

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

NOTICE OF PROPOSED AMENDMENT TO LOCAL RULE 26.1

PLEASE TAKE NOTICE that the Court intends to amend Local Rule 26.1 governing disclosure of corporate affiliations and other entities with a direct financial interest in the litigation.

The proposed amendment eliminates the requirement that trade associations file their membership lists and instead requires that trade associations proceeding as parties in the case identify any publicly held member whose stock or equity value could be affected substantially by the outcome of the proceeding or whose claims the trade association is pursuing in a representative capacity. This disclosure obligation does not extend to trade associations proceeding as amici curiae in the case.

The proposed amendment also clarifies that agency and mandamus cases are treated as civil cases and that post-conviction cases are treated as criminal cases for disclosure purposes. This clarification, which is consistent with existing practice, provides notice regarding treatment of these case types for disclosure purposes under the Local Rule.

The proposed amendment also modifies the filing time for the disclosure statement to conform to the filing time for the docketing statement and appearance of counsel forms.

The proposed amendment will take effect on August 11, 2008. Interested parties may submit comments on or before August 8, 2008, to:

Patricia S. Connor, Clerk
U.S. Court of Appeals for the Fourth Circuit
1100 E. Main Street, Suite 501
Richmond, Virginia 23219

June 9, 2008

Date

/s/ Patricia S. Connor

Clerk

Local Rule 26.1. Disclosure of Corporate Affiliations and Other Entities with a Direct Financial Interest in Litigation.

~~(a) All parties to a civil or bankruptcy case, and all corporate defendants in a criminal case, whether or not they are covered by the terms of FRAP 26.1, shall file a corporate affiliate/financial interest disclosure statement. This rule does not apply to the United States, to state and local governments in cases in which the opposing party is proceeding without counsel, or to parties proceeding in forma pauperis.~~

(a) Disclosure Requirements Applicable to Parties, Including Intervenors.

(1) Who Must File.

(A) Civil, Agency, Bankruptcy, and Mandamus Cases. A party in a civil, agency, bankruptcy, or mandamus case, other than the United States or a party proceeding in forma pauperis, must file a disclosure statement, except that a state or local government is not required to file a disclosure statement in a case in which the opposing party is proceeding without counsel.

(B) Criminal and Post-Conviction Cases. A corporate party in a criminal or post-conviction case must file a disclosure statement.

~~(b) The statement shall set forth the information required by FRAP 26.1 and the following:~~

~~(1) A trade association shall identify in the disclosure statement all members of the association, their parent corporations, and any publicly held companies that own 10% or more of a member's stock.~~

(2) Information to Be Disclosed by Parties, Including Intervenors.

(A) Information Required by FRAP 26.1. A party must identify any parent corporation and any publicly held corporation that owns 10% or more of the party's stock, or state that there is no such corporation.

(B) Information About Other Financial Interests. ~~(2) All parties shall~~ A party must identify any publicly held corporation, whether or not a party to the present litigation, that has a direct financial interest in the outcome of the litigation by reason of a franchise, lease, other profit sharing agreement, insurance, or indemnity agreement, or state that there is no such corporation.

(C) Information About Other Publicly Held Legal Entities. ~~(3) Whenever required by FRAP 26.1 or this rule to disclose information about a corporation that has issued shares to the public, a party shall also disclose information about similarly situated master limited partnerships, real estate investment trusts, or other legal entities whose shares are publicly held or traded,~~ or state that there are no such entities.

(D) Information About Trade Association Members. A party trade association must identify any publicly held member whose stock or equity value could be affected substantially by the outcome of the proceeding or whose claims the trade association is pursuing in a representative capacity, or state that there is no such member.

(b) Disclosure Requirements Applicable to Corporate Amicus Curiae.

(1) Who Must File. If an amicus curiae is a corporation, the amicus curiae brief must include a disclosure statement.

(2) Information to Be Disclosed by Corporate Amicus Curiae. A corporate amicus curiae must disclose the same information that sections (a)(2)(A), (B) & (C) require parties to disclose.

(c) Form. The disclosure statement shall be on a form provided by the clerk. A negative statement is required if a party filer has no disclosures to make.

(d) **Time of Filing.** ~~The disclosure statement shall be filed within 10 days of receipt of the notice of docketing and the disclosure form~~ **A party's disclosure statement must be filed within 14 days of docketing of the appeal,** unless earlier pleadings are submitted for the Court's consideration, in which case the disclosure statement shall be filed at that time.

(e) **Amendment.** ~~The parties~~ **Filers** are required to amend their disclosure statements when necessary to maintain their current accuracy.