

Rule 116. Supreme Court Review of Decisions of the Workers' Compensation Court of Appeals, Decisions of the Tax Court, and Other Decisions Reviewable by Certiorari**116.01 How Obtained; Time for Securing Writ**

Supreme Court review of decisions of the Workers' Compensation Court of Appeals, decisions of the Tax Court, and of other decisions reviewable by certiorari may be had by securing issuance of a writ of certiorari within 30 days after the date the party applying for the writ was served with written notice of the decision sought to be reviewed, unless an applicable statute prescribes a different period of time.

116.02 Petition for Writ; How Secured

The petition and a proposed writ of certiorari shall be filed with the clerk of the appellate courts. The writ issued shall be in the name of the court.

(Amended effective July 1, 2014.)

116.03 Contents of the Petition and Writ; Filing and Service

Subdivision 1. Contents and Form of Petition, Writ and Response. The petition shall definitely and briefly state the decision, judgment, order or proceeding that is sought to be reviewed and the errors that the petitioner claims. A copy of the decision and the statement of the case pursuant to Rule 133.03 shall be filed with the petition. The title and form of the petition and writ should be as shown in the appendix to these rules. The respondent's statement of the case, if any, shall be filed and served within 14 days after service of the petitioner's statement.

Subd. 2. Bond or Security. The petitioner shall file the bond or other security required by statute or by the Supreme Court.

Subd. 3. Filing; Fees. The clerk of the appellate courts shall file the original petition and issue the original writ. The petitioner shall pay \$550 to the clerk of the appellate courts, unless a different filing fee is required by statute.

Subd. 4. Service; Time. The petitioner shall serve copies of the petition and writ upon the court or body to whom it is directed and upon any party within 30 days after the petitioner was served with written notice of the decision to be reviewed, unless an applicable statute prescribes a different period of time. Proof of service shall be filed with the clerk of the appellate courts within 7 days of service. A copy of the petition and writ shall be served on the Attorney General at the time of service.

(Amended effective July 1, 1989; amended effective for appeals taken on or after January 1, 1992; amended effective July 1, 1993; amended effective July 1, 2003; amended effective July 1, 2009; amended effective January 1, 2010; amended effective July 1, 2014; amended effective January 1, 2020.)

Advisory Committee Comment - 2009 Amendments

Rule 116.03, subdivision 1, is amended to change the timing for filing a statement of the case by a respondent to 14, rather than ten, days after service of the petitioner's statement of the case. This change makes the respondent's statement of the case due on the same day a notice of related appeal would be due. See Rule 104.01, subdivision 4, as amended.

Advisory Committee Comment - 2014 Amendments

Rule 116 is amended to clarify its intended operation. The former rule contained requirements that the petition and proposed writ be "presented" to the clerk of appellate courts and "provided

to" the Attorney General. For the sake of clarity, the rule replaces "presented to" with "filed with" to align it with other rules requiring filing. Similarly, the process for "providing" something to another party throughout the rules is called "service." Rule 116 now incorporates that customary nomenclature.

116.04 The Record on Review by Certiorari; Transmission of the Record

To the extent possible, the provisions of Rules 110 and 111 respecting the record and the time and manner of its transmission and filing or return in appeals shall govern upon the issuance of the writ, and the parties shall proceed as though the appeal had been commenced by the filing of a notice of appeal, unless otherwise provided by the court or by statute. Each reference in those rules to the trial court, the trial court administrator, and the notice of appeal shall be read, where appropriate, as a reference to the body whose decision is to be reviewed, to the administrator, clerk or secretary thereof, and to the writ of certiorari respectively.

(Amended effective for appeals taken on or after January 1, 1992.)

116.05 Costs and Disbursements

Costs and disbursements may be taxed by the prevailing party but not for or against the body to whom the writ is directed. If a writ appears to have been brought for the purpose of delay or vexation, the Supreme Court may award double costs to the prevailing party.

116.06 Dismissal Costs

If any writ of certiorari is issued improperly or is not served as required by these rules, the party against whom it is issued may have it discharged on motion and affidavit showing the facts and shall be entitled to allowable costs.

See **Appendix** for form of the petition for a writ of certiorari (**Form 116A**) and of the writ of certiorari (**Form 116B**).

Comment - 1983

Rule 116 sets out the procedures for securing review by the Supreme Court of decisions of the Workers' Compensation Court of Appeals, decisions of the Tax Court, and other decisions reviewable by certiorari to the Supreme Court. The procedures are similar to those provided by former Rule 115 except that the time limitations set out in the rule have been shortened to conform with the time limitations presently provided in the statute governing review of workers' compensation decisions. The rule cautions that statutes governing review of the various types of decisions reviewable by certiorari may establish different time limitations.

Proof of service of the petition and writ must be filed with the clerk of the appellate courts within five days after service. A copy of the petition and the writ must also be provided to the attorney general.

See Appendix for form of the petition for a writ of certiorari (Form 116A) and of the writ of certiorari (Form 116B).