

United States Court of Appeals

District of Columbia Circuit
Washington, D.C. 20001-2866

Mark J. Langer
Clerk

General Information
(202) 216-7000

NOTICE OF FINAL RULE AND HANDBOOK REVISIONS

Pursuant to D.C. Circuit Rule 47, the court proposed amendments to Circuit Rule 29 regarding the time for filing amicus curiae briefs and motions seeking leave of court to participate as amicus curiae, and the court's policy in the event that the proposed participation of amici would cause a recusal. The proposed amendments were published for public comment on April 12, 2010. One comment was received, and the court has approved a modification in the phrasing of the original proposal in light of that comment. The court has ordered that the amendments be adopted effective December 1, 2010. Corresponding changes have been made to Section IX.A.4 of the Circuit's Handbook of Practice and Internal Procedures.

The amendment to Circuit Rule 29 states that the time limitations imposed by Federal Rule of Appellate Procedure 29(e) will govern. The comment that was submitted supported this change but suggested there was some ambiguity in the wording of the sentence that stated: ". . . the court encourages early notification of intent to participate as amicus." For greater clarity, Circuit Rule 29(b) has been amended to indicate that the court encourages litigants to file a representation of consent, motion for leave to participate, or notice of intent as promptly as practicable after the case is docketed. (Prompt notification will enable the court to accommodate amici briefs in setting the briefing format and schedule in each case, and assist the court in the early identification of potential recusals caused by the participation of amici.)

Two unrelated modifications to the Handbook have also been made. A paragraph has been added to Section IX.A.4 of the Handbook to draw attention to an amendment to Rule 29 of the Federal Rules of Appellate Procedure, effective December 1, 2010, establishing certain disclosure requirements for amici other than the United States or its officers or agencies and states, concerning the authorship and funding of amicus briefs. Finally, at Section VI.D.1 the Handbook will now articulate the court's standard for appointing a private attorney or amicus in civil cases.

Extracts from the Circuit Rules and Handbook reflecting the amendments will be available on the court's web site at www.cadc.uscourts.gov commencing November 16, 2010. A revised version of the Circuit Rules and Handbook will be posted on the court's web site December 1, 2010.

Copies of this Notice have been published this day by the means specified in D.C. Circuit Rule 47(c).

Date: November 16, 2010

Mark J. Langer, Clerk

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

Filed On: November 16, 2010

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

ORDER

Upon consideration of the notice of proposed amendments to Circuit Rule 29, published on April 12, 2010, with an opportunity for comment; and the written comment that was submitted to the Advisory Committee on Procedures on May 27, 2010, it is, by the en banc court,

ORDERED that Circuit Rule 29(b) be amended to read as follows:

(b) Leave to File. Any individual or non-governmental entity intending to participate as amicus curiae must file either a written representation that all parties consent to such participation, or, in the absence of such consent, a motion for leave to participate as amicus curiae. (For this purpose, the term "governmental entity" includes the United States or an officer or agency thereof, the District of Columbia, or a State, Territory, or Commonwealth of the United States.) Any disclosure statement required by Circuit Rule 26.1 must accompany a written representation of consent to participate as amicus curiae or a motion for leave to participate as amicus. The time for filing is governed by FRAP 29(e); however, the court encourages individuals and non-governmental entities to file a written representation of consent or motion for leave to participate, and governmental entities to file a notice of intent to file an amicus brief, as promptly as practicable after the case is docketed in this court. Leave to participate as amicus will not be granted and an amicus brief will not be accepted if the participation of amicus would result in the recusal of a member of the panel that has been assigned to the case or a member of the en banc court when participation is sought with respect to a petition for rehearing en banc.

These amendments are effective December 1, 2010.

Per Curiam

FOR THE COURT:
Mark J. Langer, Clerk

/s/Mark J. Langer