

# Instruction for Filing an Administrative (Certiorari) Appeal at the Minnesota Court of Appeals

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This packet is provided as a general guide to the process of appealing from a final decision by an administrative-law judge, an agency, a government body (other than a court), or certain other decisions that must be appealed by a petition for a writ of certiorari. The appeal must be from a final decision. Certain types of administrative decisions must be appealed to the district court before they can be appealed to the Court of Appeals. The process for appealing to the district court is not covered by this packet.

**This packet also does not cover unemployment appeals.** If you are filing an appeal from an unemployment-benefits decision, please refer to the specific unemployment-appeal instructions and forms, which are available at

<http://www.mncourts.gov/CourtOfAppeals/COAHelpTopics.aspx#tab06COAUnemploymentAppeal>.

These instructions explain the steps to start an administrative (certiorari) appeal and answer common questions, but are not a full guide to the law.

Please read this entire packet carefully. If you do not understand any of the steps or do not know if these forms are right for your situation, you should speak with an attorney for legal advice. Court employees are able to give general information about court rules and procedures, but they cannot give legal advice.

## **This packet includes:**

### Step-by-Step Instructions for Filing a Certiorari Appeal

- Form: Petition for Writ of Certiorari
- Form: Statement of the Case
- Form: Writ of Certiorari
- Form: Certificate of Service of the Petition for Writ of Certiorari
- Form: Certificate of Service by Mail of the Petition, Unsigned Writ, Statement of the Case, and Administrative Law Judge or Agency Decision
- Form: Certificate of Service by Mail of the Issued Writ of Certiorari
- Form: Certificate of Service by Mail of Brief

**For Additional Assistance:**

Additional helpful materials, including example briefs, can be found on the Minnesota State Law Library website (<https://mncourts.libguides.com/appeals>).

The State Law Library also hosts an Appeals Self-Help Clinic (<https://mn.gov/law-library/services/clinics/appealsclinic.jsp>) where you can get brief free legal advice about your case from a volunteer attorney or get help filling out forms. The Appeals Self-Help Clinic is on the third Thursday of the month from 1:30-4:30 p.m. It is a walk-in clinic, so no appointments are taken. For more information about the Appeals Self-Help Clinic, call (651) 297-7651.

**Important Information about Administrative (Certiorari) Appeals**

**Certain Decisions Must Be Appealed by a Petition for Writ of Certiorari**

Certain types of final decisions must be appealed by a *petition for writ of certiorari*. Certiorari appeals use different procedures than appeals from district court decisions. The types of decisions that must be appealed by *writ of certiorari* include: (1) decisions following a contested-case hearing under the Administrative Procedures Act (Minnesota Statutes chapter 14), (2) unemployment-benefits decisions, (3) workers' compensation appeals, (4) tax court appeals, and (5) quasi-judicial decisions by a state agency, a local government body, or the University of Minnesota.

**This packet does not cover tax court appeals and workers compensation appeals, which are appealed directly to the Minnesota Supreme Court.**

**This packet does not cover unemployment appeals.** If you are filing an appeal from an unemployment-benefits decision, please refer to the specific unemployment-appeal instructions and forms, which are available at

<http://www.mncourts.gov/CourtOfAppeals/COAHelpTopics.aspx#tab06COAUnemploymentAppeal>.

**Court of Appeals Opinions are Available to the Public**

Once your appeal is decided, the Court of Appeals will issue a written decision, called an "opinion," which will describe your case and the reasons for the court's decision. **The opinion will be available to the public on the Minnesota Judicial Branch's website.** After an opinion is filed, it cannot be removed from the Internet. This means that anyone who searches for your name on the Internet may be able to find and read the opinion, which will include information about the reason you were fired.

## **Laws that Apply to your Appeal**

Your appeal is governed by the [Minnesota Rules of Civil Appellate Procedure](#), the [Special Rules of Practice for the Minnesota Court of Appeals](#), and the Minnesota Statutes. [Minnesota Statutes chapter 14](#) and [chapter 606](#) apply specifically to many administrative appeals.

This packet includes simplified instructions, but you should read the rules and statutes yourself for more information. **If you are representing yourself, you are responsible for researching court rules, case law, and statutes that govern your case.**

You can find the rules, case law, and statutes at the Minnesota State Law Library (Room G25, Minnesota Judicial Center, 25 Rev. Dr. Martin Luther King Jr. Blvd., St. Paul, MN 55155, or call 651-297-7651), and at public libraries. You can also find the rules at the Minnesota Judicial Branch website (<http://www.mncourts.gov/About-The-Courts/SupremeCourt/CourtRules.aspx>).

## **Filing Fees**

In an administrative (certiorari) appeal, the relator (the person filing the appeal) must pay a \$550 filing fee to the Clerk of the Appellate Courts. If you cannot afford your filing fee, you can ask the administrative decision-maker to waive the filing fee for the appeal. An order waiving the filing fee is sometimes referred to as an *order granting permission to proceed “in forma pauperis (IFP).”* See [Minn. R. Civ. App. P. 103.01, subd. 1; 109](#).

To get an order waiving the filing fee for the appeal, you must request it from the administrative decision-maker. Your request can also ask the administrative decision-maker to waive the cost of preparing a transcript for your appeal. If the decision-maker denies your request to waive the filing fee for the appeal, you may then file a motion with the Court of Appeals to review the decision-maker’s denial of your request.

Contact the administrative decision-maker to ask for instructions to request waiver of your filing fee on appeal. The Minnesota Judicial Branch website provides forms and instructions for requesting waiver of the filing fee in appeals from district court decisions (forms available here: <http://www.mncourts.gov/GetForms.aspx?c=19&p=70>). You may be able to modify these forms to make your fee-waiver request to the administrative decision-maker.

# Step-by-Step Instructions for Filing an Administrative (Certiorari) Appeal

## Step 1: Calculate Your Appeal Deadline

The deadline for filing an administrative (certiorari) appeal varies depending on the type of decision being appealed. You may need to research which statute governs the type of decision you seek to appeal:

- If you are appealing a decision under Minnesota Statutes chapter 14, your appeal must be filed no more than **30 days after the final decision**. To meet this deadline, you must file and serve your *Petition for Writ of Certiorari* by the date you calculate below. See Steps 2 & 3 for information about the Petition for Writ of Certiorari.
- If you are appealing a decision under Minnesota Statutes chapter 606, your appeal must be filed no more than **60 days after getting notice of a decision**. To meet this deadline, the signed (“issued”) *Writ of Certiorari* must be served by the date you calculate below. See Step 6 for information about the signed *Writ of Certiorari*.

Determine the statute that governs your appeal, the number of days you have to appeal the decision, and the date that starts the period to appeal: \_\_\_\_\_

### General Instructions for Calculating Court of Appeals Deadlines

- Do not count the day of the event that starts the time period (for example, the date the decision was mailed to you). Instead, start counting the next day.
- Continue counting calendar days. Do not skip weekends or legal holidays.
- If the last day of the period falls on a Saturday, Sunday, or legal holiday, then the deadline is the next business day. For the purpose of calculating deadlines, legal holidays for the appellate courts are:
  - New Year’s Day (January 1);
  - Martin Luther King, Jr.’s birthday (the third Monday in January);
  - Presidents’ Day (the third Monday in February);
  - Memorial Day (the last Monday in May);
  - Juneteenth (June 19);
  - Independence Day (July 4);
  - Labor Day (the first Monday in September);
  - Columbus Day (the second Monday in October), even though the appellate courts are open on Columbus Day;
  - Veterans’ Day (November 11);
  - Thanksgiving Day (the fourth Thursday in November);
  - The Friday after Thanksgiving; and
  - Christmas Day (December 25).

The deadline for starting my appeal is \_\_\_\_\_.

**Note: The Court of Appeals cannot extend the deadline for appeal. If you do not meet this deadline, your appeal will be dismissed.**

**Step 2: Fill out the *Petition for Writ of Certiorari*,  
*Statement of the Case*, and *Writ of Certiorari*  
and obtain a copy of the decision you are appealing**

- Fill out the *Petition for Writ of Certiorari*, which tells the court that you want to appeal.
- Fill out the *Statement of the Case*, which should *briefly summarize* the reasons you think the decision you are appealing from was incorrect. You do not need to make detailed arguments in the *Statement of the Case*, because you will make detailed arguments later in your *Brief*. Do not attach any additional documents to your *Statement of the Case*.

Some questions on the *Statement of the Case* may require you to complete some basic legal research about your appeal before you can complete them. Detailed instructions for completing this form are available at

<http://mncourts.gov/CourtOfAppeals.aspx#Tab08Resources>.

- Fill out the *Writ of Certiorari* (except for the signature line and date for the Clerk of the Appellate Courts). The *Writ of Certiorari* notifies the respondents that you have filed your appeal and orders the administrative decision-maker to provide certain records. The Clerk of the Appellate Courts will sign the *Writ of Certiorari* after you file it and will return it to you (see step 7 for more information about the signed *Writ of Certiorari*).

The party who files the appeal is called the “relator.” The other parties, including the administrative decision-maker, are called the “respondents.”

Fill in all of the blanks on the forms (except for the signature line and date for the Clerk of the Appellate Courts). If you do not fill out all of the blanks, the Clerk of the Appellate Courts may have to return the forms to you, and it may cause you to miss your deadline to appeal.

- Obtain a copy of the decision you are appealing. If you do not have a copy of the decision, you can contact the agency or government body that made the decision, and request an additional copy. You will need to file a copy of the decision along with your *Petition for Writ of Certiorari*. [Minn. R. Civ. App. P. 115.03](#), subd. 1.

**Step 3: File the *Petition for Writ of Certiorari*,  
*Statement of the Case, Writ of Certiorari*, and copy of the decision**

“Filing” means submitting or delivering documents to the Office of the Clerk of the Appellate Courts. Filing the *Petition for Writ of Certiorari* is how you tell the Court of Appeals that you are starting an appeal.

- Choose your method of filing (see instructions below).

**General Instructions for “Filing”**

Parties **without an attorney** may file documents by any of the following three methods:

(1) By **hand-delivering** them to the Clerk of the Appellate Courts during business hours (8:00 a.m. to 4:30 p.m. weekdays).

(2) By **mailing** the documents to the Clerk of the Appellate Courts, addressed to:

Clerk of the Appellate Courts  
305 Minnesota Judicial Center  
25 Rev. Dr. Martin Luther King Jr. Blvd.  
St. Paul, MN 55155

For filing by postal mail, a document will be considered filed “on time” if it is deposited in the U.S. Mail by the deadline with correct postage and the correct address, even though the Clerk of the Appellate Courts will not receive the document on the day you deposit it in the mail.

(3) By **submitting them electronically** through the appellate courts’ e-filing system, E-MACS. Parties who do not have an attorney are not required to use E-MACS, but they are allowed to do so. But, once you choose to file in E-MACS, you must continue using it for filing. You may not go back to filing by hand-delivery or mail. (**Note: All attorneys are required to use E-MACS and cannot file documents by mail or by hand-delivery to the Clerk of the Appellate Courts.**)

For information about electronic filing and to submit documents electronically, go to the Clerk of the Appellate Courts’ webpage ([www.mncourts.gov/Clerk-of-Appellate-Courts.aspx#tab05AppellateFiling](http://www.mncourts.gov/Clerk-of-Appellate-Courts.aspx#tab05AppellateFiling)). For additional instructions on filing, see [Minn. R. Civ. App. P. 125.01](#). **The Clerk’s Office cannot accept filings by fax or email.**

- If you are filing your documents by hand-delivery or by mail, make a copy for yourself, and a copy for each of the respondents, including the administrative decision-maker, of each of the following documents: (1) *Petition for Writ of Certiorari*, (2) *Statement of the Case*, (3) *Writ of Certiorari*, and (4) a copy of the decision you are appealing.

- Keep one copy of each document for your records and file the original of each with the Clerk of the Appellate Courts, or file electronically.

## Step 4: Serve the documents on respondents

Any time you submit a document to the Clerk of the Appellate Courts for filing, a copy must also be provided to all other parties at or before the time of filing. This is called “service.”

You must also file proof that you have served the document (“proof of service”) with the Clerk of the Appellate Courts. Instructions for proof of service are at Step 5.

**Important: If you are appealing a decision under Minnesota Statutes chapter 14, you must file the *Petition for Writ of Certiorari* and serve it on all parties by the deadline you calculated in Step 1, or your appeal will be dismissed. Minn. Stat. § 14.64 also requires you to serve a copy of the *Petition for Writ of Certiorari* on the agency.**

**If you are appealing a decision under Minnesota Statutes chapter 606, you must accomplish this step, and you must also receive the signed (“issued”) *Writ of Certiorari* and serve it on the respondents by the deadline you calculated in Step 1, or your appeal will be dismissed. See Step 6 for more information about the signed (“issued”) *Writ of Certiorari*.**

### General Instructions for “Service”

There are multiple methods to accomplish service:

- 1) **Electronically through E-MACS**, at the time you are e-filing your documents, if the person you are serving is registered for electronic service through E-MACS.
- 2) **By mail**, by depositing the documents, correctly addressed, in the U.S. Mail, with adequate first-class postage. You may serve documents by mail yourself.
- 3) **By certified mail**, by requesting and paying for this service at a post office. You may serve documents by certified mail yourself.
- 4) **In person**, by having another person hand-deliver the documents. The person who delivers the documents must be 18 years or older and not a party to the appeal. You can not serve documents in person yourself, someone else must do it for you.
- 5) **Other method, if the person consents to another method of service**, such as email or fax.

If a party has an attorney, you must serve the attorney rather than the party. If a party does not have an attorney, serve that party directly. For additional instructions on service, see [Minn. R. Civ. App. P. 125.02 and 125.03](#).

- If you are filing your appeal under Chapter 14 of the Minnesota Statutes, decide how you will serve your *Petition for Writ of Certiorari* on the administrative decision-maker. Minn. Stat. § 14.64 requires you to serve your *Petition for Writ of Certiorari* on the agency **either in person or by certified mail**.
- If you are filing your appeal under Chapter 14 of the Minnesota Statutes, serve the agency with a copy of the *Petition for Writ of Certiorari*.
- Choose your method of service on other respondents, if any. For simplicity, this packet assumes you will serve all respondents (excluding the agency in an appeal under Minnesota Statutes chapter 14) **by mail**. You could choose another method of service, but the *Certificate of Service* form in this packet would need to be modified to reflect the method of service you actually use.
- Serve the respondent(s) with a copy of (1) *Petition for Writ of Certiorari*, (2) *Statement of the Case*, (3) unsigned copy of the *Writ of Certiorari*, and (4) a copy of the decision you are appealing.



**Step 5: If you served any documents in person, by mail, by certified mail, or other non-electronic method:**

**Fill out and file the *Certificate of Service***

**Every** document submitted to the Clerk of the Appellate Courts for filing must be accompanied by proof that the document was served on the other parties to the appeal. This is called “proof of service.” If you file and serve a document electronically, E-MACS automatically provides “proof of service” for that document, so documents served electronically do not require a separate form showing proof of service. However, if you serve a document by mail or in person, you must fill out and file a form (called an “Affidavit of Service” or “Certificate of Service”) to prove that you served the document.

**General Instructions for “Proof of Service”**

Did you serve **all** of your documents on **all** parties electronically using E-MACS?

**If yes: No separate proof of service is required**, because the Clerk of the Appellate Courts will receive proof (from E-MACS itself) that you have served each document electronically. Skip to Step 6 on page 11.

**If no: Any time you serve papers in person, by postal mail, or by another delivery method (with the consent of the recipient), you must file a separate form showing proof of service.**

Usually, proof of service is (1) a notarized *Affidavit of Service* or (2) a *Certificate of Service*. The difference between an *Affidavit of Service* and a *Certificate of Service* is that a *Certificate of Service* does not need to be signed in front of a notary.

You may file one *Certificate of Service* (or *Affidavit of Service*) listing multiple documents if you serve those documents on the same date and on the same parties.

For additional instructions on proof of service, see [Minn. R. Civ. App. P. 125.04](#).

If you served any documents by mail or other non-electronic method, follow the checklist on the next page to submit proof of service for those documents.

- The person who served the documents on respondents by mail must complete and sign the form titled *Relator’s Certificate of Service by Mail of the Petition, Unsigned Writ, Statement of the Case, and Decision*.
- The person who served the documents on the agency must complete and sign the form titled *Relator’s Certificate of Service of the Petition for Writ of Certiorari, Unsigned Writ, Statement of the Case, and Decision on the Agency*.

The *Certificate of Service* must include, from top to bottom:

1. The parties' names and case file number;
2. County where the form was signed;
3. The name of the person who served the documents;
4. The titles of the documents that were served (on the forms included with this packet, the titles of the document are already filled in);
5. The date the documents were served;
6. The names of the parties who were served and the addresses to which the documents were mailed or delivered to those parties;
7. The signature of the person who served the documents, the date the form was signed, and the county and state where the form was signed.

**Note: You will need different *Certificate of Service* forms at different steps in the process. Do not fill out or file all of the *Certificate of Service* forms at the same time.**

**If any of your documents were served in person, the person who served the documents in person must be the one to fill out and sign the Certificate of Service, because you cannot serve documents in person yourself.**

File the signed *Certificate of Service* with the Clerk of the Appellate Courts.

- If you used E-MACS to electronically file your *Petition for Writ of Certiorari, Writ of Certiorari, Statement of the Case*, and decision, you will also file your *Certificate of Service* electronically using E-MACS (even if you served your documents by mail or in person). The *Certificate of Service* must be uploaded as a separate PDF or Word document – do not combine with one of your other documents into a single PDF or Word document.
- If you filed your *Petition for Writ of Certiorari, Writ of Certiorari, Statement of the Case*, and decision by hand delivery or by mail, you may also file your *Certificate of Service* by hand delivery or by mail.
  - See Step 3 on page 6 for additional instructions on how to file documents.

**Step 6: Serve the signed *Writ of Certiorari* and file proof of service**

The Office of the Clerk of the Appellate Courts will distribute the signed (“issued”) *Writ of Certiorari* soon after you file it. If you filed your appeal by mail, the issued *Writ of Certiorari* will be mailed back to you. If you filed your appeal in person, the Clerk of the Appellate Courts may be able to provide you with the issued *Writ of Certiorari* at the time you file your other paperwork; if not, it will be mailed to you. If you filed your appeal electronically through E-MACS, the issued *Writ of Certiorari* will be returned to you electronically.

No matter how you receive the “issued” *Writ of Certiorari*, you must serve a copy on all of the other parties to the appeal, including the administrative decision-maker, because the Clerk of the Appellate Courts only sends a copy of the issued *Writ of Certiorari* to the party who initiated the appeal.

- Receive the issued *Writ of Certiorari* from the Clerk of the Appellate Courts.
- Make two copies of the issued *Writ of Certiorari*. Keep the original for your records.
- Serve a copy on the respondent(s) and the administrative decision-maker (see Step 4 above for instructions on how to serve documents).
- The person who served the issued *Writ of Certiorari* must fill out and sign the form titled *Certificate of Service by Mail of Issued Writ of Certiorari*. This is proof of service for the issued *Writ of Certiorari*. See Step 5 above for instructions about filling out the *Certificate of Service*.
- File the *Certificate of Service* of the issued *Writ of Certiorari* with the Clerk of Appellate Courts (see Step 3 above for instructions on how to file documents). This must be filed within 7 days of when the issued *Writ of Certiorari* was served on the respondent(s). See [Minn. R. Civ. App. P. 115.03, subd. 4.](#)

**Note: The next step (ordering the *Transcript*) must be completed within 14 days of filing the *Writ of Certiorari*. Read the next step right away to determine whether you need to order a *transcript* in your appeal.**

**Step 7: Order your *Transcript* (if applicable)  
within 10 days of filing the *Writ of Certiorari***

**General Information about the “Record”**

In addition to the parties’ briefs, the “record” is the only information that the Court of Appeals considers in an appeal. The record is the evidence used in the hearing before the administrative-law judge, agency, or other government body. It may also be called the “administrative record.” If you asked for a new hearing in your request for reconsideration, the record also includes any new evidence accepted at that hearing. The record should include all of the information and documents that were used to make the decision you are appealing. The evidence in the record is the only evidence that the Court of Appeals typically looks at in an appeal.

The record might also include a *transcript* of the hearing(s) before the administrative-law judge or administrative decision-maker. A *transcript* is a typed copy of what all of the witnesses, parties, and the judge said at your hearing.

The agency or government body that made the decision you are appealing must serve all parties with an *itemized list of the contents of the record*, so all parties know what documents and evidence can be considered on appeal. If you request a *transcript*, that *itemized list* will be served within 14 days after the transcript is delivered. If you do not request a *transcript*, the *itemized list* will be served within 30 days after you served your *Petition for Writ of Certiorari*. See [Minn. R. Civ. App. P. 115.04, subd. 3](#). The *itemized list* starts the time for you to prepare your brief. See Step 8 for information about the deadline for your brief.

**Do I need a transcript for my appeal?**

If a hearing was held in your case, you can order a *transcript* of the hearing from the agency or government body that held the hearing. If you want the Court of Appeals to consider what was said at the hearing as part of the record in your appeal, you will need a transcript of each hearing you want the Court of Appeals to consider.

The *transcript* must be ordered within 14 days after the Clerk of the Appellate Courts signs and issues the *Writ of Certiorari*. See [Minn. R. Civ. App. Proc. 115.04](#), subd. 2, and Step 6 above. A *transcript* is not automatically prepared; you must request it.

The agency or government body may charge a fee for preparing the *transcript*. If you can’t afford the transcript-preparation fees, you can request that the administrative decision-maker waive your transcript-preparation fees. See page 3 for instructions on requesting waiver of fees in your appeal, including transcript-preparation fees.

- Decide whether you need a transcript of a hearing before the administrative-law judge or administrative decision-maker.

If you decide you **do NOT** need a transcript for your appeal, skip to Step 8 on page 14. If you decide you **DO** need a transcript for your appeal, follow the checklist on the next page.

For each hearing you are requesting a transcript of, gather this information:

- (1) Case file number for your case: \_\_\_\_\_
- (2) Names of the parties: \_\_\_\_\_
- (3) Date of the hearing(s): \_\_\_\_\_
- (4) Name of judge or decision-maker at the hearing(s): \_\_\_\_\_

You will need to provide this information when you request the transcript.

- Call the agency or government body where your hearing took place for instructions on how to request a transcript.
- Follow the agency or government body's instructions to request a transcript.
- Pay the fee for the transcript. After you submit your transcript request, the person who is responsible for preparing your transcript will contact you and will provide you with an estimated cost to prepare the transcript and the estimated date when the transcript will be complete. Payment must be made before the transcript is prepared. If you are unable to afford the transcript fee, call the agency or government body and request instructions for having the transcript fee waived.
- Provide the names and contact information for the other parties involved with the appeal to the person responsible for preparing your transcript, so that they can provide the other parties with copies of the transcript. It is the responsibility of the relator (appealing party) to order copies of any transcript being prepared for appeal for all the other parties to the appeal.

The person responsible for preparing your transcript will fill out a ***Transcript Certificate***, which lets the Court of Appeals know that you have requested the transcript and will pay for the preparation of the transcript. See Minn. R. Civ. App. P. 110.02, 115.04. After you pay the person responsible for preparing your transcript, they will prepare the transcript and provide it to you and the other parties electronically or by mail. The person preparing your transcript will also file a copy of the transcript with the agency or government body that held the hearing, and will file a ***Transcript Delivery Certificate*** with the Clerk of the Appellate Courts verifying that the transcript was filed with the agency or government body. The Clerk of the Appellate Courts will receive the transcript as part of the record from the agency or government body.

**Step 8: Calculate the Deadline for your *Brief***

Your written argument on appeal is called a “brief.” As the relator (appealing party), **you must file a *brief*, or your appeal will be dismissed.** See [Minn. R. Civ. App. P. 142.02](#).

**See Step 1 for specific instructions for calculating deadlines.**

The deadline for your *brief* depends on when you were served with an *itemized list of the contents of the record*. See step 7 for general information about “the record.”

The agency or government body that made the decision you are appealing must serve all parties with an *itemized list of the contents of the record*, so all parties know what documents and evidence can be considered on appeal. If you request a *transcript*, that *itemized list* will be served within 14 days after the transcript is delivered. If you do not request a *transcript*, the *itemized list* will be served within 30 days after you served your *Petition for Writ of Certiorari*. See [Minn. R. Civ. App. P. 115.04, subd. 3](#).

Your *brief* is due 30 calendar days after the agency or government body who made the decision serves you with the *itemized list of the contents of the record*. If the *itemized list* is served by mail, then your brief is due 30 calendar days plus 3 business days after the date that the *itemized list* was mailed to you. The brief must be filed and served by the deadline. See [Minn. R. Civ. App. P. 115.04, subd. 4](#).

The *itemized list of the contents of the record* was served or mailed to me on \_\_\_\_\_.

ADD 30 calendar days if served electronically

**OR**

ADD 30 calendar days +3 business days if served by mail

The deadline for my brief is \_\_\_\_\_.

## Step 9: Prepare your *Brief*

You have three options for the format of your *brief*:

- (1) **Formal *Brief***: A formal brief includes a table of contents, a statement of the legal issues, a statement of the case and the facts, an argument, a conclusion, and an addendum. See [Minn. R. Civ. App. P. 128.02](#).
- (2) **Informal *Brief***: If the court gives permission to file an informal brief, it must include a written argument and addendum. See [Minn. R. Civ. App. P. 128.01, subd. 1](#). To receive permission to file an informal brief, you would need to file a motion requesting permission. See page 17 for more information about motions.
- (3) **Memorandum of Law and Short Letter Argument**: If you submitted a written *Memorandum of Law* during your administrative or agency proceeding, you may file that Memorandum as your brief, along with a short letter argument that addresses the decision and an addendum. See [Minn. R. Civ. App. P. 128.01, subd. 2](#). If this is the type of brief you wish to file, you must have selected this option on the *Statement of the Case*.

- Choose the format for your *brief* (formal, informal with permission from the court, or memorandum of law with short letter argument).
- Write your *brief*. The Minnesota State Law Library website has helpful information about writing briefs and example briefs you can read (<http://mncourts.libguides.com/appeals/briefs>).
- Prepare the addendum to your *brief*. No matter what type of *brief* you file, your *brief* must include an addendum that contains a copy of the decision that you are appealing.

The addendum *may* also include documents from the record before the agency or government body, if there are specific parts of the record that you want to point out to the Court of Appeals. However, **you cannot include any new evidence that was not presented to the administrative law judge or other decision-maker**. If you choose to include additional documents from the record, the page limit is 50 pages and your addendum should include a table of contents. See [Minn. R. Civ. App. P. 130.02](#) for additional instructions about the addendum.

## Step 10: File and Serve your *Brief*

- File your brief with the Clerk of the Appellate Courts (see Step 3 above for instructions on how to file documents).

If you have already **e-filed** documents using the appellate courts' E-MACS system, you will e-file your brief, too. During the e-filing process you should e-serve your brief on any parties to your case who have registered for e-filing.

If you are filing **in person or by mail** (instead of using the appellate courts' E-MACS system), you will need to file a printed hard copy of your brief.

- If needed, serve paper hard copies of your brief on other parties to your case. There are two situations where you would need to print hard copies of your brief to serve on parties to your case:

- 1) If you filed your brief in person or by mail (instead of using the appellate courts' E-MACS system), you will need to serve a hard copy of your brief on all of the other parties to the case. Make enough hard copies of your briefs for all respondents on the case.
- 2) If you e-filed your brief using the appellate courts' E-MACS system, but there were any parties who you could not e-serve through E-MACS and they have not agreed to some other form of e-service (such as email), you will need to serve those parties with a hard copy of your brief. Make enough hard copies of your brief for all parties who could not be e-served.

- If you needed to serve any hard copies of your brief, the person who served the hard copies of the brief must fill out and sign the form titled *Certificate of Service by Mail of Brief* (see Steps 4 & 5 above for instructions about service and proof of service).

- If you needed to serve any hard copies of your brief, file the *Certificate of Service by Mail of Brief* with the Clerk of the Appellate Courts (see Step 3 above for instructions on how to file documents).



### General Information about “Motions”

If you cannot serve and file your brief within 30 days and you need more time, or if you want to make any other request of the court, you must serve and file a signed, written request asking the court for the relief you need. This formal request is called a “motion.”

The motion must state (1) what you are requesting and (2) the reason(s) for that request. You must serve the written motion on the respondents and file proof of service for the motion. The requirements for a motion are found in [Minn. R. Civ. App. P. 127](#) and specific instructions for requesting a briefing extension are found in [Minn. R. Civ. App. P. 131.02](#). If you are requesting an extension of a deadline, your motion should be served and filed before the deadline you wish to extend.

**Reminder: The Court of Appeals cannot extend the deadline to serve and file the *Petition for Writ of Certiorari* or the time for obtaining the *Writ of Certiorari* under Minn. Stat. chapter 606.**

## What Happens Next?

### **Court of Appeals Receives the Record and Respondent's Brief**

The administrative decision-maker sends the record from your case to the Court of Appeals, including any transcript of your hearing(s). The respondent(s) also have the opportunity to each submit a brief to the Court of Appeals.

If a respondent's brief raises a new topic that your brief did not address, you may (but do not have to) file a reply brief. See [Minn. R. Civ. App. P. 131.01, subd. 3](#). Your reply brief cannot raise new reasons for reversal or issues that were not raised in your brief or the respondent's brief.

If you choose to file a reply brief, your deadline for filing and serving the reply brief is as follows:

- If the respondent's brief was served on you in person or electronically via E-MACS, the deadline for your reply brief is 14 days after the date the respondent's brief was served on you.
- If the respondent's brief was served on you by mail, the deadline for your reply brief is 14 calendar days + 3 business days from the date the respondent's brief was mailed to you (not when you received it).

### **Oral Argument or Non-Oral Consideration**

After the parties have filed their briefs, your appeal will be submitted to a panel of three Court of Appeals judges. You will receive a *Notice* of the date of oral argument or non-oral consideration by the panel. This notice will also include the names of the judges assigned to decide your case.

If you are not represented by an attorney, the Court of Appeals will not allow oral argument by any party. See [Minn. R. Civ. App. P. 134.01](#).

In deciding your appeal, the Court of Appeals looks at the evidence used in the hearing(s) before the agency or government body. You may not give new evidence on appeal without first getting permission from the Court of Appeals. The Court of Appeals generally does not accept new evidence.

### **Opinion is Issued**

The Court of Appeals will issue a written decision, called an "opinion," within 90 days after the appeal is considered by the judges. **All appellate court opinions are public and will be available on the Judicial Branch website.**

If you wish to appeal the Court of Appeals decision, you have 30 days after the opinion is issued to file a *petition for further review (PFR)*, which is a request for the Minnesota Supreme Court to review the Court of Appeals decision. See [Minn. R. Civ. App. P. 117](#).

**STATE OF MINNESOTA  
IN THE COURT OF APPEALS**

CASE TITLE:

\_\_\_\_\_

vs.

\_\_\_\_\_

**PETITION FOR  
WRIT OF CERTIORARI**

(Revised April 18, 2019)

**Agency Case #** \_\_\_\_\_

**Date of Decision** \_\_\_\_\_

TO: The Court of Appeals of the State of Minnesota:

\_\_\_\_\_ (your name)

hereby petitions the Court of Appeals for a Writ of Certiorari pursuant to (choose one):

Minn. Stat. § 14.63, § 14.64    **OR**     Minn. Stat. § 606.01

to review a decision of \_\_\_\_\_ (agency name)  
issued on the date noted above, upon the grounds that:

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

(Summarize why you are appealing in a sentence or two. You will make a detailed argument in the brief that you will be filing later.)

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

\_\_\_\_\_  
(Signature of you or your attorney)

\_\_\_\_\_  
(Printed name)

\_\_\_\_\_  
(Address)

\_\_\_\_\_  
(Telephone Number)

\_\_\_\_\_  
(Email Address)

**STATE OF MINNESOTA  
IN THE COURT OF APPEALS**

CASE TITLE:

\_\_\_\_\_

vs.

\_\_\_\_\_

**WRIT OF CERTIORARI**

(Revised April 18, 2019)

**Court of Appeals #** \_\_\_\_\_

**Agency Case #** \_\_\_\_\_

**Date of Decision** \_\_\_\_\_

TO: \_\_\_\_\_ (agency name)

You are hereby ordered to return to the Court of Appeals and serve on all parties in accordance with rule 115.04, subdivision 3, within 30 days after service of the petition or 14 days after delivery of a transcript, whichever is later, an itemized statement of the record, exhibits, and proceedings in the above-entitled matter so that this court may review the decision issued on the date noted above.

You are further directed to retain the actual record, exhibits, and transcript of proceedings (if any) until requested by the Clerk of the Appellate Courts to deliver them in accordance with rule 115.04, subdivision 5.

Copies of this writ and accompanying petition shall be served forthwith either personally or by mail upon the respondent(s) or its attorney at:

*(Fill in the name and address of the respondent(s) or respondent's attorney on the lines below. Add lines if there are additional respondents.)*

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

Proof of service shall be filed with the Clerk of the Appellate Courts.

DATED: \_\_\_\_\_

Clerk of the Appellate Courts

By: \_\_\_\_\_  
Assistant Clerk

**STATE OF MINNESOTA  
IN THE COURT OF APPEALS**

CASE TITLE:

\_\_\_\_\_

vs.

\_\_\_\_\_

**STATEMENT OF THE CASE  
OF RELATOR** (Revised April 18, 2019)

**Court of Appeals #** \_\_\_\_\_

**Agency Case #** \_\_\_\_\_

*This form is provided for the benefit of self-represented litigants, and conforms to the Statement of the Case form required by Rule 133.03 of the Minnesota Rules of Civil Appellate Procedure and to Form 133, found at the end of the Minnesota Rules of Civil Appellate Procedure. Some questions on this form may require you to complete some basic legal research about your appeal before you can complete them. Instructions for completing this form are available at <https://mncourts.gov/Clerk-of-Appellate-Courts.aspx#tab04Forms>.*

1. **Agency where case originated:** \_\_\_\_\_

Name of presiding judge or hearing officer: \_\_\_\_\_

2. **Jurisdictional statement for a certiorari appeal:**

a. Statute, rule, or other authority authorizing certiorari appeal (choose one):

Minn. Stat. §§ 14.63, 14.64    **OR**     Minn. Stat. § 606.01 **OR**

Other \_\_\_\_\_

b. Authority (statutory section) fixing time limit and date of event triggering appeal time (mailing of decision, receipt of decision, or receipt of other notice):

Minn. Stat. §§ 14.63, 14.64    **OR**     Minn. Stat. § 606.01 **OR**

Other \_\_\_\_\_

3. **Type of litigation and any statutes at issue:** \_\_\_\_\_

\_\_\_\_\_

4. **Brief description of issues that were raised before the administrative or agency decision maker, and how the administrative or agency decision maker decided those issues:**

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

5. **Short description of issues you are raising in this appeal** (one or two sentences; you may make a more detailed argument in the brief you will be filing later):

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6. **Related appeals:**

a. List any prior or pending appeals arising from the same agency case as this appeal (write appeal numbers, or “none”):

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b. List any pending appeals arising from different agency cases that raise similar issues to this appeal (write appeal numbers, or “none known”):

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7. **Contents of record:**

a. Is a transcript necessary to review the issues on appeal?  Yes **OR**  No

b. If yes, is it a full transcript of the hearing(s) before the administrative decision-maker, or a partial transcript?

Full transcript **OR**  Partial transcript

c. Has the transcript been ordered from the court reporter?  Yes **OR**  No

d. If a transcript is unavailable, is a statement of the proceedings under Minnesota Rules of Civil Appellate Procedure 110.03 necessary?

Yes **OR**  No

e. In lieu of the record as defined in Minnesota Rules of Civil Appellate Procedure 110.01, have the parties agreed to prepare a statement of the record pursuant to Minnesota Rules of Civil Appellate Procedure 110.04?

Yes **OR**  No

8. **Oral argument**

a. If you have an attorney, is oral argument requested?

Yes  No

I do not have an attorney

b. If yes, where is oral argument requested:

Minnesota Judicial Center in St. Paul

Other: \_\_\_\_\_

**9. Type of brief to be filed** (choose one, the type that you plan to file):

Formal brief under Rule 128.02

*(A formal brief includes a table of contents, a statement of the legal issues, a statement of the case and the facts, an argument, a conclusion, and an addendum. \*)*

Informal brief under Rule 128.01, subd. 1.

*(Before filing an informal brief, you must file a motion requesting permission to do so. An informal brief contains a concise statement of your argument and an addendum. \*)*

Trial memoranda, supplemented by a short letter argument under Rule 128.01, subd. 2, and an addendum.

*(If you submitted a written Memorandum of Law during your administrative or agency proceeding, you may file that Memorandum as your brief, along with a short argument in letter format that addresses the decision you are appealing. This must include an addendum\*.)*

*\* No matter what type of brief you file, the relator's brief must include an addendum (respondents may include an addendum with their brief, but the addendum is only required for relator's brief). The requirements for your addendum are listed in [Minn. R. Civ. App. P. 130.02](#). Your addendum may also contain up to 50 additional pages of documents from the record or statutes, rules, cases or other authorities that would be helpful to the court when reading your brief. However, **you cannot include any new evidence that was not presented to the administrative decision-maker.***

**10. Names, addresses, and telephone numbers of relator and respondents (or attorneys, if any):**

Relator or relator's attorney:

Print name: \_\_\_\_\_

Address: \_\_\_\_\_

Email address: \_\_\_\_\_

Telephone: \_\_\_\_\_

Signature: \_\_\_\_\_

Respondent or respondent's attorney:

Print name: \_\_\_\_\_

Address: \_\_\_\_\_

Email address: \_\_\_\_\_

Telephone: \_\_\_\_\_

**STATE OF MINNESOTA  
IN THE COURT OF APPEALS**

CASE TITLE:

\_\_\_\_\_ ,

vs.

\_\_\_\_\_ ,

**RELATOR'S CERTIFICATE OF  
SERVICE OF THE PETITION FOR  
WRIT OF CERTIORARI  
ON THE AGENCY**

(Revised April 18, 2019)

**Court of Appeals # \_\_\_\_\_**

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

I, \_\_\_\_\_ (Name), certify that on \_\_\_\_\_ (Date),  
I served the attached **petition for writ of certiorari** upon the following agency:

*(If you are filing your appeal under Chapter 14 of the Minnesota Statutes, your Petition for Writ of Certiorari must be served on the agency either in person or by certified mail. See Minn. Stat. § 14.64. List the agency name and address to which service was directed.)*

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

By the following method (choose one):

**In person**, by personally handing to and leaving with the person(s) listed above. *(If this option is selected, someone other than relator must serve the documents and fill out this form.)*

**By certified mail**, directed to the addresses for the agency listed above.

I declare under the penalty of perjury that everything I have stated in this document is true and correct.

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Date)



**STATE OF MINNESOTA  
IN THE COURT OF APPEALS**

CASE TITLE:

\_\_\_\_\_

vs.

\_\_\_\_\_

**RELATOR'S CERTIFICATE OF  
SERVICE BY MAIL OF THE  
PETITION FOR WRIT OF  
CERTIORARI UNSIGNED WRIT,  
STATEMENT OF THE CASE, AND  
AGENCY DECISION**

(Revised April 18, 2019)

**Court of Appeals # \_\_\_\_\_**

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

I, \_\_\_\_\_ (Name), certify that on \_\_\_\_\_ (Date),  
I served the attached **(1) petition for writ of certiorari, (2) unsigned writ of certiorari,  
(3) statement of the case, and (4) decision from which appeal is taken**, on the  
following persons by mailing to each of them a copy thereof, enclosed in an envelope,  
first-class postage pre-paid, and by depositing the same in the United States Mail,  
directed to each person as follows:

*(If a party is represented, you must serve that party's attorney, not the party directly.  
List the name or title of the person(s) who received documents and their addresses. Add  
additional lines if needed for additional respondents):*

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

I declare under the penalty of perjury that everything I have stated in this document is  
true and correct.

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Date)

**STATE OF MINNESOTA  
IN THE COURT OF APPEALS**

CASE TITLE:

\_\_\_\_\_ ,

vs.

\_\_\_\_\_ ,

**RELATOR'S CERTIFICATE OF  
SERVICE BY MAIL OF ISSUED  
WRIT OF CERTIORARI**

(Revised April 18, 2019)

**Court of Appeals # \_\_\_\_\_**

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

I, \_\_\_\_\_ (Name), certify that on \_\_\_\_\_ (Date), I served the attached **issued writ of certiorari (signed by the Clerk of the Appellate Courts)**, on the following parties by mailing to each of them a copy thereof, enclosed in an envelope, first-class postage pre-paid, and by depositing the same in the United States Mail, directed to said party as follows: *(If a party is represented, you must serve that party's attorney, not the party directly. List the name or title of the person(s) who received documents and their addresses. Add additional lines if needed for additional respondents):*

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\_\_\_\_\_

I declare under the penalty of perjury that everything I have stated in this document is true and correct.

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Date)

**STATE OF MINNESOTA  
IN THE COURT OF APPEALS**

CASE TITLE:

\_\_\_\_\_ ,

vs.

\_\_\_\_\_ ,

**RELATOR'S CERTIFICATE OF  
SERVICE BY MAIL OF BRIEF**

(Revised April 18, 2019)

**Court of Appeals # \_\_\_\_\_**

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

I, \_\_\_\_\_ (Name), certify that on \_\_\_\_\_ (Date), I served the attached **brief**, on the following parties by mailing to each of them a copy thereof, enclosed in an envelope, first-class postage pre-paid, and by depositing the same in the United States Mail, directed to said party as follows:

*(If a party is represented, you must serve that party's attorney, not the party directly. List the name or title of the person(s) who received documents and their addresses. Add additional lines if needed for additional respondents.):*

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\_\_\_\_\_

I declare under the penalty of perjury that everything I have stated in this document is true and correct.

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Date)