

**FINAL VERSIONS OF PENDING REVISIONS TO
ELEVENTH CIRCUIT RULES AND INTERNAL OPERATING PROCEDURES
Effective December 1, 2016**

11th Cir. R. 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. In appeals from the Tax Court, which files only a paper record, the Tax Court clerk is required to transmit to this court in paper all documentary exhibits admitted into evidence at trial or any evidentiary hearing.

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.

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.

[FRAP 11, IOP] 3. *Oversized Exhibits*. Ordinarily, oversized exhibits must be transmitted at the expense of the party requesting same, following approval from the clerks of this court and the district court. Requests to transmit oversized exhibits are discouraged. In lieu of arranging for transmittal by the district court of oversized physical exhibits, parties are encouraged to substitute photographs, diagrams, or models of lesser size and weight, or to stipulate to the nature and content of such exhibits. The clerk of this court may dispose of oversized exhibits without further notice unless a party makes arrangements with the clerk for their return within 30 days of issuance of the mandate.

11th Cir. R. 22-3 Application for Leave to File a Second or Successive Habeas Corpus Petition or Motion to Vacate, Set Aside or Correct Sentence.

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(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.

11th Cir. R. 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.

11th Cir. R. 26.1-3 CIP: Form.

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(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.

[FRAP 27, IOP] 7. *Withdrawing Motions.* If a party no longer requires a ruling by the court on a pending motion, the filing party should file a motion to withdraw the motion.

11th Cir. R. 28-1 Briefs - Contents. Each principal brief shall consist, in the order listed, of the following:

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

11th Cir. R. 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.

11th Cir. R. 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 10 days after the petition for rehearing en banc being supported is filed.

11th Cir. R. 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 10 days after the petition for panel rehearing being supported is filed.

11th Cir. R. 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 counsel must provide to the court 15 paper copies of a petition for en banc consideration, whether for initial hearing or rehearing. Counsel will be considered to have complied with this requirement if, on the day the electronic petition is filed, counsel sends 15 paper copies to the clerk using one of the methods outlined in FRAP 25(a)(2)(B).

11th Cir. R. 35-9 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.

[FRAP 35, IOP] 10. En Banc Rehearing Procedures Following Affirmative Poll.

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b. Initial Notice to Counsel. *The clerk meanwhile notifies counsel that rehearing en banc has been granted but that they should not prepare en banc briefs until they are advised of the issue(s) to be briefed and length limitations on briefs.*

c. Notice of Issue(s) to be Briefed. *The appeal managers prepare and circulate to the other members of the en banc court a proposed notice to the parties advising which issue(s) should be briefed to the en banc court, length limitations on briefs, and whether the appeal will be orally argued or submitted on briefs. The notice may also set the time limits for oral argument. In appeals with multiple appellants or appellees, the notice may direct parties to file a single joint appellants' or appellees' en banc brief. In such cases the side directed to file a single joint brief may be allotted some extension of the length limitations that would otherwise apply to the brief. Members of the en banc court thereafter advise the appeal managers of any suggested changes in the proposed notice. Provided that no member of the en banc court objects, counsel may be advised that the en banc court will decide only specified issues, and after deciding them, remand other issues to the panel. Once the form of the notice has been approved by the court, the clerk issues the notice to counsel.*

11th Cir. R. 40-1 Contents. A copy of the opinion sought to be reheard shall be included as an addendum to each petition for rehearing, following the certificate of service. This addendum does not count towards length limitations.

11th Cir. R. 46-2 Renewal of Bar Membership; Inactive Status. Each attorney admitted to the bar of this court shall pay a bar membership renewal fee of \$10.00 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.ca11.uscourts.gov. The renewal form must be accompanied by a non-refundable bar membership renewal fee of \$10.00. 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.