

**UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT
CIVIL APPEAL PRE-ARGUMENT STATEMENT (FORM C)**

1. SEE NOTICE ON REVERSE.

2. PLEASE TYPE OR PRINT.

3. STAPLE ALL ADDITIONAL PAGES

Case Caption: Salinger v. Colting, et al.	District Court or Agency: S.D.N.Y.	Judge: Hon. Deborah A. Batts
	Date the Order or Judgment Appealed from was Entered on the Docket: July 1, 2009	District Court Docket No.: 09 Civ. 5095 (DAB)
	Date the Notice of Appeal was Filed: July 2, 2009	Is this a Cross Appeal? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

Attorney(s) for Appellant(s): <input type="checkbox"/> Plaintiff <input checked="" type="checkbox"/> Defendant	Counsel's Name: Edward H. Rosenthal Maura J. Wogan Frankfurt Kurnit Klein & Selz PC	Address: 488 Madison Avenue New York, New York 10022	Telephone No.: (212) 980-0120	Fax No.: (212) 593-9175	E-mail: erosenthal@fkks.com
--	--	--	----------------------------------	----------------------------	--------------------------------

Attorney(s) for Appellee(s): <input checked="" type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant	Counsel's Name: Marcia B. Paul Davis Wright Tremaine LLP	Address: 1633 Broadway New York, New York 10019	Telephone No.: (212) 489-8230	Fax No.: (212) 489-8340	E-mail: marciapaul@dwt.com
---	--	---	----------------------------------	----------------------------	-------------------------------

Has Transcript Been Prepared? yes	Approx. Number of Transcript Pages: 61	Number of Exhibits Appended to Transcript:	Has this matter been before this Circuit previously? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If Yes, provide the following: Case Name: 2d Cir. Docket No.: Reporter Citation: (i.e., F.3d or Fed. App.)
--	---	--	---

ADDENDUM "A": COUNSEL MUST ATTACH TO THIS FORM: (1) A BRIEF, BUT NOT PERFUNCTORY, DESCRIPTION OF THE NATURE OF THE ACTION; (2) THE RESULT BELOW; (3) A COPY OF THE NOTICE OF APPEAL AND A CURRENT COPY OF THE LOWER COURT DOCKET SHEET; AND (4) A COPY OF ALL RELEVANT OPINIONS/ORDERS FORMING THE BASIS FOR THIS APPEAL, INCLUDING TRANSCRIPTS OF ORDERS ISSUED FROM THE BENCH OR IN CHAMBERS.

ADDENDUM "B": COUNSEL MUST ATTACH TO THIS FORM A LIST OF THE ISSUES PROPOSED TO BE RAISED ON APPEAL, AS WELL AS THE APPLICABLE APPELLATE STANDARD OF REVIEW FOR EACH PROPOSED ISSUE.

PART A: JURISDICTION

1. Federal Jurisdiction		2. Appellate Jurisdiction	
<input type="checkbox"/> U.S. a party	<input type="checkbox"/> Diversity	<input type="checkbox"/> Final Decision	<input type="checkbox"/> Order Certified by District Judge (i.e., Fed. R. Civ. P. 54(b))
<input checked="" type="checkbox"/> Federal question (U.S. not a party)	<input type="checkbox"/> Other (specify): _____	<input checked="" type="checkbox"/> Interlocutory Decision Appealable As of Right	<input type="checkbox"/> Other (specify): _____


IMPORTANT. COMPLETE AND SIGN REVERSE SIDE OF THIS FORM.

PART B: DISTRICT COURT DISPOSITION (Check as many as apply)		
1. Stage of Proceedings <input checked="" type="checkbox"/> Pre-trial <input type="checkbox"/> During trial <input type="checkbox"/> After trial	2. Type of Judgment/Order Appealed <input type="checkbox"/> Default judgment <input type="checkbox"/> Dismissal/jurisdiction <input type="checkbox"/> Dismissal/merit <input type="checkbox"/> Summary judgment <input type="checkbox"/> Declaratory judgment <input checked="" type="checkbox"/> Judgment / Decision of the Court <input type="checkbox"/> Jury verdict <input type="checkbox"/> Judgment NOV <input type="checkbox"/> Directed verdict <input type="checkbox"/> Other (specify): _____	3. Relief <input type="checkbox"/> Damages: <input type="checkbox"/> Sought: \$ _____ <input type="checkbox"/> Granted: \$ _____ <input type="checkbox"/> Denied: \$ _____ <input checked="" type="checkbox"/> Injunctions: <input checked="" type="checkbox"/> Preliminary <input type="checkbox"/> Permanent <input type="checkbox"/> Denied

PART C: NATURE OF SUIT (Check as many as apply)

1. Federal Statutes <input type="checkbox"/> Antitrust <input type="checkbox"/> Bankruptcy <input type="checkbox"/> Banks/Banking <input type="checkbox"/> Civil Rights <input type="checkbox"/> Commerce, <input type="checkbox"/> Energy <input type="checkbox"/> Commodities <input type="checkbox"/> Other (specify): _____ <input type="checkbox"/> Communications <input type="checkbox"/> Consumer Protection <input checked="" type="checkbox"/> Copyright / Patent <input type="checkbox"/> Trademark <input type="checkbox"/> Election <input type="checkbox"/> Soc. Security <input type="checkbox"/> Environmental <input type="checkbox"/> Freedom of Information Act <input type="checkbox"/> Immigration <input type="checkbox"/> Labor <input type="checkbox"/> OSHA <input type="checkbox"/> Securities <input type="checkbox"/> Tax	2. Torts <input type="checkbox"/> Admiralty/ Maritime <input type="checkbox"/> Assault / Defamation <input type="checkbox"/> FELA <input type="checkbox"/> Products Liability <input type="checkbox"/> Other (Specify): _____	3. Contracts <input type="checkbox"/> Admiralty/ Maritime <input type="checkbox"/> Arbitration <input type="checkbox"/> Commercial <input type="checkbox"/> Employment <input type="checkbox"/> Insurance <input type="checkbox"/> Negotiable Instruments <input type="checkbox"/> Other Specify	4. Prisoner Petitions <input type="checkbox"/> Civil Rights Habeas Corpus <input type="checkbox"/> Mandamus <input type="checkbox"/> Parole <input type="checkbox"/> Vacate Sentence <input type="checkbox"/> Other
5. Other <input type="checkbox"/> Forfeiture/Penalty <input type="checkbox"/> Real Property <input type="checkbox"/> Treaty (specify): _____ <input type="checkbox"/> Other (specify): _____	6. General <input type="checkbox"/> Arbitration <input type="checkbox"/> Attorney Disqualification <input type="checkbox"/> Class Action <input type="checkbox"/> Counsel Fees <input type="checkbox"/> Shareholder Derivative <input type="checkbox"/> Transfer	7. Will appeal raise constitutional issue(s)? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Will appeal raise a matter of first impression? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	

1. Is any matter relative to this appeal still pending below? <input type="checkbox"/> Yes, specify: _____ <input checked="" type="checkbox"/> No			
2. To your knowledge, is there any case presently pending or about to be brought before this Court or another court or administrative agency which:			
(A) Arises from substantially the same case or controversy as this appeal?		<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
(B) Involves an issue that is substantially similar or related to an issue in this appeal?		<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
If yes, state whether <input type="checkbox"/> "A," or <input type="checkbox"/> "B," or <input type="checkbox"/> both are applicable, and provide in the spaces below the following information on the <i>other</i> action(s):			
Case Name:	Docket No.	Citation:	Court or Agency:
Name of Appellant:			

Date: July 13, 2009	Signature of Counsel of Record: 
------------------------	---

NOTICE TO COUNSEL

Once you have filed your Notice of Appeal with the District Court or the Tax Court, you have only ten (10) calendar days in which to complete the following important steps:

1. Complete this Civil Appeal Pre-Argument Statement (Form C); serve it upon all parties, and file **two** copies with the Clerk of the Second Circuit.
2. File **two** copies of the Court of Appeals Transcript Information/Civil Appeal Form (Form D) with the Clerk of the Second Circuit.
3. Pay the \$455 docketing fee to the Clerk of the United States District Court, unless you are authorized to prosecute the appeal without payment.

PLEASE NOTE: IF YOU DO NOT COMPLY WITH THESE REQUIREMENTS WITHIN TEN (10) CALENDAR DAYS, YOUR APPEAL WILL BE DISMISSED. SEE THE CIVIL APPEALS MANAGEMENT PLAN OF THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT.