



DEPARTMENT OF LICENSING APPEALS

Prepared by the Office of the Kitsap County Clerk

The information contained in this packet is not intended to be, nor should it be taken as, legal guidance or legal advice for your particular case. Rather, this information is intended as a brief guide to assist you with filing an appeal to the Kitsap County Superior Court of a Department of Licensing Order involving a suspension, revocation, or denial of license, privilege, or permit. For questions or advice on the unique facts and circumstances of any particular case, you should consult with a licensed attorney.

Any fees referenced in this kit are subject to change based on legislative changes, policy changes and/or administrative review.

Department of Licensing (suspension/revocation/denial of license, privilege, or permit) Appeals

RCW 46.20.308(9):

If the suspension, revocation, or denial is sustained after such a hearing, the person whose license, privilege, or permit is suspended, revoked, or denied has the right to file a petition in the superior court of the county of arrest to review the final order of revocation by the department in the same manner as an appeal from a decision of a court of limited jurisdiction.

Notice of appeal must be filed within thirty days after the date the final order is served or the right to appeal is waived. Notwithstanding RCW 46.20.334, RALJ 1.1, or other statutes or rules referencing de novo review, the appeal shall be limited to a review of the record of the administrative hearing.

The appellant must pay the costs associated with obtaining the record of the hearing before the hearing officer.

The filing of the appeal does not stay the effective date of the suspension, revocation, or denial.

A petition filed under this subsection must include the petitioner's grounds for requesting review. Upon granting petitioner's request for review, the court shall review the department's final order of suspension, revocation, or denial as expeditiously as possible. The review must be limited to a determination of whether the department has committed any errors of law.

The superior court shall accept those factual determinations supported by substantial evidence in the record: (a) That were expressly made by the department; or (b) that may reasonably be inferred from the final order of the department. The superior court may reverse, affirm, or modify the decision of the department or remand the case back to the department for further proceedings. The decision of the superior court must be in writing and filed in the clerk's office with the other papers in the case. The court shall state the reasons for the decision.

If judicial relief is sought for a stay or other temporary remedy from the department's action, the court shall not grant such relief unless the court finds that the appellant is likely to prevail in the appeal and that without a stay the appellant will suffer irreparable injury. If the court stays the suspension, revocation, or denial it may impose conditions on such stay.

Department of Licensing Appeals—Procedural information:

Filing fee is \$240.00 (cash or money order payable to Kitsap County Clerk), and paid at time of filing the Notice of Appeal to Superior Court.

A separate fee is payable to the Department of Licensing for preparation of the administrative record. Refer to your instructions/information sent by the Department for the fee amount.

A copy of the Notice of Appeal to Superior Court must be mailed to the Department (and/or possibly to the Attorney General's Office)— Refer to your instructions/information sent by the Department for who to serve and the proper delivery/ mailing address(es).

In many cases the Notice of Appeal must be filed AND the Department must be served with their copies within the 30-day window—refer to the instructions/information sent to you from the Department.

Once you have filed and served the Notice of Appeal, wait for the Department's (via the Attorney General's Office) Notice of Appearance and for the Administrative Record to be filed with the Clerk's Office.

Once the Department has appeared and the Administrative Record has been filed, you can schedule the review hearing by completing the Note for Trial Setting form. By completing this form, you will set an appointment (Fridays at 9:00 a.m.) for the parties to meet with the Court Scheduler and schedule the review hearing. File the original form at the Clerk's Office and serve/mail a copy to the Assistant Attorney General two weeks in advance of appointment date. You should, but do not have to attend the meeting with the Court Scheduler. If you do not attend, notice of the review hearing date will be mailed you at the address you listed on the Note for Trial Setting form.

The Order Setting Trial Date/Administrative Hearing and Case Event Schedule is the form that you will receive from the Court Scheduler. It lists the date, time, and length of your review hearing. It also lists the due dates for each party's brief(s). If you filed the appeal, you are the Petitioner, and your trial brief must be filed at the Clerk's Office, with a copy delivered to Room 210 (bench copy), and a copy delivered to opposing counsel (the Assistant Attorney General) 14 days before the review hearing.

The Department must have their brief filed and copies delivered 7 days before the review hearing.

A reply brief, should you choose to prepare one, is strictly for responding to issues in the Department's brief. Your reply brief must be filed at the Clerk's Office, with a copy delivered to Room 210 (bench copy), and a copy delivered to opposing counsel two (2) days before the review hearing.

As you prepare your brief(s) and oral argument, remember that your appeal is limited to a review of the administrative record (you will not be able to introduce new evidence) and to a determination of whether the Department has committed any errors of law. The burden is yours to prove that the Department's decision(s) was/were wrong.

Prepare your trial brief according to Kitsap County Local RALJ rule (KCLRALJ) 7.3. Additional help on brief writing can be found online at: http://www.courts.wa.gov/appellate_trial_courts/ (look for the link to "Brief Writing -- Best Practices")

At the review hearing, each side will provide "oral argument" (a verbal presentation of the facts and arguments that support your position). There is usually a limit on how much time you will have to make your oral argument, so make your oral argument brief, clear, respectful, and organized. You may print and read your oral argument to the Court, if necessary. Be sure to practice giving your oral argument before the trial date.

Once the Court has heard from both sides, they will make a verbal decision. The Court may affirm (or uphold) the Department's decision, reverse the decision, and/or modify the decision fully or in part, and remand (send back) the case to the Department for any further action, if necessary.

A written Order confirming the verbal decision must be signed by the Court for the appeal to be completed; if the parties have prepared an Order, it may be signed on the day the decision is given, or a separate hearing may need to be scheduled to enter the written Order.



SUPERIOR COURT OF WASHINGTON
COUNTY OF KITSAP

Appellant,
vs.
State of Washington Department of
Licensing

Respondent.

NO. _____

**NOTICE OF APPEAL TO SUPERIOR
COURT (NTASUP)**

(Name) _____ seeks review by the Kitsap County
Superior Court of the (Title of Decision/Order) _____

_____ entered on (Date) _____

for the following reason(s) (list errors of law committed by the Department): _____

A copy of the decision is attached.

Date: _____

Signature of Appellant

Address

City/State/Zip

Name and address of agency whose action is at issue:

Name of Agency

Address

City/State/Zip



**SUPERIOR COURT OF WASHINGTON
COUNTY OF KITSAP**

In re:

Appellant,

and

Respondent.

No. _____

**DECLARATION OF MAILING
(DCLRM)**

Name of Declarant: _____

On (date) _____, I mailed a true and correct copy of the Notice of Appeal to Superior Court to each of the parties listed below by placing a correctly addressed envelope with the documents enclosed, with sufficient postage affixed, in the United States mail to:

Name

Name

Address

Address

City/State/Zip

City/State/Zip

I declare under penalty of perjury under the laws of the State of Washington that the above statement is true and correct.

Signed at (City and State) _____ on (Date) _____.

Signature of Declarant

Print or Type Name



EXHIBIT A

**Superior Court of Washington
County of Kitsap**

(Plaintiff/Petitioner),
vs.

(Defendant/Respondent).

No. _____

NOTE FOR TRIAL SETTING

**TRACK I – STANDARD CIVIL
TRACK II – COMPLEX LITIGATION
(NTTRDK)**

TO THE CLERK OF THE COURT AND TO:

Please take notice that this case will be placed on the trial setting docket for assignment of trial on Friday, _____, 20_____.

1. Nature of Case: Administrative Law Review: DOL suspension/revocation/denial
2. A jury has has not been demanded.
3. Estimated length of trial: _____ hours _____ days.
4. Preferred trial dates: _____
5. Dates unavailable for trial: _____

CHECK APPROPRIATE SQUARES:

- I have contacted all counsel and they agree the trial may be set anytime after _____ (date).
- I have contacted all counsel and am unable to obtain agreement on trial dates. The Court will set the trial date.
- No contact has been made with other counsel/party, but all have been served with a copy of this notice in time to allow a response within 10 days.

I HEREBY REPRESENT TO THE COURT THAT THIS CASE IS AT ISSUE AND SHOULD BE SET FOR TRIAL.

- Plaintiff seeks relief other than a money judgment.
- Defendant's counter or cross claim seeks relief other than a money judgment.

Any party not in agreement with the information or estimates given in Note for Trial Setting shall file and serve at least three (3) days prior to the trial setting date a counter notice or written objection to setting. If an objection to setting is filed, counsel shall appear on the setting day before the civil motions judge, to argue the objection.

Trial will be set only if this form is filled out completely.

DATE: _____

SIGNED _____

Lawyer for: _____

Address: _____

Telephone Number: _____

List the name, address and phone number of all attorneys or parties who were provided notice:

**SUPERIOR COURT OF WASHINGTON
COUNTY OF KITSAP**

In re:

Appellant,

and

Respondent.

No. _____

**DECLARATION OF MAILING
(DCLRM)**

Name of Declarant: _____

On (date) _____, I mailed a true and correct copy of the Note for Trial Setting to each of the parties listed below by placing a correctly addressed envelope with the documents enclosed, with sufficient postage affixed, in the United States mail to:

Name

Name

Address

Address

City/State/Zip

City/State/Zip

I declare under penalty of perjury under the laws of the State of Washington that the above statement is true and correct.

Signed at (City and State) _____ on (Date) _____.

Signature of Declarant

Print or Type Name

KITSAP COUNTY LOCAL RULES FOR APPEAL OF DECISIONS OF COURTS OF LIMITED JURISDICTION

KCLRALJ 7.3 - FILING AND CONTENT OF BRIEFS:

Each party shall file a brief pursuant to the requirements of RALJ 7.1 and 7.2.

- (a) Content of Appellant's Brief. The brief of the appellant should contain under appropriate headings and in the order here indicated:
- (1) Title Page. A title page, which is the cover, naming the Superior Court to which the appeal is taken and identifying: the cause number on appeal; the names of the parties; the title of the brief (for example: Brief of Appellant); and the name of the party filing the brief or the attorney filing it on his/her behalf.
 - (2) Tables. A table of contents, with page references, and a table of cases (alphabetically arranged), statutes and other authorities cited, with references to the pages of the brief where cited.
 - (3) Assignments of Error. A separate concise statement of each error a party contends was made by the trial court, together with the issues pertaining to the assignments of error.
 - (4) Statement of the Case. A fair statement of the facts and procedure relevant to the issues presented for review, without argument. Reference to the record must be included for each factual statement.
 - (5) Argument. The argument in support of the issues presented for review, together with citations to legal authority and specific references to those portions of the record/transcript relevant to the issues argued.
 - (6) Conclusion. A short conclusion stating the precise relief sought.
 - (7) Appendix. An appendix to the brief if deemed appropriate by the party submitting the brief.
- (b) Content of Respondent's Brief. The brief of respondent should conform to section (a) and answer the brief of appellant. A statement of the issues and a statement of the case need not be made if respondent is satisfied with the statement in the brief of appellant. If a respondent is also seeking review, the brief of respondent must state the assignments of error and the issues pertaining to those assignments of error presented for review by respondent and include argument of those issues making specific reference to relevant portions of the record/transcript.
- (c) Reply Brief. A reply brief should be limited to a response to the issues in the brief to which the reply brief is directed.
- (d) Failure To Include Information. Failure to provide specific references to those portions of the transcript relevant to argument(s) on appeal may result in the dismissal of the appeal or the imposition of terms. References to the entire transcript or electronic record will not be acceptable or considered by the court.