

Circuit Rule Revisions 2025

Circuit Rule 21-3. ~~Certificate of Interested Parties~~ Disclosure Statement

Petitions for writs of mandamus or prohibition, and for other extraordinary writs, ~~are subject to the~~shall include the corporate disclosure statement requirements of ~~d~~ by FRAP 26.1 and Circuit Rule 26.1-1 (disclosure statements) and of the statement of related cases required by Circuit Rule 28-2.6 (statement of related cases). Disclosure statements should not be included in the petition itself, but should instead follow the form and timing and contents requirements set forth in Circuit Rule 26.1-1(a) and (b).

Circuit Rule 22-1. Certificate of Appealability (COA)

(a) General Procedures. Appeals from the district court's denial of relief in either a 28 U.S.C. § 2254 or a § 2255 proceeding are governed by the procedures set forth in FRAP 4 and 22(b). A request for a certificate of appealability ("COA") must first be considered by the district court. If the district court grants a COA, that court shall state which issue or issues satisfy the standard set forth in 28 U.S.C. § 2253(c)(2). The court of appeals will not act on a request for a COA if the district court has not ruled first. (*Rev. 1/1/04; 12/1/09; 12/1/18*)

(d) Denial in Full by District Court. If the district court denies a COA as to all issues, appellant may file a request for a COA that complies with Circuit Rule 27-1 in the court of appeals within 35 days of the filing of a notice of appeal or amended notice of appeal, or the district court's denial of a COA in full, whichever is later. The notice of appeal must be timely filed pursuant to 28 U.S.C. § 2107 and FRAP 4(a), regardless of whether appellant files a request for COA. If appellant does not file a COA request with the court of appeals after the district court denies a COA in full, the court of appeals will deem the notice of appeal to constitute a request for a COA. (*Rev. 1/1/04; 12/1/09; 12/1/18*)

Cross Reference: (*New 1/1/04; Rev. 12/1/09*)

- FRAP 27. Motions on page 91

- Circuit Rule 11-4. Retention of Physical Exhibits in the District Court, Transmittal of Clerk's Record on Request on page 41, specifically, 11-4.2. Retention of Physical Exhibits in the District Court on page 41
- Circuit Rule 27-1. Filing of Motions on page 93
- FRAP 32. Form of Briefs, Appendices, and Other Papers on page 134, specifically, FRAP 32(a)(5)(6)(7)

Circuit Rule 27-1. Filing of Motions

(1) Form and Length of Motions

- (a) *[Abrogated 7/1/06]*
- (b) If electronic filing of the motion, response or reply is not required, the Court requires an original of that filing. The Clerk may direct a party to submit additional paper copies of a motion, response and/or reply when paper copies would aid the Court's review of the motion. (Rev. 7/1/02; 12/1/09)
- (c) The provisions of FRAP 27(d)(1) otherwise govern the format of motions. (New 1/1/06)
- (d) Except by permission of the Court, a motion or a response to a motion may not exceed 20 pages. A reply to a response may not exceed 10 pages. The documents listed at FRAP 27(a)(2)(B) and 32(f) are excluded from the length limit calculation. (New 12/1/16)

Circuit Advisory Committee Note to Rule 27-1

When filing lengthy motions or responses to motions (more than 10 pages or 2500 words), it is helpful to the Court and opposing parties if the filer includes a table of contents and a table of authorities. Those tables will not be included in the word count limits applicable to motions.

Circuit Rule 27-10. Motions for Reconsideration

(a) Filing for Reconsideration

(1) Time limit for orders that terminate the case

A party seeking further consideration of an order that disposes of the entire case on the merits, terminates a case, or otherwise concludes the proceedings in this Court must comply with the time limits of FRAP 40(~~da~~)(1). (Rev. 7/1/16; 12/1/25)

(2) Time limit for all other orders

Unless the time is shortened or expanded by order of this Court, a motion for clarification, modification, or reconsideration (including any request for en banc rehearing or reconsideration) of a court order that does not dispose of the entire case on the merits, terminate a case or otherwise conclude proceedings in this Court must be filed within 14 days after entry of the order. (Rev. 12/1/09; Rev. 7/1/16; Rev. 12/1/25)

(3) Required showing

A party seeking relief under this rule shall state with particularity the points of law or fact which, in the opinion of the movant, the Court has overlooked or misunderstood. Changes in legal or factual circumstances which may entitle the movant to relief also shall be stated with particularity.

CIRCUIT ADVISORY COMMITTEE NOTE TO RULE 40-1

A petition for rehearing or rehearing en banc of a non-dispositive order must be filed within the time limits set forth in Circuit Rule 27-10(a)(2).

Litigants are reminded that a petition for panel rehearing and/or rehearing en banc must be received by the Clerk in San Francisco on the due date. See FRAP 25(a)(1) and (2)(A) and Circuit Rule 25-2; see also United States v. James, 146 F.3d 1183 (9th Cir. 1998). (Rev. 12/1/02; 12/1/09; 1/1/12; 12/1/24; 12/1/25)

Circuit Rule 27-13. Sealed Documents

Introduction

This Court has a strong presumption in favor of public access to documents. Therefore, except as provided in (d) below, the presumption is that every document filed in or by this Court (whether or not the document was sealed in the district court) is in the public record unless this Court orders it to be sealed.

Accordingly, unless a case or document falls within the scope of (d) below, this Court will permit it to be filed under seal only if justified by a motion to seal the document from public view. *See* (e), (f), (g), and (h) below. The Court will not seal a case or a document based solely on the stipulation of the parties.

When an entire case was sealed in district court, the case will be docketed provisionally under seal in this Court, and within 21 days of filing the notice of appeal, a party must file a motion to continue the seal or the seal may be lifted without notice. *See* (g) below. When a document was sealed in the district court, the document will be filed provisionally under seal, and must be accompanied by a notice under subsection (d), a motion to seal under subsection (e), or a notice under subsection (f). The document will remain provisionally sealed until the Court rules on any motion to seal.

Documents in Social Security and Immigration cases, including administrative records, are not filed under seal in this Court. However, remote electronic access to documents is limited by rule to the parties to the case, though the documents will be available for public viewing in the Clerk's Office. *See* Fed. R. Civ. P. 5.2(c); Fed. R. App. P. 25(a)(5). This same rule, however, presumes that the orders and dispositions will be publicly available.

Definitions

- (1) **Sealed Document:** Access to a document sealed by the Court is restricted to the Court once submitted. The filer must serve the motion or notice and the sealed document on all parties separately in accordance with Circuit Rule 27-13(c). There is no public access via PACER, even for parties and counsel of record. Once submitted, access to the document is restricted to the Court.
- (2) **Ex Parte Document:** Access to a document filed ex parte is restricted to the Court once submitted. The filer must serve the motion on all parties separately pursuant to Circuit Rule 27-13(c), but is not required to serve the

ex parte document on other parties. There is no public access via PACER, even for parties and counsel of record.

(32) Sealed Case: ~~There is no public access via PACER.~~ Access to the docket and all documents filed in the case is restricted to case participants and the Court. There is no public access via PACER except for parties and counsel of record.

Form of Documents

All documents shall be submitted electronically unless the filer is exempt from the electronic filing requirement. Each document or volume of documents submitted under seal shall include the words “UNDER SEAL” on its cover and/or first page. Any publicly filed redacted version of a sealed document shall include the word “REDACTED” on the cover and/or first page of the document.

Because documents submitted under seal will not be viewable to the parties via the Appellate Electronic Filing System noticing, any notice or motion submitted under seal and any document associated with such notice or motion shall be served on opposing counsel in paper form or, with consent, via email. *See* Circuit Rule 25-5(f)(2).

Rather than moving to file the entire excerpts of record under seal, a party shall submit any document(s) it wishes to seal as a separate volume. *See* Circuit Rule 30-1.4(d).

Presentence Reports, Grand Jury Transcripts, and Sealed Filings Mandated by Statute or Procedural Rule

When a statute or procedural rule requires that a brief or other document be filed under seal (*see, e.g.,* 18 U.S.C. § 5038(c), 3509(d); Fed. R. Crim. P. 6(e)), or when a party is filing an original, revised, or amended presentence report, its attachments, and any confidential sentencing memoranda, a motion under subsection (e) is not required.

Instead, the document(s) shall be submitted under seal in accordance with subsection (c), and accompanied by a notice of filing under seal that references this rule and the pertinent statute or procedural rule. Except for presentence reports and related filings submitted with those reports as described below, any notice of sealing based on a statute or procedural rule must be accompanied by a copy of the referenced statute or procedural rule.

In cases in which any presentence report is referenced in the brief, the party first filing that brief must file under seal the presentence report, the documents attached to the report, and any sentencing memoranda filed under

seal in the district court. The report and documents shall be filed on the same day as the brief that references the report and documents, using the presentence report electronic document filing type, without an accompanying notice of filing under seal. These documents shall not be included in the excerpts of record. The party submitting the presentence report and related sealed memoranda shall separately notify the opposing party by email (or first class mail if the opposing party is exempt from electronic filing) of the specific documents submitted, and shall provide a copy upon request.

. . .

Motion or Notice to Maintain a Case Under Seal

A party who wants a case that was fully sealed in the district court to remain fully sealed on appeal shall file a motion to continue the seal within 21 days of the filing of the notice of appeal. The motion must explain with specificity why it is necessary for the entire case to be sealed on appeal and why no less restrictive alternatives are available.

When the seal is required by statute or procedural rule, a motion is not required; instead, a party must file a notice that references this rule and the pertinent statute or rule within 21 days of the filing of the notice of appeal. Such notice of sealing must be accompanied by a copy of the referenced statute or procedural rule.

Absent a motion or notice, the seal may be lifted without notice and the case in full will be made available to the public.

Circuit Rule 28-1. Briefs, Applicable Rules

- (a) Briefs shall be prepared and filed in accordance with the Federal Rules of Appellate Procedure except as otherwise provided by these rules. *See* FRAP 28, 29, 31 and 32. All briefs submitted by counsel, including supplemental briefs, must contain a table of contents and a table of authorities pursuant to FRAP 28, unless the Court directs or permits the brief to be in letter format. Briefs not complying with FRAP and these rules may be stricken by the Court. *(Rev. 12/1/24)*
- (b) Parties must not append or incorporate by reference briefs submitted to the district court or agency or this Court in a prior appeal, or refer this Court to such briefs for the arguments on the merits of the appeal. *(New Rule 7/1/00)*
- (c) Unless otherwise required by Circuit Rule 26.1-1, the brief should not include a disclosure statement pursuant to FRAP 28(a).
- (d) Appellants proceeding without assistance of counsel may file the informal form briefs provided by the Clerk in lieu of the briefs described in FRAP 28(a) and (c), and need not comply with the technical requirements of FRAP. *(Rev. 1/96; 12/1/19)*

CIRCUIT RULES 29-1 to 29-3

Circuit Rule 29-1. ~~Reply Brief of an Amicus Curiae~~ Amicus Briefs in Connection with Principal Briefing

~~No reply brief of an amicus curiae will be permitted.~~

- (a) **When Permitted.** The filing of an amicus brief during principal briefing is governed by FRAP 29(a).
- (b) **Disclosure Requirement.** Pursuant to Circuit Rule 26.1-1, amicus briefs must be accompanied by a completed Form 34 Disclosure Statement. *(New 12/1/25)*

Circuit Advisory Committee Note to Rule 29-1

The filing of multiple amici curiae briefs raising the same points in support of one party is disfavored. Prospective amici are encouraged to file a joint brief. ~~Movants~~ Prospective amici are reminded that the Court will review the amicus curiae brief in conjunction with the briefs submitted by the parties, so that amici briefs should not repeat arguments or factual statements made by the parties.

~~Amici who wish to join in the arguments or factual statements of a party or other amici are encouraged to file and serve on all parties a short letter so stating in lieu of a brief. If the letter is not required to be filed electronically, the letter shall be provided in an original. (Rev. 7/94; 12/1/09) (Rev. 12/1/25)~~

Circuit Rule 29-2. ~~Brief of an Amicus Curiae Submitted to Support or Oppose a Petition for~~ Briefs in Connection with the Panel or En Banc Rehearing ~~Processor During the Pendency of Rehearing~~

- (a) **When Permitted.** An amicus curiae may be permitted to file a brief when the Court is considering a petition for panel or en banc rehearing or when the Court has granted rehearing. The United States or its officer or agency, or a State, Territory, Commonwealth, or the District of Columbia, or their officers or agencies, may file an amicus curiae brief without ~~the consent of the parties or~~ leave of court. Subject to the provisions of subsection (f) of this rule, Any other amicus curiae may file a brief only by leave of court ~~or if the brief states that all parties have consented to its filing. The Court may reject the filing of or may strike an amicus brief that would result in a judge's disqualification. (Rev. 12/1/25)~~
- (b) **Motion for Leave to File.** The motion must be accompanied by the proposed brief and include the recitals set forth at FRAP 29(a)(3) ~~and Circuit Rule 29-3. (Rev. 12/1/25)~~
- (c) **Format/Length.**
 - (1) A brief submitted while a petition for rehearing is pending shall be styled as an amicus curiae brief in support of or in opposition to the petition for rehearing or as not supporting either party. A brief submitted during the pendency of panel or

en banc rehearing shall be styled as an amicus curiae brief in support of appellant or appellee or as not supporting either party.

- (2) A brief submitted while a petition for rehearing is pending may not exceed 15 pages unless it complies with the alternative length limit of 4,200 words. Motions for leave to file a longer brief are strongly disfavored. *(Rev. 12/1/16)*

(3) Unless otherwise ordered by the Court, a brief submitted after the Court has voted to rehear a case ~~en-banc~~ may not exceed 25 pages unless it complies with the alternative length limit of 7,000 words. Motions for leave to file a longer brief are strongly disfavored. *(Rev. 7/1/16;12/1/16)*

~~(3)~~(4) Pursuant to Circuit Rule 26.1-1, amicus briefs must be accompanied by a completed Form 34 Disclosure Statement. *(New 12/1/25)*

(d) Number of Copies.

- (1) If a petition for rehearing en banc has been granted and the brief is not required to be submitted electronically, an original and 18 copies of the brief shall be submitted.
- (2) For all other briefs described by this rule that are not required to be submitted electronically, an original shall be submitted.

The Clerk may order the submission of paper copies or additional copies of any brief filed pursuant to this rule. *(Rev. 12/1/09; 12/1/19)*

(e) Time for Filing.

- (1) **Brief Submitted to Support or Oppose a Petition for Rehearing.** An amicus curiae must serve its brief along with any necessary motion no later than 10 days after the petition or response of the party the amicus wishes to support is filed or is due. An amicus brief that does not support either party must be served along with any necessary motion no later than 10 days after the petition is filed. Motions for extensions of time to file an amicus curiae brief submitted under this rule are disfavored. *(Rev. 12/1/09)*
- (2) **Briefs Submitted During the Pendency of Rehearing.** Unless the Court orders otherwise, an amicus curiae supporting the position of the petitioning party or not supporting either party must serve its brief, along with any necessary motion, no later than 21 days after the petition for rehearing is granted. Unless the Court orders otherwise, an amicus curiae supporting the position of the responding party must serve its brief, along with any necessary motion, no later than 35 days after the petition for panel or en banc rehearing is granted. Motions for extensions of time to file an amicus curiae brief submitted under this rule are disfavored. *(Rev. 12/1/09)*

- (f) **Circulation.** Motions for leave to file an amicus curiae brief to support or oppose a petition for panel rehearing are circulated to the panel. Motions for leave to file an amicus

curiae brief to support or oppose a petition for en banc rehearing are circulated to all members of the Court. Motions for leave to file an amicus curiae brief during the pendency of en banc rehearing are circulated to the en banc court. (New 7/1/07)

Circuit Advisory Committee Note to Rule 29-2

Circuit Rule 29-2 only concerns amicus curiae briefs submitted to support or oppose a petition for panel or en banc rehearing and amicus curiae briefs submitted during the pendency of rehearing. The Court considers the filing of amicus curiae briefs related to petitions for rehearing or en banc review to be appropriate only when the post-disposition deliberations involve novel or particularly complex issues. Amicus briefs filed to support or oppose a rehearing petition should not be re-filed if rehearing is granted.

FRAP 29(b) and Circuit Rule 29-2 permits the timely filing of a non-government entity's amicus curiae brief at this stage only with leave of the Court - the filing of such briefs by consent of the parties is not permitted. Circuit Rule 29-2 also permits such a filing with the consent of all parties, as permitted in FRAP 29(a) for merits briefing. Obtaining such consent relieves the Court of the need to consider a motion. (Rev. 6/1/19; 12/1/25)

The Court will ordinarily deny motions and disallow stipulations for leave to file an amicus curiae brief where the filing of the brief would result in the recusal of a member of the en banc court. Any member of the Court who would be subject to disqualification in light of the amicus curiae brief may, of course, voluntarily recuse, thereby allowing the filing of the amicus curiae brief. (New 7/1/07)

Circuit Rule 29-3. ~~Motions for Leave to File Amicus Curiae Briefs~~ Reply Brief of Amicus Curiae

~~A motion for leave to file an amicus brief shall state that movant endeavored to obtain the consent of all parties to the filing of the brief before moving the Court for permission to file the proposed brief.~~ No reply brief of an amicus curiae is permitted under these rules. (Moved from 29-1 12/1/25)

Circuit Advisory Committee Note to Rule 29-3

~~FRAP 29(a) and Circuit Rule 29-2(a) permit the timely filing of an amicus curiae brief without leave of the Court if all parties consent to the filing of the brief; obtaining such consent relieves the Court of the need to consider a motion. (New 1/1/12; Rev. 12/1/22)~~

Pro Se Briefs and Excerpts of Record – Eliminate Paper Copies

Circuit Rule 30-1.2. Requirements

- a) The appellant or petitioner shall submit Excerpts of Record when submitting the opening brief unless the filer is exempt pursuant to Circuit Rule 30-1.3.
- b) The appellee or respondent shall submit Supplemental Excerpts of Record when submitting the answering brief only if the brief refers to documents or portions of documents not included in the initial Excerpts, or if no Excerpts of Record were filed because the appellant or petitioner is exempt pursuant to Circuit Rule 30-1.3.
- c) A non-exempt appellant or petitioner shall submit Further Excerpts of Record when submitting the reply brief only if the brief refers to documents or portions of documents not included in the Excerpts or Supplemental Excerpts.
- d) Any non-exempt party shall submit Supplemental Excerpts of Record when submitting a supplemental brief only if the brief refers to documents or portions of documents not included in any previously filed Excerpts.
- e) All excerpts shall be separate from the brief and submitted electronically at the same time as the brief unless the filing party is exempt from the electronic-filing requirement.
- f) On the same day the excerpts are submitted electronically, the filing party shall serve 1 paper copy of the excerpts on any other party that is not registered for electronic filing, but shall defer submission of paper copies of the excerpts to the Court until directed by the Clerk to do so.
- g) If the filing party is exempt from the electronic-filing requirement, the filing party shall file ~~3 paper copies~~ an original paper copy of the excerpts at the time the brief is submitted, bound separately from the brief, and serve 1 paper copy on each of the other parties. No additional paper copies should be submitted unless requested by the Court.
- h) Should the Court consider a case en banc, the Clerk will require counsel to submit additional paper copies of the excerpts.
- i) In any petition for review challenging an order of removal in an immigration case, neither party need file Excerpts of Record.

Clarification of Binding of Excerpts of Record

30-1.5. Index and Format

- | (e) The paper copies of ~~each~~ volumes, including the Index Volume and any separate reporter's transcript volumes, shall be bound securely on the left. Paper copies shall be printed on letter-sized light-colored paper with black ink or colored ink where appropriate and the caption pages shall be white. Paper copies of any excerpts may be printed on both sides of the paper, but only if the method of binding allows each volume to lie completely flat when open, such as comb, spiral, coil, or wire binding, and the weight of the paper is sufficient to prevent bleeding through when marked on one side in ink or highlighter.

Circuit Rule 31-1. Number of Briefs

Parties submitting a brief electronically shall defer submission of paper copies of the brief until directed by the Clerk to do so, but must serve any unregistered party or exempt counsel with 1 paper copy of the brief on the day that the brief is submitted electronically. Any unregistered party or exempt counsel shall file an original paper copy and 6 copies of each brief. No additional copies should be submitted unless requested by the Court. If a petition for hearing or rehearing en banc is granted, each party shall file 18 additional copies of its briefs and 10 additional copies of its excerpts of record. *(Rev. 12/1/09; 12/1/19)*

Circuit Advisory Committee Note to Rule 32-1

Rule 32(d) requires that all filings be signed. If the party does not have an attorney, the party should sign each filing. If the party has an attorney, the attorney should sign each filing. The rules do not directly regulate the process by which a party or an attorney produces the filing—the process could include writing it personally with no assistance, delegating part of its preparation to a subordinate, or employing generative artificial intelligence. Regardless of how the filing is prepared, the signature is an attestation that the signer has reviewed the filing and is responsible for its contents. Parties and attorneys should therefore be careful to ensure the reliability of any filing.

Demonstrative visual images should not be used to replace quotations from the record, but rather only for illustrative purposes. Parties should paraphrase the text from the image in the preceding or subsequent sentence to explain its relevance to the legal issues before the court.

Some images, such as screenshots of handwritten notes or transcript excerpts, or tables used to convey information, are intended to be read by the court. In such cases, the words in the image must be counted and added to the certificate of compliance. Because FRAP 32's font size and formatting rules are essential to readability, and because those rules do not apply to visual images, screenshots of text should be used sparingly, and screenshots of lengthy excerpts of text are strongly disfavored and may cause a brief to be rejected by the Clerk.

In other cases, a visual image is intended to show the court that something exists, or what something looks like, and any words in the picture or screenshot are incidental and need not be counted. For example, where a brief includes a photograph of an intersection that has a stop sign, the word "stop" need not be added to the brief's word count.

Finally, some visual images fall somewhere in between. For example, with respect to a screenshot of a judgment of conviction included to resolve a dispute about which controlled substance was at issue, the pertinent words identifying the controlled substance must be counted, but other incidental words in the judgment need not be counted. (New 12/1/22)

Circuit Rule 36-2. Criteria for Publication

A written, reasoned disposition shall be designated as an OPINION if it:

- a) Establishes, alters, modifies or clarifies a rule of federal law, or
- b) Calls attention to a rule of law that appears to have been generally overlooked, or
- c) Criticizes existing law, or
- d) Involves a legal or factual issue of unique interest or substantial public importance, or
- e) Is a disposition of a case in which there is a published opinion by a lower court or administrative agency, unless the panel determines that publication is unnecessary for clarifying the panel's disposition of the case, or

~~Is a disposition of a case following a reversal or remand by the United States Supreme Court, or~~

- f) Is accompanied by a separate concurring or dissenting expression, and the author of such separate expression requests publication of the disposition of the Court and the separate expression.