

ALT. 4

RULE 41. ISSUANCE OF REMITTITUR; STAY OF REMITTITUR

(a) ~~When Issued; Contents.~~

~~(1) **When Issued.** The court's remittitur shall issue 25 days after the entry of judgment unless the time is shortened or enlarged by order. Unless an appeal or other proceeding is dismissed under Rule 42, a formal remittitur shall issue.~~

~~(2) **Contents.**~~ A certified copy of the judgment and ~~[**opinion**]~~ written decision of the court ~~[, if any,]~~ and any direction as to costs shall be included with the remittitur.

~~(b) **When Issued.** The court's remittitur shall issue 25 days after the entry of judgment unless the time is shortened or enlarged by order. Unless an appeal or other proceeding is an original proceeding under NRAP 5 or 21 or is dismissed under Rule 42, a formal remittitur shall issue.~~

~~(c) **Effective Date.** The remittitur is effective when issued.~~

~~(b)~~ **(d) Stay of Remittitur.**

(1) Petition for Rehearing or En Banc Reconsideration. The timely filing of a petition for rehearing or en banc reconsideration stays the remittitur until disposition of the petition, unless the court orders otherwise. If the petition is denied, the remittitur shall issue 25 days after entry of the order denying the petition, unless the time is shortened or enlarged by order.

(2) Petition for Review by Supreme Court. The timely filing of a petition for review by the Supreme Court of a Court of Appeals' decision shall stay the issuance of the remittitur of the Court of Appeals. Upon the issuance of an order denying a petition for review, the clerk of the Supreme Court shall issue the remittitur.

Commented [PJK1]: We don't issue remittiturs in writ proceedings under NRAP 21 or certified questions under NRAP 5 (which also don't involve federal questions subject to cert petitions).

(3) Application for Certiorari to the United States Supreme Court.

(A) A party may file a motion to stay the remittitur pending application to the Supreme Court of the United States for a writ of certiorari. The motion must be served on all parties and must show there is good cause for a stay and identify the question(s) ~~demonstrate that a federal question previously presented on appeal is the party expects to be presented to the United States Supreme Court. The motion must include a citation to where the federal question(s) identified were raised and resolved in Nevada state courts was presented and, if not, state why the motion should not be denied.~~

(B) The stay shall not exceed 120 days, unless the period is extended for cause shown. If during the period of the stay there is filed with the clerk of the Supreme Court of Nevada a notice from the clerk of the Supreme Court of the United States that the party who has obtained the stay has filed a petition for the writ in that court, the stay shall continue until final disposition by the Supreme Court of the United States.

(C) The court may require a bond or other security as a condition to granting or continuing a stay of the remittitur.

(D) The clerk of the Supreme Court shall issue the remittitur immediately when a copy of a United States Supreme Court order denying the petition for writ of certiorari is filed.