

INSTRUCTIONS FOR PREPARING EXPANDED RECORD EXCERPTS

Required Contents of Appellant's Expanded Record Excerpts. At the time of filing appellant's principal brief, appellant must file **Expanded Record Excerpts** containing:

- The portions of the district court record required by **11th Cir. R. 30-1**.
- A **Table of Record References in the Brief** listing each reference to the record in the brief. Appellant must ensure that the Expanded Record Excerpts contains every portion of the record listed in its Table of Record References in the Brief. [The Table of Record References in the Brief must also be included in appellant's opening brief, immediately following the Table of Citations required by 11th Cir. R. 28-1(e).] If appellant's brief does not include any references to the record, the Table of Record References in the Brief must so indicate.
- **All portions of the record referenced in the brief**, including those portions of the pleadings, transcripts (including depositions), and documentary exhibits relied on in the party's brief to support its position on an issue raised on appeal. Regarding this requirement, the attorney is required to provide only the portions that are cited and any additional portions necessary to provide context, except as follows:
 - When any portion of a witness' testimony (deposition or transcript) is cited in the argument section of the brief [FRAP 28(a)(9)], the entire deposition, or that portion of a transcript containing the cited witness' entire testimony, must be provided; and
 - When any portion of a document is cited in the argument section of the brief [FRAP 28(a)(9)], the entire document must be provided.

In addition to the foregoing, the following additional items are required in specific types of cases:

- **In an appeal from a grant or denial of summary judgment**, a copy of the summary judgment motions and responses, affidavits, and relevant portions of depositions and other documents relied on in the appellant's brief to support its position on an issue raised on appeal. Regarding this requirement, when any portion of a deposition or other document is cited in the argument section of the brief [FRAP 28(a)(9)], the entire deposition or document must be provided.

- **In an appeal from a criminal case** in which there is an issue involving the validity of the **guilty plea**, a copy of any written plea bargain and the transcript of the guilty plea colloquy.
- In an appeal from a criminal case in which there is an issue involving a **motion to suppress**, a copy of the transcript of any hearing on the motion.
- **In an appeal from a judgment or sentence in a criminal case**, a copy of the presentence investigation report and addenda (under seal in a separate envelope; see detailed instructions below).
- **In an appeal from a criminal case** in which any issue is raised involving the **sentence**, a copy of the transcript of the sentence proceeding.
- **In an appeal from a criminal case in which appointed counsel seeks leave to withdraw** from representation under the procedures set forth by the Supreme Court in Anders v. California, those portions of any pleadings, transcripts, and documentary exhibits cited in counsel’s “Anders” brief in connection with the issues that counsel has identified as arguably meritorious.

Except as otherwise permitted by 11th Cir. R. 30-1(g), under no circumstances should a document be included in the expanded record excerpts that was not submitted to the trial court.

Appellee’s Table of Record References in the Brief. At the time of filing appellee’s principal brief, appellee must provide a **Table of Record References in the Brief** listing each reference to the record in its brief, and ensure that every portion of the record listed in its Table of Record References in the Brief is contained in either the appellant’s Expanded Record Excerpts or in appellee’s Supplemental Expanded Record Excerpts. The Table of Record References in the Brief must be included in appellee’s brief, immediately following the Table of Citations required by 11th Cir. R. 28-1(e), and in appellee’s Supplemental Expanded Record Excerpts if one is filed. If appellee’s brief does not include any references to the record, the Table of Record References in the Brief must so indicate.

Appellee’s Supplemental Expanded Record Excerpts. At the time of filing appellee’s principal brief, appellee must file **Supplemental Expanded Record Excerpts** if the appellee’s brief references parts of the record not contained in appellant’s Expanded Record Excerpts, or if the appellee believes that appellant’s Expanded Record Excerpts are deficient.

- The appellee’s Supplemental Expanded Record Excerpts should not duplicate any documents in the appellant’s Expanded Record Excerpts.
- If the appellee files Supplemental Expanded Record Excerpts, then the Table of Record References in the Brief must also be included in it.

Appellee Must Submit Record Excerpts in an Appeal by an Incarcerated Pro Se Party. In an appeal by an incarcerated pro se party, counsel for appellee must submit **Expanded/Supplemental Record Excerpts** that include the specific portions of any record materials (if materials are sealed, please follow instructions for Presentence Investigation Reports) referred to in either appellant’s or appellee’s briefs or that are necessary to the resolution of an issue on appeal.

Appellant’s Reply Brief. At the time of filing appellant’s reply brief, appellant must provide a **Table of Record References in the Brief** listing each reference to the record in its reply brief. The Table of Record References in the Brief must be included in the reply brief, immediately following the Table of Citations required by 11th Cir. R. 28-1(e). If appellant’s reply brief does not include any references to the record, the Table of Record References in the Brief must so indicate. Appellant must file **Supplemental Expanded Record Excerpts** if the reply brief references parts of the record not contained in the record excerpts previously filed by any party. If the appellant files Supplemental Expanded Record Excerpts, then the Table of Record References in the Brief must also be included in it.

Record Excerpts in Appeals with Multiple Appellants or Appellees. In an appeal with multiple appellants or appellees, including consolidated appeals, any number of appellants or appellees may file **Joint Expanded Record Excerpts** or **Joint Supplemental Expanded Record Excerpts** and are strongly urged to do so. A party need not duplicate any material contained in the record excerpts filed by another party.

Record Excerpts in Cross-Appeals. Appellant must file Expanded Record Excerpts as described above. Appellee/Cross-Appellant must file Supplemental Expanded Record Excerpts that include record materials referred to in its brief or relevant to the issues raised on cross-appeal, but need not duplicate any material contained in the appellant’s Expanded Record Excerpts. At the time of filing its second brief, Appellant/Cross-Appellee must file Supplemental Expanded Record Excerpts if the brief references parts of the record not contained in the record excerpts previously filed by any party.

Presentence Investigation Reports. In an appeal from a judgment or sentence in a criminal case, or if a presentence investigation report (PSI) is referenced in a brief, the appellant (or appellee in the case of an appeal by an incarcerated pro se party), or the

party filing such brief, must forward one copy of the PSI under seal to the Clerk of this Court. The party must place one copy of the PSI into a separate sealed envelope marked “**SEALED**” and labeled with the appeal number, short style, and a notation that a copy of a PSI is enclosed. The sealed envelope must accompany the brief.

Form of Expanded Record Excerpts and Supplemental Expanded Record Excerpts. The record excerpts must be labeled Expanded Record Excerpts or Supplemental Expanded Record Excerpts, as appropriate. The record excerpts must conform to the requirements of 11th Cir. R. 30-1, including the following:

- 1) The first item in the record excerpts must be an **Index** (see attached sample).
- 2) The second item in the record excerpts must be the **Table of Record References in the Brief** (see attached sample).

NOTE: the Index and the Table of Record References in the Brief may be combined into one document, provided all required information is included in it.

- 3) The third item in the record excerpts must be the **district court docket sheet** including, in bankruptcy appeals, the **bankruptcy court docket sheet**.
- 4) All other documents in the record excerpts must be arranged chronologically by date of entry into the record.
- 5) The last document in the record excerpts must be a **certificate of service** consistent with FRAP 25(d).
- 6) Standard commercially-available indexing tabs or their equivalent that extend beyond the edge of the page should be staggered in sequence from top to bottom along the right-hand side.
 - Tab numbers should correspond to the original document numbers assigned by the district court and noted on the district court docket sheet.
 - The district court docket sheet should also be tabbed and identified.
- 7) If the record excerpts exceed 250 sheets of paper, they must be filed in multiple volumes, with each volume containing no more than 250 sheets of paper; when multiple volumes are filed, the Index must indicate the volume in which a document is located.

Number of Copies to Be Filed and Served.

- A pro se party proceeding in forma pauperis may file only one copy of Expanded Record Excerpts or Supplemental Expanded Record Excerpts, except that an incarcerated pro se party is not required to file record excerpts.
- Every other party must file two copies of Expanded Record Excerpts or Supplemental Expanded Record Excerpts with the party's brief, and if the appeal is classed for oral argument, an additional three identical copies of the record excerpts previously filed by the party within seven calendar days after the date on the notice from the Clerk that the appeal has been classed for oral argument. One copy must be served on counsel for each party separately represented, and on each pro se party.

EXPANDED RECORD EXCERPTS CHECKLIST

SUMMARY JUDGMENT CASES

Required Contents. If appealing from the denial or grant of summary judgment, the appellant must file Expanded Record Excerpts containing:

- 1. Index
- 2. Table of Record References in the Brief
- 3. District Court docket sheet (including, in bankruptcy appeals, the bankruptcy court docket sheet)

Items 4-15 to be arranged chronologically by date of entry into the record:

- 4. A copy of the summary judgment motions and responses, affidavits, and relevant portions of depositions and other documents relied on in the brief; include entire deposition or document if cited in argument section of the brief.
- 5. All portions of the record referenced in the brief, including those portions of the pleadings, transcripts (including depositions), and documentary exhibits relied on in the brief.

Plus any applicable portions of the district court record required by 11th Cir. R. 30-1:

- 6. Indictment, information, complaint or petition as amended
- 7. Answer, response, counterclaim, cross-claim, and replies thereto
- 8. Parts of any pretrial order relative to issues on appeal
- 9. Judgment or interlocutory order appealed from
- 10. Other order(s) sought to be reviewed (including bankruptcy court orders)
- 11. Supporting opinion, findings of fact and conclusion of law filed or delivered orally by the court
- 12. Jury instruction (if correctness in issue)
- 13. Magistrate's report and recommendation, when appealing a court order adopting same in whole or in part
- 14. Findings and conclusions of administrative law judge, when appealing a court order reviewing administrative agency determination
- 15. Relevant parts of any document...whose interpretation is central to the issues on appeal
- 16. Certificate of Service

Form:

- Durable White Covers (front & back)
- Indexing Tabs (Tab numbers corresponding to district court document numbers)
- No more than 250 sheets of paper in each volume

Number Required:

- Prisoner Pro Se: None
- Pro Se IFP: 1 copy
- Other: 2 copies

**EXPANDED RECORD EXCERPTS CHECKLIST
CRIMINAL CASES**

Required Contents. In an appeal from a criminal case, the appellant must file Expanded Record Excerpts containing:

- 1. Index
- 2. Table of Record References in the Brief
- 3. District Court docket sheet

Items 4-16 to be arranged chronologically by date of entry into the record:

- 4. All portions of the record referenced in the brief, including those portions of the pleadings, transcripts (including depositions), and documentary exhibits relied on in the brief; include entire testimony or document if cited in argument section of the brief.
 - 5. If any issue involves the validity of the guilty plea, a copy of the written plea agreement and the transcript of the guilty plea colloquy
 - 6. If any issue involves a motion to suppress, a copy of the transcript of any hearing on the motion
 - 7. In an appeal from a judgment or sentence in a criminal case, a copy of the presentence investigation report and addenda under seal in a separate envelope
 - 8. If a sentencing issue is raised, a copy of the transcript of the sentence proceeding
- Plus any applicable portions of the district court record required by 11th Cir. R. 30-1:*
- 9. Indictment, information, complaint or petition as amended
 - 10. Answer, response, counterclaim, cross-claim, and replies thereto
 - 11. Parts of any pretrial order relative to issues on appeal
 - 12. Judgment or interlocutory order appealed from
 - 13. Other order(s) sought to be reviewed
 - 14. Supporting opinion, findings of fact and conclusion of law filed or delivered orally by the court
 - 15. Jury instruction (if correctness in issue)
 - 16. Magistrate's report and recommendation, when appealing a court order adopting same in whole or in part
 - 17. Findings and conclusions of administrative law judge, when appealing a court order reviewing administrative agency determination
 - 18. Relevant parts of any document...whose interpretation is central to the issues on appeal
 - 19. Certificate of Service

Form:

- Durable White Covers (front & back)
- Indexing Tabs (Tab numbers corresponding to district court document numbers)
- No more than 250 sheets of paper in each volume

Number Required:

- Prisoner Pro Se: None
- Pro Se IFP: 1 copy
- Other: 2 copies

INDEX of EXPANDED RECORD EXCERPTS

	<u>Docket/Tab #</u>
Table of Record References in the Brief	A
District Court Docket Sheet	B
Superseding Indictment	8
Motion for Change of Venue	46
Order Denying Motion for Change of Venue	52
CJA 20: Appointment of Attorney John/Jane Doe	55
Motion to Dismiss	61
Notice Re Uncharged Misconduct	70
Order Denying Motion to Dismiss	79
Notice of Appeal	138
Notice of Appeal	140
Trial Transcript (proceedings held 4/26/05)	160
Trial Transcript (proceedings held 4/27/05 & 4/28/05)	161
Sentencing Transcript	162
Certificate of Service	

TABLE of RECORD REFERENCES in the BRIEF

<u>Brief Page #</u>		<u>Docket #</u>
1	Notice of Appeal	1
2,31	Superseding Indictment	8
2,3,45	Order Denying Motion for Change of Venue	52
3,45	Motion for Change of Venue	46
4	Notice Re Uncharged Misconduct	70
5	Notice of Appeal	138
5	Pre-Sentence Investigation Report	Sealed Exh.
5	Sentencing Transcript	162
7,8,17, 29,36,37, 41	Trial Transcript (proceedings held 4/26/05)	160
8,9,10, 11,16, 17	Trial Transcript (proceedings held 4/27/05 & 4/28/05)	161
27	Order Denying Motion to Dismiss	79
46	CJA 20: Appointment of Attorney John/Jane Doe	55
46	Motion to Dismiss	61