

How to File a Civil Appeal

GENERAL INFORMATION

Important Note: This information does not apply to appeals in criminal, eviction, or small claims cases.

Additional words of caution:

- Even without attorney fees, appealing a case to the Law Court can cost several hundred dollars. The costs can include a filing fee, the costs of preparing a transcript, and the costs of copying and binding briefs. If you do not qualify for a fee waiver (explained below), be prepared to pay all of these costs. Even if your filing fee is waived, you will still have significant costs for any transcript and for photocopying and mailing large documents.
- You do **not** get a new trial in the Law Court when you appeal. The Law Court will only review what happened in the trial court and decide whether there were errors. Usually the Law Court will only review **questions of law** - that is, did the trial court interpret the law correctly? Disagreeing with the trial court's **findings of facts** is generally **not** a good basis for an appeal (unless the evidence clearly did not support those factual findings).
- Appeals involve a lot of writing and paperwork. If you question whether you have a good case for appeal, or whether you can handle the appeal yourself, talk to a lawyer before you go any further.
- This is only a brief summary of some of the most important appellate rules. Anyone filing an appeal without a lawyer should read and understand all of the Maine Rules of Appellate Procedure. The Court can dismiss your appeal if you don't follow the rules which can be found at www.courts.maine.gov, under "Rules & Administrative Orders."

Please Note:

The party who files the appeal is called the appellant. Any other party is called an appellee.

TWENTY-ONE DAY DEADLINE

- You must file your appeal no later than 21 days after the court's entry of the judgment or order you are appealing from. (This "entry" date may be the same day, or soon after, the judge signed the order.)
- If your appeal is filed late, it will be dismissed. You can request more time to file your appeal by making a motion (that is, making a written request) to the court in which your trial took place.

FILING YOUR APPEAL

- Begin your appeal by filing the following with the clerk **in the court where your case was heard:**
 - A **Notice of Appeal (form CV/R-162)**
 - A **Transcript and Audio Order Form (CV/CR-165)**
 - **\$150 filing fee**
- You can get the forms you will need from the court clerk or on the Maine Judicial Branch website, www.courts.maine.gov, under "Forms and Fees."
- After you fill out the forms, sign them and mail or bring them, with the filing fee, to the court clerk.
- If you cannot pay the filing fee, you can ask the court to waive the fee by filing an **Application to Proceed Without Payment of Fee (form CV-067)** and an **Affidavit (form CV-191)**. Fill out these forms, sign them, and give them to the clerk with your **Notice of Appeal**. You **must** sign the **Affidavit (form CV-191)** in front of a Notary Public (one is available at the clerk's office). A judge will review these papers and decide whether you have to pay the fee. If your request is denied, you must pay the filing fee within 7 days to go forward with your appeal.
- Note: If you receive a Notice of Appeal from the other party, you must still file your own appeal if you wish to challenge any part of the court's order. The deadline is **14 days** after the other party's appeal was filed (or before the end of the appeal period -- see above --whichever is later).

PREPARING THE TRANSCRIPT

- If you want the Court to review what happened at your trial, you must complete and file a **Transcript and Audio Order Form (form CR-165) along with your Notice of Appeal (form CV/R-162)**.
- If you cannot pay for the cost of the transcript, you can request to have the cost waived by including a completed **Motion for Transcript at State Expense (form CV/CR 166) with your Transcript and Audio Order Form (form CR-165) and Notice of Appeal (form CV/R-162)**.
- The Transcript and Audio Order Form (form CR-165) contains complete instructions on how to order the transcript of your trial.
- You will hear from an individual court reporter or from the electronic recording contractor, AVTranz, regarding the estimated cost and delivery of your transcript.
- You must pay the estimated cost of the transcript in full (unless the cost has been waived) before a transcript will be prepared
- After the transcript is prepared, it will be sent to the Law Court and a copy will be sent to you.

- If you do not arrange for a transcript, you and the other party must each submit a statement of the important facts and evidence. To do this, you must follow Rule 5(d) or 5 (f) of the Maine Rules of Appellate Procedure. These rules can be found on the Maine Judicial Branch website at www.courts.maine.gov, under “Rules and Administrative Orders.”
- The Clerk of the Law Court will send you and the other parties a notice. If you ordered a transcript, the notice will set a deadline for the filing of the transcript (usually 56 days from the date you filed your appeal). Although you do not prepare the transcript, you must do what you can to make sure that it does get filed on time.

FILING OF BRIEFS AND APPENDIX

- After the Law Court receives the paper record and the transcript (if applicable), the Clerk of the Law Court will send you a **briefing schedule**. The due dates for your brief and the appendix (see below) will depend on the type of case. You will have either four or eight weeks to file your brief, and you must file the appendix within two weeks after your brief is due.

APPELLANT BRIEF (YOUR BRIEF)

- Your brief is your opportunity to explain to the Law Court why you think the trial court made an error. A brief is a formal document containing a statement of the facts and legal arguments, including citations to the laws (statutes and case decisions) you are relying on. Your brief must include:
 - A table of contents with page references, and a table of cases, statutes and other legal sources you have cited.
 - A statement of the facts of the case, including what happened in the trial court
 - A statement of the issues for the Law Court to review
 - Legal arguments (which must begin with a summary)
- You must stick to the trial court record; you cannot present new documents or facts. Unless you obtain the Court’s permission, your brief must be no longer than 50 pages.
- You must give **10 copies** of your brief to the Law Court and **2 copies** to each other party.

APPENDIX

- The Appendix must include, in this order:
 - A table of contents;
 - The trial court docket sheet, which you can get from the trial court clerk;
 - A copy of the trial court decision;
 - A copy of the complaint
 - Depending on the type of case, certain other documents from the trial court record.
- You should also include all other documents from the record that the Law Court needs to see in order to decide the issues.
- All documents in the appendix must be from the trial court record; you cannot submit new evidence or documents to the Law Court.
- You must give **8 copies** to the Law Court and **1 copy** to each of the parties.

IF THE OTHER PARTY APPEALS

- If you did not file a notice of appeal, you may file a brief, called the appellee’s brief, that explains why you believe that the trial court decision should stand. The requirements for an appellee’s brief are the same as for an appellant’s brief.

REPLY BRIEF

- If you are the party who filed the notice of appeal, you will receive a copy of the other party’s brief, called the appellee’s brief.
- If the other party raised any new issues in their brief that you wish to respond to, you **may** file a reply brief. It is due within **14 days** after the appellee’s brief was filed.

ORAL ARGUMENT

- After getting all of this information from the parties, the Law Court will determine whether it will require the parties to appear before the court for “oral argument” or will decide the case on the record and the briefs without oral argument.
- If the Law Court chooses to decide the case on the record and briefs without oral argument, either party may ask for an oral argument, although the Law Court might deny the request.
- Oral arguments are not the same as trials. They are more like a formal discussion of your legal arguments. You cannot present new testimony or other evidence at an oral argument.