

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

**General Information**  
***COUNSELED 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](http://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](http://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	(415) 355-8800
Circuit Mediators	355-7900
Computer Operations	355-7890
Death Penalty	355-8197
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:	
(Northern & Eastern California; Hawaii, Guam, Arizona, Nevada)	(415) 355-7853
(Central & Southern California)	(626) 229-7261
(Eastern & Western Washington, Idaho, Montana)	(206) 224-2210
Judicial Misconduct	(415) 355-8099
Library	355-8650
Motions Attorneys	355-8020
Operations Assistants (CJA)	355-7920
Personnel	355-7869
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](http://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. Record Preparation and Briefing Schedule**

- In DIRECT CRIMINAL appeals, the district court sets the schedule. If you do not receive a schedule within 14 days of the filing of the Notice of Appeal you should contact this Court.
- In CIVIL appeals, this court sets the schedule at the time the appeal is docketed in this court. You should receive your briefing schedule at the same time you receive this information.
- If the appellant files the opening brief earlier than the due date, the due date for the appellee'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.

**9. 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 appellant files or electronically submits 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, 30-1.5, and 30-1.6 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).
- Appellee may file supplemental excerpts and appellant may file further excerpts. 9th Cir. R. 30-1.7 and 30-1.8.
- If you are an appellee 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.

## 10. 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 Trial Transcript**

- The court reporter is required to file a motion for an extension of time to file the transcripts. 9th Cir. R. 11-1.1.
- If the reporter fails to move for an extension of time, appellant is required to file a Ninth Circuit Rule 11-1.2 notice.

**D. 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 the appropriate number listed below:

Central/Southern Districts of California (626) 229-7261

Districts of Alaska, Montana, Idaho,  
Oregon & Eastern or Western Washington (206) 224-2210

All Other Districts (415) 355-7853

**11. 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 district court clerk or the Ninth Circuit Website.
- The completed form should be filed together with the Notice of Appeal. 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.

**12. 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.

### **13. Hyperlinks in Briefs**

- If you submit your brief electronically, the Court encourages you to include hyperlinks to the district court record.
- Instructions are available on the Court's website at:  
[www.ca9.uscourts.gov/datastore/uploads/cmecf/doc-cross-doc-hyperlinks.pdf](http://www.ca9.uscourts.gov/datastore/uploads/cmecf/doc-cross-doc-hyperlinks.pdf)



Molly C. Dwyer  
Clerk of Court

Office of the Clerk  
**United States Court of Appeals for the Ninth Circuit**  
95 Seventh Street  
Post Office Box 193939  
San Francisco, California 94119-3939



(415) 355-8000

September 18, 2009

---

CA9 Docket No.: 09-17050  
Agency Number: 5:07-cv-01389-JW  
Short Title: Tyler Winklevoss, et al v. ConnectU, Inc.

---

Dear Counsel:

A copy of your notice of appeal/petition has been received in the Clerk's office of the United States Court of Appeals for the Ninth Circuit.

The U.S. Court of Appeals docket number shown above has been assigned to this case. You must indicate this Court of Appeals docket number whenever you communicate with this court regarding this case. Please furnish this docket number immediately to the court reporter if you place an order, or have placed an order, for portions of the trial transcripts. The court reporter will need this docket number when communicating with this court.

**The due dates for designating and filing the reporter's transcript, if applicable, filing the parties' briefs and otherwise perfecting the appeal have been set by the enclosed "Time Schedule Order," pursuant to applicable FRAP rules. These dates can be extended only by court order. Failure of the appellant to comply with the time schedule order will result in automatic dismissal of the appeal. 9th Cir. R. 42-1.**

The following information is being provided in an attempt to answer the most frequently asked questions regarding the appellate process. Please review this information very carefully. For convenience, we use the term "Circuit Rules" instead of "Rules of the United States Court of Appeals for the Ninth Circuit" and "FRAP" instead of "Federal Rules of Appellate Procedure."

Enclosed with this letter is an appellate processing schedule along with a case processing checklist to help you monitor the progress of your case.

**Appellants/Petitioners who are filing pro se should refer to the accompanying information sheet regarding the filing of informal briefs.**

**FILED**

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

SEP 18 2009

MOLLY C. DWYER, CLERK OF COURT  
U.S. COURT OF APPEALS

THE FACEBOOK, INC.; MARK  
ZUCKERBERG,

Plaintiffs,

v.

CONNECTU, INC., FKA ConnectU, LLC,

Defendant - Appellee,

CAMERON WINKLEVOSS; TYLER  
WINKLEVOSS; DIVYA NARENDRA,

Defendants - Appellants,

and

PACIFIC NORTHWEST SOFTWARE,  
INC.; WAYNE CHANG; WINSTON  
WILLIAMS,

Defendants.

No. 09-17050

D.C. No. 5:07-cv-01389-JW

Northern District of California,  
San Jose

**TIME SCHEDULE  
ORDER**

The parties shall meet the following time schedule:

- Thu., October 15, 2009** Appellant/petitioner shall file transcript order form with the district court and make payment arrangements with court reporter, pursuant to 9th Cir. R. 10-3.1;
- Mon., November 16, 2009** Court reporter shall file transcript in the district court, pursuant to FRAP 11(b) and 9th Cir. R. 11-1.1;

**Thu., December 31, 2009** Appellant/petitioner's opening brief and excerpts of record shall be served and filed pursuant to FRAP 32 and 9th Cir. R. 32-1;

**Mon., February 1, 2010** The brief of appellee/respondent shall be filed and served, pursuant to FRAP 32 and 9th Cir. R. 32-1

**The optional appellant/petitioner reply brief shall be filed and served within fourteen days of service of the appellee/respondent's brief, pursuant to FRAP 32 and 9th Cir. R. 32-1.**

**Failure of the appellant to comply with the Time Schedule Order will result in automatic dismissal of the appeal. 9th Cir. R. 42-1**

**Appellants/Petitioners without representation of counsel in a prisoner appeal may have their case submitted on the briefs and record without oral argument, pursuant to FRAP 34(a). Within 10 days of the filing of the appellant's opening brief, parties may file a statement setting forth the reasons why, in the opinion of the parties, oral argument should be heard.**

FOR THE COURT:

Molly C. Dwyer  
Clerk of Court

Gerald Rosen  
Deputy Clerk