

Noting Your Appeal Isn't Always So Simple

A mere misstep in timing can get an appeal dismissed, so litigators must be extremely careful.

So you thought the trial went well, but somehow the judge did not see things your way. Not it's time to decide whether to appeal or move on.

If you want time to consider an appeal, you must first preserve the right to appeal. This is done by filing a notice of appeal. The rules and case law of the relevant jurisdiction will control the details, of course, but typically this filing must occur within 30 days of the entry of a final judgement.

Sounds relatively simple and straightforward, right? Preparing a notice of appeal is generally a simple ministerial act of informing the court that you intend to appeal and providing basic related information. Identifying and ensuring that the trial court has entered a final judgment, however, is sometimes neither simple nor straightforward. If you don't pay close attention, you just might find your appeal dismissed.

If that happens, you may be left with a trial verdict that your client does not like, and you—the lawyer responsible for meeting filing deadlines—may face, at the very least, an awkward conversation with your client (and perhaps even with bar counsel and your professional liability insurer).

I have had more than one opponent's appeal dismissed by the Maryland and D.C. appellate courts because the notice of appeal was filed either too early or too late. And though my experience—and this article—is largely derived from Maryland law, the potential pitfalls identified are not endemic to Maryland alone.

...

DOWNLOAD FULL ARTICLE >