

WSR 22-01-108
RULES OF COURT
STATE SUPREME COURT
[December 6, 2021]

IN THE MATTER OF THE ) ORDER
SUGGESTED AMENDMENT TO RAP ) NO. 25700-A-1405
17.2—WHO DECIDES A MOTION )

The Washington Appellate Courts Rules Committee, having recommended the suggested amendment to RAP 17.2—Who Decides a Motion, and the Court having approved the suggested amendment for publication;

Now, therefore, it is hereby

ORDERED:

(a) That pursuant to the provisions of GR 9(g), the suggested amendment as shown below is 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.

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

For the Court

Gonzalez, C.J.

CHIEF JUSTICE

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.]