

Tracy, Mary

From: Hinchcliffe, Shannon
Sent: Tuesday, January 26, 2016 3:01 PM
To: Tracy, Mary
Subject: FW: Proposed Amendments to GR 14.1 and RAP 13.4

For publication.

From: Kelby D. Fletcher [mailto:Kelby.Fletcher@stokeslaw.com]
Sent: Tuesday, January 26, 2016 2:50 PM
To: Hinchcliffe, Shannon <Shannon.Hinchcliffe@courts.wa.gov>
Subject: Proposed Amendments to GR 14.1 and RAP 13.4

I am opposed to the proposed amendments allowing citation to unpublished Court of Appeals decisions.

In my opinion, this will only add to the cost of advocacy and will serve to complicate briefing.

As I understand the proposed amendments, citation to an unpublished decision would be to demonstrate “non-binding authority.” This will allow lawyers and judges to “make use of the reasoning in unpublished opinions, even though the cases themselves cannot be cited.” This seems disingenuous: If the reasoning is so persuasive, why was the opinion not published? Alternatively, if the reasoning is so persuasive, why can’t the advocate simply put it forward without reference to the authority of appellate judges who did not deem the decision worthy of publication?

The alternative to go back to the 1969 statute and to require all Court of Appeals decisions to be published.

Regards;

Kelby D. Fletcher ([v-card](#) | [bio](#))

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