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IN THE SUPREME COURT OF NORTH CAROLINA

ORDER ADOPTING AMENDMENTS TO THE
NORTH CAROLINA RULES OF APPELLATE PROCEDURE

Amendment to Rule 28(h)

Rule 28(h) of the North Carolina Rules of Appellate Procedure is hereby stricken and rewritten as follows:

(h) **Reply Briefs.** Within fourteen days after an appellee's brief has been served on an appellant, the appellant may file and serve a reply brief, subject to the length limitations set forth in Rule 28(j). Any reply brief which an appellant elects to file shall be limited to a concise rebuttal of arguments set out in the appellee's brief and shall not reiterate arguments set forth in the appellant's principal brief. Upon motion of the appellant, the Court may extend the length limitations on such a reply brief to permit the appellant to address new or additional issues presented for the first time in the appellee's brief. Otherwise, motions to extend reply brief length limitations or to extend the time to file a reply brief are disfavored.

Amendments to Rule 13(a)

The last sentence of Rule 13(a)(1) of the North Carolina Rules of Appellate Procedure is hereby amended as follows:

~~... If permitted by Rule 28(h), the appellant may serve and file a reply brief as provided in that rule.~~ An appellant may file and serve a reply brief as provided in Rule 28(h).

The last sentence of Rule 13(a)(2) is hereby amended to read as follows:

~~... If permitted by Rule 28(h), the appellant may serve and file a reply brief as provided in that rule, except that reply briefs filed pursuant to Rule 28(h)(2) or (h)(3) shall be filed and served within twenty one days after service of the appellee's brief.~~ An appellant may file and serve a reply brief as provided in Rule 28(h).

Amendment to Rule 14(d)(1)

The last sentence of the first paragraph of Rule 14(d)(1) of the North Carolina Rules of Appellate Procedure is hereby amended as follows:

~~... If permitted by Rule 28(h), the appellant may serve and file a reply brief as provided in that rule.~~ An appellant may file and serve a reply brief as provided in Rule 28(h).

Amendment to Rule 15(g)(2)

The last sentence of Rule 15(g)(2) of the North Carolina Rules of Appellate Procedure is hereby amended to read as follows:

~~. . . If permitted by Rule 28(h), the appellant may serve and file a reply brief as provided in that rule. An appellant may file and serve a~~
reply brief as provided in Rule 28(h).

Amendment to Rule 28(j)(2)(A)

The second sentence of Rule 28(j)(2)(A) of the North Carolina Rules of Appellate Procedure is amended to read as follows:

~~. . . The page limit for a reply brief permitted by Rule 28(h)(1), (2), or (3) is fifteen pages, and the page limit for a reply brief permitted by Rule 28(h)(4) is twelve pages. The page limit for a reply brief is fifteen pages.~~

Amendment to Rule 28(j)(2)(B)

The second sentence of Rule 28(j)(2)(B) of the North Carolina Rules of Appellate Procedure is hereby amended to read as follows:

~~A reply brief permitted by 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. A reply brief may contain no more than 3,750 words.~~

Amendment to Rule 27(b)

Rule 27(b) of the North Carolina Rules of Appellate Procedure is hereby amended to read as follows:

(b) **Additional Time After Service by Mail.** Except as to filing of notice of appeal pursuant to Rule 3(c), whenever a party has the right to do some act or take some proceedings within a prescribed period after the service of a notice or other paper and the notice or paper is served by mail, or by electronic mail if allowed by these rules, three days shall be added to the prescribed period.

Amendment to Rule 9(d)

Rule 9(d) of the North Carolina Rules of Appellate Procedure is hereby stricken and rewritten as follows:

(d) Exhibits.

Any exhibit filed, served, submitted for consideration, admitted, or made the subject of an offer of proof may be made a part of the record on appeal if a party believes that its inclusion is necessary to understand an issue on appeal.

(1) **Documentary Exhibits Included in the Printed Record on Appeal.** A party may include a documentary exhibit in the printed record on appeal if it is of a size and nature to make inclusion possible without impairing the legibility or original significance of the exhibit.

(2) **Exhibits Not Included in the Printed Record on Appeal.** A documentary exhibit that is not included in the printed record on appeal can be made a part of the record on appeal by filing three copies with the clerk of the appellate court. The three copies shall be paginated. If multiple exhibits are filed, an index must be included in the filing. Copies that impair the legibility or original significance of the exhibit may not be filed. An exhibit that is a tangible object or is an exhibit that cannot be copied without impairing its legibility or original significance can be made a part of the record on appeal by having it delivered by the clerk of superior court to the clerk of the appellate court. When a party files a written request with the clerk of superior court that the exhibit be delivered to the appellate court, the clerk must promptly have the exhibit delivered to the appellate court in a manner that ensures its security and availability for use in further trial proceedings. The party requesting delivery of the exhibit to the appellate court shall not be required to move in the appellate court for delivery of the exhibit.

(3) **Exclusion of Social Security Numbers from Exhibits.** Social security numbers must be deleted or redacted from copies of exhibits.

(4) **Removal of Exhibits from Appellate Court.** All models, diagrams, and exhibits of material placed in the custody of the clerk of the appellate court must be taken away by the parties within ninety days after the mandate of the Court has issued or the case has otherwise been closed by withdrawal, dismissal, or other order of the Court, unless notified otherwise by the clerk. When this is not done, the clerk shall notify counsel to remove the articles forthwith; and if they are not removed within a reasonable time after such notice, the clerk shall destroy them, or make such other disposition of them as to the clerk may seem best.

These amendments to the North Carolina Rules of Appellate Procedure shall be effective on 15 April 2013.

These amendments shall be promulgated by publication in the Advance Sheets of the Supreme Court and the Court of Appeals. These amendments also shall be published as quickly as practicable on the North Carolina Judicial Branch of Government Home Page (<http://www.nccourts.org/>).

s/Beasley, J.

For the Court