

**NOTICE AND OPPORTUNITY FOR COMMENT ON PROPOSED
AMENDMENTS TO THE CIRCUIT RULES**

Pursuant to 28 U.S.C. § 2071(b), comments are invited on proposed amendments to the following circuit rule, committee advisory note and appended form:

Circuit Rule 46-5	Restrictions on Practice by Former Employees
-------------------	--

Committee Advisory Note to Rule 15-2	Mediation in Immigration Petitions
---	------------------------------------

Form 8

New language is underscored; abrogated language is stricken. Please direct comments to Molly C. Dwyer and Cole Benson at Molly_Dwyer@ca9.uscourts.gov and Cole_Benson@ca9.uscourts.gov no later than June 15, 2009.

Circuit Rule 46-5, Restrictions on Practice by Former Court Employees

No former employee of the court shall participate or assist, by way of representation, consultation or otherwise, in any case that was pending in the Court during the employee's period of employment. It shall be the responsibility of any former employee, as well as the persons employing or associating with a former employee in the practice of law before this Court, to ensure compliance with this rule.

~~If it is shown that this rule would cause a substantial hardship with reference to a particular case,~~ An attorney who is a former employee may apply to the Court for an exemption. The application must demonstrate that there has been a strict compliance with the rule with reference to the particular case ~~and in all other matters~~, that the attorney had no direct or indirect involvement with the case during employment with the Court, and that the attorney was not employed or assigned in the chambers of any judge who participated in the case during the attorney's employment with the Court.

Purpose of amendment: Clarify instances in which exemption would be available and appropriate.

Advisory Committee Note to Rule 15-2

Although petitioners challenging Board of Immigration Appeals orders are exempt from the requirement to file Civil Appeals Docketing Statements, the parties in these cases are invited to contact the Court Mediation Unit when there is potential for mediation. Petitioners will normally be required to demonstrate eligibility for any requested relief. When making a request for mediation based on applications or circumstances that are not documented in the administrative record, petitioners shall provide supporting documents to the mediators.

Purpose of addition: To apprise parties of the potential for court-sponsored mediation in immigration cases.

Form 8

**CERTIFICATE OF COMPLIANCE PURSUANT TO
CIRCUIT RULES 28-4, 29(c)(2) and (3), 32-2 or 32-4 ¹**

I certify that (check appropriate option):

_____ This brief complies with the enlargement of brief size permitted by Ninth Circuit Rule 28-4. The brief's type size and type face comply with Fed. R. App. P. 32(a)(5) and (6). The brief is _____ words, _____ lines of text or _____ pages, excluding the portions exempted by Fed. R. App. P. 32(a)(7)(B)(ii), if applicable.

_____ This brief complies with the enlargement of brief size granted by court order dated _____. The brief's type size and type face comply with Fed. R. App. P. 32(a)(5) and (6). The brief is _____ words, _____ lines of text or _____ pages, excluding the portions exempted by Fed. R. App. P. 32(a)(7)(B)(ii), if applicable.

_____ This brief is accompanied by a motion for leave to file an oversize brief pursuant

¹ If filing a brief that falls within the length limitations set forth at Fed. R. App. P. 28.1(e)(2), 29(d) or 32(a)(7)(B), use Form 6

to Circuit Rule 32-2 and is _____ words, _____ lines of text or _____ pages, excluding the portions exempted by Fed. R. App. P. 32(a)(7)(B)(ii), if applicable.

_____ This brief is accompanied by a motion for leave to file an oversize brief pursuant to Circuit Rule 29(c)(2) or (3) and is _____ words, _____ lines of text or _____ pages, excluding the portions exempted by Fed. R. App. P. 32(a)(7)(B)(ii), if applicable.

_____ This brief complies with the length limits set forth at Ninth Circuit Rule 32-4. The brief's type size and type face comply with Fed. R. App. P. 32(a)(5) and (6).

CIRCUIT RULE 32-1, FORM OF BRIEFS; CERTIFICATE OF COMPLIANCE

All briefs submitted under Circuit Rules 28-4, 29(c)(2) and (3), 32-2 or Circuit Rule 32-4, must include a completed certificate with language identical to and a format ~~substantially similar to~~ Form 8 in the Appendix of Forms attached to these rules.

Purpose of amendments: Provide alternative form to address brief lengths other than those set forth in Federal Rule of Appellate Procedure 32(a)(7) and the accompanying federal form; make corresponding change to Circuit Rule 32-1.