

## TOP 20 APPELLATE TIPS AND POINTERS

1. Read and comply with the Court's rules. Even if you think you know what, when, where and how to file and serve papers, read the relevant sections of the Rules and use them as a checklist before you do so.
2. Be aware of deadlines - If you are unable to meet a filing deadline, request an extension **before** your time to perfect expires, and make the request properly by motion or letter application.
3. Make sure that you have obtained transcripts from all proceedings and copies of all exhibits before you start to compile the record or write the brief- Review the Court's file and the Clerk's minutes. Verify that you have a transcript for every day appearances were noted and that you have all the exhibits offered and admitted and all the pleadings or motion papers served and filed.
4. Do **not** attach documents to the brief that are **outside** the record - the Court will **not** consider them.
5. Make specific references to the record in your brief by using page citations.
6. Do not attach confidential documents, such as a PSR in a criminal case or an *in camera Lincoln* hearing transcript in a Family Court appeal, to the brief or appendix. A confidential record must be submitted separately to the Court.
7. Always use the Appellate Division Docket Number ("KA", "KAH", "CAF") on all documents submitted to the Court.
8. Use official case citations - do not cite to New York Supp., etc., if there is an official citation.
9. Use "jump" citations to the specific page of a decision, particularly when citing a lengthy decision.
10. Include a table of contents in the brief and record.
11. Work with opposing counsel on a stipulation to the record - as soon as possible. Set a deadline for execution of a stipulation; move to settle the record if the deadline is not met.

12. Include the **original** stipulation or order settling the record, not a copy, in the filing with the Court
13. Include proof of service of copies of the brief, appendix or record on all necessary parties, including your client.
14. Do not address multiple issues under one legal point - An exception would be when issues of ineffective assistance of counsel or prosecutorial misconduct are raised; the instances of alleged misconduct will need to be addressed separately.
15. Focus on preserved issues - Remember, however, that the Court has "interest of justice" discretion, and can reach un-preserved issues under the proper circumstances.
16. Think long and hard before submitting a *Crawford* motion and brief.
17. Know the difference between "that" and "which" (see Strunk and White, *Elements of Style*, 3<sup>rd</sup> edition, p. 59; C. Edward Good, *Mightier than the Sword*, pp. 93-98). [In other words, pay attention to grammar and syntax. A poorly written brief won't help your client's cause – or your reputation].
18. If after submitting your brief you discover that you missed an issue, make a motion to file an amended brief - In a criminal appeal, you may also have the defendant file a pro se supplemental brief and raise the missed issue in that brief.
19. Request oral argument on the cover of your brief and, if requested, make sure to identify and diary the term of Court during which the appeal will be calendared as soon as you receive a scheduling order, so that you can notify the Clerk's Office within 15 days of any dates during the term on which you will be unavailable to appear for argument, or you may be precluded from arguing the appeal.
20. **Proofread, proofread, and proofread again.**

[Return to Table of Contents](#)

[Return to Program Announcement](#)

*Last updated January 28, 2010*

*Links to other sites, or links to this site from any other sites, do not imply any endorsement of, or relationship with, such other sites.*