

West's Colorado Revised Statutes Annotated
 West's Colorado Court Rules Annotated
 Appellate Rules
 Chapter 32. Colorado Appellate Rules
 Appeals from Judgments and Orders of Trial Courts and Agencies (Refs & Annos)

C.A.R. Rule **3.4**

RULE **3.4**. APPEALS FROM PROCEEDINGS IN DEPENDENCY OR NEGLECT

Currentness

(a) How Taken. Appeals from judgments, decrees, or orders in dependency or neglect proceedings, as permitted by [section 19-1-109 \(2\) \(b\) and \(c\), C.R.S.](#), including an order allocating parental responsibilities pursuant to [section 19-1-104 \(6\), C.R.S.](#), final orders entered pursuant to [section 19-3-612, C.R.S.](#), and final orders of permanent legal custody entered pursuant to [section 19-3-702 and 19-3-605, C.R.S.](#), 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 (JDF 545) 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 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 (JDF 545) within 7 days of 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) In appeals filed by respondent parents who were represented by counsel in the trial court, it is trial counsel's obligation to ensure a timely notice of appeal is filed. This obligation is met if different counsel for appeal timely files a notice of appeal. Self-represented parties are obligated to timely file a notice of appeal on their own behalf.

(c) Contents of the Notice of Appeal. A Notice of Appeal and Designation of Transcripts (JDF 545) must include:

(1) identification of the party or parties initiating the appeal;

- (2) identification of the judgment, decree, or order from which the appeal is taken;
- (3) the date the judgment, decree, or order from which the appeal is taken was signed by the trial court;
- (4) a certificate of service in compliance with [C.A.R. 25](#); and
- (5) a copy of the judgment, decree, or order from which the appeal is taken.

(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 and all exhibits. The record on appeal may also include any transcripts designated and ordered by the parties pursuant to this rule.
- (2) It is the duty of the appellant and any cross-appellant to complete and properly serve the designation of transcripts portion of JDF 545 upon the trial court's managing court reporter at the time the notice of appeal is filed.
- (3) The designation of transcripts portion of JDF 545 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 JDF 545, any appellee may complete and file a Supplemental Designation of Transcripts (JDF 547) with the clerk of the trial court and the clerk of the court of appeals and serve it on 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 JDF 545, 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 42 days after the filing of JDF 545, the record, composed as set forth in subsection (d), must be transmitted to the court of appeals in accordance with [C.A.R. 11 \(b\)](#).
- (2) The appellant may request an extension of time of no more than 14 days in which to file the record, which will be granted only upon a showing of good cause. If a request of more than 14 days is based on a court reporter's or transcriber's inability to complete the transcript, it must be supported by an affidavit of the reporter, transcriber, managing court reporter, or clerk of the trial court.

(f) Opening Brief on Appeal.

(1) Within 21 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 compliance with the Indian Child Welfare Act (ICWA) with citation(s) to the location(s) in the designated record of:

(i) each date when the court made an inquiry to determine whether the child is or could be an Indian child, and a statement of any identified tribe(s) or potential tribe(s);

(ii) copies of ICWA notices (including for foster care placement and termination of parental rights proceedings, if applicable), and other communications intended to provide such notice, sent to the child's parents, the child's Indian custodian(s), the Bureau of Indian Affairs (BIA), or the child's tribe(s) or potential tribe(s) may be found;

(iii) the postal return receipts for Indian child welfare notices sent to the child's parents, the child's Indian custodian(s), the BIA, or the child's tribe(s) or potential tribe(s) may be found;

(iv) responses from the parent(s) or Indian custodian(s) of the child, the BIA, and child's tribe(s) or potential tribe(s) may be found;

(v) additional notices (including for a termination hearing) were sent to non-responding tribe(s), or the BIA; and

(vi) date(s) of any ruling as to whether the child is or is not an Indian child;

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

(G) 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\(e\)](#));

(H) 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;

(I) 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

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

(2) The appellant may request one extension of time of no more than 7 days in which to file the opening brief.

(3) The opening 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 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 21 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) Under a separate heading following the table of authorities, the brief must contain a statement of whether the appellee agrees with the appellant's statements concerning compliance with the ICWA, and if not, why not.

(3) The brief must conform to the requirements of C.A.R. [3.4](#) (f) 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.

(4) A party may request one extension of time of no more than 7 days to file an answer brief or cross-appeal opening/answer brief.

(5) 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](#).

(6) 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 28 days of service of the last opening brief filed and must contain no more than 9,500 words.

(7) 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 14 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. 3.4\(f\)\(1\)\(A\)-\(D\)](#) 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 dependency or neglect proceedings must be advanced on the calendar of the appellate courts pursuant to [section 19-1-109\(1\), C.R.S.](#), 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. 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 \(f\)](#).

(m) Issuance of Mandate. The mandate must be in the form prescribed by [C.A.R. 41\(a\)](#) and must 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 must 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](#).

Credits

Adopted Feb. 10, 2005, eff. March 1, 2005. Amended eff. Nov. 9, 2006; Jan. 1, 2012; July 1, 2016.

Editors' Notes

LAW REVIEW AND JOURNAL COMMENTARIES

Dependency and Neglect Appeals Under C.A.R. [3.4](#). Laura Grzetic Eibsen and Toni J. Gray, 36 Colo.Law. 55 (Oct. 2007).

Notes of Decisions containing your search terms (0)

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Rules App. Proc., Rule [3.4](#), CO ST A CT Rule [3.4](#)

Current with amendments received through 7/1/16