Perry McCullough v. Conrad Graber Doc. 9124942949 Att. 1

Case: 11-16920 05/10/2013 ID: 8623968 DktEntry: 52-2 Page: 1 of 5

### **United States Court of Appeals for the Ninth Circuit**

### Office of the Clerk

95 Seventh Street San Francisco, CA 94103

# **Information Regarding Judgment and Post-Judgment Proceedings**

## Judgment

• This Court has filed and entered the attached judgment in your case. Fed. R. App. P. 36. Please note the filed date on the attached decision because all of the dates described below run from that date, not from the date you receive this notice.

# Mandate (Fed. R. App. P. 41; 9th Cir. R. 41-1 & -2)

• The mandate will issue 7 days after the expiration of the time for filing a petition for rehearing or 7 days from the denial of a petition for rehearing, unless the Court directs otherwise. To file a motion to stay the mandate, file it electronically via the appellate ECF system or, if you are a pro se litigant or an attorney with an exemption from using appellate ECF, file one original motion on paper.

# Petition for Panel Rehearing (Fed. R. App. P. 40; 9th Cir. R. 40-1) Petition for Rehearing En Banc (Fed. R. App. P. 35; 9th Cir. R. 35-1 to -3)

# (1) A. Purpose (Panel Rehearing):

- A party should seek panel rehearing only if one or more of the following grounds exist:
  - ► A material point of fact or law was overlooked in the decision;
  - A change in the law occurred after the case was submitted which appears to have been overlooked by the panel; or
  - ► An apparent conflict with another decision of the Court was not addressed in the opinion.
- Do not file a petition for panel rehearing merely to reargue the case.

# **B.** Purpose (Rehearing En Banc)

• A party should seek en banc rehearing only if one or more of the following grounds exist:

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Case: 11-16920 05/10/2013 ID: 8623968 DktEntry: 52-2 Page: 2 of 5

► Consideration by the full Court is necessary to secure or maintain uniformity of the Court's decisions; or

- ► The proceeding involves a question of exceptional importance; or
- The opinion directly conflicts with an existing opinion by another court of appeals or the Supreme Court and substantially affects a rule of national application in which there is an overriding need for national uniformity.

### (2) Deadlines for Filing:

- A petition for rehearing may be filed within 14 days after entry of judgment. Fed. R. App. P. 40(a)(1).
- If the United States or an agency or officer thereof is a party in a civil case, the time for filing a petition for rehearing is 45 days after entry of judgment. Fed. R. App. P. 40(a)(1).
- If the mandate has issued, the petition for rehearing should be accompanied by a motion to recall the mandate.
- See Advisory Note to 9th Cir. R. 40-1 (petitions must be received on the due date).
- An order to publish a previously unpublished memorandum disposition extends the time to file a petition for rehearing to 14 days after the date of the order of publication or, in all civil cases in which the United States or an agency or officer thereof is a party, 45 days after the date of the order of publication. 9th Cir. R. 40-2.

#### (3) Statement of Counsel

• A petition should contain an introduction stating that, in counsel's judgment, one or more of the situations described in the "purpose" section above exist. The points to be raised must be stated clearly.

## (4) Form & Number of Copies (9th Cir. R. 40-1; Fed. R. App. P. 32(c)(2))

- The petition shall not exceed 15 pages unless it complies with the alternative length limitations of 4,200 words or 390 lines of text.
- The petition must be accompanied by a copy of the panel's decision being challenged.
- An answer, when ordered by the Court, shall comply with the same length limitations as the petition.
- If a pro se litigant elects to file a form brief pursuant to Circuit Rule 28-1, a petition for panel rehearing or for rehearing en banc need not comply with Fed. R. App. P. 32.

Case: 11-16920 05/10/2013 ID: 8623968 DktEntry: 52-2 Page: 3 of 5

• The petition or answer must be accompanied by a Certificate of Compliance found at Form 11, available on our website at www.ca9.uscourts.gov under *Forms*.

• You may file a petition electronically via the appellate ECF system. No paper copies are required unless the Court orders otherwise. If you are a pro se litigant or an attorney exempted from using the appellate ECF system, file one original petition on paper. No additional paper copies are required unless the Court orders otherwise.

## Bill of Costs (Fed. R. App. P. 39, 9th Cir. R. 39-1)

- The Bill of Costs must be filed within 14 days after entry of judgment.
- See Form 10 for additional information, available on our website at www.ca9.uscourts.gov under *Forms*.

### **Attorneys Fees**

- Ninth Circuit Rule 39-1 describes the content and due dates for attorneys fees applications.
- All relevant forms are available on our website at www.ca9.uscourts.gov under *Forms* or by telephoning (415) 355-7806.

### **Petition for a Writ of Certiorari**

• Please refer to the Rules of the United States Supreme Court at www.supremecourt.gov

## **Counsel Listing in Published Opinions**

- Please check counsel listing on the attached decision.
- If there are any errors in a published <u>opinion</u>, please send a letter **in** writing within 10 days to:
  - ► West Publishing Company; 610 Opperman Drive; PO Box 64526; St. Paul, MN 55164-0526 (Attn: Kathy Blesener, Senior Editor);
  - ▶ and electronically file a copy of the letter via the appellate ECF system by using "File Correspondence to Court," or if you are an attorney exempted from using the appellate ECF system, mail the Court one copy of the letter.

Case: 11-16920	05/10/2013	ID: 8623968	DktEntry: 52-2	Page: 4 of 5	
Form 10. Bill of Costs			_	(Rev. 1	12-1-09

# **United States Court of Appeals for the Ninth Circuit**

### **BILL OF COSTS**

service, within late bill of cos	14 days of ts must be a	the date of ccompanie	entry of jud by a moti	bmitted on this dgment, and in a long showing good preparing your b	accordance d cause. P	e with 9th lease refe	Circuit Ru	le 3	39-1. A
		V.				9th	Cir. No.		
The Clerk is requested	to tax the fo	ollowing co	ests against:						
Cost Taxable under FRAP 39, 28 U.S.C. § 1920, 9th Cir. R. 39-1	REQUESTED Each Column Must Be Completed				ALLOWED To Be Completed by the Clerk				
	No. of Docs.	Pages per Doc.	Cost per Page*	TOTAL COST	No. of Docs.	Pages per Doc.	Cost per Page*		TOTAL COST
Excerpt of Record			\$	\$			\$	\$	
Opening Brief			\$	\$			\$	\$	
Answering Brief			\$	\$			\$	\$	
Reply Brief			\$	\$			\$	\$	
Other**			\$	\$			\$	<b> </b> \$	

TOTAL:

\$

Attorneys' fees cannot be requested on this form.

\$

TOTAL:

<sup>\*</sup> Costs per page may not exceed .10 or actual cost, whichever is less. 9th Circuit Rule 39-1.

<sup>\*\*</sup> Other: Any other requests must be accompanied by a statement explaining why the item(s) should be taxed pursuant to 9th Circuit Rule 39-1. Additional items without such supporting statements will not be considered.

I, swear under penalty of perjury that the services for which costs are taxed were actually and necessarily performed, and that the requested costs were actually expended as listed.

Signature ("s/" plus attorney's name if submitted electronically)

Date Name of Counsel:

Attorney for:

(To Be Completed by the Clerk)

Date Costs are taxed in the amount of \$

Clerk of Court

By:

ID: 8623968

DktEntry: 52-2 Page: 5 of 5

, Deputy Clerk

Case: 11-16920 05/10/2013
Form 10. Bill of Costs - *Continued*