

SUPREME COURT OF ARIZONA

In the Matter of) Arizona Supreme Court
) Nos. R-07-0014 and
PETITION TO AMEND RULES 31.19) R-07-0025
AND 31.25, ARIZONA RULES OF)
CRIMINAL PROCEDURE, AND RULES)
16 AND 23, ARIZONA RULES OF)
CIVIL APPELLATE PROCEDURE)
)
PETITION TO AMEND RULE 31.25,)
ARIZONA RULES OF CRIMINAL)
PROCEDURE)
_____)

ORDER

**RULES 31.18, 31.19 and 31.25, ARIZONA RULES OF CRIMINAL PROCEDURE AND
RULES 16, 22 and 23, ARIZONA RULES OF CIVIL APPELLATE PROCEDURE**

IT IS ORDERED that Rules 31.18, 31.19 and 31.25, Rules of Criminal Procedure, and Rules 16, 22 and 23, Rules of Civil Appellate Procedure, be amended in accordance with the attachment hereto, effective January 1, 2009. **The instant order incorporates the amendments to Rule 31.25 approved by the Court in both R-07-0014 and R-07-0025.**

DATED this _____ day of September, 2008.

REBECCA WHITE BERCH
Vice Chief Justice

TO:
Rule 28 Distribution

ATTACHMENT*

Rule 31.19. Petitions for Review

(a)-(b)[No change]

c. Form, Length and Contents. The petition and cross-petition for review shall be bound or fastened and shall comply with Rule 31.12. An original and seven copies of the petition or cross-petition and an original and two copies of any separately bound or fastened appendices shall be filed. The parties shall be designated as in the Court of Appeals. Except by permission of the court (1) a petition for review prepared in a proportionately spaced typeface may not exceed 3500 words and may not have an average of more than 280 words per page, including footnotes and quotations; (2) a petition for review prepared in a monospaced typeface may not exceed 10 pages and may not have an average of more than 350 words per page including footnotes and quotations; and (3) a handwritten petition for review may not exceed 12 pages. The petition shall be accompanied by a certificate of compliance that states either (1) that the petition for review uses a proportionately spaced typeface of 14 points or more, is double spaced using a roman font and contains [blank] words, or (2) that the petition for review uses a monospaced typeface of no more than 10.5 characters per inch and does not exceed 10 pages or (3) that the petition for review was handwritten and does not exceed 12 pages. A party preparing this certificate may rely on the word count of the processing system used to prepare the petition for review.

A copy of the Court of Appeals' decision shall be attached to the petition. Where the Court of Appeals' decision is simply an order declining to accept jurisdiction of a special action, a copy of the Superior Court's decision from which the petition for special action was taken shall also be attached to the petition. ~~The petition shall not exceed 12 pages whether done in proportionately spaced or monospaced typeface, exclusive of the appendix and attached decisions, and shall contain~~ concise statements of the following:

1. – 3. [No change]

* Changes or additions in text are indicated by underlining and deletions from text are indicated by ~~strikeouts~~.

If there are documents in the record on appeal that are necessary for a determination of the issues raised by the petition or cross-petition, the petitioner and cross-petitioner shall file, simultaneously with a copy of the petition and cross-petition, an appendix consisting only of such documents. If the appendices exceed 15 pages in length such appendices shall be bound or fastened together separately from the petition and the copy of the Appeals Court's decision or the cross-petition.

Any petition for review presented for filing that does not substantially comply with this rule may, in the discretion of the clerk of the appellate court, be returned to the petitioner by the clerk with written instructions to the petitioner to file a proper petition within 30 days from the date on which the written instructions are mailed to the petitioner.

d. [No change]

e. Service and Response. The petitioner and cross-petitioner shall serve a copy of the petition and cross-petition and any appendices on all parties who have appeared in the Court of Appeals. Any party wishing to oppose the petition or cross-petition may file with the clerk of the Supreme Court a response within 30 days from the date upon which the petition or cross-petition for review is served. The response and any appendices shall comply with form, length, and number of copy requirements of Rule 31.19(c). ~~The response shall not exceed 12 pages, exclusive of any appendix.~~ If there are documents in the record on appeal that are necessary for a determination of the issues raised by the petition or cross-petition, the respondent shall file, simultaneously with a copy of the response, an appendix consisting only of such documents which were not included in the appendix filed with the petition or cross-petition. If the appendices exceed 15 pages in length such appendices shall be bound or fastened together separately from the response. Failure to file a response shall not be considered an admission that the petition should be granted.

If a response is filed, the response shall list, separately and without argument, those additional issues, if any, ~~which~~ were presented to, but not decided by, the Court of Appeals, that ~~which~~ were not listed by the petitioner, and that ~~which~~ may need to be decided if review is granted.

No reply shall be filed by petitioner, unless the Court has so directed by specific order, in which event a reply may be filed within the time set by the Court.

f. – k. [No change]

Rule 31.25. Amicus Curiae

a. Filing and Form of Brief; Participation in Oral Argument. A brief of an amicus curiae may be filed only if accompanied by written consent of all parties or by leave of court granted upon motion. The brief shall be lodged with the motion, if any. The motion for leave shall identify the interest of the applicant, state that the applicant has read the relevant brief, petition or motion and shall state the reasons accepting applicant's amicus curiae brief would be desirable. A party desiring to respond to the amicus brief shall file the response within 20 days of service of a brief filed with consent, or within 20 days of the Court's order granting a motion for leave to file an amicus brief; ~~Rules 13 and 14, Arizona Rules of Civil Appellate Procedure~~ Rules 31.13, Arizona Rules of Criminal Procedure shall govern the form of an amicus brief, except that it shall not exceed 12,000 words in length if done in proportionately spaced typeface, or 35 pages if done in monospaced typeface, unless otherwise permitted by the court. An amicus curiae may participate in the oral argument only by leave of the appellate court.

b. Time and Length Limits Applicable to Amicus Briefs in the Supreme Court. Parties desiring to file an amicus curiae brief shall file such briefs as provided by this rule, except that an amicus curiae brief relating to a special action petition shall be filed as expeditiously as possible after the special action petition is filed, as provided for in Rule 7(g), Rules of Procedure for Special Actions.

(1) Briefs filed prior to a decision by the Court to grant review. Unless otherwise ordered by the Supreme Court, an amicus brief in support of a petition for review or a response to a petition for review accompanied by written consent of all parties, or a motion for leave to file an amicus the brief shall be filed no later than 21 days after the filing of the response to the petition for review. Such briefs shall comply with the form and length requirements of Rule 31.19(c) exclusive of any appendix.

(2) Briefs filed after the Court has granted review. After the Court has granted review, and unless otherwise ordered, an amicus brief accompanied by written consent of all parties, or a motion for leave to file an amicus brief, shall be filed no later than 10 days after the date ordered by the Court at the time review was granted for filing supplemental briefing by the parties in the particular case. 40 days after the Court's order

granting review. The brief shall be lodged with the motion, if any. Such briefs shall comply with rule 31.13 and shall not exceed the page limitation imposed for the parties' supplemental briefs.

(3) Responses to amicus curiae briefs. A party wishing to respond to ~~the~~an amicus brief shall file the response within 20 days of service of a brief filed with consent or within 20 days of the court's order granting a motion for leave to file an amicus brief. The response shall comply with the page and formatting requirements imposed on the particular amicus brief to which it relates.

(4) Late-filed briefs and responses. Leave for filing a late amicus or response brief shall be granted only for good cause shown.

Rule 23. Petition for Review

(a)–(b) [No change]

(c) Form, Length and Contents. The petition and cross-petition for review shall be bound or fastened and shall comply with Rule 6(c) and the parties shall be designated as in the Court of Appeals. Except by permission of the court (1) a petition for review prepared in a proportionately spaced typeface may not exceed 3500 words and may not have an average of more than 280 words per page, including footnotes and quotations; (2) a petition for review prepared in a monospaced typeface may not exceed 10 pages and may not have an average of more than 350 words per page including footnotes and quotations; and (3) a handwritten petition for review may not exceed 12 pages. The petition shall be accompanied by a certificate of compliance that states either (1) that the petition for review uses a proportionately spaced typeface of 14 points or more, is double spaced using a roman font and contains [blank] words, or (2) that the petition for review uses a monospaced typeface of no more than 10.5 characters per inch and does not exceed 10 pages or (3) that the petition for review was handwritten and does not exceed 12 pages. A party preparing this certificate may rely on the word count of the processing system used to prepare the petition for review.

A copy of the Court of Appeals' decision shall be attached to the petition. Where the Court of Appeals' decision is simply an order declining to accept jurisdiction of a special action, a copy of the Superior Court's decision from which the petition for special action was taken shall also be attached to the petition. The petition and cross-petition shall not exceed 12 pages whether done in proportionately spaced typeface or monospaced

typeface, exclusive of the appendix and attached decisions, and shall contain concise statements of the following:

(1) – (3) [No change]

If there are documents in the record on appeal that are necessary for a determination of the issues raised by the petition or cross-petition, the petitioner and cross-petitioner shall file, simultaneously with a copy of the petition and cross-petition, an appendix consisting only of such documents. If the appendices exceed 15 pages in length, such appendices shall be bound or fastened together separately from the petition and the copy of the Appeals Court's decision or the cross-petition. An original and two copies of any separately bound or fastened appendices shall be filed with the petition or cross-petition.

Any petition for review presented for filing that does not substantially comply with this rule may, in the discretion of the clerk of the appellate court, be returned to the petitioner by the clerk with written instructions to the petitioner to file a proper petition within 30 days from the date on which the written instructions are mailed to the petitioner.

(d) [No change]

(e) Service and Response. The petitioner or cross-petitioner shall serve a copy of the petition or cross-petition and any appendices on all parties who have appeared in the Court of Appeals. Any party wishing to oppose the petition or cross-petition may file with the clerk of the Supreme Court a response within 30 days from the date upon which the petition or cross-petition for review is served. The response shall comply with Rules 6(c) and 23(c). ~~shall not exceed 12 pages whether done in proportionately spaced or monospaced typeface, exclusive of any appendix.~~ If there are documents in the record on appeal that are necessary for a determination of the issues raised by the petition or cross-petition, the respondent shall file, simultaneously with a copy of the response, an appendix consisting only of such documents which were not included in the appendix filed with the petition or cross-petition. Failure to file a response shall not be considered an admission that the petition should be granted. If the appendices exceed 15 pages in length such appendices shall be bound or fastened together separately from the response. An original and two copies of any separately bound or fastened appendices shall be filed with the response.

If a response is filed, the response shall list, separately and without argument, those additional issues, if any, which were presented to, but not decided by, the Court of Appeals, which were not listed by the petitioner, and which may need to be decided if review is granted.

No reply shall be filed by petitioner, unless the Court has so directed by specific order, in which event a reply may be filed within the time set by the Court.

(f) – (k) [No change]

Rule 16. Amicus Curiae

(a) [No change]

(b) Time and Length Limits Applicable to Amicus Curiae Briefs in the Supreme Court. Parties desiring to file an amicus curiae brief shall file such briefs as provided by this rule, except that an amicus curiae brief relating to a special action petition shall be filed as expeditiously as possible after the special action petition is filed, as provided for in Rule 7(g), Rules of Procedure for Special Actions.

(1) Briefs Filed Prior to a Decision by the Court to Grant Review. Unless otherwise ordered by the Court, an amicus brief filed in support of a petition for review or a response to a petition for review by the State, a county, city, or town, or an amicus brief accompanied by written consent of all parties, or a motion for leave to file the brief, shall be filed no later than 21 days after the filing of the response to the petition for review. Such briefs shall comply with the form and length requirements of Rules 6(c) and 23(c) ~~Rule 6(c) and shall not exceed 12 pages, whether done in proportionately spaced or monospaced typeface, exclusive of any appendix.~~

(2)–(4) [No change]

Rule 31.18. Motions for Reconsideration.

a. – b. [No change]

c. Form, Length and Contents. A motion for reconsideration shall be directed solely to discussion of those specific points or matters in which it is claimed the

appellate court has erred in determination of facts or law. It shall be bound or fastened and shall comply with Rule 31.12. ~~Neither the motion for reconsideration nor the response shall exceed 15 pages whether done in proportionately spaced or monospaced typeface.~~ Except by permission of the court (1) a motion for reconsideration or a response prepared in a proportionately spaced typeface may not exceed 3500 words and may not have an average of more than 280 words per page, including footnotes and quotations; (2) a motion for reconsideration or a response prepared in a monospaced typeface may not exceed 10 pages and may not have an average of more than 350 words per page including footnotes and quotations; and (3) a handwritten motion for reconsideration may not exceed 12 pages. The motion or response shall be accompanied by a certificate of compliance that states either (1) that the motion or response uses a proportionately spaced typeface of 14 points or more, is double spaced using a roman font and contains [blank] words, or (2) that the motion or response uses a monospaced typeface of no more than 10.5 characters per inch and does not exceed 10 pages, or (3) that the motion for reconsideration was handwritten and does not exceed 12 pages. A party preparing this certificate may rely on the word count of the processing system used to prepare the petition for review.

d. [No change]

Rule 22. Motions for Reconsideration.

(a) – (b) [No change]

(c) Form, Length and Contents. A motion for reconsideration shall be directed solely to discussion of those specific points or matters in which it is claimed the appellate court erred in determination of facts or law. It shall be bound or fastened and shall comply with Rule 6(c). ~~Neither the motion for reconsideration nor the response shall exceed 15 pages whether done in proportionately spaced or monospaced typeface.~~ Except by permission of the court (1) a motion for reconsideration or a response prepared in a proportionately spaced typeface may not exceed 3500 words and may not have an average of more than 280 words per page, including footnotes and quotations; (2) a motion for reconsideration or a response prepared in a monospaced typeface may not exceed 10 pages and may not have an average of more than 350 words per page including footnotes and

quotations; and (3) a handwritten motion for reconsideration may not exceed 12 pages. The motion or response shall be accompanied by a certificate of compliance that states either (1) that the motion or response uses a proportionately spaced typeface of 14 points or more, is double spaced using a roman font and contains [blank] words, or (2) that the motion or response uses a monospaced typeface of no more than 10.5 characters per inch and does not exceed 10 pages, or (3) that the motion for reconsideration was handwritten and does not exceed 12 pages. A party preparing this certificate may rely on the word count of the processing system used to prepare the petition for review.

(d) [No change]