

**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: In Re Currency Conversion Fee Antitrust Litigation RECEIVED DEC 15 2009	District Court or Agency: South District of New York	Judge: Hon. William H. Pauley, III
	Date the Order or Judgment Appealed from was Entered on the Docket: November 4, 2009	District Court Docket No.: 1:01-md-1409-WHP M-21-95
	Date the Notice of Appeal was Filed: December 4, 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 type="checkbox"/> Defendant Objector	Counsel's Name: Address: Telephone No.: Fax No.: E-mail: N. Albert Bacharach, Jr., 115 NE 6th Avenue, Gainesville, FL 32601 352-378-9859 352-338-1858 (Fax) N.A.Bacharach@att.net
	see attached for additional counsel

Attorney(s) for Appellee(s): <input checked="" type="checkbox"/> Plaintiff <input checked="" type="checkbox"/> Defendant	Counsel's Name: Address: Telephone No.: Fax No.: E-mail: see attached service list
--	---

Has Transcript Been Prepared? Unknown	Approx. Number of Transcript Pages: Unknown	Number of Exhibits Appended to Transcript: Unknown	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. <u>Federal Jurisdiction</u> <input type="checkbox"/> U.S. a party <input type="checkbox"/> Diversity <input checked="" type="checkbox"/> Federal question (U.S. not a party) <input type="checkbox"/> Other (specify): _____	2. <u>Appellate Jurisdiction</u> <input checked="" type="checkbox"/> Final Decision <input type="checkbox"/> Order Certified by District Judge (i.e., Fed. R. Civ. P. 54(b)) <input 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)

<p><u>1. Stage of Proceedings</u></p> <input type="checkbox"/> Pre-trial <input type="checkbox"/> During trial <input checked="" type="checkbox"/> After trial	<p><u>2. Type of Judgment/Order Appealed</u></p> <table style="width:100%;"> <tr> <td><input type="checkbox"/> Default judgment</td> <td><input checked="" type="checkbox"/> Judgment / Decision of the Court</td> </tr> <tr> <td><input type="checkbox"/> Dismissal/jurisdiction</td> <td><input type="checkbox"/> Jury verdict</td> </tr> <tr> <td><input type="checkbox"/> Dismissal/merit</td> <td><input type="checkbox"/> Judgment NOV</td> </tr> <tr> <td><input type="checkbox"/> Summary judgment</td> <td><input type="checkbox"/> Directed verdict</td> </tr> <tr> <td><input type="checkbox"/> Declaratory judgment</td> <td><input type="checkbox"/> Other (specify): _____</td> </tr> </table>	<input type="checkbox"/> Default judgment	<input checked="" type="checkbox"/> Judgment / Decision of the Court	<input type="checkbox"/> Dismissal/jurisdiction	<input type="checkbox"/> Jury verdict	<input type="checkbox"/> Dismissal/merit	<input type="checkbox"/> Judgment NOV	<input type="checkbox"/> Summary judgment	<input type="checkbox"/> Directed verdict	<input type="checkbox"/> Declaratory judgment	<input type="checkbox"/> Other (specify): _____	<p><u>3. Relief</u></p> <table style="width:100%;"> <tr> <td><input type="checkbox"/> Damages:</td> <td><input type="checkbox"/> Injunctions:</td> </tr> <tr> <td><input type="checkbox"/> Sought: \$ _____</td> <td><input type="checkbox"/> Preliminary</td> </tr> <tr> <td><input type="checkbox"/> Granted: \$ _____</td> <td><input type="checkbox"/> Permanent</td> </tr> <tr> <td><input type="checkbox"/> Denied: \$ _____</td> <td><input type="checkbox"/> Denied</td> </tr> </table>	<input type="checkbox"/> Damages:	<input type="checkbox"/> Injunctions:	<input type="checkbox"/> Sought: \$ _____	<input type="checkbox"/> Preliminary	<input type="checkbox"/> Granted: \$ _____	<input type="checkbox"/> Permanent	<input type="checkbox"/> Denied: \$ _____	<input type="checkbox"/> Denied
<input type="checkbox"/> Default judgment	<input checked="" type="checkbox"/> Judgment / Decision of the Court																			
<input type="checkbox"/> Dismissal/jurisdiction	<input type="checkbox"/> Jury verdict																			
<input type="checkbox"/> Dismissal/merit	<input type="checkbox"/> Judgment NOV																			
<input type="checkbox"/> Summary judgment	<input type="checkbox"/> Directed verdict																			
<input type="checkbox"/> Declaratory judgment	<input type="checkbox"/> Other (specify): _____																			
<input type="checkbox"/> Damages:	<input type="checkbox"/> Injunctions:																			
<input type="checkbox"/> Sought: \$ _____	<input type="checkbox"/> Preliminary																			
<input type="checkbox"/> Granted: \$ _____	<input type="checkbox"/> Permanent																			
<input type="checkbox"/> Denied: \$ _____	<input type="checkbox"/> Denied																			

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

<p><u>1. Federal Statutes</u></p> <table style="width:100%;"> <tr> <td><input type="checkbox"/> Antitrust</td> <td><input type="checkbox"/> Communications</td> <td><input type="checkbox"/> Freedom of Information Act</td> </tr> <tr> <td><input type="checkbox"/> Bankruptcy</td> <td><input checked="" type="checkbox"/> Consumer Protection</td> <td><input type="checkbox"/> Immigration</td> </tr> <tr> <td><input type="checkbox"/> Banks/Banking</td> <td><input type="checkbox"/> Copyright <input type="checkbox"/> Patent</td> <td><input type="checkbox"/> Labor</td> </tr> <tr> <td><input type="checkbox"/> Civil Rights</td> <td><input type="checkbox"/> Trademark</td> <td><input type="checkbox"/> OSHA</td> </tr> <tr> <td><input type="checkbox"/> Commerce,</td> <td><input type="checkbox"/> Election</td> <td><input type="checkbox"/> Securities</td> </tr> <tr> <td><input type="checkbox"/> Energy</td> <td><input type="checkbox"/> Soc. Security</td> <td><input type="checkbox"/> Tax</td> </tr> <tr> <td><input type="checkbox"/> Commodities</td> <td><input type="checkbox"/> Environmental</td> <td></td> </tr> <tr> <td colspan="3"><input type="checkbox"/> Other (specify): _____</td> </tr> </table>	<input type="checkbox"/> Antitrust	<input type="checkbox"/> Communications	<input type="checkbox"/> Freedom of Information Act	<input type="checkbox"/> Bankruptcy	<input checked="" type="checkbox"/> Consumer Protection	<input type="checkbox"/> Immigration	<input type="checkbox"/> Banks/Banking	<input type="checkbox"/> Copyright <input type="checkbox"/> Patent	<input type="checkbox"/> Labor	<input type="checkbox"/> Civil Rights	<input type="checkbox"/> Trademark	<input type="checkbox"/> OSHA	<input type="checkbox"/> Commerce,	<input type="checkbox"/> Election	<input type="checkbox"/> Securities	<input type="checkbox"/> Energy	<input type="checkbox"/> Soc. Security	<input type="checkbox"/> Tax	<input type="checkbox"/> Commodities	<input type="checkbox"/> Environmental		<input type="checkbox"/> Other (specify): _____			<p><u>2. Torts</u></p> <input type="checkbox"/> Admiralty/ Maritime <input type="checkbox"/> Assault / Defamation <input type="checkbox"/> FELA <input type="checkbox"/> Products Liability <input type="checkbox"/> Other (Specify): _____	<p><u>3. Contracts</u></p> <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 _____	<p><u>4. Prisoner Petitions</u></p> <input type="checkbox"/> Civil Rights <input type="checkbox"/> Habeas Corpus <input type="checkbox"/> Mandamus <input type="checkbox"/> Parole <input type="checkbox"/> Vacate Sentence <input type="checkbox"/> Other _____
<input type="checkbox"/> Antitrust	<input type="checkbox"/> Communications	<input type="checkbox"/> Freedom of Information Act																									
<input type="checkbox"/> Bankruptcy	<input checked="" type="checkbox"/> Consumer Protection	<input type="checkbox"/> Immigration																									
<input type="checkbox"/> Banks/Banking	<input type="checkbox"/> Copyright <input type="checkbox"/> Patent	<input type="checkbox"/> Labor																									
<input type="checkbox"/> Civil Rights	<input type="checkbox"/> Trademark	<input type="checkbox"/> OSHA																									
<input type="checkbox"/> Commerce,	<input type="checkbox"/> Election	<input type="checkbox"/> Securities																									
<input type="checkbox"/> Energy	<input type="checkbox"/> Soc. Security	<input type="checkbox"/> Tax																									
<input type="checkbox"/> Commodities	<input type="checkbox"/> Environmental																										
<input type="checkbox"/> Other (specify): _____																											
<p><u>5. Other</u></p> <input type="checkbox"/> Forfeiture/Penalty <input type="checkbox"/> Real Property <input type="checkbox"/> Treaty (specify): _____ <input type="checkbox"/> Other (specify): _____	<p><u>6. General</u></p> <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	<p><u>7. Will appeal raise constitutional issue(s)?</u> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Will appeal raise a matter of first impression? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p>																									

1. Is any matter relative to this appeal still pending below? Yes, specify: _____ 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? Yes No

(B) Involves an issue that is substantially similar or related to an issue in this appeal? Yes No

If yes, state whether "A," or "B," or both are applicable, and provide in the spaces below the following information on the *other* action(s):

Case Name:	Docket No.	Citation:	Court or Agency:
------------	------------	-----------	------------------

Name of Appellant:
 Patricia Tomlinson, Daniel Emsberger, Rebecca Brainard, Donna Lonzo, Deith Lonzo, Kathleen McWhorter, William McWhorter, Michael J. Rinis and Jesse Bishop

Date: 12/11/09	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.

Objector Counsel:

Paul S. Rothstein
Florida Bar No. 310123
626 N.E. First Street
Gainesville, FL 32601
Telephone: (352) 376-7650
Fax: (352) 374-7133
psr@rothsteinforiustice

Frank H. Tomlinson
Ala. Bar No. ASB-7042-T66F
15 North 21 Street, Suite 302
Birmingham, AL 35203
Telephone: (205) 326-6626
Fax: (205) 328-2889
htomlinson@bellsouth.net .com

Robert W. "Joe" Bishop
Bishop & Associates, P.S.C.
6520 Glenridge Park Place, Suite 6
Louisville, FL 40222
Telephone: (502) 425-2600
Fax: (502) 425-9115
joe@bishoplegal.net

Kenneth R. Behrend
355 Fifth Avenue Suite 1200
Pittsburgh, PA 15222
Telephone: (412) 391-2515
Fax: (412) 391-2769
behrendlawyers@aol.com

Plaintiff / Defendant Counsel:

Bonny E. Sweeney
Coughlin Stoia, Geller, Rudman
& Robbins, LLP (San Diego)
655 West Broadway, Suite 1900
San Diego, CA 92101
Telephone: (619) 231-1058
Fax: (619) 231-7423
bonnys@csgrr.com

Merrill G. Davidoff
Berger & Montague, P.C.
1622 Locust Street
Philadelphia, PA 19103
Telephone: (215) 875-4615
Fax: (215) 875-4604
cgoodwain@bm.net

George A. Cumming, Jr.
Morgan, Lewis & Bockius LLP
One Market Street, Spear Tower
San Francisco, CA 94105

Peter E. Greene
Skadden Arps Slate Meagher
& Flom LLP
Four Times Square
New York, NY 10036

David F. Graham
Eric H. Grush
Sidley Austin LLP
One South Dearborn
Chicago, IL 60603

Mark P. Ladner
Morrison & Foerster LLP
1290 Avenue of the Americas
New York, NY 10104

Charles E. Buffon
Covington & Burling
1201 Pennsylvania Ave., NW
Washington, DC 20004

Edward D. Rogers
Ballard Spahr Andrews & Ingersoll LLP
1735 Market Street, 51st Floor
Philadelphia, PA 19103

Daniel H. Squire
Wilmer Cutler Pickering Hale and Dorr LLP
2445 M. Street NW
Washington, DC 20037

Edward C. Fitzpatrick
Locke Lord Bissell & Liddell LLP
111 South Wacker Drive
Chicago, IL 60606

Jay N. Fastow
Dickstein Shapiro LLP
1633 Broadway
New York, NY 10019

Brian P. Brosnahan
Kasowitz, Benson, Torres
& Friedman LLP
101 California Street, Suite 2050
San Francisco, CA 94111

Dennis Stewart
Hulett Harper Stewart LLP
550 West C. Street, Suite 1770
San Diego, CA 92101
Telephone: (619) 338-1133

Allan H. Steyer
Steyer Lowenthal Boodrookas Alvarez
& Smith LLP
One California Street, Third Floor
San Francisco, CA 94111
Telephone: (415) 421-3400
Fax: (415) 421-2234
asteyer@steyerlaw.com

David J. Bershad
John Douglas Richards
Michael Morris Buchman
Milberg LLP (NYC)
One Pennsylvania Plaza
New York, NY 10119
Telephone: (212) 594-5300

Thomas F. Schrag
James S. Baum
Michael L. Schrag
Schrag & Baum, PC
280 Panoramic Way
Berkeley, CA 94704