

TENTH CIRCUIT FORMS

10th CIR. FORM 1. DOCKETING STATEMENT INSTRUCTIONS AND FORM

UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT

Byron White United States Courthouse
1823 Stout Street
Denver, Colorado 80257
(303) 844-3157
www.ca10.uscourts.gov

DOCKETING STATEMENT INSTRUCTIONS

PLEASE FOLLOW THE INSTRUCTIONS REGARDING CONTENT CAREFULLY. IN PARTICULAR, PLEASE NOTE THAT AS OF JANUARY 1, 2019, THE COURT NO LONGER REQUIRES ATTACHMENTS TO THE DOCKETING STATEMENT.

I. APPEALS FROM DISTRICT COURT

The appellant must complete a Docketing Statement and file it in the court of appeals within 14 days after filing the notice of appeal. The docketing statement must be filed via the court's Electronic Case Filing System (ECF). Instructions and information regarding ECF can be found on the court's website, www.ca10.uscourts.gov

Please complete all sections of the Docketing Statement except Sections I-B and I-C. Section II should only be completed in criminal appeals.

II. PETITIONS FOR REVIEW OR APPLICATIONS FOR ENFORCEMENT OF AGENCY ORDERS

The petitioner must complete a Docketing Statement and file it in the court of appeals within 14 days after filing a petition for review or application for enforcement. The docketing statement must be filed via the court's Electronic Case Filing System (ECF).

Instructions and information regarding ECF can be found on the court's website, www.ca10.uscourts.gov

Please complete all sections of the Docketing Statement except Sections I-A, I-C, and II.

III. APPEALS FROM UNITED STATES TAX COURT

The appellant must complete a Docketing Statement and file it in the court of appeals within 14 days after the appeal is docketed. The docketing statement must be filed via the court's Electronic Case Filing System (ECF). Instructions and information regarding ECF can be found on the court's website, www.ca10.uscourts.gov .

Please complete all sections of the Docketing Statement except Sections I-A, I-B, and II.

UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

DOCKETING STATEMENT

Appeal Number	
Case Name	
Party or Parties Filing Notice of Appeal Or Petition	
Appellee(s) or Respondent(s)	
List all prior or related appeals in this court with appropriate citation(s).	

I. JURISDICTION OVER APPEAL OR PETITION FOR REVIEW

A. APPEAL FROM DISTRICT COURT

1. Date final judgment or order to be reviewed was **entered** on the district court docket: _____
2. Date notice of appeal was **filed**: _____
3. State the time limit for filing the notice of appeal (cite the specific provision of Fed. R. App. P. 4 or other statutory authority): _____
 - a. Was the United States or an officer or an agency of the United States a party below? _____
 - b. Was a motion filed for an extension of time to file the notice of appeal? If so, give the filing date of the motion, the date of any order disposing of the motion, and the deadline for filing the notice of appeal: _____

4. Tolling Motions. *See* Fed. R. App. P. 4(a)(4)(A); 4(b)(3)(A).
- a. Give the filing date of any motion that tolls the time to appeal pursuant to Fed. R. App. P. 4(a)(4)(A) or 4(b)(3)(A):

- b. Has an order been entered by the district court disposing of any such motion, and, if so, when?

5. Is the order or judgment final (i.e. does it dispose of **all** claims by and against **all** parties)? *See* 28 U.S.C. § 1291. _____

(If your answer to Question 5 is no, please answer the following questions in this section.)

- a. If not, did the district court direct entry of judgment in accordance with Fed. R. Civ. P. 54(b)? When was this done?

- b. If the judgment or order is not a final disposition, is it appealable under 28 U.S.C. § 1292(a)? _____

- c. If none of the above applies, what is the **specific** legal authority for determining that the judgment or order is appealable? _____

6. Cross Appeals.

- a. If this is a cross appeal, what relief do you seek beyond preserving the judgment below? *See United Fire & Cas. Co. v. Boulder Plaza Residential, LLC*, 633 F.3d 951, 958 (10th Cir. 2011) (addressing jurisdictional validity of conditional cross appeals).

- b. If you do not seek relief beyond an alternative basis for affirmance, what is the jurisdictional basis for your appeal? *See Breakthrough Mgt. Group, Inc. v. Chukchansi Gold Casino and Resort*, 629 F.3d 1173, 1196-98 and n.18 (10th Cir. 2010) (discussing protective or conditional cross appeals). _____

B. REVIEW OF AGENCY ORDER (To be completed only in connection with petitions for review or applications for enforcement filed directly with the court of appeals.)

1. Date of the order to be reviewed: _____
2. Date petition for review was filed: _____
3. Specify the statute or other authority granting the Tenth Circuit Court of Appeals jurisdiction to review the order: _____
4. Specify the time limit for filing the petition (cite specific statutory section or other authority): _____

C. APPEAL OF TAX COURT DECISION

1. Date of entry of decision appealed: _____
2. Date notice of appeal was filed: _____
(If notice was filed by mail, attach proof of postmark.)
3. State the time limit for filing notice of appeal (cite specific statutory section or other authority): _____
4. Was a timely motion to vacate or revise a decision made under the Tax Court's Rules of Practice, and if so, when? *See* Fed. R. App. P. 13(a) _____

II. ADDITIONAL INFORMATION IN CRIMINAL APPEALS.

- A. Does this appeal involve review under 18 U.S.C. § 3742(a) or (b) of the sentence imposed? _____

- B. If the answer to A (immediately above) is yes, does the defendant also challenge the judgment of conviction? _____

- C. Describe the sentence imposed. _____

- D. Was the sentence imposed after a plea of guilty? _____
- E. If the answer to D (immediately above) is yes, did the plea agreement include a waiver of appeal and/or collateral challenges? _____
- F. Is the defendant on probation or at liberty pending appeal? _____

- G. If the defendant is incarcerated, what is the anticipated release date if the judgment of conviction is fully executed? _____

NOTE: In the event expedited review is requested and a motion to that effect is filed, the defendant shall consider whether a transcript of any portion of the trial court proceedings is necessary for the appeal. Necessary transcripts must be ordered by completing and delivering the transcript order form to the Clerk of the district court with a copy filed in the court of appeals.

III. GIVE A BRIEF DESCRIPTION OF THE NATURE OF THE UNDERLYING CASE AND RESULT BELOW.

IV. IDENTIFY TO THE BEST OF YOUR ABILITY AT THIS STAGE OF THE PROCEEDINGS, THE ISSUES TO BE RAISED IN THIS APPEAL. You must attempt to identify the issues even if you were not counsel below. *See* 10th Cir. R. 3.4(B).

V. ATTORNEY FILING DOCKETING STATEMENT:

Name: _____ Telephone: _____

Firm: _____

Email Address: _____

Address: _____

Signature

Date

NOTE: The Docketing Statement must be filed with the Clerk via the court's Electronic Case Filing System (ECF). Instructions and information regarding ECF can be found on the court's website, www.ca10.uscourts.gov.

The Docketing Statement must be accompanied by proof of service. The following Certificate of Service may be used.

CERTIFICATE OF SERVICE

I, _____, hereby certify that on
[attorney for appellant/petitioner]

_____, I served a copy of the foregoing **Docketing Statement**, to:
[date]

_____, at _____
[counsel for/or appellee/respondent]

_____, the last known address/email address, by

_____.
[state method of service]

Signature

Date

Full name and address of attorney

10th CIR. FORM 4. DISCLOSURE STATEMENT

UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

Fed. R. Civ. P. 26.1 and Tenth Circuit Rule 26.1 Disclosure Statement

v.

Case No.

Pursuant to Federal Rule of Appellate Procedure 26.1(a), (b), and/or (c), the undersigned, on behalf of _____

[Party Name(s)]

certifies¹ as follows:

- The following parent corporation(s); publicly held corporation(s); organizational victim(s); and/or debtor(s) are disclosed as required by Fed. R. App. P. 26.1 (attach additional pages if necessary):

- There is no information to disclose pursuant to Fed. R. App. P. 26.1.

Date

Signature

¹ Pursuant to Federal Rule of Appellate Procedure 26.1(d)(3), this disclosure statement must be promptly updated whenever any of the information required under Fed. R. App. P. 26.1 changes.

CERTIFICATE OF SERVICE

I hereby certify that:

All other parties to this litigation are either: (1) represented by attorneys; or
(2) have consented to electronic service in this case; or

On _____ I sent a copy of this Disclosure Statement
[date]

[name of party]

at _____,
[address]

the last known address/email address, by

_____.
[method of service]

Date

Signature

TRANSCRIPT ORDER FORM - DIRECTIONS ON THE REVERSE SIDE

PART I - To be completed by appellant within fourteen days of filing the notice of appeal.

Short Title: _____ District Court Number: _____
 District: _____ Circuit Court Number: _____
 Name of Attorney/Pro Se Party: _____ Email Address: _____
 Name of Law Firm/Office: _____ Telephone: _____
 Address : _____
 Attorney for: _____
 Name of Court Reporter: _____
 Name of Court Reporter (if ordering from more than one): _____

PART II - Complete SECTION A (if not ordering a transcript) or SECTION B (if ordering transcript(s)).

SECTION A - I HAVE NOT ORDERED A TRANSCRIPT BECAUSE

- A transcript is not necessary for this appeal;
- The necessary transcript is already on file in District Court; or
- The necessary transcript was ordered previously in appeal number _____

SECTION B - I HEREBY ORDER THE FOLLOWING TRANSCRIPT(S):

(Specify the date and proceeding in the space below)

Voir dire: _____ Opening Statements: _____
 Trial proceedings: _____ Closing Arguments: _____
 Jury Instructions: _____ Other Proceedings: _____
 Post-Trial Hearings: _____ Other Proceedings: _____

(Attach additional pages if necessary)

I will pay the cost of the transcript. My signature on this form is my agreement to pay for the transcript ordered on this form.

This case is proceeding under the Criminal Justice Act.

IF THIS APPEAL IS PROCEEDING UNDER THE CJA PLEASE NOTE YOU MUST ALSO TAKE ALL STEPS REQUIRED IN EVOUCHER IN ORDER TO COMPLETE PAYMENT ARRANGEMENTS.

NOTE: Leave to proceed *in forma pauperis* does not entitle appellant to a free transcript. An order of the district court allowing payment for the transcript at government expense must be obtained. See 28 U.S.C. §753(f).

CERTIFICATE OF COMPLIANCE

I certify that I have read the instructions on the reverse of this form and that copies of this transcript order form have been served on the **court reporter (if transcript ordered), the Clerk of U.S. District Court, all counsel of record or pro se parties, and the Clerk of the U.S. Court of Appeals for the Tenth Circuit.** I further certify that satisfactory arrangements for payment for any transcript ordered have been made with the court reporter(s).

Signature of Attorney/Ordering Party: _____ Date: _____

PART III - To be completed by the court reporter after satisfactory financial arrangements have been made.

Upon completion, please file one copy with the Clerk of the U.S. Court of Appeals and one copy with the Clerk of the U.S. District Court.

Date arrangements for payment completed: _____

Estimated completion date: _____

Estimated number of pages: _____

I certify that I have read the instructions on the reverse side and that adequate arrangements for payment have been made.

Signature of Court Reporter: _____ Date: _____

DIRECTIONS FOR USING THIS FORM

This form requires multiple distribution, service and filing. The responsibilities of each party and the court reporter are described below.

1. APPELLANT

Whether or not a transcript is ordered, appellant or his counsel must complete Part I and Part II of this form. Upon completion, appellant must serve a copy on:

- a. the Court Reporter (if a transcript is ordered),
- b. all parties,
- c. the Clerk of the U.S. District Court, and
- d. the Clerk of the U.S. court of Appeals.

If a transcript is ordered, the appellant must obtain execution of this form by the court reporter(s) who recorded the proceedings. Within the 14-day period allowed for ordering the transcript under Fed. R. App. P. 10(b)(1), appellant must make adequate arrangements for payment for the transcript. **The Court Reporter may require a deposit equal to the full estimated cost of the transcript.** See 28 U.S.C. §753(f).

Unless the entire transcript is ordered, appellant shall serve on appellee(s) a statement of the issues he intends to present on appeal. See Fed. R. App. P. 10(b)(3). The Docketing Statement required by 10th Cir. R. 3.4 fulfills this requirement.

Those portions of the transcripts that are filed that are pertinent to the appeal must be included in appellant's appendix or, in cases where counsel is appointed, designated for inclusion in the record on appeal. See 10th Cir. R. 10.2.2, 10.3.2(d) and 30.1.1.

2. APPELLEE

Unless the entire transcript is ordered, appellee may, within 28 days of filing of the notice of appeal, file and serve on appellant a designation of additional transcript to be included. If, within 14 days, appellant does not order and pay for the transcript so designated, appellee may, within a further 14 days, order and pay for the transcript or move in the district court for an order compelling appellant to do so. See Fed. R. App. P. 10(b)(3).

3. COURT REPORTER

After receipt of this form and **after satisfactory financial arrangements have been made**, the court reporter shall complete Part III of this form and certify the date the transcript was ordered and estimate the date it will be completed. The estimated completion date must comply with the Tenth Circuit Judicial Council's mandated district court Court Reporter Management Plans. Transcripts in a criminal case (includes 28 U.S.C. §§2241, 2254, 2255) shall be filed within 30 days of the date arrangements for payment are made. Transcripts in a civil case shall be filed within 60 days of the date arrangements for payment are made. **Court Reporters are subject to a mandatory fee reduction if transcripts are not timely filed.** See Appellate Transcript Management Plan for the Tenth Circuit, 10th Cir. R., App. B.

The completed form must be served on:

- a. the Clerk of the District Court and
- b. the Clerk of the Court of Appeals.

**UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT
ANSWERS TO FREQUENTLY ASKED QUESTIONS**

Please refer to the 10th Circuit ECF Manual and Briefing and Appendix Checklist for Additional Information

Computation of Time: Fed R. App. P. 25(a), 26(c)	If ordered by a date certain, the 3-day mailing rule does not apply; if time to file runs “from date of service,” the 3-day rule applies only if service not completed electronically. Only briefs and appendices are treated as timely filed on the date mailed or delivered to a commercial carrier. Other pleadings must reach the court by the due date.		
WHAT	WHO FILES	WHEN	REMARKS
Docketing Statement: 10th Cir. R. 3.4	Appellant	14 days after the notice of appeal (may file without appeal docket number).	
Entry of Appearance and Certificate of Interested Parties: 10th Cir. R. 46.1	Counsel for all parties	14 days from case opening letter.	
Disclosure Statement: 10th Cir.R. 26.1(A)	Counsel for all parties	14 days from case opening letter.	Statement must be filed even if there is nothing to disclose, and it must be promptly updated as necessary.
Transcript Order Form: Fed. R. App. P. 10(b)	Appellant Appellee	14 days from notice of appeal. 14 days from the appellant’s form.	Must notify the district court, 10th Circuit, and parties – even if no transcript is ordered. If transcript ordered, must also notify court reporter.
Designation of Record: 10th Cir. R. 10.2	Court-appointed counsel ONLY	Appellant - 14 days from the notice of appeal.	Must attach the district court docket sheet with the designated documents circled.
Motions: Fed. R. App. P. 27 10th Cir. R. 27	Any party	Varies.	Must include opposing parties’ position and, if applicable, the custody status, current due date or any previous extensions. Typed motions may not exceed 5,200 words; handwritten motions may not exceed 20 pages.
Appellant’s Opening Brief: Fed. R. App. P. 28, 31, 32 10th Cir. R. 28, 31, 32	Appellant with retained counsel Appellant with appointed counsel	40 days from the date district court certifies the record as complete. 40 days from date record is filed in circuit court.	Blue cover. Must include: oral argument statement on the front cover (if requested, a reason must be given at conclusion); prior or related appeals; order & judgment appealed. See 10th Cir. R. 28.2. Certificate of compliance for length limit needed (may not exceed 13,000 words). Size 14 font is preferred, but 13 is acceptable, including footnotes. 7 paper copies must be provided to the court five business days after compliant electronic brief is accepted by the court.
Appellee’s Response Brief: Fed. R. App. P. 28, 31, 32 10th Cir. R. 28, 31, 32	Appellee	30 days from service of appellant’s opening brief.	Red cover. Oral argument statement, etc., same as appellant’s opening brief. Attach order or judgment if appellant failed to include it in their brief. If more than 30 pages, certificate of compliance needed (may not exceed 13,000 words).

Appellant's Reply Brief: Fed. R. App. P. 28, 31, 32 10th Cir. R. 28, 31, 32	Appellant	21 days from service of appellee's response brief.	Gray cover. If more than 15 pages, certificate of compliance needed (may not exceed 6500 words).
Cross Appeals: Fed. R. App. P. 28, 28.1, 31, 32 10th Cir. R. 28, 31, 32	Appellant's Principal Brief	40 days from the date district court certifies the record as complete. (If court-appointed counsel, 40 days from the date the record is filed in the circuit court.)	Blue cover. Must include: oral argument statement on the front cover (if requested, a reason must be given at conclusion); prior or related appeals; order and judgment appealed. If more than 30 pages, certificate of compliance needed (may not exceed 13,000 words).
	Appellee's Principal and Response Brief	30 days from service of Appellant's Principal brief.	Red Cover. If more than 35 pages, certificate of compliance needed (may not exceed 15,300 words).
	Appellant's Response and Reply Brief	30 days from service of Appellee's Principal and Response brief.	Yellow cover. If more than 30 pages, certificate of compliance needed (may not exceed 13,000 words).
	Appellee's Reply Brief	21 days from service of Appellant's Response and Reply brief.	Gray cover. If more than 15 pages, certificate of compliance needed (may not exceed 6,500 words).
Supplemental Authority: Fed. R. App. P. 28(j)	Any party	Any time after briefing.	Must be drafted in the form of a letter, with a 350-word limitation.
Appendix: Fed. R. App. P. 10, 30 10th Cir. R. 10, 30, 30.1	Appellant or Appellee	With principal brief. <i>Sealed documents must be filed separately and accompanied by a motion to seal.</i>	Eff. 1/1/2015 all appendices must be filed via ECF; in addition 1 hard copy submitted to the court with hard copies of brief. If a supplemental appendix is filed with the appellant's reply brief, it <i>must</i> be accompanied by a motion to file.
Trial Exhibits: 10th Cir. R. 10.3(D)(5)	Appellant or Appellee	With principal brief.	Copies of trial exhibits may be included in the appendix or submitted via motion if appeal is proceeding on the record.
Petitions for Rehearing: Fed. R. App. P. 35, 40 10th Cir. R. 35, 40	Any party	14 days from the date of entry of judgment. In a civil appeal where the U.S. is a party, 45 days from entry of judgment.	Three-day mailing rule <i>does not apply</i> . A copy of the opinion or OJ <i>must be</i> attached. If en banc, must include Fed. R. App. P. 35(b)(1) statement. Hard copies are not required.

NOTE: In counseled cases, all documents must be filed via ECF. Pro se litigants must request permission in writing to use ECF. In this regard, see the Court's CM/ECF User's Manual, which can be found on our website. All documents must be double-spaced, except for footnotes and quotations containing more than two lines. Seven hardcopies of all merits briefs and one copy of appendices must be received by the court within 5 business days of the court issuing notice that the electronic brief has been accepted.

UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

**ENTRY OF APPEARANCE AND CERTIFICATE OF INTERESTED
PARTIES**

v.

Case No.

ENTRY OF APPEARANCE (10th Cir. R. 46.1(A))

In accordance with Tenth Circuit Rule 46.1, the undersigned attorney(s) hereby appear(s)
as counsel for:

[Party or Parties]¹

_____, in the above-captioned case(s).
[Appellant/Petitioner or Appellee/Respondent]

Name of Counsel

Name of Counsel

Signature of Counsel

Signature of Counsel

Mailing Address and Telephone Number

Mailing Address and Telephone Number

E-Mail Address

E-Mail Address

¹ Counsel must list each party represented. Do not use “et al.” or generic terms such as
“Plaintiffs.” Attach additional pages if necessary.

CERTIFICATE OF INTERESTED PARTIES (10th Cir. R. 46.1(D))

Pursuant to Tenth Circuit Rule 46.1(D), the undersigned certifies² as follows:

- The following (attach additional pages if necessary) individuals and/or entities are not direct parties in this appeal but do have an interest in or relationship to the litigation and/or the outcome of the litigation. *See* 10th Cir. R. 46.1(D). In addition, attorneys not entering an appearance in this court, but who have appeared for a party in prior trial or administrative proceedings, are noted below.

- There are no such parties/attorneys, or any such parties/attorneys have already been disclosed to the court.

Date

Signature

² Pursuant to Tenth Circuit Rule 46.1(D)(6), this certificate must be promptly updated if the required information changes.

CERTIFICATE OF SERVICE

I hereby certify that:

- All other parties to this litigation are either: (1) represented by attorneys; or (2) have consented to electronic service in this case; or

- On _____ I sent a copy of this Entry of Appearance Form to:
[date]

at _____,

the last known address/email address, by _____.

[state method of service]

Date

Signature