

**United States Court of Appeals**  
FOR THE DISTRICT OF COLUMBIA CIRCUIT

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**September Term, 2024**

**Filed On:** December 12, 2024

**BEFORE:** Srinivasan, Chief Judge, and Henderson, Millett, Pillard, Wilkins, Katsas, Rao, Walker, Childs, Pan, and Garcia, Circuit Judges

**ORDER**

It is **ORDERED** by the en banc court that Circuit Rules 26.1, 29, 35, and 40 be amended as set out in the attachment to this order, effective December 12, 2024.

**Per Curiam**

**FOR THE COURT:**  
Mark J. Langer, Clerk

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Mark J. Langer

## **Circuit Rule 26.1**

### **Disclosure Statement**

**(a)** A corporation, association, joint venture, partnership, syndicate, or other similar entity appearing as a party or amicus curiae in any proceeding must file a disclosure statement, at the time specified in FRAP 26.1; Circuit Rules 5, 8, 12, 15, 18, 21, 27, and 3540(c); or as otherwise ordered by the court, identifying all parent companies and any publicly-held company that has a 10% or greater ownership interest (such as stock or partnership shares) in the entity. A revised corporate disclosure statement must be filed any time there is a change in corporate ownership interests that would affect the disclosures required by this rule. For the purposes of this rule, "parent companies" include all companies controlling the specified entity directly, or indirectly through intermediaries.

**(b)** The statement must identify the represented entity's general nature and purpose, insofar as relevant to the litigation. If the entity is an unincorporated entity whose members have no ownership interests, the statement must include the names of any members of the entity that have issued shares or debt securities to the public. No such listing need be made, however, of the names of members of a trade association or professional association. For purposes of this rule, a "trade association" is a continuing association of numerous organizations or individuals operated for the purpose of promoting the general commercial, professional, legislative, or other interests of the membership.

See also Circuit Rule 5 (Appeal by Permission), Circuit Rule 8 (Stay and Emergency Relief Pending Appeal from a Judgment or Order of the District Court), Circuit Rule 9 (Release in a Criminal Case), Circuit Rule 12(f) (Docketing Statement in Appeal from a Judgment or Order of the District Court; Statement by Appellee, Intervenor, or Amicus Curiae), Circuit Rule 15(c)(6) (Petition for Review or Appeal from Agency Action; Docketing Statement), Circuit Rule 18 (Stay Pending Review), Circuit Rule 21 (Extraordinary Writs), Circuit Rule 27 (Motions), Circuit Rule 3540(c) (Petition for Panel Rehearing and Petition for Hearing or Rehearing En Banc), and Circuit Rule 47.2(b) (Sentencing Appeal; Compassionate Release Appeal).

## Circuit Rule 29

### Brief of an Amicus Curiae

This Rule governs the brief for an amicus curiae during the court's initial consideration of the case on the merits and applies only to the brief for an amicus curiae not appointed by the court. A brief for an amicus curiae appointed by the court is governed by the provisions of Circuit Rule 28.

**(a) Contents of Brief.** The brief must avoid repetition of facts or legal arguments made in the principal (appellant/petitioner or appellee/respondent) brief and focus on points not made or adequately elaborated upon in the principal brief, although relevant to the issues before this court.

**(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(a)(6); 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.

**(c) Timely Filing.** Generally, a brief for amicus curiae will be due as set by the briefing order in each case. In the absence of provision for such a brief in the order, the brief must be filed in accordance with the time limitations described in FRAP 29(a)(6).

**(d) Single Brief.** Amici curiae on the same side must join in a single brief to the extent practicable. This requirement does not apply to a governmental entity. Any separate brief for an amicus curiae must contain a certificate of counsel plainly stating why the separate brief is necessary. Generally unacceptable grounds for the filing of separate briefs include representations that the issues presented require greater length than these rules allow (appropriately addressed by a motion to exceed length limits), that counsel cannot coordinate their efforts due to geographical dispersion, or that separate presentations were allowed in earlier proceedings.

See Circuit Rule 28(d) (Briefs for Intervenors), Circuit Rule 34(e) (Participation in Oral Argument by Amici Curiae), and Circuit Rule 3540(f) (Limitation on amici briefs during consideration whether to grant rehearing).

## Circuit Rule 35

See Circuit Rule 40.

### **~~Petition for Panel Rehearing and Petition for Hearing or Rehearing En Banc~~**

**~~(a) — Time Within Which to File.~~** In all cases in which a party is one of those listed in FRAP 40(a)(1)(A)–(D), the time within which any party may seek panel rehearing or rehearing en banc is 45 days after entry of judgment or other form of decision. In all other cases, any petition for panel rehearing or petition for rehearing en banc must be filed within 30 days after entry of judgment or other form of decision. The time for filing a petition for panel rehearing or rehearing en banc will not be extended except for good cause shown.

**~~(b) — Number of Copies and Length.~~** An original and 4 copies of a petition for panel rehearing, and an original and 19 copies of a petition for hearing or rehearing en banc must be filed. Such petitions must conform to the length limits of FRAP 35. This court disfavors motions to exceed length limits, and such motions will be granted only for extraordinarily compelling reasons.

**~~(c) — Panel Opinion, Certificate of Parties, and Disclosure Statement to be Attached.~~** A copy of the opinion of the panel from which rehearing is being sought; a certificate of parties and amici curiae, as described in Circuit Rule 28(a)(1)(A); and a disclosure statement, as described in FRAP 26.1 and Circuit Rule 26.1, must be attached as an addendum to the petition. Any required disclosure statement must also be attached to any response to a petition.

**~~(d) — Disposition of Petition.~~** A petition for rehearing ordinarily will not be granted, nor will an opinion or judgment be modified in any significant respect in response to a petition for rehearing, in the absence of a request by the court for a response to the petition. A response to a petition for hearing or rehearing en banc must conform to the length limits of FRAP 35; a response to a petition for panel rehearing must conform to the length limits of FRAP 40.

— A petition for panel rehearing will not be acted upon until action is ready to be taken on any timely petition for rehearing en banc. If rehearing en banc is granted, the panel's judgment, but ordinarily not its opinion, will be vacated, and the petition for panel rehearing may be acted upon without awaiting final termination of the en banc proceeding. Upon termination of the en banc proceeding, a new judgment will be issued. If the en banc court divides evenly, a new judgment affirming the decision under review will be issued.

**~~(e) — Filing Copies of Brief.~~** When a petition for rehearing is granted, the court will issue an appropriate order if further briefing is needed or if more copies of the original briefs are required.

**~~(f) — Brief of an Amicus Curiae.~~** No amicus curiae brief in response to or in support of a petition for rehearing en banc will be received by the clerk except by invitation of the court, and an amicus brief will not be accepted if the participation of amicus would result in the recusal of a member of the en banc court.

## Circuit Rule 40

### Petition for Panel Rehearing **and** **Petition for Hearing or Rehearing En Banc**

See Circuit Rule 35.

**(a) Time Within Which to File.** In all cases in which a party is one of those listed in FRAP 40(ad)(1)(A)-(D), the time within which any party may seek panel rehearing or rehearing en banc is 45 days after entry of judgment or other form of decision. In all other cases, any petition for panel rehearing or petition for rehearing en banc must be filed within 30 days after entry of judgment or other form of decision. The time for filing a petition for panel rehearing or rehearing en banc will not be extended except for good cause shown.

**(b) Number of Copies and Length.** An original and 4 copies of a petition for panel rehearing, and an original and 19 copies of a petition for hearing or rehearing en banc must be filed. Such petitions must conform to the length limits of FRAP 35-40. This court disfavors motions to exceed length limits, and such motions will be granted only for extraordinarily compelling reasons.

**(c) Panel Opinion, Certificate of Parties, and Disclosure Statement to be Attached.** A copy of the opinion of the panel from which rehearing is being sought; a certificate of parties and amici curiae, as described in Circuit Rule 28(a)(1)(A); and a disclosure statement, as described in FRAP 26.1 and Circuit Rule 26.1, must be attached as an addendum to the petition. Any required disclosure statement must also be attached to any response to a petition.

**(d) Disposition of Petition.** A petition for rehearing ordinarily will not be granted, nor will an opinion or judgment be modified in any significant respect in response to a petition for rehearing, in the absence of a request by the court for a response to the petition. A response to a petition for **panel rehearing, or hearing or rehearing en banc**, must conform to the length limits of **FRAP 35; a response to a petition for panel rehearing must conform to the length limits of FRAP 40.**

A petition for panel rehearing will not be acted upon until action is ready to be taken on any timely petition for rehearing en banc. If rehearing en banc is granted, the panel's judgment, but ordinarily not its opinion, will be vacated, and the petition for panel rehearing may be acted upon without awaiting final termination of the en banc proceeding. Upon termination of the en banc proceeding, a new judgment will be issued. If the en banc court divides evenly, a new judgment affirming the decision under review will be issued.

**(e) Filing Copies of Brief.** When a petition for rehearing is granted, the court will issue an appropriate order if further briefing is needed or if more copies of the original briefs are required.

**(f) Brief of an Amicus Curiae.** No amicus curiae brief in response to or in support of a petition for rehearing en banc will be received by the clerk except by invitation of the court, and an amicus brief will not be accepted if the participation of amicus would result in the recusal of a member of the en banc court.