



MARICOPA COUNTY JUSTICE COURTS

If you want to file a...

CIVIL TRAFFIC APPEAL



MARICOPA COUNTY JUSTICE COURTS

PLEASE READ CAREFULLY

The Notice of Right to Appeal outlines appeal process procedures and contains important deposit information.

Appellant is the party filing the appeal
Appellee is the opposing party
Trial Court is the Justice of the Peace Court

Attached:

Notice of Right to Appeal
Notice of Appeal
Sample Memoranda (an example of what is required to be set forth in the Memorandum)
Blank Memoranda (for filing with the court)
Notice of Change of Address



Maricopa County Justice Courts, Arizona

STATE OF ARIZONA
vs.

CASE NUMBER: _____

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

Defendant _____

A party may appeal a final order or final judgment entered in a civil traffic case. This notice explains your rights and responsibilities to file an appeal from such an order or judgment. If you file an appeal you are the APPELLANT. The Justice Court is called the Trial Court.

THE APPEAL PROCESS

There are two separate stages to the appeal process. The first stage begins in the Justice Court and the second stage takes place in the Superior Court. You must complete ALL steps at both stages or you risk having your appeal dismissed. This notice does not set forth all the rules that govern the appeal process. You may review the complete rules at the library as contained in the Rules of Procedure in Civil Traffic Violation Cases and in the Arizona Revised Statutes. It is recommended that you keep a copy of all your documents during the appeal process.

STAGE ONE - THE TRIAL COURT

THE NOTICE OF APPEAL To appeal you must file a NOTICE OF APPEAL with the trial court within fourteen (14) calendar days from the final order or final judgment. If you do not file a NOTICE OF APPEAL within the time allowed by law, you lose the right to appeal. On the NOTICE OF APPEAL you must specify the actual charge or violation you are appealing.

APPEAL FEES On or before the deadline to appeal you must pay an appeal fee. The fee includes the cost of a copy of the taped proceedings; a certification of the appeal record; and the transmittal of the record on appeal to the Superior Court. The court will accept CASH, CHECK, CREDIT CARD or MONEY ORDER.

THE RECORD The justice court record is made by CD or video. The court will contact you to pick up a copy of the CD or video within ten (10) days after you have paid the required fees. If the proceedings are more than 90 minutes in length, it will be necessary for you to pay a court reporter to prepare a transcript (a typed record) of the proceedings, You can find a listing for COURT REPORTERS in the yellow pages of the telephone book. The transcript must be filed with the trial court before, or at the same time, you file your memorandum (see FILING THE APPELLANT'S MEMORANDUM).

POSTING A BOND TO STAY JUDGMENT It is not required that you post a bond in order to exercise your right to appeal. However, the civil traffic judgment usually includes a penalty (monetary fine) and, for moving violations, points assessed to your drivers license. In some cases the court may have suspended your license or registration as part of its decision. These penalties are NOT stopped just because you have filed an appeal. In order to stop these penalties from being imposed, you must post a bond with the trial court. The amount of the bond is the total amount of the penalty ordered by the trial court, unless that court orders that the bond be reduced or waived. If you do not post bond to stay enforcement, then the order to pay is still in force and must be complied with. **IF YOU DO NOT POST BOND AND YOU DO NOT TIMELY PAY ANY IMPOSED PENALTY, YOUR LICENSE COULD BE SUSPENDED WITHOUT FURTHER NOTICE.** Additionally, if the penalty is not paid in full on the same day it is imposed (or posted as a bond or deposit), a \$20.00 time payment fee will be added pursuant to ARS 12-116A.

THE WRITTEN APPELLANT'S MEMORANDUM You will need the record for the next step - the APPELLANT'S MEMORANDUM. The appellant's memorandum is your written "brief" or explanation of why the trial court ruling was legally wrong. Your memorandum should refer to specific portions of the record of the trial or hearing to point out where there was error by the court (that is why a written record must be prepared). The memorandum should be typed or printed on letter-sized white paper, double spaced, and not exceed 15 pages in length. You may also attach any exhibits from the trial or hearing to the memorandum.

FILING THE APPELLANT'S MEMORANDUM (within 60 days) The APPELLANT'S MEMORANDUM must be filed with the trial court within 60 calendar days of the deadline to file the NOTICE OF APPEAL. Type or print the caption of the case and your case number at the top of your memorandum. Type or print the title, APPELLANT'S MEMORANDUM, below the caption so that the court can identify it when it is filed. If you are not represented by an attorney you must file the original and one copy of the memorandum with the trial court. If an attorney represents you, your attorney must file the original memorandum with the trial court. Your attorney will be responsible for sending copies as necessary to the opposing side. The opposing side will then have 30 days to file an APPELLEE'S MEMORANDUM in response.

WAIT FOR FURTHER INSTRUCTIONS Once the memorandum has been filed, you should wait for further instructions from the Superior Court as outlined in Stage Two. Remember that the trial court must have your current mailing address at all times to keep you informed. Even if you hire an attorney your address is still required for legal notifications.

STAGE TWO - THE SUPERIOR COURT

PAYING THE APPEAL FEE IN SUPERIOR COURT If you have completed all of the steps of the first stage, your case moves to Superior Court where an appeals judge will review the case. About 60 days after you file your memorandum with the trial court, you will receive notification that your case has been sent to Superior Court. This notice will 1) assign a Superior Court case number to use in all further correspondence; and, 2) instruct you to pay the Superior Court filing fee. You must pay this filing fee or your appeal may be dismissed and your case sent back to the trial court. Again, if you cannot afford to pay the filing fee, contact the Superior Court clerk for information about a waiver or deferral to make payment later. For more information, you may contact Superior Court at 602-506-4164.

SUPERIOR COURT ACTION ON THE APPEAL If you have completed all of these steps, you will receive a ruling from the Superior Court. The Superior Court has the right to affirm the trial court; overrule the trial court; modify some of the trial court's decision; or, if the record is not clear, order a new trial in the trial court. If the final outcome of your case is that the ruling stands, or if your appeal is dismissed for any reason, the court may use any bond, deposit or payments made to satisfy any obligation you may have under the original judgment. You may have to return to the trial court to receive further instructions.

REMINDER: The appeal will not be sent to Superior Court until you have met all of the following requirements:

Filed a timely NOTICE OF APPEAL (*within 14 days from the judgment or final order*)

Paid the appeal fee

Make arrangements with any court reporter or transcriber to pay any record or transcript preparations fees (*within 14 days from the final order or final judgment - if the record is longer than 90 minutes*)

Prepare and file a transcript, if required (*within 74 days from the judgment or final order*)

Filed the Memorandum (*within 74 days from the judgment or final order*)

I also understand that a \$20.00 time payment fee will be added to any penalty not paid in full on the same day it is imposed and that I have the right to post a bond to stay enforcement of the judgment. I hereby acknowledge receipt of a copy of this notice.

Date: _____ Defendant _____

Name: _____
 Mailing Address: _____
 City, State, Zip: _____
 Daytime Phone / Alternate Phone: _____



Maricopa County Justice Courts, Arizona

Court name / address / phone

_____))
 _____))
 _____))
 _____))
 Appellant Name / Address / Phone
 VS. _____))
 _____))
 _____))
 _____))

CASE NUMBER: _____
 LC CASE # _____

- APPELLANT MEMORANDA
- APPELLEE RESPONSE MEMORANDA
- ORAL ARGUMENT REQUESTED (Check this box if you want to present an oral argument in the Superior Court)

Appellee Name / Address / Phone

Sample MEMORANDUM

The Memorandum

1. Is due to be filed with the court within 60 calendar days of the deadline to file the Notice of Appeal
2. Must not be more than 15 pages in length.
3. Must be typed or legibly printed on single sided 8.5 x 11 " white paper and double-spaced (except for quotations).
4. If you are not represented by an attorney you will need to file the original memorandum with the court, along with one copy for every other party.
5. If the record of proceedings were longer than 90 minutes, at the same time the memorandum is filed with the court , you must also file a prepared transcript of the proceedings .

STATEMENT OF THE CASE

A short statement of the facts of the case. This should include a short review of the testimony and a brief summary of the facts as presented in the Justice Court.

STATEMENT OF THE FACTS

Specific reference should be made to the portion of the recorded proceedings or transcript wherein you contend the trial court erred. A concise argument of the legal issues and any supporting legal authority (statute, rule, case precedent, etc.) relating to your position. 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.

REASONS WHY THE JUSTICE COURT RULED INCORRECTLY

A statement explaining exactly what you are asking the court to do.

CONCLUSION

The conclusion should state exactly what the appellant is requesting the Superior Court Judge to do.

Respectfully submitted this date: _____
 Appellant

CERTIFICATE OF MAILING / DELIVERY

If you are not represented by an attorney you must file the original, and one additional copy of the memorandum with the trial court. The trial court will mail a copy of the memorandum to the opposing side.

If an attorney represents you, you will only need to file the original memorandum. Your attorney will be responsible for filing original with the trial court and for sending copies as necessary to the opposing side.

The opposing side will then have 30 days to file an APPELLEE'S MEMORANDUM in response.



Maricopa County Justice Courts, Arizona

CASE NUMBER: _____

Plaintiff(s) Name / Address / Email / Phone

Defendant(s) Name / Address / Email / Phone

Attorney for Plaintiff(s) Name / Address / Email / Phone

Attorney for Defendant(s) Name / Address / Email / Phone

NOTICE of CHANGE OF ADDRESS

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

I am the Plaintiff Defendant in this action.

I hereby notify the court and all parties to this action that my address has changed.

My **OLD** address is: *Please Print*

Street _____

City, State Zip _____

Phone () -

E-Mail _____

My **NEW** address is:

Street _____

City, State Zip _____

Phone () -

E-Mail _____

Date: _____

Plaintiff Defendant

I CERTIFY that a copy of this document has been or will be mailed on _____ to:

Plaintiff at the above address Plaintiff's attorney Defendant at the above address Defendant's attorney

Date: _____ By _____
Signature