

Frequently Asked Questions

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Introduction

These questions and answers are designed in part to help non-lawyers prepare an appeal to the South Carolina Court of Appeals. This material is not legal advice and must not be cited as legal authority. The information here does not replace the South Carolina Appellate Court Rules, but you should use it together with a close reading of the Rules to complete your appeal.

The Appellate Court Rules are always subject to revision and amendment. Therefore, you should consult the current version of the Rules. You may call the Court of Appeals Clerk's Office if you have a specific procedural question about how to prepare or file your papers with the Court. Although the staff will try to help answer your procedural questions, you must remember employees of the Court of Appeals are not permitted to give legal advice or make specific recommendations to you on how you should pursue your claims on appeal or respond to an appeal.

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own behalf before the Court.

Transcript. A word-for-word typescript of the lower court proceedings.

Writ. An extraordinary remedy that may be issued by the Court of Appeals if the Court of Appeals has a pending appeal in the case. The Court of Appeals has no power to issue writs unless there is an appeal pending in the Court. Although there are several different types of writs, they usually are issued to prohibit a trial court from exceeding its jurisdiction or to compel a trial court to perform a mandatory duty. In general, a writ may be issued only when the party requesting the writ does not have any other alternative legal remedy.

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What is the South Carolina Court of Appeals?

The South Carolina Court of Appeals is an intermediate appellate court. It consists of nine judges, including a Chief Judge. The Court sits in panels of three judges to decide most cases.

An appeal is not a new trial. Parties before the Court of Appeals will not be permitted to conduct discovery, call witnesses, or offer any evidence that was not presented first to the court below. The Court decides appeals strictly on the basis of the record that existed in the court below and the written briefs that are filed by the parties. The Court also may hear oral argument by the parties.

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Where is the South Carolina Court of Appeals?

The Court and its Clerk's office are in the Calhoun State Office Building, 1220 Senate Street, Columbia, South Carolina 29201. For correspondence and filing, you may write to Post Office Box 11629, Columbia, SC 29211. Large packages should be sent to the Senate Street address. The telephone number is (803) 734-1890.

It is the policy of the Court that all communication with the Court of Appeals is to be conducted through the Clerk's Office. No party should contact a judge directly about any case.

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What orders may be appealed to the Court of Appeals?

Generally, final orders of the family and circuit courts are appealable to the Court of Appeals. This description does not nearly exhaust the possibilities, however. In many cases, the question of the appealability of

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The transcript referred to in this rule is the circuit court transcript, not the transcript from proceedings before a magistrate, municipal judge, probate judge, or the like.

This transcript must be ordered from the circuit court reporter. Do not attempt to order it from the Court of Appeals, from the Supreme Court, from the lower court judge, from the Circuit Court Clerk, or from the Office of Court Administration. If you do not know the name of the court reporter, you may contact the Office of Court Administration to learn the name. However, you must still order the transcript within the time limits established in the Rule.

If a transcript is not required for the appeal, you need not order it.

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What is the Appellant's Initial Brief and Designation of Matter?

The initial brief and designation of matter set forth the arguments and the evidence that you want to put before the Court of Appeals. For guidance in these matters, you must carefully study Rules 208 and 209 along with Forms 12 and 13.

Only one copy of the initial brief and the designation needs to be filed.

When filing the designations, you should not send copies of the documents themselves. Simply make a list of what you want included, in the manner shown in Form 13. Keep in mind that nothing can be designated that was not included in the proceedings before the lower court.

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What is the Respondent's Initial Brief and Designation of Matter?

In form, the Respondent's Initial Brief and Designation of Matter is the same as that of the appellant. See Rules 208 and 209 and Forms 13 and 14.

The respondent's brief sets forth the reasons that the Court of Appeals should uphold the decision of the trial court.

The respondent need not designate any item that the appellant has designated. However, if the appellant has not designated an item that the respondent deems should be included in the appeal, the respondent should designate that item.

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What is the Initial Reply Brief and Designation of Matter?

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A: **Appellate court judges** do not re-try cases, and they do not hear new evidence. Rather, they review decisions made by the **trial court**. They are usually limited to reviewing only the arguments that were made in the **trial court** and raised by the parties.

OSBA | Appellate Judges Review Trial Court Decisions

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Appeals are decided by panels of **three judges**. The **court of appeals** does not receive additional evidence or **hear witnesses**; rather **the judges make their decision** based on **the written record of the case in the trial court**, the briefs submitted by the parties, and possibly oral argument.

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The 94 federal **judicial districts** are organized into 12 regional circuits, each of which has a **court of appeals**. The **appellate court's** task is to determine whether or not the law was applied correctly in the trial court. **Appeals courts** consist of three **judges** and do not use a jury.

^[PDF] The Appellate Courts' Role in the Federal Judicial System

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