



Guide for Self-Represented ("Pro Se" or "Pro Per") Appellants and Appellees

JANUARY 2008

**BASIC INFORMATION ABOUT CIVIL APPEALS IN THE
ARIZONA COURT OF APPEALS AND THE ARIZONA SUPREME COURT**

The office hours for the courts listed below are 8:00 a.m. to 5:00 p.m., Monday through Friday, except on official state holidays.

Arizona Supreme Court

1501 W. Washington St.
Phoenix, AZ 85007
Clerk: (602) 452-3396

www.supreme.state.az.us/nav2/supreme.htm

Arizona Court of Appeals

Division One
1501 W. Washington St.
Phoenix, AZ 85007
Clerk: (602) 542-4821
www.cofad1.state.az.us

Arizona Court of Appeals

Division Two
400 W. Congress St.
Tucson, AZ 85701
Clerk: (520) 628-6954
www.appeals2.az.gov

Table of Contents

	Page
I. INTRODUCTION	iii
II. ACKNOWLEDGMENTS, DISCLAIMER, ELECTRONIC FILING	iv
III. ARIZONA COURT SYSTEM FLOW CHART.....	v
IV. ARIZONA APPEALS FLOW CHART	vi
V. THE STEPS TO FILING AN APPEAL	1
Step 1: Determine When the Final Judgment Was Entered by the Clerk of the Superior Court	1
Step 2: Timely File a “Notice of Appeal” From the Final Judgement	2
Step 3: The Appellee Should Decide Whether a “Cross-Appeal” is Appropriate and, if so, Timely File a “Notice of Cross-Appeal”	2
Step 4: File a “Bond for Costs on Appeal” With the Clerk of the Superior Court Along With the Notice of Appeal	2-3
Step 5: Determine Whether the Appeal Will be Decided by Division One or Division Two of the Arizona Court of Appeals to Determine if a “Civil Appeals Docketing Statement” Must Be Filed	3
Step 6: The Appellant Should Order the Necessary Transcripts of Proceedings Conducted in the Superior Court	4
Step 7: The Appellant Should Make Satisfactory Arrangements for Payment	4-5
Step 8: The Appellant Must File and Deliver the Proper Papers	5
Step 9: The Appellee May Order Additional Transcripts	5
Step 10: Receive a Copy of the Superior Court Clerk’s “Index of Record”	5-6
Step 11: File a Supersedeas Bond With the Clerk of the Superior Court to Prevent Collection of a Money Judgement While the Appeal is Being Decided by the Court of Appeals	6
Step 12: Get the Court of Appeals Briefing Schedule and Pay All Fees and File All Briefs on Time	7
VI. THE OPENING BRIEF.....	8
Step 1: Preparation	8
Step 2: Referring to the Index of Record and Transcripts	8-9
Step 3: Contents	9-11
Step 4: Filing	11

	Page
VII. THE ANSWERING BRIEF	12
Step 1: Preparation	12
Step 2: Contents	12-13
Step 3: Filing	13
Step 4: The Combined Answering Brief and Opening Brief on Cross-Appeal	13-14
VIII. THE OPTIONAL REPLY BRIEF	15
Step 1: Preparation	15
Step 2: Contents	15
Step 3: Filing	15-16
Step 4: The Combined Reply Brief and Answering Brief on Cross-Appeal	16-17
Step 5: Cross-Appellant’s Optional Reply Brief	17
IX. ORAL ARGUMENT	18
X. NOTICE OF DECISION	18
XI. COSTS	19
XII. ATTORNEYS’ FEES	19
XIII. THE PETITION FOR REVIEW — SEEKING FURTHER REVIEW IN THE ARIZONA SUPREME COURT	20
Step 1: Preparation	20
Step 2: Contents	20
Step 3: Filing	21
Appendix 1: FREQUENTLY ASKED QUESTIONS	23-28
Appendix 2: IMPORTANT TERMS	29-38
Appendix 3: FORMS	39

Introduction

This guide describes in simple terms the process of appeals in civil cases from (1) Superior Courts in Arizona to the Arizona Court of Appeals, and (2) the Arizona Court of Appeals to the Arizona Supreme Court. This guide covers only appeals in civil cases, including tax and family law cases. It does not address criminal, juvenile, or industrial commission cases. This guide also does not discuss appeals from city courts or justice of the peace courts.

Appeals to the Arizona Court of Appeals and the Arizona Supreme Court are very complicated. Persons who represent themselves in legal matters, also referred to as “Pro Se” or “Pro Per” litigants, are expected to know and follow the same rules as attorneys. You should consider hiring an attorney if you are able to do so. Furthermore, the law prohibits persons who are not attorneys from representing other persons or corporate entities.

Neither the Arizona Court of Appeals nor the Arizona Supreme Court will retry your case. In other words, those courts do not review new evidence and do not decide which witnesses were telling the truth. Those courts only review the evidence and arguments presented to the Superior Court. The Arizona Court of Appeals and the Arizona Supreme Court will only reverse the Superior Court’s judgment if they find an error of law that was so important that it likely affected at least part (or all) of the outcome of the case. It is difficult to win an appeal. Only a small percentage of civil appeals result in a reversal of the Superior Court’s judgment. It is critical to file all papers on time.

You may not visit with or talk to any Arizona Court of Appeals or Arizona Supreme Court judge or member of his/her staff about your case. The staff in the Arizona Court of Appeals and the Arizona Supreme Court “clerk’s office” will help you as much as they can, but they cannot give you legal advice or tell you what to put in your papers. Some helpful information is provided in **Appendix 1**, “Frequently Asked Questions.” You must remember to sign, and to include your current address in, any papers you file in an appeal. If your address changes, you must file a “Notice of Address Change” with the Arizona Court of Appeals (see **Form 1**) or, if a Petition for Review has been filed, the Arizona Supreme Court (see **Form 2**).

Many legal terms are used in this guide. These terms are defined and explained in **Appendix 2**, “Important Terms.”

In the electronic version of this document, all references to forms and appendices are linked to the corresponding page. To view, place the mouse over the word and click.

Acknowledgements

This guide was written by Scott H. Gan and Gary J. Cohen of Mesch, Clark & Rothschild, P.C. as part of a committee on Pro Se Appellate Practice. The Committee was a joint effort among the Arizona Supreme Court, Arizona Courts of Appeal, Maricopa County Superior Court, Pima County Superior Court, and State Bar of Arizona Appellate Practice Section. The authors thank the judges, staff attorneys, and Clerks of the Court for the Arizona Courts of Appeal and the Arizona Supreme Court for their assistance in preparing this guide.

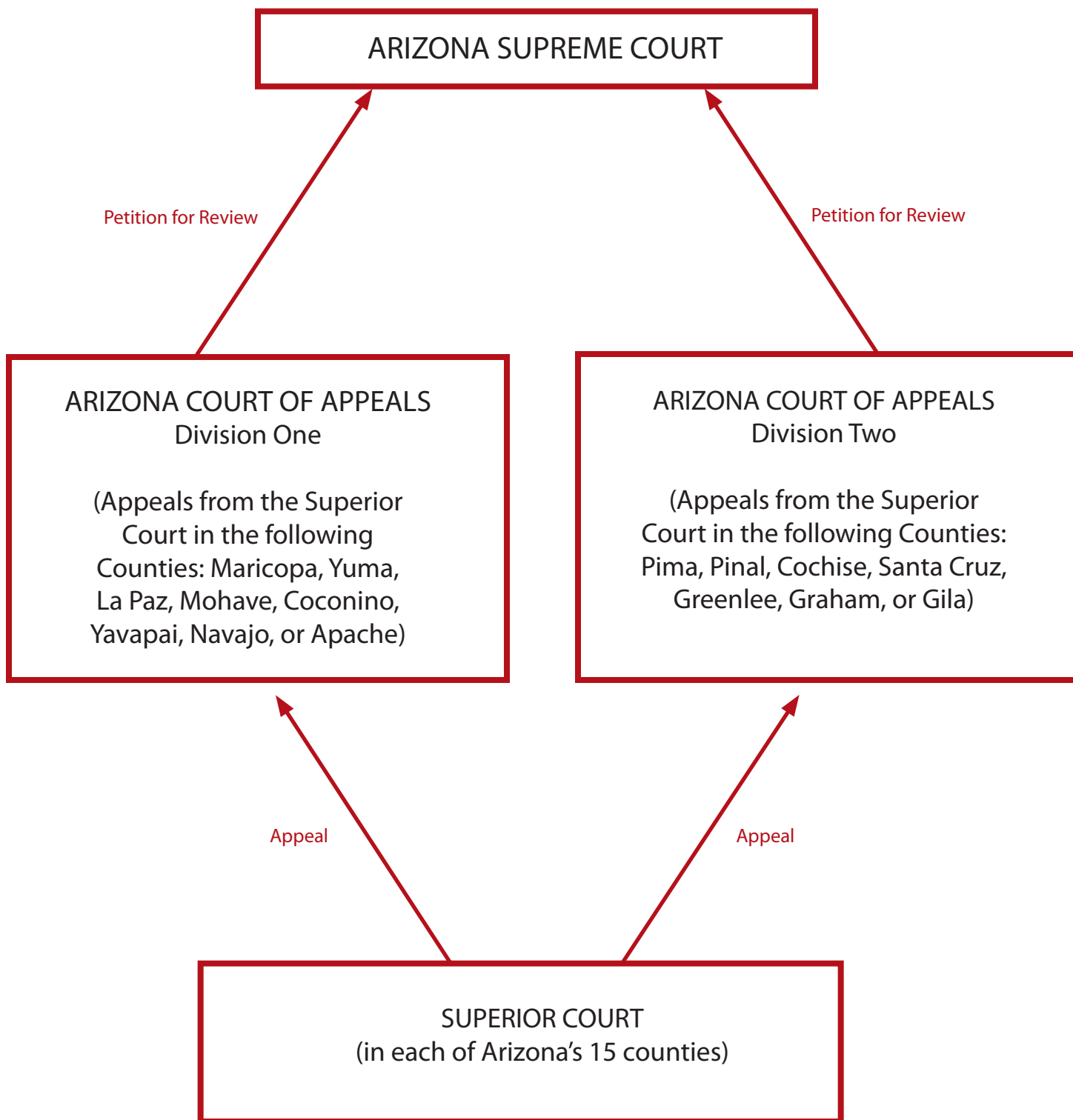
Disclaimer

The materials in this guide are not legal advice and may not be used as legal authority. This guide is an overview of the Arizona Rules of Civil Appellate Procedure. This guide does not replace or supersede those rules. You can obtain a copy of the Arizona Rules of Civil Appellate Procedure from a law library or <http://azrules.westgroup.com/home/azrules/default.wl>. Another helpful resource is the State Bar of Arizona's three-volume treatise on appellate practice entitled the Arizona Appellate Handbook. The Arizona Appellate Handbook should be available at any law library. If you want to review the statutes referred to in this Guide, you can go to www.azleg.state.az.us/arizonarevisedstatutes.asp#.

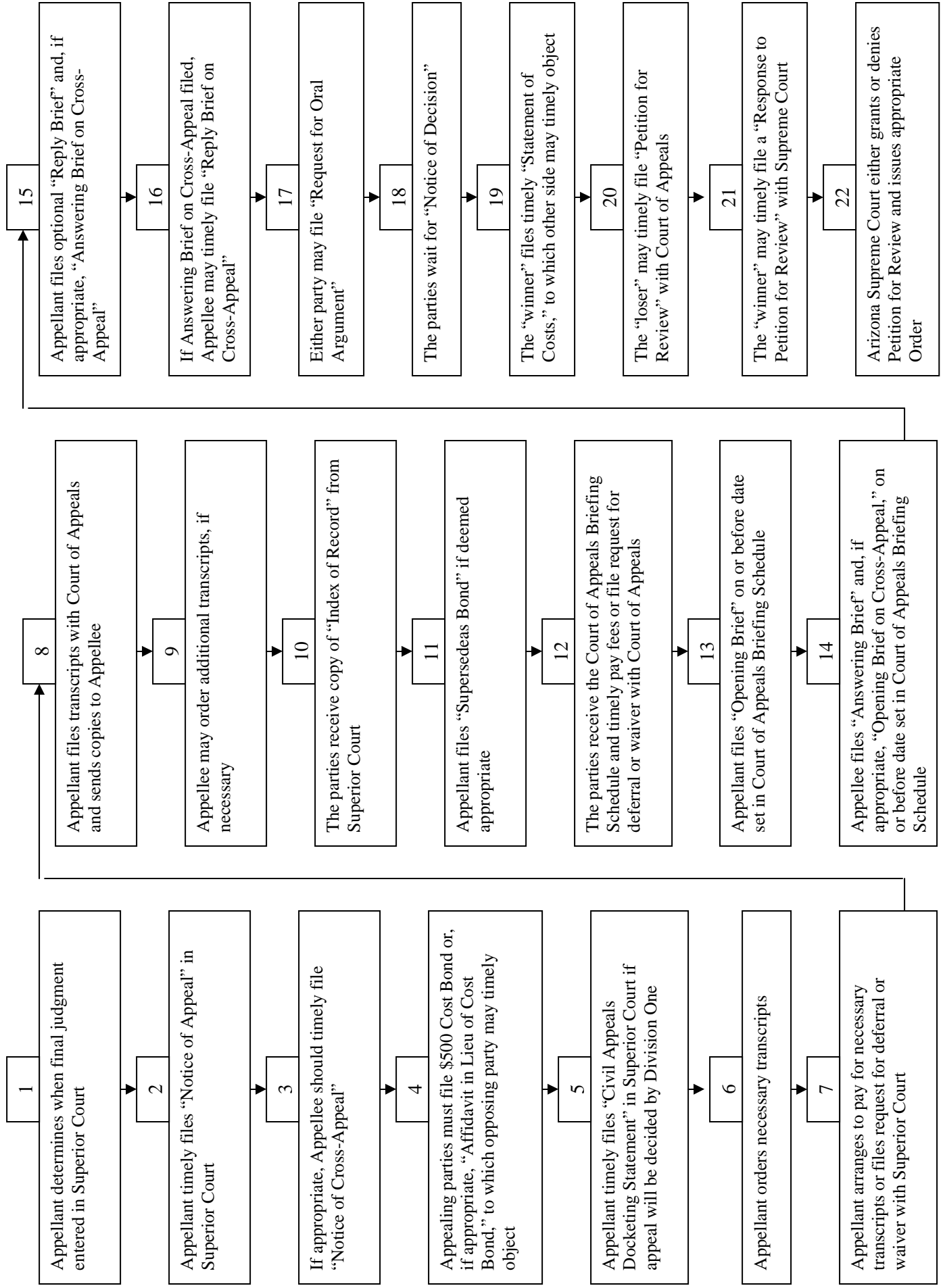
Electronic Filing

The Arizona appellate courts plan to implement programs to allow self-represented litigants to electronically file briefs and other documents with the court. To check on the availability of that option and the applicable procedures and requirements for electronic filing, please refer to the website of the appropriate appellate court or contact the clerk of that court.

Arizona Court System Flow Chart



ARIZONA APPEALS FLOW CHART



The Steps to Filing an Appeal

The party who seeks to have the Arizona Court of Appeals review the Superior Court’s final judgment entered in a civil case is called the “Appellant.” The party who opposes the appeal is called the “Appellee.” The following pages describe the twelve (12) most important steps that must be taken to properly file or defend a civil appeal. The legal terms referred to in these steps are defined in **Appendix 2**.

Step 1: Determine when the final judgment was entered by the Clerk of the Superior Court

- A. The date that the final judgment is “entered” (also known as the “Entry of Judgment”) is the date that the final judgment is filed with the Clerk of the Superior Court. This date is file stamped by the Clerk of the Superior Court on the front page of the judgment.
- B. The judgment may be in the form of a paper that is signed by the Superior Court judge entitled (1) “Judgment,” (2) “Minute Entry,” (3) “Ruling,” or (4) “Decree.”
- C. The judge may either manually or electronically sign the judgment. An “electronic signature” will contain the /s/ symbol followed by the judge’s typed name. An unsigned Minute Entry or Ruling is not a final judgment, even if it is entered by the Clerk of the Superior Court.
- D. Contact the Clerk of the Superior Court to review the Superior Court’s file and determine when the Final Judgment was entered.
- E. To be appealed, the Superior Court’s judgment usually must conclude the entire case. If the judgment does not decide all of the claims against all of the parties, the judgment cannot be appealed unless it contains a statement that there is no just reason to delay the entry of the judgment. Read the judgment carefully before filing an appeal.
- F. In addition to a final judgment, a party may appeal from a superior court order denying a petition for an order of protection, an injunction against harassment, or an injunction against workplace harassment. A party may appeal from an order granting, affirming, modifying or quashing an order of protection or an injunction against harassment or workplace harassment if the order is entered after a hearing at which both parties were entitled to appear. Certain other orders that do not conclude a case, including orders concerning other injunctions and orders denying a motion to compel arbitration, may be appealed and are identified in Title 12, Section 2101, of the Arizona Revised Statutes.

G. SPECIAL RULES FOR FAMILY LAW CASES.

1. In family law cases, the party initiating the case is called the “Petitioner,” rather than the “Plaintiff.” The opposing party is called the “Respondent,” rather than the “Defendant.”
2. A judgment in a family law case may be entitled “Judgment” or “Decree.”
3. In addition to a final judgment, a party in a family law case may appeal special orders entered after the final judgment. These orders may include: (1) “Orders of Contempt,” (2) “Modified Decrees,” or (3) “Orders Modifying Support or Maintenance.”

Step 2: Timely file a “Notice of Appeal” from the final judgement

- A. The Appellant must file a paper called a “Notice of Appeal” with the Clerk of the Superior Court (not the Court of Appeals) within thirty (30) days after the date of Entry of Judgment by the Clerk of the Superior Court.
- B. The Court of Appeals will dismiss the appeal as untimely if the Notice of Appeal is not timely filed. (A form of the Notice of Appeal is attached as **Form 3**.)

Step 3: The Appellee should decide whether a “Cross-Appeal” is appropriate and, if so, timely file a “Notice of Cross-Appeal”

- A. The Appellee should decide whether a cross-appeal is appropriate and, if so, file a “Notice of Cross-Appeal” with the Clerk of the Superior Court within twenty (20) days from the date that the Notice of Appeal is filed. (A form of the Notice of Cross-Appeal is attached as **Form 4**.)
- B. A Cross-Appeal is usually filed when the Appellee believes that the Superior Court judgment failed to grant all of the relief requested.
- C. For example, if the Appellee claims that the Superior Court judgment should have included an award of attorneys’ fees, then the Appellee must timely file a Notice of Cross-Appeal in order to raise this issue in the Court of Appeals.

Step 4: File a “Bond for Costs on Appeal” with the Clerk of the Superior Court with the Notice of Appeal

- A. The “Bond for Costs on Appeal” is \$500.00. The bond may be paid with a cashiers check or a bond obtained from a bonding company. (A form of the “Notice of Filing Cost Bond on Appeal” is attached as **Form 5**.)

- B. The Appellant must file the bond with the Clerk of the Superior Court when the Notice of Appeal is filed. Similarly, any party timely filing a Notice of Cross-Appeal must also file the bond with the Clerk of the Superior Court when the Notice of Cross-Appeal is filed.
- C. If the Appellant or the Appellee filing the Notice of Cross-Appeal cannot file the \$500.00 bond, that party must file an “Affidavit in Lieu of Bond” stating that he or she cannot give a bond for costs on appeal and the reasons he or she cannot post the cost bond. (A form of the Affidavit in Lieu of Bond is attached as **Form 6**.)
- D. If the other party objects to the Affidavit in Lieu of Bond, the Superior Court must hold a hearing on the objection within ten (10) days of the objection. The Superior Court will provide the parties with written notice of the date, time, and location of this hearing. If the Superior Court agrees with the objecting party, then the party that filed the Affidavit in Lieu of Bond must post a bond for costs on appeal in the sum of \$500.00, or in whatever amount the Superior Court orders, within ten (10) days of the Superior Court’s decision.
- E. If the other party agrees that the Appellant or the Appellee filing the Notice of Cross-Appeal does not have to post a bond for costs on appeal, or there is an agreement on the bond amount, a “Stipulation Regarding Bond for Costs on Appeal” should be filed, instead of a Bond for Costs on Appeal. (A form of the Stipulation Regarding Bond for Costs on Appeal is attached as **Form 7**.)

Step 5: Determine whether the Appeal will be decided by Division One or Division Two of the Arizona Court of Appeals to determine if a “Civil Appeals Docketing Statement” must be filed

- A. If a party appeals a judgment entered by the Superior Court in the counties of Maricopa, Yuma, La Paz, Mohave, Coconino, Yavapai, Navajo, or Apache, that appeal will be decided in Phoenix, Arizona, by “Division One” of the Arizona Court of Appeals.
- B. If a party appeals a judgment entered by the Superior Court in the counties of Pima, Pinal, Cochise, Santa Cruz, Greenlee, Graham, or Gila, that appeal will be decided in Tucson, Arizona, by “Division Two” of the Arizona Court of Appeals.
- C. If the appeal will be heard by Division One in Phoenix, the Appellant must file a “Civil Appeals Docketing Statement” within ten (10) days, not including weekends or official state holidays, after filing the Notice of Appeal. Division Two in Tucson does not require the filing of a Civil Appeals Docketing Statement.
- D. The Civil Appeals Docketing Statement is filed in the Superior Court where the Notice of Appeal was filed. (See Step 2 above) (A copy of the Civil Appeals Docketing Statement required by Division One is attached as **Form 8**. Two (2) copies of this form are attached. The first copy contains bold, italics information to assist in completing the form. The second copy is blank and should be completed by the party filing the Notice of Appeal.)

Step 6: The Appellant should order the necessary transcripts of proceedings conducted in the Superior Court

- A. Within ten (10) days, not including weekends or official state holidays, after filing the Notice of Appeal, the Appellant must order an original and one (1) copy of all transcripts that the Appellant believes necessary to include in the record on appeal. (A form of the “Designation of Partial Transcript” is attached as **Form 9**.) The Appellant should order these transcripts from either the court reporter in the Superior Court case or the Electronic Services Office in the Maricopa County Superior Court if the proceeding was recorded by CD in a case before that court. The court reporter’s name and contact information are included in the Superior Court case record.
- B. If the Appellant intends to argue on appeal that a decision by the Superior Court is not supported by the evidence or is contrary to the evidence, the Appellant must order all of the transcripts relevant to the Superior Court’s findings or conclusions and file these transcripts with the Clerk of the Court of Appeals.
- C. The Court of Appeals will presume that the evidence supports the Superior Court’s findings, conclusions, and/or judgment if it is not given all of the transcripts it needs to reach a decision.

Step 7: The Appellant should make satisfactory arrangements for payment

- A. The Appellant must pay the preparation costs when ordering the necessary transcripts from either the court reporter in the Superior Court case or the Electronic Services Office in the Maricopa County Superior Court if the proceeding was recorded by CD. The Appellant must also file a “Notice of Satisfactory Arrangements for Court Reporter Payment” with the Clerk of the Court of Appeals after payment arrangements are made. (A form of the Notice of Satisfactory Arrangements for Court Reporter Payment is attached as **Form 10**.)
- B. If the proceeding in the Superior Court was recorded on CD instead of by a court reporter, the Appellant must order the CD and pay a court-approved transcriber to transcribe the CD.
- C. It may be possible to obtain a “deferral” or a “waiver” of the obligation to pay for preparing the transcripts. A deferral is the postponement of the obligation to pay or the setting of a schedule of payment for preparation of the transcripts. A waiver is the determination that a party is permanently unable to pay for preparation of the transcripts.
- D. The court reporter’s fees for preparing the transcripts or transcribing the CD can only be deferred or waived if the court reporter or transcriber is employed by the Superior Court.

- E. The requirements for obtaining a deferral or waiver of fees are set forth in Arizona Revised Statute § 12-302. The requirements are based on the party’s financial situation, including the receipt of economic assistance from the state or federal government. The party applying for a deferral or waiver must file an application with the Superior Court and provide proof of the financial circumstances supporting the request. (A form of the “Application for Deferral or Waiver of Costs of Preparing Transcript” is attached as **Form 11**.) Copies of the Arizona Revised Statutes can be found at <http://www.azleg.state.az.us/ArizonaRevisedStatutes.asp> or a local law library.
- F. If the request for deferral or waiver is granted, the party filing the application may order transcription of the CD either without paying the cost or by making payments pursuant to the schedule set by the Superior Court. If the request for deferral or waiver is denied, the party must pay the cost of preparing or transcribing the CD.

Step 8: The Appellant must file and deliver the proper papers

- A. Once the transcripts have been prepared by the court reporter or transcriber, (1) the original transcripts must be filed with the Clerk of the Court of Appeals, and (2) a copy of the transcripts must be provided to the opposing side or the opposing side’s attorney.
- B. The Appellant must also file a “Notice of Filing and Serving Transcript” with the Court of Appeals indicating the date and the name of party or attorney upon whom copies of the transcripts were served. (A form of the Notice of Filing and Serving Transcripts is attached as **Form 12**.)

Step 9: The Appellant may order additional transcripts

- A. If the Appellant does not order the transcripts from all of the proceedings in the Superior Court case, the Appellee can ask the Appellant to order the additional transcripts necessary for the appeal.
- B. If the Appellant refuses to order the necessary additional transcripts, the Appellee may order and pay for them or file an application in the Superior Court asking for an order requiring the Appellant to pay for them.

Step 10: Receive a copy of the Superior Court Clerk’s “Index of Record”

- A. The Clerk of the Superior Court where the judgment was entered is required to prepare an “Index of Record” for each case in which a Notice of Appeal is filed. This Index of Record lists the papers in the case that were filed with the Superior Court Clerk’s office. It does not automatically include the transcripts of any proceedings that took place in the Superior Court.

- B. When referring to the papers in briefs submitted to the Court of Appeals, the parties should identify the papers by their index number. (See discussion of the Opening Brief, Answering Brief, and Optional Reply Brief below.)

Step 11: File a Supersedeas Bond with the Clerk of the Superior Court to prevent collection of a money judgment while the Appeal is being decided by the Court of Appeals

- A. A party appealing from the entry of a money judgment must deposit a “Supersedeas Bond” with the Superior Court if the party wants to prevent the other side from collecting on the judgment until after the appeal is decided.
- B. The Supersedeas Bond may be filed in the Superior Court before or after the Notice of Appeal is filed. (See Step 2 above.)
- C. Both sides may agree upon the amount of the Supersedeas Bond. (A form of the “Stipulation Fixing Amount of Supersedeas Bond” is attached as **Form 13**.)
- D. If the parties cannot agree on the amount, the Appellant must file a motion with the Superior Court asking it to set the amount of the Supersedeas Bond.
- E. The amount of the Supersedeas Bond will be equal to the full amount of the money judgment, plus costs and interest. (A form of the Supersedeas Bond is attached as **Form 14**.)
- F. Until a Supersedeas Bond is filed, the party in whose favor a money judgment has been entered can take steps to collect the judgment while the appeal is being decided by the Court of Appeals.
- G. If a Supersedeas Bond is filed, the party in whose favor a money judgment has been entered cannot take any steps to collect the judgment until after the Court of Appeals has made its decision.
- H. **SPECIAL RULES FOR FAMILY LAW CASES.** In certain family law judgments, a party may not be able to prevent the other side from enforcing the judgment until after the appeal is decided.
1. The following judgments will be enforced while the appeal is pending: (1) an order directing payment of money for child support or spousal maintenance; (2) a decision establishing or changing child custody; and (3) a protective order.
 2. However, a party may be able to prevent a property award from being collected.

Step 12: Get the Court of Appeals briefing schedule and pay all fees and file all briefs on time

- A. After the Clerk of the Court of Appeals receives the Index of Record and any Docketing Statement from the Superior Court, it will send the parties a “Notice” (1) requiring the Appellant to pay the filing fee for the appeal, and (2) setting the date by which the Appellant must file the “Opening Brief” with the Court of Appeals, which will be within forty (40) days of the date of the Notice.
- B. The Appellant must pay the filing fee to the Clerk of the Court of Appeals within ten (10) days, not including weekends or official state holidays, of the date of the Notice.
- C. It may be possible to obtain a “deferral” or a “waiver” of the Court of Appeals’ filing fee. A deferral is the postponement of the obligation to pay the filing fee or the setting of a schedule for payment of the filing fee. A waiver is the determination that a party is permanently unable to pay the filing fee.
- D. The requirements for obtaining a deferral or waiver of the filing fee are set forth in Arizona Statute § 12-302. The requirements are based on the party’s financial situation, including the receipt of economic assistance from the state or federal government. The Appellant must file an application with the Court of Appeals and provide proof of the financial circumstances justifying the request for deferral or waiver. (A form of the “Application for Deferral or Waiver of Court Fees and/or Costs” is attached as **Form 15.**)
- E. If a request for deferral is granted, the Appellant will be required to make payments pursuant to a schedule set by the court’s order or payment of the fee will be deferred until further order of the court. If a request for waiver is granted, the Appellant will not have to pay the filing fee. If the request for deferral or waiver is denied, the Appellant must pay the filing fee in full.
- F. If the Appellant fails to pay the filing fee or file the Opening Brief on time, the appeal will be dismissed.

The Opening Brief

The Appellant prepares and files the Opening Brief. The Opening Brief is the document filed with the Court of Appeals describing what happened in the Superior Court and why the Superior Court Judgment should be reversed. Below is a description of how to prepare the Opening Brief.

Step 1: Preparation

- A. The Opening Brief should be typed on a computer or a typewriter. The text must be black.
- B. Typing all papers filed with the Court of Appeals and the Arizona Supreme Court will ensure that the court can read and understand what is filed. If you cannot type your papers, you may file handwritten papers so long as they contain readable, clear images on white paper.
- C. The brief must be prepared using 14-point type or larger. For example, an acceptable proportionally spaced type is Times New Roman, 14 point.
- D. The paper must be white, opaque, and unglazed. Only one side of the paper may be used.
- E. The brief must be on 8 ½ by 11 inch paper and contain a caption setting forth the name of the court, title of the case, and case number.
- F. The text must be double spaced. Headings, quotations, and footnotes may be indented and single spaced.
- G. All pages must contain margins of at least one (1) inch.
- H. Each page must be separately numbered.
- I. Cases referred to in the brief must be underlined or in italics.
- J. Headings must be underlined, in italics, or in bold.
- K. The Opening Brief cannot be longer than 14,000 words and may not have an average of more than 280 words per page. The word limit does not include the table of contents, table of citations, certificate of service, certificate of compliance, or addendum.

Step 2: Referring to the Index of Record and Transcripts

- A. The Clerk of the Superior Court was required to send the parties a copy of the index of all papers filed in the Superior Court and given to the Court of Appeals. (See “Steps to Filing an Appeal,” Step 10 above.)

- B. Use this Index of Record to identify the important papers considered by the Superior Court in reaching its judgment.
- C. The papers in the index will be numbered. Use this index number to refer to the papers that you cite in the Opening Brief.
- D. For example, if the Complaint was item 1 in the index, the Complaint should be identified as “(IR #1)” in the Opening Brief. “IR” stands for Index of Record and “#1” refers to the item number for the Complaint as set forth in the Clerk’s index.
- E. It is also important to identify the date and page of any transcript containing important evidence that supports the appeal. An example of how to refer to the transcripts in the brief is “(TR 2, 5/1/07 p. 17).” In this example, “TR 2” refers to the second day of trial, “5/1/07” refers to the date of the hearing, and “p. 17” refers to page 17 of the transcript where the important evidence can be found.
- F. If the Opening Brief does not identify important papers filed in the Superior Court by the number in the clerk’s index or important evidence in the transcripts by date and page, the Court of Appeals will have a difficult time determining if the arguments presented in the Opening Brief are supported by the record. The Court of Appeals will not search the record to determine if there is evidence to support the appeal.

Step 3: Contents (See Form 16):

- A. **COVER PAGE.** The cover page should be a separate page with the case caption. The cover page should be light blue. Additional requirements for the cover page are:
 - 1. The caption should contain the Superior Court and Court of Appeals case numbers. The Court of Appeals case number is on the Notice issued by the Court of Appeals setting the due date for Appellant’s Opening Brief.
 - 2. The cover page should be titled “Appellant’s Opening Brief.” (See **Form 16.**)
 - 3. The cover page should have the name and address of the Appellant.
- B. **STATEMENT OF THE CASE.** This section identifies when the Superior Court entered the judgment and the Notice of Appeal was filed.
 - 1. The Statement of the Case helps the Court of Appeals understand what the Superior Court did before it entered the judgment, and it shows that the Notice of Appeal was filed on time.
 - 2. If the judgment was entered after a jury trial, that fact should be stated in the Statement of the Case.

3. If the judgment was entered after the Superior Court heard testimony, received evidence, or considered a motion and made a decision without a jury, that information should be stated in the Statement of the Case.
- C. **STATEMENT OF FACTS.** This section tells the Court of Appeals about the circumstances that caused the dispute between the parties.
1. The information contained in the Statement of Facts should be found in (1) the papers and exhibits that were filed with the Superior Court before the entry of judgment, or (2) the transcripts of the proceedings conducted in the Superior Court before the entry of judgment.
 2. Whenever possible, identify papers in the Superior Court’s index of record or the pages of the transcript(s) where each of the important facts can be found.
 3. If the Court of Appeals cannot determine that the facts presented are supported by the papers filed with the Superior Court clerk or the transcripts, it will not be able to consider the reasons presented for reversing the Superior Court’s judgment.
- D. **ISSUES PRESENTED FOR REVIEW.** In this section, the Appellant should identify the errors that the Superior Court judge made. For example: Did the judge consider evidence that should have been excluded? Did the judge fail to allow evidence that should have been admitted? Did the judge apply the wrong law? Is the Superior Court’s judgment not supported by the evidence?
1. List all the reasons you believe the Superior Court’s judgment is incorrect.
 2. List each reason separately.
 3. The best Opening Briefs, however, seldom raise more than three (3) or four (4) issues for review.
- E. **ARGUMENTS.** For each of the issues listed above, explain the reasons the Superior Court’s judgment is wrong.
1. Identify any statutes, reported cases, or court rules the Superior Court violated or any other legal authority that justifies reversal of the Superior Court’s judgment.
 2. Refer to the papers in the Clerk’s Index of Record, the transcripts, or the exhibits that were admitted by the Superior Court during the trial or other proceeding to support these reasons.
 3. Identify each issue separately and state all the reasons the Superior Court’s judgment should be reversed.

- F. **CONCLUSION AND SIGNATURE.** In the conclusion, the Appellant should simply tell the Court of Appeals what the Appellant wants the court to do. For example, “reverse the Superior Court’s judgment and grant me a new trial.” The last page of the Opening Brief should be dated and signed before making the copies for filing with the Court of Appeals.
- G. **CERTIFICATE OF COMPLIANCE.** A separate statement called a “Certificate of Compliance” must be included at the end of the Opening Brief. This statement should indicate that the brief contains no more than 14,000 words. (A form of the Certificate of Compliance is attached as **Form 17**.)
- H. The Opening Brief must also contain a separate statement indicating that two (2) copies of the Opening Brief were sent to the other side or the other side’s attorney. This statement can be part of the Certificate of Compliance described above. (See **Form 17**.)

Step 4: Filing

- A. **FILING LOCATION AND NUMBER OF COPIES.** The Appellant must file an original and six (6) copies of the Opening Brief with the Court of Appeals.
- B. **TIMING.** The Appellant must file the Opening Brief within the time stated in the Notice issued by the Court of Appeals. This deadline is typically forty (40) days after the Notice is mailed. If the Opening Brief is not mailed within the time stated in the Notice, the Court of Appeals will probably dismiss the appeal.
 - 1. If the Appellant, for good reason, needs more time to file the Opening Brief, the Appellant can file a motion with the Clerk of the Court of Appeals asking for an extension of time to file the Opening Brief. (A form of a “Motion for Extension of Time to File Brief” is attached as **Form 18**.)
 - 2. The Appellant should file the Motion for Extension of Time to File the Opening Brief with the Clerk of the Court of Appeals before the deadline to file the Opening Brief expires.
 - 3. The Appellee may either object or agree to the request for an extension of time to file the Opening Brief. (A form of a “Stipulation for Extension of Time to File Brief” is attached as **Form 19**.)
 - 4. The Court of Appeals will usually grant a first request for extension of time if it is reasonable. Subsequent requests for extension of time are not usually granted by the Court of Appeals unless extraordinary circumstances are shown.
- C. **SERVICE UPON OPPOSING PARTY.** The Appellant must deliver two (2) copies of the Opening Brief (by mail or hand delivery) to the Appellee when the Appellant files the Opening Brief with the Court of Appeals. If the Appellee is represented by an attorney, the copies must be delivered to the attorney rather than the Appellee.

The Answering Brief

After the Appellant files the Opening Brief, the Appellee files the Answering Brief. The Answering Brief responds to the arguments made in the Opening Brief and explains why the Superior Court judgment was correct. Below is a discussion of how to prepare the Answering Brief.

Step 1: Preparation

- A. The Answering Brief must be formatted in the same manner as the Opening Brief, except the cover page should be red and titled “Appellee’s Answering Brief.”
- B. The Appellee should follow all the requirements with respect to the paper, font size, margins, headings, page numbers, etc. that are described in Step 1 of “The Opening Brief.”
- C. The Appellee should refer to the record and the transcripts of the proceedings in the Superior Court in the same manner as described in Step 2 of “The Opening Brief.”
- D. The Appellee should place his or her name and address on the front cover of the Answering Brief.
- E. Like the Opening Brief, the Answering Brief is limited to 14,000 words and may not have an average of more than 280 words per page. The word limit does not include the table of contents, table of citations, certificate of service, certificate of compliance, or addendum.

Step 2: Contents

- A. The Answering Brief should contain all of the same sections as described in Step 3 of the Opening Brief. For example, the brief must include: (1) a caption on the cover page (although the color of the cover page for the Answering Brief is red), (2) a separate section for the argument, (3) a conclusion, and (4) a signature page. (See **Form 16.**)
- B. The Answering Brief does not have to contain a separate Statement of the Case, Statement of Facts, or Statement of the Issues Presented for Review, unless the Appellee finds that these sections of the Opening Brief are insufficient or incorrect.
- C. **ARGUMENTS.** The Answering Brief should tell the Court of Appeals why the Superior Court’s judgment is correct and explain why the arguments made by the Appellant are incorrect.
 1. For example, the Appellee may argue that the Superior Court’s judgment is supported by the evidence. The Appellee should refer to this evidence, such as testimony presented at trial, in the Answering Brief.

2. The Appellee may also argue that the reasons presented in the Opening Brief for reversing the Superior Court’s judgement are not supported by the evidence or the law. The Appellee should cite to the important evidence, cases, or statutes supporting these arguments.
- D. **CERTIFICATE OF COMPLIANCE.** Like the Opening Brief, the end of the Answering Brief must contain a Certificate of Compliance indicating that two (2) copies of the Answering Brief were mailed or hand-delivered to the Appellant or the Appellant’s attorney and that the length of the Answering Brief does not exceed the word/page limit. (See **Form 17**.)

Step 3: Filing

- A. **FILING LOCATION AND NUMBER OF COPIES.** The Appellee must file an original and six (6) copies of the Answering Brief with the Clerk of the Court of Appeals.
- B. **TIMING.** The Appellee has forty (40) days to file the Answering Brief if the Opening Brief was hand-delivered. If the Opening Brief was mailed, the Appellee has forty-five (45) days from the date of mailing to file the Answering Brief.
1. The Appellee may file a motion with the Clerk of the Court of Appeals requesting an extension of time to file the Answering Brief or reach an agreement with the Appellant (called a stipulation) to extend the time. (See **Forms 18 and 19**.) If the Court of Appeals grants the request, the Appellee must file the Answering Brief by whatever date is then set by the Court of Appeals.
- C. **FILING FEE.** The Appellee must timely pay the filing fee to the Clerk of the Court of Appeals or file an application to have the filing fee deferred or waived. (See “Steps to Filing an Appeal,” Step 12 above).
- D. **SERVICE UPON OPPOSING PARTY.** The Appellee must also simultaneously mail or hand-deliver two (2) copies of the Answering Brief to the Appellant or the Appellant’s attorney.

Step 4: The combined Answering Brief and Opening Brief on Cross-Appeal (This applies if a timely notice of Cross-Appeal was filed)

- A. If the Appellee has filed a Notice of Cross-Appeal, the Appellee may combine in one brief both the Answering Brief (to address the issues raised in the Opening Brief) and the Opening Brief on Cross-Appeal (to address the issue(s) that Appellee wants to raise on cross-appeal).
- B. **PREPARATION.** In preparing the combined Answering Brief and Opening Brief on Cross-Appeal, the Appellee should follow all of the requirements for font size, paper, margins, headings, page numbers, etc. described in Step 1 of “The Opening Brief.”

1. The cover of the combined brief should be titled “Appellee’s Answering Brief/Opening Brief on Cross-Appeal.” The color of the cover page of the combined brief is red. (A form of the cover page of the combined brief is attached as **Form 20**.)
 2. The combined Answering Brief/Opening Brief on Cross-Appeal cannot be longer than 28,000 words and may not have an average of more than 280 words per page. The word limit does not include the table of contents, table of citations, certificate of service, certificate of compliance, or addendum.
- C. **CONTENTS.** The combined brief should be divided into two clearly designated sections: (1) the Answering Brief, and (2) the Opening Brief on Cross-Appeal.
1. The first section, designated as the Answering Brief, should address only those facts, issues, and arguments raised in the Opening Brief.
 2. The second section, designated as the Opening Brief on Cross-Appeal, should address only those facts, issues, and arguments related to the Cross-Appeal. This section should separately set forth the Statement of the Case, Statement of Facts, Issue(s) Presented for Review, and arguments applicable to the Cross-Appeal. (See “The Opening Brief,” Step 3 above.)
 3. The combined brief must include a Certificate of Compliance stating that the combined brief does not exceed the word or page limitation and that copies of the combined brief were properly sent by mail or hand-delivered to the Appellant or the Appellant’s attorney. (See “The Opening Brief,” Step 3 above and **Form 17**.)
- D. **FILING.** The Appellee must file an original and six (6) copies of the combined brief with the Clerk of the Court of Appeals.
1. The Appellee has forty (40) days to file the combined brief if the Opening Brief was hand-delivered. If the Opening Brief was mailed, the Appellee has forty-five (45) days from the date of mailing to file the combined brief.
 2. The Appellee may request an extension of time to file the combined brief by filing a timely motion or stipulation with the Clerk of the Court of Appeals. The motion should be filed before the brief is due. (See “The Opening Brief,” Step 4 above and **Forms 18 and 19**.)
 3. The Appellee must timely pay the filing fee to the Clerk of the Court of Appeals or file an application to have the filing fee deferred or waived. (See “Steps to Filing an Appeal,” Step 12 above.)
 4. The Appellee must simultaneously hand-deliver or mail two (2) copies of the combined brief to the Appellant or the Appellant’s attorney.

The Optional Reply Brief

The Reply Brief tells the Court of Appeals why the Appellee's arguments in the Answering Brief are incorrect. The Appellant is not required to file a Reply Brief.

Step 1: Preparation

- A. In preparing the Reply Brief, the Appellant should follow all of the requirements with respect to the paper, font size, margins, headings, page numbers, etc. that are described in Step 1 of the "The Opening Brief," except the color of the cover page should be grey and titled "Appellant's Reply Brief."
- B. All references to the record or the transcripts should comply with the requirements described in Step 2 of "The Opening Brief."
- C. The Reply Brief is limited to 7,000 words and may not have an average of more than 280 words per page. The word limit does not include the table of contents, table of citations, certificate of service, certificate of compliance, or addendum.

Step 2: Contents

- A. The Reply Brief is limited to responding to those arguments or facts presented in the Answering Brief. It is not an opportunity to repeat arguments that were made in the Opening Brief.
- B. The form of the Reply Brief is similar to the Opening and Answering Briefs. (See **Form 16.**)
- C. Like the Opening Brief, the end of the Reply Brief must contain a Certificate of Compliance indicating that two (2) copies of the Reply Brief were mailed or hand-delivered to the Appellee or the Appellee's attorney. (See **Form 17.**)
- D. This Certificate of Compliance should also state that the Reply Brief does not exceed 7,000 words.

Step 3: Filing

- A. **FILING LOCATION AND NUMBER OF COPIES.** Just like the Opening Brief, the Appellant must file an original and six (6) copies of the Reply Brief with the Clerk of the Court of Appeals.
- B. **TIMING.** The Appellant has twenty (20) days to file the Reply Brief if the Answering Brief was hand-delivered. If the Answering Brief was mailed, the Appellant has twenty-five (25) days from the date of mailing to file the Reply Brief.

- C. **SERVICE UPON OPPOSING PARTY.** The Appellant must also send or hand-deliver two (2) copies of the Reply Brief to the Appellee or the Appellee’s attorney.

**Step 4: The combined Reply Brief and Answering Brief on Cross-Appeal
(This applies if a timely notice of Cross-Appeal was filed)**

- A. If the Appellant has received a combined brief from the Appellee containing both the Answering Brief and Opening Brief on Cross-Appeal, the Appellant may file in response a combined brief containing both the Reply Brief (responding to the Answering Brief) and the Answering Brief on Cross-Appeal (responding to the Opening Brief on Cross-Appeal).
- B. **PREPARATION.** In preparing the combined Reply Brief/Answering Brief on Cross-Appeal, the Appellant should follow all of the requirements for font size, margins, headings, page numbers, etc. described in Step 1 of “The Opening Brief,” except the cover of the combined brief should be grey and titled “Appellant’s Reply Brief/Answering Brief on Cross-Appeal.” The length of the combined brief should not exceed 21,000 words.
- C. **CONTENTS.** The brief should be divided into two clearly designated sections: (1) the Reply Brief, and (2) the Answering Brief on Cross-Appeal.
- D. The first section of the combined brief, designated as the Reply Brief, should only address those facts, issues, and arguments raised in the Answering Brief.
- E. The second section of the combined brief, designated as the Answering Brief on Cross-Appeal, should address only those facts, issues, and arguments made in the Opening Brief on Cross-Appeal.
- F. The combined brief must include a Certificate of Compliance stating that the length of the combined brief does not exceed the word or page limitation and that two (2) copies of the combined brief were properly mailed or hand-delivered to the Appellee or the Appellee’s attorney. (See “The Opening Brief,” Step 3 above and **Form 17**.)
- G. **FILING.** The Appellant must file an original and six (6) copies of the combined Reply Brief/Answering Brief on Cross-Appeal with the Clerk of the Court of Appeals.
- H. The Appellant has forty (40) days to file the combined brief if the combined Answering Brief/Opening Brief on Cross-Appeal was hand-delivered. If the combined Answering Brief/Opening Brief on Cross-Appeal was mailed, the Appellant has forty-five (45) days from the date of mailing to file the combined brief.
- I. The Appellant may request additional time to file the Reply Brief/Answering Brief on Cross-Appeal by filing a motion or stipulation with the Clerk of the Court of Appeals. (See “The Opening Brief,” Step 4 above and **Forms 18 and 19**.)

- J. The Appellant must mail or hand-deliver two (2) copies of the combined brief to the Appellee or the Appellee’s attorney.

Step 5: Appellee/Cross-Appellant’s Optional Reply Brief (This applies if a timely notice of Cross-Appeal was filed)

- A. The Appellee/Cross-Appellant has twenty (20) days to file a Reply Brief on Cross-Appeal if the combined Reply Brief/Answering Brief on Cross-Appeal was hand-delivered. If the combined Reply Brief/Answering Brief on Cross-Appeal was mailed, the Appellee/Cross-Appellant has twenty-five (25) days from the date of mailing to file the Reply Brief on Cross-Appeal.
- B. The cover of the Reply Brief should be titled “Appellee’s Reply Brief on Cross-Appeal,” and the color of the cover page is grey. (See **Form 20.**)
- C. The Appellee must follow Steps 1-3 of this section for preparing and filing the Reply Brief with the Court of Appeals.

Oral Argument

If either party to the appeal wants the Court of Appeals to conduct an oral argument before issuing a written decision, that party can file a written request for oral argument with the Clerk of the Court of Appeals. The Court of Appeals will decide whether to grant oral argument. If granted, the Court of Appeals will set a time for the parties to appear to discuss the facts and arguments made in the written briefs.

1. A written request must be made by either party in a separate paper filed with the Clerk of the Court of Appeals on or before the earlier of ten (10) days after the Reply Brief is due or filed. (A form of a “Request for Oral Argument” is attached as **Form 21**.)
2. At least twenty (20) days before the date set for oral argument, the Clerk of the Court of Appeals will notify the parties of the specific time and place at which oral argument will be heard.
3. However, an appeal may be considered and decided without oral argument if (1) the parties do not timely make a written request for oral argument, or (2) the Court of Appeals decides that oral argument will not be helpful in reaching its decision.
4. If the Court of Appeals decides that a case will be submitted without oral argument, the Clerk of the Court of Appeals will give the parties prompt written notice of this decision, and any party will have ten (10) days from the date of such notice to file a statement with the Clerk of the Court of Appeals explaining why oral argument should be heard.

Notice of Decision

When the Court of Appeals issues its decision resolving the appeal, the Clerk of the Court of Appeals will simultaneously advise the parties of the decision in writing, and it will mail a copy of the decision to all parties. The Court of Appeals will also post decisions online. Division One decisions are posted at <http://www.cofad1.state.az.us>. Division Two decisions are located at <http://www.apltwo.ct.state.us>.

Costs

The party who is successful on appeal (the winner) may file a “Statement of Costs” with the Clerk of the Court of Appeals requesting reimbursement for the costs of preparing or responding to the appeal. (A form of a Statement of Costs is attached as **Form 22**.) Costs will not be awarded unless a Statement of Costs is timely filed.

1. The Statement of Costs should contain a request for reimbursement of the filing fee, the cost of making the copies of the briefs, and the cost of the transcripts.
2. The successful party must file the Statement of Costs within ten (10) days, not including weekends and legal holidays, after the Clerk of the Court of Appeals advises the parties of the Court of Appeals’ decision.
3. The successful party must file the Statement of Costs with the Clerk of the Court of Appeals.
4. The unsuccessful party may file an Objection to the amount of costs requested. This Objection must be filed within five (5) days, not including weekends and legal holidays, after receipt of the Statement of Costs.
5. If no Objection is filed, the Clerk of the Court of Appeals will enter an order awarding costs to the successful party as set forth in the Statement of Costs.

Attorneys’ Fees

The Court of Appeals may also award attorneys’ fees to the successful party on appeal. As a pro per party, you will not be entitled to an award of attorneys’ fees. However, if the other party hired an attorney, you could be responsible for the other party’s attorneys’ fees. This occurs most often in family law cases and cases based on written contract disputes.

1. The Court of Appeals will consider (1) the financial resources of both parties, (2) the reasonableness of the positions each party has taken throughout the proceedings, and, if applicable, (3) whether the written contract provides for an award of reasonable attorneys’ fees to the successful party in the dispute.
2. The unsuccessful party must file an objection to an award of attorneys’ fees within five (5) days, not including weekends and official state holidays, after receipt of the request for an award of attorneys’ fees.

The Petition for Review

Seeking Further Review in the Arizona Supreme Court

Any party who believes that the Court of Appeals decision was wrong can file a “Petition for Review” with the Clerk of the Court of Appeals (not the Arizona Supreme Court) within thirty (30) days after the Court of Appeals issues its decision. The party opposing the Petition for Review may file a “Response to the Petition for Review” in the Arizona Supreme Court. (A form of the Petition for Review is attached as **Form 23**, and a form of the Response to the Petition for Review is attached as **Form 24**.) Below is a description of the formatting requirements and contents of the Petition for Review and the Response to the Petition for Review.

Step 1: Preparation

- A. The parties filing the Petition for Review and the Response to the Petition for Review should follow all of the requirements for paper size, font size, margins, page numbers, headings, etc. described in Step 1 of “The Opening Brief.”
- B. The Petition for Review and the Response to the Petition for Review are each limited to a total of twelve (12) pages.
- C. A copy of the Court of Appeals decision must be attached to the Petition for Review.

Step 2: Contents

- A. The Petition for Review and the Response to the Petition for Review must contain a discussion of:
 1. The issues presented for review;
 2. A list of additional issues not decided by the Court of Appeals that may need to be decided by the Arizona Supreme Court if review is granted;
 3. A statement of the important facts; and
 4. The reasons for granting or denying the Petition for Review, such as whether (1) an Arizona decision controls the point of law in question, (2) a decision of the Arizona Supreme Court should be overruled or modified, (3) the Court of Appeals has made conflicting decisions, or (4) an important issue of law has been decided incorrectly. This section is important because the Supreme Court is not required to review Court of Appeals decisions.

Step 3: Filing

- A. **FILING LOCATION AND NUMBER OF COPIES.** The party filing either the Petition for Review or the Response to the Petition for Review must file an original and seven (7) copies. The Petition for Review is filed with the Clerk of the Court of Appeals. The Response to the Petition for Review is filed with the Clerk of the Arizona Supreme Court.
- B. **APPENDIX.** Any papers necessary to assist the Arizona Supreme Court in understanding and ruling on the Petition for Review or the Response to the Petition for Review should be filed as an Appendix with the Petition for Review or the Response to the Petition for Review.
 - 1. If the Appendix is more than fifteen (15) pages in length, it must be fastened together separately from the Petition for Review or the Response to the Petition for Review.
 - 2. If the Appendix is more than fifteen (15) pages, an original and two (2) copies of the Appendix must be filed with the Clerk of the Court of Appeals when the Petition for Review is filed. Similarly, an original and two (2) copies of the Appendix must be filed with the Clerk of the Arizona Supreme Court when the Response to the Petition for Review is filed.
- C. **TIMING.** The party opposing the Petition for Review has thirty (30) days to file a Response to Petition for Review if the Petition for Review was hand-delivered. If the Petition for Review was mailed, the opposing party has thirty-five (35) days from the date of mailing to file the Response to the Petition for Review.
- D. A Reply to the Response to the Petition for Review is not allowed unless the Supreme Court orders a Reply to be filed.
- E. When the Supreme Court decides whether it will grant or deny the Petition for Review, it will mail a copy of its decision to the parties.
- F. If the Petition for Review is granted, the Supreme Court will issue an Order stating whether supplemental briefs or oral argument will be permitted.
- G. If a Petition for Review is denied, no further appeal to a state court is permitted.

Appendix 1

Frequently Asked Questions

Frequently Asked Questions

QUESTION 1: Where can I find the Arizona Rules of Civil Appellate Procedure?

ANSWER: The Arizona Rules of Civil Appellate Procedure are in the Arizona Revised Statutes located at any law library and at <http://azrules.westgroup.com/home/azrules/default.wl>.

QUESTION 2: What does it cost to file a Notice of Appeal in Arizona?

ANSWER: The Superior Court fee for filing a Notice of Appeal in a civil action is currently \$61.00. There is also an Appellant's filing fee payable to the Court of Appeals that is currently \$140.00. These fees may change. You should check the fees posted on the websites for Division One and Division Two of the Arizona Court of Appeals. The website address for Division One is: www.cofad1.state.az.us. The website for Division Two is: www.appeals2.az.gov. After the Notice of Appeal is sent by the Superior Court Clerk to the Court of Appeals, the Court of Appeals Clerk will notify the appellant by mail that the Court of Appeals filing fee is due.

QUESTION 3: Why do I have to file a cost bond?

ANSWER: The cost bond is provided so that the non-appealing party can be reimbursed for the cost of making copies of the Answering Brief and the filing fee if the Superior Court's judgment is affirmed.

QUESTION 4: How long will it take for the Court of Appeals to make its decision?

ANSWER: The time period can vary depending on the nature of the case. It often takes about one (1) year from the date the Notice of Appeal is filed until the Court of Appeals makes its written decision.

QUESTION 5: What is a Supersedeas Bond?

ANSWER: A Supersedeas Bond prevents a party from collecting or enforcing a judgment while an appeal is pending. If the Appellant does not post the Supersedeas Bond, the Appellee may enforce the judgment while the appeal is pending. If the Appellant files a Supersedeas Bond, the Appellee may not collect the money judgment while the appeal is pending. In domestic relations cases, however, a Supersedeas Bond will not prevent enforcement of an order directing payment of money for child support or spousal maintenance and it will not affect an order establishing or changing child custody.

QUESTION 6: What is the “record on appeal”?

ANSWER: The “record on appeal” is all of the papers filed in the Superior Court and transcripts of hearings in that court. The appellate courts will only consider the record on appeal and the law. The record may be transmitted to the Court of Appeals electronically or physically. If the paper records are physically transmitted, they will be returned to the Superior Court after the appeal is over.

QUESTION 7: Who can a self-represented party speak to at the Court of Appeals or the Supreme Court?

ANSWER: A self-represented party can speak only to the Clerk or his/her Deputy Clerks. The Clerk and his/her Deputy Clerks cannot give legal advice. The self-represented party cannot contact any staff member, judge, or other person at the Court of Appeals or the Arizona Supreme Court.

QUESTION 8: Why did I receive a copy of the Clerk’s index of the record after the Notice of Appeal was filed?

ANSWER: Both sides to an appeal receive a copy of the Clerk’s index of the record after a Notice of Appeal is filed. This index identifies all of the papers that were filed in the Superior Court. The papers are usually indexed chronologically. That is, the earliest filed paper is listed as No. 1 and the last paper filed is listed as the last number in the index. The index is used to identify the specific paper for the purposes of informing the Court of Appeals which pleading or paper you are referring to in your brief. For example, if the complaint is indexed item No. 1, then when you refer to the complaint in your brief you should indicate that it can be found at Index No. 1.

QUESTION 9: What is a Petition for Review?

ANSWER: A Petition for Review asks the Arizona Supreme Court to review a decision made by the Court of Appeals. A sample format of a Petition for Review is attached in **Appendix 3**.

QUESTION 10: Can I file a Motion for Reconsideration if the Arizona Supreme Court denies my Petition for Review?

ANSWER: No. You may not ask the Arizona Supreme Court to reconsider its decision denying your Petition for Review.

- QUESTION 11:** How long after the Court of Appeals issues its decision do I have to file a Petition for Review?
- ANSWER:** You have thirty (30) days to file a Petition for Review with the Clerk of the Court of Appeals after the Court of Appeals issues its decision.
- QUESTION 12:** Where do I file the Petition for Review to the Arizona Supreme Court?
- ANSWER:** The Petition for Review is filed with the Clerk of the Court of Appeals that issued the decision you are seeking to have the Arizona Supreme Court review.
- QUESTION 13:** Can I file a Writ of Certiorari to the United States Supreme Court with the Arizona Supreme Court?
- ANSWER:** No. It is filed in the United States Supreme Court.
- QUESTION 14:** What is the difference between a trial and an oral argument for an appeal?
- ANSWER:** An oral argument is an opportunity to discuss why the trial court’s decision was incorrect. No new evidence presented. The only evidence consists of the papers, exhibits, and testimony previously admitted by the Superior Court. The Court of Appeals and Supreme Court do not conduct trials.
- QUESTION 15:** Who can I call to get legal advice?
- ANSWER:** You should call an attorney to get legal advice. Most county bar associations have a “Lawyer’s Referral Service” that can help you find an attorney. In addition, the Arizona State Bar website (www.azbar.org) has links that can help you locate an attorney.
- QUESTION 16:** Can the Court of Appeals appoint an attorney to represent me?
- ANSWER:** No. The right to appointed counsel applies only in some criminal and juvenile cases.

APPROPRIATE QUESTIONS FOR THE CLERKS OF THE ARIZONA COURT OF APPEALS OR
THE ARIZONA SUPREME COURT

This is a list of some things that court personnel can and cannot do for you:

- We can explain and answer general questions about how the court works.
- We can give you general information about court rules, procedures, and practices.
- We can provide you with the telephone number for local lawyer referral services, legal aid programs, and other services where you can get legal information.
- We can provide court schedules and information on how to get a case scheduled.
- We can give you information from your case file that is not restricted.
- We can provide you with court forms and instructions that are available.
- We can usually answer questions about court filing deadlines.

- We cannot tell you whether you should bring your case to court.
- We cannot tell you what words to use in your court papers or whether they are correct.
- We cannot tell you what to say in court.
- We cannot give you an opinion about what will happen if you bring your case to court.
- We cannot conduct legal research for you.
- We cannot talk to the judge for you or let you talk to the judge outside of court.
- We cannot alter court documents.

Appendix 2

Important Terms

Important Terms

AFFIDAVIT:

This is a paper signed by an individual who swears under oath that the facts or conduct described in the affidavit are true. Beneath the signature of the person signing the affidavit is a statement by a notary public indicating that the person who signed the affidavit presented proof of identity.

AFFIDAVIT IN LIEU OF BOND:

This is the paper that is filed along with the Notice of Appeal or the Notice of Cross-Appeal if the appealing party is unable to pay a bond for costs on appeal. The paper should explain why the party is unable to pay a bond for costs on appeal. If this paper is filed, the Superior Court will decide this matter. (See **Form 6**.)

ANSWERING BRIEF:

This is the paper filed by the party opposing the appeal, (the Appellee), in response to the Opening Brief filed by the party filing the appeal, (the Appellant). The Answering Brief should contain arguments in support of the trial court's judgment and references to the transcripts or trial exhibits supporting those arguments. (See **Form 16**.)

APPEAL:

An appeal begins when a timely Notice of Appeal is filed with the Clerk of the Superior Court that entered the final judgment. Appeals of most civil cases are made from the Superior Court to the Court of Appeals. The Arizona Supreme Court can be asked to review final decisions of the Court of Appeals. The Arizona Supreme Court has discretion to accept or reject review of final decisions of the Court of Appeals.

APPELLANT:

This is the party filing an appeal. The Appellant asks the Court of Appeals to review a final judgment by timely filing a Notice of Appeal with the Clerk of the Superior Court.

APPELLEE:

This is the party opposing an appeal.

ARIZONA SUPREME COURT:

This is the highest state appellate court in Arizona. The Court is located in Phoenix and has discretion to review decisions from either Division One or Two of the Arizona Court of Appeals.

BOND FOR COSTS ON APPEAL:

This is an amount of money, usually \$500.00, which the Appellant or Appellee filing a Notice of Cross-Appeal must deposit with the Clerk of the Superior Court, along with the Notice of Appeal or the Notice of Cross-Appeal. The bond for costs on appeal assures that the party who successfully opposes an appeal (or cross-appeal) will be able to collect for the costs he/she incurred on appeal. (See **Form 5**.) If the Appellant or Appellee filing a Notice of Cross-Appeal cannot file a \$500.00 bond for costs on appeal, that party must file an Affidavit in Lieu of Bond with the Notice of Appeal in the Superior Court. (See definition above and **Form 6**.) Both parties may agree that no bond for costs on appeal is required or that this bond should be for a particular amount of money. If so, both parties must sign a paper called a Stipulation Regarding Bond for Costs on Appeal and file it with the Superior Court. (See **Form 7**.)

BRIEF:

This is an argument in writing that explains why a judgment of the Superior Court should be reversed or affirmed by the Court of Appeals. The Appellant files an Opening Brief with the Clerk of the Court of Appeals. The Appellee then files an Answering Brief. If the Appellee has filed a Notice of Cross-Appeal, the Appellee may file a combined Answering Brief and Opening Brief on Cross-Appeal. Afterward, the Appellant may file a Reply Brief. If the Appellee has filed an Opening Brief on Cross-Appeal, the Appellant may file a combined Reply Brief and Answering Brief on Cross-Appeal. If so, the Appellee may file a Reply Brief on Cross-Appeal. (See **Form 16**.)

CAPTION:

The caption is part of any paper filed with the Court of Appeals or the Arizona Supreme Court that states: (1) the court in which the paper is being filed; (2) the name of the Plaintiff and Defendant (or Petitioner and Respondent in a family law case) in the Superior Court case; (3) the Superior Court case number; and (4) the case number assigned by the Arizona Court of Appeals or the Arizona Supreme Court.

CERTIFICATE OF COMPLIANCE:

This is a page that must be attached to the end of the Opening Brief, Answering Brief, and any Cross-Appeal Brief or Reply Brief. (See **Form 17**.) The Certificate of Compliance tells the Court of Appeals that the brief does not exceed the word count or page limit set by the Arizona Rules of Civil Appellate Procedure.

CIVIL CASE:

Most lawsuits are categorized as either civil or criminal, with the exception of Industrial Commission and Corporation Commission cases. Civil cases are typically cases between people or corporations for money or injunctive or declaratory judgment relief. Tax and family law cases are also civil cases.

CIVIL APPEALS DOCKETING STATEMENT:

This is a paper that the Appellant must file in Superior Court within ten (10) days after filing the Notice of Appeal for counties where appeals are heard by Division One. These counties are Maricopa, Yuma, La Paz, Mohave, Coconino, Yavapai, Navajo, and Apache. (See **Form 8**.)

CLERK’S OFFICE:

Each court in Arizona has an office for the “clerk” of that court. The clerk is a public official responsible for filing papers and keeping records of court proceedings. There is a clerk for each Superior Court in Arizona’s fifteen (15) counties. There is a clerk for Division One and a clerk for Division Two of the Court of Appeals. There is a clerk for the Arizona Supreme Court.

COURT REPORTER:

This person records, by stenographic or electronic means, everything that is said during a court proceeding. The parties to an appeal need to arrange with the court reporter in their Superior Court case, or the Electronic Services Office in the Maricopa County Superior Court if the proceeding was recorded by CD in a case in that court, to get all necessary transcripts to include in the Record on Appeal. The court reporter’s name and contact information is contained in the Superior Court case record.

CROSS-APPEAL:

After a Notice of Appeal has been timely filed, the party opposing the appeal (the Appellee), may ask the Court of Appeals to review a particular issue arising from the same Superior Court final judgment by timely filing a Notice of Cross-Appeal with the Clerk of the Superior Court. A cross-appeal is usually filed when the Appellee contends that the Superior Court judgment failed to grant all of the relief requested, such as by denying a request for an award of attorneys’ fees. (See **Form 4**.)

DIVISION ONE OF ARIZONA COURT OF APPEALS:

Division One of the Arizona Court of Appeals is located at 1501 W. Washington, Phoenix, Arizona 85007. You may contact the Clerk of the Court at (602) 542-4821. Division One hears appeals from final decisions of the Superior Court in the counties of Maricopa, Yuma, La Paz, Mohave, Coconino, Yavapai, Navajo, and Apache.

DIVISION TWO OF ARIZONA COURT OF APPEALS:

Division Two of the Arizona Court of Appeals is located at 400 W. Congress, Tucson, Arizona 85701. You may contact the Clerk of the Court at (520) 628-6954. Division Two hears appeals from final decisions of the Superior Court in the counties of Pima, Pinal, Cochise, Santa Cruz, Greenlee, Graham, and Gila.

ELECTRONIC SIGNATURE:

An electronic signature is an electronic symbol, usually /s/, followed by a typed name. For example, “/s/ John Doe,” is an electronic signature. The /s/ symbol means that the individual whose typed name appears next to it or below it intended that the typed name be treated as an original signature. An electronic signature is attached to a paper filed with the Clerk of the Court by a party or a judge of the Superior Court or the Court of Appeals.

ENTRY OF JUDGMENT:

This is the date that the final judgment is filed with the Clerk of the Superior Court. When the final judgment is filed with the Clerk of the Superior Court, it is stamped with the entry date. The entry date may differ from the date that a judgment is signed by the Superior Court judge. A party has thirty (30) days from the entry of judgment to file a Notice of Appeal with the Clerk of the Superior Court. (See **Form 3**.) If the Notice of Appeal is not filed within this thirty (30) day period, the Court of Appeals will dismiss the appeal as untimely.

EVIDENCE:

Evidence consists of the testimony of witnesses, documents or items admitted by the court as exhibits, and facts agreed to by the parties. The Court of Appeals and the Arizona Supreme Court will only review evidence and arguments presented to the Superior Court. These courts will not accept or review new evidence.

FILING:

To “file” a paper is to give it to the clerk’s office at the court where the case is pending. The paper will then become part of the case record. Papers can be filed with the clerk of the court in person or by mail. The clerk’s office may reject for filing papers that do not comply with applicable rules.

FILING FEE FOR THE APPEAL:

The filing fee is an amount of money that the law requires the Appellant to pay to pursue an appeal. The Court of Appeals will issue a written Notice that explains to the parties the amount of money that must be paid as the filing fee. This filing fee must be paid within the time set forth in the Notice, unless a deferral or waiver of this fee is obtained from the Court of Appeals. (See **Form 15**.)

INDEX OF RECORD:

This paper is provided by the Clerk of the Superior Court to the parties approximately forty (40) days after an appeal is timely and properly initiated by the Appellant. This index chronologically lists all of the papers filed in the Superior Court. When referring to these papers in briefs submitted to the Court of Appeals, the parties should identify those papers by their index number.

JUDGMENT:

A judgment is a paper issued by the Superior Court indicating that it is the Superior Court's final determination of the rights and obligations of the parties in the case. This can be in the form of a paper entitled "Judgment," "Minute Entry," "Ruling," or "Decree." The judge must electronically or manually sign the judgment in order for it to be considered final. A final Superior Court judgment is required before a Notice of Appeal can be filed.

MONEY JUDGMENT:

A money judgment is a judgment signed by a judge of the Superior Court requiring one party to pay a specific amount of money to another party.

MOTION:

A motion is a paper filed with the Superior Court, the Court of Appeals, or the Arizona Supreme Court requesting that certain relief be granted. For example, a motion is filed in the Court of Appeals requesting an extension of time to file the Opening Brief. (See **Form 18**.)

NOTICE OF APPEAL:

This is a paper that must be filed in the Superior Court within thirty (30) days after the date of entry of judgment by the Clerk of the Superior Court in order to appeal the judgment to the Court of Appeals. If the Notice of Appeal is not timely filed, the Court of Appeals must dismiss the appeal. (See **Form 3**.)

NOTICE OF CROSS-APPEAL:

The Notice of Cross-Appeal is a paper that must be filed with the Clerk of the Superior Court within twenty (20) days after the Notice of Appeal is filed if the party opposing the appeal (the Appellee) wants the Court of Appeals to review a particular issue arising from the same Superior Court judgment. (See **Form 4**.)

OPENING BRIEF:

The Opening Brief is a paper filed by the party pursuing the appeal (the Appellant). The Opening Brief should contain a procedural history of the case (Statement of the Case), a Statement of Material Facts, Issues Presented for Review, Arguments supporting reversal of the Superior Court's judgment, a Conclusion, and proof that the Opening Brief was timely filed in the Court of Appeals and copies were hand-delivered or mailed to the party opposing the appeal (Certificate of Compliance). (See **Form 16**.)

ORAL ARGUMENT:

Oral argument is an opportunity for the Appellee and Appellant to appear in person at a time set by the Court of Appeals to discuss the issues and arguments presented in the briefs with the judges of the Court of Appeals. These judges will decide whether to affirm or reverse the Superior Court's judgment. (See **Form 21**.)

ORDER:

An order is a written direction or command delivered by a court or judge. An order from a Superior Court that resolves the case and is signed by the judge and entered by the clerk is called a final judgment.

PARTY:

A party is a person or entity that either brings or defends a lawsuit.

PETITION FOR REVIEW/RESPONSE TO PETITION FOR REVIEW:

A Petition for Review is a paper that a party files with the Clerk of the Court of Appeals if that party wants the Arizona Supreme Court to review a decision of the Court of Appeals. The Petition for Review must be filed with the Clerk of the Court of Appeals within thirty (30) days after the Court of Appeals files its decision. If a Petition for Review is filed on time, the opposing side will have thirty (30) days from the date the Petition for Review is served by hand delivery or thirty-five (35) days after service by mail, to file any objections in a paper called a Response to Petition for Review. The Response to the Petition for Review is filed with the Clerk of the Arizona Supreme Court. (See **Forms 23 & 25**.)

PETITIONER:

In family law cases, the party initiating the case is called the Petitioner instead of the Plaintiff.

“PRO SE” OR “PRO PER” LITIGANTS:

These are persons who represent themselves in a court of law without the assistance of an attorney.

RECORD ON APPEAL:

The record on appeal consists of (1) all papers filed in a case with the Clerk of the Superior Court, (2) all exhibits admitted by the Superior Court judge, and (3) all transcripts of any and all proceedings for that case. The parties in an appeal must take steps to ensure that all necessary transcripts of proceedings that took place in the Superior Court are included in the Record on Appeal.

REPLY BRIEF:

This is an optional paper that the Appellant or Cross-Appellant may file in response to the Answering Brief or Answering Brief on Cross-Appeal. The Reply Brief should respond to the arguments in the Answering Brief or the Answering Brief on Cross-Appeal and should not re-urge the same arguments that were made in the Opening Brief or the Opening Brief on Cross-Appeal. The Reply Brief should refer to the trial transcripts or exhibits to show that the facts supporting the argument can be found in the record. (See **Form 16.**)

RESPONDENT:

In family law cases, the opposing party is called the Respondent instead of the Defendant.

SERVICE:

Service occurs when one party delivers a copy of a legal paper to the other party or parties. Service may be personal (hand-delivered) or by mail. All papers filed with the Clerk of the Superior Court, the Clerk of the Court of Appeals, and the Clerk of the Arizona Supreme Court must be served on the other parties to an appeal. If the other party has an attorney, the papers must be served on the attorney. If the other party does not have an attorney, the papers must be served on the other party at the other party's last known address. (See **Form 17.**)

STATEMENT OF COSTS:

This is a paper that the party who wins on appeal can file in order to recover the costs he or she incurred in preparing the appeal from the unsuccessful party. (See **Form 22.**)

STIPULATION WAIVING BOND FOR COSTS ON APPEAL:

This is a paper that both parties must sign and file with the Superior Court if they agree that the party filing a Notice of Appeal or a Notice of Cross-Appeal does not have to file a bond for costs on appeal or that the bond should be filed for a particular amount of money. (See **Form 7.**)

SUPERIOR COURT:

This is the “trial court” in each of Arizona’s fifteen (15) counties. It is the court where most civil cases are initially filed. Appeals from final decisions in the Superior Court are taken to the Court of Appeals.

