

abbreviated disposition as it may deem appropriate, e.g. affirmance by order of a decision or judgment of a court or administrative agency, a judgment of affirmance or reversal, containing a notation of precedents, or accompanied by a brief memorandum. If the parties have agreed to such disposition, they may so state in their briefs or may so stipulate at any time prior to decision. In any such case the Court will promptly issue a judgment unless compelling reasons otherwise dictate.

(d) **Unpublished Opinions.** An opinion, memorandum or other statement explaining the basis for this Court's action in issuing an order or judgment under subsection (c) above, which does not satisfy any of the criteria for publication set out in subsection (b) above, shall nonetheless be circulated prior to issuance to all judges on the Court. A copy of each such unpublished opinion, memorandum or statement shall be retained as part of the case file in the clerk's office and shall be publicly available on the same basis as any published opinion.

(e) **Motions to Publish.** Any person may, by motion made within thirty days after judgment or, if a timely motion for rehearing is made, within thirty days after action thereon, request that an unpublished opinion be published. Motions filed out of time shall not be considered unless good cause is shown. Motions for publication shall be based upon one or more of the criteria listed in subsection (b). Such motions are not favored and will be granted only for compelling reasons.

**RULE 15**

**PETITIONS FOR REHEARING, SUGGESTIONS FOR HEARING OR REHEARING EN BANC, MANDATES AND REMANDS**

(See also Rules 25, 32(a), 35(a), 35(c) and 40, Federal Rules of Appellate Procedure.)

(a) **Petitions for Rehearing and Suggestions for Hearing and Rehearing En Banc.**

(1) **Time Within Which to File.** A suggestion for hearing *en banc* shall be filed within the time limits prescribed in Rule 35(c) of the Federal Rules of Appellate Procedure. A petition for rehearing or a suggestion for rehearing *en banc*, in a case in which neither the United States nor an agency or officer thereof is a party, shall

be filed within thirty days after entry of judgment or other form of decision. In all cases in which the United States or an agency or officer thereof is a party, the time within which any party may seek rehearing or suggest rehearing *en banc* shall be forty-five days after entry of judgment or other form of decision. The time for filing a petition for rehearing or a suggestion of the appropriateness of a rehearing *en banc* will not be extended except for good cause shown.

(2) **Number of Copies and Length.** An original and nineteen copies of petitions for rehearing and suggestions for hearing or rehearing *en banc* shall be filed. Such petitions and suggestions may be combined in one pleading or filed as separate documents. Whether filed as one pleading or as separate documents, a petition and/or suggestion shall not exceed a cumulative length of eleven pages if prepared in other than typographic print, or fifteen pages if typewritten, and shall otherwise conform to the requirements for a motion specified in Rule 7(a). This Court looks with disfavor upon motions to exceed page limits and such motions will be granted only for extraordinary and compelling reasons.

(3) **Contents of Suggestion for En Banc Consideration.** A suggestion as to the appropriateness of hearing or rehearing *en banc* should be made only where the criteria for *en banc* consideration set forth in Rule 35(a) of the Federal Rules of Appellate Procedure are satisfied. A suggestion for hearing or rehearing *en banc* shall contain a separate introductory section, captioned "Concise Statement of Issue and Its Importance," that shall set forth the reasons why the case is of exceptional importance or, where applicable, with what decision or decisions of the Supreme Court of the United States, of this Court, or of any other federal appellate court, the panel decision is claimed to be in conflict. Without such a statement, the suggestion will not be accepted for filing.

(4) **Response.** No response to a petition for rehearing or suggestion for hearing or rehearing *en banc* will be accepted for filing unless it has been requested by the Court.

(5) **Disposition of Petition.** Normally, a petition for rehearing will not be granted, nor will an opinion or judgment be modified in any significant respect in response to a petition for rehearing, in the absence of a request by the Court for a response to the petition.

(6) **Filing Copies of Briefs.** If a suggestion for rehearing is granted, parties will be required to file at least fifteen additional copies of the briefs and appendix earlier presented to the three-judge panel. Further briefing and oral argument shall be as this Court directs.



(b) **Mandates.**

(1) *Stay of Mandate.* A motion for a stay of the issuance of mandate shall not be granted unless the motion sets forth facts showing good cause for the relief sought.

(2) *Time for Issuance.* While retaining discretion to direct immediate issuance of its mandate in an appropriate case, this Court ordinarily will include as part of its disposition an instruction that the clerk will withhold issuance of the mandate until the expiration of the time for filing a petition for rehearing or a suggestion for rehearing *en banc* and, if such petition or suggestion is timely filed, until seven days after disposition thereof. Such an instruction is without prejudice to the right of any party at any time to move for expedited issuance of the mandate for good cause shown.

(3) *Writs.* No mandate shall issue in connection with an order granting or denying a writ of mandamus or other special writ but the order or judgment granting or denying the relief sought shall become effective automatically twenty-one days after issuance in the absence of an order or other special direction of this Court to the contrary.

(c) **Remand.** If the record in any case is remanded to a court or agency, this Court retains jurisdiction over the case. If the case is remanded, this Court does not retain jurisdiction, and a new notice of appeal or petition for review will be necessary if a party seeks review of the proceedings conducted on remand.

## RULE 16

### TAXATION OF COSTS OF BRIEFS AND APPENDICES

(See also Rule 39, Federal Rules of Appellate Procedure.)

(a) **Allowable Items.** Costs will be allowed for the docketing fee, the cost of printing or otherwise reproducing the text of fifty copies of briefs and twenty-five copies of appendices, any charges for indices, covers, footnotes, and tabular matter of briefs and appendices, and the sales tax, if any, for printing or reproduction services. Charges actually incurred for printing or reproducing textual and appendix material, indices, tabular matter and exhibits shall be itemized to show cost per line. Costs for fasteners used in place of binding may be claimed as a separate item only for briefs and appendices reproduced

by photocopy methods. Forms furnished by the clerk's office of this Court, or facsimiles thereof, must be used in requesting taxation of costs. Bills of costs in which costs are not itemized as herein described, or which are not presented on clerk's office forms (or reasonable facsimiles thereof), will not be accepted for filing.

(b) **Limit on Costs of Briefs and Appendices to Average Charge for Photo Offset.** The costs of reproducing necessary copies of briefs, appendices or copies of other records shall not be allowed in an amount greater than the average charge of a representative group of printers in the metropolitan Washington area for the photo offset method of preparation of briefs and appendices. In June of each year, the clerk will conduct a survey and determine the average charges for the photo offset and photocopy methods. The results of this survey shall be made public by posting in the clerk's office, publication in the *Daily Washington Law Reporter* and distribution to subscribers to this Court's opinions.

(c) **No Costs Taxed for Briefs of Amici or Intervenors.** There shall be no taxation of costs for briefs of intervenors or *amici curiae* or separate replies thereto unless allowed by the Court on motion.

## RULE 17

### SCHEDULE OF CLERK'S FEES

(a) **Fees for Services.** Fees, as prescribed by the Judicial Conference of the United States, are to be charged for the following services performed by the clerk of this Court, except that no fees are to be charged for services rendered on behalf of the United States. The schedule of currently applicable fees shall be distributed periodically as an appendix to these rules.

(1) Docketing a case or docketing any other proceeding. A separate fee shall be paid by each party filing a notice of appeal in the district court, but parties filing a joint notice of appeal in the district court are required to pay only one fee. A docketing fee shall not be charged for the docketing of an application for the allowance of an interlocutory appeal under 28 U.S.C. § 1292(b) unless the appeal is allowed.

(2) Search of the records of this Court and certifying the results.