

From: [SCJA Legislative Committee](#) on behalf of [McDougall, Regina](#)
To: SCJALEGISLATIVE@LISTSERV.COURTS.WA.GOV
Subject: [SCJALEGISLATIVE] FW: HB 1511 SB 5364
Date: Wednesday, March 13, 2013 10:09:08 AM
Attachments: [Anticontract one page-2.docx](#)
[Anticontract one page-3.docx](#)
[CR 28 \(d\) and \(c\).docx](#)
[Court Reporter WACs.docx](#)
Importance: High

I can put these bills on our agenda for Friday...thanks

From: Tom Parker [mailto:tparker011@comcast.net]
Sent: Tuesday, March 12, 2013 5:17 PM
To: McDougall, Regina
Subject: Fwd: HB 1511 SB 5364
Importance: High

Begin forwarded message:

From: "Phyllis Craver Lykken" <phyllis@centralcourtreporting.com>
Date: March 12, 2013 5:38:37 PM PDT
To: <tparker011@comcast.net>
Cc: "GRGardner" <grgardner@comcast.net>, <phyllis@centralcourtreporting.com>
Subject: **HB 1511 SB 5364**

Dear Tom, I am asking that you please forward the below message to your association, as I cannot contact the members via their website and believe this is very important message. Thank you. PCL

Dear Washington Association of Superior Court Judges ,

I am writing today to in my role as President of the Washington Court Reporters Association. We are blowing the whistle on insurance company parties to litigation that are contracting directly with court reporters. They are getting reduced rates and many other services that are not being provided to other parties in the litigation. But what most other parties don't know is that the reduced rates afforded to the contracting side are nearly always shifted to the other parties in the litigation – resulting in increased rates for you and your clients.

I would like to ask for your members to support of H.B. 1511 and S.B. 5364, legislation that I personally have assisted in drafting that would prohibit direct and third-party contracting with court reporters, who are also officers of the court, in the state of Washington. Legislation that prohibits third-

party contracting is needed to ensure ethical practices in court reporting in the state. Currently Washington CR 28 (c) and (d) state:

(c) Disqualification for Interest. No deposition shall be taken before a person who is a relative or employee or attorney or counsel of any of the parties, or is a relative or employee of such attorney or counsel, or is financially interested in the action.

(d) Equal Terms Required. Any arrangement concerning court reporting services or fees in a case shall be offered to all parties on equal terms. This rule applies to any arrangement or agreement between the person before whom a deposition is taken or a court reporting firm, consortium or other organization providing a court reporter, and any party or any person arranging or paying for court reporting services in the case, including any attorney, law firm, person or entity with a financial interest in the outcome of the litigation, or person or entity paying for court reporting services in the case.

Overall, 28 states have legislation that prohibits long-term exclusive contracts and organizations like the Washington State Bar, the Washington State Association for Justice, The Washington Association of Municipal Court Judges, the Washington Court Reporters Association, the American Association of Judges and the National Court Reporters Association are in support of these bills. We have four out-of-state nationwide court reporting firms opposing our legislation. They are contracting directly with insurance companies. They do not pay taxes in this state either. Also Allstate, State Farm and Farmers are opposing these bills.

This legislation prohibits certain practices that WCRA and NCRA find unethical including:

- Requiring comparable treatment of all parties to a proceeding;
- Protects consumer choice of court reporters;
- Manipulating the format of transcripts to increase the cost;
- Offering a no-cost copy of a transcript to one party.

Third-party contracting is solely related to ethics in the court reporting profession. Even the *appearance* of impropriety among court reporters is highly problematic. Court reporters cherish our roles as the guardian of the official court record. We are a neutral side in any court case, hearing, or deposition and serve only to chronicle what was said. When court reporting firms and court reporters offer different services, specifically join the advocacy support team, and offer dramatically different rates to parties for the same end product, that line is significantly blurred. Another thing court reporting agencies are engaging in while providing nationwide contracting with insurance companies is WITHHOLDING transcripts from one side for weeks and sometimes months and giving them to the contracted party immediately. This legislation will prevent this from occurring and raise the standards of court reporter ethics in Washington state.

With the support of organizations like the Washington State Bar, the Washington State Association for Justice, the Washington Municipal Judges Association and hopefully the Washington Association of Superior Court Judges for H.B. 1511 and S.B. 5364, we are hopeful that this legislation will pass into law. Please join us in supporting legislation that will provide equal and ethical access to justice for all Washington Consumers.
Sincerely,



Phyllis Craver Lykken, WCRA President
425.747.3016
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Tom Parker
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Washington Court Reporters Association

www.washingtoncourtreporters.org

Just what sort of things do big out-of-state court reporting firms linked to Big Insurance Companies & Corporate clients do that HB 1511 and SB 5364 would prohibit?

They want certified court reporters in Washington to disregard State and Federal Court Rules and:

- Provide special financial terms and other services that are not offered at the same time and the same terms to both sides in a deposition proceeding.
- Give Big Insurance Companies an economic advantage over any another party, representative, or agent in a deposition proceeding.
- Give them a preferential pricing that is not provided to the other side in a deposition proceeding.
- Manipulate the formatting of a transcript to affect the overall costs.
- Provide support services to their side that aren't offered to the other side.
- Give them a copy of a deposition transcript to utilize and review first rather than giving it to both sides at the same time.
- Relinquish control of the transcript before it is certified.

These items are all listed in Section 6 of HB 1511 and SB 5364 as new prohibited practices and should be in state law, just as they are in court rules.

Remember – court reporters are *officers of the court* just like judges. Would you let an insurance company contract for a judge they liked or gave them preferential treatment? They shouldn't be contracting with court reporters for the same thing.

The Washington Court Reporters Association, the National Court Reporters Association, The Washington State Bar Association, the Washington State Association of Justice, The American Judges Association, and the National Conference of Metropolitan Courts all say these practices should be banned because they tilt the scales of justice in favor of Big Insurance Companies and Corporations.

HB 1511 and SB 5364 protect Washington consumers and keep the scales of justice balanced.

Please support HB 1511 and SB 5364

EQUAL TERMS + EQUAL ACCESS = JUSTICE FOR ALL

For questions please contact:

Gary Gardner, 206-669-0548 grgardner@comcast.net

Phyllis Craver Lyken 425-749-1931 phyllis@centralcourtreporting.com



Washington Court Reporters Association

www.washingtoncourtreporters.org

The Truth About HB 1511 and SB 5364 Court Reporter Practices Act

Big Insurance Companies and big out of state court reporting firms don't want you to pass HB 1511 and SB 5364 which will codify existing prohibitions in statute against certain unethical practices.

The big insurance companies and their allied court reporting firms will tell you it's about contracting for "bulk rates" and them saving costs and keeping insurance rates low. Don't be fooled. It's not. There is nothing in HB 1511 and SB 5364 that prohibits them from negotiating rates for court reporting services, as long as those rates are offered on a case-by-case basis to BOTH sides in a proceeding. Court reporting services are NOT a commodity like paper clips. One doesn't contract for bulk judicial services. We don't allow contracting for all the services of a certain judge (or even a for-profit non court arbitrator). Why should we allow them to contract for all the services of a court reporter, *an officer of the court*, whose job is to be the neutral observer and treat both sides equally? It's a breach of judicial ethics to charge one side a higher rate to take a deposition than another, and is prohibited by court rules.

Sometimes these firms demand that court reporters relinquish control of a final transcript and require it be sent to a central processing location. This infringes directly on the court reporter's role as the impartial keeper of the record. In some instances they have even been required to send a *blank certification page*. When the tasks of certification and delivery is taken out of the hands of the reporter taking the record and handled by firms once or twice removed and remotely located from the reporter, the standards of maintaining custody and authentication of the record is rendered meaningless.

Prohibiting contracting, either directly or through a third-party, is related to ethics in the court reporting profession and their responsibility to Washington consumers as officers of the court. Even the *appearance* of impropriety among court reporters is highly problematic. Court reporters cherish their roles as the guardian of the official court record. They are a neutral side in any court case, hearing, or deposition and serve only to chronicle what was said. When court reporting firms and court reporters offer different services, specifically join the advocacy support team, and offer dramatically different rates to parties for the same end product, that line is significantly blurred. This legislation will prevent this from occurring and raise the standards of court reporter ethics in Washington state.

These big insurance firms and out of state court reporting agencies have been ignoring these court rules, which is why we need to codify these prohibitions in statute.

This is why such organizations as the **Washington State Bar Association**; the **Washington Association for Justice**; The American Judges Association; the National Conference of Metropolitan Courts; The Washington Municipal Judges Association, and NCRA, join with the Washington Court Reporters

PLEASE SUPPORT HB 1511 and SB 5364

For questions please contact:

Gary Gardner, 206-669-0548 rggardner@comcast.net

Phyllis Craver Lyken 425-749-1931 phyllis@centralcourtreporting.com

RULE CR 28

PERSONS BEFORE WHOM DEPOSITIONS MAY BE TAKEN

(c) Disqualification for Interest. No deposition shall be taken before a person who is a relative or employee or attorney or counsel of any of the parties, or is a relative or employee of such attorney or counsel, or is financially interested in the action.

(d) Equal Terms Required. Any arrangement concerning court reporting services or fees in a case shall be offered to all parties on equal terms. This rule applies to any arrangement or agreement between the person before whom a deposition is taken or a court reporting firm, consortium or other organization providing a court reporter, and any party or any person arranging or paying for court reporting services in the case, including any attorney, law firm, person or entity with a financial interest in the outcome of the litigation, or person or entity paying for court reporting services in the case.

[Amended effective July 1, 1972; amended effective September 1, 2001; September 1, 2005.]

308-14-130

Standards of professional practice.

All certified court reporters (CCR) shall comply with the following professional standards except where differing standards are established by court or governmental agency. Failure to comply with the following standards is deemed unprofessional conduct. Certified court reporters shall:

- (1) Offer arrangements on a case concerning court reporting services or fees to all parties on equal terms.
- (2) Include on all transcripts, business cards, and advertisements their CCR reference number.
- (3) Prepare transcripts in accordance with the transcript preparation guidelines established by WAC [308-14-135](#) or court.
- (4) Preserve and file shorthand notes in a manner retrievable. Transcribed notes shall be retained for no less than three years and untranscribed notes shall be retained for not less than ten years, or as required by statute, whichever is longer.
- (5) Provide transcripts on agreed delivery date, and give notification of any delays.
- (6) Prepare accurate transcripts.
- (7) Disclose conflicts, potential conflicts, or appearance of conflicts to all involved parties.
- (8) Be truthful and accurate in advertising qualifications and/or services provided.
- (9) Preserve the confidentiality of all information obtained during a proceeding and take all steps necessary to ensure its security.
- (10) Notify all involved parties when transcripts are ordered.
- (11) All parties shall be notified when a transcript is ordered by a person not involved in the case. If any party objects, the transcript cannot be provided without a court order.
- (12) Supply certified copies of transcripts to any involved party, upon appropriate request.

[Statutory Authority: RCW [18.145.050](#), [43.24.023](#). 04-17-072, § 308-14-130, filed 8/13/04, effective 9/13/04. Statutory Authority: RCW [18.145.050](#) and [43.24.020](#). 91-20-002 and 91-20-044, § 308-14-130, filed 9/19/91 and 9/24/91, effective 10/20/91 and 10/25/91. Statutory Authority: RCW [18.145.050](#). 90-20-008, § 308-14-130, filed 9/20/90, effective