

Getting Started

Appellee's Brief

IMPORTANT: This getting started guide and the instructions are not legal advice. They are only meant to help you learn how to use the *Appellee's Brief* form. Your use of the form does not guarantee you will be successful in court.

To learn how to fill out the form and file it with the court, read the *HOW TO FILE AN APPELLEE'S BRIEF* instruction sheet and the instructions on the form.

Name of form:	<i>Appellee's Brief</i>
Purpose of the form:	To tell the appellate court why the trial court was right to enter an order or judgment in your favor.
Types of cases the form CAN be used for:	All appeals to the Illinois Appellate Court.
Types of cases the form CANNOT be used for:	All appeals to any other court.
Cost to File the form:	None, if you file in person; if you file by U.S. mail or third-party commercial carrier (e.g., FedEx or UPS), you will need to pay postage or delivery fees.
Special information or papers needed to complete the form:	You will need to refer to the record on appeal, including the common law record (the documents filed in the trial court) and the report of proceedings (the transcript of the trial court hearings). You will also need to cite legal authority (cases, statutes (laws), etc.) to support your arguments.
Statutes and rules covering the form:	Illinois Supreme Court Rules 321 , 323 , 341 , and 342
Where to find the form and instruction sheet:	http://www.illinoiscourts.gov/Forms/approved/
For more information:	Read the <i>HOW TO FILE AN APPELLEE'S BRIEF</i> instruction sheet that comes with this form. You may also find more information and resources at: http://www.illinoiscourts.gov/CivilJustice/Resources/Guide for Appeals to the IL Appellate Court rev 0930 16.pdf

HOW TO FILE AN APPELLEE'S BRIEF

What is an *Appellee's Brief*?

- An *Appellee's Brief* tells the appellate court why the trial court was right to enter an order or judgment in your favor.

Who can use the *Appellee's Brief* form?

- The *Appellee's Brief* is filed by the appellee. If you are responding to the appeal, you are the appellee. (Your opponent, who filed the appeal, is called the appellant.)

When do I file the *Appellee's Brief* form?

- In general, your *Appellee's Brief* must be filed within 35 days after the due date for the *Appellant's Brief*. However, in a case involving the best interests of a child, for example, the appellate court may shorten that time. Be sure to ask the appellate court clerk's office for the schedule that applies to your case. If you need additional time, you may file a *Motion* with the appellate court to ask for an extension. However, the appellate court is not required to give you an extension and may decide the case with only the *Appellant's Brief* if you do not file your brief on time. You are not required to file a brief, and your failure to file a brief does not mean that you will lose the appeal.
- For more information see the Guide for Appeals to the Illinois Appellate Court for Self Represented Litigants:
http://www.illinoiscourts.gov/CivilJustice/Resources/Guide_for_Appeals_to_the_IL_Appellate_Court_rev_0_93016.pdf

What costs will I need to pay to file my *Appellee's Brief* form?

- None, if you file in person; if you file by U.S. mail or third-party commercial carrier (e.g., FedEx or UPS), you will need to pay postage or delivery fees.

Is there a page or word limit?

- Yes. The *Appellee's Brief*—not including the cover, the statement of points and authorities, the certificate of compliance, and the appendix—must be no more than 50 pages or 15,000 words.
- If you need more than 50 pages or 15,000 words, you may file a *Motion* with the appellate court to ask for permission to file a *Brief* with more pages or words.

How do I fill out the *Appellee's Brief* form?

- If you can't fill out the form online, and if you must fill it out by hand, you must print neatly.
- The *Appellee's Brief* form contains several sections.
- The form contains instructions for each section. The sections are:

Cover

- Check the top box if the appeal involves the best interests of a child.
- Enter the appellate court case number (which you will receive from the appellate court clerk) and the appellate court district.
- Provide the name of the trial court case. If the case was given a name beginning with "In re" (e.g., "In re Marriage of Jones"), enter that name. Then, enter the names of the plaintiff/petitioner (the party who filed the trial court case) and the defendant/respondent (the party against whom the case was filed). Finally, show which party is the appellant and which party is the appellee.
- Enter the trial court county, case number, and judge's name.
- Enter your name, address, and phone number. You may also enter your email address, but, if you do, the court may use it to send you important documents. Therefore, you should enter your email address only if you check your email frequently.
- Show whether you would like a chance to present oral argument (see Step 4 below).
- The cover must be printed on light blue paper.

Points and Authorities

- State the title of each argument (each reason why you think the trial court's decision or the jury's decision is right). Make the title of each argument responsive to the title of each argument in the *Appellant's Brief*.
- List the authorities (cases, statutes (laws), etc.) that you will use to support each argument.
- The form includes room to respond to 3 arguments. If the appellant is raising additional arguments, you may fill out and add an *Additional Points and Authorities* form as the next page.

Nature of the Case

- You do not need to include this section, but you may do so if you disagree with the appellant's version.
- State why the lawsuit was filed and how the trial court or the jury ruled.

Issues Presented for Review

- You do not need to include this section, but you may do so if you disagree with the appellant's version.
- State the title of each argument again. The form includes room for 3 issues. If the appellant is raising additional issues, you may fill out and add an *Additional Issues Presented for Review* form as the next page.

Jurisdiction

You do not need to include this section, but you may do so if you disagree with the appellant's version.

State why the appellate court has, or does not have, the power to hear the appeal.

- The appellate court has the power to hear an appeal only if the trial court's judgment is appealable under an Illinois Supreme Court Rule.
- Tell the appellate court which rule, if any, applies and why. If no rule applies, explain why not.
- State the filing dates of the trial court's judgment, its rulings on any motions that were filed after the judgment, and the *Notice of Appeal*. State whether the *Notice of Appeal* was filed on time.

Statutes (Laws) Involved

- You do not need to include this section, but you may do so if you disagree with appellant's version.
- State the language and the number (for example, 735 ILCS 5/2-615) of the statute (law) so others can find that language. The number of the statute (law) is also called the citation. If you need more room, you may fill out and add an *Additional Statutes (Laws) Involved* form as the next page.

Statement of Facts

- You do not need to include this section, but you may do so if you disagree with the appellant's version.
- Tell the appellate court what happened in the trial court from beginning to end. Include the page numbers of the record on appeal where the information you include is located. Do not argue or comment. If you need more room, you may fill out and add an *Additional Statement of Facts* form as the next page.

Argument

For each argument, state:

- The title of your argument;
- The standard of review (the level of deference the appellate court must give to the trial court or the jury);
- The law that applies to the case;
- How the law applies to the facts; and
- What you want the appellate court to do.

Include statutes (laws), rules, and cases that support your argument.

The form includes room for 3 arguments. The appellate court will not consider arguments that are vague or incomplete. If you are making more than 3 arguments, fill out and add an *Additional Argument* form after your 3rd argument.

Conclusion

State what you want the appellate court to do.

Certificate of Compliance

Certify that you have followed the rules for briefs, especially the page or word limit, by signing the Certificate of Compliance.

Appendix

You do not need to include this section, but you may do so if you disagree with the appellant's version.

Provide:

- An index to the record on appeal, including the common law record (the documents filed in the trial court); the report of proceedings (the transcript of the trial court hearings), if any; and the list of testifying witnesses;
- Copies of the plaintiff's complaint, the trial court's judgment, and the *Notice of Appeal*; and
- Copies of any other relevant materials from the record, noting those additions in the table of contents for the appendix. Do not remove and attach originals from the record.

If you need more room, you may fill out and add an *Additional Common Law Record*, *Additional Report of Proceedings*, or *Additional Index of Witnesses* form as the next page.

What do I do after I fill out the form?

Step 1: Send copies to all other parties.

- You must send 3 copies to each party, unless you are sending by e-mail, in which case you may send only 1 copy to each party. Do not send the original to a party.
- Fill out the 1st part, "Proof of Service to the Parties," of the *Proof of Service and Affidavit of Mailing* form to show how you will send the copies, according to the instructions for that form. Then send the copies, according to those same instructions.

Step 2: File your *Brief* with the appellate court.

- To file your *Brief*, deliver it to the appellate court clerk's office. Unless the appellate court's local rules say otherwise, deliver it in person, by U.S. mail, or by third-party commercial carrier. The address for the appellate court for your appeal may be on the court papers you received. You can also find the address at: <http://www.illinoiscourts.gov/AppellateCourt/ClerksDefault.asp>
- If you will file your *Brief* by U.S. mail or by third-party commercial carrier, fill out the 2nd part, "Affidavit of Mailing to the Court," of the *Proof of Service and Affidavit of Mailing* form to show how you will file it, according to the instructions for that form. Then file your *Brief*, according to those same instructions.
- File your original *Brief* and 8 copies (a total of 9 briefs), along with your *Proof of Service and Affidavit of Mailing*. Each *Brief* must be safely and securely bound on the left side, in a way that does not block the language. Keep another copy for yourself.
- **NOTE:** If you checked out the record on appeal to complete your *Brief*, return the record to the clerk of the appellate court by mail, third-party commercial carrier, or personal delivery when you file your brief. The record on appeal will then be forwarded to the appellant so that he or she can prepare the reply

brief. After both parties' briefs are filed, the court will use the same record on appeal to decide the case. Therefore, while the record is in your possession, do not remove any document from the record or mark any page of the record in any way. Return the record to the appellate court clerk exactly as it was checked out to you.

Step 3: Wait for the *Appellant's Reply Brief*.

- In general, the *Appellant's Reply Brief* is due within 14 days after the due date for your *Appellee's Brief*. The appellant is not required to file a reply brief. The appellant's failure to file a reply brief does not mean that you will win the appeal.

Step 4: Wait for oral argument, if any.

- After all the briefs are filed, the appellate court may send you a notice to appear for oral argument, even if you did not ask for oral argument on the cover of your *Appellee's Brief*. (If you did ask for oral argument, the appellate court is not required to have oral argument.) If you get a notice, arrive on time for the court date. When your appeal is called, the appellant will explain their argument to the judges. You will then get a chance to respond. Be prepared to answer any questions. After you argue, the appellant will get a chance to reply.

Step 5: Wait for the appellate court's decision.

- The appellate court will send you a written decision. This might take several months.
- If you think that the appellate court overlooked or misunderstood any of your points, you may file a *Petition for Rehearing*, which is due within 21 days after the date of the decision. You must point out errors in the decision; you are not allowed to reargue your case.

NATURE OF THE CASE

[Refer to [Illinois Supreme Court Rule 341\(h\)\(2\)](#)]

You do not need to include this section, but you may do so if you disagree with the appellant's version.

State the kind of case that was in the trial court (e.g., "This case was filed in the trial court to recover damages caused by the alleged negligence of the defendant in driving his automobile.").

This case was filed in the trial court to _____

Check boxes to designate:

(1) whether or not the judgment being appealed was based on a jury's verdict;
(2) whether the judgment was in favor of the plaintiff/petitioner or the defendant/respondent; and
(3) whether or not the judgment said there was a problem in the pleadings (meaning the complaint or petition). If the judgment did find a problem, describe the problem.

(1) The trial court judgment was based on a jury verdict

Yes No

(2) The trial court entered a judgment in favor of

Plaintiff/Petitioner Defendant/Respondent

(3) A question is raised on the pleadings

Yes No

If a question is raised on the pleadings, describe it: _____

Starting with this page, number the pages of your brief 1, 2, 3, etc. (This page is numbered for you.)

ISSUES PRESENTED FOR REVIEW
[Refer to [Illinois Supreme Court Rule 341\(h\)\(3\)](#)]

You do not need to include this section, but you may do so if you disagree with the appellant's version.

In 1, state the title of your 1st argument as you wrote it in the Points and Authorities section above.

1. Whether the trial court or the jury (*check one*) was right to _____

If you are making more than 1 argument, use 2 and 3 (if necessary) to state the titles of those arguments. If not, leave the rest of this section blank.

2. Whether the trial court or the jury (*check one*) was right to _____

3. Whether the trial court or the jury (*check one*) was right to _____

If you are making more than 3 arguments, add an *Additional Issues Presented for Review* form as the next page.

JURISDICTION

[Refer to [Illinois Supreme Court Rule 341\(h\)\(4\)\(ii\)](#)]

You do not need to include this section, but you may do so if you disagree with the appellant's version. In 1, state the Illinois Supreme Court Rule, if any, under which the appellate court has jurisdiction, and explain why the trial court's judgment is appealable under that rule. If no rule applies, explain why not.

- 1. This court has jurisdiction under Illinois Supreme Court Rule
 - 301, because the trial court's judgment ended a civil (non-criminal) case.
 - 304, because the trial court's judgment
 - ended only part of a civil (non-criminal) case but included a special finding of appealability under Rule 304(a).
 - ended only part of a civil (non-criminal) case but is one of the judgments listed in Rule 304(b), such as a child custody order.

Specifically, the judgment _____

- 307, because the trial court's judgment did not end any part of a civil (non-criminal) case but is one of the judgments listed in Rule 307, such as a termination of parental rights or a restraining order.

Specifically, the judgment _____

Other: _____

None: _____

In 2, 3, 4, and 5, referring to the pages of the common law record where the documents appear, fill in the dates of the documents that show whether the appeal is timely. Specifically, fill in the date of the judgment, the dates of any post-judgment motions, the dates of the rulings on those motions, and the date of the Notice of Appeal. State whether the Notice of Appeal was timely.

2. On _____, the trial court entered the judgment (C. _____)
Enter Date *Enter page(s) of record*

3. On _____, post-judgment motion(s) was/were filed
Enter Date(s)
(C. _____).
Enter page(s) of record

4. On _____, the trial court ruled on the post-judgment
Enter Date(s)
motion(s) (C. _____).
Enter page(s) of record

5. On _____, the Notice of Appeal was filed (C. _____).
Enter Date

- The Notice of Appeal was timely.
- The Notice of Appeal was untimely.

ARGUMENT

[Refer to [Illinois Supreme Court Rule 341\(h\)\(7\)](#)]

State the title of your 1st argument here as you wrote it in the Points and Authorities section above.

1. The trial court or jury (*check one*) was right to _____

Standard of review (*Check all that apply to your 1st argument*)

- The trial court correctly applied the law. (This is **de novo** review. The appellate court must give **no** deference to the trial court);
- The trial court or the jury correctly decided the facts. (This is **manifest weight of the evidence** review. The appellate court must give **great** deference to the trial court or the jury);
- The trial court correctly conducted the trial procedure. (This is **abuse of discretion** review. The appellate court must give **extreme** deference to the trial court); and/or
- other: _____

Authority for standard of review: _____

Explain your argument, using the law to demonstrate why, under the facts of your case, the appellant's argument is wrong. (*Use the facts of the case and your authorities (cases and statutes (laws)) to help you do this.*) _____

Using the authorities from your Points and Authorities section, and with references to the pages of the record for facts within your argument, explain:

- the standard of review you want the appellate court to apply;
- the law that you want the appellate court to apply;
- how the law applies to your case; and
- the relief you want from the appellate court.

State the title of your 2nd argument here as you wrote it in the Points and Authorities section above.

If you don't have a 2nd argument, remove this page and the following argument pages.

2. The trial court or jury (*check one*) was right to _____

Standard of review (*Check all that apply to your 2nd argument*)

- The trial court correctly applied the law. (This is **de novo** review. The appellate court must give **no** deference to the trial court);
- The trial court or the jury correctly decided the facts. (This is **manifest weight of the evidence** review. The appellate court must give **great** deference to the trial court or the jury);
- The trial court correctly conducted the trial procedure. (This is **abuse of discretion** review. The appellate court must give **extreme** deference to the trial court); and/or
- other: _____

Authority for standard of review: _____

Explain your argument, using the law to demonstrate why, under the facts of your case, the appellant's argument is wrong. (*Use the facts of the case and your authorities (cases and statutes (laws)) to help you do this.*) _____

Using the authorities from your Points and Authorities section, and with references to the pages of the record for facts within your argument, explain:

- the standard of review you want the appellate court to apply;
- the law that you want the appellate court to apply;
- how the law applies to your case; and
- the relief you want from the appellate court.

State the title of your 3rd argument here as you wrote it in the Points and Authorities section above.

If you don't have a 3rd argument, remove this page and the following argument pages.

3. The trial court or jury (*check one*) was right to _____

Standard of review (*Check all that apply to your 3rd argument*)

- The trial court correctly applied the law. (This is **de novo** review. The appellate court must give **no** deference to the trial court);
- The trial court or the jury correctly decided the facts. (This is **manifest weight of the evidence** review. The appellate court must give **great** deference to the trial court or the jury);
- The trial court correctly conducted the trial procedure. (This is **abuse of discretion** review. The appellate court must give **extreme** deference to the trial court); and/or
- other: _____

Authority for standard of review: _____

Explain your argument, using the law to demonstrate why, under the facts of your case, the appellant's argument is wrong. (*Use the facts of the case and your authorities (cases and statutes (laws)) to help you do this.*) _____

Using the authorities from your Points and Authorities section, and with references to the pages of the record for facts within your argument, explain:

- the standard of review you want the appellate court to apply;
- the law that you want the appellate court to apply;
- how the law applies to your case; and
- the relief you want from the appellate court.

Enter the Case Number given by the Appellate Court Clerk: _____

CONCLUSION

[Refer to [Illinois Supreme Court Rule 341\(h\)\(8\)](#)]

State what you want the court to do. You may check as many as apply.

The appellee respectfully requests that this court:

affirm the trial court's judgment;

other: _____

and grant any other relief that the court finds appropriate.

Sign and print your name.

Respectfully submitted,

Signature

Print Name

CERTIFICATE OF COMPLIANCE

[Refer to [Illinois Supreme Court Rule 341\(c\)](#)]

Rule 341(a) governs the form of briefs, and Rule 341(b) governs the length. Unless a motion to file a longer *Brief* is granted, the *Appellee's Brief* (not counting the pages listed) must contain no more than 50 pages OR no more than 15,000 words.

If your *Brief* is within the page limit, add the number of pages in your *Brief* (not counting the pages listed).

If your *Brief* is not within the page limit, but is within the word limit, add the number of words in your *Brief* (not counting the pages listed).

I certify that this *Brief* conforms to the requirements of Supreme Court Rules 341(a) and (b).

The length of this *Brief*, excluding the pages or words contained in the Rule 341(d) cover, the Rule 341(h)(1) statement of points and authorities, the Rule 341(c) certificate of compliance, the certificate of service, and those matters to be appended to the brief under Rule 342(a), is _____ pages or words.

Sign and print your name.

Signature

Print Name

Enter the Case Number given by the Appellate Court Clerk: _____

[Copy of the Complaint or Petition]

After this page, add a copy of the complaint or petition that was filed in the trial court.

A- _____

Enter the Case Number given by the Appellate Court Clerk: _____

After this page, add a copy of the trial court's written judgment that the appellant is saying was wrong (including any opinion, memorandum, or findings of fact).

[Copy of the Judgment]

A- _____

Enter the Case Number given by the Appellate Court Clerk: _____

After this page, add a copy of the *Notice of Appeal*.

Attach copies of any other materials from the record that are relevant to the appeal. Number those pages. List the additional materials and page numbers in the Table of Contents for the Appendix, in the order in which you attach them.

[Copy of the *Notice of Appeal*]

A- _____