

Representing Yourself: Appealing a Civil Case to the Superior Court

A GUIDE ON HOW TO APPEAL A FINAL ORDER OR JUDGMENT
FROM A JUSTICE COURT OR MUNICIPAL COURT
IN NON-TRAFFIC CIVIL CASES

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Table of Contents

	Page
I. INTRODUCTION	3
II. ARIZONA LOWER COURT APPEALS PROCESS – FLOW CHART	4
III. BASIC STEPS OF APPEAL – FLOW CHART	5
IV. FILING AN APPEAL: STEP-BY-STEP	6
Step 1: Receive final order or judgment from justice or municipal court	
Step 2: File Notice of Appeal/Designation of Record	
Step 3: Appellant pays lower court filing fee or gets waiver/deferral	
Step 4: Appellant pays cost bond or gets waiver/deferral	
Step 5: Appellant pays supersedeas bond	
Step 6: Appellant files Memorandum	
Step 7: Appellee files Memorandum	
Step 8: Appellant pays Superior Court fee or gets waiver/deferral	
Step 9: Oral Argument (if permitted)	
V. SUPERIOR COURT APPEALS PROCESS	12
VI. LIMITATION ON FURTHER APPEAL	12
VII. SPECIAL ACTIONS	13
VIII. ATTORNEYS’ FEES AND COSTS	13
IX. FREQUENTLY ASKED QUESTIONS	14
X. IMPORTANT TERMS	17
XI. SUPERIOR COURT CONTACT INFORMATION	21
XII. FORMS	22

Introduction

If you want to appeal a final order or judgment you received from a justice court or municipal court, you have the right to do so in the Superior Court. You may appeal a Judgment of Eviction (forcible/special detainer); an Injunction Prohibiting Harassment/Order of Protection (restraining order); or any other final order or judgment handed down by a justice court or municipal court. You cannot appeal a small claims court decision. This Guide is a summary of the steps you must take to appeal your civil case to the Superior Court. It does not cover criminal or traffic appeals. Separate guides discuss those types of appeals.

The information presented here is intended to guide you through the Superior Court civil appeals process. It is not legal advice and it may not be used as legal authority. It is an overview of the Arizona Superior Court Rules of Appellate Procedure. It does not replace or supersede the Rules.

The Superior Court Rules of Appellate Procedure (Civil) (“SCRAP Rules”) explain the procedure you must follow when appealing a decision from the justice court or municipal court to the Superior Court. You should also check your county’s Local Rules because they may be different. You can find both the SCRAP Rules and your county’s Local Rules at your local law library. Ask to see the Arizona Rules of Court book, or find the Rules online at <http://azrules.westgroup.com/home/azrules/default.wl>. You can review Arizona laws that apply to your case by going to www.azleg.state.az.us/arizonarevisedstatutes.asp. General information about Arizona’s court system can be found at www.supreme.state.az.us.

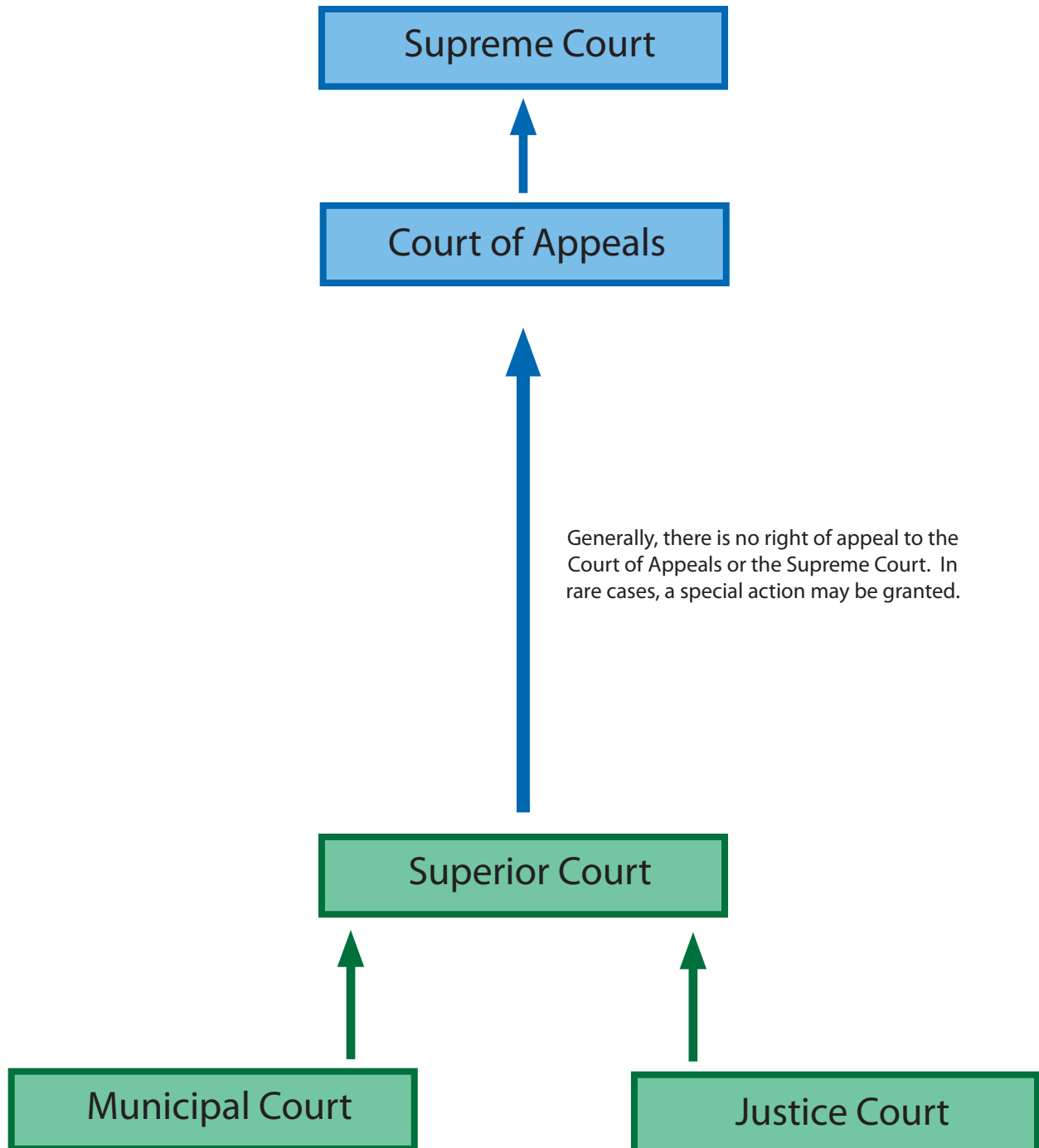
TWO STAGES TO THE APPEAL

There are two stages to a lower court appeal. The **first** happens in the trial court (“lower court”) – the justice court or municipal court – where your case began. The **second** occurs in the Superior Court. *Note: You are not allowed to talk with the judge about your case outside of scheduled court hearings.*

WARNING: It is very important that you follow court procedures and meet the deadlines explained here. If you fail to do so, it is very likely that your appeal will be dismissed.

For information about free or low-cost legal assistance, go to the State Bar of Arizona’s website at www.azbar.org. To reach the Maricopa County Bar Association’s Lawyer Referral Service, call 602-257-4434. In Pima County, call 520-623-4625.

Arizona's Lower Court Appeals Process



Basic Steps of Appeal

STEP ONE

Receive Final Order or Judgment

STEP TWO

Appellant files Notice of Appeal/
Designation of Record

STEP THREE

Appellant pays or gets waiver
of lower court's fee/cost bond

STEP FOUR

Appellant pays supersedeas bond (optional)

STEP FIVE

Appellant orders trial record

STEP SIX

Appellant files Memorandum

STEP SEVEN

Appellee files Memorandum

STEP EIGHT

Appellant pays fees or Superior Court
waives/defers them

STEP NINE

Oral Argument (if permitted)



SUPERIOR COURT DECISION

Filing an Appeal: Step-By-Step

Step 1: Receive municipal or justice court final order or judgment

Before you can appeal, you must first receive a final order or judgment from the justice court or municipal court.

Step 2: Appellant files Notice of Appeal

The **most important step** when seeking to appeal a decision from a lower court to the Superior Court is filing your "Notice of Appeal" on time. (A Notice of Appeal is attached as **Form 1**.)

- You must file a written Notice of Appeal with the justice court or municipal court in which your case was heard.
- You must include the name, address and telephone number of all parties and their attorneys in the Notice of Appeal. If you do not yourself have an address or telephone number, rent a PO Box or give the court other reliable contact information so that you can be reached about your case.

Change of Address: If your address changes during the appeal, you must notify the court in writing. A change of address form is attached as **Form 9**.

- You must identify the order or judgment you want the Superior Court to review.

Keep a copy of your Notice of Appeal: Make sure the court clerk gives you a date-stamped copy of your Notice of Appeal. Keep it for your records. The court clerk is responsible for sending a copy of your Notice to the other party.

You **must** file your Notice of Appeal before the deadline. **If you fail to file your Notice of Appeal on time, you will not be allowed to appeal your case.**

NOTICE OF APPEAL DEADLINES

JUDGMENT OF EVICTION - **FIVE (5) calendar days**

OTHER CIVIL CASES - **FOURTEEN (14) calendar days**

Weekends and holidays are NOT excluded from the calculation. They must be counted to determine the deadline. If, however, your deadline falls on a Saturday, Sunday or day when the court is closed, the Notice of Appeal is due on the next day the court is open.

SPECIAL DEADLINE FOR IMMEDIATE EVICTIONS

Ordinarily, a tenant has five (5) calendar days to file a notice of appeal. But if your landlord has obtained a Judgment of Immediate Eviction, and you want to remain in the rental property pending

appeal, you must file your Notice of Appeal and post the necessary bonds before the constable removes you from the property (executes the “writ of restitution”), which usually is twenty-four (24) hours from the issuance of the judgment. Check the Judgment of Eviction to identify when the “writ of restitution” will be issued and file your Notice of Appeal and post the necessary bonds or have them waived before then. A tenant who wants to appeal a Judgment of Immediate Eviction, but not remain in the rental property during the appeal, has five (5) days to file his or her Notice of Appeal and to post or have waived the necessary bonds.

SAMPLE CALCULATION FOR TENANTS

Your landlord gets a Judgment of Eviction against you on a Monday. You want to appeal. You have five (5) calendar days to file your Notice of Appeal in the justice court unless it was an “immediate eviction.” In calculating your deadline, you begin by counting the day after the Judgment. Five days from Monday is Saturday. The court is closed on Saturday. Consequently, you **MUST** file your Notice of Appeal no later than Monday. As explained above, a shorter deadline will apply if the landlord gets a Judgment of Immediate Eviction and you want to remain in the rental property during the appeal.

Remember: When calculating your appeal deadline, if the filing deadline falls on a Saturday, Sunday or day when the court is closed, your Notice of Appeal is due on the next day the court is open.

Except in eviction cases, the deadlines for filing a Notice of Appeal are extended if one or both of the parties files any of the following motions on time:

- a. Motion for Judgment Notwithstanding the Verdict pursuant to Arizona Rule of Civil Procedure (“ARCP”) 50(b);
- b. Motion to Amend or Make Additional Findings of Fact pursuant to ARCP 52(b);
- c. Motion to Alter or Amend the Judgment pursuant to ARCP 59(l); or
- d. Motion for a New Trial pursuant to ARCP 59(a).

If one of these motions is timely filed, the time for filing a notice of appeal is calculated from the date the lower court files its ruling on the motion.

In an **EVICTION** case, the court will not extend the deadline because a Motion to Set Aside or Vacate the Judgment of Eviction or similar motion was filed.

DEFAULT JUDGMENTS: If you want to appeal your case because the trial court granted a default judgment against you, you must first file a Motion to Vacate that judgment in the trial court. (A Motion to Vacate Judgment is attached as **Form 6**.) That will give you an opportunity to explain to the judge why the Judgment he or she issued should not be enforced. If the judge refuses to vacate the judgment, you can then appeal that decision to the Superior Court by filing a Notice of Appeal before the deadline expires.

Step 3: Appellant pays or gets waiver of court’s fee/cost bond

Filing Fees: If you can afford to do so, you will have to pay filing fees to both the lower court and the Superior Court to appeal your case. If you cannot afford to pay the court fees, you should ask the court

to defer (delay) payment or waive them. (An Application for Deferral or Waiver is attached as **Form 3**.) You must pay the lower court fee or get a waiver when you file your Notice of Appeal.

Note: Any time you make a payment into the court, make sure the court clerk gives you a receipt. Keep it for your records.

Cost Bond:

Generally, a party who wants to appeal a court decision must deposit a “cost bond” with the court clerk. This is money that is set aside to reimburse the other party for his or her costs if you lose your appeal. You can ask the court to waive this bond. (A Motion and Affidavit to Waive or Reduce Cost Bond is attached as **Form 4**.) **If you post a supersedeas bond, as explained below, you will not be required to also post a cost bond. Unless the court grants a waiver, you must file a cost or supersedeas bond or your appeal may be dismissed.**

If you are unable to pay the cost bond. . . . If your sole source of income is government benefits, you are unemployed or you are otherwise unable to pay the cost bond, you are eligible to have the cost bond waived. To do so, you must file a sworn “Affidavit” explaining to the court why you cannot pay the bond (**Form 4**).

In eviction cases, if the party wishing to appeal the justice court’s decision requests a waiver or reduction of the cost bond and the other side objects, the justice of the peace is required to hold a hearing on the matter within five (5) court days. See A.R.S. §12-1179. If the court rejects the request that the cost bond be waived or reduced, the appealing party will have five (5) days to pay the cost bond to the court.

In other civil cases, you have fourteen (14) calendar days to file a cost bond or request for waiver or reduction of the bond. If you file a request for waiver or reduction, the other party has fourteen (14) days to object. Thereafter, if the court rules that a cost bond is required, you will have fourteen (14) calendar days to pay the cost bond into the lower court.

If you pay the bond, you should file a Notice of Filing Cost Bond on Appeal for the record. (A Notice of Filing Cost Bond on Appeal is attached as **Form 5**.)

EXCEPTION FOR RESTRAINING ORDERS: The rules governing the payment of cost bonds do not apply to Orders of Protection and Injunctions Against Harassment (“restraining orders”).

Step 4: Appellant pays the supersedeas bond (optional)

A party seeking to appeal a judgment may stay or “suspend” the enforcement of the judgment while the appeal is pending by filing a supersedeas bond.

EXCEPTION FOR RESTRAINING ORDERS: The rules governing the payment of supersedeas bonds do not apply to Orders of Protection and Injunctions Against Harassment (“restraining orders”).

For most tenants, filing a supersedeas bond is the second most important step in appealing a justice court’s decision. (The first is filing the “Notice of Appeal” on time.) By paying the “supersedeas bond” to the court, a tenant can temporarily stop the order that he or she be removed from rental housing. If a tenant does not pay the supersedeas bond, he or she will be locked out of the rental home five (5) days after the Judgment

of Eviction is entered, or in the case of an “immediate” eviction, 24 hours after the Judgment of Eviction is entered.

— CALCULATING THE SUPERSEDEAS BOND —

EVICTION ACTIONS: Tenants seeking to “stay” or suspend a Judgment of Eviction and remain in their rental home pending appeal must file a supersedeas bond in the amount of rent owed from the date of the judgment until the next periodic rental due date, court costs, and attorney fees, if any. Unless your landlord consents, the court will not waive the supersedeas bond.

OTHER CIVIL CASES: You will be permitted to “stay” or suspend the justice court or municipal court’s order pending appeal if and when you post a supersedeas bond. This is an especially important step for people who wish to avoid salary garnishment while their case is being appealed. To post a supersedeas bond, pay an amount equal to the court’s judgment and costs to the court clerk. Request a receipt and save it for your records.

If you post a supersedeas bond, you do not have to post a cost bond.

PAYING RENT WHILE AN APPEAL IS PENDING

TENANTS: IF YOU WANT TO REMAIN IN YOUR RENTAL HOME PENDING YOUR APPEAL, you **MUST** pay the supersedeas bond and then continue to pay your rent into the court ON OR BEFORE the day it is due each month. There is no “grace period” for payment. A tenant who fails to pay his or her rent into the court on time may be removed from the rental property during the appeal. However, a tenant’s appeal will not be dismissed because he or she failed to make a timely rent payment.

Step 5: Appellant orders trial record

It is important to get a copy of the lower court’s file to prepare your appeal. You will need a copy of the documents presented at the hearing or trial to support your position that the lower court’s decision should be overturned. If you are opposing the appeal, you will want to have a copy of the court’s record to support your argument that the lower court’s decision should be upheld. You will also need a CD or audio-recording copy of the record. If the court granted you a waiver of fees, you should not be charged for obtaining a copy of the file or recording.

If the hearing at issue was short, the Superior Court may be willing to listen to the CD or audio-recording and it will not be necessary for you to have a hearing transcript prepared. If the hearing was longer than 60 to 90 minutes, however, the Superior Court may require that you provide a hearing transcript. (Ask the court clerk and/or check your county’s Local Rules.) Generally, the Appellant must pay to have certified transcripts filed with the trial court before filing the Memorandum described in Step 6 of this Guide.

TRANSCRIPTS: Check your Local Rules or ask the court clerk if a transcript will be required for your appeal. If a transcript is required, it will be the Appellant’s responsibility to order the CD or audio-recording of the proceedings from the court clerk and deliver it to a “certified transcriber.” (A “certified transcriber” is someone approved by the courts to make a script of what was said at the trial.)

You may want to ask the court clerk if you can arrange for the transcript through the court. If such services are not available, check your local yellow pages or the internet for “court reporters” or “transcribers.”

COSTS: Recordings of the trial usually cost between \$12 and \$20. The cost of transcript preparation can range from \$3.50 and \$4.00 per page. (Such estimates are subject to change, of course.)

Recordings: Justices of the peace and municipal court judges are responsible for informing the parties of their right to have their hearing or trial recorded.

A trial de novo – a new trial – will not be granted when a party who had the opportunity to request that a recording be made failed to do so.

Record for Appeal: You are required to specify which records are to be sent to the Superior Court by filing a “Designation of Record on Appeal” with the trial court. (A Designation of Record on Appeal form is attached as **Form 2**.) If you believe the Superior Court should review all of the documents and exhibits contained in the lower court’s file, write “all records” or “everything,” on the form. If it is not necessary for the Superior Court to review everything in the trial court’s file because some of it is not relevant to the issues you are raising on appeal, you may want to limit the record on appeal.

Step 6: Appellant files “Memorandum”

Appellant:

In an appeal, you must present your side of the story in writing. You do this by filing a Memorandum with the trial court.

Within 60 calendar days from the date your Notice of Appeal was due, you must file your Memorandum with the trial court. You must file the original and a copy for the other party. You should make at least one other copy for yourself. Have the court clerk date-stamp it for your records so that you have proof that you filed it on time.

CALCULATING YOUR MEMORANDUM’S DUE DATE: Appellant’s Memorandum is due 60 days after the Notice of Appeal was due. For example, if the Judgment was issued on October 1, 2008, and the Notice of Appeal was due five calendar days later, on October 6, 2008, Appellant’s Memorandum is due 60 days from that date on December 5, 2008.

MEMORANDUM FORMAT

(Sample format is attached as **Form 7**)

- ° 15 pages or less
- ° Typed or printed (one side of the page only)
- ° White paper (8.5 by 11 inches)
- ° If you are typing your Memorandum, double space
- ° If you are handwriting your Memorandum, please keep in mind that the Court has the right to disregard it if it cannot read your handwriting

What Your Memorandum Must Include:

(1) **The Facts:** A short statement of the facts of your case. You should support your factual statements with references to the Record on Appeal.

Example: If you want the Superior Court to consider the testimony of a particular witness, you should identify the page and line of the transcript where the testimony appears. If you were allowed to submit a copy of the CD or audio-tape instead of a transcript, you should identify where the testimony appears in the recording.

(2) **Your Argument:** A short statement explaining the reasons you believe the trial court's decision is incorrect. This is where you should include references to the applicable statutes, court rules, and case law.

(3) **Your Conclusion:** A statement explaining exactly what you are asking the Court to do.

If you want to present an oral argument in the Superior Court, you should state "Oral Argument Requested" in the caption (heading) of your Memorandum. If you use the Sample Memorandum included in this Guide, check the box "Oral Argument Requested." (See **Form 7**)

Generally, you cannot attach evidence ("exhibits") to the Memorandum if you did not already present such evidence to the trial court.

Step 7: Appellee files "Memorandum"

After the Appellant files his or her Memorandum, the Appellee has the right to file one to explain why he or she believes the lower court made the right decision.

In some counties, the Appellee is not required to file a Memorandum. If an Appellee decides not to file a Memorandum in those counties, the Superior Court will decide the case based on the lower court's record and the Appellant's Memorandum. In other counties, such as **Gila**, an Appellee must file a Memorandum or risk that the Superior Court will automatically rule in favor of the Appellant. It is important to check your county's Local Rules for requirements.

If you decide to file a Memorandum, you must do so within 30 calendar days of the filing date of the Appellant's Memorandum. (A sample of the format is attached as **Form 7**.) File the original along with a copy for the other party. You should also make at least one other copy for yourself. Have the court clerk date-stamp it for your records so that you have proof that you filed it on time.

APPELLANT: NO RIGHT TO REPLY. An Appellant does not have a right to reply to the Appellee's Memorandum. If an Appellant believes there is a need to dispute new issues raised by the Appellee in his or her Memorandum, he or she must seek the Superior Court's permission to file a Reply. (A blank Motion form is attached as **Form 8**.)

Step 8: Appellant pays or gets waiver of Superior Court fee

Superior Court Fee: Once the lower court notifies the Superior Court about the appeal AND the Appellant has complied with the requirements, the Superior Court clerk will send out a notice about the Superior Court's

filing fee. Generally, an Appellant will have thirty (30) days to pay or have waived the Superior Court's fee. **If you cannot afford to pay the Superior Court's filing fee, you may request that the Court waive or delay payment.** (An Application for Deferral or Waiver of Court Fees and Costs is attached as **Form 3**.)

Step 9: Oral Argument (if permitted)

Parties to an appeal may or may not be allowed to present an "oral argument" to the Superior Court. When a case is "up on appeal," the Superior Court usually decides to uphold or overturn the lower court's ruling by reviewing the record and reading the parties' Memoranda. At times, the Superior Court will allow the parties to present their side of the story in person at oral argument. Check your Local Rules.

Superior Court Appeals Process

If the appeal has been "perfected" - all necessary steps have been taken - the lower court clerk will send the case to the Superior Court for appellate review. If the Superior Court decides it would be helpful, it will allow the parties to present an "oral argument." This usually means the Court will set a time - generally no more than five (5) or ten (10) minutes - to hear from each party. The parties will not be allowed to call witnesses or otherwise present new evidence during the oral argument. The clerk will notify the parties if the Superior Court wants to hear oral argument.

Trial de novo

If the lower court's record is not sufficient to allow the Superior Court to make a determination, the Superior Court may order that a new trial be held. This usually happens if the lower court failed to advise the parties of their right to have the proceedings recorded or if an audible recording was not made when properly requested. If a trial de novo is ordered, the parties will be notified by the court clerk.

Superior Court's Decision

After the Superior Court has reviewed the record, it will decide the appeal and issue a written Order. The parties will receive the Court's ruling by mail.

Limitation on Further Appeal

Request for Rehearing or Reconsideration: If you do not believe that the Superior Court decided your appeal correctly, you have the right to file a "Motion for Rehearing" or "Motion for Reconsideration" within fourteen (14) calendar days of the date you receive the Superior Court's decision on your appeal. You must include a Memorandum which specifically explains why you believe the Superior Court misapplied the law or facts.

Taking an Appeal Beyond the Superior Court: The right to appeal a justice or municipal court decision to the Arizona Court of Appeals is limited. Generally, the right to take an appeal beyond the Superior Court is restricted to cases involving the validity of a tax, impost, assessment, toll, municipal fine or statute. Appeals from the Superior Court to the Court of Appeals are addressed in a separate guide.

WARNING: A request that the Superior Court rehear or reconsider your case will not serve to extend the deadline if you intend to file an appeal to the Arizona Court of Appeals.

Special Actions

In rare cases, it may be possible to obtain relief from the Arizona Court of Appeals or Arizona Supreme Court by filing a "Special Action." *The Arizona Appellate Handbook*, available at many law libraries, is a good source of information if you decide you want to file a Special Action in one of the higher courts.

Attorneys' Fees and Costs

Reimbursement of Costs. The Superior Court may award attorneys' fees and costs to the party who wins the appeal. Generally, the award of attorneys' fees and other expenses is governed by contract.

If you want the Superior Court to issue an order requiring the other side to reimburse your costs, you must file a sworn itemized statement of the money you spent appealing your case. The other party has a right to object to your request within five (5) calendar days of receiving it. If the other side objects, you have right to reply to his or her objection within five (5) calendar days of receiving the objection.

Frequently Asked Questions

Question: What is an appeal?

An appeal is a court action whereby a higher court, such as the Superior Court, reviews a decision made by a lower court such as a justice court or municipal court.

Question: Where do I file my appeal?

With the court clerk in the justice court or municipal court that handled your case. Once all of the appellate documents have been filed and the fees have been paid or waived, the clerk will transfer the case to the Superior Court.

Question: Does filing an appeal mean I will get a new trial?

Possibly. If the Superior Court agrees that the lower court did not handle the case correctly it is possible that it will order a new trial.

Question: How long do I have to file my appeal?

It depends. In most residential eviction cases the parties have 5 calendar days to file a Notice of Appeal. In calculating your deadline, you must include holidays and weekends, however, if the day it is due falls on a weekend or a day when the court is closed, you may file it the next day the court is open. In immediate eviction cases, the tenant must file his or her Notice of Appeal, pay or have waived the necessary court fees if the tenant wants to remain in his or her apartment pending the appeal, and post a supersedeas bond within 12 to 24 hours, depending on how quickly the court has ordered the tenant to vacate the property.

In other lower court civil appeals, the parties have 14 calendar days to file a Notice of Appeal.

Question: What are the costs involved in filing an appeal?

There is a filing fee, a cost bond, and - if you want to delay the execution of the judgment - an optional supersedeas bond. If you post a supersedeas bond, you will not need to also post a cost bond.

Question: What if I cannot afford the court's filing fee?

You can request that it be waived or that payment be deferred (delayed) to a later date. (See **Form 3**).

Question: What if I cannot afford the cost bond?

You can request that it be waived or reduced. See **Form 3**. If you post a supersedeas bond, you will not need to post a cost bond.

Question: What happens if the court refuses to waive the filing fee and cost bond, but I cannot come up with the money? Can I still appeal my case?

No.

Question: What if I cannot afford the supersedeas bond?

The court cannot waive payment of the supersedeas bond unless the other party agrees to the waiver.

Question: Can I appeal the trial court's judgment without paying the supersedeas bond?

Yes.

Question: What happens if I file an appeal, pay the required bonds, and then fail to pay my rent into the justice court on the day it is due?

You may lose the right to remain in the rental property while your appeal is pending. If your rent is late, your landlord can seek to have the Writ of Restitution executed. If that happens, the Constable would be authorized to remove you from the rental property.

Question: Where can I find my county's Local Rules?

You can find both the SCRAP Rules and your county's Local Rules at your local law library. Ask to see the Arizona Rules of Court book or find the Rules on-line at: <http://azrules.westgroup.com/home/azrules/default.wl>.

Question: Where can I find the statutes that apply to my case?

You can review Arizona laws that apply to your case by going to www.azleg.state.az.us/arizonarevisedstatutes.asp. For general information about Arizona's court system, go to www.supreme.state.az.us.

Question: Where can I look up the legal words I don't understand?

In the "Important Terms" section included in the back of this Guide; in *Black's Law Dictionary*, available at any law library; or online at dictionary.law.com.

Question: Do I have to type the papers I file with the court?

No, but if you can, do. If the judge cannot read your handwriting, your Memorandum may be rejected.

Question: Will I get the money I file with the court back after the appeal?

If you win, the court will return monies posted as bond. You will also be entitled to reimbursement of appeal related costs such as transcript preparation. You will not be entitled to receive any rent you paid into the court, however, if you remained in a rental property pending appeal.

Question: Is there anywhere I can go for free or low-cost legal advice?

For information about free or low-cost legal assistance, go to the Arizona Bar Association's website at www.azbar.org. To reach the Maricopa County Bar Association's Lawyer Referral Service, call 602-257-4434. In Pima County, call 520-623-4625.

Question: How long will the appeal take?

It depends. It can take more than a year for the Superior Court to rule on your appeal.

Question: Can I get more time to file my Memorandum?

Yes. You can ask for more time by filing a "Motion to Extend Time to File Appellate Memorandum" at the clerk's counter in the court that handled your trial. A general Motion form is attached as **Form 8**. You will not be permitted to get an extension over the telephone.

Important Terms

Affidavit – A sworn statement witnessed and certified by a notary public.

Affirm – When a higher court “affirms” a lower court’s decision, it means that the higher court approves of the lower court’s handling of the case and the lower court’s ruling will be permitted to take effect.

Appeal – A court action brought by a person asking a higher court to review the decision of a lower court.

Appeal Fee – One of the fees an Appellant must pay or have waived so that the case may be reviewed by a higher court.

Appellant – The party who files the appeal.

Appellee – The party who opposes the appeal and wants the lower court’s decision to stand.

ARCP – The **A**rizona **R**ules of **C**ivil **P**rocedure.

Bond – An amount of money that an Appellant deposits with the court while waiting for the higher court’s decision. This money will be used to pay the other party’s copying costs and the like if the Appellant loses his or her appeal.

Brief – See “Memorandum.”

Calendar Days – When calculating your filing deadlines, you must include holidays and weekends. However, if the due date falls on a weekend or day when the court is closed, you will be permitted to file your document when the court re-opens.

Caption – The heading on the first page of any papers filed with the court. It should include: (1) the name of the court; (2) the names of the parties; (3) the lower court case number; (4) the Superior Court case number once it has been assigned; and (5) the name of the document you are filing (i.e. “Notice of Appeal”).

Court Clerk – The clerk is a public official responsible for filing papers and keeping records of court proceedings.

Constable – The public official called upon to remove tenants who have been evicted from their rental homes.

Cost Bond – Money an Appellant pays into the court to cover the other party’s costs if he or she loses the appeal. Cost bonds can be waived or reduced for litigants who cannot afford to pay them. You do not have to pay a cost bond if you post a supersedeas bond.

Court of Appeals - The second highest court in Arizona. Only rarely are cases from the justice courts or municipal courts reviewed by the Court of Appeals.

Cross-Appeal – An appeal lodged by the Appellee against the Appellant. After a Notice of Appeal is filed, the other party, the Appellee, may ask the Superior Court to review a part of the lower court’s decision by filing his or her own Notice of Appeal (Notice of Cross-Appeal) with the lower court clerk.

Date-Stamp –A stamp that the court clerk puts on your document to record the time and date on which a document is filed. (Keep copies of all date-stamped documents for your file.)

Default Judgment –A court order that is issued when a litigant fails to participate in a court proceeding.

Defendant – The party being sued in a civil law suit. The terms “Defendant” and “Respondent” mean the same thing.

Deferral – Delay or postpone; for example, you may ask the court to “defer” payment of your court fees. A form to do so is included in this Guide. See **Form 3**.

Dismissal - A dismissal ends a case in the trial court. If an appeal is dismissed because the Appellant failed to comply with the rules, the order or judgment handed down by the lower court will be enforced as if the appeal had never been sought.

Exhibits – Documents or other items considered by the lower court. The Appellant or Appellee may attach copies of exhibits to a Memorandum filed in the appeal.

Evidence – Testimony, documents or items considered by the court in making its decision.

File – To “file” a document is to submit it to the court clerk so that it can become part of the court record.

Forcible Detainer Action – Generally, people use this term to mean “eviction.”

Filing Fee –The money an Appellant must pay to have the court hear his or her case. An Appellant has a right to request that this fee be waived or delayed if he or she cannot afford to pay it.

Judgment – The court’s order or ruling.

Jurisdiction – A term used to describe the court’s authority to hear the case.

Justice Court – A lower, limited jurisdiction court. In justice courts, the judges are elected officials called Justices of the Peace.

Lower Court – For purposes of this guide, the term “lower court” means the justice or municipal court in which your case was originally heard.

Memorandum –Commonly referred to as a “memo,” this is the document the parties file with the court for the purposes of appellate review. A Memorandum gives each side the opportunity to explain to the Superior Court why he or she believes the lower court’s decision should be overturned or upheld.

Money Judgment –An Order from the court directing one party to pay the other.

Motion – Another term for “request.” When you make a motion, you are making a request of the court.

Motion to Set Aside – A request that the court “set aside” an Order so that it will not take effect.

Municipal Court – A lower, limited jurisdiction court.

Notice of Appeal – A notice which informs the lower court and other parties that one party to a lower court action is appealing the court’s final order or judgment. (See the “Notice of Appeal Deadlines” on page 6 of this Guide.)

Opening Memorandum –The Appellant’s Memorandum - the document the Appellant files to explain why the lower court’s decision should be overturned – is sometimes referred to as an “Opening Memorandum.” (See also “Memorandum.”)

Oral Argument – In appeals to the Superior Court, this is an opportunity to appear before the Superior Court judge and explain why you believe the lower court’s decision should be overturned or upheld.

Order – A written ruling or decision by a court.

Party – A general term used to describe a person bringing or defending against the appeal. “Party” and “litigant” mean the same thing.

Pending Appeal – The time between the filing of the Notice of Appeal and the day the Superior Court issues its final ruling on the appeal.

Perfection of Appeal – To “perfect the appeal” is to fully comply with the court’s rules, procedures, and time lines. When an appeal has been “perfected,” it is sent to the Superior Court so the judge can review the lower court’s decision and decide whether or not it should be enforced.

Petitioner –The person bringing a case to court. The terms “Petitioner” and “Plaintiff” mean the same thing.

Plaintiff – The party who initiates a lawsuit by filing a complaint.

Pro se or Pro per Litigant –A person who represents him- or herself in a court action.

Record on Appeal –The court documents, hearing transcripts/ CD and other evidence the Superior Court will review in deciding whether to affirm or overturn the lower court’s decision.

Remand – An Order by which the Superior Court returns the case to the lower (trial) court for further action.

Sanctions –Penalties the court will sometimes impose against a party for bringing a frivolous or baseless court action or for disobeying a court order.

SCRAP Rules –The **S**uperior **C**ourt **R**ules of **A**ppellate **P**rocedure (Civil).

Special Action – An extraordinary, discretionary appeal to the Arizona Court of Appeals or Supreme Court.

Special Detainer –Another word for eviction action.

Stay –A suspension (postponement) of a court order.

Stipulation - An agreement between the parties.

Stipulation Waiving Bond for Costs on Appeal- An agreement between the parties allowing the Appellant to bring an appeal without posting a cost bond.

Superior Court - The Superior Court is the Court that reviews the decisions of the justice and municipal courts. There is one Superior Court in each of Arizona’s fifteen (15) counties.

Supersedeas Bond –A payment the Appellant must make to the lower court if he or she wants to temporarily stop the enforcement of the lower court’s order.

Supreme Court - The highest court in the State. Only rarely are cases from the justice courts or municipal courts reviewed by the Supreme Court.

Timely File –The phrase used to describe when a document is submitted to the court clerk on time.

Transcript – A script of the lower court’s hearing or trial.

Transmittal of Record –A procedure transferring the lower court’s case file and the parties’ Memoranda (briefs) from the lower court to the Superior Court so that the lower court’s decision can be reviewed on appeal.

Trial Court – The lower court – the justice court or municipal court – that handled your trial or hearing.

Trial de Novo – A “new trial” or retrial. The Superior Court will order a “trial de novo” when the lower court’s record is damaged or otherwise insufficient to decide the appeal. This may happen, for example, when the recording of the proceeding is inaudible.

Waiver – In the context of fees, a party who is unable to pay his or her court fees can request that the court “waive” (strike) them. See **Form 3**.

Writ of Restitution or Execution – A formal command directing the Constable or some other official to enforce a court judgment or order.

SUPERIOR COURT CONTACT INFORMATION

Each court is open Monday to Friday from 8:00 a.m. – 5:00 p.m.
Closed on official state holidays

<p><u>Apache County</u> 70 W. 3rd, South Saint Johns, AZ 85936 T: (928) 337-7555 F: (928) 337-7586 www.co.apache.az.us</p>	<p><u>LaPaz County</u> 1316 Kofa Ave. Suite 607 Parker, AZ 85344 T: (928) 669-6134 T: (928) 669-6134 www.co.la-paz.az.us</p>	<p><u>Pima County</u> 110 W. Congress St. Tucson, AZ 85701 T: (520) 740-3210 www.sc.co.pima.az.us</p>
<p><u>Cochise County</u> PO Box CK 100 Quality Hill Bisbee, AZ 85603 T: (520) 432-4850 www.co.cochise.az.us</p>	<p><u>Maricopa County</u> Phoenix Court 201 W. Jefferson Phoenix, AZ 85003 Southeast Court 222 E. Javelina Mesa, AZ 85210 Northeast Court 18380 N. 40th St. Phoenix, AZ 85030 Northwest Court 14264 W. Tierra Buena Ln. Surprise, AZ 85374 T: (602) 506-6157 www.superiorcourt.maricopa.gov</p>	<p><u>Pinal County</u> 971 N. Jason Lopez Circle Florence, AZ 85232 T: (520) 866-5319 F: (520) 866-5401 http://co.pinal.az.us</p>
<p><u>Coconino County</u> 200 N. San Francisco St. Flagstaff, AZ 86001 T: (928) 779-6535 www.coconino.az.gov</p>	<p><u>Mohave County</u> Kingman Courthouse 401 E. Spring St. Kingman, AZ 86401 T: (928) 753-0713 Lake Havasu Courthouse 2001 College Dr. Lake Havasu City, AZ 86403 Bullhead City Courthouse 2225 Trane Rd. Bullhead City, AZ 86442 www.mohavecourts.com</p>	<p><u>Santa Cruz County</u> 2150 Congress Dr. Suite 215 Nogales, AZ 85621 T: (520) 375-7730 F: (520) 375-7733 www.co.santa-cruz.az.us</p>
<p><u>Gila County</u> Globe Courthouse 1400 E. Ash St. Globe, AZ 85501 T: (928) 402-8564 Payson Courthouse 714 S. Beeline HWY Suite #104 Payson, AZ 85501 www.gila.az.us</p>	<p><u>Navajo County</u> 100 E. Carter Dr. Holbrook, AZ 86025 T: (928) 524-4188 www.co.navajo.az.us</p>	<p><u>Yavapai County</u> 120 S. Cortez St. Prescott, AZ 86303 T: (928) 771-3483 F: (928) 771-3389 www.co.yavapai.az.us</p>
<p><u>Graham County</u> 800 W. Main St. Safford, AZ 85546 T: (928) 482-3310 www.graham.az.gov</p>	<p><u>Navajo County</u> 100 E. Carter Dr. Holbrook, AZ 86025 T: (928) 524-4188 www.co.navajo.az.us</p>	<p><u>Yuma County</u> 250 W. 2nd St., Suite B Yuma, AZ 85364 T: (928) 817-4240 F: (928) 817-4014 www.co.yuma.az.us</p>
<p><u>Greenlee County</u> 223 5th St Clifton, AZ 85533 T: (928) 865-3872 F: (928) 865-5358 www.co.greenlee.az.us</p>	<p><u>Navajo County</u> 100 E. Carter Dr. Holbrook, AZ 86025 T: (928) 524-4188 www.co.navajo.az.us</p>	<p><u>Yuma County</u> 250 W. 2nd St., Suite B Yuma, AZ 85364 T: (928) 817-4240 F: (928) 817-4014 www.co.yuma.az.us</p>

FORMS

- (1) Notice of Appeal
- (2) Designation of Record
- (3) Application for Deferral or Waiver of Court Fees and Costs
- (4) Motion and Affidavit to Waive or Reduce Cost Bond Pending Appeal
- (5) Notice of Filing Cost Bond on Appeal
- (6) Motion to Vacate or Modify Judgment
- (7) Sample Memorandum
- (8) Blank Motion Form
- (9) Change of Address Form

_____Justice or Municipal Court (circle one), _____, County, AZ

Case No _____

APPELLANT Street: City/State/Zip Phone:	APPELLEE Street: City/State/Zip Phone:
Attorney for Appellant Street: City/State/Zip	Attorney for Appellee Street: City/State/Zip

DESIGNATION OF RECORD

In the trial court proceeding, I was the: the Plaintiff the Defendant

The record on appeal consists of the following:

1. The NOTICE OF APPEAL
2. The docket of proceedings
3. Documentation of record of payment of bonds
4. The COMPLAINT, ANSWER, COUNTER or CROSS-CLAIMS, any amendments and all proofs of service
5. The JUDGMENT, ORDER or other RULING that is the subject of this appeal or cross-appeal
6. Written motions, responses and replies
7. Exhibits (admitted or not)
8. The record or transcript of the trial

In addition to the items noted above, I request that the following documents also be included in the appeal record:

Date: _____

Appellant/Appellee (circle one)

CERTIFICATE OF MAILING

I CERTIFY that I mailed a copy of this DESIGNATION OF RECORD to:

Appellant/Appellee or Appellant's or Appellee's attorney (circle one) at the address listed above.

Date: _____

By Clerk _____

_____Justice/Municipal/Superior Court (circle one)_____County, AZ

Case No _____

APPELLANT Street: City/State/Zip Phone:	APPELLEE Street: City/State/Zip Phone:
Attorney for Appellant Street: City/State/Zip	Attorney for Appellee Street: City/State/Zip

APPLICATION FOR WAIVER OR DEFERRAL OF FEES AND COSTS

(Limited Jurisdiction Appeal – Civil)

STATEMENT UNDER OATH. I swear or affirm that the information I have provided in this application is true and correct. I make this statement under the penalty of perjury.

NOTE: Sign this application in front of the court clerk or a notary public.

I am requesting a:

1. [] **WAIVER:** I am permanently unable to pay the court fees. My income and assets are insufficient or barely sufficient to meet my basic needs and my financial situation is not likely to change in the foreseeable future. Without a waiver, I will not be able to pursue my appeal.

2. [] **DEFERRAL:** I am temporarily unable to pay the court fees because:

_____Without a deferral,
 I will not be able to pursue my appeal.

NOTE: If you receive a deferral, you will receive a Notice of Court Fees and Costs Due at the completion of your case. You will have thirty (30) calendar days to pay those costs and fees unless you submit another application for deferral or waiver.

3. **GOVERNMENTAL ASSISTANCE:** If you receive governmental assistance, indicate which programs apply below and attach proof to this Application:

- Temporary Assistance for Needy Families (TANF)
- Supplemental Security Income (SSI) for disabilities
- General Assistance (GA)
- Arizona Health Care Cost Containment System (AHCCCS)
- Arizona Long Term Care System (ALTCS)
- Housing Assistance
- Food Stamps
- Other: _____

4. **SUPPORT RESPONSIBILITIES:** List all persons you support (including paying child support and spousal maintenance):

NAME	RELATIONSHIP
_____	_____
_____	_____
_____	_____

5. **MONTHLY INCOME:** My gross (total) monthly income is: _____

6. **EMPLOYMENT:**

- I am employed by _____
Address: _____ (t) _____
- I am unemployed.

7. **STATEMENT OF ASSETS:** List only those assets available to you and accessible without financial penalty. (Equity is defined by market value minus liens or loans.)

Cash/Bank Accounts	\$ _____
Equity in:	
1. Home	\$ _____
2. Other property	\$ _____
3. Cars/other vehicles	\$ _____
Other, including stocks, bonds, etc.	\$ _____
Retirement accounts	\$ _____
TOTAL ASSETS	\$ _____

8. **MONTHLY EXPENSES AND DEBTS:** My monthly expenses and debts are:

Rent/Mortgage	\$ _____	\$ _____
Car	\$ _____	\$ _____
Credit Cards	\$ _____	\$ _____
Household Expenses		
Child care	\$ _____	
Insurance	\$ _____	
Other: _____	\$ _____	
Other: _____	\$ _____	

TOTAL MONTHLY PAYMENTS: \$ _____

9. **EXTRAORDINARY EXPENSES:** (medical expenses, costs of care for elderly or disabled family members, other). (Attach proof of such expenses to this application.)

DESCRIPTION	AMOUNT
_____	\$ _____
_____	\$ _____
_____	\$ _____

TOTAL EXTRAORDINARY EXPENSES \$ _____

ACKNOWLEDGMENT AND SIGNATURE UNDER OATH

Date: _____ Signature: _____

Print Your Name: _____

SUBSCRIBED AND SWORN or affirmed or acknowledged before me on (date) _____
by _____

My Commission expires: _____
Judicial Officer, Clerk or Notary Public

Motion and Affidavit to Waive or Reduce Cost Bond Pending Appeal/Form 4

_____Justice or Municipal Court (circle one), _____, County, AZ

Case No _____

APPELLANT Street: City/State/Zip Phone:	APPELLEE Street: City/State/Zip Phone:
Attorney for Appellant Street: City/State/Zip	Attorney for Appellee Street: City/State/Zip

MOTION and AFFIDAVIT TO WAIVE OR REDUCE COST BOND PENDING APPEAL (CIVIL)

I, _____, the undersigned Appellant, move this Court to waive, or in the alternative, reduce the cost bond in this case.

The reason(s) for my request:

Dated: _____

_____ Appellant

SUBSCRIBED AND SWORN before me this date:

_____ Notary Public/Court Clerk
 My Commission Expires: _____

CERTIFICATE OF MAILING

I CERTIFY that I mailed a copy of this MOTION to:

[] APPELLEE at the address listed above.

Date: _____

By Clerk _____

_____Justice or Municipal Court (circle one), _____, County, Arizona

Case No _____

PLAINTIFF Street: City/State/Zip Phone:	DEFENDANT Street: City/State/Zip Phone:
Attorney for Appellant Street: City/State/Zip	Attorney for Appellee Street: City/State/Zip

MOTION TO VACATE OR MODIFY JUDGMENT (CIVIL)

Motion to VACATE JUDGMENT MODIFY JUDGMENT BY STIPULATION

I am the Plaintiff Defendant.

The reason(s) for my request:

I am asking the Court to:

Date: _____
_____ Plaintiff/Defendant (circle one)

CERTIFICATE OF MAILING

I CERTIFY that I mailed a copy of this MOTION to:

Plaintiff/Defendant (circle one) at the address listed above.

Date: _____ By: _____
Plaintiff/Defendant (circle one)

_____Justice or Municipal Court (circle one), _____, County, Arizona

Case No _____

APPELLANT Street: City/State/Zip Phone:	APPELLEE Street: City/State/Zip Phone:
Attorney for Appellant Street: City/State/Zip	Attorney for Appellee Street: City/State/Zip

MOTION TO _____

I am the [] Plaintiff [] Defendant, and I make this motion because:

I am asking the Court to issue the following Order(s):

Date: _____
_____ Plaintiff /Defendant (circle one)

CERTIFICATE OF MAILING

I CERTIFY that I mailed a copy of this Motion to:
[] Plaintiff or Plaintiff's attorney at the above address.
[] Defendant or Defendant's attorney at the above address.

Date: _____ By: _____

_____ Justice or Municipal Court (circle one), _____, County, AZ

Case No _____

PLAINTIFF/APPELLANT (circle one) Street: City/State/Zip Phone:	DEFENDANT/APPELLEE (circle one) Street: City/State/Zip Phone:
Attorney for Appellant Street: City/State/Zip	Attorney for Appellee Street: City/State/Zip

NOTICE OF CHANGE OF ADDRESS

If your address is protected by Court Order, DO NOT use this form

I am the [] Plaintiff [] Defendant [] Appellant [] Defendant

My address has changed. I request that the Court modify its records accordingly.

My **old** address was: _____

My **old** phone no.: (____) _____

My **new** address is: _____

My **new** phone no: (____) _____

I declare under penalty of perjury that the foregoing is true and correct.

Date: _____

Plaintiff/Defendant/Appellant/Appellee (circle one)