

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

101 West Lombard Street
Baltimore, Maryland 21201

RECEIVED
6/5/00

00-CV-C

Chambers of
PAUL V NIEMEYER
United States Circuit Judge

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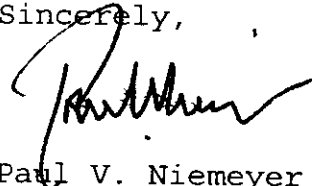
June 1, 2000

Lawrence A. Salibra, II, Esq.
Alcan Aluminum Corporation
P.O. Box 6977
Cleveland, Ohio 44101

Dear Mr. Salibra:

Thank you for your May 24 letter pointing out your difficulties with service by courier. We will place your comment on our docket and consider it in due course.

Sincerely,



Paul V. Niemeyer

cc: Professor Edward H. Cooper
Mr. Peter G. McCabe
Mr. John K. Rabiej
(all w/enc.)

Alcan Aluminum Corporation

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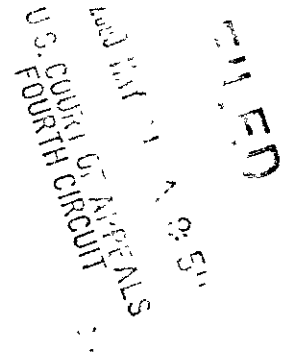
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May 24, 2000

Honorable Paul J. Niemeyer
Fourth Circuit Court of Appeals
Albert V Bryan US Courthouse
401 Courthouse Square
Alexandria VA 22314-5799



Re: Federal Rules—Filing By Courier

Dear Judge Niemeyer:

I wrote to you in the past concerning my study on the Civil Justice Reform Act at the suggestion of Judge Scirica.

I am now writing concerning an issue that has arisen in the 9th Circuit regarding the accessibility of the court and filing by courier. The Federal Rules acknowledge the use of couriers as an established practice for filing; however, they do not address the resolution of a dispute between a court and the courier as to whether the courier or the court was at fault for a failure to file.

The matter arose in connection with the filing of a notice of appeal that was due the day after Thanksgiving. The notice had been sent by UPS for next day delivery. It arrived in Los Angeles on Thanksgiving and the tracking record shows that delivery was attempted in the Central District of California on Friday.

The District Court was operating with a skeletal staff. UPS, and certain court employees say that personnel were likely not available. The court says it was UPS's fault because they did not try hard enough. Meanwhile, we are wasting an inordinate amount of time on something that should be solved by a simple rule clarification that indicates that a filing will be deemed complete if the filing was given to an established courier in accordance with its standard policy and the notice should have been timely delivered.

I have visions of this being an issue for electronic filings and attorneys will be arguing whether the court's server or Cisco Systems' switch were at fault.

JUN - 1 2000



Very truly yours,

Lawrence A. Salibra, II
Lawrence A. Salibra, II
Senior Counsel

cc: Honorable Anthony J. Scirica – 3rd Circuit

COMMITTEE ON RULES OF PRACTICE AND PROCEDURE
OF THE
JUDICIAL CONFERENCE OF THE UNITED STATES
WASHINGTON, D.C. 20544

ANTHONY J. SCIRICA
CHAIR

PETER G. McCABE
SECRETARY

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CIVIL RULES

W. EUGENE DAVIS
CRIMINAL RULES

MILTON I. SHADUR
EVIDENCE RULES

June 21, 2000

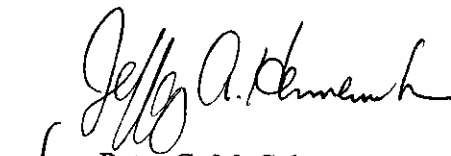
Lawrence A. Salibra, II, Esquire
Alcan Aluminum Corporation
P.O. Box 6977
Cleveland, Ohio 44101-1977

Dear Mr. Salibra:

Thank you for your suggestion to amend Civil Rule 5. A copy of your letter was sent to the chair and reporter of the Advisory Committee on Civil Rules for their consideration.

We welcome your suggestion and appreciate your interest in the rulemaking process.

Sincerely,


Peter G. McCabe
Secretary

cc: Honorable Paul V. Niemeyer
Professor Edward H. Cooper
Agenda Subcommittee