

# WASHINGTON STATE BAR ASSOCIATION

Board of Governors

Rajeev Majumdar, President

March 20, 2020

Justice Charles Johnson  
Chair of the Supreme Court Rules Committee  
Washington Supreme Court  
PO Box 40929  
Olympia, WA 98504-0929

**re: Advisement re the Matter of the Proposed Amendments to CR 30 – Depositions Upon Oral Examination, Publication Order 25700-A-1279**

- 1. Expediting consideration *in re*: Covid-19; and**
- 2. Broadening application outside of state boundaries *in re*: Covid-19.**

Dear Justice Johnston:

In December 2019, the Court ordered the publication of the Washington Court Reporters Association (“WCRA”) sponsored proposed amendment to CR 30 which would allow court reporters and other officers to place a deposition witness under oath remotely, and allow parties to take full advantage of CR 30(b)(7) telephonic or videoconference depositions.

At the time they submitted their GR 9 cover sheet, WCRA did not request expedited consideration pursuant GR 9(e)(2)(E). However, at this time, there are circumstances that I believe justify expedited consideration of the suggested changes, and I would request the Court end its comment period early and consider this proposal at its upcoming April *en banc* meeting.<sup>1</sup>

Those circumstances are the emergence and rapid expansion of the Novel Coronavirus, and this Court’s unprecedented actions to limit the virus’s spread.

After having a conversation with the WCRA, we realized that this rule would have immediate effect on our ability to keep our justice system functioning, while protecting court reporters, legal professionals, and the participants in our system from exposure to the Novel Coronavirus.

However, this proposed rule allows only for remote oath administration only for depositions taken within this state. Considering our current situation, it may make sense to broaden that. I have

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<sup>1</sup> To date, there appear to be no comments submitted since publication, at least none are published on the Court’s website.



attached an emergency order from Florida's Supreme Court that I perhaps would be more fitting in mitigating the effects of Novel Coronavirus during this crisis. The relevant language I believe might help the court is as follows:

2. If a witness is not located within the State of Florida, a witness may consent to being put on oath via audio-video communication technology by a person qualified to administer an oath in the State of Florida;

The Court Reporter's Association advised that instituting a similar administrative order in Washington will enable our courts to proceed with remote attendance, when appropriate and deemed necessary, as well as depositions and hearings.

In consequence of all the above, I am advising the court as to what I have learned as I thought it might be of assistance to your work.

In service,



Rajeev D. Majumdar,  
WSBA President

cc: *Co-President Phyllis Craver Lykken, WCRA*



# Supreme Court of Florida

No. AOSC20-16

IN RE: COVID-19 EMERGENCY PROCEDURES FOR THE  
ADMINISTERING OF OATHS VIA REMOTE  
AUDIO-VIDEO COMMUNICATION EQUIPMENT

## ADMINISTRATIVE ORDER

WHEREAS the World Health Organization has declared the Coronavirus Disease 2019 (COVID-19) a pandemic, the Governor of Florida has declared a state of emergency exists, and the Surgeon General and State Health Officer have declared a public health emergency exists, and the Florida State Courts System must take steps to mitigate the effects of the COVID-19 on legal proceedings and participants in those legal proceedings; and

WHEREAS mitigating the effects of COVID-19 is a high priority on the Florida State Courts System; and

WHEREAS it is the intent of this order to suspend any actual or implied requirement that notaries, and other persons qualified to administer an oath in the State of Florida, must be in the presence of witnesses for purposes of administering an oath for depositions and other legal testimony, so long as the notary or other

qualified person can both see and hear the witness via audio-video communications equipment for purposes of readily identifying the witness; and

WHEREAS a public health emergency currently exists in Florida requiring mitigation including social distancing measures meant to reduce the increase in person-to-person transmission of the virus that causes COVID-19;

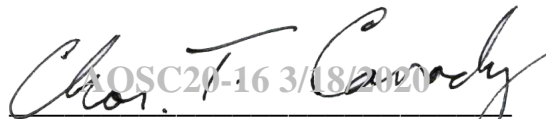
NOW THEREFORE, under the administrative authority conferred upon me by article V, section 2(b) of the Florida Constitution and Florida Rules of Judicial Administration 2.205(a)(2)(B)(iv) and 2.205(a)(2)(B)(v),

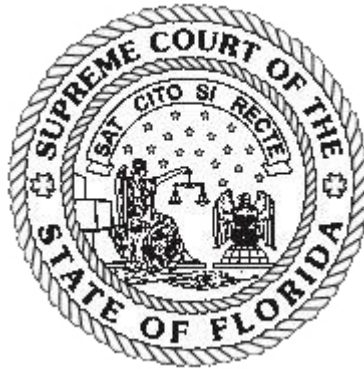
IT IS ORDERED that:

1. Notaries and other persons qualified to administer an oath in the State of Florida may swear a witness remotely by audio-video communication technology from a location within the State of Florida, provided they can positively identify the witness; and
2. If a witness is not located within the State of Florida, a witness may consent to being put on oath via audio-video communication technology by a person qualified to administer an oath in the State of Florida; and
3. All rules of procedure, court orders, and opinions applicable to remote testimony, depositions, and other legal testimony, including the attestation of family law forms, that can be read to limit or prohibit the use of audio-video communications equipment to administer oaths remotely or to witness the

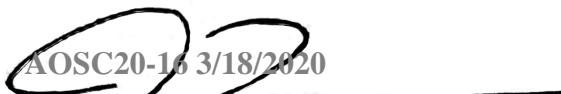
attestation of family law forms, are hereby suspended, and will remain suspended until the expiration of the provisions of paragraph five in *In Re: COVID-19 Emergency Procedures in the Florida State Courts*, Fla. Admin. Order No. AOSC20-13 (March 13, 2020), and any orders extending AOSC20-13.

DONE AND ORDERED at Tallahassee, Florida, on March 18, 2020.

  
Chief Justice Charles T. Canady  
AOSC20-16 3/18/2020



ATTEST:

  
John A. Tomasino, Clerk of Court  
AOSC20-16 3/18/2020

**From:** [OFFICE RECEPTIONIST, CLERK](#)  
**To:** [Tracy, Mary](#)  
**Subject:** FW: WSBA Advisement re the Matter of the Proposed Amendment to CR 30- Depositions Upon Oral Examination (WCRA Proposed Amendments), Publication Order 25700-A-1279 (Expedite)  
**Date:** Friday, March 20, 2020 3:09:47 PM  
**Attachments:** [Letter President Majumdar to Rules Committee CR 30 expedite advisement.pdf](#)  
[SC Florida Admin Order 3.18.20.pdf](#)  
**Importance:** High

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**From:** Rajeev Majumdar [mailto:rajeev@northwhatcomlaw.com]  
**Sent:** Friday, March 20, 2020 1:15 PM  
**To:** OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>  
**Subject:** WSBA Advisement re the Matter of the Proposed Amendment to CR 30- Depositions Upon Oral Examination (WCRA Proposed Amendments), Publication Order 25700-A-1279 (Expedite)  
**Importance:** High

Dear Madam Clerk,

Please find attached a copy of the Washington State Bar Association's Advisement *re* the Matter of the Proposed Amendment to CR 30- Depositions Upon Oral Examination (WCRA Proposed Amendments), given in light of the Novel Coronavirus situation, for the attention of the Supreme Court's Court Rules Committee.

Attached also is an Exhibit to that Advisement, a copy of an Emergency Order from the Supreme Court of Florida, dated 3/18/20.

A hard copy will not be transmitted pursuant to Publication Order 25700-A-1279, as our comment is less than 1500 words.

Warmly,

Rajeev D. Majumdar, President  
Washington State Bar Association  
(360) 332-7000  
FAX: (360) 332-6677