

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF COCONINO

IN THE MATTER OF:)	
)	
USE OF DIGITAL RECORDING)	
EQUIPMENT BY COURTROOM CLERKS)	ADMINISTRATIVE ORDER
AND DIGITAL RECORDING OF TRIAL)	2007-0033
COURT PROCEEDINGS)	
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The Clerk of the Superior Court in Coconino County has experienced difficulties attracting and keeping personnel with high level short hand skills for courtroom clerk positions. The Clerk has acquired and is using digital recording equipment to assist the courtroom clerks in the courtroom.

The purpose of using digital recording equipment is to enable the Clerk of Superior Court to rotate courtroom clerks between criminal divisions and other divisions on a regular basis, so that all of them, particularly those with less or no short hand proficiency, will be able to produce minutes of court proceedings promptly. The automated, internal recordings in the devices are intended to serve as the courtroom clerks' work product and backup for notes of those proceedings and will be used only to enable these clerks to generate timely and accurate minute entries for the court. The present equipment used in creating these digital recordings is highly sensitive, and it records sounds and conversations which include matters that are not intended to be part of the record of the court proceedings. Due to the work product characteristic and this sensitivity, the digital recording devices are not usually intended for production of official verbatim record of the court proceedings.

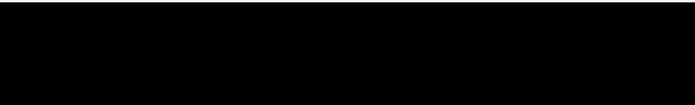
Supreme Court Rule 123 governs public access to the judicial records of this state. That rule defines what constitutes "public records" that are subject to public access, and under what circumstances records need not be made available to the public. These digital recordings of superior court proceedings, in divisions using certified, official court reporters to make the official records of the proceedings, are, in essence, the notes of the courtroom clerks, made to assist them in generating minute entries, and are not, therefore, public records subject to Rule 123.

For these reasons, **IT IS ORDERED:**

1. Digitally recorded notes kept by courtroom clerks, in divisions using an official court reporter, are not public records and are not to be disseminated under public record requests absent specific court order in a given case.

2. The official record of any superior court proceedings in any division employing a certified, official court reporter is the stenographic notes and transcript(s) produced from those notes by the official reporter. No paper or audio recording of proceedings made from the digital recording system, or any other audio recording system, nor transcript produced from such recordings except a transcript certified by an official court reporter, may be used as the official record of any superior court proceedings in a division employing an official court reporter during those proceedings.
3. Pursuant the authority of A.R.S § 38-424, any judge or commissioner of Coconino County Superior Court may choose to utilize digital recordings to create the official record of court proceedings in that division, if there is no official court reporter assigned to that division or none available at the time of any particular proceeding, unless any party to the proceeding requests a court reporter. This is a discretionary decision to be made by each judicial officer.
4. Pursuant to Rule 30 of the Rules of the Supreme Court, the following proceedings shall be recorded by a certified court reporter and not solely by electronic means, unless this requirement is waived by the parties and the court approves the waiver:
 - A. Grand jury proceedings;
 - B. All proceedings in a first degree murder case, pursuant to A.R.S. §13-1105, once the intention to seek the death penalty notice has been filed;
 - C. Felony jury trials;
 - D. Initial determinations of sexually violent person status, pursuant to A.R.S. §36-3706;
 - E. Proceedings on a request for authorization of abortion without parental consent, pursuant to A.R.S. §36-2152.

DATED this 5th day of February, 2007.


Honorable Fred Newton, Presiding Judge
Coconino County Superior Court