

1. What does this information sheet cover?

This information sheet tells you about appeals in infraction cases. It is only meant to give you a general idea of the appeal process, so it does not cover everything you may need to know about appeals in infraction cases. To learn more about the procedures on infraction appeals, read rules 8.900 – 8.929 of the California Rules of Court.

A resource guide is included at the end of this document to help you find forms, related publications and information online.

2. What is an infraction?

Infractions are crimes that can be punished by a fine, traffic school, or some form of community service. Examples of infractions include vehicle code violations such as running a stop sign or an ordinance violation such as having an unlicensed dog.

3. What is an appeal?

An appeal is a request to a higher court to review a ruling or decision made by a lower court. (For an infraction, the higher court is called the Appellate Division.)

It is important to understand that an appeal is **NOT** a new trial. The appellate court will not consider new evidence, testimony of witnesses or exhibits at the appellate stage. The appellate court's job is to review a record of what happened in the trial court and to see if certain kinds of legal errors were made in the case. For example:

Prejudicial error - The party that appeals (called the "appellant") may ask the appellate court to determine whether an error was made about either the law or court procedures in the case that caused substantial harm to the appellant (this is called "prejudicial error"). Prejudicial error can include things like errors made by the judge about the law or errors or misconduct by the lawyers that harmed the appellant. It is your responsibility to show the appellate court that an error was made and that it was harmful.

No substantial evidence - You may also ask the appellate court to determine whether there was substantial evidence supporting the judgment, order or other decision being appealed. The appellate court only looks to see if there was evidence that reasonably supports the decision. The appellate court generally will not reconsider the trial court's conclusion about which side had more or stronger evidence or whether witnesses were telling the truth or lying.

NOTE: The appellate court generally will not change/overtake the trial court's decision unless the record clearly shows that a legal error was made.

4. Who can Appeal?

Only a party in the trial court case can appeal a decision in that case. You may not appeal on behalf of a friend, a spouse, a child or another relative.

5. Do I need a lawyer to appeal?

You are not required to have a lawyer represent you in your appeal case. However, if you choose to be represented, you may hire a lawyer of your choice.

6. Can I appeal any decision that the trial court made?

No, generally, you may appeal only a final judgment of the trial court (the decision at the end that decides the whole case).

7. How do I start my appeal?

First, you must file a notice of appeal (form RI-AP001). The notice of appeal tells the other party in the case and the trial court that you are appealing the trial court's decision.

8. Is there a deadline for filing my notice of appeal?

Yes. In an infraction case, you must file your notice of appeal within 30 days after the trial court makes its judgment in your case or issues the order you are appealing. The date the trial court makes its judgment is normally the date

the trial court orders you to pay a fine or orders other punishment in your case (sentences you). This deadline for filing the notice of appeal cannot be extended. If your notice of appeal is late, the Appeals Department will not have jurisdiction to hear your appeal and it will not be filed.

9. How do I file my notice of appeal?

You may fax file the Notice of Appeal form and all subsequent documents directly to the Appeals Department at no charge. This method is strongly recommended to ensure the quickest processing and to avoid errors and delays. Visit the court's website at <http://riverside.courts.ca.gov/> and select direct fax filing information under the forms and filing tab to obtain the fax number.

If you fax file the Notice of Appeal form and subsequent documents, a free file stamped copy of the documents will be provided to you if you give an e-mail or mailing address.

You may also bring or mail the Notice of Appeal form and subsequent documents to the Appeals Department located at the Hall of Justice, 4100 Main Street, Riverside, CA, 92501 for filing. Alternatively, these documents may also be filed at any courthouse within Riverside County. If you do not fax file and you would like a file stamped copy of the documents you are submitting, you must supply an extra copy to be returned to you. If you would like the copy mailed to you, you must also provide an envelope and correct postage.

After you file your notice of appeal, the clerk will send a copy of your notice to the office of the prosecuting attorney (for example, the district attorney, county counsel, city attorney, or state Attorney General).

10. If I file a notice of appeal, do I still have to pay my fine or complete other parts of my punishment?

Yes. Filing the notice of appeal does NOT automatically postpone the deadline for paying your fine or completing any other part of your sentence. To postpone your sentence, you must ask the trial court in writing for a "stay" of the judgment. If you feel that the trial court unjustifiably denied your request for a stay, you may ask the appellate court (you must show in your written application to the appellate court that you asked the trial court first).

If you do not get a stay and you do not pay your fine or satisfy another part of your sentence by the date ordered by the court, a \$300.00 civil penalty assessment will be added to your fine and you will be subject to civil penalties such as wage garnishment and tax refund interception. In addition, a DMV hold that may result in a license suspension will be placed on your driving record.

11. Official Record

In accordance with Local Rule 8010(A)(2), the official record of the oral proceedings in infraction trials is a transcription of the official electronic recording. You are entitled to a free copy of that transcript. If you want an electronic transcript, provide your e-mail address on the Notice of Appeal form in Section 1a. If an e-mail address is not provided, the hard copy transcript will be mailed to the street address listed in Section 1a.

The court will prepare the notice to prepare the transcript. The transcription of the official recording will be provided to you within 25 days of receipt of the Notice of Appeal form.

If you do not want a copy of the transcription of the official electronic recording and elect to proceed by statement of appeal, you must follow the procedures as outlined in rule 8.916 of the California Rules of Court.

Appeals Resources

California Rules of Court: You can get a copy of the California Rules of Court at any courthouse, county law library or online at www.courts.ca.gov/rules.

California Law: You can get a copy of the California Penal Code sections and other related California statutes at any courthouse, county law library or online at <http://www.leginfo.ca.gov/calaw.html>.

California Courts Online Self-Help Center: The California Courts Online Self-Help Center is designed to help you find assistance and information, work better with an attorney, and represent yourself in some legal matters. The information includes but is not limited to:

- Finding a lawyer or free low-cost legal help.
- Filing proof of service.
- Traffic and ticket basics.
- Filing proof of service

Court Forms:

You can obtain court forms at the courthouse, county law library or online as follows:

Court Local Forms: You may obtain of the Notice of Appeal and Record of Oral Proceedings (Local Form RI-AP001 and RI-AP001-Info) online at <http://riverside.courts.ca.gov/> by selecting local forms under the forms and filing tab.

Judicial Council Forms: You may obtain a proof of service form and information sheet (APP-109 and APP-109-INFO) and other judicial council forms at www.courts.ca.gov/forms

Riverside Local Rules: You can get a copy of the Riverside County Superior Court Local Rules online at <http://riverside.courts.ca.gov/> by selecting local rules under the general information tab.

DEFENDANT	CASE NUMBER:
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Your Information continued:

Mailing address (if different): _____
(Street) (City) (State) (Zip)

Phone: _____ E-Mail (required for electronic copy of transcript): _____

b. Appellant's lawyer (skip this if the appellant is filling out this form):

The lawyer filling out this form (check (1) or (2)):

- (1) Was the appellant's lawyer in the trial court. (2) Is the appellant's lawyer for this appeal.

Name: _____ State Bar number: _____

Street address: _____
(Street) (City) (State) (Zip)

Mailing address (if different): _____
(Street) (City) (State) (Zip)

Phone: _____ E-Mail (optional): _____

Fax (optional): _____

2. Judgment or Order You Are Appealing

I am/My client is appealing (check a, b, or c):

- a. The final judgment of conviction in the case (Penal Code section 1466(2)(A)).
 The trial court issued (rendered) this judgment on (fill in the date): _____
- b. An order made by the trial court after judgment that affects an important (substantial) right of mine/my client (Penal Code section 1466 (2)(B)).
 The trial court issued this order on (fill in the date): _____
- c. Other (describe the action you are appealing and indicate the date the trial court took the action):

3. Official Record

In accordance with Local Rule 8010(A)(2), the official record of the oral proceedings in infraction trials is a transcription of the official electronic recording. You are entitled to a free copy of that transcript, unless you elect below to proceed by statement on appeal. The court will prepare the notice to prepare the transcript. The transcription will be provided to you within 25 days of receipt of the Notice of Appeal form.

- I do not want a free copy of the transcription of the official electronic recording and elect to proceed by statement of appeal procedures as outlined in rule 8.916 of the California Rules of Court.

Date: _____

(TYPE OR PRINT YOUR NAME)

(SIGNATURE OF APPELLANT OR ATTORNEY)