

Overview of Eviction Appeal Process ¹

Below are the steps you must take to appeal an eviction judgment



1.

Your landlord files an unlawful detainer (eviction) case against you and the case goes to trial. At trial, your landlord wins and the court orders that you have to move out of the unit. You disagree with the order and decide to appeal it.²

2.

To stay in the unit you first must get a **stay of execution**.³ A stay of execution, also called a stay of eviction, can let you stay in the unit for usually up to 40 days after someone serves you the court order that says you lost the eviction case (the unlawful detainer judgement).⁴ "Serve" means to give or mail someone a document.

To stay in the unit during the appeal, you need to file a stay pending appeal while you are still in the unit. The stay pending appeal is explained in box 4.



3.

To appeal the eviction, you must file and serve a notice of appeal ([form AP-102](#)) before your deadline.⁵ You file your notice of appeal by giving it to the court. You serve it to your landlord.

FVAP's "[Calculating Your Deadline to Appeal a California Limited Civil Unlawful Detainer Order](#)" and "[How to Fill Out Notice of Appeal Form \(APP-102\) For Limited Civil Cases](#)" helps you calculate your deadline and fill out the form. URLs for the notice of appeal form and these tipsheets are in the footnotes.⁶

4.

If you are still in the unit when you file your notice of appeal, you can ask the trial court for a **stay pending appeal**. You can only file a stay pending appeal if you file a notice of appeal. If granted, a stay pending appeal may let you stay in the unit while your appeal is pending.⁷

If the trial court doesn't grant your stay pending appeal, you can ask the superior court's appellate division if you can stay in the unit during the appeal by filing an **extraordinary writ of supersedeas**.⁸



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1. This resource is about limited civil eviction appeals. Find a more detailed explanation of the appeals process at <https://www.courts.ca.gov/documents/app101info.pdf>

2. Contact FVAP to see if they can represent you in an appeal through info@fvaplaw.org or (510) 380-6243.

3. Code Civ. Proc., §§ 715.010 & 715.020.

4. Code Civ. Proc., § 918, subd. (b).

5. Notice of appeal form <https://courts.ca.gov/sites/default/files/courts/default/2024-11/app102.pdf>;

6. Calculating your deadline tipsheet: <https://fvaplaw.org/resource/calculating-your-deadline-to-appeal-in-a-limited-civil-ud-case/>; Tipsheet for filling out your Notice of Appeal <https://fvaplaw.org/resource/how-to-fill-out-notice-of-appeal-form-app-102-for-limited-civil-cases/>

7. Code Civ. Proc., § 1176.

8. Code Civ. Proc., §§ 85, 86 & 1176.

Overview of Eviction Appeal Process Continued...

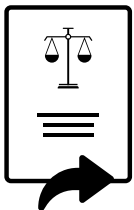
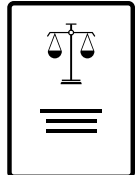


5.

You must file a form called notice designating record on appeal ([form APP-103](#)) within 10 days of filing your notice of appeal.⁹ In a notice designating record, you tell the trial court the parts of the trial court record (such as the eviction notice, your answer and exhibits) to give the appellate division. The information the trial court gives the appellate division becomes the official record of your trial court case. Appellate judges use this official record to understand what happened at the trial court.

6.

After the trial court files your record with the appellate division, you have 30 days to file an **appellant's opening brief**. Your brief should explain how the trial court order was incorrect under the law. You can get at least one deadline extension for your brief.¹⁰



7.

After you file your opening brief, your landlord has 30 days to file a **respondent's brief**. In their brief your landlord will likely explain why the trial court's order was correct. They can get at least one deadline extension for their brief.¹¹

8.

If your landlord files a respondent's brief, you have 20 days to file a **reply brief**. Your brief should explain why the arguments in the landlord's brief are incorrect. You can get at least one deadline extension for your brief.¹²



9.

After all briefs are filed, the court will schedule an **oral argument**. At oral argument you and your landlord will each have 10 minutes to explain your arguments to the appellate division judges.¹³ The judges may ask you questions.

10.

The appellate division judges make their **decision** and give you at least a brief statement explaining their decision.¹⁵ The decision will likely state one of the following:

1. Affirmed. This means the trial court order does not change.

2. Reversed. This means the trial court order is no longer valid. The case returns to the trial court. Sometimes the appellate division tells the trial court how to decide the case at re-trial and sometimes you will have to have a new trial.

With either outcome, the appellate division may order the winning party to pay the losing party's court costs and attorneys fees.



9. California Rule of Court, rule 8.831; notice designating record form <https://www.courts.ca.gov/documents/app103.pdf>.

10. California Rule of Court, rule 8.882.

11. California Rule of Court, rule 8.882.

12. California Rule of Court, rule 8.882.

13. California Rule of Court, rule 8.885.

14. California Rule of Court, rule 8.887.