

## Tracy, Mary

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**From:** OFFICE RECEPTIONIST, CLERK  
**Sent:** Thursday, March 26, 2015 12:42 PM  
**To:** Tracy, Mary  
**Subject:** FW: Opposition to proposed amendments to CR 28

Another one for you 😊

**From:** Marsha Naegeli [mailto:Marsha@NaegeliUSA.com]  
**Sent:** Thursday, March 26, 2015 12:35 PM  
**To:** OFFICE RECEPTIONIST, CLERK  
**Subject:** Opposition to proposed amendments to CR 28

The following is my comment of the proposed amendments to CR 28:

The purpose of the proposed amendment of CR 28 is to limit competition from other court reporting firms outside the state of Washington. It is important we start here so that you see what the real motivation is under this so called “unethical behavior” that all these other court reporting firms are supposedly doing. The proposal is nothing more than a Trojan horse all dressed up in supposed “unethical behavior”. The Washington stenography association is well known for calling healthy competition “unethical behavior”.

Periodically, every court reporting firm is requested by local clients to cover depositions outside their local state. Also, court reporting firms in Washington contact independent contractor court reporters all throughout the United States having them work for them in other states and then produce and bill their local Seattle client for the deposition taken. Court reporting firms throughout the United States work back and forth on a regular basis.

Stenography is being replaced by other court reporting technologies such as voice recognition reporting, electronic reporting, video reporting, etc. Technology is changing an industry that was once only the stenograph typing machine.

The stenographers association known as WCRA, has made numerous attempts in the past with the Washington State legislature to pass laws or make amendments much like the proposed CR 28 amendment; all to no avail. Two almost passed because on the surface it looked like consumer protection. It was not until the legislature looked behind the curtain and realized the motive was really anti-competitive legislation, and their bills were stopped cold.

The stenography association has not only beat on the door of the Washington Legislature, but has also approached the Department of Licensing over and over and now the Supreme Court. Once the Washington legislature and the Department of Licensing were educated on the motive of the stenography association (WCRA), none of them wanted to touch their requested changes. They are now desperate and trying to keep competition out of the state of Washington by proposing this change to Civil Rule 28. Please do a thorough investigation before making a decision on false premises.

Following are specific points addressing the basic proposed amendments to CR 28:

1. The proposal states that this will ensure deposition transcripts are offered to all parties on equal terms. You CANNOT offer all parties equal rates, because depositions are an original transcript and a copy transcript order, which have different page rates every time they are billed. The original page rate in Western Washington is \$4.00-\$4.25 per page and a copy page rate is \$2.75-\$3.00 per page. This proposal is claiming it will address

unequal rates to attorneys; however, you cannot charge equal rates on depositions ordered because there is an original ordering attorney and a copy ordering attorney; both always have different rates.

2. The proposal states that they are against a discount on multiple cases for an attorney; however, it is just fine to do multiple depositions on a single case wherein you give a discount. This does not make sense! Why is giving an attorney a discount on every deposition he schedules with your firm not acceptable, but it is appropriate when it is reporting depositions on only one case? Obviously, it is not.
3. The proposed CR 28 revision requires that the independent court reporter keep complete control of the deposition transcript, be involved in the production, the distribution and the invoicing of the transcript. Again, the contract is a business to business contract between the court reporting firm and the individual reporter. Every independent contractor reporter who works for a firm relinquishes control of the transcript to that firm. It is one business doing business with another. For example, the Smith Reporting Firm is hiring independent contractor court reporter, Jennifer Johnson, who is her own business. Each court reporting firm, including all of them in Washington, produce and bill the deposition. It is almost unheard of where a independent contractor court reporter would ever conceive of producing and sending out the deposition and billing for the deposition. Court reporting firms have entire production and accounting departments and most independent court reporters work out of their home with no ability to produce the transcripts and bill the attorney.
4. The current CR 28 states: “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 an attorney or counsel or is financially interested in the action”. The stenographer association, WCRA, is trying to change that statement to mean that any court reporter who works on a case has a financial interest. THAT IS NOT THE SPIRIT OR MEANING OF WHAT IS CURRENTLY IN CR 28. The current CR 28 does not want a deposition to be taken by a reporter who is going to receive income from being a plaintiff or defendant or receive income indirectly from being married or related to someone who is a plaintiff or defendant. This attempt to make it so that any court reporter who works on any case be considered a “financially interested party in the action” is absurd.
5. The proposed CR 28 change also makes it acceptable that attorneys and court reporters have to sign affidavits that court reporting services have been offered to all parties on equal terms. Another preposterous and ridiculous request. First of all, you cannot do equal rates for all parties in a deposition, because the original and the copy are billed at different rates in every deposition throughout the United States. The attorney paying for the original and the attorney paying for the copy pay different rates on every deposition. The attorneys would have no idea what rates were being billed to every attorney on a deposition and the contractor court reporter is not privy to the court reporting firm’s invoices and the rates they charge. Again, an independent contractor court reporter is its own business and contracts to perform work for the court reporting firm, period.

Thank you for your contemplation of my concerns.

Best regards,

Marsha J. Naegeli, President /CEO  
National Court Reporting Instructor (CRI)  
National Certified Manager of Reporting Services (CMRS)