

IX. AFTER THE COURT'S DECISION

A. How will the court's decision be enforced?

It can be very challenging, and often frustrating, to try to collect money damages when you win your case, or to make sure that the other side does what the judge ordered in his or her decision. If you win your case in court, and the court awards you money, or if the court orders the other side to do or not do something, one or more of the following processes might apply:

- **"Voluntary" Compliance** Sometimes, when you win your case, the other side will simply pay the money owed, or do what the order requires them to do. If the other side does not pay, you must be *very* careful when trying to collect monies owed to you as there are laws about what you can and cannot do or say when you are collecting a debt. Know the law in this area before attempting collection.
- **Execution** If the other party does not voluntarily obey an order, you may ask the court to issue an "execution." An execution is the legal paper that allows you to enforce the judgment. Once you receive the execution you may contact your local sheriff or constable for further information. There may be a fee for services provided by the sheriff or constable.
- **Payment Hearing in Small Claims Cases** After your small claims action is decided, the court will automatically set up a payment hearing. The court will determine if the winning party has been paid, and if not, a payment schedule may be ordered. If the losing party has not paid and doesn't show up at the payment hearing, a civil warrant for his or her arrest could be issued.
- **Supplementary Process** After you win a judgment for money, if you have an execution which is unpaid, you can ask the court to schedule a hearing to find out whether the other side has the ability to pay. This hearing is called "supplementary process." It typically allows you to see how much money the other side earns and what property he or she might own. With that information, you can then ask the court to make a payment order.
- **Contempt** If the court makes an order in your favor and the other side does not comply, it may be appropriate to ask the court to enforce it by filing a complaint for contempt. In a contempt proceeding, the court has the power to take steps to try to compel the other side to obey its order. Under some circumstances, the court might even send the disobeying party to jail for failure to follow the court's order.

- **Summary Process** If you are a landlord who has won an eviction case, you must be certain to enforce your judgment in a lawful way. To do this, you will need an execution, just as you would to recover a money judgment. In summary process cases, the execution is what gives the sheriff or constable the power to physically move a tenant out of a rented home or apartment. Be aware that there are complex laws about what can and cannot be done when evicting a tenant.

ALERT!

Make sure you read and understand the complete written decision or order of the court and follow it. If you do not comply with the court's order there may be further consequences.

B. What if I am dissatisfied with the court's decision?

If you are dissatisfied with the court's decision, you may have the right to file an appeal. However, just because you don't agree with the decision does not automatically mean you have a right to appeal. You will need to do research to determine if there is a legal basis for an appeal. The other party can also appeal if it is dissatisfied with the court's decision.

Keep in mind that there are specific, detailed rules for filing an appeal. There are also strict time frames. You must file a notice of appeal within the time provided by the rules or you could lose your right to appeal. Your local Trial Court law library is a resource where you can study the applicable rules and laws. Refer to *Appendix A* for information about Trial Court law libraries.

Typically, the court that hears the appeal (referred to as the "appellate court") will only consider issues that were raised by the parties in the trial court. You cannot introduce more evidence or raise new issues in the appellate court. In making its decision, the appellate court relies on the official record of what happened in the trial court and on written arguments which present the facts and law.

C. How do I appeal the lower court's decision?

If you decide to appeal your case, the first step is to file a notice of appeal in the clerk's, register's or recorder's office of the court in which your case was heard. Deadlines for appeals come up very quickly. The deadline for filing an appeal can be as short as ten (10) days. You need to read the rules to know exactly which days are counted and

which are not to calculate when you have to file an appeal. As soon as you get a judgment, you need to find out what the deadline is for filing an appeal and where you need to file it. It is important that you read and follow the Massachusetts Rules of Appellate Procedure or other rules that may apply to your case.

D. Will the appeal affect the judgment of the lower court?

The fact that a notice of appeal has been filed does not mean that the judgment cannot be enforced. A party must ask the court to delay, or “stay”, enforcement of the judgment during the appeal in accordance with the applicable rules. This request must ordinarily be filed first in the court where the case was heard.

E. Where can I get more information?

There are resources to help you determine what standards the appellate courts use for reviewing court decisions, and what factors are typically reviewed by the appellate courts. You may want to visit your local Trial Court law library to do research about the specific issues involved in your case. Refer to *Appendix A* for information about the Trial Court law libraries.

F. What if I want to appeal and the time has expired?

In most cases, once the time period for filing an appeal has ended or any and all appeals have been decided, the matter cannot be reviewed again. One possible exception to this rule is a judgment that governs an ongoing relationship. For example, when people with children divorce, they continue to be parents. The court’s judgment in the divorce may set out the terms of visitation. If the parties’ circumstances change, for example, if one party wants to move out of state or loses a job, one or both parties can ask the court to modify the judgment.