

# INSTRUCTIONS

## Requesting a Fee Waiver in the Court of Appeals

[Minn. Stat. § 563.01](https://revisor.mn.gov/statutes/cite/563.01) (revisor.mn.gov/statutes/cite/563.01)

and [Minn. R. Civ. App. P. 109](https://revisor.mn.gov/court_rules/ap/subtype/rcap/id/109/) (revisor.mn.gov/court\_rules/ap/subtype/rcap/id/109/)

### Important Notices and Resources

The Court has forms and instructions, for some types of cases, as a general guide to the court process. These instructions explain the steps in more detail and answer common questions but are not a full guide to the law. Court employees may be able to give general information on court rules and procedures, but they cannot give legal advice.

#### Have questions about court forms or instructions?

- Visit [www.MNCourts.gov/SelfHelp](http://www.MNCourts.gov/SelfHelp)
- Call the Statewide Self-Help Center at 651-435-6535

#### Not sure what to do about a legal issue or need advice?

- Talk with a lawyer
- Visit [www.MNCourts.gov/Find-a-Lawyer.aspx](http://www.MNCourts.gov/Find-a-Lawyer.aspx)

Helpful materials may be found at your public county law library. For a directory, see <http://mn.gov/law-library/research-links/county-law-libraries.jsp>. For more information, contact court administration or call the Minnesota State Law Library at 651-297-7651.

### What You Will Need to Ask for a Fee Waiver in the Court of Appeals

- *Motion and Affidavit for Fee Waiver in the Court of Appeals* (FEE114);
- Copy of the statement of the case or the petition being filed in the appellate court; and
- Proof of your household income (and public assistance, if any).



You can:

- Download the fee waiver forms from the [MN Judicial Branch website](http://mncourts.gov/GetForms.aspx?c=19) (mncourts.gov/GetForms.aspx?c=19); or
- Get the forms at a [courthouse](http://mncourts.gov/Find-Courts.aspx) (mncourts.gov/Find-Courts.aspx).

## General Information

### What if you cannot afford an appeal?

See the Frequently Asked Questions (FAQs) online ([mncourts.gov/CourtOfAppeals/FAQAffordAppeal.aspx](http://mncourts.gov/CourtOfAppeals/FAQAffordAppeal.aspx)).

### Fees and Costs

If you cannot afford to pay the appellate court filing fee, cost bond, or other costs, you may be able to have the fee and costs waived. Under the law, the court can waive the fee and costs if the appeal is **not frivolous** AND if you are indigent.

You can prove indigency by showing that:

1. You receive public assistance; OR
2. You have a free lawyer from a legal services provider; OR
3. Your income is below a certain amount (see [chart](#) below\*); OR
4. Your income is not enough to pay for the common necessities of life for yourself and the people you support, and also to pay court fees and costs.

\*Under category 3, you can show indigency if your household's total income, before taxes are taken out, is less than 125% of the Federal Poverty Guidelines for your household size. To qualify under category 3, your household needs to make **less than** what is listed in the chart below.

Your **household** includes:

- Yourself;
- Your spouse or significant other;
- Your minor children; and
- Other dependents living in your home.
  - **Dependents** are people who rely on you for most of their financial support and can include parents, unmarried partner who does not work outside the home, or extended family members.

### Federal Poverty Guideline Chart

Number of People in Household	Yearly Household Income (before taxes)	Monthly Household Income (before taxes)	Weekly Household Income (before taxes)
1	\$18,825	\$1,569	\$362
2	\$25,550	\$2,129	\$491
3	\$32,275	\$2,690	\$621
4	\$39,000	\$3,250	\$750
5	\$45,725	\$3,810	\$879

Number of People in Household	Yearly Household Income (before taxes)	Monthly Household Income (before taxes)	Weekly Household Income (before taxes)
6	\$52,450	\$4,371	\$1,009
7	\$59,175	\$4,931	\$1,138
8	\$65,900	\$5,492	\$1,267

If you have more than 8 members in your household, add \$6,725 annually for **each** additional household member (or \$560 monthly or \$129 weekly).

**How to Ask for a Fee Waiver**



**STEP 1: Fill out the *Affidavit to Request Fee Waiver (FEE114)***

**The Caption**

The top part of the first page is where you will find the case caption.

**See Instructions (FEE113) for help in filling out this form.**

**State of Minnesota** **District Court**

County of: \_\_\_\_\_ Court File Number: \_\_\_\_\_

Judicial District: \_\_\_\_\_ Case Type: \_\_\_\_\_

\_\_\_\_\_

Plaintiff/Petitioner

VS/AND

\_\_\_\_\_

Defendant/Respondent

**Motion and Affidavit for Fee Waiver in the Court of Appeals (FEE114)**

Minn. Stat. § 563.01 & Minn. R. App. P. 109

Fill it out the way you did for the other forms you plan to file with Court Administration, or like the other forms already filed in the case.

- List the county where the court case is or will be filed.
- List the judicial district. Each county is located in 1 of 10 [judicial districts](http://mncourts.gov/Find-Courts.aspx) (mncourts.gov/Find-Courts.aspx).
- If you already have a court file number, list it in the caption. Otherwise, leave it blank.
- List the case type. If you need help figuring out what the correct case type is, see the “Civil Case Type Index,” found online under the “eFile and eServe Resources” tab at <https://www.mncourts.gov/File-a-Case/File-in-A-District-Trial-Court.aspx>.

**The Affidavit**

Fill out the rest of the *Affidavit to Request Fee Waiver*. This is a confidential form that only the court will see.

1. In paragraph #1, check the box or boxes letting the Court know what you are asking for.

<p>1. I believe that I have valid reasons for pursuing this Court of Appeals action, and I move for a court order granting me the following relief:</p> <p><input type="checkbox"/> waiving appellate court filing fees and cost bond</p> <p><input type="checkbox"/> payment for transcript preparation costs for the specific hearing dates listed as follows: _____</p> <p>_____</p> <p><input type="checkbox"/> other (please specify): _____</p>
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2. You do not have to fill in any information in paragraph #2. **NOTE:** The judicial officer will review the proposed issues you want to raise on appeal. The judicial officer will not grant a fee waiver if the issues are frivolous.

<p>2. I am a party in this action, and in good faith, I request an order waiving court fees and costs as described above. I am including a copy of my statement of the case or petition being filed in the appellate court, showing the proposed issues on appeal.</p>
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3. If you receive public assistance, check the box at paragraph #3. Then give the requested information.

<p>3. <input type="checkbox"/> I am receiving public assistance under one or more of the following means-tested programs:</p> <p><input type="checkbox"/> SSI (Supplemental Security Income)</p> <p><input type="checkbox"/> MSA (Minnesota Supplemental Security Aid) or Emergency MSA</p> <p><input type="checkbox"/> GA (General Assistance) or Emergency GA</p> <p><input type="checkbox"/> SNAP (Supplemental Nutrition Assistance Program, also known as food stamps)</p> <p><input type="checkbox"/> MFIP (Minnesota Family Investment Program), MFIP Diversional Work Program (DWP), or Work Participation Cash Benefit</p> <p><input type="checkbox"/> MinnesotaCare or Medical Assistance</p> <p><input type="checkbox"/> Receipt of part D extra help or payment by the government of Medicare part B premiums</p> <p><input type="checkbox"/> Emergency Assistance or county crisis funds</p> <p><input type="checkbox"/> Energy or Fuel Assistance</p> <p><input type="checkbox"/> Other: (specify) _____</p>
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If you receive public assistance, include **proof of the public assistance** when you file the *Affidavit*.

4. Check the box at #4 if you are represented by an attorney through a civil legal services or volunteer attorney program (a program that gives legal services to people with low incomes).

If you check the box in paragraph #4, fill in your lawyer's name and who your lawyer works or volunteers for.

5. List your household size (including yourself). If there is more than one person in your household, list the other household members' names.

There is room to list five names on the *Affidavit*. If you need more space, add another sheet of paper that includes your name and your court file number (if you know it).

5. My household size is \_\_\_\_\_.

→ Include yourself, your spouse or significant other, your children who are under age 18 (or over 18 but still in high school), and other dependents in your home. Dependents are people who rely on you for most of their financial support, and can include parents, children over the age of 18, or extended family members.

My household, other than myself, includes:

Name	Age	Relationship to you

*If you need more space, add another sheet of paper with your name and court file number, if you know it.*

**Paragraphs #6 through #9** are about income (yours and others').

6. In paragraph #6, list your **household's yearly income**. To get this amount, you will add all of the monthly income together, then multiply by 12 to get your household's yearly income.

→ Your monthly income + other household members' and dependents' monthly income = total household **monthly** income.

→ Total household monthly income X 12 = total household **yearly** income.

**NEXT**, look at the [Federal Poverty Guideline chart](#) at the beginning of these instructions.

After you list the household's **yearly income**, check one of the boxes to tell whether that income is **less than** or **more than** 125% of the Federal Poverty Line for your household.

List the number of people in your household.

6. My household's total **yearly** income (before taxes and deductions) is \$\_\_\_\_\_

This is **less than** 125% of the Federal Poverty Line for my household size of \_\_\_\_\_

**OR**

This is **more than** 125% of the Federal Poverty Line for my household size of \_\_\_\_\_

**!** Include **proof of your household income** when you file the *Affidavit*.

7. Paragraph #7 has three parts.

**In the first part, tell where all of your income comes from.** Check all of the boxes that apply to your situation. If a source of your income is not listed, then check "Other," and fill in the source.

7. I receive income from the following sources (check all that apply):

Job/wages       Unemployment       Social Security

Child Support       Spousal Support       Trust Income

Other (for example: disability, pension, rental income): \_\_\_\_\_

The second part of the form has information on how to calculate your **monthly** income. It also tells how to calculate your **average monthly** income if your income changes a lot from month to month.

→ Include income from all the sources you checked above. To calculate monthly income you get from a job:

- Multiply the number of hours worked per week by your hourly pay to get the weekly amount.
- Then multiply that by 4.33 to get the monthly amount.
- In summary: hours per week x hourly pay x 4.33 = monthly income before taxes and deductions).

→ If your monthly income changes a lot from month to month, then you should answer the question below based on your *average* monthly income for the last 6 months. To calculate your average income:

- Add your total monthly income from the last 6 months.
- Then divide that number by 6
- In summary: last 6 months of income added together ÷ 6 = average monthly income.

In the third part of paragraph #7, list your monthly income (before taxes and deductions).

**NOTE:** If your monthly income changes a lot from month to month, then check the box next to **average** monthly income. Fill in your average monthly income.

My total **monthly** income (before taxes and deductions) is \$ \_\_\_\_\_

**OR**

My **average** monthly income (before taxes and deductions) is \$ \_\_\_\_\_

8. Paragraph #8 is about a spouse’s income (if you are married).

- In the first part of paragraph #8, check the box or boxes telling about your marital status.
- If you are married, separated, or getting a divorce, then list your spouse’s total monthly expenses (before taxes and deductions), and list the source of that income.
- If you do not know what your spouse’s income is, there is a space on the form for you to explain why.

9. Paragraph #9 is about income from any other family member or dependent.

9.  I do not have any other family members or dependents living with me that have income.

**OR**

I have other family members and/or dependents living with me that have income. Their net (take home) **monthly** income is:

Name	Monthly Income	Source of Income
	\$	
	\$	
	\$	

*If you need more space, add another sheet of paper with your name and court file number, if you know it.*

Check the first box if you do not have any other family members or dependents living with you that have income.

**OR**

Check the second box if there is a family member or dependent living with you who have income. Then fill in the table with the person’s name, amount of monthly income, and the source of that income.

**Paragraphs #10 through #13** are about expenses, debts, and assets.

10. In paragraph #10, list your monthly expenses. If there is a category on the form that is not one of your monthly expenses, list zero (0).

10. I pay the following **monthly expenses**:

→ Include amounts you pay for yourself, your spouse or significant other, your minor children, and other dependents in your home; if you do not have the expense, list \$0.

Rent or mortgage: \$ _____	Child support: \$ _____
Utilities: \$ _____	Childcare \$ _____
Food: \$ _____	Medical insurance: \$ _____
Car payments: \$ _____	Cell phone: \$ _____
Car insurance: \$ _____	Other (explain): \$ _____
Spousal support: \$ _____	_____

11. List the amount of cash and the amount of funds you have on deposit in a financial institution (bank, credit union, etc.). If you do not have cash, or if you do not have any funds in a financial institution, list zero (0).

12. List your assets (property you own) in paragraph #12.

13. List the amount of debt you have in paragraph #13. Do not include car loans or real estate loans/mortgages.

14. Paragraph #14 is where you can explain other reasons why you cannot afford to pay the court fees.



## STEP 2: Sign the form

Date and sign the last page of the *Motion and Affidavit for Fee Waiver in the Court of Appeals* (FEE114). Fill out your personal contact information under your signature. Finally, add the county and state you are in when you sign the form.

By signing the *Affidavit* under penalty of perjury, you are stating that the information in the *Affidavit* is true to the best of your knowledge. If you give false information on the form, you may be charged with a crime.



## STEP 3: Collect proof of public assistance or financial need

You can prove you receive public assistance by giving the court a copy of:

- EBT card, statement of benefits, benefits award letter, cancelled check from agency, etc.

You can prove financial need by giving the court a copy of:

- tax returns, pay stubs, bank statements, bills, statements showing expenses, etc.



## STEP 4: Make copies

Make copies of all of the documents you plan to file with the court. This includes:

- A copy of the statement of the case or petition being filed in the appellate court showing the proposed issues on appeal;
- Your *Motion and Affidavit for Fee Waiver in the Court of Appeals*; and
- Any proof of income, public assistance, or financial need.



## STEP 5: File the forms with Court Administration in District Court



The *Motion and Affidavit for Fee Waiver in the Court of Appeals* must be filed in District Court on or before the date your appeal is commenced.

Put these things together:

- Your completed *Motion and Affidavit for Fee Waiver in the Court of Appeals* (;
- A copy of the statement of the case or petition being filed in the appellate court showing;
- Proof of public assistance (if you receive it); and
- Proof of your financial situation.

File these documents with Court Administration either at the courthouse or electronically.

- At the Courthouse (addresses for courthouses are online at <https://www.mncourts.gov/Find-Courts.aspx>):
  - In person; or
  - By mail.
- Electronic Filing through the eFS System:
  - Information about eFiling is on the MN Judicial Branch website at <https://www.mncourts.gov/eFile> under the “eFile and eServe Training” tab.



#### **STEP 6: Judicial officer reviews fee waiver request**

The judicial officer will grant or deny your request.

- If the judicial officer grants your fee waiver request, you may proceed without further application to the Court of Appeals.
    - You must promptly file a copy of the trial court’s order regarding the fee waiver with the clerk of the appellate courts.
    - If a transcript is to be prepared for appeal, you must file the certificate as to transcript within 14 days from the date of the trial court administrator’s filing of the fee waiver order or within 14 days after filing the notice of appeal, whichever is later.
  - If the judicial officer denies your fee waiver request, then within 14 days from the date that the order denying the fee waiver request is filed, you must either:
    - Pay the appellate court filing fee, post any required cost bond, and file a completed transcript certificate, if a transcript is required;
- OR
- Serve and file a motion in the Court of Appeals for review of the trial court’s order denying your Court of Appeals fee waiver request.

**Important Information about a motion for review of the trial court’s order denying the fee waiver request:** According to the Rules of Appellate Procedure, the “record on the motion shall be limited to the record presented to the trial court.” This means that **you cannot present new evidence**. See [Rule 109.02](https://revisor.mn.gov/court_rules/rule/aprcap-109/) (revisor.mn.gov/court\_rules/rule/aprcap-109/).

If you have any questions and cannot afford an attorney, you may wish to consult the legal aid office, legal services office, or lawyer referral service in your county (see the “Find-a-Lawyer” Help Topic at <https://mncourts.gov/Help-Topics/Find-a-Lawyer.aspx>), or visit [www.lawhelpmn.org](http://www.lawhelpmn.org).