



Appealing a Workforce Safety and Insurance (WSI) Decision An Informational Guide to a North Dakota State District Court Process

🔴 **DON'T DELAY!** 🔴

You have limited time (30 days) from the date of service of notice of the Workforce Safety and Insurance (WSI) final decision to both serve and file your appeal!

(See Page 17 for more information about calculating your deadline.)

The North Dakota Legal Self Help Center provides resources to people who represent themselves in civil matters in the North Dakota state courts. The information provided in this informational guide isn't intended for legal advice but only as a general guide to a civil court process. **If you decide to represent yourself, you'll need to do additional research to prepare.**

When you represent yourself, you're expected to know and follow the law, including:

- State or federal laws that apply to your case;
- Case law, also called court opinions, that applies to your case; and
- Court rules that apply to your case, which may include:
 - North Dakota Rules of Civil Procedure;
 - North Dakota Rules of Court;
 - North Dakota Rules of Evidence;
 - North Dakota Administrative Rules and Orders;
 - Any local court rules.

Links to the laws, case law, and court rules can be found at ndcourts.gov.

When you represent yourself, you're held to same requirements and responsibilities as a lawyer, even if you don't understand the rules or procedures. If you're unsure if this information and sample forms suit your circumstances, consult a lawyer. For more information about finding a lawyer, go to ndcourts.gov/legal-self-help/finding-a-lawyer.

This information isn't a complete statement of the law. This covers basic information about the process of appealing a Workforce Safety and Insurance (WSI) final decision to a North Dakota State District Court. The Center isn't responsible for any consequences that may result from the information provided. The information can't replace the advice of competent legal counsel licensed in the state of North Dakota. Use at your own risk.

WARNING – Appealing Workforce Safety and Insurance (WSI) can have serious legal and financial consequences. It’s strongly recommended that you consult a lawyer and carefully consider all of your options before you represent yourself in an appeal of a WSI final decision to a North Dakota State District Court.

This informational guide gives only the basics of the process. If you decide to represent yourself, you’ll need to do additional research to prepare.

STEPS IN THE APPEAL OF A FINAL WSI DECISION

- Step One:** You, the Appellant, Create the 1) Notice of Appeal and 2) Specifications of Error Documents
-
- Step Two:** Within 30 Days of the Mailing Date of the WSI final decision, You, the Appellant, Arrange for Service of Copies of the 1) Notice of Appeal and 2) Specifications of Error on WSI and ALL Parties at the WSI Proceedings
Failure to serve on time may result in dismissal.
-
- Step Three:** Within 30 Days of the Mailing Date of the WSI Final Decision, You, the Appellant, File the 1) Notice of Appeal, 2) Specifications of Error, and 3) Proof of Service with the North Dakota State District Court
Failure to file the documents AND proof of service may result in dismissal.
-
- Step Four:** WSI Prepares the Record; You, the Appellant, Pay the Estimated Cost of Preparing the Record
-
- Step Five:** WSI Files the Record; the District Court Judge Issues a Scheduling Order
-
- Step Six:** If You, the Appellant, Want Oral Arguments, Request Oral Arguments On or Before the Due Date of your Legal Brief
The District Court judge isn’t required to grant oral arguments.
-
- Step Seven:** You, the Appellant, Prepare, Serve, and File your Appellant Brief
Failure to file your appellant brief and proof of service may result in dismissal.
-
- Step Eight:** WSI Serves and Files their Appellee Brief
-
- Step Nine:** Prepare for Oral Arguments, If Requested and Granted
-
- Step Ten:** The District Court Judge Decides the Appeal of a WSI Final Decision
Either side may appeal the District Court Judge’s decision to the North Dakota Supreme Court
-

CAUTION! THE ADMINISTRATIVE LAW JUDGE (ALJ) MUST HAVE ALREADY HELD A HEARING, OR HEARINGS, TO DECIDE IF THE WORKFORCE SAFETY AND INSURANCE (WSI) DECISION WAS CORRECT.

THIS PROCESS IS USED AFTER A FINAL DECISION HAS BEEN MADE BY THE ALJ.

TABLE OF CONTENTS

SECTION ONE: INFORMATION ABOUT APPEALING A WORKFORCE SAFETY AND INSURANCE (WSI) FINAL DECISION TO A NORTH DAKOTA STATE DISTRICT COURT ..5

What is Appealing a Workforce Safety & Insurance (WSI) Final Decision to a North Dakota State District Court?	5
What is the Difference Between a Workforce Safety & Insurance (WSI) Hearing and an Appeal to a North Dakota State District Court?	5
Does the ND Legal Self Help Center Have Forms for Appealing a Workforce Safety & Insurance (WSI) Final Decision?	6
Is There Help Available for Creating Legal Documents?	8
Who are the Parties in a Workforce Safety & Insurance (WSI) Appeal?	8
What are Definitions of Some of the Commonly Used Terms in Appealing a Workforce Safety & Insurance (WSI) Final Decision?	8
What are North Dakota Laws and Rules Related to Workforce Safety & Insurance (WSI)?	11
Where is an Appeal of a Workforce Safety & Insurance (WSI) Final Decision Filed? ..	13
What is the Deadline for Appealing of a Workforce Safety & Insurance (WSI) Final Decision?	13
What Do You, the Appellant, Need to Prove?	14
What Does the District Court Consider When Deciding if You, the Appellant, Proved Your Grounds (Reasons) for Appeal?	15
Lawyer Resources and Limited Legal Representation	15

SECTION TWO: THE BASIC PROCESS FOR APPEALING A WORKFORCE SAFETY AND INSURANCE (WSI) FINAL DECISION TO A NORTH DAKOTA STATE DISTRICT COURT 17

STEP ONE: You, the Appellant, Create the Notice of Appeal and the Specifications of Error Documents	18
STEP TWO: You, the Appellant, Arrange to Serve the Notice of Appeal and the Specifications of Error Documents Within 30 Days of the Final Decision	19
STEP THREE: You, the Appellant, File the Original, Completed Appeal Documents and Proof of Service Within 30 Days of the Final Decision.....	21
STEP FOUR: Workforce Safety and Insurance (WSI) Prepares the Record; You, the Appellant, Pay Estimated Costs of Preparing the Record.....	23
STEP FIVE: Workforce Safety and Insurance (WSI) Files the Record; The District Court Judge Issues a Scheduling Order.....	24
STEP SIX: Requesting Oral Argument.....	25
STEP SEVEN: You, the Appellant, Prepare, Serve, and File Your Appellant Brief	25
STEP EIGHT: Workforce Safety and Insurance (WSI) Serves and Files their Appellee Brief	28
STEP NINE: Prepare for Oral Arguments, if Requested and Granted	29
STEP TEN: The District Court Judge Decides the Appeal	30

APPENDIX OF FORMS:

Notice of Appeal

Specifications of Error

Declaration of Service by Mail for Notice of Appeal and Specification of Errors

Appellant Brief

Declaration of Service by Mail for Appellant Brief

(This space left intentionally blank.)

SECTION ONE: INFORMATION ABOUT APPEALING A WORKFORCE SAFETY AND INSURANCE (WSI) FINAL DECISION TO A NORTH DAKOTA STATE DISTRICT COURT

WHAT IS APPEALING A WORKFORCE SAFETY AND INSURANCE (WSI) FINAL DECISION?

A Workforce Safety and Insurance (WSI) claimant may appeal a WSI final decision to a North Dakota state district court when:

- Workforce Safety and Insurance (WSI) denies a claimant on the ground that the injury was self-inflicted;
- WSI denies a claimant on the ground that the accident didn't arise in the course of employment;
- WSI denies a claimant on any other ground going to the basis of the claim; or
- WSI allows the claimant to participate in the fund to a lesser degree than that claimed by the claimant, if such allowance is less than the maximum allowance provided by the [Workforce Safety and Insurance Title of the North Dakota Century Code](#).

The appeal must be in writing and must be filed with the Clerk of District Court.

WHAT IS THE DIFFERENCE BETWEEN A WORKFORCE SAFETY AND INSURANCE (WSI) HEARING AND AN APPEAL TO A NORTH DAKOTA STATE DISTRICT COURT?

Administrative Hearing – If you disagree with a Workforce Safety and Insurance (WSI) decision and you want WSI to change their decision, WSI reviews your case for a hearing.

If Workforce Safety and Insurance (WSI) still believes its decision is correct, your claim is assigned to one of the lawyers who represent WSI in claims disputes. WSI's lawyer requests that the Office of Administrative Hearings appoint an Administrative Law Judge (ALJ) to conduct an evidentiary hearing.

The Administrative Law Judge (ALJ) will hear the facts of your claim and make a recommendation to Workforce Safety and Insurance (WSI) on whether WSI's decision is correct. You must attend the hearing and testify, and you may also bring witnesses or other evidence you have which supports your claim.

District Court Appeal – If you disagree with the final decision of the Administrative Law Judge (ALJ) after an administrative hearing, you may appeal to a North Dakota state district court. While not required, it's strongly urged that you retain a lawyer for any appeals to District Court.

You and Workforce Safety and Insurance (WSI) explain to the court, in writing, your positions about how the Administrative Law Judge's (ALJ) decision based on the administrative hearing was incorrect.

The District Court judge reviews the documents filed by you, the Appellant, and Workforce Safety and Insurance (WSI) as part of the appeal. The judge also reviews the record created during the administrative hearing process, including, documents filed for the hearing, evidence the Administrative Law Judge (ALJ) considered to make their decision, and the transcript of the hearing(s).

Following their review, the District Court judge makes a determination whether the Administrative Law Judge's (ALJ) final decision is supported by the evidence and by the law.

The District Court judge's review of the Workforce Safety and Insurance (WSI) decision is based only on the record created during the WSI. The judge doesn't retry the case, take new evidence, or weigh the credibility of witnesses.

DOES THE ND LEGAL SELF HELP CENTER HAVE FORMS FOR APPEALING A WORKFORCE SAFETY AND INSURANCE (WSI) FINAL DECISION?

Names and descriptions of the documents you'll need to create for your appeal of a Workforce Safety and Insurance (WSI) final decision to District Court are found throughout this guide.

This Informational Guide includes some of the forms you may use to appeal a Workforce Safety and Insurance (WSI) decision to District Court. There is no guarantee that all judges and courts will accept forms available through the ND Legal Self Help Center.

If the form you need isn't included in this guide, the form isn't available through the ND Legal Self Help Center. You may need to create some of your own legal documents.

If a form isn't available and you need to create your own legal document, a variety of General-Use template forms are available at ndcourts.gov/legal-self-help. Scroll to the "District Court Civil" section.

You may find the General-Use template forms of interest as a starting point for creating your own legal documents.

Public Access to Administrative Appeal Documents Filed in District Court Cases

If you would like to see documents filed in other cases involving administrative appeals, you may want to review publically available court records.

You can find individual court cases and lists of the documents filed in each case by going to the District Court Case Search at ndcourts.gov/public-access.

- Read the information, and then click "Click Here to Proceed."
- Select a location from the pull down menu. Select a county or the State of North Dakota.
- Click "Civil, Family & Probate Case Records."
- To search for a type of case within a date range:
 - Under "Search by:" click the button next to "Date Filed."
 - Enter a date range in the "Date Filed:" boxes. For example, 01/01/2020 and 12/31/2020.
 - Select "Administrative Appeal" in the "Case Types:" box.
 - Click the "Search" box.
 - The screen will list publically accessible court cases based on your search.
- To review an individual case and to see the list of documents filed, click on the case number. Case numbers are listed on the left-hand side of the page. (You cannot view the documents themselves.)
 - Please note that the cases listed in the search are for all administrative agency appeals to a North Dakota state district court. You'll need to identify the case numbers for appeals from Workforce Safety and Insurance (WSI) decisions.
- Each filed document is assigned a document number. The document number is listed to the right of the name of the document. For example, "Doc ID# 1."

If you want to view and/or obtain copies of any of the documents lists in a case, you must contact the clerk of district court of the county where the case was filed.

You'll need to give the clerk of court the case number **and** document number of each document you would like to view/copy. Ask the clerk of district court for the amount of the fee for copying documents.

Contact information for clerks of district court by county is available at ndcourts.gov/court-locations.

IS THERE HELP AVAILABLE FOR CREATING LEGAL DOCUMENTS?

If you would like assistance creating your legal documents, consult a lawyer licensed to practice in North Dakota.

Ask the lawyer about Limited Legal Representation. Lawyers licensed to practice in North Dakota may agree to help you with part of your appeal, such as preparing legal documents, while you handle the rest of the appeal. You and the lawyer must agree in writing to Limited Legal Representation.

WHO ARE THE PARTIES IN A WORKFORCE SAFETY AND INSURANCE (WSI) APPEAL?

Appellant – The person who is bringing the appeal of the Workforce Safety and Insurance (WSI) decision to the North Dakota State District Court.

You are the Appellant.

Appellee – This is Workforce Safety and Insurance (WSI) and the employer in the action. These are the parties in a case against whom the appeal is taken; that is, the party who has an interest adverse to setting aside or reversing the WSI final decision.

There are at least two Appellees in an appeal of a WSI final decision, WSI and the employer. Review your documents from the WSI proceedings to determine if there are any other Appellees. (There may not be any other Appellees.)

WHAT ARE THE DEFINITIONS OF SOME OF THE COMMONLY USED TERMS IN APPEALING A WORKFORCE SAFETY AND INSURANCE (WSI) FINAL DECISION?

“Act” – means the North Dakota Workers’ Compensation Act.

“Administrative Law Judge (ALJ)” – a specially trained independent judge or hearing officer who conducts an orderly, fair, and impartial administrative hearing, presides at related proceedings, and issues a prompt, reasoned, recommended or final decision for a Workforce Safety and Insurance (WSI) agency matter pursuant to WSI’s request for hearing officer services. An ALJ is employed by the Office of Administrative Hearings, an independent state agency. An ALJ isn’t a judge as part of the North Dakota state court system. An ALJ isn’t employed by WSI.

“Appeal” –means the review of a final decision of a lower court by a higher court. E.g. The District Court reviews final decisions of the Administrative Law Judge (ALJ); the Supreme Court reviews final decisions by the District Court.

“Appellant Brief” – a written legal brief explaining why you, the Appellant, are appealing the Workforce Safety and Insurance (WSI) final decision and what you, the Appellant, think is wrong with the decision. You, the Appellant, support your point of view with facts, law and your argument of how the facts apply to the law. (See also “Legal Brief”)

“Appellee Brief” – a written legal brief that responds to, or answers, the Appellant’s brief. The Appellee brief explains why the Workforce Safety and Insurance (WSI) final decision is correct. The Appellee supports their point of view with facts, law and their argument of how the facts apply to the law. (See also “Legal Brief”)

“Attempt to resolve” – means a prompt, active, honest, good-faith effort by the claimant to settle disputes with Workforce Safety and Insurance (WSI).

“Average weekly wage” – means the weekly wages the employee was receiving from all employments pursuant to North Dakota Century Code Chapter 65-01-02.

“Benefits” – means an obligation of the organization to provide a claimant with assistance as required by the Act.

“Board” – means the Workforce Safety and Insurance (WSI) board of directors.

“Burden of Proof” – means the party in a case who has the responsibility to give more evidence than the other party to convince the judge of their claims.

“Case Law” – When a final decision of a North Dakota state district court is appealed to the North Dakota Supreme Court, the Supreme Court writes an opinion to explain how and why the Supreme Court interpreted the laws or rules to decide the appeal the way they did. The opinions are case law and are followed by North Dakota state courts deciding later cases with similar facts and issues.

“Certificate of completion” – means the form sent to the claimant when the office closes its file, which acknowledges the claimant made a good-faith effort to resolve the dispute.

“Compensable Injury” –means an injury by accident pursuant to [North Dakota Century Code Section 65-01-02](#).

“Doctor” – means doctor of medicine or osteopathy, chiropractor, dentist, optometrist, podiatrist, or psychologist acting within the scope of the doctor’s license.

“Employer” – means a person who engages or received the services of another for remuneration unless the person performing the services of an independent contractor under the common-law test.

The term “Employer” includes:

- The state and all political subdivisions thereof.
- All public and quasi-public corporations in this state.
- Every person, partnership, limited liability company, association, and private corporation, includes a public service corporation.
- The legal representative of any deceased employer.
- The receiver or trustee of any person, partnership, limited liability company, association, or corporation having one or more employees as herein defined.
- The president, vice presidents, secretary, or treasurer of a business corporation, but not members of the board of directors of a business corporation who are not also officers of the corporation.
- The managers of a limited liability company.
- The president, vice presidents, secretary, treasurer, or board of directors of an association or cooperative.
- The clerk, assessor, treasurer, or any member of the board of supervisors of an organized township, if the person is not employed by the township in any other capacity.
- A multidistrict special education unit.
- An area career and technology center.
- A regional education association.

“Employee” – means a person who performs hazardous employment for another pursuant to [North Dakota Century Code Section 65-01-02](#).

“Final Decision of Workforce Safety and Insurance (WSI)” – If the final action of the organization denies the right of the claimant to participate at all in the fund on the ground that the injury was self-inflicted, or on the ground that the accident did not arise in the course of employment, or upon any other ground going to the basis of the claim, or if the organization allows the claimant to participate in the fund to a lesser degree than that claimed by the claimant, if such allowance is less than the maximum allowance provided by this title, the claimant may appeal to the District Court of the county wherein the injury was inflicted or of the county in which the claimant resides.

“Hazardous employment” – means any employment in which one or more employees are employed regularly in the same business pursuant to [North Dakota Century Code Section 65-01-02](#).

“Legal Brief” – a written document filed by a party where the party represents the facts, law and argument of how the facts apply to the law. This is the chance for each party to argue why Workforce Safety and Insurance’s (WSI) decision should, or shouldn’t, stand.

“Notice of Appeal” – written notification the Appellant is appealing the Workforce Safety and Insurance (WSI) decision. Notice is given to WSI, all parties to the proceeding before WSI, and the District Court. (See also “Specifications of Error”)

“Oral Argument” – are spoken to a judge or appellate court by a lawyer or parties when representing themselves of the legal reasons why they should prevail. Oral argument at the appellate level accompanies written briefs, which also advance the argument of each party in the legal dispute. Oral argument operates by each party in a case taking turns to speak directly to the judge or judges with an equal amount of time allotted to each.

“Organization” – means Workforce Safety and Insurance (WSI), or the director, or any department heads, assistants, or employees of the organization designated by the director to act within the course and scope of their employment in administering the policies, powers, and duties of the Act.

“Preponderance of the Evidence” – is the burden of proof you, the Appellant, must meet to prove your grounds, or reasons, for your appeal. “Preponderance of the Evidence” means evidence more worthy of belief, the greater weight of the evidence, or testimony that brings great conviction of truth.

“Specifications of Error” – list of the grounds, or reasons, for the appeal and a brief explanation of why the ground applies. (See also “Notice of Appeal”)

WHAT ARE NORTH DAKOTA LAWS AND RULES RELATED TO WORKFORCE SAFETY AND INSURANCE (WSI)?

Chapter 65-02 of the North Dakota Century Code governs Workforce Safety and Insurance (WSI) Organizations. This Chapter is available at legis.nd.gov/cencode/t65c02.html.

Chapter 28-32 of the North Dakota Century Code governs requirements and process for judicial review of a North Dakota administrative agency decision. This Chapter is available at legis.nd.gov/cencode/t28c32.html.

- Appeal requirements and process begin at Section 28-32-42. Review Sections 28-32-42 through 28-32-52 carefully.
- In the documents you file with the District Court, you’ll need to give the reasons, or grounds, for your appeal. Review Section 28-32-46 for the 8 reasons, or grounds, that are allowed for an appeal of a final decision.

Chapter 92-01 of the North Dakota Administrative Code governs Workforce Safety and Insurance (WSI). This Chapter is available at legis.nd.gov/information/acdata/html/92-01.html

Rule 9.1 of the North Dakota Rules of Court includes additional requirements and procedures for appealing the decision of a North Dakota administrative agency. Rule 9.1 is available at ndcourts.gov/legal-resources/rules/ndrct/9-1.

The North Dakota Rules of Civil Procedure apply to civil matters in North Dakota state district courts. The rules are available at ndcourts.gov/legal-resources/rules/ndrcivp.

The North Dakota Rules of Court apply to civil matters in North Dakota state district courts. The rules are available at ndcourts.gov/legal-resources/rules/ndrct.

The North Dakota Rules of Evidence apply to civil matters in North Dakota state district courts. The rules are available at ndcourts.gov/legal-resources/rules/ndrev.

Case Law Related to Appeals of Administrative Agency Decisions to District Court are available at ndcourts.gov by clicking on the “Supreme Court Opinions” link, the “Topic” drop down menu, and the “Administrative Proceeding” link.

Snapshots of case law related to appeals of administrative agency decisions to District Court are also found in the print versions of the North Dakota Century Code. Short summaries of case law related to each section of the North Dakota Century Code are located directly following the text of the section of the code. To view the full text of the opinion, go to ndcourts.gov and click on the “Supreme Court Opinions” link. Enter the case name or case citation.

Laws constantly change through legislation, administrative rulings and court decisions. To determine how a law applies to your situation, review the applicable law or laws, administrative rulings and court decisions. Notes of court decisions related to North Dakota law can be found in the print editions of the North Dakota Century Code. Print editions of the North Dakota Century Code are found in many North Dakota public and academic libraries.

Only a lawyer licensed to practice in North Dakota who has agreed to represent you can give you legal advice. Legal advice includes interpreting how the laws and rules apply to your situation.

(This space left intentionally blank.)

WHERE IS AN APPEAL OF A WORKFORCE SAFETY AND INSURANCE (WSI) FINAL DECISION FILED?

You must file your appeal of a Workforce Safety and Insurance (WSI) final decision in the North Dakota State District Court of:

- The North Dakota county where you live; **OR**
- The North Dakota county where the injury happened.

WHAT IS THE DEADLINE FOR APPEALING A WORKFORCE SAFETY AND INSURANCE (WSI) FINAL DECISION?

Within thirty (30) days after notice of the final Workforce Safety and Insurance (WSI) final decision, two (2) documents **MUST BE SERVED AND FILED**.

IMPORTANT: If you miss your deadline to serve and file your two (2) documents, the judge assigned to the appeal may dismiss your appeal.

The two (2) documents that must be served and filed within thirty (30) days are:

- The Notice of Appeal; AND
- Specifications of Error.

The people who must be served the two (2) documents within thirty (30) days are:

- The managing head of Workforce Safety and Insurance (WSI);
- The North Dakota Attorney General, or an Assistant Attorney General;
- The employer; AND
- All other parties to the WSI proceeding (there may not be any other parties).

The documents that must be filed with the District Court within thirty (30) days are:

- The Notice of Appeal;
- Specifications of Error; AND
- Proof of service on ALL people who are required to be served.

To calculate your deadline:

- Don't include the day of the event that triggers the start of the period (the date you were served);
- Count by calendar days, including Saturdays, Sundays, and legal holidays; and

- Include the last day of the period, but if the last day is a Saturday, Sunday, or legal holiday, the period continues to run until the end of the next day that isn't a Saturday, Sunday, or legal holiday.

WHAT DO YOU, THE APPELLANT, NEED TO PROVE?

You, the Appellant, have the burden of proof in an appeal of a Workforce Safety and Insurance (WSI) final decision to District Court. The burden of proof is preponderance of the evidence. You, the Appellant, must prove your grounds, or reasons, for your appeal.

There are only eight (8) grounds, or reasons, you, the Appellant, can appeal a Workforce Safety and Insurance (WSI) final decision to a North Dakota state district court:

1. The order of Workforce Safety and Insurance (WSI) isn't in accordance with the law;
2. The order of WSI is in violation of the constitutional rights of you, the Appellant;
3. The provisions of [North Dakota Century Code Chapter 28-32](#) haven't been complied with in the proceedings before WSI;
4. The rules or procedure of WSI haven't afforded you, the Appellant, a fair hearing;
5. The findings of fact made by WSI aren't supported by a preponderance of the evidence;
6. The conclusions of law and order of WSI aren't supported by its findings fact;
7. The findings of fact made by WSI don't sufficiently address the evidence presented to WSI by you, the Appellant;
8. The conclusions of law and order of WSI don't sufficiently explain WSI's rationale for not adopting any contrary recommendations by a hearing officer or an administrative law judge.

You MUST have at least one (1) ground, but can have more than one.

If the District Court decides that you, the Appellant, didn't prove the grounds, or reasons, for appeal you listed in your specifications of error, the court must uphold the Workforce Safety and Insurance (WSI) final decision.

(This space left intentionally blank.)

WHAT DOES THE DISTRICT COURT JUDGE CONSIDER WHEN DECIDING IF YOU, THE APPELLANT, PROVED YOUR GROUNDS (REASONS) FOR APPEAL?

The District Court judge's review of the Workforce Safety and Insurance (WSI) final decision is based **only** on the record created during the WSI proceedings. The District Court doesn't retry the case, take new evidence, or weigh the credibility of witnesses.

When reviewing Workforce Safety and Insurance's (WSI) findings of fact, the District Court judge decides whether a reasoning mind reasonably could have determined the findings were proven by the weight of the evidence from the entire record created during the WSI.

The conclusions of law in the Workforce Safety and Insurance (WSI) final decision, however, are fully reviewable by the District Court judge.

LAWYER RESOURCES AND LIMITED LEGAL REPRESENTATION

You aren't required to hire a lawyer to bring an appeal of a Workforce Safety and Insurance (WSI) final decision to a North Dakota state district court. If you decide to represent yourself, you must follow all of the rules, laws and procedures that a lawyer is required to follow.

For more information about finding a lawyer, go to ndcourts.gov/legal-self-help/finding-a-lawyer.

Lawyer Resources

If you decide to find a lawyer to represent you, you may find the following options of interest.

- Legal Services of North Dakota (LSND) is a non-profit organization, providing free legal assistance to North Dakota residents in a variety of matters based on income. Legal Services of North Dakota can also determine whether an applicant meets the income requirements for the Volunteer Lawyers program that offers low-cost legal assistance based on income. The phone number is (800) 634-5263 and the website is legalassist.org.
- The State Bar Association (SBAND) provides a lawyer referral service to match paying clients in need of legal services with lawyers. The phone number is (866) 450-9579 and the website is sband.org. The cost is \$30.00 for a 30 minute consultation with a lawyer.
- For a list of all lawyers who are licensed to practice in North Dakota, go to the North Dakota Supreme Court website at ndcourts.gov/Lawyers. You can narrow your search by name or location.

Limited Legal Representation

Lawyers licensed to practice in North Dakota may provide Limited Legal Representation in civil actions. Limited Legal Representation (sometimes called “unbundling”) is a way that a lawyer can help you with part of your case while you do the rest of your case. You pay for the part of the case the lawyer handled.

For example:

- You may want a lawyer to give you an expert opinion about your options, or your legal rights and responsibilities;
- You can consult with a lawyer to prepare or review your legal documents, but attend hearings yourself;
- You can represent yourself through the whole case, and periodically consult with a lawyer who can coach you on the law, procedures and strategy;
- You can do the preparation yourself and hire a lawyer just to make the court appearance for you.

You and the lawyer must agree in writing to Limited Legal Representation.

(This space left intentionally blank.)

SECTION TWO: THE PROCESS FOR APPEALING A WORKFORCE SAFETY AND INSURANCE (WSI) FINAL DECISION TO A NORTH DAKOTA STATE DISTRICT COURT

DON'T DELAY!

You have limited time to serve and file your notice of appeal, and specifications of error!

Within thirty (30) days after notice of the final Workforce Safety and Insurance (WSI) decision, you must serve two (2) separate documents. The 1) Notice of Appeal, and 2) Specifications of Error documents must be served on WSI, the North Dakota Attorney General or an Assistant Attorney General, your employer, and on ALL other parties to the WSI (there may not be any other parties).

Within the same thirty (30) day deadline, you must file the following documents with the clerk of district court: the 1) Notice of Appeal, 2) Specifications of Error, and 3) Proof of Service on ALL people who are required to be served.

IMPORTANT: If you miss your thirty (30) day deadline, the judge assigned to the appeal may dismiss your appeal.

To calculate your deadline:

- Don't include the day of the event that triggers the start of the period (the date you were served);
- Count by calendar days, including Saturdays, Sundays, and legal holidays; and
- Include the last day of the period, but if the last day is a Saturday, Sunday, or legal holiday, the period continues to run until the end of the next day that isn't a Saturday, Sunday, or legal holiday.

CAUTION! THE ADMINISTRATIVE LAW JUDGE (ALJ) MUST HAVE ALREADY HELD A HEARING, OR HEARINGS, TO DECIDE IF THE WORKFORCE SAFETY AND INSURANCE (WSI) DECISION WAS CORRECT.

THIS PROCESS IS USED AFTER A FINAL DECISION HAS BEEN MADE BY THE ALJ.

STEP ONE: YOU, THE APPELLANT, CREATE THE 1) NOTICE OF APPEAL, AND 2) SPECIFICATIONS OF ERROR DOCUMENTS

You, the Appellant, Determine the Grounds (Reasons) for Appeal:

You, the Appellant, need to decide which of the eight (8) grounds, or reasons, apply to your appeal. You must have at least one ground for appeal, and you can more than one ground.

In the specifications of error, you, the Appellant includes a brief explanation for each ground, or reason, that applies to their specific appeal.

The following are the eight (8) grounds, or reasons, for appeal:

1. The order isn't in accordance with the law;
2. The order is in violation of the constitutional rights of you, the Appellant;
3. The provisions of [North Dakota Century Code Chapter 28-32](#) haven't been complied within the proceedings before the Workforce Safety and Insurance (WSI);
4. The rules or procedures of WSI haven't afforded you, the Appellant, a fair hearing;
5. The findings of fact made by WSI aren't supported by a preponderance of the evidence;
6. The conclusions of law and order of WSI aren't supported by its findings fact;
7. The findings of fact made by WSI don't sufficiently address the evidence presented to the agency by you, the Appellant;
8. The conclusions of law and order of WSI don't sufficiently explain WSI's rationale for not adopting any contrary recommendations by a hearing officer or an administrative law judge.

You, the Appellant, Create the Following Two (2) Separate Documents:

Document 1. Notice of Appeal

- This document notifies Workforce Safety and Insurance (WSI), the North Dakota Attorney General or Assistant Attorney General, all parties to the proceeding before WSI, and the District Court that you're appealing the WSI final decision.
- The notice of appeal must include:
 - The name of the Appellant (your name);
 - The date of the final judgment or order you, the Appellant, are appealing;
 - The court, the judge, and the number of the case in the District Court;
 - The name of the District Court to which the appeal is taken; and
 - A preliminary statement of issues.
- A notice of appeal form is found at the end of this guide.

Document 2. Specifications of Error

- This document must include the grounds, or reasons, for your appeal.
 - The eight (8) grounds, or reasons, allowed in an appeal are listed above. You need at least one (1) ground, and can have more than one.
- Each ground, or reason, you list **MUST** include a BRIEF explanation of why the ground applies.
- A specifications of error form is found at the end of this guide.

IMPORTANT! DON'T WAIT until the 30th day to create your documents! You're unlikely to meet the 30 day deadline and the judge assigned to your appeal may dismiss your appeal.

STEP TWO: YOU, THE APPELLANT, ARRANGE TO SERVE THE 1) NOTICE OF APPEAL, AND 2) SPECIFICATIONS OF ERROR DOCUMENTS WITHIN 30 DAYS OF THE FINAL DECISION

Service is providing copies of your completed Notice of Appeal and Specifications of Error documents to all other parties in the appeal.

In order for the District Court to act on your documents, **you must file proof of service with the Clerk of Court.** A declaration of service is your proof of service.

You, the Appellant, Arrange for Service of your completed 1) Notice of Appeal, and 2) Specifications of Error Documents on:

1. The managing head of Workforce Safety and Insurance (WSI);
2. The North Dakota Attorney General, or an Assistant Attorney General;
3. The employer; AND
4. All other parties to the WSI proceeding (there may not be any other parties).

If you don't know who to serve at Workforce Safety and Insurance (WSI) and/or the North Dakota Attorney General's office, contact each agency directly and ask.

IMPORTANT! Failure to serve copies of your completed 1) Notice of Appeal, and 2) Specifications of Error documents within the thirty (30) day appeal deadline may result in dismissal of your appeal.

DON'T WAIT until the 30th day to serve the documents! You're unlikely to meet the deadline.

You, the Appellant, need time to correctly serve the documents on ALL parties. You also need enough time to file the documents AND proof you served the documents with the District Court. Both service AND filing MUST be completed within the SAME thirty (30) day deadline.

Copies of the Completed 1) Notice of Appeal, and 2) Specifications of Error Documents May be Served in the Following Ways:

For a list of service options, go to ndcourts.gov/legal-self-help/service-in-a-civil-action. Review the forms and instructions for “Service After A District Court Civil Action Case Has Started.”

Three commonly used methods of service are:

- **Service by Mail**
 - Mail copies of your completed 1) Notice of Appeal, and 2) Specifications of Error documents to each person’s last known address. Postage must be prepaid.
 - The person who takes the 1) Notice of Appeal, and 2) Specifications of Error documents to the post office and pays the postage must be at least 18 years of age.
 - The person who took the 1) Notice of Appeal, and 2) Specifications of Error documents to the post office and paid the postage completes and signs the declaration of service.
 - Service is complete upon mailing.
 - You, the Appellant, file the completed Declaration of Service by Mail with the clerk of court in Step Three.
 - A Declaration of Service by Mail form is found at the end of this guide.
- **Service by Personal Delivery**
 - Hand copies of your completed 1) Notice of Appeal, and 2) Specifications of Error documents to each person.
 - The person who handed the 1) Notice of Appeal, and 2) Specifications of Error documents to the other party must be at least 18 years of age and not a party to nor interested in the action.
 - The person who handed the 1) Notice of Appeal, and 2) Specifications of Error documents to the other party completes and signs the declaration of service.
 - You, the Appellant, file the completed Declaration of Service by Personal Delivery with the clerk of court in Step Three.
- **Service by Office Delivery**
 - Leave copies of your completed 1) Notice of Appeal, and 2) Specifications of Error documents at each person’s office with a clerk or other person in charge; or, if no one is in charge, leave the copies in a visible place in the office.
 - The person who left the 1) Notice of Appeal, and 2) Specifications of Error documents at the person’s office must be at least 18 years of age and not a party to nor interested in the action.

- The person who left the 1) Notice of Appeal, and 2) Specifications of Error documents at the person's office completes and signs the declaration of service.
- You, the Appellant, will file the completed Declaration of Service by Office Delivery with the clerk of court in Step Three.

Service When a Lawyer Represents a Party:

If a lawyer represents a party, serve the lawyer, rather than the party.

Serving Workforce Safety and Insurance – a State Agency:

Review [Rule 4\(d\) of the North Dakota Rules of Civil Procedure](#) carefully!

Service must be made on a state agency by delivering a copy of appeal documents to the managing head of the state agency.

NOTE: If you're unsure who to serve at Workforce Safety and Insurance, contact the agency directly and ask.

STEP THREE: YOU, THE APPELLANT, FILE THE ORIGINAL, COMPLETED 1) NOTICE OF APPEAL, 2) SPECIFICATIONS OF ERROR, AND 3) PROOF OF SERVICE DOCUMENTS WITHIN THIRTY (30) DAYS OF THE FINAL DECISION

The original, completed appeal documents **AND** the documents showing proof of service must be filed with the clerk of court within thirty (30) days of the final decision. **This is the same thirty (30) day deadline as serving the documents.**

File the Following Original, Completed Documents with the clerk of court:

- Notice of Appeal
- Specifications of Error
- Proof of Service on:
 - The managing head of Workforce Safety and Insurance (WSI);
 - The North Dakota attorney general or an assistant attorney general;
 - The employer; **AND**
 - All the parties to the WSI proceeding (there may not be any other parties).
- Petition to waive the filing fees and/or transcript fees (*optional*)
 - If you can't pay the filing fee or paying it would be hard for you, you can ask the court to waive (not make you pay) the filing fee by filing a motion.
 - This form set also allows you to ask for transcript fees to be waived. (See Step Four for information about transcript fees.)

Filing Fees

You, the Appellant, are required to pay a filing fee. The filing fee for filing an appeal from a decision of an administrative agency is \$160.00. You, the Appellant, can find the Fee Schedule at ndcourts.gov/district-court/court-fees.

Petition to Waive Filing Fees and/or Transcript Fees

If you, the Appellant, are unable to pay the \$160.00 filing fee because of financial hardship, you may ask the District Court judge may waive, or allow you to not pay, the filing fee. You may also ask the judge to waive the costs of Workforce Safety and Insurance (WSI) preparing the WSI record for the judge to review.

If you, the Appellant, make a request to the court to waive the \$160.00 filing fee, file your petition to waive filing fees documents at the same time as the original, completed appeal documents.

Forms and instructions to request a filing fee waiver are available at ndcourts.gov/legal-self-help/admin-appeal-to-district-court/fee-waiver. These forms may also be used to request waiver of the cost of preparing the agency record, also called transcript fees. (See Step Four.)

Contact information for clerks of court by county is available at ndcourts.gov/court-locations.

If the judge assigned to your appeal doesn't approve your filing fee waiver, you must be prepared to pay the \$160.00 filing fee.

IMPORTANT! Failure to serve copies of your completed 1) Notice of Appeal, and 2) Specifications of Error documents within the thirty (30) day appeal deadline may result in dismissal of your appeal.

DON'T WAIT until the 30th day to serve the documents! You're unlikely to meet the deadline.

You, the Appellant, need time to correctly serve the documents on ALL parties. You also need enough time to file the documents AND proof of you served the documents with the District Court. Both service AND filing MUST be completed within the SAME thirty (30) day deadline.

(This space left intentionally blank.)

STEP FOUR: WORKFORCE SAFETY AND INSURANCE (WSI) PREPARES THE RECORD; YOU, THE APPELLANT, PAY WSI'S ESTIMATED COSTS OF PREPARING THE RECORD

Within 30 days of service and filing of the notice of appeal and specifications of error documents, Workforce Safety and Insurance (WSI) will prepare and file either the original or a certified copy of the entire record of the WSI proceedings. This timeframe can be extended, but requires an order from the judge assigned to the appeal.

What is included in the record?

- The complaint, answer, and other initial pleadings or documents.
- Notices of all proceedings.
- Any prehearing notices, transcripts, documents, or orders.
- Any motions, pleadings, briefs, petitions, requests, and intermediate rulings.
- A statement of matters officially noticed.
- Offers of proof and objections and ruling thereon.
- Proposed findings, requested orders, and exceptions.
- The transcript of the hearing prepared for the person presiding at the hearing, including all testimony taken, and any written statements, exhibits, reports, memoranda, documents, or other information or evidence considered before final disposition of proceedings.
- Any recommended or proposed order, recommended or proposed findings of fact and conclusions of law, final order, final findings of fact and conclusions of law, or findings of fact and conclusions of law or orders on reconsideration.
- Any information considered pursuant to [Section 28-32-25 of the North Dakota Century Code](#).
- Matters placed on the record after an ex parte communication.

Who is responsible for paying the estimated cost of preparing the record?

You, the Appellant, are required to pay the estimated costs of preparation and filing of the entire record of the Workforce Safety and Insurance (WSI) proceedings.

Workforce Safety and Insurance (WSI) will notify you, the Appellant, of the estimated costs after WSI is served copies of the notice of appeal and specifications of error documents. You pay the estimated costs directly to WSI.

What if you, the Appellant, can't pay the estimated costs of preparing the record?

You, the Appellant, may ask the court to waive the estimated cost of preparing the record based on an inability to pay. Forms and instructions are available at ndcourts.gov/legal-self-help/admin-appeal-to-district-court/fee-waiver.

If you didn't make the request when you filed your notice of appeal and specifications of error documents, you can file your request to waive transcript fees BEFORE you pay Workforce Safety and Insurance's (WSI) estimated costs of preparing the agency record.

If the judge assigned to your appeal waives the transcript fees, be prepared to provide a copy of the order to Workforce Safety and Insurance (WSI).

If the judge doesn't waive the transcript fees, you must pay Workforce Safety and Insurance's (WSI) estimated costs of preparing the agency record.

What if the estimated cost is higher than the actual cost of preparing the record?

If the actual cost of preparing and filing of the entire record of the Workforce Safety and Insurance (WSI) proceeding more than the estimated cost, you, the Appellant, must pay WSI the difference.

You pay the difference directly to WSI.

What if the estimated cost is lower than the actual cost of preparing the record?

If the actual cost of preparing and filing of the entire record of the Workforce Safety and Insurance (WSI) proceeding is less than the estimated cost paid by you, the Appellant, WSI must refund the difference to you.

IMPORTANT: Workforce Safety and Insurance (WSI) won't begin preparing, certifying, or filing the record UNTIL you, the Appellant, have made payment in full of the estimated costs or the costs have been waived by an order of the court.

STEP FIVE: WORKFORCE SAFETY AND INSURANCE (WSI) FILES THE RECORD; THE DISTRICT COURT JUDGE ISSUES A SCHEDULING ORDER

Once service and filing of the notice of appeal and specifications of error, and payment of the costs is completed, Workforce Safety and Insurance (WSI) prepares, certifies and files the record with the District Court. Then, the District Court judge issues a scheduling order with timelines for filing legal briefs and requesting oral argument.

STEP SIX: REQUESTING ORAL ARGUMENT

Carefully review the scheduling order.

If you, the Appellant, want to request oral arguments, the written request **must be made on or before** your deadline for filing your Appellant brief.

The District Court judge will decide whether to allow oral arguments. The judge isn't required to permit oral arguments.

If the judge allows oral arguments, the arguments are limited to the issues you, the Appellant, and Workforce Safety and Insurance (WSI) included in your legal briefs.

STEP SEVEN: YOU, THE APPELLANT, PREPARE, SERVE, AND FILE YOUR APPELLANT BRIEF

A very important requirement of the appeal process is the legal brief. The legal brief may be your only opportunity to present your argument to the court.

What is a legal brief?

- A written document filed by a party where the party represents the facts, law and argument of how the facts apply to the law. This is the chance for each party to argue why Workforce Safety and Insurance's decision should, or shouldn't, stand.

What is the Appellant's brief?

- The Appellant's brief is a written document explaining why you, the Appellant, are appealing the Workforce Safety and Insurance (WSI) final decision and what you think is wrong with the decision. You support your point of view with facts, law and your argument of how the facts apply to the law.
- Your Appellant's brief **can't be used** to bring any new evidence to the District Court judge. Your Appellant's brief is limited to the evidence admitted, and evidence presented but **not** admitted, during the Administrative Law Judge (ALJ) hearing(s).

What goes into a brief?

- Issues Presented
- Statement of Facts
- Law and Argument
- Conclusion

FIRST, You, the Appellant, Prepare Your Appellant Brief:

Issues Presented:

- **REFER TO YOUR SPECIFICATIONS OF ERROR.**
- List the same issues you included in your completed Specifications of Error document. These are the issues you want the District Court judge to review.

Statement of Facts:

- The Statement of Facts is your explanation of the events that led up to the appeal of the Workforce Safety and Insurance (WSI) final decision.
- List only specific facts connected to the issues on appeal.
- The District Court judge can only consider information that was provided during the WSI proceedings. **This means you can't include new facts or evidence that weren't presented during the WSI proceedings.**
- If you can, include the specific page or pages in the WSI record where the fact can be found.

Law and Argument:

- **REFER TO SECTION ONE: WHAT ARE NORTH DAKOTA LAWS AND RULES RELATED TO WORKFORCE SAFETY & INSURANCE (WSI).**
- **REFER TO YOUR SPECIFICATIONS OF ERROR.**
- You, the Appellant, must research the applicable statutes and case law to build your argument that legal errors were made during the WSI proceeding that the District Court judge can correct.
- The Argument section is where you, the Appellant, apply the law to the facts and tell the District Court judge why the decision was wrong.
- Address each ground, or reason, you listed in your specifications of error.
- Focus on the *legal* issues and whether the law was correctly applied.
- While you may be unhappy with the decision, or think that it contains some minor mistakes, this may not mean the decision is legally wrong.

Conclusion:

- Briefly tell the District Court judge what you want.
- In other words, how do you want your legal issue, or issues, to be resolved? How do you want the Workforce Safety and Insurance (WSI) decision to be resolved?

SECOND, You, the Appellant, Arrange for Service of Your Appellant Brief on:

1. The managing head of Workforce Safety and Insurance (WSI);
2. The North Dakota Attorney General or an Assistant Attorney General;
3. The Employer; AND
4. All other parties to the WSI proceeding (there may not be any other parties).

Failure to serve copies of your Appellant Brief on all parties may result in dismissal of the appeal.

Three commonly used methods of service are:

- **Service by Mail**
 - Mail copies of the Appellant Brief to each person's last known address. Postage must be prepaid.
 - The person who takes the Appellant brief to the post office must be at least 18 years of age.
 - The person who takes the Appellant brief to the post office completes and signs the declaration of service.
 - Service is complete upon mailing.
 - You, the Appellant, file the completed Declaration of Service by Mail with the clerk of court when you file your brief.
 - A Declaration of Service by Mail form is found at the end of this guide.
- **Service by Personal Delivery**
 - Hand copies of the Appellant Brief to each person.
 - The person who handed the Appellant Brief to the other party must be at least 18 years of age and not a party to nor interested in the action.
 - The person who handed the Appellant Brief to the other party completes and signs the declaration of service.
 - You, the Appellant, file the completed Declaration of Service by Personal Delivery with the clerk of court when you file your brief.
- **Service by Office Delivery**
 - Leave copies of the Appellant Brief at each person's office with a clerk or other person in charge; or, if no one is in charge, leave the copies in a visible place in the office.
 - The person who left the Appellant Brief at the person's office must be at least 18 years of age and not a party to nor interested in the action.

- The person who left the Appellant Brief at the person's office completes and signs the declaration of service.
- You, the Appellant, file the completed Declaration of Service by Office Delivery with the clerk of court when you file your brief.

Service When a Lawyer Represents a Party:

If a lawyer represents a party, serve the lawyer, rather than the party.

Serving Workforce Safety and Insurance – a State Agency:

Review [Rule 4\(d\) of the North Dakota Rules of Civil Procedure](#) carefully!

Service must be made on a state agency by delivering a copy of appeal documents to the managing head of the state agency or to the attorney general or an assistant attorney general.

NOTE: If you're unsure who to serve at Workforce Safety and Insurance (WSI) or at the Office of the North Dakota Attorney General, contact the agency directly and ask.

THIRD, You, the Appellant, File the Following with the Clerk of Court:

The original, completed Appellant Brief and all original, completed documents showing proof of service must be filed with the clerk of court.

Failure to serve and file the completed and signed legal brief and declaration(s) of service with the Clerk of Court may result in dismissal of your appeal.

STEP EIGHT: WORKFORCE SAFETY AND INSURANCE SERVES AND FILES THEIR APPELLEE BRIEF

Workforce Safety and Insurance (WSI) prepares their Appellee brief, which is the answer to your, the Appellant's, Appellant brief.

Then, Workforce Safety and Insurance (WSI) arranges for service of copies their Appellee brief on you, the Appellant, and all other parties in the WSI proceeding.

Finally, Workforce Safety and Insurance (WSI) files their original Appellee brief and proof of service documents with the District Court.

STEP NINE: PREPARE FOR ORAL ARGUMENTS, IF REQUESTED AND GRANTED

In an appeal to the District Court, the District Court judge reviews the Appellant and Appellee briefs, and the Workforce Safety and Insurance (WSI) record filed with the District Court in Step Four.

However, if oral arguments are requested and granted by the judge, the judge may ask you, the Appellant, and Workforce Safety and Insurance (WSI) to explain your positions in your briefs to the court.

NOTE: The District Court judge isn't required to grant oral arguments. If the judge decides not to allow oral arguments for your appeal, the judge decides your appeal based on your Appellant brief, Workforce Safety and Insurance's (WSI) Appellee brief, and the WSI record filed with the District Court in Step Four.

If you're granted oral arguments, when preparing for oral arguments review your Appellant brief, Workforce Safety and Insurance's (WSI) Appellee brief, and the WSI record filed with the District Court.

Knowing the Governing Law

If oral arguments are granted, you, the Appellant, will want to be educated on the governing law. You, the Appellant, will want to know all the statutes that govern Workforce Safety and Insurance (WSI), and the statutes that apply to an appeal of a WSI final decision to District Court.

Statutes can be found at SECTION ONE: What are North Dakota Laws and Rules Related to Workforce Safety and Insurance, in your Appellant brief, and in Workforce Safety and Insurance's (WSI) Appellee brief.

By knowing the relevant law that governs your appeal, you, the Appellant, will be prepared in oral arguments if the judge asks you a question regarding the law or if a representative from Workforce Safety and Insurance (WSI) misstates the law.

Again, it is highly recommended that you, the Appellant, consult an attorney because this is a complex issue.

Knowing Case Law

In addition to knowing the governing law, you, the Appellant, must know precedent case law that helps and hurts your case.

Precedent case law is when the North Dakota Supreme Court has issued an opinion on the issue at hand and the opinion is now the governing case law for Workforce Safety and Insurance (WSI) cases. With this case law, you, the Appellant, will be able to explain to the court how your facts are similar or different from that case in order to defend your case.

In addition, there is persuasive case law that you, the Appellant, may use to make your argument stronger.

Persuasive case law is from another jurisdiction that isn't governing law for the North Dakota state district court or the North Dakota Supreme Court. However, you, the Appellant, could use this case law as a way to make your argument stronger by saying that the court in "X" location found in favor of your position.

Presenting Your Oral Argument

When presenting your argument you, the Appellant, must be respectful to all parties present in the court, which includes the lawyer for Workforce Safety and Insurance (WSI). In addition, by knowing the governing law and case law, you, the Appellant, will be confident in presenting your case to the judge. When speaking, make a clear and concise argument that shows how your facts are similar or different from the governing law at hand.

STEP TEN: THE DISTRICT COURT JUDGE DECIDES THE APPEAL

In an appeal to the District Court, the District Court judge reviews the Appellant and Appellee briefs, and the Workforce Safety and Insurance (WSI) record filed with the District Court in Step Four. Based on this, and oral arguments if requested and granted, the judge makes a determination as to whether the Administrative Law Judge's findings of fact and conclusions of law are supported by the evidence and by the law.

If the order of the agency isn't affirmed (kept in place) by the District Court judge, it must be modified or reversed, and the case returned to Workforce Safety and Insurance (WSI) for disposition in accordance with the judge's order.

If the District Court judge doesn't rule in your favor, you, the Appellant, may appeal the judge's decision to the North Dakota Supreme Court. If the judge doesn't rule in Workforce Safety and Insurance's favor, they may appeal the judge's decision to the North Dakota Supreme Court.

This North Dakota Legal Self Help Center resource was created by Michael J. Sloane, as part of the University of North Dakota School of Law Externship Program, Spring 2017.

STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF _____

_____ JUDICIAL DISTRICT

(Your name)

APPELLANT,

vs

Workforce Safety and Insurance (WSI);

(All other parties from WSI proceeding) APPELLEES.)

)

)

)

)

)

)

)

Case No. _____

NOTICE OF APPEAL

1. **PLEASE TAKE NOTICE THAT I,** _____ (your name),
appeal to the District Court, County of _____, _____ Judicial
District, North Dakota, from the "Findings of Fact, Conclusions of Law and Order" of
_____ (name of Administrative Law Judge),
dated _____ (date of Administrative Law Judge's decision).

2. This appeal is on the grounds and for the reasons in the attached Specifications of Error,
which are incorporated by reference.

3. This appeal is taken pursuant to Chapters 28-32 and 65-10 of the North Dakota Century
Code.

4. _____ (your name) reserves the right to
make application to the Court for attorney's fees and costs as provided by N.D.C.C. § 65-10-03,
and as also provided by N.D.C.C. § 28-32-50 because Workforce Safety & Insurance has "acted
without substantial justification" throughout.

Dated _____.

(Appellant's Signature)

(Appellant's Printed Name)

(Address)

(City, State, Zip Code)

(Telephone Number)

(Email)

STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF _____

_____ JUDICIAL DISTRICT

(Your name)

APPELLANT,

Vs

Workforce Safety and Insurance (WSI);

(All other parties from WSI proceeding)

APPELLEES.

)

)

)

)

)

)

)

)

)

)

Case No. _____

SPECIFICATIONS OF ERROR

1. _____ (your name), the appellant, appeals to the District Court, County of _____, _____ Judicial District, State of North Dakota, pursuant to Chapters 28-32 and 65-10 of the North Dakota Century Code.

2. Appellant's Specifications of Error are as follows (see NDCC Section 28-32-46 for the 8 grounds (reasons) for appeal. You must have at least 1 ground, but may have more than 1. State concisely each ground which you claim gives you reason for this WSI appeal. After stating the ground, briefly describe the support for each ground. List each ground and explanation in a separate paragraph):

2a. Ground one (you must have at least 1 of the 8 grounds (reasons)):

2b. Ground two (*if you don't have a ground two, type or write "not applicable"*):

2c. Ground three (*if you don't have a ground three, type or write "not applicable"*):

2d. Ground four (*if you don't have a ground four, type or write "not applicable"*):

2e. Ground five (if you don't have a ground five, type or write "not applicable"):

3. For jurisdictional purposes, Appellant resides at _____
_____ (your address).

Dated _____.

(Appellant's Signature)

(Appellant's Printed Name)

(Address)

(City, State, Zip Code)

(Telephone Number)

(Email)

STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF _____

_____ JUDICIAL DISTRICT

)
)
(Your name) APPELLANT,)
Vs)
)
Workforce Safety and Insurance (WSI);)
)
)
(All other parties from WSI proceeding))
APPELLEES.)

DECLARATION OF SERVICE BY MAIL

Case No. _____

(May serve multiple persons ONLY IF envelopes are mailed same day from same Post Office.)

The person serving court documents by mail states:

1. My name is _____ *(name of person who mailed documents)*. I am at least 18 years of age.

2. List of Court Documents Served:

- (1) Notice of Appeal; and
- (2) Specifications of Error.

3. Service by Mail:

I served a true and correct copy of each of the court documents listed in Paragraph 2 by mailing them, enclosed in an envelope, by First-Class mail, postage prepaid, and by depositing them in the United States Mail, directed to the person(s) listed in Paragraph 5.

4. Date and Post Office Location of Service by Mail:

Date Court Documents Were Served by Mail: _____

United States Post Office Location: _____
(City) (County) (State)

5. **Persons Served by Mail:**

Name of Person Served: _____

Title of Person Served: _____

Mailing Address: _____

City, State, Zip Code: _____

Name of Person Served: _____

Title of Person Served: _____

Mailing Address: _____

City, State, Zip Code: _____

Name of Person Served: _____

Title of Person Served: _____

Mailing Address: _____

City, State, Zip Code: _____

6. I declare, under penalty of perjury under the law of North Dakota, that everything I stated in this Declaration of Service by Mail is true and correct.

Signed on _____ (date) in _____ (city),
_____ (county), _____ (state), _____ (country).

(Signature of Person Who Mailed Documents)

(Printed Name)

(Address)

(City, State, Zip Code)

Telephone Number: _____

Email Address: _____

IN DISTRICT COURT

____ JUDICIAL DISTRICT

Case No. _____

(List each ground (reason) you listed in your Specifications of Error document you filed with the District Court. Number each ground (reason) as 1(a), 1(b), 1(c) and so on.)

NDLSHC

Page _____

WSI Appellant Brief/Rev. Sep 2021

STATEMENT OF FACTS

(Explain the events that led to the WSI final decision and other relevant facts. List only specific facts connected to the grounds (reasons) you listed in your Specifications of Error document you filed with the District Court. Number each paragraph of your facts as 2(a), 2(b), 2(c) and so on.)

2(a).

(Paragraph 2 continues on this page.)

LAW AND ARGUMENT

(Refer to your Specifications of Error document you filed with the District Court to build your arguments. Explain with laws and facts how the WSI final decision was incorrect. Number each paragraph of your law and argument section as 3(a), 3(b), 3(c) and so on.)

3(a).

(Paragraph 3 continues on this page.)

CONCLUSION

(Summarize why the court should grant your appeal. Usually a short paragraph.)

4.

Dated _____.

(Signature)

(Printed Name)

(Address)

(City, State, Zip Code)

(Telephone Number)

(Email)

HOW TO FINISH YOUR APPELLANT'S BRIEF FOR YOUR WORKFORCE SAFETY AND INSURANCE (WSI) APPEAL

ND Legal Self Help Center Staff and Court employees can't help you fill out forms. If you're unsure how to proceed, consult a lawyer.

There is no guarantee that all judges and courts will accept forms available through the ND Legal Self Help Center.

Don't include this instruction sheet when you serve or file the completed Appellant's Brief.

Page Numbering:

The bottom of each page of your Appellant's Brief must be numbered.

Using the page numbering at the bottom of each page, number the pages of your Appellant's Brief.

- Count the total number of pages.
- Fill in the blank space next to "Page" at the bottom of each page.
 - Fill in "1" in the blank space next to "Page" at the bottom of the first page.
 - Fill in "2" in the blank space next to "Page" at the bottom of the second page.
 - And so on for each page of your Appellant's Brief.
 - For example, if you have 4 total pages, the page number on each consecutive page will look like this: "Page 1," "Page 2," "Page 3," "Page 4."

Service:

You must serve copies of your completed Appellant's Brief on Workforce Safety and Insurance (WSI) and all other parties listed as Appellees.

For information about service, see the Pages 19-21 of the "Appealing a Workforce Safety and Insurance Decision" Informational Guide.

****The North Dakota Legal Self Help Center provides resources to people who represent themselves in civil matters in the North Dakota state courts. The information provided by the Center isn't intended for legal advice but only a general guide to the civil court process. The Center can't guarantee that all judges and courts will accept forms available through the Self Help Center. The Center isn't responsible for any consequences that may result from the information provided. The information can't replace the advice of competent legal counsel licensed in the state. Use at your own risk.****

STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF _____

_____ JUDICIAL DISTRICT

)
)
(Your name) APPELLANT,)
Vs)
)
Workforce Safety and Insurance (WSI);)
)
)
(All other parties from WSI proceeding))
APPELLEES.)

DECLARATION OF SERVICE BY MAIL

Case No. _____

(May serve multiple persons ONLY IF envelopes are mailed same day from same Post Office.)

The person serving court documents by mail states:

1. My name is _____ *(name of person who mailed documents)*. I am at least 18 years of age.

2. List of Court Documents Served:

- Appellant Brief.

3. Service by Mail:

I served a true and correct copy of each of the court documents listed in Paragraph 2 by mailing them, enclosed in an envelope, by First-Class mail, postage prepaid, and by depositing them in the United States Mail, directed to the person(s) listed in Paragraph 5.

4. Date and Post Office Location of Service by Mail:

Date Court Documents Were Served by Mail: _____

United States Post Office Location: _____
(City) (County) (State)

5. **Persons Served by Mail:**

Name of Person Served: _____

Title of Person Served: _____

Mailing Address: _____

City, State, Zip Code: _____

Name of Person Served: _____

Title of Person Served: _____

Mailing Address: _____

City, State, Zip Code: _____

Name of Person Served: _____

Title of Person Served: _____

Mailing Address: _____

City, State, Zip Code: _____

6. I declare, under penalty of perjury under the law of North Dakota, that everything I stated in this Declaration of Service by Mail is true and correct.

Signed on _____ (date) in _____ (city),
_____ (county), _____ (state), _____ (country).

(Signature of Person Who Mailed Documents)

(Printed Name)

(Address)

(City, State, Zip Code)

Telephone Number: _____

Email Address: _____