

## CONTRACTING – WHAT'S THE ISSUE?

The court reporter is the impartial officer in the court or deposition. It is one of the cornerstones of the profession. Court reporters are the Guardians of the Record, and that means producing a record that is complete, accurate, secure and unbiased. The reporter, as the impartial party in any proceeding, must be beyond reproach and have no vested interest in the outcome.

Litigants, other participants in the judicial system and the general public expect and demand that depositions and court proceedings be recorded by a competent, independent and neutral court reporter who has no stake, financial or otherwise, in the outcome of the action. Prohibiting parties of interest in litigation from having a direct contractual relationship with court reporters, as officers of the court, is necessary to ensure the public's faith in the integrity and impartiality of the judicial system.

Under an exclusive third-party contract, an insurance company or other private organization hires a court reporting firm to provide services on an exclusive basis for the company's litigation.

A preferential contracting agreement promotes the interests of one party to the action at the expense of the others. An exclusive third-party contract may provide not only price and volume discounts to one party, but also specialized litigation support services that are not available to others. In fact, certain contracting arrangements may make transcripts available to one party or its representatives before all parties to the action receive them. Transcripts may also be offered as part of a central database to the contracting corporation.

Under many contracting arrangements, the duties and responsibilities of the court reporter are diminished. The custody and control of the transcript by the court reporter, acting as an officer of the court, is removed and given to a firm that has a financial arrangement with one of the parties involved in the case.

The American Judges Association in 1998 passed a resolution to support legislative and judicial measures prohibiting financial arrangements between court reporters and parties in interest. The resolution notes that "court reporters are officers of the court whose impartiality, as with judges, must remain utterly beyond question in order to ensure the enduring confidence and faith from which our judicial system derives its legitimacy."

The National Court Reporters Association (NCRA) is working with the coalition Citizens for Impartial Justice, an organization whose primary mission is to create public awareness and to lobby for legislative and/or rule changes on a state-by-state basis, as well as on a federal level, to prohibit parties in litigation from entering into contracts with court reporters, deposition officers and officers of the court that diminish or appear to diminish their neutral and impartial role in the administration of justice.

Currently, 28 states have passed legislation or rules prohibiting or restricting the practice known as "contracting." NCRA will continue to work with state legislatures and the courts to ensure the integrity of the record, protect the impartiality of the court reporter and maintain the public's confidence in the judicial system.

There is nothing wrong with entrepreneurial free enterprise, but NCRA believes the role of the court reporter in the judicial system is not a commodity. It is a sacred duty that protects people's life and liberties and cannot be sold to one side or another.