

# NORTH CAROLINA REPORTS

---

VOLUME 358

---

SUPREME COURT OF NORTH CAROLINA



---

6 FEBRUARY 2004

---

13 AUGUST 2004

---

RALEIGH  
2006

## IN THE SUPREME COURT OF NORTH CAROLINA

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

Rule 28 of the North Carolina Rules of Appellate is hereby amended as described below:

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

**(d) Appendixes to Briefs.** Whenever the transcript of proceedings is filed pursuant to Rule 9(c)(2), the parties must file verbatim portions of the transcript as appendixes to their briefs, if required by this Rule 29(d). Verbatim portions of the transcript filed pursuant to this rule in an appeal of a termination of parental rights or juvenile matter must be modified to comply with the confidentiality provisions of Rule 3(b).

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

**(h) Reply Briefs.** ~~Unless the court,~~ No reply brief will be received or considered by the Court, except in the following circumstances:

(1) The Court, upon its own initiative, orders may order a reply brief to be filed and served, none will be received or considered by the court, except as herein provided.

~~(2)~~ If the appellee has presented in its brief new or additional questions as permitted by Rule 28(c), an appellant may, within 14 days after service of such brief, file and serve a reply brief limited to those new or additional questions.

~~(3)~~ If the parties are notified under Rule 30(f) that the case will be submitted without oral argument on the record and briefs, an appellant may, within 14 days after service of such notification, file and serve a reply brief limited to a concise rebuttal to arguments set out in the brief of the appellee which were not addressed in the appellant's principal brief or in a reply brief filed pursuant to Rule 28(h)~~(2)~~.

(4) If the parties are notified that the case has been scheduled for oral argument, an appellant may file with the Court, within 14 days after the notice of argument is mailed, a motion for leave to file a reply brief. The motion shall state concisely the reasons why a reply brief is believed to be desirable or necessary and the issues to be addressed in the reply brief. The proposed reply brief may be submitted with the motion for leave and shall be limited to a concise rebuttal to arguments set out in the brief of the appellee which were

not addressed in the appellant's principal brief. Unless otherwise ordered by the Court, the motion for leave will be determined solely upon the motion and without responses thereto or oral argument. The clerk of the appellate court will notify the parties of the Court's action upon the motion, and, if the motion is granted, the appellant shall file and serve the reply brief within ten days of such notice.

(5) Motions for extensions of time in relation to reply briefs are disfavored.

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

**(j) Page Limitations Applicable to Briefs Filed in the Court of Appeals.** 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 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 (mono-spaced) 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. The page limit for a reply brief permitted by Rule 28(h)(1), (2), or (3) is 15 pages, and the page limit for a reply brief ~~if permitted by Appellate Rule 28(h)(4)~~ is ~~15~~12 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~~ A reply brief if permitted by Appellate Rule 28(h)(1), (2), or (3) may contain no more than 3,750 words, and a reply brief permitted by Rule 28(h)(4) may contain no more than 3,000 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 28 is amended to add new subsection (k):

**(k) Termination of Parental Rights and Juvenile Matters.**  
No brief shall include the name of a juvenile or other identifying information, in compliance with Rule 3(b).

These amendments to the North Carolina Rules of Appellate Procedure shall be effective on the 12th day of May, 2004.

Adopted by the Court in Conference this the 6th day of May, 2004. 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