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Subject: FW: Comment on Proposed Changes to RAP 10.2
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From: Brian Fisher <brian@wellstrumbull.com>
Sent: Wednesday, January 8, 2025 11:18 AM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Subject: Comment on Proposed Changes to RAP 10.2

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Hello,

I am writing regarding the proposed amendment to RAP 10.2 to lengthen the time for filing an opening brief (https://www.courts.wa.gov/court_rules/?fa=court_rules.proposedRuleDisplay&ruleId=6200). With all due respect to the Rules Committee, the suggested amendment should not be adopted.

RAP 18.8 was amended effective October 1, 2024, to allow for an automatic 30-day extension for an opening brief. There is no need to add more time to draft the opening brief when there already exists a mechanism for automatically obtaining an extension.

Many members of the appellate bar routinely ask for multiple extensions on each round of briefing, further lengthening the appeals process. A 15-day extension for the due date of the opening brief, combined with the 30-day streamlined automatic extension, means appellants will get 45 additional days to file their opening brief. This means the 45-day deadline under the current version of RAP 10.2 is effectively doubled under the new rules.

The rules committee cites the 60-day deadline for respondents in criminal cases, but that larger timeline exists for a reason. The respondent in criminal appeals is most often the State, which has a bigger caseload than any other litigant in the appellate system. Perhaps it would be better to make the deadline for the opening brief match in criminal cases match the respondent's brief. However, that should not be extended to civil appeals.

I urge the Court to reject the proposal to extend the deadline for filing opening briefs. In situations where additional time is needed beyond the 30-day streamlined extension provided in RAP 18.8, a party can request that relief.

I handle civil appeals arising out of personal injury lawsuits. Most often I am defending a hard won verdict being sought to be overturned by the appellant. My clients are regular people and

families who have been hurt and awarded a verdict by a jury of their peers. While interest accumulates on the judgment during the pendency of the appeal, having the uncertainty regarding whether they will have to go through another ordeal of trial (and cross-examination) harms them. While parties are entitled to seek redress of perceived errors committed by trial courts, the already lengthy appellate process should not be made even longer.

Thank you,

Brian Fisher
WSBA #46495