

Instructions for filing a Motion in the Minnesota Court of Appeals

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These instructions, the *Motion* form, and the *Affidavit in Support of Motion* form (available at <https://mncourts.gov/Clerk-of-Appellate-Courts.aspx#tab04Forms>) are provided for the benefit of self-represented litigants.

Requirements for motions in the Minnesota Court of Appeals and Minnesota Supreme Court are listed in [Minn. R. Civ. App. P. 127](#). If you are filing a motion to request an extension of the deadline for your brief, [Minn. R. Civ. App. P. 131.02](#) also applies.

These instructions provide a basic guide to filing a motion. However, the exact wording of your motion is up to you. You may need to consult an attorney about how to word your motion and what additional documents might be helpful to include with it.

For additional assistance filing a motion, contact the State Law Library at (651) 297-7651. Please note that court employees can give general information about court rules, forms, and procedures, but they cannot give legal advice.

Step 1: Fill out the *Motion* form

If you need to make any request of the court while your appeal is pending, 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. The requirements for a motion are found in [Minn. R. Civ. App. P. 127](#). You may need to consult an attorney about what types of requests the court will consider during your appeal, how to word your motion, and whether to attach any other documents with your motion.

If you are filing a motion to request an extension of the deadline to file your brief, [Minn. R. Civ. App. P. 131.02](#) describes additional requirements for that type of motion.

Fill out the *Motion* form. Describe what you are asking the court to do and why. List the court rules that apply to your requests.

Sign and date the *Motion* form.

Step 2: Fill out the *Affidavit in Support of Motion* form

An *Affidavit* is a sworn statement of facts. If you are filing a motion requesting an extension of the deadline for your brief, you are required to include an *Affidavit in Support of Motion* stating specific facts as to why you are unable to file the brief on time. [Minn. R. Civ. App. P. 131.02, subd. 2](#).

For other types of motions, an *Affidavit in Support of Motion* is not strictly required by court rule, but is still helpful to provide the court more information to decide your motion. You may wish to consult an attorney about how to word your *Affidavit in Support of Motion*.

You may have someone other than yourself fill out an *Affidavit in Support of Motion*, if that person knows about the facts supporting the reasons for the request in your motion. If you decide to include more than one *Affidavit in Support of Motion*, you will need to make extra copies of the form (only one person can sign each *Affidavit*).

Step 3: Serve your *Motion* and *Affidavit* on the opposing parties

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.”

General Instructions for “Service”

If a party has an attorney, you must serve the attorney rather than the party. If a party does not have an attorney, you may serve that party directly.

You can serve **by mail** by depositing the documents, correctly addressed, in the U.S. Mail, with adequate first-class postage. You can serve documents by mail yourself.

For simplicity, these instructions assume that you are serving the other parties by mail.

However, there are other methods of service:

- (1) **In person** (“personal service”): Have another person hand-deliver the document. The person who hand-delivers the document must be 18 years or older and not a party to the appeal. You cannot serve a party in person yourself.
- (2) **Electronically**: If you filed electronically using the appellate courts’ e-filing system, E-MACS, you can serve the respondents electronically as well, if the respondents are registered in E-MACS.
- (3) If the recipient consents to another method of delivery, such as email or fax, you could also use that method for service.

For additional instructions on service, see [Minn. R. Civ. App. P. 125.02 and 125.03](#).

- Make a copy of the *Motion* and *Affidavit* for yourself and for each opposing party. If you are the appellant, make a copy for each respondent in your appeal. If you are the respondent in the appeal, make a copy for each appellant in your appeal.
- Mail a copy of the *Motion* and *Affidavit* to each opposing party (or their attorney, if they have an attorney).

Step 4: Proof of Service

Every document submitted to the Clerk of the Appellate Courts for filing must be accompanied by a form stating that the document was served on the other parties to the appeal. This is called “proof of service.”

General Instructions for “Proof of Service”

If you serve papers by mail, in person, or by another delivery method (with the consent of the recipient), “proof of service” is required along with any document you file.

The easiest method for proof of service is to fill out a *Certificate of Service*. A *Certificate of Service* does not need to be signed in front of a notary.

You may file one *Certificate of Service* listing multiple documents, but only 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](#).

For simplicity, these instructions assume that you are serving the other parties by mail. You will need a *Certificate of Service by Mail*, which must include, from top to bottom:

- The parties’ names and case file number;
- County where the form was signed;
- The name of the person who served the documents;
- The titles of the documents that were served;
- The date the documents were served;
- The names of the parties who were served and the addresses to which the documents were mailed to those parties;
- 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.

Print out a *Certificate of Service by Mail* form, which is available at http://mncourts.gov/mncourtsgov/media/Appellate/Court%20of%20Appeals/Certificate_of_Service_by_Mail.pdf

The person who served the documents by putting them in the mail must complete and sign the form titled *Certificate of Service by Mail*.

Step 5: File the *Motion, Affidavit, and Certificate of Service by Mail*

“Filing” means submitting or delivering documents to the Office of the Clerk of the Appellate Courts. Filing the *Motion* is how you let the Court of Appeals know you are making a request.

If you have electronically filed other paperwork in your appeal, you must also electronically file your *Motion, Affidavit, and Certificate of Service by Mail*. If you did not electronically file the other paperwork in your appeal, choose your method of filing:

General Instructions for “Filing”

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

- 1) **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
- 2) **Hand-delivering** them to the Clerk of the Appellate Courts during business hours (8:00 a.m. to 4:30 p.m. weekdays), or
- 3) **Submitting them electronically** through the appellate courts’ e-filing system, E-MACS. Once you start to e-file in an appellate case, you must continue to e-file throughout the case – you cannot choose later to file in person or by 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). 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 by mail or hand-delivery, make one copy of the *Certificate of Service by Mail*. Keep the copy for your records.
- File the *Motion, Affidavit, and Certificate of Service by Mail* with the Clerk of the Appellate Courts using the method you chose above.

What Happens Next?

Any party in your appeal may file a *response* to your motion within 5 days after you serve them with your motion. If you would like to reply to the response, you may file a *reply*, which must be served within 3 days of the response. [Minn. R. Civ. App. P. 127](#).

The court will consider your *Motion* and will grant or deny your *Motion* in writing.