

THE QUICK GUIDE SERIES

**United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

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GUIDELINES
UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

District of Columbia

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.cadc.uscourts.gov.

June 2008
Record Press Inc.

Natasha R. Monell, Esq.
Staff Counsel

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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. Parts of the record may be relied on by the court or the parties even though not included in the appendix. If anything material to the appeal is omitted from the appendix, the clerk, on the duly served and filed written request of any party, may allow the appendix to be supplemented (Circuit Rule 30(e)).

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. Omissions in the text of papers or of the transcript must be indicated by asterisks. Immaterial formal matters (captions, subscriptions, acknowledgments, etc.) should be omitted. Exhibits designated for inclusion in the appendix may be reproduced in a separate volume, or volumes, suitably indexed. Pursuant to Circuit Rule 30(a), the appendix may be printed two-sided.

Determination of Contents

The parties are encouraged to agree on the contents of the appendix. In the absence of an agreement, the appellant must, within 10 days after the record is filed, serve on the appellee a designation of the parts of the record the appellant intends to include in the appendix and a statement of the issues the appellant intends to present for review. The appellee may, within 10 days after receiving the designation, serve on the appellant a designation of additional parts to which it wishes to direct the court's attention. The appellant must include the designated parts in the appendix. The parties must not engage in unnecessary designation of parts of the record, because the entire record is available to the court. This paragraph applies also to a cross-appellant and a cross-appellee.

Circuit Rule 47.1 Appendix Under Seal

If a party deems it necessary to include material under seal in an appendix, the appendix must be filed in two segments. One segment must contain all sealed material and bear the legend "Supplement—Under Seal" on the cover, and each page of that supplement containing sealed material must bear the legend "Under Seal" at the top of the page. The second appendix segment must bear the legend "Public Appendix—Material Under Seal in Separate Supplement" on the cover; each page from which material under seal has been deleted must bear the legend "Material Under Seal Deleted" at the top of the page. The party must file seven copies of the sealed supplement and seven copies of the public appendix. Each party must be served with one copy of the public appendix and one copy of the sealed supplement, if the party is entitled to receive the material under seal.

BRIEFS

FRAP 28

Appellant's Brief

- (1) Certificate as to Parties, Rulings, and Related Cases (FRAP 26.1 and Circuit Rules 26.1 and 28)
- (2) Table of contents
- (3) Table of authorities (Principal authorities must be marked with asterisk)
- (4) Glossary
- (5) Jurisdictional statement
- (6) Statement of issues presented for review
- (7) Statement of the case
- (8) Statement of the facts
- (9) Summary of argument
- (10) Argument (Statement of the standard of review)
- (11) Conclusion (Signature of counsel required)
- (12) Certificate of compliance
- (13) Addendum (Circuit Rule 28)

Appellee's Brief

The brief of the appellee shall conform to the requirements of subdivision (a)(1)-(13), except that a jurisdictional statement, statements of the issues, case, facts and 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, a table of authorities, summary of argument, argument and conclusion.

Circuit Rule 28 Additional Requirements for Briefs

(a) Contents of Briefs: Additional Requirements

Briefs for appellant/petitioner, appellee/respondent, intervenor and amicus curiae to the extent indicated herein, must contain the following in addition to the items required by FRAP 28:

(1) Certificate

Immediately inside the cover and preceding the table of contents, a certificate titled “Certificate as to Parties, Rulings, and Related Cases,” which contains a separate paragraph or paragraphs, with the appropriate heading, corresponding to, and in the same order as, each of the subparagraphs below.

- (A) ***Parties and Amici*** The appellant or petitioner must furnish a list of all parties, intervenors, and amici who have appeared before the district court, and all persons who are parties, intervenors or amici in this court. An appellee or respondent, intervenor, or amicus may omit from its certificate those persons who were listed by the appellant or petitioner, but must state: “[Except for the following,] all parties, intervenors, and amici appearing [before the district court and] in this court are listed in the Brief for _____.”

Any party or amicus curiae that is a corporation, association, joint venture, partnership, syndicate, or other similar entity must make the disclosure required by Circuit Rule 26.1.

- (B) ***Rulings Under Review*** Appropriate references must be made to each ruling at issue in this court, including the date, the name of the district court judge (if any), the place in the appendix where the ruling can be found, and any official citation in the case of a district court or Tax Court opinion, the Federal Register citation and/or other citation in the case of an agency decision, or a statement that no

such citation exists. Such references need not be included if they are contained in a brief previously filed by another person, but the certificate must state: “[Except for the following,] references to the rulings at issue appear in the Brief for _____.”

- (C) ***Related Cases*** A statement indicating whether the case on review was previously before this court or any other court and, if so, the name and number of such prior case. The statement must also contain similar information for any other related cases currently pending in this court or in any other court of which counsel is aware. If there are no related cases, the certificate must so state.

(2) Principal Authorities

In the left-hand margin of the table of authorities in all briefs, an asterisk must be placed next to those authorities on which the brief principally relies, together with a notation at the bottom of the first page of the table stating: “Authorities upon which we chiefly rely are marked with asterisks.” If there are no such authorities, the notation must so state. The Table of Authorities must identify each page of the brief on which the authority is cited; *passim* or similar terms may not be used.

(3) Glossary

All briefs containing abbreviations, including acronyms, must provide a “Glossary” defining each such abbreviation on a page immediately following the table of authorities. Abbreviations that are part of common usage need not be defined.

(4) Statements of Jurisdiction and the Case

The brief of the appellant or petitioner must set forth the jurisdictional statement required by FRAP 28(a)(4). Any party, intervenor, or amicus curiae may include in its brief a counter statement regarding jurisdiction. The parties need not include in their briefs a statement of the case.

(5) Statutes and Regulations

Pertinent statutes and regulations must be set forth either in the body of the brief following the statement of the issues presented for review or in an addendum introduced by a table of contents and bound with the brief or separately; in the latter case a statement must appear in the body of the brief referencing the addendum. If the statutes and regulations are included in an addendum bound with the brief, the addendum **must** be separated from the body of the brief (and from any other addendum) by a distinctly colored separation page. If the pertinent statutes and regulations are contained in a brief previously submitted by another party, they need not be repeated but, if they are not repeated, a statement must appear under this heading as follows: “[Except for the following,] all applicable statutes, etc., are contained in the Brief for _____.”

(6) Summary of Argument

Except when a brief contains a “Standing” section as required by Circuit Rule 28(a)(7), in each brief, including a reply brief, a summary of argument must immediately precede the argument; the summary of argument must contain a succinct, clear statement of the arguments made in the body of the brief and not merely repeat the argument headings.

(7) Standing

In cases involving direct review in this court of administrative actions, the brief of the appellant or petitioner must set forth the basis for the claim of standing. This section, entitled “Standing,” must follow the summary of argument and immediately precede the argument. When the appellant’s or petitioner’s standing is not apparent from the administrative record, the brief must include arguments and evidence establishing the claim of standing. *See Sierra Club v. EPA*, 292 F.3d 895, 900-01 (D.C. Cir. 2002). If the evidence is lengthy, and not contained in the administrative record, it may be presented in a separate addendum to the brief.

(8) Reference to Oral Argument and Submission Without Oral Argument

If a case has been scheduled for oral argument, has already been argued, or has been submitted without oral argument, a brief must so state in capital letters at the top of the cover and, where applicable, include the date of the argument.

(b) References to Authorities and Other Material.

When citing to the record, authorities, or any other material, citations must refer to specific pages of the source; *passim* or similar terms may not be used.

Circuit Rule 47.1 Briefs Under Seal

If a party deems it necessary to refer in a brief to material under seal, two sets of briefs must be filed which are identical except for references to sealed materials. One set of briefs must bear the legend “Under Seal” on the cover, and each page containing sealed material must bear the legend “Under Seal” at the top of the page. The second set of briefs must bear the legend “Public Copy-Sealed Material Deleted” on the cover, and each page from which material under seal has been deleted must bear a legend stating “Material Under Seal Deleted” at the top of the page. The party must file the original and six copies of the sealed brief and the original and fourteen copies of the public brief. Each party must be served with two copies of the public brief and two copies of the sealed brief, if the party is entitled to receive the material under seal.

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 in any manner that is secure, does not obscure the text, and permits the brief to lie reasonably flat when open.

NOTE: The court *strongly* prefers spiral binding.

(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.

NOTE: Pursuant to Circuit Rule 32, the Court will accept a proportionally spaced typeface of 11-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 Rules 28.1(e)(2) and 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

Circuit Rule 31

The Clerk's Office establishes a briefing schedule after the case has been screened and classified by the Legal Division, and after any pending motions in the case have been resolved. In most cases designated as "Regular Merits" cases, counsel receive a single order fixing the date for oral argument and setting the briefing dates back from the oral argument date, with the final brief usually due at least 50 days before the case is to be heard.

In general, the appellee's or respondent's brief is due 30 days after that of the appellant or petitioner. A reply brief is due 14 days later.

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

Document	Color	Limitation	Serve	File
Appendix	white	no limit	1	10
Exhibit Volume	white	no limit	1	4
Appellant's Brief	blue	14,000 words	2	15
Appellee's Brief	red	14,000 words	2	15
Reply Brief	gray	7,000 words	2	15
Amicus Brief	green	7,000 words	2	15
Supplemental	tan	—	2	15
Petition for Rehearing	white	15 pages	2	5
Petition for Rehearing En Banc	white	15 pages	2	20
Motion	—	20 pages	1	5
Appellant's Principal Brief[†]	blue	14,000 words	2	15
Appellee's Principal & Response Brief[†]	red	16,500 words	2	15
Appellant's Response & Reply Brief[†]	yellow	14,000 words	2	15
Appellee's Reply Brief[†]	gray	7,000 words	2	15

[†] Cross-Appeals.

NOTE: Pursuant to Circuit Rule 31, when the deferred appendix method is used, only 7 copies of the initial briefs must be filed, followed by the original and 14 copies in final form.

SAMPLE COVER

Oral Argument Scheduled on _____

IN THE
United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. _____

RECORD PRESS, INC.,
Plaintiff-Appellant,

—v.—

ALL OTHER PARTIES,
Defendants-Appellees.

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

BRIEF FOR PLAINTIFF-APPELLANT

LAW FIRM
Attorneys for Plaintiff-Appellant
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.