



PUBLIC NOTICE

The United States Court of Appeals for the Third Circuit announces the following proposed amendments to the Local Appellate Rules are posted for public comment as required by 28 U.S.C. § 2071(b). The proposed changes are made to conform the Local Appellate Rules to amendments to the Federal Rules of Appellate Procedure regarding filing times that are to go into effect on December 1, 2009. Times prescribed in the Local Rules that do not conflict with the amendments to the Federal Rules, have no counterpart in the Federal Rules, or govern cases that must be expedited remain the same. Although the time change in L.A.R. 113.1(b) from 3 to 5 days for receipt of paper copies of the brief is not due to a conflict with a Federal Rule, the change is recommended because the amendment to Fed. R. App. Pro. 26 makes no exceptions to counting time for week-ends and holidays.

Any comments must be received by the Clerk of Court by **December 23, 2009**. Comments should be addressed to:

Marcia Waldron, Clerk of Court
21400 United States Courthouse
601 Market Street
Philadelphia, PA 19106

OR by e-mail: LARS_comments@ca3.uscourts.gov

L.A.R. 11.0 TRANSMISSION OF THE RECORD

11.1 Duty of Appellant

Within ~~ten (10)~~ **fourteen (14)** days after filing a notice of appeal, the appellant must deposit with the court reporter the estimated cost of the transcript of all or the necessary part of the notes of testimony taken at trial. Where an appellant cannot afford the cost of transcripts, counsel for appellant, or the appellant pro se, must make application to the district court within ~~10~~ **fourteen (14)** days of the notice of appeal for the provision of such transcript pursuant to 28 U.S.C. §753(f). If the district court denies the application, appellant must, within ~~10~~ **fourteen** days of the order denying the application, either deposit with the court reporter the fees for such transcript or apply to the court of appeals for the transcript at government expense. Failure to comply with this rule constitutes grounds for dismissal of the appeal.

Source: 1988 Court Rule 15.1

Cross-references: 28 U.S.C. § 753(f); F.R.A.P. 10(b), 11(a); 3d Cir. L.A.R. 10.1(b), Misc. 107.1(b)

Committee Comments: No substantive change from prior Court Rule 15.1 is intended. The rule codifies current practice. **Time changed to 14 days in 2009 to conform to amendments in F.R.A.P.10(b)(1).**

39.4 Filing Date; Support for Bill of Costs

(a) The court will deny untimely bills of cost unless a motion showing good cause is filed with the bill.

(b) Parties must submit the itemized and verified bill of costs on a standard form to be provided by the clerk.

(c) An answer to objections to a bill of costs may be filed within ~~ten~~ **14** days of service of the objections.

Source: 1988 Court Rules 20.2, 20.3

Cross-references: F.R.A.P. 39

Committee Comments: The portions of prior Court Rules 20.2 and 20.3 that were repetitive of F.R.A.P. 39 were deleted in 1995. The rule now specifically allows for an answer to objections, a codification of existing practice. Otherwise, no substantive change from prior Court Rules 20.2 and 20.3 is intended. **Time changed to 14 days in 2009 to conform to amendments in F.R.A.P.39(d)(2).**

46.2 Entry of Appearance

Within ~~ten (10)~~ **fourteen (14)** days of notification of the docketing of a case, counsel for the appellant or petitioner must file an entry of appearance which must include an address where notices and papers may be mailed to or served upon him or her. Counsel must include an e-mail address. The entry of appearance form must be served on all parties. Not later than ~~ten~~ **fourteen (14)** days after the docketing of the appeal, counsel for all parties in the trial court or agency below and any other persons entitled to participate in the proceedings as appellees or respondents and desiring to do so, must file similar appearances. Any such party or other person on whose behalf counsel fails to file an entry of appearance within the time fixed by this rule will not be entitled to receive notices or copies of briefs and appendices until an entry of appearance has been entered for such party. Counsel or a party proceeding pro se who is not registered as a Filing User must be served directly with copies of notices, motions, and briefs.

Source: 1988 Court Rule 9.2

Cross-references: F.R.A.P. 46

Committee Comments: This rule was renumbered by the 1995 revision of the rules; no substantive change from prior Court Rule 9.2 is intended. The requirement of an e-mail address was added in 2008. **Time changed to 14 days in 2009 to conform to amendments in F.R.A.P.12**

112.2 Petition for Writ of Certiorari - How Sought

(a) In both civil and criminal cases, review of a final decision of the Supreme Court of the Virgin Islands may be sought pursuant to 48 U.S.C. § 1613 by filing a petition for a writ of certiorari with the Clerk of the United States Court of Appeals for the Third Circuit within sixty (60) days from the entry of judgment sought to be reviewed on the docket of the Supreme Court of the Virgin Islands. A petition filed by an incarcerated person will be deemed filed when placed in the prison mail system; the petition must be accompanied by a statement under penalty of perjury stating the date the petition was placed in the prison mail system and stating that first-class postage has been pre-paid. In all other cases, the petition must be received by the Clerk in Philadelphia by the sixtieth day.

(b) Petitioner must file, with proof of service, an original and three copies of the petition for writ of certiorari. Petitioner must serve one copy of the petition for writ of certiorari on each of the parties to the proceedings in the Supreme Court of the Virgin Islands. When filing the petition, petitioner must pay the docketing fee, which shall be the same as the fees charged for an original proceeding such as a petition for writ of mandamus or petition for review of an agency order, in the Court of Appeals. Counsel for the petitioner must enter an appearance within ~~ten~~ **fourteen (14) days** of filing a petition. Once the case has been opened on the court's electronic docketing system, all documents must be filed electronically in accordance with L.A.R. Misc. 113.

(c) Parties interested jointly may file a joint petition. A petitioner not shown on the petition at the time of filing may not later join in that petition.

(d) If a petition for rehearing of the final decision of the Supreme Court of the Virgin Islands is timely filed pursuant to the Rules of the Supreme Court of the Virgin Islands or if that court sua sponte considers rehearing, the time for filing the petition for writ of certiorari shall run from entry of the order denying the petition or, if rehearing is granted, from entry of the order on rehearing.

Source: 48 U.S.C. § 1613

Cross-references: None

Committee Comments: L.A.R. 112.1 - 112.14 were enacted in 2007. The rules were amended in 2008 to provide for electronic filing. **Time changed to 14 days in 2009 to conform to amendments in F.R.A.P.12**

L.A.R.MISC. 113 ELECTRONIC FILING

113.1 Scope of Electronic Filing

(a) Except as otherwise prescribed by local rule or order, all cases will be assigned to the court's electronic filing system. Case-initiating documents in original proceedings in the court of appeals must be filed in paper format. Except as otherwise prescribed by local rule or court order, all briefs, motions, petitions for rehearing, and other documents subsequently filed in any case with the court by a Filing User registered as set forth under Rule 113.2 must be filed electronically using the electronic filing system.

(b) Ten paper copies of briefs and four paper copies of the appendices must be filed within ~~three~~ **five (5)** days as provided in L.A.R. 31.1. The clerk may direct a party to provide the court with paper copies of other documents electronically filed.

(c) Upon the court's request, a Filing User must promptly provide the clerk, in a format designated by the court, an identical electronic version of any paper document previously filed in the same case by that Filing User.

(d) By local rule or order of the court or clerk, electronic access to entire case files or portions thereof may be restricted to the parties and the court. Public documents, except those filed under seal, may be viewed at the clerk's office.

(e) Upon motion and a showing of good cause, the court may exempt a Filing User from the provisions of this Rule and authorize filing by means other than use of the electronic filing system.

Source: Model Local Rules

Cross-References: F.R.A.P. 31; L.A.R. 31.1

Comments: Rules on electronic filing were added in 2008. This Local Appellate Rule is not intended to supplant the requirements of FRAP31(b) or any local rule or procedure requiring counsel to provide additional paper copies of filings to the court. **Time for filing paper copies changed to 5 days in 2009.**

113.3 Consequences of Electronic Filing

(a) Electronic transmission of a document to the electronic filing system consistent with these rules, together with the transmission of a Notice of Docket Activity from the court, constitutes filing of the document under the Federal Rules of Appellate Procedure and the local rules of this court, and constitutes entry of the document on the docket kept by the clerk under

F.R.A.P. 36 and 45(b). If the court requires a party to file a motion for leave to file a document, both the motion and document at issue should be submitted electronically; the underlying document will be filed if the court so directs.

(b) Before filing a document with the court, a Filing User must verify its legibility and completeness. Documents created by the filer and filed electronically must be in PDF text format. When a document has been filed electronically, the official record is the electronic document stored by the court, and the filing party is bound by the document as filed. Except in the case of documents first filed in paper form and subsequently submitted electronically under Rule 113.1, a document filed electronically is deemed filed at the date and time stated on the Notice of Docket Activity from the court.

(c) Filing must be completed by ~~11:59 p.m.~~ **midnight on the last day** Eastern Time to be considered timely filed that day.

Source: Model Local Rules

Cross-References: L.A.R. 27-32, 35, 40

Comments: Rules on electronic filing were added in 2008. **Time changed to midnight in 2009 to conform to amendments in F.R.A.P.26(a)(4)**