

WSR 23-21-028
RULES OF COURT
STATE SUPREME COURT
[October 3, 2023]

IN THE MATTER OF THE) ORDER
SUGGESTED AMENDMENT TO RAP) NO. 25700-A-1541
10.2—TIME FOR FILING BRIEFS)

The Washington State Court of Appeals Rules Committee, having recommended the suggested amendment to RAP 10.2—Time for Filing Briefs, 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 2024.

(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, 2024. 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 3rd day of October, 2023.

For the Court

Gonzalez, C.J.

CHIEF JUSTICE

GR 9 COVER SHEET

Suggested Amendment
Rules of Appellate Procedure
Rule 10.2 - Time for Filing Briefs

A. Proponent: Washington State Court of Appeals Rules Committee

B. Spokesperson: Judge Bradley Maxa, Chair

C. Purpose: Add a new sentence to paragraph (h) (Service of Briefs): "Separate service is not necessary as to parties or amici participating in electronic filing." Paragraph (h) has historically required a party who files a brief to serve a copy of the brief upon all other parties and amicus curiae with proof of service filed in the appellate court. The proposed new sentence waives this requirement for case participants who participate in electronic filing because, when a party files a brief using the electronic portal, a link to the brief is automatically transmitted to all other case participants. Accordingly, continuing to require the party who files a brief using the electronic portal to serve a copy of the brief upon all other case participants and file proof of such service is unnecessarily duplicious.

D. Hearing: Not requested.

E. Expedited Consideration: Not requested.

F. Supporting Material: Suggested rule amendment.

RAP 10.2

TIME FOR FILING BRIEFS

(a) Brief of Appellant or Petitioner. The brief of an appellant or petitioner should be filed with the appellate court within 45 days after the report of proceedings is filed in the appellate court; or, if the record on review does not include a report of proceedings, within 45 days after the party seeking review has filed the designation of clerk's papers and exhibits in the trial court.

(b) Brief of Respondent in Civil Case. The brief of a respondent in a civil case should be filed with the appellate court within 30 days after service of the brief of appellant or petitioner.

(c) Brief of Respondent in Criminal Case. The brief of a respondent in a criminal case should be filed with the appellate court within 60 days after service of the brief of appellant or petitioner.

(d) Reply Brief. A reply brief of an appellant or petitioner should be filed with the appellate court within 30 days after service of the brief of respondent unless the court orders otherwise.

(e) [Reserved; see rule 10.10.]

(f) Brief of Amicus Curiae. Unless the court sets a different date, or allows a later date upon a showing of particular justification, a brief of amicus curiae should be filed as follows:

(1) *Supreme Court.* A brief of amicus curiae should be received by the court, counsel of record for the parties, and any other amicus curiae not later than 45 days before oral argument or consideration of the merits.

(2) *Court of Appeals.* A brief of amicus curiae should be received by the court, counsel of record for the parties, and any other amicus curiae not later than 45 days after the filing of the last brief of respondent permitted under rule 10.2(b) or 10.2(c).

(g) Answer to Brief of Amicus Curiae. A brief in answer to the brief of amicus curiae may be filed with the appellate court not later than the date fixed by the appellate court.

(h) Service of Briefs. At the time a party files a brief, the party should serve one copy on every other party and on any amicus curiae, and file proof of service with the appellate court. Separate service and separate proof of service is not necessary as to parties or amici participating in electronic filing.

(i) Sanctions for Late Filing and Service. The appellate court will ordinarily impose sanctions under rule 18.9 for failure to timely file and serve a brief.