

My name is Dyann Berndt, and I am an Illinois licensed Certified Shorthand Reporter. I am objecting to the proposed changes being considered to Supreme Court Rule 207, which deals with the signing and filing of depositions.

The proposed change to the rule is intimating that the court reporter should provide a copy of the transcript to the deponent at no charge. This would be in direct violation of Section 28 of 225 ILCS 415, the CSR Act, which states: "A person certified under this Act may hold an attorney, firm, or any other entity personally responsible for payment of shorthand reporting services rendered at the request of that attorney, firm, or entity."

Currently, deponents are not charged a fee to review their transcripts. The ideal situation, of course, is for the deponent's attorney to purchase the transcript and review it with their client or send it to their client for his or her personal review.

If, however, the attorney does not purchase the transcript, stenographers generally go out of their way to accommodate the deponents' requests to view it and at no charge to the deponent. Most stenographers arrange meetings in public places like libraries or coffee shops. These arrangements by stenographers are regularly used when the deponent is a non-party subpoenaed witness. The proposed change to meet the deponent at their residence or business address is objectionable purely from a safety standpoint.

Another proposed change is to meet "the deponent in the county where the deposition was taken." In our new age of videoconference depositions, this is potentially an unreasonable burden on the stenographer. The first question is: What would be considered the location of the deposition? Is it where the attorneys are? Is it where the stenographer is? Or is it where the deponent is located? I am located in Cook County, but the deponent may reside in southern Illinois. It would be very unreasonable to require that the stenographer travel to Sangamon County, for example, from Cook County simply to review a transcript. A witness who appeared for a videoconference deposition can also be provided a review of the transcript via videoconference using the screen share option.

As far as electronic transmission of the transcript, providing a transcript electronically to the deponent is akin to providing their attorney with a free transcript which, unfortunately, some attorneys do hope to accomplish. Again, this is in violation of 225 ILCS 415/28, which I quoted earlier.

The final proposed change to SC Rule 207 is requiring the attorney who noticed and takes the deposition to pay for the deponent's copy of the transcript. This is, essentially, cost-shifting and in violation of the American Rule, which states that each party must pay for their own legal expenses. This change would provide no incentive for the opposing counsel to ever purchase a transcript if they could simply reserve signature and have their opponent pay for it.

In many states court reporting agencies are already billing attorneys what's called an O/1, or an original and a copy, for this very reason. We have not done that in Illinois to date; but if this rule is enacted, that would become standard practice here, too. It isn't fair to require your opponent to fund your litigation; and, again, it goes against the language of the American Rule. <https://spesia-taylor.com/is-the-losing-party-in-a-civil-case-required-to-pay-my-legal-fees>

In closing, I am asking this committee to reject these proposed changes to Supreme Court Rule 207. In my opinion, they are a solution looking for a problem and would result in the unfair restraint of trade.