

Fed. Cir. R. 8

Revise Fed. Cir. R. 8(b)(1):

(b) Length of Motion, Response, and Reply; Copies; Brief; Filing.

(1) A motion or a response to a motion for a stay or injunction pending appeal may not exceed 5,200 words if produced using a computer or 20 pages if handwritten or typewritten. A reply may not exceed 2,600 words if produced using a computer or 10 pages if handwritten or typewritten.

Fed. Cir. R. 18

Revise Fed. Cir. R. 18(b)(1):

(b) Length of Motion, Response, and Reply; Copies, Brief.

(1) A motion or a response to a motion for a stay pending review may not exceed 5,200 words if produced using a computer or 20 pages if handwritten or typewritten. A reply may not exceed 2,600 words if produced using a computer or 10 pages if handwritten or typewritten.

Fed. Cir. R. 21

Revise Fed. Cir. R. 21(c):

(c) Reply. If the court directs the filing of a response to a petition, then the petitioner may file a reply. Unless otherwise ordered, the petitioner may file a reply within 7 days of the date of the filing of the response. The court may act on the petition before receipt of any reply, and thus the filing of a reply should be expedited if appropriate. The reply may not exceed 3,900 words if produced using a computer or 15 pages if handwritten or typewritten.

Fed. Cir. R. 28

In Fed. Cir. R. 28(a)(13) and the Practice Note following Rule 28, revise the cross-references regarding the certificate of compliance from “Rule 32(a)(7)” to “Rule 32(g)(1).”

New Fed. R. App. P. 28.1

Rule 28.1. Cross-Appeals

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(e) Length.

(1) Page Limitation. Unless it complies with Rule 28.1(e)(2), the appellant's principal brief must not exceed 30 pages; the appellee's principal and response brief, 35 pages; the appellant's response and reply brief, 30 pages; and the appellee's reply brief, 15 pages.

(2) Type-Volume Limitation.

~~(A) The appellant's principal brief or the appellant's response and reply brief is acceptable if it:~~

~~(i) contains no more than 13,000 words; or~~

~~(ii) uses a monospaced face and contains no more than 1,300 lines of text.~~

~~(B) The appellee's principal and response brief is acceptable if it:~~

~~(i) contains no more than 15,300 words; or~~

~~(ii) uses a monospaced face and contains no more than 1,500 lines of text.~~

~~(C) The appellee's reply brief is acceptable if it contains no more than half of the type volume specified in Rule 28.1(e)(2)(A).~~

Fed. Cir. R. 28.1:

Create a new Fed. Cir. R. 28.1:

Rule 28.1 Cross-Appeals

(a) Page Limitation. Unless it complies with Federal Circuit Rule 28.1(b), the appellant's principal brief must not exceed 30 pages; the appellee's principal and response brief, 35 pages; the appellant's response and reply brief, 30 pages; and the appellee's reply brief, 15 pages.

(b) Type-Volume Limitation.

(1) The appellant's principal brief or the appellant's response and reply brief is acceptable if:

(A) it contains no more than 14,000 words; or

(B) it uses a monospaced face and contains no more than 1,300 lines of text.

(2) The appellee's principal and response brief is acceptable if:

(A) it contains no more than 16,500 words; or

(B) it uses a monospaced face and contains no more than 1,500 lines of text.

(3) The appellee's reply brief is acceptable if it contains no more than 7,000 words.

(c) Certificate of Compliance. A brief submitted under this rule must comply with Rule 32(g)(1).

New Fed. R. App. P. 29:

Rule 29. Brief of an Amicus Curiae

(a) During Initial Consideration of a Case on the Merits.

(1) Applicability. This Rule 29(a) governs amicus filings during a court's initial consideration of a case on the merits.

(2) When Permitted. The United States or its officer or agency or a state may file an amicus curiae brief without the consent of the parties or leave of court. 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.

(3) Motion for Leave to File. The motion must be accompanied by the proposed brief and state:

(A) the movant's interest; and

(B) the reason why an amicus brief is desirable and why the matters asserted are relevant to the disposition of the case.

(4) Contents and Form. An amicus brief must comply with Rule 32. In addition to the requirements of Rule 32, the cover must identify the party or parties supported and indicate whether the brief supports affirmance or reversal. An amicus brief need not comply with Rule 28, but must include the following:

(A) if the amicus curiae is a corporation, a disclosure statement like that required of parties by Rule 26.1;

(B) a table of contents, with page references;

(C) a table of authorities—cases (alphabetically arranged), statutes, and other authorities—with references to the pages of the brief where they are cited;

(D) a concise statement of the identity of the amicus curiae, its interest in the case, and the source of its authority to file;

(E) unless the amicus curiae is one listed in the first sentence of Rule 29(a)(2), a statement that indicates whether:

(i) a party's counsel authored the brief in whole or in part;

(ii) a party or a party's counsel contributed money that was intended to fund preparing or submitting the brief; and

(iii) a person—other than the amicus curiae, its members, or its counsel— contributed money that was intended to fund preparing or submitting the brief and, if so, identifies each such person;

(F) an argument, which may be preceded by a summary and which need not include a statement of the applicable standard of review; and

(G) a certificate of compliance under Rule 32(g)(1), if length is computed using a word or line limit.

(5) Length. Except by the court's permission, an amicus brief may be no more than one-half the maximum length authorized by these rules for a

party's principal brief. If the court grants a party permission to file a longer brief, that extension does not affect the length of an amicus brief.

(6) Time for Filing. An amicus curiae must file its brief, accompanied by a motion for filing when necessary, no later than 7 days after the principal brief of the party being supported is filed. An amicus curiae that does not support either party must file its brief no later than 7 days after the appellant's or petitioner's principal brief is filed. A court may grant leave for later filing, specifying the time within which an opposing party may answer.

(7) Reply Brief. Except by the court's permission, an amicus curiae may not file a reply brief.

(8) Oral Argument. An amicus curiae may participate in oral argument only with the court's permission.

(b) During Consideration of Whether to Grant Rehearing.

(1) Applicability. This Rule 29(b) governs amicus filings during a court's consideration of whether to grant panel rehearing or rehearing en banc, unless a local rule or order in a case provides otherwise.

(2) When Permitted. The United States or its officer or agency or a state may file an amicus curiae brief without the consent of the parties or leave of court. Any other amicus curiae may file a brief only by leave of court.

(3) Motion for Leave to File. Rule 29(a)(3) applies to a motion for leave.

(4) Contents, Form, and Length. Rule 29(a)(4) applies to the amicus brief. The brief must not exceed 2,600 words.

~~(5) Time for Filing. An amicus curiae supporting the petition for rehearing or supporting neither party must file its brief, accompanied by a motion for filing when necessary, no later than 7 days after the petition is filed. An amicus curiae opposing the petition must file its brief, accompanied by a motion for filing when necessary, no later than the date set by the court for the response.~~

New Fed. R. App. P. 32

Rule 32. Form of Briefs, Appendices, and Other Papers

(a) Form of a Brief.

. . . .

(7) Length.

(A) Page Limitation. A principal brief may not exceed 30 pages, or a reply brief 15 pages, unless it complies with Rule 32(a)(7)(B).

~~(B) Type Volume Limitation.~~

~~(i) A principal brief is acceptable if it:~~

- ~~• contains no more than 13,000 words; or~~
- ~~• uses a monospaced face and contains no more than 1,300 lines of text.~~

~~• (ii) A reply brief is acceptable if it contains no more than half of the type volume specified in Rule 32(a)(7)(B)(i).~~

. . . .

(e) Local Variation. Every court of appeals must accept documents that comply with the form requirements of this rule and the length limits set by these rules. By local rule or order in a particular case, a court of appeals may accept documents that do not meet all the form requirements of this rule or the length limits set by these rules.

(f) Items Excluded from Length. In computing any length limit, headings, footnotes, and quotations count toward the limit but the following items do not:

- the cover page;
- a corporate disclosure statement;
- a table of contents;
- a table of citations;
- a statement regarding oral argument;
- an addendum containing statutes, rules, or regulations;
- certificates of counsel;
- the signature block;
- the proof of service; and
- any item specifically excluded by these rules or by local rule.

(g) Certificate of Compliance.

(1) Briefs and Papers That Require a Certificate. A brief submitted under Rules 28.1(e)(2), 29(b)(4), or 32(a)(7)(B)—and a paper submitted under Rules 5(c)(1), 21(d)(1), 27(d)(2)(A), 27(d)(2)(C), 35(b)(2)(A), or 40(b)(1)—must include a certificate by the attorney, or an unrepresented party, that the document complies with the type-volume limitation. The person preparing the certificate may rely on the word or line count of the word-processing system used to prepare the document. The certificate must state the number of words—or the number of lines of monospaced type—in the document.

(2) Acceptable Form. Form 6 in the Appendix of Forms meets the requirements for a certificate of compliance.

Fed. Cir. R. 32:

Revise Fed. Cir. R. 32:

Rule 32. Form of Briefs, Appendices, and Other Papers; Brief Length

(a) Nonconforming Brief; Length. The clerk of court may refuse to file any brief that has not been prepared in conformity with Federal Rule of Appellate Procedure 32, except that an appellant’s and appellee’s opening brief is acceptable if it contains no more than 14,000 words or uses a monospaced face and contains no more than 1,300 lines of text, and an appellant’s reply brief is acceptable if it contains no more than 7,000 words.

In Fed. Cir. R. 32(b) and the Practice Note following Rule 32, revise the cross-references from “Federal Rule of Appellate Procedure 32(a)(7)(B)(ii)” to “Federal Rule of Appellate Procedure 32(f)” and revise the cross-reference from “Rule 32(a)(7)” to “Rule 32(g)(1).” Federal Circuit Form 19, mentioned in the Practice Note and used by counsel to certify word counts, will also be revised to include the new cross-references.

Fed. Cir. R. 35:

Revise Fed. Cir. R. 35(c)(2):

(2) Items Excluded from Page or Word Limitation. The following items do not count against the page or word limitation in Federal Rule of Appellate Procedure 35(b)(2):

....

Revise Fed. Cir. R. 35(e)(4):

(4) Response. If the court requests a response, which must not exceed 3,900 words if produced using a computer or 15 pages if handwritten or typewritten, the preferred contents and organization are:

....

Revise Fed. Cir. R. 35(g):

(g) Amicus Curiae Brief. Except by the court’s permission or direction, an amicus curiae brief submitted in connection with a petition for hearing en banc,

a petition for rehearing en banc, or a combined petition for panel rehearing and rehearing en banc, must be accompanied by a motion for leave and must not exceed 2,600 words if produced using a computer or 10 pages if handwritten or typewritten. Except by the court's permission or direction, any brief amicus curiae or any motion for leave to file a brief amicus curiae must be filed within 14 days of the date of filing of the petition or response that the amicus curiae supports. If the amicus curiae does not support either party, then the brief or motion for leave to file the brief must be filed within 14 days of the date of filing of the petition.

Fed. Cir. R. 39:

Revise Fed. Cir. R. 39(b):

(b) Bill of Costs; Copies; Objection. A party must file the bill of costs on the form prescribed by the court. An objection to the bill of costs must not exceed 1,300 words if prepared using a computer or 5 pages if handwritten or typewritten.

Fed. Cir. R. 40:

Revise Fed. Cir. R. 40(c):

(c) Items Excluded from Page or Word limitation; Other Material
 (1) Items Excluded. The following items do not count against the page or word limitation in Federal Rule of Appellate Procedure 40(b):

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Revise Fed. Cir. R. 40(e):

(d) Answer. If the court requests an answer, which must not exceed 3,900 words if prepared using a computer or 15 pages if handwritten or typewritten, the preferred contents and organization for the answer are:

.....

Revise Fed. Cir. R. 40(g):

(g) Amicus Curiae Brief. Except by the court's permission or direction, an amicus curiae brief submitted in connection with a petition for panel rehearing must be accompanied by a motion for leave to file and must not exceed 2,600 words if produced using a computer or 10 pages if handwritten or typewritten.

Except by the court's permission or direction, any brief amicus curiae or any motion for leave to file a brief amicus curiae must be filed within 14 days of the date of filing of the petition or response that the amicus curiae supports. If the amicus curiae does not support either party, then the brief or motion for leave to file the brief must be filed within 14 days of the date of filing of the petition.

Fed. Cir. R. 47.9:

Revise Fed. Cir. R. 47.9(c):

(c) Length of Petition, Answer, and Reply; Separate Brief. A petition or answer must not exceed 5,200 words if produced using a computer or 20 pages if handwritten or typewritten. A reply must not exceed 2,600 words if produced using a computer or 20 pages if handwritten or typewritten. A separate brief supporting a petition, answer, or reply is not permitted.