

**UNITED STATES COURT OF APPEALS
TENTH CIRCUIT**

Office of the Clerk
Byron White United States Courthouse
Denver, Colorado 80257
(303) 844-3157

Christopher M. Wolpert
Clerk of Court

Jane K. Castro
Chief Deputy Clerk

To: Counsel

Re: Prosecuting Appeal

The appeal you have filed will be governed by the Federal Rules of Appellate Procedure and the Tenth Circuit Rules. You should familiarize yourself with both sets of rules. Current versions, as well as other forms and general information for proceeding in the Tenth Circuit can be found on the court's website. See www.ca10.uscourts.gov The Tenth Circuit Practitioner's Guide is another good resource regarding prosecuting appeals. It is also available on the court's website.

Please note the following appellate procedures:

1. You will need to familiarize yourself with this court's *CM/ECF User's Manual* regarding electronic filing of documents. This manual may be found on the court's website. On June 1, 2009 ECF (electronic case filing) became mandatory for all counsel of record in the Tenth Circuit. For information regarding ECF registration and to review our training manual and tools, please go to www.ca10.uscourts.gov and look for the "CM/ECF & Court Filing" tab.

2. If this is a direct criminal appeal, defendant's retained or court appointed trial counsel is responsible for continuing representation of the defendant until relieved by the court of appeals. Further, any attorney who files a notice of appeal on behalf of a petitioner or moving party in a post-conviction proceeding or criminal appeal is deemed to have entered an appearance in this court and may not withdraw without leave of court. See 10th Cir. R. 46.3.

3. Unless the appellant has been granted leave to proceed in forma pauperis or unless a motion seeking to do so is pending, the prescribed fees (\$5.00 filing fee and \$500.00 docketing fee) must be paid to the clerk of the district court. See Fed. R. App. P. 3(e) and 10th Cir. R. 3.3.

4. Unless a motion for leave to proceed *in forma pauperis* is pending, appellant should immediately order **necessary** transcripts from the court reporter. *See* Fed. R. App. P. 10(b) and 10th Cir. R. 10.1.1 and 10.1.2. Transcripts must be ordered on forms provided by the district court. Please note that the transcript order shall not be deemed complete until satisfactory financial arrangements have been made with the court reporter. *See* 10th Cir. R. 10.1.2.

5. Appellant must file a docketing statement with the clerk of court 14 days after filing the notice of appeal. *See* 10th Cir. R. 3.3. Docketing statement forms, together with instructions for completing and filing the docketing statement, are available on our website.

6. If appellant is represented by court appointed counsel, a designation of record must be filed with the district court clerk within 14 days of filing a notice of appeal. The designation of record form must be used to prepare the record on appeal in appointed-counsel cases. **Note: If co-defendants appeal and one appellant is represented by court-appointed counsel, the court of appeals will treat all appellants as if represented by court-appointed counsel for purposes of designating the record.** Except as noted, a designation of record is not required if appellant is represented by retained counsel, but an appendix containing record excerpts must be filed when the when the appellant's opening brief is filed. *See* 10th Cir. R. 30.1 through 30.3.

7. If appellant, or a co-appellant, (see the **NOTE** above) is represented by court-appointed counsel, appellant shall file and serve an opening brief within 40 days of the date on which the clerk of the district court transmits the record on appeal to the clerk of the court of appeals. Except as noted, if appellant is represented by retained counsel, appellant shall file and serve an opening brief, together with separate appendix, within 40 days after the date on which the clerk of the district court notifies the parties and the clerk of the court of appeals that the record is complete for purposes of appeal. *See* Fed. R. App. 31 and 10th Cir. R. 31.1.1.

If you have any questions regarding prosecution of the appeal please call the clerk's office at 303-844-3157.

CHRISTOPHER M. WOLPERT
Clerk of Court