

**District of Columbia
Court of Appeals**



No. M-257-16

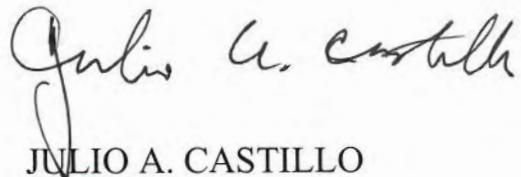
BEFORE: Washington, Chief Judge; Glickman, Fisher, Blackburne-Rigsby, Thompson, Beckwith, Easterly, and McLeese, Associate Judges.

O R D E R
(FILED – October 11, 2016)

On consideration of the proposed amendments to the Rules of this court in light of the 2016 amendments to the Federal Rules of Appellate Procedure, published for notice and comment on June 30, 2016, and the court having received no comments thereto, it is

ORDERED that the proposed amendments are hereby adopted, effective November 30, 2016. The text of the pertinent Rules, as amended, is attached to this order.

ENTERED BY DIRECTION OF THE COURT:



JULIO A. CASTILLO
Clerk of the Court

D.C. App. R. 4 (d)(1):

(1) If an institution has a system designed for legal mail, an inmate confined there must use that system to receive the benefit of this Rule 4 (d)(1). If an inmate files a notice of appeal in either a civil or a criminal case, the notice is timely if it is deposited in the institution's internal mail system on or before the last day for filing and:

(A) it is accompanied by:

(i) a declaration in compliance with 28 U.S.C. § 1746—or a notarized statement—setting out the date of deposit and stating that first-class postage is being prepaid; or

(ii) evidence (such as a postmark or date stamp) showing that the notice was so deposited and that postage was prepaid; or

(B) the court exercises its discretion to permit the later filing of a declaration or notarized statement that satisfies Rule 4 (d)(1)(A)(i).

D.C. App. R. 25 (a)(2)(B):

(B) Inmate Filing. If an institution has a system designed for legal mail, an inmate confined there must use that system to receive the benefit of this Rule 25 (a)(2)(B). A paper filed by an inmate is timely if it is deposited in the institution's internal mail system on or before the last day for filing and:

(i) it is accompanied by: • a declaration in compliance with 28 U.S.C. § 1746—or a notarized statement—setting out the date of deposit and stating that first-class postage is being prepaid; or • evidence (such as a postmark or date stamp) showing that the paper was so deposited and that postage was prepaid; or

(ii) the court exercises its discretion to permit the later filing of a declaration or notarized statement that satisfies Rule 25 (a)(2)(B)(i).

D.C. App. R. 26 (c):

(c) *Additional Time After Certain Kinds of Service.* When a party is required or permitted to act within a prescribed period after a paper is served on that party, 5 calendar days are added to the prescribed period unless the paper is delivered on the date of service stated in the proof of service. For purposes of this Rule 26 (c), a paper that is served electronically is treated as delivered on the date of service stated in the proof of service. Rule 26 (c) does not apply when an order of this court prescribes the time in which a party is required or permitted to act.

D.C. App. R. 29:

(a) *During Initial Consideration of a Case on the Merits.*

(1) *Applicability.* This Rule 29 (a) governs amicus filings during the court's initial consideration of a case on the merits.

(2) *When Permitted.* The United States or the District of Columbia, or an officer or agency thereof, or a State, Territory, Commonwealth or political subdivision thereof, may file an amicus curiae brief without the consent of the parties or leave of court. Any other amicus curiae may file a brief only by leave of court or if the brief states that all parties have consented to its filing.

(3) *Motion for Leave to File.* The motion must be accompanied by the proposed brief and state:

(A) the movant's interest; and

(B) the reason why an amicus brief is desirable and why the matters asserted are relevant to the disposition of the case.

(4) *Contents and Form.* An amicus brief must comply with Rule 28 (a)(1) and Rule 32. Additionally, the title page or cover must identify the party or parties supported and indicate whether the brief supports affirmation or reversal. If the amicus curiae is a corporation or partnership, the brief

must include the disclosure statement required of the parties by Rule 26.1. An amicus brief need not otherwise comply with Rule 28, but must include the following:

- (A) a table of contents, with page references;
- (B) a table of authorities—cases (alphabetically arranged), statutes, and other authorities—with references to the pages of the brief where they are cited, and with an asterisk designating the cases chiefly relied upon;
- (C) a concise statement of the identity of the amicus curiae, its interest in the case, and the source of its authority to file; and
- (D) an argument, which may be preceded by a summary and need not include a statement of the applicable standard of review.

(5) Length. Except by the court's permission, an amicus brief may not exceed 25 pages.

(6) Time for Filing. An amicus curiae must file its brief, accompanied by a motion for filing when necessary, no later than 7 days after the principal brief of the party being supported is filed. An amicus curiae that does not support either party must file its brief no later than 7 days after the appellant's principal brief is filed. The court may grant leave for later filing, specifying the time within which an opposing party may answer.

(7) Reply. Except by the court's permission, an amicus curiae may not file a reply brief.

(8) Oral Argument. An amicus curiae may participate in oral argument only with the court's permission.

(b) During Consideration of Whether to Grant Rehearing.

(1) Applicability. This Rule 29 (b) governs amicus filings during a court's consideration of whether to grant panel rehearing or rehearing en banc.

(2) When Permitted. The United States or the District of Columbia, or an officer or agency thereof, or a State, Territory, Commonwealth or political subdivision thereof, may file an amicus curiae brief without the consent of the parties or leave of court. Any other amicus curiae may file a brief only by leave of court.

(3) Motion for Leave to File. Rule 29 (a)(3) applies to a motion for leave.

(4) Contents, Form, and Length. Rule 29 (a)(4) applies to the amicus brief. The brief must not exceed 10 pages.

(5) Time for Filing. An amicus curiae supporting the petition for rehearing or supporting neither party must file its brief, accompanied by a motion for filing when necessary, no later than 7 days after the petition is filed. An amicus curiae opposing the petition must file its brief, accompanied by a motion for filing when necessary, no later than the date set by the court for the response.