



Taking an appeal from a Family Court order to the Appellate Division

1. Obtain an appealable paper, i.e. a written order entered in the Family Court Clerk's Office (CPLR 5512 [a]), not a decision. Sometimes transcripts of bench decisions containing "so ordered" language will suffice.
2. A party must be aggrieved in order to appeal (CPLR 5511). A party is not aggrieved by:
 - (a) a judgment in their favor, even if the party disagrees with certain findings;
 - (b) an order on consent; or
 - (c) a default order.In certain cases, a party may move under CPLR 5015 (a) to vacate a default order or set aside an order entered on consent.
3. Determine if the client can appeal as of right or needs permission (Family Ct Act § 1112 [a]).
 - (a) An appeal may be taken as of right from any order of disposition entered in any proceeding under the Family Court Act and from any intermediate order in an article 10 case involving abuse or neglect.
 - (b) The Appellate Division may grant permission to appeal from any other order.
4. Confirm that the time to take an appeal (file and serve a notice of appeal) has not expired. Family Ct Act § 1113 requires a notice of appeal to be filed and served no more than:
 - (a) 30 days after service of the order upon the appellant by an opposing party or AFC; or
 - (b) 30 days from the receipt of the order by the appellant in court; or
 - (c) 35 days from the mailing of the order to the appellant by the court clerk,
whichever is earliest.
5. Explain the outcome to the client and inform them of the right to appeal and any risks involved (ILS Assigned Counsel Program Standards, 9.2.n).
6. If the client decides to appeal, take the appeal:
 - (a) Where the appeal is of right, serve and file a notice of appeal as provided for in Family Ct Act § 1115 and CPLR 5515 (1) using [templates](#) found on the ILS Statewide Appellate Support Center webpage.
 - (b) Where an appeal is available only by permission, file a motion for leave to appeal pursuant to Family Ct Act § 1112 (a), CPLR 5516, and Statewide Practice Rules of the Appellate Division 1250.4 (c) or local Department rules if they vary. The motion should be filed in the Appellate Division.
 - (c) File a certification of continued indigency and continued eligibility for assignment of counsel pursuant to Family Ct Act § 1118 using templates found on the ILS Statewide Appellate Support Center web page.
 - (d) Make a motion for a stay pursuant to Family Ct Act § 1114 if the client would suffer irreparable harm without a stay. The merits of the appeal must be explained in the stay application.

DISCLAIMER: *The ILS Statewide Appellate Support Center ("SASC") provides outlines, templates, and other resources. While every effort has been made to ensure that such materials are up-to-date, accurate, and complete, they are provided on an "as is" basis, with no express or implied guarantees of accuracy or completeness. Use of SASC resources does not create an attorney-client relationship between the user and the SASC.*