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November 22, 2021

VIA EMAIL: SUPREME@COURTS.WA.GOV

Honorable Charles W. Johnson, Co-Chair
Honorable Mary I. Yu, Co-Chair
Washington State Supreme Court Rules Committee
Temple of Justice
P.O. Box 40929
Olympia, WA 98504-0929

Subject: Comments on Proposed New GR 41

Dear Justices Johnson and Yu:

We write in support of the proposed new General Rule 41 permitting jury selection by videoconference. We have jointly tried two civil jury trials where the juries were selected by videoconference and have tried numerous jury trials under the traditional in-person voir dire process before that. The Committee's reasons supporting their recommendation for adopting the new rule are consistent with our experiences. Primarily, virtual voir dire allows for participation by a broader range of prospective jurors in the judicial process. It is more efficient for the court, jurors, practitioners, and their clients—saving everyone time, money, and eliminating barriers to access due to travel constraints and safety concerns.

We expect that the courts will continue to work to address technology disadvantages (e.g., portable devices that could be mailed to prospective jurors without adequate technology). The proposed rule recognizes the need to offer in-person alternatives to virtual voir dire along with establishing mechanisms to prevent juror distraction and resolving technical issues that may arise during virtual voir dire.

Many of the comments made in opposition to the proposed GR 41 are understandable but appear to be rooted in fear and uncertainty of the unknown. While the early virtual voir dire process was new for the bench, bar, and juries alike, it appears that the courts have streamlined a process based on what has worked over the last 18 months. Many of the

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concerns (e.g., jury panels being too large, timing with large panels being too short, technology issues, etc.) have been worked through and appear to be running smoothly.

From a practitioner standpoint, the ability to receive information on prospective jurors through robust and case-specific questionnaires in advance of empaneling a jury results in a more focused, efficient, and substantive voir dire.

While initially unsure about our own ability to read prospective jurors during voir dire (and trial), we felt that we were better able to effectively communicate with the jury due to the close-in nature of seeing each juror's individual faces on Zoom as opposed to reading the jurors sitting in a box across the court room or to being socially-distanced and in masks in Meydenbauer Center.

Lastly, following both of our trials, the trial court and counsel specifically asked the jurors about the virtual voir dire process. The overwhelming and emphatic response was that the jurors appreciated the virtual aspects of voir dire –including the reduced impact on their daily lives. It is for these reasons that we strongly support the Committee's recommendation to adopt the proposed General Rule 41.

Sincerely,

Two handwritten signatures in blue ink, one for Matthew R. Hansen and one for Tara M. O'Hanlon.

Matthew R. Hansen and Tara M. O'Hanlon

cc: King County Superior Court Presiding Judge Jim Rogers and Judge Sean O'Donnell

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Good evening,

Please see the attached comments from Matthew Hansen and Tara O'Hanlon on the proposed new GR 41.

Thank you,

Sara Conder

Real Estate Department Coordinator | Legal Assistant to Condemnation Litigation

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