

Index

ABSTENTION

- Appealable as a stay, § 2:9
- Remand of removed action, review, § 1:11

ABUSE OF DISCRETION

- Extending time to appeal, § 12:5
- Standard of review, § 31:4

ACTUAL NOTICE

- Extending time to appeal, § 12:4

ADDENDUM

- Briefs, § 32:4

ADDITIONAL PARTY APPEALS

- Cross appeal, §§ 11:2, 11:3

ADEQUATE REMEDY AT LAW

- Extraordinary writ review, §§ 6:3, 6:4

ADMINISTRATIVE CLOSURE

- After plaintiff's failure to amend, § 2:3
- Effect on finality, §§ 2:3, 4:7
- Effect on finality of arbitration order, § 4:7
- Effect on injunction, § 4:2
- Refusal to reopen as effective dismissal, § 2:3

ADMINISTRATIVE OR EXECUTIVE REVIEW

- Standards of review, § 31:5

ADMINISTRATIVE PROCEDURES ACT

- See Administrative Review

ADMINISTRATIVE REVIEW

- Generally, Ch. 17
- Accrual of review period, § 17:8
- Administrative Procedures Act, § 17:4
- Agency authority pending appeal, § 26:3
- Agency inaction, § 17:3
- Agency non-acquiescence, § 17:17
- Agency reconsideration, § 17:10
- Answer to enforcement petition, § 17:18
- Appeal compared, § 17:17
- Brief drafting, § 17:19
- Commencement of review period, § 17:8
- Costs, allocation and taxation, § 34:3

ADMINISTRATIVE REVIEW—Cont'd

- Deadlines, §§ 17:7, 17:8
- District court or court of appeals, § 17:5
- Docketing, § 22:1
- Enforcement petition, § 17:18
- Exhaustion required, § 17:6
- Extending review period, § 17:9
- Finality requirements, § 17:2
- In forma pauperis procedure, § 20:4
- Intervention, § 17:14
- Judicial review, meaningful basis, § 17:4
- Jurisdiction, § 17:1
- Mandate, delay or stay, §§ 17:17, 34:13
- Mandate, effect, § 17:17
- Multiple petitions extending review, § 17:9
- NLRB orders
 - Briefing sequence, § 32:1
 - Settlement of judgment, § 17:18
- Non-acquiescence by agency, § 17:17
- Pending review, agency authority, § 26:3
- Petition for enforcement, § 17:18
- Petition for review
 - Contents, § 17:11
 - Filing, § 17:12
 - Form, § 17:20
 - Multiple petitions, § 17:15
 - Other documents as petition, § 17:11
 - Service, § 17:12
 - Time to file, § 17:7
 - Transfer, § 17:15
- Preliminary agency action or inaction review, § 17:13
- Premature petition, § 17:8
- Preparing record on review, § 17:16
- Preserving issues, § 17:6
- Protective appeal pending approval, § 17:7
- Reconsideration request, need, § 17:2
- Reconsideration request affecting review period, § 17:10
- Record, § 17:16
- Remand without vacatur, § 17:17
- Res judicata, §§ 17:17, 17:18
- Review limited or barred, § 17:4
- Review period, §§ 17:7-17:10
 - Extension, § 17:9
 - Reconsideration, effect, § 17:10
 - Start, § 17:8
- Sanctions against agency, § 35:1
- Sanctions by agency, § 17:2

INDEX

ADMINISTRATIVE REVIEW—Cont'd

- Settlement of judgment, §§ 17:18, 34:1
- Standing, § 17:17
- Stare decisis, § 17:17
- Stay, §§ 17:13, 17:18, 34:13
- Substitution of agency, § 17:11
- Supplementing record, § 17:16
- Timeliness, §§ 17:7-17:10
- Transfer to other court, § 17:15
- Uniform procedure, § 17:17
- Vacatur, § 17:17
- Venue, §§ 9:5, 17:12, 17:15
- Voluntary dismissal, § 17:17
- Wrong circuit, §§ 9:5, 17:12, 17:15

ADMINISTRATIVE STAY

- See Stay

ADMIRALTY

- Appeal orders, § 4:6
- Seamen exemption from costs, § 20:3

ADMISSION TO PRACTICE

- Briefs, § 32:4
- Docketing appeals, § 22:3
- Forms, §§ 22:4-22:6

AFFIRMANCE

- Grounds, § 28:2

ALL WRITS ACT

- Bankruptcy, § 14:4
- Extraordinary writ review, § 6:1

AMENDMENT

- Notice of appeal, § 10:9
- Post-judgment motion, § 10:5

AMICUS CURIAE

- Briefs, § 32:14
- Certification to state court, § 23:2
- Intervenor, §§ 1:3, 17:14
- Limit on new issues, § 32:14
- Petition for rehearing, § 34:9

ANSWER

- Administrative review, § 17:18
- Briefs, §§ 32:1, 32:12
- Extraordinary writ review, § 6:7

ANTI-SLAPP STATUTE

- Appealability of denial, § 2:7

APPEAL

See also Appeal Period, Notice of Appeal
Abortive, extraordinary writ as cure, § 6:9
Administrative review, compared, § 17:1
Discuss with client, § 1:13
Likelihood of success, § 1:1
Screening procedure, §§ 33:1, 33:5
Statutory limits, § 1:12

APPEALABILITY

See Finality

APPEAL PERIOD

Generally, Ch. 7
See also Extension of Time
Additional appeals, Ch. 11
Administrative review, § 17:7
Bankruptcy, §§ 14:5, 14:6
Calculation, § 7:7
Civil vs. criminal, § 7:8
Class certification, § 5:7
Clerk's office, closure, § 7:7
Criminal
 Length, § 15:5
 Start, § 15:4
Cross-appeal, § 11:4
Discretionary interlocutory appeal, § 5:4
Electric filing, § 7:7
Extraordinary circumstances, § 12:4
Extraordinary writs, § 6:7
Federal Circuit, § 19:5
Federal officer or agency, § 7:9
Government involvement, effect, § 7:9
Habeas and section 2255 proceeding, § 16:1
Judgment vacating and re-entered, § 7:4
Jurisdictional vs. non-jurisdictional, §§ 7:1, 7:3, 11:4, 14:5
Late pro se appeal, § 24:1
Length, §§ 7:7-7:9
Oral ruling, § 7:2
Protective appeal pending approval, § 17:7
Re-opening, § 12:4
Restart after denial, § 10:7
Restart after grant of motion, § 10:8
Restart with denial vs. amended judgment, § 7:2
Separate document rule, § 7:3
Start, §§ 7:1, 7:2, 7:14, 15:4
 Criminal appeal, § 15:4
Suspension, § Ch. 10, 15:6

INDEX

APPEAL PERIOD—Cont'd

Suspension by motion, **Ch. 10**

APPEARANCE

Docketing appeals, § **22:2**

APPELLANT

Death, substitution, § **8:3**

Named in notice of appeal, § **8:3**

Non-intervening party, § **1:3**

Pro se, § **24:1**

Separate appeals by multiple appellants, § **11:1**

APPELLATE VENUE

See Venue, appellate

APPENDIX

Generally, **Ch. 29**

Abolished, where, § **29:5**

Addendum, compared, §§ **29:1, 32:4**

Brief, attachment to, generally, § **29:1**

Certification of completeness, § **29:3**

Contents, § **29:4**

Criminal appeals, § **15:19**

Deadlines, § **29:3**

Deficiencies, effect, § **25:1**

Designation procedure, § **29:3**

Appellants designation, form, § **29:6**

Excerpts in lieu of appendix, § **29:5**

Exhibits, stipulation, form, § **29:7**

Extra-record material, § **29:3**

Forms, §§ **29:6-29:7**

Joint vs. separate, § **29:3**

Mistakes, § **29:3**

Preparation, § **29:3**

Record compared, § **29:1**

Record excerpts, compared, § **29:5**

Requirement and exemptions, § **29:2**

Supplemental, § **29:4**

Timelines, § **29:2**

Waiver by omission, § **29:5**

ARBITRATION

Alternative dispute resolution, distinguished, § **4:7**

Appealability, § **4:7**

Appeal from orders, § **4:7**

Denied arbitration, late appeal as forum shopping, § **1:5**

Exceptions, § **4:7**

Gateway issue, § **4:7**

State arbitration, appeal from denial, §§ **4:4, 4:7**

ARBITRATION—Cont'd

- Stay pending appeal, § 2:10
- Transportation exemption, § 4:7

ARGUMENT

- See Oral Argument

ASSIGNMENT TO PANEL

- Argument, § 33:5

ATTORNEY-CLIENT

- Attorney as appellant, § 8:3
- Client attendance at oral argument, § 33:10
- Client insistence no excuse, § 35:1
- Client relations, § 1:1
- Client views on issues to appeal, § 32:6
- Discuss appeal, § 1:13
- Privilege - denial not a collateral order, § 2:6
- Pro se filing by represented party, §§ 10:5, 24:2
- Sanctions, attorney vs. client, § 35:2

ATTORNEYS

- Admission, § 22:3
 - Application, form, § 22:5
- Advising pro se opponent, § 24:1
- Advising pro se party, § 24:2
- Appearance, § 22:2
- Appellant, as, § 8:3
- Appointment
 - Criminal appeal, § 15:28
- Briefs showing admission, § 32:4
 - Communications with court, § 30:1
 - Contempt appeals, § 2:8
- Emails with judge criticized, § 30:1
- Pro hac vice admissions, § 22:6
 - Motion for leave, form, § 22:6
- Representation Statement, form, § 22:4
- Sanctions against, **Ch. 35**
- Trial vs. appellate counsel to handle appeal, § 1:14
- Withdrawal
 - Criminal appeal, §§ 15:25, 15:26

ATTORNEYS FEES

- Appealability, §§ 10:9-10:11
- Application, contents and procedure, § 34:4
- Award after appeal, § 34:16
- Award as sanctions, § 35:1
 - Procedure, § 35:2
- Award pending appeal, § 26:1
- Costs, fees as, § 20:1

INDEX

ATTORNEYS FEES—Cont'd

- Court of appeals review in direct review case, § 9:2
- Entitlement, § 34:5
- Motion for fees
 - Effect, § 10:12
 - Form, § 10:14
- Post-judgment motions, §§ 10:11, 10:13
- Pro se recovery, § 24:1
- Remand of calculation, §§ 34:16, 35:2
- Review included in review of ruling on post-judgment motion, § 10:9
- Sanctions, §§ 35:1, 35:2
- Security to cover costs and fees, § 20:1
- Third party appeals in criminal cases, § 15:32

BAIL OR RECOGNIZANCE

- Criminal appeals, § 15:30

BANKRUPTCY APPEALS

- Generally, Ch. 14
- Adversary proceeding, normal finality rule, § 14:2
- Agreement for direct appeal, form, § 14:9
- All Writs Act, § 14:4
- Appeal options, § 14:1
- Collateral orders, § 14:4
- Core proceedings, § 14:1
- Designation on appeal, § 14:2
- Direct appeals to court of appeals
 - Certification, § 14:1
 - Procedure, § 14:6
- Dismissal, § 14:5
- District court appeals, § 14:1
- Election of remedies, § 14:1
- Equitable mootness, §§ 14:2, 14:5
- Extraordinary writ review, § 14:4
- Finality of decisions, § 14:2
- Injunctions, § 14:4
- Interlocutory appeal, §§ 14:1, 14:4
- Jurisdiction, § 14:1
- Multiple claims or parties, § 14:4
- Non-core proceedings, § 14:1
- Notice of appeal, attachment, § 14:5
- Notice of appeal, forms, §§ 14:7-14:9
- Permissive appeals, § 14:4
- Procedure, § 14:5
- Remand order finality, § 14:3
- Stay pending appeal, § 14:5
- Writ review, § 14:4

BILL OF COSTS

Form, § 34:18

Procedure, § 34:3

BOND

See also Costs, In Forma Pauperis, Judgment, Stay

Administrative review, § 17:12

Cost bond

Exempt parties, § 20:3

Failure to file, § 20:2

Liability absent bond, § 34:3

Motion, form, § 20:6

Obtaining, § 20:2

Procedure, § 20:2

Stipulation in lieu of bond, form, § 20:7

When required, § 20:1

Effect of cross-appeal, § 11:2

Effect of partial remand, § 26:2

Enforcement, § 21:8

Execution on judgment, § 21:1

Effect of bond, § 21:2

Exempt parties, § 21:3

Motion to increase, § 21:4

Procedure, § 21:4

Security for injunction pending appeal, § 21:6

Security for stay pending appeal, § 21:5

Security in lieu of bond, § 21:4

Stipulation for demand in lieu of bond, § 21:7

BRIEFS

Generally, Ch. 32

Acronyms and abbreviations, § 32:8

Addendum, § 32:4

Administrative review, § 17:19

Admission to bar, § 32:4

Adopting arguments, § 32:10

Alternative arguments, minimizing, § 32:10

Amicus curiae briefs, §§ 32:14, 34:9

Answering brief, §§ 32:1, 32:12

Anticipating arguments, § 32:10

Appellee's brief, §§ 28:3, 32:12

Attorney admitted, § 32:4

Authority, citing, §§ 32:4, 32:10, 32:15

Back cover, § 32:4

Bar membership certificate, § 32:4

Cases

Citing, §§ 32:4, 32:10, 32:15

Form, § 32:17

INDEX

BRIEFS—Cont'd

Cases—Cont'd

- Related cases statement, § 32:4
- Statement of case, § 32:4
- Supplemental authority, § 32:15

CD-ROM brief, §§ 30:3, 32:1

Certificates

- Bar admission, § 32:4
- Compliance, § 32:4
- Length, § 32:4
- Rulings, § 32:4
- Rulings and related cases, § 32:4
- Type fonts, § 32:4

Citations, unpublished decisions, § 32:10

Committee briefs, § 32:5

Compliance certificate, § 32:4

Conclusion, §§ 32:4, 32:11

Contents, § 32:4

- Criminal appeals, § 15:20

Contrary authority, § 32:10

Cover, § 32:4

Criminal appeals

- Contents, § 15:20
- Timeliness, § 15:21

Cross appeal, §§ 11:48, 32:1

Date, § 32:4

Deadlines, § 32:3

- Extension, § 32:3
- Suspension pending dispositive motion, § 32:3

Disclosure statement, § 32:4

Disposition below, § 32:4

Drafting brief, §§ 17:19, 32:5, 32:6, 32:8-32:11

Expedite, motion to, § 32:3

Extension procedure, § 32:3

Failure to file, § 32:1

Federal Circuit deadlines, § 19:5

Fonts, § 32:4

Format, § 32:1

Front cover, § 32:4

Glossary, § 32:4

Issues statement, §§ 32:4, 32:6

Joint vs. separate, §§ 32:1, 32:2

Judicial notice, material subject to, § 28:20

Jurisdictional statement, § 32:4

Length limits, § 32:2

- Certificate of compliance, form, § 32:17
- Motion for extra length, § 32:2

BRIEFS—Cont'd

- Multiple party appeals, § 32:1
- New issues
 - First time on appeal, § 32:7
 - Reply brief, § 32:13
 - Supplemental authorities, § 32:15
- NLRB orders, sequence of briefs, § 32:1
- Opening brief, § 32:1
- Oral argument statement regarding, § 32:4
 - Illustration, § 32:15
- Parties, § 32:1
- PDF format, § 32:1
- Preserving error, § 32:6
- Protective orders, § 32:9
- References to record, §§ 32:8, 32:10
- Related cases, § 32:4
- Reply brief
 - After notice of no oral argument, § 33:1
 - Joint vs. separate opening briefs, § 32:1
 - New issues, § 32:13
 - Strategy, § 32:13
- Rule 28(i) filings, § 32:15
- Rulings certificate, § 32:4
- Sealed or sensitive documents, references to, § 28:13
- Service, proof, § 32:4
- Signature, § 32:4
- Size limits, § 32:2
- Standard of review, statement, §§ 31:1, 32:4, 32:10
- Statutes and regs, § 32:4
- Subheadings, § 32:10
- Summary of argument, §§ 32:4, 32:10
- Supplemental authorities, § 32:15
 - Citation, form, § 32:16
- Table of authorities, § 32:4
- Table of contents, § 32:4
- Timeliness
 - Generally, § 32:3
 - Criminal appeals, § 15:21
 - Extending time, § 32:3
 - Shortening time, § 32:3
- Waiver of issues not raised, §§ 32:6, 32:12
- Writing, §§ 32:5-32:11

CAPITAL CASES

- Criminal appeals, § 15:27
- Habeas corpus and 2255 relief, § 16:7

INDEX

CD-ROM

Briefs, §§ 30:3, 32:1

CERTIFICATE OF APPEALABILITY

See Habeas Corpus and Section 2255 Proceedings

CERTIFICATION

See also Class Actions, District Court Reasons

Bankruptcy direct appeal, §§ 14:1, 14:4-14:6

Controlling question, Ch. 5

Denial, § 5:3

Finality in multiple claim or party case, Ch. 3

Frivolous appeal, §§ 2:7, 20:1, 26:2

Legal questions

Generally, Ch. 23

Court of appeals to state court, § 23:3

Court of appeals to Supreme Court, § 23:2

District court to court of appeals, § 23:1

Motion to certify state law question, form, § 23:4

Motion to certify - form, § 3:10

Multiple claims or parties, Ch. 3

Pending appeal, § 26:1

Review of certification on appeal, § 3:8

Sentencing appeals, § 20:5

State law question, § 23:3

Motion to certify, form, § 23:4

Stay of execution on judgment, § 21:3

CERTIORARI REVIEW

See Supreme Court

CHANGE IN LAW

After mandate, § 34:14

Before mandate, § 34:12

CHOICE OF LAW

See also Transfer

Federal circuit

Regional law, § 19:6

Transferred appeal, § 9:1

CLAIMS

Separateness for appeal purposes, § 3:4

CLASS ACTION FAIRNESS ACT

See Class Actions, Remand of Removed Actions

CLASS ACTIONS

Appellants, § 8:3

Certification appeals, §§ 2:4, 5:7

Certification orders, § 5:7

Class Action Fairness Act, § 5:8

CLASS ACTIONS—Cont'd

- Class representative, notice of appeal, § 8:3
- Collateral order appeals, § 5:7
- Correct appellant, § 8:3
- Creating finality, § 2:12
- Intervention motion to appeal, § 1:3
- Non-certification appeals, § 5:7
- Remand of removed action, appeal, §§ 1:31, 5:8
- Settlement, appeal, § 20:1
- Standing of class representative, § 1:4
- Voluntary dismissal, special procedures, § 25:7

CLEARLY ERRONEOUS

- Standard of review, § 31:2

CLERK

- Appeal caption, § 22:1
- Argument calendar, §§ 33:3, 33:4
- Authority pending appeal, Ch. 26
- Bond to stay execution, § 21:1
- Communications, § 30:1
- Costs, taxation, § 34:3
- Dismissal, § 25:1
- Docketing, Ch. 22
- Entry of judgment
 - Court of appeals, § 34:1
 - District court, § 7:2
- Failure to prosecute, § 25:1
- Fees, this index
- Filing
 - Notice of appeal, §§ 8:13, 15:8
 - Post-judgment motion, § 10:5
- Interest on judgment, § 34:4
- Motions
 - Ruling on procedural motions, § 30:2
 - Status quo order, § 21:6
- Notice of entry, §§ 12:3, 12:4
- Record on appeal
 - Preparation, §§ 28:1-28:3
 - Transmittal, § 28:13

CLOSED CASE

- See Administrative Closure

COLLATERAL ORDERS

- Anti-SLAAP denial, § 2:7
- Bankruptcy, § 14:4
- Class notice issues, § 5:7
- Contempt, § 2:8
- Criminal appeals, limited, § 15:11

INDEX

COLLATERAL ORDERS—Cont'd

- Criteria, § 2:5
- Cross-appeals, §§ 2:5, 11:3
- Denied immunity, § 2:7
- Pendent appellate jurisdiction, §§ 2:5, 2:7
- Separate document not required, § 7:3
- Stay, grant or denial, § 2:9
- Stay involving arbitration, § 2:10
- Third party orders, § 2:6

COMPLAINT

- Dismissal as final judgment, § 2:3

CONDITIONAL RELEASE

- Criminal cases, §§ 15:30, 15:31

CONFERENCES

- Procedure, § 30:4

CONSENT JUDGMENT

- Reserving right to appeal, § 2:12
- Waiver of appeal, § 1:4

CONSENT TO APPEAL

- See Discretionary Interlocutory Appeals

CONSOLIDATED CASES

- Certification under Rule 54(b) not required, § 3:3
- Effect on appeal, §§ 3:3, 7:5, 10:4, 11:1
- Government as party, effect on appeal period, § 7:9
- Post-judgment motions, effect, § 10:4
- Time for additional appeals, § 11:1

CONSTITUTIONAL CHALLENGE

- Notice requirement, § 28:13
- Standard of review, § 31:2

CONTEMPT

- Appealability, § 2:8
- Appeal period, § 7:9
- Criminal, §§ 15:2, 15:11
- Stay pending appeal, § 21:2

CONTRARY CIRCUIT AUTHORITY

- Basis for en banc hearing, § 33:2
- Discussion in brief, § 32:10
- Initial en banc hearing, § 33:2
- Petition for rehearing en banc, basis for, § 34:8

CONTROLLING QUESTION

- Discretionary appeals, § 5:3

CORRECTION OF SENTENCE

Habeas Corpus and 2255 Relief, this index

COSTS

See also Bond

Allocation, § 34:3

Attorneys fees

As costs, § 20:1

Authority to award

Court of appeals costs by district court, § 34:3

Supreme Court costs by court of appeals, § 34:3

Bill, procedure, § 34:3

Bill of costs, form, § 34:18

Class action settlement, § 20:1

Court of appeals award added to district court judgment, § 34:3

District court costs, § 34:3

Government entitlement and liability, § 34:3

Liability vs. security, § 34:3

Loss after remand, effect on award, § 34:1

Mandate, omitted determination, § 34:14

Motion for costs, effect, § 10:11

Reconsideration motion, § 34:4

Recoverable items, § 34:3

Refusal, grounds, § 34:3

Sanctions, double costs, § 35:2

Sanctions distinguished, §§ 35:1, 35:2

Security for costs, Ch. 20

Taxation, § 34:3

COVER

Briefs, § 32:4

CREDIBILITY OF WITNESSES

Standard of review, § 31:2

CRIMINAL APPEALS

Generally, Ch. 15

Accrual of appeal period, § 15:4

Ancillary issues considered by court of appeals, § 15:14

Anders brief, §§ 15:16, 15:26

Appealable orders, § 15:2

Appeal period extension assumed, § 12:5

Appeal period start, § 15:4

2255 appeals. Habeas Corpus and 2255 Relief, this index

Appendix to record, § 15:19

Bail or recognizance, § 15:30

Briefs

Contents, § 15:20

Timeliness, § 15:21

INDEX

CRIMINAL APPEALS—Cont'd

- Capital cases, §§ **15:27, 16:7**
- Commencement of appeal period, § **15:4**
- Comparison with civil appeals, § **15:1**
- Conditional release, §§ **15:30, 15:31**
- Criminal Justice Act, § **15:28**
- Death penalty appeals, §§ **15:27, 16:7**
- Dismissal
 - Failure to prosecute, § **15:15**
 - Government motion, § **15:16**
 - Special procedure, § **15:16**
 - Voluntary dismissal, §§ **15:17, 25:7**
- Disposition options, § **15:23**
- District court authority pending appeal, §§ **15:13, 26:1**
- Double jeopardy denied, § **15:11**
- Duration of appeal period, § **15:5**
- Expediting agent, § **15:22**
- Extending time to appeal, § **15:10**
- Extraordinary writ review, § **15:12**
- Failure to prosecute, dismissal, § **15:15**
- Forfeiture appeals, § **15:3**
- Government appeal, § **15:20**
- Government breach of plea agreement, § **15:3**
- Interlocutory appeals, § **15:11**
- Mandate, stay, § **15:24**
- Media appeals, § **15:32**
- Motions
 - Dismissal, § **15:16**
 - Release pending appeal, form, § **15:35**
 - Suspending appeal period, § **15:6**
- Notice of appeal
 - Contents, § **15:74**
 - Form, § **15:33**
 - Service, § **15:8**
- Plea bargain, § **15:3**
- Post-judgment motions, § **15:6**
- Post-remand procedure, § **14:16**
- Pre-conviction appeal notice, form, § **15:34**
- Preference for criminal cases, § **15:22**
- Premature appeal, § **15:9**
- Record on appeal, §§ **15:18-15:19**
- Release
 - Pending appeal, § **15:31**
 - Habeas, § **16:5**
 - Motion, form, § **15:35**
 - Pending trial, appeal, § **15:30**
 - Notice of appeal, form, § **15:34**

CRIMINAL APPEALS—Cont'd

- Relief in district court while appeal pending, § 15:13
- Sentence review, § 31:7
- Standard of review
 - Closer scrutiny, § 31:2
- Stay of mandate, § 15:24
- Supreme Court review, § 15:25
- Suspending appeal period, § 15:6
- Third party appeals, § 15:32
- Timeliness
 - Accrual of appeal period, § 15:4
 - Briefs, § 15:21
 - Duration of appeal period, § 15:5
 - Extending time to appeal, § 15:10
 - Premature appeal, § 15:9
 - Separate document rule, § 15:5
 - Tolling appeal period, § 15:6
- Tolling appeal period, § 15:6
- Unwaivable claims, § 15:3
- Voluntary dismissal, § 15:17
- Waiver of appeal, § 15:3
- Withdrawal of counsel, § 15:26
- Writ review, § 15:12

CROSS APPEALS

- Generally, §§ 11:2-11:4
- Briefs, § 32:1
- Collateral order appeals, § 2:5
- Conditional, § 11:2
- Criminal, §§ 15:2, 15:3
- Cross-petition, agency enforcement, § 17:18
- Discretionary interlocutory appeal, §§ 5:5, 11:3
- Extension of appeal period, § 12:1
- Government criminal appeals, § 15:29
- Interlocutory appeals, § 11:3
- Judgment execution, effect of cross-appeal, § 21:3
- Multiple claim or party case, § 3:7
- Need, § 11:2
- Notice of appeal, form, § 11:5
- Procedure, § 11:4
- Waiver for failure to cross-appeal, § 11:2

CUMULATIVE FINALITY

- Appeal without certification, § 3:9
- Dismissal without prejudice, § 2:12
- Premature appeal, § 7:6

DEATH KNELL FINALITY

- Obsolete, §§ 2:4, 5:7

INDEX

DEATH OF APPELLANT

- Class representative, § 8:3
- Criminal appeal, § 15:23
- Mootness, § 25:5
- Substitution, § 8:3
 - Tax Court appeal, § 18:2

DEATH PENALTY

- Criminal appeals, § 15:27
- Habeas corpus and 2255 relief, § 16:7
- Procedure, § 15:27
- Stay treated as injunction, § 4:3

DEFAULT JUDGMENT

- Finality of order sustaining, § 2:3

DELAY

- See also Later Appeal
- Court's ruling, § 30:5
- Effect on writ application, § 6:7
- Failure to prosecute, § 25:1
- Mootness, § 25:5
- Notice of delay, form, § 30:65
- Record in appeal, correcting errors and omissions, §§ 28:18, 28:19
- Request for certification of legal question, § 23:3
- Response to delayed ruling, § 30:5

DE NOVO REVIEW

- Standard of review, § 31:3

DESIGNATING TRANSCRIPT

- See Record

DILIGENT INQUIRY

- Extending time to appeal, § 12:5

DIRECT APPEALS TO COURT OF APPEALS

- Bankruptcy, §§ 14:1, 14:6
- Form, § 14:9

DISCLOSURE STATEMENT

- Briefs, § 32:4
- Motions, § 30:2
- Petition for rehearing en banc, § 34:8
- Petition for review, not required, § 17:11
- Requirement, § 22:2

DISCOVERY

- Final judgment rule, § 2:3

DISCRETIONARY INTERLOCUTORY APPEAL

- Generally, Ch. 5
- Bankruptcy direct appeal, §§ 14:1, 14:4-14:6

DISCRETIONARY INTERLOCUTORY APPEAL—Cont'd

- Certification criteria and procedure, § 5:3
- Class certification, § 5:7
- Compared to
 - Bankruptcy direct appeals, § 14:1
 - Conventional appeal, § 5:6
 - Rule 54(b) certification, § 3:2
- Complex litigation, § 5:2
- Controlling question, §§ 5:3, 5:6
- Costs of action, § 5:6
- Criminal appeals, § 15:11
- Cross appeal, §§ 5:5, 11:3
- Denied certification, § 5:3
- Dismissal, § 5:6
- Docketing, § 5:6
- Extension of petition period, § 5:4
- Extraordinary writ review
 - Filing simultaneously, § 6:7
 - No prerequisite to writ, § 6:4
- Factual issues, resolving, § 5:3
- Federal Circuit, § 19:3
- Fees and costs, § 5:6
- Magistrate, certification by, § 13:3
- Motion to certify orders for immediate appeal, form, § 5:9
- No notice of appeal, §§ 5:6, 8:1
- Orders, not issues, § 5:6
- Petition
 - Generally, § 5:5
 - Extension of time, § 5:4
 - Procedure, generally, §§ 5:3 et seq.
- Postponing, no waiver, § 1:5
- Questions of law, limited to, § 5:3
- Rule 54(b) and section 1292(b) compared, § 3:2
- Scope of review, § 5:6
- Stay pending appeal, § 5:6
- Strategy, § 5:2
- Summary judgment motion, § 5:3
- Tax Court, § 18:1
- Timeliness, §§ 5:3-5:5
- Vacating permission, § 5:6
- Voluntary dismissal, effect on later appeal, § 25:7

DISCRETION OF COURT

- Certification under Rule 54(b), § 3:8
- Extending time to appeal, § 12:5
- Re-entry of order to extend appeal period, § 5:4
- Standard of review, § 31:4

INDEX

DISMISSAL OF APPEAL

Generally, **Ch. 25**

Affirm or dismiss motion, § **25:4**

Agreement to dismiss, form, § **25:10**

Death of appellant, § **25:5**

Failure to prosecute, § **25:1**

Moot appeal, § **25:5**

Motions

Affirm or dismiss, § **25:4**

Denied dismissal, effect, § **25:6**

Motions to dismiss, § **25:1**

Form, § **25:9**

Lack of jurisdiction, § **25:3**

Motions vs. merits panel, § **25:6**

Other grounds, § **25:4**

Reinstatement, § **25:2**

Summary disposition, § **25:4**

Vacating prior decision, § **25:8**

Venue error, § **9:5**

Voluntary dismissal, § **25:7**

Withdrawal of prior decision, § **25:8**

DISPENSING WITH ARGUMENT

Generally, § **33:1**

DISPOSITION OF APPEAL

Generally, **Ch. 34**

See also Costs, Mandate, Opinion, Supreme Court

DISQUALIFYING JUDGES

Before argument, § **33:6**

Extraordinary writ review, § **6:6**

Remand to different district judge, § **34:15**

DISTRICT COURT JURISDICTION

See also Stay

Administrative review, § **17:5**

Appellate leave, §§ **10:13, 26:1**

Concurrent with Federal Circuit, § **19:1**

Correct record errors, § **28:19**

Correct sentence pending appeal, §§ **15:6, 26:1**

Dual jurisdiction, criminal appeal, § **15:11**

Motion during appeal, § **10:13**

Criminal, §§ **15:6, 26:1**

Pending appeal, generally, § **26:1**

Pending collateral order appeal, §§ **2:7, 26:1**

Pending contempt appeal, § **2:8**

Pending double jeopardy appeal, § **15:11**

Pending injunction appeal, § **26:2**

DISTRICT COURT JURISDICTION—Cont'd

- Pending interlocutory appeal, § 26:2
- Pending premature appeal, § 26:1
- Post-judgment motion, § 10:3
- Revival with mandate, § 34:11
- Sanctions on appeal, § 35:2

DISTRICT COURT ORDERS

- Effect of misleading, § 12:3
- Magistrate orders and judgments, Ch. 13
- Post-judgment motion, effect, § 10:7
- Qualified or conditional terms discouraged, § 2:1

DISTRICT COURT REASONS, NEED FOR EXPLANATION

- Generally, § 1:2
- Added to record after decision, § 28:18
- Certification under F.R.C.P. Rule 54(b), §§ 3:7, 3:8
- Certification under 28 U.S.C. § 1292(b), § 5:3
- Criminal release orders, §§ 15:30, 15:31
- Grant or denial of extension, § 12:5

DOCKETING

- Generally, Ch. 22
- Administrative review, § 22:1
- Admission to practice, § 22:3
- Appearance, written, § 22:2
- Attorney admission, § 22:3
- Attorneys
 - Admission to practice, § 22:3
 - Form, §§ 22:4, 22:5
 - Pro hac vice motion, form, § 22:6
 - Representation statement, § 22:2
- Calendaring, § 22:2
- Caption, § 22:1
- Discretionary appeals, § 5:5
- Incidental requirements, § 22:2
- Local rules governing, § 22:2
- Notice of appeal triggering, § 22:1
- Procedure, § 22:1
- Statement filing, § 22:2
- Tax Court appeal, § 22:1
- Timeliness, § 22:2

DOUBLE COSTS

- Sanctions, motions, § 35:2

DOUBLE JEOPARDY

- Appeal from denial, § 15:11

DUE DILIGENCE

- Notice of judgment entry, lack, § 12:4

INDEX

ELECTRONIC FILING

- Generally, § 30:3
- Briefs, § 32:1
- Court of appeals, § 30:3
- Deadlines, § 30:3
- Exhibits and attachments, non-electronic, §§ 28:13, 30:3
- Petition for review, § 17:12
- PFD format, § 30:3
- Procedure, § 30:3
- Record, § 28:13
- Registration, § 30:3
- Service, § 30:3
- Signature, § 30:3
- Tax Court appeal, § 18:2

EN BANC

- See also Oral Argument
- Eligible judges, § 34:8
- Initial hearing, § 33:2
 - Criteria, § 33:2
- Petition for rehearing, § 34:8
- Petition procedure, §§ 33:2, 34:8
- Rehearing, § 34:8
- Units to perform en banc function, § 34:8

ENELOW-ETTELSON DOCTRINE

- Repudiation, § 2:9

ENTRY OF JUDGMENT

- Administrative review, § 17:18
- Disposition of appeal, § 34:1
- Extending time to appeal, §§ 12:2, 12:4
- Post-judgment motions, § 10:2
- Separate document rule, § 7:3
- Time to appeal, § 7:2
- Unspecified amount, § 2:3

EXCUSABLE NEGLECT

- Extension of appeal period, § 12:2
- Good cause, distinguished, § 12:2

EXECUTION OF JUDGMENT

- See Bond

EXHAUSTION OF REMEDIES

- See also Electronic Filing, Record
- Appendix, following, § 29:7
- Appendix to brief, § 32:3
- Extraordinary writ review, §§ 6:3, 6:4
- Finality element, § 17:2

EXHAUSTION OF REMEDIES—Cont'd

Preservation of issues, § 17:6

EXHIBITS

See also Electronic Filing, Record

Appendix, following, § 29:7

Appendix to brief, § 32:3

EXPEDITING APPEAL OR HEARING

Argument, § 33:3

Criminal appeals, § 15:22

In lieu of injunction pending appeal, § 21:6

EXTENSION OF TIME

Generally, **Ch. 12**

Abuse of discretion, § 12:5

Additional appeal, effect, § 11:1

Administrative review, § 17:9

Appeal period

Generally, **Ch. 12**

Bankruptcy, § 14:5

Automatic stay, judgment execution, § 21:3

Criminal appeals

Assumed extension, §§ 12:5, 15:10

Motion and order, § 15:10

Cross appeals, §§ 11:1, 12:1

Denial or grant reviewable, § 12:5

Diligent inquiry duty, § 12:4

Discretionary interlocutory appeal, § 5:4

Discretion of court, § 12:5

Entry of judgment, notice, §§ 12:2-12:4

Excusable neglect and good cause examples, § 12:2

Explicit request required, § 12:1

Extraordinary circumstances, § 12:4

Federal Circuit, § 19:5

Good cause, §§ 12:1, 12:2

Good faith reliance on court, § 12:3

Length of extension, § 12:1

Misleading by court, § 12:3

Motion to extend

Generally, §§ 12:1 et seq.

Reviewing grant or denial, § 12:5

Timeliness, § 12:1

Petition for permission to appeal, § 5:5

Petition for rehearing, §§ 34:7, 34:13

Post-judgment motion, effect, §§ 10:2, 10:5

Procedure, § 12:1

Pro se appeal, § 24:1

Reliance on district court, § 12:3

INDEX

EXTENSION OF TIME—Cont'd

- Review of extension decision, § 12:5
- Standard of review, § 12:5
- Stay on execution of judgment, § 21:3
- Tax court appeals, § 18:2
- Who may request, § 12:1

EXTRAORDINARY WRIT REVIEW

- Generally, **Ch. 6**
- Adequate remedy at law, § 6:3
- All Writs Act, § 6:2
- Alternative to agency review, § 17:3
- Alternative writ petition, § 6:7
- Answer to petition, § 6:7
- Bankruptcy, § 14:4
- Criminal cases, § 15:12
- Criteria, §§ 6:3-6:6
- Curing defective appeal, § 6:9
- Defective appeal, cure, § 6:9
- Discretionary appeal alternatively, § 6:7
- District court transfer orders, § 9:4
- Docket preference, § 6:7
- Drafting petition, § 6:8
- Exhausting legal remedies, §§ 6:3, 6:7
- Federal Circuit, § 19:3
- Future jurisdiction, § 6:2
- Government criminal appeals, § 15:29
- Interlocutory appeal not prerequisite, § 6:8
- Jurisdiction, § 6:2
- Mandamus, § 6:8
- Non-parties, §§ 6:7, 15:32
- Novel questions, § 6:6
- Original jurisdiction, § 6:2
- Petition, form, § 6:10
- Petition contents, § 6:8
- Petition procedure, § 6:7
- Preference on docket, § 6:7
- Prohibition, § 6:8
- Record in case, § 6:8
- Recurring questions, § 6:6
- Recusal of judge, § 6:6
- Rehearing petition, § 6:9
- Ripeness, § 6:2
- Service of petition, § 6:7
- Significant questions, § 6:6
- Standing, § 6:7
- Stay pending decision, § 6:7
- Timeliness, § 6:7

EXTRAORDINARY WRIT REVIEW—Cont'd

Writ name, § 6:8

FAILURE TO PROSECUTE

Appealability of earlier rulings, § 8:4

Criminal appeals, § 15:15

Grounds for dismissal of appeal, § 25:1

FEDERAL CIRCUIT APPEALS

Generally, **Ch. 19**

Address of clerk, § 19:5

Appeal procedure, § 19:5

Briefs, § 19:5

Conflicts of law, § 19:6

Customs appeals, § 19:1

Exclusive jurisdiction, § 19:1

Governing law, § 19:6

Interlocutory appeals, § 19:3

 Patent infringement, § 19:4

Jurisdiction, §§ 9:3, 19:1

Motions suspending appeal period, § 19:5

Patent appeals, §§ 19:1, 19:4

Regional law, § 19:6

Summary affirmance, § 19:5

Suspending appeal period, § 19:5

Temporary Emergency Court of Appeals, §§ 19:1, 19:2

Timeliness, § 19:5

Transcript, § 19:5

Transferring case, § 19:1

Uniformity of procedure, § 19:6

Vacating patent, § 19:5

Venue, § 19:1

FEDERAL RULES OF APPELLATE PROCEDURE

Text of rules, **Appx A**

FEES

See also Attorneys Fees

Administrative review, § 17:12

Admission, § 23:3

Appeal, § 8:14

Criminal appeals, § 15:28

Discretionary appeals, § 5:6

Electronic filing, § 30:3

Extraordinary writ review, § 6:7

Forma pauperis appeals, §§ 20:3-20:5

Forms, §§ 20:8-20:9

Habeas corpus and 2255 proceedings, § 16:1

Later appeal, § 27:1

Payment, generally, § 8:14

INDEX

FEES—Cont'd

- Petition for review, § 17:12
- Post-judgment motion, effect on prior payment, § 10:3
- Refund, § 8:14
- Seaman suits, § 20:3
- Separate appeals, § 11:1
- Tax Court appeals, § 18:2

FILING

- Clerk, this index
- Electronic, § 30:3

FINALITY

- Generally, **Ch. 2**
- Administrative review, § 17:2
- Amendment orders, § 2:3
- Arbitration orders, § 4:7
- Bankruptcy, §§ 14:2, 14:3
- Certification by district court, **Ch. 3**
- Closure of case, effect on finality, § 4:7
- Collateral orders, §§ 2:5-2:9
- Competing considerations, § 2:3
- Complaint dismissal, § 2:3
- Consolidated actions, §§ 3:3, 7:5, 10:4, 11:1
- Contempt orders, § 2:8
- Counterclaims, effect on finality, § 3:4
- Creating finality, § 2:12
- Criminal orders, § 15:11
- Cumulative finality, §§ 2:12, 3:9, 7:6
- Curing lack of finality, §§ 2:12, 3:9
- Default judgment, § 2:3
- Discovery orders, third party, § 2:3
- Dismissal of claims, § 2:3
- Dismissal of complaint, but not expressly dismissing action or denying leave to amend, § 2:3
- Dismissal with and without prejudice, § 2:3
- Dismissal without prejudice, finality, §§ 2:1, 2:12
- District court certification, **Ch. 3**
- District court statement re finality, effect, §§ 2:1, 2:12, 3:4
- Effectively final orders, § 2:3
- Entry of judgment, § 7:2
- Exceptions
 - Admiralty orders, § 4:6
 - Arbitration denial, § 4:7
 - Certified questions, **Ch. 5**
 - Criminal appeals, § 15:11
 - Injunctions, §§ 4:2, 4:3
 - Misc. statutory, § 2:1
 - Patent cases, § 19:4

FINALITY—Cont'd

- Exceptions—Cont'd
 - Receiverships, § 4:5
- Extraordinary writ, cure for non-final appeal, § 6:9
 - Federal Circuit appeals, § 19:3
- Fewer than all defendants, §§ 2:3, 3:1 et seq.
- Finality tests, § 2:3
- Final judgment rule, § 8:4
- Flexible finality, bankruptcy, § 14:2
- Hypothetical jurisdiction, § 2:3
- Immunity denial, § 2:7
- Impairing plaintiff's ability to maintain action, orders, § 2:3
- Interim orders effectively final, § 2:3
- Interlocutory orders
 - Discretionary Interlocutory Appeal, this index
- Intervention denial, § 2:3
- Judgment against fewer than all defendants, Ch. 3, § 2:3
- Judgment in unspecified amount, § 2:3
- Judgment silent on some claims, § 2:3
- Manufactured, § 2:12
- Motions suspending finality, § 10:2
- Multiple claims or parties
 - Generally, Ch. 3
- Orders regarding property, § 2:3
- Post-judgment orders, § 2:3
- Practical, § 2:4

FINAL JUDGMENT RULE

- See Finality
- Merger of prior rulings, §§ 2:3, 8:4
- Multiple claims or parties
 - Alternative theories, § 3:4
 - Appeal without certification, § 3:9
 - Bankruptcy, § 14:4
 - Certification, §§ 3:7-3:9
 - Consolidated actions, § 3:4
 - Counterclaims, § 3:4
 - Enforcement, separate, § 3:4
 - Finality, § 3:4
 - Late certification, § 3:9
 - Nominal parties, § 3:5
 - Nunc pro tunc certification, § 3:9
 - Peripheral parties, § 3:5
 - Pleadings affecting separateness, § 3:4
 - Procedure, certification, § 3:7
 - Relief requested, § 3:4
 - Res judicata, § 3:4
 - Reviewing certification, § 3:8

INDEX

FINAL JUDGMENT RULE—Cont'd

- Multiple claims or parties—Cont'd
 - Same transaction or occurrence, § 3:4
 - Separate claims, § 3:4
 - Standing by third party, § 3:5
 - Tax Court, § 18:1
 - Theories, alternative, § 3:4
 - Timeliness of certification, § 3:9
- Multiple orders on same subject, § 2:3
- Partial judgments, §§ 2:3, 3:1 et seq.
- Pendent appellate jurisdiction, § 2:2
- Post-conviction orders, § 15:4
- Post-judgment motions, Ch. 10
- Post-judgment or decree orders, §§ 2:3, 8:4
- Post-settlement orders, § 2:3
- Practical finality, § 2:4
- Prior rulings, merger, § 8:4
- Property orders, §§ 2:3, 2:11
- Pro se appeals, § 26:1
- Quashed orders, § 2:3
- Remaining claims or parties, § 3:4
- Remand orders, §§ 2:3, 14:3
- Review of earlier rulings, § 8:4
- Sanction orders, §§ 2:3, 2:5, 2:6, 2:8
- Service, orders quashing, § 2:3
- “Springing finality,” § 2:3
- Stay orders, §§ 2:9, 2:10, 4:7
- Tests of finality, § 2:3
- Third parties, orders affecting, § 2:6
- Transfer of property, orders, § 2:11
- Voluntary dismissal, order conditioning, § 2:3
- Without prejudice dismissal - effect on finality, §§ 2:1, 2:12

FONTS

- Briefs, § 32:4

FORFEITURE

- Reviving forfeited argument, § 34:16
- Third party appeals in criminal cases, § 15:32
- Waiver, this index
- Waiver distinguished, § 32:7

FORGAY RULE

- Finality of property transfer, § 2:11

FORMA PAUPERIS APPEAL

- See In Forma Pauperis

FORMS

- Administrative review petition, § 17:20

FORMS—Cont'd

- Admission, application, § 22:5
- Agreed statement, § 28:26
- Appendix, § 29:6
- Argument, §§ 33:12-33:16
- Bankruptcy appeal notices, §§ 14:7-14:9
- Brief, § 32:16
- Certificate of appealability, petition, §§ 16:3, 16:5
- Certification of final judgment, motion, § 3:10
- Certification of local law question, § 23:4
- Certification of question for immediate appeal, motion, § 5:9
- Citation of supplemental authority, § 32:17
- Correction of record, motion, § 28:24
- Cost bill, § 34:18
- Cost bond
 - Motion, § 20:6
 - Stipulation in lieu of bond, § 20:7
- Criminal appeals, §§ 15:33-15:35
- Cross appeal notice, § 11:5
- Delay, notice, § 30:6
- Dismissal of appeal, §§ 25:9-25:10
- Exhibits, stipulation, § 29:7
- Expedited hearing, motion, § 33:12
- Extending time to appeal, motion, § 32:5
- Extraordinary writ petition, § 6:10
- Forma pauperis, motion and affidavit, §§ 20:8-20:9
- Habeas corpus and 2255 relief, § 16:8
- Injunction, stay pending appeal, motion, § 21:12
- Interest, motion to add, § 34:19
- Intervention for purpose of appeal, motions, §§ 1:15, 17:21
- Judicial notice, motion, § 28:28
- Limited remand, §§ 27:3-27:5
- Magistrate, consent and order of reference, § 13:4
- Mandamus, petition, § 6:10
- Mandate
 - Stay motion, § 34:21
 - Vacate motion, § 34:22
- Notice of appeal
 - Bankruptcy, §§ 14:7-14:9
 - Criminal appeal, § 15:33
 - Cross appeal, § 11:5
 - Final judgment, § 8:16
 - Part of judgment, § 8:17
 - Post-judgment order, § 10:14
 - Precautionary appeal, § 1:17
 - Protective appeal, § 1:16
 - Tax Court, § 18:4

INDEX

FORMS—Cont'd

- Omissions from record, motion, § 28:27
- Opinion, request to publish, § 34:17
- Oral argument, motion, §§ 33:13-33:15
- Partial remand, §§ 27:3-27:5
- Permission to appeal, petition, § 5:10
- Petition for permission to appeal, § 5:10
- Precautionary appeal notice, § 1:17
- Pro Hac Vice, motion, § 22:6
- Protective appeal notice, § 1:16
- Punitive damages, motion, § 35:3
- Reassignment to panel, motion, § 33:16
- Record on appeal, §§ 28:24-28:27
- Rehearing, petition, § 34:20
- Release pending appeal, motion, § 15:35
- Release pending trial motion, § 15:34
- Remand, limited, §§ 27:3-27:5
- Representation statement, § 22:4
- Sanctions, motion, § 35:3
- Security for costs, § 20:7
- Stay motion, §§ 21:9-21:10
- Stay pending appeal, motion, § 21:12
- Tax Court appeals, §§ 18:4-18:5
- Transcript
 - Designation, § 28:22
 - Reporter's certificate, § 28:23
- Venue stipulation, § 18:5
- Voluntary dismissal, § 25:10

FORUM NON CONVENIENS

See Transfer

FRIVOLOUS APPEAL

- See also Sanctions
- District court certification, § 2:7
- District court sanctions, not allowed, § 35:1

GILLESPIE DOCTRINE

Practical finality, § 2:4

GLOSSARIES

Briefs, § 32:4

GOOD CAUSE

- Discretionary appeals filing, late, § 5:4
- Extending time to appeal, § 12:2

GOOD FAITH RELIANCE

Extending time to appeal, § 12:3

GOVERNMENTAL APPEALS

- Appeal period, § 7:9
- Criminal appeals, § 15:29

HABEAS CORPUS AND 2255 RELIEF

- Generally, **Ch.16**
- Capital cases, § 16:7
- Certificate of appealability
 - Limited or denied, § 16:4
 - Need, § 16:2
 - Not required by government, § 16:3, 16:4
- Petition, form, § 16:8
- Procedure, § 16:3
- Votes to grant appeal, § 16:4
- Civil vs. criminal remedy, § 16:1
- Constitutional right denial, § 16:3
- Deadlines, § 16:1
- Death penalty cases, § 16:7
- Federal prisoners, generally, § 16:1
- Habeas and section 2255 compared, § 16:1
- Interlocutory appeals, § 16:1
- Non-habeas issues, § 16:1
- Notice of appeal as request for certificate, §§ 16:3-16:4
- Record on appeal, § 28:18
- Release pending appeal, § 16:6
- Second or successive applications, §§ 16:5, 23:1
- Section 2255 compared, § 16:1
- State court record, § 28:18
- Timeliness, § 16:1
- Transfer of second or successive question, § 23:1

HARMLESS ERROR

- Standard of review, § 31:7

HIGHLY SENSITIVE DOCUMENTS

- Treatment in record, § 28:13

HYPOTHETICAL JURISDICTION

- Criticism and use, § 2:1

IMMUNITY

- Denial as collateral order, § 2:7

INDICATIVE RULING

- See also Partial Remand
- Civil appeal, § 26:1
 - Criminal appeal, § 15:13
- District court motion pending appeal, §§ 10:3, 26:1
- Partial remand, **Ch. 27**
- Post-judgment motion, not needed, § 10:13

INDEX

INDICATIVE RULING—Cont'd

Procedure, § 27:2

IN FORMA PAUPERIS

See also Costs

Appeal process, § 20:5

Certification as frivolous, §§ 20:1, 20:4

Criminal Justice Act, compared, § 15:28

Exemption from security for costs, § 20:3

Motion for leave, form, § 20:8

Prior approval, § 20:4

Procedure, § 20:4

Tax Court procedure, § 20:4

Three strikes rule, inmate appeals, § 20:4

INITIAL HEARING EN BANC

See En Banc

INJUNCTIONS

Generally, §§ 4:2-4:3

Alternate means to obtain review, § 5:3

Bankruptcy appeal, § 14:4

Cross-appeal, § 11:3

Denial by inaction, § 4:2

Expedited appeal, § 21:5

Government appeal in criminal case, § 15:29

Inaction, effect, § 4:2

Injunctive effect, § 4:3

Modifying, § 4:2

Orders effective as injunctions, § 4:3

Pending appeal, § 21:6

 Modifying or vacating, § 21:7

 Stay compared, § 21:6

Pending rehearing, § 34:8

Preliminary injunction, § 4:2

Review of other issues, § 4:4

Separate document required, § 7:3

Standing, § 4:2

Stay Pending Appeal, this index

Temporary restraining order, § 4:2

INTEREST ON JUDGMENT

Affirmed judgment, § 34:4

Issues affecting mandate, § 34:13

Motion for interest, effect, § 10:11

 Form, § 34:19

Omitted instructions, mandate recall, § 34:14

Post-judgment motions, § 10:11

INTERLOCUTORY APPEALS

- See also Admiralty, Bankruptcy, Discretionary Interlocutory Appeal,
Extraordinary Writs, Injunction, Receivership
- Class certification, § 5:7
- Criminal cases, § 15:11
- Cross appeal, in, § 11:3
- Denied arbitration, § 4:7
- District court jurisdiction pending appeal, § 26:3
- Federal circuit appeals, § 19:3
- Habeas corpus and 2255 relief, § 16:1
- Magistrate orders and judgments, § 13:3
- Record on appeal, § 28:21
- Statutes authorizing, § 4:1
- Third parties, § 15:11

INTERVENTION

- Administrative review, § 17:14
 - Motion, form, § 17:20
- Amicus alternative, § 1:3
- Appeal before leave granted, § 1:3
- Appeal from denial, §§ 1:3, 2:3
- Appeal without intervening - unique interest required, § 1:3
- Denial as final judgment, § 2:3
- Discretionary interlocutory appeal, § 5:6
- Government as intervenor, effect on appeal period, § 7:9
- Intervenor standing, § 1:3
- Intervenor treated as party, § 3:5
- Limit on new issues, § 17:14
- On appeal, § 1:3
 - Motion - form, § 1:15
- Oral argument by intervenor, § 33:4
- Protective appeal, § 1:10

ISSUES, SCOPE

- See also Notice of Appeal, Omitted Issues, Pendent Appellate Jurisdiction, Preservation of Issues
- Class action certification, § 5:2
- Discretionary interlocutory appeal
 - Orders, not issues, § 5:6
- Failure to list issues, §§ 28:4, 32:6, 32:12
- Intervention, § 17:12
- Post-judgment motion, designation of ruling in notice, § 10:9
- Raised first time on appeal
 - Generally, §§ 32:7, 32:12
 - Criminal, § 15:20
- Statement in briefs, § 32:4
 - Drafting, § 32:6

INDEX

JUDGES

- Assignment to panels, § 33:5
 - Come-back cases, § 33:5
- Disqualification, § 33:6
- District court, sitting by designation, § 33:5
- Emails with counsel criticized, § 30:1
- En banc units, § 34:8
- Familiarity with each other, § 33:9
- Internet research by judges, § 28:20
- Magistrates, **Ch. 13**
- Misconduct, § 33:6
- Motions vs. merits panel, dismissal motion, § 25:6
- Number per circuit, § 33:5
- Panel, merits
 - Composition, § 33:5
 - Quorum, § 33:5
- Qualification, § 33:5
- Reassignment on remand, § 34:15
- Recusal, § 33:6
- Retained jurisdiction for future appeals, § 34:11
- Senior status, § 33:5
- Sitting by designation, § 33:5
- Supreme Court justice on court of appeals, § 33:5

JUDGMENT

- See also Bond
- Amended, § 7:4
- Amount not included, § 2:3
- Designation in notice of appeal, § 8:4
- Effect of post-judgment motion, § 10:2
- Enforcement after remand, § 34:1
- Entry and effect, Court of Appeals, § 34:1
- Entry and effect, District Court, § 7:2
- Execution, stay, § 21:1
 - Automatic stay, § 21:3
 - Extension, § 21:3
 - Exemption from bond requirement, § 21:3
 - Motion for additional security, form, § 21:10
 - Motion to stay, form, § 21:9
 - Post-judgment motion, effect, § 21:3
 - State law, § 21:3
- Fewer than all defendants - finality, **Ch. 3, § 2:3**
- Final judgment rule, § 8:4
- Multiple judgments
 - Designation, § 4
 - Post-judgment motion, § 10:3
 - Same subject, finality, § 2:3
- Notice of entry, lack, § 12:4

JUDGMENT—Cont'd

- Post-judgment motion, effect, §§ 10:2, 10:3, 10:9
- Registration pending appeal, § 21:1, § 21:3
- Remand, direct entry for other party, § 34:6
- Separate document rule, § 7:3
 - Post-judgment motion, effect of ruling, § 10:7
 - 28 U.S.C. appeal, § 15:4
- Settlement, agency enforcement, § 17:18
- Silent on some claims - finality, § 2:3
- Stay of execution, § 21:1
- Unspecified amount - finality, § 2:3
- Vacated and re-entered, § 7:4
- Without amount, § 2:3

JUDICIAL NOTICE

- District court, § 28:18
- Internet research by judges, § 28:20
- Material outside record, § 28:20
- Motion, form, § 28:28
- Supplementing record, compared, § 28:18

JUDICIAL REVIEW

- See Administrative Review

JURISDICTION

- See also Appeal Period, District Court Jurisdiction, Finality, Pending Appellate Jurisdiction
- Administrative review, § 17:1
- Bankruptcy, § 14:1
- Dismissal, lack of jurisdiction, motion, § 25:3
- District court, pending appeal, Ch. 26
- Extraordinary writ review, § 6:2
- Federal circuit, scope of jurisdiction, § 19:1
- Hypothetical, § 2:1
- Mandate, effect, § 34:11
- Pending partial remand, § 27:2
- Prudential limits, § 2:1
- Retained for future appeals, § 34:11
- Sanctions, jurisdiction over merits not required, § 35:2
- Supreme Court direct review, effect on court of appeals, § 9:2
- Tax court appeals, § 18:1
- Uncertain jurisdiction, writ as alternative or cure, § 6:9
- Venue affected by, §§ 9:3, 9:5

JURISDICTIONAL VS. NON-JURISDICTIONAL

- Administrative review, § 17:7
 - Statute barring review, § 17:6
- Appeal period
 - Generally, § 7:1
 - Bankruptcy, §§ 14:5, 14:6

INDEX

JURISDICTIONAL VS. NON-JURISDICTIONAL—Cont'd

- Appeal period—Cont'd
 - Criminal, § **15:5**
- Failure to preserve issue, § **1:2**
- Separate document lacking, § **7:3**
- Three strikes rule, § **24:1**
- Waivable time limits
 - Class certification petition, § **5:7**
 - Criminal appeals, §§ **7:1, 15:5**
 - Cross-appeal, § **11:4**
 - Petition for permission to appeal, § **10:5**
 - Post-judgment motions, § **10:5**

JURY AND JURY TRIAL

- Instructions, standard of review, § **31:7**
- Verdict, standard of review, § **31:7**

LABOR DISPUTES

- Administrative review, § **17:18**
- NLRB as petitioner, § **32:1**

LATER APPEAL

- Arbitration order, § **4:7**
- Collateral order appeal, § **2:5**
- Delay not allowed after 54(b) certification, § **3:7**
- Interlocutory orders, §§ **1:5, 34:10**
- Later injunction appeals limited to new issues, § **4:2**
- Pros and cons of waiting, § **3:6**
- Supreme Court review of discretionary interlocutory appeal, § **5:6**
- Third party collateral orders, § **2:6**

LOST RECORD

- New trial, § **28:17**
- Reconstructing, § **28:17**

MAGISTRATES

- Generally, **Ch. 13**
- See also Judges

MAIL AND MAILING

- Delay as grounds for extension, § **12:2**
- Electronic service and filing, § **30:3**
- Federal circuit address, § **19:5**
- Prison mailbox rule, §§ **8:13, 24:1**
- Tax court address, § **18:2**

MANDAMUS

- Extraordinary Writ Review, this index

MANDATE

- Accelerated, § **34:12**
- Change of law as grounds for recall, § **34:14**

MANDATE—Cont'd

- Criminal appeals, stay, § 15:24
- Delay by rehearing petition, §§ 34:7, 34:8, 34:12
- Delay for other reasons, §§ 17:17, 34:13
- District court duties, § 34:16
- Expedited, § 34:12
- Form, § 34:11
- Hold by judge, § 34:12
- Issuance, § 34:12
- Jurisdiction after mandate, § 34:11
- Motion, §§ 34:21, 34:22
- No delay for costs, § 34:3
- Omission of interest, § 34:14
- Purpose and effect, § 34:11
- Recall, § 34:14
- Stay
 - After denial of certiorari, § 34:13
 - Criminal appeal, § 15:24
 - Grounds, § 34:13
 - Pending certiorari, §§ 34:10, 34:13
 - Motion for stay, § 34:13
 - Form, § 34:21
 - Renewed motion in Supreme Court, § 34:13
 - Pending rehearing, §§ 34:7, 34:8, 34:12
 - Related Supreme Court case, § 34:13
- Supplement for costs, § 34:3
- Timing, § 34:12
- Vacate or recall, § 34:14
 - Motion to vacate, form, § 34:22

“MANUFACTURED” FINALITY

- Creating finality, § 2:12

MEDIA

- Collateral orders, § 2:6
- Third party appeals in criminal cases, § 15:32

MEDIATION

- Procedure, § 30:4

MOOT COURT

- Argument, § 33:11

MOOTNESS

- Delayed appeal, § 1:5
- Equitable mootness, §§ 14:2, 14:5
- Grounds for dismissal, § 25:5
- Preliminary injunction appeal, § 4:2
- Prudential mootness, § 2:1
- Vacatur, § 25:8

INDEX

MOTIONS

- See also Post-Judgment Motion
- Effect of pending motion, § 30:2
- Emergency motion, § 30:2
- Procedure, § 30:2
- Transfer to merits panel, § 30:2

MULTI-DISTRICT LITIGATION

- See also Transfer
- Appellate venue, § 9:4

MULTIPLE CLAIMS OR PARTIES

- See Finality

NEW TRIAL

- Motion needed to preserve appeal, § 1:2

NLRB PROCEEDINGS

- Administrative review, § 17:18
- Briefs, NLRB as petitioner, § 32:1
- Injunction pending review, § 17:18
- Settlement of judgment, enforcement action, § 17:1

NON-INTERVENING PARTIES AS APPELLANTS

- Intervention in interlocutory appeal, § 5:6
- Right to appeal, § 1:3
- Unique interest required, § 1:3

NOTICE OF APPEAL

- Generally, **Ch. 8**
- Amendment, ruling on post-judgment motion, § 10:9
 - Criminal appeal, not required, § 15:6
- Attachemnt, § 8:12
- Authority to sign, § 8:12
- Bankruptcy, following, § 14:5
- Contents, §§ 8:2-8:11
 - Federal Circuit, § 19:5
- Criminal appeals
 - Contents, § 15:7
 - Form, § 15:33
 - Service and filing, § 15:8
- Cross appeal, § 11:45
- De facto notice, § 8:5
- Designations required, § 8:2
- Documents treated as notice, § 8:5
- Earlier orders, § 8:13
- Electronic filing, §§ 7:7, 8:13
- Filing, § 8:13
- Filing in wrong court, § 9:5

NOTICE OF APPEAL—Cont'd

Forms

Bankruptcy, §§ 14:7-14:9

Civil, §§ 8:16, 8:17

Criminal, §§ 15:33, 15:34

Cross-appeal, § 11:5

Tax Court, § 18:4

Habeas corpus and 2255 relief, §§ 16:3-16:4

Later orders, §§ 7:3, 8:4

Other documents as notice, §§ 8:15, 15:10, 16:1

Parties designated, § 8:3

Post-judgment motions

Designation of ruling on motion, §§ 10:9, 15:6

Effect on appeal, §§ 10:3, 15:6

Ruling on motions, § 10:9

Pro se, § 24:1

Signature, § 8:11

Tax court appeals, § 18:2

NOVEL QUESTIONS

Extraordinary writ review, § 6:6

NUNC PRO TUNC CERTIFICATION

Multiple claims or parties, § 3:9

OMITTED ISSUES

Bankruptcy record, § 14:5

Briefs, § 32:6

Docketing statement, § 22:2

Transcript order, § 28:4

OPINION OF COURT

Issuance, § 34:1

Publication, § 34:1

Letter requesting publication, form, § 34:17

Withholding, § 34:2

Revision, new rehearing petition, § 34:7

Unpublished, §§ 32:4, 32:10, 34:2, 34:8

Vacating on rehearing, § 34:5

Vacating or withdrawing as part of settlement, § 25:8

ORAL ARGUMENT

Generally, **Ch. 33**

See also En Banc, Judges

Assignment to panels, § 33:5

Come-back cases, § 33:5

Motion to assign, form, § 33:16

Attendance by client, § 33:10

Brief, statement regarding, § 32:4

Calendar, § 33:3

INDEX

ORAL ARGUMENT—Cont'd

- Cameras, § 33:10
- Dispensing with argument, § 33:1
 - Motion to submit without argument, form, § 33:13
- Disposition without argument, § 33:1
 - Statement supporting argument, illustration, § 33:15
- District judge on panel, § 33:5
- Divided, § 33:8
- Effective, § 33:11
- Expedited appeal, § 33:3
 - Motion to expedite, form, § 33:12
- Failure to attend, § 33:10
- Federal Circuit, § 19:5
- Issue selection, § 33:11
- Judges
 - Identity of panel members, § 33:6
 - Panel assignment, § 33:5
 - Preparation by, § 33:9
- Location, § 33:4
- Moot court, § 33:22
- Motions
 - Calendar restoration, § 33:14
 - Expedite hearing, § 33:12
 - Panel assignment, original, § 33:16
 - Submission without oral argument, § 33:13
- Multiple parties and attorneys, § 33:8
- New issues, § 33:10
- Postponement, § 33:3
- Procedure, § 33:10
- Restoring to calendar, § 33:1
 - Motion to restore, form, § 33:14
- Sequence, § 33:4
- Statement regarding, § 33:4
 - Illustration, § 33:15
- Submission on briefs, § 33:1
- Technique, § 33:11
- Time allowed, §§ 33:4, 33:10
- Venue, § 33:4
- Virtual hearings, §§ 33:3, 33:10
- Visual aids, § 33:10
- Who should argue, § 33:7

ORDERS

- See also Collateral Orders, District Court Orders, Finality, Post-Judgment or Decree Orders
- Scope of review
 - Arbitration, § 4:7
 - Bankruptcy, § 14:4

ORDERS—Cont'd

- Scope of review—Cont'd
 - Discretionary interlocutory appeal, § 5:6
 - Orders, not issue, § 5:6
 - Remand of removed action, § 1:10

PANEL OF COURT

- See Judges

PARTIAL JUDGMENTS

- Generally, §§ 2:3, 3:1 et seq.

PARTIAL REMAND

- Generally, Ch. 27
- See also Indicative Ruling
- Circumstances, § 27:1
- Issues to resolve, § 27:2
- Motion, form, § 27:3
- Reactivating appeal, § 27:2
- Report on remand decision, form, § 27:5
- Retaining appellate jurisdiction, § 26:2
- Rule 60(b) motion, § 10:13
- Stipulation, § 27:4

PARTIES

- Additional party appeals
 - Cross appeal, §§ 11:2-11:4
- Briefs, § 32:1
- Extraordinary writ review, § 6:7
- Intervenor, § 3:5
- Multiple briefing, § 32:2
- Non-party appeal, § 1:3
- Petition by others, § 17:7
- Petition for review, § 17:17
- Pro se, Ch. 24
- Standing to appeal, § 1:4
- U.S. government as party, § 7:9

PATENT INFRINGEMENT

- Federal circuit jurisdiction, § 19:1
- Interlocutory appeal, § 19:4
- Post-judgment motion, § 19:4

PENALTIES

- Sanctions, this index

PENDENT APPELLATE JURISDICTION

- Generally, § 2:2
- Arbitration appeal, § 4:7
- Attorneys fees and merits, § 10:12
- Class certification appeal, § 5:7

INDEX

PENDENT APPELLATE JURISDICTION—Cont'd

- Collateral order appeals, § 2:5
- Contempt appeal; review of injunction, § 2:8
- Discretionary interlocutory appeal, § 5:6
- Injunction appeal, interrelated orders, § 4:4
- Interlocutory appeals, § 5:6
- Multiple claims or parties appeal, § 3:2
- State claims, § 1:11
- Threshold issues, § 2:2

PERMISSION TO APPEAL

- See Discretionary Interlocutory Appeals

PERMISSIVE APPEALS

- See Discretionary Interlocutory Appeals

PETITIONER

- Name in petition, § 17:11

PETITION FOR PERMISSION TO APPEAL

- See Discretionary Interlocutory Appeals

PETITION FOR REHEARING

- See Rehearing

PETITION FOR REVIEW

- See Administrative Review

POST-JUDGMENT MOTIONS

- Generally, **Ch. 10**
- Adequacy or sufficiency, § 10:5
- Amending notice of appeal, § 10:9
- Amendment, § 10:5
- Appealing motion ruling, §§ 10:8, 10:9
- Appeal period
 - Restart after denial, §§ 10:7, 15:6
 - Restart with denial vs. amended judgment, § 7:2
 - Restart with grant of motion, § 10:8
- Attorney fee motion and awards, § 10:12
- Bankruptcy, § 14:5
- Checklist of motions suspending appeal period, § 10:1
- Collateral order appeal, § 2:7
- Consolidated cases, § 10:4
- Cost motions, § 10:11
- Criminal appeals, § 15:6
- Curing deficiencies, § 10:5
- Deadline, §§ 10:5, 15:6
 - Judgment not on separate document, § 7:3
- Decision on motion, appeal procedure, § 10:9
- Disposition by district court
 - Effect, § 10:7

POST-JUDGMENT MOTIONS—Cont'd

- Disposition by district court—Cont'd
 - Grant of motion, §§ **10:8, 15:9**
 - Effect on appeal period, §§ **10:1, 10:7**
 - Entry of judgment, §§ **10:2, 10:4, 10:7**
 - Exceptions to reconsideration rule, § **10:10**
 - Execution on judgment pending motion, § **21:3**
 - Extension of deadline, § **10:5**
 - Fee motion and awards, § **10:12**
 - Notice of appeal, form, § **10:14**
 - Fees, when payable, § **8:14**
 - Filing, § **10:5**
 - Government criminal appeals, § **15:29**
 - Grant of motion, effect, §§ **10:8, 15:9**
 - Habeas and section 2255 proceedings, § **16:1**
 - Second or successive, motion as, § **16:5**
 - Interest motions, § **10:11**
 - Interlocutory appeal, §§ **4:5, 4:6, 10:1, 19:4**
 - Issue raised for first time, § **1:2**
 - Multi-party cases, §§ **3:7, 10:4**
 - Multiple motions
 - Appeal after denial of less than all, § **10:7**
 - Multiple party or claim appeal, § **3:7, 3:7**
 - Needed to preserve issue, § **1:2**
 - New judgment, § **10:8**
 - Notice of appeal, effect, § **10:3**
 - Notice to appellate court of pending motion, § **10:3**
 - Pending appeal, §§ **10:13, 15:6**
 - Premature motions, § **10:6**
 - Prior appeal, effect on, § **10:3**
 - Re-argument exception, § **10:10**
 - Reconsideration
 - Generally, § **10:10**
 - Administrative agency, § **17:10**
 - Review of ruling on motion, §§ **8:4, 10:9, 15:9**
 - Review period
 - Administrative review, § **17:10**
 - Rule 60(b) motions filed more than 28 days after judgment, § **10:13**
 - Ruling on motion, appeal procedure, §§ **10:8, 10:9**
 - Sanctions motions, effect, § **10:11**
 - Second motion, § **10:8**
 - Second or successive habeas application, § **16:5**
 - Sentence, motion to reduce or vacate, § **15:2**
 - Separate document not required, § **7:3**
 - Shortcomings, § **10:5**
 - Substance vs. labels, § **10:1**

INDEX

POST-JUDGMENT MOTIONS—Cont'd

- Suspending effect, §§ 10:1, 10:3, 10:4
- Scope of suspension, § 21:3
- Suspend vs. tolling appeal period, § 10:1
- Tax court appeals, § 18:2
- Timeliness of motions, §§ 10:5, 10:6, 15:6
- Tolling appeal period, §§ 10:1 et seq.
- Vacating judgment, § 10:13
- Withdrawal, § 10:7

POST-JUDGMENT OR DECREE ORDERS

- Finality, § 2:3
- Review in earlier appeal, § 8:4

PRACTICAL FINALITY

- Generally, § 2:4
- Administrative review, § 17:2

PRECAUTIONARY APPEAL

- See also Protective Appeal
- Notice of appeal - form, § 1:17

PRECONVICTION APPEAL

- Form of notice, § 15:33

PREFERENCE AND PRIORITY

- Argument, § 33:3
- Criminal appeals, § 15:22
- Extraordinary writs, § 6:7

PREJUDICE

- Extending time to appeal, §§ 12:1, 12:2, 12:4
- Standard of review, § 31:7

PRELIMINARY INJUNCTIONS

- See Injunction

PREMATURE APPEAL

- Generally, § 7:6
- Criminal cases, § 15:9
- Cumulative finality, §§ 2:12, 3:9, 7:6
- District court's authority pending appeal, § 26:1
- Extraordinary writ as cure, § 6:9
- Finality after premature appeal, § 2:12
- Late certification as cure, § 3:9
- Petition for review, § 17:8
- Post-judgment motion, § 10:6
- Record, material added after appeal, § 28:18
- Tax Court, § 18:2

PREMATURE MOTIONS

- Post-judgment motions, § 10:6

PRESERVING ISSUES

- Generally, § 1:2
- Administrative review, § 17:6
- Failure to raise in lower court, §§ 15:3, 15:20, 32:12
- Unraised issues, generally, § 32:12

PREVAILING PARTY

- Cross-appeal, § 11:2
- Right to appeal, § 1:4

PRISONERS

- Fees, § 16:1
- Filing notice of appeal, §§ 8:13, 15:8
- Forms, §§ 15:34-15:35
- Mailbox rule, §§ 8:13, 15:8, 24:1
- Release pending trial or appeal, §§ 15:30, 15:31
- Three strikes rule, § 20:4

PRISON MAIL BOX RULE

- Filing, §§ 8:13, 15:8, 24:1

PRIVILEGES, DENIAL

- Collateral order, § 2:6

PRO HAC VICE ADMISSION

- Motion, § 22:6

PROHIBITION

- Extraordinary writ review, § 6:8
- Petition form, § 6:10

PROPERTY

- Orders as final judgment, §§ 2:3, 2:11

PRO SE APPEALS

- Generally, Ch. 24
- Corporations, § 8:11
- Defending, Ch. 24
- Extending time to appeal, § 12:56
- Filings restricted, §§ 24:1, 35:1
- Rule, binding effect, Ch. 24
- Sanctions, § 35:1

PROSECUTION APPEALS

- Criminal appeals, generally, §§ 15:16, 15:29

PROTECTIVE APPEAL

- See also Precautionary Appeal
- Denied intervention, § 1:7
- Notice of appeal, form, § 1:16
- Pending Solicitor General approval, § 17:7
- Stay pending, § 1:7
- Uncertain appeal period, § 1:9

INDEX

PROTECTIVE APPEAL—Cont'd

Uncertain appellate venue, § 1:8

Would-be intervenor, § 1:10

PROTECTIVE ORDERS

Briefs, § 32:9

Electronic filing, § 30:3

Record under seal, § 28:13

PRUDENTIAL RIPENESS

See Ripeness

PUBLICATION OF OPINION

See Opinion

PUNITIVE DAMAGES

Generally, Ch. 35

Sanction motion, § 35:3

RECEIVERSHIP

Appealable orders, § 4:5

RECONSIDERATION

Administrative review, § 17:10

Habeas corpus and 2255 relief, § 16:5

Post-judgment motions, § 10:10

Tax court appeals, § 18:2

RECORD ON APPEAL

Generally, Ch. 28

Accuracy disputes, § 28:19

Administrative review, § 17:16

Agreed statement in lieu of record, § 28:16

Illustrations, § 28:2

Appellee's interest, § 28:3

Appendix compared, § 29:1

Bankruptcy appeal, §§ 14:5, 14:6

Briefs, record references, §§ 12:8, 32:10

Certification by appellant

Exceptions, §§ 32:8, 32:10

Form, § 28:23

Contents, §§ 28:1, 28:13

Correction, § 28:19

Motion to correct, form, § 28:24

Cost of transcript, liability, §§ 28:8, 28:10

Court reporters' duties, § 28:11

Criminal appeals, §§ 15:18, 15:19

Cross appellant's obligation, § 11:4

Described, § 28:1

Designating transcript, see Transcript, below

Disputes over accuracy, § 28:19

RECORD ON APPEAL—Cont'd

- District court retention, §§ 28:14, 28:15
- District court role in preparation, § 28:13
- Errors, § 28:19
- Excerpts, see Appendix
- Excess designation, costs refused, § 34:3
- Excluding material, § 28:14
- Extraordinary writ review, § 6:7
- Extra-record material, § 17:16
- Federal Circuit, § 19:5
- Holding back record, §§ 28:14, 28:15
- Incomplete record, § 28:17
- In forma pauperis appeal, § 20:5
- Interlocutory appeal, § 28:21
- Judicial notice, § 28:20
 - Administrative review, § 28:20
 - By district court, § 28:18
 - Motion, form, § 28:28
- Late transcript, § 28:12
- Lost or incomplete, § 28:17
 - Grounds for new trial, § 28:17
- Monitoring preparation, § 28:2
- Motion, § 28:25
- Motions
 - Corrections, § 28:24
 - Judicial notice, § 28:28
 - Settle record, following, § 28:25
- Necessity, § 28:1
- Omitting materials, § 28:14
- Outside the record, considering matters, §§ 28:13, 28:18, 28:20
- Premature appeal, § 28:18
- Privacy protections, § 28:13
- Record excerpts as alternative, § 29:5
- References required in briefs, §§ 32:8, 32:10
- Sealed or sensitive documents, § 28:13
 - Briefs, references in, § 32:9
- Setting the record, § 28:19
 - Motion, form, § 28:25
- Statement, agreed, in lieu of record, § 28:16
- Stipulations
 - In lieu of statement, § 28:16
 - Omission from record, form, § 28:27
- Supplemental, §§ 17:16, 28:18
- Supplementing, § 28:18
 - Habeas exceptions, § 28:18
 - Inherent authority, § 28:18
 - Judicial notice, § 28:18

INDEX

RECORD ON APPEAL—Cont'd

- Supplementing, § 28:18—Cont'd
 - Missing items, § 28:17
- Tax court appeals, § 18:3
- Temporary retention, § 28:15
- Timeliness, §§ 28:7, 28:12
- Transcript
 - Generally, §§ 28:4-28:12
 - Appellee's designation, § 28:9
 - Cause number to court reporter, § 22:1
 - Certification exceptions, § 28:5
 - Cost liability, §§ 28:8, 28:10
 - Court reporter's duties, §§ 28:11, 28:12
 - Delay in preparing, § 28:12
 - Designating, generally, § 28:6, 28:9
 - Form, § 28:22
 - Federal circuit appeals, § 19:4
 - Inadequate transcript, effect, §§ 15:18, 28:9
 - Interlocutory appeal, § 28:21
 - Lost or incomplete, § 28:17
 - Ordering, §§ 15:18, 28:4-28:7, 28:9
 - Appellant's designation, form, § 28:22
 - Interlocutory appeal, § 28:21
 - Payment, §§ 28:8, 28:10
 - Statement of issues, § 28:4
- Transmittal, § 28:13
 - Exclusion of parts, § 28:14
- Withholding record, §§ 28:14, 28:15
- Writ review, § 6:7

RECURRING QUESTIONS

- Extraordinary writ review, § 6:6

RECUSAL OF JUDGE

- Appealability, § 2:3
- Disclosure statement, § 32:4
- Extraordinary writ review, § 6:6
- Motion to disqualify, § 33:6

REHEARING

- Combined petitions to panel and en banc, § 34:8
- Decision after Supreme Court remand, § 34:10
- Effect on mandate, §§ 34:7, 34:8, 34:12
- En banc, § 34:8
- En banc vs. panel, § 34:8
- Late petition, § 34:12
- Petition, § 34:7
 - Form, § 34:20
- Post-decision events, § 34:12

REINSTATEMENT

Dismissed appeal, § 25:2

RELEASE PENDING TRIAL OR APPEAL

Criminal cases, §§ 15:30, 15:31

Motion, § 15:35

RELIANCE ON COURT

Grounds for extension, § 12:3

REMAND DURING APPEAL

See also Partial Remand

REMAND OF REMOVED ACTION

Generally, § 1:11

Acting under federal officer, § 1:11

Attorneys fees for improper removal, § 35:1

Class Action Fairness Act, § 5:8

Denial, appealability, §§ 1:11, 2:3

Federal employee immunity, § 2:7

Federal question jurisdiction, § 1:11

REMAND ORDERS

Administrative review, § 17:17

Appealability

Generally, § 2:3

Agency remand, § 17:2

Magistrate orders, § 13:3

Removed action, § 1:11

Bankruptcy, §§ 14:1, 14:3

Class actions, §§ 1:11, 5:8

Different district judge, §§ 31:2, 34:15

Finality, § 2:3

Indicative ruling by district court, Ch. 27, §§ 10:3, 26:1

Judgment, entry for other party, § 34:6

Partial remand, Ch. 27

Post-remand procedure, § 35:16

Procedure after, § 34:16

Reassignment to different judge, § 34:15

Removed action, review of remand, § 1:11

Supreme Court, § 34:10

REMOVED ACTION

See also Remand of Removed Action

Appeal from abstention, § 2:9

Appeal from remand, § 1:11

REPLY BRIEF

Briefs, §§ 32:1, 32:13

REPORTERS, COURT

Transcript, §§ 28:11, 28:12, 28:17

INDEX

REPRESENTATION STATEMENT

Docketing appeals, § 22:3

Form, § 22:4

RES JUDICATA

Administrative non-acquiescence, § 17:17

Effect of ruling in multiple claim or party case, § 3:4

RESTORATION ON CALENDAR

Argument, § 33:1

Motion, form, § 33:14

REVERSAL

District court duties, § 34:16

RIPENESS

Administrative review, § 17:2

Extraordinary writ review, § 6:2

Injunction appeal, § 4:2

Limit on exercise of jurisdiction, § 2:1

Prudential ripeness, § 2:1

RULES OF APPELLATE PROCEDURE

Text of rules, FRAP Appx A

SAME TRANSACTION OR OCCURRENCE

Multiple petitions for review, § 17:15

Separateness of multiple claims, § 3:4

SANCTIONS

Generally, Ch. 35

Administrative agency, against, § 35:1

Non-acquiescence, agency, § 17:17

Amount, determination procedure, § 35:2

Authority to impose, § 35:1

Bad faith, § 35:1

Contempt distinguished, § 2:8

Criminal defendant, § 15:23

Delay, as grounds, § 5:3

Finality of orders, § 2:3

Frivolous, meaning, § 35:1

Grounds, § 35:1

Misconduct, § 35:1

Motion for sanctions, effect, §§ 10:11, 35:2

Form, § 35:3

Post-judgment motions, § 10:11

Procedure, § 35:2

Pro se parties, § 24:1

Rule 11, compared, § 35:1

Separately appealable, § 10:11

SANCTIONS—Cont'd

- U.S. government
 - Award, § 35:2
 - Entitlement, § 35:1
 - Voluntary dismissal, § 25:7

SCHEDULING

- Argument, §§ 22:2, 33:3-33:4
- Orders, § 22:2

SCOPE OF REVIEW

- See Issues, Scope; Orders; Pendent Appellate Jurisdiction

SEALING BRIEFS

- Briefs, § 32:9
- Protective orders, this index, § 32:9

SECTION 2255 RELIEF

- Habeas Corpus and 2255 Relief, this index

SECURITY FOR COSTS

- See Bond

SENTENCE, CRIMINAL

- Amendment pending appeal, § 26:1
- Appealable separate from conviction or restitution, § 15:1
- Appeal period
 - Motion to vacate or reduce, § 7:8
- Standard of review, § 31:7

SEPARABLE CLAIMS

- Multiple parties or claims, §§ 3:4 et seq.

SEPARATE DOCUMENT RULE

- See Judgment

SERVICE

- Briefs, proof of service, § 32:4
- Electronic filing, § 30:3
- Orders quashing, finality, § 2:3
- Petition for review, § 17:12

SETTING ASIDE

- Vacating, this index

SETTLEMENT

- Conference, § 30:4
- Finality of post-settlement orders, § 2:3
- Judgment form, agency enforcement, § 17:18
- Vacating or withdrawing opinion with settlement, § 25:8

SETTLING RECORD

- Motion, § 28:25
- Record on appeal, § 28:19

INDEX

SIGNATURES

- Briefs, § 32:4
- Electronic, § 30:3
- Notice of appeal, § 8:11
- Pro se appeals, § 24:1
- Stipulations, § 2:12

SPRINGING FINALITY

- Continuous dismissal, § 2:3

STANDARD OF REVIEW

- Generally, **Ch. 31**
- Abuse of discretion, § 31:4
- Administrative or executive review, § 31:5
- Bankruptcy, § 14:5
- Brief, identifying standard in, §§ 31:1, 32:4, 32:10
- Chevron doctrine, § 31:5
- Clearly erroneous, § 31:2
- Constitutional facts, § 31:2
- Credibility of witnesses, § 31:2
- Criminal appeals, §§ 31:2, 31:7
- Cross summary judgment motions, § 31:1
- De novo review, § 31:3
- Different standard by varying statement of issue, §§ 31:1, 31:3, 32:6
- Federal Circuit, § 19:5
- Harmless error, § 31:7
- Jury findings, § 31:2
- Mixed question of fact and law, § 31:6
- Prejudicial error, § 31:7
- Purpose and importance of standards, § 31:1
- Rational basis, § 31:7
- Reasonableness, § 31:7
- State law questions, § 31:3
- Statement in briefs, § 32:4
- Strict scrutiny, § 31:7

STANDING ON APPEAL

- Administrative review, § 17:17
- Bankruptcy, § 14:5
- Extraordinary writ petition, § 6:7
- Injunction appeal, § 4:2
- Intervenor treated as amicus, § 17:14
- Prevailing parties, § 1:4
- Waiver of right to appeal, § 1:4

STATE COURT

- Certifying legal questions, § 23:3
- Remand of removed action, review, § 1:31

STATE LAW

- Certification of issues, § 23:3
- Standard to review legal issues, § 31:3
- Stay of execution on judgment, § 21:3

STAY PENDING APPEAL

- Generally, **Ch. 21**
- See also Mandate
- Abstention, § 2:2
- Administrative appeal, § 4:6
- Administrative or interim stay, § 21:5
 - Order, form, § 21:11
- Admiralty appeal, § 4:6
- Arbitration appeal, §§ 2:10, 4:7
- Automatic stay duration, § 21:3
- Bankruptcy appeal, §§ 14:5, 14.6
- Collecting on security, § 21:8
- Contempt sanctions, § 21:8
- Discretionary interlocutory appeal, § 5:6
- Duration of stay, § 21:3
- Enforcing bond, § 21:8
- Entitlement, § 21:5
- Execution on judgment, § 10:2
 - Motion to stay, form, § 21:9
 - Stay, §§ 21:1-21:14
- Extraordinary writ review, § 6:7
- Federal Circuit, § 19:5
- Federal vs. state proceedings, § 2:9
- Grant or denial- appealability, § 2:9
- Initial request to district court, § 21:5
- Injunction
 - Appeal, § 4:2
 - Distinguished, § 21:6
 - Stay of preliminary, motion, § 21:12
- Interim stay, § 21:5
- Modifying or vacating, § 21:7
- Motion for stay, form, § 21:12
- Pending Supreme Court review, § 21:5
- Preliminary injunction stay, motion, § 21:12
- Procedure, § 21:5
- Protective appeal, § 1:7
- Security for stay, § 21:5
- Supreme Court, § 21:5
- Tax court appeals, § 18:3
- Test, § 21:3
- Vacating injunction or stay, § 21:7

INDEX

SUBSTITUTION

- Agency, § 17:11
- Appellants, § 8:3
- Court of appeals authority, § 8:3
- Cure lack of standing, § 1:4
- Death of appellant, § 8:3
- Defunct agency, § 17:11
- Officials, § 8:3
- Wrong appellant, § 8:3

SUMMARY AFFIRMANCE

- Affirm or dismiss summarily, § 25:4
- Criminal appeal, § 15:23
- Federal Circuit, § 19:5
- Motion, § 25:4

SUMMARY JUDGMENT

- Appeal of denial, § 1:2
- Denied immunity, § 2:7
- Isolating issue for certification, § 5:2

SUMMARY OF ARGUMENT

- Briefs, §§ 32:4, 32:10

SUPPLEMENTAL AUTHORITIES

- Briefs, § 32:15
- Form, § 32:17

SUPREME COURT

- Certifying questions of law, § 23:2
- Certiorari before judgment, §§ 21:5, 23:2, 34:10
- Certiorari petition
 - Criminal appeals, § 15:25
 - Deadline, § 34:10
 - Denial, effect, §§ 34:10, 34:13
 - Effect of mandate, § 34:13
 - Mandate stay, §§ 34:10, 34:13
- Criminal appeals, § 15:23
- Direct review, §§ 1:8, 9:2
- GVR order, § 34:10
- Later review, interlocutory appeal, § 34:10
- Mandate after Supreme Court decision, § 34:13
- Post-decision procedure, § 34:10
- Stay pending appeal, § 21:5

SUSPENDING APPEAL PERIOD

- Criminal appeals, § 15:6
- Federal circuit appeals, §§ 19:4, 19:5
- Post-judgment motions, Ch. 10

TABLES

Briefs, § 32:4

TAX COURT APPEALS

Generally, **Ch. 18**

Costs, allocation and taxation, § 34:3

Docketing, § 22:1

Extension of time to file, § 18:2

In forma pauperis procedure, § 20:4

Jurisdiction, § 18:1

Mail filing, § 18:2

Motions, § 18:2

Notice of appeal, form, § 18:2

Post-judgment motions, § 18:2

Premature appeal, § 18:2

Procedure, §§ 18:2, 18:3

Reconsideration motions, § 18:2

Record on appeal, §§ 18:3, 28:14

Scope of review, § 18:3

Stay of collection, § 18:3

Stipulation of venue, form, § 18:5

Types of appeals, § 18:1

Venue, § 18:1

TEMPORARY EMERGENCY COURT OF APPEALS

Federal circuit appeals, §§ 19:1, 19:2

TEMPORARY RESTRAINING ORDERS

Preliminary injunction, compared, § 4:2

THIRD PARTIES

Collateral orders, § 2:6

Criminal victims, § 15:32

Discovery orders - finality, §§ 2:3, 2:6

Right to appeal, § 1:3

TIME LIMITS

See Appeal Period, Extension of Time, Jurisdictional vs. Non-Jurisdictional

TIMETABLES

Disposition of appeal, § 34:1

TOLLING OR SUSPENDING APPEAL PERIOD

See Post-Judgment Motions

TRANSCRIPTS

See Record

TRANSFERS

Administrative review, § 17:15

Controlling law, § 9:1

District court transfer, appellate venue, § 9:4

INDEX

TRANSFERS—Cont'd

- Federal circuit, regional circuits, §§ 9:3, 9:4
- Forum non conveniens, §§ 9:4, 17:15
- Incorrect transfer, § 9:5
- Motion in retransfer, prerequisite to review, § 9:4
- Multi-district litigation, appellate venue, § 9:4
- Review of district court transfer orders, § 9:4
- Supreme Court to circuit, § 9:2
- Venue, §§ 9:4, 9:5
- Wrong circuit, § 9:5

TRANSMITTING RECORD

- Generally, § 28:13

UNIQUE CIRCUMSTANCES

- Criminal appeal, § 15:10
- Doctrine limited, § 12:3

UNPUBLISHED DECISIONS

- Citation, § 32:10
- Precedential effect, § 34:2

VACATING OR SETTING ASIDE

- Agency decision, § 17:7
- Dismissal of appeal, § 25:2
- Federal circuit appeals, § 19:5
- Following settlement, § 25:8
- Mandate, § 25:8
- Moot appeal, § 25:5
- Permission to appeal, § 5:6
- Post-judgment order, § 10:30
- Prior decision, § 25:8
- Stay pending appeal, § 21:7

VACATUR

- Delay, § 17:17
- Mootness, § 25:8

VENUE, APPELLATE

- Generally, **Ch. 9**
- Administrative review, §§ 17:5, 17:12, 17:15
- Correct circuit, §§ 9:1, 17:12, 19:1
- Error in venue, § 9:5
- Federal circuit appeals, appellate venue issues, §§ 9:3, 19:1
- Multi-district litigation, § 9:4
- Preliminary agency action, review, § 17:3
- Remote hearings, § 9:1
- Retransfer, § 9:5
- Stipulation, § 18:5
- Supreme Court direct review, circuit's role, § 9:2
- Tax court appeals, § 18:1

VENUE, APPELLATE—Cont'd

Transfer, controlling law, § 9:1

Transfer to cure error, § 9:5

Transfer to district in different circuit, § 9:4

Wrong circuit, administrative review, §§ 9:5, 17:12, 17:15

VICTIMS

Third party appeals in criminal cases, § 15:32

VOLUNTARY DISMISSAL

Generally, Ch 25:7

Administrative review, § 17:17

Agreement, form, § 25:10

Class actions, § 25:7

Creating finality - arbitration orders, § 4:7

Creating finality - other orders, § 2:12

Criminal appeals, § 15:15

Dismissal of appeal, § 25:7

Finality of order imposing conditions, § 2:3

No sanctions, § 35:2

WAIVABLE TIME LIMITS

See Jurisdictional vs. Non-Jurisdictional

WAIVER

Argument in footnote, § 32:12

Briefs, §§ 32:6, 32:12

By appellee, § 32:12

Consent judgment, § 1:4

Effect on standing, § 1:4

Failure to brief and support issues, §§ 32:6, 32:12

Failure to cross-appeal, § 11:2

Failure to raise issue below, §§ 15:3, 15:20, 32:7, 32:12

Forfeiture distinguished, § 32:7

Guilty plea waiver, § 15:3

Inadequate brief or record, § 32:12

Incomplete appendix, § 29:5

Invited error, § 32:12

Late arbitration appeal, 4:7

Plea bargain, § 15:3

Postponing interlocutory appeal, §§ 1:5-1:6

Prisoner's escape, § 15:3

Unraised issues, at retrial, § 32:6

Unraised issues, generally, §§ 32:7, 32:12

WITHDRAWAL OF COUNSEL

Criminal cases, § 15:26

WRIT REVIEW

Extraordinary Writ Review, this index