

# **Rutter Group Practice Guide**

## **FEDERAL**

# **NINTH CIRCUIT CIVIL APPELLATE PRACTICE**

CHAPTERS 1-7

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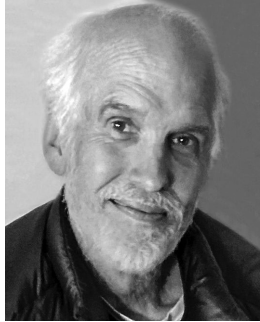


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**Chris Goelz** worked as a Circuit Mediator for the Ninth Circuit Court of Appeals for over 30 years. His duties included selecting cases for the Court's settlement program, conducting settlement conferences and entering procedural orders in selected cases. He also worked for the Court in its motions unit, was the Reporter for the Court's Long Range Plan, and participated in the formulation of many aspects of court procedure. Before joining the Court staff, he was engaged in private practice in San Francisco as a civil litigator. Mr. Goelz is a graduate of Yale Law School.



**Peder K. Batalden** is a partner at Horvitz & Levy LLP, a law firm specializing in appellate litigation and trial consulting. He has handled appeals in the Ninth Circuit arising from 10 of the 15 judicial districts within the circuit. He has served as an Appellate Lawyer Representative to the Ninth Circuit and a member on various Court committees. Mr. Batalden clerked for Judge Kermit Bye (8th Cir.) and Judge Robert Kelleher (C.D. Cal.). He is a graduate of the University of Chicago and the UCLA School of Law.



**John F. Querio** is a partner at Horvitz & Levy LLP, a law firm specializing in appellate litigation and trial consulting. He has briefed and argued numerous appeals, in the U.S. Court of Appeals for the Ninth Circuit, California state appellate courts, and other states' appellate courts. He also works with clients and trial lawyers before appeal to preserve issues and present evidence in the best posture for appeal. Mr. Querio clerked for Judge Pamela A. Rymer (9th Cir.) and Chief Judge David F. Levi (E.D. Cal.). He is a graduate of Princeton University and Stanford Law School.

## PREFACE

We have written this Practice Guide to provide attorneys with a comprehensive, step-by-step “roadmap” through Ninth Circuit Civil Appellate Practice. Whether you are an appellate specialist or a novice, you will find clear and practical guidance on the substantive, procedural and tactical issues that commonly arise in appeals to the Ninth Circuit. This Practice Guide is not associated with or a product of the Ninth Circuit Court of Appeals; it is just our best effort to explain the issues it addresses.

We caution that this is a guide to *Ninth Circuit* civil appeals. Although the circuits have a common procedural starting point in the Federal Rules of Appellate Procedure (FRAP), each has developed its own distinct practices. This Practice Guide discusses the FRAP as interpreted and applied by the Ninth Circuit. We focus particularly on Ninth Circuit Local Rules, General Orders and caselaw, and on the idiosyncrasies of practice before this Court known to us through our long association with it.

It is also our objective to provide accurate and up-to-date information. This Practice Guide will be revised yearly to keep pace with changes in the governing statutes and rules, as well as the Court’s relevant caselaw and internal practices. Nonetheless, we remind you that the Court updates its Circuit Rules as often as twice a year and frequently adopts other changes in internal procedures. Consequently, the authorities cited in this text should always be checked for their continued vitality. Also, make it a habit to carefully read orders and notices provided to you by the Clerk and to check the court’s website for changes to rules and procedures.

Finally, it is our aim to ensure that this Practice Guide remains a reliable resource for all of us. For that reason, we welcome your comments and suggestions.

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