

# United States Court of Appeals for the Tenth Circuit

OFFICE OF THE CLERK  
Byron White United States Courthouse  
1823 Stout Street  
Denver, Colorado 80257  
(303) 844-3157

Elizabeth A. Shumaker  
Clerk of Court

Douglas E. Cressler  
Chief Deputy Clerk

TO: Counsel

RE: Prosecuting Appeal

Since the appeal which you have filed will be governed by the Federal Rules of Appellate Procedure and the Tenth Circuit Rules, you should familiarize yourself with both sets of rules. Copies of the Tenth Circuit Rules, effective January 1, 2006, may be obtained from the clerk of the district court or may be ordered from the clerk of the court of appeals. The Tenth Circuit rules pamphlet contains the Federal Rules of Appellate Procedure. The Tenth Circuit Practitioners' Guide is another good resource regarding prosecuting appeals. This publication may be ordered from the clerk of the court of appeals.

Please note the following appellate procedures:

1. If this is a direct criminal appeal, defendant's retained or court-appointed trial counsel is responsible for continuing representation of the defendant until relieved by the court of appeals. Further, any attorney who files a notice of appeal on behalf of a petitioner or moving party in a post conviction proceeding or criminal appeal is deemed to have entered an appearance in this court and may not withdraw without leave of court. *See* 10th Cir. R. 46.3.1.
2. Unless the appellant has been granted leave to proceed in forma pauperis or unless a motion to so proceed is now pending, the prescribed fees (\$5.00 filing fee and \$450.00 docket fee) must be paid to the clerk of the district court. *See* Fed. R. App. P. 3(e) and 10th Cir. R. 3.3.
3. Appellant must file a docketing statement with the clerk of the court of appeals 10 days after filing the notice of appeal. *See* 10th Cir. R. 3.4. Docketing statement forms, together with instructions for completing and filing the docketing statement, are attached to this letter.
4. Unless a motion for leave to proceed in forma pauperis is pending, appellant should immediately order **necessary** transcripts from the court reporter. *See* Fed. R. App. 10(b) and 10th Cir. R. 10.1.1 and 10.1.2. Transcripts must be ordered on forms provided by the district court. Please note that the transcript order shall not be deemed complete until satisfactory

financial arrangements have been made with the court reporter. *See* 10th Cir. R. 10.1.2.

5. If appellant is represented by court-appointed counsel a designation of record must be filed with the district court clerk within 10 days of filing a notice of appeal. The designation of record form must be used to prepare the record on appeal. **NOTE: If co-defendants appeal and one appellant is represented by court-appointed counsel, the court of appeals will treat all appellants as if represented by court-appointed counsel.**

Except as noted, a designation of record is not required if appellant is represented by retained counsel, but an appendix containing record excerpts must be filed when the appellant's opening brief is filed. *See* 10th Cir. R. 30.1 through 30.3.

6. If appellant, or a co-appellant (see **NOTE** above), is represented by court-appointed counsel, appellant shall file and serve an opening brief within 40 days of the date on which the clerk of the district court transmits the record on appeal to the clerk of the court of appeals. Except as noted, if appellant is represented by retained counsel, appellant shall file and serve an opening brief, together with separate appendix, within 40 days after the date on which the clerk of the district court notifies the parties and the clerk of the court of appeals that the record is complete for purposes of appeal. *See* Fed. R. App. 31 and 10th Cir. R. 31.1.1.

Failure to complete any of the steps set forth in numbered paragraphs 2, 3, 4, 5, and 6 of this letter may result in dismissal of the appeal, or discipline of counsel, or both. *See* 10th Cir. R. 42.1 and 46.6.

If, after reading the Federal Rules of Appellate Procedure and the Tenth Circuit Rules, you still have questions regarding prosecution of the appeal, please call the clerk's office.

Very Truly Yours,

CLERK, COURT OF APPEALS

UNITED STATES COURT OF APPEALS  
FOR THE TENTH CIRCUIT

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**DOCKETING STATEMENT**

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Case Name: \_\_\_\_\_

Appeal No. (if available) : \_\_\_\_\_

Court/Agency Appeal From: \_\_\_\_\_

Court/Agency Docket No.: \_\_\_\_\_ District Judge: \_\_\_\_\_

Party or Parties filing Notice of Appeal/Petition: \_\_\_\_\_

\_\_\_\_\_

**I. TIMELINESS OF APPEAL OR PETITION FOR REVIEW**

**A. APPEAL FROM DISTRICT COURT**

1. Date notice of appeal filed: \_\_\_\_\_

a. 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 notice of appeal:

\_\_\_\_\_  
\_\_\_\_\_

b. Is the United States or an officer or an agency of the United States a party to this appeal? \_\_\_\_\_

2. Authority fixing time limit for filing notice of appeal:

Fed. R. App. 4 (a)(1)(A) \_\_\_\_\_ Fed. R. App. 4(a)(6) \_\_\_\_\_

Fed. R. App. 4 (a)(1)(B) \_\_\_\_\_ Fed. R. App. 4(b)(1) \_\_\_\_\_

Fed. R. App. 4 (a)(2) \_\_\_\_\_ Fed. R. App. 4(b)(3) \_\_\_\_\_

Fed. R. App. 4 (a)(3) \_\_\_\_\_ Fed. R. App. 4(b)(4) \_\_\_\_\_

Fed. R. App. 4 (a)(4) \_\_\_\_\_ Fed. R. App. 4(c) \_\_\_\_\_

Fed. R. App. 4 (a)(5) \_\_\_\_\_

Other: \_\_\_\_\_

3. Date final judgment or order to be reviewed was filed and **entered** on the district court docket: \_\_\_\_\_

4. Does the judgment or order to be reviewed dispose of **all** claims by and against **all** parties? *See* Fed. R. Civ. P. 54(b).  
\_\_\_\_\_

**(If the order being appealed is not final, please answer the following questions in this section.)**

a. If not, did 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** statutory basis for determining that the judgment or order is appealable? \_\_\_\_\_

5. Tolling Motions. *See* Fed. R. App. P. 4(a)(4)(A); 4(b)(3)(A).

a. Give the filing date of any motion under Fed. R. Civ. P. 50(b), 52(b), 59, 60, including any motion for reconsideration, and in a criminal appeal any motion for judgment of acquittal, for arrest of judgment or for new trial, filed in the district court:  
\_\_\_\_\_

b. Has an order been entered by the district court disposing of that motion, and, if so, when? \_\_\_\_\_  
\_\_\_\_\_

6. Bankruptcy Appeals. (To be completed only in appeals from a judgment, order or decree of a district court in a bankruptcy case or from an order of the Bankruptcy Appellate Panel.)

Are there assets of the debtor subject to administration by a district or bankruptcy court? \_\_\_\_\_

Please state the approximate amount of such assets, if known.

\_\_\_\_\_  
\_\_\_\_\_

**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 petition for review was filed: \_\_\_\_\_

2. Date of the order to be reviewed: \_\_\_\_\_

3. Specify the statute or other authority granting the 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 notice of appeal was filed: \_\_\_\_\_  
(If notice was filed by mail, attach proof of postmark.)

2. Time limit for filing notice of appeal: \_\_\_\_\_

3. Date of entry of decision appealed: \_\_\_\_\_

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. LIST ALL RELATED OR PRIOR RELATED APPEALS IN THIS COURT WITH APPROPRIATE CITATION(S).** If none, please so state.

**III. GIVE A BRIEF DESCRIPTION OF NATURE OF ACTION AND RESULT BELOW.**

**IV. ISSUES RAISED ON APPEAL.**

V. **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 question in A 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. Is defendant on probation or at liberty pending appeal? \_\_\_\_\_

**NOTE:** In the event expedited review is requested, 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 at the time of appeal by completing and delivering the transcript order form to the clerk of the district court when a notice of appeal is filed. Defendant/appellant must refrain from ordering any unnecessary transcript as this will delay the appeal. If the court orders this appeal expedited, it will set a schedule for preparation of necessary transcripts, for designation and preparation of the record on appeal, and for filing briefs. If issues other than sentencing are raised by this appeal, the court will decide whether bifurcation is desirable.

**VI. INDICATE WHETHER ORAL ARGUMENT IS DESIRED IN THIS APPEAL.** If so, please state why.

**VII. ATTORNEY FILING DOCKETING STATEMENT:**

Name: \_\_\_\_\_ Telephone: \_\_\_\_\_

Firm: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**PLEASE IDENTIFY ON WHOSE BEHALF THE DOCKETING STATEMENT IS FILED:**

A.  Appellant

Petitioner

Cross-Appellant



**B. PLEASE IDENTIFY WHETHER THE FILING COUNSEL IS**

- Retained Attorney
- Court-Appointed
- Employed by a government entity  
(please specify \_\_\_\_\_)
- Employed by the Office of the Federal Public Defender.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

- Attorney at Law

**NOTE:** A copy of the court or agency docket sheet, the final judgment or order appealed from, any pertinent findings and conclusions, opinions, or orders, any motion filed under Fed. R. Civ. P. 50(b), 52(b), 59, or 60, including any motion for reconsideration, for judgment of acquittal, for arrest of judgment, or for new trial, and the dispositive order(s), any motion for extension of time to file notice of appeal and the dispositive order, and the notice of appeal or petition for review **must be attached to all copies of the Docketing Statement**, except as otherwise provided in Section I of the instructions.

The original and four copies of this Docketing Statement must be filed.

This 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  
[appellant/petitioner or attorney therefor]

\_\_\_\_\_ I sent a copy of the foregoing **Docketing Statement**,  
[date]

to:

\_\_\_\_\_, at \_\_\_\_\_  
[counsel for/or appellee/respondent]

\_\_\_\_\_, the last known address,  
by way of United States mail or courier.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Dated signed

\_\_\_\_\_  
[Printed name and address of person completing service]

UNITED STATES COURT OF APPEALS  
FOR THE TENTH CIRCUIT

Byron White United States Courthouse  
1823 Stout Street  
Denver, Colorado 80257  
(303) 844-3157

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**DOCKETING STATEMENT INSTRUCTIONS**

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**PLEASE FOLLOW THE INSTRUCTIONS REGARDING CONTENT,  
ESPECIALLY THE ATTACHMENTS, VERY CAREFULLY.**

**I. APPEALS FROM DISTRICT COURT**

The appellant must complete the attached Docketing Statement and file it with the clerk of the court of appeals within 10 days after filing the notice of appeal. An original and four copies must be filed. *See* 10th Cir. R. 3.4. The Docketing Statement must be accompanied by proof of service on all other parties to the appeal.

**Copies of the following documents must be attached to all copies of the Docketing Statement:**

- A. The district court docket sheet which includes entry of the notice of appeal. (In multiple civil appeals arising out of the same or consolidated district court cases, complete copies of the district court docket sheet is only required to be attached to the Docketing Statement filed by the first appellant. Subsequent appellants shall attach to their docketing statements a copy of that page of the district court docket sheet showing the filing of the notice of appeal and any post-judgment motions.);
- B. The final judgment or order appealed
- C. All pertinent findings and conclusions, opinions, or orders which form the basis for the appeal;
- D. Any motion filed under Fed. R. Civ. P. 50(b), 52(b), 59, 60, including any

motion for reconsideration, and in a criminal appeal, a motion for judgment of acquittal, for arrest of judgment or for a new trial, with the certificate of service and the dispositive order(s);

- E. Any motion for extension of time to file the notice of appeal and the dispositive order; and
- F. The notice of appeal.

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

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

The Docketing Statement must be filed in the court of appeals within 14 days after filing a petition for review or application for enforcement. An original and four copies must be filed. The Docketing Statement must be accompanied by proof of service on all other parties.

Copies of the following documents must be attached to all copies of the Docketing Statement:

- A. The agency docket sheet with the entry of the order to be reviewed;
- B. The order to be reviewed; and
- C. The petition for review or application for enforcement.

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

### **III. APPEALS FROM UNITED STATES TAX COURT**

The Docketing Statement must be filed in the court of appeals within 14 days after the appeal is docketed. An original and four copies must be filed. The Docketing Statement must be accompanied by proof of service on all other parties.

Copies of the following documents must be attached to all copies of the Docketing Statement:

- A. The Tax Court docket sheet with the entry of the notice of appeal;
- B. The decision appealed;
- C. The judgment appealed; and
- D. The notice of appeal.
- E. If the notice of appeal was filed by mail, proof of the postmark.

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

TRANSCRIPT ORDER FORM - DIRECTIONS ON THE REVERSE SIDE

**PART I - To be completed by appellant within ten days of filing the notice of appeal**

Short Title: \_\_\_\_\_ District: \_\_\_\_\_  
District Court Number: \_\_\_\_\_ Circuit Court Number: \_\_\_\_\_  
Name of Attorney: \_\_\_\_\_  
Name of Law Firm: \_\_\_\_\_  
Address of Firm: \_\_\_\_\_  
Telephone of Firm: \_\_\_\_\_ Attorneys for: \_\_\_\_\_  
Name of Court Reporter: \_\_\_\_\_ Telephone of Reporter: \_\_\_\_\_

**PART II - COMPLETE SECTION A OR SECTION B**

**SECTION A - I HAVE NOT ORDERED A TRANSCRIPT BECAUSE**

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

**SECTION B - I HEREBY ORDER THE FOLLOWING TRANSCRIPT:**

(Specify the date and proceeding in the space below)

Voir dire: \_\_\_\_\_; Opening Statements: \_\_\_\_\_;  
Trial proceedings: \_\_\_\_\_; Instruction Cnf: \_\_\_\_\_;  
Jury Instructions: \_\_\_\_\_; Closing Arguments: \_\_\_\_\_;  
Post Trial Motions: \_\_\_\_\_; Other Proceedings: \_\_\_\_\_.

(Attach additional pages if necessary)

Appellant 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.

**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/Pro Se: \_\_\_\_\_ Date: \_\_\_\_\_

**PART III - TO BE COMPLETED BY THE COURT REPORTER**

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: \_\_\_\_\_

# TRANSCRIPT ORDER FORM

## 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 ten 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. 28 U.S.C. §753(f).

Unless the entire transcript is ordered, appellant shall serve on all appellees a statement of the issues he intends to present on appeal. 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. 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 twenty days of filing of the notice of appeal, file and serve on appellant a designation of additional transcript to be included. If, within ten days, appellant does not order and pay for the transcript so designated, appellee may, within a further ten days, order and pay for the transcript or move in the district court for an order compelling appellant to do so. 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 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

<b>Computation of Time:</b> Fed R. App. P. 25(a), 26(c)	If ordered by a date certain, the 3-day mailing rule <b>does not</b> apply; if time to file runs “from the date of service,” the 3-day rule applies. 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	HOW MANY	REMARKS
<b>Docketing Statement:</b> 10th Cir. R. 3.4	Appellant	10 days after the notice of appeal (may file without appeal docket number).	Original + 4	Must attach the following: district court docket sheet, order or judgment; any post judgment motions and the notice of appeal.
<b>Entry of Appearance and Certificate of Interested Parties:</b> 10th Cir. R. 46.1	Counsel for all parties	10 days from case opening letter.	Original + 3	Must file original and three copies <i>even when</i> no certificate of interested parties is filed.
<b>Transcript Order Form:</b> Fed. R. App. P. 10(b)	Appellant Appellee	10 days from notice of appeal. 10 days from the appellant’s form.	1 to district court 1 to court reporter 1 to 10th Circuit 1 to all parties	Must notify the district court, 10th Circuit, and parties – even if no transcript is ordered.
<b>Designation of Record:</b> 10th Cir. R. 10.2	Court-appointed counsel <b>ONLY</b>	Appellant - 10 days from the notice of appeal.	1 to district court 1 to 10th Circuit 1 to all parties	Must attach the district court docket sheet with the designated documents circled.
<b>Motions:</b> Fed. R. App. P. 27 10th Cir. R. 27	Any party	Varies.	Original + 3; motion to dismiss - orig. + 7; en banc - orig. +18	Must include opposing parties’ position and, if applicable, the custody status, current due date or any previous extensions.
<b>Appellant’s Opening Brief:</b> 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.	Original + 7 30 pages or 14,000 words or 1,300 lines of text	White or 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 or judgment appealed. If more than 30 pages, certificate of compliance needed. Size 14 font is preferred, but 13 is acceptable, including footnotes.



<b>Appellee's Response Brief:</b> Fed. R. App. P. 28, 31, 32 10th Cir. R. 28, 31, 32	Appellee	30 days from service of appellant's opening brief.	Original + 7 30 pages or 14,000 words or 1,300 lines of text	White or 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.
<b>Appellant's Reply Brief:</b> Fed. R. App. P. 28, 31, 32 10th Cir. R. 28, 31, 32	Appellant	14 days from service of appellee's response brief.	Original + 7 15 pages or no more than half the type volume of a principal brief	White or gray cover.
<b>Cross Appeals:</b> Fed. R. App. P. 28, 31, 32 10th Cir. R. 28, 31, 32	First 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.)	Original + 7 30 pages or 14,000 words or 1,300 lines of text	Same as appellant's opening brief. (White or blue cover.)
	Second Brief	30 days from service of 1st brief.	Same as above	White or red cover.
	Third Brief	30 days from service of 2nd brief.	Same as above	White, red, or gray cover.
	Fourth Brief	14 days from service of 3rd brief.	Same as reply brief	White or gray cover.
<b>Supplemental Authority:</b> Fed. R. App. P. 28(j)	Any party	Any time after briefing.	Original + 7	Must be drafted in the form of a letter, with a 350 word limitation.
<b>Appendix:</b> Fed. R. App. P. 10, 30 10th Cir. R. 10, 30	Appellant or Appellee	With principal brief. <b><i>Sealed documents must be filed separately.</i></b>	2 copies NO originals	If a supplemental appendix is filed with the appellant's reply brief, it <b><i>must</i></b> be accompanied by a motion to file.
<b>Addendum:</b> 10th Cir. R. 10.3(D)(5)	Appellant or Appellee	With principal brief.	One copy NO originals	If an appendix is filed, it may be easier to include the exhibits in both copies of the appendix.
<b>Petitions for Rehearing:</b> 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.	Original + 3; If en banc, orig. + 18 (no more than 15 pages)	Three-day mailing rule <b><i>does not apply</i></b> . A copy of the opinion or OJ <b><i>must be</i></b> attached. If en banc, must include Fed. R. App. P. 35(b)(1) statement.

**NOTE: All documents must be double-spaced, except for footnotes and quotations containing more than two lines.**

CS-2 03/04