

Eighth Court of Appeals Policy on Extensions for Briefs

The Court urges counsel and parties to carefully review this policy on extensions of time for briefs, as it departs from what the Court has done in the past.

One of the Court's overriding goals is to see that cases are fully briefed and ready for decision on a timely basis. When parties seek excessive extensions of time to file briefs, the Court's orderly system of considering cases is disrupted, and the parties themselves are denied an efficient disposition of their case. The Court understands that practitioners are under pressure from other court settings and professional obligations, but this Court's work should be a priority.

For most appeals (those that are not accelerated or under mandatory statutory deadlines), the Clerk's Office will administer agreed first motions to extend the time to file a brief. If the motion complies with the TRAPS and the motion's fee is paid, the Clerk's Office is authorized to grant a reasonable extension (not to exceed 45 days for opening briefs). A second agreed motion to extend will be elevated to a single Justice who may or may not grant the request, depending the amount of time requested, and the reasons advanced. Even if the motion is granted, the Court may shorten the time proposed for the extension. A second extension will almost always contain the warning that "Absent extraordinary circumstances, additional extensions will be disfavored." Extraordinary circumstances does not include recital of the same reasons advanced for the first extension.

Any further extensions will be decided by the Court and if granted, will almost always contain the warning that **FURTHER REQUESTS FOR EXTENSIONS OF TIME FOR THIS FILING WILL NOT BE CONSIDERED**. Attorneys who ignore this warning do so at their client's peril. In civil cases, the Court may dismiss an appeal for failure to prosecute when an Appellant's brief is not timely filed. The Court may consider an appeal only on the Appellant's brief when an Appellee fails to file a brief. The Court never has to wait until a tardy Reply brief is filed to decide the issues. The same holds true for the State's brief in criminal cases and for criminal defendants with retained counsel. When appointed counsel in criminal cases fails to timely file a brief, this Court will remand the case for a hearing before the trial court to make specific findings on whether appointed counsel is properly representing the accused, and whether new counsel should be appointed.

Accelerated appeals and contested extension motions will be dealt with on a case-by-case basis.