



Hon. Shelly K. Speir-Moss
Chair

Pierce County Superior Court
930 Tacoma Ave. S., Rm 334
Tacoma, WA 98402-2108

Hon. Timothy L. Ashcraft

Pierce County Superior Court
930 Tacoma Ave. S., Rm 334
Tacoma, WA 98402-2108

Hon. Timothy B. Fennessy

Spokane County Superior Court
1116 W Broadway Ave.
Spokane, WA 99260-0350

Hon. Susan E. Harness

Snohomish County Superior Court
3000 Rockefeller Ave., MS 502
Everett, WA 98201

Hon. Thomas P. Quinlan

Pierce County Superior Court
930 Tacoma Ave. S., Rm 334
Tacoma, WA 98402-2108

Hon. Michael K. Ryan

King County Superior Court
401 4th Ave. N., Rm 2D
Kent, WA 98032-4429

Hon. Emily A. Sheldrick

Clark County Superior Court
1200 Franklin St.
Vancouver, WA 98660-2812

Hon. Mary Sue Wilson

Thurston County Superior Court
2000 Lakeridge Dr. S.W., Bldg 2
Olympia, WA 98502

Superior Court Judges' Association - Civil Law and Rules Committee

Date: September 13, 2021

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

Re: Proposed Amendment to CR 39: Trials by Videoconference
Proposed NEW GR 41: Jury Selection by Videoconference

Dear Justices Johnson and Yu:

The Superior Court Judges' Association Civil Law and Rules Committee supports the proposed changes to CR 39 and the proposed new GR 41 as, in its view, the proposed modifications (a) provide courts an additional tool for improving access to justice and (b) further the goal of reducing structural racism in the courts by affording groups for which access has historically been difficult, due to socioeconomic and other causes, an alternate means of access.

While maintaining its support, the Committee is concerned that the proposed rule language, as currently drafted, appears unclear as to the scope of a trial court's authority with respect to videoconferencing. Proposed CR 39 (d)(2)(B)(i), for example, allows trials by videoconference by written agreement of the parties, but does not specify whether such agreements are subject to court approval.

As experience with and capacity for videoconference jury selection and trials vary among Washington's courts, and as circumstances may exist making the use of such tools inappropriate in specific cases, the Committee believes decisions about the use of videoconferencing should ultimately lie within the discretion of the trial court. Accordingly, for purposes of clarity, the Committee respectfully requests that language be inserted into each of the proposed enactments expressly stating that decisions concerning the use of videoconferencing lie within the discretion of the court.

Specifically, the Committee suggests that CR 39(d)(2)(B)(1) be amended to read: "When there is written agreement of the parties, subject to court approval. The agreement shall be filed with the court before the start of trial; or..."

Similarly, the Committee suggests that GR 41(b) be amended to read: "In all cases, jury selection may be conducted by videoconference in which all participants can simultaneously see, hear, and speak with each other. The video and audio should be of sufficient quality to ensure participants are easily seen and understood. The trial court has discretion to determine whether jury selection by videoconference would be appropriate in a given case, and any requests made by or agreements reached between parties regarding jury selection by videoconference shall be subject to court approval."

Thank you for your consideration.

Yours truly,

A handwritten signature in blue ink, appearing to read 'SKM', with a long horizontal line extending to the right.

Judge Shelly Speir-Moss, Chair
SCJA Civil Law and Rules Committee

From: [OFFICE RECEPTIONIST, CLERK](#)
To: [Linford, Tera](#)
Subject: FW: Comment Regarding Proposed Changes to CR 39 and Proposed New GR 40 [Re-designated as GR 41]
Date: Monday, September 13, 2021 3:54:21 PM
Attachments: [Ltr SCJACLR to Supr Ct Re CR39 & GR41, Final.pdf](#)
[image001.png](#)

From: Lynch, Jim
Sent: Monday, September 13, 2021 3:21 PM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Cc: Shelly Speir-Moss <sspeir@piercecountywa.gov>; Lynch, Jim <Jim.Lynch@courts.wa.gov>
Subject: Comment Regarding Proposed Changes to CR 39 and Proposed New GR 40 [Re-designated as GR 41]

9/13/2021: Good afternoon. Attached is the Washington Superior Court Judges Association's Civil Law & Rules Committee's comment on the proposed changes to CR 39 and the proposed NEW GR 40 [redesignated as GR 41]. The Committee appreciates the Supreme Court's rule-making efforts and consideration of the Committee's comment. Thank you.

James B. "Jim" Lynch

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