

INSTRUCTIONS FOR SELF-REPRESENTED LITIGANTS

Appellant Packet

How to file an appeal to the
Alaska Workers' Compensation
Appeals Commission
from a final decision by the
Alaska Workers' Compensation Board

Alaska Workers' Compensation Appeals Commission
1016 W. Sixth Ave., Suite 405
Anchorage, AK 99501
Phone (907) 269-6738
Fax (907) 269-6737

E-mail the Commission Clerk at: awcac.clerk@alaska.gov

For Commission regulations and decisions,
see the Commission web page at:
www.labor.alaska.gov/wccomm/home.htm

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SCHEDULE AND FILING TIMELINE

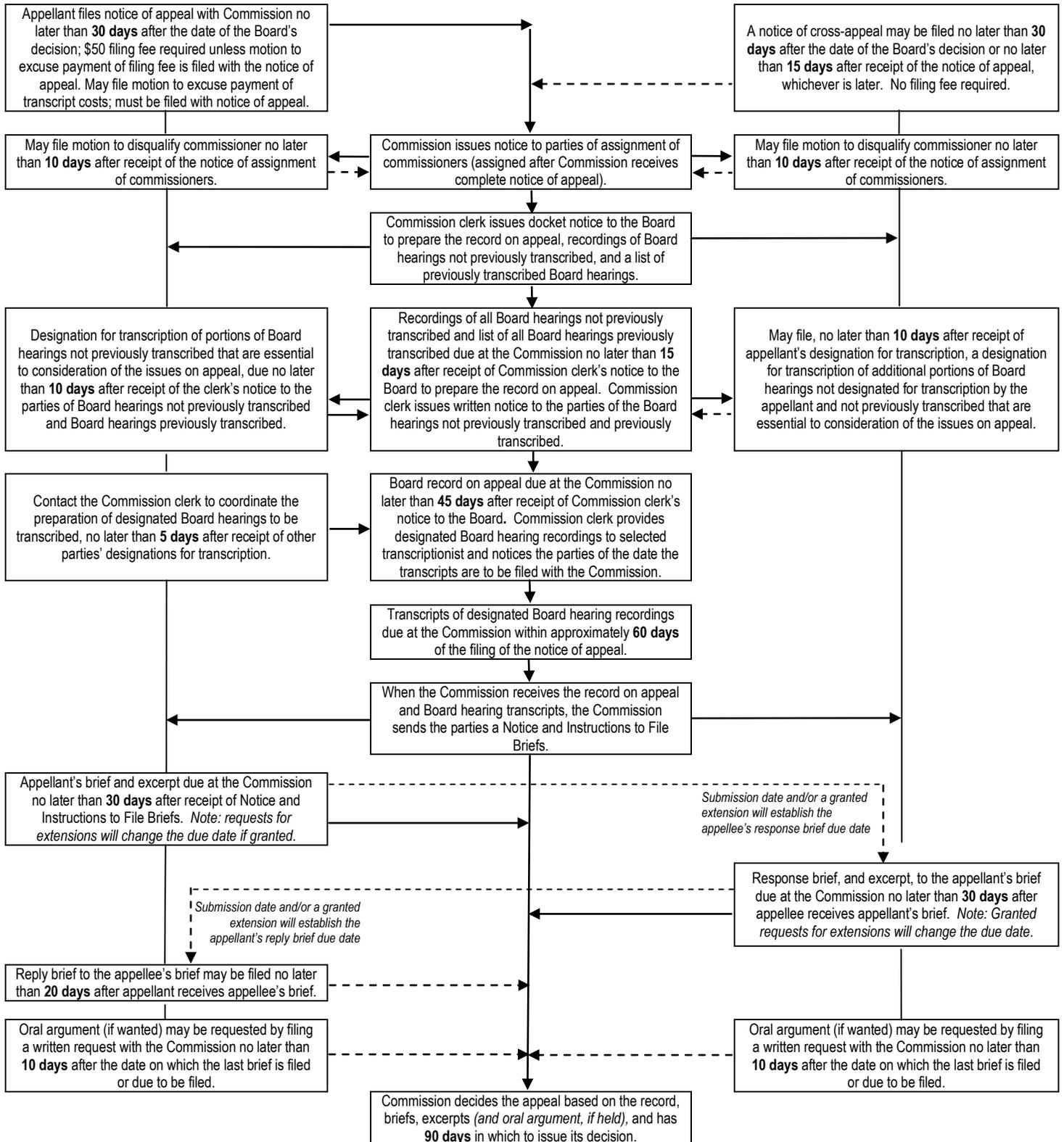
APPELLANT

(Party that files the appeal)

Alaska Workers' Compensation Appeals Commission (AWCAC)

APPELLEE

(All other parties to the Board proceeding that did not file the appeal.)



- Whenever a document is generated by the appellant/attorney, appellee/attorney, the Alaska Workers' Compensation Board, or the Alaska Workers' Compensation Appeals Commission, a copy of each document must be sent to all parties. A Certificate of Service is certification that service was completed the same day and must be included with any document sent.
- An arrow with a solid line indicates an action/response is required unless stated otherwise; an arrow with a hyphenated line indicates an action or response is optional.

INSTRUCTIONS FOR SELF-REPRESENTED APPELLANTS

How to appeal a final decision or order by the
Alaska Workers' Compensation Board to the
Alaska Workers' Compensation Appeals Commission

INTRODUCTION

If you believe that the Alaska Workers' Compensation Board (Board) made mistakes when it decided a workers' compensation claim or petition to which you were a party, you may want to appeal the Board's final decision or order to the Alaska Workers' Compensation Appeals Commission (Commission). You have the *right to appeal a final decision or order* by the Board to the Commission.

The laws that govern the Commission and the procedures for appeals are found in the Alaska Workers' Compensation Act, Title 23, Chapter 30 of the Alaska Statutes (AS) (AS 23.30.001 – .395), and in the Alaska Administrative Code (AAC), Title 8, Chapter 57 (8 AAC 57.010 – .990). Copies of 8 AAC 57.010 – .990, the Commission's regulations, are available from the Commission's office. Read them online, or print them yourself, by going to <http://www.labor.alaska.gov/wccomm/home.htm> and selecting Appeal Procedures. More information may be found in the statutes and cases cited in the decision you may be appealing. Alaska Supreme Court cases are available free online at <http://government.westlaw.com/akcases>. Alaska Statutes are available free online at <http://www.legis.state.ak.us/basis/folio.asp>, or you may ask your local library to get them for you. **Note:** *This pamphlet is for informational purposes only. The laws in the statutes, regulations, and cases identified above control over anything said to the contrary here.*

Although the Commission tries to make the appeal process as simple as possible, appeals may involve complicated legal procedures or raise complex legal issues. You should consider consulting a lawyer if you want to appeal. However, you are not required to be represented by a lawyer in order to do so.

Before you appeal, please read the information that follows about the Commission and the definitions of terms used in these instructions. If you have questions, contact the Commission clerk at:

Alaska Workers' Compensation Appeals Commission
1016 W. Sixth Ave., Suite 405
Anchorage, AK 99501
Phone (907) 269-6738 Fax (907) 269-6737
E-mail the Commission Clerk at: awcac.clerk@alaska.gov

I. ALASKA WORKERS' COMPENSATION APPEALS COMMISSION

A. What is the Commission? The Commission is an agency in the Alaska Department of Labor and Workforce Development. The Commission hears appeals of the Board's final decisions or orders on claims and petitions. The Commission has five members (commissioners). Three commissioners are assigned to each panel that hears and decides an appeal. All commissioners, including the chair, are appointed by the Governor and confirmed by the Alaska Legislature.

Two commissioners, because of their backgrounds and employment, are considered representatives of employees. They must have served on the Board for at least 18 months before being appointed to the Commission. One of the three commissioners assigned to a panel that hears and decides an appeal is an employee representative.

Two commissioners, because of their backgrounds and employment, are considered representatives of employers. They must have served on the Board for at least 18 months before being appointed to the Commission. One of the three commissioners assigned to a panel that hears and decides an appeal is an employer representative.

The third commissioner assigned to a panel that hears and decides an appeal is the chair of the Commission. The chair is a lawyer.

All commissioners on a panel that hear an appeal have equal votes in terms of deciding the appeal. The chair does not tell the other commissioners how to vote.

B. Commission Staff. The Commission staff may explain procedures, regulations, records, and forms. The staff may provide forms and help a party to complete them in the party's own words, but cannot advise a party what to say in an appeal. The staff must remain neutral and impartial. The staff is not allowed to give legal advice or predict what the Commission will do. For example, the Commission staff *cannot*:

- Advise a party whether a particular case or statute applies in an appeal;
- Advise a party whether a document the party prepared is going to persuade the Commission to rule in the party's favor; or
- Advise a party to choose one procedure as the best to accomplish the party's objective if more than one is available.

However, the Commission staff *may* tell a party:

- Where to find a copy of a case or a statute and how to cite it;
- How to prepare a document so the format is correct; or
- What procedures are available and what each requires.

C. Appeals to the Commission. An appeal to the Commission is a review of the Board's final decision or order on a workers' compensation claim or petition; it is not a new Board hearing or a trial-like proceeding. **Note:** *In an appeal, the Commission will not accept any new evidence regarding the claim or petition decided by the Board.* The only sources of information the Commission will consider in an appeal are the following:

1. The transcript (typed text of what was said) of a Board hearing(s) (or a tape recording or CD of a hearing);
2. Any items offered as evidence at the Board hearing;
3. The documents and depositions in the Board file;
4. Legal briefs filed in the appeal; and
5. Oral argument, if held.

If you want to appeal the Commission's decision, you must file an appeal with the Alaska Supreme Court.

II. DEFINITIONS

A. Appellant. The *appellant* is the party that begins an appeal of a final Board decision or order.

B. Appellee. An *appellee* is one of the other parties to the Board proceeding that did not begin an appeal of a Board decision.

C. Brief. A *brief* is a document that states a party's legal arguments.

D. Days. A day is a calendar day, and ends at 5:00 p.m., Alaska time. When counting days for any purpose in connection with an appeal, include Saturday, Sunday, and legal holidays *unless* the time period allowed is less than seven days. Start the count with the day following the triggering event. For example, an appeal must be filed not later than 30 days after the date the final decision was filed (also called "issued") by the Board. If the Board issued its decision on September 2nd, count September 3rd as day one of the 30 days. If the last day falls on a Saturday, Sunday, or legal holiday, the last day of the time period is the end of the next day that is not a Saturday, Sunday, or legal holiday. See 8 AAC 57.060.

E. Filing. A party *files* a document with the Commission by faxing, mailing, attaching it to an email, or delivering it to the Commission. It is filed on the day it is received by the Commission, not on the day it is sent. Documents received after 5:00 p.m., Alaska time, will be considered filed the next day that is not a Saturday, Sunday, or legal holiday. See 8 AAC 57.040(a) and (c). Also see 8 AAC 57.050(a) and (b).

F. Motion. A *motion* is a request or application for specific action by the chair or the Commission. For example, if a party requests that the Commission excuse the party from having to pay the filing fee for an appeal, a motion requesting

that action must be filed with the Commission. See 8 AAC 57.210 and 8 AAC 57.090.

G. Party. A *party* is an individual, company, or organization that has an interest in and participates in a legal proceeding such as a Board hearing or an appeal to the Commission.

H. Service. A party serves each of the other parties to an appeal with a copy of each document the party files with the Commission, including the notice of appeal. *Service* is performed by delivering or mailing a copy of the document to each of the other parties on the same day the party files a document with the Commission, or, if a party gives consent, by faxing or emailing a copy of the document to the party on the same day. If a party files a notice of non-participation, service on that non-participating party with a copy of the document being filed is not necessary. See 8 AAC 57.020(f). **Note:** Proof that each of the other parties was served on the same day must be shown on the document being filed or on a separate document filed with the Commission. See 8 AAC 57.040(g). The forms that the Commission provides include a Certificate of Service section in a box that, if completed, will satisfy the requirement for proof that the document was served. An example of a Certificate of Service appears below. The party serving the document fills in the identities of the parties being served, the date served, the method of service, and signs the certificate. **Note:** If an attorney represents another party, the documents must be served on the attorney instead of the party. See 8 AAC 57.040(e). If one of the parties is an agency of the State of Alaska, you must send a copy of the documents to the Attorney General in Juneau at the address below *and* also to the office where the assistant attorney general who appeared in the Board proceeding is located. If one of the parties is an agency of the State of Alaska, when an assistant attorney general has filed an entry of appearance the Attorney General in Juneau no longer needs to be served.

I certify that on _____ (date) this notice of appeal and all supporting documents were <input type="checkbox"/> mailed, <input type="checkbox"/> faxed, <input type="checkbox"/> emailed, or <input type="checkbox"/> hand delivered to the Workers' Compensation Appeals Commission; and I certify that on this same date copies of the documents filed with the Commission were <input type="checkbox"/> mailed or <input type="checkbox"/> hand delivered to the parties checked at the addresses listed below. (Attach additional pages if more addresses must be listed.)		
<input type="checkbox"/> Director, Alaska Workers' Compensation Division P.O. Box 115512 Juneau, AK 99811	<input type="checkbox"/> <i>If opposing party is a state agency:</i> Attorney General P.O. Box 110300 Juneau, AK 99811-0300	<input type="checkbox"/> Opposing party <i>OR</i> party's attorney (if represented): <hr/> <hr/>
_____ <i>Print name of person who mailed / delivered notice of appeal</i>		_____ <i>(signature of person who mailed / delivered notice of appeal)</i>

III. FILING AN APPEAL

A. Who May File an Appeal. If you believe that the Board made mistakes (made factual findings that were not supported by substantial evidence or

applied the law incorrectly) when it decided a workers' compensation claim or petition to which you were a party, you may file an appeal of the Board's final decision or order with the Commission.

B. When an Appeal May Be Filed.

1. An appeal to the Commission may be filed only after all Board proceedings, including any available review proceedings (such as a petition for reconsideration) filed with the Board, have been completed and the Board has issued a *final decision or order*.
2. You must file the required notice of appeal and supporting documents with the Commission no later than 30 days after the date the final Board decision was issued. See AS 23.30.127 and 8 AAC 57.070. This means the 30-day period begins the day after the Board filed the decision in the office of the Board and mailed it to you. If the postmark on the envelope is later than the date on the first page of the Board's decision, then the Commission will count the days from the postmark date.
3. If a party timely files a petition for reconsideration with the Board, *the 30-day period for filing a notice of appeal does not begin until the day after the Board files and mails to the parties its decision on reconsideration or until the time expires for the Board to act on the petition* (for example, to decide to reconsider), whichever is *earlier*. If the Board is going to act on the petition for reconsideration, the Board must act no later than 30 days after the day the original final decision was issued and mailed.

If the time expires for the Board to act on the petition, the petition is considered denied due to the absence of any action, and any proceedings to appeal must be filed with the Commission no later than 30 days after the date the petition for reconsideration was considered denied due to the absence of any action by the Board. Contact the Commission clerk if you have questions about calculating the time you have to file an appeal.

4. If you want to file a notice of appeal after the 30-day period for filing an appeal, you must file a motion requesting the Commission to extend the time period for you to file your appeal. See 8 AAC 57.140(h). Your request must state why your appeal is late. You may need to file evidence to support your request. File your request at the time you file your notice of appeal. The Commission may or may not grant the motion for an extension of time to file your appeal.

C. How to File an Appeal. To file an appeal to the Commission, do the following:

1. Notice. Filing a notice of appeal. See AS 23.30.127(a) and (b), and 8 AAC 57.070(a). You may use the form in this packet (WCAC Form 02) or write your own. The notice of appeal must:

- a. Identify the Board decisions or orders being appealed by the titles and decision numbers; attach to the notice of appeal a copy of the Board's decision that you are appealing if you cannot identify the decision by title and decision number. **Note:** You may have more than one case before the Board and the Board may have joined the cases before it issued its final decision. *If your cases were joined, it is very important that you list all the joined case numbers on your notice of appeal so that the record on appeal is complete.* Please contact the Commission if you need assistance.
 - b. Statement of Grounds for Appeal. In this document you state the reason(s) or issue(s) you are appealing. In other words, the reasons why you believe the Board erred in its decision. You may use the Notice of Appeal and Statement of Grounds for Appeal form (WCAC Form 02) included in this packet. You may attach more pages if needed.
Briefly list the reasons or issues in your statement of grounds for appeal. Later in the appeal process, when you write your brief, you will discuss and present your arguments for each reason/issue you listed in your statement of grounds for your appeal;
 - c. State your name, address, and telephone number;
 - d. State the names, and if known, addresses and telephone numbers of each of the other parties to the appeal (usually the other parties to the Board proceeding), and the names, and if known, addresses and telephone numbers of each attorney known to be representing a party to the appeal; and
 - e. Show proof of service on all parties to the Board proceeding and the Director of the Division of Workers' Compensation on the same day, and, *if the other party is an agency of the State of Alaska*, the Attorney General of Alaska.
2. Copies to the Director and Attorney General. In addition to serving a copy of your notice of appeal and all supporting documents on all other parties, you must also serve a copy of your notice of appeal and all supporting documents on the following:
 - a. The Director of the Division of Workers' Compensation, P.O. Box 115512, Juneau, AK 99811-5512, *and*
 - b. *If the other party is an agency of the State of Alaska*, the Attorney General of Alaska, P.O. Box 110300, Juneau, AK 99811-0300, *and* also the office of the Attorney General where the assistant attorney general who represented the State of Alaska in the Board proceeding is located.
 3. Filing Fee. You must *either*:

- a. Pay a \$50 filing fee, payable by money order, or by business, certified, or cashier's check (no personal checks will be accepted) to "Workers' Compensation Appeals Commission" or "State of Alaska"; or
 - b. If you cannot afford to pay the filing fee, you may file a motion requesting the Commission to excuse you from having to pay the filing fee. 8 AAC 57.070(d)(2) and 8 AAC 57.090. A financial statement affidavit must be filed with the motion. File these documents at the same time you file your notice of appeal. You may use the motion form (WCAC Form 06) and the financial statement affidavit form (WCAC Form 01) included in this packet. The financial statement affidavit form is also available online at <http://www.labor.alaska.gov/wccomm/forms.htm>, or you may request one from the Commission office. These documents must also be served on the other parties.
4. Exemption from Transcription Costs. As the appellant, unless otherwise ordered by the commission, you are required to pay the costs of transcribing the designated Board hearing recording(s) that have not been previously transcribed. 8 AAC 57.120(j). Transcription is the creation of a typewritten document that tracks word-for-word the testimony and other proceedings recorded during a Board hearing(s). If you cannot afford to pay for the transcription costs, you may file a motion requesting the Commission to excuse you from having to pay the transcription costs; this must be included with your notice of appeal. A financial statement affidavit must be filed with the motion. These documents must be filed at the same time you file your notice of appeal. You may use the motion form (WCAC Form 06) and the financial statement affidavit form (WCAC Form 01) included in this packet.

You may contact the Commission to get an estimate of the transcription costs in order to help you decide whether or not you can afford to pay the transcription costs and need to file a motion requesting the Commission to excuse you from having to pay the transcription costs. Transcription costs can vary depending on the length of the Board hearing(s). For example, if a Board hearing was a couple of hours in length then the transcription costs may be around \$200, but if a Board hearing lasted a couple of days then the transcription costs may vary somewhere between \$1,500 and \$2,000. Transcription costs are based on the length of a Board hearing -- the number of hours. Please call the Commission if you need more exact information in determining transcription costs before filing your notice of appeal and supporting documents.

If you cannot afford to pay both the filing fee and transcription costs, you may file one motion requesting the Commission excuse you from payment of both the filing fee and transcription costs with one completed financial statement affidavit. These documents must be filed at the same time you file your notice of appeal and must be served on the other parties.

5. Docket Notice. If your notice of appeal does not include all the required items, the Commission clerk will send you and all the parties a Docket Notice listing the required items that were not filed with your notice of appeal.

IV. AFTER YOUR APPEAL IS FILED

- A. Assignment of Commissioners.** Shortly after you have filed your notice of appeal with the required documents, the Commission will send all the parties a written notice identifying the commissioners assigned to your appeal. If you believe a commissioner assigned to your appeal, including the chair, should be disqualified from hearing and deciding your appeal for a reason stated in AS 23.30.007(l) due to a potential conflict of interest or an inability to be fair and impartial, you should file a motion to remove and replace that commissioner *no later than 10 days after you receive the notice assigning the commissioners*. See 8 AAC 57.080(c).
- B. Docket Notice.** After your notice of appeal is received, the Commission clerk will send you and all the parties to the Board proceeding a written Docket Notice with the appeal number. (If your notice of appeal does not include all the required items, the Commission clerk will send you and all the parties a Docket Notice listing the required items that you did not file with your notice of appeal.)

If your notice of appeal includes all the required items, the Commission clerk will send you, all the parties, the Board's appeals clerk, and the Director of the Division of Workers' Compensation, a docket notice requesting the Board's appeals clerk to prepare and transfer to the Commission the entire board file no later than 45 days from the date of the docket notice. In that docket notice the Commission clerk will also request the Board's appeals clerk to transfer to the Commission, no later than 15 days from the date of the docket notice, the recording(s) of all Board hearing(s) not previously transcribed and provide a list of all Board hearing(s) previously transcribed. The docket notice will also provide instructions to you regarding the process for preparing the transcript(s) of Board hearing(s) not previously transcribed that are essential to consideration of the issues on appeal.

- C. Designation of Board Hearing Recordings for Transcription.** Once the Commission clerk receives the recording(s) of all Board hearing(s) not previously transcribed and the list of Board hearing(s) previously transcribed, the Commission clerk will issue a written notice to all the parties providing this information and instructions for filing designations for transcription. The notice will identify which recording(s) of Board hearing(s) have been transcribed and which recording(s) of Board hearing(s) have not been transcribed. See 8 AAC 57.120(a). *No later than 10 days after you receive this notice*, you are required to file a designation for transcription of all portions of Board hearing recording(s) that have *not* been previously transcribed by the Board that are

essential to consideration of the issues on your appeal. See 8 AAC 57.120(b). You may use the Designation for Transcription form (WCAC Form 03) included in this packet. If you want an entire board hearing transcribed that has not been previously transcribed, you must say so in your designation.

No later than 10 days after service of your designation for transcription, any other party may file a designation for transcription of portions of the board hearing recording(s) that you, as the appellant, did not designate that are essential to consideration of the issues on appeal and have not been previously transcribed. You, as the appellant, must pay to have the Board hearing recording(s) transcribed that have not been previously transcribed and have been designated for transcription by the parties, see 8 AAC 57.120(j), unless 1) you have filed a motion (and financial statement affidavit) with your notice of appeal requesting the Commission to excuse you from having to pay the transcription costs, and 2) the Commission rules that due to your financial situation that the Commission will bear the cost of having the Board hearing recording(s) transcribed. If the Commission rules that you can afford to pay the transcription costs and the time has expired for all designations of transcription to be filed, then you are to coordinate with the Commission clerk the selection of a transcriptionist for the preparation of the transcript(s). See 8 AAC 57.120(d). If the Commission has granted your motion and excused you from having to pay for the transcription costs, then the Commission clerk will select the transcriptionist for the preparation of the transcript(s).

- D. Preparation of the Board Record.** The record on appeal consists of all Board hearing recording *not* previously transcribed by the Board and the entire Board file, including all original papers, exhibits, depositions, and transcripts of Board hearings previously transcribed by the Board. See 8 AAC 57.110(a). The Board's appeals clerk may combine all the records of your Board cases if the Board joined the cases before you filed your appeal. If your cases were joined, it is very important that you list all the case numbers on your notice of appeal so that the record is complete.

Transfer of the Board Record. The Commission clerk and the Board's appeals clerk coordinate the transfer of the record on appeal from the Board to the Commission. See AAC 57.110(b) and (c). As part of that process, the Board's appeals clerk numbers the pages of the entire Board file and transfers the entire Board file to the Commission. See 8 AAC 57.110(d)(1). If you want a copy of the numbered file for your own use, you may request one from the Commission; however, you must first pay the Commission for the copy. You may contact the Commission for an estimate of the cost of having the Board file copied, or you may visit the Commission office to review the Board file yourself and request copies of certain documents in the Board's record. The first 100 copies are free or you may bring in your own copy paper and there will be no charge for copies.

E. Briefing Schedule, Brief Format and Content, and Excerpt of Record.

When the appeal is ready for written briefs to be filed, the Commission will send you and all other parties a written notice that will inform you of the briefing schedule, setting the time limits for filing briefs. You, as the appellant, must file your brief within the time limit set by the Commission or your appeal may be dismissed.

If you cannot file your brief within the time limit set in the notice and instructions to file briefs, you may file a motion requesting an extension of time. See 8 AAC 57.140. You may use the Motion for Routine Extension of Time form (WCAC Form 04) to request an extension not to exceed 10 days, which must be filed before the date your brief is due, or if you need more than 10 days you may use motion forms (WCAC Form 05 or WCAC Form 06) to request more time. These forms are included in this packet. Please call the Commission if you need further assistance.

Along with your brief, you must prepare what is called an excerpt of record. See 8 AAC 57.170. An excerpt of record contains copies of those documents in the record on appeal that you think the Commission should review in order to decide your appeal. Instructions for preparing an excerpt of record appear below.

The appellant and appellee(s) each file at least one brief. The appellant's brief raises all the issues the Commission should decide and makes all the arguments the appellant thinks the Commission should consider. If an issue is not raised or adequately argued, the Commission may not decide that issue, even if you listed it in your statement of grounds.

1. Brief Format. A brief must be formatted as follows:
 - a. Typed in a clear and legible font or handwritten in black ink;
 - b. Be in 12 or 13 point font size, be double-spaced on 8-1/2" x 11" white paper with 1" margins all around;
 - c. Footers and footnotes may be single-spaced and typed in a smaller font, but not smaller than 10 point; and
 - d. If longer than one page, have pages numbered consecutively.
2. Brief Contents. Your brief is limited to 50 pages (not including the cover sheet) and must include the following:
 - a. The first page of a brief must contain the name, current mailing address, and telephone number of the party filing the document, and must contain the Commission case number, the Board claim number, and the title of the document. You may use the Brief Cover Sheet form (WCAC Form 09) included in this packet;
 - b. A statement of the issues (reasons) presented for review;

- c. A statement or summary of the facts that lead to the claim or petition;
- d. A brief description of the proceedings before the Board;
- e. A statement of the applicable standard of review. The standards for Commission review are set forth in AS 23.30.128(b).¹ Please refer to other legal authority if you are asking the Commission to use a standard of review that is different than those set out in AS 23.30.128(b);
- f. A section discussing your arguments on the issues presented, explaining the errors the Board made;
- g. A short conclusion stating what you would like the Commission to do to resolve your appeal; and
- h. References to documents in your excerpt of record that support each fact in your brief.

3. Citation Guidelines.

- a. In your brief, if you refer to specific pages in your excerpt of record that support your statements about the facts and your argument, you must identify them in your brief (these are called "citations"). To do this, put the following in parentheses after each statement that is supported in your excerpt of record: an abbreviation for excerpt (Exc.) followed by the page number.

Example:

Document in an Excerpt of Record: (Exc. 26)

If you need to refer to the record on appeal to prepare your brief and excerpt of record, you may review the record on appeal in the Commission's office. The Commission will make copies of the documents in the record on appeal that you want to refer to in your brief and include in your excerpt of record. The first 100 pages are free, or all pages are free if you provide your own copy paper.

¹ AS 23.30.128(b) reads:

The commission may review discretionary actions, findings of fact, and conclusions of law by the board in hearing, determining, or otherwise acting on a compensation claim or petition. The board's findings regarding the credibility of testimony of a witness before the board are binding on the commission. The board's findings of fact shall be upheld by the commission if supported by substantial evidence in light of the whole record. In reviewing questions of law and procedure, the commission shall exercise its independent judgment.

- b. Citations to legal authority. These citations can appear in the body of your brief or in footnotes. The Commission does not expect self-represented appellants to be able to use “The Bluebook – A Uniform System of Citation” which is the standard method of citation in legal writing, but a copy is available at the Commission’s office if you want to use it. However, it is necessary for you to identify the legal authority you are referring to in your brief so that the Commission can locate and review that legal authority in the process of deciding the appeal.

For Alaska Supreme Court cases, use the name of the case in italics (or underlined), volume number, abbreviation for the reporter series, the page the case begins on, the page where the quote is located, and in parentheses, the state and year. A cite to a Supreme Court case could look like this:

Temple v. Denali Princess Lodge, 21 P. 3d 813, 815 (Alaska 2001)
name of case volume Reporter (Pacific) series first page page quoted state year

Board and Commission cases are cited by the name, decision number, page quoted, and date of decision:

Adepoju v. Fred Meyer Stores, Inc., Alaska Workers’ Comp. App. Comm’n Dec. No. 010, 3 (May 11, 2006).

Abdul Adepoju v. Fred Meyer Stores, Inc., Alaska Workers’ Comp. Bd. Dec. No. 05-0177, 2 (Jul. 5, 2005).

After you cite a case once in long form above, you may use a short form.

Examples:

Temple, 21 P.3d at 815.

Adepoju, App. Comm’n Dec. No. 010 at 3.

Abdul Adepoju, Bd. Dec. No. 05-0177 at 2.

If you want to look for an Alaska Supreme Court case, you can find it online for free at <http://government.westlaw.com/akcases>.

All Commission decisions are listed on the Commission website at <http://www.labor.alaska.gov/wccomm/orders.htm>.

The Board’s decisions are also available through its webpage, <http://www.labor.alaska.gov/wc/legaldir.htm>; however, you may need to call the Board for help navigating to a specific decision.

Alaska Statutes are cited by "AS" followed by the number of the title, the chapter, and the section, separated by periods, for example, AS 23.30.120; paragraphs and subparagraphs are separated by parentheses, for example, AS 23.30.041(n)(1).

Regulations for the State of Alaska are in the Alaska Administrative Code, cited by "AAC" preceded by the number of the title and followed by the chapter and section, separated by a period, for example, 8 AAC 57.090; paragraphs and subparagraphs are separated by parentheses, for example, 8 AAC 45.074(b)(1).

Go to the State of Alaska webpage, <http://www.legis.state.ak.us/basis/folio.asp>, to find links to statutes and regulations.

To view Commission regulations, go to the Commission's webpage, <http://www.labor.alaska.gov/wccomm/home.htm> and select Appeal Procedures.

4. Excerpt of Record. You must prepare an excerpt of record. You *must* include copies of the following in your excerpt of record; see content requirements at 8 AAC 57.180:
 - a. The claim that started the case;
 - b. The decision(s) or order(s) you are appealing;
 - c. Any other orders or rulings the Board hearing panel or hearing officer made in your case which you want the Commission to review;
 - d. If you are challenging the admission or exclusion of evidence or other oral ruling or order, a copy of the transcript pages showing the Board's discussion and ruling on the evidence and objections; and,
 - e. Any other documents in the Board's file that you refer to in your brief to support your arguments.

You do not need to include copies of statutes, regulations, or cases in your excerpt of record. The Commission will locate and review the cases or statutes that you refer to in your brief.

Note: *Remember that you cannot introduce new evidence in the appeal.* Do not include anything in your excerpt of record that was not in the Board record at the time the Board proceeding was concluded.

5. Preparing an Excerpt of Record. To prepare your excerpt of record, do the following:
 - a. Prepare an excerpt of record cover sheet; you may use the excerpt of record cover sheet form (AWCAC Form 10) included in this packet.

- b. Put Exc. page numbers at the bottom of each page, starting with "Exc. 1" and number them in a single number series from the beginning to the end of your excerpt of record.
 - c. Prepare an index of your excerpts. List the title of each document, the date it was signed or made, and the page number of the excerpt of record on which it begins. You may use the excerpt of record index sheet (AWCAC Form 11) included in this packet. Put the excerpt of record index on top of the other documents. Do not number the pages of the index.
 - d. Put your Excerpt of Record Cover Sheet (AWCAC Form 10) on top of your Excerpt of Record Index form (AWCAC Form 11). Put all these documents together separately from your brief.
6. Service on Other Parties. You must serve a copy of both your brief and your excerpt of record on each of the other parties or, if another party has an attorney, on the other party's attorney the same day you file your brief with the commission. You must file proof of service with the commission. You may show proof of service by filling in the certificates of service shown on the brief and excerpt of record cover sheet forms (AWCAC Form 9 and Form 10).
 7. Reply Brief. You, as the appellant, may file a reply brief no later than 20 days after service of the appellee's brief. See AAC 57.130(d). A reply brief is limited to 20 pages and must include references to documents in the appellant's excerpt of record that support each fact in the reply brief. No *new* arguments or issues can be raised in a reply brief, but you may respond to arguments raised by an appellee that were not addressed in your first brief. An appellee files only one brief.

F. Oral Argument. *No later than ten days after the date on which the last brief in an appeal is filed or due to be filed, any party may request oral argument by filing a written request for oral argument. See 8 AAC 57.200(a). You may use the request form (AWCAC Form 12) in this packet to request oral argument. You do not need to request oral argument if the appellee has already done so.*

At oral argument, each party may make arguments, although no *new* arguments that were not made in the briefing will be permitted. Oral argument is not a new board hearing or trial-like proceeding. No witnesses may be called. The time allowed for oral argument is provided in the notice setting oral argument. Usually, a total of 20 to 30 minutes for the appellant to argue, including opening and rebuttal arguments, is allowed. Any time spent answering questions from the commissioners will not be included in your time allowed for argument. The purpose of oral argument is *not* so that you can read your brief to the commissioners. It is better to point out what you believe are the mistakes in the Board's decision and why the Board was mistaken.

If you visit the Commission before the day oral argument is scheduled and the hearing room is not in use, or you arrive early on the day oral argument is scheduled, the Commission clerk will take you to the hearing room, show you where to sit and stand, show you the equipment, and explain what happens at oral argument.

If you wish, you may ask to participate telephonically if you cannot attend oral argument in person. See 8 AAC 57.200(e). The Commission will call you from the hearing room. From time to time, a commissioner may need to participate telephonically as well.

If you do not timely request oral argument, you must file a motion for an extension of time to request oral argument. See 8 AAC 57.140. The request must explain why your request for oral argument was not timely filed.

If you file a request for oral argument, you must serve a copy of your request on the other parties or their attorneys. Proof of service must be filed with the request. If the request is timely filed, oral argument will be automatically scheduled. Sometimes the commissioners ask for oral argument even if the parties do not, because the commissioners have questions.

V. DECISION

The Commission will decide the appeal based on the record on appeal, the briefs and excerpts submitted, and oral argument (if held). By statute, the Commission has 90 days in which to issue its decision. See AS 23.30.128(e). All parties will be sent a copy of the Commission's decision. The Commission may:

- **AFFIRM** (approve) the Board's decision,
- **REMAND** (send the case back for additional action by the Board),
- **MODIFY** (change) the Board decision in some way,
- **REVERSE** the decision made by the Board, or
- **DISMISS** the appeal.

The Commission clerk will mail the parties a copy of the appeal decision. If you supply a fax number or e-mail address, the clerk will send it by fax or e-mail as well as mail it to you.

The Commission may also dismiss an appeal for failure to prosecute (to act on or to complete) the appeal or for failure to follow an order of the chair or Commission. See 8 AAC 57.250. If the Commission sends you a Notice of Default, *read it carefully and act promptly* to avoid dismissal of your appeal. The chair may also dismiss an appeal if the parties agree to settle the case or on motion by a party. See 8 AAC 57.240.

You may request reconsideration of the Commission's final decision on appeal no later than 30 days after the date of service (mailing to you) of the Commission's decision. See AS 23.30.128(f) and 8 AAC 57.230.

When you receive the Commission's decision in the appeal, read the appeal procedures carefully. There is important information about the effect of the decision and how to appeal to the Alaska Supreme Court, if you wish. Contact the Clerk of the Appellate Courts for information on filing such an appeal. The Clerk of the Appellate Courts is located at 303 K St., Anchorage, Alaska, 99501. The telephone number is (907) 264-0612.

VI. AWARD OF COSTS

If you win the appeal, you may apply for an award of costs in the appeal by filing a motion. See AS 23.30.008(d) and 8 AAC 57.260. In order to be awarded costs, *no later than 10 days after the date shown on the certificate of distribution of the Commission's decision*, you must file an itemized bill of costs. See 8 AAC 57.260. Costs do not include living expenses you had to pay until you won your appeal. The costs you may ask for are:

1. Reimbursement of the filing fee;
2. The cost of preparing a transcript or transcripts of Board hearing(s); and
3. The cost of duplicating and mailing motions, briefs, and excerpts.

You must serve a copy of your motion for costs on the other parties or their attorneys, who will have 10 days to file oppositions. The Commission will then decide what costs to award and send all parties a copy of the order on the motion.

VII. FORMS

The next pages are examples of forms you may use. You do not have to use these forms, but they may help you file complete documents.

- AWCAC Form 01, Financial Statement Affidavit
- AWCAC Form 02, Notice of Appeal/Statement of Grounds for Appeal
- AWCAC Form 03, Designation for Transcription of Hearing Record
- AWCAC Form 04, Motion for Routine Extension of Time
- AWCAC Form 05, Motion for Extension of Time
- AWCAC Form 06, Motion/Request
- AWCAC Form 07, Opposition to Motion/Request
- AWCAC Form 08, Certificate of Service
- AWCAC Form 09, Brief Cover Sheet
- AWCAC Form 10, Excerpt of Record Cover Sheet
- AWCAC Form 11, Excerpt of Record Index
- AWCAC Form 12, Request for Oral Argument

ALASKA WORKERS' COMPENSATION APPEALS COMMISSION

Appellant, <i>(party filing appeal)</i>
vs.
Appellee(s). <i>(all other parties to appeal)</i>

AWCAC Appeal No. _____
AWCB Decision No. _____
AWCB Case No. _____

FINANCIAL STATEMENT AFFIDAVIT

To apply for payment of fees and costs to be excused under 8 AAC 57.090

NOTICE: The Commission may seek verification of the information you provide. Other government agencies may have the right to obtain the information provided on this form. *Please attach another page if additional space is needed.*

I. PERSONAL INFORMATION

1. Last Name	First	Middle Initial	2. Social Security Number <i>(not mandatory; SSN may be used to identify assets)</i>
3. Residence Address			
4. Mailing Address (if different)			
5. Telephone	6. Fax	7. Email	
8a. Marital Status: <input type="checkbox"/> Married <input type="checkbox"/> Single <input type="checkbox"/> Divorced <input type="checkbox"/> Separated <input type="checkbox"/> Widowed		8b. How Long? _____	
9a. Are you working now? <input type="checkbox"/> Yes <input type="checkbox"/> No		9b. If not, date last worked? _____	

II. LIST ALL EMPLOYERS FOR THE LAST 12 MONTHS

1a. Present or Former Employer			
1b. Address & Telephone Number of Present or Former Employer			
1c. Job Title		1d. Salary	1e. Salary Per Hour/Week/Month
From:	To:		
1f. Dates of Employment (month & year)		1g. Number of Hours Per Week	
.....			
2a. Present or Former Employer			
2b. Address & Telephone Number of Present or Former Employer			
2c. Job Title		2d. Salary	2e. Salary Per Hour/Week/Month
From:	To:		
2f. Dates of Employment (month & year)		2g. Number of Hours Per Week	

III. SPOUSE'S EMPLOYMENT

1. Spouse's Name	2. Spouse's Present or Past Employer
From: _____	
To: _____	
3. Spouse's Dates of Employment	4. Spouse's Salary
	5. Number of Hours Per Week

IV. DEPENDENTS

Name / Age / Relationship	Name / Age / Relationship
1. _____	6. _____
2. _____	7. _____
3. _____	8. _____
4. _____	9. _____
5. _____	10. _____

V. MONTHLY EXPENSES

A. Expense	B. Your Share of the Monthly Payment	C. Balance Owed	D. Amount Past Due
1. Housing: Rent/Mortgage	_____	_____	_____
2. Utilities: Gas/Electric/Water/Garbage	_____	_____	_____
3. Telephone	_____	_____	_____
4. Food	_____	_____	_____
5. Transportation: Gas/Bus	_____	_____	_____
6. Car Payment	_____	_____	_____
7. Insurance	_____	_____	_____
8. Child/Spousal Support	_____	_____	_____
9. Loans/Credit Cards (List):			
a. _____	_____	_____	_____
b. _____	_____	_____	_____
c. _____	_____	_____	_____
d. _____	_____	_____	_____
e. _____	_____	_____	_____
10. Medical (<i>not covered by insurance</i>)	_____	_____	_____
11. Child Care	_____	_____	_____
12. IRS Back Taxes	_____	_____	_____
13. Debts (List):			
a. _____	_____	_____	_____
b. _____	_____	_____	_____
c. _____	_____	_____	_____
d. _____	_____	_____	_____
e. _____	_____	_____	_____
14. TOTALS:	_____	_____	_____

VI. INCOME INFORMATION

1. Number of Permanent Fund Dividend checks received by your immediate family within the past year: _____
 2. Your total net income (*after taxes, but before other deductions*) in the past 12 months: _____
 3. Your spouse's total net income (*after taxes, but before other deductions*) during the past 12 months: _____
 4. Any money you expect to receive in the next 6 months (*e.g. settlements, annuities*): _____
 5. Are you a seasonal employee? No Yes If yes, specify: _____
 6. Your total NET monthly income from: 7. Your spouse's total NET monthly income from:
 - a. Wages: _____
 - b. Public Assistance: _____
 - c. Unemployment: _____
 - d. Other: _____
- Explain Other: _____ Explain Other: _____

VII. FAMILY ASSETS (*things you own or are buying*)

<u>A. Family Assets</u>	<u>B. Value</u>	<u>C. Balance Owed</u>	<u>D. Commission Use ONLY</u>
1. Cash	_____	_____	_____
2. Bank Account – Checking	_____	_____	_____
3. Bank Account – Savings	_____	_____	_____
4. Securities	_____	_____	_____
5. Pension Plans/Annuities	_____	_____	_____
6. Life Insurance (<i>cash value/dividends</i>)	_____	_____	_____
7. Land, Homes, Trailers	_____	_____	_____
8. Home Furnishings	_____	_____	_____
9. TV, Stereo, VCR/DVD, Computer	_____	_____	_____
10. Vehicles	_____	_____	_____
11. Snow Machines, Boats, ATVs, Motorcycles, Airplanes	_____	_____	_____
12. Jewelry, Precious Metals/Stones	_____	_____	_____
13. Furs	_____	_____	_____
14. Collections (<i>coins, ivory, etc.</i>)	_____	_____	_____
15. Tools & Guns	_____	_____	_____
16. Sports Equipment	_____	_____	_____
17. Fishing Gear	_____	_____	_____
18. Limited Entry Permit(s)	_____	_____	_____
19. Businesses	_____	_____	_____
20. Other:	_____	_____	_____
21. TOTALS:	_____	_____	_____
22. Specify any of the above you need to earn your living and explain why:	_____		

ALASKA WORKERS' COMPENSATION APPEALS COMMISSION

Appellant, <i>(party filing appeal)</i>
vs.
Appellee(s). <i>(all other parties to appeal)</i>

AWCAC Appeal No. _____
 AWCB Decision No. _____
 AWCB Case No. _____

OPPOSITION TO MOTION / REQUEST BY SELF-REPRESENTED APPEAL PARTICIPANT

I am the: Appellant Appellee. I **oppose** the motion / request filed by the
 Appellant Appellee asking that the Commission do the following: _____

I do not agree that the Commission should do what the motion requests because: _____

_____. (Attach more pages if needed).

Signature	Date
Mailing Address	
City, State, Zip	
Telephone Number	Fax Number and/or Email

Person filing this document MUST sign above.

CERTIFICATE OF SERVICE

I certify that on _____ *(date)* this opposition and all supporting documents were mailed, faxed, emailed, or hand delivered to the Workers' Compensation Appeals Commission; and I certify that on this same date copies of the documents filed with the Commission were mailed or hand delivered to the parties checked at the addresses listed below. *(attach additional pages if more addresses must be listed)*

		<input type="checkbox"/> Opposing party OR party's attorney (if represented): _____ _____
--	--	--

<i>Print name of person who mailed / delivered opposition</i>	<i>(signature of person who mailed / delivered opposition)</i>
---	--

ALASKA WORKERS' COMPENSATION APPEALS COMMISSION

Appellant, <i>(party filing appeal)</i>
vs.
Appellee(s). <i>(all other parties to appeal)</i>

AWCAC Appeal No. _____

AWCB Decision No. _____

AWCB Case No. _____

CERTIFICATE OF SERVICE BY SELF-REPRESENTED APPEAL PARTICIPANT

I, _____, am the: Appellant Appellee
(name)

I certify that on _____, a copy of my: Notice of Appeal/Statement of Grounds *

Financial Statement Affidavit Designation of Transcription of Hearing Record Motion/Request

Opposition to Motion/Request Brief Excerpt of Record

Other: _____ was/were:

mailed hand delivered or other method _____ to:

<input type="checkbox"/> Director, Alaska Workers' Compensation Division P.O. Box 115512 Juneau, AK 99811	* <input type="checkbox"/> <i>If opposing party is a state agency:</i> Attorney General P.O. Box 110300 Juneau, AK 99811	<input type="checkbox"/> Opposing party <i>OR</i> party's attorney (if represented): _____ _____ _____
---	---	--

Additional names and addresses:

Signature Date

Mailing Address

City, State, Zip

Telephone Number Fax Number and/or Email

Person filing this document MUST sign above.

**DO NOT FILE WITH COMMISSION UNTIL YOU FILE YOUR BRIEF
ALASKA WORKERS' COMPENSATION APPEALS COMMISSION**

Appellant, <i>(party filing appeal)</i>	
vs.	
Appellee(s). <i>(all other parties to appeal)</i>	AWCAC Appeal No. _____
	AWCB Decision No. _____
	AWCB Case No. _____

**BRIEF COVER SHEET
FOR BRIEF FILED BY SELF-REPRESENTED APPEAL PARTICIPANT**

I, _____, am the: Appellant Appellee
(name)

This is my brief on appeal. It contains my statement of the issues presented for review, a statement of the facts, a brief description of the proceedings before the board, a statement of the applicable standard of review, arguments on the issues presented, and a short conclusion stating what I would like the commission to do to resolve my appeal.

Signature	Date
Mailing Address	
City, State, Zip	
Telephone Number	Fax Number and/or Email

Person filing this document MUST sign above.

CERTIFICATE OF SERVICE	
I certify that on _____ <i>(date)</i> this appeal brief was <input type="checkbox"/> mailed, <input type="checkbox"/> faxed, <input type="checkbox"/> emailed, or <input type="checkbox"/> hand delivered to the Workers' Compensation Appeals Commission; and I certify that on this same date a copy of the appeal brief that was filed with the Commission was <input type="checkbox"/> mailed or <input type="checkbox"/> hand delivered to the parties checked at the addresses listed below. <i>(attach additional pages if more addresses must be listed)</i>	
	<input type="checkbox"/> Opposing party OR party's attorney (if represented):
<i>Print name of person who mailed / delivered brief</i>	<i>(signature of person who mailed / delivered brief)</i>

**DO NOT FILE WITH COMMISSION UNTIL YOU FILE YOUR BRIEF
ALASKA WORKERS' COMPENSATION APPEALS COMMISSION**

Appellant, <i>(party filing appeal)</i>
vs.
Appellee(s). <i>(all other parties to appeal)</i>

AWCAC Appeal No. _____
 AWCB Decision No. _____
 AWCB Case No. _____

EXCERPT OF RECORD COVER SHEET

I, _____, am the: Appellant Appellee
(name)

This is my excerpt of record on appeal. It contains the documents that are most important to my appeal and that I refer to in my appeal brief. Each page is numbered from ____ to _____. The attached index lists the documents and the pages where each document is found.

Signature	Date
Mailing Address	
City, State, Zip	
Telephone Number	Fax Number and/or Email

Person filing this document MUST sign above.

CERTIFICATE OF SERVICE	
I certify that on _____ <i>(date)</i> this excerpt of record was <input type="checkbox"/> mailed, <input type="checkbox"/> emailed, or <input type="checkbox"/> hand delivered to the Workers' Compensation Appeals Commission; and I certify that on this same date a copy of the excerpt of record that was filed with the Commission was <input type="checkbox"/> mailed or <input type="checkbox"/> hand delivered to the parties checked at the addresses listed below. <i>(attach additional pages if more addresses must be listed)</i>	
	<input type="checkbox"/> Opposing party OR party's attorney (if represented): _____ _____
<div style="display: flex; justify-content: space-between;"> _____ <i>(Print name of person who mailed / delivered excerpt of record)</i> _____ <i>(signature of person who mailed / delivered excerpt of record)</i> </div>	

ALASKA WORKERS' COMPENSATION APPEALS COMMISSION

Appellant, <i>(party filing appeal)</i>	
VS.	
Appellee(s). <i>(all other parties to appeal)</i>	AWCAC Appeal No. _____
	AWCB Decision No. _____
	AWCB Case No. _____

REQUEST FOR ORAL ARGUMENT BY SELF-REPRESENTED APPEAL PARTICIPANT

I, _____, am the: Appellant Appellee

I request that the Commission schedule oral argument in this appeal. I will attend
 in person.

by telephone. Please call me at this telephone number when oral argument begins:

(_____) _____

Signature	Date
Mailing Address	
City, State, Zip	
Telephone Number	Fax Number and/or Email

Person filing this document MUST sign above.

CERTIFICATE OF SERVICE	
I certify that on _____ <i>(date)</i> this request for oral argument was <input type="checkbox"/> mailed, <input type="checkbox"/> faxed, <input type="checkbox"/> emailed, or <input type="checkbox"/> hand delivered to the Workers' Compensation Appeals Commission; and I certify that on this same date a copy of this request for oral argument that was filed with the Commission was <input type="checkbox"/> mailed or <input type="checkbox"/> hand delivered to the parties checked at the addresses listed below. <i>(attach additional pages if more addresses must be listed)</i>	
	<input type="checkbox"/> Opposing party OR party's attorney (if represented):
Print name of person who mailed / delivered request	(signature of person who mailed / delivered request)

NOTE: IF YOU REQUIRE ACCOMMODATION TO PARTICIPATE IN ORAL ARGUMENT, PLEASE CONTACT THE COMMISSION CLERK DIRECTLY BY TELEPHONE AT (907) 269-6738 or E-mail at awcac.clerk@alaska.gov