

Superior Court of the State of Washington For Thurston County

Gary R. Tabor, *Judge*
Chris Wickham, *Judge*
Anne Hirsch, *Judge*
Carol Murphy, *Judge*
James Dixon, *Judge*
Erik Price, *Judge*
Christine Schaller, *Judge*
Mary Sue Wilson, *Judge*



Indu Thomas,
Court Commissioner
Jonathon Lack,
Court Commissioner
Pamela Hartman Beyer,
Court Administrator

2000 Lakeridge Drive SW • Building Two • Olympia WA 98502
Telephone: (360) 786-5560 Website: www.co.thurston.wa.us/superior

August 17, 2016

To: Supreme Court Clerk

Sent via email to supreme@courts.wa.gov

Re: Public Comment of Proposed Changes to CR 28(d)

Dear Supreme Court Clerk and Committee Members,

Thank you for the opportunity to comment on proposed amendments to court rules related to court reporters. The members of this trial court are dedicated to ensuring timely resolution of disputes and providing due process to all persons who appear before our court. Our comments are offered in that spirit.

The proposed amendment to CR 28(d) would introduce a new, unprecedented judicial enforcement role with regard to court reporters who are the subject of allegations that their court reporting services have not been provided on equal terms.

We agree with the proposed rule amendment's goal – to ensure transcripts are offered on equal terms in order to promote the neutrality and impartiality of court reporters. However, we do not believe the proposed rule adequately addresses how courts would implement their new enforcement function. The proposed rule does not specify procedures for notifying a court reporter of possible sanctions or affording the court reporter an opportunity to respond. The proposed rule simply authorizes the court to sanction a person or firm when services have not been on equal terms.

We also have concerns about the prospect of the judiciary imposing sanctions on court reporters who are not parties to superior court proceedings and who, therefore, may not be subject to the court's jurisdiction.

The Department of Licensing presently regulates "certified court reporters" and requires that services be provided on equal terms. RCW 18.145.120; .130; WAC 308-14-130(1). The Department of Licensing also has rules for notice, deadlines, hearings, and appeal rights applicable to proceedings addressing allegations of non-compliance with professional license requirements. See WAC 308-08. We believe the Department of Licensing is better suited than

trial courts to oversee, in the first instance, compliance with professional license requirements, including licenses of court reporters. Department of Licensing decisions are, of course, subject to court review under the Administrative Procedure Act.

The sponsoring organizations suggest that the proposed rule amendment is necessary because of reported abuses by court reporting firms based in other states. A concern expressed by the sponsoring organizations is that out-of-state reporting firms may not be regulated by the Washington State Department of Licensing. Before creating a court oversight role that includes out-of-state professionals, we recommend that the Supreme Court ask the Department of Licensing to evaluate this topic. Evaluation should include addressing questions of personal jurisdiction over out-of-state professionals and recommendations regarding providing due process prior to the imposition of sanctions.

In summary, we do not support the proposed amendment to CR 28(d). We believe it unwise at this time to introduce a judicial enforcement role over court reporters. We would be happy to meet with you or members of the sponsoring organizations to discuss our comments.

Respectfully,

Thurston County Superior Court Judges



Carol Murphy
Presiding Judge

Tracy, Mary

From: OFFICE RECEPTIONIST, CLERK
Sent: Wednesday, August 17, 2016 12:36 PM
To: Tracy, Mary
Subject: FW: Public Comment regarding proposed changes to CR 28(d)
Attachments: Public Comment on Proposed Changes to CR 28(d) from the Thurston County Superior Court Bench.PDF

Importance: High

This one is for you Mary. Let me know if you would like me to process it.

From: Pam Hartman-Beyer [mailto:hartmap@co.thurston.wa.us]
Sent: Wednesday, August 17, 2016 12:00 PM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Subject: Public Comment regarding proposed changes to CR 28(d)
Importance: High

Attached is Thurston County Superior Court comments regarding proposed changes to CR 28(d). Please confirm that you have received the attachment. Thank you for your consideration.

Pam

Pam Hartman Beyer
Superior Court Administrator
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