

# Internal Rules

Louisiana Court of Appeal, Third Circuit

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## Notice-Briefs

The conference of the judges of the Court of Appeal-third Circuit, has voted to begin July 1, 1987, to strictly enforce Uniform Rules-Courts of Appeal 2-12.6, and in particular the last sentence thereof, which provides that “No further briefs may be filed except by leave of court.”

2-12.6 Reply Brief. The appellant may file a reply brief if he has timely filed an original brief but it shall be strictly confined to rebuttal of points urged in the appellee’s brief. No further briefs may be filed except by leave of court. Effective July 1, 1987.

## Internal Rule 1: Timely

When the appellant has not filed a timely brief, the appellee is hereby automatically granted an extension of twenty (20) days from the date the appellant files a brief with this court within which to file a timely appellee brief or a supplemental appellee brief.

Amended May 28, 1997, effective June 1, 1997.

## Internal Rule 2: Special Summary Docket

- A. A special docket is created for those appeals, which qualify for summary disposition. Uniform Rules, Courts of Appeal, Rule 2-11.3. Summary docket cases are those which involve limited issues, or which are governed by well-established and well-recognized rules of law.
- B. A panel of three judges will be drawn to preside over the special docket each month. This will be in addition to their individual duties and responsibilities under the regular docket of the court. The panel will preside over the special docket for two days during the month, scheduling 12 cases for each of the two-day sittings. Oral argument of not more than 10 minutes per side will be allowed. Each case will be allotted to one judge who will be responsible for reporting the case after argument.

Counsel who have previously requested and been granted permission to orally argue, will be permitted to reaffirm their desire to present oral argument. If oral argument is desired, it must be requested within ten (10) days of the receipt of notice that the case is being placed on the Special Summary Docket. Request for oral argument by one side does not, unlike the rules pertaining to the regular docket, preserve oral argument for the other side. Each side must separately request oral argument.

- C. Counsel are to be notified at least 30 days before the case is scheduled for hearing. They shall be notified that the case will be heard on the special docket. Counsel who have previously requested and been granted permission to argue, shall be permitted to reaffirm their desire to present oral arguments. All counsel may be instructed that if their previously filed brief exceeds ten page in length, they may be instructed to file a memorandum of argument which summarizes their previously filed brief, no less than ten days before the scheduled hearing date.
- D. The ultimate decision as to whether to treat a special docket case summarily, i.e., by per curiam or memorandum opinion disposition, will be made by two of the three judges on the special docket panel. If, after hearing, a special docket case is found to be unsuitable for expedited disposition, it will nevertheless be heard, but as a regularly processed appeal instead of a special docket appeal.
- E. Following each day of argument, the three judge panel will hold a conference on the cases docketed for that day and make a disposition of each case. The form of the opinion by means of which the court’s decision is expressed will be either a memorandum, as described in Uniform Rules, Courts of Appeal, Rule 2-16.1(a)(2) and (b)(2) or per curiam, as described in Rule 2-16.1(a)(3).
- F. The above procedural rules apply to both civil and criminal appeals.

Adopted effective March 1, 1992.

## Internal Rule 3-4: Repealed May 28, 1997, effective June1, 1997

## Internal Rule 5: Briefing Time

During the pendency of a motion to dismiss an appeal, or a rule to show cause issued by the court, the court may, on it own motion or on motion of any party to suit, suspend briefing time.

Adopted effective November 1, 1992.

## Internal Rule 6: Notice of Settlement

In every civil case it shall be the duty of the attorney for the appellant, or if in proper person, the appellant, to notify this court immediately of a settlement of the case, and to provide this court within a reasonable time thereafter, not more than thirty days from date of settlement, with a written Motion to Dismiss the Appeal. Failure to conform to this rule will subject the appellant's attorney or the appellant to sanctions. Adopted effective January 20, 1993.

## Internal Rule 7: Filing Fees for Motions and Answers to Appeal

- I. The filing fee for a Motion for Extension of Time shall be in the amount of Fifty Dollars. The extension shall not exceed ten days unless good cause is shown.
- II. The filing fee for a Motion to Exceed Page Limitation shall be in the amount of Fifty Dollars. The page limitation shall not exceed the maximum of ten pages in excess of the original page limitation.
- III. The filing fee for an Amicus Brief shall be in the amount of One Hundred Dollars.
- IV. The filing of a Motion to Continue or refix Oral Argument shall be in the amount of One Hundred Dollars.
- V. The filing fee for any motion relating to an unlodged appeal, or unlodged writ application shall be in the amount of One Hundred Dollars.
- VI. The filing fee in connection with a miscellaneous motion not mentioned above shall be in the amount of Fifty Dollars. Examples would be a Motion to Enroll, Motion to Remand, Motion for Stay, Motion for Expedited Consideration, Motion to Strike, Motion to Consolidate, etc.
- VII. The fee for filing an Answer to the Appeal shall be One Hundred Dollars.

Adopted effective October 15, 2015.

## Internal Rule 8: Jurisdictional Index

The clerk of each trial court in the parishes of this circuit shall include in the record of each appeal to this court the applicable jurisdictional index in the form shown as Appendix A--Civil Jurisdictional Index, as Appendix B--Criminal Jurisdictional Index, as Appendix C--City Court Jurisdictional Index as Appendix D--Workers' Compensation Jurisdictional Index, and as Appendix F – Juvenile Jurisdictional Index.

The Jurisdictional Index required by this rule is in addition to the indices required by Rule 2-1.4, URCA.

Adopted effective April 1, 1993; amended May 28, 1997, effective June 1, 1997; amended May 26, 2004, effective May 26, 2004.

## Internal Rule 9: Fee for Copies of or Faxes of Opinion or Parts of the Record

The fee for copies of opinions or parts of the record made by the clerk shall be one dollar and fifty cents (\$1.50) per page. A fee of two dollars (\$2.00) per page shall be charged for all material sent by fax.

## Internal Rule 10: Deposit for Cost of Mailing

In every civil appeal, the clerk of the trial court shall collect and forward to the clerk of the court of appeal, in addition to the filing fee for the appeal, the sum of ten dollars (\$10.00) to defray the cost of mailing notices by the Court of Appeal. In every civil writ, the Clerk of the Court of Appeal shall collect, in addition, to the filing fee for the writ, the sum of \$10.00 to defray the cost of mailing of notices by the Court of Appeal.

Adopted effective February 15, 1993; amended effective November 1, 1995.

## Internal Rule 11: Filing fee in all criminal cases and in all proceedings connected with criminal cases

In all criminal cases, in all proceedings connected with criminal cases, and in all appeals taken from sentences imposed for the violation of municipal or parochial ordinances, the entire cost to the clerk shall be fifty dollars (\$50.00).

Adopted February 15, 1993.

## Internal Rule 12: Facsimile or Email Filing Rules

- I. “Facsimile filing” or “filing by fax” means the facsimile transmission of a document to this court for filing with this court. “Email filing” means the electronic transmission of a document to this court for filing with this court.
- II. Facsimile or email filing will only be accepted by this court in the case of an emergency writ.
- III. “Emergency writ” is defined as a situation where a trial court sets a return date that would otherwise bar a party from completing a timely filing with this court due to geographic distance from this office, or where the time frame is such that if the party could physically deliver the filing timely, the court would be burdened with undue time restraints in considering the application and rendering an order.
- IV. *NO* filing will be accepted without prior contact with the clerk’s office to advise the nature of the emergency, request authority to proceed with the fax or email filing and notification of the approximate time of transmittal.
- V. All filings must be complete and in compliance with the Uniform Rules of Courts of Appeal at the time of transmission. Additionally, any facsimile or email filing must be sequentially numbered, beginning with the first page of the writ application and ending with the last page of the facsimile transmittal or email.
- VI. Once an application is received by fax or email, any responses or oppositions by opposing counsel may also be received by the same method.
- VII. A facsimile filing shall be accompanied by a facsimile cover sheet. The cover sheet shall be the first page transmitted and clearly identify the sender by name, fax number, and voice telephone number. It should also identify the documents being transmitted by caption and matter and the number of pages. Any risk associated with the use of facsimile transmissions shall lie with the sender.
- VIII. An email filing shall be accompanied by a cover letter. The cover letter shall be attached separately to the first email transmission and should clearly identify the sender by name, email address, and voice telephone number. A document being emailed shall be in the form of a pdf file and shall not contain more than 50 pages. If the filing contains more than 50 pages, it shall be broken down into separate files each containing 50 pages or less. The cover letter should also identify the documents being emailed by caption, matter, the number of forthcoming documents, and total number of pages. The sender shall assume all risks associated with the use of email transmissions.
- IX. Notwithstanding any provisions of law to the contrary, a signature produced by facsimile or email transmission will be treated as an original. A party who files a signed document by fax or email represents that the original physically signed document is in his or her possession or control and can be made available for review as necessary for any subsequent challenge to authenticity.
- X. Payment of filing fees and charges levied by the court for use of facsimile or email filing shall be paid in the manner prescribed by this court.
  - (1) The filing fee, accompanied by a copy of the facsimile or email filing cover sheet shall be deposited in the U.S. mail no later than the day following the transmission.
  - (2) Non-receipt of payments will result in suspension of facsimile or email privileges, the striking of pleadings for which fees were not tendered and any other penalties deemed appropriate within the discretion of the Court.

XI. The following service charge will be assessed over and above the court's standard filing fees for civil and criminal writs for all fax or email filings to cover duplicating, operating and maintenance costs.

- (1) Each document from 1 to 10 pages in length filed by fax or email shall be assessed a \$25.00 service charge. Each page exceeding 10 pages will be assessed a service charge of \$2.00 per page.
- (2) This service charge will be added to the standard filing fee of this court and shall be paid as provided in X.

Adopted September 29, 1993; amended May 28, 1997, effective June 1, 1997; amended April 29, 2015, effective April 29, 2015.

### Internal Rule 13: Motions to dismiss in criminal cases

Any Motion to Dismiss submitted in a criminal case shall contain an affidavit signed by the defendant indicating he has been advised of the Motion to Dismiss and agrees to the dismissal of the appeal or writ application. Any Motion to Dismiss received without this affidavit will not be considered by this court and will be returned unfiled.

Adopted May 28, 1997, effective June 1, 1997

### Internal Rule 14: Writs; Notification of status of case

When an application for writs is sought, the application shall contain a separate statement of the status of the case. This statement shall include information concerning the current status of the case and any relevant trial or hearing dates. The applicant shall notify this court immediately of any change in the status of the case, including, but not limited to, the setting or rescheduling of the trial date or any relevant hearing date.

Adopted May 28, 1997; effective June 1, 1997

### Internal Rule 15: Assignments of Error-Criminal Cases

A written designation of the assignments of error to be urged on appeal in a criminal case shall be filed with this court on or before the date of filing of the appellant's brief with this court. Accompanying this designation shall be a certificate of service indicating a copy has been forwarded to the trial court and all counsel of record.

Adopted effective October 28, 1997.

### Internal Rule 16: Criminal Matters - Certificate of Service

Any criminal pleadings filed with this court shall contain a Certificate of Service, properly setting forth service has been made upon the trial judge and opposing counsel in the same manner that service was made with this court. In any pro se filing with this court, the certificate shall additionally indicate service has been made on current counsel of record for the defendant, if any, and counsel for the State. Any pleading filed without the proper certificate of service may be returned, unfiled, to the filing party.

Additionally, in all criminal appeals counsel for defendant shall complete the form contained in Appendix E, forward a copy of the form to the defendant and attach the original completed form to the brief submitted to this court for filing. Any brief submitted by counsel for defendant will be returned unfiled if the original form is not attached to the brief at the time of its submission to this court or if the form is incomplete.

Amended on March 26, 2003; effective April 1, 2003.

### Internal Rule 17: Repealed effective October 15, 2015

### Internal Rule 18: Additional Preparation of Briefs

All briefs will be set in a plain Roman style, 14 point or larger, although italics or bold face may be used for emphasis. Case names must be italicized or underlined. Original briefs on 8-1/2 " X 14" paper shall not exceed 31 pages; reply briefs on such paper shall not

exceed 13 pages. Original briefs on 8-1/2" X 11" paper shall not exceed 41 pages; reply briefs on such paper shall not exceed 18 pages.

Adopted effective January 01, 2001; amended April 27, 2005; amended February 26, 2014.

## Internal Rule 19: Filing of Opposition/Reply Briefs to Supervisory Writ Applications

Any party desiring to file a brief in opposition to an application for supervisory writs must contact the court immediately after receiving the application. The court will then set the time in which an opposition/reply brief may be filed. Any further briefs must be with leave of court.

Adopted effective March 26, 2003; amended April 27, 2005.

## Internal Rule 20: Filing Fee for Filing Amicus Briefs

A filing fee in the amount of \$100.00 shall be paid in connection with filing an Amicus Curiae brief. This fee shall be due at the time of filing the Motion for Leave to File Amicus Brief. For good cause shown, the mover may request a waiver of this fee.

Adopted effective April 1, 2005

## Internal Rule 21: Repealed effective October 15, 2015

## Internal Rule 22: Special Expedited Process for Disaster - Related Cases

Due to the State and public interest in expediting cases related to disaster relief, the following expedited procedure has been adopted by this Court. In disaster-related cases, upon motion of a party or the Court's own motion, an appeal or a writ application may be granted expedited consideration. If expedited consideration is granted, the appeal may either be given a special assignment pursuant to Rule 2-11.2 of the Uniform Rules - Courts of Appeal, or placed on the next available docket.

Adopted effective October 24, 2007

## Internal Rule 23: Oral Argument on Writ Grant

If this Court grants a writ application for the limited purpose of ordering the record from the lower court, ordering additional briefing, or both, in order to conduct additional consideration on the merits of the writ application, the parties shall have fourteen (14) days from the mailing of this order within which to file a motion requesting oral argument on the merits. The motion shall state the reasons why oral argument is necessary and shall be accompanied with the appropriate filing fee. The grant or rejection of the motion shall be discretionary within the panel.

Adopted effective January 23, 2008

## Internal Rule 24: Filing Corresponding CD-ROM Briefs

In addition to the filing of a paper brief, a party may file a corresponding brief contained on a compact disc - read only memory (CD-ROM), subject to the following requirements.

(1) **Content.** A corresponding brief must be identical in content to the paper brief. A corresponding brief may provide hypertext links to the complete versions of material that was part of the record below. Hypertext links to other material must be confined to materials such as cases, statutes, treatises, law review articles, and similar authorities. A corresponding brief must be self-contained and static. All hypertext links must be contained on the CD-ROM and not link to outside sources.

(2) **Statement Concerning Instructions and Viruses.** A corresponding brief must be accompanied by a statement, preferably within or attached to the packaging, that:

(A) The CD-ROM is Windows compatible and readable on any windows compatible operating system.

(B) The CD-ROM is finalized and in a pdf format viewable using a program such as Adobe Acrobat.

(C) The CD-ROM is free from computer viruses and lists the software used to ensure that the brief is virus-free.

(3) **Time for Filing.** A corresponding brief, if any, must be filed within fifteen (15) days of the paper brief.

(4) **Filing and Service.** Except for the time of filing, a corresponding brief must be filed and served in the same manner and the same number of copies as the paper brief.

(5) **Single CD-ROM.** All parties to an appeal who intend to file a corresponding CD-ROM brief are encouraged to cooperate in placing all such briefs on a single CD-ROM.

(6) **Labeling.** A label with the caption of the case, the number of the case, and the types of briefs included on the CD-ROM must be included on both the packaging and the CD-ROM.

Adopted effective February 27, 2008

## Internal Rule 25: Brief in Support of Rehearing

The brief in support of rehearing pursuant to Uniform rule 2-18.3 shall not exceed ten pages.

Adopted effective April 23, 2008

## Internal Rule 26: Filing Documents

All filings with this Court, including briefs, must be hole punched and bound in two places along the top margin, preferably with 4 1/4" metal file fasteners, such that no part of the text is obscured.

Adopted effective May 1, 2009

## Internal Rule 26: Filing Documents - AMENDED

All filings with this Court, including briefs, must be hole punched and bound along the top margin, preferably with 2" metal file fasteners, such that no part of the text is obscured.

Adopted effective May 27, 2009

## Internal Rule 27: Time to File Amicus Curiae Briefs

An amicus curiae brief shall be filed not later than twenty days from the last due date for the timely filing of the appellee's brief. (See Uniform Rules - Courts of Appeal Rules 2-12.7 and 2-12.8). Any reply brief must be filed within ten days of the filing of an amicus curiae brief. The court may grant one seven-day extension, if good cause is shown on written motion filed with the clerk of court on or before the date the amicus curiae brief was due. The mover may contact the court to determine the due date for filing an amicus curiae brief.

Adopted effective September 29, 2010

## Internal Rule 28: Appellate Record Request by E-mail or CD

A party request the appellate record by e-mail if the record contains two volumes or less. This service is complimentary. A party may also request an appellate record sent in PDF form on a CD. The fee for this service is \$25.00. Exhibits separate from the appellate record cannot be e-mailed or sent on a CD.

## Internal Rule 29: Domiciliary Travel Expenses

An appeal judge of the Third Circuit Court of Appeal may be reimbursed over and above the amount authorized by Louisiana Supreme Court Rule Part G, Section 1.1(a), from self-generated funds of the Court subject to availability of funds. The appeal judge must reside in the parish of the domicile of his/her court and shall be reimbursed at the IRS Federal Mileage Rate for round trips in excess of ten miles.

Retroactive July 1, 2014

## Internal Rule 30: Summary Judgment Briefing and Argument--La.Code Civ.P. art. 966.H

When this Court issues an order in a summary judgment proceeding assigning a case for briefing and permitting the parties an opportunity to request oral argument in accordance with La.Code Civ.P. art. 966.H, the parties shall have fourteen (14) days from the mailing of this order within which to file a motion requesting oral argument on the merits. The motion shall state the reasons why oral argument is necessary and shall be accompanied with the appropriate filing fee.

Adopted effective December 2, 2015

## Internal Rule 31: Submission Procedures for Electronic Audio and Video Evidence

All electronic audio and video evidence submitted to the court shall be in the Windows Media Audio (WMA) or Windows Media Video (WMV) format to ensure that the evidence can be played on the default Windows Media Player.

In the event that audio or video evidence cannot be converted to the required formats, the software or codec required to view the evidence must be provided. This must include a description of the software or codec and instructions on how to install and use the software. Counsel for the parties must also inform the Clerk of Court in writing of these circumstances within five (5) days of the lodging of the record.

The following information must be provided with all submitted electronic evidence:

- a. Title of file
- b. Brief description of what is contained in the file
- c. Length of file
- d. Number of files
- e. File format
- f. Guarantee of no virus
- g. The antivirus software that was used to scan the files and the date of the virus definitions

It is the exclusive responsibility of counsel for all parties to ensure that all electronic audio and video evidence works properly before submitting it to the court.

Adopted on September 25, 2019, effective on November 1, 2019

## Internal Rule 32: All Briefs and Memoranda--Certification for Evidentiary

### Attachments

Appellate courts are courts of record and may not review or consider evidence that has not first been properly and officially offered, introduced, and considered in the proceedings below. See *Denoux v. Vessel Mgmt. Servs., Inc.*, 07-2143 (La. 5/21/08), 983 So.2d 84. Thus all briefs and memoranda filed in this Court with attachments to be considered by this Court as evidence, whether filed in conjunction with appeals, motions, or writ applications, shall contain the following certification: All briefs filed with attachments, whether filed in conjunction with appeals, motions, or writ applications, shall contain the following certification:

“I hereby verify that all attachments to this brief have previously been entered into evidence, or proffered as evidence in the lower court, to the best of my knowledge, information and belief. I understand that failure to comply with this local rule may result in the refusal to consider said attachments. WILLFUL FAILURE TO COMPLY WITH THIS LOCAL RULE MAY SUBJECT ME TO PUNISHMENT FOR CONTEMPT OF COURT.”

No attachment will be considered by this Court if not filed and/or accepted or proffered in the lower court unless by Order of this Court for good cause shown.

Adopted Sept. 25, 2019, effective Nov. 1, 2019. Amended Dec. 14, 2019, effective May 8, 2020.