

STATE OF ARIZONA

vs.

DEFENDANT

No. _____

**DEFENDANT'S
NOTICE OF RIGHT TO APPEAL
(CIVIL TRAFFIC)**

A party may appeal a final order or final judgment entered in a civil traffic case. This notice explains your rights and responsibilities to file an appeal from such an order or judgment.

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 on traffic appeals. To read them entirely, you may review the Arizona Statutes and Rules of Traffic Court Procedure at the library. It is recommended that you keep a copy of all your documents and receipts during the appeal.

STAGE ONE – THE TRIAL COURT

- (A) **THE NOTICE OF APPEAL.** To appeal, you must file a “Notice of Appeal” with the trial court clerk within 14 calendar days from the date of the final order or final judgment. If you do not file a “Notice of Appeal” within these 14 days, you lose the right to appeal. In your Notice of Appeal, be sure to specify which actual charge or violation 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.
- (C) **POSTING A BOND ON APPEAL TO STAY JUDGMENT.** You cannot be forced to post a bond in order to exercise your right to appeal. However the civil traffic judgment normally includes a sanction (monetary fine) and, for moving violations, points on your license. In some cases too, the court may have suspended your license or registration as part of its decision. These penalties are NOT stopped just because you have filed a timely notice of appeal. In order to stop these penalties from being imposed while your appeal is pending, you must “post bond” with the trial court. The amount of the bond is the total amount of the sanction ordered by the court unless the trial court orders that the bond be reduced or waived. If you do not post bond to stay enforcement, then the order to pay is still in force and must be complied with. **IF YOU DO NOT POST BOND, AND YOU DO NOT TIMELY PAY ANY SANCTION, YOUR LICENSE COULD BE SUSPENDED WITHOUT FURTHER NOTICE.**
- (D) **THE WRITTEN APPEAL MEMORANDUM.** Within a few days after you have paid for the record to be prepared, the court will contact you to pick up your record. 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, the memorandum will refer to specific portions of the record of the 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 shall be typed or printed on white, opaque, letter-size paper, double-spaced, and shall not exceed 15 pages, excluding exhibits. The memorandum shall set forth a factual and legal basis for appropriate judicial relief. Memorandum shall include a short statement of the facts with reference to the record, a concise argument setting forth the legal issues presented with citation of authority and a conclusion state the precise remedy sought on appeal.
- (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 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 “APPELLANTS’ MEMORANDUM” below the caption so the court can identify it when it is filed. You must file the original and one copy of the memorandum with the court. (The other side then has 30 days to file an “Appellee’s Memorandum.”)
- (F) **WAIT FOR FUTURE 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.

STAGE TWO – THE SUPERIOR COURT

- (G) **PAYING THE SUPERIOR COURT FILING FEE.** If you have completed all of the first stage, your case moves to Superior Court where an appeals judge will look at the case. About 60 days after you file your memorandum, you will receive a notice from the Superior Court. This notice will (1) assign a Superior Court case number to use in all further correspondence, and (2) 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 the Superior Court in Mohave County at (928) 753-0713.
- (H) **SUPERIOR COURT ACTION ON THE APPEAL.** If you have completed all of the above 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 court may apply any bond, deposit, or payments already made and that you may have to return to the trial court to be given other instructions in person.

Dated: _____

I acknowledge receipt of a copy of this Notice

Defendant