

OFFICE OF THE CLERK
UNITED STATES COURT OF APPEALS
FOR THE FIRST CIRCUIT

RICHARD CUSHING DONOVAN
CLERK

JOHN JOSEPH MOAKLEY
UNITED STATES COURTHOUSE
1 COURTHOUSE WAY, SUITE 2500
BOSTON, MA 02210
(617) 748-9057

**NOTICE OF PROPOSED AMENDMENTS
TO INTERNAL OPERATING PROCEDURES**

The United States Court of Appeals for the First Circuit hereby provides notice that it proposes amendments to Internal Operating Procedures I(B), III(C), IV(A) and (C), V(A) and (D), VI(A) and (B), VIII(E), IX(C), and XI. The amendments are required because of the court's proposed adoption of the Administrative Order Regarding Case Management/Electronic Case Files System ("CM/ECF"). A copy of the relevant provisions of the amended Internal Operating Procedures are attached. Deletions are indicated in ~~strike-out~~ print; additions are indicated in *italic* print; and omitted sections are indicated by "* * *".

The Court of Appeals invites public comments on the proposed amendments. Comments should be submitted by July 17, 2009, and addressed to:

Office of the Clerk
U.S. Court of Appeals for the First Circuit
United States Courthouse
1 Courthouse Way, Suite 2500
Boston, Massachusetts 02210

May 18, 2009

Richard Cushing Donovan, Clerk

Internal Operating Procedure I. Court Organization

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- B. Clerk's Office.** The office hours for the Clerk's Office are from 8:30 a.m. to 5:00 p.m., Monday through Friday. In case of an emergency, the Clerk or the Chief Deputy Clerk may be contacted after hours; however, appropriate arrangements should be made with the Clerk's Office in advance. *Although documents may be filed electronically at any time through the court's Case Management/Electronic Case Files ("CM/ECF") system, the filer should not expect that the filing will be addressed outside regular business hours unless the filer contacts the Clerk's Office in advance to make special arrangements.*

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Internal Operating Procedure III. Initial Procedures

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- C. Reporter's Duties.** If the reporter cannot complete the transcript ~~within 30 days after the order~~ *by the date set by the court*, then pursuant to Fed. R. App. P. 11(b) the reporter must file a motion in the Court of Appeals for an enlargement of time for filing the transcript. Counsel for appellants, however, would be well advised to check with the court reporter to see that the transcript will be timely filed and that the reporter is making such a request, if it will not be so completed.
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Internal Operating Procedure IV. Docketing Procedures

- A. **Docketing.** Pursuant to Fed. R. App. P. 12, appeals are docketed in the Court of Appeals upon receipt from the Clerk of the district court of copies of the notice of appeal and the district court docket ~~entries~~ *report*. If the docketing fee has not been paid in the district court, the failure to pay is grounds for dismissal of the appeal pursuant to Local Rule 3.0. Local Rule 3.0 also requires the filing of a Docketing Statement within 14 days ~~of filing the Notice of Appeal~~ *after the case is docketed in the court of appeals*.

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- C. **Briefing.** ~~Upon the filing of the record on appeal, including any transcripts required to complete the record~~ *Once the record on appeal is complete, including the filing of all necessary transcripts*, the Clerk's Office sends to counsel a notice advising appellant of the filing dates for the brief and the appendix. After the brief for appellant is filed, the Clerk's Office likewise gives notice to the appellee.
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Internal Operating Procedure V. Motion Procedures

- A. General.** In accordance with Fed. R. App. P. 27(d) (3), all motions must be accompanied by 3 copies *unless the motion is filed electronically in compliance with the court's electronic filing system*, and a proof of service showing the type of service that was made, i.e., by mail or by hand delivery *or electronically*. The date of service establishes the due date for filing the response per Fed. R. App. P. 27(a)(3).

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- D. Emergencies.** If counsel anticipates that a matter may arise requiring emergency action by the court outside of ordinary business hours, the court's local rules advise counsel to contact the Clerk's Office at the earliest opportunity to discuss the matter. Depending on the circumstances, the Clerk's Office, in consultation with the duty judge and the Staff Attorney's Office, may make special arrangements for after hours filings and responses, issuance of orders after hours, and similar matters. Counsel are further advised that in all emergency matters, whether or not action outside of ordinary business hours is required, the process is facilitated if counsel contacts the Clerk's Office in advance and the motion seeking expedited relief clearly indicates the date by which a ruling is requested and the reasons supporting expedition. *Although documents may be filed electronically at any time through CM/ECF, the filer should not expect that the filing will be addressed outside regular business hours unless the filer contacts the clerk's office in advance to make special arrangements. The business hours for the clerk's office are Mondays through Fridays from 8:30 a.m. to 5:00 p.m.*
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Internal Operating Procedure VI. Briefs and Appendices

- A. General.** The court's website, www.cal.uscourts.gov, contains guidelines and a checklist to assist counsel in preparing briefs. Counsel are advised that any brief that does not conform to the requirements of the rules may be rejected. *For information regarding electronic document filing pursuant to the court's electronic filing system, see Administrative Order Regarding Case Management/Electronic Case Files System ("CM/ECF"), a copy of which is available on the court's website. Electronic filing is permitted after October 13, 2009 [projected date] and is required for all attorney filings after January 1, 2010 [projected date].*
- B. Modifications.** The following modifications of the Fed. R. App. P. apply in the First Circuit:
1. One copy of the brief or petition must be filed *electronically or* on a computer generated disk. See Local Rule 32.0.
 2. Only 10 copies, including the disk *or electronic filing*, need be filed.

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Internal Operating Procedure VIII. Oral Argument

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E. Recording. Oral arguments in all cases are digitally recorded for the use of the Court and are not part of the permanent record of the case. A disk copy of the recording of an oral argument may be obtained by submitting a request in writing to the Clerk with a check in the amount prescribed by the Judicial Conference of the United States. The Schedule of Fees is posted on this court's website at www.cal.uscourts.gov. *Audio recordings of the court's oral arguments are also available on the court's website.*

Internal Operating Procedure IX. Opinions & Judgments

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- C. **Electronic Access.** The Court's dockets and opinions are available electronically through the PACER network supported by the Administrative Office for the United States Courts. Details are available in the Clerk's Office. *Opinions are also available on the court's website at www.ca1.uscourts.gov.*

Internal Operating Procedure XI. Complaints Against Judges

The procedure for filing complaints against judges is set forth in the ~~Rules of the Judicial Council of the First Circuit Governing Complaints of Judicial Misconduct or Disability~~ *Rules for Judicial-Conduct and Judicial-Disability Proceedings*. A copy of these Rules may be obtained from the Clerk of this Court.

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