

## **Alabama Rules of Appellate Procedure**

### **Rule 14.**

#### **Use of recording devices.**

(a) *Transcript of proceedings in lieu of court reporter's transcript of proceedings.* By agreement in writing of the parties, their attorneys, and the judge of the trial court, electronic recording machines or devices may be used as a means of transcribing any trial proceeding. The agreement to use a recording machine or device shall recite the name of the person who shall operate and monitor the recording machine or device.

Except where videotape is used in the circumstances set forth below, trial proceedings recorded by recording machines or devices shall be transcribed into written form for the purpose of appeal. The standards set forth in Rules 10 and 11 governing the duties of court reporters shall govern such procedure, including but not limited to the time schedule, for filing with the clerk of the trial court, giving notice of such filing to all parties as required by the rule and the paper size and volume length requirements. The parties, their attorneys and the judge of the trial court shall agree in writing on who will transcribe the testimony into written form and who shall certify to its correctness. Designation of the testimony may occur under the standards set forth in Rules 10(b)(2) and (c). Electronic machines or devices allowed by this provision include photogramic means, photographic means, audio electronic recording devices and video recording systems.

Videotape recording constitutes the transcript of the proceedings as defined in Rule 10(b) and (c) and Rule 11(b), and shall be filed with the clerk of the trial court at the conclusion of the trial. A videotape transcript shall be transmitted in its entirety. The provisions set forth in Rules 10 and 11 governing the duties of court reporters, as far as applicable, shall govern the operator or monitor of the machine. The parties shall be responsible for arranging suitable electronic machines and devices to be sent to the appellate court along with the videotape for review by that court.

(b) *Costs.* The parties shall agree in writing on who will pay the initial costs for the use of whatever electronic machine or device is used. All costs involved in the use of an electronic machine or device, including transcribing the testimony into written form, where appropriate, shall be taxed as costs of court as set forth in Rule 35.

#### **Committee Comments**

This rule allows for innovation in the capturing of testimony at trial. Such innovation must be based on mutual written assent of the parties, their attorneys,

and the judge presiding over the trial. Approved methods of capture by recording machines or devices are set forth in subdivision (a).

The rule contemplates such recorded testimony can be used in one of two ways for appellate purposes. First, the recorded testimony can be transcribed into written form, and as such the transcribed testimony would be like a court reporter's transcript of testimony. Second, if videotape with audio capacity is used, the tape may be used on appeal in lieu of transcribed testimony. When videotape constitutes the testimony, the parties have the responsibility for providing adequate machines or devices to the appellate court for proper use of the videotape.

General requirements placed on court reporters apply to the operator or monitor of recording machines or devices. These requirements include the time for filing the testimony with the clerk of the trial court, Rule 11(a)(2) in civil cases and Rule 11(b) in criminal cases and service of notice of the filing to various parties, Rule 11(a)(2) and 11(b).