



Office of the Clerk
United States Court of Appeals for the Ninth Circuit
Post Office Box 193939
San Francisco, California 94119-3939
415-355-8000

Molly C. Dwyer
Clerk of Court

November 21, 2022

No.: 22-56077
D.C. No.: 3:18-cv-00325-JO-DEB
Short Title: Darryl Cotton v. Gina Austin, et al

Dear Appellant/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.

Motions filed along with the notice of appeal in the district court are not automatically transferred to this court for filing. Any motions seeking relief from this court must be separately filed in this court's docket.

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 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.

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

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

NOV 21 2022

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

DARRYL COTTON, an individual,

Plaintiff - Appellant,

v.

GINA M. AUSTIN, an individual;
JESSICA CLAIRE MCELFFRESH, an
individual; DAVID S. DEMIAN, an
individual,

Defendants - Appellees,

and

LARRY GERACI, an individual;
REBECCA BERRY, an individual;
AUSTIN LEGAL GROUP, a
professional corporation; MICHAEL
WEINSTEIN, an individual; SCOTT H.
TOOTHACRE, an individual; FERRIS
& BRITTON, a professional
corporation; CITY OF SAN DIEGO, a
public entity; CYNTHIA A.
BASHANT, an individual; DOES, 1-50,
inclusive; JOEL R. WOHLFEIL, an
individual,

Defendants.

No. 22-56077

D.C. No. 3:18-cv-00325-JO-DEB
U.S. District Court for Southern
California, San Diego

TIME SCHEDULE ORDER

The parties shall meet the following time schedule.

Tue., January 17, 2023 Appellant's opening brief and excerpts of record shall be served and filed pursuant to FRAP 31 and 9th Cir. R. 31-2.1.

Thu., February 16, 2023 Appellee's answering brief and excerpts of record shall be served and filed pursuant to FRAP 31 and 9th Cir. R. 31-2.1.

The optional appellant's reply brief shall be filed and served within 21 days of service of the appellee's brief, pursuant to FRAP 31 and 9th Cir. R. 31-2.1.

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

FOR THE COURT:

MOLLY C. DWYER
CLERK OF COURT

By: John Brendan Sigel
Deputy Clerk
Ninth Circuit Rule 27-7



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Molly C. Dwyer
Clerk of Court

**ATTENTION ALL PARTIES AND COUNSEL
PLEASE REVIEW PARTIES AND COUNSEL LISTING**

We have opened this appeal/petition based on the information provided to us by the appellant/petitioner and/or the lower court or agency. EVERY attorney and unrepresented litigant receiving this notice MUST immediately review the caption and service list for this case and notify the Court of any corrections.

Failure to ensure that all parties and counsel are accurately listed on our docket, and that counsel are registered and admitted, may result in your inability to participate in and/or receive notice of filings in this case, and may also result in the waiver of claims or defenses.

PARTY LISTING:

Notify the Clerk immediately if you (as an unrepresented litigant) or your client(s) are not properly and accurately listed or identified as a party to the appeal/petition. To report an inaccurate identification of a party (including company names, substitution of government officials appearing only in their official capacity, or spelling errors), or to request that a party who is listed only by their lower court role (such as plaintiff/defendant/movant) be listed as a party to the appeal/petition as an appellee or respondent so that the party can appear in this Court and submit filings, contact the Help Desk at <http://www.ca9.uscourts.gov/cmecf/feedback/> or send a letter to the Clerk. If you or your client were identified as a party to the appeal/petition in the notice of appeal/petition for review or representation statement and you believe this is in error, file a motion to dismiss as to those parties.

COUNSEL LISTING:

In addition to reviewing the caption with respect to your client(s) as discussed above, all counsel receiving this notice must also review the electronic notice of docket activity or the service list for the case to ensure that the correct counsel are

listed for your clients. If appellate counsel are not on the service list, they must file a notice of appearance or substitution immediately or contact the Clerk's office.

NOTE that in criminal and habeas corpus appeals, trial counsel WILL remain as counsel of record on appeal until or unless they are relieved or replaced by Court order. *See* Ninth Circuit Rule 4-1.

REGISTRATION AND ADMISSION TO PRACTICE:

Every counsel listed on the docket must be admitted to practice before the Ninth Circuit AND registered for electronic filing in the Ninth Circuit in order to remain or appear on the docket as counsel of record. *See* Ninth Circuit Rules 25-5(a) and 46-1.2. These are two separate and independent requirements and doing one does not satisfy the other. If you are not registered and/or admitted, you MUST, within 7 days from receipt of this notice, register for electronic filing AND apply for admission, or be replaced by substitute counsel or otherwise withdraw from the case.

If you are not registered for electronic filing, you will not receive further notices of filings from the Court in this case, including important scheduling orders and orders requiring a response. Failure to respond to a Court order or otherwise meet an established deadline can result in the dismissal of the appeal/petition for failure to prosecute by the Clerk pursuant to Ninth Circuit Rule 42-1, or other action adverse to your client.

If you will be replaced by substitute counsel, new counsel should file a notice of appearance/substitution (no form or other attachment is required) and should note that they are replacing existing counsel. To withdraw without replacement, you must electronically file a notice or motion to withdraw as counsel from this appeal/petition and include your client's contact information.

To register for electronic filing, and for more information about Ninth Circuit CM/ECF, visit our website at <http://www.ca9.uscourts.gov/cmecf/#section-registration>.

To apply for admission, see the instructions and form application available on our website at <https://www.ca9.uscourts.gov/attorneys/>.

UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

Office of the Clerk

After Opening Your Appeal: What You Need to Know

You have received this guide because you asked the U.S. Court of Appeals for the Ninth Circuit to review the final decision of a U.S. District Court or the Bankruptcy Appellate Panel or Tax Court. It provides information you need to know if you decide to handle your case without a lawyer.

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

For Habeas Appeals

If you are appealing the denial of a habeas corpus petition under 28 U.S. Code Section 2254 or 2255, you are receiving this guide because the district court or court of appeals has granted a certificate of appealability (COA) on one or more of the specific issues in your case.

Before you go further, you should be familiar with these terms:

- **Pro se** is the legal term for representing yourself. It is Latin for “on one’s own behalf.”
- You are the **appellant** in your case—that is, the person who filed the appeal. The other side in your case is the **appellee**.
- A **notice of appeal** is the document you filed seeking review of the lower court’s decision.

You will see these terms on some of the papers you receive from the court.

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 APPEAL WORKS

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

U.S. District Court, Tax Court, or Bankruptcy Appellate Panel. Your case in the U.S. Court of Appeals must come from a lower federal court, which may be a U.S. District Court, the Tax Court, or the Bankruptcy Appellate panel. In a very small number of cases, if the court of appeals gives you permission, you can appeal directly from the bankruptcy court to the court of appeals. (See 28 U.S. Code, Section 158(d) if you want more information about appealing directly from a bankruptcy court.)

U.S. Court of Appeals. When reviewing the lower court's decision in your case, the court of appeals (usually a panel of three judges) will carefully consider everything that has happened so far. The court will also read all the papers that you and the other side file during your case. The court will look to see whether a lower court or agency has made a constitutional, 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.

U.S. District Court
or
Bankruptcy Appellate Panel



*You are here



U.S. Supreme Court

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.

YOUR CASE NUMBER

We have assigned your case a seven-digit court of appeals case number, also called a “docket number.” You can find the number at the top of the letter you received with this guide. Include your case number on all papers you send to the court or to the opposing party. (When the opposing party is represented by a lawyer, you will send papers to the lawyer rather than directly to the party. This guide generally refers to opposing counsel rather than party.)

You may want to jot down your case number here to keep it handy:

MY CASE NUMBER IS _____.

IMPORTANT RULES FOR ALL CASES

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

Meet Your Deadlines

Read all documents you get from the court. They will contain important instructions and deadlines for filing your court papers. Write down deadlines on your calendar. **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.

Follow these guidelines:

- ✓ Use white 8.5 x 11-inch (letter size) paper.
- ✓ Use blue or black pen or type your papers. If you write by hand, please write clearly.
- ✓ Number your pages and put them in order.
- ✓ 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 papers to the court or to the opposing party, you must take certain steps to show you sent them to the right place on time. When you properly deliver papers to the opposing party, it's called "serving" a document
- ✓ **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. It's okay to 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 the opposing party, see opposing counsel's "notice of appearance," filed either in the district court or after you filed your notice of appeal. The notice of appearance states the name and address of the attorney who represents the other side 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. You can find a blank certificate of service at the end of this guide and on our website at www.ca9.uscourts.gov/forms. Make copies of the blank document and fill them out as needed.
- ✓ **Send a copy of *all* documents to opposing counsel.** When you send a document to the court, you must also send a copy (including any attachments) to opposing counsel.

Filing Documents Electronically

The court allows self-represented appellants who are not currently in prison to file documents and make payments in their appeals electronically if they have access to the internet. This means using the same system that lawyers use. To learn about or apply for electronic filing, review the materials on the court's website at www.ca9.uscourts.gov/cmecf. If you do not want to register for and use the electronic filing system, you can still submit pleadings electronically using EDSS, see <https://www.ca9.uscourts.gov/forms/pro-se-litigants/> for more information.

Keep Copies of Your Documents

Make copies of all documents you send to the court and to opposing counsel and keep all papers sent to you. Put everything in a folder that you keep in a safe place.

Pay Your Filing Fee or Request a Waiver

The filing fee for your case is \$505.00.

Your fee is due when you file your notice of appeal. If you don't pay the fee, you will receive a notice informing you that you have **21 days** to either pay the fee or request a waiver if you can't afford to pay.

- **If you can afford the fee.** Send a check or money order to the district court or tax court. **Do not send your payment to the court of appeals** unless you are appealing a Bankruptcy Appellate Panel decision (see the note just below). Please note that after you pay your fee, the court generally cannot refund it, no matter how your case turns out.

For Bankruptcy Appellate Panel Cases

Send your fee to the court of appeals. Make your check out to "Clerk, U.S. Courts" and send it to the court using the address at the end of this guide.

- **If you can't afford to pay.** You may ask the court to waive your fee by completing a form called a "motion to proceed in forma pauperis." (See "Filing Motions," below.)

If you do not pay the fee or submit a waiver request by the deadline, the court will dismiss your case.

If You Move, Tell the Court

If your mailing address changes, immediately notify the court in writing, using the change of address form at the end of this guide. (You can also find Form 22 on the court's website at www.ca9.uscourts.gov/forms.) If you don't promptly inform the court, you might not receive court notices or decisions, and you could miss court deadlines. Missing a deadline may cause the court to dismiss your case.

Additional Rules

This guide describes the key rules that you **absolutely must follow** during your case.

You can find the complete set of court rules in the Federal Rules of Appellate Procedure (Fed. R. App. P.) and the Ninth Circuit Rules (9th Cir. R.), available at www.ca9.uscourts.gov/rules. If you would like the court to mail you a free copy of the rules, use the form “Request for Docket Sheet, Document, or Rules,” at the end of this guide.

Because you don’t have a lawyer, the court will do its best to work with you, but it is your job to do your best to follow the rules.

HANDLING YOUR OWN CASE: THREE STAGES

This section will help you understand and manage the different parts of your case. You'll learn about the 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 notice of appeal.
- The court sends you a case schedule.
- You pay filing fees or get a waiver.
- You order transcripts from the district court if you need them.
- 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 Your Case

By the time you receive this guide, you have already opened your case by filing a notice of appeal in the lower court. In response, the clerk's office created your case record and gave you a case number and a schedule.

If you haven't already paid your filing fee, you must do so now. (See "Pay Your Filing Fee or Request a Waiver," above.) This is also the time to think about ordering transcripts from the district court and filing motions in your case. This section covers both topics.



The court may dismiss your case at any time. Even if you pay your fees and get a 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.

Ordering Transcripts

If your appeal will refer to matters discussed during district court oral hearings, you’ll need to submit a transcript of those hearings to the court of appeals. To order them, you must use a “transcript designation form” provided by the district court. Send your completed form to the district court, the court reporter, and opposing counsel.

Usually, you must pay the court reporter to prepare your transcripts. However, you may not have to pay if you have in forma pauperis (IFP) status and file a motion requesting transcripts at government expense. (See “Filing Motions,” below.)

For Bankruptcy Appeals

If you are appealing a Bankruptcy Appellate Panel decision or a district court decision that began in bankruptcy court, your transcript designation form must also include any court orders or written pleadings—for example, motions and briefs filed earlier in your case—that you want the court of appeals to see.

For Habeas Appeals

If you bring a habeas appeal under Section 2254 or 2241 and you have IFP status, you are entitled to free transcripts. If you bring a habeas appeal under Section 2255, you may get free transcripts if you have IFP status and also file a motion for transcripts at government expense. (See “Filing Motions,” just below.)

Filing Motions

Now is the time for you and opposing counsel to file motions with the court, if you have any. A “motion” is a legal document that asks the court to do or decide something—for instance, to waive your filing fee or give you more time to submit a document. This section describes several motions that you might make at the beginning of your case.

Motion to Proceed in Forma Pauperis (IFP)

This motion asks the court to waive your filing fee. “In forma pauperis” is Latin for “in the form

of a pauper,” which simply means that you don’t have enough money to pay. The motion form includes information about your finances and a sworn statement that you can’t afford the fee.

The court will grant your IFP motion only if it finds that:

- you have financial need, and
- your appeal is not frivolous.

If the court denies your motion, you must then pay your fees or the court will dismiss your case. (See [Ninth Circuit Rule 42-1](#).) You can find a blank copy of the form, called “Motion and Affidavit for Permission to Proceed in Forma Pauperis (Form 4),” on our website, and the Court will mail the form to you with any order directing you to pay your fees or file a motion to waive them. In addition, be sure to follow the instructions in “How to Write and File Motions,” below.

If You Already Have IFP Status

If a district court gave you permission to proceed in forma pauperis and no one has revoked that status, you don’t have to file again now. (See [Federal Rule of Appellate Procedure 24\(a\)](#).)

For Prisoners Filing Civil, Non-Habeas Appeals

Even if the court grants your IFP motion, you will eventually have to pay your full filing fee. (See 28 U.S. Code, Section 1915(b).) If this applies to you, we will notify you that you must complete and return a form that authorizes prison officials to collect payments on a monthly basis from your prison trust account whenever funds are available.



You may face additional costs. Even if the court gives you IFP status and waives your filing fees, you must pay any other expenses related to your appeal. These expenses may include copying, mailing, and costs you owe to your opponent if you lose your appeal. (See [Federal Rule of Appellate Procedure 39](#).)

Motion for Transcripts at Government Expense

As discussed above, if you have IFP status and need to order transcripts from a district court, you may want to file a motion for transcripts at government expense. You should first file this motion in the district court. If the district court denies your motion, you may file the same motion in the court of appeals. (See 28 U.S. Code, Section 753(f).)

You may request transcripts at government expense only for district court hearings directly related to your appeal. The court will not authorize payment for transcripts of hearings held in other courts or on other matters.

The court will grant your motion only if it finds that:

- your appeal is not frivolous, and
- the court needs your transcripts to decide an issue related to your appeal.

At the end of this guide, you'll find a generic motion form to help you get started. Be sure to follow the instructions in "How to Write and File Motions," below.

Motion for Appointment of Counsel

You may ask the court to appoint a volunteer lawyer to represent you for free, which is called "pro bono," or at government expense in criminal and habeas cases. Pro Bono appointments are rare in civil cases, however. You will be given a lawyer only if the court decides that a lawyer is needed to help explain the issues in the case or if there are other unusual circumstances.

To ask for a lawyer, you must file a motion for appointment of counsel, and you may use the motion for appointment of counsel form at the end of this guide. In addition, be sure to follow the instructions in "How to Write and File Motions," below.

Motion for Injunction Pending Appeal

This motion, sometimes called a "motion for injunctive relief," asks the court to order someone to do something or to stop doing something while your case is in progress. For example, your motion might ask the court to stop the other side from collecting money from you until it decides your appeal. To prepare your motion, start with the generic motion form at the end of this guide and follow the 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 arguments. These written arguments are called briefs.

Opening brief. It is your job to write and file the first brief in your case. In the opening brief, you will:

- state the facts of your case
- tell the court what you want it to do, and
- give the legal reasons that support your appeal.

You must file your opening brief by the deadline in the schedule the clerk sent to you. (The schedule is called a “time schedule order” or a “briefing schedule,” because it tells you when your briefs are due.) In some cases, briefing may be expedited, giving you and your opponent very short deadlines. (See [Ninth Circuit Rule 3-3](#).) **If you do not file your brief on time or request an extension, the court will dismiss your case.**

Answering brief. To respond to your arguments, opposing counsel may file an answering brief. The time schedule order sets the deadline for the answering brief. If opposing counsel files an answer, they must send a copy to you.

Occasionally, an appeal does not have an opponent. This may happen, for example, if the district court dismissed your case before officially notifying defendants about the proceedings. In such cases, there is no opponent unless the court orders otherwise.

Reply brief. You are invited to reply to opposing counsel’s answering brief, but you are not required to do so.

How to Write Your Opening Brief

Because you are representing yourself, you may use the informal brief form at the end of this guide. If you use the informal brief, you do not have to follow the rules that apply to regular briefs. The court will give your informal brief the same consideration as any other brief.

To prepare your brief, answer **all** the questions on the informal brief form as clearly and accurately as possible. Be sure to sign your brief on the blank line at the end.

You may include additional pages with the informal brief form, up to a total of **50 double-spaced pages**, including the form itself. If your brief is longer than 50 pages, think about whether you can make it shorter. If you need more than 50 pages to make your case, you must file a motion with your brief requesting permission for the extra pages and explaining why you need them. The court may deny permission and may require you to file a shorter brief.

For Habeas Appeals

Remember, you are allowed to bring your appeal only because a court gave you a certificate of appealability (COA) on one or more specific issues in your case. Before you write your opening brief, look closely at the court order granting your COA. It should list the specific issues on which you may appeal. You may discuss only those issues (called the “certified issues”) unless you make changes to your informal brief. If you want to ask the court to consider other issues, you must do both of the following:

- ✓ Add a heading titled “Certified Issues” and then discuss the issues your COA covers.
- ✓ Add a heading titled “Uncertified Issues” and then discuss any issues your COA does not cover.

If you use these two headings, the court will read your “Uncertified Issues” section as a motion to expand the COA. For more information, read [Ninth Circuit Rule 22-1\(e\)](#).



Standard opening briefs must comply with additional rules. If you choose not to use the informal brief provided by the court, and you instead draft a brief using your own format, your brief must meet all the requirements of the federal rules and it must include a [certificate of compliance](#). (You can view the certificate of compliance on the court’s website at www.ca9.uscourts.gov/forms.) If your brief does not meet all the rules, we may return it to you for correction, which will delay your case. You can find the detailed rules and requirements in [Federal Rules of Appellate Procedure 28](#) and [32](#) and [Ninth Circuit Rules 28-1, 28-2, 32-1, and 32-3](#).

How to Write a Reply Brief

If opposing counsel files an answer to your opening brief, you may submit a reply brief telling the court why you think opposing counsel’s arguments are incorrect. As with the opening brief, you may use the informal reply brief form at the end of this guide. If you do write a reply brief, do not simply restate the arguments in your opening brief or make new arguments. Instead 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 opposing counsel serves you with its answering brief.



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.

Write clearly. If you write by hand, make sure we can read your writing. Print using blue or black ink and don't crowd too many words into a small space.

Think things through. Do your best to 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.

How to File a Brief

You must follow these special rules for filing briefs:

- ✓ Send the original document and **six copies** of your brief to the court.
- ✓ Send **two copies** to opposing counsel unless you are proceeding in forma pauperis, in which case you may send just one copy.
- ✓ Attach a signed certificate of service to the original and to each copy for opposing counsel.
- ✓ Keep a copy for yourself.

If You Need More Time to File

You may ask for one extension of up to 30 days for each brief by filing a “Streamlined Request for Extension of Time to File a Brief” (Form 13), available at the end of this guide. You must file Form 13 on or before your brief’s existing due date.

If you need more than 30 days, or if the court has already given you an extension, you must submit a motion asking for more time. You must file your request at least seven days before your brief is due. The motion must meet the requirements of [Ninth Circuit Rule 31-2.2\(b\)](#). To file your motion, use the “Motion for Extension of Time” (Form 14) at the end of this guide.

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, but not more than what you asked for.

What Happens After You File

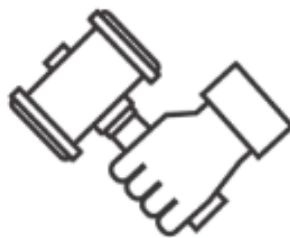
After you and opposing counsel have filed your briefs, a panel of three judges will evaluate the case. Sometimes the court decides a case before briefing is complete; if that happens, we will let you know.

Judges often decide appeals without hearing oral (in-person) arguments. To make a decision, they use the information included in the briefs and the case record. But if the court decides that oral argument would be helpful in resolving your case, we will schedule a hearing and may also appoint a lawyer to help you.

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. (A memorandum disposition is a short, unpublished decision.) If you are happy with the outcome, congratulations.

If you didn’t get the final results you wanted, you may take the case further. We explain your options below; see “If You Don’t Agree With a Court Decision.”



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

To write a motion for the court, we ask that you:

- ✓ Use the correct motion form at the end of this guide.
- ✓ 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.
- ✓ Don't write a motion that is more than 20 pages long unless you get permission from the court.

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. In particular, remember to:

- ✓ Send the original document to the court.
- ✓ Send a copy to opposing counsel.
- ✓ Attach a signed certificate of service to the original and to each copy.
- ✓ Keep a copy for yourself,

What Happens After You File

The path of a motion depends on the details of your case, but the following steps are common.

Opposing counsel may respond to your motion. After you file a motion with the court, opposing counsel usually has ten days to file a response. 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 or make new arguments. 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. Usually, 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 judges will decide the issue and will send you an order.

How to Respond to a Motion from Opposing Counsel

Opposing counsel may submit its own motions to the court. For example, opposing counsel may file a motion to dismiss your case or to ask the court to review your 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 delivers a copy of its motion to you. To get started, you may use the generic motion response form at the end of this guide.



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 Motions,” above.

Motion for transcripts at government expense in “Filing Motions,” above.

Motion for appointment of counsel in “Filing Motions,” above.

Motion for injunctive relief pending appeal in “Filing Motions,” 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 is a motion that asks the court to act within 21 days in order to prevent “irreparable harm”—that is, serious damage that can’t be fixed after it happens. If you need emergency relief, call the Motions Unit of the court at 415-355-8020. The attorney on duty will help you figure out the best way to file the motion. Please note that a request for more time to file a document with the court will *not* qualify as an emergency motion.

Learn More About Motions

This guide covers the basics of preparing, filing, and responding to motions. You can find the detailed court rules governing motions in [Federal Rules of Appellate Procedure 8](#) and [27](#), and [Ninth Circuit Rule 27-1](#).

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 prepare a document stating the reasons why you think the court's ruling was wrong. This document is called a "motion for reconsideration." A motion for reconsideration may not be longer than 15 pages.

A motion for reconsideration of any court order that does not end your case is due **within 14 days** of the date stamped on the court order. In addition to these rules, please follow the general guidelines in "How to Write and File Motions," above.

After Your Case: Petitions for Rehearing

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. The one difference is that if your case is a civil case involving a federal official or agency as a party, you have **45 days** (instead of 14) to file the motion.
 - 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.

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 your 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. Your petition is due **within 14 days** of the date stamped on the court’s opinion or memorandum disposition. (If it is a civil case with a federal party, the deadline is **45 days**.) To learn more about petitions for rehearing, read [Federal Rules of Appellate Procedure 40 and 40-1](#).

Most petitions for rehearing go to the same three judges who heard your original petition. It is also possible to file a petition called 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. If you want to find out more about petitions for rehearing en banc, see [Federal Rule of Appellate Procedure 35](#).

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

If the court of appeals denies your petition for rehearing—or if it rehears your case and issues a new judgment you don’t agree with—you have 90 days from that 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” (pronounced “sersh-oh-ra-ree”). 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 and file your petition with that Court, not in the court of appeals. (You can find the rules and more information about the Supreme Court at www.supremecourt.gov.)

HOW TO GET HELP

We understand that it isn’t easy to handle your own appeal. In this section, you’ll find resources that may provide support if you need legal help or English-language assistance.

Asking Questions About Court Procedures

As the beginning of this guide makes clear, court employees can't give you legal advice. However, if you have a question about court procedures or rules, the clerk's office may be able to help. Here are some examples of questions you could ask the court clerk:

- Which form should I use?
- When is my form due?
- How many copies of the form should I send to the court?
- Did the court receive the form I sent?

Begin by reviewing this guide to see if it answers your question. If you don't find the answer you need, you may call the clerk's office at (415) 355-8000.

Finding Legal Help

If you need legal advice but can't afford a lawyer, you may want to consider the following options.

Court appointed lawyers. You can ask the court to appoint a volunteer lawyer to represent you for free. These appointments are rare, however. To ask for a lawyer, you must file a "motion for appointment of counsel." (See "Filing Motions," above.)

Low-cost legal services. Another possibility is to seek help from a legal aid organization in your area. You may want to begin with www.lawhelp.org, a searchable network of national nonprofit agencies that provide free or low-cost legal help to people in a variety of circumstances.

If You Need English Language Assistance

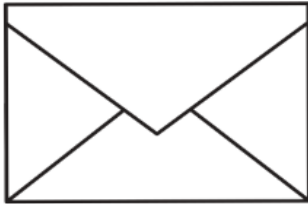
All papers you file with the U.S. Court of Appeals must be in English. At this time, the court is not able to accept, translate, or process paperwork in other languages. We realize this may present a barrier to non-native speakers of English. If you need help understanding and completing your court papers in English, we recommend that you seek legal aid as described above or find someone with strong English language skills who is available and willing to support you during your case.

HOW TO CONTACT THE COURT



IN PERSON

95 Seventh Street
San Francisco, CA 94103
Hours: 8:30 a.m. - 5:00 p.m.
Open Monday through Friday, except
federal holidays



BY MAIL

U.S. Postal Service
Office of the Clerk
James R. Browning Courthouse
U.S. Court of Appeals
P.O. Box 193939
San Francisco, CA 94119-3939

**FedEx, UPS, or Similar
Delivery Services**
Office of the Clerk
James R. Browning Courthouse
U.S. Court of Appeals
95 Seventh Street
San Francisco, CA 94103-1526



BY PHONE or EMAIL

questions@ca9.uscourts.gov
(415) 355-8000



ONLINE

www.ca9.uscourts.gov

APPENDIX OF COURT FORMS*

Motion and Affidavit for Permission to Proceed in Forma Pauperis (Form 4). Use this form to ask the court to waive your filing fees.

CJA 23 Financial Affidavit (Form 23). Use this form when asking for a fee waiver in criminal and habeas corpus appeals.

Motion for Appointment of Counsel (Form 24). Use this form to ask the court to appoint a lawyer for you.

Streamlined Request for Extension of Time to File Brief (Form 13). Complete and submit this form to receive one extension of up to 30 days to file your brief. For other requests or to ask for more time, use the Motion for Extension of Time (Form 14).

Motion for Extension of Time (Form 14). Use this form to:

- request an extension of time to file a document other than a brief
- request a first extension of time to file a brief if you need more than 30 days
- request an additional extension of time to file a brief after filing Form 13.

Generic Motion (Form 27). Use this form to request something from the court that is not covered by any of the other motion forms in this guide.

Response to Motion or Court Order (Form 28). Use this form to respond to a motion filed by the other side or a court order that directs you to respond.

Informal Brief Forms. Use these forms to write the opening and reply briefs in your case. If you use these forms, you are not required to comply with the technical requirements for Ninth Circuit briefs.

Certificate of Service (Form 25). Include a completed copy of this form with every document you send to the court and opposing counsel.

Notice of Change of Address (Form 22). Use this form if your mailing address changes.

Request for Docket Sheet, Document, or Rules (Form 29). Use this form to request a copy of the Federal Rules of Appellate Procedure, the Ninth Circuit Rules, the docket sheet, or documents for a case to which you are a party.

*For Access to All Court Forms, visit our website at www.ca9.uscourts.gov/forms

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

INSTRUCTIONS for Form 4.

Motion and Affidavit for Permission to Proceed in Forma Pauperis

Use Form 4 or an equivalent financial declaration to ask the court to waive the filing fees for an appeal or petition for review **in any civil case**.

For criminal and habeas corpus cases, use Form 23 CJA Financial Affidavit instead of Form 4 to request a fee waiver or to ask for appointment of counsel.

- Answer **all** questions on the form even if the answer is “0” or “N/A” (not applicable).
- Include your case number and sign the form. You do not need to have the form notarized.
- Do **not** include your Social Security number.

If you are a self-represented party who is not registered for electronic filing, mail the completed form to: U.S. Court of Appeals for the Ninth Circuit, P.O. Box 193939, San Francisco, CA 94119-3939 or submit electronically via [EDSS](#).

To file Form 4 electronically in CM/ECF, use the filing type “Motion for Any Type of Relief” and “motion to proceed in forma pauperis” as the relief. In ACMS, use the filing type “Motion to Proceed in Forma Pauperis.”

How to prepare fill-in forms for filing:

- If you have Adobe Acrobat or another tool that lets you save completed forms:
 1. Complete the form.
 2. Print the completed form to your PDF printer (File > Print > select Adobe PDF or another PDF printer listed in the drop-down list).
- If you do not have Adobe Acrobat or another tool that lets you save completed forms:
 1. Complete the form.
 2. Print the completed form to your printer.
 3. Scan the completed form to a PDF file.

Note: The fill-in PDF version of the form is available on the court’s website at <http://www.ca9.uscourts.gov/forms/>.

Do not file this instruction page

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

Form 4. Motion and Affidavit for Permission to Proceed in Forma Pauperis

Instructions for this form: <http://www.ca9.uscourts.gov/forms/form04instructions.pdf>

9th Cir. Case Number(s)

Case Name

Affidavit in support of motion: I swear under penalty of perjury that I am financially unable to pay the docket and filing fees for my appeal. I believe my appeal has merit. I swear under penalty of perjury under United States laws that my answers on this form are true and correct. 28 U.S.C. § 1746; 18 U.S.C. § 1621.

Signature

Date

The court may grant a motion to proceed in forma pauperis if you show that you cannot pay the filing fees **and** you have a non-frivolous legal issue on appeal. Please state your issues on appeal. (*attach additional pages if necessary*)

Feedback or questions about this form? Email us at forms@ca9.uscourts.gov

1. For both you and your spouse, estimate the average amount of money received from each of the following sources during the past 12 months. Adjust any amount that was received weekly, biweekly, quarterly, semiannually, or annually to show the monthly rate. Use gross amounts, that is, amounts before any deductions for taxes or otherwise.

Income Source	Average monthly amount during the past 12 months		Amount expected next month	
	You	Spouse	You	Spouse
Employment	\$ <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>
Self-Employment	\$ <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>
Income from real property (such as rental income)	\$ <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>
Interest and Dividends	\$ <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>
Gifts	\$ <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>
Alimony	\$ <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>
Child Support	\$ <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>
Retirement (such as social security, pensions, annuities, insurance)	\$ <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>
Disability (such as social security, insurance payments)	\$ <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>
Unemployment Payments	\$ <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>
Public-Assistance (such as welfare)	\$ <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>
Other (specify) <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>
TOTAL MONTHLY INCOME:	\$ <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>

2. List your employment history for the past two years, most recent employer first.
(Gross monthly pay is before taxes or other deductions.)

Employer	Address	Dates of Employment	Gross Monthly Pay
		From <input type="text"/>	\$ <input type="text"/>
		To <input type="text"/>	
		From <input type="text"/>	\$ <input type="text"/>
		To <input type="text"/>	
		From <input type="text"/>	\$ <input type="text"/>
		To <input type="text"/>	
		From <input type="text"/>	\$ <input type="text"/>
		To <input type="text"/>	

3. List your spouse's employment history for the past two years, most recent employer first.
(Gross monthly pay is before taxes or other deductions.)

Employer	Address	Dates of Employment	Gross Monthly Pay
		From <input type="text"/>	\$ <input type="text"/>
		To <input type="text"/>	
		From <input type="text"/>	\$ <input type="text"/>
		To <input type="text"/>	
		From <input type="text"/>	\$ <input type="text"/>
		To <input type="text"/>	
		From <input type="text"/>	\$ <input type="text"/>
		To <input type="text"/>	

4. How much cash do you and your spouse have? \$

Below, state any money you or your spouse have in bank accounts or in any other financial institution.

Financial Institution	Type of Account	Amount You Have	Amount Your Spouse Has
<input type="text"/>	<input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>
<input type="text"/>	<input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>
<input type="text"/>	<input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>
<input type="text"/>	<input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>

If you are a prisoner seeking to appeal a judgment in a civil action or proceeding, you must attach a statement certified by the appropriate institutional officer showing all receipts, expenditures, and balances during the last six months in your institutional accounts. If you have multiple accounts, perhaps because you have been in multiple institutions, attach one certified statement of each account.

5. List the assets, and their values, which you own or your spouse owns. Do not list clothing and ordinary household furnishing.

Home	Value	Other Real Estate	Value
<input type="text"/>	\$ <input type="text"/>	<input type="text"/>	\$ <input type="text"/>

Motor Vehicle 1: Make & Year	Model	Registration #	Value
<input type="text"/>	<input type="text"/>	<input type="text"/>	\$ <input type="text"/>
Motor Vehicle 2: Make & Year	Model	Registration #	Value
<input type="text"/>	<input type="text"/>	<input type="text"/>	\$ <input type="text"/>

Other Assets	Value
	\$ <input type="text"/>
	\$ <input type="text"/>
	\$ <input type="text"/>

6. State every person, business, or organization owing you or your spouse money, and the amount owed.

Person owing you or your spouse	Amount owed to you	Amount owed to your spouse
	\$ <input type="text"/>	\$ <input type="text"/>
	\$ <input type="text"/>	\$ <input type="text"/>
	\$ <input type="text"/>	\$ <input type="text"/>

7. State the persons who rely on you or your spouse for support. If a dependent is a minor, list only the initials and not the full name.

Name	Relationship	Age

8. Estimate the average monthly expenses of you and your family. Show separately the amounts paid by your spouse. Adjust any payments that are made weekly, biweekly, quarterly, semiannually, or annually to show the monthly rate.

	You	Spouse
Rent or home-mortgage payment (include lot rented for mobile home)	\$ <input type="text"/>	\$ <input type="text"/>
- Are real estate taxes included? <input type="radio"/> Yes <input type="radio"/> No		
- Is property insurance included? <input type="radio"/> Yes <input type="radio"/> No		
Utilities (electricity, heating fuel, water, sewer, and telephone)	\$ <input type="text"/>	\$ <input type="text"/>
Home maintenance (repairs and upkeep)	\$ <input type="text"/>	\$ <input type="text"/>
Food	\$ <input type="text"/>	\$ <input type="text"/>
Clothing	\$ <input type="text"/>	\$ <input type="text"/>
Laundry and dry-cleaning	\$ <input type="text"/>	\$ <input type="text"/>
Medical and dental expenses	\$ <input type="text"/>	\$ <input type="text"/>
Transportation (not including motor vehicle payments)	\$ <input type="text"/>	\$ <input type="text"/>
Recreation, entertainment, newspapers, magazines, etc.	\$ <input type="text"/>	\$ <input type="text"/>
Insurance (not deducted from wages or included in mortgage payments)		
- Homeowner's or renter's	\$ <input type="text"/>	\$ <input type="text"/>
- Life	\$ <input type="text"/>	\$ <input type="text"/>
- Health	\$ <input type="text"/>	\$ <input type="text"/>
- Motor Vehicle	\$ <input type="text"/>	\$ <input type="text"/>
- Other <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>
Taxes (not deducted from wages or included in mortgage payments)		
Specify <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>

	You	Spouse
Installment payments		
- Motor Vehicle	\$ <input type="text"/>	\$ <input type="text"/>
- Credit Card (name) <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>
- Department Store (name) <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>
Alimony, maintenance, and support paid to others	\$ <input type="text"/>	\$ <input type="text"/>
Regular expenses for the operation of business, profession, or farm (attach detailed statement)	\$ <input type="text"/>	\$ <input type="text"/>
Other (specify) <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>
TOTAL MONTHLY EXPENSES	\$ <input type="text"/>	\$ <input type="text"/>

9. Do you expect any major changes to your monthly income or expenses or in your assets or liabilities during the next 12 months? ☐ Yes ☐ No

If Yes, describe on an attached sheet.

10. Have you spent—or will you be spending—any money for expenses or attorney fees in connection with this lawsuit? ☐ Yes ☐ No

If Yes, how much? \$

11. Provide any other information that will help explain why you cannot pay the docket fees for your appeal.

12. State the city and state of your legal residence.

City State

Your daytime phone number (ex., 415-355-8000)

Your age Your years of schooling

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

INSTRUCTIONS for Form 23. CJA Financial Affidavit

- Use Form 23 **only** in a criminal or habeas corpus appeal.
- Use Form 23 **only** to support a request for waiver of fees or a motion for appointment of counsel or other legal services at government expense.
- If you are not represented by counsel and are requesting appointment of counsel, attach a completed Form 24 Motion for Appointment of Counsel to Form 23.

If you are a self-represented party who is not registered for electronic filing, mail the completed form to: U.S. Court of Appeals for the Ninth Circuit, P.O. Box 193939, San Francisco, CA 94119-3939.

To file Form 23 electronically, use the electronic document filing type “CJA Form 23 Financial Affidavit.”

How to prepare fill-in forms for filing:

- If you have Adobe Acrobat or another tool that lets you save completed forms:
 1. Complete the form.
 2. Print the completed form to your PDF printer (File > Print > select Adobe PDF or another PDF printer listed in the drop-down list).
- If you do not have Adobe Acrobat or another tool that lets you save completed forms:
 1. Complete the form.
 2. Print the completed form to your printer.
 3. Scan the completed form to a PDF file.

Note: The fill-in PDF version of the form is available on the court’s website at <http://www.ca9.uscourts.gov/forms/>.

Do not file this instruction page

CJA 23

Rev. 5/98

FINANCIAL AFFIDAVIT

IN SUPPORT OF REQUEST FOR ATTORNEY, EXPERT OR OTHER COURT SERVICES WITHOUT PAYMENT OF FEE

IN UNITED STATES ☐ MAGISTRATE ☐ DISTRICT ☐ APPEALS COURT or ☐ OTHER PANEL (Specify below)

IN THE CASE

_____ V.S. _____

FOR _____

AT _____

LOCATION NUMBER

PERSON REPRESENTED (Show your full name)

➡ _____

CHARGE/OFFENSE (describe if applicable & check box →) ☐ Felony ☐ Misdemeanor

- | | | |
|---|--------------------------|----------------------|
| 1 | <input type="checkbox"/> | Defendant-Adult |
| 2 | <input type="checkbox"/> | Defendant - Juvenile |
| 3 | <input type="checkbox"/> | Appellant |
| 4 | <input type="checkbox"/> | Probation Violator |
| 5 | <input type="checkbox"/> | Parole Violator |
| 6 | <input type="checkbox"/> | Habeas Petitioner |
| 7 | <input type="checkbox"/> | 2255 Petitioner |
| 8 | <input type="checkbox"/> | Material Witness |
| 9 | <input type="checkbox"/> | Other _____ |

DOCKET NUMBERS
Magistrate
➡ District Court
Court of Appeals

ANSWERS TO QUESTIONS REGARDING ABILITY TO PAY

ASSETS	EMPLOYMENT	Are you now employed? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Am Self-Employed		
		Name and address of employer: _____		
		IF YES, how much do you earn per month? \$ _____	IF NO, give month and year of last employment _____	
		How much did you earn per month? \$ _____		
		If married is your Spouse employed? <input type="checkbox"/> Yes <input type="checkbox"/> No		
		IF YES, how much does your Spouse earn per month? \$ _____	If a minor under age 21, what is your Parents or Guardian's approximate monthly income? \$ _____	
OTHER INCOME		Have you received within the past 12 months any income from a business, profession or other form of self-employment, or in the form of rent payments, interest, dividends, retirement or annuity payments, or other sources? <input type="checkbox"/> Yes <input type="checkbox"/> No		
		RECEIVED	SOURCES	
		IF YES, GIVE THE AMOUNT RECEIVED & IDENTIFY THE SOURCES	\$ _____	
			\$ _____	
CASH		Have you any cash on hand or money in savings or checking accounts? <input type="checkbox"/> Yes <input type="checkbox"/> No IF YES, state total amount \$ _____		
PROPERTY		Do you own any real estate, stocks, bonds, notes, automobiles, or other valuable property (excluding ordinary household furnishings and clothing)? <input type="checkbox"/> Yes <input type="checkbox"/> No		
		VALUE	DESCRIPTION	
		IF YES, GIVE THE VALUE AND DESCRIBE IT	\$ _____	
			\$ _____	
OBLIGATIONS & DEBTS	DEPENDENTS	MARITAL STATUS	Total No. of Dependents	List persons you actually support and your relationship to them
		<input type="checkbox"/> SINGLE	_____	_____
		<input type="checkbox"/> MARRIED		
		<input type="checkbox"/> WIDOWED		
<input type="checkbox"/> SEPARATED OR DIVORCED				
DEBTS & MONTHLY BILLS	APARTMENT OR HOME:	Creditors	Total Debt	Monthly Paymt.

I certify under penalty of perjury that the foregoing is true and correct.

Executed on (date)

SIGNATURE OF DEFENDANT

(OR PERSON REPRESENTED)

➡ _____

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

INSTRUCTIONS for Form 24. Motion for Appointment of Counsel

Use Form 24 if you do not have a lawyer and want the court to appoint a lawyer for you. You do not have to use Form 24. You may write your own motion instead.

In **criminal and habeas corpus appeals**, you must have in forma pauperis status to receive appointed counsel. If you have not been granted in forma pauperis status or filed a motion to proceed in forma pauperis, please complete a Form 23 CJA Financial Affidavit and file it with your motion for appointment of counsel.

In **civil appeals and petitions for review**, you must explain (1) why you cannot afford an attorney if you paid the filing fees for the case and (2) what your issues are on appeal or review.

If you are not registered for electronic filing, mail the completed form to: U.S. Court of Appeals for the Ninth Circuit, P.O. Box 193939, San Francisco, CA 94119-3939. Or you can electronically submit your form through [EDSS](#).

To file Form 24 electronically in CM/ECF, use the electronic filing type “Motion for Any Type of Relief and the relief “motion for appointment of counsel.”

How to prepare fill-in forms for filing:

- If you have Adobe Acrobat or another tool that lets you save completed forms:
 1. Complete the form.
 2. Print the completed form to your PDF printer (File > Print > select Adobe PDF or another PDF printer listed in the drop-down list).
- If you do not have Adobe Acrobat or another tool that lets you save completed forms:
 1. Complete the form.
 2. Print the completed form to your printer.
 3. Scan the completed form to a PDF file.

Note: The fill-in PDF version of the form is available on the court’s website at <http://www.ca9.uscourts.gov/forms/>.

Do not file this instruction page

Feedback or questions about this form? Email us at forms@ca9.uscourts.gov

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

Form 24. Motion for Appointment of Counsel

Instructions for this form: <http://www.ca9.uscourts.gov/forms/form24instructions.pdf>

9th Cir. Case Number(s)

Case Name

Lower Court or Agency Case Number

1. My name is

2. I am asking the court to appoint an attorney to help me with this case.

3. My fee status is as follows (*select one*):

- ☐ The district court or this court granted my motion to proceed in forma pauperis.
- ☐ I filed a motion to proceed in forma pauperis but the court has not yet ruled on the motion.
- ☐ This motion is accompanied by a motion to proceed in forma pauperis.
- ☐ I paid the filing fees for this case. However, I cannot afford an attorney for the following reasons:

4. Is this a civil appeal or petition for review? ☐ Yes ☐ No

If yes, attach an additional page(s) describing the issues on appeal.

My current mailing address

City

State

Zip Code

Prisoner Inmate or A Number (if applicable)

Signature

Date

Feedback or questions about this form? Email us at forms@ca9.uscourts.gov

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

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

ATTENTION ELECTRONIC FILERS: DO NOT USE FORM 13

Use Form 13 only if you are **not** registered for Appellate Electronic Filing.

Electronic filers must make the request by using the electronic document filing type "Streamlined Request to Extend Time to File Brief," which does not require any form.

Instructions

- Use Form 13 only to request more time to file a **BRIEF**. To request an extension of time to file *anything other than a brief*, use Form 14.
- You may request a new due date of up to 30 days from your current due date.
- Submit Form 13 on or before your brief's current due date. The clerk will mail you the new briefing schedule.
- Use Form 13 only for your **first** request for an extension of time to file **each** brief. To request any additional extension of time to file the brief or to request a first extension of more than 30 days pursuant to Cir. R. 31-2.2(b), use Form 14.

9th Cir. Case Number(s)

Case Name

Name of each party requesting the extension:

For which brief are you requesting an extension?

- | | |
|---------------------------------------|--|
| <input type="radio"/> Opening Brief | <input type="radio"/> First Brief on Cross-Appeal |
| <input type="radio"/> Answering Brief | <input type="radio"/> Second Brief on Cross-Appeal |
| <input type="radio"/> Reply Brief | <input type="radio"/> Third Brief on Cross-Appeal |
| | <input type="radio"/> Cross-Appeal Reply Brief |

What is your current due date?

What is your requested due date?

Print Name

Signature

Date

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

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

Feedback or questions about this form? Email us at forms@ca9.uscourts.gov

UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

INSTRUCTIONS for Form 14. Motion for Extension of Time

- You may use Form 14 to request any of the following:
 - An extension of time to file a document other than a brief;
 - A first extension of time to file a brief if you need more than 30 days or where a streamlined extension is not otherwise available; or
 - An additional extension of time to file a brief after receiving a streamlined extension.
- If the case is a **criminal appeal or immigration petition for review**, you must complete the Recitals on page 2.
- If the **extension is for a brief**, you must complete the Declaration on page 3.
- A motion for extension of time to file a brief should be filed at least 7 days before the brief's current due date.
- You do not have to use Form 14. You may write your own motion instead.

If you are a self-represented party who is not registered for electronic filing, mail the completed form to: U.S. Court of Appeals for the Ninth Circuit, P.O. Box 193939, San Francisco, CA 94119-3939 or submit online via [EDSS](#).

To file Form 14 electronically in CM/ECF, use the filing type "Motion for any Type of Relief" and select the appropriate requested relief. In ACMS, use filing type "Motion to Extend Time to File (type of document)."

How to prepare fill-in forms for filing:

- If you have Adobe Acrobat or another tool that lets you save completed forms:
 1. Complete the form.
 2. Print the completed form to your PDF printer (File > Print > select Adobe PDF or another PDF printer listed in the drop-down list).
- If you do not have Adobe Acrobat or another tool that lets you save completed forms:
 1. Complete the form.
 2. Print the completed form to your printer.
 3. Scan the completed form to a PDF file.

Note: The fill-in PDF version of the form is available on the court's website at <http://www.ca9.uscourts.gov/forms/>.

Do not file this instruction page

Feedback or questions about this form? Email us at forms@ca9.uscourts.gov

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

Form 14. Motion for Extension of Time

Instructions for this form: <http://www.ca9.uscourts.gov/forms/form14instructions.pdf>

9th Cir. Case Number(s)

Case Name

Requesting Party Name(s)

I am: ☐ The party requesting the extension.
☐ Counsel for the party or parties requesting the extension.

I request an extension of time to file a:

- ☐ Brief (*you **must** also complete the Declaration on page 3*)
- ☐ Motion to proceed in forma pauperis
- ☐ Motion for a certificate of appealability
- ☐ Response/opposition to a pending motion
- ☐ Reply to a response/opposition to a pending motion
- ☐ Motion for reconsideration
- ☐ Petition for panel/en banc rehearing
- ☐ Certified Administrative Record
- ☐ Response to court order dated
- ☐ Other (*you **must** describe the document*)

The requested new due date is:

I request the extension of time because (**cannot be left blank**):

(attach additional pages if necessary)

Signature

Date

(use "s/[typed name]" to sign electronically-filed documents)

Feedback or questions about this form? Email us at forms@ca9.uscourts.gov

Recitals in criminal and immigration cases pursuant to Circuit Rule 27-8*Complete this section for criminal or immigration cases.*

Previous requests for extension of time to file the document, including any request for a Streamlined Extension of Time under Circuit Rule 31-2.2(a) (*select one*):

- ☐ I have **NOT** filed a previous request to extend time to file the document.
- ☐ I have previously requested an extension of time to file the document.

This motion is my request.

(Examples: first, second)

Bail/detention status (*select one*):

- ☐ The defendant is incarcerated. The projected release date is: .
- ☐ The petitioner is detained.
- ☐ The defendant/petitioner in this criminal/immigration case is at liberty.

Signature**Date**

(use "s/[typed name]" to sign electronically-filed documents)

Declaration in support of extension to file brief under Circuit Rule 31-2.2(b)
Complete this section if you are requesting an extension of time to file a brief.

1. I request an extension of time to file the brief.
(Examples: opening, answering, reply, first cross-appeal)
2. The brief's current due date is:
3. The brief's first due date was:
4. A more detailed explanation of why the extension of time to file the brief is necessary: *(Under Circuit Rule 31-2.2(b), a request for extension of time to file a brief must be "supported by a showing of diligence and substantial need" and a conclusory statement as to the press of business does not constitute such a showing. Attach additional pages if necessary.)*
5. The position of the other party/parties regarding this request is:
☐ Unopposed.
☐ Opposed by *(name of party/parties opposing this motion)*:

☐ Unknown. I am unable to verify the position of the other party/parties because:
6. ☐ The court reporter is not in default with regard to any designated transcripts.
 If the court reporter is in default, please explain:
7. ☐ I have exercised diligence and I will file the brief within the time requested.

I declare under penalty of perjury that the foregoing is true and correct.

Signature

Date

(use "s/[typed name]" to sign electronically-filed documents)

Feedback or questions about this form? Email us at forms@ca9.uscourts.gov

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

INSTRUCTIONS for Form 27. Generic Motion

USE FORM 27 ONLY IF YOU DO NOT HAVE A LAWYER

Do not use Form 27 if you are counsel of record in the case.

A “motion” asks the court to do something. Be specific and state **what** you want the court to do and **why** the court should do it.

- Include a title for your motion (what you want the court to do) in the blank at the top of Form 27 after “Motion for ____.” Include your case number and sign the form.
- To ask the court to appoint counsel, use Form 24 instead.
- To ask the court to waive your filing fees, use Form 4 or Form 23 instead.
- To ask the court to extend your deadline to file any document, use Form 14 instead.
- If you need a decision in fewer than 21 days to avoid serious harm, notify the court’s Emergency Motions department by calling (415) 355-8020 or emailing emergency@ca9.uscourts.gov **before filing the motion.**
- You do not have to use Form 27. You may write your own motion instead.

If you are not registered for electronic filing, mail the completed form to: U.S. Court of Appeals for the Ninth Circuit, P.O. Box 193939, San Francisco, CA 94119-3939 or submit electronically using [EDSS](#).

To file Form 27 electronically in CM/ECF, use the electronic document filing type “Motion for Any Type of Relief” and select the relief that you are seeking.

How to prepare fill-in forms for filing:

- If you have Adobe Acrobat or another tool that lets you save completed forms:
 1. Complete the form.
 2. Print the completed form to your PDF printer (File > Print > select Adobe PDF or another PDF printer listed in the drop-down list).
- If you do not have Adobe Acrobat or another tool that lets you save completed forms:
 1. Complete the form.
 2. Print the completed form to your printer.
 3. Scan the completed form to a PDF file.

Note: The fill-in PDF version of the form is available on the court’s website at <http://www.ca9.uscourts.gov/forms/>.

Do not file this instruction page

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

Form 27. Motion for

Instructions for this form: <http://www.ca9.uscourts.gov/forms/form27instructions.pdf>

9th Cir. Case Number(s)

Case Name

Lower Court or Agency Case Number

What is your name?

1. **What** do you want the court to do?

2. **Why** should the court do this? Be specific. Include all relevant facts and law that would persuade the court to grant your request. (*Attach additional pages as necessary. Your motion may not be longer than 20 pages.*)

Your mailing address:

City

State

Zip Code

Prisoner Inmate or A Number (if applicable)

Signature

Date

Feedback or questions about this form? Email us at forms@ca9.uscourts.gov

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

INSTRUCTIONS for Form 28. Response to Motion or Court Order

Use Form 28 **only** to respond to a motion filed by another party or an order from the court directing a response, or to reply to a response to a motion/order filed by another party. You do not have to use Form 28. You may write your own response instead.

If you are a self-represented party who is not registered for electronic filing, mail the completed form to: U.S. Court of Appeals for the Ninth Circuit, P.O. Box 193939, San Francisco, CA 94119-3939 or submit online at [EDSS](#).

To file Form 28 electronically in CM/ECF, use the filing type:

- “Response to Motion/Form” if you are responding to a motion
- “Response to Court Order” if you are responding to a court order
- “Response to Order to Show Cause” if you are responding to an order directing you to show cause
- “Answer to Original Petition” if you are responding to an original proceeding
- “Status Report Required by Court Order” if you are filing a status report
- “Reply to Response to Motion” or “Reply to Response to Court Order” if you are replying to another party’s response to a motion or court order

How to prepare fill-in forms for filing:

- If you have Adobe Acrobat or another tool that lets you save completed forms:
 1. Complete the form.
 2. Print the completed form to your PDF printer (File > Print > select Adobe PDF or another PDF printer listed in the drop-down list).
- If you do not have Adobe Acrobat or another tool that lets you save completed forms:
 1. Complete the form.
 2. Print the completed form to your printer.
 3. Scan the completed form to a PDF file.

Note: The fill-in PDF version of the form is available on the court’s website at <http://www.ca9.uscourts.gov/forms/>.

Do not file this instruction page

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

Form 28. Response to Motion or Court Order

Instructions for this form: <http://www.ca9.uscourts.gov/forms/form28instructions.pdf>

9th Cir. Case Number(s)

Case Name

1. What is your name?

(For counsel, which party/parties do you represent?)

2. Describe briefly the motion or court order to which you are responding, such as the title of the motion or the type of response requested in the order.

On what date was the motion or court order filed?

3. What is your response? Be specific. Include all relevant facts and law that would persuade the court to grant your request. *(Attach additional pages as necessary. Your motion may not be longer than 20 pages.)*

Provide your current mailing address unless registered for electronic filing:

City

State

Zip Code

Prisoner Inmate or A Number (if applicable)

Signature

Date

(use "s/[typed name]" to sign electronically-filed documents)

Feedback or questions about this form? Email us at forms@ca9.uscourts.gov

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

<p>_____</p> <p>Appellant(s),</p> <p style="text-align: center;">vs.</p> <p>_____</p> <p>Appellee(s).</p>	<p>9th Cir. Case No. _____</p> <p>District Court or BAP Case No. _____</p>
---	--

APPELLANT'S INFORMAL OPENING BRIEF

(attach additional sheets as necessary, up to a total of 50 pages including this form)

JURISDICTION. This information helps the court determine if it can review your case.

1. Timeliness of Appeal:

- a. What is the date of the judgment or order that you want this court to review? _____
- b. Did you file any motion, other than for fees and costs, after the judgment was entered? Answer yes or no: _____
 - If you did, on what date did you file the motion? _____
 - For prisoners or detainees, what date did you give the motion to prison authorities for mailing? _____
 - What date did the district court or bankruptcy appellate panel (BAP) decide the motion that you filed after judgment? _____
- c. What date did you file your notice of appeal? _____
 - For prisoners or detainees, what date did you give your notice of appeal to prison authorities for mailing? _____

9th Cir. Case No. _____

Page 2

FACTS. Include all facts that the court needs to know to decide your case.

2. What are the facts of your case?

Page 3

3. What did you ask the district court or the BAP to do—for example, did you ask the court to award money damages, issue an injunction, or provide some other type of relief?

4. What legal claim or claims did you raise in the district court or at the BAP?

5. **Exhaustion of Administrative Remedies.** For prisoners, did you use up all administrative remedies for each claim before you filed your complaint in the district court? If you did not, please tell us why.

9th Cir. Case No. _____

Page 4

PROCEEDINGS BEFORE THE COURT OF APPEALS. In this section, we ask you about issues related to this case before the court of appeals and any previous cases you have had in this court.

6. What issues are you asking the court to review in this case? What do you think the district court or the BAP did wrong?

7. Did you present all issues listed in Question 6 to the district court or the BAP?
Answer yes or no: _____

If not, why not?

9th Cir. Case No. _____

Page 5

8. What law supports these issues on appeal? (You may refer to cases and statutes, but you are not required to do so.)

9th Cir. Case No. _____

Page 6

9. **Other Pending Cases.** Do you have any other cases pending in the court of appeals? If so, give the name and docket number of each case.

10. **Previous Cases.** Have you filed any previous cases that the court of appeals has decided? If so, give the name and docket number of each case.

Name_____
Signature_____
Address_____
Date

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

Appellant(s),

vs.

Appellee(s).

9th Cir. Case No. _____

District Court or
BAP Case No. _____

APPELLANT’S INFORMAL REPLY BRIEF

(attach additional sheets as necessary, up to a total of 25 pages including this form)

For the optional reply brief in response to appellee’s answering brief(s) only.

List each issue or argument raised in the answering brief to which you are replying. Do not repeat arguments from your opening brief or raise new arguments except in response to arguments made in the answering brief(s).

Issue/Argument Number 1

What is the first argument in the answering brief to which you are replying?

What is your reply to that argument?

9th Cir. Case No. _____

Page 2

Issue/Argument Number 2

What is the second argument in the answering brief to which you are replying?

What is your reply to that argument?

Issue/Argument Number 3

What is the third argument in the answering brief to which you are replying?

What is your reply to that argument?

Name

Address_____
Signature_____
Date

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

Form 25. Certificate of Service for Paper Filing

ATTENTION ELECTRONIC FILERS: DO NOT USE FORM 25

Use Form 25 only if you are **not** registered for Appellate Electronic Filing.

Instructions

- You must attach a certificate of service to each document you send to the court and to opposing counsel.
- Include the title of the document you are serving, the name and address of each person you served with a copy of the document, and the date of mailing or hand delivery.
- Sign and date the certificate. You do not need to have the certificate notarized.
- Remember that you must send a copy of **all** documents and attachments to counsel for **each** party to this case.

9th Cir. Case Number(s)

Case Name

I certify that I served on the person(s) listed below, either by mail or hand delivery, a copy of the

and any attachments. (title of document you are filing, such as Opening Brief, Motion for __, etc.)

Signature

Date

Name	Address	Date Served
<input style="width: 100%;" type="text"/>	<input style="width: 100%;" type="text"/>	<input style="width: 100%;" type="text"/>
<input style="width: 100%;" type="text"/>	<input style="width: 100%;" type="text"/>	<input style="width: 100%;" type="text"/>
<input style="width: 100%;" type="text"/>	<input style="width: 100%;" type="text"/>	<input style="width: 100%;" type="text"/>
<input style="width: 100%;" type="text"/>	<input style="width: 100%;" type="text"/>	<input style="width: 100%;" type="text"/>

Mail this form to the court at:

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

Feedback or questions about this form? Email us at forms@ca9.uscourts.gov

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

Form 22. Notice of Change of Address

ATTENTION ELECTRONIC FILERS: DO NOT USE FORM 22

Electronic filers must use PACER to update their information.
Use Form 22 only if you are **not** registered for Appellate Electronic Filing.

9th Cir. Case Number(s)

Case Name

Full Name(s)

NEW MAILING ADDRESS

Address

City

State/Province/Region

Zip Code

Country (if not USA)

Prisoner Inmate or A Number (if applicable)

Phone Number (if applicable)

Signature

Date

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

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

Feedback or questions about this form? Email us at forms@ca9.uscourts.gov

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

INSTRUCTIONS for Form 29. Request for Docket Sheet, Document, or Rules

ATTENTION ELECTRONIC FILERS: DO NOT USE FORM 29
Use Form 29 only if you do **not** have a lawyer and are **not** registered for
Appellate Electronic Filing.

Instructions

You may use Form 29 to request a copy of this court's docket sheet or documents **filed in a case in this court to which you are a party**. The court may not comply with your request if it is repetitive, excessive, or burdensome.

If the court complies with your request, you may have to pay a fee. For more information, see the fee schedule on our website, <http://www.ca9.uscourts.gov/> (Forms, FAQs, and Other Instructions > Fee Schedule).

You may use Form 29 to request a free copy of this court's rules even if you do not have a case in this court. The court's rules are also available to view or download for free at <http://www.ca9.uscourts.gov/rules/>.

Mail the completed form to: U.S. Court of Appeals for the Ninth Circuit, P.O. Box 193939, San Francisco, CA 94119-3939.

Online Resources

You can find opinions, memorandums, rules, and forms for free on our website, <http://www.ca9.uscourts.gov/>. In addition, documents filed after January 2, 2009 may be available online through PACER (Public Access to Court Electronic Records), a fee-based system that provides the public access to federal case information. Anyone may register for a free PACER account at <http://www.pacer.gov>. Fees are charged for retrieving docket information and case documents.

Do not file this instruction page

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

Form 29. Request for Docket Sheet, Document, or Rules

Instructions for this form: <http://www.ca9.uscourts.gov/forms/form29instructions.pdf>

9th Cir. Case Number(s)

Case Name

What are you requesting?

- ☐ A copy of the Federal Rules of Appellate Procedure and 9th Circuit Rules
- ☐ A copy of the 9th Circuit docket sheet
- ☐ A copy of the following document(s) on the 9th Circuit docket:

Date and/or Docket Entry #	Description of Document
<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>

Your Name

Your mailing address

City **State** **Zip Code**

Prisoner Inmate or A Number (if applicable)

Signature **Date**

Mail this form to the court at:

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

Feedback or questions about this form? Email us at forms@ca9.uscourts.gov