

UNITED STATES COURT OF APPEALS

FOR THE FIFTH CIRCUIT

ORDER

The period for public comment on proposed amendments to the 5TH CIR. R. has expired, and the court has considered the comments presented. The court has voted to adopt the attached amendments to 5TH CIR. R. 27.3 and .4.

The changes are effective April 1, 2008. IT IS SO ORDERED.

Done this 21st day of February, 2008.

/s/ Charles R. Fulbruge III
Clerk of Court
By Direction

CHANGES TO 5TH CIR. R.

EFFECTIVE APRIL 1, 2008

27.3 Emergency Motions in Cases Other Than Capital Cases. *Parties should not file motions seeking emergency relief unless there is an emergency sufficient to justify disruption of the normal appellate process. In cases not governed by 5th Cir. R. 8.10, motions seeking relief before the expiration of 11 days after filing must, subject to the penalties of Fed. R. App. P. 46(c), be supported by good cause and must:*

Be preceded by a telephone call to the clerk's office and to the offices of opposing counsel advising of the intent to file the emergency motion. If time does not permit the filing of the motion by hand delivery or by mail, the clerk may permit filing by facsimile or by other electronic means. In an extraordinary case, the clerk may permit the submission of an oral motion by telephone. If the motion is filed by means other than hand delivery or mail, counsel should also later file the motion by hand delivery or by mail.

Be labeled "Emergency Motion."

State the nature of the emergency and the irreparable harm the movant will suffer if the motion is not granted.

Certify that the facts supporting emergency consideration of the motion are true and complete.

Provide the date by which action is believed to be necessary.

Attach any relevant order or other ruling of the district court as well as copies of all relevant pleadings, briefs, memoranda, or other papers filed by all parties in the district court. If this cannot be done, counsel must state the reason that it cannot be done.

Be served on opposing counsel at the same time and, absent agreement to the contrary with opposing counsel, in the same manner as the emergency motion is filed with the court.

Be filed in the clerk's office by 2:00 p.m. on the day of filing.

27.3.1 Emergency Stays of Deportation. *The court will give emergency consideration to stays of deportation **only** where the petitioner has a scheduled removal date and is in custody. Petitioners and counsel are responsible for obtaining accurate information about the custody status of their clients, as well as confirming the scheduled removal date.*

Emergency stays where petitioners have an imminent scheduled deportation date and are in custody will be processed in accordance with rule 27.3 above.

27.4 Form of Motions. *Parties or counsel must comply with the requirements of FED. R. APP. P. 27 including the length limits of FED. R. APP. P.27(d)(2). Except for purely procedural matters, motions must include a certificate of interested persons as described in 5TH CIR. R. 28.2.1. Where a single judge or the clerk may act only an original and 1 copy need be filed. All motions requiring panel action require an original and 3 copies. **All motions must state that the movant has contacted or attempted to contact all other parties and must indicate whether an opposition will be filed.** Where a party's motion is not an Emergency Motion covered by 5th Cir. Rule 27.3, but the party has a serious need for the court to act within a specified time, the motion must state the time requirement and describe both the nature of the need and the facts that support it.*

Effective April 1, 2008