

9.2 | INITIATING AN APPEAL

In appeals of right, such as an appeal of a final order or judgment, a party initiates the appeal process by requesting a notice of appeal form and civil appeals information packet from the Clerk of the District Court or by downloading the appeals information and forms from the Western District Court web site at <<http://www.nywd.uscourts.gov>>. Generally, a notice of appeal must name the party taking the appeal, describe the judgment or order, or the portion of the judgment or order appealed from, and name the court to which the appeal is taken. (Fed. R. App. P. 3).

The notice of appeal in a civil case must be filed with the Clerk of the District Court within 30 days after the date of entry of the judgment or order appealed from. (Fed. R. App. P. 4 (a)(1)). If the United States government or an officer or agency of the United States is a party to the action, the notice of appeal may be filed within 60 days after the date of the entry of the judgment or order. The date of entry signifies the entry of the judgment on the District Court's docket sheet. The date an order or opinion is signed is not necessarily the same day that it will be reduced to a judgment or entered on to the court's docket. It is not advisable to wait until the last moment to file a notice of appeal. Only upon a showing of "excusable neglect" or "good cause," may the District Court extend the time for filing a notice of appeal. (Fed. R. App. P. 4(a)(5)).

At the time of publication of this manual, the filing fee for a notice of appeal was \$505.00, payable to the Clerk of the District Court. However, pursuant to Fed. R. App. P. 24, a party who has been permitted to proceed in the District Court in forma pauperis may generally proceed on appeal in forma pauperis without further authorization, unless the District Court certifies that the appeal is not taken in good faith. A person who did not have in forma pauperis status at the District Court may nevertheless make an application to the District Court for in forma pauperis status for the purposes of the appeal. This application is made as a motion to the District Court when the appeal is filed.

*(US District Court, New York, Western District // Buffalo, NY 14202
Pro Se Litigation Guidelines)*

