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Subject: FW: Proposed Amendment to CR 39: Request for Comment
Date: Friday, December 10, 2021 8:40:04 AM

From: Rory W. Leid, III [mailto:rleid@cwlhlaw.com]
Sent: Friday, December 10, 2021 8:38 AM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
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To Whom It May Concern,

I am opposed to the proposed amendments as a civil attorney and on behalf of my clients.

Forcing parties to participate in online trials, absent emergency circumstances, is not appropriate and raises substantial due process concerns.

Rules created to address the realities of courthouse closures necessitated by a pandemic should not be used to establish permanent civil practice procedures which will apply long after those emergency circumstances are gone.

Non-consensual video by trial is inconsistent with the CR 77(j), which requires all trials upon the merits shall be conducted in open court and so far as convenient in a regular courtroom.

Although there may be occasions justifying the taking of remote testimony, as the drafters of Federal Rule Civil Procedure 43, upon which CR 43 is based, made “the importance of presenting live testimony in court cannot be forgotten,” and that “the opportunity to judge the demeanor of a witness face-to-face is accorded great value in our tradition.” 1996 Committee notes to Fed. R. Civ. P. 43.

Parties should not be forced into a format, without their consent and over their objection, where the risk of jury misconduct is increased.

The parties should not be forced into a format, without their consent and over their objection, where the makeup of jury panels may be economically, racially, or geographically unbalanced, given unequal access to broadband and technology.

Thank you.

Rory W. Leid, III

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