

RULE 34-3 | NON-ARGUMENT CALENDAR

(a) The court maintains a two-calendar system for consideration and decision of appeals in the interest of efficient and appropriate use of judicial resources, control of the docket by the court, minimizing unnecessary expenditure of government funds, and lessening delay in decisions.

(b) When a panel of judges of the court unanimously determines, after an examination of the briefs and records, that an appeal of a party falls within one of the three categories of FRAP 34(a)(2):

(1) the appeal is frivolous; or

(2) the dispositive issue or set of issues has been authoritatively determined; or

(3) the facts and legal arguments are adequately presented in the briefs and record and the decisional process will not be significantly aided by oral argument; that appeal will be placed on the non-argument calendar for submission and decision without oral argument. If at any time before decision a judge on the non-argument panel concludes that oral argument is desired, that appeal will be transferred to the oral argument calendar. Except as provided in subparagraphs (d) and (f) of this rule, decision without oral argument must be unanimous, and no dissenting or special concurring opinion may be filed.

(c) Any party may request in his or her brief that oral argument be heard, as provided in 11th Cir. R. 28-1(c).

(d) Pursuant to FRAP 34(f), if parties state that they do not desire oral argument or otherwise agree that an appeal shall be submitted on briefs, that appeal may be placed on the non-argument calendar even though it does not fall within one of the requirements of FRAP 34(a). The decision in that appeal need not be unanimous and a dissent or special concurrence may be filed.



(e) Panels of three judges are drawn to serve as non-argument panels to determine whether appeals should be placed on the non-argument calendar and to receive submission of and decide non-argument appeals. In appeals involving multiple parties, a non-argument panel judge may determine that the appeals of fewer than all parties shall be scheduled for oral argument, and that the appeals of the remaining parties shall be submitted to the assigned oral argument panel for decision on the briefs. Or, a non-argument panel may decide the appeals of fewer than all parties without oral argument and may schedule the appeals of the remaining parties for oral argument.

(f) When an appeal is assigned to an oral argument panel, the oral argument panel, whether or not composed of only active judges, may by unanimous vote determine that the appeal will be decided by the panel without oral argument, or transfer the appeal to the non-argument calendar. In appeals involving multiple parties, an oral argument panel may by unanimous vote determine that the appeals of fewer than all parties will be decided by the panel without oral argument, and that the appeals of the remaining parties will be scheduled for oral argument.