

RIGHT TO APPEAL – CIVIL TRAFFIC

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

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 audiotape, CD or video. The court will contact you to pick up a copy of the audiotape, CD or video within 10 days after you have paid the required fees.

If the taped 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 You cannot be forced to 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 602-506-3247.

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.