

## **Rule 5. Appeal by Permission**

### **(a) Petition for Permission to Appeal.**

- (1) To request permission to appeal when an appeal is within the court of appeals' discretion, a party must file a petition with the circuit clerk and serve it on all other parties to the district-court action.
- (2) The petition must be filed within the time specified by the statute or rule authorizing the appeal or, if no such time is specified, within the time provided by Rule 4(a) for filing a notice of appeal.
- (3) If a party cannot petition for appeal unless the district court first enters an order granting permission to do so or stating that the necessary conditions are met, the district court may amend its order, either on its own or in response to a party's motion, to include the required permission or statement. In that event, the time to petition runs from entry of the amended order.

### **(b) Contents of the Petition; Answer or Cross-Petition; Oral Argument.**

- (1) The petition must include the following:
  - (A) the facts necessary to understand the question presented;
  - (B) the question itself;
  - (C) the relief sought;
  - (D) the reasons why the appeal should be allowed and is authorized by a statute or rule; and
  - (E) an attached copy of:
    - (i) the order, decree, or judgment complained of and any related opinion or memorandum; and
    - (ii) any order stating the district court's permission to appeal or finding that the necessary conditions are met.
- (2) A party may file an answer in opposition or a cross-petition within 10 days after the petition is served.
- (3) The petition and answer will be submitted without oral argument unless the court of appeals orders otherwise.

**(c) Form of Papers; Number of Copies; Length Limits.** All papers must conform to Rule 32(c)(2). An original and 3 copies must be filed unless the court requires a different number by

local rule or by order in a particular case. Except by the court's permission, and excluding the accompanying documents required by Rule 5(b)(1)(E):

(1) a paper produced using a computer must not exceed 5,200 words; and

(2) a handwritten or typewritten paper must not exceed 20 pages.

**(d) Grant of Permission; Fees; Cost Bond; Filing the Record.**

(1) Within 14 days after the entry of the order granting permission to appeal, the appellant must:

(A) pay the district clerk all required fees; and

(B) file a cost bond if required under Rule 7.

(2) A notice of appeal need not be filed. The date when the order granting permission to appeal is entered serves as the date of the notice of appeal for calculating time under these rules.

(3) The district clerk must notify the circuit clerk once the petitioner has paid the fees. Upon receiving this notice, the circuit clerk must enter the appeal on the docket. The record must be forwarded and filed in accordance with Rules 11 and 12(c).

***Local Rule 5. Interlocutory Orders.***

*The Court of Appeals will initially enter a petition for permission to appeal upon the miscellaneous docket; a docket fee shall not be required unless the petition is granted. A Disclosure of Corporate Affiliations statement must be filed with the petition and answer. See FRAP 26.1 and Local Rule 26.1. Upon granting the petition, the Court of Appeals will notify the district court by copy of the order and transfer the case to the regular docket.*

*Former I.O.P.-5.1 redesignated Local Rule 5 December 1, 1995; amended December 1, 2009.*