

COURT OF APPEALS CHECKLIST

This checklist is not intended to replace or to be a substitute for the Oneida Rules of Appellate Procedure and Rules of Civil Procedure, and should be used in conjunction with the Rules.

Anyone considering initiating an appeal may wish to seek legal counsel.

Notice of Appeal:

- Appeals must be filed with the Court of Appeals within **30 calendar days** after a final judgment or order has been rendered. [805.5-2(a)]

Note: Other parties may file a notice of cross-appeal with Clerk of Appellate Court within time established for filing of Notice of Appeal or **10 business days** after receipt of the initial Notice of Appeal, whichever is later. [805.7-2]

- Attach copy of the written judgment or order from which appeal is taken. [805.5-2(c)(1)]
- Notice of Appeal form must completely filled out, and include all required information. [805.5-2(c)]
- Determine whether to seek stay of lower hearing body's judgment or order. [805.5-1(a)]
- Serve on other party/parties** (prior to filing with the Court). [805.8-3]
- File the appeal, along with **proof of service**, with the Clerk within **30 calendar days** after final judgment or order has been rendered (original and three (3) copies). [805.5-2(a)]
- Pay the filing fee or submit filing fee waiver request. [805.5-2(a)]
- Complete Party Contact Information sheet [805.5-2(c)(4) and (5)]
- Consent to Electronic Service if you choose to receive service by electronic mail by the Court and the other party/parties, rather than regular mail. [805.8-3]

Cash deposit or bond (only if ordered to pay fines, fees, etc. and shall accompany Notice of Appeal):

- Post cash deposit or bond in an amount equal to the amount of any judgment, plus costs assessed by the Trial Court, or motion for waiver of requirement. [805.5-2(d)]

Note: The motion for waiver of the deposit/bond requirement must be served on the other parties along with the Notice of Appeal. [805.5-2(d)]

- The Tribe, or an officer or agency of the Tribe shall be exempt from the requirement of providing any cash deposit or bond. [805.5-2(d)(1)]

*If the appellant fails to provide a completed Notice of Appeal Form, the filing fee or waiver form, or any required documents or materials, the appellant shall be notified of any filing deficiencies by the Clerk within five (5) business days. The appellant will have **5 business days** from receipt of the notice to perfect the filing. Failure to perfect the filing within 5 business days may result in the non-acceptance of the appeal. [805.5-3]*

After an appeal has been filed, within 10 days, three (3) appellate judges will be assigned to perform an Initial Review. The determination of the Initial Review will be issued within **30 days** after receipt of the Notice of Appeal.

□ **Petition for Permission to Appeal (Interlocutory Appeal):**

- File with Clerk of Appellate Court within **10 business days** after the entry of an interlocutory order (original and three copies). [805.6-1]
- Include all required information. [805.6-1]
- Attach copy of the written order from which appeal is taken. [805.6-1(f)]
- Serve on all parties within same time period. [805.6-1; 805.8-3]

THE FOLLOWING APPLIES IF YOUR APPEAL HAS BEEN ACCEPTED FOR REVIEW:

□ **Appellant's Brief:**

- Will be due within **20 calendar days** after acceptance of the Certification of the Record (original and three copies) [805.11-1(d)]. The Clerk will provide a due date.
- Follow brief form and length requirements. [805.11-1(a)-(b)]
- Be sure to include all the information and contents required of the brief. [805.11-2]
- Serve on other party/parties, and provide proof of service to Clerk at time of filing. [805.11-1(c); 805.8-3; 805.8-2]

□ **Respondent's Brief:**

- Will be due within **20 calendar days** of receipt of Appellant's brief (original and three copies). [805.11-1(d)]. The Clerk will provide a due date.
- Follow the brief requirements. [805.11-3]
 - Address each issue and argument presented by the Appellant's brief. [805.11-3(a)]
 - Respondent's brief may present additional issues, with the Respondent's positions and arguments on such issues. [805.11-3(b)]
- Serve on other party/parties, and provide proof of service to Clerk at time of filing. [805.11-1(c); 805.8-3; 805.8-2]

□ **Reply Brief:**

- Appellant may file a Reply Brief. It will be due within **14 calendar days** of receipt of Respondent's brief (original and three copies). [805.11-1(d)]
- Follow form and length requirements. [805.11-1(a); 805.11-4]
- Include all required sections of the brief. [805.11-2(a); 805.11-4]
 - Limited to rebuttal of arguments set out in Respondent's brief. [805.3-1(w)]
- Serve on other party/parties, and provide proof of service to Clerk at time of filing. [805.11-1(c); 805.8-3; 805.8-2]

□ **Motions [805.10]:**

- All applications for an order or other relief must be made by motion. [805.10-1][805.10-2]
- Service must be made to the other party prior to filing with the Court. [805.10-1][805.8]
- The Court may act on a motion for procedural order without awaiting a response. [805.10-4]

□ **Oral Argument (only if ordered by Court):**

□ A motion to postpone the argument or to extend the argument timeframe shall be filed at least **5 business days** before the hearing date. [805.12-2]

Note: Parties may not cite or discuss a case at an oral argument unless the case has been cited in one of the briefs. [805.12-3]

□ **Recovery of Costs:**

□ A party seeking to recover costs in the Court shall file a statement of the costs within **14 calendar days** of the filing of the decision of the Court of Appeals. [805.17-3]

□ An opposing party may file, within **11 calendar days** after service of the statement, a motion objecting to the statement of costs. [805.17-3]