

From: [OFFICE RECEPTIONIST, CLERK](#)
To: [Martinez, Jacquelynn](#)
Subject: FW: Opposition to Proposed Changes to CR 28 & CR 30 (Order No. 25700-A-1501)
Date: Wednesday, March 13, 2024 11:43:10 AM
Attachments: [240313 SKKM Ltr Opposing CR Changes re Videorecording.pdf](#)

From: Lisa Benedetti <Lisa@stritmatter.com>
Sent: Wednesday, March 13, 2024 11:41 AM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Subject: Opposition to Proposed Changes to CR 28 & CR 30 (Order No. 25700-A-1501)

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Attached please find our office's letter opposing B&A's proposed changes to CR 28 & CR 30 (Order No. 25700-A-1501).

Thank you,

Lisa V. Benedetti (she/her)
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lisa@stritmatter.com
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www.lisabenedetti.com

March 13, 2024

Via Email supreme@courts.wa.gov

Clerk of the Supreme Court
P.O. Box 40929
Olympia, WA 98504-0929

Re: Opposition to Proposed Changes to CR 28 & CR 30 (Order No. 25700-A-1501)

Dear Clerk of the Supreme Court:

Our firm submits this letter in opposition to Byers & Anderson's (B&A) proposed changes to Civil Rules 28 & 30 – Person Before Whom Depositions May Be Taken.

Under the guise of “eliminat[ing] an ambiguity” in CR 30(b)(8), B&A has proposed what are significant changes to Civil Rules 28 & 30 that would disqualify attorneys or other members of their offices from videorecording depositions. The net result of these changes would fundamentally increase the costs of civil litigation for all parties while doing little to “preserve the integrity of the record,” which is B&A’s articulated reason for its proposal. In reality, these increased civil litigation costs would directly financial benefit court reporting companies like B&A that provide expensive for-charge videography services. Further, 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. We respectfully request that the Court reject B&A’s proposed changes to CR 28 and CR 30.

1. The proposed changes would harm access to justice.

B&A’s proposed changes present a significant access to justice barrier. As with so many litigation costs, professional deposition videorecording is expensive. Those expenses are ultimately borne by the litigants¹ – in our case, plaintiffs who have been injured or even killed by the fault of others. Litigation expenses reduce the compensation an injured person can expect to obtain for their injuries and in some cases can be a significant deterrent to filing a lawsuit. By videorecording depositions ourselves, we save our clients hundreds and even thousands of dollars, easing the financial burden of pursuing their injury claims and increasing any net recovery they receive. B&A seeks to deprive us and our clients of that money-saving option.

We are able to significantly decrease costs to our clients by videorecording the depositions we take. For example, in mid-2020, we filed a lawsuit on behalf of peaceful protesters who were injured by the Seattle Police Department in the wake of the murder of George Floyd. Eventually, we represented over 50 peaceful protesters, each of whom suffered injuries over the course of the

¹ See RPC 1.8(e)(1).

protests that occurred during the summer and fall of 2020 and beyond. The amount of discovery needed to investigate each of these instances was massive. In the end, we took nearly 40 depositions, representing approximately 190 hours of deposition appearance time. To take these depositions economically, we videorecorded them ourselves and provided copies of those videorecordings to the defense at no cost.²

To put those numbers in perspective, in late 2020 we requested videography rate information from several court reporting firms including B&A. B&A's rates in 2020 were as follows:³

Videographer appearance (the fee for having a videographer appear either in person or virtually and record the proceedings)	\$125 per hour (3.5-hr minimum)
Video (the separate fee for producing a copy of the video)	\$60 per video hour

This is in addition to (not including) any charges associated with the court reporter appearance and transcription fees. At those rates, our protest clients would have incurred over **\$35,000** in additional videography fees, not to mention the additional cost to the defense if they also ordered a copy.

These costs are not unusual in the court reporting field. For example, in 2020 Buell Realtime Reporting charged a \$125.00/hour appearance fee with a three-hour minimum plus video production fees of at minimum \$100 per witness.⁴ In 2020 Veritext charged a \$125.00/hour appearance fee with a three-hour minimum, plus a \$50 per video hour fee to produce a DVD copy of the deposition.⁵ All of these rates are from 2020, so it's likely they have increased. For example, in a deposition that was taken in 2023, Buell charged a videographer appearance fee of \$160.00/hour.

2. B&A's proposed changes offer little benefit to a system that already provides effective safeguards against suspected impropriety in videorecording.

In contrast to the concrete and substantial increase in client costs that would be caused by B&A's proposed changes, the benefits are slim to none.

B&A wants the Civil Rules to treat videographers like court reporters, but this is an inapt comparison. The official record of any deposition is always the deposition transcript, created by a certified court reporter. The video is simply a supplement to the official written record.

The skill and training needed to videorecord a deposition pale in comparison to being a court reporter, particularly with advancements in technology and in laypeople's understanding of how

² We have used this same process on many other cases as well, mostly without objection.

³ B&A's 2020 Rate Sheet is attached as Exhibit 1.

⁴ Buell's 2020 Rate Sheet is attached as Exhibit 2.

⁵ Veritext's 2020 Rate Sheet is attached as Exhibit 3.

to use that technology. The accuracy and fidelity of deposition transcripts depends on the constant and active work of the court reporter. Videography is a more passive endeavor, is primarily handled by the videography equipment, and can be as simple as the push of a button. And in the age of Zoom, videorecording depositions is even easier because it is done entirely within the Zoom platform and requires only activating the record function and downloading the video file at the end of the deposition.

For B&A to say that lawyers exercising a right under the current Civil Rules to videorecord depositions “jeopardize[s] the integrity of the record and confidence in the system” is untrue. As officers of the court, we as lawyers are required to uphold the integrity of our judicial system and abide by our various legal and ethical obligations.⁶ And in the rare situation where a party may have reason to challenge a videorecording’s accuracy, courts already have the authority to order that the video cannot be used for litigation purposes, such as at trial.

B&A cites two federal court cases as a basis for their proposed changes. Yet these cases should not guide our state court rules. FRCP 30 differs significantly from the wording of our CR 30, and notably does not contain any equivalent to CR 30(b)(8). Those federal court cases are merely saying what the federal law is, not what our 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). This is certainly within a judge’s purview in managing the cases before them. But it is not justification for making sweeping changes to the existing rule. In contrast to this ruling in *Brizuela*, more recently in 2022 the Honorable Judith Ramseyer granted our request to videorecord our depositions in the George Floyd protest matter, over the objections of the City of Seattle, specifically noting that “A party may object to use of a video deposition at trial if there is a good faith basis to question its compliance with [CR 30(b)(8)].”⁷

Further, B&A has failed to meet its burden under the rules to justify its proposed change. GR 9(a)(1)(4) requires that 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 the needs of the cases require.

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, our legal and ethical obligations as officers of the court, and the inherent authority of judges to manage cases and their courtrooms, are effective and sufficient safeguards that make B&A’s proposed rule changes both unnecessary and harmful, given the significant increase the proposed changes would add to the cost of civil litigation.

⁶ See RPC 3.3 (candor toward the tribunal); RPC 3.4 (fairness to opposing party); RPC 4.1 (truthfulness in statements to others); CR 11.

⁷ A copy of the Order is attached as Exhibit 4.

Opposition to Proposed Changes to CR 28 & CR 30 (Order No. 25700-A-1501)

March 13, 2024

Page 4

Very truly yours,

s/SKKM

Stritmatter Kessler Koehler Moore

Paul Stritmatter

Keith Kessler

Karen Koehler

Brad Moore

Ray Kahler

Andrew Ackley

Gemma Zanowski

Daniel Laurence

Lisa Benedetti

Melanie Nguyen

Shannon Kilpatrick

Fred Rabb

Furhad Sultani

Edward Moore

Debbie Silberman

Mo Hamoudi

Exhibit 1

Reporting

Reporting Appearance (two-hour minimum)	\$75.00/hour
Reporting Appearance (Before 8:00 am & After 6:00 pm)	\$112.50/hour
Certified 0&1 Minimum Transcript Fee	\$75.00
Certified 0&1 (Regular)	\$4.35/page
Certified 0&1 (Technical*)	\$5.00/page
Certified Copy	\$3.50/page
Uncertified Rough Draft**	\$1.60/page
Realtime***	\$1.75/page
Realtime & Uncertified Rough Draft	\$2.50/page
Scanned Exhibits	\$0.50/page
0&1 EUO/Statement/Interview	\$5.85/page
0&1 Court/Hearing/Arbitration	\$6.75/page
Audio Transcription (Listening time)	\$75.00/hour
Audio Transcript (10-business-day turnaround)	\$6.85/page
Additional Laptop	\$25.00

Video

In-person video appearance (3.5-hour min includes setup)	\$125.00/hour
In-person video Appearance (Before 8:00 am & After 6:00 pm)	\$187.50/hour
Video Cancellation	\$450.00
IME Appearance (3.5-hour minimum includes setup/strike)	\$150.00/hour
Synchronized Video**	\$70.00/video hr.
DVD / MPEG	\$60.00/video hr.
Designation Editing	Call for pricing

Rates are confidential. Please do not share or distribute.

*Technical rates apply with legal video, teleconference, videoconference and expert and/or interpreted.

**Order of final transcript is required.

***If internet real-time is requested, there is a \$150.00 setup fee.

If an out-of-town deposition is booked, different deposition rates may apply

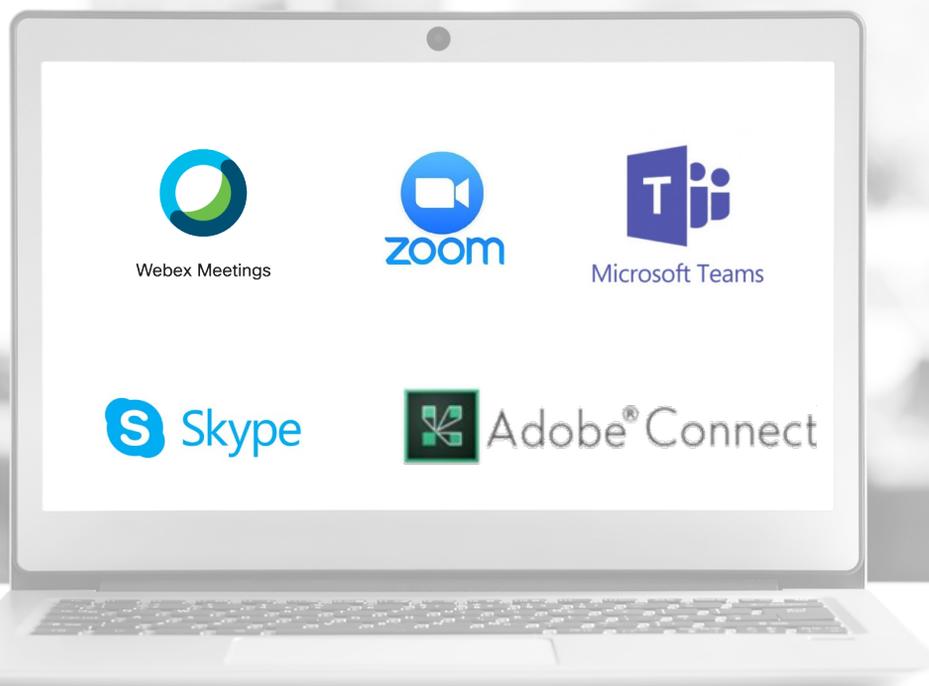
**To schedule a deposition, please contact our scheduling department
schedule@balitigation.com or 253.627.6401**

Virtual Depositions

Exhibit Tech (two-hour minimum)	\$75.00/hour
Virtual Videographer & Exhibit Tech (two-hour minimum)	\$175.00/hour
IP Videoconferencing	Call for pricing
Virtual Service Fee (Zoom, WebEx, MS Teams)	Complimentary



Providing Support for Any Remote Video Platform



Rates are confidential. Please do not share or distribute.

*Technical rates apply with legal video, teleconference, videoconference and expert and/or interpreted.

**Order of final transcript is required.

***If internet real-time is requested, there is a \$150.00 setup fee.

If an out-of-town deposition is booked, different deposition rates may apply

**To schedule a deposition, please contact our scheduling department
schedule@balitigation.com or 253.627.6401**

Exhibit 2



2020 WASHINGTON RATE SCHEDULE | COURT REPORTING

COURT REPORTING:

APPEARANCE FEES:

Depositions | Arbitrations | Hearings: 75.00 per hour
(2-hour minimum for videoconference appearance | 4-hour minimum for in-person appearance)
(Parking fees billed at cost)

TRANSCRIPT FEES:

Transcript Original and One: 4.85 per page
Examination Under Oath: 5.50 per page
Arbitrations | Hearings Original and One: 5.50 per page
Meetings: Call for price quote
Transcript Copy: 3.85 per page
Arbitrations | Hearings Copy: 4.20 per page
Minimum Original Transcript Charge: 125.00
Minimum Copy Transcript Charge: 100.00

REALTIME | ROUGH DRAFT | PRODUCTION FEES:

Realtime: 1.50 per page
Rough Draft: 1.25 per page
Exhibits | Hard copy or scanned: 0.60 per page
E-Transcript and PDF: 45.00 electronic conversion
Condensed | Word Index: Complimentary

TRANSCRIPT TURNAROUND TIME: 7-10 business days in Western Washington for depositions (10 business days for back orders). 10 business days for arbitrations/hearings.

DEPOSITION EXPEDITE TRANSCRIPT FEES:

Same-Day Expedite	+ 125%	3-Day Expedite	+ 60%
Next-Day Expedite	+ 110%	4-Day Expedite	+ 35%
2-Day Expedite	+ 85%		

AVAILABLE CONFERENCE ROOMS:

(Complimentary unless otherwise specified at the time of scheduling)

Washington Conference Rooms: Seattle, Tacoma, Olympia, Bellevue, Everett, Spokane, Vancouver, Tri-Cities and many other locations throughout the state and nationwide.



1325 Fourth Avenue, Suite 1840 Seattle, Washington 98101 708 Market Street, Suite 408 Tacoma, WA 98402
Seattle | 206.287.9066 Tacoma | 253.235.0111 Olympia | 360.534.9066 Spokane | 509.624.3261 National | 800.846.6989
e-mail: info@buellrealtime.com www.buellrealtime.com

BUELL REALTIME REPORTING PROPRIETARY DOCUMENT

2020 WASHINGTON RATE SCHEDULE | LEGAL VIDEO

LEGAL VIDEO:

APPEARANCE FEES:

Depositions (3-hour minimum):	125.00 per hour
Arbitrations Trials Hearings (3-hour minimum):	125.00 per hour
IME (3-hour minimum):	125.00 per hour

VIDEO PRODUCTION FEES:

Minimum Production Fee:	100.00 per witness
MPEG-1:	50.00 per hour
MPEG-2:	50.00 per hour
Video-Text Synch:	75.00 per hour
Burn Fee:	25.00 per witness
Video Edits:	115.00 per hour
Digital Stock Fee:	15.00 each
Parking	At Cost

VIDEO TURNAROUND TIME: 5-7 business days in Western Washington. Turnaround time will vary in other geographic locations, including Eastern Washington.

EXPEDITE VIDEO FEES:

Same Next-Day Expedite	+ 100%
2-Day Expedite	+ 75%
3-Day Expedite	+ 50%
4-Day Expedite	+ 25%

VIDEO CONFERENCING:

STANDARD IP/ISDN VIDEO CONFERENCE HOURLY:

Depositions | Meetings: COMPLIMENTARY DURING COVID

WEB-BASED VIDEO CONFERENCE HOURLY:

Depositions | Meetings: COMPLIMENTARY DURING COVID





2020 WASHINGTON RATE SCHEDULE | LEGAL TRANSCRIPTION

AUDIO TRANSCRIPTION:

APPEARANCE FEES:

Transcription (2-hour minimum): 65.00 per hour

TRANSCRIPT FEES:

Original and One:	6.00 per page
E-Transcript and PDF:	45.00 electronic conversion
Condensed I Word Index:	<i>Complimentary</i>
Delivery:	16.00 per transcript
COA Filing Fee + Delivery:	50.00 per transcript

TRANSCRIPT TURNAROUND TIME: 7-10 business days for single hearings and interviews.
Call for multi-day proceedings turnaround time.

EXPEDITE TRANSCRIPT FEES:

Call to inquire.

Buell complies with WAC 308-14-130 and WAC 308-14-135 in offering court reporting services and fees to all parties on equal terms, as well as transcript formatting guidelines.



1325 Fourth Avenue, Suite 1840 Seattle, Washington 98101 708 Market Street, Suite 408 Tacoma, WA 98402
Seattle | 206.287.9066 Tacoma | 253.235.0111 Olympia | 360.534.9066 Spokane | 509.624.3261 National | 800.846.6989
e-mail: info@buellrealtime.com www.buellrealtime.com

BUELL REALTIME REPORTING PROPRIETARY DOCUMENT

Exhibit 3

Transcript Services	Pricing
Original + 1 Certified Transcript	\$4.50 / page
Appearance	\$75 / hour; 2-hr minimum; 3-hr min. if no transcript order
Appearance Before/After Business Hours & Weekends	\$112.50 / hour
Rough ASCII Transcript	\$1.50 / page
Interactive Real-time	\$1.75 / page
Video/Interpreter/Telephonic/Remote	Additional \$0.35 / page

Video Services	Pricing
Videographer Services (includes setup and breakdown)	\$125.00 / hour; 3-hour minimum
Standard DVD/.mpeg1 video file	\$50.00 per video hour
Synchronized transcript to video	\$70 per video hour
Cloud delivery	\$45.00
Veritext Virtual	\$295
Veritext Virtual with streaming text	\$295 + interactive real-time fee of \$1.75/page
Veritext Virtual Cancellation up to 4:00 PM Local Time Day Before	\$125.00

Exhibits	Pricing
Exhibit Share (paperless exhibit platform)	\$345 / deposition
Exhibit Share Cancellation up to 4:00 PM Local Time Day Before	\$225.00
Exhibits – hard copy (black & white or color)	\$0.55 / page
Exhibits scanned – searchable OCR	\$0.55 / page
Exhibit Capture (mouse movements, keystroke & annotations)	\$795.00 / day
ACE – Advanced Case Exhibits (Veritext Exhibit Package)	\$45.00 / deposition (charges apply after third deposition)
iPads – for real time, Veritext Virtual & Exhibit Share	Complimentary for on-site depositions with advance notice

Litigation Support Services	Pricing
Condensed Transcript	Complimentary
Litigation Package (ASCII, PDF, Linked PDF, TextMap & exhibits)	\$37.50 / transcript

Additional	Pricing
Shipping & Handling	\$35.00
Minimum Transcript Charge	\$135.00
Cancellation Fee for court reporter	\$225.00
Cancellation Fee for videographer	\$360.00
MyVeritext Client Portal (online access to OCR'd Transcripts & Exhibits)	Complimentary
Conference Rooms - Veritext locations	\$150 per day during COVID
Conference Call Setup	\$45 half day / \$90 full day

Expedited Delivery (additional % for each business day as follows)			
Same Day	110%	4-business day	50%
Next Day	100%	5-business day	30%
2-business day	80%	6-business day	20%
3-business day	70%	7-business day	10%

Exhibit 4

HONORABLE JUDITH RAMSEYER
Hearing Date: May 13, 2022
No Oral Argument Requested

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

The Estate of SUMMER JOLIE WILLIAMS
TAYLOR, by and through MATTHEW D.
TAYLOR, Personal Representative, ZOE
ADBERG, SARA ANDERSON, MEGAN
BUSS, GRACE CARMACK, LEANNA
CARR, AISLING COONEY, ABIE
EKENEZAR, EDWARD FARMER, NIMA
FORGHANI, NOAH FOWLER, ZACHARY
GARDNER, IAN GOLASH, GRACE
GREGSON, MIRANDA HARDY, LEXUS
HARTLEY, CLAYTON HOLLOBAUGH,
JASON SCHIERER as guardian ad litem for
minor MALICHI HOWE a.k.a. BRYAUNA
HOWE, JESSE HUGHEY, AUBREANNA
INDA, MARY JURGENSEN, TIMOTHY
KAUCHAK, JOHN W. KELLIHER, JENNA
KINYON, BEN KOENIGSBERG, JACOB
KOENIGSBERG, SETH KRAMER, ERIC
LOOK, DANIEL LUGO, JACOB MARTIN,
JOSHUA MATNEY, CHLOE MERINO,
LOGAN MILLER, TONI MILLS,
ALESSANDRA MOWRY, KELSEY
MURPHY-DUFORD, WESLEY PEACOCK,
JORDAN A. PICKETT, CHARLES PIERCE,
DANIEL PIERCE, RENEE RAKETTY,
JAVIER RIZO, ALEXANDER
RUEDEMANN, MICHAUD SAVAGE,
CAROLYN STERNER, SEAN SWANSON,
MEGHAN THOMPSON, BRUCE TOM,
TIFFANY VERGARA-MADDEN, ALIYE
VOLKAN, STEVEN WIDMAYER, JOSEPH
WIESER, GILLIAN WILLIAMS, QUINN
ZOSCHKE, and DOES 1-40;

Plaintiffs,

v.

CITY OF SEATTLE, a governmental entity,

NO. 20-2-14351-1 SEA

~~PROPOSED~~ ORDER GRANTING
PLAINTIFFS' MOTION RE:
VIDEORECORDING
DEPOSITIONS

~~PROPOSED~~ ORDER GRANTING PLAINTIFFS'
MOTION RE: VIDEORECORDING DEPOSITIONS - 1

STRITMATTER KESSLER
KOEHLER MOORE
3600 15th Ave W, Ste. 300
Seattle, WA 98119
Tel: 206.448.1777

1 and KING COUNTY, a governmental entity;

2 Defendants.

3
4 THIS MATTER having come on regularly before this Court for hearing upon Plaintiffs'
5 Motion re: Videorecording Depositions, the Court having considered the records and files herein,
6 and having reviewed the following documents:

- 7 1. Plaintiffs' Motion re: Videorecording Depositions;
- 8 2. Declaration of Karen Koehler and Exhibits attached thereto;
- 9 3. Defendants' Opposition(s);
- 10 4. Plaintiffs' Reply, if any;
- 11 5. _____
- 12 6. _____

13 Being fully advised, now, therefore, it is hereby ORDERED, ADJUDGED and DECREED
14 that Plaintiffs' Motion re: Videorecording Depositions is GRANTED. Any party may elect to
15 videorecord depositions themselves rather than employ a paid videographer. *Conditions*

16 *set forth in CR 30(b)(8) must be met. A party may*
17 *object to use of a video deposition at trial if*
18 *there is a good faith basis to question its*
19 *compliance with the rule.*

20
21 DONE IN OPEN COURT this 16 day of May, 2022.

22 
23 HONORABLE JUDITH RAMSEYER

1 Presented by:

2 STRITMATTER KESSLER KOEHLER MOORE

3 

4
5 Karen K. Koehler, WSBA#15325
6 Lisa Benedetti, WSBA#43194
7 Gemma N. Zanowski, WSBA#43259
8 Melanie Nguyen, WSBA#51724
9 Fred Rabb, WSBA#56336
10 Furhad Sultani, WSBA#58778
11 Co-Counsel for Plaintiffs

12 

13 Sarah Lippek, WSBA # 46452
14 Co-Counsel for Plaintiffs