

APPELLATE PRACTICE SECTION
Respectfully submits the following position on:

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Court Reporter Fees for Certain Services

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The Appellate Practice Section is not the State Bar of Michigan itself, but rather a Section which members of the State Bar choose voluntarily to join, based on common professional interest.

The position expressed is that of the Appellate Practice Section only and is not the position of the State Bar of Michigan.

To date, the State Bar does not have a position on this matter.

The total membership of the Appellate Practice Section is 667.

The position was adopted after an electronic discussion and vote. The number of members in the decision-making body is 23. The number who voted in favor to this position was 18. The number who voted opposed to this position was 0.

Report on Public Policy Position

Name of section:

Appellate Practice Section

Contact person:

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Regarding:

Proposed letter regarding Court Reporter Fees for Certain Services

Date position was adopted:

February 18, 2013

Process used to take the ideological position:

Position adopted after an electronic discussion and vote.

Number of members in the decision-making body:

23

Number who voted in favor and opposed to the position:

18 Voted for position

0 Voted against position

0 Abstained from vote

5 Did not vote

Explanation of the position, including any recommended amendments:

Dear Judge Talbot,

The Appellate Practice Section Council was recently notified of an instance where a court reporter charged \$25 per transcript volume to send an electronic copy via email, and another instance where a court reporter charged \$25 to file a certificate of ordering transcript and an additional \$25 to file the certificate of filing transcript. The applicable statute provides that court reporters may not “take or receive any other or greater fee or reward for his service, but such as is or shall be allowed by the laws of the state.” MCL 600.2513. Whether the law of the state authorizes such charges is not crystal clear. The Council therefore requests that the Board clarify what, if anything, may be charged for such services.

All Council members believe charging anything for filing a certificate of ordering a transcript or a certificate of filing a transcript is wholly inappropriate to the say the least. There is no statutory basis for such a charge, and it is the court reporter’s duty to file the certificates. See MCR 7.210(B)(3).

All Council members also agree that charging \$25 for an email copy is excessive given that an original fee is paid for production of the transcript. Some on the Council believe the electronic transmission by email is so easy—just the push of a few buttons—that there should be no additional charge at all. And that position is supported by the fact that the statute does not expressly authorize such charges. Others see the provision of an electronic copy as a valuable service that may take the court reporter’s attention away from other tasks for more than a minute and deserves some remuneration. But \$5 would probably be enough to compensate for the minimal amount of time required for the task and to discourage attorneys from abusing the service. Ultimately, the Council takes no position on whether a charge for emailing a copy is authorized, but it does request that the Board impose some standard or limitation on the charge amount if it is authorized.

Of course, the first question the Board may need to answer is whether it has authority to regulate such charges. The Board has previously established in the court reporter manual what charges are appropriate in other areas not specifically addressed by the statute. For instance, though the statute is silent, the manual clarifies that a “court reporter or recorder may not receive compensation for or charge a fee for a computer-generated word index.” Court Reporter Manual § 6(C)(1). It is important that the Board similarly clarify whether the charges at issue here are authorized or excessive, for the sake of both litigants and court reporters.