

## **RULE 21. WRITS OF MANDAMUS AND PROHIBITION AND OTHER EXTRAORDINARY WRITS**

### **(a) Mandamus or Prohibition: Petition for Writ; Service and Filing.**

**(1) Filing and Service.** A party petitioning for a writ of mandamus or prohibition must file a petition with the clerk of the Supreme Court with proof of service on the respondent judge, corporation, commission, board or officer and on each real party in interest. A petition directed to a court must also be accompanied by a notice of the filing of the petition, which must be served on all parties to the proceeding in that court.

**(2) Caption.** The petition must include in the caption: the name of each petitioner; the name of the appropriate judicial officer, public tribunal, corporation, commission, board or person to whom the writ is directed as the respondent; and the name of each real party in interest, if any.

**(3) Contents of Petition.** The petition must state:

(A) whether the matter falls in one of the categories of cases always retained by the Supreme Court pursuant to Rule 17(a), ordinarily retained by the Supreme Court pursuant to Rule 17(b), or ordinarily assigned to the Court of Appeals pursuant to Rule 17(c);

(B) the relief sought;

(C) the issues presented;

(D) the facts necessary to understand the issues presented by the petition; and

(E) the reasons why the writ should issue, including points and legal authorities.

**(4) Appendix and Record.** The petitioner must submit with the petition an appendix that complies with Rule 30. Rule 30(i), which prohibits

pro se parties from filing an appendix, does not apply to a petition for relief filed under this Rule and thus pro se writ petitions must be accompanied by an appendix as required by this Rule. The appendix must include a copy of any order or opinion, parts of the record before the respondent judge, corporation, commission, board, or officer, or any other original document that may be essential to understand the matters set forth in the petition. In petitions arising from the district court, the appendix must also comply with Rule 10.

**(5) Verification.** A petition for an extraordinary writ must be verified by the affidavit or declaration of the petitioner or, if the petitioner is unable to verify the petition or the facts stated therein are within the knowledge of the petitioner's attorney, by the affidavit or declaration of the attorney. The affidavit or declaration must be filed with the petition.

**(6) Emergency Petitions.** A petition that requests the court to grant relief in less than 14 days must also comply with the requirements of Rule 27(e).

**(b) Denial; Order Directing Answer.**

(1) The court may deny the petition without an answer. Otherwise, it may order the respondent or real party in interest to answer within a fixed time.

(2) Two or more respondents or real parties in interest may answer jointly.

(3) The court may invite an amicus curiae to address the petition.

(4) In extraordinary circumstances, the court may invite the trial court judge to address the petition.

**(c) Other Extraordinary Writs.** An application for an extraordinary writ other than one provided for in Rule 21(a) must be made by filing a petition with the clerk of the Supreme Court with proof of service on the parties named

as respondents and any real party in interest. Proceedings on the application must conform, so far as is practicable, to the procedure prescribed in Rule 21(a) and (b).

**(d) Form of Papers; Length.** All papers must conform to Rule 32(c)(2). A petition is acceptable if it contains no more than 15 pages or 7,000 words as computed under Rule 32(a)(7)(C) or the court grants leave to file a longer petition. Unless the court directs otherwise, the same page and type-volume limitations apply to any answer, reply, or amicus brief allowed by the court. A motion to exceed the page or type-volume limitation in this Rule must comply with Rule 32(a)(7)(D).

**(e) Certificate of Compliance.** A petition filed under this Rule and any answer, reply, or amicus brief allowed by the court must include a certificate of compliance that comports with Rule 32(a)(9).

**(f) Disclosure Statement.** A petition and any answer thereto must be accompanied by the disclosure statement required by Rule 26.1.

**(g) Payment of Fees.** The court will not consider any application for an extraordinary writ until the petition has been filed; and the clerk will receive no petition for filing until the \$250 fee has been paid, unless the applicant is exempt from payment of fees, or the court or a justice or judge thereof orders waiver of the fee for good cause shown.

#### **REVIEWING NOTE**

The amendment to subdivision (a)(4) clarifies that the appendix must comply with Rule 10 when the petition arises from the district court.