

Rule 131. Filing and Service of Briefs and Addenda**131.01 Time for Filing and Service**

Subdivision 1. Appellant's Brief. The appellant shall serve and file a brief and addendum within 30 days after delivery of the transcript by the reporter or after the filing of the trial court's approval of the statement pursuant to Rules 110.03 and 110.04. If a party is self-represented and requests a paper copy of the transcript under subdivision 2(a) of Rule 110.02, 3 days are added to the briefing period, which is measured from the date the court reporter provides notice to the self-represented party regarding the availability of the transcript from the court administrator's office. If the transcript is obtained prior to appeal or if the record on appeal does not include a transcript, then the appellant shall serve and file a brief and addendum with the clerk of the appellate courts within 30 days after the filing of the notice of appeal, the petition which initiates the appeal, the appellate petition for declaratory judgment, or the appellate court order granting review.

Subd. 2. Respondent's Brief. The respondent shall serve and file a brief and addendum, if any, within 30 days after service of the brief of the appellant or the last appellant's brief, if there are multiple appellants, or within 30 days after delivery of a transcript ordered by respondent pursuant to Rule 110.02, subdivision 1, whichever is later. Where the brief of any appellant is served electronically, the additional service of paper copies shall not result in extension of the due date under this rule.

Subd. 3. Reply Brief. The appellant may serve and file a reply brief within 14 days after the later of the following:

(a) service of the respondent's brief or the last respondent's brief if there are multiple respondents; or

(b) service of the brief of an amicus curiae granted leave to participate under Rule 129.

Where the foregoing briefs are served electronically, the additional service of paper copies shall not result in extension of the due date under this rule.

Subd. 4. Briefing Schedule for Cross-Appeals; Form of Briefs in Cross-Appeals.

(a) **Cross-Appeal Defined.** A cross-appeal, for the purpose of this rule, exists when a notice of appeal and at least one notice of related appeal or separate notice of appeal are filed by parties adverse to each other on appeal. Multiple notices of appeal or related appeal filed by parties who are not adverse to each other do not create cross-appeals.

(b) **Designation of Appellant.** The party who files a notice of appeal first is the appellant for the purposes of this rule. If notices are filed on the same day, the plaintiff in the proceeding below is the appellant. These designations may be modified by the parties' agreement or by court order.

(c) **Schedule for Filing.** In a case involving a cross-appeal, the appellant's principal brief shall be filed in accordance with Rule 131.01, subdivision 1, and the respondent/cross-appellant's principal brief shall be filed as one brief within 30 days after service of appellant's brief. Appellant/cross-respondent's response and reply brief shall be filed as one brief within 30 days after service of cross-appellant's brief. Respondent/cross-appellant's reply brief may be filed within 14 days after service of appellant/cross-respondent's response and reply brief. Where any of the foregoing briefs is served electronically, the additional service of paper copies shall not result in extension of the due date under this rule.

(d) **Form of Briefs in Cross-Appeals.** 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 128.01 or Rule 128.02, subdivision 1.

(2) **Respondent/Cross-Appellant's Principal and Response Brief.** The respondent/cross-appellant must file a principal brief on the cross-appeal and may, in the same brief, respond to the appellant's principal brief. The respondent/cross-appellant's brief must comply with Rule 128.01 or Rule 128.02, subdivision 1, to the cross-appeal and Rule 128.02, subdivision 2, as to the appeal, except the brief need not include a statement of the case or a statement of the facts unless the respondent/cross-appellant is dissatisfied with the appellant's statement.

(3) **Appellant/Cross-Respondent's Response and Reply Brief.** The appellant/cross-respondent may file a brief that responds to the principal brief of the respondent/cross-appellant in the cross-appeal and may, in the same brief, reply to the response in the appeal. That brief must comply with Rule 128.02, subdivision 2, as to the response to the cross-appeal and Rule 128.02, subdivision 3, as to the reply on the original appeal.

(4) **Respondent/Cross-Appellant's Reply Brief.** The respondent/cross-appellant may file a brief in reply to the response in the cross-appeal. The brief must comply with Rule 128.02, subdivision 3, and must be limited to the issues presented by the cross-appeal.

(5) **No Further Briefs.** Unless the court permits, no further briefs may be filed in a case involving a cross-appeal.

(6) **Cover.** If briefs are formally bound, the cover of the appellant's principal brief must be blue; the respondent/cross-appellant's principal and response brief, red; the appellant/cross-respondent's response and reply brief, yellow; the respondent/cross-appellant's reply brief, gray; and an intervenor's or amicus curiae's brief, green. These cover color requirements apply only to paper copies of briefs.

(7) **Length Limit.**

(A) The appellant's principal brief is acceptable if it complies with the length limits of Rule 132.01, subdivision 3(a).

(B) The respondent/cross-appellant's principal and response brief is acceptable if:

- (i) it contains no more than 16,500 words; or
- (ii) it uses a monospaced font and contains no more than 1,500 lines of text.

(C) The appellant/cross-respondent's response and reply brief is acceptable if:

- (i) it contains no more than 10,000 words; or
- (ii) it uses a monospaced font and contains no more than 750 lines of text.

(D) The respondent/cross-appellant's reply brief is acceptable if it complies with the length limits of Rule 132.01, subdivision 3(b).

(Amended effective for appeals taken on or after January 1, 1992; amended effective January 1, 1999; amended effective January 1, 2010; amended effective July 1, 2014; amended effective November 1, 2017; amended effective September 1, 2019; amended effective January 1, 2020; amended effective October 8, 2021.)

Comment - 1983

Times for filing all briefs have been shortened.

This rule reduces the time for the filing of the appellant's brief from 60 to 30 days. The commencement of the briefing will depend upon a number of variables. If a transcript is ordered, the 30-day period begins with its delivery. If a transcript has been prepared prior to the appeal or the granting of a petition for review, or if no transcript is contemplated or necessary, the time runs from the date the notice of appeal was filed or the petition was granted. If a statement pursuant to either Rule 110.03 or 110.04 is submitted in lieu of a transcript, the time begins to run upon filing of the trial court's approval.

The time for filing the respondent's brief has been shortened from 45 to 30 days. All parties now have equal time for the preparation of their briefs.

Advisory Committee Comment - 2009 Amendments

Rule 131.01, subdivision 5, is a new rule to establish alternative rules for briefing in cases where a cross-appeal is filed. The provisions are drawn from Fed. R. App. P. 28.1. The amended Minnesota rule operates as a default timing and brief-length rule; in any case the parties may seek alternate limits by motion, and the court may impose them on its own initiative.

The briefing process for cross-appeals under the amended rule is summarized as follows:

	Brief (in order of filing)	Cover color	Length limit (word count method)
1	<i>Appellant's principal brief</i>	<i>Blue</i>	<i>14,000 words (unchanged)</i>
2	<i>Respondent/cross-appellant's principal and response brief</i>	<i>Red</i>	<i>16,500 words</i>
3	<i>Appellant/cross-respondent's response and reply brief</i>	<i>Yellow</i>	<i>10,000 words</i>
4	<i>Respondent/cross-appellant's reply brief</i>	<i>Gray</i>	<i>7,000 words (unchanged)</i>

Subdivision 5(a) makes it clear that only multiple appeals by adverse parties create cross-appeals. If several parties on the same side of a case file separate appeals that are not adverse to each other, the normal three-brief schedule of Rule 131.01 applies.

Advisory Committee Comment - 2019 Amendments

Rule 131.01 is amended to clarify its operation. The rule is amended in three places to make it clear that the time to respond to any brief that is served electronically is governed by the date of that service. Later service of paper copies of the brief as required by Rule 131.03, subd. 1, and orders entered by both appellate courts pursuant to that rule does not extend the response period.

Rule 131.01, subd. 4(d)(6) is amended to make it clear that the cover color requirements in the rules apply only to paper briefs. Electronic copies should not be filed with notation of what color the cover might have been for a paper brief, or have the background of the first page set to a different color. The covers of briefs contain important information, and a colored background makes the cover more difficult to read in electronic format.

131.02 Application for Extension of Time

Subdivision 1. Motion for Extension. No extension of the time fixed for the filing of a brief will be granted except upon a motion pursuant to Rule 127 made within the time specified for the

filing of the brief. The motion shall be considered by a justice, judge or a person designated by the appellate court, acting as a referee, and shall be granted only for good cause shown.

Subd. 2. Procedure. The date the brief is due shall be stated in the motion. The motion shall be supported by an affidavit which discloses facts showing that with due diligence, and giving reasonable priority to the preparation of the brief, it will not be possible to file the brief on time. All factual statements required by this rule shall be set forth with specificity.

(Amended effective January 1, 1999; amended effective March 1, 2001; amended effective July 1, 2014.)

Comment - 1983

This rule has been clarified to make explicit that a request for an extension of time to file a brief must be made within the time specified by rule or court order for the filing.

Advisory Committee Comment - 2000 Amendment

Subdivision 1 of Rule 131.02 is amended to delete the reference to periods of time fixed by Rule 131.01. The requirement for a motion to extend time applies to any time requirement, whether established by rule or schedule order. The purpose of the amendment is to clarify the existing practice rather than to effect a significant change in practice.

131.03 Required Number, Due Date, and Manner of Filing Paper Copies of Briefs

The required number, time, and manner of filing paper copies of briefs may be established either by standing order of the applicable appellate court or by other court order.

(Amended effective for appeals taken on or after January 1, 1992; amended effective January 1, 1999; amended effective July 1, 2014; amended effective March 1, 2024.)

Comment - 1983

Fourteen copies of all briefs, appendices, and supplemental records must now be filed in the Supreme Court and nine copies in the Court of Appeals. Two unbound copies must be supplied to either court.

Advisory Committee Comment - 1998 Amendments

This rule has been revised to make more clear the event from which the due date of the opening brief is calculated, the due date for responsive briefs, and the procedure for obtaining extensions of time to file briefs. The amended rule also reduces the number of copies of briefs that must be filed in the Court of Appeals.

In instances where it is not necessary to await the preparation of a transcript, the time for the opening brief begins to run when the appellate proceedings are formally commenced. When review is not as a matter of right, but depends on some grant of leave from the appellate court, the time for the opening brief does not begin to run until that permission is granted.

If either party has ordered a transcript, the time for the opening brief runs from the date the transcript is delivered. Consistent with Rule 125.03, three days are added to the briefing period if the transcript was delivered by U.S. mail. The revised rule makes that calculation clear.

Generally, service of appellant's brief begins the 30-day period for the filing of respondent's brief. If respondent has ordered a transcript pursuant to Rule 110.02, subd. 1, respondent's briefing period does not begin until delivery of the transcript, if the transcript is delivered after appellant's brief is served.

Specific grounds for any extension of a brief due date must be shown in the affidavit accompanying the motion. Extensions of time to file briefs are not favored.

The rule has also been changed to reduce the number of briefs to be filed in the Court of Appeals from nine to seven. While the rule previously required two unbound copies for the Court of Appeals, it now only requires one such copy. The number of bound and unbound copies required by the Supreme Court is unchanged.

Advisory Committee Comment - 2014 Amendments

Rule 131 is amended in several places to change references to the appendix to refer to the addendum. The use of an appendix as it formerly existed is no longer either required or permitted in any appellate proceedings.

As part of the implementation of electronic filing in the appellate courts, the courts may adjust the number of paper copies of briefs to be provided to the courts. This may be accomplished by standing order or by order in individual appeals. That order may also modify the required timing for filing paper briefs or the place and manner of filing.

Subdivision 2 of Rule 131.03 is amended to provide notice that the courts may further reduce the number of required paper copies of briefs and addenda. The rule allows the appellate courts to change the number of copies, or other requirements for filed copies, including the deadline for filing paper copies or place of filing. The courts could make these changes by order applicable to all appeals in that court, or by order with notice to the parties in a particular appeal or category of appeals.

Advisory Committee Comment - 2024 Amendment

Rule 131.03 is amended in 2024 to remove the requirement of serving paper copies of briefs and addenda on opposing counsel and parties who have been served electronic copies of such briefs and addenda via the appellate courts' e-filing system. The rule continues to provide that any requirement to file paper copies of briefs with the court may be established by standing order of the applicable appellate court or by other court order. This rule amendment does not alter the requirement that self-represented parties not registered or authorized to use the appellate courts' e-filing system must file and serve their briefs and addenda as set forth in Rule 125.