

3.2.05 | MOTIONS TO INTERVENE

A party who appeared as an intervenor in a lower court proceeding shall be considered a party to the appeal upon filing a notice of appearance. Otherwise, a motion for leave to intervene must be filed with the court of appeals. Any notice of appearance or motion to intervene should indicate the side upon which the movant proposes to intervene. Loc. R. 12(e).

- **Intervention in Agency Review Proceeding**

Intervention in agency review proceedings is governed by Fed. R. App. P. 15(d). A motion for leave to intervene in an agency review proceeding shall be filed in the court of appeals and served on all parties to the proceeding within 30 days of the date on which the petition for review was filed. The motion shall contain a concise statement of the interest of the moving party and the grounds upon which intervention is sought.

- **Government Intervention in Challenge to Constitutionality of Law**

Under Fed. R. App. P. 44, it is the duty of a party who draws into question the constitutionality of any federal or state statute in any proceeding to which the federal or state government is not a party, to give immediate notice in writing to the court of the existence of said question. The clerk shall thereupon certify such fact to the Attorney General of the United States or the appropriate state. The government may thereafter intervene to defend the constitutionality of the federal or state law at issue in the appeal. 28 U.S.C. § 2403; Fed. R. App. P. 44.

- **Joint Briefing and Argument**

Intervenors are required to join in the brief for the side which they support unless leave to file a separate brief is granted by the court. Loc. R. 12(e) & 28(a). Intervenors share as parties in the argument time allotted under Local Rule 34(d) to the side they support.

(4th Circuit Court of Appeals // December 2023)

