

Tracy, Mary

From: Hinchcliffe, Shannon
Sent: Wednesday, April 29, 2015 8:56 AM
To: Tracy, Mary
Subject: FW: Proposed Rule Changes

From: Pat Lessard [mailto:pat@court-reporter.com]
Sent: Tuesday, April 28, 2015 11:23 PM
To: AOC DL - Rules Comments
Subject: Proposed Rule Changes

Dear Honorary Members of the Supreme Court Rules Committee:

As a Washington State Certified Court Reporter, I am writing to urge you to adopt the proposed changes to 28(c), (d) and (e). I believe in providing equal and neutral terms to all litigants. I want to make sure that transcripts are offered to all parties when ordered, delivered to all parties simultaneously at equal rates for equal services in a case. The legitimacy of our judicial system rests on not only the actual, but the *perceived* impartiality of all officers of the court, including those who preside over and report depositions.

I have been a freelance court reporter in Seattle, Washington, for 40 years. During my early years, there were some steno pad pen writers, but by the 80s most reporters were shorthand reporters who were utilizing computers. The 90s saw the advent of voice writers and more video depositions. But regardless of the means of producing a transcript, the official of the court who produced the record for the parties was always an impartial party to the proceedings. That was true until recently when the practice of third-party contracting became a common practice. There are some who would argue that changes in technology changes the need for this impartiality which is simply not true. The little guy who comes in to a deposition to take discovery in a case should have just as many rights as the big guys do.

Regarding 28(c), I believe the changes outlined will prohibit the practice of insurance companies and large corporations entering into exclusive agreements or contracts with court reporting firms or networks that require the provision of preferential services and pricing offered to one of the party litigants that are not offered equally to all of the parties. In a typical arrangement, an insurance company will agree to use one court-reporting agency exclusively to report all their depositions in exchange for offering reduced rates and other special perks. These reduced rates and special services are not afforded to parties who are not contracted.

Regarding 28 (d), the proposed change to 28(d) will allow for a system in place wherein court reporters and, very importantly, court reporting firms can be required to show proof of equal terms and be held accountable by being required to sign an affidavit of equal terms upon request.

Regarding 28(e), all certified court reporters should have complete and final control of their transcripts. The proposed change to 28(e) will prevent contracting court reporting firms from making changes to transcripts after the original transcript has been completed. It will also allow certified court reporters to ensure equal terms have been provided to all parties, which has already been called out in the rule, but there is currently no means or requirements related to enforcement. Lastly, it will prevent unethical and unscrupulous "stretching" of transcripts by changing the characters per line of the transcript in order to create a longer transcript to bill for.

Some have alleged that these proposed changes are about limiting competition. Not so. It is about protecting consumers, especially plaintiff litigants, as they are generally the ones targeted with what's known as "cost shifting" by the contracting firms. By cost shifting, contracting firms attempt to recover the losses sustained from offering reduced rates to large corporate clients and insurance companies by artificially inflating costs to non-contracted parties.

The adoption of CR 80, which currently reads "Except as otherwise ordered by the court the minimum qualification to become an authorized transcriptionist in order to complete and file an official certified court transcript from electronically recorded proceedings is certification as a court reporter or certification by AAERT (American Association of Electronic Reporters and Transcribers) or proof of one year of supervised mentorship with a certified court reporter or an authorized transcriptionist. Courts may require additional or different qualifications or at their discretion" should exclude the unintentionally added words "or different" in the last sentence. This changes the intent of the proposed rule entirely. Please adopt the proposed amendment to 80(d) as well. RAP 9.2(g) is important and should be adopted because the official record should be transcribed by the court reporter who actually reported the proceedings. Thank you.

Thank you for your attention,

Pat Lessard
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