

RULE CHANGE 2015(06)

**COLORADO APPELLATE RULES**

**Rules 28, 28.1, 29, 31, 32, and 34**

**Form 6 Certificate of Compliance**

**Form 6A Amicus Certificate of Compliance**

**Form 7 Caption for Documents Filed by Party With Access to Word-Processing System**

**Form 7A Caption for Documents Filed by Self-Represented Party Without Access to Word-Processing System**

**Rule 28. Briefs**

**(a) Appellant’s Brief.** The appellant’s brief must be entitled “opening brief” and must contain the following under appropriate headings and in the order indicated:

- (1) a certificate of compliance as required by C.A.R. 32(h);
- (2) a table of contents, with page references;
- (3) a table of authorities—cases (alphabetically arranged), statutes, and other authorities—with references to the pages of the brief where they are cited;
- (4) a statement of the issues presented for review;
- (5) 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));
- (6) a summary of the arguments, which must:
  - (A) contain a succinct, clear, and accurate statement of the arguments made in the body of the brief;
  - (B) articulate the major points of reasoning employed as to each issue presented for review; and
  - (C) not merely repeat the argument headings or issues presented for review;
- (7) the arguments which must contain:

(A) 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

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

(8) a short conclusion stating the precise relief sought; and

(9) any request for attorney fees.

**(b) Appellee's Brief.** The appellee's answer brief must be entitled "answer brief" and must conform to the requirements of C.A.R. 28 (a) except that a statement of the issues or of the case need not be made 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. The answer brief must also contain any request for attorney fees or state any opposition to attorney fees requested in the opening brief.

**(c) Reply Brief.** The appellant may file a brief, which must be entitled "reply brief" in reply to the answer brief. A reply brief must comply with C.A.R. 28(a)(1)–(3), and must state any opposition to attorney fees requested in the answer brief. No further briefs may be filed except with leave of court.

**(d) References in Briefs to Parties.** Parties should minimize use of the terms "appellant" and "appellee." Parties should use the designations used in the lower court or agency proceeding, the parties' actual names or initials, or descriptive terms such as "the employee," "the injured person," or "the taxpayer."

**(e) References to the Record.** Reference to the record and to material appearing in an addendum to the brief should generally follow the format detailed in the "Court of Appeals Policy on Citation to the Record." Record references, including abbreviations, must be clear and readily identifiable.

**(f) Reproduction of Statutes, Rules, Regulations, etc.** If the court's determination of the issues presented requires the study of regulations, ordinances, or any statutes or rules not currently in effect or not generally available in an electronic format, the relevant parts may be reproduced in an addendum at the end of the brief.

**(g) Length of Briefs.**

(1) An opening brief and an answer brief must contain no more than 9,500 words. A reply brief must contain no more than 5,700 words. Headings, footnotes, and quotations count toward the word limitations. The caption, table of contents, table of authorities, certificate

of compliance, certificate of service, and signature block do not count toward the word limit.

(2) A self-represented party who does not have access to a word-processing system must file a typewritten or legibly handwritten opening or answer brief of not more than 30 double-spaced and single-sided pages, or a reply brief of no more than 18 double-spaced and single-sided pages. Such a brief must otherwise comply with C.A.R. 32.

(3) A party may file a motion to exceed the word limitation explaining the reasons why additional words are necessary. The motion must be filed with the brief.

**(h) Briefs in Cases Involving Multiple Appellants or Appellees.** In cases involving more than one appellant or appellee, including consolidated cases, any number of appellants or appellees may join in a single brief, and any party may adopt by reference any part of another's brief, but a party may not both file a separate brief and incorporate by reference the brief of another party. Parties may also join in reply briefs. In cases involving a single appellant or appellee with multiple opposing parties, the single party must file a single brief in response to multiple opposing parties' briefs. Except by permission of the court, such a brief is restricted to the page and word limits set forth in C.A.R. 28(g), regardless of the cumulative page and word counts of the opposing parties' briefs. Multiple parties represented by the same counsel must file a joint brief.

**(i) Citation of Supplemental Authorities.** If pertinent and significant new authority comes to a party's attention after the party's brief has been filed, a party may promptly advise the court by giving notice, with a copy to all parties. The notice must set forth the citation and state, without argument, the reason for the supplemental citation, referring either to the page of the brief or to a point argued orally. The body of the notice must not exceed 350 words. Any response must be made promptly and must be similarly limited.

## COMMENTS

### 2006

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. \_\_\_.

## 2015

Prior subsection (h) entitled, “Briefs in Cases Involving Cross-Appeals,” has been deleted from C.A.R. 28. The substance of prior subsection (h) now appears in C.A.R. 28.1, which sets forth briefing requirements for cases involving cross-appeals.

Prior subsection 28(k) entitled, “Standard of Review; Preservation,” has been deleted, but parties must continue to comply with its substantive requirements, which are now set forth in subsections 28(a)(7)(A) and (b). Compliance with subsections 28(a)(7)(A) and (b) does not warrant lengthy discussion but requires only the declaration of the applicable standard of review with citation to authority 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. CF, p.

The deletion of prior subsections (h) and (k) required the re-lettering of the substance of previous subsections (i), “Briefs in Cases Involving Multiple Appellants or Appellees,” and (j) “Citation of Supplemental Authorities,” to new subsections (h) and (i), respectively.

### **Rule 28.1. Briefs in Cases Involving Cross-Appeals**

**(a) Applicability.** This rule applies to a case in which a cross-appeal is filed.

**(b) Designation of Appellant.** The party who files a notice of appeal first is the appellant for the purposes of this rule and C.A.R. 34. These designations may be modified by the parties’ agreement or by court order.

**(c) Appellant’s Opening Brief.** The appellant must file an opening brief in the appeal. This brief must be entitled “opening brief” and must comply with C.A.R. 28(a) and (d)–(h).

**(d) Appellee’s Opening-Answer Brief.** The appellee must file an opening brief in the cross-appeal and must, in the same brief, respond to the opening brief in the appeal. This brief must be entitled “opening-answer brief” and must comply with C.A.R. 28(a), (b), and (d)–(h), except that the brief need not include a statement of the case unless the appellee is dissatisfied with the appellant’s statement of the case.

**(e) Appellant’s Answer-Reply Brief.** The appellant must file a brief that responds to the portion of the opening-answer brief that constitutes an opening brief in the cross-appeal, and may, in the same brief, reply to the portion of the opening-answer brief that constitutes an answer brief in the appeal. This brief must be entitled “answer-reply brief” and must comply with C.A.R. 28(b)–(h).

**(f) Appellee’s Reply Brief.** The appellee may reply to the portion of the answer-reply brief that constitutes an answer brief. This brief must be entitled “reply brief” and must comply with C.A.R. 28(c)–(h) and must be limited to the issues raised in the cross-appeal. No further briefs may be filed except with leave of court.

**(g) Length of Briefs.**

(1) An opening, opening-answer, and answer-reply brief must contain no more than 9,500 words. An appellee’s reply brief must contain no more than 5,700 words. Headings, footnotes, and quotations count toward the word limitations. The caption, table of contents, table of authorities, certificate of compliance, certificate of service, and signature block do not count toward the word limit.

(2) A self-represented party who does not have access to a word-processing system must file a typewritten or legibly handwritten opening, opening-answer, or answer-reply brief of not more than 30 double-spaced and single-sided pages, or a reply brief of no more than 18 double-spaced and single-sided pages. Such a brief must otherwise comply with C.A.R. 32.

(3) A party may file a motion to exceed the word limitation explaining the reasons why additional words are necessary. The motion must be filed with the brief.

**(h) Citation of Supplemental Authorities.** If pertinent and significant new authority comes to a party's attention after the party's brief has been filed, a party may promptly advise the court by giving notice, with a copy to all parties. The notice must set forth the citation and state, without argument, the reason for the supplemental citation, referring either to the page of the brief or to a point argued orally. The body of the notice must not exceed 350 words. Any response must be made promptly and must be similarly limited.

**COMMENT**

**2015**

The new rule is similar to Fed. R. App. P. 28.1 and applies to briefs involving cross-appeals. The portions of the previous version of C.A.R. 28(h) and (g) referencing cross-appeals have been removed. The substance of those subsections has been imported into C.A.R. 28.1.

## **Rule 29. Brief of an Amicus Curiae**

**(a) When Permitted.** An amicus curiae may file a brief only by leave of court or at the court's request.

**(b) Motion for Leave to File.** The motion to file an amicus brief must identify the movant's interest and state the reasons why an amicus brief would be helpful to the court. The brief must be conditionally filed with the motion, unless the court grants leave to file the motion without the brief.

**(c) Content and Form.** An amicus brief must comply with Rule 32. The caption page on the brief must indicate whether the brief is submitted in support of a party, and if so must identify the party or parties supported. The brief must also comply with Rule 28(a)(2) and (3) and must include the following:

- (1) a certificate of compliance as required by Rule 32(h);
- (2) a concise statement of the identity of the amicus curiae and its interest in the case; and
- (3) an argument, which may be preceded by a summary but need not include a statement of the applicable standard of review or whether the issue was preserved.

**(d) Length.** Except by the court's permission, an amicus brief may be no more than one-half the maximum length authorized by these rules for a party's principal brief. If the court grants a party permission to file a longer brief, that extension does not affect the length of the amicus brief.

**(e) Time for Filing.** An amicus curiae must file its brief within the deadline for filing the principal brief of the party being supported. An amicus curiae that does not support either party must file its brief no later than 7 days after the appellant's opening brief is filed. A court may grant leave for later filing, specifying the time within which an opposing party may answer.

**(f) Reply Brief.** Unless the court orders otherwise, an amicus curiae may not file a reply brief.

**(g) Oral Argument.** An amicus curiae may participate in oral argument only with the court's permission, which will be granted only for extraordinary reasons. A motion to participate in oral argument must state that the supported party does not object and will share its allotted time with amicus. The length of oral argument will not be extended to accommodate amicus participation.

## **Rule 31. Serving and Filing Briefs**

**(a) Time to Serve and File Briefs.** The appellant must serve and file the opening brief within 42 days after the record is filed. The appellee must serve and file the answer brief within 35 days after service of the opening brief. The appellant may serve and file a reply brief within 21 days after service of the answer brief. In cases involving cross-appeals the appellant must serve and file the opening brief within 42 days after the record is filed, the cross-appellant's opening-

answer brief and the appellant's answer-reply brief shall be served and filed within 35 days after service of the opposing party's brief. The cross-appellant may serve and file a reply brief within 21 days after service of the appellant's answer-reply brief.

**(b) Consequence of Failure to File.** If an appellant or cross-appellant fails to file a brief within the time provided by this rule, or within an extended time as permitted by the court, the court may dismiss the appeal on its own motion or a motion to dismiss filed by the appellee or cross-appellee.

### **Rule 32. Form of Briefs and Appellate Documents**

**(a) Form of Briefs and Other Appellate Documents.** Except as otherwise provided in this rule or by leave of court, all briefs and other appellate documents must comply with the following standards:

**(1) Type Size.** The typeface must be 14-point or larger, including footnotes, except that the caption may be in 12-point if necessary to fit on one page.

**(2) Typeface.** The type must be a plain, Roman style with serifs. Italics or boldface may be used for emphasis. Cited case names must be italicized or underlined.

**(3) Paper Size, Line Spacing, and Margins.** All documents must be on 8½ by 11 inch paper. The text must be double-spaced, but quotations more than two lines long may be indented and single-spaced. Headings and footnotes may be single-spaced. Margins must be at least 1½ inches on the top and 1 inch on the left, right, and bottom. Page numbers are required and may be placed in the bottom margin, but no text may appear there.

**(4) Length.** If a brief or other appellate document is subject to a word limit, it must include a certificate by the attorney, or by a self-represented party, that the document complies with the applicable word limit. The person preparing the certificate may rely on the word count of the word-processing system used to prepare the document. The certificate must state the number of words in the document.

**(b) Documents Submitted by Self-Represented Parties.** A self-represented party who does not have access to a word-processing system must file typewritten or legibly handwritten briefs and other appellate documents. Such documents must otherwise comply with the form requirements of this rule and the requirements of C.A.R. 28 and, if applicable, C.A.R. 28.1.

**(c) Binding and Reproduction.** Briefs and other appellate documents may be produced by any process that yields a clear black image on white paper. The paper must be opaque and unglazed. Only one side of the paper may be used. Text must be reproduced with a clarity that equals or exceeds the output of a laser printer. Photographs, illustrations, and tables may be reproduced by any method that results in a good copy of the original; a glossy finish is acceptable if the original is glossy. Consecutive sheets must be stapled together at the top left margin.

**(d) Caption.** The first page of each brief or other appellate document must contain a caption that includes the following basic document information:

- (1) the name and address of the court in which the proceeding is filed;
- (2) the nature of proceeding (e.g., Appeal, Petition for Writ of Certiorari, Petition for Rule to Show Cause); name of the court(s), agency, or board below; and the lower court judge(s), and case number(s);
- (3) the names of parties with appellate court party designations as follows:
  - (A) In the Supreme Court: Appellant(s) or Appellee(s) in cases in which the Supreme Court has original appellate jurisdiction; Petitioner(s) or Respondent(s) in original proceedings filed pursuant to C.A.R. 21 and certiorari proceedings.
  - (B) In the Court of Appeals: Petitioner(s) or Respondent(s) in appeals filed pursuant to C.A.R. 3.1 and 3.4 (see Appendix to Chapter 32); Appellant(s) or Appellee(s) in all other appeals.
- (4) the name, address, telephone number, e-mail address (if any), and fax number (if any) of counsel or self-represented party filing the document;
- (5) if the document is filed by counsel, his or her attorney registration number;
- (6) the title of the document (e.g., Opening Brief, Petition for Writ of Certiorari), identifying the party or parties for whom the document is filed; and
- (7) on the top-right side (opposite filing court information), a blank area that is at least 2½ inches wide and 1¾ inches long, with the words “Case Number.”

Form 7 illustrates the required caption for all documents created using a word-processing system. Form 7A illustrates the required caption for all documents filed by a self-represented party who does not have access to a word-processing system and is unable to obtain and complete Form 7.

**(e) Signature.** Every brief, motion, or other document filed with an appellate court must be signed by the party filing the document or, if the party is represented, by one of the party’s attorneys.

**(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; and
- (2) minors in criminal cases and cases brought under Title 19.

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 will accept the document for filing but may require that a conforming document be filed.

**(h) Certificate of Compliance.** Each brief must include, on a separate page immediately behind the caption page, a certificate that the brief complies with all requirements of C.A.R. 28 and C.A.R. 32, and, if applicable, C.A.R. 28.1 or 29. Forms 6 and 6A are the preferred forms for a certificate of compliance and will be regarded as meeting the requirements of C.A.R. 32(a)(4).

## COMMENTS

### 2000

This rule conforms the appellate practice to the forms of case captions provided in C.R.C.P. 10 for all documents that are filed in Colorado courts, including both criminal and civil cases. The purpose of the form captions is to provide a uniform and consistent format that enables practitioners, clerks, administrators, and judges to locate identifying information more efficiently.

The preferred case caption format for documents initiated by a party is found in subsection (c)(1)(I). The preferred caption for documents issued by the court or clerk of court is found in subsection (c)(1)(II). Because some parties may have difficulty formatting their documents to include vertical lines and boxes, alternate case caption formats are found in subsections (c)(2)(I) and (c)(2)(II). However, the box format is the preferred and recommended format.

The boxes may be vertically elongated to accommodate additional party and attorney information if necessary. The “court use” and “case number” boxes, however, shall always be located in the upper right side of the caption.

Forms approved by the State Court Administrator's Office (designated “JDF” or “SCAO” on pre-printed or computer-generated forms), forms set forth in the Colorado Court Rules, volume 12, C.R.S. (including those pre-printed or computer-generated forms designated “CRCP” or “CPC” and those contained in the appendices of volume 12, C.R.S.), and forms generated by the state's judicial electronic system, “ICON,” shall conform to criteria established by the State Court Administrator's Office with the approval of the Colorado Supreme Court. This includes pre-printed and computer-generated forms. JDF and SCAO forms and a flexible form of caption which allows the entry of additional party and attorney information are available and can be downloaded from the Colorado courts web page at <http://www.courts.state.co.us/scao/Forms.htm>.

### 2014

This rule conforms the appellate practice to the forms of case captions provided in C.R.C.P. 10 for all documents filed in Colorado appellate courts. The purpose of the form caption is to provide a uniform and consistent format that enables practitioners, clerks, administrators, and judges to locate identifying information more efficiently.

The preferred case caption format for documents initiated by a party is found in subsection (d)(1). Parties who cannot format documents to include vertical lines and boxes may use the

alternate case caption format in subsections (d)(2). However, the box format is the preferred and recommended format.

## **2015**

The purpose of the form caption is to provide a uniform and consistent format that enables practitioners, clerks, administrators, and judges to locate identifying information more efficiently. The changes to this rule make the appellate practice caption forms consistent with the forms of case captions provided in C.R.C.P. 10 for all documents filed in Colorado appellate courts.

The required case caption format for documents created using a word-processing system is found in Form 7. Self-represented parties who do not have access to a word-processing system and cannot format documents to include vertical lines and boxes may use the alternate case caption format in Form 7A. However, Form 7 caption format is preferred and recommended.

Subsection (f) is a new subsection. It is based on the legislative requirements set forth in Colo. Rev. Stat. §§19-1-102(1.7), 19-1-109(1), and 24-72-304(4)(a), and is consistent with longstanding court practice.

Prior subsection (e), formerly titled “Improper Form and Briefs of Other Papers,” now titled “Non-Compliant Documents” and (f) titled “Certificate of Compliance” have been re-lettered to subsections (g) and (h), respectively. The substance of the prior subsections has not changed.

### **Rule 34. Oral Argument**

**(a) In General.** Oral argument may be allowed at the discretion of the court. A request for oral argument must be made in a separate document entitled “request for oral argument.” The request must be filed no later than 7 days after briefs are closed. The court may order oral argument regardless of whether any party requested oral argument.

**(b) Notice of Argument; Postponement.** The clerk must advise all parties of the date, time, and place of oral argument. A motion to postpone the argument must be filed reasonably in advance of the argument date.

**(c) Time Allowed for Argument.**

**(1) In the Supreme Court.** Unless the court orders otherwise, each side will be allowed 30 minutes for argument. Any motion for additional time must be filed within 7 days after the briefs are closed and will be granted only if good cause is shown. The court may vacate or terminate the argument if, in its judgment, further argument is unnecessary.

**(2) In the Court of Appeals.** Unless the court orders otherwise, each side will be allowed 15 minutes for argument. Any motion for additional time must be filed within 7 days after the briefs are closed and will be granted only if good cause is shown. The court

may vacate or terminate the argument if, in its judgment, further argument is unnecessary.

**(d) Order and Content of Argument.** The appellant opens the argument and may reserve a portion of its allotted time for rebuttal. Parties should not read at length from briefs, records, or authorities. Unless the court orders otherwise, oral arguments will be limited to the issues raised in the briefs.

**(e) Cross-Appeals and Separate Appeals.** If there is a cross-appeal, C.A.R. 28.1(b) determines which party is the appellant and which is the appellee for purposes of oral argument. Unless the court directs otherwise a cross-appeal will be argued with the initial appeal as a single argument. The court may set separate appeals that involve the same or similar issues together for argument. In such cases, separate parties should avoid duplicative argument.

**(f) Nonappearance of Parties.** If the appellee fails to appear for argument, the court may hear argument by the appellant, if present. If the appellant fails to appear, the court may hear argument by the appellee. If neither party appears, the case will be decided on the briefs unless the court orders otherwise.

**(g) Use of Physical Exhibits at Argument; Removal.** Parties intending to use physical exhibits other than documents at the argument must arrange with the clerk of court to place them in the courtroom on the day of the argument before the court convenes. After the argument, the party must remove the exhibits from the courtroom unless the court directs otherwise. The clerk may destroy or dispose of the exhibits if a party does not reclaim them within a reasonable time after the clerk has given notice to remove them.

**(h) Supreme Court Sessions En Banc and in Departments.** The chief justice may convene the court en banc at any time, and must do so on the written request of three justices. Subject to this provision, or as limited by the constitution, sessions of the court in departments for the purpose of hearing oral arguments, and designation of the justices to hear such arguments, will be under the direction and control of the chief justice. .

**(i) References to Minors and Sexual Assault Victims.** Reference at oral arguments to sexual assault victims and minors must comply with the requirements of C.A.R. 32(f).

## COMMENT

### 2015

Subsection (i) is a new subsection. It is consistent with new C.A.R. 32(f), and is based on the legislative requirements set forth in Colo. Rev. Stat. §§19-1-102(1.7), 19-1-109(1), and 24-72-304(4)(a), and is consistent with longstanding court practice.

I hereby certify that this brief complies with all requirements of C.A.R. 28 or C.A.R. 28.1, and C.A.R. 32, including all formatting requirements set forth in these rules. Specifically, the undersigned certifies that:

**The brief complies with the applicable word limits set forth in C.A.R. 28(g) or C.A.R. 28.1(g).**

☐ It contains \_\_\_\_\_ words (principal brief does not exceed 9,500 words; reply brief does not exceed 5,700 words).

**The brief complies with the standard of review requirements set forth in C.A.R. 28(a)(7)(A) and/or C.A.R. 28(b).**

☐ **For each issue raised by the appellant**, the brief contains under a separate heading before the discussion of the issue, a concise statement: (1) of the applicable standard of appellate review with citation to authority; and (2) whether the issue was preserved, and, if preserved, the precise location in the record where the issue was raised and where the court ruled, not to an entire document.

☐ **In response to each issue raised, the appellee** must provide under a separate heading before the discussion of the issue, a statement indicating whether appellee agrees with appellant's statements concerning the standard of review and preservation for appeal and, if not, why not.

**I acknowledge that my brief may be stricken if it fails to comply with any of the requirements of C.A.R. 28 or 28.1, and C.A.R. 32.**

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Signature of attorney or party

I hereby certify that this brief complies with C.A.R. 29 and C.A.R. 32, including all formatting requirements set forth in these rules. Specifically, the undersigned certifies that

**The amicus brief complies with the applicable word limit set forth in C.A.R. 29(d).**

☐ It contains \_\_\_\_\_ words (does not exceed 4,750 words).

**The amicus brief complies with the content and form requirements set forth in C.A.R. 29(c).**

**I acknowledge that my brief may be stricken if it fails to comply with any of the requirements of C.A.R. 29 and C.A.R. 32.**

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Signature of attorney or party

<b>[Name of Court in which proceeding is filed]</b>  Court Address:  [Nature of Proceeding; Name of Court(s), Agency, or Board below; and Lower Court Judge(s) and Case Number(s)]		
<b>Designation and Name of Party*</b>  v.  <b>Designation and Name of Party*</b>		
Attorney or Self-Represented Party (Name & Address):   Phone Number:                      E-mail: FAX Number:                      Atty. Reg. # (if applicable):		Case Number:
<b>DOCUMENT TITLE</b>		

\*Instructions for designating and aligning parties.

Parties in the Court of Appeals should be designated and aligned as in the referring court or agency; in the Supreme Court they should be aligned by initiating party.

Examples:

<b>Court of Appeals:</b>  Plaintiff-Appellee Jane Doe v. Defendant-Appellant Joe Smith <hr/> Petitioner/Appellant Jane Doe v. Respondent/Appellee Joe Smith	<b>Supreme Court:</b> Petitioner Joe Smith v. Respondent Jane Doe
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**CAPTION FOR DOCUMENTS FILED BY SELF-REPRESENTED PARTY WITHOUT  
ACCESS TO WORD-PROCESSING SYSTEM**

Name of Court in which proceeding is filed

Case Number

Court Address:

[Nature of Proceeding; Name of Court(s), Agency, or Board below; and Lower Court Judge(s)  
and Case Number(s)]

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**Designation and Name of Party\***

v.

---

**Designation and Name of Party\***

Self-Represented Party (Name & Address):

Phone Number:

FAX Number:

E-mail:

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**Document Title**

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\*Parties in the Court of Appeals should be designated and aligned as in the referring court or agency; in the Supreme Court they should be aligned by initiating party.

Examples:

**Court of Appeals:**

Plaintiff-Appellee,  
People of the State of Colorado

v.

Defendant-Appellant  
Jane Doe

**Supreme Court:**

Petitioner  
Jane Doe

v.

Respondent  
People of the State of Colorado

Amended and Adopted by the Court, En Banc, June 25, 2015, effective immediately.

By the Court:

Allison H. Eid  
Justice, Colorado Supreme Court



RULE CHANGE 2015(06)

**COLORADO APPELLATE RULES**

**Rules 28, 28.1, 29, 31, 32, and 34**

**Form 6 Certificate of Compliance**

**Form 6A Amicus Certificate of Compliance**

**Form 7 Caption for Documents Filed by Party With Access to Word-Processing System**

**Form 7A Caption for Documents Filed by Self-Represented Party Without Access to Word-Processing System**

**Rule 28. Briefs**

(a) ~~Brief of the Appellant's Brief~~. The appellant's brief ~~of the appellant, which shall~~ must be entitled "opening brief;" ~~shall and must~~ contain the following under appropriate headings and in the order ~~here~~ indicated:

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

(2) a ~~A~~ table of contents, with page references; ~~and~~

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

(4) a ~~A~~ statement of the issues presented for review;

(5) a ~~A~~ concise statement ~~of the case. The statement shall first indicate briefly identifying~~ the nature of the case, ~~the course of proceedings, and its disposition in the court below. There shall follow a statement of the~~ relevant facts and procedural history, and the ruling, judgment, or order relevant to the issues presented for review, with appropriate references to the record (see section C.A.R. 28 (e));

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

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

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

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

~~(74) the~~ An argument ~~s; which~~ The argument must be preceded by a summary. The argument ~~shall~~ contain:

(A) 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

(B) ~~the contentions of the~~ appellant's contentions with respect to the issues presented, and ~~reasoning~~ the reasons therefor, with citations to the authorities, statutes, and parts of the record ~~relied on~~ which the appellant relies;

~~(85) a~~ short conclusion stating the precise relief sought; ~~and~~.

~~(96) a~~ Any request for attorney fees.

**(b) Appellee's Brief of the Appellee.—Request for or Opposition to Request for Attorney Fees.** The appellee's answer brief must ~~of the appellee, which shall~~ be entitled "answer brief;" and must ~~shall~~ conform to the requirements of subsections C.A.R 28 (a)(1) through (a)(6) of this Rule, except that a statement of the issues or of the case need not be made unless the appellee is dissatisfied with the appellant's statement. For each issue, of the appellant and appellee must in its 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. The answer brief must also contain any ~~make its~~ request for attorney fees or state any opposition ~~it may have~~ to attorney fees requested in the opening ~~appellant's~~ brief.

**(c) Reply Brief—~~Opposition to Attorney Fees Request~~.** The appellant may file a brief, which must ~~shall~~ be entitled "reply brief;" in reply to the answer brief. A reply brief must comply with C.A.R. 28(a)(1)–(3), and must state a Any opposition to attorney fees requested in the appellee's answer brief ~~must be set forth in the reply brief~~. No further briefs may be filed except with leave of court.

**(d) References in Briefs to Parties.** Parties Counsel should ~~will be expected in their briefs and oral arguments to keep to a minimum use of the terms~~ references to parties by such designations as "appellant" and "appellee." Parties should use ~~It promotes clarity to use the~~ designations used in the lower court or ~~in the~~ agency proceedings, ~~or the parties' actual names of parties, or initials, or~~ descriptive terms such as "the employee," "the injured person," ~~or~~ "the taxpayer," etc.

**(e) References in Briefs to the Record.** References to the ~~bound and paginated~~ record ~~shall be by appropriate page and line numbers and references to material appearing in an addendum to the brief~~ should generally follow the format detailed in the "Court of Appeals Policy on Citation to the Record." Record references, including abbreviations, must be clear and readily identifiable. ~~shall be by appropriate page numbers. References to the electronic record shall be by ID number and appropriate page and line number. When the reference is to the evidence, to~~

~~the giving and refusal to give an instruction, or to a ruling upon the report of a master, the page and line number must be specific, and if the reference is to the exhibit both the page and line number at which the exhibit appears and at which it was offered in evidence must be indicated.~~

**(f) Reproduction of Statutes, Rules, Regulations, etc.** If the court's determination of the issues presented requires the study of ~~statutes, rules,~~ regulations, ordinances, or any statutes or rules not currently in effect or not generally available in an electronic format, the relevant parts may etc. ~~or relevant parts thereof, they shall~~ be reproduced ~~in the brief or~~ in an addendum at the end of the brief, ~~or they may be supplied to the court in pamphlet form.~~

**(g) Length of Briefs.** ~~Except by permission of the court,~~

(1) An opening brief and an answer principal briefs must contain no more than 9,500 words. shall not exceed thirty pages, and A reply briefs must shall not contain no more than 5,700 exceed eighteen pages, unless they comply with the words. limits set forth below. Principal briefs are opening brief, answer brief, opening answer brief, and answer reply brief. A principal brief is acceptable if it contains no more than 9,500 words. A reply brief is acceptable if it contains no more than 5,700 words. Headings, footnotes, and quotations count toward the word limitations. The caption, table of contents, table of authorities, certificate of compliance, certificate of service, and signature block and any addendum containing statutes, rules, regulations, etc. do not count toward the page limits or word limits.

(2) A self-represented party who does not have access to a word-processing system must file a typewritten or legibly handwritten opening or answer brief of not more than 30 double-spaced and single-sided pages, or a reply brief of no more than 18 double-spaced and single-sided pages. Such a brief must otherwise comply with C.A.R. 32.

(3) A party may file a motion to exceed the word limitation explaining the reasons why additional words are necessary. The motion must be filed with the brief.

**(h) Briefs in Cases Involving Cross Appeals.** ~~If a cross appeal is filed, the party first filing the notice of appeal is deemed to be the appellant for the purposes of this Rule unless the parties otherwise stipulate or the court otherwise orders. The appellant shall file the opening brief within the time provided in C.A.R. 31. A cross appellant shall file a single brief as appellee and cross appellant at the time the appellee's brief is due. This brief shall be entitled "opening answer brief" and must contain the issues and argument involved in the cross appeal as well as the answer to the brief of the appellant. The appellant's answer to the argument of the cross appeal, as well as the reply to appellee's answer brief, shall be included in a brief entitled "answer reply brief." The cross appellant may then file a reply brief confined strictly to reply to those arguments raised in the cross appeal.~~

**(h) Briefs in Cases Involving Multiple Appellants or Appellees.** In cases involving more than one appellant or appellee, including ~~cases consolidated~~ cases for purposes of the appeal, any number of appellants or appellees ~~either~~ may join in a single brief, and any party appellant or

~~appellee~~ may adopt by reference any part of ~~another's~~ ~~the~~ brief, but a party may not both file a separate brief and incorporate by reference the brief of another party. Parties may ~~also~~ ~~similarly~~ join in reply briefs. In cases involving a single appellant or appellee with multiple opposing parties, the single party must file a single brief in response to multiple opposing parties' briefs. Except by permission of the court, such a brief is restricted to the page and word limits set forth in C.A.R. 28(g), regardless of the cumulative page and word counts of the opposing parties' briefs. Multiple parties represented by the same counsel must file a joint brief.

**(j) Citation of Supplemental Authorities.** If pertinent and significant new authority comes to a party's attention after the party's brief has been filed, a party may promptly advise the court by giving notice, with a copy to all parties, ~~;~~ The notice must ~~setting~~ forth the citation. ~~The notice must and~~ state, without argument, ~~the issue to which the reason for the~~ supplemental citation, ~~pertains~~ referring either to the page of the brief or to a point argued orally. The body of the notice must not exceed 350 words. Any response must be made promptly and must be similarly limited.

**(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 COMMENTS**

### **2006**

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. \_\_\_.

## **2015**

Prior subsection (h) entitled, “Briefs in Cases Involving Cross-Appeals,” has been deleted from C.A.R. 28. The substance of prior subsection (h) now appears in C.A.R. 28.1, which sets forth briefing requirements for cases involving cross-appeals.

Prior subsection 28(k) entitled, “Standard of Review; Preservation,” has been deleted, but parties must continue to comply with its substantive requirements, which are now set forth in subsections 28(a)(7)(A) and (b). Compliance with subsections 28(a)(7)(A) and (b) does not warrant lengthy discussion but requires only the declaration of the applicable standard of review with citation to authority 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. CF, p.

The deletion of prior subsections (h) and (k) required the re-lettering of the substance of previous subsections (i), “Briefs in Cases Involving Multiple Appellants or Appellees,” and (j) “Citation of Supplemental Authorities,” to new subsections (h) and (i), respectively.

### **Rule 28.1. Briefs in Cases Involving Cross-Appeals**

**(a) Applicability.** This rule applies to a case in which a cross-appeal is filed.

**(b) Designation of Appellant.** The party who files a notice of appeal first is the appellant for the purposes of this rule and C.A.R. 34. These designations may be modified by the parties' agreement or by court order.

**(c) Appellant's Opening Brief.** The appellant must file an opening brief in the appeal. This brief must be entitled "opening brief" and must comply with C.A.R. 28(a) and (d)–(h).

**(d) Appellee's Opening-Answer Brief.** The appellee must file an opening brief in the cross-appeal and must, in the same brief, respond to the opening brief in the appeal. This brief must be entitled "opening-answer brief" and must comply with C.A.R. 28(a), (b), and (d)–(h), except that the brief need not include a statement of the case unless the appellee is dissatisfied with the appellant's statement of the case.

**(e) Appellant's Answer-Reply Brief.** The appellant must file a brief that responds to the portion of the opening-answer brief that constitutes an opening brief in the cross-appeal, and may, in the same brief, reply to the portion of the opening-answer brief that constitutes an answer brief in the appeal. This brief must be entitled "answer-reply brief" and must comply with C.A.R. 28(b)–(h).

**(f) Appellee's Reply Brief.** The appellee may reply to the portion of the answer-reply brief that constitutes an answer brief. This brief must be entitled "reply brief" and must comply with C.A.R. 28(c)–(h) and must be limited to the issues raised in the cross-appeal. No further briefs may be filed except with leave of court.

#### **(g) Length of Briefs.**

**(1) An opening, opening-answer, and answer-reply brief must contain no more than 9,500 words. An appellee's reply brief must contain no more than 5,700 words.**

**Headings, footnotes, and quotations count toward the word limitations. The caption, table of contents, table of authorities, certificate of compliance, certificate of service, and signature block do not count toward the word limit.**

**(2) A self-represented party who does not have access to a word-processing system must file a typewritten or legibly handwritten opening, opening-answer, or answer-reply brief of not more than 30 double-spaced and single-sided pages, or a reply brief of no more than 18 double-spaced and single-sided pages. Such a brief must otherwise comply with C.A.R. 32.**

**(3) A party may file a motion to exceed the word limitation explaining the reasons why additional words are necessary. The motion must be filed with the brief.**

**(h) Citation of Supplemental Authorities.** If pertinent and significant new authority comes to a party's attention after the party's brief has been filed, a party may promptly advise the court by giving notice, with a copy to all parties. The notice must set forth the citation and state, without argument, the reason for the supplemental citation, referring either to the page of the brief or to a point argued orally. The body of the notice must not exceed 350 words. Any response must be made promptly and must be similarly limited.

### **COMMENT**

#### **2015**

The new rule is similar to Fed. R. App. P. 28.1 and applies to briefs involving cross-appeals. The portions of the previous version of C.A.R. 28(h) and (g) referencing cross-appeals have been removed. The substance of those subsections has been imported into C.A.R. 28.1.

## Rule 29. Brief of an Amicus Curiae

**(a) When Permitted.** ~~A brief of a~~ An amicus curiae may ~~be filed a brief~~ only by leave of court ~~or at the court's granted on motion or by the request of the court. The brief may be conditionally filed with the motion for leave.~~

**(b) Motion for Leave to File.** ~~A The~~ motion to file an amicus brief ~~for leave shall must~~ identify the ~~movant's~~ interest ~~of the applicant~~ and ~~shall~~ state the reasons why an ~~amicus~~ brief ~~of an amicus curiae~~ ~~would be helpful to the court~~ ~~is desirable~~. ~~The brief must be conditionally filed with the motion, unless the court grants leave to file the motion without the brief.~~

**(c) Content and Form.** An amicus brief must comply with Rule 32. The caption page on the brief must indicate whether the brief is submitted in support of a party, and if so must identify the party or parties supported. The brief must also comply with Rule 28(a)(2) and (3) and must include the following:

(1) a certificate of compliance as required by Rule 32(h);

(2) a concise statement of the identity of the amicus curiae and its interest in the case  
\_\_\_\_\_ ; and

(3) an argument, which may be preceded by a summary but need not include a statement of the applicable standard of review or whether the issue was preserved.

**(d) Length.** Except by the court's permission, an amicus brief may be no more than one-half the maximum length authorized by these rules for a party's principal brief. If the court grants a party permission to file a longer brief, that extension does not affect the length of the amicus brief.

**(e) Time for Filing.** ~~Any~~ amicus curiae ~~must shall~~ file its brief within the ~~deadline for filing the principal brief of time allowed the party whose position as to affirmance or reversal the amicus brief will being supported, unless the court for cause shown shall grant leave for later filing, in which event it shall specify within what period an opposing party may answer.~~ An amicus curiae that does not support either party must file its brief no later than 7 days after the appellant's opening brief is filed. A court may grant leave for later filing, specifying the time within which an opposing party may answer.

**(f) Reply Brief.** Unless the court orders otherwise, an amicus curiae may not file a reply brief.

**(g) Oral Argument.** ~~A motion of a~~ An amicus curiae ~~may to~~ participate in ~~the~~ oral argument only with the court's permission, which will be granted only for extraordinary reasons. A motion to participate in oral argument must state that the supported party does not object and will share its allotted time with amicus. The length of oral argument will not be extended to accommodate amicus participation.



**Rule 31. Serving and Filing ~~and Service of~~ Briefs**

(a) **Time ~~to for~~ Serving and Filing Briefs.** The appellant ~~must~~shall serve and file the opening brief within 42 days after the ~~date on which the~~ record is filed. The appellee ~~must~~shall serve and file the answer brief within 35 days after service of the opening brief. The appellant may serve and file a reply brief within 21 days after service of the answer brief. In cases involving cross-appeals the appellant must serve and file the opening brief within 42 days after the record is filed, the cross-appellant's opening-answer brief and the appellant's answer-reply brief shall be served and filed within 35 days after service of the opposing party's brief. The cross-appellant may serve and file a reply brief within 21 days after service of the appellant's answer-reply brief.

(b) **Consequence of Failure to File.** If an appellant or cross-appellant fails to file a brief within the time provided by this rule, or within an extended time as permitted by the court, the court may dismiss the appeal on its own motion or a motion to dismiss filed by the appellee or cross-appellee. ~~**Number of Copies to be Filed and Served in the Supreme Court.** An original and ten copies of each brief shall be filed with the clerk, unless the court by order in a particular case shall direct a lesser number. A copy shall be served on counsel for each party separately represented.~~

~~(c) **Number of Copies to be Filed and Served in the Court of Appeals.** An original and five copies of each brief shall be filed with the clerk, unless the court by order in a particular case shall direct a lesser number. A copy shall be served on counsel for each party separately represented.~~

## Rule 32. Form of Briefs and Appellate Documents

(a) **Form of Standards for Non-Typewriter-Produced Briefs and Other Appellate Documents.** Except for briefs and other appellate documents produced through the use of a typewriter as otherwise provided in this rule or by leave of court, all briefs and other appellate documents including those e-filed must comply with the following standards:

(1) **Type Size.** The typeface used for all text, including footnotes, must be 14-point or larger, including footnotes, except that the caption may be in 12-point if necessary to fit on one page.;

(2) **Typeface.** The typeface must be a plain, Roman style with serifs. Italics or boldface may be used for emphasis. Cited case names must be italicized or underlined.; and

~~(3) Briefs and other appellate documents subject to a word limit must include a certificate by the attorney or unrepresented party that the document complies with the applicable word limit. The person preparing the certificate may rely on the word count of the word processing system used to prepare the document. The certificate must state the number of words in the document.~~

~~(b) Standards for All Briefs and Other Appellate Documents.~~ All briefs and other appellate documents, including those produced through the use of a typewriter, must comply with the following standards:

~~(31) Paper Size, Line Spacing, and Margins.~~ The pages of a All documents submitted to the court must be on 8½ 1/2 by 11 inch paper format; The (2) T text must be double-spaced, but quotations more than two lines long may be indented and single-spaced, except that the H headings; and footnotes, and quotations more than two lines long may be indented and single-spaced.;(3) Margins must be at least no less than 1½ 1/2 inches at on the top and 1 inch onat the left, right, and bottom., excluding p Page numbersing, are which is required; and may be placed in the bottom margin, but no text may appear there.

(4) **Length.** If a brief or other appellate document is subject to a word limit, it must include a certificate by the attorney, or by a self-represented party, that the document complies with the applicable word limit. The person preparing the certificate may rely on the word count of the word-processing system used to prepare the document. The certificate must state the number of words in the document. Text must appear only on the face side of each page.

**(b) Documents Submitted by Self-Represented Parties.** A self-represented party who does not have access to a word-processing system must file typewritten or legibly handwritten briefs and other appellate documents. Such documents must otherwise comply with the form requirements of this rule and the requirements of C.A.R. 28 and, if applicable, C.A.R. 28.1.

(c) **Binding and Reproduction Duplication for Non E-Filed Documents.** Briefs and other appellate documents may be produced by any duplicating or copying process that yieldsproduces a clear black image on white paper. The paper must be opaque and unglazed. Carbon copies may not be submitted without permission of the court, except by parties allowed to proceed in forma pauperis. Only one side of the paper may be used. Text must be reproduced

with a clarity that equals or exceeds the output of a laser printer. Photographs, illustrations, and tables may be reproduced by any method that results in a good copy of the original; a glossy finish is acceptable if the original is glossy. Consecutive sheets must be stapled together at the top left margin.

**(d) Caption.** The first page of each brief or other appellate document must contain a caption that includes the following basic document information~~Each brief or other appellate document must contain basic document information in a case caption on the first page of the document. The information in the caption must be arranged in the following order and must be in the form illustrated in subsection (1) or (2) below:~~

**On the left side:**

(1) Court~~the~~ name and ~~mailing~~address of the court in which the proceeding is filed;

(2) the nature of proceeding (e.g., Appeal, Petition for Writ of Certiorari, Petition for Rule to Show Cause); ~~n~~Name of the lower~~court~~(s), agency, or board below; and the lower court judge(s), and case number(s);

(3) the ~~n~~Names of parties with~~a~~ Appellate court party designations as follows:

(A) In the ~~S~~upreme ~~C~~ourt: Appellant(s) or Appellee(s) in cases in which the ~~S~~upreme ~~C~~ourt has original appellate jurisdiction; Petitioner(s) or Respondent(s) in original proceedings filed pursuant to C.A.R. 21 and certiorari proceedings.

(B) In the ~~C~~ourt of ~~A~~ppeals: Petitioner(s) or Respondent(s) in appeals filed pursuant to C.A.R. 3.1 and 3.4 (see Appendix to Chapter 32); Appellant(s) or Appellee(s) in all other appeals.

(4) the ~~n~~Name, address, telephone number, e-mail address (if any), and fax number (if any) of counsel or self-represented ~~attorney or pro se~~ party filing the document;

(5) if the document is filed by counsel, his or her ~~a~~Attorney registration number;

(6) the title of the document (e.g., Opening Brief, Petition for Writ of Certiorari), identifying the party or parties for whom the document is filed; and

(7) on the top-right side (opposite filing court information), a blank area that is at least 2½ inches wide and 1¾ inches long, with the words "Case Number."

Form 7 illustrates the required caption for all documents created using a word-processing system. Form 7A illustrates the required caption for all documents filed by a self-represented party who does not have access to a word-processing system and is unable to obtain and complete Form 7.

~~Document title.~~

**On the right side:**

~~An area for “Court Use Only” that is at least 2 1/2 inches in width and 1 3/4 inches in length (located opposite the court information).~~

Case numbe

**~~(1) Illustration of Preferred Case Caption Format:~~**

<p><del>[ Name of Court in which proceeding is filed]</del></p> <p>-</p> <p>Court Address:</p> <p>-</p>	
<p><del>[Name of Lower Court(s), Lower Court Judge(s), and Case Number(s)]</del></p> <p>-</p>	
<p><b><del>Party Designation for Initiating Party (e.g. Appellant or Petitioner):</del></b></p> <p><del>Name of Party</del></p> <p>-</p> <p><b><del>Party Designation for Responding Party (e.g. Appellee or Respondent):</del></b></p> <p><del>Name of Party</del></p> <p>-</p>	<p><b><del>COURT USE ONLY</del></b></p>
<p><del>Attorney or Party Without Attorney: (Name &amp; Address)</del></p> <p>-</p> <p><del>Phone Number:</del></p> <p><del>FAX Number:</del></p> <p><del>E-mail:</del></p> <p><del>Atty. Reg. #:</del></p>	<p><del>Case Number:</del></p>

-	-
<p>-</p> <p><b>NAME OF DOCUMENT</b></p>	
<p><b><u>(2) Illustration of Alternate Case Caption:</u></b></p>	
<p>[Name of Court in which proceeding is filed]</p> <p>-</p> <p>Court Address:</p> <p>-</p>	
<p>[Name of Lower Court(s), Lower Court Judge(s), and Case Number(s)]</p> <p>-</p>	
<p><b>Party Designation for Initiating Party (e.g. Appellant or Petitioner):</b></p> <p>-Name of Party</p> <p>-</p> <p><b>Party Designation for Responding Party (e.g. Appellee or Respondent):</b></p> <p>-Name of Party</p> <p>-</p>	
<p>Attorney or Party Without Attorney: (Name &amp; Address)</p> <p>-</p> <p>Phone Number:</p> <p>FAX Number:</p> <p>E-mail:</p> <p>Atty. Reg. #:</p>	<p><b>COURT USE ONLY</b></p> <p>Case Number:</p>

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## **NAME OF DOCUMENT**

**(e) Signature.** Every brief, motion, or other document filed with an appellate court must be signed by the party filing the document or, if the party is represented, by one of the party's attorneys.

**(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; and

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

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**~~Improper Form of Briefs and Other Documents.~~ ~~In the event~~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 ~~will~~must accept the document for filing but may require that a conforming document be filed.

**(h) Certificate of Compliance.** Each brief must include, on a separate page immediately behind the caption page, a certificate that the brief complies with all requirements of C.A.R. 28 and C.A.R. 32, and, if applicable, C.A.R. 28.1 or 29. Forms 6 and 6A are~~is a suggested~~the preferred forms for a certificate of compliance ~~and, use of which~~ will be regarded as meeting the requirements of C.A.R. 32(a)(~~43~~)~~and C.A.R. 32(f)~~.

## **COMMENTS**

### **2000**

This rule conforms the appellate practice to the forms of case captions provided in C.R.C.P. 10 for all documents that are filed in Colorado courts, including both criminal and civil cases. The purpose of the form captions is to provide a uniform and consistent format that enables practitioners, clerks, administrators, and judges to locate identifying information more efficiently.

The preferred case caption format for documents initiated by a party is found in subsection (c)(1)(I). The preferred caption for documents issued by the court or clerk of court is found in subsection (c)(1)(II). Because some parties may have difficulty formatting their documents to

include vertical lines and boxes, alternate case caption formats are found in subsections (c)(2)(I) and (c)(2)(II). However, the box format is the preferred and recommended format.

The boxes may be vertically elongated to accommodate additional party and attorney information if necessary. The “court use” and “case number” boxes, however, shall always be located in the upper right side of the caption.

Forms approved by the State Court Administrator's Office (designated “JDF” or “SCAO” on pre-printed or computer-generated forms), forms set forth in the Colorado Court Rules, volume 12, C.R.S. (including those pre-printed or computer-generated forms designated “CRCP” or “CPC” and those contained in the appendices of volume 12, C.R.S.), and forms generated by the state's judicial electronic system, “ICON,” shall conform to criteria established by the State Court Administrator's Office with the approval of the Colorado Supreme Court. This includes pre-printed and computer-generated forms. JDF and SCAO forms and a flexible form of caption which allows the entry of additional party and attorney information are available and can be downloaded from the Colorado courts web page at <http://www.courts.state.co.us/scao/Forms.htm>.

## **2014**

This rule conforms the appellate practice to the forms of case captions provided in C.R.C.P. 10 for all documents filed in Colorado appellate courts. The purpose of the form caption is to provide a uniform and consistent format that enables practitioners, clerks, administrators, and judges to locate identifying information more efficiently.

The preferred case caption format for documents initiated by a party is found in subsection (d)(1). Parties who cannot format documents to include vertical lines and boxes may use the alternate case caption format in subsections (d)(2). However, the box format is the preferred and recommended format.

## **2015**

The purpose of the form caption is to provide a uniform and consistent format that enables practitioners, clerks, administrators, and judges to locate identifying information more efficiently. The changes to this rule make the appellate practice caption forms consistent with the forms of case captions provided in C.R.C.P. 10 for all documents filed in Colorado appellate courts.

The required case caption format for documents created using a word-processing system is found in Form 7. Self-represented parties who do not have access to a word-processing system and cannot format documents to include vertical lines and boxes may use the alternate case caption format in Form 7A. However, Form 7 caption format is preferred and recommended.

Subsection (f) is a new subsection. It is based on the legislative requirements set forth in Colo. Rev. Stat. §§19-1-102(1.7), 19-1-109(1), and 24-72-304(4)(a), and is consistent with longstanding court practice.

Prior subsection (e), formerly titled “Improper Form and Briefs of Other Papers,” now titled “Non-Compliant Documents” and (f) titled “Certificate of Compliance” have been re-lettered to subsections (g) and (h), respectively. The substance of the prior subsections has not changed.



## Rule 34. Oral Argument

**(a) In General.** Oral argument may be allowed at the discretion of the court. A request for oral argument must be made in a separate document entitled “request for oral argument.” The request must be filed no later than 7 days after briefs are closed. The court may order oral argument regardless of whether any party requested oral argument.

**(b) Notice of Argument; Postponement.** The clerk ~~must~~shall advise all parties of the date, time, and place ~~at which of~~ oral argument ~~will be heard~~. A ~~motion to request for~~ postponement of the argument must be ~~made by motion~~ filed reasonably in advance of the argument date ~~fixed for hearing~~.

**(c) Time Allowed for Argument.**

**(1) In the Supreme Court.** ~~Oral argument may be allowed at the discretion of the court. A request for oral argument shall be made in a separate, appropriately titled document and filed no later than 7 days after the briefs are closed. In the absence of a request for oral argument, the court may order oral argument.~~ Unless the court orders otherwise ~~ordered by the court~~, each side will be allowed 30~~thirty~~ minutes for argument. ~~Any motion request~~ for additional time ~~must~~ay be ~~made by motion~~ filed within 7 days after the briefs are closed; and will~~but shall~~ be granted only if good cause is shown. The court may vacate or terminate the argument ~~if, whenever~~ in its judgment, further argument is unnecessary.

**(2) In the Court of Appeals.** ~~Oral argument in the Court of Appeals 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 shall be made in a separate, appropriately titled document filed no later than 7 days after the briefs are closed.~~ Unless the court orders otherwise ~~ordered~~, each side will be allowed 15 minutes for argument~~shall not exceed fifteen minutes for the appellants and fifteen minutes for the appellees~~. Any motion for additional time must be filed within 7 days after the briefs are closed and will be granted only if good cause is shown. The court may vacate or terminate the argument ~~if, whenever~~ in its judgment, further argument is unnecessary.

### COMMENT

~~This change places a limit on the time period for filing a request for oral argument. The time period is the same as the limit for filing a request for additional time.~~

**(d) Order and Content of Argument.** The appellant ~~is entitled to open~~ s the argument and may reserve a portion of its allotted time for rebuttal~~conclude the argument~~. ~~The opening argument shall include a concise statement of the case. Parties Counsel should~~ will not be permitted to read at length from briefs, records, or authorities. Unless the court orders otherwise, oral Counsel are limited in their arguments to will be limited to the issues raised in the briefs, unless permitted by the court.

**(ed) Cross-Appeals and Separate Appeals.** If there is a cross-appeal, C.A.R. 28.1(b) determines which party is the appellant and which is the appellee for purposes of oral argument. Unless the court directs otherwise a cross- or separate appeal will shall be argued with the initial appeal as a single argument, unless the court otherwise directs. The court may set If separate appeals that involve the same or similar issues support the same argument, together for argument. In such cases, care shall separate parties should be taken to avoid duplicative on of argument.

**(fe) Nonappearance of Parties.** If the appellee fails to appear ~~for to present~~ argument, the court ~~may will~~ hear argument ~~by on behalf of~~ the appellant, if present. If the appellant fails to appear, the court may hear argument ~~by on behalf of~~ the appellee, ~~if his counsel is present~~. If neither party appears, the case will be decided on the briefs unless the court ~~orders shall~~ otherwise ~~order~~.

**(f) Submission on Briefs.** ~~By written stipulation the parties may request that the case be stricken from the oral argument calendar and be submitted to the court on the briefs.~~

**(g) Use of Physical Exhibits at Argument; Removal.** Parties intending to use If physical exhibits other than documents are to be used at the argument, counsel shall must arrange with the clerk of court to place have them placed in the court-room on the day of the argument before the court convenes on the date of the argument. After the argument, the party counsel must shall cause the exhibits to be removed the exhibits from the court-room unless the court directs otherwise directs. The clerk may destroy or dispose of the If exhibits are not reclaimed by if a party counsel does not reclaim them within a reasonable time after the clerk has given notice to remove them is given by the clerk, they shall be destroyed or otherwise disposed of as the clerk shall think best.

**(h) Supreme Court Sessions En Banc and in Departments.** The chief justice may convene the court en banc at any time, and ~~must shall~~ do so on the written request of three justices. Subject to this provision, or as limited by the constitution, sessions of the court in departments for the purpose of hearing oral arguments, and designation of the justices to hear such arguments, ~~will shall~~ be under the direction and control of the chief justice. ~~In case of his absence or inability to act such duties shall devolve upon the deputy chief justice.~~

**(i) References to Minors and Sexual Assault Victims.** Reference at oral arguments to sexual assault victims and minors must comply with the requirements of C.A.R. 32(f).

## COMMENT

### 2015

Subsection (i) is a new subsection. It is consistent with new C.A.R. 32(f), and is based on the legislative requirements set forth in Colo. Rev. Stat. §§19-1-102(1.7), 19-1-109(1), and 24-72-304(4)(a), and is consistent with longstanding court practice.

I hereby certify that this brief complies with all requirements of C.A.R. 28 or C.A.R. 28.1, and C.A.R. 32, including all formatting requirements set forth in these rules. Specifically, the undersigned certifies that:

**The brief complies with the applicable word limits set forth in C.A.R. 28(g) or C.A.R. 28.1(g).**

☐ It contains \_\_\_\_\_ words (principal brief does not exceed 9,500 words; reply brief does not exceed 5,700 words).

**The brief complies with the standard of review requirements set forth in C.A.R. 28(a)(7)(A) and/or C.A.R. 28(b).**

☐ **For each issue raised by the appellant**, the brief contains under a separate heading before the discussion of the issue, a concise statement: (1) of the applicable standard of appellate review with citation to authority; and (2) whether the issue was preserved, and, if preserved, the precise location in the record where the issue was raised and where the court ruled, not to an entire document.

☐ **In response to each issue raised, the appellee** must provide under a separate heading before the discussion of the issue, a statement indicating whether appellee agrees with appellant's statements concerning the standard of review and preservation for appeal and, if not, why not.

**I acknowledge that my brief may be stricken if it fails to comply with any of the requirements of C.A.R. 28 or 28.1, and C.A.R. 32.**

---

Signature of attorney or party

I hereby certify that this brief complies with C.A.R. 29 and C.A.R. 32, including all formatting requirements set forth in these rules. Specifically, the undersigned certifies that

**The amicus brief complies with the applicable word limit set forth in C.A.R. 29(d).**

☐ It contains \_\_\_\_\_ words (does not exceed 4,750 words).

**The amicus brief complies with the content and form requirements set forth in C.A.R. 29(c).**

**I acknowledge that my brief may be stricken if it fails to comply with any of the requirements of C.A.R. 29 and C.A.R. 32.**

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Signature of attorney or party

<b>[Name of Court in which proceeding is filed]</b>  Court Address:  [Nature of Proceeding; Name of Court(s), Agency, or Board below; and Lower Court Judge(s) and Case Number(s)]		
<b>Designation and Name of Party*</b>  v.  <b>Designation and Name of Party*</b>		
Attorney or Self-Represented Party (Name & Address):   Phone Number:                      E-mail: FAX Number:                      Atty. Reg. # (if applicable):		Case Number:
<b>DOCUMENT TITLE</b>		

\*Instructions for designating and aligning parties.

Parties in the Court of Appeals should be designated and aligned as in the referring court or agency; in the Supreme Court they should be aligned by initiating party.

Examples:

<b>Court of Appeals:</b>  Plaintiff-Appellee Jane Doe v. Defendant-Appellant Joe Smith <hr/> Petitioner/Appellant Jane Doe v. Respondent/Appellee Joe Smith	<b>Supreme Court:</b> Petitioner Joe Smith v. Respondent Jane Doe
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**CAPTION FOR DOCUMENTS FILED BY SELF-REPRESENTED PARTY WITHOUT  
ACCESS TO WORD-PROCESSING SYSTEM**

Name of Court in which proceeding is filed

Case Number

Court Address:

[Nature of Proceeding; Name of Court(s), Agency, or Board below; and Lower Court Judge(s)  
and Case Number(s)]

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**Designation and Name of Party\***

v.

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**Designation and Name of Party\***

Self-Represented Party (Name & Address):

Phone Number:

FAX Number:

E-mail:

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**Document Title**

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\*Parties in the Court of Appeals should be designated and aligned as in the referring court or agency; in the Supreme Court they should be aligned by initiating party.

Examples:

**Court of Appeals:**

Plaintiff-Appellee,  
People of the State of Colorado

v.

Defendant-Appellant  
Jane Doe

**Supreme Court:**

Petitioner  
Jane Doe

v.

Respondent  
People of the State of Colorado

Amended and Adopted by the Court, En Banc, June 25, 2015, effective immediately.

By the Court:

Allison H. Eid  
Justice, Colorado Supreme Court