

**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.

