

**CLERK' S OFFICE
MOST FREQUENTLY ASKED QUESTIONS**

GENERAL

Can I speak to a judge or a law clerk about my case? *No. The clerk' s office is the point of contact between litigants, their counsel and the court. The only exception is in an emergency situation in a particular case where a judge directs you to send a response directly to chambers.*

How long does it take from the filing of my notice of appeal until oral argument? *Only about 12% of the cases filed will receive oral argument. Nearly one-half of the cases filed are dismissed on procedural grounds or because they settle. Of the fully briefed cases, fewer than 29% receive argument. A more complete statistical breakdown can be found in Table 27 of the clerk' s office Annual Statistical Report, which is on the clerk' s office webpage. If a case is argued, argument occurs about 12 months after filing of the notice of appeal.*

How long does it take for a ruling on my petition for rehearing? *There is no set time but generally the court rules within 30 days.*

Did you receive my brief/motion/petition for rehearing etc.? *We docket motions etc. generally within 3 days after we receive them. Once docketed you can get this information by calling our Appellate Voice Information System (AVIS) at (504) 310-8514, or at (504) 310-7700 and pressing "1" and then "5." You may also check the docket information available through the PACERNET System located on our web site, < www.ca5.uscourts.gov> .*

What is your address and how do I get to the court? *The clerk' s office is at 600 South Maestri Place. The courthouse is at 600 Camp Street, New Orleans, LA 70130. Maps can be accessed by going to the clerk' s office page of our web site and selecting the "Maps" section near the bottom of the page. If you are driving from the airport, exit the airport and take the Airport Access Road to I-10 eastbound. Follow I-10 and at the "split" of I-10 and I-610, stay to the right going to the "Central Business District." As you proceed toward the Mississippi River, there will be a sign and a right exit for I-10 to "Slidell." DO NOT TAKE THIS EXIT. Keep going straight toward the river. The expressway is now technically called US 90 West or the "Pontchartrain Expressway." Take the "Carondelet/St. Charles" exit. This is a short exit with a stoplight at the base of the exit. Cross Carondelet and at the next light, make a left turn onto St. Charles Avenue. Go through the stoplight to "Lee Circle." Make the first right exit which is "Andrew Higgins Drive" (formerly Howard Avenue). Get in the left lane, and go one*

block. At the stoplight turn left onto “ Camp Street.” Proceed down Camp Street until you reach “ 600 Camp.” Parking is limited, but there are some commercial garages in the general area of the courthouse.

If coming from east of town, take I-10 westbound and exit onto the Pontchartrain Expressway going toward the river. Then follow the instructions above.

If coming from the Westbank area, take the Westbank Expressway/Hwy 90 East to the Crescent City Connection, then take the Camp St. Exit. Proceed down Camp Street until you reach “ 600 Camp.” Parking is limited, but there are some commercial garages in the general area of the courthouse.

Can I get appearance forms and transcript order forms from you? *Yes. You can get appearance forms from our web site or we can send them to you. We also can provide transcript order forms, but you should get them from the district court, see IOP following 5TH CIR. R. 10.2.*

Can I give you my change of address over the telephone? *No. To insure that we have the information accurately, you need to send us your address change in writing.*

Where are the Fifth Circuit jury instructions located? *There is a link on our Internet home page to jury instructions. The 2006 version of the civil and 2001 version of the criminal jury instructions can be viewed, with hyperlinks to specific instructions via the Table of Contents. The WordPerfect version of the instructions can also be downloaded.*

In the docket I am viewing, under “ Group” the notation “ Private Entry” is made. What does this entry mean? *A private entry simply signifies that the matter is not for public record. For example, it may refer to the name of the judge to whom a pending motion has been sent, or identify the writing judge of an opinion before the opinion is released. By court rules and policies, these matters may not be disclosed to the public except at defined times.*

NOTICES OF APPEAL AND FILING FEES

Where do I file my notice of appeal? *You file with the district court which entered the judgment from which you are appealing, FED. R. APP. P. 3(a)(1).*

What does it cost to file a notice of appeal? *There is a \$5 fee imposed by 28 U.S.C. § 1917 and a \$450 docketing fee imposed by the Judicial Conference of the United States under its delegated authority in 28 U.S.C. § 1913. These fees are paid to the district court clerk.*

Is there a fee for filing a motion, or petition for rehearing? *No.*

BRIEFS, RECORD EXCERPTS AND MOTIONS

If you allow three days for mailing a brief, why does the date on your Internet web site show a different brief due date? *The automated case management system defaults to a set due date - 40 days for an appellant' s brief, 30 days for an appellee' s brief, etc. You must either personally serve the brief on that date or mail it or deliver it to a third party commercial delivery service for delivery within three days. If you mail or use a delivery service for your brief you are afforded three additional days.*

What is the “ page limit” for my brief? *Under FED. R. APP. P. 32, principal briefs are limited to 30 pages. Because most briefs are prepared on computers or typewritten, the rule allows briefs longer than 30 pages if the filer completes a “ certificate of compliance.” If a brief is prepared on a computer or word processor which has a word count feature, the limit is 14,000 words for a principal brief. If the brief is typewritten in monospaced typeface, and there is no word count feature, the limit is 1,300 text lines. Because the word and text line counts are mechanical in nature and set for use by word processing software and typewriters, they do not work for handwritten briefs. Accordingly, handwritten briefs are limited to 30 pages. FED. R. APP. P. and 5TH CIR. R. 32 tell you how to count the pages and note that some pages, e.g., the table of contents, certificate of interested persons, tables of authorities, etc. do not count against the page word count or text line limits.*

When is my brief due/when does my briefing time begin to run? *If you are the appellant, we send you a briefing letter telling you your brief is due 40 days from the date of our letter. This means you either need to personally file it with the clerk' s office, or deposit your brief in the mail or give it to a commercial delivery service, e.g., UPS or FedEx, on the 40th day after the letter' s date. If you are an appellee, you have 33 days from the appellant' s date on the certificate of service to put the appellee' s brief in the mail. Reply briefs are due within 14 days of the date on the appellee' s brief' s certificate of service, 5TH CIR. R. 31. You can also check the due dates by accessing our web site and checking the case information or by calling AVIS. A brief is timely filed if personally delivered or placed in the mail or given to a commercial delivery service on the due date.*

How can I get an extension of time to file my brief? *The court looks “ with disfavor” on extension requests. However, where “ good cause” exists you can call the case management team responsible for your case and request a limited extension if your request is not opposed by the other parties. If the request is granted, you will have to send us and the other parties a letter confirming the extension. Motions for extension of time for more than 30 days must be in writing, 5TH CIR. R. 31.*

What is the page limit for a mandamus petition? *The page limits are 30 pages for the petition and any response.*

If I need to make corrections to my brief or record excerpts, how much postage do I need to send to you? *If you elect to have us return your briefs or record excerpts for compliance with the rules, you may call us and we will tell you how much the package weighs. You can then calculate the return postage costs.*

To whom can I talk about corrections to my brief or my record excerpts? *The appropriate Case Management Team should be able to answer your questions.*

What title (case caption) should I have on my brief? *When we send you the briefing notice, we enclose a copy of the case title you should use on your brief.*

Can you explain the size of fonts, what sans-serif typeface is and the difference between monospaced and proportional typeface? *See our Guide to Writing a Brief under FED. R. APP. P. and 5TH CIR. R. 32 which is at the clerk's office section of our Internet web site.*

What color should my brief cover be and how many copies do I need to file? *See FED. R. APP. P. 32(a)(2) and our Checklist of Rule Requirements for Briefs and Record Excerpts at our clerk's office section of our Internet web site. For cross-appeals, see FED. R. APP. P. 28.1, effective December 1, 2005.*

Which software should the brief be typed in? *Counsel who prepare briefs on a computer must file an electronic copy with the court and serve an electronic copy on the other parties using Adobe Acrobat PDF software, see 5TH CIR. R. 31.1, on our web site under the Rules section on the clerk's office page. The brief must be in a single PDF file and cannot be scanned into PDF.*

What is wrong with my certificate of service? *Most likely the problem is that you have not complied with FED. R. APP. P. 25 and have not given a proper address. A certificate (proof) of service which says that you mailed or delivered the brief to "Mr. John Smith, Anytown, LA" is NOT SUFFICIENT. You must state you personally delivered or mailed the brief to "Mr. John Smith, 1234 Main Street, Anytown, LA 70130," or if there is no street address for mailing, you may state the brief was mailed to "Mr. John Smith, P.O. Box 345, Anytown, LA 70130."*

Parties may agree in writing to accept service of documents by facsimile transmission or by electronic means, for example, e-mail. If you serve a document by fax or electronic means, you must include the recipient's fax number or electronic address in

the certificate of service. (You still must mail paper copies of the briefs and any required CD's or diskettes to the clerk's office).

Since the other party has to make corrections in his or her brief, when does my briefing time start? *Your briefing time runs as originally scheduled unless the deficient brief exceeds the type-volume limits, or is so incomplete that there is nothing for you to respond to. If there are major corrections needed, we will notify you when your brief is due.*

What is wrong with my certificate of compliance? *Please see Form 6 to the Fed. R. App. P. under "Forms and Samples" at the clerk's office section of our web site. Look at the first paragraph of section 1 of the certificate of compliance sample. You must complete the form with the number of words in your brief. Merely saying your brief "complies with the word count limits of Fed. R. App. P. 32" or "has fewer than 14,000 words," is not sufficient. Use the word count feature of your computer or word processor, e.g., "13,452 words." Do not try to manually count the number of words. If you have prepared a brief in monospaced typeface and on a system that does not have a word count feature - for example an electric typewriter - you do not use the "word count" portion of the certificate. Instead, you use the text line section shown in the second subparagraph of section 1 of the form. In section 2 of the form, you must tell us that you used, for example, "WordPerfect version 8.0" using "CG Times typeface in 14 points," or for monospaced briefs prepared without a word count feature, use the second part of section 2 and state that the brief was prepared using, for example, "Courier typeface with 10.5 characters per inch."*

Why is the 5th Circuit so strict on its rules concerning briefs? *The court charges us with enforcing the rules fairly and uniformly to all parties. We enforce the rules so that each litigant is insured that the "playing field will be level" and that no party can obtain an advantage over another by failing to comply with the rules. Equally important, the court wants the form of briefs and other pleadings to be consistent and easily readable by the judges. Remember fewer than 30% of the fully briefed cases receive oral argument and our judges must read a tremendous volume of written materials. They want them to be easy to read and to understand. When you comply with the rules, the court receives a better product that aids in their decision.*

What do I need to put in my record excerpts? *See 5TH CIR. R. 30.1.4 and 30.1.5.*

NOTE: Effective December 1, 2007, counsel must submit an electronic version of the record excerpts in PDF format on a CD or diskette. This is in addition to the paper copies.

How many copies of my:

- a. brief;**
- b. record excerpts;**
- c. petitions for rehearing;**

do I need to file? *You must file 7 paper copies of your brief with the court. In addition, if the brief was prepared on a computer, you must also file an electronic copy with the court, 5TH CIR. R. 31.1. You must file 4 paper copies and also an electronic copy of your record excerpts with the court, 5TH CIR. R. 30.1.2. You must file 4 copies of a petition for panel rehearing, 5TH CIR. R. 40.1. You must file 20 copies of a petition for rehearing en banc, 5TH CIR. R. 35.2.*

How many copies of motions do I need to file? *You must file 2 copies of motions which can be ruled on by a single judge or the clerk; and 4 copies of motions which must be presented to a panel of judges, 5TH CIR. R. 27.4.*

Does my motion have to have a cover? *No, but the motion must have a caption with the case number, name of the court, title of the case, a brief descriptive title of the motion and identify the party for whom the motion is filed, FED. R. APP. P. 27(d)(1)(B).*

Do I need to provide the court with a proposed order when I file a motion? *No.*

How much time does the clerk or the court have to rule on my motion? *There is no set time limit. Also, many motions are held and submitted to the court at the same time the case is submitted to the judges for decision. This procedure is designed to economize the number of times motions in a case have to be sent to the court and to insure that one judge or panel sees the motions in the context of the whole case and not as isolated matters.*

Does my petition for rehearing have to have a cover? *No, but if you choose to put a cover on it, the color is white.*

Does my petition for rehearing/rehearing en banc have to be bound? *No. However, if you choose to do so, we prefer that rehearing petitions, like briefs, be spirally bound but this is not a requirement.*

If I am submitting both a petition for panel and en banc rehearing, how many pages can the petitions have? *Rehearing petitions and en banc petitions - 2 separate documents - Each must not exceed 15 pages exclusive of table of contents, table of authorities and certificate of interested parties. (See FRAP 35(b)(2) and FRAP 40(b).*

Do I have to send in a CD or diskette with my petition for panel or en banc rehearing? *None is currently required, but you may send in a CD or diskette if you wish.*

RECORDS AND COSTS FOR COPY WORK

How much do you charge to copy documents? *The Judicial Conference of the United States has set a fee of \$.50 per page for copies of documents. **PLEASE CALL FOR ACTUAL PAGE COUNT PRIOR TO SENDING PAYMENT FOR COPIES.** As an exception, there is a flat rate cost of \$3.00 for a copy of an opinion in a case. The fees must be paid in advance.*

Do you accept credit cards for copy work? *Yes, we presently accept Visa, Mastercard, American Express and Discover.*

Can you fax copies of briefs to me? *No. We do not have the personnel or dollar resources to fax briefs.*

Can you copy an entire case file for me, including the briefs, etc.? *No, we have neither the staff nor copying equipment to do large volume copying. Further, you can likely get a better price per page if you contact a reputable copying service in New Orleans to check out the case file and to prepare the copies for you. We can give you some names of companies if you wish.*

How can I get a record which is at the Federal Records Center? *You can contact us, provide a \$45 retrieval fee and we will order it for you. If you want copies of all or part of the record, there is an additional \$.50 per page copying cost.*

How long does it take for you to send me copies of briefs, etc.? *If we have the documents in our office, we should be able to send them within 3 working days after we receive your payment.*

Can I get a copy of the court rules and internal operating procedures? *We will send pro se litigants a copy of the rules and internal operating procedures at no cost. Counsel can download them from the clerk's office section of our web site.*

Can I get a copy of a court order/opinion? *Yes, court orders cost \$.50 per page and "opinions" cost \$3.00. Fees must be paid in advance.*

Can I get a copy of the record on appeal (ROA)? *If the court or counsel is not currently using the record, the district court or our court can send it to you for use in writing your brief. You are responsible for paying shipment costs. Because the record is*

the property of the court, you must safeguard it and return it immediately upon our request.

ORAL ARGUMENT

I am the cross-appellant in a case, do I get time for rebuttal? *No.*

When will I be notified if my case is set for oral argument? *We generally provide you with 60 days notice that your case will be argued during a particular week. You normally receive 30 days notice of the specific day and location of the argument.*

Is my argument scheduled in New Orleans, what courtroom am I in, where is the courtroom? *You can check our calendaring information on our Internet web site or you can call our Appellate Voice Information System (AVIS), (504) 310-8514 which will tell in which city argument will be held. Arguments in New Orleans are on the second floor. The en banc courtroom is room 209, the east courtroom is room 223 and the west courtroom is room number 265. The room numbers for the courtrooms are on the left inside columns to the entrance hallways.*

I am flying in the day before oral argument. Can I come to the courthouse and listen to others present oral argument? *Yes.*

Can you tell me who is on my oral argument panel? *The Internal Operating Procedure following 5TH CIR. R. 34 states that the court does not release the names of the panel members until one week before the start of the oral argument session. When the information is released, it is available on AVIS, (504) 310-8514, and is posted on our web site one week before oral argument begins. To view this section click on the “ Court Calendars ” link on the left side of our home page.*

Can you give me some background information about the judges on my panel? *Click on our “ Judge Biographies ” section on the left hand side our Internet home page.*

Can I fax you my oral argument acknowledgment form? *As a general rule, no. 5TH CIR. R. 25 restricts the use of faxed information to emergency situations only, and only after specific approval from the clerk.*

How can I get a copy of the transcript from an orally argued appeal? *Transcripts are not available from the Fifth Circuit Court of Appeals, see 5TH CIR. R. 34.7.*

OPINIONS

Does the Fifth Circuit web site contain all opinions? How long does it take for an opinion to appear on the web site? *Published and unpublished opinions are available on our website, back to about the early 1990's. Some opinions may be missing because of software conversion problems.*

Absent a computer problem, when an opinion "issues," the opinion is uploaded onto our site within 24 hours of receipt in the clerk's office. Delays can occur if the file is corrupted during the uploading process.

What is the average length of time from the filing of an appeal to the issuance of the opinion in the Fifth Circuit? *There is no standard time because criminal cases are handled differently than civil cases. However, the court attempts to reach a decision within 60 days after the case has been fully briefed and submitted to the court. Overall the average is about 10 months from the time the notice of appeal is filed until decision.*

How long after the case is orally argued or submitted to the court do I have to wait for a decision? *We cannot speculate when an opinion will be issued. The court's goal is to issue an opinion generally within 60 days after argument or submission.*

How do I obtain a copy of an unpublished opinion? *If you do not have access to the Internet and are interested in a particular case, you can request a copy. The clerk's office needs the case name and number, and if available, the date of decision. If the case has not been retired to the records center, there is a \$3.00 fee, payable in advance. If the case file has been retired, there is an additional \$45 retrieval fee, payable in advance.*

The 5th Circuit Library also has copies of unpublished opinions since 1974. They will generally mail or fax you a copy of the unpublished opinion upon request for a nominal fee.

Is there a way I can automatically receive all new opinions? *Registering in the opinions subscription area of our home page enables you to receive opinions via e-mail as soon as they are released to the Internet. Simply click on "Opinions" and then click on "Opinions subscription list registration." You will be prompted for your name, company affiliation, and e-mail address, as well as a password. Shortly after registering, opinions should start appearing in your mailbox each day. Also our Internet home page lists any new opinions issued and you can view them daily.*

Can you fax me a copy of an opinion or send it to me by e-mail? *No. We do not offer this service at the present time.*

Can you find me the 5th Circuit opinion for a case if I give you a cite to the Federal Reporter? *No. Citations to the Federal Reporter series are proprietary and belong to West Publishing. The opinions on our database cannot be linked to the West citations.*

Can you help me find a 5th Circuit opinion about some legal topic, or can you help me find an opinion whose name I cannot remember which was about some topic? *No. The clerk's office is not staffed or equipped to perform legal research for you. You can search our database of published opinions using the ISYS search engine offered at our web site.*

How do I download the WordPerfect version of an opinion? *On the left frame of both the court's home page and the opinions page, there is a link, "Download Opinions (FTP site)." Clicking on that link opens the ftp site, where you can choose from published and unpublished opinions, by date, or "today." The opinions are organized by the first two digits of the docket number. Once you locate the opinion you want, double-click on it to save to your computer in WordPerfect format.*

What are the differences in the three types of ISYS searches? *There are three types of queries available through ISYS:*

- *Command Based Query displays a dialog box in which you enter terms that you wish to locate combined with appropriate operators.*
- *Plain English Query lets you type exactly what you need to know in plain, everyday English. There is no need to remember search operators and terms.*
- *Menu Based Query is provided for beginners and occasional users of ISYS who do not wish to remember the format of a search statement. Searches are entered by typing in terms and choosing options from a menu.*

If you need more detailed information about how to search in ISYS, check the ISYS Help File on each search entry screen.

CRIMINAL JUSTICE ACT (CJA) VOUCHERS

How can I track the status of my CJA voucher? *See the court's Internet home page and click on "CJA vouchers" link on the left hand side of the screen.*

BILLS OF COSTS

What is recoverable under a "bill of costs?" *In general, see 5TH CIR. R. 39. If the court awards you costs, you may submit a bill of costs and recover:*

- a. *The \$450 filing fee (if you are the appellant);*
- b. *Your costs for preparing up to 10 copies of the record excerpts at the lesser of actual cost or \$0.15 per page; the cost of covers at up to \$.25 per page, the cost of spiral binding up to \$1.50 per binding; sales tax if the record excerpts are commercially printed and you attach a copy of the invoice;*
- c. *The actual costs of tabs used to separate portions of the record excerpts as required by 5TH CIR. R. 30.1.7(c);*
- d. *Your costs in preparing up to 15 copies of your brief at the lesser of actual cost or \$0.15 per page and for covers, binding and sales tax as shown in b above.*

What costs are not recoverable? *You may not be reimbursed, inter alia, for:*

- a. *The costs of trial transcripts;*
- b. *UPS or FedEx, etc., costs;*
- c. *Costs for petitions for panel or en banc rehearings, or for initial en banc hearing;*
- d. *Costs for a “ Rule 28 (j) letter”;*
- e. *The costs of typing fees or general office overhead;*
- f. *Attorney’ s fees.*

How many copies of a bill of costs do I have to submit? *You must submit one bill of costs with an original signature.*

Where do I send the bill of costs? *Send to the U.S. Court of Appeals, Fifth Circuit, Clerk’ s Office, 600 S. Maestri Place, New Orleans, LA 70130-3408.*

I have not received payment, what should I do? *Contact the district court in which the action was filed.*

ATTORNEY ADMISSION/DISCIPLINARY ACTIONS

How do I get a certificate of good standing? *Mail a request to U.S. Court of Appeals, Fifth Circuit, Clerk's Office, Mail Remittance, 600 S. Maestri Place, New Orleans, LA 70130-3408. Include in your request for a certificate of good standing your full name, social security number, a check or money order for \$15.00 payable to "U.S. Courts," and a self-addressed stamped envelope.*

How do I apply for admission to the Fifth Circuit? *You complete the Application and Oath for Admission which you can print or download from our home page by clicking on the "Application and Oath for Admission" link on the left side of the screen. You can also print and download the Application from the clerk's office section of our web site. The total cost for admission is \$200.00. \$150.00 of that is sent to the Judiciary as a fee established by the Miscellaneous Fee Schedule. \$50.00 goes to our court. You must send us **ONE** check for \$200.00 made payable to "Clerk, United States Court."*

AMICUS BRIEFS

When is my amicus brief due? *FED. R. APP. P. 29 specifies that an amicus brief and any needed motion must be filed (personally served or placed in the mail) within 7 days of the filing of the brief being supported.*

If I am filing an amicus brief in support of rehearing, when must the amicus brief and any necessary motion be filed? *The amicus brief and any motion must be filed within 7 days of a petition for rehearing filed by a party in the case.*