
UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT
Office of the Clerk

INFORMATION PACKAGE & INFORMAL BRIEF FORM
FOR PRO SE PETITIONERS
SEEKING REVIEW OF AN AGENCY ORDER

(MARCH 2007)

- This information packet has been prepared by the United States Court of Appeals for the Ninth Circuit to assist you in presenting your case to the Judges of this court. Please read **ALL** of the information carefully **before** you prepare your case.
 - You **must** keep a copy of **all** documents you send to this court for your personal records.
 - Your petition has been assigned a Court of Appeals docket number. You **must** include this number on **all** of the correspondence you send to this court and to the other side.
 - If you move or your mailing address changes, you **must** notify this court **in writing** immediately. If you do not, you could miss important papers from this court notifying you of deadlines or decisions. If you do not notify us of your address changes and you miss a filing deadline as a result, your case could be dismissed without further notice.
 - When filing documents, you must use paper and ink that will be legible when they arrive here for filing. Therefore, do **not** use tissue paper. If we can't read the documents, they will not be processed.
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YOUR PETITION – A CHECKLIST

_____ Court Clerk assigns you a docket number and sends you this package of information. **You must include this docket number on anything you send to the Court!!** In this package, you will find:

_____ **A Time Schedule Order** - This tells you when certain papers are due. It is **VERY important**.

_____ **A Sample Certificate of Service**. You **MUST** send a copy of ALL documents that you file with this court to counsel for the opponent, if any, and you must include a statement to this court telling us that you did so. You may duplicate this form and fill it out and send it with EACH document you file with this court.

_____ An Informal Brief Form.

_____ You must notify the Court in writing of any change of address. 9th Cir. R. 46-3.

_____ You must pay your \$450 filing fee. If you cannot pay your fee and want to ask that it be waived, turn to page 4 of this handout for instructions on filing a motion to proceed *in forma pauperis*. If your motion is denied and you do not pay the fees, your case will be dismissed.

_____ You must file your opening brief by the date stated on the time schedule order.

_____ If you want to file a reply to your opponent’s brief, you must do that within 14 days of the date they served you with the brief.

_____ Once all the briefs are filed, the case will be considered by a panel of 3 Judges. Unless the one or more of the Judges requests that oral argument be heard, your case will be decided based on the

information included in the briefs and after a review of the record.
See Fed. R. App. P. 34(a).

_____ In some cases, the Judges may decide a case **before** the completion of briefing, but you will be given an opportunity to tell the court why the case should not be summarily decided before the filing of your opening brief. *See* 9th Cir. R. 3-6.

_____ If the Judges decide that argument would be beneficial to the Court, you will receive notice that your case has been calendared for argument.

_____ When the Judges decide your case, you will receive a memorandum disposition or order in the mail.

GENERAL INFORMATION

I. THE COURT OF APPEALS

The Court of Appeals reviews final decisions of the U.S. District Court and certain federal agencies. The court looks at the administrative record in the case and the briefs of the parties to see if there are any constitutional, legal, or factual mistakes. NO new evidence or testimony can be presented in this court.

II. THE FEDERAL RULES

You must follow the Federal Rules of Appellate Procedure (Fed. R. App. P.) and the Ninth Circuit Rules. Make sure you follow the actual language of the rules. The Federal Rules are available in most law libraries. If you would like a copy of the Ninth Circuit Rules, free of charge, please send a written request to the Clerk's office and one will be sent to you. Please include a return mailing label with your address on it with your request. The rules are also available on the court's website, www.ca9.uscourts.gov.

III. PAYMENT OF FEES

The \$450 filing fee is paid in this court.

If you cannot afford to pay the fees, you may:

- File a motion to proceed without payment of fees. This motion is called a motion to proceed *in forma pauperis*. A financial affidavit, including a statement by you swearing under penalty of perjury that you do not have enough money or other assets to pay the fees, must be included with your motion. The form may be found at Form 4, Federal Rules of Appellate Procedure.
- If you do not pay your filing fees or file a motion to proceed *in forma pauperis*, your case will be dismissed. See 9th Cir. R. 42-1.**

IV. APPOINTMENT OF COUNSEL

The situations in which the court may appoint counsel or request the services of volunteer counsel in civil cases are VERY LIMITED. To request the court to appoint counsel, you should file a motion for the appointment of counsel stating reasons why counsel is necessary and why you cannot afford an attorney. Remember to serve counsel for the opposing party with a copy of the motion.

V. BRIEF

Your case was assigned a court of appeals docket number. **Any briefs or other correspondence from you should include this number.**

The TIME SCHEDULE ORDER tells you when you must file particular papers. Your brief is the written argument of your case. You will file the first brief, called the Opening Brief. The other side is given a chance to file a brief answering your arguments. You will have an opportunity to reply to their brief. The TIME SCHEDULE ORDER will tell you when your Opening and Reply Briefs are due.

In general, briefs should include:

- (a) A statement of the facts of your case.
- (b) What the agency decided.
- (c) The issues you present.
- (d) The LEGAL arguments you wish to present.
- (e) A statement telling this court what you want this court to do - reverse the agency, remand the case back to the agency, or modify the agency opinion and WHY.
- (f) Your signature - all briefs must be signed by each pro se petitioner. *See Fed. R. App. P. 32(d).*

Please read Fed. R. App. P. 28 and 32 and 9th Cir. R. 28-1, 28-2, 28-4, 32-1, 32-3 and 32-5 for the exact requirements of the brief.

You must file the **original and 7** copies of your briefs with the court. *See* 9th Cir. R. 31-1. You must also send **2** copies of your brief to counsel and you must file a certificate of service with each copy as well.

NOTE: Because you are appearing without the help of an attorney, you may file the informal brief included in this package. If you choose instead to file your own brief, it must meet **all** of the requirements of the federal rules, and must include the certificate of compliance found at Appendix 8 to the Federal Rules of Appellate Procedure. If it does not, we may return it to you for correction, which will delay the decision in your case. If you use the attached informal brief form, however, your opening and reply briefs need not comply with the technical requirements of the Rules. *See* 9th Cir. R. 28-1(b), 32-5. You may add additional pages to the form, up to a total of 40 double-spaced pages.

NOTE: The court will DISMISS your case if you do not file your brief when it is due!

NOTE: Your briefs are considered filed as of the date you mail them to the court *See* Fed. R. App. P. 25(a)(2)(B). This is not true for any other filing with the court, unless you are incarcerated or in detention. *See* Fed. R. App. P. 25(c).

VI. EXTENSIONS OF TIME TO FILE A BRIEF

If you need an extension of time in which to file your brief you may request one extension of no more than 14 days by telephone. The telephone number for requesting telephonic extensions is (415) 355-7853. **Once you receive a telephonic extension of time, no further extension of time is available absent extraordinary circumstances.** You must give the other party notice by telephone that you are requesting an extension BEFORE you call the court. *See* 9th Cir. R. 31-2.2(a). If you need more than a 14-day extension, or have already been granted one or more extensions to file the brief, you must file a written motion for extension of time in which to file your brief. This motion must be filed at least SEVEN calendar days before the due date for your brief. Your motion must meet the requirements of 9th Cir. R. 31-2.2(b).

VII. GENERAL MOTIONS PRACTICE

Any motions filed while your petition is pending must clearly identify the relief sought and the legal grounds for such relief. You must file an original and 4 copies of any motion and you must serve a copy of the motion on all counsel for opposing parties and file a certificate of service saying you have done so. 9th Cir. R. 27-1.

Any motion for reconsideration or clarification of an order must be filed within 14 days (or 28 days if you are incarcerated and proceeding pro se). *See* 9th Cir. R. 27-10.

VIII. PETITION FOR REHEARING

If you think this court's final decision on the merits of your case was wrong you may file a petition for rehearing in this court **within 45 days of Entry of Judgment**. *See* Fed. R. App. P. 35 and 40; 9th Cir. R. 35 and 40. Unless you filed an informal opening brief on one of the forms provided with this packet, your petition for rehearing must comply with the technical form requirements of Fed. R. App. P. 32. *See* 9th Cir. R. 32-5, 40-1. You must NOT present new facts or legal bases not already presented in your brief. Instead, you should explain how this Court may have overlooked arguments or misunderstood the facts of your case. After this court either denies your timely petition for rehearing or issues a new judgment upon rehearing in your case, you may file a petition for writ of certiorari in the United States Supreme Court. If you do not file a petition for rehearing in this Court, you may instead file a petition for a writ of certiorari in the United States Supreme Court. (*See the Supreme Court Rules* for details on how to proceed in the Supreme Court.) **Remember** that you must have a LEGAL basis to support your belief that this court's final decision was incorrect; it is not enough to simply disagree with the outcome.

Note: The time limits of Fed. R. App. P. 35 and 40 do **not** apply to decisions made by order, but only to decisions made in memorandum dispositions or published opinions. Review of an order must be sought in a motion for reconsideration, which is governed by Ninth Circuit Rule 27-10.

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

Case No. _____

Petitioner

vs.

Respondent

PETITIONER'S INFORMAL BRIEF
(attach additional sheets as necessary)

1. JURISDICTION:

- Date proceedings initiated _____
- Date agency's decision entered _____
- Date petition for review filed _____

2. WHAT ARE THE FACTS OF YOUR CASE?

3. PROCEEDINGS BEFORE THE AGENCY

- What forms of relief did you request?

Case number _____

- What did the agency do?

4. PROCEEDINGS BEFORE THE NINTH CIRCUIT:

- What issues are you raising in this court?

- What legal arguments support your position?

- Do you have any other cases pending in this court? If so, give the name and docket number of each case.

case number _____

- Have you filed any previous cases that have been decided by this Court?
If so, give the name and docket number of each case?

Address

Signature

Date

CERTIFICATE OF SERVICE

Case Name: _____ v. _____

Case No.: _____

IMPORTANT: You must send a copy of ALL documents filed with the court and any attachments to counsel for ALL parties in this case. You must also file a certificate of service with this court telling us that you have done so. You may use this certificate of service as a master copy, and fill in the title of the document you are filing. Please list below the names and addresses of the parties who were sent a copy of your document and the dates on which they were served. Be sure to sign the statement below. You must attach a copy of the certificate of service to each of the copies and the copy you file with the court.

I certify that a copy of the _____
(Name of document you are filing (i.e., opening brief, motion, etc.))

and any attachments was served, either in person or by mail, on the persons listed below.

Signature
Notary NOT required

Name

Address

Date Served