

**THE STATE OF NEW HAMPSHIRE**  
**JUDICIAL BRANCH**  
<http://www.courts.state.nh.us>

**INSTRUCTIONS FOR FILING A  
RULE 7 MANDATORY APPEAL**

**Who should use the Mandatory Notice of Appeal Form**

Use the mandatory notice of appeal form if you are appealing a final decision from a state trial court (superior, district, probate, or family division court), except if you are appealing any of the following matters: (1) a post-conviction review proceeding; (2) a proceeding involving a collateral challenge to a conviction or sentence; (3) a sentence modification or suspension proceeding; (4) an imposition of sentence proceeding; (5) a parole revocation proceeding; (6) a probation revocation proceeding; (7) landlord/tenant actions or possessory actions filed under RSA chapter 540; (8) the denial of a motion to intervene in a case; or (9) a domestic relations matter filed under RSA chapters 457 to 461-A other than an appeal from a final divorce decree or decree of legal separation. (An appeal from a final divorce decree or from a decree of legal separation should be filed on the mandatory notice of appeal form.)

Do not use this form to appeal a decision of an administrative agency, such as the workers' compensation appeals board, or a decision of a court committee, such as the Committee on Professional Conduct.

Do not use this form to file an interlocutory appeal.

**Determine the Deadline for Filing the Mandatory Notice of Appeal Form**

It is important to file your notice of appeal on time. The deadline for filing a mandatory notice of appeal is 30 days from the date on the trial court clerk's written notice of a "decision on the merits." Motions to extend the deadline for filing an appeal will be granted only in exceptional circumstances.

Review Supreme Court Rule 7(1)(A) and (C) carefully so that you understand how the deadline is determined. A timely filed post-trial motion, such as a motion for reconsideration of the trial court's decision, stays the running of the appeal period. An untimely filed post-trial motion or a successive post-trial motion does not stay the appeal period.

Filing means receipt by the clerk of court. You may mail or deliver your appeal to the clerk of court. An appeal will be considered timely if the clerk receives it by the appeal deadline or if it is postmarked at least 2 days prior to the deadline.

If you are attempting to appeal a trial court decision but the deadline for filing an appeal has passed, you must file a motion for late entry with the notice of appeal form. Motions for late entry will be granted only in exceptional circumstances.

**Completing the Mandatory Notice of Appeal Form**

Complete all sections of the form. Do not use small type. (Letters cannot be smaller than size 12 font.) If a section is not applicable to your appeal, write "not applicable."

The following are instructions for completing certain sections of the form:

**Section 2** asks for the name of the judge or judges who issued the decision. List only the judges who issued an order or orders that you are appealing. It is not necessary to list every judge who may have ruled on a motion in your case unless you are appealing the judge's ruling on the motion.

**Section 6** requests the date of the clerk's notice of decision or sentencing and the date of the clerk's notice of decision on a post-trial motion, if any. You are also required to attach to the form a copy of the trial court decision that you are appealing and a copy of the clerk's notice of this decision. If a motion for reconsideration was filed, attach a copy of the trial court's ruling on the motion and the clerk's notice of the ruling.

**Section 8** applies only to criminal cases. If you are requesting the appointment of the appellate defender to handle your appeal, list the NH statute, e.g., RSA 636:1, that you were convicted of violating. You must also submit a financial affidavit (OCC Form 4). If you need a financial affidavit form, contact the clerk's office.

**Section 9** relates to requests for confidentiality. Complete this section if you believe that the notice of appeal or any other documents should be kept confidential. You should review Supreme Court Rule 12 to determine if you are also required to file a motion to seal documents that you believe should be confidential.

**Section 11** requests information about the possible disqualification of a justice. If you believe that a Supreme Court justice is disqualified from your case, you must file a motion for recusal. Review Supreme Court Rule 21A.

**Section 12** requests information about the transcript that is necessary for your appeal. Review Supreme Court Rule 15. Before you complete this section, you must decide whether a transcript of the trial court proceedings is necessary. In making this decision, keep in mind that you are responsible for presenting the Supreme Court with a sufficient record to decide the issues on appeal. If you fail to provide a sufficient record, your appeal may be dismissed or the court may not review an issue that you have raised. If you believe that a transcript of the proceedings is not necessary, however, you are not required to order one. You may also order transcripts of portions of a proceeding, if you do not believe that a transcript of the entire proceeding is necessary. Finally, if you and the other parties agree, you may submit an agreed statement of facts to eliminate the need for a transcript altogether.

**Section 13** requires you to list the questions that you intend to raise on appeal. If you desire to add a question at a later date, you must file a motion to add a question. Review Supreme Court Rule 16(3)(b).

**Section 14** requires you to certify that the issues listed in section 13 were presented in the trial court and were properly preserved for appellate review. It also requires you to certify that you have sent the required number of copies of the notice of appeal form and attachments to the other parties and the clerk of the trial court.

## **Transcript Order Form (page 4)**

Review Supreme Court Rule 15. Complete the form and calculate the total deposit required for the transcript that you are requesting. If you request a transcript of the entire proceeding, calculate the deposit based on the length of the entire proceeding. If you request a transcript of portions of a proceeding, you must calculate separately the deposit required for each portion and then calculate the total deposit required. For example, if you request a transcript of a motion to suppress hearing that lasted ½ hour and a transcript of a hearing on a motion for reconsideration that lasted ½ hour, the required deposit would be \$350 (\$175 for the first ½ hour hearing and \$175 for the second ½ hour hearing). You may not divide the testimony of a witness; if you request any part of a witness' testimony, you will be required to pay for a transcript of the complete testimony of the witness. **DO NOT SEND THE DEPOSIT WITH YOUR NOTICE OF APPEAL.** When your appeal is accepted, you will receive an order from the Supreme Court advising you where to send your payment and of the deadline for payment of the deposit.

### **Pre-filing Checklist**

After completing the mandatory notice of appeal form, review this list before filing:

Attach to the notice of appeal form only the documents mentioned on the form -- the trial court decision and the clerk's notice of decision, and any decision on a post-trial motion and the clerk's notice of decision on the motion. **DO NOT ATTACH OTHER DOCUMENTS AND DO NOT FILE AN APPENDIX.** (You may file an appendix with your brief.)

After the required documents have been attached, number all pages of the form and attachments sequentially. The entire document is referred to as your notice of appeal.

Determine the number of copies of the notice of appeal (the form and attachments) that you need. You must file the original and eight (8) copies with the clerk of the Supreme Court, send two (2) copies, or when a master is involved, three (3) copies to the clerk of the trial court, and send one (1) copy to each party or the party's counsel. Be sure to keep a copy of the notice of appeal for your records.

Copy the notice of appeal on good quality, nonclinging paper, 8 1/2" x 11".

Staple the notice of appeal together in the top left corner. It is not necessary to bind it in booklet form.

### **Filing the Mandatory Notice of Appeal Package**

File the mandatory notice of appeal (the form with the attachments), and eight (8) copies of the mandatory notice of appeal with the Clerk of the Supreme Court by the appeal deadline. You may mail the package or deliver it to the court.

Payment must be sent with your notice of appeal package. The filing fee in criminal appeals is \$180.00. In civil appeals, the filing fee is \$180.00 for the following types of cases: A) Actions relating to children under RSA 169-B, RSA 169-C, and RSA 169-D; (B) Domestic violence actions under RSA 173-B; (C) Small claims actions under RSA 503; (D) Landlord/tenant actions under RSA 540, RSA 540-A, RSA 540-B, and RSA 540-C; and (E) Stalking actions under RSA 633:3-a. In all other civil appeals, the fee is \$205.00. Checks should be made payable to the **"State of New Hampshire."** If you are unable to pay the filing fee for financial reasons, you must file a motion for waiver of filing fee and an affidavit of assets and liabilities. The court will review the motion and will determine whether to waive the fee.

Send or deliver a copy of the notice of appeal to the other parties to the case, or their counsel, and send or deliver to the trial court two (2) or, when a master was involved in the case, three (3) copies of the notice of appeal package.

**Requesting the Appointment of An Attorney in Criminal Appeals and Other Cases in Which There is a Right to Counsel**

If you are indigent and have a right to appointed counsel on appeal, you or your counsel should file a financial affidavit and application for court appointed counsel (OCC Form 4) with the notice of appeal.

**Who To Contact If You Have A Question**

If you have a question about how to complete the mandatory notice of appeal form, contact the clerk's office:

Clerk of Court  
New Hampshire Supreme Court  
One Charles Doe Drive  
Concord, New Hampshire 03301  
Telephone: (603) 271-2646