



28 September 2009

Chief Justice Ronald D. Castille
1818 Market Street
Philadelphia, PA 19103

Justice Thomas G. Saylor
Fulton Building, 200 North Third Street
Harrisburg, PA 17101

Justice J. Michael Eakin
4720 Old Gettysburg Road
Mechanicsburg, PA 17055

Justice Max Baer
One Oxford Centre
301 Grant Street
Pittsburgh, PA 15219

Justice Debra McCloskey Todd
One Oxford Centre
301 Grant Street
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Justice Seamus P. McCaffery
Centre Square West
1500 Market Street
Philadelphia, PA 19102

Justice Jane Cutler Greenspan
1818 Market Street
Philadelphia, PA 19103

Dear Mr. Chief Justice Castille and Justices of the Pennsylvania Supreme Court:

We are writing to you on behalf of the Pennsylvania Court Reporters Association (PCRA) which has been tangentially involved in discussions with AOPC staff serving your Advisory Committee on Court Reporting and Transcripts to replace the present Rule of Judicial Administration 5000, in place since 1981. We regret having to write to you on this issue, but due to a misunderstanding between PCRA and AOPC, we have been prevented from continuing an open dialogue with the AOPC.

Pennsylvania's workforce of official court reporters – approximately 500 in number – are most affected by the proposal and can speak to the ramifications of the proposed rule in its current state. PCRA stands ready to be actively involved in a replacement for current R.J.A. 5000, and can oversee statewide certification. Because we believe that the judicial system and the citizens of the Commonwealth will ultimately benefit from a collaborative, continued dialogue between the AOPC and PCRA, we are asking that you intervene to keep the lines of communication open.

Historically, beginning in 2007, AOPC invited some representatives of PCRA to confidential meetings with AOPC staff representing this committee. PCRA kept the confidence of the work,

as requested, while the committee drafted the proposed rule. At a meeting on March 10, 2009, some PCRA representatives expressed our concerns. We were told to put all of our concerns, very specifically citing to the rule, in correspondence and that the rule as presently written would go out for public comment on Saturday, March 14, 2009.

Thereafter, believing it would be in our best interest to write a cogent and complete response to the proposed rule, we hired counsel, Christopher S. Lucas, Esquire, of Mechanicsburg, PA. He received an extension of time to comment on the proposed rule for PCRA only. After reviewing the AOPC survey data upon which the proposed rule is based, he filed a 37-page response (enclosed) delineating the flawed statistics and requesting a meeting with AOPC.

However, on August 21 our counsel received a letter from AOPC legal counsel stating that AOPC refused to meet with PCRA. She cited the reason as information on the PCRA website discussing possible litigation and raising funds for legal fees, which was intended as a marketing pitch for more members. On that basis, AOPC ceased all communication with PCRA or PCRA's counsel and we were not allowed any further meetings.

Some of our areas of concern include:

1) **The proposed elimination of the statewide declaration that an official reporter will be paid for his or her county-paid work at a statewide rate**, instead mandating each president judge to create a local rule to compensate reporters. We suggest this will certainly be problematic for president judges and court administrators who must go to salary boards in order to attract and keep highly skilled, competent court reporters.

2) **The statewide cap for the private-pay rate will be set at \$2.25 per page for regular delivery.** If this amount is lower than presently exists – in some jurisdictions set by collective bargaining agreements – the AOPC's argument was that the president judge could elect to pay the reporters more, but it would come from the county coffers. We believe that, in this day and age of shrinking budgets, a president judge would be hard-pressed to advocate for an amount coming out of county funds over that which is brought in by an attorney or the public paying for a transcript. We also believe that public money should not be subsidizing private litigation. (We quote from the comment to proposed Rule 4009, in part, *the president judge has the discretion to pay court reporters a differing amount, greater or lesser, to ensure the overall compensation of court reporters is equitable and proper.*)

3) **The proposed 21-day turnaround time for production of transcripts** could be difficult to maintain in busy courts with minimum staffing due to budget constraints. We endorse mandated management functions for official reporter offices, already in place in many jurisdictions. We, in fact, have many CMRS (Certified Manager of Reporting Services) members in our association. They are skilled in managing the court reporting functions within their courts and ensuring the best return on investment in their judicial districts.

4) **Certification and transcript formatting we heartily endorse**, with very minor changes or clarification. Our 100-year old association has long advocated certification standards

for practicing freelance and official reporters in this Commonwealth for protection of the public and to ensure the Commonwealth has the best trained and educated court reporters available.

5) **We advocate that the two providers of court reporting services on the proposed Advisory Committee [proposed R.J.A. 4003(A)(7)]** be selected from the PCRA membership. We feel that our 320-member organization should be working in conjunction with the AOPC, the Supreme Court, and any other entity that deals with court reporters to ensure that the Commonwealth has the highest quality verbatim record in our courts. We believe that the official reporter can and should be an important aid to the services provided by our judiciary to the citizens of the Commonwealth.

Therefore, PCRA respectfully requests the opportunity to comment on the proposed Rule of Judicial Administration 4001 you receive from the AOPC in any manner that Your Honorable Court deems fit and fair – in writing, via telephone, or in person – at your convenience. Thank you for your attention and we look forward to your response.

Respectfully,

Lisa A. Bauer, PCRA President
RPR, CRR, CMRS

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Enclosure

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