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From: Johnson, Dan [mailto:Dan.Johnson@usaa.com]
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I am currently a civil defense attorney, and briefly write to express my objection to the proposed changes to CR 39. The pandemic has provided many efficiencies and improvements in the court system, including the use of video for depositions, mediations and court hearings for motions, including dispositive motions. Extending those efficiencies to jury trials is likewise helpful and efficient when both parties agree.

However, as drafted, the rule allows for the court to order a party to submit to a remote trial over objection. Forcing an attorney to submit to a remote proceeding against their will, or their client's will, raises substantial issues regarding the makeup of juries, the presentation of physical evidence, and the increased risk of misconduct by witnesses, counsel or even jurors. This is part of the reason that the ABA also urges remote proceedings only by consent.

It is premature to change a rule that so strongly affects a party's right. The court should make an allowance now for remote trials when both parties agree and leave to future amendments whether to force such a severe remedy on a party against their will.

Thank you for seeking comments and considering this one.

Dan Johnson