

AJO JUSTICE COURT
111 La Mina Avenue, Ajo, AZ 85321

Eviction Appeal Instructions

Rules 4,6,7,8, and 9 Arizona Rules of Appellate Procedure - Civil

Either party may appeal from Justice Court to the Superior Court of the county in which the judgment is given by filing notice as in other civil actions with the Justice Court within five (5) calendar days after rendition of the judgment. The notice of cross-appeal shall be filed with the Justice Court within ten (10) calendar days after the entry of the judgment. A party seeking to appeal a judgment shall file a Notice of Appeal and a bond for costs on appeal. A party seeking a stay of execution of judgment (to remain in the apartment or home) pending the appeal, must post a supersedeas bond with the Justice Court within five (5) calendar days of the judgment.

An appellant memorandum must be filed in the Justice Court within ten (10) calendar days after the rendition of the judgment (see attached instructions) in order that the appeal be perfected and forwarded to Superior Court. Failure to file the memorandum in the specified time frame will be viewed as abandonment of the appeal, the appeal will be dismissed and no further Court action will result.

FEES:

- The Forcible Entry and Detainer Notice of Appeal must be filed with the Justice Court within five (5) Court calendar days of the Judgment.
- The cross-appeal must be filed with the Justice Court within ten (10) calendar days of the Judgment.
- The person filing the appeal must pay a (\$24.00) appeal fee.
- The person filing the cross-appeal must pay a (\$24.00) cross-appeal fee.
- An audio copy of the proceedings must be ordered and paid (\$20.00) when filing your appeal.

SUPERSEDEAS BOND FOR POSSESSION AND PERIODIC RENT PAYMENTS:

If the appellant is seeking a 'stay of execution' of the Judgment for Possession, a supersedeas bond must be posted. This will stay the eviction process while the appeal is pending. Pursuant to A.R.S. §12-1179D, the supersedeas bond amount is determined by the amount of rent accruing from the date of judgment until the next periodic rental date, together with court costs and attorney fees. It should be noted that the tenant shall pay to the Justice Court, on or before each periodic rental due date during the pendency of the appeal, the amount of rent due under the terms of the lease or rental agreement.

SUPERSEDEAS BOND FOR DAMAGES:

If the appellant is seeking a 'stay of execution' of the Judgment for Money Damages, a supersedeas bond must be posted. Pursuant to A.R.S. §12-1179F, the supersedeas bond amount is determined by the amount of the judgment, together with costs and attorney fees, is fixed by the Court and payable to the Justice Court.

BOND FOR COSTS ON APPEAL:

When a party files a Notice of Appeal on an Eviction case, a bond for costs on appeal must be posted. In addition to the above fees, the cost bond required is \$50.00 when the plaintiff appeals and \$75.00 when the defendant appeals and is paid to the Justice Court.

AFFIDAVIT IN LIEU OF BOND:

If a party is unable to post the bond for costs on appeal, they must file with the Justice Court the Notice of Appeal along with an affidavit stating they are unable to, and the reason(s) they cannot, post the bond.

OBJECTIONS:

Within five (5) calendar days after filing the affidavit, any other party may file, in the Justice Court, an objection to the affidavit. If there is an objection, the Court will hold a hearing within five (5) calendar days. Subsequently, if the Court sustains the objection to the affidavit, the appellant must post the required costs on appeal bond within five (5) calendar days and a new bond that complies with the Court's order.

AJO JUSTICE COURT
111 LA MINA AVENUE, AJO, ARIZONA 85321

Plaintiff _____ Address _____ City _____ State _____ Zip _____ Phone Number _____	Notice of Eviction Appeal _____ Case Number	Defendant _____ Address _____ City _____ State _____ Zip _____ Phone Number _____
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Indicate by your initials in each box below that you read and understand each statement; indicate by N/A if that particular statement does not apply in your case.

- My appeal is timely because this Notice of Eviction Appeal was filed within 5 days of the date the judgment was rendered, given to me in Court, and/or mailed to me by the Court.
- I'm filing an Affidavit of inability to post bond. I understand that the opposing party can file objections and that a hearing may be held.
- I'm filing a Cost Bond which has been set by the court in the amount of *\$_____ payable to the Clerk of the Justice Court (A.R.S. §12-1179b). ***I understand that this does not stay the Writ of Restitution and/or the execution of the money judgment.***
- I'm filing a Supersedeas Bond for possession in the amount of *\$_____ payable to the Clerk of Justice Court, which is the amount of the rent accruing from the date of judgment until the next periodic rental date with costs and attorney fees, if any. ***This stays the Writ of Restitution (A.R.S. §12-1179d).***
- I understand that I must make my next monthly rent payment in the amount of *\$_____ and any following monthly rent payable and deposited on or before it's due date with the Clerk of the Justice Court, until final resolution of this case (A.R.S. §12-1179b).
- I understand that if rent is now due it will be attached to this form.
- I'm filing a Supersedeas Bond for money damages in the amount of *\$_____ payable to the Clerk of Justice Court, which is the amount of the judgment, costs and attorney fees, if any (A.R.S. §12-1179f). ***This stays the execution of the money judgment.***
- I understand that I must pay for an audio copy of the proceedings.
- I further understand that I must pay the required filing fee in Superior Court once I receive the notice from them unless my fees have been waived.
- If the Supersedeas Bond is not deposited, I understand that I must vacate the premises and a writ of restitution can be issued against me.

***CASHIER'S CHECKS OR ATTORNEY TRUST CHECKS PAYABLE TO THE CLERK OF JUSTICE COURT.**

_____ Date _____ Appellant

CERTIFICATE OF MAILING

Copy mailed to Appellee _____ By: _____ Date _____
Clerk

<p>_____</p> <p>PLAINTIFF</p>	<p>CASE NO.</p> <p>_____</p> <p>NOTICE OF RIGHT TO APPEAL</p> <p>(CIVIL)</p>	<p>_____</p> <p>DEFENDANT</p>
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A party may appeal a final order or final judgment entered in a civil case. This notice explains your rights and responsibilities to file an appeal from such an order or judgment. The appeal procedure is set forth in the “Superior Court Rules of Appellate Procedure - Civil.”

There are two separate stages to the appeal process. The first stage begins in this court; the second stage takes place in the county Superior Court. Remember, you must complete all steps at both stages, or you run the risk of having your appeal dismissed. This notice does not set forth all the rules that govern civil appeals. To read them entirely, you may review the Arizona statutes and civil appellate rules at the library. It is recommended that you keep a copy of all your documents during the appeal.

STAGE ONE - THE TRIAL COURT

1. **THE NOTICE OF APPEAL.** To appeal, you must file a “Notice of Appeal” with the trial court clerk within 14 calendar days from the date of the final order or final judgment. If you do not file a “Notice of Appeal” within these 14 days, you lose the right to appeal. In your Notice of Appeal, be sure to specify the specific judgment or order you are appealing.
2. **THE RECORD.** On or before the 14-day deadline to appeal, you must also pay for a copy of the proceedings at the hearing. The copy may be a recording or a transcript. The clerk will explain which type of record is required. Payment must be in cash or other method explained by the clerk. If you cannot afford to pay for the record, ask the clerk for information about a waiver or extension (“deferral”) to make payment later. If you fail to pay for the record or transcript, your appeal may be dismissed. Additional copies of the hearing may be obtained for an additional charge. Also, within the 14-day period you must “designate the record” with the court by filing a formal “list” of the items you want included in the record on appeal.
3. **POSTING A “SUPERSEDEAS” AND “COST” BOND ON APPEAL TO STAY JUDGMENT.** You cannot be forced to post a bond in order to exercise your right to appeal. However, if the judgment you are appealing includes a sanction (monetary fine) or money judgment against you, the other party can pursue collection even though you have filed a timely notice of appeal. No bond is required to appeal an order granting an order of protection or injunction against harassment. In order to stop collection efforts while your appeal is pending, you must post a “supersedeas” bond with the trial court. The amount of the bond is the total amount of the judgment ordered by the court unless the trial 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. Also, the rules require you to post a “cost” bond (which covers the expenses for filing fees, witness fees, and other items) with the trial court.
4. **THE WRITTEN APPEAL MEMORANDUM.** Within a few days after you have paid for the record to be prepared, the court will contact you to pick up your record. You will need the record for this next step - the “Appellant’s Memorandum.” The appellant’s memorandum is your written “brief” or explanation why the trial court ruling was legally wrong.

Normally, 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 party who appeals pays for a copy of the

record.) The memorandum should be typed or printed on letter-sized white paper, double spaced, and not exceed 15 pages in length, not counting any exhibits from your hearing you want to attach to the memorandum.

5. **FILING THE APPELLANT’S MEMORANDUM WITHIN 60 DAYS.** If you file an appeal, you are the “appellant.” The appellant’s memorandum must be filed with the court within 60 calendar days of the deadline to file the notice of appeal. Put the caption of the case and your case number at the top of your memorandum. Print the title “APPELLANT’S MEMORANDUM” below the caption so the court can identify it when it is filed. If you do not have an attorney doing your appeal, you must file the original and 1 additional copy of the memorandum for each other party with the court. (The other side then has 30 days to file an “Appellee’s Memorandum.”)
6. **WAIT FOR FURTHER INSTRUCTIONS.** Once the memorandum has been filed, you should await further instructions from the Superior Court as outlined in the next stage. To keep you informed, remember that the trial court must have your current mailing address at all times. Even if you hire an attorney, your address is still required for legal notifications.
7. **CROSS-APPEALS.** The rules regarding cross-appeals are set forth in full detail in the Superior Court Rules of Appellate Procedure mentioned above and should be consulted directly.

STAGE TWO - THE SUPERIOR COURT

1. **PAYING THE SUPERIOR COURT FILING FEE.** If you have completed all of the first stage, your case moves to Superior Court. About 60 days after you file your memorandum, you will receive a notice from the Superior Court. This notice will instruct you to pay the Superior Court appeal 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 possible waiver or extension (“deferral”) to make payment later. For more information, you may contact Superior Court at 520-740-3248.
2. **SUPERIOR COURT ACTION ON THE APPEAL.** If you have now completed all 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 decision, or, if record is not clear, order a new trial in the Superior Court. If the final outcome of your case is that the ruling stands, or if your appeal is dismissed for any other reason, remember that the other side or the court may use any bond, deposit, or payments already made to satisfy your obligation and that you may have to return to the trial court to be given other instructions in person.
3. **DISPOSITION OF EXHIBITS UPON FINAL JUDGMENT.** After a judgment has become final and non-appealable, a person who files a request under penalty of perjury setting forth ownership of or lawful entitlement to the possession of an exhibit may obtain an ex parte order permitting its withdrawal. Ninety days after a judgment has become final and non-appealable, the court having possession thereof may dispose of exhibits in its possession.

Dated: _____

I acknowledge receipt of a copy of this Notice

_____ PLAINTIFF	CASE NO. <hr style="width: 50%; margin: auto;"/> NOTICE OF APPEAL OR CROSS APPEAL (CIVIL)	_____ DEFENDANT
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The undersigned appeals or cross appeals from the final order or final judgment in the above case:

Appellant understands:

- (1) The instructions set forth in the "Notice of Right to Appeal" including payment for a copy of the record or transcript, the right to post a supersedeas and cost bond to stay enforcement of the judgment, filing a memorandum with the trial court, and paying any applicable filing fee to the Superior Court; and
- (2) 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.

Appellant's current mailing address must be PRINTED here, even if represented by counsel:

Street _____ Apt./Unit No. _____

City, State _____ ZIP _____

(Daytime Phone) () _____

Date: _____

Appellant's or Attorney's Signature Bar No.

Appellant's Birth Date: _____