

**At a Stated Term of the United States Court of Appeals for the  
Second Circuit, held at the Thurgood Marshall United States Courthouse,  
40 Foley Square, in the City of New York, on the 16th day of December, Two  
Thousand Thirteen,**

**PRESENT:** Robert A. Katzmann,  
Chief Judge  
Dennis Jacobs  
José A. Cabranes  
Rosemary S. Pooler  
Reena Raggi  
Richard C. Wesley  
Peter W. Hall  
Debra A. Livingston  
Gerard E. Lynch  
Denny Chin  
Raymond J. Lohier, Jr.  
Susan L. Carney  
Christopher F. Droney,  
Circuit Judges

**IT IS HEREBY ORDERED**, that the Local Rules of the United States Court of Appeals for the Second Circuit, as amended, are proposed for public comment pursuant to 28 U.S.C. § 2071(b) and Fed. R. App. P. 47(a)(1). The Clerk of Court shall receive comments submitted by January 15, 2014. Anyone wishing to comment should do so, in writing, addressed to:

Catherine O'Hagan Wolfe  
Clerk of Court  
United States Court of Appeals  
40 Foley Square  
New York, New York 10007  
or

Email: [rulescomments@ca2.uscourts.gov](mailto:rulescomments@ca2.uscourts.gov)

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**Local Rule 25.1 Case Management/Electronic Case Filing (CM/ECF)**

**(j) Exemptions.**

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**(2) Sealed Documents.** A sealed document or a document that is the subject of a motion to seal is exempt from the electronic filing requirement and must be filed with the clerk in the manner the court determines. Within 7 days after the sealed document is filed, a redacted version of the document must be electronically filed on the docket, unless the court orders otherwise.

**(3) Oversized Documents.**

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**(B)** If any one volume of a multi-volume appendix qualifies for exemption from electronic filing, the entire appendix must be filed on a CD or DVD. Each volume of a multi-volume appendix included on [in] a CD or DVD must be identified with the number of the volume, the page numbers included in the volume, and the total number of volumes [as a separate, clearly-labeled document]. (Example: Vol. 1 of 3 (1-300); Vol. 2 of 3 (301-600).)

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**Local Rule 25.2 Submission of PDF Documents**

**(h) Submission of an Appendix.** In addition to filing the required number of paper copies, a counseled party must submit and serve on all parties a text-searchable PDF of every appendix on a CD or DVD, unless counsel explains why submitting a PDF of the appendix would constitute extreme hardship. A pro se party [not represented by counsel] is encouraged, but not required, to submit and serve a PDF of the appendix on the CD or DVD, in addition to filing the required number of paper copies. Each volume of a multi-volume appendix included on the [ in a] CD or DVD must be identified as a separate, clearly-labeled document. (Example: Vol. 1 of 3 (1-300); Vol. 2 of 3 (301-600).)

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**Local Rule 27.1 Motions**

**(i) Motion to Reinstate Appeal.** A party that files a motion to reinstate the appeal following dismissal for failure to timely file a brief must do so within 14 days of the date of the order dismissing the appeal. The party's brief must be attached as an exhibit to the motion.

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**Local Rule 28.1      Briefs**

(b) **Appellant’s Brief.** At the beginning of [In] the statement of the case, an appellant’s brief must:

- (1) describe the nature of the case and the relevant procedural history;
- (2) identify [name] the judge or agency official who rendered the decision being appealed from;
- (3) indicate the disposition below; and
- (4) cite the decision or supporting opinion, if reported.

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**Local Rule 30.1      Appendix**

(b) **Number of Paper Copies.** A counseled party must submit 6 paper copies of an appendix in cases in which an appendix is required. A pro se party must submit 3 paper copies of its appendix in cases in which an appendix is required. [In all cases, a party must submit 3 paper copies of its appendix.]

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(g) **Appellee’s Supplemental Appendix.** In any case in which an appellant has not filed a joint appendix in compliance with FRAP 30, an appellee may file a supplemental appendix. The supplemental appendix must comply with FRAP 30 and LR 32.1(b). It must be filed with the appellee’s brief.

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**Local Rule 39.1      Reproduction Costs**

(a) **Number of Necessary Copies.** In addition to taxing the number of copies of the appendix and brief submitted under LRs 30.1 and 31.1, a party may tax paper copies served on a party under LR 25.1(f)(4) if proof that the paper copy was served is attached to the bill of costs.

**(b) Taxable Rate.** The cost of reproducing necessary copies of briefs and appendices is taxable at the lesser of the actual cost or the maximum rate set by the court and posted on the court’s website under Fees [\$0.20 per page].

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**Local Rule 40.2      Panel Reconsideration Procedure**

When the court determines an appeal by issuing an order for which a FRAP 36 judgment is not entered, a party adversely affected may file a motion for panel reconsideration and a motion for reconsideration en banc that complies with FRAP 35 and 40 and LRs 35.1 and 40.1. No response may be filed unless the court orders.

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**Local Rule 42.2      Dismissal of Criminal Appeal**

A stipulation or motion to voluntarily dismiss a criminal appeal must be accompanied by the defendant’s signed statement that (a) counsel has explained the effect of voluntary dismissal of the appeal, (b) the defendant understands counsel’s explanation, and (c) the defendant desires to withdraw and voluntarily dismiss the appeal.

FOR THE COURT

Catherine O’Hagan Wolfe  
Clerk of Court

New York, NY  
December 16, 2013

Underline – material added  
[ ] – material deleted

