

UNITED STATES COURT OF VETERANS APPEALS

Misc. No. 3-94

IN RE:

RULES OF PRACTICE AND PROCEDURE

Before NEBEKER, Chief Judge, and KRAMER, FARLEY,
MANKIN, HOLDAWAY, IVERS, and STEINBERG, Judges.

O R D E R

Pursuant to the authority of 38 U.S.C. § 4064(a) and consistent with 28 U.S.C. § 2071(b), the Court has determined the need for changes to Rules 3, 4, 6, 10, 11, 12, 15, 21, 24, 25, 26, 27, 29, 32, 33, 35, 36, 43, 44, 46, 47, and 48 of its Rules of Practice and Procedure. The Court has benefited from experience since May 1, 1991, under its current rules, and from the views of its Rules Advisory Committee. Accordingly, it is

ORDERED that the attached proposed changes to this Court's Rules of Practice and Procedure are hereby published. It is further

ORDERED that public comment on these changes is invited. Such comment must be submitted to the Clerk of this Court at 625 Indiana Avenue, NW, Suite 900, Washington, DC 20004-2950, by May 6, 1994.

DATED: March 22, 1994

BY THE COURT:



FRANK Q. NEBEKER
Chief Judge

ATTACHMENT TO MISCELLANEOUS ORDER NO. 3-94

[Added language underlined; deleted language ~~lined through~~]

RULE 3. HOW TO APPEAL

(a) **Filing.** An appeal will be taken by filing a written Notice of Appeal with the Clerk within the time allowed by Rule 4(a). A Notice of Appeal may be filed by facsimile ~~or other printed electronic transmission~~. ~~Facsimile filings may be sent to the Clerk of the Court at telephone number (202) 501-5848. If a facsimile filing is made, a confirmatory written Notice of Appeal must be received by the Court within 10 days after the time fixed for facsimile filing.~~ Failure of an appellant to take any step under these rules ~~other than~~ after the timely filing of a Notice of Appeal ~~does not affect the validity of the appeal, but is~~ may be grounds for such action as the Court deems appropriate, which may include dismissal of the appeal.

(b) **Service.** The appellant shall serve on the Secretary of Veterans Affairs ("Secretary") and any other party to the proceedings before the Board a copy of the Notice of Appeal. See Rule 25.

(c) **Content.** [Text unchanged]

(d) **Joint or consolidated Appeals.** If more than one person is entitled to appeal from a decision of the Board and their interests make joinder practicable, they may file a joint Notice of Appeal or may join in an appeal after filing separate timely Notices of Appeal, and they may thereafter proceed on appeal as a single appellant. Appeals may be consolidated by order of the Court on its own initiative, or on motion of a party, ~~or by the parties written agreement filed with the Clerk.~~

(e) **Payment of Fees.** Upon the filing of any separate or joint Notice of Appeal from a decision of the Board, ~~the~~ each appellant shall include with the Notice of Appeal ~~filed with the Clerk a \$50.00 nonrefundable filing fee which shall be received by the Clerk on behalf of the Court payable to "U.S. Court of Veterans Appeals."~~ In the event the ~~If an~~ appellant believes ~~the requirement of~~ the payment of the fee will impose a financial hardship, the appellant may request a waiver of the ~~payment of the prescribed fee by including with the Notice of Appeal a motion and affidavit for leave to appeal without payment of costs similar to Form 4 in the Appendix of Forms. See Rule 24. If the Court grants the motion, the payment of the fee will be waived. If the motion is denied by the Court, the fee must be received by the Court within the time set by the Court's order or the appeal will be dismissed. If a facsimile filing is made, a confirmatory written Notice of Appeal is filed, the filing fee or motion to waive the fee~~ must be received by the court within 10 14 days after the time fixed for facsimile filing was sent.

(f) **Limited Appearance.** The filing of the Notice of Appeal, alone, or the filing of a motion to stay proceedings to permit evaluation of a case for possible representation, by a representative will not amount to an appearance under Rule 46 by the representative if the Notice of Appeal or the motion contains the statement "This is a limited appearance."

RULE 4. WHEN TO APPEAL

(a) **Time for Appeal.** To obtain review by the Court of a Board decision, a person adversely affected by that decision must file a Notice of Appeal within 120 days after the date on which notice of the decision was mailed by the Board to the last known address of the appellant and the appellant's authorized representative, if any. The Notice of Appeal, including one filed by facsimile or other printed electronic transmission, must be received by the Clerk within this time limit.

(b) **Notice of Docketing.** The Clerk shall ~~notify~~ mail a Notice of Docketing to all parties advising them of the date when the Clerk receives the Notice of Appeal.

(c) **Copy of Board Decision.** Within 30 days after the date of the Clerk's Notice of Docketing, the Secretary shall file and serve a certified copy of the

Board's decision, showing the date the decision was mailed, the filing date of any motion for its reconsideration, and the date and nature of any action on such a motion.

RULE 6. STATEMENT OF ISSUES ON APPEAL

~~Within 30 days after the Clerk mails acknowledgment of receipt of the Notice of Appeal, the appellant shall file with the Clerk and serve on the Secretary a brief statement of the issue or issues to be raised on appeal. For filing and service, see Rule 25. For computation of filing time, see Rule 26(a). For the purpose of the Secretary's designation of the record on appeal, the issues on appeal are those listed and decided against the appellant in the Board's decision.~~

RULE 10. DESIGNATION OF THE RECORD ON APPEAL

(a) Designation. ~~Within 30~~60 days after the ~~statement of issues is filed under Rule 6~~date of the Clerk's Notice of Docketing, the Secretary shall file with the Clerk and serve on the appellant a designation of all material in the record of proceedings before the Secretary and the Board that was relied upon by the Board and any other material which the Secretary considers relevant to the issues on appeal and shall serve on the appellant a copy of those materials and a list of any record matter which cannot be duplicated.

(b) Counter designation. Within 30 days after the Secretary serves the designation of the record on appeal, the appellant shall file with the Clerk and serve on the Secretary:

- (a1)** a counter designation of any additional material which was before the Secretary and the Board and which the appellant considers relevant to the appeal, or
- (a2)** a statement that appellant accepts the content of the record as designated by the Secretary. See also Rule 11(c).

Failure of the appellant to do either will be conclusive of the appellant's acceptance of the record as designated by the Secretary. Within 14 days after the filing of the counter designation, the Secretary shall serve on the appellant a copy of those materials identified in the counter designation which are not already in the possession of the appellant.

(c) Disputes. If any difference arises as to the content of the record on appeal, the Court, on its own initiative or on motion of a party, shall resolve the matter. The motion of a party shall describe the good faith efforts that have been made to resolve the dispute.

(d) Irrelevant Materials. ~~The parties should take note that the Court does not wish to have unnecessary materials in the transmitted record~~ record on appeal may not include materials not relevant to the issues on appeal.

RULE 11. TRANSMISSION OF THE RECORD ON APPEAL

(a) Transmission of the Record. [Text unchanged]

(b) ~~Correction or Modification~~ Supplementation of Transmitted Record. If a party believes any additional part of the claims file before the Secretary and the Board is relevant to an issue on appeal, the party, within 30 days after the record on appeal has been filed with the Clerk, may cause the record to be enlarged or supplemented by serving notice on all other parties of the additional parts of the record to be transmitted. The Secretary shall then supplement the record on appeal by transmitting to the Clerk a certified copy, and three additional copies, of such supplemental record, assembled in chronological order and consecutively numbered (e.g., SR-1, SR-2, etc.) and shall serve a copy on the appellant. A party who believes additional material sought by another party is clearly beyond the scope of matters relevant to the appeal may file a motion to limit the contents of the supplemental record. The motion shall describe the good faith efforts made to resolve

the dispute. Unless the Court orders otherwise, supplementation of the record does not extend the time for filing the appellant's brief.

(c) **Access of Parties or Representatives to Original Record.**

[Text unchanged]

**RULE 12. DOCKETING THE APPEAL;
FILING SERVICE OF THE RECORD ON APPEAL**

(a) **Docketing the Appeal.** [Text unchanged]

(b) **Filing the Record ~~or Supplemental Record.~~** Upon receipt of the record on appeal, the Clerk shall enter file it and ~~and~~. ~~The Clerk shall immediately notify all parties of the date on which the record on appeal under Rule 11(a) was filed. The filing of a supplemental record will not change the due date of an appellant's brief, which is due 30 days after the date on which the record on appeal was originally filed. when appellant's brief is due. See Rules 31 and 47.~~

RULE 15. INTERVENTION

A party who was allowed to intervene before the Board may proceed before the Court as an intervenor without filing a motion, but shall serve on all parties and file with the Clerk, within ~~30~~ 60 days after the ~~statement of issues was filed under Rule 6 date of the Clerk's Notice of Docketing in accordance with Rule 4(b),~~ a notice of intent to intervene. A person who did not intervene before the Board and who desires to intervene before the Court in a proceeding initiated by a Notice of Appeal or a petition for extraordinary relief shall serve on all parties and file with the clerk, within 30 days after the filing of a petition for extraordinary relief or within ~~30~~ 60 days after the ~~statement of issues was filed under Rule 6 date of the Clerk's Notice Docketing in accordance with Rule 4(b),~~ a motion for permission to intervene. The motion must contain a concise statement of the interest of the moving person or party and the grounds upon which intervention is sought and should advise the Court of opposition to the motion, if any. A motion for permission to intervene beyond this time limit will be granted only in extraordinary circumstances.

RULE 21. EXTRAORDINARY RELIEF

(a) **Mandamus or Prohibition; Petition; Service and Filing.** A petition for a writ of mandamus or of prohibition must be made by filing a petition with the Clerk with proof of service on the respondent(s), on any other party at interest, and on the Secretary. The petition must contain:

- (1) a statement of the precise relief sought;
- (~~2~~) a statement of the facts necessary to understand the issues presented by the petition;
- (~~3~~) a statement of the reasons why the petition should be granted, including why the petitioner has a clear and indisputable right to the writ and why there are inadequate alternative means to obtain the relief sought; and
- (~~4~~) copies of any order or decision or parts of the record necessary to understand the petition.

Upon receipt of the \$50.00 filing fee (unless waived pursuant to Rule 24), the Clerk shall docket the petition and submit it to the Court.

(b) **Action on the Petition** Unless the Court concludes that the petition should be denied, it will order the respondent(s) to file an answer to the petition within a time fixed by the order. The order shall be served by the Clerk on the named respondent(s), on the Secretary, and on any other party at interest. Two or more respondents may answer jointly. Any respondent who does not desire to appear in the proceeding may so advise the Clerk and all parties by letter, but such action will

not amount to agreement that the petition should be granted. The Clerk shall notify the parties of the time limits for the filing of any briefs, and of the date of any oral argument. The proceeding will be given preference by the Court. The petition may be acted upon after reasonable notice of its filing to all parties.

(c) **Other Extraordinary Relief.** [Text unchanged]

(d) **Form and Length of Papers; Number of Copies.** ~~All papers filed under this rule must be typewritten or printed. Except by permission of the Court, the form and length requirements in Rule 32(q) for principal briefs apply to petitions and responses thereto.~~ An original and three copies must be filed with the Clerk, but the Court may direct that additional copies be furnished. The petition must be entitled: "In Re [Name of Petitioner], Petitioner v. [Name and Title of Respondent], Respondent."

RULE 24. PROCEEDINGS WITHOUT PAYMENT OF COSTS/WAIVER OF FILING FEE

An appellant who is unable because of financial hardship to pay the filing fee required by Rule 3(e) or Rule 21(a) may request a waiver of the payment of the fee by submitting a motion ~~for leave to appeal without payment of costs, together with an affidavit showing, in the detail suggested by to waive the filing fee, on the form prescribed at Form 4 of the Appendix of Forms, the party's inability to pay fees and costs or to give security therefor, and a statement of belief that the party is entitled to redress from the Court.~~

If the Court grants the motion, the payment of the filing fee will be waived. If the motion is denied by the Court, the Clerk shall promptly transmit to the appellant notice of the Court's order denying the motion; the fee must be paid within 14 days from the date of the Court's order.

RULE 25. FILING AND SERVICE

(a) **Filing.** All papers required or permitted to be filed in this Court must be filed with the Clerk. Filing may be accomplished by mail addressed to the Clerk.

(b) **Timeliness.**

(1) **Facsimile Filing.** Filing a copy of all papers, except briefs, may be accomplished by facsimile ~~or other printed electronic transmission~~ addressed to the Clerk at (202) 501-5848, but only if the original papers and the required number of copies are received by the Clerk within 10 days after the time fixed for filing. However, if a Notice of Appeal has been filed by facsimile, there is no requirement to file an original copy with the Clerk. See Rule 3.

(2) **Other Papers.** ~~To be timely filed~~ All other papers other than those filed by facsimile or other printed electronic transmission must be received by the Clerk or deposited in the night box within the time specified for filing. See Rule 45.

(c) **Service of All Papers Required.** [Text unchanged]

(d) **Manner of Service.** [Text unchanged]

(e) **Proof of Service.** [Text unchanged]

RULE 26. COMPUTATION AND EXTENSION OF TIME

(a) **Computation of Time.** Add at the end: A "legal holiday" also includes a day on which the Clerk's Office has been closed by direction of the Chief Judge. Notice of such action will be posted publicly, if circumstances permit, and placed on a recording for telephone callers.

(b) **Extension of Time.** [Text unchanged]

(c) **Additional Time After Service by Mail.** Whenever a party is required or permitted to do an act, other than the filing of a Notice of Appeal, within a prescribed period after service of a paper on that party by another party and the paper is served by mail, 3 days will be added to the prescribed period. Whenever such paper is served by the Secretary on an appellant or appellant's representative located outside any in a jurisdiction other than a state, the District of Columbia, Puerto Rico, or the Virgin Islands, 30 additional days will be added to the prescribed period. Except as provided in Rule 35(d), additional time is not added to the periods prescribed in orders and notices issued by the Court.

RULE 27. MOTIONS

(a) **Content of Motions; Response.** Unless another form is required by these rules, an application for an order or other relief must be made by filing a motion, with proof of service (see Rule 25(d)) on all other parties. The motion must --

- (1) contain or be accompanied by any material required by any of the rules governing such a motion,
- (2) state with particularity the specific grounds on which it is based,
- (3) describe the order or relief sought,
- (4) describe the steps taken to contact the other party to determine whether the motion is opposed, and
- (5) indicate ~~if~~ whether the motion is opposed.

Motions should not be accompanied by proposed implementing orders. If a motion is supported by briefs, affidavits, or other papers, they must be served and filed with the motion. Any party may file a response or opposition to a motion within 14 days after service of the motion, but motions authorized by Rule 8 (Stay or Injunction Pending Appeal) and petitions authorized by Rule 21(c) (Extraordinary Relief) may be acted upon after reasonable notice of the motion to all parties, and the Court may shorten or extend the time for responding to any motion.

(b) **Motions for Procedural Orders.** [Text unchanged]

(c) **Form and Length of Papers; Number of Copies.** ~~For form of motions and related papers, see Rule 32. Except by permission of the Court, the form and length requirements in Rule 32 for principal briefs apply to motions and responses thereto.~~ An original and three copies of all such papers must be filed with the Clerk, but the Court may require that additional copies be furnished.

RULE 29. BRIEF OF AN AMICUS CURIAE

- (a) **Time; Argument.** [Text unchanged]
- (b) **Form and Content.** [Text unchanged]

RULE 32. FORM OF BRIEFS, APPENDICES, AND OTHER PAPERS

(a) **Format.** Briefs, appendices, and other papers must be printed or typewritten, and may be produced by any copying process that produces a clear black image on white opaque paper, and onion skin paper is not permitted except for papers sent by international mail. Pages may not exceed must be letter size (8 1/2 by 11 inches), with margins at least one inch wide from all edges, and with type or print on only one side of the page. ~~and typed matter may not exceed 6 1/2 by 9 1/2 inches, with text double spaced. Type size of text must be pica or larger with no more than 10 characters per inch. Footnotes may be in elite type with no more than 12 characters per inch. Indented quotations and footnotes may be single spaced.~~

(b) **Type; Spacing.** ~~Printed briefs must appear in at least 11 point type on opaque unglazed paper. Briefs produced by the standard typographic process or by using proportional spacing must have pages 6 1/8 by 9 1/4 inches and typed matter 4~~

1/6 by 7 1/6 inches. The type or print must be at least 12 points (pica) with horizontal spacing (pitch) of no more than 10 characters per inch, for both text and footnotes. Text must be double spaced, with no more than three lines of type per inch, but quotations more than two lines long and footnotes may be single spaced. The parties may not use photo reproduction that reduces print size smaller than the size required by this rule.

(c) Covers. [Text unchanged]

(d) Binding. [Text unchanged]

(e) Caption. ~~Any motion or other~~ paper addressed to the Court must contain a caption setting forth the name of this Court, the Court's case number when assigned, the title of the case, the Department of Veterans Affairs claims file number, and a brief title indicating the purpose of the paper.

(f) Page Numbers. ~~The pages of a brief or any other document to be filed with the Clerk~~ must be numbered in the center of the bottom margin, using arabic numerals for the pages subject to the page limitation and lower case roman numerals for the table of contents, tables of citations, and any appendix containing statutes, rules, and regulations.

(g) Page Limits. ~~The parties may not use photo reproduction that reduces print size smaller than the size required by these rules. Except by permission of the Court, or as limited by Rule 47, principal briefs may not exceed 25 pages and reply briefs may not exceed 15 pages, not counting the table of contents; the table of cases, statutes, and other authorities; and any appendix containing statutes, rules, regulations, etc.~~

(h) Identification of Proponent. [Text unchanged]

RULE 33. PREHEARING CONFERENCE

(a) Participation. [Text unchanged]

(b) Use of Contents. [Text unchanged]

RULE 35. MOTIONS FOR RECONSIDERATION, FOR PANEL REVIEW, OR FOR CONSIDERATION OR REVIEW BY THE FULL COURT OF A DECISION

(a) Motion for Reconsideration. A party in a case decided by a single judge may move for reconsideration by the single judge. A party in a case decided by a panel may move for reconsideration by the panel. If such a motion is filed, ~~no~~ judgment will not be entered until the motion is acted upon. A party in a case decided by the full Court may move for reconsideration by the full Court. However, the filing of such a motion will not postpone the entry of judgment.

(b) Motion for Panel Review. A party in a case decided by a single judge may move for review by a panel of the Court. ~~Such a motion must be made within 14 days after the date of the decision of which review is being requested.~~ If such a motion is filed, ~~no~~ judgment will not be entered until the motion is acted upon.

(c) Motion for Consideration or Review by the Full Court. A party may move for initial consideration of a case, or for review of a panel decision in a case, by the full Court. Such motions are not favored and ordinarily will not be granted except when such action is necessary to secure or maintain uniformity of the Court's decisions or to resolve a question of exceptional importance. A motion for direct review by the full Court of a single-judge decision is not permitted. The filing of a motion for review by the full Court will not postpone the entry of judgment.

(d) Time for Motion. A motion for reconsideration or review of a decision must be made within 14 days, plus the additional time allowed in Rule 26(c), after the date of that decision. A motion for initial consideration of a case by the full Court must be made not later than the date on which the Secretary's brief is first due.

(e) Content of Motion. A motion for reconsideration or review must state the points of law or fact which the party believes the Court has overlooked or misunderstood, and must contain an argument in support of the party's position. A motion for full Court consideration or review must state (1) how such action will secure or maintain uniformity of the Court's decisions or (2) what question of exceptional importance is involved, and must contain an argument in support of the party's position.

(df) Form of Motions; Response; Length; Number of Copies. Except by permission of the Court, a motion for reconsideration or review or for both (including any memorandum or brief filed in support thereof) under this rule, and any response requested by the Court, may not exceed 15 pages. Such motion must be filed with proof of service on each party to the appeal. The motion must be in the form prescribed by Rule 32. No cover is required but if used, it should be yellow for the motion and brown for a response, and must otherwise comply with Rules 25, 27 (except that the motion need not indicate whether it is opposed) and 32. A motion for full Court consideration or review by the full Court must be filed in an original and 7 copies.

(eg) Response; Action on the Motion. No responses may be filed to a motion for reconsideration or review under this rule unless requested by the Court, but a motion for review ordinarily will not be granted without such a request. Except by permission of the Court, a response (including any memorandum or brief filed in support thereof) may not exceed 15 pages. A motion for oral argument on motions for reconsideration or review will not be permitted. A motion for reconsideration will be determined decided by the judge or the panel which rendered the decision. A motion for review of a single-judge decision will be referred to a panel. A motion for review of a panel decision will be referred to all of the judges of the Court. Consideration or review by the full Court requires the vote of a majority of the judges, but such a vote need not be taken to determine whether there will be review unless a judge requests a vote it. The Clerk may return an untimely motion or one which fails to include the statement required by subsection (e) of this rule.

RULE 36. PUBLICATION OF DECISION AND ENTRY OF JUDGMENT

Upon receipt of a decision, the Clerk shall ~~publish it and serve copies on~~ send copies to all parties. The Clerk shall enter the judgment 14 days after the opinion becomes the decision of the Court after the time allowed in Rule 35(d) has expired unless otherwise ordered by the Court. If a decision is rendered without an opinion, the Clerk shall prepare, sign, and enter the judgment following instruction from the Court. ~~Notation in the docket constitutes~~ Entry of the judgment and begins the 60-day time period for any appeal to the United States Court of Appeals for the Federal Circuit. On the date judgment is entered, the Clerk shall, on the date judgment is entered, serve on all parties a copy of the judgment and notice of the date of entry of judgment ~~send copies of the judgment to all parties.~~

RULE 43. SUBSTITUTION OF PARTIES

(a) **Death of a Party.** [Change the two citations from 38 U.S.C. § 3021 to 38 U.S.C. § 5121.]

(b) **Substitution for Other Causes.** [Text unchanged]

(c) **Public Officers; Death or Separation from Office.**

(1) **Naming as a Party.** The Secretary must be described as the appellee by name and by official title. An Acting Secretary shall be described as the Secretary. Any other public officer who is a party in an official capacity ~~respondent may be described as a party must be described~~ by official title rather than by name; but the Court may require that the name of the public officer be added.

(2) **Death or Separation.** [Text unchanged]

RULE 44. JUDICIAL CONFERENCE

(a) Purpose. Pursuant to 38 U.S.C. § 7286, there shall be convened, at such time and place as the Chief Judge designates, a conference to consider the business of the Court and to recommend means of improving the administration of justice within the Court's jurisdiction.

(b) Committee. The Chief Judge will appoint a Judicial Conference Planning Committee to plan and conduct the conference. The Planning Committee may appoint such subcommittees as may be necessary to assure the efficient operation of the conference.

(c) Attendance. The Chief Judge presides at the conference. All persons admitted to practice before the Court, and such other persons as are designated by the Chief Judge, may be members of and participate in the conference.

(d) Registration Fee. Each member of the conference shall pay a registration fee in an amount fixed by the Court to defray expenses of the conference. The Chief Judge may excuse the payment of the fee in individual cases. These fees shall be maintained in a bank account which shall be known as the "CVA Judicial Conference Fund." Money from this account shall be disbursed by the Clerk at the direction of the Chief Judge to defray conference expenses. Any excess shall be used to pay future conference-related expenses.

(e) Responsibility of the Clerk. The Clerk shall be responsible for receipt and disbursement of conference funds, for all conference records and accounts, and for conference staff support, and shall perform such other duties pertaining to the conference as may be directed by the Chief Judge.

(f) Delegation. The Chief Judge may delegate any or all of his responsibilities to another judge of the Court.

RULE 46. REPRESENTATION

(a) Admission of Attorneys to Practice [Text unchanged]

(b) Admission of Non-attorney Practitioners to Practice [Text unchanged]

(c) Appearance in a Particular Case [Text unchanged]

(d) Appearance, Withdrawal, and Change of Address.

(1) Appearance. No attorney or non-attorney practitioner may participate in any proceedings in any case unless that individual has entered an appearance. The signing of a pleading or motion, or the physical appearance at oral argument, by an attorney or non-attorney practitioner constitutes an appearance by that individual as the representative in the case. The appearance must be accompanied by filing and service on all parties of a written statement that the representative is representing a designated client or clients, giving the name, address, and telephone number of the representative, and signed by him or her. See sample Notice of Appearance at Form 3 in the Appendix of Forms. In the case of a non-attorney practitioner, the name, address, and signature of the responsible supervising attorney (subparagraph (b)(1) of this rule) or the identification of the employing organization (subparagraph (b)(2) of this rule) must appear on ~~the Notice of Appearance~~ each paper filed with the Court. Appearances may not be made in the name of a law firm or other organization. If a party is represented by more than one individual, one shall be designated as the representative of record for the purpose of receipt of papers sent by the Court and served by other parties. See sample Notice of Appearance at Form 3 in the Appendix of Forms.

(2) Withdrawal [Text unchanged]

(3) Change of Address [Text unchanged]

(e) Fee Agreement. A representative who enters an appearance (other than a

limited appearance) must file a copy of a fee agreement or a statement indicating that the appellant is being represented without charge to the appellant. If the fee agreement provides for direct payment out of past due benefits under 38 U.S.C. § 5904, a copy must be served on the Secretary.

(ef) Appearance by Law Students [Text unchanged]

(fg) Self-representation [Text unchanged]

RULE 47. EXPEDITED CONSIDERATION

(a) Order for Brief. [Text unchanged]

(b) Filing and Service of Briefs. [Text unchanged]

(c) Table of Contents; Length of Briefs. [Text unchanged]

(d) Supplementation of the Transmitted Record. If expedited consideration is ordered, any notice of additional relevant parts of the record on appeal to be transmitted must be served within 25 days after the date on which the Clerk notifies the parties that the record on appeal has been filed. See also Rule 11(b). Such supplementation shall not extend the time for filing any brief.

RULE 48. DISCLOSURE OF CERTAIN PROTECTED RECORDS

[Change the three citations from 38 U.S.C. § 4132 to 38 U.S.C. § 7332.]