

HOW TO APPEAL A JUDGMENT

SMALL CLAIMS

Description: Appeal of a small claims court judgment.

An appeal is a request to the superior court to reverse the decision of the small claims court by having the case heard again. A plaintiff does not have the right to appeal a small claims judgment except in certain circumstances that will be explained below.

Only the defendant can appeal the judgment.

An insurer of the defendant may also appeal the judgment if the judgment exceeds \$2,500 and its policy with the defendant covers the matter to which the judgment applies.

Rule to Remember.

If you lose on your own claim, you cannot appeal. But, if you lose on the other party's claim, you can appeal. It is especially important to remember this when a *Defendant's Claim* (Form SC-120) is filed. In that case, the original defendant is acting as a plaintiff and cannot appeal if he or she loses on the *Defendant's Claim*.

Time limit to file an appeal.

The appeal must be filed within 30 calendar days of the date of the small claims decision or, if the decision is mailed to you, within 30 days of the date the clerk mails the *Notice of Entry of Judgment*. The date will appear on the form you receive.

Where to file an appeal.

The appeal is filed with the small claims clerk. The case is heard in superior court and is treated as a new case. All the evidence and witnesses must be presented again.

Action on Judgment during appeal.

While the case is being appealed, the defendant does not have to pay the small claims court judgment.

Claim is heard for the original amount.

On appeal, the claim is heard for the original amount. For example, if you sued for \$1,000 in small claims court and the judgment against you was for \$500, on an appeal the judge has the right to award the full \$1,000 to the plaintiff if you lose.

If the defendant loses the appeal.

The defendant must pay the plaintiff the amount of the judgment plus interest and costs; examples of costs are any earnings the plaintiff can prove were lost or any money the plaintiff actually paid for transportation and lodging in connection with the appeal. The defendant may also have to pay attorney's fees up to \$150.00.

If the court finds the appeal was filed to harass.

If the court finds the appeal was filed to harass or delay the plaintiff, or to encourage the plaintiff to abandon the claim, the court may award the plaintiff's attorney's fees of up to \$1,000.00 and any actual lost earnings. The court may, if it wishes, award the cost of lodging and transportation incurred in connection with the appeal up to \$1,000.00, following a hearing on the matter.