

Subject: Why give up without "testing the waters"?

Date: 1/5/2006, 11:55 AM

From: Elena Ruth Sassower <judgewatchers@aol.com>

To: Jon Katz <jon@markskatz.com>

Organization: Center for Judicial Accountability, Inc.

Dear Jon,

The purpose of Rule 29(e) is to permit opposing counsel sufficient time to respond to the amicus brief after the filing of the appellant's brief. I am sure that for such a significant law-making case as this "disruption of Congress" case appeal, the National Lawyers Guild could easily obtain the U.S. Attorney's consent -- and that the U.S. Attorney could, if necessary, easily obtain from the Court a brief extension of time so that it would have a full month within which to respond, following receipt of the Guild's amicus brief. To not even try to call the U.S. Attorney with a request for its consent to the Guild's filing of an amicus brief does not make any sense.

Moreover, the rule expressly states that "The court may grant leave for later filing, specifying the time within which an opposing party may answer". The significant, indeed unique, contribution that the D.C. Chapter of the Guild has to offer with respect to the second and third appellate issues pertaining to the "disruption of Congress" statute warrants such expressly provided-for motion. Surely, it is worth putting before the Court the Guild's interest in filing an amicus brief -- and the brief itself. The record of such motion would be a permanent part of the case, irrespective -- available for citation and commentary.

If you have any doubt on the subject, I would ask that you immediately take it up with other DC Chapter Guild members, who should have long been collaboratively working with you, in the public interest, on this unprecedented and extremely ominous D.C. case.

Please advise.

Thanks.

Elena

Jon Katz wrote on 1/5/2006, 7:01 AM:

> Hi, Elena- Thanks for your message.
>
> Unfortunately, under DC App. Rule 29(e) (attached): " 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."
>
> Consequently, although your attached December 13 e-mail views January
> 2006 as my appropriate amicus brief filing deadline, the deadline has
> passed for me to file a brief in support of you, which, under the above