



STATE OF ILLINOIS FOURTH DISTRICT APPELLATE COURT GUIDE TO BRINGING AN APPEAL

This guide is limited to explanation of the major steps you must take in bringing an appeal to the Illinois Fourth District Appellate Court. It does not provide guidance regarding the substance of any motions you may file or the arguments you should present in your brief. Below are some important facts.

The burden is on you to show that the trial court erred. In many types of cases, the standards of appellate court review require this court to show deference to the trial court's decision. As a result, statistics show that the court affirms the trial court in the majority of appeals brought before it.

You are responsible for all costs in bringing the appeal. The expenses in bringing an appeal include payment to the circuit court clerk for the preparation of the record on appeal and to the court reporter for preparation of the report(s) of proceeding(s). The cost depends on the number of pages involved. You must also pay the \$25 filing fee to the appellate court. You are required to provide nine copies of your brief to the court and three copies to the opposing party. Any motion or response to motion filed in your case requires an original and three copies filed with the court.

You are required to comply with the Supreme Court Rules governing your appeal. All of these rules are necessary to allow the court to properly review trial court's decision. For example, if you are going to argue that the trial judge made the wrong decision based on the evidence, you must provide a report of proceedings so the court can determine what that evidence was. The court cannot rely on your version of the evidence any more than the court can rely on your opponent's version. You must provide the unbiased and official report of proceedings prepared by the court reporter.

SUPREME COURT RULES

The Illinois Supreme Court's official website with useful information is found at <http://www.state.il.us/court/>
The Supreme Court Rules are located at <http://www.state.il.us/court/SupremeCourt/Rules/default.asp>
The Fourth District Local Rules are located at: <http://www.state.il.us/court/AppellateCourt/LocalRules/4th.pdf>

The Supreme Court Rules set forth all procedures for bringing your appeal. You must read and follow these rules. Supreme Court Rules 301 through 400 govern civil appeals. Supreme Court Rules 601 through 700 govern criminal appeals. Rule 612 makes a number of the civil rules, such as preparation of your brief, applicable to criminal appeals. Additionally, the Fourth District local rules outline further requirements.

Most public libraries can provide you with access to the Internet. Many libraries, including your local courthouse law library, will have copies of the Supreme Court Rules. Always ensure that you are using the most current version. If you are incarcerated, the institution law library has a copy of the Supreme Court Rules.

PROSECUTING YOUR APPEAL

SERVICE - A copy of anything you file with the court must be served on either the appellee or, if the appellee has an attorney, the appellee's attorney. See Supreme Court Rules 11 and 12 for service and proof of service instructions.

NOTICE OF APPEAL - Appeals generally begin with the appellant filing a timely notice of appeal in the circuit court clerk's office. A notice of appeal is timely if filed within 30 days of the final judgment in the circuit court. Supreme Court Rules 303(d) and 606(c) provide procedures for obtaining extensions to file late notices of appeal. There are several exceptions to the 30-day rule. One is under Supreme Court Rule 307(d), interlocutory appeals from orders granting or denying temporary restraining orders, which must be filed and briefed within two days of the order.

If you fail to file a timely notice of appeal, the court will not have the authority to hear your appeal. You may file a timely and proper motion for leave to file a late notice of appeal and request that the court grant you leave to proceed. Be sure your motion is in compliance with the Supreme Court Rules.

There are different types of appeals. You must determine which one applies to your case. The Supreme Court Rules governing notices of appeal are as follows. **Civil appeals:** Supreme Court Rules 301-306, 306A, 307, 308 and 311(a). **Criminal appeals:** Supreme Court Rules 602, 603, 604, 605, 606, 607 and 651. See also 660, 662 and 663.

DOCKETING STATEMENT - The docketing statement for **civil** appeals is found in Supreme Court Rule **312** and the docketing statement for **criminal** appeals is found in Supreme Court Rule 606(g). The docketing statement is due 14 days after you file your notice of appeal with a \$25 fee to the appellate court clerk. After filing the docketing statement, the appellate clerk will send you a calendar of the due dates for everything else you must file in your appeal.

RECORD ON APPEAL - You must arrange for the circuit court clerk's office to file the record on appeal. You may also need to arrange for the court reporter(s) to file the reports of proceedings with the circuit court clerk. The record on appeal is crucial for the appellate court to review the rulings of the trial court as they relate to the issues you are raising. At a minimum, this means the circuit court clerk must file the common law record consisting of all pleadings, orders and other documents filed in the trial court with any exhibits which were before the trial court. If you are raising issues related to the evidence before the trial court, or anything that was said to or by the trial judge, you must file a report of proceedings. This is an official transcript prepared by, and must be filed by, a court reporter. If your hearing was not recorded, you have the option of having the circuit court certify a bystander's report or getting your opponent to agree to a statement of facts. Your opponent does not have to agree, and often will not. For guidance on preparing and filing a bystander's report, see Supreme Court Rule 323(c). Both you and your opponent will need to use the record on appeal while preparing your brief. Contact the appellate court clerk's office for guidance on checking out the record. **The record on appeal must be returned to the appellate clerk, unaltered, with your brief.**

MOTIONS - You may file a motion at any time after you have filed the notice of appeal. The most common is a request for an extension of time to file the brief. Supreme Court Rule 361 is the general rule regarding motions in civil appeals. Supreme Court Rule 305 sets forth how to file a motion to stay a civil judgment. In criminal cases, Supreme Court Rule 610 incorporates Rule 361 and adds several requirements. Supreme Court Rule 609 sets forth how to file a motion for a stay of your conviction or sentence.

BRIEFS - Supreme Court Rules 341 and 342(a) tell you how to prepare your brief in both civil and criminal appeals. Paragraph (h) of Rule 341 lists the parts of an appellate brief. All of these parts must be in your brief and you must document your citations to the record on appeal each time you make a factual statement in your brief. If you do not cite to the record, your brief may be stricken and you may be given one more chance to file a proper brief. Failure to file a proper brief the second time may result in dismissal of your appeal.

PETITION FOR REHEARING - You have the right to file a petition for rehearing from the appellate court's decision. To file this petition, you must comply with Supreme Court Rule 367.

PETITION FOR LEAVE TO APPEAL TO THE ILLINOIS SUPREME COURT - You also have the right to petition for leave to appeal from this court's decision to the Illinois Supreme Court. To do so, you must comply with Supreme Court Rule 315.