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>>> Tom Waggoner <twaggoner@lawssa.com> 9/20/2006 1:40 PM >>>
Dear Sir or Madam: I am writing to oppose the proposed changes to Court Rules 2.512 through 2.516. A number of the proposals are particularly troubling. Specifically, Proposed Rules 2.513(D), (F), (G)(3), K, M and N(4) make fundamental changes to the jury trial process and should be reconsidered. I oppose them strenuously. If the concern being addressed by 2.513(D) arises in trials of excessive length, it should be limited to those situations. Perhaps a better approach would be to require the attorneys in extended trials to present a number of "mini-trials" within the larger trial, so that the jury can readily understand the facts and law, and build their subsequent decisions on previous decisions. 2.513(F) is wholly inappropriate and impractical. The Court would ultimately have to read each transcript to decide whether the summary accurately reflected the testimony. The Court's decision would then be subject to appeal, thus opening a whole new avenue of appeal. 2.513(G)(3) will add cost to the already expensive trial process. Moreover, there is no such thing as a "neutral" expert, and having the Judge act as the referee, will result in the jury learning how the Judge views the expert testimony, and thus tainting it. The cross-examination process is adequate and well tested. There is no reason to change it. The Judges role regarding the validity of expert testimony should be limited to being that of a gate keeper. 2.513(K) - The jury should not be discussing the case until all of the evidence is in. Why changes to this practice are being contemplated is a mystery. Perhaps the jurors should be specifically instructed to write down their questions as they occur to them, and then see if they are answered during the course of the trial. It is the attorneys job to make sure all evidence necessary to decide the issue is admitted. 2.513(M) Why? This seems to be an extremely inappropriate thing for a judge to do. Both attorneys will likely object, and rightly so, to different parts of the Judge's comments. It will open new issues for appeal. 2.513(N)(4), the court can clarify and amplify the law, but has no business steering the juries fact finding.

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