

AMENDMENTS TO THE FEDERAL RULES OF  
APPELLATE PROCEDURE

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COMMUNICATION

FROM

THE CHIEF JUSTICE, THE SUPREME COURT  
OF THE UNITED STATES

TRANSMITTING

AMENDMENTS TO THE FEDERAL RULES OF APPELLATE PROCEDURE THAT HAVE BEEN ADOPTED BY THE SUPREME COURT, PURSUANT TO 28 U.S.C. 2072



MAY 15, 2013.—Referred to the Committee on the Judiciary and ordered  
to be printed

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29-011

WASHINGTON : 2013



SUPREME COURT OF THE UNITED STATES,  
*Washington, DC, April 16, 2013.*

Hon. JOHN A. BOEHNER,  
*Speaker of the House of Representatives,*  
*Washington, DC.*

DEAR MR. SPEAKER: I have the honor to submit to the Congress the amendments to the Federal Rules of Appellate Procedure that have been adopted by the Supreme Court of the United States pursuant to Section 2072 of Title 28, United States Code.

Accompanying these rules are excerpts from the Report of the Committee on Rules of Practice and Procedure to the Judicial Conference of the United States containing the Committee Notes submitted to the Court for its consideration pursuant to Section 331 of Title 28, United States Code.

Sincerely,

JOHN G. ROBERTS, Jr.,  
*Chief Justice.*

April 16, 2013

SUPREME COURT OF THE UNITED STATES

ORDERED:

1. That the Federal Rules of Appellate Procedure be, and they hereby are, amended by including therein amendments to Appellate Rules 13, 14, 24, 28, and 28.1, and to Form 4.

[See infra, pp. \_\_\_\_\_.]

2. That the foregoing amendments to the Federal Rules of Appellate Procedure shall take effect on December 1, 2013, and shall govern in all proceedings in appellate cases thereafter commenced and, insofar as just and practicable, all proceedings then pending.

3. That THE CHIEF JUSTICE be, and hereby is, authorized to transmit to the Congress the foregoing amendments to the Federal Rules of Appellate Procedure in accordance with the provisions of Section 2072 of Title 28, United States Code.

**AMENDMENTS TO THE FEDERAL RULES OF  
APPELLATE PROCEDURE**

**TITLE III. APPEALS FROM THE UNITED STATES TAX  
COURT**

**Rule 13. Appeals from the Tax Court**

**(a) Appeal as of Right.**

**(1) How Obtained; Time for Filing a Notice of  
Appeal.**

(A) An appeal as of right from the United States Tax Court is commenced by filing a notice of appeal with the Tax Court clerk within 90 days after the entry of the Tax Court's decision. At the time of filing, the appellant must furnish the clerk with enough copies of the notice to enable the clerk to comply with Rule 3(d). If one party files a timely notice of appeal, any

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other party may file a notice of appeal within 120 days after the Tax Court's decision is entered.

- (B) If, under Tax Court rules, a party makes a timely motion to vacate or revise the Tax Court's decision, the time to file a notice of appeal runs from the entry of the order disposing of the motion or from the entry of a new decision, whichever is later.

- (2) **Notice of Appeal; How Filed.** The notice of appeal may be filed either at the Tax Court clerk's office in the District of Columbia or by mail addressed to the clerk. If sent by mail the notice is considered filed on the postmark date, subject to § 7502 of the Internal Revenue Code, as amended, and the applicable regulations.

(3) **Contents of the Notice of Appeal; Service;**

**Effect of Filing and Service.** Rule 3 prescribes the contents of a notice of appeal, the manner of service, and the effect of its filing and service. Form 2 in the Appendix of Forms is a suggested form of a notice of appeal.

(4) **The Record on Appeal; Forwarding; Filing.**

(A) Except as otherwise provided under Tax Court rules for the transcript of proceedings, the appeal is governed by the parts of Rules 10, 11, and 12 regarding the record on appeal from a district court, the time and manner of forwarding and filing, and the docketing in the court of appeals.

(B) If an appeal is taken to more than one court of appeals, the original record must be sent

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to the court named in the first notice of appeal filed. In an appeal to any other court of appeals, the appellant must apply to that other court to make provision for the record.

**(b) Appeal by Permission.** An appeal by permission is governed by Rule 5.

\* \* \* \* \*

**Rule 14. Applicability of Other Rules to Appeals from the Tax Court**

All provisions of these rules, except Rules 4, 6-9, 15-20, and 22-23, apply to appeals from the Tax Court. References in any applicable rule (other than Rule 24(a)) to the district court and district clerk are to be read as referring to the Tax Court and its clerk.

\* \* \* \* \*



**Rule 24. Proceeding in Forma Pauperis****(a) Leave to Proceed in Forma Pauperis.**

(1) **Motion in the District Court.** Except as stated in Rule 24(a)(3), a party to a district-court action who desires to appeal in forma pauperis must file a motion in the district court. The party must attach an affidavit that:

(A) shows in the detail prescribed by Form 4 of the Appendix of Forms the party's inability to pay or to give security for fees and costs;

(B) claims an entitlement to redress; and

(C) states the issues that the party intends to present on appeal.

(2) **Action on the Motion.** If the district court grants the motion, the party may proceed on appeal without prepaying or giving security for

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fees and costs, unless a statute provides otherwise. If the district court denies the motion, it must state its reasons in writing.

- (3) **Prior Approval.** A party who was permitted to proceed in forma pauperis in the district-court action, or who was determined to be financially unable to obtain an adequate defense in a criminal case, may proceed on appeal in forma pauperis without further authorization, unless:

- (A) the district court — before or after the notice of appeal is filed — certifies that the appeal is not taken in good faith or finds that the party is not otherwise entitled to proceed in forma pauperis and states in writing its reasons for the certification or finding; or

(B) a statute provides otherwise.

(4) **Notice of District Court's Denial.** The district clerk must immediately notify the parties and the court of appeals when the district court does any of the following:

(A) denies a motion to proceed on appeal in forma pauperis;

(B) certifies that the appeal is not taken in good faith; or

(C) finds that the party is not otherwise entitled to proceed in forma pauperis.

(5) **Motion in the Court of Appeals.** A party may file a motion to proceed on appeal in forma pauperis in the court of appeals within 30 days after service of the notice prescribed in Rule 24(a)(4). The motion must include a copy

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of the affidavit filed in the district court and the district court's statement of reasons for its action. If no affidavit was filed in the district court, the party must include the affidavit prescribed by Rule 24(a)(1).

**(b) Leave to Proceed in Forma Pauperis on Appeal from the United States Tax Court or on Appeal or Review of an Administrative-Agency Proceeding.**

A party may file in the court of appeals a motion for leave to proceed on appeal in forma pauperis with an affidavit prescribed by Rule 24(a)(1):

- (1) in an appeal from the United States Tax Court; and
- (2) when an appeal or review of a proceeding before an administrative agency, board, commission, or officer proceeds directly in the court of appeals.

- (c) **Leave to Use Original Record.** A party allowed to proceed on appeal in forma pauperis may request that the appeal be heard on the original record without reproducing any part.

\* \* \* \* \*

**Rule 28. Briefs**

- (a) **Appellant's Brief.** The appellant's brief must contain, under appropriate headings and in the order indicated:
- (1) a corporate disclosure statement if required by Rule 26.1;
  - (2) a table of contents, with page references;
  - (3) a table of authorities — cases (alphabetically arranged), statutes, and other authorities — with references to the pages of the brief where they are cited;

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- (4) a jurisdictional statement, including:
  - (A) the basis for the district court's or agency's subject-matter jurisdiction, with citations to applicable statutory provisions and stating relevant facts establishing jurisdiction;
  - (B) the basis for the court of appeals' jurisdiction, with citations to applicable statutory provisions and stating relevant facts establishing jurisdiction;
  - (C) the filing dates establishing the timeliness of the appeal or petition for review; and
  - (D) an assertion that the appeal is from a final order or judgment that disposes of all parties' claims, or information establishing the court of appeals' jurisdiction on some other basis;

- (5) a statement of the issues presented for review;
- (6) a concise statement of the case setting out the facts relevant to the issues submitted for review, describing the relevant procedural history, and identifying the rulings presented for review, with appropriate references to the record (see Rule 28(e));
- (7) a summary of the argument, which must contain a succinct, clear, and accurate statement of the arguments made in the body of the brief, and which must not merely repeat the argument headings;
- (8) the argument, which must contain:
  - (A) appellant's contentions and the reasons for them, with citations to the authorities and parts of the record on which the appellant

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relies; and

(B) for each issue, a concise statement of the applicable standard of review (which may appear in the discussion of the issue or under a separate heading placed before the discussion of the issues);

(9) a short conclusion stating the precise relief sought; and

(10) the certificate of compliance, if required by Rule 32(a)(7).

**(b) Appellee's Brief.** The appellee's brief must conform to the requirements of Rule 28(a)(1)-(8) and (10), except that none of the following need appear unless the appellee is dissatisfied with the appellant's statement:

(1) the jurisdictional statement;



- (2) the statement of the issues;
- (3) the statement of the case; and
- (4) the statement of the standard of review.

\* \* \* \* \*

#### **Rule 28.1. Cross-Appeals**

\* \* \* \* \*

**(c) Briefs.** In a case involving a cross-appeal:

- (1) **Appellant's Principal Brief.** The appellant must file a principal brief in the appeal. That brief must comply with Rule 28(a).
- (2) **Appellee's Principal and Response Brief.** The appellee must file a principal brief in the cross-appeal and must, in the same brief, respond to the principal brief in the appeal. That appellee's brief must comply with Rule 28(a), except that the brief need not include a statement of the case

unless the appellee is dissatisfied with the appellant's statement.

- (3) **Appellant's Response and Reply Brief.** The appellant must file a brief that responds to the principal brief in the cross-appeal and may, in the same brief, reply to the response in the appeal. That brief must comply with Rule 28(a)(2)-(8) and (10), except that none of the following need appear unless the appellant is dissatisfied with the appellee's statement in the cross-appeal:
- (A) the jurisdictional statement;
  - (B) the statement of the issues;
  - (C) the statement of the case; and
  - (D) the statement of the standard of review.

- (4) **Appellee's Reply Brief.** The appellee may file a brief in reply to the response in the cross-appeal. That brief must comply with Rule 28(a)(2)-(3) and (10) and must be limited to the issues presented by the cross-appeal.

\* \* \* \* \*

## UNITED STATES DISTRICT COURT

for the

< \_\_\_\_\_ > DISTRICT OF < \_\_\_\_\_ >

<Name(s) of plaintiff(s)>,

Plaintiff(s)

v.

<Name(s) of defendant(s)>,

Defendant(s)

Case No. &lt;Number&gt;

**AFFIDAVIT ACCOMPANYING MOTION  
FOR PERMISSION TO APPEAL IN FORMA PAUPERIS**

Affidavit in Support of Motion	Instructions
<p>I swear or affirm under penalty of perjury that, because of my poverty, I cannot prepay the docket fees of my appeal or post a bond for them. I believe I am entitled to redress. I swear or affirm under penalty of perjury under United States laws that my answers on this form are true and correct. (28 U.S.C. § 1746; 18 U.S.C. § 1621.)</p> <p>Signed: _____</p>	<p>Complete all questions in this application and then sign it. Do not leave any blanks: if the answer to a question is "0," "none," or "not applicable (N/A)," write in that response. If you need more space to answer a question or to explain your answer, attach a separate sheet of paper identified with your name, your case's docket number, and the question number.</p> <p>Date: _____</p>

My issues on appeal are:

1. For both you and your spouse estimate the average amount of money received from each of the following sources during the past 12 months. Adjust any amount that was received weekly, biweekly, quarterly, semiannually, or annually to show the monthly rate. Use gross amounts, that is, amounts before any deductions for taxes or otherwise.

Income source	Average monthly amount during the past 12 months		Amount expected next month	
	You	Spouse	You	Spouse
Employment	\$	\$	\$	\$
Self-employment	\$	\$	\$	\$
Income from real property (such as rental income)	\$	\$	\$	\$
Interest and dividends	\$	\$	\$	\$
Gifts	\$	\$	\$	\$
Alimony	\$	\$	\$	\$
Child support	\$	\$	\$	\$
Retirement (such as social security, pensions, annuities, insurance)	\$	\$	\$	\$
Disability (such as social security, insurance payments)	\$	\$	\$	\$
Unemployment payments	\$	\$	\$	\$
Public-assistance (such as welfare)	\$	\$	\$	\$
Other (specify):	\$	\$	\$	\$
<b>Total monthly income:</b>	<b>\$</b>	<b>\$</b>	<b>\$</b>	<b>\$</b>

2. *List your employment history for the past two years, most recent employer first. (Gross monthly pay is before taxes or other deductions.)*

Employer	Address	Dates of employment	Gross monthly pay
			\$
			\$
			\$

3. List your spouse's employment history for the past two years, most recent employer first.  
(Gross monthly pay is before taxes or other deductions.)

Employer	Address	Dates of employment	Gross monthly pay
			\$
			\$
			\$

4. How much cash do you and your spouse have? \$ \_\_\_\_\_

Below, state any money you or your spouse have in bank accounts or in any other financial institution.

Financial Institution	Type of Account	Amount you have	Amount your spouse has
		\$	\$
		\$	\$
		\$	\$

*If you are a prisoner seeking to appeal a judgment in a civil action or proceeding, you must attach a statement certified by the appropriate institutional officer showing all receipts, expenditures, and balances during the last six months in your institutional accounts. If you have multiple accounts, perhaps because you have been in multiple institutions, attach one certified statement of each account.*

5. List the assets, and their values, which you own or your spouse owns. Do not list clothing and ordinary household furnishings.

Home	Other real estate	Motor vehicle #1
(Value) \$	(Value) \$	(Value) \$
		Make and year:
		Model:
		Registration #:

Motor vehicle #2	Other assets	Other assets
(Value) \$	(Value) \$	(Value) \$
Make and year:		
Model:		
Registration #:		

6. *State every person, business, or organization owing you or your spouse money, and the amount owed.*

Person owing you or your spouse money	Amount owed to you	Amount owed to your spouse
	\$	\$
	\$	\$
	\$	\$
	\$	\$

7. *State the persons who rely on you or your spouse for support.*

Name [or, if under 18, initials only]	Relationship	Age

8. *Estimate the average monthly expenses of you and your family. Show separately the amounts paid by your spouse. Adjust any payments that are made weekly, biweekly, quarterly, semiannually, or annually to show the monthly rate.*

	You	Your Spouse
Rent or home-mortgage payment (include lot rented for mobile home)	\$	\$
Are real estate taxes included? <input type="checkbox"/> Yes <input type="checkbox"/> No		
Is property insurance included? <input type="checkbox"/> Yes <input type="checkbox"/> No		

Utilities (electricity, heating fuel, water, sewer, and telephone)	\$	\$
Home maintenance (repairs and upkeep)	\$	\$
Food	\$	\$
Clothing	\$	\$
Laundry and dry-cleaning	\$	\$
Medical and dental expenses	\$	\$
Transportation (not including motor vehicle payments)	\$	\$
Recreation, entertainment, newspapers, magazines, etc.	\$	\$
Insurance (not deducted from wages or included in mortgage payments)		
Homeowner's or renter's:	\$	\$
Life:	\$	\$
Health:	\$	\$
Motor vehicle:	\$	\$
Other:	\$	\$
Taxes (not deducted from wages or included in mortgage payments) (specify):	\$	\$
Installment payments		
Motor Vehicle:	\$	\$
Credit card (name):	\$	\$
Department store (name):	\$	\$
Other:	\$	\$
Alimony, maintenance, and support paid to others	\$	\$
Regular expenses for operation of business, profession, or farm (attach detailed statement)	\$	\$
Other (specify):	\$	\$
<b>Total monthly expenses:</b>	<b>\$</b>	<b>\$</b>



9. *Do you expect any major changes to your monthly income or expenses or in your assets or liabilities during the next 12 months?*

☐ Yes ☐ No      If yes, describe on an attached sheet.

10. *Have you spent — or will you be spending — any money for expenses or attorney fees in connection with this lawsuit? ☐ Yes ☐ No*

*If yes, how much? \$ \_\_\_\_\_*

11. *Provide any other information that will help explain why you cannot pay the docket fees for your appeal.*

12. *State the city and state of your legal residence.*

*Your daytime phone number: (\_\_\_\_) \_\_\_\_\_*

*Your age: \_\_\_\_\_ Your years of schooling: \_\_\_\_\_*

*Last four digits of your social-security number: \_\_\_\_\_*



JUDICIAL CONFERENCE OF THE UNITED STATES

WASHINGTON, D.C. 20544

THE CHIEF JUSTICE  
OF THE UNITED STATES  
*Presiding*

HONORABLE THOMAS F. HOGAN  
*Secretary*

January 22, 2013

MEMORANDUM

To: The Chief Justice of the United States and  
Associate Justices of the Supreme Court

From: Judge Thomas F. Hogan *Thomas F. Hogan*

RE: TRANSMITTAL OF PROPOSED AMENDMENTS TO THE FEDERAL RULES OF  
APPELLATE PROCEDURE

By direction of the Judicial Conference of the United States, pursuant to the authority conferred by 28 U.S.C. § 331, I transmit herewith for consideration of the Court proposed amendments to Rules 13, 14, 24, 28, and 28.1, and to Form 4 of the Federal Rules of Appellate Procedure, which were approved by the Judicial Conference at its September 2012 session. The Judicial Conference recommends that the amendments be approved by the Court and transmitted to the Congress pursuant to law.

For your assistance in considering the proposed amendments, I am transmitting: (i) a redline version of the amendments; (ii) an excerpt from the Report of the Committee on Rules of Practice and Procedure to the Judicial Conference; and (iii) an excerpt from the Report of the Advisory Committee on the Federal Rules of Appellate Procedure.

Attachments

**EXCERPT FROM THE  
REPORT OF THE JUDICIAL CONFERENCE**

**COMMITTEE ON RULES OF PRACTICE AND PROCEDURE**

**TO THE CHIEF JUSTICE OF THE UNITED STATES AND MEMBERS OF THE  
JUDICIAL CONFERENCE OF THE UNITED STATES:**

\* \* \* \* \*

**FEDERAL RULES OF APPELLATE PROCEDURE**

*Rules Recommended for Approval and Transmission*

The Advisory Committee on Appellate Rules submitted proposed amendments to Rules 13, 14, 24, 28, and 28.1, and to Form 4, with a recommendation that they be approved and transmitted to the Judicial Conference. The proposed amendments were circulated to the bench, bar, and public for comment in August 2011.

Rules 13, 14, and 24

The proposed amendments to Rules 13, 14, and 24 concern appeals from the United States Tax Court. The proposed amendments to Rules 13 and 14 revise those rules to address permissive interlocutory appeals from the Tax Court under 26 U.S.C. § 7482(a)(2). The advisory committee developed the proposals in consultation with the Tax Court and the Tax Division of the Department of Justice. The proposed amendment to Rule 24 more accurately reflects the status of the Tax Court as a court. No comments were received and the advisory committee recommended approval of the proposed amendments to Rules 13, 14, and 24, as published.

Rules 28 and 28.1

The proposed amendment to Rule 28 revises Rule 28(a)'s list of the required contents of an appellant's brief by removing the requirement of separate statements of the case and of the facts. Current Rule 28(a)(6) requires "a statement of the case briefly indicating the nature of the

case, the course of proceedings, and the disposition below.” Current Rule 28(a)(7) requires “a statement of facts.” Rule 28(a) further requires these items to appear “in the order indicated.” The proposed amendment to Rule 28(a) consolidates subdivisions (a)(6) and (a)(7) into a new subdivision (a)(6) that provides for one “statement of the case.” It allows a lawyer to present the factual and procedural history of a case chronologically, but also provides flexibility to depart from chronological ordering. Conforming changes renumber Rules 28(a)(8) through (11) as Rules 28(a)(7) through (10), revise Rule 28(b)’s discussion of the appellee’s brief, and revise Rule 28.1’s discussion of briefing on cross-appeals.

Six sets of comments were received, four of which supported the proposed amendments’ goal. Among the supportive comments, two proposed drafting changes to address a concern that deletion of some of the current language of Rule 28(a)(6) could be problematic. The advisory committee carefully reviewed all the comments, including those arguing against the proposed amendments. To address the concerns of the commenters, the advisory committee revised the text of proposed Rule 28(a)(6) and added a new paragraph to the Committee Note.

As published, proposed Rule 28(a)(6) had referred to “a concise statement of the case setting out the facts relevant to the issues submitted for review and identifying the rulings presented for review, with appropriate references to the record (*see* Rule 28(e)).” In response to commenters’ concerns that this language did not mention procedural history, the advisory committee revised the proposed rule to refer to “a concise statement of the case setting out the facts relevant to the issues submitted for review, describing the relevant procedural history, and identifying the rulings presented for review, with appropriate references to the record (*see* Rule 28(e)).” The advisory committee added a second paragraph to the proposed Committee

Note that describes the contents of the statement of the case and notes the permissibility of including subheadings. The latter point responds to one commenter's concern that judges and clerks need a way to locate quickly, in the brief, a description of the rulings presented for review. The advisory committee also added a reference in the Committee Note to Supreme Court Rule 24.1(g), on which the amended Rule text is loosely modeled. With these changes, the advisory committee recommended approval of the proposed amendments to Rules 28 and 28.1.

#### Form 4

The proposed amendments to Form 4 concern applications to proceed *in forma pauperis* (IFP) on appeal. Appellate Rule 24 requires a party seeking to proceed IFP in the court of appeals to provide an affidavit that, among other things, "shows in the detail prescribed by Form 4 . . . the party's inability to pay or to give security for fees and costs." (Likewise, a party seeking to proceed IFP in the Supreme Court must use Form 4. *See* Supreme Court Rule 39.1.) Questions 10 and 11 on the current Form 4 have been criticized by commentators for seeking information unnecessary to the IFP determination. Some commentators have suggested that Questions 10 and 11 might in some circumstances seek disclosure of information protected by attorney-client privilege and/or work product immunity. Though research by the advisory committee's reporter suggested that the information solicited is relatively unlikely to be subject to privilege, it may sometimes constitute protected work product. Even if not privileged or protected, the advisory committee determined that the disclosure of some information solicited could disadvantage some IFP litigants and may be requesting information not necessary to the IFP determination. Accordingly, the proposed amendment replaces Questions 10 and 11 with a new Question 10 that reads: "Have you spent – or will you be spending – any money for

expenses or attorney fees in connection with this lawsuit? If yes, how much?"

The proposed amendments also include technical amendments to Form 4, to bring the form into conformity with changes approved by the Judicial Conference in Fall 1997, but (apparently due to an oversight) not subsequently transmitted to Congress.

The Committee concurred with the advisory committee's recommendations.

**Recommendation:** That the Judicial Conference approve the proposed amendments to Appellate Rules 13, 14, 24, 28, and 28.1, and to Form 4, and transmit them to the Supreme Court for its consideration with a recommendation that they be adopted by the Court and transmitted to Congress in accordance with the law.

\* \* \* \* \*

Respectfully submitted,



Mark R. Kravitz, Chair

James. M. Cole	David F. Levi
Dean C. Colson	Patrick J. Schiltz
Roy T. Englert, Jr.	James A. Teilborg
Gregory G. Garre	Larry D. Thompson
Neil M. Gorsuch	Richard C. Wesley
Marilyn L. Huff	Diane P. Wood
Wallace B. Jefferson	

COMMITTEE ON RULES OF PRACTICE AND PROCEDURE  
OF THE  
JUDICIAL CONFERENCE OF THE UNITED STATES  
WASHINGTON, D.C. 20544

MARK R. KRAVITZ  
CHAIR  
  
PETER G. McCABE  
SECRETARY

CHAIRS OF ADVISORY COMMITTEES

JEFFREY S. SUTTON  
APPELLATE RULES

EUGENE R. WEDOFF  
BANKRUPTCY RULES

DAVID G. CAMPBELL  
CIVIL RULES

REENA RAGGI  
CRIMINAL RULES

SIDNEY A. FITZWATER  
EVIDENCE RULES

MEMORANDUM

**TO:** Judge Mark R. Kravitz, Chair  
Standing Committee on Rules of Practice and Procedure

**FROM:** Judge Jeffrey S. Sutton, Chair  
Advisory Committee on Appellate Rules

**DATE:** May 8, 2012

**RE:** Report of Advisory Committee on Appellate Rules

**I. Introduction**

The Advisory Committee on Appellate Rules met on April 12, 2012, in Washington, DC. The Committee gave final approval to proposed amendments to Appellate Rules 13, 14, 24, 28, and 28.1 and to Form 4.

\* \* \* \* \*

**II. Action items for final approval**

The Committee presents the following proposals for final approval.

**A. Proposed amendments to Rules 13, 14, and 24**

The proposed amendments to Rules 13, 14, and 24 concern appeals from the United States Tax Court. The proposed amendments to Rules 13 and 14 revise those rules to address permissive interlocutory appeals from the Tax Court under 26 U.S.C. § 7482(a)(2). The Committee developed these proposals in consultation with the Tax Court and with the Tax Division of the Department of Justice. The proposed amendment to Rule 24 grows out of a suggestion by the Tax Court that Rule 24(b)'s reference to the Tax Court be revised to remove a possible source of confusion concerning the Tax Court's legal status.

**1. Text of proposed amendments and Committee Notes**

The Committee recommends final approval of the proposed amendments to Rules 13, 14, and 24, as set out in the enclosure to this report.

**2. Changes made after publication and comment**

The Committee did not make any changes to the proposed amendments to Rules 13, 14, and 24 after publication. (It received no comments on these proposed amendments.)

**B. Proposed amendments to Rules 28 and 28.1**

The proposed amendment to Rule 28 revises Rule 28(a)'s list of the contents of the appellant's brief by removing the requirement of separate statements of the case and of the facts, and makes conforming changes to Rule 28(b) (concerning the appellee's brief). The proposed amendment to Rule 28.1 makes conforming changes to Rule 28.1 (concerning cross-appeals).

Current Rule 28(a)(6) requires "a statement of the case briefly indicating the nature of the case, the course of proceedings, and the disposition below." Current Rule 28(a)(7) requires that the brief include "a statement of facts." Rule 28(a) requires these items to appear "in the order indicated." These dual requirements have confused practitioners. It seems intuitively more sensible to permit the appellant to weave those two statements together and present the relevant events in chronological order. As a point of comparison, Supreme Court Rule 24 does not separate the two requirements; rather, Supreme Court Rule 24.1(g) requires "[a] concise statement of the case, setting out the facts material to the consideration of the questions presented, with appropriate references to the joint appendix, e.g., App. 12, or to the record, e.g., Record 12."

The proposed amendment to Rule 28(a) consolidates subdivisions (a)(6) and (a)(7) into a new subdivision (a)(6) that provides for one "statement." The proposed new Rule 28(a)(6) allows the lawyer to present the factual and procedural history chronologically, but also provides flexibility to depart from chronological ordering. Conforming changes renumber Rules 28(a)(8) through (11) as Rules 28(a)(7) through (10), revise Rule 28(b)'s discussion of the appellee's brief, and revise Rule 28.1's discussion of briefing on cross-appeals.



### **1. Text of proposed amendments and Committee Notes**

The Committee recommends final approval of the proposed amendments to Rules 28 and 28.1 as set out in the enclosure to this report.

### **2. Changes made after publication and comment**

The comments that the Committee received on the proposed amendments to Rules 28 and 28.1 are described in the enclosure to this report. Four of the six sets of comments supported the proposed amendments' goal. Among those supportive comments, two sets of comments proposed drafting changes; a number of those proposals sprang from a concern that deletion of some of the current language of Rule 28(a)(6) could be problematic. At its spring meeting, the Committee carefully reviewed both the concerns expressed by the two commenters who argued against the proposed amendments and also the suggestions submitted by the two commenters who proffered alternative language for the amendments. A detailed account of the Committee's discussions can be found in the draft minutes of the Committee meeting. To address the concerns expressed by the commenters, the Committee revised the text of proposed Rule 28(a)(6) and added a new paragraph to the Committee Note.

As published, proposed Rule 28(a)(6) referred to "a concise statement of the case setting out the facts relevant to the issues submitted for review and identifying the rulings presented for review, with appropriate references to the record (see Rule 28(e))." In response to commenters' concerns that this language omitted to mention procedural history, the Committee revised the proposed Rule to refer to "a concise statement of the case setting out the facts relevant to the issues submitted for review, describing the relevant procedural history, and identifying the rulings presented for review, with appropriate references to the record (see Rule 28(e))." The Committee hopes that the amended Rule's reference to "the relevant procedural history" – rather than to "the course of proceedings" – will discourage the unnecessary detail with which some briefs currently describe the procedural history of the case. The Committee added a second paragraph to the Committee Note to Rule 28(a) that describes the contents of the statement of the case and that notes the permissibility of including subheadings. The latter point responds to one commenter's concern that judges and clerks need a way to locate quickly, in the brief, a description of the rulings presented for review. The Committee also added, in the Committee Note, a reference to Supreme Court Rule 24.1(g), on which the amended Rule text is loosely modeled.

### **C. Proposed amendments to Form 4**

The proposed amendments to Form 4 concern applications to proceed IFP on appeal. Appellate Rule 24 requires a party seeking to proceed IFP in the court of appeals to provide an affidavit that, *inter alia*, "shows in the detail prescribed by Form 4 ... the party's inability to pay or to give security for fees and costs." (Likewise, a party seeking to proceed IFP in the Supreme Court must use Form 4. *See* Supreme Court Rule 39.1.) The proposed amendments would substitute one revised question for two of the questions on the current Form 4: Question 10 – which requests the name of any attorney whom the litigant has paid (or will pay) for services in connection with the case, as well as the amount of such payments – and Question 11 – which inquires about payments for non-attorney services in connection with the case.

Questions 10 and 11 have been criticized by commentators for seeking information that seems unnecessary to the IFP determination. Some commentators have suggested that Questions 10 and 11 might in some circumstances seek disclosure of information protected by attorney-client privilege and/or work product immunity. Research by the Committee's reporter suggested that though the information solicited by Questions 10 and 11 is relatively unlikely to be subject to attorney-client privilege, it may sometimes constitute protected work product. The Committee also discussed the possibility that even if the information solicited by Questions 10 and 11 is not privileged or protected, its disclosure could as a practical matter disadvantage some IFP litigants. In any event, the function of Form 4 is to provide the information necessary to determine whether the applicant is unable "to pay or to give security for fees and costs," Fed. R. App. P. 24(a)(1)(A). Neither the Committee's own deliberations and research nor informal discussions with the Supreme Court Clerk's Office have disclosed any reason to think that it is necessary to obtain all of the information currently sought by Questions 10 and 11. Accordingly, the proposed amendment would replace Questions 10 and 11 with a new Question 10 that would read: "Have you spent – or will you be spending – any money for expenses or attorney fees in connection with this lawsuit? If yes, how much?"

The proposed amendments would also make certain technical amendments to Form 4, to bring the official Form into conformity with changes that were approved by the Judicial Conference in fall 1997 but were not subsequently transmitted to Congress. The proposed technical amendments would add columns in Question 1 to permit the applicant to list the applicant's spouse's income; would limit the requests for employment history in Questions 2 and 3 to the past two years; and would specify that the requirement for inmate account statements applies to civil appeals.

#### **1. Text of proposed amendments**

The Committee recommends final approval of the proposed amendments to Form 4 as set out in the enclosure to this report.

#### **2. Changes made after publication and comment**

The single comment received on the proposed amendments to Form 4 is summarized in the enclosure to this report. The comment – from the National Association of Criminal Defense Lawyers ("NACDL") – suggests a revision to the Form's discussion of inmate account statements. The Committee decided not to incorporate this comment into the current proposed amendments, but has added it to the Committee's study agenda as a new item. Further detail on this matter can be found in the draft minutes of the Committee's spring meeting.

\* \* \* \* \*

### **Rule 13. Review of a Decision of Appeals from the Tax Court**

(1) How Obtained; Time for Filing a Notice of Appeal.

(1) Review of a decision of (A) An appeal as of right from the United States Tax Court is commenced by filing a notice of appeal with the Tax Court clerk within 90 days after the entry of the Tax Court's decision. At the time of filing, the appellant must furnish the

\* New material is underlined; matter to be omitted is lined through.

## 2 FEDERAL RULES OF APPELLATE PROCEDURE

15 clerk with enough copies of the notice to  
16 enable the clerk to comply with Rule 3(d). If  
17 one party files a timely notice of appeal, any  
18 other party may file a notice of appeal within  
19 120 days after the Tax Court's decision is  
20 entered.

21 (2B) If, under Tax Court rules, a party makes a  
22 timely motion to vacate or revise the Tax  
23 Court's decision, the time to file a notice of  
24 appeal runs from the entry of the order  
25 disposing of the motion or from the entry of  
26 a new decision, whichever is later.

27 **(b)(2) Notice of Appeal; How Filed.** The notice of  
28 appeal may be filed either at the Tax Court clerk's  
29 office in the District of Columbia or by mail  
30 addressed to the clerk. If sent by mail the notice is

31 considered filed on the postmark date, subject to §  
32 7502 of the Internal Revenue Code, as amended,  
33 and the applicable regulations.

34 **(c)(3) Contents of the Notice of Appeal; Service;**  
35 **Effect of Filing and Service.** Rule 3 prescribes  
36 the contents of a notice of appeal, the manner of  
37 service, and the effect of its filing and service.  
38 Form 2 in the Appendix of Forms is a suggested  
39 form of a notice of appeal.

40 **(d)(4) The Record on Appeal; Forwarding; Filing.**  
41 (†A) Except as otherwise provided under Tax  
42 Court rules for the transcript of proceedings,  
43 the An appeal from the Tax Court is  
44 governed by the parts of Rules 10, 11, and 12  
45 regarding the record on appeal from a district  
46 court, the time and manner of forwarding and

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47 filing, and the docketing in the court of  
48 appeals. ~~References in those rules and in~~  
49 ~~Rule 3 to the district court and district clerk~~  
50 ~~are to be read as referring to the Tax Court~~  
51 ~~and its clerk.~~

52 (2B) If an appeal ~~from a Tax Court decision~~ is  
53 taken to more than one court of appeals, the  
54 original record must be sent to the court  
55 named in the first notice of appeal filed. In  
56 an appeal to any other court of appeals, the  
57 appellant must apply to that other court to  
58 make provision for the record.

59 **(b) Appeal by Permission.** An appeal by permission is  
60 governed by Rule 5.

61 \* \* \* \* \*

### Committee Note

Rules 13 and 14 are amended to address the treatment of permissive interlocutory appeals from the Tax Court under 26 U.S.C. § 7482(a)(2). Rules 13 and 14 do not currently address such appeals; instead, those Rules address only appeals as of right from the Tax Court. The existing Rule 13 – governing appeals as of right – is revised and becomes Rule 13(a). New subdivision (b) provides that Rule 5 governs appeals by permission. The definition of district court and district clerk in current subdivision (d)(1) is deleted; definitions are now addressed in Rule 14. The caption of Title III is amended to reflect the broadened application of this Title.

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### Changes Made After Publication and Comment

No changes were made after publication and comment.

1     **Rule 14. Applicability of Other Rules to the Review of**  
 2     **a Appeals from the Tax Court Decision**

3             All provisions of these rules, except Rules ~~4-9~~4, 6-9,  
 4     15-20, and 22-23, apply to ~~the review of a~~appeals from the  
 5     Tax Court~~decision~~. References in any applicable rule

## 6 FEDERAL RULES OF APPELLATE PROCEDURE

6 (other than Rule 24(a)) to the district court and district clerk

7 are to be read as referring to the Tax Court and its clerk.

8 \* \* \* \* \*

**Committee Note**

Rule 13 currently addresses appeals as of right from the Tax Court, and Rule 14 currently addresses the applicability of the Appellate Rules to such appeals. Rule 13 is amended to add a new subdivision (b) treating permissive interlocutory appeals from the Tax Court under 26 U.S.C. § 7482(a)(2). Rule 14 is amended to address the applicability of the Appellate Rules to both appeals as of right and appeals by permission. Because the latter are governed by Rule 5, that rule is deleted from Rule 14's list of inapplicable provisions. Rule 14 is amended to define the terms "district court" and "district clerk" in applicable rules (excluding Rule 24(a)) to include the Tax Court and its clerk. Rule 24(a) is excluded from this definition because motions to appeal from the Tax Court in forma pauperis are governed by Rule 24(b), not Rule 24(a).

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**Changes Made After Publication and Comment**

No changes were made after publication and comment.



1       **Rule 24. Proceeding in Forma Pauperis**

2       **(a) Leave to Proceed in Forma Pauperis.**

3           (1) **Motion in the District Court.** Except as stated in  
4           Rule 24(a)(3), a party to a district-court action who  
5           desires to appeal in forma pauperis must file a  
6           motion in the district court. The party must attach  
7           an affidavit that:

8           (A) shows in the detail prescribed by Form 4 of  
9           the Appendix of Forms the party's inability  
10          to pay or to give security for fees and costs;

11          (B) claims an entitlement to redress; and

12          (C) states the issues that the party intends to  
13          present on appeal.

14          (2) **Action on the Motion.** If the district court grants  
15          the motion, the party may proceed on appeal  
16          without prepaying or giving security for fees and

## 8 FEDERAL RULES OF APPELLATE PROCEDURE

17 costs, unless a statute provides otherwise. If the  
18 district court denies the motion, it must state its  
19 reasons in writing.

20 (3) **Prior Approval.** A party who was permitted to  
21 proceed in forma pauperis in the district-court  
22 action, or who was determined to be financially  
23 unable to obtain an adequate defense in a criminal  
24 case, may proceed on appeal in forma pauperis  
25 without further authorization, unless:

26 (A) the district court — before or after the notice  
27 of appeal is filed — certifies that the appeal  
28 is not taken in good faith or finds that the  
29 party is not otherwise entitled to proceed in  
30 forma pauperis and states in writing its  
31 reasons for the certification or finding; or

32 (B) a statute provides otherwise.

- 33           (4) **Notice of District Court’s Denial.** The district  
34           clerk must immediately notify the parties and the  
35           court of appeals when the district court does any of  
36           the following:
- 37           (A) denies a motion to proceed on appeal in  
38           forma pauperis;
- 39           (B) certifies that the appeal is not taken in good  
40           faith; or
- 41           (C) finds that the party is not otherwise entitled  
42           to proceed in forma pauperis.
- 43           (5) **Motion in the Court of Appeals.** A party may file  
44           a motion to proceed on appeal in forma pauperis in  
45           the court of appeals within 30 days after service of  
46           the notice prescribed in Rule 24(a)(4). The motion  
47           must include a copy of the affidavit filed in the  
48           district court and the district court’s statement of

## 10 FEDERAL RULES OF APPELLATE PROCEDURE

49 reasons for its action. If no affidavit was filed in  
50 the district court, the party must include the  
51 affidavit prescribed by Rule 24(a)(1).

52 **(b) Leave to Proceed in Forma Pauperis on Appeal from**  
53 **the United States Tax Court or on Appeal or Review**  
54 **of an Administrative-Agency Proceeding.** ~~When an~~  
55 ~~appeal or review of a proceeding before an~~  
56 ~~administrative agency, board, commission, or officer~~  
57 ~~(including for the purpose of this rule the United States~~  
58 ~~Tax Court) proceeds directly in a court of appeals, a~~  
59 party may file in the court of appeals a motion for leave  
60 to proceed on appeal in forma pauperis with an affidavit  
61 prescribed by Rule 24(a)(1):

62 (1) in an appeal from the United States Tax Court; and  
63 (2) when an appeal or review of a proceeding before  
64 an administrative agency, board, commission, or

65 officer proceeds directly in the court of appeals.

66 **(c) Leave to Use Original Record.** A party allowed to  
67 proceed on appeal in forma pauperis may request that  
68 the appeal be heard on the original record without  
69 reproducing any part.

70 \* \* \* \* \*

#### **Committee Note**

Rule 24(b) currently refers to review of proceedings “before an administrative agency, board, commission, or officer (including for the purpose of this rule the United States Tax Court).” Experience suggests that Rule 24(b) contributes to confusion by fostering the impression that the Tax Court is an executive branch agency rather than a court. (As a general example of that confusion, appellate courts have returned Tax Court records to the Internal Revenue Service, believing the Tax Court to be part of that agency.) To remove this possible source of confusion, the quoted parenthetical is deleted from subdivision (b) and appeals from the Tax Court are separately listed in subdivision (b)’s heading and in new subdivision (b)(1).

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#### **Changes Made After Publication and Comment**

## 12 FEDERAL RULES OF APPELLATE PROCEDURE

No changes were made after publication and comment.

1 **Rule 28. Briefs**

2 **(a) Appellant's Brief.** The appellant's brief must contain,  
3 under appropriate headings and in the order indicated:

4 (1) a corporate disclosure statement if required by  
5 Rule 26.1;

6 (2) a table of contents, with page references;

7 (3) a table of authorities — cases (alphabetically  
8 arranged), statutes, and other authorities — with  
9 references to the pages of the brief where they are  
10 cited;

11 (4) a jurisdictional statement, including:

12 (A) the basis for the district court's or agency's  
13 subject-matter jurisdiction, with citations to

- 14 applicable statutory provisions and stating  
15 relevant facts establishing jurisdiction;
- 16 (B) the basis for the court of appeals'  
17 jurisdiction, with citations to applicable  
18 statutory provisions and stating relevant facts  
19 establishing jurisdiction;
- 20 (C) the filing dates establishing the timeliness of  
21 the appeal or petition for review; and
- 22 (D) an assertion that the appeal is from a final  
23 order or judgment that disposes of all parties'  
24 claims, or information establishing the court  
25 of appeals' jurisdiction on some other basis;
- 26 (5) a statement of the issues presented for review;
- 27 (6) a concise statement of the case ~~briefly indicating~~  
28 ~~the nature of the case, the course of proceedings,~~  
29 ~~and the disposition below;~~

(87) a summary of the argument, which must contain a  
succinct, clear, and accurate statement of the  
arguments made in the body of the brief, and which  
must not merely repeat the argument headings;

(A) appellant's contentions and the reasons for  
them, with citations to the authorities and  
parts of the record on which the appellant  
relies; and

(B) for each issue, a concise statement of the applicable standard of review (which may



46 appear in the discussion of the issue or under  
47 a separate heading placed before the  
48 discussion of the issues);  
49 ~~(109)~~ a short conclusion stating the precise relief sought;  
50 and  
51 ~~(110)~~ the certificate of compliance, if required by  
52 Rule 32(a)(7).

53 **(b) Appellee's Brief.** The appellee's brief must conform  
54 to the requirements of Rule 28(a)(1)-~~(98)~~ and ~~(110)~~,  
55 except that none of the following need appear unless the  
56 appellee is dissatisfied with the appellant's statement:  
57 (1) the jurisdictional statement;  
58 (2) the statement of the issues;  
59 (3) the statement of the case;  
60 ~~(4) the statement of the facts;~~and  
61 ~~(54)~~the statement of the standard of review.

62 \* \* \* \* \*

**Committee Note**

**Subdivision (a).** Rule 28(a) is amended to remove the requirement of separate statements of the case and of the facts. Currently Rule 28(a)(6) provides that the statement of the case must “indicat[e] the nature of the case, the course of proceedings, and the disposition below,” and it precedes Rule 28(a)(7)’s requirement that the brief include “a statement of facts.” Experience has shown that these requirements have generated confusion and redundancy. Rule 28(a) is amended to consolidate subdivisions (a)(6) and (a)(7) into a new subdivision (a)(6) that provides for one “statement,” much like Supreme Court Rule 24.1(g) (which requires “[a] concise statement of the case, setting out the facts material to the consideration of the questions presented, with appropriate references to the joint appendix. . . .”). This permits but does not require the lawyer to present the factual and procedural history chronologically. Conforming changes are made by renumbering Rules 28(a)(8) through (11) as Rules 28(a)(7) through (10).

The statement of the case should describe the nature of the case, which includes (1) the facts relevant to the issues submitted for review; (2) those aspects of the case’s procedural history that are necessary to understand the posture of the appeal or are relevant to the issues submitted for review; and (3) the rulings presented for review. The statement should be concise, and can include subheadings, particularly for the purpose of highlighting the rulings presented for review.

**Subdivision (b).** Rule 28(b) is amended to accord with the amendment to Rule 28(a). Current Rules 28(b)(3) and (4) are consolidated into new Rule 28(b)(3), which refers to “the statement of the case.” Rule 28(b)(5) becomes Rule 28(b)(4). And Rule 28(b)’s reference to certain subdivisions of Rule 28(a) is updated to reflect the renumbering of those subdivisions.

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### **Changes Made After Publication and Comment**

After publication and comment, the Committee made one change to the text of the proposal and two changes to the Committee Note.

During the comment period, concerns were raised that the deletion of current Rule 28(a)(6)’s reference to “the nature of the case, the course of proceedings, and the disposition below” might lead readers to conclude that those items may no longer be included in the statement of the case. The Committee rejected that concern with respect to the “nature of the case” and the “disposition below,” because the Rule as published would naturally be read to permit continued inclusion of those items in the statement of the case. The Committee adhered to its view that the deletion of “course of proceedings” is useful because that phrase tends to elicit unnecessary detail; but to address the commenters’ concerns, the Committee added, to the revised Rule text, the phrase “describing the relevant procedural history.”

## Rule 28.1. Cross-Appeals

**(c) Briefs.** In a case involving a cross-appeal:

(2) **Appellee’s Principal and Response Brief.** The appellee must file a principal brief in the cross-appeal and must, in the same brief, respond to the principal brief in the appeal. That appellee’s brief must comply with Rule 28(a), except that the

12 brief need not include a statement of the case ~~or a~~  
13 ~~statement of the facts~~ unless the appellee is  
14 dissatisfied with the appellant's statement.

15 (3) **Appellant's Response and Reply Brief.** The  
16 appellant must file a brief that responds to the  
17 principal brief in the cross-appeal and may, in the  
18 same brief, reply to the response in the appeal. That  
19 brief must comply with Rule 28(a)(2)-~~(9)~~(8) and  
20 ~~(H)~~(10), except that none of the following need  
21 appear unless the appellant is dissatisfied with the  
22 appellee's statement in the cross-appeal:

23 (A) the jurisdictional statement;

24 (B) the statement of the issues;

25 (C) the statement of the case;

26 ~~(D) the statement of the facts~~; and

27 ~~(E)~~(D) the statement of the standard of review.

## 20 FEDERAL RULES OF APPELLATE PROCEDURE

28 (4) **Appellee’s Reply Brief.** The appellee may file a  
29 brief in reply to the response in the cross-appeal.  
30 That brief must comply with Rule 28(a)(2)-(3) and  
31 ~~(H)~~(10) and must be limited to the issues  
32 presented by the cross-appeal.

33 \* \* \* \* \*

**Committee Note**

**Subdivision (c).** Subdivision (c) is amended to accord with the amendments to Rule 28(a). Rule 28(a) is amended to consolidate subdivisions (a)(6) and (a)(7) into a new subdivision (a)(6) that provides for one “statement of the case setting out the facts relevant to the issues submitted for review, describing the relevant procedural history, and identifying the rulings presented for review. . . .” Rule 28.1(c) is amended to refer to that consolidated “statement of the case,” and references to subdivisions of Rule 28(a) are revised to reflect the re-numbering of those subdivisions.

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**Changes Made After Publication and Comment**

No changes were made to the text of the proposed amendment to Rule 28.1 after publication and comment. The

Committee revised a quotation in the Committee Note to Rule 28.1(c) to conform to the changes (described above) to the text of proposed Rule 28(a)(6).

## UNITED STATES DISTRICT COURT

for the

&lt; \_\_\_\_\_ &gt; DISTRICT OF &lt; \_\_\_\_\_ &gt; \*

&lt;Name(s) of plaintiff(s)&gt;,

Plaintiff(s)

v.

&lt;Name(s) of defendant(s)&gt;,

Defendant(s)

Case No. &lt;Number&gt;

AFFIDAVIT ACCOMPANYING MOTION  
FOR PERMISSION TO APPEAL IN FORMA PAUPERIS

## Affidavit in Support of Motion

I swear or affirm under penalty of perjury that, because of my poverty, I cannot prepay the docket fees of my appeal or post a bond for them. I believe I am entitled to redress. I swear or affirm under penalty of perjury under United States laws that my answers on this form are true and correct. (28 U.S.C. § 1746; 18 U.S.C. § 1621.)

Signed: \_\_\_\_\_

## Instructions

Complete all questions in this application and then sign it. Do not leave any blanks: if the answer to a question is "0," "none," or "not applicable (N/A)," write in that response. If you need more space to answer a question or to explain your answer, attach a separate sheet of paper identified with your name, your case's docket number, and the question number.

Date: \_\_\_\_\_

My issues on appeal are:

1. *For both you and your spouse estimate the average amount of money received from each of the following sources during the past 12 months. Adjust any amount that was received weekly, biweekly, quarterly, semiannually, or annually to show the monthly rate. Use gross amounts, that is, amounts before any deductions for taxes or otherwise.*

---

\* New material is underlined and highlighted in yellow; matter to be omitted is lined through



Income source	Average monthly amount during the past 12 months		Amount expected next month	
	You	Spouse	You	Spouse
Employment	\$	\$	\$	\$
Self-employment	\$	\$	\$	\$
Income from real property (such as rental income)	\$	\$	\$	\$
Interest and dividends	\$	\$	\$	\$
Gifts	\$	\$	\$	\$
Alimony	\$	\$	\$	\$
Child support	\$	\$	\$	\$
Retirement (such as social security, pensions, annuities, insurance)	\$	\$	\$	\$
Disability (such as social security, insurance payments)	\$	\$	\$	\$
Unemployment payments	\$	\$	\$	\$
Public-assistance (such as welfare)	\$	\$	\$	\$
Other (specify):	\$	\$	\$	\$
<b>Total monthly income:</b>	\$	\$	\$	\$

2. List your employment history for the past two years, most recent employer first. (Gross monthly pay is before taxes or other deductions.)

Employer	Address	Dates of employment	Gross monthly pay
			\$
			\$
			\$

3. List your spouse's employment history for the past two years, most recent employer first.  
(Gross monthly pay is before taxes or other deductions.)

Employer	Address	Dates of employment	Gross monthly pay
			\$
			\$
			\$

4. How much cash do you and your spouse have? \$ \_\_\_\_\_

Below, state any money you or your spouse have in bank accounts or in any other financial institution.

Financial Institution	Type of Account	Amount you have	Amount your spouse has
		\$	\$
		\$	\$
		\$	\$

If you are a prisoner seeking to appeal a judgment in a civil action or proceeding, you must attach a statement certified by the appropriate institutional officer showing all receipts, expenditures, and balances during the last six months in your institutional accounts. If you have multiple accounts, perhaps because you have been in multiple institutions, attach one certified statement of each account.

5. List the assets, and their values, which you own or your spouse owns. Do not list clothing and ordinary household furnishings.

Home	Other real estate	Motor vehicle #1
(Value) \$	(Value) \$	(Value) \$
		Make and year:
		Model:
		Registration #:

Motor vehicle #2	Other assets	Other assets
(Value) \$	(Value) \$	(Value) \$
Make and year:		
Model:		
Registration #:		

6. *State every person, business, or organization owing you or your spouse money, and the amount owed.*

Person owing you or your spouse money	Amount owed to you	Amount owed to your spouse
	\$	\$
	\$	\$
	\$	\$
	\$	\$

7. *State the persons who rely on you or your spouse for support.*

Name [or, if under 18, initials only]	Relationship	Age

8. *Estimate the average monthly expenses of you and your family. Show separately the amounts paid by your spouse. Adjust any payments that are made weekly, biweekly, quarterly, semiannually, or annually to show the monthly rate.*

	You	Your Spouse
Rent or home-mortgage payment (include lot rented for mobile home)	\$	\$
Are real estate taxes included? <input type="checkbox"/> Yes <input type="checkbox"/> No		
Is property insurance included? <input type="checkbox"/> Yes <input type="checkbox"/> No		

Utilities (electricity, heating fuel, water, sewer, and telephone)	\$	\$
Home maintenance (repairs and upkeep)	\$	\$
Food	\$	\$
Clothing	\$	\$
Laundry and dry-cleaning	\$	\$
Medical and dental expenses	\$	\$
Transportation (not including motor vehicle payments)	\$	\$
Recreation, entertainment, newspapers, magazines, etc.	\$	\$
Insurance (not deducted from wages or included in mortgage payments)		
Homeowner's or renter's:	\$	\$
Life:	\$	\$
Health:	\$	\$
Motor vehicle:	\$	\$
Other:	\$	\$
Taxes (not deducted from wages or included in mortgage payments) (specify):	\$	\$
Installment payments		
Motor Vehicle:	\$	\$
Credit card (name):	\$	\$
Department store (name):	\$	\$
Other:	\$	\$
Alimony, maintenance, and support paid to others	\$	\$
Regular expenses for operation of business, profession, or farm (attach detailed statement)	\$	\$
Other (specify):	\$	\$
<b>Total monthly expenses:</b>	<b>\$</b>	<b>\$</b>

9. Do you expect any major changes to your monthly income or expenses or in your assets or liabilities during the next 12 months?

☐ Yes ☐ No

If yes, describe on an attached sheet.

- ~~10. Have you paid or will you be paying an attorney any money for services in connection with this case, including the completion of this form? ☐ Yes ☐ No~~

~~If yes, how much? \$ \_\_\_\_\_~~

~~If yes, state the attorney's name, address, and telephone number:~~

- ~~10. Have you spent or will you be spending any money for expenses or attorney fees in connection with this lawsuit? ☐ Yes ☐ No~~

~~If yes, how much? \$ \_\_\_\_\_~~

- ~~11. Have you paid or will you be paying anyone other than an attorney (such as a paralegal or a typist) any money for services in connection with this case, including the completion of this form? ☐ Yes ☐ No~~

~~If yes, how much? \$ \_\_\_\_\_~~

~~If yes, state the person's name, address, and telephone number:~~

- ~~12~~11. Provide any other information that will help explain why you cannot pay the docket fees for your appeal.

- ~~13~~12. State the city and state of your legal residence.

Your daytime phone number: (\_\_\_\_) \_\_\_\_\_

Your age: \_\_\_\_\_ Your years of schooling: \_\_\_\_\_

Last four digits of your social-security number: \_\_\_\_\_

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**Changes Made After Publication and Comment**

No changes were made after publication and comment.

