

## **Rule 31. Serving and Filing Briefs**

### **(a) Time to Serve and File a Brief.**

- (1) The appellant must serve and file a brief within 40 days after the record is filed. The appellee must serve and file a brief within 30 days after the appellant's brief is served. The appellant may serve and file a reply brief within 21 days after service of the appellee's brief but a reply brief must be filed at least 7 days before argument, unless the court, for good cause, allows a later filing.
- (2) A court of appeals that routinely considers cases on the merits promptly after the briefs are filed may shorten the time to serve and file briefs, either by local rule or by order in a particular case.

**(b) Number of Copies.** Twenty-five copies of each brief must be filed with the clerk and 2 copies must be served on each unrepresented party and on counsel for each separately represented party. An unrepresented party proceeding in forma pauperis must file 4 legible copies with the clerk, and one copy must be served on each unrepresented party and on counsel for each separately represented party. The court may by local rule or by order in a particular case require the filing or service of a different number.

**(c) Consequence of Failure to File.** If an appellant fails to file a brief within the time provided by this rule, or within an extended time, an appellee may move to dismiss the appeal. An appellee who fails to file a brief will not be heard at oral argument unless the court grants permission.

### ***Local Rule 31(a). Shortened Time for Service and Filing of Briefs in Criminal Cases.***

*Pursuant to the authority conferred by FRAP 31(a)(2), the time for serving and filing briefs in criminal appeals is shortened as follows: the appellant shall serve and file appellant's brief and appendix within thirty-five days after the date on which the briefing order is filed; the appellee shall serve and file appellee's brief within twenty-one days after service of the brief of the appellant; the appellant may serve and file a reply brief within ten days after service of the brief of the appellee.*

### ***Local Rule 31(b). Briefing Orders.***

*A formal briefing schedule shall be sent to the parties upon receipt of the record or determination by the Clerk that the record is complete -- whichever occurs first. Thus, the time for designating the contents of the joint appendix and the filing of briefs is controlled by the briefing order and not the receipt of the record as provided in FRAP 31(a)(1).*

### ***Local Rule 31(c). Briefing Extensions.***

*Extensions will be granted only when extraordinary circumstances exist. A motion for an extension of time to file a brief must be filed well in advance of the date the brief is due and must set forth the additional time requested and the reasons for the request. The Court discourages these motions and may deny the motion entirely or grant a lesser period of time than the time requested.*

### ***Local Rule 31(d). Number of Copies.***

- (1) **Filing:** *Unless otherwise directed by the Court, one paper copy and one electronic copy of briefs must be filed. The Court will order the filing of additional paper copies for oral argument or if otherwise needed by the Court.*

- (2) **Service:** *Service of paper copies of briefs is not required if the brief was served electronically on counsel and on any party not represented by counsel. One paper copy of any sealed brief must be served on lead counsel for each party separately represented who is authorized to have access to the sealed brief and on any party not represented by counsel who is authorized to have access to the sealed brief.*
- (3) **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.*

*Former Local Rule 31 amended and redesignated Local Rule 31(a) December 1, 1995; amended December 1, 1998, December 1, 2002, and December 1, 2009.*

*Former I.O.P.-31.1 amended and redesignated Local Rule 31(b) December 1, 1995; amended December 1, 1998, and December 1, 2009.*

*Former I.O.P.-31.2 redesignated Local Rule 31(c) December 1, 1995; amended December 4, 1996, April 1, 2008, December 1, 2009, and July 2, 2012.*

*Former I.O.P.-31.3 redesignated Local Rule 31(d) December 1, 1995; amended December 1, 1998, July 1, 2010, September 1, 2011, October 1, 2015, and July 15, 2022.*