

Tribal Court Appellate Procedure Overview



At the Appellate level, the court does not conduct trials or hear new evidence, but rather it determines whether legal errors were committed in the rendering of the lower court's judgment or order. Cases at this level are treated *VERY FORMALLY*. All parties must know and follow court rules. A case may be lost if the correct procedures are not followed. Judges cannot make exceptions for people who represent themselves (pro se litigants). When one party files any paper at the Clerk's office, that party must also mail or deliver a copy of that paper to the other party (or parties, if more than one) or the other party's attorney. All filings must be original documents. Faxed documents are not accepted or considered "filed". If mailed, the postmark serves as the filing date.

The Appellate Court can:

- "Affirm" - uphold the decision or order of the lower court
- "Reverse" - set aside the decision or order
- "Remand" - send the case back to the lower court with instructions, including instructions to hold a new trial

1. NOTICE OF APPEAL

A party must file a Notice of Appeal within thirty days of the filing of the challenged judgment or order. The notice is filed with the Clerk of Court and costs \$50.00.

2. PREPARATION OF THE APPEAL

Following the filing of the Notice of Appeal, the parties *MUST FOLLOW* a variety of steps contained in the **Rules of Appellate Procedure** (see attached) to prepare the case for submission to the Court.

3. APPELLATE BRIEFS AND APPENDIX

The parties ARE REQUIRED to file **briefs**, which are written documents setting forth facts, a party's legal arguments, and the relief sought from the Appellate Court. In their briefs, the **parties may request to make an oral argument before the Court.**

The parties **MUST ALSO INCLUDE** the portions of the Trial Court records that are referred to in their briefs in an **appendix**. The appendix is a mini record of the Trial Court proceedings containing those parts of the transcript, Trial Court papers, and exhibits most relevant to the issues raised on appeal. The appellant generally prepares and files the appendix on behalf of the parties.

4. SUBMISSION OF THE CASE

The Appellate Court sets its own case submission schedule. In some cases, parties are granted an opportunity to address the Court, a process known as **oral argument**. During oral arguments, lawyers have a brief period of time to summarize their legal arguments before the Court and to answer questions asked by the justices. The Appellate Court Justices have complete discretion whether or not to grant oral argument, and may choose to decide some cases without oral argument.

If oral arguments are granted, the Justices determine the amount of time the parties have to present their argument, typically that time is twenty minutes each. It is imperative for the parties to establish their primary points at the immediate onset of their argument because once time has been started it does not stop, even during answers to questions posed by Justices. If a party wants to be notified by the Clerk of Court of Appeals when a certain amount of time remains during their oral argument in order to make statements in closing, this must be communicated prior to the oral argument. Testimony of witnesses is not taken, and only the parties or their attorneys are permitted to speak.

5. THE OPINION/DECISION

After a case is submitted or after oral arguments, the Justices will discuss in private conference the legal issues presented in the case. Later, the Justice who has been given the assignment of writing the **Court's Opinion** (written ruling) will prepare the Opinion. All judgments on appeal are final.

SAC AND FOX TRIBE OF THE MISSISSIPPI IN IOWA TRIBAL COURT RULES

RULES OF APPELLATE PROCEDURE

RULE A - 1. APPELLATE PANEL

All appeals from the Sac and Fox Tribe of the Mississippi in Iowa Tribal Court shall be heard by the Sac and Fox Tribe of the Mississippi in Iowa Appellate Court. The Chief Justice of the Court of Appeals shall appoint an appellate panel for each appeal.

RULE A - 2. APPEALABLE ORDERS

Any party who is aggrieved by an appealable order, as defined in tribal code section 5-4401 may appeal in the manner prescribed by this Rule.

RULE A - 3. TIME FOR APPEAL

Within thirty days from the entry of the order of judgment appealed from the party taking the appeal must file with the Trial Court a written notice of appeal specifying the parties to the appeal, the order or judgment which is being appealed, and a short statement of the reason or grounds for the appeal, and must serve the notice of appeal on all other parties to the case.

RULE A - 4. CAPTION AND DESIGNATION OF PARTIES

The party taking the appeal shall be referred to as the appellant; all other parties shall be referred to as the appellees. The name of the case shall be the same as that used in the Trial Court.

RULE A - 5. STAY PENDING APPEAL

In any case in which an appeal is perfected as required by this Rule, the appellant may petition the Trial Court for an order staying the order, commitment or judgment rendered conditioned upon posting of cash bond or other bond to guarantee performance of the judgment, order or commitment. A stay upon condition of posting bond shall be granted in all cases in which it is requested unless manifest injustice would result therefrom.

RULE A - 6. DOCKETING

Within five days after a Notice of Appeal is filed, the Clerk of the Trial Court shall prepare, certify and file with the Appellate Court all papers comprising the record of the case appealed. A separate docket shall be maintained for the Appellate Court in which shall be recorded each stage of the proceedings on each case appealed.

RULE A - 7. POWERS OF THE COURT OF APPEALS

The presiding justice of the Appellate Court shall, when hearing a case, have authority to compel the production of documents where such is deemed necessary to the rendition of the Court's opinion. There shall not be a new trial in the Appellate Court. The Appellate Court may review both the factual findings and conclusions of law of the Trial Court. The Appellate Court may hear and grant motions as appropriate.

RULE A - 8. BRIEFS

- a. *Time for Filing.* Within thirty days of the filing of the Notice of Appeal or within such longer time as the Appellate Court shall allow, the appellant shall file a written brief, memorandum or statement in support of her/his appeal. An original and three copies shall be filed with the Clerk and one additional copy shall be served upon or mailed to each other separately represented party or her/his counsel. The appellee shall have thirty days after receipt of the appellant's brief, memorandum or statement within which to file a response, memorandum or statement. A reply brief, memorandum or statement of appellant shall be allowed without leave of Court. Such reply brief shall be filed within ten days of the receipt of the appellee's response.
- b. *Format.* The opening brief shall contain, under separate heading in the order specified, a table of contents, table of authorities, summary of the argument; statement of facts, statement of procedural history; and legal argument. The response and reply briefs be organized in the same manner, except that a statement of facts or statement of procedural history are not required.
- c. *Page Limitations.* The opening brief and response brief shall be not exceed 30 pages exclusive of tables, except with permission of the Court. The reply brief shall not exceed 15 pages, exclusive of tables, except with permission of the Court.

RULE A - 9. ORAL ARGUMENT

The Appellate Court shall decide all cases upon the briefs, memoranda and statements filed plus the record of the Trial Court without oral argument unless either party requests oral argument and shows to the Court that such will aid the Court's decision, or unless the Court decides on its own motion to hear oral argument.

RULE A - 10. DECISION

The Appellate Court shall issue a written decision and all judgments on appeal shall be final.

Useful Tribal Websites



www.meskwaki.org

Meskwaki Tribal Government, Official Site

- Information on tribal programs and departments
- Tribal Code = Laws, (*look under the “Meskwaki Menu” button on homepage, go past “Tribal Court” and continue to the bottom link titled “Constitution, ByLaws, and Code”*).
- Tribal Newsletter
- Special Events links

www.meskwakicourt.org

Meskwaki Tribal Court, Official Site

- Includes Court Opinions
- Rules of Procedure
- Directions to Tribal Center
- *“Tribal Code” link inactive; Code moved to Tribal Website: www.meskwaki.org (see above site)*

www.msswarriors.org

Meskwaki Settlement School

- “Meskwaki History” information
- General information regarding school
- Sports schedules
- Features a link to weather station and webcam

www.meskwaki.com

Meskwaki Bingo*Casino*Hotel

- Hotel and Conference information and Special Events Schedule

U.S. Government Websites

www.doi.gov/bia

Bureau of Indian Affairs

www.bie.edu

Bureau of Indian Education