

The above rules are subject to several exceptions. The docket fee need not be paid upon filing the notice of appeal when: (a) the district court or this court has granted in forma pauperis or Criminal Justice Act status; (b) an application for in forma pauperis relief or for a certificate of appealability is pending; or (c) the appellant, e.g., the Government, is exempt by statute from paying the fee. Counsel shall advise the Clerk at the time the notice of appeal is filed if one of these conditions exists. (*See* FRAP 24 regarding appeals in forma pauperis.) If a party has filed a petition for permission to appeal pursuant to FRAP 5, the filing fee and docket fee will become due in the district court upon an order of this court granting permission to appeal. A notice of appeal need not be filed. (*See* FRAP 5.) (*Rev. 12/1/09*)

## **CIRCUIT RULE 3-2. REPRESENTATION STATEMENT**

- (a) No FRAP 12(b) Representation Statement is required in: (1) criminal cases; (2) appeals arising from actions filed pursuant to 28 U. S. C. §§ 2241, 2254, and 2255; and (3) appeals filed by pro se appellants.
- (b) In all other cases, a party filing an appeal shall attach to the notice a Representation Statement that identifies all parties to the action along with the names, addresses and telephone numbers of their respective counsel, if any. (*Rev. 7/94*)

### **Cross Reference:**

- [FRAP 12. Docketing the Appeal; Filing a Representation Statement; Filing the Record](#) on page 40, specifically, FRAP 12(b), Filing a Representation Statement.

## **CIRCUIT RULE 3-3. PRELIMINARY INJUNCTION APPEALS**

- (a) Every notice of appeal from an interlocutory order (i) granting, continuing, modifying, refusing or dissolving a preliminary injunction or (ii) refusing to dissolve or modify a preliminary injunction shall bear the caption “PRELIMINARY INJUNCTION APPEAL.” Immediately upon filing, the notice of appeal must be transmitted by the district court clerk’s office to the Court of Appeals clerk’s office. (*Rev. 12/1/09*)
- (b) Within 7 days of filing a notice of appeal from an order specified in subparagraph (a), the parties shall arrange for expedited preparation by the district court reporter of all portions of the official transcript of oral proceedings in the district court which the parties desire to be included in the record on appeal. Within 28 days of the docketing in the district court of a notice of appeal from an order specified in subparagraph (a), the appellant shall file an opening brief and excerpts of record. Appellee’s brief and any supplemental excerpts of record shall be filed within 28 days of service of appellant’s opening brief. Appellant may file a brief in reply to appellee’s brief within 14 days of service of appellee’s brief. (*Rev. 12/1/02; 12/1/09*)

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## **FRAP 12. DOCKETING THE APPEAL; FILING A REPRESENTATION STATEMENT; FILING THE RECORD**

- (a) **Docketing the Appeal.** Upon receiving the copy of the notice of appeal and the docket entries from the district clerk under Rule 3(d), the circuit clerk must docket the appeal under the title of the district-court action and must identify the appellant, adding the appellant's name if necessary.
- (b) **Filing a Representation Statement.** Unless the court of appeals designates another time, the attorney who filed the notice of appeal must, within 14 days after filing the notice, file a statement with the circuit clerk naming the parties that the attorney represents on appeal.
- (c) **Filing the Record, Partial Record, or Certificate.** Upon receiving the record, partial record, or district clerk's certificate as provided in Rule 11, the circuit clerk must file it and immediately notify all parties of the filing date.

(As amended Apr. 1, 1979, eff. Aug. 1, 1979; Mar. 10, 1986, eff. July 1, 1986; Apr. 22, 1993, eff. Dec. 1, 1993; May 11, 1998, eff. Dec. 1, 1998; eff. Dec. 1, 2009.)

### **Cross Reference:**

- [Circuit Rule 3-1. Filing the Appeal](#) on page 4
- [Circuit Rule 3-2. Representation Statement](#) on page 5
- [Circuit Rule 3-4. Mediation Questionnaire](#) on page 6