

RULE 2:6. Appendices; Briefs; Transcript

2:6-1. Preparation of Appellant's Appendix; Joint Appendix; Contents

(a) Contents of Appendix.

(1) Required Contents. The appendix prepared by the appellant or jointly by the appellant and the respondent shall contain (A) in civil actions, the complete pretrial order, if any, and the pleadings; (B) in criminal, quasi-criminal or juvenile delinquency actions, the indictment or accusation and, where applicable, the complaint and all docket entries in the proceedings below; (C) the judgment, order or determination appealed from or sought to be reviewed or enforced, including the jury verdict sheet, if any; (D) the trial judge's charge to the jury, if at issue, and any opinions or statement of findings and conclusions; (E) the statement of proceedings in lieu of record made pursuant to R. 2:5-3(f); (F) the notice or notices of appeal; (G) the transcript delivery certification prescribed by R. 2:5-3(e); (H) any unpublished opinions cited pursuant to R. 1:36-3; and (I) such other parts of the record, excluding the stenographic transcript, as are essential to the proper consideration of the issues, including such parts as the appellant should reasonably assume will be relied upon by the respondent in meeting the issues raised. If the appeal is from a summary judgment, the appendix shall also include a statement of all items submitted to the court on the summary judgment motion and all such items shall be included in the appendix, except that briefs in support of and opposition to the motion shall be included only as permitted by subparagraph (2) of this rule.

(2) Prohibited Contents. Briefs submitted to the trial court shall not be included in the appendix, unless either the brief is referred to in the decision of the court or agency, or the question of whether an issue was raised in the trial court is germane to the appeal, in which event only the material pertinent to that issue shall be included. A document that is included in appellant's appendix shall not also be included in respondent's appendix unless appellant's appendix includes only a portion of the document and the complete document is required for a full understanding of the issues presented. If the same document has been annexed to more than one pleading or motion filed in the trial court, the document shall be reproduced in the appendix only with the first such pleading or motion and shall be referred to thereafter only by notation to the appendix page on which it appears.

(3) Confidential Documents. If the appellate record is not sealed, any documents that are required to be excluded from public access pursuant to R. 1:38-3 shall be submitted in a separate appendix marked as confidential. The format of the confidential appendix shall in all respects conform with the requirements of this rule.

(b) Form. Documents included in the appendix shall be abridged by omitting all irrelevant or formal portions, with asterisks being used to indicate omissions. The filing date of each included paper shall be stated at the head of the copy as well as its subject matter (e.g., Pretrial Order, Notice of Appeal). Each page shall be numbered consecutively followed by the letter "a" to indicate the appendix (e.g., 1a, 2a, etc.).

(c) Binding; Table of Contents. The appendix may be bound with the brief or separately, into volumes containing no more than 200 sheets each. If bound with the brief, it shall follow the brief, but there shall be a single table of contents of the brief and appendix. If bound separately it shall be prefaced with a table of contents. The table of contents shall indicate the initial page of each document, exhibit or other paper included, and the pages of the stenographic record at which each exhibit was marked for identification and was offered into evidence. Attachments to a document by way of affidavits, exhibits or otherwise shall each be separately identified in the table of contents and the initial page of each such attachment noted therein. If there are multiple volumes of the appendix, each volume shall contain a full table of contents and shall specify on its cover the appendix pages included therein.

(d) Joint Appendix. Whenever possible counsel shall agree upon a joint appendix, which shall be bound separately. The cost thereof shall be apportioned between them.

Note: Source — R.R. 1:7-1(f), 1:7-2 (first six sentences), 1:7-3. Paragraph (a) amended June 29, 1973 to be effective September 10, 1973; paragraph (a) amended July 16, 1979 to be effective September 10, 1979; paragraph (a) amended July 16, 1981 to be effective September 14, 1981; paragraph (a) amended July 22, 1983 to be effective September 12, 1983; paragraphs (a), (b) and (c) amended November 7, 1988 to be effective January 2, 1989; paragraph (a) amended July 13, 1994 to be effective September 1, 1994; paragraph (a) amended July 10, 1998 to be effective September 1, 1998; paragraphs (a)(1) and (c) amended July 12, 2002 to be effective September 3, 2002; new subparagraph (a)(3) adopted July 19, 2012 to be effective September 4, 2012.

2:6-2. Contents of Appellant's Brief

(a) Formal Brief. Except as otherwise provided by R. 2:6-4(c)(1) (statement in lieu of brief), by R. 2:9-11 (sentencing appeals), and by paragraph (b) of this rule, the brief of the appellant shall contain the following material, under distinctive titles, arranged in the following order:

(1) A table of contents, including the point headings to be argued. It is mandatory that for every point, the appellant shall include in parentheses at the end of the point heading the place in the record where the opinion or ruling in question is located or if the issue was not raised below a statement indicating that the issue was not raised below.

(2) A table of judgments, orders and rulings being appealed. This table shall include a listing of the places in the record where the following items are located:

(A) The trial court's judgment(s), order(s), and ruling(s) being appealed, or the administrative agency's final decision(s);

(B) The trial judge's written or oral opinion;

(C) Intermediate decisions, if any, pertinent to the appeal. Such intermediate decisions include such items as planning board resolutions, initial decisions of the administrative law judge, and appeal tribunal decisions.

(3) A table of citations of cases, alphabetically arranged, of statutes and rules and of other authorities.

(4) A concise procedural history including a statement of the nature of the proceedings and a reference to the judgment, order, decision, action or rule appealed from or sought to be reviewed or enforced. The appendix page of each document referred to shall be stated. The plaintiff and defendant shall be referred to as such and shall not, except where necessary, be referred to as appellant and respondent.

(5) A concise statement of the facts material to the issues on appeal supported by references to the appendix and transcript. The statement shall be in the form of a narrative chronological summary incorporating all pertinent evidence and shall not be a summary of all of the evidence adduced at trial, witness by witness.

(6) The legal argument for the appellant, which shall be divided, under appropriate point headings, distinctively printed or typed, into as many parts as there are points to be argued. For every point, the appellant shall include in parentheses at the end of the point heading the place in the record where the opinion or ruling in question is located or if the issue was not raised below a statement indicating that the issue was not raised below. New Jersey decisions shall be cited to the official New Jersey reports by volume number but if not officially reported that fact shall be stated and unofficial citation made. All other state court decisions shall be cited to the National Reporter System, if reported therein and, if not, to the official report. In the citation of all cases the court and year shall be indicated in parentheses except that the year alone shall be given in citing the official reports of the United States Supreme Court, the Supreme Court of New Jersey, and the highest court of any other jurisdiction.

(7) In addition to the foregoing, each brief may include an optional preliminary statement for the purpose of providing a concise overview of the case. The preliminary statement shall not exceed three pages and may not include footnotes or, to the extent practicable, citations.

(b) Letter Brief. In lieu of filing a formal brief in accordance with paragraph (a) of this rule and except as otherwise provided by R. 2:9-11 (sentencing appeals), the appellant may file a letter brief. Letter briefs shall not exceed 20 pages and shall conform with the requirements of subparagraphs (1), (2), (4), (5) and (6) of paragraph (a). As to any point not presented below a statement to that effect shall be included in parenthesis in the point heading. No cover need be annexed provided that the information required by R. 2:6-6 is included in the heading of the letter.

(c) All Briefs. All briefs must be plainly legible and must conform with spacing, paper quality, type-size and reproduction requirements set forth in R. 2:6-10.

(d) Respondent/Cross Appellant's Brief. The respondent/cross appellant shall file a single brief both addressing the cross appeal and answering the appellant's brief.

Note: Source — R.R. 1:7-1(a) (b) (d) (e) (g); amended July 29, 1977 to be effective September 6, 1977; paragraph (a) amended, former paragraphs (a) (b) (c) and (e) redesignated subparagraphs (1) (2) (3) and (5), subparagraph (4) and paragraphs (b) and (c) adopted July 24, 1978 to be effective September 11, 1978; paragraph (b) amended January 10, 1979 to be effective immediately; paragraph (a) amended July 16, 1981 to be effective September 14, 1981; paragraph (b) amended July 15, 1982 to be effective September 13, 1982; paragraph (a)(5) amended November 1, 1985 to be effective January 2, 1986; paragraphs (a) and (b) amended November 2, 1987 to be effective January 1, 1988; paragraph (a) amended November 7, 1988 to be effective January 2, 1989; new paragraph (d) added July 14, 1992 to be effective September 1, 1992; paragraph (a)(5) amended July 13, 1994 to be effective September 1, 1994; paragraph (a)(6) added July 12, 2002 to be effective September 3, 2002; paragraphs (a) and (b) amended August 1, 2016 to be effective September 1, 2016.

2:6-3. Preparation of Respondent's Appendix; Contents

If a joint appendix has not been filed, the respondent may prepare an appendix, conforming to the requirements of R. 2:6-1, insofar as applicable, and containing such parts of the record not included in the appellant's appendix as the respondent considers necessary to the proper consideration of the issues.

Note: Source-R.R. 1:7-4(a)(6); amended July 13, 1994 to be effective September 1, 1994.

2:6-4. Contents of Respondent's Brief; Statement in Lieu of Brief; Responsibility to File

(a) Contents. Except as otherwise provided by R. 2:9-11 (sentencing appeals), the respondent's brief shall conform either to the requirements of R. 2:6-2(a) (formal brief) or (b) (letter brief), insofar as applicable, except that a counterstatement of facts need be included only if the respondent disagrees with such statements in the appellant's brief.

(b) Consequences of Failure to File. Except as otherwise provided by R. 2:9-11 (sentencing appeals) and paragraphs (c) and (d) of this rule, if a respondent fails to file a brief conforming to the requirements of these rules, the court may consider the appeal unopposed and deny the respondent permission to oppose the appeal orally or may make such other order, including an imposition of sanctions, as may be appropriate.

(c) Statement in Lieu of Brief. A statement in lieu of brief may be filed if the appeal is from a quasi-judicial decision of a named respondent which represents to the court that the general public interest does not require its adversarial participation in the appeal and that the parties directly affected by its decision have adequately presented, or may be expected to so present, the issues.

(d) Filing Responsibility of Public Agencies. In all appeals, where a respondent is the State, a political subdivision thereof, a public or quasi-public body, or a public officer

appearing in an official capacity, such respondent shall file a brief or, if paragraph (c) is applicable, a statement in lieu of brief.

(e) Appellant/Cross Respondent's Brief. On a cross appeal, the brief of the appellant/cross respondent answering the points raised in support of the cross appeal shall also include a reply brief, if any is deemed necessary.

Note: Source-R.R. 1:7-4(a)(1)(2)(4)(5)(7)(b); text deleted and paragraphs (a) (b) (c) and (d) adopted July 29, 1977 to be effective September 6, 1977; paragraph (a) amended July 24, 1978 to be effective September 11, 1978; paragraphs (a)(b)(c) and (d) amended November 2, 1987 to be effective January 1, 1988; paragraph (e) adopted July 14, 1992 to be effective September 1, 1992; paragraphs (b) and (d) amended July 13, 1994 to be effective September 1, 1994.

2:6-5. Contents of Reply Brief and Appendix

The appellant may file a reply brief; which shall conform either to the requirements of R. 2:6-2(a) (formal brief) or (b) (letter brief), and may set forth in an appendix thereto such additional parts of the record as may be pertinent.

Note: Source-R.R. 1:7-5. Amended July 24, 1978 to be effective September 11, 1978.

2:6-6. Covers of Briefs and Appendices

Except as otherwise provided by R. 2:6-2(b), covers of briefs and appendices shall be as follows:

(a) Contents. The cover of each brief, and of the appendix if bound separately, shall contain the following matter: (1) the name of the appellate court and the docket number of the action; (2) the title of the action, which shall add to the designation of the parties in the trial court the designation of appellant and respondent; (3) the nature of the proceeding in the appellate court, the name of the court or agency or officer below, and, if a court, the name of the judge or judges who sat below; (4) the title of the document and the designation of the party for whom it is filed; (5) the name and office address of the attorney of record and the names of any attorneys "of counsel" or "on the brief."

(b) Color. The covers of appellant's brief and appendix, respondent's brief and appendix, and appellant's reply brief and appendix shall be white, blue and buff, respectively. On a cross appeal, the respondent/cross appellant's brief filed pursuant to R. 2:6-2(d) shall have a blue cover, and the appellant/cross respondent's response thereto, filed pursuant to R. 2:6-4(e), shall have a buff cover, as shall any permitted subsequent brief of any other party. Covers of amicus briefs shall be green. Covers of all briefs and appendices shall be of a firm material but not glassine.

Note: Source-R.R. 1:7-6(a)(b)(c)(d)(e)(f). Paragraph (b) amended July 7, 1971 to be effective September 13, 1971; first sentence adopted July 24, 1978 to be effective September 11, 1978; paragraph (b) amended July 14, 1992 to be effective September 1, 1992; paragraph (b) amended July 13, 1994 to be effective September 1, 1994.

2:6-7. Length of Briefs

The initial briefs of parties shall not exceed 65 pages and reply briefs shall not exceed 20 pages. The brief of a respondent/cross appellant filed pursuant to R. 2:6-2(d) shall not exceed 90 pages, and the brief of an appellant/cross respondent filed pursuant to R. 2:6-4(e) shall not exceed 65 pages. These page limitations shall be exclusive of tables of contents and citations and may be relaxed by leave of court.

Note: Source-R.R. 1:7-7; amended November 7, 1988 to be effective January 2, 1989; amended July 14, 1992 to be effective September 1, 1992.

2:6-8. References to Briefs; Appendices; Transcripts

References to a brief or appendix shall be made to the appropriate pages, and references to the stenographic transcript shall be made to the appropriate pages and lines thereof, by the following abbreviations:

- "Pb8" for plaintiff's brief, page 8;
- "Db8" for defendant's brief, page 8;
- "Pa8" for plaintiff's appendix, page 8;
- "Da12" for defendant's appendix, page 12;
- "Ja15" for joint appendix, page 15;
- "Prb8" for plaintiff's reply brief, page 8;
- "Pra7" for plaintiff's reply appendix, page 7;
- "T8-3" for transcript, page 8, line 3.

If there is more than one plaintiff or defendant, the appropriate party's name or initial or other identifying designation should precede the abbreviation. If there are multiple volumes of transcript, they shall be numbered sequentially by chronology, i.e., 1T, 2T, etc., irrespective of the nature of the proceeding. The procedural history of the appellant's brief shall list in a footnote the date of each volume of transcript and its numbered designation.

Note: Source -- R.R. 1:7-8; amended July 13, 1994 to be effective September 1, 1994; amended July 12, 2002 to be effective September 3, 2002; amended July 28, 2004 to be effective September 1, 2004.

2:6-9. Inadequate Appendix or Brief

If an appendix or brief does not substantially conform to these rules or is so inadequate that justice cannot be done without the court's independent examination of the record or research of the law, the court may order the same suppressed and direct the filing, within a fixed time, of a new appendix or brief, and it may withhold or impose

costs or order payment by the offending attorney or party of costs in such amount as the circumstances require.

Note: Source-R.R. 1:7-9(a) (b) (c) (d).

2:6-10. Format of Briefs and Other Papers

All briefs, appendices, petitions, motions, transcripts and other papers may be reproduced by any method capable of providing plainly legible copies. Paper shall be of good quality, opaque and unglazed. Coated paper may be used. Where the method of reproduction permits, color of paper shall be India eggshell. Copy may be printed on both sides provided legibility is not impaired. Papers shall be approximately 8.5 inches by 11 inches and, unless a compressed transcript format is used, shall contain no more than 26 double-spaced lines of no more than 65 characters including spaces, each of no less than 10-pitch or 12-point type. Footnotes and indented quotations may, however, be single-spaced. When a compressed transcript format is used, two transcript pages may be reproduced on a single page, provided that no compressed page contains more than 25 lines of no more than 55 characters including spaces, each of no less than 9-pitch type. Except for compressed transcript format pages, margins shall be approximately one inch. Papers on file or in evidence may be reproduced. Papers shall be securely fastened, either bound along the left margin or stapled in the upper left-hand corner. Covers shall conform to R. 2:6-6(b).

Note: Source-R.R. 1:7-10. Amended July 7, 1971 to be effective September 13, 1971; amended July 14, 1992 to be effective September 1, 1992; amended July 13, 1994 to be effective September 1, 1994; amended July 5, 2000 to be effective September 5, 2000.

2:6-11. Time for Serving and Filing Briefs; Appendices; Transcript; Notice of Custodial Status

(a) Time Where No Cross Appeal Taken. Within ten days after the filing of a complete set of transcripts pursuant to R. 2:5-3(e), the appellant shall file three additional copies with the clerk, as provided by R. 2:6-12(d), and shall serve the transcript as provided by R. 2:6-12(a). Except as otherwise provided by R. 2:9-11 (sentencing appeals), the appellant shall serve and file a brief and appendix within 45 days after the delivery to appellant of the transcript, if a verbatim record was made of the proceedings below; or within 45 days after the filing of the settled statement of the proceedings, if no verbatim record was made of the proceedings below; or within 45 days of the filing of the notice of appeal if a transcript or settled statement has been filed prior to a filing of the notice of appeal or if no transcript or settled statement is to be filed; or, on an appeal from a state administrative agency, within the time stated above or within 45 days after the service of the statement of the items comprising the record on appeal required by R. 2:5-4(b), whichever is later. The respondent shall serve and file an answering brief and appendix, if any, within 30 days after the service of the

appellant's brief. The appellant may serve and file a reply brief within 10 days after the service of the respondent's brief.

(b) Time Where Cross Appeal Taken. Except as otherwise provided by R. 2:9-11 (sentencing appeals), if a cross appeal has been taken, the party first appealing, who shall be designated the appellant/cross respondent, shall serve and file the first brief and appendix within 30 days after the service of the notice of cross appeal or within the time prescribed for appellants by R 2:6-11(a), whichever is later. Within 30 days after the service of such brief and appendix, the respondent/cross appellant shall serve and file an answering brief and appendix, if any, which shall also include therein the points and arguments on the cross appeal. Within 30 days thereafter, the appellant/cross respondent shall serve and file a reply brief, which shall also include the points and arguments answering the cross appeal. Within 10 days thereafter, the respondent/cross appellant may serve and file a reply brief, which shall be limited to the issues raised on the cross appeal. No other briefs shall be served or filed without leave of court. If a cross appeal has been taken, the appellant/cross respondent shall be responsible for ordering and filing the transcript pursuant to R. 2:5-3(e) and for serving it pursuant to paragraph (a) of this rule and R. 2:6-12(a).

(c) Scheduling Order. The time provisions of this rule notwithstanding, the court may enter a separate scheduling order in any case on appeal.

(d) Letter to Court After Brief Filed. No briefs other than those permitted in paragraphs (a) and (b) of this rule shall be filed or served without leave of court. A party may, however, without leave, serve and file a letter calling to the court's attention, with a brief indication of their significance, relevant published opinions issued, or legislation enacted or rules, regulations and ordinances adopted, subsequent to the filing of the brief. Unpublished opinions shall not be submitted pursuant to this rule, unless they are of a type that the reviewing court is permitted under R. 1:36-3 to cite in its own opinions. Any other party to the appeal may, without leave, file and serve a letter in response thereto within five days after receipt thereof. The initial letter and subsequent responses shall not exceed two pages in length without leave.

(e) Advising Court of Custodial Change. In criminal, quasi-criminal and juvenile matters the appellant shall by letter advise the court of any change in the custodial status of a defendant, juvenile or other party subject to confinement, during the pendency of the appeal.

(f) Division of Child Protection and Permanency Matters; Advising Court of Child's Placement Status. In Division of Child Protection and Permanency matters, the appellant or respondent shall by letter advise the court of any change in the placement status of the child during the pendency of the appeal.

(g) Motions that Toll the Time for Serving and Filing Briefs in the Appellate Division. In Division of Child Protection and Permanency matters, the appellant or respondent shall by letter advise the court of any change in the placement status of the child during the pendency of the appeal.

(1) Subject to subparagraph (g)(2) of this rule, in addition to the filing of those motions that toll the time for the filing of briefs and appendices as provided by R. 2:5-5(a) and R. 2:8-3(b), the filing of the following motions in the Appellate Division pursuant to this rule shall toll the time for the filing of briefs and appendices in the Appellate Division:

(A) Motion to supplement the record in trial court or administrative agency proceedings made directly to the Appellate Division by any party or on the court's own motion. If granted, the proceedings, if any, required to supplement the record shall continue to toll the time for the filing of briefs and appendices;

(B) Motion to strike the entirety or portions of a brief or appendix;

(C) Motion to dismiss the appeal;

(D) Motion for final remand;

(E) Motion to stay appellate proceedings; and

(F) Motion to file overlength merits brief.

(2) If the party filing the motion under this section has been granted prior extension(s) of time to file its brief and appendix, the motion will not toll the time and the party should request a further extension by motion.

(3) The making of a motion pursuant to this rule shall toll the time for serving and filing the next brief due, but the remaining time shall again begin to run from the date of entry of an order disposing of such a motion, unless otherwise directed by the court or provided in this section.

Note: Source — R.R. 1:7-12(a)(c), 1:10-14(b), 2:7-3. Paragraph (b) amended by order of September 5, 1969 effective September 8, 1969; paragraph (a) amended July 7, 1971 to be effective September 13, 1971; caption and paragraphs (a) and (b) amended June 29, 1973 to be effective September 10, 1973; paragraph (a) amended May 8, 1975 to be effective immediately; paragraphs (c), (d) and (e) adopted July 16, 1981 to be effective September 14, 1981; paragraphs (a) and (b) amended and titles of paragraphs (c)(d) and (e) added November 2, 1987 to be effective January 1, 1988; paragraphs (a) and (b) amended July 14, 1992 to be effective September 1, 1992; paragraph (d) amended July 13, 1994 to be effective September 1, 1994; paragraph (a) amended July 10, 1998 to be effective September 1, 1998; paragraph (b) amended July 28, 2004 to be effective September 1, 2004; paragraph (f) adopted July 16, 2009 to be effective September 1, 2009; paragraph (f) caption and text amended July 9, 2013 to be effective September 1, 2013; new paragraph (g) adopted July 22, 2014 to be effective September 1, 2014; paragraph (d) amended August 1, 2016 to be effective September 1, 2016.

2:6-12. Number of Briefs, Appendices and Transcripts to Be Served and Filed

(a) Two copies of briefs and appendices shall be served on each party to the appeal, and one copy of the transcript shall be served on any one respondent for the use of all respondents. Proof of such service shall be filed simultaneously with the Clerk

as prescribed by R. 1:5-3. In all appeals from adult criminal convictions the brief, appendix and transcripts shall be served upon the New Jersey Division of Criminal Justice, Appellate Section as the responding party unless that office notifies the appellant and the court by letter that another party is substituted as respondent.

(b) On appeal to the Appellate Division, five copies of each brief and appendix shall be filed with the clerk of the Appellate Division.

(c) On appeal to the Supreme Court, 9 copies of each brief and appendix shall be filed with the clerk of the Supreme Court; but on appeal from a judgment or order of the Appellate Division, the parties need not prepare new appendices but may file instead 9 copies of their appendices prepared for the Appellate Division, including any opinions, orders or other papers filed subsequent thereto as an appendix to the appellant's Supreme Court brief. On such appeals the clerk of the Appellate Division shall deliver to the clerk of the Supreme Court the original and 3 copies of the transcript.

(d) On appeal to either the Appellate Division or the Supreme Court at least 3 copies of the transcript, in addition to the copy filed by the court reporter supervisor, clerk or agency pursuant to R. 2:5-3(e), shall be filed with the appellate court. In the event the original and copy of the transcript were filed with the clerk of the court from which the appeal is taken prior to the filing of the notice of appeal, the appellant shall, within 10 days after all briefs of all parties have been filed, request the clerk of the court from which the appeal is taken forthwith to transmit the filed copy to the clerk of the court to which the appeal is taken.

Note: Source - R.R.1:7-12(a)(b), 2:7-3, 2:7-4. Paragraphs (a) and (d) amended July 7, 1971 to be effective September 13, 1971; paragraph (d) amended July 14, 1972 to be effective September 5, 1972; paragraph (a) amended June 29, 1973 to be effective September 10, 1973; paragraph (a) amended March 22, 1984 to be effective April 15, 1984; paragraphs (b) and (d) amended November 7, 1988 to be effective January 2, 1989; paragraph (d) amended July 13, 1994 to be effective September 1, 1994; paragraph (a) amended July 5, 2000 to be effective September 5, 2000; paragraph (b) amended July 27, 2006 to be effective September 1, 2006.