

# Notice of Appeal

## 2. Notice of Appeal

The appeal process begins when the appellant files a notice of appeal with the trial court where the case was decided. This gives official “notice” to the court that the decision is being appealed.

The appellant must also serve – which means give – a copy of the notice of appeal to all parties in the case.

There are several steps to file a notice of appeal and it must be filed on time. The appeal will be dismissed if a notice of appeal is filed after the deadline.

Here’s an overview of what to expect in this step of the appeal process and how to prepare a notice of appeal.

### When to File a Notice of Appeal

A notice of appeal can be filed as soon as there is a final judgment or appealable order. This is when the decision is rendered or entered, which is also called entry of judgment.

When this happens there will be:

1. a document called a Notice of Entry of the trial court judgment or appealable order *or*
2. a document with the judgment or appealable order that is signed by the trial court judge and stamped “filed” by the court clerk *or*
3. in some situations, a clerk’s minute order may be considered an appealable order.

[See a full list of appealable orders](#)

If an appeal is filed *before* the judgment is entered, the appeal may be dismissed as premature – which means the appeal was filed too soon.

### The Deadline to File a Notice of Appeal

***A notice of appeal must be filed on time with the trial court or the appeal will be dismissed.***

The appellant must serve and file notice of appeal on or before the earliest deadline that applies:

1. **60 calendar days** after the appellant is served notice of judgment by either the trial court clerk or another party. This can be written “Notice of Entry” that a judgment has been entered *or* a copy of the judgment that’s stamped “filed.”

**OR**

2. **180 calendar days** after the entry of judgment if the appellant is not served notice by either the trial court clerk or another party.

## **How to Serve and File a Notice of Appeal**

Here are the steps to serve and file a notice of appeal in an unlimited civil case.

*Choose a step to learn more*

1. Prepare the notice of appeal form APP-002

The appellant must complete a notice of appeal/cross-appeal (unlimited civil case) form [APP-002](#). The form is also available at any courthouse.

It’s important to fill out all sections on the form.

Information can be typed directly into the form on the computer. The form should be saved and printed so that it can be given to the trial court and the other parties in the case.

**Note:** You can only file handwritten documents with the court if you are representing yourself (you do not have an attorney) and you are not a licensed attorney.

2. Serve a copy of the notice of appeal form APP-002 to all other parties

The court requires the appellant to tell the other parties in the case about the appeal. The court calls this serving notice.

*Who to serve.* If there is more than one other party in the case, each party must be served with a copy of the notice of appeal.

If the other party has a lawyer, then the notice of appeal is served to the lawyer. If the other party does not have a lawyer, then the notice of appeal is served to the other party.

*How to serve.* There are three ways to serve notice: by mail, in person, or electronically. Anyone can be served by mail or in person, but a recipient must agree to be served electronically.

The court has rules about who can serve notice. The appellant may serve

notice electronically (e-file). But if the notice of appeal is mailed or personally delivered, it must be done by a person who is over 18 and not a party to the case.

*Proof of service.* The appellant must give the court proof that the other parties were served with the notice of the appeal. Appellants are encouraged to use court form [APP-009](#) (serve by mail or in person) or [APP-009E](#) (serve electronically) for proof of service. This form tells the court who served notice, who was served with notice, how notice was served, and the date notice was served.

The appellant must give the court one proof of service form for each notice of appeal that is delivered. All sections of the form must be completed and signed by the person who serves notice.

To save time and money, some appellants choose to have the notice of appeal form and the form for the next step in the process – notice designating the record – served to the other parties at the same time, but that is not required.

[Get a blank proof of service form APP-009](#) (mail or in person)

[Get a blank proof of service form APP-009e](#) (electronic)

[Get instructions for the proof of service form](#)

[Get detailed proof of service information from the California Courts](#)

3. File the original notice of appeal form APP-002 and proof of service with the trial court

The court filing must include the original notice of appeal form [APP-002](#) and original proof of service for all parties in the case.

The appellant should contact the trial court to ask about the specific filing rules and copy requirements in their appeal.

Each trial court has different rules about how to file documents. Some courts require electronic filing (e-filing) on the computer, some require paper filing in person at the court, and some courts give a choice of electronic or paper filing.

If filing on paper, the appellant should keep an extra copy of the notice of appeal and each proof of service. It is a good idea for the appellant to ask the trial court clerk to stamp “filed” on the extra copy of the notice of appeal to show that the original was filed.

## **Court Fees to File Notice of Appeal**

The appellant must pay court fees when the notice of appeal is filed. The trial court clerk tells the appellant how much it will cost to file the notice of appeal. This includes a \$775 filing fee payable to the Court of

Appeal **and** a deposit payable to the trial court for the record of the case that will be sent to the Court of Appeal.

Filing fees and deposits can be paid by check or money order. Some courts may accept cash or credit card payment.

If an appellant cannot afford to pay for fees in the trial court or Court of Appeal, it is possible to apply for fee waivers. [Learn more about fee waivers](#)

## Extra Time to File Notice of Appeal

The appellant cannot ask for more time to file a notice of appeal. If it is filed late, the appeal will be dismissed.

The time to file a notice of appeal may be extended if there is a timely motion:

- for a new trial
- to vacate (cancel) or set aside the judgment
- for judgment notwithstanding the verdict
- to reconsider an appealable order

The deadline is extended in these situations because they may result in a change to the judgment or order. The time to file a notice of appeal is extended so that the decision to appeal can be based on the court's final ruling.

If one of these motions or requests has been filed, contact the trial court or carefully review [rule 8.108 of the California Rules of Court](#) to find out the deadline for filing a notice of appeal.

The deadline can also be extended if a public entity – like the State of California or a police department – was the defendant in the case and asks the trial court to take certain other actions.

## What Happens Next

After filing a notice of appeal, the appellant usually designates the record. This is when the appellant reviews the record of what happened in the case and tells the trial court what parts of the record to send the Court of Appeal. The Court of Appeal uses the information it receives in the record on appeal to make a decision. Note that some Courts of Appeal may review the case for mediation before the appellant designates the record.

## Additional Resources

[Get notice of appeal guidance from the California Courts](#)

[Read the official appeal procedures for unlimited civil cases](#)

[Get proof of service information from the California Courts](#)

[Visit TrueFiling™, the court's online filing system](#)

## Common Questions

Where can I get legal help?

[Form APP-001](#) has full instructions on appeal procedures.

The California Courts website has a lot of [information about lawyers and legal help](#).

[If you need help finding a lawyer, the California Bar Association website can connect you to lawyer referral service in your area.](#)

Can I serve the notice of appeal form and the notice designating the record on appeal form at the same time?

Since both the notice of appeal and notice designating the record on appeal forms must be served on the other parties, some appellants find it's easier and saves money to serve both forms at the same time, however, that is not required.

How do I know the deadline to file notice of appeal if I was served notice of judgment by mail?

The days are counted from the date notice of judgment is mailed NOT the date notice is received. For example, if notice of entry of judgment is mailed on July 1 and the appellant receives it on July 8, the first day that counts toward the deadline is July 1.

What's the deadline to file notice of a cross-appeal?

Sometimes more than one party in a case files an appeal.

To cross-appeal, a party must file a notice of appeal within either the regular time for filing a notice of appeal *or* within 20 days after the trial court clerk mails notice of the first appeal, whichever is later.

How do I get a fee waiver?

During an appeal there are fees in both the trial court and the Court of Appeal.

If you are an appellant and you want to request that your court fees be waived, you must have a fee waiver from both courts.

You must complete two fee waiver forms [FW-001](#) – one for the trial court and one for the Court of Appeal. You will give both forms to the trial court at the same time you file a notice of appeal.

If your request is approved, the courts will generally waive most but not all fees.

**Note:** If you already have a fee waiver from the trial court, it could still be valid when you file your notice of appeal. Fee waivers expire 60 days after the trial court's judgment. Please check with your trial court and ask if you need to submit a new fee waiver application.

[Learn more about how to qualify and what fees can be waived](#)  
[Read the California Court's information sheet on fee waivers](#)

Get a blank fee waiver form [FW-001](#)

[Get instructions for how to fill out the fee waiver form FW-001](#)

What happens if I don't pay the notice of appeal filing fees?

If you do not pay the filing fees or if your check bounces, the Court of Appeal will send a notice that you have 15 days to pay the fees or have them waived.

If you apply for a fee waiver but the Court of Appeal denies the request, the court will send a notice that you have 15 days to pay the filing fees.

If you do not pay the filing fees *or* ask for a fee waiver within 15 days, the Court of Appeal may dismiss the appeal.

Are there other legal options besides an appeal?

There may be other legal options to help a person address what you feel went wrong in your trial. It may be possible to offer a **motion** or request to ask the trial court to cancel or reconsider the judge or jury's decision. Also, some courts have a **mediation or settlement** program that can help the parties reach an agreement. [It is possible to pursue mediation even if an appeal is filed within the deadline.](#)

What's the difference between appeals in a limited civil case and an unlimited civil case?

There are generally two types of civil cases:

1. Unlimited civil cases – family law cases, probate cases, temporary restraining orders, and cases involving an amount of money over \$25,000.
2. Limited civil cases – all other cases, including cases involving an amount of money less than \$25,000.

Appeals in unlimited civil cases are decided in a Court of Appeal. Appeals in limited civil cases are decided in the appellate division of a superior court.

The information in this resource is only for unlimited civil cases. For information about appeals in limited civil cases, visit or call the appellate division of the superior court in your case. [You can find your superior court online here](#)



**Video:** To Appeal or Not to Appeal, 6:29

## **FORMS**

Documents you will need for your case.