

Faulk, Camilla

From: Mike Rosen [miker2001@msn.com]
Sent: Wednesday, April 27, 2011 5:01 PM
To: Faulk, Camilla
Subject: [New] Rule 4.11 – Recording Witness Interviews

I urge the adoption of the new rule, and also request that it be extended to court of limited jurisdiction.

It is an unnecessary expense for my clients to hire an investigator, when an interview can be easily recorded and transcribed. It is also an added expense to hire that investigator to appear at trial, if necessary.

As defense attorneys, we are often presented with a set of police reports that include written or recorded statements already gathered by the government. Why can't the defense bar have the same access to evidence through recorded statements? We cannot force the people we interview to provide written statements. If we cannot record the interview, then our ability to defend has been diluted, because of the difficulties in impeaching someone at trial with an oral statement not written or recorded, and the occasional denials the statement was accurately repeated by the investigator.

Imagine if prosecutors and police were told they could not record or prepare written statements. That is essentially the defense situation unless the witness is very cooperative. This rule will attempt to even the balance.

I have been involved in several cases where the recording of interviews was allowed and it worked smoothly and facilitated the discovery process.

Again, please adopt the proposed rule.

Thank you for your consideration.

Michael Rosen, WSBA #11532