

**REVISIONS TO RULES  
OF THE  
SUPREME COURT OF THE UNITED STATES  
ADOPTED SEPTEMBER 27, 2017  
EFFECTIVE NOVEMBER 13, 2017**

The Clerk's Comments that accompany the revisions to the Rules are not part of the Rules. They are furnished solely to assist readers in understanding the revisions.

**Rule 9. Appearance of Counsel**

1. An attorney seeking to file a document in this Court in a representative capacity must first be admitted to practice before this Court as provided in Rule 5, except that admission to the Bar of this Court is not required for an attorney appointed under the Criminal Justice Act of 1964, see 18 U. S. C. § 3006A(d)(6), or under any other applicable federal statute. The attorney whose name, address, and telephone number appear on the cover of a document presented for filing is considered counsel of record, ~~and a separate notice of appearance need not be filed.~~ If the name of more than one attorney is shown on the cover of the document, the attorney who is counsel of record shall be clearly identified. See Rule 34.1(f).

Comment:

The electronic filing system will call for attorneys to submit a notice of appearance.

**Rule 25. Briefs on the Merits: Number of Copies and Time to File**

~~9. An electronic version of every brief on the merits shall be transmitted to the Clerk of Court and to opposing counsel of record at the time the brief is filed in accordance with guidelines established by the Clerk. The electronic transmission requirement is in addition to the requirement that booklet-format briefs be timely filed.~~

Comment:

Because all merits stage briefs will be submitted through the electronic filing system, there will be no need for them to be separately transmitted electronically.

## **Rule 29. Filing and Service of Documents; Special Notifications; Corporate Listing**

7. In addition to the filing requirements set forth in this Rule, all filers who are represented by counsel must submit documents to the Court's electronic filing system in conformity with the "Guidelines for the Submission of Documents to the Supreme Court's Electronic Filing System" issued by the Clerk.

Comment:

This will be the core operative language that will require parties represented by counsel to submit documents through the electronic filing system. Because paper will continue to be the official filing, just as under current practice, use of the electronic filing system will be "in addition" to the other filing requirements. The "Guidelines" document will set forth in more detail the procedures that parties will be required to follow while using the electronic filing system.

## **Rule 30. Computation and Extension of Time**

2. Whenever a Justice or the Clerk is empowered by law or these Rules to extend the time to file any document, an application or motion seeking an extension shall be filed within the period sought to be extended. An application to extend the time to file a petition for a writ of certiorari or to file a jurisdictional statement must be filed at least 10 days before the specified final filing date as computed under these Rules; if filed less than 10 days before the final filing date, such application will not be granted except in the most extraordinary circumstances.

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4. A motion~~An application~~ to extend the time to file any document or paper other than those specified in paragraph 3 of this Rule may be presented in the form of a letter to the Clerk setting out specific reasons why an extension of time is justified. The letter shall be served on all other parties as required by Rule 29. The motion~~application~~ may be acted on by the Clerk in the first instance, and any party aggrieved by the Clerk's action may request that the motion~~application~~ be submitted to a Justice or to the Court. The Clerk will report action under this paragraph to the Court as instructed.

Comment:

"Applications" for an extension of time will be those that are referred to a Justice or the Court in the first instance, typically receiving a new docket number. "Motions" for an extension of time will be those that may be acted upon by the Clerk's Office.

### **Rule 33. Document Preparation: Booklet Format; 8½- by 11-Inch Paper Format**

1(f). Forty copies of a booklet-format document shall be filed, and one unbound copy of the document on 8½- by 11-inch paper shall also be submitted.

Comment:

The submission of a document on 8½- by 11-inch paper will facilitate the electronic scanning of a document by the Clerk's Office when necessary.

### **Rule 34. Document Preparation: General Requirements**

6. A case in which privacy protection was governed by Federal Rule of Appellate Procedure 25(a)(5), Federal Rule of Bankruptcy Procedure 9037, Federal Rule of Civil Procedure 5.2, or Federal Rule of Criminal Procedure 49.1 is governed by the same Rule in this Court. In any other case, privacy protection is governed by Federal Rule of Civil Procedure 5.2, except that Federal Rule of Criminal Procedure 49.1 governs when an extraordinary writ is sought in a criminal case. If the Court schedules briefing and oral argument in a case that was governed by Federal Rule of Civil Procedure 5.2(c) or Federal Rule of Criminal Procedure 49.1(c), the parties shall submit electronic versions of all prior and subsequent filings with this Court in the case, subject to the redaction Rules set forth above.

Comment:

This new provision is intended to protect the privacy and security of electronically submitted and stored information. The Rule does not preclude the submission of a motion for leave to redact additional information, or to take other steps to protect personal privacy, in appropriate circumstances.

### **Rule 37. Brief for an *Amicus Curiae***

2(a). An *amicus curiae* brief submitted before the Court's consideration of a petition for a writ of certiorari, motion for leave to file a bill of complaint, jurisdictional statement, or petition for an extraordinary writ may be filed if it reflects that accompanied by the written consent of all parties has been provided, or if the Court grants leave to file under subparagraph 2(b) of this Rule. An *amicus curiae* brief in support of a petitioner or appellant shall be filed within 30 days after the case is placed on the docket or a response is called for by the Court, whichever is later, and that time will not be extended. An *amicus curiae* brief in support of a motion of a plaintiff for leave to file a bill of complaint in an original action shall be filed within

60 days after the case is placed on the docket, and that time will not be extended. An *amicus curiae* brief in support of a respondent, an appellee, or a defendant shall be submitted within the time allowed for filing a brief in opposition or a motion to dismiss or affirm. An *amicus curiae* filing a brief under this subparagraph shall ensure that the counsel of record for all parties receive notice of its intention to file an *amicus curiae* brief at least 10 days prior to the due date for the *amicus curiae* brief, unless the *amicus curiae* brief is filed earlier than 10 days before the due date. Only one signatory to any *amicus curiae* brief filed jointly by more than one *amicus curiae* must timely notify the parties of its intent to file that brief. The *amicus curiae* brief shall indicate that counsel of record received timely notice of the intent to file the brief under this Rule and shall specify whether consent was granted, and its cover shall identify the party supported. Only one signatory to an *amicus curiae* brief filed jointly by more than one *amicus curiae* must obtain consent of the parties to file that brief. A petitioner or respondent may submit to the Clerk a letter granting blanket consent to *amicus curiae* briefs, stating that the party consents to the filing of *amicus curiae* briefs in support of either or of neither party. The Clerk will note all notices of blanket consent on the docket.

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3(a). An *amicus curiae* brief in a case before the Court for oral argument may be filed if it reflects that accompanied by the written consent of all parties has been provided, or if the Court grants leave to file under subparagraph 3(b) of this Rule. The brief shall be submitted within 7 days after the brief for the party supported is filed, or if in support of neither party, within 7 days after the time allowed for filing the petitioner's or appellant's brief. Motions to extend the time for filing an *amicus curiae* brief will not be entertained. The 10-day notice requirement of subparagraph 2(a) of this Rule does not apply to an *amicus curiae* brief in a case before the Court for oral argument. ~~An electronic version of every *amicus curiae* brief in a case before the Court for oral argument shall be transmitted to the Clerk of Court and to counsel for the parties at the time the brief is filed in accordance with guidelines established by the Clerk. The electronic transmission requirement is in addition to the requirement that booklet format briefs be timely filed.~~ The *amicus curiae* brief shall specify whether consent was granted, and its cover shall identify the party supported or indicate whether it suggests affirmance or reversal. The Clerk will not file a reply brief for an *amicus curiae*, or a brief for an *amicus curiae* in support of, or in opposition to, a petition for rehearing. Only one signatory to an *amicus curiae* brief filed jointly by more than one *amicus curiae* must obtain consent of the parties to file that brief. A petitioner or respondent may submit to the Clerk a letter granting blanket consent to *amicus curiae* briefs, stating that the party consents to the filing of *amicus curiae* briefs in support of either or of neither party. The Clerk will note all notices of blanket consent on the docket.

Comment:

In an effort to simplify the filing process, this change allows parties to reflect written consent in the body of an *amicus curiae* brief, rather than having to file letters of consent separately with the Court. In addition, just as party briefs on the merits will be submitted through the electronic filing system and need not be separately submitted electronically, see Rule 25.9, so too *amicus curiae* briefs need not be separately submitted electronically.

**Rule 48. Effective Date of Rules**

1. These Rules, adopted September 27, 2017, will be effective November 13, 2017.