

# THE SUPREME COURT OF WASHINGTON

IN THE MATTER OF THE PROPOSED  
AMENDMENTS TO CR 30—DEPOSITIONS UPON  
ORAL EXAMINATION

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## **ORDER**

NO. 25700-A-1602

The BJA Remote Proceedings Work Group, having recommended the adoption of the proposed amendments to CR 30—Depositions Upon Oral Examination, and the Court having considered the proposed amendments, and a majority having determined that the proposed amendments as revised by the Court will aid in the prompt and orderly administration of justice;

Now, therefore, it is hereby

**ORDERED:**

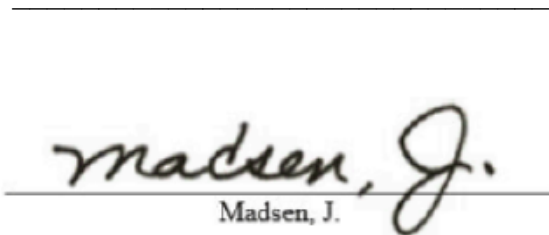
- (a) That the revised proposed amendments as attached hereto are adopted.
- (b) That pursuant to the emergency provisions of GR 9(j)(1), the revised proposed amendments will be expeditiously published in the Washington Reports and will become effective upon publication.

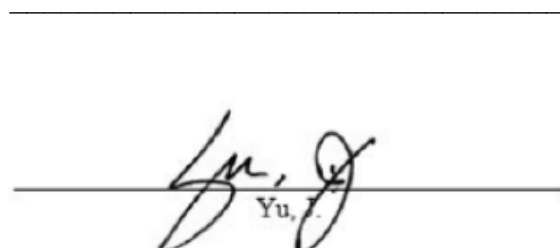
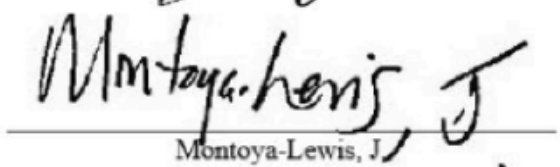
ORDER

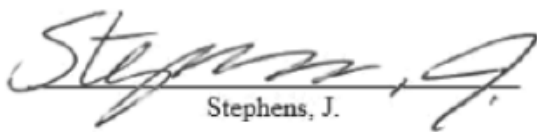
IN THE MATTER OF THE PROPOSED AMENDMENTS TO CR 30—DEPOSITIONS UPON ORAL EXAMINATION

DATED at Olympia, Washington this 5th day of September, 2024.

  
González, C.J.

\_\_\_\_\_  
  
Madsen, J.

\_\_\_\_\_  
  
Yu, J.  
  
Montoya-Lewis, J.

  
Stephens, J.

  
Whitener, J.

**CR 30**  
**DEPOSITIONS UPON ORAL EXAMINATION**

(a) [Unchanged.]

**(b) Notice of Examination: General Requirements; Special Notice; Nonstenographic Recording; Production of Documents and Things; Deposition of Organization; Video Tape Recording.**

(1) A party desiring to take the deposition of any person upon oral examination shall give reasonable notice in writing of not less than 5 days pursuant to CR 6 to every other party to the action and to the deponent, if not a party or a managing agent of a party. Notice to a deponent who is not a party or a managing agent of a party may be given by mail, e-mail, or by any means reasonably likely to provide actual notice. The notice shall state the time and place for taking the deposition, ~~and~~ the name and address of each person to be examined, if known, and, if the name is not known, a general description sufficient to identify the deponent or the particular class or group to which the deponent belongs. If the deposition will be conducted by remote means, the notice shall provide the information and instructions necessary to appear and attend remotely. If a subpoena duces tecum is to be served on the person to be examined, the designation of the materials to be produced as set forth in the subpoena shall be attached to or included in the notice. A party seeking to compel the attendance of a deponent who is not a party or a managing agent of a party must serve a subpoena on that deponent in accordance with rule 45. Failure to give 5 days, notice to a deponent who is not a party or a managing agent of a party may be grounds for the imposition of sanctions in favor of the deponent, but shall not automatically constitute grounds for quashing the subpoena.

(2)-(6) [Unchanged.]

(7) ~~The parties may stipulate in writing or the court may upon motion order that a deposition be taken by telephone or by other electronic means.~~ For the purposes of this rule and rules 37(a)(1), 37(b)(1), and 45(d), a deposition taken by ~~telephone or by other electronic~~ remote means is taken at the place where the deponent is to answer the propounded questions. Any party may take a deposition in person or by remote means. Parties are strongly encouraged to agree to the mode and manner of deposition, in person or remote, before notice is served. The deposition shall proceed as noticed unless within three days of receipt of notice an objecting party or the deponent files a motion objecting to the notice. In determining whether a deposition shall proceed in person or by remote means, the court may consider the following non-exclusive factors and any other factor the court deems appropriate: (a) the role of the witness in the case, (b) the complexity of the case, (c) whether there will be prejudice to any party or the witness if testimony by remote means is permitted, (d) whether the witness is subject to the court's subpoena power and, thus, whether a party will at any point have the opportunity to question the witness in person, and (e) whether the noted mode of deposition serves the purposes of CR 1.

(8) [Unchanged.]

(c)-(g) [Unchanged.]

**(h) Conduct of Depositions.** The following shall govern deposition practice:

(1)-(4) [Unchanged.]

(5) *Private Consultation*. Except where agreed to, attorneys shall not privately confer with deponents during the deposition, or between a question and an answer except for the purpose of determining the existence of privilege. This includes communication in all forms. Conferences with attorneys during normal recesses and at adjournment are permissible unless prohibited by the court.

(6) [Unchanged.]

(7) *Depositions by Remote Means*. In any deposition taken by remote means, in addition to the above rules, the following provisions apply:

(A) The witness's demeanor and appearance shall remain their own as if they were in person and shall not be manipulated or altered.

(B) Each person physically present in the room with the deponent during a remote deposition shall remain audible and visible for the duration of the deposition.

(C) During the deposition, unless specifically requested to do so by the examining attorney, the deponent shall not refer to any notes, or any electronic or other means used for communication, such as e-mail and messaging.

(D) No one shall attempt to influence the deponent's response to an examiner's question in any manner, including visually, verbally, and in writing, such as notes, text message, e-mail, and electronic chat functions.