

# United States Court of Appeals

Eleventh Circuit  
56 Forsyth Street, NW  
Atlanta, Georgia 30303

David J. Smith  
Clerk of Court

[www.ca11.uscourts.gov](http://www.ca11.uscourts.gov)

Amy C. Nerenberg  
Chief Deputy Clerk

April 6, 2020

## MEMORANDUM

Enclosed are proposed amendments to the Rules of the United States Court of Appeals for the Eleventh Circuit. Text to be added is bold and double-underlined, while text to be deleted is lined-through.

Comments on the proposed amendments may be submitted in writing to me at the above address, or electronically at <http://www.ca11.uscourts.gov/rules/proposed-revisions>, by 5:00 PM Eastern Time on May 6, 2020.

David J. Smith

UNITED STATES  
COURT OF APPEALS  
for the  
ELEVENTH CIRCUIT

PROPOSED REVISIONS TO ELEVENTH CIRCUIT RULES  
AND INTERNAL OPERATING PROCEDURES

- FEDERAL RULES OF APPELLATE PROCEDURE
- ELEVENTH CIRCUIT RULES
- *INTERNAL OPERATING PROCEDURES*

April 2020

11th Cir. R. 25-2 Filing of Papers Transmitted by Alternate Means. The clerk may specially authorize the filing of papers transmitted by alternate means in emergencies and for other compelling circumstances. In such cases, signed originals must thereafter also be furnished by conventional means. Provided that the clerk had given prior authorization for transmission by alternate means and the papers conform to the requirements of FRAP and circuit rules, the signed originals will be filed *nunc pro tunc* to the receipt date of the papers transmitted by alternate means. The court may act upon the papers transmitted by alternate means prior to receipt of the signed originals.

11th Cir. R. 25-3 Electronic Case Files (ECF) System.

(a) Electronic Filing and Service. It is mandatory that all counsel of record use the court's Electronic Case Files (ECF) system. Non-incarcerated pro se parties are permitted to use the court's ECF system. ~~However,~~ **once a non-incarcerated pro se party has elected to use the ECF system, such party is required to do so unless the court grants the party's request to not use the system or the court may revoke such the party's** permission upon a finding that the party has abused the privilege of using the ECF system. Documents must be filed and served electronically in accordance with the procedures adopted by the court and set forth in the Eleventh Circuit Guide to Electronic Filing. The Eleventh Circuit Guide to Electronic Filing, and information and training materials related to electronic filing, are available at [www.ca11.uscourts.gov](http://www.ca11.uscourts.gov).

The notice generated and e-mailed by the ECF system constitutes service of all electronically filed documents on attorneys and pro se parties registered to use the ECF system. Independent service, either by paper or otherwise, need not be made on those attorneys or parties. Incarcerated pro se litigants, non-incarcerated pro se litigants who choose not to file electronically or whose permission to file electronically has been revoked, and attorneys who are exempt from electronic filing must be served by the filing party through the conventional means of service set forth in FRAP 25.

(b) Attorney Exemption. Upon motion and a showing of good cause, the court may exempt an attorney from the electronic filing requirements and authorize filing and service by means other than the use of the ECF system. The motion, which need not be filed or served electronically, must be filed at least 14 days before the brief, petition, or other document is due. Also see 11th Cir. R. 31-5.

11th Cir. R. 25-4 Information and Signature Required. All papers filed, including motions and briefs, must contain the name, office address, and telephone number of an attorney or a party proceeding pro se, and be signed by an attorney or by a party proceeding pro se. Inmate filings must be signed by the inmate and should contain name, prisoner number, institution, and street address.

11th Cir. R. 25-5 Maintaining Privacy of Personal Data. In order to promote electronic access to case files while also protecting personal privacy and other legitimate interests, parties shall refrain from including, or shall partially redact where inclusion is necessary, the following personal data identifiers from all pleadings filed with the court, including exhibits thereto, whether filed electronically or in paper, unless otherwise ordered by the court.

(e) Table of Citations. The Table of Citations shall show the locations in the brief of citations, and shall contain asterisks in the margin identifying the citations upon which the party primarily relies.

(f) Statement Regarding Adoption of Briefs of Other Parties. A party who adopts by reference any part of the brief of another party pursuant to FRAP 28(i) shall include a statement describing in detail which briefs and which portions of those briefs are adopted.

(g) Statement of Subject-Matter and Appellate Jurisdiction. The jurisdictional statement must contain all information required by FRAP 28(a)(4)(A) through (D).

(h) Statement of the Issues.

(i) Statement of the Case. In the statement of the case, as in all other sections of the brief, every assertion regarding matter in the record shall be supported by a reference to the ~~volume number (if available), document number, and page number of the original record where the matter relied upon is to be found~~ **record, as described in 11th Cir. R. 28-5**. The statement of the case shall briefly recite the nature of the case and shall then include:

- (i) the course of proceedings and dispositions in the court below. IN CRIMINAL APPEALS, COUNSEL MUST STATE WHETHER THE PARTY THEY REPRESENT IS INCARCERATED;
- (ii) a statement of the facts. A proper statement of facts reflects a high standard of professionalism. It must state the facts accurately, those favorable and those unfavorable to the party. Inferences drawn from facts must be identified as such;
- (iii) a statement of the standard or scope of review for each contention. For example, where the appeal is from an exercise of district court discretion, there shall be a statement that the standard of review is whether the district court abused its discretion. The appropriate standard or scope of review for other contentions should be similarly indicated, e.g., that the district court erred in formulating or applying a rule of law; or that there is insufficient evidence to support a verdict; or that fact findings of the trial judge are clearly erroneous under Fed.R.Civ.P. 52(a); or that there is a lack of substantial evidence in the record as a whole to support the factual findings of an administrative agency; or that the agency's action, findings and conclusions should be held unlawful and set aside for the reasons set forth in 5 U.S.C. § 706(2).

(j) Summary of the Argument. The opening briefs of the parties shall also contain a summary of argument, suitably paragraphed, which should be a clear, accurate and succinct condensation of the argument actually made in the body of the brief. It should not be a mere repetition of the headings under which the argument is arranged. It should seldom exceed two and never five pages.

(k) Argument and Citations of Authority. Citations of authority in the brief shall comply with the rules of citation in the latest edition of either the "Bluebook" (A Uniform System of Citation) or the "ALWD Guide" (Association of Legal Writing Directors' Guide to Legal Citation). Citations shall reference the specific page number(s) which relate to the proposition for which the case is

11th Cir. R. 46-1 Bar Admission and Fees. Only attorneys admitted to the bar of this court may practice before the court, except as otherwise provided in these rules. Admission is governed by FRAP 46 and this Eleventh Circuit Rule, and attorneys must also meet the requirements of 11th Cir. R. 46-7. To request admission to the bar, an attorney must complete an application form, available on the court's website. The application form must be accompanied by a certificate of good standing issued within the previous six months establishing that the attorney is admitted to practice before a court described in FRAP 46(a)(1). Upon admission, the attorney must pay the non-refundable attorney admission fee, which is composed of: (1) the national admission fee prescribed by the Judicial Conference of the United States in the Court of Appeals Miscellaneous Fee Schedule issued pursuant to 28 U.S.C. § 1913; and (2) the local admission fee prescribed pursuant to FRAP 46(a)(3) and posted on the court's website. Failure to pay the fee within 14 days of admission will require that the attorney submit a new application form. All attorneys must apply for admission and submit attorney admission fees through PACER.

Each member of the bar has a continuing obligation to keep this court informed of any changes to addresses, phone numbers, fax numbers, and e-mail addresses.

**The clerk is authorized to admit attorneys to the bar of this court in such circumstances as determined by the court when the attorney has applied for admission, paid the required fee, and otherwise meets the requirements for admission in FRAP 46 and the accompanying circuit rules.**

11th Cir. R. 46-2 Renewal of Bar Membership; Inactive Status. Each attorney admitted to the bar of this court shall pay the bar membership renewal fee prescribed by the court and posted on the court's website 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](http://www.ca11.uscourts.gov). The renewal form must be accompanied by the non-refundable bar membership renewal fee. 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.