

WSR 23-21-032
RULES OF COURT
STATE SUPREME COURT
[October 3, 2023]

IN THE MATTER OF THE) ORDER
SUGGESTED AMENDMENTS TO) NO. 25700-A-1545
RAP 18.8—WAIVER OF RULES AND)
EXTENSION AND REDUCTION OF)
TIME)

The Washington State Court of Appeals Rules Committee, having recommended the suggested amendments to RAP 18.8—Waiver of Rules and Extension and Reduction of Time, 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 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 18.8 - Waiver of Rules and Extension and Reduction of Time

A. Proponent: Washington State Court of Appeals Rules Committee

B. Spokesperson: Judge Bradley Maxa, Chair

C. Purpose: The proposed amendments to RAP 18.8: (1) add a new paragraph (b) and re-letter subsequent paragraphs and references within the rule to those paragraphs; (2) like in federal court, allow a single, automatic extension of time of up to 30 days to file a party's opening brief in a non-accelerated appeal upon filing a form request.

D. Hearing: Not requested.

E. Expedited Consideration: Not requested.

F. Supporting Material: Suggested rule amendment and form.

RAP 18.8

WAIVER OF RULES AND EXTENSION AND REDUCTION OF TIME

(a) Generally. The appellate court may, on its own initiative or on motion of a party, waive or alter the provisions of any of these rules and enlarge or shorten the time within which an act must be done

in a particular case in order to serve the ends of justice, subject to the restrictions in sections (bc) and (ed).

(b) Streamlined Extensions of Time for Filing Briefs in the Court of Appeals. If a party in the Court of Appeals has not previously filed a motion for an extension of time to file a brief authorized by RAP 10.2 (a)-(c), that party may obtain a single streamlined extension of time to file that brief not to exceed 30 days. A party requesting a streamlined extension of time shall file a written request as set forth in RAP Form XX. The clerk will approve requests that comply with this rule and will provide a new schedule. The clerk will inform parties not eligible for relief under this subsection as to the appropriate method to obtain relief. A streamlined extension of time to file a brief is not available if an appeal has been accelerated.

(bc) Restriction on Extension of Time. The appellate court will only in extraordinary circumstances and to prevent a gross miscarriage of justice extend the time within which a party must file a notice of appeal, a notice for discretionary review, a motion for discretionary review of a decision of the Court of Appeals, a petition for review, or a motion for reconsideration. The appellate court will ordinarily hold that the desirability of finality of decisions outweighs the privilege of a litigant to obtain an extension of time under this section. The motion to extend time is determined by the appellate court to which the untimely notice, motion or petition is directed.

(ed) Restriction on Changing Decision. The appellate court will not enlarge the time provided in rule 12.7 within which the appellate court may change or modify its decision.

(de) Terms. The remedy for violation of these rules is set forth in rule 18.9. The court may condition the exercise of its authority under this rule by imposing terms or awarding compensatory damages, or both, as provided in rule 18.9.

RAP FORM XX

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION ____

[CASE NAME]) No. [CASE NUMBER]
)
) STREAMLINED REQUEST
) FOR EXTENSION OF TIME
) TO FILE BRIEF [Rule 18.8(b)]
)
)

Name of party requesting the extension:
For which brief are you requesting an extension:
___ Opening Brief
___ Response Brief
What is your current due date? _____
What is your requested due date? _____
(must not exceed 30 days)
Name of person filing request: _____
Date: _____
Signature: _____