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Louisiana Appellate Practice

Contents

Civil appeals ............................................................................................................................... 2

Supervisory writs — courts of appeal .................................................................................. 10

Louisiana Supreme Court writ practice ................................................................................ 18

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Look for the entry dated October 25, 2007, or type “Bridging the Gap” in the Google search box on either site.

These materials were prepared for a one-hour presentation to lawyers as an introduction to Louisiana appellate procedure. They are not intended to be a comprehensive review of Louisiana appellate law; nor are they a substitute for an experienced appellate attorney or for your own legal research.

Any authority cited in these materials may be outdated by the time you read this. Remember that laws and court rules may change.
      i. Judgment that determines the merits in whole.
      ii. Judgment that determines the merits in part.
         1. La. C.C.P. 1915(A) – no designation of finality necessary.
         2. La. C.C.P. 1915(B) – must have designation of finality.
            a. Designation of finality can occur when judgment is signed, or any time after judgment signed. *Fraternal Order of Police v. City of New Orleans*, 2002-1801 p. 4 (La. 11/8/02), 831 So.2d 897, 899.
            iii. Judgment must be written and signed. No appeal without a signed judgment. La. C.C.P. 1911.
            iv. Judgments on the pleadings and summary judgments are final judgments. La. C.C.P. Art. 968.
   b. Exceptions to final-judgment rule.
      i. Class actions. La. C.C.P. Art. 592 (as amended by Acts 2005, No. 205, effective 1/1/06).
      iii. A discovery order is generally not appealable. But an order compelling discovery from a non-party is final as to the non-party, and so can be appealed by the non-part. *R.J. Gallagher Co. v. Lent, Inc.*, 361 So.2d 1231, 1231 (La. App. 1 Cir. 1978).
   c. Other appealable judgments (a non-exclusive list):
      i. In executory proceedings, an order directing the issuance of a writ of seizure and sale (15-day deadline). La. C.C.P.
Art. 2642.

ii. Judgment granting or refusing an annulment of marriage or a divorce (30-day deadline). La. C.C.P. Art. 3942.


ix. Judgment of interdiction, judgment appointing or removing a curator or undercurator, judgment modifying or terminating interdiction (30-day deadline, no suspensive appeal). La. C.C.P. Art. 4555.

x. Judicial commitment: La. R.S. 28:56(D) (no suspensive appeal, but appeal “shall be heard in a summary manner, taking preference over all other cases except similar matters.” Id.)

d. If you don’t have a final, appealable judgment, but you need immediate appellate review, consider applying for supervisory writ.

2. Time to appeal.

a. When does clock start?
i. If timely motion for new trial or JNOV filed: The date of mailing of notice of court’s refusal to grant new trial or JNOV. La. C.C.P. Art. 2123(A)(2) (suspensive appeal); Art. 2087(A)(2) (devolutive appeal).

ii. If no timely motion for new trial or JNOV filed: On expiration of delay for applying for new trial or JNOV. La. C.C.P. Art. 2123(A)(1) (suspensive appeal); Art. 2087(A)(1) (devolutive appeal).

iii. If preliminary injunction, clock starts when judgment is rendered; motion for JNOV or new trial does not interrupt the delay. See La. C.C.P. Art. 3612(C).

iv. If, sometime after partial final judgment is rendered under La. C.C.P. Art. 1915(B), the judgment is designated as final for immediate appeal, then clock starts when the clerk mails notice of order designating judgment as final. Fraternal Order of Police v. City of New Orleans, 2002-1801 p. 4 (La. 11/8/02), 831 So.2d 897, 900.

b. How long does clock tick?

i. Suspensive appeal: 30 days. La. C.C.P. 2123.

ii. Devolutive appeal: 60 days. La. C.C.P. 2087.

iii. Preliminary injunction (suspensive or devolutive): 15 days. La. C.C.P. Art. 3612(C).


b. Suspensive appeal.


ii. Security requirement.

1. Amount must be stated on order of appeal. La. C.C.P. 2121.
Civil Appeal

2. How to determine amount: La. C.C.P. 2124(B).


c. Devolutive appeal.
   i. How differs from suspensive appeal – La. C.C.P. 2087.
   ii. No security required – La. C.C.P. 2124(A).

d. Return date.
   i. What is a return date?
   ii. When is the return date? La. C.C.P. 2125.
   iii. Return date must be shown on order of appeal. La. C.C.P. 2121.

e. Content of record: If you don’t need the entire record for appeal: La. C.C.P. 2128.

   i. Time to pay or contest.
   ii. Procedure for contesting La. C.C.P. 2126(C).

4. What happens between this point and date record is lodged.
   b. Court reporter’s duties: La. C.C.P. 2127.2.

5. Lodging of record: Effects.
   b. 14-day period to request oral argument starts. Unif. R. 2-11.4.
      i. What happens when one party requests oral argument: Usually everyone gets it.
      ii. What happens when no one requests oral argument:
Civil Appeal

Usually no one gets it. Matter is submitted on briefs.

iii. If you want oral argument but miss the 14-day deadline, file a motion to reinstate oral argument.

c. Appellee has 15 days to answer the appeal. La. C.C.P. 2133.


   i. Jurisdiction of the Court.

   ii. Concise statement of the Case.

   iii. Action of the trial court.

   iv. Specification or assignment of errors.

   v. Issues presented for review.

   vi. Argument.

   vii. Conclusion, stating precise relief sought.

   viii. Certificate of Service: must list all parties and all counsel, indicating party each counsel represents, and showing how and when service was accomplished. (Unif. R. 2-14.2.)

d. Attachments.

   i. What to attach.

      1. Complaining litigant: copy of judgment, order, or ruling complained of, trial court’s written or transcribed oral reasons, or minute entry. Unif. R. 2-12.4.

      2. Copies of non-Louisiana cases cited in brief. Id.

   ii. What not to attach.
Civil Appeal

1. Anything else.

7. Oral argument.
      i. 40 minutes per case (30 minutes in La. 5 Cir.).
      ii. If 2 sides, 20 minutes per side (15 minutes per side in La. 5 Cir.).
   b. Do:
      i. Prepare, prepare, prepare.
      ii. Speak extemporaneously.
      iii. Answer questions immediately and directly.
      iv. Be courteous and professional.
   c. Don't:
      i. Read your argument (Unif. R. 2-15.3).
      ii. Interrupt the judge.
      iii. Fail to answer questions directly.
      iv. Be nasty.
      v. Argue as you would to a jury.


9. Publication of opinion.
      i. Full opinion: published unless designated “not for
Civil Appeal

publication.” Unif. R. 2-16.3(A).

ii. Concise memorandum opinion or summary disposition: not published unless panel designates it for publication. Unif. R. 2-16.3(B).

iii. Effect of non-publication: Unif. R. 2-16.3(C) But see Acts 2006, No. 644 (enacting La. C.C.P. Art. 2168). New Article 2168 does two things:

1. Requires Supreme Court and each court of appeal to publish all unpublished decisions on court’s web site.

2. Authorizes citation of unpublished decisions posted on a court’s web site as legal authority.

b. Court will reconsider its decision not to publish an opinion if asked by the trial judge or a party. Unif. R. 2-16.3(D).


11. Application for rehearing.

a. When will court consider a rehearing application? Unif. R. 2-18.7.

i. If your case fits Unif. R. 2-18.7, then timely filed application for rehearing interrupts for all parties the time to apply to La. Supreme Court for writs.

ii. If your case doesn’t fit Unif. R. 2-18.7, you cannot apply for rehearing. Any rehearing application will be null and will not interrupt time to apply to La. Supreme Court for writs.

b. Time to file:


Civil Appeal

iii. No extensions granted. Unif. R. 2-18.2(c).

1. Note: But you can get an extension on the supporting brief. Unif. R. 2-18.3.

c. Formal requirements.


1. Exception: 2nd Circuit requires original plus 6 copies. 2d Cir. Local Rule 3-1.

ii. Application must not exceed 10 pages.

iii. Supporting brief: file original plus 4 copies with the application for rehearing.


2. Note: Many lawyers incorporate the brief into the application itself.

12. At the end of the appeal, aggrieved party has 30 days to apply to La. Supreme Court for writ of certiorari or review.

a. If no timely rehearing application filed in court of appeal, 30 days begins at notice of judgment. La. C.C.P. 2166(A).

b. If timely rehearing application filed, 30 days begins when court of appeal disposes of last rehearing application. La. C.C.P. 2166(B), (C).
1. Theoretically, any interlocutory judgment can be subject of writ application. But in reality, writ application will be seriously considered only for certain classes of judgments.

   a. Irreparable injury.

      i. “The test for determining whether an interlocutory judgment may cause irreparable injury is whether any error in the judgment may be corrected as a practical matter on appeal following the determination of the merits.” In re Depland, 2003-0385 p. 2 (La. App. 4 Cir. 8/6/03), 854 So.2d 438, 440; White Oak, Inc. v. Katz & Simone, 515 So.2d 476, 476-77 (La. App. 1 Cir. 1987).

      ii. On the other hand, “If the decree of the appellate court can restore the parties, without the loss of any right under the pleadings, to the identical position which they respectively occupied before the rendering of the interlocutory decree or order complained of, the injury to either party is clearly not irreparable, and therefore the right to appeal does not exist.” Farmers Supply Co. v. Williams, 107 So.2d 544, 547 (La. App. 2 Cir. 1958).

      iii. A non-exclusive list of examples:

         1. Improper venue.


            b. Note: Failure to apply for writs following erroneous judgment on venue exception may be deemed a waiver of that issue. See Hebert v. Mid South Controls & Servs., 96-378 (La.
Supervisory writs – courts of appeal

Mousa v. Kasem, 1998-2320 p. 3 (La. App. 4 Cir. 3/31/99), 731 So.2d 981, 983.

2. Trial by jury.


b. Similarly, a party who fails to seek supervisory writs from the wrongful denial of a motion to strike a demand for jury trial waives the issue on appeal. Turner v. Regional Transit Auth., 498 So.2d 777, 779 (La. App. 4 Cir. 1986).


4. Arbitration.


b. But order compelling arbitration has been held to not cause irreparably injury. Collins v. Prudential Ins. Co. of Am., 1999-1423 p. 6 (La. 1/19/00), 752 So.2d 825, 829.

5. Order compelling a party to sign a compromise.
Volz v. Hertz Rent-A-Car, 552 So.2d 1311, 1313 (La. App. 5 Cir. 1989); Rhodes v. Nalencz, 545 So.2d
Supervisory writs – courts of appeal

638, 639 (La. App. 5 Cir. 1989).

b. *Herlitz Const. Co., Inc. v. Hotel Investors of New Iberia, Inc.*, 396 So.2d 878 (La. 1981) holds, “When the overruling of the exception is arguably incorrect, when a reversal will terminate the litigation, and when there is no dispute of fact to be resolved, judicial efficiency and fundamental fairness to the litigants dictates that the merits of the application for supervisory writs should be decided in an attempt to avoid the waste of time and expense of a possibly useless future trial on the merits.”

c. If you don’t fit one of these categories, the likely response to your writ application will be: “Denied. Adequate remedy on appeal.”

2. Procedure in trial court.


b. Obtain return date. Unif. R. 4-3.

c. When must you accomplish steps (a) and (b)?

   i. 30 days from notice of judgment under La. C.C.P. 1914. Unif. R. 4-3.

   ii. But when is “notice of judgment”? See La. C.C.P. 1914.

      1. General rule: If judge rules from the bench in parties’ presence, that is when you have notice of judgment. La. C.C.P. 1914(A).

      2. Exceptions to general rule: La. C.C.P. 1914(B): clerk of court’s mailing of notice of judgment is notice of judgment, if

         a. Judge takes case under advisement. La. C.C.P. 1914(B).

         b. Judge orders the judgment to be reduced to writing. La. C.C.P. 1914(B).

         c. Within 10 days after rendition in open court, a party requests that the judgment be reduced to writing. La. C.C.P. 1914(B).
d. The interlocutory judgment is one refusing to grant a new trial or JNOV. La. C.C.P. 1914(C).

d. Deadline for the return date.

i. Rule says return date must not exceed 30 days from date of ruling at issue. Unif. R. 4-3.

ii. Trial court or court of appeal may grant extension of return date, but only if the motion is filed within the original or previously extended return date. Unif. R. 4-3.

iii. In practice, if notice of intent is filed and the order setting the return date is issued within the 30 days, court of appeal treats the order as the implied grant of a motion to extend the return date. Barnard v. Barnard, 96-0859 (La. 6/24/96), 675 So.2d 734.

iv. The safe practice is: File your notice of intent, get your return date, and file your application for supervisory writ within 30 days of notice of judgment under La. C.C.P. 1914.

e. If the judge refuses to give you a return date: “When a relator makes a timely and genuine attempt to obtain the judge’s signature on the order for which review is sought, the writ should not be refused. See City of New Orleans v. Benson, 95-2436 (La. App. 4 Cir. 12/14/95), 665 So.2d 1202.” In re Gramercy Plant Explosion at Kaiser, 06-555 (La. App. 5 Cir. 7/31/06).

3. The writ application itself:

a. Must be filed within the return date, as originally set or as extended by trial court or court of appeal. Unif. R. 4-3.

b. Must file original plus 3 copies. Unif. R. 4-1.

c. Cover: see briefing rule Unif. R. 2-12.3 (see Unif. R. 4-8).

d. Form: see briefing rule Unif. R.2-12.2 (see Unif. R. 4-8). Pages of application must and attached documents must be consecutively
Supervisory writs – courts of appeal

classified. Unif. R. 4-5.

e. Contents (Unif. R. 4-5):

i. Index of all items contained in application. Unif. R. 4-5(a).

ii. Affidavit of verification and service. Unif. R. 4-5.

iii. Concise statement of grounds for invoking court’s jurisdiction Unif. R. 4-5(b).


v. Issues or questions of law presented for determination by the court. Unif. R. 4-5(d).

vi. Assignments or specifications of error. Unif. R. 4-5(e).


ix. Copy of judgment, order, or ruling complained of (if in writing). Unif. R. 4-5(f).

x. Copy of judge’s reasons for judgment, order, or ruling (if written). Unif. R. 4-5(g).

1. Note: If judge gives oral reasons, contact court reporter, order transcript, and attach transcript of reasons to writ application.

xi. Copy of each pleading on which the judgment, order, or ruling was founded.

1. What is a pleading? See La. C.C.P. 852:

a. Petition (including incidental demand)

b. Exception

c. Written motion
d. Answer

2. What is not a pleading?

a. Anything not listed in La. C.C.P. 852, especially trial-court briefs or memos.

b. Translation: Attach copy of the pertinent pleading. Do not attach copy of memo or brief in support of the pleading.

i. Practice hint: When you file an exhibit in support of a motion or exception, attach it to the motion or exception, not to the supporting memorandum. At the hearing, formally offer the exhibit into evidence.

xii. Copy of pertinent court minutes. Unif. R. 4-5(i).

xiii. The notice of intent and order setting return date, including any order extending the return date. Unif. R. 4-5(j).

xiv. Any other document that the court must have to properly rule on the writ application. This usually includes any document that served as the basis for the motion or exception below, the opposition to the motion or exception, or the trial court’s ruling.

4. Additional requirements if stay or expedited consideration requested.

a. Stay.

i. Trial court has discretion to stay or not stay proceedings while writ application is pending. Filing or granting of writ application, in itself, does not stay proceedings unless trial or appellate court orders otherwise. Unif. R. 4-4(A).

ii. Any request for stay must first be presented to trial court. Unif. R. 4-4(A).
b. Expedited Consideration.

   i. Cover must contain statement **in bold print** that expedited consideration is requested.

   ii. Writ application itself must contain separate additional page, titled “REQUEST FOR EXPEDITED CONSIDERATION.” This page must be properly noted in the index. The page itself must state the justification for the request and a specific time within which action by the appellate court is sought. Unif. R. 4-4(B), Unif. R. 4-5(k).

   iii. Writ application must include affidavit certifying that:

       1. Trial court, all counsel, and all unrepresented parties have been notified by telephone or equally prompt means of communication that the writ application has been or is about to be filed.

       2. Trial court, all counsel, and all unrepresented parties have been served with a copy of the writ application by means equal to the means used to file in court of appeal. Unif. R. 4-4(C).

          a. Example: If you file in court of appeal by overnight mail, must complete service by overnight mail.

          b. Example: If writ application is hand-delivered to court of appeal, it must be served on trial court and opposing counsel “by an equally prompt means.”

5. Response to writ application.

   a. Warning: Court of appeal may act peremptorily on the writ application, with or without a response. Unif. R. 4-7. Or court may order response to be filed by a certain date, or may order the trial court to file a per curiam.

   b. Otherwise, time for opposition is governed by local rule.

      i. 1st, 2nd, and 5th Circuits: no rule governing.
Supervisory writs – courts of appeal

Recommendation:

1. If expedited consideration has been requested, file ASAP.

2. If expedited consideration has not been requested, file within 20 days. See Unif. R. 4-8 (appeal rules fill gaps in writ rules), Unif. R. 2-17.7 (appellee’s brief generally due 20 days after appellant’s brief). Or file motion to set/extend time for response (this will notify the court that a response is on the way), and obtain an order setting a date certain for the response.

ii. 3rd Cir: See Internal Rule 19: Party opposing writ application “must contact the court immediately after receiving the application. The court will then set the time in which an opposition/reply brief may be filed.”

iii. 4th Cir.: Local Rule 16: “When an application for supervisory writs has been filed, a party has the right to respond. However, the court may adjudicate the application at any time after receipt, with or without the benefit of a response. If within ten days after [filing of a writ application], a response or motion for an extension of time in which to file a response has not been filed, it shall be presumed that a response will not be forthcoming.”

1. Jurisdiction of the Louisiana Supreme Court.
   
a. Original jurisdiction.
   
i. Disciplinary proceedings against a lawyer. La. Const. Art. 5 § 5(B).
   
ii. Disciplinary proceedings against a judge. La. Const. Art. 5 § 25(C).
   
b. Appellate jurisdiction.
   
   
ii. Louisiana statute declared unconstitutional by a lower court. Id.
   
   
   
d. Scope of jurisdiction:
   
i. Civil cases: Law and facts. (But see manifest-error standard of review.) La. Const. Art. 5 § 5(C). “Subject to the provisions in Paragraph (C), the supreme court has appellate jurisdiction over all issues involved in a civil action properly before it.” Id. Art. 5(F).
   
ii. Criminal cases: Only to questions of law. La. Const. Art. 5 § 5(C).
   
e. Certified questions.
   
   
ii. From the Supreme Court of the United States or any federal court of appeals. La. Const. Art. 5 § 11; La. R.S. 13:72.1; LSC Rule 12.
   
2. Writ practice before the Louisiana Supreme Court: Rule 10, Rules of
Supreme Court of Louisiana.

a. The odds are always against the Court’s granting a writ. Consider these 2005 statistics:

i. All cases

1. Applications filed (excluding prisoner pro se): 1,520
2. Prisoner pro se applications: 866
3. Writs granted: 163 (10.7% of non-prisoner pro se total)

ii. Civil cases

1. Applications filed (excluding prisoner pro se): 1,157
2. Prisoner pro se applications: 34
3. Writs granted: 73 (15.84% of non-prisoner pro se total)

iii. Criminal cases

1. Applications filed (excluding prisoner pro se): 363
2. Prisoner pro se applications: 832
3. Writs granted: 90 (24.8% of non-prisoner pro se total)

b. Writ-grant considerations: Rule 10 § 1(a): “The grant or denial of an application for writs rests within the sound judicial discretion of this court. The following, while neither controlling nor fully measuring the court’s discretion, indicate the character of the reasons that will be considered, one or more of which must ordinarily by present in order for an application to be granted:

i. **Conflicting Decisions.** The decision of the court of appeal conflicts with a decision of another court of appeal, this court, or the Supreme Court of the United States, on the same legal issue.

ii. **Significant Unresolved Issues of Law.** A court of
appeal has decided, or sanctioned a lower court’s decision of, a significant issue of law which has not been, but should be, resolved by this court.

iii. **Overruling or Modification of Controlling Precedents.** Although the decision of the court of appeal is in accord with the controlling precedents of this court, the controlling precedents should be overruled or substantially modified.

iv. **Erroneous Interpretation or Application of Constitution or Laws.** A court of appeal has erroneously interpreted or applied the constitution or a law of this state or the United States and the decision will cause material injustice or significantly affect the public interest.

v. **Gross Departure from Proper Judicial Proceedings.** The court of appeal has so far departed from proper judicial proceedings or so abused its powers, or sanctioned such a departure or abuse by a lower court, as to call for an exercise of this court’s supervisory authority.

c. Time to file: Rule 10 § 5.

i. Generally, 30 days after mailing of notice of court of appeal's original judgment. Rule 10 § 5(a).

ii. But if a party timely applies for rehearing in the court of appeal in case where rehearing is allowed, then 30 days runs from denial of rehearing or judgment on rehearing. *Id.*; see also La. C.C.P. Art. 2166(B).

1. Note: Time for rehearing is generally 14 days after court of appeal’s judgment (criminal) or mailing of judgment (civil). See La. C.C.P. Art. 2166(A); Ct. App. Unif. Rule 2-18.2.

2. For cases where rehearing is allowed in court of appeal, see Unif. R. 2-18.7.

iii. Special rule for cases that bypass court of appeal (e.g. death penalty): see Rule 10 § 5(b).
iv. Special rule for objection to candidacy or election contests: 48 hours. Rule 10 § 5(c).

v. You can file by mail. “An application properly mailed shall be deemed timely filed if mailed on or before the last day of the delay for filing.” Rule 10 § 5(d). But beware:

1. “For the purpose of this rule, the term ‘by mail’ applies only to the United States Postal Service. Applications forwarded by private delivery or courier service shall be deemed timely filed only if received by the clerk on or before the last day of the delay for filing.” *Id.*

2. “[T]he timeliness of the mailing shall be shown only by an official United States postmark or by official receipt or certificate from the United States Postal Service made at the time of mailing which indicates the date thereof.” *Id.* In other words, a postage-meter date isn’t good enough. Permissible proof of date of mailing includes any of the following if received from the postal clerk at time of mailing (*id.*, Revision Note—1978):

a. A certificate of mailing.

b. A receipt for certified mail.

c. A receipt for registered mail.

d. File original plus 8 copies. Rule 10 § 2(a).

e. Form of writ application (Rule 10 § 2(b)):

i. White, legal-size paper (8½ x 14 in.).

ii. Double spaced type.

iii. Margins between ¾ in. and 1¼ in. at left, right, and bottom.

iv. Margin between 1½ and 2 inches at top.

v. Bind in at least two places at top margin. Staples or
Louisiana Supreme Court writ practice

ACCO-type metal fasteners preferred.

vi. Typeface between 11 and 12 point.

f. Content of writ application:

i. Must contain:

1. A front cover. See Rule 7 § 3 for guidelines.

2. Behind the front cover, a writ-application filing sheet.


   b. See also Appendix C to Rules of Supreme Court of Louisiana.

   c. Note that the writ-app. cover sheet fulfills two functions:

      i. The verification required by Rule 10 § 2(c) and § 3.4.

      ii. The certificate of service.

3. If the application requires expedited consideration, a Civil Priority Filing Sheet or Criminal Priority Filing Sheet.

   a. You can download these from the Court’s web site; go to http://www.lasc.org/rules/supreme.asp.

   b. See also Appendices D and E to Rules of Supreme Court of Louisiana.

   c. For additional obligations when requesting priority consideration, see Rule 10 § 2(e).

4. Index (i.e. table of contents).

5. Statement of the considerations in Rule 10 § 1(a)
that are present in the case.

a. See also Rule 10 § 1(b): “The application for writs shall address, in concise fashion, why the case is appropriate for review under the considerations stated in [§ 1(a)] above ....”

b. [I]n concise fashion” means generally no longer than two pages.

6. A memorandum in support of the application, 25-pages or less (50-page limit for capital post-conviction case), containing:

   a. A concise statement of the case summarizing the nature of the case and prior proceedings;

   b. An assignment of errors in the opinion, judgment, ruling or order complained of;

   c. A summary of the argument, which should be a succinct but accurate and clear condensation of the argument actually made in the body of the memorandum. It should not be a mere repetition of the argument’s headings.

   d. An argument of each assignment of error on the facts and law, addressing why the case is appropriate for review under the considerations stated in Rule 10 § 1(a).

ii. Attachments: Civil case (Rule 10 § 3.5):

   1. Trial court judgment, order, or ruling; and trial court’s reasons for judgment, if reasons were written or transcribed. Rule 10 § 3.5(a).

   2. Court of appeal’s order and opinion, if any.

   3. Court of appeal’s ruling and opinion on rehearing, if any.
Louisiana Supreme Court writ practice

4. Must not attach (Rule 10 § 3.5(b)):
   a. Briefs filed in court of appeal.
   b. Other pleadings or documents, unless their inclusion is essential to demonstrate why the application should be granted.

iii. Attachments: Criminal case (Rule 10 § 4):

1. Copy of the charging document, if specifically relevant to the writ application.

2. Copy of minutes of proceedings in trial court, if specifically relevant to the judgment or order under review.

3. Copy of judgment, order, or ruling and opinion or reasons for judgment, if any, of the court of appeal, including rulings and opinions on rehearing or application for rehearing.

4. Copies of briefs of all parties filed in court of appeal relevant to issues raised by the application.

5. Where relevant to writ application, copy of the judgment, order, or ruling of the trial court, and reasons for same, if written or transcribed, and a copy of the pleadings on which the order or ruling is founded.

6. If required by Rule 10 § 5(b), copy of order of trial judge fixing time for filing application in Supreme Court, and any extensions of the deadline. If copy unavailable, an affidavit of the applicant or counsel indicating the contents of the order and explaining why it's unavailable.

7. The Court discourages other attachments, except for transcripts of relevant proceedings.

   g. Opposition to writ application (Rule 10 § 6).

   i. “Oppositions serve an important purpose in assisting the
court in the exercise of its discretionary jurisdiction. As such, the court encourages the filing of oppositions.” *Id.*

ii. Time to file: 15 days after filing of writ application, unless time for filing is extended.

1. Exception: if writ application requests emergency action or stay order, then opposition must be filed “immediately upon receipt of a copy of the application.” *Id.*

2. “[S]hould be as brief as possible, and must not exceed 25 pages in length.” *Id.*

h. What happens if the Court grants the writ application?

i. The Court may order peremptory relief. Rule 10 § 7(b).

ii. But usually the Court will order that the record be lodged with the clerk of the LSC. The case will then be placed on the calendar for oral argument, and the briefing schedule will kick in.


a. Time to file: Unless Court orders otherwise when it grants writs, briefs are due as follows (Rule 7 § 8(a)):

i. For appeals:

   1. Appellant: 30 days after record is lodged in Supreme Court.

   2. Appellee: 60 days after record is lodged.

ii. For writs of certiorari or review:

   1. Applicant: 25 days after writ is granted. “In lieu of filing a brief, the applicant may, within the time prescribed by Rule VII, Section 8(a), file 15 additional copies of the [writ] application (with or without the supporting exhibits) and any memorandum or brief filed in support of the application. [Rule 10 § 7(b)]”
Louisiana Supreme Court writ practice

2. Respondent: 45 days after writ is granted.
   
b. Form and content of brief: See Rule 7 §§ 2–7.


   
a. Time to file: 14 days after mailing of notice of judgment. No extensions. La. R.S. 13:4446(A); LSC Rule 9 § 1. (But you can get an extension on the supporting brief: See LSC Rule 9 § 3.)
   
b. You can file by mail. Same precautions as writs filed by mail. Rule 9 § 2.
   
c. You cannot apply for rehearing if any of the following applies:

   i. The Court has merely granted or denied a writ application (i.e. the Court has not ruled on the merits of the application). Rule 9 § 5.

   ii. The case has been decided on rehearing [id.], unless:

       1. You have not previously applied for and been granted rehearing.

       2. The Court, in deciding the case on rehearing, specifically reserves to the unsuccessful party or parties the right to apply for another rehearing.