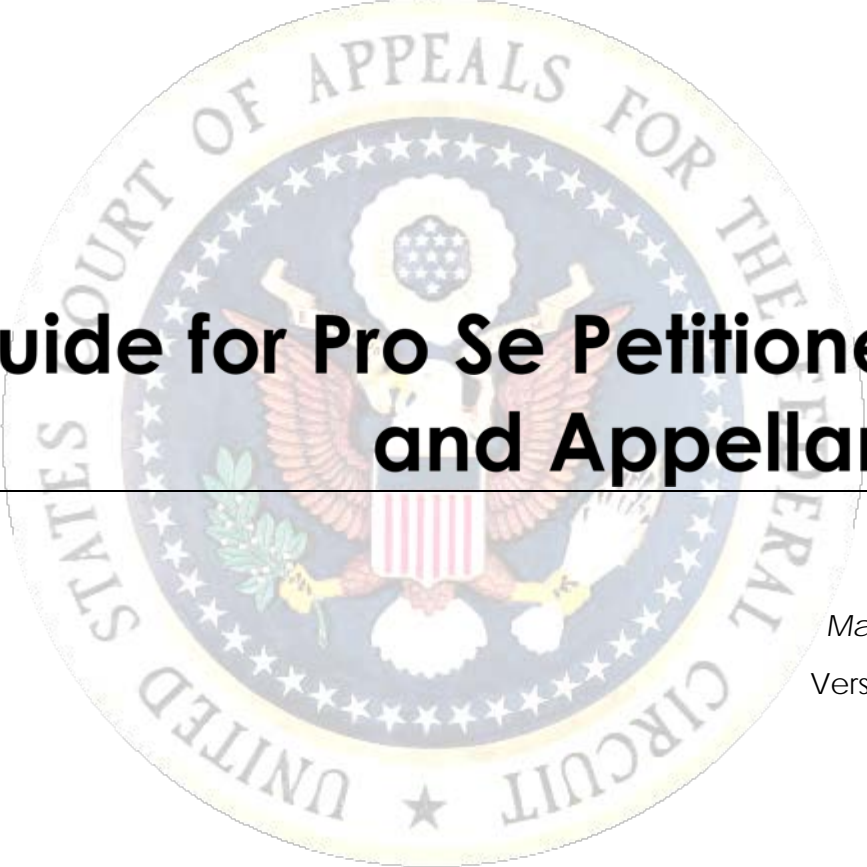


U.S. Court of Appeals for the Federal Circuit  
Clerk's Office

The seal of the United States Court of Appeals for the Federal Circuit is a circular emblem. It features an eagle with wings spread, perched on a shield with vertical stripes. The eagle is surrounded by a ring of stars. The outer border of the seal contains the text "UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT" in a circular arrangement, with a single star at the bottom center.

# Guide for Pro Se Petitioners and Appellants

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May 2018  
Version 2.0

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This Guide is provided by the Clerk's Office for the convenience of unrepresented (pro se) parties for reference and educational purposes only and does not constitute legal advice.

Unrepresented parties remain responsible for independently reviewing and complying with the Federal Rules of Appellate Procedure and the Federal Circuit Rules.

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## I. General Information

### A. Contacting the Court

The Clerk's Office handles all communications and documents from parties, as parties may not directly contact judges or chambers staff.

Mailing Address: Clerk of Court  
U.S. Court of Appeals for the Federal Circuit  
717 Madison Place, N.W.  
Washington, DC 20439

Telephone: 202-275-8000

The Clerk's Office is in Room 401 of the National Courts Building and is open from 8:30 a.m. to 4:30 p.m. (Eastern Time) on weekdays (excluding federal holidays). Papers may be deposited until midnight on weekdays at the night box located at the garage entrance on H Street N.W., between 15th Street and Madison Place.

### B. Practice Tips

- Once your appeal has been assigned a Federal Circuit case number, (example: 16-0000) include this number on all correspondence and filings you send to this court and to an opposing counsel/party.
- Keep a copy of all documents you send to this court.
- Your documents can be typed or written, but they must be legible. If the Clerk cannot read the documents you send, they may not be processed.
- If your mailing address changes, promptly notify the Clerk's Office in writing. If you do not, you could miss important notices and papers providing deadlines or decisions in your case. Missing a filing deadline may cause your case to be dismissed.

### C. Electronic Case Filing

As an unrepresented, or pro se, party, all documents intended for filing must be provided to the court in paper, except motions and letters that can be emailed to [prose@cafc.uscourts.gov](mailto:prose@cafc.uscourts.gov) or faxed to 202-275-9678.

Unrepresented parties are not eligible to participate in the filing of documents electronically using the Federal Circuit's Case Management/Electronic Case Filing (CM/ECF) system unless they are also members of the Federal Circuit bar.

**For additional information, consult the full Guide for Pro Se Petitioners and Appellants online at <http://www.cafc.uscourts.gov/pro-se>.**

## II. Overview of A Case in the Federal Circuit

### A. Case Number

A case number is assigned when your notice of appeal, petition for review, or original proceeding is received in the Clerk's Office and is deemed compliant with the rules of the court. When your case is docketed, you will receive:

- Notice of Docketing with assigned case number and a listing of important initial filings dates and the Federal Circuit Rules noting the briefing schedule
- Caption Sheet
- Entry of Appearance Form
- Motion and Affidavit for Leave to Proceed in Forma Pauperis Form, if necessary
- Informal Brief Form
- Statement Concerning Discrimination Form (if from MSPB)
- General Information and Overview of a Case in the Federal Circuit Handout

### B. Change of Address

It is your responsibility to immediately advise the Clerk's Office of any change in your address.

### C. Filing Fee

#### 1. Paying the Fee

When you file a petition for review or notice of appeal from a decision of a board, a commission, an agency, the Patent and Trademark Office, or a vaccine case from the U.S. Court of Federal Claims, the \$500 docketing fee must be made directly to the Federal Circuit.

In appeals from a District Court, the U.S. Court of International Trade, or the U.S. Court of Federal Claims, you must pay a docketing fee of \$505 (\$500 docketing fee and a filing fee of \$5) made directly with those courts and payable to the clerk of that court. The U.S. Court of Appeals for Veterans Claims docketing fee is \$500 and made directly with that court.

The Federal Circuit Clerk's Office cannot refund a fee once it is deposited.

## 2. Fee Waiver

You may ask that the fee be waived (proceeding in forma pauperis). The motion form to proceed in forma pauperis is included with your case opening materials. Further discussion on how to file an in forma pauperis motion is included in A Guide for Pro Se Petitioners and Appellants. If your motion to proceed in forma pauperis is denied, and you do not pay the fee, your case will be dismissed for lack of prosecution.

## D. Briefing

Unrepresented parties may choose to file an informal brief or a formal brief, not both.

### 1. Informal Brief

In a petition for review or appeal from an agency, a board, a commission, or a vaccine case from the U.S. Court of Federal Claims, you must file an informal brief within 21 days after the certified list or index is served. In an appeal from a court, you must file an informal brief within 21 days after the appeal is docketed.

The other party may file either an informal brief within 21 days or a formal brief within 40 days after service of your informal brief or the certified list, whichever is later. You may choose to file a reply brief within 14 days after service of the other party's brief.

### 2. Formal Brief

If you elect to file a formal brief, the brief and appendix must comply with the strict requirements of the Federal Rules of Appellate Procedure (FRAP) and the Federal Circuit Rules (FCR) or the brief and appendix will not be accepted.

In cases from an agency, a board, a commission, or a vaccine case from the U.S. Court of Federal Claims, a formal brief is due 60 days after the certified list is served. In an appeal from a court, the formal brief is due 60 days after the case is docketed.

The other party must file a formal response brief within 40 days of service of your formal brief. You may choose to file a reply brief within 14 days after service of the other party's brief.

## E. Completion of Briefing

The case will be submitted to a panel of three judges after all the briefs and an appendix are filed. You will receive a notice from the Clerk's Office regarding the placement of the case on a calendar.

## F. Court's Decision

You will receive a notice from the Clerk's Office along with a copy of the court's decision when the judges have decided your case.

## G. Additional Resources

### 1. Federal Circuit Rules and Procedures

- Federal Rules of Appellate Procedure and Federal Circuit Rules  
<http://www.cafc.uscourts.gov/rules-of-practice/rules>
- Federal Circuit Internal Operating Procedures  
<http://www.cafc.uscourts.gov/rules-of-practice/internal-operating-procedures>

### 2. Forms

- Federal Circuit Forms  
<http://www.cafc.uscourts.gov/rules-of-practice/forms>

### 3. Additional Resources

- Guide for Pro Se Petitioners and Appellants  
<http://www.cafc.uscourts.gov/pro-se>
- Public Access to Court Electronic Records (PACER)  
[http://www.pacer.gov/reg\\_pacer.html](http://www.pacer.gov/reg_pacer.html)
- Federal Deposit Library  
<https://www.fdlp.gov/about-the-fdlp/federal-depository-libraries>
- Federal Circuit CM/ECF Reference Material and Filing Resources  
<http://www.cafc.uscourts.gov/contact/clerks-office/filing-resources>
- Federal Circuit Opinions  
<http://www.cafc.uscourts.gov/opinions-orders/search/report.html>
- Federal Circuit Argument Calendar  
<http://www.cafc.uscourts.gov/argument/upcoming-oral-arguments>
- Federal Holidays  
<https://www.opm.gov/policy-data-oversight/snow-dismissal-procedures/federal-holidays/>

## III. Preparing Your Case Before Filing

### A. Resources Available to You

Parties should review this Guide, the Federal Rules of Appellate Procedure (FRAP), and the Federal Circuit Rules (FCR) before filing an appeal. An electronic version of the Rules of Practice is available on the court's website at <http://www.cafc.uscourts.gov/rules-of-practice/notices>. The Rules of Practice include Practice Notes following the various rules. The Practice Notes discuss matters that are often asked of the Clerk's Office staff. You may rely on the Practice Notes to assist in applying the rules to your case, but you may not use the Practice Notes to avoid following mandatory statutes or rules.

The statutes governing this court's jurisdiction and related matters in the United States Code, the United States Code Annotated, or the United States Code Service, and the decisions of this court in the Federal Reporter, Second and Third Series (F.2d, F.3d), available in many public libraries and online.

Additionally, once you have filed a case with this court, you may use the Federal Circuit's library for case-related research while your case is pending.

### B. Clerk's Office Assistance

If you have read this Guide but still have procedural questions, you may call the Clerk's Office at 202-275-8000. Public access and telephone hours for the Clerk's Office are 8:30 a.m. to 4:30 p.m. (Eastern Time), Monday through Friday (except for federal holidays). Collect calls are not accepted.

Please note that the Clerk's Office staff cannot provide legal advice, including interpreting the Federal Rules of Appellate Procedure, Federal Circuit Rules, or advising how to litigate your case. If you require legal advice, contact an attorney for a consultation.

Except as explained above, parties may not directly contact the Clerk of Court, judges, law clerks, or other court staff.

## C. Representing Yourself

An individual may be represented by an attorney before the Federal Circuit, or you may represent yourself. Representing yourself in a case is called appearing pro se, meaning "on one's own behalf." This Guide is provided to assist unrepresented parties appearing without an attorney in this court.

A corporation, partnership, organization, or other legal entity generally may not appear without an attorney. A union, veterans' organization, or other nonlawyer representative may not represent you in this court even if such an entity represented you before the Merit Systems Protection Board (MSPB), an arbitrator, the Court of Appeals for Veterans Claims, or other tribunal.

Other representatives, such as relatives or friends, may not represent you in this court unless they are also attorneys and admitted to practice in this court. An executor or administrator of the estate of an appellant or petitioner must also generally be represented by counsel. FCR 47.3(a).

If you have an attorney representing you in this court, only your attorney may file papers and contact the court about your case.

You may appear pro se while looking for an attorney, but your case will no longer be considered pro se once counsel appears on your behalf.

## D. Are You in the Correct Court?

There are three main appellate courts in the District of Columbia: The District of Columbia Court of Appeals, the United States Court of Appeals for the District of Columbia Circuit, and the United States Court of Appeals for the Federal Circuit. Two of them are federal circuit courts and the other is a local District of Columbia court. Appeals from the Superior Court of the District of Columbia are made to the District of Columbia Court of Appeals.

As a general rule, appeals from the United States District Court for the District of Columbia are made to the United States Court of Appeals for the District of Columbia Circuit. **This Guide is for filing an appeal only with the United States Court of Appeals for the Federal Circuit.** Please review this Guide first in order to determine whether this is the correct court to file your appeal.

**This court does not hear appeals from other United States Courts of Appeals.** Any such review should be directed to the Supreme Court of the United States.

### 1. Jurisdiction

The United States Court of Appeals for the Federal Circuit, located in Washington, D. C., has exclusive nationwide jurisdiction over a variety of subject areas, such as appeals in all patent cases, all government contract



cases, all international trade cases, all government personnel cases (excluding employment discrimination claims), all cases involving monetary claims against the United States under the Tucker Acts, veterans' benefits cases, and others.

The Federal Circuit does not have jurisdiction over any criminal, bankruptcy, immigration, or state matters. The Federal Circuit also cannot hear appeals from decisions of other U.S. Courts of Appeals. If you would like to pursue a discrimination claim from the MSPB, you should review your final decision from the MSPB which will indicate whether your case can be appealed in a district court or with the Equal Employment Opportunity Commission.

If you are appealing an MSPB opinion, you must complete [Form 10](#), Statement Concerning Discrimination, within 14 days of docketing and file it with this court. This document is necessary to determine jurisdiction. FCR 15(c).

## 2. Scope of Appellate Review

As an appellate court, the Federal Circuit reviews final decisions made by a board, commission, agency, or court. Your appeal in this court generally cannot raise new matters, new evidence, or new facts not first presented to the originating forum. The court reviews the lower court or agency's record as well as the briefs of the parties.

If you are appealing from the U.S. Court of Appeals for Veterans Claims, please refer to 38 U.S.C. § 7292 for other limitations on the scope of appellate review.

## E. Where Should I Send Documents?

You can send documents to the court through the U.S. Postal Service or by private shipping service. Note that Postal mail to the court may experience occasional delays due to security screening or other issues. If a document such as a notice of appeal, petition for review, motion, or other document must be received by the court on a particular date, then parties might consider using an alternative method of delivering the document to the court, such as a commercial carrier or hand-delivery to ensure delivery by the specific date. The court cannot waive or excuse the deadlines for filing a notice of appeal or petition for review, even if the document was deposited in the mail in a timely fashion. FRAP 26(b).

Please address all mail to

Clerk of Court  
National Courts Building  
U.S. Court of Appeals for the Federal Circuit  
717 Madison Place, N.W.  
Washington, DC 20439

You may also email or fax a motion, response to a motion, reply to a response, or a letter to [prose@cafc.uscourts.gov](mailto:prose@cafc.uscourts.gov) or 202-275-9678.

New appeals may not be filed or served by email or fax. A petition for review or notice of appeal submitted by a unrepresented party must be filed with the Clerk's Office by mail or hand delivery, and the Clerk's Office must receive the document by the due date.

## F. Your Address

An entry of appearance form ([Form 8](#)) is used to make sure your current address is on file. The appearance form must include the name of the party or parties represented and your name, address, email address, and telephone number. Once you decide to file a case, you must file an entry of appearance unless all the necessary information appears on the petition for review or notice of appeal.

You must notify the court if you change your address while your case is pending. The court will only mail documents to the one official address on file with the Clerk's Office.

## IV. Filing Your Appeal

You must file your petition for review or notice of appeal within the time allowed by the statute that authorizes the appeal. Your petition or notice is not considered filed at the time it is postmarked; it must be physically received in the court or agency for filing within the time allowed by statute. You **may not** file a petition for review or notice of appeal by fax or email.

If you must file your notice with another court or agency, there will be a delay between the time of filing and the date of docketing at the Federal Circuit. You will receive notification and further instructions when your case has been docketed with the Federal Circuit. If you have questions about how to file your appeal, contact the court or agency from which you are attempting to appeal.

### A. Appealing from a Federal Court

#### 1. Time to Appeal

Court	Statute	Time
U.S. District Court	28 U.S.C. § 2107	30 days (60 days if U.S. is a party)
	15 U.S.C. § 3416(c)	30 days
U.S. Court of International Trade	28 U.S.C. § 2645(c)	30 days (60 days if U.S. is a party)
U.S. Court of Federal Claims	28 U.S.C. § 2522 (appeals)	60 days
	42 U.S.C. § 300aa-12(f) (vaccine compensation petitions)	60 days
U.S. Court of Appeals for Veterans Claims	38 U.S.C. § 7292	60 days

#### 2. Filing Fee

U.S. Court of Federal Claims Vaccine compensation cases: \$500 (paid to the Federal Circuit)

U.S. Court of Appeals for Veterans Claims cases: \$500 (paid to the U.S. Court of Appeals for Veterans Claims)

All other cases: \$505 (paid to the originating court)

### 3. Where to File the Appeal

- Vaccine compensation cases: U.S. Court of Appeals for the Federal Circuit
- All other cases: Court entering judgment to be appealed

## B. Appealing from the Patent and Trademark Office

### 1. Time to Appeal

Agency	Statute	Time
Patent Trial and Appeal Board; Trademark Trial and Appeal Board; Director of Patent and Trademarks	35 U.S.C. § 142 15 U.S.C. § 1071 37 C.F.R. § 1.304, 2.145	63 days or 2 months

### 2. Filing Fee

\$500 (paid to the Federal Circuit)

### 3. Where to File the Appeal

A notice of appeal from a Patent Trial and Appeal Board or Trademark Trial and Appeal Board decision must be filed with the Patent and Trademark Office on or before the statutory deadline.

By Mail	In Person
Office of the Solicitor U.S. Patent and Trademark Office Mail Stop 8 Post Office Box 1450 Alexandria, Virginia 22313-1450	Office of the General Counsel U.S. Patent and Trademark Office Madison East 10B20 600 Dulany Street Alexandria, Virginia 22314 Weekdays, 8:30 a.m. to 5:00 p.m.

A copy of the notice of appeal must also be sent to the Federal Circuit. You are encouraged to attach a copy of the decision to the notice of appeal.

## C. Petitioning from the Merit Systems Protection Board

### 1. Time to Petition for Review

<b>Agency</b>	<b>Statute</b>	<b>Time</b>
Merit Systems Protection Board	5 U.S.C. § 7703	60 days

### 2. Filing Fee

\$500 (paid to the Federal Circuit)

### 3. Where to File the Petition for Review

U.S. Court of Appeals for the Federal Circuit

### 4. Other Information

You may seek review of an MSPB decision in one of two ways: (1) after the administrative judge issues an initial decision or (2) after the Board issues a decision on a petition for review of the administrative judge's initial decision. If you choose to petition this court for review at the time of the initial decision, you may not petition the Board for review of the administrative judge's decision and you may not file a petition for review in both this court and before the Board at the same time. If you file in both places simultaneously, your petition here may be dismissed as premature.

In MSPB cases involving allegations of discrimination, you may seek review of the final Board decision by the Equal Employment Opportunity Commission or you may file a civil action in an appropriate U.S. District Court within 30 days of your receipt of the decision. Cases involving allegations of discrimination may not be appealed directly to the Federal Circuit from the MSPB, absent waiver of review of those issues.

Your employing agency, the Office of Personnel Management, or the Board itself will be the respondent in your petition for review. In your petition for review, you should name the agency captioned in the Board's order as the respondent on your petition. If the Board should be the respondent rather than the agency, you will be notified by the Clerk's Office.

## D. Appealing from Other Agencies

### 1. Time to Appeal or Petition for Review

<b>Agency</b>	<b>Statute</b>	<b>Time</b>
Arbitrator	5 U.S.C. § 7121, 7703	60 days
Board of Contract Appeals	41 U.S.C. § 7107	120 days
Bureau of Justice Assistance	42 U.S.C. § 3796c-2	90 days
Government Accountability Office Personnel Appeals Board	31 U.S.C. § 755	30 days
International Trade Commission	19 U.S.C. § 1337	60 days
Office of Compliance	2 U.S.C. § 1407(c)(3)	90 days
Secretary of Agriculture	7 U.S.C. § 2461	60 days
Secretary of Labor; Federal Labor Relations Authority; Occupational Safety and Health Review Commission; certain Merit Systems Protection Board cases and Equal Employment Opportunity Commission cases*	28 U.S.C. § 1296	30 days
Secretary of Veterans Affairs – Rulemaking Review	38 U.S.C. § 502 Fed. Cir. R. 47.12(a)	60 days

\* EEOC orders reviewable in this court pertain only to certain presidential appointees.

### 2. Filing Fee

\$500 (paid to the Federal Circuit)

### 3. Where to File the Notice of Appeal or Petition for Review

U.S. Court of Appeals for the Federal Circuit

## E. What to File

A notice of appeal or a petition for review must first be submitted in order to begin the appeal process in this court.

### 1. Appeals Filed Elsewhere

If you are filing your notice of appeal or petition for review in a different court or agency, please refer to that court or agency for forms and instructions for filing.

Notice of appeal forms are available at <http://www.caafc.uscourts.gov/rules-of-practice/forms>.

- [From a U.S. District Court \(Form 1\)](#)
- [From the U.S. Court of Federal Claims \(Form 2\)](#)
- [From the U.S. Court of International Trade \(Form 3\)](#)
- [From the U.S. Court of Appeals for Veterans Claims \(Form 4\)](#)
- [From the U.S. Patent and Trademark Office \(Form 5\)](#)

### 2. Appeals Filed at the Federal Circuit

If you are filing your appeal in the Federal Circuit, you can use [Form 5 \(Petition for Review or Appeal of an Order or Decision of an Agency, Board, Commission, or Office\)](#). The court does not require the use of a form when filing a petition or notice of appeal, but it is highly recommended for ease of processing.

Mail the following documents to the Clerk of Court:

- [Petition for Review or Appeal of an Order or Decision of an Agency, Board, Commission, or Office \(Form 5\)](#) and
- Filing Fee: \$500 (check or money order payable to the "Clerk of Court, U.S. Court of Appeals for the Federal Circuit") or
- Fee Waiver: Motion and Declaration for Leave to Proceed In Forma Pauperis ([Form 6](#)) or the Uniformed Services Employment and Reemployment Rights Act (USERRA) Notice ([Form 6B](#)).

## F. When to File

Your notice of appeal or petition for review must arrive at its destination prior to, or on, the date of the deadline.

The Federal Circuit cannot extend deadlines for filing a notice of appeal or petition for review. A request to extend time to file a notice of appeal from the judgment of a district court, the Court of International Trade, U.S. Court of Federal Claims, or the Patent and Trademark Office must be filed with those tribunals. FRAP 5 and 15, FCR 4 and 15.

If a notice of appeal or petition for review filed with the Clerk's Office shows on its face that it is not timely filed within the time allowed by statute, the Clerk's Office may reject the notice of appeal or petition. FCR 4 and 15(d).

## G. Paying Fees

### 1. Fee Amounts

You are required to pay a docketing fee of \$500 when you petition for review of, or appeal, a decision of the U.S. Court of Appeals for Veterans Claims, vaccine claim from the U.S. Court of Federal Claims, or an agency, board, or commission. All docketing fees must be paid to the clerk of this court, except for appeals from the U.S. Court of Appeals for Veterans Claims which should be paid to the clerk of that court.

If you appeal a judgment of a court, you must pay a docketing fee of \$505 (\$500 appeal fee and a filing fee of \$5), to the clerk of that court when you file a notice of appeal in that court.

### 2. Failure to Pay the Filing Fee

It is your obligation to ensure payment is sent to the proper court or agency. Failure to pay your fee within 14 days after your case has been docketed will result in dismissal of your appeal unless you have filed a motion to proceed in forma pauperis, or the fee is otherwise waived. FCR 52(d).

### 3. Fee Refund

Please note that payment of the docketing fee is non-refundable once the case has been filed. FCR 52 Practice Note. However, please contact the Clerk's Office if you were charged the incorrect fee amount or submitted duplicate payment.



#### 4. Fee Waiver

You may have your fees waived by applying to proceed in forma pauperis. If you were granted the right to proceed in forma pauperis in the District Court, Court of International Trade, or U.S. Court of Federal Claims, or if you submitted a Declaration of Financial Hardship at the U.S. Court of Appeals for Veterans Claims, you are generally able to proceed in forma pauperis before this court unless your right has been revoked (for example, because you are currently incarcerated).

Otherwise, if you are unable to pay your filing fee but were not in forma pauperis in one of the above courts, you may request permission to proceed in forma pauperis in the Federal Circuit. If your request is granted, you will not have to pay the filing fee, but you will have to pay all other costs incurred during your appeal (for things like postage and copies). FRAP 24 and FCR 24.

To request permission to proceed in forma pauperis, you must complete and file [Form 6](#) (Motion and Declaration to Proceed in Forma Pauperis) within 14 days of your case being docketed. If the Clerk's Office does not receive a completed motion, the docketing fee, or a completed [Form 6B](#) within 14 days of the date of docketing of the appeal or petition, the Clerk of Court is authorized to dismiss the appeal or petition, except as provided in FRAP 24(a). FRAP 24(a), FCR 24(a) and 52(d).

#### 5. Fee Waiver – USERRA Claims

If you are requesting review of a Merit Systems Protection Board decision that involves a claim under the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA), 38 U.S.C. § 4323 or § 4324, then you are not required to pay the docketing fee or costs. To advise this court that your case is covered by 38 U.S.C. § 4323 or § 4324, complete [Form 6B](#) (USERRA Notification Form) and return it to the Clerk's Office within 14 days after the date your case is docketed.

#### 6. Appealing From Prison, In Forma Pauperis Status

Under the Prison Litigation Reform Act (PLRA) of 1995, a prisoner granted in forma pauperis status before the district court is not entitled to in forma pauperis status on appeal. See 28 U.S.C. § 1915.

Once you have filed your notice of appeal, the Clerk's Office will send you two forms: [Form 6](#) and [Form 6A](#). [Form 6](#) is a request to proceed in forma pauperis. [Form 6A](#) is a supplemental affidavit form that authorizes the correctional facility to provide a certified copy of your prison account statement to this court. You must complete and file the supplemental form,

and the Clerk's Office will send a copy to the institution in which you are incarcerated.

The form authorizes the institution to (1) furnish to this court a certified copy of your prison account statement and (2) calculate and disburse funds from the prison account, including the initial partial filing fee payment and subsequent monthly payments. Your institution will forward the certified statement, the initial payment, and the subsequent payments to this court. If you file the proper form, the failure of the institution to send the statement or to remit the payments will not adversely affect your appeal.

If you fail to complete and submit both forms (6 and 6A) within 14 days of the date of docketing, your appeal will be dismissed. FCR 24.

## V. After You File

### A. Initial Review

After the Clerk's Office receives your notice of appeal or petition for review, a case number and case manager will be assigned to your case.

When your case is docketed, you will receive the following by mail:

- Notice of Docketing listing important initial filings and the Federal Circuit Rules corresponding to the briefing schedule;
- Caption Sheet;
- Entry of Appearance Form;
- Informal Brief Form;
- Form for Leave to Proceed in Forma Pauperis Form, if necessary; and
- Statement Concerning Discrimination Form (if from MSPB)
- General Information and Overview of a Case in the Federal Circuit Handout

**Frivolous Petitions or Appeals.** If you file and proceed with a frivolous appeal or petition for review, you may be subject to the imposition of sanctions. FRAP 38 and FCR 38 Practice Note.

### B. Filing Documents with the Court

Documents filed in cases are matters of public record and are accessible to the public. When filing documents with this court, you must redact personal information (e.g., social security number or taxpayer-identification numbers; dates of birth; names of minor children; financial account numbers; and medical records) and confidential information subject to a protective order. FRAP 25(a)(5) and FCR 25(f).

If necessary, you should file two versions of your documents: one confidential version containing un-redacted information and one non-confidential version containing appropriate redactions. FCR 25(f). **If you do not redact personal information from your filings, the Clerk's Office will not do it for you.**

#### 1. Document Requirements

The title of your document, your case name, and your case number must appear on the first page of every document you file. Your case number is made up of two parts (e.g., 16-0000). The first two digits are the fiscal year

and the last four digits are your specific number assigned by this court. Remember to include the correct case number for proper handling by the Clerk's Office.

Send the document to all other parties in your case (in other words, "serve" the other parties) and file a certificate of service with **every** document. Service on a party is made on that party's attorney(s). In cases against the government, the case will be opened with a generic agency service address. This address will be replaced once government counsel files an entry of appearance.

Each certificate of service must include the names and addresses of each person served and the date of service. Additionally, the certificate of service must state whether a copy has been served on all parties by mail, hand delivery, email, or fax transmission. Please attach the certificate of service as the last page of your document. Below is an example of a certificate of service:

#### **CERTIFICATE OF SERVICE**

I certify that I mailed my informal brief on January 1, 2000, to:

John Doe, Esq.  
111 Main Street, Suite 900  
Washington, DC 20001

A certificate of service form ([Form 30](#)) is available on the court's website.

## 2. Emailing or Faxing Documents to the Court

You may email or fax only a **motion, response to a motion, reply to a response, or a letter** to [prose@cafc.uscourts.gov](mailto:prose@cafc.uscourts.gov) or 202-275-9678. No other document may be filed or served by email or fax. A petition for review or notice of appeal must be filed with this court by mail or hand delivery. FCR 25(c)(2).

When emailing documents, you should be aware of the following:

- The subject line of the email should include the docket number, the name of the case, and the document that you are filing.
- The body of the email is considered a cover letter and only the attachment is considered a filing in your appeal. Please ensure all information you want filed in your case is part of the attachment to your email.

- The attachment(s) to the email should be named in such a way that the Clerk's Office is able to identify the document and its parts (e.g. Motion, Exhibits, Certificate of Service, etc.).
- Abuse of the pro se email address may result in a ban on filing further emails and require that any further documents submitted by you must be done through the mail or in-person.
- Documents over 2MB in size must be broken into smaller parts and submitted using multiple emails.
- The documents submitted must be in a Microsoft Word, text, or PDF format and free from viruses. Emails containing viruses, malware, or spam will not be opened and may be referred to the appropriate authorities.
- If using a document processor such as Word, documents can be signed electronically as follows by using /s/ followed by your name, address, and email address (see example below). FCR 25(d).

/s/ John Doe  
111 Main Street  
Anywhere, US 00000  
johndoe@emailaddress.com

### C. Checking Your Case Status

When your case is opened, you will receive a notice of docketing that identifies the date of docketing and your Federal Circuit case number. You will also receive copies of forms you may need. Whenever a document is filed in your case, you will receive a copy from the filing party. Whenever the court issues a document in your case, the Clerk's Office will mail you a copy.

To follow your case online, you can register for a Public Access to Court Electronic Records (PACER) account with a valid credit card at [https://www.pacer.gov/reg\\_pacer.html](https://www.pacer.gov/reg_pacer.html). PACER is an electronic public access service that allows you to obtain case and docket information online from federal appellate, district, and bankruptcy courts, through the PACER Case Locator. PACER charges a \$0.10 per page access fee unless your total charge is less than \$15 at the end of each month, in which case the fee is waived.

Additionally, you can obtain free access to case materials at any Federal Depository Library. You can locate your nearest Federal Depository Library at <https://www.fdlp.gov/about-the-fdlp/federal-depository-libraries>.

Unrepresented parties may register for a [Public Interested Person account](#) to receive electronic notification of docket activity in your case. Additional

information is available in our Electronic Filing Procedure ("CM/ECF User's Guide") and on the court's website at <http://www.cafc.uscourts.gov/sites/default/files/cmecf/ElectronicFilingProcedures.pdf>

#### D. Withdrawing Your Appeal

If you wish to withdraw your petition for review or appeal, send a letter addressed to the Clerk of Court including your case number and stating that you want to "withdraw your appeal." You must sign and date the letter and serve the other party a copy. Withdrawing your appeal will result in its dismissal. FRAP 42.

This court will ordinarily not assess damages, double costs, or attorney fees for filing a frivolous petition for review or appeal if it is voluntarily withdrawn within 14 days after you receive the other party's brief. FRAP 38 Practice Note.

Please note that no refund of your filing fee will be authorized if you withdraw your appeal. FCR 52 Practice Note.

#### E. Change of Address

You must notify the court as soon as possible if you change your address while your case is pending. The court will only mail documents to one address.

You may use an entry of appearance form ([Form 8](#)), available on the court's website.

## VI. Filing Your Brief

You should make your arguments about your appeal in your opening brief. You will have the opportunity to file either an informal or a formal brief, but not both. All briefs must comply with the Federal Circuit Rules and the Federal Rules of Appellate Procedure (Rules 28, 30, 31, and 32). Briefs must be received by the Clerk's Office by mail or hand delivery.

[Forms 17-18](#) on the court's website provide sample brief covers.

To set accurate deadlines, the Clerk's Office asks that you file a notice as soon as possible advising whether you intend to file a formal or informal brief because the deadlines for each brief are different. FCR 31. In unrepresented cases, the Clerk's Office presumes you will file an informal brief unless otherwise stated.

### A. Informal Brief

#### 1. When to File an Informal Brief

In a petition for review or appeal from a vaccine case from the U.S. Court of Federal Claims, an agency, a board, or a commission, you must file an informal brief within 21 days after the certified list or index is served. In an appeal from a court, you must file an informal brief within 21 days after the appeal is docketed. The other party may file either an informal brief within 21 days or a formal brief within 40 days after service of your informal brief. FCR 31(e).

If you file a brief before the certified list or index is served and filed, the other party's time runs from service of the certified list or index. You may choose to file a reply brief within 14 days after service of the other party's brief. FCR 31(e)(3).

#### 2. Informal Brief Requirements

You must submit three copies of your opening informal brief to this court. The court prefers that one copy be unbound but secured with a staple, binder clip, or other removable means. The court prefers that the other copies be securely bound along the left margin to ensure that the bound copy will not loosen or fall apart. The bound copies should lie flat when open, and the court discourages ring-type bindings, plastic or metal bindings, and bindings that protrude from the front or back covers. The court asks that externally positioned staples be covered with tape. FCR 31(e)(4) and FCR 32 Practice Notes.

You may file an informal brief (three copies) using [Forms 11, 11A, 12, 13, 14, 15, or 16](#) (depending on the type of case).

The informal brief form is the only permissible substitute for the formal brief required by the Rules. Each form contains instructions for preparing and filing an informal brief. Please remember to complete all sections of the form.

An informal brief should be typewritten, but block printing or legible handwriting is permitted. The informal brief, together with any extra pages needed for answers that will not fit on the form, may not exceed 30 typewritten, double-spaced pages with 1-inch margins, or their equivalent in content. Continuation pages must be single-sided and use 8.5" x 11" paper. Any typed pages must use a 14-point font size or larger.

Your informal brief and continuation pages must be filed using either [Forms 11, 11A, 12, 13, 14, 15, or 16](#) (depending on the type of case) and include the following:

- Your case number and case name
- The title of the filing (Informal Opening Brief)
- Your answers to all form questions
- Your signature and the date
- Certificate of service (only complete a separate page if there is not enough space on the form.)
- An appendix consisting of, at a minimum, the judgment(s), opinion(s), or order(s) being appealed.

If you file the informal brief form and do not submit any extra pages needed for answers, the form will be considered your brief. Any documents submitted after the filing of your brief that you wish to have considered as your brief or with your brief must be submitted with a motion to replace your brief or a motion to supplement the brief.

### 3. Appendix to an Informal Brief

The appendix to an informal brief must contain the judgment and opinion of the trial court or the final order of an administrative agency. The initial decision of the administrative judge must also be included in the appendix in a Merit Systems Protection Board case. Other materials that are part of the record may be included if you refer to them in your brief. You should file three copies of the informal appendix. FCR 30(i) and FCR 24 Proceeding on Original Record Practice Note.



## B. Formal Brief

### 1. When to File a Formal Brief

In a petition for review or appeal from a vaccine case from the U.S. Court of Federal Claims, an agency, board, or commission, you must file a formal brief within 60 days after the certified list or index is served. In an appeal from a court, you must file a formal brief within 60 days after the appeal is docketed. The other party must file a formal brief within 40 days of service of your formal brief or the certified list, whichever is later.

Any reply must be in the form of a formal reply brief and filed within 14 days of service of the other party's brief.

### 2. Formal Brief Requirements

If you elect to file a formal brief, the brief and appendix must comply with the strict requirements of the FRAP and FCR or the brief and appendix will not be accepted.

Please refer to the following requirement guides at

<http://www.cafc.uscourts.gov/contact/clerks-office/filing-resources>:

- [Quick Reference: Formal Brief Requirements](#)
- [Quick Reference: Appendix Requirements](#)

You must submit six copies of your opening formal brief to this court. The court prefers that one copy be unbound and the other copies be securely bound. The bound copies should lie flat when open, and the court discourages ring-type, plastic, and metal bindings, and bindings that protrude from the front or back covers. The court asks that externally positioned staples be covered with tape. FCR 28(g)(2) and Rule 32 Practice Notes.

### 3. Appendix to a Formal Brief

You must file six paper copies of an appendix with the court and one paper copy must be served on each of the other parties of record. The Clerk of Court is authorized to dismiss the case if you fail to file an appendix. FCR 30(a)(8).

A complete list of documents to include in your appendix can be found under Rule 30 of both the FRAP and FCR. You must make sure to include the entire docket sheet, certified list, or index from the proceedings below; the initial and final decision of the Merit Systems Protection Board; the final decision of another agency, board, or commission; the judgment and

opinion of the trial court; or the rule or rules that are the subject of your petition for judicial review of the Veteran's Affairs rulemaking. If your case involves a patent, you must also include a copy of the patent in its entirety. You may include other record material in your appendix to the extent you refer to that material in your brief.

If you need access to the original record of the agency, board, commission, or court proceedings, you must contact that agency, board, commission, or court because the original record is not forwarded to this court. FCR 11(a) and 17(a).

### C. Confidential Information

If any part of the record was subject to a protective order at the trial level, read the Federal Circuit Rules about confidential information. FCR 11(c), 11(d), 11(e), 17(d)(2), 17(e), 17(f), 17(g), 27(m), 28(d), 30(b)(4)(B), and 30(h). It is your responsibility to review the rules to understand what impact the protective order will have on your appeal.

If you need to identify personal information or discuss information subject to a protective order in your brief, you must file two separate, clearly labeled briefs: (1) a confidential brief and (2) a nonconfidential brief. In your confidential brief, highlight or surround with brackets all confidential information. In your nonconfidential brief, black out any confidential material that is highlighted or bracketed in the confidential brief.

Only one paper copy of a nonconfidential version of a brief should be provided to the Clerk's Office. You must submit three copies of the confidential version of an informal brief or six copies of the confidential version of a formal brief. FCR 28(d).

### D. Dismissal for Default

If you fail to file a brief or comply with other rules, the Clerk's Office may dismiss your case. FCR 31(d). However, if the appellee or respondent fails to comply with the rules, you are not entitled to the relief you seek solely by reason of that noncompliance. FRAP 31(c).

### E. Filing a Reply Brief

After the other party has filed a response to your brief, you have the option to submit a reply brief within 14 days. FRAP 31(a) and FCR 31(e)(3). You are **NOT** required to file a reply brief. If you choose to file one, you must follow the same format and rules as with your opening brief except that your reply brief must be 15 pages or shorter. FRAP 28(c). The court does not have an informal reply brief

form. You may use the sample brief cover forms (Forms 17-18) as a template for your reply brief.

## F. Briefs Not in Compliance with the Rules

The Clerk's Office may refuse to file any brief that has not been prepared in conformity with the Rules. FCR 32(a). If you receive a notice that your brief is not in compliance with the rules, read the notice carefully. It will explain why your brief is not in compliance, how to fix it, and when your corrected brief is due.

Once you have corrected your brief, file three copies of the corrected brief (two bound, one unbound) and title them "Corrected Informal Brief" or "Corrected Brief" to assist with processing.

The common reasons a brief is rejected are:

- Failure to use an informal brief form or use of the wrong form
- Incomplete informal brief form
- Failure to sign informal brief form
- Illegibility
- Brief form includes an attached argument that goes over the 28-page limitation (two-page informal brief with 28 continuation pages)
- Multiple briefs filed
- Brief filed late

## G. Oral Argument

Oral argument is not automatic in every case. To request oral argument, please indicate on your informal brief form that you desire oral argument. Attach a separate notice requesting oral argument and include the reasons why argument will aid the panel in deciding your case. You may also send a motion to the Clerk's Office requesting permission to argue. Requests for oral argument should be clearly labeled on the first page of the document.

### 1. Memorandum in Lieu of Oral Argument

If it is determined the panel will hear your case without oral argument, you will be given an opportunity to file a memorandum in lieu of oral argument. The memorandum must be no longer than five pages and may explain any other issues you wish to bring to the court's attention.

Additionally, if your case is scheduled to be submitted on the briefs and you did not previously file a reply brief, you can file a reply brief within 14-days after the notice that the appeal will be submitted on the briefs. FCR 34(a).

## 2. Submitted on the Briefs

If your case is not scheduled for oral argument, it will be scheduled for submission to a panel on the briefs and neither party will be able to present argument to the panel. There will be no discussion or presentation of your case in court on the day your case is scheduled for submission, and you are not required to be in attendance.

## VII. Filing a Motion

Motions are used to ask this court to do something, also known as “asking for relief.” Motions are governed by FRAP 27 and FCR 27. You may file a motion or a response to a motion from the other party. If you file a motion or response, it may not exceed 20 pages. FRAP 27(d)(2). The court prefers that you contact the other parties and indicate if they consent to the motion. FCR 27(a)(5). A party may respond to a motion, but in many instances the court may act before the response is due. FRAP 27(b). Only one copy of a motion must be filed.

### A. Motion Requirements

Your motion must include the following:

- Name of the this court
- Caption
- Case number
- The title of the motion
- Statement of consent or opposition
- Statement regarding the relief sought and supporting legal grounds
- Your signature and the date
- Certificate of service

If necessary, you may attach relevant documents to your motion as exhibits, which do not count toward your page limit. Label all exhibits and attach them to your motion. FCR 27(d).

You will be notified when a decision has been made regarding a motion. You may check the status through your PACER account.

### B. Sample Types of Motions

Below are examples of common motions and special procedures associated with filing them.

#### 1. Motion to Extend Time

Motions to extend time to file a document should be received by the court at least seven days before the deadline for filing the document. A motion for extension of time may be acted on without waiting for a response. FRAP 27(b).

2. Motion for Reconsideration, Vacatur, or Modification of a Procedural Order

If you are adversely affected by a procedural order entered in response to a motion or by a procedural order issued by the Clerk of Court, you may file a motion for reconsideration, vacatur, or modification within 14 days of the order or action. FCR 27(l) and 45(b).

3. Motion for Reconsideration of Dismissal by Clerk of Court

The Clerk of Court may dismiss an appeal for failure to follow the Federal Rules of Appellate Procedure or the Federal Circuit Rules. Motions for reconsideration of a dismissal must be filed within 14 days after the issuance of the order of dismissal and may not exceed five pages. The motions must follow the guidelines under FRAP 27 and FCR 27. An unrepresented party may file one copy of an informal motion for reconsideration, which may be in the form of a letter, and must not exceed five typewritten double-spaced pages. A copy of the dismissal order must be attached to the motion. FCR 45(a).

4. Motion for Reconsideration of the Order of a Single Judge or Panel of Judges

Reconsideration of orders or decisions that terminate a case are discussed below under Petitions for Rehearing. A party seeking review by the court of an action of a single judge or reconsideration of an action of a panel of judges must file a motion for reconsideration within 14 days of the entry of the order. FCR 27(l).

5. Motion to Correct/Supplement

A motion to correct or supplement may be filed at any time. The court may act on this motion without waiting for a response.

## C. Responses to Motions

If the other party files a motion that you wish to oppose, you may file a response within ten days of the date the motion was served. A decision may be made on a motion before you have a chance to respond. Motions for extension of time are commonly acted on without waiting for a response. The court will not act on an opposed dispositive motion before the time to respond has expired. FRAP 27(b), FCR 27(b).

If a party files a response to a motion you submitted, you may file a reply to that response within seven days of the date the response was served.

## VIII. Decision in Your Appeal

### A. Notice of the Court's Decision in Your Appeal

A decision may take weeks or months after submission to a panel. The Clerk's Office will send you a copy of the court's opinion. If the court decides your appeal without preparing an opinion, you will be sent a copy of the judgment of affirmance.

Opinions can be accessed free of charge on the court's website:  
<http://www.cafc.uscourts.gov/opinions-orders/search/report.html>.

**Note:** The Clerk's Office is unable to provide any information about when the panel will decide your case.

### B. Filing a Petition for Rehearing

If you are not satisfied with the decision of the court, you may file a petition for panel rehearing or rehearing en banc under Rules 35 and 40 of FRAP and FCR. A panel rehearing is reconsideration before the three judges who decided your case. A rehearing en banc is reconsideration of your case before all the active judges of this court. Note that petitions for panel rehearing and petitions for rehearing en banc are rarely granted.

#### 1. Time to File

You have 30 days (45 days if the United States is a party) from the date of the court's decision to file a petition. FCR 40(d).

#### 2. Filing Requirements

Your petition may not exceed 3,900 words if using a computer or 15 typewritten/handwritten pages. A copy of the opinion or judgment must be attached to the petition as an addendum. No other documents should be attached to the petition. FRAP 35(b)(2) and 40(b).

You may file an informal petition for panel rehearing by submitting three copies in letter form not to exceed 15 typewritten double-spaced pages, attaching to each a copy of the opinion or judgment sought to be reheard. FCR 40(f). If you file an informal petition for rehearing en banc, you must submit 18 copies. FCR 35(c)(4).

### 3. Answer to the Petition

If the court requests an answer to a petition for panel rehearing or petition for rehearing en banc, the answer may not exceed 3,900 words if using a computer or 15 typewritten/handwritten pages.

Three copies of an answer must be filed if it is in response to a petition for panel rehearing and 18 copies must be filed for a response to a petition for rehearing en banc. FCR 35(e)(4) and FCR 40(d).

## C. Recovery of Costs

"Costs" are the expenses of printing or copying briefs and appendices, and may amount to several hundred dollars. Attorney fees are not costs.

Unless the court states otherwise, if you lose your case, you may be responsible for paying the costs of the other party. If you prevail, you may have your own costs paid by the other party. Refer to [Form 23](#) and [Form 24](#) on the court's website for the Bill of Costs Form and the Bill of Costs Instruction Sheet.

If you are responsible for costs, the matter is between you and the other party, and neither the court nor the Clerk's Office will resolve any dispute between the parties once the costs have been taxed. FRAP 39 and FCR 39.

## D. Attorney Fees

You are not entitled to payment for your own services in pursuing your case pro se; only an attorney may be awarded attorney fees. Before filing a petition for review or an appeal you may wish to seek a lawyer willing to undertake the case on the contingency that the attorney fees may be payable under the Equal Access to Justice Act. FCR 47.7.



## IX. Calculating Filing Deadlines

To calculate your filing deadline, exclude the day of the event or filing that triggers the period of time. Count every day after the filing date, including weekends, holidays, and the last day of the period. If the last day of the period is a Saturday, Sunday, holiday, or court closure, the period continues to run until the next day that is not a Saturday, Sunday, holiday, or court closure. If the due date falls on a Saturday, for example, your filing will be due on Monday. Please refer to the court's website regarding court closures. FRAP 26 and FCR 26.

The U.S. Court of Appeals for the Federal Circuit observes all federal holidays. A listing of all federal holidays is available at <https://www.opm.gov/policy-data-oversight/snow-dismissal-procedures/federal-holidays/>.

Calculating Deadlines Examples:

### 2015 Calendar

<b>January 2015</b>	<b>February 2015</b>	<b>March 2015</b>	<b>April 2015</b>
S M T W T F S 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31	S M T W T F S 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28	S M T W T F S 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31	S M T W T F S 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30
<b>May 2015</b>	<b>June 2015</b>	<b>July 2015</b>	<b>August 2015</b>
S M T W T F S 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31	S M T W T F S 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30	S M T W T F S 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31	S M T W T F S 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31
<b>September 2015</b>	<b>October 2015</b>	<b>November 2015</b>	<b>December 2015</b>
S M T W T F S 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30	S M T W T F S 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31	S M T W T F S 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30	S M T W T F S 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31

**Example 1:** You would like to appeal a decision of the MSPB made final on May 22, 2015. Your notice of appeal would be due 60 days later on July 21, 2015.

**Example 2:** You would like to appeal a decision of the U.S. Court of Appeals for Veterans Claims made final on June 30, 2015, and 60 days from that day is Saturday, August 29. Your notice of appeal would be due on the following business day, August 31, 2015.

## X. Glossary of Terms

**Affidavit:** A written or printed statement made under oath.

**Affirmed:** The court of appeals has concluded that the lower tribunal's judgment or decision is correct and will stand as rendered by that tribunal.

**Appeal:** A request that a higher court review the decision of a forum to determine if it was correct. To make such a request is "to appeal" or "to take an appeal." One who appeals is called the "appellant" the other party is the "appellee."

**Appellant:** The party who appeals a decision.

**Appellee:** A party who opposes an appellant's appeal.

**Brief:** A written statement submitted that explains one side's legal and factual arguments.

**Case File:** A complete collection of every document filed in a case/proceeding.

**Case Law:** The law as established in previous court decisions. A synonym for legal precedent. Akin to common law, which springs from tradition and judicial decisions.

**Clerk of Court:** The court officer who oversees administrative functions, especially managing the flow of cases through the court.

**Counsel:** Legal advice; a term also used to refer to the lawyers in a case.

**Court:** Government entity authorized to resolve legal disputes. Judges sometimes use "court" to refer to themselves in the third person, as in "the court has read the briefs."

**CM/ECF:** The Case Management/Electronic Case Files (CM/ECF) system is the Federal Judiciary's comprehensive case management system for all bankruptcy, district, and appellate courts. CM/ECF allows courts to accept filings and provides access to filed documents online. CM/ECF allows access to case files by multiple parties, and offers expanded search and reporting capabilities. The system also offers counsel the ability to immediately update dockets, download documents, and print them directly from the court system.

**Damages:** Money that the court orders one party to pay another. Damages may be compensatory (for loss or injury) or punitive (to punish and deter future misconduct).

**De Novo:** Latin, meaning "anew." A trial de novo is a completely new trial. Appellate review de novo implies no deference to the trial judge's ruling.

**Dismissal with Prejudice:** A disposition of the current case that prevents an identical lawsuit from being filed later.

**Dismissal without Prejudice:** A disposition of the current case that may allow a lawsuit to be brought later.

**Docket:** A log containing the complete history of each case in the form of brief chronological entries summarizing the court's proceedings.

**En Banc:** French, meaning "on the bench." All authorized judges of an appellate court sitting together to hear a case, as opposed to the routine disposition by panels of three judges.

**Evidence:** Information presented in testimony or in documents that are used to persuade the fact finder (judge or jury) to decide the case in favor of one side or the other.

**In Camera:** Latin, meaning in a judge's chambers. Often means outside the presence of a jury and the public (i.e., in private).

**In Forma Pauperis:** "In the manner of a pauper." Permission given by the court to a person to file a case without payment of the required court fees because the person cannot pay them.

**Injunction:** A court order preventing one or more named parties from taking some action.

**Issue:** 1. The disputed point(s) between parties in a lawsuit; 2. To send out officially, as in a court issuing an order.

**Judgment:** The official decision of a court resolving the dispute between the parties.

**Jurisdiction:** The legal authority of a court to hear and decide a certain type of case.

**Mandate:** The mandate is the device by which the court closes an appeal and transfers jurisdiction to another court or agency. Unless the court directs that a formal mandate issue, the mandate consists of a certified copy of the judgment, a copy of the court's opinion, if any, and any direction about costs. An order dismissing a case on consent or for failure to prosecute, or dismissing, remanding, or transferring a case on motion, will constitute the mandate. The date of the order is the date of the mandate. In an appeal dismissed or transferred by the court on its own initiative in an opinion, the mandate will issue in the regular course.

**Mediation Program:** A service offered by some courts to help the parties achieve settlement. The Federal Circuit's mediation program is only available to parties represented by counsel.

**Merits:** Referring to a judgment, decision, or ruling of a court based upon the facts presented in evidence and the law applied to that evidence.

**Moot:** Not subject to a court ruling because, for example, the controversy has not actually arisen or has ended.

**Motion:** A written request by a party for a decision on a matter relating to the case.

**Opinion:** A judge's written explanation of the decision of the court. An opinion in appellate decisions can take several forms because a case may be heard by three or more judges. If all the judges completely agree on the result, one judge will write the opinion for all. If all the judges do not agree, the formal decision will be based upon the view of the majority, and one member of the majority may write the opinion. The judges who did not agree with the majority may write separately in dissenting or concurring opinions to present their views.

**Oral Argument:** An opportunity for lawyers to summarize their position before the court and to answer the judges' questions.

**PACER:** Public Access to Court Electronic Records (PACER) is an electronic public access service that allows users to obtain case and docket information online.

**Panel:** In appellate cases, a group of judges (usually three) assigned to decide the case.

**Per Curiam:** Latin, meaning "for the court." In appellate courts, often refers to an unsigned opinion.

**Pleadings:** Written statements filed with a court describing a party's legal or factual assertions about the case.

**Pro Se:** Latin, meaning "for oneself" or "on one's own behalf." Representing oneself.

**Record:** A written account of the proceedings in a case, including all pleadings, evidence, and exhibits submitted in the course of the case.

**Remand:** Send back the case to the originating forum.

**Sanction:** A penalty.

**Settlement:** Parties to a lawsuit resolve their dispute without a court decision.

**Statute:** A law passed by a legislature.

**Sua Sponte:** Latin, meaning "of its own will." Often refers to a court taking an action in a case without being asked to do so by either side.

**Temporary Restraining Order:** Similar to an injunction, it is a judge's short-term order forbidding certain actions until a full hearing can be conducted. Often referred to as a TRO.

**Transcript:** A written, word-for-word record of what was said, either in a proceeding such as a trial, or during some other formal conversation, such as a hearing or oral deposition.

**Transfer:** A process in which the court sends a case to a different court.

**Uphold:** The appellate court agrees with the lower tribunal decision and allows it to stand.

**Venue:** The geographic area in which a court may hear a case. A change of venue is a change or transfer of a case from one judicial district to another.

**Want of Prosecution:** The failure to submit required documents under the rules.

## XI. Frequently Asked Questions

**1. Question: How many extra pages can I attach to my informal brief?**

**Answer:** You may attach up to 28 additional pages. Remember that all pages must be attached at the time of filing or they will require a motion to supplement the brief.

**2. Question: What is a certified list?**

**Answer:** A certified list is a document that adequately describes all documents, transcripts of testimony, exhibits, and other materials that constitute the record, or describes those parts designated by both parties. These materials will constitute a list of the lower tribunal's record.

**3. Question: What happens if I submit my social security number or other sensitive information on one of my documents?**

**Answer:** The Clerk's Office does not screen information for confidential material. Please black out personal information (e.g., social security numbers) or request that the document be filed under seal due to the use of confidential identification information. If you realize you have already sent confidential material to the court, please contact the Clerk's Office and request that they lock your document pending the submission of a redacted version.

**4. Question: What is the status of my case?**

**Answer:** You may obtain the status of your case by reviewing the docket on PACER or by going to your nearest Federal Depository Library. If you are unable to obtain the requested information or you require information that cannot be answered online or at a library, you may call the Clerk's Office at 202-275-8000.

**5. Question: Who do I need to serve my document on?**

**Answer:** Serve your document on the opposing counsel or agency listed on the docket. If there is no opposing counsel listed on the docket, contact the Clerk's Office and your case manager should be able to assist you in determining who represents the other party.

**6. Question: Am I allowed to file things via email/fax/electronically?**

**Answer:** Generally, electronic filing through the CM/ECF system is not available for unrepresented parties. You may email or fax a motion, response

to a motion, reply to a response, or a letter to [prose@cafc.uscourts.gov](mailto:prose@cafc.uscourts.gov) or to (202) 275-9678. Any document submitted by email must be attached to the email as a pdf or word document. No other document, including an appeal, petition, or brief may be filed or served by email or fax. A petition for review or notice of appeal submitted by an unrepresented party must be filed with the court by mail or hand delivery, and the court must receive the document by the due date.

**7. Question: How many copies of a document does the court require?**

**Answer:** The court requires three paper copies of an informal brief or petition for panel rehearing, six paper copies of a formal brief, and 18 paper copies of a petition for hearing or rehearing en banc. It requires one paper copy of your notice of appeal, petition for review, motion, or any other document.

**8. Question: Why do I need a Statement Concerning Discrimination if my case does not deal with discrimination?**

**Answer:** A discrimination statement form will be included in the docketing package provided to any petitioner seeking review of a decision of the Merit Systems Protection Board (MSPB) or an arbitrator. The court requires a statement on whether a claim of discrimination by reason of race, sex, age, national origin, or handicapped condition **has been** or **will be** made in the case. The court has created [Form 10](#) to allow unrepresented parties to easily comply with this requirement. Failure to complete a discrimination statement will result in dismissal of the petition for review.

**9. Question: What is a mandate?**

**Answer:** The mandate is the device by which the court closes an appeal and transfers jurisdiction to another court or agency.

**10. Question: What do I need to file with the court to open an appeal?**

**Answer:** In order to initiate a case, a notice of appeal or petition for review must be filed. In some cases, you must file your notice of appeal in another court or agency. For appeals from the U.S. Patent and Trademark Office (USPTO), a copy of the notice of appeal must be filed with both the USPTO and our court. Once you have filed your appeal or petition for review, the Clerk's Office will send you a docketing packet. The packet includes your Notice of Docketing, (which contains your case name, case number, and relevant due date information); caption sheet; and required forms. Please review the Notice of Docketing carefully for due dates and form requirements.

**11. Question: When is my brief due?**

**Answer:** If the case is from a court, the appellant's informal brief must be served and filed within 21 days after case opening, or 60 days after case opening for a formal brief. If the case is from an agency decision, the petitioner/appellant must serve and file the informal brief within 21 days after the certified list or index is served, or 60 days for a formal brief.

**12. Question: Does the court need to receive my notice of appeal or petition for review by the due date, or does it just need to be postmarked by that date?**

**Answer:** A petition for review or notice of appeal must be filed within the time allowed by the statute that authorizes it. Your petition or notice is not considered filed at the time it is postmarked; it must be physically received in the court or agency for filing within the time allowed by statute. You may not file a petition for review or notice of appeal by fax or email.

If you are an inmate, any filing - including a notice of appeal or brief - is timely if it is deposited in the institution's internal mail system on or before the last day for filing. You must include either a declaration that you filed in compliance with 28 U.S.C. § 1746 or have a notarized statement indicated you filed through the prison mail system. The declaration or statement must set forth the date of deposit and state that first-class postage has been prepaid. If you do not include a declaration or notarized statement, your filing will be considered late if not received by the due date.

**13. Question: Someone signed for the documents that I sent you. Why are they not on my docket? Did you receive them?**

**Answer:** The court receives over 1500 appeals every year with thousands of documents to process. It may take a few days to see a document reflected on the docket or it may take up to a week for your notice of appeal to be opened. Please rest assured that the Clerk's Office is processing your document. The court strongly suggests you keep track of your filings by reviewing your docket on PACER. If you do not see your document within a week, please feel free to contact the Clerk's Office to determine its status.

**14. Question: Can you appoint an attorney to represent me?**

**Answer:** The Federal Circuit is generally unable to appoint you an attorney. You may wish to contact the American Bar Association or your local state bar association and inquire whether they have a pro bono appointment or referral service.



**15. Question: Is this the right court for me to file my appeal?**

**Answer:** Please review Part IV of this Guide. Remember that this court is the United States Court of Appeals for the Federal Circuit and not the District of Columbia Circuit.

**16. Question: When will my case be decided?**

**Answer:** Cases can take months to be decided. Once a case has been fully briefed it is assigned to a panel for review. You will receive notice of whether the case will require oral argument or be decided on the briefs. Once a case has been submitted to a panel, the judges will review your case and make a decision in due course. The Clerk's Office is unable to give you a final determination of when a panel will make their decision.

**17. Question: The government sent me all these documents. What are they?**

**Answer:** Government counsel is required to serve you with all documents that they may file with the court. The Clerk's Office will attempt to assist you in determining if any of those documents are the same ones filed with the court. However, the documents may have been sent directly to you for review prior to filing. It is advised that you call or email government counsel in order to determine what you received.

**18. Question: I did not receive a copy of a document from the court or opposing party.**

**Answer:** All documents sent by the court are mailed to your last known address. Please confirm with the Clerk's Office that your address is correct. As a courtesy, the Clerk's Office may send you a second copy of your document. If you have not received a copy of a filing from the government, please contact the government and confirm they have your correct address. Additionally, if you need a copy of a filed document immediately, you may obtain a copy online through [PACER](#) or at your [local Federal Depository Library](#).

**19. Question: Do I need to file a certificate of interest or docketing statement?**

**Answer:** No, certificates of interest and docketing statements are only necessary in counseled cases. You do not need to file either if you are proceeding without an attorney.

**20. Question: What is an appendix and how do I file/compile it?**

**Answer:** The appendix is the underlying record of your case. FRAP 30 and FCR 30 provide a list of documents which must be included in the appendix. Please review those rules before filing your appendix with the court.

**21. Question: I am in the process of hiring an attorney. Can an attorney enter my case if I've already started it without counsel/pro se? What will happen when the attorney enters their appearance?**

**Answer:** Yes, an attorney can begin to represent you in your case at any point. Once an attorney enters their appearance, you will no longer be able to file things directly with the court. All correspondence with the court must be filed by your attorney. If you wish to file something directly with the court, it is suggested that you send it to your attorney who can file it on your behalf.

**22. Question: What does the "Notice of Calendaring" mean?**

**Answer:** The notice of calendaring is sent to the parties when the case has been assigned a court date for submission to a panel. The notice will inform you whether the case will be submitted on the briefs or if there will be oral argument. If the court will decide the case on the briefs, you will be given an opportunity to respond to the notice regarding why you wish to have oral argument.

**23. Question: How much is the filing fee, and are there other fees later?**

**Answer:** When you petition for review of a decision or appeal a decision of an agency, board, or commission to the Federal Circuit you are required to pay a docketing fee of \$500. Please make checks payable to: Clerk of the Court, U.S. Court of Appeals for the Federal Circuit.

If you appeal a judgment of a court, you must pay a docketing fee of \$505 (\$500 docketing fee and a filing fee of \$5) made payable to the clerk of that court. The U.S. Court of Appeals for Veterans Claims does not collect the \$5 filing fee. Exception: When appealing a decision in a vaccine case from the U.S. Court of Federal Claims, the \$500 fee must be paid at the Federal Circuit.

Please note that payment of the docketing fee is non-refundable once the notice of appeal has been filed.

You may be charged a fee for usage of PACER or for the reproduction of any record or paper. Please refer to the [fee schedule](#) for fees at the Federal Circuit at <http://www.cafc.uscourts.gov/rules-of-practice/fees>.

**24. Question: What constitutes the record, and do the judges have access to it?**

**Answer:** The record is the underlying materials in your case. The record is available to the judges should they require it. If you wish to direct their attention to something in the record, that should be done through your brief and the document should be included in your appendix.

**25. Question: I am an attorney proceeding pro se. Am I able to seek admission or use CM/ECF?**

**Answer:** Yes, you may seek admission to this court. Only attorneys admitted to the court may file documents with the court through CM/ECF.

**26. Question: What is a case manager, and how do they operate within the Clerk's Office?**

**Answer:** A case manager is your main point of contact regarding case processing. They will assist you in making sure your documents are correctly filed. Any case questions should be directed to a case manager.