

INITIAL CONSIDERATIONS

- C Obtain and Review the Federal Rules of Appellate Procedure and Ninth Circuit Rules**
Copies of the Federal and Circuit Rules are available upon written request to the Clerk's Office and on the court's website at www.ca9.uscourts.gov.
- C Post-Judgment Motions**
Certain timely post-judgment motions render a notice of appeal ineffective. An amended notice must be filed if review of the post-judgment motion's disposition is desired. See, FRAP 4(a)(4).
- C File Timely Notice of Appeal in District Court**
The filing deadlines are set forth at Federal Rule of Appellate Procedure 4. The deadlines are mandatory and jurisdictional. Browder v. Director, Department of Corrections, 434 U.S. 275 (1978).
- C Civil Appeals Docketing Statement/Settlement Program**
All litigants, (except pro se litigants) are generally required by Ninth Circuit Rules 3-4 and 15-2 to file a civil appeals docketing statement at the same time the notice of appeal is filed. The docketing statement is used to assess whether a possible settlement of the case could be aided by the court's settlement described at Ninth Circuit Rule 33-1. Litigants may also request a settlement conference by contacting the settlement unit at 415-556-9900.
- C Order the Reporter's Transcripts**
The process to designate and order transcripts is described at Ninth Circuit Rule 10-3. The deadlines for initiating the process are triggered by the filing of the notice of appeal. A transcript designation form may be obtained from the district court.

BRIEFING

- C Filing Dates**
Consult your scheduling order and Ninth Circuit Rule 31-2.2 with regard to due dates and extensions of time. Note that unlike some state courts, there is no rule permitting automatic approval of stipulations or unopposed motions for extensions of time.

Under Federal Rule of Appellate Procedure 25(a), briefs are deemed timely filed if served by mail on the due date. All other filings must be in the courthouse on the due date.

If the opening brief in a civil case is not filed and no motion for an extension of time has been submitted, the clerk will dismiss the appeal for lack of prosecution without prior warning under Ninth Circuit Rule 42-1 and Rule 31-2.3.
- C Required Contents**
Contents of a brief are set forth at FRAP 28 and Ninth Circuit Rule 28.

BRIEFING (CONTINUED)

- C Format/Length**
Format and length requirements are found at Federal Rule of Appellate Procedures 28 and 32. They are also found at Ninth Circuit Rules 28 and 31-1. Attempts to manipulate the format so as to circumvent the length limitations may subject counsel to sanctions. Kano v. National Consumer, 22 F. 3d 899 (9th Cir. 1994).
- C Stylistic Considerations**
Use short sentences and comprehensible language. Avoid legalese. Refer to the parties by name or by terms such as "the taxpayer" or "the employer." Fed. R. App. P. 28(d).
- C Record Citations**
All references to the record must be supported by an appropriate citation to the excerpts of record pursuant to Ninth Circuit Rule 28-2.8.

EXCERPTS OF RECORD

- C Purpose**
The excerpts of record are intended to provide each member of the panel with those portions of the record necessary to reach a decision on the appeal. 9th Cir. R. 10-2. The full record is not regularly transmitted in civil cases. 9th Cir. R. 11-4.1.
- C Required Contents**
The contents of the excerpts of record are governed by Ninth Circuit Rules 17-1 and 30-1. There are different requirements for civil and criminal appeals and for petitions for review.
- C Format/Length**
Include a table of contents. Each volume should be limited to 300 pages each and have white covers. The district court docket sheet should be the final document.

ORAL ARGUMENT

- C Generally**
Practices regarding calendaring and oral argument are discussed in the introduction to the Ninth Circuit Rules and the Circuit Advisory Note to Rules 34-1 to 34-3.
- C Notice**
If oral argument will be heard, counsel are informed approximately five weeks before the date of the hearing.
- C Additional Authorities**
When additional authorities are discovered after the filing of the brief, the party may advise the court by letter. The letter shall refrain from including any additional argument. Fed. R. App. P. 28(j). The body of the letter must not exceed 350 words.

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Office of the Clerk / U.S. Court of Appeals / 811 United States Courthouse / 1010 Fifth Avenue Seattle / WA / 98104-1130; (206) 553-2937

REFERENCE MATERIALS

The views expressed in the following books and articles are not necessarily those of the Court of Appeals. These references are a small sample of the readily available reference materials on appellate advocacy.

Books on Ninth Circuit Practice

- Nelson, Dorothy W., Christopher A. Goelz, Meredith J. Watts, and consulting editor Cole Benson. *Federal Ninth Circuit Civil Appellate Practice*. Encino, Ca. : The Rutter Group, 1995
- Ulrich, Thompson, and Kessler, P.C. *Federal Appellate Practice: Ninth Circuit, 2d ed.*, St. Paul, Mn. : West Group, 1999

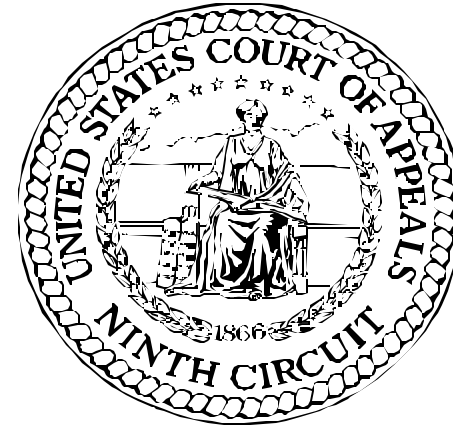
Additional Books

- Aldisert, Ruggero J., *Winning on Appeal: Better Briefs and Oral Argument*. Deerfield, Ill.: Clark Boardman Callaghan, 1992.
- Tigar, Michael E., *Federal Appeals: Jurisdiction and Practice, 3d ed.*. St. Paul, Mn. : West Group, 1999

Articles

- Kozinski, Alex, *The Wrong Stuff*, 1992 Brigham Young University Law Review 325 (1992).
- Pregerson, Harry, *The Seven Sins of Appellate Brief Writing and Other Transgressions*, 34 University of California Los Angeles Law Review 431 (1986).
- Ryan, Carla, *The Champion*, Appellate Advocacy Vol. XLII No. 9, NACDL Nov. 1994.

UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT



PERFECTING YOUR APPEAL

A simple guide to aid you in the proper and timely preparation of your appeal.

Updated, July 2003