

KITSAP COUNTY DISTRICT COURT

APPEALS CHECKLIST

(CIVIL, CRIMINAL, INFRACTION)

The following checklist is a summary of the Appeals Instructions discussed after the checklist –

- ___ 1. Litigant Confidential Information Sheet. [Mandatory] Provide to **District Court** if your information has changed or Information Sheet has not been previously provided.
- ___ 2. Notice Of Appeal. [Mandatory] File the original with **District Court**. The court clerk will provide a copy of the Notice Of Appeal to you. The copy will have a “Filed” stamp and show the date the Notice Of Appeal was filed. **Do not** file the Notice Of Appeal with Superior Court.
Date due – _____.
- ___ 3. \$280 Filing Fee – Civil or Infraction Case. [Mandatory] (but see Waiver of Filing Fee below)
If a civil or infraction case, pay the \$280 appellate filing fee to **District Court** when the Notice Of Appeal is filed. A cashier’s check, money order, or business check (no personal checks) is made payable to “**Kitsap County Clerk**.”

Note – There is no appellate filing fee for appeal of a criminal case to Superior Court.
- ___ 4. Waiver of Filing Fee – Civil or Infraction Case. [This is optional] If a party in a civil or infraction case cannot afford the \$280 appellate filing fee, file a Motion For Waiver Of Fees with **District Court** when the Notice Of Appeal is filed.
- ___ 5. Stay Of Enforcement Of Judgment – Civil or Infraction Case. [This is optional] File with **Superior Court** a –
 - (a) Motion To Stay Enforcement Of District Court Judgment; and
 - (b) Note for motion docket (this **Superior Court** form is not provided on the District Court website).

Both documents must be served on all opposing parties. A motion to stay may only be filed after the Notice Of Appeal is filed with **District Court** and the \$280 appellate filing fee is paid unless excused.
- ___ 6. Appointment of Counsel – Criminal Case. [This is optional] If a defendant in a criminal case cannot afford an attorney and would like the appointment of counsel on appeal, prepare an Indigency Screening Form and submit to **District Court** when the Notice Of Appeal is filed.
- ___ 7. Stay Of Enforcement Of Sentence – Criminal Case. [This is optional] Promptly file with **District Court** a –
 - (a) Motion To Stay Imposition Of Sentence; and
 - (b) Note For Motion Docket.

Both documents must be served on the Kitsap County Prosecutor’s Office.

- ___ 8. Appellate Declaration Of Service – Notice Of Appeal. [Mandatory] After the Notice Of Appeal is filed with **District Court**, the party filing the Notice Of Appeal shall –
- (a) Promptly serve the copy provided by the court clerk of the Notice Of Appeal (with the “Filed” Stamp) on all other parties; and
- (b) Complete and file with **District Court** the Appellate Declaration Of Service form.
- ___ 9. Designation Of Record. [Mandatory] File with **District Court** and serve on all other parties within 14 days of filing the Notice Of Appeal. Date due – _____.
- ___ 10. Appellate Declaration Of Service – Designation of Record. [Mandatory] Promptly file the Appellate Declaration of Service with **District Court** showing service of the Designation of Record on all other parties.
- ___ 11. \$40 Preparation of Record Fee. [Mandatory] (but see Waiver of Filing Fee above) Unless excused, appellant shall pay the \$40 preparation of record fee within 10 days of being notified that the record is prepared. Credit card, cash or a cashier’s check, money order, business check, or personal check is made payable to “**Kitsap County District Court**.”
- Date due – _____.
- ___ 12. Appellant Transcript Of Electronic Recording of Proceedings. [Mandatory] The appellant shall transcribe only those portions of the electronic recording of proceedings necessary to argue the issues on appeal, serve a copy on all opposing parties, and file with **Superior Court** along with the appellant’s brief within 45 days of filing the Notice Of Appeal. Date due – _____.
- ___ 13. Appellant’s Brief. [Mandatory] File with **Superior Court** and serve on all other parties within 45 days of filing the Notice Of Appeal. Date due – _____.
- ___ 14. Respondent’s Brief. [Mandatory] File with **Superior Court** and serve on all other parties within 30 days after service of the appellant’s brief. Date due – _____.
- Note – Respondent may file and serve an additional transcript if respondent wishes to add to or challenge the transcript of the recording of proceedings submitted by the appellant. Respondent’s transcript, if any, shall be filed along with respondent’s brief.
- ___ 15. Reply Brief. [This is optional] File with **Superior Court** and serve on all other parties within 14 days after service of the brief to which it responds, and no later than 7 days before oral argument. Date due – _____.
- ___ 16. Oral Argument. [Mandatory] Appear for oral argument in **Superior Court** which is scheduled for _____ at _____ in courtroom _____.

KITSAP COUNTY DISTRICT COURT

APPEALS CHECKLIST INSTRUCTIONS

(CIVIL, CRIMINAL, INFRACTION)

IMPORTANT NOTICE – District Court personnel are not permitted to fill out any forms. District Court personnel are also not authorized to give legal advice. District Court strongly encourages an unrepresented party to seek legal advice from an attorney. If you need help, please review the “*Guide To Website Forms*” on the District Court website.

The information contained here is intended to address the most frequently asked questions. It is not comprehensive and should not be construed as legal advice.

IMPORTANT NOTICE REGARDING LITIGANT CONFIDENTIAL INFORMATION – District Court needs information about every party involved in a case so the court can accurately identify the parties and be able to contact them.

If you have not already done so, please complete a Litigant Confidential Information Form and provide it to the court. You should also use the form to update information previously provided to the court. The form is available at many locations on the District Court website.

RALJ APPEAL PROCEDURES – The procedures for perfecting an appeal from a District Court civil, criminal or infraction case, except a small claims case, are provided for in the Rules for Appeal of Decisions of Courts of Limited Jurisdiction (RALJ).

WHAT MAY BE APPEALED? A party may appeal to Superior Court any “final decision” made by District Court except a decision in an infraction mitigation hearing or an infraction mitigation hearing on written statement. RALJ 1.1 and 2.2(a); CRLJ 72; CrRLJ 9.1(a); IRLJ 5.1 and 5.2.

A “final decision” includes any District Court written final determination of the rights of the parties such as a judgment, decree, dismissal, or any order which finally disposes of a case and was intended to do so. A “final decision” need not be in any particular form. *Bank of America, N.A. v. Owens*, 173 Wn.2d 40, ¶21 (2011).

A final decision also includes an order granting or denying a motion for new trial, reconsideration, or amendment of judgment, and an order granting or denying arrest of a judgment in a criminal case. RALJ 2.2(a)(2).

ERRORS RAISED FOR FIRST TIME ON APPEAL – Superior Court may refuse to review any claim of error that was not first raised in District Court. However, a party may raise the following claimed errors for the first time on appeal – (1) lack of jurisdiction; (2) failure to establish facts upon which relief can be granted; and (3) manifest error affecting a constitutional right.

A party may present a ground for affirming a District Court decision that was not presented to District Court if the record has been sufficiently developed to fairly consider the ground.

A party may raise a claim of error that was not raised by the party in District Court if another party on the same side of the case raised the claim of error in District Court. RALJ 2.2(d).

FAILURE TO COMPLY WITH RALJ APPEAL PROCEDURES – The failure to comply with the RALJs may result in District Court closing its file and notifying Superior Court that the appellate process is unperfected and incomplete. The failure to comply with these rules may also result in Superior Court ordering the payment of terms of compensatory damages and/or dismissal of the appeal. RALJ 10.1 and 10.2.

RALJ SYNOPSIS – The procedures discussed below are guidelines intended to assist litigants and do not substitute for knowledge of and compliance with the RALJs.

1. **HOW TO INITIATE AN APPEAL.** A party who wants to appeal a final decision of the District Court must file a Notice Of Appeal with District Court within 30 days of the final decision. This is the only jurisdictional requirement for an appeal. A party should not file the Notice Of Appeal with Superior Court. RALJ 2.4(a).
2. **CRIMINAL CASE – FILING FEE, ENFORCEMENT, AND BOND.**
 - A. **No Appellate Filing Fee.** No appellate filing fee is required for appeal of a criminal case to Superior Court.
 - B. **Enforcement of Sentence.** A District Court sentence will be enforced pending appeal unless District Court stays enforcement. RALJ 4.2(b) and 4.3(b).
 - C. **Appellate Bond May Be Required.** District Court may fix conditions of release and require a defendant to post an appellate bond to stay enforcement of a sentence pending appeal. RALJ 4.3(b); RCW 10.73.040.
3. **CIVIL OR INFRACTION CASE – FILING FEE, ENFORCEMENT, AND BOND.**
 - A. **\$280 Appellate Filing Fee.** For appeal of any civil or infraction case, a cashier's check, money order or business check (no personal checks) for \$280 is made payable to the "Kitsap County Clerk" and shall be included at the time a Notice of Appeal is filed with District Court. RALJ 2.4(b); RCW 36.18.020(2)(b); 020(5)(b); and (6).
 - B. **Enforcement of Judgment.** A District Court judgment in a civil and infraction case will be enforced pending appeal unless Superior Court stays enforcement. RALJ 4.3(a).

Note – A Motion To Stay Enforcement Of District Court Judgment may not be filed in Superior Court until – (a) a Notice Of Appeal is filed in District Court; and (b) the filing fee is paid or excluded by District Court.
 - C. **Appellate Bond Not Required.** No appellate bond is required for appeal of a civil or infraction case to Superior Court.

4. **FILING NOTICE OF APPEAL AND FILING FEE WITH SUPERIOR COURT.** The District Court Clerk shall immediately file a copy of the Notice Of Appeal and filing fee, if required, in Superior Court upon completion of all of the following, RALJ 2.4(c), –
 - A. Notice of Appeal. Filing of a Notice Of Appeal with District Court; and
 - B. Appellate Filing Fee – Civil or Infraction Case. Payment of the \$280 appellate filing fee unless excused by District Court.
5. **WAIVER OF APPELLATE FILING FEE – CIVIL OR INFRACTION CASE.** A party in a civil or infraction case who wants to appeal but cannot afford the \$280 appellate filing fee may ask District Court to excuse payment of the appellate filing fee.

A Motion For Waiver Of Fees should be filed with District Court with the Notice Of Appeal. District Court will thereafter review the motion. RALJ 4.1(c); GR 34.
6. **APPOINTMENT OF APPELLATE COUNSEL – CRIMINAL CASE.** A defendant in a criminal case who cannot afford an attorney and would like the appointment of counsel on appeal should prepare an Indigency Screening Form and submit the form to District Court when the Notice Of Appeal is filed. District Court will thereafter review the screening form. RALJ 4.1(c); RCW 10.101.020.
7. **SERVICE OF NOTICE OF APPEAL ON ALL OTHER PARTIES.** After a Notice Of Appeal is filed with District Court, the party filing the Notice Of Appeal shall –
 - A. Serve a copy on all other parties; and
 - B. Promptly file an Appellate Declaration Of Service with District Court.

RALJ 2.4(c) and 11.6; CR 5; CrR 8.4.
8. **DESIGNATION OF RECORD – WITHIN 14 DAYS.** A party who has filed a Notice Of Appeal shall, within 14 days of filing the Notice Of Appeal, file with District Court and serve on all other parties a written designation of those portions of the record the party wants District Court to transmit to Superior Court. Any party may supplement the Designation Of Record prior to or with the party’s last brief. RALJ 6.2(a).

Note – Parties are encouraged to designate only those pleadings, exhibits, orders and other items filed with District Court which are needed to review the issues presented to Superior Court. A Designation Of Record shall also include the docket and the log for the electronic recording of proceedings. RALJ 6.2(a).

Note – The cost for transmitting the electronic recording of proceedings to Superior Court is included in the \$40 preparation of record fee discussed below. If a party wants a personal copy of the electronic recording of proceedings, a fee of \$12 plus \$1 if mailed is required. RCW 3.62.060(1)(j).

9. **SERVICE OF DESIGNATION OF RECORD ON ALL OTHER PARTIES.** A party filing a Designation Of Record shall immediately serve a copy on all other parties and shall promptly file an Appellate Declaration Of Service with District Court. RALJ 6.2(a) and 11.6; CR 5; CrR 8.4.
10. **NOTICE OF PREPARATION OF RECORD – \$40 UNLESS EXCUSED.** The District Court Clerk shall prepare the record within 14 days after a Designation Of Record is filed, and notify each party that the record is ready to transmit to Superior Court.
- The \$40 fee shall be paid by any party filing a Designation Of Record within 10 days of the District Court Clerk notification unless the party has been excused from paying. RALJ 6.2(a); RCW 3.62.060(1)(h).
- Credit card, cash or a cashier's check, money order, business check, or personal check is made payable to "Kitsap County District Court" for preparing the record.
11. **TRANSMITTAL OF RECORD OF PROCEEDINGS.** Promptly after receiving the \$40 preparation of record payment or after preparing the record where payment is excused, the District Court Clerk shall certify the record is true and complete, transmit it to Superior Court, and notify the parties the record has been submitted. RALJ 6.2(a).
12. **ELECTRONIC RECORDING OF PROCEEDINGS.** Unless Superior Court orders otherwise, the appellant shall transcribe the electronic recording of proceedings, serve the transcript on all opposing parties, and file the transcript with Superior Court with the appellant's brief. RALJ 6.3.1(a).
- Note – The transcript shall contain only those portions of the electronic recording necessary to present the issues on appeal. RALJ 6.3.1(c).
- Note – No transcript is required if the parties have agreed on a written form of record approved by District Court. RALJ 6.1(b).
13. **TIME FOR FILING BRIEFS.**
- A. **Brief Of Appellant – Within 45 Days.** The brief of the appellant shall be served on all other parties and filed with Superior Court within 45 days after filing of the Notice of Appeal. RALJ 7.2(a).
- B. **Brief Of Respondent – Within 30 Days.** The brief of the respondent shall be served on all other parties and filed with Superior Court within 30 days after service of the brief of appellant. RALJ 7.2(b).
- C. **Reply Brief – Within 14 Days.** A reply brief shall be served on all other parties and filed with Superior Court within 14 days of service of the brief to which it responds, or at such other time as Superior Court orders. A reply brief shall be filed no later than 7 days before the day set for argument by Superior Court. RALJ 7.2(c).

- D. Modification of Briefing Schedule. Superior Court may issue a briefing schedule which modifies the above times for filing briefs. RALJ 7.2(d).
14. FORMAT OF BRIEFS. All briefs shall comply with RALJ 7.3(a) (Typing or Printing Brief), GR 14 (Format for Pleadings and Other Papers), and GR 14.1 (Citation to Unpublished Opinions). RALJ 7.3(a).
15. LENGTH OF BRIEF. The briefs of appellant and respondent shall not exceed 18 pages. Reply briefs shall not exceed 6 pages. Appendices are not included for determining the length of a brief. For good cause, Superior Court may grant a motion to file an over-length brief. RALJ 7.3(b).
16. ORAL ARGUMENT. Each side shall be allowed 10 minutes for oral argument, or longer if ordered by Superior Court. The first party to file a Notice of Appeal is entitled to open and conclude oral argument unless otherwise ordered. RALJ 8.3.
- Note – The parties may at any time agree to waive oral argument and submit the matter to Superior Court on the briefs that have been submitted. RALJ 8.4.
- Note – Superior Court may, on its own initiative, direct that there be no oral argument once it has received the briefs of the appellant and respondent. RALJ 8.4.
- Note – A party of record who has failed to file a brief may present oral argument only with leave of Superior Court. RALJ 8.1.