

Suspended April 12, 2012

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

NOTICE OF PROPOSED AMENDMENTS TO LOCAL RULES 22(d), 25(a), 25(b), 25(c), 30(b), 31(c) & 32(b) ADMINISTRATIVE ORDER 08-01 SUPERSEDED

PLEASE TAKE NOTICE that the Court intends to amend Local Rules 22(d), 25(a), 25(b), 25(c), 30(b), 31(c) & 32(b), with the amended local rules superseding Administrative Order 08-01. Proposed changes are summarized below:

Local Rule 22(d). Motions for Authorization: The requirement for additional copies is removed.

Local Rule 25(a). Electronic Case Filing System: The electronic filing provisions of Administrative Order 08-01 are moved to Local Rule 25(a), and the following substantive changes are made:

- Three copies of new case filings, such as petitions for review or petitions for permission to appeal, are no longer required. The original can be uploaded electronically using “Submit New Case” in the CM/ECF Utilities menu, or one paper copy may be filed in the clerk’s office. Conventional service is required under both options.
- In addition to the usual number of copies of the paper appendix, counsel must electronically file either:
 - (i) the full appendix or
 - (ii) an appendix excerpt. If an excerpt is filed rather than the full electronic appendix, counsel must include parallel citations to the paper appendix and the docket entry and page number of the electronic record for all record references contained in the brief.

Local Rule 25(b). Use of Facsimile Equipment, Service, Certificate of Service: Changes are made to conform with Local Rule 25(a).

Local Rule 25(c). Sealed and Confidential Material:

- A requirement is added to place copies of presentence reports of co-defendants in separate, sealed volumes for service only on counsel for the United States and for the defendant who is the subject of the report.
- Filing and service requirements for sealed appendices and briefs are cross-referenced to Local Rules 30(b)(4) and 31(d).
- Information on remote electronic access in immigration and social security cases is added.

Local Rule 30(b). Appendix Contents; Number of Copies: A requirement is added to place copies of presentence reports of co-defendants in separate, sealed volumes for service only on counsel for the United States and for the defendant who is the subject of the report. Information regarding the electronic appendix is added.

Local Rule 31(c). Briefing Extensions: Redundant information regarding filing and service is removed.

Local Rule 32(b). Length of Briefs: Reference is added to the 100 additional words allowed for opening and response briefs that contain parallel citations to the paper appendix and electronic record.

Administrative Order 08-01, Case Management/Electronic Case Filing System: The provisions of Administrative Order 08-01 having been moved to Local Rules 25(a) & (c), Administrative Order 08-01 is superseded.

The proposed amendments will take effect on April 16, 2012. Interested parties may submit comments on or before April 6, 2012, to:

Patricia S. Connor, Clerk
U.S. Court of Appeals for the Fourth Circuit
1100 E. Main Street, Suite 501
Richmond, Virginia 23219

February 6, 2012
Date

/s/ Patricia S. Connor
Clerk

Local Rule 22(d). Motions for Authorization.

Any individual seeking to file in the district court a second or successive application for relief pursuant to 28 U.S.C. § 2254 or § 2255 shall first file a motion with the Court of Appeals for authorization as required by 28 U.S.C. § 2244, on the form provided by the clerk for such motions. The motion shall be entitled "In re _____, Movant." The motion must be accompanied by copies of the § 2254 or § 2255 application which movant seeks authorization to file in the district court, as well as all prior § 2254 or § 2255 applications challenging the same conviction and sentence, all court opinions and orders disposing of those applications, and all magistrate judge's reports and recommendations issued on those applications. The movant shall serve a copy of the motion with attachments on the respondent named in the proposed application and shall file **an the original and three copies of the** motion with attachments in the Court of Appeals. Failure to provide the requisite information and attachments may result in denial of the motion for authorization.

If the Court requires a response to the motion, it will direct that the response be received by the clerk for filing within no more than seven days. The Court will enter an order granting or denying authorization within 30 days of ~~receipt of the motion by the clerk for~~ filing of the motion, and the clerk will ~~certify~~ transmit a copy of the order to the district court. If authorization is granted, a copy of the application will be attached to the ~~certified~~ order for filing in the district court. No motion or request for reconsideration, petition for rehearing, or any other paper seeking review of the granting or denial of authorization will be allowed.

Local Rule 25(a). Electronic Case Filing System.

~~As authorized by FRAP 25(a)(2)(D) & (c)(2), the Court has established procedures requiring electronic filing of documents, with certain exceptions, and authorizing electronic service of documents using the Court's transmission equipment, as set forth in Administrative Order 08-01.~~

With the exception of administrative matters, all cases filed in the Court are assigned to the Court's Case Management/Electronic Case Filing System (CM/ECF).

(1) Scope of Electronic Filing. Unless granted an exception for good cause or unless filing only a motion to withdraw from representation, counsel must file all documents in accordance with the requirements of this rule. Pro se litigants are not required to file documents electronically but may be authorized to file electronically in a pending case upon motion and compliance with the Court's CM/ECF registration requirements. Documents filed electronically must be filed in Portable Document Format (PDF). Text-searchable format is required for briefs and preferred for all documents. Except as provided below or ordered by the Court, paper copies of electronic documents are not required.

(A) New Cases. New petitions for review, applications for enforcement, petitions for permission to appeal, petitions for mandamus or prohibition, and motions to authorize successive post-conviction applications must be filed using one of the following options:

(i) Submit New Case through CM/ECF Utilities: File petition in electronic form by selecting "Submit New Case" under CM/ECF Utilities and uploading the petition as a new case. Paper copies are not required, but the petition must be served conventionally, outside the CM/ECF system. The petition is deemed filed as of the date the electronic document was received by the clerk's office.

or

(ii) **File in Paper Form:** File the original petition in paper form and serve the petition conventionally, outside the CM/ECF system. The petition is filed as of the date the paper document was received in the clerk's office. Additional copies are not required.

(B) **Briefs.** Formal briefs must be filed and served electronically. In addition, counsel must file the paper copies required by Local Rule 31(d). The brief is deemed filed as of the date and time stated on the notice of docket activity for the electronic brief, provided that paper copies are mailed, dispatched to a third-party commercial carrier, or delivered to the clerk's office on the next business day. Service of the paper brief is not required if the brief was served electronically on counsel and on any party not represented by counsel.

(C) **Appendices.** Electronic filing of either the full appendix or an appendix excerpt is required in accordance with option (i) or (ii) below. In addition, counsel must file the paper copies required by Local Rule 30(b)(4). The appendix is deemed filed as of the date and time stated on the notice of docket activity for the electronic filing of the appendix or appendix excerpt, provided that paper copies of the appendix are mailed, dispatched to a third-party commercial carrier, or delivered to the clerk's office on the next business day. Service of the paper appendix is not required if a full electronic appendix under option (i) was served on counsel and on any party not represented by counsel. Service of the paper appendix is required if an electronic appendix excerpt is used under option (ii).

Option (i): File the full appendix in electronic form, separately filing any sealed documents as a sealed appendix.

Option (ii): File an appendix excerpt in electronic form, that begins with a list of the excerpt contents and that includes the following documents, with the same pagination and in the same order in which they appear in the paper appendix:

- any sealed documents (file separately as a sealed appendix);
- any documents available only in paper form in the record;
- any documents filed by the parties in a social security case;
- any pertinent opinion, findings, or recommendations of a magistrate judge or bankruptcy court;
- the opinion and order or judgment being appealed; and
- the notice of appeal.

Additionally under option (ii), counsel must cite to both the paper appendix and the docket entry and page number of the electronic record for all record references contained in the brief. For example, material located at page 81 of the joint appendix and at district docket entry 20, page 5, would be cited as JA 81; DE 20 at 5. Counsel using option (ii) may, without motion, exceed the length limitations for opening and response briefs by up to 100 words. If appellant uses option (ii), appellee may use the same option or may file the full electronic appendix under option (i).

(D) **Vouchers.** Criminal Justice Act and other payment vouchers are maintained as financial records separate from the docket. The original must be filed in paper rather than electronic form, and no copies are required.

(2) **Eligibility, Registration, Passwords.** Attorneys who intend to practice in this Court should register as filing users of the Court's CM/ECF system. If permitted by the Court, a party to a pending civil case who is not represented by an attorney may register as a filing user of the Court's CM/ECF system solely for purposes of that case. A pro se party's filing user status will be terminated upon termination of the case or termination of the party's pro se status.

Completion of the Fourth Circuit Electronic Case Filer Application constitutes consent to electronic service of all documents as provided in this rule and the Federal Rules of Appellate Procedure. Filing users agree to protect the security of their passwords and immediately notify the PACER Service Center and the clerk if they learn that their password has been compromised. Filing users may be sanctioned for failure to comply with this provision.

A filing user may withdraw from participation in CM/ECF by providing the clerk with written notice of withdrawal. A filing user's withdrawal from participation in CM/ECF does not alter the requirement that documents be filed in compliance with this rule.

(3) **Consequences of Electronic Filing.** Electronic transmission of a document to CM/ECF consistent with this rule, together with the transmission of a notice of docket activity from the Court, constitutes filing of the document under the Federal Rules of Appellate Procedure and the Court's local rules and constitutes entry of the document on the docket kept by the clerk under FRAP 36 and 45(b).

A document filed electronically is deemed filed at the date and time stated on the notice of docket activity from the Court. Unless otherwise directed by the Court, filing must be completed before midnight Eastern Time, as shown on the notice of docket activity, to be considered timely filed that day.

Before filing a document with the Court, a filing user must verify its legibility and completeness. When a document has been filed electronically, the official record is the electronic document stored by the Court, and the filing party is bound by the document as filed.

If an extension of time or leave of Court is required to file a document, a filing user should file the motion to extend filing time or other appropriate motion using the motion event and the underlying document using the document event. If the Court denies the motion, it will strike the underlying document. If the Court grants the motion, the underlying document will remain on the docket.

(4) **Service of Documents by Electronic Means.** The notice of docket activity that is generated by the Court's electronic filing system constitutes service of the filed document on any registered CM/ECF users. Parties who are not registered for electronic service through CM/ECF must be served conventionally, outside the CM/ECF system, with a copy of any document filed electronically.

If a document (such as a sealed document or a new case) cannot be served electronically, the filer must serve the document conventionally, outside the CM/ECF system.

The notice of docket activity generated by the Court's electronic filing system does not replace the certificate of service required by FRAP 25(d).

(5) **Entry of Court-Issued Documents.** Except as otherwise provided by local rule or Court order, all orders, decrees, opinions, judgments, and proceedings of the Court relating to cases filed and maintained in the CM/ECF system will be filed electronically in accordance with these rules, which will constitute entry on the docket kept by the clerk under FRAP 36 and 45(b).

Any order or other Court-issued document filed electronically without the original signature of a judge or authorized court personnel has the same force and effect as if the judge or clerk had signed a paper copy of the order.

(6) **Attachments and Exhibits to Motions and Original Proceedings.** Unless the Court permits or requires traditional paper filing, filing users must submit in electronic form all documents referenced as exhibits or attachments. Material should be excerpted to include only such portions as are germane to the matter under consideration by the Court. Excerpted material must be clearly and prominently identified as such. The Court may require parties to file additional excerpts or the complete document.

(7) **Sealed Documents.** Sealed material must be filed in accordance with Local Rule 25(c) and served conventionally, outside the CM/ECF system.

(8) **Retention Requirements.** Documents that are electronically filed and require original signatures other than that of the filing user must be maintained in paper form by the filing user for a period of three years after issuance of the Court's final mandate in the case. On request of the Court, the filing user must provide original documents for review.

(9) **Signatures.** The user log-in and password required to submit documents to the CM/ECF system serve as the filing user's signature on all electronic documents filed with the Court. They also serve as a signature for purposes of the Federal Rules of Appellate Procedure, the Court's local rules, and any other purpose for which a signature is required in connection with proceedings before the Court.

The name of the filing user under whose log-in and password the document is submitted must be preceded by an "s/" and typed in the space where the signature would otherwise appear.

No filing user or other person may knowingly permit or cause to permit a filing user's log-in and password to be used by anyone other than an authorized agent of the filing user.

Documents requiring signatures of more than one party must be electronically filed either by: submitting a scanned document containing all necessary signatures; representing the consent of the other parties on the document; identifying on the document the parties whose signatures are required and submitting a notice of endorsement by the other parties no later than three business days after filing; or any other manner approved by the Court.

Electronically represented signatures of all parties and filing users as described above are presumed to be valid signatures. If any party, counsel of record, or filing user objects to the representation of his or her signature on an electronic document as described above, he or she must, within 10 days, file a notice setting forth the basis of the objection.

(10) **Notice of Court Orders and Judgments.** Immediately upon the entry of an order, judgment, or opinion in a case assigned to CM/ECF, the clerk will electronically transmit a notice of docket activity to filing users in the case. Electronic transmission of the notice of docket activity constitutes the notice and service required by FRAP 36(b) and 45(c).

The clerk must give notice in paper form to a person who has not consented to electronic service in accordance with the Federal Rules of Appellate Procedure.

(11) **Technical Failures.** A party or attorney who is adversely affected by a technical failure in connection with filing or receipt of an electronic document may seek appropriate relief from the Court.

(12) **Hyperlinks.** Electronically filed documents may contain hyperlinks to: other portions of the same document or other documents filed on appeal; documents filed in the lower court that are part of the record on appeal; and statutes, rules, regulations, and opinions.

Hyperlinks do not replace citations to the appendix, record, or legal authority and are not considered part of the appellate record. Documents must contain standard citations in support of statements of fact or points of law, in addition to any hyperlink. The Court accepts no responsibility for the availability or functionality of any hyperlink and does not endorse any organization, product, or content at any hyperlinked site.

Local Rule 25(b). ~~Filing Documents~~, Use of Facsimile Equipment, Service, Certificate of Service.

~~(1) **Filing Documents.** Documents, except briefs, appendices, and inmate filings, are not timely filed unless actually received by the clerk's office within the time fixed for filing. Documents are deemed filed upon receipt by the clerk's office.~~

~~(2) (1) **Use of Facsimile Equipment.** Documents may be transmitted for filing by use of facsimile transmission equipment only when an emergency situation exists and advance permission has been obtained to use the clerk's office facsimile equipment. Several printing services in Richmond will accept documents by facsimile for filing with the Court. Their telephone numbers may be obtained from the clerk's office. When a facsimile copy is filed, the original, signed document need not be filed.~~

~~(3) (2) **Service.** Except as otherwise provided by local rule or Court order, service **Service** on a party represented by counsel must be on all counsel of record.~~

~~(4) (3) **Certificate of Service.** All documents must be accompanied by a valid certificate of service. The certificate of service of a brief should be bound with the brief as the last, unnumbered page. A certificate of service can be prepared in advance of actual service. If service is not actually accomplished in the manner and on the date stated in the certificate, an amended certificate of service is required.~~

Local Rule 25(c) Confidential and Sealed Materials.

(1) **Certificates of Confidentiality.** At the time of filing any appendix, brief, motion, or other document containing or otherwise disclosing materials held under seal by another court or agency, counsel or a pro se party shall file a certificate of confidentiality.

(A) Record material held under seal by another court or agency remains subject to that seal on appeal unless modified or amended by the Court of Appeals.

(B) A certificate of confidentiality must accompany any filing which contains or would otherwise disclose sealed materials. The certificate of confidentiality shall:

- (i) identify the sealed material;
- (ii) list the dates of the orders sealing the material or, if there is no order, the lower court or agency's general authority to treat the material as sealed;
- (iii) specify the terms of the protective order governing the information; and
- (iv) identify the appellate document that contains the sealed information.

(2) **Motions to Seal.** Motions to seal all or any part of the record are presented to and resolved by the lower court or agency in accordance with applicable law during the course of trial, hearing, or other proceedings below.

(A) A motion to seal may be filed with the Court of Appeals when:

- (i) a change in circumstances occurs during the pendency of an appeal that warrants reconsideration of a sealing issue decided below;
- (ii) the need to seal all or part of the record on appeal arises in the first instance during the pendency of an appeal; or
- (iii) additional material filed for the first time on appeal warrants sealing.

(B) Any motion to seal filed with the Court of Appeals shall:

- (i) identify with specificity the documents or portions thereof for which sealing is requested;
- (ii) state the reasons why sealing is necessary;
- (iii) explain why a less drastic alternative to sealing will not afford adequate protection; and
- (iv) state the period of time the party seeks to have the material maintained under seal and how the material is to be handled upon unsealing.

(C) A motion to seal filed with the Court of Appeals will be placed on the public docket for at least 5 days before the Court rules on the motion, but the materials subject to a motion to seal will be held under seal pending the Court's disposition of the motion.

(3) **Filing of Confidential and Sealed Material.**

(A) **Appendices:** When sealed material is included in the appendix, it must be segregated from other portions of the appendix and filed in a separate, sealed volume of the appendix. [In criminal cases in which presentence reports are being filed for multiple defendants, each presentence report must be placed in a separate, sealed volume that is served only on counsel for the United States and for the defendant who is the subject of the report.](#)

(B) **Briefs, Motions, and Other Documents:** When sealed material is included in a brief, motion, or any document other than an appendix, two versions of the document must be filed:

- (i) a complete version under seal in which the sealed material has been distinctively marked and
- (ii) a redacted version of the same document for the public file.

(C) **Personal Data Identifying Information:** Personal data identifying information, such as an individual's social security number, an individual's tax identification number, a minor's name, a person's birth date, a financial account number, and (in a criminal case) a person's home address, [must be excluded or partially redacted from filings in accordance with](#) ~~shall be filed in accordance with section 205(c)(3) of the E-Government Act of 2002 and~~ FRAP 25(a)(5).

(D) **Marking of Sealed and Ex Parte Material:** The first page of any appendix, brief, motion, or other document tendered or filed under seal shall be conspicuously marked SEALED and all copies shall be placed in an envelope marked SEALED. If filed ex parte, the first page and the envelope shall also be marked EX PARTE.

(E) **Method of Filing:**

(i) **Appendices:** ~~Appendices are filed in paper form only, with sealed material placed in a separate, sealed volume, accompanied by a certificate of confidentiality or motion to seal. A Notice of paper filing and either a certificate of confidentiality or a motion to seal are filed in electronic form. Local Rule 30(b)(4) sets forth the number of paper copies required for public and sealed volumes of the appendix. Sealed volumes are accompanied by a certificate of confidentiality or motion to seal, in both paper and electronic form. Electronic sealed volumes are filed using the entry SEALED APPENDIX, which automatically seals the appendix for Court access only.~~

(ii) **Formal Briefs:** Local Rule 31(d) sets forth the number of paper copies required for public and sealed versions of formal briefs. ~~The sealed and public versions of formal briefs are filed in both paper and electronic form.~~ The sealed version is accompanied by a certificate of confidentiality or motion to seal, ~~that is also filed~~ in both paper and electronic form. The electronic sealed version of the brief is filed using the entry SEALED BRIEF FILED, ~~which automatically restricts electronic access to the Court~~, which automatically seals the brief for Court access only. ~~The electronic public version of the brief is filed using the entry BRIEF FILED.~~

(iii) **Other Documents:** Any other sealed document is filed electronically using the entry SEALED DOCUMENT FILED, ~~which automatically restricts electronic access to the Court~~, which automatically seals the document for Court access only. A certificate of confidentiality or motion to seal is also filed electronically. ~~If filed electronically, paper copies of the sealed document are not required unless requested by the Court.~~

(F) **Method of Service:** All sealed appendices, briefs, and documents must be served in paper form, because only the Court can access the sealed electronic appendix, brief, or document. ~~Number of Paper Copies Filed and Served: Sealed documents must be served in paper form because electronic access to sealed documents is restricted to the Court.~~

~~(i) Appendices: **Sealed volumes** -- File four and serve one on each party separately represented. **Unsealed volumes** -- File six (five if counsel was appointed, four if party is proceeding in forma pauperis without appointed counsel) and serve one on each party separately represented.~~

~~(ii) Formal Briefs: **Sealed version** -- File four and serve one on each party separately represented. **Public version** -- File eight (six if counsel was appointed, four if party is proceeding in forma pauperis without appointed counsel).~~

~~(iii) Other Documents: **Sealed version** -- File one (none if filed electronically) and serve one paper copy on each party separately represented. **Public version** -- File one (none if filed electronically).~~

(G) **Responsibility for Compliance:** The responsibility for following the required procedures in filing confidential and sealed material rests solely with counsel and the parties. The clerk will not review each filing for compliance with this rule.

(H) **Public Access:** ~~Parties must remember that any personal information not otherwise protected by sealing or redaction may be made available over the Internet.~~ Unless filed under seal, case documents are publicly available on the Internet, except that in

[immigration and social security cases, only the Court's orders and opinions are available to the public on the Internet. Remote electronic access to other documents in immigration and social security cases is available only to persons participating in the case as CM/ECF filing users.](#) Counsel should notify clients **of this fact** [regarding the availability of filings on the Internet](#) so that an informed decision may be made on what information is to be included in a [public](#) document filed with the Court.

Local Rule 30(b). Appendix Contents; Number of Copies.

(1) **Required Contents:** In designating or agreeing upon the contents of the appendix, and in assembling the appendix, the parties should avoid unnecessary duplication of materials. The appellee's designation should only include those additional parts of the record to which it wishes to direct the Court's attention that have not already been designated by the appellant.

The use of a selectively abridged record allows the judges to refer easily to relevant parts of the record and saves the parties the considerable expense of reproducing the entire record. Although there is no limit on the length of the appendix except as provided in Local Rule 32(a), it is unnecessary to include everything in the appendix. The appendix should, however, contain the final order or order appealed from, the complaint or petition, as finally amended (civil appeals) or indictment (criminal appeals), as well as all other parts of the record which are vital to the understanding of the basic issues on appeal. Although the entire record is available to the Court should it believe that additional portions are important to a full understanding of the issues, citation to portions of the record not included in the appendix is not favored.

(2) **Table of Contents; Witness Names and Type of Examination:** The table of contents to the appendix should be sufficiently detailed to be helpful to the Court. Referring to the transcript of a trial under a single reference to "proceeding" or "trial transcript" is not sufficient. When the testimony of a witness is included in the appendix, the testimony should be clearly identified in the table of contents, beneath the proceeding in which it occurred. The name of the testifying witness and the type of examination (e.g., direct, cross, redirect, or recross) should also be clearly indicated at the top of each page of the appendix where the witness's testimony appears. Exhibits should be listed in the table of contents by number or letter and by name or brief description.

(3) **Sentencing Guideline Appeals:** In all criminal appeals seeking review of the application of the sentencing guidelines, appellant shall include the sentencing hearing transcript and presentence report in the appendix. The presentence report must be included in a separate sealed volume, stamped "SEALED" on the volume itself and on the envelope containing it, and be accompanied by a certificate stating that the volume contains sealed material. [In criminal cases in which presentence reports are being filed for multiple defendants, each presentence report must be placed in a separate, sealed volume that is served only on counsel for the United States and for the defendant who is the subject of the report.](#)

(4) **Number of Copies:**

(A) **Filing:** Six paper copies of the appendix and any supplemental appendix must be filed. Appointed counsel may file five copies of an appendix or supplemental appendix, and any party proceeding in forma pauperis who is not represented by Court-appointed counsel may file four copies. [In addition, the full appendix or an appendix excerpt must](#)

be filed electronically in accordance with Local Rule 25(a)(1)(C).

(B) **Service:** If the full appendix is filed electronically and served on counsel and on any party not represented by counsel, service of the paper appendix is not required. If an appendix excerpt instead of the full appendix is filed electronically, one paper copy of the appendix must be served on lead counsel for each party separately represented and on any party not represented by counsel.

(C) **Sealed Appendix Volumes:** For sealed volumes of the appendix, four paper copies must be filed and one paper copy must be served on lead counsel for each party separately represented who is authorized to have access to the sealed volume and on any party not represented by counsel who is authorized to have access to the sealed volume.

Local Rule 31(c). Filing and Service Briefing Extensions.

~~Briefs and appendices in paper form are deemed filed on the date of mailing if first class mail or other classes of mail at least as expeditious are used. If a courier service is used, the briefs and appendices are deemed timely filed if the briefs and appendices are given to the courier service on or before the due date to be dispatched to the Clerk's Office for delivery within three days. Filing must be within the time allowed by the briefing order. A brief must be accompanied by a valid certificate of service, which should be bound with the brief as the last, unnumbered page. A certificate of service can be prepared in advance of actual service. If service is not actually accomplished in the manner and on the date stated in the certificate, an amended certificate of service is required.~~

Extensions will be granted only when extraordinary circumstances exist. A motion for an extension of time to file a brief must be filed well in advance of the date the brief is due and must set forth the additional time requested and the reasons for the request. The Court discourages these motions and may deny the motion entirely or grant a lesser period of time than the time requested.

Local Rule 32(b). Length of Briefs.

The Fourth Circuit encourages short, concise briefs. An opening or response brief that cites to both the paper appendix and the electronic record may, without motion, exceed the length limitations in FRAP 32(a)(7) by up to 100 words. Briefs may not otherwise exceed the length limitations ~~Under no circumstances may a brief exceed the limits set forth in FRAP 32(a)(7)~~ without the Court's advance permission.

A motion for permission to submit a longer brief must be made to the Court of Appeals at least 10 days prior to the due date of the brief and must be supported by a statement of reasons. These motions are not favored and will be granted only for exceptional reasons.