

## INSTRUCTIONS

Filing a Motion for Permission to Waive Costs, Fees and Expenses on Appeal and to have an Appeal Heard on the Original Workers' Compensation Board File

### PLEASE READ CAREFULLY:

Fill in the underlined spaces in the attached form with answers appropriate to your motion. The title of the case should be entered on the left hand side of the form and written as the title appeared on the decision being appealed from. With respect to the paragraph below the caption, the first date to be filled in is the date in which the attached affirmation in support of the motion was dated. The second date to be filled in is the return date of the motion.

Motions are returnable in this Court on a Monday or, if a Monday falls on a holiday, on the next business day. The amount of notice you must give your adversary depends on the type of service you choose. Please refer to the following chart:

✓ By Mail:	13 Days
✓ Overnight Mail:	9 Days
✓ Personal Service	8 Days

Return the completed motion form with proof of service to the following addresses set forth below:

<u>Original:</u>	Supreme Court Appellate Division, Third Department P.O. Box 7288, Capitol Station Albany, New York 12224-0288
<u>1 Copy to:</u>	Attorney General Department of Law, Labor Bureau 28 Liberty Street, 15th Floor New York, NY 10005
<u>1 Copy to:</u>	All other Adversaries (if applicable)

**\*If any adversary is represented by an attorney, service should be made upon the attorney rather than the adversary.**

The following papers should be attached to your Motion:

- ✓ Notice of Appeal
- ✓ The written decision

In the Matter of the Claim of

\_\_\_\_\_  
Appellant,

v

\_\_\_\_\_,  
Respondent,

Workers' Compensation Board,  
Respondent.

WCB No. \_\_\_\_\_

NOTICE OF MOTION FOR  
PERMISSION TO WAIVE  
COSTS, FEES AND  
EXPENSES  
ON APPEAL  
AND TO HAVE THE APPEAL  
HEARD ON THE  
ORIGINAL BOARD FILE

PLEASE TAKE NOTICE that, upon the annexed affirmation dated the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, a motion will be made to this Court, on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, in the County of Albany, New York for an order granting the appellant a waiver of costs, fees and expenses and to have the appeal heard on the Original Workers' Compensation Board file.

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

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

(Print Name) \_\_\_\_\_

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

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

**PLEASE TAKE NOTICE** that, pursuant to section 1250.4 (a) (7) and (8) of the Practice Rules of the Appellate Division, this motion will be submitted on the papers and the personal appearance of counsel or the parties is neither required nor permitted.

**AFFIRMATION IN SUPPORT OF MOTION**

1. My full name is: \_\_\_\_\_

2. What is the decision of the Workers' Compensation Board you have appealed from to this Court? (Please attach a copy of the decision and a copy of the decision and a copy of your Notice of Appeal).

\_\_\_\_\_

3. What relief are you seeking by this motion?

\_\_\_\_\_

\_\_\_\_\_

4. What facts are present to support your contention that there is merit to your appeal? (attach additional documentation, if necessary)

\_\_\_\_\_

\_\_\_\_\_

5. Are you able to pay the costs, fees and expenses necessary to maintain the appeal?

Yes  No

6. What is your occupation? If you are a student, indicate the school which you attend and the name and address of the person who is paying your tuition, room and/or board.

\_\_\_\_\_

\_\_\_\_\_

7. Are you are employed? Yes  No

If yes, state your gross weekly salary and provide the name and address of your employer. Please provide a copy of your most recent pay stub.

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

8. If married and your spouse is employed, what is his/her weekly gross salary and the name and address of his/her employer?

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9. Do you receive financial support from anyone? Yes  No

If yes, please provide the name, relationship and address of this person or persons and the amount of support provided to you.

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10. Do you provide financial support to anyone? Yes  No

If yes, please provide the name, relationship and address of this person or persons and the amount of support you provide.

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Do you own real estate either by yourself or with someone else? Yes  No

If yes, please provide the following information:

a. Other owner(s) (if any):

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b. Location (street address, mailing address; Town, County, State):

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c. Current value, including improvements:

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d. Existing mortgages and/or liens (attach additional sheet, if necessary):

1. Name of bank, mortgagee or lien holder:

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2. Balance due:

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12. List the location and amount of any savings or checking accounts held in your name or jointly with others (attach additional sheet, if necessary):

<u>Location (Bank)</u>	<u>Type</u>	<u>Owner(s)</u>	<u>Balance</u>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

13. List any stocks, bonds, trusts or cash on hand owned by you in which you have any benefit and give the type, location and value of each (attach additional sheet, if necessary):

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

14. Please state the year, make, model and value of any motor vehicle(s) owned by you and the amount of any existing loan(s):

\_\_\_\_\_

15. Do you own any other assets not listed Yes  No   
 If yes, please describe the asset(s) and state the value (attach additional sheet, if necessary):

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

16. My monthly income and expenses are as follows:

INCOME:

My Salary \_\_\_\_\_

My spouse's salary or wages (if applicable) \_\_\_\_\_

Other income \_\_\_\_\_

**TOTAL** \_\_\_\_\_

EXPENSES:

Rent or mortgage payment

Food

Utilities (heat, telephone, water, electric, cable)

Automobile expenses

Premiums on life or medical insurance policies

Repayment of loans

Name of creditor and amount

Other obligations, including maintenance and / or support

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

TOTAL

17. Is any other person beneficially interested in any recovery sought herein? Yes [ ] No [ ]

If so, is such person able to pay the costs, fees and expenses of maintaining the appeal?

18. Do you authorize the Court to make any inquiries or investigation concerning the answers given to you in this affirmation? Yes [ ] No [ ]

Yes [ ] No [ ]

19. Did someone else complete this form on your behalf? Yes [ ] No [ ]

If yes, were the questions and answers read to you and are your answers true?

Yes [ ] No [ ]

I affirm this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, under the penalties of perjury under the laws of New York, which may include a fine or imprisonment, that the foregoing is true, and I understand that this document may be filed in an action or proceeding in a court of law.

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

(Print Name) \_\_\_\_\_

**AFFIRMATION OF SERVICE OF MAILING**

On the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, I served a true copy of the Annexed notice of motion to waive costs, fees and expenses and to have the appeal heard on the Original Workers' Compensation Board file, and supporting affirmation by mailing the same.

*(Insert below the name[s] and address[es] of the person[s] to whom you are mailing the papers being filed with this Court. If necessary, attach extra pages for additional names and addresses.)*

Name & Address	Name & Address
Workers' Compensation Board Attorney General Barbara Underwood Department of Law, Labor Bureau 28 Liberty Street, 15th Fl. New York, NY 10005	

I affirm this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, under the penalties of perjury under the laws of New York, which may include a fine or imprisonment, that the foregoing is true, and I understand that this document may be filed in an action or proceeding in a court of law.

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

(Print Name) \_\_\_\_\_