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## **INTRODUCTION**

These materials provide a basic overview of the structure and operation of the United States Court of Appeals for the Second Circuit.

They are current as of March 2007. Reprint and redistribution are authorized. Questions, comments and recommendations concerning these materials or other matters affecting Court operations are welcome and may be directed to the Clerk of Court at:

**United States Court of Appeals for the Second Circuit  
Daniel Patrick Moynihan United States Courthouse  
500 Pearl Street, Room 370 South  
New York, NY 10007  
212-857-8500**

## THE SECOND CIRCUIT COURT OF APPEALS

UNLESS OTHERWISE INDICATED, ALL CITATIONS IN BRACKETS [§ ] REFER TO SECTIONS OF THE UNITED STATES CODE, TITLE 28.

**General.** The official name of the Court is the United States Court of Appeals for the Second Circuit [§ 43; Local Rule 0.11].

The Second Judicial Circuit consists of all federal courts within the states of New York, Connecticut and Vermont [§ 41]. That includes the Court of Appeals for the Second Circuit (the Court) and the respective district and bankruptcy courts for the Southern, Northern, Eastern and Western Districts of New York, the District of Connecticut and the District of Vermont.

Practice and procedure before the Court is governed by: the United States Code, Title 28; the Federal Rules of Appellate Procedure (FRAP); Local Rules of Court [LR's; See, FRAP 47]; Internal Operating Procedures (IOP's); and other applicable Federal rules and laws.

The Court consists of judges [§ 43], chambers staff [§ 712], and the respective staffs of the Circuit Executive [§ 332], the Clerk of Court [§ 711], the Senior Staff Attorney [§ 715], and the Circuit Librarian [§ 713].

The Court is required by law to hold regular sessions in New York City, and currently sits at the Daniel Patrick P. Moynihan (“DPM”) United States Courthouse, in the 9<sup>th</sup> floor Ceremonial Courtroom. The Court, however, may sit in special session at any place within the circuit [§ 48; LR 0.13]. Hearings generally begin at 10:00 a.m. During those weeks when two separate three-judge panels sit, the “A” Panel begins at 10:00 a.m., and the “B” Panel begins at 2:00 p.m.

There is one term of Court each year which begins on the last Monday in August [LR 0.13]. The Court sits as a panel of three judges [§ 46] on most business days of the term, although there are periods during July, August and December when the Court does not schedule oral arguments. There are several weeks during the Court term when two three-judge panels hear oral argument.

**Jurisdiction.** The Court entertains appeals of final orders and judgments arising from the United States district courts within the circuit [§§ 1291, 1294]; appeals from the United States Tax Court [26 U.S.C. §7483; FRAP 13]; petitions for review and applications for enforcement of orders and rulings issued by the Immigration and Naturalization Service, the National Labor Relations Board and other federal agencies as provided by law [FRAP 15]; petitions and motions for extraordinary relief, including mandamus, prohibition and stay; [FRAP 21]; motions for permission to appeal interlocutory orders and judgments [FRAP 5]; motions for permission to file successive habeas corpus applications; and bankruptcy appeals from United States district courts within the circuit [§ § 1293, 1334], and direct bankruptcy appeals [§ 158(d)].

**Judges.** Judges of the Court include those in regular active service (called active judges) [§ 43], and those in senior status (called senior judges) [§ 371]. Active judges fill twelve of the thirteen appellate judgeships allotted to the Second Circuit by law and hold office during good behavior. Circuit judges are not permitted to practice law while in office, must be residents of the circuit when appointed and must remain so during active service [§§ 44, 374, 454].

Active judges who attain minimum age and service requirements may take senior status, thereby vacating their active judgeship but retaining full status and authority as federal appellate judges. They maintain chambers and staff and continue to perform judicial duties at a reduced level [§ 371]. Senior judges are vital to the work of the Court. Currently, there are ten judges in senior status.

Active and senior judges who meet age and service requirements may retire from federal judicial service. Retired judges perform no judicial duties and maintain no chambers or staff. A federal judge may not retire or take senior status before age 65 (except for disability), and may do so then only if the sum of age and years of active judicial service total 80 [§ 371].

For a complete list of all judges, in order of precedence and including commission dates, please click [here](#). This order of precedence is used whenever the circuit judges' names are listed on an opinion, summary order, motion endorsement, memorandum, or other document. Judges of other courts sitting by designation in this court are listed after circuit judges of this court. For three-judge panels, the active circuit judge with the highest precedence presides over the panel and is usually listed first (if a senior circuit judge is also a member of the panel, the senior judge will be listed first, provided his or her commission date is earlier).

**Chambers and Judicial Staff.** Judges in regular active service are authorized any combination of law clerks and legal secretaries totaling five, except the Chief Judge who is authorized six [§ 712]. The actual number of law clerks and legal secretaries (also known as Judicial Assistants) varies in each chambers, but the trend seems to favor four law clerks and legal secretary/judicial assistant.

Judges of this Court maintain New York City chambers at the Daniel P. Moynihan United States Courthouse at 500 Pearl Street. They also maintain chambers at or near their city of residence, if other than New York City.

**The Chief Judge.** The active judge senior in commission who is under age sixty-five, who has served as a circuit judge one year or more, who has not served previously as Chief Judge, and who accepts the position, succeeds to the office of Chief Judge. A Chief Judge may serve for seven years or until age seventy, whichever is sooner, after which the Chief Judge may return to active service, take senior status, or retire [§ 45].

The Honorable Dennis Jacobs is currently Chief Judge. He is the administrative head of the Circuit, takes precedence at all Court meetings, and presides at all en banc sessions of the Court (unless the Circuit Justice presides).

**The Circuit Justice.** One associate justice from the United States Supreme Court is appointed Circuit Justice for each circuit. The Circuit Justice may, but rarely does, sit as a judge of the Court [§ 42]. Justice Ruth Bader Ginsburg is the Circuit Justice for the Second Circuit.

**Court Administration.** The Court is administered through a Board of Judges and Court committees appointed by the Chief Judge. The Board of Judges consists of all active judges of the Court. The Chief Judge chairs all Board of Judges meetings and calls regular Court meetings to discuss court administration.

Three judges constitute a Court panel [§ 46; LR 0.14]. The Chief Judge prepares a list of panel assignments for the upcoming Court term. That list is confidential. The identity of panel members is not made public until noon on the Thursday of the week preceding the panel sitting.

Active and senior judges of the Court may serve on panels, as may Article III judges from other judicial circuits or districts within the circuit who are specially designated to sit for limited periods [§ § 291, 292].

Unless the Chief Judge declares a judicial emergency, at least two members of each panel must be from this Court [§ 46], and at least one must be in active service. The active judge of this Court who is senior in commission presides.

If the Chief Judge declares a judicial emergency [§ 46] – either generally or for a given case – panels may include only one member of this Court while the emergency condition exists.

Each panel decides appeals and substantive motions heard or submitted during its sitting week. In the event that one of the three panel members is incapacitated because of illness or some other reason, two judges constitute a quorum and may decide an appeal after argument or submission if they agree on the disposition. If they do not agree, the Clerk of Court will select a third panel member at random [§ 46; LR 0.14]. A judge who presided at the trial of a case on appeal to this Court may neither hear nor determine an appeal from the resulting order or judgment [§ 47]. Judges are required to disqualify themselves in any proceeding when impartiality might reasonably be questioned [§ 455].

A majority of active circuit judges may order (vote) that a case be heard or reheard by the court sitting en banc, but en banc proceedings are rare in the Second Circuit [§ 46]. An en banc panel consists of all active judges, although a senior judge who was a member of the panel issuing the decision under review, may also elect to sit on the en banc Court. No visiting judge may sit with the en banc panel.

## **OFFICE OF THE CIRCUIT EXECUTIVE**

**The Circuit Executive.** The Circuit Executive is appointed by the Second Circuit Judicial Council and exercises such powers as are delegated by the Chief Judge and the Circuit’s Judicial Council. The Circuit Executive also has oversight responsibility for the Office of Human Resources, the Office of Space and Facilities, Administrative Services and the Office of Automation and Technology. The Circuit Executive’s is responsible, circuit-wide, to arrange and attend meetings of the judges of the circuit and Judicial Council and serves as secretary at those meetings; prepares the annual report of the Court of Appeals and the Second Circuit; conduct studies relating to the administration of federal courts within the circuit; preparing prepares appropriate recommendations and reports to the Chief Judge, the Second Circuit Judicial Council and the Judicial Conference of the United States; collects statistical data; serves on merit selection panels appointed by the Chief Judge to recommend the appointment and re-appointment of Federal Public Defenders and Bankruptcy Judges; serves as the media relations liaison; oversees the consolidated budget for the offices of the Court of Appeals; acts as circuit liaison to the courts, agencies and organizations within the circuit; coordinates circuit-wide judicial conferences and administers any non-judicial

functions of the Court and Judicial Council as directed by those entities.

**The Deputy Circuit Executive for Budget and Administration.** The Deputy Circuit Executive administers the budget and other financial programs of the Court of Appeals. The Deputy Circuit Executive prepares and implements the Court's annual financial plan, oversees procurement, internal control and space and property management programs; and supervises those staff members. In the absence of the Circuit Executive, the Deputy serves as the Acting Circuit Executive.

**The Assistant Circuit Executive for Information Systems.** The Assistant Circuit Executive for Information Systems provides technical advice and guidance in all areas of automation, telecommunications, and technology affecting Court operations and circuit-wide networks. The Assistant Circuit Executive for Information Systems also supervises the staff in the Information Management Systems Office.

**The Assistant Circuit Executive for Space and Facilities.** The Assistant Circuit Executive for Space and Facilities provides architectural guidance and advice in all matters pertaining to space construction, renovation and alteration for the Court of Appeals and the courts throughout the Circuit.

**The Administrative Services Manager.** The Administrative Services Manager provides all administrative services, including procurement and mail delivery. The Administrative Services Manager supervises the procurement, telecommunication, mover/supply and mail room staffs.

## **OFFICE OF THE CLERK OF COURT**

**Location and Hours [Local Rule 0.16].** The Clerk's Office is located at the Daniel Patrick Moynihan United States Courthouse, 500 Pearl Street, New York City, and occupies offices on the 3<sup>rd</sup> and 5<sup>th</sup> floors.

Each docketing letter contains the name and telephone number of the Case Manager to whom a case is assigned. The Case Manager is the best source of information regarding the status of that case.

**Agency Team.** The Agency Case Management Team handles petitions for review and applications for enforcement of federal agency rulings and orders, bankruptcy appeals, petitions for mandamus or prohibition, appeals from the United States Tax Court, and counseled civil cases in which the United States is a party. The telephone number for the supervisor of the Agency Team is 212-857-8544.

**Calendar Team.** The Calendar Team schedules all appeals and substantive motions that are argued or submitted to panels of the Court. The calendaring process is explained in greater detail below. The telephone number of the supervisor of the Calendar Team is 212-857-8595.

**Civil Team.** The Civil Case Management Team manages counseled civil appeals in which



the United States is not a party. The telephone number of the supervisor for the Civil Team is 212-857-8576.

**Criminal Team.** The Criminal Case Management Team manages counseled criminal appeals (an appeal where all parties are represented by counsel is called a counseled appeal, as distinguished from an appeal in which at least one party is unrepresented by counsel, which is called a pro se appeal). The telephone number of the supervisor for the Criminal Team is 212-857-8515.

**Pro Se Team.** The Pro Se Case Management Team manages all cases in which at least one party is proceeding without attorney representation and (unless that party is an attorney) and the unrepresented party is not a prisoner. The telephone number for the Pro Se Team is 212-857-8550.

**Prisoner Team.** The Prisoner Case Management manages all state and federal prisoner habeas corpus appeals and prisoner civil rights appeals, whether counseled or pro se. The telephone number for the supervisor of the Prisoner Team is 212-857-85

**Administrative Division.** The Administrative Division is responsible for the distribution of the Court's opinions, Attorney Admission processing, Criminal Justice Act ("CJA") voucher processing, and financial services related to appropriated funds. Financial services include collections and deposits of funds into federal depositories, as well as daily and monthly reporting to the Administrative Office. The Administrative Division includes the Intake/Mail/Records Teams. The manager reports to the Clerk of Court. The telephone number for the Administrative Division is 212-857-8610.

**Intake.** Intake provides information and assistance to the public over the telephone and at the public counter. The Intake Team is the originating point of all incoming appeals and documents which come into the Court. The Intake team receives and reviews all notices of appeal, petitions for review or enforcement of federal agency rulings and orders, original proceedings, emergency motions, applications for stay, petitions and motions for permission to appeal under 28 U.S.C. § 1292(b), 28 U.S.C. § 158(d), and other motions or filings. Intake also performs initial research for related or prior cases, assigns docket numbers and distributes cases to the appropriate case management team or other unit within the Clerk's Office. The telephone number is 212-857-8500.

**Records/Mail.** Records/Mail maintain records on appeal, briefs, appendices, and the night depository box. It screens and directs all incoming mail, and performs certain financial functions in the Clerk's Office. It also archives and ships closed files and records to the Federal Records Center for permanent storage. The telephone number for Records/Mail is 212-857-8620.

## CASE MANAGEMENT

**Overview.** Please click [here](#) for a schematic of the appellate process for an appeal of a district court decision, from notice of appeal (NOA) to mandate.

**Docket Sheets.** The Intake Team in the Clerk’s Office initially receives all notices, pleadings or other papers commencing an action in the Court, assigns a docket number to each action and forwards the case to the appropriate case management team where it is assigned to a Case Manager.

Thereafter, the Case Manager assigned to the case prepares a computerized docket sheet (sample) on which every significant case event is recorded in chronological order, including: when letters ( sample) and scheduling orders (sample) are issued; when briefs, appendices and motions are filed; when appeals are scheduled for hearing; and when judgments, orders and mandates are entered. Each docketing letter contains the name and phone number of the Case Manager to whom a case is assigned. **The Case Manager is the best source of information regarding the status of that case.**

**Docket Information.** The Clerk’s Office maintains computerized docket sheets dating from July, 1989. These docket sheets may be accessed from the sources below. Most pre-1989 docket sheets are on microfiche and may be viewed without charge.

- Computer terminals located just outside Room 370 provide free viewing of all docket sheets by appellate case docket number or case name.
- **Public Access to Court Electronic Records** (“PACER”) is an electronic on-line service, provides access to all computerized docket sheets at a cost of \$.07 per page. Users must register with PACER at their website ([pacer.uscourts.gov](http://pacer.uscourts.gov)) or by dialing 1-800-676-6856. A link to PACER is also located on the Court's home page ([www.ca2.uscourts.gov](http://www.ca2.uscourts.gov)).

**Appellate Case Docket Numbers.** Starting January 5, 2004, docket numbers are assigned automatically and consecutively. The case type will be noted at the end of each docket number. The case types are: ag for Agency; bk for Bankruptcy; cv for Civil; cr for Criminal; pr for Prisoner; and op for Original Proceeding, which includes Writs of Mandamus and Successive Petitions. In addition, if an appellant is appearing pro se, the docket number will indicate "Pro Se" following the case type designation. Docket numbers will follow the pattern below:

YEAR OF NOTICE THE APPEAL WAS FILED – NUMBER – Case Type.

As an example, 06-0005-cv represents the fifth appeal opened in the year 2006. The “cv” designation means that the case is a civil case.

Prior to 2004, all cases were assigned a six-digit appellate case number unique to that case. The first two digits indicated the year in which the case was opened; the last four digits indicated the type case and the order in which cases of the same type were docketed. The general case-number scheme was as follows:

02-0001's	prisoner civil rights
02-1000's	criminal appeals

02-2000's	prisoner petitions (habeas)
02-3000's	original proceedings (mandamus/prohibition)
02-4000's	petitions to review or enforce agency orders and appeals from the Tax Court
02-5000's	bankruptcy appeals
02-6000's	civil appeals; United States is a party
02-7000's/9000's	civil appeals; United States is not a party
02-8000's	temporary docket numbers; attorney discipline matters; judicial misconduct complaints; 1292(b) petitions

Accordingly, case number 02-7112 identifies the 112<sup>th</sup> civil appeal involving only private parties filed in 2002.

**Briefs and Appendices.** Although FRAP 31(b) requires that parties file an original and twenty-five copies of all briefs, **Local Rule 31(b) has reduced that requirement to an original and nine copies** (and the scheduling order so advises).

A joint appendix is ordinarily required to be filed in every appeal. *See*, Local Rule 30(b). Pursuant to Local Rule 32(b), appendices must be sequentially numbered (A-1....) and must contain a detailed index referring to the sequential page numbers. Both sides of the page may contain printed matter, and the use of tabs and the Minuscript form of transcripts are permitted.

The Clerk's Office screens all briefs and appendices for compliance with FRAP 32, and will notify the parties of any defect which the parties are permitted to correct. If the defects are not corrected, the brief and appendix may be stricken. The most common defects are:

- Incorrect captions or covers
- Wrong cover page color
- Improper addendum contents
- Certificate of compliance omitted
- Certificate of service omitted

**Untimely submissions may result in the immediate dismissal of an appeal, without further notice.**

Caption errors may be avoided by carefully reviewing the caption contained in the docket sheet that accompanies the docketing letter and promptly advising the Case Manager of errors or inconsistencies.

Extensions of time to file the brief or appendix may be requested by motion with a supporting affidavit showing good cause. In all appeals, the Court will generally grant a party one 30-day extension of time to file a brief. Subsequent requests for additional time, any opposed motion, or any first request seeking an extension exceeding thirty days will be decided by a judge of the Court.

In civil cases, motions to extend the filing time must be filed at least two weeks before the original due date. In criminal cases, motions to extend the filing time must be filed at least seven days before the original due date. [See, LR Part B par. 9, LR Part C, par. 7.] **The Clerk's office will not grant an informal filing extension after a motion for that same relief has already been denied.**

**Proportional and Non-Proportional Fonts.** FRAP 32 allows either non-proportional fonts (*e.g.*, Courier) or proportional fonts to be used in briefs. Proportional fonts are those for which the horizontal space accorded each letter varies by letter, *i.e.*, the space is proportional to the letter's shape. By example, an "i" would occupy less horizontal space than an "m." Non-proportional fonts are those for which the horizontal space accorded each letter is the same. By example, an "i" would occupy the same horizontal space as an "m."

**The Addendum.** FRAP 28(f) permits an addendum to the brief that includes "statutes, rules, regulations, etc." that the Court needs to determine the issues. The rule permits only the materials described, *i.e.*, relevant legal authorities not otherwise available to the Court. No permission is required to submit an addendum containing such material. A party wishing to submit other types of material must obtain permission from the Court.

**Deferred Appendices.** FRAP 30(c) and Local Rule 30 permit a deferred appendix on stipulation of the parties or on motion. Most deferred appendices are by stipulation. Motions to defer in civil appeals are decided by Staff Counsel; those in criminal cases are decided by a Motion Attorney.

**Counsel are advised to first discuss with Staff Counsel or the Motion Attorneys whether an extension of filing time is the better alternative to a deferred appendix.** If a deferred appendix is submitted, an original and nine copies of page proof briefs must be filed with the Court and two copies must be served on counsel and unrepresented parties, just as with regular briefs. **Deferred appendices, which are costly to the parties, are discouraged.**

**Cross-Appeals.** FRAP 28(h) requires that an appellee combine the response to appellant's main brief and appellee's cross-appeal in one brief, limited to the type-volume allowed in FRAP 32(a)(7). Counsel who consider this an undue limitation in a given case may, by motion, request permission to file an oversized brief. **FRAP 28.1 was recently enacted and provides a comprehensive set of rules governing the briefing in cases involving cross-appeals.** The new provisions were patterned after the requirements imposed by FRAP 28, 31 and 32 in cases that do not involve cross-appeals.

**Oversized Briefs.** In civil and criminal cases, motions to file oversized briefs of 21,000 words or 1,950 lines of mono-spaced type (reply briefs of 10,500 words or 975 lines) or less are decided by an Administrative Attorney; those to file briefs in excess of that amount are decided by the applications judge. In civil cases, these motions must be filed at least two weeks before the due date; and in criminal cases, at least seven days before the due date.

Untimely motions to file oversized briefs must also include a request to file the motion out of time.

**Records.** Case documents—except briefs, appendices and records on appeal—are maintained in standard, legal-size manila folders commonly referred to as "ACCO." ACCO files (as well as briefs and appendices) are located in Room 370. ACCO files in closed cases are sent to the Federal Records Center (FRC) within one year after closing.

Counsel may review ACCO files in Room 370. ACCO files that have been archived at the FRC may be ordered from the Clerk's Office for a retrieval fee of \$45. Additionally, public copies of all briefs and appendices in open cases are available for review in Room 370.

Records on appeal (the district court's records) in counseled civil and criminal cases are held at the district court until and unless requested by a judge of this Court, whereupon they are transmitted to the Court by overnight delivery. Such records will not be transmitted on request of counsel but are available for review as provided by the district court where held. Records on appeal in pro se cases and prisoner cases are maintained in Room 370 and may be examined and copied under supervision of Clerk's Office staff.

Transmitted records on appeal are maintained in Room 370; counsel may review these records to assist in preparing briefs and appendices and are permitted to make copies under the supervision of Clerk's office staff. Original records of the district court may not be removed from Room 370 without an order of the Second Circuit.

An index to the record on appeal (index) in counseled civil and criminal cases is always prepared and transmitted to the Court, where it is placed in the ACCO file. The index usually consists of the district court docket sheet annotated with circles around each docket entry number corresponding to each document that is included in the record on appeal. The index is prepared by appellant's attorney in all counseled cases. The district court prepares the index in pro se cases.

**Defaults and Reinstatements.** Case Managers monitor all assigned cases to ensure filing deadlines are met. Appeals are routinely defaulted (dismissed) on appellant's failure to timely file briefs, appendices and Forms C, C-A or D. Accordingly, parties who may be unable to comply with deadlines should seek an extension of the original due dates.

In civil cases, motions to reinstate for failure to timely file briefs and appendices or to pay the

fee may be decided by Staff Counsel **if the motion is filed within 120 days of dismissal**. Those to reinstate for failure to timely file Forms C, C-A or D, may be decided by Staff Counsel **if the motion is filed within 30 days of dismissal**. Motions filed after these periods are decided by the applications judge.

## **THE CALENDARING PROCESS FOR THE REGULAR ARGUMENT CALENDAR<sup>1</sup>**

**General.** The calendaring process seeks to distribute appeals in equal number, case type and difficulty among the respective hearing panels and to dispose of sufficient cases during the Court term so that total filings are adequately managed and individual cases are expeditiously processed and decided.

**A typical appeal will be set for hearing within eight to twelve weeks from the date the appellee's brief is filed.**

**The Process and Players.** Those involved in the calendaring process include:

**The Presider.** A weekly calendar of cases for argument or submission on briefs is prepared by the Calendar Team and proposed to the judge presiding on the panel. (Calendars are proposed eight weeks in advance of the hearing date.) This is known as a proposed calendar, for which a public docket event is entered. Because the case is merely proposed at this point, parties are not notified, but anyone tracking the case on PACER may check the docket sheet.

The presider determines argument times, modifies the calendar as desired, and returns the approved or "set" calendar to the Calendar Team, and a docket entry is made indicating that the case has been set for hearing. The Team then distributes two copies of the briefs and appendix to the panel members with the approved calendar which is then made available to the public on the Court's website. Parties to the appeal are then sent a notice of the date set for argument.

Once a case is on the set calendar, all motions and applications in that case are referred to the presiding judge, who may act on the matter or refer it to the full panel, depending on the nature of the relief sought.

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<sup>1</sup>The calendaring process which is described above applies to all appeals except those appeals or petitions for review in which a party seeks review of the denial of a claim for asylum. Those cases will be placed, at least initially, on the Court's Non-Argument Calendar (NAC), where the case will be decided, without oral argument, by a three-judge panel. That panel, if it thinks oral argument is warranted, may transfer the case to the Regular Argument Calendar (RAC) for decision, and the case will be governed by the calendaring process described above. See Local Rule 0.29 which describes the Non-Argument Calendar in greater detail.

**The Panel.** Each panel consists of three judges. As previously noted, the panel will include at least one active judge of this Court, plus at least one additional judge of this Court, either active or senior, and a third judge who may be active, senior, or a visiting judge. Should the Court declare a judicial emergency due to the shortage of active judges of the Court, two visiting judges may sit on the panel. The identity of panel members is not made public until noon on the Thursday preceding the sitting week. It is then posted in Room 370 and on the Court's website and is also published in the New York Law Journal.

**The Calendar Team.** The Calendar Team prepares weekly calendars which conforms to the mix of criminal, civil and pro se cases which the Chief Judge sets. Within the formula mix, every effort is made to include the oldest pending cases first, after excluding those on which a member of the panel is disqualified, or for which an attorney or pro se litigant on the case has communicated in writing that he or she is unavailable to appear for oral argument for that date. The Calendar Team then circulates to the judges on the panel for that week the names of parties, affiliated parties and counsel in those cases proposed for argument. A judge will notify the Calendar Team of any case in which he/she is disqualified.

**Counsel.** Counsel in all cases on set calendars will receive written notice of the day and allotted time for oral argument approximately four weeks in advance of the argument. It is imperative that counsel return the acknowledgment receipt and appear for hearing. Failure to do so may result in forfeiture of oral argument.

Once the calendar is set, only the presiding judge may grant a party's request to waive oral argument. Waivers may be requested by letter addressed to the Calendar Team. Timely requests are usually granted unless the panel concludes that oral argument is required in a particular case.

**Once the case is set, a request to adjourn oral argument is rarely granted.** This is because counsel have been afforded ample opportunity to notify the court in advance of unavailability, and the panel has already begun reviewing the case.

**Counsel are reminded to report all settlements in writing to the Calendar Deputy (212-857-8595) as soon as effected. If an appeal is withdrawn without prejudice within two business days of scheduled oral argument, counsel MUST nonetheless appear as scheduled (unless adjournment is earlier sought from and granted by the panel); appearance is not required if the appeal is withdrawn with prejudice.**

The order in which cases are heard on a given day is set by the presider and is posted under Day Calendar, under Clerk's Office, on the Court's website at noon on the day preceding the argument.

## MOTIONS

**General.** FRAP 27 states that no notice of motion is required. Local Rule 27, however, requires that motions be made on a T-1080 Motion Information Statement (commonly referred to as a T-1080). This Court requests that attorneys continue to use the form, which is available on the Court's website (click "Clerk's Office," and then click "Forms") and to complete all answers to the questions on the form. **An original and four copies of all motion papers must be filed,** accompanied by proof of service.

**Remember to sign the motion and to provide proof of service, counsel's telephone number, and the correct number of copies.**

Under FRAP 27 and Local Rule 27, all legal argument must be contained in the body of the motion, not to exceed 20 pages. This page limit does not include an accompanying factual affidavit. Motions for a stay of the lower court's order or judgment must be accompanied by a copy of that order or judgment.

When a motion is filed in this Court simultaneous with the filing of a notice of appeal (NOA) in the district court, the motion must be accompanied by a copy of the NOA, along with the district court receipt or file stamp thereon (this establishes appellate jurisdiction).

The *requested return date* provided on the T-1080 is the date on which the movant suggests calendaring the motion for oral argument or submission. No return date is needed for procedural motions which are decided without hearing.

Counsel who request oral argument on the T-1080 (substantive motions only) must appear for argument (the Clerk's Office will contact the parties to confirm the date of argument) or withdraw the request by letter to the Calendar Team in advance of the hearing date.

**Substantive Motions.** Substantive motions include motions seeking bail pending appeal, dismissal or summary affirmance (including summary enforcement of an agency order), permission to appeal an interlocutory order pursuant to FRAP 5, a stay or injunction pending appeal or review, a certificate of appealability (COA), leave to proceed in forma pauperis, remand, summary entry of judgment in NLRB cases, transfer (without consent), to modify a mandate, to claim or object to costs, to claim attorney's fees, and to impose sanctions.

Substantive motions are submitted to a three-judge panel for decision. When the Court sits in regular session, they are placed on the motions calendar for argument or submission each Tuesday. Substantive motions are also occasionally scheduled on Friday.



**Motions Scheduled By Motion Attorneys.** Non-emergency substantive motions are always calendared for hearing or submission on a Tuesday (or sometimes a Friday), at least 20 days from the date of filing. Written notice is sent to respondent no later than the first Wednesday after filing. Respondent is informed when a response is due. Respondent will be given at least seven days to respond. The Court's Staff Attorneys will then prepare a bench memo for the panel in advance of the argument date.

In summary, Case Managers docket these motions and send them to Motion Attorneys who screen them, determine whether the motions are complete and in proper form, and send them to the Calendar Team with scheduling instructions. The Calendar Team gives notice to respondent and calendars the motion as instructed. It also sends a copy to the panel and to the staff attorneys who prepare a bench memo for the panel.

**Motions Scheduled by the Staff Attorneys.** The Staff Attorneys schedule petitions for permission to file under FRAP 5, for in forma pauperis status, for appointment of counsel, for certificates of appealability, and for permission to file successive habeas petitions.

These motions are docketed by the Case Manager and sent to the Staff Attorneys. If the motion relates to a counseled appeal, the Staff Attorneys prepares a bench memorandum and notifies the Calendar Team when it is completed. If notified Monday through Wednesday, the Calendar Team sets the motion for hearing or submission the upcoming Tuesday; if notified Thursday or Friday, the Calendar Team sets the motion for the second Tuesday after notification.

If the motion relates to a pro se appeal, the Staff Attorneys will prepares a bench memorandum that not only addresses the motion, but also the merits of the appeal. Staff attorneys prepare a calendar of such cases each Wednesday. This Pro Se Calendar is separate from the regular calendar of appeals.

**Emergency Motions Scheduled by the Presiding Judge.** The presiding judge of the panel then sitting schedules emergency motions seeking a stay, injunctive relief, bail, mandamus and other motions presenting emergency circumstances.

The motion is initially received and docketed by the Case Manager, who sends it to the Motion Attorneys. The Motion Attorneys contact counsel to determine whether the parties will maintain status quo until the motion may be calendared by non-emergency procedures; if not, the motion is sent immediately to the presiding judge.

The judge may set the motion for hearing by (a) that week's panel, (b) the following week's panel, (c) a subsequent panel, or (d) the first panel sitting after a bench memo is prepared. If immediate action is required, the judge may act as an emergency applications judge and provide an interim ruling (e.g., a temporary stay) pending full panel consideration.

The judge may also determine that a bench memo is needed. If so, the motion and hearing date are promptly transmitted to the staff attorneys. If immediate consideration is required, the judge will normally set a hearing date that allows two days to prepare the bench memo; if not, (e.g., when a temporary stay was entered), the hearing date is set to allow at least one week for preparing the bench memo.

**Calendared Cases.** Substantive and procedural motions on a set case are forwarded directly to the panel. They do not appear on a motions calendar and are usually not reviewed by a Motion Attorney or a staff attorney .

**Procedural Motions.** Procedural motions include those for permission to file records, briefs, appendices or other papers out of time; to file oversized briefs or to dispense with an appendix; for assignment of counsel or transcription of the record at government expense (18 U.S.C. § 3006A); for allowance of compensation and expenses under 18 U.S.C. § 3006A; for leave to file an amicus brief; for substitution; for consolidation; to intervene; to change a caption; and for postponement of argument.

Certain **unopposed** procedural motions, stipulations and applications may be acted on either by the Clerk directly or a staff attorney acting for the Clerk. Authority to so act is delegated by the *Standing Directions to the Clerk*, the *Civil Appeals Management Plan* and the *Plan to Expedite Criminal Appeals*. Each disposition is subject to review by a judge on motion. All opposed procedural motions are decided by a judge.

**Counseled Civil Appeals.** Unopposed procedural motions in counseled civil cases -- including counseled state habeas and federal 2255 cases (28 U.S.C. § 2255) -- are decided by Staff Counsel if filed before the case is calendared for hearing. They are decided by an applications judge if opposed, and by the presiding judge of the panel if filed after the case is calendared.

**Counseled Criminal Appeals.** Unopposed procedural motions in criminal cases are decided by a Motion Attorney if filed before the case is calendared. These motions are decided by the applications judge if opposed and by the presiding judge of the panel if filed after the case is calendared.

**Pro se Appeals.** Unopposed procedural motions in pro se cases are decided by the Staff Attorneys. These motions are decided by the applications judge if opposed, and by the pro se presiding judge of the panel if filed after the case is calendared.

**Post-Argument Motions.** Substantive and procedural motions filed after argument or submission are referred to the panel that heard the appeal.

**Oral Argument.** Local Rule 27(b) allows oral argument for certain substantive motions, including those seeking bail, stay or injunction pending appeal and those seeking summary affirmance or dismissal of an appeal. Motions for leave to appeal interlocutory rulings [FRAP 5] and for certificates of appealability are also placed on the Tuesday motions calendar, but argument is not permitted. Procedural motions are not placed on the Tuesday motions calendar and are not argued.

**Bench Memoranda.** For all substantive motions, a staff attorney prepares a bench memorandum analyzing the legal issues presented and recommending disposition.

## **CRIMINAL JUSTICE ACT VOUCHERS**

**General.** The Administrative Manager and his staff receive and process all CJA vouchers. Counsel are encouraged to contact the Administrative Manager at 212-857-8610 if difficulties or questions arise.

All vouchers are initially screened for completeness and counsel are notified of any deficiencies. Once the voucher is complete, it is evaluated according to one of two procedures, depending on whether the claim exceeds or is below the statutory maximum.

Effective May 1, 2002, the hourly rate fee paid to attorneys for CJA appellate legal services is \$90 per in-court and out-of-court hour. The Second Circuit requires completion of its "Attorney Statement in Support of Compensation Exceeding the Statutory Maximum" on all appeals where the compensation claim exceeds \$3700, except that lawyers performing work in the Eastern and Southern Districts of New York need not complete the form unless the compensation claim exceeds \$4,625. The attorney compensation claim is exclusive of expenses.

**Vouchers Not Exceeding The Statutory Maximum.** Vouchers not exceeding the statutory maximum are reviewed and adjusted when appropriate. The voucher and supporting documents, including counsel's response to any proposed adjustments, are then forwarded for approval to the presiding judge of the panel that heard the appeal. Once approved, they are submitted for payment.

**Vouchers Exceeding The Statutory Maximum.** Vouchers exceeding the statutory maximum are also reviewed and adjusted when appropriate. Claimed hours and expenses are analyzed in light of the information provided by the *Attorney Statement* (included in the packet of CJA materials counsel receive on appointment). Based on that analysis, the Administrative Manager recommends to the reviewing judge that hours and expenses be approved as claimed or as adjusted.

The voucher and all accompanying forms and worksheets, including counsel's response to any proposed adjustments, are then forwarded to a circuit judge for disposition. Once approved, they are submitted for payment.

## **PUBLISHED OPINIONS AND SUMMARY ORDERS**

**General.** The Clerk's Office normally receives published opinions from the writing judge's chambers in manuscript form (sample) together with a computer disk of the opinion. Summary orders (sample) are received in final form.

Approximately 75% of all cases are decided by summary order. Pursuant to Interim Local Rule , summary orders may be cited, but have no precedential authority.

**Writing Judge.** The identity of the writing judge in a signed opinion is disclosed when the manuscript opinion is docketed.

**Judgments.** A manuscript opinion does not contain judgment language ("It is hereby Ordered, Adjudged and Decreed . . ."). Accordingly, a judgment is prepared and signed in every case decided by published opinion. Summary Orders do contain judgment language.

**Distribution.** Case Managers docket summary orders and manuscript opinions on receipt, and by telephone inform the lower court or agency, counsel, and unrepresented parties of the decision. Parties may elect to receive a copy of the opinion or summary order by email.

Signed and per curiam opinions and summary orders will generally be posted on the Court's website on the day the decision is filed.

## **OFFICE OF LEGAL AFFAIRS**

**General.** The Office of Legal Affairs is located in the Woolworth Building at 233 Broadway, New York, New York.

**Director of the Office of Legal Affairs.** The Director of the Office of Legal Affairs provides legal guidance and advice to the Court and supervises the Staff Attorneys' and Staff Counsel's Office.

**Staff Attorneys' Office.** The Staff Attorneys' Office is headed by the Director of Legal Affairs. The Director is assisted currently by four Supervisory Staff Attorneys who directly supervise the Staff Attorneys. Questions concerning any aspect of the Staff Attorneys' Office's operations should be directed to (212) 857-8800.

**Staff Attorneys.** Staff Attorneys prepare bench memoranda on all scheduled appeals where at least one of the parties is appearing *pro se* and is not an attorney. The Staff Attorneys also prepare bench memoranda on all substantive motions filed by *pro se* litigants, including motions for leave to

proceed *in forma pauperis*, for assignment of counsel and for a certificate of appealability when state or federal prisoners seek to appeal the denial of a petition filed under 28 U.S.C. § 2254 or § 2255. Generally, these motions are neither scheduled for argument nor listed on the substantive motions calendar; they are submitted to panels once bench memoranda have been prepared.

The Staff Attorneys develop substantial expertise in the areas of habeas corpus, prisoners' rights, constitutional law, civil rights and employment discrimination. They maintain an extensive library of legal memoranda and are a source of advice in these areas for chambers. They assist the calendaring process by ranking and classifying all appeals as to subject matter and degree of difficulty.

Staff Attorneys also prepare bench memoranda on counseled substantive motions requiring panel decision—such as motions for stays and summary affirmance or dismissal—which are often argued during the Tuesday motions calendar. They prepare memoranda on petitions for extraordinary relief and on applications for leave to appeal interlocutory orders or denials of habeas relief, which are most often submitted without argument on the Tuesday motions calendar. Bench memoranda are not prepared on counseled motions seeking bail or summary affirmance by the NLRB; neither are they prepared on counseled motions to stay or recall the mandate or on motions in appeals under consideration by a panel, both of which are forwarded directly to the panel.

**Immigration Unit.** The Immigration Unit of the Staff Attorneys' Office currently has two Supervising Staff Attorneys that report directly to the Senior Staff Attorney. Staff Attorneys in the Immigration Unit prepare bench memoranda on all fully briefed petitions for review from decisions of the Board of Immigration Appeals on asylum, withholding of removal and Convention Against Torture claims. The bench memoranda are then sent to calendar to be placed on the Court's non-argument calendar.

Staff Attorneys do not provide advice to the public.

**Confidentiality.** All memoranda prepared by Staff Attorneys are confidential and are not included in the case file maintained by the Clerk's office.

**Staff Counsel & CAMP.** The Office of Staff Counsel currently has three Staff Counsel and one Associate Staff Counsel who, along with their support staff, manage the Second Circuit Civil Appeals Management Plan (C.A.M.P.) Their offices are located on the 6th floor of the Woolworth Building, 233 Broadway, NYC. They report directly to the Director of the Office of Legal Affairs.

CAMP promotes speedy and deliberate justice in civil appeals by effecting tight scheduling controls and providing a forum that fosters settlement and consensual resolution of procedural disputes. It allows parties to arrange creative and flexible solutions in an informal and private setting.

**Authority.** The authority for administering CAMP includes FRAP 33, the Civil Appeals Management Plan and the Guidelines For Conduct Of Pre-Argument Conference Under The Civil Appeals Management Plan.

**CAMP Eligible Cases.** Every civil appeal where all parties are represented by counsel or a *pro se* who is an attorney is referred by the Case Manager to Staff Counsel. These include appeals from final judgments and orders of the district courts and the U.S. Tax Court, bankruptcy appeals, petitions for review of federal administrative orders (e.g., NLRB cases and BIA cases where there is no asylum claim), and certain appeals of interlocutory decisions [28 U.S.C. §1292(b)]. Petitions for mandamus, prohibition or habeas corpus and cases brought pursuant to 28 U.S.C. §2255 are not referred to CAMP.

Referral of civil appeals to a Staff Counsel is usually by random assignment, but companion and consolidated cases are assigned to the same Staff Counsel, and new cases involving cases previously addressed by CAMP are assigned to the Staff Counsel most familiar with them.

**Conference-Eligible Cases.** Any cases referred to CAMP may be scheduled for a pre-argument conference. Neither counsel nor parties may opt-out from the CAMP program.

Staff Counsel issue a notice/order of pre-argument conference to all counsel within a few days of receiving the case. It provides the conference time and place and the requirements for attorney attendance, preparation and settlement authority.

**Form C and Form C-A.** The Civil Appeal Pre-Argument Statement (Form C) and the Agency Appeal Pre-Argument Statement (Form C-A) are provided to counsel by the district court clerk at the time notice of appeal is filed. When completed, they state the basis of jurisdiction, the nature of the action, the result below, the issues on appeal, and other information relevant to the pre-argument conference.

The applicable form must be completed and filed with the Court by appellant within ten days after filing the notice of appeal, accompanied by a copy of the judgment or order below and all judicial opinions in the case relevant to the issues on appeal. Failure to timely file Form C or C-A may result in dismissal.

Forms C and C-A are critical to the CAMP process, but they are neither jurisdictional nor binding on either counsel; disputes as to the matters contained therein may be raised at the pre-argument conference.

**Form D.** The Civil Appeal Transcript Information form (Form D) is also provided to counsel by the district court clerk at the time notice of appeal is filed. When completed, it informs the Court whether a transcript has been ordered. Form D must be completed and filed at the same time as Form C or the case may be dismissed. **Form D must be filed even if a transcript is not ordered.**

Appeals dismissed for failure to timely file Forms C, C-A or D may be reinstated on motion to reinstate, which must also include a motion to file the appropriate forms out of time and be accompanied by the completed forms.

Motions to reinstate that are filed 30 days or less from the date of dismissal are decided by Staff Counsel; those filed after that date are decided by a judge.

**Counsel Preparation.** Lead counsel for each party is expected to attend the conference and to participate in good faith. Counsel should be prepared to negotiate seriously; to exercise the greatest and most flexible settlement authority feasible under the circumstances of the case; to fully discuss and evaluate the legal merits of each issue, in depth; to narrow, eliminate, or clarify issues, as appropriate; and to cite legal authority in support of their positions.

**Parties.** Parties normally do not accompany counsel at the initial conference, but their attendance may be permitted or required by Staff Counsel in a given case. Staff Counsel do not converse with parties outside the presence of their counsel.

**Jurisdiction; Standard of Review.** Counsel should be prepared to establish both appellate jurisdiction and the appropriate standard of review.

**Staff Counsel's Function.** Staff Counsel are impartial mediators who promote agreements acceptable to all parties; who educate parties on law and practice in the Second Circuit; who encourage each side to hear and understand the arguments, needs and concerns of the other; who meet privately with counsel when necessary and appropriate to get beyond postured positions; who resolve procedural problems informally; and who issue scheduling orders to promote expeditious case disposition.

Staff Counsel have the authority to decide a wide variety of procedural motions including, but not limited to (1) consolidating briefing for related cases and/or the filing supplemental appendices; (2) extending the time for filing briefs (up to 30 days from the current deadline); (3) recommending consensual stays of judgments and orders pending settlement discussions; (4) arranging stipulations of expedited hearing; and, (5) encouraging agreement on the contents of joint appendices.

**The Conference.** Conferences are usually scheduled 30-45 days after the case is first docketed, well in advance of the date appellant's brief is due and often before the record on appeal is due. This avoids substantial investment in the appeal that could hinder or preclude a willingness to settle.

About one-third of all CAMP conferences are held in-person at their 233 Broadway location. Occasionally, conferences are held at other locations within the circuit. The remainder are conducted by teleconference.

Initial conferences are generally scheduled for 1 - 1 ½ hours duration, but they occasionally last several hours. Approximately 20% require additional conferences, and most require additional telephone conversations. Staff Counsel generally begin each conference by explaining applicable procedures and establishing that the Court has jurisdiction. They then facilitate a discussion of the issues and offer substantive comment where appropriate.

At the conference, Staff Counsel may offer a non-binding advisory opinion on the merits and other aspects of the case, including a recommendation for settlement or withdrawal.

The views, opinions and recommendations expressed by Staff Counsel are their own and do not necessarily reflect those of the Court. Parties and counsel are under no compulsion to accept any opinion or recommendation or to reach any agreement or settlement.

**Confidentiality.** All matters discussed at a conference, including the views of Staff Counsel as to the merits of an appeal, are confidential. They are not reported or otherwise communicated by Staff Counsel to the Court or to unauthorized third parties, and all other participants are similarly enjoined.

**Sanctions.** If appellant fails to timely pay the filing fee or file the required documents (Forms C, C-A or D; the brief or joint appendix), or otherwise fails to comply with the scheduling order, the appeal may be promptly dismissed without further notice. Within the Clerk's office, this is known as "defaulting" the case. **Once an appeal is defaulted, it may only be reinstated on motion for good cause shown.**

Similarly, appeals will be dismissed if appellant fails to timely act as required by conference order **other than** a scheduling order, unless, after written notice, an affidavit is filed within ten days showing good cause for the default and indicating when the required action will be taken.

Appellees who fail to timely comply with scheduling or other conference orders are subject to appropriate Court sanction. See, FRAP 31(c), 39(a) and Local Rule 38.

**Post-Conference.** If settlement or withdrawal has been achieved, the parties usually close the case by stipulating to dismiss with prejudice, pursuant to FRAP 42(b).

If the parties are awaiting a Supreme Court decision in a controlling case, or the decision of a court or administrative agency on a dispositive issue, or action on a motion below to amend the judgment, Staff Counsel may recommend a stipulation to withdraw without prejudice, subject to reinstatement after the awaited action has occurred.

If ongoing settlement negotiations are promising, Staff Counsel may recommend a stipulation to withdraw without prejudice, subject to reinstatement on a fixed date.

As appropriate, Staff Counsel may also issue revised scheduling orders, ask for follow-up discussions among counsel, instruct counsel to consult with clients and report the results, or return the case to the Clerk's office for processing.

**Grievances.** Any grievance related to the CAMP program should be addressed to the Director of the Office of Legal Affairs. All such grievances are confidential to the Court unless release is authorized by the complainant.



**Recusal.** Staff Counsel recuse themselves from any case that presents a potential conflict of interest or when participation seems otherwise inappropriate.

**Fees.** The Court funds CAMP. Long distance telephone conferences, however, are usually arranged by the appellant who then bears the cost of phone charges.

## **CIRCUIT LIBRARIES**

**General.** The Circuit's main Library is located for a temporary period in the Daniel Patrick Moynihan U S Courthouse in Pearl Street, NYC. The library is intended for the primary use of circuit, district, bankruptcy, magistrate judges and court personnel. While housed in temporary quarters, the Library is closed to the public.

**The Circuit Librarian.** The Circuit Librarian has primary responsibility for research and library services Circuit-wide. She oversees the operation of the Circuit Library in New York City and six branch libraries located Brooklyn, Buffalo, Central Islip, Hartford, New Haven and New York. The libraries in Brooklyn, Buffalo and Central Islip are open to the public and the Bar. In addition to overseeing the Circuit's research program, the Circuit Librarian administers law book procurement for chambers, court staff and libraries; coordinates the Computer Assisted Legal Research (CALR) program and training; maintains the Library's internal web site and virtual library; serves as liaison to the Judicial Council Library Committee and supervises the staff in all seven libraries; and reports to the Chief Judge. During the renovations at the Thurgood Marshall Courthouse in Foley Square, the US Government Documents collection intended for the library in Manhattan has been relocated to the Central Islip Branch which is open to the public.

## **MISCELLANEOUS**

**Rules.** The and Local Rules of this Court are available at the ules page of the Court's website.

Local Rules supplementing FRAP are adopted by the Court after review and recommendation by the Court Rules Committee and following publication for review and comment. Changes to Local Rules, or the manner in which they are applied, may be suggested in writing to the Clerk of Court.

**Audio Tapes.** Audio tapes of oral argument may be purchased by written request to the Clerk of Court, specifying the case name, appellate docket number, and the date of oral argument. An argument tape may not be immediately available for copying if it is in use by the Court. If it is to be sent by FedEx, include the FedEx account number and envelope. **A check payable to the Clerk of Court, Second Circuit, for the \$26 copying fee must be enclosed.**

**Court Reporters.** Attorneys and pro se parties who require a transcript of oral argument may employ an official court reporter to transcribe argument from a copy of the tape after hearing, or arrange in advance of argument for a reporter to attend and transcribe the hearing. In either case, the

hiring attorney or party is responsible for all transcription fees. Requirements for a court reporter to attend the hearing include:

Consent from opposing counsel in writing; OR

A timely motion; AND

Written notice to the calendar clerk at least one week prior to the hearing date, with the name, address and telephone number of the reporting company, as well as the name of the individual reporter, if known.

The original transcript and three copies must be submitted to the Clerk's Office for panel review and approval before filing. The reporting company will be notified of the filing date once the transcript is approved.

**Petitions for Mandamus.** In petitions for mandamus, counsel should not name as a party the judge who is the subject of the petition [See, LR 21(a)]. Responses to the petition are accepted only if requested by the Court.

**Agency Appeals.** Petitions for review and applications for enforcement of agency orders are filed in the customary manner prescribed in FRAP 15. Some problem areas include: failure to accurately identify agency heads or to provide their complete addresses; failure to timely submit form C-A; and failure of agency attorneys to obtain current addresses for respondent business entities and their counsel (results in lack of proper service).

**Attorney Admissions.** Counsel are encouraged to apply for general admission to the Court of Appeals before appearing at oral argument, and may obtain an application for admission from the Court's website or by calling 212-857-8603. The one-time admission fee is \$190. Counsel who have not yet met the admission requirements may move to appear pro hac vice in an individual appeal, using form T-1080, the Motion Information Statement. Counsel are encouraged to make such a motion at least three weeks in advance of the scheduled argument.

**Docket Sheets.** Docket sheets are available via the PACER Service Center, the Federal Judiciary's centralized registration, billing, and technical support center for electronic access to U.S. District, Bankruptcy, and Appellate court records. A login and password, issued by the PACER Service Center, is required for access to PACER either through the dial-up service or the Internet service. To register, log on to the PACER Service Center website at <http://pacer.psc.uscourts.gov> or dial (800) 676-6856. An access fee of \$.07 per page is charged for this service.

**Night Deposit Box.** The Night Deposit Box is located just inside the Worth Street entrance to the Daniel Moynihan Courthouse. Briefs, appendices, motions, and other filings may be time stamped and deposited there from 4:30 p.m. until 8:30 a.m. each business day and 24 hours on Saturday, Sunday and legal federal holidays. Deposited materials will be deemed filed on the business day they are time stamped, or the next business day if time stamped on Saturday, Sunday, or a federal holiday.

**Appeal Bonds.** Appeal bonds are filed with the district court clerk in accordance with that court's procedures. When the Court of Appeals imposes an appeal bond, the affected party is directed to file the bond with the District Court.

**Video Argument.** The Court of Appeals will no longer grant requests to present oral argument via video conferencing. Litigants desiring to present oral argument to the Court must now appear in person at the Daniel Patrick Moynihan Courthouse, 500 Pearl Street, New York, New York.

**Oral Argument (FRAP 34; Local Rule 34).** The judge scheduled to preside sets the time for argument. Normally, ten or fifteen minutes are allotted to each side if represented by counsel; pro se arguments are usually limited to five minutes per side. Except in case of true emergency, argument once scheduled will usually not be postponed.

**Cameras in the Courtroom.** Pursuant to a resolution of the Judicial Conference of the United States adopted on March 12, 1996, authorizing each court of appeals to "decide for itself whether to permit the taking of photographs and radio and television coverage of appellate arguments...", the Second Circuit adopted Guidelines in regards to cameras in the courtroom. Please click [here](#) for additional information.

## **NONJUDICIAL STRUCTURE OF THE FEDERAL JUDICIARY**

**General.** Overall policy and procedures governing nonjudicial matters in the federal judiciary are effected by a number of administrative organizations, positions and entities that are not usually well known to the public and Bar. Accordingly, they are briefly discussed below.

**The Judicial Conference of the United States (28 U.S.C. § 331).** The Judicial Conference of the United States is the policy-making body of the federal judiciary. It meets twice a year and consists of the Chief Justice of the United States Supreme Court (who presides), the Chief Judge of each numbered federal circuit court of appeals, the Chief Judge of the Court of Appeals for the District of Columbia Circuit, the Chief Judge of the Court of Appeals for the Federal Circuit, the Chief Judge of the Court of International Trade and one district judge elected by his/her peers from each numbered federal judicial circuit and the District of Columbia Circuit.

**The Judicial Council (28 U.S.C. § 332).** The Judicial Council of the Second Circuit meets twice a year and consists of the Chief Judge of the Court of Appeals (who presides), the six most senior active judges of the Court of Appeals, and the Chief Judge of each United States district court within the circuit. It is the policy making body for the Second Circuit and is authorized to make all necessary and appropriate orders for the effective and expeditious administration of justice within its circuit.

**The Circuit Judicial Conference (28 U.S.C. § 333).** A Judicial Conference of the Second Circuit is generally held every year to consider the business of the circuit and to discuss means for its improvement. These conferences may be attended by federal judges within the circuit, members of

the bar, certain nonjudicial officers and staff, and special guests, including the circuit representative from the Supreme Court, the Honorable Ruth Bader Ginsburg.

**The Administrative Office of United States Courts (28 U.S.C. §§ 601-612).** The Administrative Office of United States Courts (the AO) is located in Washington, D.C. It generally administers the federal judiciary and implements the policies and procedures of the Judicial Conference, many of which are published in a ten volume compilation entitled Guide to Judiciary Policies and Procedures (the Guide). The AO also collects and publishes statistical data regarding the work of the courts and represents the federal judiciary before Congress.

**The Federal Judicial Center (28 U.S.C. §§ 620-629).** The Federal Judicial Center (the FJC) is also located in Washington, D.C. It is an independent agency authorized by Congress to promote research and study of the federal judiciary through training and education programs, thereby furthering the development and adoption of improved methods for administering the federal courts.