

FORMAL OPINION NO. 39

. . . requested the opinion of our Committee on Professional Ethics of the Idaho State Bar as to what position an official court reporter should take in the following situations:

During the course of a trial, Counsel A requests the court reporter to prepare certain portions of the testimony to be used presumably on cross-examination later in the trial. During the same trial opposing Counsel B requests the court reporter to furnish him with a copy of any portions of the testimony ordered by Counsel A during the course of the trial.

Our Committee can find no precedents or authority on the question submitted nor upon the proposition as to the propriety of our preparing an opinion. Therefore, we would appreciate your considering this response as merely advisory and recommendatory without binding effect upon either the members of your Association or the members of the Idaho State Bar. (Emphasis supplied.)

While we appreciate that members of your Association would be subject to criticism by Counsel A and B in the situation presented depending upon the position taken by the court reporter, it is our recommendation that the court reporter inform Counsel B that he will be pleased to transcribe any portion of the testimony requested by Counsel B provided Counsel B indicate the portions he desires. The court reporter should not, however, agree to furnish copies of testimony prepared for Counsel A.

DATED December, 1962.