

NATIONAL ASSOCIATION OF  
CRIMINAL DEFENSE LAWYERS

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April 27, 2022  
*submitted electronically:*  
c/o [sharris@supremecourt.gov](mailto:sharris@supremecourt.gov)

Hon. Scott S. Harris, Clerk  
Att'n: Rules Committee  
Supreme Court of the United States  
One First Street, N.E.  
Washington, DC 20543

**COMMENTS OF THE NATIONAL ASSOCIATION  
OF CRIMINAL DEFENSE LAWYERS**

Concerning Proposed Amendments to the Rules of the Supreme Court  
Published for Comment in March 2022

Dear Mr. Harris:

The National Association of Criminal Defense Lawyers is pleased to submit our comments with respect to the changes in the Rules of the Supreme Court of the United States that were proposed for comment on March 30, 2022. Our organization has nearly 10,000 members; in addition, NACDL's 90 state, local and international affiliates comprise a combined membership of more than 35,000 private and public defenders. The comments in this letter reflect the collective experience of our members representing hundreds of criminal defendants before this Court and in filing a dozen or more amicus briefs each Term, which we believe the Court has found to be of high quality and consistently helpful.

NACDL supports the change that would be made in proposed amended Rule 37 to streamline amicus filing by eliminating the longstanding requirement to obtain either consent of the parties or leave of Court. NACDL files a brief in most criminal cases before the Court on the merits, and in a handful of carefully selected cases at the petition stage. In some of those cases, we are the sole – or at least among the few – amicus filers, but in others we are aware that a great many briefs are filed. In our experience, consent of the parties is almost never refused, and is often granted in advance, on a blanket basis. In practice, then, the consent process does not serve to filter out unhelpful amici. Rather, it only has the effect of wasting the parties' (and sometimes, this Court's) valuable time. We

have every confidence that the Court and its staff can separate the wheat from the chaff among the amicus briefs that will continue to be filed, and that no substantial increase in unhelpful filings will result from the proposed amendment.

We have looked at the other proposed changes and find them to be helpful clarifications or simplifications of existing rules, and in any event not of special concern either to the criminal defense bar or to a regular amicus (non-party) filer such as NACDL, such that our comments would add value to your process. Our membership appreciates the Court's continuing effort to make its practices accessible and effective for all concerned.

Very truly yours,

*s/Peter Goldberger*

PETER GOLDBERGER  
Chair, NACDL Committee  
on Rules of Procedure  
for NACDL's Amicus Committee and  
the Committee on Rules of Procedure

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