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Important Information

Please make note of the following Public Reprimands and Formal Advisory Opinions issued by the Board.

Public Reprimand

The Board of Court Reporting of the Judicial Council of Georgia has issued a public reprimand to the court reporting firm of Brown & Gallo, LLC for its admitted unethical conduct.

On September 26, 2008, the Board initiated an administrative grievance proceeding by filing a Formal Complaint alleging that Brown & Gallo, LLC, may have violated Part I(H) of the Board of Court Reporting Code of Professional Ethics and the Court Reporting Act when it provided gifts to attorneys utilizing their firm's services. Specifically, the Code of Ethics prohibits the giving, directly or indirectly, of any gift, incentive, reward or anything of value to attorneys, clients, or their representatives or agents, except for nominal items that do not exceed \$50 in the aggregate per recipient each year.

Following the initiation of the grievance proceeding, Brown & Gallo filed suit against the Board and the Judicial Council of Georgia in Fulton County Superior Court alleging, among other things, that Part I(H) of the Code of Ethics violated Georgia law and the Constitution. The Court issued an order denying the Board's motion to dismiss. The Board appealed first to the Court of Appeals and then to the Supreme Court of Georgia. The Board was represented by Assistant Attorney General Stefan Ritter. Former Chief Justice Norman Fletcher filed an amicus brief in support of the Board's position, and on November 22, 2010, the Supreme Court issued an order finding for the Board and reversing the Court of Appeal's previous affirmations of the lower court ruling. *Judicial Council of Georgia et al. v. Brown & Gallo, LLC*, 288 Ga. 294 (2010).

The case was remanded to the Superior Court, and the Honorable Jerry Baxter issued an order on March 18, 2011, vacating his previous order and entering summary judgment in favor of the Board and the Judicial Council.

In February, Brown & Gallo, LLC, through its counsel Hank Fellows of Fellows LaBriola LLP, acknowledged that it had violated the Board of Court Reporting Code of Professional Ethics when it provided \$25 gas cards to 79 clients which exceeded \$50 in the aggregate per recipient in 2008. The Board accepted Brown & Gallo's request for a public reprimand and fine of \$3,000 in disposition of the grievance proceeding.

The Board of Court Reporting of the Judicial Council of Georgia is charged with the registration and regulation of court reporters and reporting firms. The Board is attached to the Administrative Office of the Courts.

For more information on the Board please contact Ashley G. Stollar, Administrative Office of the Courts at (404)656-6783 and see <http://www.georgiacourts.org/agencies/bcr/index.html>

Public Reprimand

The Board of Court Reporting of the Judicial Council of Georgia, pursuant to O.C.G.A. § 15-14-33(c)(2), after a hearing and consideration of all the evidence in accordance with the Rules and Regulations of the Board, hereby publically reprimands Cathy Cox, C.C.R., of Atlanta, Georgia, for events that resulted in Formal Complaints 2010-08 and 2010-14 filed with the Board by defendants in criminal trials taken down by Ms. Cox.

Ms. Cox, as an official court reporter for the
continued pg 2

Serving Georgia's Courts...

Important Information cont.

Superior Court of Douglas County, took down the criminal trials of the defendants. In Complaint 2010-08, the production of the transcript was requested from Ms. Cox in January 2007, but was not delivered to the defendant until November 2010. In Complaint 2010-14, the production of the transcript was requested from Ms. Cox in December 2008, but was not delivered to the defendant until December 2010. In both instances, the defendants did not receive their transcripts until after the filing of Complaints with the Board and Ms. Cox failed to initiate communication with the defendants about the delays.

Ms. Cox had a computer crash in October 2008 that resulted in the loss of some data, and has a backlog of transcripts due to in-court responsibilities and a heavy caseload. Ms. Cox, on her own initiative, hired typists and a proof-reader to assist in getting her backlog of unprepared transcripts under control.

The Board found that Ms. Cox's delay in the production of the requested transcripts (3-years in one instance, and 2-years in the other instance) to be unreasonable. Under the facts, while even taking into account the circumstances that Ms. Cox presented, such an inordinate and unnecessary delay in completing a transcript is a departure from, and failure to conform to, minimal reasonable standards of acceptable and prevailing practices of court reporting in Georgia. The Board's concern is that failure to timely prepare transcripts is prejudicial to the parties in a case.

In response to inquires by Georgia certified court reporters, the Board of Court Reporting, by majority vote of the Board, publicly issues the following opinions pursuant to Article 13.B. of its Rules and Regulations:

Public Advisory Opinion BCR 2010-01

Applicability of the Georgia Uniform Electronic Transactions Act to the Electronic Certification of Transcripts

The Georgia Uniform Electronic Transactions Act applies to transactions which are defined as "...

an action or set of actions occurring between two or more persons relating to conduct of business, commercial, or governmental affairs." O.C.G.A. § 10-12-2(16). Code section 10-12-3(a) provides:

Except as otherwise provided in subsection (b) of this Code section, this chapter shall apply to electronic records and signatures relating to a transaction.

(Subsection (b) defines certain transactions to which the Act does not apply, and is not applicable to this issue).

Nowhere in the Act does it in any way indicate that it applies to court matters, e.g., trial transcripts, depositions, etc., none of which fit the definition of **transactions**. Although various judicial or quasi-judicial bodies within the state permit the use of electronic records, transactions, and signatures in certain proceedings, these bodies have authorized the use of such electronic media pursuant to specific enabling statutes, rules, and regulations. See, e.g., O.C.G.A. § 15-10-53 (providing for the filing of electronic documents in magistrate courts); *Uniform Juvenile Court Rule 29.4* (providing for electronic filing generally in juvenile courts); *2009 Rules and Regulations of the State Board of Worker's Compensation*, Rule 60 (providing for the use of electronic filings and signatures with the State Board of Worker's Compensation); see also *Federal Rules of Civil Procedure*, Rules 5 and 83 (establishing practices and procedures for electronic filings); *Federal Rules of Criminal Procedure*, Rule 57 (establishing practices and procedures for electronic filings); and *United State Bankruptcy Rules*, LBR 5005-4 (establishing practices and procedures for electronic filings).

Therefore, absent specific statutes, rules, or regulations, that enable court reporters to electronically certify court related transcripts, court reporters cannot rely on the Georgia Uniform Electronic Transactions Act to electronically certify court related transcripts.

SO PUBLISHED, this 23rd day of July 2010.

John K. Larkins, Chair
Board of Court Reporting

Important Information cont.

Public Advisory Opinion BCR 2010-02

Custodian of Records Evidence Log

The language of O.C.G.A. § 17-5-55(a) requires the court to designate “either the clerk of court, the court reporter, or any other officer of the court to be the custodian of any property that is introduced into evidence during the pendency of the case,” and requires that the custodian create an evidence log.

Specifically, O.C.G.A § 17-5-55 requires the log to contain: “case number, style of case, description of the item, exhibit number, name of person creating the evidence log, and location where the physical evidence is stored,” as well as – when evidence gets transferred to “any other party,” an annotation showing “the identity of the person or entity receiving the evidence, the date of transfer, and location of evidence.”

Therefore, available online is a sample form for use by court reporters in fulfilling the requirement of O.C.G.A. § 17-5-55. The form is not an official model form and has not been sanctioned by statutory law nor by any court; but it does provide guidance and conceptual framework for complying with the evidence log requirements of O.C.G.A. § 17-5-55.

SO PUBLISHED, this 3rd day of August 2010.

John K. Larkins, Chair
Board of Court Reporting

Public Advisory Opinion BCR 2010-03

Payment of Transcription Fees To Court Reporters Employed As Full-Time County Employees

O.C.G.A. § 15-5-21 states,

(a) The Judicial Council shall promulgate rules and regulations which shall:

- (1) Provide for and set the fees to be charged by all official court reporters in this state for attending court, taking stenographic notes, and recording the evidence;
- (2) Provide for and set the fees to be charged by all official court reporters in this state for furnishing transcripts of the evidence and for other proceedings furnished by the official court reporters in all civil and criminal cases in this state;
- (3) Provide for a minimum per diem fee for official court reporters, which fee may be supplemented by the various counties within the circuits to which the court reporters are assigned; [...]

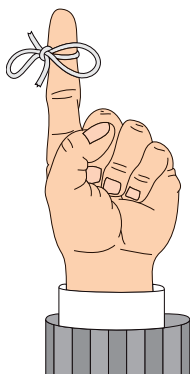
Hence, at a minimum, O.C.G.A. § 15-5-21 specifically provides for three distinct fees to be paid to official court reporters: (1) fees charged for attending court, taking stenographic notes, and recording the evidence, (2) fees charged for furnishing transcripts, and (3) a minimum per diem fee or salary paid for by counties.

Therefore, a county’s payment of its obligated minimum per diem fee, or a supplementation of the minimum per diem fee (i.e., salary and benefits), to an official court reporter does not relieve the county of its obligation to pay a court reporter transcription fees (Transcript Production Compensation) in accordance with the Fee Schedule.

PUBLISHED, this 23rd day of September 2010.

John K. Larkins, Chair
Board of Court Reporting

CALENDAR OF EVENTS



August 26, 2011

The Learning Essentials About Professionalism (LEAP) seminar requirement for newly certified court reporters. CE credit hours will be available.

December 31, 2011

Deadline to cure suspension status for non-payment of license renewal
Deadline for submission of 2011 continuing education credit

January 1, 2012

Renewal period begins for Certified Court Reporters and Registered Court Reporting Firms

Continuing Education for Court Reporters: Just the FAQs

By Barbara Teskey

What's the continuing education requirement for Georgia court reporters?

The Board of Court Reporting of Georgia requires each certified reporter to complete 10 hours of approved CE every year and to submit evidence of that training to The Institute of Continuing Judicial Education by December 31.

Where do I find information about court reporter CE?

ICJE Court Reporters Website: www.uga.edu/icje (click "Court Reporters")

Where can I find classes?

ICJE Court Reporters Website: www.uga.edu/icje (click "Court Reporters", then "Preapproved Classes and Seminars"). This calendar of preapproved classes is updated constantly throughout the year, so you can check back regularly for new listings.

How do I submit my training to ICJE?

CRTC-1 Request for Credit and CRTC-2 Course Evaluation forms are available at the ICJE CR website. Simple directions are printed on the CRTC-1 form. For a preapproved class, only 3 documents are required: CRTC-1, CRTC-2 and Attendance Verification.

How do I confirm my CE records?

ICJE Court Reporters Website: www.uga.edu/icje (click "Court Reporters", then "Info for Court Reporters", then "CE Credit Hour Status"). The CE Credit Hour Status link is updated at the beginning of each month, and twice in December.

Is there a deadline for submitting my classes?

Yes. Evidence of course completion must be submitted to ICJE within 30 days of course completion or by December 31, whichever occurs first.

How do I contact someone at ICJE?

For the current email address and telephone, go to the ICJE Court Reporters Website: www.uga.edu/icje (click "Court Reporters", then "Info for Court Reporters").

Why do we have a CE requirement?

The requirement was enacted by the Board of Court Reporting to provide for a diverse selection of CE options that will help each member of the Georgia court reporting community keep up-to-date with the tools, technology, knowledge and skills of court reporting. In short...

To promote the highest possible standards in the field of court reporting!

2011 Suspension, Revocation, and Inactive Registry

The Board of Court Reporting of the Judicial Council of Georgia publicly lists court reporters and registered court reporting firms who fail to renew by April 1st of each year or meet the mandatory continuing education requirements. Though every effort is made to provide an accurate inactive registry and list of suspended and revoked court reporters, it is not guaranteed to be correct, complete, or up to date. This listing is for convenience purposes only and is not intended to be an official record of the current status of court reporting licenses. It is recommended that you contact the Board of Court Reporting for verification of informa-

tion and not rely solely on the information of the listing.

A list of suspended and revoked court reporters can be found on the Board of Court Reporting website, www.georgiacourts.gov/agencies/bcr. Please note suspension is effective immediately upon noncompliance, not upon receipt of notice. A suspended certificate may be reinstated by curing the cause of the suspension prior to December 31st of the year in which the suspension occurs. If the suspension is not cured by December 31st of the year in which the suspension occurs, the certificate is automatically revoked.