

WSR 23-21-024
RULES OF COURT
STATE SUPREME COURT
[October 3, 2023]

IN THE MATTER OF THE) ORDER
SUGGESTED AMENDMENT TO) NO. 25700-A-1537
RULE OF APPELLATE PROCEDURE)
(RAP) 9.5—FILING AND SERVICE)
OF REPORT OF PROCEEDINGS—)
OBJECTIONS)

The Washington State Court of Appeals Rules Committee, having recommended the suggested amendment to Rule of Appellate Procedure (RAP) 9.5—Filing and Service of Report of Proceedings—Objections, 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 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 9.5 - Filing and Service of Report of Proceedings - Objections

A. Proponent: Washington State Court of Appeals Rules Committee

B. Spokesperson: Judge Bradley Maxa, Chair

C. Purpose: The proposed amendment reflects current practice as a result of General Orders for the Court of Appeals, which require court reporters, transcribers, and case participants admitted to practice law in the State of Washington to file VRPs, briefs, and other court documents using the appellate court's electronic filing system. For example, on April 17, 2020, the Court of Appeals issued a General Order regarding procedures for court reporters and transcribers that requires that a "Qualifying Electronic VRP shall be filed using the appellate courts' web e-filing portal." When a Qualifying Electronic VRP is filed using the appellate court's electronic filing system, each party who participates in electronic filing receives an electronic copy of the electronic VRP. This proposed amendment waives the requirement that a party filing a brief promptly forward a copy of the

VRP to the party with the right to file the next brief where that party participates in electronic filing and, accordingly, has already received an electronic copy of the VRP.

D. Hearing: Not requested.

E. Expedited Consideration: Not requested.

F. Supporting Material: Suggested rule amendment.

RAP 9.5

FILING AND SERVICE OF REPORT OF PROCEEDINGS—OBJECTIONS

(a) Generally. The party seeking review must file an agreed or narrative report of proceedings with the appellate court within 60 days after the statement of arrangements is filed. The court reporter or authorized transcriptionist preparing a verbatim report of proceedings must file it in the appellate court within 60 days after the statement of arrangements is filed and all named court reporters or authorized transcriptionists are served. The court reporter or authorized transcriptionist shall promptly notify all parties that the report of proceedings has been filed with the appellate court, and shall provide a copy of the report of proceedings to the party who arranged for the transcript.

(1) A party filing a brief must promptly forward a copy of the verbatim report of proceedings with a copy of the brief to the party with the right to file the next brief. If more than one party has the right to file the next brief, the parties must cooperate in the use of the report of proceedings. The party who files the last brief should return the copy of the report of proceedings to the party who paid for it. This subsection does not apply if the party with the right to file the next brief participates in electronic filing and has thereby received electronic copies of the verbatim report of proceedings.

(2) A searchable PDF electronic copy of the verbatim report of proceedings shall be filed with the original verbatim report of proceedings, with a copy provided to the party who caused the verbatim report of proceedings to be filed. The report of proceedings may be electronically filed with the appellate court in accordance with the court's filing procedures.

(b) Additional Time for Filing and Service of Verbatim Report of Proceedings. If a verbatim report of proceedings cannot be completed within 60 days after the statement of arrangements is filed and served, the court reporter or authorized transcriptionist shall, no later than 10 days before the report of proceedings is due to be filed, submit an affidavit to the party who ordered the report of proceedings stating the reasons for the delay. The party who requested the verbatim report of proceedings should move for an extension of time from the appellate court. The clerk will notify the parties of the action taken on the motion. Failure to timely file the verbatim report of proceedings and notice of service may subject the court reporter or video transcriber or authorized transcriptionist to sanctions as provided in rule 18.9.

(c) Objections to Report of Proceedings. A party may serve and file objections to, and propose amendments to, a narrative report of proceedings or a verbatim report of proceedings within 10 days after receipt of the report of proceedings or receipt of the notice of filing of the report of proceedings with the appellate court. If objections or amendments to the report of proceedings are served and filed, any objections or proposed amendments must be heard by the trial court judge before whom the proceedings were held for settlement and approval, except objections to the form of a report of proceedings, which

shall be heard by motion in the appellate court. The court may direct court reporters or authorized transcriptionists to pay for the expense of any modifications of the proposed report of proceedings. The motion procedure of the court deciding any objections shall be used in settling the report of proceedings.

(d) Substitute Judge May Settle Report of Proceedings. If the judge before whom the proceedings were held is for any reason unable to promptly settle questions as provided in section (c), another judge may act in the place of the judge before whom the proceedings were held.