

Nevada Appellate Procedure: A Step-By-Step Guide

By Eric D. Walther, Esq.

Nevada's unique appellate rules can overwhelm even the most seasoned district court litigators. The purpose of this article is to provide a step-by-step guide for filing a basic civil appeal in Nevada. Although this article does not cover all of the nuances of appellate procedure, it should provide a good framework for getting started.

Step 1: Notice of Appeal and Case Appeal Statement

An appeal begins with the filing of a notice of appeal in the district court. The notice of appeal must be filed within 30 days after service of the written notice of entry of the judgment or order being appealed. NRAP 4(a)(1). The notice of appeal must contain the information outlined in NRAP 3(c), including each district court order being appealed.

The appealing party must also file a case appeal statement in the district court, which outlines basic information about the district court case. The case appeal statement must include the information in NRAP 3(f)(3) and must substantially comply with the format of Form 2 in NRAP's Appendix of Forms. NRAP 3(f)(4).

Step 2: Filing fee

The Supreme Court of Nevada's filing fee is \$250 and is paid to the district court clerk when filing the notice of appeal and case appeal statement. NRAP 3(e).

Step 3: Docketing



The district court clerk will forward the notice of appeal, case appeal statement, and filing fee to the Supreme Court Clerk. NRAP 3(g)(1). Thereafter, the Supreme

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Court Clerk will docket the appeal and notify the parties of the docketing date and appellate case number. NRAP 12(a).

Step 4: District court transcripts

The parties have a duty to confer on which district court transcripts are needed for the appeal. NRAP 9(a)(1)(A). To order transcripts, the appellant must file a transcript request form that contains the information in NRAP 9(a)(3)(C)(i)-(v) and substantially complies with Form 3 in NRAP's Appendix of Forms. NRAP 9(a)(3)(C). The appellant must file the original transcript request form with the district court clerk and a file-stamped copy of the transcript request form with the Supreme Court Clerk within 14 days of the docketing date. NRAP 9(a)(3)(A). If the parties have already obtained any necessary transcripts, then a certification that no transcript is needed should be filed. NRAP 9(a)(3)(C) and Form 14.

Step 5: Docketing Statement

The appellant must file a docketing statement with the Supreme Court Clerk within 21 days after the docketing date. NRAP 14(b). The docketing statement sets forth, among other things, jurisdictional information and the issues on appeal. The docketing statement must comply with the form provided by the Supreme Court Clerk: https://nvcourts.gov/Supreme/Appellate_Practice_Forms/. NRAP 14(b).

Step 6: Briefs and appendices

Unless referral to the Supreme Court Settlement Program stays the deadlines, the appellant's opening brief must be filed within 120 days after the docketing date and must contain the sections outlined in NRAP 28(a)(1)-(12). NRAP 31(a)(1)(A). The respondent's answering brief must be filed within 30 days after the appellant's opening brief is served. NRAP 31(a)(1)(B). The answering brief must also contain the sections outlined in NRAP 28(a)(1)-(10), except that the following sections can be omitted if the respondent is satisfied with the appellant's version of these sections: jurisdictional statement, routing statement, statement of issues, state-

ment of the case, statement of facts, and standard of review. NRAP 28(b). Appellant's reply brief must be filed within 30 days after the respondent's answering brief is served. NRAP 31(a)(1)(C). All briefs must comply with the formatting requirements in NRAP 32, including one-inch margins, 14-point typeface, and double-spacing.

The parties have a duty to confer and attempt to reach an agreement concerning a possible joint appendix, which serves as the record on appeal. NRAP 30(a). If an agreement cannot be reached, each party must file its own appendix. The appendices must include all district court transcripts and filings that are necessary to resolve the appeal, including the items outlined in NRAP 30(b)(2)(A)-(J). Appendices must comply with the formatting requirements in NRAP 30(c).

Step 7: Oral argument.

Most appeals are decided on the briefs without oral argument. If the court determines that oral argument is needed, the Supreme Court Clerk will notify the parties. NRAP 34(a).

Guide continued on page 28

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Guide from page 27

Step 8: Decision

The assigned appellate court will resolve the appeal in either a published opinion or an unpublished order. NRAP 36(c).

Step 9: Post-decision petitions

After a decision is filed by either the Court of Appeals or Supreme Court, the losing party has 18 days to file a petition for rehearing. NRAP 40(a)(1). Importantly, rehearing is only appropriate if the court “overlooked or misapprehended” a material point of law or fact. NRAP 40(a)(2). Petitions for rehearing must contain the information in NRAP 40(a)(2) and must comply with the formatting rules in NRAP 40(b).

After the Court of Appeals issues a decision, the losing party may seek review by the Supreme Court. NRAP 40B. A petition for review by the Supreme Court must be filed within 18 days after the filing of the Court of Appeals’ decision under Rule 36, or its decision on rehearing under Rule 40. NRAP 40B(c). The petition must contain the information in NRAP 40B(d), includ-

ing the reasons why review by the Supreme Court is warranted, and must comply with the formatting rules in NRAP 32. NRAP 40B(d).

If a three-justice Supreme Court panel denies a petition for rehearing, the petitioning party has 14 days to file a petition for en banc reconsideration. NRAP 40A(b). Petitions for en banc reconsideration are disfavored and are only appropriate when: “(1) reconsideration by the full court is necessary to secure or maintain uniformity of decisions of the Supreme Court or Court of Appeals, or (2) the proceeding involves a substantial precedential, constitutional or public policy issue.” NRAP 40A(a). Petitions for en banc reconsideration must contain the information in NRAP 40A(c) and must comply with the formatting rules in NRAP 40A(d).

Step 10: Remittitur

Issuance of remittitur transfers jurisdiction back to the district court. Remittitur will issue 25 days after entry of the court’s dispositive decision or 25 days after entry of an order denying a post-decision petition. NRAP 41. **E**



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