

WSR 26-02-015
RULES OF COURT
STATE SUPREME COURT
[November 6, 2025]

IN THE MATTER OF THE) ORDER
SUGGESTED AMENDMENTS TO) NO. 25700-A-1668
RAP 17.3—CONTENT OF MOTION)

The Court of Appeals Executive Committee, having recommended the suggested amendments to RAP 17.3—Content of Motion, 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 2026.

(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, 2026. 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 November, 2025.

For the Court

Johnson, J.

ACTING CHIEF JUSTICE

GENERAL RULE 9
RULE AMENDMENT COVER SHEET
SUGGESTED AMENDMENT TO RAP 17.3

- 1. Proponent: Court of Appeals Executive Committee
2. Spokesperson & Contact Info: Judge Janet Chung, Court of Appeals Rules Committee Chair
3. Purpose of Suggested Rule Amendment: The rule sets forth what should be included in a motion. The Court of Appeals Executive Committee recommends two amendments to RAP 17.3.
a. References to record.
First, subsection (a)(3) requires "reference to or copies of the record relevant to the motion." Subsection (b) addresses a motion for discretionary review and requires a statement of the case with "appropriate reference to the record" under (b)(3). Occasionally, the parties fail to provide references to the record or appendix or provide reference generally to voluminous documents as a whole without providing specific pages where relevant information is located. The proposed amendments seek to clarify that reference to the record required by the rule means reference to specific pages of the record or appendix. The proposed amendments also give a warning to the parties, particularly to pro se litigants, that the appellate court may refuse to address an argument that is based on factual assertions not supported by

specific reference to the record or appendix. See Cowiche Canyon Conservancy v. Bosley, 118 Wn.2d 801, 809, 828 P.2d 549 (1992) (arguments that are not supported by any reference to the record or by citation to authority need not be considered); In re Estate of Lint, 135 Wn.2d 518, 532, 957 P.2d 755 (1998) (appellate court "will not and should not" assume "an obligation to comb the record with a view toward constructing arguments"). Similar amendments are being proposed under RAP 10.3 governing the content of a brief.

b. *Unopposed motions.*

The second proposed amendment to RAP 17.3(a) is intended to encourage parties to notify the appellate court if a motion is unopposed. This will streamline rulings from commissioners and clerks, speeding up the timeline for perfecting an appeal. Currently, because our appellate court does not know whether a motion is opposed or unopposed, it has two options: either hold every motion for 10 days or issue a ruling with the risk that a later-filed opposition comes in, making reconsideration necessary. See RAP 17.4 (c) (1) & (2). In addition, encouraging parties to confer may increase collegiality in the appellate bar and may even reduce the need for some motions.

This proposed rule reflects current local federal appellate practice and borrows heavily from Ninth Circuit Local Rule 27-1(2), which states, "If counsel for the moving party learns that a motion is unopposed, counsel shall so advise the Court." <https://cdn.ca9.uscourts.gov/datastore/uploads/rules/frap.pdf> at 93 (Circuit Rule 27-1(2)). Although the text of the Ninth Circuit rule is brief, the Ninth Circuit's advisory note to its rule adds that moving counsel must try to contact opposing counsel before filing any motion: "Unless precluded by extreme time urgency, counsel are to make every attempt to contact opposing counsel before filing any motion and to either inform the Court of the position of opposing counsel or provide an explanation regarding the efforts made to obtain that position." Id. at 95 (Advisory Committee Note 5).

This proposed RAP 17.3(a) amendment similarly encourages counsel to communicate before filing most motions, although it only requires notification to this court if counsel learns the motion will be unopposed and does not require an explanation of unsuccessful efforts to contact opposing counsel.

4. Is expedited consideration requested? No.

5. Is a public hearing recommended? No.

RAP 17.3

Content of Motion

(a) Generally. A motion must include (1) a statement of the name and designation of the person filing the motion, (2) a statement of the relief sought, (3) reference to ~~or copies of~~ specific pages of parts of the record or appendix relevant to the motion, and (4) if the moving party learns that a motion is unopposed, a notification to the court of this fact in the caption of the motion, and (5) a statement of the grounds for the relief sought, with supporting argument. The appellate court may refuse to address an argument that is based on factual assertions not supported by specific reference to the record or appendix attached to the motion.

(b) Motion for Discretionary Review. A motion for discretionary review should contain under appropriate headings and in the order here indicated:

(5) *Statement of the Case.* A fair statement of the facts and procedure relevant to the issues presented for review, with appropriate reference to specific pages of the record or appendix attached to the motion.

(6) *Argument.* A direct and concise statement of the reasons why review should be granted, with supporting argument. The appellate court may refuse to address an argument that is based on factual assertions not supported by specific reference to the record or appendix.