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CIVIL APPEALS

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Washington State
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April 21, 2022

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Sent via mail

Re: Comment to Proposed Amendment to RAP 2.2

To Whom It May Concern:

As a civil appellate practitioner, I urge the Court to reject the proposed amendment to RAP 2.2 to add a comment that specifically addresses the Court's decision in *Denney v. City of Richland*, 195 Wn.2d 649, 462 P.3d 842 (2020).

The proposal illustrates the problems inherent in adding comments to specific rules—addressing one specific application of a rule to the exclusion of the myriad other situations that may arise raises more problems than it solves.

While *Denney* correctly held that a summary judgment order disposing of all claims is a final judgment under RAP 2.2(a)(1), there are other dispositive orders that may also be considered a final judgment that starts the 30-day clock for filing a notice of appeal. A partial summary judgment may be the last dispositive order, and, therefore, a final judgment. Other examples include orders under CR 12, as well as orders of dismissal under CR 41. See *Laguna Creek California Partners, LLC v. Brenia Laguna Creek, LLC*, No. 79808-1-I, 2021 WL 1854330 (May 10, 2021) (unpublished), *rev. denied*, 198 Wn.2d 1014 (2021). If a comment alerts practitioners that a summary judgment order dismissing all claims is a final judgment, shouldn't it also alert them of the myriad of other types of orders that may also be deemed a final judgment?

The short answer is no. The rules set forth principles. It is counsel's job to read them, research them, and then to apply them to a particular situation.

Very truly yours,


Howard M. Goodfriend

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