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Via email to: supreme@courts.wa.gov

April 30, 2024

Justices of the Washington Supreme Court

P.O. Box 40929

Olympia, WA 98504-0929

Re: Amendment to Proposed General Rule 41

Dear Justice Yu:

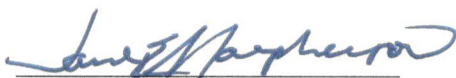
Our practice emphasizes the defense of civil litigation. As experienced civil litigators, we agree with all of the concerns expressed by the criminal defense bar in the letter directed to the Supreme Court by email on April 24, 2024.

Concerns of expediency and convenience should not override constitutionally protected safeguards. It is impossible to get the same type of feedback and non-verbal cues from prospective jurors who are responding remotely from the comfort of their own homes when compared to those same citizens in a controlled environment and in a group setting. People often act differently in groups than they do when they are physically separated from one another. It is critical that trial counsel be afforded an opportunity to witness, in person, how prospective jurors react to each other, the Court, and trial counsel.

By its very nature, a jury requires group participation and face-to-face communication. Are certain jurors going to be intimidated or swayed by other prospective jurors? Sometimes, subtle clues like this can be gleaned simply by observing the way the jurors look at each other, shake their heads, fold their arms or roll their eyes, for example. These subtle, yet important, clues do not translate very well when everyone is in their safe space.

We realize that technology has made it easy and convenient for people to limit in-person experiences, but the state constitution allows jury trials in civil cases, as well as criminal cases. Again, we stand with the criminal bar in opposing proposed GR41 as currently written. The proposed rule should only apply to allow remote voir dire when *all parties* and the Court agree. This rule should not be forced upon criminal defendants or litigating parties in civil matters.

Sincerely,



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