



**TITLE VII - INTERNAL OPERATING PROCEDURES
UNITED STATES COURT OF APPEALS, ELEVENTH CIRCUIT
[ALL-IN-ONE DOCUMENT]**

General Provisions

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INTERNAL OPERATING PROCEDURES | 11TH CIRCUIT (US)

SECTION: VII

TITLE: GENERAL PROVISIONS

RULES: 25 through 47



IOP 25 | FILING AND SERVICE

1. Timely Filing of Papers. Except as otherwise provided by FRAP 25(a) for inmate filings and for briefs and appendices, all other papers, including petitions for rehearing, shall not be timely unless they are actually received in the clerk's office within the time fixed for filing.

2. Acknowledgment of Filings. The clerk will acknowledge paper filings if a stamped self-addressed envelope is provided.

3. Filing with the Clerk. The clerk's office in Atlanta is the proper place for the filing of all court documents that are exempt from electronic filing. It is open for business from 8:30 a.m. until 5:00 p.m., Eastern time, Monday through Friday (except legal holidays). Staff is available during these hours to receive filings and to respond to over-the-counter and telephone inquiries. Outside of normal business hours, an emergency telephone message system is available through which a deputy clerk may be reached by dialing the main clerk's office telephone number and following recorded instructions.

4. Papers Sent Directly to Judges' Chambers. When an attorney or party sends papers related to a pending appeal directly to a judge's chambers without having received prior approval from the court to do so, the judge shall forward the papers to the clerk for appropriate processing. The clerk will advise the attorney or party that the papers have been received by the clerk, and that the clerk's office in Atlanta is the proper place for the filing of appellate papers.

5. Miami Satellite Office. The clerk maintains a satellite office in Miami, Florida, to assist parties and counsel to access the record on appeal in appeals being briefed, and to provide other related assistance. It is open for business from 8:30 a.m. until 5:00 p.m., Eastern time, Monday through Friday (except legal holidays).

All filings and case-related inquiries should be directed to the clerk's principal office in Atlanta, except that counsel who receive a calendar assigning an appeal to a specific day of oral argument in Miami should direct filings and case-related inquiries up to the date of oral argument to the Miami satellite office. Inquiries concerning bar membership,



renewal of bar membership, and application for admission to the bar are to be directed to the clerk's principal office in Atlanta.



IOP 26 | COMPUTING AND EXTENDING TIME

1. Extensions of Time. The court expects the timely filing of all papers within the period of time allowed by the rules, without granting extensions of time. Requests for extensions of time to file the brief or appendix are governed by 11th Cir. R. 31-2. Failure to timely file required documents may cause the appeal to be dismissed for want of prosecution, under the provisions of 11th Cir. R. 42-1, 42-2, or 42-3, or may result in possible disciplinary action against counsel as described in Addendum Eight, or both.

2. Inaccessibility of Clerk's Office. The court, by order of the chief judge, may determine that inclement weather or other extraordinary conditions have made the clerk's office inaccessible. If such a determination is made, any filings due to be made on such a day will automatically be processed as timely if received on the day that the clerk's office reopens for business. Counsel need not make any special application or request for such treatment. Further, parties and their counsel should note that ordinarily local conditions at the place from which filings are sent do not trigger the additional time for filing provisions of FRAP 26(a) except upon application to the clerk and order of court.



IOP 27 | MOTIONS

1. Routing Procedures to Judges. Pre-submission motions requiring consideration by judges are assigned to motions panels. Composition of these panels is changed at the beginning of each court year in October, and upon a change in the court's membership. The clerk submits the motion papers to the judges assigned in rotation from a routing log, the effect of which is to route motions randomly to judges based on filing date. In matters requiring panel action, the papers are sent to the first judge (initiating judge), who will transmit them to the second judge with a recommendation. The second judge in turn sends them on to the third judge who returns the file and an appropriate order to the clerk.
2. Emergency Motion Procedure. Emergency motions are assigned in rotation from a separate emergency routing log. The papers are forwarded to all panel members simultaneously. If the matter requires that counsel contact panel members individually, the clerk after first securing panel approval will advise counsel (or parties) of the identity of the panel members to whom the appeal is assigned.
3. Motions to Expedite Appeals. Except as otherwise provided in these rules, and unless the court directs otherwise, an appeal may be expedited only by the court upon motion and for good cause shown. Unless the court otherwise specifies, the clerk will fix an appropriate briefing schedule which will permit the appeal to be heard at an early date.
4. Motions after Assignment of Appeal to Calendar. After an appeal is assigned to a non-argument or oral argument calendar, motions in that appeal are circulated to that panel rather than to an administrative motions panel.
5. Signature Required. 11th Cir. R. 25-4 requires motions to be signed by an attorney or by a party proceeding pro se.
6. Acknowledgment of Motions. The clerk will acknowledge filing of a motion if a stamped self-addressed envelope is provided.
7. Withdrawing Motions. If a party no longer requires a ruling by the court on a pending motion, the filing party should file a motion to withdraw the motion.



IOP 28 | BRIEFS

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 must not exceed 350 words, including footnotes. If a new case is not reported, copies should be appended. When such a letter is filed in paper, four copies must be filed, with service on opposing counsel.
7. Briefs in Consolidated Cases and Appeals. Unless the parties otherwise agree or the court otherwise orders, the party who filed the first notice of appeal shall be deemed the appellant for purposes of FRAP 28, 30, and 31 and the accompanying circuit rules.
8. Corporate Reorganization - Chapter 11. The first appeal is handled in the usual manner. Counsel shall state in their briefs whether the proceeding is likely to be complex and protracted so that the panel can determine whether it should



enter an order directing that it will be the permanent panel for subsequent appeals in the same matter. If there are likely to be successive appeals, a single panel may thus become fully familiar with the case making the handling of future appeals more expeditious and economical for litigants, counsel and court.

9. Requesting Copies of the Record. Pursuant to FRAP 45(d), where there is an original paper record on appeal, that record may not be circulated to counsel or parties. Counsel or parties may obtain copies of specified portions of the record upon payment of the per page copy 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. The copy fee is not automatically waived simply because a party has been allowed to proceed on appeal in forma pauperis, but may be waived by court order upon an appropriate motion supported by an affidavit of indigency which substantially complies with Form 4 in the Appendix to the FRAP Rules.

Requests for copies must be in writing and should identify the items to be copied by reference to the district court docket sheet or the agency's list of documents comprising the record. Upon receipt of such a written request, this office will advise the requesting party of the total number of pages to be copied and the cost. Upon payment of the required copying fee, the requested copies will be sent.



IOP 28.1 | CROSS-APPEALS

1. Designation of Appellant in Cross-Appeals. If parties agree to modify the designation of appellant pursuant to FRAP 28.1(b), counsel are expected to advise the clerk in writing, upon commencement of the briefing schedule, which party will file the first brief.

2. Color of Covers of Briefs in Cross-Appeals. In cross-appeals the color of the covers of briefs shall be as follows:

- brief of appellant -- blue
- brief of appellee-cross-appellant -- red
- brief of cross-appellee and reply brief for appellant -- yellow
- reply brief of cross-appellant -- gray
- amicus -- green
- appellate intervenor -- green

If supplemental briefs are allowed to be filed by order of the court, the color of their covers shall be tan.

IOP 29 | BRIEF OF AN AMICUS CURIAE

1. Citation of Supplemental Authorities. After an amicus brief has been filed, counsel for amicus may direct a letter to the clerk with citations to supplemental authorities. See FRAP 28(j). The body of the letter must not exceed 350 words, including footnotes. If a new case is not reported, copies should be appended. When such a letter is filed in paper, four copies must be filed, with service on counsel for the parties and other amicus curiae in the appeal.

2. Length of Amicus Brief in a Cross-Appeal. The maximum length of an amicus brief in a cross-appeal, regardless of the party supported, is one-half the maximum length authorized by FRAP 28.1(e) for an appellant/cross-appellee's principal brief.



IOP 30 | APPENDIX TO THE BRIEFS

1. Indexing Tabs on an Appendix. For paper appendices, standard commercially-available indexing tabs or their equivalent which extend beyond the edge of the page should be staggered in sequence from top to bottom along the right-hand side. Tab numbers should correspond to the original document numbers assigned by the district court and noted on the district court docket sheet. The district court docket sheet should also be tabbed and identified. For electronic appendices, separator pages showing the appropriate tab numbers should be used in place of indexing tabs.

2. Appendices in Cross-Appeals. In cross-appeals the appellee-cross-appellant may (but is not required to) file an appendix within seven days of filing their first brief.



IOP 31 | SERVING AND FILING BRIEFS

Briefing Schedule. The clerk's office will send counsel and pro se parties a letter confirming the due date for filing appellant's brief consistent with the provisions of 11th Cir. R. 12-1 and 11th Cir. R. 31-1, but delay in or failure to receive such a letter does not affect the obligation of counsel and pro se parties to file the brief within the time permitted by 11th Cir. R. 31-1. The clerk's office will also advise counsel and pro se parties of the rules and procedures governing the form of briefs.



IOP 32 | FORM OF BRIEFS, APPENDICES, AND OTHER PAPERS

1. Color of Covers of Briefs. The covers of briefs operate for a busy court like traffic signals. It is important to efficient paper flow for those signals to be correct. The color of the covers of briefs shall be as follows:

brief of appellant -- blue
brief of appellee -- red
reply brief of appellant -- gray
amicus -- green
appellate intervenor -- green

If supplemental briefs are allowed to be filed by order of the court, the color of their covers shall be tan.

For cross-appeals, see I.O.P. 2, Color of Covers of Briefs in Cross-Appeals, following FRAP 28.1.

2. Form of Printing- Legibility. While the court encourages inexpensive forms of reproduction to minimize costs, counsel should personally check each copy of the brief for legibility, completeness, and a proper binding since copies distributed to the court are selected at random. It is also essential that the size type conform to the requirements of FRAP 32(a).

3. Briefs - Miscellaneous Information.

a. Certificate of Service - A certificate of service, if required by FRAP 25(d), must be shown at the conclusion of the brief.

b. Acknowledgment of Briefs - The clerk will acknowledge filing of a brief if a stamped self-addressed envelope is provided.

c. Sample Briefs and Appendices - Upon request, the clerk's office will loan to counsel sample briefs and appendices that comply with the prescribed form.

4. Brief Binding. Federal Rule of Appellate Procedure 32(a)(3) requires that briefs be bound in a "manner that is secure, does not obscure the text, and permits the brief to lie reasonably flat when open." In the Court's view, only spiral and wire binding permit briefs to lie flat when open. For that reason, although the Court does not require any particular type of binding, it prefers that parties file briefs which are either spiral- or wire-bound instead of comb-bound, velo-strip-bound, tape-bound, metal-fastener-bound, thermal-bound, or stapled.



IOP 34 | ORAL ARGUMENT

1. Non-Argument Calendar. When the last brief is filed an appeal is sent to the office of staff attorney for classification. If the staff attorney is of the opinion that the appeal of a party does not warrant oral argument, the appeal is returned to the clerk for routing to one of the court's judges, selected in rotation. In appeals involving multiple parties, the staff attorney may recommend that appeals of fewer than all parties be decided without oral argument but that the appeals of the remaining parties be scheduled for oral argument. If the judge to whom an appeal is directed for such consideration agrees that the appeal of a party does not warrant oral argument, that judge forwards the briefs, together with a proposed opinion, to the two other judges on the non-argument panel. If a party requests oral argument, all panel judges must concur not only that the appeal of that party does not warrant oral argument, but also in the panel opinion as a proper disposition without any special concurrence or dissent. If a party does not request oral argument, all panel judges must concur that the appeal of that party does not warrant oral argument.

In other appeals, when oral argument is requested by a party and the staff attorney is of the opinion that oral argument should be heard, the staff attorney may recommend that an appeal be assigned to the oral argument calendar, subject to later review by the assigned oral argument panel.

If a determination is made that oral argument should be heard, the appeal is placed on the next appropriate calendar, consistent with the court's calendaring priorities. At that time a determination is made of the oral argument time to be allotted to each side.

The assignment of an appeal to the non-argument calendar does not mean that it is considered to be an appeal of less importance than an orally argued appeal.

2. Oral Argument.

a. Court Year Schedule - A proposed court schedule for an entire year is prepared by the circuit executive in collaboration with the clerk's office, and then approved by the scheduling committee of the court which consists of active judges. The court schedule does not consider



what specific appeals are to be heard, but only sets the weeks of court in relation to the probable volume of appeals and judgeship availability for the year.

b. Separation of Assignment of Judges and Calendaring of Appeals - To insure complete objectivity in the assignment of judges and the calendaring of appeals, the two functions of judge assignment to panels and calendaring of appeals are intentionally separated. The circuit executive and the scheduling committee take into account a fixed number of weeks for each active judge and the available sittings from the court's senior judges, visiting circuit judges, and district judges. After this determination, names of the active judges for the sessions of the court are drawn by lot from a matrix for the entire court year.

This schedule is available only to judges and the circuit executive for their advance planning, not to the clerk. The clerk is not furnished with names of the panel members for any session until after the court calendars of appeals have been prepared and approved as described below.

3. Preparation and Issuing of Calendars.

a. General - The clerk's office prepares oral argument calendars approximately one month in advance of oral argument.

b. Calendaring by Case Type - The clerk attempts to balance the calendars by dividing the appeals scheduled for oral argument among the panels by case type so that each panel for a particular week has an equitable number of different types of litigation for consideration.

c. Non-Preference Appeals - Appeals are calendared for hearing in accordance with the court's "first-in first-out" rule. Absent special priority, those appeals which are oldest in point of time of availability of briefs are calendared first for hearing, insofar as practicable with other requirements of the docket.

d. Number of Appeals Assigned - Ordinarily the court hears argument Tuesday through Friday. A regular oral argument session consists of up to 22 appeals with up to 6 appeals scheduled per day.



e. Advance Notice - Counsel are provided the maximum advance notice of scheduling for oral argument practicable. Ordinarily counsel will receive notice of oral argument at least three weeks in advance. Counsel are expected to make all reasonable efforts to adjust conflicts in their schedule which will permit them to attend oral argument as scheduled. Motions for continuance are disfavored in recognition of the difficulty in scheduling panels and the commitment of the court to dispose of appeals as promptly as possible and of the fact that there is no backlog of appeals awaiting oral argument.

4. Location of Court Sessions - Convenience of Counsel. Appeals to be assigned to oral argument sessions are, if possible, selected from the area where the session is to be held.

5. Forwarding Briefs to Judges. Immediately after issuance of the calendar and receipt by the clerk of names of the panel members, the clerk forwards to panel members copies of the briefs for the appeals set on the calendar.

6. Pre-Argument Preparation. The judges read the briefs prior to oral argument.

7. Identity of Panel. The clerk's office may disclose the names of the panel members for a particular session two weeks in advance of the session, or earlier as determined by the court. At the time the clerk issues a calendar assigning an appeal to a specific day of oral argument, the clerk will advise counsel of when the clerk's office may be contacted to learn the identity of the panel members.

8. Checking In with Clerk's Office. On the day of hearing counsel should check in with the clerk's office at least 30 minutes in advance of the convening of court to advise the courtroom deputy of the name of the attorney or attorneys who will present argument for each party and how the argument time will be divided between opening and rebuttal. Timely check-in is necessary so that the clerk can inform the panel of the names of attorneys presenting argument and their time division.



9. Submission Without Argument. When an appeal is placed on the oral argument calendar, a judge of the court has determined that oral argument would be helpful in that particular appeal. Therefore, requests by the parties to waive oral argument are not looked upon with favor, and counsel may be excused only by the court for good cause shown. Attorneys appointed by the court under the Criminal Justice Act must personally appear for oral argument unless excused by the court for good cause shown.

10. Time for Oral Argument. The time for oral argument will be indicated on the calendar. The time specified is per side. In the event that more than one attorney will present oral argument per side, arrangements among counsel regarding the division of time and the order of presentation should be made before counsel check in with the clerk's office.

11. Additional Time for Oral Argument. Additional time for oral argument is sparingly permitted. Requests for additional time for oral argument should be set forth in a motion to the clerk filed well in advance of the oral argument.

12. Calling the Calendar. Usually the court hears the appeals in the order in which they appear on the calendar, and will not call the calendar unless there are some special problems requiring attention. All counsel, however, must be present at the beginning of the court session for the day.

13. Presenting Argument. Counsel should prepare oral arguments with the knowledge that the judges have already studied the briefs. Reading from briefs, decisions or the record is not permitted except in unusual circumstances. Counsel should be prepared to answer questions by the court. The essay Twenty Pages and Twenty Minutes Revisited by Judge John C. Godbold is available from the clerk on request.

14. Timer and Lighting Signal Procedure. The courtroom deputy will monitor time and use lighting signals. In Atlanta, Miami, and Montgomery, and sometimes in other locations where court is held, an easily readable timer visible both to counsel and the court is also used.

a. Appellant's Argument - A green light signals the beginning of the opening argument of appellant. Two minutes prior to expiration of the time allowed for opening argument, the green light goes off and a yellow light comes on. When the time reserved for opening has expired, the yellow light goes off and a red light comes on.

b. Appellee's Argument - The same procedure as outlined above for appellant is used.

c. Appellant's Rebuttal - A green light signals commencement of time; a red light comes on when the time expires. No yellow caution light is displayed for this argument.

15. Appeals Conference and Designation of Writing Judge. At the conclusion of each day's arguments the panel usually has a conference on the appeals heard that day. A tentative decision is usually reached, a tentative determination is made as to the kind of opinion necessary and the presiding judge, when in the majority, makes opinion writing assignments. Judges do not specialize. Writing assignments are made so as to equalize the workload of the entire session.

16. CD Recordings of Oral Arguments. Copies of the court's audio recordings of oral arguments are available for purchase on CD upon payment of the 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, payable to Clerk, U.S. Court of Appeals, Eleventh Circuit. CD recordings of oral arguments are available for oral arguments held after August 1, 2012. The court makes no representations about the quality of the CD recordings or about how quickly they will become available.

17. Posting of Oral Argument Recordings on the Website. Recordings of oral arguments held after April 1, 2017 are available on this court's website. Recordings are posted as soon as practicable after the date of argument. The court makes no representations about the quality of the posted recordings.



IOP 35 | EN BANC DETERMINATION

1. Time. Except as otherwise provided by FRAP 25(a) for inmate filings, a petition for rehearing en banc whether or not combined with a petition for rehearing is timely only if received by the clerk within the time specified in 11th Cir. R. 35-2.

2. Panel Has Control. A petition for rehearing en banc will also be treated as a petition for rehearing before the original panel. Although a copy of the petition for rehearing en banc is distributed to each panel judge and every active judge of the court, the filing of a petition for rehearing en banc does not take the appeal out of plenary control of the panel deciding the appeal. The panel may, on its own, grant rehearing by the panel and may do so without action by the full court. A petition for rehearing will not be treated as a petition for rehearing en banc.

3. Requesting a Poll. Within 30 days of the date that the clerk transmits the petition for rehearing en banc, any active Eleventh Circuit judge may advise the “notify judge” that in the event the panel declines to grant rehearing, the judge requests that a poll be taken regarding en banc consideration. The “notify judge” is the writing judge if that judge is a member of this court. If the writing judge is a visiting judge, the notify judge will be the senior active judge of this court on the panel or, if none, the senior non-active judge of this court on the panel. At the same time the judge shall notify the clerk to withhold the mandate, and the clerk will enter an order withholding the mandate.

If the panel, after such notice, concludes not to grant rehearing, the notify judge will inform the chief judge of that fact and that a request was made that a poll be taken regarding en banc consideration. After giving the other judges a reasonable time to respond to the poll request, the chief judge then polls the court by written ballot on whether rehearing en banc is to be granted.



4. No Poll Request. If after expiration of the specified time for requesting a poll, the notify judge has not received a poll request from any active member of the court, the panel, without further notice, may take such action as it deems appropriate on the petition for rehearing en banc. In its order disposing of the appeal or other matter and the petition, the panel must note that no poll was requested by any judge of the court in regular active service.

5. Requesting a Poll on Court's Own Motion. Any active Eleventh Circuit judge may request that the court be polled on whether rehearing en banc should be granted whether or not a petition for rehearing en banc has been filed by a party. This is ordinarily done by a letter from the requesting judge to the chief judge with copies to the other active and senior judges of the court and any other panel member. At the same time the judge shall notify the clerk to withhold the mandate, and the clerk will enter an order withholding the mandate. The identity of the judge will not be disclosed in the order.

6. Polling the Court. Upon request to poll, the chief judge will give the other judges a reasonable time to respond to the poll request and then conducts a poll. Each active judge receives a form ballot that is used to cast a vote. A copy of each judge's ballot is sent to all other active judges. The ballot form indicates whether the judge voting desires oral argument if en banc is granted.

7. Effect of Recusal or Disqualification on Number of Votes Required. A recused or disqualified judge is not counted in the base when calculating whether a majority of circuit judges in regular active service have voted to rehear an appeal en banc. If, for example, there are 12 circuit judges in regular active service on this court, and five of them are recused or disqualified in an appeal, rehearing en banc may be granted by affirmative vote of four judges (a majority of the seven non-recused and non-disqualified judges).

8. Negative Poll. If the vote on the poll is unfavorable to en banc consideration, the chief judge enters the appropriate order.



9. En Banc Rehearing Procedures Following Affirmative Poll.

a. Appeal Managers. When an appeal is voted to be reheard en banc, the chief judge shall designate as appeal managers a group of active judges of this court. The chief judge will ordinarily designate the judge who authored the panel opinion, the judge who requested that the court be polled regarding whether the appeal should be reheard en banc, and a judge who dissented from or specially concurred in the panel opinion, if they are active circuit judges of this court. The chief judge may, however, designate other active circuit judges as appeal managers.

b. Initial Notice to Counsel. The clerk meanwhile notifies counsel that rehearing en banc has been granted but that they should not prepare en banc briefs until they are advised of the issue(s) to be briefed and length limitations on briefs.

c. Notice of Issue(s) to be Briefed. The appeal managers prepare and circulate to the other members of the en banc court a proposed notice to the parties advising which issue(s) should be briefed to the en banc court, length limitations on briefs, and whether the appeal will be orally argued or submitted on briefs. The notice may also set the time limits for oral argument.

In appeals with multiple appellants or appellees, the notice may direct parties to file a single joint appellants' or appellees' en banc brief. In such cases the side directed to file a single joint brief may be allotted some extension of the length limitations that would otherwise apply to the brief. Members of the en banc court thereafter advise the appeal managers of any suggested changes in the proposed notice. Provided that no member of the en banc court objects, counsel may be advised that the en banc court will decide only specified issues, and after deciding them, remand other issues to the panel. Once the form of the notice has been approved by the court, the clerk issues the notice to counsel.

d. Oral Argument. Appeals to be reheard en banc will ordinarily be orally argued unless fewer than three of the judges of the en banc court determine that argument should be heard.



IOP 36 | ENTRY OF JUDGMENT; NOTICE

1. Motion to Amend, Correct, or Settle the Judgment. These motions are referred to the panel members.
2. Effect of Mandate on Precedential Value of Opinion. Under the law of this circuit, published opinions are binding precedent. The issuance or non-issuance of the mandate does not affect this result. See Martin v. Singletary, 965 F.2d 944, 945 n.1 (11th Cir. 1992). For information concerning the precedential value of opinions of the former Fifth Circuit, see Bonner v. City of Prichard, Alabama, 661 F.2d 1206 (11th Cir. 1981) (en banc) and Stein v. Reynolds Securities, Inc., 667 F.2d 33 (11th Cir. 1982).
3. Processing of Opinions. After the draft opinion has been prepared, the opinion writing judge circulates the proposed opinion to each of the other two judges on the panel. Review of another judge's proposed opinion is given high priority by the other members of the panel. When the writing judge has received concurrences from the other judges or in the case of dissent, or special concurrences, sufficient concurrence(s) to constitute a majority, the writing judge then sends the opinion to the clerk, along with the concurrences, dissent, or special concurrence, as the case may be.
4. Circulation of Opinions to Non-Panel Members. Copies of proposed opinions are not normally circulated to non-panel members. In special cases, however, a panel or member thereof may circulate a proposed opinion to other members of the court.
5. Publication of Opinions. The policy of the court is: The unlimited proliferation of published opinions is undesirable because it tends to impair the development of the cohesive body of law. To meet this serious problem it is declared to be the basic policy of this court to exercise imaginative and innovative resourcefulness in fashioning new methods to increase judicial efficiency and reduce the volume of published opinions. Judges of this court will exercise appropriate discipline to reduce the length of opinions by the use of those techniques which result in brevity without sacrifice of quality.



6. Unpublished Opinions. A majority of the panel determine whether an opinion should be published. Opinions that the panel believes to have no precedential value are not published. Although unpublished opinions may be cited as persuasive authority, they are not considered binding precedent. The court will not give the unpublished opinion of another circuit more weight than the decision is to be given in that circuit under its own rules. Parties may request publication of an unpublished opinion by filing a motion to that effect in compliance with FRAP 27 and the corresponding circuit rules.

7. Citation to Unpublished Opinions by the Court. The court generally does not cite to its “unpublished” opinions because they are not binding precedent. The court may cite to them where they are specifically relevant to determine whether the predicates for res judicata, collateral estoppel, or double jeopardy exist in the case, to ascertain the law of the case, or to establish the procedural history or facts of the case.

8. Release of Opinions. Prior to issuance of an opinion, information concerning the date a decision by the court may be expected is not available to counsel.

Opinions are generally released from the clerk’s office in Atlanta. Upon release of an opinion, a copy is mailed to counsel and made available to the press and public at the clerk’s office and at the circuit libraries. On request, the clerk will also notify counsel by telephone. Opinions are available on the Internet at www.call.uscourts.gov.

Opinions are subject to typographical and printing errors. Cooperation of the bar in calling apparent errors to the attention of the clerk’s office is solicited.

9. Citation to Internet Materials in an Opinion. When an opinion of the court includes a citation to materials available on a website, the writing judge will send a copy of the cited internet materials to the clerk for placement on the docket.

IOP 38 | FRIVOLOUS APPEAL – DAMAGES AND COSTS

Motions for Damages and Costs. Such motions shall not be contained in appellee's brief but shall be filed separately consistent with the requirements of FRAP 27 and the corresponding circuit rules. When the motion is filed in paper, an original and three copies must be filed.



IOP 39 | COSTS

1. Time - Extensions. Except as otherwise provided by FRAP 25(a) for inmate filings, a bill of costs is timely only if received by the clerk within 14 days of entry of judgment. Judgment is entered on the opinion filing date. The filing of a petition for rehearing or petition for rehearing en banc does not extend the time for filing a bill of costs. A motion to extend the time to file a bill of costs may be considered by the clerk.

2. Costs for or Against the United States. When costs are sought for or against the United States, the statutory or other authority relied upon for such an award must be set forth as an attachment to the Bill of Costs.

3. Reproduction of Statutes, Rules, and Regulations. Costs will be taxed for the reproduction of statutes, rules, and regulations in conformity with FRAP 28(f). Costs will not be taxed for the reproduction of papers not required or allowed to be filed pursuant to FRAP 28 and 30 and the corresponding circuit rules, even though the brief or appendix within which said papers are included was accepted for filing by the clerk.



IOP 40 | PETITION FOR PANEL REHEARING

1. Necessity for Filing. As indicated in 11th Cir. R. 35-3, it is not necessary to file a petition for rehearing or petition for rehearing en banc in the court of appeals as a prerequisite to the filing of a petition for writ of certiorari in the Supreme Court of the United States. Counsel are also reminded that the duty of counsel is fully discharged without filing a petition for rehearing en banc if the rigid standards of FRAP 35(a) are not met.

2. Petition for Panel Rehearing. A petition for rehearing is intended to bring to the attention of the panel claimed errors of fact or law in the opinion. It is not to be used for reargument of the issues previously presented or to attack the court's non-argument calendar procedures. Petitions for rehearing are reviewed by panel members only.

3. Time. Except as otherwise provided by FRAP 25(a) for inmate filings, a petition for rehearing is timely only if received by the clerk within the time specified in 11th Cir. R. 40-3.

4. Form of Petition for Panel Rehearing. The form of a petition for panel rehearing is governed by FRAP 32(c)(2).



IOP 41 | MANDATE: CONTENTS; ISSUANCE AND EFFECTIVE DATE; STAY

1. Stay of Mandate. A motion for stay of mandate is disposed of by a single judge. See 11th Cir. R. 27-1(d).
2. Return of Record. The original record and any exhibits are returned to the clerk of the district court or agency with the mandate.
3. Certified Records for Supreme Court of the United States. Pursuant to Rule 12.7 of the Rules of the Supreme Court of the United States, the clerks of the courts of appeals are deemed to be the custodial agents of the record pending consideration of a petition for a writ of certiorari. Therefore, the clerk's office does not prepare a certified record unless specifically requested to do so by the Clerk of the Supreme Court. If certiorari is granted, the Clerk of the Supreme Court will request the clerk of the court of appeals to certify and transmit the record. See Rule 16.2 of the Rules of the Supreme Court of the United States.



IOP 42 | VOLUNTARY DISMISSAL

Dismissal Rules Apply to Principal Briefs. The rules that provide for dismissal of an appeal for appellant's failure to file a brief by the due date, or to correct deficiencies in a brief within 14 days of notice, apply to appellant's or cross-appellant's principal (first) brief only, unless the court orders otherwise.



IOP 45 | CLERK'S DUTIES

1. Telephone Inquiries. The clerk's office welcomes telephone inquiries from counsel concerning rules and procedures. Counsel may contact the appropriate deputy clerk by calling the clerk's office. The clerk is also available to confer with counsel on special problems.

2. Emergency Telephone Inquiries After Hours. In emergency situations arising outside normal office hours, or on weekends, the deputy clerk on duty may be reached by dialing the clerk's office and following recorded instructions.

3. Miami Satellite Office. The clerk maintains a satellite office in Miami, Florida. See I.O.P. 5, Miami Satellite Office, following FRAP 25.



IOP 46 | ATTORNEYS

1. Admissions. There is no formal swearing-in ceremony.
2. Payment Returned or Denied for Insufficient Funds. When a payment of a fee is returned unpaid or denied by a financial institution due to insufficient funds, counsel must thereafter pay the fee by money order or cashier's check made payable to the same entity or account as the returned check or denied payment. In addition, counsel must also remit by separate money order or cashier's check the returned-or-denied-payment 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, payable to Clerk, U.S. Court of Appeals, Eleventh Circuit.
3. Components of Attorney Admission Fee. The attorney admission fee is composed of two separate fees. A national admission fee has been 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. This fee is remitted to the federal judiciary. A local admission fee has been prescribed by this court pursuant to FRAP 46(a)(3), and is posted on the court's website. This fee is deposited in the court's non-appropriated fund account to be used for the benefit of the bench and bar in the administration of justice.



IOP 47 | LOCAL RULES BY COURTS OF APPEALS

1. Physical Facilities. The headquarters of the United States Court of Appeals for the Eleventh Circuit is located at 56 Forsyth Street, N.W., Atlanta, Georgia 30303, in the Elbert P. Tuttle U.S. Court of Appeals Building. The courthouse contains three courtrooms, chambers for judges, the Kinnard Mediation Center, and the library. The John C. Godbold Federal Building, which contains the circuit executive's office, the clerk's office, and the office of the staff attorneys, is located at 96 Poplar Street, N.W., Atlanta, Georgia 30303, and is directly behind the Elbert P. Tuttle U.S. Court of Appeals Building.

2. Judges. The Eleventh Circuit has 12 authorized active judges. Each active judge's office, maintained in the place of residence, is authorized three law clerks and two secretaries or four law clerks and one secretary. The chief judge is authorized one additional law clerk or secretary. Several senior judges maintain offices and staffs commensurate with the judicial work they choose to do, and sit on oral argument panels several times during the year. Senior judges do not normally participate in the administrative work of the court, although they are authorized by law to do so.

3. Circuit Executive. The circuit executive is the chief administrative officer of the court. The circuit executive's office contains staff assistants and secretaries. See 28 U.S.C. §332.

4. Office of Staff Attorneys. The office is comprised of a senior staff attorney, staff attorneys, and supporting clerical personnel. This office assists the court in legal research, analysis of appellate records, and studies of particular legal problems. It also assists in handling pro se prisoner matters. In many cases the office prepares memoranda to assist the judges.

5. Library. The library is staffed by the circuit librarian and assistant librarians. Library hours are from 8:30 a.m. to 4:30 p.m., Monday through Friday.



All persons admitted to practice before the court are authorized to use the library. Under regulations approved by the court, others may use the library by special permission only. Books and materials may not be removed from the library without permission of the librarian.

6. Judicial Conference. Pursuant to 28 U.S.C. §333 there is held biennially, and may be held annually, at such time and place as designated by the chief judge of the court, a conference of all circuit, district and bankruptcy judges of the circuit for the purpose of considering the business of the courts and advising means of improving the administration of justice within the circuit. See Addendum One to the circuit rules.

7. Judicial Council. The judicial council established by 28 U.S.C. §332 is composed of nineteen members: one active judge from each of the nine district courts, nine active circuit judges, and the circuit chief judge. The judicial council meets on call of the chief judge approximately three times a year to consider and to make orders for the effective and expeditious administration of the courts within the circuit. The council is responsible for considering complaints against judges.

8. Fifth Circuit Court of Appeals Reorganization Act of 1980 (P.L. 96-452, October 4, 1980). Section 9 of the Fifth Circuit Court of Appeals Reorganization Act of 1980 determines appellate case processing after October 1, 1981, in terms of the "submitted for decision" date of each appeal.

The date an appeal assigned to the oral argument calendar is submitted for decision, is the date on which the initial argument of the appeal is heard. The date an appeal decided on the summary or non-argument calendar is submitted for decision, is the date on which the last panel judge concurs in summary or nonargument calendar disposition.



9. Recusal or Disqualification of Judges.

a. Grounds - A judge may recuse himself or herself under any circumstances considered sufficient to require such action. A judge is disqualified under circumstances set forth in 28 U.S.C. §455 or in accordance with Canon 3C, Code of Conduct for United States Judges as approved by the Judicial Conference of the United States, April 1973, as amended.

b. Administrative Motions Procedure -

(1) single judge matter - If a judge who is the initiating judge recuses himself or herself from considering or is disqualified to consider an administrative motion, the file is returned to the clerk who then sends it to the next initiating judge listed on the administrative routing log.

(2) panel matter - If a judge who is the initiating judge recuses himself or herself from considering or is disqualified to consider an administrative motion, the file is returned to the clerk for submission to the next available panel on the appropriate log.

c. Non-Argument Calendar Appeals - The same procedure is followed as in paragraph (b) (2) above.

d. Oral Argument Calendar Appeals - Prior to issuance of the court calendar, each judge on the panel is furnished with a copy for each appeal of the Certificate of Interested Persons and Corporate Disclosure Statement described in FRAP 26.1 and the accompanying circuit rules, for each judge's advance study to determine if the judge should recuse himself or herself or is disqualified in any of the appeals.

10. Complaints Against Judges. This court's rule for the conduct of complaint proceedings under 28 U.S.C. §§351-364 is outlined in Addendum Three.



11. Pro Se Applications. The clerk's office processes and answers prisoner and other pro se correspondence with the assistance of the staff attorneys' office. When a pro se petition is in the proper form for docketing and processing, it is routed to the staff attorneys' office. This office prepares legal memoranda for the court on such interlocutory matters as applications for leave to appeal in forma pauperis, certificates of appealability, and appointment of counsel, and on other pro se matters.

12. Statistics. The clerk periodically prepares statistical reports for the court and for the Administrative Office of the United States Courts. These reports are used to manage the internal affairs of the court and to provide information for purposes of determining personnel and equipment needs, the number of oral argument sessions to be scheduled, the workload of the judges and staff, and other management concerns. The reports are distributed to the judges and the circuit executive, and are discussed at judicial council meetings.



APPENDIX



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