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December 29, 2021

VIA EMAIL

Honorable Charles W. Johnson
Honorable Mary I. Yu
Supreme Court Rules Committee
c/o Clerk of the Supreme Court
Temple of Justice
PO Box 40929
Olympia, WA 98504-0929

RE: Comment on Proposed Amendments to CR 39 and New GR 41

Dear Justice Johnson, Justice Yu, and Rules Committee Members:

On behalf of the District and Municipal Court Judges' Association (DMCJA), I am writing to comment on the King County Superior Court Judges' proposals to amend CR 39 and GR 41, and to provide a general comment regarding the rules pertaining to remote proceedings.

With regard to the proposed amendment to CR 39, as it appears to apply only to superior courts, the DMCJA has no position. In general, the DMCJA supports allowing judicial discretion in determining whether to conduct remote trial proceedings. Many courts of limited jurisdiction lack the technology and funding to implement remote jury proceedings so the DMCJA cautions against a "one size fits all" approach.

With regard to the proposed new GR 41 pertaining to jury selection by video conference, it would provide guidance to judges wishing to use remote jury selection and permits discretion for those judges who do not wish to do so. Therefore, the DMCJA supports the proposed rule.

Despite this support, the DMCJA takes the position that a patchwork approach to rule proposals and amendments pertaining to remote proceedings should be avoided. Instead, the DMCJA recommends adopting a general rule pertaining to remote proceedings to provide guidance to all court levels. To this end, the DMCJA and the SCJA have been collaborating on amendments to GR 19 to provide guidance

regarding the use of video and other technologies during criminal proceedings. This would allow for the various rules addressing video proceedings to be standardized across the trial courts under one general rule. The DMCJA intends to submit the GR 19 proposal to the Rules Committee after the first of the year.

In sum, the DMCJA has no position on the proposed amendments to CR 39, supports proposed new General Rule 41, and encourages the Court to refrain from action that would preclude adopting a general rule to address remote proceedings in criminal actions.

Thank you for your consideration.

Sincerely,

A handwritten signature in blue ink, appearing to read "Chris D. Short", with a long, sweeping horizontal line extending to the right.

Judge Charles D. Short
DMCJA President

cc: Judge Jeffrey Goodwin, DMCJA Rules Chair
Ms. J Benway, DMCJA Rules Staff

From: [OFFICE RECEPTIONIST, CLERK](#)
To: [Linford, Tera](#)
Subject: FW: Comment Letter re CR 39 and GR 41
Date: Wednesday, December 29, 2021 9:43:35 AM
Attachments: [DMCJA Cmt Ltr re CR 39 and GR 41.pdf](#)
[image001.png](#)

From: Dugas, Tracy
Sent: Wednesday, December 29, 2021 9:37 AM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Cc: 'Charles D Short' <cshort@co.okanogan.wa.us>; 'Goodwin, Jeffrey' <Jeffrey.Goodwin@snoco.org>; Benway, Jennifer <Jennifer.Benway@courts.wa.gov>; Oyler, Stephanie <Stephanie.oyler@courts.wa.gov>
Subject: Comment Letter re CR 39 and GR 41

Greetings,

Please see the attached letter intended as comment on the proposed amendments to CR 39 and new GR 41, sent on behalf of Judge Charles D. Short, DMCJA President.

Thank you,

Tracy Dugas (she/her)

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