

PERFECTING AN UNEMPLOYMENT APPEAL INSTRUCTIONS FOR PRO SE APPELLANTS

Complete copies of the rules governing appellate practice referred to throughout these instructions can be found on the Court's website at www.nycourts.gov/ad3.

GETTING STARTED:

If you have not already done so, you must send a written notice - called a Notice of Appeal - to the Unemployment Insurance Appeal Board indicating that you are appealing the Board's decision to this Court. The written Notice of Appeal must be postmarked within **30 days** of the date the Board's decision was mailed to you and the original must be sent to the Board at the following address:

P.O. Box 15126
Albany, NY 12212

It is also helpful if you keep a copy for your personal records.

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 upon written request to the Attorney General:

Attorney General, Labor Bureau
Department of Law, Employment Security Section
28 Liberty Street, 15th Floor
New York, NY 10005

FILING & SERVICING THE BRIEF:

Once a Notice of Appeal has been filed, a total of six copies of a brief must be sent to this Court (see Practice Rules of App Div, All Depts [22 NYCRR] § 1250.9 [a]). Pursuant to rule 1250.10 (a) of the Practice Rules of the Appellate Division, All Departments, a brief must be served and filed within six months of the date on the Notice of Appeal. The briefs should be mailed to the following parties:

Original Brief + Five Copies: Appellate Division, Third Judicial Department
P.O. Box 7288, Capitol Station
Albany, New York 12224-0288

One Copy: Attorney General Barbara D. Underwood
Department of Law, Employment Security Section
28 Liberty Street, 15th Floor
New York, NY 10005

One Copy: **ALL** parties listed on the Board's decision

Please be advised that written proof of mailing or personal delivery is required. Such proof can be provided by completing an "Affidavit of Service of Mailing" or an "Affidavit of Personal Service," which should then be sent to the Court.

Also, the rules contain a provision by which the six-month period to perfect your appeal may be extended (see Practice Rules of App Div, All Depts [22 NYCRR] § 1250.9 [b]). Please note, if the respondent should make a motion to dismiss your appeal, you must respond to the motion or the appeal may be dismissed by default.

THE APPELLANT'S BRIEF MUST CONTAIN THE FOLLOWING DOCUMENTS:

- A Cover Page
- A Table of Contents
- Statement of Facts
- Questions Presented
- Points of Argument
- Conclusion - which must be signed
- A Printing Specifications Statement

BRIEF FORMAT:

- Handwritten or Typed (Times New Roman 14-point font)
- Double Spaced
- One Inch Margins
- Pages must be numbered in a single consecutive series
- Any cites in the brief must be to page numbers of the Appendix.

APPENDIX:

The appendix is comprised of any documents contained in the Original Unemployment Insurance Appeal Board file that adequately address the points of argument in the brief. The appendix **MUST** contain a copy of the Notice of Appeal, a copy

of the Board's decision being appealed and a CPLR 5531 Statement. The documents comprising the appendix may be attached to the 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" (A-1, A-2, A-3). The brief should then cite to the corresponding page number of the appendix where the document is located. Refer to the sample for further assistance.

Please remember, we are a review Court and can only consider those documents that were before the Unemployment Insurance Appeal Board. This Court cannot see any new evidence or review any papers that were not before the Board when the decision was rendered.

WHAT TO EXPECT AFTER THE FILING OF AN APPELLANT'S BRIEF:

After the appellant's brief has been accepted as filed in the Clerk's Office, the Original Board File will be requested from the Attorney General's Office. Pursuant to 22 NYCRR 1250.9 (c) of the Practice Rules of the Appellate Division, the respondent and the Attorney General shall file a "Responding Brief" within 30 days of receipt of the Original Board File. At the time of the filing of the responding brief on behalf of the Commissioner of Labor, the Attorney General shall also file the Original Record. Within ten days of the date of service of the respondent's submissions, the appellant may, but is not required, to file an original and five copies of a reply brief with proof of service upon all parties.

Oral argument is not allowed except by permission of the Court. Such a request must be made within ten days after the filing of the appellant's brief. The appeal will be submitted to the Court on all the filings submitted. When the Court's decision and order is rendered, a copy will be made available on the Court's website. Decisions are available each Thursday by noon.

If the outcome of this Court's decision is not in the favor of the appellant, a further appeal to the Court of Appeals may be taken only by permission except as provided in CPLR 5601. Written application must be made either to this Court or directly to the Court of Appeals within 30 days from service upon the appellant of a copy of this Court's decision and order.

PLEASE BE ADVISED:

Please take note 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 website on the day it is released. Because it will appear on the internet, you should be aware that it is searchable and may be viewed by anyone, including present and prospective employers.

We hope that you find these instructions helpful. If you require any additional information, please feel free to call the Clerk's Office at (518) 471-4777.

Docket No. _____

To be Submitted

STATE OF NEW YORK
APPELLATE DIVISION

SUPREME COURT
THIRD DEPARTMENT

In the Matter of the Claim of

_____,
Appellant,

v

_____,
Respondent.

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

UIAB No. _____

APPELLANT'S BRIEF

(Name)

(Address)

(Telephone)

APPELLANT'S BRIEF
TABLE OF CONTENTS

Page No.

- I. Preliminary Statement.....
- II. Questions Presented
- III. Statement of Facts
- IV. Argument
- Appellant's argument, divided into points by appropriate headings
 (and subheadings if desired).
 - a. POINT I - (Identify).....
 - b. POINT II - (Identify).....
- V. Conclusion (with signature)
- VI. Printing Specification Statement

*** Use this outline as a guide to assist you in the composition of the brief. ***

Docket No. _____

To be Submitted

STATE OF NEW YORK
APPELLATE DIVISION

SUPREME COURT
THIRD DEPARTMENT

In the Matter of the Claim of _____,
Appellant,

v

_____,
Respondent.

Commissioner of Labor,

Respondent.

UIAB No. _____

1. Preliminary Statement:

Here; provide a brief summary of the history of the matter. Providing information such as the date of the decision being appealed, what the Unemployment Insurance Appeal Board determined in that decision and the grounds in which benefits were denied.

Claimant appeals from a decision of the Unemployment Insurance Appeal Board, filed _____, 20 ____, which disallowed benefits upon the ground that....

2. Questions Presented:

State the questions which the Court must decide. For example, whether claimant voluntarily left his or her employment without good cause.

The issue presented on this appeal is whether...

3. Statement of Facts:

State the facts which are relevant to the issue presented. Reference documents from the original record to support any statements. Any documents from the original record must be provided in an Appendix.
(See page 2 of the Instructions regarding how to prepare an appendix.)

4. Points of Argument:

Here state the appellant's points of argument in which the Board may have erred in its decision.

5. Conclusion:

Briefly state why the decision of the Board should be reversed. Define precisely the relief and corrective action sought by the appellant.

Dated: 00/00/0000

Respectfully Submitted,

(Signature) *

Address

Telephone

*You must sign the brief in accordance with the Rules of the Chief Administrator (see 22 NYCRR 130.1.1-a). When filing your brief, one copy must contain your original signature, the other copies should be a copy of your signature.

Docket No. _____

To be Submitted

STATE OF NEW YORK
APPELLATE DIVISION

SUPREME COURT
THIRD DEPARTMENT

In the Matter of the Claim of

_____,
Appellant,

v

_____,
Respondent.

Commissioner of Labor of State of New York,
Respondent.

UIAB No. _____

APPELLANT'S APPENDIX

(Name)

(Address)

(Telephone)

(SAMPLE)
APPELLANT'S APPENDIX
TABLE OF CONTENTS

	<u>Page No.</u>
1. Notice of Appeal dated 00/00/0000	A #
2. Decision of the Board dated 00/00/0000	A #
3. Statement Pursuant to CPLR 5531	A #
4. Excerpts from ALJ Hearing held 00/00/0000.....	A #
5. Exhibit – Time Sheet	A #

PLEASE NOTE: The Notice of Appeal, the Unemployment Insurance Appeal Board decision and a CPLR 5531 Statement must be included in the Appendix (see Practice Rules of App Div, All Depts [22 NYCRR] § 1250.7 [d]). Only copies of those documents that were before the Unemployment Insurance Appeal Board and are part of the Original Record can be included in the Appendix. Any new evidence that was not before the Board will be rejected.

SAMPLE CPLR 5531 STATEMENT

STATE OF NEW YORK
APPELLATE DIVISION

SUPREME COURT
THIRD DEPARTMENT

In the Matter of the Claim of

_____,
Appellant,

v

Statement Pursuant
To CPLR 5531

_____,
Respondent.

Commissioner of Labor of State of New York,
Respondent.

UIAB No. _____

1. The case number assigned by the Unemployment Insurance Appeal Board is _____.
2. The full names of the original parties are _____, Appellant, and _____, Respondent. There has been no change in the parties (or describe any change if applicable).
3. The proceeding was commenced on _____ at the Unemployment Insurance Appeals Board.
4. The nature and object of the action are as follows: (Describe)
5. This is an appeal from a Memorandum of Board Panel Decision dated _____.
6. This appeal is on a reproduced full record.
This appeal is on the original record and the appendix method is being used.
(Whichever is applicable)

