



COURT REPORTERS BOARD OF CALIFORNIA



Best Practice Pointer No. 4 Rough Draft Transcripts

WHY:

Rough drafts are provided as a litigation support tool to litigants, their counsel and the court to aid in the administration of justice.

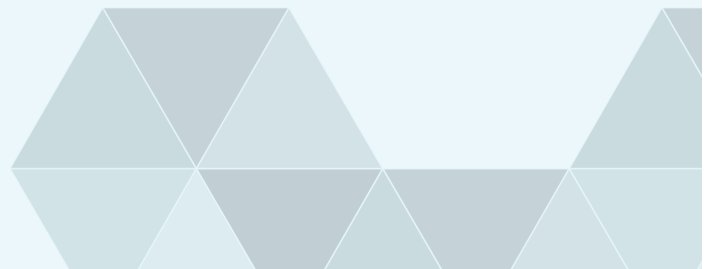
THE LAW (EMPHASIS ADDED):

- California Code of Civil Procedure section 273 (b) states: The report of the official reporter, or official reporter pro tempore, of any court, duly appointed and sworn, when prepared as a rough draft transcript, shall not be certified and cannot be used, cited, distributed, or transcribed as the official certified transcript of the proceedings. **A rough draft transcript shall not be cited or used in any way or at any time to rebut or contradict the official certified transcript of the proceedings as provided by the official reporter or official reporter pro tempore. The production of a rough draft transcript shall not be required.**
- California Code of Civil Procedure section 2025.540 (b) states: When prepared as a rough draft transcript, the transcript of the deposition may not be certified and may not be used, cited, or transcribed as the certified transcript of the deposition proceedings. **The rough draft transcript may not be cited or used in any way or at any time to rebut or contradict the certified transcript of deposition proceedings as provided by the deposition officer.**

- California Code of Civil Procedure section 2025.320 (b) states: Services and products offered or provided by the deposition officer or the entity providing the services of the deposition officer to any party or to any party's attorney or third party who is financing all or part of the action shall be offered to all parties or their attorneys attending the deposition. No service or product may be offered or provided by the deposition officer or by the entity providing the services of the deposition officer to any party or any party's attorney or third party who is financing all or part of the action unless the service or product is offered or provided to all parties or their attorneys attending the deposition. **All services and products offered or provided shall be made available at the same time to all parties or their attorneys.**

DIFFERENTIATION TECHNIQUES:

When a rough draft is provided, two versions of a transcript will result from one proceeding—the unofficial, uncertified rough draft and the official, certified transcript. As the rough draft may not be used in lieu of the certified transcript, it is important that every effort is made to eliminate any confusion as to whether the reader has the rough draft or the certified transcript. Following are several ways to prevent any confusion on the part of the reader:



BEST PRACTICE POINTER ROUGH DRAFT TRANSCRIPTS

1. Include a cover page or introductory paragraph to the effect:

**“UNCERTIFIED
ROUGH DRAFT TRANSCRIPT”
REPORTER’S STATEMENT**

The following transcript represents a realtime version of the [deposition of *deponent name* taken on *date*] or [proceedings taken in *court name* on *date*].

The realtime/rough draft text is unedited and uncertified and may contain untranslated stenographic symbols, an occasional reporter's note, a misspelled proper name and/or nonsensical word combinations. All such entries will be corrected on the final certified transcript which we will deliver to you in accordance with our standard delivery terms or on an expedited basis, should you desire faster delivery. This will serve as notification that the final certified transcript will have differences from the realtime/rough draft version, including differing page and line number references. Due to the need to proof and correct entries prior to certification, you agree to use this realtime/rough draft text only for the purpose of augmenting counsel's notes and not to use or cite it in any court proceeding or to distribute it to any other parties.

2. Include a header or footer on each page stating “uncertified rough draft transcript only.” The header and/or footer may be placed inside the page box.

3. Change the number of lines per page. Line numbers are optional.
4. A rough draft should never include a completed title page, appearance page, certification page, any mention of swearing in of a witness by name, a footer with the firm name, reporter's name or license number.
5. Include a “Draft” watermark.
6. Insert randomly throughout the transcript a paragraph to the effect: “This is an uncertified rough draft transcript and may not be used, cited or distributed as the certified transcript of the proceedings.”
7. If the rough draft is provided via electronic media, the media should be clearly labeled as a rough draft using a label of a different color than the official transcript.
8. Where possible, all untranslated steno strokes and conflicts should be resolved before delivery of a rough draft.

Best practice pointers are not regulations or statutorily mandated. They are a way for the Board to provide guidance on situations not expressly set out in statute or regulation. Although the pointers may be used by licensees as a guide, the Board will not use them as a basis for discipline or enforcement of any type.



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