

HOW TO FILE AN APPELLANT'S BRIEF WITH THE ILLINOIS SUPREME COURT

NOTE: If there are any words or terms used in these instructions that you do not understand, please visit Illinois Legal Aid Online at ilao.info/glossary. For more information about going to court, including how to fill out and file forms, call or text Illinois Court Help at 833-411-1121 or go to ilcourthelp.gov.

What is an *Appellant's Brief*?

An *Appellant's Brief* tells the Illinois Supreme Court why the appellate court should not have issued an opinion or entered an order or judgment against you.

Who can use the *Appellant's Brief*?

The appellant files the *Appellant's Brief*. If you filed the *Petition for Leave to Appeal*, you are the appellant. (Your opponent is called the appellee.)

When do I file the *Appellant's Brief*?

- You can file the *Appellant's Brief* after the Illinois Supreme Court has allowed your *Petition for Leave to Appeal* and you have filed a *Notice of Election* telling the Court and your opponent that you will file an *Appellant's Brief*.
- In general, your *Appellant's Brief* must be filed within **35 days** after the date the Illinois Supreme Court allows your *Petition for Leave to Appeal*.
- **SPECIAL DEADLINES IN CERTAIN CASES:**
 - If the appeal involves parental responsibility or parenting time (custody or visitation) relocation of a child, or pretrial release, the *Appellant's Brief* is due **21 days** after the date the Illinois Supreme Court allows your *Petition for Leave to Appeal*.
 - If the appeal involves a delinquent minor, the *Appellant's Brief* is due **28 days** after the date the Illinois Supreme Court allows your *Petition for Leave to Appeal*.
- Be sure to ask the Illinois Supreme Court Clerk's office for the schedule that applies to your case. If you need more time to file your *Appellant's Brief*, you may file a *Motion* for extension of time, but you will need to give the Supreme Court a very good reason. See Supreme Court Rule [361\(f\)](#). By signing your *Motion*, you are verifying the truth of your statements under penalty of perjury. Motions for extensions of time must be filed **before** the due date of the document you are seeking an extension of time to file. However, the Illinois Supreme Court is not required to give you an extension.

Where can I find the forms I need?

- You can find the forms you need at: ilcourts.info/forms.

- You can also ask the Illinois Supreme Court Clerk for a copy.

What does it cost to file my *Appellant's Brief*?

None.

Is there a page or word limit?

- Yes. The *Appellant's Brief*—not including the cover, table of contents with statement of points and authorities, the certificate of compliance, the proof of delivery, and the appendix—must be no more than 50 pages or 15,000 words.
- If you need more than 50 pages or 15,000 words, you may file a *Motion* with the Illinois Supreme Court to ask them if you can file an *Appellant's Brief* with more pages or words. You should file a *Motion* asking for more pages or words **before** your *Appellant's Brief* is due.

How do I fill out the *Appellant's Brief*?

- Fill out the form online or print it and fill it out by hand. If you fill it out by hand, you must print neatly.
- You will have to add pages to the form, particularly in the appendix, and you might have to remove pages from it. If you have access to a computer with a PDF editing program (such as Adobe Acrobat), you can add or remove pages electronically. Otherwise, you will have to print out the form and add and remove pages by hand.
- The *Appellant's Brief* form contains several sections. The instructions for each section are:

Cover page (1st page)

- The cover page must be white.
- Check the top box if your case involves parental responsibility or parenting time (custody/visitation rights), or relocation of a child. Check the second box if your case involves delinquent minor proceedings. Check the third box if your case involves pretrial release.
- Enter the Illinois Supreme Court case number.
- If the case was given a name beginning with "In re" (e.g., "In re Marriage of Jones"), enter that name on the line starting with "In re." If this does not apply to your case, leave the line blank.
- Enter the names of the plaintiff/petitioner (the party who filed the trial court case) and the defendant/respondent (the party the case was filed against). Check the "Appellant" box under your name. Check the "Appellee" box under the other party's name.
- Enter the appellate district (First, Second, Third, Fourth, or Fifth) and appellate court case number.

- Enter the trial court county, case number, and judge's name.
- Enter your name, address, and phone number. The email address (if you have one) and mailing address you put on the *Appellant's Brief* is where important legal documents will be sent to you. You should use an email account that you do not share with anyone else and that you check every day. If you do not check your email every day, you may miss important information or documents from other parties or from the court.
- Check the box if you would like a chance to present oral argument (see Step 5 on page 4).

Table of Contents and Points (Arguments) and Authorities

- Each section of the *Appellant's Brief* is listed for you. When you have completed all sections and added page numbers, you must come back to this list and enter the page number where each section starts.
- List your argument titles next to each numbered point (Point 1, Point 2, etc.). Your argument titles should state why you think the appellate court's decision is wrong.
- Below each argument title under "Authorities" you must list the cases, statutes (laws), etc., you use to support each argument. You may first need to write your argument section, which comes later in your *Appellant's Brief*.
- You may raise as many arguments as you like, as long as they are reasonable.
- The form includes room for 3 arguments. If you are making more than 3 arguments, fill out and insert one or more *Additional Points and Authorities* forms into the main form.

Nature of the Case

State why the lawsuit was filed and check the boxes to tell the Illinois Supreme Court how the trial court or the jury and the appellate court ruled.

Issues Presented for Review

- State the title of each argument again in the form of a question you want the Illinois Supreme Court to answer. See the instructions on the form for an example.
- If you are making more than 3 arguments, fill out and insert one or more *Additional Issues Presented for Review* forms into the main form.

Jurisdiction

- Write the date your *Petition for Leave to Appeal* was allowed under Supreme Court Rule [315](#). Most cases are filed under Rule 315.
- If your appeal involves a constitutional question and is filed under Rule [317](#), check the box next to "review as a matter of right." It is only a constitutional question if the appellate court's decision says the case involves a constitutional question. Write the date the *Petition for Appeal as a Matter of Right* was allowed.

Statutes (Laws) Involved

- If your case involves a statute (law), constitutional provision, treaty, ordinance, or regulation, quote the law or regulation involved, and the number (e.g., 735 ILCS 5/2-615) of each one so others can find and read it themselves. The number of a law, regulation, etc. is also called its citation.
- If you need more room, fill out and insert one or more *Additional Statutes Involved* forms into the main form.

Statement of Facts

- Tell the Illinois Supreme Court what happened in the trial court and the appellate court from beginning to end. Include the page numbers of the record on appeal where the information you include is located. Do not argue or comment.
- Do not use facts or information from documents that are not in the record on appeal.
- If you need more room, fill out and insert one or more *Additional Statement of Facts* forms into the main form.

Argument

- For each argument, state:
 - The title of your argument;
 - Check the boxes next to the standard(s) of review that the Illinois Supreme Court should apply to each argument. "Standard of review" means how much respect the Supreme Court must give to the lower court rulings. The standard of review affects how the Supreme Court will decide the appeal and depends on the type of mistake that was made by the jury or by the trial court;
 - A "de novo" standard of review means the Supreme Court will decide the issues fresh, as if it was the first court to decide them.
 - A "manifest weight" standard means the Supreme Court will look at whether the jury's or trial court's decision is totally unreasonable compared to what the evidence showed.
 - An "abuse of discretion" standard generally means the Supreme Court will give the benefit of the doubt to the trial court's decision, especially if it is a close call.
 - The law that applies to your case;
 - How the law applies to the facts of your case; and
 - What you want the Illinois Supreme Court to do.
- Include statutes (laws), rules, and cases that support each of your arguments.
- Your arguments should be specific and complete. The Illinois Supreme Court will not consider arguments that are vague or incomplete.
- If you are making more than 3 arguments, fill out and insert one or more *Additional Argument* forms into the main form. If you are making less than 3 arguments, remove any extra pages in this section.

Conclusion

- Check the box or boxes to tell the Illinois Supreme Court what you want them to do.
- Sign the form and print your name.

Certificate of Compliance

- Enter the length of your brief (number of pages or words) and check the box to show if you counted the pages or words.
- Certify that you have followed the rules for briefs, especially the page or word limit, by signing and printing your name on the certificate of compliance.

Proof of Delivery

Tell the Illinois Supreme Court how you are sending your *Appellant's Brief* to the other parties (see **Step 1 below**).

Appendix

Provide:

- A table of contents that lists everything in the appendix and the page on which everything appears (you will have to add all documents to your appendix, then number the pages first);
- A list of the contents in the record on appeal and the page number of the record where they appear. You will list these on the pages that follow the "Appendix" page. The contents include the common law record (the documents filed in the trial court); the report of proceedings (the transcript of the trial court hearings), if any; and the names of each witness who testified along with the page numbers where their questioning begins;
- The appellate court decision; and
- Any other really important documents from the record. Be sure to include any materials you add to the table of contents for the appendix.
- If you need more room, fill out and insert one or more *Additional Common Law Record*, *Additional Report of Proceedings*, or *Additional Index of Witnesses* forms into your *Appellant's Brief*.
- You must number your appendix pages at the bottom in order (A-1, A-2, etc.) after you completed your appendix; and then fill in the page numbers to your table of contents.

What do I do after I fill out the *Appellant's Brief*?

Step 1: Send your *Appellant's Brief* to all other parties.

- You must send your *Appellant's Brief* to the other parties in the case. However, if any party has a lawyer, you must send your *Appellant's Brief* to the lawyer.
- If you and the person you're sending the *Appellant's Brief* to have an email address, you must send it by email or by notification through the e-filing system. If you or the person you're sending the *Appellant's Brief* to does not have an email address, you may give it to the other parties by personal hand delivery, mail, or third-party commercial carrier (for example, FedEx or UPS).

- Complete the *Proof of Delivery* with information to show how you sent your *Appellant's Brief* to each party. The *Proof of Delivery* has room for 3 parties. If you send your *Appellant's Brief* to more than 3 parties, fill out and add one or more *Additional Proof of Delivery* pages to your *Appellant's Brief* form.

Step 2: File your *Appellant's Brief* with the Illinois Supreme Court.

E-filing:

- You must file your *Appellant's Brief* by the filing deadline that applies to your case. If you are uncertain as to when the filing deadline is, call the Supreme Court Clerk's office at 217-782-2035.
- After you fill out your court forms, file them with the Illinois Supreme Court. This is done by electronic filing, called 'e-filing.'
- You do not have to e-file if you qualify for an exemption (see "Not E-Filing" below), or your case involves a criminal matter.
- Most people e-file their forms using Odyssey eFileIL at ilcourts.info/efile.
- Follow step-by-step instructions and watch videos that walk you through the steps for e-filing at ilcourts.info/EfileHowTo.
- E-filing is easier on a computer. It may not work on a cell phone or tablet.
- If you do not have access to a computer or if you need help e-filing, take your completed forms to a public library, or a Circuit Clerk, Appellate Clerk, or Supreme Court Clerks' office. These places offer public computers where you can e-file your forms.
 - Depending on your courthouse, you can bring your forms on paper and there may be public computers with a scanner where you can turn your paper forms into electronic files.
 - Librarians and courthouse staff may be able to help you e-file, but they cannot provide legal advice.

Not E-filing:

- Some people are not required to e-file, which means they can file paper forms at the courthouse or by mail. People who do not have to e-file are:
 - Inmates in prison or jail who do not have a lawyer.
 - People with a disability that keeps them from e-filing.
- You may also qualify for an exemption from e-filing if you:
 - Do not have Internet or computer access in your home, and it is hard for you to travel.
 - Have trouble reading, writing, or speaking English.
 - Are filing documents in a sensitive case, such as an order of protection.
 - Tried to e-file your forms, but you were not able to because the equipment or help you needed was not available.

- You must file the original *Certification for Exemption from E-Filing* form with the Illinois Supreme Court Clerk's office.

Step 3: Mail paper copies to the Illinois Supreme Court.

- Once your filing is accepted, you **must do one** of the following to mail bound copies of your *Appellant's Brief*. All copies must be mailed to the Clerk of the Illinois Supreme Court at:

Clerk of the Illinois Supreme Court
200 E. Capitol Ave.
Springfield, IL 62701-1721

- **E-filing**

- If you e-filed your brief, send **13 bound copies** of the *Appellant's Brief* and appendix (showing the clerk's e-file stamp) to the Springfield office of the Clerk of the Illinois Supreme Court within **5 days** of the date your brief was accepted and filed.

- **Not E-filing:**

- If you were not required to e-file, send your *Appellant's Brief* and appendix to the Springfield office of the Clerk of the Illinois Supreme Court. You must include **1 original, plus 12 bound copies**.

- All copies of the brief must be bound on the left side of the page and the binding must not block the text of the document. Acceptable binding includes comb binding, spiral binding, or stapling. Paper clips, hole punch, inserted into a binder, and zip ties are **not** permitted.

Step 4: Wait for the *Appellee's Brief*.

- In general, the *Appellee's Brief* is due within **35 days** after the due date for your *Appellant's Brief*. The appellee is not required to file a brief. The appellee's failure to file a brief does not mean that you will win the appeal.
- If the appellee files a brief, you may file a *Reply Brief*, which generally is due within **14 days** after the due date for the *Appellee's Brief*. Ask the Illinois Supreme Court Clerk's Office for the schedule that applies to your case. You are not required to file a *Reply Brief*. Your failure to file a *Reply Brief* does not mean that you will lose the appeal.

Step 5: Wait for oral argument, if any.

- After all the briefs are filed, the Illinois Supreme Court will notify the parties whether it will hear oral argument or not. The Court is not required to have oral argument even if you asked for it.
- If the Court is going to hear oral argument, it will send you a notice of oral argument.
- You must respond to the notice of oral argument and tell the Court if you will appear and argue or not.

- If you appear and argue, you must arrive on time for the court date. Explain your argument(s) to the justices when they ask you. Be prepared to answer the Court's questions. After you argue, the appellee will get a chance to respond to your argument, and you will get a chance to reply.
- If the Court decides not to have oral argument, you will receive a notice that the case will be decided based on the briefs.

Step 6: Wait for the Illinois Supreme Court's decision.

- The Illinois Supreme Court will send you a written decision. This might take several months.
- If you think that the Court overlooked or misunderstood any of your arguments, you may file a *Petition for Rehearing*, which is due within **21 days** after the date of the decision. You must point out errors in the Illinois Supreme Court's decision; you are not allowed to just reargue your case.