

6 Cir. R. 28 Briefs

(a) References to the Record.

(1) **General Rule.** A brief must direct the court to those parts of the record to which the brief refers. It must refer to the particular item in the record and the specific pages by reference to the record entry number or particular transcript or exhibits. In addition, the brief must refer to the electronic record on appeal or appendix as provided in 6 Cir. R. 28(a)(2)-(3).

(2) **References to the Electronic Record on Appeal.** For cases where there is an electronic record on appeal, in addition to the reference required by 6 Cir. R. 28(a)(1), a brief must refer to the page of the electronic record on appeal for items that appear in that record. For example, if the reference is to defendant's motion for summary judgment, the brief should refer to "Record Entry No. 15, defendant's motion for summary judgment, pp. 2-3; ROA pp. 61-62." If there are multiple files comprising the electronic record on appeal, or there is a supplemental electronic record on appeal, reference should be to the specific part of the electronic record or supplemental record on appeal. For example: ". . .; ROA, part 2, pp. 61-70;" ". . .; supplemental ROA, pp. 60-70." Suitable abbreviations in this reference are acceptable.

(3) **References to the Appendix.** For cases where there is no electronic record on appeal or there is an appendix supplementing the electronic record on appeal, a brief referring to material in the appendix must refer to the page of the appendix. For example, if the reference is to defendant's motion for summary judgment, the brief should refer to "Record Entry No. 15, defendant's motion for summary judgment, pp. 9-10; Appendix, pp. 69-70." Suitable abbreviations in these references are acceptable.

(b) **Length of Briefs.** The documents required or permitted to be filed with a brief under 6 Cir. R. 28 (c) and (e) are not counted for purposes of the page limitations for briefs in FRAP 32(a)(7)(A). When the appeal is from a sentence of death, the page limitations of 6 Cir. R. 22(c)(8) apply.

(c) **Additional Contents.** Each principal brief must also contain the disclosure of corporate affiliations and financial interest required by 6 Cir. R. 26.1 (see form 6CA-1) and may include a statement of reasons why oral argument should be heard under 6 Cir. R. 34(a).

(d) **Briefs in Cases Involving Cross-Appeals.** See FRAP 28.1(c).

(e) **Citation of Unpublished Decisions.** Citation of unpublished opinions is permitted. FRAP 32.1(b) applies to all such citations.

- (f) **Briefs as Public Record.** Briefs filed with this court are a matter of public record. If counsel finds it necessary to refer in a brief to information that has been placed under seal, counsel should not assume that the brief itself also will be placed under seal. In order to have all or part of a brief sealed, counsel must file a specific and timely motion seeking such relief.

Comments

The rule is revised to delete reference to proof briefs, which are eliminated. Rule 28(a) specifies how briefs should refer to items in the record both in an electronic record on appeal and in an appendix.

Former 6 Cir. R. 28(c), requiring fact sheets for certain types of cases, is deleted. Fact sheets will no longer be required.

Former 6 Cir. R. 28(d), regarding designation of the appendix in the principal briefs, is deleted. Under the procedure set out in 6 Cir. R. 30, there will no longer be a single joint appendix and designation of appendix contents will not be necessary.