

**The U.S. Court of Appeals for the Sixth Circuit seeks comments on a proposed amendment to Local Rule 28. The rule would be amended by adding a new subsection (i). The rule as amended would provide as follows (new language in *italics*):**

**6 Cir. R. 28 Briefs**

- (a) **References in Brief to the Record.** As provided in FRAP 30(c), in order that a party may refer in a brief directly to pages of the appendix, each party shall serve and file a “proof” brief within the time provided by the briefing schedule established by this Court with references to the particular document in the record or to the pages of the record. Within 21 days after a proper appendix or, in cases governed by 6 Cir. R. 30(j), a paginated record is filed, each party shall serve and file copies of the “final” brief in the form prescribed in FRAP 32(a), containing references to the pages of the appendix or paginated record in addition to the initial references to the pages or the parts of the record involved. No other changes may be made in the brief as initially served and filed, except that typographical errors may be corrected.
- (b) **Length of Briefs.** The documents required or permitted to be filed with the briefs pursuant to subdivisions (c), (d), (e) and (g) of this rule, and subdivision (b) of 6 Cir. R. 30, shall not be counted for purposes of the page limitations for briefs established by FRAP 32(a)(7)(A). When the appeal is from a sentence of death, the page limitations of 6 Cir. R. 22(c)(8) apply.
- (c) **Fact Sheets.** A one-page fact sheet, in the form prescribed by this Court, shall be prepared by the counsel for the appellant and for the appellee in all social security appeals, Title VII appeals, habeas corpus § 2254 appeals and motion to vacate § 2255 appeals (see forms 6CA-55, 6CA-56, 6CA-57, 6CA-58). Such fact sheet shall be of the same page size as the briefs as required by FRAP 32(a), and be incorporated in the briefs of the parties immediately following the table of contents and preceding the statement of issues presented for review which are required by FRAP 28(a).
- (d) **Designation of Appendix Contents.** Each principal brief shall contain as an addendum the designation of appendix contents required by 6 Cir. R. 30(b) and of sealed attachments governed by 6 Cir. R. 30(f)(4) and (5).
- (e) **Additional Contents.** Each principal brief shall also contain the disclosure of corporate affiliations and financial interest required by 6 Cir. R. 26.1 (see form 6CA-1) and may include a statement of reasons why oral argument should be heard pursuant to 6 Cir. R. 34(a).
- (f) **Briefs in Cases Involving Cross Appeals.** See 6 Cir. R. 102(a).
- (g) **Citation of Unpublished Decisions.** Citation of unpublished decisions in briefs and oral arguments in this Court and in the district courts within this Circuit is disfavored, except for the purpose of establishing *res judicata*, estoppel, or the law of the case. If a party believes, nevertheless, that an unpublished disposition has precedential value in relation to a material issue in a case, and that there is no published opinion that would serve as well, such decision

may be cited if that party serves a copy thereof on all other parties in the case and on this Court. Such service shall be accomplished by including a copy of the decision in an addendum to the brief.

- (h) **Briefs as Public Record.** Briefs filed with this Court are a matter of public record. If counsel finds it necessary to refer in a brief to information that has been placed under seal, counsel should not assume that the brief itself also will be placed under seal. In order to have all or part of a brief sealed, counsel must file a specific and timely motion seeking such relief.
- (i) *The Table of Authorities in each brief shall include an asterisk before the names of the cases on which the party principally relies.*

COMMITTEE NOTE: Except as otherwise noted - former 6th Cir. R. 10 (b), (c), (d), (e), (f), (g), and (m), 24(c), and 30(a); (b), last sentence - new; (h) - former I.O.P. 15.16.