



THE CIVIL COURT OF THE CITY OF NEW YORK

INFORMATION REGARDING THE APPEAL OF AN ORDER OR A JUDGMENT

Appeals Clerk

New York
Room 118
111 Centre Street
New York, NY 10013

Kings
Room 715A
141 Livingston St.
Brooklyn, NY 11201

Bronx Civil
Window 8, Basement
851 Grand Concourse
Bronx, NY 10451

Harlem Courthouse
3rd Floor
170 E. 121 Street
New York, NY 10035

Queens
Room 147
89-17 Sutphin Blvd.
Jamaica, NY 11435

Richmond
Basement
927 Castleton Ave.
Staten Island, NY 10310

Bronx Housing Ct
Clerk's Office
1118 Grand Concourse
Bronx, NY 10456

Red Hook Comm. Just. Ct.
Clerk's Office
88 Visitation Place
Brooklyn, NY 11231

INFORMATION REGARDING AN APPEAL OF AN ORDER OR A JUDGMENT

An appeal cannot be taken from anything other than an Order or a Judgment made by a Judge. Judgments made by an Arbitrator or Referee are not appealable. Where matters have been settled by mutual agreement of the parties, or on default, no appeal is possible.

The appeal process may be costly. The Court Report, or the transcribing service if the minutes were tape recorded, is permitted to charge a fee based on the length of the transcript which must be prepared. It is suggested that you contact the Court Reporter or transcribing service to obtain an estimate of the cost of preparing a typewritten transcript of the minutes of the trial. You may consider the information useful in determining whether or not to appeal.

An appeal must be filed within 30 days from the service upon the appellant of the Judgment or Order appealed from and written notice of its entry (posting the records), or, in Small and Commercial Claims, 35 days from the mailing by the clerk of the Notice of Judgment.

An appeal does not stay (stop) the execution of a judgment. To stay the enforcement of a money judgment either an "Undertaking" by bond or certified check or an Order from the Appellate Term of the Supreme Court is required. To stay an eviction pending an appeal requires a court order.

An appeal does not mean a new trial or the presenting of new evidence. Rather, it is a review of the relevant portion(s) of the court file and the relevant portion(s) of the transcript of the trial minutes by the judges of the Appellate Term of the State Supreme Court.

PROCEDURE

Filing of Notice of Appeal

_____ The **Notice of Appeal** forms may be purchased at any stationery store which carries legal forms.

Fill out the **Notice of Appeal** then make two copies. Have someone who is over the age of 18 and not a party "serve" a copy on the opponent. (If the opponent has an attorney, the attorney must be served.) Such service may be by mail or in person. The server must fill out the Affidavit of Service form and have it notarized.

The original **Notice of Appeal** with the Affidavit of Service must be filed with the court, and the appeal fee must be paid.

The remaining copy should be retained by you for your records.

Obtaining the Transcript of the Trial

The appellant (the one who makes the appeal) must order and pay for a transcript of the minutes of the trial from the Court Reporter or transcribing service.

The appellant must contact the Court Reporter or transcribing service to make arrangements for the actual production of the transcript.

Serving the Transcript

Within 15 days after receiving the transcript, the appellant shall make any proposed amendments (See Procedure, below). A copy of the transcript and of the proposed amendments shall be served on the respondent. The respondent shall make any proposed amendments or objections and serve them on the appellant or his/her attorney within 15 days. If the respondent fails to make any amendments or objections, the appellant may settle the transcript.

Procedure for Making Amendments

1. The appellant should read the transcript.
2. If there is an error in the transcript, for example, the transcript says that the time that an incident occurred was 3:30 P.M. when the testimony given at the trial was 2:30 P.M., the appellant should make a notation of the page and line number. After he/she has reviewed the whole transcript, he/she should label a piece of paper "Proposed Amendments and Objections," list each page number and line which the appellant proposes to amend, and write in the proposed amendment. Following the prior example, the entry would be: Page 14, Line 6: 3:30 P.M. should be 2:30 P.M.

Before the appellant has the transcript served on the respondent by someone over 18 years of age and not a party, he/she should make a copy of the proposed amendments and objections list, and attach it to the transcript. A Notice of Transmittal of Transcript is available for this purpose from the clerk.

Settlement of the Transcript

The transcript must be "settled" by the Judge who heard the case or by agreement of the parties. In this instance the word "settled" is used to mean that the transcript of the minutes of the trial will be examined or reviewed for accuracy and deemed correct.

The **Notice of Settlement of Transcript** form is intended to notify the opposing party or his/her attorney of the date on which the Judge will settle the transcript. The opposing party or his/her attorney must be given at least four days advance notice (nine days if service of the Notice of Settlement is by mail) of the scheduled date of such settlement. The person who serves the Notice of Settlement must fill out an Affidavit of Service. The Affidavit of Service must be notarized.

The **Notice of Settlement of Transcript** form is to be filled out in triplicate and distributed as follows.

Copy 1, The Original, along with the transcript of the minutes of the trial (with the objections and/or proposed corrections, if any) is to be submitted to the Appeals Clerk before the day of settlement. The Appeals Clerk will provide all the papers to the trial judge on the day of settlement along with the Affidavit of Service.

Copy 2, must be "served" on the opposing party or his/her attorney by someone over 18 years of age and not a party to the action, notifying him/her of the date on which the judge will settle the transcript.

Copy 3, should be retained by you as your record.

The Appellate Term

After the transcript is settled the Appeals Clerk will prepare a Clerk's Return on Appeal and submit it to the Appellate Term with the transcript, Notice of Appeal, court record, and any other related papers.

You must perfect (complete the filing of) your appeal with the Appellate Term of the Supreme Court in accordance with their rules, regulations and instructions.