

Alabama Rules of Appellate Procedure

Rule 18.

Certified questions from federal courts.

(a) *When certified.* When it shall appear to a court of the United States that there are involved in any proceeding before it questions or propositions of law of this State which are determinative of said cause and that there are no clear controlling precedents in the decisions of the Supreme Court of this State, such federal court may certify such questions or propositions of law of this State to the Supreme Court of Alabama for instructions concerning such questions or propositions of state law, which certified question the Supreme Court of this State, by written opinion, may answer.

(b) *Jurisdiction.* Questions or propositions of law referred to in subdivision (a) hereof shall be certified for answer to the Supreme Court.

(c) *Method of invoking rule.* The provisions of this rule may be invoked by any of the federal courts upon its own motion or upon the suggestion or motion of any interested party when approved by such federal court.

(d) *Contents of certificate.* The certificate provided for herein shall contain the style of the case, a statement of facts showing the nature of the cause and the circumstances out of which the questions or propositions of law arise and the question of law to be answered.

(e) *Preparation of certificate.* The certificate shall be certified to the Supreme Court by the clerk of such federal court and under its official seal. The Supreme Court may, in its discretion, require the original or copies of all or any portion of the record before the federal court to be filed with said certificate where, in its opinion, such record may be necessary in the determination of said certified question.

(f) *Costs.* The costs of the proceedings shall be equally divided between the parties unless otherwise ordered by the Supreme Court.

(g) *Briefs and argument.* The appellant or moving party in the federal court shall file and serve upon its adversary its brief on the question certified within 28 days (4 weeks) after the acceptance of the certified question by the Supreme Court. The appellee or responding party in the federal court shall file and serve upon its adversary its brief within 21 days (3 weeks) after the receipt of the appellant's or moving party's brief, and a reply brief may be filed within 14 days (2 weeks) thereafter.

(h) *Oral argument.* Oral argument may be granted upon application and, unless for good cause shown the time be enlarged by special order of the court prior to the hearing thereon, the parties shall be allowed the same time as in other causes on the merits.

[Amended 2-9-82; Amended 11-17-93, eff.2-1-94.]

Committee Comments

Rule 18 is on certification of questions from federal courts. Rule 18 is based upon the Florida Appellate Rules, § 4.61, but the authority for this rule is contained in the Judicial Article § 6.02(b)(3) (Art. 6, § 140(b)(3), Constitution, Code of Ala., as amended). Subdivision (a) explicitly makes acceptance of the petition a discretionary matter with the Supreme Court.

See Form 18 for certificate.

Committee Comments to Amendment to Rule 18(g) Effective February 1, 1994

This amendment altered the first sentence by changing the phrase “filing of said certificate in the Supreme Court” to “acceptance of the certified question by the Supreme Court.” This conforms the rule to actual practice. The Supreme Court may not accept the certified question; therefore, time for filing briefs runs only from the acceptance, not from the filing of the question.