

order.⁵ You must have one of these appealable orders before you can appeal.

A judgment is the final determination of the rights of the parties in an action.⁶ A final order is defined in 12 O.S. §953 as an order affecting a substantial right in an action when the order determines the action and prevents a judgment.⁷ A final order is also one in a multi-party or multi-claim case which disposes of fewer than all of the claims or parties, but where the order expressly states that there is no just reason for delay and expressly directs the filing of a judgment.⁸ An interlocutory order appealable by right is one which is listed in 12 O.S. §§952 (b)(2) or 993, or in Okla.Sup.Ct.R. 1.60.

A thorough discussion of whether an order is appealable is beyond the scope of this article. If you are not sure whether an order is appealable, it is better to appeal. If an appeal is dismissed for lack of an appealable order, you can always appeal later, but if an order is final, and you don't appeal within 30 days, you will lose your right to appeal. If an order is an interlocutory order appealable by right, or a certified interlocutory order, you can always appeal that order in a timely and properly brought appeal after judgment.⁹

An appealable order must also be in proper form. The form requirements are set forth in 12 O.S. §696.3. An order prepared in compliance with §696.3 is a jurisdictional prerequisite to the commencement of an appeal.¹⁰ Section 696.2 (D) also lists some documents which are not in proper form, such as court minutes, verdicts, letters from the judge, etc. If you file an appeal from an order which is not in proper form, you will receive an order from the Supreme Court, which will direct you to obtain such an order within a certain time deadline.

OTHER TIME-RELATED PITFALLS

There are several other time-related pitfalls and common mistakes in appellate practice, which are listed below:

If your client wants to file a counter-appeal from the same order that the appellant has appealed, the counter-petition in error must be filed within **40 days** after the date of the order appealed from.¹¹ Thus, if you wait until the response to the petition in error is due, which is 20 days after the petition in error is filed, you may be too late to file a counter-appeal.

If your client has an appeal from a judgment pending, and wants to appeal from a post-

judgment order granting or denying an attorney's fee and/or costs, an amended petition in error may be filed in the pending appeal, but it must be filed within **30 days** of the filing of the post judgment order.¹²

In appeals from interlocutory orders appealable by right, all time deadlines are shortened. The notice of completion of record is due within **60 days** of the filing of the order appealed from (not within 60 days of the filing of the appeal).¹³ The appellant's brief in chief in such appeals is due in **30 days**, the appellee's answer brief in **20 days** thereafter and the appellant's reply brief in **10 days** after the filing of the answer brief.¹⁴

Appeals from orders in juvenile cases also have shortened deadlines.¹⁵

Petitions for *certiorari* to seek review of an opinion of the Court of Civil Appeals must be filed within **20 days** after the date of the filing of the Court of Civil Appeals opinion.¹⁶

PITFALLS IN DESIGNATING AND COMPLETING THE RECORD ON APPEAL

Inherent in a decision to appeal from a trial court's order or judgment is the process of designating a record. All parties are required to file either a designation or counter-designation of record.¹⁷ While this paperwork is initially filed with the district court clerk, a copy must also be filed with the clerk of the Supreme Court.¹⁸ Parties often forget the latter.

Introduction

The purpose of an appeal is to correct legally-cognizable errors made by the trial court in deciding a case. This sounds simple enough but inherent in this concept is the idea that an appeal is not an opportunity to retry a case. The concept further restricts an appellant to designate only items which were considered by the trial court in deciding the case before it. Parties are sometimes inclined to include in their designations items from earlier or related cases which were not part of the record the trial court relied upon to decide the case from which the present appeal is being brought. Do not do that. It is axiomatic that materials not before the trial court cannot be the bases for mistakes allegedly made.¹⁹

Finally, always remember that it is the *appellant* who is responsible for seeing that the designated and counter-designated record on appeal is timely completed.²⁰ Often, attorneys