



*State of New York  
Supreme Court, Appellate Division  
Third Judicial Department  
P.O. Box 7288, Capitol Station  
Albany, NY 12224-0288*

*Robert D. Mayberger  
Clerk of the Court*

(518) 471-4777  
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<http://www.nycourts.gov/ad3>

Instructions for Appeal by Claimant from Decision of  
Unemployment Insurance Appeal Board

**PLEASE READ CAREFULLY:**

**If you have not already done so, you must send to the Unemployment Insurance Appeal Board written notice indicating that you are appealing the Board's decision to this Court. The written notice sent to the Board must be postmarked within 30 days of the date the Board's decision was mailed to you. The Board's address is: P.O. Box 15126, Albany, NY 12212.**

The Appellate Division will review the Board's decision using the original record which is comprised of all papers considered by the Board and the transcript of the hearing, if any. A copy of the record can be made available to you upon written request to the Attorney General, Labor Bureau, Employment Security Section, 120 Broadway, 26th Floor, New York, NY 10271.

FILING AND SERVING CLAIMANT'S BRIEF:

After sending the Board the written notice indicating your intention to appeal, you must prepare a total of nine copies of a typewritten or word-processed brief. A form brief is attached for your information. Handwritten briefs will not be accepted. Pursuant to section 800.12 of the Court's Rules of Practice, your briefs must be served and filed with this Court within nine months of the date of your letter to the Board. The briefs should be mailed to the following addresses set forth below:

Original brief + 6 copies :	State of New York Supreme Court, Appellate Division Third Judicial Department P.O. Box 7288, Capitol Station Albany, NY 12224
1 copy to:	Attorney General Labor Bureau, Employment Security Section 120 Broadway, 26th Floor New York, NY 10271
1 copy to:	Your former employer (if applicable) (address listed on Board decision)

In addition to the original and six copies of your brief, you must also provide this office with written proof of having mailed a copy of your brief to the office of the Attorney General and your former employer. You can provide such proof by completing the attached "Affidavit of Service of Mailing," which should then be sent to this office.

#### CONTENTS OF CLAIMANT'S BRIEF:

The brief must set forth a statement of facts and a statement of the question or questions presented, together with your arguments, or reasons for reversal of the Board's decision.

The attached form of brief may be used and must be filled in completely with the information requested.

You must attach to each copy of your brief a copy of the decision of the Unemployment Insurance Appeal Board from which you have appealed and a copy of the written notice which you previously sent to the Board indicating your intention to appeal to this Court.

#### APPENDIX:

If you wish to make reference in your brief to pages of the hearing minutes, exhibits or other documents contained in the original record, you must prepare an appendix to your brief. The documents comprising your appendix may be attached to your brief or submitted as a separate document. Pages of the appendix should be numbered in a single consecutive series, each number preceded by a capital "A" (e.g., A1, A-2, A-3). Your brief should then cite to the corresponding page number of your appendix where the document is located (e.g., A-3). A sample table of contents for an appendix is attached for your reference.

#### COMMISSIONER OF LABOR'S BRIEF AND REPLY BRIEF:

After acceptance of your brief for filing in this office and notification by the Attorney General that the original record is available for review by the Court, the Attorney General will file the record and a responding brief on behalf of the Commissioner of Labor. A copy of this brief will be sent to you by the Attorney General. Within 10 days thereafter, you may, if you wish, file an original and six typewritten or word-processed copies of a reply brief, with proof of service of one copy upon the Attorney General and your former employer, if applicable.

PLEASE NOTE:

Oral argument of an unemployment insurance appeal is not allowed except by permission of the Court granted upon written application made within 10 days after the filing of your brief. The appeal will be submitted to the Court on the papers following receipt and filing of all briefs. When the Court's decision and order is rendered, a copy will be mailed to you.

Except as provided in CPLR 5601, a further appeal to the Court of Appeals may be taken only by permission upon written application made either to this Court or directly to the Court of Appeals, which application must be made within 30 days from service upon you of a copy of this Court's decision and order.

Your attention is called to section 623 of the Labor Law which provides: "A decision of the appeal board shall be final on all questions of fact." Section 624 of the Labor Law similarly provides that a party affected by the decision of the Board "may appeal questions of law involved in such a decision to the appellate division of the supreme court, third department." Please be aware that factual issues, including credibility of witnesses, are for the Board to determine and if the Board's decision is supported by substantial evidence in the record, the Court may not overrule it.

Failure to comply with the foregoing may result in delay in the consideration of your appeal or rejection of your papers.

*Finally, please be advised that the Court's written decision, which may set forth the facts of your case, is a public document and will be posted to the Court's Web site on the day it is released. Because the decision will appear on the Internet, you should be aware that it is searchable and may be viewed by anyone, including present and prospective employers.*

**If you have any questions regarding the above procedure, please contact this office at 518-471-4777.**

*(SAMPLE)*

TABLE OF CONTENTS FOR APPENDIX

	<u>PAGE NO.</u>
Notice of Appeal dated June 2, 2009.....	A - 1
Decision of the Board dated May 12, 2009.....	A - 3
Excerpts from ALJ Hearing held February 6, 2009.....	A - 6
Exhibit - Time Sheet.....	A - 10

(Please note the following:

- 1) pages of your appendix should be numbered in a single consecutive series, each number preceded by a capital "A", i.e., A-1, A-2, A-3, etc.;
- 2) only copies of those papers that were before the Board and are part of the original record can be included in your appendix;
- 3) do NOT include any new evidence that was not before the Board.)

**To Be Submitted  
Without Argument**

NEW YORK SUPREME COURT

Appellate Division - Third Department

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In the Matter of  
the Claim of

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Claimant-Appellant

Commissioner of Labor of the State of New York,  
Respondent.

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**CLAIMANT - APPELLANT'S BRIEF**  
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Claimant-Appellant

Mailing Address:

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**NEW YORK SUPREME COURT  
APPELLATE DIVISION THIRD DEPARTMENT**

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In the Matter of the Claim of

\_\_\_\_\_  
Claimant - Appellant.

Commissioner of Labor of the  
State of New York,

Respondent.  
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Claimant appeals from a decision of the Unemployment Insurance  
Appeal Board, filed \_\_\_\_\_, 20\_\_\_\_\_,  
which disallowed benefits upon the ground that (1)

The issue presented on this appeal is whether (2)

\_\_\_\_\_  
(1) Here state reasons benefits were denied.

(2) Here state the questions which the Court must decide; for example, whether claimant voluntarily left his or her employment without good cause.

The facts are as follows: (3)

The decision of the Board should be reversed for the following reasons:

**PLEASE NOTE:** A copy of the Appeal Board's decision and a copy of the written notice previously sent to the Board indicating your intention to appeal to this Court **must** be attached to each copy of this brief.

Dated: \_\_\_\_\_, 20\_\_\_\_\_.

Respectfully submitted,

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

\_\_\_\_\_  
(Print name here)

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(3) Here state the facts which are relevant to the issue presented. If you wish to refer to proof in the original record which supports your statements, please include such proof in an appendix attached to or submitted with your brief (see page 2 of Instructions regarding how to prepare an appendix).

**AFFIDAVIT OF SERVICE OF MAILING**

STATE OF NEW YORK                    )  
COUNTY OF \_\_\_\_\_) SS.:

\_\_\_\_\_, being duly sworn, says: I am not a party to the action, am over 18 years of age and reside at \_\_\_\_\_. On the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, I served a true copy of the annexed \_\_\_\_\_ by mailing the same in a sealed envelope, with postage prepaid thereon, in a post-office or official depository of the U.S. Postal Service within the State of New York, addressed to the last known addressee(s) as indicated below:<sup>1</sup>

\_\_\_\_\_  
*Signature (Print name below signature.)*

Sworn to before me this \_\_\_\_\_  
day of \_\_\_\_\_, \_\_\_\_\_

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
<sup>1</sup> Insert the name(s) and address(es) of the person(s) to whom you are mailing the papers being filed with this court.