

HOW TO PREPARE AND FILE AN ANSWER TO PETITION FOR LEAVE TO APPEAL

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.

Do I have to file an *Answer to Petition for Leave to Appeal*?

- No, you do not have to file an *Answer to Petition for Leave to Appeal*. If the Illinois Supreme Court allows the *Petition for Leave to Appeal*, you will have a chance to file an *Appellee's Brief*.
- If you do not file an *Answer to Petition for Leave to Appeal*, you should send a letter to the Clerk of the Illinois Supreme Court asking them to tell you if the *Petition for Leave to Appeal* is allowed or denied. You should include the case name, the case number, and your current address in your letter. The address is:

Clerk of the Illinois Supreme Court
200 East Capitol Avenue
Springfield, IL 62701

What is an *Answer to Petition for Leave to Appeal*?

- An *Answer to Petition for Leave to Appeal* tells the Illinois Supreme Court why it should deny the *Petition for Leave to Appeal*.
- If you choose to file an *Answer to Petition for Leave to Appeal*, the main purpose is to tell the Illinois Supreme Court why the appellate court's decision was right. You should also say why the issue in your case is not important enough for the Supreme Court to decide, or why the issue will not come up again and is unique to your case.

Who can use the *Answer to Petition for Leave to Appeal* form?

- Anyone who was a party to an appeal the appellate court decided may file an *Answer to Petition for Leave to Appeal*.
- You can use the *Answer to Petition for Leave to Appeal* form when you think the appellate court decision was correct.

When do I file the *Answer to Petition for Leave to Appeal* form?

- If you choose to file an *Answer to Petition for Leave to Appeal*, you must file it within 21 days after the due date for the *Petition for Leave to Appeal*. You can call the Illinois Supreme Court Clerk's office at

217-782-2035 to ask when your *Answer to Petition for Leave to Appeal* is due.

What will I have to pay to file my *Answer to Petition for Leave to Appeal* form?

- You must pay a \$30 filing fee to the Clerk of the Illinois Supreme Court when you file an *Answer to Petition for Leave to Appeal*, unless you file an *Application for Waiver of Court Fees (Supreme Court)* and the Court approves your *Application*, which can be found at: ilcourts.info/forms.

How do I fill out the *Answer to Petition for Leave to Appeal* form?

- Download and 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 portable digital file (PDF) editing program (such as 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.
- There is a page or word limit. The *Answer to Petition for Leave to Appeal* must not be more than 20 pages or 6,000 words. This does not include the cover (first page), the certificate of compliance, the proof of delivery, and the appendix, if any.
- The *Answer to Petition for Leave to Appeal* form has several sections, with instructions for each section below:

Cover

- The first page of the *Answer to Petition for Leave to Appeal* 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. Check the second box if your case involves delinquent minor proceedings. Check the third box if your case involves pretrial release.
- Enter the Supreme Court case number. The case number is assigned when the *Petition for Leave to Appeal* is filed. You can call the Illinois Supreme Court Clerk's office to get the case number if it is not on the cover of the *Petition for Leave to Appeal*.
- If the case has a name beginning with "In re" (such as "In re Marriage of Jones"), enter that name on the line that starts with "In re."
- Enter the names of the plaintiff/petitioner in the trial court (this is the party who filed the trial court case)

and the defendant/respondent in the trial court (this is the party who the case was filed against).

- Check the boxes to show which party is the petitioner in the Supreme Court (the party who filed the *Petition for Leave to Appeal*). Check the respondent box under your own name.
- Enter the appellate court district (First, Second, Third, Fourth, or Fifth) that decided the appeal and enter the appellate court case number.
- Enter the trial court county, trial court case number, and trial judge's name.
- Enter your name, mailing address, email address, and phone number. The email address (if you have one) and mailing address you put on the *Answer to Petition for Leave to Appeal* 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.

Statement of Facts

- You do not have to include a Statement of Facts. However, you should include a Statement of Facts in your *Answer* if you think the Statement of Facts in the *Petition for Leave to Appeal* is not fair, is inaccurate, does not tell the whole story, or leaves out important details about what happened in the trial court.
- If you include a Statement of Facts, try not to repeat what is already in the *Petition for Leave to Appeal*. You should just add the important facts or details the *Petition for Leave to Appeal* left out or got wrong. The best way to do this is to use witness testimony and any other evidence that was admitted at trial to tell the part of the story that the *Petition for Leave to Appeal* left out or got wrong.
- Include the record on appeal page numbers where the evidence you use is located. Do not argue your case or make comments. The Statement of Facts should be a clear, simple, and objective description of the facts of your case.
- If you need more room, fill out and insert one or more *Additional Statement of Facts* forms into your *Answer to Petition for Leave to Appeal*.

Argument

- In this section, describe all of the reasons you think the Illinois Supreme Court should deny the *Petition for Leave to Appeal* and refuse to hear the case. The following is a list of examples why the Supreme Court may not want to hear a case:
 - Example 1: The Illinois Supreme Court decided a case very similar to yours and the appellate court decided your case the same way the Illinois Supreme Court did. You should explain how your case is similar to the previous Illinois Supreme Court case and why the appellate court correctly decided your case the same way.

- Example 2: The appellate court's decision in your case agrees with another Illinois appellate court decision. If that is what happened in your case, you need to first identify the appellate court decision that came out the same way as your case. Then you need to explain how your case was very similar to the other appellate court decision and why your case was correctly decided the same way.

- Example 3: The issue in your case is not a matter of general importance that affects a lot of people in Illinois. Your *Answer to Petition for Leave to Appeal* should explain how your case is unique, and how the decision in your case affects only the parties in your case, not other people in Illinois.

- If you think there is any other reason for the Illinois Supreme Court to deny the *Petition for Leave to Appeal*, state that reason in this section.
- Make sure your arguments are clear and complete. If you need more room, fill out and insert one or more *Additional Argument* forms into your *Answer to Petition for Leave to Appeal* form so you can fully explain why the Illinois Supreme Court should not hear the case.
- For help doing legal research for the Argument section of your *Answer to Petition for Leave to Appeal*, use this link: ilcourts.info/ResearchGuides.

Conclusion

- Sign the form and print your name.
- Add page numbers to your *Answer to Petition for Leave to Appeal* in the space provided at the bottom of each page.

Certificate of Compliance

- Confirm that you have followed the rules for briefs, especially the page or word limit, by printing your name and signing the certificate of compliance.
- Your *Answer to Petition for Leave to Appeal* cannot be more than 20 pages long, or more than 6,000 words (one or the other).
- When you count the number of pages or words in your *Answer to Petition for Leave to Appeal*, do not count the cover page, the proof of delivery, certificate of compliance, or the appendix.
- If your Answer is 20 pages or less, enter the number of pages in the space provided and check the box next to "pages." If your Answer is more than 20 pages, enter the number of words in the space provided (remember, it must be no more than 6,000 words long) and check the box next to "words."

Proof of Delivery

- You must send a copy of your *Answer to Petition for Leave to Appeal* and appendix to the other party (or parties).

- Say how you are sending your *Answer to Petition for Leave to Appeal* to the other parties (see Step 1 on the next page).

Appendix

- The *Petition for Leave to Appeal* will contain a complete copy of the appellate court's decision. If there is other information from the record on appeal that you think would be helpful for the Illinois Supreme Court to have when it reads your *Answer to Petition for Leave to Appeal*, you may attach it in the appendix to your *Answer to Petition for Leave to Appeal*.
- Do not include the entire record on appeal. Only include what is important to support your argument.
- Number the pages of the appendix A-1, A-2, A-3, etc.

Once your filing is accepted, you will have to mail 13 bound copies of your *Answer to Petition for Leave to Appeal* and *appendix* to the Clerk of the Supreme Court in Springfield. See Step 4 on the next page. Remember, the more documents you include in the appendix section of your *Answer to Petition for Leave to Appeal*, the more you will spend to make copies.

What do I do after I fill out the form?

Step 1: Send your *Answer to Petition for Leave to Appeal* to all other parties.

- You must send your *Answer to Petition for Leave to Appeal* to the other parties in the case. However, if any party has a lawyer, you must send your *Answer* to the lawyer.
- You may send your *Answer to Petition for Leave to Appeal* to the other parties by personal hand delivery, by mail, or by third-party commercial carrier (for example, FedEx or UPS). You may send your *Answer* to a party by e-mail if they have listed their e-mail address on a court document.
- The Proof of Delivery has room for 3 parties. If you send your *Answer to Petition for Leave to Appeal* 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 *Answer to Petition for Leave to Appeal* with the Clerk of the Illinois Supreme Court.

E-filing:

- If you choose to file an *Answer to Petition for Leave to Appeal*, you must file it with the Supreme Court within **21 days** after the due date for the *Petition for Leave to Appeal*. 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" section), or your case involves a criminal matter.
- Most people e-file their forms using Odyssey eFileLL 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.
 - You can bring your forms on paper or saved on a flash drive. The public computer will have 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.
- If you qualify for an exemption, fill out a *Certification for Exemption from E-Filing* found here: ilcourts.info/forms.
- Then file the following documents with the Clerk of the Illinois Supreme Court:
 - The original *Certification for Exemption from E-Filing*.
 - One original paper copy of the *Answer to Petition for Leave to Appeal* (including the appendix) with a light blue cover page.
 - Plus 12 paper copies of the *Answer to Petition for Leave to Appeal* (including the appendix).

Step 3: Pay the filing fee or file an *Application for Waiver of Court Fees*.

- There is a fee for filing an *Answer to Petition for Leave to Appeal* with the Clerk of the Illinois Supreme Court.
- Whether you file electronically or have an exemption from e-filing, the filing fee must be paid at the time you file your *Answer to Petition for Leave to Appeal*.
- If you cannot afford to pay the filing fee, you can ask the court to file for free or at a reduced cost by filing an *Application for Waiver of Court Fees*. This is a separate set of forms you can find at: ilcourts.info/forms.
- You should file this form at the same time as your *Answer to Petition for Leave to Appeal*.

Step 4: Mail paper copies to the Court.

- Once your filing is accepted, you will have to mail 13 bound copies of your *Answer to Petition for Leave to Appeal* to:
Clerk of the Illinois Supreme Court
200 E. Capitol Ave.
Springfield, IL 62701-1721
- The bound paper copies must show the Clerk's electronic file stamp on the cover page.

Step 5: Wait for the Supreme Court's decision.

- The Illinois Supreme Court will send you a decision that allows or denies the *Petition for Leave to Appeal*.

What happens if the *Petition for Leave to Appeal* is allowed?

- If the Court allows the *Petition for Leave to Appeal*, you must file a *Notice of Election* with the Illinois Supreme Court.
- The *Notice of Election* tells the Illinois Supreme Court if you are going to file an additional brief or rely on your *Answer to Petition for Leave to Appeal* that you have already filed. See the *Notice of Election* instructions and form for more details and next steps. You can find those here: ilcourts.info/forms.