

Appeal Checklist

Appellate Division Second Department

NOTICES OF APPEAL

ALL NOTICES OF APPEAL FOR THE SECOND 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 Request for Appellate Division Intervention Form—Civil (Form A) [*available at www.dickbailey.com*]
- A Notice of Appeal [*available at 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 on each adversary
- \$65.00 filing fee
- If the Notice covers two or more Judgments or Orders, you must complete additional information form (RADI Form B) [*available at www.dickbailey.com*] and attach all Judgments or Orders and the Opinions or Decisions upon which they were based.
- If an Order is made transferring a proceeding to this court, the petitioner shall file in the Appellate Division: 2 copies of the Order along with RADI—Form A [*available at www.dickbailey.com*] and a copy of any Decision or Opinion of the transferring court.

THE NOTICE OF APPEAL MUST BE FILED WITHIN 30 DAYS FROM THE DATE THE ORDER/JUDGMENT IS SERVED WITH NOTICE OF ENTRY. IF SERVICE BY MAIL, ADD 5 DAYS.

The lower court will then transfer your Notice of Appeal to the Second Department at which time they will issue an AD Case No.

The Appellant has 6 months from the date of the Notice of Appeal to perfect their Record and Brief.

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800-531-2028

BRIEFS

No less than 1 inch margins, 8½x 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

Due within six months of the date of the Notice of Appeal.

- Cover—*Indicating Argument Time or Submission*
- Statement Pursuant to CPLR §5531
- Table of Contents
- Table of Authorities (*optional*)
- 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*

Respondent's Brief—14,000 word limit

Due 30 days from the date of service of Appellant's Brief (35 for mailing, 31 for overnight)

- Cover—*Indicating Argument Time or Submission*
- Table of Contents
- Table of Authorities (*optional*)
- 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

Due within 10 days of service of Respondent's brief (15 for mailing, 11 for overnight)

- Cover—*Indicating Argument Time or Submission*
- Table of Contents
- Table of Authorities (*optional*)
- 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 brief.

All Briefs, Records and Appendices shall be bound on the left in a manner that will keep pages securely together, however use of any metal fastener or similar hard material that presents a bulky or sharp edge is prohibited!

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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 + 8 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 inch paper.
Volumes may not exceed two inches in thickness.*

Contents of the Record:

Appeal From a Final Judgment:

- Cover
- Statement Pursuant to CPLR §5531
- Table of Contents
- Notice of Appeal
- Request for Appellate Division Intervention Form
- Judgment Appealed From
- 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
- Stipulation or Order dispensing with Reproducing Exhibits
- Certification Pursuant to CPLR §2105 or Stipulation Pursuant to CPLR §5532

Appeal From an Interlocutory Order:

- Cover
- Statement Pursuant to CPLR §5531
- Table of Contents
- Notice of Appeal
- Request for Appellate Division Intervention Form
- Order Appealed From
- Motion Papers/Order to Show Cause
- Affidavits in Support with any Exhibits
- Affidavits in Opposition with any Exhibits
- Reply Affidavits with any Exhibits
- Certification Pursuant to CPLR §2105 or Stipulation Pursuant to CPLR §5532

Appellant's Records are due within six 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, Second Department is due upon filing.
- Photographs must be printed in color or be accompanied by a letter verifying the quality of the reproductions to the lower court record.
- Condensed format of transcripts is prohibited.
- Transcripts should be settled at least 15 days before the date of filing.
- Extensions of time are granted pursuant to rule §670.8 (d).

All Briefs, Records and Appendices shall be bound on the left in a manner that will keep pages securely together, however use of any metal fastener or similar hard material that presents a bulky or sharp edge is prohibited!

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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 + 8 COPIES MUST BE FILED

2 COPIES MUST BE SERVED ON EACH ADVERSARY

Contents of the Appendix:

- Cover
- Statement Pursuant to CPLR §5531
- Table of Contents
- Notice of Appeal
- Request for Appellate Division Intervention Form
- Judgment or Order Appealed From
- Any Opinion or Decision in the cause
- Any Pleadings relevant to issues to be raised on appeal
- 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.
- Copies of critical Exhibits
- Statement settling Transcript Pursuant to CPLR §5525

Appellant's Appendices are due within six 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.

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 the Appendix method, a subpoena must be sent to the court of original instance to have the complete record sent to the Appellate Division, Second Department. *Certain lower courts require that the subpoena be so ordered by the Second Department.*

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

Notes:

- Filing fee check (\$315.00) payable to the Appellate Division, Second Department is due upon filing.
- Photographs must be printed in color or be accompanied by a letter verifying the quality of the reproductions to the lower court record.
- Condensed format of transcripts is prohibited.
- Extensions of time are granted pursuant to rule §670.8 (d).
- The full set of transcripts must be settled, even if not reproduced in the appendix.

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