

RULE CHANGE 2006 (09)

CHAPTER 32

THE COLORADO APPELLATE RULES

(New) Rule 28. Briefs

(k) Standard of Review; Preservation. For each issue raised on appeal, the party raising such issue must provide, under a separate heading placed before discussion of the issue: (1) a concise statement of the applicable standard of appellate review with citation to authority; and (2) a citation to the precise location in the record where the issue was raised and ruled on, if the issue involves (i) admission or exclusion of evidence, (ii) giving or refusing to give a jury instruction, or (iii) any other act or ruling for which the party seeking relief must record an objection or perform some other act to preserve appellate review. A citation of where the issue was preserved for appellate review shall include, if applicable, the record reference where an objection, offer of proof, motion in limine, motion for directed verdict, or other relevant motion was made and ruled on. For each issue, the responding party must provide, under a separate heading placed before discussion of the issue, a statement of whether such party agrees with the opponent's statements concerning the standard of review and preservation for appeal, and if not, why not.

COMMITTEE COMMENT

Compliance with subsection (k) does not warrant lengthy discussion but requires only the declaration of the applicable standard of review and the record reference to where the issue was preserved. The following are examples:

(1) An appellate court reviews the wording of an instruction for abuse of discretion. [cite case]. Because this is a criminal case and no objection was made or alternative instruction tendered in the trial court, the issue should be reviewed for plain error [cite case].

(2) The admissibility of expert testimony is reviewed for abuse of discretion. [cite case] This issue was preserved by appellant's offer of proof. R. _____, p. _____.

Adopted by the Court, En Banc June 22, 2006, effective immediately.

BY THE COURT:

**Nancy E. Rice
Justice, Colorado Supreme Court**