

Guide for Self-Representation in the Isleta Appellate Court

I. Resources for Self-Represented Persons

The Appellate Court has prepared this Guide to assist self-represented persons who have a case pending in the Court. This Guide describes the process for appeals and provides general information.

Persons who represent themselves in an appeal are required to read and follow the Isleta Appellate Court Rules of Appellate Procedure. You can find the Rules on the Appellate Court's website at <https://www.isletapueblo.com/appellate-court/>. **This guide does not replace those Rules.** It is intended only as an aid in understanding and using the Rules.

In addition, there are Sample Forms that can be used for guidance when preparing papers to file in an appeal. The forms are also available at <https://www.isletapueblo.com/appellate-court/>.

One copy of the Rules, the Sample Forms and this Guide will also be sent by mail to a pro se party at the beginning of the case. Use these materials to prepare the appeal.

II. Overview of the Appeal Process

The Appellate Court differs from the Tribal Court in the following ways:

- The Appellate Court will not conduct a new trial of your case. For example, the Appellate Court does not review evidence to decide which witnesses were telling the truth—that is the Tribal Court's responsibility.
- Normally the Appellate Court will only review the evidence and arguments that were presented to the Tribal Court.
- The Appellate Court will only reverse the Tribal Court's final judgment if it finds an error of law that may have led to an incorrect outcome.

III. Contacting the Appellate Court

The Clerk's Office handles all communications and documents from parties.

Mailing Address:
Pueblo of Isleta
Appellate Court
P.O. Box 122
Isleta, NM 87022

Telephone: 505-869-9692

The Clerk's Office is located:
Isleta Tribal Appellate Court
3950 Highway 47, Room A149
Albuquerque, NM 87105

Please be aware that the Code of Judicial Conduct prohibits a Justice of the Appellate Court from talking with you about your case. Therefore, you may not visit or talk with any Justice. The clerk of the Court will try to be helpful, but cannot give you legal advice or tell you what to put in your papers.

If your address or phone number changes while your case is on appeal, be sure to notify the Clerk of the change.

IV. Filing and Serving Papers

After the notice of appeal is filed in the Tribal Court (see "Starting an Appeal" below), all other pleadings must be filed in the Appellate Court. To file a pleading in the Appellate Court, you may either deliver the pleading to the Clerk of the Appellate Court in person or send it to the Appellate Court by U.S. Mail or by a commercial delivery service (Fed Ex or UPS). If you file by mail or delivery service, you must mail the pleading or turn it over to the delivery service on the day that it has to be filed. In other words, a pleading filed by mail or delivery service will be considered filed on the date that it is mailed or placed for delivery.

A copy of every pleading filed in an appeal must be delivered or sent to ("served on") all other parties on the same date that it is filed. Every pleading that is filed must include or have attached a "certificate of service", which is a statement that states the name(s) of the persons that were served with a copy and explains how and when each person was served. The certificate must be signed by the person who delivered or mailed the copies to the other parties. A sample is shown in Form 2 of the Sample Forms.

V. Starting an Appeal

The party who pursues an appeal in order to have the Appellate Court review the Tribal Court's judgment is called the "Appellant". The party who opposes the appeal is called the "Appellee".

Normally only the final order entered by the Tribal Court can be appealed. As to what non-final orders may be appealed, see Rule 4(b).

The following paragraphs describes the steps that must be taken to start an appeal.

Step 1: Determine when the final judgment was entered in the Tribal Court.

The deadline for an Appellant to file an appeal is 30 days from the date that the judgment was "entered". The judgment may be entitled "Judgment", "Order", "Decree", or similar term. The date the judgment was entered is the date that it was filed with the Clerk of the Tribal Court. It is normally the date that is stamped on the front page. If you do not have a stamped copy, you may need to go the Tribal Court and ask the Clerk to tell you the date the judgment was entered.

To be appealed, the Tribal Court's judgment usually must be the final order in the case, concluding the entire case. If the judgment does not decide all of the claims among all of the parties, the judgment cannot be appealed unless it meets the requirements of Rule 4(b) of the Appellate Rules.

Step 2: File a Notice of Appeal within 30 days.

The Appellant must file a paper called "Notice of Appeal" with the Clerk of the Tribal Court within 30 days after the date the judgment was entered. A sample form for a Notice of Appeal is provided as Sample Form 3. How this and other time limits in the Rules are calculated is governed by Rule 3 and further explained below. The Appellate Court will dismiss the appeal as filed too late if the Notice of Appeal is not filed within the 30-day time limit.

The Notice of Appeal must follow the format and style requirements that apply to all papers ("pleadings") filed in the Appellate Court. See "Requirements for Papers Filed in the Court," below.

A copy of the Notice of Appeal must be sent to all other parties in the case. See Rule 2 of the Appellate Rules, and "How to File Papers in the Appellate Court", below.

VI. Filing Your Position Statement or Brief

Appellant's Opening:

An Appellant must tell the Appellate Court the reasons for believing that the Tribal Court's judgment is wrong. This is done by filing a brief, a memorandum, or a statement (called a "brief" in this Guide). The Appellant files an opening brief. The deadline for filing the opening brief is 45 days after the filing date of the Notice of Appeal.

Briefs must follow the format and style requirements that apply to all papers ("pleadings") filed in the Appellate Court. See "How to File Papers in the Appellate Court", below.

The opening brief should contain the following sections, in the following order:

- caption of the case,
- name of the brief (for example, Appellant's Opening Brief),
- concise statement of relevant facts,
- statement of the issues,
- argument,
- conclusion specifying the relief requested, and
- certificate of service.

In a brief, when you want to refer to a document that was submitted to the Tribal Court by a party, or an order or ruling by the Tribal Court, it is very helpful to refer to it by its title and the date it was filed. For example, "Property Inventory submitted at October 5 hearing" or "Order Modifying Custody filed March 3, 2016". You may attach a copy of a particularly important document or pleading to your brief, for the convenience of the Appellate Court. However, the Appellate Court will generally not consider any evidence that was not admitted in the Tribal Court. For clarity, it is best to refer to all parties by their names, instead of referring to them as plaintiff, appellee, or defendant, etc.

Appellee's Response:

The Appellee may respond to the Appellant's Opening Brief by filing an answering brief, memorandum or statement. The Appellee's answering brief should tell the Appellate Court why the Tribal Court's judgment is correct and explain why the arguments made by the Appellant in the opening brief are incorrect.

The Appellee must file and serve the answering brief on both the Appellant and the Appellate Court, no later than 45 days from the date on which the opening brief was filed.

The Appellee’s answering brief should contain all of the same sections required for the opening brief, above, except that the answering brief does not have to contain a statement of the case, statement of facts or statement of issues presented for review, unless the Appellee finds that these sections of the opening brief are insufficient or incorrect.

Appellant’s Optional Reply Brief:

The Appellant may, but is not required to, file an “Appellant’s Reply Brief”. Its purpose is to tell the Appellate Court why the Appellee’s arguments in the answering brief are incorrect. A reply brief must be filed no later than 25 days after the date the answering brief was served on the Appellant.

The form of a reply brief is similar to the opening brief and answering brief. However, the reply brief is limited to responding to the arguments or facts presented in the answering brief. It is not an opportunity to repeat arguments that the Appellant has already made in the opening brief.

VII. Oral Argument and the Court’s Decision

The Appellate Court will normally decide an appeal without holding an oral argument or other hearing. If the Court does request oral argument, a notice of the argument will be sent to the parties, and any specific instructions will be included in the notice.

The Court’s decision will be made in writing, and copies will be mailed to all parties to the appeal. Any request for reconsideration must be made in compliance with Rule 9.

VIII. Calculating Deadlines

When the Rules require you to file a paper or take some other action within a certain number of days, you calculate the deadline by counting the number of days allowed, beginning with the day after the event that triggers the time limit, and counting weekends and holidays. For example, if you are an Appellee and your answering brief is due 30 days after the filing of the Appellant’s opening brief, you would calculate the deadline as follows:

Date the opening brief was filed:	July 1
Add 30 days	July 31

Then if the last day happens to fall on a Saturday, Sunday or holiday that the Isleta Pueblo government offices are closed, your deadline becomes the next day that is not a Saturday, Sunday

or holiday. In the example above, if July 31 was a Sunday, your deadline would be the next day, Monday August 1.

The deadline for filing a notice of appeal cannot be extended. Other deadlines, such as a deadline for filing a brief, may be extended. To request an extension, you must file a motion, stating the reason an extension is needed. A motion for extension may not be filed after the deadline that you want to be extended. If you file a motion, you must either first contact the opposing party or parties and ask whether they agree or oppose the extension, or note your efforts to contact any opposing party.

IX. Requirements for Papers Filed in the Appellate Court

All papers filed as part of an appeal in the Appellate Court are called “pleadings”. Every pleading must:

- be on white paper no larger than 8 ½ x 11 inches,
- be typed (If you cannot file a typed pleading, you may file a legible handwritten pleading).
- be double spaced,
- be in 12-point type size,
- have one-inch margins,
- have a “caption” (The caption contains the name of the court, names of the parties, and both the Tribal Court case number and the Appellate Court case number if a number has been assigned). A sample caption is shown on Form 1 in the Appendix.
- be signed by you or your attorney,
- have your contact information (mailing address, phone number, and email address), and
- have a certificate of service. (A sample caption is shown on Form 2 in the Appendix.)