

28-2.7. Addendum to Briefs

Statutory. Pertinent constitutional provisions, treaties, statutes, ordinances, regulations or rules must be set forth verbatim and with appropriate citation either (1) following the statement of issues presented for review or (2) in an addendum introduced by a table of contents and bound with the brief or separately; in the latter case, a statement must appear referencing the addendum after the statement of issues. If this material is included in an addendum bound with the brief, the addendum must be separated from the body of the brief (and from any other addendum) by a distinctively colored page. A party need not resubmit material included with a previous brief or addendum; if it is not repeated, a statement must appear under this heading as follows: [e]xcept for the following, all applicable statutes, etc., are contained in the brief or addendum of _____. (Rev. 12/1/09)

Orders Challenged in Immigration Cases. All opening briefs filed in counseled petitions for review of immigration cases must include an addendum comprised of the orders being challenged, including any orders of the immigration court and Board of Immigration Appeals. The addendum shall be bound with the brief, both when it is filed electronically and, when ordered, in hard copies. When paper copies of the brief are ordered, the addendum shall be~~but~~ separated from the brief by a distinctively colored page. (New 7/1/07; Rev. 12/1/09; Rev. 12/1/21)

Advisory Committee Note to Circuit Rule 28-2.7: The purpose of the statutory addendum is to provide the Court with convenient access to statutory or other authority that is either specifically at issue or is not already commonly known, not to provide every statute or legal authority that is cited in the brief. For example, when the parties are debating the meaning of a specific clause or portion of a statute, regulation, constitutional provision, or other legal authority, or when they are discussing authority that is not commonly cited, the addenda should include the pertinent provisions of that legal authority.

Circuit Rule 35-4(a)

(a) Format/Length of Petition and ~~Answer~~Response

The format and length of a petition for rehearing en banc and any ~~answer~~response shall be governed by Circuit Rule 40-1(a).

The petition or ~~answer~~response must be accompanied by the completed certificate of compliance found at [Form 11](#). (*New 7/1/00; Rev. 12/1/21*)

Circuit Rule 40-1(a):

(a) Format/Length of Petition and ~~Answer~~Response

The format of a petition for panel rehearing or rehearing en banc and any ~~answer~~response is governed by FRAP 32(c)(2). The petition may not exceed 15 pages unless it complies with the alternative length limitation of 4,200 words. ~~An answer~~A response, when ordered by the Court, must comply with the same length limits as the petition.

If an unrepresented litigant elects to file a form brief pursuant to Circuit Rule 28-1, a petition for panel rehearing or for rehearing en banc need not comply with FRAP 32.

The petition or ~~answer~~response must be accompanied by the completed certificate of compliance found at [Form 11](#). (*New 7/1/00; Rev. 12/1/16; Rev. 12/1/21*)

Circuit Rule 27-10(b):

(b) Court Processing

Motions Panel Orders: A timely motion for clarification, modification, or reconsideration of an order issued by a motions panel shall be decided by that panel. If the case subsequently has been assigned to a merits panel, the motions panel shall contact the merits panel before disposing of the motion. A party may file only one motion for clarification, modification, or reconsideration of a motions panel order. No ~~answer~~response to a motion for clarification, modification, or reconsideration of a motions panel's order is permitted unless requested by the Court, but ordinarily the Court will not grant such a motion without requesting ~~an answer~~a response and, if warranted, a reply. The rule applies to any motion seeking clarification, modification, or reconsideration of a motions panel order, either by the motions panel or by the Court sitting en banc. (*New 1/1/04; Rev. 12/1/09; Rev. 7/1/16; Rev. 12/1/21*)