

Rule Change #1998(15)

Chapter 32. Colorado Appellate Rules

General Provisions

Rule 41. Issuance of Mandate

Jurisdiction on Writ of Certiorari

Rule 52. Review on Certiorari—Time for Petitioning

C.A.R. 41. Issuance of Mandate.

~~The mandate of the court shall issue fifteen days after the entry of judgment unless the time is shortened or enlarged by order. A certified copy of the judgment and a copy of the opinion of the court, if any, and any direction as to costs shall constitute the mandate, unless the court directs that a formal mandate issue. The timely filing of a petition for rehearing will stay the mandate until disposition of the petition unless otherwise ordered by the court. If the petition is denied, the mandate of the supreme court shall issue on the second day thereafter and the mandate of the court of appeals shall issue on the thirty-second day thereafter, exclusive, in either case, of the day of entry of the order denying the petition, unless the time is enlarged by order for a stay.~~

(a) **FORM.** A CERTIFIED COPY OF THE JUDGMENT AND A COPY OF THE OPINION OF THE COURT, IF ANY, AND ANY DIRECTION AS TO COSTS SHALL CONSTITUTE THE MANDATE, UNLESS THE COURT DIRECTS THAT A FORMAL MANDATE ISSUE.

(b) **TIME.** UNLESS THE COURT GRANTS OR REMOVES A STAY, OR OTHERWISE CHANGES THE TIME BY ORDER, THE MANDATE SHALL ISSUE AS FOLLOWS:

(1) THE MANDATE OF THE COURT OF APPEALS SHALL ISSUE FORTY-SIX DAYS AFTER ENTRY OF THE JUDGMENT. IN WORKERS' COMPENSATION AND UNEMPLOYMENT INSURANCE CASES, THE MANDATE OF THE COURT OF APPEALS SHALL ISSUE THIRTY-ONE DAYS AFTER ENTRY OF THE

JUDGMENT. THE TIMELY FILING OF A PETITION FOR REHEARING WILL STAY THE MANDATE UNTIL THE COURT HAS RULED ON THE PETITION.

(2) IF A PETITION FOR REHEARING IS DENIED, THE MANDATE SHALL ISSUE THIRTY-TWO DAYS AFTER ENTRY OF THE ORDER DENYING THE PETITION. IN WORKERS' COMPENSATION AND UNEMPLOYMENT INSURANCE CASES, THE MANDATE OF THE COURT OF APPEALS SHALL ISSUE SEVENTEEN DAYS AFTER ENTRY OF THE ORDER DENYING A PETITION FOR REHEARING.

(3) THE MANDATE OF THE SUPREME COURT SHALL ISSUE FIFTEEN DAYS AFTER THE ENTRY OF JUDGMENT. THE TIMELY FILING OF A PETITION FOR REHEARING WILL STAY THE MANDATE UNTIL THE COURT HAS RULED ON THE PETITION. IF THE PETITION FOR REHEARING IS DENIED, THE MANDATE SHALL ISSUE TWO DAYS AFTER ENTRY OF THE ORDER DENYING THE PETITION.

C.A.R. 52. Review on Certiorari—Time for Petitioning.

(a) **To Review a District Court Judgment.** [No change.]

(b) **To Review Court of Appeals Judgment.** ~~No writ of certiorari to the Supreme Court shall issue unless a petition for rehearing has been filed in the Court of Appeals. A petition for writ of certiorari to review a judgment of the Court of Appeals shall be filed not later than thirty days from the date rehearing is denied in the Court of Appeals, except that in workers' compensation and unemployment insurance cases the time for filing a petition for writ of certiorari to the Supreme Court is reduced to fifteen days.~~

(1) FILING A PETITION FOR REHEARING IN THE COURT OF APPEALS, BEFORE SEEKING CERTIORARI REVIEW IN THE SUPREME COURT, IS OPTIONAL.

(2) NO PETITION FOR ISSUANCE OF A WRIT OF CERTIORARI MAY BE SUBMITTED TO THE SUPREME COURT UNTIL THE TIME FOR FILING A PETITION FOR REHEARING IN THE COURT OF APPEALS HAS EXPIRED.

(3) ANY PETITION FOR WRIT OF CERTIORARI TO REVIEW A JUDGMENT OF THE COURT OF APPEALS SHALL BE FILED IN THE SUPREME COURT WITHIN THIRTY DAYS AFTER THE EXPIRATION OF THE TIME FOR FILING A PETITION FOR REHEARING IN THE COURT OF APPEALS, IF NO PETITION FOR REHEARING IS FILED, OR WITHIN THIRTY DAYS AFTER THE DENIAL OF A PETITION FOR REHEARING BY THE COURT OF APPEALS. IN WORKERS' COMPENSATION AND UNEMPLOYMENT INSURANCE CASES, THE TIME FOR FILING A PETITION FOR CERTIORARI IN THE SUPREME COURT IS REDUCED TO FIFTEEN DAYS.

C.A.R. 41 and C.A.R. 52 are amended and Adopted by the Court, En Banc, November 20, 1998, effective January 1, 1999.

Justices Scott and Martinez would not amend the rules.

BY THE COURT:

**Gregory J. Hobbs, Jr.
Justice, Colorado Supreme Court**