

Selected docket entries for case 17-70438

Generated: 11/28/2025 14:00:27

Filed	Document Description	Page	Docket Text
02/14/2017	<u>1</u>		FILED PETITION FOR REVIEW. DOCKETED CAUSE AND ENTERED APPEARANCES OF COUNSEL. NOTIFIED RESPONDENTS OF FILING. SEND MQ: Yes. Mediation Questionnaire due on 02/21/2017. Petitioner brief due 05/05/2017 for City of Burien. Respondent brief due 06/05/2017 for Federal Aviation Administration and Michael P. Huerta. Petitioner's optional reply brief is due 14 days after service of the answering brief. [10319311] (WL)
	<u>1</u> Docketing Letter	5	
	<u>1</u> Mediation Letter	8	
	<u>1</u> Mediation Questionnaire	10	
	<u>1</u> Case Opening Packet	12	
	<u>1</u> Petition For Review	21	
02/14/2017	<u>2</u> Main Document	26	Filed Petitioner City of Burien Corporate Disclosure Statement. Served on 02/14/2017. [10319360] (WL)
02/21/2017	<u>3</u> Main Document	28	Filed (ECF) Petitioner City of Burien Mediation Questionnaire. Date of service: 02/21/2017. [10327735] [17-70438] (Adams, Matthew)
02/22/2017	<u>4</u> Main Document	31	Filed (ECF) Petitioner City of Burien Correspondence: Amended Certificate of Service (for our Mediation Questionnaire). Date of service: 02/21/2017 [10328771] [17-70438] (Adams, Matthew)
02/23/2017	<u>5</u> Main Document	33	Filed (ECF) notice of appearance of Erika Barnes Kranz for Respondents FAA and Michael P. Huerta. Date of service: 02/23/2017. [10330875] [17-70438] (Kranz, Erika)
03/07/2017	<u>7</u> Order – Assessment Conference Schedule	35	MEDIATION CONFERENCE SCHEDULED – Assessment Conference, 04/03/2017, 10:00 a.m. PACIFIC Time. The briefing schedule previously set by the court remains in effect. See order for instructions and details. [10347037] (VS)
03/23/2017	<u>8</u> Main Document	40	Filed order MEDIATION (RGA): The filing deadline for the Administrative Record is extended to April 6,2017. [10369258] (WL)
04/03/2017	<u>9</u> Main Document	41	Filed order MEDIATION (RGA): The court will initiate a further conference by telephone on April 17, 2017, at 3:30 p.m. Pacific Time. The filing deadline for the Administrative Record is extended to June 5, 2017. The briefing schedule previously set by the court is amended as follows: petitioner shall file an opening brief on or before July 17, 2017; respondent shall file an answering brief on or before August 16, 2017; petitioner may file an optional reply brief within fourteen (14) days from the service date of the answering brief. [10381464] (JBS)
04/17/2017	<u>10</u> Order – Follow Up	42	MEDIATION CONFERENCE SCHEDULED – Further Conference, 05/02/2017, 1:00 p.m. Pacific Time. See order for details. [10399186] (VS)
05/03/2017	<u>11</u> Order – Follow Up	43	MEDIATION CONFERENCE SCHEDULED – Further Conference, 05/09/2017, 1:30 p.m. Pacific Time. See order

			for details. [10419879] (VS)
05/09/2017	<u>12</u> Order – Follow Up	44	MEDIATION CONFERENCE SCHEDULED – Further Conference, 05/15/2017, 10:00 a.m. Pacific Time. See order for details. [10427816] (VS)
05/16/2017	<u>13</u> Order – Follow Up	45	MEDIATION CONFERENCE SCHEDULED – Further Conference, 05/17/2017, 11:30 a.m. Pacific Time. See order for details. [10435639] (MS)
05/19/2017	<u>14</u> Main Document	46	Filed order MEDIATION (RGA): The court will initiate a further conference by telephone on May 23, 2017, at 10:00 a.m. Pacific Time. The filing deadline for the Administrative Record is extended to July 17, 2017. The briefing schedule previously set by the court is amended as follows: petitioner shall file an opening brief on or before September 5, 2017; respondents shall file an answering brief on or before October 5, 2017; petitioner may file an optional reply brief within fourteen (14) days from the service date of the answering brief. [10442011] (WL)
05/23/2017	<u>15</u> Order – Follow Up	47	MEDIATION CONFERENCE SCHEDULED – Further Conference, 06/01/2017, 11:30 a.m. Pacific Time. See order for details. [10445368] (VS)
06/01/2017	<u>16</u> Order – Follow Up	48	MEDIATION CONFERENCE SCHEDULED – Further Conference, 06/20/2017, 1:00 p.m. Pacific Time. See order for details. [10455977] (VS)
06/20/2017	<u>17</u> Main Document	49	Filed order MEDIATION (RGA): The court will initiate a further conference by telephone on July 24, 2017, at 10:30 a.m. Pacific Time. The filing deadline for the Administrative Record is extended to July 31, 2017. The briefing schedule previously set by the court is amended as follows: petitioner shall file an opening brief on or before September 18, 2017; respondents shall file an answering brief on or before October 18, 2017; petitioner may file an optional reply brief within twenty-one (21) days from the service date of the answering brief. [10481337] (JBS)
07/19/2017	<u>18</u> Order – Rescheduled Conference	50	MEDIATION CONFERENCE RESCHEDULED – Further Conference, 07/24/2017, 11:30 a.m. Pacific Time. (originally scheduled at 10:30 a.m.). [10513882] (VS)
07/25/2017	<u>19</u> Main Document	51	Filed order MEDIATION (RGA): At the request of counsel for petitioner, the conference originally scheduled for July 24, 2017, is rescheduled to August 7, 2017, at 10:00 a.m. Pacific Time. The filing deadline for the Administrative Record is extended to August 23, 2017. [10520505] (WL)
08/07/2017	<u>20</u> Main Document	52	Filed order MEDIATION (RGA): The court will initiate a further conference by telephone on August 23, 2017, at 10:30 a.m. Pacific Time. The filing deadline for the Administrative Record is extended to October 27, 2017. The briefing schedule previously set by the court is amended as follows: petitioner shall file an opening brief on or before December 18, 2017; respondents shall file an answering brief on or before January 17, 2018; petitioner may file an optional reply brief within twenty-one (21) days from

			the service date of the answering brief. [10535464] (WL)
08/23/2017	<u>21</u> Order – Follow Up	53	MEDIATION CONFERENCE SCHEDULED – Further Conference, 09/06/2017, 1:30 p.m. Pacific Time. See order for details. [10554898] (VS)
09/06/2017	<u>22</u> Order – Follow Up	54	MEDIATION CONFERENCE SCHEDULED – Further Conference, 09/28/2017, 11:30 a.m. Pacific Time. See order for details. [10571196] (VS)
09/28/2017	<u>23</u> Order – Follow Up	55	MEDIATION CONFERENCE SCHEDULED – Further Conference, 10/12/2017, 10:00 a.m. Pacific Time. See order for details. [10598346] (VS)
10/12/2017	<u>24</u> Order – Follow Up	56	MEDIATION CONFERENCE SCHEDULED – Further Conference, 11/09/2017, 10:00 a.m. Pacific Time. The briefing schedule previously set by the court is vacated. See order for details. [10614993] (VS)
11/09/2017	<u>25</u> Order – Follow Up	57	MEDIATION CONFERENCE SCHEDULED – Further Conference, 12/12/2017, 3:00 p.m. Pacific Time. See order for details. [10649375] (VS)
12/12/2017	<u>26</u> Order – Follow Up	58	MEDIATION CONFERENCE SCHEDULED – Further Conference, 01/17/2018, 10:30 a.m. Pacific Time. See order for details. [10688184] (VS)
01/17/2018	<u>27</u> Order – Rescheduled Conference	59	MEDIATION CONFERENCE RESCHEDULED – Further Conference, 02/06/2018, 10:30 a.m. Pacific Time. (originally scheduled on 01/17/2018). [10726869] (VS)
02/05/2018	<u>28</u> Order – Rescheduled Conference	60	MEDIATION CONFERENCE RESCHEDULED – Further Conference, 02/14/2018, 10:30 a.m. Pacific Time. (originally scheduled on 02/06/2018). [10751327] (VS)
02/22/2018	<u>29</u> Order – Follow Up	61	MEDIATION CONFERENCE SCHEDULED – Further Conference, 03/01/2018, 10:00 a.m. Pacific Time. See order for details. [10773209] (VS)
04/18/2018	<u>30</u> Order – Follow Up	62	MEDIATION CONFERENCE SCHEDULED – Status Conference, 04/24/2018, 10:00 a.m. Pacific Time. See order for details. [10841799] (VS)
04/23/2018	<u>31</u> Main Document	63	Filed order MEDIATION (RGA): The conference previously scheduled for April 24, 2018, is canceled and will be rescheduled by further order of the court. [10847532] (AF)
04/23/2018	<u>32</u> Main Document	64	Filed order MEDIATION (RGA): The conference previously scheduled for April 24, 2018, is canceled and will be rescheduled by further order of the court. [10847538] (HC)
04/24/2018	<u>33</u> Order – Follow Up	65	MEDIATION CONFERENCE SCHEDULED – Further Conference, 04/30/2018, 2:30 p.m. Pacific Time. See order for details. [10848082] (VS)
04/30/2018	<u>34</u> Order – Follow Up	66	MEDIATION CONFERENCE SCHEDULED – Further Conference, 05/02/2018, 1:30 p.m. Pacific Time. See order for details. [10855793] (VS)
05/02/2018	<u>35</u> Order – Follow Up	67	MEDIATION CONFERENCE SCHEDULED – Further Conference, 05/17/2018, 10:30 a.m. Pacific Time. See order for details. [10859259] (VS)

05/17/2018	<u>36</u> Order – Follow Up	68	MEDIATION CONFERENCE SCHEDULED – Further Conference, 06/12/2018, 10:00 a.m. Pacific Time. See order for details. [10876176] (VS)
06/12/2018	<u>37</u> Order – Tentative Settlement	69	MEDIATION ORDER FILED: By 06/26/2018, Petitioner to file a motion or stipulation to dismiss, or contact the circuit mediator. See order for details. [10905396] (VS)
06/26/2018	<u>38</u> Main Document	70	Filed (ECF) Petitioner City of Burien Motion to dismiss case voluntarily pursuant to FRAP 42(b). Date of service: 06/26/2018. [10923257] [17-70438] (Adams, Matthew)
06/28/2018	<u>39</u> Main Document	73	Filed order (Deputy Clerk: RGA) Petitioner’s unopposed motion to dismiss this appeal (Docket Entry No. [38])is granted. Fed. R. App. P. 42(b).A copy of this order shall serve as and for the mandate of this court. [10925341] (WL)



Molly C. Dwyer
Clerk of Court

Office of the Clerk
United States Court of Appeals for the Ninth Circuit
Post Office Box 193939
San Francisco, California 94119-3939
415-355-8000

February 14, 2017

No.: 17-70438
Short Title: City of Burien v. FAA, et al

Dear Petitioner/Counsel

Your Petition for Review has been received in the Clerk's office of the United States Court of Appeals for the Ninth Circuit. The U.S. Court of Appeals docket number shown above has been assigned to this case. You must indicate this Court of Appeals docket number whenever you communicate with this court regarding this case.

The due dates for filing the parties' briefs and otherwise perfecting the petition have been set by the enclosed "Time Schedule Order," pursuant to applicable FRAP rules. These dates can be extended only by court order. Failure of the petitioner to comply with the time schedule order will result in automatic dismissal of the petition. 9th Cir. R. 42-1.

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED
FEB 14 2017
MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

CITY OF BURIEN,

Petitioner,

v.

FEDERAL AVIATION
ADMINISTRATION; MICHAEL P.
HUERTA,

Respondents.

No. 17-70438

FAA No.
Federal Aviation Administration

TIME SCHEDULE ORDER

The parties shall meet the following time schedule.

Tue., February 21, 2017 Mediation Questionnaire due. If your registration for Appellate ECF is confirmed after this date, the Mediation Questionnaire is due within one day of receiving the email from PACER confirming your registration.

Fri., May 5, 2017 Petitioner's opening brief and excerpts of record shall be served and filed pursuant to FRAP 32 and 9th Cir. R. 32-1.

Mon., June 5, 2017 Respondents' answering brief and excerpts of record shall be served and filed pursuant to FRAP 32 and 9th Cir. R. 32-1.

The optional petitioner's reply brief shall be filed and served within fourteen days of service of the respondents' brief, pursuant to FRAP 32 and 9th Cir. R. 32-1.

Failure of the petitioner to comply with the Time Schedule Order will result in automatic dismissal of the appeal. See 9th Cir. R. 42-1.

FOR THE COURT:

MOLLY C. DWYER
CLERK OF COURT

By: Wendy Lam
Deputy Clerk
Ninth Circuit Rule 27-7



United States Court of Appeals
for the Ninth Circuit

P.O. Box 31478
Billings, Montana 59107-1478

CHAMBERS OF
SIDNEY R. THOMAS
CHIEF JUDGE

December 1, 2014

TEL: (406) 373-3200

FAX: (406) 373-3250

Dear Counsel:

I want to take this opportunity to introduce you to the Court's mediation program. The court offers you and your clients professional mediation services, at no cost, to help resolve disputes quickly and efficiently and to explore the development of more satisfactory results than can be achieved from continued litigation. Each year the mediators facilitate the resolution of hundreds of cases, from the most basic contract and tort actions to the most complex cases involving multiple parties, numerous pieces of litigation and important issues of public policy.

The eight circuit mediators, all of whom work exclusively for the court, are highly experienced attorneys from a variety of practices; all have extensive training and experience in negotiation, appellate mediation, and Ninth Circuit practice and procedure. Although the mediators are court employees, the Court has adopted strict confidentiality rules and practices to ensure that what goes on in mediation stays in mediation. *See* Circuit Rule 33-1.

The first step in the mediation process is case selection. To assist the mediators in the case selection process, appellants/petitioners must file a completed Mediation Questionnaire within 7 days of the docketing of the case. *See* Circuit Rules 3-4, and 15-2. Appellees may also fill out and file a questionnaire. The questionnaire with filing instructions accompanies this letter and is also available at www.ca9.uscourts.gov/mediation/forms.php. All counsel are also invited to submit, by e-mail to ca09_mediation@ca9.uscourts.gov, additional, confidential information that might assist the mediators in the case selection process.

Page 2

In most cases, the mediator will schedule a settlement assessment conference, with counsel only, to determine whether the case is suitable for mediation. Please be assured that participation in the mediation program will not slow down disposition of your appeal. Mediation discussions are not limited to the issues on appeal. The discussions can involve other cases and may include individuals who are not parties to the litigation, if doing so enables the parties to reach a global settlement.

Further information about the mediation program may be found on the court's website: www.ca9.uscourts.gov/mediation/. Please address questions directly to the Mediation Unit at 415-355-7900 or ca09mediation@ca9.uscourts.gov.

Our mediators do a terrific job. I hope you'll give them the opportunity to work on your case.

Sincerely,



Sidney R. Thomas
Chief Circuit Judge

UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

Circuit Mediation Office
 Phone (415) 355-7900 Fax (415) 355-8566
<http://www.ca9.uscourts.gov/mediation>

MEDIATION QUESTIONNAIRE

This form is available in a fillable version at http://cdn.ca9.uscourts.gov/datastore/uploads/forms/Mediation_Questionnaire.pdf.

The purpose of this questionnaire is to help the court's mediators provide the best possible mediation service in this case; it serves no other function. Responses to this questionnaire are **not** confidential. Appellants/Petitioners must electronically file this document within 7 days of the docketing of the case. 9th Cir. R. 3-4 and 15-2. Appellees/Respondents may file the questionnaire, but are not required to do so.

9th Circuit Case Number(s):	<input type="text"/>
District Court/Agency Case Number(s):	<input type="text"/>
District Court/Agency Location:	<input type="text"/>
Case Name:	<input type="text"/> v. <input type="text"/>
If District Court, docket entry number(s) of order(s) appealed from:	<input type="text"/>
Name of party/parties submitting this form:	<input type="text"/>

Briefly describe the dispute that gave rise to this lawsuit.

Briefly describe the result below and the main issues on appeal.

(Continue to next page)

Describe any proceedings remaining below or any related proceedings in other tribunals.

Provide any other thoughts you would like to bring to the attention of the mediator.

*Any party may provide additional information **in confidence** directly to the Circuit Mediation Office at ca09_mediation@ca9.uscourts.gov. Provide the case name and Ninth Circuit case number in your message. Additional information might include level of interest in including this case in the mediation program, the case's settlement history, issues beyond the litigation that the parties might address in a settlement context, or future events that might affect the parties' willingness or ability to mediate the case.*

CERTIFICATION OF COUNSEL

I certify that:

- a current service list with telephone and fax numbers and email addresses is attached (see 9th Circuit Rule 3-2).
- I understand that failure to provide the Court with a completed form and service list may result in sanctions, including dismissal of the appeal.

Signature

("s/" plus attorney name may be used in lieu of a manual signature on electronically-filed documents.)

Counsel for

How to File: Complete the form and then convert the filled-in form to a static PDF (File > Print > PDF Printer or any PDF Creator). To file, log into Appellate ECF and select File Mediation Questionnaire. (*Use of the Appellate ECF system is mandatory for all attorneys filing in this Court, unless they are granted an exemption from using the system.*)

UNITED STATES COURT OF APPEALS for the NINTH CIRCUIT**Office of the Clerk****After Opening a Case – Counseled Non-Immigration Agency Cases**
(revised April 2016)**Court Address – San Francisco Headquarters**

<i>Mailing Address for U.S. Postal Service</i>	<i>Mailing Address for Overnight Delivery (FedEx, UPS, etc.)</i>	<i>Street Address</i>
Office of the Clerk James R. Browning Courthouse U.S. Court of Appeals P.O. Box 193939 San Francisco, CA 94119-3939	Office of the Clerk James R. Browning Courthouse U.S. Court of Appeals 95 Seventh Street San Francisco, CA 94103-1526	95 Seventh Street San Francisco, CA 94103

Court Addresses – Divisional Courthouses

<i>Pasadena</i>	<i>Portland</i>	<i>Seattle</i>
Richard H. Chambers Courthouse 125 South Grand Avenue Pasadena, CA 91105	The Pioneer Courthouse 700 SW 6th Ave, Ste 110 Portland, OR 97204	William K. Nakamura Courthouse 1010 Fifth Avenue Seattle, WA 98104

Court Website – www.ca9.uscourts.gov

The Court's website contains the Court's Rules and General Orders, information about electronic filing of documents, answers to frequently asked questions, directions to the courthouses, forms necessary to gain admission to the bar of the Court, opinions and memoranda, live streaming of oral arguments, links to practice manuals, and an invitation to join our Pro Bono Program.

Court Phone List

Main Phone Number	(415) 355-8000
Attorney Admissions.....	(415) 355-7800
Calendar Unit.....	(415) 355-8190
Docketing.....	(415) 355-7840
Death Penalty.....	(415) 355-8197
Electronic Filing – CM/ECF.....	Submit form at http://www.ca9.uscourts.gov/cmecf/feedback
Library.....	(415) 355-8650
Mediation Unit.....	(415) 355-7900
Motions Attorney Unit.....	(415) 355-8020
Procedural Motions Unit.....	(415) 355-7860
Records Unit.....	(415) 355-7820
Divisional Court Offices:	
Pasadena.....	(626) 229-7250
Portland.....	(503) 833-5300
Seattle.....	(206) 224-2200

Electronic Filing - CM/ECF

The Ninth Circuit’s CM/ECF (Case Management/Electronic Case Files) system is mandatory for all attorneys filing in this Court, unless they are granted an exemption. All non-exempted attorneys who appear in an ongoing case are required to register for and to use CM/ECF. Registration and information about CM/ECF is available on the Court’s website at www.ca9.uscourts.gov under *Electronic Filing–CM/ECF*. Read the [Circuit Rules](#), especially Ninth Circuit Rule 25-5, for guidance on filing documents electronically via CM/ECF, and see the [CM/ECF User Guide](#) for a complete list of the available types of filing events.

Rules of Practice

The Federal Rules of Appellate Procedure (Fed. R. App. P.), the Ninth Circuit Rules (9th Cir. R.) and the General Orders govern practice before this Court. The rules are available on the Court's website at www.ca9.uscourts.gov under *Rules*.

Practice Resources

The [Appellate Lawyer Representatives' Guide to Practice in the United States Court of Appeals for the Ninth Circuit](#) is available on the Court's website www.ca9.uscourts.gov at *Guides and Legal Outlines > Appellate Practice Guide*. The Court provides other resources in *Guides and Legal Outlines*.

Admission to the Bar of the Ninth Circuit

All attorneys practicing before the Court must be admitted to the Bar of the Ninth Circuit. Fed. R. App. P. 46(a); 9th Cir. R. 46-1.1 & 46-1.2.

For instructions on how to apply for bar admission, go to www.ca9.uscourts.gov and click on the *Attorneys* tab > *Attorney Admissions > Instructions*.

Notice of Change of Address

Counsel who are registered for CM/ECF must update their personal information, including street addresses and email addresses, online at: <https://pacer.psc.uscourts.gov/pscof/login.jsf> 9th Cir. R. 46-3.

Counsel who have been granted an exemption from using CM/ECF must file a written change of address with the Court. 9th Cir. R. 46-3.

Payment of Fees

The \$500.00 filing fee or a motion to proceed in forma pauperis shall accompany the petition. 9th Cir. R. 3-1.

A motion to proceed in forma pauperis must be supported by the affidavit of indigency found at [Form 4](#) of the Federal Rules of Appellate Procedure, available at the Court's website, www.ca9.uscourts.gov, under *Forms*.

Failure to satisfy the fee requirement or to apply to proceed without payment of fees will result in the petition's dismissal. 9th Cir. R. 42-1.

Motions Practice

Following are some of the basic points of motion practice, governed by Fed. R. App. P. 27 and 9th Cir. R. 27-1 through 27-14.

- Neither a notice of motion nor a proposed order is required. Fed. R. App. P. 27(a)(2)(C)(ii), (iii).
- Motions may be supported by an affidavit or declaration. 28 U.S.C. § 1746.
- Each motion should provide the position of the opposing party. Circuit Advisory Committee Note to Rule 27-1(5); 9th Cir. R. 31-2.2(b)(6).
- A response to a motion is due 10 days from the service of the motion. Fed. R. App. P. 27(a)(3)(A); Fed. R. App. P. 26(c). The reply is due 7 days from service of the response. Fed. R. App. P. 27(a)(4); Fed. R. App. P. 26(c).
- A response requesting affirmative relief must include that request in the caption. Fed. R. App. P. 27(a)(3)(B).
- A motion filed after a case has been scheduled for oral argument, has been argued, is under submission or has been decided by a panel, must include on the initial page and/or cover the date of argument, submission or decision and, if known, the names of the judges on the panel. 9th Cir. R. 25-4.

Emergency or Urgent Motions

All emergency and urgent motions must conform with the provisions of 9th Cir. R. 27-3. Note that a motion requesting procedural relief (e.g., an extension of time to file a brief) is *not* the type of matter contemplated by 9th Cir. R. 27-3. Circuit Advisory Committee Note to 27-3(3).

Prior to filing an emergency motion, the moving party *must* contact an attorney in the Motions Unit in San Francisco at (415) 355-8020.

When it is absolutely necessary to notify the Court of an emergency outside of standard office hours, the moving party shall call (415) 355-8000. Keep in mind that this line is for true emergencies that cannot wait until the next business day (e.g., an imminent execution or removal from the United States).

Briefing Schedule

The Court sets the briefing schedule at the time the petition is docketed.

Certain motions (e.g., a motion for dismissal) automatically stay the briefing schedule. 9th Cir. R. 27-11.

The opening and answering brief due dates are not subject to the additional time described in Fed. R. App. P. 26(c). 9th Cir. R. 31-2.1. The early filing of petitioner's opening brief does not advance the due date for respondent's answering brief. *Id.*

Extensions of Time to file a Brief

Streamlined Request

Subject to the conditions described at 9th Cir. R. 31-2.2(a), you may request one streamlined extension of up to 30 days from the brief's existing due date. Submit your request via CM/ECF using the "File Streamlined Request to Extend Time to File Brief" event on or before your brief's existing due date. No form or written motion is required.

Written Extension

Requests for subsequent extensions or extensions of more than 30 days will be granted only upon a written motion supported by a showing of diligence and substantial need. This motion shall be filed at least 7 days before the due date for the brief. The motion shall be accompanied by an affidavit or declaration that includes all of the information listed at 9th Cir. R. 31-2.2(b).

The Court will ordinarily adjust the schedule in response to an initial motion. Circuit Advisory Committee Note to Rule 31-2.2. The Court expects that the brief will be filed within the requested period of time. *Id.*

Contents of Briefs and Record

The required components of a brief are set out at Fed. R. App. P. 28 and 32, and 9th Cir. R. 28-2, 32-1 and 32-2.

The content and filing of the record are governed by Fed. R. App. P. 16(a) and 17. If respondent does not file the record or certified list by the specified date, petitioner may move to amend the briefing schedule.

After the electronically submitted brief has been reviewed, the Clerk will request 7 paper copies of the brief that are identical to the electronic version. 9th Cir. R. 31-1. Do not submit paper copies until directed to do so.

Excerpts of Record

The Court requires Excerpts of Record rather than an Appendix. 9th Cir. R. 30-1.1. Please review 9th Cir. R. 17-1.3 through 17-1.6 to see a list of the specific contents and format. For Excerpts that exceed 75 pages, the first volume must comply with 9th Cir. R. 17-1.6 and 30-1.6(a). Excerpts exceeding 300 pages must be filed in multiple volumes. 9th Cir. R. 30-1.6(a).

Respondent may file supplemental Excerpts, and petitioner may file further Excerpts. 9th Cir. R. 17-1.7; 17-1.8; 30-1.7 and 30-1.8. If you are a respondent responding to a pro se brief that did not come with Excerpts, then your Excerpts need only include the contents set out at 9th Cir. R. 30-1.7.

Excerpts must be submitted in PDF format in CM/ECF on the same day the filer submits the brief. The filer shall serve a paper copy of the Excerpts on any party not registered for CM/ECF.

If the Excerpts contain sealed materials, you must submit the sealed documents electronically in a separate volume in a separate transaction from the unsealed volumes, along with a motion to file under seal. 9th Cir. R. 27-13(e). Sealed filings must be served on all parties by mail, or if mutually agreed by email, rather than through CM/ECF noticing.

After electronic submission, the Court will direct the filer to file 4 separately-bound paper copies of the excerpts of record with white covers.

Mediation Program

Mediation Questionnaires are required in all counseled agency cases except those cases seeking review of a Board of Immigration Appeals decision. 9th Cir. R.

15-2.

The Mediation Questionnaire is available on the Court's website at www.ca9.uscourts.gov under *Forms*. The Mediation Questionnaire should be filed within 7 days of the docketing of the petition. The Mediation Questionnaire is used only to assess settlement potential.

If you are interested in requesting a conference with a mediator, you may call the Mediation Unit at (415) 355-7900, email ca09_mediation@ca9.uscourts.gov or make a written request to the Chief Circuit Mediator. You may request conferences confidentially. More information about the Court's mediation program is available at <http://www.ca9.uscourts.gov/mediation>.

Oral Hearings

Approximately 14 weeks before a case is set for oral hearing, the parties are notified of the hearing dates and locations and are afforded 3 days from the date of those notices to inform the Court of any conflicts. Notices of the actual calendars are then distributed approximately 10 weeks before the hearing date.

The Court will change the date or location of an oral hearing only for good cause, and requests to continue a hearing filed within 14 days of the hearing will be granted only upon a showing of exceptional circumstances. 9th Cir. R. 34-2.

Oral hearing will be conducted in all cases unless all members of the panel agree that the decisional process would not be significantly aided by oral argument. Fed. R. App. P. 34(a)(2).

Oral arguments are live streamed to You Tube and can be accessed on the Court's website.

Ninth Circuit Appellate Lawyer Representatives APPELLATE MENTORING PROGRAM

1. Purpose

The Appellate Mentoring Program is intended to provide mentoring on a voluntary basis to attorneys who are new to federal appellate practice or would benefit from guidance at the appellate level. In addition to general assistance regarding federal appellate practice, the project will provide special focus on two substantive areas of practice - immigration law and habeas corpus petitions. Mentors will be volunteers who have experience in immigration, habeas corpus, and/or appellate practice in general. The project is limited to counseled cases.

2. Coordination, recruitment of volunteer attorneys, disseminating information about the program, and requests for mentoring

Current or former Appellate Lawyer Representatives (ALRs) will serve as coordinators for the Appellate Mentoring Program. The coordinators will recruit volunteer attorneys with appellate expertise, particularly in the project's areas of focus, and will maintain a list of those volunteers. The coordinators will ask the volunteer attorneys to describe their particular strengths in terms of mentoring experience, substantive expertise, and appellate experience, and will maintain a record of this information as well.

The Court will include information about the Appellate Mentoring Program in the case opening materials sent to counsel and will post information about it on the Court's website. Where appropriate in specific cases, the Court may also suggest that counsel seek mentoring on a voluntary basis.

Counsel who desire mentoring should contact the court at mentoring@ca9.uscourts.gov, and staff will notify the program coordinators. The coordinators will match the counsel seeking mentoring with a mentor, taking into account the mentor's particular strengths.

3. The mentoring process

The extent of the mentor's guidance may vary depending on the nature of the case, the mentee's needs, and the mentor's availability. In general, the mentee should initiate contact with the mentor, and the mentee and mentor should determine together how best to proceed. For example, the areas of guidance may range from

basic questions about the mechanics of perfecting an appeal to more sophisticated matters such as effective research, how to access available resources, identification of issues, strategy, appellate motion practice, and feedback on writing.

4. Responsibility/liability statement

The mentee is solely responsible for handling the appeal and any other aspects of the client's case, including all decisions on whether to present an issue, how to present it in briefing and at oral argument, and how to counsel the client. By participating in the program, the mentee agrees that the mentor shall not be liable for any suggestions made. In all events, the mentee is deemed to waive and is estopped from asserting any claim for legal malpractice against the mentor.

The mentor's role is to provide guidance and feedback to the mentee. The mentor will not enter an appearance in the case and is not responsible for handling the case, including determining which issues to raise and how to present them and ensuring that the client is notified of proceedings in the case and receives appropriate counsel. The mentor accepts no professional liability for any advice given.

5. Confidentiality statement

The mentee alone will have contact with the client, and the mentee must maintain client confidences, as appropriate, with respect to non-public information.

Case No. _____

IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

CITY OF BURIEN, WASHINGTON

Petitioner,

v.

FEDERAL AVIATION ADMINISTRATION;
MICHAEL HUERTA, Administrator,
Federal Aviation Administration

Respondents.

PETITION FOR REVIEW

DENTONS US LLP
MATTHEW G. ADAMS (CA BAR # 229021)
matthew.adams@dentons.com
JESSICA L. DUGGAN (CA BAR # 271703)
jessica.duggan@dentons.com
One Market Street, Spear Tower, 24th Floor
San Francisco, California 94105
(415) 267-4000

LISA M. MARSHALL (WA BAR # 24343)
City Attorney
City of Burien
LisaM@burienwa.gov
400 SW 152nd St. Suite 300
Burien, Washington 98166
(206) 248-5535

Attorneys for Petitioner CITY OF BURIEN.

Pursuant to 49 U.S.C. § 46110 and Rule 15(a) of the Federal Rules of Appellate Procedure, the City of Burien, Washington (“City”) hereby petitions the United States Court of Appeals for the Ninth Circuit for review of final decisions by the Federal Aviation Administration (“FAA”) to (i) permanently implement certain flight departure procedures (the “New Route”) at Seattle-Tacoma International Airport (“Sea-Tac”); (ii) denial of requests to modify or cease implementation of the New Route; and (iii) the FAA’s failure to reopen consultation or to conduct required environmental review of alternative flight departure routes that would have fewer significant adverse impacts on the City and its residents.

The City is an incorporated city located in King County, Washington. It is an environmental justice community within the meaning of Executive Order 12898. In the summer of 2016, without notice to the City or its residents, the FAA began experimenting with the New Route, resulting in significant noise impacts to parks, schools, residential neighborhoods, and other noise-sensitive areas. The City and its residents spent a considerable amount of time and effort trying to obtain from the FAA information about the New Route, the implementation of the New Route, and whether and when the FAA’s decision-making process had been completed. The FAA did not provide a formal response to those inquiries until December 16, 2016, after which it upheld — and refused to reconsider — the New

Route. The City and its residents have suffered — and will continue to suffer — significant, adverse impacts as a result of the FAA’s New Route.

Dated: February 14, 2017

Respectfully submitted,

DENTONS US LLP

By /s/ Matthew G. Adams
Matthew G. Adams
Jessica L. Duggan
Attorneys for Petitioners

RULE 26.1 DISCLOSURE STATEMENT

Pursuant to Federal Rule of Appellate Procedure 26.1 Petitioner, by and through its counsel, hereby disclose that the City of Burien, Washington is a municipal governmental body under the laws of the State of Washington, is not a “nongovernmental corporate party,” and therefore is not required to file a corporate disclosure statement pursuant to Federal Rule of Appellate Procedure 26.1(a).

Dated: February 14, 2017

Respectfully submitted,

DENTONS US LLP

By /s/ Matthew G. Adams
Matthew G. Adams
Jessica L. Duggan
Attorneys for Petitioners

CERTIFICATE OF SERVICE

I hereby certify, in accordance with Fed. Rule of App. Proc. 15(c)(1), that a true copy of the foregoing *Petition for Review* was served by US mail on this 14th day of February, 2017 on the following:

Michael P. Huerta
Administrator
Federal Aviation Administration
Room E1010
800 Independence Avenue, SW
Washington, D.C. 20591
(202) 267-3111
michael.huerta@faa.gov



Cynthia Lakes

RULE 26.1 DISCLOSURE STATEMENT

Pursuant to Federal Rule of Appellate Procedure 26.1 Petitioner, by and through its counsel, hereby disclose that the City of Burien, Washington is a municipal governmental body under the laws of the State of Washington, is not a “nongovernmental corporate party,” and therefore is not required to file a corporate disclosure statement pursuant to Federal Rule of Appellate Procedure 26.1(a).

Dated: February 14, 2017

Respectfully submitted,

DENTONS US LLP

By /s/ Matthew G. Adams
Matthew G. Adams
Jessica L. Duggan
Attorneys for Petitioners

CERTIFICATE OF SERVICE

I hereby certify, in accordance with Fed. Rule of App. Proc. 15(c)(1), that a true copy of the foregoing *Petition for Review* was served by US mail on this 14th day of February, 2017 on the following:

Michael P. Huerta
Administrator
Federal Aviation Administration
Room E1010
800 Independence Avenue, SW
Washington, D.C. 20591
(202) 267-3111
michael.huerta@faa.gov



Cynthia Lakes

UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

Circuit Mediation Office
 Phone (415) 355-7900 Fax (415) 355-8566
<http://www.ca9.uscourts.gov/mediation>

MEDIATION QUESTIONNAIRE

The purpose of this questionnaire is to help the court's mediators provide the best possible mediation service in this case; it serves no other function. Responses to this questionnaire are *not* confidential. Appellants/Petitioners must electronically file this document within 7 days of the docketing of the case. 9th Cir. R. 3-4 and 15-2. Appellees/Respondents may file the questionnaire, but are not required to do so.

9th Circuit Case Number(s):	17-70438	
District Court/Agency Case Number(s):	n/a	
District Court/Agency Location:	Federal Aviation Administration	
Case Name:	City of Burien	v. Federal Aviation Administration
If District Court, docket entry number(s) of order(s) appealed from:	n/a	
Name of party/parties submitting this form:	City of Burien	

Please briefly describe the dispute that gave rise to this lawsuit.

The City of Burien, Washington is located adjacent to SeaTac International Airport. Without notice and without completing an Environmental Assessment (EA), an Environmental Impact Statement (EIS), or any other National Environmental Policy Act (NEPA) analysis, the Federal Aviation Administration (FAA) began experimenting with a new procedure for north flow departures (the New Route). The New Route sends certain aircraft on a fixed, consistent path at low altitude over the City of Burien, resulting in significant noise and air quality impacts within that corridor. The City's attempts to compel the FAA to cease the New Route pending completion of a NEPA review were unsuccessful. The Petition for Review herein followed.

Briefly describe the result below and the main issues on appeal.

Whether the New Route falls within any of the FAA's previously-promulgated categories of actions determined to have no possibility of a significant impact on the environment (categorical exclusions) and whether the FAA violated NEPA when it failed to prepare an EA or EIS prior to initiating the New Route.

Describe any proceedings remaining below or any related proceedings in other tribunals.

None.

Provide any other thoughts you would like to bring to the attention of the mediator.

Nothing at this time.

Any party may provide additional information *in confidence* directly to the Circuit Mediation Office at ca09_mediation@ca9.uscourts.gov. Please provide the case name and Ninth Circuit case number in your message. Additional information might include interest in including this case in the mediation program, the case's settlement history, issues beyond the litigation that the parties might address in a settlement context, or future events that might affect the parties' willingness or ability to mediate the case.

CERTIFICATION OF COUNSEL

I certify that:

a current service list with telephone and fax numbers and email addresses
 is attached (see 9th Circuit Rule 3-2).

I understand that failure to provide the Court with a completed form and
 service list may result in sanctions, including dismissal of the appeal.

Signature

("s/" plus attorney name may be used in lieu of a manual signature on electronically-filed documents.)

Counsel for

Note: Use of the Appellate ECF system is mandatory for all attorneys filing in this Court, unless they are granted an exemption from using the system. **File this document electronically** in Appellate ECF by choosing Forms/Notices/Disclosure > File a Mediation Questionnaire.

CERTIFICATE OF SERVICE

I hereby certify, in accordance with Fed. Rule of App. Proc. 15(c)(1), that a true copy of the foregoing *Mediation Questionnaire* was served by US mail on this 21st day of February, 2017 on the following:

Michael P. Huerta
Administrator
Federal Aviation Administration
Room E1010
800 Independence Avenue, SW
Washington, D.C. 20591
(202) 267-3111
michael.huerta@faa.gov


Katherine Carr-James

Case No. 17-70438

IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

CITY OF BURIEN, WASHINGTON

Petitioner,

v.

FEDERAL AVIATION ADMINISTRATION;
MICHAEL HUERTA, Administrator,
Federal Aviation Administration

Respondents.

AMENDED CERTIFICATE OF SERVICE

DENTONS US LLP
MATTHEW G. ADAMS (CA BAR # 229021)
matthew.adams@dentons.com
JESSICA L. DUGGAN (CA BAR # 271703)
jessica.duggan@dentons.com
One Market Street, Spear Tower, 24th Floor
San Francisco, California 94105
(415) 267-4000

Attorneys for Petitioner CITY OF BURIEN.

CERTIFICATE OF SERVICE

I hereby certify, in accordance with Fed. Rule of App. Proc. 15(c)(1), that a true copy of the *Mediation Questionnaire* was served by US Mail on the 21st day of February, 2017 on the following:

Agnes M. Rodriguez
Federal Aviation Administration
Office of the Chief Counsel
800 Independence Avenue, SW
Washington, D.C. 20591
(202) 267-3111
agnes.rodriguez@faa.gov

Michael P. Huerta
Administrator
Federal Aviation Administration
Room E1010
800 Independence Avenue, SW
Washington, D.C. 20591
(202) 267-3111
michael.huerta@faa.gov


Katherine Carr James

Office of the Clerk
UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT
P.O. Box 193939

Molly C. Dwyer
Clerk of Court

San Francisco, California 94119-3939

(415) 355-8000

**NOTICE OF APPEARANCE OF COUNSEL or
RE-ASSIGNMENT OF COUNSEL WITHIN THE SAME OFFICE**

**NOTE: For readability and security, print the filled-in form to PDF (*File > Print > PDF Printer/Creator*).
You may also fill in the form, print it, and then scan the filled-in form to a PDF file.**

9th Circuit Case Number(s)

Case Name: v.

The Clerk will enter my appearance as counsel on behalf of:

- Appellant Petitioner Amicus Curiae Appellant/Cross-Appellee
 Appellee Respondent Intervenor Appellee/Cross-Appellant

Check if you are lead counsel.

Lead counsel must be designated if a party is represented by more than one attorney or law firm.

If this case has been re-assigned to you from another attorney in your office (*i.e., the Federal Public Defenders Office, OIL, or a law firm*), indicate who you are replacing. Provide the name of counsel only if the attorney is no longer on the case.

I am replacing (*name of counsel*):

Name

Firm/
Office

Address

City State Zip Code

Phone Number (*including area code*)

Signature
(use "s/" format)

Date

9th Circuit Case Number(s) 17-70438

NOTE: For readability and security, print the filled-in form to PDF (*File > Print > PDF Printer/Creator*).
You may also fill in the form, print it, and then scan the filled-in form to a PDF file.

CERTIFICATE OF SERVICE

When All Case Participants are Registered for the Appellate CM/ECF System

I hereby certify that I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system on *(date)* February 23, 2017 .

I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

Signature (*use "s/" format*) s/Erika B. Kranz

CERTIFICATE OF SERVICE

When Not All Case Participants are Registered for the Appellate CM/ECF System

I hereby certify that I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system on *(date)* .

Participants in the case who are registered CM/ECF users will be served by the appellate CM/ECF system.

I further certify that some of the participants in the case are not registered CM/ECF users. I have mailed the foregoing document by First-Class Mail, postage prepaid, or have dispatched it to a third party commercial carrier for delivery within 3 calendar days to the following non-CM/ECF participants:

[Empty box for listing non-CM/ECF participants]

Signature (*use "s/" format*)

[Empty box for signature]

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

MAR 07 2017

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

CITY OF BURIEN,

Petitioner,

v.

FEDERAL AVIATION
ADMINISTRATION and MICHAEL P.
HUERTA,

Respondents.

No. 17-70438

FAA No.

Federal Aviation Administration

**ORDER SETTING
ASSESSMENT CONFERENCE**

Date: April 3, 2017

Time: 10:00 a.m. Pacific Time

The Mediation Program of the Ninth Circuit Court of Appeals facilitates settlement while appeals are pending. See Fed. R. App. P. 33 and Ninth Circuit Rule 33-1.

The court has scheduled a telephone settlement assessment conference at the date and time listed above with counsel to discuss whether this case is appropriate for participation in the Mediation Program. Circuit Mediator Roxane Ashe will initiate the conference call by calling counsel shown on the attached list. Please be available for the call at least five minutes before the scheduled time.

Counsel should review the attached list and inform the Mediation Assistant by email (virna_sanchez@ca9.uscourts.gov) at least 72 hours in advance of the scheduled call of any corrections to the list, including the names of any attorneys

who will not be participating in the conference and the direct dial telephone number of any participant if it is not listed. Also, please notify the mediator immediately by email (roxane_ashe@ca9.uscourts.gov) if the dispute is settled, the appeal is dismissed or if counsel has an unavoidable scheduling conflict. Please copy all counsel on any such communications.

All discussions that take place in the context of the assessment conference are strictly confidential. **See** Circuit Rule 33-1.

For more detailed information about the assessment conference, confidentiality, the Mediation Program and its procedures generally, please see the attachment to this order and the Mediation Program web site:

www.ca9.uscourts.gov/mediation.

The briefing schedule previously set by the court remains in effect.

FOR THE COURT:

Virna Sanchez
Deputy Clerk

vs/mediation

LIST OF CONFERENCE PARTICIPANTS

CITY OF BURIEN
Petitioner,

Matthew G. Adams
415-267-4000
matthew.adams@dentons.com
Dentons US LLP

v.

FEDERAL AVIATION
ADMINISTRATION;et al.
Respondent,

Agnes M. Rodriguez, Esquire
agnes.rodriguez@faa.gov
Federal Aviation Administration

Erika B. Kranz
erika.kranz@usdoj.gov
DOJ - U.S. Department of Justice

UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT
CIRCUIT MEDIATION OFFICE

Website: www.ca9.uscourts.gov/mediation

Email: roxane_ashe@ca9.uscourts.gov

Phone: 415-355-7900 Fax: 415-355-8566

INFORMATION ABOUT ASSESSMENT CONFERENCES

Overview of Purpose and Participants

- The purpose of the assessment conference is to provide an opportunity for counsel and the Circuit Mediator to have a frank discussion about settlement. The mediator will explore the parties' interests in settlement and, if appropriate, work with counsel to design a process to pursue resolution of the dispute.
- The conference will be conducted by one of the eight Circuit Mediators, all of whom are court employees with extensive mediation and litigation experience. The Circuit Mediators are authorized to file orders on most procedural matters, including vacating or moving the briefing schedule.
- Counsel for all parties who intend to file briefs in the case should participate in the assessment conference. The lawyer with the closest relationship to the client should be on the call. Clients are neither expected nor required to participate in the assessment conference.
- In advance of the conference, counsel should have a discussion with their clients about their goals in the litigation, its possible costs and outcomes (good and bad), the potential for further legal proceedings, and what issues beyond the litigation might be explored in mediation. (Go to www.ca9.uscourts.gov/mediation for a list of questions for exploring the suitability of the dispute for settlement.)
- During the conference, counsel and the Circuit Mediator will discuss the factual and legal background of the dispute, the legal issues involved in the litigation and on appeal, any related legal proceedings, and any other considerations that may affect the parties' willingness to engage in settlement discussions. The scope of discussions is not limited to the issues on appeal: it may include related legal proceedings or any other issues between the parties.

Confidentiality

- Settlement-related information disclosed to a Circuit Mediator will be kept confidential and will not be disclosed to the judges deciding the appeal or to any other person outside the Mediation Program participants. Ninth Cir. R. 33-1.
- All participants in the assessment conference are required to abide by the court's confidentiality rules, which are set forth in Rule 33-1 and can be found at www.ca9.uscourts.gov/mediation. With limited exceptions, any communication made by the Circuit Mediator or any participant during the conference may not be used in any pending or future proceeding in this court or any other forum and may not be disclosed to anyone who is not a participant. Ninth Cir. 33-1.

Likely Outcomes of Assessment Conference

- At the conclusion of the assessment conference, the Circuit Mediator may confirm in an order the agreements of the parties regarding the scope, process and timing of any further settlement efforts. Typical settlement processes include in-person mediation sessions, telephone settlement dialogues facilitated by the Circuit Mediator, or direct discussions between counsel.
- The parties may agree to defer briefing in order to focus on settlement efforts or to provide an opportunity for circumstances to develop that might make settlement more likely. In most cases, the deferral of briefing will not delay disposition of the appeal, since the date of the filing of the notice of appeal controls when an appeal is assigned to a three-judge panel for decision.
- At any point that the parties choose not to pursue settlement efforts, the Circuit Mediator will work with the parties to resolve any outstanding procedural issues and will enter orders effectuating any procedural agreements.

More information is available on the Mediation Circuit link on the Ninth Circuit website www.ca9.uscourts.gov/mediation.

FILED

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

MAR 23 2017

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

CITY OF BURIEN,

Petitioner,

v.

FEDERAL AVIATION
ADMINISTRATION and MICHAEL P.
HUERTA,

Respondents.

No. 17-70438

No.
Federal Aviation Admin,
Federal Aviation Admin

ORDER

The filing deadline for the Administrative Record is extended to April 6,
2017.

FOR THE COURT

By: Roxane G. Ashe
Circuit Mediator

rga/mediation

FILED

UNITED STATES COURT OF APPEALS

APR 3 2017

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

<p>CITY OF BURIEN,</p> <p style="text-align: center;">Petitioner,</p> <p>v.</p> <p>FEDERAL AVIATION ADMINISTRATION and MICHAEL P. HUERTA,</p> <p style="text-align: center;">Respondents.</p>

No. 17-70438

No.
Federal Aviation Admin,
Federal Aviation Admin

ORDER

The court will initiate a further conference by telephone on **April 17, 2017, at 3:30 p.m. Pacific Time.**

The filing deadline for the Administrative Record is extended to June 5, 2017.

The briefing schedule previously set by the court is amended as follows: petitioner shall file an opening brief on or before July 17, 2017; respondent shall file an answering brief on or before August 16, 2017; petitioner may file an optional reply brief within fourteen (14) days from the service date of the answering brief.

FOR THE COURT

By: Roxane G. Ashe
Circuit Mediator

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

APR 17 2017

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

CITY OF BURIEN,

Petitioner,

v.

FEDERAL AVIATION
ADMINISTRATION and MICHAEL P.
HUERTA,

Respondents.

No. 17-70438

FAA No.

Federal Aviation Administration

ORDER

The court will initiate a further conference by telephone on May 2, 2017, at
1:00 p.m. **Pacific Time.**

vs/mediation

FOR THE COURT:

Roxane Ashe
Circuit Mediator

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

MAY 03 2017

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

CITY OF BURIEN,

Petitioner,

v.

FEDERAL AVIATION
ADMINISTRATION and MICHAEL P.
HUERTA,

Respondents.

No. 17-70438

FAA No.

Federal Aviation Administration

ORDER

The court will initiate a further conference by telephone on May 9, 2017, at
1:30 p.m. **Pacific Time.**

vs/mediation

FOR THE COURT:

Roxane Ashe
Circuit Mediator

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

MAY 09 2017

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

CITY OF BURIEN,

Petitioner,

v.

FEDERAL AVIATION
ADMINISTRATION and MICHAEL P.
HUERTA,

Respondents.

No. 17-70438

FAA No.

Federal Aviation Administration

ORDER

The court will initiate a further conference by telephone on May 15, 2017, at
10:00 a.m. **Pacific Time.**

vs/mediation

FOR THE COURT:

Roxane Ashe
Circuit Mediator

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

MAY 16 2017

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

CITY OF BURIEN,

Petitioner,

v.

FEDERAL AVIATION
ADMINISTRATION and MICHAEL P.
HUERTA,

Respondents.

No. 17-70438

FAA No.

Federal Aviation Administration

ORDER

The court will initiate a further conference by telephone on May 17, 2017, at
11:30 a.m. **Pacific Time.**

ms/mediation

FOR THE COURT:

Roxane Ashe
Circuit Mediator

FILED

UNITED STATES COURT OF APPEALS

MAY 19 2017

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

<p>CITY OF BURIEN,</p> <p style="text-align: center;">Petitioner,</p> <p>v.</p> <p>FEDERAL AVIATION ADMINISTRATION and MICHAEL P. HUERTA,</p> <p style="text-align: center;">Respondents.</p>

No. 17-70438

No.
Federal Aviation Admin,
Federal Aviation Admin

ORDER

The court will initiate a further conference by telephone on **May 23, 2017,**
at 10:00 a.m. Pacific Time.

The filing deadline for the Administrative Record is extended to July 17,
2017.

The briefing schedule previously set by the court is amended as follows:
petitioner shall file an opening brief on or before September 5, 2017; respondent
shall file an answering brief on or before October 5, 2017; petitioner may file an
optional reply brief within fourteen (14) days from the service date of the
answering brief.

FOR THE COURT

By: Roxane G. Ashe
Circuit Mediator

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

MAY 23 2017

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

CITY OF BURIEN,

Petitioner,

v.

FEDERAL AVIATION
ADMINISTRATION and MICHAEL P.
HUERTA,

Respondents.

No. 17-70438

FAA No.

Federal Aviation Administration

ORDER

The court will initiate a further conference by telephone on June 1, 2017, at
11:30 a.m. **Pacific Time.**

vs/mediation

FOR THE COURT:

Roxane Ashe
Circuit Mediator

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

JUN 01 2017

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

CITY OF BURIEN,

Petitioner,

v.

FEDERAL AVIATION
ADMINISTRATION and MICHAEL P.
HUERTA,

Respondents.

No. 17-70438

FAA No.

Federal Aviation Administration

ORDER

The court will initiate a further conference by telephone on June 20, 2017, at
1:00 p.m. **Pacific Time.**

vs/mediation

FOR THE COURT:

Roxane Ashe
Circuit Mediator

FILED

UNITED STATES COURT OF APPEALS

JUN 20 2017

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

<p>CITY OF BURIEN,</p> <p style="text-align: center;">Petitioner,</p> <p>v.</p> <p>FEDERAL AVIATION ADMINISTRATION and MICHAEL P. HUERTA,</p> <p style="text-align: center;">Respondents.</p>

No. 17-70438

No.
Federal Aviation Admin,
Federal Aviation Admin

ORDER

The court will initiate a further conference by telephone on **July 24, 2017,**
at 10:30 a.m. Pacific Time.

The filing deadline for the Administrative Record is extended to July 31,
2017.

The briefing schedule previously set by the court is amended as follows:
petitioner shall file an opening brief on or before September 18, 2017; respondent
shall file an answering brief on or before October 18, 2017; petitioner may file an
optional reply brief within twenty-one (21) days from the service date of the
answering brief.

FOR THE COURT

By: Roxane G. Ashe
Circuit Mediator

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

JUL 19 2017

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

CITY OF BURIEN,

Petitioner,

v.

FEDERAL AVIATION
ADMINISTRATION and MICHAEL P.
HUERTA,

Respondents.

No. 17-70438

FAA No.

Federal Aviation Administration

ORDER

The conference scheduled for July 24, 2017, is rescheduled to 11:30 a.m.

Pacific Time on the same day.

vs/mediation

FOR THE COURT:

Roxane G. Ashe
Circuit Mediator

FILED

UNITED STATES COURT OF APPEALS

JUL 25 2017

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

<p>CITY OF BURIEN,</p> <p style="text-align: center;">Petitioner,</p> <p>v.</p> <p>FEDERAL AVIATION ADMINISTRATION and MICHAEL P. HUERTA,</p> <p style="text-align: center;">Respondents.</p>

No. 17-70438

No.
Federal Aviation Admin,
Federal Aviation Admin

ORDER

At the request of counsel for petitioner, the conference originally scheduled for July 24, 2017, is rescheduled to **August 7, 2017, at 10:00 a.m. Pacific Time.**

The filing deadline for the Administrative Record is extended to August 23, 2017.

FOR THE COURT

By: Roxane G. Ashe
Circuit Mediator

rga/mediation

FILED

UNITED STATES COURT OF APPEALS

AUG 7 2017

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

<p>CITY OF BURIEN,</p> <p style="text-align: center;">Petitioner,</p> <p>v.</p> <p>FEDERAL AVIATION ADMINISTRATION and MICHAEL P. HUERTA,</p> <p style="text-align: center;">Respondents.</p>

No. 17-70438

No.
Federal Aviation Admin,
Federal Aviation Admin

ORDER

The court will initiate a further conference by telephone on **August 23, 2017, at 10:30 a.m. Pacific Time.**

The filing deadline for the Administrative Record is extended to October 27, 2017.

The briefing schedule previously set by the court is amended as follows: petitioner shall file an opening brief on or before December 18, 2017; respondent shall file an answering brief on or before January 17, 2018; petitioner may file an optional reply brief within twenty-one (21) days from the service date of the answering brief.

FOR THE COURT

By: Roxane G. Ashe
Circuit Mediator

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

AUG 23 2017

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

CITY OF BURIEN,

Petitioner,

v.

FEDERAL AVIATION
ADMINISTRATION and MICHAEL P.
HUERTA,

Respondents.

No. 17-70438

FAA No.

Federal Aviation Administration

ORDER

The court will initiate a further conference by telephone on September 6, 2017, at 1:30 p.m. **Pacific Time.**

vs/mediation

FOR THE COURT:

Roxane G. Ashe
Circuit Mediator

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

SEP 06 2017

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

CITY OF BURIEN,

Petitioner,

v.

FEDERAL AVIATION
ADMINISTRATION and MICHAEL P.
HUERTA,

Respondents.

No. 17-70438

FAA No.

Federal Aviation Administration

ORDER

The court will initiate a further conference by telephone on September 28, 2017, at 11:30 a.m. **Pacific Time.**

vs/mediation

FOR THE COURT:

Roxane G. Ashe
Circuit Mediator

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

SEP 28 2017

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

CITY OF BURIEN,

Petitioner,

v.

FEDERAL AVIATION
ADMINISTRATION and MICHAEL P.
HUERTA,

Respondents.

No. 17-70438

FAA No.

Federal Aviation Administration

ORDER

The court will initiate a further conference by telephone on October 12,
2017, at 10:00 a.m. **Pacific Time.**

vs/mediation

FOR THE COURT:

Roxane G. Ashe
Circuit Mediator

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

OCT 12 2017

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

CITY OF BURIEN,

Petitioner,

v.

FEDERAL AVIATION
ADMINISTRATION and MICHAEL P.
HUERTA,

Respondents.

No. 17-70438

FAA No.

Federal Aviation Administration

ORDER

The court will initiate a further conference by telephone on November 9, 2017, at 10:00 a.m. **Pacific Time.**

The briefing schedule previously set by the court is vacated. A new briefing schedule will be set after the conference call, if appropriate.

FOR THE COURT:

Roxane G. Ashe
Circuit Mediator

vs/mediation

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

NOV 09 2017

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

CITY OF BURIEN,

Petitioner,

v.

FEDERAL AVIATION
ADMINISTRATION and MICHAEL P.
HUERTA,

Respondents.

No. 17-70438

FAA No.

Federal Aviation Administration

ORDER

The court will initiate a further conference by telephone on December 12, 2017, at 3:00 p.m. **Pacific Time.**

vs/mediation

FOR THE COURT:

Roxane G. Ashe
Circuit Mediator

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

DEC 12 2017

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

CITY OF BURIEN,

Petitioner,

v.

FEDERAL AVIATION
ADMINISTRATION and MICHAEL P.
HUERTA,

Respondents.

No. 17-70438

FAA No.

Federal Aviation Administration

ORDER

The court will initiate a further conference by telephone on January 17,
2018, at 10:30 a.m. **Pacific Time.**

vs/mediation

FOR THE COURT:

Roxane G. Ashe
Circuit Mediator

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

JAN 17 2018

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

CITY OF BURIEN,

Petitioner,

v.

FEDERAL AVIATION
ADMINISTRATION and MICHAEL P.
HUERTA,

Respondents.

No. 17-70438

FAA No.

Federal Aviation Administration

ORDER

At the request of counsel for petitioner, the conference originally scheduled for January 17, 2018, is rescheduled to February 6, 2018, at 10:30 a.m. **Pacific Time.**

vs/mediation

FOR THE COURT:

Roxane G. Ashe
Circuit Mediator

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

FEB 05 2018

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

CITY OF BURIEN,

Petitioner,

v.

FEDERAL AVIATION
ADMINISTRATION and MICHAEL P.
HUERTA,

Respondents.

No. 17-70438

FAA No.

Federal Aviation Administration

ORDER

The conference originally scheduled for February 6, 2018, is rescheduled to
February 14, 2018, at 10:30 a.m. **Pacific Time.**

FOR THE COURT:

Roxane G. Ashe
Circuit Mediator

vs/mediation

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

FEB 22 2018

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

CITY OF BURIEN,

Petitioner,

v.

FEDERAL AVIATION
ADMINISTRATION and MICHAEL P.
HUERTA,

Respondents.

No. 17-70438

FAA No.

Federal Aviation Administration

ORDER

The court will initiate a further conference by telephone on March 1, 2018,
at 10:00 a.m. **Pacific Time.**

vs/mediation

FOR THE COURT:

Roxane G. Ashe
Circuit Mediator

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

APR 18 2018

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

CITY OF BURIEN,

Petitioner,

v.

FEDERAL AVIATION
ADMINISTRATION and MICHAEL P.
HUERTA,

Respondents.

No. 17-70438

FAA No.

Federal Aviation Administration

ORDER

The court will initiate a status conference by telephone on April 24, 2018, at
10:00 a.m. **Pacific Time.**

vs/mediation

FOR THE COURT:

Roxane G. Ashe
Circuit Mediator

FILED

UNITED STATES COURT OF APPEALS

APR 23 2018

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

CITY OF BURIEN,

No. 17-70438

Petitioner,

No.
Federal Aviation Admin,
Federal Aviation Admin

v.

FEDERAL AVIATION
ADMINISTRATION and MICHAEL P.
HUERTA,

ORDER

Respondents.

The conference previously scheduled for April 24, 2018, is canceled and will be rescheduled by further order of the court.

FOR THE COURT

By: Roxane G. Ashe
Circuit Mediator

rga/mediation

FILED

UNITED STATES COURT OF APPEALS

APR 23 2018

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

CITY OF BURIEN,

No. 17-70438

Petitioner,

No.
Federal Aviation Admin,
Federal Aviation Admin

v.

FEDERAL AVIATION
ADMINISTRATION and MICHAEL P.
HUERTA,

ORDER

Respondents.

The conference previously scheduled for April 24, 2018, is canceled and will be rescheduled by further order of the court.

FOR THE COURT

By: Roxane G. Ashe
Circuit Mediator

rga/mediation

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

APR 24 2018

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

CITY OF BURIEN,

Petitioner,

v.

FEDERAL AVIATION
ADMINISTRATION and MICHAEL P.
HUERTA,

Respondents.

No. 17-70438

FAA No.

Federal Aviation Administration

ORDER

The court will initiate a further conference by telephone on April 30, 2018,
at 2:30 p.m. **Pacific Time.**

vs/mediation

FOR THE COURT:

Roxane G. Ashe
Circuit Mediator

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

APR 30 2018

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

CITY OF BURIEN,

Petitioner,

v.

FEDERAL AVIATION
ADMINISTRATION and MICHAEL P.
HUERTA,

Respondents.

No. 17-70438

FAA No.

Federal Aviation Administration

ORDER

The court will initiate a further conference by telephone on May 2, 2018, at
1:30 p.m. **Pacific Time.**

vs/mediation

FOR THE COURT:

Roxane G. Ashe
Circuit Mediator

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

MAY 02 2018

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

CITY OF BURIEN,

Petitioner,

v.

FEDERAL AVIATION
ADMINISTRATION and MICHAEL P.
HUERTA,

Respondents.

No. 17-70438

FAA No.

Federal Aviation Administration

ORDER

The court will initiate a further conference by telephone on May 17, 2018, at
10:30 a.m. **Pacific Time.**

vs/mediation

FOR THE COURT:

Roxane G. Ashe
Circuit Mediator

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

MAY 17 2018

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

CITY OF BURIEN,

Petitioner,

v.

FEDERAL AVIATION
ADMINISTRATION and MICHAEL P.
HUERTA,

Respondents.

No. 17-70438

FAA No.

Federal Aviation Administration

ORDER

The court will initiate a further conference by telephone on June 12, 2018, at
10:00 a.m. **Pacific Time.**

vs/mediation

FOR THE COURT:

Roxane G. Ashe
Circuit Mediator

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

JUN 12 2018

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

CITY OF BURIEN,

Petitioner,

v.

FEDERAL AVIATION
ADMINISTRATION and MICHAEL P.
HUERTA,

Respondents.

No. 17-70438

FAA No.

Federal Aviation Administration

ORDER

By June 26, 2018, petitioner shall file either a motion or a stipulation to dismiss this matter pursuant to Fed. R. App. P. 42(b), or shall contact the Circuit Mediator.

vs/mediation

FOR THE COURT:

Roxane G. Ashe
Circuit Mediator

Case No. 17-70438

IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

CITY OF BURIEN, WASHINGTON

Petitioner,

v.

FEDERAL AVIATION ADMINISTRATION and
MICHAEL HUERTA,

Respondents.

MOTION FOR VOLUNTARY DISMISSAL

DENTONS US LLP
MATTHEW G. ADAMS (CA BAR # 229021)
matthew.adams@dentons.com
JESSICA L. DUGGAN (CA BAR # 271703)
jessica.duggan@dentons.com
One Market Street, Spear Tower, 24th Floor
San Francisco, California 94105
(415) 267-4000

LISA M. MARSHALL (WA BAR # 24343)
City Attorney
City of Burien
LisaM@burienwa.gov
400 SW 152nd St. Suite 300
Burien, Washington 98166
(206) 248-5535

Attorneys for Petitioner CITY OF BURIEN.

Pursuant to Federal Rule of Appellate Procedure 42(b), Petitioner City of Burien hereby moves the Court for an order dismissing the above-captioned matter. Petitioners request that the Court grant the voluntary dismissal without prejudice to the pending Petition for Review in Ninth Circuit Court of Appeals Case Number 18-71705. Counsel for Petitioner has conferred with counsel for Respondents and has been informed that this motion is unopposed.

Dated: June 26, 2018

Respectfully submitted,

DENTONS US LLP

By /s/ Matthew G. Adams
Matthew G. Adams
Jessica L. Duggan
Attorneys for Petitioners

CERTIFICATE OF SERVICE

I hereby certify, in accordance with Fed. Rule of App. Proc. 15(c)(1), that a true copy of the foregoing *Motion to Dismiss* was served by US mail on June 26, 2018, on the following:

Daniel Elwell
Acting Administrator
Federal Aviation Administration
Room E1010
800 Independence Avenue, SW
Washington, D.C. 20591
(202) 267-3111

Dated: June 26, 2018

/s/Matthew G. Adams
Matthew G. Adams

FILED

UNITED STATES COURT OF APPEALS

JUN 28 2018

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

<p>CITY OF BURIEN,</p> <p style="text-align: center;">Petitioner,</p> <p>v.</p> <p>FEDERAL AVIATION ADMINISTRATION and MICHAEL P. HUERTA,</p> <p style="text-align: center;">Respondents.</p>

No. 17-70438

No.
Federal Aviation Admin,
Federal Aviation Admin

ORDER

Petitioner's unopposed motion to dismiss this appeal (Docket Entry No. 38) is granted. Fed. R. App. P. 42(b).

A copy of this order shall serve as and for the mandate of this court.

FOR THE COURT

By: Roxane G. Ashe
Circuit Mediator

rga/mediation