

## INSTRUCTIONS

### Filing a Motion for Permission to Proceed as Poor Person 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 affidavit in support of the motion was notarized. 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 Barbara Underwood 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 PROCEED  
AS POOR PERSON  
ON APPEAL  
AND TO HAVE THE APPEAL  
HEARD ON THE  
ORIGINAL BOARD FILE

PLEASE TAKE NOTICE that, upon the annexed affidavit, sworn to 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 permission to appeal as a poor person 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.

**AFFIDAVIT IN SUPPORT OF MOTION**

STATE OF NEW YORK

COUNTY OF \_\_\_\_\_ ss.:

\_\_\_\_\_, being duly sworn, deposes and says that

I make this affidavit in support of my application for poor person status and to have the appeal heard on the Original Workers' Compensation Board file.

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.

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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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11. 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): \_\_\_\_\_

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

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c. Current value, including improvements: \_\_\_\_\_

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

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1. Name of bank, mortgagee or lien holder: \_\_\_\_\_  
\_\_\_\_\_

2. Balance due: \_\_\_\_\_

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

(Signature)

(Print Name)

Sworn to before me this

day of \_\_\_\_\_, 20\_\_\_\_\_.

Notary Public

**AFFIDAVIT OF SERVICE OF MAILING**

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

\_\_\_\_\_, being duly sworn, deposes and says:

On the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, that I make this affidavit in support of my application for poor person status and to have the appeal heard on the Original Workers' Compensation Board file.

*(Insert here 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	

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

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

Sworn to before me this \_\_\_\_\_  
day of \_\_\_\_\_, 20\_\_\_\_\_.

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