

WSR 24-16-098
RULES OF COURT
STATE SUPREME COURT
[June 7, 2024]

IN THE MATTER OF THE PROPOSED) ORDER
AMENDMENTS TO CR 43—TAKING) NO. 25700-A-1572
TESTIMONY)

The BJA Remote Proceedings Work Group, having recommended the adoption of the proposed amendments to CR 43—Taking Testimony, and the Court having considered the proposed amendments, and having determined that the proposed amendments as revised by the Court will aid in the prompt and orderly administration of justice;

Now, therefore, it is hereby

ORDERED:

(a) That the revised proposed amendments as shown below are adopted.

(b) That pursuant to the emergency provisions of GR 9 (j) (1), the revised proposed amendments will be expeditiously published in the Washington Reports and will become effective upon publication.

DATED at Olympia, Washington this 7th day of June, 2024.

Table listing judges: Johnson, J.; Madsen, J.; Owens, J.; Stephens, J.; Gonzalez, C.J.; Gordon McCloud, J.; Yu, J.; Montoya-Lewis, J.; Whitener, J.

CR 43
TAKING OF TESTIMONY

(a) Testimony.

(1) Generally. In all trials the testimony of witnesses shall be taken orally in open court, unless otherwise directed by the court or provided by rule or statute. For good cause in compelling circumstances and with appropriate safeguards, the court may permit testimony in open court by contemporaneous transmission from a different location. Except as provided in CR 43 (f) (1), the court may permit, with appropriate safeguards, testimony by remote means if the parties agree and the court approves, or if the court determines the purposes of CR 1 will be served. In determining whether testimony should be allowed by remote means per CR 1, the court may consider whether the witness is subject to a trial subpoena, whether there will be any prejudice to any party or the witness if testimony by remote means is permitted, the witness' access to technology that allows the witness to be seen and heard, and the court's ability to facilitate remote testimony. Advance notice of a party's intention to use remote testimony must be given no less than 10 days prior to trial, absent good cause shown.

(2) [Unchanged.]

(b) - (c) [Unchanged.]

(d) Oaths of Witnesses.

(1) Administration. The oaths of all witnesses in the superior court

(A) - (B) [Unchanged.]

~~(C) the witness shall stand while the oath is administered.~~

(2)-(3) [Unchanged.]

(e) Evidence on Motions.

(1) *Generally.* When a motion is based on facts not appearing of record the court may hear the matter on affidavits presented by the respective parties, but the court may direct that the matter be heard wholly or partly on oral testimony or depositions. Oral testimony may be taken by remote means.

(2) [Unchanged.]

(f) - (k) [Unchanged.]