

lous, the Court may award the respondent or appellee just damages, and single or double costs under Rule 43. Damages or costs may be awarded against the petitioner, appellant, or applicant, against the party's counsel, or against both party and counsel.

Rule 43. Costs

1. If the Court affirms a judgment, the petitioner or appellant shall pay costs unless the Court otherwise orders.

2. If the Court reverses or vacates a judgment, the respondent or appellee shall pay costs unless the Court otherwise orders.

3. The Clerk's fees and the cost of printing the joint appendix are the only taxable items in this Court. The cost of the transcript of the record from the court below is also a taxable item, but shall be taxable in that court as costs in the case. The expenses of printing briefs, motions, petitions, or jurisdictional statements are not taxable.

4. In a case involving a certified question, costs are equally divided unless the Court otherwise orders, except that if the Court decides the whole matter in controversy, as permitted by Rule 19.2, costs are allowed as provided in paragraphs 1 and 2 of this Rule.

5. To the extent permitted by 28 U.S.C. §2412, costs under this Rule are allowed for or against the United States or an officer or agent thereof, unless expressly waived or unless the Court otherwise orders.

6. When costs are allowed in this Court, the Clerk will insert an itemization of the costs in the body of the mandate or judgment sent to the court below. The prevailing side may not submit a bill of costs.

7. In extraordinary circumstances the Court may adjudge double costs.

Rule 44. Rehearing

1. Any petition for the rehearing of any judgment or decision of the Court on the merits shall be filed within 25 days after entry of the judgment or decision, unless the Court or a Justice shortens or extends the time. The petitioner shall file 40 copies of the rehearing petition and shall pay the filing fee prescribed by Rule 38(b), except that a petitioner proceeding *in forma pauperis* under Rule 39, including an inmate of an institution, shall file the number of copies required for a petition by such a person under Rule 12.2. The petition shall state its grounds briefly and distinctly and shall be served as required by Rule 29. The petition shall be presented together with certification of counsel (or of a party unrepresented by counsel) that it is presented in good faith and not for delay; one copy of the certificate shall bear the signature of counsel (or of a party unrepresented by counsel). A copy of the certificate shall follow and be attached to each copy of the petition. A petition for rehearing is not subject to oral argument and will not be granted except by a majority of the Court, at the instance of a Justice who concurred in the judgment or decision.

2. Any petition for the rehearing of an order denying a petition for a writ of certiorari or extraordinary writ shall be filed within 25 days

after the date of the order of denial and shall comply with all the form and filing requirements of paragraph 1 of this Rule, including the payment of the filing fee if required, but its grounds shall be limited to intervening circumstances of a substantial or controlling effect or to other substantial grounds not previously presented. The petition shall be presented together with certification of counsel (or of a party unrepresented by counsel) that it is restricted to the grounds specified in this paragraph and that it is presented in good faith and not for delay; one copy of the certificate shall bear the signature of counsel (or of a party unrepresented by counsel). The certificate shall be found with each copy of the petition. The Clerk will not file a petition without a certificate. The petition is not subject to oral argument.

3. The Clerk will not file any response to a petition for rehearing unless the Court requests a response. In the absence of extraordinary circumstances, the Court will not grant a petition for rehearing without first requesting a response.

4. The Clerk will not file consecutive petitions and petitions that are out of time under this Rule.

5. The Clerk will not file any brief for an *amicus curiae* in support of, or in opposition to, a petition for rehearing.

6. If the Clerk determines that a petition for rehearing submitted timely and in good faith is in a form that does not comply with the¹ Rule or with Rule 33 or Rule 34, the Clerk will return it with a letter indicating the deficiency. A corrected petition for rehearing received no more than 15 days after the date of the Clerk's letter will be deemed timely.

Rule 45. Process; Mandates

1. All process of this Court issues in the name of the President of the United States.

2. In a case on review from a state court, the mandate issues 25 days after entry of the judgment, unless the Court or a Justice shortens or extends the time, or unless the parties stipulate that it issue sooner. The filing of a petition for rehearing stays the mandate until disposition of the petition, unless the Court orders otherwise. If the petition is denied, the mandate issues forthwith.

3. In a case on review from any court of the United States, as defined by 28 U.S.C. §451, a formal mandate does not issue unless specially directed; instead, the Clerk of this Court will send the clerk of the lower court a copy of the opinion or order of this Court and a certified copy of the judgment. The certified copy of the judgment, prepared and signed by this Court's Clerk, will provide for costs if any are awarded. In all other respects, the provisions of paragraph 2 of this Rule apply.

Rule 46. Dismissing Cases

1. At any stage of the proceedings, whenever all parties file with the Clerk an agreement in writing that a case be dismissed, specifying the terms for payment of costs, and pay to the Clerk

¹ So in original. Probably should be "this".

any fees then due, the Clerk, without further reference to the Court, will enter an order of dismissal.

2. (a) A petitioner or appellant may file a motion to dismiss the case, with proof of service as required by Rule 29, tendering to the Clerk any fees due and costs payable. No more than 15 days after service thereof, an adverse party may file an objection, limited to the amount of damages and costs in this Court alleged to be payable or to showing that the moving party does not represent all petitioners or appellants. The Clerk will not file any objection not so limited.

(b) When the objection asserts that the moving party does not represent all the petitioners or appellants, the party moving for dismissal may file a reply within 10 days, after which time the matter will be submitted to the Court for its determination.

(c) If no objection is filed—or if upon objection going only to the amount of damages and costs in this Court, the party moving for dismissal tenders the additional damages and costs in full within 10 days of the demand therefor—the Clerk, without further reference to the Court, will enter an order of dismissal. If, after objection as to the amount of damages and costs in this Court, the moving party does not respond by a tender within 10 days, the Clerk will report the matter to the Court for its determination.

3. No mandate or other process will issue on a dismissal under this Rule without an order of the Court.

PART IX. DEFINITIONS AND EFFECTIVE DATE

Rule 47. Reference to “State Court” and “State Law”

The term “state court,” when used in these Rules, includes the District of Columbia Court of Appeals and the Supreme Court of the Commonwealth of Puerto Rico. See 28 U.S.C. §§1257 and 1258. References in these Rules to the common law and statutes of a State include the common law and statutes of the District of Columbia and of the Commonwealth of Puerto Rico.

Rule 48. Effective Date of Rules

1. These Rules, adopted January 27, 2003, will be effective May 1, 2003.

2. The Rules govern all proceedings after their effective date except to the extent that, in the opinion of the Court, their application to a pending matter would not be feasible or would work an injustice, in which event the former procedure applies.