

**FILING A “PRO SE” APPEAL  
OF A FAMILY COURT CASE  
IN THE MINNESOTA APPELLATE COURT**

Sometimes judges make mistakes. If the mistake is that the judge did not correctly apply the correct law to the facts, then it might be worth filing an appeal.

Filing an appeal is a complicated and time-consuming process. Strict deadlines must be met or the right to appeal is lost. While the process is difficult, people have successfully appealed their cases without an attorney.

This technical assistance packet summarizes the detailed process of filing an appeal of a district court’s decision. It provides general information, the steps that must be taken to file an appeal, and the deadlines for each of the steps. In addition, it provides a complete set of blank forms that can be used for filing an appeal. For each “blank” form, the packet provides a sample form with instructions.

Please Note: This packet summarizes the rules as contained in the Minnesota Rules of Civil Appellate Procedure. It has been prepared to help with the most common types of situations. *This packet does not contain the rules as they relate to every situation.* We recommend that you talk with an attorney who is knowledgeable about the appeals process, even for just an hour or so, to discuss the specifics of your case. That way, you can be sure that the forms in this packet are appropriate in your case. You can also read for yourself the Minnesota Rules of Civil Appellate Procedure.

BWLAP is here to assist battered women’s advocates with the Pro Se Appeals process. Though these instructions are designed for parties without an attorney, BWLAP staff can help you review your documents before filing, cite statute and case law in your arguments and provide other technical and legal assistance as needed. If you have questions about your appeal, please use us as a resource.

**Originally prepared: November, 2001.**

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Originally prepared by Martha Delaney, J.D.

## STEPS FOR FILING AN APPEAL

There are a number of steps involved in filing an appeal. To try to make this as clear as possible, the steps below will be numbered. You will need to follow these steps in the order in which they are numbered.

Please pay careful attention to the deadlines. If you do not meet a deadline, then your appeal will probably be dismissed. It is highly recommended that you not wait until the last moment to meet deadlines; get your stuff in as soon as you possibly can.

Create a personal file to keep a copy of all of your documents. Keep these copies in chronological order, so that you can easily locate them when you need to.

For every paper you must file, this packet includes a sample document. The blank document is a paper you can use with the court once you have filled in all the information. These documents are found at the end of the instructions, along with an index of the forms needed at each step of the process.

### **Step One: Determining whether you can appeal the decision.**

First you need to make sure the decision is a judgment or type of order you can appeal.

Determine whether the decision that you would like to appeal is a judgment or an order. Usually you can find this out by looking at the top of the decision (it will say either “judgment” or “order” somewhere in the title).

#### If it is a “judgment:”

- ❑ You should be able to appeal it. At the end of the document, it should say the date that the judgment was entered. If it has been less than 60 days since that date, you can appeal it.

#### If it is an “order:”

- ❑ First, make sure it is the type of order you can appeal (a complete list is found at Rule 103.3).
- ❑ If you received a letter or notice from the opposing party saying the order has been filed, then the date that letter was personally given to you or mailed starts the appeal time. If the letter was hand-delivered to you, you have 60 days from that date of delivery. If the letter was mailed to you, you have 63 days from the date the letter was mailed. If you don’t know if you received this, contact the opposing

party's attorney or the District Court (DC) administrator to ask. If the opposing party has not mailed or given this notice to you, you can appeal at any time.

## **Step Two: Filing a motion to have filing fees waived (Rule 109).**

If you want to ask the court to not charge you for the appeal, file your request with the district court as soon as possible (within a week or so, so that you have time to receive the district court's decision on this matter and still easily meet your deadlines below).

- ❑ Fill out the "Motion to Proceed *In Forma Pauperis* on Appeal."
- ❑ Fill out the "Affidavit<sup>1</sup> for Proceeding *in Forma Pauperis*" telling the court about your financial situation, i.e., why you believe you can not afford to pay for the costs of the appeal. You should provide as much information, as clearly as possible, on this form. If you have documents to prove your statements, you can attach them to the affidavit, too. You will need to sign this affidavit in front of a notary. You can find a notary in a advocacy program, in a bank, and in most law offices.

*Note: Attached to this packet is a copy of the Information Sheet on Waiver of Court Fees and Costs, which includes the 2005 levels of 125% of the Federal Poverty Guideline. If you are reading this after January of 2006, you will need to obtain the most current Information Sheet with updated levels of the 125% of the Federal Poverty Guideline. If you meet the poverty guidelines, the court should waive the fees. Even if you make more money than the guidelines, the court will consider waiving your fees.*

- ❑ Fill out the "Order to Proceed *In Forma Pauperis* on Appeal." (You will file this with your motion and affidavit for the judge to fill out if s/he grants your request.)
- ❑ Count the total number of parties you have in your case. Include yourself, the other party, and, if applicable, the guardian *ad litem*, the child support office, and any other party. Write that number below. (You will need it often in later instructions.)

\_\_\_\_\_ total number of parties in the case

- ❑ Take the total number of parties in your case. Add two. Make this many copies of the "Motion to Proceed *In Forma Pauperis* on Appeal" and the "Affidavit for

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<sup>1</sup> Affidavit means a written statement under oath.

Proceeding *In Forma Pauperis*.” One copy is for your records. Set aside the other copies for now (you will need them in Step Three).

- ❑ Make just one copy of the “Order for Leave to Proceed *In Forma Pauperis* on Appeal” to keep for your records.
- ❑ File with the district court:
  - 1) the original “Motion to Proceed *In Forma Pauperis* on Appeal,”
  - 2) the original “Affidavit for Proceeding *In Forma Pauperis*,”
  - 3) and the original “Order to Proceed *In Forma Pauperis*.”

The DC judge has 15 days from the day you file the motion to make a decision. If the DC denies your IFP Motion, you may ask the Appeals Court to reconsider. If your IFP Motions are denied, you will have to consider carefully if you still want to proceed.

### **Step Three: “Perfecting” and starting your appeal (Rule 103).**

**Within 60 days of the entry of the judgment or service of notice of filing of the order, you must complete Step Three.<sup>2</sup>**

To count 60 days, you start counting as day “one” the day after “entry” or “service of notice.” Count every day, including Saturdays, Sundays, and legal holidays. If the sixtieth day falls on a Saturday, Sunday, or legal holiday, then the deadline runs to the next day the courthouse is open. (Rule 6.01, Minnesota Rules of Civil Procedure.)

To “perfect” and start your appeal:

- ❑ Fill out the Notice of Appeal.
- ❑ Fill out the Motion to File an Informal Letter Brief.
- ❑ Fill out an Affidavit of Service for the Notice of Appeal and Statement of the Case. *Make sure you include the names and addresses of all parties to the case, including your ex-spouse, the guardian ad litem (if applicable) and the child support (if applicable).* On the form, there is space for two sets of names and addresses; if you need to list more, you will need to add them to the form or type a completely new form. If a party is represented by an attorney, then you send the

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<sup>2</sup> Please note that there are sometimes shorter deadlines in particular cases. It is recommended that you consult with an attorney to make sure the 60 day deadline applies in your type of case.

paperwork to that person, care of his or her attorney. If a party is not represented, then you send the paperwork directly to him/her.

- ❑ Take the total number of parties in your case (which you wrote in above). Add three. Make this many copies of the Notice of Appeal and the Affidavit of Service.
- ❑ Take the total number of parties in your case. Add five. Make this many copies of the Motion to File an Informal Letter Brief.
- ❑ Obtain from the district courts administrator's office a certified copy of the judgment or order. There will be a fee for this if you have not obtained an *in forma pauperis* order.
- ❑ If you have not obtained permission from the DC to proceed *in forma pauperis* for the appeal, then you will need to post a cost bond with the DC in the amount of \$500. You can post cost bonds either by going through a bonding company (which can cost as little as \$110) or by depositing \$500 cash with the district court administrator. In either event, obtain from the court clerk proof of your posting the cost bond. The phone numbers of bonding companies can be found in the yellow pages under "Bonds."

Now you are ready to send your appeal documents to the AC, the other parties<sup>3</sup> to the case, and to the district court administrator

- ❑ Fill out the cover letter to the court of appeals. Take the total number of parties in your case. Add one. Make this number of copies of the cover letter.
- ❑ With the original cover letter, send to the AC the following:
  - The original and two copies of the Notice of Appeal
  - The original and two copies of the Statement of the Case
  - The original and four copies of the Motion/Affidavit to File an Informal Letter Brief
  - The original and two copies of the Affidavit of Service
  - The certified copy of the judgment or order
  - A copy of your motion to proceed *in forma pauperis* on appeal
  - A copy of your affidavit to proceed *in forma pauperis* on appeal
  - A copy of the order regarding your *in forma pauperis* motion
  - \$250 filing fee (unless your *in forma pauperis* motion was granted)

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<sup>3</sup> If the other party is represented, then you send paperwork to that person's attorney. If s/he is not represented, then you send paperwork directly to him/her. If there is a guardian *ad litem*, then you must also send paperwork to the guardian *ad litem*. If the IV-D (child support) agency is involved, then you need to send paperwork to the IV-D office.

Proof from the district court administrator that you posted bond (unless your *in forma pauperis* motion was granted).

- The same day, mail a copy of the cover letter and forms to the DC administrator and all the other parties. (Remember, if a party is represented, you send that party's copy to his/her attorney.)

***BWLAP is ready to help you with this step to ensure that all of the paperwork is in order, answer any questions you might have and provide general assistance.***

You should receive notice from the Appellate Court (AC) as to the status of your appeal. If all your paperwork is in order and all deadlines were met, the Appellate Court should accept your appeal and assign you a case number. You will need to reference this case number on your subsequent documents. You will also receive notice from the AC of whether you will be allowed to file an Informal Letter Brief. If you are granted this permission, it will make the next steps simpler.

## **Step Four: Ordering the transcript (Rule 110.02).**

**Within ten (10) days of filing the Notice of Appeal with the Clerk of Appellate court,** you must do the following:

- ❑ Order the transcript of your district court's proceedings.<sup>4</sup> This you do by contacting the district court judge's court reporter and asking him/her to prepare the transcript of the proceedings for the AC.

To count 10 days, you start counting as day one the day after you filed your Notice of Appeal with the Clerk of Appellate Court. Count every day, including weekends and holidays. If the 10<sup>th</sup> day falls on a weekend or holiday, then the deadline runs to the next day the court is open.

After you order the transcript, the court reporter has 60 days within which to deliver it to the AC, unless the AC grants an extension to the court reporter.

- ❑ If for some reason the transcript is unavailable, see Rule 110.03.

## **Step Five: Filing the Certificate as to Transcript (Rule 110.02)**

**Within ten (10) days of ordering the transcript,** you must file with the Appellate Court a Certificate as to Transcript.

- ❑ Fill out a Certificate as to Transcript.
- ❑ Take the total number of parties in your case. Add two. Make this number of copies of the Certificate as to Transcript. (One is for your records.)

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<sup>4</sup> Note: You can order a partial transcript (or notify of intent to not use a transcript) or file a notice of intent to proceed on a statement. However, in most cases, you will need to order a copy of the full transcript. You want to err on the side of ordering more of the transcript than necessary, rather than find out later that you did not order enough of the transcript. The transcript is extremely important, because it is the record of the district court's actions that the appellate court will review. If you do for some reason order only a partial transcript (like if there is only one small part of the district court's decision that you disagree with), then you will need to file and serve upon the respondent a description of the parts of the transcript that you intend to include in the record on appeal. See Rule 110.02, subd.1. Minnesota Rules of Civil Appellate Procedure.

- Send the original Certificate as to Transcript to the Appellate Court. Send a copy of the Certificate as to Transcript to the district court administrator and all parties (remember, if a party is represented, you always send that party's copy to the attorney).

## **Step Six: Creating your brief (Rule 128).**

**Within 30 days after delivery of the transcript,** you must file your brief. It is highly recommended that you start your brief as soon as you can, and file it a couple of days early, just to make sure you do not miss this deadline.

To count 30 days, you start counting as day one the day after the court reporter delivered the transcript to Clerk of Appellate Court. Count every day, including weekends and holidays. If the 30<sup>th</sup> day falls on a weekend or holiday, then the deadline runs to the next day in which the court is open.

*If you asked for (under Step Three) and received permission to file an informal letter brief, your brief will be much easier to prepare than the “usual” brief.* (The requirements for a standard brief are provided in Rule 128.02.) For an informal letter brief, the requirements are that it include a concise statement of your arguments on appeal, along with an appendix. In addition, the brief must have a cover page and be stapled. If you have *in forma pauperis* status, the brief can be printed, served and filed by a brief-printing company (who also knows how many copies to make of everything) at no cost to you.

If your Motion to File an Informal Letter Brief is denied, you will have to file a standard brief. Again, BWLAP is here as your resource to file this document, and we have prepared some standard arguments and case citations to cover the most common appeals of settled law.

Judges are most familiar with a certain type of format in a brief, and it would be very helpful if you would organize your brief to follow that format. (Remember, the easier it is for the judge to follow your argument and understand it, the more likely you are to convince the judge that you are right.) It is helpful though not necessary, to separate your brief into different sections – one section containing a brief “Summary of Issue” of your position, one section containing the “Standards of Review” for each issue, one section listing all the “Important Facts” of the case (including those that support your position), one section listing the “Laws That Apply,” one section containing your “Arguments,” and finally, a “Conclusion.”

Here is a short description of how to write each section:

□ Summary of issue

This would be a one to three sentence statement of your position on the issue that you think the AC needs to address. Remember that the AC will only look to see whether the DC erred in stating or applying the law. Some examples:

“The district court erred when it issued a mutual order for protection because the law allows only for an order for protection to be granted to the person who petitioned for it.”

“The district court erred when it allowed the father to have unsupervised visits with our children because all the evidence showed that the children would not be adequately protected unless the visits were supervised by a neutral third party.”

“The district court erred when it awarded joint legal custody to me and the father because it ignored the evidence of domestic abuse and because the court is supposed to presume that joint legal custody is not in the best interests of the child when domestic abuse has occurred between the parents.”

If there is more than one issue, then list all the issues that you want the AC to consider.

□ Standard of Review

When looking at your case, the AC will first figure out the standard of review it will apply. The most persuasive appellate briefs will state the standard of review for each issue and then make arguments based on that standard of review.

Generally, in family cases, the standard of review is that the AC will not overturn the DC decision if the DC judge followed the law and if there are findings on the record that support the judge’s decision. You can utilize your Minnesota Case Law Summary (available from BWLAP) to review similar cases and which standard of review was applied. You should find the standard of review that best fits the facts and law of your situation.

Always keep in mind the “standard of review” is the law that the AC must follow when reviewing your case.

□ Laws That Apply

In this section, you list the laws that apply. You may have done research to find this law. Or an attorney may have told you the law. Or perhaps an advocate helped you find the law. In any event, list all the laws that you believe the DC and AC must follow when deciding your case.

This is not the section to argue your position yet. It may be difficult to do, but in this section, simply list the laws that the AC should look at when deciding your case.

□ Important Facts

In this section, you list all the facts that are important. You must list not only the facts that support your position, but also the facts that do not support your position. **YOU CAN INCLUDE ONLY FACTS THAT THE DISTRICT COURT HEARD. YOU CANNOT INCLUDE FACTS THAT WERE NEVER BROUGHT UP AT THE DISTRICT COURT HEARING.** This section can be anywhere from a paragraph to as much as ten pages or more.

It is extremely helpful when you list facts to refer to the transcript as often as possible so that the AC judge can look for himself or herself. You may do this by listing the fact and then stating “(Transcript, page 29).”

It is highly recommended that you be specific in your brief about those parts of the record that support your position. For example, if you think the judge had no facts upon which to base his/her decision, but had plenty of facts to support your position, then you will want to point out specifically in the transcript those places in which the facts supporting you are found. If you wish to refer the AC to a document that was filed, you may do so by stating, for example, “Motion for Summary Judgment, page 1.”

This is not the section to argue your position yet. It is difficult to not argue yet, but in this section, simply list the facts that the AC should look at when deciding your case.

□ Arguments

Here is the section in which you tell the judge why you believe your position is right. Here is where you draw upon the facts in your “Important Fact” section, use your “Standard of Review,” and refer to the laws listed in your “Laws that Apply” section.

In your argument section, state all the reasons why you think the AC should overturn the district court’s decision. You need to fit your arguments to the standard of review you listed above. For example:

<u>Standard of Review</u>	<u>Your Argument</u>
<p>The court of appeals will not disturb the district court’s order unless the district court’s fact findings are against logic and the facts on the record.</p>	<p>Argue that the district court’s findings are “against logic and the facts on the record.” Give specific examples to support your arguments, such as the absence of facts on the record to support the judge’s decision and the wealth of facts on the record to support your position.</p>
<p>Absent extraordinary circumstances, the district court’s failure to make findings on statutory factors demands a remand.</p>	<p>Argue that there are no findings on the record regarding the best interests of the child or other statutory factors. Give examples to support your argument.</p>

You will end up repeating many of the facts and laws that you provided earlier in your brief. But here, you are weaving your facts and arguments together to make your argument. Your argument section does not have to be very long, but it should include all the reasons you can think of (and support) why the DC made a mistake.

Note: If you are unable to argue the standard of review, or unable to support your arguments on standard of review, then you probably will lose the appeal.

□ Conclusion

Your conclusion can be just one sentence. For example:

“For the reasons stated above, I ask that the court of appeals to grant me sole legal custody.”

“For the reasons stated above, I ask the court of appeals to vacate the order for protection issued against the appellant.”

“For the reasons stated above, I ask the court to remand the case back to the district court to order that all parenting time with the father be supervised at the Ramsey County Child Safety Center.”

Your brief can be anywhere from one (1) to fifty (50) pages. Probably, it needs to be at least five (5) to ten (10) pages long to make sure you have thoroughly explained your position to the AC.

**Step Seven: Preparing your brief’s appendix (Rule 130).**

Whether you are preparing a standard brief, or have received permission to file an informal letter brief, the brief is required to contain an appendix. The appendix needs to be separately and consecutively numbered and contain copies of the following portions of your case:

- The relevant pleadings. This means the main documents in the action, such as a petition for dissolution or a petition for order for protection.
- The relevant written motions and orders. This would include such things as motions for discovery and orders for protection.
- The verdict or findings of fact, conclusions of law, and order for judgment. In a divorce action, this would be the Judgment and Decree.
- The relevant post trial motions and orders. This would include any motions for reconsideration or to dismiss or to vacate.
- Any memorandum opinions. This would be any written opinion by the judge explaining his/her judgment or order.
- Any judgments. Probably you will not have any judgments in your case other than, if a dissolution action, a judgment and decree.
- The notice of appeal. This is the Notice of Appeal that you filed in Step Three.

- ❑ If the constitutionality of a statute is challenged, proof of compliance with Rule 144. If you are challenging the constitutionality of a statute, then you need to follow some additional rules contained in Rule 144.
- ❑ If the record includes a statement of the proceedings made pursuant to Rule 110.03 or an agreed statement made pursuant to Rule 110.04, the statement. If you did not file a transcript but rather filed a statement pursuant to Rule 110.04, then you would include that statement in the appendix.
- ❑ The index to the documents contained in the appendix. This simply means a list of all the documents, in order of their inclusion, that you are providing in your appendix.

### **Step Eight: Filing your brief and appendix.**

Once you have finished writing your brief and compiling your appendix, you will need to file them by doing the following (**remember you must file your brief within 30 days of the transcript being filed**):

- ❑ Take the total number of parties in your case. Multiply this by two. Add eight. Make this many copies of your brief and appendix.
- ❑ Fill out the Affidavit of Service of brief. Take the total number of parties in your case. Add six. Make this number of copies of the Affidavit of Service.
- ❑ Fill out the cover letter to the AC. Take the total number of parties in your case. Make this number of copies of the cover letter.
- ❑ Send your original Affidavit of Service (and four copies) and your original brief (and seven copies) and your original appendix (and seven copies) to the AC with the cover letter.
- ❑ On the same day, send a copy of your Affidavit of Service and two copies of your brief and appendix to each party, with a copy of the cover letter to the AC.

### **Step Nine: Receiving the brief of the other party(s).**

Once you have filed your brief, the respondent(s) have 30 days within which to file a response brief. You will want to read this brief carefully to determine whether it raises any new matters which you did not address in your initial brief.

**Step Ten: Filing your reply brief.**

If you choose, you may file a reply brief to address any new matters raised in respondent's response brief. If there are no new matters in the response brief, then you do not have to file a reply. **You have ten (10) days after the filing of the response brief** to file your reply brief. If you file a reply brief, you will need to do an Affidavit of Service for the reply brief. (See the forms regarding filing your brief and Affidavit of Service for guidance in completing this step.)

**Step Eleven: Waiting for the decision.**

There is no deadline for the AC to issue its decision. Usually, however, it takes about three to four months.

## Required Forms

### **Phase I: Requesting that court costs and fees be waived (See Step Two)**

- Information sheet on Waiver of Costs and Fees – 2005
- Ex Parte Motion to Proceed In Forma Pauperis on Appeal
- Affidavit for Proceeding In Forma Pauperis on Appeal
- Order for Leave to Proceed In Forma Pauperis on Appeal

### **Phase II: Perfecting and Filing your Appeal (See Step Three)**

- Notice of Appeal to Court of Appeals
- Motion/Affidavit for Permission to File Informal Letter Brief
- Appellant's Statement of the Case
- Affidavit of Service
- Cover Letter to Court of Appeals (I of II) (Sample)

### **Phase 2.5: Transcript (See Step Five)**

- Certificate as to Transcript

### **Phase III: Writing and Filing your Brief (See Steps Six, Seven and Eight)**

- Affidavit of Service of Brief
- Cover Letter to Court of Appeals (II of II) (Sample)

*Note: Updated versions of standard appellate procedure court forms are generally available at the Minnesota Courts website:*

<http://www.courts.state.mn.us/page/?pageID=139>

*Motions, Orders and Briefs do NOT have standard forms, though are written in a standardized way. The Rules of Court provide instructions on the contents and structure of these documents for your review, though the forms contained in this packet have been crafted to specifically address common Pro Se Appeals issues.*

## **How much does an appeal cost?**

An appeal is expensive: Various costs and fees include:

- ❑ The cost bond with the district court, which is \$500. (If you have good credit, then you might be able to pay a bonding company approximately \$110 to post the \$500 for you. If you have bad credit, then it probably would be cheaper to pay the \$500 to the district court administrator.)
- ❑ The \$250 filing fee to the Court of Appeals.
- ❑ The cost of preparing a transcript, which costs approximately 50 cents per 100 words for the original copy and 10 cents per 100 words for the duplicate copies (Minn. Stat. §486.06.)
- ❑ The costs of copying your papers, including your brief. Many businesses charge 10 cents per page. As there is a lot of paperwork in an appeal, and many copies are required, this cost can add up.

## **Required Forms for Pro Se Appeals**

### **Phase I: Requesting that court costs and fees be waived**

- Information sheet on Waiver of Costs and Fees – 2005
- Ex Parte Motion to Proceed In Forma Pauperis on Appeal
- Affidavit for Proceeding In Forma Pauperis on Appeal
- Order for Leave to Proceed In Forma Pauperis on Appeal

### **Phase II: Perfecting and Filing your Appeal**

- Notice of Appeal to Court of Appeals
- Motion/Affidavit for Permission to File Informal Letter Brief
- Appellant's Statement of the Case
- Affidavit of Service
- Cover Letter to Court of Appeals (I of II) (Sample)

### **Phase 2.5: Transcript**

- Certificate as to Transcript

### **Phase III: Writing and Filing your Brief**

- Affidavit of Service of Brief
- Cover Letter to Court of Appeals (II of II) (Sample)

## **Phase I: Requesting that court costs and fees be waived**

*Note: These forms were recently updated for 2005. The Information sheet on Waiver of Costs and Fees is updated annually. Updated electronic versions of the Information Sheet and Affidavit are available on the MN Court Website at <http://www.courts.state.mn.us/forms/Default.aspx?pageID=9019&activeLink=138>*

- Information sheet on Waiver of Costs and Fees – 2005
- Ex Parte Motion to Proceed In Forma Pauperis on Appeal
- Affidavit for Proceeding In Forma Pauperis on Appeal
- Order for Leave to Proceed In Forma Pauperis on Appeal

**INFORMATION SHEET ON WAIVER OF COURT FEES AND COSTS**  
**Minnesota Statutes § 563.01**

If you cannot afford to pay court fees and costs, you may be able to proceed without paying fees and costs if:

1. You are receiving public assistance under one or more of the following programs:

Minnesota Family Investment Plan (MFIP), MFIP-Emergency Assistance, or MFIP-Diversions Assistance; General Assistance or Emergency General Assistance; Medical Assistance or General Assistance Medical Care; Food Stamps; Supplemental Security Income; Minnesota Supplemental Assistance (MSA) or MSA-Emergency Assistance; Energy Assistance.

OR

2. You are represented by a legal services or volunteer attorney on behalf of a civil legal services program or a volunteer attorney program based on indigence.

OR

3. Your annual family income before taxes is less than 125% of the Federal Poverty Guidelines for your family size as indicated below.

Maximum Income Level – 125% of Poverty

Please Check Your Family Size	Size of Family Unit	Annual Family Income Before Taxes	Monthly Family Income Before Taxes	Weekly Family Income Before Taxes
	1	\$ 11,963	\$ 996.92	\$ 230.06
	2	\$ 16,038	\$ 1,336.50	\$ 308.42
	3	\$ 20,113	\$ 1,676.08	\$ 386.79
	4	\$ 24,188	\$ 2,015.67	\$ 465.15
	5	\$ 28,263	\$ 2,355.25	\$ 543.52
	6	\$ 32,338	\$ 2,694.83	\$ 621.89
	7	\$ 36,413	\$ 3,034.41	\$ 700.25
	8	\$ 40,488	\$ 3,374.00	\$ 778.62

More than 8 members, add \$4,075 annually for each additional family member.

Number of family members: \_\_\_\_\_ Calculate and enter figure here: \$ \_\_\_\_\_

OR

4. Your income is not enough to pay for the common necessities of life for yourself and the people you support and also to pay court fees and costs.

**To apply, complete the *Affidavit for In Forma Pauperis* and file with the Court Administrator.**

STATE OF MINNESOTA

IN DISTRICT COURT  
FAMILY DIVISION

COUNTY OF \_\_\_\_\_

\_\_\_\_\_ JUDICIAL DISTRICT

In the Matter of:

\_\_\_\_\_  
Petitioner

**EX PARTE MOTION  
TO PROCEED IN  
FORMA PAUPERIS ON  
APPEAL**

vs.

\_\_\_\_\_  
Respondent.

District court No. \_\_\_\_\_  
Date of Order: \_\_\_\_\_

\_\_\_\_\_ respectfully represents to this Court as follows:

1. I am indigent and cannot afford to pay the costs of an appeal and my claims are not frivolous. I have attached an Affidavit to show the court the specifics of my inability to pay. I have also attached my Statement of the Case to show the court that my claims are not frivolous.

2. I am requesting that the filing fees and the cost bond be waived. The filing fees and cost bond on appeal may be waived by order of the district court, if the court determines that an appellant is indigent. Minn. R. Civ. P. 103.01, subd. 3, 107 subd. 2(d). Therefore, it is in the interest of my right to appeal that no cost bond should be required in this case.

3. I am also requesting that a copy of the transcript of the hearing and any costs associated with reproducing and binding briefs shall be provided to me at public expense and the County Court Administrator shall pay for the transcript and costs of copying and binding briefs.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Pro Se Appellant  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

State of Minnesota

District Court

County

Judicial District:
Court File Number:
Case Type:

Plaintiff/Petitioner

VS.

Affidavit for Proceeding
In Forma Pauperis
(Minn. Stat. § 563.01)

Defendant/Respondent

- 1. I am a party in this action. I am a natural person...
2. I believe that I have valid reasons for pursuing this action. My pleadings...
3. a. I am receiving public assistance under one or more of the following means-tested programs:
b. I am receiving public assistance under some other means-tested program: (Name the program)

I have attached proof that I receive public assistance (such as MFIP card or cancelled check from agency) or I will provide proof if the Judge asks for proof.

- 4. I am represented by attorney on behalf of a civil legal services program or volunteer attorney program...
5. My family size is. (Include yourself, your spouse, your minor children, and other dependents in your household.)

Name Age Relationship to you


6.  My gross **annual** family income (before taxes and deductions) is \$\_\_\_\_\_ which is less than 125% of the Federal Poverty Line for my family size of \_\_\_\_\_ members. *If you checked #6, skip to the signature line on page 2.*

**If you did not check #3a, 4, or 6 you must answer all of the rest of the questions.**

7. My gross **monthly** income before taxes and deductions is \$\_\_\_\_\_. My net (take home) **monthly** income is \$\_\_\_\_\_, and the source of that income is:  Job  Unemployment  Child Support or Spousal Support  Public Assistance  Trust Income  SSI  Other: \_\_\_\_\_

8. My spouses' gross **monthly** income before taxes and deductions is \$\_\_\_\_\_. My spouses' net (take home) **monthly** income is \$\_\_\_\_\_, and the source of that income is \_\_\_\_\_; OR, I do not know my spouses' income because: \_\_\_\_\_ OR  I am not married.

9. All other family members and dependents living with me have net **monthly** income as follows:

Name of person	Age	Net (take home) monthly income	Source of that Income

10. I pay \$\_\_\_\_\_ per month in court-ordered child support and/or court-ordered child care.

11. I pay \$\_\_\_\_\_ per month in court-ordered spousal support.

12. I pay \$\_\_\_\_\_ per month for  rent  mortgage payment.

13. I own:
- Cash \$ \_\_\_\_\_
  - Checking, savings and credit union accts \$ \_\_\_\_\_
  - Cars, other vehicles (list make, year and equity value (market value minus unpaid loans)
    - \_\_\_\_\_ \$ \_\_\_\_\_
    - \_\_\_\_\_ \$ \_\_\_\_\_
  - Real Estate (market value minus unpaid mortgage/loans)
    - Homestead: \$ \_\_\_\_\_
    - Other Real Estate: \$ \_\_\_\_\_
  - Other personal property (jewelry, stocks, bonds, etc. - list separately)
    - \_\_\_\_\_ \$ \_\_\_\_\_

\_\_\_\_\_ \$ \_\_\_\_\_

14. I am presently \$ \_\_\_\_\_ in debt, excluding car loans and real estate mortgage/loans.
15. Other factors which support my request are (explain unusual medical expenses, emergencies, reasons that the family money is not available to you, or other circumstances to help the Judge understand your situation): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Dated: \_\_\_\_\_

\_\_\_\_\_  
Signature (*Sign only in front of notary public or court administrator*)

Sworn/affirmed before me this  
\_\_\_\_\_ day of \_\_\_\_\_,  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
  
City/State/Zip: \_\_\_\_\_

Notary Public \ Deputy Court Administrator

Telephone: ( \_\_\_\_\_ )

STATE OF MINNESOTA

IN DISTRICT COURT  
FAMILY DIVISION

COUNTY OF \_\_\_\_\_

\_\_\_\_\_ JUDICIAL DISTRICT

In the Matter of:

\_\_\_\_\_  
Petitioner,

**ORDER FOR LEAVE  
TO PROCEED IN FORMA  
PAUPERIS ON APPEAL**

vs.

\_\_\_\_\_  
Respondent.

District Court No \_\_\_\_\_

Date of Order: \_\_\_\_\_

The above-entitled came before the Court on the Ex Parte Motion of Petitioner for leave to proceed in forma pauperis on appeal. The Court, having considered the Motion, Affidavit, and after being fully advised in the premises, makes the following as its Order:

1. That the Petitioner be granted in forma pauperis status in the above-referenced appeal.
2. That the filing fees and cost bond are hereby ordered waived.
3. That a copy of the transcript of the hearing shall be provided to her at public expense and the county is ordered to pay for the transcript.
4. That the payments of costs for reproducing and/or binding briefs shall be provided to her at public expense and the County is ordered to pay for such costs.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Judge of District Court

## **Phase II: Perfecting and Filing your Appeal**

*Note: The Notice of Appeal and Appellant's Statement of the Case forms are available in Word format from the MN Courts website at [http://www.courts.state.mn.us/rules/appellate/RCAP\\_Forms\\_Index.htm](http://www.courts.state.mn.us/rules/appellate/RCAP_Forms_Index.htm)*

- Notice of Appeal to Court of Appeals
- Motion/Affidavit for Permission to File Informal Letter Brief
- Appellant's Statement of the Case (with instructions)
- Affidavit of Service
- Cover Letter to Court of Appeals (I of II) (Sample)

STATE OF MINNESOTA  
COUNTY OF \_\_\_\_\_

\_\_\_\_\_ DISTRICT COURT  
\_\_\_\_\_ COUNTY COURT  
\_\_\_\_\_ JUDICIAL DISTRICT

CASE TITLE:

Petitioner,

**NOTICE OF APPEAL TO COURT  
OF APPEALS**

vs.

TRIAL COURT CASE NUMBER:

Respondent.

DATE OF ORDER OR  
DATE JUDGMENT ENTERED:

TO: Clerk of the Appellate Courts  
Minnesota Judicial Center  
St. Paul, MN 55155

Please take notice that the above-named Petitioner/Respondent appeals to the Court of Appeals of the State of Minnesota from an order (judgment) of the court filed (entered) on the date shown.

DATE:

Petitioner Name \_\_\_\_\_

Address \_\_\_\_\_

\_\_\_\_\_

Telephone \_\_\_\_\_

Attorney for Petitioner \_\_\_\_\_

Telephone \_\_\_\_\_

A R License # \_\_\_\_\_

OR

Petitioner is Pro Se Appellant

Respondent Name \_\_\_\_\_

Address \_\_\_\_\_

\_\_\_\_\_

Telephone \_\_\_\_\_

Attorney for Respondent \_\_\_\_\_

Telephone \_\_\_\_\_

A R License # \_\_\_\_\_

OR

Respondent is Pro Se Appellant

\_\_\_\_\_  
SIGNATURE

(The trial court caption is used on the notice of appeal. Subsequent documents shall bear the appropriate appellate court caption. [RCAP 103.01](#), subd. 1 specifies the contents of the notice of appeal and filings required to perfect an appeal, including filing fees. [RCAP 103.03](#) sets forth judgments and orders which are appealable to the Court of Appeals. [RCAP 104.01](#) specifies time limits for filing and service of the notice of appeal. [RCAP 107](#) provides for bond or deposit for costs. [RCAP 108.01](#) provides for a supersedeas bond. This document must be accompanied by 2 copies of a completed statement of the case. [RCAP 133.03](#).)

STATE OF MINNESOTA  
IN COURT OF APPEALS

\_\_\_\_\_  
Appellant,  
  
and  
  
\_\_\_\_\_  
Respondent.

**MOTION/AFFIDAVIT FOR  
PERMISSION TO FILE  
INFORMAL LETTER BRIEF**

District Ct. Case No. \_\_\_\_\_  
Appellate Ct. Case No. \_\_\_\_\_

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**MOTION**

To the Court of Appeals of the State of Minnesota:

\_\_\_\_\_, the above-named appellant, respectfully requests that this court grant him/her permission to file an informal letter brief as allowed by Rule 128.01 for the reasons stated in the below affidavit.

\_\_\_\_\_  
Appellant's Signature

\_\_\_\_\_

\_\_\_\_\_  
Appellant's Address

**AFFIDAVIT**

I, \_\_\_\_\_, being first sworn/affirmed, state:

1. I am appealing the district court's order and am unable to afford an attorney. I am representing myself for the purposes of this appeal.
2. I have little or no legal training and therefore am I am unable to comply with the legal requirements of a formal brief as provided in Rule 128.02.
3. I submit this affidavit in support of my request to be allowed to file an informal letter brief in support of my appeal.

\_\_\_\_\_  
Appellant's Signature

\_\_\_\_\_  
Appellant's Name

\_\_\_\_\_  
Appellant's Address

Subscribed and sworn before me on the  
\_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

\_\_\_\_\_  
Notary Public/Clerk of Court

STATE OF MINNESOTA  
IN COURT OF APPEALS

CASE TITLE:

Appellant,

**APPELLANT'S STATEMENT OF THE  
CASE**

vs.

TRIAL COURT CASE NUMBER:

APPELLATE COURT CASE NUMBER:

Respondent.

1. Court or agency of case origination and name of presiding judge or hearing officer.

2. Jurisdictional statement

(A) Appeal from district court.

Statute, rule or other authority authorizing appeal:

Date of entry of judgment or date of service of notice of filing of order from which appeal is taken:

Authority fixing time limit for filing notice of appeal (specify applicable rule or statute):

Date of filing any motion that tolls appeal time:

Date of filing of order deciding tolling motion and date of service of notice of filing:

(B) Certiorari appeal.

Statute, rule or other authority authorizing certiorari appeal:

Authority fixing time limit for obtaining certiorari review (cite statutory section and date of event triggering appeal time, e.g., mailing of decision, receipt of decision, or receipt of other notice):

(C) Other appellate proceedings.

Statute, rule or other authority authorizing appellate proceeding:

Authority fixing time limit for appellate review (cite statutory section and date of event triggering appeal time, e.g., mailing of decision, receipt of decision, or receipt of other notice):

(D) Finality of order or judgment.

Does the judgment or order to be reviewed dispose of all claims by and against all parties, including attorney fees? Yes ( ) No ( )

If no:

Did the district court order entry of a final partial judgment for immediate appeal pursuant to [MINN. R. CIV. APP. P. 104.01](#)? Yes ( ) No ( ) or

If yes, provide date of order:

If no, is the order or judgment appealed from reviewable under any exception to the finality rule? Yes ( ) No ( )

If yes, cite rule, statute, or other authority authorizing appeal:

If no, cite statute or rule authorizing interlocutory appeal:

3. State type of litigation and designate any statutes at issue.
4. Brief description of claims, defenses, issues litigated and result below. For criminal cases, specify whether conviction was for a misdemeanor, gross misdemeanor, or felony offense.
5. List specific issues proposed to be raised on appeal.
6. Related appeals.

List all prior or pending appeals arising from the same action as this appeal. If none, so state.

List any known pending appeals in separate actions raising similar issues to this appeal. If none are known, so state.

7. Contents of record.

Is a transcript necessary to review the issues on appeal? Yes ( ) No ( )

If yes, full ( ) or partial ( ) transcript?

Has the transcript already been delivered to the parties and filed with the trial court administrator? Yes ( ) No ( )

If not, has it been ordered from the court reporter? Yes ( ) No ( )

If a transcript is unavailable, is a statement of the proceedings under [Rule 110.03](#) necessary? Yes ( ) No ( )

In lieu of the record as defined in [Rule 110.01](#), have the parties agreed to prepare a statement of the record pursuant to [Rule 110.04](#)? Yes ( ) No ( )

8. Is oral argument requested? Yes ( ) No ( )

If so, is argument requested at a location other than that provided in [Rule 134.09](#), subd. 2? Yes ( ) No ( )

If yes, state where argument is requested:

9. Identify the type of brief to be filed.

Formal brief under [Rule 128.02](#). ( )

Informal brief under [Rule 128.01](#), subd. 1 (must be accompanied by motion to accept unless submitted by claimant for reemployment benefits). ( )

Trial memoranda, supplemented by a short letter argument, under [Rule 128.01](#), subd. 2. ( )

10. Names, addresses, zip codes and telephone numbers of attorney for appellant and respondent.

NAME, ADDRESS, ZIP CODE AND TELEPHONE NUMBER OF ATTORNEY FOR RESPONDENT

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NAME, ADDRESS, ZIP CODE, TELEPHONE NUMBER, AND ATTORNEY REGISTRATION LICENSE NUMBER OF ATTORNEY(S) FOR APPELLANT

---

SIGNATURE

OR, IF NOT REPRESENTED BY COUNSEL:

NAME, ADDRESS, ZIP CODE AND TELEPHONE NUMBER OF APPELLANT

---

SIGNATURE OF APPELLANT

Dated:

(The Statement of Case is not a jurisdictional document, but it is important to the proper and efficient processing of the appeal by the appellate courts. The "jurisdictional statement" section is intended to provide sufficient information for the appellate court to easily determine whether the order or judgment is appealable and if the appeal is timely. The nature of the proceedings below and the notice of appeal determine the jurisdiction of the appellate court. The sections requesting information about the issues litigated in the lower court or tribunal, and the issues proposed to be raised on appeal are for the court's information, and do not expand or limit the issues that might be addressed on appeal. Likewise, the section asking counsel to identify and prior or pending appeals from the same case, and any separate appeals that raise similar issues is intended to provide more information about the procedural history of the case and to ensure that the court has early notice of other pending related matters in case consolidation is appropriate.)

STATE OF MINNESOTA  
IN COURT OF APPEALS

**AFFIDAVIT OF SERVICE**

Appellant,

and

Respondent.

District Ct. Case No. \_\_\_\_\_

Appellate Ct. Case No. \_\_\_\_\_

I, \_\_\_\_\_, being first sworn/affirmed, state under oath that I sent the following attached documents to \_\_\_\_\_

\_\_\_\_\_:

- Notice of Appeal
- Statement of the Case
- Motion/Affidavit for Permission to File Informal Letter Brief
- Motion for Leave to Proceed In Forma Pauperis
- Affidavit for Leave to Proceed In Forma Pauperis
- Order regarding my Motion for Leave to Proceed In Forma Pauperis

I served the above documents by mailing to him/her/them true and correct copies of the above documents, enclosed in an envelope, postage prepaid, and by depositing the envelope in the United States Mail at \_\_\_\_\_, MN, on \_\_\_\_\_ directed to his/her/their last known address(es) as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Appellant's Signature

\_\_\_\_\_  
Appellant's Name

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Appellant's Address

Sworn/affirmed before me this  
\_\_\_\_\_ date of \_\_\_\_\_, \_\_\_\_\_

\_\_\_\_\_  
Notary Public/ Court Deputy

- **Cover Letter to the Court of Appeals (I of II) (Sample)**
- 
- today's date)

Office of Clerk of the Appellate Courts  
305 Minnesota Judicial Center  
St. Paul, MN 55155

RE: (name of court case, e.g., Joleen Smith v. Marc Smith)  
District court File No. (number of district court case)

Dear Clerk:

Enclosed for filing in the above-entitled matter please find:

- 1) The original and two copies of the Notice of Appeal;
- 2) The original and two copies of the Statement of the Case;
- 3) The original Motion for Permission to File an Informal Letter Brief
- 4) The original Affidavit of Service
- 5) The certified copy of the judgment or order;

(Insert either "not" or "Also") enclosed for filing is:

- 6) A copy of my motion for leave to proceed in forma pauperis
- 7) A copy of my affidavit for leave to proceed in forma pauperis
- 8) A copy of the district court's order regarding my motion.

(Insert either "not" or "Also") enclosed for filing is:

- 9) \$250 filing fee
- 10) Proof from the district court administrator that I posted bond

Sincerely,

(sign your name)

print your name

Pro se appellant

your address

your city/state/zip

cc: District Court Administrator

(name of other party)

(name of guardian ad litem, if applicable)

(or name of IV-D office, if applicable)

(or name of another party, if applicable)

### **Phase III: Writing and Filing your Brief**

- Affidavit of Service of Brief
- Cover Letter to Court of Appeals (II of II) (Sample)

STATE OF MINNESOTA  
IN COURT OF APPEALS

**AFFIDAVIT OF SERVICE**

Appellant,

and

Respondent.

District Ct. Case No. \_\_\_\_\_

Appellate Ct. Case No. \_\_\_\_\_

I, \_\_\_\_\_, being first sworn/affirmed, state under oath that I sent the following attached documents to \_\_\_\_\_  
\_\_\_\_\_:

- 1) Pro se brief;
- 2) Appendix.

I served the above documents by mailing to him/her/them true and correct copies of the above documents, enclosed in an envelope, postage prepaid, and by depositing the envelope in the United States Mail at \_\_\_\_\_, MN, on \_\_\_\_\_ directed to his/her/their last known address as follows:

_____	_____
_____	_____
_____	_____
_____	_____

\_\_\_\_\_

Sworn/affirmed before this  
\_\_\_\_\_ date of \_\_\_\_\_, \_\_\_\_\_

\_\_\_\_\_  
Notary Public/ Court Deputy

- **Cover Letter to the Court of Appeals (II of II) (Sample)**
- 
- 
- (today's date)

Office of Clerk of the Appellate Courts  
305 Minnesota Judicial Center  
St. Paul, MN 55155

RE: (name of court case, e.g., Joleen Smith v. Marc Smith)  
District Court File No. (number of district court case)

Dear Clerk:

Enclosed for filing in the above-entitled matter please find:

- 1) The original and seven copies of the appellant's brief
- 2) The original and seven copies of the appellant's appendix
- 3) The original and four copies of the Affidavit of Service

Sincerely,

(sign your name)  
print your name  
Pro se appellant  
your address  
your city/state/zip

cc: District Court Administrator  
(name of other party)  
(name of guardian ad litem, if applicable)  
(or name of IV-D office, if applicable)  
(or name of another party, if applicable)