

**UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT**

DOCKETING STATEMENT

Case Name: _____

Appeal No. (if available) : _____

Court/Agency Appeal From: _____

Court/Agency Docket No.: _____ District Judge: _____

Party or Parties filing Notice of Appeal/Petition: _____

I. TIMELINESS OF APPEAL OR PETITION FOR REVIEW

A. APPEAL FROM DISTRICT COURT

1. Date notice of appeal filed: _____

a. Was a motion filed for an extension of time to file the notice of appeal? If so, give the filing date of the motion, the date of any order disposing of the motion, and the deadline for filing notice of appeal:

b. Is the United States or an officer or an agency of the United States a party to this appeal? _____

2. Authority fixing time limit for filing notice of appeal:

Fed. R. App. 4 (a)(1)(A) _____ Fed. R. App. 4(a)(6) _____

Fed. R. App. 4 (a)(1)(B) _____ Fed. R. App. 4(b)(1) _____

Fed. R. App. 4 (a)(2) _____ Fed. R. App. 4(b)(3) _____

Fed. R. App. 4 (a)(3) _____ Fed. R. App. 4(b)(4) _____

Fed. R. App. 4 (a)(4) _____ Fed. R. App. 4(c) _____

Fed. R. App. 4 (a)(5) _____

Other: _____

3. Date final judgment or order to be reviewed was filed and **entered**

on the district court docket: _____

4. Does the judgment or order to be reviewed dispose of **all** claims by and against **all** parties? *See* Fed. R. Civ. P. 54(b).
- _____

(If your answer to Question 4 above is no, please answer the following questions in this section.)

- a. If not, did district court direct entry of judgment in accordance with Fed. R. Civ. P. 54(b)? When was this done?
- _____

- b. If the judgment or order is not a final disposition, is it appealable under 28 U.S.C. § 1292(a)? _____

- c. If none of the above applies, what is the **specific** statutory basis for determining that the judgment or order is appealable? _____

5. Tolling Motions. *See* Fed. R. App. P. 4(a)(4)(A); 4(b)(3)(A).

- a. Give the filing date of any motion under Fed. R. Civ. P. 50(b), 52(b), 59, 60, including any motion for reconsideration, and in a criminal appeal any motion for judgment of acquittal, for arrest of judgment or for new trial, filed in the district court:
- _____

- b. Has an order been entered by the district court disposing of any such motion, and, if so, when? _____
- _____

6. Cross Appeals.

- a. If this is a cross appeal, what relief do you seek beyond preserving the judgment below? *See United Fire & Cas. Co. v. Boulder Plaza Residential, LLC*, 633 F.3d 951, 958 (10th Cir. 2011)(addressing jurisdictional validity of conditional cross appeals).
- _____

- b. If you do not seek relief beyond an alternative basis for affirmance, what is the jurisdictional basis for your appeal? *See Breakthrough Mgt. Group, Inc. v. Chukchansi Gold Casino and Resort*, 629 F.3d 1173, 1196-98 and n. 18 (10th Cir. 2010)(discussing protective or conditional cross appeals).
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B. REVIEW OF AGENCY ORDER (To be completed only in connection with petitions for review or applications for enforcement filed directly with the Court of Appeals.)

1. Date petition for review was filed: _____
2. Date of the order to be reviewed: _____
3. Specify the statute or other authority granting the court of appeals jurisdiction to review the order: _____

4. Specify the time limit for filing the petition (cite specific statutory section or other authority): _____

C. APPEAL OF TAX COURT DECISION

1. Date notice of appeal was filed: _____
(If notice was filed by mail, attach proof of postmark.)
2. Time limit for filing notice of appeal: _____
3. Date of entry of decision appealed: _____
4. Was a timely motion to vacate or revise a decision made under the Tax Court's Rules of Practice, and if so, when? *See Fed. R. App. P. 13(a)* _____

II. LIST ALL RELATED OR PRIOR RELATED APPEALS IN THIS COURT WITH APPROPRIATE CITATION(S). If none, please so state.

III. GIVE A BRIEF DESCRIPTION OF THE NATURE OF THE PRESENT ACTION AND RESULT BELOW.

IV. ISSUES RAISED IN THIS APPEAL.

V. **ADDITIONAL INFORMATION IN CRIMINAL APPEALS.**

- A. Does this appeal involve review under 18. U.S.C. § 3742(a) or (b) of the sentence imposed? _____
- B. If the answer to A (immediately above) is yes, does the defendant also challenge the judgment of conviction? _____
- C. Describe the sentence imposed. _____

- D. Was the sentence imposed after a plea of guilty? _____
- E. If the answer to D (immediately above) is yes, did the plea agreement include a waiver of appeal and/or collateral challenges? _____

- F. Is defendant on probation or at liberty pending appeal? _____
- G. If the defendant is incarcerated, what is the anticipated release date if the judgment of conviction is fully executed? _____
- H. Does this appeal involve the November 1, 2014 retroactive amendments to §§ 2D1.1 and 2D1.11 of the U.S. Sentencing Commission’s Guideline Manual, which reduced offense levels for certain drug trafficking offenses? _____

NOTE: In the event expedited review is requested and a motion to that effect is filed, the defendant shall consider whether a transcript of any portion of the trial court proceedings is necessary for the appeal. Necessary transcripts must be ordered by completing and delivering the transcript order form to the clerk of the district court with a copy filed in the court of appeals.

VI. ATTORNEY FILING DOCKETING STATEMENT:

Name: _____ Telephone: _____

Firm: _____

Email Address: _____

Address: _____

PLEASE IDENTIFY ON WHOSE BEHALF THE DOCKETING STATEMENT IS FILED:

- A. Appellant
- Petitioner
- Cross-Appellant

B. PLEASE IDENTIFY WHETHER THE FILING COUNSEL IS

- Retained Attorney
- Court-Appointed
- Employed by a government entity
(please specify _____)
- Employed by the Office of the Federal Public Defender.

Signature

Date

- Attorney at Law

NOTE: A copy of the final judgment or order appealed from, any pertinent findings and conclusions, opinions, or orders, any motion filed under Fed. R. Civ. P. 50(b), 52(b), 59, or 60, including any motion for reconsideration, for judgment of acquittal, for arrest of judgment, or for new trial, and the dispositive order(s), any motion for extension of time to file notice of appeal and the dispositive order **must be submitted with the Docketing Statement.**

The Docketing Statement must be filed with the Clerk via the court's Electronic Case Filing System (ECF). Instructions and information regarding ECF may be found on the court's website, www.ca10.uscourts.gov.

This Docketing Statement must be accompanied by proof of service.

The following Certificate of Service may be used.

CERTIFICATE OF SERVICE

I, _____ hereby certify that on
[appellant/petitioner or attorney therefor]

_____ I served a copy of the foregoing **Docketing Statement**,
[date]

to:

_____, at _____
[counsel for/or appellee/respondent]

_____, the last known
address/email address, by _____.
[state method of service]

Signature

Date

[Full name and address of attorney]

**UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT**

Byron White United States Courthouse
1823 Stout Street
Denver, Colorado 80257
(303) 844-3157

DOCKETING STATEMENT INSTRUCTIONS

PLEASE FOLLOW THE INSTRUCTIONS REGARDING CONTENT CAREFULLY. IN PARTICULAR, PLEASE NOTE THE ATTACHMENT REQUIREMENTS HAVE CHANGED EFFECTIVE JANUARY 1, 2013.

I. APPEALS FROM DISTRICT COURT

The appellant must complete a Docketing Statement and file it in the court of appeals within 14 days after filing the notice of appeal. The docketing statement must be filed via the court's Electronic Case Filing System (ECF). Instructions and information regarding ECF may be found on the court's website, www.ca10.uscourts.gov.

The following documents must be included with the Docketing Statement:

- A. The final judgment or order appealed;
- B. All pertinent findings and conclusions, opinions, or orders which form the basis for the appeal;
- C. Any motion filed under Fed. R. Civ. P. 50(b), 52(b), 59, 60, including any motion for reconsideration, and in a criminal appeal, any motion for judgment of acquittal, for arrest of judgment or for a new trial, with the certificate of service and the dispositive order(s); and
- D. Any motion for extension of time to file the notice of appeal and the dispositive order.

Please complete all sections of the Docketing Statement form except Sections I-B and I-C. Section V should only be completed in criminal appeals.

II. PETITIONS FOR REVIEW OR APPLICATIONS FOR ENFORCEMENT OF AGENCY ORDERS

The petitioner must complete a Docketing Statement and file it in the court of appeals within 14 days after filing a petition for review or application for enforcement. The docketing statement must be filed via the court's Electronic Case Filing System (ECF). Instructions and information regarding ECF may be found on the court's website, www.ca10.uscourts.gov.

The following documents must be included with the Docketing Statement:

- A. The agency docket sheet reflecting entry of the order to be reviewed;
- B. The order to be reviewed; and
- C. The petition for review or application for enforcement.

Please complete all sections of the Docketing Statement except Sections I-A, I-C, and V.

III. APPEALS FROM UNITED STATES TAX COURT

The appellant must complete a Docketing Statement and file it in the court of appeals within 14 days after the appeal is docketed. The docketing statement must be filed via the court's Electronic Case Filing System (ECF). Instructions and information regarding ECF may be found on the court's website, www.ca10.uscourts.gov.

The following documents must be included with the Docketing Statement:

- A. The decision appealed;
- B. The judgment appealed; and
- C. If the notice of appeal was filed by mail, proof of the postmark.

Please complete all sections of the Docketing Statement form except Sections I-A, I-B, and V.

**UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT**

Entry of Appearance and Certificate of Interested Parties

v.

Case No.

INSTRUCTIONS: COUNSEL FOR A PARTY MUST FORTHWITH EXECUTE AND FILE THIS FORM, INDICATING METHOD(S) OF SERVICE ON ALL OTHER PARTIES. MULTIPLE COUNSEL APPEARING FOR A PARTY OR PARTIES AND WHO SHARE THE SAME MAILING ADDRESS MAY ENTER THEIR APPEARANCES ON THE SAME FORM BY EACH SIGNING INDIVIDUALLY.

In accordance with 10th Cir. R. 46.1, the undersigned attorney(s) hereby appear as counsel for

Party or Parties

_____, in the subject case(s).

Appellant/Petitioner or Appellee/Respondent

Further, in accordance with 10th Cir. R. 46.1, the undersigned certify(ies) as follows: **(Check one.)**

On the reverse of this form is a completed certificate of interested parties and/or attorneys not otherwise disclosed, who are now or have been interested in this litigation or any related proceeding. Specifically, counsel should not include in the certificate any attorney or party identified immediately above.

There are no such parties, or any such parties have heretofore been disclosed to the court.

Name of Counsel

Name of Counsel

Signature of Counsel

Signature of Counsel

Mailing Address and Telephone Number

Mailing Address and Telephone Number

E-Mail Address

E-Mail Address

I hereby certify that a copy of this Entry of Appearance and Certificate of Interested Parties was served on

(please insert date) _____ via (state method of service) _____.

to _____
(See Fed. R. App. P. 25(b))

(Signature)

**UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT**

v.

Case No.

Certificate of Interested Parties

The following are not direct parties in this appeal but do have some interest in or a relationship with the litigation or the outcome of the litigation. *See* 10th Cir. R. 46.1(D). In addition, attorneys not entering an appearance in this court but who have appeared for any party in prior trial or administrative proceedings, or in related proceedings, are noted below.

(Attach additional pages if necessary.)

TRANSCRIPT ORDER FORM - DIRECTIONS ON THE REVERSE SIDE

PART I - To be completed by appellant within fourteen days of filing the notice of appeal

Short Title: _____ District: _____
District Court Number: _____ Circuit Court Number: _____
Name of Attorney: _____
Name of Law Firm: _____
Address of Firm: _____
Telephone of Firm: _____ Attorneys for: _____
Name of Court Reporter: _____ Telephone of Reporter: _____

PART II - COMPLETE SECTION A OR SECTION B
SECTION A - I HAVE NOT ORDERED A TRANSCRIPT BECAUSE

- A transcript is not necessary for this appeal, or
- The necessary transcript is already on file in District Court
- The necessary transcript was ordered previously in appeal number _____

SECTION B - I HEREBY ORDER THE FOLLOWING TRANSCRIPT:

(Specify the date and proceeding in the space below)

Voir dire: _____; Opening Statements: _____;
Trial proceedings: _____; Instruction Cnf: _____;
Jury Instructions: _____; Closing Arguments: _____;
Post Trial Motions: _____; Other Proceedings: _____.

(Attach additional pages if necessary)

Appellant will pay the cost of the transcript.

My signature on this form is my agreement to pay for the transcript ordered on this form.

This case is proceeding under the Criminal Justice Act.

NOTE: Leave to proceed *in forma pauperis* does not entitle appellant to a free transcript. An order of the district court allowing payment for the transcript at government expense must be obtained. See 28 U.S.C. §753(f).

CERTIFICATE OF COMPLIANCE

I certify that I have read the instructions on the reverse of this form and that copies of this transcript order form have been served on the **court reporter (if transcript ordered), the Clerk of U.S. District Court, all counsel of record or pro se parties, and the Clerk of the U.S. Court of Appeals for the Tenth Circuit.** I further certify that satisfactory arrangements for payment for any transcript ordered have been made with the court reporter(s).

Signature of Attorney/Pro Se: _____ Date: _____

PART III - TO BE COMPLETED BY THE COURT REPORTER

Upon completion, please file one copy with the Clerk of the U.S. Court of Appeals and one copy with the Clerk of the U.S. District Court.

Date arrangements for payment completed: _____
Estimated completion date: _____
Estimated number of pages: _____

I certify that I have read the instructions on the reverse side and that adequate arrangements for payment have been made.

Signature of Court Reporter: _____ Date: _____

DIRECTIONS FOR USING THIS FORM

This form requires multiple distribution, service and filing. The responsibilities of each party and the court reporter are described below.

1. APPELLANT

Whether or not a transcript is ordered, appellant or his counsel must complete Part I and Part II of this form. Upon completion, appellant must serve a copy on:

- a. the Court Reporter (if a transcript is ordered),
- b. all parties,
- c. the Clerk of the U.S. District Court, and
- d. the Clerk of the U.S. court of Appeals.

If a transcript is ordered, the appellant must obtain execution of this form by the court reporter(s) who recorded the proceedings. Within the 14-day period allowed for ordering the transcript under Fed. R. App. P. 10(b)(1), appellant must make adequate arrangements for payment for the transcript. **The Court Reporter may require a deposit equal to the full estimated cost of the transcript.** 28 U.S.C. §753(f).

Unless the entire transcript is ordered, appellant shall serve on all appellees a statement of the issues he intends to present on appeal. Fed. R. App. P. 10(b)(3). The Docketing Statement required by 10th Cir. R. 3.4 fulfills this requirement.

Those portions of the transcripts that are filed that are pertinent to the appeal must be included in appellant's appendix or, in cases where counsel is appointed, designated for inclusion in the record on appeal. 10th Cir. R. 10.2.2, 10.3.2(d) and 30.1.1.

2. APPELLEE

Unless the entire transcript is ordered, appellee may, within 28 days of filing of the notice of appeal, file and serve on appellant a designation of additional transcript to be included. If, within 14 days, appellant does not order and pay for the transcript so designated, appellee may, within a further 14 days, order and pay for the transcript or move in the district court for an order compelling appellant to do so. Fed. R. App. P. 10(b)(3).

3. COURT REPORTER

After receipt of this form and **after satisfactory financial arrangements have been made**. The court reporter shall certify the date the transcript was ordered and estimate the date it will be completed. The estimated completion date must comply with the Tenth Circuit Judicial Council's mandated district court Court Reporter Management Plans. Transcripts in a criminal case (includes 28 U.S.C. §§2241, 2254, 2255) shall be filed within 30 days of the date arrangements for payment are made. Transcripts in a civil case shall be filed within 60 days of the date arrangements for payment are made. **Court Reporters are subject to a mandatory fee reduction if transcripts are not timely filed.** See Appellate Transcript Management Plan for the Tenth Circuit, 10th Cir. R., App. B.

The completed form must be served on:

- a. the Clerk of the District Court and
- b. the Clerk of the Court of Appeals.

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

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).	<i>Must</i> attach the following: order or judgment and any post judgment motions.
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 or judgment appealed. See 10th Cir. R. 28.2. If more than 30 pages, certificate of compliance 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).

Appellant's Reply Brief: Fed. R. App. P. 28, 31, 32 10th Cir. R. 28, 31, 32	Appellant	14 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 or 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	14 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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