

**Amendments to the Federal Rules of Appellate Procedure and Circuit Rules
(effective December 1, 2009)**

Rule 4. Appeal as of Right — When Taken

(a) Appeal in a Civil Case.

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(4) Effect of a Motion on a Notice of Appeal.

(A) If a party timely files in the district court any of the following motions under the Federal Rules of Civil Procedure, the time to file an appeal runs for all parties from the entry of the order disposing of the last such remaining motion:

- (i) for judgment under Rule 50(b);
- (ii) to amend or make additional factual findings under Rule 52(b), whether or not granting the motion would alter the judgment;
- (iii) for attorney’s fees under Rule 54 if the district court extends the time to appeal under Rule 58;
- (iv) to alter or amend the judgment under Rule 59;
- (v) for a new trial under Rule 59; or
- (vi) for relief under Rule 60 if the motion is filed no later than ~~10~~ 28 days after the judgment is entered.

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- (B) (i) If a party files a notice of appeal after the court announces or enters a judgment—but before it disposes of any motion listed in Rule 4(a)(4)(A)—the notice becomes effective to appeal a

judgment or order, in whole or in part, when the order disposing of the last such remaining motion is entered.

- (ii) A party intending to challenge an order disposing of any motion listed in Rule 4(a)(4)(A), or a ~~judgment altered or amended~~ judgment's alteration or amendment upon such a motion, must file a notice of appeal, or an amended notice of appeal—in compliance with Rule 3(c)—within the time prescribed by this Rule measured from the entry of the order disposing of the last such remaining motion.

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(5) **Motion for Extension of Time.**

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- (C) No extension under this Rule 4(a)(5) may exceed 30 days after the prescribed time or ~~10~~ 14 days after the date when the order granting the motion is entered, whichever is later.

- (6) **Reopening the Time to File an Appeal.** The district court may reopen the time to file an appeal for a period of 14 days after the date when its order to reopen is entered, but only if all the following conditions are satisfied:

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- (B) the motion is filed within 180 days after the judgment or order is entered or within ~~7~~ 14 days after the moving party receives notice

under Federal Rule of Civil Procedure 77(d) of the entry,
whichever is earlier; and

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(b) Appeal in a Criminal Case.

(1) Time for Filing a Notice of Appeal.

(A) In a criminal case, a defendant's notice of appeal must be filed in
the district court within ~~10~~ 14 days after the later of:

- (i) the entry of either the judgment or the order being
appealed; or
- (ii) the filing of the government's notice of appeal.

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(3) Effect of a Motion on a Notice of Appeal.

(A) If a defendant timely makes any of the following motions under the
Federal Rules of Criminal Procedure, the notice of appeal from a
judgment of conviction must be filed within ~~10~~ 14 days after the entry of
the order disposing of the last such remaining motion, or within ~~10~~ 14
days after the entry of the judgment of conviction, whichever period ends
later. This provision applies to a timely motion:

- (i) for judgment of acquittal under Rule 29;
- (ii) for a new trial under Rule 33, but if based on newly discovered
evidence, only if the motion is made no later than ~~10~~ 14 days after
the entry of the judgment; or
- (iii) for arrest of judgment under Rule 34.

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Circuit Rule 4

Appeal as of Right—When Taken

There is no corresponding Circuit Rule.

Rule 5. Appeal by Permission

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(b) Contents of the Petition; Answer or Cross-Petition; Oral Argument.

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- (2) A party may file an answer in opposition or a cross-petition within 7 10 days after the petition is served.

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(d) Grant of Permission; Fees; Cost Bond; Filing the Record.

- (1) Within ~~10~~ 14 days after the entry of the order granting permission to appeal, the appellant must:

- (A) pay the district clerk all required fees; and
- (B) file a cost bond if required under Rule 7.

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Circuit Rule 5

Appeal by Permission

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- (b) Reply.** A party may file a reply to an answer within 5 7 days after the answer is served. A reply may not exceed 10 pages.

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Rule 6. Appeal in a Bankruptcy Case From a Final Judgment, Order, or Decree of a District Court or Bankruptcy Appellate Panel

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(b) Appeal From a Judgment, Order, or Decree of a District Court or Bankruptcy Appellate Panel Exercising Appellate Jurisdiction in a Bankruptcy Case.

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(2) Additional Rules. In addition to the rules made applicable by Rule 6(b)(1), the following rules apply:

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(B) The record on appeal.

- (i) Within ~~10~~ 14 days after filing the notice of appeal, the appellant must file with the clerk possessing the record assembled in accordance with Bankruptcy Rule 8006—and serve on the appellee—a statement of the issues to be presented on appeal and a designation of the record to be certified and sent to the circuit clerk.
- (ii) An appellee who believes that other parts of the record are necessary must, within ~~10~~ 14 days after being served with the appellant’s designation, file with the clerk and serve on the appellant a designation of additional parts to be included.

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Circuit Rule 6

**Appeal in a Bankruptcy Case from a Final Judgment, Order,
or Decree of a District Court or Bankruptcy Appellate Panel**

There is no corresponding Circuit Rule.

Circuit Rule 8

**Stay and Emergency Relief Pending Appeal from
a Judgment or Order of the District Court**

(a) Criteria; Service.

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(2) Except in extraordinary circumstances, for any motion that is not filed electronically and for any party who has not consented to electronic service, the motion must be served by hand or, in the case of a party located outside the greater Washington metropolitan area, by other form of expedited service. The movant must attempt to notify the opposing side by telephone in advance of the filing of the motion and describe in the motion ~~accompanying memorandum~~ the efforts made to so notify the opposing side.

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Circuit Rule 9

Release in a Criminal Case

(a) Appeal from a Pretrial Release or Detention Order. An appeal from a pretrial release or detention order must be expedited. Appellant must make immediate arrangements for preparation of all necessary transcripts, including the transcript of proceedings before a magistrate judge, and notify the court in writing of those arrangements. Unless otherwise ordered by the court or a judge thereof, the following schedule will apply:

(1) Not later than 5 10 days after the transcript of record is filed, the appellant must serve and file an original and 4 copies of a memorandum of law and fact setting forth as many of the matters required by Circuit Rule 9(b) as are relevant. The memorandum of law and fact must be accompanied by a copy of the order under review and the statement of reasons (including related findings of fact and conclusions of law) entered by the district court.

(2) The appellee may file a responsive memorandum not later than 5 10 days after the filing of appellant's memorandum.

(3) The appellant may file a memorandum in reply within 3 7 days after the filing of appellee's memorandum.

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Rule 10. The Record on Appeal

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(b) The Transcript of Proceedings.

(1) **Appellant’s Duty to Order.** Within ~~10~~ 14 days after filing the notice of appeal or entry of an order disposing of the last timely remaining motion of a type specified in Rule 4(a)(4)(A), whichever is later, the appellant must do either of the following:

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(3) **Partial Transcript.** Unless the entire transcript is ordered:

- (A) the appellant must—within the ~~10~~ 14 days provided in Rule 10(b)(1)—file a statement of the issues that the appellant intends to present on the appeal and must serve on the appellee a copy of both the order or certificate and the statement;
- (B) if the appellee considers it necessary to have a transcript of other parts of the proceedings, the appellee must, within ~~10~~ 14 days after the service of the order or certificate and the statement of the issues, file and serve on the appellant a designation of additional parts to be ordered; and
- (C) unless within ~~10~~ 14 days after service of that designation the appellant has ordered all such parts, and has so notified the appellee, the appellee may within the following ~~10~~ 14 days either order the parts or move in the district court for an order requiring the appellant to do so.

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(c) Statement of the Evidence When the Proceedings Were Not Recorded or When a

Transcript Is Unavailable. If the transcript of a hearing or trial is unavailable, the appellant may prepare a statement of the evidence or proceedings from the best available means, including the appellant’s recollection. The statement must be served on the appellee, who

may serve objections or proposed amendments within ~~10~~ 14 days after being served. The statement and any objections or proposed amendments must then be submitted to the district court for settlement and approval. As settled and approved, the statement must be included by the district clerk in the record on appeal.

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Circuit Rule 10

The Record on Appeal

There is no corresponding Circuit Rule.

Rule 12. Docketing the Appeal; Filing a Representation Statement; Filing the Record

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(b) Filing a Representation Statement. Unless the court of appeals designates another time, the attorney who filed the notice of appeal must, within ~~10~~ 14 days after filing the notice, file a statement with the circuit clerk naming the parties that the attorney represents on appeal.

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Circuit Rule 12

Docketing Statement in Appeal from a Judgment or Order of the District Court;

Statement by Appellee, Intervenor, or Amicus Curiae

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(e) Errors in Docketing Statement. Any party or amicus curiae must bring any errors in the docketing statement or provisional certificate to the attention of the clerk by letter served on all parties and amici within 7 ~~calendar~~ days of service of the docketing statement.

(f) Statement by Appellee, Intervenor, or Amicus Curiae. Within 7 ~~calendar~~ days of service of the docketing statement, an appellee must file with the court any statement required by Circuit Rule 26.1. Any disclosure statement required by Circuit Rule 26.1 must accompany a motion to intervene, a written representation of consent to participate as amicus curiae, or a motion for leave to participate as amicus.

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Rule 12.1. Remand After an Indicative Ruling by the District Court on a Motion for Relief That Is Barred by a Pending Appeal

(a) Notice to the Court of Appeals. If a timely motion is made in the district court for relief that it lacks authority to grant because of an appeal that has been docketed and is pending, the movant must promptly notify the circuit clerk if the district court states either that it would grant the motion or that the motion raises a substantial issue.

(b) Remand After an Indicative Ruling. If the district court states that it would grant the motion or that the motion raises a substantial issue, the court of appeals may remand for further proceedings but retains jurisdiction unless it expressly dismisses the appeal. If the court of appeals remands but retains jurisdiction, the parties must promptly notify the circuit clerk when the district court has decided the motion on remand.

Circuit Rule 12.1

Remand After an Indicative Ruling by the District Court on a Motion for Relief That Is Barred by a Pending Appeal

See Circuit Rule 41(b) (Issuance of Mandate; Stay of Mandate; Remand).

Rule 15. Review or Enforcement of an Agency Order—How Obtained; Intervention

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(b) Application or Cross-Application to Enforce an Order; Answer; Default.

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(2) Within ~~20~~ 21 days after the application for enforcement is filed, the respondent must serve on the applicant an answer to the application and file it with the clerk. If the respondent fails to answer in time, the court will enter judgment for the relief requested.

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Circuit Rule 15

Petition for Review or Appeal from Agency Action; Docketing Statement

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(c) Docketing Statement.

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(5) **Errors in Docketing Statement.** Any party or amicus curiae must bring any errors in the docketing statement or provisional certificate to the attention of the clerk by letter served on all parties and amici within 7 ~~calendar~~ days of service of the docketing statement.

(6) **Statement by Respondent, Appellee, Intervenor, or Amicus Curiae.** Within 7 ~~calendar~~ days of service of the docketing statement, a respondent or appellee must file with the court any statement required by Circuit Rule 26.1. Any disclosure statement required by Circuit Rule 26.1 must accompany a motion to intervene, a written representation of consent to participate as amicus curiae, or a motion for leave to participate as amicus.

Circuit Rule 18

Stay and Emergency Relief Pending Review of an Agency Order

(a) Criteria; Service.

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(2) Except in extraordinary circumstances, for any motion that is not filed electronically and for any party who has not consented to electronic service, the motion must be served by hand or, in the case of a party located outside the greater Washington metropolitan area, by other form of expedited service. The movant must attempt to notify the opposing side by telephone in advance of the filing of the motion and describe in the motion ~~or accompanying memorandum~~ the efforts made to so notify the opposing side.

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Rule 19. Settlement of a Judgment Enforcing an Agency Order in Part

When the court files an opinion directing entry of judgment enforcing the agency's order in part, the agency must within 14 days file with the clerk and serve on each other party a proposed judgment conforming to the opinion. A party who disagrees with the agency's proposed judgment must within ~~7~~ 10 days file with the clerk and serve the agency with a proposed judgment that the party believes conforms to the opinion. The court will settle the judgment and direct entry without further hearing or argument.

Circuit Rule 19

**Settlement of a Judgment Enforcing
an Agency Order in Part**

There is no corresponding Circuit Rule.

Circuit Rule 21

Writs of Mandamus and Prohibition and Other

Extraordinary Writs and Complaints of Unreasonable Delay

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(d) A certificate of parties and amici curiae, as described in Circuit Rule 28(a)(1)(A), and a disclosure statement, as described in Circuit Rule 26.1, must be attached as an addendum to the petition, unless such documents have been filed previously with the court. Any required disclosure statement must also be attached to any answer to the petition.

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Rule 22. Habeas Corpus and Section 2255 Proceedings

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(b) Certificate of Appealability.

(1) In a habeas corpus proceeding in which the detention complained of arises from process issued by a state court, or in a 28 U.S.C. § 2255 proceeding, the applicant cannot take an appeal unless a circuit justice or a circuit or district judge issues a certificate of appealability under 28 U.S.C. § 2253(c). If an applicant files a notice of appeal, ~~the district judge who rendered the judgment must either issue a certificate of appealability or state why a certificate should not issue. The~~ the district clerk must send to the court of appeals the certificate ~~or statement~~ (if any) and the statement described in Rule 11(a) of the Rules Governing Proceedings Under 28 U.S.C. § 2254 or § 2255 (if any) to the court of appeals, along with the notice of appeal and the file of the district-court proceedings. If the district judge has denied the certificate, the applicant may request a circuit judge to issue ~~the~~ certificate it.

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Circuit Rule 22

Habeas Corpus and Section 2255 Proceedings

No amendment needed, because FRAP amendment does not affect substance of the circuit rule.

Rule 25. Filing and Service

(a) Filing.

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(2) Filing: Method and Timeliness.

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(B) **A brief or appendix.** A brief or appendix is timely filed, however, if on or before the last day for filing, it is:

- (i) mailed to the clerk by First-Class Mail, or other class of mail that is at least as expeditious, postage prepaid; or
- (ii) dispatched to a third-party commercial carrier for delivery to the clerk within 3 calendar days.

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(c) Manner of Service.

(1) Service may be any of the following:

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(C) by third-party commercial carrier for delivery within 3 calendar days; or

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Circuit Rule 25

Filing and Service

No amendment needed, because FRAP amendment does not affect substance of the circuit rule.

Rule 26. Computing and Extending Time

(a) **Computing Time.** ~~The following rules apply in computing any period of time specified in these rules or in any local rule, court order, or applicable statute:~~

~~(1) Exclude the day of the act, event, or default that begins the period.~~

~~(2) Exclude intermediate Saturdays, Sundays, and legal holidays when the period is less than 11 days, unless stated in calendar days.~~

~~(3) Include the last day of the period unless it is a Saturday, Sunday, legal holiday, or — if the act to be done is filing a paper in court — a day on which the weather or other conditions make the clerk’s office inaccessible.~~

~~(4) As used in this rule, “legal holiday” means New Year’s Day, Martin Luther King, Jr.’s Birthday, Washington’s Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans’ Day, Thanksgiving Day, Christmas Day, and any other day declared a holiday by the President, Congress, or the state in which is located either the district court that rendered the challenged judgment or order, or the circuit clerk’s principal office. The following rules apply in computing any time period specified in these rules, in any local rule or court order, or in any statute that does not specify a method of computing time.~~

(1) **Period Stated in Days or a Longer Unit.** When the period is stated in days or a longer unit of time:

(A) exclude the day of the event that triggers the period;

(B) count every day, including intermediate Saturdays, Sundays, and legal holidays; and

(C) include the last day of the period, but if the last day is a Saturday, Sunday, or legal holiday, the period continues to run until the end of the next day that is not a Saturday, Sunday, or legal holiday.

(2) **Period Stated in Hours.** When the period is stated in hours:

- (A) **begin counting immediately on the occurrence of the event that triggers the period;**
- (B) **count every hour, including hours during intermediate Saturdays, Sundays, and legal holidays; and**
- (C) **if the period would end on a Saturday, Sunday, or legal holiday, the period continues to run until the same time on the next day that is not a Saturday, Sunday, or legal holiday.**

(3) **Inaccessibility of the Clerk's Office.** Unless the court orders otherwise, if the clerk's office is inaccessible:

- (A) **on the last day for filing under Rule 26(a)(1), then the time for filing is extended to the first accessible day that is not a Saturday, Sunday, or legal holiday; or**
- (B) **during the last hour for filing under Rule 26(a)(2), then the time for filing is extended to the same time on the first accessible day that is not a Saturday, Sunday, or legal holiday.**

(4) **"Last Day" Defined.** Unless a different time is set by a statute, local rule, or court order, the last day ends:

- (A) **for electronic filing in the district court, at midnight in the court's time zone;**
- (B) **for electronic filing in the court of appeals, at midnight in the time zone of the circuit clerk's principal office;**
- (C) **for filing under Rules 4(c)(1), 25(a)(2)(B), and 25(a)(2)(C)—and filing by mail under Rule 13(b)—at the latest time for the method chosen for delivery to the post office, third-party commercial carrier, or prison mailing system; and**
- (D) **for filing by other means, when the clerk's office is scheduled to close.**

(5) “Next Day” Defined. The “next day” is determined by continuing to count forward when the period is measured after an event and backward when measured before an event.

(6) “Legal Holiday” Defined. “Legal holiday” means:

(A) the day set aside by statute for observing New Year’s Day, Martin Luther King Jr.’s Birthday, Washington’s Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans’ Day, Thanksgiving Day, or Christmas Day;

(B) any day declared a holiday by the President or Congress; and

(C) for periods that are measured after an event, any other day declared a holiday by the state where either of the following is located: the district court that rendered the challenged judgment or order, or the circuit clerk’s principal office.

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(c) **Additional Time After Service.** When a party is required or permitted to act within a prescribed period after a paper is served on that party may or must act within a specified time after service, 3 calendar days are added to after the prescribed period would otherwise expire under Rule 26(a), unless the paper is delivered on the date of service stated in the proof of service. For purposes of this Rule 26(c), a paper that is served electronically is not treated as delivered on the date of service stated in the proof of service.

Circuit Rule 26

Computing and Extending Time

No amendment needed, because FRAP amendment does not affect substance of the circuit rule.

Rule 27. Motions

(a) In General.

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(3) Response.

(A) **Time to file.** Any party may file a response to a motion; Rule 27(a)(2) governs its contents. The response must be filed within ~~8~~ 10 days after service of the motion unless the court shortens or extends the time. A motion authorized by Rules 8, 9, 18, or 41 may be granted before the ~~8-day~~ 10-day period runs only if the court gives reasonable notice to the parties that it intends to act sooner.

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(4) **Reply to Response.** Any reply to a response must be filed within 5 ~~7~~ days after service of the response. A reply must not present matters that do not relate to the response.

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Circuit Rule 27

Motions

(a) Form of Pleadings.

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(4) **Certificate of Parties and Disclosure Statement to be Attached.** A certificate of parties and amici curiae, as described in Circuit Rule 28(a)(1)(A), and a disclosure statement, as described in Circuit Rule 26.1, must be attached as an addendum to the motion, and any required disclosure statement must also be attached to any response to the motion, unless such documents have been filed previously with the court.

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(d) Reply to Response That Also Seeks Affirmative Relief; Limits on Further Pleadings.

When a response includes a motion for affirmative relief, the reply may be joined in the same pleading with a response to the motion for affirmative relief. That combined pleading must be filed within 8 10 days of service of the motion for affirmative relief.

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(e) Clerk May Dispose of Certain Motions.

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(2) **Reconsideration of Clerk's Orders on Procedural Motions.** Any interested party adversely affected by an order of the clerk disposing of a motion may move for reconsideration thereof within 8 10 days after entry of the order. The clerk will submit the motion for reconsideration to a panel or an individual judge of the court.

(f) Requests for Expeditious Consideration. Any party may request expedited action on a motion on the ground that, to avoid irreparable harm, relief is needed in less time than would ordinarily be required for this court to receive and consider a response. The motion on which expedited action is sought must be labeled an "Emergency Motion" and the request for expedition must state the nature of the emergency and the date by which court action is necessary. The motion must be filed at least 7 ~~calendar~~ days before the date by which court action is necessary or counsel must explain why it was not so filed. Counsel for the party seeking expedition must communicate the request and the reasons therefor in person or by telephone to the clerk's office and to opposing counsel.

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(h) Motions to Extend Time for Filing and to Exceed Page Limits.

(1) **Timeliness of Request.** A motion to extend the time for filing motions, responses, and replies, or to exceed the page limits for such pleadings, must be filed at least 5 ~~calendar~~ days before the pleading is due. Motions filed less than 5 ~~calendar~~ days before the due date will be denied absent exceptional circumstances, except that the clerk may grant unopposed late filed motions for extension of time for good cause shown.

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(4) **Automatic Extensions for Timely Filed Motions.** If a motion is filed in accordance with the requirements of subparagraphs (1) and (2) above and the court does not act on the motion by the end of the second business day before the filing deadline, the time for filing the pleading is automatically extended until the court rules on the motion. If the motion is denied by the court under these circumstances, the time for filing will be extended automatically for ~~the following periods~~ 7 days after the date of the order denying the motion: ~~for responsive pleadings that must be filed within 3 calendar days of the pleadings to which they respond, 4 calendar days, and for all other pleadings, 6 calendar days.~~ If a timely filed motion to exceed length limitations is not acted upon by the filing date for the document, the overlong document may be filed; if the motion is subsequently denied, the movant will be given a short period in which to file a document that conforms to the rules. This rule does not apply to the filing of briefs. See Circuit Rule 28.

See also Circuit Rule 25 (Filing and Service), and Circuit Rule 47.1 (Matters Under Seal).

Circuit Rule 28

Briefs

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(e) Request to Exceed the Limits on the Length of Briefs and for Extension of Time for Filing.

(1) The court disfavors motions to exceed limits on the length of briefs, and motions to extend the time for filing briefs; such motions will be granted only for extraordinarily compelling reasons.

(2) A motion to exceed the limits on length of briefs or to extend the filing time for a brief must be filed at least ~~5-calendar~~ 7 days before the brief is due. Motions filed less than ~~5-calendar~~ 7 days before the due date will be denied absent exceptional circumstances, except that the clerk may grant unopposed late filed motions for extension of time that do not affect the oral argument schedule, for good cause shown.

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Rule 28.1. Cross-Appeals

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(f) Time to Serve and File a Brief. Briefs must be served and filed as follows:

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(4) the appellee's reply brief, within 14 days after the appellant's response and reply brief is served, but at least 3 7 days before argument unless the court, for good cause, allows a later filing.

Circuit Rule 28.1

Cross-Appeals

No amendment needed, because FRAP amendment does not affect substance of the circuit rule.

Rule 30. Appendix to the Briefs

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(b) All Parties' Responsibilities.

- (1) **Determining the Contents of the Appendix.** The parties are encouraged to agree on the contents of the appendix. In the absence of an agreement, the appellant must, within ~~10~~ 14 days after the record is filed, serve on the appellee a designation of the parts of the record the appellant intends to include in the appendix and a statement of the issues the appellant intends to present for review. The appellee may, within ~~10~~ 14 days after receiving the designation, serve on the appellant a designation of additional parts to which it wishes to direct the court's attention. The appellant must include the designated parts in the appendix. The parties must not engage in unnecessary designation of parts of the record, because the entire record is available to the court. This paragraph applies also to a cross-appellant and a cross-appellee.

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Circuit Rule 30

Appendix to the Briefs

No amendment needed, because FRAP amendment does not affect substance of the circuit rule.

Rule 31. Serving and Filing Briefs

(a) Time to Serve and File a Brief.

- (1) The appellant must serve and file a brief within 40 days after the record is filed. The appellee must serve and file a brief within 30 days after the appellant's brief is served. The appellant may serve and file a reply brief within 14 days after service of the appellee's brief but a reply brief must be filed at least 3 7 days before argument, unless the court, for good cause, allows a later filing.

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Circuit Rule 31

Serving and Filing Briefs

No amendment needed, because FRAP amendment does not affect substance of the circuit rule.

Circuit Rule 34

Oral Argument

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(b) Time Allowed for Argument. Counsel will be afforded such time for oral argument as the court may provide and will be so advised by order. ~~Requests for enlargement of time may be made by motion filed reasonably in advance of the date fixed for the argument.~~

(c) Notice by Counsel. Unless the court orders otherwise, ~~N~~no less than 5 7 days before the date of scheduled argument, the court must be notified of the names of counsel who will argue. Not more than 2 counsel may be heard for each side except by leave of the court, granted on motion for good cause shown. Such requests are not favored. In cases in which 15 minutes or less per side is allotted for argument, only one counsel may be heard for each side except by leave of the court, granted on motion for good cause shown.

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(i) Exhibits and Handouts. If counsel intends to use exhibits during argument or to hand out prepared materials, notice of this intent must be provided to the court and all other counsel presenting argument by letter received not less than 5 7 days before the date of the argument. The letter must set forth justification for the use of the exhibits or handouts.

(j) Disposition Without Oral Argument.

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(2) Reconsideration. Motions for reconsideration of a decision to dispose of a case without oral argument may be made within 10 ~~calendar~~ days of the date of the order advising counsel of this court's determination that the case is to be decided without oral argument. Such motions are disfavored.

Circuit Rule 35

Petition for Panel Rehearing and Petition for Hearing or Rehearing En Banc

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(c) Panel Opinion, Certificate of Parties, and Disclosure Statement to be Attached. A copy of the opinion of the panel from which rehearing is being sought; a certificate of parties and amici curiae, as described in Circuit Rule 28(a)(1)(A); and a disclosure statement, as described in Circuit Rule 26.1, must be attached as an addendum to the petition. Any required disclosure statement must also be attached to any response to a petition.

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Rule 39. Costs

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(d) Bill of Costs: Objections; Insertion in Mandate.

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(2) Objections must be filed within ~~10~~ 14 days after service of the bill of costs, unless the court extends the time.

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Circuit Rule 39

Costs

No amendment needed, because FRAP amendment does not affect substance of the circuit rule.

Rule 41. Mandate: Contents; Issuance and Effective Date; Stay

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(b) When Issued. The court's mandate must issue 7 ~~calendar~~ days after the time to file a petition for rehearing expires, or 7 ~~calendar~~ days after entry of an order denying a timely petition for panel rehearing, petition for rehearing en banc, or motion for stay of mandate, whichever is later. The court may shorten or extend the time.

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Circuit Rule 41

Issuance of Mandate; Stay of Mandate; Remand

(a) Mandate.

(1) **Time for Issuance.** While retaining discretion to direct immediate issuance of its mandate in an appropriate case, the court ordinarily will include as part of its disposition an instruction that the clerk withhold issuance of the mandate until the expiration of the time for filing a petition for rehearing or a petition for rehearing en banc and, if such petition is timely filed, until 7 ~~calendar~~ days after disposition thereof. Such an instruction is without prejudice to the right of any party at any time to move for expedited issuance of the mandate for good cause shown.

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