

IN THE SUPREME COURT OF TEXAS

Misc. Docket No. 18-9060

ORDER APPROVING AMENDMENTS TO THE RULES AND FEES OF THE JUDICIAL BRANCH CERTIFICATION COMMISSION AND ADOPTING A CODE OF ETHICS FOR CERTIFIED SHORTHAND REPORTERS AND COURT REPORTING FIRMS

ORDERED that:

1. The Supreme Court of Texas approves the following amendments to the rules and fees of the Judicial Branch Certification Commission and also adopts the attached Code of Ethics for Certified Shorthand Reporters and Court Reporting Firms.
2. The rule and fee amendments incorporate changes to comply with Act of May 19, 2017, 85th Leg., R.S., ch. 313 (SB 1096, codified at TEX. GOV'T CODE § 155); Act of May 24, 2017, 85th Leg., R.S., ch. 516 (SB 43, codified at TEX. GOV'T CODE Chs. 151–57); and Act of May 25, 2017, 85th Leg., R.S., ch. 715 (SB 36, codified at TEX. GOV'T CODE § 155).
3. The rule amendments take effect immediately, except:
 - a. amendments to Rule 3.2(c) and new Rule 7.8(a) take effect September 1, 2018;
 - b. new Rules 10, 10.1, 10.2, 10.3, 10.4, 10.5, and 10.6 take effect on June 1, 2018.
4. The fee amendments take effect September 1, 2018.
5. The Code of Ethics takes effect immediately.
6. The Code of Ethics supersedes the Code of Professional Conduct for Certified Shorthand Reporters and Court Reporting Firms that is currently in effect.
7. The Clerk is directed to:
 - a. file a copy of this order with the Secretary of State;
 - b. cause a copy of this order to be mailed to each registered member of the State Bar of Texas by publication in the *Texas Bar Journal*;
 - c. send a copy of this order to each elected member of the Legislature; and
 - d. submit a copy of this order for publication in the *Texas Register*.

Dated: April 12, 2018.



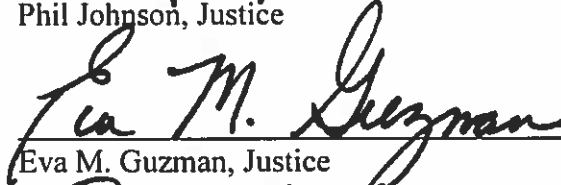
Nathan L. Hecht, Chief Justice



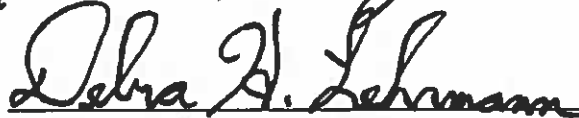
Paul W. Green, Justice



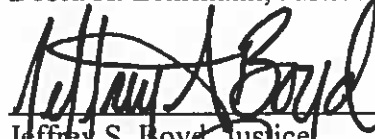
Phil Johnson, Justice



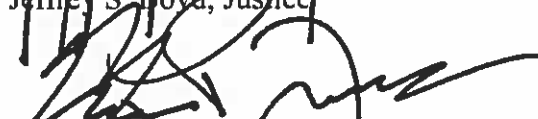
Eva M. Guzman, Justice



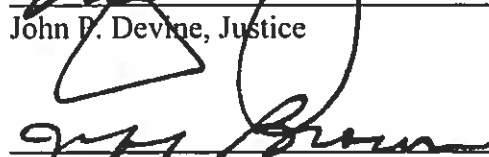
Debra H. Lehrmann, Justice



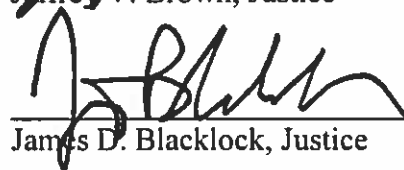
Jeffrey S. Boyd, Justice



John F. Devine, Justice



Jeffrey V. Brown, Justice



James D. Blacklock, Justice

**CODE OF ETHICS
FOR CERTIFIED SHORTHAND REPORTERS
AND COURT REPORTING FIRMS**

INDEX

1. APPLICABILITY AND DEFINITIONS
2. LICENSE AND REGISTRATION REQUIREMENTS
3. PROFESSIONAL JUDGMENT
4. HONESTY, INTEGRITY AND FAIR DEALING
5. BEHAVIOR
6. RETENTION OF NOTES
7. COMPETENCY
8. DUTY TO NOTIFY
9. OBSERVANCE OF CONFIDENTIALITY
10. MISCONDUCT
11. AVOID CONFLICTS OF INTEREST
12. EXPOSE CORRUPT OR DISHONEST CONDUCT OF CERTIFIED SHORTHAND REPORTERS AND COURT REPORTING FIRMS
13. SUPERVISORY RESPONSIBILITIES
14. CONTACT INFORMATION
15. DISPLAY OF LICENSE; COMPLAINT INFORMATION AND NOTICE TO CLIENTS
16. ADVERTISING
17. FEES
18. CONTINUING EDUCATION
19. PROHIBITED DISCRIMINATORY ACTIVITIES

PREAMBLE

The Code of Conduct is updated and revised as a Code of Ethics pursuant to Section 152.205 of the Texas Government Code, which requires the Judicial Branch Certification Commission to adopt a code of ethics for each profession it regulates. The Code includes ethical standards, such as prohibitions upon conflicts of interest, cheating on certification and continuing education examinations, and advertising or making other statements which are false, deceptive, or misleading. The Code is adopted by the Texas Supreme Court as a rule. If there is a conflict between the Code, in whole or part, and a statute, the statute prevails to the extent of the conflict.

1

APPLICABILITY AND DEFINITIONS

The Code of Ethics applies to all Certified Shorthand Reporters and Court Reporting Firms engaged in the practice of court reporting or offering the services of a Certified Shorthand Reporter. For purposes of the Code, the following terms are defined as follows:

- (a) "Judicial Branch Certification Commission," "JBCC," or "Commission" - the Commission created by Section 152.051 of the Government Code to oversee the regulation of the practice of shorthand court reporting.
- (b) "Certified Shorthand Reporter," "CSR," "shorthand reporter," "court reporter," or "reporter" - a person who is issued certification by the Texas Supreme Court on the recommendation of the Commission to engage in the practice of court reporting or shorthand reporting.
- (c) "Shorthand reporting" and "court reporting" - the practice of shorthand reporting for use in litigation in the courts of this State by making a verbatim record of an oral court proceeding, deposition, or proceeding before a grand jury, referee, or court commissioner using written symbols in shorthand, machine shorthand, or oral stenography.
- (d) "Court Reporting Firm," "firm," or "CRF" - an entity wholly or partly in the business of providing court reporting or other related services in this state as described by Section 154.001 of the Texas Government Code. The term includes officers, directors, managerial employees, and agents of a firm or its affiliate offices.
- (e) "Official Court Reporter" - the shorthand reporter appointed by a judge under Section 52.041 of the Government Code as the official court reporter for a particular court.
- (f) "Code of Ethics" or "Code" - the set of rules, adopted by Supreme Court, which specifies standards of ethics and practice in offering or rendering shorthand reporting and court reporting.

- (g) “Reporter’s Record” – a freelance reporter’s record as defined by section 1.1(j) of the Uniform Format Manual or an official reporter’s record as defined by section 1.1(r) of the Uniform Format Manual.
- (h) “Transcript” – the written record produced by the reduction into writing of an oral deposition or any legal proceeding, specified in paragraph (c).

2

LICENSE AND REGISTRATION REQUIREMENTS

- (a) A person must obtain certification by the Texas Supreme Court to offer or engage in court reporting in this State, unless otherwise authorized by rule or statute. A person who is not a certified shorthand reporter is prohibited from offering or engaging in court reporting in this State, except as otherwise authorized by rule or statute.
- (b) A certified shorthand reporter must not offer or engage in court reporting unless the reporter’s certification is current and in good standing.
- (c) A court reporting firm must not offer or engage in court reporting unless the firm’s registration is current and in good standing.
- (d) For purposes of this section, the term “good standing” means not revoked, suspended, or expired and eligible for renewal.
- (e) A certified shorthand reporter whose license has been suspended or revoked by another state or federal jurisdiction is subject to review, disciplinary action, or both, by the Commission.

3

PROFESSIONAL JUDGMENT

- (a) A certified shorthand reporter or a court reporting firm must not take any action or attempt to influence, directly or indirectly, the sound professional judgment of another certified shorthand reporter or cause a certified shorthand reporter or a court reporting firm to violate the Code.
- (b) A certified shorthand reporter must not allow an uncertified person or unregistered entity to interfere with or intervene in the reporter’s practice of court reporting.
- (c) A court reporting firm must not change the record of a certified shorthand reporter. The certified shorthand reporter may grant permission to the court reporting firm to correct identified errors on the title page, appearance page, or index page of the specific reporter’s record.

- (d) A certified shorthand reporter must avoid all relationships which could result in an uncertified reporter's or an unregistered entity's interfering with or intervening in the reporter's practice.
- (e) A certified shorthand reporter is responsible for the reporter's actions while offering or rendering court reporting. A certified shorthand reporter is directly responsible to the parties, the Court, or both, in carrying out court reporting duties in accordance with the Code.
- (f) A court reporting firm is responsible for the actions of the firm and is directly responsible to the parties, the Court, or both, in carrying out court reporting duties in accordance with the Code.

4

HONESTY, INTEGRITY AND FAIR DEALING

- (a) Each certified shorthand reporter and court reporting firm must offer and render court reporting services with honesty, integrity, and fair dealing to all parties.
- (b) The term "honesty, integrity, and fair dealing" includes the following, without limitation:
 - (1) Delivery of transcripts and reporter's records to a client, court, or a court reporting firm in a timely manner as determined by statute, court order, or agreement.
 - (2) Production of complete, not partial, transcripts and reporter's records, except when an order of a court, agreement of the parties, or a request of a party allows for the production of a partial transcript or a partial reporter's record.
 - (3) Providing notice of a request for a transcript or a reporter's record to all parties or, if applicable, their attorneys on behalf of the parties in a timely manner which allows for the delivery of copies when the original is delivered.
- (c) A certified shorthand reporter must report continuously during a deposition and must not go "off the record" unless all parties or their attorneys agree to do so or unless ordered by the Court.
- (d) A certified shorthand reporter must go "on the record," or resume court reporting, during a deposition at the request of any party or the party's attorney.
- (e) A certified shorthand reporter or a court reporting firm must not give, directly or indirectly, an incentive, reward, cash, negotiable instrument, or anything else of value to attorneys, clients, witnesses, insurance companies, or any other person or entity involved in, associated with, or otherwise interested in litigation for which the reporter or firm offers or renders court reporting services. This prohibition does not apply to:

- (1) Nominal items that do not exceed \$100 in the aggregate for each recipient each year;
- (2) Value-added business services, including long-term volume discounts on the price of products and services; and
- (3) Gifts made to family or friends which are made for reasons unrelated to the litigation.

5
BEHAVIOR

- (a) A certified shorthand reporter or a court reporting firm must treat lawyers and members of the judiciary with respect.
- (b) A certified shorthand reporter or a court reporting firm must act in a professional manner and demonstrate respect for the Court and the law in each legal proceeding.
- (c) A certified shorthand reporter must not engage in any conduct that offends the dignity and decorum of any legal proceeding.

6
RETENTION OF NOTES

- (a) A certified shorthand reporter must preserve the shorthand notes for a period of three (3) years unless a statute or court order specifies a longer retention period or unless a litigant requests in writing a longer retention period. The reporter must preserve the shorthand notes by storing the original paper notes or by maintaining an electronic copy of either the shorthand notes or the English transcript of the notes on computer disks, cassettes, backup tape systems, optical or laser disc systems, or any other reliable storage media.
- (b) A certified shorthand reporter has a continuing duty to prepare a reporter's record for proceedings conducted while serving as an official court reporter, deputy official court reporter, or freelance court reporter, even after he or she has resigned or has retired or is no longer providing court reporting services.

7
COMPETENCY

- (a) A certified shorthand reporter must produce an accurate transcript or reporter's record.
- (b) A certified shorthand reporter must engage in the practice of shorthand reporting by using only the method for which the reporter was certified.

- (c) A certified shorthand reporter must prepare all reporter's records for use in litigation in the courts of this state in accordance with the Uniform Format Manual for Texas Court Reporters.
- (d) A certified shorthand reporter must not knowingly accept any shorthand reporting assignment that is beyond the reporter's competence.
- (e) A certified shorthand reporter and court reporting firm must meet promised delivery dates whenever possible, make timely delivery of transcripts when no date is specified, and provide immediate notification of delays.
- (f) A certified shorthand reporter providing court reporting services in a legal proceeding must not provide any other services or serve in any other capacity, including but not limited to CART and videography, during that legal proceeding.

8

DUTY TO NOTIFY

- (a) A certified shorthand reporter has a duty to exercise professional judgment and immediately notify the parties, attorneys, or the Court if the requested court reporting duties are beyond the court reporter's expertise.
- (b) A certified shorthand reporter and court reporting firm have a duty to notify the parties, attorneys, or the Court, if the reporter is not able to meet court-imposed or reasonable client deadlines for delivery of transcripts.

9

OBSERVANCE OF CONFIDENTIALITY

Each certified shorthand reporter and court reporting firm must preserve the confidentiality and ensure the security of information, oral or written, entrusted to the reporter or the firm by any of the parties in a proceeding. A certified shorthand reporter or a court reporting firm must not sell or otherwise provide a copy of a deposition transcript to any person or entity other than a deponent, a party to the proceeding, or a party's attorney without leave of court.

10

MISCONDUCT

- (a) Each certified shorthand reporter and court reporting firm must not violate this Code, knowingly assist or induce another person to do so, or violate this Code through the acts of another.
- (b) A person must not engage in fraud or deceit in obtaining a certificate as a certified shorthand reporter or in obtaining registration as a court reporting firm.

- (c) A certified shorthand reporter must not misrepresent the reporter's certification, credentials, education, or professional or business titles.
- (d) Certified shorthand reporters and court reporting firms must not engage in any conduct involving dishonesty, fraud, deceit, or misrepresentation.
- (e) Certified shorthand reporters and court reporting firms must not engage in conduct constituting obstruction of justice.
- (f) The Commission may investigate and discipline a certified shorthand reporter or court reporting firm that is held in contempt by a state or federal court.
- (g) With regard to a complaint or disciplinary proceeding, a certified shorthand reporter or court reporting firm must:
 - (1) furnish to the Commission a response or other information within the timeframe requested; or
 - (2) timely assert in good faith a privilege or other legal ground for failure to do so.
- (h) Certified shorthand reporters and court reporting firms must not offer or render court reporting under the following circumstances:
 - (1) The reporter or firm is on inactive status;
 - (2) The certification or registration, respectively, to practice court reporting is suspended or terminated;
 - (3) The certification or registration, respectively, to practice court reporting is administratively suspended for failure to pay required fees; or
 - (4) The reporter's certification is suspended for failure to comply with continuing education rules adopted by the Supreme Court.
- (i) A court reporting firm must not engage the services of a certified shorthand reporter who is on inactive status or whose certification is suspended or terminated.
- (j) A certified shorthand reporter must not work for a court reporting firm that is on inactive status or that has a suspended or terminated registration.
- (k) A certified shorthand reporter or a court reporting firm that violates a Commission order or negotiated settlement with the Commission to resolve a complaint against the reporter or the firm commits a separate act of misconduct subject to additional disciplinary action, unless the Commission order or negotiated settlement was lawfully stayed at the time in question.

- (l) Certified shorthand reporters and court reporting firms are subject to disciplinary action in accordance with Sections 154.110 and 154.111 of the Texas Government Code for criminal offenses that demonstrate a lack of honesty, trustworthiness, or integrity. The Commission will evaluate criminal offenses and determine appropriate action in accordance with Rule 3.5 and the Commission's Criminal History Guidelines for certified shorthand reporters and court reporting firms. The Commission will evaluate the criminal offense for which deferred adjudication is imposed upon a certified shorthand reporter or a court reporting firm in accordance with the Criminal History Guidelines and may suspend or revoke the reporter's certification or the firm's registration in accordance with the Guidelines.
- (m) Certified shorthand reporters and court reporting firms must respond to a party's inquiry within a reasonable time. Repeated failure to respond without good cause is misconduct.
- (n) Certified shorthand reporters and court reporting firms must not misrepresent facts, qualifications, or make misleading or deceitful statements to parties.
- (o) Certified shorthand reporters and court reporting firms must not falsely swear or commit perjury in any communication regarding court reporting to the Commission or to any court or other governmental entity before which the reporter or firm renders court reporting.
- (p) Certified shorthand reporters and court reporting firms must not threaten, assault, or retaliate against parties; make libelous or slanderous statements; or make false public allegations that a party lacks mental capacity.
- (q) A certified shorthand reporter must not cause or be party to, directly or indirectly, a breach in the security of the court reporter certification examination or any court proceeding.
- (r) Certified shorthand reporters and court reporting firms must not enter into, or provide services under, a prohibited contract described by Section 154.115 of the Texas Government Code.

AVOID CONFLICTS OF INTEREST

- (a) A certified shorthand reporter or court reporting firm must disclose to all parties or their attorneys existing or past financial, business, professional, family or social relationships, including contracts for court reporting services, that might reasonably create an appearance of partiality.
- (b) A certified shorthand reporter who works for a court reporting firm must immediately disclose to the court reporting firm existing or past financial, business, professional, family, or social relationships, including contracts for court reporting services, that might reasonably create an appearance of partiality. A court reporting firm has the same duty to immediately disclose to a certified shorthand reporter upon assignment, existing or past financial, business, professional, family, or social relationships, including contracts for court reporting services, that might reasonably create an appearance of partiality.

- (c) A court reporting firm or a certified shorthand reporter working independently from a court reporting firm must disclose a conflict within five days after the deposition or other reporting assignment is booked, but no later than three days before such deposition or other reporting assignment is held. The firm or reporter must disclose a conflict immediately if the deposition or other reporting assignment is booked less than three days before it is to be held.
- (d) A certified shorthand reporter who is to render court reporting of a legal proceeding and who is related within the second degree by affinity or consanguinity to a party or to an attorney for a party to the proceeding shall disclose the relationship in writing to all parties and to the Court as soon as practicable. The reporter must not provide court reporting of the legal proceeding, unless:
 - (1) There is no objection to using the reporter from a party or the court due to the relationship; or
 - (2) The Court enters an order finding that the relationship does not affirmatively create an apparent or actual partiality and good cause exists to permit the use of the reporter.
- (e) A certified shorthand reporter must not render court reporting of a legal proceeding in which the reporter has a financial interest. A certified shorthand reporter must not render court reporting of a legal proceeding in which a firm or entity with which the reporter is associated has a financial interest.
- (f) A certified shorthand reporter or a court reporting firm must be fair and impartial toward each participant in a legal proceeding.
- (g) A certified shorthand reporter working as an official reporter or deputy official reporter must refrain from freelance court reporting which interferes with official duties and obligations.

EXPOSE CORRUPT OR DISHONEST CONDUCT OF CERTIFIED SHORTHAND REPORTERS AND COURT REPORTING FIRMS

- (a) Certified shorthand reporters and court reporting firms must report to the Commission any factual evidence or circumstances that create a reasonable belief that a certified shorthand reporter or court reporting firm violated this Code.
- (b) Certified shorthand reporters and court reporting firms must not, without good cause, attribute bad motives or unethical conduct to another reporter or firm. A reporter or a firm must not bring the profession into disrepute by making unfounded accusations of impropriety.

- (c) Certified shorthand reporters and court reporting firms must not file a frivolous complaint with the Commission.

13

SUPERVISORY RESPONSIBILITIES

- (a) A certified shorthand reporter or court reporting firm who employs or supervises an unlicensed person to assist in the preparation of a transcript or reporter's record is responsible for any acts of the unlicensed person relating to court reporting.
- (b) A certified shorthand reporter must take reasonable remedial action to avoid or mitigate the consequences of a violation of the Code by a person under the reporter's direct supervisory authority. A reporter is subject to disciplinary action if the reporter knows or reasonably should have known of the supervisee's violation but fails to take reasonable remedial action.
- (c) A court reporting firm must take reasonable remedial action to avoid or mitigate the consequences of a violation of the Code by an employee or independent contractor of the firm. A firm is subject to disciplinary action if the firm knows or reasonably should have known of the employee's or independent contractor's violation but fails to take reasonable remedial action.

14

CONTACT INFORMATION

- (a) Each applicant for certification as a certified shorthand reporter or registration as a court reporting firm shall record a current mailing address on the application form. Each certified shorthand reporter and court reporting firm must maintain a current mailing address on file with the Commission by recording it on the form filed for renewal of certification or registration, respectively. Each reporter and firm must also report a change of address within 30 days after the effective date of the address change.
- (b) Upon initial registration and each renewal of registration, a court reporting firm must also provide written notice to the Commission of the name, mailing address, phone number, fax number, and e-mail address of an officer, director, or managerial employee designated to receive any request for information or other correspondence from the Commission. The firm shall provide the Commission written notice of any change of this information within 30 days after the effective date of the change.
- (c) The Commission publishes the public addresses of certified shorthand reporters and court reporting firms on its website. There is a presumption that the most recent information on file with the Commission is correct for purposes of disseminating information to the public and providing renewal notices and other information to reporters and firms. The Commission is not obligated to contact reporters or firms to update contact information in certification and registration files.

DISPLAY OF LICENSE; COMPLAINT INFORMATION AND NOTICE TO CLIENTS

- (a) A court reporting firm in good standing must display its registration certificate at each place of business in the area most frequented by the public, such as a waiting room or lobby. If the affiliate office is a virtual office, registrations must be displayed at the primary place of business. A court reporting firm must provide proof of registration upon request.
- (b) A certified shorthand reporter may display a certificate only if the reporter's certification is current and in good standing. A reporter must provide proof of certification upon request by the Court or parties to an action or assignment.
- (c) A certified shorthand reporter must provide upon request information necessary to file complaints about the reporter's services with the Commission. The information must include the current mailing address, phone number, and email address of the Commission.
- (d) A court reporting firm must provide upon request information necessary to file complaints about the firm's services with the Commission. The information must include the current mailing address, phone number, and email address of the Commission.

ADVERTISING

- (a) Certified shorthand reporters and court reporting firms must not advertise in a manner that is false, fraudulent, misleading, or deceptive.
- (b) Certified shorthand reporters and court reporting firms must not advertise falsely or otherwise misrepresent the qualifications of a reporter or firm, including the reporter's or firm's professional designations or membership in professional organizations.

FEES

- (a) Certified shorthand reporters and court reporting firms must not provide court reporting services on a contingent fee basis under any circumstances.
- (b) Certified shorthand reporters and court reporting firms must charge all parties to an action the same price for an original transcript or reporter's record.
- (c) Certified shorthand reporters and court reporting firms must charge all parties to an action the same price for a copy of a transcript or reporter's record or for like services performed in an action.
- (d) A certified shorthand reporter or a court reporting firm must disclose in writing to all parties or their attorneys upon request at any time an itemization of all rates and charges.

CONTINUING EDUCATION

- (a) Certified shorthand reporters must comply with the continuing education requirements as set out in Rules 4.1, 4.2, 4.3, and 6.6 of the Rules of the Judicial Branch Certification Commission adopted by the Supreme Court of Texas.
- (b) A certified shorthand reporter must not file a document with the Commission which includes false, misleading, or deceptive statements regarding the reporter's compliance with continuing education requirements. A reporter who falsely reports compliance with continuing education requirements may be subject to disciplinary action by the Commission.
- (c) A certified shorthand reporter must not obtain or accept a certificate of completion or certificate of attendance from a continuing education provider unless the reporter completed or attended the continuing education activity. A reporter who obtains or receives an inaccurate certificate of completion or certificate of attendance is subject to disciplinary action by the Commission.
- (d) A certified shorthand reporter who cheats, uses unauthorized materials, or receives unauthorized assistance during an exam to complete continuing education requirements is subject to disciplinary action by the Commission.

PROHIBITED DISCRIMINATORY ACTIVITIES

Certified shorthand reporters and court reporting firms must not willfully manifest bias or prejudice based on race, color, national origin, religion, disability, age, sex, or sexual orientation towards any person involved in an action or proceeding.