

UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT
QUICK REFERENCE GUIDE | APPENDIX REQUIREMENTS

WHO FILES AN APPENDIX?

Appellant's <u>retained</u> counsel must file an electronic appendix.	10th Cir. R. 10.1, 10.3 & 30.1
Appellee's counsel may file a supplemental appendix.	10th Cir. R. 30.2(A)
An appendix is NOT required when Appellant is pro se or represented by counsel appointed under the Criminal Justice Act. Instead, the court will prepare a pro se record, or appointed counsel will file a designation of record.	10th Cir. R. 10.1, 10.3 & 30.1

APPENDIX FORMATTING REQUIREMENTS

Cover Color	The front and back covers of the appendix must be white.	FRAP 32(b)(1)
Cover Page	<ul style="list-style-type: none"> • Case Number (centered) • Name of Court • Formal Caption • Nature of proceeding (e.g., Appeal, Petition for Review), and the name of the lower court, agency, or board • Which party filed • "Appendix" noted • Attorney Contact Information 	FRAP 32(b) (incorporating FRAP 32(a)(2))
Legibility/Clarity	<ul style="list-style-type: none"> • Text must equal or exceed output of laser printer. • Photographs, illustrations, and tables must result in good copy of original. 	FRAP 32(b) (incorporating FRAP 32(a)(1)(B), (C))
Order of Documents	Arrange documents in chronological order according to filing date, beginning with the oldest document.	10th Cir. R. 30.1(D)(5)
Pagination	<ul style="list-style-type: none"> • Consecutively paginate the appendix. • If the appendix has multiple volumes, each volume must be paginated consecutively within that volume, but each new volume may start over at page 1. 	10th Cir. R. 30.1(D)(1)
Volume(s)	<ul style="list-style-type: none"> • Where the appendix is large, separate volumes should be created. • Each volume must have its own cover page, identifying the volume number. • No volume should exceed 300 pages. 	10th Cir. R. 30.1(D)(6)
Index/Table of Contents	<ul style="list-style-type: none"> • Each volume must include an Index or Table of Contents <ul style="list-style-type: none"> ◦ List each document by original document title ◦ List the page number of the appendix on which the document begins 	FRAP 30(d) 10th Cir. R. 30.1(D)(2)
First Volume	<p>The first volume must also include:</p> <ul style="list-style-type: none"> • District Court docket sheet (must be the first document) • Certificate of service • Certificates of compliance with ECF requirements, privacy redaction, virus scan, and hard copy 	10th Cir. R. 30.1(D)(4) FRAP 25(d); 10th Cir. R. 25.4 ECF Manual § II(J)

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Multi-Volume Appendix	<ul style="list-style-type: none"> • The cover page should identify the volume by roman numeral and list the pages included in each (e.g., Volume II, Pages 542 to 813). • Include a Certificate of Service and all additional certifications in first volume. • Each volume must be paginated consecutively within the volume, but each volume may start over at page 1. 	10th Cir. R. 30.1(D)(1) & (2) ECF Manual § III(G)
Bookmarks	<ul style="list-style-type: none"> • A bookmark is a text link that appears in Adobe Acrobat's Bookmarks Panel. • Each document in the electronic appendix must have a bookmark that clearly identifies the district court docket number, the pleading name, and the date of filing in the district court (e.g., ECF 10 Motion for Summary Judgment 2/10/16). • Although the "Create Appendix" function in CM/ECF will automatically create bookmarks, counsel should manually edit the text of the bookmarks to clearly identify the pleadings. 	ECF Manual §§ II(S), III(G), V(H)
Hyperlinking	<ul style="list-style-type: none"> • Hyperlinks are optional and, for technical reasons, may only link to materials already on the docket, i.e., the appendix must be filed before the brief if the brief is to contain hyperlinks to the appendix. • If you do not have time to create hyperlinks to the appendix when you file the brief, you may—within 7 days of the original electronic filing—file a motion, requesting leave to file a substitute hyperlinked brief. • Filing of a substitute hyperlinked brief does not toll or otherwise impact other filing deadlines. 	ECF Manual §§ III(E), III(F) III(G), V(A)
Sealed Materials	<ul style="list-style-type: none"> • Must be accompanied by a separate motion to seal. • Must be filed in a separate volume and both e-filed under seal and submitted in a hard copy that is clearly marked on the cover as sealed. • If redaction is reasonably practicable, you must e-file both a sealed version of the appendix volume and a redacted version of the appendix volume. <ul style="list-style-type: none"> ○ If sealed and redacted versions are both e-filed, you must submit one hard copy of each version within 5 business days of notice that the e-filed versions are compliant. The sealed hard copy should be clearly marked as such. 	10th Cir. R. 25.6 & 30.1(D)(7); ECF Manual §§ III(G), IV(A)(7)

APPENDIX CONTENT REQUIREMENTS

Agreement Encouraged	The parties are encouraged to agree to the contents of the appendix.	10th Cir. R. 30.1(C)
Required Contents	<ul style="list-style-type: none"> • Generally, the appendix must include all materials filed in the district court sufficient for considering and deciding the issues on appeal, and the court need not remedy an inadequate appendix. • Per 10th Cir. R. 30.1(B)(1) and 10.4(A) and (C), the appendix must include: <ul style="list-style-type: none"> ○ The district court docket entries ○ The last amended complaint and answer, or the indictment or information and any superseding indictment or information ○ The final pretrial order 	10th Cir. R. 30.1(B)(1) & (B)(3) 10th Cir. R. 30.1(B)(1) 10th Cir. R. 10.4(A) & (C)

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	<ul style="list-style-type: none"> ○ Pertinent written reports and recommendations, findings and conclusions, opinions, or orders of a district judge, bankruptcy judge, or magistrate judge, or, if the findings and conclusions were made orally, a copy of the transcript pages reproducing those findings and conclusions ○ All jury instructions when an instruction is at issue on appeal, as well as proposed instructions that were refused; when a finding or conclusion is an issue on appeal, proposed findings and conclusions that were refused ○ The decision or order from which the appeal was taken ○ The notice of appeal <ul style="list-style-type: none"> • Additional content requirements apply to particular types of appeals. • The appendix in a Social Security appeal must include the entire administrative record. 	<p>10th Cir. R. 10.4(D) 10th Cir. R. 10.4(C)(9)</p>
Exclusions	Specific items are excluded from the appendix unless they are relevant to the issues on appeal.	10th Cir. R. 10.4(E)
APPENDIX FILING REQUIREMENTS		
Electronic Filing	<ul style="list-style-type: none"> • Retained counsel for Appellant must electronically file an appendix. • PDFs in the appendix must be native (i.e., searchable) PDFs. • All PDFs attached to a single ECF transaction cannot exceed 30 MB (i.e., appendices larger than 30 MB must be docketed in multiple CM/ECF transactions). • The CM/ECF “Create Appendix” function may be used. <ul style="list-style-type: none"> ○ NOTE: Sealed documents may not be accessible using the “Create Appendix” function. 	ECF Manual §§ II(S), III(G), V(H)
Required Hard Copy	<ul style="list-style-type: none"> • One hard copy is REQUIRED. <ul style="list-style-type: none"> ○ The hard copy must be an exact replica of the electronic appendix. ○ The number of volumes and the content of each must be identical to the e-filed appendix. <ul style="list-style-type: none"> ▪ NOTE: If you split a single volume of the appendix into multiple parts to accommodate e-filing, each part is considered a separate volume for purposes of the requirement that the number of hard copy volumes match the number of electronic volumes. ○ The hard copy must be received within 5 business days of notice that the electronic appendix is compliant. • Must be single-sided and reproduced on 8 ½ x 11 paper, unless another size is needed to facilitate inclusion of odd-sized documents (such as technical drawings). • Each volume must be bound. <ul style="list-style-type: none"> ○ Spiral binding is strongly encouraged ○ Three-ring binders are prohibited • Leave of court is required to conventionally file all or any part of an appendix. <ul style="list-style-type: none"> ○ If the court grants leave to conventionally file, you must (1) submit two hard copies of the exempted materials and (2) serve a hard copy on all parties to the appeal 	FRAP 32(b)(incorporating FRAP 32(a)(1)(A), (a)(3)); FRAP 32(b)(3); 10th Cir. R. 30.1(D)(6); 10th Cir. R. 30.1(E); ECF Manual §§ II(S), III(G), VIII(2)

Note: This quick reference guide is provided by the Clerk’s Office for the convenience of counsel and litigants for reference purposes only and does not constitute legal advice. Counsel and litigants remain responsible for independently reviewing and complying with the Federal Rules of Appellate Procedure and the Tenth Circuit Rules. The Federal Rules of Appellate Procedure and local rules of the court can be found at www.ca10.uscourts.gov/clerk/rules.