

ADOPTED September 1, 2011

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT AMENDMENTS TO LOCAL RULES 39(a), 30(b), 31(d)

PLEASE TAKE NOTICE that the Court intends to amend Local Rules 39(a), 30(b), and 31(d).

The proposed amendment to Local Rule 39(a) reduces the maximum rate for copy costs claimed by a prevailing party for briefs and appendices from \$4.00 per original page to \$.15 per copy for all filing and service copies required by the court. The proposed amendment aligns the maximum rate with the copy rate generally charged in the Richmond area and encourages economical methods of copying.

For ease of reference, the proposed amendments to Local Rule 30(b) consolidate the filing and service requirements for appendices in one local rule, and the proposed amendments to Local Rule 31(d) consolidate the filing and service requirements for briefs in one local rule.

The proposed amendments will take effect on September 1, 2011. Interested parties may submit comments on or before August 25, 2011, to:

Patricia S. Connor, Clerk
U.S. Court of Appeals for the Fourth Circuit
1100 E. Main Street, Suite 501
Richmond, Virginia 23219

The Fourth Circuit Rulebook can be found [here](#)

June 29, 2011
Date

/s/ Patricia S. Connor
Clerk

Proposed Amendment to Local Rule 39(a). Printing Reproduction Costs.

The cost of ~~printing or otherwise~~ producing and binding necessary copies of briefs and appendices in the form required by Fed. R. App. P. 32 shall be taxable as costs at a rate equal to actual cost, but not higher than ~~\$4.00 per page of photographic reproduction of typed material~~ 15 cents per page for each copy required for filing and service by Local Rules 30(b)(4) and 31(d) or by order of the Court.

Proposed Amendment to Local Rule 30(b). Appendix Contents; Number of Copies

(1) Required Contents: In designating or agreeing upon the contents of the appendix, and in assembling the appendix, the parties should avoid unnecessary duplication of materials. The appellee's designation should only include those additional parts of the record to which it wishes to direct the Court's attention that have not already been designated by the appellant.

The use of a selectively abridged record allows the judges to refer easily to relevant parts of the record and saves the parties the considerable expense of reproducing the entire record. Although there is no limit on the length of the appendix except as provided in Local Rule 32(a), it is unnecessary to include everything in the appendix. The appendix should, however, contain the final order or order appealed from, the complaint or petition, as finally amended (civil appeals) or indictment (criminal appeals), as well as all other parts of the record which are vital to the understanding of the basic issues on appeal. Although the entire record is available to the Court should it believe that additional portions are important to a full understanding of the issues, citations to portions of the record not included in the appendix is not favored.

(2) Table of Contents; Witness Names and Type of Examination: The table of contents to the appendix should be sufficiently detailed to be helpful to the Court. Referring to the transcript of a trial under a single reference to "proceeding" or "trial transcript" is not sufficient. When the testimony of a witness is included in the appendix, the testimony should be clearly identified in the table of contents, beneath the proceeding in which it occurred. The name of the testifying witness and the type of examination (e.g., direct, cross, redirect, or recross) should also be clearly indicated at the top of each page of the appendix where the witness's testimony appears. Exhibits should be listed in the table of contents by number or letter and by name or brief description.

(3) Sentencing Guideline Appeals: In all criminal appeals seeking review of the application of the sentencing guidelines, appellant shall include the sentencing hearing transcript and presentence report in the appendix. The presentence report must be included in a separate sealed volume, stamped "SEALED" on the volume itself and on the envelope containing it, and be accompanied by a certificate stating that the volume contains sealed material.

~~Pursuant to the granted by FRAP 30(a)(3), the Court requires that only six copies of the appendix must be filed with appellant's opening brief and a copy served on counsel for each party separately represented. Appointed counsel may file five copies and any party proceeding in forma pauperis who is not represented by Court-appointed counsel may file four copies. If the Court allows a deferred appendix, the parties file their page proof briefs in electronic form only. After the deferred appendix is filed, the parties file their final briefs in electronic form in addition to filing the requisite number of paper copies. The final briefs must contain proper references to the appendix.~~

(4) Number of Copies

(a) Filing: Six paper copies of the appendix and any supplemental appendix must be filed. Appointed counsel may file five copies of an appendix or supplemental appendix, and any party proceeding in forma pauperis who is not represented by Court-appointed counsel may file four copies.

(b) Service: One paper copy of the appendix must be served on lead counsel for each party separately represented and on any party not represented by counsel.

(c) Sealed Appendix Volumes: For sealed volumes of the appendix, four paper copies must be filed and one paper copy must be served on lead counsel for each party separately represented

who is authorized to have access to the sealed volume and on any party not represented by counsel who is authorized to have access to the sealed volume.

Proposed Amendment to Local Rule 31(d). Number of Copies

(1) Filing: In addition to the electronic brief, each party must file eight paper copies of the brief with the clerk, except that appointed counsel may file six copies, and any party proceeding in forma pauperis who is not represented by Court-appointed counsel may file four copies.

(2) Service: Service of paper copies of briefs ~~on opposing counsel~~ is not required if the brief was served electronically on counsel and on any party not represented by counsel. unless counsel was not served electronically If the brief was not served electronically, one paper copy must be served on lead counsel for each party separately represented and on any party not represented by counsel.

~~Filing and service of sealed and redacted versions of briefs are governed by Local Rule 25(c)(3)(F).~~

(3) Sealed Briefs: For sealed briefs, four paper copies of the sealed version must be filed and one paper copy must be served on lead counsel for each party separately represented who is authorized to have access to the sealed version and on any party not represented by counsel who is authorized to have access to the sealed version. Filing and service of the public version of the brief are governed by (1) and (2) above.

(4) Page-Proof Briefs: If the Court allows a deferred appendix, the parties are required to file their page-proof briefs in electronic form only. After the deferred appendix is filed, filing and service of final briefs are governed by (1) and (2) above.