

THE SUPREME COURT OF WASHINGTON

IN THE MATTER OF THE SUGGESTED)
AMENDMENTS TO RAP 10.8—ADDITIONAL)
AUTHORITIES)
)
)
_____)

ORDER

NO. 25700-A-1374

The Washington State Court of Appeals Rules Committee, having recommended the suggested amendments to RAP 10.8—Additional Authorities, and the Court having approved the suggested amendments for publication;

Now, therefore, it is hereby

ORDERED:

(a) That pursuant to the provisions of GR 9(g), the suggested amendments as attached hereto are to be published for comment in the Washington Reports, Washington Register, Washington State Bar Association and Administrative Office of the Court's websites in January 2022.

(b) The purpose statement as required by GR 9(e), is published solely for the information of the Bench, Bar and other interested parties.

(c) Comments are to be submitted to the Clerk of the Supreme Court by either U.S. Mail or Internet E-Mail by no later than April 30, 2022. Comments may be sent to the following addresses: P.O. Box 40929, Olympia, Washington 98504-0929, or supreme@courts.wa.gov.

Comments submitted by e-mail message must be limited to 1500 words.

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AUTHORITIES

DATED at Olympia, Washington this 5th day of October, 2021.

For the Court


González, C.J.

GR 9 COVER SHEET

Suggested Amendment

Rules of Appellate Procedure

Rule 10.8 – Additional Authorities

A. Proponent: Washington State Court of Appeals Rules Committee

B. Spokesperson: Judge Bradley Maxa, Chair

C. Purpose: RAP 10.8 allows parties or amicus to file a statement of additional authorities in support of their position on appeal. As currently worded, the rule does not allow a statement to include argument. Nor is there a suggested timeframe for submitting additional authorities. Litigants' approaches to RAP 10.8 vary widely. Some simply provide citations without further explanation. Others place the citations in context. Contextualizing the submission of additional authorities is helpful to the court, but it is arguably inconsistent with the current rule.

The proposed rule permits litigants to explain the relevance of additional authorities through brief argument. By allowing argument, the proposed rule will enhance the helpfulness of additional authorities to the court and promote consistent use of additional authorities by litigants.

In requiring a statement of additional authorities to pinpoint an area in the brief or a point made during oral argument, the proposed rule ensures a statement of additional authorities will not be used to expand the issue on appeal. By placing a deadline on the submission of additional authorities, the proposed rule encourages litigants to submit additional authorities at a time when they will be of most use to the court. The deadline for filing additional authorities does not apply to authorities decided less than 7 days before a case is scheduled for argument or a decision without oral argument.

The proposed rule is similar to the approach taken by the federal rules of appellate procedure and will allow for a degree of consistency between state and federal appellate practice.

D. Hearing: Not requested.

E. Expedited Consideration: Not requested.

F. Supporting Material: Suggested rule amendment.

RAP 10.8 ADDITIONAL AUTHORITIES

(a) Generally. A party or amicus curiae may file a statement of additional authorities. ~~The statement should not contain argument, but should identify the issue for which each authority is offered.~~ The additional authorities must relate to a point made in the briefing or at oral argument.

(b) Contents. The statement must include argument explaining the reasons for the additional authorities and must include a pinpoint citation either to the pertinent page of the brief or to a point argued orally. The body of the statement must not exceed 350 words (word processing software) or one page (typewriter or handwritten). The statement of additional authorities shall be accompanied by a certificate of compliance as set forth in RAP 18.17(b).

(c) Timing. The statement must be served and filed promptly, before ~~prior to~~ the filing of the decision on the merits or, if there is a motion for reconsideration, before ~~prior to~~ the filing of the decision on the motion. A party or amicus seeking to submit additional authorities before oral argument, or the date on which the case is scheduled to be decided without oral argument, must file the statement no later than 7 days before the date scheduled for argument or consideration without argument. The 7-day deadline does not apply where new authority has been issued less than 7 days before scheduled oral argument or consideration without oral argument.

(d) Response. Any response to the statement of additional authorities must be filed within 7 days after the statement is filed and also must be limited to 350 words (word processing software) or one page (typewriter or handwritten). The response shall be accompanied by a certificate of compliance as set forth in RAP 18.17(b).