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Subject: FW: Comment on Proposed Changes to RAP 10.8 - Additional Authorities
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From: Guthrie, Stephanie [mailto:Stephanie.Guthrie@kingcounty.gov]
Sent: Monday, January 31, 2022 9:43 AM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Subject: Comment on Proposed Changes to RAP 10.8 - Additional Authorities

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The 7-day deadline for submitting statements of additional authorities (SAAs) before oral argument seems like a poor match for the realities of preparing for oral argument. Generally, once briefing is complete, most attorneys have to move on to other cases, and will not return to a particular case until they start preparing for oral argument a few days in advance. (I have never in my life started preparing for oral argument more than 7 days before the argument, as it is important that the preparations be fresh in one's mind at argument.) It is during the preparation for oral argument that additional authority most often comes to an attorney's attention. The proposed change states, "A party or amicus seeking to submit additional authorities before oral argument, or the date on which the case is scheduled to be decided without oral argument, must file the statement no later than seven days before the date scheduled for argument or consideration without argument." However, statements of additional authorities may be filed up until the decision is issued. This would suggest that, if an attorney comes across additional authority during their preparations a day or two before oral argument, they must wait until after oral argument to file the statement of additional authorities. If the Court wants to free itself from any duty to be up-to-date on recently filed SAAs at oral argument, it would be better to say something like "SAAs filed within 7 days of oral argument might not be reviewed by the court before argument" rather than forcing parties to wait until after oral argument to file the SAA.

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