

**INSTRUCTIONS:**

**Filing a Motion for *Permission to Proceed as Poor Person on Appeal & to have an Appeal Heard on the Original 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
- ✓ Order or Judgement appealed from.
- ✓ The written decision upon which the order or judgement was based.

Unless you have previously requested and been granted permission to proceed as a poor person by this Court, you must also enclose either a bank check or money order (made payable to the State of New York) in the amount of \$45 as payment of the motion filing fee.

STATE OF NEW YORK  
APPELLATE DIVISION

SUPREME COURT  
THIRD DEPARTMENT

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 on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, a motion will be made to this court, on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, 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: \_\_\_\_\_

(Your signature) \_\_\_\_\_

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

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

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

**PLEASE TAKE NOTICE** that, pursuant to section 800.2 (a) of the Rules of this Court, 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. What is your full name?

\_\_\_\_\_

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 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?

\_\_\_\_\_

6. Are you single          married          separated          divorced

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

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

8. Are employed? Yes \_\_\_ No \_\_\_ If yes, please state your gross weekly salary and provide the name and address of your employer. Please provide a copy of your most recent paystub.

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9. 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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10. Do you receive support from anyone? Yes \_\_\_ No \_\_\_  
If yes, please provide the name, relationship, address and the amount of support provided to you.

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11. Do you support anyone? Yes \_\_\_ No \_\_\_  
If yes, please provide the name, relationship, address and the amount of support you provide.

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12. 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: \_\_\_\_\_

d. Existing mortgages and/or liens (Attach additional sheet if required):

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

\_\_\_\_\_

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

\_\_\_\_\_

13. List the location and amount of any savings or checking accounts held in your name or jointly with others (Attach additional sheet if required):

<u>Location</u>	<u>Type</u>	<u>Owners</u>	<u>Balance</u>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

14. 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 required):

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

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

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

16. Do you have any other assets not listed above? Yes \_\_\_ No \_\_\_

17. If yes, please describe the assets(s) and state the value (Attach additional sheet if required):

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

18. My gross monthly income and expenses are as follows:

INCOME:

- My salary \_\_\_\_\_
- My spouse's earnings \_\_\_\_\_

- Other income of mine or any members of my immediate family \_\_\_\_\_

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

**EXPENSES:**

- Rent or mortgage payment \_\_\_\_\_
- Food \_\_\_\_\_
- Utilities (Heat, Telephone, Water, Electricity) \_\_\_\_\_
- Automobile expenses \_\_\_\_\_
- Premiums on life or Medical Insurance Policies \_\_\_\_\_
- Repayment of loans \_\_\_\_\_
- Name of creditor and amount \_\_\_\_\_

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

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

19. 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 \_\_\_

20. Do you authorize the court to make any inquiries or investigation concerning the answers given by you in this affidavit? Yes \_\_\_ No \_\_\_

21. Did someone else complete this form on your behalf? Yes \_\_\_ No \_\_\_

22. If "yes" to question 21, were the questions and answers read to you and are the answers true? Yes \_\_\_ No \_\_\_

\_\_\_\_\_

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

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

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

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

## AFFIDAVIT OF SERVICE OF MAILING

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

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

On the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, I served a true copy of the annexed notice of motion and supporting affidavit 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>

**\*\*\*Below fill-in 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	
Workers' Compensation Board Attorney General Barbara Underwood Department of Law, Labor Bureau 28 Liberty Street, 15th Fl. New York, NY 10005	Appellate Division, Third Department P.O. Box 7288, Capitol Station Albany, New York 12224-0288

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

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

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

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