

**UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS**

MISC. NO. 01-15

IN RE: RULES OF PRACTICE AND PROCEDURE

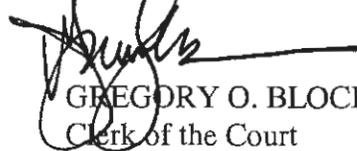
**ORDER**

Pursuant to the authority of 38 U.S.C. § 7264(a), the Court has adopted a clerical revision to Rule 35 of the Court's Rules of Practice and Procedure. It is

ORDERED that the attached change to Rule 35 is hereby published and effective as of this date.

DATED: April 7, 2015

FOR THE COURT:

  
GREGORY O. BLOCK  
Clerk of the Court

[Clerk's Note: The word "memorandum" was struck from Rule 35(a)(2)(B) and (c)(2) to clarify that the Rule applies not only to single-judge memorandum decisions, but also to any single-judge decision executed by order.]

Attachment

**RULE 35. MOTIONS FOR RECONSIDERATION,  
PANEL DECISION, OR FULL COURT REVIEW**

**(a) Motion for Reconsideration.**

(1) *Permitted.* A party in a case dismissed by the Clerk pursuant to Rule 45(h) (Sua Sponte Dismissal of Cases) may move for reconsideration by the Clerk. If the Clerk denies such reconsideration, the matter will be referred for decision by a Judge. A party in a case decided by a single judge may move (A) for reconsideration by the single Judge, (B) for panel decision, or (C) in a single motion, for reconsideration by a single Judge or for panel decision in the event the single Judge denies reconsideration. A party in a case decided by a panel may move (A) for reconsideration by the panel, (B) for full Court review, or (C) in a single motion, for reconsideration by the panel or for full Court review in the event the panel denies reconsideration. A party in a case decided by the full Court may move for reconsideration by the full Court.

(2) *Prohibited.* A party may not move for reconsideration

(A) of a matter if that party has previously filed a motion for reconsideration of that matter and the Court has denied that motion, or

(B) of the grant of a motion under subsection (b) for a decision by a panel when the panel's decision is that the single-judge decision remains the decision of the Court, or

(C) of the denial of a motion under subsection (c) for full Court review.

**(b) Motion for Panel Decision.** A party in a case decided by a single Judge may move for a decision by a panel of the Court.

**(c) Motion for Full Court Review.** Motions for full Court review are not favored. Ordinarily they will not be granted unless such action is necessary to secure or maintain uniformity of the Court's decisions or to resolve a question of exceptional importance. Subject to the requirements of subsections (d), (e), and (f), a party may move for a decision by the full Court—

(1) after a panel has decided a case, or

(2) after a panel has denied a motion for reconsideration or granted a motion for a decision by a panel but held that the single-judge decision remains the decision of the Court.

**(d) Time for Motion.** Any motion under this Rule shall be filed not later than 21 days (51 days if the motion is filed by an appellant, petitioner, or representative located outside the United States, Puerto Rico, or the Virgin Islands) after the date of the dispositive action for which reconsideration, panel review, or full Court review is sought.

**Practitioner's Note:** Because a motion for reconsideration by the single Judge may be combined with a motion for panel decision, the filing of a motion for reconsideration does not toll the running of the time for filing a separate motion for panel decision. Likewise, because a motion for panel reconsideration may be combined with a motion for full Court review, the filing of a motion for panel reconsideration does not toll the running of the time for filing a separate motion for full Court review. Thus, to be timely, any motion for panel or full Court review must be filed within the 21-day filing period.

(e) **Content of Motion.** A motion under this Rule shall contain a supporting argument. In addition—

(1) a motion for panel decision, or a motion for single-judge, panel, or full Court reconsideration shall state the points of law or fact that the party believes the Court has overlooked or misunderstood;

(2) a motion for panel decision also must state why the resolution of an issue before the Court would establish a new rule of law; modify or clarify an existing rule of law; apply established law to a novel fact situation; constitute the only recent, binding precedent on a particular point of law; involve a legal issue of continuing public interest; or resolve a case in which the outcome is reasonably debatable; and

(3) a motion for full Court review shall state—

(A) how such action will secure or maintain uniformity of the Court's decisions; or

(B) what question of exceptional importance is involved.

(f) **Form and Length.** Except by the Court's permission, a motion or response (including any supporting memorandum or brief) under this Rule may not exceed 15 pages. The motion shall otherwise comply with Rules 25 (Filing and Service) and 27 (Motions), but it need not indicate whether it is opposed.

(g) **Response; Action on the Motion.** No response to a motion under this Rule may be filed unless it is requested by the Court, but a motion for full Court review ordinarily will not be granted without such a request. A motion for reconsideration will be decided by the Judge or panel that rendered the decision. A motion for panel decision will be referred to a panel. A motion for full Court review or for reconsideration of a full Court decision will be referred to all of the Judges in regular active service. Consideration by the full Court requires the vote of at least a majority of the eligible Judges in regular active service.