

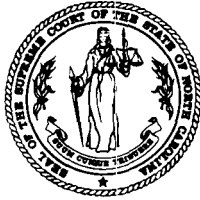
# NORTH CAROLINA REPORTS

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VOLUME 356

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SUPREME COURT OF NORTH CAROLINA



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28 JUNE 2002

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28 FEBRUARY 2003

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RALEIGH  
2004

IN THE SUPREME COURT OF NORTH CAROLINA

**Order Adopting Amendments to the  
North Carolina Rules of Appellate Procedure**

Rules 26, 28, and 30 and Appendix B of the North Carolina Rules of Appellate Procedure are hereby amended as described below:

Rule 26(g) is amended to read as follows:

(g) Documents Filed with Appellate Courts.

- (1) Form of Papers; ~~Copies~~. Papers presented to either appellate court for filing shall be letter size (8-1/2 8½ x 11") with the exception of wills and exhibits. All printed matter must appear in at least 12-point type on unglazed white paper of 16-20 pound substance so as to produce a clear, black image, leaving a margin of approximately one inch on each side. The body of text shall be presented with double spacing between each line of text. No more than 27 lines of double-spaced text may appear on a page, even if proportional type is used. Lines of text shall be no wider than 6½ inches. The format of all papers presented for filing shall follow the additional instructions found in the Appendixes to these Appellate Rules. The format of briefs shall follow the additional instructions found in Appellate Rule 28(j).
- (2) Index required. All documents presented to either appellate court other than records on appeal, which in this respect are governed by Appellate Rule 9, shall, unless they are less than 10 pages in length, be preceded by a subject index of the matter contained therein, with page references, and a table of authorities, i.e., cases (alphabetically arranged), constitutional provisions, statutes, and text books cited, with references to the pages where they are cited.
- (3) Closing. The body of the document shall at its close bear the printed name, post office address, and telephone number of counsel of record, and in addition, at the appropriate place, the manuscript signature of counsel of record. If the document has been filed electronically by use of the official web site at [www.ncappellatecourts.org](http://www.ncappellatecourts.org), the manuscript signature of counsel of record is not required.

Rule 28(j) is amended to read as follows:

(j) *Page Limitations Applicable to Briefs Filed in the Court of Appeals.* ~~Principal briefs~~ Each brief filed in the North Carolina Court of Appeals, whether filed by an appellant, appellee, or amicus curiae, formatted according to Rule 26 and the Appendixes to these Rules, ~~shall be limited to 35 pages of text, exclusive of subject index, tables of authorities, and appendixes. Reply briefs, if permitted by this Rule shall be limited to 15 pages of text.~~ have either a page limit or a word-count limit, depending on the type style used in the brief:

(1) *Type.*

(A) *Type style.* Documents must be set in a plain roman style, although italics or boldface may be used for emphasis. Case names must be italicized or underlined. Documents may be set in either proportionally spaced or nonproportionally spaced (monospaced) type.

(B) *Type size.*

1. Nonproportionally spaced type (e.g., Courier or Courier New) may not contain more than 10 characters per inch (12-point).
2. Proportionally spaced type (e.g., Times New Roman), must be 14-point or larger.
3. Documents set in Courier New 12-point type, or Times New Roman 14-point type will be deemed in compliance with these type-size requirements.

(2) *Document length.*

(A) *Length limitations on briefs filed in the Court of Appeals.* Every brief filed in the Court of Appeals, whether filed by an appellant, appellee, or amicus curiae, shall be subject to either a page limit or a word-count limit, depending on the type style used in the brief.

1. Page limits for briefs using nonproportional type. The page limit for a principal brief that uses nonproportional (e.g., Courier) type is 35 pages, and the page limit for a reply brief (if permitted by Appellate Rule 28(h)) is 15 pages. A page shall contain no more than 27 lines of double-spaced text of no more than 65 characters per line.

Covers, indexes, tables of authorities, certificates of service, and appendixes do not count toward these page limits. The Court may strike or require resubmission of briefs with excessive single-spaced passages or footnotes that are used to circumvent these page limits.

2. Word-count limits for briefs in proportional type. A principal brief that uses proportional type may contain no more than 8,750 words, and a reply brief (if permitted by Appellate Rule 28(h)) may contain no more than 3,750 words. Covers, indexes, tables of authorities, certificates of service, certificates of compliance with this rule, and appendixes do not count against these word-count limits. Footnotes and citations in the text, however, do count against these word-count limits. Parties who file briefs in proportional type shall submit along with the brief, immediately before the certificate of service, a certification, signed by counsel of record, or, in the case of parties filing briefs pro se, by the party, that the brief contains no more than the number of words allowed by this rule. For purposes of this certification, counsel and parties may rely on word counts reported by word-processing software, as long as footnotes and citations are included in those word counts.

Rule 30(e)(3) is revised to read as follows:

- ~~(3) A decision without a published opinion is authority only in the case in which such decision is rendered and should not be cited in any other case in any court for any purpose, nor should any court consider any such decision for any purpose except in the case in which such decision is rendered.~~
- (3) An unpublished decision of the North Carolina Court of Appeals does not constitute controlling legal authority. Accordingly, citation of unpublished opinions in briefs, memoranda, and oral arguments in the trial and appellate divisions is disfavored, except for the purpose of establishing claim preclusion, issue preclusion, or the law of the case. If a party believes, nevertheless, that an unpublished opinion has precedential value to a material issue in the case and that there is no published opinion that

would serve as well, the party may cite the unpublished opinion if that party serves a copy thereof on all other parties in the case and on the court to whom the citation is offered. This service may be accomplished by including the copy of the unpublished opinion in an addendum to a brief or memorandum. A party who cites an unpublished opinion for the first time at a hearing or oral argument must attach a copy of the unpublished opinion relied upon pursuant to the requirements of Rule 28(g) ("Additional Authorities"). When citing an unpublished opinion, a party must indicate the opinion's unpublished status.

Appendix B, Paragraph 2, is amended to incorporate technical changes as follows:

Papers shall be prepared using at least 12-point type ~~and spacing~~, so as to produce a clear, black image. Documents shall be set either in nonproportional type or in proportional type, defined as follows: Nonproportional type is defined as 10-character-per-inch Courier (or an equivalent style of Pica) type that devotes equal horizontal space to each character. Proportional type is defined as any non-italic, non-script font, other than nonproportional type, that is 14-point or larger. Under Appellate Rule 28(j), briefs in nonproportional type are governed by a page limit, and briefs in proportional type are governed by a word-count limit. To allow for binding of documents, a margin of approximately one inch shall be left on all sides of the page. The formatted page should be approximately 6½ inches wide and 9 inches long. Tabs are located at the following distances from the left margin: ½", 1", 1½", 2", 4¼" (center), and 5".

These amendments to the North Carolina Rules of Appellate Procedure shall be effective on the 7th day of October, 2002.

Adopted by the Court in Conference this the 3rd day of October, 2002. These amendments shall be promulgated by publication in the Advance Sheets of the Supreme Court and the Court of Appeals. These amendments shall also be published as quickly as practical on the North Carolina Judicial Branch of Government Internet Home Page (<http://www.nccourts.org>).

Edmunds, J.  
For the Court