

DATE: June 3, 2009

TO: Advisory Committee on Rules of Practice and
Internal Operating Procedures

FROM: Molly C. Dwyer, Clerk of Court

RE: Attached Request for Public Comment

Your committee agreed on the advisability of amendments to Circuit Rule 46-5 at the May 5, 2009 meeting. The Court Executive Committee considered those concerns at its May meeting and crafted the attached text for public review. Your committee also agreed on the noted language for the proposed note to Rule 15-2. Given the significant changes from the draft rule that was previously circulated, it seems appropriate to invite new public comments.

It came to the Court's attention that the version of Form 8 appended to the circuit rules is arguably inconsistent with the provisions of Federal Rule of Appellate Procedure 32(a)(7)(C)(ii); the attached memorandum to the Court Executive Committee elaborates on this issue. The Court Executive Committee approved revised Form 8.

If no substantive issues are raised by members of your committee or the general public in response to the request for comments, the amendments may be considered for adoption at the Court's June meeting; if approved, the revisions would become effective July 1, 2009.