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Subject: FW: Washington CR 30
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From: Marsha Naegeli [mailto:Marsha@naegeliusa.com]
Sent: Thursday, April 16, 2020 4:18 PM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Subject: Washington CR 30

Dear Members of the Supreme Court Rules Committee:

As the Founder and President of a nationwide court reporting firm, which has been in business for over 40 years, I welcome the use of remote technology in order to administer oaths and report testimony for legal proceedings. Technology is continuously changing, and the various statutes and court rules must allow for new innovations. In that regard, I whole heartedly agree with the proposed changes to Washington CR 30. I do however object to the proposed section which states, "provided that the officer is located in the state."

Currently, there is a severe shortage of court reporters in the United States. In 2019 the Wall Street Journal reported that roughly 18% of stenographic reporters have retired since 2015. Due to the growing number of court reporters retiring and fewer schools offering programs for reporting, the number of court reporters declines each year. The use of remote technology allows for court reporters to expand their reach and help mitigate the reduction of available reporters.

The Washington Court Reporters Association is aware that changes to the court rules could allow Washington certified court reporters, located outside of the state, to be permitted to conduct remote depositions. The Association perceives this as a threat to their livelihoods. In an attempt to keep competition outside of the state, the Association has purposefully placed the requirement for the court reporter to be located within Washington. This requirement is nothing more than an anti-competitive move.

Several Washington agencies, and well as Courts, utilize remote testimony through telephonic means. These Washington agencies include the Department of Licensing (DUI hearings), Labor and Industries (unemployment hearings) and the Board of Industrial Insurance Appeals. WAC 263-12-117 specifically allows for a court reporter to swear in the deponent, "regardless of the deponent's location within or outside the state of Washington." WAC 263-12-117 does not require the court reporter to be within the state of Washington, nor should CR 30. Once again, this language is anti-competitive in its very nature. The physical requirement of being within the state should not be placed solely upon the court reporter but should read, "either the court reporter or the witness" must be located within the state of Washington, which is exactly what the state of Oregon requires in ORCP 38(A)(2).

Alternatively, I would propose that Washington adopt the language that the state of Oregon has set

forth regarding remote testimony. ORPC 39C(7) allows for telephonic depositions where, “the oath or affirmation may be administered to the deponent, either in the presence of the person administering the oath or over the telephone.” In 1992, Oregon wanting to encourage the use of technology, adopted language that allowed remote swearing in as long as the person administering the oath, or the witness was in Oregon. In the year 2020, Washington should also adopt this language which will encourage the use of technology.

In conclusion, I am in favor of the proposed changes to CR 30, however I do oppose the requirement that the officer must be located within the state. This requirement would severely restrict the exercise of free trade and limit the open market within the state of Washington.

Respectfully submitted,

Marsha J. Naegeli
Founder/CEO
NAEGELI Deposition and Trial