

RULE REQUIREMENTS FOR PREPARATION OF BRIEFS AND APPENDICES

BRIEFS

1. **Certificate of Compliance.** All briefs filed in this Court must include the attached certificate of compliance form certifying that the brief complies with the typeface and length limitations of FRAP 32(a).

2. **Typeface.** Counsel must certify that the brief has been produced using either 14 point proportional, serif typeface or 12 point monospaced typeface. Proportional typeface, such as CG Times or Times New Roman, gives a different amount of horizontal space to characters depending on the width of the character. If proportional typeface is used, the typeface must have serifs (small horizontal or vertical strokes at the ends of the letters). Sans-serif type, such as Arial, may not be used except in captions and headings. Monospaced typeface, such as Courier or Courier New, is one in which all characters are given the same horizontal space on the line. All typeface requirements apply to footnotes as well as text.

3. **Length.** The Court encourages short, concise briefs. Motions to exceed the length limitations set by FRAP 32(a) are disfavored and will be granted only for exceptional reasons. Any motion to exceed the length limitations must be filed at least 10 calendar days in advance of the due date and must be supported by a statement of reasons. Local Rule 32(b).

A principal brief must not exceed:

- ▶ 30 pages (unless brief is within word or line limits listed below); **or**
- ▶ 14,000 words, based upon word count of word processing system; **or**
- ▶ 1,300 lines, based upon line count of word processing system (line count may be used **ONLY** for briefs prepared in monospaced type).

Headings, footnotes, and quotations count towards the word and line limitations. The corporate disclosure statement, table of contents, table of citations, statement with respect to oral argument, any addendum containing statutes, rules or regulations, and any certificates of counsel do not count towards the length limitations.

A reply brief must not exceed:

- ▶ 15 pages (unless brief is within word or line limits listed below); **or**
- ▶ 7,000 words, based upon word count of word processing system; **or**
- ▶ 650 lines, based upon line count of word processing system (line count may be used ONLY for briefs prepared in monospaced type).

4. Line Spacing, Margins. Briefs must be on 8 ½ by 11" paper. Text must be double-spaced, but quotations more than two lines long may be indented and single-spaced. Headings and footnotes may be single-spaced. Margins must be at least one inch on all four sides. Page numbers may be placed in margins, but no text may appear there.

5. Organization, Contents. Appellant's brief must contain, under appropriate headings and in the order indicated:

- ▶ **Corporate Disclosure Statement**, if required by Fed. R. App. P. 26.1 or Local Rule 26.1.
- ▶ **Table of Contents**, with page references.
- ▶ **Table of Authorities**-- cases (alphabetically arranged), statutes, and other authorities--with references to the pages of the brief where they are cited.
- ▶ **Jurisdictional Statement**, including (i) the basis for the district court's or agency's subject matter jurisdiction, with citations to applicable statutory provisions and stating relevant facts establishing jurisdiction; (ii) the basis for the court of appeals' jurisdiction, with citations to applicable statutory provisions and stating relevant facts establishing jurisdiction; (iii) the filing dates establishing the timeliness of the appeal or petition for review; and (iv) an assertion that the appeal is from a final order or judgment that disposes of all parties' claims or information establishing the court of appeals' jurisdiction on some other basis.
- ▶ **Statement of the Issues** presented for review.
- ▶ **Statement of the Case**, briefly indicating the nature of the case, the course of proceedings, and the disposition below.
- ▶ **Statement of Facts**. The statement shall contain a narrative statement of all of the facts necessary for the court to reach the conclusion which the brief desires, with appendix references showing the source of the facts stated. The parties are reminded that pursuant to Local Rule 10(a) the record is retained in the lower court and all portions of the record necessary for review of the matters presented must be reproduced in the joint appendix.
- ▶ **Summary of Argument**, which must contain a succinct, clear, and accurate statement of the arguments made in the body of the brief, and which must not merely repeat the argument headings.

- ▶ **Argument.** The argument section is comprised of the standard of review and the discussion of issues.
 - **Standard of Review.** For each issue, counsel must include a concise statement of the applicable standard of review. This statement may appear in the discussion of each issue or under a separate heading placed before the discussion of the issues. The court prefers a separate statement of the standard of review at the beginning of the argument section.
 - **Discussion of Issues.** Appellant’s contentions and the reasons for them, with citations to the authorities and appendix references on which appellant relies.
- ▶ **Conclusion,** briefly stating the precise relief sought.
- ▶ **Request for Oral Argument,** if counsel requests argument.
- ▶ **Signature of Counsel** pursuant to FRAP 32(d).
- ▶ **Addendum.** Each party shall include, in the body of the brief or in an addendum thereto, the verbatim text of the relevant portion of any constitutional provision, treaty, statute, ordinance, rule or regulation cited in the brief, if its construction is sought, there is controversy among the parties concerning its proper application to the case, or it is otherwise pertinent to the substantive issues on appeal. Each party shall also include in the addendum any unpublished opinion of this Court cited pursuant to Local Rule 36(c). The pages of the addendum must be separately numbered.
- ▶ **Certificate of Compliance** with typeface and length limitations of FRAP 32(a).
- ▶ **Certificate of Service,** with addresses.

Appellee’s brief must conform to the requirements for appellant’s brief, except that none of the following need appear unless appellee is dissatisfied with appellant’s statement:

- ▶ **Jurisdictional Statement**
- ▶ **Statement of the Issues**
- ▶ **Statement of the Case**
- ▶ **Statement of Facts**
- ▶ **Statement of the Standard of Review**

A reply brief must contain:

- ▶ **Table of Contents,** with page references
- ▶ **Table of Authorities,** with page references
- ▶ **Certificate of Compliance** with typeface and length limitations of FRAP 32(a)
- ▶ **Certificate of Service,** with addresses.

APPENDICES

1. Responsibility of the Parties. Notwithstanding that FRAP 30 provides that the appellant shall prepare and file the appendix, the Court considers the coordination of preparing the appendix to be the responsibility of both sides pursuant to Local Rule 30(c). The failure of one side to designate does not absolve the other side from the responsibility.

The parties are encouraged to agree on the contents of the appendix. In the absence of agreement, the appellant must, within 10 days of entry of the briefing order, serve on appellee a designation of the parts of the record appellant intends to include and a statement of the issues appellant intends to present. The appellee may, within 10 days after receipt of the designation, serve on appellant a designation of additional parts to which appellee wishes to direct the Court's attention. Copies of the parties' designations should *not* be filed with the Court. FRAP 30(b)(1).

The appellant must include all designated parts in the appendix. Unless the parties otherwise agree, the cost of producing the appendix shall initially be paid by the appellant, but if the appellant considers parts of the record designated by appellee unnecessary for determination of the issues presented, appellant may so advise the appellee, and appellee must advance the cost of including such parts. The costs of producing the appendix are generally taxable in civil cases under FRAP 39 at the close of the case, but if either party causes matters to be included in the appendix unnecessarily the court may impose the cost of producing such parts on that party. FRAP 30(b)(2); Local Rule 30(a).

2. Organization, Contents. The parties must file an appendix containing all portions of the record necessary for review of the matters presented. Because the record is retained in the lower court pursuant to Local Rule 10(a), this Court will not remedy deficiencies in the appendix by reference to the record. Rather, the party at fault will be required to bear the cost of preparing a corrected joint appendix regardless of the outcome of the appeal. The following are specifically required for the appendix:

- ▶ **Table of Contents, with page numbers**
- ▶ **District Court Docket Sheet**
- ▶ **Complaint (civil appeals) or Indictment (criminal appeals)**
- ▶ **Relevant portions of the pleadings, transcript, charge, findings, opinions, and other parts of the record**
- ▶ **Judgment, Order, or Decision in question**

▶ **Notice of Appeal**

After the table of contents and the district court docket sheet, the parts of the record must be set out in chronological order. Each page of the appendix must be consecutively numbered.

In all criminal appeals seeking review of the application of the sentencing guidelines, appellant shall include the sentencing hearing transcript and presentence report in the appendix. The presentence report must be included in a separate sealed volume accompanied by a certificate stating that the volume contains sealed material.

3. Length of Appendices. In court-appointed cases where reimbursement is sought from the Court, no joint appendix may exceed 250 sheets of double-sided copying (500 pages) without advance permission from the Court. Absent such permission, reimbursement of copying costs will be limited to 250 sheets.

4. Condensed Transcript. The Court will not accept appendices containing “condensed” transcript wherein several pages of transcript appear on a single sheet.

GENERAL PROVISIONS

1. Sealed Materials. Counsel must segregate sealed material into a separate sealed supplement to the brief or appendix in order to avoid the need to seal the entire brief or appendix. The sealed volume must be accompanied by a certificate of confidentiality completed on the enclosed form. Counsel must conspicuously mark the cover of any brief or appendix volume containing or otherwise disclosing sealed material **SEALED**. Counsel shall file a total of 4 sealed briefs or appendix volumes and shall enclose the 4 copies in an envelope marked **SEALED**.

2. **Cover.** Briefs and appendices must have covers, which are color coded as follows:

- ▶ **Appendix: White**
- ▶ **Appellant's opening brief: Blue**
- ▶ **Appellee's brief: Red**
- ▶ **Reply brief: Grey**
- ▶ **Appellee/Cross-appellant's opening/answering brief: Red**
- ▶ **Appellant/Cross-appellee's reply/answering brief: Red**
- ▶ **Intervenor or amicus curiae's brief: Green**
- ▶ **Supplemental brief of any party: Tan**

3. **Cover Information.** Covers of briefs and appendices must be labeled with the following information:

- ▶ **Fourth Circuit docket number, centered at the top (do not include lower court or agency docket number)**
- ▶ **United States Court of Appeals for the Fourth Circuit**
- ▶ **Title of the case (parties' names)**
- ▶ **Nature of proceeding (e.g., Appeal, Petition for Review) and name of court, agency, or board below**
- ▶ **Title of the brief, identifying the party or parties for whom the brief is filed**
- ▶ **Names, addresses, and telephone numbers of lead counsel and all counsel participating in preparation of the brief (include names, addresses, and telephone numbers of opposing counsel on appendix only, not on the briefs)**

4. **Bindings.** Briefs and appendices must be bound in a manner that is secure, does not obscure the text, and permits the document to lie reasonably flat when open. Preferred binding methods are: Spiral, plastic-ring binding; "Cheshire" hot-glued tape binding; and "Perfect" binding. Clip-on, pressure-type binding methods that do not penetrate completely through the document and fasten securely on both sides, and single staples are not acceptable. Each bound volume should not exceed 1 ½" in thickness.

5. **Copies.** Double-sided copying of the appendix is required in court-appointed cases when the appendix is prepared by a commercial printer, and is preferred for appendices in all cases. Double-sided copying is permissible, but is not preferred for briefs. Counsel must file and serve the following number of briefs and appendices:

- ▶ **Parties not proceeding in forma pauperis:** file a total of 8 briefs and 6 appendices; serve 2 copies of the brief and 1 copy of the appendix on counsel for each party separately represented.
- ▶ **Parties represented by court-appointed counsel:** file a total of 6 briefs and 5 appendices; serve 1 copy of the brief and appendix on counsel for each party separately represented.
- ▶ **Parties proceeding in forma pauperis who are not represented by court-appointed counsel:** file a total of 4 briefs and 4 appendices; serve 1 copy of the brief and appendix on counsel for each party separately represented.

6. Citation of Supplemental Authorities under FRAP 28(j). If pertinent and significant authorities come to a party's attention after the party's brief is filed - or after oral argument but before decision - a party may promptly advise the circuit clerk by letter, with a copy to all other parties, setting forth the citations. The letter must state the reasons for the supplemental citations, referring either to the page of the brief or to a point argued orally. The body of the letter must not exceed 350 words. Counsel must file 4 copies of the letter. Any response must be made promptly and must be similarly limited. A copy must be sent to all other parties, and 4 copies must be filed with the Court.