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Second Circuit Court of Appeals: Terms, Sessions, and Daily Schedule

Summary

Overview of the annual term schedule, courtroom location, and specific daily hours for oral arguments in the Second Circuit.

Content

The United States Court of Appeals for the Second Circuit holds one annual term in New York City. This term typically begins on either the last Monday in September or the first Monday in October. Although the court has authority to sit anywhere within its circuit, it rarely convenes outside the United States Courthouse at Foley Square in lower Manhattan.

When hearing oral arguments, the court operates on a regular weekday schedule from Monday through Friday. Arguments are heard from 10:30 A.M. until approximately 1:30 P.M. This schedule accommodates judges who commute and allows sessions to conclude efficiently. The court typically sits in panels of three judges, unless a case is heard *en banc* (by the full court).

Key Concepts

- Court Term
- Oral Argument Schedule
- Foley Square
- Judicial Panels
- Commuting Judges

Common User Questions

- When does the annual term for the Second Circuit Court of Appeals begin?
 - What are the daily hours for oral arguments in the Second Circuit?
 - Where is the Second Circuit Court of Appeals located?
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Appellate Decision-Making Procedure: The Conference and Memorandum System

Summary

Details the Second Circuit's distinctive procedure for deliberating cases, including delayed conferences and mandatory pre-conference memoranda.

Content

The Second Circuit Court of Appeals employs a decision-making process that differs from most federal and state appellate courts. Whereas many courts hold conferences on the same day as oral argument or shortly thereafter, the Second Circuit traditionally holds its conference during the week following the argument.

Between oral argument and the conference, each judge on the panel prepares a written memorandum analyzing the cases to be discussed. In practice, this requires judges to draft preliminary opinions for most cases they hear. While this system encourages thorough preparation, it can be burdensome for visiting judges assigned for short periods, who may view the requirement as inefficient compared to procedures in their home circuits.

Key Concepts

- Judicial Conference
- Legal Memoranda
- Decision-Making Process
- Visiting Judges
- Appellate Procedure

Common User Questions

- When do judges in the Second Circuit hold conferences after oral argument?
 - What are judges required to do between oral argument and the conference?
 - How does this procedure differ from other appellate courts?
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Jurisdiction and Finality of Decisions under the Evarts Act

Summary

Explanation of appellate jurisdiction established by the Evarts Act, including final decisions and Supreme Court review mechanisms.

Content

The Evarts Act (Court of Appeals Act of 1891) created the system of intermediate appellate courts, known as the circuit courts of appeals. These courts were granted jurisdiction to review all final decisions of district and circuit courts, unless otherwise provided by law.

Certain categories of cases were designated as producing “final” decisions at the appellate level, including:

- Diversity litigation
- Revenue and patent law cases
- Criminal prosecutions
- Admiralty suits

Even in such cases, the Supreme Court retains discretionary authority to review appellate decisions. In other matters, Supreme Court review was available as a matter of right when the amount in controversy exceeded a statutory threshold. Additionally, appellate courts may certify specific legal questions to the Supreme Court when guidance is necessary for proper resolution.

Key Concepts

- Evarts Act
- Appellate Jurisdiction
- Final Decisions
- Supreme Court Review
- Certification of Questions

Common User Questions

- Which cases result in final decisions by the circuit courts of appeals?
 - Can the Supreme Court review a legally “final” appellate decision?
 - What does it mean for a court to certify a question to the Supreme Court?
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Visiting Judges and Adherence to Circuit Precedent

Summary

Explains how visiting judges should handle conflicts between their home circuit’s precedent and the law of the circuit they are visiting.

Content

Federal courts of appeals frequently disagree on legal issues, creating circuit splits that may persist until resolved by the Supreme Court. This raises questions when judges temporarily sit on a circuit other than their own.

The central issue is whether a visiting judge should apply the precedent of the host circuit or adhere to the law of their home circuit.

General Expectation

Visiting judges are generally expected to follow the law of the circuit in which they are sitting, even when it conflicts with the precedent of their home circuit.

Varied Practice

In practice, compliance has varied. Some judges have explicitly stated their commitment to applying host-circuit precedent, while others have issued opinions that effectively imposed their own circuit's views, even where local precedent pointed in a different direction.

Key Concepts

- Circuit Split
- Stare Decisis
- Intercircuit Assignment
- Visiting Judges
- Precedent

Common User Questions

- What happens when a visiting judge's home circuit law conflicts with local precedent?
 - Are visiting judges required to follow the host circuit's decisions?
 - How do circuit splits affect visiting judges' rulings?
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Courtroom Conduct and Judicial Temperament

Summary

Describes judicial demeanor during oral argument and the range of courtroom management styles lawyers may encounter.

Content

Attorneys appearing before appellate courts must be prepared for varying judicial temperaments and approaches to managing oral argument.

Strict Control

Some judges are known for aggressive questioning that can sharply curtail counsel's presentation. Such judges may nonetheless later express regret or seek to mitigate the impact of their courtroom severity.

Active Direction

Other judges view directing and limiting argument as an essential judicial function, exercised not to intimidate counsel but to ensure efficiency and focus in proceedings.

Attentive Listening

Despite interruptions or direction, judges are expected to listen attentively. Deliberate displays of contempt or inattention toward counsel, particularly to discourage verbose advocates, are considered improper.

Key Concepts

- Oral Argument
- Judicial Temperament
- Courtroom Management
- Advocacy
- Judicial Ethics