

STATE OF MINNESOTA

IN SUPREME COURT

C4-84-2133

ORDER PROMULGATING AMENDMENTS
TO THE RULES OF CIVIL APPELLATE
PROCEDURE.

WHEREAS, the Supreme Court has determined that certain minor amendments to the Rules of Civil Appellate Procedure are necessary;

NOW, THEREFORE, IT IS HEREBY ORDERED that the attached amendments to Rules 101.02, 103.01, 104.04, 105.02, 105.03, 106, 107, 108.01, 108.02, 110.02, 110.03, 111.01, 111.02, 111.03, 111.04, 115.01, 115.03, 115.04, 116.03, 116.04, 117, 120.02, 121.02, 121.03, 125.01, 125.03, 127, 128.01, 130.01, 130.02, 131.01, 131.03, 132.01, 132.02, 134.01, 134.09, 136.03, 137, 139.02, 140.01, 142.02, 142.03, 143.01, 143.02, 143.04, 144, and the appendix of forms be, and the same are, promulgated for the regulation of practice and procedure in civil matters in the appellate courts of the State of Minnesota.

IT IS FURTHER ORDERED that these amended rules, with the exception of Rule 104.04, shall govern all appeals taken on or after January 1, 1992, and that Rule 104.04 shall govern in appeals taken on or after March 1, 1992.

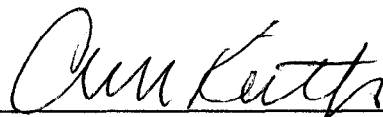
Dated: *December 6, 1991*

BY THE COURT:

OFFICE OF
APPELLATE COURTS

DEC 09 1991

FILED



Chief Justice

RULES OF CIVIL APPELLATE PROCEDURE

RULE 101.02 DEFINITIONS

Subd. 1. When used in these rules, the words listed below have the meanings given them.

Subd. 2. "Appellate court" means the Supreme Court pursuant to Minnesota Statutes, Chapter 480, or the Court of Appeals pursuant to Minnesota Statutes, Chapter 480A.

Subd. 3. "Judge" means a justice of the Supreme Court or a judge of the Court of Appeals.

Subd. 4. "Trial court" means the court or agency whose decision is sought to be reviewed.

Subd. 5. "Clerk of the appellate courts" means the clerk of the Supreme Court and the Court of Appeals.

Subd. 6. "Appellant" means the party seeking review including relators and petitioners.

RULE 103.01 MANNER OF MAKING APPEAL

Subd. 1. Notice of Appeal and Filings. An appeal shall be made by filing a notice of appeal with the clerk of the appellate courts. The notice shall contain:

(a) proof of service on the adverse party or parties;

(b) proof of service on the ~~clerk of the trial court~~ trial court administrator in which the judgment or order appealed from is entered or filed;

(c) a statement specifying and describing the judgment or order from which the appeal is taken;

(d) the names, addresses, and telephone numbers of opposing counsel and the parties they represent.

The appellant shall file the following with the clerk of the appellate courts:

(1) the notice of appeal,

(2) a certified copy of the judgment or order from which the appeal is taken,

(3) two copies of the a statement of the case required by Rule 133.03, and

(4) a filing fee of \$200,

and shall file the following with the ~~clerk of the trial court~~
trial court administrator:

- (5) a copy of the notice of appeal,
- (6) the cost bond required by Rule 107, or written waiver of it, and
- (7) the supersedeas bond, if any, required by Rule 108.

Subd. 2. Relief. When a party in good faith files and serves a notice of appeal from a judgment or an order, and omits, through inadvertence or mistake, to proceed further with the appeal, or to stay proceedings, the appellate court may grant relief on such terms as may be just.

Subd. 3. When Filing Fee Not Required. The filing fees set out in Rule 103.01, subdivision 1, shall not be required when:

(a) the appellant has previously been determined to be indigent by the trial court, and the attorney for the appellant certifies to the clerk of the appellate courts that the appellant remains indigent; or

(b) the appellant is represented by a public defender's office or a legal aid society; or

(c) the appellant is a party to a proceeding pursuant to Minnesota Statutes, Chapter 253B; or

(d) the trial judge finds that the appellant is indigent and that in the interest of that party's right to appeal, no filing fee will be required; or

(e) the appellant is the state or governmental subdivision of the state or an officer, employee or agency thereof; or

(f) the appeal has been remanded to the trial court or agency for further proceedings and, upon completion of those proceedings, the appeal is renewed; or

(g) the appellant is a party to a public assistance appeal pursuant to Minnesota Statutes, Chapter 256; or

(h) the appeal is taken by a claimant for unemployment compensation benefits pursuant to Minnesota Statutes, Chapter 268.

RULE 104.04 MARITAL DISSOLUTION

Subd. 1. An appeal may be taken from a judgment and decree of dissolution within 90 days after its entry, from an amended judgment and decree of dissolution within 30 days after service by the adverse party of written notice of entry, and from an order

within 30 days after service by the adverse party of written notice of filing unless a different time is provided by law.

Subd. 2. The time for appeal shall run from service by the adverse party of written notice of filing of an order denying a new trial or granting or denying any of the following motions:

(a) to amend or make additional findings of fact, whether or not an alteration of the judgment would be required if the motion is granted;

(b) to alter or amend the judgment;

(c) for modification of an order with respect to custody or visitation; or

(d) for modification of child support or of maintenance.

A notice of appeal filed during the pendency of any of the above motions shall be premature and shall not divest the district court of jurisdiction to dispose of the motion. A new notice of appeal must be filed within the prescribed time measured from service by the adverse party of written notice of filing of the order disposing of the motion as provided above and no additional fee shall be required for such filing. In the event a respondent is a party aggrieved by the order disposing of the motion, a notice of review pursuant to Rule 106 may be filed within the prescribed time measured from the filing of the new notice of appeal. If a notice of review has been filed, the appeal shall not be dismissed without the approval of the appellate court.

RULE 105.02 CONTENT OF PETITION; RESPONSE

The petition shall be entitled as in the trial court, shall not exceed five typewritten pages, and shall contain:

(a) a statement of facts necessary to an understanding of the questions of law or fact determined by the order of the trial court;

(b) a statement of the issues; and

(c) a statement why an immediate appeal is necessary and desirable.

A copy of the order from which the appeal is sought and any findings of fact, conclusions of law, and memorandum of law relating to it shall be attached to ~~the~~ each petition. Any adverse party may, within 7 days after service of the petition, serve and file with the clerk of the appellate courts four copies of a response to the petition. All papers may be typewritten.

The petition and any response shall be submitted without oral argument unless otherwise ordered.

RULE 105.03 GRANT OF PERMISSION-PROCEDURE

If permission to appeal is granted, the clerk of the appellate courts shall notify the ~~clerk of the trial court~~ trial court administrator and the appellant shall ~~pay the filing fee,~~ file the bond as required by these rules, and then proceed as though the appeal had been noticed by filing an appeal. Two copies of a completed statement of the case shall be filed within 5 days of the order granting the petition. The time fixed by these rules for transmitting the record and for filing the briefs and appendix shall run from the date of the entry of the order granting permission to appeal.

RULE 106. RESPONDENT'S RIGHT TO OBTAIN REVIEW

A respondent may obtain review of a judgment or order entered in the same action which may adversely affect him by filing a notice of review with the clerk of the appellate courts. The notice of review shall specify the judgment or order to be reviewed, shall be served and filed within 15 days after service of the notice of appeal, and shall contain proof of service. ~~A filing fee of \$100 paid to the clerk of appellate courts shall accompany the notice of review.~~ A filing fee shall not be required.

RULE 107. BOND OR DEPOSIT FOR COSTS

Subd. 1. When Bond Required. Unless the appellant is exempt by law, a bond shall be executed by, or on behalf of, the appellant. The bond shall be conditioned upon the payment of all costs and disbursements awarded against the appellant on the appeal, not exceeding the penalty of the bond which shall be \$500. In lieu of the bond, the appellant may deposit \$500 with the ~~clerk of the trial court~~ trial court administrator as security for the payment.

Prior to filing the notice of appeal, the appellant may move the trial court for an order waiving the bond or setting a lesser amount or deposit. Upon the appellant's filing of the required cost bond or deposit, the respondent may move the trial court for an order requiring a supplemental bond or deposit.

The bond or deposit may be waived by written consent of the respondent, which consent shall be filed with the ~~clerk of the trial court~~ trial court administrator.

Subd. 2. When Bond Not Required. No cost bond is required:

- (a) in a criminal case; or
- (b) in a case arising in juvenile court; or
- (c) in a proceeding pursuant to Minnesota Statutes, Chapter 253B; or

(d) when the trial judge finds:

(i) that the party is indigent, and

(ii) that in the interest of that party's right to appeal, no cost bond shall be required; or

(e) when the appellant is the state or a governmental subdivision of the state or an officer, employee or agency thereof; or

(f) the appeal has been remanded to the trial court or agency for further proceedings and, upon completion of those proceedings, the appeal is renewed; or

(g) the appellant is a party to a public assistance appeal pursuant to Minnesota Statutes, Chapter 256.

(h) the appellant is an unemployment compensation claimant pursuant to Minnesota Statutes, Chapter 268.

RULE 108.01 SUPERSEDEAS BOND

Subd. 1. An appeal from an order or judgment shall stay proceedings in the trial court and save all rights affected by it only if the appellant provides a supersedeas bond in the amount and form which the trial court shall order and approve, in the cases provided in this rule, or as otherwise provided by rule or statute.

Subd. 2. If the appeal is from an order, the condition of the bond shall be the payment of the costs of the appeal, the damages sustained by the respondent in consequence of the appeal, and the obedience to and satisfaction of the order or judgment which the appellate court may give if the order or any part of it is affirmed or if the appeal is dismissed.

Subd. 3. If the appeal is from a judgment directing the payment of money, the condition of the bond shall be the payment of the judgment or that part of the judgment which is affirmed and all damages awarded against the appellant upon the appeal if the judgment or any part of it is affirmed or if the appeal is dismissed.

Subd. 4. If the appeal is from a judgment directing the assignment or delivery of documents or personal property, the condition of the bond shall be the obedience to the order or judgment of the appellate court. No bond pursuant to this subdivision is required if the appellant places the document or personal property in the custody of the officer or receiver whom the trial court may appoint.

Subd. 5. If the appeal is from a judgment directing the sale or delivery of possession of real property, the condition of the bond shall be the payment of the value of the use and occupation of the property from the time of the appeal until the delivery of possession of the property if the judgment is affirmed and the undertaking that the appellant shall not commit or suffer the commission of any waste on the property while it remains in the appellant's possession during the pendency of the appeal.

Subd. 6. In cases not specified in subdivisions 2 to 5, filing the bond specified in Rule 107 shall stay proceedings in the trial court.

Subd. 7. Upon motion, the trial court may require the appellant to file a supersedeas bond if it determines that the provisions of Rule 108 do not provide adequate security to the respondent.

RULE 108.02 JUDGMENTS DIRECTING CONVEYANCES

If the appeal is from a judgment directing the execution of a conveyance or other instrument, its execution shall not be stayed by an appeal until the instrument is executed and deposited with ~~the clerk of the trial court~~ trial court administrator to abide the judgment of the appellate court.

RULE 110.02 THE TRANSCRIPT OF PROCEEDINGS; DUTY OF APPELLANT TO ORDER; NOTICE TO RESPONDENT IF PARTIAL TRANSCRIPT IS ORDERED; DUTY OF REPORTER; FORM OF TRANSCRIPT

Subd. 1. Duty to Order Transcript. Within 10 days after filing the notice of appeal, the appellant shall:

(a) pursuant to subdivision 2 of this rule, order from the reporter a transcript of those parts of the proceedings not already part of the record which ~~he deems~~ are deemed necessary for inclusion in the record; or

(b) file a notice of intent to proceed pursuant to Rule 110.03 or Rule 110.04; or

(c) notify the respondent in writing that no transcript or statement will be ordered or prepared.

If the entire transcript is not to be included, the appellant, within the 10 days, shall file and serve on the respondent a description of the parts of the transcript which he appellant intends to include in the record and a statement of the issues he intendeds to be presented on appeal. If the respondent deems a transcript of other parts of the proceedings to be necessary, he respondent shall order, within 10 days of service of the description or notification of no transcript, those other parts from the reporter, pursuant to subdivision 2 of this rule, or serve and file a motion in the trial court for an order requiring the appellant to do so. A copy of any order of the trial court affecting the transcript shall be filed by the appellant with the clerk of the appellate courts.

Subd. 2. Transcript Certificate. If any part of the proceedings are is to be transcribed by a court reporter, a certificate as to transcript signed by the designating counsel and by the court reporter shall be filed with the clerk of the appellate courts, with a copy to the trial court and all counsel of record within 10 days of the date the transcript was ordered. The certificate shall contain the date on which the transcript was requested; the estimated number of pages; the estimated completion date not to exceed 60 days; and a statement that satisfactory financial arrangements have been made for the transcription. Upon delivery of the transcript to the appellant, the reporter shall file with the clerk of the appellate courts a certificate evidencing the date of delivery.

Subd. 3. Overdue Transcripts. If any party deems the period of time set by the reporter to be excessive or insufficient, or if the reporter needs an extension of time for completion of the transcript, the party or reporter may request a different period of time within which the transcript must be delivered by written motion to the appellate court pursuant to Rule 127, showing good cause therefor. A justice, judge or a person designated by the appellate court shall act as a referee in hearing the motion and

shall file with the appellate court appropriate findings and recommendations for a dispositional order. A failure to comply with the order of the appellate court fixing a time within which the transcript must be delivered may be punished as a contempt of court. The appellate court may declare a reporter ineligible to act as an official court reporter in any court proceeding and prohibit the reporter from performing any private reporting work until the overdue transcript is filed.

Subd. 4. Transcript Requirements. The transcript shall be typewritten on 8 1/2 by 11 inch or 8 1/2 by 10 1/2 inch unglazed opaque paper with double spacing between each line of text, shall be bound at the left-hand margin, and shall contain a table of contents. The name of each witness shall appear at the top of each page containing ~~his~~ that person's testimony. A question and its answer may be contained in a single paragraph. The original and first copy of the transcript shall be filed with the ~~clerk of the trial court~~ trial court administrator and a copy shall be transmitted promptly to the attorney for each party to the appeal separately represented. All copies must be legible. The reporter shall certify the correctness of the transcript.

RULE 110.03 STATEMENT OF THE PROCEEDINGS WHEN NO REPORT WAS MADE OR WHEN THE TRANSCRIPT IS UNAVAILABLE

If no report of all or any part of the proceedings at a hearing or trial was made, or if a transcript is unavailable, the appellant may, within 15 days after service of the notice of appeal, prepare a statement of the proceedings from the best available means, including ~~his~~ recollection. The statement shall be served on the respondent, who may serve objections or propose amendments within 15 days after service. The statement and any objections or proposed amendments then shall be submitted to the trial court, and the statement as approved by the trial court shall be included in the record. The trial court's approval of the statement shall be filed with the clerk of the appellate courts within 60 days of the filing of the notice of appeal.

RULE 111.01 TRANSMISSION OF RECORD; TIME

Within 10 days after the due date for the filing of the ~~respondent's~~ appellant's brief, the ~~clerk of the trial court~~ trial court administrator shall transmit the record to the clerk of the appellate courts, together with a numbered itemized list in ~~triplicate~~ quadruplicate of all documents and exhibits contained in the record, identifying each with reasonable definiteness; each document and exhibit shall be endorsed with the appellate court docket number and corresponding number from the itemized list. The ~~clerk of the trial court~~ trial court administrator shall send a copy of this list to all parties. A party having possession of exhibits shall transmit them with an itemized list in ~~triplicate~~ quadruplicate to the clerk of the appellate courts within 10 days after the due date for the filing of the respondent's brief. A party shall make advance arrangements with the clerk for the

delivery of bulky or weighty exhibits and for the cost of transporting them to and from the appellate courts. Transmission of the record is effected when the ~~clerk of the trial court~~ trial court administrator mails or otherwise forwards the record to the appellate courts.

RULE 111.02 EXHIBITS AND MODELS

The title of the case and the appellate court docket number shall be endorsed upon all exhibits sent to the clerk of the appellate courts. Exhibits and models will be returned to the ~~clerk of the trial court~~ trial court administrator with the remittitur when a new trial or further proceedings are ordered, but if the judgment of the appellate court is final and neither a new trial nor further proceedings are ordered, the clerk of the appellate courts may destroy all exhibits and models unless called for by the parties within 30 days after entry of the judgment of the appellate court.

RULE 111.03 RECORD FOR PRELIMINARY HEARING IN THE APPELLATE COURTS

If prior to the time the record is transmitted, a party desires to make a motion for dismissal, for a stay pending appeal, for additional security on the bond on appeal or on a supersedeas bond, or for any intermediate order, the ~~clerk of the trial court~~ trial court administrator at the request of any party shall transmit to the appellate court those parts of the original record which the party designates.

RULE 111.04 DISPOSITION OF RECORD AFTER APPEAL

Upon the termination of the appeal, the clerk of the appellate courts shall transmit the original transcript to the State Law Library and may transmit the remainder of the record to the ~~clerk of the trial court~~ trial court administrator.

RULE 115. COURT OF APPEALS REVIEW OF DECISIONS OF THE COMMISSIONER OF ECONOMIC SECURITY JOBS AND TRAINING AND OTHER DECISIONS REVIEWABLE BY CERTIORARI AND REVIEW OF DECISIONS APPEALABLE PURSUANT TO THE ADMINISTRATIVE PROCEDURE ACT

RULE 115.01 HOW OBTAINED; TIME FOR SECURING WRIT

Review by the Court of Appeals of decisions of the Commissioner of ~~Economic Security Jobs and Training~~ Economic Security Jobs and Training and other decisions reviewable by certiorari and review of decisions appealable pursuant to the Administrative Procedure Act may be had by securing issuance of a writ of certiorari within 30 days after the date of mailing notice of the decision to the party applying for the writ, unless an applicable statute prescribes a different period of time.

RULE 115.03 CONTENTS OF THE PETITION AND WRIT; FILING AND SERVICE

Subd. 1. Contents and Form of Petition, Writ and Response. The petition shall definitely and briefly state the decision, judgment, order or proceeding which is sought to be reviewed and the errors which the petitioner claims. A copy of the decision and two copies of a completed statement of the case pursuant to Rule 133.03 shall be attached to the petition. The title and form of the petition and writ should be as shown in the appendix to these rules. The respondent's statement of the case, if any, shall be filed and served within 10 days after receiving the petitioner's statement.

Subd. 2. Bond or Security. The petitioner shall file the bond or other security required by statute or by the Court of Appeals.

Subd. 3. Filing; Fees. The clerk of the appellate courts shall file the original petition and issue the original writ. The petitioner shall pay \$200 to the clerk of the appellate courts, unless a different filing fee is required by statute.

Subd. 4. Service; Time. The petitioner shall serve copies of the petition and writ upon the court or body to whom it is directed and upon any party within 30 days after the date of mailing notice of the decision to the petitioner, unless an applicable statute prescribes a different period of time. Proof of service shall be filed with the clerk of the appellate courts within 5 days of service. A copy of the petition and writ shall be provided to the Attorney General at the time of service, unless the state is neither a party nor the body to whom the writ is directed.

RULE 115.04 THE RECORD ON REVIEW BY CERTIORARI; TRANSMISSION OF THE RECORD

To the extent possible, the provisions of Rules 110 and 111 respecting the record and the time and manner of its transmission and filing or return in appeals shall govern upon the issuance of the writ and the parties shall proceed as though the appeal had been commenced by the filing of a notice of appeal, unless otherwise provided by the court or by statute. Each reference in those rules to the trial court, the ~~clerk of the trial court~~ trial court administrator, and the notice of appeal shall be read, where appropriate, as a reference to the body whose decision is to be reviewed, to the administrator, clerk or secretary thereof, and to the writ of certiorari respectively.

RULE 116.03 CONTENTS OF THE PETITION AND WRIT; FILING AND SERVICE

Subd. 1. Contents and Form of Petition, Writ and Response. The petition shall definitely and briefly state the decision, judgment, order or proceeding which is sought to be reviewed and the errors which the petitioner claims. A copy of the decision and two copies of a completed statement of the case pursuant to Rule

133.03 shall be attached to the petition. The title and form of the petition and writ should be as shown in the appendix to these rules. The respondent's statement of the case, if any, shall be filed and served within 10 days after receiving the petitioner's statement.

Subd. 2. Bond or Security. The petitioner shall file the bond or other security required by statute or by the Supreme Court.

Subd. 3. Filing; Fees. The clerk of the appellate courts shall file the original petition and issue the original writ. The petitioner shall pay \$200 to the clerk of the appellate courts, unless a different filing fee is required by statute.

Subd. 4. Service; Time. The petitioner shall serve copies of the petition and writ upon the court or body to whom it is directed and upon any party within 30 days after the petitioner was served with written notice of the decision to be reviewed, unless an applicable statute prescribes a different period of time. Proof of service shall be filed with the clerk of the appellate courts within 5 days of service. A copy of the petition and writ shall be provided to the Attorney General at the time of service.

RULE 116.04 THE RECORD ON REVIEW BY CERTIORARI; TRANSMISSION OF THE RECORD

To the extent possible, the provisions of Rules 110 and 111 respecting the record and the time and manner of its transmission and filing or return in appeals shall govern upon the issuance of the writ, and the parties shall proceed as though the appeal had been commenced by the filing of a notice of appeal, unless otherwise provided by the court or by statute. Each reference in those rules to the trial court, the ~~clerk of the trial court~~ trial court administrator, and the notice of appeal shall be read, where appropriate, as a reference to the body whose decision is to be reviewed, to the administrator, clerk or secretary thereof, and to the writ of certiorari respectively.

RULE 117. PETITION IN SUPREME COURT FOR REVIEW OF DECISIONS OF THE COURT OF APPEALS

Subd. 1. Filing of Petition. Any party may ~~petition the Supreme Court for seeking~~ review of a decision of the Court of Appeals shall separately petition the Supreme Court. The petition with proof of service shall be filed with the clerk of the appellate courts within 30 days of the filing of the Court of Appeals' decision. A filing fee of \$200 shall be paid to the clerk of the appellate courts.

Subd. 2. Discretionary Review. Review of any decision of the Court of Appeals is discretionary with the Supreme Court. The following criteria may be considered:

(a) the question presented is an important one upon which the Supreme Court should rule; or

(b) the Court of Appeals has ruled on the constitutionality of a statute; or

(c) the lower courts have so far departed from the accepted and usual course of justice as to call for an exercise of the Supreme Court's supervisory powers; or

(d) a decision by the Supreme Court will help develop, clarify, or harmonize the law; and

(1) the case calls for the application of a new principle or policy; or

(2) the resolution of the question presented has possible statewide impact; or

(3) the question is likely to recur unless resolved by the Supreme Court.

Subd. 3. Petition Requirements. The petition for review shall not exceed five typewritten pages, exclusive of appendix, and shall contain:

(a) a statement of the legal issues sought to be reviewed, and the disposition of those issues by the Court of Appeals;

(b) a statement of the criteria relied upon to support the petition, or other substantial and compelling reasons for review;

(c) a statement of the case, including disposition in the trial court or administrative agency and the Court of Appeals, and of those facts not addressed by the Court of Appeals relevant to the issues presented for review, with appropriate references to the record; and

(d) a brief argument in support of the petition.

The appendix shall contain the decision and opinion of the Court of Appeals, the judgments, orders, findings of fact, conclusions of law, and memorandum decisions of the trial court or administrative agency, pertinent trial briefs, and any portion of the record necessary for an understanding of the petition.

~~Nine~~ Four copies of the petition and appendix shall be filed with the clerk of the appellate court.

Subd. 4. Conditional Petition for Review. Any party who would seek review of designated issues if another party files a timely petition, may file a conditional petition for review. That conditional petition shall be considered and decided by the court only in the event of the filing of another party's petition. The

conditional petition with proof of service shall be filed with the clerk of the appellate courts within 30 days of the filing of the Court of Appeals' decision and shall comply with subd. 2 of this rule. A filing fee of \$200 shall be paid to the clerk of the appellate courts only if another party files a petition for review. If only conditional petitions are filed to review a court of appeals' decision, none of those petitions will be operative or decided by the court.

Subd. 4 5. Response. An opposing party may file with the clerk of the appellate courts a response to the petition within 20 days of service. The response shall comply with the requirements set forth for the petition and shall contain proof of service.

Subd. 6. Amicus Curiae. Any applicant to participate in the appeal as amicus curiae in the event the petition for review is granted shall, upon prior notice to the parties, seek permission from the Supreme Court within the time provided in subd. 5 of this rule. The application shall, in other respects, comply with Rule 129.

RULE 120.02 SUBMISSION OF PETITION; ANSWER TO THE PETITION

The petition and a proposed writ shall be served on all parties and filed with the clerk of the appellate courts, captioned in the court in which the application is made, in the manner specified in Rule 120.04. The If the lower court is a party, it shall be served; in all other cases, it should be notified of the filing of the petition and provided with a copy of the petition and any response. All parties other than the petitioner shall be deemed respondents and may answer jointly or separately within 5 days after the service of the petition. If a respondent does not desire to respond, the clerk of the appellate courts and all parties shall be advised by letter within the 5-day period, but the petition shall not thereby be taken as admitted.

RULE 121.02 PROCEDURE

Except as provided in Rule 121.03, no written petition or other document need be filed unless the reviewing court so directs. If the reviewing court is of the opinion that either no emergency exists or no relief is available, it shall ~~shall~~ may either deny the oral petition and or may direct the party to proceed under Rule 120. Otherwise, after affording all parties an opportunity to be heard, it may:

- (a) issue a peremptory writ, or
- (b) grant such other relief as the interest of justice requires.

RULE 121.03 FILING FEE

The In the event the oral petition is granted, the attorney orally petitioning for a writ shall thereafter immediately transmit to the clerk of the appellate courts a \$200 filing fee with a letter specifying:

- (a) the name of the case,
- (b) the lower court and the name of the judge, and
- (c) the type of writ sought, and
- (d) the name, address, telephone number and attorney registration license number of each attorney.

No filing fee or transmission of documents shall be required in the event the oral petition is denied.

RULE 125.01 FILING

Papers required or authorized by these rules shall be filed with the clerk of the appellate courts within the time limitations contained in the applicable rule. Filing may be accomplished by mail addressed to the clerk of the appellate courts, but filing shall not be timely unless the papers are deposited in the mail within the time fixed for filing. If a motion or petition requests relief which may be granted by a single judge, the judge may ~~permit accept~~ document for filing, in which event ~~he shall note the date of filing~~ shall be noted on it and it shall be thereafter transmitted ~~it~~ to the clerk. All papers filed shall include the attorney registration license number of counsel filing the paper and, if filed subsequent to the notice of appeal, shall specify the appellate court docket number.

RULE 125.03 MANNER OF SERVICE

Service may be personal or by mail. Personal service includes delivery of a copy of the document to the attorney or other responsible person in the office of the attorney, or to the party, if not represented by counsel, in any manner provided by Rule 4, Minnesota Rules of Civil Procedure. Service by mail is complete on mailing; however, whenever a party is required or permitted to do an act within a prescribed period after service ~~of a paper upon him~~ and the paper is served by mail, 3 days shall be added to the prescribed period.

RULE 127. MOTIONS

Unless another form is prescribed by these rules, an application for an order or other relief shall be made by serving and filing a written motion for the order or relief. The filing of a motion shall not stay any time period or action specified in these rules unless ordered by the appellate court. The motion

shall state with particularity the grounds and set forth the order or relief sought. If the motion is supported by briefs, affidavits or other papers, they shall be served and filed with the motion. Any party may file a response within 5 days after service of the motion. Any reply shall be served within 2 days, at which time the motion shall be deemed submitted. The motion and all relative papers may be typewritten. Four copies of all papers shall be filed with proof of service. Oral argument will not be permitted except by order of the appellate court.

RULE 128. BRIEFS

RULE 128.01 INFORMAL BRIEF

Informal briefs may be authorized by a prehearing conference judge shall be in the form designated in the prehearing conference order the appellate court and shall contain a concise statement of the party's arguments on appeal, together with the appendix required by Rule 130.01. The informal brief shall have a cover and may be bound informally by stapling.

RULE 130.01 RECORD NOT TO BE PRINTED; APPELLANT TO FILE APPENDIX

Subd. 1. Record; Portions. The record shall not be printed. The appellant shall prepare and file an appendix to ~~his~~ its brief, ~~which~~ The appendix shall be separately and consecutively numbered and shall contain the following portions of the record:

- (a) the relevant pleadings;
- (b) the relevant written motions and orders;
- (c) the verdict or the findings of fact, conclusions of law and order for judgment;
- (d) the relevant post trial motions and orders;
- (e) any memorandum opinions;
- (f) if the trial court's instructions are challenged on appeal, the instructions, any portion of the transcript containing a discussion of the instructions and any relevant requests for instructions;
- (g) any judgments;
- (h) the notice of appeal; and
- (i) the index to the documents contained in the appendix.

The parties shall have regard for the fact that the entire record is always available to the appellate court for reference or examination and shall not engage in unnecessary reproduction.

Subd. 2. Statement. If the record includes a statement of the proceedings made pursuant to Rule 110.03 or an agreed statement made pursuant to Rule 110.04, the statement shall be included in the appendix.

RULE 130.02 RESPONDENT MAY FILE APPENDIX

If the respondent determines that the appendix filed by the appellant omits any items specified in Rule 130.01, ~~he may prepare and file an appendix to his brief containing the omitted items.~~ only those omitted items may be included in an appendix to the respondent's brief.

RULE 131.01 TIME FOR FILING AND SERVICE

The appellant shall serve and file ~~his~~ a brief and appendix within 30 days after delivery of the transcript by the reporter or after the filing of the trial court's approval of the statement pursuant to Rules 110.03 and 110.04. If the transcript is obtained prior to appeal or if the record on appeal does not include a transcript, then the appellant shall serve and file ~~his~~ a brief and appendix with the clerk of the appellate courts within 30 days after the filing of the notice of appeal or order granting review. The respondent shall serve and file ~~his~~ a brief and appendix, if any, within 30 days after service of the brief of the appellant. The appellant may serve and file a reply brief within 10 days after service of the respondent's brief or the last respondent's brief if there are multiple respondents. If a party prepares a supplemental record, the supplemental record shall be served and filed with ~~his~~ that party's first brief.

RULE 131.03 NUMBER OF COPIES TO BE FILED AND SERVED

Subd. 1. Number of Copies. Unless otherwise specified ~~in a prehearing conference order,~~ by the appellate court, the following number of copies of each brief, appendix, and supplemental record, if any, shall be filed with the clerk of the appellate courts:

(a) In an appeal to the Supreme Court, 14 copies. Two copies of the 14 shall be unbound.

(b) In an appeal to the Court of Appeals, nine copies. Two copies of the nine shall be unbound.

If counsel has elected, in the statement of the case form, to rely on memoranda submitted to the trial court, supplemented by a short letter argument, the number of copies required by this rule shall be filed with the clerk of the appellate courts.

Subd. 2. Service. Two copies of each brief, appendix, and supplemental record, if any, shall be served on the attorney for each party to the appeal separately represented and on each party appearing pro se. The clerk shall not accept a brief, appendix or

supplemental record for filing unless it is accompanied by admission or proof of service as required by Rule 125.

RULE 132.01 FORM OF BRIEFS, APPENDICES, AND SUPPLEMENTAL RECORDS

Subd. 1. Form Requirements. Any process capable of producing a clear black image on white paper may be used. All material other than footnotes must appear in at least 11 point type, or its equivalent of not more than 16 characters per inch, on unglazed opaque paper. ~~Formal~~ briefs and accompanying appendices shall be bound together by any binding method which satisfies the published criteria of the ~~appellate courts~~ Supreme Court. Pages shall be 8 1/2 by 11 inches in size with typewritten matter not exceeding 6 1/2 by 9 1/2 inches. The pages of the appendix shall be separately and consecutively numbered. Briefs and appendices submitted in typewritten form shall be double spaced. Carbon copies shall not be submitted.

Subd. 2. Front Cover. The front cover of the brief and appendix shall contain:

(a) the name of the court and the appellate court docket number, which number shall be printed or lettered in bold-face print or prominent lettering and shall be located one-half inch from the top center of the cover;

(b) the title of the case;

(c) the title of the document, e.g., Appellant's Brief and Appendix; and

(d) the names, addresses, and telephone numbers of the attorneys representing each party to the appeal, and attorney registration license numbers of the preparers of the brief.

The front cover shall not be protected by a clear plastic or mylar sheet.

If briefs are produced by commercial printing or duplicating firms, the cover of the brief of the appellant should be blue; that of the respondent, red; that of an intervenor or amicus curiae, green; that of any reply brief, gray. The cover of the appendix, if separately printed, should be white. The cover of an amendment or supplement should be the same color as the document which it amends or supplements. In the event the Supreme Court grants a petition for review of a decision of the Court of Appeals, the covers of the briefs shall be the same color as those filed by the party in the Court of Appeals.

Subd. 3. Page Limit. Except for good cause shown and with permission of the appellate court, principal briefs, whether printed or typewritten, shall not exceed 50 pages, and reply briefs shall not exceed 25 pages, exclusive of pages containing the table of contents; tables of citations; any addendum containing

statutes, rules, regulations, etc.; and any appendix. Application for filing an enlarged brief shall be filed at least 10 days prior to the date the brief is due. All briefs of amicus curiae shall be limited to 20 pages.

Subd. 4. Supplemental Records. Supplemental records shall be bound in separate volumes and shall, in all other respects, comply with this rule.

Subd. 5. Reliance Upon Trial Court Memoranda. If counsel elects, in the statement of the case, to rely upon memoranda submitted to the trial court supplemented by a short letter argument, the submission shall be covered and may be informally bound by stapling. The trial court submissions and decision shall be attached as the appendix. ~~and shall, in all other respects, comply with this rule.~~

RULE 132.02 FORM OF MOTIONS AND OTHER PAPERS

Subd. 1. Form Requirements. Papers not required to be produced in the manner prescribed by Rule 132.01 shall be 8 1/2 by 11 inches in size with typewritten matter not exceeding 6 1/2 by 9 1/2 inches. Any process capable of producing a clear black image on white paper may be used. All material must appear in at least 11 point type, or its equivalent of not more than 16 characters per inch, on unglazed opaque paper. Pages shall be bound or stapled at the top margin and numbered at the center of the bottom margin. Typewritten matters shall be double spaced. Carbon copies shall not be submitted.

Subd. 2. Caption. Each paper shall contain a caption setting forth the name of the court, the title of the case, the appellate court docket number, and a brief descriptive title of the paper; and shall be subscribed by the attorney preparing the paper together with the preparer's address, telephone number, and attorney registration license number.

RULE 134.01 ALLOWANCE OF ORAL ARGUMENT

Oral argument will be allowed unless:

(a) no request for oral argument has been made by either party in the statement of the case required by Rule 133.03; or

(b) a party has failed to file a timely brief as required by Rule 128.02; or

(c) the parties have agreed to waive oral argument pursuant to Rule 134.06; or

(d) the appellate court, in the exercise of its discretion, determines that oral argument is unnecessary because:

(1) the dispositive issue or set of issues has been authoritatively settled; or

(2) the facts and legal arguments could be adequately presented by the briefs and record and the decisional process would not be significantly aided by oral argument.

~~The clerk of t~~ The appellate courts shall notify the parties when it has been determined that a request for oral argument has been denied. A party aggrieved by the decision may, within 5 days after the receipt of the notification and pursuant to Rule 127, request the court to reconsider its decision.

**RULE 134.09 ORAL ARGUMENT-
PLACE OF ARGUMENT**

Subd. 1. Supreme Court. Argument to the Supreme Court shall take place at the State Capitol or Minnesota Judicial Center in St. Paul or at any other place designated by the Supreme Court.

Subd. 2. Court of Appeals. Argument to the Court of Appeals shall take place ~~as provided~~ in the Minnesota Judicial Center in St. Paul or as specifically provided in this rule.

(a) Argument in appeals from trial courts shall be heard:

(1) in appeals from trial courts in Hennepin and Ramsey Counties, at a session of the Court of Appeals in Hennepin or Ramsey County;

(2) in appeals from trial courts in other counties, at a session of the Court of Appeals in the judicial district in which the county is located at a location convenient to the place of trial or counsel.

(b) Arguments on writs of certiorari to review decisions of the Commissioner of ~~Economic Security~~ Jobs and Training shall be heard as follows:

(1) if the claimant for benefits is a real party in interest in the proceedings and resides in Hennepin or Ramsey County, in one of those counties;

(2) if the claimant for benefits is a real party in interest in the proceedings and resides elsewhere in the state, in the judicial district of the claimant's residence;

(3) otherwise, at a place designated by the court.

(c) Arguments on petitions to review the validity of administrative rules, pursuant to Minnesota Statutes, Section 14.44, shall be in Hennepin or Ramsey County.

(d) Arguments on petitions to review decisions of administrative agencies in contested cases, pursuant to Minnesota Statutes, Sections 14.63 to 14.68, shall be heard:

(1) if the petitioner resides outside of Hennepin and Ramsey Counties, but within Minnesota, either at the session of the Court of Appeals in Hennepin or Ramsey County or at a session of the Court of Appeals in the judicial district in which the petitioner resides, as designated by the petitioner in the petition for review;

(2) if the petitioner resides in Hennepin or Ramsey County, or outside of Minnesota, at a session of the Court of Appeals in Hennepin or Ramsey County.

(e) In all other cases, any oral argument shall be heard at a session of the court in Hennepin or Ramsey County.

(f) Upon the joint request of the parties and with the approval of the court, an argument may be heard at a location other than that provided in this rule. The request pursuant to this subsection shall be included in the statement of the case.

RULE 136.03 REMITTITUR

Subd. 1. From the Court of Appeals. The clerk of the appellate courts shall transmit the judgment to the ~~clerk of the trial court~~ trial court administrator when judgment is entered. If the Supreme Court grants a petition for review, the clerk shall transmit the entire record on appeal, one copy of each brief on file, and the decision of the Court of Appeals to the Supreme Court unless the order granting review directs otherwise.

Subd. 2. From the Supreme Court. When judgment is entered, the clerk of the appellate courts shall either transmit the judgment to the ~~clerk of the trial court~~ trial court administrator or notify the Court of Appeals if the matter is remanded to the Court of Appeals with special instructions.

RULE 137. EXECUTION

An execution to enforce any judgment of the appellate court may issue to the sheriff of any county in which a transcript of the judgment is filed and docketed. The execution shall be returnable within 60 days from its receipt by the officer. On the return of an execution satisfied in due form of law, the ~~clerk of the trial court~~ trial court administrator shall enter the satisfaction in the record.

RULE 139.02 DISBURSEMENTS

Unless otherwise ordered by the appellate court, the prevailing party shall be allowed ~~his~~ that party's disbursements necessarily paid or incurred. The prevailing party will not be

allowed to tax as a disbursement the cost of preparing informal briefs or briefs designated in Rule 132.01, subd. 5.

RULE 140.01 PETITION FOR REHEARING

No petition for rehearing shall be allowed in the Court of Appeals.

A petition for rehearing in the Supreme Court may be filed within 10 days after the filing of the decision or order unless the time is enlarged by order of the Supreme Court within the 10-day period. The petition shall set forth with particularity:

(a) any controlling statute, decision or principle of law;
or

(b) any material fact; or

(c) any material question in the case which, in the opinion of the petitioner, the Supreme Court has overlooked, failed to consider, misapplied or misconceived.

No petition for reconsideration or rehearing of a denial of a petition for review provided by Rule 117, or of a petition for accelerated review provided by Rule 118, shall be allowed in the Supreme Court.

RULE 142.02 DEFAULT OF APPELLANT

The respondent may serve and file a motion for judgment of affirmance or dismissal if the appellant fails or neglects to serve and file his its brief and appendix as required by these rules. If the appellant is in default for 30 days and the respondent has not made a motion under this rule, the appellate court shall order the appeal dismissed without notice, subject to a motion to reinstate the appeal. In support of the motion, the appellant must show good cause for failure to comply with the Rules governing the service and filing of briefs, that the appeal is meritorious, and that reinstatement would not substantially prejudice the respondent's rights.

RULE 142.03 DEFAULT OF RESPONDENT

If the respondent fails or neglects to serve and file his its brief, the case shall be determined on the merits. If a defaulting respondent has filed a notice of review pursuant to Rule 106, the appellant may serve and file a motion for affirmance of the judgment or order specified in the notice of review or for a dismissal of the respondent's review proceedings, subject to a motion to reinstate the review proceedings in accordance with the criteria specified in Rule 142.02.

RULE 143. PARTIES; SUBSTITUTION

RULE 143.01 PARTIES

The party appealing shall be known as the appellant, relator or petitioner and the adverse party as the respondent. The title of the action shall not be changed in consequence of the appeal.

RULE 143.02 DEATH OF A PARTY

If any party dies while an appeal is pending in the appellate court, the surviving party or the legal representative or successor in interest of the deceased party, shall file with the clerk of the appellate courts an affidavit showing the death and the name and address of the legal representative or successor in interest by or against whom the appeal shall thereafter proceed. If the deceased party has no representative, any party may inform the clerk of the appellate courts of the death and proceedings shall then be had as the appellate court may direct. If a party against whom an appeal may be taken dies after the entry of a judgment or an order in the trial court but before a notice of appeal is filed, an appellant may proceed as if the death had not occurred. If a party entitled to appeal dies before filing a notice of appeal, the notice of appeal may be filed by his the decedent's personal representative or, if ~~he has~~ there is no personal representative, by his the attorney of record within the time prescribed by these rules. After the notice of appeal is filed, substitution shall be effected in the appellate court in accordance with this rule.

RULE 143.04 PUBLIC OFFICERS

If a public officer dies, resigns or otherwise ceases to hold office during the pendency of an appeal or other appellate proceeding to which ~~he~~ the officer is a party in his an official capacity, the action does not abate and ~~his~~ the successor in office is automatically substituted as a party. Proceedings following the substitution shall be in the name of the substituted party, but any misnomer not affecting the substantial rights of the parties shall be disregarded. An order of substitution may be entered at any time, but the omission to enter such an order shall not affect the substitution.

RULE 144. CASES INVOLVING CONSTITUTIONAL QUESTIONS WHERE STATE IS NOT A PARTY

When the constitutionality of an act of the legislature is questioned in any appellate proceeding to which the state or an officer, agency or employee of the state is not a party, the party asserting the unconstitutionality of the act shall notify the attorney general within time to afford ~~him~~ an opportunity to intervene.

APPENDIX OF FORMS

FORM 103A. NOTICE OF APPEAL (COURT OF APPEALS)

STATE OF MINNESOTA

COUNTY OF _____

_____ DISTRICT COURT

_____ COUNTY COURT

_____ JUDICIAL DISTRICT

CASE TITLE:

Plaintiff,

vs.

Defendant.

NOTICE OF APPEAL TO COURT
OF APPEALS

TRIAL COURT CASE NUMBER:

DATE OF ORDER:

OR

DATE JUDGMENT ENTERED:

TO: Clerk of the Appellate Courts
~~230 State Capitol~~ Minnesota Judicial Center
St. Paul, MN 55155

Please take notice that the above-named defendant appeals to the Court of Appeals of the State of Minnesota from an order (judgment) of the court filed (entered) on the date shown, denying defendant's motion for a new trial.

DATED:

NAME, ADDRESS, ZIP CODE, TELEPHONE NUMBER OF ATTORNEY(S) FOR PLAINTIFF

NAME, ADDRESS, ZIP CODE, TELEPHONE NUMBER, AND ATTORNEY REGISTRATION LICENSE NUMBER OF ATTORNEY(S) FOR DEFENDANT:

SIGNATURE

(The trial court caption is used on the notice of appeal. Subsequent documents shall bear the appropriate appellate court caption. RCAP 103.01, subd. 1 specifies the contents of the notice of appeal and filings required to perfect an appeal, including filing fees. RCAP 103.03 sets forth judgments and orders which are appealable to the Court of Appeals. RCAP 104.01 specifies time limits for filing and service of the notice of appeal. RCAP 107 provides for bond or deposit for costs. RCAP 108.01 provides for a supersedeas bond. This document must be accompanied by 2 copies of a completed statement of the case. RCAP 133.03.)

FORM 103B. NOTICE OF APPEAL (SUPREME COURT)

STATE OF MINNESOTA

_____ DISTRICT COURT

COUNTY OF _____

_____ JUDICIAL DISTRICT

CASE TITLE:

NOTICE OF APPEAL TO SUPREME COURT

Plaintiff,

vs.

TRIAL COURT CASE NUMBER:

Defendant.

DATE OF FINAL JUDGMENT OF CONVICTION/ORDER:

TO: Clerk of the Appellate Courts
~~230 State Capitol~~, Minnesota Judicial Center
St. Paul, MN 55155

Please take notice that the above-named defendant appeals to the Supreme Court of the State of Minnesota from defendant's final judgment of conviction, date noted above, for the crime of murder in the first degree.

DATED:

NAME, ADDRESS, ZIP CODE, TELEPHONE NUMBER OF ATTORNEY(S) FOR PLAINTIFF

NAME, ADDRESS, ZIP CODE, TELEPHONE NUMBER, AND ATTORNEY REGISTRATION LICENSE NUMBER OF ATTORNEY(S) FOR DEFENDANT:

SIGNATURE

(The trial court caption is used on the notice of appeal. Subsequent documents shall bear the appropriate appellate court caption. Minnesota Statutes, Section 632.14 provides that appeals from a final judgment of conviction of the crime of murder in the first degree are taken directly to the Supreme Court. Rule 29, subdivision 1 of the Rules of Criminal Procedure specifies the procedure for service and filing of the notice of appeal; subdivision 2 itemizes the contents of the notice of appeal; subdivision 3 defines the time for taking an appeal; and subdivision 4 cites other relevant procedures in first-degree murder appeals.)

FORM 105. PETITION FOR DISCRETIONARY REVIEW

STATE OF MINNESOTA

IN COURT OF APPEALS

CASE TITLE:

PETITION FOR DISCRETIONARY
REVIEW

Petitioner,

vs.

TRIAL COURT CASE NUMBER:

Respondent.

DATE OF FILING ORDER:

TO: The Court of Appeals of the State of Minnesota:

The petitioner (name) requests discretionary review of the (date) order of the _____ Court.

1. Statement of facts necessary to an understanding of the issues presented.

2. Statement of the issues.

3. Statement why immediate review of interlocutory or otherwise nonappealable order necessary.

WHEREFORE, the petitioner requests an order of the court granting the petition for discretionary review.

DATED:

NAME, ADDRESS, ZIP CODE, TELEPHONE NUMBER, AND ATTORNEY REGISTRATION LICENSE NUMBER OF ATTORNEY(S) FOR PETITIONER

SIGNATURE

(The content requirements of the petition for discretionary review are found in RCAP 105. A memorandum of law and pertinent lower court documents should be attached to the petition. The submission and the requirements for filing, form and the number of copies are contained in RCAP 105.02.)

FORM 106. RESPONDENT'S NOTICE OF REVIEW

STATE OF MINNESOTA

IN COURT OF APPEALS

CASE TITLE:

RESPONDENT'S NOTICE OF REVIEW

Plaintiff-Respondent,

TRIAL COURT CASE NUMBER:

vs.

COURT OF APPEALS NUMBER:

Defendant-Appellant.

DATE OF ORDER:

DATE JUDGMENT ENTERED:

TO: Clerk of the Appellate Courts
~~230 State Capitol,~~ Minnesota Judicial Center
St. Paul, MN 55155

Please take notice that the respondent will seek review of the order (judgment) of the _____ court, which was filed (entered) on the date noted above, denying respondent's motion for a new trial on the issue of damages.

DATED:

NAME, ADDRESS, ZIP CODE, TELEPHONE NUMBER, AND ATTORNEY
REGISTRATION LICENSE NUMBER OF ATTORNEY(S) FOR RESPONDENT

SIGNATURE

(RCAP 106, describes the procedures by which respondent obtains review in the Court of Appeals of judgments or orders which are the subject of the appeal and which may adversely affect the respondent. The rule addresses contents of the notice of review, and filing and service requirements.)

FORM 110. CERTIFICATE AS TO TRANSCRIPT

(to be filed with the clerk of the appellate courts within 10 days from the date the transcript was ordered)

STATE OF MINNESOTA

COUNTY OF _____

_____ DISTRICT COURT

_____ COUNTY COURT

_____ JUDICIAL DISTRICT

CASE TITLE:

CERTIFICATE AS TO TRANSCRIPT

Plaintiff,

vs.

_____ Supreme Court

Defendant.

_____ Court of Appeals

APPELLATE COURT CASE NUMBER:

TRIAL COURT CASE NUMBER:

TO: Clerk of the Appellate Courts
~~230 State Capitol,~~ Minnesota Judicial Center
St. Paul, MN 55155

A transcript of the proceedings in the above-entitled action was requested by counsel for the defendant on (date) in accordance with Rule 110.02, subdivision 2 of the Rules of Civil Appellate Procedure. The estimated number of pages is (number) and the estimated date of completion is _____, a date not to exceed 60 days from the date of request.

Satisfactory financial arrangements have been made between counsel and the court reporter for the transcription.

DATED:

SIGNATURE OF ATTORNEY

SIGNATURE OF COURT

REPORTER

ADDRESS AND TELEPHONE

NUMBER

cc: Trial Court of Record

All Counsel of Record

(RCAP 110.02, subdivision 2, requires a certificate as to transcript if any part of the proceedings are to be transcribed by a court reporter. The original copy of the certificate shall be filed with the clerk of the appellate courts, with a copy to the trial court and all counsel of record and shall be filed with the clerk of the appellate courts within 10 days from the date the transcript was ordered.)

FORM 115A. PETITION FOR WRIT OF CERTIORARI

STATE OF MINNESOTA

IN COURT OF APPEALS

CASE TITLE:

PETITION FOR WRIT OF CERTIORARI

Employee-
Relator,

COURT OF APPEALS NUMBER:

vs.

DEPARTMENT OF ECONOMIC SECURITY
JOBS AND TRAINING NUMBER:

Employer-
Respondent,

DATE OF MAILING NOTICE OF
DECISION:

Commissioner of ~~Economic~~
Security Jobs and Training,

Respondent.

TO: The Court of Appeals of the State of Minnesota:

The above-named relator hereby petitions the Court of Appeals for a Writ of Certiorari to review a decision of the Commissioner of ~~Economic Security~~ Jobs and Training filed and mailed on the date noted above, upon the grounds that it is not in conformity with the provisions of Minnesota Statutes, Chapter 268, and is unwarranted by the evidence.

DATED:

NAME, ADDRESS, ZIP CODE, AND TELEPHONE NUMBER OF RELATOR:
(ATTORNEY REGISTRATION LICENSE NUMBER IF REPRESENTED BY COUNSEL)

SIGNATURE

(The procedure for obtaining a writ of certiorari from the Court of Appeals is set forth in Rule 115, Rules of Civil Appellate Procedure. The rule prescribes the subject matter of writs in the Court of Appeals, the manner of securing a writ, time limitations, contents of the petition, bond or security, filing and fees, and requirements for service. Two copies of a completed statement of the case must accompany the petition.)

FORM 115B. WRIT OF CERTIORARI

STATE OF MINNESOTA

IN COURT OF APPEALS

CASE TITLE:

WRIT OF CERTIORARI

Relator,

vs.

COURT OF APPEALS NUMBER:

Respondent,

DEPARTMENT OF ~~ECONOMIC SECURITY~~
JOBS AND TRAINING NUMBER:

Commissioner of ~~Economic~~
Security Jobs and Training,

DATE OF MAILING NOTICE OF
DECISION:

Respondent.

TO: Minnesota Department of ~~Economic Security~~ Jobs and Training:

You are hereby ordered to return to the Court of Appeals within 30 days from this date the record, exhibits and proceedings in the above-entitled matter so that this court may review the decision of the Commissioner of ~~Economic Security~~ Jobs and Training filed and mailed on the date noted above.

Copies of this writ and accompanying petition shall be served forthwith either personally or by mail upon the Commissioner of ~~Economic Security~~ Jobs and Training and upon the Employer-Respondent or its attorney at:

(address)

Proof of service shall be filed with the clerk of the appellate courts.

DATED:

~~Wayne O. Tschimperle~~

Clerk of Appellate Courts

(Clerk's File Stamp)

By: _____

Assistant Clerk

FORM 116A. PETITION FOR WRIT OF CERTIORARI

STATE OF MINNESOTA

IN SUPREME COURT

CASE TITLE:

PETITION FOR WRIT OF CERTIORARI

Employee-
Relator,

SUPREME COURT NUMBER:

vs.

WORKERS' COMPENSATION COURT OF
APPEALS NUMBER:

Employer-
Respondent,

DATE OF SERVICE OF WRITTEN
NOTICE OF DECISION:

Insurer-
Respondent.

TO: The Supreme Court of the State of Minnesota:

The above-named relator hereby petitions the Supreme Court for a Writ of Certiorari to review a decision of the Workers' Compensation Court of Appeals, upon the grounds that it is not in conformity with the terms of the Workers' Compensation Act and is unwarranted by the evidence.

DATED:

NAME, ADDRESS, ZIP CODE, TELEPHONE NUMBER, AND ATTORNEY
REGISTRATION LICENSE NUMBER OF ATTORNEY(S) FOR EMPLOYEE--RELATOR:

SIGNATURE

(The procedure for obtaining a writ of certiorari from the Supreme Court is set forth in RCAP 116. The rule prescribes the subject matter of writs in the Supreme Court, contents of the petition, bond or security, filing and fees, and requirements for service. Two copies of a completed statement of the case must accompany the petition.)

FORM 116B. WRIT OF CERTIORARI

STATE OF MINNESOTA

IN SUPREME COURT

CASE TITLE:

WRIT OF CERTIORARI

Employee-
Relator,

SUPREME COURT NUMBER:

vs.

WORKERS' COMPENSATION COURT OF
APPEALS NUMBER:

Employer-
Respondent,

DATE OF SERVICE OF WRITTEN
NOTICE OF DECISION:

Insurer-
Respondent.

TO: The Workers' Compensation Court of Appeals:

You are hereby ordered to return to the Supreme Court within 30 days from this date the record, exhibits and proceedings in the above-entitled matter so that this court may review the decision of the Workers' Compensation Court of Appeals.

Copies of this writ and accompanying petition shall be served forthwith either personally or by mail upon the Secretary of the Workers' Compensation Court of Appeals and upon the Employer-Respondent(s) above-named or their attorney(s) at:

(address)

Proof of service shall be filed with the clerk of the appellate courts.

DATED:

~~Wayne O. Tschimperle~~

Clerk of Appellate Courts

(Clerk's File Stamp)

By: _____

Assistant Clerk

**FORM 117. PETITION FOR REVIEW OF DECISION OF COURT OF APPEALS OR
CONDITIONAL PETITION FOR REVIEW**

STATE OF MINNESOTA

IN SUPREME COURT

CASE TITLE:

PETITION FOR REVIEW OF DECISION
OF COURT OF APPEALS

Petitioner,

vs.

APPELLATE COURT CASE NUMBER:

Respondent.

DATE OF FILING OF COURT OF
APPEALS DECISION:

TO: The Supreme Court of the State of Minnesota:

The petitioner (name) requests Supreme Court review of the above-entitled decision of the Court of Appeals upon the following grounds:

2 1. Statement of legal issues and their resolution by the Court of Appeals.

2. Statement of the criteria of the rule relied upon to support the petition.

± 3. Statement of the case (facts and procedural history).

(The statement should be a concise summary because the decisions of the lower courts must be attached.)

3 4. ~~Arguments.~~ A brief argument in support of petition.

(The petitioner shall ~~address the applicable criteria of RCAP 117, subd. 2;~~ identify and address the critical portion of the Court of Appeals decision+ and discuss the likelihood of success on the merits.)

For these reasons, the petitioner seeks an order granting review of the decision of the Court of Appeals.

DATED:

NAME, ADDRESS, ZIP CODE, TELEPHONE NUMBER, AND ATTORNEY REGISTRATION LICENSE NUMBER OF ATTORNEY(S) FOR PETITIONER

SIGNATURE

Appendix

(The content requirements of the petition are found in RCAP 117. The rule emphasizes that Supreme Court review is discretionary. The decisions of the Court of Appeals and trial court or agency must be attached as an appendix. The petition should not exceed 5 typewritten pages, exclusive of appendix. A conditional petition shall follow this same form.)

FORM 118. PETITION FOR ACCELERATED REVIEW

STATE OF MINNESOTA

IN SUPREME COURT

CASE TITLE: PETITION FOR ACCELERATED REVIEW

Petitioner,

vs.

APPELLATE COURT CASE NUMBER:

Respondent.

TO: The Supreme Court of the State of Minnesota:

The petitioner (name) requests accelerated review by the Supreme Court of the above-entitled matter upon the following grounds:

~~1. Status of appeal.~~

~~(The petitioner should identify the status of the case including the stage of the proceedings on the date of this petition and the date of filing of the notice of appeal.)~~

~~3 1. Statement of legal issues to be raised.~~

2. Statement of facts the case.

(This should be a concise statement of the facts necessary to the Supreme Court's decision to accelerate the appeal; a summary of the trial court or agency's decision; and the status of the case--including the stage of the proceedings on the date of this petition--and the date of filing of the notice of appeal.)

4 3. Arguments. A brief argument.

(The petitioner should discuss the applicable criteria of RCAP 117, subd. 2; and the question of why immediate review by the Supreme Court is necessary.)

For these reasons, the petitioner requests an order granting accelerated review of this appeal now pending in the Court of Appeals.

DATED:

NAME, ADDRESS, ZIP CODE, TELEPHONE NUMBER, AND ATTORNEY
REGISTRATION LICENSE NUMBER OF ATTORNEY(S) FOR PETITIONER

SIGNATURE

Appendix

(This petition shall not exceed 10 typewritten pages, exclusive of appendix, and shall comply with the requirements of RCAP 118, subd. 2.)

FORM 120A. PETITION FOR WRIT OF PROHIBITION

STATE OF MINNESOTA

IN COURT OF APPEALS

CASE TITLE:

PETITION FOR WRIT OF PROHIBITION

Petitioner,

TRIAL COURT CASE NUMBER:

vs.

APPELLATE COURT CASE NUMBER:

Respondent.

TO: The Court of Appeals of the State of Minnesota:

The petitioner (name) requests a writ of prohibition restraining the _____ County District Court from enforcing its order of (date).

1. Statement of facts necessary to an understanding of the issues presented.
2. Statement of the issues.
3. Argument and statement of the reasons extraordinary relief necessary.

WHEREFORE, the petitioner requests an order granting the petition for a writ of prohibition and the issuance of the writ.

DATED:

NAME, ADDRESS, ZIP CODE, TELEPHONE NUMBER, AND ATTORNEY
REGISTRATION LICENSE NUMBER OF ATTORNEY(S) FOR PETITIONER

SIGNATURE

Appendix

(The content requirements of the petition for extraordinary relief are found in RCAP 120 and ~~121~~. A memorandum of law and pertinent lower court documents should be attached to the petition. The submission of the petition and time to respond are detailed in RCAP 120.02 and the requirements for filing, form and the number of copies are contained in RCAP 120.04.)

FORM 120B. ORDER FOR WRIT OF PROHIBITION

STATE OF MINNESOTA

IN COURT OF APPEALS

CASE TITLE:

Petitioner,

vs.

APPELLATE COURT CASE NUMBER:

Respondent.

ORDER

Upon the petition of (name) for a writ of prohibition, IT IS
HEREBY ORDERED:

1. That the writ be, and the same is, issued and that the
 Court, Division, County of ,
Judicial District, upon receipt of the writ of prohibition, grant
the relief requested in the petition.

2. The petitioner shall forthwith serve copies of this order
on , attorney for respondent, and on ,
Judge of said Court.

DATED:

BY THE COURT:

Judge or Justice

FORM 120C. WRIT OF PROHIBITION

STATE OF MINNESOTA

IN COURT OF APPEALS

CASE TITLE:

Petitioner,

vs.

APPELLATE COURT CASE NUMBER:

Respondent.

WRIT OF PROHIBITION

The State of Minnesota to the Honorable _____, Judge of
_____ Court, _____ Division, County of _____,
Judicial District:

WHEREAS, upon consideration of the petition of (name) and the
answer of respondent (name) this Court has determined that
petitioner is entitled to the relief requested in said petition,

NOW, THEREFORE, We do command and direct that you immediately
upon receipt of a copy of this writ vacate and set aside your order
of (date), and that you grant to said petitioner the relief
requested in his petition of (date). Copies of this writ shall be
served forthwith by mail by petitioner upon you and proof of
service filed herein.

Witness the Honorable _____, Chief Judge of the Court
of Appeals of the State of Minnesota, and the seal of this Court,
this ___ day of _____, ____.

Clerk of Appellate Courts

FORM 128. APPELLANT'S FORMAL BRIEF AND APPENDIX

(Cover)

APPELLATE COURT CASE NUMBER

STATE OF MINNESOTA

IN COURT OF APPEALS

CASE TITLE:

Respondent,

vs.

Appellant.

APPELLANT'S BRIEF AND APPENDIX

JOHN BROWN
Attorney for Respondent
(address, zip code, and tele-
phone number)

SMITH & JONES
By John Jones
Attorney for Appellant
(address, zip code, telephone
number, and attorney
registration license number)

* * * * *

TABLE OF CONTENTS

	Page
Table of Authorities	2
Legal Issues	3
Statement of Facts	4
Argument	
1. (Concise statement of each legal argument advanced)	7
2.	12
3.	15
Conclusion	19

APPENDIX AND ITS INDEX

Complaint	1
Answer	2
Jury Instructions (if applicable)	3
Verdict	7
Motion for New Trial	8
Order Denying Motion for New Trial and Memorandum	11
Notice of Appeal	12

* * * * *

TABLE OF AUTHORITIES

Statutes (list applicable statutes and page where argument found)	
Minn. Stat. § 518.58 (1982)	8

Cases (list applicable authorities and page where argument found)	
Jones v. Olson, ___ N.W.2d ___ (Minn.1982)	9

Smith v. Brown, ___ Minn. ___, ___ N.W.2d ___ (1965)	14
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Secondary Authorities

McCormick, Damages § 83 (1935)	16
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* * * * *

LEGAL ISSUES

I. (Precise statement of each legal issue)

Trial court held: _____

II.

* * * * *

STATEMENT OF FACTS

(The facts should be stated in compliance with RCAP 128.02, subd. 1(c), accompanied by appropriate citations to the appendix and the transcript.)

* * * * *

ARGUMENT

I. (Each legal issue should be argued separately. RCAP 128.02, subd. 1(d).)

* * * * *

CONCLUSION

(The conclusion shall contain a statement of the precise relief sought.)

Respectfully submitted,

SMITH & JONES

By John Jones

Attorney for Appellant

(address, zip code, telephone number, and attorney registration number)

* * * * *

APPENDIX AND INDEX

(The index should precede the appendix and the pages of the appendix should be separately and consecutively numbered. RCAP 130.)

FORM 133. STATEMENT OF THE CASE

STATE OF MINNESOTA

IN SUPREME COURT

OR

IN COURT OF APPEALS

CASE TITLE:

Appellant,

vs.

Respondent.

STATEMENT OF THE CASE OF
(APPELLANT) (RESPONDENT)

TRIAL COURT CASE NUMBER:

APPELLATE COURT CASE NUMBER:

1. Court or agency of case origination and name of judge or hearing officer who presided.

2. Jurisdictional statement.

(State whether appeal is from a judgment or order, including date of entry of judgment or filing of order. If appeal is from order, state date of service of written notice of filing thereof and which clause of RCAP 103.03 or which statute authorizes the appeal.)

3. State type of litigation and designate any statutes at issue.

(Example: marital dissolution-property distribution, Minn. Stat. § 518.58 (1982); spousal maintenance, Minn. Stat. § 518.552 (1982). Case designation shall be taken from the subject-matter index included in the appendix as Forms 133A and 133B.)

4. Brief description of claims, defenses, issues litigated and result below.

5. Issues proposed to be raised on appeal.

6. Is transcript required? If so, full or partial transcript? _____

7. Is oral argument requested? If so, is argument requested at a location other than that provided in Rule 134.09, subd. 2? (Where)

8. Are formal briefs necessary? or

Are trial memoranda, supplemented by a short letter argument, sufficient? _____

(If the latter form is selected, it is the duty of counsel to provide the appellate court with the number of copies required by Rule 131.03 and in the form required by Rule 132.01, all endorsed with the appellate court docket number.)

9. Names, addresses, zip codes and telephone numbers of attorney for appellant and respondent.

DATED:

NAME, ADDRESS, ZIP CODE, TELEPHONE NUMBER, AND ATTORNEY
REGISTRATION LICENSE NUMBER OF ATTORNEY(S) FOR (APPELLANT)
(RESPONDENT)

SIGNATURE