

Serial: 113813

IN THE SUPREME COURT OF MISSISSIPPI
No. 89-R-99027-SCT

***RE: MISSISSIPPI RULES OF
APPELLATE PROCEDURE***

ORDER

This matter is before the Court en banc on its own motion for consideration of the amendment of Rules 28 and 32 of the Mississippi Rules of Appellate Procedure. Having considered proposed amendments, the Court finds that the amendment of Rules 28 and 32 as set forth in Exhibits “A” and “B” hereto will promote the fair and efficient administration of justice.

IT IS THEREFORE ORDERED that Rules 28 and 32 are amended as set forth in Exhibits “A” and “B” hereto.

IT IS FURTHER ORDERED that the Clerk of this Court shall spread this order upon the minutes of the Court and shall forward a true certified copy hereof to West Publishing Company for publication in the next edition of the *Mississippi Rules of Court* and in the *Southern Reporter, Second Series, (Mississippi Edition)*.

SO ORDERED, this the 21st day of May, 2004.

/s/ Kay B. Cobb

KAY B. COBB, PRESIDING JUSTICE, FOR THE
COURT

DIAZ AND GRAVES, JJ., NOT PARTICIPATING.

EXHIBIT “A” TO ORDER

RULE 28. BRIEFS

(a) Brief of the Appellant.

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(m) Filing of Briefs on Electronic Disk. ~~All parties~~ Any party filing a brief on the merits of any case with the Clerk of the Supreme Court ~~shall~~ may, and is encouraged to, file with that brief a copy thereof on electronic disk, and the Clerk shall receive and file such disk with the papers of that case. All electronic disks shall be in an electronic language capable of transference to other systems, i.e., ASCII, WordPerfect, Ami-Pro, Word, etc. All electronic disks shall be labeled to include the following information:

- (1) the style of the case,
- (2) the number of disks, i.e., “1 of 2, 2 of 2, etc.,” and
- (3) the language format.

[Amended December 28, 1995; December 22, 1997; amended effective May 27, 2004 to make filing of briefs on electronic disks mandatory.]

Advisory Committee Historical Note

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Comment

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The provisions of Rule 28(m) apply only to briefs on the merits of an appeal and not to memoranda and briefs filed in support of or in opposition to motions and petitions seeking less than relief on the merits of appeals. The provision for the filing copies of briefs on electronic disks was made mandatory by amendment to Rule 28(m) adopted effective May 27, 2004. ~~while not mandatory in its application, was adopted to encourage the filing of disk copies.~~ The phrase “electronic disk” includes both CDs and floppy disks.

[Amended December 28, 1995; December 22, 1997; amended effective May 27, 2004.]

EXHIBIT “B” TO ORDER

RULE 32. FORM OF BRIEFS, RECORD EXCERPTS AND OTHER PAPERS

(a) Form of Briefs and Record Excerpts. Briefs and record excerpts may be produced by standard commercial printing or by any duplicating or copying process which produces a clear black image on white paper. ~~Carbon copies of briefs and record excerpts may not be submitted without permission of the Supreme Court, except on behalf of the parties allowed to proceed *in forma pauperis*. All printed matter must appear in at least 11 point type on opaque, unglazed paper. The text in the body of briefs shall appear in at least 12 font face; the text of foot notes must appear in at least 11 font face.~~

~~Briefs and record excerpts produced by standard commercial printing shall be bound in volumes having pages 6 1/8 by 9 1/4 inches and type matter 4 1/6 by 7 1/6 inches.~~

~~Briefs and record excerpts produced by any other process shall be bound in volumes having pages not exceeding 8 1/2 by 11 inches with margins of 1 1/2 inches on the left, 1 inch on the top, 3/4 of an inch on the bottom, and 1/2 inch on the right, with double spacing between each line of text, excluding quotations and footnotes. Typewritten briefs and shall be typed on one side of the page only and shall be in black non-copying ink on white paper without the name of any person or advertising matters on the paper. Type shall not be smaller than pica. Pages of briefs shall not exceed 8 1/2 by 11 inches with margins of 1 1/2 inches on the left, 1 inch on the top, 3/4 of an inch on the bottom, and 1/2 inch on the right, with double spacing between each line of text, excluding quotations and footnotes. All pages shall be numbered.~~

It is preferred that briefs and record excerpts be bound so as to permit them to lie flat when opened, and they must be so bound if the cover is plastic or any material not easily folded. ~~All pages shall be numbered.~~

~~If briefs are produced by commercial printing or duplicating firms, or, if produced otherwise and the covers are available, the~~ The cover of the brief of the appellant shall ~~should~~ be blue; that of the appellee, red; that of an intervenor or *amicus curiae*, green; that of any reply brief, gray. In cross-appeals, the reply brief of appellant shall be combined with the brief of cross-appellee, and the combined brief shall be red. The reply brief of cross-appellant shall be gray. The cover of the record excerpts shall, ~~if separately printed, should~~ be white. The front covers of the briefs and of record excerpts ~~if separately printed,~~ shall contain: (1) the caption, name of the ~~this~~ court and the number of the case; (2) the style (title) of the case [*see* Rule 13(a)]; (3) the nature of the proceeding (*e.g.*, Appeal; Interlocutory Appeal; Petition for Writ of Prohibition) and the name of the court or commission below; (4) the title of the document (*e.g.*, Brief for Appellant, Record Excerpts); (5) the names, bar numbers, addresses and business telephone numbers of counsel

representing the party on whose behalf the document is filed, and (6) a statement on the cover of a brief filed by each party that oral argument is or is not requested. *See* M.R.A.P. 34(b).

(b) Form of Other Papers. Motions for rehearing shall be produced in a manner prescribed by Rule 32(a) and Rule 28(l), and motions and other papers may be produced in like manner, or they may be typewritten upon opaque, unglazed paper, 8 1/2 by 11 inches in size. Lines of typewritten text shall be double spaced except for quotations and footnotes. Consecutive sheets shall be attached at the top left corner. ~~Carbon copies may be used for filing and service if they are legible.~~

A motion or other paper addressed to either the Court of Appeals or the Supreme Court shall contain a caption setting forth the name of the court, the style (title) of the case, the tracking or docket number, and a brief descriptive title indicating the purpose of the paper. Prior to notification by the clerk that the case has been assigned to the Court of Appeals, all pleadings shall be captioned in the name of the Supreme Court. A motion filed after notice of assignment to the Court of Appeals shall be captioned with the name of that court.

[Amended effective May 27, 2004 to provide revise the size of fonts in the text of briefs.]