

THE QUICK GUIDE SERIES

United States Court of Appeals

FOR THE ELEVENTH CIRCUIT

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GUIDELINES
UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

Alabama, Georgia and Florida

INTRODUCTION

This serves only as a quick reference guide for filing Briefs and Record Excerpts. **THE QUICK GUIDE SERIES** outlines procedures on how documents should be sequenced, paginated, indexed, titled, printed and bound. In addition, it contains formatting requirements for Briefs as well as information on service and filing deadlines. Please call Record Press for clarification, and our expert staff of attorneys and paralegals will assist you. For a comprehensive reference, consult the actual rules of the court, which can be downloaded from the court's Website at www.call.uscourts.gov.

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Record Press Inc.

Natasha R. Monell, Esq.
Staff Counsel

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THE QUICK GUIDE SERIES	
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RECORD EXCERPTS
11th Cir. R. 30

Appeals from district courts and the tax court shall be on the original record without requirement of the appendix prescribed by FRAP 30. At the time of filing a brief, appellant shall file five copies of the following portions, and only the following portions of the district court or tax court record, to be bound together but not in the brief:

- (a) the district court or tax court docket sheet, including, in bankruptcy appeals, the bankruptcy court docket sheet
- (b) the indictment, information, complaint or petition as amended
- (c) answer, response, counterclaim, cross-claim, and replies thereto
- (d) those parts of any pretrial order relative to the issues on appeal
- (e) judgment or interlocutory order appealed from
- (f) any other order or orders sought to be reviewed, including, in bankruptcy appeals, the order(s) of the bankruptcy court appealed to the district court
- (g) any supporting opinion, findings of fact and conclusions of law
- (h) if the correctness of a jury instruction is in issue, the instruction in question and any other relevant part of the jury charge
- (i) a magistrate's report and recommendation, when appealing a court order adopting same in whole or in part
- (j) findings and conclusions of an administrative law judge, when appealing a court order review an administrative agency determination involving same
- (k) the relevant parts of any document, such as a plea agreement, insurance policy, other contract, or ERISA plan, whose interpretation is central to the issues on appeal
- (l) certificate of service

Record excerpts shall be assembled with a front and back durable (at least 90#) white covering and shall be bound across the top with a secure fastener. Indexing tabs shall be affixed to the first page of each document in the record excerpts to identify and assist in locating the document. Indexing tabs which extend beyond the edge of the page should be staggered in sequence from top to bottom along the right-hand side. Tab numbers should correspond to the original document numbers assigned by the district court and noted on the district court docket sheet. The district court docket sheet should also be tabbed and identified.

An index identifying each document contained in the record excerpts and its tab number shall be included immediately following the cover page. Record excerpts shall include a certificate of service. One copy shall be served on counsel for each party separately represented. Record excerpts shall be printed one-sided.

Only portions of transcripts permitted by 11th Cir. R. 30-1(g) and (h) should be included in Record Excerpts. If parties wish to provide other relevant portions of transcripts to the court, they may be included in an addendum incorporated within the brief.

BRIEFS
11th Cir. R. 28

Appellant's Brief

- (1) Certificate of interested persons and corporate disclosure statement (Mandatory for all parties including governmental parties. See 11th Cir. R. 26.1)
- (2) Statement regarding oral argument
- (3) Table of contents
- (4) Table of authorities (Shall contain asterisks in the margin identifying the citations upon which the party primarily relies)
- (5) Statement regarding adoption of briefs of other parties
- (6) Statement of jurisdiction
- (7) Statement of the issues
- (8) Statement of the case
- (9) Summary of argument
- (10) Argument and citations of authority
- (11) Conclusion (Signature of counsel required)
- (12) Certificate of compliance
- (13) Certificate of service

Appellee's Brief

The brief of the appellee shall conform to the requirements of appellant's briefs, except that statements of jurisdiction, issues and of the case need not be made unless the appellee is dissatisfied with the statements of the appellant.

Reply Brief

A reply brief need contain only the following items: table of contents, table of authorities, argument and citations of authority, certificate of compliance, and certificate of service.

11th Cir. R. 32-4 Pagination for Briefs

The pages of each brief shall be consecutively numbered except that the cover, certificates of interested persons and corporate disclosure statement, statement regarding oral argument, tables of contents and authorities, statement regarding adoption of briefs of other parties, statement of jurisdiction, certificate of compliance, certificate of service and any addendum need not be numbered and do not count towards page limitations or type-volume limitations.

11th Cir. R. 26.1 Certificate of Interested Persons and Corporate Disclosure Statement

A certificate shall be furnished by appellants, appellees, intervenors and amicus curiae, including governmental parties, which contains a complete list of the trial judge(s), all attorneys, persons, associations of persons, firms, partnerships, or corporations that have an interest in the outcome of the particular case or appeal, including subsidiaries, conglomerates, affiliates and parent corporations, including any publicly held company that owns 10% or more of the party's stock, and other identifiable legal entities related to a party. In criminal and criminal-related appeals, the certificate shall also disclose the identity of the victim(s). In bankruptcy appeals, the certificate shall also identify the debtor, the members of the creditor's committee, any entity which is an active participant in the proceedings, and other entities whose stock or equity value may be substantially affected by the outcome of the proceedings.

The certificate must immediately follow the cover page within a principal brief, and must precede the text in a petition, answer, motion or response. The certificate must list persons (last name first) and entities in alphabetical order, have only one column, and be double-spaced. A

corporate entity must be identified by its full corporate name as registered with a secretary of state's office and, if its stock is publicly listed, its stock ("ticker") symbol must be provided after the corporate name. At the top of each page the court of appeals docket number and short style shall be noted (name of first-listed plaintiff or petitioner v. name of first-listed defendant or respondent). Each page of the certificate must be separately sequentially numbered to indicate the total number of pages comprising the certificate (e.g., C-1 of 3, C-2 of 3, C-3 of 3). These pages do not count against any page limitations imposed on the papers filed.

11th Cir. R. 31-5 Electronic Briefs

In addition to and contemporaneous with the filing of any paper brief, counsel for any party or amicus curiae shall provide the court with the same brief in electronic format. All electronic briefs shall be in Adobe Acrobat® PDF file format. The time for serving and filing a brief is determined by service and filing of the paper brief, which is the official record copy of the brief, and is not affected in any way by providing electronic briefs. If corrections are required to be made to the paper brief, a corrected copy of the electronic brief shall be provided.

An electronic brief shall be uploaded to the court's Website (www.ca11.uscourts.gov) in accordance with this rule and directions to be provided by the clerk. An electronic brief in its entirety, including all required contents, must be combined and contained in a single electronic document or file. In the alternative, at the direction of the clerk or with the clerk's permission, an electronic brief may be provided in another format, including (but not limited to) floppy disk or CD-ROM as described in this rule.

If the clerk permits an electronic brief to be provided on CD-ROM or floppy disk, it shall be enclosed in an appropriate holder and fastened securely to the last page of each copy of the paper brief filed with the court. Appendices may be included in the electronic brief, but are not required to be included. Hypertext links or bookmarks to cases, statutes and other reference materials available on the Internet or appended to the brief are authorized. In addition, documents referenced in hypertext links also may be included on the CD-ROM itself provided the materials

are in Adobe Acrobat® PDF format and there is no infringement of copyrighted works. Each disk shall be labeled with the following information: appeal docket number, short style of the appeal, type of brief (e.g., appellant's, appellee's, appellant's reply, etc., with or without hypertext links), the document format (Adobe Acrobat® PDF), and the date of service. One copy of such disk or CD-ROM shall also be served on counsel for each party separately represented as well as on each *pro se* party who is not incarcerated. The certificate of service shall indicate the date of service of the brief in both paper and electronic formats.

FRAP 32(a) Form of Briefs

(1) Reproduction

- (A) The paper must be opaque and unglazed. Only one side of the paper may be used.
- (B) Text must be reproduced with a clarity that equals or exceeds the output of a laser printer.
- (C) Photographs, illustrations, and tables may be reproduced by any method that results in a good copy of the original; a glossy finish is acceptable if the original is glossy.

(2) Cover

The cover of the appellant's brief must be blue; the appellee's, red; an intervenor's or amicus curiae's, green; and reply brief, gray. The front cover of a brief must contain:

- (A) the number of the case centered at the top;
- (B) the name of the court;
- (C) the title of the case;
- (D) the nature of the proceeding and the name of the court, agency, or board below;
- (E) the title of the brief, identifying the party or parties for whom the brief is filed; and
- (F) the name, office address, and telephone number of counsel representing the party for whom the brief is filed.

(3) Binding

The brief must be bound on the left in any manner that is secure, does not obscure the text, and permits the brief to lie reasonably flat when open.

(4) Paper Size, Line Spacing, and Margins

The brief must be on 8½ by 11 inch paper. ~~The 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 the margins, but no text may appear there.

NOTE: (11th Cir. R. 32) Only the cover page, the certificate of service, direct quotes, headings and footnotes may be single-spaced. All other typed matter must be double-spaced, including the table of contents and the table of authorities.

(5) Typeface

Either a proportionally spaced (i.e. Times Roman) or a monospaced (i.e. Courier) typeface may be used.

(A) A proportionally spaced typeface must include serifs, but sans-serif type may be used in headings and captions. A proportionally spaced typeface must be 14-point or larger.

(B) A monospaced face may not contain more than 10½ characters per inch.

(6) Type Styles

A brief must be set in a plain, roman style, although italics or boldface may be used for emphasis. Case names must be italicized or underlined.

(7) Length

(A) ***Page limitation*** A principal brief may not exceed 30 pages, or a reply brief 15 pages, unless it complies with Rule 32(a)(7)(B) and (C).

(B) ***Type-volume limitation***

(i) A principal brief is acceptable if:

- it contains no more than 14,000 words; or
- it uses a monospaced face and contains no more than 1,300 lines of text.

(ii) A reply brief is acceptable if it contains no more than half of the type volume specified in Rule 32(a)(7)(B)(i).

(iii) Headings, footnotes, and quotations count toward 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 toward the limitation.

(C) ***Certificate of compliance*** A brief submitted under Rule 32(a)(7)(B) must include a certificate by the attorney, or an unrepresented party, that the brief complies with the type-volume limitation. The person preparing the certificate may rely on the word or line count of the word-processing system used to prepare the brief. The certificate must state either:

- (i) the number of words in the brief; or
- (ii) the number of lines of monospaced type in the brief.

REQUIREMENTS FOR TYPOGRAPHY IN BRIEFS

Federal Rule of Appellate Procedure 32(a) contains detailed requirements for the production of briefs. FRAP 32(a) is designed not only to make documents more readable but also to ensure that different methods of reproduction (and different levels of technological sophistication among lawyers) do not affect the length of a brief. The following information may help you better understand FRAP 32(a) and associated local rules.

1. FRAP 32(a)(1)(B) requires text to be reproduced with “a clarity that equals or exceeds the output of a laser printer.” The resolution of a laser printer is expressed in dots per inch. First generation laser printers broke each inch into 300 dots vertically and horizontally, creating characters from this 90,000-dot matrix. Second generation laser printers use 600 or 1200 dots per inch in each direction and thus produce a sharper, more easily readable output; commercial typesetters use 2400 dots per inch.

Any means of producing text that yields 300 dots per inch or more is acceptable. Daisy-wheel, typewriter, commercial printing, and many ink-jet printers meet this standard, as do photocopies of originals produced by these methods. Dot matrix printers and fax machines use lower resolution, and their output is unacceptable.

2. FRAP 32(a)(5) distinguishes between proportional and monospaced fonts, and between serif and sans-serif type. It also requires knowledge of points and pitch.

Proportionally spaced type uses different widths for different characters. A monospaced face, by contrast, uses the same width for each character. Most typewriters produce monospaced type, and most computers also can do so using fonts with names such as “Courier” or “Courier New.” The rule leaves to each lawyer the choice between proportional and monospaced type.

This sentence is in a proportionally spaced font; as you can see, the m and i have different widths.

This sentence is in a monospaced font; as you can see, the m and i have the same width.

Serifs are small horizontal or vertical strokes at the ends of the lines that make up the letters and numbers. The next line shows two characters enlarged for detail. The first has serifs, the second does not.



Studies have shown that long passages of serif type are easier to read and comprehend than long passages of sans-serif type. The rule accordingly limits the principal sections of briefs to serif type, although sans-serif type may be used in headings and captions.

This sentence is in New Century Schoolbook, a proportionally spaced font with serifs. Baskerville, Bookman, Caslon, Garamond, Georgia, and Times are other common serif faces.

This sentence is in Helvetica, a proportionally spaced sans-serif font. Arial, Eurostile, Trebuchet, Univers, and Verdana are other common sans-serif faces.

Type must be large enough to read comfortably. For a monospaced face, this means type approximating the old “pica” standard used by typewriters, 10 characters per horizontal inch, rather than the old “elite” standard of 12 characters per inch. Because some computer versions of monospaced type do not come to exactly 10 characters per inch, FRAP 32(a)(5)(B) allows up to 10½ characters per inch, including punctuations and spaces.

Proportionally spaced characters vary in width, so a limit of characters per line is not practical. Instead FRAP 32(a)(5)(A) requires a minimum of 14-point type. Local rules may vary. “Point” is a printing term for the height of a character. Word processing and page layout programs can expand or condense the type using tracking controls, or you may have access to a condensed version of the face. Do not use these. Condensed type is prohibited by FRAP 32(a)(6). It offers no benefit to counsel under an approach that measures the length of briefs in words rather than pages, and it is to your advantage to make the brief as legible as possible.

This is 9-point type.

This is 10-point type.

This is 11-point type.

This is 12-point type.

This is 12-point type, condensed. Condensed type is not acceptable.

This is 13-point type.

This is 14-point type.

3. FRAP 32(a)(6) provides that the principal type must be a plain, roman style. In other words, the main body of the document cannot be bold, italic, capitalized, underlined, narrow, or condensed. This helps to keep the brief legible. Italics or underlining may be used only for case names or occasional emphasis. Boldface and all-caps text should be used sparingly.

4. FRAP 32(a)(7) determines the maximum length of a brief. The variability of proportionally spaced type makes it necessary to express this length in words rather than pages.

Lawyers who choose monospaced type may avoid word counts by counting lines of type. Unless the brief employs a lot of block quotes or footnotes it will be enough to count pages and multiply by the number of lines per page. (Fifty pages at 26 lines per page is 1,300 lines.) The line-count option is not available when the brief uses proportional type.

For most courts, principal briefs of 30 pages or less, and reply briefs of 15 pages or less, need not be accompanied by a word or line count. Think of FRAP 32(a)(7)(A) as a safe harbor. Lawyers who need more should use FRAP 32(a)(7)(B). A brief that meets the type volume limitations of FRAP 32(a)(7)(B) is acceptable without regard to the number of pages it contains, as long as it is accompanied by a signed certificate of compliance.

TIME SCHEDULE

11th Cir. R. 31

The appellant shall serve and file a record excerpt and brief within 40 days after the date on which the original record is deemed filed. The appellee shall serve and file a brief within 30 days after service of the brief of the last appellant. The appellant may serve and file a reply brief within 14 days after service of the brief of the last appellee.

The clerk's office will send counsel and pro se parties a letter confirming the due date for filing appellant's brief consistent with the provisions of 11th Cir. R. 12-1 and 31-1, but delay in or failure to receive such a letter does not affect the obligation of counsel and pro se parties to file the brief within the time permitted by 11th Cir. R. 31-1. The clerk's office will also advise counsel and pro se parties of the rules and procedures governing the form of briefs. (I.O.P. 31)

FILING AND SERVICE

FRAP 25

Service and filing of briefs and record excerpts may be personal, by mail, or by third-party commercial carrier for delivery within 3 calendar days. Filing and service by mail or by commercial carrier is complete on mailing or delivery to the carrier. The Certificate of Service must state the date and manner by which the document was mailed or dispatched to the Clerk of the Court.

SPECIFICATION CHART

Document	Color	Limitation	Serve	File
Record Excerpts	white	no limit	1	5
Appellant's Brief	blue	14,000 words	1	7
Appellee's Brief	red	14,000 words	1	7
Reply Brief	gray	7,000 words	1	7
Amicus Brief	green	7,000 words	1	7
Petition for Rehearing	white	15 pages	2	4
Petition for Rehearing En Banc	white	15 pages	2	15
Motion	—	20 pages	1	4
Cross-Appellant's Brief	red	16,500 words	1	7
Cross-Appellee's Brief	yellow	14,000 words	1	7

SAMPLE COVER

00-0000

IN THE
United States Court of Appeals
FOR THE ELEVENTH CIRCUIT

RECORD PRESS, INC., *Plaintiff-Appellant,*

—v.—

ALL OTHER PARTIES, *Defendants-Appellees.*

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE _____ DISTRICT OF _____

BRIEF FOR DEFENDANTS-APPELLEES

Law Firm
Attorneys for Defendants-Appellees
Address
Phone

Of Counsel:

APPELLATE SERVICES

Paralegal Services

Our experienced paralegals offer procedural assistance to any federal or state appellate court, so your appeal is always in compliance.

In-Court Work

We transmit, subpoena, retrieve or copy court's files on request.

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Our paralegals thoroughly review, organize, and index your record/appendix documents in compliance with each court's requirements.

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Scanning and Electronic Pagination

Custom-made imaging and document-management software is used to scan documents and store them electronically for more efficient pagination and revisions.

Working with Proofs

We produce a courtesy proof of your record/appendix within 72 hours—providing you with a final opportunity to make corrections.

Finalizing and Printing

Since your documents are stored electronically, we are able to quickly finalize and print the necessary copies of your record/appendix and brief.

Service and Filing

We serve and file your documents with any of the state and federal appellate courts.

CaseMonitor®

Technology which allows our staff to electronically monitor the Court Calendar for the New York State, Appellate Division First and Second Departments and notify you when your appeal is scheduled for oral argument.

Website

Your legal practice will benefit from fast access to information and rules on the Internet. Our goal at Record Press is to present you with the most informative and useful Website in the industry.