualified, untrained and inexperienced transcriptionists (due to no credentialing process) delay the process (and lessens public confidence in protecting the record). 8) Thank you for requesting feedback. It is a difficult task ahead for this committee and I would be more than happy to help in any way I can to improve and streamline the process. Please feel free to contact me: Paulita Kundid, Volusia Reporting Company/7th Judicial Circuit Court Contract Provider	Yes	Trial Counsel, Sometimes from Clerk and Manager of Reporting	Yes
8	Manager of Court Reporting Services	Employee Steno	Manager of Court Reporting Services	Manager of Court Reporting Services	Rarely - If the requested transcript is for hundreds or thousands of pages, it is can be difficult to complete that in 20 calendar days.	No	Other - Attorneys, judicial assistants,or felony appeal clerks	Yes

Circuit	Job Title	1. What is the current court reporting method utilized for preparing dependency/TPR transcripts?	2. Who is responsible for ensuring the appellate transcript is timely filed?	3. If utilizing outside vendors to perform transcription services (steno or digital), who is responsible for requesting any necessary extensions?	4. If utilizing in-house or contracted personnel to transcribe dependency/TPR proceedings, about how often are extensions requested?	5. If providing digital recording to counsel, are you routinely made aware whether the recording is being utilized for appeal purposes?	6. From whom do you receive the designation to the court reporter in dependency/TPR appeals?	7. Are you aware of the duty to give appeals in dependency/TPR proceedings priority as required by Rules 2.535(j) and 2.215(g), Florida Rules of Judicial Administration?
9	Manager, Court Reporting Services	Other - both employee digital and employee steno	Manager of Court Reporting Services	Manager of Court Reporting Services	Rarely - Since I have taken over the responsibility of overseeing court reporting for the entire circuit, extension requests on TPR/dependency proceedings are not permitted.	No	Circuit Court Clerk	Yes
10	Electronic Court Reporter Manager	Other - Typically, TPR trials are covered by contracted stenographers. All other hearings are covered by Digital Court Reporters. Transcripts are produced by the person who covered the hearings.	Other - Electronic Court Reporter Manager	Other - Electronic Court Reporter Manager	Rarely - Only request when transcripts are anticipated to not be completed timely.	No	Trial Counsel	Yes
11	Manager of Court Reporting Service	Employee Digital	Other court administration employee	Contract transcriptionist	Rarely	No	Trial Counsel	Yes
11	Operations Director	Employee Digital	Appellate Counsel	Appellate Counsel	Based on anticipated length of transcript - Trials lasting several days.	No	Manager of Court Reporting Services	Yes
12	Manager, Digital Recording	Audio provided to Counsel	Other - Unknown. 12th Circuit does not provide transcripts for non-felony matters; only CD of hearing	Other - Unknown. See 2A	Do not know	No	Other - See 2A. We are sometimes served with Designation from attorneys, but we file an "Response" not an Acknowledgment to Designation and then provide the Audio CD	Yes
13	Chief Deputy Court Administrator	Contract Transcription	Other - Contractual Transcription Service Provider - Transcript Coordinator	Other - Contractual Transcription Service Provider - Transcript Coordinator	Rarely - Estimated length of transcript. Insufficient pleading practices of both trial and appellate counsel. Lack of communication between trial and appellate counsel, post-disposition appointment of appellate counsel.	No	Other - Contractual Transcription Service Provider	Yes
14	Court Reporter	Employee Steno	Manager of Court Reporting Services	Manager of Court Reporting Services	Rarely - We have not asked for extensions on TPRs.	Yes	Circuit Court Clerk	Yes
15	Court Reporting Manager	Contract Transcription	Manager of Court Reporting Services	Contract transcriptionist	Rarely - If one were to be filed, it would be due to lengthy request of transcript pages or multiple pending appeals.	Yes	Trial Counsel	Yes

Circuit	Job Title	1. What is the current court reporting method utilized for preparing dependency/TPR transcripts?	2. Who is responsible for ensuring the appellate transcript is timely filed?	3. If utilizing outside vendors to perform transcription services (steno or digital), who is responsible for requesting any necessary extensions?	4. If utilizing in-house or contracted personnel to transcribe dependency/TPR proceedings, about how often are extensions requested?	5. If providing digital recording to counsel, are you routinely made aware whether the recording is being utilized for appeal purposes?	6. From whom do you receive the designation to the court reporter in dependency/TPR appeals?	7. Are you aware of the duty to give appeals in dependency/TPR proceedings priority as required by Rules 2.535(j) and 2.215(g), Florida Rules of Judicial Administration?
16	Court reporting manager, 16th Judicial Circuit	Employee Digital	Manager of Court Reporting Services	Manager of Court Reporting Services	Routinely - The 16th Circuit only has three digital reporters and spend a large amount of time in court covering trials and motions. Transcriptions are done as quickly as possible, but any long motions or trials general require an extension.	No	Trial Counsel	Yes
17	Court Operations Manager	Employee Digital	Manager of Court Reporting Services	Manager of Court Reporting Services	Rarely - Multiple and lengthy hearings	Yes	Trial Counsel	Yes
18	Manager Court Reporting Services	Employee Digital	Other - Appeals Clerk	Other - The requestor of the recording uses their own contracted court reporter.	Routinely - need more time	No	Trial Counsel	Yes
18	Manager, Electronic Court Reporting	Contract Steno	Other - Contract Transcriptionist	Contract transcriptionist	Do not know	Yes	Trial Counsel	Yes
18	Chief Deputy Court Administrator	Contract Transcription	Other - Contract Transcriptionist	Other - Contract Transcriptionist	Do not know	Yes	Trial Counsel	Yes
19	Court Reporting Services Manager	Contract Transcription	Manager of Court Reporting Services	Manager of Court Reporting Services	Rarely - An extension may be requested if the transcript is several hundred pages long. For example, if a transcript is over 400 pages long, we may request a 30-day extension; however, these are very rare and few occasions.	Yes	Manager of Court Reporting Services	Yes
20	Manager, Court Reporting Services	Contract Transcription	Manager of Court Reporting Services	Contract transcriptionist	Rarely - A high amount of pages for the proceedings requested.	Yes	Trial Counsel	Yes

Section III

Court Reporting Services Contracts

COURT REPORTERS CONTRACTUAL SERVICES AGREEMENT

This Agreement is entered into for court reporting services with an effective date of **July 1, 2014** made between the **FOURTH JUDICIAL CIRCUIT** in and for the State of Florida (the "**CLIENT**") and **OFFICIAL REPORTERS, INC.** ("**OFFICIAL**"). The parties agree to the following.

1. Scope of Service

Official, in its capacity as the Contract Court Reporting Service for the Fourth Judicial Circuit, shall furnish all labor, equipment and materials necessary to provide court reporting services to the Client, which shall include but not be limited to providing court reporting services for the following:

- A. Stenographic recording of criminal, juvenile, and other court proceedings in the Circuit and County Courts of Duval, Clay and Nassau Counties required by law or court order to be recorded at public expense, including but not limited to the following: Chamber hearings, all arraignments, all first appearances, all Circuit Felony Criminal Court proceedings (i.e. all hearings and trials including jury and non-jury trials), County Criminal proceedings (i.e. all hearings and trials including jury and non-jury trials), and Juvenile Delinquency and Dependency Courts.
- B. Stenographic recording of out-of-court proceedings as designated by the Client for purposes of providing due process to a litigant or individual, including but not limited to statements of witnesses, depositions in Felony criminal cases and such other depositions as leave to incur costs has been granted by a Judge of the Fourth Judicial Circuit, and Grand Jury proceedings.
- C. Schedule and provide digital court recording equipment operators as requested by the Client in lieu of providing a stenographic recording as otherwise could be required under sub-paragraphs 1.A. and 1.B.
- D. All transcriptions from any of the proceedings mentioned in A or B above or such proceeding which has been digitally recorded. Client will not charge Official a fee for a Transcription CD.
- E. Official shall maintain a back-up of all proceedings reported and shall preserve the same pursuant to the terms in paragraph 6.C below.

- F. Official shall maintain at all times the necessary equipment, supplies and trained court reporters to provide “real-time” reporting as requested by the Client or as mandated by federal, state and local laws and regulations including, but not limited to, the Americans with Disabilities Act. The foregoing notwithstanding, Official shall have no obligation to provide the wiring and/or connectors necessary to provide an interface between Official’s equipment and the Client’s equipment.
- G. No officers (including judges) or employees of the Client shall be responsible for any assignment, supervision or control of individual court reporters or for procedures for accomplishing the service being provided for under the Agreement by Official.
- H. Official shall not use the premises of the Client for court reporting services other than to make appearances to report proceedings within the scope of this Agreement.

2. Compensation, Billing and Payment

- A. As and for the compensation for providing court reporting services as provided for herein to the Client, Official shall be paid, except as is otherwise provided elsewhere in the Agreement, for services on a per unit basis as provided for in the Fee Schedule attached as Exhibit “A.” Discounts shall be applied against such Fee Schedule as further set forth in subparagraphs 2.D, 6.A and 6.B below and the Schedule of Discounts from Fee Schedule attached as Exhibit “B.” For purposes of such schedules, the term “copies” means any full or partial copy of a previously transcribed court proceeding, deposition, statement, or the like, which is certified by Official as true and accurate in part, if less than the entire transcript is requested, or in whole, if the entire transcript is requested.
- B. This agreement provides no guaranteed minimum service to be utilized by the Client, nor does this Agreement provide for any minimum amounts to be paid by or on behalf of the Client. Furthermore, any quantities used by the Client to arrive at a “not-to-exceed amount” are for the sole benefit of the Client and are not to be construed by Official as expected usage of services under this Agreement.
- C. In the event sufficient funds are not budgeted or appropriated for the purpose of funding the court reporter services by the State of Florida to the Client, then the Client may, at its sole discretion, terminate the entire Agreement, in which case the Agreement shall terminate on the last day of the month for which there were sufficient funds, without further obligation or liability to the Client or to the State of Florida.

- D. Official shall invoice the Client on a weekly basis and furnish a Uniform Invoice for court reporting services, Official Reporters, Inc. back-up invoices, and a cover sheet-itemized statement covering all services provided under the terms of this Agreement for the time period to which the invoice relates. However, failure to submit appearance fee invoices within thirty (30) days of the appearance fee will result in a 25% reduction of such appearance fee. The itemized statement shall be provided to the Client, on a mutually agreed upon day of the month during which service was rendered. All statements shall be accompanied by supporting documentation and other back-up material as reasonably required by the Client. Such statements should be in sufficient detail for proper pre or post audit thereof.
- E. In each case in which a lawyer is appointed as private counsel to which Official is obligated to provide service under this Agreement, Official shall have a right to receive from such lawyer, prior to the commencement of providing any service, a copy of the order appointing the lawyer and a copy of the charging document (i.e., the information or indictment) in such case. Official shall have no obligation to provide service to such lawyer in the case until such documentation has been provided to Official as well as notice thirty (30) minutes prior to service. Official shall not refuse to provide service in any case in which the documentation has been provided.
- F. Payment will be made pursuant to § 215.422, Florida Statutes. The parties further recognize that pursuant to such statute, the State of Florida is required to pay all invoices in a specified and timely manner. However, should the State fail to pay Official in such a timely manner, in no event shall the Client be liable for the State's failure to do so. This in no way, however, bars any claim that Official may have against the State of Florida for its failure to timely pay Official.
- G. Beginning July 1, 2011, the rates established by the General Appropriations Act will apply and will be paid by the Justice Administrative Commission (JAC) for reimbursement of court reporting services as provided for herein, in all due process cases (in private court-appointed and indigent for cost cases). The Fee Schedule provided in Exhibit "A" or "B" will not apply to due process cases for court reporting services that are reimbursed by JAC.

The rates to apply are those established by the General Appropriations Act ("the Act") in effect at the time that invoices are submitted. The rates established by the Act are subject to change, and shall apply during this contract term, regardless of whether the rates increase or decrease.

3. Reports

Official will send the Client all relevant data for the Uniform Data Reporting in a spreadsheet format on a weekly basis.

4. Terms of Agreement

- A. This Agreement shall have an effective date of July 1, 2014, and shall terminate on June 30, 2015, with an option to extend the Agreement as set forth below.
- B. Upon mutual written agreement of both parties, this Agreement may be extended for up to three (3) additional one-year periods upon the same terms and conditions as set forth herein.
- C. In addition to effecting termination pursuant to paragraph 2.C above, this Agreement may be terminated as follows:
 - i. The Client may terminate the Agreement without cause, by providing thirty (30) days notice to Official by registered mail. The Client's obligation upon termination is to pay that portion of the Agreement already performed by Official at the time of termination, but not yet paid by the Client.
 - ii. The Client may terminate the Agreement for cause, for such reasons that may include, but are not limited to: Official's failure to comply with Timeliness in Reporting as required by Paragraph 6.A; Official's failure to comply with Timeliness in Transcribing as required by Paragraph 6.B; or Official's failure to comply with other terms and conditions of this Agreement. Any such failure on Official's part shall be deemed a material breach of this Agreement. If termination of the Agreement is sought to be effected based on this provision, the Client shall give Official ten (10) days written notice of its intent to terminate the Agreement. If, after the ten (10) days, Official has not cured the default, then the Client may terminate the Agreement. Official shall be responsible for all damages incurred by the Client as a result of Official's breach of this Agreement.

5. Minimum Qualifications for Reporters.

All individual court reporters provided by Official to perform court reporting services under this Agreement shall meet the qualifications as may be established from time to time by Florida Statutes, Florida Supreme Court Order, Fourth Judicial Circuit Administrative Order, Rules of Judicial Administration and other applicable Rules of the Court.

6. Performance Criteria

- A. Timeliness in Reporting:
 - i. Official shall not be late to any proceeding, deposition, statement or other such event for which Official is requested by the Client to provide court reporting services, including digital or analog equipment monitors,

Agreement for Court Reporting Services

July, 2014

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pursuant to the terms of this Agreement. The parties agree that repeated incidents of being “late” on the part of Official will be a basis to terminate this Agreement for cause pursuant to paragraph 4.C.ii. For purposes of this Agreement “late” means Official’s failure to be present five minutes prior to the scheduled starting time for any proceeding, deposition, statement or other such event for which Official is requested by the Client to provide court reporting services pursuant to the terms of this Agreement.

- ii. Official shall provide a court reporter equipped to provide real time court reporting after being so requested 24 hours in advance. If Official fails to do so, and a court proceeding is thereupon continued, Official shall provide at such continued hearing a real time court reporter but shall receive no appearance fee for the same. However, if Official fails to provide a court reporter equipped to provide real time court reporting after being so requested 24 hours in advance, and the proceeding is not continued and Official instead provides a court reporter not equipped to provide real time court reporting, then Official shall receive no appearance fee for the court reporter so provided. Repeated incidents of failing to provide a real time court reporter when properly requested shall be treated as a basis to terminate this Agreement for cause pursuant to paragraph 4.C.ii.
- iii. Official shall pay for the cost of licenses for Real-Time on the Judges’ I-Pads.

B. Timeliness in Transcribing:

- i. The Client has the right to design, implement, and from time to time, amend a request form for use by each in requesting services from Official. The Client should specify on such form the time within which the Client seeks Official to deliver the transcript. Should the request not fall within one of the Contractual time periods set forth in the Fee Schedule attached as Exhibit “A”, Official shall notify the Client of such and shall obtain from the Client any additional information necessary in order to convert the request to one of the Contractual time periods. Official shall provide written confirmation to the requesting Client within twenty-four (24) hours of the request and shall immediately bring to the attention of the requesting Client any questions concerning the transcription; in particular, difficulty in locating the transcript based upon Client provided information. To the extent Official is unable to locate the requested proceeding for transcription due to misinformation provided by the Client concerning the name, time and date of the proceeding, the time period for Official to provide the transcript shall begin to run at the time the Client provides corrected information concerning the name, time and date of the proceeding. Official shall provide transcripts to the Client as follows:

Agreement for Court Reporting Services

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- (1) For all time periods other than that for appeals, Official shall provide transcripts in accordance with the contractual time periods specified in the Fee Schedule attached as Exhibit "A" as interpreted in light of the additional terms set forth herein below.
- (2) For purposes of appeal:
 - (a) the trial transcripts shall be provided within thirty (30) days of the written request and designation of service. Prior to requesting an extension of time pursuant to Florida Supreme Court Rules, Official must obtain the prior written approval of the State Attorney or the Public Defender;
 - (b) Notwithstanding the Florida Supreme Court's granting an extension of time, an extension without prior written approval shall be considered a late transcript.
- (3) When the time period for providing a transcript is based upon days instead of hours (as explicitly stated in Exhibit "A"), the deadline for providing a transcript shall be 5:00 p.m. on the day the transcript is due. The beginning time will be based on receipt of the CD or recording. Additionally, when the time period is based upon days instead of hours, where the deadline falls upon a Saturday, Sunday or legal holiday, the deadline shall be extended to the beginning of the next day which is not a Saturday, Sunday or legal holiday without considering the transcript as late.
- (4) When a transcript is ordered, Official shall immediately contact by email the opposing counsel of record, if known, to give an opportunity to purchase the transcript copy from Official at the rate of \$1.00 per page (or \$.50 per page if JAC applies).
- (5) Official shall neither charge nor be paid additional compensation or a higher rate for transcripts provided to the Client earlier than the time period requested by the Client.
- (6) However, a transcript not provided by Official within the time period requested by the Client may be either canceled by the Client, without any obligation by the Client to pay Official, or the Client may accept the transcript, and the Client shall only pay Official a discounted page rate in accordance with the Schedule of Discounts from Fee Schedule for Late Delivery of Transcripts attached hereto as Exhibit "B."

- (7) Should the Client and Official have a disagreement as to the timeliness in providing a requested transcript, then the Client acting through an upper level manager, and Official, acting through one of its principals or its manager, shall attempt to resolve the issue by discussing the matter in person or telephonically.
- ii. Accuracy: For every ten (10) pages of transcript, there shall be no more than one (1) error, including, but not limited to, typographical error, misspelling (excluding the correct spelling of proper nouns), grammatical error, and incorrect transcription of testimony.
- iii. Accessibility: Between the hours of 8:00 a.m. to 5:00 p.m., Monday through Friday, Official shall maintain a sufficiently staffed office such that the Client may immediately access personnel for purposes of requesting reporting and transcribing services. At all other times, Official shall be accessible by cell phone and shall contact the Client within fifteen (15) minutes of the Client's message.
- iv. Accountability: Official shall be accountable for all of its court reporters including, but not limited to, subcontractors and shall take whatever measures necessary to assure that transcripts are provided to the Client within the requested time period.
- v. Cancellation of Service:
- (1) Cancellation of Transcript: The Client may cancel a request for transcript at any time, and the Client shall only pay Official the cost of the pages already transcribed at the applicable page rate. Notwithstanding the preceding, the Client may cancel a late transcript, pursuant to paragraph 5.B.i.(5)., and the Client would have no obligation to pay Official.
- (2) Cancellation of Non-Court Appearance: The Client shall not pay Official an appearance fee when the Client cancels a scheduled non-court appearance so long as the Client notifies Official of such cancellation at least four (4) hours prior to the scheduled appearance. Otherwise, the Client shall pay Official the applicable appearance fee.

- (3) Cancellation of Court Appearances: The Client shall not pay Official an appearance fee when the Client cancels a scheduled court appearance if Official is notified one hour or more before the scheduled court appearance. If notification is less than one hour prior to the scheduled court appearance, the Client shall pay Official the applicable appearance fee.

C. Records Maintenance:

i. Records of Services and Costs:

- (1) Official shall maintain a case log that tracks all proceedings associated with a particular case which proceedings have already been reported, transcribed and/or requested for transcription. Official shall review the case log upon each request for a transcript in order to avoid duplication of original transcripts. Official shall provide a copy of the case log to the Client upon request.
- (2) Official shall maintain a computer database of all billing information which shall be made available to the Client upon request.
- (3) Official shall maintain all business records and documents relating to this Agreement and the services performed under this Agreement by Official. Within three (3) business days of a written request by the Client, Official shall make available its records to the Client for inspection and auditing. Official shall maintain all such business records and documents for a minimum of three (3) years. The Client shall reconcile any discrepancies found between Official's charges to the Client and the actual services provided, adjusting future payments to Official to reflect such debits and/or credits as appropriate.

ii. Records of Stenographic Data:

- (1) For all proceedings associated with cases in Duval County, Florida:
 - (a) Official shall be responsible for preparing all court reporting records, including but not limited to stenographic notes and tapes of proceedings, for permanent storage in uniform boxes supplied by Official.
 - (b) Official shall clearly identify on both ends of each box the records of proceedings contained within such box.
 - (c) Official shall be responsible for transporting and delivering such record boxes to the permanent storage facility maintained by the City of Jacksonville in accordance with § 29.008, Florida Statutes, or as otherwise designated by the Client.
 - (d) Official shall adhere to all rules or regulations set forth by the City of Jacksonville, or such other entity that maintains the permanent storage facility, with regards to access and use of the facility.
- (2) For all proceedings associated with cases in Clay County, Florida:
 - (a) Official shall be responsible for preparing all court reporting records, including but not limited to stenographic notes and tapes of proceedings, for permanent storage in uniform boxes supplied by Official.
 - (b) Official shall clearly identify on both ends of each box the records of proceedings contained within such box.
 - (c) Official shall be responsible for transporting and delivering such record boxes to the permanent storage facility maintained by the Clerk of the Circuit Court for Clay County, or, if applicable, by the Clay County Board of County Commissioners in accordance with § 29.008, Florida Statutes, or as otherwise designated by the Client.
 - (d) Official shall adhere to all rules or regulations set forth by the entity that maintains the permanent storage facility, with regards to access and use of the facility.

- (e) The requirements of 6.C.ii.(2)(a) and (b) may be waived during such time that the Clerk of the Circuit Court in and for Clay County opts to perform such tasks.
- (3) For all proceedings associated with cases in Nassau County, Florida:
- (a) Official shall be responsible for preparing all court reporting records, including but not limited to stenographic notes and tapes of proceedings, for permanent storage in uniform boxes supplied by Official.
 - (b) Official shall clearly identify on both ends of each box the records of proceedings contained within such box.
 - (c) Official shall be responsible for transporting and delivering such record boxes to the permanent storage facility maintained by the Clerk of the Circuit Court in and for Nassau County, or, if applicable, by the Nassau County Board of County Commissioners in accordance with §29.008, Florida Statutes, or as otherwise designated by the Client.
 - (d) Official shall adhere to all rules or regulations set forth by the entity that maintains the permanent storage facility, with regards to access and use of the facility.
 - (e) The requirements of 6.C.ii.(3)(a) and (b) may be waived during such time that the Clerk of the Circuit Court in and for Nassau County opts to perform such tasks.

7. Indemnification

- A. Official, including its employees, agents, and subcontractors, shall hold harmless, indemnify, and defend the Client, or any of their directors, officers, employees, representatives, and agents; the Court Administrator, any member of the judiciary and any employee of the court system against any claim, action, loss, damage, injury, liability, cost and expense of whatsoever kind or nature (including, but not by way of limitation, attorney's fees and court costs) arising out of injury (whether mental or corporeal) to persons, including death, or damage to property, arising out of or incidental to any negligent act or omission of Official, its employees, agents, and/or subcontractor's performance of this Agreement or work performed thereunder. This indemnification agreement is separate and apart from, and in no way limited by, any insurance provided pursuant to this agreement or otherwise.

- B. In the event of the joint negligence on the part of the Client and Official, any loss shall be apportioned in accordance with the provisions of § 768.31, Florida Statutes, the Uniform Contribution Among Tortfeasors Act.
- C. The first ten dollars (\$10.00) of compensation received by the Official represents specific consideration for its indemnification obligation.

8. Insurance Requirements

- A. Without limiting its liability under the Agreement, Official shall procure and maintain at its sole expense during the term of the Agreement, insurance of the type and in the amounts stated below:

<u>Schedule</u>	<u>Limits</u>
<u>Workers Compensation</u> Florida Statutory coverage & employer's liability (including appropriate federal acts)	Statutory/ \$1,000,000
<u>Comprehensive general liability</u> <u>(occurrence basis only)</u>	
Premises operation	\$1,000,000
products-complete operations	Combined single limit per loss
contractual liability	\$2,000,000 per aggregate
Independent contractors	

- B. The State of Florida shall be named as an additional insured under all of the above coverage.
- C. Official's comprehensive general liability policy shall include contractual liability on a blanket or specific basis to cover the indemnification contained in indemnification provision set forth above.
- D. All such insurance shall be written by a company or companies approved to do business in the State of Florida. Prior to commencing any work under the contract, certificates evidencing the maintenance of said insurance shall be furnished to the Client by Official.

- E. The insurance shall provide that no material alteration or cancellation including expiration and non-renewal, shall be effective until thirty (30) days after the Client receives written notice of the same.
- F. Anything to the contrary notwithstanding, the liabilities of Official under this Agreement shall survive and not be terminated, reduced or otherwise limited by any expiration or termination of insurance coverage. Neither approval nor failure to disapprove insurance furnished by Official shall relieve Official or its sub-contractors from responsibility to provide insurance as required by the Agreement.

9. Obligations of the Client

- A. The Client will provide Official, with utility service generally available in their respective facilities and required by Official to perform its obligations and functions under this agreement.
- B. The Client will provide Official with a reasonable amount of space in their respective facilities, to perform its obligations and functions under this Agreement. Official shall bear all risk of loss, damage or theft of such supplies while on the premises of the Client.
- C. Official acknowledges that in accordance with § 29.008, Florida Statutes, Counties are responsible for providing a permanent storage facility for archival court reporting material, and that such responsibility, in any event, is not that of the Client.
- D. Official acknowledges that the Client will not provide employee parking. Any costs associated with parking shall be born by Official or its employees and agents.

10. Performance Bond

The parties have agreed that in light of Official's prior history in providing court reporting services to the Client, that no performance bond shall be required.

11. Miscellaneous Provisions

- A. Construction. All parties acknowledge that they have had meaningful input into the terms and conditions contained in this Agreement. Therefore, any doubtful or ambiguous provisions contained herein shall not be construed against the party who physically prepared this Agreement. The general maximum of interpretation of contracts that a contract shall be construed most strongly against the drafter shall not apply to the interpretation of this Agreement.

- B. **Assignment.** Neither this Agreement nor any of Official's rights or obligations herein may be assigned by Official unless agreed to by both parties in writing. Any transfer of the Agreement by merger, consolidation or liquidation, or (unless the stock of Official is traded on a national stock exchange or in a generally recognized over-the-counter securities market), any change in ownership or of power to vote on the majority of the outstanding voting stock of Official after the date hereof, shall constitute an assignment of this Agreement for purposes of this section.
- C. **Non-exclusive Agreement.** This Agreement is a non-exclusive contract and does not create an exclusive relationship between the Client and Official. Official shall be free to provide court reporting services to other public and private entities, and the Client shall be free to obtain court reporting services through other means, individuals and entities.
- D. **Compliance with State and Federal Laws.** Official shall provide service in compliance with the requirements of federal and state laws, included but not limited to, the Americans with Disabilities Act of 1990, as amended, and Title II of the 1964 Civil Rights Act. Official, by entering into this Agreement, represents that it has adopted and will maintain a policy of nondiscrimination throughout the terms of the Agreement. Official agrees that on written request it will permit reasonable access to its records of employment, employment advertisement, application forms, and other pertinent data and records by the client's representatives for the purpose of investigation to ascertain compliance with the nondiscrimination provisions of this Agreement, but Official shall not be required to produce for inspection any records covering periods of time prior to February 1, 2000. Such other laws, rules, regulations and court orders that Official must comply with include, but are not limited to, Chapter 119, Florida Statutes (Public Records); Sunshine Laws (Public Meetings); Rules 9.140 and 9.200, Florida Rules of Appellate Procedure; and Rules 2.535 and 2.430, Rules of Judicial Administration. Violation of any part of this provision by Official will be grounds for termination of the Agreement by the Client. If any of Official's obligations under this Agreement are performed by a subcontractor, then Official shall incorporate the requirement of this provision into the subcontract.
- E. **Waiver of Breach.** No waiver by the Client of any breach of any provision of this Agreement by Official shall constitute a waiver of any other breach or of any other breach of the same provision. Failure of the Client to enforce at any time, or from time to time, any provision of this Agreement shall not be construed as a waiver thereof.

- F. Remedies. The rights and remedies set forth in this Agreement are not exclusive and are in addition to any other rights and remedies provided by law.
- G. Taxes. Official shall be solely responsible for income taxes, FICA, and any other withholdings from its employees' and subcontractors' compensation, and Official shall comply with all federal, state and local tax laws. If any of Official's obligations under this Agreement are performed by a subcontractor, then Official shall incorporate the requirement of this provision into the subcontract.
- H. Acts of God. Performance of this Agreement by either party is subject to acts of God, disaster, strikes, civil disorders, curtailment of transportation facilities, or other emergencies making it impossible or illegal to provide services under this Agreement.
- I. Personal Services. This Agreement is for personal services only. Official is not an agent or employee of the Client.
- J. Integration Clause. The Agreement constitutes the complete agreement of the parties. Any modification must be in writing and signed by both parties.
- K. Attorney's Fees. If either party enters into a legal or equitable action for enforcement of, or damages for breach of this Agreement, the prevailing party will be entitled to recover from the non-prevailing party, court costs and attorney's fees.
- L. Governing Law. This agreement is executed and entered into in the State of Florida, and shall be construed, performed and enforced in accordance with the laws and rules of the State of Florida.
- M. Venue. Any action to interpret and/or enforce this Agreement shall be brought and maintained in the Circuit Court, Fourth Judicial Circuit, in and for Duval County, Florida.
- N. Successors. Except as otherwise provided herein, none of the provisions hereof shall inure to the benefit of any party other than the parties hereto and their respective successors and permitted assigns, or be deemed to create any rights, benefits or privileges in favor of any other party except the parties hereto.

- O. Severability. In the event that one or more of the provisions contained in this Agreement, or the application thereof, shall be held to be invalid or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision in this Agreement, and this Agreement shall be construed as if such invalid, illegal or unenforceable provisions were not contained herein.

IN WITNESS WHEREOF, the parties have executed this Contract, in duplicate, on the 30 day of June, 2014.

FOURTH JUDICIAL CIRCUIT OF FLORIDA OFFICIAL REPORTERS, INC.

BY Joseph G. Stelma, Jr.
Joseph G. Stelma, Jr.
In his capacity as Trial Court Administrator

BY Edmund J. Powell
Edmund J. Powell,
President
FID:
Address:
Phone #:

DATE 30 June 2014

DATE JUNE 27, 2014

Approved as to Legal Form and Sufficiency

BY: Caroline C. Emery
Caroline C. Emery
In her capacity as Court Counsel

DATE June 24, 2014

EXHIBIT "A"

Official Court Reporters, Inc.
 Fee Schedule
 2014-2015

Duval County Appearance Fees for Stenographic Reporters:

<i>Description</i>	<i>Rate</i>
Daily 9:00 am – 5:00 pm with one hour lunch break *	\$270.00
Half Day 9:00 am – 1:00 pm / 1:00 pm -5:00 pm	\$135.00
Weekend/Holiday –Daily	\$400.00
Weekend/Holiday – Half Day	\$200.00
Closing Arguments	\$30.00
Overtime	\$32.50 per ½ hour
Cancellation Fee	\$135.00 (1 Hour Notice)

*Should a reporter not receive one full hour for lunch and works past 2:00 pm the hourly overtime rate will be added to the total bill for the day.

Clay and Nassau County Appearance Fees for Stenographic Reporters:

<i>Description</i>	<i>Rate</i>
Daily 9:00 am – 5:00 pm with one hour lunch break *	\$297.00
Half Day 9:00 am – 1:00 pm / 1:00 pm -5:00 pm	\$162.00 for 1 st per diem; \$135.00 for subsequent per diems
Weekend/Holiday – Day	\$425.00
Weekend/Holiday – Half Day	\$225.00
Closing Arguments	\$30.00
Overtime	\$32.50 per ½ hour
Cancellation Fee	\$162.00 (1 Hour Notice)

*Should a reporter not receive one full hour for lunch and works past 2:00 pm the hourly overtime rate will be added to the total bill for the day.

Travel Fees: No fee unless travel outside of the Fourth Circuit. Should there be travel outside the Fourth Circuit fee would be \$50.00 per hour travel time.

Real-time Appearance Fees for Stenographic Reporters:

<i>Description</i>	<i>Rate</i>
Daily 9:00 am – 5:00 pm with one hour lunch break *	\$405.00
Half Day 9:00 am – 1:00 pm / 1:00 pm -5:00 pm	\$202.50
Weekend/Holiday – Day	\$550.00
Weekend/Holiday – Half Day	\$300.00
Overtime	\$42.00 per ½ hour

*Should a reporter not receive one full hour for lunch and works past 2:00 pm the hourly overtime rate will be added to the total bill for the day.

Appearance Fees for Digital Operators:

<i>Description</i>	<i>Rate</i>
Daily 9:00 am – 5:00 pm with one hour lunch break *	\$162.00
Half Day 9:00 am – 1:00 pm / 1:00 pm -5:00 pm **	\$81.00
2 Hour Minimum ***	\$53.00
Each Additional Hour	\$20.00
Overtime	\$15.00 per ½ hour

*Should a Digital Operator not receive one full hour for lunch the hourly overtime rate will be added to the total bill for the day.

** Should a Digital Operator travel to Clay or Nassau County, the 1st per diem shall be \$106.00; \$81.00 for subsequent per diems.

*** Should a Digital Operator travel to Clay or Nassau County, the minimum rate shall be \$78.00.

(The rates below are set by the Justice Administrative Commission and ORI will abide by set rates. Should rates structure change to a cap the rates below will come into effect.)

Appearance Fees for Out of Court Proceedings by Conflict Counsel

<i>Description</i>	<i>Rate</i>
Daily 9:00 am – 5:00 pm with one hour lunch break	\$250.00
Half Day 9:00 am – 1:00 pm / 1:00 pm -5:00 pm	\$125.00
Overtime before 9:00 am and after 5:00 pm	\$62.50 per ½ hour
Cancellation /No show fee	\$125.00 (1 hour notice)

Transcript Fees – Court Proceedings:

<i>Description</i>	<i>Rate</i>
Standard Delivery – 10 business days	\$5.25 per page
Early Delivery – 4 to 9 business days	\$6.25 per page
Expedited – 3 business days	\$8.00 per page
Daily – 1 business day	\$10.50 per page
Additional Copies	\$1.00 per page
Rough Draft	\$4.00 per page

Transcripts Fees – Depositions:

<i>Description</i>	<i>Rate</i>
Standard Delivery – 10 business days	\$5.00 per page
Early Delivery – 4 to 9 business days	\$6.00 per page
Expedited – 3 business days	\$7.50 per page
Daily – 1 business day	\$10.00 per page
Additional Copies	\$1.00 per page

Transcripts Fees – From CD:

<i>Description</i>	<i>Rate</i>
Standard Delivery – 20 business days	\$5.75 per page
Early Delivery – 4 to 9 business days	\$7.00 per page
Expedited – 3 business days	\$9.00 per page
Daily – 1 business day	\$11.50 per page
Additional Copies	\$1.00 per page

Video Services (Two Hour Minimum):

<i>Description</i>	<i>Rate</i>
Video	\$100 per hour

EXHIBIT "B"
SCHEDULE OF DISCOUNTS FROM FEE SCHEDULE
FOR LATE DELIVERY OF TRANSCRIPTS

Service	Past Deadline	Up to 1 Day Late	2 Days Late	3 Days Late	4 Days Late	5 Days Late	6 - 10 Days Late	Over 10 Days Late
DISCOUNT FOR LATE DELIVERY OF TRANSCRIPT FEES FOR DEPOSITIONS								
1 Original and one copy six to ten days	-	-	20.00%	35.00%	50.00%	65.00%	80.00%	95.00%
2 Original and one copy - 72 hours	-	25.00%	40.00%	55.00%	70.00%	-	-	-
3 Original and one copy - 24 hours	55.00%	-	-	-	-	-	-	-
DISCOUNT FOR LATE DELIVERY OF TRANSCRIPT FEES FOR COURT PROCEEDINGS								
4 Original and two copies - appeals (fee contract for time period)	-	-	-	-	-	20.00%	35.00%	50.00%
5 Original and two copies - ten days	-	-	-	-	-	20.00%	35.00%	50.00%
6 Original and two copies - six days	-	-	20.00%	35.00%	50.00%	65.00%	80.00%	95.00%
7 Original and one copy - 72 hours	-	25.00%	40.00%	55.00%	70.00%	-	-	-
8 Original and one copy - 24 hours or less	55.00%	-	-	-	-	-	-	-

Strike through ("-") denotes not applicable.

**CONTRACTUAL SERVICES AGREEMENT
FOR COURT REPORTER SERVICES**

This Agreement for the provision of Court Reporter services, and the administration thereof, is made between the Seventh Judicial Circuit Court of Florida (the "Court") and Volusia Reporting Company ("VRC"). The parties agree as follows:

A. SERVICES

VRC will provide court reporting services in court proceedings required to be reported at public expense in Flagler, Putnam, St. Johns and Volusia counties on an as needed basis and will administer the provision of said court reporting services; to wit:

1. VRC will employ and/or subcontract with a sufficient number of court reporters for purposes of making and maintaining records of court proceedings as required by the Court.
 - a. Real-time stenographic reporters must be Notaries Public and possess CRR certificates.
 - b. Stenographic reporters must be Notaries Public and possess RPR or RMR certificates, or equivalent.
 - c. All reporters will also be governed by any certification requirements that may be adopted by the Florida Supreme Court.
 - d. Stenographic reporters must obtain sufficient continuing education credits in order to maintain required certifications.
2. VRC will accept all court reporting assignments made by the Court and provide court reporting services pursuant to Rule 2.535, Florida Rules of Judicial Administration and administrative orders of the Seventh Judicial Circuit Court. Real-time/captioning services pursuant to the Americans with Disabilities Act will also be provided.
3. VRC will schedule the appearance of court reporters to adequately report court proceedings as needed.
4. VRC will provide the following:
 - a. Transcripts that comply with Florida Rules of Court and administrative orders of the Florida Supreme Court and Seventh Judicial Circuit Court;
 - b. Retention of notes and records in accordance with requirements of Rule 2.430(e), Florida Rules of Judicial Administration;
 - c. Verbatim records of court proceedings and accurate transcripts in a format acceptable to the Florida Supreme Court and Seventh Judicial Circuit Court;
 - d. Real-time/captioning services pursuant to the Americans with Disabilities Act that comply with the Florida State Courts System's policy on court real-time transcription services for persons who are deaf or hard of hearing (Attachment B);
 - e. Timely distribution of requested transcripts; and
 - f. Prudent maintenance of files and records.
5. VRC will provide the Seventh Judicial Circuit Court Administrator's Office with required reports and data, in a format proscribed by the Court, by the 10th of the month. Said reports shall be reflective of services provided during the preceding month. VRC will also provide the Court Administrator's Office with other program-related information upon request.
6. VRC will serve at the pleasure of the Chief Judge or Court Administrator of the Seventh Judicial Circuit.

B. COMPENSATION

1. The Court will pay VRC for services listed in this Agreement in accordance with the following schedule and as referenced in the attached appearance fee schedule addendum:
 - a. Appearance Fees for Stenographic Reporters
 - i. Daily Rate: \$300.00
 - ii. Half-day Rate: \$160.00
 - iii. Hourly Rate: \$55.00 first hour, \$35.00 each hour thereafter
 - b. Appearance Fees for Real-Time Stenographic Reporters
 - i. Daily Rate: \$400.00
 - ii. Half-day Rate: \$215.00
 - iii. Hourly Rate: \$75.00 first hour, \$47.50 each hour thereafter
 - c. Standard Stenographic Transcript Fees (3-10 business days)
 - i. Original + 2: \$4.00 per page
 - ii. Add'l copies: \$1.00 per page
 - d. Expedited Stenographic Transcript Fees (w/in 72 hours)
 - i. Original + 2: \$6.00 per page
 - ii. Add'l copies: \$1.00 per page
 - e. Daily Stenographic Transcript Fees (w/in 24 hours)
 - i. Original +2: \$8.00 per page
 - ii. Add'l copies: \$1.00 per page
 - g. Electronic Recording Transcript Fees (3-10 business days)
 - i. Re-write fee: \$40.00 per hour
 - ii. Original +2: \$4.00 per page
 - iii. Add'l copies: \$1.00 per page
2. Transcript fees referenced above are applicable to transcripts of court proceedings requested by the Court. The Court will pay VRC for all appearance fees and transcripts requested by the Court. Payment for transcripts requested by others is the responsibility of the requesting party and VRC's policies concerning the provision of copies of transcripts shall apply. In the event a transcript of a court proceeding taken by VRC pursuant to this Agreement is requested after the conclusion of this Agreement, VRC agrees to provide said transcript at the rate referenced above.
3. VRC's sole compensation pursuant to this Agreement shall be in the form of the sums referenced above. These sums include, but are not limited to, administrative services, reporting/recording services, mileage/travel, telephone charges, office supplies, equipment, and facilities necessary to carry out the services in this Agreement.
4. The Court will initiate payment procedures upon receipt of a written, standardized invoice, submitted in detail sufficient for a proper pre- and post-audit. The invoice must include the nature of the services performed and be submitted by the 10th of the month for services provided during the preceding month. Payment will be made pursuant to § 215.422, Florida Statutes, incorporated as Attachment A.
5. The Court does not imply or guarantee any minimum expenditure as part of this Agreement. The Court's performance and obligation to pay under this Agreement are contingent upon the availability of funds lawfully appropriated to fulfill the requirements of this Agreement.

C. TERMS AND CONDITIONS

This Agreement is subject to the following terms and conditions:

1. VRC is an independent contractor and is wholly responsible for the manner in which it performs the services required by the Agreement. VRC is not an employee of the Court, the Florida State Courts System, or the State of Florida.
2. As an independent contractor, VRC is responsible for hiring, compensating, supervising, disciplining and terminating members of its workforce. VRC will direct and control the conditions under which its employees will report; when, where, and the manner in which its employees will report; the job assignments of its employees; and the work hours of its employees. VRC is responsible for withholding any federal employment and income taxes from its employees.
3. In providing services under this Agreement, VRC will comply with all pertinent Federal, State, and local laws including the Fair Labor Standards Act, the Americans with Disabilities Act, the Civil Rights Act of 1964, as amended, the Florida Civil Rights Act of 1992, and any other laws prohibiting discrimination on the basis of race, color, national origin, religion, sex, age, marital status, or disability.
4. VRC is responsible for ensuring compliance with State of Florida records laws. The Court is the owner of all records of Court proceedings produced by VRC pursuant to this Agreement. If necessary, Volusia County will be responsible for supplying VRC with space to store records and notes generated by VRC pursuant to this Agreement.
5. The Court will not supply office space for purposes of fulfilling the terms of this Agreement. Nor will furnishings, supplies, or equipment be provided.
6. VRC will procure and maintain appropriate insurance for the duration of this Agreement; to wit:
 - a. Professional Liability Insurance in an amount not less than \$500,000; said insurance shall include Errors and Omission coverage.
 - b. Workers' Compensation as required by Florida Statutes.
 - c. Commercial General Liability (including premises operations and proposed contractual liability) in the amounts of \$1 million (general aggregate), \$500,000 (each occurrence), \$50,000 (fire damage), and \$5,000 (medical expenses).
 - d. All required insurance policies must name the Seventh Judicial Circuit Court as an additional insured. All policies must contain language requiring thirty (30) days prior written notification to the Court of any changes or of any non-renewal/cancellation.
 - e. All required insurance policies must be issued by insurers licensed to do business in the State of Florida.
7. VRC will indemnify and hold harmless the Court and State of Florida from all suits, actions or claims brought on account of any injuries or damages received or sustained by any person(s) or property that may arise from any errors, omissions, or negligent acts of VRC or its agents during the performance of services under this Agreement. Notwithstanding this indemnification, and not by any waiver of such indemnification, VRC will procure and maintain insurance coverage described herein throughout the term of this Agreement. VRC will also hold harmless the Court and State of Florida from all claims brought by any person for loss, loss of use, or damage to personal property of VRC or its agents that may arise from and be the proximate result of errors, omissions, or negligent acts of VRC or its agents during the performance of services under this Agreement. The first ten dollars (\$10.00) of compensation received by VRC represents specific consideration for the indemnification obligation described herein.
8. VRC may not assign, subcontract, or transfer responsibilities outlined in this Agreement without prior expressed written consent of the Court.

9. Failure of VRC to comply with the terms of this Agreement, including, but not limited to, failure to accept assignments or failure to appear at court proceedings, shall constitute a material breach by VRC. In the event of such material breach, in addition to any other remedy authorized by law, the Court reserves the right to terminate the Agreement immediately. In any event, either party may terminate this Agreement upon 60 days written notice to the other party.
10. Performance of this Agreement by either party is subject to acts of God, disaster, strikes, civil disorders, curtailment of transportation facilities, or other emergencies making it impossible or illegal to provide services under this Agreement. This Agreement may be terminated by either party for any reason enumerated in this paragraph without liability for payment of cancellation or other charges upon written notice to the other party within 10 days of learning of the basis for termination.
11. This Agreement is bound by the General Contract Conditions of the Florida State Court System which can be found at http://www.flcourts.org/courts/crtadmin/general_contract_conditions.shtml
12. The terms and conditions described in # 11 above as General Contract Conditions are incorporated herein as if fully recited in this Agreement, except to the extent that any of those terms or conditions conflict with this Agreement, in which case the terms and conditions of this Agreement shall prevail.

D. TERM OF AGREEMENT

This Agreement takes effect on July 1, 2013 and terminates on June 30, 2016, unless sooner terminated by either party. This Agreement may be extended for one additional two-year period under the same terms and conditions as the original terms upon mutual consent of the parties.

This Contractual Services Agreement constitutes the entire understanding of the parties. Any modifications to this Agreement must be in writing.

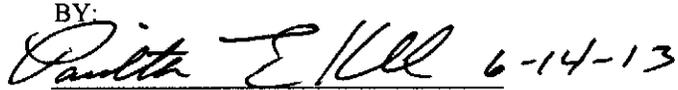
SEVENTH JUDICIAL CIRCUIT

BY:


 Mark A. Weinberg (Date)
 Court Administrator

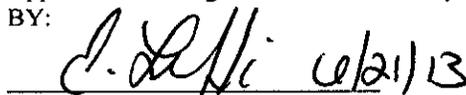
VOLUSIA REPORTING COMPANY

BY:


 Paulita E. Kundid (Date)
 President
 FEID# 59-3084410

Approved as to Legal Form & Sufficiency

BY:


 Erin Lufkin (Date)
 Sr. Law Clerk
 Florida Bar # 28944

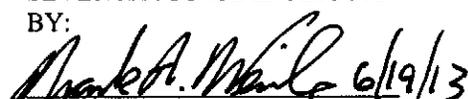
COURT REPORTER SERVICESAPPEARANCE FEE SCHEDULE ADDENDUM

Stenographic Reporters		
Hours	Rate	Total
0.0 – 2.0	\$55.00/first hour + \$35.00/hour (2-hour minimum)	\$90.00
2.5	\$90.00 + \$17.50/one-half hour	\$107.50
3.0	\$90.00 + \$35.00	\$125.00
3.5	\$90.00 + \$35.00 + \$17.50	\$142.50
4.0	Half day	\$160.00
4.5	\$160.00 (1/2 day) + \$17.50	\$177.50
5.0	\$160.00 + \$35.00	\$195.00
5.5	\$160.00 + \$35.00 + \$17.50	\$212.50
6.0	\$160.00 + \$35.00 + \$35.00	\$230.00
6.5	\$160.00 + \$35.00 + \$35.00 + \$17.50	\$247.50
7.0	\$160.00 + \$35.00 + \$35.00 + \$35.00	\$265.00
7.5	\$160.00 + \$35.00 + \$35.00 + \$35.00 + \$17.50	\$282.50
8.0	Full day	\$300.00
8.5 and above (OT)	\$300.00 (full day) + \$52.50/hour (\$26.25/half-hour) thereafter	
Real-time Reporters		
Hours	Rate	Total
0.0 – 2.0	\$75.00/first hour + \$47.50/hour (2-hour minimum)	\$122.50
2.5	\$122.50 + \$23.75/one-half hour	\$146.25
3.0	\$122.50 + \$47.50	\$170.00
3.5	\$122.50 + \$47.50 + \$23.75	\$193.75
4.0	Half day	\$215.00
4.5	\$215.00 (1/2 day) + \$23.75	\$238.75
5.0	\$215.00 + \$47.50	\$262.50
5.5	\$215.00 + \$47.50 + \$23.75	\$286.25
6.0	\$215.00 + \$47.50 + \$47.50	\$310.00
6.5	\$215.00 + \$47.50 + \$47.50 + \$23.75	\$333.75
7.0	\$215.00 + \$47.50 + \$47.50 + \$47.50	\$357.50
7.5	\$215.00 + \$47.50 + \$47.50 + \$47.50 + \$23.75	\$381.25
8.0	Full day	\$400.00
8.5 and above (OT)	\$400.00 (full day) + \$71.25/hour (\$35.63/half-hour) thereafter	

Note: Appearance fees for weekends & holidays paid at regular hourly rates x 1.5

SEVENTH JUDICIAL CIRCUIT

BY:


 Mark A. Weinberg (Date)
 Court Administrator

VOLUSIA REPORTING COMPANY

BY:


 Paulita Kundid (Date)
 President
 FEID # 59-3084410

ATTACHMENT A
ATTENTION VENDOR

Pursuant to section 215.422, Florida Statutes (2006), you are advised of your rights and the states obligations regarding payment of invoices:

215.422. Payments, warrants, and invoices; processing time limits; dispute resolution; agency or judicial branch compliance

(1) An invoice submitted to an agency of the state or the judicial branch, required by law to be filed with the Chief Financial Officer, shall be recorded in the financial systems of the state, approved for payment by the agency or the judicial branch, and filed with the Chief Financial Officer not later than 20 days after receipt of the invoice and receipt, inspection, and approval of the goods or services, except that in the case of a bona fide dispute the invoice recorded in the financial systems of the state shall contain a statement of the dispute and authorize payment only in the amount not disputed. The Chief Financial Officer may establish dollar thresholds and other criteria for all invoices and may delegate to a state agency or the judicial branch responsibility for maintaining the official invoices and documents for invoices which do not exceed the thresholds or which meet the established criteria. Such records shall be maintained in accordance with the requirements established by the Secretary of State. The transmission of an approved invoice recorded in the financial systems of the state to the Chief Financial Officer shall constitute filing of a request for payment of invoices for which the Chief Financial Officer has delegated to an agency custody of official records. Approval and inspection of goods or services shall take no longer than 5 working days unless the bid specifications, purchase order, or contract specifies otherwise. If an invoice filed within the 20-day period is returned by the Department of Financial Services because of an error, it shall nevertheless be deemed timely filed. The 20-day filing requirement may be waived in whole or in part by the Department of Financial Services on a showing of exceptional circumstances in accordance with rules and regulations of the department. For the purposes of determining the receipt of invoice date, the agency or the judicial branch is deemed to receive an invoice on the date on which a proper invoice is first received at the place designated by the agency or the judicial branch. The agency or the judicial branch is deemed to receive an invoice on the date of the invoice if the agency or the judicial branch has failed to annotate the invoice with the date of receipt at the time the agency or the judicial branch actually received the invoice or failed at the time the order is placed or contract made to designate a specific location to which the invoice must be delivered.

(2) The Department of Financial Services shall approve payment of an invoice no later than 10 days after the agency's filing of the approved invoice. However, this requirement may be waived in whole or in part by the Department of Financial Services on a showing of exceptional circumstances in accordance with rules and regulations of the department. If the 10-day period contains fewer than 6 working days, the Department of Financial Services shall be deemed in compliance with this subsection if the payment is approved within 6 working days without regard to the actual number of calendar days.

(3)(a) Each agency of the state or the judicial branch which is required by law to file invoices with the Chief Financial Officer shall keep a record of the date of receipt of the invoice; dates of receipt, inspection, and approval of the goods or services; date of filing of the approved invoice;

and date of issuance of the warrant in payment thereof. If the invoice is not filed or the warrant is not issued within the time required, an explanation in writing by the agency head or the Chief Justice shall be submitted to the Department of Financial Services in a manner prescribed by it. Agencies and the judicial branch shall continue to deliver or mail state payments promptly.

(b) If a warrant in payment of an invoice is not issued within 40 days after receipt of the invoice and receipt, inspection, and approval of the goods and services, the agency or judicial branch shall pay to the vendor, in addition to the amount of the invoice, interest at a rate as established pursuant to s. 55.03(1) on the unpaid balance from the expiration of such 40-day period until such time as the warrant is issued to the vendor. Such interest shall be added to the invoice at the time of submission to the Chief Financial Officer for payment whenever possible. If addition of the interest penalty is not possible, the agency or judicial branch shall pay the interest penalty payment within 15 days after issuing the warrant. The provisions of this paragraph apply only to undisputed amounts for which payment has been authorized. Disputes shall be resolved in accordance with rules developed and adopted by the Chief Justice for the judicial branch, and rules adopted by the Department of Financial Services or in a formal administrative proceeding before an administrative law judge of the Division of Administrative Hearings for state agencies, provided that, for the purposes of ss. 120.569 and 120.57(1), no party to a dispute involving less than \$1,000 in interest penalties shall be deemed to be substantially affected by the dispute or to have a substantial interest in the decision resolving the dispute. In the case of an error on the part of the vendor, the 40-day period shall begin to run upon receipt by the agency or the judicial branch of a corrected invoice or other remedy of the error. For purposes of this section, the nonsubmittal of the appropriate federal taxpayer identification documentation to the Department of Financial Services by the vendor will be deemed an error on the part of the vendor, and the vendor will be required to submit the appropriate federal taxpayer documentation in order to remedy the error. The provisions of this paragraph do not apply when the filing requirement under subsection (1) or subsection (2) has been waived in whole by the Department of Financial Services. The various state agencies and the judicial branch shall be responsible for initiating the penalty payments required by this subsection and shall use this subsection as authority to make such payments. The budget request submitted to the Legislature shall specifically disclose the amount of any interest paid by any agency or the judicial branch pursuant to this subsection. The temporary unavailability of funds to make a timely payment due for goods or services does not relieve an agency or the judicial branch from the obligation to pay interest penalties under this section.

(c) An agency or the judicial branch may make partial payments to a contractor upon partial delivery of goods or services or upon partial completion of construction when a request for such partial payment is made by the contractor and approved by the agency. Provisions of this section and rules of the Department of Financial Services shall apply to partial payments in the same manner as they apply to full payments.

(4) If the terms of the invoice provide a discount for payment in less than 30 days, agencies of the state and the judicial branch shall preferentially process it and use all diligence to obtain the saving by compliance with the invoice terms.

The vendor ombudsman within the Department of Banking and Finance is an advocate for vendors who experience problems in obtaining timely payments from a state agency or the judicial branch. The vendor ombudsman may be contacted at (850) 410-9724 or by calling the State Chief Financial Officer Hotline at 1-800-848-3792.

ATTACHMENT B

APPENDIX F: POLICY ON COURT REAL-TIME TRANSCRIPTION SERVICES FOR PERSONS WHO ARE DEAF OR HARD OF HEARING¹

It is the policy of the Florida State Courts System that all judges and court staff will abide by the following guidelines in those court proceedings where real-time transcription services are utilized as a reasonable and necessary method of ensuring effective participation by a party, witness, attorney, judge, court employee, juror, or other participant who is deaf or hard of hearing and entitled to auxiliary aids or services pursuant to Title II of the Americans with Disabilities Act of 1990:

1. Real-time transcription services should be performed by a court reporter who is specially trained in this skill.
2. The device selected should display text in a manner that accomplishes full access to the service and should be a non-glare, display-type computer monitor; a large-screen image from a data projection panel and overhead projector; or other device that ensures effective communication. It is recommended that the monitor be 15 inches or larger. The size of the monitor should take into account the number of persons viewing it. The display of the text should be dark letters on a light background, double spaced, with mixed case as appropriate for the context of the proceedings. The display font or type size should be a minimum of 18 points. The real-time transcription service should display not less than four (4) and no more than 17 lines of text at any one time. The display view should be limited to text that relates to the real-time transcription service; no system information should be visible to the user.
3. Text displayed on the monitor should appear within three (3) seconds from the time of steno-type input. This time frame requirement includes time for any and all related spell checks including phonetic translation for untranslates.
4. At the commencement of the proceeding, the court should determine whether effective communication is occurring. The court should instruct the person receiving the service and other participants in the proceeding to alert the court should a translation or other problem occur that impedes the person receiving the service from effectively participating in that person's appropriate role in the proceeding. Furthermore, if the court reporter becomes aware that an unacceptable number of untranslates or other problem is occurring with the real-time transcription service, the court reporter should immediately alert the court. Should the real-time transcription service become ineffective, the court should determine the cause of the problem and implement any corrective action the court deems reasonable or necessary.
5. The reporter, prior to the beginning of the proceeding, should review the case file and build a good client/job dictionary. This same job dictionary should be used at each subsequent proceeding in a particular case. The job dictionary should be updated during the course of the proceeding to include untranslates that may be corrected by any of the parties during the proceedings. Such updates should be operable throughout the remainder of the proceeding's

¹Adopted on June 28, 1996, by administrative order of the Chief Justice of the Supreme Court of Florida.

ATTACHMENT B

real-time transcription service and carried over to any future proceedings.

6. The real-time transcription service and corrections that were displayed on the screen or monitor during the proceeding must be preserved in a manner to reflect what was actually displayed. Any corrections that were not viewed but that later become a part of the official court record must be maintained separately from the record of displayed text. At the conclusion of any proceeding (other than juror deliberations) in which real-time transcription service has been provided to ensure effective communication for a person who is deaf or hard of hearing, the reporter shall preserve the record of the real-time transcription service in accordance with rule 2.075(e), Florida Rules of Judicial Administration, unless otherwise directed by the court.

7. If real-time transcription services are required for a juror who is deaf or hard of hearing, a court reporter shall be present in the jury room during jury deliberations. The role of the reporter, when in the jury room, is not as a reporter of the official record; therefore the real-time transcription service of jury deliberations must be deleted immediately upon the conclusion of jury deliberation. The reporter shall not counsel, advise, attempt to explain terms, or interject personal opinion. Furthermore, the reporter shall not read back the real-time transcription service from the proceeding or jury deliberations without express judicial approval or authorization.

**COURT REPORTING CONTRACTUAL SERVICES AGREEMENT
FOR THE EIGHTH JUDICIAL CIRCUIT OF FLORIDA**

This Agreement is made between the Court Administrator of the Eighth Judicial Circuit (the "Circuit") and the following vendor (the "Vendor"), as a Contract Reporter, Contract Transcriber or Contract Videographer.

Vendor Name: JOHNS, STEPHENSON, & BIERY ADVANTAGE COURT REPORTERS

Address: 305 NE 1st Street

Gainesville, FL 32601

FIN: 59-3350517

Upon execution, this Agreement shall be effective on July 1, 2012, and terminate on June 30, 2015. However, this agreement shall automatically be extended for one three (3) year period under the same terms and conditions as the original three-year term, unless either party gives written notice to terminate the agreement at least 30 days before the expiration of any current one-year term. All contract Court Reports, Contract Transcribers, or Contract Videographers shall maintain a current electronic W-9 with the State of Florida.

The Vendor entering into this agreement agrees to be available to take requests from the Court Reporting Department of the Court Administrator's Office of the Eighth Judicial Circuit and provide services as a (select all that apply):

Contract Reporter

Contract Transcriber

A. Scope of Services

The Vendor will provide the following services, as selected above, to the Court Reporting Department *as may be needed*:

Contract Reporter – This Vendor is defined as a freelance reporter who agrees to cover court events as requested by the Court Reporting Department. The Vendor will:

1. Make an accurate and complete stenographic record of the event that the vendor is scheduled to report and note in the record: the Vendor's name; the style of the case or event; the case number; the location of the proceeding; the date and time of the event; the name of the presiding judge; the attorneys' names; and, during trials, note the presence or absence of both the defendant and the jury. The vendor will also simultaneously audiotape the event, UNLESS the event is being digitally recorded.
2. Produce a true and accurate transcript when a transcript is requested by the Court Reporting Department and sign the certificate of every transcript required to be produced regardless of whether it is called an original or a copy. The Vendor must follow the format requirements of Florida Rule of Judicial Administration 2.535(e), and use any forms provided by the Court Reporting Department. The Vendor must promptly deliver the transcript, an electronic copy of the transcript in Word on a CD, and one ASCII disk within the time required by court order, or Florida Rules of Appellate Procedure 9.200(b) as applicable. The Court Reporting Department will distribute the transcripts.

3. The Vendor agrees to be available to transcribe any events the Vendor reports up until the time the records can be purged pursuant to Florida Rule of Judicial Administration Rule 2.075(e), when requested by the Court Reporting Department, which will be paid for at the rate set forth in this agreement.

4. It is the Vendor's obligation to maintain all records made or received by it in conjunction with its obligations under this Agreement in accordance with Florida Rule of Judicial Administration 2.051, until or unless they are turned over to the Court Reporting Department as provided for in item number 2.

Contract Transcriber – This Vendor is defined as a freelance transcriber who agrees to, as requested by the Court Reporting Department, electronically transcribe recorded events that cannot be transcribed by the Court Reporting Department. The Vendor will produce true and accurate transcripts as allowed by the quality of the electronic media. The Vendor will follow the format requirements of Florida Rule of Judicial Administration 2.535(e), and use any forms provided by the Court Reporting Department. The Vendor must promptly deliver the transcript and an electronic copy of the transcript or otherwise deliver the transcript and electronic copy within the time required by court order, certificate of need, or Florida Rules of Appellate Procedure 9.200(b) as applicable.

B. Compensation

Office of State Courts Administration (“OSCA”) will pay the Vendor for services performed as provided in the current administrative order that governs court reporting unless this contract provides a higher rate. Any revision of the administrative order will be considered an addendum to this contract, effective on the date it is signed by the Chief Judge, and the parties will not be required to execute a new contract, UNLESS the rates are lowered.

The current Court Reporting Administrative Order No. 1.1110(M) generally provides:

1. A **Contract Reporter** is entitled to the following attendance and transcript fees:

a. Attendance Fees:

Normal Attendance: \$60.00 per hour or any fraction thereof after the passing of seven minutes.
Overtime: 1½ times the normal or real-time attendance fees.

b. Transcript Fees:

Normal Delivery \$5.00 per page for an original and one copy.
\$1.00 per page for each additional copy. The Vendor is required to provide a minimum transcript order of an original and two copies.
Expedited Delivery: 1½ times the normal rate.
Daily Delivery: 2 times the normal rate.
Rough Draft: \$3.00 per page (original or copy) in print or by electronic media.

c. Cancellation Policy and Fees:

d. The Vendor is not entitled to an attendance fee if cancellation occurs two hours or more prior to the scheduled time.

e. The Vendor is entitled to a \$60.00 attendance fee, if cancellation occurs with less than a two hour notice.

- f. Attendance time begins and ends with the set-up and take-down of equipment.
 - g. No fee will be charged for the lunch hour.
2. A **Contract Transcriber** is entitled to transcript fees:
 - a. Normal Delivery: \$5.00 per page for the original and one copy.
\$1.00 per page for each additional copy.
 - b. Expedited Delivery: 1½ times the normal delivery fee.
 - c. Daily Copy Delivery: 2 times the normal delivery fee.
 3. The fee required for an original transcript will only be paid or charged one time.
 4. Travel expenses must be submitted in accordance with s.112.061 Florida Statutes. All travel expenses must be submitted on the State of Florida Voucher for Reimbursement of Travel which is available at http://www.flcourts.org/courts/crtadmin/bin/Travel_tips.pdf.

C. General Conditions:

All Vendors agree that:

1. The Vendor will assume responsibilities and duties of an officer of the court for the duration of the agreement.
2. The Vendor will report to the appointment early enough to be fully set up and ready to begin at the time that the event is scheduled to commence.
3. The Vendor will not disclose directly or indirectly, whether orally or in writing, to anyone other than a party or a party's attorney of record, information obtained through the performance of the duties unless specifically authorized by the Circuit. *Confidentiality will survive termination.*
4. The Vendor will invoice all services on the form provided by the Court Administrator's Office. The Court Administrator's Office will not approve an invoice unless it is on the approved form. The Court Administrator's Office will initiate payment procedures upon receipt of a written invoice, submitted in detail sufficient for a proper pre and post audit. Payment will be made pursuant to section 215.422, Florida Statutes.
5. Definitions for Compensation:
 - A. Normal Delivery: Is delivery two weeks to 30 days after the request, depending on the Circumstances and whether or not it is an appeal.
 - B. Expedited Delivery: Is delivery within three to five working days after the request.
 - C. Daily Copy Delivery: Is delivery within one work day (24 hours) after the request.
 - D. Normal Attendance: Is the time between 8:30 a.m. and 5:00 p.m., Monday thru Friday.

- E. Providing Real-Time: Is the enhanced attendance rate a contractor may charge for providing real-time during Normal Attendance. The rate is the same no matter the number of parties receiving the real-time.
- F. Overtime: Is when the appearance begins prior to 8:30 a.m. or extends after 5:00 p.m. on weekdays, or 8:30 a.m. to 5:00 p.m. on Saturday.
- G. Weekend Overtime: Is prior to 8:30 a.m. or after 5:00 p.m. on Saturday, and anytime on Sunday.

D. Additional Conditions.

This Agreement is also *subject to the following terms and conditions*:

1. If, in the judgment of the Court Administrator's Office, the Vendor for any reason fails to fulfill its obligations under this Agreement in a timely manner, or if the Vendor violates any provision of this Agreement, the Court Administrator's Office reserves the right to cancel this Agreement on 15 days written notice by certified mail.
2. The parties agree that the Vendor has the right to refuse any specific request for services by the Court Reporting Department and that this agreement does not create an obligation on the part of the Court Administrator's Office or the Court Reporting Department to use the Vendor's services. Additionally, the Vendor may cancel this Agreement giving 15 days written notice by certified mail to the Director of the Court Reporting Department.
3. The Court Administrator's Office may reproduce any written materials generated as a result of the Vendor's work.
4. If Vendor's services are not needed due to cancellation of funding for the Court Reporting program, the Court Administrator's Office may cancel this Agreement. The Court Administrator's Office reserves the right to cancel this Agreement on 15 days written notice by certified mail.
5. In providing, or contracting to provide, services, programs or activities, maintaining facilities, and otherwise performing obligations under this Agreement, the Vendor will comply with the Americans with Disabilities Act, the Civil Rights Act of 1964, as amended, the Florida Civil Rights Act of 1992 and any other federal or state law that prohibits discrimination on the basis of race, color, national origin, religion, sex, age, marital status, or handicap.
6. Vendor shall indemnify, pay the cost of defense, including attorney's fees, and hold harmless the State of Florida and Court from all suits, actions or claims of any type brought on account of any injuries or damages received or sustained by any person, persons or property by or from the Vendor; or by, or as a result of any neglect in safeguarding the work; or through the use of unacceptable equipment in the performance of services under this contract; or by, or on account of any act or omission, neglect or recovery under any law, by-law, ordinance, order or decree, except only such injury or damage as shall have been occasioned by the sole negligence of the Court Administrator's office or the State of Florida. The first ten dollars (\$10.00) of compensation received by Vendor represents specific consideration for this indemnification obligation
7. The Vendor agrees to perform the services for which it is retained to the best of its ability and at the direction and request of the Court Reporting Department.

8. The Vendor agrees to maintain a file available for inspection by the Court Administrator’s Office and OSCA containing documentation of all costs associated with this Agreement. The Vendor will maintain the file until otherwise notified by the Court Administrator’s Office, or for a period of 4 years following the conclusion of this Agreement, whichever occurs first.

9. The Vendor acknowledges that OSCA’s performance and obligation to pay under this Agreement are contingent upon the availability of funds lawfully appropriated to fulfill the requirements of this Agreement.

10. The Court Reporting Department is a division of the Court Administrator's Office and though the duties of the Court Reporting Department is differentiated in this Agreement, the Court Administrator's Office may assume some Court Reporting duties or may assign other Court Administration duties to the Court Reporting Department for purposes of this agreement.

This Agreement constitutes the *entire* understanding of BOTH parties. Any modifications to this Agreement must be in *writing*.

EIGHTH JUDICIAL CIRCUIT OF FLORIDA

BY: _____
H. E. McFetridge, Court Administrator

BY: _____
Nancy Stephenson
Johns, Stephenson & Biery
Advantage Court Reporters

DATE: _____

DATE: _____

Copy of Steno- Reporters Contract

AGREEMENT FOR COURT REPORTING SERVICES

This Agreement is made and entered into by and between the Tenth Judicial Circuit Court of Florida (Hardee, Highlands, and Polk Counties) (hereinafter "Tenth Circuit" or "Court"), acting by and through the Administrative Office of the Courts, and **MCGILL & ASSOCIATES PROFESSIONAL REPORTING SERVICES, INC.** (hereinafter "Company", "Vendor", or "Court Reporter"). The terms "Company", "Vendor", and "Court Reporter" include the Company's owners, executives, officers, employees and contractors. The Court will not pay for work assignments received by the Court Reporter from any other entity or person.

WITNESSETH:

The Chief Judge of the Tenth Judicial Circuit Court, after consultation with the circuit and county court judges, entered Administrative Order No. 1-22.3, implementing the circuit-wide plan for the provision of court-reporting services for all proceedings. The Court and the Court Reporter understand that the Court is operating under a system which utilizes employee digital court reporters and contract stenographic court reporters to record all circuit and county courts in which the Court is required by law to provide a transcript for appeal. This agreement is being awarded to the Court Reporter to cover stenographic court reporting needs within Polk County, Florida.

In consideration of the mutual covenants and provisions herein, the Court and the Court Reporter agree as follows:

1. **SCOPE OF SERVICES.** The Court Reporter agrees to and shall:
 - A. Furnish court reporting services to the Court in Polk County, Florida on an as needed basis to report proceedings at the Polk County Courthouse. Furnish stenographic court reporting services to the Court in Hardee and Highlands Counties if or when the Court's contracted vendor for stenographic court reporting services within Hardee and Highlands Counties is unavailable. To accomplish this, the Court Reporter will follow the directions of, and cooperate with, the Trial Coordinator and her assignees as she schedules the trials and assigns court reporting resources to those trials.
 - B. All court reporting services shall be provided pursuant to Florida Rule of Judicial Administration 2.535, Administrative Order No. 1-22.3, and any subsequent Rules of Court, administrative orders, or applicable laws. All transcription shall also be performed consistent with the Florida Rules of Appellate Procedure and any guidance provided by the Court Administrator's Office (hereinafter "CAO"). Additionally, the Court Reporter shall provide:
 - i. Real-time transcription services upon request, with reasonable notice and preparation time provided.
 - ii. Transcripts that comply with the Florida Rules of Judicial Administration.

- iii. Provisions for the control of and retention by the Court Reporter of the notes, records, and transcripts of individual court reporters and the careful maintenance of all files and records.
- iv. A verbatim record of legal proceedings and accurate transcripts in the format required by the Courts of the Tenth Judicial Circuit and the Florida Supreme Court.
- v. Timely distribution of requested transcripts. Unless a different time frame is authorized by Florida statute or rule, or ordered by a court, all transcripts will be filed with the Clerk of Court within 30 days of service of the designations to the Court Reporter. If Court Reporter is unable to complete a transcript within the time specified under this Agreement, they will file a request with the presiding court during that specified time for an extension of time for preparation of the transcript.
- vi. Court Reporter shall retain the record in compliance with Florida statutes.
- vii. In the event of a natural disaster or any impending natural disaster, the Court may require that all stenographic disks and notes, and any audio and electronic recordings of any proceeding reported under this Agreement, be turned in to the Court after any reporting service.

2. QUALIFICATIONS FOR REPORTER. The Court Reporter agrees that:

- A. Court Reporters shall be governed by certification requirements as may be adopted by the Florida Supreme Court.
- B. Court Reporters shall be capable of translating, editing, and producing typed transcripts as needed.
- C. Court Reporters shall be capable of producing accurate transcripts consistent with established standards of accuracy.
- D. Court Reporters shall have an extensive knowledge of court practices and procedures.
- E. Court Reporters shall be skilled, knowledgeable, and dedicated to achieving and maintaining a high level of professionalism.
- F. Court Reporters shall be proficient in the English language, legal terminology, court practices and procedures, transcript preparation, and professional responsibility.
- G. Stenographic Court Reporters shall use steno-machines, provided by the reporters and/or vendors, capable of accommodating computer-aided transcription (CAT).

3. RATE SCHEDULE. The Court Reporter agrees to assess charges in accordance with the rate/fee schedule outlined below. The Court may request additional court reporting services under this Agreement at any time. The Court Reporter will be compensated for such additional services as mutually agreed by the parties.

A. Transcript Fees:

- i. Transcript for trials, TPRs, all day proceedings and appeals: original and two (2) copies at \$7.00 per page.
- ii. Other transcripts: original and one (1) copy at \$8.00 per page.
- iii. Expedited transcripts (weekend and holidays excluded):
 - 96 hours at \$6.50 per page;
 - 72 hours at \$7.50 per page;
 - 48 hours at \$8.50 per page;
 - 24 hours at \$9.50 per page;
 - Daily at \$10.50 per page;
 - Additional copy at \$2.00 per page.

B. In-Court Per Diem Appearance Fees (stenographic):

- i. Criminal trials (Circuit Court):
 - From 8:30 a.m. to 5:00 p.m., the Court Reporter shall be compensated at the rate of: \$60.00 per hour.
 - Before 8:30 a.m. and after 5:00 p.m., the Court Reporter shall be compensated at the rate of: \$90.00 per hour.
- ii. Juvenile dependency TPR trials:
 - From 8:30 a.m. to 5:00 p.m., the Court Reporter shall be compensated at the rate of: \$60.00 per hour.
 - Before 8:30 a.m. and after 5:00 p.m., the Court Reporter shall be compensated at the rate of: \$90.00 per hour.
- iii. Other proceedings:
 - From 8:30 a.m. to 5:00 p.m., the Court Reporter shall be compensated at the rate of: \$60.00 per hour.
 - Before 8:30 a.m. and after 5:00 p.m., the Court Reporter shall be compensated at the rate of: \$90.00 per hour.

C. CART Services for the Deaf/HOH, provided under ADA:

- i. Transcripts: No transcripts provided with CART services. Not a verbatim record, and CART reporter is not the reporter of record. Fees for reporter of record are a separate charge.
- ii. Per diem appearance fee:
 - \$100.00 per hour for CART;
 - \$60.00 per hour for preparation time.
- iii. Court Administration is responsible for monitor hook-up for CART recipient. If provider supplies equipment necessary for CART delivery, terms of such equipment rental will require authorization of the Court.

D. Rough ASCII:

- i. Per diem appearance fee:
 - \$75.00 per hour;
 - \$60.00 per hour preparation time.

- ii. Per page: \$1.25 per 24-line page of rough ASCII.
- iii. Ordering of rough ASCII requires guaranteed purchase of original and one (1) copy of final transcript at above-listed transcript fee schedule.

E. Real-Time Hookup (interactive real-time):

- i. Per diem appearance fee:
 - \$100.00 per hour per hookup;
 - \$60.00 per hour preparation time.
- ii. Ordering of real-time hookup requires guaranteed purchase of original and one (1) copy of final transcript at above-listed transcript fee schedule.
- iii. Ordering party of real-time hookup will provide its own equipment. The Court Reporter will provide the hookup cable only. Ordering party is responsible for troubleshooting real-time hookup.

F. General Provisions Pertaining to Appearance Fees Listed above in Sections B-E:

- i. Minimum per diem appearance fee: At a minimum, the Court Reporter shall be compensated for:
 - Two (2) consecutive hours of appearance time for the morning session (i.e., before the lunch break); and
 - One (1) hour of appearance time for the afternoon session (i.e., after the lunch break).
- ii. All per diem appearance rates shall be rounded up to the next half hour after the minimum per diem appearance fee(s) has been met.
- iii. Overtime rates will apply for all reporting services provided before 8:30 a.m. and after 5:00 p.m. at 1.5 times the regular per diem rates. Double time rates will apply after 9:00 p.m. until 7:00 a.m. and weekends and holidays.
- iv. When a court reporter is ordered by a presiding judge to "stand-by" status, that time shall be billed as in-court time.
- v. Names from case the case file shall be provided to the Court Reporter no less than one week prior to any scheduled real-time proceeding, to build job dictionary.

G. Other Court Reporting Services:

- i. Electronic delivery of transcript (DVD, CD, e-mail, floppies, or other electronic media):
 - \$25.00 per transcript or volume of transcript (in addition to the per-page rate).
- ii. Video teleconference costs:
 - Local video room: \$150.00 per hour.
 - Connection charge: \$90.00 per hour.
 - Because remote location charges are out of the control of the local provider, other charges for remote location(s) will be invoiced at

the actual cost invoiced by providers of remote location services, and may include charges for room fees, connection charges, and cancellation and other fees. Documentation of remote services will be furnished with any invoices for video teleconferencing.

- These charges are in addition to any Court Reporter per diem, transcript fees, videography services, and other ancillary fees covered under this Agreement.
- iii. Word indices: billed at the per page rate of the transcript.
- iv. Postage: Minimum \$6.00 per mailing OR actual cost of postage or shipping fees. Copy of receipt must accompany invoices for any charges other than the minimum \$6.00 cost.
- v. Videography services:
 - Per diem: \$175.00 per hour for the first hour and \$100.00 per hour for additional hours (billed to the next half hour). This per diem includes a copy of the video proceedings to the party hiring the video services.
 - Video copy: \$25.00 per copy.
 - Video editing: \$50.00 per hour of editing.
- vi. Synchronized video transcripts:
 - Per tape of proceedings: \$100.00 per tape (in addition to transcript fees and videography fees).
 - This service synchronizes the transcript of a videotaped proceeding with the video footage. The transcript scrolls with the video and allows for easy searches of the proceedings.

H. Hourly Rate for Travel Outside of Contract County:

- i. All of the rates listed in the Agreement are for court reporting services in Polk County. If court reporting services are requested and provided for in Hardee or Highlands Counties, travel time will be billed at the prevailing rate (regular, overtime, etc....) and will be charged for round-trip travel times.
- ii. Expenses for out-of-circuit proceedings and/or change of venue cases will be subject to the above travel charges. Travel time will be billed at the prevailing rate (regular, overtime, etc....) and will be charged for round-trip travel times.

4. BILLING PROCEDURE.

- A. The Court will initiate payment procedures upon receipt of a completed State standardized invoice, submitted in detail sufficient for a proper pre- and post-audit. Morning and afternoon appearances shall be billed separately. Invoices must be submitted no more than once a week and no less than once a month for services provided in the preceding week or month. The invoice must be signed by the Court's Trial Coordinator or his or her designee and then will be submitted to the Court's Finance Department.

- B. The invoice will be processed and paid pursuant to section 215.422, Florida Statutes, which is incorporated as Attachment A hereto. The invoice must include the Agreement number, the nature of the services performed, the identity of the person performing the services, the amount of time expended in performing the service, and the appropriate vendor identification number. The Court may require any other information from the Court Reporter that the Court deems necessary to verify any information in connection with the Agreement.
- C. Payment shall be made in accordance with sections 215.422 and 287.0585, Florida Statutes, which govern time limits for payment of invoices. Invoices that must be returned to the Court Reporter due to preparation errors will result in a delay in payments. The Court Reporter may call (850)488-3730, Monday through Friday, to inquire about the status of payments. The Court's failure to pay, or delay in payment, shall not constitute a breach of the Agreement and shall not relieve the Court Reporter of his or her obligations to the Court.
- D. Payment for all court reporting services that are to be paid from public funds shall concur with the fee/rate schedule agreed to by the parties to this Agreement. Prices will remain constant throughout the duration of the Agreement. No additional fees shall be permitted without the written amendment of the Agreement.
- E. Reimbursement for travel expenses will be billed as applicable under §112.061, Florida Statutes and must be submitted on the State of Florida Voucher for Reimbursement of Travel form available at <http://www.flcourts.org/courts/crtadmin/1112TravelFORM.xls>.
5. **REPORT.** The Court Reporter shall provide a written statistical report to the Court Operations Consultant in care of the CAO no more than once a month for services provided during the preceding month. The report shall be submitted no later than ten (10) days after the end of each month. The report will include, but not necessarily be limited to: quantity and type of proceedings covered during the reporting period; number of pages, by type of proceeding transcribed; and other information as requested.
6. **INDEPENDENT CONTRACTOR.** No interest under this Agreement may be assigned and no duties hereunder may be subcontracted without prior written consent of the Court. The Court Reporter shall perform under this Agreement as an independent contractor, and nothing contained herein shall in any way be construed to imply that the Court Reporter or the Court Reporter's employees or subcontractors are agents, servants, employees, partners, or joint-venturers of the Court or the State of Florida. The Court Reporter is an independent contractor and is responsible for the manner in which he or she performs the services required by the terms of this Agreement. The Court Reporter exclusively assumes the responsibility for the acts of his or her employees as they relate to the services to be provided during the course and scope of employment by the contractor. The Court Reporter and his or

her agents and employees shall not be entitled to rights or privileges of State of Florida employees.

7. **COMPLIANCE WITH LAWS.** The Court Reporter shall pay any and all applicable sales, consumer, use, income taxes, and any other similar taxes required by law. The Court Reporter will comply with all laws, ordinances, and regulations applicable to the work required by this Agreement. The Court Reporter is responsible for reviewing and complying with all state and federal laws including, but not limited to, the Fair Labor Standards Act and all other applicable state and federal employment laws. In providing services and otherwise performing obligations under this Agreement, the Court Reporter will comply with the Americans with Disabilities Act, the Civil Rights Act of 1964, as amended, the Florida Civil Rights Act of 1992 and all other federal or state laws that prohibit discrimination on the basis of race, color, national origin, religion, sex, age, marital status, or disability. The Court Reporter remains liable for any violation of such laws and all subsequent damages or fines.
8. **AVAILABILITY OF STATE FUNDS.** The Court's performance and obligation to pay under this Agreement is contingent upon the availability of funds State funds. If the legislature fails to appropriate funds specifically for the purpose of funding the services of this Agreement or demands a spending reduction in State budgets due to a revenue shortfall, the Court and the State will have no obligation to pay or perform under this Agreement. The Court's performance and obligation to pay under this Agreement is also contingent upon final spending approval from the Chief Justice of the Florida Supreme Court.
9. **SUPPLIES AND EQUIPMENT.** The Court Reporter is responsible for supplying its own equipment for proceedings covered under this Agreement with no additional costs to the Court or the State of Florida, including connecting cables and any other equipment needed for real-time reporting in accordance with Supreme Court guidelines while the Court will provide equipment for the judge and defendant(s), and the attorneys will provide their own.
10. **ISSUANCE OF SECURITY BADGES.** Security badges will be issued to all court reporter employees of the Court Reporter. When a new security badge is needed, the Court Reporter shall send the employee to the CAO with a letter from the Court Reporter on the Court Reporter's letterhead so informing the Court.
11. **FACILITIES.** No office space will be provided to the Court Reporter by the Court.
12. **RECORDS.** The Court Reporter shall maintain payment and other records made or received in connection with this Agreement in accordance with the requirements of Rules 2.420, 2.430, and 2.440, Florida Rules of Judicial Administration, and with the procedures for record and safekeeping, if any, set forth by the CAO and the Polk County Clerk of Court. The Court may terminate this Agreement if the Court Reporter refuses to allow public access to all documents, papers, letters or other material made or received by the Court Reporter in conjunction with this Agreement, unless the records are exempt from 2.420 Rule of Judicial Administration. The Court Reporter shall retain all other records pertaining to this Agreement for five (5) years after the date of the termination of this Agreement. This includes records necessary

to evaluate and substantiate payments made under this Agreement and any related employment records.

13. **SUSPENSION OF WORK.** The Court may in its sole discretion suspend any or all activities under this Agreement, at any time, when in the best interests of the Court to do so. The Court shall provide the Court Reporter written notice outlining the particulars of the suspension. Examples of the reason for suspension include, but are not limited to, budgetary constraints, declaration of emergency, or other such circumstances. After receiving a suspension notice, the Court Reporter shall comply with the notice and shall not accept any assignments from the Court. Within ninety days, or any longer period agreed to by the Court Reporter, the Court shall either (1) issue a notice authorizing resumption of work, at which time activity shall resume, or (2) terminate this Agreement. Suspension of work shall not entitle the Court Reporter to any additional compensation except for work performed.

14. **TERMINATION OF AGREEMENT.**

- A. The Court, in its sole discretion, may terminate this Agreement in whole or in part at any time.
- B. If the Court Reporter is unable to perform pursuant to this Agreement due to an injury or illness, or for other similar cause beyond the Court Reporter's control, then the Court Reporter may be released from any and all obligations under this Agreement.
- C. If the Court Reporter fails to meet minimum performance standards as determined by the Trial Coordinator or CAO, violates new or existing policies, or is arrested or cited with a Notice to Appeal, the Court may either immediately terminate this Agreement, or discontinue the services of the Court Reporter until such time as the Court Reporter has received further training or the Court Reporter has complied with any sanctions or directives.
- D. Failure of the Court Reporter to comply with any of the terms of this Agreement shall constitute a material breach of this Agreement by the Court Reporter and shall be cause for the immediate termination of this Agreement at the discretion of the Court.
- E. Aside from termination pursuant to the provisions of A, B, C, or D above, either party may terminate this Agreement upon thirty (30) days written notice to the other party. Upon notice of such termination, no further cases will be assigned to the Court Reporter.
- F. In the event of termination of this Agreement for any of the reasons set forth in the Agreement, the Court Reporter shall immediately cease court reporting services under this Agreement. The Court Reporter shall not be entitled to recover any cancellation charges or lost profits.

15. **GOVERNING LAW.** This Agreement shall be construed under and be governed by the laws of the State of Florida. Any dispute concerning performance of this

Agreement shall be decided by the Court's designated Contract Manager, who shall reduce the decision to writing and provide a copy to the Court Reporter. The exclusive venue of any legal or equitable action that arises out of or relates to this Agreement shall be the appropriate state court in Polk County, Florida. The parties waive any right to jury trial.

16. **NO THIRD PARTY BENEFICIARIES.** Nothing contained herein shall create any relationship, contractual or otherwise, with, or any rights in favor of, any third party.
17. **INDEMNITY.** The Court Reporter shall be fully liable for all actions of its agents, employees, partners, or subcontractors and shall fully indemnify, defend, and hold harmless the Court and its officers, agents, and employees, from suits, actions, damages, and cost of every name and description, including attorneys' fees, arising from or relating to personal injury and damage to real or personal tangible property alleged to be caused in whole or in part by Court Reporter, its agents, employees, partners, or subcontractors; provided, however, that the Court Reporter shall not indemnify for that portion of any loss or damages proximately caused by the negligent act or omission of the Court. Further, the Court Reporter shall fully indemnify, defend, and hold harmless the Court from any suits, actions, damages, and costs of every name and description, including attorney's fees, arising from or relating to violation or infringement of a trademark, copyright, patent, trade secret or intellectual property right, provided that the Court shall give the Court Reporter (1) written notice of any such action or threatened action, (2) the opportunity to take over and settle or defend any such action at the Court Reporter's sole expense, and (3) assistance in defending the action at the Court Reporter's sole expense. The Court Reporter shall not be liable for any cost, expense, or compromise incurred or made by the Court in an infringement action without the Court Reporter's prior written consent, which shall not be unreasonably withheld. If any product is the subject of such a suit, the Court Reporter may at its sole expense become non-fringing. If the Court Reporter is not reasonably able to modify or otherwise secure the Court the right to continue using the product, the Court Reporter shall remove the product and refund the Court the amounts paid in excess of a reasonable rental for past use. The Court shall not be liable for any royalties.
18. **LIMITATION OF LIABILITY.** For all claims against the Court Reporter regardless of the basis on which the claim is made, the Court Reporter's liability for direct damages shall be limited to the greater of \$100,000, the dollar amount of the Agreement, or two times the charges rendered by the Court Reporter. This limitation shall not apply to claims arising under the Indemnification paragraph contained in this agreement.

Unless otherwise specifically enumerated in this Agreement, no party shall be liable to another for special, indirect, punitive, or consequential damages, including lost data or records (unless the purchase requires the Court Reporter to backup data or records), even if the party has been advised that such damages are possible. No party shall be liable for lost profits, lost revenue, or institutional operating savings. The Court may, in addition to other remedies available to it at law or equity and upon notice to the Court Reporter, retain such monies from the amounts due the Court Reporter as may be necessary to satisfy any claim for damages, penalties, cost and

the like asserted by or against it. The Court may set off any liability or other obligation of the Court Reporter or its affiliates to the Court against any payments due the Court Reporter under any contract with the State.

19. **NOTICE.** Any notice required or permitted to be given under this Agreement shall be sufficient if it is in writing and if sent by certified or registered mail, return receipt requested, to either of the parties at the addresses provided on the execution page.
20. **ATTORNEY'S FEES.** If either party enters into legal actions for enforcement of or damages for breach of this Agreement, the prevailing party will be entitled to recover from the non-prevailing party court costs and attorney's fees.
21. **WAIVER.** The delay or failure by the Court to exercise or enforce any of its rights under this Agreement shall not constitute or be deemed a waiver of the Court's right thereafter to enforce those rights, nor shall any single or partial exercise of any such right preclude any other or further exercise thereof or the exercise of any other right.
22. **GOVERNMENTAL RESTRICTIONS.** If the Court Reporter believes that any governmental restrictions have been imposed that require alteration of the material, quality, workmanship or performance of the services offered under the Agreement, the Court Reporter shall immediately notify the Court in writing, indicating the specific restriction. The Court reserves the right and the complete discretion to accept any such alteration or to cancel the Agreement at no further expense to the Court.
23. **LOBBYING AND INTEGRITY.** The Court Reporter shall not, in the performance of duties required under this Agreement use funds provided by this Agreement to lobby the legislature or any state agency. See Fla. Stat. §11.062. The Court Reporter shall not, in connection with this or any other agreement with the Court, directly or indirectly, (1) offer, confer, or agree to confer any pecuniary benefit on anyone as consideration for any Court officer or employee's decision, opinion, recommendation, vote, other exercise of discretion, or violation of a known legal duty, or (2) offer, give, or agree to give to anyone any gratuity for the benefit of, or at the direction or request of, any Court officer or employee. For purposes of clause (2), "gratuity" means any payment of more than nominal monetary value in the form of cash, travel, entertainment, gifts, meals, lodging, loans, subscriptions, advances, deposits, of money, services, employment, or contracts of any kind. Upon request of the Court's Inspector General, or other authorized Court official, the Court Reporter shall provide any type of information deemed relevant to the Court Reporter's integrity or responsibility. Such information may include, but shall not be limited to, the Court Reporter's business or financial records, documents, or files of any type or form that refer to or relate to the Agreement. The Court Reporter shall retain such records for three years after the expiration of the Agreement. The Court Reporter agrees to reimburse the Court for the reasonable cost of investigation incurred by the Inspector General or other authorized Court official for investigations of the Court Reporter's compliance with the terms of this or any other agreement between the Court Reporter and the Court which results in the suspension or debarment of the Court Reporter. Such costs shall include, but shall not be limited to: salaries of investigators, including overtime; travel and lodging expenses; and expert witness

and documentary fees. The Court Reporter shall not be responsible for any cost of investigations that do not result in the Court Reporter's suspension or debarment.

24. **ADVERTISING.** Subject to Rule 2.420, Florida Rules of Judicial Administration, the Court Reporter shall not publicly disseminate any information concerning this Agreement without prior written approval from the Court, including, but not limited to, mentioning this Agreement in a press release or other promotional material, identifying the Court, a Judge, or Court staff or otherwise linking the Court Reporter's name and either a description of this Agreement or the name of the Court, a Judge, or a Court staff in any material published, either in print or electronically, to any entity that is not a party to this Agreement.
25. **WARRANTY OF ABILITY TO PERFORM.** The Court Reporter warrants that, to the best of its knowledge, there is no pending or threatened action, proceeding, or investigation, or any other legal or financial condition, that would in any way prohibit, restrain, or diminish the Court Reporter's ability to satisfy its obligations under this Agreement. The Court Reporter warrants that neither it nor any affiliate is currently on the convicted vendor list maintained pursuant to section 287.133, Florida Statutes, or on any similar list maintained by any other state or the federal government. The Court Reporter shall immediately notify the Court in writing if its ability to perform is compromised in any manner during the term of this Agreement.
26. **SECURITY AND CONFIDENTIALITY.** The Court Reporter shall comply fully with all security requirements and procedures of the Court in performance of the Agreement. The Court Reporter shall not divulge to third parties any confidential information obtained by the Court Reporter or its agents, distributors, resellers, subcontractors, officers, or employees in the course of performing work under this Agreement, including, but not limited to, security procedures, business operations information, or commercial proprietary information in the possession of the Court. The Court Reporter shall not be required to keep confidential information or material that is publicly available through no fault of the Court Reporter, material that the Court Reporter developed independently without relying on the Court's confidential information, or material that is otherwise obtainable under State law as a public record. The Court Reporter shall take appropriate steps with its personnel, agents, and subcontractors to insure confidentiality. The warranties of this paragraph shall survive the Agreement.
27. **RULE OF INTERPRETATION.** All specific conditions will prevail over a general condition on the same subject.
28. **SEVERABILITY.** The terms and conditions of this Agreement shall be deemed to be severable. Consequently, if any clause, term, or condition hereof shall be held to be illegal or void, such determination shall not affect the validity or legality of the remaining terms and conditions, and notwithstanding any such determination, this Agreement shall continue in full force and effect unless the particular clause, term, or condition held to be illegal or void renders the balance of the Agreement impossible to perform.

- 29. **GENERAL CONTRACT CONDITIONS.** This Agreement is bound by the General Contract Conditions of the Florida State Court System, which can be found at http://www.flcourts.org/courts/crtadmin/general_contract_conditions.shtml. The terms and conditions described as General Contract Conditions for Services at http://www.flcourts.org/courts/crtadmin/general_contract_conditions.shtml are incorporated herein as if fully recited in the Agreement except to the extent that any of those terms or conditions is in conflict with this Agreement in which case the terms and conditions of this document shall prevail.
- 30. **TERM OF AGREEMENT AND RENEWAL.** This Agreement begins on July 1, 2012, or upon execution, whichever is later, and shall terminate on June 30, 2013. Upon mutual agreement, the Court and the Court Reporter may renew the Agreement, in whole or part, for a period that may not exceed two (2) additional one (1) year terms after the initial term. The renewal must be in writing and signed by both parties and is contingent upon the Court Reporter's satisfactory performance and is subject to the availability of funds.
- 31. **ENTIRETY OF AGREEMENT.** This Agreement contains the entire understanding of the parties. Any modification to this Agreement must be in writing and signed by both parties. The Agreement may be executed in counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

IN WITNESS WHEREOF, the parties have executed this Agreement the day and year first above written, or upon execution, whichever is later.

**MCGILL & ASSOCIATES
PROFESSIONAL REPORTING
SERVICES, INC.**

TENTH JUDICIAL CIRCUIT COURT

By: 
Linda A. McGill, Owner

By: 
Nick Sudzina, Trial Court Administrator
255 North Broadway Avenue, 9th Floor
Bartow, Florida 33830

Date: 6-20-2012

Date: 6/26/12

By: 
F. Steve McGill, Owner

By: 
Crystal M. Hood-Lewis
General Counsel
Florida Bar No.: 0483559

Date: 6-20-2012

Date: _____
Approved as to legal form and sufficiency



(FID or SS#)

ATTACHMENT A
ATTENTION VENDOR

Pursuant to section 215.422(5), Florida Statutes (2008), you are hereby advised of your rights and the state's obligations regarding payment of invoices:

215.422 Payments, warrants, and invoices; processing time limits; dispute resolution; agency or judicial branch compliance.—

(1) An invoice submitted to an agency of the state or the judicial branch, required by law to be filed with the Chief Financial Officer, shall be recorded in the financial systems of the state, approved for payment by the agency or the judicial branch, and filed with the Chief Financial Officer not later than 20 days after receipt of the invoice and receipt, inspection, and approval of the goods or services, except that in the case of a bona fide dispute the invoice recorded in the financial systems of the state shall contain a statement of the dispute and authorize payment only in the amount not disputed. The Chief Financial Officer may establish dollar thresholds and other criteria for all invoices and may delegate to a state agency or the judicial branch responsibility for maintaining the official invoices and documents for invoices which do not exceed the thresholds or which meet the established criteria. Such records shall be maintained in accordance with the requirements established by the Secretary of State. The transmission of an approved invoice recorded in the financial systems of the state to the Chief Financial Officer shall constitute filing of a request for payment of invoices for which the Chief Financial Officer has delegated to an agency custody of official records. Approval and inspection of goods or services shall take no longer than 5 working days unless the bid specifications, purchase order, or contract specifies otherwise. If an invoice filed within the 20-day period is returned by the Department of Financial Services because of an error, it shall nevertheless be deemed timely filed. The 20-day filing requirement may be waived in whole or in part by the Department of Financial Services on a showing of exceptional circumstances in accordance with rules and regulations of the department. For the purposes of determining the receipt of invoice date, the agency or the judicial branch is deemed to receive an invoice on the date on which a proper invoice is first received at the place designated by the agency or the judicial branch. The agency or the judicial branch is deemed to receive an invoice on the date of the invoice if the agency or the judicial branch has failed to annotate the invoice with the date of receipt at the time the agency or the judicial branch actually received the invoice or failed at the time the order is placed or contract made to designate a specific location to which the invoice must be delivered.

(2) The Department of Financial Services shall approve payment of an invoice no later than 10 days after the agency's filing of the approved invoice. However, this requirement may be waived in whole or in part by the

Department of Financial Services on a showing of exceptional circumstances in accordance with rules and regulations of the department. If the 10-day period contains fewer than 6 working days, the Department of Financial Services shall be deemed in compliance with this subsection if the payment is approved within 6 working days without regard to the actual number of calendar days.

(3)(a) Each agency of the state or the judicial branch which is required by law to file invoices with the Chief Financial Officer shall keep a record of the date of receipt of the invoice; dates of receipt, inspection, and approval of the goods or services; date of filing of the approved invoice; and date of issuance of the warrant in payment thereof. If the invoice is not filed or the warrant is not issued within the time required, an explanation in writing by the agency head or the Chief Justice shall be submitted to the Department of Financial Services in a manner prescribed by it. Agencies and the judicial branch shall continue to deliver or mail state payments promptly.

(b) If a warrant in payment of an invoice is not issued within 40 days after receipt of the invoice and receipt, inspection, and approval of the goods and services, the agency or judicial branch shall pay to the vendor, in addition to the amount of the invoice, interest at a rate as established pursuant to s. 55.03(1) on the unpaid balance from the expiration of such 40-day period until such time as the warrant is issued to the vendor. Such interest shall be added to the invoice at the time of submission to the Chief Financial Officer for payment whenever possible. If addition of the interest penalty is not possible, the agency or judicial branch shall pay the interest penalty payment within 15 days after issuing the warrant. The provisions of this paragraph apply only to undisputed amounts for which payment has been authorized. Disputes shall be resolved in accordance with rules developed and adopted by the Chief Justice for the judicial branch, and rules adopted by the Department of Financial Services or in a formal administrative proceeding before an administrative law judge of the Division of Administrative Hearings for state agencies, provided that, for the purposes of ss. 120.569 and 120.57(1), no party to a dispute involving less than \$1,000 in interest penalties shall be deemed to be substantially affected by the dispute or to have a substantial interest in the decision resolving the dispute. In the case of an error on the part of the vendor, the 40-day period shall begin to run upon receipt by the agency or the judicial branch of a corrected invoice or other remedy of the error. For purposes of this section, the nonsubmittal of the appropriate federal taxpayer identification documentation to the Department of Financial Services by the vendor will be deemed an error on the part of the vendor, and the vendor will be required to submit the appropriate federal taxpayer documentation in order to remedy the error. The provisions of this paragraph do not apply when the filing requirement under subsection (1) or subsection (2) has been waived in whole by the Department of Financial Services. The various state agencies and the judicial branch shall be responsible for initiating the penalty payments required by this subsection and shall use this subsection as authority to make such payments. The budget request

submitted to the Legislature shall specifically disclose the amount of any interest paid by any agency or the judicial branch pursuant to this subsection. The temporary unavailability of funds to make a timely payment due for goods or services does not relieve an agency or the judicial branch from the obligation to pay interest penalties under this section.

(c) An agency or the judicial branch may make partial payments to a contractor upon partial delivery of goods or services or upon partial completion of construction when a request for such partial payment is made by the contractor and approved by the agency. Provisions of this section and rules of the Department of Financial Services shall apply to partial payments in the same manner as they apply to full payments.

(4) If the terms of the invoice provide a discount for payment in less than 30 days, agencies of the state and the judicial branch shall preferentially process it and use all diligence to obtain the saving by compliance with the invoice terms.

(5) All purchasing agreements between a state agency or the judicial branch and a vendor, applicable to this section, shall include a statement of the vendor's rights and the state's responsibilities under this section. The vendor's rights shall include being provided with the telephone number of the vendor ombudsman within the Department of Financial Services, which information shall also be placed on all agency or judicial branch purchase orders.

(6) The Department of Financial Services shall monitor each agency's and the judicial branch's compliance with the time limits and interest penalty provisions of this section. The department shall provide a report to an agency or to the judicial branch if the department determines that the agency or the judicial branch has failed to maintain an acceptable rate of compliance with the time limits and interest penalty provisions of this section. The department shall establish criteria for determining acceptable rates of compliance. The report shall also include a list of late invoices or payments, the amount of interest owed or paid, and any corrective actions recommended. The department shall perform monitoring responsibilities, pursuant to this section, using the Department of Financial Services' financial systems provided in s. 215.94. Each agency and the judicial branch shall be responsible for the accuracy of information entered into the Department of Management Services' procurement system and the Department of Financial Services' financial systems for use in this monitoring.

(7) There is created a vendor ombudsman within the Department of Financial Services who shall be responsible for the following functions:

- (a) Performing the duties of the department pursuant to subsection (6).
- (b) Reviewing requests for waivers due to exceptional circumstances.

(c) Disseminating information relative to the prompt payment policies of this state and assisting vendors in receiving their payments in a timely manner.

(d) Performing such other duties as determined by the department.

(8) The Department of Financial Services is authorized and directed to adopt and promulgate rules and regulations to implement this section and for resolution of disputes involving amounts of less than \$1,000 in interest penalties for state agencies. No agency or the judicial branch shall adopt any rule or policy that is inconsistent with this section or the Department of Financial Services' rules or policies.

(9) Each agency and the judicial branch shall include in the official position description of every officer or employee who is responsible for the approval or processing of vendors' invoices or distribution of warrants to vendors that the requirements of this section are mandatory.

(10) Persistent failure to comply with this section by any agency of the state or the judicial branch shall constitute good cause for discharge of employees duly found responsible, or predominantly responsible, for failure to comply.

(11) Travel and other reimbursements to state officers and employees must be the same as payments to vendors under this section, except payment of Class C travel subsistence. Class C travel subsistence shall be paid in accordance with the schedule established by the Chief Financial Officer pursuant to s. 112.061(5)(b). This section does not apply to payments made to state agencies, the judicial branch, or the legislative branch.

(12) In the event that a state agency or the judicial branch contracts with a third party, uses a revolving fund, or pays from a local bank account to process and pay invoices for goods or services, all requirements for financial obligations and time processing set forth in this section shall be applicable and the state agency or the judicial branch shall be responsible for paying vendors the interest assessed for untimely payment. The state agency or the judicial branch may, through its contract with a third party, require the third party to pay interest from the third party's funds.

(13) Notwithstanding the provisions of subsections (3) and (12), in order to alleviate any hardship that may be caused to a health care provider as a result of delay in receiving reimbursement for services, any payment or payments for hospital, medical, or other health care services which are to be reimbursed by a state agency or the judicial branch, either directly or indirectly, shall be made to the health care provider not more than 35 days from the date eligibility for payment of such claim is determined. If payment is not issued to a health care provider within 35 days after the date eligibility for payment of the claim is determined, the state agency or the judicial branch shall pay the health care provider interest at a rate of 1 percent per month calculated on a calendar day basis on the unpaid balance from the expiration

of such 35-day period until such time as payment is made to the health care provider, unless a waiver in whole has been granted by the Department of Financial Services pursuant to subsection (1) or subsection (2).

(14) The Chief Financial Officer may adopt rules to authorize advance payments for goods and services, including, but not limited to, maintenance agreements and subscriptions. Such rules shall provide objective criteria for determining when it is in the best interest of the state to make payments in advance and shall also provide for adequate protection to ensure that such goods or services will be provided.

(15) Nothing contained in this section shall be construed to be an appropriation. Any interest which becomes due and owing pursuant to this section shall only be payable from the appropriation charged for such goods or services.

(16) Notwithstanding the provisions of s. 24.12Q(3), applicable to warrants issued for payment of invoices submitted by the Department of the Lottery, the Chief Financial Officer may, by written agreement with the Department of the Lottery, establish a shorter time requirement than the 10 days provided in subsection (2) for warrants issued for payment. Pursuant to such written agreement, the Department of the Lottery shall reimburse the Chief Financial Officer for costs associated with processing invoices under the agreement.

§215.422 Fla. Stat. (2008).

The vendor ombudsman within the Department of Banking and Finance is an advocate for vendors who experience problems in obtaining timely payments from a state agency or the judicial branch. The vendor ombudsman may be contacted at (850) 410-9724 or by calling the State Chief Financial Officer's Hotline at 1-800-848-3792.

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Copy of Contracted Typists Contract

PROFESSIONAL SERVICES CONTRACT
(Contract with Company)

This Contract is entered into on July 1, 2012, by and between the Tenth Judicial Circuit (hereinafter "Court") and Wasilewski Reporting, LLC (hereinafter "Company") for the provision of transcription of electronically recorded court proceedings from audiotapes or compact discs as assigned to the Company solely by the Office of the Electronic Court Reporter (hereinafter "ECR", "ECR Supervisor", and "ECR staff"). This Contract does not apply to assignments received by the Company from the State Attorney's Office, the Public Defender's Office or any other entity or person including court appointed attorneys. The Court will not pay for work assignments received by the Company from any other entity or person. The term "Company" includes the Company's owners, executives, officers, employees and contractors.

In consideration of the mutual covenants and provisions contained herein, the Court and the Company agree as follows:

1. **SCOPE OF SERVICES:** The Company shall provide professional services for the Court as follows:
 - A. Provide services at the pleasure of the Chief Judge.
 - B. Transcription of electronically recorded court proceedings from audiotapes or compact discs as provided by the Office of the Electronic Court Reporter.
 - C. Pursuant to Florida Rule of Judicial Administration 2.535(f), the form, size, spacing and method of printing transcripts are as follows:
 - (1) All proceedings shall be printed on paper 8 ½ inches by 11 inches in size and bound on the left.
 - (2) There shall be no fewer than 25 printed lines per page with all lines numbered 1 through 25, respectively, and with no more than a double space between lines.
 - (3) Font size or print shall be 9 or 10 pica, 12-point courier, or 12-point Times New Roman print with no less than 56 characters per line on questions and answers unless the text of the speaker ends short of marginal requirements.
 - (4) Colloquy material shall begin on the same line following the identification of the speaker, with no more than 2 spaces between the identification of the speaker and the commencement of the colloquy. The identification of the speaker in colloquy shall begin no more than 10 spaces from the left margin, and carry-over colloquy shall be indented no more than 5 spaces from the left margin.

- (5) Each question and answer shall begin on a separate line no more than 5 spaces from the left margin with no more than 5 spaces from the "Q" or "A" to the text. Carry-over question and answer lines shall be brought to the left margin.
 - (6) Quoted material shall begin no more than 10 spaces from the left margin with carry-over lines beginning no more than 10 spaces from the left margin.
 - (7) Indentations of no more than 10 spaces may be used for paragraphs, and all spaces on a line as herein provided shall be used unless the text of the speaker ends short of marginal requirements.
 - (8) One-line parentheticals may begin at any indentation. Parentheticals exceeding 1 line shall begin no more than 10 spaces from the left margin, with carry-over lines being returned to the left margin.
 - (9) Individual volumes of a transcript, including depositions, shall be no more than 200 pages in length, inclusive of the index.
 - (10) Deviation from these standards shall not constitute grounds for limiting use of transcripts in the trial or appellate courts.
- D. Promptly remedy all inaccurate or defective work without additional cost to the Court.
 - E. Perform the personal service for which the Company is retained to the best of the Company's ability and at the Court's or Supervisor's direction and request.
 - F. Perform all work assigned to the Company. The Company may not assign or subcontract to another individual or entity. If the Company is unable to perform services within the time frame scheduled, the Company must immediately contact the Office of the Electronic Court Reporter.
 - G. The Court may reproduce any written materials generated as a result of the services provided by the Company to the Court.
2. **COMPENSATION:** The Court will compensate the Company as follows:
- A. Three dollars and fifty cents (\$3.50) for each page transcribed. This shall include one original and two copies.
 - B. The Company agrees that it will invoice the Court at the correct rate for services provided by the Company as set forth above.
 - C. Under no circumstances will payment be processed if the services provided were not preauthorized by the Office of the Electronic Court Reporter.
 - D. The Company will not be compensated for review of the court file.

- E. The Company will not be reimbursed for any travel, lodging, or meal expenses incurred in association with this Contract.
- F. The Company will not be paid for or reimbursed for expenses of photocopying, long distance phone calls, office supplies and materials, office space, equipment, and the facilities necessary for the performance of services under this Contract. Said items are included in the above-referenced fees.
- G. The Court cannot guarantee a minimum or maximum number of transcription services to be assigned to the Company.
- H. The Court's performance and obligation to pay under this Contract are contingent upon the availability of funds lawfully appropriated to fulfill the requirements of this Contract.
- I. The Company shall not charge any individual or his or her family or guardian, nor receive any fee or payment from any individual or his or her family or guardian or other persons, for services rendered pursuant to this Contract.

3. **INDEPENDENT CONTRACTOR.** The parties agree that:

- A. This Contract is not intended to and shall not be construed to create the relationship of agent, servant, employee, partnership, joint venture, or association between the Court or the State Courts and the Company.
- B. The Company is an independent contractor and is responsible for the manner in which it performs the services required by the terms of this Contract.
- C. The Company exclusively assumes the responsibility for the acts of its officers, executives, employees and contractors as they relate to the services to be provided during the course and scope of this contract by the contractor.
- D. The Company shall not be entitled to the rights or privileges of State employees and shall not be considered in any manner to be State employees.

4. **BILLING PROCEDURE.** The Court will initiate payment procedures upon receipt of a completed State standardized invoice, submitted in detail sufficient for a proper pre-and post-audit. **Invoices must be submitted no later than the calendar month following the date of service or sooner if required by the Supervisor.** The invoice must be signed by the Supervisor or his/her designee and then will be submitted to the Court's Finance Department. The invoice will be processed and paid pursuant to section 215.422 of the Florida Statutes, which is incorporated as Attachment A hereto. Invoices must contain the Contract number and the appropriate vendor identification number. The Court may require any other information from the Company that the Court deems necessary to verify any information in connection with the Contract. Payment will be made in accordance with sections 215.422, Florida Statutes, which govern time limits for payment of invoices. Invoices that must be returned to the Company due

to preparation errors will result in a delay in payments. The Company may call (850) 488-3730, Monday through Friday, to inquire about the status of payments. The Court is responsible for all payments under the Contract. The Court's failure to pay, or delay in payment, shall not constitute a breach of the Contract and shall not relieve the Company of his or her obligations to the Court.

5. **RECORD RETENTION.** The Company shall maintain a file, available for inspection by the Court, containing documentation of all payments and other records associated with this Contract. The Company will maintain the file until otherwise notified by the Court, or for a period of four (4) years following the conclusion of this Contract, whichever occurs first.

6. **PRIVATE PRACTICE.** The Company may engage in the private practice of interpretation or any other profession, provided that no private interpretation case shall be accepted which causes a conflict of interest, nor shall the Company use any court interpretation to actively solicit future professional services with any party or their attorneys. The Company shall avoid practices or occupations that would be a conflict of interest or give the appearance of impropriety.

7. **COMPLIANCE WITH LAWS.** The Company shall pay any and all applicable sales, consumer, use, income taxes, and any other similar taxes required by law. The Company will comply with all laws, ordinances, and regulations applicable to the work required by this Contract. The Company is responsible for reviewing and complying with all state and federal laws including, but not limited to, the Fair Labor Standards Act and all other applicable state and federal employment laws. In providing services and otherwise performing obligations under this Contract, the Company will comply with the Americans with Disabilities Act, the Civil Rights Act of 1964, as amended, the Florida Civil Rights Act of 1992 and all other federal or state laws that prohibit discrimination on the basis of race, color, national origin, religion, sex, age, marital status, or disability. The Company remains liable for any violation of such laws and all subsequent damages or fines.

8. **SUSPENSION OF WORK.** The Court may, in its sole discretion, suspend any or all activities under the Contract at any time. The Court shall provide the Company written notice outlining the particulars of the suspension. Reasons for suspension include, but are not limited to, budgetary constraints, declaration of emergency, or other such circumstances. After receiving a suspension notice, the Company shall comply with the notice and shall not accept any assignments from the Court. Within ninety days or any longer period agreed to by the Company, the Court shall either (1) issue a notice authorizing resumption of work, at which time activity shall resume, or (2) terminate the Contract. Suspension of work shall not entitle the Company to any additional compensation except for work performed.

9. **TERMINATION.**

- A. The Court, in its sole discretion, may terminate the Contract in whole or in part at any time. The Company shall not furnish any continued portion of the Contract, if any. The Company shall not be entitled to recover any cancellation charges or lost profits.

- B. If the Company is unable to perform pursuant to this Contract due to an injury or illness, or for other similar cause beyond the Company's control, then the Company may be released from any and all obligations under this Contract.
- C. If the Company fails to meet minimum performance standards as determined by the Supervisor, violates existing policies, or is arrested or cited with a Notice to Appear, the Court may either immediately terminate this Contract, or discontinue the services of said Company until such time as the Company has received further training or the Company has complied with any sanctions or directives.
- D. Aside from termination pursuant to the provisions of sections A, B, or C above, either party may terminate this Contract upon thirty (30) days' written notice to the other party. Upon notice of such termination, no further cases will be assigned to the Company.

10. **GOVERNING LAW.** This Contract shall be construed under and be governed by the laws of the State of Florida. Any dispute concerning performance of the Contract shall be decided by the Court's designated Contract manager, who shall reduce the decision to writing and provide a copy to the Company. The exclusive venue of any legal or equitable action that arises out of or relates to the Contract shall be the appropriate state court in Polk County, Florida. The parties waive any right to jury trial.

11. **NO THIRD PARTY BENEFICIARIES.** Nothing contained herein shall create any relationship, contractual or otherwise, with, or any rights in favor of, any third party.

12. **INDEMNITY.** The Company shall be fully liable for all actions of its agents, employees, partners, or subcontractors and shall fully indemnify, defend, and hold harmless the Court and its officers, agents, and employees, from suits, actions, damages, and cost of every name and description, including attorneys' fees, arising from or relating to personal injury and damage to real or personal tangible property alleged to be caused in whole or in part by Company, its agents, employees, partners, or subcontractors; provided, however, that the Company shall not indemnify for that portion of any loss or damages proximately caused by the negligent act or omission of the Court. Further, the Company shall fully indemnify, defend, and hold harmless the Court from any suits, actions, damages, and costs of every name and description, including attorney's fees, arising from or relating to violation or infringement of a trademark, copyright, patent, trade secret or intellectual property right, provided that the Court shall give the Company (1) written notice of any such action or threatened action, (2) the opportunity to take over and settle or defend any such action at Company's sole expense, and (3) assistance in defending the action at Company's sole expense. The Company shall not be liable for any cost, expense, or compromise incurred or made by the Court in an infringement action without the Company's prior written consent, which shall not be unreasonably withheld. If any product is the subject of such a suit, the Company may at its sole expense become non-fringing. If the Company is not reasonably able to modify or otherwise secure the Court the right to continue using the product, the Company shall remove the product and refund the Court the amounts paid in excess of a reasonable rental for past use. The Court shall not be liable for any royalties. Unless otherwise specifically enumerated in the Contract or in the purchase order, no

party shall be liable to another for special, indirect, or consequential damages, including lost data or records (unless the purchase order requires the Company to back-up data or records), even if the party has been advised that such damages are possible. No party shall be liable for lost profits, lost revenue, or lost institutional operating savings. The Court may, in addition to other remedies available to it at law or equity and upon notice to the Company, retain such monies from amounts due Company as may be necessary to satisfy any claim for damages, penalties, costs and the like asserted by or against them. The Court may set off any liability or other obligation of the Company or its affiliates to the State against any payments due the Company under any Contract with the State.

13. LIMITATION OF LIABILITY. For all claims against the Company, regardless of the basis on which the claim is made, the Company's liability for direct damages shall be limited to the greater of \$100,000, the dollar amount of the Contract, or two times the charges rendered by the Company. This limitation, however, does not apply to claims arising under the Indemnification paragraph contained in this Contract. Unless otherwise specifically enumerated in the Contract, no party shall be liable to another for special, indirect, punitive, or consequential damages, including lost data or records (unless the purchase requires the Company to backup data or records), even if the party has been advised that such damages are possible. No party shall be liable for lost profits, lost revenue, or institutional operating savings. The Court may, in addition to other remedies available to it at law or equity and upon notice to the Company, retain such monies from the amounts due Company as may be necessary to satisfy any claim for damages, penalties, costs and the like asserted by or against it. The Court may set off any liability or other obligation of the Company or his or her affiliates to the Court against any payments due the Company under any contract with the State.

14. PUBLIC RECORDS. The Company shall maintain payment and other records made or received in connection with this Contract in accordance with the requirements of Florida Rule of Judicial Administration 2.420. The Court may terminate the Contract if the Company refuses to allow public access to all documents, papers, letters or other material made or received by the Company in conjunction with the Contract, unless the records are exempt from Florida Rule of Judicial Administration 2.420.

15. NOTICE. All notices required under the Contract shall be delivered by certified mail, return receipt requested, by reputable air courier service, or by personal delivery to the Court. Notices to the Company shall be delivered to the person who signs the Contract. Either designated recipient may notify the other, in writing, if someone else is designated to receive notice.

16. ATTORNEY'S FEES. If either party enters into legal actions for enforcement of or damages for breach of this Contract, the prevailing party will be entitled to recover from the non-prevailing party court costs and attorney's fees.

17. WAIVER. The delay or failure by the Court to exercise or enforce any of its rights under this Contract shall not constitute or be deemed a waiver of the Court's right thereafter to enforce those rights, nor shall any single or partial exercise of any such right preclude any other or further exercise thereof or the exercise of any other right.

18. **GOVERNMENTAL RESTRICTIONS.** If the Company believes that any governmental restrictions have been imposed that require alteration of the material, quality, workmanship or performance of the services offered under the Contract, the Company shall immediately notify the Court in writing, indicating the specific restriction. The Court reserves the right and the complete discretion to accept any such alteration or to cancel the Contract at no further expense to the Court.

19. **LOBBYING AND INTEGRITY.**

- A. The Company must comply with section 11.062 of the Florida Statutes prohibiting use of state funds for lobbying purposes.
- B. The Company shall not, in the performance of duties required under this Contract use funds provided by this Contract to lobby the legislature or any state agency. The Company shall not, in connection with this or any other agreement with the Court, directly or indirectly, (1) offer, confer, or agree to confer any pecuniary benefit on anyone as consideration for any Court officer or employee's decision, opinion, recommendation, vote, other exercise of discretion, or violation of a known legal duty, or (2) offer, give, or agree to give to anyone any gratuity for the benefit of, or at the direction or request of, any Court officer or employee. For purposes of clause (2), "gratuity" means any payment of more than nominal monetary value in the form of cash, travel, entertainment, gifts, meals, lodging, loans, subscriptions, advances, deposits of money, services, employment, or contracts of any kind. Upon request of the Court's Inspector General, or other authorized Court official, the Company shall provide any type of information the Inspector General deems relevant to the Company's integrity or responsibility. Such information may include, but shall not be limited to, the Company's business or financial records, documents, or files of any type or form that refer to or relate to the Contract. The Company shall retain such records for the longer of (1) three years after the expiration of the Contract or (2) the period required by Florida Rule of Judicial Administration 2.420. The Company agrees to reimburse the Court for the reasonable cost of investigation incurred by the Inspector General or other authorized Court official for investigations of the Company's compliance with the terms of this or any other agreement between the Company and the Court which results in the suspension or debarment of the Company. Such costs shall include, but shall not be limited to: salaries of investigators, including overtime; travel and lodging expenses; and expert witness and documentary fees. The Company shall not be responsible for any cost of investigations that do not result in the Company's suspension or debarment.

20. **ADVERTISING.** Subject to Florida Rule of Judicial Administration 2.420, the Company shall not publicly disseminate any information concerning the Contract without prior written approval from the Court, including, but not limited to mentioning the Contract in a press release or other promotional material, identifying the Court or a Judge or otherwise linking the Company's name and either a description of the Contract or the name of the Court or a Judge in

any material published, either in print or electronically, to any entity that is not a party to this Contract.

21. **WARRANTY OF ABILITY TO PERFORM.** The Company warrants that, to the best of his or her knowledge, there is no pending or threatened action, proceeding, or investigation, or any other legal or financial condition, that would in any way prohibit, restrain, or diminish his or her ability to satisfy the Contract obligations. The Company warrants that he or she is not currently on the convicted vendor list maintained pursuant to section 287.133 of the Florida Statutes, or on any similar list maintained by any other state or the federal government. The Company shall immediately notify the Court in writing if his or her ability to perform is compromised in any manner during the term of the Contract.

22. **SECURITY AND CONFIDENTIALITY.** The Company shall comply fully with all security requirements and procedures of the Court and those agencies in control of courthouse security in performance of the Contract. The Company shall not divulge to third parties any confidential information obtained by the Company in the course of performing contract work, including, but not limited to, personal information of those people for whom the Company translated for, security procedures, business operations information, or commercial proprietary information in the possession of the Court. The Company shall not be required to keep confidential information or material that is publicly available through no fault of the Company, material that the Company developed independently without relying on the Court's confidential information, or material that is otherwise obtainable under State law as a public record. The Company shall take appropriate steps with its personnel, agents, and subcontractors to insure confidentiality. The warranties of this paragraph shall survive the Contract.

23. **RULE OF INTERPRETATION.** All specific conditions will prevail over a general condition on the same subject.

24. **TERM OF CONTRACT AND RENEWAL.** This Contract begins on the date first written above, or upon execution, whichever is later, and shall terminate on June 30, 2013. Upon mutual agreement, the Court and the Company may renew the Contract, in whole or part, for a period that may not exceed two additional one-year terms after the initial contract period. Any renewal shall specify the renewal price, as set forth in the solicitation response, if applicable. The renewal must be in writing and signed by both parties, and is contingent upon satisfactory performance evaluations and subject to the availability of funds.

25. **SEVERABILITY.** The terms and conditions of this Contract shall be deemed to be severable. Consequently, if any clause, term, or condition hereof shall be held to be illegal or void, such determination shall not affect the validity or legality of the remaining terms and conditions, and notwithstanding any such determination, this Contract shall continue in full force and effect unless the particular clause, term, or condition held to be illegal or void renders the balance of the Contract impossible to perform.

26. **GENERAL CONTRACT CONDITIONS.** This Contract is bound by the General Contract Conditions of the Florida State Court System which can be found at http://www.flcourts.org/courts/crtadmin/general_contract_conditions.shtml. The terms and

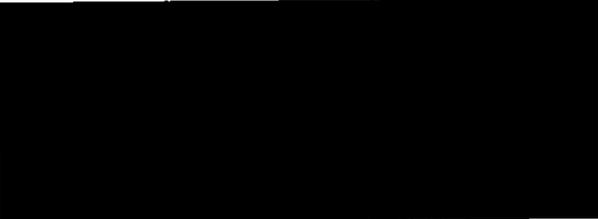
conditions described as General Contract Conditions for Services at http://www.flcourts.org/courts/crtadmin/general_contract_conditions.shtml are incorporated herein as if fully recited in this Agreement/Contract except to the extent that any of those terms or conditions are in conflict with this Agreement/Contract in which case the terms and conditions of this document shall prevail.

27. **ENTIRETY OF CONTRACT.** This Contract contains the entire understanding of the parties. It may be changed only by a Contract in writing signed by both parties. The Contract may be executed in counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

IN WITNESS WHEREOF, the parties have executed this Contract the day and year first above written.

COMPANY:

By: 
(Court Reporter's Name) Wasilewski Court Reporting LLC
Susan Wasilewski
Printed Name of Court Reporter



FID or SS#

Date: 6/20/12

TENTH JUDICIAL CIRCUIT COURT:

By: 
Nick Sudzina, Trial Court Administrator
255 North Broadway Avenue, 9th Floor
Bartow, Florida 33831

Date: 6/12/12



Clystine L. Hood-Lewis
General Counsel
Florida Bar No.: 0483559

Date: 6/11/12
Approved as to legal form and sufficiency

ATTACHMENT A**ATTENTION VENDOR**

Pursuant to section 215.422(5), Florida Statutes (2008), you are hereby advised of your rights and the state's obligations regarding payment of invoices:

215.422 Payments, warrants, and invoices; processing time limits; dispute resolution; agency or judicial branch compliance.--

(1) An invoice submitted to an agency of the state or the judicial branch, required by law to be filed with the Chief Financial Officer, shall be recorded in the financial systems of the state, approved for payment by the agency or the judicial branch, and filed with the Chief Financial Officer not later than 20 days after receipt of the invoice and receipt, inspection, and approval of the goods or services, except that in the case of a bona fide dispute the invoice recorded in the financial systems of the state shall contain a statement of the dispute and authorize payment only in the amount not disputed. The Chief Financial Officer may establish dollar thresholds and other criteria for all invoices and may delegate to a state agency or the judicial branch responsibility for maintaining the official invoices and documents for invoices which do not exceed the thresholds or which meet the established criteria. Such records shall be maintained in accordance with the requirements established by the Secretary of State. The transmission of an approved invoice recorded in the financial systems of the state to the Chief Financial Officer shall constitute filing of a request for payment of invoices for which the Chief Financial Officer has delegated to an agency custody of official records. Approval and inspection of goods or services shall take no longer than 5 working days unless the bid specifications, purchase order, or contract specifies otherwise. If an invoice filed within the 20-day period is returned by the Department of Financial Services because of an error, it shall nevertheless be deemed timely filed. The 20-day filing requirement may be waived in whole or in part by the Department of Financial Services on a showing of exceptional circumstances in accordance with rules and regulations of the department. For the purposes of determining the receipt of invoice date, the agency or the judicial branch is deemed to receive an invoice on the date on which a proper invoice is first received at the place designated by the agency or the judicial branch. The agency or the judicial branch is deemed to receive an invoice on the date of the invoice if the agency or the judicial branch has failed to annotate the invoice with the date of receipt at the time the agency or the judicial branch actually received the invoice or failed at the time the order is placed or contract made to designate a specific location to which the invoice must be delivered.

(2) The Department of Financial Services shall approve payment of an invoice no later than 10 days after the agency's filing of the approved invoice. However, this requirement may be waived in whole or in part by the Department of Financial

Services on a showing of exceptional circumstances in accordance with rules and regulations of the department. If the 10-day period contains fewer than 6 working days, the Department of Financial Services shall be deemed in compliance with this subsection if the payment is approved within 6 working days without regard to the actual number of calendar days.

(3)(a) Each agency of the state or the judicial branch which is required by law to file invoices with the Chief Financial Officer shall keep a record of the date of receipt of the invoice; dates of receipt, inspection, and approval of the goods or services; date of filing of the approved invoice; and date of issuance of the warrant in payment thereof. If the invoice is not filed or the warrant is not issued within the time required, an explanation in writing by the agency head or the Chief Justice shall be submitted to the Department of Financial Services in a manner prescribed by it. Agencies and the judicial branch shall continue to deliver or mail state payments promptly.

(b) If a warrant in payment of an invoice is not issued within 40 days after receipt of the invoice and receipt, inspection, and approval of the goods and services, the agency or judicial branch shall pay to the vendor, in addition to the amount of the invoice, interest at a rate as established pursuant to s. 55.03(1) on the unpaid balance from the expiration of such 40-day period until such time as the warrant is issued to the vendor. Such interest shall be added to the invoice at the time of submission to the Chief Financial Officer for payment whenever possible. If addition of the interest penalty is not possible, the agency or judicial branch shall pay the interest penalty payment within 15 days after issuing the warrant. The provisions of this paragraph apply only to undisputed amounts for which payment has been authorized. Disputes shall be resolved in accordance with rules developed and adopted by the Chief Justice for the judicial branch, and rules adopted by the Department of Financial Services or in a formal administrative proceeding before an administrative law judge of the Division of Administrative Hearings for state agencies, provided that, for the purposes of ss. 120.569 and 120.57(1), no party to a dispute involving less than \$1,000 in interest penalties shall be deemed to be substantially affected by the dispute or to have a substantial interest in the decision resolving the dispute. In the case of an error on the part of the vendor, the 40-day period shall begin to run upon receipt by the agency or the judicial branch of a corrected invoice or other remedy of the error. For purposes of this section, the nonsubmittal of the appropriate federal taxpayer identification documentation to the Department of Financial Services by the vendor will be deemed an error on the part of the vendor, and the vendor will be required to submit the appropriate federal taxpayer documentation in order to remedy the error. The provisions of this paragraph do not apply when the filing requirement under subsection (1) or subsection (2) has been waived in whole by the Department of Financial Services. The various state agencies and the judicial branch shall be responsible for initiating the penalty payments required by this subsection and shall use this subsection as authority to make such payments. The budget request submitted to the Legislature shall specifically disclose the amount

of any interest paid by any agency or the judicial branch pursuant to this subsection. The temporary unavailability of funds to make a timely payment due for goods or services does not relieve an agency or the judicial branch from the obligation to pay interest penalties under this section.

(c) An agency or the judicial branch may make partial payments to a contractor upon partial delivery of goods or services or upon partial completion of construction when a request for such partial payment is made by the contractor and approved by the agency. Provisions of this section and rules of the Department of Financial Services shall apply to partial payments in the same manner as they apply to full payments.

(4) If the terms of the invoice provide a discount for payment in less than 30 days, agencies of the state and the judicial branch shall preferentially process it and use all diligence to obtain the saving by compliance with the invoice terms.

(5) All purchasing agreements between a state agency or the judicial branch and a vendor, applicable to this section, shall include a statement of the vendor's rights and the state's responsibilities under this section. The vendor's rights shall include being provided with the telephone number of the vendor ombudsman within the Department of Financial Services, which information shall also be placed on all agency or judicial branch purchase orders.

(6) The Department of Financial Services shall monitor each agency's and the judicial branch's compliance with the time limits and interest penalty provisions of this section. The department shall provide a report to an agency or to the judicial branch if the department determines that the agency or the judicial branch has failed to maintain an acceptable rate of compliance with the time limits and interest penalty provisions of this section. The department shall establish criteria for determining acceptable rates of compliance. The report shall also include a list of late invoices or payments, the amount of interest owed or paid, and any corrective actions recommended. The department shall perform monitoring responsibilities, pursuant to this section, using the Department of Financial Services' financial systems provided in s. 215.94. Each agency and the judicial branch shall be responsible for the accuracy of information entered into the Department of Management Services' procurement system and the Department of Financial Services' financial systems for use in this monitoring.

(7) There is created a vendor ombudsman within the Department of Financial Services who shall be responsible for the following functions:

(a) Performing the duties of the department pursuant to subsection (6).

(b) Reviewing requests for waivers due to exceptional circumstances.

(c) Disseminating information relative to the prompt payment policies of this state and assisting vendors in receiving their payments in a timely manner.

(d) Performing such other duties as determined by the department.

(8) The Department of Financial Services is authorized and directed to adopt and promulgate rules and regulations to implement this section and for resolution of disputes involving amounts of less than \$1,000 in interest penalties for state agencies. No agency or the judicial branch shall adopt any rule or policy that is inconsistent with this section or the Department of Financial Services' rules or policies.

(9) Each agency and the judicial branch shall include in the official position description of every officer or employee who is responsible for the approval or processing of vendors' invoices or distribution of warrants to vendors that the requirements of this section are mandatory.

(10) Persistent failure to comply with this section by any agency of the state or the judicial branch shall constitute good cause for discharge of employees duly found responsible, or predominantly responsible, for failure to comply.

(11) Travel and other reimbursements to state officers and employees must be the same as payments to vendors under this section, except payment of Class C travel subsistence. Class C travel subsistence shall be paid in accordance with the schedule established by the Chief Financial Officer pursuant to s. 112.061(5)(b). This section does not apply to payments made to state agencies, the judicial branch, or the legislative branch.

(12) In the event that a state agency or the judicial branch contracts with a third party, uses a revolving fund, or pays from a local bank account to process and pay invoices for goods or services, all requirements for financial obligations and time processing set forth in this section shall be applicable and the state agency or the judicial branch shall be responsible for paying vendors the interest assessed for untimely payment. The state agency or the judicial branch may, through its contract with a third party, require the third party to pay interest from the third party's funds.

(13) Notwithstanding the provisions of subsections (3) and (12), in order to alleviate any hardship that may be caused to a health care provider as a result of delay in receiving reimbursement for services, any payment or payments for hospital, medical, or other health care services which are to be reimbursed by a state agency or the judicial branch, either directly or indirectly, shall be made to the health care provider not more than 35 days from the date eligibility for payment of such claim is determined. If payment is not issued to a health care provider within 35 days after the date eligibility for payment of the claim is determined, the state agency or the judicial branch shall pay the health care

provider interest at a rate of 1 percent per month calculated on a calendar day basis on the unpaid balance from the expiration of such 35-day period until such time as payment is made to the health care provider, unless a waiver in whole has been granted by the Department of Financial Services pursuant to subsection (1) or subsection (2).

(14) The Chief Financial Officer may adopt rules to authorize advance payments for goods and services, including, but not limited to, maintenance agreements and subscriptions. Such rules shall provide objective criteria for determining when it is in the best interest of the state to make payments in advance and shall also provide for adequate protection to ensure that such goods or services will be provided.

(15) Nothing contained in this section shall be construed to be an appropriation. Any interest which becomes due and owing pursuant to this section shall only be payable from the appropriation charged for such goods or services.

(16) Notwithstanding the provisions of s. 24.120(3), applicable to warrants issued for payment of invoices submitted by the Department of the Lottery, the Chief Financial Officer may, by written agreement with the Department of the Lottery, establish a shorter time requirement than the 10 days provided in subsection (2) for warrants issued for payment. Pursuant to such written agreement, the Department of the Lottery shall reimburse the Chief Financial Officer for costs associated with processing invoices under the agreement.

§215.422 Fla. Stat. (2008).

The vendor ombudsman within the Department of Banking and Finance is an advocate for vendors who experience problems in obtaining timely payments from a state agency or the judicial branch. The vendor ombudsman may be contacted at (850) 410-9724 or by calling the State Chief Financial Officer's Hotline at 1-800-848-3792.

PROFESSIONAL SERVICES AGREEMENT
FOR DIGITAL COURT REPORTING TRANSCRIPTION SERVICE

This agreement (hereinafter referred to as "Agreement") is entered into by and between the Administrative Office of the Courts, Thirteenth Judicial Circuit, Hillsborough County, Florida (hereinafter referred to as "13th Judicial Circuit"), and Record Transcripts, Inc., ("RTI") a Florida corporation, (hereinafter referred to as "Contractor").

WHEREAS the 13th Judicial Circuit requires digital court reporting transcription service; and

WHEREAS Contractor agrees to provide digital court transcription services for certain Divisions of the Court as defined and specified below in Section 6; and

In consideration of the mutual covenants and provisions contained herein, the 13th Judicial Circuit and Contractor agree as follows:

1. PURPOSE

The purpose of this Agreement is to specify the duties and obligations of the parties related to Digital Court Reporting Transcription Service.

2. DEFINITIONS

The "**Service**" includes and is collectively defined as Digital Court Reporting Transcription services for both appellate and non-appellate transcript requests.

The "**Service**" does not include Digital Court Reporting Monitoring Service.

"**Contractor Personnel**" includes and is collectively defined as employees, independent contractors, subcontractors, agents, and assigns of the Contractor. For purposes of this Agreement only, Contractor intends to assign portions of the transcription duties to its employees, independent contractors, subcontractors, agents and assigns. The 13th Judicial Circuit acquiesces to the use of these employees, independent contractors, subcontractors, agents, or assignees to perform and provide the Service to the 13th Judicial Circuit.

"**Proceedings**" are defined to include but are not limited to all matters, hearings, and trials conducted by judges and quasi-judicial officers.

"**Digital Court Reporting Monitoring Service**" is the process of digitally capturing and recording, with the assistance of encoding hardware and software, the complete verbatim Multi-Media Court Record of any and all Proceedings before the Divisions of the Court, as specified in Section 6, for later transcription.

"**Multi-Media Court Record**" is any combination of the digital audio file, metadata file, text file, annotated file and video file (as well as any official court record generated regardless of the capturing format that may have been utilized to create the record, including capturing by emergency means, simultaneous with the Proceedings).

“Transcription” is the process of converting the complete verbatim Multi-Media Court Record into a text file as a printed certifiable transcript.

“Compensable Work” is defined as any Service or part of the Service that has been provided or rendered to the 13th Judicial Circuit as part of this Agreement. The 13th Judicial Circuit's obligation for Compensable Work under this Agreement is limited to the monthly Transcription Service Fee as defined in Section 7 below through the date of services rendered.

3. **TERMS AND CONDITIONS OF AGREEMENT/OPTION OF RENEWAL**

This Agreement will take effect on July 1, 2013, or when signed by both parties, whichever is later, and will terminate on June 30, 2014, unless terminated earlier under Section 13 of this Agreement. This Agreement may be renewed at the sole discretion of the Trial Court Administrator for up to three one-year periods after the initial Agreement period.

Contractor acknowledges and agrees that part of its obligation under this Agreement is to advise, inform and notify its Contractor Personnel of the rights, duties, responsibilities and obligations of the Contractor and Contractor Personnel under this Agreement.

Contractor assures the 13th Judicial Circuit that all Contractor Personnel providing the Service will comply with all of the terms and conditions of the Agreement.

Contractor understands and agrees that any failure on the part of the Contractor or Contractor Personnel to abide by the terms and conditions of this Agreement will result in the termination of the Agreement.

Contractor will keep the 13th Judicial Circuit apprised of any change in the Contractor's address and telephone number during the term of this Agreement. Upon termination of this Agreement, the Contractor will provide the 13th Judicial Circuit with a forwarding address and telephone number. Additionally, the Contractor will immediately notify the 13th Judicial Circuit of any change in the Contractor's address and telephone number for a period of ten years after the term of this Agreement has expired in order to allow the 13th Judicial Circuit to contact the Contractor in reference to transcript requests following termination of this Agreement.

The parties mutually agree that Divisions of the Court may be added or deleted during the entire term of this Agreement by amendment which shall be in writing and shall contain the signatures of both Contract Managers.

4. **SCOPE OF SERVICE**

Contractor and Contractor Personnel will provide and perform transcription services for all Divisions of the Court specified by the 13th Judicial Circuit.

Contractor and Contractor Personnel will be responsible for providing a complete verbatim and accurate transcript of the Multi-Media Court Record from all requested Proceedings recorded during the term of this Agreement (as well as any official court record generated regardless of the capturing format that may have been utilized to

create the record, including capturing by emergency means, simultaneous with such Proceedings) as a printed certified transcript.

Contractor and Contractor Personnel will produce upon request a complete verbatim, accurate and timely transcript of all appellate transcript requests for Proceedings in the Divisions of the Court in accordance with the time standards set forth in the Florida Rules of Appellate Procedure, Rule 9.200 et. seq. and Florida Rule of Judicial Administration, Rule 2.535, which are attached as **Composite Exhibit "A"** to this Agreement, and any orders issued by the District Courts of Appeal related to such proceedings or transcripts. Contractor or Contractor Personnel's failure to produce, provide and timely file a transcript for an appellant transcript request for a Proceeding from a Division of the Court in accordance with the Florida Rules of Appellate Procedure and the Florida Rules of Judicial Administration constitutes a material breach of this Agreement.

Contractor and Contractor Personnel will provide the 13th Judicial Circuit's Contract Manager or Contract Manager's Designee, as detailed below, with a copy of each of the following upon filing:

- Designation to Reporter as required by Rule 9.200(b)(1), Florida Rules of Appellate Procedure;
- Reporter's Acknowledgment as required by Rule 9.200(b)(3), Florida Rules of Appellate Procedure; and
- Any request(s) for extension of time sought in accordance with Rule 9.200(b)(3), Florida Rules of Appellate Procedure.

Contractor or Contractor Personnel will provide to the 13th Judicial Circuit any response or Order on Extension issued by the appellate court immediately after such a response or Order on Extension has been issued.

Contractor will retain the complete verbatim and printed certified transcript of all transcripts requested of all Proceedings in each of the Divisions of the Court in accordance with Rule 2.430, Florida Rules of Judicial Administration. Contractor's failure to retain the complete verbatim and printed certified transcript in accordance with Rule 2.430, Florida Rules of Judicial Administration constitutes a material breach of this Agreement.

Prior to producing a transcript exceeding 50 pages when the request is made by a judge, legal staff, or court program or department, Contractor will promptly contact and notify by e-mail the 13th Judicial Circuit's Contract Manager, or Contract Manager's Designee. Until the 13th Judicial Circuit's Contract Manager or Designee approves the transcript request in the form of a return e-mail to the Contract Manager or Contract Manager's Designee of Contractor, the particular transcript that exceeds 50 pages will not be produced.

Prior to producing a non-appellate transcript, Contractor will promptly contact and notify the 13th Circuit's Contract Manager or Contract Manager's Designee, when the Office of the State Attorney or Public Defender has requested a non-appellate transcript in lieu of the audio file (via CD/DVD format) of the proceedings. Until the 13th Circuit's Contract Manager or Contract Manager's Designee approves the non-appellate transcript request in the form of a return e-mail to the Contract Manager or Contract Manager's Designee of Contractor, the particular non-appellate transcript will not be produced.

5. QUALIFICATIONS OF CONTRACTOR/CONTRACTOR PERSONNEL

During the entire term of this Agreement, Contractor will provide qualified and trained individuals to perform the Service.

If the 13th Judicial Circuit is dissatisfied with the ability, accuracy, skill level, timeliness or professionalism of any Contractor Personnel providing the Service, the 13th Judicial Circuit will notify Contractor of the specific issue via telephone or e-mail, and Contractor will use all reasonable efforts to address the issue immediately or within 24 hours. E-mail will be considered written notification upon receipt.

If the 13th Judicial Circuit remains dissatisfied after Contractor has taken remedial action, Contractor will remove Contractor Personnel from providing the Service.

6. DIVISIONS OF THE COURT FOR WHICH THE SERVICE WILL BE SUPPLIED

Contractor and Contractor Personnel will provide the Service in the following divisions of the courts that are required to be recorded at public expense:

- All Circuit Criminal Divisions (specified by the 13th Judicial Circuit);
- All Juvenile Delinquency and Dependency Divisions (daily, including weekend and holiday detention and shelter hearings);
- All Drug Court Divisions (including adult, family/dependency and juvenile divisions);
- All Domestic Violence Divisions (Circuit and County – Tampa and Plant City);
- All First Appearance proceedings and the emergency division (daily, including weekends and holidays); and
- All County Criminal Divisions (Tampa and Plant City).

Contractor or Contractor Personnel will provide the Service for all Proceedings in the Divisions of the Court as set forth above.

7. COMPENSATION

Compensation rates to the Contractor for the Service will be paid in accordance with the transcription fees established and set forth in the Compensation Rate Sheet for Digital Court Reporting Transcription Fees attached hereto as **Exhibit "B."**

For all Proceedings in the Divisions of the Court, the 13th Judicial Circuit will process valid and proper invoices for payment for transcript requests from judges, staff attorneys, court programs or departments which are 50 transcript pages or less, as well as for those of more than 50 pages which have been pre-approved by the 13th Judicial Circuit Court's Contract Manager or the Contract Manager's Designee.

8. INVOICE/BILLING & PAYMENT/RIGHT TO AUDIT

For all digital court reporting transcription services, the Contractor will use Part II of the State of Florida's Uniform Invoice for Court Reporting Services, attached hereto as **Exhibit "C."**

The Contractor shall submit the Uniform Court Reporting Invoice for Services rendered no later than five days after the end of each month in which the Services were performed to: Janice Albury, Court Operations, 13th Judicial Circuit, 800 East Twiggs Street, Room 604, Tampa, Florida 33602.

Contractor agrees that the 13th Judicial Circuit's Contract Manager or Designee will have the right to review Contractor's submissions for payment for services rendered and work completed prior to disbursement or payment of any funds in accordance with the Compensation provision in Section 7 to determine whether satisfactory services and compensable work have been provided in accordance with this Agreement.

Compensation for transcription services will be paid to the Contractor upon the submission of the Uniform Invoice for Court Reporting Services, signed original Transcript Delivery Receipt forms, attached hereto as **Exhibit "D,"** and all supporting backup documentation. The 13th Judicial Circuit and the State of Florida reserve the right to audit such records.

The per page rate of compensation for digital court reporting transcript production will be the only compensation paid to the Contractor. The Contractor and Contractor Personnel understand and agree that he or she is not eligible for, and will not participate in, any employee pension, medical/health or life or disability insurance, worker's compensation, paid vacations, paid holidays, or paid sick time on account of the Contractor and Contractor Personnel work for the 13th Judicial Circuit.

9. AVAILABILITY OF FUNDS

This Agreement is subject to and contingent upon the availability of State funding. Any performance by the 13th Judicial Circuit under this Agreement is contingent upon the availability of funds appropriated to the 13th Judicial Circuit by its funding source. The 13th Judicial Circuit's current funding source is the State of Florida. If the State of Florida fails to appropriate sufficient funds specifically for the purposes of funding the Service or demands a reduction in the 13th Judicial Circuit's State budget due to a revenue shortfall, the 13th Judicial Circuit and the State of Florida will have no obligation to pay or perform under this Agreement.

10. INDEPENDENT CONTRACTOR

Contractor and Contractor Personnel will perform their obligations under this Agreement as independent contractors. Nothing contained in this Agreement will be construed to imply or interpreted to establish any relationship other than independent contractor.

Contractor and Contractor Personnel will receive no salary or benefits from the 13th Judicial Circuit, but will be compensated for the Service solely in accordance with the terms and conditions of this Agreement.

Contractor and Contractor Personnel are responsible for reviewing and complying with all pertinent State and Federal laws, for all income taxes including, but not limited to FICA, FUTA, social security taxes and other unemployment taxes of a similar nature on all compensation received pursuant to this Agreement. The Contractor is also responsible for securing the Contractor's own Worker's Compensation Insurance coverage.

Contractor and Contractor Personnel are responsible for reviewing and complying with all pertinent county and city ordinances. Costs for compliance with laws and ordinances are the sole responsibility of the Contractor. Compliance will not result in any additional charge to the 13th Judicial Circuit or to any person receiving the Service under this Agreement.

Contractor and Contractor Personnel are solely responsible for providing all equipment and supplies necessary in the performance of the transcription services to the 13th Judicial Circuit including, but not limited to, hardware and software, equipment, transcript paper, binders, ink, and Encompass player on VIQ's website.

11. OWNERSHIP OF RECORD

During the entire term of the Agreement, the 13th Judicial Circuit owns the complete verbatim Multi-Media Court Record for all Proceedings in the Divisions of the Court (as well as any official court record generated regardless of the capturing format that may have been utilized to create the record, including capturing by emergency means, simultaneous with such Proceedings). During the entire term and following expiration of this Agreement, ownership of the complete verbatim Multi-Media Court Record (as well as any official court record generated regardless of the capturing format that may have been utilized to create the record, including capturing by emergency means, simultaneous with such Proceedings) will remain the property of the 13th Judicial Circuit.

12. NONCOMPLIANCE

Noncompliance with the terms and scope of this Agreement may result in immediate termination of this Agreement without written notice. The Contractor and Contractor Personnel will be considered in noncompliance of this Agreement if the Contractor or Contractor Personnel fails to perform digital court reporting transcription services in accordance with the scope of this Agreement, or fails to comply with all transcriptionist professional standards, training and requirements established by Florida Statutes, Florida Rules of Court, the Florida Supreme Court, Florida State Courts System, all administrative orders issued by the chief judge of the 13th Judicial Circuit, and all policies and procedures established by the Administrative Office of the Courts, 13th Judicial Circuit.

13. TERMINATION

During the entire term of this Agreement, the 13th Judicial Circuit will have the right to terminate this Agreement without cause by giving 30 days written notice to Contractor of its intention to terminate, or with cause if at any time the Contractor or Contractor Personnel fail to fulfill, comply, or abide by any of the terms or conditions specified in this Agreement. Because of the critical need for transcription services, the failure of the Contractor or Contractor Personnel to comply with any of the provisions of this

Agreement will be considered a material breach and will be cause for the immediate termination of the Agreement at the discretion of the 13th Judicial Circuit, and without written notice. Contractor may terminate this Agreement by giving 30 days written notice to: Michael L. Bridenback, Trial Court Administrator, Thirteenth Judicial Circuit, 800 East Twiggs Street, Room 604, Tampa, Florida 33602.

14. CONTRACT MANAGER/CONTRACT MANAGERS' DESIGNEES

The Contract Manager on behalf of the 13th Judicial Circuit is Michael L. Bridenback, Trial Court Administrator, Administrative Office of the Courts, Thirteenth Judicial Circuit, 800 East Twiggs Street, Room 604, Tampa, Florida 33602. The Contract Manager's Designee for the 13th Judicial Circuit for purposes of this Agreement is Richard T. Melendi. The Contract Manager on behalf of RTI, Inc. is Sharon Holm, General Manager, 501 East Kennedy Boulevard, Suite 170, Tampa, Florida 33602. These designees may change via written agreement of the parties.

15. NOTICE

Any notice required or permitted to be given under this Agreement will be sufficient if it is in writing and if sent to the parties at the addresses provided on the execution page by: (i) certified or registered mail, return receipt requested; (ii) personal delivery; or (iii) reputable courier service.

16. ASSIGNMENT

Contractor will not assign this Agreement.

17. AMENDMENTS

Any and all amendments to this Agreement which modify the rights, duties or obligations of the parties under this Agreement will contain the signatures of both the 13th Judicial Circuit's Trial Court Administrator and the Contractor.

18. WAIVER

The parties to this Agreement will not be deemed to have waived any of their rights or remedies unless such waiver is in writing signed by the party. No delay or omission on the part of a party in exercising any rights or remedies will operate as a waiver of such right or remedy. A waiver on one occasion by a party will not be construed as a waiver of any future rights or remedies.

19. SURVIVABILITY OF AGREEMENT

If any one or more provisions of this Agreement should be held to be contrary to law or public policy, or should for any reason whatsoever be held invalid or unenforceable by a court of competent jurisdiction, then such provision or provisions will be null and void and shall be deemed separate from the remaining provisions of the Agreement, which remaining provisions will continue in full force and effect.

20. INDEMNIFICATION

Contractor will indemnify, pay the cost of defense, including attorney's fees, and hold harmless the State of Florida and 13th Judicial Circuit from all suits, actions or claims of any character brought on account of any injuries or damages received or sustained by any person, persons or property by or from the Contractor or Contractor Personnel; or by, or in consequence of any neglect in safeguarding the work; or through the use of unacceptable equipment in the performance of the Service under this Agreement; or by, or on account of any act or omission, neglect or recovery under the workers' compensation law or any other laws, by-laws, ordinance, order or decree, except only such injury or damage as shall have been occasioned by the sole negligence of the 13th Judicial Circuit or the State of Florida.

During the entire term and possible renewal term of this Agreement and following the expiration thereof, the Contractor agrees to indemnify, defend at its expense and hold harmless the 13th Judicial Circuit against any and all disputes, actions, lawsuits or formal proceedings brought against the 13th Judicial Circuit by Contractor's Personnel for remuneration, compensation, and payment for services rendered and performed under this Agreement, except where the 13th Judicial Circuit has not processed a valid and proper invoice or the 13th Judicial Circuit's funding source has unreasonably withheld payment to the Contractor.

21. REMUNERATION OF CONTRACTOR PERSONNEL

Contractor is directly and solely responsible for the remuneration, compensation, and payment of any and all of its employees, independent contractors, subcontractors, agents or assigns for any and all Service rendered and performed by Contractor Personnel under this Agreement.

22. MERGER

This Agreement shall be read in conjunction with the contract provisions and specifications contained in the Florida State Courts System "General Contract Conditions for Services" located at www.flcourts.org/courts/crtadmin/general_contract_conditions.shtml, and incorporated by reference into this Agreement, as if fully recited in this Agreement. The version of the "General Contract Conditions for Services" incorporated into this Agreement will be the version of those conditions with an "effective date" that includes the date this Agreement is signed. To the extent that any of the terms of this Agreement and the "General Contract Conditions for Services" conflict, the terms of this Agreement shall control and prevail.

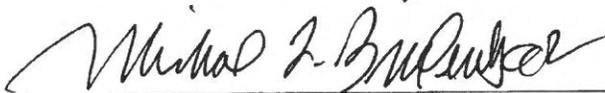
23. GOVERNING LAW

The parties agree that any dispute, mediation, action, or formal proceeding arising directly or indirectly out of this Agreement will be conducted and construed in accordance with the laws of the State of Florida.

24. ENTIRE AGREEMENT

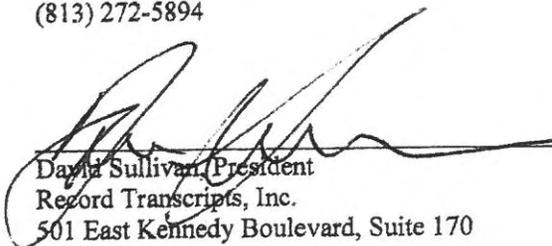
This Agreement constitutes the entire agreement of the parties and supersedes all prior negotiations, understandings, representations, or agreements written or oral. The titles in this Agreement are for convenience only and will not be construed for the convenience of either party.

6/29/13
~~7/29/13~~
NUNC PRO TUNC
MB



Michael L. Bridenback, Trial Court Administrator
Thirteenth Judicial Circuit, Hillsborough County
800 East Twiggs Street, Room 604
Tampa, Florida 33602
(813) 272-5894

Date



David A. Sullivan, President
Record Transcripts, Inc.
501 East Kennedy Boulevard, Suite 170
Tampa, Florida 33602
(813) 514-5100
FEID #65-0853266

June 29, 2013
Date

Approved as to legal form and sufficiency by:



David A. Rowland, Esquire
Circuit Court Counsel, Thirteenth Judicial Circuit
(813) 272-6843

June 25, 2013
Date

RULE 9.200. THE RECORD**(a) Contents.**

- (1) Except as otherwise designated by the parties, the record shall consist of the original documents, all exhibits that are not physical evidence, and any transcript(s) of proceedings filed in the lower tribunal, except summonses, praecipes, subpoenas, returns, notices of hearing or of taking deposition, depositions, and other discovery. In criminal cases, when any exhibit, including physical evidence, is to be included in the record, the clerk of the lower tribunal shall not, unless ordered by the court, transmit the original and, if capable of reproduction, shall transmit a copy, including but not limited to copies of any tapes, CDs, DVDs, or similar electronically recorded evidence. The record shall also include a progress docket.
- (2) In family law, juvenile dependency, and termination of parental rights cases, and cases involving families and children in need of services, the record shall include those items designated in subdivision (a)(1) except that the clerk of the lower tribunal shall retain the original orders, reports and recommendations of magistrates or hearing officers, and judgments within the file of the lower tribunal and shall include copies thereof within the record.
- (3) Within 10 days of filing the notice of appeal, an appellant may direct the clerk to include or exclude other documents or exhibits filed in the lower tribunal. The directions shall be substantially in the form prescribed by rule 9.900(g). If the clerk is directed to transmit less than the entire record or a transcript of trial with less than all of the testimony, the appellant shall serve with such direction a statement of the judicial acts to be reviewed. Within 20 days of filing the notice, an appellee may direct the clerk to include additional documents and exhibits.
- (4) The parties may prepare a stipulated statement showing how the issues to be presented arose and were decided in the lower tribunal, attaching a copy of the order to be reviewed and as much of the record in the lower tribunal as is necessary to a determination of the issues to be presented. The parties shall advise the clerk of their intention to rely on a stipulated statement in lieu of the record as early in advance of filing as possible. The stipulated statement shall be filed by the parties and transmitted to the court by the clerk of the lower tribunal within the time prescribed for transmittal of the record.

(b) Transcript(s) of Proceedings.

- (1) Within 10 days of filing the notice, the appellant shall designate those portions of the proceedings not on file deemed necessary for transcription and inclusion in the record. Within 20 days of filing the notice, an appellee may designate additional portions of the proceedings. Copies of designations shall be served on the approved court reporter, civil court reporter, or approved transcriptionist. Costs of the original and all copies of the transcript(s) so designated shall be borne initially by the designating party, subject to appropriate taxation of costs as prescribed by rule 9.400. At the time of the designation, unless other satisfactory arrangements have been made, the designating party must make a deposit of 1/2 of the estimated transcript costs, and must pay the full balance of the fee on delivery of the completed transcript(s).

- (2) Within 30 days of service of a designation, or within the additional time provided for under subdivision (b)(3) of this rule, the approved court reporter, civil court reporter, or approved transcriptionist shall transcribe and file with the clerk of the lower tribunal the designated proceedings and shall serve copies as requested in the designation. In addition to the paper copies, the approved court reporter, civil court reporter, or approved transcriptionist shall file with the clerk of the lower tribunal and serve on the designated parties an electronic copy of the designated proceedings in a format approved by the supreme court. If a designating party directs the approved court reporter, civil court reporter, or approved transcriptionist to furnish the transcript(s) to fewer than all parties, that designating party shall serve a copy of the designated transcript(s), in both electronic and paper form, on the parties within 5 days of receipt from the approved court reporter, civil court reporter, or approved transcriptionist. The transcript of the trial shall be securely bound in consecutively numbered volumes not to exceed 200 pages each, and each page shall be numbered consecutively. Each volume shall be prefaced by an index containing the names of the witnesses, a list of all exhibits offered and introduced in evidence, and the pages where each may be found.
- (3) On service of a designation, the approved court reporter, civil court reporter, or approved transcriptionist shall acknowledge at the foot of the designation the fact that it has been received and the date on which the approved court reporter, civil court reporter, or approved transcriptionist expects to have the transcript(s) completed and shall transmit the designation, so endorsed, to the parties and to the clerk of the appellate court within 5 days of service. If the transcript(s) cannot be completed within 30 days of service of the designation, the approved court reporter, civil court reporter, or approved transcriptionist shall request such additional time as is reasonably necessary and shall state the reasons therefor. If the approved court reporter, civil court reporter, or approved transcriptionist requests an extension of time, the court shall allow the parties 5 days in which to object or agree. The appellate court shall approve the request or take other appropriate action and shall notify the reporter and the parties of the due date of the transcript(s).
- (4) If no report of the proceedings was made, or if the transcript is unavailable, a party may prepare a statement of the evidence or proceedings from the best available means, including the party's recollection. The statement shall be served on all other parties, who may serve objections or proposed amendments to it within 10 days of service. Thereafter, the statement and any objections or proposed amendments shall be submitted to the lower tribunal for settlement and approval. As settled and approved, the statement shall be included by the clerk of the lower tribunal in the record.

(c) Cross-Appeals. Within 20 days of filing the notice, a cross-appellant may direct that additional documents, exhibits, or transcript(s) be included in the record. If less than the entire record is designated, the cross-appellant shall serve, with the directions, a statement of the judicial acts to be reviewed. The cross-appellee shall have 10 days after such service to direct further additions. The time for preparation and transmittal of the record shall be extended by 10 days.

(d) Duties of Clerk; Preparation and Transmittal of Record.

- (1) The clerk of the lower tribunal shall prepare the record as follows:
- (A) The clerk of the lower tribunal shall not be required to verify and shall not charge for the incorporation of any transcript(s) into the record. The transcript of the trial shall be

incorporated at the end of the record, and shall not be renumbered by the clerk. The progress docket shall be incorporated into the record immediately after the index.

- (B) The remainder of the record, including all supplements and any transcripts other than the transcript of the trial, shall be consecutively numbered. The record shall be securely bound in consecutively numbered volumes not to exceed 200 pages each. The cover sheet of each volume shall contain the name of the lower tribunal and the style and number of the case.
- (2) The clerk of the lower tribunal shall prepare a complete index to the record and shall attach a copy of the progress docket to the index.
- (3) The clerk of the lower tribunal shall certify and transmit the record to the court as prescribed by these rules; provided that if the parties stipulate or the lower tribunal orders that the original record be retained, the clerk shall prepare and transmit a certified copy.

(e) Duties of Appellant or Petitioner. The burden to ensure that the record is prepared and transmitted in accordance with these rules shall be on the petitioner or appellant. Any party may enforce the provisions of this rule by motion.

(f) Correcting and Supplementing Record.

- (1) If there is an error or omission in the record, the parties by stipulation, the lower tribunal before the record is transmitted, or the court may correct the record.
- (2) If the court finds the record is incomplete, it shall direct a party to supply the omitted parts of the record. No proceeding shall be determined, because of an incomplete record, until an opportunity to supplement the record has been given.

(g) Return of Record. In civil cases, the record shall be returned to the lower tribunal after final disposition by the court.

Committee Notes

1977 Amendment. This rule replaces former rule 3.6 and represents a complete revision of the matters pertaining to the record for an appellate proceeding. References in this rule to —appellant^l and —appellee^l should be treated as equivalent to —petitioner^l and —respondent^l, respectively. See Commentary, Fla. R. App. P. 9.020. This rule is based in part on Federal Rule of Appellate Procedure 10(b).

Subdivision (a)(1) establishes the content of the record unless an appellant within 10 days of filing the notice directs the clerk to exclude portions of the record or to include additional portions, or the appellee within 20 days of the notice being filed directs inclusion of additional portions. In lieu of a record, the parties may prepare a stipulated statement, attaching a copy of the order that is sought to be reviewed and essential portions of the record. If a stipulated statement is prepared, the parties must advise the clerk not to prepare the record. The stipulated statement is to be filed and transmitted within the time prescribed for transmittal of the record. If less than a full record is to be used, the initiating party must serve a statement of the judicial acts to be reviewed so that the opposing party may determine whether additional portions of the record are required. Such a statement is not intended to be the equivalent of assignments of error under former rule 3.5. Any inadequacy in the statement may be cured by motion to supplement the record under subdivision (f) of this rule.

Subdivision (a) interacts with subdivision (b) so that as soon as the notice is filed the clerk of the lower tribunal will prepare and transmit the complete record of the case as described by the rule. To include in the record any of the items automatically omitted, a party must designate the items desired. A transcript of the proceedings in the lower

tribunal will not be prepared or transmitted unless already filed, or the parties designate the portions of the transcript desired to be transmitted. Subdivision (b)(2) imposes on the reporter an affirmative duty to prepare the transcript of the proceedings as soon as designated. It is intended that to complete the preparation of all official papers to be filed with the court, the appellant need only file the notice, designate omitted portions of the record that are desired, and designate the desired portions of the transcript. It therefore will be unnecessary to file directions with the clerk of the lower tribunal in most cases.

Subdivision (b)(1) replaces former rule 3.6(d)(2), and specifically requires service of the designation on the court reporter. This is intended to avoid delays that sometimes occur when a party files the designation, but fails to notify the court reporter that a transcript is needed. The rule also establishes the responsibility of the designating party to initially bear the cost of the transcript.

Subdivision (b)(2) replaces former rule 3.6(e). This rule provides for the form of the transcript, and imposes on the reporter the affirmative duty of delivering copies of the transcript to the ordering parties on request. Such a request may be included in the designation. Under subdivision (e), however, the responsibility for ensuring performance remains with the parties. The requirement that pages be consecutively numbered is new and is deemed necessary to assure continuity and ease of reference for the convenience of the court. This requirement applies even if 2 or more parties designate portions of the proceedings for transcription. It is intended that the transcript portions transmitted to the court constitute a single consecutively numbered document in 1 or more volumes not exceeding 200 pages each. If there is more than 1 court reporter, the clerk will renumber the pages of the transcript copies so that they are sequential. The requirement of a complete index at the beginning of each volume is new, and is necessary to standardize the format and to guide those preparing transcripts.

Subdivision (b)(3) provides the procedures to be followed if no transcript is available.

Subdivision (c) provides the procedures to be followed if there is a cross-appeal or cross-petition.

Subdivision (c) provides the procedures to be followed if there is a cross-appeal or cross-petition.

Subdivision (d) sets forth the manner in which the clerk of the lower tribunal is to prepare the record. The original record is to be transmitted unless the parties stipulate or the lower court orders the original be retained, except that under rule 9.140(d) (governing criminal cases), the original is to be retained unless the court orders otherwise.

Subdivision (e) places the burden of enforcement of this rule on the appellant or petitioner, but any party may move for an order requiring adherence to the rule.

Subdivision (f) replaces former rule 3.6(l). The new rule is intended to ensure that appellate proceedings will be decided on their merits and that no showing of good cause, negligence, or accident is required before the lower tribunal or the court orders the completion of the record. This rule is intended to ensure that any portion of the record in the lower tribunal that is material to a decision by the court will be available to the court. It is specifically intended to avoid those situations that have occurred in the past when an order has been affirmed because appellate counsel failed to bring up the portions of the record necessary to determine whether there was an error. See *Pan American Metal Prods. Co. v. Healy*, 138 So.2d 96 (Fla. 3d DCA 1962). The rule is not intended to cure inadequacies in the record that result from the failure of a party to make a proper record during the proceedings in the lower tribunal. The purpose of the rule is to give the parties an opportunity to have the appellate proceedings decided on the record developed in the lower tribunal. This rule does not impose on the lower tribunal or the court a duty to review on their own the adequacy of the preparation of the record. A failure to supplement the record after notice by the court may be held against the party at fault.

Subdivision (g) requires that the record in civil cases be returned to the lower tribunal after final disposition by the court regardless of whether the original record or a copy was used. The court may retain or return the record in criminal cases according to its internal administration policies.

1980 Amendment. Subdivisions (b)(1) and (b)(2) were amended to specify that the party designating portions of the transcript for inclusion in the record on appeal shall pay for the cost of transcription and shall pay for and furnish a

copy of the portions designated for all opposing parties. See rule 9.420(b) and 1980 committee note thereto relating to limitations of number of copies.

1987 Amendment. Subdivision (b)(3) above is patterned after Federal Rule of Appellate Procedure 11(b).

1992 Amendment. Subdivisions (b)(2), (d)(1)(A), and (d)(1)(B) were amended to standardize the lower court clerk's procedure with respect to the placement and pagination of the transcript in the record on appeal. This amendment places the duty of paginating the transcript on the court reporter and requires the clerk to include the transcript at the end of the record, without repagination.

1996 Amendment. Subdivision (a)(2) was added because family law cases frequently have continuing activity at the lower tribunal level during the pendency of appellate proceedings and that continued activity may be hampered by the absence of orders being enforced during the pendency of the appeal.

Subdivision (b)(2) was amended to change the wording in the third sentence from —transcript of proceedings to —transcript of the trial to be consistent with and to clarify the requirement in subdivision (d)(1)(B) that it is only the transcript of trial that is not to be renumbered by the clerk. Pursuant to subdivision (d)(1)(B), it remains the duty of the clerk to consecutively number transcripts other than the transcript of the trial. Subdivision (b)(2) retains the requirement that the court reporter is to number each page of the transcript of the trial consecutively, but it is the committee's view that if the consecutive pagination requirement is impracticable or becomes a hardship for the court reporting entity, relief may be sought from the court.

2006 Amendment. Subdivision (a)(2) is amended to apply to juvenile dependency and termination of parental rights cases and cases involving families and children in need of services. The justification for retaining the original orders, reports, and recommendations of magistrate or hearing officers, and judgments within the file of the lower tribunal in family law cases applies with equal force in juvenile dependency and termination of parental rights cases, and cases involving families and children in need of services.

2.525, must be formatted in a manner that complies with all state and federal laws requiring that electronic judicial records be accessible to persons with disabilities, including without limitation the Americans with Disabilities Act and Section 508 of the federal Rehabilitation Act of 1973 as incorporated into Florida law by section 282.603(1), Florida Statutes (2010), and any related federal or state regulations or administrative rules.

Added Sept. 28, 2011, effective Jan. 1, 2012 (73 So.3d 210).

Rule 2.530. Communication Equipment

(a) **Definition.** Communication equipment means a conference telephone or other electronic device that permits all those appearing or participating to hear and speak to each other, provided that all conversation of all parties is audible to all persons present.

(b) **Use by All Parties.** A county or circuit court judge may, upon the court's own motion or upon the written request of a party, direct that communication equipment be used for a motion hearing, pretrial conference, or a status conference. A judge must give notice to the parties and consider any objections they may have to the use of communication equipment before directing that communication equipment be used. The decision to use communication equipment over the objection of parties will be in the sound discretion of the trial court, except as noted below.

(c) **Use Only by Requesting Party.** A county or circuit court judge may, upon the written request of a party upon reasonable notice to all other parties, permit a requesting party to participate through communication equipment in a scheduled motion hearing; however, any such request (except in criminal, juvenile, and appellate proceedings) must be granted, absent a showing of good cause to deny the same, where the hearing is set for not longer than 15 minutes.

(d) Testimony.

(1) **Generally.** A county or circuit court judge, general magistrate, special magistrate, or hearing officer may allow testimony to be taken through communication equipment if all parties consent or if permitted by another applicable rule of procedure.

(2) **Procedure.** Any party desiring to present testimony through communication equipment shall, prior to the hearing or trial at which the testimony is to be presented, contact all parties to determine whether each party consents to this form of testimony. The party seeking to present the testimony shall move for permission to present testimony through communication equipment, which motion shall set forth good cause as to why the testimony should be allowed in this form.

(3) **Oath.** Testimony may be taken through communication equipment only if a notary public or other person authorized to administer oaths in the witness's jurisdiction is present with the witness and adminis-

ters the oath consistent with the laws of the jurisdiction.

(4) **Confrontation Rights.** In juvenile and criminal proceedings the defendant must make an informed waiver of any confrontation rights that may be abridged by the use of communication equipment.

(5) **Video Testimony.** If the testimony to be presented utilizes video conferencing or comparable two-way visual capabilities, the court in its discretion may modify the procedures set forth in this rule to accommodate the technology utilized.

(e) **Burden of Expense.** The cost for the use of the communication equipment is the responsibility of the requesting party unless otherwise directed by the court.

(f) **Override of Family Violence Indicator.** Communications equipment may be used for a hearing on a petition to override a family violence indicator under Florida Family Law Rule of Procedure 12.650.

Former Rule 2.071 added Jan. 2, 1985, effective Jan. 1, 1985 (462 So.2d 444). Amended Oct. 8, 1992, effective Jan. 1, 1993 (609 So.2d 465); May 25, 2000 (766 So.2d 999); Oct. 5, 2000, effective Jan. 1, 2001 (780 So.2d 819); Nov. 3, 2005, effective Jan. 1, 2006 (915 So.2d 157). Renumbered from Rule 2.071 Sept. 21, 2006 (939 So.2d 966). Amended Sept. 28, 2011, effective Jan. 1, 2012 (73 So.3d 210).

Rule 2.535. Court Reporting

(a) Definitions.

(1) "Approved court reporter" means a court employee or contractor who performs court reporting services, including transcription, at public expense and who meets the court's certification, training, and other qualifications for court reporting.

(2) "Approved transcriptionist" means a court employee, contractor, or other individual who performs transcription services at public expense and who meets the court's certification, training, and other qualifications for transcribing proceedings.

(3) "Civil court reporter" means a court reporter who performs court reporting services in civil proceedings not required to be reported at public expense, and who meets the court's certification, training, and other qualifications for court reporting.

(4) "Court reporting" means the act of making a verbatim record of the spoken word, whether by the use of written symbols, stenomask equipment, stenographic equipment, or electronic devices, in any proceedings pending in any of the courts of this state, including all discovery proceedings conducted in connection therewith, any proceedings reported for the court's own use, and all proceedings required by statute to be reported by an approved court reporter or civil court reporter. It does not mean the act of taking witness statements not intended for use in court as substantive evidence.

(5) "Electronic record" means the audio, analog, digital, or video record of a court proceeding.

Text of subsec. (a)(6) effective prior to amendment by Florida Supreme Court Opinion No. SC11-399.

(6) "Official record" means the transcript, which is the written record of court proceedings and depositions prepared in accordance with the requirements of subdivision (f).

Text of subsec. (a)(6) as amended by Florida Supreme Court Opinion No. SC11-399.

(6) "Official record" means the transcript, which is the written or electronically stored record of court proceedings and depositions prepared in accordance with the requirements of subdivision (f).

(b) **When Court Reporting Required.** Any proceeding shall be reported on the request of any party. The party so requesting shall pay the reporting fees, but this requirement shall not preclude the taxation of costs as authorized by law.

(c) **Record.** When trial proceedings are being reported, no part of the proceedings shall be omitted unless all of the parties agree to do so and the court approves the agreement. When a deposition is being reported, no part of the proceedings shall be omitted unless all of the parties and the witness so agree. When a party or a witness seeks to terminate or suspend the taking of a deposition for the time necessary to seek a court order, the court reporter shall discontinue reporting the testimony of the witness.

(d) **Ownership of Records.** The chief judge of the circuit in which a proceeding is pending, in his or her official capacity, is the owner of all records and electronic records made by an official court reporter or quasi-judicial officer in proceedings required to be reported at public expense and proceedings reported for the court's own use.

(e) **Fees.** The chief judge shall have the discretion to adopt an administrative order establishing maximum fees for court reporting services. Any such order must make a specific factual finding that the setting of such maximum fees is necessary to ensure access to the courts. Such finding shall include consideration of the number of court reporters in the county or circuit, any past history of fee schedules, and any other relevant factors.

Text of introductory paragraph of subsec. (f) effective prior to amendment by Florida Supreme Court Opinion No. SC11-399.

(f) **Transcripts.** Transcripts of all judicial proceedings, including depositions, shall be uniform in and for all courts throughout the state. The form, size, spacing, and method of printing transcripts are as follows:

Text of introductory paragraph of subsec. (f) as amended by Florida Supreme Court Opinion No. SC11-399.

(f) **Transcripts.** Transcripts of all judicial proceedings, including depositions, shall be uniform in and for all courts throughout the state and shall be

stored in an electronic format sufficient to communicate the information contained in proceedings in a readable format, and capable of being transmitted electronically as set forth in rule 2.525. Any transcripts stored in electronic form must be capable of being printed in accordance with this rule. The form, size, spacing, and method of printing transcripts are as follows:

(1) All proceedings shall be printed on paper 8 1/2 inches by 11 inches in size and bound on the left.

(2) There shall be no fewer than 25 printed lines per page with all lines numbered 1 through 25, respectively, and with no more than a double space between lines.

(3) Font size or print shall be 9 or 10 pica, 12-point courier, or 12-point Times New Roman print with no less than 56 characters per line on questions and answers unless the text of the speaker ends short of marginal requirements.

(4) Colloquy material shall begin on the same line following the identification of the speaker, with no more than 2 spaces between the identification of the speaker and the commencement of the colloquy. The identification of the speaker in colloquy shall begin no more than 10 spaces from the left margin, and carry-over colloquy shall be indented no more than 5 spaces from the left margin.

(5) Each question and answer shall begin on a separate line no more than 5 spaces from the left margin with no more than 5 spaces from the "Q" or "A" to the text. Carry-over question and answer lines shall be brought to the left margin.

(6) Quoted material shall begin no more than 10 spaces from the left margin with carry-over lines beginning no more than 10 spaces from the left margin.

(7) Indentations of no more than 10 spaces may be used for paragraphs, and all spaces on a line as herein provided shall be used unless the text of the speaker ends short of marginal requirements.

(8) One-line parentheticals may begin at any indentation. Parentheticals exceeding 1 line shall begin no more than 10 spaces from the left margin, with carry-over lines being returned to the left margin.

(9) Individual volumes of a transcript, including depositions, shall be no more than 200 pages in length, inclusive of the index.

(10) Deviation from these standards shall not constitute grounds for limiting use of transcripts in the trial or appellate courts.

(g) **Officers of the Court.** Approved court reporters, civil court reporters, and approved transcriptionists are officers of the court for all purposes while acting as court reporters in judicial proceedings or discovery proceedings or as transcriptionists. Approved court reporters, civil court reporters, and approved transcriptionists shall comply with all rules

and statutes governing the proceeding that are applicable to court reporters and approved transcriptionists.

(h) Court Reporting Services at Public Expense.

(1) *When Reporting Is Required.* All proceedings required by law, court rule, or administrative order to be reported shall be reported at public expense.

(2) *When Reporting May Be Required.* Proceedings reported for the court's own use may be reported at public expense.

(3) *Circuit Plan.* The chief judge, after consultation with the circuit court and county court judges in the circuit, shall enter an administrative order developing and implementing a circuit-wide plan for the court reporting of all proceedings required to be reported at public expense using either full or part time court employees or independent contractors. The plan shall ensure that all court reporting services are provided by approved court reporters or approved transcriptionists. This plan may provide for multiple service delivery strategies if they are necessary to ensure the efficient provision of court reporting services. Each circuit's plan for court reporting services shall be developed after consideration of guidelines issued by the Office of the State Courts-Administrator.

(4) *Electronic Recording and Transcription of Proceedings Without Court Reporters.* A chief judge may enter a circuit-wide administrative order, which shall be recorded, authorizing the electronic recording and subsequent transcription by approved court reporters or approved transcriptionists, of any judicial proceedings, including depositions, that are otherwise required to be reported by a court reporter. Appropriate procedures shall be prescribed in the order which shall:

(A) set forth responsibilities for the court's support personnel to ensure a reliable record of the proceedings;

(B) provide a means to have the recording transcribed by approved court reporters or approved transcriptionists, either in whole or in part, when necessary for an appeal or for further use in the trial court; and

(C) provide for the safekeeping of such recordings.

(5) Safeguarding Confidential Communications When Electronic Recording Equipment Is Used in the Courtroom.

(A) Court personnel shall provide notice to participants in a courtroom proceeding that electronic recording equipment is in use and that they should safeguard information they do not want recorded.

(B) Attorneys shall take all reasonable and available precautions to protect disclosure of confidential communications in the courtroom. Such precautions may include muting microphones or going to a

designated location that is inaccessible to the recording equipment.

(C) Participants have a duty to protect confidential information.

(6) *Grand Jury Proceedings.* Testimony in grand jury proceedings shall be reported by an approved court reporter, but shall not be transcribed unless required by order of court. Other parts of grand jury proceedings, including deliberations and voting, shall not be reported. The approved court reporter's work product, including stenographic notes, electronic recordings, and transcripts, shall be filed with the clerk of the court under seal.

(i) Court Reporting Services in Capital Cases. The chief judge, after consultation with the circuit court judges in the circuit, shall enter an administrative order developing and implementing a circuit-wide plan for court reporting in all trials in which the state seeks the death penalty and in capital postconviction proceedings. The plan shall require the use of all measures necessary to expedite the preparation of the transcript, including but not limited to:

(1) where available, the use of an approved court reporter who has the capacity to provide real-time transcription of the proceedings;

(2) if real-time transcription services are not available, the use of a computer-aided transcription qualified court reporter;

(3) the use of scopists, text editors, alternating court reporters, or other means to expedite the finalization of the certified transcript; and

(4) the imposition of reasonable restrictions on work assignments by employee or contract approved court reporters to ensure that transcript production in capital cases is given a priority.

(j) Juvenile Dependency and Termination of Parental Rights Cases. Transcription of hearings for appeals of orders in juvenile dependency and termination of parental rights cases shall be given priority, consistent with rule 2.215(g), over transcription of all other proceedings, unless otherwise ordered by the court based upon a demonstrated exigency.

Former Rule 2.070 amended Nov. 2, 1978, effective Jan. 1, 1979 (364 So.2d 466); June 14, 1979, effective July 1, 1979 (372 So.2d 449); May 21, 1987, effective July 1, 1987 (607 So.2d 1390); Sept. 29, 1988, effective Jan. 1, 1989 (536 So.2d 195); Oct. 8, 1992, effective Jan. 1, 1993 (609 So.2d 465); Feb. 23, 1995 (650 So.2d 38); May 9, 1995 (654 So.2d 917); Oct. 5, 1995, effective Jan. 1, 1996 (661 So.2d 806); effective July 14, 2000 (772 So.2d 532); Oct. 5, 2000, effective Jan. 1, 2001 (780 So.2d 819); July 10, 2003, effective Jan. 1, 2004 (851 So.2d 698). Renumbered from Rule 2.070 Sept. 21, 2006 (939 So.2d 966). Amended July 16, 2009 (13 So.3d 1044); Nov. 12, 2009 (24 So.3d 47); Oct. 18, 2012, effective Dec. 1, 2012, April 1, 2013, Oct. 1, 2013 (102 So.3d 451).

Committee Note

The definitions of "electronic record" in subdivision (a)(5) and of "official record" in subdivision

(a)(6) are intended to clarify that when a court proceeding is electronically recorded by means of audio, analog, digital, or video equipment, and is also recorded via a written transcript prepared by a court reporter, the written transcript shall be the "official record" of the proceeding to the exclusion of all electronic records. While the term "record" is used within Rule 2.535 and within Fla. R. App. P. 9.200, it has a different meaning within the unique context of each rule. Accordingly, the meaning of the term "record" as defined for purposes of this rule does not in any way alter, amend, change, or conflict with the meaning of the term "record" as defined for appellate purposes in Fla. R. App. P. 9.200(a).

Historical Notes

Publisher's Note

Florida Supreme Court Opinion No. SC11-399, revised Oct. 18, 2012, provides the following implementation schedule:

"First, the new electronic filing requirements the Court adopts will become effective in the civil, probate, small claims, and family law divisions of the trial courts, as well as for appeals to the circuit court in these categories of cases, on April 1, 2013, at 12:01 a.m., except as may be otherwise provided by administrative order. Electronic filing will be mandatory in these divisions pursuant to rule 2.525 on that date. However, until the new rules take effect in these divisions, any clerk who is already accepting documents filed by electronic transmission under the current rules should continue to do so; attorneys in these counties are encouraged to file documents electronically under the current rules.

"Next, the new electronic filing requirements the Court adopts will become effective in the criminal, traffic, and juvenile divisions of the trial courts, as well as for appeals to the circuit court in these categories of cases, on October 1, 2013, at 12:01 a.m., except as may be otherwise provided by administrative order. Electronic filing will be mandatory in these divisions under rule 2.525 on that date. The new e-filing requirements, as they apply in proceedings brought pursuant to the Florida Mental Health Act (Baker Act), Chapter 394, Part I, Florida Statutes, and the Involuntary Commitment of Sexually Violent Predators Act (Jimmy Ryce), Chapter 394, Part V, Florida Statutes, will also not be mandatory in these cases until October 1, 2013. As stated above, until the new rules take effect in these divisions and proceedings, any clerk who is already accepting electronically filed documents under the current rules should continue to do so; attorneys are again encouraged to utilize existing electronic filing procedures under the current rules.

"The new electronic filing procedures adopted in this case will become effective in this Court on December 1, 2012, at 12:01 a.m., except as may be otherwise provided by administrative order. E-filing will be mandatory in this Court under rule 2.525 on that date. Additionally, the e-filing rules will become effective and mandatory in the district courts of appeal on April 1, 2013, at 12:01 a.m. However, until the new rules and procedures take effect in the district courts, any clerk who is already accepting documents filed by electronic transmission may continue to do so; attorneys in these districts are encouraged to file documents electronically. Clerks will not be required to electronically transmit the record on appeal until July 1, 2013, at 12:01 a.m. Until July 1, we encourage clerks, whenever possible, to electronically transmit the record under the new rules and requirements."

Rule 2.540. Requests for Accommodations by Persons with Disabilities

(a) **Duties of Court.** Qualified individuals with a disability will be provided, at the court's expense, with accommodations, reasonable modifications to rules, policies, or practices, or the provision of auxiliary aids and services, in order to participate in programs or activities provided by the courts of this state: The

court may deny a request only in accordance with subdivision (e).

(b) **Definitions.** The definitions encompassed in the Americans with Disabilities Act of 1990, 42 U.S.C. § 12101, et seq., are incorporated into this rule.

(c) Notice Requirement.

(1) All notices of court proceedings to be held in a public facility, and all process compelling appearance at such proceedings, shall include the following statement in bold face, 14-point Times New Roman or Courier font:

"If you are a person with a disability who needs any accommodation in order to participate in this proceeding, you are entitled, at no cost to you, to the provision of certain assistance. Please contact [identify applicable court personnel by name, address, and telephone number] at least 7 days before your scheduled court appearance, or immediately upon receiving this notification if the time before the scheduled appearance is less than 7 days; if you are hearing or voice impaired, call 711."

(2) Each trial and appellate court shall post on its respective website and in each court facility the procedures for obtaining an accommodation as well as the grievance procedure adopted by that court.

(d) **Process for Requesting Accommodations.** The process for requesting accommodations is as follows:

(1) Requests for accommodations under this rule may be presented on a form approved or substantially similar to one approved by the Office of the State Courts Administrator, in another written format, or orally. Requests must be forwarded to the ADA coordinator, or designee, within the time frame provided in subdivision (d)(3).

(2) Requests for accommodations must include a description of the accommodation sought, along with a statement of the impairment that necessitates the accommodation and the duration that the accommodation is to be provided. The court, in its discretion, may require the individual with a disability to provide additional information about the impairment. Requests for accommodation shall not include any information regarding the merits of the case.

(3) Requests for accommodations must be made at least 7 days before the scheduled court appearance, or immediately upon receiving notification if the time before the scheduled court appearance is less than 7 days. The court may, in its discretion, waive this requirement.

(e) **Response to Accommodation Request.** The court must respond to a request for accommodation as follows:

(1) The court must consider, but is not limited by, the provisions of the Americans with Disabilities Act of 1990 in determining whether to provide an accom-

RULE 2.430. RETENTION OF COURT RECORDS

(a) **Definitions.** The following definitions apply to this rule:

- (1) —Court records mean the contents of the court file, including the progress docket and other similar records generated to document activity in a case, transcripts filed with the clerk, documentary exhibits in the custody of the clerk, and electronic records, video tapes, or stenographic tapes of depositions or other proceedings filed with the clerk, and electronic records, videotapes or stenographic tapes of court proceedings.
- (2) —After a judgment has become final means:
 - (A) when a final order, final judgment, final docket entry, final dismissal, or nolle prosequi has been entered as to all parties, no appeal has been taken, and the time for appeal has expired; or
 - (B) when a final order, final judgment, or final docket entry has been entered, an appeal has been taken, the appeal has been disposed of, and the time for any further appellate proceedings has expired.
- (3) —Permanently recorded means that a document has been microfilmed, optically imaged, or recorded onto an electronic record keeping system in accordance with standards adopted by the Supreme Court of Florida.

(b) **Permanently Recorded Records.** Court records, except exhibits, that have been permanently recorded may be destroyed or otherwise disposed of by the clerk at any time after a judgment has become final.

(c) **Records Not Permanently Recorded.** No court records under this subdivision shall be destroyed or disposed of until the final order, final docket entry, or final judgment is permanently recorded for, or recorded in, the public records. The time periods shall not apply to any action in which the court orders the court records to be kept until the court orders otherwise. When an order is entered to that effect, the progress docket and the court file shall be marked by the clerk with a legend showing that the court records are not to be destroyed or disposed of without a further order of court. Any person may apply for an order suspending or prohibiting destruction or disposition of court records in any proceeding. Court records, except exhibits, that are not permanently recorded may be destroyed or disposed of by the clerk after a judgment has become final in accordance with the following schedule:

- (1) For trial courts
 - (A) 60 days — Parking tickets and noncriminal traffic infractions after required audits have been completed.
 - (B) 2 years — Proceedings under the Small Claims Rules, Medical Mediation Proceedings.
 - (C) 5 years — Misdemeanor actions, criminal traffic violations, ordinance violations, civil litigation proceedings in county court other than those under the Small Claims Rules, and civil proceedings in circuit court except marriage dissolutions and adoptions.

- (D) 10 years — Probate, guardianship, and mental health proceedings.
 - (E) 10 years — Felony cases in which no information or indictment was filed or in which all charges were dismissed, or in which the state announced a nolle prosequi, or in which the defendant was adjudicated not guilty.
 - (F) 75 years — Juvenile proceedings containing an order permanently depriving a parent of custody of a child, and adoptions, and all felony cases not previously destroyed.
 - (G) Juvenile proceedings not otherwise provided for in this subdivision shall be kept for 5 years after the last entry or until the child reaches the age of majority, whichever is later.
 - (H) Marriage dissolutions — 10 years from the last record activity. The court may authorize destruction of court records not involving alimony, support, or custody of children 5 years from the last record activity.
- (2) For district courts of appeal
 - (A) 2 years — noncriminal court records.
 - (B) 5 years — Criminal court records.
 - (3) For the Supreme Court
 - (A) 5 years — All cases disposed of by order not otherwise provided for in this rule.
 - (B) 10 years — Cases disposed of by order involving individuals licensed or regulated by the court and noncriminal court records involving the unauthorized practice of law.
- (d) Records to Be Retained Permanently.** The following court records shall be permanently recorded or permanently retained:
- (1) progress dockets, and other similar records generated to document activity in a case, and
 - (2) court records of the supreme court in which the case was disposed of by opinion.
- (e) Court Reporters' Notes.** Court reporters or persons acting as court reporters for judicial or discovery proceedings shall retain the original notes or electronic records of the proceedings or depositions until the times specified below:
- (1) 2 years from the date of preparing the transcript — Judicial proceedings, arbitration hearings, and discovery proceedings when an original transcript has been prepared.
 - (2) 10 years — Judicial proceedings in felony cases when a transcript has not been prepared.
 - (3) 5 years — All other judicial proceedings, arbitration hearings, and discovery proceedings when a transcript has not been prepared.

When an agreement has been made between the reporter and any other person and the person has paid the reasonable charges for storage and retention of the notes, the notes or records shall be kept for any longer time agreed on. All reporters' notes shall be retained in a secure place in Florida.

(f) Exhibits.

- (1) Exhibits in criminal proceedings shall be disposed of as provided by law.
- (2) All other exhibits shall be retained by the clerk until 90 days after a judgment has become final. If an exhibit is not withdrawn pursuant to subdivision (i) within 90 days, the clerk may destroy or dispose of the exhibits after giving the parties or their attorneys of record 30 days' notice of the clerk's intention to do so. Exhibits shall be delivered to any party or attorney of record calling for them during the 30-day time period.

(g) Disposition Other Than Destruction. Before destruction or disposition of court records under this rule, any person may apply to the court for an order requiring the clerk to deliver to the applicant the court records that are to be destroyed or disposed of. All parties shall be given notice of the application. The court shall dispose of that court record as appropriate.

(h) Release of Court Records. This rule does not limit the power of the court to release exhibits or other parts of court records that are the property of the person or party initially placing the items in the court records. The court may require copies to be substituted as a condition to releasing the court records under this subdivision.

(i) Right to Expunge Records. Nothing in this rule shall affect the power of the court to order records expunged.

(j) Sealed Records. No record which has been sealed from public examination by order of court shall be destroyed without hearing after such notice as the court shall require.

(k) Destruction of Jury Notes. At the conclusion of the trial and promptly following discharge of the jury, the court shall collect all juror notes and immediately destroy the juror notes.

COMPENSATION RATE SHEET FOR
DIGITAL COURT REPORTING TRANSCRIPTION SERVICE

Transcription services for both appellate and non-appellate transcript pages (even if any person tries to define it as daily, next day, expedited, original or regular) will be provided at the rate of \$5.50 per page, which includes an original and two (2) copies.

The cost per page for additional copies of an original transcript previously prepared will be charged at the rate of \$.25.

DELIVERY RECEIPT

*Record Transcripts, Inc.
501 East Kennedy Blvd., Suite 170
Tampa, FL 33602
(813) 514-5100*

REQUESTED BY: _____ LOCATION: _____

CASE NAME: _____ CASE #: _____

DATE(S): _____ DIV: _____

TRANSCRIPT INFORMATION:

<input type="checkbox"/> REGULAR	# OF PAGES _____
<input type="checkbox"/> RUSH	# OF PAGES _____
<input type="checkbox"/> EXPEDITE	# OF PAGES _____
<input type="checkbox"/> DAILY	# OF PAGES _____
<input type="checkbox"/> COPY	# OF PAGES _____
<input type="checkbox"/> APPEAL-ORIG x _____	# OF PAGES _____
<input type="checkbox"/> APPEAL-COPY x _____	# OF PAGES _____
ORDER PAID FOR BY STATE? YES NO	

BILLING:

DATES PREV. TYPED : _____ # OF PT PGS _____

*PREV. INVOICE #(S): _____ # NEW PGS _____

** IF KNOWN*

AUDIO COPY INFORMATION:

DIGITAL (EXPEDITE: YES NO).....# OF CD'S _____

THE ABOVE HAS BEEN RECEIVED BY:

RECIPIENT'S SIGNATURE

DATE RECEIVED

PRINT NAME

DATE/PERSON NOTIFIED

EMAILED TO:

DATE EMAILED:

INVOICE #: _____ PROCESSED BY: _____

DELIVERED BY: _____

EXHIBIT "D"

CONTRACTUAL SERVICES AGREEMENT

This Agreement is made between the 18th Judicial Circuit and Associated Court Reporters at 101 West Fulton Street, Sanford, FL 32771. The parties agree that this Agreement shall begin on July 1, 2013 or upon execution whichever is later, and shall terminate on June 30, 2015 upon satisfactory completion of the services described in Provision A. In no event will the term of this Agreement extend beyond June 30th, 2015 without further amendment. With an amendment, this agreement may be extended for a subsequent two-year period under the same terms and conditions as the original agreement if mutually agreed upon by all parties.

A. Scope of Work

Associated Court Reporters will provide the following services for the circuit as follows:

1. Associated Court Reporters shall provide services **only** to the Court for all court locations in Seminole County of the Eighteenth Judicial Circuit. Services are to include all proceedings as defined in Rule 2.535, Florida Rules of Judicial Administration, and any other judicial proceeding required by law to be reported at public expense, including the following specific requirements if necessary:
 - a. To provide transcription of audio or digital recordings in County Court Criminal and Circuit Court Juvenile Division cases.
 - b. To provide court reporting services for the Court if no recording device is available.
 - c. To provide court reporting services for uncontested dissolution of marriage proceedings before a Special Master that is not paid from public expense.
 - d. To provide real-time transcription services to hearing impaired persons in accordance with the Florida State Courts System policy (Attachment B).

2. All services shall be provided pursuant to Florida Statutes, Florida Rules of Judicial Administration, and 18th Judicial Circuit Administrative Order(s). In addition to the above proceedings, the following services are also required:
 - a. To provide transcripts which comply with the Florida Rules of Judicial Administration;
 - b. To secure notes, records, and transcripts of court reporters who retire, die, or otherwise leave the firm;
 - c. To provide transcripts within the time frame required by the Court, not to exceed 30 days;
 - d. To provide careful maintenance of files and records;
 - e. To provide court reporter services in an expeditious manner.

3. All court reporters providing court reporting services to the Court must have RPR certification with the National Court Reporter Association (RPR Tested). Court reporters currently providing services to the Court are excluded from this requirement, for this contract period, if a list of the names of the current court reporters is provided, along with this signed contract to Court Administration

4. All court reporters providing services must be equipped and skilled in the use of CAT (Computer Aided Transcription) technology.
5. Associated Court Reporters shall control and direct the manner in which reporting service is performed; including the conditions under which individual court reporters will report; when, where, and the manner in which court reporters will report; and the job assignments of individual court reporters. The Court will not request or require that specific court reporters be assigned to specific courtrooms. Court Reporter sets the hours of work for members of the Court Reporter's work force.

B. Deliverables

1. Associated Court Reporters shall be responsible for obtaining and providing any requested transcripts for proceedings that took place prior to the commencement of this Agreement.
2. Associated Court Reporters may be considered in noncompliance of this Agreement if it fails to provide a court reporter for a proceeding, fails to provide accurate transcripts, fails to accept 100% of scheduled services requested, fails to provide transcripts in the agreed-upon time frame, or fails to fully comply with all sections of this Agreement. Accurate transcripts are defined as those with not more than one error per ten pages, excluding proper nouns from the count. Noncompliance may result in any or all of the following:
 - a. Reduction in the amount owed for appearance fee and transcript for a specific proceeding by an amount of up to 100%.
 - b. No additional work to Court Reporter until transcript is provided.
 - c. Termination of this Agreement.
 - d. Other court sanctions.
3. All documentation submitted by Associated Court Reporters (i.e. appearance and transcripts) shall designate the name of the contractor as it appears on the contract.
4. Associated Court Reporters shall be responsible for ensuring compliance with the State of Florida's record retention schedule and with the procedures set forth by the Office of the Court Administrator. Court Reporter shall deliver all records including all original raw data tapes and discs, to Court Administration within **sixty (60) days** of the expiration of the Agreement. Boxed contents must be clearly and uniformly marked. Any other special instructions required by the Records Management Center shall be followed. The Eighteenth Judicial Circuit shall be the owner of the records produced for the Courts by Court Reporter.
5. Associated Court Reporters shall provide to Court Administration, the appropriate insurance for the duration of this Agreement. The insurance shall contain as a minimum the following provisions, coverage, and policy limits of liability:
 - a. Workers' Compensation in compliance with Florida Law.

- b. Comprehensive general liability including bodily injury and property damage liability in the minimum amount of \$300,000 combined single limit, each occurrence.
5. Associated Court Reporters agrees to indemnify and hold harmless the Eighteenth Judicial Circuit and its employees from all claims, losses and expenses, including attorney's fees, arising out of or resulting from the performance of the products or services to be contracted, provided such claim, damage, loss or expense (1) is attributable to bodily injury, sickness, disease, death or personal injury, or to property damage, including loss of use resulting from, and (2) is caused in whole or in part by any negligent act or omission of Associated Court Reporters or any of its employees, or arises from a job related injury. Associated Court Reporters acknowledges adequate consideration for this indemnification provision.

If the initial insurance policy expires prior to the completion of the contract, renewal certificates of insurance will be furnished **30 days** prior to their date of expiration to the Office of the Court Administrator.

C. Compensation :

1. The Court will pay Associated Court Reporters for the following appearance and transcript rates:

Appearance Fees:	Hourly
Standard Reporting	\$40.00
Weekend/Holiday/Overtime, etc.	\$60.00
Real-Time	\$50.00
No Show/No Notice	\$40.00
Transcript Fees:	Per Page
Original	\$3.50
Each Copy	\$1.75
ASCII Disk (per disk)	\$25.00
Daily Copy Fees:	
Original	\$6.00
Each Copy	\$3.25
Expedited Copy Fees:	
Original	\$4.50
Each Copy	\$1.90
Other Transcripts/Real Time Fees:	
Certified Daily Copy	\$6.00
Uncertified Daily Copy	\$3.00

2. If Associated Court Reporters is providing ongoing services, then invoices must be submitted on a monthly basis using the State Courts System standardized invoice form and submitted same by the 3rd of the month to: Court Administration, 101 Bush Boulevard, Sanford, FL 32773. Note: All invoices must be submitted within 120 days from the date services are rendered.
3. The court will initiate payment procedures upon receipt of a written invoice, submitted in detail sufficient for a proper pre- and post-audit. The invoice must include the nature of the services performed, the identity of the person performing the services, and the amount of time expended in performing the service. Payment will be made pursuant to Section 215.422, Florida Statutes, incorporated as Attachment A. No additional fees shall be permitted without the written agreement of the Court Administrator or his designee.
4. Associated Court Reporters will not be compensated for travel time or reimbursement of mileage for services. Associated Court Reporters shall furnish their own equipment and supplies.

D. This Agreement is subject to the following additional terms and conditions:

1. For the duration of this Agreement, Associated Court Reporters must **NOT** accept any other *Agreements* that would conflict with its obligations under this Agreement.
2. If, in the judgment of the Court, Associated Court Reporters for any reason fails to fulfill its obligations under this Agreement in a timely manner, or if Associated Court Reporters violates any provision of this Agreement, the Court may terminate this Agreement on **15 days** written notice by certified mail.
3. The Court may, by written notice to Associated Court Reporters, terminate this Agreement, in whole or in part, at any time, either for the Court's convenience or because of the failure of Associated Court Reporters to fulfill the Court Reporter's Agreement obligations. Upon receipt of such notice, the Court Reporter shall:
 - a. Immediately discontinue all services affected unless the notice directs otherwise,
 - b. Deliver to the Court reports, transcripts and such other information and materials as may have been accumulated by the Court Reporter in performing this Agreement, whether completed or in the process.
4. If the termination is for the convenience of the Chief Judge, Associated Court Reporters shall be paid compensation for services performed to the date of termination. Court Reporter shall be paid no more than a percentage of the fixed fee amount equivalent to the percentage of the completion of work contemplated by the Agreement.

5. If the termination is due to the failure of Associated Court Reporters to fulfill its Agreement obligations, the Court may take over the work and prosecute the same to completion by Agreement or otherwise. In such case, Associated Court Reporters shall be liable to the Court for reasonable additional costs occasioned to the Court thereby. The Court Reporter shall not be liable for such additional costs if the failure to perform the Agreement arises out of causes beyond the control and without the fault or negligence of Associated Court Reporters. Such causes may include, but are not limited to, acts of God or of the public enemy, acts of the Court in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather; but, in every case, the failure to perform must be beyond the control and without the fault or negligence of Associated Court Reporters.
6. If, after notice of termination for failure to fulfill Agreement obligations, it is determined that Associated Court Reporters had not so failed, the termination shall be deemed to have been effected for the convenience of the Court. In such event, adjustment in the Agreement price shall be made as provided in paragraph 4 of this section.
7. The rights and remedies of the Court provided in this clause are in addition to any other rights and remedies provided by law or under this Agreement.
8. The Court may unilaterally terminate a Contract if the Contractor refuses to allow public access to all documents, papers, letters or other material made or received by the contractor in conjunction with the Contract, unless the Records are exempt from s. 24(a) of Article 1 of the State Constitution, s. 119.07(1), Florida Statutes, or 2.420 Rule of Judicial Administration.
9. The Court may reproduce, without further compensation to the vendor, any written materials generated as a result of the Vendor's work.
10. If Associated Court Reporters services are not needed due to cancellation or rescheduling the program described in Provision A, the Court may cancel this Agreement, without any obligation to pay Vendor, upon written notice.
11. In providing, or contracting to provide, services, programs or activities, maintaining facilities, and otherwise performing obligations under this Agreement, the Vendor will comply with the Americans with Disabilities Act, the Civil Rights Act of 1964, as amended, the Florida Civil Rights Act of 1992 and any other federal or state law that prohibits discrimination on the basis of race, color, national origin, religion, sex, age, marital status, or handicap.
12. This Agreement is for contractual services only. Associated Court Reporters is **NOT** an agent or employee of the Judicial Circuit, the Florida Supreme Court, or the State Courts System.

13. The Court’s performance and obligation to pay under this Agreement are contingent upon an annual appropriation by the Legislature. Agreement is subject to the availability of State funds. If the legislature fails to appropriate funds specifically for the purpose of funding the services or demands a spending reduction in the State budgets due to a revenue shortfall, the Court and the State will have no obligation to pay or perform under this Agreement. The Court’s and the State’s performances and obligations to pay under this Agreement are also contingent upon final spending approval from the Chief Justice of the Florida Supreme Court.

14. This contract is bound by the General Contract Conditions of the Florida State Court System which can be found at:

http://www.flcourts.org/courts/crtadmin/contract_information.shtml

15. The terms and conditions described at:

http://www.flcourts.org/courts/crtadmin/contract_information.shtml

General Contract Conditions for Services are incorporated herein as if fully recited in this Agreement/Contract except to the extent that any of those terms or conditions are in conflict with this Agreement/Contract in which case the terms and conditions of this document shall prevail.

E. Associated Court Reporters must perform the services for which it is retained to the best of its ability and at the direction and request of the Court.

F. Associated Court Reporters will maintain a file available for inspection by the Court containing documentation of all costs associated with this Agreement. Associated Court Reporters will maintain the file until otherwise notified by the Court, or for a period of **4 years** following the conclusion of this Agreement, whichever occurs first.

This Agreement constitutes the entire understanding of the parties. Any modifications to this Agreement must be in writing.

EIGHTEENTH JUDICIAL CIRCUIT OF FLORIDA

BY _____
Chief Judge/TCA

BY _____
Name Associated Court Reporters
FID 59-28994900
Address: 101 West Fulton Street
Sanford, FL 32771
Phone #: (407) 323-0808

DATE _____

DATE _____

Approved as to Legal Form and Sufficiency

BY:  _____

AGREEMENT

between

NINETEENTH JUDICIAL CIRCUIT

and

=

CONTRACT TRANSCRIPTIONIST

RE: Court Transcription Services

Contract Number:

AGREEMENT

between

NINETEENTH JUDICIAL CIRCUIT

and

=

CONTRACT TRANSCRIPTIONIST

RE: Court Transcription Services

This is an Agreement made and entered into by and between: NINETEENTH JUDICIAL CIRCUIT, (the “COURT”), AND (the “TRANSCRIPTIONIST”)

WHEREAS, Rule 2.535(g) requires the chief judge of each judicial circuit to develop an administrative plan for the provision of court reporting services provided at public expense. The chief judge is also responsible for ensuring that the record of court proceedings and testimony is properly taken and preserved; and that transcripts of the proceedings are properly prepared. Accordingly the Nineteenth Judicial Circuit is fulfilling its responsibility by contracting for court transcription services in Circuit and County Court cases with the Contract TRANSCRIPTIONIST herein identified.

IN CONSIDERATION of the mutual terms, conditions, promises, covenants, and payments hereinafter set forth, this contract is made between the COURT and the TRANSCRIPTIONIST for provision of court transcription services in certain types of cases.

The parties agree as follows:

1. **Definitions:** The State Court System Purchasing Directives govern Procurement within the Judicial Branch. The following additional terms are also defined:
 - a. “Contract” means the enforceable agreement that results from a successful solicitation or other procurement. The parties to the Contract will be the Court and TRANSCRIPTIONIST.
 - b. “COURT” means a State Court System entity that will procure services directly from the TRANSCRIPTIONIST under the Contract.
 - c. “Session” means a two hour block of time.
2. **Scope of Services:**

The TRANSCRIPTIONIST shall provide services to the court as follows:

- a. Serve at the pleasure of the Chief Judge.
- b. The TRANSCRIPTIONIST shall provide court reporting services pursuant to Rule 2.535, Florida Rules of Judicial Administration and administrative orders of the Nineteenth Judicial Circuit Court.
- c. The TRANSCRIPTIONIST shall provide court transcription services for the following court proceedings in the Nineteenth Judicial Circuit:
 - (1.) Circuit and County Court Criminal divisions, Dependency and Termination of Parental Rights, Delinquency, Domestic Violence, Probate, Mental Health or as required by statute or rule.
 - (2.) Other proceedings as directed by the Judiciary.
- d. Proceedings will include scheduled hearings and/or trials and unscheduled emergency hearings held in chambers or courtrooms. Proceedings may include, but are not limited to, jury trials, non-jury trials, arraignments/advisories, pretrial conferences, in-court disposition hearings, sentencing hearings, motion hearings and all other related matters as required by the COURT.
- e. The TRANSCRIPTIONIST shall further perform as follows:
 - (1.) Transcripts that comply with all Florida Rules of Court, Florida Statutes and administrative orders;
 - (2.) Retention of notes, records, and transcripts in accordance with requirements of Rule 2.430, Florida Rules of Judicial Administration;
 - (3.) A verbatim record of legal proceedings and accurate transcripts in a format acceptable to the CIRCUIT and the Florida Supreme Court;
 - (4.) Timely distribution of requested transcripts;
 - (5.) Careful maintenance of files and records.
- f. The TRANSCRIPTIONIST services contract or any portion thereof shall not be assigned, subcontracted, or transferred without the prior expressed written consent of the Court. TRANSCRIPTIONIST is responsible for assuring that independent contractors utilized by them comply with all requirements of the Agreement.
- g. Perform the professional service for which the TRANSCRIPTIONIST is retained.
- h. The TRANSCRIPTIONIST will adhere to standards and procedures for qualifications, certifications, professional conduct, discipline and training

as established by the Florida Rules of Court, Florida Statutes, Florida Supreme Court, or other peer regulatory bodies.

- i. Immediately notify the COURT of any adverse action, associated with providing court transcription services, taken against the TRANSCRIPTIONIST, and the outcome of such action.
- j. Attend meeting/training as scheduled by the COURT.
- k. Submit to a criminal background check, and be free of any withholds, or convictions for misdemeanors or felonies.

3. Qualifications.

- a. The TRANSCRIPTIONIST must meet the following minimum qualifications:
 - (1.) Must possess or obtain certification as required by the Florida Supreme Court or the 19th Judicial Circuit Court.
 - (2.) Knowledge of English grammar, punctuation, and spelling of the spoken word.
 - (3.) Ability to type 55 correct words per minute.
 - (4.) Ability to efficiently organize and prioritize work and meet deadlines.
 - (5.) Ability to exercise discretion and confidentiality.
 - (6.) Ability to present a favorable impression to the public and court personnel.

4. Independent Contractor:

- a. The parties agree that this Agreement is not intended to and shall not be construed to create the relationship of agent, servant, employee, partnership, joint venture, or association between the COURT or the State Courts and the TRANSCRIPTIONIST.
- b. The TRANSCRIPTIONIST is an independent contractor and is wholly responsible for the manner in which he or she performs the services required by the terms of this Agreement.
- c. The TRANSCRIPTIONIST shall not be entitled to rights or privileges of State employees and shall not be considered in any manner to be State employees.

5. Compensation:

- a. The COURT will compensate the TRANSCRIPTIONIST as follows:

\$3.50 (THREE DOLLARS AND FIFTY CENTS) per page for the original and one copy;
\$1.00 (ONE DOLLAR) per page for additional copies.

- b. The TRANSCRIPTIONIST will not be compensated for mileage.
- c. Any reimbursable travel expenses identified in 5. b., must be submitted in accordance with s. 112.061, Florida Statutes. All travel expenses must be submitted on the State of Florida Voucher for Reimbursement of Travel which is available at:
http://www.flcourts.org/courts/crtadmin/bin/Travel_Reimbursement_Form.pdf.
Detailed information regarding allowable State of Florida travel expenses is available at:
<http://www.flcourts.org/courts/crtadmin/TravelInformation.pdf>
A Court may establish rates lower than the maximum provided in s. 112.061, Florida Statutes.
- d. The court cannot guarantee a minimum or maximum number of sessions to be assigned to the TRANSCRIPTIONIST.
- e. Payment for services pursuant to this Agreement will be made from public funds appropriated for this purpose and shall concur with the fee schedule agreed to by the parties. No additional fees will be paid. The contract may be terminated at any time if appropriated funds are no longer available. The TRANSCRIPTIONIST shall submit monthly invoices by the 10th of each month for services provided during the preceding month. All invoices shall be accompanied by supporting documentation.
- f. The court will initiate payment procedures upon receipt of required written invoice, submitted in detail sufficient for a proper pre- and post-audit. The invoice must include the nature of the services performed, and the identity of the person performing the services, and the amount of time expended in performing the service. Payment will be made pursuant to section 215.422, Florida Statutes, incorporated as Attachment A. The required Uniform Invoice will be sent to the TRANSCRIPTIONIST once a contract number is assigned.
- g. The COURT'S performance and obligation to pay under this Agreement are contingent upon the availability of funds lawfully appropriated to fulfill the requirements of this agreement.

6. No Prohibition on Private Practice:

- a. The TRANSCRIPTIONIST may engage in private practice, provided that no private case shall be accepted which causes a conflict of interest to arise. TRANSCRIPTIONIST shall not use any court transcription services pursuant to this Agreement to solicit, encourage or otherwise incur future professional services with either party or their attorneys.

- b. The TRANSCRIPTIONIST may not charge any individual, or his family or guardian, as the case may be, nor receive any fee or payment from any individual or his family or guardian or other persons, for services rendered pursuant to this Agreement.

7. Compliance:

In providing services and otherwise performing obligations under this Agreement, the TRANSCRIPTIONIST will comply with the American with Disabilities Act, the Civil Rights Act of 1964, as amended, the Florida Civil Rights Act of 1992 and any other federal or state law that prohibits discrimination on the basis of race, color, national origin, religion, sex, age, marital status, or disability.

8. Suspension of Work.

The COURT may in its sole discretion suspend any or all activities under the Contract, at any time, when in the best interests of the COURT to do so. The COURT shall provide the TRANSCRIPTIONIST written notice outlining the particulars of suspension. Examples of the reason for suspension include, but are not limited to, budgetary constraints, declaration of emergency, or other such circumstances. After receiving a suspension notice, the TRANSCRIPTIONIST shall comply with the notice and shall not accept any purchase orders. Within ninety days, or any longer period agreed to by the TRANSCRIPTIONIST, the COURT shall either (1) issue a notice authorizing resumption of work, at which time activity shall resume, or (2) terminate the Contract. Suspension of work shall not entitle the TRANSCRIPTIONIST to any additional compensation except for work performed.

9. Termination for Convenience.

The COURT, by written notice to the TRANSCRIPTIONIST, may terminate the Contract in whole or in part when the COURT determines in its sole discretion that it is in the COURT's interest to do so. The TRANSCRIPTIONIST shall not furnish any continued portion of the Contract, if any. The TRANSCRIPTIONIST shall not be entitled to recover any cancellation charges or lost profits.

10. Termination for Cause.

The COURT may terminate the Contract if the TRANSCRIPTIONIST fails to (1) provide deliverables within the time specified in the Contract or any extension, (2) maintain adequate progress, thus endangering performance of the Contract, (3) honor any term of the Contract, or (4) abide by any statutory, or regulatory, or licensing requirement. The TRANSCRIPTIONIST shall continue work on any work not terminated. Except for defaults of subcontractors at any tier, the TRANSCRIPTIONIST shall not be liable for any excess costs if the failure to perform the Contract arises from events completely beyond the control, and without the fault or negligence, of the TRANSCRIPTIONIST. If the failure to perform is

caused by the default of a subcontractor at any tier, and if the cause of the default is completely beyond the control of both the TRANSCRIPTIONIST and the subcontractor, and without the fault or negligence of either, the TRANSCRIPTIONIST shall not be liable for any excess costs for failure to perform, unless the subcontracted deliverables were obtainable from other sources in sufficient time for the TRANSCRIPTIONIST to meet the required delivery schedule. If, after termination, it is determined that the TRANSCRIPTIONIST was not in default, or that the default was excusable, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the COURT. The rights and remedies of the COURT in this clause are in addition to any other rights and remedies provided by the law or under the Contract.

11. Public Records Requirement.

The TRANSCRIPTIONIST shall maintain payment and other non-case related records made or received in connection with this Agreement in accordance with the requirements of rule 2.420, Florida Rules of Judicial Administration.

12. Renewal.

Upon mutual agreement, the COURT and the TRANSCRIPTIONIST may renew the contract, in whole or part, for a period that may not exceed 1 year or the term of the contract, whichever period is longer. Any renewal shall specify the renewal price. The renewal must be in writing and signed by both parties, and is contingent upon satisfactory performance evaluations and subject to availability of funds.

13. Security and Confidentiality.

The TRANSCRIPTIONIST shall comply fully with all security requirements and procedures of the COURT in performance of the Contract. The TRANSCRIPTIONIST shall not divulge to third parties any confidential information obtained by the TRANSCRIPTIONIST or its agents, distributors, resellers, subcontractors, officers, or employees in the course of performing Contract work, including, but not limited to, security procedures, business operations information, or commercial proprietary information in the possession of the COURT. The TRANSCRIPTIONIST shall not be required to keep confidential information or material that is publicly available through no fault of the TRANSCRIPTIONIST, material that the TRANSCRIPTIONIST developed independently without relying on the COURT's confidential information or material that is otherwise obtainable under State law as a public record. The TRANSCRIPTIONIST shall take appropriate steps with its personnel, agents, and subcontractors to insure confidentiality. The warranties of this paragraph shall survive the Contract.

14. Warranty of Authority.

Each person signing the Contract warrants that he or she is duly authorized to do so and to bind the respective party to the Contract.

15. Warranty of Ability to Perform.

The TRANSCRIPTIONIST warrants that, to the best of its knowledge, there is no pending or threatened action, proceeding, or investigation, or any other legal or financial condition, that would in any way prohibit, restrain, or diminish the TRANSCRIPTIONIST's ability to satisfy its Contract obligations. The TRANSCRIPTIONIST warrants that neither it nor any affiliate is currently on the convicted vendor list maintained pursuant to section 287.133, Florida Statutes, or on any similar list maintained by any other state or the federal government. The TRANSCRIPTIONIST shall immediately notify the COURT in writing if its ability to perform is compromised in any manner during the term of the Contract.

16. Notices.

All notices required under the Contract shall be delivered by certified mail, return receipt requested, by reputable air courier service, or by personal delivery to the COURT. Notices to the TRANSCRIPTIONIST shall be delivered to the person who signs the Contract. Either designated recipient may notify the other, in writing, if someone else is designated recipient may notify the other, in writing, if someone else is designated to receive notice.

17. Modification of Terms.

The Contract contains all the terms and conditions agreed upon by the parties. The Contract may only be modified or amended upon mutual written agreement of the COURT and the TRANSCRIPTIONIST. No alteration or modification of the Contract terms, including substitution of deliverables, shall be valid or binding against the COURT.

18. Waiver.

The delay or failure by the COURT to exercise or enforce any of its rights under this Contract shall not constitute or be deemed a waiver of the COURT's right thereafter to enforce those rights, nor shall any single or partial exercise of any such right preclude any other or further exercise thereof or the exercise of any other right.

19. Severability.

If the COURT deems any provision of the Contract void or unenforceable, that provision shall be enforced only to the extent that it is not in violation of law or is not otherwise unenforceable and all other provisions shall remain in full force and effect.

20. Right to Audit.

Records of expenses pertaining to all services shall be kept in accordance with generally accepted accounting principles and procedures. The Vendor shall keep

all records relating to this contract in such a way as to permit their inspection pursuant to Florida Rules of Judicial Administration 2.420. The COURT and the State of Florida reserve the right to audit such records.

21. Rule of Interpretation.

All specific conditions will prevail over a general condition on the same subject. This contract is bound by the General Contract Conditions for Services of the Florida State Court System which can be found at:
http://www.flcourts.org/courts/crtadmin/general_contract_conditions.shtml

22. Term of Agreement:

This agreement shall be effective on July 1, 2013, or upon execution whichever is later, and shall terminate on June 30, 2014. No amendment or renewal of this Agreement shall be valid unless the same is in writing and executed by the parties.

23. Multiple Originals:

Two copies of this Agreement shall be executed by the parties. Each Agreement with original signatures of the parties shall be treated as an original Agreement.

This Professional Services Agreement constitutes the entire understanding of the parties. Any modifications to this Agreement must be in writing.

NINETEENTH Judicial Circuit of Florida

TRANSCRIPTIONIST

By: _____
 Thomas A. Genung, Esq.
 Trial Court Administrator
 250 NW Country Club Drive
 Suite 217
 Port St. Lucie, FL 34986

By: _____
 - _____

 SS# or EIN# _____

Date: _____

Date: _____

Approved as to Legal Form and Sufficiency

Background Check Completed By

 Name: _____



Contract # 20003 P9

AGREEMENT

Between

Twentieth Judicial Circuit
Administrative Office of the Courts

And

Office of the State Attorney
Twentieth Judicial Circuit

And

Office of the Public Defender
Twentieth Judicial Circuit

And

Office of Criminal Conflict and Civil Regional Counsel
Second Judicial District

And

Merit Court Reporting, Inc.

For

Court Reporting Services

This document has been reviewed as to

Content:

By: [Signature] Date: 10/5/12

Availability of Funds: AOC

By: [Signature] Date: 12/6/12

Legal Content and Form:

By: [Signature] Date: 12/7/12

AGREEMENT

Between

**Administrative Office of the Courts
Twentieth Judicial Circuit**

And

**Office of the State Attorney
Twentieth Judicial Circuit**

And

**Office of the Public Defender
Twentieth Judicial Circuit**

And

**Office of Criminal Conflict and Civil Regional Counsel
Second Judicial District**

And

Merit Court Reporting, Inc.

For

Court Reporting Services

This Agreement, entered this 05 day of December, 2012, effective July 1, 2012, through June 30, 2013, is by and between the Twentieth Judicial Circuit of the State of Florida, Administrative Office of the Courts (hereinafter "AOC"), the Office of the State Attorney of the Twentieth Judicial Circuit (hereinafter "SAO"), the Office of the Public Defender of the Twentieth Judicial Circuit (hereinafter "PD"), the Office of the Criminal Conflict and Civil Regional Counsel of the Second Judicial District (hereinafter "RC"), and Merit Court Reporting Inc. (hereinafter "the CONTRACTOR"), a corporation duly incorporated under the laws of the State of Florida.

The AOC, SAO, PD and RC will be collectively referred to herein as the "REQUESTORS."

WITNESSETH:

WHEREAS, the Supreme Court of the State of Florida has determined that it is in the public interest to allow each Judicial Circuit in the State of Florida to enter into an Agreement for the provision of various Court Reporting Services to said Circuit; and

WHEREAS, the cost and expense for Court Reporting Services is a proper and lawful charge to the State of Florida; and

WHEREAS, Ms. Debra Cail, Partner has the authority to enter into contracts on behalf of the CONTRACTOR; and

WHEREAS, the parties desire to define their respective responsibilities and obligations and to express their desire to cooperate together to accomplish the purposes and expectations of this Agreement;

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, the parties hereto agree as follows:

**ARTICLE 1.
OBLIGATIONS OF THE PARTIES**

- 1.01 Scope of Services.** The CONTRACTOR shall provide the REQUESTORS with transcription services, as requested or needed, as they relate to electronically recorded proceedings as needed and defined in Administrative Order 2.2, a copy of which is attached and incorporated herein as *Attachment "B,"* and as delineated in *Manual of Transcript Procedures* (Rev. 11/22/04), a copy of which is attached and incorporated herein as *Attachment "C."* The *Manual of Transcript Procedures* and all Request Forms and local Administrative Orders referred to herein are subject to revision at the sole discretion of the Chief Judge or Court Administrator.

- 1.02** Transcripts. The CONTRACTOR shall provide and prepare all transcripts in compliance with the Florida Rules of Judicial Administration and the Florida Rules of Appellate Procedure, and as further delineated in *Attachment "C."* The CONTRACTOR shall certify all transcripts as delineated in *Attachment "C."* The CONTRACTOR will supply only an original transcript, without any additional copies, unless the REQUESTORS¹ or "Designation to the Court Reporter" (*Attachment "C"*) instructs otherwise. The CONTRACTOR will use all means available to accommodate any request for expedited transcripts as is shown in *Attachment "C"* no later than the due date specified by the REQUESTORS or in the Request Form (*Attachment "C"*). Upon request by the AOC, the CONTRACTOR will provide a copy of any completed transcripts, requested by any Requestor, on a compact diskette supplied by the AOC in MS *Word* format or such other software or storage medium approved by the AOC in writing. When a request for transcription is made by any party outside of this Agreement, and the Electronic Court Recording Office² has supplied the recording, the CONTRACTOR will follow all applicable statutory procedures and rules. When a request for transcription is made by any party other than the Court, the CONTRACTOR will make every possible effort to contact and advise all parties involved in the proceeding of the request for transcription.
- 1.03** Maintenance of Records. The CONTRACTOR agrees to maintain its files and records, including archived copies of all completed transcripts, in accordance with State statutes, Florida Supreme Court and local court rules and administrative procedures. The CONTRACTOR further agrees to supply its files and records relating to services rendered hereunder, upon request from the AOC, SAO, PD or RC within the timeframe specified by the AOC, SAO, PD or RC. The CONTRACTOR shall preserve and retain all files, records, and logs of all transcription requests for the time periods provided for by law, statute, or the Florida Rules of Judicial Administration.
- 1.04** Request Procedures. When the SAO, PD or RC request transcription pursuant to this Agreement, the SAO, PD or RC shall submit their written request for a compact diskette of the recorded proceeding to the AOC's Electronic Court Recording Office utilizing the Request Form (*Attachment "C"*) provided by the Electronic Court Recording Office, specifically identifying: the party making the request; the case number; the case name; the name of the judicial official; the date and time of proceedings, the location of proceedings; the type of case; and all other information as requested on the Request Form. The SAO, PD or RC shall also attach to the Request Form, if applicable and appropriate, a copy of all Witness Lists and Jury Lists which would be necessary to assist the CONTRACTOR in preparing a complete and accurate transcript of the recorded proceedings. Incomplete or inaccurate Request Forms will be returned to the SAO, PD or RC. Upon receipt of a complete and accurate Request Form, the Electronic Court Recording Office will provide the SAO, PD or RC with a certified copy of the proceeding on a compact diskette. Upon receipt of a compact diskette from the Electronic Court Recording Office, it shall be the responsibility of the SAO, PD or RC: (a) to ensure that the proceeding recorded on the compact diskette is the proceeding requested to be transcribed; (b) to provide the compact diskette and a copy of the Request Form, with all attachments, to the CONTRACTOR for transcription with, if applicable, a copy of the "Designation to Court Reporter" form; and (c) to ensure that the CONTRACTOR is paid for services rendered.
- If the request is being made by the AOC on behalf of the Court or a Judge, it shall be the responsibility of the AOC: (a) to ensure that the proceeding recorded on the compact diskette is the proceeding requested to be transcribed; (b) to provide the compact diskette, a Request Form, and, if applicable and appropriate, any necessary Witness Lists or Jury Lists to the CONTRACTOR for transcription; and (c) to ensure that the CONTRACTOR is paid for services rendered.
- 1.05** "Designation to Court Reporter" Forms. The CONTRACTOR shall be responsible for completing the "Reporter's Acknowledgment" portion of the "Designation to Court Reporter" form. When requesting transcription pursuant to the Florida Rules of Appellate Procedure, and upon submitting a compact diskette to the CONTRACTOR, the SAO, PD or RC shall also submit to the CONTRACTOR a copy of the "Designation to Court Reporter" form (*Attachment "C"*) as provided for by Fla. R. App. P. 9.900(g). The SAO, PD or RC agree to provide accurate information on all "Designation to Court Reporter" forms, including contact name, physical address, and phone and fax numbers for each involved party to be acknowledged, so that the CONTRACTOR may appropriately fulfill its obligations to complete the "Reporter's Acknowledgment" within the required time frame.
- 1.06** Transcript Delivery. The CONTRACTOR shall deliver a complete transcript, acceptable to the REQUESTORS, no later than the due date specified by the REQUESTORS, or within the time period specified by Court order. The

¹ "REQUESTORS" is defined as the AOC, SAO, or PD, whichever party is making the request for transcription.

² The Electronic Court Recording Office is a department within the Administrative Office of the Courts.

transcription rates for expedited requests shall be compensated according to the Rates Adopted by Florida Legislature's 2011-2012 General Appropriations Act (*Article 2.01*).

- 1.07 Performance – Time Frames.** The time frames applicable to the performance of services by the CONTRACTOR shall begin upon receipt by the CONTRACTOR of a complete and accurate Request Form with all necessary attachments, and upon receipt of a correct compact diskette which includes an audible recording of the proceedings which are the subject of the Request Form. Any questions involving the request shall be resolved between the CONTRACTOR and the REQUESTORS.
- 1.08 Transcript Acceptance.** Within 25 calendar days after the REQUESTORS's receipt of the completed transcript, the REQUESTORS will review the transcripts to determine whether the quality of the finished product complies with the requirements of this Agreement and is acceptable to the REQUESTORS. The AOC, SAO, PD or RC may accept a transcript without review if the CONTRACTOR'S prior work has consistently met the standards of *Attachment "C."*
- 1.09 Transcript Rejection.** If the REQUESTORS determine a transcript is unacceptable, the REQUESTORS will promptly notify the CONTRACTOR and all parties listed on the Request Form or "Designation to Court Reporter," and the transcript and invoice will be returned to the CONTRACTOR. The CONTRACTOR must correct all transcription errors and format errors identified by the REQUESTORS, and as agreed upon by all parties. A corrected transcript must be resubmitted within five (5) business days from the date the corrections were requested, or within the time period specified by Court order. Upon receipt of the corrected transcript, the AOC, SAO, PD and RC, and all parties, will verify the corrections which may include a review of the full transcript. If the corrected transcript is unacceptable, the transcript will be rejected. The CONTRACTOR will not be paid unless the transcript is accepted. Two rejected transcripts may result in termination of this Agreement. Under exceptional circumstances, the REQUESTORS may authorize a longer period of time for completion of the corrected transcript. Such authorization must be in writing. Only the Court, AOC, SAO, PD or RC can approve time extensions.
- This section applies only to technical and format errors and does not apply to situations where a party disputes the accuracy of the transcription or disputes whether the transcript truly discloses what occurred. Any such disputes shall be resolved by the trial court pursuant to Administrative Order 2.2, or, if applicable, by the appellate court.
- 1.10 Supplies and Equipment.** The CONTRACTOR agrees to furnish all equipment and supplies necessary to produce a transcript under this Agreement.
- 1.11 Confidentiality.** As an officer of the court, the CONTRACTOR agrees to keep confidential all information on any and all transcripts of confidential court proceedings as required by statute, court rule or administrative procedures.
- 1.12 Sanitization.** In complying with the Victim's Rights Act and for the purposes of juvenile confidentiality, a sanitized version may be required in certain circumstances. It is possible that two versions of the same transcript will be required. This would require an original transcript as well as a sanitized version in which the CONTRACTOR would do a global search and replace the victim's name and address with a generic term such as "John Doe" or "Jane Doe," or in the case of a juvenile, the replacement of the name with initials. The CONTRACTOR must have the ability to perform this process in a manner that will not delay transcript preparation or incur additional production expense beyond that provided for by the Rates Adopted by Florida Legislature's 2011-2012 General Appropriations Act (*Article 2.01*).
- 1.13 Standards of Professional Service.** The CONTRACTOR agrees to provide and perform all services pursuant to this Agreement in accordance with generally accepted standards of professional practice and in accordance with the laws, statutes, ordinances, codes, rules, regulations and requirements of governmental agencies which regulate or have jurisdiction over the services to be provided and/or performed by the CONTRACTOR. The CONTRACTOR acknowledges that, in providing services, the CONTRACTOR is acting as an officer of the court and shall conduct itself accordingly.
- 1.14 Qualified Personnel.** When the services to be provided and performed relate to a professional service(s) which under Florida Statutes requires a license, certificate of authorization or other form of legal entitlement to practice such services, the CONTRACTOR agrees to employ and/or retain personnel qualified to perform the CONTRACTOR's obligations under the terms and conditions of this Agreement.

- 1.15 **Correction of Errors, Omissions or other Deficiencies.** The CONTRACTOR agrees to be responsible for the professional quality, technical accuracy, timely completion and the coordination of all data, studies, reports, memoranda, other documents and other services, work and materials performed, provided and/or furnished by the CONTRACTOR. The CONTRACTOR shall, without additional compensation, correct or revise any errors, omissions or other deficiencies in such data, studies and other services, work and materials resulting from the negligent act, errors or omissions or intentional misconduct of the CONTRACTOR.
- 1.16 **Record Keeping and Reporting Requirements.** The CONTRACTOR shall keep adequate records and supporting documentation to enable the AOC, SAO, PD and RC to establish the costs of all services performed by the CONTRACTOR and shall make them available to the AOC, SAO, PD and RC upon request. The CONTRACTOR shall submit status reports to the AOC, SAO, PD and RC upon request. The AOC, SAO, PD and RC may audit or inspect the CONTRACTOR'S books, statements, ledgers and/or other financial records relating to services rendered hereunder for five (5) years from the termination of this Agreement or until all federal/state audits are complete for the relevant fiscal year, whichever is later. All such records shall be made available to the AOC, SAO, PD and RC immediately upon request.
- 1.17 **Ownership of Documents and Records.** All documents such as CONTRACTOR'S own payment records, bookkeeping records, notes, computer files, software, evaluations, reports and other records and data relating to the services specifically prepared or developed by the CONTRACTOR under this Agreement shall be the property of the CONTRACTOR. The CONTRACTOR shall maintain all such documents and records in accordance with Sections 1.03 and 1.13 of this Agreement. This provision does not include transcripts which shall be deemed the property of the REQUESTORS.
- 1.18 **Maintenance of Licenses and Insurance Coverage.** The CONTRACTOR shall maintain all such licenses as are required to do business in the State of Florida and in Lee, Collier, Charlotte, Hendry, and Glades Counties, Florida including, but not limited to, licenses required by the respective State Boards and other governmental agencies responsible for regulating and licensing the services provided and performed by the CONTRACTOR. The CONTRACTOR shall obtain and maintain such insurance as will protect the CONTRACTOR from claims under Workers' Compensation laws. The CONTRACTOR shall obtain and maintain liability insurance, including bodily injury liability coverage with a minimum amount of \$100,000.00 per person and \$300,000.00 per occurrence and property damage liability with a minimum amount of \$50,000.00 per occurrence. The CONTRACTOR shall maintain professional liability insurance coverage. The CONTRACTOR shall provide the AOC, SAO, PD and RC with a copy of such policies within fifteen (15) days of signing this Agreement.
- 1.19 **Employment Practices.** The CONTRACTOR hereby warrants and represents that anyone providing services pursuant to this Agreement will be treated equally by the CONTRACTOR without regard to race, creed, color, physical handicap, sex, age, national origin and/or veteran's status. The CONTRACTOR further warrants that all of its employees or sub-contractors utilized pursuant to this Agreement will be in full compliance with the requirements of the Fair Labor Standards Act.
- 1.20 **Indemnification and Hold Harmless.** The CONTRACTOR shall be fully liable for its own actions and all actions of its agents, employees, partners, or subcontractors, and shall fully indemnify, defend, and hold harmless the State of Florida, AOC, SAO, PD, RC, Judges, Court Administrator, and all court personnel, employees, officers, and agents, from all suits, actions, damages, and costs, including attorneys' fees, arising from or relating to personal injury and damage to real or personal tangible property alleged to be caused in whole or in part by the CONTRACTOR, its agents, employees, partners, or subcontractors; provided, however, that the CONTRACTOR shall not indemnify for that portion of any loss or damages proximately caused by the negligent act or omission of the REQUESTORS.
- 1.21 **Convicted, Discriminatory, or Suspended Vendor Lists.** The Contractor warrants and represents that pursuant to Section 287.133, Florida Statutes, entitled *Public Entity Crimes*, and Section 287.134, Florida Statutes, entitled *Discrimination*, it has never been placed on and is not currently on the State's Convicted Vendor List or the State's Discriminatory Vendor List. The CONTRACTOR further warrants and represents that it has never been removed from the State's Vendor list pursuant to Florida Administrative Code 60A-1.006. Copies of Sections 287.133 and 287.134, Florida Statutes, are attached and incorporated herein as *Attachment "E,"* and the CONTRACTOR expressly acknowledges being informed by attachment hereto of the provisions of Sections 287.133(2)(a) and 287.134(2)(a), Florida Statutes.

**ARTICLE 2.
COMPENSATION**

- 2.01 **Schedule of Payment.** The party requesting services, namely the AOC, SAO, PD or RC, agrees to pay CONTRACTOR, as compensation for all services and work provided for hereunder, in accordance with the following rate schedule:

**RATES ADOPTED BY Florida Legislature's 2012-2013 General Appropriations Act
FOR DUE PROCESS SERVICES WITHIN THE TWENTIETH JUDICIAL CIRCUIT**

The maximum amount to be paid for court reporting and transcribing costs for criminal conflict cases is as follows:

1. Depositions Appearance fees: 1st hour: \$50.00; thereafter \$25.00 per hour
2. Deposition transcript fee (Original & one copy): 10 business day delivery: \$4.00 per page, 5 business day delivery: \$5.50 per page, 24 hours delivery: \$7.50 per page Additional copies: \$0.50 per page
3. Appellate/hearing transcript fee (Original & all copies needed with minimum of 2 copies): 10 business day delivery: \$5.00 per page, 5 business day delivery: \$6.50 per page, 24 hours delivery: \$8.50 per page Copies (when original previously ordered): \$0.50 per page.
4. Transcription from tapes or audio recordings (other than depositions or hearings): Either \$35 per hour listening fee or \$3.00 per page whichever is greater.
5. Video Services: \$100 per hour per location with two-hour minimum.

Rates for services not delineated in the General Appropriations Act are as follows:

Courtroom Appearance fees: 1st hour: \$50.00; thereafter \$40.00 per hour. Additional rate of \$10.00 per hour applies after 5 PM.

- 2.02 **Costs Included.** The compensation listed within the Rates Adopted by Florida Legislature's 2011-2012 General Appropriations Act (*Article 2.01*), includes payment for all out-of-pocket expenses incurred by the CONTRACTOR including but not limited to parking fees, office supplies, materials, equipment, rent, office overhead, operating expenses, travel reimbursement (except as approved in writing by the REQUESTORS before the travel is incurred), postage, copying expenses and any other administrative overhead. However, on a case-by-case basis, the REQUESTOR, in its sole discretion and based on statutory authorization, may approve in writing other costs for reimbursement. Any request by the CONTRACTOR for reimbursement of such other costs must be approved in writing by the REQUESTORS prior to such costs being incurred. Nothing herein contained shall be construed as approval thereof. If payment of mileage or other out-of-town travel is approved, it shall be made in accordance with the then current State of Florida travel regulations.
- 2.03 **Compensation to Third Parties Included.** The parties acknowledge that the CONTRACTOR may utilize the services of sub-contractors and/or employees and/or other third parties to fulfill its obligations hereunder. The CONTRACTOR shall ensure that the third parties meet and comply with the qualifications and quality standards

set forth in this Agreement. The Rates Adopted by Florida Legislature's 2012-2013 General Appropriations Act (*Article 2.01*), include payment for all such services provided by or through the CONTRACTOR. The REQUESTORS shall not be responsible for payment of any monies to any third party providing services through this Agreement and/or through the CONTRACTOR.

- 2.04 Method of Payment.** The CONTRACTOR shall submit to the REQUESTORS a detailed billing invoice for services rendered in a form acceptable to the AOC, SAO, PD or RC. The REQUESTORS shall review the invoice and shall have the ability to request additional documentation in its sole discretion. Upon receipt of an invoice which is sufficiently detailed and any supporting documentation requested, the AOC, SAO, PD or RC shall immediately initiate payment procedures, and payment will be made pursuant to all applicable laws of the State of Florida. It shall be the responsibility of the REQUESTORS to ensure that the CONTRACTOR is given an accurate billing address.

ARTICLE 3. TERM OF AGREEMENT

- 3.01 Initial Term.** The term of this Agreement shall commence on July 1, 2012, and shall continue until June 30, 2013, unless terminated prior thereto in accordance with other provisions herein.
- 3.02 Contract Extension.** This Agreement may be continued, extended, or renewed at the sole discretion of the REQUESTORS for an additional 12-month period after the initial term of this agreement. The AOC will notify the CONTRACTOR of the REQUESTORS's intent to renew the contract at least 60 days prior to the expiration of the then current term.

ARTICLE 4. RELATIONSHIP BETWEEN THE REQUESTORS AND COURT REPORTER

- 4.01 Independent Contractors.** The CONTRACTOR's relationship with the REQUESTORS shall at all times be that of independent contractor. Nothing herein contained shall create any responsibility whatsoever for either party with respect to services provided or contractual obligations assumed by the other party to third parties. Nothing herein contained shall be deemed to contemplate either party as a servant, partner, employee, agent or representative of the other party or to create the relationship of employer-employee, joint ventures or association as between the CONTRACTOR and the County, the State of Florida, and/or the REQUESTORS. Neither the REQUESTORS nor the Judges of the Twentieth Judicial Circuit supervise, direct or control the activities of the CONTRACTOR and/or any person whose services are provided by or through the CONTRACTOR hereunder. As between the REQUESTORS and the CONTRACTOR, the CONTRACTOR exclusively assumes responsibility for the acts of (or failure to act by) all persons whose services are provided by or through the CONTRACTOR hereunder.
- 4.02 No Employee Benefits.** Neither the CONTRACTOR nor anyone whose services are provided by or through the CONTRACTOR hereunder shall be entitled to any rights or privileges of employees of the State of Florida or of any County in the Twentieth Judicial Circuit for any reason.

ARTICLE 5. TERMINATION; BREACH; REMEDIES

- 5.01 Termination For Cause.** The AOC, SAO, PD and RC may either individually or collectively terminate their participation in this Agreement for a breach by the CONTRACTOR of any material provision(s) hereof. The CONTRACTOR may terminate its contractual relationship with the AOC, SAO, PD or RC, either individually or collectively, for a breach of any material provision(s) hereof. In the event the CONTRACTOR terminates with an individual party, this Agreement shall remain in full force and effect with respect to the remaining parties. For purposes of this subparagraph, material breach shall consist of:
- A. Violation of any material provision hereof;
 - B. Institution of proceedings by or against the CONTRACTOR or any of his or her officers, directors or managing agents under the bankruptcy laws of the United States;
 - C. Fraud either by commission or omission or other illegal act(s) committed to procure this Agreement or any extension thereof;
 - D. Suspension of business operations, failure or receivership of the CONTRACTOR, or any of his or her officers, directors or managing agents; or

E. Institution of disciplinary proceedings against and/or criminal prosecution of the CONTRACTOR or anyone whose services are provided by the CONTRACTOR hereunder in any court or administrative body, anywhere.

- 5.02 **Non-Appropriation—Availability of Funds.** The parties agree that the AOC, SAO, PD and RC shall be bound and obligated hereunder only to the extent that funds, or sufficient funds, shall have been appropriated and budgeted for the purpose of this contract. In the event funds are not appropriated and budgeted in any fiscal year for payments due under this contract, the AOC, SAO, PD or RC shall immediately notify the CONTRACTOR of such occurrence and this contract shall terminate as it relates to that party on the last day of the fiscal year for which an appropriation(s) was (were) received, without penalty or expense to the AOC, SAO, PD or RC of any kind whatsoever.
- 5.03 **Remedies Upon Breach.** Any party may exercise any rights available under law or equity in the event of breach by any other party. No waiver by any party of any default shall be construed as waiving rights in the event of any subsequent default.
- 5.04 **Failure to Perform in a Timely Manner.** Should the CONTRACTOR fail to commence, provide, perform and/or complete any of the services and work required pursuant to this Agreement in a timely and diligent manner, the REQUESTORS may consider such failure as justifiable cause to terminate this Agreement. As an alternative to termination, the REQUESTORS, at their option may, upon written notice to the CONTRACTOR, withhold any or all payments due and owing to the CONTRACTOR, not to exceed the amount of the compensation for the work in dispute, until such time as the CONTRACTOR resumes performance of his obligations in such a manner as to get back on schedule in accordance with the time and schedule of performance requirements as set forth in this Agreement. Should a REQUESTOR fail to meet its financial obligations pursuant to this Agreement, the CONTRACTOR may consider such failure as justifiable cause to terminate this Agreement as it relates to that REQUESTOR only.

**ARTICLE 6.
MISCELLANEOUS PROVISIONS**

- 6.01 **Assignment of Agreement.** No party may assign its rights, duties, or obligations hereunder without the others' express, written prior permission.
- 6.02 **Modification of Agreement.** No modification of, or addition to, this Agreement shall be effective unless contained in a writing signed by all parties with the same formality as this Agreement.
- 6.03 **Cumulative Rights.** All rights of the parties hereunder are cumulative, not alternative, and are in addition to any other rights given by law or equity.
- 6.04 **Force Majeure Clause.** No party shall be in default or otherwise liable for any delay in or failure of its performance under this Agreement where such delay or failure arises as a direct result of any catastrophic act of God, act of the common enemy, or other similar cause beyond the control of such party.
- 6.05 **Notices.** All notices hereunder shall be sent by certified mail, return receipt requested.
 The address of AOC for this purpose is:
 Administrative Office of the Courts, 1700 Monroe Street, Fort Myers, FL 33901 ATTN: S. Ederr
 The address of the SAO for this purpose is:
 Office of the State Attorney, P.O. Box 399, Fort Myers, FL 33902 ATTN: D. Stanbro
 The address of the PD for this purpose is:
 Office of the Public Defender, 1700 Monroe Street, Fort Myers, FL 33901 ATTN: M. Paris
 The address of the RC for this purpose is:
 Office of the Regional Counsel, 2000 W. Main Street, Ste. 500, Fort Myers, FL 33901 ATTN: I. Neymotin
 The address of the CONTRACTOR for this purpose is:

Location for Legal Notice/Demand:		Location for Mileage/Travel Expenses (if different):	
Address:	Merit Court Reporting, Inc.	Address:	
	6213 Presidential Ct., Ste.100		
	Fort Myers, FL 33919		
Phone:	239.481.1451	Phone:	

- 6.06 **Litigation.** All claims or disputes regarding the subject matter hereof shall be decided by a court of competent jurisdiction, and shall not be the subject of arbitration or mediation. Venue in the event of such litigation shall be in Collier County, Florida. The prevailing party shall be entitled to attorneys fees and costs of such litigation.
- 6.07 **General Contract Conditions of the Florida State Court System.** In addition to the terms set forth in this Agreement, the parties further agree to be bound by the General Contract Conditions of the Florida State Court System, a copy of which is affixed as *Attachment G*, and which can also be found at: http://www.flcourts.org/courts/crtadmin/general_contract_conditions.shtml The terms and conditions described in the General Contract Conditions of the Florida State Court System are incorporated herein as if fully recited in this Agreement, except to the extent that any of those terms or conditions are in conflict with this Agreement, in which case the terms and conditions of this Agreement shall prevail.
- 6.08 **Tax Information Reporting @ flvendor.myfloridacfo.com.** In compliance with newly promulgated DFS regulations (Fla. Department of Financial Services), the CONTRACTOR acknowledges that all vendors are now required to complete an updated, **electronic Substitute Form W-9** (as this form contains additional data that will be used by DFS for 1099 reporting and 3% Federal withholding verification) and that no payments from the State of Florida will be delivered (after Nov. 1, 2011) unless the CONTRACTOR takes affirmative action to register at: <https://flvendor.myfloridacfo.com>, which will authorize the IRS' verification (*see Attachment F for more info*).

(remainder of page left blank intentionally)

Having read this entire Agreement and agreeing to be bound by the provisions set forth herein, the parties hereby affix their signatures below:

ADMINISTRATIVE OFFICE OF THE COURTS
TWENTIETH JUDICIAL CIRCUIT

Scott A. Wilsker Date: 12/5/12
SCOTT A. WILSKER
COURT ADMINISTRATOR

Sandra D. Harkey
WITNESS (signature)
Sandra D. Harkey
Printed Name

OFFICE OF THE STATE ATTORNEY
TWENTIETH JUDICIAL CIRCUIT

STEPHEN B. RUSSELL
STATE ATTORNEY Date: _____

WITNESS (signature)

Printed Name

OFFICE OF THE PUBLIC DEFENDER
TWENTIETH JUDICIAL CIRCUIT

KATHLEEN FORAN SMITH
PUBLIC DEFENDER Date: _____

WITNESS (signature)

Printed Name

OFFICE OF THE CRIMINAL CONFLICT AND CIVIL REGIONAL COUNSEL
SECOND JUDICIAL DISTRICT

ITA M. NEYMOTIN
REGIONAL COUNSEL Date: _____

WITNESS (signature)

Printed Name

CONTRACTOR

Debra A. Cail Date: 12-5-12
DEBRA CAIL, Partner
MERIT COURT REPORTING, INC.

Debra A. Cail
WITNESS (signature)
Debra A. Cail
Printed Name

26-2625063 001
FEDERAL ID OR SOCIAL SECURITY NUMBER