

# United States Court of Appeals

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

Mark J. Langer  
Clerk

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## NOTICE OF PROPOSED CIRCUIT RULE CHANGES AND OPPORTUNITY FOR COMMENT

Notice is hereby given that the Court, pursuant to D.C. Circuit Rule 47, proposes amendments to Circuit Rules 5, 8, 9, 12, 15, 18, 21, 27, 28, 34, 35, and 41; and proposes the addition of a citation to accompany the new FRAP Rule 12.1. An explanation of the revisions is set out below. The proposed amendments are due in large part to expected changes to the Federal Rules of Appellate Procedure, which the Supreme Court has approved, and which we anticipate will become effective on December 1, 2009. Corresponding changes to the Circuit's Handbook of Practice and Internal Procedures will be made.

### OPPORTUNITY FOR COMMENT

Comments on the proposed amendments may be submitted to the Court's Advisory Committee on Procedures within 45 days from the date of the publication of this Notice in *The Daily Washington Law Reporter*. Written comments should be sent to:

Advisory Committee on Procedures  
c/o Clerk of Court  
United States Court of Appeals for the D.C. Circuit  
333 Constitution Avenue, N.W., Room 5509  
Washington, D.C. 20001

The Committee will consider any comments received from interested persons and organizations and formulate recommendations to the Court.

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

Date: May 15, 2009

Mark J. Langer, Clerk

**[NOTE: The text of the FRAP changes and proposed Circuit Rule amendments is available on the Court's web site at [www.cadc.uscourts.gov](http://www.cadc.uscourts.gov) under "Announcements" and "Rules & Operating Procedures."]**

## EXPLANATION OF PROPOSED AMENDMENTS TO D.C. CIRCUIT RULES

Most of the proposed revisions to the Circuit Rules are the result of anticipated amendments to the federal rules, which adopt a “days-are-days” approach to computing all time periods. Under current rules, intermediate weekends and holidays are omitted when computing short periods but are included when computing longer periods. Under the FRAP amendments, intermediate weekends and holidays will now be counted regardless of the length of the specified period. To offset the change in the method of computing short time periods, many time periods in FRAP are being adjusted, and most periods of less than 30 days are being changed to multiples of 7 days. To conform with the FRAP amendments, modifications to several time periods in the Circuit Rules are being proposed. Some additional changes are being suggested to remove redundant or inaccurate material in the Circuit Rules; some changes are merely editorial.

**D.C. Cir. Rule 5(b):** Would increase from 5 to 7 days the period during which a reply to an answer to a petition for permission to appeal may be filed.

**D.C. Cir. Rule 8(a)(2) & 18(a)(2):** Would strike reference to a memorandum accompanying a motion for stay or emergency relief, as all legal arguments must be presented in the body of the motion. See FRAP 27(a)(2)(C)(i); D.C. Circuit Handbook of Practice and Internal Procedures 28 (2009).

**D.C. Cir. Rule 9(a)(1):** Would increase from 5 to 10 days the period during which the appellant must file a memorandum of law in support of a pretrial release or detention appeal, following the filing of the transcript of the district court proceedings.

**D.C. Cir. Rule 9(a)(2):** Would increase from 5 to 10 days the period during which the appellee may file a responsive memorandum, following the filing of appellant’s memorandum.

**D.C. Cir. Rule 9(a)(3):** Would increase from 3 to 7 days the period during which a reply may be filed, following the filing of appellee’s memorandum.

**D.C. Cir. Rule 12(e), 12(f), 15(c)(5), 15(c)(6), 27(f), 27(h)(1), 28(e)(2), 34(j)(2), and 41(a)(1):** Would strike the word “calendar” as superfluous in light of FRAP’s new “days-are-days” approach to calculating deadlines.

**D.C. Cir. Rule 12.1:** Because the new FRAP 12.1 appears to be consistent with the court’s practice, no local rule is being proposed, but a citation to the Circuit Rule that distinguishes between record and case remands is being suggested.

**D.C. Cir. Rule 21(d), 27(a)(4) & 35(c):** Would add “curiae” after amici.

**D.C. Cir. Rule 27(d):** Would increase from 8 to 10 days the period within which a combined reply/response pleading must be filed, following service of a response to a motion that also contains a request for affirmative relief.

**D.C. Cir. Rule 27(e)(2):** Would increase from 8 to 10 days the period within which a party may seek reconsideration of a clerk's order.

**D.C. Cir. Rule 27(h)(1):** Would not lengthen the period for filing motions for extensions of time to file, or to exceed the page limits for, motions, responses, and replies. Such an adjustment would be impracticable given the short deadlines for filing responses and replies.

**D.C. Cir. Rule 27(h)(4):** Would establish 7 days as the period of an automatic extension authorized by the rule if the court does not act on a timely motion for extension of time or to exceed page limits.

**D.C. Cir. Rule 28(e)(2):** Would increase from 5 to 7 days the period before a brief is due that a motion for extension or to exceed length limitations must be filed.

**D.C. Cir. Rule 34(b):** Would strike second sentence of this section as redundant of similar language in FRAP 34(b).

**D.C. Cir. Rule 34(c):** Would increase from 5 to 7 days the last date in advance of oral argument by which the parties must notify the court of the names of counsel who will argue, unless the court orders otherwise.

**D.C. Cir. Rule 34(i):** Would increase from 5 to 7 days the last date in advance of oral argument by which counsel must notify the court of an intention to use at argument exhibits or handouts.

**D.C. Cir. Rule 34(j)(2):** Would retain the 10-day period during which a party may seek reconsideration of an order announcing that a case will be decided without oral argument.