

GREEN VALLEY JUSTICE COURT

601 N. La Cañada Drive, Green Valley, AZ 85614 (520)222-0200

If you want to...

APPEAL A CIVIL JUDGMENT

GREEN VALLEY JUSTICE COURT
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Either party may appeal a judgment rendered in the justice court. If either party wishes to appeal a Eviction Action judgment, they must file a **Notice of Appeal** with the court **WITHIN FIVE (5) calendar days** of the entry of judgment. For all other civil case types, you must file a **Notice of Appeal** with the justice court **WITHIN FOURTEEN (14) calendar days** of the entry of judgment.

THE COURT CANNOT EXTEND THE TIME FOR APPEAL

If a judgment is issued for a **material and/or irreparable breach**, the Writ of Restitution will be carried out immediately (within 12-24 hours). To STAY enforcement of the Writ, a **NOTICE OF APPEAL and a SUPERSEDEAS BOND** (bond set by the court) must be filed **IMMEDIATELY** with the court, before the eviction process commences. The eviction can only be stayed with the filing of a supersedeas bond. **The court cannot waive a supersedeas bond.**

It is not required to post a supersedeas bond to file an appeal. The appeal will proceed with or without a supersedeas bond.

Please STOP

If there has not yet been a judgment rendered.

If the judgment was entered by default (failure to appear). An appeal cannot be taken from a default judgment. You must file a motion to vacate judgment.

If the time to appeal has expired.

Please PROCEED

If you wish to appeal a judgment or ruling in your case.

INSTRUCTIONS:

1. Review the Notice of Right to Appeal form.
2. Complete the Notice of Appeal form and file it along with a \$26.00 filing fee with the clerk within the time allowed (five days or sooner if you are trying to avoid eviction. Refer to the judgment. If an immediate eviction was ordered (12-24 hours), the Notice of Appeal and supersedeas bond should be filed before the Writ of Restitution (eviction order) is enforced.

At the same time the Notice of Appeal is filed:

3. Pay the fees required for a copy of the court record, certification and file transmittal.
4. Pay the required Cost Bond (\$50.00 Plaintiff or \$75.00 Defendant) or file the Affidavit of Inability to Post Bond.
5. Complete and file the Notice of Filing Cost Bond on Appeal.
6. Complete and file the Designation of Record on Appeal form.
7. Decide whether you will seek a stay of enforcement of the judgment by posting a supersedeas bond. There are two kinds of supersedeas bonds in an eviction action - one stays enforcement of collection of the judgment awarded, the other stays enforcement of the judgment for possession (rent.) The court can tell you how much is required to be posted to effect a stay.
8. Follow the instructions in the Notice of Right to Appeal to follow through with the appeal process (paying rent to the court; preparing a memorandum or replying to a memorandum; paying filing fees to Superior Court, etc.). Every step is critical to the appeal process. Failure to fully comply with all requirements will result in your appeal being abandoned and dismissed.

IT IS IMPORTANT THAT ALL PARTIES KEEP THE COURT APPRISED OF ANY CHANGE IN ADDRESS A NOTICE OF CHANGE OF ADDRESS form must be filed with the court when a party changes their address.

Visit us online for filing information and online forms.

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PLEASE READ
CAREFULLY

**The Notice of Right to Appeal outlines appeal process procedures
and contains important bond 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 (2 pages)
- Notice of Appeal
- Designation of Record on Appeal
- Notice of Filing Cost Bond on Appeal
- Appellee's Objection to Sufficiency of Bond for Costs on Appeal
- Affidavit of Inability to Post Bond for Costs Pending Appeal
- Appellee's Objection to Appellant's Affidavit
- Sample Memorandum

GREEN VALLEY JUSTICE COURT
601 N. La Cañada Drive, Green Valley, AZ 85614 (520)222-0200

CASE NUMBER: _____

Plaintiff

Defendant

NOTICE OF RIGHT TO APPEAL - CIVIL

A party may appeal a final order or a final judgment entered in any civil case (including eviction actions; injunctions against harassment; orders of protection; and workplace harassment). This notice explains your rights and responsibilities to file an appeal from such an order or judgment. The appeal procedure is set forth in Superior Court Rules of Appellate Procedure, and in the Arizona Revised Statutes.

There are two separate stages to the appeal process. The first stage begins in the Justice Court; 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 Superior Court Rules of Appellate Procedure and in the Arizona Revised Statutes. It is recommended that you keep a copy of all your documents during the appeal process.

SPECIAL NOTE EVICTION ACTION appeals: There are some processes that differ, depending on the type of case being appealed. Please note the different time lines applicable to an eviction action appeals and the two kinds of supersedeas bonds that may be posted. You may review the specific statutes applicable to eviction action appeals in the Arizona Revised Statutes, Title 12, Article 4 and in the Arizona Residential Landlord Tenant Act available from the Secretary of State or online at www.azhousing.gov.

SPECIAL NOTE RE APPEALS of ORDERS OF PROTECTION and INJUNCTIONS AGAINST HARASSMENT and WORKPLACE HARASSMENT: This court does not assess fees with the appeal process. However, Superior Court will charge a filing fee for appeal of workplace harassment. Also, you will be responsible for making arrangements for payment of preparation of the transcript of the record of proceedings. Additionally, unless otherwise ordered by the court, the protective or injunctive order will stay in effect pending the appeal.

STAGE ONE - THE TRIAL COURT

The trial court is the Justice 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 date of the judgment.

SPECIAL NOTE RE EVICTION ACTION APPEALS: To appeal this type of case, you must file a NOTICE OF APPEAL with the trial court within FIVE calendar days from the date of the judgment.

SPECIAL NOTE RE IMMEDIATE EVICTION ACTION APPEALS: A judgment resulting from an irreparable breach will be carried out immediately. Any appeal should be filed before enforcement of a Writ of Restitution (within 12 to 24 hours after the judgment is entered).

If you do not file a NOTICE OF APPEAL within the time allowed by law, you lose the right to appeal. The time to file cannot be extended. It is required that you designate the specific judgment or order you are appealing in the NOTICE OF APPEAL. If you file an appeal you are the APPELLANT. The opposing party is the APPELLEE. The Justice Court is the trial court.

APPEAL FEES On or before the deadline to appeal, you may pay a \$28.00 CD fee. The fee includes the cost of a copy of the CD 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 OR CASHIER'S CHECKS TO POST A COST BOND OR SUPERSEDEUS BOND, NO PERSONAL CHECKS ACCEPTED.

NOTICE OF RIGHT TO APPEAL - CIVIL

THE RECORD The Justice Court record is made by CD. The court will contact you to pick up a copy of the CD within 10 days after you have paid the required fees.

DESIGNATE THE RECORD Within the time to appeal you must designate the record with the trial court by filing a formal list of the items you want included in the record on appeal.

THE COST BOND On or before the deadline to appeal you must pay a COST BOND. The bond is set at \$50.00 for the plaintiff and \$75.00 for the defendant. The purpose of this bond is to cover court costs incurred by the APPELLEE, in defending the appeal. If you cannot afford to pay the cost bond, you must complete an AFFIDAVIT OF INABILITY TO POST BOND. The opposing party has a right to object to such an affidavit and the court may hold a hearing to determine the validity of the affidavit.

SUPERSEDEAS BOND(S) The purpose of a supersedeas bond is to stay enforcement of the judgment. The two supersedeas bonds explained here have two separate purposes. One will stay collection actions on the amount of the judgment awarded, i.e. garnishment proceedings. The other will stay any eviction proceeding resulting from an eviction action judgment.

You may still exercise your right to appeal without posting a supersedeas bond. But you must post one or both supersedeas bonds to stay enforcement of the judgment.

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TO STAY COLLECTION PROCEEDINGS The amount of the bond is the total amount of the judgment ordered by the court, including court costs, attorney fees, damages, etc. The purpose of this bond is to stay collection proceedings on the money judgment awarded, i.e. a Writ of Execution, where personal property may be taken and sold to satisfy the judgment, or garnishment proceedings. The stay becomes effective when the bond is posted.

SPECIAL NOTE RE EVICTION ACTION APPEALS:

TO STAY EVICTION: Another supersedeas bond may be posted to stay eviction proceedings enforced by a WRIT OF RESTITUTION. The amount of the bond is the amount of rent due from the date of the judgment to the next periodic rental due date.

To stay the eviction proceedings a supersedeas bond must be posted before the Writ of Restitution is enforced. The stay becomes effective when the bond is posted but cannot be retroactive if the Writ has already been executed.

A judgment resulting from an irreparable breach will be carried out immediately. A supersedeas bond to stay the eviction must be filed before enforcement of the Writ of Restitution (within 12 to 24 hours after the judgment is entered) to have a stay effect on the eviction.

PAYMENT OF RENT: In addition, all rent payments must be paid to the trial court on or before the rental due date, pending the appeal process. If rent is not timely received, the court may issue a WRIT OF RESTITUTION for execution of the judgment for possession and the eviction proceedings.

All bonds are paid to the trial court. The court will accept CASH OR CASHIER'S CHECKS BUT NO PERSONAL CHECKS for payment of bonds.

THE WRITTEN APPEAL MEMORANDUM You will need the record for the next step - the APPELLANT'S MEMORANDUM. The appellant's memorandum is your written explanation of 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.

The memorandum should be typed or printed on letter-sized white paper, double spaced, and not exceed 15 pages in length. In addition, you may also attach exhibits from your hearing to the memorandum.

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 court can identify it when it is filed. If you are not represented by an attorney you must file the original with the trial court, and one additional copy of the memorandum for every party in the case. The other side will then have 30 days to file an APPELLEE'S RESPONSE MEMORANDUM.

FILING THE APPEAL MEMORANDUM (within 60 days) The APPELLANT'S MEMORANDUM must be filed with the court within 60 calendar days of the deadline to file the NOTICE OF APPEAL.

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.

CROSS-APPEALS The rules regarding cross-appeals are set forth in full detail in the Superior Court Rules of Appellate Procedure previously mentioned herein.

STAGE TWO - THE SUPERIOR COURT

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 filing fee. You must pay this filing fee or your appeal may be dismissed and your case sent back to the trial court. If you cannot afford to pay the filing fee, you must contact the Superior Court clerk for information about a possible waiver or extension to make payment later.

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 Superior 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 your obligation under the original judgment. You may have to return to the trial court to receive further instructions.

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 all case related exhibits in its possession.

I hereby acknowledge receipt of a copy of this Notice.

Date: _____

 Plaintiff / Defendant

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<hr/> <p>Plaintiff</p> <hr/> <p>Address</p> <hr/> <p>City State Zip</p> <hr/> <p>Phone Number</p>	Affidavit of Inability to Post Bond For Costs Pending Appeal	<hr/> <p>Defendant</p> <hr/> <p>Address</p> <hr/> <p>City State Zip</p> <hr/> <p>Phone Number</p>
<hr/> <p>Case Number</p>		

AFFIDAVIT of INABILITY TO POST BOND FOR COSTS PENDING APPEAL

The appellant herein is the Plaintiff \$50.00 Defendant \$75.00

The undersigned appellant moves the trial court to waive, or in the alternative, reduce the cost bond in the above cause.

1. I make this affidavit pursuant to Superior Court Rules of Appellate Procedure (SCRAP), Rule 6(b)(3).

Or, (In an Eviction Action case) I make this affidavit pursuant to Arizona Revised Statute (A.R.S.) § 12-1179B.

2. This request is made for the following reason(s):

I state under penalty of perjury that the foregoing is true and correct.

Date: _____
Appellant

TO APPELLEE:

CIVIL case: You have 14 calendar days from the date of filing of this affidavit to object in writing to the appellant's affidavit. If an objection is filed, the court will rule on the affidavit and any objections within 14 calendar days.

EVICTON ACTION case: You have 5 calendar days from the date of filing of this affidavit to object in writing to the appellant's affidavit. If an objection is filed, the court will hold a hearing on the affidavit and objections within 5 calendar days. The court will either approve the affidavit or sustain the objection.

I CERTIFY that I delivered / mailed a copy of this AFFIDAVIT OF INABILITY TO POST BOND FOR COSTS PENDING APPEAL to:

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

Date: _____ By: _____
Clerk

Name: _____

Mailing Address: _____

City, State, Zip: _____

Daytime Phone / Alternate Phone: __ (____) _____ __ (____) _____

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CASE NUMBER: _____

LC CASE#: _____

APPELLANT MEMORANDUM

APPELLEE RESPONSE MEMORANDUM

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

Appellant

VS.

Appellee

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.

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 the 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.

