

The Use of This Form Is Required Under the Provisions of the Tort Claims Rules

(Plaintiff)

(Address)

v.

(Defendant)

**APPLICATION
FOR
REVIEW**

THE UNDERSIGNED HEREBY GIVES NOTICE OF APPEAL AND APPLICATION FOR REVIEW in the above case to the North Carolina Industrial Commission, sitting as the Full Commission. Error is alleged as follows:

- 1. _____

- 2. _____

- 3. _____

- 4. _____

- 5. _____

(If additional space is needed, attach another page)

All grounds for appeal not specifically set forth herein are hereby waived and abandoned except as otherwise provided by law and the rules of the Industrial Commission. The undersigned hereby certifies that a copy of this document has been served on opposing party or parties.

Date of this Application: _____
By: _____

INSTRUCTIONS ON HOW TO FILE

One signed copy of Form T-44 must be sent to the Commission and one copy to the opposing parties or their counsel. If a brief is filed, the Commission must be furnished one copy and one copy must be sent to the appellee. The timeline for filing a T-44 and brief is set in the rules on the next page.

ATTORNEYS: FILE VIA EDFP
[HTTP://WWW.IC.NC.GOV/DOCFILING.HTML](http://www.ic.nc.gov/docfiling.html)
PLAINTIFF FILING OPTIONS:
EMAIL TO: DOCKETS@IC.NC.GOV
FAX TO: (919) 715-0282
MAIL TO: INDUSTRIAL COMMISSION CLERK'S OFFICE
1236 MAIL SERVICE CENTER
RALEIGH, NC 27699-1236

RULES FOR APPEALS TO THE FULL COMMISSION (Effective March 1, 2019)

11 NCAC 23B .0204(e) ENLARGMENT OF TIME. By motion of the parties or on its own motion, the Commission may enlarge the time for an act required or allowed to be done under the Rules in this Subchapter in the interests of justice or to promote judicial economy. An enlargement of time may be granted either before or after the relevant time requirement has elapsed.

11 NCAC 23B .0302 APPEALS TO THE FULL COMMISSION

(a) Notice of appeal shall be made to the Commission within 15 days from the date when notice of the Deputy Commissioner's Order or Decision and Order has been received by the appellant. The notice of appeal shall specify, by tort claim number and filing date, the Order or Decision and Order from which appeal is taken. The notice of appeal shall include a written statement confirming that a copy of the notice of appeal has been sent to the opposing party or parties.

(b) After receipt of the notice of appeal, the Commission shall acknowledge the notice of appeal in writing. Within 30 days of the acknowledgement, the Commission shall prepare and provide, at no charge to the parties, electronic copies of any official transcript, any exhibits, and a Form T-44 *Application for Review*. In cases where it is not possible to provide a party with the official transcript and exhibits electronically, the Commission shall provide the official transcript, all exhibits, and a Form T-44 *Application for Review* via any class of U.S. mail that is fully prepaid.

(c) Within 25 days of receipt of the official transcript and exhibits or receipt of notice that there will be no official transcript and exhibits, the appellant shall submit a Form T-44 *Application for Review* or written statement stating with particularity all assignments of error and grounds for review, including, where applicable, the pages in the transcript or the record on which the alleged errors are recorded. The Form T-44 *Application for Review* or the written statement shall be accompanied by confirmation that a copy of the document has been sent to the opposing party or parties. Failure to state the proposed issues on appeal, either by Form T-44 *Application for Review* or by written statement, shall be grounds for dismissal of the appeal either upon the motion of the non-appelling party or upon the Full Commission's own motion.

(d) An appellant may file a brief in support of the grounds for appeal with the Commission, with a written statement confirming that a copy of the brief has been sent to the opposing party or parties, within 25 days after receipt of the official transcript and exhibits or receipt of notice that there will be no official transcript and exhibits. The appellee shall have 25 days from service of the appellant's brief to file a reply brief with the Commission with a written statement confirming that a copy of the brief has been sent to the opposing party or parties. If the appellant fails to file a brief, the appellee shall file a brief within 25 days after the appellant's time for filing a brief has expired. If multiple parties appeal, each party may file an appellant's brief and appellee's brief on the schedule set forth in this Rule. If the matter has not been calendared for hearing, any party may file a written stipulation to a single extension of time not to exceed 15 days with the Office of the Clerk. The cumulative extensions of time shall not exceed 30 days. A party who fails to file a brief shall not be allowed oral argument before the Full Commission.

(e) Briefs to the Full Commission shall not exceed 35 pages, excluding attachments. No page limit applies to the length of attachments. Typed briefs shall be prepared using 12-point proportional type, shall be double spaced, and shall be prepared with non-justified right margins. Each page of the brief shall be numbered at the bottom right of the page. If a party quotes or paraphrases testimony or evidence from the official transcript or exhibits in a brief, the party shall include, at the end of the sentence, a parenthetical entry that designates the source and page number of the quoted or paraphrased material. The party shall use "T" for transcript and "Ex" for exhibit. For example, (1) if a party quotes or paraphrases material located in the transcript on page 11, the party shall use the following format "(T 11)," and (2) if a party quotes or paraphrases material located in an exhibit on page 12, the party shall use the following format "(Ex 12)". If a party quotes or paraphrases testimony or other evidence in the transcript of a deposition, the party shall include, at the end of the sentence, a parenthetical entry that contains the name of the person deposed and the page number in the transcript of the deposition. For example, if a party quotes or paraphrases the testimony of John Smith located on page 11 of the transcript of the deposition, the party shall use the following format "(Smith 11)". Cases shall be cited to the North Carolina Reports, the North Carolina Court of Appeals Reports, or the North Carolina Reporter and, if possible, to the South Eastern Reporter. Briefs shall be based upon the record in the matter, pursuant to G.S. 143-292.

(f) A request for review by the Full Commission of an order by a Commissioner or Deputy Commissioner made during the pendency of a case assigned to them shall be filed with the Office of the Clerk. If the order made by the authoring Commissioner or Deputy Commissioner is a final judgment as to one or more issues or parties and the order contains a certification that there is no just reason for delay, the request for review shall be referred directly to a panel of the Full Commission. If the order contains no certification, requests for review shall be referred to the Chair of the Commission for a determination regarding the right to immediate review, and the parties shall address the grounds upon which immediate review shall be allowed.

11 NCAC 23B .0307 MOTIONS BEFORE THE FULL COMMISSION

(a) After notice of appeal has been given to the Full Commission, all motions related to the claim before the Full Commission shall be in writing and filed with the Full Commission with a statement confirming that copies have been provided to the other parties. A Motion for a New Hearing shall be supported by an Affidavit.

(b) Motions related to the issues on appeal, including motions for new trial, to amend the record, or to take additional evidence, filed during the pendency of an appeal to the Full Commission shall be argued before the Full Commission at the time of the hearing of the appeal.

11 NCAC 23B .0308 STAYS. If a case is appealed to the Full Commission, all Orders or Decision and Orders of a Deputy Commissioner shall be stayed pending appeal.

11 NCAC 23B .0310 ORAL ARGUMENT.

(a) A party may waive oral argument at any time with approval of the Commission. Upon the request of a party or on its own initiative, the Commission may review the case and file an Order or Decision and Order without oral argument.

(b) When presenting oral argument, each appellant shall have twenty minutes to present oral argument and may reserve any amount of the twenty-minute total allotment for rebuttal, unless otherwise specified by Order of the Commission. Each appellee shall also have twenty minutes to present oral argument, unless otherwise specified by Order of the Commission; however, the appellees shall not reserve rebuttal time. In cross-appeals, each appealing party may reserve rebuttal time.

(c) A party may request additional time to present oral argument in excess of the standard twenty-minute allowance. Such requests shall be made in writing and submitted to the Full Commission no less than ten days prior to the scheduled hearing date. The written request for additional time shall state with specificity the reasons for the request of additional time and the amount of additional time requested.

(d) If a party fails to appear before the Full Commission upon the call of the case, the Commission may, upon consideration of the interests of justice and judicial economy, disallow the party's right to present oral argument. If neither party appears upon the call of the case, the Full Commission may, upon consideration of the interests of justice and judicial economy, decide the case upon the record and briefs on appeal, unless otherwise ordered.

(e) Oral arguments shall be based upon the record in the matter, pursuant to G.S. 143-292.