



COURT OF APPEAL, SECOND CIRCUIT

STATE OF LOUISIANA

PRO SE MANUAL

This pamphlet is intended primarily to assist non-attorneys with the basic procedural steps which must be followed when filing an appeal or a supervisory writ application with the Second Circuit Court of Appeal. ***This pamphlet is not legal advice and should not be cited as legal authority.*** The information in this pamphlet is not intended to replace the Uniform Rules - Courts of Appeal, or the internal rules of the Second Circuit Court of Appeal, but should be used in conjunction with the rules.

This pamphlet reflects the Uniform Rules - Courts of Appeal in effect as of April 15, 2010. The rules are always subject to change without notice. Therefore, you should consult the Uniform Rules for any changes. You or your lawyer, if you are represented by one, may call the Second Circuit Clerk of Court's office at 318 227-3700 if you have a specific procedural question about how to file your papers with the Court. Although our staff will try to help answer your procedural questions, you must remember ***employees of the Court of Appeal are not lawyers and are not permitted to give legal advice or make specific recommendations to you on how you should pursue your claims on appeal, or by writ application.***

The Uniform Rules of the Courts of Appeal and the local rules of the Second Circuit can also be found at this Court's web page www.la2nd.org.

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Glossary of Terms

Trial Court. The court of original jurisdiction, the first court to consider the case. For instance, the city court, juvenile court, district court or worker's compensation court.

Appeal. A review by this court of what happened in the trial court to determine whether any mistakes occurred, and, if so, whether the party who filed an appeal is entitled to have the decision of the trial court reversed or modified (changed).

Appellant. A party who takes an appeal from the trial court's decision (judgment).

Appellee. A party against whom an appeal is taken and who may respond (file a brief in response) to the appeal.

Brief. A written statement that explains the facts of the case and arguments of a party to an appeal stating why the trial court ruled incorrectly (appellant's brief) or correctly (appellee's brief).

Interlocutory order. An order that addresses preliminary or intermediate matters that is issued before the trial court's final decision.

Jurisdiction. Authority of the Court to hear a matter or case.

Appellate Jurisdiction refers to this Court's authority to review and revise the trial court's final decision.

Supervisory Jurisdiction refers to this Court's authority to hear and decide an interlocutory matter prior to the trial court's final decision.

Original Jurisdiction refers to this Court's authority to hear and decide a matter before any other court has reviewed it.

Motion. A written application requesting the court to cause some action by making a specific ruling or order.

Oral Argument. An in-court oral presentation by the appellant and the appellee stating the reasons the Court of Appeal should affirm, reverse or change the trial court's judgment. The amount of time to present oral argument is limited by the Uniform Rules. Appeals in all cases shall be submitted to the court for decision **without** oral argument, **unless a written request** in the form of a motion or letter for permission to argue orally is filed in the clerk's office by a party within thirty (30) days after the filing of the record in the court, and permission to orally argue is granted. A request made within a party's brief will NOT suffice. (See Uniform Rules of the Courts of Appeal 2-11.4.)

Pro se. A person who does not retain a lawyer and appears on their own behalf before the Court.

Pauper. An individual that has been allowed by the trial court to file their case and proceed without advance payment of court costs. Trial courts will issue a “pauper” or “in forma pauperis” order.

Writ. Although there are several different types of writs, they are issued to prohibit a trial court from exceeding its jurisdiction or to order a trial court to perform a mandatory duty. A supervisory writ application, if timely filed, can be reviewed by this Court to correct or modify a trial court’s ruling on an intermediate or interlocutory matter. The individual who files the writ application is called the “**applicant.**” The person who answers or responds to the writ application is called the “**respondent.**”

What Is the Louisiana Second Circuit Court of Appeal?

The Second Circuit Court of Appeal consists of nine Judges, including a Chief Judge. The Court sits in panels to decide most appeals and writ applications. A panel is a group of at least three (3) judges.

An appeal is **not** a new trial. The parties before the Court of Appeal will not be permitted to conduct discovery, call witnesses, or offer new evidence that was not presented first to the trial court. The Court of Appeal decides appeals strictly on the basis of the written record that existed in the trial court and the written briefs that are filed by the parties. On appeal, the parties may request oral argument.

The Second Circuit has appellate jurisdiction and supervisory jurisdiction over the trial courts within its circuit. The geographic jurisdiction of the Second Circuit consists of the 20 northern parishes of Louisiana. A party has the right to an appeal from a final appealable judgment. A party may have the right to seek supervisory relief from judgments that are not final judgments by filing a supervisory writ application. A writ application is not a substitute for a timely filed appeal. See the section regarding writ applications commencing on page 10.

Where Is the Second Circuit Court of Appeal Located?

The Second Circuit Court of Appeal is located in Shreveport, Louisiana. The Court's regular business hours for accepting filings are Monday through Friday, 8:30 a.m. to 4:45 p.m. If you have a question about your appeal, you should direct your letter or telephone calls to the Clerk's Office in Shreveport, Louisiana:

Clerk of Court
Second Circuit Court of Appeal
430 Fannin Street
Shreveport, LA 71101
(318) 227-3700

No person who has a case on appeal is permitted to initiate contact directly with any individual judge of this Court or to telephone any judge regarding any case pending in this court.

What Judgments May Be Appealed to the Second Circuit Court of Appeal?

In civil cases the Second Circuit has appellate jurisdiction from final appealable judgments issued by a trial judge or a worker's compensation judge. A judgment is final if it resolves all the issues including the issue of attorney's fees. Appeals from interlocutory rulings (not final rulings) are limited to only those instances provided by law so generally a party would seek supervisory relief by way of filing a writ application.

In a criminal case, a defendant may appeal a judgment (imposition of sentence) in a case triable by jury, except where the death penalty has been imposed. The state has the right to appeal in limited circumstances. When the death penalty is imposed, a direct appeal to the Louisiana Supreme Court is automatic.

APPEALS

Where Do I File My Motion for Appeal?

An appellant must file a timely motion and order for appeal with the trial court which rendered the ruling that he or she wishes to appeal. It is important for the appellant to know the time delay for filing his request for an appeal. Clerk's office personnel may not counsel you on your time delays for taking an appeal. Once the trial court grants an order of appeal, the trial court clerk's office will prepare the written appellate record and send it to the Court of Appeal. Once an appellate record is lodged (received by and filed) with the appellate court, the appellate court clerk's office will send you a Notice of Lodging of the appeal record and Briefing Order. The Notice of Lodging and Briefing Order will state the time period (deadline) to file your brief.

What Is the Appellate Record?

The record on appeal will contain all the original papers and exhibits filed with the trial court in your case. The record is prepared by the trial court after the motion and order for appeal is signed, and the record is delivered to the court of appeal within the time period (return date) stated in the order for appeal, unless that date is extended by court order.

The record will include the transcript if available and applicable. It will also include the petition and other pleadings; pretrial orders; motions and any written orders, opinions or judgments of the court below, among other things. It includes all documents and exhibits admitted into evidence by the court below. Remember, it is your responsibility to make sure that the record contains all of the documents that are necessary to support your case and that will help the judges decide your appeal. Material that you receive after the ruling of the trial court, or that was not presented to the trial court and admitted into evidence, is not considered part of the record on appeal and generally may not be considered by this court.

How Do I File an Appellate Brief With the Second Circuit Court of Appeal?

Uniform Rules - Courts of Appeals, Rules 2-12.2, 2-12.3, 2-12.4, 2-12.5, 2-12.6 and 2-12.7, as well as Internal Rule 2-5 for the Court of Appeal Second Circuit, explain the form, content, and time frame (deadline) for filing briefs on appeal. The Court is strict about enforcing these rules if a brief is filed by a lawyer on behalf of a party. If you do not have a lawyer, however, the court will relax certain rules regarding the form and content of your brief with the following exceptions:

- You must sign your brief.
- You must provide the required number of copies to the Court. Usually the court requires an original plus seven (7) copies of a brief.
- Your brief must contain a certificate of service (mailing) listing all parties and all counsel, indicating the parties each represent and showing how and when such service of the brief was accomplished (whether it was mailed or hand-delivered). Legible copies of all briefs must be delivered or mailed by the party to all other parties' counsel of record and any parties not represented by an attorney.

- If typed, all briefs must be typed in Roman or Times New Roman 14 point or larger. Briefs on 8 ½ by 14" paper (legal size paper) shall not exceed 31 pages and briefs on 8 ½ by 11" paper (letter size paper) shall not exceed 41 pages. You must file your brief on or before the deadline that is stated in your Notice of Lodging and Briefing Order that you will receive from this Clerk's Office. If you fail to file a timely brief, you will automatically lose your right to oral argument. In civil cases, your failure to file a brief may result in the appeal being dismissed. You must file a motion for extension of page limitation with this court if you wish to file a brief in excess of these page limits stated above. There is a filing fee for this type of motion.
- Whether your brief is typed or handwritten, it must be clearly legible (written or printed clearly), each page must be consecutively numbered, and exhibits (if any) clearly marked as an "exhibit". **It is not necessary to attach any exhibits other than a copy of the trial judge's ruling that you are appealing and any written or oral reasons for that ruling, if any were given. No other exhibits are necessary as the documents are already contained in the appellate record.**

The Appellant's Brief.

An appellant's brief is a written document explaining why you are not satisfied with the trial court judgment and specifying what you think is wrong with the decision. The Notice of Lodging and Briefing Order informs you of the date the brief will be due. If it is necessary, you may request additional time to file your brief by filing a motion (written request) for the extension with the appellate court. The motion for an extension of time must be filed with this court in writing prior to your brief due date (deadline). Generally a maximum of ten days will be given if a motion for extension is granted. As with other motions, there is a filing fee for a motion to extend your brief due date.

Although the Court may relax the rules about the contents of your brief if you are filing your brief pro se, it is preferred that you write your brief in an organized format. It is helpful to the Court in understanding your issues on appeal if you divide your brief into the following sections:

- A clear statement of the case, which describes the trial court proceedings you are asking to be reviewed. This section should also include a written statement of the facts which were presented to the trial court.
- The issues presented for review by this court (this is a summary of your arguments which lists the issues you are asking this court to review on appeal - generally, this summary is one or two sentences in length and it is helpful if you list each issue separately or place each issue in a separate paragraph).
- An argument section, which includes each of the issues you want to raise and clearly states the reasons you are appealing, the facts and evidence presented to the trial court that support your position, and the law supporting why you think the trial court erred in its decision. It may be helpful for the argument section if each issue is argued in a separate paragraph of your brief.

- An ending statement which briefly tells the Court what remedy (relief) you are seeking.
- You must be sure to sign your brief and attach your certificate of service (a statement that you have hand delivered or mailed a copy of your brief to all other opposing parties and/or counsel.)
- If you are an appellant and filing an appellate brief, you must attach a copy of the trial court decision you are appealing as an “exhibit” at the very back of your brief. You must also attach a copy of the trial court’s written or oral reasons for judgment, if any were given.

The Appellee’s Brief.

The appellee’s brief is the opponent’s opportunity to tell the Court why the decision of the trial court was the correct decision and should be affirmed (upheld). The appellee brief should include all the same sections discussed above for the appellant’s brief, however, instead of raising issues to be appealed, the appellee will reply to (or argue against) the issues stated by the appellant in the appellant’s brief.

When Will the Court of Appeal Decide My Case?

You will receive in the mail a copy of the Court of Appeal Second Circuit docket which will inform you that your case has been assigned to a panel of judges of this Court. If any party has requested oral argument, the copy of the docket will state the time and date the argument will take place in the courtroom of the Court of Appeal Second Circuit building. If no party requested oral argument, the copy of the docket will tell you when your case will be submitted (given) to a panel of three (3) judges for decision. A decision of the judges most often is made within five (5) weeks from the date the case is argued or submitted to the panel for decision. However, some cases may take longer. The written opinion will be mailed to you at the address provided by you. If you move or change your address while a case is pending with the Court, it is your responsibility to notify the Clerk’s office and provide your new address.

What Can I Do If I Lose My Appeal?

If you are not satisfied with the decision rendered by the Second Circuit, you may file a written motion for rehearing within 14 days of the date the opinion (court of appeal decision) was rendered. If you do not choose to file a rehearing, or if the rehearing you file is denied, then you have 30 days in which to file a writ application (writs of certiorari) to the Louisiana Supreme Court. The Louisiana Supreme Court’s address is:

Clerk of Court, Supreme Court
State of Louisiana
400 Royal Street, Suite 4200
New Orleans, LA 70130-2104

Further information about Supreme Court rules and procedures is available on the internet at www.lasc.org or by calling (504) 310-2300. A copy of this court’s brief checklist and filing fee list included in this manual. These references are also found at this Court’s web page: <http://www.la2nd.org/>.

SUPERVISORY WRITS TO THE SECOND CIRCUIT COURT OF APPEAL

What Rulings May Be Reviewed by Supervisory Writ Applications?

In civil cases, interlocutory rulings (rulings that are not final judgments) may be reviewed by this Court by supervisory writ applications. An order is interlocutory if it decides a preliminary matter before the final ruling on the merits of the issues or claims before the Court.

In criminal cases, a party may seek supervisory relief by filing a writ application when charged with misdemeanors and when seeking post conviction relief.

There is generally no oral argument on a writ application.

Where Do I File My Supervisory Writ Application?

A supervisory writ application must be filed with the Clerk of the Court of Appeal. An original and three copies should be delivered to the:

Clerk of Court
Second Circuit Court of Appeal
430 Fannin Street
Shreveport, LA 71101
(318) 227-3700

You must provide the Court with the required number of copies of your complete writ application.

When Do I File My Writ Application?

A party wishing to file a writ application shall first ask the trial court to fix a reasonable time within which to file the writ application with the appellate court. In civil cases, the due date for filing the writ application with the appellate court shall not exceed thirty (30) days from the date of notice of the trial court's ruling (judgment) as provided in La. Code of Civil Procedure, Article 1914. In criminal cases, unless the judge orders the ruling (judgment) to be reduced to writing, the return date shall not exceed 30 days from the date of the trial court ruling. When the judge orders the ruling to be a written judgment, the return date shall not exceed 30 days from the date that written judgment is signed. See Uniform Rules of the Courts of Appeal, Rule 4-3. However, the trial court may extend the time for filing a writ application with the appellate court, if a timely motion for an extension is filed with the trial court and granted by the trial court judge. See Uniform Rules of the Courts of Appeal, Rule 4-3.

What Should My Writ Application Include?

All original writ applications filed in this court shall include a completed writ application intake form. The writ application intake form is published in the Appendix E to the Second Circuit's Local Rules, which can be found at the end of this document and on the court website.

Refer to Uniform Rules of the Courts of Appeal, Rule 4-5 Contents of Application.

1. The original writ application shall be signed by the party filing the writ application and shall contain an affidavit verifying the allegations of the application and certifying that a copy has been hand delivered or mailed to the trial judge and to all opposing counsel. The affidavit shall list all parties and all counsel indicating the parties each represents. The original and duplicate writ application shall have the pages of the application and attached documents and exhibits consecutively numbered.
2. An index of all items contained in the writ application.
3. A clear statement of the grounds upon which the jurisdiction of the court is invoked.
4. A statement of the facts concerning the case.
5. The issues and questions of law presented for determination of the court.
6. Assignments or specifications of error and your statement in support of the application.
7. A copy of the judgment or ruling complained of.
8. A copy of the trial judge's reasons for ruling if written or contained in a transcript.
9. A copy of your Notice of Intent to seek writs and order setting return dates and any extensions. (This is the copy of your motion to the trial court that you intend to seek writs and a copy of the judges's order stating the date the writ is to be filed with the Second Circuit.)
10. A copy of each pleading on which the judgment, order or ruling is based, and a copy of the pertinent court minutes (if available).
11. A copy of any opposition and any attachments filed by a party in the trial court or a statement by you that no opposing written document was filed.
12. In civil cases, a filing fee or a pauper order signed by the district court must also be included.

Is There a Right to a Rehearing Once the Court Acts on My Writ Application?

If the writ application is granted, a party can ask for a rehearing from the Court of Appeal. However, **there is no right to a rehearing from a writ denial.**

If the writ application or the rehearing application is denied, you can file a writ of certiorari to the Louisiana Supreme Court within 30 days of the date of the denial. Their address is as follows:

Clerk of Court, Supreme Court
State of Louisiana
400 Royal Street, Suite 4200
New Orleans, LA 70130-2104

Further information about Supreme Court rules and procedures is available at www.lasc.org or by calling (504) 310-2300.

Do You Need a Lawyer?

Individuals may appear before the Second Circuit Court of Appeal without a lawyer. Although an individual is not required to have a lawyer, most people find that having a lawyer on appeal is helpful to them. If you pursue your appeal without the assistance of a lawyer, you are still required to comply with the rules of the Court. You may find it helpful to refer to several legal resources in drafting the issues you want to present in your brief on appeal. These resources include Uniform Rules - Courts of Appeal, the Louisiana Civil Code, Louisiana Codes of Civil and Criminal Procedure, Louisiana Revised Statutes, and West's Louisiana Cases.

The Uniform Rules of the Courts of Appeal can be found at this Court's web page <http://www.la2nd.org/>.

UNIFORM RULES COURTS OF APPEAL

RULE 2-12. BRIEFS

2-12.1. Filing

Each party shall file an original and 7 copies of the brief in every case. All parties must file briefs in every criminal appeal.

Amended October 3, 1994, effective January 1, 1995

2-12.2. Preparation of Briefs

A. The provisions of this Section shall apply to briefs submitted in appeals and to briefs or supporting memoranda submitted in connection with motions, applications for supervisory writs and applications for rehearing.

B. Briefs may be printed, typewritten, or produced by any copying or duplicating process which produces a clear black image on white paper. Illegible copies and photocopies produced on wet copiers are not acceptable. Briefs may be typewritten or otherwise acceptably produced on either letter or legal-size, white, unglazed, opaque paper, with a margin of 1" on each side, using only one side of each page. The text of briefs shall be double-spaced except for matters which are customarily single-spaced. The pages in the briefs shall be numbered consecutively.

C. The language used in the brief shall be courteous, free from vile, obscene, obnoxious, or offensive expressions, and free from insulting, abusive, discourteous, or irrelevant matter or criticism of any person, class of persons or association of persons, or any court, or judge or other officer thereof, or of any institution. Any violation of this Subsection shall subject the author, or authors, of the brief to punishment for contempt of court, and to having such brief returned.

D. The preparation of briefs shall be subject to the following requirements and limitations:

(1) Original briefs on 8 1/2" X 14" paper shall not exceed thirty-one pages; reply briefs on such paper shall not exceed thirteen pages. Original briefs on 8 1/2" X 11" paper shall not exceed forty-one pages; reply briefs on such paper shall not exceed eighteen pages. These limitations do not include pages containing the table of contents required by Rule 2-12.4, Subsection A(1) and the table of authorities required by Rule 2-12.4, Subsection A(2).

(2) The size type in all briefs will be: (a) Roman or Times New Roman 14 point or larger computer font, normal spacing; or (b) no more than 10 characters per inch typewriter print. A margin of at least one inch at the top and bottom of each page shall be maintained. Footnotes may be single-spaced but shall not be used to circumvent the spirit of this rule.

(3) A motion for leave to file a brief in excess of the page limitation of this rule must be filed at least ten days in advance of the due date of the brief. Such a motion will be granted only for extraordinary and compelling reasons.

Amended April 3, 1986, effective July 1, 1986; amended October 5, 1992; amended October 3, 1994, effective January 1, 1995; amended March 22, 2001, effective January 1, 2002; amended October 7, 2013, effective January 1, 2014.

2-12.3. Cover Inscription

Briefs shall state on the cover or on the title page the following:

(a) the title of the court to which it is directed;

- (b) the docket number of the case in the court;
- (c) the title of the case as it appears on the docket of the court;
- (d) the name or title of the court and the parish from which the case came;
- (e) the name of the judge who rendered the judgment or ruling complained of;
- (f) a statement as to whether the case comes before the court on appeal or in response to a writ.
- (g) a statement identifying the party on whose behalf the brief is filed and the party's status before the court;
- (h) the nature of the brief, whether original, in reply, or supplemental;
- (i) the name of counsel, with address and telephone number, by whom the brief is filed, and a designation of the parties represented, and a designation of "appeal counsel";
- (j) the designation of whether the case is a civil, criminal, juvenile, or special proceeding (state particular type of proceeding).

2-12.4. Appellant's Brief

A. The brief of the appellant shall contain, under appropriate headings and in the order indicated:

- (1) a table of contents with page references;
- (2) a table of authorities, including cases alphabetically arranged, statutes and other authorities, with references to the pages of the brief where the authorities are cited;
- (3) a jurisdictional statement setting forth the constitutional and statutory basis for the court to exercise appellate jurisdiction, with citations to applicable provisions. The jurisdictional statement shall also include the dates of the judgment appealed and of the motion and order for appeal to establish the timeliness of the appeal and the following, as applicable:
 - (a) an assertion that the appeal is from a final appealable judgment and, if the appealability is dependent upon a designation by the trial court, a reference to the specific page numbers of the record where the designation and reasons for the designation are to be found, or
 - (b) an assertion that the appeal is from an interlocutory judgment or order which is appealable as expressly provided by law, or
 - (c) an assertion of information establishing the court of appeal's jurisdiction on some other basis;
- (4) a concise statement of the case, indicating the nature of the case, the action of the trial court and the disposition;
- (5) assignments of alleged errors;
- (6) a listing of issues presented for review;
- (7) a statement of facts relevant to the assignments of error and issues for review, with references to the specific page numbers of the record;
- (8) a short summary of the argument, *i.e.*, a succinct, clear and accurate statement of the arguments made in the body of the brief;
- (9) the argument, which shall contain:
 - (a) appellant's contentions, with reference to the specific page numbers of the record and

citations to the authorities on which the appellant relies,

(b) for each assignment of error and issue for review, a concise statement of the applicable standard of review, which may appear in the discussion or under a separate heading placed before the discussion, and

(c) for each assignment of error and issue for review which required an objection or proffer to preserve, a statement that the objection or proffer was made, with reference to the specific page numbers of the record; and

(10) a short conclusion stating the precise relief sought.

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).

(3) The court may disregard the argument on an assignment of error or issue for review if suitable reference to the specific page numbers of the record is not made.

(4) All assignments of error and issues for review must be briefed. The court may consider as abandoned any assignment of error or issue for review which has not been briefed.

Amended April 3, 1986, effective July 1, 1986; amended October 3, 1994, effective January 1, 1995; amended October 2, 2006, effective November 1, 2006; amended October 7, 2013, effective January 1, 2014; amended April 2014, effective May 1, 2014.

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).

Amended October 2, 2006, effective November 1, 2006; amended October 7, 2013, effective January 1, 2014; amended April 2014, effective May 1, 2014.

2-12.6. Reply Brief

The appellant may file a reply brief, if he has timely filed an original brief, but it shall be strictly confined to rebuttal of points urged in the appellee's brief. No further briefs may be filed except by leave of court.

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: (1) the name and citation of the opinion or authority; (2) the issue raised by the case which is pertinent to the issues raised in the case pending before this Court; and (3) 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.

Adopted April 6, 2006; amended April 2014, effective May 1, 2014.

2-12.7. Time to File

The brief of the appellant shall be filed not later than 25 calendar days after the filing of the record in the court, and the brief of the appellee shall be filed not later than 45 calendar days after the filing of the record in the court. The reply brief, if any, of the appellant shall be filed not later than 10 calendar days after the appellee's brief is filed.

Unless otherwise directed by the court in the notice of lodging, in the case of a timely order of appeal being obtained by a litigant subsequent to an earlier order of appeal obtained by a different litigant, the brief on behalf of the litigant whose order of appeal bears the earlier date shall be due in point of time under the provisions of the appropriate rule regarding the appellant. The brief on behalf of the litigant whose order of appeal bears the later date shall be due in point of time under the provisions of the appropriate rule regarding the appellee.

Amended October 7, 2002.

2-12.8. Extensions of Time

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 on or before the date the brief was due. If an extension of time is granted to an appellant to file the original brief, time for filing the appellee's brief is extended for a period of twenty days from the date of the extended time granted the appellant, without the necessity of a motion or request by the appellee. To preserve the right to oral argument, an appellee must file the brief within the extended twenty-day period, whether or not the appellant's brief is timely filed. An extension of time may not be granted if such extension will retard the hearing or determination of the case.

Amended October 5, 1987, effective December 1, 1987.

2-12.9. Specially-assigned Cases

In cases specially assigned for argument, the briefs shall be filed as ordered by the court.

2-12.10. Briefs on Motions or Writ Applications

Briefs in support of motions or applications for writs shall be filed with the motion or writ application. Briefs in opposition thereto shall be filed prior to decision by the court, or as may be ordered by the court.

2-12.11. Amicus Curiae Briefs

Amicus curiae briefs may be filed only upon motion by the applicant and order of the court. The motion shall identify the interest of the applicant, state that the applicant has read the briefs of the parties, and state specific reasons why applicant's brief would be helpful to the court in deciding the cases. An amicus curiae may not request oral argument.

2-12.12. Untimely Briefs; Sanctions

If the brief on behalf of any party is not filed by the date that the brief is due, the party's right to oral argument shall be forfeited. The court may also impose other sanctions including, but not limited to, dismissal of the appeal when the appellant does not file a brief as provided for in Rule 2-8.6.

2-12.13. Non-conforming Briefs; Sanctions

Briefs not in compliance with these Rules may be stricken in whole or in part by the court, and the delinquent party or counsel of record may be ordered to file a new or amended brief.

Rule 2-13. Timely Filing of Papers

All papers to be filed in a Court of Appeal shall be filed with the clerk. Filing may be 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.

Amended October 7, 2002; amended October 2, 2006, effective November 1, 2006.

Rule 2-14. Service of Legible Copies; Certificate

2-14.1. Service of Legible Copies

At or before the time of filing, legible copies of all papers filed in a Court of Appeal by any party shall be served in accordance with the provisions of Louisiana Code of Civil Procedure art. 1313 to opposing counsel of record and to each opposing party not represented by counsel.

Amended October 7, 2013, effective January 1, 2014.

2-14.2. Certificate

The fact of such service shall be evidenced by a certificate listing all parties and all counsel, indicating the parties each represents, and showing when and by what means such service was accomplished. *Amended October 2, 1995, effective January 1, 1996; amended October 7, 2013, effective January 1, 2014.*, indicating the parties each represents, and showing when and by what means such service was accomplished. *Amended October 2, 1995, effective January 1, 1996; amended October 7, 2013, effective January 1, 2014.*



RULES OF THE COURT OF APPEAL, SECOND CIRCUIT SUPPLEMENTING UNIFORM RULES OF LOUISIANA COURTS OF APPEAL

Local Rule 15. BRIEFS -- CERTIFICATION FOR ATTACHMENTS

All appeal briefs shall contain the following certification:

I hereby verify that all attachments to this brief have previously been duly filed and/or accepted into evidence in the lower court, to the best of my knowledge, information and belief. I understand that failure to comply with this local rule may result in the refusal to consider said attachments. *WILLFUL FAILURE TO COMPLY WITH THIS LOCAL RULE MAY SUBJECT ME TO PUNISHMENT FOR CONTEMPT OF COURT.*

Adopted by Court Conference May 11, 2017. Filed with the Clerk of Court May 11, 2017. Promulgated May 11, 2017. Effective May 31, 2017.

Local Rule 2-5. REJECTION OF BRIEFS NOT IN COMPLIANCE WITH URCA

The Clerk of the Second Circuit Court of Appeal will reject all briefs which do not conform to the requirements of Uniform Rules of the Courts of Appeal – Rules 2-12.1 through 2-12.6, Rules 2-14.1, 2-14.2, and Second Circuit Local Supplementing Uniform Rules 2-4 and 15. (*Note URCA Rule 2-12.13*)

If the Clerk must reject a brief which was received by mail, the brief will be returned at the filing parties' expense.

If a brief is rejected and the party subsequently corrects the insufficiency and resubmits the brief for filing within ***seven (7) days*** from the date of rejection or by the current brief due date, whichever is greater, the brief will be considered **timely for purposes of oral argument only**. (*Note URCA Rule 2-12.12*)

For all other purposes, a brief that is rejected by the Clerk on the last day of any delay set by this Court will be considered **untimely**.

Adopted by Court Conference Jun 18, 1998. Promulgated in Compliance with URCA Rule 1-1: Jun 26, 1998. Amended and Promulgated as Amended Sep 27, 1999. Amended and Promulgated as Amended May 11, 2017 and Effective May 31, 2017.

BRIEF CHECKLIST

	LOCAL RULES
Failure to file briefs: criminal cases	2-3
Written Assignments of Error: criminal cases	2-4
Sanctions for failure to file timely: criminal cases	2-4
Pro se briefing notice: criminal cases	2-6
Certificate of service: criminal cases	2-7
Certificate for attachments (duly filed and/or admitted into evidence)	15
Rejection of briefs not in compliance with Uniform Rules of Courts of Appeal (URCA)	2-5
Copies of briefs in support of rehearing application: Original + 6	3-1
Bar Roll Number (Attorneys only)	8

	UNIFORM RULES
Copies: original + 7	2-12.1
Pages: numbered consecutively	2-12.2B
Page Limit: Original brief: 31 legal or 41 letter	2-12.2D(1)
Spacing: double, except as noted	2-12.2B
Size of font: Roman or Times New Roman, 14 pt. or larger computer font or (b) no more than 10 characters per inch typewriter print.	2-12.2D(2)
Title: Court to which the brief is directed	2-12.3 (a)
Docket number assigned by appellate court	2-12.3 (b)
Title of the case as it appears on the docket	2-12.3 (c)
Name or title of the court and the parish from which the case came	2-12.3 (d)
Name of judge who rendered judgment or ruling complained of	2-12.3 (e)
Statement: on appeal or in response to a writ	2-12.3 (f)
Identification of party and party's status before the court	2-12.3 (g)
Original, reply, or supplemental brief	2-12.3 (h)
Name of counsel, address and phone number	2-12.3 (i)
Civil, criminal, juvenile, or special proceeding	2-12.3 (j)

Table of contents	2-12.4A(1) 2-12.5
Table of authorities	2-12.4A(2) 2-12.5
Jurisdictional statement (appellant only) (Optional for appellee)	2-12.4A(3) 2-12.4A(3)(a), (b) or (c) 2-12.5
A statement of the case (appellant only) (Optional for appellee)	2-12.4A(4) 2-12.5
Assignments of alleged errors	2-12.4A(5) 2-12.5
Listing of issues presented for review (appellant only) (Optional for appellee)	2-12.4A(6) 2-12.5
A statement of facts relevant to assignments of error and issues (appellant only) (Optional for appellee)	2-12.4A(7) 2-12.5
Summary of argument	2-12.4A(8) 2-12.5
Argument (Appellant only: Statement of standard of review)	2-12.4A(9) 2-12.4A(9)(a), (b) and (c) 2-12.5
Conclusion	2-12.4A(10) 2-12.5
Certificate of Service (to whom, when, how)	2-14.1 and 2-14.2
Copy of the judgment, order, or ruling complained of	2-12.4B(1) 2-12.5
Copy of either the trial court's reasons for judgment or minute entry of the reasons , if given. If none, so state	2-12.4B(1) 2-12.5

Revised 05/11/17 by Lillian Evans Richie

UNIFORM RULES OF THE COURTS OF APPEAL

RULE 4. WRITS

Rule 4-1. Application for Writs

An application for writs of any kind, and all documents and exhibits in connection therewith, shall be filed in an original and 3 duplicate copies with the clerk of the Court of Appeal, and shall not be considered by the court or any judge of the court unless it is properly filed with the clerk.

Application for Post-conviction Relief. The applicant shall use the uniform application for post-conviction relief (see Appendix A). Inexcusable failure of the applicant to comply with this Rule may subject the applicant to dismissal of the application, or to other sanctions of the court.

Rule 4-2. Notice of Intention

The party, or counsel of record, intending to apply to the Court of Appeal for a writ shall give to the opposing parties or opposing counsel of record, notice of such intention; notice simultaneously shall be given to the judge whose ruling is at issue, by requesting a return date to be set by the judge within the time period provided for in Rule 4-3.

As amended April 15, 2010

Rule 4-3. Time to File; Extension of Time

The judge who has been given notice of intention as provided by Rule 4-2 shall immediately set a reasonable return date within which the application shall be filed in the appellate court. The return date in civil cases shall not exceed 30 days from the date of notice, as provided in La. C.C.P. art. 1914. In criminal cases, unless the judge orders the ruling to be reduced to writing, the return date shall not exceed 30 days from the date of the ruling at issue. When the judge orders the ruling to be reduced to writing in criminal cases, the return date shall not exceed 30 days from the date the ruling is signed. In all cases, the judge shall set an explicit return date; an appellate court will not infer a return date from the record.

Upon proper showing, the trial court or the appellate court may extend the time for filing the application upon the filing of a motion for extension of return date by the applicant, filed within the original or an extended return date period. An application not filed in the appellate court within the time so fixed or extended shall not be considered, in the absence of a showing that the delay in filing was not due to the applicant's fault. The application for writs shall contain documentation of the return date and any extensions thereof; any application that does not contain this documentation may not be considered by the appellate court.

Revision Comment

In civil cases, Rule 4-3 has been revised to coordinate the date of the beginning of the 30-day period

for setting a return date with the date of notice of the ruling at issue, in accordance with the notice rules of La. C.C.P. art. 1914 as amended by Act 545 of 2003. The "ruling at issue" refers to any interlocutory judgment, order, or ruling of the trial court.

In the interests of judicial efficiency and fairness to the parties, an appellate court in its discretion may review an interlocutory or final judgment pursuant to its supervisory jurisdiction, even though the judgment also could be reviewed pursuant to an appeal. See *Chambers v. LeBlanc*, 598 So.2d 337 (La. 1992); *Winston v. Martin*, 34,195 (La. App. 2 Cir. 7/6/00), 764 So. 2d 368; *Smith v. Louisiana Dept. of Public Safety*, 90-1029 (La. App. 3 Cir. 10/15/90), 571 So.2d 666; *Hamilton Medical Group v. Ochsner Health Plan*, 550 So.2d 290 (La. App 3 Cir. 1989). The 30-day period in Rule 4-3 in no way affects an appellate court's ability to utilize its supervisory jurisdiction in such instances.

Amended November 7, 2003, effective November 10, 2003

Rule 4-4. Stay of Proceedings

- (A) When an application for writs is sought, further proceedings may be stayed at the trial court's discretion. Any request for a stay of proceedings should be presented first to the trial court. The filing of, or the granting of, a writ application does not stay further proceedings unless the trial court or appellate court expressly orders otherwise.
- (B) When expedited consideration by an appellate court is requested, including, but not limited to, a request for a stay order, the application shall include on the cover a statement in bold print that such consideration is sought and a statement within the application itself, entitled 'REQUEST FOR EXPEDITED CONSIDERATION', setting forth justification for the request and a specific time within which action by the appellate court is sought by the applicant. The 'REQUEST FOR EXPEDITED CONSIDERATION' shall be included as a separate page and properly noted in the index. The applicant shall notify the appellate court immediately of any change in the status of the case.
- (C) In all applications requesting a stay order or other priority consideration, the applicant must certify in affidavit form that the trial court and all counsel and unrepresented parties have been notified by telephonic or other equally prompt means of communication that said writ application has been or is about to be filed and that said application has been served forthwith on the trial court and all parties at interest or their counsel, by means equal to the means used to effect filing with the appellate court. (That is, if filing with the appellate court is by overnight mail, the same means shall be employed for service on the trial court and all parties at interest or their counsel. If filing is by hand to the appellate court, service must be made on the trial court and all parties at interest or their counsel by an equally prompt means.)

Rule 4-5. Contents of Application

- A. The original application for writs shall be signed by the applicant or counsel of record, and shall contain an affidavit verifying the allegations of the application and certifying that a copy

has been delivered or mailed to the respondent judge and to opposing counsel, and to any opposing party not represented by counsel. The affidavit shall list all parties and all counsel, indicating the parties each represents. The affidavit also shall list the addresses and telephone numbers (if available) of the respondent judge, opposing counsel and any opposing party not represented by counsel.

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.

C. The submission shall contain these items:

- (1) an index of all items contained therein;
- (2) a concise statement of the grounds on which the jurisdiction of the court is invoked;
- (3) a concise statement of the case, including the status of the case at the time the writ application is filed, in order to reflect any trial dates or hearing dates that are pending;
- (4) the issues and questions of law presented for determination by the court;
- (5) the assignments or specifications of errors and a memorandum in support of the application, in accordance with Rules 2-12.2 and 2-12.10, and a prayer for relief;
- (6) a copy of the judgment, order, or ruling complained of (if by written judgment, order, or ruling);
- (7) a copy of the judge's reasons for judgment, order, or ruling (if written);
- (8) a copy of each pleading on which the judgment, order, or ruling was founded, including the petition(s) in civil cases and the indictment or the bill of information in criminal cases;
- (9) a copy of any opposition and any attachments thereto filed by a party in the trial court or a statement by the relator that no opposing written document was filed;
- (10) a copy of pertinent court minutes;
- (11) the notice of intent and return date order required by Rules 4-2 and 4-3; and
- (12) a separate page entitled "REQUEST FOR EXPEDITED CONSIDERATION" and indexed as such shall be included if the applicant seeks expedited relief or a stay order as required by Rule 4-4(B) and a corresponding affidavit as required by Rule 4-4(C).

D. If any trial or hearing date is set after a writ application is filed or if any trial or hearing date included in a filed writ application is changed or continued, the applicant shall notify the court

by facsimile or by e-mail, if directed by the Court of Appeal, of the setting, change, or continuance of the hearing date no later than three business days after the setting, change or continuance. The filed writ application shall be supplemented with this information not later than one week after the setting, change or continuance.

Amended March 26, 1992, effective April 1, 1992;

Amended Oct. 3, 1994, effective Jan. 1, 1995;

Amended Oct. 2, 1995, effective Jan. 1, 1996;

Amended Oct. 2, 2000;

Amended March 14, 2002, effective Jan. 1, 2003;

Amended Oct. 2, 2006, effective Nov. 1, 2006;

Amended effective April 15, 2010;

Amended April 2014, effective May 1, 2014.

Rule 4-6. Notices of Disposition of an Application for Writs

- (A) The clerk shall mail a copy of the court of appeal's disposition of an application for writs in each particular case to
- (1) The applicant;
 - (2) The opposing party or parties respondent;
 - (3) The trial judge whose ruling has been complained of;
 - (4) The trial court clerk; and
 - (5) Any interested party who has requested, before disposition, a copy of such disposition.

If a party is not represented by a counsel of record, the clerk shall mail a copy of the disposition to the litigant at the address shown in the application or in care of the trial court clerk where no address of the litigant is shown.

- (B) Where circumstances require prompt notice of the court's disposition of an application for writs, the clerk may give notice of the disposition by telephone or other electronic means followed by the required notice by mail.

Rule 4-7. Action on Writ Application

In exercise of its supervisory jurisdiction, the court may act peremptorily on the application, if circumstances warrant such action, with or without a response by the opposing party. The court alternatively may order a response by the opposing party and/or a per curiam by the trial court or may assign the case for argument and/or submission on any day that the court shall select.

Rule 4-8. Applicability of Rules

The Rules of the court pertaining to appeals and not conflicting with Rules specifically pertaining to applications for writs, when applicable and insofar as practicable, shall govern writ applications and the disposition thereof.

Rule 4-9. Rehearing

Rules 2-18.1 through 2-18.7 apply to requests for rehearings related to writ applications.

FILING FEES

Effective August 1, 2016

COPY COST - See Rule 4-1	
Copy of Opinions/Orders (hard copy or e-mail)	1.00/pg
Copies of Everything Else (hard copy or e-mail)	1.50/pg
Faxed Copies	2.50/pg
Certification of any document	2.00

LOCAL RULE	FILING FEES	COPIES REQUIRED	PAGE LIMITS
4-1.3 4-1.5	APPEAL (for each Appeal) Civil 324.50 * Criminal 50.00	Original and Duplicate	
	BRIEF: Civil or Criminal See URCA Rule 2-12.2.D(1) as of 1/1/2014	0.00	Original + 7 31 Legal 41 Letter
	REPLY BRIEF	0.00	Original + 7 13 Legal 18 Letter
4-1.6	ANSWER TO APPEAL (for each Answer)	74.00 *	Original + 4
4-1.9	APPLICATION FOR REHEARING: (Fee due for each docket#- consolidated cases) Civil 100.00 Criminal 0.00	Original + 6 Original + 6	10 Legal (brief in support- 31 pages-see Rule 2-12.2)
4-1.4 4-1.5	WRIT: Civil 174.50 * Criminal 50.00 Opposition to Writ N/C	Original + 3 Original + 3 Original + 3	
4-1.10 4-1.11	MOTIONS: Extension of Time - Civil 25.00 Criminal 0.00 Exceed Page Limitation of Brief Civil 25.00 Criminal 0.00	Original + 4 Original + 4 Original + 4 Original + 4	
4-1.12 4-1.7 4-1.8	PRELODGING MOTIONS: Extension of Return Date to File Writ Civil 49.50 * Criminal 0.00 To Dismiss a Prelodged Appeal Civil 74.50 * Criminal 25.00 ALL OTHER MOTIONS: 0.00	Original + 3 Original + 3 Original + 3 Original + 3 Original + 4	

*Includes \$24.50 additional filing fee required by LRS 13:10.3, LRS 13:35 and LRS 13:86. The additional \$.50 filing fee required by LRS 13:86 is only applied to initial filings in all civil matters, including juvenile and family cases.

The filing fee in all criminal cases shall be paid by the governing authority of the parish in cases of filings originating from a district, parish, or ward court, or by the municipality where filings originate in a case from a city court where the charge is based on a violation of municipal ordinance as authorized by LRS 13:352.

Pursuant to La. R.S. 13:10.3(E), the annual fees charged in Rules 4-1.3; 4-1.4; 4-1.6; 4-1.7, and 4-1.12 may be increased each July 1st by an amount equal to the percent of increase in the average consumer price index between the two complete calendar years preceding the year in which the adjustment is made. In forwarding the fee to the Second Circuit Court of Appeal, the filer should ascertain the correct fees in those categories subject to annual change.

Filing Fee Exemption: Unemployment R.S. 23:1692;

Waivable: Juvenile Ch.C. Art. 4;

State Costs Temporary Deferral: R.S. 13:4521

**APPENDIX E: LOUISIANA COURT OF APPEAL, SECOND CIRCUIT WRIT APPLICATION INTAKE FORM TO
BE COMPLETED BY PARTY FILING APPLICATION**

Approved by Administrative Court Conference April 3, 2014

TYPE OF PLEADING: ___ Civil ___ Criminal ___ Other (explain) _____
Expedited Consideration Requested? ___ Yes ___ No Stay Order Requested? ___ Yes ___ No
If yes, on what basis? _____
Pleading being filed ___ By Attorney ___ In Proper Person/Pro Se ___ In Forma Pauperis (pauper order must be attached)

LOWER COURT INFORMATION

CASE TITLE: _____

versus

Parish and Judicial District: _____ Docket No(s): _____
Trial/Ruling Judge: _____ Ruling Date: _____
What was the ruling of the trial court? _____

PRESENT CASE STATUS (please check all that apply)

___ Pretrial ___ Post-trial/hearing ___ Hearing or trial date and time: _____ ___ Trial in progress
___ Bench trial ___ Jury trial Stay by trial court? ___ Denied ___ Granted until _____

Lead counsel for Applicant

Name: _____
Firm Name: _____
Address: _____

Phone No: _____ Fax No: _____
Email: _____
Bar Roll No: _____ Name(s) of party/parties represented: _____

Lead counsel for Respondent

Name: _____
Firm Name: _____
Address: _____

Phone No: _____ Fax No: _____
Email: _____
Bar Roll No: _____ Name(s) of party/parties represented: _____

Attach a

list of any additional counsel/pro se litigants, their addresses/contact information, and the parties they represent.

Have there been any previous filings, appeals or writ applications in this Court in this case? ___ Yes ___ No
If yes, explain: _____

PENDING CASE INFORMATION

Are there any appeals or writ applications related to the present matter currently pending before this Court? ___ Yes ___ No
If yes, provide the appellate court docket number, date of filing and name of filing party: _____

Would any of those pending matters impact the current filing or will the current filing impact any of the pending matters? ___ Yes ___ No
If yes, explain: _____

Has this pleading been filed simultaneously in any other court? ___ Yes ___ No
If yes, explain: _____

VERIFICATION

I hereby verify that the above information and all of the information contained in this application is true and correct to the best of my knowledge and that all relevant pleadings, rulings, and orders, as required by Uniform Rules 4-2, 4-3 and 4-5 of the Courts of Appeal are attached to this filing. I further certify that a copy of this application has been mailed or delivered to the respondent judge and to opposing counsel, and to any opposing party not represented by counsel. I understand that failure to comply with Uniform Rules 4-2, 4-3 and 4-5 of the Courts of Appeal may result in the refusal to consider or dismissal of my application. Pursuant to URCA Rule 4-5(D), I shall immediately notify the Court if any trial or hearing date is set or changes, or the need for expedited consideration changes due to settlement, continuance, or any other circumstance. *FAILURE TO NOTIFY THE COURT MAY SUBJECT ME TO PUNISHMENT FOR CONTEMPT OF COURT.*

DATE

PRINT NAME

SIGNATURE/BAR ROLL NO.