

COURT OF APPEAL GUIDELINES FOR PREPARATION OF CIVIL APPEAL RECORD BOOKS

What is an appeal record book?

An appeal record book is required for all civil appeals. An appeal record book is not required to be prepared for a civil application. For civil applications an indexed paginated bundle of documents is to be prepared in accordance with Practice Direction 26 of 1999 as amended by Practice Direction 6 of 2002.

The Court of Appeal Practice Direction 26 of 1999 states that an appeal record book contains material from the primary court hearing and includes a transcript of evidence, exhibits and, where appropriate, any material reports and records or other material directly relevant for the consideration and determination of the appeal hearing.

Preparation of the appeal record book must commence immediately after the notice of appeal has been filed in the Court of Appeal Registry. It is important that the deadline for the preparation of the record book is met as the matter may be listed for hearing shortly after the date on which the record book is due to be submitted. Significant delay in the preparation of the record book may lead to the matter being struck out.

Applicable Rules and Practice Direction

Rule 758 and 759 *Uniform Civil Procedure Rules* 1999 and Court of Appeal Practice Direction 26 of 1999 are applicable.

The appeal record book's index

Written outlines of argument should be exchanged and the index to the appeal record book agreed upon by all parties to the appeal before the appeal record book is finally prepared.

Within ten weeks of filing the notice of appeal, the appellant must settle and lodge a draft index for the appeal record book with the Court of Appeal Registry. The index must accurately and concisely describe the nature of each and every document, including any annexures and/or exhibits attached to the document. Identical documents do not have to be included in the appeal record book more than once, although a reference to the relevant page should be included in the index. Transcript and exhibits to be included in the record book should generally be included in event order; that is, in the order that they happened.

A sample appeal record book index is included in Annexure A. Please note the setting out of exhibits to affidavits and transcript references.

What to include in the appeal record book

Only those documents from the primary court and other documents which are

directly relevant to the issues on appeal are to be included in the appeal record book.

The Court may make a costs order against any party who is responsible for the inclusion of irrelevant material in the appeal record book.

A copy of the **judgment/s** or **order/s** from the primary court (and any variations to the order/s) and a copy of the **notice of appeal** must be included. A copy of the **reasons for judgment** from the primary court must also be included in the appeal record book. If the parties do not wish to include a copy of the reasons for judgment, the onus is on the parties to show why such reasons should not be included. **Written outlines of argument** in relation to the appeal must not be included in the appeal record book. See Annexure C, generally, for the types of material to include.

Page numbering of appeal record books

Every page must be numbered clearly and consecutively at the bottom of each page and centred. Pages must be single-sided.

Binding of appeal record books

Volumes should be no more than 30 mm in thickness (approximately 250 pages). There can be more than one volume, however multiple small books will not be accepted. For example, 4 books each containing 60 pages should be bound into one book.

Only Velobind or like binding will be accepted. Appeal record books bound with spiral binding will not be accepted. Binding must be flat and secure and not obscure documents or their contents, particularly along the left-hand margin. The court offers a binding service using Velobind. This service is charged at \$7.00 per volume.

Cover sheet

A cover sheet must appear at the front of each volume of the appeal record book.

The cover sheet should identify the Court of Appeal file number, the names and status of each party in the Court of Appeal and in the primary court (see the heading in Annexure A for example), the name of each party's legal representative and their business address, telephone and fax numbers. The cover sheet should be on a white or cream cardboard cover. Plastic covers should not be used. A sample cover sheet is contained in Annexure B.

How many copies are required?

Four copies of the appeal record book must be filed with the Appeals Registry, and one copy must be served on every other party to the appeal.

Filing of appeal record book

The appeal record book must be filed by the appellant within twelve weeks of filing the notice of appeal.

The registrar may refuse the filing of appeal record books which fail to comply with these guidelines and Court of Appeal Practice Direction 26 of 1999.

Who prepares the appeal record book

In all cases, other than where an appellant has been granted an exemption, it is the responsibility of the appellant to prepare the Appeal Record Book.

As the registry no longer offers an Appeal Record Book preparation service the appellant will need to prepare the Appeal Record Book. A service similar to that previously provided by the registry is available from Law in Order Document Management and Diskcovery Information Management Solutions. There may be others offering the same service. In cases where a party has been granted an exemption, the Court of Appeal registry will prepare the book.

Application for an order exempting payment of the appeal record book

An appellant or cross-appellant, due to their financial position, may apply for an order seeking exemption from paying for the appeal record book. An application for exemption will not be determined until the draft index has been settled between the parties and filed in the Court of Appeal Registry. To apply for an exemption, the appellant or cross-appellant must file in the Court of Appeal Registry an affidavit annexing all relevant information and including in that affidavit an undertaking to pay for the preparation of the appeal record book if the appellant is successful. For further explanation, please refer to the information sheet, *"How to obtain an exemption order in the Court of Appeal"*, which is available from the Court of Appeal Registry.

Where else can I go for information about appeal record books and civil appeals and civil applications

- * Court of Appeal Practice Direction 26 of 1999
- * *Uniform Civil Procedure Rules* 1999 (particularly Chapter 18)
- * *Supreme Court Act* 1991 and 1995
- * Queensland Courts Internet Site (<http://www.courts.qld.gov.au>)
- * Court of Appeal Registry
 - Telephone: 07-3247 4315
 - Fax: 07-3247 5339
 - DX: 40168
 - Brisbane Uptown
 - Postal Address: PO Box 15167
 - CITY EAST QLD 4002
 - Delivery Address: Ground Floor, Supreme Court
 - Law Courts Complex, 304 George Street
 - BRISBANE QLD 4000
- Court of Appeal Information Sheets (available from the Court of Appeal Registry), for example *Information for Self Represented Persons about Hearings before the Court of Appeal, Civil Applications, Civil Appeals*, and *"How to obtain an exemption order in the Court of Appeal"*.

ANNEXURE A
SAMPLE APPEAL RECORD BOOK INDEX

IN THE COURT OF APPEAL

SUPREME COURT OF QUEENSLAND

Appeal No. XXXX of 2000

BETWEEN:

HOMER SIMPSON AND MARGE SIMPSON
(Plaintiff)

Respondent

-and-

SPRINGFIELD REAL ESTATE
(First Defendant)

First Appellant

-and-

SPRINGFIELD REALTY PTY LTD
(Second Defendant)

Second Appellant

INDEX TO RECORD

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ANNEXURE B

SAMPLE APPEAL RECORD BOOK COVER SHEET

IN THE COURT OF APPEAL

SUPREME COURT OF QUEENSLAND

Appeal No. XXXX of 2000

BETWEEN:

HOMER SIMPSON AND MARGE SIMPSON
(Plaintiff) Respondent

-and-

SPRINGFIELD REAL ESTATE
(First Defendant) First Appellant

-and-

SPRINGFIELD REALTY PTY LTD
(Second Defendant) Second Appellant

RECORD OF PROCEEDINGS

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Facsimile: (07) 5543 2151

Contact: Mr R.M. Smith

Contact: Mr C. Carmichael

ANNEXURE C

SEQUENCE OF DOCUMENTS TO BE INCLUDED IN THE APPEAL RECORD BOOK

This should be treated as a GUIDE only. As each appeal has its own characteristics, it may not be necessary for each of the documents referred to below to be included.

List One relates to documents filed under the old court rules (i.e. Prior to the commencement of the *Uniform Civil Procedure Rules* on 1 July 1999)

List Two relates to documents filed after 1 July 1999 after the commencement of the *Uniform Civil Procedure Rules*.

List One

Supreme Court Trial

1. Transcript of Evidence
2. Affidavits and Exhibits (if any)
3. Court Exhibits (if any)
4. Writ of Summons
5. Pleadings/Amended Pleadings:

(a)	Statement of Claim
(b)	Defence
(c)	Reply (if any)
(d)	Particulars (if any)
6. Reasons for Judgment
7. Order/Judgment
8. Notice of Appeal

District Court Trial

1. Transcript of Evidence
2. Affidavits and Exhibits (if any)
3. Court Exhibits (if any)
4. Complaint/Amended Complaint
5. Entry of Appearance and Defence/Amended:

(a)	Reply, including Counterclaim (if any)
(b)	Particulars (if any)
6. Reasons for judgment

7. Order
8. Notice of Appeal

Interlocutory Summons

1. Transcript of Evidence (if any)
2. Affidavits and Exhibits
3. Court Exhibits (if any)
4. Writ of Summons/Plaint
5. Summons
6. Reasons for judgment (if any)
7. Order
8. Notice of Appeal

Originating Summons/Applications, Petitions

1. Transcript of evidence (if any)
2. Affidavits and Exhibits
3. Court Exhibits (if any)
4. Originating Summons/Application or Petition
5. Reasons for judgment (if any)
6. Order
7. Notice of Appeal

List Two

Supreme Court Trial

1. Transcript of Evidence
2. Affidavits and Exhibits (if any)
3. Court Exhibits (if any)

4. Claim
5. Pleadings/Amended Pleadings: (a) Statement of Claim
(b) Defence
(c) Reply (if any)
(d) Particulars (if any)
6. Reasons for Judgment
7. Order/Judgment
8. Notice of Appeal

District Court Trial

1. Transcript of Evidence
2. Affidavits and Exhibits (if any)
3. Court Exhibits (if any)
4. Claim/Amended Claim
5. Entry of Appearance and Defence/Amended: (a) Reply, including
Counterclaim (if any)
(b) Particulars (if any)
6. Reasons for judgment
7. Order
8. Notice of Appeal

Interlocutory Applications

1. Transcript of Evidence (if any)
2. Affidavits and Exhibits
3. Court Exhibits (if any)
4. Claim
5. Application
6. Reasons for judgment (if any)
7. Order
8. Notice of Appeal

Applications

1. Transcript of evidence (if any)
2. Affidavits and Exhibits
3. Court Exhibits (if any)
4. Application
5. Reasons for judgment (if any)
6. Order
7. Notice of Appeal