

APPELLATE PRACTICE POINTERS: A PRACTICAL GUIDE

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I. Rules

- A. Federal Rules of Bankruptcy Procedure - 8000 series covers appeals
- B. Federal Rules of Civil Procedure
- C. Federal Rules of Appellate Procedure
- D. Local Rules - also includes Internal Operating Procedures (I.O.P.)

- Read, read, read the rules

- The rules are not always intuitive. They not only tell you how to proceed, but what you need to proceed.

II. Timeline - FRAP 26

- A. Plot your deadlines as prescribed in the Rules
- B. Keep multiple copies and a working copy - your working copy may change based on local knowledge, responses filed, extensions, jurisdictional questions, etc.

- Almost every Rule includes some kind of timing requirement, so read all the Rules very carefully to properly determine deadlines.

- Remember to calculate enough lead time for any review by client/partners/printing company, delivery time, etc.

III. Initial filings

- A. Corporate Disclosure Statement and Certificate of Interested Parties - **FRAP 26.1 and corresponding Local Rules and I.O.P. rules**
- B. Civil Appeal Statement - **appears on the website for the 11th Circuit Court of Appeals**

- C. Record on Appeal - **FRAP 10, 11, 12(c), 17 and corresponding Local Rules and I.O.P. rules**

- These filings may require a web-based as well as a hard version for inclusion with the initial brief filing.

IV. Printing

- A. Understanding your options
- B. Multiple hard copies required - **FRAP 32 and corresponding Local Rules and I.O.P. Rules**
- C. Appendix

- There are printing companies that specialize in printing for appellate practice. They are generally experienced, and with the right reference can make a substantial difference in the last step of the briefing process.

V. Get to know your Clerk of Court - FRAP 45 and corresponding Local Rules and I.O.P. rules

- A. Reliable source of knowledge about the appeals process
- B. Able to grant extensions of time
- C. Can offer invaluable support in navigating complex appellate rules

VI. Before you brief - FRAP 28, 31, 32 and corresponding Local Rules and I.O.P. rules

- A. Think about any initial pleadings needed before filing the principal brief - motions, jurisdictional statement, etc.
- B. Appendix - reserve time to locate and notate all your documents - **FRAP 30 and corresponding Local Rules and I.O.P. rules**

VII. Mediation - FRAP 33 and corresponding Local Rules and I.O.P. rules

- A. Mandatory
- B. Scheduled by the Mediation Center
- C. Typically conducted in person, though exceptions exist
- D. Must have a representative from client present

- E. Requires a confidential mediation statement to be used by the mediator

VIII. Oral argument - FRAP 34 and corresponding Local Rules and I.O.P. rules

- A. Order of argument - not necessarily same as the brief
- B. Use your time wisely - the Judges will be very knowledgeable about your case
- C. Strategies for reserving time
- D. Appeal notebook
- E. Case list
- F. Argument outline
- G. Listen to the Judges and respond to questions
- H. Listen carefully to your opponent and use what you can during rebuttal
- I. Be prepared to talk for the entire time allotted, but don't expect to