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President

Lauren Bramwell
Executive Director

April 25, 2025

Sent via email to supreme@courts.wa.gov

Washington State Supreme Court
Court Rules Committee
supreme@courts.wa.gov

Re: Proposed changes to RAP 18.17 (Overlength Briefs)

Honorable Justices of the Supreme Court:

The Washington Association of Criminal Defense Lawyers (WACDL) opposes the proposed amendment to RAP 18.17. While we appreciate the proponent's intent to provide additional guidance regarding overlength briefs, the proposed rule fails to account for the realities and demands of modern appellate practice—particularly in criminal cases—and risks undermining the fair and effective representation of individuals appealing criminal convictions.

One of the most pressing concerns raised by WACDL appellate practitioners is the constitutional and strategic necessity of preserving federal claims on direct appeal. Counsel must raise and brief certain federal issues to preserve them for later habeas review. The proposed rule's emphasis on discouraging overlength briefs could lead to a chilling effect, causing appellate attorneys to omit issues critical for future litigation out of fear that their requests for additional length may be denied or disfavored.

Furthermore, the suggestion in the GR 9 cover sheet that the existing version of RAP 18.17 "contemplates" complex appeals and lengthy records is inaccurate. The current rule, drafted decades ago, reflects a much earlier era of appellate practice. Since then, the size and complexity of records in criminal cases have grown dramatically. Increased pretrial litigation, more extensive trial transcripts, and the proliferation of electronically stored evidence all contribute to longer records and more complicated appeals. The proposed rule does not adequately acknowledge these shifts.

Additionally, WACDL practitioners report that motions for overlength briefs are already used sparingly and responsibly. One experienced appellate attorney noted filing fewer than two dozen such motions in a 30-year career. This demonstrates that there is no widespread abuse or overuse of overlength filings that would justify new restrictions.

While we recognize the proposed amendment includes a provision for reciprocal overlength briefs for respondents, this does not address the underlying issue: that appellate advocates—particularly those in criminal defense—need flexibility to present all necessary arguments to safeguard their clients' rights, especially when those clients face the loss of liberty.

For these reasons, WACDL urges the Court to reject the proposed amendment to RAP 18.17. The current rule already allows courts to manage overlength filings through discretion, and there is no demonstrated need to further constrain that process in a way that may compromise the quality and completeness of criminal appellate advocacy.

Thank you for your consideration,



Cooper Offenbecher
WACDL President



Emily Gause
WACDL Court Rules Committee Co-Chair



Christopher Taylor
WACDL Court Rules Committee Co-Chair

From: [OFFICE RECEPTIONIST, CLERK](#)
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Subject: FW: WACDL Court Rule Public Comments
Date: Wednesday, April 30, 2025 3:46:30 PM
Attachments: [WACDL 3.1.pdf](#)
[WACDL 3.2.pdf](#)
[WACDL 4.1.pdf](#)
[WACDL 8.3.pdf](#)
[WACDL RAP 10.2.pdf](#)
[WACDL CR 12.pdf](#)
[WACDL 17.7.pdf](#)
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From: Lauren Bramwell <Lauren@wacdl.org>
Sent: Wednesday, April 30, 2025 3:34 PM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Cc: Cooper Offenbecher <cooper@ahmlawyers.com>; Emily Gause <emily@emilygauselaw.com>; Christopher Taylor <taylor@crtaylorlaw.com>
Subject: WACDL Court Rule Public Comments

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Good Afternoon,

Please see the attached comments submitted on behalf of the Washington Association of Criminal Defense Lawyers (WACDL) regarding the following proposed rules:

- CrR/CrRLJ 3.1 (Appellate Caseloads)
- CrR/CrRLJ 3.2
- CrR/CrRLJ 4.1
- CrR/CrRLJ 8.3
- CR 12
- RAP 10.2
- RAP 17.7
- RAP 18.17

Thank you,

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