

United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

Filed On: May 15, 2009

BEFORE: Sentelle, Chief Judge, and Ginsburg, Henderson, Rogers, Tatel, Garland, Brown, Griffith, and Kavanaugh, Circuit Judges

ORDER

Upon consideration of the notice of proposed amendments to Circuit Rules 25, 36, and 45 to implement the court's Case Management/Electronic Case Files (CM/ECF) system, published on February 12, 2009, with an opportunity for comment; and the absence of any comments on the proposed amendments, it is, by the en banc court,

ORDERED that Circuit Rules 25, 36, and 45 be amended as proposed. It is

FURTHER ORDERED that Circuit Rule 8(a)(2) be amended to read as follows:

(2) Except in extraordinary circumstances, for any motion that is not filed electronically and for any party who has not consented to electronic service, the motion must be served by hand or, in the case of a party located outside the greater Washington metropolitan area, by other form of expedited service. The movant must attempt to notify the opposing side by telephone in advance of the filing of the motion and describe in the motion or accompanying memorandum the efforts made to so notify the opposing side.

It is

FURTHER ORDERED that Circuit Rule 12(a) be amended to read as follows:

(a) Timing. As directed by the court, appellant must file a docketing statement and serve a copy on all parties and amici curiae appearing at that time.

It is

FURTHER ORDERED that Circuit Rule 15(c)(1) be amended to read as follows:

(1) Timing. As directed by the court, appellant or petitioner must file a docketing statement and serve a copy on all parties (including intervenors) and amici curiae appearing before this court at that time.

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It is

FURTHER ORDERED that Circuit Rule 18(a)(2) be amended to read as follows:

(2) Except in extraordinary circumstances, for any motion that is not filed electronically and for any party who has not consented to electronic service, the motion must be served by hand or, in the case of a party located outside the greater Washington metropolitan area, by other form of expedited service. The movant must attempt to notify the opposing side by telephone in advance of the filing of the motion and describe in the motion or accompanying memorandum the efforts made to so notify the opposing side.

It is

FURTHER ORDERED that Circuit Rule 27(h)(2) be amended to read as follows:

(2) **Consultation.** Before filing a motion to extend the time for filing a pleading or for leave to exceed page limits, the moving party must attempt to obtain the consent of the opposing side. If consent is not obtained, the moving party must attempt to inquire whether an opposition or other form of response will be filed. The opening paragraph of any such motion must recite the position taken by the opposing party in response to these inquiries, or the efforts made to obtain a response.

The following requirements pertain to service (i) on an opposing party who has not consented to electronic service or (ii) for motions to extend the time for filing or for leave to exceed page limits that are not filed electronically. If the opposing side has stated an intention to file an opposition or other response, or has not been reached after reasonable effort, the moving party must serve the motion by personal service or, if personal service is not feasible, give telephone notice of the filing and serve the motion by the most expeditious form of service. If the moving party is unable to effect personal service or telephone notice at the time of filing, the opening paragraph of the motion must recite the efforts made to do so.

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FURTHER ORDERED that Circuit Rule 28(e)(3) be amended to read as follows:

(3) Before filing a motion to exceed the limits on length of briefs, or to extend the time for filing, the moving party must attempt to obtain the consent of the opposing side. If consent is not obtained, the moving party must attempt to inquire whether an opposition or other form of response will be filed. The opening paragraph of any such motion must recite the position taken by the opposing party in response to these inquiries, or the efforts made to obtain a response.

The following requirements pertain to service (i) on an opposing party who has not consented to electronic service or (ii) for motions to exceed the limits on length of briefs or to extend the time for filing that are not filed electronically. If the opposing side has stated an intention to file an opposition or other response, or has not been reached after reasonable effort, the moving party must serve the motion by hand, or if such service is not feasible, by giving telephone notice of the filing and serving the motion by the most expeditious form of service. If the moving party is unable to effect service by hand or telephone notice at the time of filing, the opening paragraph of the motion must recite the efforts made to do so.

It is

FURTHER ORDERED that Circuit Rule 30(a) be amended to read as follows:

(a) Filing and Form. Except as provided in Circuit Rules 9 or 24, an appendix must be prepared as prescribed by FRAP 30. Appellant or petitioner must file 8 copies of the appendix with the court, and serve one copy on counsel for each separately represented party, at the time the brief for appellant or petitioner is filed, unless filing is to be deferred pursuant to FRAP 30(c). When an appendix is filed electronically, 7 paper copies must be filed in addition to the electronic version, unless filing is to be deferred pursuant to FRAP 30(c). The appendix must be reproduced on light paper by any duplicating or copying process capable of producing a clear black image; such duplication may be made on both sides of each page.

It is

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FURTHER ORDERED that Circuit Rule 31(b) be amended to read as follows:

b) Number of Copies. Except for unrepresented persons proceeding in forma pauperis, the original and 8 copies of every brief must be filed. When the deferred appendix method is used, 6 copies of the initial briefs must be filed (when filed electronically, 5 paper copies in addition to the electronic version), followed by the original and 8 copies in final form. An unrepresented person proceeding in forma pauperis must file with the clerk one original brief, and the clerk will duplicate the necessary copies.

These amendments are effective June 8, 2009.

Per Curiam

FOR THE COURT:
Mark J. Langer, Clerk

/s/ Mark J. Langer