

WSR 23-03-025
RULES OF COURT
STATE SUPREME COURT
[January 5, 2023]

IN THE MATTER OF THE ) ORDER
SUGGESTED AMENDMENTS TO ) NO. 25700-A-1486
CrRLJ 7.5—NEW TRIAL )

Judge Steele, having recommended the suggested amendments to CrRLJ 7.5—New Trial, 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 shown below 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 2023.

(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, 2023. 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 5th day of January, 2023.

For the Court

Gonzalez, C.J.

CHIEF JUSTICE

GENERAL RULE 9
RULE AMENDMENT COVER SHEET
PROPOSED AMENDMENT TO CrRLJ 7.4 and CrRLJ 7.5

- 1. Mason County District Court
2. George A. Steele (360) 427-9670 Ex. 339
GSteele@masoncountywa.gov
3. To give Courts of Limited Jurisdiction have the same flexibility as Superior Courts, when motions under CrRLJ 7.4 and CrRLJ 7.5 are brought.
4. The Superior Court has the ability to waive the deadlines to file motions under CrR 7.4 and CrR 7.5; Courts of Limited Jurisdiction do not. This can be unfair to defendants who might have meritorious motions for the relief sought under CrRLJ 7.4 and CrRLJ 7.5. I view this suggested rule as a fairly minor adjustment to the current rules. The time frames have also been extended from five days to ten days to match the superior court rule and create a more realistic time period.
5. Is Expedited Consideration Requested? No.
6. Is a Public Hearing Recommended? Probably.

CrRLJ 7.5
NEW TRIAL

**(a) Grounds for New Trial.** The court may, on its own motion or on motion of the defendant, grant a new trial for any one of the following causes when it affirmatively appears that a substantial right of the defendant was materially affected: (1) Receipt by the jury of any evidence, paper, document or book not allowed by the court; (2) Misconduct of the prosecution or jury; (3) Newly discovered evidence material for the defendant, which the defendant could not have discovered with reasonable diligence and produced at the trial; (4) Accident or surprise; (5) Irregularity in the proceedings of the court, jury or prosecution, or any order of court, or abuse of discretion, by which the defendant was prevented from having a fair trial; (6) Error of law occurring at the trial and objected to at the time by the defendant; (7) That the verdict or decision is contrary to law and the evidence; (8) That substantial justice has not been done. When the motion is based on matters outside the record, the facts shall be shown by affidavit.

**(b) Time for Motion; Contents of Motion.** A motion for new trial must be served and filed within 5 10 days after the verdict or decision. The court on application of the defendant or on its own motion may in its discretion extend the time until such time as judgment is entered. The motion for a new trial shall identify the specific reasons in fact and law for each ground on which the motion is based.

**(c) Time for Affidavits.** When a motion for a new trial is based upon affidavits they shall be served with the motion. The prosecuting authority has 5 10 days after such service within which to serve opposing affidavits. The court may extend the period for submitting affidavits to a time certain for good cause shown or upon stipulation.

**(d) Statement of Reasons.** In all cases where the court grants a motion for a new trial, it shall, in the order granting the motion, state whether the order is based upon the record or upon facts and circumstances outside the record which cannot be made a part thereof. If the order is based upon the record, the court shall give definite reasons of law and fact for its order. If the order is based upon matters outside the record, the court shall state the facts and circumstances upon which it relied.

[Adopted effective September 1, 1987; Amended effective September 1, 1991.]

**Reviser's note:** The typographical error in the above material occurred in the copy filed by the state supreme court and appears in the Register pursuant to the requirements of RCW 34.08.040.