

# United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

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## RULE 8 OF THE GENERAL RULES OF THIS COURT

### (a) CLERK SHALL REFUSE TO FILE IF NOT PRINTED IN CONFORMITY WITH FEDERAL RULES OF APPELLATE PROCEDURE.

The Clerk shall refuse to file any brief and appendix,<sup>1/</sup> which has been printed otherwise than in conformity with the Federal Rules of Appellate Procedure. The printed briefs and appendicies must be clear and legible and, in default of this requirement, shall be rejected for filing by the Clerk.

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### (b) CONTENTS OF BRIEF.

In addition to the requirements of Rule 28, Federal Rules of Appellate Procedure, at the bottom of the statement of issues presented for review, counsel shall indicate whether or not the pending case was previously before this Court, or any other court, under the same or similar title and state the name and number of such prior case. Counsel shall also indicate any other related cases of which he is aware, either presently pending in this Court or in any other court, or that may be presented to this Court or to any other court in the future. The purpose of this requirement is to enable the Court to determine whether the instant case should be assigned to a particular division of the Court, or to a new division chosen by lot, and to consider what disposition should be made of the case. For the purposes of this Rule: (i) the phrase "any other court" means any other United States Court of Appeals, or any other court (whether federal or local) in the District of Columbia; and (ii) the phrase "any other related cases" means cases involving the same parties and the same or similar issues, or involving parties similarly<sup>2/</sup> situated and the same or similar issues, as the pending case.<sup>3/</sup>

Counsel shall place asterisks in the left margin of the Table of Cases to mark those cases or authorities on which counsel chiefly rely and shall add at the end of the table of cases:

\*Cases or authorities chiefly relied upon are marked by asterisks.<sup>3/</sup>

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<sup>1/</sup> Counsel or the pro se litigant will be notified by letter.

<sup>2/</sup> These statements must be included in briefs of appellants/petitioners, appellees/respondents and intervenors.

<sup>3/</sup> Should counsel not rely in chief on any particular cases or authorities, this statement should still appear at the end of the Table of Cases.

In all briefs wherein the argument portion extends beyond<sup>4/</sup> twenty pages, regardless of whether the brief is printed or is reproduced by other methods, there shall be included as a part of the brief immediately preceding the argument portion, a summary of argument, suitably paragraphed, which should be succinct, but an accurate and clear, condensation of the argument actually made in the body of the brief. It should not be a mere repetition of the headings under which the argument is arranged. The summary of argument shall not be considered part of the brief for purposes of page limitations imposed by Rule 28(g), Federal Rules of Appellate Procedure. [See GRC 8(g).]

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(c) CERTIFICATE OF COUNSEL.<sup>5/</sup>

In all civil and agency cases a certificate shall be furnished by counsel of record for all private (non-governmental) parties, including specifically all appellants (petitioners) and all appellees (respondents), as well as all intervenors. Except for informal rulemaking proceedings being reviewed by this Court in the first instance, the certificate shall set forth a complete list of all parties and amici who have appeared below. In all cases where a corporation is a party, the certificate of counsel for that party shall also list any parent, subsidiary, or affiliate of that party that, to the knowledge of counsel, has any outstanding securities in the hands of the public. Individual members of a trade association need not be listed.

Such certificate also shall indicate, to the extent that counsel possesses the information, which parties and amici are in support of the appellant (petitioner), which are in support of the appellee (respondent), and which are taking a position apart from those of the appellant (petitioner) and appellee (respondent). This certificate shall be incorporated on the first page of each brief before the table of contents. The purpose of this certificate is to enable the judges of this Court to evaluate possible disqualification or recusal and the time and alignment of parties for oral argument. The form of the certificate shall be as follows:

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<sup>4/</sup> This summary of argument requirement also applies to reply briefs wherein the argument portion extends beyond twenty pages.

<sup>5/</sup> This rule is also applicable to pro se litigants in civil cases.



(e) REFERENCES TO PARTIES AND RULINGS.

In addition to the requirements of Rule 28, Federal Rules of Appellate Procedure, appellant's (petitioner's) brief shall contain a section immediately preceding the statement of the case which shall be headed "References to Parties and Rulings". In this section counsel shall make such references as may be feasible identifying any opinion, memoranda, findings and conclusions, or other oral or written ruling in which the court sets forth the basis of the order or the judgment presented for review by this Court. The references shall identify the judge involved and the date of the ruling. The references should also include reporter citations when available, and page references in the appendix of the parties or reporters' transcript.

If there are any parties to the litigation whose identity is not revealed by the caption on appeal, appellant shall set forth the names of all the parties.

The foregoing provision shall also apply to petitions for review of rulings and orders of administrative agencies.

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(f) CITATIONS IN BRIEFS.

Dual or parallel citation of cases is not required in the text of briefs. Published decisions of this Court may be cited in such text by reference either to the reports of this Court or to the Federal Reporter; however, both citations shall be given in the table of contents, <sup>7/</sup> e.g., Thompson v. Deal, 67 App.D.C. 327, 92 F.2d 478 (1937); Walker v. United States, 124 U.S.App.D.C. 194, 363 F.2d 681 (1966). Citations of state court decisions included in the National Reporter System shall be to that System in both text and in the table of cases; however, if official state court reports or citations thereof are available to the parties or to counsel, those citations shall also be included in the table of cases. Unpublished orders, including explanatory memoranda of this Court, are not to be cited in briefs or memoranda of counsel as precedents. However, counsel may refer to such orders and memoranda for such purposes as application of the doctrines of res judicata, collateral estoppel and law of the case, which turn on the binding effect of the judgment, and not on its quality as precedent. See Rule 13(c). Citations to all federal statutes, including those statutes applicable to the District of Columbia, shall refer to the current official code or its supplement, or if there is not current official code, to the current preferred unofficial code or its supplement; citation to the official session laws may also be included but is not required unless there is no code citation.

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<sup>7/</sup> . . . table of cases,

(g) LENGTH OF BRIEFS.

Except by permission of the Court, principal briefs shall not exceed 50 pages of standard typographic printing<sup>8/</sup> or 70 pages of printing by any other process of duplicating or copying,<sup>9/</sup> exclusive of pages containing the table of contents, table of citations and any addendum of statutes, rules, regulations, etc.<sup>10/</sup> and except by permission of the Court, reply briefs shall not exceed 25 pages of standard typographic printing or 35 pages of printing by any other process of duplicating or copying.

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(h) REQUESTS FOR LEAVE TO EXCEED PAGE LIMITATIONS AND FOR EXTENSIONS OF TIME FOR FILING. 11/

(1) Timeliness of Request. All motions requesting permission to exceed the page limitations set forth in this rule, or to extend time for filing briefs, must be filed at least ten days before the main briefs are due to be filed,<sup>12/</sup> and at least five days before a reply brief is due to be filed. Before filing such a motion, counsel shall contact other counsel and recite in the opening paragraph of the motion the position taken by other counsel with respect to the grant of the motion and whether or not such other counsel intend to file an opposition or other form of response. At the time of filing a motion to which other counsel have stated an intention to file an opposition or response, and in the absence of personal service upon such other counsel, movant's counsel shall also give telephonic notice to other counsel of such filing and shall serve such other counsel by using the most expeditious form of delivery by mail or overnight delivery service. Any opposition or response thereto must be filed within three business days after personal service or telephonic notice. If counsel is unable to contact opposing counsel or to give telephonic notice (should personal service not be feasible) as specified by the foregoing, counsel shall recite in the opening paragraph of the motion the efforts that have been made to do so.

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<sup>8/</sup> Standard typographic printing is typeset print. The allowable dimensions of the brief are 6 1/8 by 9 1/4 inches.

<sup>9/</sup> "Any other process" includes photocopy and photo-offset methods wherein the print is pica and the dimensions of the brief are 8 1/2 by 11 inches.

<sup>10/</sup> The summary of argument required by General Rule 8(b) is not considered part of the brief for purposes of page limitations.

<sup>11/</sup> See Clerk's Notice on page 10.

<sup>12/</sup> A "Motion for Leave to File the Motion to Extend Time" is required along with the "Motion to Extend Time" if the request is made within the ten-day period. The motions should not be attached together.

(2) Extra-Long Briefs. The Court looks with disfavor upon motions to exceed the page limitation, and such motions will only be granted for extraordinary and compelling reasons.

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(i) TYPEWRITTEN OR MIMEOGRAPHED BRIEFS.

A party, other than one who has been allowed to appeal in forma pauperis,<sup>13/</sup> who desires to be allowed to file a brief and appendix in typewritten (or mimeographed) form rather than the form prescribed by Rule 32, Federal Rules of Appellate Procedure, shall file a motion, accompanied by an affidavit stating whether he is employed, and is so, the amount of his wages or salary, and setting forth his financial condition, or otherwise making an appropriate showing to justify the relief sought. Such application or motion shall be filed within 5 days after the record is filed, unless excusable neglect for failure to file same within that time be shown.

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(j) NUMBER OF BRIEFS REQUIRED IN NON-INDIGENT APPEALS.

The Clerk of this Court is hereby authorized to accept fifteen (15) copies of the briefs in non-indigent appeals<sup>14/</sup> as substantial compliance with Rule 31(b) of the Federal Rules of Appellate Procedure. In the event a suggestion for rehearing en banc is granted, counsel shall furnish nine (9) additional copies of their briefs.

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<sup>13/</sup> This rule primarily applies to non-indigent parties who want to file a reduced number of copies of their brief or parties who do not want to furnish the colored cover on their brief as provided by FRAP 32(a). Typewritten briefs are allowable if they are in compliance with FRAP 32(a).

<sup>14/</sup> If the parties are filing briefs pursuant to FRAP 30(c), deferred appendix, counsel should initially submit only 4 copies of the brief without appendix references. Colored covers are not required on this initial brief. However, 15 copies of the final brief with appendix references must be later submitted. Colored covers are required on this final brief.

(k) UP-DATING OF BRIEFS. (as amended June 15, 1984)

Upon receipt of notice that a case has been placed on the calendar for oral argument on a particular date, counsel for a party of record may file in printed or typewritten form, a supplemental brief limited to the citation and discussion of cases, statutes, rules and other relevant authorities issued subsequent to the filing of the party's last brief. An original and 14 copies of such a supplemental brief, printed or duplicated in accordance with Rule 32, Federal Rules of Appellate Procedure and Rule 8 of these rules, may be filed at any time between receipt of notice of oral argument and a date not less than 7 days before the scheduled date of such oral argument.<sup>15/</sup> The covers of supplemental briefs shall be yellow and shall contain a statement<sup>16/</sup> in large type that the case is scheduled for oral argument on (here insert the date of oral argument).

15/ The supplemental brief must be received in the Clerk's Office not less than seven days before argument. Mailing the brief on the seventh day is not in compliance with this rule.

16/ This statement should appear at the top of the brief.

RULE 32 OF THE FEDERAL RULES OF APPELLATE PROCEDURE

(a) FORM OF BRIEFS AND THE APPENDIX.

Briefs and appendicies may be produced by standard typographic printing or by any duplicating or copying process which produces a clear black image on white paper. Carbon copies of briefs and appendicies may not be submitted without permission of the court, except in behalf of parties allowed to proceed in forma pauperis. All printed matter must appear in at least 11 point type on opaque, unglazed paper. Briefs and appendicies produced by the standard typographic process shall be bound in volumes having pages 6 1/8 by 9 1/4 inches and type matter 4 1/6 by 7 1/6 inches. Those produced by any other process shall be bound in volumes having pages not exceeding 8 1/2 by 11 inches and type matter not exceeding 6 1/2 by 9 1/2 inches, with double spacing between each line of text. In patent cases the pages of briefs and appendicies may be of such size as is necessary to utilize copies of patent documents. Copies of the reporter's transcript and other papers reproduced in a manner authorized by this rule may be inserted in the appendix; such pages may be informally renumbered if necessary.

If briefs are produced by commercial printing or duplicating firms, or, if produced otherwise and the covers to be described <sup>1/</sup> are available, the cover of the brief of the appellant should be blue; that of the appellee, red; that of an intervenor or amicus curiae, green; that of any reply brief, gray. The cover of the appendix, if separately printed, should be white. The front cover of the briefs and of appendicies, if separately printed, shall contain: (1) the name of the court and the number of the case; (2) the title of the case [see Rule 12(a)]; (3) the nature of the proceeding in the court (e.g., Appeal; Petition for Review) and the name of the court, agency, or board below; (4) the title of the document (e.g., Brief for Appellant, Appendix); and (5) the names and addresses of counsel representing the party on whose behalf the document is filed. <sup>2/</sup>

1/ Colored covers are available in most metropolitan areas.

2/ Only the names of attorneys who are admitted to this Court's Bar will be entered on the docket.

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CERTIFICATE OF SERVICE

A certificate of service must accompany any filings submitted to this Court.



RULE 9(a) OF THE GENERAL RULES OF THIS COURT  
(as amended 11/02/81)

APPENDIX TO THE BRIEF

(a) Filing and Form.

(1) Private Civil Cases. Appeals from the District Court in civil cases to which the United States or any agency or officer thereof is not a party shall be on the original record without requirement of the appendix prescribed by Rule 30, Federal Rules of Appellate Procedure. At the time of filing of appellant's brief, appellant shall file seven copies of the following portions of the District Court record, preceded by a cover sheet bearing the case name and number and captioned "Record Excerpts":

- (A) relevant entries from the docket sheet;
- (B) a list of relevant documents and exhibits; and
- (C) the judgment, ruling, or order appealed from and any other order or orders sought to be reviewed, and any supporting opinion, memorandum of decision, findings of fact and conclusions of law, or statement of reasons, whether filed or delivered orally by the District Court.

Record excerpts may also include other short portions of the record that are directly relevant to the issues raised on appeal, but the Court looks with disfavor on additions unnecessary to the disposition of the appeal. Copies of the record excerpts filed with the Court and served on other parties shall be reproduced on white paper by any duplicating or copying process capable of producing a clear black image. The copies shall be separately bound. The copies may be reproduced in actual size, even though that size differs from page sizes otherwise required in this Court.

(2) All Other Cases. In all other cases, Rule 30, Federal Rules of Appellate Procedure, shall govern the filing of the appendix to the briefs. In such appeals, an appellant shall cause to be printed in the appendix the findings of fact and conclusions of law of the District Court and opinion, if any. (Seven copies of the appendix prepared by any method of duplication which provides a clear black image on white paper may be filed.) However, in the event of a hearing or rehearing en banc, counsel for appellant may be required to furnish additional copies of the appendix. The foregoing provisions shall also apply to petitions for review of rulings and orders of administrative agencies.

(3) Unnecessary Record Items Not to be Included. Counsel shall not burden the appendix or, in private civil cases, the record excerpts, with material of excessive length or items that do not bear directly on the issues raised on appeal. Costs shall not be awarded for unnecessary reproduction of items, such as discovery materials, pretrial briefs, or interlocutory motions or rulings that lack direct relevance to the appeal. Any portion of the record, whether or not included in an appendix or record excerpts, may be relied upon by the parties and by the Court.

(4) Motion to Dispense with Appendix or Record Excerpts. In all appeals, by motion, upon good cause shown, appellant may be permitted to dispense with the requirement of reproducing the record or any part thereof.

UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT  
UNITED STATES COURTHOUSE  
333 CONSTITUTION AVENUE, N.W.  
WASHINGTON, D. C. 20001-2866

GEORGE A. FISHER  
CLERK

GENERAL INFORMATION  
(202) 535-3300

N O T I C E

Pursuant to a general order effective January 1, 1984, the Clerk of the United States District Court for the District of Columbia will not automatically transmit the record on appeal in CIVIL ACTION cases to the Court of Appeals. This order does not apply to criminal cases. The general order applies only to appeals docketed on or after January 1, 1984.

Records on appeal may be reviewed in the Office of the Clerk, United States District Court, Room 1825A, from 9:00 AM until 4:30 PM. Telephone No. 535-3520.

  
GEORGE A. FISHER  
Clerk

DATED: January 1, 1984