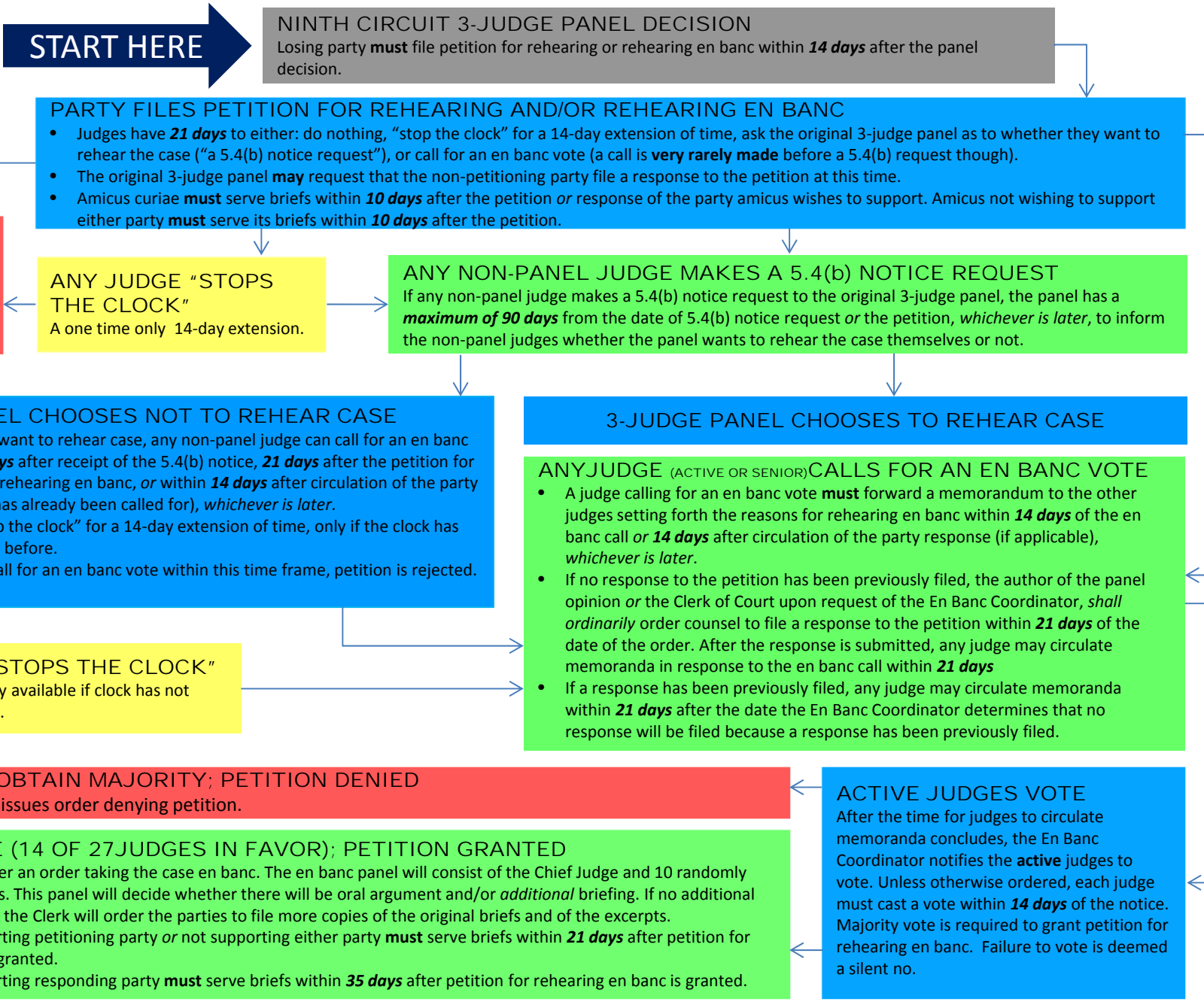


# En Banc Petition Process



\*But at anytime, for good cause, the En Banc Coordinator (the active or senior judge appointed to supervise the en banc process) can extend, suspend, or compress the time schedule. The current En Banc Coordinator is **Judge Sidney Runyan Thomas**.

# How a Judge Initiates the En Banc Process

## En Banc *Sua Sponte* Process



### NINTH CIRCUIT 3-JUDGE PANEL DECISION

A judge **may** on his or her own accord (*sua sponte*) call for a vote on rehearing en banc within **7 days** of the expiration of the time for filing a petition for panel rehearing or rehearing en banc. This usually means within **21 days** of the panel decision. But if the original 3-judge panel grants a party an extension of time to file a petition, the time to make a *sua sponte* call extends for **7 days** after the petition is due.

### A JUDGE MAKES AN EN BANC CALL

- Author of the 3-judge panel opinion or Clerk Court upon the request of the En Banc Coordinator *shall ordinarily* enter an order directing the parties to file simultaneous briefs within **21 days** setting forth their respective positions on whether the matter should be reheard en banc. If the En Banc Coordinator does not order simultaneous briefing, the parties will be notified of the en banc call.
- The judge who made the *sua sponte* en banc call must forward a memorandum setting forth reasons for the en banc rehearing within **7 days** after the circulation of the simultaneous briefing filed by the parties if they were filed. If not, within **14 days** of the date the *sua sponte* call was distributed.

### JUDGES EXCHANGE MEMORANDA

Any judge may circulate memoranda in response to an en banc call within **21 days** after the simultaneous briefs are circulated by the Clerk's Office or **21 days** after the date the En Banc Coordinator determined that no briefs were to be filed.

VOTE FAILS TO OBTAIN MAJORITY;  
NO REHEARING EN BANC  
Original 3-judge panel issues order.

MAJORITY VOTE (14 OF 27 JUDGES IN  
FAVOR); REHEARING EN BANC  
GRANTED

- Chief Judge shall enter an order taking the case en banc pursuant to Circuit Rule 35-3.

### EN BANC VOTING

After the time for judges to circulate memoranda concludes, the En Banc Coordinator will notify the active judges to vote. Unless otherwise ordered, each judge must cast a vote within **14 days** of the notice. Majority vote is required for rehearing.

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