

## MEMORANDUM

**TO:** Interested Parties  
**FROM:** Chris Wolpert, Clerk of Court  
**RE:** 2024 Revisions to the Tenth Circuit Rules  
**DATE:** September 14, 2023



---

Changes to the Tenth Circuit Rules will take effect on January 1, 2024. The court invites comments regarding those changes, which are summarized below. Comments may be submitted via email to [Clerk@ca10.uscourts.gov](mailto:Clerk@ca10.uscourts.gov) from September 14, 2023 through October 16, 2023. The final 2024 Tenth Circuit Rules will be posted on the Court's website no later than December 1, 2023.

### **10th Cir. R. 10.1 – Tenth Circuit Record on Appeal**

The proposed revisions to Rule 10.1 make clear that attorneys representing themselves must comply with the appendix requirement for parties represented by retained counsel.

### **10th Cir. R. 17.2 – No Separate Appendix Required in Agency Matters**

This proposed revision Rule 17.2 removes an unnecessary and inaccurate statement that Rule 30.1's appendix requirement applies only to appeals from district courts. The appendix requirement also applies to appeals from the Bankruptcy Appellate Panel.

### **10th Cir. R. 25.6 – Filing Under Seal**

The proposed revision to Rule 25.6(A) clarifies that sealing motions should not be filed under seal unless required by the nature of the request or the need to protect sealed information.

### **10th Cir. R. 27.5 – Clerk Authorized to Act**

The proposed revision to Rule 27.5(A)(9) corrects an internal cross-reference that was rendered inaccurate by last year's revisions to the Tenth Circuit Rules.

### **10th Cir. R. 28.3 – Use of Passim**

The proposed revision to Rule 28.3(C) adopts language from Supreme Court Rule 34.2, which disapproves of the use of passim in the table of authorities in briefs. Currently, the use of passim is “discouraged” by Rule 28.3, but it is used relatively frequently.

### **10th Cir. R. 30.1 – Appellant’s Appendix**

The proposed revisions to Rule 30.1 make clear that attorneys representing themselves must comply with the appendix requirement for parties represented by retained counsel.

### **10th Cir. R. 30.3 –Appendix Exemptions**

The proposed revisions to Rule 30.3 are for internal consistency and to clarify and update the rule to reflect most record and appendix materials are available in electronic form and can readily be electronically filed without undue burden or expense.

### **10th Cir. R. 31.5 – Hard Copies of Briefs**

The proposed revisions to the first sentence of Rule 31.5 make clear that attorneys representing themselves must comply with the court’s hard-copy requirement for briefs. The proposed revisions to the fifth sentence of Rule 31.5 clarify the rule and update it for consistency with our electronic-service rule.

### **10th Cir. R. 46.2 – Admission to Tenth Circuit Bar**

The proposed addition of Rule 46.2(D) requires members of the Tenth Circuit Bar to notify the Clerk if they are disbarred or suspended by the bar of a state or another court so that we can more effectively administer the reciprocal-discipline processes described in our Plan for Attorney Disciplinary Enforcement.

### **10th Cir. R. 46.4 –Withdrawal in a Criminal or Post-Conviction Appeal**

This proposed revision removes a requirement that a motion to withdraw include proof of service on all opposing parties. This requirement is inconsistent with our electronic-service rule, which says that certificates of service are not required for electronically filed documents transmitted to counsel and parties via the notice of docket activity that is sent during the electronic-filing process. This proposed revision does not affect the requirement for proof of service on the client affected by the motion to withdraw.