

**FILED**

**FEB 16 2017**

WASHINGTON STATE  
SUPREME COURT

## **THE SUPREME COURT OF WASHINGTON**

PROCEDURES FOR REVIEW OF WSBA  
RECORDS REQUEST APPEALS OFFICER  
DECISIONS PURSUANT TO GENERAL  
RULE 12.4(h)(2)(c)

### **ORDER**

NO. 25700-B-573

General Rule (GR) 12.4 was adopted by the Supreme Court and became effective July 1, 2014. The rule was proposed by the Washington State Bar Association (WSBA) to establish standards and procedures for public access to the WSBA's records. Before adoption, the rule was considered at a series of meetings to ensure that it was consistent with the companion rule that was being drafted regarding public access to the judiciary's administrative records. The companion rule, GR 31.1, was adopted and became effective January 1, 2016. GR 12.4 includes a process for requesting review of the WSBA's records access decisions by the Supreme Court, reflecting the Supreme Court's continuing supervisory authority over the bar association.

GR 12.4(h)(1) provides that a WSBA records officer's decision on a request for WSBA records is subject to internal review by the WSBA Executive Director. The Executive Director's decision is then subject to an external review by a Records Request Appeals Officer (RRAO). GR 12.4(h)(2). A requester may seek review of the RRAO decision by the Supreme Court. GR 12.4(h)(2)(c). The rule directs that the review will be conducted in accordance with procedures established by the Supreme Court. The following procedures are hereby adopted for review of a RRAO decision.

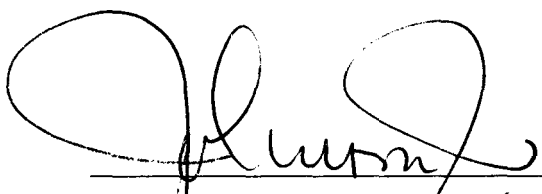
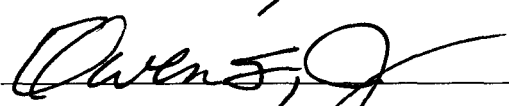
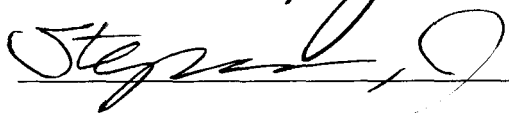
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DECISIONS PURSUANT TO GENERAL RULE 12.4(h)(2)(c)  
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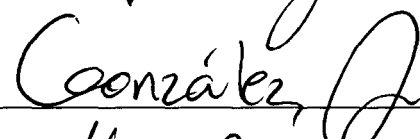
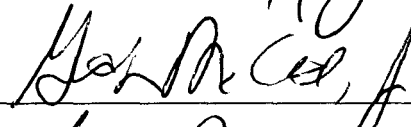
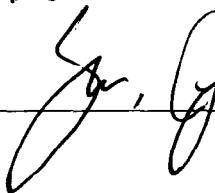
A. Initiation. A request for review of a RRAO decision should be titled “request for discretionary review of RRAO decision”. The request should be in the form of a motion as provided in RAP 17.3(a) and RAP 17.4(g) and be served and filed as provided in RAP 17.4(a) and RAP 18.5, except as otherwise provided in this general order. The request for review should contain a separate concise statement of each error the requester contends was made by the RRAO that the requester seeks to have reviewed. Pursuant to GR 12.4(h)(2)(c), to be timely, the request must be filed in the Supreme Court within 30 days of the date of the RRAO decision. Upon receipt of a request for review, the Supreme Court Clerk shall assign the case a number for administrative tracking purposes and shall notify the Chief Justice of the request. The Clerk shall also advise the parties of the due dates for the filing of an answer to the request and a reply to any answer. Any answer or reply should be in the form provided in RAP 17.4(g) and be served and filed as provided in RAP 17.4(a) and RAP 18.5, except as otherwise provided in this general order. Each party should include any supporting documents and affidavits they wish to have considered in an appendix to their filing.

B. Determination whether to grant review. After the answer and reply have been filed, or the dates for filing have expired, the Clerk will present the request to the Chief Justice for the decision whether to grant review. Review of an RRAO decision will be granted upon a sufficient showing that the RRAO committed probable error that calls for the exercise of supervisory action on behalf of the Supreme Court. The Clerk shall report the Chief Justice’s decision to the parties by letter. The Chief Justice’s decision whether to grant review shall not be subject to a motion for reconsideration or a motion to modify.

C. Review upon grant of request for discretionary review. If review is granted, the Chief Justice may either conduct the review or designate a current or former elected judge or justice to conduct the review. The review shall be on the record as provided by the parties, without additional briefing or oral argument, unless otherwise requested by the Chief Justice or the reviewing judge or justice. If the Chief Justice or the reviewing judge or justice determines that the RRAO decision is based on an erroneous understanding of the laws, rules, and controlling precedent that GR 12.4 references to define the scope of access to WSBA records, or so conflicts with the policy and purpose of GR 12.4 as to require the exercise of supervisory action on behalf of the Supreme Court, the Chief Justice or reviewing judge or justice shall remand to the WSBA for modification of the WSBA response to the records request. The final decision upon review by the Chief Justice or the reviewing judge or justice shall be transmitted to the parties by the Clerk. The decision shall not be subject to a motion for reconsideration or a motion to modify.

DATED at Olympia, Washington, this 16<sup>th</sup> day of February, 2017.

  
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Madsen, J.  
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Owen, J.  
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Stephen, J.

  
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Fairhurst, CJ.  
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Wiggins, J.  
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Gonzalez, J.  
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Gordon, J.  
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J. J.