



A NON-LAWYER'S GUIDE TO APPEALS IN  
THE ARKANSAS SUPREME COURT AND  
ARKANSAS COURT OF APPEALS



## DISCLAIMER

This guide was prepared by the Office of the Clerk of the Arkansas Supreme Court and Arkansas Court of Appeals. It does not contain any legal advice and may not be cited as legal authority in court filings. Instead, this guide is an overview of appellate court rules regarding civil appeals. This guide does not replace or override any court rules. There is no substitute for a thorough review of the rules. You should consult an attorney if you have questions about what you should or should not do concerning your appeal or other matter before any court.

# Table of Contents

I.	Introduction.....	4
1.	Arkansas Court Structure .....	5
II.	Appeal Basics.....	6
1.	What is an appeal? .....	6
2.	Can I speak directly to the appellate judges?.....	7
3.	Did you “preserve” the error? .....	7
4.	Where do I file my appeal documents?.....	8
5.	What rules do I need to know?.....	9
6.	What words do I need to know?.....	9
III.	The Steps to Filing an Appeal.....	16
	Step 1: Determine Whether the Circuit Court Has Entered an Appealable Order .....	17
	Step 2: Contact the Court Reporter to Make Financial Arrangements for Preparation of Transcript. ....	19
	Step 3: File the Notice of Appeal or Cross-Appeal.....	20
	Step 4: Filing the Appellate Record.....	21
	Step 5: Filing Briefs and Motions .....	22
IV.	Petitions for Rehearing and Petitions for Review .....	27
V.	Frequently Asked Questions .....	28

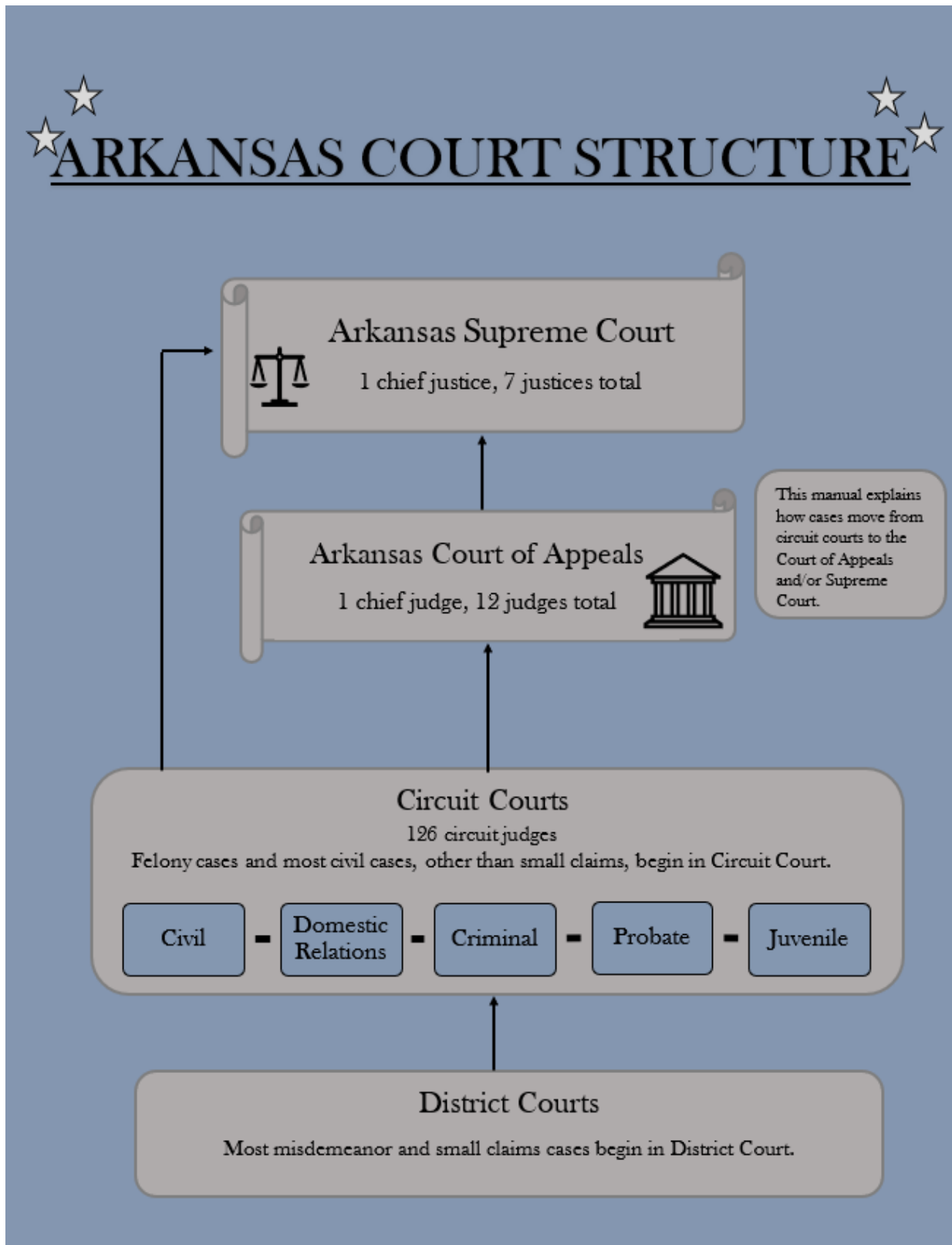
## **I. *Introduction***

This guide is prepared to assist non-lawyers through the process of appealing to the Arkansas Supreme Court and the Arkansas Court of Appeals. But beware. Appeals are complicated—even for lawyers with years of experience. Missteps may result in the loss of important rights. If you can hire an attorney or find one willing to represent you for free, you are strongly encouraged to do so. However, you are allowed to represent yourself on appeal if you want. If you represent yourself, you will be expected to follow the same rules as attorneys. This guide was created to help you understand the appeals process and to comply with the rules governing appeals.

The Arkansas Supreme Court and the Arkansas Court of Appeals are the appellate courts of the State of Arkansas. Although there are exceptions, most cases the appellate courts hear are appeals from decisions of the Arkansas circuit courts. Therefore, appealing from circuit court to the appellate courts is the focus of this guide, and this guide does not cover appeals from decisions of district courts, municipal courts, the Workers' Compensation Commission, or Arkansas Division of Workforce Services' Board of Review. It also does not cover appeals in dependency-neglect or criminal cases.

This guide starts with some general information about appeals, including some basic concepts, rules, and definitions. Next, this guide discusses in more detail the steps to filing an appeal, including the notice of appeal, the appellate record, and appellate briefs. After that, this guide will explain petitions for rehearing and review, which can be used to challenge an unfavorable appellate court decision before that decision becomes final. Lastly, this guide answers some frequently asked questions about appeals.

# 1. Arkansas Court Structure



## II. *Appeal Basics*

### 1. What is an appeal?

It is important to understand what an appeal is before deciding to file one. An appeal is not a “redo” of the circuit court proceedings. The appellate courts will not consider any new evidence or testimony. You cannot submit new documents or photographs to prove the judge was wrong about the facts or that a witness was not telling the truth. The circuit court, not the appellate court, is where evidence is presented to establish facts about the case, and the appellate courts will not second-guess the circuit court’s or the jury’s decision about whether a witness was telling the truth.



So, then, what is an appeal? An appeal is an opportunity to ask an appellate court to correct any legal errors that occurred in the circuit court proceedings. In other words, the appellate courts’ job is to consider whether the circuit court made any legal errors in light of the arguments and information available to the circuit court at the time its decision was made. Therefore, the only evidence the appellate courts will generally consider is the appeal record, which consists of the documents filed in the circuit court, the transcripts of any circuit court hearings or trials, and the exhibits submitted to the circuit court.

If you are the person appealing (the “appellant”), it is your responsibility to find any legal errors made by the circuit court and to point out to the appellate court where those errors can be found in the appeal record. Then, after highlighting those errors, you can try to persuade the appellate court that the error justifies changing or “reversing” the circuit court’s ruling. Your written appellate brief is your opportunity to identify any legal error in the record and to persuade the court that the error justifies reversal.

## **2. Can I speak directly to the appellate judges?**

No. People often wish they could talk to a judge to explain their situation. But this is not allowed. Direct oral communication about a case with a judge is allowed only in a scheduled oral-argument hearing, and only a small percentage of cases are orally argued. You may not talk to any of the appellate court judges or justices about your case. Instead, your communication with the appellate judges must be through documents you file in your case, and your appellate brief is your opportunity to make your case.

## **3. Did you “preserve” the error?**

The groundwork for a successful appeal must be laid in the circuit court. As mentioned above, the appeal record is the only evidence the appellate courts will consider. Appellate courts usually do not rule on issues that the circuit court did not rule on. In other words, appellate courts will not hear new defenses or objections on appeal that were not addressed in the circuit court. For example, if you did not object to the admission of one of your opponent’s exhibits at trial or get a ruling on the objection, the appellate courts are unlikely to consider on appeal whether the circuit court erred in admitting the exhibit. This concept is known as “preservation of error.”

If you plan to appeal and raise a new issue on appeal that was not addressed in circuit court, you may want to reconsider whether an appeal is worth your time and expense because your appeal will probably not be successful.

#### **4. Where do I file my appeal documents?**

Your notice of appeal must be filed with the clerk of the circuit court, not with the appellate court. The appeal record and all appeal-related documents you file after the appeal record must be filed with the Office of the Clerk of the Supreme Court and Court of Appeals (the “clerk’s office”) located at 625 Marshall Street, Suite 130, Little Rock, Arkansas 72201. The clerk’s office is responsible for receiving documents filed in appeals and reviewing them to ensure they comply with court rules. The clerk’s office delivers the documents you file to the appellate courts for consideration. Additionally, the appellate courts’ decisions are shared through the syllabus, the public court docket, and via mail to the address on file. The clerk’s office is your point of contact with the appellate courts.

The clerk’s office is a valuable resource. The clerk’s office employees can provide helpful information about court rules and procedures. However, as court employees, they are not allowed to give legal advice or opinions.



**Clerk of the Supreme Court &  
Court of Appeals  
625 Marshall Street, Suite 130  
Little Rock, Arkansas 72201**

## 5. What rules do I need to know?

Two sets of court rules inform this guide: (1) the [Arkansas Rules of Appellate Procedure–Civil](#), and (2) the [Rules of the Supreme Court and Court of Appeals](#) of the State of Arkansas. Other court rules and orders, such as the [Arkansas Rules of Civil Procedure](#), and [Administrative Orders Nos. 2, 19, and 21](#) are also important in appellate court cases. These rules and orders are available in the Supreme Court Library and on the Arkansas Judiciary website at [www.arcourts.gov](http://www.arcourts.gov).

## 6. What words do I need to know?

The following are definitions of important words related to appeals and used in this guide:

**Affirm**—To uphold a lower court’s judgment on appeal. If an appellate court decides a case is “affirmed,” it has decided the lower court’s decision remains the same.

**Appellant**—A person who appeals a lower court’s decision, usually seeking a reversal of that decision.

**Appellee**—A person against whom an appeal is taken. An appellee’s role is typically to respond to an appeal. An appellee typically asks that the lower court decision be affirmed.

**Appellate record**—Generally, a record of what occurred in the circuit court that the appellate court reviews on appeal. An appellate record is typically made up of (1) the documents filed in the circuit court, and (2) transcripts of what occurred in any circuit court hearings or trials.

**Appellant’s brief**—A document prepared by an appellant that argues their case. A brief contains a factual statement, legal arguments, and the legal authorities in support of the arguments.

“Legal authorities” are sources of the law, including statutes, case law, court rules, constitutional provisions, treatises, or other legal documents cited in support of a legal argument.

**Appellee’s brief**—A document prepared by an appellee that argues their case. It often includes legal arguments and the legal authorities in support of the appellee.

**Arkansas Court of Appeals**—This court is the intermediate appellate court for Arkansas. Most appeals of circuit court decisions are appealed to this court. However, not all appeals go directly to the Court of Appeals. A reading of the [Arkansas Rules of the Supreme Court and Court of Appeals, Rule 1-2](#) will help illustrate this point.

**Arkansas Supreme Court**—This court is the top appellate court for Arkansas. There is no right of appeal from the Court of Appeals to the Supreme Court. Under [Rule 1-2](#), some cases are filed originally in the Supreme Court. Some Court of Appeals decisions may be reviewed by the Supreme Court after a party files a “petition for review.” And some cases may be decided by the Supreme Court when the Court of Appeals certifies and transfers the case to the Supreme Court.

**Case caption**—The portion of a court paper stating the names of the parties, the name of the court, the case number, and the title of the document (for

example, Appellant’s Brief). The caption is usually on the first page of any court paper that’s filed. Sometimes it’s called the “case style.” Example below:

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**IN THE COURT OF APPEALS OF ARKANSAS**

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<b>TUSK T. RAZORBACK</b>	<b>APPELLANT</b>
<b>CV-2X-123</b>	
v.	
<b>BEVO T. LONGHORN</b>	<b>APPELLEE</b>

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**ON APPEAL FROM THE CIRCUIT COURT  
OF MOUNTAIN COUNTY, ARKANSAS**

**THE HONORABLE JOHN Q. REFEREE, CIRCUIT JUDGE**

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**APPELLANT’S BRIEF**

Tusk T. Razorback  
1 Hog Lane  
Fayetteville, AR 7212X  
(479) 555-5555  
(Email address)

**Circuit court**—In Arkansas, circuit courts are general jurisdiction trial courts. They decide many civil, criminal, probate, domestic relations, and juvenile cases.

**Circuit court clerk**—In Arkansas, circuit court clerks are the official keepers of the circuit court’s records for the circuit court of the county where the case is filed.

**Clerk’s Office of the Arkansas Supreme Court and Arkansas Court of Appeals**—The Clerk’s Office of the Supreme Court and Court of Appeals is the official keeper of records for the appellate courts. The Clerk’s Office is where people file appellate court documents to be reviewed by the appellate court. This office may provide filers with information on the types of documents it can accept, but it can never give filers legal advice. For example, the clerk’s office cannot help with legal strategy for the case or what legal arguments to use in your documents.

**Court reporters**—These professionals make sure that all words spoken during a court proceeding are accurately recorded. This allows a written transcript to be created so the parties and the appellate court can review exactly what was said at a circuit court proceeding, like a hearing or trial.

**Error**—A mistake in law or fact in a court’s judgment, opinion, or order. In appeals, “error” can refer to “reversible error,” which affects a litigant’s or party’s rights or case’s outcome and may be grounds for reversal if the party properly objected.

**File\*** (\*verb)—When you deliver a legal document to a court clerk for placement into the official record, and the clerk enters it into the record, it's been “filed.”

**Filing fee**—An amount of money required to be paid to a court clerk before a legal proceeding may start.

**In forma pauperis**—A legal term used in Arkansas that refers to a party's inability to proceed because that person cannot afford to pay for court costs and fees. A party that is found to be “in forma pauperis” by a court will likely have court costs and fees waived.

**Interlocutory order**—An order related to an intermediate issue in a case; an order other than the final order.

**Judgment**—A court's final decision of the rights and obligations of parties in a lawsuit.

**Decree**—traditionally, a court's judicial decision that is similar to a judgment or an order.

**Order**—a court's written direction or command.

**Litigant**—A “party” or person that is directly involved in a lawsuit.

**“Lodging”** of an appellate record\*—The point when a record is officially accepted by the Clerk of the Arkansas Supreme Court and Court of Appeals.

A record must be lodged by the clerk's office for the appellate court to have jurisdiction over the case.

\*Note—To “file” an appellate record and to “lodge” an appellate record are the same thing at the Arkansas Supreme Court and Arkansas Court of Appeals.

**Motion**—A written request to a court to make a specific ruling or order.

**Response to a motion**—A written document responding to a motion.

**Pro se**—This term means “for oneself.” It is the term that refers to litigants who are representing themselves in a court case.

**Received stamp**—This is a mark placed by the clerk's office confirming the receipt of court documents, illustrating the time and date the document arrived. A received stamp is not to be mistaken with a file stamp.

**Remand**—To send a case back to the court from which it came for further action.

**Reply brief**—A brief in which the appellant responds to issues and arguments raised in an appellee's brief. Reply briefs are not required; however, many appellants file them.

**Reversal**—An appellate court’s overturning of a lower court’s decision. A reversal could overturn all or a portion of a circuit court’s judgment, order, or decree.

**Standard of review**—The amount of weight or deference given to a circuit court’s decision by one of the appellate courts when reviewing a decision of the lower court.

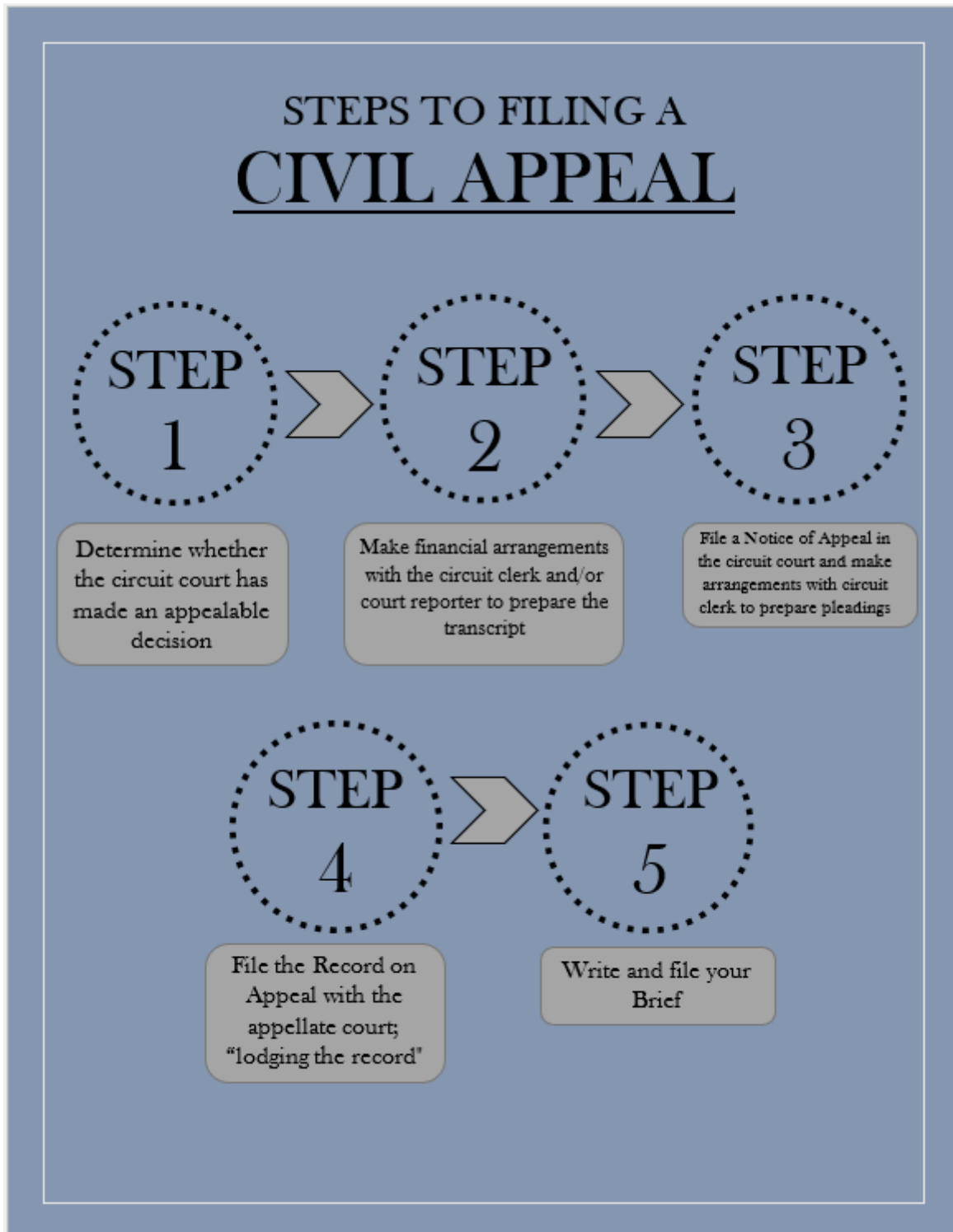
**Stay**—An order to suspend or halt all or part of a legal proceeding or judgment that came out of a legal proceeding. For example, a “stay pending appeal.”

**Supersedeas bond**—A type of bond that a court requires from an appellant who wants to delay payment of a judgment until an appeal is over.

**Tender or Tendered**—This is a term used in the clerk’s office that describes a formal presentation of a document that is awaiting a court decision to accept the document. A document will usually be tendered at a time consistent with the “received stamp.” If the court instructs the clerk’s office to accept the tendered document, the document will be filed.

**Writ**—A court’s written order commanding the person who receives it to do or not do some specified act. An “extraordinary writ” is a writ issued by a court exercising unusual or discretionary power. For example, there are writs of certiorari, habeas corpus, mandamus, and prohibition. Read [Arkansas Rules of the Supreme Court and Court of Appeals, Rule 6-1](#) on extraordinary writs.

### III. *The Steps to Filing an Appeal*



Filing an appeal from a circuit court decision with the Court of Appeals or the Supreme Court is multi-step process. Instead of thinking that filing an appeal is one big task, try to approach it as several smaller tasks. Then, work through each smaller task one step at a time.

- The first step is to figure out whether the circuit court made an appealable decision. Typically, this comes in the form of a judgment, decree, or order.
- The second step is to make financial arrangements with the court reporter for the preparation of any circuit court transcripts that are needed.
- The third step is to file the notice of appeal in the circuit court and to arrange for preparation of the circuit clerk's portion of the record.
- The fourth step is to file the appellate record in the appellate court. This is commonly called "lodging the record."
- The fifth step is to file a brief in your case. "Briefing" is discussed below.

The appellant is responsible for ensuring that all the steps are completed. Failure to properly complete any one of these steps can result in the clerk's refusal to accept the appeal or in the appellate court's dismissal of the appeal. Each step is discussed in more detail below.

### **Step 1: Determine if the Circuit Court Has Entered an Appealable Order**

Some circuit court orders are "appealable" orders. That means you can appeal them. However, some court orders are not appealable. If you attempt to appeal an order that is not appealable, the appellate court will dismiss the appeal. If you are thinking about filing an appeal, one of the first things you must do is figure out

whether the order, judgment, or decree you wish to appeal is of a type that is appealable. [Rule 2 of the Arkansas Rules of Appellate Procedure—Civil](#) contains a list of the types of orders that can be appealed. Generally—with a few exceptions—appeals can only be taken from final orders of the circuit court. An order is final if it dismisses the parties from the court, discharges them from the action, or concludes the parties’ rights as to the subject matter in the case. In other words, an order is final if it decides the last issue that remains in front of the circuit court. An appeal from the final order also brings up for review any intermediate orders of the circuit court that affect the judgment or the merits of the case.

Another important thing to know is whether and when the appealable order has been “entered.” An order is “entered” when the circuit clerk marks it with the date and time and the word “filed.” Entry of a written order is necessary before you can appeal. An example may help you understand final orders:

Example: A plaintiff files a complaint for breach of contract against a defendant, and the defendant then files a counterclaim for breach of contract against the plaintiff. The circuit court then enters an order dismissing the plaintiff’s complaint on December 1. The December 1 order is not appealable because the counterclaim remains pending. On March 1, the circuit court enters an order granting a money judgment in favor of the defendant on the counterclaim. The March 1 order is the final judgment because it decided the last claim that remained pending in the case (the counterclaim). If the plaintiff appeals the March 1 order, they could challenge it and the January 1 order on appeal because the appeal from the final order brings up for review both the January 1 order and the March 1 order.

Other orders from which an appeal can be taken include:

- an order granting or refusing a new trial;
- an order that strikes an answer or other pleading;

- an order that vacates or sustains an attachment or garnishment;
- an “interlocutory order” that involves an injunction;
- an order that disqualifies an attorney from participating in a case;
- an order appealable by state statute;
- a final civil or criminal contempt order that imposes a sanction; and
- all final orders awarding custody.

## **Step 2: Contact the Court Reporter to Make Financial Arrangements for Preparation of Transcript**

Most circuit court cases that are appealed require a court reporter’s transcript. A court reporter’s transcript is a typed record of spoken words from a court hearing or trial. Once you have decided to appeal and determined that the order is appealable, the next step is to ask the court reporter(s) at the hearing(s) and/or trial to prepare the transcript. If no hearings or trials were held in the case, there may be no need to contact a court reporter to make financial arrangements.

Preparation of a transcript can get expensive. Court reporters are currently allowed to charge a per-page fee set by statute when they prepare a transcript. Transcripts are necessary so that the appellate court can review what evidence and arguments were presented to the circuit court judge or jury. It is the appellant’s burden to deliver a record that is sufficient to demonstrate error. Failure to show reversible error may result in the circuit court’s judgment being affirmed.

**Step 3: File the Notice of Appeal or Cross-Appeal and Contact the Circuit Clerk to Make Financial Arrangements for Preparation of the Circuit Clerk’s Portion of the Record.**

Generally, a notice of appeal must be filed in the circuit court within 30 days of the entry of an appealable order.<sup>1</sup> Copies of the notice must be served on all parties, by a form of delivery, for example, U.S. Mail, that requires a signed receipt. If a party has a lawyer, the notice should be delivered to that lawyer. Any other party that may want to appeal the order may file a notice of cross-appeal within 10 days of receipt of the appellant’s notice of appeal, and the notice of cross-appeal must be served on all parties in the same manner as the notice of appeal.

Any notice of appeal or notice of cross-appeal must comply with the requirements of [Rule 3 of Arkansas Rules of Appellate Procedure–Civil](#).

Rule 3(e) states that the notice shall:

- (i) Specify the party or parties taking the appeal;
- (ii) Designate the judgment, decree, order or part thereof appealed from;
- (iii) Designate the contents of the record on appeal;
- (iv) State that the appellant has ordered the transcript, or specific portions thereof, if oral testimony or proceedings are designated, and

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<sup>1</sup>There are exceptions to the 30-day deadline to file the notice of appeal. For example, certain types of appeals, such as those involving termination of parental rights, have a 21-day deadline. *See* Ark. Sup. Ct. R. 6-9. Some “special proceedings,” such as election contests, have a shorter deadline set by statute. *See* Ark. Code Ann. § 7-5-810 (providing a seven-day deadline for filing notice of appeal in election contests). Also, the filing of certain post-trial motions can extend the time to file the notice of appeal if filed within 10 business days from the date of the entry of judgment. *See* Ark. R. App. Pro.–Civ. 4.

has made any financial arrangements required by the court reporter pursuant to Ark. Code Ann. § 16-13-510(c);

(v) State whether the appeal is to the Court of Appeals or to the Supreme Court; and if it is to the Supreme Court, the appellant shall designate the applicable subdivision of Arkansas Supreme Court and Court of Appeals Rule 1-2(a), which gives the Supreme Court jurisdiction.

(vi) State that the appealing party abandons any pending but unresolved claim (unless the appeal is taken from an appealable interlocutory order).

Note: When you file the notice of appeal, you should also make financial arrangements with the circuit clerk regarding the preparation of the clerk's portion of the appeal record.

#### **Step 4: Filing the Appellate Record**

A typical appellate record contains:

- 1) The documents filed in the circuit court that are designated in the notice of appeal (the "pleadings"), and
- 2) any hearing or trial transcripts that are designated in the notice of appeal (the "transcript").

It is the appellant's responsibility to make sure that the prepared record is certified by the circuit clerk and the court reporter. It is also the appellant's responsibility to deliver the appellate record to the Clerk of the Supreme Court and

Court of Appeals on time. Generally, the record must be filed in the appellate court within 90 days<sup>2</sup> from the date of the filing of the notice of appeal.<sup>3</sup>

Lawyers must file court documents electronically. However, pro se filers may file paper records. A typical paper record will contain (1) a bound portion with the circuit court pleadings, and (2) a separate bound portion with the court reporter's transcript. Sometimes the circuit court pleadings are labeled as the "RP," which stands for Record Pleadings. The court reporter's transcript is often labeled as the "RT," which stands for Record Transcript. Upon the filing of a record, a \$165.00 filing fee is also required. However, if you have a court order that says you do not have to pay filing fees, the clerk's office will not charge its filing fee.

### **Step 5: Filing Briefs and Motions**

Once the appellate record is filed, the appellate court has jurisdiction over the appeal. Once the appellate court has jurisdiction, parties can file briefs and motions with it. Briefs are very important in appeals. A brief is the document in which an appellant or appellee makes their legal arguments to the court.

Usually, the filing of the record triggers the scheduling of due dates for an appellant's brief.

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<sup>2</sup>There are exceptions to the 90-day deadline to file the appellate record. For example, the appellate record must be filed within 30 days of the filing of the first notice of appeal for certain types of interlocutory appeals involving injunctions and receiverships. *See* Ark. R. App. Pro.—Civil 5(a); Ark. R. App. Pro.—Civil 2(a)(6)–(7).

<sup>3</sup>The Circuit Court may extend the time to file the record on appeal for up to seven months from the date of the filing of the first notice of appeal when the court reporter needs more time to complete the preparation of a transcript. Any motions or orders extending the time to file the record must strictly comply with the requirements of Rule 5(b) of the Arkansas Rules of Appellate Procedure—Civil.

## **A. Appellant's Briefs**

The appellant's brief is due 40 days from the date the record is filed in the appellate court. The appellant's brief is the document an appellant files to explain to the appellate court why they should win their case and what the appellant believes the appellate court should do. Appellants' briefs summarize the case and its facts. Appellants' briefs also identify and explain the legal errors made by the circuit court. The brief is a chance to persuade the appellate court to provide relief from the circuit court's order(s). A common form of relief requested by appellants is called a "reversal." As explained in the definitions in this guide, a reversal is when the appellate court overturns a circuit court's decision. An appellant may ask that a circuit court's order(s) be "reversed", and the case "remanded" to the circuit court for further proceedings. Another common form of relief requested is that the circuit court's order(s) be reversed, and the case be dismissed. Whether relief is granted, and the type of relief available depend on the circumstances of each case.

Appellants' briefs must include the ten sections required by [Arkansas Rules of the Supreme Court and Court of Appeals, Rule 4-2\(a\)](#). Those sections are the (1) Cover, (2) Table of Contents, (3) Points on Appeal, (4) Table of Authorities, (5) Jurisdictional Statement, (6) Statement of the Case and Facts, (7) Argument, (8) Request for Relief, (9) Certificate of Service, and (10) Certificate of Compliance with Administrative Order No. 19; Administrative Order No. 21, Sec. 9; and Word-Count Limitations. Each page of a brief must have a page number on it. The cover page should be page 1. Every page after the cover page should be paginated consecutively: 2, 3, 4, and so on.

Each section is discussed below:

- 1) Cover: The "cover" must include the case caption, including the case number. It must also include the name of the court from which the appeal

- is taken and the name of the judge who decided the case being appealed. The cover must also include the title of the brief (for example, the Appellant’s Brief, Appellee’s Brief, or Appellant’s Reply Brief). It must name the person or people who wrote the brief, and include their addresses, telephone numbers, and email addresses (*see* page 11 above).
- 2) Table of contents: The “table of contents” must reference the page number for the beginning of each section of the brief.
  - 3) Points on appeal: The “points on appeal” is a list of separately numbered points the appellant relies on for a reversal. They should be relatively brief and without argument. Either party may include up to two citations that they consider the main authority for each point on appeal.
  - 4) Table of authorities: The “table of authorities” is an alphabetical listing of authorities cited in the brief. They should be listed in the following order: (1) Cases, (2) Statutes and rules, (3) Books and treatises, (4) Miscellaneous. For each authority, designate the page number in the brief where you have cited the authority.
  - 5) Jurisdictional statement: A “jurisdictional statement” is a brief statement that shows the appellate court’s jurisdiction. The jurisdictional statement must be supported by citations of authorities and/or the pages in the record. It should identify: (1) Information showing the appeal is from a final circuit court order or judgment that decided all of the persons’ or parties’ claims, (2) the filing dates that illustrate that the appeal has been filed on time, and (3) whether the appeal should be decided by the Arkansas Supreme Court or the Arkansas Court of Appeals. See [Arkansas Rules of the Supreme Court and Court of Appeals, Rule 1-2](#).
  - 6) Statement of the case and facts: A “statement of the case and facts” is a brief statement of the case and its facts without argument. It should discuss

all factual and procedural information that is important to understand the case. The information discussed should be contained in the record on appeal. Because you can only discuss information contained in the record, the statement of the case and facts must include citations to the pages in the record that support the sentences you write in the statement of the case and facts. An appellant must include a statement of the case and facts in their first brief. An appellee does not need a statement of the case and facts unless they want to include one. A reply brief cannot have a statement of the case and facts.

- 7) Argument: This is where you make a legal argument for your side of the case. Arguments should be well-organized. You may choose to create subheadings numbered in the same order as your points on appeal section. For each issue, you should include the standard of review that applies. Support for the legal arguments you make could include Arkansas case law, federal cases, out-of-state case law, statutes, etc.
- 8) Request for Relief: In a “request for relief,” an appellant must specifically request all relief they want on appeal.
- 9) Certificate of Service: All briefs must include a certificate of service stating that you have delivered a copy of the brief to the parties and the circuit court that decided your case before the appeal. See [Arkansas Rules of the Supreme Court and Court of Appeals, Rule 4-4\(e\)](#).
- 10) Certificate of Compliance with Administrative Order No. 19; Administrative Order No. 21, Section 9; and with Word-Count Limitations: All briefs must include a statement the brief complies with 1) [Administrative Order No. 19](#)’s requirements about confidential information, 2) [Administrative Order No. 21](#), section 9’s requirement that the brief not contain external

hyperlinks, and the courts' word-count limitations in [Arkansas Rules of the Supreme Court and Court of Appeals, Rule 4-2\(d\)](#).

You should read all the court rules on briefing. For a typical civil appeal, they can be found here:

- [Arkansas Rules of the Supreme Court and Court of Appeals, Rule 4-1](#)
- [Arkansas Rules of the Supreme Court and Court of Appeals, Rule 4-2](#)
- [Arkansas Rules of the Supreme Court and Court of Appeals, Rule 4-4](#)
- [Arkansas Rules of the Supreme Court and Court of Appeals, Rule 4-5](#)
- [Arkansas Rules of the Supreme Court and Court of Appeals, Rule 4-7](#)

Also, you can find a [sample of an appellant's brief here](#). And you can find a [sample of an appellee's brief here](#). Attorneys drafted these samples, and they provide good illustrations of what acceptable briefs look like. However, when you view these briefs, understand that you can still file a paper brief and even handwrite them if necessary.

Once an appellant's brief is filed, the appellee has 30 days to file an appellee's brief explaining why the appeal should be dismissed or why the circuit court's orders should stand (also known as "affirmed"). Once any appellee's brief is filed, the appellant has 15 days to file a reply brief addressing the arguments contained in the appellee's brief. You can find a [sample of an appellant's reply brief here](#).

## **B. Motions**

A motion is a written application requesting that the appellate court make a specified ruling or order. A written motion may make requests for orders from the appellate court during the briefing period. Some of the more typical motions the clerk receives are motions for extensions of time to file briefs, motions to expand

the word count, or a motion to dismiss the case. Before you file any motion, you should thoroughly review all of [Arkansas Rules of the Supreme Court and Court of Appeals, Rule 2-1](#).

#### **IV. *Petitions for Rehearing and Petitions for Review***

After a decision or opinion is issued by one of the appellate courts, a person or party may sometimes disagree with it. If you disagree with an appellate court decision, you may want to review Ark. Sup. Ct. R., Rules [2-3](#) and [2-4](#). These rules address Petitions for Rehearing and Petitions for Review. Even though these options exist, these are not opportunities to reargue an appeal. Statistically, petitions for rehearing and review are rarely granted. Below are some considerations to keep in mind about these types of petitions.

##### **A. Petitions for Rehearing-A petition for rehearing asks the same court that issued the opinion to change its decision.**

- Petitions for rehearing are to be used “to call attention to specific errors of law or fact” which an opinion is thought to contain. Ark. Sup. Ct. R., Rule 2-3(g)
- Rehearing is not intended to afford an opportunity for “a mere repetition of the argument already considered by the court.” Ark. Sup. Ct. R., Rule 2-3(g)
- A party filing a petition for rehearing must file it within 18 calendar days from the date of the decision. They must also include a certificate of merit stating the petition is not filed for the purpose of delay.
- A petition for rehearing and supporting brief shall not exceed ten 8 ½"x 11" double-spaced, typewritten pages.

**B. Petitions for Review-**A petition for review asks the Arkansas Supreme Court to review a case that was decided by the Arkansas Court of Appeals.

- Petitions for Review to the Arkansas Supreme Court must “briefly and distinctly state the basis upon which the case should be reviewed.”
- Petitions for Review to the Arkansas Supreme Court must allege one of the following:
  - The case was decided in the Court of Appeals by a tie vote;
  - The Court of Appeals rendered a decision which conflicts with a prior holding of a published Court of Appeals or Supreme Court opinion; or
  - The Court of Appeals erred with respect to one of the grounds listed in Ark. Sup. Ct. R., [Rule 1-2\(b\)](#).
- A party filing a petition for review must file it within 10 calendar days after the end of the Court of Appeals rehearing period. The rehearing period ends at the expiration of time for filing a petition for rehearing under Rule 2-3(a) (or upon disposition of the last pending petition for rehearing, whichever is later).
- A petition for review shall not exceed three 8 ½" x 11" double-spaced pages.
- Briefs will not be accepted in support of petitions for review; however, if a petition for review is granted, parties may request permission to file supplemental briefs. See Ark. Sup. Ct. R., [Rule 2-4\(g\)](#).

## ***V. Frequently Asked Questions***

**Question:** Where is the Clerk’s Office, and when is it open?

**Answer:** The Arkansas Supreme Court and Court of Appeals Clerk’s Office is located at 625 Marshall Street, Suite 130, Little Rock, AR 72201. The Clerk’s Office phone number is (501) 682-6849. Office hours are from 8:00 a.m. to 5:00 p.m.,

Monday through Friday. The Clerk’s Office is closed on Arkansas state government holidays.



**Clerk of the Supreme Court &  
Court of Appeals**  
625 Marshall Street, Suite 130  
Little Rock, Arkansas 72201

**Question:** How much are filing fees?

**Answer:** Below is a list of the filing fees charged by the Arkansas Supreme Court and Court of Appeals Clerk’s Office. These fees are for pro se litigants filing paper documents and do not reflect additional charges for electronic filing. A complete table of the clerk’s filing fees can be found [here](#).

(1) Civil Appeals	\$165.00
(2) Misdemeanor Appeals	\$165.00
(3) Petitions for Extraordinary Relief	\$165.00
(4) Petitions for Rehearing	\$25.00
(5) Petitions for Review	\$25.00
(6) Felony Appeals	No charge

**Question:** How many copies do I need to file?

**Answer:** The clerk’s office will scan and upload your paper documents to the docket, so you need only file the original documents with the clerk’s office. However, for your own records, for the purpose of serving other parties by mail, and for other reasons, you may want to make several copies.

**Question:** Does the Clerk accept electronic filings?

**Answer:** Yes. This is how all Arkansas lawyers are required to file court papers. Anyone who wants to file electronically must create an account with the electronic filing system used in Arkansas. This requires that you register, complete a training

session, pay a registration fee, and request a user account online. Also, unless you have a filing-fee waiver, it is more costly to file on this system because of an extra fee for filing electronically. Most *pro se* filers choose to file paper documents.

This guide does not teach people how to file electronically. If you want to file electronically, you can visit [this website](#) to learn more.

If you want to register for an e-Flex filing account, follow the registration procedures outlined at <https://efile.aoc.arkansas.gov/eflexResources/footer/support.html>.

**Question:** How do I view the docket for my case online?

**Answer:** To view your case’s docket online, go to <https://caseinfo.arcourts.gov/> this website is called “Search ARCourts. If you do not know your case number, click “Search by person name, business name, or case type” and perform a search using a person’s name or an attorney’s name. If you know your case number, click “Display case information and activities” and enter the case number (for example, CV-2X-123)—make sure to include the dashes. If there are documents filed in the case that are sealed from public access, only attorneys of record may view those documents by logging into their e-Flex account at <https://efile.aoc.arkansas.gov/>.

**Question:** What can I do if I notice that an important document filed or admitted in the circuit court is not in the appeal record?

**Answer:** Usually, appellate courts won’t consider documents, evidence, or court filings that are not included in the appeal record. If something is missing from the appeal record, and you believe it is important to the appeal, you may be able to supplement the record with the missing information. Supplementing the record can be done through one of the following three ways:

- (1) File a motion to supplement the record. In your motion, you may explain why supplementing the record is necessary. Also, you should include a copy of the document that you think should be part of the record. The document will need to be certified by the circuit clerk or the court reporter as being a true and correct copy of a document from the circuit court case. If the motion is granted, the record will be supplemented to include the document.
- (2) File a petition for writ of certiorari to complete the record. In your petition, you may explain why supplementation is appropriate and ask that the appellate court require the circuit clerk and/or court reporter to produce the missing documents to the appellate court. If the petition is granted, the appellate court will issue a “writ of certiorari to complete the record” to the circuit clerk and court reporter commanding that the document be delivered to the appellate court. Once the appellate court receives the missing document, the record will be supplemented to include it. You may want to read the [Arkansas Rules of the Supreme Court and Court of Appeals, Rule 3-5](#).
- (3) File a stipulation. A “stipulation” is a voluntary agreement between opposing parties concerning a point about the case. The stipulation must be signed by all parties and/or attorneys in the appeal. It would need to state that there is no objection to the supplementation of the record to include a particular document. The stipulation should include a copy of the document you think should be part of the record. The document will need to be certified by the circuit clerk or the court reporter as being a true and correct copy of a document from the circuit court case. Upon the filing of the stipulation, the record will be supplemented.

Under some circumstances, the appellate court may remand the case to the circuit court to “settle the record.” In other words, the appellate court may require the circuit court to decide what materials will be included in the record.

**Question:** What if the court reporter cannot prepare the appellate record within the deadline for filing it in the appellate court?

**Answer:** It is often necessary that an appellate record include the transcript of a trial and/or hearings that were held in the circuit court. Sometimes, a court reporter is unable to complete preparation of a transcript within the deadline for filing the appellate record in the appellate court. If this happens during your case, you may be able to obtain an order from the circuit court extending the deadline to file the appellate record.<sup>4</sup> A motion for extension of time to file the record and the order granting the extension **MUST** be filed with the circuit clerk **BEFORE** the deadline for filing the appellate record in the appellate court. Under court rules, the order **MUST** contain the following findings:

- (1) That the appellant has filed a motion explaining the reasons for the requested extension and served the motion on all counsel of record;
- (2) That the time to file the record on appeal has not yet expired;
- (3) All parties have had the opportunity to be heard on the motion, either at a hearing or by responding in writing;
- (4) The appellant, in compliance with Rule 6(b), has timely ordered the stenographically reported material from the court reporter and made any financial arrangements required for its preparation; and

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<sup>4</sup>See [Ark. R. App. Pro.–Civil 5\(b\)](#).

- (5) An extension of time is necessary for the court reporter to include the stenographically reported material in the record on appeal or for the circuit clerk to compile the record.

The order MUST STRICTLY COMPLY with these requirements of Rule 5(b).<sup>5</sup> And under no circumstances may the circuit court extend the time to file the record beyond seven months\*\* from the DATE OF THE FILING OF THE FIRST NOTICE OF APPEAL.<sup>6</sup>

\*\*If you have

- received the maximum seven-month extension from the circuit court, OR

1) are unable to obtain an extension from the circuit court, AND

2) it appears the record will not be fully prepared in time to file it by the deadline,

you may file with the clerk of the Supreme Court a “Petition for Writ of Certiorari to Complete the Record” pursuant to the [Arkansas Rules of the Supreme Court and Court of Appeals, Rule 3-5](#).

These petitions must include: (1) a filing fee, if applicable, (2) a certified partial record containing the order from which the appeal is taken, and (3) any notices of appeal. It is also possible that, if applicable to your case, you will need to file any post-trial motions extending the time to file the notice of appeal, any order granting or denying a post-trial motion, and any motions and orders extending the time to file the record. If the petition is granted, the Supreme Court will issue a writ to the circuit clerk and/or court reporter commanding them to deliver the record to the appellate court.

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<sup>5</sup>For example, *Byrer v. Colvard*, 373 Ark. 184, 185, 282 S.W.3d 810, 810 (2008) (“We have made it very clear that we expect strict compliance with the requirements of Rule 5(b) and that we do not view the granting of an extension as a mere formality.”).

<sup>6</sup>Ark. R. App. Pro.–Civil 5(b)(2).

**Question:** What if the Supreme Court Clerk's Office refuses to file the record on appeal?

**Answer:** When the appellate record is submitted to the clerk's office for filing, the record is reviewed to ensure it has been delivered on time and organized correctly. If the clerk determines that there is a problem with the record that prevents the appellate court from having jurisdiction over the appeal, the clerk will notify the appellant that the record cannot be filed. If you disagree with the clerk's decision to refuse to file the record, you may file a [motion for rule on clerk](#) or a motion for belated appeal asking the Supreme Court to order its clerk to file the record. The motion must be accompanied by a filing fee (if it has not been waived). If the motion is granted, the record will be filed. Then the case will proceed, and the clerk will issue a briefing schedule. If the motion is denied, the record will not be filed, and the filing fee is forfeited.

**Question:** What if I want to appeal, but I cannot afford to pay for the preparation of the appellate record or the filing fee?

**Answer:** You may file a petition in the circuit court (1) to proceed on appeal in forma pauperis (see definitions); and (2) for payment of the appellate record. The petition should include a supporting affidavit. An affidavit form can be found [here](#). If your request is granted, you will not be required to pay costs for the appellate record or the filing fee.

Alternatively, you may also file a petition to proceed in forma pauperis and for payment of the appellate record in the appellate court. The petition should include a supporting affidavit. A certified partial record from the circuit court must also accompany it. At a minimum, the partial record must include certified copies of:

- 1) the order appealed from,
- 2) any notices of appeal,
- 3) any post-trial motions that extend the time to file the notice of appeal,
- 4) any order granting or denying a post-trial motion, and
- 5) any motions or orders extending the time to file the record on appeal.

The filing of a petition to proceed in forma pauperis does not extend the time to file the appellate record. If the deadline for filing the record is nearing, see the above FAQ on filing a petition for writ of certiorari to complete the record, and read the [Arkansas Rules Supreme Court and Court of Appeals, Rule 3-5](#).

**Question:** Can I appeal from a district court order to the Supreme Court or Court of Appeals?

**Answer:** No. Appeals cannot be taken directly from an Arkansas district court to the Court of Appeals or the Supreme Court. Instead, they may be taken from a district court to the circuit court having jurisdiction over the appeal. In civil cases, the procedure for appealing from a district court is set forth in [Rule 9 of the Arkansas District Court Rules](#). In criminal matters, the procedure for appealing from the District Court is set forth [in Rule 36 of the Arkansas Rules of Criminal Procedure](#). Consult these rules for more information on filing appeals of district court decisions. As a reminder, if you disagree with a circuit court's decision on an appeal from the district court, you may appeal the circuit court's decision to one of the appellate courts.

**Question:** The circuit court entered a judgment against me, and I am appealing. Can the judgment be enforced while my appeal is pending?

**Answer:** Yes, unless you obtain a “stay” of the judgment pending appeal. Typically, the circuit court has jurisdiction to enforce its orders during an appeal. For example, if you are appealing an order of foreclosure that requires your home to be sold on a particular date, the home will be sold on that date even though you have filed an appeal. But if you have a “stay” pending appeal, the sale can be stopped until the appeal is decided. Also, the same can be true for awards of money. If you do not get a “stay” of the judgment, your judgment creditor may seek to collect the money from you even though you have filed an appeal. [Rule 8 of the Rules of Appellate Procedure–Civil](#) provides the requirements for obtaining a stay during appeal.

- That rule requires the appellant to move the appropriate court\*\* for a stay, to post a “supersedeas bond,” with “sufficient sureties as the court requires.”
- A “supersedeas bond” is a written pledge that a party will pay the judgment in full, including interest, and the costs on appeal if the appeal is lost or abandoned.
- This written pledge must be backed by “sufficient sureties”—think of this as collateral—that satisfy the court that the judgment and appeal-related costs will be paid in the event the appellant loses the appeal.

In other words, the appellant must pledge some form of property as collateral in the event the appeal is lost. No specific type of surety is required. Some examples of the property that can be used to satisfy the surety requirement are:

- cash,
- a cashier’s check,
- an irrevocable letter of credit from a bank,
- a deed to real property, personal property, or
- a surety bond from a bondsman or insurer.

Once the stay is granted, the clerk of the appropriate court should issue a “supersedeas.” A “supersedeas” is simply a written notice that the judgment is temporarily “stayed,” and that the appellee cannot enforce it until the stay is lifted. The circuit clerk should issue the supersedeas bond if the appeal record has not yet been filed in the appellate court. The clerk of the appellate court should issue the bond if the appeal record has already been filed.

\*\*It is important that the stay is obtained from the correct court. If the appellate record has not been filed, only the circuit court can grant a stay pending appeal. However, if the appellate record or a partial record has been filed in the appellate court, only the appellate court can grant a stay.

**Question:** Are there specific requirements for motions?

**Answer:** Yes. The format requirements for motions and responses are set forth in the [Arkansas Rules of the Supreme Court and Court of Appeals, Rule 2-1](#).

- Motions and responses to motions must be legible and written on 8 ½" by 11" paper.
- Typewritten motions must be double-spaced; the font should be at least 14-point and include serifs.
- All motions must include a certificate describing service of the document on opposing parties and a "memorandum of authorities." A memorandum of authorities is "a short citation" of the authorities relied upon in the motion or response.
- Motions and responses can be no longer than 10 typewritten pages, excluding the certificate of service and any exhibits.
- Any response to a motion must be filed within 10 calendar days of the date of the filing of the motion unless the court changes the response's due date.
- Motions to reconsider the appellate court's decision on a motion must be filed within 18 calendar days of the decision.

**Question:** What about artificial intelligence ("AI")? Can or should I use AI to help with my court documents?

**Answer:** AI tools may help some people prepare court documents, but their use is neither encouraged nor discouraged. If you choose to use AI, do not rely on it as your only source of legal information. AI tools can make mistakes. There are known examples of AI creating incorrect or nonexistent caselaw, laws, quotes, or legal citations that appear to be correct but are not real. A person filing a document with

a court is responsible for the accuracy of all statements, legal authorities, and citations, even if AI is used to help prepare it. If you decide to use AI, carefully review all information such as cases, court rules, and statutes, by using reliable sources BEFORE you file the document. Finally, court participants should read [Administrative Order 25](#), in which the Arkansas Supreme Court cautions that anyone who discloses confidential or sealed information related to a case to an AI tool may be in violation of established court rules.