



# WHAT IS AN APPELLATE ATTORNEY?

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# What Is an Appellate Attorney?

If you are unhappy with the outcome at trial, you may have been told to contact an appellate lawyer. What is an appellate lawyer and how can one help you?

An appellate attorney handles appeals. An appeal is a process that asks a higher court to review the decision made a lower court. An appeal is filed when a client and their attorney believe that a mistake was made that impacted the outcome of their trial. Appeals take place in both state and federal courts. In some instances, appealing an unfavorable decision is a right; in other instances, whether an appellate court considers to hear an appeal is a discretionary decision.

The litigant who files the appeal is called an appellant and the litigant on the opposing side is called appellee.

## What is the appeal process?

An appeal cannot be filed simply because one party is dissatisfied with the outcome of the initial case, there must be legal grounds for the appeal, meaning the trial judge made a mistake.

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Examples include:

- **The judge made an error of law.** This can mean that the judge applied the incorrect legal standard to the facts of the case.
- **The judge made an error regarding the facts of the case.**
- **The judge abused their discretion.** Examples include decisions involving which evidence to admit or whether to grant a motion.

An appellate attorney can review a case to determine if grounds for appeal exist. This review will cover the entire record, including trial transcripts, evidentiary materials, and motions. It is important to contact an appellate attorney as soon as possible because there is only a short period of time during which an appeal can be filed.

The typical steps in the appeal process include:

1. **Filing The Notice of Appeal.** In Washington State, the notice of appeal must be filed in the trial court within the longer of the following options: 30 days after the entry of the decision of the trial court or the time provided by statute as described in RAP 5. This notice must identify the parties seeking a review and designate the decision the party wants to be reviewed. The appellate court must also be identified.
2. **Paying filing fees.**
3. **Collecting and submitting supporting documents.**

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4. **Ordering trial transcripts.** The appeals court will want to review the trial transcripts, which can be ordered through the court reporter.
5. **Researching, writing, and filing a brief.**

The appellate court will review the submitted documents and determine if there are indeed adequate grounds to file an appeal.

## **What is the difference between a trial and appeal?**

The appeals process is not a retrial of the case but is simply a review of what occurred. If an appeal is granted, the appellate court will remand the case back to the trial court. Instructions on how to fix the errors made in the lower court will be provided. If it is determined that an error impacted the verdict, the appellate court can order that a new trial take place.

## **How long does an appeal take?**

Although appeals must be filed quickly, it can take some time for a decision to be made. The length of any appeal case is impacted by the schedule of the court, the merits and complexities of the case, and whether the appeal is filed in the state or federal court.

In Washington State, appeals frequently take 14-24 months. Appeals in federal courts can take longer, 24 months or more.

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## How much does an appeal cost?

The cost of an appeal can vary greatly depending on the case and factual issues. In many circumstances, an appeal can be arranged on a fix-fee basis. In general, however, the fees and costs associated with an appeal are quite expensive given the time and effort required to pursue an appeal.

## Why hire an appellate lawyer?

Trial lawyers and appellate lawyers have very different skill sets. Appellate lawyers bring a fresh set of eyes to a case, are well versed in how the appellate courts work, and are familiar with framing arguments that can be successful with in an appellate court.

To learn more about how an appellate lawyer can assist you, contact Athan Law at (509) 215-4679.

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