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Court Reporters – Alabama Board of
Court Reporting – Licenses and
Permits – Exemptions –
Administrative Office of Courts

Because there are no licensure
exemptions for official court
reporters pursuant to state law,
official court reporters are required
to be licensed by the Alabama Board
of Court Reporting.

Dear Judge Ford:

This opinion of the Attorney General is issued in response to your
request.

QUESTIONS

Under section 34-8B-3 of the Code of
Alabama, are official court reporters [individuals
who transcribe court proceedings and other
proceedings as employees of the Alabama Office
of Courts (“AOC”)], required to be licensed by
the Alabama Board of Court Reporting?

If official court reporters are not required
to be licensed by the Alabama Board of Court
Reporting, what law exempts them from
licensure?

FACTS AND ANALYSIS

In 2006, the Legislature created the Alabama Board of Court Reporting (“Board”). The authority for the Board is found in sections 34-8B-1 through 34-8B-18 of the Code of Alabama. Your particular inquiry questions whether the licensure requirements for court reporters are applicable to official court reporters.

Section 34-8B-3 states that “[n]o person, except as otherwise provided by law, shall practice or attempt to practice court reporting in this state or hold himself or herself out as a court reporter unless the person is a licensed court reporter.” ALA. CODE § 34-8B-3 (2010). Nothing in section 34-8B-1, *et seq.*, of the Code specifically exempts official court reporters from the licensure requirements.

The purpose for the Board was clearly set out in section 34-8B-1 of the Code. That section states as follows:

The Legislature hereby finds and declares that it is the policy of the state to promote the skill, art, and practice of court reporting in order to assure that court reporters possess the necessary skills and qualifications and that a board be established to prescribe the qualifications of court reporters and to issue licenses to persons who demonstrate their ability and fitness for the licenses. ***This chapter is intended to establish and maintain a standard of competency for individuals engaged in the practice of court reporting and for the protection of the public, in general, and for the litigants whose rights to personal freedom and property are affected by the competency of court reporters.*** The examination, *licensing*, and supervision of the conduct and proficiency of court reporters are ***integrally related to the effective, impartial, and prompt operation of the judicial system*** of the State of Alabama.

ALA. CODE § 34-8B-1 (2010).

As stated in section 34-8B-1, the Legislature created the Board in an effort to assure that court reporters possess the necessary skills and

qualifications to engage in the practice of court reporting. *Id.* Further, the Board is charged with establishing and maintaining a standard of competency for individuals engaged in the practice of court reporting for the protection of the public and litigants whose rights to personal freedom and property are affected by the competency of court reporters. *Id.*; ALA. CODE § 34-8B-5(1) (2010).

Besides the words used in the legislative findings, which is set out in section 34-8B-1 of the Code, there are additional provisions in the Code that indicate the Legislature's intent to have the provisions of the Board applicable to all reporters who practice court reporting for remuneration. ALA. CODE § 34-8B-8 (2010) (stating that persons who practice court reporting for remuneration without a license are guilty of a Class C misdemeanor). One such example is the manner in which the terms "court reporter" and "court reporting" are defined in section 34-8B-2 of the Code. This provision states, in pertinent part, as follows:

(5) COURT REPORTER. Any person who is engaged in the practice of court reporting as a profession, *including persons who actually report judicial proceedings in courts* and persons who make verbatim records.

(6) COURT REPORTING. The making of a verbatim record by means of manual shorthand, machine shorthand, closed microphone voice dictation silencer, or by other means of personal verbatim *reporting of any testimony given under oath before*, or for submission to, *any court, referee, or court examiner* or by any board, commission, or other body, or in any other proceeding where a verbatim record is required. The taking of a deposition is the making of a verbatim record.

ALA. CODE § 34-8B-2(5) & (6) (2010) (emphasis added). These provisions, instead of excluding official reporters, directly include official reporters among those being contemplated within the authority of the Board.

Official court reporters are reporters who work within the court system throughout the State of Alabama. Section 12-17-270 sets out the

mechanism by which official reporters are appointed. This provision states as follows:

Each of the judges of the circuit courts of this state shall appoint a competent person to perform the duties of official court reporter of the courts in the circuit over which said judge presides. No two or more judges shall appoint the same court reporter. The official court reporter shall be an officer of the court and within his circuit shall have power to administer oaths and shall hold office at the pleasure of the judge, who shall have power to remove said official reporter at any time. The court reporter shall not be related to the trial judge within the fourth degree of consanguinity or affinity, and any appointment of a court reporter so related to the trial judge within the prohibited degree shall be void. The provisions of this section shall not apply to circuits which consist of only one county and have three or more than three judges.

ALA. CODE § 12-17-270 (2006). This provision was last modified in 1940. At that time, there was no regulatory agency established for court reporters. Nevertheless, nothing in section 12-17-270 of the Code exempts an official reporter from being subject to industry standards. By reading sections 34-8B-1 through 34-8B-18, which is the latest expression of the Legislature, in correlation with section 12-17-270 of the Code, the Legislature has determined that the minimum standard for competency of any court reporter or official court reporter is established by the reporter receiving a license from the Alabama Board of Court Reporting.

Section 34-8B-14 of the Code sets out the steps to be taken by persons who were engaged in the profession of court reporting at the time of enactment of this legislation. This section states as follows:

(a) Any person who is engaged in the practice of court reporting on June 1, 2006, and who provides to the board an affidavit setting forth his or her past education and work experience as a court reporter and an affidavit of a judge for whom he or she has worked as an official court reporter or three licensed attorneys,

unrelated by blood or marriage to the person and who have utilized the services of the court reporter, which attests to the court reporter's proficiency in court reporting, upon payment of a fee in an amount determined by the board, shall be licensed to practice as a court reporter.

(b) Any member in good standing of ACRA licensed as a certified shorthand reporter on June 1, 2006, upon payment of the licensure fee in an amount determined by the board, shall be automatically granted a license pursuant to this chapter and thereby may practice as a court reporter.

(c) Members of ACRA who hold the certified shorthand reporter certification and do not apply for certification within one year of June 1, 2006, shall be required to take the certified court reporter examination in order to become a certified court reporter.

ALA. CODE § 34-8B-14 (2010). Although this provision provides a mechanism for current reporters to become licensed, nothing therein exempts an official court reporter from the licensure requirements of the Board.

Based on the foregoing, it is the opinion of this Office that official court reporters are required to be licensed by the Alabama Board of Court Reporting. Absent clear authority exempting a person from state licensure requirements, it is the opinion of this Office that persons seeking to practice professions that are regulated by the State must become licensed before working in that profession.

Based on the conclusions reached in Question One, Question Two is moot.

CONCLUSION

Because there are no licensure exemptions for official court reporters pursuant to state law, official court reporters are required to be licensed by the Alabama Board of Court Reporting.

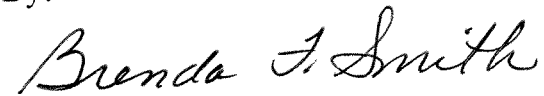
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I hope this opinion answers your questions. If this Office can be of further assistance, please contact Monet Gaines of my staff.

Sincerely,

LUTHER STRANGE
Attorney General

By:

A handwritten signature in cursive script that reads "Brenda F. Smith".

BRENDA F. SMITH
Chief, Opinions Division

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