



**TITLE II FROM THE LOCAL RULES OF COURT
UNITED STATES COURT OF APPEALS, ELEVENTH CIRCUIT
[ALL-IN-ONE DOCUMENT]**

Appeal From a Judgment or Order of a District Court

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LOCAL RULES OF COURT | 11TH CIRCUIT (US)

SECTION: II

TITLE: APPEAL FROM A JUDGMENT OR ORDER OF A DISTRICT COURT

RULES: 3-1 through 12.1-1



RULE 3-1 | FAILURE TO OBJECT TO A MAGISTRATE JUDGE'S FINDINGS OR RECOMMENDATIONS

A party failing to object to a magistrate judge's findings or recommendations contained in a report and recommendation in accordance with the provisions of 28 U.S.C. §636(b)(1) waives the right to challenge on appeal the district court's order based on unobjected-to factual and legal conclusions if the party was informed of the time period for objecting and the consequences on appeal for failing to object. In the absence of a proper objection, however, the court may review on appeal for plain error if necessary in the interests of justice.



RULE 5-1 | CERTIFICATE REQUIRED

The petition and answer shall contain a Certificate of Interested Persons and Corporate Disclosure Statement as described in FRAP 26.1 and the accompanying circuit rules.



RULE 8-1 | MOTIONS

Motions for stay or injunction pending appeal must include a copy of the judgment or order from which relief is sought and of any opinion or findings of the district court, and shall otherwise comply with the rules.



RULE 8-2 | MOTION FOR RECONSIDERATION

A motion to reconsider, vacate, or modify an order granting or denying relief under FRAP 8 must be filed within 21 days of the entry of such order. No additional time shall be allowed for mailing.



RULE 9-1 | MOTIONS

Parties seeking review of a district court's order on release in a criminal case under FRAP 9(a) must file a motion with this court setting out the reasons why the party believes the order should be reversed. The clerk shall set expedited deadlines for the filing of the motion, the response, and any reply. All motions for release or for modification of the conditions of release, whether filed under FRAP 9(a) or 9(b), must include a copy of the judgment or order from which relief is sought and of any opinion or findings of the district court.



RULE 10-1 | ORDERING THE TRANSCRIPT - DUTIES OF APPELLANT AND APPELLEE

Appellant's written order for a transcript or certification that no transcript will be ordered, as required by FRAP 10(b), shall be on a form prescribed by the court of appeals. Counsel and pro se parties shall file the form with the district court clerk and the clerk of the court of appeals, and send copies to the appropriate court reporter(s) and all parties, in conformance with instructions included on the form. The form must be filed and sent as indicated above within 14 days after filing the notice of appeal or after entry of an order disposing of the last timely motion of a type specified in FRAP 4(a)(4).

If an appellee designates additional parts of the proceedings to be ordered, orders additional parts of the proceedings, or moves in the district court for an order requiring appellant to do so, as provided by FRAP 10(b), a copy of such designation, transcript order, or motion shall be simultaneously sent to the clerk of this court in addition to being filed and served on other parties as provided by FRAP 10(b).



RULE 11-1 | DUTIES OF COURT REPORTERS; EXTENSIONS OF TIME

In each case in which a transcript is ordered, the court reporter shall furnish the following information on a form prescribed by the clerk of this court:

- (a) acknowledge that the reporter has received the order for the transcript and the date of the order;
- (b) state whether adequate financial arrangements have been made under CJA or otherwise;
- (c) state the number of trial or hearing days involved in the transcript and an estimate of the number of pages;
- (d) give the estimated date on which the transcript is to be completed.

The court reporter shall notify the ordering party and the clerk of this court at the time that ordered transcripts are filed in the district court. A court reporter who requests an extension of time for filing the transcript beyond the 30 day period fixed by FRAP 11(b) shall file a written application with the clerk of the court of appeals on a form provided by the clerk of this court and shall specify in detail the amount of work that has been accomplished on the transcript, list all outstanding transcripts due to this and other courts and the due date for filing each and set forth the reasons which make an extension of time for filing the transcript appropriate. The court reporter shall certify that the court reporter has sent a copy of the application to both the Chief District Judge of that district, to the district judge who tried the case, and to all counsel of record. In some cases this court may require written approval of the request by the appropriate district judge. The clerk of the court of appeals shall also send a copy of the clerk's action on the application to both the appropriate Chief District Judge and the district judge. If the court reporter files the transcript beyond the 30 day period fixed by FRAP 11(b) without having obtained an extension of time to do so, the clerk of the court of appeals shall so notify the appropriate Chief District Judge as well as the district judge.



RULE 11-2 | CERTIFICATION AND TRANSMISSION OF RECORD - DUTIES OF DISTRICT COURT CLERK

The clerk of the district court is responsible for determining when the record on appeal is complete for purposes of the appeal. Upon completion of the record the clerk of the district court shall temporarily retain the record for use by the parties in preparing appellate papers. Whether the record is in electronic or paper form, the clerk of the district court shall certify to the parties on appeal and to the clerk of this court that the record (including the transcript or parts thereof designated for inclusion, and all necessary exhibits) is complete for purposes of appeal. Unless the required certification can be transmitted to the clerk of this court within 14 days from the filing by appellant of a certificate that no transcript is necessary or 14 days after the filing of the transcript of trial proceedings if one has been ordered, whichever is later, the clerk of the district court shall advise the clerk of this court of the reasons for delay and request additional time for filing the required certification. Upon notification from this court that the brief of the appellee has been filed, the clerk of the district court shall forthwith transmit those portions of the original record that are in paper.



RULE 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.

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. However, the district court clerk must not transmit to this court any exhibits containing child pornography unless requested to do so by the clerk of this court.

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.



RULE 11-4 | FORM OF PAPER RECORD

When the record on appeal is in paper, the record shall be bound securely with durable front and back covers in a manner that will facilitate reading. The clerk of the district court or bankruptcy court as applicable shall index the record by means of document numbers in consecutive order. In civil appeals, including bankruptcy and prisoner (civil and habeas) appeals, to facilitate use of the record by the court and by counsel, the district court or bankruptcy court as applicable shall affix indexing tabs bearing those document numbers to identify orders and significant filings. Indexing tabs are not required to be affixed to records in criminal appeals.



RULE 12-1 | FILING THE RECORD

In an appeal from a district court in which a transcript is ordered, the record is deemed completed and filed on the date the court reporter files the transcript with the district court. In an appeal from a district court in which there was no hearing below (including an appeal from summary judgment), or all necessary transcripts are already on file, or a transcript is not ordered, the record is deemed completed and filed on the date the appeal is docketed in the court of appeals pursuant to FRAP 12(a). The provisions of this rule also apply to the review of a Tax Court decision. [See 11th Cir. R. 31-1 for the time for serving and filing briefs.]



RULE 12-2 | CLERK'S CONSOLIDATION OF APPEALS

The clerk may, at the time of docketing or thereafter, notify the affected parties that it has determined, sua sponte, that consolidation of appeals is either required by statute or is in the interest of judicial economy, such as when multiple appeals raise the same or similar issues, and shall direct the parties in the notice to file written objections, if any, to the proposed consolidation within 14 days of the notice. If no party objects to the proposed consolidation within the allotted 14 days, the clerk may consolidate the appeals; if the clerk receives a timely objection, the matter shall be referred to the Court for decision.



RULE 12.1-1 | INDICATIVE RULING BY THE DISTRICT COURT

(a) A party who files a motion in the district court that the district court lacks authority to grant because an appeal is pending must, within 14 days after filing the motion, serve and file a motion in this court to stay the appeal until the district court rules on the motion before it. If this court stays the appeal, the party who filed the motion in the district court must, unless this court orders otherwise, file written status reports at 30-day intervals from the date of this court's order informing this court of the status of the district court proceedings.

(b) If the motion filed in the district court is one that does not request substantive relief from the order or judgment under appeal, such as a motion to correct a clerical error pursuant to Fed.R.Civ.P. 60(a), any party to the appeal may file a motion for a limited remand to give the district court authority to rule on the motion, without waiting for the district court to signify its intentions on the motion. A response and reply may be filed in compliance with FRAP 27 and the corresponding local rules of this court.

(c) If the motion filed in the district court requests substantive relief from the order or judgment under appeal, such as a motion to modify a preliminary injunction or a motion for relief from judgment pursuant to Fed.R.Civ.P. 60(b), the district court may consider whether to grant or deny the motion without obtaining a remand from this court.

(1) If the district court determines that the motion should be denied, the district court may deny the motion without a remand by this court.

(2) If the district court determines that the motion should be granted, the district court should enter an order stating that it intends to grant the motion if this court returns jurisdiction to it.

(i) Any appellant or cross-appellant may file an objection to remand with this court within 14 days after entry of the district court's order.



(ii) If no objection to remand is filed with this court within 14 days after entry of the district court's order, this court may remand the case in full to the district court for entry of an order granting relief and will direct the clerk to close the appeal. Any such order shall constitute an express dismissal of the appeal for purposes of FRAP 12.1.

(iii) If an objection to remand is filed with this court within 14 days after entry of the district court's order, that objection will be treated as a motion for the court to retain jurisdiction. A response and reply may be filed in compliance with FRAP 27 and the corresponding local rules of this court. Upon consideration of the objections and any responses and replies, the court will determine whether to retain jurisdiction over the appeal.

(iv) If the district court enters an order on remand that fails to grant the relief the district court had stated it would grant, any appellant or cross-appellant may, within 30 days after entry of the district court's order, file a motion in this court to reopen and reinstate the closed appeal.

(d) With respect to any motion described in section (c) of this rule, if the district court determines that the motion raises a substantial issue that warrants further consideration, the district court should enter an order so stating. The district court may without a remand conduct such further proceedings as are necessary to determine whether the motion should be granted or denied.

(1) While such proceedings are pending in the district court, the appeal will remain stayed unless this court orders otherwise.

(2) If the district court thereafter determines that the motion should be denied, the district court may deny the motion without a remand by this court.

(3) If the district court thereafter determines that the motion should be granted, the provisions of section (c)(2) of this rule apply.



(e) Upon the district court's entry of any order addressing any motion described in FRAP 12.1, the parties must promptly notify this court of such order.



APPENDIX



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