

2.1.07 | MANDAMUS PETITIONS AND ANSWERS

Under 28 U.S.C. § 1651, the Supreme Court and all courts established by Congress may issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law. Petitions for writs of mandamus, prohibition, and other extraordinary relief are governed by Fed. R. App. P. 21.

- **Content and Format**

The petition must state the relief sought, the issues presented, the facts necessary to understand the issues presented, and the reasons why the writ should issue. Any parts of the record necessary to understand the matters set forth and a corporate disclosure statement must be attached. The petition must not exceed 7,800 words (30 pages if handwritten or typewritten), exclusive of any cover page, disclosure statement, table of contents, table of citations, signature block, certificates of counsel, and attachments. A certificate of compliance with type-volume limit is required if produced by computer. Fed. R. App. P. 21(d).

- **Answers to Mandamus Petitions**

The court may deny the petition without an answer. Otherwise, it must order the respondent to answer within a fixed time. The court of appeals may invite or order the trial-court judge to address the petition or may invite an amicus curiae to do so. The trial-court judge may request permission to address the petition but may not do so unless invited or ordered to do so by the court of appeals. Fed. R. App. P. 21(b).

The answer must not exceed 7,800 words (30 pages if handwritten or typewritten), exclusive of any cover page, disclosure statement, table of contents, table of citations, signature block, certificates of counsel, and attachments. A certificate of compliance with type-volume limit is required if produced by computer. Fed. R. App. P. 21(d).

- **Crime Victims' Rights Act**

Under the Crime Victims' Rights Act, the district court must permit a victim to be heard at any public proceeding



involving release, plea, sentencing, or parole of a criminal defendant. If this right is denied, the victim or the government may file a mandamus petition in the court of appeals, which the court of appeals must decide within 72 hours of filing. To facilitate the court of appeals' resolution of the petition within the 72-hour deadline, the petitioner is required to provide the clerk's office with advance notice of the filing of the petition, identify the petition as one asserting crime victims' rights pursuant to 18 U.S.C. § 3771(d)(3), and arrange for immediate service of the petition on the relevant parties. Local Rule 21(d).

(4th Circuit Court of Appeals // December 2023)

