

IN THE SUPREME COURT OF ALABAMA  
July 24, 2020

ORDER

IT IS ORDERED that Rule 5(e), Rule 21(d), Rule 27(d), Rule 28(a), Rule 28(j), Rule 28A(c), Rule 28B,, Rule 32, Rule 39(d), Rule 40(f), and Rule 40(g), Alabama Rules of Appellate Procedure, be amended to read in accordance with Appendices A, C, E, G, I, K, M, O, Q, S, and T, respectively, to this order;

IT IS FURTHER ORDERED that the Committee Comment to the amendment to Rule 5(e), the Committee Comment to the amendment to Rule 21(d), the Committee Comment to the amendment to Rule 27(d), the Committee Comment to the amendment to Rule 28(a), the Committee Comment to the amendment to Rule 28(j), the Committee Comment to the amendment to Rule 28A(c), the Committee Comment to the amendment to Rule 28B, the Committee Comment to the amendment to Rule 32, the Committee Comment to the amendment to Rule 39(d), and the Committee Comment to the amendment to Rules 40(f) and (g) be adopted to read in accordance with Appendices B, D, F, H, J, L, N, P, R, and U, respectively, to this order;

IT IS FURTHER ORDERED that the amendments to Rule 5(e), Rule 21(d), Rule 27(d), Rule 28(a), Rule 28(j), Rule 28A(c), Rule 28B, Rule 32, Rule 39(d), Rule 40(f), and Rule 40(g) and the adoption of the Committee Comments to the amendments to those rules be effective October 1, 2020;

IT IS FURTHER ORDERED that the following note from the reporter of decisions be added to the follow Rule 5, Rule 21, Rule 27, Rule 28, Rule 28A, Rule 28B, Rule 32, Rule 39, and Rule 40:

"Note from the reporter of decisions: The order amending Rule 5(e), Rule 21(d), Rule 27(d), Rule 28(a), Rule 28(j), Rule 28A(c), Rule 28B, Rule 32, Rule 39(d), Rule 40(f), and Rule 40(g), effective October 1, 2020, and adopting Committee Comments to those amendments is published in that volume of Alabama Reporter that contains Alabama cases from \_\_\_ So. 3d."

Parker, C.J., and Bolin, Shaw, Wise, Bryan, Sellers,  
Mendheim, Stewart, and Mitchell, JJ., concur.

Witness my hand this 24th day of July, 2020.

A handwritten signature in cursive script, reading "Julia Jordan Miller".

Clerk, Supreme Court of Alabama

**FILED**  
**July 24, 2020**  
**3:53 pm**  
**Clerk**  
**Supreme Court of Alabama**

APPENDIX A

Rule 5(e), Ala. R. App. P.

(e) Form and Length of Petition and Answer; Number of Copies. The petition and any answer to the petition shall comply with the provisions of Rule 32(b)(4) governing form and shall not exceed 4,000 words (20 pages for a petition or an answer filed pro se), as also provided in Rule 32(b)(4). A sufficient number of copies shall be filed with the original with the clerk of the Supreme Court to provide each Justice of the Court with one copy, but the Court may direct that additional copies be furnished.

APPENDIX B

Committee Comment to Amendment to Rule 5(e)  
Effective October 1, 2020

Rule 5(e) has been amended to provide a word limit for most petitions and answers consistent with the amendment to Rule 32, but to retain a page limit for petitions and answers filed pro se.

APPENDIX C

Rule 21(d), Ala. R. App. P.

(d) Form and Length of Petition and Answer; Number of Copies. The petition and any answer to the petition shall comply with the provisions of Rule 32(b)(3) governing form and shall not exceed 6,000 words (30 pages for a petition or an answer filed pro se), as also provided in Rule 32(b)(3). A sufficient number of copies shall be filed with the original with the clerk of the appellate court to provide each Judge or Justice of the court with one copy, but the court may require that additional copies be furnished.

APPENDIX D

Committee Comment to Amendment to Rule 21(d)  
Effective October 1, 2020

Rule 21(d) has been amended to provide a word limit for most petitions and answers consistent with the amendment to Rule 32, but to retain a page limit for petitions and answers filed pro se.

APPENDIX E

Rule 27(d), Ala. R. App. P.

(d) Form and Length of Motions and Memoranda in Support of or in Opposition Thereto. A motion and any memorandum in support of or in opposition to the motion shall comply with the provisions of Rule 32(b)(5) governing form; a motion shall not exceed 2,000 words (10 pages for a motion filed pro se), and any memorandum in support of or in opposition thereto shall not exceed 3,000 words (15 pages for a memorandum filed pro se), as also provided in Rule 32(b)(5). A sufficient number of copies shall be filed with the original with the clerk of the appellate court to provide each Judge or Justice of the court with one copy, but the court may require that additional copies be furnished.

APPENDIX F

Committee Comment to Amendment to Rule 27(d)  
Effective October 1, 2020

Rule 27(d) has been amended to provide a word limit for most motions and memoranda consistent with the amendment to Rule 32, but to retain page limits for motions and memoranda filed pro se.



## APPENDIX G

### Rule 28(a), Ala. R. App. P.

(a) Brief of the Appellant/Petitioner. The brief of the appellant or the petitioner, if a petition for a writ of certiorari is granted and the writ issues, shall comply with the form requirements of Rule 32. In addition, the brief of the appellant or the petitioner shall contain under appropriate headings and in the order here indicated:

(1) Statement Regarding Oral Argument. A short statement indicating whether oral argument is desired, and, if it is, the reasons oral argument should be heard as required by Rule 34(a). If oral argument is requested, the cover of the brief shall state "Oral Argument Requested";

(2) Table of Contents. A table of contents, with references to the pages of the brief where each section required by this rule to be included in the brief begins (including specific page references to each heading or subheading of each issue argued);

(3) Statement of Jurisdiction; Inapplicability to Briefs in Criminal Cases. A statement of jurisdiction, including (i) the basis for the jurisdiction of the court to which the appeal is taken (with citations to the applicable statutory provisions and stating relevant facts establishing jurisdiction), and (ii) the filing dates establishing the timeliness of the appeal. This subparagraph does not apply to briefs in criminal cases or briefs in cases on certiorari review;

(4) Table of Authorities. A table of authorities, including cases (arranged alphabetically), statutes, and other authorities with reference to the pages of the brief where those cases, statutes, and other authorities are cited;

(5) Statement of the Case; Requirements for Civil Cases; Special Requirement for Briefs on Appeal to the Court of Criminal Appeals. A statement of the case, indicating briefly the nature of the case, the course of proceedings, and the disposition in the court below, with appropriate references to the record (see subdivision (g)). In civil cases, a statement of the case should also identify the adverse ruling or rulings from which the appeal is taken and asserted as error on appeal, with a reference to the pages of the record on appeal at which the adverse ruling or rulings can be found. A brief

on appeal to the Court of Criminal Appeals should contain a list of each and every ruling by the trial court adverse to the defendant on whose behalf the appeal is taken and asserted by that defendant as error on appeal. That list need refer only to the pages of the record on appeal where the adverse rulings are reflected (see Form 23) and shall be included as an appendix to the brief;

(6) Statement of the Issues. A statement of the issues presented for review;

(7) Statement of the Facts. A full statement of the facts relevant to the issues presented for review, with appropriate references to the record (see subdivision (g)), except that no statement of the facts need be included in a brief in a case in which a writ of certiorari has issued and briefing has been ordered. Facts must be stated accurately and completely;

(8) Statement of the Standard of Review. A concise statement of the standard of review applicable to each issue;

(9) Summary of the Argument. A summary of the argument, suitably paragraphed, which should be a clear, accurate, and succinct condensation of the argument actually made in the body of the brief. It should not merely repeat the headings under which the argument is arranged. It should seldom exceed two pages and never exceed five pages;

(10) Argument. An argument containing the contentions of the appellant/petitioner with respect to the issues presented, and the reasons therefor, with citations to the cases, statutes, other authorities, and parts of the record relied on. Citations of authority shall comply with the rules of citation in the latest edition of either The Bluebook: A Uniform System of Citation or ALWD [Association of Legal Writing Directors] Citation Manual: A Professional System of Citation or shall otherwise comply with the style and form used in opinions of the Supreme Court of Alabama. Citations shall reference the specific page number(s) that relate to the proposition for which the case is cited;

(11) Conclusion. A short conclusion stating the precise relief sought;

(12) Certificate of Compliance. A certificate showing compliance with the font and word limits as required by Rule 32(d), unless the brief is filed pro se; and

(13) Certificate of Service. A certificate of service listing the names and addresses of all attorneys or pro se parties upon whom the brief has been served as required by Rule 31(b).

APPENDIX H

Committee Comment to Amendment to Rule 28(a)  
Effective October 1, 2020

Rule 28(a) has been amended to be consistent with new Rule 32(d), by adding new subsection (12) requiring a certificate of compliance with the font and word limits and renumbering what was subsection (12) as subsection (13).

## APPENDIX I

### Rule 28(j), Ala. R. App. P.

#### (j) Length of Briefs.

(1) Noncapital Cases - Word/Page Limitation; Method of Numbering Pages. A principal brief may not exceed 14,000 words (70 pages for a principal brief filed pro se), and a reply brief may not exceed 7,000 words (35 pages for a reply brief filed pro se). The word or page limitation applies to all portions of the brief beginning with the statement of the case, including headings, footnotes, and quotations, but excepting the cover page, a statement regarding oral argument, a table of contents, a statement of jurisdiction, a table of authorities, any certificate of compliance, the signature block, the certificate of service, and any appendices and exhibits. Pages in the brief preceding the statement of the case must be numbered in lower case Roman numerals, and pages in the brief beginning with the statement of the case must be numbered in Arabic numerals.

(2) Capital Cases - Word/Page Limitation. A principal brief may not exceed 16,000 words (80 pages for a principal brief filed pro se), and a reply brief may not exceed 8,000 words (40 pages for a reply brief filed pro se). In all other respects, the provisions of subparagraph (j)(1) of this rule shall apply.

(3) Permission to Exceed Word or Page Limitation. Permission to exceed the word or page limitation will not be routinely granted. A motion to file a document that exceeds the applicable word or page limitation shall show good cause therefor, specifying extraordinary circumstances that warrant a suspension of the rules. Any motion seeking an enlargement of the word or page limitation for a brief shall be presented at least seven days before the date on which the brief is due.

(4) Cross-Appeals - Word/Page Limitation. Briefs in cross-appeals shall not exceed the word or page limitation of subparagraphs (j)(1) and (2) unless permission to exceed the word or page limitation is granted pursuant to subparagraph (j)(3) of this rule.

(5) In Support of, or in Opposition to, Application for Rehearing. A brief in support of, or in opposition to, an application for rehearing shall not exceed 3,000 words (15 pages for a brief filed pro se).

APPENDIX J

Committee Comment to Amendment to Rule 28(j)  
Effective October 1, 2020

Rule 28(j) has been amended to provide a word limit for most briefs consistent with the amendment to Rule 32, but to retain page limits for briefs filed pro se.

APPENDIX K

Rule 28A(c), Ala. R. App. P.

(c) Length of Briefs. In a civil or noncapital case, a supplemental brief and the responsive supplemental brief may not exceed 10,000 words (50 pages for a supplemental brief filed pro se), and a supplemental reply brief may not exceed 5,000 words (25 pages for a supplemental reply brief filed pro se). In a capital case, a supplemental brief and the responsive supplemental brief may not exceed 12,000 words (60 pages for a supplemental brief filed pro se), and a supplemental reply brief may not exceed 6,000 words (30 pages for a supplemental reply brief filed pro se). In all other respects, the provisions of Rule 28(j)(1) shall apply.

APPENDIX L

Committee Comment to Amendment to Rule 28A(c)  
Effective October 1, 2020

Rule 28A(c) has been amended to provide a word limit for most supplemental briefs consistent with the amendment to Rule 32, but to retain page limits for supplemental briefs filed pro se.



APPENDIX M

Rule 28B, Ala. R. App. P.

If pertinent and significant authority comes to a party's attention after the party's brief has been filed -- or after oral argument but before a decision has been rendered by the appellate court -- a party may promptly advise the clerk of the appellate court in which the proceeding is pending by letter, with a copy to all other parties, setting forth the citation or citations of the new authority. The letter must state the reasons for the supplemental citations, referring either to the page of the brief the new authority supports or to a point argued orally. The body of the letter must not exceed 400 words (2 pages for a letter filed pro se) and must otherwise comply with Rule 32(a)(6) and (7), Ala. R. App. P. Any response must be made promptly and shall be similarly limited.

APPENDIX N

Committee Comment to Amendment to Rule 28B  
Effective October 1, 2020

Rule 28B has been amended to provide a word limit for most supplemental authority letters consistent with the amendment to Rule 32, but to retain a page limit for persons filing supplemental authority letters filed pro se.

APPENDIX O

Rule 32, Ala. R. App. P.

Rule 32. Form and Length of Briefs, Petitions, Motions, and Other Papers; Noncompliance.

(a) Form and Length of Documents Filed With the Court. In addition to the provisions of Rule 28, which are applicable to briefs, the following requirements shall apply to all documents filed with the appellate courts:

(1) Reproduction.

(A) A document may be produced by any process that yields a clear black image on light paper. The paper must be opaque and unglazed. Only one side of the paper may be used.

(B) Text must be produced with a clarity that equals or exceeds the output of a laser printer.

(C) Photographs, illustrations, and tables may be reproduced by any method that results in a good copy of the original; a glossy finish is acceptable if the original is glossy.

(2) Front Page of Documents Filed With the Court Other Than Briefs and Petitions for a Writ of Certiorari. The first page of a document must contain:

(A) the appellate court docket number assigned to the case, if available;

(B) the name of the appellate court;

(C) the style of the case in the appellate court (see Rule 12(a));

(D) the nature of the proceeding (e.g., appeal, petition for a writ of certiorari, motion) and the name of the court, agency, or board that decided the case below;

(E) the title of the document (e.g., "Appellant's Motion to Strike," "Appellee's Motion to Dismiss"), identifying the party or parties on whose behalf the document is filed;

(F) an indication whether the document should not be made available to the public on an online electronic database based upon the provisions of Rule 52 or Rule 56 of these rules. If the document contains content that falls within the provisions of Rule 52 or Rule 56(b), a reference to "Rule 52" or "Rule 56," whichever is applicable, shall be indicated in capitalized bold lettering, not less than one inch in height, at the top center of the cover of the document;

(3) Cover of Petitions for an Extraordinary Writ or for a Writ of Certiorari Filed With the Court. In addition to those items listed in subparagraph (2), the front cover of a petition must contain:

(A) the name, office address, telephone number, facsimile number, and e-mail address, if any, of counsel representing the party for whom the petition is filed. If the party is not represented by counsel, the petition shall include the name, address, telephone number, facsimile number, and e-mail address, if any, of the party filing the petition;

(B) the phrase "Oral Argument Requested," if oral argument is requested;

(C) an indication whether the petition should not be made available to the public on an online electronic database based upon the provisions of Rule 52 or Rule 56 of these rules. If the petition contains content that falls within the provisions of Rule 52 or Rule 56(b), a reference to "Rule 52" or "Rule 56," whichever is applicable, shall be indicated in capitalized bold lettering, not less than one inch in height, at the top center of the cover of the petition;

(4) Signature Page of Documents Other Than Briefs and Petitions Filed With the Court. The signature page of the document shall contain the name, office address, telephone number, facsimile number, and e-mail address, if any, of counsel representing the party for whom the document is filed. If the party is not represented by counsel, the document shall include the name, address, telephone number, facsimile number, and e-mail address, if any, of the party filing the document.

(5) Binding for Petitions and Other Documents.

(A) Petitions for a writ of certiorari must be bound on the left in a manner that is secure, that does not obscure any of the text, and that permits the filing to lie reasonably flat when open.

(B) Motions and documents other than briefs and petitions may be stapled on the top left corner, and the staple must be secured by tape so as to prevent injury to those handling the document; any other fastener that may cause injury shall likewise be covered by tape.

(6) Paper Size, Line Spacing, and Margins. All documents filed in the appellate court must be on 8 1/2 by 11 inch paper. The text must be double-spaced, except that quotations from cases or other legal authorities more than 2 but not more than 25 lines long may be indented and single-spaced. Headings, footnotes, and quotations from statutes, evidentiary materials, and other matters in the record may be single-spaced. Margins must be at least one inch on all four sides. Page numbers may be placed in the margins, but no text may appear there.

(7) Font, Type Style, and Justification of Margins. The font of all documents, including footnotes, filed in the appellate court must be set in Century Schoolbook 14 unless the attorney or unrepresented party certifies at the end of the document filed that access to equipment capable of producing that font is not reasonably available and that the font style used or the handwriting constitutes the closest approximation of Century Schoolbook 14 under the circumstances. The type style must be plain, Roman style, although italics or boldface may be used for emphasis. Case names must be italicized or underlined. Adjusting the space between the lines and words of a document by "leading," "kerning," "tracking," or any other method in an effort to circumvent the page limitations established by these rules or by an order of the court is prohibited. The margins of headings, sentences, and paragraphs in text and footnotes must be fully justified.

(b) Form and Length of Applications for Rehearing, Petitions, Motions, and Other Papers.

(1) Applications for Rehearing. In addition to the provisions governing the form of an application for rehearing set out in Rule 40, an application for rehearing shall be produced in the form prescribed by subdivision (a). The application shall not exceed 3,000 words (15 pages for an

application filed pro se). The length of the brief in support of, and any brief in opposition to, the application shall not exceed 3,000 words (15 pages for a brief filed pro se). See also Rule 40(g).

(2) Petitions for Writ of Certiorari. In addition to the provisions governing the form of a petition for a writ of certiorari set out in Rule 39, a petition for a writ of certiorari shall be produced in the form prescribed by subdivision (a). The petition shall not exceed 3,000 words (15 pages for a petition filed pro se), except in capital cases.

(3) Petitions for Extraordinary Writs. In addition to the provisions governing the form for a petition for an extraordinary writ set out in Rule 21, a petition for an extraordinary writ shall be produced in the form prescribed by subdivision (a). The petition and an answer, if the court orders an answer, shall not exceed 6,000 words (30 pages for a petition or an answer filed pro se). If the court orders "answer and brief," the combined answer and brief shall not exceed 6,000 words (30 pages for an answer and brief filed pro se). The petitioner's reply, if any, shall not exceed 3,000 words (15 pages for a reply filed pro se). The cover of the petition shall be white. The cover of the petitioner's brief shall be blue; the respondent's, red; and the reply, if any, grey.

(4) Petitions for Appeal by Permission Pursuant to Rule 5 and Answers. In addition to the provisions governing form set out in Rule 5, petitions filed pursuant to Rule 5 for appeal by permission and any answers thereto shall be produced in the form prescribed by subdivision (a) and shall not exceed 4,000 words (20 pages for petitions filed pro se) as provided in Rule 5(e).

(5) Motions and Other Papers and Memoranda in Support of, or in Opposition to, Motions. In addition to the provisions governing form set out in Rule 27, motions and other papers seeking relief shall be produced in the form prescribed by subdivision (a) and shall not exceed 2,000 words (10 pages for motions and other papers filed pro se); any memorandum in support of, or in opposition to, a motion or other paper shall be produced in the form prescribed by subdivision (a).

(c) Items Excluded from Length. In computing any limitation on length, headings, footnotes, and quotations count toward the limit, but the following items do not:

- the cover page;
- a statement regarding oral argument;
- a table of contents;
- a statement of jurisdiction;
- a table of authorities;
- the signature block;
- a certificate of compliance;
- the certificate of service;
- an addendum containing statutes, rules, or regulations;
- an exhibit or appendix; and
- any item specifically excluded by these rules.

(d) Certificate of Compliance. Any brief, petition, motion, or other paper submitted under any provision of these rules and using a word limit must include a certificate by the attorney, or the unrepresented party, that the document complies with the font and word limitations. The person preparing the certificate may rely on the word count of the word-processing system used to prepare the document. The certificate must state the number of words in the document and the type of and size of the font used. This subdivision (d) does not apply to persons filing pro se who use page limits instead of word limits.

(e) Noncompliance.

(1) Acceptance of Nonconforming Documents. The clerk of the appellate court may exercise discretion to permit the filing of documents in which the violation of those portions of these rules governing format is exceedingly minor, if, in the judgment of the clerk, recomposition of the documents would be unwarranted. The requirements of this rule governing the format of documents shall be liberally construed to do substantial justice with respect to persons proceeding pro se.

(2) Conditional Filing of Documents. Except as otherwise provided in subparagraph (e)(1), unless each copy of the document, in the judgment of the clerk, conforms to those portions of these rules governing format, the clerk may deem the document to have been conditionally filed, subject to the requirement that the party file in the office of the clerk a complete set of replacement documents that comply with these rules within 14 days of the issuance of notice by the clerk that the documents have been conditionally filed. The clerk's notice shall specify the matters requiring correction, and, unless the court orders otherwise, in no event shall any replacement document add any substantive material.

(3) Documents Exceeding Word or Page Limitations. Documents exceeding the word or page limitations that are filed without prior approval of the court are viewed with great disfavor, and, with respect to such documents, the court may impose a penalty, not to exceed 1,000 words (5 pages for a document filed pro se using a page limit), thereby reducing the otherwise applicable word or page limitation.

(4) Disposition of Noncompliant Documents. Noncompliant documents will be held in the clerk's office pending instructions from the party filing the documents as to their disposition. If no instructions are received by the time for filing replacement documents, noncompliant documents will be discarded.

(5) Effect on Time for Filing by Opposing Party. Unless the court orders otherwise, the time for filing of the opposing party's response runs from the date of filing of replacement documents pursuant to subparagraph (e) (2).



## APPENDIX P

### Committee Comment to Amendment to Rule 32 Effective October 1, 2020

Rule 32 has been amended to require the use of the proportionally spaced Century Schoolbook font in 14-point type, instead of the monospaced Courier New font in 13-point type. In addition, word limits have replaced page limits, except for documents filed pro se. A page typed in Courier New 13 contains approximately 200 words. Accordingly, the page limits have been converted to word limits by multiplying the old page numbers by 200 (e.g., a 70-page limit for a brief is now a 14,000-word limit). This compares with approximately 260 words of a proportionally spaced font in 14-point type per page. Unlike Rule 32 of the Federal Rules of Appellate Procedure, which was amended in 1998 to allow the use of proportionally spaced fonts and word limits for papers submitted to the federal appellate courts, Alabama's Rule 32 does not provide for an alternative line limit for briefs and other papers because experience has shown almost all filers use the word limits and count the words with a function on their word-processing program. Because various Alabama Rules of Appellate Procedure in addition to Rule 32 contain page limits, those rules have also been amended to replace page limits with word limits. Page limits are retained for documents filed pro se.

APPENDIX Q

Rule 39(d), Ala. R. App. P

(d) Form of and Length of Petition. The petition shall comply with the provisions of Rule 32(a) and (b)(2) governing form and shall not exceed 3,000 words (15 pages for a petition filed pro se) (except in capital cases). The petition shall contain:

(1) The style of the case, the name of the petitioner, the circuit court from which the cause is on appeal, and the name of the court of appeals to which the petition for certiorari is directed;

(2) The date of the decision sought to be reviewed and, if an application for rehearing was filed, the date of the order overruling the application for rehearing;

(3) A concise statement of the grounds, 39(a)(1)(A)-(E), supra, on which the petition is based -- and in a death-penalty case a statement in accordance with 39(a)(2)(A) and (B) -- provided that:

(A) When subparagraph (a)(1)(D) is the ground for the petition, the petitioner must quote that part of the opinion of the court of appeals and that part of the prior decision the petition alleges are in conflict; or

(B) Where it is not feasible to quote that part of the opinion either because no wording in the opinion clearly shows the conflict or because no opinion was issued, the petition shall state that this subsection is applicable and then state, with particularity, how the decision conflicts with a prior decision;

(4) A copy of the opinion or the unpublished memorandum of the court of appeals and the court of appeals' order or notice on the application for rehearing, if an application for rehearing was filed, attached to the petition as an exhibit; and

(5) If a party is not satisfied with the facts stated in the opinion or the unpublished memorandum of the court of appeals, or if the court of appeals issued a "no-opinion" decision pursuant to Rule 53, a copy of a concise statement of the facts may be either included in the petition or attached to the petition. If a party is not satisfied with the facts

stated in the main opinion or the unpublished memorandum of the court of appeals, but the party is satisfied with the facts as stated in a dissent or a special writing by a judge or judges of the court of appeals, the party shall indicate those facts with which the party is in agreement and indicate in which part of the dissent or special writing the facts are found.

(A) Statement of facts where application for rehearing was filed with court of appeals after an opinion or an unpublished memorandum was issued.

(i) If a court of appeals issues an opinion or an unpublished memorandum containing a statement of facts and the party applying for rehearing is not satisfied with that statement, the party applying for rehearing in that court may include in the application an additional or corrected statement of facts or the applicant's own statement of facts. If an applicant is not satisfied with the facts stated in the main opinion or the unpublished memorandum of the court of appeals, but the applicant is satisfied with the facts as stated in a dissent or a special writing by a judge or judges of the court of appeals, the applicant shall indicate those facts with which the applicant is in agreement and indicate in which part of the dissent or special writing the facts are found. If the court of appeals does not include the applicant's statement of facts in a subsequent opinion or memorandum, in order for the Supreme Court to consider those facts in addition to the facts as stated in the court of appeals' opinion or unpublished memorandum, the proposed statement of additional or corrected facts or the applicant's own statement of facts presented to the court of appeals in the application for rehearing must be copied verbatim and attached to or included in the petition for the writ of certiorari, with references to the pertinent portions of the clerk's record and the reporter's transcript.

(ii) If the petitioner proposes his or her own statement of facts, the petitioner must include a verification that this statement of facts is a verbatim copy of the statement presented to the court of appeals in the application for rehearing.

(iii) If the petitioner does not present with the petition an additional or corrected statement of facts or the petitioner's own statement of facts, or indicate which part of the dissent or special writing the petitioner agrees with, it will be presumed that the petitioner is satisfied with the facts as stated in the court of appeals' main opinion or unpublished memorandum.

(B) Statement of facts where an application for rehearing was filed with court of appeals in a "no-opinion" decision or an opinion that does not state the facts.

(i) If a court of appeals issues a "no-opinion" affirmance pursuant to Rule 53 or issues an opinion or unpublished memorandum that does not contain a statement of facts, the applicant shall include in the application for rehearing the applicant's statement of facts. If the court of appeals does not include the applicant's statement of facts in a subsequent opinion or memorandum, a verbatim copy of the applicant's statement of facts as presented to the court of appeals must be either included in or presented as an attachment to the petition for the writ of certiorari, with references to the pertinent portions of the clerk's record and the reporter's transcript.

(ii) The petitioner must verify that the statement of facts is a verbatim copy of the statement presented to the court of appeals in the application for rehearing.

(C) Statement of facts where no application for rehearing was filed with the Court of Civil Appeals.

(i) If the petition for a writ of certiorari seeks review of a decision of the Court of Civil Appeals and the petitioner has not filed an application for rehearing with the Court of Civil Appeals, and if the Court of Civil Appeals issues a "no-opinion" affirmance pursuant to Rule 53 or issues an opinion that does not contain a statement of facts, the petitioner shall present to the Supreme Court, either in the petition or as an attachment to the petition for the writ of certiorari, the petitioner's statement of facts,

with references to the pertinent portions of the clerk's record and the reporter's transcript. If the Court of Civil Appeals issues an opinion containing a statement of facts and the party petitioning for the writ of certiorari is not satisfied with that statement of facts, the petitioner may present to the Supreme Court, either in the petition or as an attachment to the petition for the writ of certiorari, a proposed additional or corrected statement of facts or the petitioner's own statement of facts, with references to the pertinent portions of the clerk's record and the reporter's transcript. If a petitioner is not satisfied with the facts stated in the main opinion of the Court of Civil Appeals, but the petitioner is satisfied with the facts as stated in a dissent or a special writing by a judge or judges of the Court of Civil Appeals, the petitioner shall indicate those facts with which the petitioner is in agreement and indicate in which part of the dissent or special writing the facts are found.

(ii) If the petitioner does not present with the petition an additional or corrected statement of facts or the petitioner's own statement of facts or indicate which part of the dissent or special writing the petitioner agrees with, it will be presumed that the petitioner is satisfied with the facts as stated in the Court of Civil Appeals' main opinion; and

(6) A direct and concise argument amplifying the grounds relied on for allowance of the writ.

APPENDIX R

Committee Comment to Amendment to Rule 39(d)  
Effective October 1, 2020

Rule 39(d) has been amended to provide a word limit for most petitions consistent with the amendment to Rule 32, but to retain a page limit for petitions filed pro se.

APPENDIX S

Rule 40(f), Ala. R. App. P.

(f) Brief Opposing Application for Rehearing. No brief opposing the application is required, but if the opposing party wishes to file a brief, the brief must be filed within 14 days (2 weeks) -- or, in the case of a pretrial appeal by the state in a criminal case, within 7 days (1 week) -- after the filing of the application and the brief in support of the application. Any brief in opposition to the application for rehearing shall not exceed 3,000 words (15 pages for a brief filed pro se) (see Rule 28(j)(5)), unless that word or page limitation is extended by the court pursuant to Rule 28(j)(3), if applicable. The brief in opposition shall contain a table of contents, a table of authorities, a summary of the argument, an argument and conclusion, a certificate of compliance (if a word limit applies), and a certificate of service. No reply brief to a brief in opposition to an application for rehearing is permitted.

APPENDIX T

Rule 40(g), Ala. R. App. P.

(g) Form of Application; Color of Brief; Length of Argument. Except in criminal cases in which the death penalty is imposed, the application shall not exceed 3,000 words (15 pages for an application filed pro se). The application for rehearing may be a separate document or may be included at the beginning of the applicant's brief. The brief shall be in a form prescribed by Rules 28 and 32(a), except that because the statement of facts is included in the application for rehearing, a statement of facts will not be included in the brief. Except in criminal cases in which the death penalty is imposed, the brief in support of the application for rehearing shall not exceed 3,000 words (15 pages for a brief filed pro se), unless that word or page limitation is extended by the court pursuant to Rule 28(j)(3). Copies of the brief shall be served and filed as prescribed by Rule 31 for the service and filing of briefs. The cover of the brief in support of the application for rehearing shall be white. The application, or a brief in support of an application for rehearing, shall be governed by Rule 32(b)(1).



APPENDIX U

Committee Comment to Amendment to Rule 40(f) and Rule 40(g)  
Effective October 1, 2020

Rule 40(f) and Rule 40(g) have been amended to provide a word limit for most applications for rehearing and briefs in support consistent with the amendment to Rule 32, but to retain page limits for applications and briefs filed pro se.