

KINNARD MEDIATION CENTER
UNITED STATES COURT OF APPEALS
ELEVENTH JUDICIAL CIRCUIT

POST-SETTLEMENT DISMISSAL PROCEDURES

When the parties have reached a settlement and all parties agree on the terms of settlement, counsel should file with the clerk a joint (or agreed) motion to dismiss under Fed. R. App. P. 42(b) and 11th Cir. R. 42-1(a). This motion should address the following:

1. Whether the dismissal pertains to all parties and claims on appeal.
2. Whether the appeal is to be dismissed without prejudice (which may be granted by the clerk) or with prejudice (which must be ruled upon by a panel of three judges).
3. Whether the parties are to bear their own costs or another agreed apportionment.

The motion to dismiss either should be signed by all parties or, if submitted by one party, should contain an explicit statement that all other parties to the settlement agreement consent. If submitted by only one party, the motion should be submitted by the appellant. All motions must be accompanied by a certificate of service and a certificate of interested parties. See 11th Cir. R. 27-1(a).

Settlement does *not* automatically stay any of the actions required under the rules to be timely performed, including ordering necessary transcripts and briefing. If counsel has a brief due prior to a motion to dismiss being *presented and decided*, counsel may request an extension of time to complete that action by following the procedures in the Kinnard Mediation Center's "Extensions of Time to File Briefs" document available on the Internet at **www.ca11.uscourts.gov**. If this appeal is scheduled for oral argument, counsel should contact the court sessions unit of the clerk's office at 404-335-6131 for further direction.