



**LOCAL RULES OF COURT
UNITED STATES COURT OF APPEALS, ELEVENTH CIRCUIT
[ALL-IN-ONE DOCUMENT]**

{AS OF: 12/1/2020}

E: TextBook.Discrimination@outlook.com
W: www.TextBookDiscrimination.com

visit TBD's [website](#) for the most up-to-date information

TABLE OF CONTENTS | INTRODUCTION

#	Rule No	Title	Page
00	-	Memorandum	11
01	-	Foreword	12

TABLE OF CONTENTS | I | APPLICABILITY OF RULES

#	Rule No	Title	Page
1	2-1	Court Action	15

TABLE OF CONTENTS | II | APPEAL FROM A JUDGMENT OR ORDER OF A DISTRICT...

#	Rule No	Title	Page
2	3-1	Failure to Object to a Magistrate Judge's...	17
3	5-1	Certificate Required	18
4	8-1	Motions	19
5	8-2	Motion for Reconsideration	20
6	9-1	Motions	21
7	10-1	Ordering the Transcript - Duties of Appellant...	22
8	11-1	Duties of Court Reporters; Extensions of Time	23
9	11-2	Certification and Transmission of Record - ...	24
10	11-3	Preparation and Transmission of Exhibits - ...	25
11	11-4	Form of Paper Record	26
12	12-1	Filing the Record	27
13	12-2	Clerk's Consolidation of Appeals	28
14	12.1-1	Indicative Ruling by the District Court	29



TABLE OF CONTENTS | III | APPEALS FROM THE UNITED STATES TAX COURT

#	Rule No	Title	Page
15	14-1	Applicability of Other Circuit Rules to...	33

TABLE OF CONTENTS | IV | REVIEW OR ENFORCEMENT OF AN ORDER OF AN...

#	Rule No	Title	Page
16	15-1	Procedures in Proceedings for Review of Orders...	35
17	15-2	Petitions for Review and Applications for...	36
18	15-3	Answer to Application for Enforcement	37
19	15-4	Motion for Leave to Intervene	38
20	15.1-1	Failure to Prosecute	39
21	16-1	Form of Paper Record	40
22	17-1	Certified Extracts of the Record	41
23	18-1	Motions	42
24	18-2	Motion for Reconsideration	43
25	20-1	Applicability of Other Circuit Rules to the...	44

TABLE OF CONTENTS | V | EXTRAORDINARY WRITS

#	Rule No	Title	Page
26	21-1	Writs of Mandamus and Prohibition and Other...	46



TABLE OF CONTENTS | VI | HABEAS CORPUS; PROCEEDINGS IN FORMA PAUPERIS

#	Rule No	Title	Page
27	22-1	Certificate of Appealability	48
28	22-2	Length of Application for a Certificate of...	49
29	22-3	Application for Leave to File a Second or...	50
30	22-4	Assignment of Capital Cases	51
31	24-1	Appeals In Forma Pauperis and Under the...	52
32	24-2	Motion for Leave to Proceed on Appeal In Forma...	53

TABLE OF CONTENTS | VII | GENERAL PROVISIONS

#	Rule No	Title	Page
33	25-1	Filings from Party Represented by Counsel	55
34	25-2	Filing of Papers Transmitted by Alternate Means	56
35	25-3	Electronic Case Files (ECF) System	57
36	25-4	Information and Signature Required	58
37	25-5	Maintaining Privacy of Personal Data	59
38	25-6	Court Action with Respect to Impermissible...	61
39	25-7	Obligation to Notify Court of Change of Addresses	62
40	26-1	Motion for Extension of Time	63
41	26.1-1	Certificate of Interested Persons and...	64
42	26.1-2	CIP: Contents	66
43	26.1-3	CIP: Form	68
44	26.1-4	CIP: Amendments	69
45	26.1-5	Failure to Submit a CIP or Complete the Web-...	70
46	27-1	Motions	71

...



...TABLE OF CONTENTS | VII | GENERAL PROVISIONS

#	Rule No	Title	Page
47	27-2	Motion for Reconsideration	77
48	27-3	Successive Motions for Reconsideration Not...	78
49	27-4	Sanctions for Filing a Frivolous Motion	79
50	28-1	Briefs - Contents	80
51	28-2	Appellee's Brief	83
52	28-3	Reply Brief	84
53	28-4	Briefs from Party Represented by Counsel	85
54	28-5	References to the Record	86
55	28.1-1	Briefs in Cross-Appeals	87
56	28.1-2	Briefing Schedule in Cross-Appeals	88
57	29-1	Motions for Leave	89
58	29-2	Amicus Brief	90
59	29-3	Motion for Leave to File Amicus Brief in...	91
60	29-4	Motion for Leave to File Amicus Brief in...	92
61	30-1	Appendix - Appeals from District Court and Tax...	93
62	30-2	Appendix - Agency Review Proceedings	97
63	30-3	Electronic Appendix Submission	98
64	31-1	Briefs - Time for Serving and Filing	99
65	31-2	Briefs and Appendices - Motion to Extend Time	102
66	31-3	Briefs - Number of Copies	104
67	31-4	Expedited Briefing in Criminal Appeals	105
68	31-5	Electronic Brief Submission	106

...



...TABLE OF CONTENTS | VII | GENERAL PROVISIONS

#	Rule No	Title	Page
69	32-1	Binding of Papers	107
70	32-2	Briefs - Cover	108
71	32-3	Briefs - Form	109
72	32-4	Briefs - Page Numbering and Length	110
73	33-1	Kinnard Mediation Center	111
74	34-1	Sessions	115
75	34-2	Quorum	116
76	34-3	Non-Argument Calendar	118
77	34-4	Oral Argument Calendar	120
78	35-1	Number of Copies and Length	122
79	35-2	Time - Extensions	123
80	35-3	Extraordinary Nature of Petitions for En Banc...	124
81	35-4	Matters Not Considered En Banc	125
82	35-5	Form of Petition	126
83	35-6	Response to Petition	128
84	35-7	En Banc Briefs	129
85	35-8	En Banc Amicus Briefs	130
86	35-9	Senior Circuit Judges' Participation	131
87	35-10	Effect of Granting Rehearing En Banc	132
88	36-1	<i>[Rescinded]</i>	133
89	36-2	Unpublished Opinions	134
90	36-3	Publishing Unpublished Opinions	135

...



...TABLE OF CONTENTS | VII | GENERAL PROVISIONS

#	Rule No	Title	Page
91	38-1	Time for Filing Motions	136
92	39-1	Costs	137
93	39-2	Attorney's Fees	138
94	39-3	Fee Awards to Prevailing Parties Under the...	140
95	40-1	Contents	141
96	40-2	Number of Copies	142
97	40-3	Time - Extensions	143
98	40-4	<i>[Rescinded]</i>	144
99	40-5	Supplemental Authorities	145
100	41-1	Stay or Recall of Mandate	146
101	41-2	Expediting Issuance of Mandate	147
102	41-3	Published Order Dismissing Appeal or Disposing...	148
103	41-4	Non-Published Order Dismissing Appeal or...	149
104	42-1	Dismissal of Appeals	150
105	42-2	Dismissal in a Civil Appeal for Appellant's...	152
106	42-3	Dismissal in a Civil Appeal for Appellant's...	154
107	42-4	Frivolous Appeals	156
108	45-1	Clerk	157
109	46-1	Bar Admission and Fees	158
110	46-2	Renewal of Bar Membership; Inactive Status	159
111	46-3	Admission for Particular Proceeding	160
112	46-4	Pro Hac Vice Admission	161

...



...TABLE OF CONTENTS | VII | GENERAL PROVISIONS

#	Rule No	Title	Page
113	46-5	Entry of Appearance	162
114	46-6	Clerk's Authority to Accept Filings	163
115	46-7	Active Membership in Good Standing with State...	165
116	46-8	Certificate of Admission	166
117	46-9	Attorney Discipline	167
118	46-10	Appointment or Withdrawal of Counsel	168
119	46-11	Appearance and Argument by Eligible Law Students	169
120	47-1	Name, Seal, and Process	171
121	47-2	Circuit Executive	172
122	47-3	Circuit Librarian	173
123	47-4	Staff Attorneys	174
124	47-5	Judicial Conference	175
125	47-6	Restrictions on Practice by Current and Former...	176

...



TABLE OF CONTENTS | ADDENDUM

#	Addendum	Title	Page
126	One	Rules for Conduct of and Representation and...	178
127	Two	Procedures in Proceedings for Review of Orders...	183
128	Three	Form: Complaint of Judicial Misconduct/Disability	185
129	Three-A	Rules for Judicial Misconduct and Judicial...	187
130	Four	Eleventh Circuit Plan under the Criminal...	190
131	Five	Non-Criminal Justice Act Counsel Appointments	198
132	Six	Rules and Regulations of the Judicial Council...	204
133	Seven	Regulations of the United States Court of...	211
134	Eight	Rules Governing Attorney Discipline in the US...	224
135	Nine	Regulations of the United States Court of...	239
-	n/a	Appendix	241



LOCAL RULES OF COURT | 11TH CIRCUIT (US)

SECTION: -

TITLE: INTRODUCTION

RULES: Memorandum, Foreword



MEMORANDUM

Enclosed are revisions to the Eleventh Circuit Rules and Internal Operating Procedures (IOPs) that took effect on December 1, 2020. The revisions:

- Delete as unnecessary the portions of 11th Cir. Rules 42-2(c) Dismissal Without Further Notice and 43-2(c) Dismissal Without Further Notice stating that the clerk will "mail a copy" of dismissal orders to counsel and pro se parties. Such orders will continue to be mailed to non-ECF pro se parties in accordance with Federal Rule of Appellate Procedure (FRAP) 45(c).
- Amend FRAP 35, IOP 3 Requesting a Poll and FRAP 35, IOP 6 Polling the Court to state that the chief judge will give other judges a reasonable time to respond to a poll request before conducting a poll on en banc consideration.

The enclosed rules also contain FRAP amendments that took effect on December 1, 2020. A List of Replacement Pages on the following page shows the pages that have changed since the last revision.



FOREWORD

RULES OF THE UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT (cite as 11th Cir. R.)

Both the court of appeals, by action of a majority of the circuit judges in regular service (see generally 28 U.S.C. chapters 3, 13, 15, 21, 47, 57, and Federal Rules of Appellate Procedure 47), and the judicial council of the circuit (membership of which has been fixed pursuant to statute to include nine active circuit judges, one active judge from each of the nine district courts, and the circuit chief judge) have certain responsibilities for the effective and expeditious administration of justice within the circuit. Contained herein are rules relevant to the court of appeals adopted by the court and by action of the judicial council.

The United States Court of Appeals for the Eleventh Circuit has adopted these rules pursuant to Federal Rules of Appellate Procedure (FRAP) 47. They supplement the provisions of law and FRAP. To properly proceed in this court, counsel should read and follow FRAP, these rules, and the court's Internal Operating Procedures (IOP) which describe the internal workings of the clerk's office and the court. Although there are necessary exceptions, an effort has been made by the court not to duplicate in the Circuit Rules or the IOPs either FRAP or each other. Circuit rules not inconsistent with FRAP govern. The word "appeal" as used in these rules and IOPs includes, where appropriate, any proceeding in this court, including petitions for review and applications for enforcement of agency orders, and writs of mandamus and prohibition, and other extraordinary writs.

Available addenda as adopted by the court are:

ONE: Rules for Conduct of and Representation and Participation at the Eleventh Circuit Judicial Conference

TWO: Procedures in Proceedings for Review of Orders of the Federal Energy Regulatory Commission

FIVE: Non-Criminal Justice Act Counsel Appointments

SEVEN: Regulations of the United States Court of Appeals for the Eleventh Circuit for the Selection and Appointment or the Reappointment of Federal Public Defenders

EIGHT: Rules Governing Attorney Discipline in the U.S. Court of Appeals for the Eleventh Circuit



NINE: Regulations of the U.S. Court of Appeals for the Eleventh Circuit for the Selection and Appointment or the Reappointment of Bankruptcy Administrators

The judicial council of the Eleventh Circuit pursuant to its statutory authority has appointed a circuit executive (11th Cir. R. 47-2), adopted rules for the conduct of complaint proceedings under 28 U.S.C. §§ 351-364 (Addendum Three), adopted a plan and guidelines under the Criminal Justice Act (11th Cir. R. 24-1 and Addendum Four), and adopted rules and regulations for selection and appointment of bankruptcy judges (Addendum Six).

Available addenda as adopted by the judicial council are:

THREE: Rules for Judicial-Conduct and Judicial-Disability Proceedings with Eleventh Circuit Judicial Conduct and Disability Rules

FOUR: Eleventh Circuit Plan under the Criminal Justice Act and Guidelines for Counsel Supplementing the Eleventh Circuit Plan under the Criminal Justice Act

SIX: Rules and Regulations of the Judicial Council and the United States Court of Appeals for the Eleventh Circuit for the Selection of Nominees, the Appointment of Bankruptcy Judges, and the Reappointment of Bankruptcy Judges

The rules, internal operating procedures, and addenda are available on the Internet at www.call.uscourts.gov.

LOCAL RULES OF COURT | 11TH CIRCUIT (US)

SECTION: I

TITLE: APPLICABILITY OF RULES

RULES: 2-1



RULE 2-1 | COURT ACTION

In lieu of the procedures described in the Eleventh Circuit Rules and Internal Operating Procedures, the court may take such other or different action as it deems appropriate.



LOCAL RULES OF COURT | 11TH CIRCUIT (US)

SECTION: II

TITLE: APPEAL FROM A JUDGMENT OR ORDER OF A DISTRICT COURT

RULES: 3-1 through 12.1-1



RULE 3-1 | FAILURE TO OBJECT TO A MAGISTRATE JUDGE'S FINDINGS OR RECOMMENDATIONS

A party failing to object to a magistrate judge's findings or recommendations contained in a report and recommendation in accordance with the provisions of 28 U.S.C. §636(b)(1) waives the right to challenge on appeal the district court's order based on unobjected-to factual and legal conclusions if the party was informed of the time period for objecting and the consequences on appeal for failing to object. In the absence of a proper objection, however, the court may review on appeal for plain error if necessary in the interests of justice.



RULE 5-1 | CERTIFICATE REQUIRED

The petition and answer shall contain a Certificate of Interested Persons and Corporate Disclosure Statement as described in FRAP 26.1 and the accompanying circuit rules.



RULE 8-1 | MOTIONS

Motions for stay or injunction pending appeal must include a copy of the judgment or order from which relief is sought and of any opinion or findings of the district court, and shall otherwise comply with the rules.



RULE 8-2 | MOTION FOR RECONSIDERATION

A motion to reconsider, vacate, or modify an order granting or denying relief under FRAP 8 must be filed within 21 days of the entry of such order. No additional time shall be allowed for mailing.



RULE 9-1 | MOTIONS

Parties seeking review of a district court's order on release in a criminal case under FRAP 9(a) must file a motion with this court setting out the reasons why the party believes the order should be reversed. The clerk shall set expedited deadlines for the filing of the motion, the response, and any reply. All motions for release or for modification of the conditions of release, whether filed under FRAP 9(a) or 9(b), must include a copy of the judgment or order from which relief is sought and of any opinion or findings of the district court.



RULE 10-1 | ORDERING THE TRANSCRIPT - DUTIES OF APPELLANT AND APPELLEE

Appellant's written order for a transcript or certification that no transcript will be ordered, as required by FRAP 10(b), shall be on a form prescribed by the court of appeals. Counsel and pro se parties shall file the form with the district court clerk and the clerk of the court of appeals, and send copies to the appropriate court reporter(s) and all parties, in conformance with instructions included on the form. The form must be filed and sent as indicated above within 14 days after filing the notice of appeal or after entry of an order disposing of the last timely motion of a type specified in FRAP 4(a)(4).

If an appellee designates additional parts of the proceedings to be ordered, orders additional parts of the proceedings, or moves in the district court for an order requiring appellant to do so, as provided by FRAP 10(b), a copy of such designation, transcript order, or motion shall be simultaneously sent to the clerk of this court in addition to being filed and served on other parties as provided by FRAP 10(b).



RULE 11-1 | DUTIES OF COURT REPORTERS; EXTENSIONS OF TIME

In each case in which a transcript is ordered, the court reporter shall furnish the following information on a form prescribed by the clerk of this court:

- (a) acknowledge that the reporter has received the order for the transcript and the date of the order;
- (b) state whether adequate financial arrangements have been made under CJA or otherwise;
- (c) state the number of trial or hearing days involved in the transcript and an estimate of the number of pages;
- (d) give the estimated date on which the transcript is to be completed.

The court reporter shall notify the ordering party and the clerk of this court at the time that ordered transcripts are filed in the district court. A court reporter who requests an extension of time for filing the transcript beyond the 30 day period fixed by FRAP 11(b) shall file a written application with the clerk of the court of appeals on a form provided by the clerk of this court and shall specify in detail the amount of work that has been accomplished on the transcript, list all outstanding transcripts due to this and other courts and the due date for filing each and set forth the reasons which make an extension of time for filing the transcript appropriate. The court reporter shall certify that the court reporter has sent a copy of the application to both the Chief District Judge of that district, to the district judge who tried the case, and to all counsel of record. In some cases this court may require written approval of the request by the appropriate district judge. The clerk of the court of appeals shall also send a copy of the clerk's action on the application to both the appropriate Chief District Judge and the district judge. If the court reporter files the transcript beyond the 30 day period fixed by FRAP 11(b) without having obtained an extension of time to do so, the clerk of the court of appeals shall so notify the appropriate Chief District Judge as well as the district judge.



RULE 11-2 | CERTIFICATION AND TRANSMISSION OF RECORD - DUTIES OF DISTRICT COURT CLERK

The clerk of the district court is responsible for determining when the record on appeal is complete for purposes of the appeal. Upon completion of the record the clerk of the district court shall temporarily retain the record for use by the parties in preparing appellate papers. Whether the record is in electronic or paper form, the clerk of the district court shall certify to the parties on appeal and to the clerk of this court that the record (including the transcript or parts thereof designated for inclusion, and all necessary exhibits) is complete for purposes of appeal. Unless the required certification can be transmitted to the clerk of this court within 14 days from the filing by appellant of a certificate that no transcript is necessary or 14 days after the filing of the transcript of trial proceedings if one has been ordered, whichever is later, the clerk of the district court shall advise the clerk of this court of the reasons for delay and request additional time for filing the required certification. Upon notification from this court that the brief of the appellee has been filed, the clerk of the district court shall forthwith transmit those portions of the original record that are in paper.



RULE 11-3 | PREPARATION AND TRANSMISSION OF EXHIBITS - DUTIES OF DISTRICT COURT CLERK

The clerk of the district court is responsible for transmitting with the record to the clerk of this court a list of exhibits correspondingly numbered and identified with reasonable definiteness. The district court clerk must include in the electronic record on appeal electronic versions of all documentary exhibits admitted into evidence at trial or any evidentiary hearing. The district court clerk must ensure that no such documentary exhibits are returned to the parties before electronic versions of those exhibits have been entered into the electronic record on appeal.

If any documentary exhibits have been sealed or marked confidential by the district court or the district court clerk, the district court clerk must transmit any such sealed or confidential documentary exhibits to this court either in their original form or in electronic form provided the electronic access is appropriately restricted, unless otherwise directed by the clerk of this court. If audio or video files were entered into evidence at trial or any evidentiary hearing, such files and any transcripts must be retained by the district court clerk during the period in which a notice of appeal may be timely filed and transmitted to this court as part of the record on appeal. However, the district court clerk must not transmit to this court any exhibits containing child pornography unless requested to do so by the clerk of this court.

As to non-documentary physical exhibits, the parties are required to include photographs or other reproductions of such exhibits in the electronic record on appeal. The parties may submit such photographs or other reproductions in paper or electronic form. The district court clerk must make advance arrangements with the clerk of this court prior to sending any exhibit containing wiring or electronic components (such as a beeper, cellular phone, etc.). Exhibits of unusual size or weight which are contained in a box larger than 14 3/4" x 12" x 9 1/2" shall not be transmitted by the district court clerk until and unless directed to do so by the clerk of this court. A party must make advance arrangements with the clerks for the transportation and receipt of exhibits of unusual size or weight. If transmittal has been authorized, a party may be requested to personally transfer oversized exhibits to the clerk of this court.



RULE 11-4 | FORM OF PAPER RECORD

When the record on appeal is in paper, the record shall be bound securely with durable front and back covers in a manner that will facilitate reading. The clerk of the district court or bankruptcy court as applicable shall index the record by means of document numbers in consecutive order. In civil appeals, including bankruptcy and prisoner (civil and habeas) appeals, to facilitate use of the record by the court and by counsel, the district court or bankruptcy court as applicable shall affix indexing tabs bearing those document numbers to identify orders and significant filings. Indexing tabs are not required to be affixed to records in criminal appeals.



RULE 12-1 | FILING THE RECORD

In an appeal from a district court in which a transcript is ordered, the record is deemed completed and filed on the date the court reporter files the transcript with the district court. In an appeal from a district court in which there was no hearing below (including an appeal from summary judgment), or all necessary transcripts are already on file, or a transcript is not ordered, the record is deemed completed and filed on the date the appeal is docketed in the court of appeals pursuant to FRAP 12(a). The provisions of this rule also apply to the review of a Tax Court decision. [See 11th Cir. R. 31-1 for the time for serving and filing briefs.]



RULE 12-2 | CLERK'S CONSOLIDATION OF APPEALS

The clerk may, at the time of docketing or thereafter, notify the affected parties that it has determined, sua sponte, that consolidation of appeals is either required by statute or is in the interest of judicial economy, such as when multiple appeals raise the same or similar issues, and shall direct the parties in the notice to file written objections, if any, to the proposed consolidation within 14 days of the notice. If no party objects to the proposed consolidation within the allotted 14 days, the clerk may consolidate the appeals; if the clerk receives a timely objection, the matter shall be referred to the Court for decision.



RULE 12.1-1 | INDICATIVE RULING BY THE DISTRICT COURT

(a) A party who files a motion in the district court that the district court lacks authority to grant because an appeal is pending must, within 14 days after filing the motion, serve and file a motion in this court to stay the appeal until the district court rules on the motion before it. If this court stays the appeal, the party who filed the motion in the district court must, unless this court orders otherwise, file written status reports at 30-day intervals from the date of this court's order informing this court of the status of the district court proceedings.

(b) If the motion filed in the district court is one that does not request substantive relief from the order or judgment under appeal, such as a motion to correct a clerical error pursuant to Fed.R.Civ.P. 60(a), any party to the appeal may file a motion for a limited remand to give the district court authority to rule on the motion, without waiting for the district court to signify its intentions on the motion. A response and reply may be filed in compliance with FRAP 27 and the corresponding local rules of this court.

(c) If the motion filed in the district court requests substantive relief from the order or judgment under appeal, such as a motion to modify a preliminary injunction or a motion for relief from judgment pursuant to Fed.R.Civ.P. 60(b), the district court may consider whether to grant or deny the motion without obtaining a remand from this court.

(1) If the district court determines that the motion should be denied, the district court may deny the motion without a remand by this court.

(2) If the district court determines that the motion should be granted, the district court should enter an order stating that it intends to grant the motion if this court returns jurisdiction to it.

(i) Any appellant or cross-appellant may file an objection to remand with this court within 14 days after entry of the district court's order.



(ii) If no objection to remand is filed with this court within 14 days after entry of the district court's order, this court may remand the case in full to the district court for entry of an order granting relief and will direct the clerk to close the appeal. Any such order shall constitute an express dismissal of the appeal for purposes of FRAP 12.1.

(iii) If an objection to remand is filed with this court within 14 days after entry of the district court's order, that objection will be treated as a motion for the court to retain jurisdiction. A response and reply may be filed in compliance with FRAP 27 and the corresponding local rules of this court. Upon consideration of the objections and any responses and replies, the court will determine whether to retain jurisdiction over the appeal.

(iv) If the district court enters an order on remand that fails to grant the relief the district court had stated it would grant, any appellant or cross-appellant may, within 30 days after entry of the district court's order, file a motion in this court to reopen and reinstate the closed appeal.

(d) With respect to any motion described in section (c) of this rule, if the district court determines that the motion raises a substantial issue that warrants further consideration, the district court should enter an order so stating. The district court may without a remand conduct such further proceedings as are necessary to determine whether the motion should be granted or denied.

(1) While such proceedings are pending in the district court, the appeal will remain stayed unless this court orders otherwise.

(2) If the district court thereafter determines that the motion should be denied, the district court may deny the motion without a remand by this court.

(3) If the district court thereafter determines that the motion should be granted, the provisions of section (c)(2) of this rule apply.



(e) Upon the district court's entry of any order addressing any motion described in FRAP 12.1, the parties must promptly notify this court of such order.



LOCAL RULES OF COURT | 11TH CIRCUIT (US)

SECTION: III

TITLE: APPEALS FROM THE UNITED STATES TAX COURT

RULES: 14-1



RULE 14-1 | APPLICABILITY OF OTHER CIRCUIT RULES TO APPEALS FROM THE TAX COURT

All provisions of the Eleventh Circuit Rules, except any Eleventh Circuit Rules accompanying FRAP 4, 6-9, 15-20, and 22-23, apply to appeals from the Tax Court. Except as otherwise indicated, as used in any applicable Eleventh Circuit Rule the term "district court" includes the Tax Court, the term "district judge" includes a judge of the Tax Court, and the term "district court clerk" includes the Tax Court clerk.



LOCAL RULES OF COURT | 11TH CIRCUIT (US)

SECTION: IV

TITLE: REVIEW OR ENFORCEMENT OF AN ORDER OF AN
ADMINISTRATIVE AGENCY, BOARD, COMMISSION, OR OFFICER

RULES: 15-1 through 20-1



**RULE 15-1 | PROCEDURES IN PROCEEDINGS FOR REVIEW OF ORDERS OF THE
FEDERAL ENERGY REGULATORY COMMISSION**

This court has adopted special rules for these proceedings. See Addendum Two.



RULE 15-2 | PETITIONS FOR REVIEW AND APPLICATIONS FOR ENFORCEMENT

A copy of the order(s) sought to be reviewed or enforced shall be attached to each petition or application which is filed. In an immigration appeal, the petitioner or applicant shall also attach a copy of the Immigration Judge's order and the Notice to Appear.



RULE 15-3 | ANSWER TO APPLICATION FOR ENFORCEMENT

An answer to an application for enforcement may be served on the petitioner and filed with the clerk within 21 days after the application is filed.



RULE 15-4 | MOTION FOR LEAVE TO INTERVENE

A motion for leave to intervene or other notice of intervention authorized by applicable statute may be filed within 30 days of the date on which the petition for review is filed.



RULE 15.1-1 | FAILURE TO PROSECUTE

In an enforcement proceeding, if a party adverse to the National Labor Relations Board fails to file or correct the brief or appendix within the time permitted by the rules, the court may take such action as it deems appropriate including, but not limited to, entry of judgment enforcing the Board's order.



RULE 16-1 | FORM OF PAPER RECORD

When the record on appeal is in paper, the record shall be bound securely with durable front and back covers in a manner that will facilitate reading. The agency shall index the record by means of document numbers in consecutive order.



RULE 17-1 | CERTIFIED EXTRACTS OF THE RECORD

If a certified list of documents comprising the record is filed in lieu of the formal record, petitioner shall obtain from the agency, board, or commission a certified copy of the portions of the record relied upon by the parties in their briefs, to be numbered and indexed and filed within 21 days from the date of filing of respondent's brief, with a front and back durable (at least 90#) cover. The front cover shall contain the information specified in 11th Cir. R. 28-1(a) and be captioned "Certified Extracts of the Record."



RULE 18-1 | MOTIONS

Motions for stay or injunction pending review must include a copy of the decision or order from which relief is sought and of any opinion or findings of the agency.



RULE 18-2 | MOTION FOR RECONSIDERATION

A motion to reconsider, vacate, or modify an order granting or denying relief under FRAP 18 must be filed within 21 days of the entry of such order. No additional time shall be allowed for mailing.



RULE 20-1 | APPLICABILITY OF OTHER CIRCUIT RULES TO THE REVIEW OR ENFORCEMENT OF AN AGENCY ORDER

All provisions of the Eleventh Circuit Rules, except any Eleventh Circuit Rules accompanying FRAP 3-14 and 22-23, apply to the review or enforcement of any agency order. Except as otherwise indicated, as used in any applicable Eleventh Circuit Rule the term "appellant" includes a petitioner, applicant, or movant, the term "appellee" includes a respondent, and the term "appeal" includes a petition for review or enforcement.



LOCAL RULES OF COURT | 11TH CIRCUIT (US)

SECTION: V

TITLE: EXTRAORDINARY WRITS

RULES: 21-1



RULE 21-1 | WRITS OF MANDAMUS AND PROHIBITION AND OTHER EXTRAORDINARY WRITS

(a) As part of the required showing of the reasons why the writ should issue, the petition should include a showing that mandamus is appropriate because there is no other adequate remedy available.

(b) The petition shall include a Certificate of Interested Persons and Corporate Disclosure Statement as described in FRAP 26.1 and the accompanying circuit rules.



LOCAL RULES OF COURT | 11TH CIRCUIT (US)

SECTION: VI

TITLE: HABEAS CORPUS; PROCEEDINGS IN FORMA PAUPERIS

RULES: 22-1 through 24-2



RULE 22-1 | CERTIFICATE OF APPEALABILITY

In all cases brought pursuant to 28 U.S.C. §§2241, 2254, or 2255, a timely notice of appeal must be filed.

(a) A party must file a timely notice of appeal even if the district court issues a certificate of appealability. The district court or the court of appeals will construe a party's filing of an application for a certificate of appealability, or other document indicating an intent to appeal, as the filing of a notice of appeal. If the notice of appeal or its equivalent is filed in the court of appeals, the clerk of that court will note the date it was received and send it to the district court, pursuant to FRAP 4(d).

(b) If the district court denies a certificate of appealability, a party may seek a certificate of appealability from the court of appeals. In the event that a party does not file an application for such a certificate, the court of appeals will construe a party's filing of a timely notice of appeal as an application to the court of appeals for a certificate of appealability.

(c) An application to the court of appeals for a certificate of appealability may be considered by a single circuit judge. The denial of a certificate of appealability, whether by a single circuit judge or by a panel, may be the subject of a motion for reconsideration but may not be the subject of a petition for panel rehearing or a petition for rehearing en banc.

RULE 22-2 | LENGTH OF APPLICATION FOR A CERTIFICATE OF APPEALABILITY

An application to the court of appeals for a certificate of appealability and a brief in support thereof (whether or not they are combined in a single document) collectively may not exceed the maximum length authorized for a party's principal brief [See FRAP 32(a)(7)]. A response and brief opposing an application is subject to the same limitations.



RULE 22-3 | APPLICATION FOR LEAVE TO FILE A SECOND OR SUCCESSIVE HABEAS CORPUS PETITION OR MOTION TO VACATE, SET ASIDE OR CORRECT SENTENCE

(a) Form. An applicant seeking leave to file a second or successive habeas corpus petition or motion to vacate, set aside or correct sentence should use the appropriate form provided by the clerk of this court. In a death sentence case, the use of the form is optional.

(b) Finality of Determination. Consistent with 28 U.S.C. §2244(b)(3)(E), the grant or denial of an authorization by a court of appeals to file a second or successive habeas corpus petition or a motion pursuant to 28 U.S.C. §2255 is not appealable and shall not be the subject of a motion for reconsideration, a petition for panel rehearing, or a petition for rehearing en banc.



RULE 22-4 | ASSIGNMENT OF CAPITAL CASES

Capital cases are randomly assigned from a roster of active judges of the court. Once assigned, the same panel will be assigned to all cases and appeals involving the same inmate under sentence of death. Replacement judges may be selected in the event a panel member takes senior status or is otherwise unavailable.



RULE 24-1 | APPEALS IN FORMA PAUPERIS AND UNDER THE CRIMINAL JUSTICE ACT

(a) To meet the requirements of the Criminal Justice Act of 1964, as amended, 18 U.S.C. §3006A, the judicial council of this circuit has adopted a plan that supplements the various plans that have been adopted by the United States district courts of this circuit by providing for representation on appeal of parties financially unable to obtain adequate representation. The circuit's CJA plan, and the guidelines for counsel, appear as Addendum Four to these rules.

(b) If counsel was appointed for a party in the district court under the Criminal Justice Act, the party may appeal without prepaying costs and without establishing the right to proceed in forma pauperis. 18 U.S.C. §3006A(d)(6). This policy also applies to all in forma pauperis appeals from judgments of conviction.



RULE 24-2 | MOTION FOR LEAVE TO PROCEED ON APPEAL IN FORMA PAUPERIS

A motion for leave to proceed on appeal in forma pauperis may be filed in the court of appeals within 30 days after service of notice of the action of the district court denying leave to proceed on appeal in forma pauperis.



LOCAL RULES OF COURT | 11TH CIRCUIT (US)

SECTION: VII

TITLE: GENERAL PROVISIONS

RULES: 24-1 through 47-6



RULE 25-1 | FILINGS FROM PARTY REPRESENTED BY COUNSEL

When a party is represented by counsel, the clerk may not accept filings from the party.



RULE 25-2 | FILING OF PAPERS TRANSMITTED BY ALTERNATE MEANS

The clerk may specially authorize the filing of papers transmitted by alternate means in emergencies and for other compelling circumstances. In such cases, signed originals must thereafter also be furnished by conventional means. Provided that the clerk had given prior authorization for transmission by alternate means and the papers conform to the requirements of FRAP and circuit rules, the signed originals will be filed nunc pro tunc to the receipt date of the papers transmitted by alternate means. The court may act upon the papers transmitted by alternate means prior to receipt of the signed originals.



RULE 25-3 | ELECTRONIC CASE FILES (ECF) SYSTEM

(a) Electronic Filing and Service. It is mandatory that all counsel of record use the court's Electronic Case Files (ECF) system. Non-incarcerated pro se parties are permitted to use the court's ECF system. However, once a non-incarcerated pro se party has elected to use the ECF system, such party is required to do so unless the court grants the party's request to not use the system or revokes the party's permission upon a finding that the party has abused the privilege of using the ECF system. Documents must be filed and served electronically in accordance with the procedures adopted by the court and set forth in the Eleventh Circuit Guide to Electronic Filing. The Eleventh Circuit Guide to Electronic Filing, and information and training materials related to electronic filing, are available at www.ca11.uscourts.gov.

The notice generated and e-mailed by the ECF system constitutes service of all electronically filed documents on attorneys and pro se parties registered to use the ECF system. Independent service, either by paper or otherwise, need not be made on those attorneys or parties. Incarcerated pro se litigants, non-incarcerated pro se litigants who choose not to file electronically or whose permission to file electronically has been revoked, and attorneys who are exempt from electronic filing must be served by the filing party through the conventional means of service set forth in FRAP 25.

(b) Attorney Exemption. Upon motion and a showing of good cause, the court may exempt an attorney from the electronic filing requirements and authorize filing and service by means other than the use of the ECF system. The motion, which need not be filed or served electronically, must be filed at least 14 days before the brief, petition, or other document is due. Also see 11th Cir. R. 31-5.



RULE 25-4 | INFORMATION AND SIGNATURE REQUIRED

All papers filed, including motions and briefs, must contain the name, office address, and telephone number of an attorney or a party proceeding pro se, and be signed by an attorney or by a party proceeding pro se. Inmate filings must be signed by the inmate and should contain name, prisoner number, institution, and street address.



RULE 25-5 | MAINTAINING PRIVACY OF PERSONAL DATA

In order to promote electronic access to case files while also protecting personal privacy and other legitimate interests, parties shall refrain from including, or shall partially redact where inclusion is necessary, the following personal data identifiers from all pleadings filed with the court, including exhibits thereto, whether filed electronically or in paper, unless otherwise ordered by the court.

a. Social Security numbers and Taxpayer Identification numbers. If an individual's social security number or taxpayer identification number must be included in a pleading, only the last four digits of that number should be used.

b. Names of minor children. If the involvement of a minor child must be mentioned, only the initials of that child should be used. For purposes of this rule, a minor child is any person under the age of eighteen years, unless otherwise provided by statute or court order.

c. Dates of birth. If an individual's date of birth must be included in a pleading, only the year should be used.

d. Financial account numbers. If financial account numbers are relevant, only the last four digits of these numbers should be used.

e. Home addresses. If a home address must be included, only the city and state should be used. Subject to the exemptions from the redaction requirement contained in the Federal Rules of Civil, Criminal, and Bankruptcy Procedure, as made applicable to the courts of appeals through FRAP 25(a)(5), a party filing a document containing the personal data identifiers listed above shall file a redacted document for the public file and either:

(1) a reference list under seal. The reference list shall contain the complete personal data identifier and the redacted identifier used in its place in the redacted filing. All references in the filing to the redacted identifiers included in the reference list will be construed to refer to the corresponding complete personal data identifiers. The reference list must be filed under seal, may be amended as of right, and shall be retained by the court as part of the record. A motion



to file the reference list under seal is not required.
Or

(2) an unredacted document under seal, along with a motion to file the unredacted document under seal specifying the type of personal data identifier included in the document and why the party believes that including it in the document is necessary or relevant. If permitted to be filed, both the redacted and unredacted documents shall be retained by the court as part of the record. The responsibility for redacting these personal data identifiers rests solely with counsel and the parties. The clerk will not review each pleading for compliance with this rule. A person waives the protection of this rule as to the person's own information by filing it without redaction and not under seal.

Consistent with FRAP 25(a)(5), remote electronic public access is not provided to pleadings filed with the court in Social Security appeals and immigration cases. Therefore, parties in Social Security appeals and immigration cases are exempt from the requirements of this rule.

In addition to the foregoing, a party should exercise caution when filing a document that contains any of the following information. A party filing a redacted document that contains any of the following information must comply with the rules for filing an unredacted document as described in numbered paragraph (2) above.

- Personal identifying number, such as driver's license number;
- medical records, treatment and diagnosis;
- employment history;
- individual financial information;
- proprietary or trade secret information;
- information regarding an individual's cooperation with the government;
- national security information;
- sensitive security information as described in 49 U.S.C. §114(s).



RULE 25-6 | COURT ACTION WITH RESPECT TO IMPERMISSIBLE LANGUAGE OR INFORMATION IN FILINGS

(a) When any paper filed with the court, including motions and briefs, contains:

(1) *ad hominem* or defamatory language; or

(2) information the public disclosure of which would constitute a clearly unwarranted invasion of personal privacy; or

(3) information the public disclosure of which would violate legally protected interests, the court on motion of a party or on its own motion, may without prior notice take appropriate action.

(b) The appropriate action the court may take in the circumstances described above includes ordering that: the document be sealed; specified language or information be stricken from the document; the document be struck from the record; the clerk be directed to remove the document from electronic public access; the party who filed the document either explain why including the specified language or disclosing the specified information in the document is relevant, necessary, and appropriate or file a redacted or replacement document.

(c) When the court takes such action under this rule without prior notice, the party may within 14 days from the date the court order is issued file a motion to restore language or information stricken or removed from the document or file the document without redaction, setting forth with particularity any reasons why the action taken by the court was unwarranted. The timely filing of such motion will postpone the due date for filing any redacted or replacement document until the court rules on the motion.



RULE 25-7 | OBLIGATION TO NOTIFY COURT OF CHANGE OF ADDRESSES

Each pro se party and attorney exempt from electronic filing requirements has a continuing obligation to notify this court of any changes to the party's or attorney's mailing address and e-mail address, if any, during the pendency of the case in which the party or attorney is participating. Every attorney registered to use the ECF system has a continuing obligation to notify the PACER Service Center of any changes to the attorney's e-mail address, mailing address, telephone number, and fax number. The transmission of court documents to a previous address is effective if the pro se party or attorney has failed to comply with this rule.



RULE 26-1 | MOTION FOR EXTENSION OF TIME

A motion for extension of time made pursuant to FRAP 26(b) shall contain a statement that movant's counsel has consulted opposing counsel and that either opposing counsel has no objection to the relief sought, or will or will not promptly file an objection. In criminal appeals, counsel must state whether the party they represent is incarcerated.



RULE 26.1-1 | CERTIFICATE OF INTERESTED PERSONS AND CORPORATE DISCLOSURE STATEMENT (CIP): FILING REQUIREMENTS

(a) Paper or E-Filed CIPs.

(1) Every party and amicus curiae ("filers") must include a certificate of interested persons and corporate disclosure statement ("CIP") within every motion, petition, brief, answer, response, and reply filed.

(2) In addition, appellants and petitioners must file a CIP within 14 days after the date the case or appeal is docketed in this court.

(3) Also, all appellees, intervenors, respondents, and all other parties to the case or appeal must file a CIP within 28 days after the date the case or appeal is docketed in this court, regardless of whether appellants and petitioners have filed a CIP. If appellants and petitioners have already filed a CIP, appellees, intervenors, respondents, and all other parties may file a notice either indicating that the CIP is correct and complete, or adding any interested persons or entities omitted from the CIP.

(b) Web-based CIP. On the same day any filer represented by counsel first files its paper or e-filed CIP, that filer must also complete the court's web-based CIP at www.call.uscourts.gov. At the website, counsel for filers will log into the web-based CIP where they will enter stock ("ticker") symbol information for publicly traded corporations to be used by the court in electronically checking for recusals. If there is no publicly traded corporation involved, and thus no stock ticker symbol to enter, the filer still must complete the web-based CIP by entering "nothing to declare."

Failure to complete the web-based CIP will delay processing of the motion, case, or appeal, and may result in other sanctions under 11th Cir. R. 26.1-5(c).

The e-filing of a CIP by an attorney registered to use the ECF system does not relieve that attorney of the requirement to complete and keep updated the web-based CIP. Pro se filers (except attorneys appearing in particular cases as pro se

parties) are not required or authorized to complete the web-based CIP.



RULE 26.1-2 | CIP: CONTENTS

(a) General. A CIP must contain a complete list of all trial judges, attorneys, persons, associations of persons, firms, partnerships, or corporations that have an interest in the outcome of the particular case or appeal, including subsidiaries, conglomerates, affiliates, parent corporations, any publicly held corporation that owns 10% or more of the party's stock, and other identifiable legal entities related to a party.

In criminal and criminal-related appeals, the CIP must also disclose the identity of any victims. In bankruptcy appeals, the CIP must also identify each debtor, the members of the creditor's committee, any entity which is an active participant in the proceedings, and other entities whose stock or equity value may be substantially affected by the outcome of the proceedings.

(b) CIPs in Briefs. The CIP contained in the first brief filed must include a complete list of all persons and entities known to that filer to have an interest in the outcome of the particular case or appeal. The CIP contained in the second and all subsequent briefs filed may include only persons and entities omitted from the CIP contained in the first brief filed and in any other brief that has been filed. Filers who believe that the CIP contained in the first brief filed and in any other brief that has been filed is complete must certify to that effect.

(c) CIPs in Motions or Petitions. The CIP contained in each motion or petition filed must include a complete list of all persons and entities known to that filer to have an interest in the outcome of the particular case or appeal. The CIP contained in a response or answer to a motion or petition, or a reply to a response, may include only persons and entities that were omitted from the CIP contained in the motion or petition. Filers who believe that the CIP contained in the motion or petition is complete must certify to that effect.

(d) CIPs in Petitions for En Banc Consideration. In a petition for en banc consideration, the petitioner's CIP must also compile and include a complete list of all persons and entities listed on all CIPs previously filed in the case or appeal prior to the date of filing of the petition for en



banc consideration. Eleventh Circuit Rule 26.1-2(b) applies to all en banc briefs.



RULE 26.1-3 | CIP: FORM

(a) The CIP must list persons (last name first) and entities in alphabetical order, have only one column, and be double-spaced.

(b) A corporate entity must be identified by its full corporate name as registered with a secretary of state's office and, if its stock is publicly listed, its stock ("ticker") symbol must be provided after the corporate name. If no publicly traded company or corporation has an interest in the outcome of the case or appeal, a statement certifying to that effect must be included at the end of the CIP and must be entered into the web-based CIP.

(c) At the top of each page, the court of appeals docket number and short style must be noted (name of first-listed plaintiff or petitioner v. name of first-listed defendant or respondent). Each page of the CIP must be separately sequentially numbered to indicate the total number of pages comprising the CIP (e.g., C-1 of 3, C-2 of 3, C-3 of 3). These pages do not count against any length limitations imposed on the papers filed.

(d) When being included in a document, the CIP must immediately follow the cover page within a brief, and must precede the text in a petition, answer, motion, response, or reply.

RULE 26.1-4 | CIP: AMENDMENTS

Every filer is required to notify the court immediately of any additions, deletions, corrections, or other changes that should be made to its CIP. A filer must do so by filing an amended CIP with the court and by including an amended CIP with all subsequent filings. A filer:

- must prominently indicate on the amended CIP the fact that the CIP has been amended;
- must clearly identify the person or entity that has been added, deleted, corrected, or otherwise changed; and
- if represented by counsel, must update the web-based CIP to reflect the amendments on the same day the amended CIP is filed.

If an amended CIP that deletes a person or entity is filed, every other party must, within 10 days after the filing of the amended CIP, file a notice indicating whether or not it agrees that the deletion is proper.

RULE 26.1-5 | FAILURE TO SUBMIT A CIP OR COMPLETE THE WEB-BASED CIP

(a) The court will not act upon any papers requiring a CIP, including emergency filings, until the CIP is filed and the web-based CIP is completed, except to prevent manifest injustice.

(b) The clerk is not authorized to submit to the court any brief, petition, answer, motion, response, or reply that does not contain the CIP, or any of those papers in a case or appeal where the web-based CIP has not been completed, but may receive and retain the papers pending supplementation of the papers with the required CIP and pending completion of the web-based CIP.

(c) The failure to comply with 11th Cir. Rules 26.1-1 through 26.1-4 may result in dismissal of the case or appeal under 11th Cir. R. 42-1(b), return of deficient documents without action, or other sanctions on counsel, the party, or both.



RULE 27-1 | MOTIONS

(a) Number of Copies and Form of Motion.

(1) When a motion is filed in paper, an original and three copies of the motion and supporting papers must be filed if the motion requires panel action. An original and one copy of the motion and supporting papers must be filed if the motion may be acted upon by a single judge or by the clerk [see 11th Cir. R. 27-1(c) and (d)].

(2) A motion filed in paper must contain proof of service on all parties, and should ordinarily be served on other parties by means which are as equally expeditious as those used to file the motion with the court.

(3) A motion shall be accompanied by, and the opposing party shall be served with, supporting documentation required by FRAP 27, including relevant materials from previous judicial or administrative proceedings in the case or appeal. A party moving for a stay must include a copy of the judgment or order from which relief is sought and any opinion and findings of the district court.

(4) In addition to matters required by FRAP 27, a motion shall contain a brief recitation of prior actions of this or any other court or judge to which the motion, or a substantially similar or related application for relief, has been made.

(5) A motion for extension of time made pursuant to FRAP 26(b) shall, and other motions where appropriate may, contain a statement that movant's counsel has consulted opposing counsel and that either opposing counsel has no objection to the relief sought, or will or will not promptly file an objection.

(6) In criminal appeals, counsel must state whether the party they represent is incarcerated.

(7) Both retained and appointed counsel who seek leave to withdraw from or to dismiss a criminal appeal must recite in the motion that the party they represent has been informed of the motion and either approves or disapproves of the relief sought and show service of the motion on the party they represent.



(8) Appointed counsel who seek leave to withdraw from representation in a criminal appeal must follow procedures set forth by the Supreme Court in *Anders v. California*, 386 U.S. 738, 87 S.Ct. 1396, 18 L.Ed.2d 493 (1967). It is counsel's responsibility to ensure that the record contains transcripts of relevant proceedings in the case, including pre-trial proceedings, trial proceedings (including opening and closing arguments and jury instructions), and sentencing proceedings. Counsel's brief in support of a motion to withdraw under *Anders* must contain a certificate of service indicating that the brief has been served on the party represented as well as on the other parties to the appeal.

(9) All motions filed with the court shall include a Certificate of Interested Persons and Corporate Disclosure Statement as described in FRAP 26.1 and the accompanying circuit rules.

(10) A motion must comply with the typeface and type style requirements of FRAP 32(a)(5) and 32(a)(6).

(11) A motion must comply with the requirement for references to the record found at 11th Cir. R. 28-5.

(b) Emergency Motions.

(1) Except in capital cases in which execution has been scheduled, a motion will be treated as an emergency motion only when both of the following conditions are present:

1. The motion will be moot unless a ruling is obtained within seven days; and
2. If the order sought to be reviewed is a district court order or action, the motion is being filed within seven days of the filing of the district court order or action sought to be reviewed.

Motions that do not meet these two conditions but in which a ruling is required by a date certain may be treated as "time sensitive" motions.

(2) A party requesting emergency action shall label the motion as "Emergency Motion" and state the nature of the emergency and the date by which action is necessary. The motion or accompanying memorandum shall state the

reasons for granting the requested relief and must specifically discuss:

- (i) the likelihood the moving party will prevail on the merits;
- (ii) the prospect of irreparable injury to the moving party if relief is withheld;
- (iii) the possibility of harm to other parties if relief is granted; and
- (iv) the public interest.

Counsel filing the motion shall make every possible effort to serve the motion personally; if this is not possible, counsel shall notify opposing counsel promptly by telephone.

(3) If the emergency motion raises any issue theretofore raised in a district court, counsel for the moving party shall furnish copies of all pleadings, briefs, memoranda or other papers filed in the district court supporting or opposing the position taken by the moving party in the motion and copies of any order or memorandum decision of the district court relating thereto. If compliance is impossible or impractical due to time restraints or otherwise, the reason for non-compliance shall be stated.

(4) To expedite consideration by the court in a genuine emergency, the movant or his or her counsel must telephone the clerk at the earliest practical time and describe a motion that has not yet been filed in writing. This is not a substitute for the filing required by FRAP 27(a). Failure to notify the clerk via telephone in advance may delay the processing of the motion.

(5) Except in capital cases in which execution has been scheduled, counsel will be permitted to file an emergency motion outside of normal business hours only when both of the following conditions are present:

- 1. The motion will be moot unless a ruling is obtained prior to noon [Eastern Time] of the next business day; and
- 2. If the order or action sought to be reviewed is a district court order or action, the motion is



being filed within two business days of the filing of the district court order or action sought to be reviewed.

(c) Motions for Procedural Orders Acted Upon by the Clerk.

The clerk is authorized, subject to review by the court, to act for the court on the following unopposed procedural motions:

- (1) to extend the time for filing briefs or other papers in appeals not yet assigned or under submission;
- (2) to withdraw appearances except for court-appointed counsel;
- (3) to make corrections at the request of counsel in briefs or pleadings filed in this court;
- (4) to extend the time for filing petitions for rehearing for not longer than 28 days, but only when the court's opinion is unpublished;
- (5) to abate or stay further proceedings in appeals, provided that the requesting party files a written status report with the clerk at 30-day intervals, indicating whether the abatement or stay should continue;
- (6) to supplement or correct records;
- (7) to consolidate appeals from the same district court;
- (8) to incorporate records or briefs from former appeals;
- (9) to grant leave to file further reply or supplemental briefs before argument in addition to the single reply brief permitted by FRAP 28(c);
- (10) to reinstate appeals dismissed by the clerk;
- (11) to enter orders continuing on appeal district court appointments of counsel for purposes of compensation;
- (12) to file briefs in excess of the page and type-volume limitations set forth in FRAP 32(a)(7), but only upon a showing of extraordinary circumstances;
- (13) to extend the time for filing Bills of Costs.



(14) to permit the release of the record from the clerk's custody but only upon a showing of extraordinary circumstances;

(15) to grant leave to adopt by reference any part of the brief of another;

(16) to intervene in a proceeding seeking review or enforcement of an agency order;

(17) to intervene pursuant to 28 U.S.C. §2403;

(18) for substitution of parties.

The clerk is authorized, subject to review by the court, to act for the court on the following opposed procedural motions:

(19) to grant moderate extensions of time for filing briefs or other papers in appeals not yet assigned or under submission unless substantial reasons for opposition are advanced;

(20) to expedite briefing in a direct appeal of a criminal conviction and/or sentence when it appears that an incarcerated defendant's projected release is expected to occur prior to the conclusion of appellate proceedings.

The clerk is also authorized to carry a motion with the case where there is no need for court action prior to the time the matter is considered on the merits by a panel.

(d) Motions Acted Upon by a Single Judge. Under FRAP 27(c), a single judge may, subject to review by the court, act upon any request for relief that may be sought by motion, except to dismiss or otherwise determine an appeal or other proceeding. Without limiting this authority, a single judge is authorized to act, subject to review by the court, on the following motions:

(1) where opposed, motions that are subject to action by the clerk under part (c) of this rule;

(2) for certificates of appealability under FRAP 22(b) and 28 U.S.C. §2254;

(3) to appeal in forma pauperis pursuant to FRAP 24 and 28 U.S.C. §1915(a);



(4) to appoint counsel for indigent persons appealing from judgments of conviction or from denial of writs of habeas corpus or petitions filed under 28 U.S.C. §2255, or to permit court appointed counsel to withdraw;

(5) to extend the length of briefs except in capital cases, and to extend the length of petitions for rehearing or rehearing en banc;

(6) to extend the times prescribed by the rules of this court for good cause shown (note that FRAP 26(b) forbids the court to enlarge the time for taking various actions, including the time for filing a notice of appeal); in criminal appeals, counsel requesting an extension of time to file a brief must state whether the party they represent is incarcerated;

(7) to exercise the power granted in FRAP 8 and 9 with respect to stays or injunctions or releases in criminal cases pending appeal but subject to the restrictions set out therein, and under FRAP 18 with respect to stays pending review of decisions or orders of agencies but subject to the restrictions on the power of a single judge contained therein;

(8) to stay the issuance of mandates;

(9) to expedite appeals;

(10) to file briefs as amicus curiae prior to issuance of a panel opinion.

(e) Two-Judge Motions Panels. Specified motions as determined by the court may be acted upon by a panel of two judges.

(f) Motions Shall Not Be Argued. Unless ordered by the court no motion shall be orally argued.

(g) Effect of a Ruling on a Motion. A ruling on a motion or other interlocutory matter, whether entered by a single judge or a panel, is not binding upon the panel to which the appeal is assigned on the merits, and the merits panel may alter, amend, or vacate it.



RULE 27-2 | MOTION FOR RECONSIDERATION

A motion to reconsider, vacate, or modify an order must be filed within 21 days of the entry of such order. No additional time shall be allowed for mailing.



RULE 27-3 | SUCCESSIVE MOTIONS FOR RECONSIDERATION NOT PERMITTED

A party may file only one motion for reconsideration with respect to the same order. Likewise, a party may not request reconsideration of an order disposing of a motion for reconsideration previously filed by that party.

RULE 27-4 | SANCTIONS FOR FILING A FRIVOLOUS MOTION

When a party or an attorney practicing before this court files a frivolous motion, the court may, on motion of a party, or on its own motion after notice and a reasonable opportunity to respond, impose an appropriate sanction on the party, the attorney, or both. For purposes of this rule, a motion is frivolous if:

- (a) it is without legal merit and cannot be supported by a reasonable argument for an extension, modification, or reversal of existing law, or the establishment of new law; or
- (b) it contains assertions of material facts that are false or unsupported by the record; or
- (c) it is presented for an improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation.

Sanctions may be monetary or nonmonetary in nature. Monetary sanctions may include an order to pay a penalty into the court, or an order directing payment to another party of some or all of the attorney's fees and expenses incurred by that party as a result of the frivolous motion, or both.

When a motion to impose sanctions is filed under this rule, the court may, if warranted, award to the party prevailing on the motion reasonable attorney's fees and expenses incurred in presenting or opposing the motion.



RULE 28-1 | BRIEFS - CONTENTS

Each principal brief shall consist, in the order listed, of the following:

(a) Cover Page. Elements to be shown on the cover page include the court of appeals docket number centered at the top; the name of this court; the title of the case [see FRAP 12(a)]; the nature of the proceeding [e.g., Appeal, Petition for Review]; the name of the court, agency, or board below; the title of the brief, identifying the party or parties for whom the brief is filed; and the name, office address, and telephone number of the attorney. See FRAP 32(a)(2).

(b) Certificate of Interested Persons and Corporate Disclosure Statement. A Certificate of Interested Persons and Corporate Disclosure Statement ("CIP") is required of every party and amicus curiae. The CIP shall comply with FRAP 26.1 and the accompanying circuit rules, and shall be included within each brief immediately following the cover page.

(c) Statement Regarding Oral Argument. Appellant's brief shall include a short statement of whether or not oral argument is desired, and if so, the reasons why oral argument should be heard. Appellee's brief shall include a similar statement. The court will accord these statements due, though not controlling, weight in determining whether oral argument will be heard. See FRAP 34(a) and (f) and 11th Cir. R. 34-3(c).

(d) Table of Contents. The table of contents shall include page references to each section required by this rule to be included within the brief. The table shall also include specific page references to each heading or subheading of each issue argued.

(e) Table of Citations. The Table of Citations shall show the locations in the brief of citations, and shall contain asterisks in the margin identifying the citations upon which the party primarily relies.

(f) Statement Regarding Adoption of Briefs of Other Parties. A party who adopts by reference any part of the brief of another party pursuant to FRAP 28(i) shall include a statement describing in detail which briefs and which portions of those briefs are adopted.



(g) Statement of Subject-Matter and Appellate Jurisdiction. The jurisdictional statement must contain all information required by FRAP 28(a)(4)(A) through (D).

(h) Statement of the Issues.

(i) Statement of the Case. In the statement of the case, as in all other sections of the brief, every assertion regarding matter in the record shall be supported by a reference to the record, as described in 11th Cir. R. 28-5. The statement of the case shall briefly recite the nature of the case and shall then include:

(i) the course of proceedings and dispositions in the court below. IN CRIMINAL APPEALS, COUNSEL MUST STATE WHETHER THE PARTY THEY REPRESENT IS INCARCERATED;

(ii) a statement of the facts. A proper statement of facts reflects a high standard of professionalism. It must state the facts accurately, those favorable and those unfavorable to the party. Inferences drawn from facts must be identified as such;

(iii) a statement of the standard or scope of review for each contention. For example, where the appeal is from an exercise of district court discretion, there shall be a statement that the standard of review is whether the district court abused its discretion. The appropriate standard or scope of review for other contentions should be similarly indicated, e.g., that the district court erred in formulating or applying a rule of law; or that there is insufficient evidence to support a verdict; or that fact findings of the trial judge are clearly erroneous under Fed.R.Civ.P. 52(a); or that there is a lack of substantial evidence in the record as a whole to support the factual findings of an administrative agency; or that the agency's action, findings and conclusions should be held unlawful and set aside for the reasons set forth in 5 U.S.C. §706(2).

(j) Summary of the Argument. The opening briefs of the parties shall also contain a summary of argument, suitably paragraphed, which should be a clear, accurate and succinct condensation of the argument actually made in the body of the brief. It should not be a mere repetition of the headings under which the argument is arranged. It should seldom exceed two and never five pages.

(k) Argument and Citations of Authority. Citations of authority in the brief shall comply with the rules of citation in the latest edition of either the "Bluebook" (A Uniform System of Citation) or the "ALWD Guide" (Association of Legal Writing Directors' Guide to Legal Citation). Citations shall reference the specific page number(s) which relate to the proposition for which the case is cited. For state reported cases the national reporter series should be cross referenced (e.g., Southern Reporter, Southeast Reporter).

(l) Conclusion.

(m) Certificate of Compliance. The certificate described in FRAP 32(g), if required by that rule.

(n) Certificate of Service. The certificate described in FRAP 25(d), if required by that rule.



RULE 28-2 | APPELLEE'S BRIEF

An appellee's brief need not contain items (g), (h), and (i) of 11th Cir. R. 28-1 if the appellee is satisfied with the appellant's statement.

RULE 28-3 | REPLY BRIEF

A reply brief need contain only items (a), (b), (d), (e), (k), (m) and (n) of 11th Cir. R. 28-1.

RULE 28-4 | BRIEFS FROM PARTY REPRESENTED BY COUNSEL

When a party is represented by counsel, the clerk may not accept a brief from the party.



RULE 28-5 | REFERENCES TO THE RECORD

References to the record in a brief must be to document number and page number. The page number in a transcript is the page number that appears in the header generated by the district court's electronic filing system if available at the time of filing. Otherwise, the page number is the page number assigned by the court reporter. The brief must note the reference format used. A reference may (but need not) contain the full or abbreviated name of a document.



RULE 28.1-1 | BRIEFS IN CROSS-APPEALS

In addition to the requirements of FRAP 28.1, briefs in cross-appeals are also governed by 11th Cir. R. 28-1 through 28-5 and the Internal Operating Procedures corresponding to those rules.



RULE 28.1-2 | BRIEFING SCHEDULE IN CROSS-APPEALS

Except as otherwise provided by 11th Cir. R. 31-1, the initial brief of appellant/cross-appellee shall be served and filed within 40 days after the date on which the record is deemed filed as provided by 11th Cir. R. 12-1. The brief of appellee/cross-appellant shall be served and filed within 30 days after service of the last appellant's brief. The second brief of appellant/cross-appellee shall be served and filed within 30 days after service of the last appellee/cross-appellant's brief. Appellee/cross-appellant's reply brief shall be served and filed within 21 days after service of the last appellant/cross-appellee's second brief.



RULE 29-1 | MOTIONS FOR LEAVE

Motions for leave to file a brief of amicus curiae must comply with FRAP 27 and 11th Cir. R. 27-1, including the requirement of a Certificate of Interested Persons and Corporate Disclosure Statement as described in FRAP 26.1 and the accompanying circuit rules.



RULE 29-2 | AMICUS BRIEF

In addition to the requirements of FRAP 29(a)(4), an amicus brief must contain items (a), (b), (d), (e), (h), (j), (k), (l), (m) and (n) of 11th Cir. R. 28-1.



RULE 29-3 | MOTION FOR LEAVE TO FILE AMICUS BRIEF IN SUPPORT OF PETITION FOR REHEARING EN BANC

A request for leave to file an amicus brief in support of a petition for rehearing en banc must be made by motion accompanied by the proposed brief in conformance with 11th Cir. R. 35-5, except that subsections (f) and (k) may be omitted. The proposed amicus brief must not exceed the length limits set out in FRAP 29(b)(4), exclusive of items required by 11th Cir. R. 35-5(a), (b), (c), (d), and (j). The cover must be green. An amicus curiae must file its proposed brief, accompanied by a motion for filing when necessary, no later than seven days after the petition for rehearing en banc being supported is filed. Unless the court directs otherwise, no response to the motion may be filed.



RULE 29-4 | MOTION FOR LEAVE TO FILE AMICUS BRIEF IN SUPPORT OF PETITION FOR PANEL REHEARING

A request for leave to file an amicus brief in support of a petition for panel rehearing must be made by motion accompanied by the proposed brief in conformance with FRAP 29(a)(3) and (a)(4) and the corresponding circuit rules. The proposed amicus brief must not exceed the length limits set out in FRAP 29(b)(4), exclusive of items that do not count towards page limitations as described in 11th Cir. R. 32-4. The cover must be green. An amicus curiae must file its proposed brief, accompanied by a motion for filing when necessary, no later than seven days after the petition for panel rehearing being supported is filed. Unless the court directs otherwise, no response to the motion may be filed.



RULE 30-1 | APPENDIX - APPEALS FROM DISTRICT COURT AND TAX COURT

(a) Contents. In appeals from district courts and the tax court, the appellant must file an appendix containing those items required by FRAP 30(a)(1), which are:

- the relevant docket entries in the proceeding below;
- the relevant portions of the pleadings, charge, findings, or opinion;
- the judgment, order, or decision in question; and
- other parts of the record to which the parties wish to direct the court's attention.

Other than FRAP 30(a)(1), the requirements in FRAP 30 do not apply in this circuit.

Consistent with the requirements of FRAP 30(a)(1) that the appendix contain relevant docket entries and relevant portions of the record, this court has determined that the following items are either relevant docket entries or relevant portions of the record in the types of appeals specified below and thus must be included in the appendix:

- (1) the district court or tax court docket sheet, including, in bankruptcy appeals, the bankruptcy court docket sheet;
- (2) in an appeal in a criminal case, the indictment, information, or petition as amended;
- (3) in an appeal in a civil case, the complaint, answer, response, counterclaim, cross-claim, and any amendments to such items;
- (4) those parts of any pretrial order relevant to the issues on appeal;
- (5) the judgment or interlocutory order appealed from;
- (6) any other order or orders sought to be reviewed, including, in bankruptcy appeals, the order(s) of the bankruptcy court appealed to the district court;
- (7) in an appeal from the grant or denial of a petition for a writ of habeas corpus under 28 U.S.C. §2254, all opinions by any state court previously rendered in the criminal prosecution and related collateral proceedings



and appeals, and any state court orders addressing any claims and defenses brought by the petitioner in the federal action. This requirement applies whether or not the state court opinions and orders are contained in the district court record;

(8) any supporting opinion, findings of fact and conclusions of law filed or delivered orally by the court;

(9) if the correctness of a jury instruction is in issue, the instruction in question and any other relevant part of the jury charge;

(10) a magistrate's report and recommendation, when appealing a court order adopting same in whole or in part;

(11) findings and conclusions of an administrative law judge, when appealing a court order reviewing an administrative agency determination involving same;

(12) the relevant parts of any document, such as an insurance policy, contract, agreement, or ERISA plan, whose interpretation is relevant to the issues on appeal;

(13) in an appeal in a criminal case in which any issue is raised concerning the guilty plea, the transcript of the guilty plea colloquy and any written plea agreement;

(14) in an appeal in a criminal case in which any issue is raised concerning the sentence, the transcript of the sentencing proceeding, and the presentence investigation report and addenda (under seal in a separate envelope); and

(15) any other pleadings, affidavits, transcripts, filings, documents, or exhibits that any one of the parties believes will be helpful to this court in deciding the appeal. Except as otherwise permitted by subsection (a)(7) of this rule, under no circumstances should a document be included in the appendix that was not submitted to the trial court.

(b) Appellee's Responsibility. If the appellant's appendix is deficient or if the appellee's brief, to support its position on an issue, relies on parts of the record not included in

appellant's appendix, the appellee must file its own supplemental appendix within seven days of filing its brief. The appellee's supplemental appendix must not duplicate any documents in the appellant's appendix.

In an appeal by an incarcerated pro se party, counsel for appellee must submit an appendix that includes the specific pages of any record materials referred to in the argument section of appellee's brief and those referred to in the argument section of the appellant's brief that are relevant to the resolution of an issue on appeal.

(c) Time for Filing. A party must file an appendix or supplemental appendix within seven days of filing the party's brief.

(d) Number of Copies. A pro se party proceeding in forma pauperis may file only one paper copy of the appendix or supplemental appendix, except that an incarcerated pro se party is not required to file an appendix.

Every other party must file two paper copies of the appendix or supplemental appendix within seven days of filing the party's brief, and if the appeal is classed for oral argument, such party must file an additional three identical paper copies of the appendix previously filed within seven days after the date on the notice from the clerk that the appeal has been classed for oral argument. The appendix must be served on counsel for each party separately represented, and on each pro se party. Where multiple parties are on one side of an appeal, they are strongly urged to file a joint appendix.

For filers using the ECF system, the electronically filed appendix is the official record copy of the appendix. Use of the ECF system does not modify the requirement that filers must provide to the court the required number of paper copies of the appendix. Filers will be considered to have complied with this requirement if, on the day the electronic appendix is filed, the filer sends two paper copies to the clerk using one of the methods outlined in FRAP 25(a)(2)(A)(ii). If the appeal is classed for oral argument, the filer (except for pro se parties proceeding in forma pauperis) must file an additional three identical paper copies of the appendix in accordance with the preceding paragraph. Also see 11th Cir. R. 25-3(a).



(e) Form. The paper appendix shall be reproduced on white paper by any duplicating or copying process capable of producing a clear black image, with a cover containing the information specified in 11th Cir. R. 28-1(a) and captioned "Appendix." The appendix shall be assembled with a front and back durable (at least 90#) white covering and shall be bound across the top with a secure fastener. Indexing tabs shall be affixed to the first page of each document in the appendix to identify and assist in locating the document. An index identifying each document contained in the appendix and its tab number shall be included immediately following the cover page. The appendix shall include a certificate of service if required by FRAP 25(d).



RULE 30-2 | APPENDIX - AGENCY REVIEW PROCEEDINGS

Except in review proceedings covered by 11th Cir. R. 15-1, in proceedings for review of orders of an agency, board, commission or officer, the petitioner must file an appendix containing those items required by FRAP 30(a)(1), which are:

- the relevant docket entries in the proceeding below;
- the relevant portions of the pleadings, charge, findings, or opinion;
- the judgment, order, or decision in question; and
- other parts of the record to which the parties wish to direct the court's attention.

Other than FRAP 30(a)(1), the requirements in FRAP 30 do not apply in this circuit.

The requirements concerning the time for filing, number of copies, and form, set out in 11th Cir. R. 30-1(c), (d), and (e), also apply in agency proceedings. In a National Labor Relations Board enforcement proceeding, the party adverse to the Board shall be considered a petitioner for purposes of this rule.



RULE 30-3 | ELECTRONIC APPENDIX SUBMISSION

This rule only applies to attorneys who have been granted an exemption from the use of the ECF system under 11th Cir. R. 25-3(b). On the day the attorney's paper appendix is served, the attorney must provide the court with an electronic appendix in accordance with directions provided by the clerk. The time for serving and filing an appendix is determined by service and filing of the paper appendix. If corrections are required to be made to the paper appendix, a corrected copy of the electronic appendix must be provided. The certificate of service shall indicate the date of service of the appendix in paper format.



RULE 31-1 | BRIEFS - TIME FOR SERVING AND FILING

(a) Briefing Schedule. Except as otherwise provided herein, the appellant shall serve and file a brief within 40 days after the date on which the record is deemed filed as provided by 11th Cir. R. 12-1. The appellee shall serve and file a brief within 30 days after service of the brief of the last appellant. The appellant may serve and file a reply brief within 21 days after service of the brief of the last appellee.

(b) Pending Motions. If any of the following motions or matters are pending in either the district court or the court of appeals at the time the appeal is docketed in the court of appeals or thereafter, the appellant (or appellant/cross-appellee) shall serve and file a brief within 40 days after the date on which the district court or the court of appeals rules on the motion or resolves the matter, and the appeal is allowed to proceed, or within 40 days after the date on which the record is deemed filed as provided by 11th Cir. R. 12-1, whichever is later:

- Motion to proceed In Forma Pauperis
- Motion for a Certificate of Appealability or to expand a Certificate of Appealability
- Motion of a type specified in FRAP 4(a)(4)(A) or FRAP 4(b)(3)(A)
- Determination of excusable neglect or good cause as specified in FRAP 4(a)(5)(A) or FRAP 4(b)(4)
- Assessment of fees pursuant to the Prisoner Litigation Reform Act
- Appointment and/or withdrawal of counsel
- Request for transcript at government expense
- Designation by appellee of additional parts of the proceedings to be ordered from the court reporter, order by appellee of such parts, or motion by appellee for an order requiring appellant to order such parts, as provided by FRAP 10(b)(3)(B) and (C)



- Motion to consolidate appeals, provided that such motion is filed on or before the date the appellant's brief is due in any of the appeals which are the subject of such motion

Except as otherwise provided below, if any of the foregoing motions or matters are pending in either the district court or the court of appeals after the appellant (or appellant/cross-appellee) has served and filed a brief, the appellee (or appellee/cross-appellant) shall serve and file a brief within 30 days after the date on which the district court or the court of appeals rules on the motion or resolves the matter, and the appeal is allowed to proceed, or within 30 days after the date on which the supplemental record is deemed filed as provided by 11th Cir. R. 12-1, whichever is later.

When a motion to consolidate appeals is filed or is pending after an appellant has served and filed a brief in any of the appeals which are the subject of such motion, the due date for filing appellee's brief shall be postponed until the court rules on such motion. If the motion is granted, the appellee (or appellee/cross-appellant) shall serve and file a brief in the consolidated appeals within 30 days after the date on which the court rules on the motion, or within 30 days after service of the last appellant's brief, whichever is later. If the motion is denied, the appellee (or appellee/cross-appellant) shall serve and file a brief in each separate appeal within 30 days after the date on which the court rules on the motion, or within 30 days after service of the last appellant's brief in that separate appeal, whichever is later.

(c) Effect of Other Pending Motions on Time for Serving and Filing Brief. Except as otherwise provided in this rule, a pending motion does not postpone the time for serving and filing any brief. However, the filing of a motion to dismiss a criminal appeal based on an appeal waiver in a plea agreement shall postpone the due date for filing appellee's brief until the court rules on such motion. In addition, a motion to file a brief out-of-time, a motion to file a brief that does not comply with the court's rules, or a motion to file a replacement brief shall postpone the due date for filing an opposing party's response brief or reply brief until the court rules on such motion.



(d) Jurisdictional Question. If, upon review of the district court docket entries, order and/or judgment appealed from, and the notice of appeal, it appears that this court may lack jurisdiction over the appeal or cross-appeal, the court may request the parties to advise the court in writing of their position with respect to the jurisdictional question(s) raised. The issuance of a jurisdictional question does not stay the time for filing appellant's brief otherwise provided by this rule. Unless otherwise ordered by the court, the due date for filing appellee's or appellee-cross-appellant's brief shall be postponed until the court determines that the appeal or cross-appeal shall proceed or directs the parties to address the jurisdictional question(s) in their briefs on the merits. When the court rules on a jurisdictional question, a new due date will be set for filing appellee's or appellee-crossappellant's brief if the appeal or cross-appeal is allowed to proceed.



RULE 31-2 | BRIEFS AND APPENDICES - MOTION TO EXTEND TIME

(a) First Request for an Extension of Time. A party's first request for an extension of time to file its brief or appendix or to correct a deficiency in the brief or appendix must set forth good cause. A first request for an extension of 14 days or less may be made by telephone or in writing, is not subject to 11th Cir. R. 26-1, and may be granted by the clerk. A first request for an extension of more than 14 days must be made by written motion setting forth with particularity the facts demonstrating good cause, and will only be acted upon by the court. When a briefing schedule has been established by court order, a first request for an extension must be made by written motion and will only be acted upon by the court. Any motion for extension of time by the court shall be subject to 11th Cir. R. 26-1.

(b) First Request Filed 14 or More Days in Advance. When a party's first request for an extension of time to file its brief or appendix is filed 14 or more days in advance of the due date for filing the brief or appendix and the requested extension of time is denied in full on a date that is seven or fewer days before the due date or is after the due date has passed, the time for filing the party's brief or appendix will be extended an additional seven days beyond the initial due date or the date the court order is issued, whichever is later, unless the court orders otherwise.

(c) Seven Days in Advance Requirement. If a party's first request for an extension of time to file its brief or appendix seeks an extension of more than 14 days, the motion must be filed at least seven days in advance of the due date for filing the brief or appendix. Such a motion received by the clerk less than seven days in advance of the due date for filing the brief or appendix will generally be denied by the court, unless the motion demonstrates that the good cause on which the motion is based did not exist earlier or was not and with due diligence could not have been known earlier or communicated to the court earlier.

(d) Second Request for an Extension of Time. A party's second request for an extension of time to file its brief or appendix or to correct a deficiency in its brief or appendix is extremely disfavored and is granted rarely. A party's second request for an extension will be granted only upon a showing of extraordinary circumstances that were not foreseeable at



the time the first request was made. A second request must be made by written motion and will only be acted upon by the court.

(e) Extension of Time Must Be Requested Prior to Expiration of Due Date. A request for an extension of time to file the brief or appendix pursuant to this rule must be made or filed prior to the expiration of the due date for filing the brief or appendix. The clerk is without authority to file an appellant's motion for an extension of time to file the brief or appendix received by the clerk after the expiration of the due date for filing the brief or appendix. A request for an extension of time to correct a deficiency in the brief or appendix pursuant this rule must be made or filed within 14 days of the clerk's notice as provided in 11th Cir. R. 42-3. The clerk is without authority to file an appellant's motion for an extension of time to correct a deficiency in the brief or appendix received by the clerk after the expiration of the 14-day period provided by that rule. [See 11th Cir. R. 42-2 and 42-3 concerning dismissal for failure to prosecute in a civil appeal.]

RULE 31-3 | BRIEFS - NUMBER OF COPIES

One originally signed brief and six copies (total of seven) shall be filed in all appeals, except that pro se parties proceeding in forma pauperis may file one originally signed brief and three copies (total of four). The brief must be served on counsel for each party separately represented.

For filers using the ECF system, the electronically filed brief is the official record copy of the brief. Use of the ECF system does not modify the requirement that filers must provide to the court the required number of paper copies of a brief. Filers will be considered to have complied with this requirement if, on the day the electronic brief is filed, the filer sends the required number of paper copies to the clerk using one of the methods outlined in FRAP 25(a)(2)(A)(ii). Also see 11th Cir. R. 25-3(a).



RULE 31-4 | EXPEDITED BRIEFING IN CRIMINAL APPEALS

The clerk is authorized to expedite briefing when it appears that an incarcerated defendant's projected release is expected to occur prior to the conclusion of appellate proceedings.



RULE 31-5 | ELECTRONIC BRIEF SUBMISSION

This rule only applies to attorneys who have been granted an exemption from the use of the ECF system under 11th Cir. R. 25-3(b). On the day the attorney's paper brief is served, the attorney must provide the court with an electronic brief in accordance with directions provided by the clerk. The time for serving and filing a brief is determined by service and filing of the paper brief. If corrections are required to be made to the paper brief, a corrected copy of the electronic brief must be provided. The certificate of service shall indicate the date of service of the brief in paper format.



RULE 32-1 | BINDING OF PAPERS

Except as otherwise provided by 11th Cir. R. 30-1(e) for appendices, all papers shall be stapled or bound on the left. All copies presented to the court must be legible.



RULE 32-2 | BRIEFS - COVER

The cover of the brief must clearly indicate the name of the party on whose behalf the brief is filed. Each copy must comply with FRAP, have a cover of durable quality (at least 90#) on both front and back sides, and be securely bound along the left-hand margin so as to insure that the bound copy will not loosen or fall apart or the cover be detached by shipping and use. Exposed metal prong paper fasteners are prohibited on briefs.



RULE 32-3 | BRIEFS - FORM

Only the cover page, a certificate of service, direct quotes, headings and footnotes may be singlespaced. All other typed matter must be double-spaced, including the Table of Contents and the Table of Citations. The court may reject or require recomposition of a brief for failure to comply.

The clerk may exercise very limited discretion to permit the filing of briefs in which the violation of FRAP and circuit rules governing the format of briefs is exceedingly minor if in the judgment of the clerk recomposition of the brief would be unwarranted.

Except as otherwise provided in the preceding paragraph, unless each copy of the brief, in the judgment of the clerk, conforms to this rule and to provisions of FRAP 32(a), the clerk may conditionally file the brief, subject to the requirement that the party file in the office of the clerk a complete set of replacement briefs which comply with FRAP and circuit rules within 14 days of issuance of notice by the clerk that the briefs have been conditionally filed. The clerk's notice shall specify the matters requiring correction. No substantive changes may be made to the brief. The time for filing of the opposing party's brief runs from the date of service of the conditionally filed brief and is unaffected by the later substitution of corrected copies pursuant to this rule.



RULE 32-4 | BRIEFS - PAGE NUMBERING AND LENGTH

The pages of each brief shall be consecutively numbered except that materials referred to in 11th Cir. R. 28-1(a), (b), (c), (d), (e), (f), (g), (m) and (n) and any addendum containing statutes, rules, or regulations need not be numbered and do not count towards page limitations or type-volume limitations. Motions for leave to file briefs which do not comply with the limitations set forth in FRAP 28.1(e) or FRAP 32(a)(7), as applicable, must be filed at least seven days in advance of the due date of the brief. The court looks with disfavor upon such motions and will only grant such a motion for extraordinary and compelling reasons.



RULE 33-1 | KINNARD MEDIATION CENTER

(a) Filing Civil Appeal Statement.

A Civil Appeal Statement is required in all civil appeals, except as provided in section (a)(3) below.

(1) Civil appeals from United States district courts. When notice of the filing of a notice of appeal is served pursuant to FRAP 3(d), the clerk of the district court shall notify the appellant(s) (and cross-appellant(s)) that a Civil Appeal Statement form is available as provided in section (a)(4) below. The appellant(s) (and cross-appellant(s)) shall file with the clerk of the court of appeals, with service on all other parties, a completed Civil Appeal Statement within 14 days after the date the appeal is docketed in this court. The completed Civil Appeal Statement shall set forth information necessary for an understanding of the nature of the appeal. Any appellee may file a response with the court of appeals within 10 days of the receipt of the completed Civil Appeal Statement and shall serve a copy of the response on all other parties.

(2) Review of administrative agency orders and appeals from the United States Tax Court. When the clerk of the court of appeals notifies the parties that an appeal or petition has been docketed, the clerk shall also notify the appellant(s)/petitioner(s) (and cross-appellant(s)/crosspetitioner(s)) that a Civil Appeal Statement form is available as provided in section (a)(4) below. The appellant(s)/petitioner(s) (and cross-appellant(s)/cross-petitioner(s)) shall file with the clerk of the court of appeals, with service on all other parties, a completed Civil Appeal Statement within 14 days from the date the notice was transmitted by the clerk of the court of appeals. The completed Civil Appeal Statement shall set forth information necessary for an understanding of the nature of the appeal or petition. Any appellee/respondent may file a response with the court of appeals within 10 days of the receipt of the completed Civil Appeal Statement and shall serve a copy of the response on all other parties.



(3) A Civil Appeal Statement is not required to be filed in (1) appeals or petitions in which any party is proceeding without the assistance of counsel or in which any party is incarcerated; (2) appeals from habeas corpus actions filed under 28 U.S.C. §§2241, 2254, and 2255; and (3) immigration appeals.

(4) Availability of Civil Appeal Statement forms. The Civil Appeal Statement form is available on the Internet at www.call.uscourts.gov. Copies may also be obtained from the clerk of the court of appeals and from the clerk of each district court within the Eleventh Circuit.

(b) [Rescinded]

(c) Mediation.

(1) An active or senior judge of the court of appeals, a panel of judges (either before or after oral argument), or the Kinnard Mediation Center, by appointment of the court, may direct counsel and parties in an appeal to participate in mediation conducted by the court's circuit mediators. Mediations are official court proceedings and the Kinnard Mediation Center circuit mediators act on behalf of the court. Counsel for any party may request mediation in an appeal in which a Civil Appeal Statement is required to be filed if he or she thinks it would be helpful. Such requests will not be disclosed by the Kinnard Mediation Center to opposing counsel without permission of the requesting party. The purposes of the mediation are to explore the possibility of settlement of the dispute, to prevent unnecessary motions or delay by attempting to resolve any procedural problems in the appeal, and to identify and clarify issues presented in the appeal. Mediation sessions are held in person or by telephone. Counsel must, except as waived by the mediator in advance of the mediation date, have the party available during the mediation. Should waiver of party availability be granted by the mediator, counsel must have the authority to respond to settlement proposals consistent with the party's interests. The mediator may require the physical presence of the party at an in-person mediation or the telephone participation of the party in a telephone mediation. For a governmental or other entity for which settlement decisions must be made collectively, the availability, presence, or



participation requirement may be satisfied by a representative authorized to negotiate on behalf of that entity and to make recommendations to it concerning settlement.

(2) A judge who participates in the mediation or becomes involved in the settlement discussions pursuant to this rule will not sit on a judicial panel that deals with that appeal.

(3) Communications made during the mediation and any subsequent communications related thereto shall be confidential. Such communications shall not be disclosed by any party or participant in the mediation in motions, briefs, or argument to the Eleventh Circuit Court of Appeals or to any court or adjudicative body that might address the appeal's merits, except as necessary for enforcement of Rule 33-1 under paragraph (f)(2), nor shall such communications be disclosed to anyone not involved in the mediation or otherwise not entitled to be kept informed about the mediation by reason of a position or relationship with a party unless the written consent of each mediation participant is obtained. Counsel's motions, briefs, or argument to the court shall not contain any reference to the Kinnard Mediation Center.

(d) Confidential Mediation Statement. The court requires, except as waived by the circuit mediator, that counsel in appeals selected for mediation send a confidential mediation statement assessing the appeal to the Kinnard Mediation Center before the mediation. The Kinnard Mediation Center will not share the confidential mediation statement with the other side, and it will not become part of the court file.

(e) Filing Deadlines. The filing of a Civil Appeal Statement or the scheduling of mediation does not extend the time for ordering any necessary transcript (pursuant to 11th Cir. R. 10-1) or for filing briefs (pursuant to 11th Cir. R. 31-1). Such time may be extended by a circuit mediator to comply with these rules if there is a substantial probability the appeal will settle and the extension will prevent the unnecessary expenditure of time and resources by counsel, the parties, and the court.



(f) Noncompliance Sanctions.

(1) If the appellant or petitioner has not taken the action specified in paragraph (a) of this rule within the time specified, the appeal or petition may be dismissed by the clerk of the court of appeals after appropriate notice pursuant to 11th Cir. R. 42-1.

(2) Upon failure of a party or attorney to comply with the provisions of this rule or the provisions of the court's notice of mediation, the court may assess reasonable expenses caused by the failure, including attorney's fees; assess all or a portion of the appellate costs; dismiss the appeal; or take such other appropriate action as the circumstances may warrant.

(g) Use of Private Mediators.

(1) Upon agreement of all parties, a private mediator may be employed by the parties, at their expense, to mediate an appeal that has been selected for mediation by the Kinnard Mediation Center.

(2) Such private mediator (i) shall have been certified or registered as a mediator by either the State of Alabama, Florida, or Georgia for the preceding five years; (ii) shall have been admitted to practice law in either the State of Alabama, Florida, or Georgia for the preceding fifteen years and be currently in good standing; and (iii) shall be currently admitted to the bar of this court.

(3) All persons while employed as private mediators shall follow the private mediator procedures as set forth by the Kinnard Mediation Center.

(4) The provisions of this subsection (g) shall be in effect until discontinued by the Chief Circuit Mediator or by the court.

RULE 34-1 | SESSIONS

(a) At least one session of the court shall ordinarily be held each court year in each state of the circuit. Sessions may be scheduled at any location having adequate facilities. The court may assign the hearing of any appeal to another time or place of sitting.

(b) Regular and special sessions of the court may be held in Atlanta, Jacksonville, Miami, Montgomery, Tallahassee, Tampa, and at any other such place as the chief judge designates.



RULE 34-2 | QUORUM

Unless otherwise directed, a panel of the court shall consist of three judges. When an appeal is assigned to an oral argument panel, at least two judges shall be judges of this court unless such judges cannot sit because recused or disqualified or unless the chief judge certifies that there is an emergency including, but not limited to, the unavailability of a judge of the court because of illness. Any two judges of a panel constitute a quorum. If a judge of a panel that has taken an appeal or matter under submission is not able to participate in a decision, the two remaining judges, whether or not they are both judges of this court, may decide the appeal or may request the chief judge or a delegate of the chief judge to designate another judge to sit in place of the judge unable to participate. No further argument will be had or briefs received unless ordered.

Prior to oral argument, if a judge of an oral argument panel to which an appeal has been assigned determines that he or she cannot sit for reasons other than recusal or disqualification, the two remaining judges, whether or not they are both judges of this court, may hear oral argument. If the third judge is thereafter able to participate as a panel member, the third judge may listen to the oral argument recording and participate in the decision. If the third judge is thereafter not able to participate as a panel member, the two remaining judges may proceed as provided in the paragraph above.

Prior to oral argument, if a judge of an oral argument panel to which an appeal has been assigned determines that he or she cannot sit because recused or disqualified, the two remaining judges, whether or not they are both judges of this court, may: (1) proceed by quorum to hear oral argument and decide the appeal; (2) return the appeal to the clerk for placement on another calendar; or (3) request the chief judge or a delegate of the chief judge to designate another judge to sit in place of the recused or disqualified judge. For purposes of this rule, an appeal is considered assigned to an oral argument panel when the clerk notifies counsel of the specific day of the week on which oral argument in the appeal is scheduled to be heard. Prior to that time, a recusal or disqualification will ordinarily result in the appeal being transferred to another calendar.

Following the issuance of an opinion by a panel of three judges, if a judge of the panel recuses or is disqualified, the two remaining judges, whether or not they are both judges of this



court, may proceed by quorum to take such further actions as are deemed appropriate.



RULE 34-3 | NON-ARGUMENT CALENDAR

(a) The court maintains a two-calendar system for consideration and decision of appeals in the interest of efficient and appropriate use of judicial resources, control of the docket by the court, minimizing unnecessary expenditure of government funds, and lessening delay in decisions.

(b) When a panel of judges of the court unanimously determines, after an examination of the briefs and records, that an appeal of a party falls within one of the three categories of FRAP 34(a)(2):

(1) the appeal is frivolous; or

(2) the dispositive issue or set of issues has been authoritatively determined; or

(3) the facts and legal arguments are adequately presented in the briefs and record and the decisional process will not be significantly aided by oral argument; that appeal will be placed on the non-argument calendar for submission and decision without oral argument. If at any time before decision a judge on the non-argument panel concludes that oral argument is desired, that appeal will be transferred to the oral argument calendar. Except as provided in subparagraphs (d) and (f) of this rule, decision without oral argument must be unanimous, and no dissenting or special concurring opinion may be filed.

(c) Any party may request in his or her brief that oral argument be heard, as provided in 11th Cir. R. 28-1(c).

(d) Pursuant to FRAP 34(f), if parties state that they do not desire oral argument or otherwise agree that an appeal shall be submitted on briefs, that appeal may be placed on the non-argument calendar even though it does not fall within one of the requirements of FRAP 34(a). The decision in that appeal need not be unanimous and a dissent or special concurrence may be filed.



(e) Panels of three judges are drawn to serve as non-argument panels to determine whether appeals should be placed on the non-argument calendar and to receive submission of and decide non-argument appeals. In appeals involving multiple parties, a non-argument panel judge may determine that the appeals of fewer than all parties shall be scheduled for oral argument, and that the appeals of the remaining parties shall be submitted to the assigned oral argument panel for decision on the briefs. Or, a non-argument panel may decide the appeals of fewer than all parties without oral argument and may schedule the appeals of the remaining parties for oral argument.

(f) When an appeal is assigned to an oral argument panel, the oral argument panel, whether or not composed of only active judges, may by unanimous vote determine that the appeal will be decided by the panel without oral argument, or transfer the appeal to the non-argument calendar. In appeals involving multiple parties, an oral argument panel may by unanimous vote determine that the appeals of fewer than all parties will be decided by the panel without oral argument, and that the appeals of the remaining parties will be scheduled for oral argument.

RULE 34-4 | ORAL ARGUMENT CALENDAR

(a) General. All appeals not assigned to the non-argument calendar shall be assigned to the oral argument calendar. Appeals to be orally argued will be calendared by the clerk based upon the court's calendaring priorities. Counsel for each party scheduled to present oral argument to the court must appear for oral argument unless excused by the court for good cause shown. The oral argument calendar will show the time the court has allotted for each argument.

(b) Waiver or Submission Without Argument. After an appeal has been scheduled for oral argument, argument may only be waived by the court upon motion filed in advance of the date set for hearing. If counsel for parties agree to submit the appeal on briefs, that appeal will be governed by FRAP 34(f).

(c) Failure to Appear for Oral Argument. If counsel for appellant fails to appear in an appeal from criminal conviction, the court will not hear argument from the United States; in all other appeals, the court may hear argument from counsel present.

(d) Number of Counsel to Be Heard. Only two counsel will be heard for each party whose appeal is scheduled to be argued, and the time allowed may be apportioned between counsel at their discretion.

(e) Change in or Addition to Counsel. After an appeal has been assigned to an oral argument panel, any change in or addition to counsel in the appeal requires leave of court. An appeal is considered assigned to an oral argument panel when the clerk notifies counsel of the specific day of the week on which oral argument in the appeal is scheduled to be heard.

(f) Expediting Appeals. The court may, on its own motion or for good cause shown on motion of a party, advance an appeal for hearing and prescribe an abbreviated briefing schedule.

(g) Continuance of Hearing. After an appeal has been set for hearing it may not be continued by stipulation of the parties or their counsel but only by an order of the court on good cause shown. Usually the engagement of counsel in other courts will not be considered good cause.

(h) Sealing Oral Arguments. Any motion to seal argument must be filed at least five days before oral argument, unless the



court extends that period upon a showing of good cause. Recordings of sealed oral arguments will not be released absent an order of the court.

(i) Recording Oral Arguments. With advance approval of the court, counsel may arrange and pay for a qualified court reporter to be present to record and transcribe the oral argument for counsel's personal use. When counsel has received such approval, counsel must provide the court with a copy of the transcript without delay and at no expense to the court. Except as otherwise provided in this rule, recording of court proceedings by anyone other than the court is prohibited. Also see I.O.P. 16, CD Recordings of Oral Arguments and I.O.P. 17, Posting of Oral Argument Recordings on the Website, following this rule.

(j) Citation of Supplemental Authorities During Oral Argument. If counsel intend to cite supplemental authorities during oral argument that were not provided to the court and opposing counsel prior to the day of oral argument, counsel must bring to oral argument a sufficient number of paper copies of the opinion(s) or other authorities being cited to permit distribution to panel members and opposing counsel.

RULE 35-1 | NUMBER OF COPIES AND LENGTH

Fifteen copies of a petition for en banc consideration pursuant to FRAP 35 shall be filed whether for initial hearing or rehearing. A petition for en banc consideration shall not exceed the length limitations set out in FRAP 35(b)(2), exclusive of items required by 11th Cir. R. 35-5(a), (b), (c), (d), (j), and (k). If a petition for en banc consideration is made with a petition for rehearing (whether or not they are combined in a single document) the combined documents shall not exceed the length limitations set out in FRAP 35(b)(2), exclusive of items required by 11th Cir. R. 35-5(a), (b), (c), (d), (j), and (k).

Use of the ECF system does not modify the requirement that filers must provide to the court 15 paper copies of a petition for en banc consideration, whether for initial hearing or rehearing. Filers will be considered to have complied with this requirement if, on the day the electronic petition is filed, the filer sends 15 paper copies to the clerk using one of the methods outlined in FRAP 25(a)(2)(A)(ii).



RULE 35-2 | TIME - EXTENSIONS

A petition for en banc rehearing must be filed within 21 days of entry of judgment, except that a petition for en banc rehearing in a civil appeal in which the United States or an agency or officer thereof is a party must be filed within 45 days of entry of judgment. Judgment is entered on the opinion filing date. No additional time is allowed for mailing. Counsel should not request extensions of time except for the most compelling reasons. For purposes of this rule, a "civil appeal" is one that falls within the scope of 11th Cir. R. 42-2(a).



RULE 35-3 | EXTRAORDINARY NATURE OF PETITIONS FOR EN BANC CONSIDERATION

A petition for en banc consideration, whether upon initial hearing or rehearing, is an extraordinary procedure intended to bring to the attention of the entire court a precedent-setting error of exceptional importance in an appeal or other proceeding, and, with specific reference to a petition for en banc consideration upon rehearing, is intended to bring to the attention of the entire court a panel opinion that is allegedly in direct conflict with precedent of the Supreme Court or of this circuit. Alleged errors in a panel's determination of state law, or in the facts of the case (including sufficiency of the evidence), or error asserted in the panel's misapplication of correct precedent to the facts of the case, are matters for rehearing before the panel but not for en banc consideration.

Counsel are reminded that the duty of counsel is fully discharged without filing a petition for rehearing en banc if the rigid standards of FRAP 35(a) are not met, and that the filing of a petition for rehearing or rehearing en banc is not a prerequisite to filing a petition for writ of certiorari.



RULE 35-4 | MATTERS NOT CONSIDERED EN BANC

A petition for rehearing en banc tendered with respect to any of the following orders will not be considered by the court en banc, but will be referred as a motion for reconsideration to the judge or panel that entered the order sought to be reheard:

(a) Administrative or interim orders, including but not limited to orders ruling on requests for the following relief: stay or injunction pending appeal; appointment of counsel; leave to appeal in forma pauperis; and, permission to appeal when an appeal is within the court's discretion.

(b) Any order dismissing an appeal that is not published including, but not limited to, dismissal for failure to prosecute or because an appeal is frivolous.



RULE 35-5 | FORM OF PETITION

A petition for en banc consideration shall be bound in a white cover which is clearly labeled with the title "Petition for Rehearing (or Hearing) En Banc." A petition for en banc consideration shall contain the following items in this sequence:

- (a) a cover page as described in 11th Cir. R. 28-1(a);
- (b) a Certificate of Interested Persons and Corporate Disclosure Statement as described in FRAP 26.1 and the accompanying circuit rules;
- (c) where the party petitioning for en banc consideration is represented by counsel, one or both of the following statements of counsel as applicable:

I express a belief, based on a reasoned and studied professional judgment, that the panel decision is contrary to the following decision(s) of the Supreme Court of the United States or the precedents of this circuit and that consideration by the full court is necessary to secure and maintain uniformity of decisions in this court:
[cite specifically the case or cases]

I express a belief, based on a reasoned and studied professional judgment, that this appeal involves one or more questions of exceptional importance:
[set forth each question in one sentence]

/s/

ATTORNEY OF RECORD FOR

- (d) table of contents and citations;
- (e) statement of the issue(s) asserted to merit en banc consideration;
- (f) statement of the course of proceedings and disposition of the case;



(g) statement of any facts necessary to argument of the issues;

(h) argument and authorities. These shall concern only the issues and shall address specifically not only their merit but why they are contended to be worthy of en banc consideration;

(i) conclusion;

(j) certificate of service, if required by FRAP 25(d);

(k) a copy of the opinion sought to be reheard.



RULE 35-6 | RESPONSE TO PETITION

A response to a petition for en banc consideration may not be filed unless requested by the court.



RULE 35-7 | EN BANC BRIEFS

An en banc briefing schedule shall be set by the clerk for all appeals in which rehearing en banc is granted by the court. Twenty copies of en banc briefs are required, and must be filed in the clerk's office, and served on counsel, according to the schedule established. En banc briefs should be prepared in the same manner and form as opening briefs and conform to the requirements of FRAP 28 and 32. The covers of all en banc briefs shall be of the color required by FRAP 32 and shall contain the title "En Banc Brief." Unless otherwise directed by the court, the page and type-volume limitations described in FRAP 32(a)(7) apply to en banc briefs. Counsel are also required to furnish 20 additional copies of each brief previously filed by them.



RULE 35-8 | EN BANC AMICUS BRIEFS

The United States or its officer or agency or a state may file an en banc amicus brief without the consent of the parties or leave of court. Any other amicus curiae must request leave of court by filing a motion accompanied by the proposed brief in conformance with FRAP 29(a)(3) through (a)(5) and the corresponding circuit rules. An amicus curiae must file its en banc brief, accompanied by a motion for filing when necessary, no later than the due date of the principal en banc brief of the party being supported. An amicus curiae that does not support either party must file its en banc brief, accompanied by a motion for filing when necessary, no later than the due date of the appellant's or petitioner's principal en banc brief. An amicus curiae must also comply with 11th Cir. R. 35-7.



RULE 35-9 | SENIOR CIRCUIT JUDGES' PARTICIPATION

Senior circuit judges of the Eleventh Circuit assigned to duty pursuant to statute and court rules may sit en banc reviewing decisions of panels of which they were members and may continue to participate in the decision of a case that was heard or reheard by the court en banc at a time when such judge was in regular active service.



RULE 35-10 | EFFECT OF GRANTING REHEARING EN BANC

Unless otherwise expressly provided, the effect of granting a rehearing en banc is to vacate the panel opinion and the corresponding judgment.



RULE 36-1 | [RESCINDED]

[RESCINDED]



RULE 36-2 | UNPUBLISHED OPINIONS

An opinion shall be unpublished unless a majority of the panel decides to publish it. Unpublished opinions are not considered binding precedent, but they may be cited as persuasive authority. If the text of an unpublished opinion is not available on the internet, a copy of the unpublished opinion must be attached to or incorporated within the brief, petition, motion or response in which such citation is made. But see I.O.P. 7, Citation to Unpublished Opinions by the Court, following this rule.



RULE 36-3 | PUBLISHING UNPUBLISHED OPINIONS

At any time before the mandate has issued, the panel, on its own motion or upon the motion of a party, may by unanimous vote order a previously unpublished opinion to be published. The timely filing of a motion to publish shall stay issuance of the mandate until disposition thereof unless otherwise ordered by the court. The time for issuance of the mandate and for filing a petition for rehearing or petition for rehearing en banc shall begin running anew from the date of any order directing publication.



RULE 38-1 | TIME FOR FILING MOTIONS

Motions for damages and costs pursuant to FRAP 38 must be filed no later than the filing of appellee's brief.



RULE 39-1 | COSTS

In taxing costs for printing or reproduction and binding pursuant to FRAP 39(c) the clerk shall tax such costs at rates not higher than those determined by the clerk from time to time by reference to the rates generally charged for the most economical methods of printing or reproduction and binding in the principal cities of the circuit, or at actual cost, whichever is less.

Unless advance approval for additional copies is secured from the clerk, costs will be taxed only for the number of copies of the brief and appendix required by the rules to be filed and served, plus two copies for each party signing the brief.

All costs shall be paid and mailed directly to the party to whom costs have been awarded. Costs should not be mailed to the clerk of the court.



RULE 39-2 | ATTORNEY'S FEES

(a) Time for Filing. Except as otherwise provided herein or by statute or court order, an application for attorney's fees must be filed with the clerk within 14 days after the time to file a petition for rehearing or rehearing en banc expires, or within 14 days after entry of an order disposing of a timely petition for rehearing or denying a timely petition for rehearing en banc, whichever is later. For purposes of this rule, the term "attorney's fees" includes fees and expenses authorized by statute, but excludes damages and costs sought pursuant to FRAP 38, costs taxed pursuant to FRAP 39, and sanctions sought pursuant to 11th Cir. R. 27-4.

(b) Required Documentation. An application for attorney's fees must be supported by a memorandum showing that the party seeking attorney's fees is legally entitled to them. The application must also include a summary of work performed, on a form available from the clerk, supported by contemporaneous time records recording all work for which a fee is claimed. An affidavit attesting to the truthfulness of the information contained in the application and demonstrating the basis for the hourly rate requested must also accompany the application. Exceptions may be made only to avoid an unconscionable result. If contemporaneous time records are not available, the court may approve only the minimum amount of fees necessary, in the court's judgment, to adequately compensate the attorney.

(c) Objection to Application. Any party from whom attorney's fees are sought may file an objection to the application. An objection must be filed with the clerk within 14 days after service of the application. The party seeking attorney's fees may file a reply to the objection within 10 days after service of the objection.

(d) Motion to Transfer. Any party who is or may be eligible for attorney's fees on appeal may, within the time for filing an application provided by this rule, file a motion to transfer consideration of attorney's fees on appeal to the district court or administrative agency from which the appeal was taken.

(e) Remand for Further Proceedings. When a reversal on appeal, in whole or in part, results in a remand to the district court for trial or other further proceedings (e.g., reversal of



order granting summary judgment, or denying a new trial), a party who may be eligible for attorney's fees on appeal after prevailing on the merits upon remand may, in lieu of filing an application for attorney's fees in this court, request attorney's fees for the appeal in a timely application filed with the district court upon disposition of the matter on remand.



RULE 39-3 | FEE AWARDS TO PREVAILING PARTIES UNDER THE EQUAL ACCESS TO JUSTICE ACT

(a) An application to this court for an award of fees and expenses pursuant to 28 U.S.C. §2412(d)(1)(B) must be filed within the time specified in the statute. The application must identify the applicant, show the nature and extent of services rendered, that the applicant has prevailed, and shall identify the position of the United States Government or an agency thereof which the applicant alleges was not substantially justified.

(b) An application to the court pursuant to 5 U.S.C. §504(c)(2) shall be upon the factual record made before the agency, which shall be filed with this court under the procedures established in FRAP 11 and associated circuit rules. Unless the court establishes a schedule for filing formal briefs upon motion of a party, such proceedings shall be upon the application papers, together with such supporting papers, including memorandum briefs, as the appellant shall submit within 14 days of filing of the record of agency proceedings and upon any response filed by the United States in opposition thereto within the succeeding 14 days.



RULE 40-1 | CONTENTS

A copy of the opinion sought to be reheard shall be included as an addendum to each petition for rehearing. This addendum does not count towards length limitations.



RULE 40-2 | NUMBER OF COPIES

Four copies of a petition for rehearing pursuant to FRAP 40 shall be filed. Use of the ECF system does not modify the requirement that filers must provide to the court four paper copies of a petition for rehearing. Filers will be considered to have complied with this requirement if, on the day the electronic petition is filed, the filer sends four paper copies to the clerk using one of the methods outlined in FRAP 25(a)(2)(A)(ii).



RULE 40-3 | TIME - EXTENSIONS

A petition for rehearing must be filed within 21 days of entry of judgment, except that a petition for rehearing in a civil appeal in which the United States or an officer or agency thereof is a party must be filed within 45 days of entry of judgment. Judgment is entered on the opinion filing date. No additional time shall be allowed for mailing. Counsel should not request extensions of time except for the most compelling reasons. For purposes of this rule, a "civil appeal" is one that falls within the scope of 11th Cir. R. 42-2(a).



RULE 40-4 | [RESCINDED]

[RESCINDED]



RULE 40-5 | SUPPLEMENTAL AUTHORITIES

If pertinent and significant authorities come to a party's attention while a party's petition for rehearing or petition for rehearing en banc is pending, a party may promptly advise the clerk by letter, with a copy to all other parties. The body of the letter must not exceed 350 words, including footnotes. If a new case is not reported, copies should be appended. When such a letter is filed in paper, four copies must be filed.



RULE 41-1 | STAY OR RECALL OF MANDATE

(a) A motion filed under FRAP 41 for a stay of the issuance of a mandate in a direct criminal appeal shall not be granted simply upon request. Ordinarily the motion will be denied unless it shows that it is not frivolous, not filed merely for delay, and shows that a substantial question is to be presented to the Supreme Court or otherwise sets forth good cause for a stay.

(b) A mandate once issued shall not be recalled except to prevent injustice.

(c) When a motion to recall a mandate is tendered for filing more than one year after issuance of the mandate, the clerk shall not accept the motion for filing unless the motion states with specificity why it was not filed sooner. The court will not grant the motion unless the movant has established good cause for the delay in filing the motion.

(d) Unless otherwise expressly provided, the effect of granting a petition for rehearing en banc is to vacate the panel opinion and the corresponding judgment.



RULE 41-2 | EXPEDITING ISSUANCE OF MANDATE

In any appeal in which a published opinion has issued, the time for issuance of the mandate may be shortened only after all circuit judges in regular active service who are not recused or disqualified have been provided with reasonable notice and an opportunity to notify the clerk to withhold issuance of the mandate.



RULE 41-3 | PUBLISHED ORDER DISMISSING APPEAL OR DISPOSING OF A PETITION FOR A WRIT OF MANDAMUS OR PROHIBITION OR OTHER EXTRAORDINARY WRIT

When any of the following orders is published, the time for issuance of the mandate is governed by FRAP 41(b):

- (a) An order dismissing an appeal.
- (b) An order disposing of a petition for a writ of mandamus or prohibition or other extraordinary writ.



**RULE 41-4 | NON-PUBLISHED ORDER DISMISSING APPEAL OR DISPOSING OF
A PETITION FOR A WRIT OF MANDAMUS OR PROHIBITION OR OTHER
EXTRAORDINARY WRIT**

When any of the following orders is not published, the clerk shall issue a copy to the district court clerk or agency as the mandate:

- (a) An order dismissing an appeal, including an order dismissing an appeal for want of prosecution.
- (b) An order disposing of a petition for a writ of mandamus or prohibition or other extraordinary writ.



RULE 42-1 | DISMISSAL OF APPEALS

(a) Motions to Dismiss by Appellants or Petitioners and Joint Motions to Dismiss. If an appellant or petitioner files an unopposed motion to dismiss an appeal, petition, or agency proceeding, or if both parties file a joint motion to dismiss an appeal, petition, or agency proceeding, and the matter has not yet been assigned to a panel on the merits, the clerk may clerically dismiss the appeal, petition, or agency proceeding and in such circumstances will issue a copy of the order as and for the mandate. By issuing such a dismissal, the clerk expresses no opinion on the effect of that dismissal. If the appeal, petition, or agency proceeding has been assigned to a panel on the merits, any motion to dismiss will be submitted to that panel.

A joint motion to dismiss must be signed by counsel for each party encompassed by the motion, or by the party itself if proceeding pro se. All motions to dismiss must contain a Certificate of Interested Persons and Corporate Disclosure Statement in compliance with FRAP 26.1 and the accompanying circuit rules. If an appellant's or petitioner's motion to dismiss is opposed, it will be submitted to the court. For motions to dismiss criminal appeals, see also 11th Cir. R. 27-1(a)(7) and 27-1(a)(8).

(b) Dismissal for Failure to Prosecute. Except as otherwise provided for briefs and appendices in civil appeals in 11th Cir. R. 42-2 and 42-3, when appellant fails to file a brief or other required papers within the time permitted, or otherwise fails to comply with the applicable rules, the clerk shall issue a notice to counsel, or to pro se appellant, that upon expiration of 14 days from the date thereof the appeal will be dismissed for want of prosecution if the default has not been remedied by filing the brief or other required papers and a motion to file documents out of time. Within that 14-day notice period a party in default must seek leave of the court, by appropriate motion, to file documents out of time or otherwise remedy the default. Failure to timely file such motion will result in dismissal for want of prosecution.

The clerk shall not dismiss an appeal during the pendency of a timely filed motion for an extension of time to file appellant's brief or appendix, but if the court denies such leave after the expiration of the due date for filing the brief or appendix, the clerk shall dismiss the appeal.



forthwith. The clerk shall not dismiss an appeal during the pendency of a timely filed motion to file documents out of time or otherwise remedy the default which is accompanied by the brief or other required papers, but if the court denies such leave the clerk shall dismiss the appeal forthwith.

If an appellant is represented by appointed counsel, the clerk may refer the matter to the Chief Judge for consideration of possible disciplinary action against counsel in lieu of dismissal.



RULE 42-2 | DISMISSAL IN A CIVIL APPEAL FOR APPELLANT'S FAILURE TO FILE BRIEF OR APPENDIX BY DUE DATE

(a) Applicability of Rule. The provisions of this rule apply to all civil appeals, including Tax Court appeals, bankruptcy appeals, appeals in cases brought pursuant to 28 U.S.C. §§2254 and 2255, review of agency orders, and petitions for extraordinary writs when briefing has been ordered, but not including appeals of orders revoking supervised release or of orders entered pursuant to Rule 35 of the Federal Rules of Criminal Procedure or 18 U.S.C. §3582.

(b) Notice of Due Date for Filing Brief and Appendix. Eleventh Circuit Rules 30-1(c) and 31-1 establish the due dates for filing the brief and appendix. To facilitate compliance, the clerk will send counsel and pro se parties a notice confirming the due date for filing appellant's brief and appendix consistent with 11th Cir. R. 30-1(c) and 31-1. However, delay in or failure to receive such notice does not affect the obligation of counsel and pro se parties to file the brief and appendix within the time permitted by the rules.

(c) Dismissal Without Further Notice. When an appellant has failed to file the brief or appendix by the due date as established by 11th Cir. R. 30-1(c) and 31-1 and set forth in the clerk's notice, or, if the due date has been extended by the court, within the time so extended, an appeal shall be treated as dismissed for failure to prosecute on the first business day following the due date. The clerk thereafter will enter an order dismissing the appeal. If an appellant is represented by appointed counsel, the clerk may refer the matter to the Chief Judge for consideration of possible disciplinary action against counsel in lieu of dismissal.

(d) Effect of Pending Motion to Extend Time. The clerk shall not dismiss an appeal during the pendency of a timely filed motion for an extension of time to file appellant's brief or appendix, but if the court denies such leave after the expiration of the due date for filing the brief or appendix, the clerk shall dismiss the appeal.

(e) Motion to Set Aside Dismissal and Remedy Default. An appeal dismissed pursuant to this rule may be reinstated only upon the timely filing of a motion to set aside the dismissal and remedy the default showing extraordinary circumstances, accompanied by the required brief or appendix. Such a motion



showing extraordinary circumstances, accompanied by the required brief or appendix, must be filed within 14 days of the date the clerk enters the order dismissing the appeal. The timely filing of such a motion, accompanied by the required brief or appendix, and a showing of extraordinary circumstances, is the exclusive method of seeking to set aside a dismissal entered pursuant to this rule. An untimely filed motion to set aside dismissal and remedy default must be denied unless the motion demonstrates extraordinary circumstances justifying the delay in filing the motion, and no further filings shall be accepted by the clerk in that dismissed appeal. The time to file a responsive brief runs from the date the court's order granting a motion to set aside dismissal and remedy default is entered on the docket.

(f) Failure of Appellee to File Brief by Due Date. When an appellee fails to file a brief by the due date as established by 11th Cir. R. 31-1, or, if the due date has been extended by the court, within the time so extended, the appeal will be submitted to the court for decision without further delay, and the appellee will not be heard at oral argument (if oral argument is scheduled to be heard) unless otherwise ordered by the court.

RULE 42-3 | DISMISSAL IN A CIVIL APPEAL FOR APPELLANT'S FAILURE TO CORRECT A DEFICIENCY IN BRIEFS OR APPENDICES WITHIN 14 DAYS OF NOTICE

(a) Applicability of Rule. The provisions of this rule apply to all civil appeals, including Tax Court appeals, bankruptcy appeals, appeals in cases brought pursuant to 28 U.S.C. §§2254 and 2255, review of agency orders, and petitions for extraordinary writs when briefing has been ordered, but not including appeals of orders revoking supervised release or of orders entered pursuant to Rule 35 of the Federal Rules of Criminal Procedure or 18 U.S.C. §3582.

(b) Notice to Correct a Deficiency in Briefs or Appendices. If briefs or appendices do not comply with the rules governing the form of briefs and appendices, the clerk will send counsel and pro se parties a notice specifying the matters requiring correction. A complete corrected set of replacement briefs or appendices must be filed in the office of the clerk within 14 days of the date of the clerk's notice.

(c) Dismissal Without Further Notice. When an appellant has failed to correct the brief or appendix within 14 days of the clerk's notice, or, if the due date has been extended by the court, within the time so extended, an appeal shall be treated as dismissed for failure to prosecute on the first business day following the due date. The clerk thereafter will enter an order dismissing the appeal. If an appellant is represented by appointed counsel, the clerk may refer the matter to the Chief Judge for consideration of possible disciplinary action against counsel in lieu of dismissal.

(d) Effect of Pending Motion to Extend Time. The clerk shall not dismiss an appeal during the pendency of a timely filed motion for an extension of time to correct a deficiency in appellant's brief or appendix, but if the court denies such leave after the expiration of the due date for correcting a deficiency in the brief or appendix, the clerk shall dismiss the appeal.

(e) Motion to Set Aside Dismissal and Remedy Default. An appeal dismissed pursuant to this rule may be reinstated only upon the filing of a motion to set aside the dismissal and remedy the default showing extraordinary circumstances, accompanied by the required corrected brief or appendix. Such a motion showing extraordinary circumstances, accompanied by



the required corrected brief or appendix, must be filed within 14 days of the date the clerk enters the order dismissing the appeal. The timely filing of such a motion, accompanied by the required corrected brief or appendix, and a showing of extraordinary circumstances, is the exclusive method of seeking to set aside a dismissal entered pursuant to this rule. An untimely filed motion to set aside dismissal and remedy default must be denied unless the motion demonstrates extraordinary circumstances justifying the delay in filing the motion, and no further filings shall be accepted by the clerk in that dismissed appeal. The time to file a responsive brief runs from the date the court's order granting a motion to set aside dismissal and remedy default is entered on the docket.

(f) Failure of Appellee to File Corrected Brief Within 14 Days of Notice. When an appellee fails to file a corrected brief within 14 days of the clerk's notice, or, if that date has been extended by the court, within the time so extended, the appeal will be submitted to the court for decision without further delay, and the appellee will not be heard at oral argument (if oral argument is scheduled to be heard) unless otherwise ordered by the court.

RULE 42-4 | FRIVOLOUS APPEALS

If it shall appear to the court at any time that an appeal is frivolous and entirely without merit, the appeal may be dismissed.



RULE 45-1 | CLERK

(a) Location. The clerk's principal office shall be in the city of Atlanta, Georgia.

(b) Office to Be Open. The office of the clerk, with the clerk or a deputy in attendance, shall be open for business from 8:30 a.m. to 5:00 p.m., Eastern time, on all days except Saturdays, Sundays, New Year's Day, Birthday of Martin Luther King, Jr., Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day, and Christmas Day.



RULE 46-1 | BAR ADMISSION AND FEES

Only attorneys admitted to the bar of this court may practice before the court, except as otherwise provided in these rules. Admission is governed by FRAP 46 and this Eleventh Circuit Rule, and attorneys must also meet the requirements of 11th Cir. R. 46-7. To request admission to the bar, an attorney must complete an application form, available on the court's website. The application form must be accompanied by a certificate of good standing issued within the previous six months establishing that the attorney is admitted to practice before a court described in FRAP 46(a)(1). Upon admission, the attorney must pay the non-refundable attorney admission fee, which is composed of: (1) the national admission fee prescribed by the Judicial Conference of the United States in the Court of Appeals Miscellaneous Fee Schedule issued pursuant to 28 U.S.C. §1913; and (2) the local admission fee prescribed pursuant to FRAP 46(a)(3) and posted on the court's website. Failure to pay the fee within 14 days of admission will require that the attorney submit a new application form. All attorneys must apply for admission and submit attorney admission fees through PACER.

Each member of the bar has a continuing obligation to keep this court informed of any changes to addresses, phone numbers, fax numbers, and e-mail addresses.

The clerk is authorized to admit attorneys to the bar of this court in such circumstances as determined by the court when the attorney has applied for admission, paid the required fee, and otherwise meets the requirements for admission in FRAP 46 and the accompanying circuit rules.



RULE 46-2 | RENEWAL OF BAR MEMBERSHIP; INACTIVE STATUS

Each attorney admitted to the bar of this court shall pay the bar membership renewal fee prescribed by the court and posted on the court's website every five years from the date of admission. A new certificate of admission will not issue upon payment of this fee. During the first week of the month in which an attorney's renewal fee is due, the clerk shall send by mail, e-mail, or other means a notice to the attorney using the contact information on the roll of attorneys admitted to practice before this court (attorney roll), and advise the attorney that payment of the renewal fee is due by the last day of that month. If the notice is returned undelivered due to incorrect or invalid contact information, no further notice will be sent. If the renewal fee is not paid by the last day of the month in which the notice is sent, the attorney's membership in the bar of this court will be placed in inactive status for a period of 12 months, beginning on the first day of the next month. An attorney whose bar membership is in inactive status may not practice before the court. To renew a bar membership, including one in inactive status, an attorney must complete a bar membership renewal form, available at www.call.uscourts.gov. The renewal form must be accompanied by the non-refundable bar membership renewal fee. All attorneys must use the court's Electronic Case Files (ECF) system to submit their renewal forms and payments.

After 12 months in inactive status, if an attorney has not paid the bar membership renewal fee, the clerk shall strike the attorney's name from the attorney roll. An attorney whose name is stricken from the attorney roll due to nonpayment of the renewal fee who thereafter wishes to practice before the court must apply for admission to the bar pursuant to 11th Cir. R. 46-1, unless the attorney is eligible to be admitted for a particular proceeding pursuant to 11th Cir. R. 46-3.



RULE 46-3 | ADMISSION FOR PARTICULAR PROCEEDING

The following attorneys shall be admitted for the particular proceeding in which they are appearing without the necessity of formal application or payment of the admission fee: an attorney appearing on behalf of the United States, a federal public defender, an attorney appointed by a federal court under the Criminal Justice Act, and any attorney appointed by this court.



RULE 46-4 | PRO HAC VICE ADMISSION

An attorney who does not reside in the circuit but is otherwise eligible for admission to the bar pursuant to FRAP 46 and these rules, and also meets the requirements of 11th Cir. R. 46-7, may apply to appear pro hac vice in a particular proceeding. The following items must be provided:

- a completed Application to Appear Pro Hac Vice form, available on the Internet at www.call.uscourts.gov, with proof of service;
- a certificate of good standing issued within the previous six months establishing that the attorney is admitted to practice before a court described in FRAP 46(a)(1); and
- a non-refundable pro hac vice application fee prescribed by the court and posted on the court's website.

An attorney may apply to appear before this court pro hac vice only two times.

To practice before the court, an attorney who resides in the circuit or who has two times previously applied to appear before this court pro hac vice, must apply for admission to the bar pursuant to 11th Cir. R. 46-1, unless the attorney is eligible to be admitted for a particular proceeding pursuant to 11th Cir. R. 46-3.

The clerk is authorized to grant an application to appear pro hac vice in an appeal not yet assigned or under submission, in such circumstances as determined by the court, when an attorney meets the requirements of the rules.

RULE 46-5 | ENTRY OF APPEARANCE

Every attorney, except one appointed by the court for a specific case, must file an Appearance of Counsel Form in order to participate in a case before the court. The form must be filed within 14 days after the date on the notice from the clerk that the Appearance of Counsel Form must be filed. With a court-appointed attorney, the order of appointment will be treated as the appearance form.

Except for those who are court-appointed, an attorney who has not previously filed an Appearance of Counsel Form in a case will not be permitted to participate in oral argument of the case until the appearance form is filed.



RULE 46-6 | CLERK'S AUTHORITY TO ACCEPT FILINGS

(a) Filings from an Attorney Who Is Not Authorized to Practice Before this Court.

(1) Subject to the provisions of this rule, the clerk may conditionally file the following papers received from an attorney who is not authorized to practice before this court, unless the attorney has been suspended or disbarred from practice before this court or has been denied admission to the bar of this court:

- a petition or application that initiates a proceeding in this court;
- an emergency motion as described in 11th Cir. R. 27-1(b);
- a motion or petition that is treated by the clerk as "time sensitive" as that term is used in 11th Cir. R. 27-1(b).

(2) Upon filing the petition, application, or motion, the clerk will notify the attorney that in order to participate in the appeal the attorney must submit an appropriate application for admission, renewal form, or application to appear pro hac vice within 21 days from the date of such notice.

(3) Within the 21-day notice period, the clerk may conditionally file motions and other papers received from the attorney, subject to receipt of an appropriate application or renewal form within that period. At the expiration of the 21-day notice period, if an appropriate application or renewal form has not been received, the motions and other papers may be clerically stricken and treated as though they were never filed. The clerk may stay further proceedings in the appeal for 60 days, if necessary, to allow the attorney's client to seek new counsel.



(4) When an appropriate application is received within the 21-day notice period, the clerk may continue to conditionally file motions and other papers received from the attorney, subject to the court's approval of the attorney's application or renewal form. If the attorney's application or renewal is denied, the motions and other papers may be clerically stricken and treated as though they were never filed. The clerk may stay further proceedings in the appeal for 60 days, if necessary, to allow the attorney's client to seek new counsel.

(b) Filings from an Attorney Who Has Not Filed an Appearance of Counsel Form Within 14 Days After Notice is Mailed by the Clerk. When an attorney fails to file a required Appearance of Counsel Form within 14 days after notice of that requirement is mailed by the clerk, the clerk may not accept any further filings (except for a brief) from the attorney until the attorney files an Appearance of Counsel Form. When an attorney who has not filed an Appearance of Counsel Form tenders a brief for filing, the clerk will treat the failure to file an Appearance of Counsel Form as a deficiency in the form of the brief. An Appearance of Counsel Form need not be accompanied by a motion to file out of time.

RULE 46-7 | ACTIVE MEMBERSHIP IN GOOD STANDING WITH STATE BAR REQUIRED TO PRACTICE; CHANGES IN STATUS OF BAR MEMBERSHIP MUST BE REPORTED

In addition to the requirements of FRAP 46 and the corresponding circuit rules, and Addendum Eight, an attorney may not practice before this court if the attorney is not an active member in good standing with a state bar or the bar of the highest court of a state, or the District of Columbia (hereinafter, "state bar"). When an attorney's active membership in good standing with a state bar lapses for any reason, including but not limited to retirement, placement in inactive status, failure to pay bar membership fees, or failure to complete continuing education requirements, the attorney must notify the clerk of this court within 14 days. That notification must also list every other state bar and federal bar of which the attorney is a member, including state bar numbers and the attorney's status with that bar (e.g., active, inactive, retired, etc.). Members of the Eleventh Circuit bar have a continuing obligation to provide such notification, and attorneys appearing pro hac vice in a particular case or appeal must provide such notification while that case or appeal is pending. Upon receipt of that notification, the court may take any action it deems appropriate, including placing the attorney's bar membership in inactive status until the attorney provides documentation of active membership in good standing with a state bar.



RULE 46-8 | CERTIFICATE OF ADMISSION

Upon admission to the bar of this court, the clerk will send the attorney a certificate of admission. A duplicate certificate of admission is available for purchase upon payment of the fee prescribed by the Judicial Conference of the United States in the Court of Appeals Miscellaneous Fee Schedule issued pursuant to 28 U.S.C. §1913, payable to Clerk, U.S. Court of Appeals, Eleventh Circuit.



RULE 46-9 | ATTORNEY DISCIPLINE

This court has adopted rules governing attorney conduct and discipline. See Addendum Eight.



RULE 46-10 | APPOINTMENT OR WITHDRAWAL OF COUNSEL

(a) Appellate Obligations of Retained Counsel. Retained counsel for a criminal defendant has an obligation to continue to represent that defendant until successor counsel either enters an appearance or is appointed under the Criminal Justice Act, and may not abandon or cease representation of a defendant except upon order of the court.

(b) Habeas Corpus or 28 U.S.C. §2255 Pauper Appeals. When any pro se appeal for either habeas corpus or 2255 relief is classified for oral argument, counsel will normally be appointed under the Criminal Justice Act before the appeal is calendared. The non-argument panel that classifies the appeal for oral argument will advise the clerk who will then obtain counsel under the regular procedure.

(c) Relieving Court Appointed Counsel on Appeal. Counsel appointed by the trial court shall not be relieved on appeal except in the event of incompatibility between attorney and client or other serious circumstances.

(d) Criminal Justice Act Appointments. The Judicial Council of this circuit has adopted the Eleventh Circuit Plan under the Criminal Justice Act and Guidelines for Counsel Supplementing the Eleventh Circuit Plan under the Criminal Justice Act. See Addendum Four.

(e) Non-Criminal Justice Act Appointments. This court has adopted rules governing Non-Criminal Justice Act Appointments. See Addendum Five.



RULE 46-11 | APPEARANCE AND ARGUMENT BY ELIGIBLE LAW STUDENTS

(a) Scope of Legal Assistance.

(1) Notice of Appearance. An eligible law student, as described below, acting under a supervising attorney of record, may enter an appearance in this court on behalf of any indigent person, the United States, or a governmental agency in any civil or criminal case, provided that the party on whose behalf the student appears and the supervising attorney of record has consented thereto in writing. The written consent of the party (or the party's representative) and the supervising attorney of record must be filed with this court.

(2) Briefs. An eligible law student may assist in the preparation of briefs and other documents to be filed in this court, but such briefs or documents must be reviewed, approved entirely, and signed by the supervising attorney of record. Names of students participating in the preparation of briefs may, however, be added to the briefs.

(3) Oral Argument. Except, on behalf of the accused, in a direct appeal from a criminal prosecution, an eligible law student may also participate in oral argument, but only in the presence of the supervising attorney of record.

(b) Law Student Eligibility Requirements.

In order to appear before this court, the law student must:

(1) Be enrolled in a law school approved by the American Bar Association;

(2) Have completed legal studies for which the student has received at least 48 semester hours or 72 quarter hours of academic credit or the equivalent if the school is on some other basis;

(3) Be certified by the dean of the law student's law school as qualified to provide the legal representation permitted by this rule. This certification, which shall be filed with the clerk, may be withdrawn by the dean at any time by mailing a notice to the clerk or by

termination by this court without notice or hearing and without any showing of cause;

(4) Neither ask for nor receive any compensation or remuneration of any kind for the student's services from the person on whose behalf the student renders services, but this shall not prevent an attorney, legal aid bureau, law school, public defender agency, a State, or the United States from paying compensation to the eligible law student, nor shall it prevent these entities from making proper charges for its services;

(5) Certify in writing that the student has read and is familiar with the Code of Professional Responsibility of the American Bar Association, the Federal Rules of Appellate Procedure, and the rules of this court; and

(6) File all of the certifications and consents necessary under this rule with the clerk of this court prior to the submission of any briefs or documents containing the law student's name and the law student's appearance at oral argument.

(c) Supervising Attorney of Record Requirements.

(1) The supervising attorney of record must be a member in good standing of the bar of this court.

(2) With respect to the law student's appearance, the supervising attorney of record shall certify in writing to this court that he or she:

(A) consents to the participation of the law student and agrees to supervise the law student;

(B) assumes full, personal professional responsibility for the case and for the quality of the law student's work;

(C) will assist the student to the extent necessary; and

(D) will appear with the student in all written and oral proceedings before this court and be prepared to supplement any written or oral statement made by the student to this court or opposing counsel.



RULE 47-1 | NAME, SEAL, AND PROCESS

(a) Name. The name of this court is "United States Court of Appeals for the Eleventh Circuit."

(b) Seal. Centered upon a blue disc a representation of the American eagle in its proper colors with wings displayed and inverted standing upon a closed book with gold page ends and maroon cover; also standing upon the book and in front of the eagle's right wing a gold balance embellished with three white stars, one above each of the pans and one atop the centerpost and below the book on a gold semi-circular scroll in blue letters the inscription EQUAL JUSTICE UNDER LAW; all enclosed by a gold-edged white border inscribed in blue with the words UNITED STATES COURT OF APPEALS above two gold rosettes of blue and gold and the words ELEVENTH CIRCUIT also in blue.

(c) Writs and Process. Writs and process of this court shall be under the seal of the court and signed by the clerk.



RULE 47-2 | CIRCUIT EXECUTIVE

The judicial council has appointed a circuit executive pursuant to 28 U.S.C. §332 as secretary of the judicial council and of the judicial conference.

The circuit executive is designated as the court's manager for all matters pertaining to administrative planning, organizing and budgeting. The clerk, the director of the staff attorney's office, and the circuit librarian shall coordinate fully with the circuit executive on those administrative matters pertaining to their areas of responsibility that appropriately warrant judicial attention or administrative action.

The circuit executive shall maintain an office in Atlanta, Georgia.



RULE 47-3 | CIRCUIT LIBRARIAN

Under the direction of a circuit librarian the court will maintain a library in Atlanta, Georgia, and approve regulations for its use. All persons admitted to practice before the court shall be authorized to use the library. Libraries may be maintained at other places in the circuit designated by the judicial council.



RULE 47-4 | STAFF ATTORNEYS

Under the supervision of a senior staff attorney, a central staff of attorneys shall be maintained at Atlanta, Georgia, to assist the court in legal research, analysis of appellate records and study of particular legal problems, and such other duties as the court directs.



RULE 47-5 | JUDICIAL CONFERENCE

The rules of this court for having and conducting the conference and for representation and active participation at the conference by judges and members of the bar appear as Addendum One.



RULE 47-6 | RESTRICTIONS ON PRACTICE BY CURRENT AND FORMER EMPLOYEES

Consistent with the Consolidated Code of Conduct for Judicial Employees adopted by the Judicial Conference of the United States, no employee of the court shall engage in the practice of law. A former employee of the court may not participate by way of representation, consultation, or assistance, in any matter which was pending in the court during the employee's term of employment.



LOCAL RULES OF COURT | 11TH CIRCUIT (US)

SECTION: ADDENDUM

RULES: ONE through NINE



ADDENDUM 1 | RULES FOR CONDUCT OF AND REPRESENTATION AND PARTICIPATION AT THE ELEVENTH CIRCUIT JUDICIAL CONFERENCE

(a) Planning and Conducting the Conference

The judicial council shall have the responsibility for planning and conducting judicial conferences. The long-range plans for conducting judicial conferences shall be made on recommendation of a judicial conference committee of the judicial council appointed by the chief judge with judicial council approval. Each annual conference shall be planned and conducted by a judicial conference planning chair, appointed by the committee with judicial council approval. The chair, with approval of the chief judge, shall appoint such committees as may be necessary for efficient and effective operation of the conference.

(b) Members of the Conference

The judicial conference of this circuit shall consist of the following:

(1) ex officio

- a. the active circuit and district judges, bankruptcy judges, and full-time magistrates of the circuit;
- b. the circuit justice;
- c. the senior and retired circuit, district and bankruptcy judges and magistrates of the circuit;
- d. the circuit executive of the circuit;
- e. the clerk of the circuit court or a designated deputy;
- f. the staff attorney of the court;
- g. the circuit librarian;
- h. presidents and presidents-elect of the state bars of the states within the circuit;
- i. three official representatives chosen by each state bar of the states comprising the circuit;
- j. the chief justices of the state supreme courts of each state within the circuit, or their designees;



- k. the members of the lawyers advisory committee of the circuit;
- l. the executive director of each state bar of the states within the circuit;
- m. each United States attorney of the circuit;
- n. the federal public defender of any district within the circuit, and a representative of a community defender organization in any district, designated by the president of such organization;
- o. the dean of each accredited law school within the circuit;
- p. any retired justice of the Supreme Court of the United States residing or practicing within the circuit;
- q. any current or former attorney general of the United States residing or practicing within the circuit;
- r. any lawyer who has been nominated to a circuit, district or bankruptcy court judgeship within the circuit, whether or not yet confirmed or inducted;
- s. the president, or personal designee, of the American Bar Association;
- t. former presidents of the American Bar Association residing or practicing in the circuit;
- u. the current members of the board of governors of the American Bar Association from the circuit;
- v. the current members of the American Bar Association judiciary committee who reside in the circuit;
- w. the president, or personal designee, of the Federal Bar Association and the regional representatives;
- x. the president, or personal designee, of the National Bar Association and the regional representatives;



y. the executive director and the attorney board members of the historical society;

z. state attorneys general or their designees;

aa. chief judge of the United States Tax Court or designee;

bb. directors of capital case resource centers.

(2) One or more lawyers, as indicated below, who actively practice in the federal courts of the circuit as selected by the judges of the courts hereinafter designated. As the Congress may change the number of active judges from time to time, the number of designees shall be adjusted correspondingly:

	Number of Designees
<u>Eleventh Circuit Court of Appeals</u>	12
<u>Northern District of Alabama</u>	
-District	7
-Bankruptcy	5
<u>Middle District of Alabama</u>	
-District	3
-Bankruptcy	2
<u>Southern District of Alabama</u>	
-District	3
-Bankruptcy	2
<u>Northern District of Florida</u>	
-District	3
-Bankruptcy	1
<u>Middle District of Florida</u>	
-District	9
-Bankruptcy	4



Southern District of Florida

-District 15

-Bankruptcy 3

Northern District of Georgia

-District 11

-Bankruptcy 6

Middle District of Georgia

-District 2

-Bankruptcy 2

Southern District of Georgia

-District 3

-Bankruptcy 2

The standards used in selecting representative lawyers as members of the conference must bear a direct relationship to the following minimum requirements:

- a. the lawyer-members must constitute a fair cross-section of the practitioners of the court, giving due consideration to qualified individuals regardless of race, color, sex, religion, or national origin;
- b. each lawyer-member must be interested in the purposes and work of the conference and be willing and able to actively contribute to this end; and
- c. each lawyer-member must be willing to assist in implementing conference programs with the local bar.

A court may invite the same lawyer representative to the judicial conference for not more than three years during any five year period, but only if such representative is fully performing the three requirements referred to above and if approved by the circuit chief judge.



(c) Open Judicial Conference

From time to time the Court of Appeals may conduct a judicial conference at which any attorney admitted to practice in one of the several district courts within the Eleventh Circuit or the Eleventh Circuit Court of Appeals may be invited to attend.

(d) Registration Fee

A non-reimbursable registration fee in an amount fixed by the judicial council shall be collected from each member attending the conference. The sums so collected shall be used to defray conference expenses. Any excess shall be placed in a separately maintained Eleventh Circuit Judicial Conference Fund that shall be used for the purpose of paying the expense of other conference or future conference-related activities.

(e) Secretary of the Conference

The circuit executive, who shall be secretary of the conference, shall be responsible for collection and disbursement of conference funds, for all records and accounts of the conference, and for the staff support required for conducting the conference, and shall perform such other duties as may be necessary to ensure efficient operation of the conference.

**ADDENDUM 2 | PROCEDURES IN PROCEEDINGS FOR REVIEW OF ORDERS OF THE
FEDERAL ENERGY REGULATORY COMMISSION**

(a) Petition for Review. The petition for review shall specify as a part of its caption the number, date, and identification of the order to be reviewed and append the service list required by FRAP 15(c). The petition shall contain a Certificate of Interested Persons and Corporate Disclosure Statement as described in FRAP 26.1 and the accompanying circuit rules.

(b) Docketing. Petitions for review and other documents concerning commission orders in the same number series (i.e., 699, 699A 699B) shall be assigned to the same docket in this court.

(c) Intervention.

(1) Party. A party to a commission proceeding may intervene in a review of the same proceeding in this court by filing a notice of intervention in the docket assigned to the petition for review of any order entered in such proceeding. The notice shall state whether the intervenor is a petitioner who objects to the order or a respondent who supports the order. A notice of intervention shall confer petitioner or respondent status on the intervening party as to all proceedings in the docket.

(2) Nonparty. One not a party to a commission proceeding who desires to intervene in a review of that proceeding in this court shall file with the clerk and serve upon all parties to the proceeding a motion for leave to intervene. The motion shall contain a concise statement of the interest of the moving party, the grounds upon which intervention is sought, and a statement why the interest asserted is not adequately protected by existing parties. Any opposition to the motion shall be filed within 10 days of service.

(d) Docketing Statement. Within 30 days of the initial petition for review but not later than 10 days after the expiration of the period permitted for filing a petition for review, all parties filing petitions for review shall file a joint docketing statement that shall:

(1) list each issue to be raised in the review;



(2) list any other review proceeding pending as to the same order in any other court, and

(3) append copies of the order to be reviewed.

A petitioner who files for review after a docketing statement has been filed shall specify in the petition for review any exceptions taken or additions to the issues listed in the docketing statement. A party who intervenes after a docketing statement has been filed shall specify in the notice of intervention any exceptions taken to the issues listed in the docketing statement.

(e) Venue. Upon the filing with the judicial panel on multidistrict litigation of notice that petitions for review have been filed in more than one court, further proceedings in this court shall be governed by 28 U.S.C. §2112.

(f) Prehearing Conference. Ten days after the filing of a docketing statement or 10 days after entry of an order by the court deciding a venue issue, whichever is later, the clerk may notice a prehearing conference to:

(1) simplify and define issues;

(2) agree on an appendix and record;

(3) assign joint briefing responsibilities and schedule briefs, and;

(4) handle such other matters as may aid in disposing of the proceeding. Except for good cause shown a party who petitions for review or intervenes in a docket after prehearing conference has been held will be bound by the result of the prehearing conference.

(g) Severance. A petitioner or respondent may move to sever parties or issues on a showing of prejudice.

(For other provisions governing review of administrative agencies, boards, and commissions, see FRAP 15).







ADDENDUM 3A | RULES FOR JUDICIAL CONDUCT AND JUDICIAL DISABILITY PROCEEDINGS

11th Cir. JCDR 6.1 Form. Complaints may be filed on the form contained in the Appendix to these Rules, and available from these other sources:

- on the court's web site at www.call.uscourts.gov;
- by telephoning the court's Clerk's Office at 404-335-6577;
- by visiting or writing to the court's Clerk's Office at the address shown in 11th Cir. JCDR 6.6; or
- from the clerk of any district court or bankruptcy court within the Eleventh Circuit.

* * * *

11th Cir. JCDR 6.2 Statement of Facts: Length; Format. The required statement of facts should be attached to the complaint form, and should not exceed five (5) pages. To assure legibility, the statement of facts should conform to the following technical requirements:

- 8½ x 11 inch paper;
- Only one side of the paper should be used;
- The text should be double-spaced, but quotations more than two lines long may be indented and single-spaced; headings and footnotes may be single-spaced;
- Margins should be at least one inch on all four sides; page numbers may appear in the margins but no text should appear there;
- If typed, either a proportionally spaced or monospaced typeface may be used; a proportionally spaced typeface should be 14-point or larger; a monospaced typeface should not contain more than 10½ characters per inch.

* * * *

11th Cir. JCDR 6.3 Submission of Documents. Documents referred to in the statement of facts may be filed with the complaint. The statement should cite the page(s) of such document(s) that the complainant deems pertinent to the allegations of the complaint.



* * * *

11th Cir. JCDR 6.4 Number of Copies. Four copies each of the complaint, statement of facts, and any document(s) filed therewith must be filed with the Clerk.

* * * *

11th Cir. JCDR 6.5 Anonymous Complaints. An anonymous complaint will not be accepted for filing by the Clerk. Nevertheless, the Clerk will forward such a complaint to the Chief Judge.

* * * *

11th Cir. JCDR 6.6 Place of Filing. A complaint must be delivered or mailed in an envelope to:

Clerk
United States Court of Appeals
56 Forsyth Street, N.W.
Atlanta, Georgia 30303

The envelope should be marked "Complaint of Misconduct" or "Complaint of Disability." The name of the subject judge must not appear on the envelope.

* * * *

11th Cir. JCDR 6.7 Supplementation. Once filed, a complaint may not be supplemented or modified by additional statements or documents unless authorized by order of the Chief Judge.

* * * *

11th Cir. JCDR 6.8 No Filing Fee. There is no filing fee for a complaint of misconduct or disability.

* * * *

11th Cir. JCDR 8.1 Receipt of Complaint Not in Proper Form. Upon receipt of a complaint not filed in the form required by the Rules for Judicial-Conduct and Judicial-Disability Proceedings adopted by the Judicial Conference of the United States, the Clerk shall return the complaint to the complainant and explain why it was returned.

* * * *



11th Cir. JCDR 18.1 Petition for Review: Length; Format. The petition should not exceed five (5) pages, and should not include attachments. To assure legibility, the petition should conform to the following technical requirements:

- 8½ x 11 inch paper;
- Only one side of the paper should be used;
- The text should be double-spaced, but quotations more than two lines long may be indented and single-spaced; headings and footnotes may be single-spaced;
- Margins should be at least one inch on all four sides; page numbers may appear in the margins but no text should appear there;
- If typed, either a proportionally spaced or monospaced typeface may be used; a proportionally spaced typeface should be 14-point or larger; a monospaced typeface should not contain more than 10½ characters per inch.

* * * *

11th Cir. JCDR 18.2 Place of Filing. A petition for review must be delivered or mailed in an envelope to:

Clerk
United States Court of Appeals
56 Forsyth Street, N.W.
Atlanta, Georgia 30303

The envelope should be marked "Misconduct Petition" or "Disability Petition." The name of the subject judge must not appear on the envelope.

















ADDENDUM 5 | NON-CRIMINAL JUSTICE ACT COUNSEL APPOINTMENTS

The court adopts these provisions for furnishing representation for persons financially unable to obtain adequate representation in cases and situations which do not fall within the scope of 18 U.S.C. §3006A, as amended - but in which the court believes that the interests of justice will be served by the presence of counsel.

(a) Determination of Need.

In determining need for appointment of counsel, the court shall generally be governed by the guidelines outlined in 18 U.S.C. §3006A.

(b) Appointment of Counsel.

(1) Counsel shall be selected from the same panels of attorneys designated or approved by the district courts of the Eleventh Circuit as described in Addendum Four, which are hereby approved by this court, or from a bar association, legal aid agency, or other approved organization. In addition, any judge of this court may appoint competent counsel not otherwise included in the preceding categories.

(2) Any person seeking relief under 29 U.S.C. §621, 42 U.S.C. §1981, 42 U.S.C. §1982, 42 U.S.C. §1983, 42 U.S.C. §1985, 42 U.S.C. §1986, 42 U.S.C. §2000a, 42 U.S.C. §2000d, and 42 U.S.C. §2000e or in such other cases as the court shall determine to be appropriate may be eligible for representation. The court may approve such representation on a determination that the interests of justice so require and that the person is financially unable to obtain representation.

(3) The court may at its discretion and in the interest of justice substitute one appointed counsel for another at any stage of the proceedings on appeal.

(4) The court may at its discretion and where circumstances warrant make appointments of counsel retroactive so as to include representation furnished prior to appointment.



(c) Withdrawal or Release of Appointed Counsel.

Counsel appointed under this rule to represent a party shall continue such representation until relieved by order of the court of appeals.

(d) Duties of Appointed Counsel.

(1) Appointed counsel shall furnish the party represented, upon written request, with a copy of motion papers and briefs filed for the party on the appeal, and shall send the party a copy of the court's decision when issued; the clerk will send appointed counsel an extra copy of the decision for this purpose.

(2) Appointed counsel shall appear for oral argument only when directed by the court.

(3) In the event of affirmance or other decision adverse to the party represented appointed counsel shall promptly advise the party in writing of the right to seek further review by the filing of a petition for writ of certiorari with the Supreme Court.

(4) Appointed counsel shall advise the party represented in each case that, if the party wishes to file a petition for a writ of certiorari with the Supreme Court, the party may have the right to do so without prepayment of fees and costs or giving security therefor.

(5) No appointed representative under this rule shall accept a payment from or on behalf of the person represented in this court without prior authorization by a United States circuit judge.

(e) Payment of Claims for Expenses.

(1) In all appeals covered by this rule, the court of appeals may authorize reimbursement of necessary expenses reasonably incurred in representing a party on appeal, consistent with the limitations contained in the Criminal Justice Act, by any private attorney, bar association, legal aid agency, or other approved organization appointed by the court for the purpose of representing a party on appeal pursuant to this addendum. Compensation for attorney services as a fee



for either in-court or out-of-court time is not authorized.

(2) Travel expenses and other expenses reasonably incurred and necessary for adequate representation on appeal may be claimed by an appointed attorney or other legal representative. The clerk of court shall furnish each attorney or other representative at the time of appointment with information as to expenses currently allowable and in accordance with rules, regulations and guidelines promulgated by the Judicial Conference of the United States. Per diem may not be claimed in lieu of actual travel and subsistence expenses. Meal and lodging expenses incurred incident to representation on appeal, necessary long distance telephone calls or telegrams, and the cost of photocopying (but not printing), are reimbursable expenses within the guidelines established by the court. Expenses of general office overhead, personal items, filing fees and expenses of printing of briefs are not reimbursable. Expenses of travel by private automobile may be claimed on a straight mileage basis at the authorized rate. See §(6) of the guidelines, below. Parking fees and toll expenses are allowable. Transportation other than by private automobile may be claimed on an actual cost basis, but first class fare is not permitted unless absolutely necessary and documentation is provided that tourist or economy fares were not available.

(3) Unless otherwise ordered by the court for good cause shown, travel expenses other than those incurred in connection with attending oral argument will not be reimbursed without a prior ex parte application to and approval by the court.

(4) All claims for reimbursement of expenses for representation on appeal shall be itemized in detail and filed with the clerk of court on officially approved forms that the clerk's office will provide. Claims should be filed as promptly as possible and in no event later than 60 days after issuance of the mandate.

(5) After approval of allowable reimbursable expenses by the court, the claim form will be forwarded to the circuit executive for payment.

(6) Reimbursable Expenses.

(a) Travel and transportation expenses. Travel and transportation must be accomplished by the most economical means available. Only actual expenses may be claimed.

(i) Air transportation. Tourist or economy accommodations must be used except where unavailable. A copy of the ticket must be attached to the claim form. If travel by first class air transportation is claimed a detailed explanation of the reasons therefor must be provided with the ticket copy.

(ii) Automobile transportation. The total mileage cost shall not exceed the fare authorized for travel by tourist or economy air transport except in an emergency or for other compelling reasons. Travel by privately owned automobile shall not exceed the current government authorized rate for official travel per mile on a straight mileage basis, plus parking fees, ferry, bridge, road, and tunnel fares.

(iii) Local transportation. Local travel will be accomplished by the most economical means available and only actual expenses may be claimed. Transportation to and from an airport should be by airport shuttle, if available.

(iv) Meals and lodging. Reasonable compensation for hotel or motel accommodations and meals will be allowed on an actual expense basis subject to the limitations governing compensation for federal employees traveling to the same destination. Counsel will be notified by the clerk prior to the scheduled oral argument session of the current limitations. A copy of the hotel or motel bill shall be attached to the claim form.

(b) Photocopying. Actual costs not to exceed 25 cents per page will be paid if copy bill is submitted. For in-house copying, actual costs not to exceed 15 cents per page will be paid.



(c) Express mail and other special arrangements. For delivery of items that could have been mailed via U.S. Postal Service first class mail, additional expenses will be reimbursed only if a satisfactory explanation is given why first class mail service was not utilized. In non-emergency cases routine documents such as briefs and motions should be prepared early enough to permit use of first class mail.

(d) Computer Assisted Legal Research.

(i) By Court Appointed Counsel. The cost of use, by appointed counsel, of computer assisted legal research services, may be allowed as a reimbursable out-of-pocket expense, provided that the amount claimed is reasonable. Whenever appointed counsel incurs charges for computer assisted legal research, counsel should attach to the claim form a copy of the bill and receipt for the use of the legal research services or an explanation of the precise basis of the charge (e.g., indicating the extent to which it was derived by proration of monthly charges, or by charges identifiable to the specific research). If the amount claimed is in excess of \$500 or if it includes costs for downloading or printing, counsel should include a brief statement of justification.

(ii) By Commercial Computer Assisted Legal Research Services. The court may in advance authorize counsel to obtain computer assisted legal research services, where the research is performed by employees of a commercial legal research firm or organization rather than by appointed counsel, provided that the total amount charged for computer assisted legal research services is reasonable. Requests by counsel for authority to obtain such computer assisted legal research services should include the following:

a - a brief explanation of the need for the research services; and

b - an estimate of the charges.



(e) Miscellaneous Expenses. The lowest possible cost for expenses such as postage, telephone calls, brief supplies, and parking, shall be incurred.

(f) Briefs.

Reimbursement will be provided only for the number of copies of briefs and appendices required by the rules to be filed and served, plus two copies for each party signing the brief. The number of copies and number of pages must be itemized on the claim form.

(g) Funding.

By resolution the court may allocate from time to time certain monies from its nonappropriated fund account to support this program of non-CJA counsel appointments.

















ADDENDUM 7 | REGULATIONS OF THE UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT FOR THE SELECTION AND APPOINTMENT OR THE REAPPOINTMENT OF FEDERAL PUBLIC DEFENDERS

1. Purpose

Federal public defenders exercise important powers and responsibilities as officers of the United States Courts. It is imperative that highly qualified individuals be selected and retained as public defenders. For the expeditious and orderly achievement of this end, as well as to ensure that federal public defenders provide competent, independent counsel and vigorous representation to indigent persons, the United States Court of Appeals for the Eleventh Circuit has adopted the regulations set forth herein. These regulations shall be administered through a Federal Public Defender Committee appointed by the Chief Judge of the Eleventh Circuit Court of Appeals pursuant to Section 3 of these regulations.

2. Authority

The Criminal Justice Act, 18 U.S.C. §3006A(g), provides that "A Federal Public Defender Organization . . . shall be supervised by a Federal Public Defender appointed by the court of appeals of the circuit . . . after considering recommendations from the district court or courts to be served."

3. Federal Public Defender Committee

a. Appointment of Federal Public Defender Committee

The Chief Judge of the U.S. Court of Appeals shall appoint a Federal Public Defender Committee [hereinafter "Committee"]. The Committee shall consist of a U.S. Circuit Judge, a U.S. District Judge from each district which has established a Federal Public Defender Organization pursuant to 18 U.S.C. §3006A(g)(2)(A), and one or more lawyers from each such district who specialize in the practice of criminal law and are themselves qualified for appointment as a Federal Public Defender under Section 5 of these regulations.



b. Terms of Committee Members

The U.S. Circuit Judge and each district judge appointed to the Committee shall serve for a term of two years. One-third of the lawyers first appointed shall serve a term of one year, one-third for two years, and the remainder and all thereafter appointed for a term of three years. Each member shall serve until his or her successor has been appointed. The Chief Judge of the U.S. Court of Appeals may vacate an appointment at any time.

c. Functions of Committee

(1) The Committee shall determine which applicants meet the qualifications for appointment as a federal public defender as set forth in Section 5 of these regulations.

(2) The Committee shall examine applications and evaluate all qualified candidates without regard to race, color, age, gender, religion, disability, or national origin.

(3) If a federal public defender has applied for an additional four-year term, the Committee shall also consider public comments received and the results of the survey conducted pursuant to Section 6 of these regulations in its evaluation of the Federal Public Defender's application.

(4) The Committee shall interview at least four of the applicants determined to be qualified. If the Committee determines that less than four qualified persons have applied for the position, it may either reopen the application process or report to the Chief Judge of the U.S. Court of Appeals why fewer than four qualified persons could reasonably be expected to apply for the position.



d. Committee Chair, Votes, and Quorum

- (1) The Chief Judge of the U.S. Court of Appeals shall designate one of the members of the Committee to serve as Chair.
- (2) Decisions of the Committee shall be made by a majority of those participating.
- (3) A majority of the Committee shall constitute a quorum.

4. Term of Appointment of Federal Public Defenders

The Criminal Justice Act provides that the U.S. Court of Appeals shall appoint a person to serve as Federal Public Defender for a four-year term. The expiration date of a four-year term is the day prior to the fourth anniversary of the date the oath of office was administered. The Administrative Office of the United States Courts determines the precise expiration date of a four-year term of office.

5. Qualifications for Appointment as Federal Public Defender

To be qualified for appointment as Federal Public Defender, applicants must:

- a. be members in good standing of at least one state bar, or the District of Columbia, or Virgin Islands bar, and members in good standing of every other bar of which they are members;
- b. have been engaged in the active practice of criminal law for a period of at least five years, preferably with significant federal criminal trial and appellate experience;
- c. possess the ability to administer a federal public defender's office effectively;
- d. possess, and have a reputation for:
 - (1) integrity and good character;
 - (2) sound physical and mental health;
 - (3) commitment to equal justice under law and vigorous representation of his or her clients;



(4) outstanding legal ability and competence (evidenced by substantial legal experience, ability to deal with complex legal problems, aptitude for legal scholarship and writing, and familiarity with courts and court processes);

e. have a commitment to the vigorous representation of those unable to afford counsel; and

f. not be related by blood or marriage to a judge of the Eleventh Circuit Court of Appeals or to a judge of the district court to be served, within the degrees specified in Title 28, United States Code, Section 458 at the time of the initial appointment. The Federal Public Defender Committee will resolve any questions regarding the qualifications of applicants.

6. Federal Public Defender Committee's Evaluation of the Performance of the Incumbent Federal Public Defender

a. Prior to the conclusion of the third year of each four-year term, the Federal Public Defender Committee shall conduct an evaluation of the administration of the Federal Public Defender's office. The purpose of this evaluation is to identify strengths and weaknesses in the administration of the office and to provide the Federal Public Defender with an opportunity to initiate corrective measures if any administrative deficiencies are discovered. The performance of the Federal Public Defender will be evaluated in terms of the quality of representation, the level of commitment to vigorous representation and service to clients, and administrative efficiency of the office. This evaluation will be based on information received through a solicitation for public comment and a written survey designed and administered by the Committee.

(1) A solicitation for public comment regarding the performance of the Federal Public Defender and his or her office will be placed by the Committee in the major metropolitan or legal newspapers within the district served by the Federal Public Defender.

(2) The Committee shall also conduct a written survey of the administration of the office of the Federal Public Defender. That survey shall be distributed to district judges, magistrate judges, the Defender Services Division of the Administrative Office of the United States Courts, and to any other persons whose employment places them in a position to observe the performance of the Federal Public Defender, the quality of representation, the level of commitment to vigorous representation and service to clients, and administrative efficiency of the Federal Public Defender's office.

(3) The Committee may make such additional inquiry as it considers appropriate concerning the quality of services provided by the Federal Public Defender office in the district. With the prior approval of the Chief Judge of the U.S. Court of Appeals, the Committee may appoint consultants to assist it in its evaluation of the administration of a federal public defender's office.

(4) At the conclusion of the survey period the Committee shall prepare a statistical summary of the results of its survey and a narrative summary of the responses to the solicitation for public comment.

(5) The Federal Public Defender shall be afforded an opportunity to review and respond to the statistical summary and narrative summary prepared by the Committee.

(6) The Committee should meet with the Federal Public Defender to discuss the evaluation of his or her office, if such conference is warranted by the responses to the request for public comment or the survey.

7. Incumbent Federal Public Defenders

a. Eligibility of Federal Public Defenders for Reappointment

The Criminal Justice Act permits appointment of an incumbent Federal Public Defender to an additional four-year term. There is not, however, a legitimate expectation of a right to reappointment or a presumption that the Federal Public Defender is the best qualified applicant for a subsequent four-year term.

b. Application by Federal Public Defender for Additional Four-Year Term

Approximately one year prior to expiration of the four-year term of office, the Administrative Office of the United States Courts advises the Chief Judge of the U.S. Court of Appeals of the expiration date of each four-year term. Upon receipt of this notice, the Chief Judge of the U.S. Court of Appeals shall write to the incumbent Federal Public Defender to inquire whether he or she intends to again apply for appointment at the expiration of his or her term of office. The Federal Public Defender shall notify the Chief Judge of the U.S. Court of Appeals whether he or she wishes to apply for an additional four-year term within 35 days of the receipt of the inquiry from the Chief Judge of the U.S. Court of Appeals.

c. Evaluation Statement to Accompany Application

If the Federal Public Defender applies for appointment for an additional four-year term, such application shall be accompanied by a written statement prepared by the Federal Public Defender setting forth an evaluation of his or her administration of the office of Federal Public Defender. This statement shall assess the strengths and weaknesses of his or her administration of the office of Federal Public Defender and the steps that should be taken to eliminate any deficiencies and strengthen the administration of the office.

8. Public Recruitment of Qualified Candidates

a. Public Notice

At the end of each four-year term, or when a vacancy occurs due to the resignation, removal, or incapacity of the occupant of the office of Federal Public Defender, a public notice shall issue announcing that applications are being accepted for a four-year term for the position of Federal Public Defender for the particular district. The public notice shall advise all applicants that the U.S. Court of Appeals for the Eleventh Circuit is searching for the best qualified person currently available for this position and that the U.S. Court of Appeals for the Eleventh Circuit encourages applications from all qualified persons including women, members of minority groups, and individuals with disabilities. If the Federal Public Defender has applied for an additional four-year term, the notice shall also state that the Federal Public Defender has applied for reappointment and that his or her application will be reviewed under the same standards applied to all other applicants.

b. Publication of Public Notice

The Committee shall seek qualified applicants who reflect the makeup in the relevant national labor market and will use adequate means to publicize the existence of a vacancy to all segments of the relevant national labor market.

(1) The Committee shall publish a notice that applications are being accepted for a four-year term as Federal Public Defender in a national publication for the legal profession.

(2) Whenever possible, the Committee shall also advertise in publications from each of the following categories: (1) state bar journal, newsletter, or similar publication; (2) general local newspaper or similar publication; (3) local bar journal, newsletter, or legal periodical.



c. Posting and Distribution of Notice

The public notice shall also be posted in the offices of the Clerk of the U.S. Court of Appeals and in each district court clerk's office within the Eleventh Circuit. A copy of the notice shall also be provided to each district judge and magistrate judge of the circuit, requesting that the judges recruit attorneys whom they feel may be qualified for the position, especially females, members of minority groups, and individuals with disabilities. The Defender Services Division of the Administrative Office of the United States Courts shall also be provided with a copy of the notice for nationwide distribution.

d. Availability of Applications

The Committee shall devise and provide federal public defender application forms to the Clerk of the U.S. Court of Appeals and to each district court clerk's office within the Eleventh Circuit when a vacancy occurs.

e. Timely Submission of Application

To be considered, applications must be received by the Committee by the posted deadline.

f. Review of Completed Applications

After the closing date for receipt of applications, the Committee shall review all timely applications.

9. Report to U.S. Court of Appeals

Upon completion of the duties set forth in Sections 6 and 8 of these regulations, the Federal Public Defender Committee shall submit a report to the Chief Judge of the U.S. Court of Appeals and to the active judges of the Court. The report shall constitute the recommendations of the Committee concerning the appointment of the federal public defender in that district, and shall include the following:

- a. a description of actions taken pursuant to Section 8 of these regulations regarding giving notice of the position;



- b. the names of all persons who submitted applications and the names of those deemed by the Committee to be qualified for appointment pursuant to Section 5 of these regulations;
- c. the results of the Committee's investigation into the background of the qualified candidates;
- d. the names of the qualified candidates who were interviewed by the Committee; and
- e. a preferential ranking of not less than three nor more than five best qualified persons from among those the Committee considered qualified for appointment under Section 5 of these regulations. The Committee shall set forth the basis for its ranking of each of the persons it found to be the best qualified applicants.

10. District Court Recommendations

a. Solicitation of Recommendations

Following receipt of all applications, the Chair of the Federal Public Defender Committee shall send a list of the names of all applicants determined by the Committee to be qualified, its preferential ranking of the not less than three nor more than five applicants considered to be best qualified and if the Federal Public Defender has applied for an additional four-year term a copy of the summary of the results of the survey concerning his or her last four-year term and of the summary of the responses to the solicitation for public comment to the Chief Judge of the district in which the Federal Public Defender is to be appointed, soliciting the recommendations of that district. The district court shall submit to the Chair of the Committee and to the Chief Judge of the U.S. Court of Appeals its written recommendation, if any, within 35 days after receipt of the Committee's letter. Extensions of time to respond may be granted by the Chair of the Committee upon application by a chief judge of the district court.

b. Suggested Procedures for the District Court

(1) The Chief Judge of the district court may circulate to the members of his or her court the names of all applicants and the summary of the results of the survey if the Federal Public Defender has applied for an additional four-year term.

(2) The district court may wish to consider the summaries of the results of the survey and responses to the solicitation for public comment, if conducted, in arriving at its recommendation. The district court may, in its discretion, conduct its own inquiry concerning any qualified applicant. Within 35 days of receipt of the Committee's report, the district court may either:

(a) submit its written recommendation(s) to the Chair of the Committee; or

(b) notify the Chief Judge of the U.S. Court of Appeals and the Committee that the district court declines to make a recommendation.

(3) If the district court decides to submit a recommendation, its report should include:

(a) a preferential ranking of the applicants whom the district court found to be the best qualified for appointment if different from the ranking recommended by the Committee. The district court may set forth the reasons for its ranking. The district court should consider only those applicants determined by the Committee to have been qualified; and

(b) a summary of the district court's inquiry, if any, concerning the qualified applicants.

11. Vote by U.S. Court of Appeals and Background Investigation on Nominee

a. If the Federal Public Defender Committee's recommendation is in accord with that submitted by the district court and if time constraints or exceptional circumstances warrant it, a vote of the judges of the U.S. Court of Appeals may be conducted by mail or by telephone. Otherwise the Committee's recommendations on the nomination to a vacancy, together with the recommendations of the district court, shall be presented at a regularly scheduled U.S. Court of Appeals Administrative Meeting.

b. After voting to nominate a candidate to fill a vacancy,

(1) the name of the nominee shall be submitted by the Chief Judge of the U.S. Court of Appeals to the Director of the Administrative Office of the United States Courts for background investigations by the Federal Bureau of Investigation and the Internal Revenue Service;

(2) The Administrative Office of United States Courts will send the FBI and IRS reports to the Chief Judge of the U.S. Court of Appeals, who shall refer the reports to the Committee;

(3) The candidate will complete the required financial disclosure forms and will send them to the Chief Judge of the U.S. Court of Appeals and to the Administrative Office of United States Courts;

(4) After reviewing the FBI and IRS reports, the Committee shall submit its recommendation to the U.S. Court of Appeals on whether the nomination should be confirmed;

c. Upon receipt of the Committee's recommendation on confirmation, the U.S. Court of Appeals shall vote on whether to confirm the nomination. The confirmation vote of the U.S. Court of Appeals may be conducted either by mail or at a regularly scheduled court administrative meeting.



12. Confidentiality

If a member of the public makes a comment concerning the qualifications of the incumbent Federal Public Defender or the administration of his or her office, or about an applicant for that position, in a survey or otherwise, the person making the comment may request that their identity be kept confidential. The incumbent or applicant will, however, be provided with a general description of the source and nature of any comments.

The Federal Public Defender Committee or the Court of Appeals may determine, at its sole discretion, that the identity of a person making a comment should be disclosed to the incumbent or applicant in order to afford that person a fair opportunity to respond to the comment. In that event, the person making the comment will be given an opportunity to withdraw the comment before the commenter's identity is disclosed to the incumbent or applicant. If the comment is withdrawn, it will not be considered by the Committee or the Court of Appeals, and the identity of the person making the comment will remain confidential. If the person making the comment waives confidentiality, the commenter's name will be revealed to the incumbent or the applicant, along with the substance of the comment.

All information made available to the members of the Federal Public Defender Committee in the performance of their duties, including the Committee's report and the names recommended therein, shall be kept in strict confidence by the persons authorized by these procedures to receive this information, unless other provisions of these procedures or the U.S. Court of Appeals specifically authorize a disclosure.

If the Committee, with the consent of the Chief Judge of the U.S. Court of Appeals, decides to appoint consultants pursuant to Section 6(a)(3) of these regulations to assist it in considering the appointment of a federal public defender, it may provide any confidential information to the consultants as it considers necessary or appropriate.



13. Interim Appointment

A federal public defender whose four-year term of office has expired may continue to perform the duties of his or her office until a successor is chosen or until one year passes, whichever is earlier, upon approval of such an extension by a majority of the judges of the U.S. Court of Appeals.



ADDENDUM 8 | RULES GOVERNING ATTORNEY DISCIPLINE IN THE U.S. COURT OF APPEALS FOR THE ELEVENTH CIRCUIT

Prefatory Statement

Nothing contained in these rules shall be construed to deny the U. S. Court of Appeals for the Eleventh Circuit (the Court) its inherent power to maintain control over proceedings conducted before it or to deny the Court those powers derived from statute, rules of procedure, or rules of court. References herein to a panel are to a three-judge panel of the Court who shall act by majority vote.

When alleged attorney misconduct is brought to the attention of the Court, whether by a judge of the Court, a lawyer admitted to practice before the Court, an officer or employee of the Court, or otherwise, the Court may dispose of the matter through the use of its inherent, statutory, or other powers; refer the matter to an appropriate state bar agency for investigation and disposition; refer the matter to the Court's Committee on Lawyer Qualifications and Conduct as hereinafter defined; or take any other action the Court deems appropriate. These procedures are not mutually exclusive.

RULE 1.

Standards for Professional Conduct

A. An act or omission of an attorney admitted to practice before the Court, committed individually or in concert with any other person or persons, that violates the Code of Professional Responsibility or Rules of Professional Conduct adopted by this Court, shall constitute misconduct and shall be grounds for discipline, whether or not the act or omission occurred in the course of an attorney-client relationship. Except as otherwise provided by a specific rule of the Court, attorneys practicing before the Court shall be governed by the Federal Rules of Appellate Procedure, the Court's local rules, the American Bar Association Model Rules of Professional Conduct, and the rules of professional conduct adopted by the highest court of the state(s) in which the attorney is admitted to practice to the extent that those state rules are not inconsistent with the American Bar Association Model Rules of Professional Conduct, in which case the model rules shall govern.



B. Discipline for misconduct defined in these rules may consist of disbarment, suspension, reprimand, monetary sanctions (including payment of the costs of disciplinary proceedings), removal from district court Criminal Justice Act panels, removal from the Court's roster of attorneys eligible for practice before the Court and for appointment under the Criminal Justice Act, or any other sanction the Court may deem appropriate.

RULE 2.

Committee on Lawyer Qualifications and Conduct

A. The Court may appoint a standing committee consisting of nine members of the bar of the Court, three from each state of the circuit, to be known as the "Committee on Lawyer Qualifications and Conduct" (the Committee). Three of those first appointed shall serve a term of one year; three shall serve a term of two years; and the remainder and all thereafter appointed shall serve a term of three years. Each member shall serve until the member's successor is appointed. The Court may vacate any such appointment at any time. The Court shall designate one of the members to serve as chairman. A majority of the Committee shall constitute a quorum.

B. The purpose and function of the Committee is to conduct, on referral by the Court through the Chief Judge or the Chief Judge's designee (hereinafter the Chief Judge unless otherwise provided in these rules), investigations of alleged misconduct by any member of the bar of the Court, or any attorney appearing and participating in any proceeding before the Court; to conduct and preside over disciplinary hearings when appropriate and as hereinafter provided; to conduct, on referral by the Court through the Chief Judge, inquiries and investigations of allegations of inadequate performance by an attorney practicing before the Court as hereinafter provided; and to submit written findings and recommendations to the Court for appropriate action. The members of the Committee, while serving in their official capacities, shall be considered representatives of the Court and as acting under the powers and immunities of the Court, and shall enjoy all such immunities while acting in good faith and in their official capacities.

C. The Court through the Chief Judge may refer to the Committee any accusation or evidence of misconduct that may



constitute a violation of the disciplinary rules by any member of the bar with respect to any professional matter before the Court for such investigation, hearing, and report as the Court deems advisable. In addition to or instead of referring a disciplinary matter to the Committee, the Court through the Chief Judge may refer a complaint to the chief judge of the appropriate district court of the Eleventh Circuit for referral to that court's committee on lawyer qualifications and conduct. The Committee may refer disciplinary matters to an appropriate state bar for preliminary investigation, or may request the Court to appoint special counsel to assist in or exclusively to conduct disciplinary proceedings, as provided in Rule 11., infra. The Court through the Chief Judge also may refer to the Committee any matter concerning an attorney's failure to maintain an adequate level of competency in the attorney's practice before the Court, as provided in Rule 8., infra. Under no circumstances may the Committee investigate or initiate proceedings concerning these matters without prior referral by the Court through the Chief Judge.

D. The Committee shall be vested with such powers as are necessary to conduct the proper and expeditious disposition of any matter referred by the Court, including, but not limited to, the power to compel the attendance of witnesses; to take or cause to be taken the deposition of witnesses; to order the production of books, records, or other documentary evidence; and any power prescribed elsewhere in these rules. The chairman, or in the chairman's absence each member of the Committee, shall have the power to administer oaths and affirmations to witnesses. The Committee may constitute itself into investigative panels, each investigative panel ordinarily consisting of the three members residing in the same state, for the purpose of investigating allegations of misconduct and inquiring into inadequate performance, and submitting written findings and recommendations to the Committee and to the Court. Hearings shall ordinarily be held before the Committee and not an investigative panel.

E. Except as provided in Rule 13(C), unless and until otherwise ordered by the Chief Judge, all reports, records of proceedings, and other materials presented by the Court, the Committee, or any person to the Clerk of the Court (the Clerk) for filing shall be filed and maintained as sealed and confidential documents and shall be labeled accordingly by

the Court, the Committee, or the person presenting such matters for filing.

RULE 3.

Disciplinary Proceedings

A

(1). When misconduct or an allegation of misconduct that, if substantiated, may warrant discipline against an attorney admitted to practice before the Court comes to the attention of a judge of the Court, whether by complaint or otherwise, the judge may refer the matter to the Court through the Chief Judge for possible referral to the Committee for investigation and, if probable cause is found that the attorney has engaged in such misconduct, for initiation of formal disciplinary proceedings. In addition to or instead of referring the disciplinary matter to the Committee, the Court through the Chief Judge may refer the matter to the chief judge of the appropriate district court of the Eleventh Circuit for disposition.

(2). The Court through the Chief Judge may, prior to referring the matter to the Committee, direct the Clerk to issue an order requiring the attorney to show cause within 14 days from the date of the order why the attorney should not be disciplined. Such order may further provide that if the attorney fails to file a verified response within the time allowed, the attorney shall be indefinitely suspended from practice before the Court.

The attorney's response to such order shall be verified by a signed declaration similar to the following: "I swear (or affirm) that all statements made herein, including those made in attachments which are incorporated herein by reference, are true and correct to the best of my knowledge, information, and belief." When an attorney is suspended upon failure timely to file a verified response the matter need not be referred to the Committee. If an attorney timely files a verified response, the Clerk shall refer the matter to the Chief Judge, who shall determine whether to refer the matter to the Committee or take other appropriate action.



B

(1). If the Committee concludes, after investigation, that no probable cause exists to believe that the attorney has engaged in misconduct, and, therefore, that a formal disciplinary proceeding should not be initiated, the Committee in a report filed with the Clerk shall recommend a disposition of the matter -- for example, that the Court dismiss the complaint, that further action on the complaint be deferred, or that other action be taken. The Committee's report and all material received or generated by the Committee in the course of its investigation shall be confidential unless and until otherwise ordered by the Court through the Chief Judge.

(2). With respect to matters referred to the Committee under Rule 3(A)(2), if the Committee concludes, after investigation, that the attorney has demonstrated sufficient justification why discipline should not be imposed, the Committee in a report filed with the Clerk shall request the Court to close the matter with no discipline imposed, stating its reasons therefor.

C

(1). If the Committee concludes, after investigation, that probable cause exists to believe that the attorney has engaged in misconduct, the Committee shall file with the Clerk a report of its investigation, stating with specificity the facts supporting its conclusion, and shall apply to the Court for the issuance of an order requiring the attorney to show cause within 14 days after service of that order why the attorney should not be disciplined. The order to show cause, issued by the Chief Judge, shall set forth the particular misconduct for which the attorney is sought to be disciplined. A copy of the Committee's report and the order to show cause shall be served on the attorney as provided in Rule 12., infra. The attorney may file with the Clerk, within 14 days of service of the order to show cause, a written response thereto. After considering the attorney's response, if any, the Committee may request the Court to rescind the order to show cause. If the Committee does not request the Court to rescind the order to show cause, or if a panel of the Court convened by the Chief Judge



denies the Committee's request that it rescind the order to show cause, the Committee shall hold a hearing on the matter, giving the attorney at least 14 days notice as provided in Rule 12., infra. All proceedings before the Committee shall be recorded and the record thereof made available to the attorney. Such proceedings, the record thereof, and all materials received or generated by the Committee shall be confidential unless and until otherwise ordered by the Court through the Chief Judge.

(2). With respect to matters referred to the Committee under Rule 3(A)(2), if the Committee concludes, after investigation, that the attorney has failed to demonstrate sufficient justification why discipline should not be imposed, or if a panel of the Court convened by the Chief Judge denies the Committee's request that it rescind the order to show cause, the Committee shall hold a hearing on the matter, giving the attorney at least 14 days notice as provided in Rule 12., infra.

(3). An attorney may waive a hearing before the Committee by agreeing to the imposition of specific discipline to be recommended by the Committee in a report filed with the Clerk pursuant to Rule 3(E). When an attorney waives a hearing pursuant to this rule, an order to show cause pursuant to Rule 3(F), infra, need not issue.

D. Attorney misconduct shall be established by clear and convincing evidence. Except as otherwise ordered by the Court or provided in these rules, the Committee, in receiving evidence, shall be guided by the spirit of the Federal Rules of Evidence. The attorney, personally or through counsel, shall have the right to confront and cross-examine all witnesses appearing before the Committee and to present witnesses or other evidence. The Committee may require the attorney to testify or otherwise to make under oath specific and complete disclosure of all matters material to the alleged misconduct, subject to any privilege or right against such disclosure the attorney may assert pursuant to federal or state law.

E. Upon completion of a disciplinary proceeding, the Committee shall file with the Clerk the record of that proceeding and the Committee's report to the Court. The report shall include the Committee's findings of fact regarding the



alleged misconduct and its recommendation as to whether the attorney should be found guilty of misconduct and disciplined. A copy of the report and recommendations shall be served on the attorney as provided in Rule 12., infra.

F. Upon receipt of the Committee's finding that misconduct warranting discipline occurred, a panel of the Court convened by the Chief Judge shall issue an order requiring the attorney to show cause why the Committee's recommendation should not be accepted and implemented. After considering the attorney's response, the panel may adopt, modify, or reject the Committee's finding or take other appropriate action as provided in Rule 1.B., supra.

RULE 4.

Attorneys Convicted of Crimes

A. When an attorney admitted to practice before the Court has been convicted in a court of the United States or the District of Columbia or of a state, territory, commonwealth, or possession of the United States (another court) of a serious crime as defined in this rule, the Clerk, upon receipt of a copy of the judgment of such conviction, shall issue and serve on the attorney as provided in Rule 12., infra, an order to show cause why the attorney should not be disbarred. The order shall state that unless the attorney files a response to the order with the Clerk within 14 days after service the attorney shall be disbarred. The order shall further state that if a response is filed the attorney shall be suspended from the bar of the Court until a panel of the Court convened by the Chief Judge otherwise orders. The panel, after considering the attorney's response, (1) may rescind the order to show cause and lift the suspension, (2) may suspend or disbar the attorney, or (3) may refer the matter to the Committee with instructions to initiate a disciplinary proceeding; provided, however, that the panel shall not disbar the attorney or refer the matter to the Committee until any direct appeal from the attorney's conviction has been concluded and the conviction becomes final.

B. The term "serious" crime shall include any felony, or any attempt, conspiracy, or solicitation of another to commit a felony, and any lesser crime an essential element of which, as determined by the statutory or common-law definition of such crime in the jurisdiction in which it occurred, involves

false swearing, misrepresentation, fraud, deceit, dishonesty, bribery, extortion, misappropriation, or theft.

C. An attorney suspended or disbarred pursuant to the provisions of this rule shall be reinstated immediately upon the filing with the Clerk of proof that the attorney's conviction has been set aside; such reinstatement, however, shall not terminate any disciplinary proceeding that has been initiated pursuant to this rule.

RULE 5.

Discipline Imposed By Other Courts

A. When an attorney admitted to practice before the Court has been suspended or disbarred by another court, the attorney shall file a copy of the judgment or order imposing such discipline with the Clerk. Upon receipt of a copy of such judgment or order, whether from the attorney or another source, the Clerk shall issue and serve on the attorney as provided in Rule 12., infra, an order to show cause why the Court should not discipline the attorney in the same manner. The order shall state that unless the attorney files a response to the order with the Clerk within 14 days after service the attorney shall be disciplined accordingly. The order further shall state that if a response is filed the attorney shall be suspended from the bar of the Court until a panel of the Court convened by the Chief Judge otherwise orders. The panel, after considering the attorney's response, (1) may rescind the order to show cause and lift the suspension, (2) may suspend or disbar the attorney, or (3) may refer the matter to the Committee; provided, however, that the panel shall not suspend or disbar the attorney or refer the matter to the Committee until any stay of discipline granted by a court having jurisdiction has been lifted.

B. A determination by another court that an attorney has engaged in misconduct shall establish such conduct conclusively for purposes of a disciplinary proceeding pursuant to these rules, unless the attorney demonstrates and the Court is satisfied that:

1. the procedure used to make such determination was so lacking in notice or opportunity to be heard as to constitute a deprivation of the attorney's due process rights; or



2. the proof was so insufficient that the Court, consistent with its duty, could not accept as final the conclusion of the other court that the attorney engaged in such misconduct.

C. Discipline imposed by another court, whether suspension or disbarment, shall likewise be imposed by this Court unless the attorney demonstrates and the Court is satisfied that:

1. the imposition of the same discipline by the Court would result in grave injustice; or

2. the misconduct warrants substantially different discipline by the Court.

D. The Court at any time may direct the Committee to conduct disciplinary proceedings or to make recommendations to the Court for appropriate action in light of the imposition of professional discipline by another court.

RULE 6.

Disbarment on Consent or Resignation in Other Courts

A. When an attorney admitted to practice before the Court has been disbarred on consent or has resigned from the bar of another court pending an investigation of allegations of misconduct, the attorney promptly shall inform the Clerk in writing of such disbarment on consent or such resignation.

B. Upon receipt of written notice, whether from the attorney or another source, that an attorney admitted to practice before the Court has been disbarred on consent or has resigned from the bar of another court pending an investigation of allegations of misconduct, the Clerk shall issue and serve on the attorney as provided in Rule 12., *infra*, an order to show cause why the Court should not disbar the attorney. The order shall state that unless the attorney files a response to the order with the Clerk within 14 days after service the attorney shall be disbarred. The order shall further state that if a response is filed the attorney shall be suspended from the bar of the Court until a panel of the Court convened by the Chief Judge otherwise orders. The panel, after considering the attorney's response, (1) may rescind the order to show cause and lift the suspension, (2) may suspend or disbar the attorney, or (3) may refer the matter to the Committee.



RULE 7.

Disbarment on Consent While Under Disciplinary Investigation or Prosecution

A. An attorney admitted to practice before the Court who is the subject of an investigation or of a pending proceeding involving allegations of misconduct may consent to disbarment by filing with the Clerk an affidavit stating that the attorney freely and voluntarily consents to disbarment by the Court.

B. Upon the Clerk's receipt of such affidavit, a panel of the Court convened by the Chief Judge shall enter an order disbaring the attorney.

C. The order disbaring the attorney on consent shall be a matter of public record. The affidavit required pursuant to the provisions of this rule, however, shall be confidential unless and until otherwise ordered by the Court through the Chief Judge.

RULE 8.

Attorney Competency and Incapacity

A. When it appears that an attorney, for whatever reason, is failing to perform at an adequate level of competency necessary to protect the interests of the attorney's client (a competency matter), a panel of the Court convened by the Chief Judge may take any remedial action that it deems appropriate, including but not limited to referral of the attorney to appropriate institutions and professional personnel for assistance in raising the attorney's level of competency. The panel, through the Chief Judge, may also refer the matter to the Committee for investigation and recommendation.

B. A competency matter is not a disciplinary matter and thus shall not implicate the formal procedures described elsewhere in these rules. Upon referral of a competency matter, the Committee may conduct a preliminary inquiry and may request an informal meeting with the attorney to discuss the circumstances relating to the referral.



C. If, after conducting a preliminary inquiry, including meeting with the attorney if it elects to do so, the Committee determines that further action is not warranted, the Committee shall so notify the attorney and the referring panel and the matter shall be considered terminated unless the referring panel otherwise directs.

D. If the Committee determines, with or without a preliminary inquiry, that the matter warrants formal action, the Committee may recommend to the attorney in writing that steps be taken to improve the quality of the attorney's professional performance and may recommend that specific actions be taken to effect such improvement. Upon receipt of the Committee's recommendation, the Clerk shall forthwith serve it upon the attorney as provided in Rule 12., infra. The attorney may file a written response to the Committee's recommendation with the Clerk within 14 days of such service, seeking review or revocation of the Committee's recommendation or suggesting alternatives thereto. If the attorney does not file such a response, the Committee's recommendation shall become the decision of the Committee. If the attorney does file such a response, the Committee may modify, revoke, or adhere to its recommendation, and that determination shall become the decision of the Committee. Upon receipt of the Committee's decision, the Clerk shall forthwith serve it upon the attorney as provided in Rule 12., infra. If the attorney agrees to comply with the Committee's decision, the Committee shall report to the referring panel that the attorney has agreed to its resolution of the matter. The Committee may monitor the attorney's compliance with its decision and may request the assistance of the Court to ensure such compliance.

E. If the attorney objects to the Committee's decision, the attorney may file a written response with the Clerk within 14 days of service of the decision. The referring panel shall consider the Committee's decision and the objection of the attorney and may adopt, modify, or reject the Committee's decision or take other appropriate action.

F. If the Committee finds that there is a substantial likelihood that the attorney's continued practice of law before the Court may result in serious harm to the attorney's clients, it may recommend that, pending compliance with its decision, the Court consider limiting or otherwise imposing appropriate restrictions on the attorney's continued practice



before the Court. The referring panel may take any action that it deems appropriate with respect to the Committee's recommendation.

G. All information, reports, records, and recommendations gathered, possessed, or generated by or on behalf of the Committee in relation to the referral of a competency matter shall be confidential unless and until otherwise ordered by the Court through the Chief Judge.

H. Nothing contained in this rule or any action taken pursuant to this rule shall be construed to interfere with or substitute for any procedure relating to the discipline of any attorney as elsewhere provided in these rules. Disciplinary proceedings shall occur separately from competency proceedings held pursuant to this rule.

RULE 9.

Reinstatement After Disbarment or Suspension

A. An attorney suspended for 90 days or less shall be reinstated by the Clerk at the end of the suspension period upon filing with the Clerk an affidavit of compliance with the provisions of the suspension order. An attorney suspended for more than 90 days or disbarred may not resume the practice of law before the Court until reinstated by order of the Court. An attorney who has been disbarred may not apply for reinstatement until the expiration of at least five years from the effective date of disbarment.

B. A petition for reinstatement filed by a suspended or disbarred attorney pursuant to this rule shall be filed with the Clerk and referred to the Chief Judge of the Court. If an attorney's suspension or disbarment in this Court was reciprocally imposed pursuant to Rule 5, supra, and the attorney has been reinstated to practice in the other court, the Chief Judge may grant the petition if deemed appropriate. In other circumstances, the Chief Judge may submit a petition to a panel of the Court or may refer a petition to the Committee. When a petition is referred to it, the Committee shall schedule a hearing, giving at least 14 days notice as provided in Rule 12., infra.

C. At the hearing the petitioner shall have the burden of establishing by clear and convincing evidence that the petitioner has the moral qualifications, competency, and



learning in the law required for admission to practice before the Court and that the petitioner's resumption of the practice of law will not be detrimental to the integrity and standing of the bar, to the administration of justice, or to the public interest. The petitioner, personally or through counsel, shall have the right to present witnesses or other evidence. The Committee may require the petitioner to testify or otherwise to make under oath specific and complete disclosure of all matters material to the petition for reinstatement, subject to any privilege or right against such disclosure the petitioner may assert under federal or state law.

D. Upon completion of the hearing, the Committee shall file with the Clerk the Committee's report to the Court. The report shall include the Committee's findings of fact regarding the petitioner's fitness to resume the practice of law and its recommendation regarding whether or not the petitioner should be reinstated. A copy of the report and recommendation shall be served on the petitioner as provided in Rule 12., infra. The Committee's report and all material received or generated by the Committee in the course of its proceedings shall be confidential unless and until otherwise ordered by the Court through the Chief Judge.

E. If, after considering the Committee's report and recommendation, a panel of the Court convened by the Chief Judge finds that the petitioner is unfit to resume the practice of law, the panel shall dismiss the petition. If, after considering the Committee's report and recommendation, the panel finds that the petitioner is fit to resume the practice of law, the panel shall reinstate the petitioner. The panel's order may condition reinstatement upon the petitioner paying all or part of the costs of the proceedings and making partial or complete restitution to all parties harmed by the petitioner's conduct that led to the suspension or disbarment. Further, if the petitioner has been suspended for five or more years, or disbarred, the panel may condition reinstatement upon the petitioner furnishing proof of competency and learning in the law. Such proof may include certification by the bar examiners of a state or other jurisdiction that the petitioner successfully completed an examination for admission to practice subsequent to the date of suspension or disbarment. Reinstatement may be subject to any conditions that the panel in its discretion deems appropriate.



F. No petition for reinstatement filed pursuant to this rule shall be filed within one year following an adverse judgment on a petition for reinstatement filed by the same person.

G. Petitions for reinstatement filed pursuant to this rule shall be accompanied by a deposit in an amount sufficient to cover anticipated costs of the reinstatement proceeding. The Court through the Chief Judge, in consultation with the Committee, shall set and may periodically adjust the amount of such deposits.

RULE 10.

Attorneys Specially Admitted

Whenever an attorney applies for admission to the bar of the Court or is admitted for purposes of a particular proceeding pursuant to 11th Cir. R. 46-3 (including admission pro hac vice), the attorney thereby confers disciplinary jurisdiction upon the Court for any alleged misconduct arising in the course of or in the preparation for such a proceeding that may constitute a violation of the Code of Professional Responsibility and Rules of Professional Conduct adopted by the Court as provided in Rule 1., supra.

RULE 11.

Special Counsel

A. Whenever pursuant to these rules the Court directs or the Committee requests appointment of special counsel to investigate or assist in the investigation of misconduct, to prosecute or assist in the prosecution of disciplinary proceedings, or to assist in the disposition of a reinstatement petition filed by a disciplined attorney, a panel of the Court convened by the Chief Judge may appoint as special counsel any active member of the bar of the Court, the disciplinary agency of the highest court of any state in which the attorney is admitted to practice, or any other disciplinary agency having jurisdiction.

B. The Court, acting in its administrative capacity, may allocate from time to time certain monies from its nonappropriated fund account to support the operations of the Committee, including payment of any expenses incurred by the Committee and of any fees authorized to be paid to Special Counsel pursuant to these rules.



RULE 12.

Service of Papers and Other Notices

Service of an order to show cause instituting a formal disciplinary proceeding shall be made by personal service or by registered or certified mail addressed to the attorney at the address shown on the roll of attorneys admitted to practice before the Court. Service of any other paper or notice required by these rules shall be deemed to have been made if such paper or notice is mailed by first-class mail to the attorney at the address shown on the roll of attorneys admitted to practice before the Court, or to the attorney's counsel at the address indicated in the most recent pleading or document filed by such counsel in the course of any proceeding pursuant to these rules.

RULE 13.

Additional Duties of the Clerk

A. When informed that an attorney admitted to practice before the Court has been convicted of a serious crime as defined in Rule 4., supra, the Clerk promptly shall obtain and file with the Court a copy of the judgment of such conviction.

B. When informed that an attorney admitted to practice before the Court has been disciplined by another court, the Clerk promptly shall obtain and file with the Court a copy of the judgment or order imposing such discipline.

C. Whenever it appears that an attorney who has been disbarred, suspended, or publicly reprimanded by the Court is admitted to practice law in another jurisdiction or before another court, the Clerk shall, within 14 days of such public discipline transmit to the disciplinary authority in such other court or jurisdiction, as well as to the disciplined attorney as provided in Rule 12., supra, a copy of this Court's order imposing public discipline. A copy of an order imposing discipline other than disbarment, suspension, or public reprimand shall not be transmitted to the disciplinary authority in such other court or jurisdiction unless so ordered by the Court.

D. The Clerk promptly shall notify the National Discipline Data Bank of the American Bar Association of any order imposing public discipline on an attorney admitted to practice before the Court.



ADDENDUM 9 | REGULATIONS OF THE UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT FOR THE SELECTION AND APPOINTMENT OR THE REAPPOINTMENT OF BANKRUPTCY ADMINISTRATORS

PURPOSE

United States bankruptcy administrators oversee trustees and estate administration in bankruptcy cases for the three judicial districts in Alabama. Their duties are essentially the same as those of the U.S. trustees in the Department of Justice, who serve in all other judicial districts in the Eleventh Circuit. It is imperative that only highly qualified individuals be selected as bankruptcy administrators. These regulations supplement the Regulations of the Judicial Conference of the United States for the Selection, Appointment and Reappointment of Bankruptcy Administrators, the Guide to Judiciary Policy, and governing statutes. These regulations set forth procedural guidelines that create no vested rights for any prospective or incumbent bankruptcy administrator.

Bankruptcy administrators will be appointed without regard to race, color, sex, religion, or national origin.

Confidentiality of Public Comments

If a member of the public makes a comment concerning the qualifications of the incumbent bankruptcy administrator or an applicant for that position, in response to a survey solicitation, public notice, or otherwise, the person making the comment may request that their identity be kept confidential. The incumbent or applicant will, however, be provided with a general description of the source and nature of any comments.

The Court of Appeals may determine, at its sole discretion, that the identity of a person making a comment should be disclosed to the incumbent or applicant in order to afford that person a fair opportunity to respond to the comment. In that event, the person making the comment will be given an opportunity to withdraw the comment before the commenter's identity is disclosed to the incumbent or applicant. If the comment is withdrawn, it will not be considered by the Court of Appeals, and the identity of the person making the comment will remain confidential. If the person making the comment waives confidentiality, the commenter's name will be revealed



to the incumbent or applicant, along with the substance of the comment.



APPENDIX



COPYRIGHT NOTICE

TextBookDiscrimination.com is not the author of these rules. Instead, TextBookDiscrimination.com merely re-printed and reformatted them for easier use.

ORIGINAL SOURCE

<u>#</u>	<u>Item</u>	<u>Link</u>
1	Original Source	www.FLMD.USCOURTS.gov

INTERACTIVE VERSION

<u>#</u>	<u>Item</u>	<u>Link</u>
1	Web	TextBookDiscrimination.com/Rules/Court/CA11/

CONTACT INFORMATION

E: TextBook.Discrimination@outlook.com
W: www.TextBookDiscrimination.com

Congratulations! You're now ***booked up*** on all of the Local Rules of Court from the 11th Circuit of the United States Court of Appeals!

