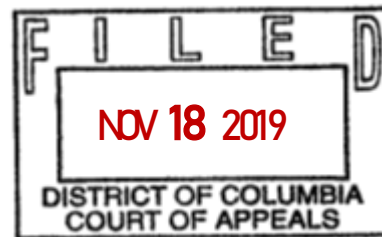


District of Columbia
Court of Appeals



No. M-266-19

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

NOTICE

(FILED – November 18, 2019)

The court is considering amending its rules to explicitly address whether recused judges count in determining whether a sufficient number of judges have voted to grant hearing or rehearing en banc. *See generally Tann v. United States*, 206 A.3d 273 (D.C. 2019) (statements respecting denial of motion to reconsider denial of rehearing en banc). Two approaches are currently under consideration, although the court is also interested in any suggestions about other possible approaches. Specifically, the court is considering whether to amend D.C. App. R. 35(a), by either (1) adding as the second sentence of R. 35(a) “For purposes of determining whether a majority of the judges who are in regular active service have voted to grant hearing or rehearing en banc, judges who are disqualified from a case are considered to be in regular active service.” or (2) revising the first sentence of the rule to read “A majority of the judges who are in regular active service *and who are not disqualified* may order that an appeal or other proceeding be heard or reheard en banc.”

This notice is published to provide interested parties an opportunity to submit written comments concerning the proposal under consideration. Comments must be submitted by January 17, 2020. Comments may be submitted electronically, to rules@dcapeals.gov, or submitted in writing to the Clerk, D.C. Court of Appeals, 430 E St., N.W., Washington, D.C. 20001. All comments submitted pursuant to this notice will be available to the public.