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**From:** Ryan, Michael [mailto:Michael.Ryan@kingcounty.gov]  
**Sent:** Friday, October 29, 2021 4:11 PM  
**To:** OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>  
**Subject:** Comments re: CR 39 and GR 41

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Dear Justices Johnson and Yu,

I am writing to express my support for the proposed amendments to CR 39 and GR 41. While I am a member of the Superior Court Judges' Association Civil Law and Rules Committee, the comments below are my own and are not made on behalf of the Committee.

### CR 39

I fully support the proposed changes to CR 39. With respect to non-jury trials, it has been my experience that videoconference trials, with the appropriate safeguards in place, increase access to justice and reduce the costs associated with in-person trials. I am currently on a rotation with our Unified Family Court, which addresses family law matters involving children and therefore have conducted approximately 40 trials via videoconference. I have seen firsthand how this technology has enabled individuals, and particularly those not represented by counsel, to be able to meaningfully participate in the legal process. For example, I often have individuals who live in other states, or different parts of our state, who participate in trials relating to parenting plan actions. Absent the ability to utilize video technology, it might often be the case that the parties simply would not be able to show for trial given the costs and logistics of travel. And in those cases involving counsel, it is plain to me that costs associated with traveling to and from court have all but been eradicated. From a personal standpoint, as the trier of fact, I can see the witnesses better over a good quality video feed than I could if they were in the witness stand. The benefits of virtual trials, especially in the context of family law trials, cannot be overstated.

With respect to jury trials, I have also tried several virtual civil trials, including one trial that lasted almost six weeks. Doing trials virtually makes scheduling witnesses easier for the parties and counsel. Also, discussions with jurors after the trial has ended have left me with the firm belief that jurors are as attentive as they would be in court, and that they enjoy the flexibility of not having to come to the courthouse each day. It has not been my experience that jurors treat the process with any less solemnity than if they were in the actual courtroom. Virtual trials may not

work for all courts and jurisdictions throughout this state, but allowing courts to have the discretion to conduct such trials builds efficiencies into the process and ultimately opens up the courts to more participants. Virtual trials may have been born by necessity, and may have initially been seen as a stopgap measure to allow courts to function during the pandemic, but I believe we should build on what we have learned and allow courts the discretion to determine whether virtual civil jury trials are appropriate and I agree with the criteria set forth in the proposed rule that would help guide that discretion.

#### GR 41

I also fully support allowing judges having the discretion to determine whether to conduct jury selection, in all cases, virtually. Again, I speak from my own experience, having conducted virtual jury selection in both criminal and civil cases. Although my experience is anecdotal, it appears to me that providing this vehicle for jury selection has increased the number of individuals who answer their jury summons and participate in voir dire. With appropriate attention given by the judicial officer to make sure that all panel members can see and hear the court, the parties and counsel, virtual jury selection is more streamlined and efficient than traditional voir dire. For example, it is much easier to place the panel in a virtual waiting room before discussing an issue with counsel than it is to have the clear the courtroom in order to do so. Of course, accommodations must be made for those individuals who cannot access, or do not feel comfortable using, the appropriate technology, but the proposed rule provides for that contingency. Having conducted voir dire the traditional way, and virtually, it is my view that virtual jury selection is actually superior to traditional voir dire.

Warmest regards,

Judge Michael K. Ryan  
King County Superior Court  
Maleng Regional Justice Center  
Courtroom 4B