

Esquire Deposition Solutions, LLC
Magna Legal Services, LLC
U.S. Legal Support Inc.
Veritext, LLC

Via email: supreme@courts.wa.gov.

April 1, 2020

Hon. Charles W. Johnson, Assoc. Chief Justice
Chair, Court Rules and Procedures Committee
Washington Supreme Court
P.O. Box 40929
Olympia, WA 98504-0929

Re: Comments on Proposed Amendments to CR 30

Dear Justice Johnson:

On behalf Esquire Deposition Solutions, LLC, Magna Legal Services, LLC, U.S. Legal Support Inc., and Veritext, LLC, we submit the following in qualified support of the proposed rulemaking involving Civil Rule 30, Depositions Upon Oral Examination.

We wholeheartedly support the basic proposal; that is, permitting the officer to administer the oath and record the testimony from a remote location. The reasoning set forth by the proponents is apt – time, cost, and the shortage of court reporters. Add the pressing concerns of Covid-19 and the instances of “safe at home” orders and the logic for remote reporting is all the more compelling.

With respect, we do object, however, to the requirement that the reporter be physically located in WA. Excerpt from the proposal:

However, such oath and recording may be administered by the officer from a location remote from the deponent, *provided that the officer is located within this state.* (emphasis added)

This caveat undercuts the logic of the rule. As long as the court reporter is otherwise authorized to administer the oath and recording in WA, it makes no sense (and may run afoul of the US Constitution¹) to draw an artificial state boundary. All else being equal, if obviating physical distance is the objective, how can interposing a state boundary be justified, much less helpful? We express no opinion with respect to the rule proponent’s intent, but do observe that such a

¹ Although we do not imagine this matter coming to Constitutional blows, we feel compelled to point out the very real encroachment and potential violation of the Commerce Clause, Art.1 §8. The Commerce Clause of the US Constitution reserves to Congress the ability to regulate commerce “among the states.” Any state regulation that expressly discriminates against interstate commerce or has the effect of unreasonably burdening interstate commerce (the so-called Dormant Commerce Clause), is unconstitutional.

requirement, absent some compelling explanation (none is offered), is anti-competitive. That aside, consider the case, not uncommon, of the court reporter dually licensed in Oregon and Washington who is physically located in Oregon due to a health quarantine or travel ban. We see no reason why a state border should disqualify what is already a remote deposition.

To conclude, a rule change to permit a remotely administered oath and deposition recording makes sense for a host of valid reasons with no downside that we can see. Our only objection is to the requirement for the in-state presence of the reporter, something that subverts the logic of the baseline premise with only deleterious effect.

Sincerely,

Avi Stadler / vj

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Esquire Deposition Solutions, LLC

Barbara Previ / vj

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David Hankey / vj

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Judith Kunreuther / vj

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General Counsel
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From: [OFFICE RECEPTIONIST, CLERK](#)
To: [Tracy, Mary](#)
Subject: FW: Comment re Proposed Amend CR30
Date: Tuesday, March 31, 2020 2:04:05 PM
Attachments: [WASCTComment3-31-20.pdf](#)

From: Mickey Faigen [mailto:mfaigen@issuesllc.com]
Sent: Tuesday, March 31, 2020 1:09 PM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Subject: Comment re Proposed Amend CR30

To the Clerk of the Court:

Please find the attached comments to proposed rulemaking regarding CR 30 on behalf of:

Esquire Deposition Solutions, LLC
Magna Legal Services, LLC
U.S. Legal Support Inc.
Veritext, LLC

These comments are also being sent by US Mail.

Thank you.

Mickey Faigen

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