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Subject: FW: Public Comment re: Suggested New General Rule 41
Date: Monday, November 1, 2021 9:42:49 AM

From: Marlow, John [mailto:John.Marlow@kingcounty.gov]
Sent: Monday, November 1, 2021 9:24 AM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
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Good Morning,

I write to provide comment on the suggested new General Rule 41 regarding jury selection by video conference. I have completed two felony trials using video conferencing technology and numerous jury trials, both misdemeanor and felony, utilizing the traditional in-person method. I have also observed video voir dire during several of my colleagues' trials over the pandemic. All of my experience has been in criminal practice.

If the Court decides to adopt a new rule pertaining to voir dire and video conferencing, it is imperative that people accused of crimes be entitled to in-person voir dire unless they waive that right and choose video voir dire. While videoconferencing seems to increase the overall volume of information that the litigants might otherwise receive about potential jurors, the process of rooting out bias appears much less effective. Jurors who attend the process over zoom (or similar platform) do not appear to be listening to each other and observably return their attention to the proceedings only when the judge or attorneys are speaking. Similarly, when not face-to-face with other prospective jurors, court staff, and attorneys, members of the jury pool equivocate more often, making it very difficult to isolate potentially concerning viewpoints and lay the foundation for cause challenges. Particularly as members of the bench in Washington discuss the future of peremptory challenges, the importance of effective and informed for-cause challenges is only heightened.

Thank you,

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