

Court of appeals information

How to Appeal from Justice Court Cochise County

<https://www.cochise.az.gov/court-administration/justice-courts-civil-division-notice-right-appeal>

Cochise County Justice Courts Civil Division

Notice of Right to Appeal

A party may appeal a final order or final judgment entered in a civil case. This notice explains your rights and responsibilities to file an appeal from such an order or judgment. The appeal procedure is set forth in the Superior Court Rules of Appellate Procedure – Civil.

There are two separate stages to the appeal process. The first stage begins in this court; the second stage takes place in the County Superior Court. Remember, you must complete all steps at both stages, or you run the risk of having your appeal dismissed. This notice does not set forth all the rules that govern civil appeals. To read them entirely, you may review the Arizona Statutes and Civil Appellate Rules at the library or through the link above. It is recommended that you keep a copy of all your documents during the appeal.

Stage One – The Trial Court

(A) **The Notice of Appeal.** To appeal the judge’s decision you must file a “*Notice of Appeal*” with the trial court clerk within fourteen (14) calendar days from the date of the final order or final judgment. If you do not file a Notice of Appeal within these fourteen (14) days, you lose the right to appeal. In your Notice of Appeal, be sure to specify the specific judgment or order you are appealing.

(B) **The record.** On or before the 14-day deadline to appeal, you must also pay for a copy of the proceedings at the hearing. The copy may be a recording or a transcript. The clerk will explain which type of record is required. Payment must be in cash or other method explained by the clerk. If you cannot afford to pay for the record, ask the clerk for information about a waiver or extension (“deferral”) to make payment later. If you fail to pay for the record or transcript, your appeal may be dismissed. Additional copies of the hearing may be obtained for an additional charge. Also, within the 14-day period you must “designate the record” with the court by filing a formal “list” of the items you want included in the record on appeal.

(C) **Posting a “supersedeas” and “cost” bond on appeal to stay judgment.** You cannot be forced to post a bond in order to exercise your right to appeal. However, if the judgment you are appealing includes a sanction (monetary fine) or money judgment against you, the other party can pursue collection even though you have filed a timely notice of appeal. No bond is required to appeal an order granting an order of protection or injunction against harassment. In order to stop collection efforts while your appeal is pending, you must post a supersedeas bond with the trial court. The amount of the bond is the total amount of the judgment ordered by the court, including attorney’s fees and costs. If you do not post bond to stay enforcement, then the order to pay is still in force and must be complied with. Also, the rules require you to post a “cost” bond (which covers the expenses for filing fees, witness fees, and other items) with the trial court.

(D) **The written Appeal Memorandum.** You will need the record for this next step – the “*Appellant’s Memorandum*.” The Appellant’s Memorandum is your written “brief” or explanation why the trial court

ruling was legally wrong. Normally, your memorandum should refer to specific portions of the record of the trial or hearing to point out where there was error by the court. (That is why a party who appeals pays for a copy of the record.) The memorandum should be typed or printed on letter-sized white paper, double spaced, and not exceed 15 pages in length, not counting any exhibits from your hearing which you will want to attach to the memorandum.

(E) **Filing the Appellant's Memorandum within 60 days.** If you file an appeal, you are the "appellant." The appellant's memorandum must be filed with the court within sixty (60) calendar days of the deadline to file the notice of appeal. Put the caption of the case and your case number at the top of your memorandum. Print the title "Appellant's Memorandum" below the caption so the court can identify it when it is filed. If you do not have an attorney doing your appeal, you must file the original and one (1) additional copy of the memorandum for each other party with the court. The other side then has thirty (30) days to file an "*Appellee's Memorandum*".

(F) **Wait for further instructions.** Once the memorandum has been filed, you should await further instructions from the Superior Court as outlined in the next stage. To keep you informed, remember that the trial court must have your current mailing address at all times. Even if you hire an attorney, your address is still required for legal notifications.

(G) **Cross-Appeals.** The rules regarding cross-appeals are set forth in full detail in the Superior Court Rules of Appellate Procedure mentioned above and should be consulted directly.

Stage Two – The Superior Court

(H) **Paying the Superior Court filing fee.** If you have completed all of the first stage, your case moves to Superior Court. About sixty (60) days after you file your memorandum, you will receive a notice from the Superior Court. This notice will instruct you to pay the Superior Court appeal filing fee. You must pay this filing fee or your appeal may be dismissed and your case sent back to the trial court. Again, if you cannot afford to pay the filing fee, contact the Superior Court Clerk for information about a possible waiver or extension ("deferral") to make payment later. For more information, you may contact Superior Court at 520-432-8591, or via the link above.

(I) **Superior Court action on the appeal.** If you have now completed all these steps, you will receive a ruling from the Superior Court. The Superior Court has the right to affirm the trial court, overrule the trial court, modify some of the trial court decision, or, if record is not clear, order a new trial in the Superior Court. If the final outcome of your case is that the ruling stands, or if your appeal is dismissed for any other reason, remember that the other side or the court may use any bond, deposit, or payments already made to satisfy your obligation and that you may have to return to the trial court to be given other instructions in person.

(J) **Disposition of exhibits upon final judgment.** After a judgment has become final and non-appealable, a person who files a request under penalty of perjury setting forth ownership of, or lawful entitlement to the possession of an exhibit may obtain an *ex parte* order permitting its withdrawal. Ninety (90) days after a judgment has become final and non-appealable, the court having possession thereof may dispose of exhibits in its possession.