

The Pro Se Self-Help Guidebook Series

How To Appeal In State Court Of Appeals

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*How To Appeal In State
Court Of Appeals*

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Disclaimers

The author is not a lawyer or in any way connected with the legal profession and you need to know the following by way of a disclaimer:

The information contained in this guidebook is provided solely for entertainment, educational and informational purposes. It is not intended to provide specific legal advice or is it a solicitation for legal work. You are always advised to seek the services of an attorney.

The events, examples, situations, or suggestions mentioned in here are the results of the author's personal experiences and opinions in filing documents on a pro se basis. This book evolved from his lack of knowledge of the procedures and requirements of the court system along with his desire to learn what he needed to know in order to represent himself.

This book makes no attempt to offer any legal advice but if you see something that is helpful, take it and use it to your best advantage. It is mainly a compilation of observations and techniques that have been acquired through extensive practical experience. All items are factually correct to the best of his knowledge and the opinions expressed are solely those of the author.

"I am not an advocate for frequent changes in laws and Constitutions. But laws and institutions must go hand in hand with the progress of the human mind. As that becomes more developed, more enlightened, as new discoveries are made, new truths discovered and manners and opinions change, with the change of circumstances, institutions must advance also to keep pace with the times. We might as well require a man to wear still the coat which fitted him when a boy as civilized society to remain ever under the regimen of their barbarous ancestors." --*Thomas Jefferson*

Preface

What is Pro Se? It is Latin "for himself," "on one's own behalf" A person who represents themselves in court alone without the help of a lawyer is said to appear "pro se."

The Pro Se Self-help Guidebook series are written mainly for the benefit of the person who doesn't know their way around the family law legal system, who doesn't have the ability to afford a lawyer, and who has no other avenue of help other than to try to face the court by themselves.

If you are looking for a book to help you with family law appeals, then this book will be of assistance. The principles involved with appeals apply essentially the same to civil and to criminal law as well only there are other aspects of criminal law appeals that are beyond the scope of this book. In any case, it will give you a general understanding of the procedures involved and how you can apply them for your case.

Even if you use a lawyer, you can use this book to help you to understand the process and procedures involved with filing an appeal in a State Court of Appeals. It will take some of the mystery out of what is happening and let you see some of the main steps involved.

The goal of this book is to show you the process used to file an appeal to the next higher court than the one where the ruling wasn't favorable to you. It will acquaint you with the associated documents

and to help you understand some of the documents with which you might become involved.

This book evolved as a result of the author's experiences with his own as well as other individual's cases involved with appealing an unfavorable ruling from a lower family law circuit court to a higher district court of appeals.

It is felt that these experiences would help others for the reason that a lot of the things that were learned were not readily available but only found through trial and error. This is not the best way to learn the legal process.

In this situation, knowledge is power and it will definitely help you to know the rules and procedures involved. This book will educate and show you what you need to do in order to get started.

The information presented herein is based on the laws of Florida where the events took place. The laws may vary a bit in other states but the procedures should be basically the same. Therefore, you will need to study the statutes, rules, and case law for your particular state to be able to use them in your documents.

While this guidebook will not answer your every question or handle every situation, it will provide a basic starting point to step you through a basically straightforward appeal procedure.

A website has been set up to support the chapters in this book at: www.panama-publishing.com where you will find samples of documents, caselaw, related links new developments, etc. as further illustration of the examples in this book.

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Introduction

Why would you want to appeal a lower court ruling? Did the judge make a mistake in interpreting the law? Was there some reason you thought the judge did not rule fairly? Did they exhibit any bias?

Proceedings in family law courts will provide situations where the judge's rulings appear to be out of line and that violate your sense of equity and fairness. This appears to be a widespread feeling acquired by those unfortunate enough to be subjected to the courts.

Family law court is a court that operates on the principle of "chancery" or equity. Unless you have a judge with a good grip on the reality of fairness and equity for both parties, you are in for a rude awakening.

At first, appealing a case might seem very intimidating and beyond your comprehension or ability to handle it, but don't let this deter you from giving it a try. In this country, acting on a self-represented pro se basis (without a lawyer) is a right granted for you have to access the courts. Because of its intimidation factor for self-represented people, it is infrequently used as compared with the number of self-represented cases in the lower tribunals.

Acting in a pro se capacity is always a viable option for you especially if you can't afford an attorney. Sometimes, it is the only way you can get your case heard without having to go into debt.

Appeals normally require the use of a lawyer who specializes in appellate law. Family law attorneys are not always able to do the appeal themselves and often times refer the work out to a specialist appellate attorney. Appellate attorneys are usually more expensive than a family law attorney as the work is more specialized and involved plus the lawyer needs to be certified to practice before the court of appeals.

The law and the procedures are not rocket science. With a little effort and participation on your part, you will be able to get a better understanding of the legal process and gaining control over your situation.

The only loss you might encounter will either be the time you put into this effort, the money you shelled out for the appeal fees and lastly you might lose the appeal and end up having to pay the other side's costs.

But if you are acting in good faith and can follow the simple guidelines presented herein, you will put the odds in your favor of prevailing.

On the other hand, if the judge has any reason to believe that your appeal was of a frivolous nature, you stand to be assessed the other side's attorney fees and costs. (See Rule 9.400 in [appendix](#)) Therefore it is important that you look at things very closely before you decide if you really want to go ahead with it.

If you decide to proceed with a pro se representation of your case, keep in mind that what you will be saving in lawyer's fees, you will have to compensate for by putting in the time to learn the process and handling your own paperwork. It will also be necessary for you to learn the rules and procedures of the court. One of the main advantages of learning is that it will take you out of the dark about legal procedures and put you on a more even footing with the other side.

While this guidebook will not answer your every question or handle every situation, it will provide a basic starting point to help you through a simple appeal.

Don't bother to ask any of the court sponsored "self-help centers" or clerks of the court anything about the law or procedures as all you will get are statements to the effect that: "*we are not allowed to give out any legal advice.*" There is very little help available for people who can't afford a lawyer and are trying to represent themselves. That

is why this book was written.

There are a number of places where you can go for free assistance from people who have run the gauntlet of the family law courts and who belong to the various forums. A list of these forums along with other resources can be found in the [appendix](#). The forum that appears to have many members who have been involved with pro se appeals and don't mind sharing their experiences with you is the one on the Yahoo Groups at:

http://groups.yahoo.com/group/cflap_org/

In addition, you will find the web a good source of information, especially if you use something like Google or other major search engine to find what you are looking for.

Two of the best sites I have found, that have very extensive compilations of court-filed documents that show you actual documents used in cases, can be found at the following websites under the "Legal" selections on the main menus: www.alimonyreform.org and www.abolish-alimony.org. They will provide good examples for you to make use of in your efforts.

The appeals in the cases on the above sites are basically involved with family law and alimony. And, there are also challenges to the constitutionality of the alimony statutes of Florida, which are being appealed all the way up to the Florida Supreme Court.

Remember: Knowledge will be your ally and your companion in the courts! Knowledge can be acquired if you commit yourself to the task of learning. As you start the following chapters, you will find that the task of learning begins right here. You will be exposed to the language of the legal profession early on. The more you read it, the easier it will become. If there is something you don't understand and can't find a quick answer, skip over those parts and return to it later. You will probably find that it will become clearer to you by then.

With that said, now you are ready to understand the basics of appeals.

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