

Checklist for Preparing, Filing, and Maintaining an Appeal Pursuant to the Maine Rules of Appellate Procedure

08-18-17

You have received a copy of a trial court decision. The judge's signature is dated, and the decision is date stamped, five days ago. If you are the attorney representing a party to the action, you consult with your client who has decided, based on your advice, that the decision probably should be appealed. Unless you are court-appointed, you and your client have agreed on fee arrangements for prosecuting the appeal. If you are an unrepresented party to the action that resulted in the trial court decision, you must decide yourself whether to appeal. Sometimes such decisions by unrepresented parties are made after consulting with a local attorney. Proceeding from that choice to appeal, the following is a checklist of things to consider and actions to take to prepare, file, and prosecute the appeal.

1. **Filing Deadline:** Determine when the judge's decision was entered into the trial court case docket. With few exceptions, the appeal must be filed within 21 days of that date.
2. **Issues on Appeal:** Identify the issues to assert on appeal. What standard of review will be applied to review of each issue you will assert? Is appeal on each issue viable in light of the standard of review that may be applied?
3. **Preservation of Issues:** Have the issues you plan to assert been properly preserved for appeal by timely argument, objection, or offer of proof in the trial court? If the trial court judgment is not clear regarding the facts or legal rulings that you may challenge on appeal, can filing a timely post-judgment motion aid in clarifying the facts or issues of concern?
4. **Post-judgment Motion Practice:** If a timely post-judgment motion seeking additional findings or reconsideration or clarification of the judgment is filed, the trial court must act on the motion, and the decision to appeal can be deferred until after the trial court action on the motion.
5. **Finality of the Judgment:** Determine if the trial court decision is a final judgment, resolving all pending claims and leaving nothing else for the trial court to decide. If not, is there an exception to the final judgment rule that may be applied to avoid dismissal of the appeal?

6. **Notice of Appeal:** Timely file the notice of appeal and, for civil cases, the filing fee, with the trial court clerk's office. Is a waiver of the filing fee being requested from the trial court? If a transcript of all or any part of the trial court proceedings may be required for proper consideration of any issue on appeal, the notice of appeal should be accompanied by a transcript order form.
7. **Security, Stay, Bail:** Will any trial court orders (i) staying the effect of its order, (ii) setting bail, or (iii) specifying or waiving security to be provided pending appeal, be needed for the appeal to proceed? If so, is such relief being sought from the trial court?
8. **Transcript Preparation:** If a transcript is required, notify other parties to the appeal of your transcript request. Determine if any other party to the appeal wants to add any additional part of the transcript to the transcript order. Make appropriate arrangements with the court reporter or electronic recording office to pay for the transcript.
9. **Cross-Appeals:** Is any other party to the trial court action bringing an appeal? What issues are likely to be asserted in a cross-appeal?
10. **Copies of Documents to Other Parties:** Assure that all other parties to the trial court judgment who are parties to the appeal receive copies of all your filings with the trial court and the Law Court, as is required by the rules, even if another party to the appeal does not file any documents regarding the appeal.
11. **Trial Court Record:** Be aware of what the case record, forwarded from the trial court to the Law Court, contains. Does the record include every pleading, document, and exhibit necessary for consideration of the appeal?
12. **Law Court Briefing Schedule:** The Law Court briefing schedule will be sent to you soon after the trial court record and any ordered transcripts have been received by the Law Court. Is your work planned so that you can meet the filing deadlines set out in the briefing schedule?
13. **Preparing and Filing Briefs:** Review the rules governing the preparation, form, organization, filing, and distribution of briefs. Will your briefs be timely filed and fully compliant with those rules?
14. **Preparing and Filing the Appendix:** Review the rules governing preparation, form, organization, the required order of documents, filing, and distribution of the appendix. Will the appendix, if you are

- responsible to prepare it, be timely filed and fully compliant with those rules?
15. **Process After Briefing:** Once briefing is completed, are you aware of the likely timing and manner of consideration by the Law Court? Are you available to be easily contacted by the Court regarding appeal scheduling, developments, and publication of the decision?
 16. **Oral Argument:** If the appeal is set for oral argument, are you prepared to present argument? Are you aware of the practice and procedure for oral arguments?
 17. **Client Preparation for Decision:** Discuss with your client the possible outcomes of the appeal. Do you have plans to allow prompt communication with your client after a decision is published? Is the client prepared for actions, events, and consequences that may occur, sometimes promptly, after decision?
 18. **Decision:** Are you or others associated with you prepared to receive a decision when it is published and communicate about it with your client?
 19. **Proceedings After Decision:** Be aware of and prepare to initiate or respond to proceedings that may occur after decision, including filing or opposing a bill of costs, payment of costs, seeking a stay, seeking reconsideration, or, in a criminal appeal, revocation of bail and commencement of a sentence stayed pending appeal.