

Petition for Writ of Certiorari

1. **Purpose:** The Petition is asking the Supreme Court if they will review your case. The Court will answer that question with a yes or no answer.
2. **Role of the Supreme Court:** The Supreme Court generally does not grant review simply to correct a wrong decision that will only affect the parties to that case. Its primary role is to issue decisions that develop and clarify the law on important issues of broad impact. So it only grants review in a small percentage of cases.
3. **Statistics of a Win:** The Court has no set number of petitions it will grant. In 2015, the following percentage of Petitions were granted:
 - a. All Cases: 5.6%
 - b. District Court: 3.8%
 - c. Published Court of Appeals Cases: 28%
 - d. Non-published Court of Appeals cases: 1.8%
4. **Due Dates:** The Petition is due 42 days after the appellate court issues their decision or 28 days after the Court of Appeals denies a Petition for Rehearing. CAR 52(b)(3) (only for cases heard by the Court of Appeals).
5. **The Form:** Fill out the Case Caption and title it Petition for Writ of Certiorari. Include the following sections (add more pages as necessary):
 - a. Word Count: State the number of words in your Petition. It can't be more than 3,800 words (or 12 pages if you hand write the document).
 - b. Advisory Listing of the Issues: List the mistakes you believe the lower courts made in your case. These are phrased as questions.
 - c. Reports: Only Court of Appeals decisions are published into a reporter (District Court cases are not). On the first page on the Court of Appeals Opinion, there will either be a citation or the statement "Not Published Pursuant to C.A.R. 35(f)". Either put the citation or "not reported."
 - d. Jurisdiction: Let the Supreme Court know the date the appellate court issued its decision. Also let them know if you filed a Petition for rehearing and when it was denied. Also let them know if you had any extensions of time to file the Petition.

- e. **Statement and Facts of the Case:** Give information that will be important for the Justices to know before deciding the case. Cite to your Record on Appeal as necessary.
 - f. **Argument:** Here is your opportunity to tell the Supreme Court why they should consider your case. C.A.R. 49 lists some occasions when the Supreme Court is more likely to review a case. Those include:
 - i. **New Frontier:** Is there confusion determining what the law is in your case? Or is this a new situation the Supreme Court hasn't seen before?
 - ii. **For the Greater Good:** Is there a public policy reason to take the case? Will keeping the decision create a new norm that may have unintended results? Is there a more compelling interest that might justify clarifying or adjusting the existing law?
 - iii. **On the Same Page:** Have different divisions of the appellate court decided things differently?
 - iv. **Way off Track:** Has the appellate court departed from accepted law or procedure (or approved the trial courts departure from accepted law or procedure) to a point where the Supreme Court needs to correct the action?
 - g. **Certificate of Service:** You must send a copy of the Reply to each party's attorney or directly to a party who does not have an attorney. Certify the date that you sent the Reply and how service was made (by mail or in-person). List the address you used for each party or attorney in the case.
6. **Attach the Opinion/Order:** Make sure to attach the appellate courts' decision to your Petition. Do not attach exhibits, transcripts, case documents or new evidence to your Petition.
7. **Filing Fees:** If you haven't already, you will need to pay the \$225 filing fee when you submit your Petition for Writ of Cert. Make checks payable to the Colorado Supreme Court. You may also pay with exact change if you file in person. And you may file with a credit card in-person or over the phone by calling 720-625-5154.

- a. **Waiving Fees:** If you indigent, the filing fees may be waived. Fill out JDF 205 - Motion to Waive Fees and file that with the Supreme Court.

8. Filing: File the original (one only) with the Supreme Court. You may submit your Petition for Writ of Cert in-person or by mail. The address for the Colorado Supreme Court is:

2 East 14th Avenue
Denver, CO 80203.

If you file by mail, be aware that the Brief must be received by the Court of Appeals by the deadline, regardless of when it was place in the mail.

9. Designation of Record: If the District Court decided your appeal, then you also need to file a Designation of Record with the District Court. Ask that the clerk send the Record on Appeal, along with all documents in the appellate case file to the Supreme Court. **File your Designation as soon as possible.** Ideally, four weeks before you file your Petition for Writ.

If the Court of Appeals decided your appeal, then the Supreme Court already has access to your Record on Appeal and appellate case file. So a Designation is not necessary.

10. Legal Research: In order to understand the law and be able to make persuasive arguments on your issues, you will have to do research

- a. **Statutes & Rules:** To read the Colorado statutes and rules online, visit:

<http://www.lexisnexis.com/hottopics/colorado/>

- b. **Case Law:** To read and search Colorado cases online, visit:

www.scholar.google.com

11. Be Sure to Read: Colorado Appellate Rules (C.A.R.) 32, and 49-57.