

Tracy, Mary

From: OFFICE RECEPTIONIST, CLERK
Sent: Monday, April 13, 2015 10:10 AM
To: Tracy, Mary
Subject: FW: CORRECTIONS RE: GR 9 - Proponent: Washington Court Reporters Association
Attachments: BJA's ltr to The Honorable Madsen explaining corrections - 2nd amended .pdf; Second Amended Suggested Rule Change.docx

For you ☺

Kris

From: Yu-Shan Sheard [mailto:Yu-Shan.Sheard@stokeslaw.com]
Sent: Monday, April 13, 2015 9:49 AM
To: Hinchcliffe, Shannon; OFFICE RECEPTIONIST, CLERK
Cc: Bradford Axel; Joan Hemphill
Subject: CORRECTIONS RE: GR 9 - Proponent: Washington Court Reporters Association

Dear Ms. Sullins and Clerk of the Court,

Respectfully submitted is a letter from Mr. Bradford J. Axel to the Honorable Barbara Madsen explaining certain corrections made to the suggested rule changes previously submitted in November, 2014.

A WORD version of the Amended Suggested Rule Change is also attached. Original will follow via Federal Express.

Yu-Shan Sheard
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From: Yu-Shan Sheard
Sent: Friday, November 21, 2014 2:16 PM
To: 'Nan.Sullins@courts.wa.gov'; 'Supreme@courts.wa.gov'
Cc: Bradford Axel; Joan Hemphill
Subject: CORRECTIONS RE: GR 9 - Proponent: Washington Court Reporters Association

Dear Ms. Sullins and Clerk of the Court,

Respectfully submitted is a letter from Mr. Bradford J. Axel to The Honorable Barbara Madsen explaining certain corrections made to the suggested rule changes previously submitted on October 14, 2014.

A WORD version of the Amended Suggested Rule Change is also attached. Original will follow via Federal Express.

Yu-Shan Sheard
Practice Assistant
Stokes Lawrence, P.S.

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From: Yu-Shan Sheard
Sent: Tuesday, October 14, 2014 3:42 PM
To: 'Nan.Sullins@courts.wa.gov'; 'Supreme@courts.wa.gov'
Cc: Bradford Axel; Joan Hemphill
Subject: GR 9 - Proponent: Washington Court Reporters Association

Dear Ms. Sullins and Clerk of the Court,

Respectfully submitted are 1. GR 9 Coversheet, 2. Proposed Rule Changes, and 3. Supporting Materials Exhibits A through I re suggested changes to Civil Rule 28, Civil Rule 80, and Rule of Appellate Procedure 9.2.

The originals will follow via Federal Express to Justice Barbara Madsen for delivery tomorrow morning.

Respectfully,

Yu-Shan Sheard
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April 13, 2015

Via Federal Express

Honorable Chief Justice Barbara Madsen
Washington Supreme Court
P.O. Box 40929
Olympia, Washington 98504-0929

Re: Second Amended Suggested Rule Change to CR 28(d) from Washington Court
Reporters Association

Dear Justice Madsen:

In October 2014 the Washington Court Reporters Association (WCRA) submitted a series of proposed rule changes to the Civil and Appellate Rules for consideration by the Court. Several of those proposals concerned CR 28, which governs who may take depositions and on what terms their services may be offered to the parties. In November 2014 WCRA proposed a slight change of its suggested amendment to CR 28(d), changing the word “person” to “judicial officer.” Since then, WCRA has received feedback from a number of sources regarding this particular proposal. A common concern has been the lack of teeth in the rule when reporters or reporting firms offer deposition transcripts at different rates to different parties, a regular practice among some firms.

In light of this response, WCRA proposes that its original suggested change be strengthened to give superior courts the express authority to sanction persons who contribute to a violation of CR 28’s equal terms requirement. Without such an enforcement mechanism, there is much less incentive for court reporting firms to adhere to the rule.

The suggested change made today as well as WCRA’s prior proposed changes to Rule 28(d) are set forth below for reference.

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Stokes Lawrence, P.S.

<u>Date</u>	<u>Proposed Additional Language to CR 28(d)</u>
October 2014	At the discretion of the person before whom the deposition is taken, counsel for all parties and the court reporter who reported the deposition may be required to sign an affidavit that all court reporting services in the case have been offered to all parties on Equal Terms.
November 2014	At the discretion of the judicial officer before whom the deposition is taken, counsel for all parties and the court reporter who reported the deposition may be required to sign an affidavit that all court reporting services in the case have been offered to all parties on Equal Terms.
April 2015	Any party or counsel of record for a party may request that the court reporter or court reporting firm providing or arranging for the court reporting services file an affidavit with the Court affirming that all such services have been provided to all parties on equal terms. The affidavit shall be filed within 10 days of any request. If the affidavit is not timely filed, the Court may sanction the court reporter and court reporting firm of whom the request was made. If court reporting services have not been provided on equal terms, the Court may sanction the court reporter, the court reporting firm, as well as the counsel or party who hired the reporter or firm to provide the court reporting services.

Thank you and the Court for your consideration of this matter.

Sincerely,

STOKES LAWRENCE, P.S.



Bradford J. Axel

Enclosure

1 SECOND AMENDED SUGGESTED CHANGE TO CIVIL RULE 28

2 (c) **Disqualification for Interest.** No deposition shall be taken before a person who is a
3 ~~relative or employee or attorney or counsel of any of the parties, or is a relative or employee of~~
4 ~~such attorney or counsel, or is financially interested in the action, with an interest in the action in~~
5 which the deposition is being taken. For purposes of this rule, interested persons include:

6 (1) any person who is a family member or employee of a party or a party's counsel;

7 (2) any person who is counsel for a party;

8 (3) any person who could receive a financial benefit, or incur a financial loss, based on the
9 outcome of the action;

10 (4) any person who has contracted with a party or a party's counsel to provide court reporting
11 services across multiple actions; and

12 (5) any person who is employed or hired, directly or indirectly, by a court reporting firm,
13 consortium or organization that has contracted with a party or a party's counsel to provide
14 court reporting services across multiple actions.

15 (d) **Equal Terms Required.** Any arrangement concerning court reporting services or fees in a
16 case shall be offered to all parties on equal terms. This rule applies to any arrangement or
17 agreement between the person before whom a deposition is taken or a court reporting firm,
18 consortium or other organization providing a court reporter, and any party or any person
19 arranging or paying for court reporting services in the case, including any attorney, law firm,
20 person or entity with a financial interest in the outcome of the litigation, or person or entity
21 paying for court reporting services in the case. Any party or counsel of record for a party may
22 request that the court reporter or court reporting firm providing or arranging for the court
23 reporting services file an affidavit with the Court affirming that all such services have been
24 provided to all parties on equal terms. The affidavit shall be filed within 10 days of any
25 request. If the affidavit is not timely filed, the Court may sanction the court reporter and court
26 reporting firm of whom the request was made. If court reporting services have not been

1 provided on equal terms, the Court may sanction the court reporter, the court reporting firm, as
2 well as the counsel or party who hired the reporter or firm to provide the court reporting services.

3
4 **(e) Control of the Transcript.** The court reporter reporting a deposition shall not relinquish
5 control of the deposition transcript in a manner that would prevent the court reporter from
6 reviewing the production, distribution, charges and invoicing for the transcript before the
7 transcript is certified and delivered to the custodial attorney.