

UNITED STATES COURT OF APPEALS for the NINTH CIRCUIT
Office of the Clerk

General Information
COUNSELED NON-IMMIGRATION AGENCY CASES

(APRIL 2009)

1. Main Office - San Francisco

Mailing Address (U.S. Postal Service)	Overnight Delivery (FedEx, UPS, etc.)	Location (Street Address)
Office of the Clerk James R. Browning Courthouse U.S. Court of Appeals P.O. Box 193939 San Francisco, CA 94119-3939	Office of the Clerk James R. Browning Courthouse U.S. Court of Appeals 95 Seventh Street San Francisco, CA 94103-1526	Office of the Clerk James R. Browning Courthouse U.S. Court of Appeals 95 Seventh Street San Francisco, CA 94103

2. Website

The Court's website at www.ca9.uscourts.gov is a tremendous resource. On it, you will find copies of the Court's Rules and General Orders, information about Electronic Case Filing, answers to Frequently Asked Questions, directions to the Courthouses, forms necessary to gain admission to the Bar of this Court, and an invitation to join our Pro Bono Program. You will also find links to practice manuals as well as this Court's Dispositions and recordings of oral arguments.

3. Electronic Case Filing

Effective January 2, 2009, use of the U.S. Court of Appeals for the Ninth Circuit's Court's Case Management/ Electronic Case Files (CM/ECF) system is mandatory for all attorneys filing in this Court, unless they are granted an exemption from using the CM/ECF system.

Registration is required. To register and for all information about CM/ECF, go to the Court's website at www.ca9.uscourts.gov and click on the **CM/ECF** button.

The Administrative Order Regarding Electronic Filing in All Ninth Circuit Cases contains all Rules regarding Appellate ECF and tells you what documents can and cannot be filed electronically.

4. Phone Numbers

General Information	(415) 355-8000
Appellate Commissioner	355-8110
Attorney Admissions	355-7800
Calendar Unit	355-8190
Circuit Executive	355-8800
Circuit Mediators	355-7900
Computer Operations	355-7890
Divisional Offices:	
Pasadena	(626) 229-7250
Portland	(503) 833-5300
Seattle	(206) 224-2210
Docketing	(415) 355-7830 or 7840
Extensions of Time/Briefs:	
Written Motions	355-7860
14 day Telephone Extension	355-7853
Judicial Misconduct	355-8099
Library	355-8650
Motions Attorneys	355-8020

Operations Assistants (CJA)	355-7920
Procedural Motions	355-7860
Pro Se Unit	355-8040
Records Unit	355-7820
Tours	355-7930

5. Authorities and Resources

- **Rules of Practice** - The Federal Rules of Appellate Procedure (Fed. R. App. P.); the Ninth Circuit Rules of Practice (9th Cir. R.), and the Administrative Order Regarding Electronic Filing in All Ninth Circuit Cases govern practice before this court. Copies of the rules are available on this court's website at www.ca9.uscourts.gov and from the Clerk's offices in San Francisco, Pasadena and Seattle. Send a written request together with a self-addressed return mailing label.
- The court has prepared a practice videotape which is available through the Clerk's office in San Francisco for \$15.00. Continuing legal education credit for viewing this videotape is available in most jurisdictions.

6. Admission to the Bar of the Ninth Circuit

- All attorneys practicing before the Court must be admitted to the Bar of the Ninth Circuit. Fed. R. App. P. 46(a) and 9th Cir. R. 46-1.2.
- If you are NOT already admitted, obtain a form from our website or by calling the number listed above and submit it to the Clerk's Office in San Francisco together with the admission fee of \$190.00. The check should be made payable to Clerk, United States Court of Appeals. After your application is processed, you will be mailed a certificate of admission.

7. Notices of Change of Address

- Counsel who are registered Appellate Electronic Filers must update their street addresses or email addresses via PACER at:
<https://pacer.psc.uscourts.gov/pSCO/cgi-bin/cmecf/ea-login.pl>
- Counsel who are not registered must file a change of address with the Court.

8. Payment of Fee

- The \$450.00 filing fee or a motion to proceed in forma pauperis shall accompany the petition for review. 9th Cir. R. 3-1.
- A motion to proceed in forma pauperis must be supported by the affidavit of indigency found at Form 4 of the Federal Rules of Appellate Procedure.
- Failure to satisfy the fee requirement or apply to proceed without payment of fees will result in the petition's dismissal. 9th Cir. R. 42-1.

9. Motions Practice

A. General Information

Fed. R. App. P. 27 and 32(c)(1) and 9th Cir. R. 27 govern motions practice and specific types of relief. Some of the basic points include:

- Neither a notice of motion nor a proposed order is required. *See* Fed. R. App. P. 27(a)(2)(C)(ii), (iii).
- Motions may be supported by an affidavit or declaration. 28 U.S.C. § 1746.
- A response to a motion is due 8 business days from the service of the motion. Fed. R. App. P. 27(a)(3)(A). The reply is due 5 business days from service of the response. Fed. R. App. P. 27(a)(4), *see also* Fed. R. App. P. 26(c). A response requesting affirmative relief and/or relief by a date certain must include that request in the caption. Fed. R. App. R. 27(a)(3)(B).
- A motion should provide the position of the opposing party. *See* Advisory Committee Note to Rule 27-1(5). *See also* 9th Cir. R. 31-2.2(b)(6) (statement regarding the position of opposing party or a statement about why that information is unavailable required in motions for extensions of time).
- Motions filed **after a case has been scheduled for oral argument, has been argued, is under submission or that has been decided by a panel**, must include the date of argument, submission or decision. If known, you

must also include the names of the judges on the panel. 9th Cir. R. 25-4.

B. Emergency or Urgent Motions - Circuit Rule 27-3

- ★ All emergency and urgent motions must conform with the provisions of 9th Cir. R. 27-3. Motions requesting procedural relief do NOT fall within the types of matters contemplated by 9th Cir. R. 27-3.
- ★ **Prior to filing any emergency motion, the moving party MUST contact an attorney in the Motions Unit in San Francisco at (415) 355-8020.**
- ★ When it is absolutely necessary to notify the court of an emergency requiring its attention outside of standard office hours, the movant shall call (415) 355-8509. This line is monitored by court staff. Keep in mind that this line is for true emergencies that cannot wait until the next business day, such as emergencies that involve an imminent execution or removal from the United States.

C. Motions for Extensions of Time to File the Briefs

A party may seek only ONE of either a Written Extension or an Oral Extension:

- ★ Written Extension
 - Requests for extensions of more than 14 days will be granted only upon a written motion supported by a showing of diligence and substantial need. This motion should be filed ***at least seven calendar days before the due date for the brief***. The motion shall be accompanied by an affidavit or declaration that includes all of the information listed at 9th Cir. R. 31-2.2(b).
 - This court will ordinarily make some adjustment to the schedule in response to a motion. *See* Circuit Advisory Note to Rule 31-2.2. The court expects that the brief will be filed within the requested period of time. *Id.*
- ★ Oral Extension
 - If good cause is shown, the clerk may grant a SINGLE extension of no more than 14 days to file an opening, answering or reply brief. 9th Cir. R. 31-2.2(a). You may apply for such an extension by calling (415) 355-7853.

10. Briefing Schedule

- This court sets the schedule at the time the petition is docketed in this court. You should receive your briefing schedule at the same time you receive this information.
- If the petitioner files the opening brief earlier than the due date, the due date for the respondent's brief does not advance. It remains due on the date reflected in the briefing schedule. 9th Cir. R. 31-2.1.
- Motions that stay the briefing schedule are listed in Circuit Rule 27-11.
- Fed. R. App. P. 15 governs briefing in petitions for review or applications for enforcement of National Labor Relations Board judgments.

11. Contents of Briefs

- Briefs shall comply with the requirements of Fed. R. App. P. and 9th Cir. R. 28 and 32.
- Numerous briefs are available on Westlaw (the *Briefs Multibase* identifier is BRIEF-ALL). A keyword search will locate briefs addressing issues involved in your case. The Westlaw identifier for the "Federal Immigration Brief" database is FIM-Brief.

12. Record on Review

- The content and filing of the record are governed by Fed. R. App. P. 16 and 17. If respondent does not file the record or certified list by the specified date, petitioner may move to amend the briefing schedule.

13. Excerpts of Record

- This Court requires excerpts of record instead of an appendix. 9th Cir. R. 30-1.1(a).
- Five (5) separately-bound excerpts of record with WHITE covers shall be filed at the time petitioner files the Opening Brief. Each party shall be served with one copy of the excerpts. 9th Cir. R. 30-1. Please review 9th Cir. R. 30-1.3, 30-1.4, and 30-1.5 to see a list of the specific contents and format. Also see Rule 4 of the "Administrative Order Regarding Electronic Filing," which is available on the Court's CM/ECF webpage.

- For excerpts that exceed 75 pages, the first volume must comply with 9th Cir. R. 30-1.6.
- If excerpts exceed 300 pages, you will need to file the excerpts in multiple volumes. 9th Cir. R. 30-1.6(b).
- Respondent may file supplemental excerpts and petitioner may file further excerpts. 9th Cir. R. 30-1.7 and 30-1.8.
- If you are a respondent responding to a Pro Se brief that did not come with excerpts, then your excerpts need only include the contents set out at 9th Cir. R. 30-1.6.
- If you are involved in an appeal from a district court's review of an agency action, your excerpts shall include the items listed at 9th Cir. R. 17-1.

14. Mediation Program

- Civil Appeals Docketing Statements are required in all CIVIL COUNSELED cases **except**: (a) habeas cases (28 U.S.C. §§ 2241, 2254 and 2255) and (b) petitions for Writs (28 U.S.C. § 1651). You may obtain a Civil Appeals Docketing Statement form from the Ninth Circuit Website.
- The completed form should be filed together with the Petition for Review. Late filed forms should be filed with the Court of Appeals and must include a Ninth Circuit docket number. The docketing statement is used only to assess settlement potential.
- If you are interested in requesting a conference with a mediator, you may call the Mediation Unit at (415) 355-7900 or make a written request to the Chief Circuit Mediator. Requests for mediation will be kept confidential if so requested.

15. Court Calendars

- Hearing notices for oral argument calendars are distributed approximately four to five weeks before the date for argument. Generally, cases are heard in the administrative unit where they originate. The Court sits monthly in San Francisco, Pasadena and Seattle. The court sits in Portland every other month, depending on caseload. The Court also hears argument three times a year in Honolulu and once a year in Anchorage.
- There will only be a change of date or location of oral argument for good cause. Any request to continue an argument date filed within 14 days of the

hearing will ONLY be granted upon a showing of exceptional circumstances. 9th Cir. R. 34-2.

- Oral argument will be conducted in all cases UNLESS all members of the panel agree that the decisional process would not be significantly aided by oral argument. Fed. R. App. P. 34.