

# Appeal Checklist

## Appellate Division First Department

### Notice of Appeal

ALL NOTICES OF APPEAL FOR THE FIRST DEPARTMENT MUST BE FILED IN THE COURT OF ORIGINAL INSTANCE.  
1 ORIGINAL + 2 COPIES OF EACH OF THE FOLLOWING DOCUMENTS MUST BE FILED

- A Completed Pre-Argument Statement [*available at [www.dickbailey.com](http://www.dickbailey.com)*]
- A Notice of Appeal [*available at [www.dickbailey.com](http://www.dickbailey.com)*]
- A copy of the Order or Judgment Appealed From, and a copy of the Opinion or Decision, if any.
- Proof of service of 1 copy of each on each adversary
- \$65.00 filing fee
- If the Notice covers two or more Judgments or Orders attach all Judgments or Orders and the Opinions or Decisions upon which they were based.

**NOTICE OF APPEAL MUST BE FILED WITHIN 30 DAYS FROM THE DATE THE ORDER/JUDGMENT IS SERVED WITH NOTICE OF ENTRY. (MAIL +5 DAYS)**

The Appellate Division First Department does not issue a docket number. They use the lower court index number.

**The Appellant has 9 months from the date of the Notice of Appeal to perfect their Record and Brief.**

*The Terms of the Appellate Division are by Court Calendar. You can locate an updated copy of this calendar at our website.*

### Briefs

*Briefs must be reproduced on recycled paper and clearly indicate that on the cover. No less than 1 inch margins, 8 1/2 x 11 inch paper*

*Fonts allowed: 14 pt. Times New Roman or 12 pt. Courier*

No ALL CAPS or **Bold** are allowed in the body of the brief, but are allowed in point headings. **Formatting is checked and corrected on all briefs at DICK BAILEY SERVICE.**

#### Appellant's Brief

**14,000 word limit and 70 page limit**

*Due within nine (9) months of the date of the Notice of Appeal.*

- Cover—*Requesting Argument or Submission*
- Table of Contents
- Table of Authorities
- Questions Presented
- Nature of the Case—*A concise statement of nature and facts with references to page numbers in the record*
- Argument—*Divided into points with appropriate headings*
- Conclusion—*Original ink signature required*
- Certificate of Compliance—*No signature required*
- Pre-Argument Statement or Statement Pursuant to CPLR §5531

#### Respondent's Brief

**14,000 word limit and 70 pages**

*Due within the term deadlines marked by Appellant's Note of Issue*

- Cover—*Requesting Argument or Submission*
- Table of Contents
- Table of Authorities
- Counterstatement of Questions Presented (*optional*)
- Counterstatement of Nature of the Case (*optional*)
- Argument—*Divided into points with appropriate headings*
- Conclusion—*Original ink signature required*
- Certificate of Compliance—*No signature required*

#### Appellant's Reply Brief

**7,000 word limit and 30 pages**

*Due within the term deadlines marked by Appellant's Note of Issue*

- Cover—*Requesting Argument or Submission*
- Table of Contents
- Table of Authorities
- Argument—*Clearly divided into points with no repetition of the arguments in the main Brief.*
- Conclusion—*Original ink signature required*
- Certificate of Compliance—*No signature required*

Briefs may contain an addendum composed of decisions, statutes, ordinances, rules, regulations, local laws or other similar matter, cited therein that were **NOT PUBLISHED** or **OTHERWISE READILY AVAILABLE**. Unless ordered by the court, briefs may not contain maps, photographs or other addenda. Charts are not permitted in the brief.

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## Record on Appeal

The record on appeal shall consist of accurate reproductions of the papers and other exhibits from the court of original instance, upon which the judgment or order being appealed was founded.

**1 ORIGINAL + 9 COPIES MUST BE FILED, 2 COPIES MUST BE SERVED ON EACH ADVERSARY**

To the extent practicable, 2 sided printing is encouraged. Books must be printed on 8½ x 11 recycled paper. Volumes may not exceed two inches in thickness.

To be printed in the record:

### Appeal From a Final Judgment:

- Cover—Must indicate recycled paper
- Table of Contents
- Statement Pursuant to CPLR §5531 or Pre-Argument Statement
- Notice of Appeal
- Final Judgment being Appealed
- Any Opinion or Decision in the Cause
- Judgment roll
- Corrected/Settled Transcripts of Proceeding (if applicable)
- Exhibits
- Post Trial Motions
- Statement settling Transcript Pursuant to CPLR §5525(c)
- Stipulation or Order dispensing with Reproducing Exhibits
- Certification Pursuant to CPLR §2105 or Stipulation Pursuant to CPLR §5532
- Note of Issue—filed along with Record, indicating which Term of the Court the Appeal is Noticed for.

### Appeal From an Interlocutory Order:

- Cover—Must indicate recycled paper
- Table of Contents
- Statement Pursuant to CPLR §5531 or Pre-Argument Statement
- Notice of Appeal
- Order being Appealed
- Motion Papers/Order to Show Cause
- Affidavits in Support including Exhibits, if any
- Affidavits in Opposition including Exhibits, if any
- Reply Affidavits including Exhibits, if any
- Certification Pursuant to CPLR §2105 or Stipulation Pursuant to CPLR §5532
- Note of Issue—filed along with Record, indicating which Term of the Court the Appeal is Noticed for.

**Appellant's records are due within nine months of the date of the notice of appeal. Materials not submitted to the trial court are not part of the record. Anything dated after the notice of appeal is not part of the record.**

### Notes:

- Filing fee check (\$315.00) payable to the Appellate Division, First Department is due upon filing.
- Transcripts must be settled at least 15 days before the date of filing the record. The court will reject a record where the transcript has not been appropriately settled.
- Appellant's requesting additional time must make a motion to the court. After filing of record and brief, the parties can stipulate to another term of the court.

## Appendix Method

The appendix shall contain all portions of the record necessary to permit the court to fully consider the issues which will be raised by the appellant and the respondent.

**1 ORIGINAL + 9 COPIES MUST BE FILED, 2 COPIES MUST BE SERVED ON EACH ADVERSARY**

To the extent practicable, 2 sided printing is encouraged. Books must be printed on 8½ x 11 recycled paper. Volumes may not exceed two inches in thickness.

To be printed in the appendix:

- Cover—Must indicate recycled paper
- Table of Contents
- Statement Pursuant to CPLR §5531 or Pre-Argument Statement
- Notice of Appeal
- Judgment or Order Appealed From
- Any Pleadings relevant to issues to be raised on appeal
- Any Opinion or Decision in the cause
- Motions with Supporting, Opposing and Reply papers pertinent to issues on appeal
- Material excerpts from Transcripts of Testimony, such must contain portions upon which the appellant relies and upon which it may be reasonably assumed the respondent will rely.

The parties need not consult on whether to perfect upon the full record or appendix method, unless there is a cross-appeal.

If Appellant elects to use the appendix method, a subpoena must be sent to the court of original instance to have the complete record sent to the Appellate Division First Department.

*Certain lower courts require that the subpoena be so ordered by the First Department.*

If the Appendix and Brief together fall within the 2 inch rule, they may be bound together.

The full set of transcripts must be ordered and settled, even if not reproduced in the appendix.

**Appellant's appendices are due within nine months of the date of the notice of appeal. Materials not submitted to the trial court are not part of the appendix. Anything dated after the notice of appeal is not part of the appendix.**

### Notes:

- Filing fee check (\$315.00) payable to the Appellate Division, First Department is due upon filing.
- Transcripts must be settled at least 15 days before the date of filing the record. The court will reject an appendix where the transcript has not been appropriately settled.
- Appellant's requesting additional time must make a motion to the court. After filing of record and brief, the parties can stipulate to another term of the court.

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www.dickbailey.com

Fax: 718-522-4024

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