

Amendments to FRAP 4 - Effect of Timely Post-Judgment Motions

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 —and does so within the time allowed by those rules—the time to file an appeal runs for all parties from the entry of the order disposing of the last such remaining motion:

Amendments to FRAP 4 - Inmate Filings

Rule 4. Appeal as of Right—When Taken

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(c) Appeal by an Inmate Confined in an Institution.

(1) If an institution has a system designed for legal mail, an inmate confined there must use that system to receive the benefit of this Rule 4(c)(1). If an inmate in an institution files a notice of appeal in either a civil or a criminal case, the notice is timely if it is deposited in the institution's internal mail system on or before the last day for filing and:

(A) it is accompanied by:

(i) If an institution has a system designed for legal mail, the inmate must use that system to receive the benefit of this rule. Timely filing may be shown by a declaration in compliance with 28 U.S.C. § 1746 – or by a notarized statement – , either of which must set forth setting out the date of deposit and state stating that first-class postage has been is being prepaid; or

(ii) evidence (such as a postmark or date stamp) showing that the notice was so deposited and that postage was prepaid; or

(B) the court of appeals exercises its discretion to permit the later filing of a declaration or notarized statement that satisfies Rule 4(c)(1)(A)(i).

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Amendments to FRAP 25(a) - Inmate Filings

Rule 25 Filing and Service

(a) Filing.

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(2) Filing: Method and Timeliness

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(C) Inmate Filing. If an institution has a system designed for legal mail, A paper filed by an inmate confined in an institution there is timely if deposited in the institution's internal mailing system on or before the last day for filing. If an institution has a system designed for legal mail, the inmate must use that system to receive the benefit of this rule 25(a)(2)(C). A paper filed by an inmate is timely if it is deposited in the institution's internal mail system on or before the last day for filing and:

(i) it is accompanied by:

- Timely filing may be shown by a declaration in compliance with 28 U.S.C. § 1746 or by a notarized statement either of which must set forth setting out the date of deposit and state stating that first-class postage has been is being prepaid; or

- evidence (such as a postmark or date stamp) showing that the paper was so deposited and that postage was prepaid; or

(ii) the court of appeals exercises its discretion to permit the later filing of a declaration or notarized statement that satisfies Rule 25(a)(2)(C)(i).

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Amendments to FRAP 29 - Amicus Filings in Connection with Rehearing Petitions

Rule 29. Brief of an Amicus Curiae

(a) During Initial Consideration of a Case on the Merits.

(1) Applicability. This Rule 29(a) governs amicus filings during a court's initial consideration of a case on the merits.

(b) (2) When Permitted. The United States or its officer or agency or a state may file an amicus-curiae brief without the consent of the parties or leave of court. Any other amicus curiae may file a brief only by leave of court or if the brief states that all parties have consented to its filing.

(3) Motion for Leave to File. The motion must be accompanied by the proposed brief and state:

~~(1)~~(A) the movant's interest; and

~~(2)~~(B) the reason why an amicus brief is desirable and why the matters asserted are relevant to the disposition of the case.

(c) (4) Contents and Form. An amicus brief must comply with Rule 32. In addition to the requirements of Rule 32, the cover must identify the party or parties supported and indicate whether the brief supports affirmance or reversal. An amicus brief need not comply with Rule 28, but must include the following:

~~(1)~~ (A) if the amicus curiae is a corporation, a disclosure statement like that required of parties by Rule 26.1;

~~(2)~~ (B) a table of contents, with page references;

~~(3)~~ (C) a table of authorities—cases (alphabetically arranged), statutes, and other authorities—with references to the pages of the brief where they are cited;

~~(4)~~ (D) a concise statement of the identity of the amicus curiae, its interest in the case, and the source of its authority to file;

~~(5)~~ (E) unless the amicus curiae is one listed in the first sentence of Rule 29(a)(2), a statement that indicates whether:

~~(A)~~ (i) a party's counsel authored the brief in whole or in part;

~~(B)~~ (ii) a party or a party's counsel contributed money that was intended to fund preparing or submitting the brief; and

~~(C)~~ (iii) a person—other than the amicus curiae, its members, or its counsel—contributed money that was intended to fund preparing or submitting the brief and, if so, identifies each such person;

~~(6)~~ (F) an argument, which may be preceded by a summary and which need not include a statement of the applicable standard of review; and

~~(7)~~ (G) a certificate of compliance under Rule 32(g)(1), if required by Rule 32(a)(7) length is computed using a word or line limit.

~~(d)~~ (5) Length. Except by the court's permission, an amicus brief may be no more than one-half the maximum length authorized by these rules for a party's principal brief. If the court grants a party permission to file a longer brief, that extension does not affect the length of an amicus brief.

~~(e)~~ (6) Time for Filing. An amicus curiae must file its brief, accompanied by a motion for filing when necessary, no later than 7 days after the principal brief of the party being supported is filed. An amicus curiae that does not support either party must file its brief no later than 7 days after the appellant's or petitioner's principal brief is filed. A court may grant leave for later filing, specifying the time within which an opposing party may answer.

~~(f)~~ (7) Reply Brief. Except by the court's permission, an amicus curiae may not file a reply brief.

~~(g)~~ (8) Oral Argument. An amicus curiae may participate in oral argument only with the court's permission.

(b) During Consideration of Whether to Grant Rehearing.

(1) Applicability. This Rule 29(b) governs amicus filings during a court's consideration of whether to grant panel rehearing or rehearing en banc, unless a local rule or order in a case provides otherwise.

(2) When Permitted. The United States or its officer or agency or a state may file an amicus-curiae brief without the consent of the parties or leave of court. Any other amicus curiae may file a brief only by leave of court.

(3) Motion for Leave to File. Rule 29(a)(3) applies to a motion for leave.

(4) Contents, Form, and Length. Rule 29(a)(4) applies to the amicus brief. The brief must not exceed 2,600 words.

(5) **Time for Filing.** An amicus curiae supporting the petition for rehearing or supporting neither party must file its brief, accompanied by a motion for filing when necessary, no later than the date set by the court for the response.

Proposed Revision to Circuit Rule 29 - Amended Citations

Circuit Rule 29

Brief of an Amicus Curiae

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(b) Leave to File. Any individual or non-governmental entity intending to participate as amicus curiae must file either a written representation that all parties consent to such participation, or, in the absence of such consent, a motion for leave to participate as amicus curiae. (For this purpose, the term "governmental entity" includes the United States or an officer or agency thereof, the District of Columbia, or a State, Territory, or Commonwealth of the United States.) Any disclosure statement required by Circuit Rule 26.1 must accompany a written representation of consent to participate as amicus curiae or a motion for leave to participate as amicus. The time for filing is governed by FRAP ~~29(e)~~ 29(a)(6); however, the court encourages individuals and non-governmental entities to file a written representation of consent or motion for leave to participate, and governmental entities to file a notice of intent to file an amicus brief, as promptly as practicable after the case is docketed in this court. Leave to participate as amicus will not be granted and an amicus brief will not be accepted if the participation of amicus would result in the recusal of a member of the panel that has been assigned to the case or a member of the en banc court when participation is sought with respect to a petition for rehearing en banc.

(c) Timely Filing. Generally, a brief for amicus curiae will be due as set by the briefing order in each case. In the absence of provision for such a brief in the order, the brief must be filed in accordance with the time limitations described in FRAP ~~29(e)~~ 29(a)(6).

See Circuit Rule 28(d) (Briefs for Intervenors), and Circuit Rule 34(e) (Participation in Oral Argument by Amici Curiae), and Circuit Rule 35(f) (Limitation on amici briefs during consideration whether to grant rehearing).

Proposed Revision to Circuit Rule 35 - Participation by Amicus

Circuit Rule 35

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

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(f) Brief of an Amicus Curiae. No amicus curiae brief in response to or in support of a petition for rehearing en banc will be received by the clerk except by invitation of the court, and an amicus brief will not be accepted if the participation of amicus would result in the recusal of a member of the en banc court.

Amendments to FRAP 26 - Limitation of the Three-Day Service Rule

Rule 26. Computing and Extending Time

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(c) **Additional Time after Certain Kinds of Service.** When a party may or must act within a specified time after ~~service~~ being served, 3 days are added after the 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.

Amendment to FRAP 26 - Citation Correction

Rule 26. Computing and Extending Time

(a) Computing Time. 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.

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(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 11 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)~~ 13(a)(2)—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.

Amendment to FRAP 28 - Amended Citation

Rule 28. Briefs

(a) Appellant's Brief. The appellant's brief must contain, under appropriate headings and in the order indicated:

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(10) the certificate of compliance, if required by Rule ~~32(a)(7)~~ 32(g)(1).

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Amendments to FRAP 5 - Length Limitations

Rule 5. Appeal by Permission

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(c) Form of Papers; Number of Copies. All papers must conform to Rule 32(c)(2). ~~Except by the court's permission, a paper must not exceed 20 pages, exclusive of the disclosure statement, the proof of service, and the accompanying documents required by Rule 5(b)(1)(E).~~ An original and 3 copies must be filed unless the court requires a different number by local rule or by order in a particular case. Except by the court's permission, and excluding the accompanying documents required by Rule 5(b)(1)(E):

(1) a paper produced using a computer must not exceed 5,200 words; and

(2) a handwritten or typewritten paper must not exceed 20 pages.

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Proposed Revision to Circuit Rule 5 - Length Limitations

Circuit Rule 5

Appeal by Permission

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(b) Reply. A party may file a reply to an answer within 7 days after the answer is served. A reply may not exceed 2,600 words if produced using a computer, and may not exceed 10 pages if handwritten or typewritten.

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Proposed Revision to Circuit Rule 8 - Length Limitations

Circuit Rule 8

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

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(b) Dispositive Motion Combined with Motion for Stay or Opposition Thereto. A party filing or opposing a motion for a stay or other emergency relief may, in addition or in the alternative, file a motion to dispose of the appeal in its entirety. When a response to a motion for a stay or other emergency relief is combined with a dispositive motion, the combined pleading may not exceed 7,800 words if produced on a computer and 30 pages if handwritten or typewritten. The response to such a combined pleading may not exceed 3,900 words if produced on a computer and 15 pages if handwritten or typewritten, and ~~the~~ the final reply may not exceed 2,600 words if produced on a computer and 10 pages if handwritten or typewritten.

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Proposed Revision to Circuit Rule 18 - Length Limitations

Circuit Rule 18

Stay and Emergency Relief Pending Review of an Agency Order

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(b) Dispositive Motion Combined with Motion for Stay or Opposition Thereto. A party filing or opposing a motion for a stay or other emergency relief may, in addition or in the alternative, file a motion to dispose of the petition for review or direct appeal in its entirety. When a response to a motion for a stay or other emergency relief is combined with a dispositive motion, the combined pleading may not exceed 7,800 words if produced on a computer and 30 pages if handwritten or typewritten. The response to such a combined pleading may not exceed 3,900 words if produced on a computer and 15 pages if handwritten or typewritten; and the final reply may not exceed 2,600 words if produced on a computer and 10 pages if handwritten or typewritten.

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Amendments to FRAP 21 - Length Limitations

Rule 21. Writs of Mandamus and Prohibition, and Other Extraordinary Writs

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(d) Form of Papers; Number of Copies. All papers must conform to Rule 32(c)(2). ~~Except by the court's permission, a paper must not exceed 30 pages, exclusive of the disclosure statement, the proof of service, and the accompanying documents required by Rule 21(a)(2)(c).~~ An original and 3 copies must be filed unless the court requires the filing of a different number by local rule or by order in a particular case. Except by the court's permission, and excluding the accompanying documents required by Rule 21(a)(2)(C):

(1) a paper produced using a computer must not exceed 7,800 words; and

(2) a handwritten or typewritten paper must not exceed 30 pages.

Amendments to FRAP 27 - Length Limitations

Rule 27. Motions

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(d) Form of Papers; Page Limits; and Number of Copies.

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(2) **Page Length Limits.** ~~A motion or a response to a motion must not exceed 20 pages, exclusive of the corporate disclosure statement and accompanying documents authorized by Rule 27(a)(2)(B), unless the court permits or directs otherwise. A reply to a response must not exceed 10 pages. Except by the court's permission, and excluding the accompanying documents authorized by Rule 27(a)(2)(B):~~

(A) a motion or response to a motion produced using a computer must not exceed 5,200 words:

(B) a handwritten or typewritten motion or response to a motion must not exceed 20 pages:

(C) a reply produced using a computer must not exceed 2,600 words; and

(D) a handwritten or typewritten reply to a response must not exceed 10 pages.

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Proposed Revision to Circuit Rule 27 - Length Limitations

Circuit Rule 27

Motions

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(c) Response That Also Seeks Affirmative Relief. When a party opposing a motion also seeks affirmative relief, that party must submit with the response a motion so stating. Such a combined motion and response may not exceed 7,800 words if prepared on a computer and 30 pages if handwritten or typewritten. The response to such a combined filing may not exceed 5,200 words if prepared on a computer and 20 pages if handwritten or typewritten; and the final reply for such a combined filing may not exceed 2,600 words if prepared on a computer and 10 pages if handwritten or typewritten.

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Amendments to FRAP 28.1 - Length Limitations

Rule 28.1 Cross-Appeals

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(e) Length.

(1) **Page Limitation.** Unless it complies with Rule 28.1(e)(2) ~~and (3)~~, the appellant's principal brief must not exceed 30 pages; the appellee's principal and response brief, 35 pages; the appellant's response and reply brief, 30 pages; and the appellee's reply brief, 15 pages.

(2) Type-Volume Limitation.

(A) The appellant's principal brief or the appellant's response and reply brief is acceptable if it:

- (i) it contains no more than ~~14,000~~ 13,000 words; or
- (ii) it uses a monospaced face and contains no more than 1,300 lines of text.

(B) The appellee's principal and response brief is acceptable if it:

- (i) it contains no more than ~~16,500~~ 15,300 words; or
- (ii) it uses a monospaced face and contains no more than 1,500 lines of text.

(C) The appellee's reply brief is acceptable if it contains no more than half of the type volume specified in Rule 28.1(e)(2)(A).

(3) **Certificate of Compliance.** A brief submitted under Rule 28.1(e)(2) must comply with Rule ~~32(a)(7)(C)~~ Rule 32(g)(1).

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Amendments to FRAP 32 - Length Limitations

Rule 32. Form of Briefs, Appendices, and Other Papers

(a) Form of a Brief.

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(7) Length.

(A) Page limitation. A principal brief may not exceed 30 pages, or a reply brief 15 pages, unless it complies with Rule 32(a)(7)(B) ~~and (C)~~.

(B) Type-volume limitation.

(i) A principal brief is acceptable if:

- it contains no more than ~~14,000~~ 13,000 words; or
- it uses a monospaced face and contains no more than 1,300 lines of text.

(ii) A reply brief is acceptable if it contains no more than half of the type volume specified in Rule 32(a)(7)(B)(I).

~~(iii) Headings, footnotes, and quotations count toward the word and line limitations. The corporate disclosure statement, table of contents, table of citations, statement with respect to oral argument, any addendum containing statutes, rules or regulations, and any certificates of counsel do not count toward the limitation.~~

~~(C) Certificate of compliance.~~

~~(i) A brief submitted under Rules 28.1(e)(2) or 32(a)(7)(B) must include a certificate by the attorney, or an unrepresented party, that the brief complies with the type-volume limitation. The person preparing the certificate may rely on the word or line count of the word-processing system used to prepare the brief. The certificate must state either:~~

- ~~● the number of words in the brief; or~~
- ~~● the number of lines of monospaced type in the brief.~~

~~(ii) Form 6 in the Appendix of Forms is a suggested form of a certificate of compliance. Use of Form 6 must be regarded as sufficient to meet the requirements of Rules 28.1(e)(3) and 32(a)(7)(C)(i).~~

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(e) Local Variation. Every court of appeals must accept documents that comply with the form requirements of this rule and the length limits set by these rules. By local rule or order in a particular case a court of appeals may accept documents that do not meet all of the form requirements of this rule or the length limits set by these rules.

(f) Items Excluded from Length. In computing any length limit, headings, footnotes, and quotations count toward the limit but the following items do not:

- the cover page;
- a corporate disclosure statement;
- a table of contents;
- a table of citations;
- a statement regarding oral argument;
- an addendum containing statutes, rules, or regulations;
- certificates of counsel;
- the signature block;
- the proof of service; and
- any item specifically excluded by these rules or by local rule.

(g) Certificate of Compliance.

(1) Briefs and Papers That Require a Certificate. A brief submitted under Rules 28.1(e)(2), 29(b)(4), or 32(a)(7)(B)—and a paper submitted under Rules 5(c)(1), 21(d)(1), 27(d)(2)(A), 27(d)(2)(C), 35(b)(2)(A), or 40(b)(1)—must include a certificate by the attorney, or an unrepresented party, that the document complies with the type-volume limitation. The person preparing the certificate may rely on the word or line count of the word-processing system used to prepare the document. The certificate must state the number of words—or the number of lines of monospaced type—in the document.

(2) Acceptable Form. Form 6 in the Appendix of Forms meets the requirements for a certificate of compliance.

Proposed Revision to Circuit Rule 32 - Length Limitations

Circuit Rule 32

Form of Briefs, Appendices, and Other Papers

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(e) Form of Briefs. Except as provided below, the form of briefs is governed by FRAP 28.1 and 32(a).

(1) **Length of Briefs.** In calculating the number of words and lines that do not count toward the word and line limitations, the certificate required by Circuit Rule 28(a)(1), the glossary, and any addendum containing evidence in support of the claim of standing required by Circuit Rule 28(a)(7), may be excluded, in addition to the items listed in FRAP ~~32(a)(7)(B)(iii)~~ 32(f).

(2) **Length of Briefs for Intervenors.**

(A) **Page limitation.** A principal brief for an intervenor may not exceed 19 pages, and a reply brief 9 pages, unless it complies with Circuit Rule 32(e)(2)(B).

(B) **Type-volume limitation.**

(i) A principal brief is acceptable if:

- it contains no more than ~~8,750~~ 9,100 words; or
- it uses a monospaced face and contains no more than 813 lines of text.

(ii) A reply brief is acceptable if it contains no more than half of the type volume specified in Circuit Rule 32(e)(2)(B)(i).

(C) **Certificate.** If a type-volume limitation is used, the brief must contain the certificate of compliance required by FRAP ~~32(a)(7)(c)~~ 32(g)(1).

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Amendments to FRAP 35 - Length Limitations

Rule 35. En Banc Determination

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(b) Petition for Hearing or Rehearing En Banc. A party may petition for a hearing or rehearing en banc.

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(2) Except by the court's permission:

(A) a petition for an en banc hearing or rehearing produced using a computer must not exceed 15 pages 3,900 words; and excluding material not counted under Rule 32.

(B) a handwritten or typewritten petition for an en banc hearing or rehearing must not exceed 15 pages.

(3) For purposes of the page limits in Rule 35(b)(2), if a party files both a petition for panel rehearing and a petition for rehearing en banc, they are considered a single document even if they are filed separately, unless separate filing is required by local rule.

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Proposed Revision to Circuit Rule 35 - Length Limitations

**Circuit Rule 35
Petition for Rehearing and Petition for Hearing or Rehearing En Banc**

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(b) Number of Copies and Length. An original and 4 copies of a petition for panel rehearing, and an original and 19 copies of a petition for hearing or rehearing en banc must be filed. Such petitions must conform to the page length limits of FRAP 35. This court disfavors motions to exceed page length limits, and such motions will be granted only for extraordinarily compelling reasons.

Amendments to FRAP 40 - Length Limitations

Rule 40. Petition for Panel Rehearing

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(b) Form of Petition; Length. The petition must comply in form with Rule 32. Copies must be served and filed as Rule 31 prescribes. ~~Unless the court permits or a local rule provides otherwise, a petition for panel rehearing must not exceed 15 pages.~~ Except by the court's permission:

(1) a petition for panel rehearing produced using a computer must not exceed 3,900 words; and

(2) a handwritten or typewritten petition for panel rehearing must not exceed 15 pages.