

UNITED STATES COURT OF APPEALS, FIFTH CIRCUIT  
 CHECKLIST FOR PREPARATION OF BRIEFS, RECORD EXCERPTS, MOTIONS AND  
 OTHER PAPERS

- 1) **CONTENTS OF BRIEFS** (5TH CIR. R. 28.3 reproduced below gives the required contents of a brief.)
  - a) Certificate of interested persons required by 5TH CIR. R. 28.2.1;
  - b) Statement regarding oral argument required by 5TH CIR. R. 28.2.3 (see also FED. R. APP. P. 34(a)(1));
  - c) A table of contents, with page references (see FED. R. APP. P. 28 (a)(2));
  - d) A table of authorities (see FED. R. APP. P. 28(a)(3));
  - e) A jurisdictional statement as required by FED. R. APP. P. 28(a)(4)(A) through (D);
  - f) A statement of issues presented for review (see FED. R. APP. P. 28(a)(5));
  - g) A statement of the case (see FED. R. APP. P. 28(a)(6));
  - h) A summary of the argument (see FED. R. APP. P. 28(a)(7));
  - i) The argument, including the applicable standards of review (see FED. R. APP. P. 28(a)(8));
  - j) A short conclusion stating the precise relief sought (see FED. R. APP. P. 28(a)(9);
  - k) A signature of counsel or a party as required by FED. R. APP. P. 32(d);
  - l) A certificate of service in the form required by FED. R. APP. P. 25;
  - m) A certificate of compliance if required by FED. R. APP. P. 32(g) and 5TH CIR. R. 32.3.
  
- 2) **FORM OF BRIEFS** (See FED. R. APP. P. and 5TH CIR. R. 32)
  - a) Paper Size. 8½ x 11 inch paper is required for briefs.

	<b>Page Limit Option</b>	<b>Type-Volume with monospaced (non-proportional) type, Text Line Option</b>	<b>Type-Volume with proportional or monospaced type, Word Count Option</b>
<b>Print Size</b>	14 point or larger for text; 12 point or larger for footnotes in proportional typeface; no more than 10½ cpi for text, no more than 12½ cpi for footnotes in monospaced type.	At least 10½ cpi for text; 12½ cpi for footnotes	At least 14 point for text; at least 12 point for footnotes in proportional typeface; 10½ (12½ cpi for monospaced typeface)
<b>Principal Briefs</b>	30 Pages	1,300 lines of text	13,000 words

<b>Reply Briefs</b>	15 Pages	650 lines of text	6,500 words
<b>Cross Appellant Brief</b>	35 Pages	1,500 lines of text	15,300 words

b) Text. Must be double spaced; quotations over 2 lines and footnotes may be single spaced. (FED. R. APP. P. 32(a)(4))

c) Margins. Must be 1 inch on all sides. (FED. R. APP. P. 32(a)(4))

d) Typeface style. Either proportionally spaced or monospaced typeface may be used. A plain roman style is required although italics or boldface may be used for emphasis. Case names must be italicized or underlined. San serif typeface is not permitted in proportional typeface, except for headings and captions. (FED. R. APP. P. 32(a)(5)and(6))

e) Legibility. A clear black image on light paper with clarity equaling or exceeding that of a laser printer. (FED. R. APP. P. 32(a)(1)(A) and (B))

f) Reproduction. Only one side of the paper may be used. (FED. R. APP. P. 32(a)(1)(A))

g) LENGTH OF BRIEFS (See FED. R. APP. P. 32(a)(7) for calculations of word and text line limits. In general, any certificate of interested parties; tables of contents and authorities; statement with respect to oral argument; any addendum containing statutes, rules, or regulations; and, any certificates of counsel do not count toward the word or text line limitations.)

h) Record References. For multiple record cases, parties will cite "ROA" followed by a period, followed by the Fifth Circuit appellate case number of the record they reference, followed by a period, followed by the page of the record. For example, "ROA.13-12345.123." In single record cases, parties cite the short citation form, "ROA," followed by a period, followed by the page number. For example, "ROA.123." (5<sup>th</sup> CIR. R. 28.2.2)

3) **COVER AND BINDING OF BRIEF AND COPIES** (FED. R. APP. P. 32(a)(2) and (3))

a) Durable cover on both front and back. The front cover must contain:

- (1) the number of the case centered at the top;
- (2) the name of the court;
- (3) the title of the case (FED. R. APP. P. 12(a));
- (4) the nature of the proceeding (e.g., Appeal, Petition for Review) and the name of the court, agency, or board below;
- (5) the title of the brief identifying the party or parties for whom the brief is filed; and

(6) the name, office address and telephone number of counsel representing the party for whom the brief is filed.

b) Briefs must be bound in a secure manner, not obscuring the text, and permitting the brief to lie reasonably flat when open, i.e. spiral binding. Cost of this type binding may be recovered. (5TH CIR. R. 39)

c) <u>Color:</u>	<u>Cross-Appeals:</u>
Brief of Appellant - Blue	Principal Brief of Appellant - Cross Appellee - Blue
Brief of Appellee - Red	Principal Brief of Appellee - Cross Appellant - Red
Reply Brief - Gray	Reply Brief of Appellant - Cross Appellee - Yellow
Intervenor	Reply Brief of Appellee - Cross Appellant - Gray
or Amicus Curiae - Green	(FED. R. APP. P. 28.1(d))
Sur Reply - Gray	
Supplemental Brief - Tan	
(FED. R. APP. P. 32(a)(2))	

4) **NUMBER OF COPIES** 7 paper copies **if the court determines paper copies are needed** (in most matters, this will be after briefing and only if oral argument is necessary). For those exempt from e-filing, 1 paper copy should be mailed or forwarded as well as electronic copies as required by 5TH CIR. R. 31.1, See 6) below. Pro se parties are not required to provide a disk.

5) **TIME REQUIREMENTS** (FED.R.APP.P. and 5TH CIR. R. 31)

a) Appellant's Brief is due within 40 days of the briefing notice.

b) Appellee's Brief is due within 30 days from the date of the certificate of service of the Appellant's Brief. (See 5TH CIR. R. 31.3)

c) Appellant's Reply Brief is due within 21 days of the certificate of service of the Appellee's Brief. (See 5TH CIR. R. 31.3)

d) The due date is the date on which the brief is expected to be mailed to this court and served on the opposing party. If the due date falls on a weekend or federal holiday, it is extended to the following day.

6) **FILING AND SERVICE** (Fed.R.App.P. 25 and 31) All counsel are now required in accordance with 5<sup>th</sup> CIR. R. 25.2.1 to file all pleadings, other than case originating documents, electronically via the court's CM/ECF filing system. Briefs are deemed filed at the time of the original e-filing or for those exempt from e-filing, on the day of mailing or delivery to a third party commercial carrier for delivery within 3 calendar days. 5TH CIR. R. 39.2 restricts the recovery of certain mailing and commercial delivery costs. Requirement for filing and

providing electronic copies of briefs - See 5TH CIR. R. 31.1.

- 7) **RECORD EXCERPTS** are also filed electronically, those exempt from e-filing must continue to forward an electronic copy as well as 1 paper copy, bound, with a white cover. If the court determines paper copies are needed, paper copies will be requested, also bound with a white cover. Record Excerpts must be filed by all appellants represented by counsel, as a separate document (separate electronic filing). Pro se appellants and appellees are not required to file excerpts. (5TH CIR. R. 30.1.2 - 30.1.7)

5th Cir. R. 30.1.4 - Mandatory Contents

- a. durable white cover 5th Cir. R. 30.1.7(d) (blue covers will be accepted)
  - i. appeal number
  - ii. caption
  - iii. originating court information
  - iv. titled RECORD EXCERPTS
  - v. counsel's name and address
- b. tabbed 5th Cir. R. 30.1.7(c)
  - i. electronic copies MUST contain a page with the number separating each tabbed section
  - ii. paper copies MUST contain physical tabs extending from the edge of the document representing the corresponding number of the tab
- c. table of contents including ROA sites to the record
- d. OC (Original Court) docket sheet(s) (including OC consolidated cases)
- e. notice of appeal, cross-appeal, additional appeal
- f. indictment in criminal cases
- g. jury verdict in all cases
- h. judgment/order(s)/opinion being appealed
- i. other orders or rulings to be reviewed
- j. magistrate judge's report and recommendation
- k. certificate of service in compliance with FRAP 25(d)

There is no page limit to the above mandatory contents.

5th Cir. R. 30.1.5 - Optional Contents

- a. portions of the OC record not included in mandatory content that are relevant to any issue on appeal and referred to in the briefs
- b. transcripts are optional contents if they are not hearings on rulings
- c. limited to 40 pages - 5th Cir. R. 30.1.6

- 8) **PRINTING COSTS** (5TH CIR. R. 39.1 limits the recoverable reproduction costs to a maximum of \$.15 per page.)

9) **Form of Other Papers.**

(1) **Motion.** Motions are governed by Rule 27, and are limited to 20 pages and 5,200 words. Follow FED. R. APP. P. 32(a)(5) & (6) for typeface and typestyle.

All **Motions** must include:

(A) a statement as to whether the motion is opposed or unopposed (if multiple parties, identify each party and its position) and be titled accordingly (Unopposed Motion/Opposed Motion...) and/or a Certificate of Conference regarding same – 5<sup>th</sup> Cir. R. 27.4

(B) Certificate of Compliance – FRAP 32 (g)

(C) Certificate of Service – FRAP 25

(2) **Other Papers.** If paper is requested by the court on any other filing, including a petition for rehearing or rehearing en banc, and any response to such a petition, must be reproduced in the manner prescribed by Rule 32(a), with the following exceptions:

(A) No cover is necessary if the caption and signature page of the paper together contain the information required by Rule 32(a)(2); and

(B) Rule 32(a)(7) does not apply.

Rev. 9/2024