

MEMORANDUM



TO: Interested Parties
FROM: Chris Wolpert, Clerk of Court
RE: 2025 Revisions to the Tenth Circuit Rules
DATE: October 1, 2024

Changes to the Tenth Circuit Rules will take effect on January 1, 2025. The court invites comments regarding those changes, which are summarized below. Comments may be submitted via email to Clerk@ca10.uscourts.gov through October 31, 2024. The final 2025 Tenth Circuit Rules will be posted on the court's website by December 1, 2024.

Identical Proposed Revisions Affecting Numerous Rules

The following proposed revisions align the rule/form with existing practice of setting preliminary deadlines from the date the appeal or other proceeding is docketed in this court, not from the date the notice of appeal is filed.

- 10th Cir. R. 3.3 – Fees
- 10th Cir. R. 3.4 – Docketing Statement
- 10th Cir. R. 9.2 – Bail Memorandum Briefs
- 10th Cir. R. 10.2 – Transcripts
- 10th Cir. R. 10.3 – Designation of Record
- 10th Cir. R. 15.3 – Docketing Statement in Agency Matters
- 10th Cir. R. 26.1 – Disclosure Statements
- 10th Cir. R. 27.3(A)(3)(a) – Motions for Summary Disposition
- 10th Cir. R. 46.1(A) – Entries of Appearance
- 10th Cir. R. 46.3(A) – CJA Motions to Continue or Withdraw
- Tenth Circuit Forms | 10th Cir. Form 1 – Docketing Statement

The proposed revisions to the following rules are for consistency in the manner of reference to “paper” or “hard” copies.

- 10th Cir. R. 27.2 – Hard Copies of Motions
- 10th Cir. R. 27.4(F) – Hard Copies for Certified Questions of State Law
- 10th Cir. R. 29.3 – Hard Copies of Amicus Briefs

Effective January 1, 2025, the court will no longer require seven hard copies of merits briefs and one hard copy of appendices as a matter of course in every case. Instead, the court will order only the number of hard copies needed, if any, for each case. To that end,

hard copies will no longer be ordered as each brief/appendix is filed; if hard copies are needed for a particular case, they will be ordered later in the appeal. The proposed revisions to the following rules provide the flexibility necessary to implement this effort to conserve resources.

10th Cir. R. 22.2 – Hard Copies of COA Motions in Capital Habeas Cases

10th Cir. R. 29.3 – Hard Copies of Amicus Briefs

10th Cir. R. 30.1 – Hard Copy of Electronically Filed Appendix

10th Cir. R. 31.5 – Hard Copies of Briefs

10th Cir. R. 5 – Petitions for Permission to Appeal

The proposed revisions to Rule 5 require an executive summary focused on the standard(s) for permitting an interlocutory appeal; place limitations on attachments; and clarify that hard copies are not required.

10th Cir. R. 8.2 – Emergency or Ex Parte Motions

This proposed revision changes the definition of an “emergency” motion from one that requests relief within 48 hours to one that requests relief within 5 days.

10th Cir. R. 24.1 – Fees in Cases Subject to the Prison Litigation Reform Act

The proposed revisions to Rule 24.1 clarify that it applies only to PLRA cases.

10th Cir. R. 25.4 – Electronic Service of Electronically Filed Papers

The proposed revisions to this rule clarify that case-initiating petitions filed under Federal Rules of Appellate Procedure 5, 15, and 21 must be served in a manner other than via the court’s electronic-filing system because electronic service via CM/ECF is not practicable for these types of cases.

10th Cir. R. 27.3 – Motions to Dismiss or Affirm; Time to File

The proposed revisions to Rule 27.3(A)(1)(d) are intended to adopt a consistent approach to motions to enforce appeal waivers that seek to dismiss claims or issues within the appeal, but not the entire appeal.

The proposed revisions to Rule 27.3(A)(3)’s time-to-file provisions (1) require motions raising jurisdictional defects and claims-processing deadlines to be filed within 14 days after the notice of appeal is filed, unless good cause is shown for later filing; (2) encourage other dispositive motions to be filed within 14 days after the notice of appeal

is filed, unless good cause is shown for later filing; and (3) expand the scope of Rule 27.3(A)(3)(d).

The word “after” in Rule 27(A)(3)(b) is underlined for emphasis in an effort to avoid procedural complications that arise when a motion to enforce an appeal waiver is filed before the occurrence of one of the events set forth subsections (i) and (ii) of the same rule.

10th Cir. R. 29.2 – Amicus Briefs; Disclosure of Parties’ Positions

The proposed revision to Rule 29 requires motions for leave to file amicus briefs to include a statement of all parties’ positions on the relief requested.

10th Cir. R. 34.1 – Motions to Postpone Oral Argument

The proposed revisions to Rule 34.1(A)(3) require movants to provide additional information necessary for the court to efficiently make a fully informed decision regarding a request to postpone oral argument.

10th Cir. R. 35 – En Banc Consideration

The provisions of Tenth Circuit Rule 35 are transferred to Tenth Circuit Rule 40 in connection with the transfer of Federal Rule of Appellate Procedure 35 to Federal Rule of Appellate Procedure 40.

10th Cir. R. 40 – Panel Rehearing; En Banc Consideration

With the consolidation of Federal Rules of Appellate Procedure 35 and 40, Tenth Circuit Rules 35 and 40 must also be consolidated. Given the extensive revisions necessary to consolidate the rules, a redline is not useful. Instead, the text of the proposed consolidated rule (i.e., the new Tenth Circuit Rule 40), and the current versions of Tenth Circuit Rules 35 and 40 are included in a separate document.

Local Appendix A – Appellate Transcript Management Plan

The proposed revisions to the court’s Appellant Transcript Management Plan (“Plan”) define the monetary penalties that may be imposed when a court reporter fails to timely file transcripts ordered for an appeal. Additional proposed revisions update the Plan to conform to changes in the *Guide to Judiciary Policy* (“*Guide*”) and the Tenth Circuit Rules.