

# THE LIFECYCLE OF AN APPEAL – NINTH CIRCUIT COURT OF APPEALS

## FILING APPEAL & DESIGNATING RECORD

- 1) **NOTICE OF APPEAL** – filed with district court clerk; jurisdictional deadline, due within 30 days after entry of judgment or order
- 2) **REPRESENTATION STATEMENT (Form 6)** – filed in district court concurrently with, and attached to, notice of appeal
- 3) **CIVIL CASE MEDIATION QUESTIONNAIRE (Form 7)** – filed in 9th Cir; due within 7 days after a civil appeal is docketed
- 4) **TRANSCRIPT DESIGNATION FORM** – filed in district court; due within 30 days of the filing of the notice of appeal

## BRIEFS & MOTIONS

- 5) **APPELLANT'S OPENING BRIEF** – due within 40 days after record files
  - **EXCERPTS OF RECORD** – filed concurrently with opening brief
- 6) **APPELLEE'S BRIEF** – due within 30 days after opening brief is filed
  - **SUPPLEMENTAL EXCERPTS OF RECORD** (if necessary) – filed concurrently with respondent's brief
- 7) **REPLY BRIEF** – due within 21 days after appellee's brief is filed
  - **FURTHER EXCERPTS OF RECORD** (if necessary) – filed concurrently with reply brief
  - **EXTENSION REQUESTS** – for each brief, streamlined extension available up to 30-days; further requests via motion due at least 7 days before expiration of the time prescribed for filing the brief
  - **MOTION TO DISMISS** – can be filed before or after the record has been docketed in 9th Cir.

## ORAL ARGUMENT

- 8) **ORAL ARGUMENT** – argument cases are assigned to their respective panels about 12 weeks before oral argument
  - **TIME/PLACE** – about 10 weeks before oral argument, the parties are notified of the time and place of the hearing

## DECISION, PUBLICATION REVIEW & REMITTITUR

- 9) **WRITTEN OPINION, MEMORANDUM OR ORDER** – no time limit, but most cases are decided within 3 months to a year
  - **REQUEST FOR PUBLICATION** – must be received within 60 days of the issuance of the court's disposition; parties have 14 days from the date of service to notify the Court of any objections they may have to the publication of the disposition
  - **REQUEST FOR PANEL REHEARING/REHEARING EN BANC** – petition for rehearing due within 14 days after the appellate court's judgment
  - **ISSUANCE OF MANDATE** – court issues within 7 days after expiration of time for filing a petition for rehearing, unless a petition for rehearing or a motion to stay the mandate is filed, or the time period is shortened or enlarged by court order
- 10) **PETITION FOR CERTIORARI** – filed in US Supreme Court; due within 90 days after 9th Cir. enters judgment
  - a) **BRIEF IN OPPOSITION** to Petition for Certiorari – due within 30 days after the case is placed on the docket
  - b) **REPLY BRIEF** – Court will not wait for reply

# THE LIFECYCLE OF AN APPEAL – CALIFORNIA STATE COURT

## FILING APPEAL & DESIGNATING RECORD

- 1) **NOTICE OF APPEAL** – filed in Superior Court; jurisdictional deadline, due within 60/180 days
- 2) **NOTICE DESIGNATING RECORD ON APPEAL** – filed in Superior Court; due within 10 days of filing appeal
- 3) **CIVIL CASE INFORMATION STATEMENT** – filed in Court of Appeal; due within 15 days of filing appeal
- 4) **CERTIFICATE OF INTERESTED ENTITIES/PERSONS** – filed in Court of Appeal; due any time before or concurrently with 1st filing

## BRIEFS & MOTIONS

- 5) **APPELLANT'S OPENING BRIEF** – due 40 days after record files (plus grace period of at least 15 days)
  - **APPELLANT'S APPENDIX** (or joint appendix) – filed concurrently with opening brief (unless Clerk's Transcript designated)
- 6) **RESPONDENT'S BRIEF** – due 30 days after opening brief is filed (plus grace period of at least 15 days)
  - **RESPONDENT'S APPENDIX** (if necessary) – filed concurrently with respondent's brief
- 7) **REPLY BRIEF** – due 20 days after respondent's brief is filed (no grace period)
  - **EXTENSION REQUESTS** – for any brief, up to 60 days via stipulation, or via court application showing good cause
  - **MOTION TO DISMISS** – can be filed before or after the record is filed in Court of Appeal
  - **MOTION TO AUGMENT OR CORRECT THE RECORD** – can be filed at any time

## ORAL ARGUMENT

- 8) **ORAL ARGUMENT** – usually scheduled between 3 and 12 months after last brief is filed, depending on size of the record and complexity of the case

## DECISION, PUBLICATION REVIEW & REMITTITUR

- 9) **WRITTEN OPINION** can be published (precedential), or unpublished (nonprecedential) – issued within 90 days after oral argument
  - **REQUEST FOR ORDER TO PUBLISH** an unpublished opinion – can be requested by anybody from the Court of Appeal; due within 20 days after the opinion is filed
  - **REQUEST FOR ORDER TO DE-PUBLISH** an opinion certified for publication – can be requested from CA Supreme Court by anybody; due within 30 days after decision is final in Court of Appeal
  - **PETITION FOR REHEARING** – due within 15 days after opinion is filed
  - **FINALITY** - The Court of Appeal's opinion becomes **FINAL** 30 days after opinion is filed
- 10) **PETITION FOR REVIEW** – filed in CA Supreme Court; due within 10 days after Court of Appeal's opinion becomes final
  - a) **ANSWER** to Petition for Review – due 20 days after petition is filed
  - b) **REPLY** – due 10 days after Answer is filed
- 11) **REMITTITUR** – issued by Court of Appeal after time to seek Supreme Court review expires or review is denied