

**UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT**  
**717 MADISON PLACE, N.W.**  
**WASHINGTON, D.C. 20439**

JAN HORBALY  
CLERK

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AREA CODE 202

December 1, 2011

Dear Reader:

Federal Rules of Appellate Procedure 4 and 40 were revised on December 1, 2011 as follows:

Fed. R. App. P. 4(a)(1) is amended to clarify that there is a 60-day time period, from the entry of judgment, to file a notice of appeal if one of the parties is the United States, a United States agency, a United States officer or employee sued in an official capacity, or a current or former United States officer or employee sued in an individual capacity for an act or omission occurring in connection with duties performed on the United States' behalf. Rule 4(a)(1) now provides:

(a) Appeal in a Civil Case.

(1) Time for Filing a Notice of Appeal.

(A) In a civil case, except as provided in Rules 4(a)(1)(B), 4(a)(4), and 4(c), the notice of appeal required by Rule 3 must be filed with the district clerk within 30 days after entry of the judgment or order appealed from.

(B) The notice of appeal may be filed by any party within 60 days after entry of the judgment or order appealed from if one of the parties is:

- (i) the United States;
- (ii) a United States agency;
- (iii) a United States officer or employee sued in an official capacity; or
- (iv) a current or former United States officer or employee sued in an individual capacity for an act or omission occurring in connection with duties performed on the United States' behalf -- including in all instances in which the United States represents that person when the judgment or order is entered or filed the appeal for that person.

Fed. R. App. P. 40(a)(1) is similarly amended to clarify that there is a 45-day period to file a petition for panel rehearing if one of the parties is the United States, a United States agency, a United States officer or employee sued in an official capacity, or a current or former United States officer or employee sued in an individual capacity for an act or omission occurring in connection with duties performed on the United States' behalf. Rule 40(a)(1) now provides:

(a) Time to File; Contents; Answer; Action by the Court if Granted.

(1) Time. Unless the time is shortened or extended by order or local rule,<sup>\*</sup> a petition for panel rehearing may be filed within 14 days after entry of judgment. But in a civil case, unless an order shortens or extends the time, the petition may be filed by any party within 45 days after entry of judgment if one of the parties is:

- (i) the United States;
- (ii) a United States agency;
- (iii) a United States officer or employee sued in an official capacity; or
- (iv) a current or former United States officer or employee sued in an individual capacity for an act or omission occurring in connection with duties performed on the United States' behalf -- including in all instances in which the United States represents that person when the judgment or order is entered or filed the appeal for that person.

Please note that the CD Rom version of the rules does not reflect these recent changes.

Suggestions regarding the court's Rules of Practice should be submitted to:

Clerk of Court  
United States Court of Appeals for the Federal Circuit  
717 Madison Place, NW  
Washington, DC 20439  
or  
rules@cafc.uscourts.gov

Sincerely yours,  
/s/ Jan Horbaly  
Jan Horbaly

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<sup>\*</sup> Pursuant to Fed. Cir. R. 40(e), the Federal Circuit provides 30 days to file a petition for rehearing in all cases except when the United States or its officer or agency is a party.