

AUTHORITY OF TRIAL COURT AFTER REVIEW ACCEPTED

(a) Generally. After review is accepted by the appellate court, the trial court has authority to act in a case only to the extent provided in this rule, unless the appellate court limits or expands that authority as provided in rule 8.3.

(b) Settlement of Record. The trial court has authority to settle the record as provided in Title 9 of these rules.

(c) Enforcement of Trial Court Decision in Civil Cases. In a civil case, except to the extent enforcement of a judgment or decision has been stayed as provided in rules 8.1 or 8.3, the trial court has authority to enforce any decision of the trial court and a party may execute on any judgment of the trial court. Any person may take action premised on the validity of a trial court judgment or decision until enforcement of the judgment or decision is stayed as provided in rules 8.1 or 8.3.

(d) Attorney Fees and Litigation Expenses On Appeal. The trial court has authority to award attorney fees and litigation expenses for an appeal in a marriage dissolution, a legal separation, a declaration of invalidity proceeding, or an action to modify a decree in any of these proceedings, and in any other action in which applicable law gives the trial court authority to do so.

(e) Postjudgment Motions and Actions To Modify Decision. The trial court has authority to hear and determine

(1) postjudgment motions authorized by the civil rules, the criminal rules, or statutes, and

(2) actions to change or modify a decision that is subject to modification by the court that initially made the decision. The postjudgment motion or action shall first be heard by the trial court, which shall decide the matter. If the trial court determination will change a decision then being reviewed by the appellate court, the permission of the appellate court must be obtained prior to the formal entry of the trial court decision. A party should seek the required permission by motion. The decision granting or denying a postjudgment motion may be subject to review. Except as provided in rule 2.4, a party may only obtain review of the decision on the postjudgment motion by initiating a separate review in the manner and within the time provided by these rules. If review of a postjudgment motion is accepted while the appellate court is reviewing another decision in the same case, the appellate court may on its own initiative or on motion of a party consolidate the separate reviews as provided in rule 3.3(b).

(f) Release of Defendant in Criminal Case. In a criminal case, the trial court has authority, subject to RCW 9.95.062 and .064, to fix conditions of release of a defendant and to revoke a suspended or deferred sentence.

(g) Questions Relating to Indigency. The trial court has authority to decide questions relating to indigency as provided in Title 15 of these rules.

(h) Supersedeas, Stay, and Bond. The trial court has authority to act on matters of supersedeas, stays, and bonds as provided in rules 8.1 and 8.4, CR 62(a), (b), and (h), and RCW 6.17.040.

(i) Attorney Fees, Costs and Litigation Expenses. The trial court has authority to act on claims for attorney fees, costs and litigation expenses. A party may obtain review of a trial court decision on attorney fees, costs and litigation expenses in the same review proceeding as that challenging the judgment without filing a separate notice of appeal or notice for discretionary review.

(j) Juvenile Court Decision. The trial court has authority to enter findings and conclusions in a juvenile offense proceeding pursuant to JuCR 7.11. The trial court has authority to act on matters of supersedeas, stays, bonds, the release of a person, and extension of jurisdiction pending review of a juvenile court proceeding.

(k) Perpetuation of Testimony. The trial court has authority to supervise discovery proceedings pursuant to CR 27.

(l) *Multiple Parties, Claims, or Counts.* If the trial court has entered a judgment that may be appealed under rule 2.2(d) in a case involving multiple parties, claims, or counts, the trial court retains full authority to act in the portion of the case that is not being reviewed by the appellate court.

References

Rule 5.1, Review Initiated by Filing Notice of Appeal or Notice for Discretionary Review, (f) Order entered after review accepted; Rule 8.1, Supersedeas in the Trial Court; Rule 8.3, Appellate Court Orders Needed for Effective Review; Rule 8.4, Bond With Individual Sureties--Justification--Objection; CR 62, Stay of Proceedings To Enforce Judgment, (a) Automatic stays, (b) Stay on motion for new trial or for judgment, (d) Multiple claims or multiple parties; RCW 6.08, Stay of Execution.

[Adopted effective July 1, 1976; Amended effective July 2, 1976; September 1, 1985; September 1, 1987; September 1, 1990; September 1, 1994; September 1, 1998; December 24, 2002.]