

## Tracy, Mary

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**From:** OFFICE RECEPTIONIST, CLERK  
**Sent:** Thursday, August 18, 2016 11:19 AM  
**To:** Tracy, Mary  
**Subject:** FW: Proposed changes to CR 28(d), CR 28(e) and CR 30(b)(1)



**From:** Sandy Nelson/CPR [mailto:sandy@capitolpacificreporting.com]  
**Sent:** Thursday, August 18, 2016 11:11 AM  
**To:** OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>  
**Subject:** Proposed changes to CR 28(d), CR 28(e) and CR 30(b)(1)

Dear Members of the Supreme Court:

As a certified court reporter and firm owner in Washington State, I am writing to urge you to adopt the proposed changes to CR 28(d), CR 28(e), and CR 30(b)(1) for all the reasons listed below which you have, no doubt, read several times over by now. Thank you for taking the time to consider the importance of neutrality and equal terms in our industry.

Change to CR 28(d). Nearly 20 years ago, court reporters and court reporting firms engaging in third-party contracts with parties-in-interest to lawsuits became an issue of national significance, calling into question the time-honored neutrality of the court reporter and causing increasing concern within the legal community. A court reporting firm that has a long-term contract with one of the parties is not a disinterested person under CR 28(c).

In Washington there currently is no means for ensuring that all parties are receiving the deposition transcript on equal terms as proposed CR 28(d) envisions. Instead, whether parties are treated equally is left to the discretion of the court reporting firm that invoices each party. If a party suspects one side may be receiving discounts or lower pricing for the same services, 28(d) would allow a mechanism whereby they can request that an affidavit of equal terms be submitted to the Court. 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 contracted with the firm to provide the court reporting services. This will provide quick resolution of any concerns and provide clear transparency.

Change to CR 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 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.

Change to CR 30(b)(1). The proposed amendment would require the deposition notice to disclose the existence of any known contractual relationships between the noticing party, its counselor, a third party paying to record the noticed deposition and the person, court reporting firm, consortium, or other organization providing a court reporter for the noticed deposition, and will state whether the noticing party or a third party directed his or her attorney to use a particular court reporting firm. Disclosure of contractual relationships on the Notice of Deposition before depositions take place just makes sound sense.

The foundation of our justice system is providing fair and equal access to justice for all. To allow one party a financial advantage over the other side is contrary to these fundamental principles. Third-party contracting gives the appearance of

compromising the court reporter's impartiality and integrity and restricts the ability of the reporter to be accountable to the court, to the public, and, most importantly, to the individual litigant. Why would anyone oppose providing all parties to a lawsuit equal terms?

I hope the Washington State Supreme Court will set a precedent by making it possible to hold all parties engaging in unethical practices accountable for their actions.

Warm Regards,

*Sandra Nelson, CCR*

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