

RULE 32. FORM OF BRIEFS, THE APPENDIX AND OTHER PAPERS

(a) Form of a Brief.

(1) Reproduction.

(A) A brief ~~shall~~ must be reproduced by any process that yields a clear black image of letter quality. The paper must be opaque and unglazed. Only one side of the paper may be used.

(B) Text must be reproduced with a clarity that equals or exceeds the output of a laser printer.

(C) Photographs, illustrations, and tables may be reproduced by any method that results in a good copy of the original; a glossy finish is acceptable if the original is glossy.

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~~(C) Carbon copies of briefs may not be submitted without permission of the court, except on behalf of parties allowed to proceed in forma pauperis.~~

(2) Cover. ~~Except for filings by unrepresented parties, Covers for briefs are required. The cover of the appellant's brief must be blue; the respondent's, red; an intervenor's or amicus curiae's, green; and any~~

~~reply, gray; and any supplemental brief, tan. A pro se party who is incarcerated is not required to comply with the provisions of this Rule regarding the color of the cover of a brief filed by that party.~~ The front

Commented [OJ1]: Different colored covers are not necessary.

cover of a brief ~~shall~~ must contain:

- (A) the name of the court and the number of the case;
- (B) the title of the case (see Rule 12(a));
- (C) the nature of the proceedings in the court (e.g., Appeal) and

Commented [SA2]: The subcommittee considered but rejected a direction ". . . so as not to obscure the file stamp." Although we see collisions frequently, this direction was considered too vague for those who do not regularly practice in the Supreme Court.

the name of the court below;

(D) the title of the document (e.g., Appellant’s Opening Brief, Respondent’s Answering Brief); and

(E) the names, addresses, telephone numbers, and State Bar of Nevada identification numbers of counsel, if any, representing the party for whom the brief is filed.

(3) Binding. The brief must be bound in any manner that is secure, does not obscure the text, and permits the brief to lie reasonably flat when open.

(4) Paper Size, Line Spacing, Margins, and Page Numbers.

The brief must be on 8 1/2 by 11-inch paper. The text ~~shall~~ must be double-spaced, except that quotations of more than two lines may be

indented and single-spaced. Headings and footnotes may be single-spaced. Margins must be at least 1 inch on all four sides. The pages shall must be consecutively numbered at the bottom. Pages in the brief preceding the statement of the case must be numbered in lowercase Roman numerals, and pages in the brief beginning with the statement of the case must be numbered in Arabic numerals.

(5) Typeface. Either a proportionally spaced or a monospaced typeface may be used. Footnotes must be in the same size and typeface as the body of the brief.

(A) A proportionally spaced typeface (e.g., Century Schoolbook, ~~CG Times~~, Times New Roman, ~~and Garamond, Georgia, and Palatino~~~~New Century~~) must be 14-point or larger.

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(B) A monospaced typeface (e.g., Courier and Pica) may not contain more than 10 1/2 characters per inch (e.g., Courier 12-point).

(C) Unrepresented litigants may use elite type, 12 characters per inch, if they lack access to a typewriter with larger characters.

(6) Type Styles. A brief must be set in a plain, roman style, although underlining, italics or boldface may be used for emphasis. Case names must be italicized or underlined.

(7) Length.

(A) Noncapital Cases.

(i) Page Limitation. Unless it complies with Rule 32(a)(7)(A)(ii) or permission of the court is obtained under Rule 32(a)(7)(D), an opening or answering brief shall must not exceed 30 pages, and a reply brief shall must not exceed 15 pages.

(ii) Type-Volume Limitation. An opening or answering brief is acceptable if it contains no more than 14,000 words, or if it uses a monospaced typeface, and contains no more than 1,300 lines of text. A reply brief is acceptable if it contains no more than half the type-volume specified for an opening or answering brief under this Rule.

(B) Capital Cases.

(i) Page Limitation. Unless it complies with Rule 32(a)(7)(B)(ii) or permission of the court is obtained under Rule 32(a)(7)(D), an opening or answering brief in a capital case shall must not exceed 80 pages, and a reply brief in a capital case shall must not exceed 40 pages.

(ii) Type-Volume Limitation. An opening or answering brief in a capital case is acceptable if it contains no more than 37,000

words, or if it uses a monospaced typeface, ~~shall~~ must contain no more than 3,500 lines of text. A reply brief in a capital case is acceptable if it contains no more than half the type-volume specified in this Rule for an opening or answering brief in a capital case.

(C) Computing Page- and Type-Volume Limitation. The disclosure statement, table of contents, table of authorities, signature blocks, required certificate of service and compliance with these Rules, and any addendum containing statutes, rules, or regulations do not count toward a brief's page- or type-volume limitation. The page- or type-volume limitation applies to all other portions of the brief beginning with the statement of the case, including headings, footnotes, and quotations. ~~Pages in the brief preceding the statement of the case must be numbered in lowercase Roman numerals, and pages in the brief beginning with the statement of the case must be numbered in Arabic numerals.~~

(D) Permission to Exceed Page Limit or Type-Volume Limitation.

(i) The court looks with disfavor on motions to exceed the applicable page limit or type-volume limitation, and therefore,

permission to exceed the page limit or type-volume limitation will not be routinely granted. A motion to file a brief that exceeds the applicable page limit or type-volume limitation will be granted only upon a showing of diligence and good cause. The court will not consider the cost of preparing and revising the brief in ruling on the motion.

(ii) A motion seeking an enlargement of the page limit or type-volume limitation for a brief shall must be filed on or before the brief's due date and ~~shall must be accompanied by a declaration stating state~~ in detail the reasons for the motion and the number of additional pages, words, or lines of text requested. A motion to exceed the type-volume limitation shall must be accompanied by a certification as required by Rule 32(a)(9)(C) as to the line or word count.

(iii) The motion shall must also be accompanied by a single copy of the brief the applicant proposes to file.

(8) Handwritten Briefs. A pro se party who is incarcerated or detained in a state prison or county jail or other facility may file documents under this Rule that are legibly handwritten in black or blue ink and that otherwise conform to the requirements of this Rule.

Commented [SA4]: Is that always available? Is the legibility requirement enough?

Commented [OJ5R4]: I would add "blue" to this, but I do think an "ink" requirement is necessary since the clerk's office scans in all documents that are filed in the court and there is a possibility that if something is sent in not in ink it may not be able to be scanned (example, someone writing their brief in yellow highlighter, it might be legible, but it wouldn't scan well).

Handwritten documents are not otherwise permitted without leave of the court.

(9) Certificate of Compliance.

(a) Certificate Required Upon Filing of Any Brief. All

briefs must include a certificate of compliance. The certificate must be signed by the unrepresented party or an active member of the State Bar of Nevada. The certificate must substantially comply with Form 9 in the Appendix of Forms, representing that:

(1) the signing attorney has read the brief;

(2) the brief is not frivolous or interposed for any improper purpose;

(3) the brief complies with all applicable Nevada Rules of Appellate Procedure, including Rule 28(e); and

(4) the brief complies with the formatting requirements of Rule 32(a)(4)-(6), identifying the typeface and type-style used; and

(5) the brief complies with the page- or type-volume limitations stated in Rule 32(a)(7). If relying on word or line count, the certificate must state either the number of words or the number of lines of monospaced type in the brief.

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(b) Striking a Brief Without the Required Certificate. If a

brief does not contain the certification required by this Rule, it will be stricken unless such a certification is provided within 14 days after the omission is called to the attorney's attention.

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(c) Sanctions. The Court may impose sanctions for an

incomplete or inaccurate certificate.

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~~—————(A) Requirement of Certificate. The brief must include a certificate by the attorney, or an unrepresented party, that it complies with the typeface and type style requirements of Rule 32(a)(4)–(6), identifying the typeface and type style used, and that it complies with either the page or type volume limitation under the applicable Rule.~~

~~—————(B) Type Volume Certificate. A certification based on type volume limitations may rely on the word or line count of the word processing system used to prepare the brief and must state either the number of words in the brief or the number of lines of monospaced type in the brief.~~

~~—————(C) Form of Certificate. The certificate required by this Rule may be combined with the certificate required by Rule 28.2. A certificate that includes the first two paragraphs of Form 9 in the~~

~~Appendix of Forms will be regarded as sufficient to meet the requirements of this Rule.~~

(b) Form of Appendices. An appendix must comply with Rule 32(a)(1), (2), (3), and (4) with the following exceptions:

~~(1) The cover of the appendix must be white (see Rule 30(e)(3)).~~

Commented [OJ6]: Recommend removing this since I also recommend removing all color requirements for covers.

~~(2)~~ An appendix may include a legible photocopy of any document found in the trial court record (see Rule 30).

~~(3)~~ When necessary to facilitate inclusion of odd-sized documents such as technical drawings, an appendix may be a size other than 8 1/2 by 11 inches, and need not lie reasonably flat when opened.

(c) Form of Other Papers.

(1) Motion. The form of a motion is governed by Rule 27(d).

(2) Other Papers. Any other paper, including a petition for rehearing and a petition for en banc reconsideration, and any response to such a petition, ~~shall~~ must be reproduced in the manner prescribed by Rule 32(a)(1), (3), (4), (5), (6), and (8) and ~~shall~~ must contain a caption setting forth the name of the court, the title of the case, the case number, and a brief descriptive title indicating the purpose of the paper. ~~If a cover is used, it must be white.~~

(d) Signature. Every brief, motion, or other paper filed with the court must be signed ~~by the party filing the paper or, if the party is represented, by one of the party's attorneys~~ as set forth in NRAP Rule 25(a)(5).

(e) Effect of Noncompliance With Rule. ~~If a~~ brief, petition, motion or other paper that is not prepared in accordance with this Rule ~~may be stricken or disregarded by the court, the clerk will not file the document, but shall~~ must return it to be properly prepared.

Commented [OJ7]: I am making this suggestion based on the recommendation to add (e) to Rule 25, which would prohibit the Clerk from rejecting a document solely because it is not presented in proper form. If Rule 25(e) is not adopted by the court, then I recommend keeping the current language and changing "shall" to "must".