

## MINUTES

**COMMITTEE:** Ethics Committee

**DATE:** April 12, 2012

### **CHAPTER 2, RULE 1: WHETHER PROPER TO COPY TRANSCRIPTS IN ORDER TO PROVIDE THEM TO OTHER COUNSEL**

The Committee noted that lawyers have asked the Practice Advice Department whether it's proper for a lawyer to copy a transcript and provide a copy to the opposing counsel or opposing party. These circumstances sometimes arise where the lawyer/party who paid for the transcript wants to move the case along and the other side needs the transcript but doesn't have the money to pay for it. The Benchers were of the view in 1978 that it would not be proper for lawyers to copy transcripts ordered by them to provide to the other side in order to circumvent the Court Reporter's legitimate charges (Notice to the Profession in the February/March 1978 edition of the *Advocate*).

The Ethics Committee considered the issue on October 31, 1996 after receiving a request from The British Columbia Shorthand Reporters Association ("BCSRA") that the Law Society publish a Notice to the Profession indicating that it is not proper for lawyers to copy transcripts or to make unauthorized copies of disks in order to provide copies to the other side and to circumvent court reporters' legitimate charges. The Committee was uncertain as to whether to take a position and was of the view that it would be preferable for the court reporters to regulate the practice by contract. The Association did not respond to a request by the Committee to comment on this possible resolution of the matter.

On June 9, 2011 the Committee again considered the propriety of lawyers copying transcripts in order to provide them to opposing counsel or an opposing party in the same action. The Committee sought the views of the BCRSA which the BCSRA summarized as follows:

*In summary, it is incumbent that all parties ensure that transcripts be produced, obtained and paid for through the appropriate parties, either an official court reporter, the official reporter's agent/agency, or a transcription company that has been designated and authorized through the British Columbia provincial government.*

*If it is within your purview, we request that the above information be disseminated to the bar in order to eradicate the mistaken belief that seems to*

*exist amongst some of the lawyers concerning production and photocopying of transcripts. If it assists, you have our permission to reference this letter in whole or in part to accomplish this end. It would be appreciated if we could be apprised of any actions taken concerning our request.*

The Committee was of the view that the issue of a lawyer copying a transcript to provide to another lawyer or party in the same proceeding is a matter of contract between court reporters and lawyers, and is not ordinarily a matter of professional conduct. The court reporters can seek to regulate this as they wish by entering into appropriate contracts with lawyers for the preparation of transcripts.