

**THE QUICK GUIDE SERIES**

**United States Court of Appeals**

**FOR THE EIGHTH CIRCUIT**

---

**Thomas F. Eagleton Courthouse  
111 South 10th Street  
Suite 24.329  
Saint Louis, Missouri 63102  
(314) 244-2400  
[www.ca8.uscourts.gov](http://www.ca8.uscourts.gov)**



**GUIDELINES**  
**UNITED STATES COURT OF APPEALS**  
**FOR THE EIGHTH CIRCUIT**

*Arkansas, Iowa, Minnesota, Missouri,  
Nebraska, North Dakota and South Dakota*

**INTRODUCTION**

This serves only as a quick reference guide for filing Briefs and Appendices. **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.ca8.uscourts.gov](http://www.ca8.uscourts.gov).

October 2008  
Record Press Inc.

Natasha R. Monell, Esq.  
*Staff Counsel*

## OUR COMPANY

Established in 1945, Record Press has earned an excellent reputation providing the legal community with highly skilled and efficient para-legal, typographic, digital printing and binding services. We offer an unparalleled degree of appellate service to clients whose list includes the highest courts and the most prestigious law firms in the United States. The unique combination of our experience and state-of-the-art technology allow us to handle the most complex of cases in a highly efficient way.

Our printing facilities have been digitized. We use our customized software to scan, process, compress, and store legal documents electronically. This cutting-edge technology allows for fast editing, pagination, clear reproduction, and portability. An entire appellate filing can be downloaded onto a CD-ROM. The record/appendix and cases can be hyperlinked to the briefs for easy cross-referencing. State and federal courts are increasingly using our convenient CD-BRIEF technology.

For additional information on services we provide to benefit your legal practice, visit our Website at [www.recordpress.com](http://www.recordpress.com).

For copies of **THE QUICK GUIDE SERIES** please contact our Sales Department.

<b>THE QUICK GUIDE SERIES</b>	
<b>NEW YORK SUPREME COURT</b> Appellate Division—First Department Appellate Division—Second Department Appellate Division—Third Department Appellate Division—Fourth Department Appellate Term—First Department Appellate Term—Second Department	<b>UNITED STATES COURT OF APPEALS</b> First Circuit Second Circuit Third Circuit Fourth Circuit Fifth Circuit Sixth Circuit Seventh Circuit Eighth Circuit Ninth Circuit Tenth Circuit Eleventh Circuit Federal Circuit District of Columbia Circuit
<b>NEW YORK STATE COURT OF APPEALS</b>	<b>UNITED STATES SUPREME COURT</b>

# TABLE OF CONTENTS

	PAGE
INTRODUCTION .....	i
OUR COMPANY .....	ii
TABLE OF CONTENTS .....	iii
APPENDIX .....	1
Contents of Appendix .....	1
BRIEFS.....	2
Appellant’s Brief .....	2
Appellee’s Brief .....	2
Reply Brief .....	3
Addendum to Briefs .....	3
Digital Versions of the Brief .....	3
Form of Briefs.....	4
REQUIREMENTS FOR TYPOGRAPHY IN BRIEFS.....	7
TIME SCHEDULE .....	10
FILING AND SERVICE.....	10
SPECIFICATION CHART .....	11
SAMPLE COVER .....	12
APPELLATE SERVICES.....	13

## **APPENDIX**

### **FRAP 30**

#### **Contents of Appendix**

The appellant shall prepare and file an appendix to the briefs which shall contain: (1) the relevant docket entries in the proceeding below; (2) any relevant portions of the pleadings, charge, findings or opinion; (3) the judgment, order or decision in question; and (4) any other parts of the record to which the parties wish to direct the particular attention of the court. Except where they have independent relevance, memoranda of law in the district court should not be included in the appendix.

The appendix must begin with a table of contents identifying the page at which each part begins. The relevant docket entries must follow the table of contents. Other parts of the record must follow chronologically.

Pursuant to FRAP 32(a), the appendix shall be printed one-sided.

#### **8th Cir. R. 30A**

After filing the notice of appeal, appellant must notify the clerk and all opposing parties in writing of the decision to prepare either a joint appendix or separate appendices.

The appellee may file a separate appendix containing material not included in the appellant's appendix. Appellee shall refer to record material found in appellant's separate appendix rather than duplicating the material.

If the parties conclude after the opening briefs have been filed that relevant material has been omitted from the joint appendix, they may agree to file a supplemental appendix. In the absence of agreement, either party may move this court to direct the clerk of the district court to transmit additional portions of the record.

## **BRIEFS FRAP 28**

### **Appellant's Brief**

- (1) Summary of the case and request for oral argument or waiver
- (2) Corporate disclosure statement (Mandatory for all corporate parties)
- (3) Table of contents
- (4) Table of authorities
- (5) Jurisdictional statement
- (6) Statement of issues presented for review
- (7) Statement of the case
- (8) Statement of facts
- (9) Summary of argument
- (10) Argument and applicable standard of review
- (11) Conclusion (Signature of counsel required)
- (12) Certificate of compliance. The certificate of compliance must also include the name and version of the word processing software used to prepare the brief, and a certification that the diskette has been scanned for viruses and is virus-free.
- (13) District court opinion/administrative agency decision on review
- (14) Addendum (See 8th Cir. R. 28A).

### **Appellee's Brief**

The brief of the appellee shall conform to the requirements of subdivision (a)(1)-(12) and (14), except that a jurisdictional statement, statements of the issues, case, facts or the standard of review need not be made unless the appellee is dissatisfied with the statements of the appellant.

## **Reply Brief**

All reply briefs shall contain a certificate of compliance (if over 15 pages), a table of contents and a table of cases.

## **8th Cir. R. 28A(b) Addendum to Briefs**

Appellant shall prepare an addendum and file it with the opening brief. The addendum shall include:

- (i) a copy of the district court or administrative agency opinion or order including supporting memoranda or findings; (ii) any magistrate's report and recommendation that preceded the district court opinion or order; (iii) short excerpts from the record, other than from the transcript of testimony, that would be helpful in reading the brief without immediate reference to the appendix; and (iv) other relevant rulings of the district court.

The addendum shall not exceed 15 pages excluding the district court or agency opinion and the magistrate's report and recommendation. The addendum will normally be incorporated into the back of the brief, but may be bound separately if it includes a long district court opinion or report and recommendation. If bound separately, the appellant shall file the same number of addenda as briefs.

The appellee's brief may include an addendum not to exceed 15 pages.

## **8th Cir. R. 28A(d) Digital Versions of the Brief**

A digital version of each brief, excluding the addendum, must be furnished to the court at the time the paper brief is filed, unless counsel certifies that filing a digital version is not practical. The full contents of the brief must be furnished. The contents must be in a single document file. One copy of the digital version of the brief must be furnished to each party separately represented by counsel.

The digital version of the brief may be furnished on 3½ inch computer diskette or on a CD-ROM. Nothing else should be on the diskette or

CD-ROM. The label of the diskette or CD-ROM must include the case name, docket number, and the name of the party on whose behalf the brief is filed. If a diskette is provided, the filing party must certify that the diskette has been scanned for viruses and that it is virus-free. If a CD-ROM is provided, the filing party must certify that the file copied to the CD-ROM has been scanned for viruses and that it is virus-free.

The digital version of the brief must be in Portable Document Format (also known as PDF or Acrobat Format). The digital version must be generated by printing to PDF from the original word processing file, so that the text of the digital version of the brief may be searched and copied. PDF images created by scanning paper documents do not comply with this rule.

## **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; reply brief, gray and any supplemental, tan. 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 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.

**(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.

NOTE: Footnotes should be the same size as the text of the brief.

**(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 Rules 28.1(e)(2) or 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**

When an appeal is docketed, the clerk's office issues a briefing schedule to all counsel establishing the time for filing briefs.

## **FILING AND SERVICE**

### **FRAP 25**

Service and filing of briefs and appendices 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.

## SPECIFICATION CHART

<b>Document</b>	<b>Color</b>	<b>Limitation</b>	<b>Serve</b>	<b>File</b>
<b>Appendix</b>	<b>white</b>	<b>no limit</b>	<b>1</b>	<b>3</b>
<b>Appellant's Brief</b>	<b>blue</b>	<b>14,000 words</b>	<b>2</b>	<b>10</b>
<b>Appellee's Brief</b>	<b>red</b>	<b>14,000 words</b>	<b>2</b>	<b>10</b>
<b>Reply Brief</b>	<b>gray</b>	<b>7,000 words</b>	<b>2</b>	<b>10</b>
<b>Amicus Brief</b>	<b>green</b>	<b>7,000 words</b>	<b>2</b>	<b>10</b>
<b>Petition for Rehearing</b>	<b>white</b>	<b>15 pages</b>	<b>2</b>	<b>5</b>
<b>Petition for Rehearing En Banc</b>	<b>white</b>	<b>15 pages</b>	<b>2</b>	<b>21</b>
<b>Motion</b>	<b>—</b>	<b>20 pages</b>	<b>1</b>	<b>4</b>
<b>Appellant's Principal Brief<sup>†</sup></b>	<b>blue</b>	<b>14,000 words</b>	<b>2</b>	<b>10</b>
<b>Appellee's Principal &amp; Response Brief<sup>†</sup></b>	<b>red</b>	<b>16,500 words</b>	<b>2</b>	<b>10</b>
<b>Appellant's Response &amp; Reply Brief<sup>†</sup></b>	<b>yellow</b>	<b>14,000 words</b>	<b>2</b>	<b>10</b>
<b>Appellee's Reply Brief<sup>†</sup></b>	<b>gray</b>	<b>7,000 words</b>	<b>2</b>	<b>10</b>

<sup>†</sup> Cross-Appeals.

**SAMPLE COVER**

00-0000

---

---

IN THE  
**United States Court of Appeals**  
FOR THE EIGHTH 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.

### **Document Production**

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

### **Typographical Services**

Our composition department is experienced with proper formatting of briefs for every appellate court.

### **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.