

RULE CHANGE 2023(05)
THE COLORADO APPELLATE RULES

Rules 3, 3.1, 3.3, 3.5, 4.2, 10, 12, 25, 32, 39, and 53

Rule 3. Appeal as of Right--How Taken

(a) – (c) [NO CHANGE]

(d) Contents of the Notice of Appeal in Civil Cases (Other Than District Court Review of Agency Actions and Appeals from State Agencies). The notice of appeal must contain:

(1) – (6) [NO CHANGE]

(7) if applicable, a statement that the filing fee is waived under C.A.R. 12(a)(4);

(8) an appendix containing:

(A) – (D) [NO CHANGE]

(98) a certificate of service in compliance with C.A.R. 25 showing service of a copy of the notice of appeal (with attachments) on the lower court and all other parties to the action below.

(e) – (f) [NO CHANGE]

(g) Contents of the Notice of Appeal in Criminal Cases. The notice of appeal must contain:

(1) – (6) [NO CHANGE]

(7) if applicable, a statement that the filing fee is waived under C.A.R. 12(a)(4);

(8) an appendix containing:

(A) – (D) [NO CHANGE]

(98) a certificate of service in compliance with C.A.R. 25 showing service of a copy of the notice of appeal (with attachments) on the lower court and all other parties to the action in the lower court.

(h) [NO CHANGE]

Comments [NO CHANGE]

Rule 3.1. Appeals from Industrial Claim Appeals Office

(a) – (c) [NO CHANGE]

(d) Contents of Notice of Appeal from the Industrial Claim Appeals Office Directly to the Court of Appeals. The notice of appeal shall set forth:

(1) A caption that complies in form with C.A.R. 32. In the caption:

(A) The case title ~~in compliance with C.A.R. 12(a);~~

(B) The party or parties initiating the appeal;

(C) All others who have appeared as parties to the action before the agency; and

(D) The agency case number.

(2) - (6) [NO CHANGE]

Rule 3.3. Appeals of Grant or Denial of Class Certification

An appeal from a written, signed, and dated order granting or denying class certification under C.R.C.P. 23(f) may be allowed pursuant to the procedures set forth in that rule and C.R.S. § 13-20-901.

Rule 3.5. Appeals of Mental Health Orders Pursuant to §27-65-114

(a) How Taken. Appeals from judgments, decrees, or orders in mental health proceedings under C.R.S. 16-8.5-112 and 27-65-111 must be in the manner and within the time prescribed by this rule.

(b) Time for Appeal.

(1) A notice of appeal and designation of transcripts must be filed with the clerk of the court of appeals with an advisory copy served on the clerk of the trial court within 21 days after the entry of the judgment, decree, or order. The trial court continues to have jurisdiction to hear and decide a motion under C.R.C.P. 59 regardless of the filing of a notice of appeal, provided the C.R.C.P. 59 motion is timely filed under C.R.C.P. 59(a) and determined within the time specified in C.R.C.P. 59(j). An order is entered within the meaning of this rule when it is entered pursuant to C.R.C.P. 58. If notice of the entry of judgment, decree, or order is transmitted to the parties by mail or E-Service, the time for the filing of the notice of appeal commences from the date of mailing or E-Service of the notice.

(2) If a timely notice of appeal is filed by a party, any other party may file a notice of cross-appeal and designation of transcripts within 7 days after the date on which the notice of appeal was filed or within the 21 days for the filing of the notice of appeal, whichever period last expires.

(3) The time in which to file a notice of appeal or a notice of cross-appeal and the designation of transcripts will not be extended, except upon a showing of good cause pursuant to C.A.R. 2 and C.A.R. 26(b).

(4) If subsequent orders regarding medication or certification are entered by the district court, counsel for appellant must, within 14 days after entry of the subsequent order, file an appropriate motion to amend the notice of appeal.

(c) Contents of the Notice of Appeal. A notice of appeal and designation of transcripts must comply with C.A.R. 3(d).

(d) Composition of the Record on Appeal.

(1) The record on appeal must include the trial court file, including all exhibits. No designation of record is necessary for the trial court file or the exhibits. The record on appeal may also include any transcripts designated and ordered by any party pursuant to this rule.

(2) The appellant and cross-appellant must properly serve the designation of transcripts on the other parties and the trial court's managing court reporter at the time the notice of appeal is filed.

(3) The designation of transcripts must set forth the dates of the proceedings for which transcripts are requested and the names of the court reporters, if applicable.

(4) Within 7 days after service of any appellant's designation of transcripts any appellee may complete and file a supplemental designation of transcripts with the clerk of the trial court and the clerk of the court of appeals and serve it on the other parties and the trial court's managing court reporter.

(5) The designating party or public entity responsible for the cost of transcription must make arrangements for payment with the managing court reporter within 7 days after serving the designation. Within 14 days after service of the designation of transcripts, the court reporter must

file a statement with the clerk of the trial court and the clerk of the court of appeals indicating whether arrangements for payment have been made.

(e) Transmission of Record.

(1) Within 21 days after the filing of the notice of appeal and designation of transcripts, the record, composed as set forth in subsection (d), must be transmitted to the court of appeals in accordance with C.A.R. 10(c).

(2) No extensions will be granted except in exceptional circumstances.

(f) Opening Brief on Appeal.

(1) Within 14 days after the record is filed, the appellant must file a brief. The appellant's brief must be entitled "opening brief" and must contain the following under appropriate headings in the order indicated:

(A) a caption in compliance with C.A.R. 32(d);

(B) a certificate of compliance as required by C.A.R. 32(h);

(C) a table of contents, with page references;

(D) a table of authorities--cases (alphabetically arranged), statutes, and other authorities--with references to the pages of the brief where they are cited;

(E) a statement of the issues presented for review;

(F) a concise statement identifying the nature of the case, the relevant facts and procedural history, and the ruling, judgment, or order presented for review, with appropriate references to the record (see C.A.R. 28(e));

(G) a summary of the arguments, which must:

(i) contain a succinct, clear, and accurate statement of the arguments made in the body of the brief;

(ii) articulate the major points of reasoning employed as to each issue presented for review; and

(iii) not merely repeat the argument headings or issues presented for review;

(H) the arguments, which must contain:

(i) under a separate heading placed before the discussion of each issue, statements of the applicable standard of review with citation to authority, whether the issue was preserved, and if preserved, the precise location in the record where the issue was raised and where the court ruled; and

(ii) appellant's contentions and reasoning, with citations to the authorities and parts of the record on which the appellant relies; and

(I) a short conclusion stating the precise relief sought.

(2) No extensions will be granted except in exceptional circumstances.

(3) The opening brief must contain no more than 7,500 words, excluding attachments and any addendum. A self-represented party who does not have access to a word-processing system must file a typewritten or legibly handwritten opening brief of not more than 25 double-spaced and single-sided pages. Such a brief must otherwise comply with this rule and C.A.R. 32.

(g) Answer Brief on Appeal.

(1) Within 14 days after service of the appellant's opening brief, any appellee may file an answer brief that must be entitled "answer brief," and any cross-appellant may file an opening/answer brief that must be entitled "cross-appeal opening/answer brief."

(2) The brief must conform to the requirements of C.A.R. 28(b) except that separate headings titled statement of the issues or of the case need not be included unless the appellee is dissatisfied with the appellant's statement. For each issue, the answer brief must, under a separate heading placed before the discussion of the issue, state whether the appellee agrees with the appellant's statements concerning the standard of review with citation to authority and preservation for appeal, and if not, why not.

(3) No extensions will be granted except in exceptional circumstances.

(4) The answer brief or cross-appeal opening/answer brief must contain no more than 7,500 words, excluding attachments and/or any addendum containing statutes, rules, regulations, etc. A self-represented party who does not have access to a word-processing system must file a typewritten or legibly handwritten brief of not more than 25 double-spaced and single-sided pages. Such a brief must otherwise comply with this rule and C.A.R. 32.

(5) In cases involving more than one appellant and in which the appellee chooses to file an answer brief, the appellee must file a combined answer brief addressing the legal issues raised by all appellants. The combined answer brief must be filed within 14 days after service of the last opening brief filed and must contain no more than 9,500 words.

(6) In cases involving more than one appellee, the court encourages coordination among appellees to avoid repetition within the answer briefs. A joint answer brief may, but is not required to, be filed by appellees.

(h) Reply Brief. Within 7 days after service of the appellee's answer brief, any appellant may file a reply brief, which must be entitled "reply brief," in reply to the answer brief. A reply brief must comply with C.A.R. 28(c) and must contain no more than 5,700 words. A self-represented party who does not have access to a word-processing system must file a typewritten or legibly handwritten reply brief of not more than 19 double-spaced and single-sided pages. Such a brief must otherwise comply with this rule and C.A.R. 32. No further briefs may be filed except with leave of court.

(i) Oral Argument. Oral argument will be allowed upon the written request of a party or upon the court's own motion, unless the court, in its discretion, dispenses with oral argument. A request for oral argument must be made in a separate, appropriately titled document filed no later than 7 days after briefs are closed. Unless otherwise ordered, argument may not exceed 15 minutes for the appellant and 15 minutes for the appellee.

(j) Advancement on the Docket. Appeals in mental health proceedings must be advanced on the calendar of the appellate courts and will be set for disposition at the earliest practical time.

(k) Petition for Rehearing. A petition for rehearing in the form prescribed by C.A.R. 40

(b) may be filed within 14 days after entry of judgment. The time in which to file the petition for rehearing will not be extended.

(l) Petition for Writ of Certiorari. Review of the judgment of the court of appeals may be sought by filing a petition for writ of certiorari in the supreme court in accordance with C.A.R. 51. The petition must be filed within 14 days after the expiration of the time for filing a petition for rehearing or the date of denial of a petition for rehearing by the court of appeals. The filing of the petition results in an automatic stay of proceedings in the court of appeals. Any cross-petition

or opposition brief to a petition for writ of certiorari must be filed within 14 days after the filing of the petition. No reply briefs are allowed. The petition for writ of certiorari, any cross-petition, and any opposition brief must be in the form prescribed by C.A.R. 53(a)-(c) and filed and served in accordance with C.A.R. 53(h).

(m) Issuance of Mandate. The mandate must be in the form prescribed by C.A.R. 41(a) and will issue 29 days after entry of the judgment. The timely filing of a petition for rehearing will stay the mandate until the court of appeals has ruled on the petition. If the petition is denied, the mandate will issue 14 days after entry of the order denying the petition. The mandate may also be stayed in accordance with C.A.R. 41.

(n) Filing and Service. All papers required or permitted by this rule must be filed and served in accordance with C.A.R. 25.

(o) Computation and Extension of Time. Computation and extension of any time period prescribed by this rule must be in accordance with C.A.R. 26.

Rule 4.2. Interlocutory Appeals in Civil Cases

(a) Discretionary Interlocutory Appeals. Upon certification by the trial court, or stipulation of all parties, the court of appeals may, in its discretion, allow an interlocutory appeal of an order in a civil action. This rule applies only to cases governed by [section C.R.S. 13-4-102.1, C.R.S.](#)

(b) Grounds for Granting Interlocutory Appeal. Grounds for certifying and allowing an interlocutory appeal are:

- (1) Where immediate review may promote a more orderly disposition or establish a final disposition of the litigation; and
- (2) The order involves a controlling and unresolved question of law. For purposes of this rule, an “unresolved question of law” is a question that has not been resolved by the ~~Colorado S~~upreme ~~C~~court or determined in a published decision of the ~~Colorado C~~court of ~~A~~ppels, or a question of federal law that has not been resolved by the United States Supreme Court.

(c) Procedure in the Trial Court. The party seeking to appeal ~~shall~~must move for certification or submit a stipulation signed by all parties within 14 days after the date of the order to be appealed, stating that the appeal is not being sought for purposes of delay. The trial court may, in its discretion, certify an order as immediately appealable, but if all parties stipulate, the trial court must forthwith certify the order. Denial of a motion for certification is not appealable.

(d) Procedure in the Appellate Court. If the trial court certifies an order for an interlocutory appeal, the party seeking an appeal ~~shall~~must file a petition to appeal with the clerk of the court of appeals with an advisory copy served on the clerk of the trial court within 14 days of the date of the trial court’s certification.

(1) *Docketing of Petition and Fees; Form of ~~Papers~~Documents.* Upon the filing of a petition to appeal, appellant ~~shall~~must pay to the clerk of the court of appeals the applicable docket fee. All ~~papers~~documents filed under this rule ~~shall~~must comply with C.A.R. 32.

(2) *Number of Copies to be Filed and Served.* An original of any petition or brief shall be filed. One set of supporting documents shall be filed.

(3) *Content of ~~Papers~~Documents and Service.*

(A) The petition ~~shall~~must contain a caption that complies with C.A.R. 3(d)(1) and C.A.R. 32.

(B) To enable the court to determine whether the petition should be granted, the petition ~~shall~~must disclose in sufficient detail the following:

- (i) The identities of all parties and their status in the proceeding below;
- (ii) The order being appealed;
- (iii) The reasons why immediate review may promote a more orderly disposition or establish a final disposition of the litigation and why the order involves a controlling and unresolved question of law;
- (iv) The issues presented;
- (v) The facts necessary to understand the issues presented;
- (vi) Argument and points of authority explaining why the petition to appeal should be granted and why the relief requested should be granted; and
- (vii) A list of supporting documents, or an explanation of why supporting documents are not available.

(C) The petition ~~shall~~must include the names, addresses, email addresses and telephone and fax numbers, if any, of all parties to the proceeding below; or, if a party is represented by counsel, the attorney’s name, address, email address and telephone and fax numbers.

(D) The petition ~~shall~~must be served upon each party and the court below.

(4) *Supporting Documents.* A petition ~~shall~~must be accompanied by a separate, indexed set of available supporting documents adequate to permit review. Some or all of the following documents may be necessary:

- (A) The order being appealed;
- (B) Documents and exhibits submitted in the proceeding below that are necessary for a complete understanding of the issues presented;

(C) A transcript of the proceeding leading to the order below.

(5) *No Initial Response to Petition Allowed.* Unless requested by the court of appeals, no response to the petition ~~is allowed~~ ~~shall be filed~~ prior to the court's determination of whether to grant or deny the petition.

(6) *Briefs.* If the court grants the petition to appeal, the petition to appeal ~~shall~~ will serve as appellant's opening brief. The appellee ~~shall~~ must file an answer brief, or a separate notice indicating that no answer brief will be filed, and the appellant may file a reply brief according to a briefing schedule established by the court in its order granting the petition to appeal. The petition and briefs ~~shall~~ must comply with the limitations on length contained in C.A.R. 28(g).

(7) *Oral Argument.* Oral argument is governed by C.A.R. 34.

(8) *Petition for Rehearing.* In all proceedings under this Rule 4.2, where the court of appeals has issued an opinion on the merits of the interlocutory appeal, a petition for rehearing may be filed in accordance with the provisions of C.A.R. 40.

(e) Amicus Briefs. Any amicus curiae may file a brief only by leave of the court after a case number has been assigned. Before the court issues an order granting a petition to appeal, an amicus curiae may tender a brief supporting the appellant, but the court may act on a petition at any time after the petition is filed, including before the submission of an amicus brief. If the court issues an order granting the petition to appeal, an amicus brief supporting the appellant must be filed within seven days after the issuance of the order, or such lesser time as the court may permit for the submission of amicus briefs. An amicus brief supporting an appellee must be tendered by the deadline for the appellee's response, or such lesser time as the court may permit for the submission of amicus briefs. An amicus curiae that does not support either party must file its brief no later than seven days after the issuance of the order granting the petition to appeal, or such lesser time as the court may permit for the submission of amicus briefs. The filing of an amicus brief within the deadlines established by this rule but after the court has acted on a petition is not a ground for reconsideration of denial of a petition. A brief submitted by an amicus curiae must comply with C.A.R. 29(a), (b), (c), (d), (f), and (g).

(f) Stay of Trial Court Proceedings.

(1) The filing of a petition under this rule does not stay any proceeding below or the running of any applicable time limit. If the appellant seeks temporary stay pending the court's determination of whether to grant the petition to appeal, a stay ordinarily ~~shall~~ must be sought in the first instance from the trial court. If a request for stay below is impracticable or not promptly ruled upon or is denied, the appellant may file a separate motion for temporary stay in the court of appeals supported by accompanying materials justifying the requested stay.

(2) An order granting the petition to appeal by the court of appeals automatically stays all proceedings below until final determination of the interlocutory appeal in the court of appeals unless the court, sua sponte, or upon motion lifts such stay in whole or in part.

(g) Effect of Failure to Seek or Denial of Interlocutory Review. Failure to seek or obtain interlocutory review ~~shall~~ will not limit the scope of review upon an appeal from entry of the final judgment.

(h) Supreme Court Review. Denial of a petition to appeal is not subject to certiorari review. A decision of the court of appeals on the merits ~~shall~~ will be subject to certiorari review. No provision of this rule limits the jurisdiction of the ~~S~~supreme ~~C~~court under C.A.R. 21.

(i) All matters in the Ccourt of Aappeals under this rule shall will be heard and determined by a special or regular division of three judges as assigned by the Chief Judge.

Rule 10. Record on Appeal

(a)–(b) [NO CHANGE]

(c) Transmission.

(1) *Complete Record.* The clerk of the trial court must transmit the record to the clerk of the appellate court when it is complete. If the record includes any transcripts, the clerk of the trial court will not transmit the record to the clerk of the appellate court until transcripts are available.

(2) *Time.* The record on appeal must be transmitted to the appellate court within 63 days (9 weeks) after the date of filing of the notice of appeal unless the time is shortened or extended by an order of the appellate court.

(A) For good cause shown, the appellate court may extend the time for transmitting the record. A request for extension must be made by the clerk of the trial court or the clerk of the trial court's designee within the time originally prescribed or as previously extended.

(B) Any request for extension of the period of time based upon a court reporter's inability to complete the transcript must be supported by an affidavit of the reporter specifying why the transcript has not yet been prepared and the date by which the transcript will be completed. If the reason stated in a court reporter's affidavit for the reporter's inability to complete the record is the failure of the designating party to make adequate arrangement for payment of the transcripts, the designating party must file a response to the affidavit with the appellate court within 7 days.

(C) The appellate court may direct the trial court to expedite the preparation and transmittal of the record on appeal and, upon motion or of its own initiative, take other appropriate action regarding preparation and completion of the record.

(D) Upon receipt of the record, the clerk of the appellate court will file it and notify all parties of the date on which the record was filed.

(3) *Oversized Exhibits.* Documents of unusual bulk or weight and physical exhibits will not be transmitted by the clerk of the trial court unless directed to do so by the appellate court.

(4) *Sexually Exploitative Material.* Transmission of sexually exploitative material will be in accordance with Chief Justice Directive 16-03.

(d)–(g) [NO CHANGE]

Rule 12. Docketing the ~~Proceeding~~Appeal** and Fees; Proceedings in Forma Pauperis;~~Filing of the Record~~**

(a) ~~(a)~~ Docketing the ~~Appeal~~Proceeding**; ~~Filing~~ Fees ~~of Clerk~~.**

(1) Payment of Fees by Initiating Party. At the time an appellant or petitioner initiates a proceeding in the court of appeals or the supreme court, the appellant or petitioner must pay the required filing fee to the clerk of the applicable appellate court.

(2) Docketing the Proceeding. Any proceeding initiated in the court of appeals or the supreme court must comply with these rules, including the service requirements of C.A.R. 25. Upon receipt of the filing fee or evidence of compliance with subparagraph (b) if a party is authorized to proceed without prepayment of fees, the appellate clerk will enter the proceeding upon the docket.

(3) Payment of Fees by Additional Parties Entering an Appearance. The filing fee for an appellee or respondent must be paid to the clerk of the appellate court upon the entrance of an appearance by the appellee or respondent. After an initial appellant, petitioner, appellee, or respondent have paid their docket fees, any additional appellants, cross-appellants, petitioners, cross-petitioners, or appellees must also pay the filing fee upon entering an appearance.

(4) Waiver of Filing Fees for Public Entities. As authorized by statute, rule, or chief justice directive, all filing fees are waived for the State of Colorado, all state agencies, institutions, and political subdivisions thereof. In criminal cases, the filing fee is waived for parties represented by the Office of the Colorado State Public Defender or the Office of the Alternate Defense Counsel; compliance with subparagraph (b) is unnecessary. Attorneys appearing as Alternate Defense Counsel must indicate they are appearing as such in the case caption.

(5) Waiver of Filing Fees for Habeas Appeals. The filing fee for a party appealing the denial of a petition for a writ of habeas corpus in the district court is waived; compliance with subparagraph (b) is unnecessary.

~~At the time of the filing of the notice of appeal or the time of filing any documents with an appellate court before the filing of the notice of appeal, the appellant shall pay to the clerk of the appellate court the docket fee as required by section 13-4-112(1) and the clerk shall enter the appeal upon the docket. If an appellant is authorized to prosecute the appeal without prepayment of fees, the clerk shall enter the appeal on the docket at the written request of that party. The party appealing shall docket the case as nearly as possible under the title given to the action in the trial court, with the appellant identified as such, but if such title does not contain the name of the appellant, the appellant's name, identified as appellant, shall be added to the title. Unless necessary to show the relationship of the parties, such caption shall not include the names of parties not involved in the appeal. The docket fee for an appellee as required by section 13-4-112(1) shall be paid upon the entry of appearance of the appellee. After an initial appellant or appellee has paid the docket fee, any additional appellants, appellees or cross-appellants entering an appearance by~~

~~an attorney who is not already of record in the case, shall also pay the docket fee as required by section 13-4-112(1). A cross-appellant shall pay the docket fee amount at the time the cross-appeal is filed. Extension of time shall not be granted for paying docket fees.~~

(b) Leave to Waiver of Filing Fees ~~Proceed on Appeal in Forma Pauperis in Appellate Court Proceedings.~~

(1) In the Supreme Court.

(A) By Motion.

(a) **In the Trial Court.** A party ~~to an action in a trial court may file in the trial court a motion~~ who desires to proceed on appeal in forma pauperis in the supreme court, together with an affidavit showing inability to pay the filing fee and costs. ~~shall file in the trial court a motion for leave so to proceed, together with an affidavit showing an inability to pay fees and costs or to give security, a belief that the party is entitled to redress, and a statement of the issues which the party intends to present on appeal. If the motion is granted, the party may proceed without further application to the appellate court and without prepayment of fees or costs in either court or the giving of security. If the trial court denies the motion is denied, the trial court shall~~ must state in writing the reasons for the denial.

(b) **In the Supreme Court.** A party may file in the supreme court a motion to waive the filing fee, together with an affidavit showing inability to pay the filing fee and costs.

(B) Prior Approval. Notwithstanding the provisions of the preceding paragraph, the court will waive the filing fee for a party who has been permitted to proceed in forma pauperis in an action in the trial court or the court of appeals; or who has been permitted to proceed there as one who is financially unable to obtain an adequate defense in a criminal case, ~~may proceed on appeal in forma pauperis without further authorization unless, before or after the notice of appeal is filed, the trial court shall certify that the appeal is not taken in good faith or shall find that the party is otherwise not entitled so to proceed, in which event the trial court lower court shall state in writing the reasons for such certification or finding~~ Any party proceeding under this subparagraph ~~(b) shall~~ must attach a copy of the lower trial court's order granting or denying leave to proceed in forma pauperis in the trial court with the appendix to the notice of appeal or initiating pleading.

(2) In the Court of Appeals. Any request to proceed in forma pauperis in the ~~appellate court~~ of appeals must first be sought in the ~~district trial court.~~ Any lower court order granting in forma pauperis status must have been entered no earlier than 12 months before the filing of a notice of appeal or other initiating pleading. A party may file in the court of appeals a motion to reconsider a trial court's denial of a motion to proceed in forma pauperis in the ~~appellate court~~ of appeals. The motion and affidavit must be filed at the time of filing the notice of appeal or other initiating pleading.

(c) **Leave to Proceed on Appeal or Review in Forma Pauperis in Administrative Agency Proceedings.** A party to a proceeding before an administrative agency, board, commission, or officer ~~who desires seeking~~ to proceed on appeal or review in the appellate court in forma pauperis ~~shall~~ must file in that the said court a motion ~~for leave so to proceed~~, together with an the affidavit ~~showing inability to pay fees and costs~~ prescribed by the first paragraph of section (a) of this Rule.

~~(d) **Form of Briefs and Other Papers.** Parties allowed to proceed in forma pauperis may file briefs and other papers in typewritten form, and may request that the appeal be heard on the original record without the necessity of reproducing parts thereof in any form.~~

~~(e) **Filing of the Record.** Upon receipt of the record, the clerk shall file the record. The clerk shall immediately give notice to all parties of the date on which the record was filed.~~

~~(f) Deleted September 23, 1983, effective January 1, 1984.~~

Rule 25. Filing and Service

(a) [NO CHANGE]

(b) Inmate Filings. Documents filed by an inmate confined to an institution will be deemed filed when filed in accordance with C.A.R. 25(b). Documents filed by an inmate confined in an institution are timely filed with the court if deposited in the institution's internal mailing system on or before the last day for filing. If an institution has a system designed for legal mail, the inmate must use that system to receive the benefit of this rule.

(c) Service of All Documents Required. Copies of all documents filed by any party and not required by these rules to be served by the clerk must, at or before the time of filing, be served by a party or person acting for that party on all other parties to the appeal or review. Service on a party represented by counsel must be made on counsel.

(d) Manner of Service. Service may be personal ~~or~~, by mail ~~or~~, e-mail, or E-Service as defined in C.A.R. 30(a)(4). Personal service includes delivery of the copy to a clerk or other responsible person at the office of counsel. If a self-represented party is served by e-mail, the serving party's certificate of service must verify that service was made via e-mail and include both the self-represented party's email address and postal address. E-Service is complete upon the time and date of transmission by the E-Service provider. Registered parties using E-Service must complete service in the appellate court case in which the documents are filed; the appellate courts will not accept service of documents made in the underlying proceedings.

(e) [NO CHANGE]

Rule 32. Form of Briefs and Appellate Documents

(a) – (e) [NO CHANGE]

(f) References to Sexual Assault Victims and Minors. Except as otherwise provided by this rule or by leave of court, the following individuals must not be named in briefs or other appellate documents and must be identified by initials or appropriate general descriptive terms such as “victim” or “child”:

- (1) ~~sexual assault victims~~ in criminal and civil cases, victims or alleged victims of sexual assault; and
- (2) ~~minors~~ in criminal cases and cases brought under Title 19, minors.

Any relative whose name could be used to determine the name of a person protected under this subsection must also be identified by initials or appropriate general descriptive terms. When the defendant in a criminal case is a family member of the person protected under this subsection, the defendant may be named.

(g) Non-Compliant Documents. If the clerk determines that a brief or other document does not comply with the Colorado Appellate Rules or is not sufficiently legible, the clerk ~~may~~will accept the document for filing but may require that a conforming document be filed.

(h) [NO CHANGE]

COMMENTS

2000 – 2015 [NO CHANGE]

2023

Prior subsection (f)(1) was ambiguous; it was unclear whether the provision applied in civil cases. The change clarifies that in both criminal and civil cases relating to sexual assault, initials should be used when referring to a victim or alleged victim.

Rule 39. Costs

(a) - (b) [NO CHANGE]

(c) **Costs on Appeal Taxable in the Trial Court.**

(1) Costs Allowed. The following costs on appeal are taxable in the trial court for the benefit of the party entitled to costs under this rule:

- (A) the preparation and transmission of the record;
- (B) the reporter's transcript, if needed to determine the appeal;
- (C) premiums paid for a supersedeas or other bond to preserve rights pending appeal;
- (D) docket fees charged pursuant to C.A.R. 12(a); ~~and~~
- (E) fees charged for E-Filing and E-Service as defined in C.A.R. 30(a); and
- (F) any item specifically authorized by statute or rule to be included as part of the costs.

(2) [NO CHANGE]

COMMENTS [NO CHANGE]

Rule 53. Petition for Writ of Certiorari and Cross-Petition for Writ of Certiorari

(a) – (b) [NO CHANGE]

(c) Opposition Brief.

(1) **In General.** An opposition brief is not required, ~~unless otherwise ordered by the court. If a party files an opposition brief, the brief~~ Any opposition brief must comply with C.A.R. 53(a)(1)-(3) and the following timing requirements:-

(2) **By the Respondent.** Any opposition brief filed by a ~~The~~ respondent must be filed and served any ~~opposition brief~~ within 14 days after service of the petition. If a respondent files a cross-petition, any opposition brief and cross-petition may be combined.

(3) **By the Petitioner.** Any opposition brief filed by a ~~The~~ petitioner must be filed ~~any opposition brief~~ within 14 days after service of the cross-petition.

(d) **Reply Brief.** A reply brief is not required, ~~unless otherwise ordered by the court. If a petitioner or cross-petitioner files a reply brief, the brief~~ A petitioner or cross-petitioner must be filed and served any ~~reply brief~~ within 7 days after service of an opposition brief. The reply brief must comply with C.A.R. 32. In dependency or neglect appeals, pursuant to C.A.R. 3.4(l), no reply briefs are allowed.

(e) – (h) [NO CHANGE]

Rule 3. Appeal as of Right--How Taken

(a) – (c) [NO CHANGE]

(d) Contents of the Notice of Appeal in Civil Cases (Other Than District Court Review of Agency Actions and Appeals from State Agencies). The notice of appeal must contain:

(1) – (6) [NO CHANGE]

(7) if applicable, a statement that the filing fee is waived under C.A.R. 12(a)(4);

(8) an appendix containing:

(A) – (D) [NO CHANGE]

(9) a certificate of service in compliance with C.A.R. 25 showing service of a copy of the notice of appeal (with attachments) on the lower court and all other parties to the action below.

(e) – (f) [NO CHANGE]

(g) Contents of the Notice of Appeal in Criminal Cases. The notice of appeal must contain:

(1) – (6) [NO CHANGE]

(7) if applicable, a statement that the filing fee is waived under C.A.R. 12(a)(4);

(8) an appendix containing:

(A) – (D) [NO CHANGE]

(9) a certificate of service in compliance with C.A.R. 25 showing service of a copy of the notice of appeal (with attachments) on the lower court and all other parties to the action in the lower court.

(h) [NO CHANGE]

Comments [NO CHANGE]

Rule 3.1. Appeals from Industrial Claim Appeals Office

(a) – (c) [NO CHANGE]

(d) Contents of Notice of Appeal from the Industrial Claim Appeals Office Directly to the Court of Appeals. The notice of appeal shall set forth:

(1) A caption that complies in form with C.A.R. 32. In the caption:

(A) The case title;

(B) The party or parties initiating the appeal;

(C) All others who have appeared as parties to the action before the agency; and

(D) The agency case number.

(2) - (6) [NO CHANGE]

Rule 3.3. Appeals of Grant or Denial of Class Certification

An appeal from a written, signed, and dated order granting or denying class certification under C.R.C.P. 23(f) may be allowed pursuant to the procedures set forth in that rule and C.R.S. § 13-20-901.

Rule 3.5. Appeals of Mental Health Orders Pursuant to §27-65-114

(a) How Taken. Appeals from judgments, decrees, or orders in mental health proceedings under C.R.S. 16-8.5-112 and 27-65-111 must be in the manner and within the time prescribed by this rule.

(b) Time for Appeal.

(1) A notice of appeal and designation of transcripts must be filed with the clerk of the court of appeals with an advisory copy served on the clerk of the trial court within 21 days after the entry of the judgment, decree, or order. The trial court continues to have jurisdiction to hear and decide a motion under C.R.C.P. 59 regardless of the filing of a notice of appeal, provided the C.R.C.P. 59 motion is timely filed under C.R.C.P. 59(a) and determined within the time specified in C.R.C.P. 59(j). An order is entered within the meaning of this rule when it is entered pursuant to C.R.C.P. 58. If notice of the entry of judgment, decree, or order is transmitted to the parties by mail or E-Service, the time for the filing of the notice of appeal commences from the date of mailing or E-Service of the notice.

(2) If a timely notice of appeal is filed by a party, any other party may file a notice of cross-appeal and designation of transcripts within 7 days after the date on which the notice of appeal was filed or within the 21 days for the filing of the notice of appeal, whichever period last expires.

(3) The time in which to file a notice of appeal or a notice of cross-appeal and the designation of transcripts will not be extended, except upon a showing of good cause pursuant to C.A.R. 2 and C.A.R. 26(b).

(4) If subsequent orders regarding medication or certification are entered by the district court, counsel for appellant must, within 14 days after entry of the subsequent order, file an appropriate motion to amend the notice of appeal.

(c) Contents of the Notice of Appeal. A notice of appeal and designation of transcripts must comply with C.A.R. 3(d).

(d) Composition of the Record on Appeal.

(1) The record on appeal must include the trial court file, including all exhibits. No designation of record is necessary for the trial court file or the exhibits. The record on appeal may also include any transcripts designated and ordered by any party pursuant to this rule.

(2) The appellant and cross-appellant must properly serve the designation of transcripts on the other parties and the trial court's managing court reporter at the time the notice of appeal is filed.

(3) The designation of transcripts must set forth the dates of the proceedings for which transcripts are requested and the names of the court reporters, if applicable.

(4) Within 7 days after service of any appellant's designation of transcripts any appellee may complete and file a supplemental designation of transcripts with the clerk of the trial court and the clerk of the court of appeals and serve it on the other parties and the trial court's managing court reporter.

(5) The designating party or public entity responsible for the cost of transcription must make arrangements for payment with the managing court reporter within 7 days after serving the designation. Within 14 days after service of the designation of transcripts, the court reporter must

file a statement with the clerk of the trial court and the clerk of the court of appeals indicating whether arrangements for payment have been made.

(e) Transmission of Record.

(1) Within 21 days after the filing of the notice of appeal and designation of transcripts, the record, composed as set forth in subsection (d), must be transmitted to the court of appeals in accordance with C.A.R. 10(c).

(2) No extensions will be granted except in exceptional circumstances.

(f) Opening Brief on Appeal.

(1) Within 14 days after the record is filed, the appellant must file a brief. The appellant's brief must be entitled "opening brief" and must contain the following under appropriate headings in the order indicated:

(A) a caption in compliance with C.A.R. 32(d);

(B) a certificate of compliance as required by C.A.R. 32(h);

(C) a table of contents, with page references;

(D) a table of authorities--cases (alphabetically arranged), statutes, and other authorities--with references to the pages of the brief where they are cited;

(E) a statement of the issues presented for review;

(F) a concise statement identifying the nature of the case, the relevant facts and procedural history, and the ruling, judgment, or order presented for review, with appropriate references to the record (*see* C.A.R. 28(e));

(G) a summary of the arguments, which must:

(i) contain a succinct, clear, and accurate statement of the arguments made in the body of the brief;

(ii) articulate the major points of reasoning employed as to each issue presented for review; and

(iii) not merely repeat the argument headings or issues presented for review;

(H) the arguments, which must contain:

(i) under a separate heading placed before the discussion of each issue, statements of the applicable standard of review with citation to authority, whether the issue was preserved, and if preserved, the precise location in the record where the issue was raised and where the court ruled; and

(ii) appellant's contentions and reasoning, with citations to the authorities and parts of the record on which the appellant relies; and

(I) a short conclusion stating the precise relief sought.

(2) No extensions will be granted except in exceptional circumstances.

(3) The opening brief must contain no more than 7,500 words, excluding attachments and any addendum. A self-represented party who does not have access to a word-processing system must file a typewritten or legibly handwritten opening brief of not more than 25 double-spaced and single-sided pages. Such a brief must otherwise comply with this rule and C.A.R. 32.

(g) Answer Brief on Appeal.

(1) Within 14 days after service of the appellant's opening brief, any appellee may file an answer brief that must be entitled "answer brief," and any cross-appellant may file an opening/answer brief that must be entitled "cross-appeal opening/answer brief."

(2) The brief must conform to the requirements of C.A.R. 28(b) except that separate headings titled statement of the issues or of the case need not be included unless the appellee is dissatisfied with the appellant's statement. For each issue, the answer brief must, under a separate heading placed before the discussion of the issue, state whether the appellee agrees with the appellant's statements concerning the standard of review with citation to authority and preservation for appeal, and if not, why not.

(3) No extensions will be granted except in exceptional circumstances.

(4) The answer brief or cross-appeal opening/answer brief must contain no more than 7,500 words, excluding attachments and/or any addendum containing statutes, rules, regulations, etc. A self-represented party who does not have access to a word-processing system must file a typewritten or legibly handwritten brief of not more than 25 double-spaced and single-sided pages. Such a brief must otherwise comply with this rule and C.A.R. 32.

(5) In cases involving more than one appellant and in which the appellee chooses to file an answer brief, the appellee must file a combined answer brief addressing the legal issues raised by all appellants. The combined answer brief must be filed within 14 days after service of the last opening brief filed and must contain no more than 9,500 words.

(6) In cases involving more than one appellee, the court encourages coordination among appellees to avoid repetition within the answer briefs. A joint answer brief may, but is not required to, be filed by appellees.

(h) Reply Brief. Within 7 days after service of the appellee's answer brief, any appellant may file a reply brief, which must be entitled "reply brief," in reply to the answer brief. A reply brief must comply with C.A.R. 28(c) and must contain no more than 5,700 words. A self-represented party who does not have access to a word-processing system must file a typewritten or legibly handwritten reply brief of not more than 19 double-spaced and single-sided pages. Such a brief must otherwise comply with this rule and C.A.R. 32. No further briefs may be filed except with leave of court.

(i) Oral Argument. Oral argument will be allowed upon the written request of a party or upon the court's own motion, unless the court, in its discretion, dispenses with oral argument. A request for oral argument must be made in a separate, appropriately titled document filed no later than 7 days after briefs are closed. Unless otherwise ordered, argument may not exceed 15 minutes for the appellant and 15 minutes for the appellee.

(j) Advancement on the Docket. Appeals in mental health proceedings must be advanced on the calendar of the appellate courts and will be set for disposition at the earliest practical time.

(k) Petition for Rehearing. A petition for rehearing in the form prescribed by C.A.R. 40

(b) may be filed within 14 days after entry of judgment. The time in which to file the petition for rehearing will not be extended.

(l) Petition for Writ of Certiorari. Review of the judgment of the court of appeals may be sought by filing a petition for writ of certiorari in the supreme court in accordance with C.A.R. 51. The petition must be filed within 14 days after the expiration of the time for filing a petition for rehearing or the date of denial of a petition for rehearing by the court of appeals. The filing of the petition results in an automatic stay of proceedings in the court of appeals. Any cross-petition

or opposition brief to a petition for writ of certiorari must be filed within 14 days after the filing of the petition. No reply briefs are allowed. The petition for writ of certiorari, any cross-petition, and any opposition brief must be in the form prescribed by C.A.R. 53(a)-(c) and filed and served in accordance with C.A.R. 53(h).

(m) Issuance of Mandate. The mandate must be in the form prescribed by C.A.R. 41(a) and will issue 29 days after entry of the judgment. The timely filing of a petition for rehearing will stay the mandate until the court of appeals has ruled on the petition. If the petition is denied, the mandate will issue 14 days after entry of the order denying the petition. The mandate may also be stayed in accordance with C.A.R. 41.

(n) Filing and Service. All papers required or permitted by this rule must be filed and served in accordance with C.A.R. 25.

(o) Computation and Extension of Time. Computation and extension of any time period prescribed by this rule must be in accordance with C.A.R. 26.

Rule 4.2. Interlocutory Appeals in Civil Cases

(a) Discretionary Interlocutory Appeals. Upon certification by the trial court, or stipulation of all parties, the court of appeals may, in its discretion, allow an interlocutory appeal of an order in a civil action. This rule applies only to cases governed by section 13-4-102.1, C.R.S.

(b) Grounds for Granting Interlocutory Appeal. Grounds for certifying and allowing an interlocutory appeal are:

- (1) Where immediate review may promote a more orderly disposition or establish a final disposition of the litigation; and
- (2) The order involves a controlling and unresolved question of law. For purposes of this rule, an “unresolved question of law” is a question that has not been resolved by the supreme court or determined in a published decision of the court of appeals, or a question of federal law that has not been resolved by the United States Supreme Court.

(c) Procedure in the Trial Court. The party seeking to appeal must move for certification or submit a stipulation signed by all parties within 14 days after the date of the order to be appealed, stating that the appeal is not being sought for purposes of delay. The trial court may, in its discretion, certify an order as immediately appealable, but if all parties stipulate, the trial court must forthwith certify the order. Denial of a motion for certification is not appealable.

(d) Procedure in the Appellate Court. If the trial court certifies an order for an interlocutory appeal, the party seeking an appeal must file a petition to appeal with the clerk of the court of appeals with an advisory copy served on the clerk of the trial court within 14 days of the date of the trial court’s certification.

(1) *Docketing of Petition and Fees; Form of Documents.* Upon the filing of a petition to appeal, appellant must pay to the clerk of the court of appeals the applicable docket fee. All documents filed under this rule must comply with C.A.R. 32.

(2) *Number of Copies to be Filed and Served.* An original of any petition or brief shall be filed. One set of supporting documents shall be filed.

(3) *Content of Documents and Service.*

(A) The petition must contain a caption that complies with C.A.R. 3(d)(1) and C.A.R. 32.

(B) To enable the court to determine whether the petition should be granted, the petition must disclose in sufficient detail the following:

- (i) The identities of all parties and their status in the proceeding below;
- (ii) The order being appealed;
- (iii) The reasons why immediate review may promote a more orderly disposition or establish a final disposition of the litigation and why the order involves a controlling and unresolved question of law;
- (iv) The issues presented;
- (v) The facts necessary to understand the issues presented;
- (vi) Argument and points of authority explaining why the petition to appeal should be granted and why the relief requested should be granted; and
- (vii) A list of supporting documents, or an explanation of why supporting documents are not available.

(C) The petition must include the names, addresses, email addresses and telephone and fax numbers, if any, of all parties to the proceeding below; or, if a party is represented by counsel, the attorney’s name, address, email address and telephone and fax numbers.

(D) The petition must be served upon each party and the court below.

(4) *Supporting Documents.* A petition must be accompanied by a separate, indexed set of available supporting documents adequate to permit review. Some or all of the following documents may be necessary:

- (A) The order being appealed;
- (B) Documents and exhibits submitted in the proceeding below that are necessary for a complete understanding of the issues presented;

(C) A transcript of the proceeding leading to the order below.

(5) *No Initial Response to Petition Allowed.* Unless requested by the court of appeals, no response to the petition is allowed prior to the court's determination of whether to grant or deny the petition.

(6) *Briefs.* If the court grants the petition to appeal, the petition to appeal will serve as appellant's opening brief. The appellee must file an answer brief, or a separate notice indicating that no answer brief will be filed, and the appellant may file a reply brief according to a briefing schedule established by the court in its order granting the petition to appeal. The petition and briefs must comply with the limitations on length contained in C.A.R. 28(g).

(7) *Oral Argument.* Oral argument is governed by C.A.R. 34.

(8) *Petition for Rehearing.* In all proceedings under this Rule 4.2, where the court of appeals has issued an opinion on the merits of the interlocutory appeal, a petition for rehearing may be filed in accordance with the provisions of C.A.R. 40.

(e) Amicus Briefs. Any amicus curiae may file a brief only by leave of the court after a case number has been assigned. Before the court issues an order granting a petition to appeal, an amicus curiae may tender a brief supporting the appellant, but the court may act on a petition at any time after the petition is filed, including before the submission of an amicus brief. If the court issues an order granting the petition to appeal, an amicus brief supporting the appellant must be filed within seven days after the issuance of the order, or such lesser time as the court may permit for the submission of amicus briefs. An amicus brief supporting an appellee must be tendered by the deadline for the appellee's response, or such lesser time as the court may permit for the submission of amicus briefs. An amicus curiae that does not support either party must file its brief no later than seven days after the issuance of the order granting the petition to appeal, or such lesser time as the court may permit for the submission of amicus briefs. The filing of an amicus brief within the deadlines established by this rule but after the court has acted on a petition is not a ground for reconsideration or denial of a petition. A brief submitted by an amicus curiae must comply with C.A.R. 29(a), (b), (c), (d), (f), and (g).

(f) Stay of Trial Court Proceedings.

(1) The filing of a petition under this rule does not stay any proceeding below or the running of any applicable time limit. If the appellant seeks temporary stay pending the court's determination of whether to grant the petition to appeal, a stay ordinarily must be sought in the first instance from the trial court. If a request for stay below is impracticable or not promptly ruled upon or is denied, the appellant may file a separate motion for temporary stay in the court of appeals supported by accompanying materials justifying the requested stay.

(2) An order granting the petition to appeal by the court of appeals automatically stays all proceedings below until final determination of the interlocutory appeal in the court of appeals unless the court, sua sponte, or upon motion lifts such stay in whole or in part.

(g) Effect of Failure to Seek or Denial of Interlocutory Review. Failure to seek or obtain interlocutory review will not limit the scope of review upon an appeal from entry of the final judgment.

(h) Supreme Court Review. Denial of a petition to appeal is not subject to certiorari review. A decision of the court of appeals on the merits will be subject to certiorari review. No provision of this rule limits the jurisdiction of the supreme court under C.A.R. 21.

(i) All matters in the court of appeals under this rule will be heard and determined by a special or regular division of three judges as assigned by the Chief Judge.

Rule 10. Record on Appeal

NO CHANGE (a)–(b)

(c) Transmission.

(1) *Complete Record.* The clerk of the trial court must transmit the record to the clerk of the appellate court when it is complete. If the record includes any transcripts, the clerk of the trial court will not transmit the record to the clerk of the appellate court until transcripts are available.

(2) *Time.* The record on appeal must be transmitted to the appellate court within 63 days (9 weeks) after the date of filing of the notice of appeal unless the time is shortened or extended by an order of the appellate court.

(A) For good cause shown, the appellate court may extend the time for transmitting the record. A request for extension must be made by the clerk of the trial court or the clerk of the trial court's designee within the time originally prescribed or as previously extended.

(B) Any request for extension of the period of time based upon a court reporter's inability to complete the transcript must be supported by an affidavit of the reporter specifying why the transcript has not yet been prepared and the date by which the transcript will be completed. If the reason stated in a court reporter's affidavit for the reporter's inability to complete the record is the failure of the designating party to make adequate arrangement for payment of the transcripts, the designating party must file a response to the affidavit with the appellate court within 7 days.

(C) The appellate court may direct the trial court to expedite the preparation and transmittal of the record on appeal and, upon motion or of its own initiative, take other appropriate action regarding preparation and completion of the record.

(D) Upon receipt of the record, the clerk of the appellate court will file it and notify all parties of the date on which the record was filed.

(3) *Oversized Exhibits.* Documents of unusual bulk or weight and physical exhibits will not be transmitted by the clerk of the trial court unless directed to do so by the appellate court.

(4) *Sexually Exploitative Material.* Transmission of sexually exploitative material will be in accordance with Chief Justice Directive 16-03.

NO CHANGE (d)–(g)

Rule 12. Docketing the Proceeding and Fees; Proceedings in Forma Pauperis

(a) Docketing the Proceeding; Filing Fees.

- (1) Payment of Fees by Initiating Party.** At the time an appellant or petitioner initiates a proceeding in the court of appeals or the supreme court, the appellant or petitioner must pay the required filing fee to the clerk of the applicable appellate court.
- (2) Docketing the Proceeding.** Any proceeding initiated in the court of appeals or the supreme court must comply with these rules, including the service requirements of C.A.R. 25. Upon receipt of the filing fee or evidence of compliance with subparagraph (b) if a party is authorized to proceed without prepayment of fees, the appellate clerk will enter the proceeding upon the docket.
- (3) Payment of Fees by Additional Parties Entering an Appearance.** The filing fee for an appellee or respondent must be paid to the clerk of the appellate court upon the entrance of an appearance by the appellee or respondent. After an initial appellant, petitioner, appellee, or respondent have paid their docket fees, any additional appellants, cross-appellants, petitioners, cross-petitioners, or appellees must also pay the filing fee upon entering an appearance.
- (4) Waiver of Filing Fees for Public Entities.** As authorized by statute, rule, or chief justice directive, all filing fees are waived for the State of Colorado, all state agencies, institutions, and political subdivisions thereof. In criminal cases, the filing fee is waived for parties represented by the Office of the Colorado State Public Defender or the Office of the Alternate Defense Counsel; compliance with subparagraph (b) is unnecessary. Attorneys appearing as Alternate Defense Counsel must indicate they are appearing as such in the case caption.
- (5) Waiver of Filing Fees for Habeas Appeals.** The filing fee for a party appealing the denial of a petition for a writ of habeas corpus in the district court is waived; compliance with subparagraph (b) is unnecessary.

(b) Waiver of Filing Fees in Appellate Court Proceedings.

(1) In the Supreme Court.

(A) By Motion.

- (a) In the Trial Court.** A party may file in the trial court a motion to proceed on appeal in forma pauperis in the supreme court, together with an affidavit showing inability to pay the filing fee and costs. If the trial court denies the motion, the trial court must state in writing the reasons for the denial.
- (b) In the Supreme Court.** A party may file in the supreme court a motion to waive the filing fee, together with an affidavit showing inability to pay the filing fee and costs.

(B) Prior Approval. Notwithstanding the provisions of the preceding paragraph, the court will waive the filing fee for a party who has been permitted to proceed in forma pauperis in an action in the trial court or the court of appeals or who has been permitted to proceed there as one who is financially unable to obtain an adequate defense in a criminal case. Any party proceeding under this subparagraph must attach a copy of the lower court's order granting leave to proceed in forma pauperis to the notice of appeal or initiating pleading.

(2) In the Court of Appeals. Any request to proceed in forma pauperis in the court of appeals must first be sought in the trial court. Any lower court order granting in forma pauperis status must have been entered no earlier than 12 months before the filing of a notice of appeal or other initiating pleading. A party may file in the court of appeals a motion to reconsider a trial court's denial of a motion to proceed in forma pauperis in the court of appeals. The motion and affidavit must be filed at the time of filing the notice of appeal or other initiating pleading.

(c) Leave to Proceed on Appeal or Review in Forma Pauperis in Administrative Agency Proceedings. A party to a proceeding before an administrative agency, board, commission, or officer seeking to proceed on appeal or review in the appellate court in forma pauperis must file in that court a motion, together with an affidavit showing inability to pay fees and costs.

Rule 25. Filing and Service

(a) - (c) [NO CHANGE]

(d) Manner of Service. Service may be personal, by mail, e-mail, or E-Service as defined in C.A.R. 30(a)(4). Personal service includes delivery of the copy to a clerk or other responsible person at the office of counsel. If a self-represented party is served by e-mail, the serving party's certificate of service must verify that service was made via e-mail and include both the self-represented party's email address and postal address. E-Service is complete upon the time and date of transmission by the E-Service provider. Registered parties using E-Service must complete service in the appellate court case in which the documents are filed; the appellate courts will not accept service of documents made in the underlying proceedings.

(e) [NO CHANGE]

Rule 32. Form of Briefs and Appellate Documents

(a) – (e) [NO CHANGE]

(f) References to Sexual Assault Victims and Minors. Except as otherwise provided by this rule or by leave of court, the following individuals must not be named in briefs or other appellate documents and must be identified by initials or appropriate general descriptive terms such as “victim” or “child”:

(1) in criminal and civil cases, victims or alleged victims of sexual assault; and

(2) in criminal cases and cases brought under Title 19, minors.

Any relative whose name could be used to determine the name of a person protected under this subsection must also be identified by initials or appropriate general descriptive terms. When the defendant in a criminal case is a family member of the person protected under this subsection, the defendant may be named.

(g) Non-Compliant Documents. If the clerk determines that a brief or other document does not comply with the Colorado Appellate Rules or is not sufficiently legible, the clerk may accept the document for filing but may require that a conforming document be filed.

(h) [NO CHANGE]

COMMENTS

2000 – 2015 [NO CHANGE]

2023

Prior subsection (f)(1) was ambiguous; it was unclear whether the provision applied in civil cases. The change clarifies that in both criminal and civil cases relating to sexual assault, initials should be used when referring to a victim or alleged victim.

Rule 39. Costs

(a) - (b) [NO CHANGE]

(c) Costs on Appeal Taxable in the Trial Court.

(1) Costs Allowed. The following costs on appeal are taxable in the trial court for the benefit of the party entitled to costs under this rule:

- (A)** the preparation and transmission of the record;
- (B)** the reporter's transcript, if needed to determine the appeal;
- (C)** premiums paid for a supersedeas or other bond to preserve rights pending appeal;
- (D)** docket fees charged pursuant to C.A.R. 12(a);
- (E)** fees charged for E-Filing and E-Service as defined in C.A.R. 30(a); and
- (F)** any item specifically authorized by statute or rule to be included as part of the costs.

(2) [NO CHANGE]

COMMENTS [NO CHANGE]

Rule 53. Petition for Writ of Certiorari and Cross-Petition for Writ of Certiorari

(a) – (b) [NO CHANGE]

(c) Opposition Brief.

(1) **In General.** An opposition brief is not required. If a party files an opposition brief, the brief must comply with C.A.R. 53(a)(1)-(3) and the following timing requirements:

(2) **By the Respondent.** Any opposition brief filed by a respondent must be filed and served within 14 days after service of the petition. If a respondent files a cross-petition, any opposition brief and cross-petition may be combined.

(3) **By the Petitioner.** Any opposition brief filed by a petitioner must be filed within 14 days after service of the cross-petition.

(d) **Reply Brief.** A reply brief is not required. If a petitioner or cross-petitioner files a reply brief, the brief must be filed and served within 7 days after service of an opposition brief. The reply brief must comply with C.A.R. 32. In dependency or neglect appeals, pursuant to C.A.R. 3.4(1), no reply briefs are allowed.

(e) – (h) [NO CHANGE]

Amended and Adopted by the Court, En Banc, March 23, 2023, effective immediately.

By the Court:

**Richard L. Gabriel
Justice, Colorado Supreme Court**