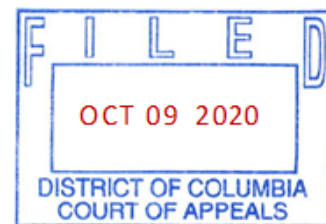


District of Columbia Court of Appeals



No. M-270-20

BEFORE: Blackburne-Rigsby, Chief Judge; Glickman, Thompson,
Beckwith, Easterly, McLeese, and Deahl, Associate Judges.

NOTICE

(FILED – October 9, 2020)

Pursuant to D.C. Code § 11-743 (2012 Repl.), this court must conduct its business according to the Federal Rules of Appellate Procedure, unless the court adopts or prescribes modifications of those rules. Several amendments to the Federal Rules of Appellate Procedure have recently been adopted and will go into effect in December 2020 unless this court provides otherwise. The amendments are attached to this notice. In brief, (a) Fed. R. App. P. 35(e) is amended to provide, using a cross-reference to Fed. R. App. P. 35(b)(2), that a response to a petition for en banc consideration can be no longer than 3,900 words/15 pages; and (b) Fed. R. App. P. 40(a)(3) is amended to provide, using a cross-reference to Fed. R. App. P. 40(b), identical length limits for responses to petitions for panel rehearing. This court is considering adopting the 15-page limit reflected in the amendment to Fed. R. App. P. 35(e). As amended, D.C. App. R. 35(e) would read as follows: “(e) *Response*. Unless the court requests, no response to a petition for en banc consideration, and no reply to a response, may be filed. **Any response must not exceed 15 pages.**” Because this court already has a 15-page limit on responses to petitions for rehearing by the division, D.C. App. R. 40(b), the court is considering not adopting the amendment to Fed. R. App. P. 40(a)(3).

This notice is published to afford interested parties an opportunity to submit written comments concerning the amendment under consideration. Comments must be submitted by November 9, 2020. Comments may be submitted electronically to rules@dcappeals.gov, or in writing, addressed to the Clerk, D.C. Court of Appeals, 430 E Street, N.W., Washington, D.C. 20001. All comments submitted pursuant to this notice will be available to the public.

PER CURIAM

April 27, 2020

SUPREME COURT OF THE UNITED STATES

ORDERED:

1. The Federal Rules of Appellate Procedure are amended to include amendments to Rules 35 and 40.

[*See infra* pp. __ __ __.]

2. The foregoing amendments to the Federal Rules of Appellate Procedure shall take effect on December 1, 2020, and shall govern in all proceedings in appellate cases thereafter commenced and, insofar as just and practicable, all proceedings then pending.

3. THE CHIEF JUSTICE is authorized to transmit to the Congress the foregoing amendments to the Federal Rules of Appellate Procedure in accordance with the provisions of Section 2074 of Title 28, United States Code.

**PROPOSED AMENDMENTS TO THE
FEDERAL RULES OF APPELLATE PROCEDURE**

Rule 35. En Banc Determination

* * * * *

- (e) **Response.** No response may be filed to a petition for an en banc consideration unless the court orders a response. The length limits in Rule 35(b)(2) apply to a response.

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Rule 40. Petition for Panel Rehearing**(a) Time to File; Contents; Response; Action by the Court if Granted.**

* * * * *

- (3) **Response.** Unless the court requests, no response to a petition for panel rehearing is permitted. Ordinarily, rehearing will not be granted in the absence of such a request. If a response is requested, the requirements of Rule 40(b) apply to the response.

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