

Appeal Voucher Q & A

Q: Am I required to meet with my client on appeal?

A: Pursuant to Section 7.2 of the Rules of the Chief Judge, the AFC must consult with and advise the child to the extent and in a manner consistent with the child's capacities, and have a thorough knowledge of the child's circumstances. See *Matter of Mark T. v Joyanna U.*, 64 AD3d 1092 (3d Dept 2009); *Matter of Jennifer V.V. v Lawrence W.W.*, 241 AD3d 622 (3d Dept 2020). If you do not meet with your client, you are required to submit an affirmation explaining why you did not meet with your client. Encountering difficulty in scheduling a client meeting does not excuse you from this duty.

Q: How do I voucher for an appeal?

A: You will complete a voucher for appeal on the Attorneys for Children Internet Voucher System (AFCIV).

Q: Can I just combine the lower court work with the work completed on appeal?

A: No. You must complete two separate vouchers. One for the work completed at the Family Court or Supreme Court level and one for the work completed on appeal.

Q: Can I combine Appellate Division work with Court of Appeals work?

A: You may include time spent on a motion for leave to appeal to the Court of Appeals on your Appellate Division voucher. If you prefer, you can voucher the time spent on the Appellate Division matter when the decision is released, and then submit a supplemental voucher for time spent on the motion for leave. If the motion for leave is granted, you will need to start a new voucher for the Court of Appeals matter. Vouchers for work done on Court of Appeals matters should be submitted to the AFC Program. The Court of Appeals decision must be submitted with your voucher.

Q: What court should I select for the appeal voucher?

A: You will select the "4th Dept. Appellate Division" as your court on AFCIV.

Q: The voucher system asks for a case number - what should I input for my appeal voucher?

A: For an appeal voucher, enter the CAF (or CA) Number. This is the Appellate Division's docket number.

Q: What proceeding code applies to appeals?

A: All appeal vouchers should have AP - Appeal for their proceeding code. If you do not select the proper proceeding code, the voucher will be returned to you (the AFC Program cannot fix it on our end), which will result in delayed payment.

Q: The appeal isn't scheduled for Oral Argument for 6 months, can I submit an interim voucher?

A: No. You cannot submit an interim voucher on appeal. You must wait until after Oral Argument, and receipt of the Appellate Division decision.

Q: What if I am unable to attend Oral Argument?

A: Per Guidelines for AFC in the Fourth Department, AFC are expected to attend oral argument. If you do not attend, you will need to attach an affirmation through AFCIV explaining why you were unable to attend Oral Argument.

Q: How should I code my time for Oral Argument?

A: The time spent for Oral Argument should be coded as in-court time. In-court time is defined as time spent in the presence of the justices.

Q: How do I bill the time spent waiting for Oral Argument?

A: Time spent waiting for Oral Argument (outside the presence of the justices) should be coded as an H Code, Out-of-Court All-Other.

Q: Can I combine activity codes? For example, can I combine the time I spent researching case law and drafting my brief?

A: No. You cannot combine activity codes. You must break down activities by proper codes. For example, the time spent researching would be coded as an F Code, Legal Research. The time spent drafting your brief would be coded as an E Code, Legal Drafting. *For further clarification please refer to the AFCIV Reimbursement Guidelines, pg. 13.*

Q: What type of activity description is required?

A: If you are billing an A Code, Review of Documents, you must specify what you are reviewing, e.g., Review Notice of Appeal. If you are billing a D Code, Phone/Correspondence you must specify who you are corresponding or speaking with or what you are composing, e.g., phone call with Petitioner Mother or draft letter to Petitioner's Attorney. Please specify your research topics when billing an F Code, Legal Research. *For further clarification please refer to the AFCIV Reimbursement Guidelines, pg. 13.*

Q: Can I bill for travel, mileage, tolls and parking on appeal?

A: Yes, you can bill for your travel and mileage costs on appeal but you must specify where you are traveling to and from. You must state the office address you are traveling from, and at a minimum, the street name, town and zip code you are traveling to. You

must submit receipts or a copy of your E-Z Pass statement for Thruway tolls. Receipts are required for parking fees over \$5.00.

Q: There is a cap on travel/mileage to and from court. Does this apply to appeals?

A: The cap on travel/mileage does not apply to travel to and from Oral Argument.

Q: Can I be reimbursed for copies and postage on appeal?

A: Yes. We reimburse for copies at the rate of \$.15 per page without a receipt. You must specify in the activity description the number of copies and what document you are copying. Similarly, you must specify what you are mailing and the postage fee. Receipts must be submitted for postage over \$15.00.

Q: Can I be reimbursed for overnight mailing expenses?

A: As a general rule, you cannot be reimbursed for overnight mailing expenses. The exception would be if there is a very short filing deadline, e.g., on a motion for leave to appeal.

Q: Can I be reimbursed for printing of briefs and records, and/or filing and service of briefs and records by a printing service?

A: No. The AFC Program does not pay for fees to professionally prepare and/or file and serve records and briefs. The rules of the Appellate Division expressly allow records and briefs to be reproduced by “any method that produces a permanent, legible, black image on white paper...” (e.g., simple copying). “Binding” can be stapling (see 22 NYCRR 1250.6 [b]; [c]). Filing and service can be effected by mailing with the U.S. Postal Service or by use of a delivery company such as FedEx.

Q: A party has taken an appeal, and so has the child. Who pays for the cost of the record?

Under the statewide Practice Rules of the Appellate Division, per 22 NYCRR 1250.9, on concurrent appeals from a single order or judgment, or on cross appeals, the appealing parties shall file a joint record and shall share equally the cost of the record.

Accordingly, if you are appealing as AFC, and another party is also appealing, please contact the other party and make arrangements to split the cost of the record, including transcripts. Pursuant to the AFCIV Manual and Reimbursement Guidelines, transcript costs are paid by the AFC Program directly to the stenographer or transcriber. The AFC should not pay the stenographer or transcriber. Please see page 10 of the Reimbursement Guidelines for more information, including the rate for transcript preparation. **Please advise the other party that the AFC Program does not pay for fees to professionally prepare and/or file and serve records and briefs.**

Q: I have entered all of my time on AFCIV and am ready to submit my voucher. What do I indicate for disposition?

A: In the disposition section, please explain the outcome of the appeal, e.g., Family Court Order Affirmed.

Q: I was able to submit and print my voucher on AFCIV, where do I send it?

A: Send your voucher with receipts (e.g., postage over \$15.00, parking over \$5.00, and tolls) and any required affirmations directly to the Office of Attorneys for Children at:

Office of Attorneys for Children
Appellate Division, Fourth Department
50 East Ave.
Rochester, New York 14604
Attention: Deputy Director, Adam Oshrin

Q: Along with the voucher, what else do I need to send to the Office of Attorneys for Children?

A: Please make sure to sign and date the voucher then send the original voucher, with a copy of **YOUR BRIEF** and a copy of the **APPELLATE DIVISION DECISION**. If you do not enclose your brief and the Appellate Division decision with your voucher, your voucher will be returned to you, which will result in a delay in processing and payment.