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ORDER

IN THE MATTER OF THE SUGGESTED AMENDMENT TO RAP 17.2—WHO DECIDES A
MOTION

DATED at Olympia, Washington this 6th day of December, 2021.

For the Court


González, C.J.

GR 9 COVER SHEET

Suggested Amendment

Rules of Appellate Procedure

Rule 17.2 – Who Decides a Motion

A. Proponent: Washington State Court of Appeals Rules Committee

B. Spokesperson: Judge Bradley Maxa, Chair

C. Purpose: RAP 17.2 explains who decides various kinds of motions. RAP 17.2(b) allows the commissioner or clerk to refer a motion to the judges for determination. Some litigants attempt to challenge a commissioner’s or clerk’s decision to refer a motion to the judges. The proposed amendment clarifies that a referral decision by a commissioner or clerk is not a ruling that is subject to a motion to modify under RAP 17.7(a).

D. Hearing: Not requested.

E. Expedited Consideration: Not requested.

F. Supporting Material: Suggested rule amendment.

RAP 17.2
WHO DECIDES A MOTION

(a) Generally. The judges determine (1) a motion in a brief, (2) a motion to modify a ruling by a commissioner or the clerk, (3) a motion for reconsideration of a decision, (4) a motion to recall the mandate, except for a motion made to correct an inadvertently issued mandate, and (5) a motion to publish. All other motions may be determined initially by a commissioner or the clerk of the appellate court.

(b) Reference to the Judges. A commissioner or clerk may refer a motion to the judges for determination. If the motion is referred to the judges, the commissioner or clerk will give notice of the reference to all persons entitled to notice of the motion. A decision to refer a motion to the judges is not subject to review by the judges in the form of a motion to modify.

(c) Transfer by Supreme Court to Court of Appeals. A commissioner or clerk of the Supreme Court may transfer a motion for discretionary review of a trial court decision to the Court of Appeals for determination.

[Adopted effective July 1, 1976; Amended effective July 2, 1976; September 1, 1992; September 1, 1998; December 24, 2002.]