

GUIDELINES FOR LITIGANTS IN PERSON CONDUCTING APPEALS TO THE COURT OF APPEAL

The *Court Procedures Rules 2006* may be accessed [here](#); Approved Forms can be downloaded [here](#). The Rules and Forms are also available from the [ACT Legislation Register](#).

1. ON FILING THE NOTICE OF APPEAL

- (a) Upon filing your Notice of Appeal ([Form 5.11](#)), you will receive back two or more sealed copies. A sealed copy must then be served personally on each respondent within 7 days of the date of filing (see rule [5409](#) *Court Procedures Rules 2006*).
- (b) At the time of filing your [Notice of Appeal](#), a date will be appointed for **settling the appeal index** (see the last page of your Notice of Appeal). The procedure for settling the appeal index is described below in paragraph 4.
- (c) See rule [5403](#) for what should be included in your Notice of Appeal.

The orders sought by your Notice of Appeal must be orders that the Court of Appeal is able to make. The grounds of appeal must support your application for those orders.

You are, of course, entitled to represent yourself in court proceedings. However, the law in relation to appeals is not simple and it may be in your interests to obtain legal advice as to whether the orders you seek by your Notice of Appeal and the grounds upon which you rely are valid.

Please note that court staff may not provide you with legal advice.

- (d) You may, at any time up to the settling of the appeal index, file and serve an Amended Notice of Appeal. All amendments in an Amended Notice of Appeal must be underlined in red.

2. ORDERING THE TRANSCRIPT

In most cases you will need to order a copy of the transcript of the hearing/sentencing in the Supreme Court. This is usually required in putting together your Appeal Book. It is possible in some circumstances to order a portion of the transcript (called an extract) if, for example, your appeal related only to the sentence given in a criminal matter, and not to the conviction. In such a case, it may be possible to order just that part of the transcript relating to the sentence.

As you are the appellant, the ordering of the transcript and the cost of obtaining the transcript is your responsibility. You can obtain a Transcript Order Form from the front counter at the Magistrates Court. You must file a copy of the transcript prior to the date for settling of appeal papers (see rule [5430](#)).

Also see rule [5430](#) for other documents which must be filed prior to the date for the settling of the appeal papers.

3. *THE APPEAL INDEX*

The Appeal Index sets out a list of all the documents which will be included in the Appeal Book. **A Draft Appeal Index must be filed and served on each respondent not later than 3 days prior to the date given for settling the appeal index.** The required content of the appeal book is set out in rule [5433](#).

To assist you in the preparation of the appeal index, divide the index into 4 columns:

| NO. | DESCRIPTION OF DOCUMENT | DATE | PAGE |
|-----|-------------------------|------|------|
|-----|-------------------------|------|------|

NO. = the number of the item in the appeal book

DESCRIPTION OF DOCUMENT = the name of the item and the transcript page reference, if applicable

DATE = the date of the document or the date on which the evidence was given

PAGE = the page number in the appeal book (every page of the appeal book must be clearly numbered)

The Documents could be listed under the following categories (where applicable):

- Notice of Appeal
- The Decision/Order being appealed (this must be a copy of the formal order being appealed)
- Reasons for Decision (where no written reasons are given, a copy of that part of the transcript in which the reasons are given verbally)

[The following should be in date order, except Exhibits]

- Originating process in the Supreme Court (i.e. the document that first brought the parties before the Court e.g. originating claim, originating application, committal from Magistrates Court)
- Pleadings (if applicable - e.g. Defence, Counterclaim)
- Transcript of Evidence (divided into sections for each witness and the pages in the transcript where each witness is examined, cross-examined and re-examined)
- Exhibits (i.e. those documents that were handed up as evidence to the Judge or Master at the time of the hearing) – these should be listed according to who tendered the exhibit and in the order in which they were tendered
- Certificate of Examination ([Form 5.14](#)).

Only those documents which **were evidence before the Supreme Court** and which are **relevant to the appeal** should be included in the Appeal Book. For example, if you are only appealing against the sentence given, and not the conviction, you will not need that part of the transcript relating to the evidence of the witnesses in the trial.

An example of the setting out of an appeal index is **attached at “A”**.

An example of how to set out the cover page for the Appeal Book is **attached at “B”**. Please note that these are examples only.

4. *SETTLING THE DRAFT APPEAL INDEX*

At the date for the settling of the Appeal Index each party (or his/her legal representative) meets with the Registrar/Deputy Registrar of the Supreme Court to determine what documents should be included in the Appeal Book. This occurs in chambers and the parties should wait **outside Court 4 in the Supreme Court Building** at the **date and time** allocated (this is given and written on the Notice of Appeal when it is filed).

At least 3 days before this date, you should have filed and served on each respondent a copy of your draft appeal index.

If all the papers are in order, a direction will be made to list the matter in the next callover so a date can be allocated for the hearing of the appeal. Directions will also be made concerning the filing and serving of Appeal Books and the number of Books required.

5. *COSTS (CIVIL APPEALS)*

You should be aware of the possibility of costs orders being made against you in the event that your appeal is dismissed, or if you cause the other party to incur additional costs through your delay or non compliance with directions of the Court.

Should you wish to discontinue your appeal after the Notice of Appeal has been served on the other party, then, unless the other party consents to the discontinuance on the basis that each party pays its own costs, then you may be liable for the other party's legal costs incurred up to the date of discontinuance.

Index to appeal papers**“A”**

In the Supreme Court of the Australian Capital Territory
Court of Appeal

No. ACTCA of 2008

On appeal from the Master (SC 9999 of 2007)

[name of appellant]

Appellant

[name of respondent]

Respondent

| NO. | DESCRIPTION OF DOCUMENT | DATE | PAGE |
|-----|-------------------------|------|------|
|-----|-------------------------|------|------|

Notice of appeal, decision and reasons for decision

- | | | | |
|----|--|---------------|---------------|
| 1. | Notice of Appeal | <i>[Date]</i> | <i>[Page]</i> |
| 2. | Decision/Order of <i>[Name of Judge or Master]</i> | <i>[Date]</i> | <i>[Page]</i> |
| 3. | Reasons for decision | <i>[Date]</i> | <i>[Page]</i> |

In the Supreme Court**Process and Pleading**

- | | | | |
|----|---------------------------------|---------------|---------------|
| 4. | <i>[e.g. Originating claim]</i> | <i>[Date]</i> | <i>[Page]</i> |
| # | <i>[e.g. Defence]</i> | <i>[Date]</i> | <i>[Page]</i> |

Filed by:
Address for Service:

Telephone:

| NO. | DESCRIPTION OF DOCUMENT | DATE | PAGE |
|-----|-------------------------|------|------|
|-----|-------------------------|------|------|

Evidence

Oral Testimony

| | | |
|---|--|--------|
| # | [Witness name] | [Date] |
| | Examination in chief [Transcript Page No.] | [Page] |
| | Cross examination [Transcript Page No.] | [Page] |
| | Re examination [Transcript Page No.] | [Page] |

| | | |
|---|--|--------|
| # | [Witness name] | [Date] |
| | Examination in chief [Transcript Page No.] | [Page] |
| | Cross examination [Transcript Page No.] | [Page] |
| | Re examination [Transcript Page No.] | [Page] |

Exhibits

[List and date all exhibits in the order they were tendered
e.g. List Plaintiff's Exhibits (A, B, C etc) then
Defendant's Exhibits (1, 2, 3 etc)]

Certificate of examination

Certificate of examination

Appeal book

“B”

In the Supreme Court of the Australian Capital Territory
Court of Appeal

No. ACTCA of 2008

On appeal from the Master

[name of appellant]

Appellant

[name of respondent]

Respondent

*[Name, address, DX, telephone and
Facsimile details of Appellant/
Solicitor for the Appellant]*

*[Name, address, DX, telephone
and Facsimile details of
Respondent/Solicitor for the
Respondent]*

**Appellant in Person/Solicitors for
the appellant**

Solicitors for the Respondent

Filed by:
Address for Service:

Telephone: