

# UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

## Office of the Clerk

### After Opening a Case Pro Se Petitioners in Non-Immigration Agency Cases (revised October 2016)

#### Court Address

<i>Mailing Address for U.S. Postal Service</i>	<i>Mailing Address for Overnight Delivery (FedEx, UPS, etc.)</i>	<i>Street Address</i>
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	95 Seventh Street San Francisco, CA 94103

**Before you prepare your case, please read all information carefully.** Keep the following points in mind:

- Your petition has been assigned a Court of Appeals case number. You must include this number on all correspondence and filings you send to this Court and to opposing counsel.
- You must keep a copy for your personal records of all documents you send to this Court.
- Your documents must be legibly typed or written. Do not use tissue paper. If the Clerk cannot read the documents when they arrive, they will not be processed. Avoid unnecessary binding or staples and paginate your documents numerically, as they will be scanned and attached to the docket.
- 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. Missing a filing deadline may cause your case to be dismissed without further notice.

### **Special note concerning Electronic Filing**

As a pro se petitioner, you are not required to file documents electronically using the Ninth Circuit's CM/ECF (Case Management/Electronic Case Files) system. However, if you are not currently incarcerated and if you have regular access to a reliable internet connection as well as a computer that meets the hardware and software requirements, you may register for CM/ECF. You will find information about the technical requirements for electronic filing on the Court's website, [www.ca9.uscourts.gov](http://www.ca9.uscourts.gov) under *Electronic Filing – CM/ECF*. You must register as an electronic filer before you will be able to file documents electronically.

If you decide to register and to file documents electronically, you should review the Court's rules relating to electronic filing. These rules are contained in the Court's Circuit Rules, which are available on the Court's website [www.ca9.uscourts.gov](http://www.ca9.uscourts.gov) under *Rules*.

### **Your Petition in the Ninth Circuit – A Quick Overview**

**Case number.** You must include your case number on anything you send to the Court. With your case number, you'll also receive:

**Time Schedule Order.** This important order tells you when certain documents, such as briefs, are due.

**Sample Certificate of Service.** You must include a certificate of service with each document you file with this Court in order to show that you sent a copy of the document to opposing counsel.

**Informal Brief Form.** If you use this form, you are not required to comply with the technical requirements for Ninth Circuit briefs.

**Form 13.** Complete and mail this form in order to receive one extension of time of up to 30 days to file your brief.

**Change of address.** You must notify the Court in writing of any change of address. 9th Cir. R. 46-3. A [form](#) is available on the Court's web site if you file in paper format. If you choose to register and file electronically, you

must change your address via PACER at:  
<https://pacer.psc.uscourts.gov/pscof/login.jsf>

**Filing fee.** You must pay your \$500.00 filing fee to this Court, or ask that the fee be waived (called “proceeding in forma pauperis”). Instructions for filing a motion to proceed in forma pauperis are included in the “General Information” section of this document. If your motion to proceed in forma pauperis is denied and you do not pay the fees, your case will be dismissed.

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

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

**Completion of briefing.** Once all the briefs are filed, the case will be considered by a panel of three judges. Unless 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 the record. Fed. R. App. P. 34(a)(2). If the judges decide that oral argument would be beneficial to the Court, you will receive notice that your case has been put on a hearing calendar.

**Decision before briefing is complete.** In some cases, the judges may decide a case before the completion of briefing. 9th Cir. R. 3-6.

**Final decision.** When the judges decide your case, you will receive a memorandum disposition, opinion or order.

## General Information for Pro Se Petitioners

### 1. THE COURT OF APPEALS

The Court of Appeals reviews final decisions of the U.S. District Courts and certain federal agencies. In petitions for review of agency actions, the Court looks at the administrative record 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.

### 2. THE FEDERAL RULES

You must carefully follow the Federal Rules of Appellate Procedure (Fed. R. App. P.) and the Ninth Circuit Rules (9th Cir. R.). The Federal Rules and the Ninth Circuit Rules are available on the Court's website, [www.ca9.uscourts.gov](http://www.ca9.uscourts.gov) under *Rules*. If you would like a paper copy of the Ninth Circuit Rules sent to you free of charge, please send a written request with a return mailing label to the Clerk's office.

### 3. PAYMENT OF FEES

The \$500.00 filing fee for your petition is paid in this Court.

**If you cannot afford to pay the fee**, you may file a motion to proceed without payment of fees, 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 fee, must be included with your motion. The financial affidavit may be found at [Form 4](#), Federal Rules of Appellate Procedure, available on the Court's website, [www.ca9.uscourts.gov](http://www.ca9.uscourts.gov) under *FAQs, Forms and Instructions*.

**If you do not pay your filing fee or file a motion to proceed *in forma pauperis*, your case will be dismissed.** 9th Cir. R. 42-1.

#### **4. APPOINTMENT OF COUNSEL**

The Court appoints an attorney (or requests the services of a volunteer attorney) in a very limited number of civil cases. To request that the Court appoint an attorney for you, you should file a “Motion for Appointment of Counsel” stating the reasons why you need an attorney and why you cannot afford an attorney. Remember to include a Certificate of Service with the motion stating that you served counsel for the opposing party with a copy of the motion.

#### **5. BRIEFS**

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 in an Answering Brief. You will have an opportunity to respond to your opponent’s brief in a Reply Brief.

The time schedule order tells you when the Opening Brief is due. The Court will dismiss your case if you do not file your brief when it is due. Your briefs are considered filed as of the date you mail them to the Court. 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. Fed. R. App. P. 25(a)(2)(C).)

In general, briefs should include:

1. Your Ninth Circuit case number.
2. A statement of the facts of your case.
3. What the agency decided.
4. The issues in your petition.
5. The legal arguments you wish to present. You may cite statutes, cases, or other legal authority, but this is not required.
6. A statement of what you want this Court to do – reverse or modify the agency decision, or remand the case back to the agency – and why.
7. Your signature. All briefs must be signed by each pro se petitioner. Fed. R. App. P. 32(d).
8. A Certificate of Service.

Because you are appearing without the help of an attorney, you may file the informal brief form included in this package. Using this form means that your opening and

reply briefs need not comply with the Rules regarding the form or contents of the brief. 9th Cir. R. 28-1(c). The Court will give the same consideration to an informal brief as it will to a standard brief that satisfies all of the rules. Answer all of the questions on the form as clearly and accurately as possible. You may add additional pages to the informal brief form, up to a total of 50 double-spaced pages, including the form brief.

If you choose not to use the informal brief form, your briefs must meet **all** of the requirements of the federal rules, and must include a [Certificate of Compliance](#) found on the Court's website, [www.ca9.uscourts.gov](http://www.ca9.uscourts.gov), under *FAQs, Forms and Instructions*. If it does not, we may return it to you for correction, which will delay the decision in your case. Fed. R. App. P. 28 and 32 and 9th Cir. R. 28-1, 28-2, 32-1, and 32-3 contain the exact requirements for the content and form of a standard brief.

File the **original and 7 copies** of your briefs with the Court. 9th Cir. R. 31-1. You must also send **2 copies** of your brief to opposing counsel unless you have been granted leave to proceed in forma pauperis; pauper status litigants only need to serve **one copy** of the brief. Fed. R. App. P. 31(b).

If you choose to register and submit your brief electronically, do not send any paper copies of the brief to the Court until you are ordered by the Clerk to do so. 9th Cir. R. 31-1. You must also send **2 copies** of your brief to any exempt or un-registered opposing party unless you have been granted leave to proceed in forma pauperis; pauper status litigants only need to serve **one copy** of the brief. Fed. R. App. P. 31(b).

## **6. 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 30 days by filing [Form 13](#) or, if you are registered for CM/ECF, by using the "File Streamlined Request to Extend Time to File Brief" event on or before your brief's existing due date. 9th Cir. R. 31-2.2(a).

If you need more than a 30-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 7 calendar days before the due date for your brief. Your motion must meet the requirements of 9th Cir. R. 31-2.2(b).

## 7. FILING MOTIONS

Any motions filed while your petition is pending must clearly identify the relief you seek and the legal grounds for relief. You must file **an original motion** with this Court and serve **one copy** of the motion on each opposing counsel. 9th Cir. R. 27-1. A Certificate of Service must be attached to the original and to each copy.

If you want to file a motion for reconsideration or clarification of an order that terminates your case, you must do so within 45 days of the order's filing date. 9th Cir. R. 27-10(a)(1). All other motions for reconsideration must be filed within 14 days after the date of the order. 9th Cir. R. 27-10(a)(2).

## 8. PETITION FOR REHEARING

If your case is decided by a memorandum disposition or opinion and you think the Court's final decision on the merits of your case was wrong, you may file a petition for rehearing in the Court **within 45 days of entry of judgment**. Fed. R. App. P. 35 & 40; 9th Cir. R. 35-1 & 40-1. The petition for rehearing must not exceed 15 pages. 9th Cir. R. 35-4(a) & 40-1(a). Do not present any new facts or legal arguments. Instead, explain how the Court may have overlooked arguments or misunderstood the facts of your case.

After the Court either denies your petition for rehearing or issues a new judgment upon rehearing in your case, you may file a petition for a writ of certiorari in the United States Supreme Court. Consult the Supreme Court's Rules before filing your petition for a writ of certiorari. Remember that you must have a legal basis to support your belief that the Court's final decision was incorrect; it is not enough to simply disagree with the outcome.

If you do not file a petition for rehearing in this Court, you may still file a petition for a writ of certiorari directly in the United States Supreme Court.

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

\_\_\_\_\_  
Petitioner,

9th Cir. Case No. \_\_\_\_\_

vs.

Agency Case No. \_\_\_\_\_

\_\_\_\_\_  
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?

- What did the agency do?

**4. PROCEEDINGS BEFORE THE NINTH CIRCUIT:**

- What issues are you raising in this Court? What do you think the agency did wrong?

- 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.

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

\_\_\_\_\_  
Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Address

\_\_\_\_\_  
Date

**CERTIFICATE OF SERVICE**

Case Name: \_\_\_\_\_ v. \_\_\_\_\_

9th Cir. 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 attach a copy of the certificate of service to each of the copies and the original you file with the Court. Please fill in the title of the document you are filing. Please list 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.

I certify that a copy of the \_\_\_\_\_  
(title of document you are filing)  
and any attachments was served, either in person or by mail, on the persons listed below.

\_\_\_\_\_  
**Signature**  
Notary NOT required

Name

Address

Date Served

**Form 13. Initial Streamlined Request for Extension of Time to File Brief**

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

**NOTE:** This form is for use solely by parties who are not registered for Appellate ECF. If you are registered for Appellate ECF, do not use this form and instead log onto Appellate ECF to make your request using the event "File a Streamlined Request to Extend Time to File Brief."

**NOTE:** You may use this form only if you have not yet received any extension of time to file the brief. If you have already received an extension of time, any request for more time must be made in writing pursuant to Ninth Circuit Rule 31-2.2 (b).

9th Circuit Case Number(s): \_\_  
9th Circuit Case Name(s): \_\_\_\_  
Name of party/parties requesting extension: \_\_

For what type of brief are you requesting an extension?

- Opening brief
- Answering brief
- Reply brief
- Opening brief on cross-appeal
- Answering/opening brief on cross-appeal
- Reply/answering brief on cross-appeal
- Cross-appeal reply brief

What is your current due date? \_\_

You may request a new due date **up to 30 days** from your current due date.

What is your new requested due date? \_\_\_\_\_

Print Name: \_\_\_\_\_

\_\_\_\_\_  
Signature: \_\_\_\_\_

\_\_\_\_\_  
Date: \_\_\_\_\_

***Mail this form on or before your brief's current due date to the Court at:***

Office of the Clerk  
U.S. Court of Appeals for the Ninth Circuit  
P.O. Box 193939  
San Francisco, CA 94119-3939

***The Clerk will inform you of the new briefing schedule***