



## **Southwest Intertribal Court of Appeals Case Management**

1. All appellate pleadings and documents are filed with the Tribal Court. Tribal Court Clerks are responsible for maintaining the original appellate files for the tribal court and forwarding duplicate copies to the Southwest Intertribal Court of Appeals (SWITCA). Maintenance of tribal court files includes keeping a complete index of all cases, indicating the date of filing of each document or pleading, retention of the original appellate case files, and processing appeals. Tribal Court Clerks are responsible for receiving and accounting for all appellate filing fees, forfeitures, bonds, inventory or other fees.

Notice of Appeal is filed with the tribal court. The Notice of Appeal should contain: a) the party or parties taking the appeal, including name, title, address and telephone number, and their counsel; b) the name of the court rendering the adverse ruling and the date the ruling was rendered; c) a concise statement of the adverse ruling or alleged errors made by the lower court; d) the nature of the relief being sought; and, e) a concise statement of the reasons for reversal and modification. (See SWITCARA #11(e)(2001)).

Service of Notice of Appeal is the responsibility of Tribal Court Clerks. Service of the Notice of Appeal is made on 1) Southwest Intertribal Court of Appeals; 2) each party other than the appellant (the person bringing the appeal) or their counsel; 3) Trial Judge; 4) clerk or court reporter who recorded the trial or hearing. Notice of Appeal in criminal cases should also be served on the prosecutor and public defender.

Stay of Proceedings and Stay of Execution pending final determination of the appeal is generally provided by tribal code and may be ordered by the tribal court judge. The tribal court judge may require a bond to enforce the judgment or assure the appearance of the appellant; all bonds and fees are paid to the tribal court. A Stay continues in effect until final disposition of the appeal.

Special note regarding Criminal Appeals: *Conditions of release pending appeal* are generally contained in the tribal code or tribal appellate rules. Defendants are usually entitled to bail at the time of filing the Notice of Appeal and the tribal court may impose conditions of release sufficient to assure the defendant will appear. *Petition to review of terms of release or refusal of release* may be filed by the defendant with the tribal court at any time after the filing of the Notice of Appeal.

Interlocutory Appeals may be filed during trial and similar to the Notice of Appeals, they are filed with the tribal court. An interlocutory appeal must be approved by an appellate judge of the Southwest Intertribal Court of Appeals and the trial court record must be filed immediately with SWITCA.

2. Efficient and effective management of appellate court records depends upon the accuracy and timeliness of processing the necessary documents. All documents filed with SWITCA must be accepted and filed with the tribal court. The file stamp is used to indicate documents are properly filed with SWITCA. The SWITCA Court Administrator and Court Clerk should immediately “file” stamp all pleadings and documents, assuring the correct date is indicated on the stamp. Original documents, photographs, or objects filed or introduced into evidence with SWITCA should be returned to the tribal court as soon as a final opinion and order is issued by the appellate panel.
3. General clerical duties of SWITCA require the SWITCA Court Administrator or Clerk, with accuracy and timeliness: File stamp the Notice of Appeal and prepare an appellate file:
  - a. Assign an appellate case file number which is an alpha-numeric system which indicates “the year-the case number-the trial court,” e.g. 17-004-SCPC is the fourth case filed with SWITCA in 2017 originating from the Santa Clara Pueblo Tribal Court;
  - b. Enter the case number and name on the chronological database of cases filed indicating 1) the date appeal was received by SWITCA; 2) the SWITCA Case Number; 3) the Appellant and Respondent Names; 4) the trial court; 5) the current status of case; 6) the appellate judge(s) assigned to case; and 7) date assigned.
  - c. Enter the Case Number and Name on the Clerk and Court Administrator’s calendar for a reminder call to the authoring judge within sixty (60) days of the assignment of the case. Opinions are due in ninety (90) days of the assignment to the appellate judge(s).
  - d. Manage the appellate file(s) and include all audio cassettes and/or disks in an envelope and a copy of the tribal resolution authorizing and defining SWITCA appellate jurisdiction.
4. Confidentiality of records is essential. Cases should not be discussed with anyone outside the court. Confidential court documents should not be left on desk tops, counters, or where they may be seen by the public. Cases involving children should be referenced and captioned by *initials* only. Initials are used in the body of the opinion as well. (See: *In re the matter of R.L.W. v. G.N.B.*)
5. Once the appellate case file is prepared, the Court Administrator selects the appellate panel of one to three judges (See the tribal resolution or tribal code for number and requirements). A letter is prepared to the appellate judge(s). The following is then mailed, certified, or shipped UPS or FedEx to the appellate judge(s): a) the case file; b) a copy of the appropriate sections of the tribal code; c) copies of the SWITCA Rules of Appellate Procedure, Internal Rules of Procedure and Judicial Misconduct and Removal

Rules and Procedures; and d) copies of the SWITCA Reporter (the most recent cases not yet published in the Reporter may be photocopied will be sufficient);

6. Oral arguments, if requested and granted, must be scheduled in coordination with the tribal court.
7. The SWITCA Court Administrator or Clerk must contact the authoring judge within 60 days of the assignment of the appeal to inquire about the progress of the opinion. This is a good time to ask whether the opinion will require more than fifteen hours in its preparation.
8. Opinions may be typed by the authoring judge or the SWITCA Clerk. In either case, the Court Administrator and authoring judge must proofread all opinions and orders. The caption of the case must indicate the name of Appellant and Respondent and the SWITCA Case Number, and upon request by the tribal court, the tribal court case number as well.
9. Once signed, the opinion is stamped “filed” and copies mailed, certified to the tribal court from which the appeal was taken (mail one copy of the court and additional copies for all parties). A copy of the opinion is also made in order to be included in the next volume of the SWITCA Reporter.
10. Special Note: Tribal Court Clerks are responsible for processing the tribal court record (all pleadings and papers filed with the tribal court): a) creating an original appellate file to be retained by the tribal court and the required number of duplicates\* of the appellate court file to be delivered to the Southwest Intertribal Court of Appeals immediately upon completion; b) checking the tribal court file against the docket (index) sheet that must be created and included in the appellate file, with numbered tabs separating each pleading or document, to assure all pleadings appear in the file, in reverse chronological order; c) numbering each page of the record proper and preparing a written transcript or preparing the required number of duplicates\* of any audio recordings on tape or disk of all proceedings; d) preparing a Certification of the Record on Appeal; e) filing a statement of costs and Certificate of Proof of Satisfaction; f) filing a copy of the tribal court order waiving payment of fee, if applicable; g) notifying the appellant that the record is ready and of charges payable to the tribal court for preparation, if applicable; and h) filing all subsequent pleadings and forwarding immediately a copy to the Southwest Intertribal Court of Appeals.

\* The required number of duplicate copies of the appellate file and the transcript or audio recordings on tape or disk (of all proceedings) depends on the number of appellate judges required to hear the appeal pursuant to tribal law. For most tribal courts, the lower court must send two copies of the certified appellate file (record on appeal). For tribal courts requiring a panel of three appellate judges, the lower court must send four copies of the appellate file. Please contact SWITCA to confirm the number of appellate files required to be prepared for each appellate case and for a sample of the docket (index) sheet and the formatting of the numbered tabs separating each pleading or document.