

IOP 6.13 | EN BANC OPINION

The chief judge shall assign the case to an appropriate judge for drafting an en banc opinion, which shall be so captioned.

Following the en banc conference, the judge assigned to write the majority opinion shall provide copies of that opinion via email to the other judge or judges who also intend to write. Once all opinions have been finalized, they will be provided to the director of central staff who shall assemble them into a single document and electronically transmit copies of the document to the judges of the court. The judges shall thereafter promptly notify the director of central staff by email whether they join, concur, dissent, or note the opinions. Once this process is complete, the director of central staff shall prepare a tag line. The tag line shall include the names of the judges participating in the en banc proceeding and reflect any judges who are recused or did not participate. The en banc opinion will then be transmitted to the clerk of court for pre-release.

The en banc opinion shall include the majority opinion, concurring opinion(s), concurring and dissenting opinion(s), and dissenting opinion(s), in that order. If there is more than one opinion in one of these categories, i.e., two dissents, they will generally appear in order of seniority, the senior judge's opinion appearing first. A judge with priority, however, may request the chief judge to approve a different sequence of opinions within a category.

An opinion or opinions concurring with or dissenting from the court's denial of a request for hearing en banc shall not be permitted. Opinions concurring with or dissenting from the court's order denying a motion for rehearing en banc filed by a party shall be permitted. For unsuccessful requests for hearing en banc before release of the panel opinion, the panel opinion shall be pre-released for three business days after en banc voting closes and then released. An order denying a motion for rehearing en banc, filed by a party, shall be issued when the panel rules on a motion for rehearing, if filed, or the time for rehearing has passed. An opinion concurring with or dissenting from the court's order denying rehearing en banc filed by a party shall be permitted and shall be issued when the panel rules on a motion for rehearing, if filed, or the time for rehearing has passed. Such opinions and orders shall be transmitted to West Publishing by the clerk to appear as a single entry in the Southern Reporter.



The director of central staff shall be responsible for verifying that all judges have voted and that all opinions have “release” signatures. Unless a shorter period is approved by a majority of the participating judges prior to the date the opinion is pre-released, en banc opinions and orders denying rehearing en banc with a dissent shall be pre-released by the clerk for three full business days.

