

HOW TO FILE AN APPELLEE'S BRIEF

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*. However, in a case involving the custody of a child, for example, the appellate court may shorten that time. Be sure to ask the appellate court clerk's office for 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. 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.
- For more information see the Guide for Appeals to the Illinois Appellate Court for Self Represented Litigants:
[http://www.illinoiscourts.gov/CivilJustice/Resources/Guide for Appeals to the IL Appellate Court rev 093016.pdf](http://www.illinoiscourts.gov/CivilJustice/Resources/Guide%20for%20Appeals%20to%20the%20IL%20Appellate%20Court%20rev%20093016.pdf)

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

- None.

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, the proof of service, 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.

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 form contains instructions for each section. The sections are:

Cover

- Check the top box if the appeal involves custody, visitation, or removal of a child.
- Enter the appellate court case number (which you will receive 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, and phone number. You may also enter your email address, but, if you do, the court may use it to send you important documents. Therefore, you should enter your email address only if you check your email frequently.
- Show whether you would like a chance to present oral argument (see Step 4 below).
- The cover must be light blue.

Points and Authorities

- State the title of each argument (each reason why you think the trial court's decision or the jury's decision is right). Make the title of each argument responsive to the title of each argument in the *Appellant's Brief*.
- List the authorities (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.
- 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.
- State the title of each argument again. If the appellant is making more than 3 arguments, fill out and insert one or more *Additional Issues* 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. 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.
- State 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*. State whether the *Notice of Appeal* 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.
- 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 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.
- Tell the appellate court what happened in the trial 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.
- 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;
- The standard of review (the level of deference the appellate court must give to the trial court or the jury);
- The law that applies to the case;
- How the law applies to the facts; and
- What you want the appellate court to do.

Include statutes (laws), rules, and cases that support your argument.

The form includes room to respond to 3 arguments. The appellate court will not consider responses that are vague or incomplete. If the appellant is making more than 3 arguments, fill out and insert one or more *Additional Argument* forms into the main form.

Conclusion

State what you want the appellate court to do.

Certificate of Compliance

Certify that you have followed the rules for briefs, especially the page or word limit, by signing the Certificate of Compliance.

Proof of Service

Show how you are sending your *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 disagree with the appellant's version.

Provide:

- An index to the record on appeal, including 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 list of testifying witnesses;
- The plaintiff's complaint, the trial court's judgment, and the *Notice of Appeal*; and
- Any other relevant materials from the record, noting those additions in the table of contents for the appendix.

If necessary, fill out and insert one or more *Additional Common Law Record*, *Additional Report of Proceedings*, or *Additional Index of Witnesses* forms into the main form.

What do I do after I fill out the form?

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

- You must send your *Brief* to the other parties in the case. However, if any party has a lawyer, you must send your *Brief* to the lawyer.
- You may send your *Brief* to the other parties by personal hand delivery, by mail, by third-party commercial carrier (for example, FedEx or UPS), or through the court's electronic filing manager or an approved e-filing service provider. You may send your *Brief* to a party by e-mail if they have listed their e-mail address on a court document. Complete the *Proof of Service* with information to show how you sent your *Brief* to each party. The *Proof of Service* has room for 3 parties. If you are sending your *Brief* to more than 3 parties, fill out and insert one or more *Additional Proof of Service* forms into the main form.

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

- If you are an inmate in a prison or jail and don't have a lawyer, you may file your *Brief* by mail. Otherwise, you must electronically file (e-file) your *Brief*. If you are unable to e-file, you can ask the court for permission to file in person, by mail, or by third-party commercial carrier. To ask the court for approval to file this way, you can use the *Appellate Motion* form found here: <http://www.illinoiscourts.gov/Forms/approved/default.asp>. You must have a good reason that prevents you from e-filing.
- To e-file, create an account with an e-filing service provider. Visit <http://efile.illinoiscourts.gov/service-providers.htm> to select a service provider.

Some are free, while others charge a processing fee. For instructions on how to e-file for free with Odyssey eFileIL, see *Odyssey File & Serve: Individual Filer User Guide* here:

<https://tylertech.egain.cloud/kb/ilh5/content/PROD-16579/HTML-5-Individual-Filer-User-Guide-20170>

- If you do not have access to a computer, or if you need additional help, you may take your *Brief* to the appellate court clerk's office, where you can use a public terminal to e-file your *Brief*. You can bring your *Brief* on a flash drive or on paper. The terminal will have a scanner and computer where you can scan, save, and e-file your *Brief*. To locate the clerk of the appellate court district where your appeal has been filed, click here:
<http://www.illinoiscourts.gov/AppellateCourt/ClerksDefault.asp>

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. 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 reargue your case.