

IN THE CIRCUIT COURT OF THE TENTH JUDICIAL CIRCUIT
IN AND FOR HARDEE, HIGHLANDS AND POLK COUNTIES, FLORIDA

ADMINISTRATIVE ORDER NO: 2-70.0

**IN RE: PLAN FOR THE ELECTRONIC RECORDING AND SUBSEQUENT
TRANSCRIPTION OF DISCOVERY DEPOSITIONS IN CRIMINAL CASES**

WHEREAS, Florida Rule of Judicial Administration 2.070(g)(3), provides that the chief judge may enter a circuit-wide administrative order authorizing the electronic recording and subsequent transcription by persons other than court reporters, of any judicial proceedings, including depositions; and

WHEREAS, Florida Rule of Criminal Procedure 3.220(h), provides that the parties to a criminal prosecution may, in accordance with the rule, take discovery depositions; and

WHEREAS, Chapter 29.005, Florida Statutes, provides that reasonable court reporting and transcription services for the state attorneys' offices is to be provided from state revenues; and

WHEREAS, Chapter 29.006, Florida Statutes, provides that reasonable court reporting and transcription services for the public defenders' offices is to be provided from state revenues; and

WHEREAS, the legislature has made specific appropriations to the Office of the State Attorney and the Office of the Public Defender for due process costs, including the cost of court reporting and transcription services; and

WHEREAS, the Office of the State Attorney and the Office of the Public Defender have a responsibility to ensure that court reporting and transcription services are accurate, reliable, and economical; and

WHEREAS, the Office of the State Attorney and the Office of the Public Defender have entered into an agreement concerning the electronic recording and transcription of discovery depositions; now, therefore

IT IS ORDERED that the Office of the State Attorney and the Office of the Public Defender are authorized to electronically record and subsequently transcribe discovery depositions in accordance with the provisions of the agreement between the respective offices attached hereto as [Exhibit A](#).

DONE AND ORDERED on this 19th day of September 2006.

RONALD A. HERRING

Chief Judge



Office of the Public Defender
and
Office of the State Attorney
Tenth Judicial Circuit
of Florida




The Office of the Public Defender (Public Defender) of the Tenth Judicial Circuit of Florida and the Office of the State Attorney (State Attorney) of the Tenth Judicial Circuit of Florida desiring to have a mutual understanding and agreement concerning the electronic recording and transcription of discovery depositions without court reporters, it is hereby agreed:

- 1) Either the Public Defender or the State Attorney may, without prior notice or consent, record electronically any discovery deposition taken pursuant to Rule 3.220, Florida Rules of Criminal Procedure, in lieu of having the deposition reported by a court reporter, with the following exceptions: (i) depositions in cases alleging a violation of §782.04(1)(a), murder in the first degree; (ii) depositions in cases alleging a violation of §794.011(2)(A), sexual battery by a person 18 years of age or older on a person less than 12 years of age; and, (iii) depositions of witnesses designated by the Office of the State Attorney as having to be deposed in the Office of the State Attorney.
- 2) In the future it is anticipated that technology will become available which will enable law enforcement officers to appear for electronically recorded depositions from remote locations. Nothing in this agreement is intended to prevent such practices, and the parties agree to develop specific protocols and procedures for the implementation of such technology when available for use.
- 3) At the beginning of any electronically recorded deposition a notary public or other person authorized to administer oaths shall, while being recorded: (i) identify the style of the action by name and case number, (ii) state the date and location of the deposition, (iii) identify by name all persons present during the course of the deposition, and (iv) swear the witness.
- 4) The attorney for the party taking the electronically recorded deposition shall take custody of and be responsible for the safeguarding of the medium upon which the deposition was electronically recorded.
- 5) Upon request of opposing counsel, the attorney for the party taking the electronically recorded deposition shall provide a copy of the recorded audio and video. The party

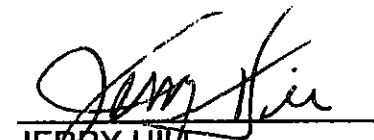
requesting the copy shall either provide a medium upon which the copy will be recorded or reimburse the party providing the copy the cost of the medium. There shall be no fee charged for producing the copy.

- 6) Any attorney who reasonably expects to use an electronically recorded deposition for purposes of contradicting or impeaching the testimony of the deponent shall have the deposition transcribed. Failure to transcribe an electronically recorded deposition shall not *per se* preclude its use during the course of a trial or hearing.
- 7) Either the Public Defender or the State Attorney may have an electronically recorded deposition transcribed. Transcription shall be provided by independent court reporters who shall certify that the transcript is a true and complete record of the electronically recorded deposition and shall further certify that they are not a person disqualified pursuant to the provisions of Rule 1.300, Fla. R. Civ. P.
- 8) All rules and statutes governing the preparation and filing of deposition transcripts shall be applicable to the preparation and filing of transcripts of depositions electronically recorded.
- 9) Use of an electronically recorded deposition, by any party, at a trial or hearing, shall be governed by the rules and statutes governing the use of depositions in criminal cases in existence at the time of the trial or hearing.

This agreement is entered into this _____ day of _____, 2006



J. MARION MOORMAN
Public Defender



JERRY HILL
State Attorney