

Proposed Amendments to Rule 81

Rule 81 is amended as follows:

Rule 81. Papers Filed; Conformity; Form, Size, Copies

(a) Conformity Required. All papers filed with the court [~~shall~~]**must** be produced, duplicated, and filed in conformity with these rules as to means of production, methods of duplication, form and size, and number of copies.

(b) Means of Production. All papers [~~shall~~]**must** be plainly and legibly typewritten or otherwise produced by any duplicating or copying process.

(c) Caption and Signing. All papers [~~shall~~]**must** bear a caption in conformity with Rule 7 and [~~shall~~]**must** be signed in conformity with Rule 11.

(d) Numbering of Pages. The pages of each paper [~~shall~~]**must** be numbered consecutively, commencing with the number 1.

(e) Designation of Originals. When multiple copies of a paper are filed, one [~~shall~~]**must** be designated as the original by the party.

(f) Pleadings and Other Papers. Unless otherwise provided by these rules, all papers [~~shall~~]**must** be filed in duplicate, only the original of which need be signed. Pleadings and other papers [~~shall~~]**must** be 8½ by 11 inches in size, with typed matter not exceeding 6½ [~~x~~]**by** 9½ inches, and with type size of 12 points or larger, including type used in footnotes. Pages [~~shall~~]**must** be numbered on the bottom [~~portion thereof~~]and bound or attached on the top margin. Typed matter [~~shall~~]**must** be double spaced except footnotes, which may be single spaced, quoted material, which may be indented and single spaced,

and titles, schedules, tables, graphs, columns of figures, and other interspersed material which are more readable in a form other than double spaced.

(g) Status of ~~[Action]~~Case. Papers filed after ~~[an action]~~**a case** has been commenced ~~[shall]~~**must** identify, with respect to each ~~[action]~~**case** affected by the papers, the court number assigned to the ~~[action]~~**case**, the court calendar on which the ~~a~~**case** is listed; and, if the ~~[action]~~**case** has been assigned, the name of the judge to whom the ~~[action]~~**case** has been assigned or reassigned.

(h) Confidential Information.

(1) If a party ~~[deems]~~**considers** it necessary to refer in a pleading~~;~~
~~motion, brief]~~ or other paper to confidential or privileged information, two sets of the pleadings~~;~~
~~motions, briefs]~~ or other papers ~~[shall]~~**must** be filed.

(A) Confidential Set. One set of the pleadings~~;~~
~~briefs]~~ or other papers ~~[shall]~~**must** be labeled "Confidential" on the cover page and be filed with the clerk of the court. In addition, each page containing confidential material ~~[shall]~~**must** bear a legend so indicating; however, in a~~n~~ ~~[action]~~**case** where Rule 73.2(c) is applicable, the label "Business Proprietary" may be used instead.

(B) Nonconfidential Set. The second set of pleadings~~;~~
~~motions, briefs]~~ or other papers ~~[shall]~~**must** be labeled "Nonconfidential" on the cover page and be filed with the clerk of the court. In addition, each page of the "nonconfidential" set from which confidential or privileged information has been deleted ~~[shall]~~**must** bear a legend so stating.

(2) Each party to the ~~[action shall]~~ **case must** be served with one copy of the "nonconfidential" pleading~~[, motion, brief]~~ or other paper, and, when permitted by an applicable protective order, one copy of the "confidential" pleading~~[, motion, brief]~~ or other paper, in accordance with Rule 5.

(3) Non-Availability to the Public. The "confidential" set of pleadings~~[, motions, briefs]~~ or other papers filed with the court ~~[shall]~~ **will** be available only to authorized court personnel and ~~[shall]~~ **will** not be made available to the public.

(i) Briefs or Memoranda. A brief or memorandum ~~[shall]~~ **must** be filed in duplicate and ~~[shall]~~ **must** be 8~~1/2~~^{1 1/2} by 11 inches in size. Pages ~~[shall]~~ **must** be numbered on the bottom portion thereof and bound or attached on the left margin. Typed matter ~~[shall]~~ **must** be double spaced, except quoted material which may be indented and single spaced, and except titles, schedules, tables, graphs, columns of figures, and other interspersed material which are more readable in a form other than double spaced.

(j) ~~[Moving Party]~~ **Movant's** Brief or Memorandum. A brief or memorandum of the ~~[moving party shall]~~ **movant must** contain under proper headings and arranged in the following order:

(1) a table of contents;

(2) a table of statutes, regulations, and cases cited, giving the volume and page in the official editions where they may be found, and arranging the cases in alphabetical order;

(3) in [~~an action~~] **a case** involving a specific importation, a brief description of the merchandise, country of origin and of exportation, date of exportation, date of entry, and port of entry;

(4)(A) in [~~actions~~] **cases** involving classification, the verbatim paragraph or paragraphs or item or items of the tariff statute under which the merchandise was assessed, and the verbatim paragraph or paragraphs or item or items under which it is claimed that the merchandise is properly dutiable, together with any other verbatim pertinent statutory provisions or regulations; (B) in [~~actions~~] **cases** involving valuation, the statutory basis of appraisement and the unit of value at which the merchandise was appraised, and the claimed statutory basis of value and unit of value, together with the verbatim pertinent statutory provisions;

(5) the questions presented for decision, including all subsidiary questions involved; when a brief is filed under Rule 56.2, the issues [~~shall~~] **must** be presented in accordance with Rule 56.2(c)(1)(B), and need not be restated under this paragraph (5);

(6) a concise statement of facts relevant to the issues with a specific citation to the page or pages in the record or exhibits supporting each such material fact;

(7) a summary of argument, which [~~shall~~] **must** be **a** succinct, but accurate and clear, condensation of the contentions made in the body of the brief;

(8) an argument, exhibiting clearly the contentions of the party with respect to the issues presented, and the reasons therefor, with citations to the authorities, statutes, exhibits, and pages of the record relied upon;

(9) a short conclusion stating the relief sought.

(k) Responding Party's Brief or Memorandum. A brief or memorandum of a responding party ~~shall~~**must** conform to the requirements prescribed in subdivision (j) of this rule, except that no statement of the facts need be made beyond what may be ~~deemed~~**considered** necessary to correct any inaccuracies or omissions in the ~~moving party's~~**movant's** brief, and except that items (3), (4) and (5) need not be included unless a responding party is dissatisfied with their presentation by the ~~moving party~~**movant**.

(l) Reply Brief or Memorandum. A reply brief or memorandum ~~shall~~**must** be confined to rebutting matters contained in the brief of a responding party.

(m) General. A brief or memorandum must be concise, logically arranged, and free from burdensome, irrelevant, immaterial, pejorative and scandalous matter. A brief or memorandum not complying with this rule may be disregarded by the court.

PRACTICE COMMENT: All decisions of the United States Court of International Trade are published in: slip opinion form, the Customs Bulletin, and the official reports of the United States Court of International Trade. Certain decisions will also be published in the Federal Supplement or the Federal Rules Decisions. Decisions are also available on the LEXIS and WESTLAW electronic databases and those issued beginning in 1999 may be viewed on the website of the United States Court of International Trade, www.cit.uscourts.gov.

The rules of citation for papers filed in the court are as follows:

1. Slip Opinions * * *

2. Published Opinions * * *
3. Customs Court Opinions * * *
4. Abstracts * * *
5. Decisions of the Board of General Appraisers * * *
6. Court of Customs Appeals Opinions * * *
7. Court of Customs and Patent Appeals * * *
8. Court of Appeals for the Federal Circuit * * *
9. Statutes * * *
10. Rules * * *
11. Miscellaneous * * *
12. Code of Federal Regulations * * *
13. Federal Register * * *
14. International Trade Administration - Unpublished Decision Memoranda
* * *
15. International Trade Commission Decisions * * *
16. Customs Rulings * * *

For further rules of citation, reference may be made to The Bluebook: A Uniform System of Citation (Columbia L. Rev. et al. ed., [17th] **18th** ed. Harvard Rev. Assn. [2000] **2005**) [Bluebook]. For punctuation, capitalization, abbreviations, and other matters of style, reference may be made to the U.S. Government Printing Office Style Manual. Assistance in citing recent decisions of this court may be obtained from the court librarian (212) 264-2816.

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PRACTICE COMMENT: [~~For an action under 28 U.S.C. § 1581(c);~~] Rule 5[(g)] **(h)** contains requirements for [~~designating~~] **designation** of business proprietary **and other confidential information** and the form of notification required when a party desires to delay filing a non-confidential version of a submission by one business day.

~~[PRACTICE COMMENT: Rule 81(h) makes reference to former Rule 71(c). Pursuant to the renumbering of the Rules, the former Rule 71 now will be identified as Rule 73.2.]~~

Advisory Committee Note

The language of Rule 81 has been amended as part of the general restyling of these rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only. In addition, three Practice Comments have been changed. One has been updated; a second has been amended to reflect changes made with respect to another rule that is cross-referenced in the Comment; and another has been deleted as no longer necessary.