

# CLERK'S OFFICE

## MOST FREQUENTLY ASKED QUESTIONS

### Contents

GENERAL.....	3
Can I speak to a judge or a law clerk about my case?.....	3
How long does it take from the filing of my notice of appeal until oral argument? .....	3
How long does it take for a ruling on my petition for rehearing? .....	4
Did you receive my brief/motion/petition for rehearing etc.? .....	4
What is your address and how do I get to the court? .....	4
Can I get appearance forms and transcript order forms from you?.....	4
Can I give you my change of address over the telephone?.....	4
Where are the Fifth Circuit jury instructions located?.....	4
In the docket I am viewing, under “Group” the notation “Private Entry” is made. What does this entry mean?.....	4
NOTICES OF APPEAL AND FILING FEES .....	5
Where do I file my notice of appeal? .....	5
What does it cost to file a notice of appeal? .....	5
Is there a fee for filing a motion, or petition for rehearing? .....	5
BRIEFS, RECORD EXCERPTS AND MOTIONS .....	5
What is the “page limit” for my brief? .....	5
When is my brief due/when does my briefing time begin to run?.....	5
How can I get an extension of time to file my brief? .....	6
What is the page limit for a mandamus petition? .....	6
If I need to make corrections to my brief or record excerpts, how much postage do I need to send to you? .....	6
To whom can I talk about corrections to my brief or my record excerpts?.....	6
What title (case caption) should I have on my brief?.....	6
Can you explain the size of fonts, what sans-serif typeface is and the difference between monospaced and proportional typeface? .....	6
What color should my brief cover be and how many copies do I need to file? .....	7
Which software should the brief be typed in? .....	7
Since the other party has to make corrections in his or her brief, when does my briefing time start? .....	7
What is wrong with my certificate of compliance?.....	8

Why is the 5th Circuit so strict on its rules concerning briefs?.....	8
What do I need to put in my record excerpts?.....	8
How many copies of my: .....	9
<i>brief</i> ; .....	9
<i>record excerpts</i> ; .....	9
<i>petitions for rehearing</i> ; .....	9
<i>do I need to file?</i> .....	9
Do I need to provide the court with a proposed order when I file a motion? .....	9
How much time does the clerk or the court have to rule on my motion?.....	9
Does my petition for rehearing have to have a cover? .....	10
Does my petition for rehearing/rehearing en banc have to be bound? .....	10
If I am submitting both a petition for panel and en banc rehearing, how many pages can the petitions have?.....	10
RECORDS AND COSTS FOR COPY WORK.....	10
How much do you charge to copy documents?.....	10
Do you accept credit cards for copy work? .....	10
Can you fax copies of briefs to me?.....	10
Can you copy an entire case file for me, including the briefs, etc.?.....	10
How can I get a record which is at the Federal Records Center? .....	10
How long does it take for you to send me copies of briefs, etc.? .....	11
Can I get a copy of the court rules and internal operating procedures?.....	11
Can I get a copy of a court order/opinion? .....	11
Can I get a copy of the record on appeal (ROA)? .....	11
ORAL ARGUMENT.....	11
I am the cross-appellant in a case, do I get time for rebuttal? .....	11
When will I be notified if my case is set for oral argument? .....	11
Is my argument scheduled in New Orleans, what courtroom am I in, where is the courtroom? ...	11
I am flying in the day before oral argument. Can I come to the courthouse and listen to others present oral argument?.....	12
Can you tell me who is on my oral argument panel? .....	12
How can I get a copy of the transcript from an orally argued appeal? .....	12
OPINIONS.....	12
Does the Fifth Circuit web site contain all opinions?.....	12
How long does it take for an opinion to appear on the web site? .....	12
What is the average length of time from the filing of an appeal to the issuance of the opinion in the Fifth Circuit?.....	12

How long after the case is orally argued or submitted to the court do I have to wait for a decision? .....	12
How do I obtain a copy of an unpublished opinion? .....	13
Is there a way I can automatically receive all new opinions? .....	13
Can you fax me a copy of an opinion or send it to me by e-mail? .....	13
Can you find me the 5th Circuit opinion for a case if I give you a cite to the Federal Reporter? .....	13
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? .....	13
<b>CRIMINAL JUSTICE ACT (CJA) VOUCHERS</b> .....	13
How can I track the status of my CJA voucher? .....	14
<b>BILLS OF COSTS</b> .....	14
What is recoverable under a “bill of costs?” .....	14
What costs are not recoverable? .....	14
How many copies of a bill of costs do I have to submit? .....	15
Where do I send the bill of costs? .....	15
I have not received payment, what should I do? .....	15
<b>ATTORNEY ADMISSION/DISCIPLINARY ACTIONS</b> .....	15
How do I get a certificate of good standing? .....	15
How do I apply for admission to the Fifth Circuit? .....	15
How do I register for electronic case filing? .....	15
<b>AMICUS BRIEFS</b> .....	15
When is my amicus brief due? .....	15
If I am filing an amicus brief in support of rehearing, when must the amicus brief and any necessary motion be filed? .....	16

## **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 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?

As of June 30, 2021, there were 4,563 cases pending in the Fifth Circuit. Administrative Office of the U. S. Courts statistics showed the median time from filing the notice of appeal to issuance of the court’s opinion was 10.6 months.

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.?

*If e-filing, we receive the document immediately and you can immediately view it through PACER on the docket sheet. E-filed documents are processed generally within 3 days after we receive them.*

*Paper filed documents (sent by pro se parties or attorneys exempt from e-filing) are generally docketed within 3 days. Once docketed you can get this information by accessing the docket information available through the PACER System located on our web site, <[Case Search](#)>.*

What is your address and how do I get to the court?

*The clerk's office is at 600 South Maestri Place, Suite 115. The courthouse is at 600 Camp Street, New Orleans, LA 70130.*

Can I get appearance forms and transcript order forms from you?

*Yes. You can get appearance forms and transcript order forms on our web site or we can send them to you. Both are located under the "Forms" tab in the "Attorney Forms" section. In accordance with the IOP following 5TH CIR. R. 10.2, you should get transcript order forms from the district court.*

Can I give you my change of address over the telephone?

*No. You should update contact information through your electronic filing account via PACER Appellate Account Maintenance. If you are exempt from e-filing, 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 the Library's Internet home page to jury instructions. There are links to the Library's Internet page under the "About the Court" tab in the "Court Offices" section as well as the Other Resources section at the bottom of the home page.*

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 \$500 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

### 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 13,000 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(f) 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 briefing notice. This means you either need to e-file it in our CM/ECF filing system (attorneys must e-file, unless motion granted to exempt), or if exempt from e-filing, 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 (pro se filers must mail or personally file, unless motion granted to file electronically). If you are an appellee, you have 30 days from the appellant’s date on the certificate of service to e-file or put the brief in the mail. Reply briefs are due within 21 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 accessing PACER.*

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 attorneys can request unopposed extensions of time preferably by filing “ECF Attorney Extension Request” through the Electronic Case Filing (ECF) system. All pro se filers can call the case management team responsible for the case and request an extension if the request is not opposed by other parties. If the request is granted, the Clerk's Office will note the docket sheet confirming the extension. All requests for extensions in excess of 30 days must be filed as a written motion, 5th CIR. R. 31.*

*Criminal appeals where the defendant is sentenced to 24 months or less are deemed “Short Release” cases. The court looks “with disfavor” on extension requests in these cases. However, where “good cause” exists, attorneys must file a formal motion for an extension of time if requesting any form of extension.*

What is the page limit for a mandamus petition?

*The page limits are 30 pages for the petition and any response. If typed on a computer, the word count must not exceed 7,800 words.*

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.  
Louisiana, Mississippi, and Agency Team: 504-310-7808  
Southern and Eastern Texas Team: 504-310-7807  
Northern and Western Texas Team: 504-310-7806*

*Or you may call the clerk that processed your filing, see the signature line of the deficiency letter.*

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 "Checklist for Filing of Briefs and Record Excerpts" under the "Forms Fees and Guides" tab on the website, in the "Guides" section, and found under "Brief Guidance."*

<http://www.ca5.uscourts.gov/docs/default-source/forms-and-documents---clerks-office/rules/brchecklist.pdf>

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 See our "Checklist for Filing of Briefs and Record Excerpts" under the "Forms Fees and Guides" tab on the website, in the "Guides" section, and found under "Brief Guidance." For cross-appeals, see FED. R. APP. P. 28.1, effective December 1, 2005. <http://www.ca5.uscourts.gov/docs/default-source/forms-and-documents---clerks-office/rules/brchecklist.pdf>*

*We need 7 copies of briefs and 4 copies of record excerpts (only required for appellant). Attorneys must electronically file their briefs and record excerpts first, **do not send paper copies until the Clerk's Office has reviewed your documents and emailed you with instructions to forward paper copies.** Pro se parties must mail (or hand deliver) paper copies of all pleadings unless granted leave of court to e-file. Pro se parties may also e-mail pleadings if all e-mail instructions are followed, please see the [Pro Se Filing Guide](#) for details.*

*Colors:*

*Appellant Brief: Blue*

*Appellee Brief: Red*

*Reply Brief (Appellant): Gray*

*Intervenor or Amicus Brief: Green*

*Sur Reply: Gray*

*Supplemental Brief: Tan*

*Cross- Appeals:*

*Appellant-Cross Appellee Brief: Blue*

*Appellee-Cross Appellant Brief: Red*

*Reply Brief of Appellant-Cross Appellee: Yellow*

*Reply Brief of Appellee-Cross Appellant: Gray*

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.*

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 “Rules” 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 13,000 words,” is not sufficient. Use the word count feature of your computer or word processor, e.g., “12,452 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, “Word, Microsoft Office version 2013” using “Century Schoolbook 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 ensured 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.*

*Mandatory Contents. The record excerpts must contain copies of the following portions of the district court record and MUST include reference to the EROA site for each document.*

- (a) The docket sheet;*
- (b) The notice of appeal;*
- (c) The indictment in criminal cases;*
- (d) The jury’s verdict in all cases;*
- (e) The judgment or interlocutory order appealed;*



- (f) *Any other orders or rulings sought to be reviewed;*
- (g) *Any relevant magistrate judge's report and recommendation;*
- (h) *Any supporting opinion or findings of fact and conclusions of law filed, or transcript pages of any such delivered orally; and*
- (i) *A certificate of service complying with FED. R. APP. P. 25.*

*Note: record excerpts are e-filed, unless filer is exempt from e-filing. If exempt from e-filing, 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:  
brief;  
record excerpts;  
petitions for rehearing;  
do I need to file?

*After e-filing your document, we will process and review it, if approved, we will request paper copies (7 for briefs, 4 for record excerpts, 4 for panel rehearing and up to 25 copies for rehearing en banc; you will be advised of how many copies are needed in the letter attached to the Notice of Docket Activity issued when we process your filing).*

*Those exempt from e-filing 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.*

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 or 3,900 words exclusive of table of contents, table of authorities and certificate of interested parties. (See FRAP 35(b)(2) and FRAP 40(b)).*

## **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.** The fees must be paid in advance. You may also pay for and request copies on-line through CM/ECF under Utilities, payments for these requests are submitted electronically with the request. The copies requested via CM/ECF are provided electronically, unless directed otherwise.*

Do you accept credit cards for copy work?

*Yes. Copy Requests may be made through CM/ECF under Utilities, payments for these requests are submitted electronically with the request. Payment can also be made over the phone.*

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.*

How can I get a record which is at the Federal Records Center?

*You can contact us, pay a retrieval fee and we will order it for you. For retrieval of one box of records the fee is \$64 and each additional box is \$39. If you want copies of all or part of the record, there is an additional \$.50 per page copying cost.*

*For electronic retrievals by the Federal Records Center, \$19.90 plus \$0.65 per page fee. 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?

*Pro se litigants and Counsel can download them from the clerk's office section of our web site. If a pro se litigant does not have access to obtain the rules from our web site, we will send a copy at no cost.*

Can I get a copy of a court order/opinion?

*Yes, court orders and opinions cost \$.50 per page. Fees must be paid in advance. You can also access opinions on our web site for free.*

Can I get a copy of the record on appeal (ROA)?

*Attorneys of record must access the record through CM/ECF, in the Utilities tab. In order to have access to the record, attorneys must file their Form for Appearance of Counsel timely and must also have "Case Search Status" set to "Active" on their CM/ECF filing account with the 5<sup>th</sup> Circuit. A "How to Guide" on accessing the record is available on the ECF Information page as well as the Forms, Fees, and Guides section of the website.*

*Pro se parties must contact the district court for a copy of the record in their pending appeal.*

## **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 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 5<sup>TH</sup> 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 posted on our web site one week before oral argument begins. To view this section click on the "Court Calendars" in the "Quick Links" section near the bottom of our home page.*

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 5<sup>TH</sup> CIR. R. 34.7. The audio recording of the oral argument is available on the court's website within 24 hours after the hearing.*

## **OPINIONS**

Does the Fifth Circuit web site contain all opinions?

*Published and unpublished opinions are available on our web site, back to about the early 1990's. Some opinions may be missing because of software conversion problems.*

How long does it take for an opinion to appear on the web site?

*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 9 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 fee, of \$0.50 per page, payable in advance. If the case file has been retired, there is an additional \$64 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 click on "Opinions subscription" under the Quick Links on the home page. You will be prompted to provide an e-mail address. After entering your email address, you will be prompted for your name, company affiliation. 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. This service is free.*

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.*

*You can view and print opinions free from our Opinions page on our web site. Additionally, you can sign up as a "Person of Interest" in a particular case and receive notice of any document (except sealed items) filed in the case, including the opinion.*

[Notice for Cases of Interest for Non Attorneys](#)

[Notice for Cases of Interest for Attorneys with No Bar Admission](#)

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 in the "Quick Links" section near the bottom of our home page, "Opinions Key Word Search."*

## **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" link in the Attorney Information Section.*

## **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 \$500 docketing 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 \$.15 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?

*Bill of Costs should be e-filed unless exempt from e-filing, if so send to the U.S. Court of Appeals, Fifth Circuit, Clerk's Office, 600 S. Maestri Place, Suite 115, New Orleans, LA 70130-3408. You must use the fillable PDF form provided to you and/or available on our web site under the Forms Fees and Guides tab, in the Attorney Forms Section. For any items that allow actual cost, you must attach the corresponding invoice.*

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?

*Requests are made on line in the CM/ECF Document Filing system. Instructions are available under the Attorney Information Tab, under Membership.*

How do I apply for admission to the Fifth Circuit?

*Applications are submitted on line through PACER.gov. Applicants must prepare their application and obtain a certificate of good standing, then visit PACER.gov to request Admission and E-filing Registration with the Fifth Circuit. Instructions are available under the Attorney Information Tab, under Membership.*

How do I register for electronic case filing?

*Registration is through the PACER Service Center. A link is available on our Electronic Case Filing Home Page or you may simply visit the PACER site and click the Register tab and then follow the prompts for attorney e-file registration.*

*Pro se parties can register for electronic case filing as well, but will not have filing privileges unless they have been granted leave of court in their pending case. Pro se parties wishing to e-file must file a Motion in paper form in each case in which they wish to e-file. If that motion is granted, e-filing will be allowed in that case.*

## **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.*

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