

1.3.04 | BRIEFING & CALENDARING

Joint Appendix	FRAP 30: Unless deferred under FRAP 30(c), appellant must file the joint appendix at the time of filing the opening brief. The appendix must comply with the Fourth Circuit Brief & Appendix Requirements. In court-appointed cases, the appendix cannot exceed 250 double-sided sheets without advance permission of the court.
Opening brief	FRAP 31: In civil cases, appellant's opening brief must be filed within 40 days after filing of the briefing order. Loc R 31(a): In criminal cases, appellant's opening brief must be filed within 35 days after filing of the briefing order. FRAP 32(a) (eff. 12/01/2016): The opening brief may not exceed 13,000 words, must be accompanied by a certificate of compliance with type-volume limit if in excess of 30 pages, and must satisfy the Fourth Circuit Brief & Appendix Requirements.
Response brief	FRAP 31: In civil cases, appellee's response brief must be filed within 30 days after service of appellant's opening brief. Loc R 31(a): In criminal cases, appellee's response brief must be filed within 21 days after service of appellant's opening brief. FRAP 32(a): The response brief may not exceed 13,000 words, must be accompanied by a certificate of compliance with type-volume limit if in excess of 30 pages, and must satisfy the Fourth Circuit Brief & Appendix Requirements.
Opening/response brief for cross-appeal	FRAP 28.1: In civil cross-appeals, appellee's opening/response brief must be filed within 30 days after service of appellant's opening brief. Loc R 31(a): In criminal cross-appeals, appellee's opening/response brief must be filed within 21 days after service of appellant's opening brief.



	FRAP 28.1: The opening/response brief may not exceed 15,300 words, must be accompanied by a certificate of compliance with type-volume limit if in excess of 35 pages, and must satisfy the Fourth Circuit Brief & Appendix Requirements.
Response/reply brief for cross-appeal	FRAP 28.1: In civil cross-appeals, appellant's response/reply brief must be filed within 30 days after service of appellee's opening/response brief. Loc R 31(a): In criminal cross-appeals, appellant's response/reply brief must be filed within 21 days after service of appellee's opening/response brief. FRAP 28.1: The response/reply brief may not exceed 13,000 words, must be accompanied by a certificate of compliance with type-volume limit if in excess of 30 pages, and must satisfy the Fourth Circuit Brief & Appendix Requirements.
Reply brief	FRAP 31: In civil cases, the reply brief must be filed within 21 days after service of the response brief or the response/reply brief. Loc R 31(a): In criminal cases, the reply brief must be filed within 10 days after service of the response brief or the response/reply brief. FRAP 32(a): The reply brief may not exceed 6,500 words, must be accompanied by a certificate of compliance with type-volume limit if in excess of 15 pages, and must satisfy the Fourth Circuit Brief & Appendix Requirements.



Intervenor's brief	FRAP 16(d): A person wishing to intervene in an agency review proceeding must file a motion for leave to intervene within 30 days after the petition for review is filed. Loc R 28(d): All parties to a side, including intervenors, are required to join in a consolidated brief unless the court grants leave to file a separate brief.
Amicus brief at the merits stage	FRAP 29(a): An amicus curiae must file its brief, accompanied by a motion for filing when necessary, no later than 7 days after the principal brief of the party being supported is filed. An amicus that does not support either party must file its brief no later than 7 days after the appellant's opening brief is filed. The court may grant leave for later filing, specifying the time within which the opposing party may answer. An amicus brief at the merits stage may not exceed half the length of the party's principal brief, must be accompanied by a certificate of compliance with type-volume limit and must satisfy the Fourth Circuit Brief & Appendix Requirements.
Anders pro se brief	Anders v. California, 388 U.S. 738 (1967): If appellate counsel is convinced, after obtaining and reviewing the entire record in a criminal appeal, that the appeal is frivolous, an Anders brief is filed, raising anything in the record that could possibly support an appeal. A copy of counsel's brief is served on the defendant with a letter advising the defendant that the court will afford him time to raise any issues he may wish to pursue. The court then notifies the defendant that he has 30 days to file his pro se brief under Anders.
Informal opening brief	Loc R 34(b): In pro se cases, the court sets an informal briefing schedule that requires the filing of appellant's informal opening brief within 21 days of service of the briefing order. The court sets a preliminary informal briefing schedule in all non-capital cases in which a certificate of appealability is needed under FRAP 22(b). The preliminary informal briefing schedule requires the filing of an informal opening brief within 21 days of service of the



	briefing order for the court to use in considering whether to grant a certificate of appealability. No deadline is set for a response brief unless a certificate of appealability is granted.
Informal response brief	Loc R 34(b): In pro se cases, appellee may (but is not required to) file an informal response brief within 14 days after service of the informal opening brief.
Informal reply brief	Loc R 34(b): In pro se cases, appellant may file an informal reply brief within 10 days after service of the informal response brief.
Notice of conflict with proposed argument dates	Loc R 34(c): Counsel must notify the clerk of any conflict with proposed argument dates within the 10-day period established by the notice that a case has been tentatively assigned to a particular argument session.
Oral argument acknowledgment	Counsel must return the oral argument acknowledgment form identifying who will present argument within the 10-day period established by the oral argument notification.

(4th Circuit Court of Appeals // December 2023)

