

HOW TO FILE AN APPELLEE'S BRIEF

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.

More information and resources for civil appeals are available at: ilcourts.info/appl-resources. There is also a Guide for Appeals to the Illinois Appellate Court for Self-Represented Litigants at: ilcourts.info/aoic-appl-guide.

What is an Appellee's Brief?

An *Appellee's Brief* tells the appellate court why the trial court was right to enter an order or judgment in your favor.

Who can use the Appellee's Brief form?

The *Appellee's Brief* is filed by the appellee. If you are responding to the appeal, you are the appellee (your opponent, who filed the appeal, is called the appellant).

When do I file the Appellee's Brief form?

- In general, your *Appellee's Brief* must be filed within **35 days** after the due date for the *Appellant's Brief*.
- **SPECIAL DEADLINES IN CERTAIN CASES:**
 - Appeals involving parental responsibility or parenting time (custody or visitation), or relocation of a child have **shorter deadlines**. The appellate court clerk's office will give you the schedule that applies to your case.
- If you need additional time, you may file a *Motion* with the appellate court to ask for an extension of time, but you will need to give the appellate court a good reason. See Supreme Court Rule [361\(f\)](#). 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 appellate court is not required to give you an extension and may decide the case with only the *Appellant's Brief* if you do not file your brief on time.
- You are **not** required to file a brief, and your failure to file a brief does not mean that you will lose the appeal.

Where can I find the forms I need?

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

What are the costs to file my Appellee's Brief?

None.

Is there a page or word limit?

- Yes. The *Appellee's Brief*—not including the cover, the table of contents and 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 appellate court to ask for permission to file a *Brief* with more pages or words. You must file a *Motion* asking for more pages or words **before** your *Appellee's Brief* is due.

How do I fill out the Appellee's Brief form?

- 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 might have to add pages to the form and remove pages from it. If you have access to a computer with a PDF editing program (e.g., Adobe Acrobat), you can add and remove pages electronically. Otherwise, you will have to print out the form and add and remove pages by hand.
- The *Appellee's Brief* form contains several sections. The instructions for each section are:

Cover page (1st page)

- The first page (cover) must be light blue. You need to print or copy the first page of your brief onto light blue paper.
- Check the top box if the appeal involves parental responsibility or parenting time (custody/visitation rights), or relocation of a child.
- Enter the appellate court case number (which you received from the appellate court clerk) and the appellate court district.
- Provide the name of the trial court case. If the case was given a name beginning with "In re" (e.g., "In re Marriage of Jones"), enter that name. Then, enter the names of the plaintiff/petitioner (the party who filed the trial court case) and the defendant/respondent (the party against whom the case was filed). Finally, show which party is the appellant and which party is the appellee.
- Enter the trial court county, case number, and judge's name.
- Enter your name, address, phone number, and email address (if you have one). The email address you put on the form 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.
- Show whether you would like a chance to present oral argument (see **Step 4 below**).

Table of Contents and Points and Authorities

- Each section of the *Appellee'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 the title of each argument, and the pages on which they appear. Make the title of each argument

responsive to the title of each argument in the *Appellant's Brief* (i.e., make sure your title states why the argument in the *Appellant's Brief* is wrong).

- Below each argument, list the cases, statutes (laws), etc. that you will use to support each argument.
- The form includes room to respond to 3 arguments. If the appellant is 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

- You do not need to include this section, but you may do so if you disagree with the appellant's version of the nature of the case in their *Appellant's Brief*.
- State why the lawsuit was filed and how the trial court or the jury ruled.

Issues Presented for Review

- You do not need to include this section, but you may do so if you disagree with the appellant's version of the issues presented for review in their *Appellant's Brief*.
- State the title of each argument again. The issues should be a list of questions the appellate court is being asked to decide. If the appellant is making more than 3 arguments, fill out and insert one or more *Additional Issues Presented for Review* forms into the main form.

Jurisdiction

- You do not need to include this section, but you may do so if you disagree with the appellant's version in their *Appellant's Brief*.
- State why the appellate court has, or does not have, the power to hear the appeal. The appellate court has the power to hear an appeal only if the trial court's judgment is appealable under an Illinois Supreme Court Rule.
- Tell the appellate court which rule, if any, applies and why. If no rule applies, explain why not.
- List the filing dates of the trial court's judgment, its rulings on any motions that were filed after the judgment, and the *Notice of Appeal (Civil)*. State whether the *Notice of Appeal (Civil)* was filed on time.

Statutes (Laws) Involved

- You do not need to include this section, but you may do so if you disagree with the appellant's version in their *Appellant's Brief*.
- If your case involves a statute (law), constitutional provision, treaty, ordinance, or regulation, state the language and the number (e.g., 735 ILCS 5/2-615) of each provision so others can find that language. The number of a provision is also called the citation.
- If you need more room, fill out and insert one or more *Additional Statutes (Laws) Involved* forms into the main form.

Statement of Facts

- You do not need to include this section, but you may do so if you disagree with the appellant's version of the statement of facts in their *Appellant's Brief*.
- Tell the appellate court what the appellant's version of the statement of facts got wrong or left out. Include the page numbers of the record on appeal where the information you include is located.
- Give the missing facts without arguing or commenting on why they are important.
- Do not use facts or 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 box(es) next to the standard(s) of review that the appellate court must apply to each argument. "Standard of review" means how much weight the appellate court must give to the trial court or jury rulings. The standard of review depends on the type of ruling that was made by the trial court or jury:
 - A "de novo" standard of review means the appellate court will decide the issues fresh, as if it was the first court to decide them.
 - A "manifest weight" standard means the appellate court will look at whether the trial court's or jury's decision is totally unreasonable compared to what the evidence showed.
 - An "abuse of discretion" standard generally means the appellate 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 the case;
 - How the law applies to the facts; and
 - What you want the appellate court to do.
- Include cases, statutes (laws), rules, etc. that support your arguments.
- Your responses should be specific and complete. The appellate court will not consider responses that are vague or incomplete.
- The form includes room to respond to 3 arguments. If the appellant is making more than 3 arguments, fill out and insert one or more *Additional Argument* forms into the main form.

Conclusion

- Check the boxes to tell the appellate court what you want them to do. If you check "other," be sure to explain what you want the court 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 whether you counted the pages or words.

- Certify that you have followed the rules for briefs, especially the page or word limit, by signing the certificate of compliance.

Proof of Delivery

Tell the appellate court how you are sending your *Appellee's Brief* to the other parties (see **Step 1 below**).

Appendix

- You do not need to include this section, but you may do so if you think the appellant's appendix is missing something important.
- If an appendix is included, after you complete your appendix, you must number your appendix pages at the bottom in order (A-1, A-2, etc.) and then fill in the page numbers in your table of contents. See additional instructions on the *Appellee's Brief* form for including documents in the appendix.

What do I do after I fill out the form?

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

- You must send your *Appellee's Brief* to the other parties in the case. However, if any party has a lawyer, you must send your *Appellee's Brief* to the lawyer.
- If you and the person you're sending the *Appellee's Brief* to have an email address, you must send it by email or through the e-filing system. If you or the person you're sending the *Appellee's Brief* to does not have an email address, you may give it to the other person 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 *Appellee's Brief* to each party. The *Proof of Delivery* has room for 3 parties. If you send your *Appellee's Brief* to more than 3 parties, fill out and insert one or more *Additional Proof of Delivery* forms into the main form.

Step 2: File your *Brief* with the appellate court in your district.

You must file the *Appellee's Brief* by the filing deadline that applies to your case. If you are uncertain as to when the filing deadline is, call the clerk's office.

E-filing:

- Court forms are filed 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/efile-info.
- 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 Clerk's 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.
- To get an exemption from e-filing, use the form at ilcourts.info/appl-exempt. If you can't print this form, then ask for it at your local courthouse.
 - File your *Certification for Exemption from E-Filing* form with your other court forms at the appellate court clerk's office or by mail.
 - Bring at least two copies of your signed court forms to the appellate court clerk's office.

NOTE: Your appellate district's local rules may require a different number of paper copies. Check the local rules for your district at ilcourts.info/appl-local-rules or call the clerk's office in your district for further instructions.

 - If you need to make copies of your forms, you can do that at the clerk's office. They may charge you to make copies.

Step 3: Wait for the Appellant's Reply Brief.

- In general, the *Appellant's Reply Brief* is due within **14 days** after the due date for your *Appellee's Brief*.
- The appellant is not required to file a reply brief. The appellant's failure to file a reply brief does not mean that you will win the appeal.

Step 4: Wait for oral argument, if any.

- After all the briefs are filed, the appellate court may send you a notice to appear for oral argument, even if you did not ask for oral argument on the cover of your *Appellee's Brief*. (If you did ask for oral argument, the appellate court is not required to have oral argument.)
- If you get a notice, arrive on time for the court date. When your appeal is called, the appellant will explain their argument to the judges. You will then get a chance to respond. Be prepared to answer any questions from the judges. After you argue, the appellant will get a chance to reply.

Step 5: Wait for the appellate court's decision.

- The appellate court will send you a written decision. This might take several months.
- If you think that the appellate court overlooked or misunderstood any of your points, 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 decision; you are not allowed to just reargue your case.
- You can find the *Petition for Rehearing* form and instructions at ilcourts.info/appl-forms.