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Appeals in County Court

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Agenda

- Perfection of Appeals
- Writs of Procedendo?
- CDL Appeals
- Eviction Appeals
- JP/Clerk Relationship v. County
Judge/Clerk Relationship

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Perfection of Appeals – Civil Cases

- Civil Cases (including Evictions)
 - Appeal Bond
 - Cash Deposit in Lieu of Bond
 - Statement of Inability
- Is the bond amount the same in evictions and other civil cases?
- Also, \$54 filing fee must be paid to justice court for filing the appeal!

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Rule 506.1

- ***Non-eviction civil case***
 - Plaintiff bond is \$500
 - Defendant bond is double the judgment
- Nelly files a small claims case and the defendant Rose files a counterclaim. The court awards Nelly nothing, and awards Rose \$3,500. How much should the bond be?

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Perfection of Appeals – Eviction Cases

- Appeal Bond or Cash Deposit in Lieu of Bond
 - Judge determines bond amount based on the possible damages for denying possession during the appeal – Rule 510.9(b); 510.11.
- Statement of Inability
- More factors to consider here that we will get into shortly!

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Extra Step in Civil Appeals – Rule 143a

- Have to pay filing fees (or have Statement of Inability on file) within 20 days of notification from county court to do so.
- If they do not do so, case is sent back to justice court and proceeds as if no appeal ever happened.
- What if the county court never notifies the appellant, but sends it back to your court anyway?

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Perfection of Appeals – Repair & Remedy

- No bond is required, simply a notice of appeal!
- However, do have to pay the costs in the county court per Rule 143a.

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Perfection of Appeals – Criminal

- Appeal Bond – no less than twice the fine and costs, never less than \$50 (CCP Art. 45.0425)
- What if the Defendant Can't Afford the Appeal Bond?

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Unsure if Perfected?

- If clearly is not perfected, no need to send the case up
- However, if there is an argument that could be made, best to send the case to the county court to let the appellate court decide.
 - Fine to notate on the file that there is a possible jurisdictional issue/defect

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Writ of Procedendo

- An order from an appellate court for the original court to “proceed” with its original judgment.
- Why is this a problem when used by a county court to tell a justice court to proceed with its judgment in a case with a perfected appeal?
- What should you do if you receive one of these from a county court?

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CDL Appeals

- Colt is a CDL driver and is charged with unsafe lane change in a justice court.
- Is he eligible for deferred disposition or DSC?
- What if he is convicted in justice court and appeals to county court, can the county court grant deferral?

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CCP Art. 42.111

If a defendant convicted of a misdemeanor punishable by fine only appeals the conviction to a county court, on the trial in county court the defendant may enter a plea of guilty or nolo contendere to the offense.

If the defendant enters a plea of guilty or nolo contendere, the court may defer further proceedings without entering an adjudication of guilt ***in the same manner as provided for the deferral of proceedings in justice court.***

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Eviction Appeals

- Eviction appeals are one of the trickiest issues that justice courts face!
- Question 1: How much is the appeal bond going to be?
 - Must be included in the judgment for possession in residential evictions for nonpayment (Prop. Code Sec. 24.00511)

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Eviction Appeals – Question 2

- Is the eviction a nonpayment of rent eviction?
- If so, the tenant must be ordered to pay one month's rent into the court registry when they appeal with an appeal bond or Statement of Inability.

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Which of the following are evictions for nonpayment of rent?

- Tenant paid rent but later than allowed under the agreement, paid before receiving NTV
- Tenant paid rent after NTV ran out but before filing suit
- Landlord isn't seeking the owed rent, but wants to evict the tenant b/c they didn't pay on time
- Tenant's lease expired on May 31, landlord demanded to pay June rent or vacate, tenant did neither.
- Tenant paid rent, but not the late fees that were owed.

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For More

- Please see the TJCTC Module on Eviction Appeals for more on the process, including what happens if an appeal bond or Statement is contested.
- <https://www.tjctc.org/onlinelearning/selfpacedmodules.html>

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Evictions in the County Court

- During the appeal process as rent becomes due under the rental agreement, the defendant must pay the designated amount into the county court registry within 5 days of the rental due date under the terms of the rental agreement.
- The county clerk must docket the case and must immediately notify the parties of the date of receipt of the transcript and the docket number of the case. The notice must advise the defendant that it must file a written answer in the county court within 8 days if one was not filed in the justice court.

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Default in County Court?

- What should happen if the landlord fails to appear for the hearing in the county court? What about the tenant?

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Differences
in JP/Clerk
and
County
Judge/Clerk
Relationship

What are some reasons why
these relationships are different?

Are there any similarities?

What are the impacts of the
differences?

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Current Issues

- What other issues are you seeing when dealing with appeals to county court?

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Tips and Tricks

- What are some ways to develop a healthier relationship with your county court?

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Questions?

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