

Table of Contents

CHAPTER 1 **ORGANIZATION OF THE COURT** *by Daniel A. Manna*

- I. Introduction [§ 1.1]**
- II. Chief Judge; Presiding Judge [§ 1.2]**
- III. Judicial Council [§ 1.3]**
- IV. Additional Judges [§ 1.4]**
- V. Panel Composition and Case Assignment [§ 1.5]**

CHAPTER 2 **JURISDICTION** *by Peter J. Donoghue and Jed W. Glickstein*

- I. Introduction [§ 2.1]**
- II. Appellate Jurisdiction [§ 2.2]**
 - A. In General [§ 2.3]
 - B. Criminal Cases [§ 2.4]
 - C. Civil Cases [§ 2.5]
 - 1. The Separate Document Rule [§ 2.6]
 - 2. Final Judgment Requirement [§ 2.7]
 - a. In General [§ 2.8]
 - b. Finality and Damages [§ 2.9]
 - c. Finality and Dismissals Without Prejudice [§ 2.10]
 - d. Miscellaneous Finality Considerations [§ 2.11]
 - 3. Attorney Fees and Sanctions [§ 2.12]
 - 4. Fed. R. Civ. P. 60(b) Motions [§ 2.13]
 - 5. Motions for Class Certification [§ 2.14]
 - 6. Posttrial Proceedings [§ 2.15]

- 7. Orders Remanding to State Court [§ 2.16]
- 8. Multidistrict Litigation (MDL) Orders [§ 2.17]
- 9. Arbitration [§ 2.18]
- D. Bankruptcy Cases [§ 2.19]

III. Pendent Appellate Jurisdiction [§ 2.20]

IV. Collateral Orders [§ 2.21]

V. Contempt [§ 2.22]

VI. Fed. R. Civ. P. 54(b) [§ 2.23]

VII. Interlocutory Appeals as of Right Under 28 U.S.C. § 1292(a) [§ 2.24]

- A. In General [§ 2.25]
- B. Injunctions [§ 2.26]
 - 1. Definition [§ 2.27]
 - 2. Standards and Scope of Review [§ 2.28]
 - 3. District Court Jurisdiction [§ 2.29]
 - 4. Supreme Court Jurisdiction [§ 2.30]
- C. Equity Receiverships [§ 2.31]
- D. Admiralty [§ 2.32]

VIII. Interlocutory Appeals with Permission of the District Court Under 28 U.S.C. § 1292(b) [§ 2.33]

- A. In General [§ 2.34]
- B. Procedure [§ 2.35]
 - 1. Technical Requirements [§ 2.36]
 - 2. Time [§ 2.37]
 - 3. Content of the Petition [§ 2.38]
 - 4. Exceptions [§ 2.39]
- C. Scope of Review [§ 2.40]

IX. Interlocutory Appeals with Permission Under Fed. R. Civ. P. 23(f) [§ 2.41]

X. Interlocutory Appeals in Criminal Actions [§ 2.42]

CHAPTER 3

EXPEDITED APPEALS, EMERGENCY APPEALS, AND TEMPORARY RELIEF PENDING APPEAL

by Michael D. Leffel and Anne-Louise T. Mittal

I. Introduction [§ 3.1]

- A. In General [§ 3.2]
- B. Temporary Relief Pending Appeal [§ 3.3]
 - 1. Civil Cases [§ 3.4]
 - a. In General [§ 3.5]
 - b. Request to District Court for Stay or Injunction Pending Appeal [§ 3.6]
 - c. Request to Court of Appeals for Stay or Injunction Pending Appeal [§ 3.7]
 - d. Sanctions for Failure to Show a Colorable Basis for a Stay or Injunction [§ 3.8]
 - e. Staying the Issuance of a Mandate [§ 3.9]
 - 2. Criminal Cases [§ 3.10]
 - a. Before Sentencing [§ 3.11]
 - b. After Sentencing [§ 3.12]
 - c. Habeas Corpus Cases Involving Capital Punishment [§ 3.13]
 - 3. Administrative Agency Cases [§ 3.14]
- C. Expedited or Emergency Appeals [§ 3.15]

II. Written Application [§ 3.16]

III. Oral Application [§ 3.17]

IV. Practice Guide [§ 3.18]

V. Appendices [§ 3.19]

- A. Appendix 3A: Application to Court for Advancement of Hearing [§ 3.20]
- B. Appendix 3B: Application to Court for Stay of Proceedings or Temporary Injunction Pending Appeal [§ 3.21]

CHAPTER 4

PREPARING AND FILING THE APPEAL

by Jason R. Fathallah and AJ Fabianczyk

I. Introduction [§ 4.1]

II. Appeals from District Court Decisions [§ 4.2]

A. Filing the Notice of Appeal [§ 4.3]

1. In General [§ 4.4]
2. Party Names [§ 4.5]
3. Judgment or Order Appealed [§ 4.6]
4. Identification of Court [§ 4.7]
5. Signature Requirement [§ 4.8]
6. Fees [§ 4.9]
7. Service [§ 4.10]
8. Filing the Docketing Statement [§ 4.11]
9. Time Limits [§ 4.12]
 - a. In General [§ 4.13]
 - b. Civil Appeals [§ 4.14]
 - (1) When the Time Begins to Run [§ 4.15]
 - (2) Termination of the Prescribed Time [§ 4.16]
 - (3) Extension of the Prescribed Time [§ 4.17]
 - (4) Reopening the Time for Appeal [§ 4.18]
 - c. Criminal Appeals [§ 4.19]
 - (1) In General [§ 4.20]
 - (2) Extension of the Prescribed Time [§ 4.21]
10. Related Appeals [§ 4.22]
 - a. In General [§ 4.23]
 - b. Joint and Consolidated Appeals [§ 4.24]
 - c. Cross-Appeals [§ 4.25]
11. Docketing the Appeal [§ 4.26]
 - a. Short Record [§ 4.27]
 - b. Initial Screening [§ 4.28]

B. Appeals from Tax Court Decisions [§ 4.29]

C. Proceedings from Orders of Federal Agencies and Boards [§ 4.30]

1. Review of Orders of Administrative Agencies and Boards [§ 4.31]
2. Application for Enforcement of Agency Orders [§ 4.32]

D. Counsel of Record, Admission to Practice, and Representation and Disclosure Statements [§ 4.33]

1. Designation of Counsel of Record [§ 4.34]
2. Admission to Practice [§ 4.35]
3. Filing the Representation and Disclosure Statement [§ 4.36]
- E. Dismissal [§ 4.37]
 1. Voluntary Dismissal in District Court [§ 4.38]
 2. Failure to Pay Fees [§ 4.39]
 3. Failure to Order Transcript [§ 4.40]
 4. Failure to File Briefs [§ 4.41]
 - a. Time for Filing [§ 4.42]
 - b. Sanctions for Failure to File [§ 4.43]
 - c. Lack of Jurisdiction [§ 4.44]
 5. Stipulation [§ 4.45]
- F. Mediations [§ 4.46]
- G. Practice Guide [§ 4.47]
 1. Perfecting the Appeal in a Timely Fashion [§ 4.48]
 2. Bond for Costs on Appeal [§ 4.49]
 3. Docketing the Appeal [§ 4.50]
 4. Counsel of Record [§ 4.51]
 5. Disclosure Statements [§ 4.52]
 6. Briefing Schedule [§ 4.53]
 7. Electronic Filing [§ 4.54]

III. Appendices [§ 4.55]

- A. Appendix 4A: Notice of Appeal: District Court (Fed. R. App. P., Appendix of Forms, Forms 1A and 1B) [§ 4.56]
- B. Appendix 4B: Notice of Appeal: Tax Court (Fed. R. App. P., Appendix of Forms, Form 2) [§ 4.57]
- C. Appendix 4C: Petition for Review: Agency or Board (Fed. R. App. P., Appendix of Forms, Form 3) [§ 4.58]
- D. Appendix 4D: Disclosure Statement [§ 4.59]
- E. Appendix 4E: Acknowledgment of Attorney's Motion for Dismissal and Consent to the Dismissal of the Appeal (7th Cir. R., Appendix III) [§ 4.60]
- F. Appendix 4F: Notice of Case Opening [§ 4.61]

CHAPTER 5

RECORD ON APPEAL

by Avi M. Kupfer

- I. Introduction [§ 5.1]**
- II. Record on Appeal from a District Court Decision [§ 5.2]**
 - A. Composition of the Record [§ 5.3]
 - B. Transmission of the Record [§ 5.4]
 - C. Sealed Record Materials [§ 5.5]
 - D. Format of the Record [§ 5.6]
- III. Record on Appeal from a Tax Court Decision [§ 5.7]**
- IV. Record on Review or Enforcement of an Agency Order [§ 5.8]**
- V. The Transcript [§ 5.9]**
 - A. In General [§ 5.10]
 - B. Filing the Seventh Circuit Transcript Information Sheet [§ 5.11]
 - C. Satisfactory Arrangements for Payment [§ 5.12]
 - D. Penalties for Late Transcripts [§ 5.13]
 - 1. Judicial Conference Policy on Penalties [§ 5.14]
 - 2. Extension of Time to File Transcript [§ 5.15]
 - 3. Transcript Penalty and Waiver [§ 5.16]
 - 4. Monitoring [§ 5.17]
 - E. Index [§ 5.18]
 - F. Special Procedures for Transcripts in Criminal Cases [§ 5.19]
 - 1. Criminal Justice Act Cases [§ 5.20]
 - 2. Other Criminal Cases [§ 5.21]
- VI. Correcting or Modifying the Record on Appeal [§ 5.22]**
- VII. Practice Guide [§ 5.23]**
 - A. Preparing and Filing the Record on Appeal [§ 5.24]
 - B. Transcript of Proceedings [§ 5.25]
 - 1. Civil Cases [§ 5.26]
 - 2. Criminal Cases [§ 5.27]
 - C. Correcting or Modifying the Record on Appeal [§ 5.28]
- VIII. Appendix [§ 5.29]**
 - A. Appendix 5A: Seventh Circuit Transcript Information Sheet [§ 5.30]

CHAPTER 6
DIRECT CRIMINAL APPEALS
by Joseph A. Bugni

- I. Introduction [§ 6.1]**
- II. Ordering the Transcript [§ 6.2]**
 - A. Appointed Counsel [§ 6.3]
 - B. Retained Counsel [§ 6.4]
- III. Duties of Counsel [§ 6.5]**
 - A. Filing the Notice of Appeal [§ 6.6]
 - 1. In General [§ 6.7]
 - 2. Effect of Posttrial Motions on the Timing of a Notice of Appeal [§ 6.8]
 - 3. Effect of Dismissed Counts and Mistrial on the Timing to File a Notice of Appeal [§ 6.9]
 - 4. Extending the Time for Filing the Notice of Appeal: “Good Cause” and “Excusable Neglect” [§ 6.10]
 - 5. Effect of Filing a Notice of Appeal on the District Court’s Jurisdiction [§ 6.11]
 - B. Filing a Docketing Statement [§ 6.12]
 - C. Filing a Motion for Leave to Obtain Court-Appointed Counsel on Appeal [§ 6.13]
 - D. Ensuring Timely Transmission of the Record [§ 6.14]
 - E. Filing the Representation and Disclosure Statements [§ 6.15]
 - F. Admission of Attorneys [§ 6.16]
 - G. Filing the Brief [§ 6.17]
 - H. Cause for Discipline or Censure in the Seventh Circuit [§ 6.18]
- IV. Appeals from Pretrial Release or Detention Orders [§ 6.19]**
 - A. Pretrial Orders [§ 6.20]
 - B. Posttrial Orders [§ 6.21]
 - 1. After Conviction, Pending Sentencing [§ 6.22]
 - 2. After Sentencing, Pending Appeal [§ 6.23]
- V. Appeals from Sentences Imposed Under the Federal Sentencing Guidelines [§ 6.24]**
 - A. In General [§ 6.25]
 - B. Appeals from Challenges to Restitution Orders [§ 6.26]

VI. Special Problems [§ 6.27]

- A. Joint Appeals [§ 6.28]
- B. Withdrawing as Counsel on Appeal [§ 6.29]
- C. Defendants Proceeding on Their Own Behalf [§ 6.30]
- D. Waiving the Appeal [§ 6.31]
- E. Dismissing the Appeal [§ 6.32]
- F. Meritless Appeals [§ 6.33]
- G. Appointed Counsel Receiving an Adverse Decision on Appeal [§ 6.34]
- H. Appointed Counsel's Duties After Remand [§ 6.35]
- I. Raising New Issues After Filing Opening Brief [§ 6.36]

VII. Appendices [§ 6.37]

- A. Appendix 6A: Authorization and Voucher for Payment of Transcript (Form CJA 24) [§ 6.38]
- B. Appendix 6B: Motion for Leave to Obtain Appointed Counsel on Appeal [§ 6.39]
- C. Appendix 6C: Financial Affidavit in Support of Request for Attorney, Expert or Other Services Without Payment of Fee (Form CJA 23) [§ 6.40]
- D. Appendix 6D: Defendant Counsel's Motion for Leave to Withdraw (7th Cir. R. 51(b), app. 2) [§ 6.41]

CHAPTER 7

HABEAS CORPUS:

CONFLICTS BETWEEN STATE AND FEDERAL COURTS

by Clifford W. Berlow, Christopher J. Blythe, and Jeremy I. Wang

I. Introduction [§ 7.1]

- A. Writ of Habeas Corpus Defined [§ 7.2]
- B. Limitations on Habeas Corpus Relief and the Antiterrorism and Effective Death Penalty Act of 1996 [§ 7.3]
- C. Habeas Corpus Cases as Civil in Nature: Applicability of the Federal Rules of Civil and Appellate Procedure [§ 7.4]
- D. Jurisdiction and Venue [§ 7.5]

II. Exhaustion of State Remedies [§ 7.6]

- A. Introduction [§ 7.7]
- B. Mixed Petitions Containing Exhausted and Unexhausted Claims [§ 7.8]
- C. Values Underlying the Exhaustion Requirement [§ 7.9]

- D. State Courts’ “Fair Opportunity” to Consider the Claim [§ 7.10]
- E. Exhaustion Not Required When State Remedy Not Available [§ 7.11]
- F. State Waiver of the Exhaustion Requirement [§ 7.12]

III. Procedural Default [§ 7.13]

- A. In General [§ 7.14]
- B. Overcoming the Procedural Default Rule [§ 7.15]
 - 1. In General [§ 7.16]
 - 2. Showing Lack of a Procedural Default [§ 7.17]
 - 3. Showing State Court Consideration of the Merits of the Federal Claim [§ 7.18]
 - 4. The Exceptions to the Procedural Default Rule [§ 7.19]
 - a. In General [§ 7.20]
 - b. Origin of the Cause-and-Prejudice Standard [§ 7.21]
 - c. Timing of the Procedural Default [§ 7.22]
 - d. Nature of the Constitutional Claim [§ 7.23]
 - e. Meaning of Cause and Prejudice [§ 7.24]
 - (1) In General [§ 7.25]
 - (2) Cause [§ 7.26]
 - (3) Prejudice [§ 7.27]
 - f. Fundamental-Miscarriage-of-Justice Exception [§ 7.28]

IV. Timeliness of First Petition [§ 7.29]

- A. In General [§ 7.30]
- B. Triggering and Tolling the Statute of Limitation [§ 7.31]
- C. Special Circumstances That Might Affect the Statute of Limitation [§ 7.32]
 - 1. Modification of Sentence [§ 7.33]
 - 2. New Facts [§ 7.34]
 - 3. Novel Supreme Court Rulings [§ 7.35]
- D. Tolling Requirements [§ 7.36]
 - 1. “Properly Filed” Requirement [§ 7.37]
 - 2. “Pending” Requirement [§ 7.38]
 - 3. Other Issues Regarding Tolling [§ 7.39]
- E. Time to File a Motion Under 28 U.S.C. § 2255 [§ 7.40]
- F. “Relation Back” [§ 7.41]

V. Certificate of Appealability [§ 7.42]

- A. Basis and Purpose [§ 7.43]
- B. Procedures for Obtaining the Certificate [§ 7.44]
- C. Standard for Issuing the Certificate [§ 7.45]

VI. Standards of Review [§ 7.46]

- A. In General [§ 7.47]
- B. Applying the Standards of Appellate Review in Habeas Corpus Cases [§ 7.48]
- C. Standards of Review Applied by Federal Courts to State Court Judgments in Habeas Corpus Proceedings [§ 7.49]
 - 1. Limited Scope of Federal Habeas Review [§ 7.50]
 - 2. Standards Set Forth in 28 U.S.C. § 2254(d) [§ 7.51]
 - a. In General [§ 7.52]
 - b. Contrary or Unreasonable Application of Federal Law [§ 7.53]
 - c. Unreasonable Factual Determination [§ 7.54]
 - 3. Specific Issues Arising Under the Pre-1996 Version of 28 U.S.C. § 2254(d) [§ 7.55]
 - a. In General [§ 7.56]
 - b. Fact Findings by State Appellate Courts [§ 7.57]
 - c. The Scope of the Presumption of Correctness [§ 7.58]
 - 4. Apparent Exception to the Presumption of Correctness [§ 7.59]
- D. Harmless Error [§ 7.60]
- E. Use of Pre-AEDPA Standard of Review When State Court Did Not Decide Claim on the Merits [§ 7.61]

VII. Retroactive Application of New Rules to Cases on Collateral Review [§ 7.62]

VIII. Successive Petitions [§ 7.63]

- A. Second and Successive Petitions Defined [§ 7.64]
- B. Abuse-of-the-Writ Doctrine [§ 7.65]
- C. Recall of the Mandate [§ 7.66]
- D. 42 U.S.C. § 1983 [§ 7.67]

IX. Cognizable Claims [§ 7.68]

CHAPTER 8

***IN FORMA PAUPERIS* APPEALS; APPOINTED COUNSEL**

by Linda S. Isnard

I. Introduction [§ 8.1]

- A. In General [§ 8.2]
- B. Proceeding *In Forma Pauperis* [§ 8.3]
- C. Appointment of Counsel [§ 8.4]

II. Practice Guide for Appointed Attorneys [§ 8.5]

- A. Applying for *In Forma Pauperis* Status on Appeal [§ 8.6]
 - 1. Role of the District Court [§ 8.7]
 - 2. Role of the Court of Appeals [§ 8.8]
- B. Proceeding *In Forma Pauperis* [§ 8.9]
- C. Duties of Appointed Counsel [§ 8.10]

III. Appendix [§ 8.11]

- A. Appendix 8A: Affidavit to Accompany Motion for Permission to Appeal *In Forma Pauperis* (Fed. R. App. P., Appendix of Forms, Form 4) [§ 8.12]

CHAPTER 9

JUDICIAL REVIEW OF ADMINISTRATIVE DECISIONS

by Gabriel K. Gillett, Katherine M. Funderburg, and Jacob P. Wentzel

I. Introduction [§ 9.1]

II. Matters Not Initially Reviewable by the Seventh Circuit; Appeals of Administrative Decisions from Inferior Courts [§ 9.2]

III. Direct Appeals of Administrative Decisions to the Seventh Circuit [§ 9.3]

- A. Appeals Brought Under Authority of the Hobbs Act [§ 9.4]
- B. Appeals Brought Under Authority of Other Statutes [§ 9.5]

IV. Review of Immigration Decisions [§ 9.6]

- A. In General [§ 9.7]
- B. Special Rules [§ 9.8]
 - 1. In General [§ 9.9]

- 2. Decisions Committed to the Discretion of the Attorney General or the Secretary of Homeland Security [§ 9.10]
- 3. Final Orders of Removal Against Noncitizens Convicted of Certain Criminal Offenses [§ 9.11]
- 4. Constitutional Claims and Questions of Law Are Still Reviewable [§ 9.12]
- 5. Consular Decisions [§ 9.13]
- 6. Asylum and the Convention Against Torture [§ 9.14]
- 7. Habeas Corpus in General [§ 9.15]
- 8. Determining the Appropriate Forum for Appeals of Immigration Decisions [§ 9.16]
- C. Naturalization Proceedings [§ 9.17]
- D. Immigration Reform and Control Act of 1986 [§ 9.18]

CHAPTER 10

MOTION PRACTICE

by Joshua D. Yount

I. Introduction [§ 10.1]

II. Contents of the Motion and Supporting Documents [§ 10.2]

- A. General Requirements [§ 10.3]
- B. Special Requirements for Certain Types of Motions [§ 10.4]
 - 1. In General [§ 10.5]
 - 2. Motion for Leave to Proceed on Appeal *In Forma Pauperis* [§ 10.6]
 - 3. Motion for Extension of Time to File Briefs [§ 10.7]
 - 4. Motion to Supplement the Record [§ 10.8]
 - 5. Motion to Seal [§ 10.9]
 - 6. Motion to Certify Questions to State Court [§ 10.10]
 - 7. Motion for Summary Disposition [§ 10.11]

III. Response to the Motion [§ 10.12]

IV. Reply to the Response [§ 10.13]

V. Court Procedures for Acting on Motions [§ 10.14]

VI. Special Writs; Mandamus; Prohibition [§ 10.15]

- A. In General [§ 10.16]
- B. Mandamus and Prohibition [§ 10.17]

C. Form of the Petition [§ 10.18]

VII. Appendices [§ 10.19]

- A. Appendix 10A: Sample Motion Form [§ 10.20]
- B. Appendix 10B: Sample Supporting Affidavit [§ 10.21]
- C. Appendix 10C: Sample Proof of Service [§ 10.22]

CHAPTER 11

STANDARDS OF REVIEW

by Michael T. Brody

I. Introduction [§ 11.1]

II. Whether the Issue is One of Fact, Law, or Mixed Law and Fact [§ 11.2]

III. Civil Appeals [§ 11.3]

- A. Legal Rulings [§ 11.4]
- B. Summary Judgments [§ 11.5]
- C. Errors in Trial Court Rulings [§ 11.6]
- D. Jury Instructions [§ 11.7]
- E. Directed Verdicts and Judgments as a Matter of Law [§ 11.8]
- F. Trial Court Fact-Findings: The Clearly Erroneous Test [§ 11.9]
- G. Jury Trials [§ 11.10]
- H. Habeas Corpus [§ 11.11]

IV. Review of the Trial Court's Discretionary Decisions [§ 11.12]

- A. In General [§ 11.13]
- B. Sanctions [§ 11.14]
- C. Grant or Denial of Injunctions [§ 11.15]
- D. Judicial Recusal and Mandamus Review [§ 11.16]

V. Criminal Appeals [§ 11.17]

- A. Pretrial Detention Orders Under the Bail Reform Act [§ 11.18]
- B. Errors in Trial Court Rulings [§ 11.19]
- C. Jury Instructions [§ 11.20]
- D. Motions for Acquittal [§ 11.21]
- E. Trial Court Fact-Findings: The Clearly Erroneous Test [§ 11.22]
- F. Challenges to Convictions Asserting Insufficient Evidence [§ 11.23]
- G. Challenges to Sentences [§ 11.24]

- H. Issues Not Raised at Trial [§ 11.25]
- I. Motions for Compassionate Release [§ 11.26]

VI. Review of Arbitration Awards [§ 11.27]

CHAPTER 12

THE BRIEF

by Stephen E. Arthur

I. Introduction to Effective Brief Writing [§ 12.1]

- A. Contents of Brief and General Rules for Effective Presentation [§ 12.2]
- B. Style [§ 12.3]

II. Preparation and Form of Brief [§ 12.4]

- A. Form and Size of Papers [§ 12.5]
- B. Color of Brief Covers [§ 12.6]
- C. Length of Brief [§ 12.7]
- D. Filing Requirements; Time to File; Electronic Filing [§ 12.8]
 - 1. Filing Requirements and Time to File [§ 12.9]
 - 2. Electronic Filing [§ 12.10]
- E. Number of Copies [§ 12.11]
- F. Manner and Proof of Service [§ 12.12]
- G. Extension of Time [§ 12.13]
- H. Failure to File [§ 12.14]
- I. Summary of Technical Requirements [§ 12.15]
- J. Special Requirements in Actions to Review Administrative Orders [§ 12.16]

III. Organization [§ 12.17]

- A. Cover and Title Page [§ 12.18]
- B. Disclosure Statement [§ 12.19]
- C. Table of Contents [§ 12.20]
- D. Table of Authorities [§ 12.21]
- E. Jurisdictional Statement [§ 12.22]
 - 1. In General [§ 12.23]
 - 2. Appellant's Jurisdictional Statement [§ 12.24]
 - 3. Appellee's Jurisdictional Statement [§ 12.25]
- F. Statement of Issues [§ 12.26]
- G. Statement of the Case [§ 12.27]
- H. Statement of the Facts [§ 12.28]

I.	Summary of the Argument [§ 12.29]
J.	Argument [§ 12.30]
K.	Statement About Oral Argument [§ 12.31]
L.	Conclusion [§ 12.32]
M.	Certificate of Compliance [§ 12.33]
N.	Certificate of Service [§ 12.34]
O.	Appendix [§ 12.35]
1.	In General [§ 12.36]
2.	Deferred Appendix [§ 12.37]
3.	Sanctions for Failure to Comply with Rules Governing the Appendix [§ 12.38]
P.	Signature on Appellate Brief [§ 12.39]
IV.	Reply Briefs and Cross-Appeals [§ 12.40]
A.	Reply Brief [§ 12.41]
B.	Cross-Appeal [§ 12.42]
V.	Brief of Amicus Curiae [§ 12.43]
VI.	Briefs Filed by Multiple Parties [§ 12.44]
VII.	Citation to Supplemental Authorities [§ 12.45]
VIII.	Appendices [§ 12.46]
A.	Appendix 12A: Sample Cover and Title Page [§ 12.47]
B.	Appendix 12B: Sample Table of Contents [§ 12.48]
C.	Appendix 12C: Sample Table of Authorities [§ 12.49]
D.	Appendix 12D: Seventh Circuit Clerk's Checklist [§ 12.50]
E.	Appendix 12E: Requirements and Suggestions for Typography in Briefs and Other Papers [§ 12.51]
F.	Appendix 12F: Sample Separate Appendix Cover Page [§ 12.52]

CHAPTER 13

**SCHEDULING ORAL ARGUMENT;
SUBMISSION WITHOUT ORAL ARGUMENT**

by Eric G. Pearson

- I. Introduction [§ 13.1]**
- II. The Decision to Grant Oral Argument [§ 13.2]**
- III. Calendar Priorities [§ 13.3]**
- IV. Related Cases [§ 13.4]**
- V. Scheduling, Rescheduling, and Notice of Oral Argument [§ 13.5]**
 - A. Scheduling and Notice of Oral Argument [§ 13.6]
 - B. Requests to Reschedule Oral Argument [§ 13.7]
- VI. Motions to Appear Remotely for Oral Argument [§ 13.8]**
- VII. Appearing for Oral Argument [§ 13.9]**
- VIII. Suggestions for En Banc Hearing [§ 13.10]**
- IX. Request to Videorecord [§ 13.11]**

CHAPTER 14

PRESENTING ORAL ARGUMENT

by Michael T. Brody

- I. Introduction [§ 14.1]**
- II. Preparation [§ 14.2]**
 - A. Content of the Argument [§ 14.3]
 - B. Attending Other Arguments [§ 14.4]
 - C. Rehearsal [§ 14.5]
- III. Presentation [§ 14.6]**
 - A. In General [§ 14.7]
 - B. The Court's Questions [§ 14.8]
 - C. Style [§ 14.9]

- D. Concluding and Rebuttal [§ 14.10]
- E. Following Up [§ 14.11]

CHAPTER 15

PROCEEDINGS AFTER THE ARGUMENT

by Eric G. Pearson

- I. Decision Conferences and Decision Preparation [§ 15.1]**
- II. Published Opinions and Unpublished Orders [§ 15.2]**
 - A. In General [§ 15.3]
 - B. Requests to Publish Unpublished Orders [§ 15.4]
- III. Petitions for Rehearings and En Banc Rehearings [§ 15.5]**
 - A. Introduction [§ 15.6]
 - B. Petitions for Rehearing [§ 15.7]
 - 1. In General [§ 15.8]
 - 2. Filing and Service [§ 15.9]
 - 3. Content [§ 15.10]
 - 4. Response [§ 15.11]
 - 5. Oral Argument [§ 15.12]
 - 6. Effect of Filing [§ 15.13]
 - C. Petitions for En Banc Hearing and Rehearing [§ 15.14]
 - 1. Introduction [§ 15.15]
 - 2. Filing and Service [§ 15.16]
 - 3. Content [§ 15.17]
 - 4. Petitions for Initial Hearing En Banc [§ 15.18]
 - D. Practice Guide [§ 15.19]
- IV. Mandates [§ 15.20]**
 - A. In General [§ 15.21]
 - B. Stay or Recall Obtained from Court of Appeals [§ 15.22]
 - 1. In General [§ 15.23]
 - 2. Effect upon the Stay of the Mandate of Filing a Petition for Certiorari [§ 15.24]
 - C. Stays Obtained from Supreme Court and Orders of Release or Detention Pending Certiorari [§ 15.25]
 - 1. Civil Stays [§ 15.26]
 - 2. Orders of Release or Detention [§ 15.27]
 - 3. Additional Information [§ 15.28]

V. Cases Remanded to District Court [§ 15.29]

VI. Cases Remanded from the U.S. Supreme Court [§ 15.30]

VII. Suggestions for Rule Changes [§ 15.31]

CHAPTER 16

DAMAGES, DOUBLE COSTS, AND FEES

by James D. Dasso, Jeffrey A. Parness, and Mason D. Roberts

I. Introduction [§ 16.1]

II. Sanctions Under Fed. R. App. P. 38 and 28 U.S.C. § 1912 [§ 16.2]

A. Introduction [§ 16.3]

B. Procedure [§ 16.4]

1. Separate Motion Required to Request Sanctions [§ 16.5]
2. Sanctions Imposed on the Court's Own Initiative [§ 16.6]
3. Sanctions After Voluntary Dismissal [§ 16.7]
4. Bill of Costs [§ 16.8]

C. Standard for Awarding Sanctions [§ 16.9]

1. In General [§ 16.10]
2. Frivolousness [§ 16.11]
 - a. Ignoring Controlling Precedent [§ 16.12]
 - b. Arguments Not Germane to the Judgment From Which Appeal is Taken [§ 16.13]
 - c. Misstatements of Law or Facts [§ 16.14]
 - d. Ignoring the Deferential Appellate Standard of Review [§ 16.15]
3. Bad Faith [§ 16.16]
 - a. In General [§ 16.17]
 - b. Motivation to Delay [§ 16.18]
 - c. Pattern of Misconduct [§ 16.19]
4. Frivolousness Without a Finding of Bad Faith [§ 16.20]
5. Sanctionable Conduct During Oral Argument [§ 16.21]
6. Unsuccessful Appeal—Sanctions Inappropriate [§ 16.22]
7. Sanctions Denied When Fee Request Is “Exorbitant” [§ 16.23]

D. Recoverability of In-House Counsel Fees [§ 16.24]

- E. Sanctions Against Certain Types of Parties [§ 16.25]
 - 1. Sanctions Against Self-Represented Litigants [§ 16.26]
 - a. In General [§ 16.27]
 - b. Presumptive Tax-Protest Sanctions [§ 16.28]
 - 2. Sanctions Against Criminal Defendants [§ 16.29]
 - 3. Sanctions Against Bankruptcy Trustees [§ 16.30]
 - 4. Monetary Sanctions Imposed Against Both the Party and the Attorney [§ 16.31]

III. Sanctions Under 7th Cir. R. 30 [§ 16.32]

IV. Sanctions Under 28 U.S.C. § 1927 and Fed. R. Civ. P. 11 [§ 16.33]

- A. Introduction [§ 16.34]
- B. Fed. R. Civ. P. 11 in the Appellate Court [§ 16.35]
- C. 28 U.S.C. § 1927 [§ 16.36]
- D. Nontraditional Sanctions for Perceived Frivolous Motions [§ 16.37]

V. Sanctions for Improperly Seeking Sanctions [§ 16.38]

VI. Recovery of Fees Under the Equal Access to Justice Act [§ 16.39]

Appendices

- I. Federal Rules of Appellate Procedure and Circuit Rules of the United States Court of Appeals for the Seventh Circuit
- II. United States Court of Appeals for the Seventh Circuit Operating Procedures
- III. Appellate Criminal Justice Act Plan for the United States Court of Appeals for the Seventh Circuit

Table of Cases

Table of Statutes, Regulations, and Rules

Index