

APPELLATE CHECKLIST FOR PARTIES

APPEALS FROM THE
INDUSTRIAL CLAIM APPEALS OFFICE
(Unemployment Insurance & Workers Compensation)

COLORADO
COURT OF APPEALS

2 EAST FOURTEENTH AVENUE
DENVER, CO 80203

<http://www.courts.state.co.us/coa/coaindex>

This document is distributed as a public service and is not intended to be an authoritative reference. Parties to an appeal should always refer to the Colorado Appellate Rules (C.A.R.), the Colorado Revised Statutes (C.R.S.) or other authoritative sources, or consult with an attorney, whenever additional clarification is necessary.

Employees of the Colorado Court of Appeals, Colorado Supreme Court and the Industrial Claim Appeals Office are not permitted to provide legal advice to any party.

Appellate Checklist for Parties **Appeals From the Industrial Claim Appeals Office**

1) **Notice of Appeal** *(Original plus 5 copies filed with the Court of Appeals, an advisory copy filed in the Industrial Claim Appeals Office, and copies mailed to all parties listed on the last page of the ICAO final order.) Blank forms can be obtained from the Court of Appeals Clerk's Office or on the Internet at: www.courts.state.co.us/coa/coaindex*

- A Must be filed in the Court of Appeals no later than (20) days after entry of judgment in the Industrial Claim Appeals Office (ICAO). **C.A.R. 3.1 and §§ 8-43-301(10) and 8-74-107(2) C.R.S.**¹
- B Original plus 5 copies filed in the Court of Appeals. Advisory copy filed in the ICAO, and mailed to each of the parties or counsel. **C.A.R. 3.1**
- C **There is no filing fee for ICAO appeals.**
- D **Mandatory Contents of Notice of Appeal:** See **C.A.R. 3.1(d)** for additional specific contents.
 - ICAO Case Number
 - Name of party(s) initiating the appeal, and complete addresses. If *pro se*, (representing yourself), give your full name, address and telephone number.
 - Identify counsel for all parties, including addresses. If the employer is not represented by counsel, include the representative of the company listed on the final order.
 - List all others who have appeared as parties to the action before the ICAO.
 - Original Signature
 - Certificate of Service **(Your statement that a copy has been mailed to each of the parties, including the ICAO - list names, addresses and date mailed)**
 - Attach a complete copy of the final order being appealed and include a brief description of the nature of the case, (not to exceed one page), the order being appealed, and the reason for the appeal of the order.

¹ C.A.R. is the abbreviation for the Colorado Appellate Rules – Found in the Colorado Revised Statutes, Volume 12, Chapter 32. C.R.S is the abbreviation for the Colorado Revised Statutes.

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E. In unemployment cases, petitioner may select to have the notice of appeal also serve as an opening brief. If this option is chosen, the appeal may not be subject to dismissal for failure to file the opening brief.

2) **Record on Appeal**

- After the notice of appeal is filed, the ICAO will prepare and submit their record to the Court of Appeals within 20 days (unemployment) or 90 days (workers comp).

3) **Briefs** **(A briefing schedule, detailing when briefs are due, will be mailed to all parties after the record has been received and filed in the Court of Appeals.)**

- A In unemployment cases, the petitioner may use the court's form notice of appeal and choose to have it serve as the opening brief. Use of the court's form with this option will ensure an appeal is not dismissed for failure to file the opening brief. If the form is used with this option chosen, the answer brief(s) due date shall be set once the record is filed.
- B Original and five (5) copies **C.A.R. 31(c)**
- C Contents of brief **C.A.R. 28(a)**
 - Table of contents with page references
 - Table of cases, statutes and authorities with page references
 - Statement of issues
 - Statement of case
 - Argument (preceded by summary of argument)
 - Conclusion

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D Briefing schedule and page limits: [C.A.R. 28 and 3.1\(b\)](#)

<u>TYPE</u>	<u>SIZE LIMIT</u>	<u>DUE DATE</u>
Opening Brief	30 pages or 9,500 words	15 days after record is filed
Answer Brief	30 pages or 9,500 words	10 days after opening brief is served
Reply Brief	18 pages or 5,700 words	5 days after answer brief is served

- E Verify that all referenced attachments **and** exhibits are included
- F Formatting requirements are listed in [C.A.R. 32](#)
- G Original Signature and certificate of service

Note: Often, appellants include the legal argument, or the reasons why they believe the ICAO made an incorrect decision, with their Notice of Appeal. If you wish to have the information included in the Notice of Appeal serve as your opening brief, you must file a separate motion to request that. See Section 4 – Motions, below for further information.

4) Motions

- A Formatting requirements are listed in [C.A.R. 32](#)
- B Original in the Court of Appeals. [C.A.R. 27](#)
- An extension of time to file a notice of appeal cannot be granted in ICAO cases.
 - A motion for extension of time to file a brief may be filed; however, upon a showing of good cause only a short period of time will be granted.
 - No oral arguments held on motions [C.A.R. 27\(e\)](#)
 - Certificate of Service – all parties to a case must be served with a copy of any document filed.
- C Original Signature

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5) Oral Argument

- A Must be requested by motion within ten (10) days of filing of reply brief [C.A.R. 34\(b\)\(2\)](#)
- B Request in a separate document [C.A.R. 34\(b\)\(2\)](#)
- C Request Continuance within seven (7) days of notice of setting

6) Decision in Appeal

- A Opinion or Dismissal is entry of judgment
- B Optional Petition for Rehearing must be filed within 14 days of judgment date [C.A.R. 40\(a\)](#)
- Original plus five (5) copies [C.A.R. 40\(b\) & C.A.R. 31\(a\)](#)
 - List judges on cover page [C.A.R. 40\(b\)](#)
 - Maximum six (6) pages [C.A.R. 40\(b\)](#)
- C Mandate returning jurisdiction to the ICAO is issued after entry of judgment pursuant to [C.A.R. 41](#)

7) Petition for Certiorari

- A Per [C.A.R. 52\(b\)\(3\)](#), petition must be filed with Clerk of Supreme Court within fifteen (15) days of:
- Date Petition for rehearing was denied in Court of Appeals, if one was filed,
 - or
 - If not filed, expiration of the stated time to file a petition for rehearing,
- B Original plus ten (10) copies [C.A.R. 51\(a\)](#)
- C Limited to twelve (12) pages in length

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GLOSSARY OF TERMS:

- Petitioner:** The party who takes an appeal from ICAO to the Court of Appeals; the party filing the appeal.
- Respondent:** The parties in a cause against whom an appeal is taken.
- Brief:** A document summarizing the basis for the argument of the parties to an appeal. The opening brief is filed by the petitioner and lists the legal basis for the appeal; an answer brief may be filed by the respondent. A reply brief may be filed by petitioner in response to the answer brief. Only the opening brief is mandatory for the appeal to proceed.
- C.A.R.:** Abbreviation for the Colorado Appellate Rules. The rules outline the procedures for filing, reviewing and resolving appellate cases. The rules are published in the Colorado Revised Statutes, Volume 12, Chapter 32 and can be found in most public libraries or on the Internet at <http://www.courts.state.co.us/supct/rules/rulesindex.htm>
- C.R.S.:** Abbreviation for the Colorado Revised Statutes or the state laws. Published volumes can be found in most public libraries or on the Internet at <http://www.courts.state.co.us/supct/rules/rulesindex.htm>
- Certiorari:** A petition for the Supreme Court to review and 'certify' the record of the Court of Appeals, or the District Court in certain circumstances. The Supreme Court has discretionary authority to either grant or deny a Petition for *Certiorari*.

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- Chief Justice Directive:** Policy guidance and instructions, issued by the Chief Justice of the Supreme Court, controlling procedures in the Colorado state courts. These directives can be found on the Internet at <http://www.courts.state.co.us/supct/directives/supctdirectives.htm>
- I.C.A.O.:** Industrial Claim Appeals Office
- In Forma Pauperis:** Describes permission given to a poor person to proceed in court without liability for fees.
- Mandate:** An order issued upon the decision of an appellate court returning jurisdiction to the district court. The mandate may direct an specific action to be taken or disposition of a case by the lower court, in accordance with the appellate decision.
- Pro se** Latin term: for oneself (representing self)
- Service:** "Service of Process"; Delivering to or leaving with other parties to a case, a copy of documents filed with the court. The **date of service** is the date upon which the document is placed in the mail or hand delivered.