

Bathroom Reader

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EN BANC PROCESS & THE DC CIRCUIT

An en banc session is when a case is heard before all the judges of a court, rather than smaller panels. (The phrase “en banc” is French, which means “on the bench.”) SCOTUS and most states’ highest courts always hear cases en banc.



Ninth Circuit En Banc Hearing

Cases in the U.S. Courts of Appeals, though, are usually heard before a 3-judge panel. Sometimes, cases need action by the court en banc. But, due to the burden of an en banc hearing, they are generally disfavored. Judges may call for a vote on a hearing en banc to maintain uniformity of decisions within the circuit or if the issue is exceptionally important. Parties also may request a hearing en banc.

Interestingly, panels in the D.C. Circuit may seek from the whole court an “endorsement” of

sorts for a proposed decision and announce the endorsement in a footnote to the panel’s opinion, sometimes referred to as an “Irons” footnote, in reference to *Irons v. Diamond*, 670 F.2d 265 (D.C. Cir. 1981). This procedure is a substitute for the formal en banc review and the D.C. Circuit is the only circuit to explicitly state that it uses this informal procedure. It is also the only circuit to have guidelines governing the procedure.

SPEED INTERVIEWING



Wouldn’t OCIs be better if you could meet a firm’s lawyers with a drink in hand? At least one law firm in the country agrees and has decided to kick OCIs up a notch. The New York firm Herrick Feinstein LLP decided to shake up their interview process by taking a lesson from speed dating.

Instead of sitting in a room and streaming in interviewees one at a time, the firm decided to let them loose at a cocktail party. Fifty students were given 30 minutes to mingle with the firm’s lawyers before sitting down with a member of the firm’s hiring committee. Every five minutes a bell rang and students moved to sit down with another committee member.

Did the evening of inebriated speed interviewing pay off? Apparently the firm had “so much fun” that evening and had more success with call-backs, so it seems like it. Now we just need a Hawai‘i firm to try this approach!

*Who calls a lawyer rogue, may find, too late,
On one of these depends his whole estate.
-George Crabbe*

CIRCUIT JUSTICE

Last issue, Uncle Bill had a story about a case in which a stay was requested of Chief Justice Roberts. There was a question about whether or not he would issue the stay individually in his capacity as Circuit Justice for the 4th Circuit (from where the case originated) or refer it to the whole Court. We have our answer.

The Chief referred the stay application to the full court, which denied the application. The Chief, along with Justices Kennedy and Alito would have granted the stay in part, and Justice Thomas would have granted the stay in its entirety. It takes 5 votes to issue a stay.

The case is *North Carolina v. North Carolina State Conference of the NAACP* and the application number is 16A168.