

How to File a Civil Appeal

Important Note: If you have been convicted of a criminal charge, this information does **not** apply. Also, this does **not** apply if you are appealing an eviction order or small claims order. This information applies to most other appeals from final Maine District Court and Superior Court orders. It explains the basic steps for filing an appeal to the Law Court, Maine's highest court.

Additional words of caution:

- Appealing a case to the Law Court can cost several hundred dollars, including filing fee, costs of preparing a transcript, 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 court fee is waived, you will still have significant costs such as photocopying and mailing large documents and getting a transcript.
- When you appeal, you do **not** get a new trial. 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 did not at all support those factual findings).
- Appeals involve a lot of writing and paperwork. If you are in doubt about

whether you have a good case for appeal, or whether you can handle the appeal yourself, talk to a lawyer, if you can, 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. You can find them at your county law library or on the web at <http://www.cleaves.org/pdf/rapp.pdf> or <http://www.courts.state.me.us/mraptext.htm>

Appeal Deadline

You must file your appeal within 30 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.) **Note:** After January 1, 2002, the appeal period deadline is reduced to **21 days**.

Filing Your Appeal

Begin your appeal by filing with the clerk (in the court where your case was heard):

- ✓ A notice of appeal
- ✓ A transcript order
- ✓ \$120 filing fee

You can get forms from the court clerk.

After you fill them out, sign them and return them to the clerk. The clerk cannot accept an unsigned notice of appeal.

If you cannot pay the filing fee, you can ask the court to skip the fee. Ask the clerk for an **Application to Proceed Without Payment of Fee** and a **Financial Affidavit**. Fill out these forms, sign them, and give them to the clerk with your **Notice of Appeal**. You must sign the **Financial Affidavit** in front of a Notary Public (one is available at the clerk's office). A judge will review these papers and decide whether you do not have to pay the fee. If your request is denied, you must pay the filing fee to go forward with your appeal.

Note: If you get a Notice of Appeal from the other party, you can still file your own appeal, if you have grounds for an appeal. 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

The Law Court will be reviewing the record, or court history, of your case. To do this, they usually need to read some or all of the written transcript of your earlier court hearing. The transcript is a typed record of your court hearing. Within **7 days** of filing your appeal, you must arrange for payment of the transcript.

Depending on the length, this can be quite expensive. If you do not get a transcript, you and the other party must agree upon a statement of the important facts and evidence. To do this, you would need to follow Rule 5(d) or 5 (f) of the Maine Rules of Appellate Procedure. The trial court judge must approve of your statement of facts.

After getting notice of the appeal from the trial court clerk, the **Clerk of the Law Court** will send you and the other party 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 are not preparing 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 gets the paper record and the transcript, the Clerk of the Law Court will send you a **briefing schedule**. Usually your brief is due in 35 days, the Appendix is due in 49 days, and the other party's brief in 63 days.

Appellant Brief (Your Brief)

A brief is a formal document containing a statement of the facts and legal arguments, including 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 may begin with a summary)

You must stick to the trial court record; you are not allowed to present new documents or facts. Unless you get the Court's permission, your brief must be 50 pages or less.

You must give **10 copies** of your brief to the Law Court and **2 copies** to each other party.

Appendix

The Appendix must include:

- ✓ A copy of the complaint.
- ✓ The trial court decision and docket entries
- ✓ A table of contents
- ✓ All other documents from the record that the Law Court needs to see, in order to decide the issues on appeal

You must give **8 copies** to the Law Court and **1 copy** to each of the parties.

Appellee Brief (Other Party's Brief)

If you are the party who got the notice of appeal, you must also file a brief (usually 28 days after the appellant's brief was filed). Read the section on Appellant Brief above. The requirements are the same.

Reply Brief

If the other party raised any new issues in their brief that you need 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 may decide the case by reading the record and the briefs. Or the Court may decide to ask the parties to appear before the court for "oral argument." This is not a trial. It is more like a formal discussion of your legal arguments. These are usually held in Portland. If you want to have an "oral argument," you must ask for one. The Court may grant or deny your request. In any case, the Clerk of the Law Court will notify you of how the case will go forward from here.