

JUN 09 2022

BY: 
DEPUTY CLERK

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SISKIYOU

In re Findings Concerning Availability
of CSR Court Reporters for the
Siskiyou County Superior Court and
Standing Order Regarding Electronic
Recording

I. FINDINGS

**A. STATEWIDE AND NATIONAL SHORTAGE OF COURT
REPORTERS**

As set forth in the report prepared by the California Trial Court Consortium (“CTCC”) dated January 25, 2022 entitled “*The Causes, Consequences and Outlook of the Court Reporter Shortage in California and Beyond*” there is a shortage of certified shorthand reporters (“CSR”) in California and nationally.¹

Since 2012, the number of court reporters in the United States has decreased by 20 percent. By 2028, the number of court reporters will have decreased by half. This decrease is largely attributed to attrition in the reporter workforce due to retirement. For example, nationally 1,120 reporters retire each year, while only 200 new reporters enter into the market.

The reduction of students entering the workforce to become a CSR has impacted court reporter schools nationwide. Between 2012 and 2021, the number of court reporter schools approved by the National Court Reporters Association declined from 54 to 26.

¹ The findings concerning the statewide and national shortage of court reporters summarized herein, and the data which supports those findings, are set forth in the CTCC report and adopted herein by reference.

1 Students currently enrolled to become CSRs represent only 2.5% of the anticipated labor
2 force need. Every year, the court reporting industry loses 82% more workers than it gains.

3 In California, court reporting programs have declined from 16 in 2011 to 9 in 2021, a
4 44% decline. The California exam for licensure is also rigorous. Between 2018 and 2021,
5 the dictation passage rate for the exam ranged from 8 to 21 percent. In 2019-20, the Court
6 Reporters Board of California issued licenses to 66 new reporters; in 2020-21, 39 new court
7 reporters were licensed. No reciprocity exists in California for reporters licensed in other
8 states. Between 2014 and 2021, the total number of licensed California court reporters
declined from 7,058 to 5,728, of which only 5,043 reside in California.

9 Legal changes have also impacted the ability of a court to hire a CSR. In 2019, AB5
10 was adopted establishing limits on the ability of an employer to classify a temporary
11 employee as an independent contractor. This reduced access to freelance reporters willing to
12 work on a part-time or on-call basis for the court. In addition, changes to the Public
13 Employment Retirement System also impacted retirees, including limiting the number of
14 hours a retired annuitant can work and the date on which a retired annuitant can first
15 commence work. As a result of these changes, access to reporters who might desire to work
16 intermittently or after retirement was reduced or eliminated.

17 Finally, in 2022, the legislature limited the ability of a court reporter to appear using
18 remote technology. (Code of Civ. Proc., § 367.75.)

19 In conclusion, a court reporter shortage exists both in California and nationally which
20 is unlikely to be resolved in the immediate future.

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1 **B. COURT REPORTER AVAILABILITY FOR THE SISKIYOU COUNTY**
2 **SUPERIOR COURT**

3 The Siskiyou County Superior Court values its court reporters and the importance of a
4 verbatim record in the form of a certified transcript for the administration of justice in all
5 proceedings.

6 The Siskiyou County Superior Court has authorized 2 full-time equivalent (FTE) CSR
7 positions and additionally utilizes the services of retired or per diem reporters, if available, to
8 provide CSR services to the Siskiyou County Superior Court.

9 The court had two full-time CSRs until the end of 2018 and was able to regularly
10 provide the services of a CSR in juvenile, felony, LPS and other matters where a record
11 prepared by a CSR is mandated by law. The court was also able to occasionally provide a CSR
12 in civil, family and other matters upon the request of a Judge and used a CSR for all felony
13 jury trials and occasionally for misdemeanor jury trials.

14 The court has taken significant steps to recruit and retain court reporters. Shortly after
15 the resignation of both of the court's staff reporters in late 2018 and early 2019, a per diem
16 reporter who had been assisting the court part-time was hired to fill one of the staff CSR
17 positions. Since 2019, the court has been recruiting to hire a second staff reporter.

18 Between the end of 2018 and the present, the court has received only two
19 applications, both in the late spring/early summer of 2020. Phone calls and emails to the
20 applicants went unreturned and, other than submitting an application, neither made any
21 further efforts to communicate with the court regarding the CSR openings or pursue
22 employment with the court.

23 The court has aggressively recruited to fill reporter vacancies including utilizing job
 postings with the California Court Reporters Association, the HR Statewide Network,

1 newspaper ads and the court's own website. In addition, the court has engaged in targeted
2 recruitment of licensed court reporters with addresses in or near Siskiyou County.

3 On a weekly basis, the court calls local and regional court reporters and court
4 reporting companies in an effort to secure sufficient CSR coverage as required under the law
5 for regular calendars and trials. Despite increasing the daily per diem compensation rate, it is
6 becoming more and more difficult to find CSRs who are willing to work on a per diem basis.

7 Siskiyou County is a remote, rural county with only a couple of resident certified
8 court reporters willing to accept per diem work on an occasional basis. The nearest reporters
9 outside the county reside 50-100 miles away and are frequently unwilling to travel to
10 Siskiyou County, particularly during the winter months when travel is challenging and
11 roadways frequently close due to weather conditions.

12 The court has changed its calendars to make the most efficient use of our sole court
13 reporter and has been required to eliminate reporting in cases where reporting is not
14 mandated by law.

15 Despite the court's ongoing efforts, the court continues to experience a shortage of
16 court reporters. This shortage is not unique to Siskiyou County. Of the 41 courts
17 participating in the CTCC report, a total of 209 FTE positions were authorized for CSRs,
18 with 49 reported vacancies. Most of these vacancies have been persistent and have existed
19 for more than 12 months. Additional challenges are presented to ensuring adequate access to
20 CSRs in light of the need to provide relief for vacations, illness or injury or when special
21 proceedings such as death penalty cases arise which require additional resources in order to
22 provide statutorily mandated daily transcripts.

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II. DUE PROCESS FINDINGS

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2 Despite diligent and significant effort, the court is unable to provide a certified
3 shorthand reporter in all required matters due to the statewide and national shortage of CSRs.
4 However, the court must continue to fulfill its core judicial functions.

5 There have been multiple occasions when the court has not had a court reporter
6 available and hearings or trials had to be continued, delaying justice and inconveniencing
7 witnesses. Jury trials and regular calendars have been delayed and prolonged when the court
8 has been unable to obtain a per diem reporter and the sole staff court reporter has to juggle
9 multiple assignments during the course of a day or week. With only one court reporter, the
10 court can only run one jury trial at a time. Criminal cases have had to be dismissed when the
11 court, due to the unavailability of a CSR, was unable to conduct speedy trials within statutory
12 timeframes.

13 The COVID pandemic has resulted in a back-log of criminal jury trials that require a
14 CSR, requiring the court to conduct a significantly greater number of jury trials than in years
15 prior to the pandemic. With only one staff reporter, the court does not have the ability to
16 conduct a jury trial and cover regular calendars in the absence of a per diem reporter. When a
17 per diem reporter is unavailable, the court is forced to continue trials or dismiss cases if the
18 trial cannot be conducted within the statutory time frame. The CSR shortage has contributed
19 to delays in getting cases to trial, resulting in the infringement of defendants' due process
20 rights and the rights of victims to timely resolution of cases.

21 Balancing interests, due process requires prompt resolution of cases and the availability
22 of an adequate record to afford appellate review. Further, the absence of a record can impact
23 the ability of the assigned judicial officer to recall the proceedings, evidence or testimony or
undertake functions such as preparation of a settled statement. Electronic reporting is currently
authorized by statute for use in certain matters, including misdemeanor criminal matters,

1 limited jurisdiction matters, traffic matters and infractions. In the absence of an available
2 CSR, use of electronic reporting provides an adequate record to ensure the parties are afforded
3 due process and to permit the court to fulfill its core function: the administration of justice.
4 Despite statutory limits on the use of electronic reporting, due process requires that electronic
5 reporting be utilized in the absence of a CSR.

6 **THEREFORE, THE COURT FINDS AND ORDERS:**

7 When a court reporter is unavailable, electronic recording may be utilized by the court
8 at the direction of a judicial officer, pursuant to the following findings and orders:

9 *1. In civil, family and probate cases where a record is not mandated by law,*
10 *electronic recording is not authorized by statute and a settled statement may be required for*
11 *appellate review. Electronic recording is necessary and indispensable to ensure due*
12 *process as it will provide the court with a record for note-taking purposes only and will enable*
13 *the court to recall the proceedings, prepare and approve a settled statement in a contested*
14 *matter, and perform core judicial functions in the interests of justice. The electronic recording*
15 *will not serve as the record, is for the limited use of the judicial officer and will not be provided*
16 *to the parties nor transcribed.*

17 *2. In civil, family and probate cases where a record is mandated by law or is not*
18 *mandated by law, and electronic recording is not authorized by statute, but the judicial*
19 *officer believes a verbatim record is necessary or a party is entitled to a verbatim record*
20 *pursuant to Jameson v. Desta (2018) 5 Cal.5th 594 or some other provision of the law.*

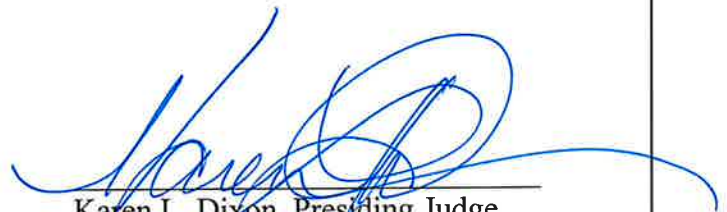
21 *Electronic recording is necessary and indispensable to ensure due process as it will preserve*
22 *the record for appellate review or other judicial purposes. The recording will serve as the*
23 *official record of the proceedings and will be maintained by the court in the same manner as*
electronic recordings authorized by statute.

1 3. *In criminal, juvenile or LPS cases where a record prepared by a CSR is*
2 *mandated by statute or case law in a case that is state-initiated and will potentially deprive a*
3 *litigant of his or her liberty or property. By law, the court is mandated to provide an*
4 *adequate record to ensure the opportunity for meaningful appellate review in a matter in which*
5 *the state initiates an action to which a litigant is entitled to due process that may result in the*
6 *deprivation of liberty, property or other rights. Electronic recording is authorized by statute*
7 *for other matters in which the state has initiated action which may result in deprivation of*
8 *liberty or property and has been found to provide the litigants with an adequate record to*
9 *ensure meaningful appellate review. Further delay of proceedings for the prospect of securing*
10 *the services of a reporter is not appropriate as such prospect is uncertain and such delay does*
11 *not serve the interests of justice. Electronic reporting will provide the litigants with an*
12 *adequate record to ensure meaningful appellate review and is necessary and indispensable to*
13 *ensure due process.*

14 **The clerk shall note this Order in the minutes.**

15 **IT IS SO ORDERED.**

16 Dated: June 9, 2022



17 Karen L. Dixon, Presiding Judge
18 Siskiyou County Superior Court