

MOTION PRACTICE

Motion Length & Content

A motion cannot exceed 5,200 words (20 pages if handwritten or typewritten), exclusive of any cover page, disclosure statement, table of contents, table of citations, signature block, certificates of counsel, and attachments. A certificate of compliance with type-volume limit is required if produced by computer. Fed. R. App. P. 27(d) (eff. 12/01/2016).

A motion must state with particularity the grounds for the motion, the relief sought, and the legal argument necessary to support it. Fed. R. App. P. 27(a)(2)(A). A motion seeking substantive relief must include a copy of the trial court's opinion or agency decision as a separate exhibit. Fed. R. App. P. 27(a)(2)(B). A separate brief supporting a motion must not be filed; neither a notice of motion nor a proposed order is required. Fed. R. App. P. 27(a)(2)(C). A disclosure statement must accompany the motion unless previously filed with the court. Loc. R. 27(c). Parties should not make requests for procedural and substantive relief in a single motion, but should make each request in a separate motion. Loc. R. 27(c).

Statement Regarding Consent

In cases where all parties are represented by counsel, all motions must contain a statement by counsel that counsel for the other parties to the appeal have been informed of the intended filing of the motion. The statement must indicate whether the other parties consent to the granting of the motion, or intend to file responses in opposition. Loc. R. 27(a).

Response Length & Content

A response cannot exceed 5,200 words (20 pages if handwritten or typewritten), exclusive of any cover page, disclosure statement, table of contents, table of citations, signature block, certificates of counsel, and attachments. A certificate of compliance with type-volume limit is required if produced by computer. Fed. R. App. P. 27(d) (eff. 12/01/2016).

A separate brief supporting a response must not be filed. A disclosure statement must be filed with the response unless one has previously been filed. Loc. R. 27(d)(1). A response may include a motion for affirmative relief, but the title of the response must alert the court to the request for relief. Fed. R. App. P. 27(a)(3).

Response Deadline

Any party may file a response within 10 days after service of the motion unless the court shortens or extends the time. Fed. R. App. P. 27(a)(3). Although any party may respond, a response is not required unless directed by the court. Loc. R. 27(d)(1). A motion authorized by Rules 8, 9, 18, or 41 may be granted before the 10-day period runs only if the court gives reasonable notice to the parties that it intends to act sooner. Fed. R. App. P. 27(a)(3).

Reply Length & Content

A reply cannot exceed 2,600 words (10 pages if handwritten or typewritten), exclusive of any cover page, disclosure statement, table of contents, table of citations, signature block, certificates of counsel, and attachments. A certificate of compliance with type-volume limit is required if produced by computer. Fed. R. App. P. 27(d) (eff. 12/01/2016). A reply must not present matters that do not relate to the response. Fed. R. App. P. 27(a)(4).

Reply Deadline

Any reply to a response must be filed within 7 days after service of the response. The court will not ordinarily await a reply before reviewing a motion and response. Movants intending to reply may so notify the clerk in writing and request that the court not act until the reply is received. Loc. R. 27(d)(2).

Format

Motions, responses, and replies must be double-spaced, with 1" margins, on 8 ½ x 11" sized paper. The document must contain a caption setting forth the name of the court, the title of the case, the case number, a brief descriptive title, and must identify the party(ies) for whom it is filed. Typeface must be a 12-point monospaced font (such as Courier) or a 14-point proportional font (such as Times New Roman). Fed. R. App. P. 27(d).

Clerk Orders

The clerk is authorized by the court to act on unopposed procedural motions and motions relating to the preparation of the briefs and appendix. Loc. R. 27(b). Any party dissatisfied with the clerk's disposition may request reconsideration by the court within 14 days of entry of the clerk's order.

Court Orders

Under Local Rule 27(e), the court acts on all but routine procedural matters through three-judge panels. In emergency matters, in which time prevents consideration by three judges, consideration by a single judge can be requested. If the single judge considers the emergency request, the matter will be presented for consideration by a three-judge panel at the earliest possible time. Loc. R. 27(e). Motion assignments are made in rotation to randomly generated panels unless a panel has had prior involvement in the case. Motions are generally decided without oral argument.

Related Links

[Rule 27. Motions \(with Local Rules\)](#)