

HOW TO APPEAL AS A PRO SE PARTY TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

INTRODUCTION

The Court has prepared materials to assist a pro se party who has a case pending in the Court. This document describes general information for pro se cases. In addition, there are instructions for each type of case that can be appealed - Civil, Criminal, Agency, and Prisoner Claims. Also, there are forms that a pro se party must submit to the Court to proceed with the appeal. The instructions and forms are posted on the Court's website www.ca2.uscourts.gov. One copy of the Instructions and forms are sent by mail to the pro se party at the beginning of the case. Use these materials to prepare the appeal.

A pro se party is a person who is not represented by an attorney. An incorporated business, including a corporation held by one person, may not appear as a pro se party in this Court. A corporation must be represented by counsel in order to participate in an appeal.

Every person who files a case in this Court must follow the Federal Rules of Appellate Procedure ("FRAP"), the Court's Local Rules ("LR") and applicable statutes and case law. FRAP, the LRs, and all relevant Court forms, including a template for a motion, appendix, and brief are posted on the Court's website www.ca2.uscourts.gov.

If a question arises in this case, first check the instructions. If the answer does not appear in the instructions, call the case manager assigned to your case. The name and contact information is on the docketing notice sent to each party at the beginning of the case.

STARTING THE CASE

A pro se party appealing from a district court decision must file a notice of appeal and pay the docket fee or file for *in forma pauperis* ("IFP") status in the district court as described in the Instructions for the type of case being appealed. The pro se party is called the "appellant" in such matters.

A pro se party challenging an administrative agency final decision must file a petition for review and pay the docket fee or file for IFP status in the Court of Appeals, as described in the instructions for Agency cases. The pro se party is called the "petitioner" in such matters.

A pro se appellant or petitioner must file Form B or Form D. A pro se party does not file Form, C or C-A, however, because a case that involves a pro se party is not eligible for the pre-argument mediation process known as CAMP.

In a case in which the appellant or petitioner is pro se, the district court clerk or agency files the record on appeal, including the transcript if required. Note that in an appeal from the district court decision, if the case requires a transcript and IFP status is not granted, the appellant must pay for the transcript.

Within 14 days of receiving the Court of Appeals docketing notice, a pro se party must file with the Court an Acknowledgment and Notice of Appearance Form according to the directions provided in the Instructions.

PROCEDURES FOR FILING A BRIEF AND APPENDIX

Within 14 days after the appellant or petitioner receives the completed transcript or certifies that no transcript will be ordered in the case, the appellant must file with the Court a scheduling notification advising the Court when appellant or petitioner's brief and appendix will be filed. LR 31.2.

The instructions explain how to file the scheduling notification, prepare the brief and appendix and file the documents with the Court.

It is important to file the brief and appendix by the date given in the scheduling notification. The Court does not grant requests to extend the time to file a brief or appendix unless the reason for the request is extraordinary.

PROCEDURES FOR ORAL ARGUMENT

Within 21 days after the last appellee or respondent's brief is filed, each party, including a pro se party, must file with the Court an Oral Argument Statement.

The Court may choose to determine any case on the submission of the briefs, i.e., without oral argument. When the Court decides to hear a an appeal on submission, the clerk informs the parties. Certain types of immigration appeals are routinely determined by the Court on submission of the briefs.

Each set of instructions explain the Court's practices regarding oral argument.

PROCEDURES FOLLOWING THE COURT'S DECISION

Within 14 days after the Court files the decision in a case, a party may file a petition asking that the panel of three judges rehear the case. A party also may file a petition for rehearing en banc which asks that all the active judges on the Court rehear the case.

Also, within 14 days after the Court files the decision in a case, the winning party may seek costs of bringing or defending the appeal against the losing party. If the United States is a party in the case, costs may be assessed only if authorized by law.

Within 90 after the Court files the judgment or denies a petition for rehearing, a party may file a petition for a writ of certiorari with the United States Supreme Court.

The Court's authority to handle a case, called jurisdiction, ends when the Court issues the mandate to the district court or agency. The mandate usually issues either 21 days after the decision is filed or 7 days after the petition for rehearing is denied.

Each of these procedures is explained in the instructions.