RULE 39
TRIAL BY JURY OR BY THE COURT

(-) Issues--How Tried. (Reserved. See RCW 4.40.010 through 4.40.070.)

(a) By Jury.

(1) Rule. When trial by jury has been demanded as provided in rule 38, the action shall be designated upon the docket as a jury action. The trial of all issues so demanded shall be by jury, unless (A) the parties or their attorneys of record, by written stipulation filed with the court or by an oral stipulation made in open court and entered in the record, consent to trial by the court sitting without a jury or (B) the court upon motion or of its own initiative finds that a right of trial by jury of some or all of those issues does not exist under the constitution or statutes of the state.

(2) Questions of Fact for Jury. (Reserved. See RCW 4.44.090.)

(b) By the Court.

(1) Rule. Issues not demanded for trial by jury as provided in rule 38 shall be tried by the court; but, notwithstanding the failure of a party to demand a jury in an action in which such a demand might have been made of right, the court in its discretion upon motion may order a trial by a jury of any or all issues.

(2) Questions of Law To Be Decided by Court. (Reserved. See RCW 4.44.080.)

(c) Advisory Jury and Trial by Consent. In all actions not triable of right by a jury the court, upon motion or of its own initiative, may try an issue with an advisory jury or it may, with the consent of both parties, order a trial with a jury whose verdict has the same effect as if trial by jury had been a matter of right.