

NOTICE TO COUNSEL

Amendments to the Federal Rules of Appellate Procedure effective December 1, 2016 lower the word limits for briefs. These amendments also convert page limits into word limits for other documents such as motions, petitions for rehearing, petitions for mandamus. A chart showing the new word limits prepared by the Standing Committee is attached below.

Briefs filed after December 1, 2016 must conform to the new word limits. If an extension of time to file appellant's brief is granted and the due date is beyond December 1, the new word limits apply. However, if the first brief in the case was filed before December 1, 2016, appellee/respondent's brief and subsequent briefs may use the pre-December 1 word limits. This exception applies only to briefs; motions, Rule 28(j) letters and petitions for rehearing must conform to the new word limits.

The comment to the amendment to Rule 32 states, "In a complex case, a party may need to file a brief that exceeds the type-volume limitations specified in these rules, such as to include unusually voluminous information explaining relevant background or legal provisions or to respond to multiple briefs by opposing parties or amici. The Committee expects that courts will accommodate those situations by granting leave to exceed the type-volume limitations as appropriate." The Court has reviewed the standing order of January 9, 2012 which discourages motions to exceed the word limits. The Court has determined that insofar as the order provides for granting a motion for excess words in extraordinary circumstances such as complex multi-party cases or when "the subject matter clearly requires expansion of the word limits" the order is in harmony with the comment to Rule 32 and will remain in force.

The full report and text of the Amendments are posted on the Court's website. Counsel should read and become familiar with the changes to the Rules. Counsel's attention is particularly directed to Rule 4(a)(4) which clarifies that a motion listed in the Rule that is made after the time allowed by the Civil Rules will not toll the time for appeal and Rule 26(c) which "is amended to remove service by electronic means under Rule 25(c)(1)(D) from the modes of service that allow 3 added days to act after being served." Committee Note to Rule 26(c).

Marcia Waldron
Clerk of Court

**Appendix:
Length Limits Stated in the
Federal Rules of Appellate Procedure**

This chart summarizes the length limits stated in the Federal Rules of Appellate Procedure. Please refer to the rules for precise requirements, and bear in mind the following:

- In computing these limits, you can exclude the items listed in Rule 32(f).
- If you use a word limit or a line limit (other than the word limit in Rule 28(j)), you must file the certificate required by Rule 32(g).
- For the limits in Rules 5, 21, 27, 35, and 40:
 - You must use the word limit if you produce your document on a computer; and
 - You must use the page limit if you handwrite your document or type it on a typewriter.
- For the limits in Rules 28.1, 29(a)(5), and 32:
 - You may use the word limit or page limit, regardless of how you produce the document; or
 - You may use the line limit if you type or print your document with a monospaced typeface. A typeface is monospaced when each character occupies the same amount of horizontal space.

	Rule	Document type	Word limit	Page limit	Line limit
Permission to appeal	5(c)	<ul style="list-style-type: none"> • Petition for permission to appeal • Answer in opposition • Cross-petition 	5,200	20	Not applicable

	Rule	Document type	Word limit	Page limit	Line limit
Extraordinary writs	21(d)	<ul style="list-style-type: none"> • Petition for writ of mandamus or prohibition or other extraordinary writ • Answer 	7,800	30	Not applicable
Motions	27(d)(2)	<ul style="list-style-type: none"> • Motion • Response to a motion 	5,200	20	Not applicable
	27(d)(2)	<ul style="list-style-type: none"> • Reply to a response to a motion 	2,600	10	Not applicable
Parties' briefs (where no cross-appeal)	32(a)(7)	<ul style="list-style-type: none"> • Principal brief 	13,000	30	1,300
	32(a)(7)	<ul style="list-style-type: none"> • Reply brief 	6,500	15	650
Parties' briefs (where cross-appeal)	28.1(e)	<ul style="list-style-type: none"> • Appellant's principal brief • Appellant's response and reply brief 	13,000	30	1,300
	28.1(e)	<ul style="list-style-type: none"> • Appellee's principal and response brief 	15,300	35	1,500
	28.1(e)	<ul style="list-style-type: none"> • Appellee's reply brief 	6,500	15	650
	28(j)	<ul style="list-style-type: none"> • Letter citing supplemental authorities 	350	Not applicable	Not applicable
Party's supplemental letter					

	Rule	Document type	Word limit	Page limit	Line limit
Amicus briefs	29(a)(5)	• Amicus brief during initial consideration of case on merits	One-half the length set by the Appellate Rules for a party's principal brief	One-half the length set by the Appellate Rules for a party's principal brief	One-half the length set by the Appellate Rules for a party's principal brief
	29(b)(4)	• Amicus brief during consideration of whether to grant rehearing	2,600	Not applicable	Not applicable
Rehearing and en banc filings	35(b)(2) & 40(b)	• Petition for hearing en banc • Petition for panel rehearing; petition for rehearing en banc	3,900	15	Not applicable