

Chambers Procedures

1. Communications.

(A) Although not encouraged, all communications with chambers should be made in writing. Counsel are not to call a judge's law clerks or executive assistants/secretaries, except to initiate conference calls. Counsel may contact a judge's case manager (see list on Court's Web Site, www.cit.uscourts.gov) by telephone with specific procedural questions. Counsel are advised to consult the Rules of Court prior to any request or inquiry.

(B) Counsel must serve copies of communications with chambers on all parties to the litigation.

2. Briefs and Appendices. For the purposes for this section, "briefs" are considered to be briefs, memoranda or written comments filed after remand, but not appendices.

(A) Format.

The motion for judgment on the agency record and brief in support thereof must be submitted in a single document. Each document attached to a brief, appendix, or joint appendix must include a separator/cover page with the name of the document and, where applicable, its identifying number from the Confidential Record ("C.R.") or the Public Record ("P.R."). The separator/cover page may be labeled with a letter or number that corresponds to a more fully descriptive Table of Contents.

(B) Limitations.

(1) Word Count Limitations.

- a. Movant's and respondent's briefs must not exceed 14,000 words; reply briefs must not exceed 7,000 words.
- b. For purposes of Rule 56.2(h)(2) and (h)(3), comments and responsive comments must not exceed 10,000 words. If a party files both comments in opposition to the agency's remand determination and responsive comments in support of the agency's remand determination, its remand submissions cumulatively may not exceed 10,000 words.
- c. Headings, footnotes, and quotations count toward the word limitations. The corporate disclosure statement, table of contents, table of authorities, any addendum containing statutes, rules or regulations, any certificates of counsel, and counsel's signature block do not count toward the limitations. No brief that exceeds these limitations may be filed without the Court's grant of leave, which will be freely given if the party shows good cause.

(2) Certificate of Compliance. Any brief must include a certificate by the attorney, or an unrepresented party, that the brief complies with the word limitation. The person preparing the certificate may rely on the word count of the word-processing system used to prepare the brief. The certificate must state the number of words in the brief and be signed by the person preparing the certificate.

(C) Citations, Preparation, and Content of Appendices.

(1) Pursuant to Rule 56.2(c)(3) and Rule 56.2(h)(4), all citations to the record in parties' briefs and comments after remand must be supported by a joint appendix containing copies from the record, along with a Table of Contents.

(a) Preparation of the Joint Appendix Pursuant to Rule 56.2(c)(3). The parties are encouraged to agree on the contents of a joint appendix pursuant to Rule 56.2(c)(3). In the absence of an agreement:

i. Plaintiffs and Plaintiff-Intervenors will deliver to Defendant and Defendant-Intervenors by hand delivery or overnight delivery a draft joint appendix (on a CD, flash drive, or other acceptable electronic means) that includes a Table of Contents and a copy of those portions of the administrative record cited in their motions for judgment on the agency record and supporting briefs within 7 days of the filing of the motions for judgment on the agency record and supporting briefs.

ii. Defendant and Defendant-Intervenors will deliver to Plaintiffs and Plaintiff-Intervenors by hand delivery or overnight delivery a revised draft joint appendix (on a CD, flash drive, or other acceptable electronic means) that includes a revised Table of Contents and a copy of any additional portions of the administrative record cited in their response briefs within 7 days of the filing of the response briefs.

iii. Plaintiffs and Plaintiff-Intervenors will deliver to Defendant and Defendant-Intervenors by hand delivery or overnight delivery a final draft joint appendix (on a CD, flash drive, or other acceptable electronic means) that includes a revised Table of Contents and a copy of any additional portions of the administrative record cited in their reply briefs within 7 days of the filing of the reply briefs. Defendant and Defendant-

Intervenors may comment on the final draft joint appendix within 3 days after delivery of the final draft joint appendix.

iv. Plaintiffs will file the joint appendix with the Court within 14 days of the filing of the reply briefs.

(b) Preparation of the Joint Appendix Pursuant to Rule 56.2(h)(4). The parties are encouraged to agree on the contents of a joint appendix pursuant to Rule 56.2(h)(4). In the absence of an agreement:

i. Parties submitting comments in opposition to the agency's remand determination will deliver to all other parties by hand delivery or overnight delivery a draft joint appendix (on a CD, flash drive, or other acceptable electronic means) that includes a Table of Contents and a copy of those portions of the administrative record cited in their comments in opposition to the agency's remand determination within 7 days of the filing of those comments.

ii. Parties submitting responsive comments in support of the agency's determination will deliver to all other parties by hand delivery or overnight delivery a revised draft joint appendix (on a CD, flash drive, or other acceptable electronic means) that includes a revised Table of Contents and a copy of any additional portions of the administrative record cited in their responsive comments in support of the agency's determination within 7 days of the filing of those comments.

iii. Parties submitting comments in opposition to the agency's remand determination will file the joint appendix with the Court within 14 days of the filing of the responsive comments in support of the agency's determination.

(2) Pursuant to Rule 56.2(c)(4) and Rule 56.2(h)(5), all citations to the record must be supported by an Appendix containing copies from the record, along with a Table of Contents.

(3) Documents included in a joint appendix, pursuant to Rule 56.2(c)(3) or Rule 56.2(h)(4), or alternatively under an appendix, pursuant to Rule 56.2(c)(4) or Rule 56.2(h)(5), must be reproduced in their entirety for individual documents of less than 10 pages, and documents of 10 pages or more should not be reproduced in their entirety but rather the parties will include the first page of the document and sufficient additional pages to provide context for a referenced record citation (e.g., the entire section or heading containing any

relevant part of a party's questionnaire response or an agency staff memorandum, including all relevant sections of any exhibits, appendices, or additional record documents referenced therein).

(4) A joint appendix filed pursuant to Rule 56.2(c)(3) or Rule 56.2(h)(4) or, alternatively, an appendix filed pursuant to Rule 56.2(c)(4) or Rule 56.2(h)(5), will not be Bates stamped, but the Table of Contents will contain hyperlinks to the applicable record documents contained in the joint appendix or appendix to the extent practicable. The joint appendix or appendix will also be searchable to permit easy location of each record document.

(5) Citations for the text should be contained in the text rather than in footnotes. Citations to the administrative record must be to the C.R. or P.R. number of the document and to the specific page number of the cited information in the document, where applicable.

(D) Portable Document Format (PDF) documents must be text-searchable to the maximum extent possible.

3. Pleadings, Motions and Other Papers.

(A) Courtesy Copies. Courtesy copies of submissions to the Court should not be sent to the clerk's office or to chambers. This will not prohibit a judge, when exigencies require, from requesting a courtesy copy of an expedited filing. The transmission of a courtesy copy to chambers will not affect the filing date of the submission.

(B) Bindings. In conformity with Rule 81(f), exhibits or other papers filed in paper form must be bound on the left side (e.g., corner staple/stitch, ring binder, spiral binding, etc.) Each exhibit submitted electronically or in paper form must be independently sequentially numbered.

(C) Orders. A signature page must contain the court number and sufficient text so that the page is identifiable with the order. A judge will not sign any order for which the signature line is separate from the text of the document.

4. Changes to transcripts. Any proposed change to a transcript must be made by written motion.