

August 16, 2007
(Amended – 10/23/07)

MEMORANDUM TO COUNSEL

FROM: Clerk of the Court

SUBJECT: Revised Supreme Court Rules

The Supreme Court recently revised its Rules of the Court, effective **October 1, 2007**. The revised Rules contain changes that are important to you and parties filing documents in this Court. This memorandum is designed to outline some of the most important changes.

WORD COUNT AND FONT

Revised Rule 33.1 requires word, rather than page, limits. The typeface must be in a Century family (*e.g.*, Century Expanded, New Century Schoolbook, or Century Schoolbook) 12-point. The typeface of footnotes must be in 10-point type. Rule 33.1(h) provides that documents prepared under Rule 33.1 must be accompanied by a certificate signed by the attorney or preparer of the document stating that the brief complies with the word limitations. The certificate should not be bound with the brief. Preparers may rely on the word count of the word-processing system used to prepare the document. Footnotes must be included in the word count. The certificate must state the number of words in a document.

The count certification may be worded as follows:

“As required by Supreme Court Rule 33.1(h), I certify that the document contains _____ words, excluding the parts of the document that are exempted by Supreme Court Rule 33.1(d).

“I declare under penalty of perjury that the foregoing is true and correct.

“Executed on _____, 20__.

(Signature)”

TABLE OF CONTENTS

Revised Rule 14.1(c) provides that the table of contents shall include the items contained in the appendix.

MERITS BRIEFS

Revised Rules 25.2 and 25.3 shorten the time for filing bottom-side briefs and reply briefs on the merits from 35 days to 30 days. Due dates for merits briefs, including *amicus curiae* briefs at the merits stage, in cases that have already been granted shall comply with the 2005 version of the Rules. Due dates for merits briefs in cases granted on or after October 1, 2007, shall comply with the 2007 version of the Rules. It is anticipated that any order entered between the date of this memorandum and October 1, 2007, that grants certiorari or notes or postpones probable jurisdiction will include a briefing schedule for the parties and *amici curiae*.

Revised Rule 25.8 provides that an electronic version of every brief on the merits shall be transmitted to the Clerk of the Court and to opposing counsel of record at the time the brief is filed in accordance with guidelines established by the Clerk. Guidelines for the electronic submission of briefs on the merits are enclosed. The electronic transmission requirement is in addition to the requirement that booklet-format briefs be timely filed.

Counsel of record in cases before the Court for oral argument will be provided additional information concerning submitting briefs in electronic format.

AMICUS CURIAE BRIEFS

Revised Rule 37.3(a) provides that an electronic version of every *amicus curiae* brief in a case before the Court for oral argument shall be transmitted to the Clerk of the Court and to counsel for the parties at the time the brief is filed in accordance with the enclosed guidelines. The electronic transmission requirement is in addition to the requirement that booklet-format briefs be timely filed.

Revised Rule 37 modifies the requirement that certain *amicus curiae* briefs must include a disclosure statement in the first footnote on the first page of text.

The Rule continues to require most *amici curiae* to disclose whether the parties consented to the filing of the *amicus* brief. If the parties have consented, that portion of footnote 1 may be worded as follows:

“The parties have consented to the filing of this brief.”

The Rule now also requires *amici curiae* to notify parties of the intent to file an *amicus* brief at the petition stage, and to confirm that they have given the parties such notification. That portion of footnote 1 may be worded as follows:

“Counsel of record for all parties received notice at least 10 days prior to the due date of the *amicus curiae*’s intention to file this brief.”

Rule 37.6 also amends the requirement that most *amici curiae* disclose who authored the *amicus* brief and who made a monetary contribution intended to fund the preparation of that brief. Assuming there is nothing unusual that must be disclosed, that portion of footnote 1 may be worded as follows:

“No counsel for a party authored this brief in whole or in part, and no counsel or party made a monetary contribution intended to fund the preparation or submission of this brief. No person other than *amicus curiae*, its members, or its counsel made a monetary contribution to its preparation or submission.”

I encourage you to become familiar with the revised Rules. If you have questions, please contact Chief Deputy Clerk, Christopher Vasil at 202-479-3027, cvasil@supremecourt.gov.

William K. Suter
Clerk of the Court

Enclosure

SUPREME COURT OF THE UNITED STATES
GUIDELINES FOR ELECTRONIC SUBMISSION
OF BRIEFS ON THE MERITS

October 1, 2007
(Amended – 11/14/07)

Electronic versions of briefs on the merits are to be transmitted to the Clerk of Court and to all counsel of record pursuant to Rules 25.8 and 37.3 in accordance with the following guidelines:

1. The electronic version will be transmitted to the Clerk and opposing counsel at the same time the final printed brief is filed with the Clerk and served upon opposing counsel pursuant to Rule 29.
2. Electronic versions of all briefs on the merits must be in text searchable portable document format (PDF) compatible with the latest version of Adobe Acrobat with all fonts embedded. Documents must be directly converted from the word-processing format into PDF so as to preserve their searchability.
3. Briefs shall be named as follows:

Case No.	07-9999 (term-number)
Brief Type	ts (topside – opening brief of petitioner or appellant); bs (bottom side – answering brief of respondent or appellee); rb (reply brief); tssb (supplemental brief of petitioner or appellant); bssb (supplemental brief of respondent or appellee); ac (<i>amicus curiae</i> brief in support of neither party); tsac (<i>amicus curiae</i> brief in support of petitioner or appellant); bsac (<i>amicus curiae</i> brief in support of respondent or appellee)

Name of *Amicus* or Party *Amicus* briefs should include the first-named *amicus*. Parties' names need not be included unless there are multiple parties on the same side filing separate briefs; if so, the name of the first-named party should be included.

For example, assuming case No. 07-9999 involves one petitioner, an *amicus* supporting that petitioner, two respondents, and an *amicus* supporting respondents, the merits briefs would be named as follows:

07-9999ts.pdf
07-9999tsacNameofAmicusGroup.pdf
07-9999bsUnitedStates.pdf
07-9999bsVermont.pdf
07-9999bsacNameofotherAmicusGroup.pdf
07-9999rb.pdf

4. Briefs are to be e-mailed to the Clerk of Court at meritsbriefs@supremecourt.gov.
5. The body of the e-mail shall include a statement of service that includes:

Case No. & title

Type of document

Date documents were e-mailed

Names & e-mail addresses of individuals served

6. Any brief being reprinted must immediately be brought to the attention of the Merits Assistant, Denise McNerney (202-479-3032). The reprinted brief must be e-mailed following the same procedures as the original document and the word "reprint" should be added to the name of the file at the very end (*e.g.*, 07-9999tsreprint).

7. The following information should not be included in either the paper or the electronic version of a filing: Social Security numbers, names of minor children, dates of birth, financial account numbers, and home addresses. Sealed items should not be included in the electronic file.

Briefs submitted electronically should be available on the Court's web site the next business day.

E-mailing a brief does not obviate the requirement that a hard copy be timely filed.