

# Law Day 2012

## The Appeals Process

A defendant who is found guilty of a crime can appeal the ruling to a higher court. Either side may appeal in a civil case. When an appellate court hears a case, the person appealing the case, called the appellant, must show that the trial court made an error of law that affected the outcome of the case. Each side presents its argument in a written document called a brief. The court bases its decision on the record of the case and does not solicit new testimony or evidence. The appeals court does not review the facts as determined by the jury at the trial because the jurors are in the unique position to judge the credibility of the witnesses since the jurors and not the judges on the appeals court got to see and hear the witnesses testify.

**Ap-peal** [uh-peel]  
*noun* 1) an earnest request for aid, support, sympathy, mercy, etc.; entreaty; petition; plea; 2) an application or proceeding for review by a higher tribunal

In New York, The Appellate Division, Appellate Term, and certain county courts handle appeals and are the next highest level of court in the New York appeal process. These courts are referred to as the intermediate appellate courts.

The highest appeals court in New York state is the New York Court of Appeals. No other court can overturn its interpretation of New York law. Even the United States Supreme Court must rely on the New York Court of Appeals for interpretations of New York State law. The court's decision is final unless the case is sent back to a trial court.

If the New York Court of Appeals hears the case, but the appellant is still unsuccessful, then the next step would be to seek permission to appeal to the United States Supreme Court. The U.S. Supreme Court, however, will only take an appeal

of a conviction in a state court if there is a claim that the party's federal constitutional rights were violated in some way. Such appeals to the U.S. Supreme Court are very rarely granted.

### **Newspaper Activity:**

Look through the newspaper (print or online) for examples of current appeal cases. Select one and determine what level of court is hearing the case. Based on what you know and have read about this case, do you think the appeal will be successful and why or why not? Is there still a higher court that the defendant could ask to hear his or her case if the current appeal is unsuccessful? If so, what court might hear the case?

**Student Assessment:** What is the most interesting thing you learned about the appeals process? Explain.