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To: [Martinez, Jacquelynn](#)
Subject: FW: Opposition to Proposed Changes to CR 28 & CR 30 - Maria S. Diamond - 3/18/24
Date: Monday, March 18, 2024 10:40:50 AM
Attachments: [2024.03.18 - MSD Ltr to WASC re CR 28 & CR 30.pdf](#)

From: Ben Steinhauer <ben@diamondmassong.com>
Sent: Monday, March 18, 2024 10:40 AM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Cc: Maria Diamond <maria@diamondmassong.com>
Subject: re: Opposition to Proposed Changes to CR 28 & CR 30 - Maria S. Diamond - 3/18/24

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Hello,

Please see attached letter from Attorney Maria S. Diamond.

Thank you,

BEN STEINHAUER
PARALEGAL
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Where Law and Medicine Merge 

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Maria S. Diamond
Attorney at Law

March 18, 2024

Via Email: supreme@courts.wa.gov
Washington State Supreme Court
Attn: Clerk of the Supreme Court
P.O. Box 40929
Olympia, WA 98504-0929

Re: Opposition to Proposed Changes to CR 28 and CR 30

Dear Clerk of the Supreme Court:

I submit this letter in strenuous opposition to significant changes proposed by the court reporting firm of Byers & Anderson ("B&A") to Civil Rules 28 and 30 – Persons Before Whom Depositions May Be Taken.

B&A's proposed self-serving changes would disqualify attorneys or other members of their offices from videorecording depositions under the guise of "eliminat[ing] an ambiguity" in CR 30(b)(8). The net result of these changes would substantially increase the costs of civil litigation for all parties while doing little to "preserve the integrity of the record," which is the purported reason for B&A's proposal. However, the real purpose and effect of the proposed changes is to financial benefit court reporting companies like B&A that provide expensive for-charge videography services. The rules as currently written already provide protections to the parties and oversight by the courts if there is reason to doubt the accuracy or integrity of any videorecording. Accordingly, I respectfully ask the Court to reject B&A's proposed changes to CR 28 and CR 30.

B&A cites two federal cases in support of its proposals. However, these cases should not guide our state court rules. The language of FRCP 30 differs significantly from CR 30, and notably does not contain any equivalent to CR 30(b)(8). The federal cases relied on by B&A simply state what the federal law is, not what our state law should be.

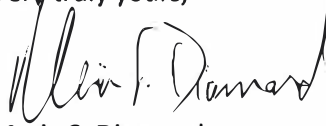
B&A also cites *Brizuela v. City of Seattle*, a 10-year old King County Superior Court case in which the trial court ordered the use of a professional videographer in CR 35 examinations—not depositions. While such an order is certainly within the purview of judges managing the cases before them, it is not a valid justification for making sweeping changes to the existing in rule.

Furthermore, B&A has failed to meet its burden under the rules to justify its proposed changes. GR 9(a)(1)(4) requires that the proposed rule changes be "necessary statewide." B&A's claims and insinuations fall far short of this requirement. In fact, the Superior Court's decision in *Brizuela* supports the conclusion that the current system works as is. Judges have discretion to reign in parties and require professional videographers as case needs require.

Finally, CR 1 provides that our rules "shall be construed and administered to secure the just, speedy, and inexpensive determination of every action." The Civil Rules as currently written and the inherent authority of the trial courts to manage cases, not to mention the ethical obligations of attorneys as officers of the court, provide effective and sufficient safeguards that make B&A's proposed rule changes unnecessary, and avoid the harm caused by the significant civil litigation costs that would follow if the rules are changed as proposed.

Thank you for your consideration.

Very truly yours,

A handwritten signature in black ink, appearing to read "Maria S. Diamond". The signature is fluid and cursive, with a large initial "M" and a long, sweeping underline.

Maria S. Diamond
Attorney at Law

MSD: