



Northwest Justice Project

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César E. Torres
Executive Director

July 31, 2017

Via email to supreme@courts.wa.gov

Honorable Susan L. Carlson
Washington State Supreme Court Clerk
P.O. Box 40929
Olympia, WA 98504-0929

Re: Proposed Changes to RAP 10.2 – Time for Filing Briefs

Dear Ms. Carlson:

The Northwest Justice Project (NJP) is the largest legal aid program in Washington state. Because NJP is unable to meet the full scope of legal needs experienced by low-income persons in Washington, NJP will often participate as amicus curiae in matters pending before the state appellate courts. Our goal is to inform the courts of the impacts of any potential ruling on our client communities and to ensure that issues impacting our client communities are fully developed for the courts' consideration. In that vein, NJP is interested in the impact of the proposed revisions to RAP 10.2(f) published for comment and now pending before the Court.

NJP supports the proposed change in time from which the period to submit an amicus brief runs to "the filing of the last brief." This addresses the uncertainty that can occur when a brief is not filed on the due date and provides a time certain from which the amicus due date can be calculated.

We share the concerns of other commentators who oppose the proposed revision to shorten the time for filing the amicus brief to 30 days from the current 45 days after the last brief of respondent is filed. Respondents typically file only one brief to which an appellant has a right to reply. The change would require amicus briefs to be filed on the same day as the appellant's reply brief. Because of the simultaneous filing, amicus would have no opportunity to review the full briefing by the parties prior to the due date for submitting an amicus brief. As reply briefs may address new issues or arguments raised by respondents, amicus briefing benefits greatly from careful review and consideration of the reply brief and can help avoid repetition of arguments by amicus. This, in turn, also enables amicus to meet the mandate of RAP 10.6(b) to demonstrate why additional argument is necessary.

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Having the opportunity to consider the substance of a reply brief and, thus, to tailor amicus submission accordingly, protects the integrity of the amicus role and promotes a more streamlined focus of amicus' concerns. The current 45-day deadline has worked well, and shortening the time may dissuade entities that have a strong interest in a case from seeking to participate. We believe this outcome would be detrimental to the appellate process and could result in decision-making that does not fully account for the broader implications of a decision and its impacts on others.

Thank you for the opportunity to comment.

Sincerely,

Deborah Perluss

Deborah Perluss
Director of Advocacy/General Counsel

Tracy, Mary

From: OFFICE RECEPTIONIST, CLERK
Sent: Monday, July 31, 2017 1:18 PM
To: Tracy, Mary
Subject: FW: Northwest Justice Comments on Proposed Change to RAP 10.2 re Amicus Briefs
Attachments: Microsoft Word - NJP comment on Amicus Rule 7 31 2017.pdf

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From: Debi Perluss [mailto:DebiP@nwjustice.org]
Sent: Monday, July 31, 2017 12:58 PM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Subject: Northwest Justice Comments on Proposed Change to RAP 10.2 re Amicus Briefs

Thank you for considering the attached comments.

Deborah Perluss
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