

UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT
ANSWERS TO FREQUENTLY ASKED QUESTIONS

Please refer to the 10th Circuit ECF Manual and Briefing and Appendix Checklist for Additional Information

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| Computation of Time: Fed R. App. P. 25(a), 26(c) | If ordered by a date certain, the 3-day mailing rule does not apply; if time to file runs “from date of service,” the 3-day rule applies only if service not completed electronically. Only briefs and appendices are treated as timely filed on the date mailed or delivered to a commercial carrier. Other pleadings must reach the court by the due date. | | |
| WHAT | WHO FILES | WHEN | REMARKS |
| Docketing Statement: 10th Cir. R. 3.4 | Appellant | 14 days after the notice of appeal (may file without appeal docket number). | |
| Entry of Appearance and Certificate of Interested Parties: 10th Cir. R. 46.1 | Counsel for all parties | 14 days from case opening letter. | |
| Transcript Order Form: Fed. R. App. P. 10(b) | Appellant Appellee | 14 days from notice of appeal. 14 days from the appellant’s form. | Must notify the district court, 10th Circuit, and parties – even if no transcript is ordered. If transcript ordered, must also notify court reporter. |
| Designation of Record: 10th Cir. R. 10.2 | Court-appointed counsel ONLY | Appellant - 14 days from the notice of appeal. | Must attach the district court docket sheet with the designated documents circled. |
| Motions: Fed. R. App. P. 27 10th Cir. R. 27 | Any party | Varies. | Must include opposing parties’ position and, if applicable, the custody status, current due date or any previous extensions. Typed motions may not exceed 5,200 words; handwritten motions may not exceed 20 pages. |
| Appellant’s Opening Brief: Fed. R. App. P. 28, 31, 32 10th Cir. R. 28, 31, 32 | Appellant with retained counsel Appellant with appointed counsel | 40 days from the date district court certifies the record as complete. 40 days from date record is filed in circuit court. | Blue cover. Must include: oral argument statement on the front cover (if requested, a reason must be given at conclusion); prior or related appeals; order and judgment appealed. See 10th Cir. R. 28.2. Certificate of compliance for length limit needed (may not exceed 13,000 words). Size 14 font is preferred, but 13 is acceptable, including footnotes. 7 copies must be provided to the court two days after filing via ECF. |
| Appellee’s Response Brief: Fed. R. App. P. 28, 31, 32 10th Cir. R. 28, 31, 32 | Appellee | 30 days from service of appellant’s opening brief. | Red cover. Oral argument statement, etc., same as appellant’s opening brief. Attach order or judgment if appellant failed to include it in their brief. If more than 30 pages, certificate of compliance needed (may not exceed 13,000 words). |

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| Appellant's Reply Brief: Fed. R. App. P. 28, 31, 32 10th Cir. R. 28, 31, 32 | Appellant | 21 days from service of appellee's response brief. | Gray cover. If more than 15 pages, certificate of compliance needed (may not exceed 6500 words). |
| Cross Appeals: Fed. R. App. P. 28, 28.1, 31, 32 10th Cir. R. 28, 31, 32 | Appellant's Principal Brief | 40 days from the date district court certifies the record as complete. (If court-appointed counsel, 40 days from the date the record is filed in the circuit court.) | Blue cover. Must include: oral argument statement on the front cover (if requested, a reason must be given at conclusion); prior or related appeals; order and judgment appealed. If more than 30 pages, certificate of compliance needed (may not exceed 13,000 words). |
| | Appellee's Principal and Response Brief | 30 days from service of Appellant's Principal brief. | Red Cover. If more than 35 pages, certificate of compliance needed (may not exceed 15,300 words). |
| | Appellant's Response and Reply Brief | 30 days from service of Appellee's Principal and Response brief. | Yellow cover. If more than 30 pages, certificate of compliance needed (may not exceed 13,000 words). |
| | Appellee's Reply Brief | 21 days from service of Appellant's Response and Reply brief. | Gray cover. If more than 15 pages, certificate of compliance needed (may not exceed 6,500 words). |
| Supplemental Authority: Fed. R. App. P. 28(j) | Any party | Any time after briefing. | Must be drafted in the form of a letter, with a 350-word limitation. |
| Appendix: Fed. R. App. P. 10, 30 10th Cir. R. 10, 30, 30.1 | Appellant or Appellee | With principal brief. <i>Sealed documents must be filed separately and accompanied by a motion to seal.</i> | Eff. 1/1/2015 all appendices must be filed via ECF; in addition 1 hard copy submitted to the court with hard copies of brief. If a supplemental appendix is filed with the appellant's reply brief, it <i>must</i> be accompanied by a motion to file. |
| Trial Exhibits: 10th Cir. R. 10.3(D)(5) | Appellant or Appellee | With principal brief. | Copies of trial exhibits may be included in the appendix or submitted via motion if appeal is proceeding on the record. |
| Petitions for Rehearing: Fed. R. App. P. 35, 40 10th Cir. R. 35, 40 | Any party | 14 days from the date of entry of judgment. In a civil appeal where the U.S. is a party, 45 days from entry of judgment. | Three-day mailing rule <i>does not apply</i> . A copy of the opinion or OJ <i>must be</i> attached. If en banc, must include Fed. R. App. P. 35(b)(1) statement. If en banc, must provide 6 copies to the court two days after filing via ECF. |

NOTE: In counseled cases, all documents must be filed via ECF. Pro se litigants must request permission in writing to use ECF. In this regard, see the Court's CM/ECF User's Manual, which can be found on our website. All documents must be double-spaced, except for footnotes and quotations containing more than two lines. Seven hardcopies of all merits briefs and one copy of appendices must be received by the court within 2 days of filing the electronic versions via ECF.

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