

# UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

## Office of the Clerk

### **After Opening an Immigration Case: An Introduction for Attorneys**

You have received this guide because you filed a petition for review in the U.S. Court of Appeals for the Ninth Circuit. It provides information you need to know to represent an immigration petitioner before the court.

**Read this guide carefully. If you don't follow instructions, the court may dismiss your case.**

#### **This Guide Is Not Legal Advice**

Court employees are legally required to remain neutral; that means they can't give you advice about how to win your case. However, if you have a question about procedure—for example, which forms to send to the court or when a form is due—this packet should provide the answer. If it doesn't, you may contact the clerk's office for more information.

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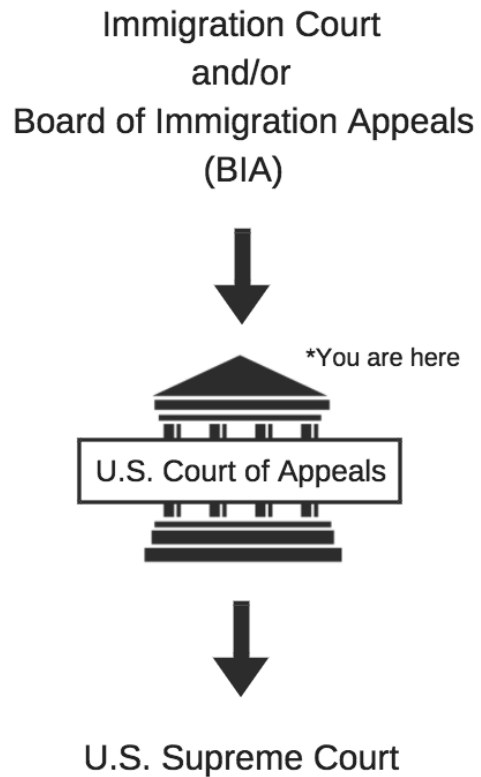
# HOW AN IMMIGRATION PETITION WORKS

The chart below shows the path of an immigration petition from the lowest court to the highest. Review these steps to make sure you understand where you are in the process.

**Immigration Court/Board of Immigration Appeals (BIA).** Most cases pass through the BIA before coming to the U.S. Court of Appeals. The BIA is the federal administrative panel that reviews orders of removal and other decisions made by immigration judges. Occasionally, a case can come to the court of appeals directly from an immigration court or from a Department of Homeland Security officer.

**U.S. Court of Appeals.** Among many other types of cases, the U.S. Court of Appeals reviews final removal decisions of the BIA. When reviewing your case, the court of appeals (usually a panel of three judges) will carefully consider what has happened so far. The court will also read all the papers that you and opposing counsel file during your case. The court will look to see whether any agency, officer, or lower court has made a legal or factual mistake. You are not allowed to present new evidence or testimony in the court of appeals.

**U.S. Supreme Court.** If you do not agree with the decision of the court of appeals, you can ask the United States Supreme Court to review your case. The Supreme Court chooses which cases it wants to hear. It reviews only a small number of cases each year.



Your case may not go through all of the stages shown above. For example, if the U.S. Court of Appeals resolves your case the way that you want, you won't need to file a petition in the U.S. Supreme Court.

## PRACTICE RULES AND RESOURCES

This guide highlights rules that you **absolutely must follow** after filing a case. You are also responsible for reviewing and following the Federal Rules of Appellate Procedure (Fed. R. App. P.), the Ninth Circuit Rules (9th Cir. R.), and the general orders. The Federal Rules and the Ninth Circuit Rules are available at [www.ca9.uscourts.gov/rules](http://www.ca9.uscourts.gov/rules).

### Practice Guides

In addition to the rules above, the following resources can support your practice before this court. You can find them on the court's website under *Legal Guides*:

- **Ninth Circuit Immigration Outline.** A comprehensive discussion of applicable law.
- **Appellate Practice Guide.** A thorough manual of appellate practice prepared by the Appellate Lawyer Representatives, along with sample briefs and other resources.
- **Perfecting Your Appeal.** You can view this video for free at [www.ca9.uscourts.gov](http://www.ca9.uscourts.gov) or purchase it from the clerk's office for \$15.00.

### Appellate Mentoring Program

The appellate mentoring program provides guidance to attorneys who are new to federal appellate practice or who would benefit from mentoring at the appellate level. Mentors are volunteers who have experience in immigration, habeas corpus, or appellate practice in general. If you are interested, a program coordinator will match you with a mentor, taking into account your needs and the mentor's particular strengths.

To learn more, email the court at [mentoring@ca9.uscourts.gov](mailto:mentoring@ca9.uscourts.gov) or go to [www.ca9.uscourts.gov](http://www.ca9.uscourts.gov). On the website, select the "Attorneys" tab, look for "Appellate Mentoring Program," then choose "Information."

### Mediation Program

Petitioners in immigration cases are not required to file a mediation questionnaire, the document used for an initial assessment for mediation. Occasionally, however, the court may direct the parties to confer with a court mediator.

To request a conference with a mediator, call the Mediation Unit at (415) 355-7900, email [ca09\\_mediation@ca9.uscourts.gov](mailto:ca09_mediation@ca9.uscourts.gov), or make a written request to the Chief Circuit Mediator. You may request conferences confidentially. For more information about the court's mediation program, go to [www.ca9.uscourts.gov/mediation](http://www.ca9.uscourts.gov/mediation).

## IMPORTANT RULES FOR ALL CASES

The rules in this section apply to all attorneys who file a case in the court of appeals. You must understand and follow each one.

### Ninth Circuit Bar Admission

To represent a party other than yourself before the court of appeals, you must be admitted to the Bar of the Ninth Circuit. For instructions on how to apply, go to [www.ca9.uscourts.gov](http://www.ca9.uscourts.gov). Select the “Attorneys” tab, look for “Attorney Admissions,” then choose “Instructions.”

### Register for Electronic Filing

Unless the court grants you an express, written exemption, you must use the Ninth Circuit’s electronic filing system for all filings, including new petitions for review. Immigration cases filed before May 1, 2021 were opened in CM/ECF (Case Management/Electronic Case Files) and **all** subsequent filings in those cases must be submitted through CM/ECF unless the Court directs otherwise in a specific case. New immigration cases filed on or after May 1, 2021 are opened in ACMS (Appellate Case Management System) and the petition for review and **all** subsequent filings in those cases must be submitted in ACMS. To learn more and to register, go to <https://www.ca9.uscourts.gov/efiling/> and select the appropriate system for detailed instructions based on when your case was first opened in this Court.

Immigration petitions opened on or before April 30, 2021 in CM/ECF have a 7 digit case number such as 22-7XXXX. Immigration petitions opened on or after May 1, 2021 in ACMS have a 3 or more digit case number counting upward from the first case opened in that system each year, such as 22-X.

For additional guidance on filing documents and making payments electronically, read the Ninth Circuit Rules, especially Rule 25-5, and the ACMS [Administrative Order](#).

### Meet Your Deadlines

Read all documents you get from the court. They will contain important instructions and deadlines for filing your court papers. **If you miss a deadline or fail to respond to the court as directed, the court may dismiss your case.**

### Complete Your Forms Properly

Everything you send to the court must be clear and easy to read. If we can’t read your papers, we may send them back to you. To make the clerk’s job easier, please:

- ✓ Include your case number on all papers you send to the court or to opposing counsel.

- ✓ Number your pages and put them in order.
- ✓ If you are exempt from filing electronically, use only one paper clip or a single staple to keep your documents organized. The clerk’s office must scan your documents and extra binding makes that job difficult.

## **Deliver Papers the Right Way**

When you deliver paper copies to the court or to opposing counsel, you must take certain steps to show you sent them to the right place on time.

- ✓ **Use the correct address.** Before you put anything in the mail, make sure the address is current and correct.
  - To find current addresses for the court, see “How to Contact the Court,” at the end of this guide. You may deliver a document to the court in person, but you must hand it to someone designated to receive documents in the clerk’s office.
  - To find the correct address for opposing counsel, see opposing counsel’s notice of appearance. Opposing counsel should have sent a copy of this notice to you after you filed the petition for review. The notice states the name and address of the attorney who represents the government in your case.
- ✓ **Attach a certificate of service.** You must attach a signed certificate of service to each document you send to the court or to opposing counsel if that filing will not be served on all parties via CM/ECF or ACMS (such as sealed filings).

## **Keep Copies of Your Documents**

Make copies of all documents you send to the court or to opposing counsel and keep all papers sent to you.

## **Pay the Filing Fee or Request a Waiver**

The filing fee for your case is \$600.00. The fee is due when you file a petition for review. If you didn’t pay the fee, you will have **21 days** to either pay the fee or request a waiver because the petitioner can’t afford to pay.

- **If the petitioner can afford the fee.** Submit your payment through the electronic filing system, or send a check or money order to the court. Make the check out to “Clerk,

U.S. Courts.” Don’t forget to include the case number. Please note that after you pay the fee, we cannot refund it, no matter how the case turns out.

- **If the petitioner can’t afford to pay.** You may ask the court to waive the fee by filing a motion to proceed in forma pauperis. See “Stage One: Opening Your Case,” below.

**If you do not pay the fee or submit a waiver request by the deadline, the court may dismiss your case. (9th Cir. R. 42-1).**

## **If You Move, Tell the Court**

If your office, mailing address or email address changes, you must immediately update your PACER account so that the court receives notice. (9th Cir. R. 46-3.)

- **CM/ECF and ACMS.** Update your information online at <https://pacer.psc.uscourts.gov/pscof/login.jsf>.
- **Exempt Filers.** If you are exempt from CM/ECF or ACMS, file a change of address Form 22 with the court. You can find the form on the court’s website at [www.ca9.uscourts.gov/forms](http://www.ca9.uscourts.gov/forms).

If you don’t promptly change your address, including your email address, you could miss important court notices and deadlines. As noted above, missing a deadline may cause the court to dismiss your case without notice.

## HANDLING AN IMMIGRATION CASE: THREE STAGES

This section will help you understand and manage the different parts of your case. We describe the basic documents you must file with the court and the timing of each step.

To begin, review the chart below. It introduces the three stages of a case.

### 1 Opening

- You file a petition for review.
- The court sends you a case schedule.
- You pay filing fees or get a waiver.
- You and opposing counsel may file motions.
- You respond to any court orders or motions from opposing counsel.

### 2 Briefing

- You submit an opening brief.
- Opposing counsel submits an answering brief.
- You may submit a reply to opposing counsel's brief.

### 3 Decision

- The court decides your case.
- If you don't like the result, you decide whether to take further action.

## Stage One: Opening a Case

By the time you receive this guide, you have already opened a case by filing a petition for review. In response, the clerk's office created the case record and gave you a case number and a briefing schedule.

If you haven't already paid the filing fee, you must do so now. See "Pay the Filing Fee or Request a Waiver," above.



**The court may dismiss your case at any time.** Even if you pay the fees and get a briefing schedule, the court may decide not to keep your case for a variety of legal reasons. If the court dismisses your case and you think the court was wrong, see "If You Don't Agree with a Court Decision," below.

Now is also the time for you and opposing counsel to file opening motions with the court, if you have any. Here are two common motions that you might make at the beginning of your case.

### *Motion to Proceed in Forma Pauperis*

File this motion to ask the court to waive the petitioner's filing fee. To file your motion, you must complete and include [Form 4: Motion and Affidavit for Permission to Appeal in Forma Pauperis](#). The form is available on the court's website at [www.ca9.uscourts.gov/forms](http://www.ca9.uscourts.gov/forms). In addition, please follow the instructions in "How to Write and File Motions," below.

### *Motion to Stay Removal*

When you submitted the petition for review, you may have included a motion to stay removal, asking the court to stop immigration officers from removing the petitioner from the United States while his or her case is in progress.

When you file a motion to stay removal along with a new petition for review or while the case is pending, the court gives the petitioner a temporary stay of removal. This means he or she cannot be removed while the court considers the petition or motion. *See De Leon v. INS*, 115 F.3d 643 (9th Cir. 1997); Ninth Circuit General Order 6.4(c)(1).

The purpose of this temporary stay is simply to give the court time to review the case; it does not mean the court has made a decision about the stay motion or the petition yet.

The petitioner will only receive this temporary stay once—when the first motion for stay is filed in the case—and only if the case is still active at that time (meaning it hasn't been dismissed or decided).

After you file a motion to stay removal, opposing counsel has 12 days from the filing of the administrative record to file a response with the court. If opposing counsel responds, you may file a reply telling the court why you think opposing counsel's view is incorrect. You will have **seven days** in which to do so, starting on the day opposing counsel serves you with their response.

**It may take several months for the court to decide a motion to stay removal.**

- **If the court grants the motion to stay removal**, immigration officials may not legally remove the petitioner from the country during this case.
- **If the court does not grant the motion to stay removal**, the immigration case will continue but immigration officials are no longer legally barred from removing the petitioner from the country. This does not mean the petitioner *will* be removed. What happens depends on the specifics of the situation.

If you did not submit a motion to stay removal with the petition for review, you may do so now. Your motion must state why you believe the court should grant the stay and the specific hardships the petitioner would face if immigration officials were to remove him or her from the country. (*See Nken v. Holder*, 556 U.S. 418 (2009).) Please follow the additional instructions in “How to Write and File Motions,” below.

## **Stage Two: Preparing and Filing Briefs**

During the second stage of your case, you and opposing counsel will prepare and file written briefs. The required components of a brief are set out in Fed. R. App. P. 28 and 32, and 9th Cir. R. 28-2, 32-1, and 32-2. You should familiarize yourself with those rules and follow them carefully. In this section, we cover some key points of briefing practice.

### ***Opening Brief***

You will write and file the first brief in your case. In the opening brief, you must:

- state the facts of the case
- describe the relief you are seeking for the petitioner
- provide legal arguments to support the petition
- include an addendum (bound with the paper copies of the brief) containing all orders of the immigration court and BIA that you are challenging (9th Cir. R. 28-2.7).

In addition, if the petition challenges a decision of the BIA, you must state both of the following:

- Whether the petitioner is detained in the custody of the Department of Homeland Security or at liberty.
- Whether the petitioner has moved the BIA to reopen or applied to the district director for an adjustment of status.

(9th Cir. R. 28-2.4(b).) Your opening brief does not have to include excerpts of record. (9th Cir. R. 30-1.2)

**Deadline for filing.** You must file your opening brief and excerpts of record by the deadline stated in the briefing schedule. The briefing schedule depends on your opponent’s timely filing of the certified administrative record. If the record is late, you may ask the court to revise the briefing schedule.

**If you do not file your brief on time or request an extension, the court will dismiss your case.**

### **Tips for Writing Your Briefs**

Keep these points in mind to write a better brief:

**Avoid unnecessary words.** Don't use 20 words to say something you can say in ten.

**Think things through.** Make logical arguments and back them up with legal rules.

**Be respectful.** You can disagree without being disagreeable. Focus on the strengths of your case, not the character of others.

**Tell the truth.** Don't misstate or exaggerate the facts or the law.

**Proofread.** Before you file, carefully check for misspellings, grammatical mistakes, and other errors.

### ***Answering Brief***

In response to your opening brief, opposing counsel may file an answering brief. If opposing counsel files an answer, they must send a copy to you.

The time scheduling order sets the deadline for the answering brief. Please note that the opening and answering brief due dates are not subject to the rules for additional time described in Fed. R. App. P. 26(c). In particular, if you file your opening brief early, it does not advance the due date for your opponent's answering brief. (*See* 9th Cir. R. 31-2.1.)

### ***Reply Brief***

You are invited to reply to opposing counsel's answering brief, but you are not required to do so. If you write a reply brief, do not simply restate the arguments in your opening brief. Use the reply brief to directly address the arguments in opposing counsel's answering brief.

You must file your reply brief within **21 days** of the date the government serves you with its answering brief.

## ***How to File a Brief***

Rules for filing briefs depend on whether or not you are required to file electronically.

**CM/ECF and ACMS.** Submit the brief using the system in which the case was opened unless directed otherwise by the Court. After we review your electronic submission, we will request paper copies of the brief and addendum that are identical to the electronic version. Do not submit paper copies until we direct you to do so. (*See* 9th Cir. R. 31-1.) You must also send **two copies** of the brief to any exempt or unregistered opposing counsel and include a certificate of service with your brief that you did so, using Form 15. No certificate of service is required for briefs or other pleadings that will be served on all parties via the electronic filing systems.

**Exempt Filers Only.** Please follow these steps:

- ✓ Send the original document and **six copies** of your brief to the court.
- ✓ Send **two copies** to opposing counsel.
- ✓ Attach a signed certificate of service to the original and to each copy for opposing counsel.
- ✓ Keep a copy for your records.

## ***If You Need More Time to File***

Usually, you may ask for one streamlined extension of up to 30 days from the brief's existing due date. (*See* 9th Cir. R. 31-2.2(a) for conditions.)

- **CM/ECF and ACMS.** Electronic filers do not need to use a written motion; you may submit your request without any attachment using the "File Streamlined Request to Extend Time to File Brief" event in CM/ECF or the "Streamlined Request for Extension of Time" event in ACMS on or before your brief's existing due date.
- **Exempt Filers.** Make your request by filing Form 13 on or before your brief's existing due date. You can find Form 13 on the court's website at [www.ca9.uscourts.gov/forms](http://www.ca9.uscourts.gov/forms).

If you need more than 30 days, or if the court has already given you a streamlined extension, you must submit a written motion asking for more time. Your motion must show both diligence and substantial need. You must file your request at least **seven days** before your brief is due. The motion must meet the requirements of 9th Cir. R. 31-2.2(b). You may use Form 14 or write your own motion.

Usually, in response to an initial motion for more time, the court will adjust the schedule. (*See* Circuit Advisory Committee Note to Ninth Circuit Rule 31-2.2.) If you followed the correct procedures to ask for more time but the court doesn't respond by the date your brief is due, act as

though the court has granted your request and take the time you asked for.

### ***What Happens After You File***

After you and opposing counsel have filed your briefs, a panel of three judges will evaluate the case. Sometimes the court decides a case before briefing is complete (9th Cir. R. 3-6); if that happens, we will let you know.

Judges conduct oral hearings in all cases unless all members of the panel agree that oral argument would not significantly aid the decision-making process. (Fed. R. App. P. 34(a)(2).)

**Notification of oral hearings.** We will notify you of the potential dates and location of an oral hearing approximately 3 months in advance, before scheduling them before a particular panel. After you receive this notice, you have **three calendar days** to inform the court of any conflicts. We issue notices of oral hearing once a case is scheduled about ten weeks before the hearing date. Note that the panel may decide to submit your case on the briefs without hearing at any time. They will issue an order to that effect in advance of the hearing.

**Changes to oral hearing dates or location.** The court will change the date or location of an oral hearing only if you show good cause for the change. If you wish to submit a request to continue a hearing, you must do so within 14 days of the notice of hearing. Note, however, that the court grants such requests only if you can show exceptional circumstances. (9th Cir. R. 34-2.). If appearing in person for your hearing would pose a hardship, you may file a motion to appear remotely, but that must be filed within 7 days of the notice of hearing or demonstrate exigent circumstances.

Oral arguments are live streamed to YouTube. Viewers can access them through the court's website. Go to [www.ca9.uscourts.gov](http://www.ca9.uscourts.gov) and choose "Live Video Streaming of Oral Arguments and Events."

## **Stage Three: The Court's Final Decision**

After the judges decide your case, you will receive a memorandum disposition, opinion, or court order stating the result. If you are happy with the outcome, congratulations.

If you or opposing counsel didn't get the final results you want, either of you may take the case further. We explain your options in the next section; see "After Your Case," below.

# HOW TO WRITE AND FILE MOTIONS

This section provides general guidelines for writing and filing motions, including motions discussed elsewhere in this guide. The motion you want to make may have special rules—for example, a different page limit or deadline—so be sure that you also read its description, as noted below.

## How to Write a Motion

If you want to file a motion with the court, follow these guidelines:

- ✓ Clearly state **what** you want the court to do.
- ✓ Give the legal reasons **why** the court should do what you are asking.
- ✓ Tell the court **when** you would like it done.
- ✓ Tell the court what the opposing party’s position is. (Circuit Advisory Committee Note to Ninth Circuit Rule 27-1(5); 9th Cir. R. 31-2.2(b)(6).)
- ✓ State whether the petitioner is in the custody of the Department of Homeland Security or at liberty. (9th Cir. R. 27-8.2.)
- ✓ If you are filing a response requesting affirmative relief, include your request in the caption. (Fed. R. App. P. 27(a)(3)(B).)
- ✓ Don’t write a motion that is more than 20 pages long unless you get permission from the court.

If you like, you may support your motion with an affidavit or declaration. (28 U.S.C. § 1746.)

### Cases Scheduled for Argument or Submitted to a Panel

If your case has been (1) scheduled for oral argument, (2) argued, or (3) submitted to or decided by a panel, then the first page or cover of your motion must include the date of argument, submission, or decision and, if known, the names of the judges on the panel. (9th Cir. R. 25-4.)

## How to File a Motion

To file your motion, you must follow the rules described in “Deliver Papers the Right Way,” at the beginning of this guide. Keep the following points in mind.

- **CM/ECF and ACMS.** For electronic filing, follow instructions on CM/ECF or ACMS, using the system in which your case was originally opened unless instructed otherwise by the Court. If there are any non-registered parties, you must send a hard copy to that party.
- **Exempt Filers.** Send the original document to the court and send a copy to opposing counsel. Remember to attach a signed certificate of service to the original and to any copies. Always keep a copy for your own records.

Note that you should not include a notice of motion or a proposed order with your motion. (Fed. R. App. P. 27(a)(2)(C)(ii) and (iii).)

## What Happens After You File

The path of a motion depends on the details of your case. Certain motions—for example, a motion to dismiss the case—may automatically stay the briefing schedule. (*See* 9th Cir. R. 27-11.) The following steps are common after filing a motion.

**Opposing counsel may respond.** After you file a motion, opposing counsel has ten days to file a response. (*See* Fed. R. App. P. 27(a)(3)(A); Fed. R. App. P. 26(c).) In the response, opposing counsel will tell the court why it disagrees with the arguments in your motion.

**You may reply to opposing counsel’s response.** If opposing counsel responds, you may tell the court why you think opposing counsel’s view is incorrect. If you file a reply, don’t just repeat the arguments in your original motion. Instead, directly address the arguments in opposing counsel’s response. You usually have **seven days** to file a reply with the court, starting on the day opposing counsel serves you with their response. (*See* Fed. R. App. P. 27(a)(3)(B).) Normally, a reply may not be longer than ten pages.

**The court decides your motion.** After you and opposing counsel file all papers related to the motion, a panel of two or three judges will decide the issue.

## How to Respond to a Motion from Opposing Counsel

Your opponent may also submit motions to the court. For example, opposing counsel may file a motion to dismiss the case or to ask the court to review the case more quickly than usual. If opposing counsel files a motion, you are allowed to respond with your arguments against it. Your response may not be longer than 20 pages.

Usually, you must file your response with the court no more than **ten days** from the day opposing counsel serves its motion on you (which is accomplished by electronic filing unless you are exempt or the document is sealed).

### Read More About These Motions

If you are making one of the following motions, read the section noted here:

**Motion to proceed in forma pauperis** in “Filing Opening Motions,” above.

**Motion to stay removal** in “Filing a Motion to Stay Removal,” above.

**Motion for extension of time to file a brief** in “If You Need More Time to File,” above.

**Motion for reconsideration** in “If You Don’t Agree With a Court Decision,” below.



### Emergency Motions

An emergency motion asks the court to act within 21 days to avoid irreparable harm. Your motion must meet the requirements of 9th Cir. R. 27-3 and you must also file a Rule 27-3 certificate using Form 16 when you file your motion.

If you need emergency relief, you must notify the Emergency Motions department in San Francisco before you file the motion. Call them at 415-355-8020 or e-mail [emergency@ca9.uscourts.gov](mailto:emergency@ca9.uscourts.gov). Please note that a request for more time to file a document with the court or any other type of procedural relief does *not* qualify as an emergency motion. (See Circuit Court Advisory Committee Note to 27-3(3).)

Finally, if you absolutely must notify the court of an emergency outside of standard office hours, call 415-355-8000. This line is for true emergencies that cannot wait until the next business day—for example, imminent removal from the United States.

## IF YOU DON'T AGREE WITH A COURT DECISION

If you think the court of appeals made an incorrect decision about important issues in your case, you can ask the court to take a second look. You may do this during your case—for example, if you disagree with the court's ruling on a motion. Or you may ask the court to review its final decision at the end of your case.

### During Your Case: Motion for Reconsideration

If you disagree with a court order or ruling during your case, you may file a motion for reconsideration stating the reasons why you think the court's ruling was wrong. Your motion may not be longer than 15 pages.

A motion for reconsideration of an order that does not end the case—that is, a non-dispositive order—is due **within 14 days** of the date stamped on the court order. (9th Cir. R. 27-10(a).) In addition to these rules, please follow the general guidelines in “How to Write and File Motions,” above.

### After Your Case: Motions and Petitions

If you think the court's final decision in your case was wrong and you want to take further action, you have two options:

- File a motion for reconsideration or petition for rehearing in this court.
  - If the court decided your case in an order, then you would file a motion for reconsideration, as discussed just above. You have **45 days** (instead of 14 days for non-dispositive orders) to file a motion for reconsideration of a court order that ends your case. (9th Cir. R. 27-10(a).)
  - If the court decided your case in a memorandum disposition or opinion, then you would file a petition for rehearing, discussed below.
- File a petition for writ of certiorari with the U.S. Supreme Court.

It is most common to do these things one after the other—that is, to file a petition for rehearing or motion for reconsideration in this court and then, if that doesn't succeed, petition the Supreme Court. It is technically possible to file both petitions at the same time but that is not the typical approach. Our discussion focuses on the common path.

If You Think the Court's Final Decision Was Wrong


Within  
45 Days



U.S. Court of Appeals  
*Petition for Rehearing*  
or  
*Motion for Reconsideration*

If You Still Do Not Agree

Within  
90 Days



U.S. Supreme Court  
*Petition for Writ of Certiorari*

***Court of Appeals: Petition for Rehearing***

To ask the court of appeals to review its final decision in your case, you must file a petition for rehearing. Before starting a petition, remember that you must have a legal reason for believing that this court’s decision was incorrect; it is not enough to simply dislike the outcome. You will not be allowed to present any new facts or legal arguments in the petition for rehearing. Your document should focus on how you think the court overlooked existing arguments or misunderstood the facts of your case.

A petition for rehearing may not be longer than 15 pages. The petition is due **within 45 days** of the date stamped on the court’s opinion or memorandum disposition. To learn more about petitions for rehearing, see Fed. R. App. P. 40 and Circuit Rules 40-1 through 40-4.

Most petitions for rehearing go to the same three judges who heard and decided your case. It is also possible to file a petition for rehearing en banc. This type of petition asks 11 judges to review your case instead of three. The court grants petitions for rehearing en banc only in rare, exceptional cases. To learn more about petitions for rehearing en banc, see Fed. R. App. P. 40.

### ***U.S. Supreme Court: Petition for Writ of Certiorari***

If the court of appeals denies the petition for rehearing—or if it rehears your case and issues a new judgment you don't agree with—you have 90 days from the denial order or new decision to petition the U.S. Supreme Court to hear your case. You do this by asking the Supreme Court to grant a writ of certiorari. You must file your petition directly with the Supreme Court. A writ of certiorari directs the appellate court to send the record of your case to the Supreme Court for review.

The Supreme Court is under no obligation to hear your case. It usually reviews only cases that have clear legal or national significance—a tiny fraction of the cases people ask it to hear each year. Learn the [Supreme Court's Rules](#) before starting a petition for writ of certiorari. (You can find the rules and more information about the Supreme Court at [www.supremecourt.gov](http://www.supremecourt.gov).)

## HOW TO CONTACT THE COURT

### Court Addresses: San Francisco Headquarters

<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

### Court Addresses: Divisional Courthouses

<i>Pasadena</i>	<i>Portland</i>	<i>Seattle</i>
Richard H. Chambers Courthouse 125 South Grand Avenue Pasadena, CA 91105	The Pioneer Courthouse 700 SW 6th Ave, Ste 110 Portland, OR 97204	William K. Nakamura Courthouse 1010 Fifth Avenue Seattle, WA 98104

### Court Website

[www.ca9.uscourts.gov](http://www.ca9.uscourts.gov)

The court's website contains the court's rules, forms, and general orders, public phone directory, information about electronic filing, answers to frequently asked questions, directions to the courthouses, bar admission forms, opinions and memoranda, live streaming of oral arguments, links to practice manuals, an invitation to join our pro bono program, and more.

### Clerk's Office Email

For general questions about court process and procedures, you can email the Clerk's office at [questions@ca9.uscourts.gov](mailto:questions@ca9.uscourts.gov)