

**AMENDED 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:

Circuit Rule 46-5

Restrictions on Practice by Former Employees

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 26, 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.¹

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

¹ The last phrase in the prior version circulated for comment was not underscored to annotate the addition of language.