

**Rule 28. Briefs.**

(a) Brief of the Appellant (or Petitioner). The brief must contain, under appropriate headings and in the order indicated:

(1) A title page containing:

(A) the number of the case centered at the top;

(B) the name of the court;

(C) the title of the case as it appears on the appellate docket (see Rule 12(a));

(D) the nature of the proceeding (e.g., Appeal, Petition for Review) and the name of the court, agency, or board below;

(E) the title of the brief, identifying the party or parties for whom the brief is filed; and

(F) the name, office address, email address, and telephone number of counsel filing the brief. (If more than one name is listed, counsel who will argue the matter must be denoted with an asterisk.);

(2) in the case of a non-governmental party, and to enable the judges of this court to consider possible recusal:

(A) a list of all parties, intervenors, amici curiae, and their counsel in the trial court or agency proceeding and in the appellate proceeding; and

(B) a disclosure statement if one is required by Rule 26.1;

(3) a table of contents, with page references;

(4) a table of authorities — cases (alphabetically arranged), statutes, and other authorities — with references to the pages of the brief where they are cited, and with an asterisk designating those cases chiefly relied upon;

(5) an assertion that the appeal is from a final order or judgment that disposes of all parties' claims, or information establishing this court's jurisdiction on some other basis;

(6) a statement of the issues presented for review;

(7) a statement of the case briefly indicating the nature of the case, the course of the proceedings, and the disposition below;

(8) a statement of facts relevant to the issues submitted for review with appropriate references to the record (see Rule 28(e));

(9) a summary of the argument, which must contain a succinct, clear, and accurate statement of the arguments made in the body of the brief, and which must not merely repeat the argument headings;

(10) an argument containing:

(A) the appellant’s contentions and the reasons for them, with citations to the authorities and parts of the record on which the appellant relies; and,

(B) for each issue, a concise statement of the applicable standard of review (which may appear in the discussion of the issues or under a separate heading placed before the discussion of the issues); and

(11) a short conclusion stating the precise relief sought.

(b) Brief of the Appellee (or Respondent). The brief must conform to the requirements of Rule 28(a), except that none of the following need appear unless the appellee is dissatisfied with the statement of the appellant:

(1) the statement of the issues;

(2) the statement of the case;

(3) the statement of the facts; and

(4) the statement of the standard of review.

(c) Reply Brief. The appellant may file a brief in reply to the appellee’s brief. An appellee who has cross-appealed may file a brief in reply to the appellant’s response to the issues presented by the cross-appeal. Unless the court permits, no further briefs may be filed. A reply brief must contain a table of contents, with page references, and a table of authorities — cases (alphabetically arranged), statutes, and other authorities — with references to the pages of the reply brief where they are cited.

(d) References to Parties. In briefs and at oral argument, counsel should minimize the use of the terms “appellant,” “petitioner,” “respondent,” and “appellee.” To make the briefs clear, counsel should use the parties’ actual names or the designation used in the Superior Court or agency proceeding, or such descriptive terms as “the employee,” “the injured person,” “the landlord,” or “the tenant.”

(e) References to the Record. References to the parts of the record contained in the appendix filed with the appellant’s brief must be to the pages of the appendix. If reference is made to an part of the record not included in the appendix, any reference must be to the PDF pagination of the record supplied by the Superior Court or agency and the page of the original document (for example: R. 153 (PDF) (Order p. 5)). A party referring to evidence whose admissibility is in controversy must

cite the pages of the appendix or of the transcript at which the evidence was identified, offered, and received or rejected (for example, R. 154 (PDF) (Tr. p. 5)).

(f) **Reproduction of Statutes, Rules, Regulations, etc.** If the court's determination of the issues presented requires the study of statutes, rules, regulations, etc., the relevant parts must be set out in the brief or in an addendum at the end.

(g) **Citations.** A published opinion or order of this court may be cited in any brief. Unpublished orders or opinions of this court may not be cited in any brief, except when relevant (1) under the doctrines of law of the case, *res judicata*, or collateral estoppel; (2) in a criminal case or proceeding involving the same defendant; or (3) in a disciplinary case involving the same respondent.

(h) **Citation to Administrative Agency Orders, Decisions and Opinions.** On review of orders and decisions of administrative agencies, an internal order, decisions or opinion of the agency in another case may be cited to the court if (1) it is available in a publicly accessible electronic database (the web address to which is provided), or (2) a copy of it is furnished to the court in an addendum at the end of the brief or in the appendix.

(i) **Briefs in a Case Involving a Cross-Appeal.** If a cross-appeal is filed, the party who files a notice of appeal first is the appellant for purposes of this rule and Rules 30, 31, and 34. If notices are filed on the same day, the plaintiff in the proceeding below is the appellant. These designations may be modified by agreement of the parties or by court order. With respect to appellee's cross-appeal and response to appellant's brief, appellee's brief must conform to the requirements of Rule 28(a). But an appellee who is satisfied with appellant's statement need not include a statement of the case or the facts.

(j) **Briefs in a Case Involving Multiple Appellants or Appellees.** In a case involving more than one appellant or appellee, including consolidated cases, any number of appellants or appellees may join in a single brief, and any party may adopt by reference a part of another's brief. Parties may also join in reply briefs.

(k) **Citation of Supplemental Authority.** If pertinent and significant authorities come to a party's attention after the party's brief has been filed, or after oral argument but before decision, a party may promptly file a letter with the Clerk served on the other parties, setting forth the citations. The letter must state without argument the reasons for the supplemental citations, referring either to the page of the brief or to a point argued orally. Any response must be made promptly and must be similarly limited. If the supplemental authorities are not readily available in published form, the party submitting the letter must also attach a copy of the authority to the letter to the Clerk.