

Representing Yourself: Appealing a Criminal Case to the Superior Court

A GUIDE ON HOW TO APPEAL A CRIMINAL CASE
(INCLUDING CRIMINAL TRAFFIC CASES)
FROM A JUSTICE COURT OR MUNICIPAL COURT
TO THE SUPERIOR COURT

JULY 2008

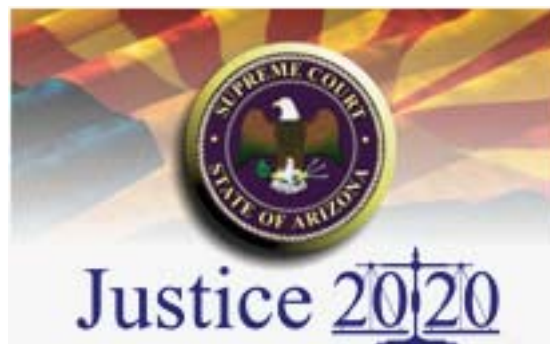


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Introduction

This Guide discusses the steps you must take to appeal your criminal case (including criminal traffic cases) from municipal courts and justice courts to the Superior Court. It does not address civil traffic, civil, juvenile, or industrial commission cases. This Guide also does not discuss appeals from the Superior Court or the Arizona Court of Appeals.

The information presented here is intended to guide you through the Superior Court criminal appeals process. It will not address your specific legal issue. It is not legal advice and may not be used as legal authority.

This Guide is an overview of the *Superior Court Rules of Appellate Procedure – Criminal* (SCRAP-Crim. Rules). It does not replace those rules. You should also check your county's Local Rules because they may be different. You can find a copy of the rules at your local law library or at <http://azrules.westgroup.com/home/azrules/default.wl>. Another helpful resource is the State Bar of Arizona's three-volume treatise on appellate practice entitled the *Arizona Appellate Handbook* which should be available at any law library. You can review the Arizona statutes at www.azleg.state.az.us/arizonarevisedstatutes.asp#.

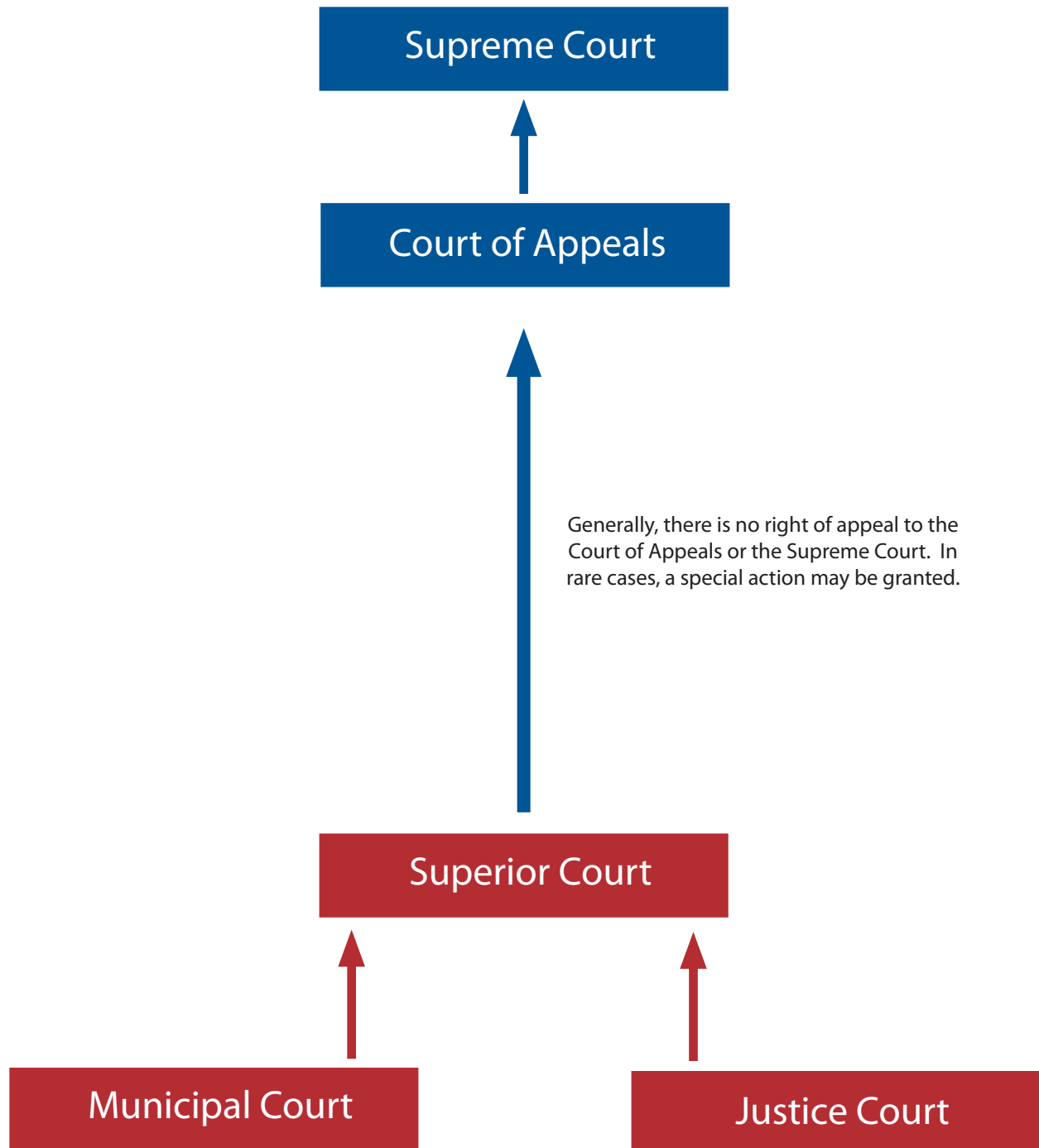
The Superior Court will not retry your case on appeal. In other words, it will not accept or review new evidence and will not decide which witnesses were telling the truth. The Superior Court only reviews the evidence and arguments that were presented to the lower court (the municipal court or justice court). The Superior Court will only reverse the lower court if it finds an error of law that was so important that it likely affected the outcome of the case.

You will not be allowed to talk with or otherwise communicate with the judge about your case outside of scheduled court hearings. Many legal terms are used in this Guide. These terms are defined and explained in **Section VII**, "Important Terms." Some helpful information is provided in **Section VI**, "Frequently Asked Questions".

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, you may 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.

Arizona's Lower Court Appeals Process



Basic Steps of a Criminal Appeal

STEP ONE

Determine whether you can appeal

STEP TWO

Appellant files a Notice of Appeal

STEP THREE

Appellant orders the trial record

STEP FOUR

Appellant arranges for payment

STEP FIVE

Appellant files Memorandum

STEP SIX

Appellee files Memorandum (optional)

STEP SEVEN

Oral Argument (optional)



SUPERIOR COURT DECISION

Filing a Criminal Appeal: Step-By-Step

The following pages describe the most important steps to properly file or defend a criminal appeal. This includes appeals of criminal traffic charges. The legal terms referred to in these steps are defined in **Section VII**.

The party who seeks to have the Superior Court review the lower court's order, ruling, judgment, or sentence entered in a criminal case is called the "Appellant." The party who opposes the appeal is called the "Appellee."

Step 1: Determine whether you can appeal

- A. You may appeal three things: (1) a guilty verdict after your trial or submittal; (2) an order denying a motion for new trial or an order affecting your substantial rights; or (3) an illegal or excessive sentence.
- B. **You may not appeal if you entered a plea of guilty or no contest.**
In certain circumstances, you may ask the lower court to review the guilty or no contest proceedings under Rule 32 of the Arizona Rules of Criminal Procedure.

Step 2: Appellant files a Notice of Appeal

- A. You must file a paper called a "Notice of Appeal" with the clerk of the court in which your case was heard. **Do not file this Notice at the Superior Court.**
- B. The Notice of Appeal must be filed no later than fourteen (14) days after the order, ruling, judgment, or sentence you are appealing. **You must file your Notice of Appeal before the deadline.** If you fail to file your Notice of Appeal on time, the court will dismiss the appeal.
Weekends and holidays are NOT excluded from the deadline. Fourteen (14) days means fourteen (14) days, including Saturday, Sunday, and holidays. 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.
- C. The clerk of the lower court may have a form that you can use for your Notice of Appeal. If not, a Notice of Appeal form is included in this Guide (**Form 1**).
- D. The Notice of Appeal must include your current mailing address and phone number.
- E. **Change of address:** If either your address or phone number changes during your appeal, you must notify the court in writing. A change of address form is attached as **Form 2**.
- F. You must identify the judgment, sentence, ruling and/or order that you want the court to review. Include the date when the action appealed from was entered and the name of the judge who entered the ruling.

- G. You should sign the Notice of Appeal.

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 the Notice to the other party.

Step 3: Appellant orders the trial record

- A. The record on appeal consists of the exhibits and transcripts, audio-recordings, or CDs of the proceedings that are sent to the Superior Court.
- B. Within fourteen (14) days of the order you are appealing, you must decide what items are needed for the record on appeal and then file an original and one copy of **Form 3**, which identifies the items to be included in the record on appeal (**Form 3**).
- C. The Superior Court will not retry your case. Instead, it will review the memoranda filed by the parties and the parts of the record they submit. It is, therefore, very important that the Superior Court is given a record of all of the proceedings that concern the issues you are appealing.
- D. If you believe the Superior Court should review all of the documents and exhibits contained in the lower court's file, write "All records" on the form. If it is not necessary for the Superior Court to review everything in the lower court's file, you may want to limit the record on appeal.

Step 4: Appellant arranges for payment

- A. If you have not been declared an indigent on appeal, you must make arrangements to pay for the record or transcript preparation fees within fourteen (14) days after filing the Notice of Appeal.
- B. The lower court proceeding will have been recorded on CD or audio-tape. Most of the Superior Courts will allow you to use a CD or audio-tape recording of the lower court proceedings for the record on appeal. In such cases, you will order the CD or audio-tape from the lower court clerk and pay for it at the clerk's office. The lower court will give you a copy of the CD or audio-tape and send a copy to the Appellee and the Superior Court.
- C. If the proceeding was more than one hour, a few of the Superior Courts will require the recording to be transcribed. If this is the case, you will need to pay a court-approved transcriber to transcribe the record. Some courts will send the CD or audio-tape to a transcriber for you and provide an estimate of the cost as well as instruction on the method of payment. Others will require you to order and pay for a CD or audio-tape of the proceeding, then locate a court approved transcriber, and make arrangements to have the proceeding transcribed.

The cost of the record varies. CDs and audio-tapes generally cost \$12.00 - \$20.00. Transcripts can be billed by the page or by the hour. Prices generally range from \$3.50 - \$4.00 per page or about \$150.00 per hour. (These are estimates and subject to change.)

Step 5: Appellant files Memorandum

Appellant:

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

Within sixty (60) calendar days from the date your Notice of Appeal was due (this is seventy-four (74) days after the date of the action you are appealing), you must file your Memorandum with the lower court (**Form 4**). You must file the original and one copy. The lower court will send the original to the Superior Court and the copy to the Appellee.

You should make at least one copy for yourself. Have the court clerk date-stamp it for your records so you have proof that you filed it on time.

MEMORANDUM FORMAT

- ° 15 pages or less, not including any exhibits you may want to attach. (The Superior Court will have the records from the trial court proceedings.)
- ° 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.

For example: If you want the Superior Court to consider the testimony of a particular witness, in your Memorandum you should identify the page and line of the transcript where the testimony appears.

If you are 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 lower 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 Superior Court to do.

You cannot attach evidence ("exhibits") to the Memorandum for the Superior Court if you did not already present this evidence to the lower court.

If you want oral argument, you must state "Oral Argument Requested" in the caption on the first page of your Memorandum.

Step 6: Appellee files Memorandum (optional)

Appellee:

After the Appellant files his or her Memorandum, the Appellee has the right to file an Appellee's Memorandum explaining why he or she believes the lower court made the right decision. This is an opportunity to respond to the arguments made in the Appellant's Memorandum and explain why the lower court judgment was correct.

In most counties, the Appellee is not required to file a Memorandum. If an Appellee chooses not to file a Memorandum in those counties, the Superior Court will decide the matter based only on the lower court record and the Appellant's Memorandum. In other counties such as **Gila**, however, the 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 Local Rules for these requirements.

If you decide to file a Memorandum, use the same format discussed in **Step 5** above (**Form 4**). Your Memorandum must be filed within thirty (30) calendar days from the date the Appellant filed his or her Memorandum.

File the original and one copy for the other party. You should make at least one additional copy for yourself. Have the court clerk date-stamp it for your records so you have proof that you filed it on time.

THE APPELLANT DOES NOT HAVE THE RIGHT TO REPLY. An Appellant does not have the right to reply to the Appellee's Memorandum. If an Appellant believes there is a need to respond to issues raised by the Appellee, the Appellant must file a motion requesting the Superior Court's permission to file a reply.

Step 7: Oral Argument

If you requested oral argument in the caption of your Memorandum, the Superior Court will set a time for the parties to appear to discuss the facts and arguments made in the written briefs. The parties will not be allowed to call witnesses or otherwise present new evidence during the oral argument. The parties' presentations may be limited to five (5) or ten (10) minutes.

- A. The Superior Court Clerk will notify the parties when and where the oral argument will be heard.
- B. Oral argument will be at the Superior Court located in the county where your trial took place. **Section VIII** contains a list of the Superior Courts and their locations.
- C. Be on time for oral argument.

Superior Court Decision

When the Superior Court issues its decision resolving the appeal, the Superior Court Clerk will send a copy of the ruling to each party and to the lower court. Many Superior Courts also post their decisions online. **Section VIII** contains a list of the fifteen (15) Superior Courts and their website addresses.

The Superior Court has the authority to issue other orders it deems necessary in the appeals process.

Limitation on Further Review

After your appeal to the Superior Court, you cannot further appeal your case unless it involves the validity of a tax, impost, assessment, toll, municipal fine, or statute. A.R.S. § 22-375. Appeals from the Superior Court to the Court of Appeals are addressed in a separate guide.

The rules also provide a means to request that the Superior Court reconsider its ruling. To do so, you must file a “Motion for Rehearing” in the Superior Court within fourteen (14) calendar days of the date you receive the decision or order. You must include a Memorandum that specifically explains why you believe the court misapplied the law or facts. You should not merely restate the same argument you made in your original Memorandum. The other party will have fourteen (14) calendar days to file a response. You will not be permitted to present an oral argument unless the Superior Court requests it.

Note: A motion for reconsideration does not extend any deadlines for filing an appeal.

In other cases, special action relief may be appropriate. Chapter 7 of the *Arizona Appellate Handbook* is a good source for information on how to prepare a special action.

Trial De Novo (New Trial)

The court may determine that the record of the lower court proceeding is not sufficient to decide the case on appeal. (This could be due to such things as equipment malfunction when the recording of the trial was made.) In such cases, the parties will be notified and a “trial de novo” will be ordered.

If a trial de novo is ordered, a new trial will be held instead of a traditional appeal. Generally, the trial de novo will be held at the Superior Court. In **Maricopa County**, however, it is most often held in the lower court.

Note: If a trial de novo is ordered before the memoranda have been filed, no appellate Memorandum is required.

STEPS FOR A TRIAL DE NOVO

Step 1: Trial de novo is ordered

This process most commonly occurs when the Superior Court determines that the record is insufficient and orders a trial de novo. (Occasionally the lower court may determine that the record is insufficient.) The court will notify you that a trial de novo has been ordered and where the trial de novo will occur.

The court will also give you instructions as to further proceedings. Be sure to follow the court’s instructions.

Step 2: Appellant ensures case is set for trial

The court should notify you of the trial date. If, however, you get notice that a trial de novo has been ordered and do not get notice of a trial date, contact the court clerk where the trial will occur and ask if a trial date has been set. If it has not, file a motion requesting that your case be set for trial (**Form 5**).

Step 3: Prepare your case for trial

If the court has ordered a trial de novo, a new trial will be held in your case. This means you start over. Accordingly, you need to prepare your case for trial by reviewing the evidence, subpoenaing your witness, filing any pre-trial motions you want heard, etc.

If your case is jury eligible and you decide you want to try your case to a jury, you should request a jury trial, in writing, as soon as you receive notice that your case has been set for a trial de novo. In **Maricopa County**, the request for a jury trial must be made within five (5) days of the assignment of your case to a judge or commissioner.

If you want a court reporter to record the proceedings in your case, you should order one no later than five (5) days before your trial.

Step 4: Trial is held

The court will give you written notice of the date, time, and location of the trial. Most often it will be held in

the Superior Court in the county where your original trial was held. In Maricopa County, however, the new trial is usually held before the lower court. **Section VIII** contains a list of the fifteen (15) Superior Courts in Arizona and their addresses.

Step 5: Verdict

After your trial de novo, the court will announce the verdict. If you are found guilty or responsible, you will be sentenced by the judge or commissioner who presided over the trial de novo. **Note:** The court is not required to enter the same sentence that was ordered after your first trial.

Frequently Asked Questions

Question: **What are the Superior Court Rules of Appellate Procedure – Criminal (SCRAP-Crim Rules) and where can I find them?**

The SCRAP-Crim. Rules explain the procedure to follow when appealing a criminal case from a limited jurisdiction court to the Superior Court. They are in the *Arizona Rules of Court* book located at any law library and at <http://azrules.westgroup.com/home/azrules/default.wl>.

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

The Local Rules for each county are in the *Arizona Rules of Court* book located at any law library and 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 legal words I do not 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 <http://dictionary.law.com>.

Question: **What is an appeal?**

An appeal is a court action in which 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: **Is there a filing fee for my criminal appeal to Superior Court?**

No. The lower court may not collect a fee for the criminal appeal itself. Nor may it collect "minimum clerk's fees" or "document research fees" in criminal appeals. There is a fee, however, for the preparation of the record.

Question: **Will I have to pay an appeal bond in my criminal appeal?**

Only if the State requests the court to modify your conditions of release while your case is on appeal and the court grants the request.

Question: **Where do I file my appeal?**

You will file your Notice of Appeal and your Appellant's or Appellee's Memorandum at the court where the proceeding under appeal was held.

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

You must file your Notice of Appeal no later than fourteen (14) days after the ruling or sentence that you are appealing. The court will dismiss the appeal if it is not timely filed.

Question: What is the “record on appeal”?

The “record on appeal” consists of all of the papers filed in the lower court and either the CD record, audio-tape record, or transcripts of hearings. The appellate courts will only consider the record on appeal and the law. Neither party can submit additional papers to the Superior Court that were not part of the record in the lower court.

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 by the court.

Question: Can I get an extension to file my Memorandum over the phone?

No. In order to get more time to file your Memorandum, you must file a written request (**Form 6**). File the original copy with the clerk of the lower court and mail a copy of your motion to the opposing side.

Question: How long will it take for the Superior Court to make its decision?

The time period can vary depending on the nature of the case. Because of the time needed for all the tasks involved in the appeal such as completing the record and transmitting it to the Superior Court, preparing and filing the appellate memoranda, etc., it can take many months or perhaps more than one year.

Question: Can I present new evidence during my appeal?

No. An appeal is based only on the record of the lower court proceedings and the memoranda that the parties file. Even if the Superior Court sets oral argument, you will only be allowed to argue why the lower court erred in its ruling; you will not be allowed to present new evidence.

Question: Who can I call to get legal advice?

A list of organizations offering free or low-cost legal assistance is posted on the Arizona Bar Association’s website at www.azbar.org. To reach the Maricopa County Bar’s referral service call (602) 257-4434. In Pima County call (520) 623-4625.

Question: Can the court appoint an attorney to represent me?

Perhaps. You may have counsel appointed for your criminal appeal only if you were sentenced to jail or probation and you qualify as an indigent.

Question: How do I request a free attorney and to have the State pay for the record on appeal?

To request to have the State pay for your record and for an attorney, you must file both a request to proceed as an indigent on appeal and a sworn questionnaire (**Forms 7 and 8**). These are filed in the lower court. They should be filed as soon as possible after the Notice of Appeal is filed.

APPROPRIATE QUESTIONS FOR THE CLERKS OF THE LOWER COURT OR THE SUPERIOR COURT

This is a list of some things that court personnel can and cannot do for you:

- We can explain and answer general questions about how the court works.
- We can give you general information about court rules, procedures, and practices.
- We can provide you with the telephone number for local lawyer referral services, legal aid programs, and other services where you can get legal information.
- We can provide court schedules and information on how to get a case scheduled.
- We can give you information from your case file that is not restricted.
- We can provide you with court forms and instructions that are available.
- We can usually answer questions about court filing deadlines.

- We cannot give you an extension of time to file your pleadings over the phone. You can only get an extension of time if you file a motion in the trial court and the judge grants it (**Form 6**).
- We cannot tell you whether you should bring your case to court.
- We cannot tell you what words to use in your court papers or whether they are correct.
- We cannot tell you what to say in court.
- We cannot give you an opinion about what will happen if you bring your case to court.
- We cannot conduct legal research for you.
- We cannot talk to the judge for you or let you talk to the judge outside of court.
- We cannot alter court documents.

Important Terms

Affirm – A ruling that the Superior Court agrees with the trial court’s decision.

Anders Appeal – An appeal in which the Appellant merely asks the Superior Court to review the record for fundamental error rather than raising specific issues for appeal.

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

Appellant – The party who brings the appeal.

Appellant’s Memorandum – The paper filed by the party pursuing the appeal (the Appellant). The Appellant’s Memorandum should contain a statement of facts, arguments supporting reversal of the lower court, and a conclusion.

Appellee – The party opposing the appeal.

Appellee’s Memorandum – The paper filed by the party opposing the appeal (the Appellee), in response to the Appellant’s Memorandum. The Appellee’s Memorandum should contain a statement of facts, arguments supporting the lower court’s judgment, and a conclusion.

Arizona Supreme Court – The highest state appellate court in Arizona. The Court is located in Phoenix and has discretion to review decisions from the Arizona Court of Appeals.

Caption – The heading on the first page of any paper filed with the court. It should include: (1) the name of court in which the paper is being filed; (2) the name of the Appellant and Appellee [or Plaintiff and Defendant at the trial stage]; (3) the lower court case number; (4) the Superior Court case number once it has been assigned; and (5) the name of the document that is being filed (i.e. “Notice of Appeal”).

Civil Traffic Case – A case that involves only alleged civil violations of the traffic code; that is, no criminal charges or criminal statutes in the traffic code are associated with the case.

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

Court of Appeals – The second highest court in Arizona. A case appealed from the justice court or municipal court will rarely be considered by the Court of Appeals.

Criminal Case – A case involving alleged violations of the criminal code and criminal violations of the traffic code. Unlike a civil case, a defendant may be sentenced to jail and probation in a criminal case.

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

Defendant – The party who is charged with a criminal traffic violation, a civil traffic violation, or a violation of the criminal code.

Evidence – Evidence consists of the testimony of witnesses, documents or items admitted by the court as exhibits, and facts agreed to by the parties. The Superior Court will only review evidence and arguments presented to the lower court. It will not accept new evidence.

File – To “file” a document is to give it to the clerk’s office at the court where the case is pending. The document will then become part of the case record.

Indigent on Appeal – If you are declared “indigent on appeal” this means that a judge has formally ruled that you qualify for financial assistance with your appeal. You may not be required to pay for the record on appeal. You may also be assigned an attorney to assist with the appeal. The court may require you to contribute to the cost of the appeal and the services of the appointed attorney if the court determines that you can afford to pay a partial amount.

Judgment – The court’s order or ruling.

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

Lower Court – The court in which your case was originally heard. This is the court whose action you are appealing. The Notice of Appeal, Appellant’s and Appellee’s Memoranda, and motions for extension of time to file memoranda must all be filed in this court.

Memorandum – A document written by a party and submitted to the lower court for the purpose of appellate review. A Memorandum explains to the Superior Court why the lower court’s decision should be overturned or affirmed.

Motion – A motion is a paper filed with the lower court or the Superior Court asking the court to grant a request. For example, a motion is filed in the lower court for an extension of time to file your Memorandum.

Municipal Court – A lower, limited jurisdiction court.

Notice of Appeal – A paper that informs the lower court and other parties that one party to a lower court action is appealing the court’s final order or judgment. It must be filed in the lower court within fourteen (14) days after the date of the order, ruling, judgment, or sentence appealed. If the Notice of Appeal is not timely filed, the court will dismiss the appeal.

Oral Argument – An opportunity for the parties to appear in person at a time set by the Superior Court to personally explain why the lower court’s decision should be overturned or allowed to stand.

Order – A written direction or command by a court or judge.

Party – A party in a criminal case is a person that either brings or defends against the charges. It is either the state or the defendant.

Plea of Guilty, No Contest, or Responsible – These pleas are admissions to the charges by the defendant. A defendant may not appeal any of these pleas.

“Pro Se” or “Pro Per” Litigants – These are persons who represent themselves in a court of law without the assistance of an attorney.

Record on Appeal – The record on appeal consists of: (1) all papers filed in a case with the clerk of the lower court; (2) all exhibits admitted by the lower court judge; and (3) all transcripts, CD records, or audio-tapes of any and all proceedings for that case. The parties must take steps to ensure that the Record on Appeal includes all necessary portions of the CD record, audio-tapes, or transcripts of proceedings that took place in the lower court.

Remand – An action whereby the Superior Court returns the case to the lower court for further action.

Reply Memorandum – This is a paper that the Appellant may file in response to the Appellee’s Memorandum only if the court gives permission. The Reply Memorandum should respond to the arguments in the Appellee’s Memorandum and should not re-urge the same arguments that were made in the Appellant’s Opening Memorandum.

Reversal – A ruling in which the Superior Court finds the trial court committed an error that was so important it likely affected at least part of the outcome of the case.

Rule 32 – A rule found in the *Arizona Rules of Criminal Procedure*. If a defendant enters a plea of guilty or no contest in a criminal case, the defendant may not appeal. The defendant may only pursue review of the lower court proceeding through Rule 32. The lower court clerk may have a form to use if you wish to file a Rule 32 petition.

Submittal – A submittal occurs when the parties in a case let the trial judge decide the matter based upon the police reports and any other agreed upon evidence that is given to the judge. A submittal is a process used instead of a trial. Unlike a guilty plea or admission of responsible, a defendant may appeal from the ruling entered after a submittal.

Superior Court – In criminal appeals from municipal or justice courts, this is the court that will decide your appeal. There is one Superior Court in each of Arizona’s fifteen (15) counties.

Transcripts – These are scripts prepared by a court reporter or from a CD or audio-tape recording. They contain an exact record of what was said and done in proceedings that took place in the lower court. The Superior Court generally uses a CD or audio-tape record when deciding appeals; however, depending upon the length of the record for your appeal, a transcript may be required.

Trial Court – The lower court (justice court or municipal court) where your trial or hearing was held.

Trial De Novo – A new trial in which the entire case is retried as if no trial had been held in the first instance. The court will order a trial de novo when the Record on Appeal is damaged or otherwise inadequate to decide the appeal.

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>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>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>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>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>	

FORMS

Notice of Appeal for Criminal Case / Form 1
(Form 2 SCRAP-Crim.)

(Appropriate Court)

STATE OF ARIZONA,	)	CASE NO. _____
)	
Plaintiff,)	
	)	DEFENDANT'S NOTICE OF APPEAL
vs.	)	(Criminal)
)	
_____,)	
)	
Defendant.)	
_____)	

Date/Time Stamp
By:

The undersigned appeals from the final order or final judgment in the above case as follows:

Appellant understands: (1) the instructions set forth in the "Notice of Right to Appeal," including payment for a copy of the record or certified transcript; (2) the need to post bond to stay enforcement of the judgment unless released on "own recognizance;" (3) filing an original and copy of the Appellant's Memorandum with the trial court; and (4) that failure to complete all stages in the appeal may result in the dismissal of the appeal and reinstatement of the trial court judgment.

The following address may be used for all court notices. The court will be notified IN WRITING of any change of address. Defendant's current mailing address must be PRINTED here, even if defendant is represented by counsel:

Street _____ Apt./Unit No. _____

City, State _____ ZIP _____

(Daytime Phone) _____

Dated: _____

Defendant

Change of Address or Phone Number / Form 2

(Appropriate Lower Court)

STATE OF ARIZONA,)
)
 Appellee,)
)
 vs.)
)
 _____,)
)
 Appellant.)
 _____)

__ (Lower Court No. __) or
(__ County No. __)

NOTICE OF CHANGE OF ADDRESS OR
PHONE NUMBER

I am the Appellant in this case and my [] address [] phone number has changed

My old address was:

Street _____ Apt./Unit No. _____

City, State _____ ZIP _____

My new address is:

Street _____ Apt./Unit No. _____

City, State _____ ZIP _____

My old phone number was:

(Daytime Phone) _____

My new phone number is:

(Daytime Phone) _____

Dated: _____

Defendant: _____

Designation of Record on Appeal / Form 3

(Appropriate Lower Court)

STATE OF ARIZONA,)	
)	
Appellee,	)	___ (Lower Court No. ___) or
	)	(___ County No. ___)
vs.)	
)	
_____,	)	DESIGNATION OF
	)	RECORD ON APPEAL
Appellant.)	
_____)	

Appellant designates the following items as the record on appeal: ___ [List of testimony, exhibits or items to be included.]

(Date)

(Name and address for Appellant)

*Sample Memorandum and Request for Oral Argument / Form 4 – Page 1 of 3
(for use with Appellants or Appellees)*

(TRIAL COURT)

STATE OF ARIZONA,

Appellee,

vs.

_____,

Appellant.

)
)
)
)
)
)
)
)
)
)
)

No. _____

(Oral Argument Requested)

(APPELLANT'S MEMORANDUM)
(APPELLEE'S MEMORANDUM)

(Name and address)

(Appellant) (Appellee)

Continued

STATEMENT OF FACTS

(Facts and procedural history, with references to the record, double spaced.)

ARGUMENT

I. ALL CAPITAL LETTERS. NOT UNDERLINED.

A. Initial Caps and Underlined.

1. Lower case and underlined. (If there is a heading.)

XXXXXX DOUBLE SPACED WITH CITIATION TO AUTHORITY XXXXXXXXXXXXX
XX.

II. ALL CAPITAL LETTERS. NOT UNDERLINED.

A. Initial Caps and Underlined.

1. Lower case and underlined. (If there is a heading.)

XXXXXX DOUBLE SPACED WITH CITIATION TO AUTHORITY XXXXXXXXXXXXX
XX.

CONCLUSION

XXXXXXXXXXXXXXXXXXXX DOUBLED SPACED XXXXXXXXXXXXXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXXXX STATE REMEDY SOUGHT ON APPEAL XXXXXXXXXXXXXXXXXXXX.

Respectfully submitted,

By _____

Name and address)
(Appellant) (Appellee)

Continued

APPENDIX

(Name and address)
(Appellant) (Appellee)

SUPERIOR COURT OF ARIZONA
_____ COUNTY

STATE OF ARIZONA,)
)
 Appellee,)
)
 vs.)
)
 _____,)
)
 Appellant.)
 _____)

Superior Court No. _____

MOTION TO SET TRIAL

Appellant moves this court to set the appeal in the above-entitled cause for a trial *de novo*.

(Date)

(Name and address)(Appellant)

Copy of the foregoing
(mailed) (delivered) this
____ day of _____,
20____, to:

(Opposing Counsel)

By _____

Motion for Extension of Time for Filing Memorandum / Form 6

SUPERIOR COURT OF ARIZONA
_____ COUNTY

STATE OF ARIZONA,)
)
 Appellee,)
)
 vs.)
 _____,)
)
 Appellant.)
 _____)

County No. _____

MOTION FOR EXTENSION
OF TIME FOR
FILING MEMORANDUM

_____ (Appellant) (Appellee), moves this court to extend the time for filing the (Opening) (Answering) Memorandum to _____ (date) because of the following exceptional circumstances: [List exceptional circumstances justifying delay and date upon which work can be completed.]

(Date)

(Name and address)
(Appellant or Appellee)

Copy of the foregoing
(mailed) (delivered) this
_____ day of _____,
20____, to:

(Opposing Counsel)

By _____

Request to Proceed as an Indigent on Appeal / Form 7

(Appropriate Lower Court)

STATE OF ARIZONA,)
)
 Plaintiff,)
)
 vs.)
)
 _____,)
)
 Defendant.)
)
 _____)

No. _____

REQUEST TO PROCEED AS
AN INDIGENT ON APPEAL

The defendant, who has filed a Notice of Appeal in the above-entitled cause, moves this Court to enter an order allowing the defendant to proceed as an indigent on appeal and to appoint counsel to aid in the preparation of the appeal.

(Date)

Name and address
of Defendant

*Defendant's Financial Statement and Request for
Appointment of Counsel (Standard Form 5, 17 A.R.S.) / Form 8*

(Appropriate Court)

STATE OF ARIZONA,)	
)	
Plaintiff,	)	(Lower Court No. _____) or
	)	(County No. _____)
vs.)	
)	
_____	)	DEFENDANT'S FINANCIAL
	)	STATEMENT AND REQUEST FOR
Defendant.	)	APPOINTMENT OF COUNSEL
_____)	

I. Financial Statement.

1. What is your monthly income? _____.
2. Do you own a home? If so, give its value _____.
3. Do you have any savings? If so, how much? _____.
4. Do you have any outstanding loans? If so, how much? _____?
5. Do you have any other property which is not needed by your family for day-to-day living which you could use to pay for an attorney? _____
Describe _____
Approximate value _____

II. Request for a lawyer.

1. Do you want the court to appoint a lawyer to represent you on appeal in this case?
 Yes No
If yes, answer the following:
 - a. Are you able to obtain the services of a lawyer? Yes No
 - b. If the answer to a. is "No" state your reason. _____

 - c. Approximately how much can you afford to contribute to the cost of a lawyer to represent you in this case? _____

Under the penalties of perjury, I declare that I have examined the above statements made by me and to the best of my knowledge and belief each and all are true and correct.

Signed _____

Dated _____