

HOW TO FILE AN APPELLEE'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 Appellee's Brief?

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

Who can use the Appellee's Brief?

- The appellee files the *Appellee's Brief*. You are the appellee if you are responding to the appeal. (Your opponent, who filed the appeal, is called the appellant.)
- You are **not** required to file a brief, and your failure to file a brief does **not** mean that you will lose the appeal.

When do I file the Appellee's Brief?

- 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:**
 - If the appeal involves parental responsibility or parenting time (custody or visitation), relocation of a child, or pretrial release, the *Appellee's Brief* is due **21 days** after the *Appellant's Brief* is due.
 - If the appeal involves a delinquent minor, the *Appellee's Brief* is due **28 days** after the *Appellant's Brief* is due.
- Be sure to ask the Supreme Court Clerk's office for the schedule that applies to your case. If you need more time to file your *Appellee's Brief*, you may file a *Motion* asking for more 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 Supreme Court Clerk for a copy.

What costs will I need to pay to file my Appellee's Brief?

- \$30 if the *Appellee's Brief* is your first filing in the Illinois Supreme Court 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.

- None if you already paid \$30 when filing an *Answer to the Petition for Leave to Appeal*.

Is there a page or word limit?

- Yes. The *Appellee's Brief*—not including the cover, the statement of points and authorities, the certificate of compliance, 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 Supreme Court to ask for permission to file your *Appellee's Brief* with more pages or words. You should 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?

- 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 (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.
- The *Appellee's Brief* form contains several sections. The instructions for each section are:

Cover page (1st page)

- The first page (cover) of your *Appellee's Brief* 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 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 (which you will receive from the Supreme Court Clerk).
- If the case was given a name beginning with "In re" (e.g., "In re Marriage of Jones"), enter that name on the line next to "In re." If this does not apply to your case, leave the line blank.
- Then, provide the name of the trial court case. 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). Finally, check the box next to "Appellee" under your name and the box next to "Appellant" under the other party's name.
- Enter the appellate district 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 *Appellee's Brief* is where important legal documents will be sent to you. You should use an email account 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 are requesting cross-relief. This means you want the Illinois Supreme Court to review part of the appellate court's decision that was not included in the *Appellant's Brief*.
- 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 *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 section of the brief and the title of each argument, and the pages on which they appear. Make the title 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 title, list the cases, statutes (laws), etc. that you will use to support each argument.
- This form has room to respond to 3 arguments. If the appellant makes more than 3 arguments, you may fill out and insert an *Additional Points and Authorities* form as the next page.

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 and appellate court 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*. The issues should be a list of questions the Illinois Supreme Court is being asked to decide.
- If there is some part of the appellate court decision that you want changed, you must include those additional questions you want the Court to answer. This is called a request for cross-relief. You must check the "Cross-Relief Requested" box on the cover of the *Appellee's Brief* form if you include additional questions.
- You can use your argument titles to describe the cross-relief questions you are asking the Court to decide. For example, if you won, but were denied an award of attorney's fees, your question for cross-relief could be "Was I entitled to an award of

attorney's fees?" See Supreme Court Rule [318](#) for more information.

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 Illinois Supreme Court has or does not have the power to hear the appeal. Choose one of the following:
 - Write the date the appellant's *Petition for Leave to Appeal* was allowed under Supreme Court Rule [315](#). Most cases are filed under Rule 315.
 - If the 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 Leave to Appeal as a Matter of Right was allowed.
 - If you disagree with the appellant's version, use the "Other" box to state why. For example, the Illinois Supreme Court may not have jurisdiction if the appellate court decision was not final.

Statutes (Laws) Involved

- You do not need to include this section, but you may do so if the *Appellant's Brief* failed to include it.
- If the case involves a statute (law), constitutional provision, treaty, ordinance, or regulation, state the language and the number (e.g., 735 ILCS 5/2-815) 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 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 Illinois Supreme 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 your facts are located.
- Give the missing facts without arguing or commenting on why it is 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 after this page.

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;

- 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 the case;
 - How the law applies to the facts; and
 - What you want the Illinois Supreme Court to do.
- Include statutes (laws), rules, and cases that support each of your arguments.
 - The Illinois Supreme Court will not consider arguments that are vague or incomplete.
 - The form includes room for 3 arguments. If you are 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 Illinois Supreme 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 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

Show 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, 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. See additional instructions on the *Appellee’s Brief* form for including documents in the appendix.

What do I do after I fill out the *Appellee’s Brief*?

Step 1: Send your *Appellee’s 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 by notification 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 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 *Brief* to each party. The *Proof of Delivery* has room for 3 parties. If you are sending 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 *Appellee’s Brief* with the Illinois Supreme Court.

E-filing:

- After you fill out your court forms, file them with the Illinois Supreme Court. This is done by electronic filing, called ‘e-filing.’
- You must file your *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 Supreme Court Clerk’s office at 217-782-2035.
- 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 *Appellee's Brief*. All copies must have a light blue cover page and are 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 *Appellee'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 *Appellee'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 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 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 5: Wait for oral argument, if any.

- After all the briefs are filed, the Illinois Supreme Court will notify you and the appellant whether it will hear oral argument or not. (The Court is not required to have oral argument even if you asked for it on your brief.)
- 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 to the justices when they ask you. Be prepared to answer any questions they have about your argument.
- If the Court decides not to have oral argument, you will receive a notice that they will decide the case 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 points, you may file a *Petition for Rehearing*, which is due within **21 days** after the date of the decision. If you file a *Petition for Rehearing*, you must point out errors in the decision; you are not allowed to just reargue your case.