Rule Change #2000(24)

Colorado Appellate Rules

C.A.R. 41. Issuance of Mandate

Amended and Adopted by the Court, En Banc, December 14, 2000, effective January 1, 2001.

BY THE COURT:

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

C.A.R. 41. Issuance of Mandate

(a) [*** NO CHANGE]

(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. If a motion for enlargement of time to file a petition for rehearing is granted but no petition for rehearing is filed within the extended period, the mandate may issue following the last day of the extended period for filing the petition for rehearing or after the day specified by this rule, whichever occurs later.

(2)–(3)[*** NO CHANGE]

COMMITTEE COMMENT

The purpose of this amendment is to clarify that the Court of Appeals can extend the stay of the issuance of the mandate when an extension of time to file a petition for rehearing is timely filed. The proposed rule change addresses the specific problem that arises when, after an extension has been granted, no petition for rehearing is filed. Practitioners had been concerned that, without having filed a petition for rehearing, any petition for certiorari filed beyond the time specified in the rule for stay of the issuance of the mandate would be untimely.