

Alabama Rules of Appellate Procedure

Rule 32.

Form and length of briefs, petitions, motions, and other papers; noncompliance.

(a) *Form and length of documents filed with the court.* In addition to the provisions of Rule 28, which are applicable to briefs, the following requirements shall apply to all documents filed with the appellate courts:

(1) REPRODUCTION.

(A) A document may be produced by any process that yields a clear black image on light paper. The paper must be opaque and unglazed. Only one side of the paper may be used.

(B) Text must be produced 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.

(2) FRONT PAGE OF DOCUMENTS FILED WITH THE COURT OTHER THAN BRIEFS AND PETITIONS FOR A WRIT OF CERTIORARI. The first page of a document must contain:

(A) the appellate court docket number assigned to the case, if available;

(B) the name of the appellate court;

(C) the style of the case in the appellate court (see Rule 12(a));

(D) the nature of the proceeding (e.g., appeal, petition for a writ of certiorari, motion) and the name of the court, agency, or board that decided the case below;

(E) the title of the document (e.g., "Appellant's Motion to Strike," "Appellee's Motion to Dismiss"), identifying the party or parties on whose behalf the document is filed;

(F) an indication whether the document should not be made available to the public on an online electronic database based upon

the provisions of Rule 52 or Rule 56 of these rules. If the document contains content that falls within the provisions of Rule 52 or Rule 56(b), a reference to "Rule 52" or "Rule 56," whichever is applicable, shall be indicated in capitalized bold lettering, not less than one inch in height, at the top center of the cover of the document;

(3) COVER OF PETITIONS FOR AN EXTRAORDINARY WRIT OR FOR A WRIT OF CERTIORARI FILED WITH THE COURT. In addition to those items listed in subsection (2), the front cover of a petition must contain:

(A) the name, office address, telephone number, facsimile number, and e-mail address, if any, of counsel representing the party for whom the petition is filed. If the party is not represented by counsel, the petition shall include the name, address, telephone number, facsimile number, and e-mail address, if any, of the party filing the petition;

(B) the phrase "Oral Argument Requested," if oral argument is requested;

(C) an indication whether the petition should not be made available to the public on an online electronic database based upon the provisions of Rule 52 or Rule 56 of these rules. If the petition contains content that falls within the provisions of Rule 52 or Rule 56(b), a reference to "Rule 52" or "Rule 56," whichever is applicable, shall be indicated in capitalized bold lettering, not less than one inch in height, at the top center of the cover of the petition;

(4) SIGNATURE PAGE OF DOCUMENTS OTHER THAN BRIEFS AND PETITIONS FILED WITH THE COURT. The signature page of the document shall contain the name, office address, telephone number, facsimile number, and e-mail address, if any, of counsel representing the party for whom the document is filed. If the party is not represented by counsel, the document shall include the name, address, telephone number, facsimile number, and e-mail address, if any, of the party filing the document.

(5) Binding for petitions and other documents.

(A) Petitions for a writ of certiorari must be bound on the left in a manner that is secure, that does not obscure any of the text, and that permits the filing to lie reasonably flat when open.

(B) Motions and documents other than briefs and petitions may be stapled on the top left corner, and the staple must be secured by

tape so as to prevent injury to those handling the document; any other fastener that may cause injury shall likewise be covered by tape.

- (6) PAPER SIZE, LINE SPACING, AND MARGINS. All documents filed in the appellate court must be on 8½ by 11 inch paper. The text must be double-spaced, except that quotations from cases or other legal authorities more than 2 but not more than 25 lines long may be indented and single-spaced. Headings, footnotes, and quotations from statutes, evidentiary materials, and other matters in the record may be single-spaced. Margins must be at least one inch on all four sides. Page numbers may be placed in the margins, but no text may appear there.
- (7) FONT AND TYPE STYLE. The font of all documents, including footnotes, filed in the appellate court must be set in Courier New 13 unless the attorney or unrepresented party certifies at the end of the document filed that access to equipment capable of producing that font is not reasonably available and that the font style used or the handwriting constitutes the closest approximation of Courier New 13 under the circumstances. The type style must be plain, Roman style, although italics or boldface may be used for emphasis. Case names must be italicized or underlined. Adjusting the space between the lines and words of a document by "leading," "kerning," "tracking," or any other method in an effort to circumvent the page limitations established by these rules or by an order of the court is prohibited.

(b) Form and length of application for rehearing, petitions, motions, and other papers.

- (1) APPLICATIONS FOR REHEARING. In addition to the provisions governing the form of an application for rehearing set out in Rule 40, an application for rehearing shall be produced in the form prescribed by subdivision (a). The application shall not exceed 15 pages. The length of the brief in support of, and any brief in opposition to, the application shall not exceed 15 pages. See also Rule 40(g).
- (2) PETITIONS FOR WRIT OF CERTIORARI. In addition to the provisions governing the form of a petition for a writ of certiorari set out in Rule 39, a petition for a writ of certiorari shall be produced in the form prescribed by subdivision (a). The petition shall not exceed 15 pages (except in capital cases).
- (3) PETITIONS FOR EXTRAORDINARY WRITS. In addition to the provisions governing the form for a petition for an extraordinary writ set out in Rule 21, a petition for an extraordinary writ shall be produced in the

form prescribed by subdivision (a). The petition and an answer, if the court orders an answer, shall not exceed 30 pages. If the court orders "answer and brief," the combined answer and brief shall not exceed 30 pages. The petitioner's reply, if any, shall not exceed 15 pages. The cover of the petition shall be white. The cover of the petitioner's brief shall be blue; the respondent's, red; and the reply, if any, grey.

- (4) PETITIONS FOR APPEAL BY PERMISSION PURSUANT TO RULE 5 AND ANSWERS. In addition to the provisions governing form set out in Rule 5, petitions filed pursuant to Rule 5 for appeal by permission and any answers thereto shall be produced in the form prescribed by subdivision (a) and shall not exceed 20 pages as provided in Rule 5(e).
- (5) MOTIONS AND OTHER PAPERS AND MEMORANDA IN SUPPORT OF, OR IN OPPOSITION TO, MOTIONS. In addition to the provisions governing form set out in Rule 27, motions and other papers seeking relief shall be produced in the form prescribed by subdivision (a) and shall not exceed 10 pages; any memorandum in support of, or in opposition to, a motion or other paper shall be produced in the form prescribed by subdivision (a).

(c) *Noncompliance.*

- (1) ACCEPTANCE OF NONCONFORMING DOCUMENTS. The clerk of the appellate court may exercise discretion to permit the filing of documents in which the violation of those portions of these rules governing format is exceedingly minor, if, in the judgment of the clerk, recomposition of the documents would be unwarranted. The requirements of this rule governing the format of documents shall be liberally construed to do substantial justice with respect to persons proceeding pro se.
- (2) CONDITIONAL FILING OF DOCUMENTS. Except as otherwise provided in subparagraph (c)(1), unless each copy of the document, in the judgment of the clerk, conforms to those portions of these rules governing format, the clerk may deem the document to have been conditionally filed, subject to the requirement that the party file in the office of the clerk a complete set of replacement documents that comply with these rules within 14 days of the issuance of notice by the clerk that the documents have been conditionally filed. The clerk's notice shall specify the matters requiring correction and, unless the court orders otherwise, in no event shall any replacement document add any substantive material.
- (3) DOCUMENTS EXCEEDING PAGE LIMITATIONS. Documents exceeding the page limitations that are filed without prior approval of the court are viewed with great disfavor and, with respect to such documents, the

court may impose a penalty, not to exceed five pages, thereby reducing the otherwise applicable page limitation.

- (4) DISPOSITION OF NONCOMPLIANT DOCUMENTS. Noncompliant documents will be held in the clerk's office pending instructions from the party filing the document as to their disposition. If no instructions are received by the time for filing replacement documents, noncompliant documents will be discarded.
- (5) EFFECT ON TIME FOR FILING BY OPPOSING PARTY. Unless the court orders otherwise, the time for filing of the opposing party's response runs from the date of filing of replacement documents pursuant to subparagraph (c)(2).

[Amended 8-29-89; Amended 9-6-89, eff. 3-1-90; Amended 2-5-91, ; Amended 8-27-91, eff. 10-1-91; Amended 11-20-2001, eff. 6-1-2002; Amended 1-12-2005, eff. 6-1-2005; Amended eff. 10-31-2005; Amended eff. 3-1-2007; Amended eff. 11-16-2007; Amended 3-1-2010, eff. 6-1-2010; Amended 9-29-2010, eff 10-1-2010; Amended 5-7-2015, eff. 8-1-2015; Amended eff. 10-13-2015.]

Committee Comments

Rule 32 adopts a dual system of page sizes for briefs and appendix, when other than standard commercial printing is used.

When other than standard commercial printing is utilized in preparing briefs and the appendix, this rule contemplates that briefs will be on letter-size paper and the appendix will be on legal-size paper. This is a departure from a general goal of uniformity in size, but there are adequate reasons for doing so. Letter-size briefs are simply easier to handle. The appendix must be legal-size to accommodate reproduction from the reporter's transcript. Using the two sizes will require that non-commercially produced briefs and the appendix will be bound separately. However, separate volumes can facilitate reading the briefs while referring to the various relevant references within the appendix.

The rule specifically makes allowance for copies of the reporter's transcript simply to be inserted directly into the appendix if reproduced in accordance with this rule. Such a method will work a substantial saving in costs payable to court reporters. See the comment to Rule 10.

Comment to Amendment to Rule 32(a)(3) Effective August 29, 1989

The August 29, 1989, amendment to Rule 32(a)(3) provided that the colors of briefs set out in this paragraph would be mandatory. The rule had previously provided that the colors were mandatory if the briefs were "produced

by commercial printing or duplication,” but required those colors in other situations if those colors were “available.”

Comment to Amendments to Rule 32(a)(2) and (b)
Effective March 1, 1990

The March 1, 1990, amendments to Rule 32(a)(2) and (b) provided for a change in paper size, substituting “8½ x 11 inches” in place of “8½ x 14 inches” and substituting references to “letter-size” paper for those prior references to “legal size” paper, and changing the dimensions of typed matter in the briefs and appendices from “6½ x 12 inches” to “6½ x 9 inches.”

Court Comment to Amendment
Effective October 1, 1991

The amendment to Rule 32 omitted all references to the appendix system, because the use of the appendix system has been discontinued.

Court Comment to Amendment to Rule 32
Effective June 1, 2002

This amendment completely rewrites former Rule 32. It specifies the reproduction quality for a brief filed in the Alabama appellate courts, abandoning the distinction between briefs produced by commercial printing and those produced by “typewriter or other process.” Briefs must now be on 8½ x 11 inch paper and the font must be Courier New 13, unless the party preparing the brief certifies that he or she does not have access to equipment capable of producing that font and that the font style used or the handwriting in the brief is the closest approximation of Courier New 13 available. That certification is to be included at the end of the brief.

This amendment changes the page limitation on briefs and imposes a page limitation on other documents submitted to the court. In other than capital cases, a principal brief may not exceed 70 pages and a reply brief may not exceed 35 pages. In a capital case, the principal brief may not exceed 80 pages and a reply brief may not exceed 40 pages. These limitations apply to all portions of the brief beginning with the statement of the case, but do not include the certificate of service or any appendices or exhibits. Lower case Roman numerals must be used for numbering pages preceding the statement of the case, while subsequent pages must use Arabic numerals. In other words, the first page of the statement of the case should be page “1” of the brief. A party seeking to exceed a page limitation may file a motion with the appellate court. That motion shall show good cause for the request and shall be presented at least seven days before the day on which the brief is due. “Presented” means physically in the clerk’s office. Service of a copy of the motion on an opposing party should be at least coincident with its presentation to the clerk. Permission to exceed the

page limitations of Rule 32 is reserved for the extraordinary case and will not be routinely granted.

The form prescribed for briefs in Rule 32 is applicable to applications for rehearing, petitions for the writ of certiorari, petitions for an extraordinary writ, petitions for appeal by permission pursuant to Rule 5 and answers thereto, and motions and other papers seeking relief and memoranda in support of, or in opposition to, such motions or other papers. The application for rehearing shall not exceed 15 pages; a petition for a writ of certiorari shall not exceed 15 pages, except in capital cases in which event it shall not exceed 20 pages; a petition of an extraordinary writ shall not exceed 30 pages; petitions for appeal by permission pursuant to Rule 5 and answers thereto shall not exceed 20 pages; motions shall not exceed 10 pages and memoranda in support of or in opposition to motions shall not exceed 15 pages; and other papers shall not exceed 10 pages. These page limitations include all portions of the document, yet are subject to the court's authority to grant permission to exceed the page limitation pursuant to Rule 32(a)(6)(C).

The amendment allows the clerk of the appellate court to require a party to refile a noncompliant document in a form that complies with Rule 32. If a document is filed that exceeds the page limitation without the prior approval of the court, the court may, when it requires the party to refile the document, reduce the applicable page limit by as much as five pages.

The amendment allows for the clerk to deem a previously filed document that fails to comply with these rules as conditionally filed, subject to the requirement that the party file, within 14 days of the date the party is notified of the noncompliance, replacement documents that do comply with these rules.

**Committee Comments to Amendment to Rules 32(a) and (b)
Effective June 1, 2005**

Subdivision (a) of this rule formerly applied only to briefs, although in practice the rule was referenced with regard to the form of all documents filed with an appellate court. The rule has been amended to indicate that subdivision (a) is applicable to all documents filed with an appellate court.

Other amendments to the rule are housekeeping in nature and primarily ensure that this rule conforms with other rules being amended at this time. A sentence added to subsection (b)(3) clarifies that the answer and brief, if the Supreme Court orders such in response to a petition for writ of mandamus, shall together be no more than 30 pages.

Subsections (b)(1) and (b)(2) have been amended to conform with Rule 39(d), which no longer limits the number of pages in petitions in which the petitioner is seeking certiorari review of a direct appeal in a death-penalty case.

See *Smith v. Jones*, 256 F.3d 1135 (11th Cir. 2001), and *O'Sullivan v. Boerckel*, 526 U.S. 838 (1999).

**Committee Comments to Amendment to Rule 32(a)(7)
Effective October 1, 2010**

Subdivision (a)(7) has been amended to preclude the use of "leading," "kerning," "tracking," or any other method of adjusting the space between the lines and words of a document in an effort to circumvent the page limitations established by these rules or by order of the court.

**Committee Comments to Amendment to Rule 32(a)(7)
Effective August 1, 2015**

Rule 32(a)(7) has been amended to emphasize that the typeface of any footnotes contained within documents or briefs filed in an appellate court must also be in Courier New 13.

Note from the reporter of decisions: The order amending Rule 5, Rule 21(d), Rule 27(d), Rule 28, Rule 32, Rule 39(d), Rule 39(f), Rule 39(h), and Rule 40(g), effective June 1, 2002, is published in that volume of *Alabama Reporter* that contains Alabama cases from 798 So.2d.

Note from the reporter of decisions: The order amending Rule 21(a), Rule 28, Rule 31(b), Rule 32(a) and (b), Rule 34(a), Rule 39, and Rule 40(g), effective June 1, 2005, and adopting Rule 25A, effective June 1, 2005, is published in that volume of *Alabama Reporter* that contains Alabama cases from 890 So. 2d.

Note from the reporter of decisions: The order amending Rule 10(b), Rule 10(c), Rule 28, Rule 32(a), and Rule 32(b), and adopting Rule 39(c)(3) and the Court Comment to Rule 10(b) and Rule 10(c), effective October 31, 2005, is published in that volume of *Alabama Reporter* that contains Alabama cases from 914 So.2d.

Note from the reporter of decisions: The order amending Rule 32(b) and Rule 41, effective March 1, 2007, is published in that volume of *Alabama Reporter* that contains Alabama cases from 949 So. 2d.

Note from the reporter of decisions: The order amending Rule 32(b)(3) and Rule 37, Alabama Rules of Appellate Procedure, amending the committee comments to the March 1, 2007, amendment to Rule 41, Alabama Rules of Appellate Procedure, and adopting the Court Comment to Amendment to Rule 37 Effective November 16, 2007, all effective November 16, 2007, is published in that volume of *Alabama Reporter* that contains Alabama cases from 972 So. 2d.

Note from the reporter of decisions: The order amending, effective June 1, 2010, Rule 28(d)(8), Rule 32(a), and Rule 52, Alabama Rules of Appellate Procedure, and adopting Rule 56 and the Court Comment to Rule 56, Alabama Rules of Appellate Procedure, is published in that volume of *Alabama Reporter* that contains Alabama cases from 26 So. 3d.

Note from the reporter of decisions: The order amending, effective October 1, 2010, Rule 11(a)(3), Rule 25, Rule 26(a), Rule 31, and Rule 32(a)(7), rescinding Rule 11(a)(4), and adopting Rule 57, the Committee Comments to Amendment to Rule 11(a) Effective October 1, 2010, the Committee Comments to Amendment to Rule 25 Effective October 1, 2010, the Committee Comments to Amendment to Rule 26(a) Effective October 1, 2010, the Committee Comments to Amendment to Rule 31 Effective October 1, 2010, the Committee Comments to Amendment to Rule 32(a)(7) Effective October 1, 2010, and the Committee Comments to Adoption of Rule 57 Effective October 1, 2010, is published in that volume of *Alabama Reporter* that contains Alabama cases from 44 So. 3d.

Note from the reporter of decisions: The order amending Rule 22, Rule 28(a)(5), Rule 32(a)(7), and Rule 40(f), effective August 1, 2015, and adopting the Committee Comments to those amendments to Rule 28(a)(5), Rule 32(a)(7), and Rule 40(f) is published in that volume of *Alabama Reporter* that contains Alabama cases from ___ So. 3d.

Note from the reporter of decisions: The order amending Rule 32(b)(4), Rule 5(b), Rule 5(d), and Rule 39(e), Ala. R. App. P., effective October 13, 2015, is published in that volume of *Alabama Reporter* that contains Alabama cases from ___ So. 3d.