

Notice of Amendments to the Federal Rules of Appellate Procedure effective December 1, 2016

Please take notice of the following amendments to the Federal Rules of Appellate Procedure, effective December 1, 2016:

New word count limitations - motions, responses, replies, petitions and answers:

Rule 5 – Appeal by Permission

- computer generated petition - 5,200 words
- handwritten or typewritten petition - 20 pages

Rule 21 – Writs of Mandamus, Prohibition and Other Extraordinary Writs

- computer generated - 7,800 words
- handwritten or typewritten - 30 pages

Rule 27 - Motions and Responses

- computer generated - 5,200 words
- handwritten or typewritten - 20 pages

Rule 27 – Replies

- computer generated – 2,600 words
- handwritten or typewritten - 10 pages

Rule 35 and 40 - Petitions for Rehearing

- computer generated – 3,900 words
- handwritten or typewritten – 15 pages

Certificate of Compliance

Rule 32(g) – A certificate of compliance that the document complies with the type-volume limitations is required for briefs, petitions, motions, and petitions for rehearing

Briefs

- Word Count reductions:

Rule 32 - Appeals

- Principal brief** - 13,000 words or 1,300 lines using monospaced type
- Responsive brief** - 13,000 words or 1,300 lines using monospaced type
- Reply brief** – 6,500 words or 650 lines using monospaced type
- Amicus brief** – 6,500 words or 650 lines using monospaced type

Rule 28.1 - Cross-Appeals

- Opening brief** - 13,000 words or 1,300 lines using monospaced type
- Responsive brief/Cross-appellant brief** - 15,300 words or 1,500 lines using monospaced type
- Cross-Appellee/Reply brief** – 13,000 words or 1,300 lines using monospaced type
- Cross-Appellant’s reply brief** – 6,500 words or 650 lines using monospaced type

Amicus brief in support of Appellant – 6,500 words or 650 lines using monospaced type

Amicus brief in support of Cross-appellant – 7,650 words or 750 lines using monospaced type

- Word Count exclusions:

- * cover page
- * corporate disclosure statement
- * table of contents
- * table of citations
- * statement regarding oral argument
- * addendum
- * certificates of counsel
- * signature block
- * proof of service.

- Certificate of Compliance – See new Form 6

- Allowable Page Limitations have not changed.

- * Principal Briefs (30 pages)
- * Reply Briefs (15 pages)
- * Appellee/Cross-Appellant Briefs (35 pages)
- * Amicus (15 pages).

No certificate of compliance is required.

Calculation of Due Dates after Service

Rule 26(c) – For deadlines running from the date of service, three days are no longer added if the document was served electronically. This rule applies to briefs and motions served electronically. The time for filing a response or reply is shortened.

The 3-Day rule continues to apply if the document was served by mail.

Amicus Briefs in support of Petition for Rehearing – panel or en banc.

- Rule 29(b)

- Brief in support of petition for rehearing limited to 2,600 words
- Due no later than 7 days after the petition for rehearing is filed.
- If response to rehearing petition is requested – amicus brief in support is due when response is due.
- If party to which amicus is sought to support is granted permission to file an overlength brief, the extension does not apply to the amicus brief. Rule 29(a)(5).

Rule 4(a)(4) – Effect of time to file notice of appeal

- * if timely filed post-judgment motion is filed – the motion must be within the time allowed by the rules.

New Form 7 - Declaration of Inmate Filing

New Appendix listing Length Limits in Rules – See attached.