

CONFERENCE OF COURT OF APPEAL JUDGES

**ADOPTED RULE CHANGES
APRIL 2014 SPRING CONFERENCE MEETING**

EFFECTIVE MAY 1, 2014

Language with ~~strike-through~~ are deletions from current rules; language with **bold and underline** are additions to current rules.

1. Change to Rule 2-7.2 clarifies that the filer has the duty to attach an appropriate certificate of service on a motion or pleading filed with the Court:

2-7.2. Requirements of Other Motions

All other motions or pleadings (e.g., peremptory exceptions and answers to appeals) filed originally in a Court of Appeal shall be typewritten and double-spaced on white paper of legal size, with proper margins, and shall bear the number and title of the case in the appellate court, the nature of the motion or pleading, the name of counsel filing the motion or pleading, and the name of the party on whose behalf it is filed. ~~Unless~~ **The** motion or pleading **shall** bears a certificate showing that a legible copy thereof has been delivered or mailed to opposing counsel of record, and to each opposing party not represented by counsel, and showing the date of service thereof; ~~it shall not be filed or docketed.~~ All motions filed in a Court of Appeal shall include a proposed order.

2. Changes to Rules 2-12.4 and 2-12.6.1 provide that decisions from other states will not be allowed as attachments to merits briefs nor will any document be allowed as an attachment to a letter citing supplemental authorities:

2-12.4. Appellant's Brief

* * *

B. (1) A copy of the judgment, order, or ruling complained of, and a copy of either the trial court's written reasons for judgment, transcribed oral reasons for judgment, or minute entry of the reasons, if given, shall be appended to the brief of the appellant. If reasons for judgment were not given, the brief shall so declare.

(2) Citation of Louisiana cases shall be in conformity with Section VIII of the Louisiana Supreme Court General Administrative Rules. Citations of other cases shall be to volume and page of the official reports (and when possible to the unofficial reports). It is recommended that where United States Supreme Court cases are cited, all three reports be cited, e.g., *Miranda v. Arizona*, 384 U.S. 436, 86 S.Ct. 1602, 16 L.Ed.2d 694 (1966). ~~When a decision from another state is cited, a copy thereof should be attached to the brief.~~

2-12.6.1. Citation of Supplemental Authorities

A. If pertinent and significant authorities come to a party's attention after all original and reply briefs have been filed - or after oral argument but before decision - a party may promptly advise the clerk by letter, with a copy to all other parties, setting forth the citations.

B. The letter shall be limited to: **(a1)** the name and citation of the opinion or authority; **(b2)** the issue raised by the case which is pertinent to the issues raised in the case pending before this Court; and **(c3)** a citation to the page number of where this point has been raised in briefs before this Court or, if not raised in briefs and dealt with in oral argument only, where and how this issue arose during oral argument. **The letter shall not include attachments, including but not limited to the documents cited within the letter.**

C. The body of the letter shall not exceed two pages (letter size). Any response must be made promptly and must be similarly limited. This section 2-12.6.1 letter shall not contain argument; if a party desires to make an argument or to exceed two pages (letter size), the party shall file a motion for permission to file a supplemental brief.

3. Changes to Rules 2-8.1 and 2-8.7 remove time provisions regarding a motion to dismiss or remand as these motions are being treated in practice by the Courts like all other motions under the general rules applying to motions. Further, the proposal addresses the fact that motions to suspend briefing delays may be filed, as they are in practice, for good cause (the current rule only addresses suspension of briefing delays in relation to a motion to dismiss or remand).

2-8.1. Motion to Dismiss or Remand

Motions to dismiss or to remand appeals shall comply with the provisions of Rule 2-7. Such motions shall be submitted to the court by the clerk without oral argument ~~within 10 days following the date of filing~~; provided, however, the court may, in its discretion, fix any such motion for oral argument, or refer the motion to the argument on the merits. ~~The mover to dismiss or to remand may file a brief with the motion, and the opponent may file an opposition brief within 7 days of the filing of the motion.~~ **The motion may include a request to suspend briefing delays until such time as a ruling is made on the motion to dismiss or remand. If the court grants the request for suspension of briefing delays and later denies the motion to dismiss or remand, the court shall set new briefing delays. The act of filing the motion to suspend briefing delays does not suspend the delays; a suspension is effective only as ordered by the Court.**

2-8.7. Suspension of Briefing Delays

A party may by written motion request that the Court of Appeal suspend briefing delays ~~until such time as a ruling is made by the appellate court on any pending motion to dismiss or remand~~ **for good cause**. If the court grants the request for suspension of the briefing delays ~~and later denies the motion to dismiss or remand~~, the court clerk shall set new briefing delays **as directed by the Court. The act of filing the motion to suspend briefing delays does not suspend the delays; a suspension is effective only as ordered by the Court.**

4. *The change to Rule 2-12.5 corrects a Uniform Rule adopted in the fall which inadvertently included items 3, 7, and 8 below as a requirement for the Appellee's brief when these items should have been made optional:*

2-12.5. Appellee's Brief

The brief of the appellee shall contain appropriate and concise responses and arguments to the contentions and arguments of the appellant and shall conform to the requirements for the appellant's brief set forth in Rule 2-12.4, except that the following need not be included unless the appellee is dissatisfied with the appellant's statements:

(1) the jurisdictional statement, Rule 2-12.4, Subsection A(3);

(2) the statement of the case, Rule 2-12.4, Subsection A(4);

(3) assignments of alleged errors, Rule 2-12.4, Subsection A(5);

(4) the listing of issues, Rule 2-12.4, Subsection A(6);

(5) the statement of facts, Rule 2-12.4, Subsection A(7);

(6) the statement of the standard of review, Rule 2-12.4, Subsection A(9)(b);

(7) the statement of the objection or proffer, Rule 2-12.4, Subsection A(9)(c); and

(8) a copy of the judgment or order and a copy of the trial court's written or transcribed oral reasons, Rule 2-12.4, Subsection B(1).

5. *The change to Rule 2-12.5 requires the filer to present a motion and proposed order with an application for rehearing when requesting an extension of time to file a brief in support of the application (the current rule allow a written request within the application itself).*

Rule 2-18. Rehearing

2-18.4. Additional Time for Brief

If the applicant for rehearing needs additional time for filing ~~of a~~ **a** brief in support of the application, ~~a written request for additional time, explaining the cause of the need therefor, shall be made in the application and the court may grant or refuse the requested extension~~ **an extension of time within which to file the brief may be granted by the court for good cause shown on written motion filed with the clerk of the court at the time the application for rehearing is filed. The act of filing the motion to extend the time within which to file the brief does not extend the time; an extension is effective only as ordered by the Court.**

6. *The changes to Rules 2-1.7, 2-13, and 4-5 provide that all papers and copies filed with the Court are to be legible.*

2-1.7. Order of Documents and Other Evidence

The record shall include exact **legible** copies of all documentary evidence and other evidence (including depositions filed in evidence) in the order in which such evidence was filed. If it is necessary that the original of any evidence be filed, such original must be filed separately and not attached to the record; however, there must be proper reference in the record showing such filing. No record of another case (or prior record in the same titled and numbered case) shall be included in the record, unless such other record has been introduced in evidence (at trial) in the case on appeal or on writs, in which event such other record shall accompany the record as an exhibit.

Rule 2-13. ~~Timely~~ Filing of Papers; **Timeliness**

All papers **and required copies** to be filed in a Court of Appeal shall be **legible and shall be** filed with the clerk. Filing maybe accomplished by delivery or by mail addressed to the clerk. The filing of such papers shall be deemed timely when the papers are mailed on or before the due date. If the papers are received by mail on the first legal day following the expiration of the delay, there shall be a rebuttable presumption that they were timely filed. In all cases where the presumption does not apply, the timeliness of the mailing shall be shown only by an official United States postmark or cancellation stamp or by official receipt or certificate from the United States Postal Service or bonafide commercial mail services such as Federal Express or United Parcel Service, made at the time of mailing which indicates the date thereof. Any other dated stamp, such as a private commercial mail meter stamp, shall not be used to establish timeliness.

Rule 4-5. Contents of Application

* * *

B. The original and duplicates shall **be legible and shall** have the pages of the application and attached documents and exhibits consecutively numbered. The entire submission shall be hole punched and bound in two places along the top margin, preferably with 4 1/4 inch metal file fasteners such that no part of the text on any page is obscured, and in sections consisting of no more than 250 pages. No tabs shall be used in lieu of consecutive page numbering and no tabs or extensions shall be placed outside the paper dimensions. Documents within the bound submission shall not contain any staples, clips or other fasteners.