

Cite as 2019 Ark. 79

SUPREME COURT OF ARKANSAS

IN RE ELECTRONIC FILING OF
PETITIONS FOR REHEARING AND
PETITIONS FOR REVIEW

Opinion Delivered March 14, 2019

PER CURIAM

On June 18, 2015, we announced the implementation of an electronic-filing system in this court and in the court of appeals, and we authorized the establishment of an appellate-motion electronic-filing pilot project “as a first step toward mandatory electronic filing in the appellate courts.” *In re Appellate Motion Electronic-Filing Pilot Project*, 2015 Ark. 282, at 1 (per curiam). That pilot program ended on September 21, 2016, and, as of that date, the electronic filing of motions, petitions, and responses has been “mandatory for such filings that do not require the payment of any fee and that are not case initiating.” *In re Appellate-Motion Electronic-Filing Pilot Project and Appellate-Brief Electronic-Filing Pilot Project*, 2016 Ark. 314, at 1 (per curiam). Petitions for review and petitions for rehearing often require the payment of a filing fee, but the court’s electronic-filing software was not configured to process filing-fee payments; consequently, parties have been unable to electronically file those petitions. Today, we announce that the electronic filing of petitions

for rehearing and petitions for review is now available and will become mandatory on July 1, 2019.

We also take this opportunity to announce some new procedures for petitions for review. The deadline for filing petitions for review will no longer be the same as the deadline for filing petitions for rehearing. Instead, upon the effective date of the amendments below, petitions for review must be filed within ten calendar days of the end of the rehearing period. In addition, petitions for review will no longer be assigned a new case number, and parties are instructed to file petitions for review using the same case number that was assigned to the case when the court of appeals issued the decision that is the subject of the petition for review. And because the case number will remain the same, there will no longer be any need to electronically refile the same briefs previously considered by the court of appeals. However, parties will be required to provide the clerk with six paper copies of the briefs previously submitted to the court of appeals for this court to use in its review.

To implement the changes discussed above, we amend Rules 2-1(a) and 2-4 of the Rules of the Supreme Court and Court of Appeals as set forth below. The changes are set out in “line-in, line out” fashion (new material is underlined; deleted material is lined through), and the amendments are effective for all cases in which a decision is issued on or after July 1, 2019.

Rule 2-1. Motions, petitions, and responses, general rules.

(a) Writing required. All motions, petitions, and responses filed in the appellate courts must be in writing and comply with the requirements of Rule 4-1(a) in regard to the style of briefs. All motions, petitions, and responses, except for those ~~that require the payment of any fee or~~ that are case initiating, shall be filed using the electronic filing system provided by the Administrative Office of the Courts. However, persons proceeding pro se and persons with disabilities or special needs that prevent electronic filing shall be entitled to submit conventional paper filings.

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Rule 2-4. Petitions for Review

(a) Time for Filing Petition for Review. A petition to the Supreme Court for review of a decision of the Court of Appeals must be electronically filed within 10 calendar days after the end of the Court of Appeals rehearing period. The rehearing period ends upon the expiration of time for filing a petition for rehearing under Rule 2-3(a) or upon the disposition of the last pending petition for rehearing, whichever is later. A petition for review received prior to the end of the Court of Appeals rehearing period will be noted as “tendered,” and the petition will be deemed filed on the day after the end of the rehearing period.

~~(a) Contents of petition. A petition to the Supreme Court for review of a decision of the Court of Appeals must be in writing and must be filed within 18 calendar days from the date of the decision, regardless of whether a petition for rehearing is filed with the Court of Appeals. The petition may be typewritten and shall not exceed three 8 1/2” x 11”, double-spaced pages in length. The petition must briefly and distinctly state the basis upon which the case should be reviewed and may include citations of authority or references to statutes or constitutional provisions. The petition can only be filed by a party to the appeal and is otherwise subject to Rule 1-2(e).~~

~~(b) Briefs and oral argument prohibited. Briefs will not be accepted and oral arguments will not be heard in support of petitions for review. However, the petitioner may attach a copy of the petition for rehearing to the petition for review.~~

~~(c) Grounds for review. A petition for review must allege one of the following: (i) the case was decided in the Court of Appeals by a tie vote, (ii) the Court of Appeals rendered a decision which is in conflict with a prior holding of a published opinion of~~

either the Supreme Court or the Court of Appeals, or (iii) the Court of Appeals otherwise erred with respect to one of the grounds listed in Rule 1-2(b).

(de) Response. A response to a petition for review must be filed within 10 calendar days of the date the petition was filed or deemed filed. Responses are subject to the same limitations as petitions. The respondent may attach a copy of the response to the petition for rehearing to the response to the petition for review.

(ef) Clerk's notification; request for oral argument. When the Supreme Court grants a petition for review, the Clerk shall promptly notify all counsel and parties appearing pro se. Within ~~two weeks~~ 10 calendar days of the notification, ~~the briefs previously submitted to the Court of Appeals shall be electronically filed with the Clerk along with six paper copies within five days of the electronic filing date~~ the parties shall provide to the Clerk six paper copies of their respective briefs that were previously submitted to the Court of Appeals. Any party may request oral argument during the 10-day period by filing ~~contemporaneously with that party's filing of the brief,~~ a letter, ~~separate from the brief,~~ stating the request with a copy to all parties. The decision to grant the request for oral argument and other aspects of oral argument are governed by Rule 5-1.

(fg) Supplemental ~~and reply~~ briefs. Leave of court shall not be required to file supplemental briefs, and any party may, request permission to submit a supplemental brief by motion, filed with the Clerk and served upon all other parties, within two weeks after the granting of review within 10 calendar days after the granting of review, initiate supplemental briefing by filing a letter with the Clerk requesting the issuance of a supplemental briefing schedule. The ~~moving first requesting party's supplemental brief shall be due 20 calendar days from the granting of the motion~~ filing of the letter requesting the issuance of the supplemental briefing schedule. Other parties may file responsive supplemental briefs within 10 calendar days of the date the ~~moving first requesting party's supplemental brief is filed.~~ A supplemental reply brief may be filed within ~~five~~ 5 calendar days after the filing of a responsive supplemental brief. No supplemental brief, ~~responsive brief, or reply brief~~ submitted pursuant to this Rule shall exceed 10 pages in length. These briefs shall otherwise conform to the requirements of Rule 4-1. Supplemental briefing is not permitted in dependency-neglect cases pursuant to Rule 6-9(j)(2).

(gh) Compliance with Administrative Order 19 required. Every petition for review, response, and supplemental brief of any kind on review must comply with the protective requirements for confidential information established by Administrative Order 19. Counsel and unrepresented parties shall follow the redaction and filing procedure established by Rule of Civil Procedure 5(c)(2)(A) & (B). That procedure includes: (1) eliminating all unnecessary or irrelevant confidential information; (2) redacting all

necessary and relevant confidential information; and (3) filing an unredacted version under seal.