**How to Guide for 8th Circuit Briefing**

# Basic procedure

1. File the Petition for Review on ECF/CM
2. Court Clerk will docket the appeal and send notice to the parties. The Clerk will also issue a briefing schedule.
3. At this time, Petitioner may wish to confer with Respondent regarding a motion to hold briefing in abeyance and/or a motion to dispense with the appendix.
4. Government files the Certified Administrative Record on ECF/CM.
5. Petitioner (us) files Opening Brief on ECF/CM for review.
6. The Clerk will issue electronic notice of acceptance of the brief or defects to be corrected. Once the brief is accepted, Petitioner must send 10 paper copies of the brief to the Court (in St. Louis) and 1 to Respondent within 5 days.
7. Respondent files brief on ECF/CM, following same procedure.
8. Petitioner files Reply Brief on ECF/CM, following same procedure.

# other quick notes

* Every filing must have a Certificate of Compliance and a Certificate of Service.
* The 8th Circuit Local Rules usually trump the Federal Rules of Appellate Procedure, so check the Local Rules first; the 8th Circuit also has a useful Briefing Checklist. Rule 28A deals with briefs. FRAP 28-32 are also useful.
* Do EVERYTHING in **14-POINT FONT!** [FRAP 32(a)(5)(A)]

# Opening brief

## Opening Brief Requirements

* Opening Briefs must be submitted in pdf format by ECF/CM, under the “Brief Submitted for Review” code.
* Opening Briefs must include:
	+ Cover Page [FRAP 32(a)(2)]
	+ Summary of the Case (1 page, including oral argument request) [8th Cir. R. 28A(i)]
	+ Table of Contents, paginated [FRAP 28(a)(2)]
	+ Table of Authorities [FRAP 28(a)(3)]
	+ Statement of Jurisdiction [FRAP 28(a)(4)] [switch page numbers from roman]
	+ Statement of Issues, limited to 4 [8th Cir. R. 28A(i); FRAP 28(a)(5)]
	+ Concise Statement of the Case [FRAP 28(a)(6)]
	+ Summary of the Argument [FRAP 28(a)(7)]
	+ Argument [FRAP 28(a)(8)]
	+ Short Conclusion [FRAP 28(a)(9)]
	+ Certificate of Compliance [FRAP 28(a)(10)]
		- Certifies that document is virus-free [8th Cir. R. 28A(h)(2)]
		- Words – word limit is 13,000 words [FRAP 32(a)(7)(B)(i)]
	+ Certificate of Service [FRAP 25(d)]

## Addendum

* Addendum must be submitted in pdf format *separately* by ECF/CM, under the “Addendum Submitted for Review” code. [8th Cir. R. 28A(g)(5)]
* Addendum must include:
	+ Cover Page
	+ Table of Contents
	+ Notice to Appear [8th Cir. R. 28A(g)(1)(i)]
	+ IJ Decision [8th Cir. R. 28A(g)(1)(i)]
	+ BIA Decision [8th Cir. R. 28A(g)(1)(i)]
	+ Up to 15 pages of other excerpts from the Record [8th Cir. R. 28A(g)(1); (2)]
	+ Certificate of Compliance (no word count)
	+ Certificate of Service

## Appendix

* The Appendix is only filed with the paper brief.
* Appendix must include:
	+ Cover Page
	+ Table of Contents
	+ Notice to Appear
	+ IJ Decision
	+ BIA Decision
	+ Any other documents cited in brief
	+ Certificate of Compliance (no word count)
	+ Certificate of Service

## Filing the Paper Brief

* Opening Brief & Addendum
	+ 10 Copies to Clerk of Court (St. Louis Courthouse), 1 copy to Respondent’s counsel in DC [8th Cir. R. 28A(d)]
	+ Cover is blue
	+ Must be bound so as to “lie reasonably flat when open” [FRAP 32(a)(3)]
	+ File clean (without ECF headings/footings) copy of Opening Brief and Addendum together
	+ New certificate of service at the end reflecting service by mail
* Appendix
	+ 3 Copies to Court (St. Louis Courthouse) along with Opening Brief, 1 copy to Respondent’s counsel in DC [8th Cir. R. 30A(b)]
	+ Cover is white
	+ Must be bound so as to “lie reasonably flat when open” [FRAP 32(a)(3)]

# reply brief

* Same as Opening Brief, except:
	+ No Addendum or Appendix
	+ Word limit is 6,500
	+ Cover of print copy is gray
	+ Only need Cover, Table of Contents, Table of Authorities, Argument, Conclusion, and Certificates

# references

Federal Rules of Appellate Procedure: <https://www.law.cornell.edu/rules/frap>

* Fed. R. App. P. 15–20 (Title IV): Review of Agency Decision
* Fed. R. App. P. 25, 31: Filing and Service
* Fed. R. App. P. 26: Deadlines
* Fed. R. App. P. 27: Motions
* Fed. R. App. P. 28: Briefs
* Fed. R. App. P. 30: Appendix
* Fed. R. App. P. 32: Form of Briefs, Appendices, Etc.

8th Circuit Local Rules: <http://media.ca8.uscourts.gov/newrules/coa/localrules.pdf>

* R. 25A: Filing and Service
* R. 28A: Briefs
* R. 32A: Briefs and Reply Briefs

8th Circuit Civil Case Briefing Checklist: <http://media.ca8.uscourts.gov/newcoa/forms/cvbrchk-16.pdf>

8th Circuit Pointers on Preparing Briefs: <http://media.ca8.uscourts.gov/newcoa/forms/pointer8.pdf>

UMN Law 8th Circuit Practice Manual: <https://www.law.umn.edu/sites/law.umn.edu/files/8th-circuit-practice-manual.pdf>