

1 **12-318. Briefs.**

2 A. **Brief in chief.** The brief in chief of the appellant, under appropriate headings and
3 in the order indicated in this rule, shall contain the following:

4 (1) a table of contents, which shall list each section heading and the page on
5 which that section begins. The appellant may raise issues in addition to those raised in the
6 docketing statement or statement of the issues unless the appellee would be prejudiced.

7 (a) When the transcript of proceedings is an audio recording,
8 [~~following~~] after the listing of section headings, the table of contents shall include either a
9 statement of the name of the manufacturer and model of the device used in citing references to the
10 transcript, together with a statement of how many counters or units are on one side of a tape when
11 that tape is played on the device (*e.g.*, Sony BM-25 with 730 counters per tape side), or a statement
12 that the transcript citations conform to the official log.

13 (b) When the transcript of proceedings is a digital or other electronic
14 recording, [~~following~~] after the listing of section headings, the table of contents shall include a
15 statement that references to the recorded transcript are by elapsed time from the start of the
16 recording (*e.g.*, “Tr. 10:25” indicates a point occurring ten minutes and twenty-five seconds after
17 the start of the recording).

18 (c) If the brief exceeds the page [~~limitations~~] limits contained in
19 Subparagraph (F)(2) of this rule, [~~following~~] after any statement regarding the method of citing
20 the transcript, the table of contents shall include a statement of compliance as required by
21 Paragraph G of this rule;

1 (2) a table of authorities, arranged in separate headings for each type of
2 authority cited, listing cases alphabetically (New Mexico decisions separately from decisions from
3 other jurisdictions), statutes, and other authorities, with page references;

4 (3) a summary of proceedings, briefly describing the nature of the case, the
5 course of proceedings, and the disposition in the court below, and including a summary of the facts
6 relevant to the issues presented for review. This summary shall contain citations to the record
7 proper, transcript of proceedings, or exhibits supporting each factual representation, in accordance
8 with the citation format found in the Appendix to Rule 23-112 NMRA. A contention that a verdict,
9 judgment, or finding of fact is not supported by substantial evidence shall be deemed waived unless
10 the summary of proceedings includes the substance of the evidence bearing on the proposition;

11 (4) an argument which, with respect to each issue presented, shall contain a
12 statement of the applicable standard of review, the contentions of the appellant, and a statement
13 explaining how the issue was preserved in the court below, with citations to authorities, record
14 proper, transcript of proceedings, or exhibits relied on. Applicable New Mexico decisions shall be
15 cited. The argument shall set forth a specific attack on any finding, or the finding shall be deemed
16 conclusive. A contention that a verdict, judgment, or finding of fact is not supported by substantial
17 evidence shall be deemed waived unless the argument identifies with particularity the fact or facts
18 that are not supported by substantial evidence; and

19 (5) a conclusion containing a precise statement of the relief sought.

20 B. **Answer brief.** The appellee may file an answer brief responding to each brief in
21 chief but is encouraged to consolidate arguments into a single answer brief when appropriate. A
22 consolidated answer brief shall be titled as such on its cover page. An answer brief shall conform

1 to the requirements of the brief in chief, [~~except that~~] but a summary of proceedings shall not be
2 included unless deemed necessary.

3 C. **Reply brief.** The appellant may file a reply brief responding to each answer brief
4 but is encouraged to consolidate arguments into a single reply brief when appropriate. A
5 consolidated reply brief shall be titled as such on its cover page. A reply brief shall conform to the
6 requirements of Subparagraphs (A)(1), (2), and (4) of this rule, and shall reply only to arguments
7 or authorities presented in the answer brief.

8 D. **Supplemental briefs and authorities.**

9 (1) Except for those briefs specified in this rule, no briefs may be filed without
10 prior approval of the appellate court.

11 (2) When pertinent and significant authorities come to the attention of counsel
12 after counsel's brief has been filed, or after oral argument but before decision, counsel shall
13 promptly advise the appellate court clerk, by [~~letter~~] notice and without argument, with a copy to
14 all counsel, setting forth the citations and attaching a copy, if available. The notice shall be filed
15 and served in accordance with Rule 12-307 NMRA. The [~~letter~~] notice shall refer either to the page
16 of the brief or to a point argued orally to which the citations pertain.

17 E. **Citations.** All authorities shall be cited in accordance with Rule 23-112 NMRA.

18 F. **Length, preparation, and service of briefs.** The requirements of Rule 12-
19 305 NMRA apply to briefs.

20 (1) ***Body of the brief defined.*** The body of the brief in chief, answer brief,
21 amicus brief, or reply brief consists of headings, footnotes, quotations, and all other text except
22 the cover page, caption, table of contents, table of authorities, signature blocks, statement
23 regarding oral argument, if any, and certificate of service.

1 (2) **Page [~~limitation~~] limit.** Except by permission of the court, or unless it
2 complies with Subparagraph (F)(3) of this rule, the body of a brief in chief, answer brief, or amicus
3 brief shall not exceed thirty-five (35) pages. Except by permission of the court, or unless it
4 complies with Subparagraph (F)(3) of this rule, the body of the reply brief shall not exceed fifteen
5 (15) pages.

6 (3) **Type-volume [~~limitation~~] limit.** Except by permission of the court, the body
7 of a brief in chief, answer brief, or amicus brief shall not exceed eleven thousand (11,000) words,
8 if the party uses a proportionally-spaced type style or typeface, such as Times New Roman, or one
9 thousand two hundred (1,200) lines, if the party uses a monospaced type style or typeface, such as
10 Courier. The body of a reply brief shall not exceed four thousand four hundred (4,400) words, if
11 the party uses a proportionally-spaced type style or typeface, or four hundred eighty (480) lines, if
12 the party uses a monospaced type style or typeface.

13 (4) **Attachments prohibited.** No documents shall be attached to briefs.

14 (5) **Service.** Briefs shall be served in accordance with Rule 12-307 NMRA.

15 G. **Statement of compliance.** Under Subparagraph (A)(1)(c) of this rule, if a brief
16 exceeds the page [~~limitations~~] limits of Subparagraph (F)(2) of this rule, then the brief shall contain
17 a statement that it complies with the [~~limitations~~] limits of Subparagraph (F)(3) of this rule. If the
18 brief is prepared using a proportionally-spaced type style or typeface, such as Times New Roman,
19 the statement shall specify the number of words contained in the body of the brief. If the brief is
20 prepared using a monospaced type style or typeface, such as Courier, the statement shall specify
21 the number of lines contained in the body of the brief. If the word-count or line-count information
22 is obtained from a word-processing program, the statement shall identify the program and version
23 used.

1 H. **Time of filing.** Unless otherwise ordered by the appellate court or as these rules
2 prescribe, Rule 12-210 NMRA governs the time and order of filing briefs.

3 I. **Cross-appeals.** In cross-appeals, the brief in chief, the answer brief, and the reply
4 brief shall comply with this rule. The party who first files a notice of appeal or, if both parties file
5 on the same day, the plaintiff in the proceedings below, shall be the appellant. The appellant’s brief
6 in chief shall be filed as provided in Rule 12-210 NMRA. The appellee’s answer brief and brief in
7 chief on cross-appeal shall be filed simultaneously as separate documents and shall be filed within
8 forty-five (45) days after service of the brief in chief of the appellant in cases assigned to the
9 general calendar and within twenty (20) days after service in cases assigned to the legal calendar.
10 The appellant’s reply brief and answer brief to the brief in chief on cross-appeal shall be filed
11 simultaneously as separate documents within forty-five (45) days after service of the answer brief
12 and brief in chief on cross-appeal in cases assigned to the general calendar and within twenty (20)
13 days after service in cases assigned to the legal calendar. A cross-appellant may file a reply brief
14 within twenty (20) days after service of the answer brief responding to cross-appellant’s brief in
15 chief.

16 J. **Failure to comply.** Briefs that fail to comply with the requirements of this rule may
17 be returned for correction or rejected by the appellate court, in addition to other sanctions provided
18 in Rule 12-312(D) NMRA.

19 [As amended, effective July 1, 1990; September 1, 1991; September 1, 1993; January 1, 1997; July
20 1, 1998; January 1, 2000; November 1, 2003; March 15, 2005; as amended by Supreme Court
21 Order No. 07-8300-024 effective November 1, 2007; by Supreme Court Order No. 10-8300-001,
22 effective April 12, 2010; 12-213 recompiled and amended as 12-318 by Supreme Court Order No.
23 16-8300-011, effective for all cases pending or filed on or after December 31, 2016; as amended

1 by Supreme Court Order No. 18-8300-016, effective for all cases pending or filed on or after
2 December 31, 2018; as amended by Supreme Court Order No. S-1-RCR-2024-00106, effective
3 for all cases pending or filed on or after December 31, 2024.]

4 **Committee commentary.** — In 2016, the committee renumbered Rule 12-213 NMRA
5 and placed it in the general provisions article as Rule 12-318 NMRA.

6 In an effort to provide additional options for producing more readable documents, the 2007
7 amendments to this rule allow practitioners to exceed the traditional page limitations for a brief if
8 the brief complies with the type-volume limitations set forth in the new Subparagraph (F)(3) of
9 the rule. Specifically, briefs in chief, answer briefs, and amicus briefs that exceed the traditional
10 thirty-five (35) page limit may not contain more than eleven thousand (11,000) words or one
11 thousand two hundred (1,200) lines in the body of the brief, depending on whether a
12 proportionally-spaced or monospaced type style or typeface is used. *See* Subparagraph (F)(1) for
13 a definition of the body of the brief. Similarly, if the body of the reply brief exceeds the traditional
14 fifteen (15) page limit, the body of the brief may not contain more than four thousand four hundred
15 (4,400) words or four hundred eighty (480) lines, again depending on whether a proportionally-
16 spaced or monospaced type style or typeface is used. If a proportionally-spaced type style or
17 typeface is used, the word-count limit applies. If a monospaced type style or typeface is used, the
18 line-count limit applies. In either case, if the traditional page limit is exceeded, a statement of
19 compliance must be included as provided by Paragraph G of this rule to show that the brief
20 complies with the applicable type-volume limitation.

21 [Adopted by Supreme Court Order No. 07-8300-024 effective November 1, 2007; as amended by
22 Supreme Court Order No. 16-8300-011, effective for all cases pending or filed on or after
23 December 31, 2016.]