

**LOCAL RULES OF THE COURT OF APPEAL, FOURTH CIRCUIT
SUPPLEMENTING AND/OR SUPERSEDING UNIFORM RULES
OF LOUISIANA COURTS OF APPEAL**

Adopted October 1982
Including Amendments

Last Revision: January 1, 2009

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Local Rule 1 - ABANDONMENT OF APPEAL

If a record is not filed in this court on or before the return date or any extension thereof a notice shall be mailed by the clerk to counsel for the appellant, or to the appellant if not represented, that the appeal may be dismissed 30 days thereafter unless the record is filed in the meantime or good cause for the delay is shown. If an appellant does not file a brief, and the record is not filed within 30 days after such notice is mailed, the appeal shall be dismissed as abandoned. In order to be effective, any showing of good cause by appellant must contain an affidavit of the clerk of court verifying appellant's representations.

Local Rule 2 - NUMBER OF BRIEFS

Each party shall file an original and 4 copies of the brief in civil cases and an original and 2 copies of the brief in criminal cases.

Local Rule 3 - EXTENSION OF TIME FOR APPELLEE'S BRIEF

In the event appellant's brief is not filed by its due date appellee's brief may be filed not later than 20 days after appellant's brief is filed.

Local Rule 4 - PREPARATION OF THE RECORD

The requirements of Rules 2-1.4 et seq. of the Uniform Rules may be suspended by the Chief Judge so as to allow the clerk of the trial court to file the record as originally assembled in his office with the addition of the transcript of testimony if any and without the necessity of rearranging or deleting documents, preparing an index, or renumbering pages of the record.

Local Rule 5 - FILING FEE FOR MOTION TO DISMISS AN APPEAL

A filing fee in the amount of \$70.50 shall be paid in connection with the filing of a motion to dismiss any appeal in which the record has not previously been filed in the court.

Amended July 1, 1988; July 1, 1989; July 1, 1990; amended July 1, 1993; amended effective July 1, 1994; amended effective July 1, 1995; amended effective July 1, 1996; amended effective July 1, 2004; amended effective July 1, 2007; amended effective July 1, 2008

Local Rule 6 - FILING FEES FOR ANSWER TO APPEAL AND MOTION FOR EXTENSION OF TIME

A filing fee in the amount of \$70.50 shall be paid in connection with the filing in this court of an answer to an appeal. A filing fee of twenty-five dollars shall be paid in connection with the filing of a motion for an extension of time.

Adopted Feb. 1985. Amended July 1, 1988; July 1, 1989; July 1, 1990; Amended July 1, 1993; Amended effective July 1, 1994; Amended effective July 1, 1995; Amended effective July 1, 1996; amended effective July 1, 2004; amended effective July 1, 2007; amended effective July 1, 2008

Local Rule 7 - FEE FOR COPIES OF OPINIONS OR PARTS OF THE RECORD

Fees for copies of opinions designated for publication shall be \$1.00 per page. All other copies shall be \$2.00 per page except Fax copies which shall be \$3.00 per page.

Adopted Feb. 1985; Amended effective March 1, 1994

Local Rule 8 - APPELLANT'S BRIEF

In addition to the requirements set forth in Rule 2-12.4, Uniform Rules--Courts of Appeal, the appellant's brief in all civil cases shall contain a copy of the judgment appealed from and the trial court's written and/or oral reasons for judgment if any.

Adopted Jan. 15, 1987

Local Rule 9 - UNTIMELY BRIEFS BY APPELLEES; SANCTIONS

1. In addition to all other sanctions imposed by the Uniform Rules--Courts of Appeal for untimely briefs, in every civil case when the appellee's brief is not filed by the date the brief is due a fine of one hundred dollars shall be imposed and shall be paid prior to the filing of the brief.

2. Such fine may not be waived except on motion by the appellee based upon extenuating circumstances which are beyond

the control of the appellee. When such a motion is filed before the case has been docketed for argument the order granting the waiver of the fine must be signed by the Chief Judge or Administrative Judge of the court or in their absence by the next senior judge present in court. When such a motion is filed after the case has been docketed for argument the order granting the waiver of the fine must be signed by a majority of the judges on the panel assigned to hear the case.

Adopted Jan. 15, 1987

Local Rule 10 - PAPERS FILED IN CRIMINAL CASES

Every paper filed in a criminal case must be signed by counsel of record, or, only when the district court has permitted the defendant to proceed pro se, by the defendant. This rule shall not apply to a case in which the defendant's conviction is final and the defendant is not actively represented by counsel or where the defendant is complaining of the delay in the processing of the appeal.

Adopted November 10, 1988

Local Rule 11 - DEPOSIT FOR COSTS OF MAILING

In every civil appeal the clerk of the trial court shall collect and forward to the clerk of the court of appeal in addition to the filing fee for the appeal the sum of ten dollars (\$10.00) to defray the cost of mailing notices by the court of appeal.

Adopted Dec. 13, 1989, eff. Jan. 1, 1990

Local Rule 12 - BRIEFS

Briefs may be printed, typewritten, or produced by any copying or duplicating process which produces a clear black image on white paper. Illegible copies and photocopies produced on wet copiers are not acceptable. Briefs may be typewritten or otherwise acceptably produced on either letter or legal size, white, unglazed, opaque paper, with a margin of 1 on each side, using only one side of each page. Briefs may be backed with a flexible or plastic manuscript cover, such as the customary. "Blue back". The text of briefs shall be double-spaced except for matters which are customarily single-spaced. The pages in the briefs shall be numbered consecutively.

The requirements listed above shall apply to briefs submitted both in appeals and in briefs or supportive memoranda submitted in connection with motions, applications for supervisory writs, applications for rehearing and shall be subject to the following requirements and limitations:

1. Original briefs on 8 1/2 " x 14" paper shall not exceed twenty-eight pages; reply briefs on such paper shall not exceed thirteen pages. Original briefs on 8 1/2 " x 11" paper shall not exceed thirty-eight pages; reply briefs on such paper shall not exceed eighteen pages. These limitations do not include pages containing the cover, jurisdictional statement, syllabus, specification or assignment of errors, and issues presented for review.
2. The size type in all briefs will be: (a) Roman or Times New Roman 14 point or larger computer font, normal spacing; or (b) no more than 10 characters per inch typewriter print. A margin of at least one inch at the top and bottom of each page shall be maintained. Footnotes may be single-spaced but shall not be used to circumvent the spirit of this rule.
3. A motion for leave to file a brief in excess of the page limitation of this rule must be filed at least ten days in advance of the due date of the brief. Such a motion will be granted for extraordinary and compelling reasons.

Adopted effective March 1, 1992. Amended Jan. 13, 2004, effective June 1, 2003

Local Rule 13 - INCLUSION OF BAR ROLL NUMBERS ON APPELLATE RECORDS

In addition to the requirements for the cover inscription provided by Rule 2-1.3 of the Uniform Rules--Courts of Appeal the cover shall contain after the name of each counsel of record the bar roll number of the attorney.

Adopted Dec. 1991

Local Rule 14 - SUMMARY DOCKET--CIVIL APPEALS

1. Any civil case, after briefing, which involves relatively simple issues of law and fact and consists of a relatively short transcript of testimony, if any, may be placed on the summary docket.
2. There shall be no oral argument in a summary docket case except as provided hereafter.
3. The clerk of court shall notify all parties in writing that the case has been placed on the summary docket. Within ten days after the mailing of the notice a party may file a written motion to return the case to the regular docket or to be allowed oral argument. The court may deny the motion for oral argument or allow full or limited argument.

Adopted Sept. 15, 1992

Local Rule 15 - FILING FEE FOR AMICUS BRIEFS

A filing fee in the amount of \$100.00 shall be paid in connection with filing an Amicus Curiae brief. This fee shall be due at the time of filing the Motion for Leave to File Amicus Brief.

Adopted Jan. 18, 1996

Local Rule 16 - TIME TO RESPOND TO NON-EMERGENCY WRIT

When an application for supervisory writs has been filed, a party has the right to respond. However, the court may adjudicate the application at any time after receipt, with or without the benefit of a response. If within ten days after the date on which an application for supervisory writs has been filed, a response or motion for an extension of time in which to file a response has not been filed, it shall be presumed that a response will not be forthcoming.

Adopted effective Nov. 1, 1996

Local Rule 17 - REGARDING PROCESSING OF CRIMINAL APPEALS

A. Criminal appeal records lodged with the Fourth Circuit shall contain the trial transcript, the sentencing and multiple bill transcripts (if the defendant was sentenced as a multiple offender under La.R.S. 15:529.1), and any other transcript designated by the parties pursuant to La.C.Cr.P. art. 914.1(A). If the appeal record is forwarded to the Fourth Circuit without necessary transcripts, the record will be accepted and lodged, but the Court will issue an order to the court reporter and/or the appellant's attorney to supplement the record with the missing transcript(s) within thirty days, and the offending court reporter or attorney may be subject to sanctions.

B. If counsel for the appellant believes that additional transcripts are needed in light of the assignment(s) of error to be urged on appeal, a motion to supplement the record should be filed with the Fourth Circuit within twenty days of the lodging of the record. The Court will respond to the motion promptly, and, if the motion is granted, issue an Order to the court reporter or the appellant to supplement the appeal record within thirty days. Only one extension of this time period, of not more than thirty days will be considered. Motions to supplement the record filed after the twenty day period will be entertained by the Court; however, the attorney filing the motion may be subject to sanctions, if, after responding to an Order to show cause, the attorney is unable to provide just cause for his/her failure to file the motion timely.

C. If a motion to supplement the record is granted by the Fourth Circuit, counsel will be granted twenty days in which to

file the appellant's brief after the record is supplemented. The Court will grant extensions of this twenty-day period only when the moving party can demonstrate that additional time is necessary due to extenuating circumstances beyond the control of the party and that, without the extension, an unusual and undue hardship would be created.

D. The Fourth Circuit will consider motions to extend the time period to prepare transcripts for criminal appeal records, either in preparation for lodging or a supplemental transcript, and motions to extend the briefing schedule; however, except in extraordinary cases, the Court will not consider more than two motions filed by a moving party, and will not grant more than a total of a sixty day extension to either a court reporter or attorney. An extension will not be granted after the return date, extended return date, or due date for a brief or transcript has passed. If the court reporter or attorney fails to comply with Orders issued by this Court, the offending party may be subject to sanctions, including a fine not to exceed \$100 per day for each day the brief, motion, or transcript is late.

Adopted effective Jan. 1, 1997

Local Rule 18 - SUPPLEMENTARY INFORMATION TO BE FILED FOR COMPLIANCE WITH UNIFORM RULE 4-5

In addition to the requirements of Uniform Rule 4-5 the original application for writs shall be served on the respondent judge, opposing counsel, or on a party not represented by counsel, contemporaneously with its filing in this court. The affidavit required to be filed by Rule 4-5, Uniform Rules-Courts of Appeal, shall certify both the date and the manner of service on the respondent judge, on opposing counsel, and on a party if not represented by counsel. Failure to make contemporaneous service in accordance with the affidavit shall result in dismissal of the application unless good cause is shown.

Adopted effective June 1, 1997

Local Rule 19 - MOTIONS FOR EXTENSION OF RETURN DATE FOR THE FILING OF A WRIT APPLICATION PURSUANT TO RULE 4-3

1. When any motion for the extension of the return date for the filing of a writ application is filed the clerk of court shall assign a docket number to the motion and shall collect a filing fee of \$45.50.
2. The motion shall contain a certificate that the trial judge has refused to grant an extension or that the attorney is unable to locate the trial judge and that a copy of the motion has been served upon the trial judge and opposing counsel.
3. The motion shall be presented to the Chief Judge or any judge of the court in his or her absence who shall alone act upon the motion.
4. After the motion is acted upon a copy of the order will be mailed to the attorney filing the motion, the trial court judge and the clerk of the trial court. The docket number assigned to it shall be retired.

Adopted Sept. 16, 1997, effective Nov. 1, 1997; amended effective July 1, 2004; amended effective July 1, 2007; amended effective July 1, 2008

Local Rule 20 - ABANDONMENT OF CIVIL APPEAL

A. Except as provided hereafter when no activity occurs in an appeal for three years, the appeal shall be dismissed as abandoned, and notice thereof shall be sent to the appellant or the appellant's attorney at the last address shown on the court's records.

B. If a stay order or notice thereof resulting from a bankruptcy, receivership, liquidation, or like proceeding is filed the Clerk of Court shall send a notice to the appellant that one year thereafter the appeal shall be dismissed as abandoned unless the appellant in the meantime files a motion showing why the appeal should not be dismissed.

C. If the court is notified that a case has been settled or that the progress of a case should be suspended for any reason the Clerk of Court shall send a notice to the appellant that ninety days thereafter the appeal shall be dismissed as abandoned unless the appellant in the meantime files a motion showing why the appeal should not be dismissed.

D. In the event that an appellant files a written motion pursuant to Section (B) or (C) the court may order that the appeal be dismissed as scheduled, that the time of the dismissal be extended, or that any other appropriate action be taken.

Adopted Feb. 12, 1998, effective July 1, 1998

Local Rule 21 - FEE FOR MOTION TO EXCEED PAGE LIMIT

A filing fee in the amount of \$25.00 shall be paid in connection with the filing of a Motion to Exceed Page Limit.

Local Rule 22 – NUMBER OF WRITS

An application for writs of any kind, and all documents and exhibits in connection therewith, shall be filed in an original and 1 duplicate copy with the Clerk of the court, and shall not be considered by the court or any judge of the court unless it is properly filed with the Clerk. Emergency writs and writs requesting expedited consideration and all documents and exhibits in connection therewith, shall be filed in an original and 3 duplicate copies with the Clerk of the court.

Adopted effective January 1, 2009

Local Rule 23 – CALENDAR OF ASSIGNMENTS (DOCKET)

The Clerk shall e-mail the calendar of assignments (docket) to all counsel of record not less than 30 days prior to the date fixed for the hearing of a case on the calendar. The Clerk shall fax this information to all counsel who have no e-mail address and mail via certified mail to all persons not represented by counsel. This docket shall also be posted on the court's web site.

Adopted effective March 15, 2001

Local Rule 24 – ELECTRONIC AUDIO AND VIDEO EVIDENCE

1. All electronic audio and video evidence submitted to the Court shall be in the Windows Media Audio (WMA) or Windows Media Video (WMV) format to ensure that the evidence can be played on the default Windows Media Player.

2. In the event that audio or video evidence cannot be converted to the required formats, the software or codec required to view the evidence must be provided. This must include a description of the software or codec and instructions on how to install and use the software. Counsel for the parties must also inform the clerk of court in writing of these circumstances within five (5) days of the lodging of the record.

3. The following information must be provided with all submitted electronic evidence:

Title of file

Brief description of what is contained in the file

Length of file

Number of files

File format

Guarantee of no virus

The antivirus software that was used to scan the files and the date of the virus definitions

It is the exclusive responsibility of counsel for all parties to ensure that all electronic audio and video evidence works properly before submitting it to the Court.

Adopted by the Court En Banc January 20, 2010

Effective February 1, 2010