

# King County Superior Court

HONORABLE JUDITH H. RAMSEYER

King County Courthouse  
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206.477.1605

December 21, 2021

Justice Charles Johnson, Co-Chair  
Justice Mary Yu, Co-Chair  
Supreme Court Rules and Procedures Committee  
Temple of Justice  
Olympia, WA 98501

*Sent via email: [supreme@courts.wa.gov](mailto:supreme@courts.wa.gov)*

Re: Comment to Proposed Rules CR 39 and GR 41

Dear Justices Johnson and Yu,

I write in my personal capacity to comment on proposed rules CR 39 and GR 41. I now have conducted numerous trials remotely from start to finish. I have conducted a handful of criminal trials using remote jury selection and bringing jurors to the courthouse only after they have been selected to serve as jurors. While there continues to be a place for in-person trials, I am a strong proponent of remote jury selection and trials. They provide a valuable alternative during our on-going health crisis, and we have learned they have advantages well-worth preserving when this crisis ends.

It is very common for attorneys who have not previously conducted remote jury proceedings to object to them. As provided in CR 39, I have ordered a remote trial over objections where no factors unique to the trial warrant an increased risk to personal safety and the need to bring disputes to a close supports timely resolution. In all cases, the trials have been conducted fully, fairly, and without sacrificing due process or respect for the courts. To my knowledge, no attorney who objected to a remote trial has pursued an appeal on that basis.

Jurors overwhelmingly like appearing remotely as it respects their time and resources. Anecdotally, remote jury selection appears to increase the diversity of the venire. I cannot explain that perception, but it may be because veniremen only make an initial commitment of an hour or two for remote questioning. If not selected for the jury, their service is then concluded. During *voir dire*, they are given accurate information about the days and hours of their commitment, which may be more manageable for individual schedules in 3-hour increments Monday through Thursday, rather than spending full days in a courthouse away from their homes or work. If selected as a juror, when not in trial they are going about their personal and work-related business; time devoted to serving the court is reduced. Additionally, they do not incur costs for travel, parking, or meals.

It is entertaining and satisfying to conduct trial in-person. Remote trial, albeit different, is not necessarily inferior. Jurors have reported they have less opportunity to bond with one another while spending trial “down-time” together in a jury room, but that can be ameliorated if they are provided a private, remote meeting room to which jurors may report before trial sessions begin. No juror as yet has complained to me that they could not hear or see witnesses, or had difficulty consulting with fellow jurors during deliberations. In fact, jurors who have served on both in-person and remote trials have reported they actually had a better view of witnesses and exhibits in a remote environment than in-person.

Remote trials also are less costly for parties, counsel, and witnesses who may need to travel to provide testimony. If trial is broadcast, it actually expands court access to more public members who otherwise would not have the time or inclination to travel to court to observe proceedings. There may well be both civil and criminal trials that are better suited for in-person proceedings due to constitutional requirements or unique case attributes. Having access to both remote and in-person trial procedures, however, gives courts maximum flexibility to serve the community based on specific needs of the case.

Substantively, I offer minor edits to the proposed rules:

CR 39:

(d)(2)(A): “On the court’s own initiative” .... “to ensure participants are ~~easily~~ seen and understood.”

(d)(2)(A)(i): “ ... the parties’ ability to conduct a videoconference ....”

(d)(2)(B): “On the court’s own initiative” .... “to ensure participants are ~~easily~~ seen and understood.”

(d)(2)(B)(ii): “In conducting trial by jury ~~over~~by videoconference ....”

(d)(2)(B)(ii)(a): “... the parties’ ability to conduct a videoconference ....”

(d)(3): “ and address appropriate safeguards and procedures.”

GR 41: I strongly support one rule to address jury selection in both civil and criminal trials. Whether remote jury selection is to be used in any trial will be determined case-by-case between the parties and the judge. General rules governing the procedures for remote jury selection should be uniform to foster competence and efficiencies for parties, counsel, and the courts. The generic rules contained in proposed rule GR 41 have worked well in all remote jury selection proceedings in which I have participated, criminal and civil. Again, minor edits follow:

(b): “... to ensure participants are ~~easily~~ seen and understood.”

(d) 3(iii): ...”they should be alone in the space in which they are participating unless the court finds ~~extraordinary~~ circumstances are present ~~that the court finds sufficient to allow the jurors participation~~ that allow the juror to nonetheless fully engage in the jury selection process;

(d) 4: “..., other than the official court record, ...”

(e): “... and that the public ~~shall be~~ is able to ...”

I would be happy to discuss in more detail my experience with remote jury selection and trial. Few attorneys, parties, or jurists with whom I have conducted remote trials have substantive complaints. Of course, there can be delays and glitches. By the same token, I have yet to conduct an in-person trial that also did not experience delays and glitches. Neither venue is perfect, but both offer specific benefits that promote “just, speedy, and inexpensive resolution of every action.” CR 1. Isn’t this the purpose of court rules?

Thank you for consideration of my comments.

Yours truly,

  
Judith H. Ramseyer

**From:** [OFFICE RECEPTIONIST, CLERK](#)  
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**Subject:** FW: Comments to CR 39 & GR 41  
**Date:** Tuesday, December 21, 2021 9:37:15 AM  
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-----Original Message-----

From: Ramseyer, Judith [<mailto:Judith.Ramseyer@kingcounty.gov>]  
Sent: Tuesday, December 21, 2021 9:37 AM  
To: OFFICE RECEPTIONIST, CLERK <[SUPREME@COURTS.WA.GOV](mailto:SUPREME@COURTS.WA.GOV)>  
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Please see attached my personal comments to proposed rules CR 39 and GR 41. Please contact me if any questions.

Thank you --

Judith H. Ramseyer, Judge  
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