**Proposed Amendments to CR 39**

**TRIAL BY JURY OR BY THE COURT**

**(-) – (c)** [Unchanged.]

1. **Manner of Trials.**
2. *Generally*. Except as otherwise authorized by these rules or by statute, all trials upon the merits shall be conducted in open court and, so far as convenient, in a regular courtroom.
3. *Videoconference Trials.*
4. *By the Court.* On the courts own initiative, or on motion of the parties or their attorneys of record, a trial by the court may occur over videoconference, in which all participants can simultaneously see, hear, and speak with each other. The video and audio should be of sufficient quality to ensure participants are easily seen and understood.

i. Before ordering a video-conference trial by the court, the court shall consider the number of parties, the number of trial witnesses, the type of evidence to be presented, whether the parties have significant nonfinancial interests at stake, whether the use of remote interpreting services will detract from the presentation of evidence, the parties ability to conduct a videoconference trial, and any other relevant circumstances.

1. *By Jury*. On the courts own initiative, or on motion of the parties or their attorneys of record, a trial by jury may occur by videoconference. Any jury trial occurring by videoconference must allow all participants to simultaneously see, hear, and speak with each other. The video and audio should be of sufficient quality to ensure participants are easily seen and understood. Jury trials may be conducted by videoconference only:
2. When there is written agreement of the parties. The agreement shall be filed with the court before the start of trial; or
3. Over objection of a party or parties for good cause in compelling circumstances. In conducting trial by jury over videoconference, the court shall ensure appropriate safeguards are in place; and:

(a) Shall consider the nature of the case, including the number of parties, number of trial witnesses, the type of evidence to be presented, whether the parties have significant non-financial interests at stake, whether the use of remote interpreting services will detract from the presentation of evidence, the parties ability to conduct a videoconference trial, and any other relevant circumstances; and

(b) Shall enter written findings outlining its reasons for conducting trial by videoconference. The court shall analyze the length of time trial has been pending, the potential impact of not conducting the trial by videoconference, such as the availability of witnesses and preservation of evidence, and any other considerations in support of its decision.

1. *Notice*. Whether on its own initiative or by motion of the parties or their attorneys of record, no videoconference trial shall be heard unless the court holds a hearing no fewer than 30 days before the trial date. At the hearing, the court shall announce its decision on a trial by videoconference and address appropriate safeguards. The parties or their attorneys of record may agree to this hearing occurring within 30 days of trial.