

United States Court of Appeals

Eleventh Circuit

56 Forsyth Street, NW

Atlanta, Georgia 30303

David J. Smith
Clerk of Court

www.ca11.uscourts.gov

Peter F. Busscher
Chief Deputy Clerk

August 5, 2026

MEMORANDUM

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

Comments on the proposed amendments may be submitted in writing at the above address, or electronically at <http://www.ca11.uscourts.gov/rules/proposed-revisions>, no later than Friday, September 4, 2026.

David J. Smith

UNITED STATES
COURT OF APPEALS
for the
ELEVENTH CIRCUIT

PROPOSED REVISIONS TO ELEVENTH CIRCUIT RULES

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

August 2026

(g) [Reserved]

(h) [Reserved]

(i) **Briefs in a Case Involving Multiple Appellants or Appellees.** In a case involving more than one appellant or appellee, including consolidated cases, any number of appellants or appellees may join in a brief, and any party may adopt by reference a part of another's brief. Parties may also join in reply briefs.

(j) **Citation of Supplemental Authorities.** If pertinent and significant authorities come to a party's attention after the party's brief has been filed—or after oral argument but before decision—a party may promptly advise the circuit clerk by letter, with a copy to all other parties, setting forth the citations. The letter must state the reasons for the supplemental citations, referring either to the page of the brief or to a point argued orally. The body of the letter must not exceed 350 words. Any response must be made promptly and must be similarly limited.

(As amended Apr. 30, 1979, eff. Aug. 1, 1979; Mar. 10, 1986, eff. July 1, 1986; Apr. 25, 1989, eff. Dec. 1, 1989; May 1, 1991, eff. Dec. 1, 1991; Apr. 22, 1993, eff. Dec. 1, 1993; Apr. 29, 1994, eff. Dec. 1, 1994; Apr. 24, 1998, eff. Dec. 1, 1998; Apr. 29, 2002, eff. Dec. 1, 2002; Apr. 25, 2005, eff. Dec. 1, 2005; Apr. 16, 2013, eff. Dec. 1, 2013; Apr. 28, 2016, eff. Dec. 1, 2016; Apr. 25, 2019, eff. Dec. 1, 2019.)

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

(a) Cover Page. Elements to be shown on the cover page include the court of appeals docket number centered at the top; the name of this court; the title of the case [see FRAP 12(a)]; the nature of the proceeding [e.g., Appeal, Petition for Review]; the name of the court, agency, or board below; the title of the brief, identifying the party or parties for whom the brief is filed; and the name, office address, and telephone number of the attorney. See FRAP 32(a)(2).

(b) Statement Regarding Oral Argument. Appellant's brief shall include a short statement of whether or not oral argument is desired, and if so, the reasons why oral argument should be heard. Appellee's brief shall include a similar statement. The court will accord these statements due, though not controlling, weight in determining whether oral argument will be heard. See FRAP 34(a) and (f) and 11th Cir. R. 34-3(c).

(c) Table of Contents. The table of contents shall include page references to each section required by this rule to be included within the brief. The table shall also include specific page references to each heading or subheading of each issue argued.

(d) 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. The Table of Citations should not use the "passim" notation, but should instead list every page

on which an authority is cited. Page ranges may be used if the authority is cited on every page in the range (e.g., “7-10” instead of “7, 8, 9, 10”).

(e) 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.

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

(g) Statement of the Issues.

(h) 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 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).

(i) 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.

(j) 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 cited. For state reported cases the national reporter series should be cross referenced (e.g., Southern Reporter, Southeast Reporter).

(k) Conclusion.

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

(m) Certificate of Service. The certificate described in FRAP 25(d), if required by that rule.

11th Cir. R. 28-2 Appellee's Brief. An appellee's brief need not contain items (f), (g), and (h) of 11th Cir. R. 28-1 if the appellee is satisfied with the appellant's statement.

11th Cir. R. 28-3 Reply Brief. A reply brief need contain only items (a), (c), (d), (j), (l), and (m) of 11th Cir. R. 28-1.

11th Cir. R. 28-4 Briefs from Party Represented by Counsel. When a party is represented by counsel, the clerk may not accept a brief from the party.

11th Cir. R. 28-5 References to the Record. References to the record in a brief must be to document number and page number. The page number in a transcript is the page number that appears in the header generated by the district court's electronic filing system if available at the time of filing. Otherwise, the page number is the page number assigned by the court reporter. The brief must note the reference format used. A reference may (but need not) contain the full or abbreviated name of a document.

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I.O.P. -

1. Signature Required. 11th Cir. R. 25-4 requires briefs to be signed by an attorney or by a party proceeding *pro se*.

2. "One Attorney, One Brief". Unless otherwise directed by the court, an attorney representing more than one party in an appeal may only file one principal brief (and one reply brief, if authorized), which will include argument as to all of the parties represented by that attorney in that appeal, and one (combined) appendix. A single party responding to more than one brief, or represented by more than one attorney, is similarly bound.

3. Adoption of Briefs of Other Parties. The adoption by reference of any part of the brief of another party pursuant to FRAP 28(i) does not fulfill the obligation of a party to file a separate brief which conforms to 11th Cir. R. 28-1, except upon written motion granted by the court.

4. Waiver of Reply Brief. A party may waive the right to file a reply brief. Immediate notice of such waiver to the clerk will expedite submission of the appeal to the court.

5. Supplemental Briefs. Supplemental briefs may not be filed without leave of court. The court may, particularly after an appeal is orally argued or submitted on the non-argument calendar, call for supplemental briefs on specific issues.

6. Citation of Supplemental Authorities. After a party's brief has been filed, counsel may direct a letter to the clerk with citations to supplemental authorities. See FRAP 28(j). The body of the letter

FRAP 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 21 days after service of the appellee's brief but a reply brief must be filed at least 7 days before argument, unless the court, for good cause, allows a later filing.**
- (2) A court of appeals that routinely considers cases on the merits promptly after the briefs are filed may shorten the time to serve and file briefs, either by local rule or by order in a particular case.**

(b) Number of Copies. Twenty-five copies of each brief must be filed with the clerk and 2 copies must be served on each unrepresented party and on counsel for each separately represented party. An unrepresented party proceeding in forma pauperis must file 4 legible copies with the clerk, and one copy must be served on each unrepresented party and on counsel for each separately represented party. The court may by local rule or by order in a particular case require the filing or service of a different number.

(c) Consequence of Failure to File. If an appellant fails to file a brief within the time provided by this rule, or within an extended time, an appellee may move to dismiss the appeal. An appellee who fails to file a brief will not be heard at oral argument unless the court grants permission.

(As amended Mar. 30, 1970, eff. July 1, 1970; Mar. 10, 1986, eff. July 1, 1986; Apr. 29, 1994, eff. Dec. 1, 1994; Apr. 24, 1998, eff. Dec. 1, 1998; Apr. 29, 2002, eff. Dec. 1, 2002; Mar. 26, 2009, eff. Dec. 1, 2009; Apr. 26, 2018, eff. Dec. 1, 2018.)

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11th Cir. R. 31-1 Briefs - Time for Serving and Filing.

(a) Briefing Schedule. Except as otherwise provided herein, the appellant shall serve and file a brief within 40 days after the date on which the record is deemed filed as provided by 11th Cir. R. 12-1. The appellee shall serve and file a brief within 30 days after service of the brief of the last appellant. The appellant may serve and file a reply brief within 21 days after service of the brief of the last appellee.

(b) Pending Motions. If any of the following motions or matters are pending in either the district court or the court of appeals at the time the appeal is docketed in the court of appeals or thereafter, the appellant (or appellant/cross-appellee) shall serve and file a brief within 40 days after the date on which the district court or the court of appeals rules on the motion or resolves the matter, and the appeal is allowed to proceed, or within 40 days after the date on which the record is deemed filed as provided by 11th Cir. R. 12-1, whichever is later:

- Motion to proceed In Forma Pauperis
- Motion for a Certificate of Appealability or to expand a Certificate of Appealability
- Motion of a type specified in FRAP 4(a)(4)(A) or FRAP 4(b)(3)(A)
- Determination of excusable neglect or good cause as specified in FRAP 4(a)(5)(A) or FRAP 4(b)(4)
- Assessment of fees pursuant to the Prison Litigation Reform Act
- Appointment and/or withdrawal of counsel
- Request for transcript at government expense
- Designation by appellee of additional parts of the proceedings to be ordered from the court reporter, order by appellee of such parts, or motion by appellee for an order requiring appellant to order such parts, as provided by FRAP 10(b)(3)(B) and (C)
- Motion to consolidate appeals, provided that such motion is filed on or before the date the appellant's brief is due in any of the appeals which are the subject of such motion

Except as otherwise provided below, if any of the foregoing motions or matters are pending in either the district court or the court of appeals after the appellant (or appellant/cross-appellee) has served and filed a brief, the appellee (or appellee/cross-appellant) shall serve and file a brief within 30 days after the date on which the district court or the court of appeals rules on the motion or resolves the matter, and the appeal is allowed to proceed, or within 30 days after the date on which the supplemental record is deemed filed as provided by 11th Cir. R. 12-1, whichever is later.

When a motion to consolidate appeals is filed or is pending after an appellant has served and filed a brief in any of the appeals which are the subject of such motion, the due date for filing appellee's brief shall be postponed until the court rules on such motion. If the motion is granted, the appellee (or appellee/cross-appellant) shall serve and file a brief in the consolidated appeals within 30 days after the date on which the court rules on the motion, or within 30 days after service of the last appellant's brief, whichever is later. If the motion is denied, the appellee (or appellee/cross-appellant) shall serve and file a brief in each separate appeal within 30 days after the date on which the court rules on the motion, or within 30 days after service of the last appellant's brief in that separate appeal, whichever is later.

(c) Effect of Other Pending Motions on Time for Serving and Filing Brief. Except as otherwise provided in this rule, a pending motion does not postpone the time for serving and filing any brief. However, the filing of a motion to dismiss a criminal appeal based on an appeal waiver in a plea agreement or of a motion for ~~summary affirmance or summary reversal~~ **summary disposition** shall postpone the due date for the filing of any remaining brief until the court rules on such motion. In addition, a motion to file a brief out-of-time, a motion to file a brief that does not comply with the court's rules, or a motion to file a replacement brief shall postpone the due date for filing an opposing party's response brief or reply brief until the court rules on such motion.

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

(As amended Apr. 24, 1998, eff. Dec. 1, 1998; Apr. 29, 2002, eff. Dec. 1, 2002; Apr. 25, 2005, eff. Dec. 1, 2005; Apr. 28, 2016, eff. Dec. 1, 2016; Apr. 25, 2019, eff. Dec. 1, 2019; Apr. 2, 2024, eff. Dec. 1, 2024.)

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11th Cir. R. 32-1 Binding of Papers. Except as otherwise provided by 11th Cir. R. 30-1(e) for appendices, all papers shall be stapled or bound on the left. All copies presented to the court must be legible.

11th Cir. R. 32-2 Briefs - Cover. The cover of the brief must clearly indicate the name of the party on whose behalf the brief is filed. Each copy must comply with FRAP, have a cover of durable quality (at least 90#) on both front and back sides, and be securely bound along the left-hand margin so as to insure that the bound copy will not loosen or fall apart or the cover be detached by shipping and use. Exposed metal prong paper fasteners are prohibited on briefs.

11th Cir. R. 32-3 Briefs - Form.

Only the cover page, a certificate of service, direct quotes, headings and footnotes may be single-spaced. All other typed matter must be double-spaced, including the Table of Contents and the Table of Citations. The court may reject or require recomposition of a brief for failure to comply.

The clerk may exercise very limited discretion to permit the filing of briefs in which the violation of FRAP and circuit rules governing the format of briefs is exceedingly minor if in the judgment of the clerk recomposition of the brief would be unwarranted.

Except as otherwise provided in the preceding paragraph, unless each copy of the brief, in the judgment of the clerk, conforms to this rule and to provisions of FRAP 32(a), the clerk may conditionally file the brief, subject to the requirement that the party file in the office of the clerk a complete set of replacement briefs which comply with FRAP and circuit rules within 14 days of issuance of notice by the clerk that the briefs have been conditionally filed. The clerk's notice shall specify the matters requiring correction. No substantive changes may be made to the brief. The time for filing of the opposing party's brief runs from the date of service of the conditionally filed brief and is unaffected by the later substitution of corrected copies pursuant to this rule.

11th Cir. R. 32-4 Briefs - Page Numbering and Length. The pages of each brief shall be consecutively numbered except that materials referred to in 11th Cir. R. 28-1(a)-~~(f)~~, ~~(b)~~, ~~(c)~~, ~~(d)~~, ~~(e)~~, ~~(f)~~, ~~(g)~~, (l) and (m) ~~and (n)~~ and any addendum containing statutes, rules, or regulations need not be numbered and do not count towards page limitations or type-volume limitations. Motions for leave to file briefs which do not comply with the limitations set forth in FRAP 28.1(e) or FRAP 32(a)(7), as applicable, must be filed at least seven days in advance of the due date of the brief. The court looks with disfavor upon such motions and will only grant such a motion for extraordinary and compelling reasons.

(g) **Initial Hearing En Banc.** On its own or in response to a party’s petition, a court may hear an appeal or other proceeding initially en banc. A party’s petition must be filed no later than the date when its principal brief is due. The provisions of Rule 40(b)(2), (c), and (d)(2)–(5) apply to an initial hearing en banc. But initial hearing en banc is not favored and ordinarily will not be ordered.

(As amended Apr. 30, 1979, eff. Aug. 1, 1979; Apr. 29, 1994, eff. Dec. 1, 1994; Apr. 24, 1998, eff. Dec. 1, 1998; Apr. 26, 2011, eff. Dec. 1, 2011; Apr. 28, 2016, eff. Dec. 1, 2016; Apr. 27, 2020, eff. Dec. 1, 2020; Apr. 2, 2024, eff. Dec. 1, 2024.)

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11th Cir. R. 40-1 Number of ~~No~~ Copies **Required**. ~~Four copies of a petition for initial hearing en banc, petition for panel rehearing, or petition for rehearing en banc shall be filed. Use of the ECF system does not modify the requirement that filers must provide to the court four paper copies of a petition. Filers will be considered to have complied with this requirement if, on the day the electronic petition is filed, the filer sends four paper copies to the clerk using one of the methods outlined in FRAP 25(a)(2)(A)(ii).~~ **When a petition for initial hearing en banc, petition for panel rehearing, or petition for rehearing en banc is filed in paper, only the original petition must be filed; no additional copies are required. When a petition is filed electronically, no paper copies are required.**

11th Cir. R. 40-2 Time. A petition for panel rehearing or rehearing en banc must be filed within 21 days of entry of judgment, except that a petition for panel rehearing or rehearing en banc in a civil appeal in which the United States or an officer or agency thereof is a party must be filed within 45 days of entry of judgment. For purposes of this rule, a “civil appeal” is one that falls within the scope of 11th Cir. R. 42-2(a). Counsel should not request extensions of time except for the most compelling reasons.

11th Cir. R. 40-3 Form. The form of a petition for panel rehearing is governed by FRAP 32(c)(2). A petition for en banc consideration shall be bound in a white cover titled “Petition for Rehearing (or Hearing) En Banc.” A petition for en banc consideration shall contain the following items in this sequence:

- (a) a cover page as described in 11th Cir. R. 28-1(a);
- (b) where the party petitioning for en banc consideration is represented by counsel, one or both of the following statements of counsel as applicable:

I express a belief, based on a reasoned and studied professional judgment, that the panel decision is contrary to the following decision(s) of the Supreme Court of the United States or the precedents of this circuit and that consideration by the full court is necessary to secure and maintain uniformity of decisions in this court: [cite specifically the case or cases]