

**UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT
OFFICE OF THE CLERK**

Byron White United States Courthouse
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Denver, Colorado 80257
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Elisabeth A. Shumaker
Clerk of Court

December 01, 2008

Douglas E. Cressler
Chief Deputy Clerk

Mr. David Boies
Boies Schiller & Flexner
333 Main Street
Armonk, NY 10504

Mr. Brent O. Hatch
Hatch, James & Dodge
10 W. Broadway
Suite 400
Salt Lake City, UT 84101-0000

RE: 08-4217, SCO Group v. Novell, Inc.
Dist/Ag docket: 2:04-CV-00139-DAK

Dear Counsel:

This appeal was docketed today. For your convenience, copies of the Tenth Circuit Rules, effective January 1, 2008, and the Federal Rules of Appellate Procedure, effective December 1, 2007, are available on the court's website at <http://www.ca10.uscourts.gov>. You may also obtain a copy of the rules by calling this office. Effective September 4, 2007, counsel must also comply with the court's new General Order, which takes effect that day. You may find the order on the court's website. We invite you to contact us with any questions you may have about our operating procedures. Please note that all court forms are now available on the court's web site. Outlined below are some of the requirements for prosecuting this appeal.

Attorneys must complete and file an entry of appearance form within ten days of the date of this letter. *See* 10th Cir. R. 46.1(A). Pro se parties must complete and file the form within thirty days of the date of this letter. Appellant's failure to enter an appearance may cause the appeal to be dismissed. An appellee who fails to enter an appearance may not receive notice or service of orders.

Although attorneys who file a notice of appeal have technically entered an appearance, and may not withdraw without the court's permission, counsel must still file a separate entry of appearance form. For criminal appeals, please note the court will require trial

counsel to continue the representation whether retained or appointed, even if you did not sign the notice of appeal. *See* 10th Cir. R. 46.3(A). This continuity of counsel ensures that any criminal defendant who wishes to appeal has that appeal perfected.

Generally, the court will not allow counsel to withdraw until the docketing statement is filed, necessary transcripts are ordered, and the designation of record is submitted. If there is an issue regarding the defendant's eligibility for the appointment of counsel, an appropriate motion must be filed in the district court. *See* 10th Cir. R. 46.4(A).

You are required to file a docketing statement within 10 days of filing the notice of appeal. If you have not yet filed that pleading, you should do so within 10 days of the date of this letter. Please note that under local rule 3.4(C), the appellant is not limited to the issues identified in his docketing statement and may raise other appropriate issues in the opening brief. In addition to the docketing statement, all transcripts must be ordered within 10 days of the date of this letter. If no transcript is necessary, you must file a statement to that effect.


Appellant is not required to file a designation of record, but will be required to file an appendix with appellant's opening brief. *See* 10th Cir. R. 10.2(A) and 30.1.

Appellant must file an opening brief and appendix within 40 days after the date on which the district clerk notifies the parties and the circuit clerk that the record is complete for purposes of appeal. *See* 10th Cir. R. 31.1(A)(1). Motions for extensions of time to file briefs and appendixes are not favored and will not be granted unless they comply with 10th Cir. R. 27.3.

Briefs must satisfy all requirements of the Federal Rules of Appellate Procedure and Tenth Circuit Rules. *See* Fed. R. App. P. 28 and 32 and 10th Cir. R. 28.1, 28.2, 32.1 and 31.3 when applicable. An original and 7 copies of briefs must be filed. *See* 10th Cir. R. 31.5. Appendixes must satisfy the requirements of 10th Cir. R. 30.1(A) and 30.1(C) and 2 copies must be filed. *See* 10th Cir. R. 30.1(D).

Please contact this office if you have questions.

Sincerely,

A handwritten signature in cursive script, reading "Elisabeth A. Shumaker", followed by a horizontal flourish line.

Elisabeth A. Shumaker
Clerk of the Court

cc: David E. Melaugh
John P. Mullen

EAS/na