

Writ of Certiorari Appeals
Minnesota Administrative Law & Practice
September 10, 2015

Eric J. Magnuson¹ and Katherine S. Barrett Wiik²
Robins Kaplan LLP
Appellate Advocacy & Guidance Group

A Roadmap for Certiorari Appeal to the Minnesota Court of Appeals

1. Figure out what is appealable and when
2. Figure out if the appeal is worthwhile
3. Make sure you have the steps down
4. Perfect the appeal
5. Argue the appeal
6. Win the appeal

Key Resources for Administrative Appeals

- The Minnesota Rules of Civil Appellate Procedure – Particularly Rule 115 (Rule 116 relates to Supreme Court review of Workers’ Comp and Tax Court by Writ of Certiorari)

¹Eric Magnuson is a partner at Robins Kaplan LLP and heads the firm’s Appellate Advocacy and Guidance group. He has over 35 years of appellate practice experience, and is a Fellow and Past President of the American Academy of Appellate Lawyers. Eric has handled hundreds of appeals, and has extensive experience before the Eighth Circuit Court of Appeals and the Minnesota appellate courts. From 2008-2010, he served as Chief Justice of the Minnesota Supreme Court.

²Katherine Barrett Wiik is an associate at Robins Kaplan LLP practicing in the Business Litigation and Appellate Advocacy and Guidance groups. She has been the primary author of dozens of appellate briefs in both state and federal court, and is a member of the MSBA Appellate Practice Section Council. Katherine is a graduate of Macalester College and Harvard Law School and she clerked for the U.S. Court of Appeals for the Sixth Circuit before joining Robins Kaplan LLP.

- http://www.mncourts.gov/Documents/0/Public/Rules/Appellate_Rules.effective_July_1_2014.pdf
- Appendix of Forms - <http://www.mncourts.gov/SupremeCourt/Court-Rules/Forms-Appendix-for-the-Rules-of-Civil-Appellate-Pr.aspx> (Forms 115A & B, 116A & B attached at end of materials)
- Eric J. Magnuson, David F. Herr & Sam Hanson, *Minnesota Practice: Appellate Rules Annotated* (Thompson Reuters, 2015 ed.), particularly the chapters on Rules of Civil Appellate Procedure 115 and 116
- Minnesota Court of Appeals Special Term Opinion Subject Matter Index
 - <http://www.lawlibrary.state.mn.us/stsmi.pdf>
 - See pgs. 13-15, 18-22 for content specifically relating to certiorari appeals
- Minnesota Court of Appeals FAQs on Filing an Unemployment Benefits Appeal (one of the most common types of appeal by writ of certiorari)
 - <http://www.mncourts.gov/About-The-Courts/CourtOfAppeals/COAHelpTopics.aspx#tab06COAUnemploymentAppeal>
 - The Clerk of Appellate Courts has also prepared an Unemployment Benefits Packet of instructions and forms for unemployment appeals

Step 1: Figure out what is appealable and when

- The general rule is enshrined in Rule of Civil Appellate Procedure 103.03 “Appealable Judgments and Orders”
 - Rule 103.03(g) most relevant to administrative appeals:
 - “[E]xcept as otherwise provided by statute, [an appeal may be taken] from a final order, decision or judgment affecting a substantial right made in an administrative or other special proceeding”
 - Rule 115.01:
 - “Review by the Court of Appeals of decisions of the Department of Employment and Economic Development and other decisions reviewable by certiorari and review of decisions appealable pursuant to the Administrative

Procedure Act may be had by securing issuance of a writ of certiorari. **The appeal period and the acts required to invoke appellate jurisdiction are governed by the applicable statute.** (emphasis added).

- Minnesota Administrative Procedures Act: (“MAPA”), Minnesota Statutes Chapter 14 –
 - “Any person aggrieved by a final decision in a contested case is entitled to judicial review of the decision under the provisions of sections 14.63 to 14.68” and can seek judicial review by the Court of Appeals by filing a petition for writ of certiorari with the Court of Appeals and serving it on all parties to the contested case “not more than **30 days** after the party receives the final decision and order of the agency.” (emphasis added).
- Minnesota Statutes Chapter 606 provides for judicial review through writ of certiorari of quasi-judicial decisions of agencies or bodies not subject to review under the Minnesota Administrative Procedures Act. A petition for writ must be filed with the Court of Appeals and served on all parties within **60 days** “after the party applying for such writ shall have received due notice of the proceeding sought to be reviewed thereby.” Minn. Stat. 606.01-02 (emphasis added).
 - Decisions most commonly reviewed under Chapter 606 include:
 - Review of quasi-judicial decisions made by local governments
 - Review of quasi-judicial decisions made by the University of Minnesota
 - Review of quasi-judicial decisions made by state agencies not subject to the MAPA

Step 2: Figure out if the appeal is worthwhile

- Once you figure out that you can appeal, how do you decide if you should appeal?
 - “About half the practice of a decent lawyer consists in telling would-be clients that they are damned fools and should stop.” – Elihu Root
 - In the Minnesota Court of Appeals, between 70-80% of decisions are affirmed and dismissed.

- Rate of affirmance even higher in administrative appeals, due to deferential standards of review to agencies
 - The Minnesota Court of Appeals Standards of Review, Updated August 2014 - <http://mncourts.libguides.com/loader.php?type=d&id=1202072>, in particular Section VII (Administrative General) and Section VIII (DEED/Unemployment appeals)
- Figure out the costs, and the benefits
 - Costs can include:
 - Fees
 - Costs (yours and perhaps the other side's)
 - Delay (maybe, maybe not)
 - Precedent (the kind that can be easily cited)
 - Benefits can include:
 - Reversal of a decision that you can't live with, but not all appellate wins are clean. Can your client live with less than a whole loaf?
 - Relief from an adverse ruling may not be real relief. A retrial/rehearing remand could come out even worse, and could cost as much as the first trial or hearing. An appellate court could also come up with a remedy that you did not ask for or want.

Step 3: Make sure you have the steps down → Step 4: Perfect the appeal

- Read the rules, read the rules, read the rules
- Timely filing the petition for writ and serving it on all parties are the necessary jurisdictional acts. The Court of Appeals cannot grant an extension or exception to this requirement. It cannot exercise jurisdiction over the case if the appeal is not timely perfected.

- Timing can be particularly tricky with certiorari appeals, because in some instances the time to appeal is 30 days (MAPA) and other times 60 days (Chapter 606). Rule of Civil Appellate Procedure 115.01 provides that “[t]he appeal period and the acts required to invoke appellate jurisdiction are governed by the applicable statute.”
- Rule 116 on writ of certiorari appeals from Workers’ Compensation and Tax Court to the MN Supreme Court requires filing and service must be filed and served within 30 days after the date the party applying for the writ was served with written notice of the decision sought to be reviewed.

Filing Checklist for Appeal by Writ of Certiorari to MN Court of Appeals:

- Petition for Writ of Certiorari, which “shall definitely and briefly state the decision, judgment, order or proceeding that is sought to be reviewed and the errors that the petitioner claims”
- Addendum prepared as prescribed by Rule 130.02, including a copy of the decision being appealed and the Statement of Case pursuant to Rule 133.03
- Proposed Writ of Certiorari, to be issued in the name of the court
- \$550 filing fee to the Clerk of the Appellate Courts
- Filing letter
- Affidavit of Service (must be filed within five days of service)
 - For administrative appeals under the MAPA, service must be by either certified mail or personal service. Minn. Stat. § 14.64. Service by first-class mail does not suffice. See *In re Risk Level Determination of J.M.T.*, 759 N.W.2d 406, 408 (Minn. 2009). Out of an abundance of caution, you may want to consider serving by both means.
- File documents by messenger with the Clerk of Appellate Courts (e-filing for writs not yet available)
 - Have the messenger obtain a signed copy of the [proposed] writ of certiorari.
- Once the signed writ of certiorari is obtained, serve copies of all of the documents above with the agency (agency gets the original writ), the parties

to the agency proceeding, and the Attorney General's Office. Substitute a copy of the signed writ for the proposed writ.

- Keep in mind that state agencies in contested case proceedings may be represented by a County Attorney, in addition to the Attorney General.
- If you have any doubts or questions about who the parties to an administrative proceeding are, or what their proper addresses are, then prior to serving and filing the petition and writ, you should request that the agency certify the names and addresses of all parties to that administrative proceeding as disclosed by its records. Such an agency certification is conclusive. *See* Minn. Stat. § 14.64.
- Service is part of the jurisdictional act required to perfect the appeal, so all parties must be served through appropriate means within the time to appeal.
- FILE EARLY. This is particularly important for certiorari appeals, given the additional procedural steps and number of parties to be served. While we always strive to avoid mistakes, mistakes happen, and many can be fixed if you give yourself enough time to correct them by filing early.

Step 5: Argue the appeal

Key Resources on Appellate Brief Writing and Oral Arguments:

- Art of Advocacy Appeals (Matthew Bender)
- American Academy of Appellate Lawyers, Bibliography of Appellate Practice, at <http://www.appellateacademy.org/publications/bibliography.pdf>
- The Honorable Myron H. Bright, *The Power of the Spoken Word: In Defense of Oral Argument*, at <http://www.appellateinstitute.com/ResourcesPDF/ThePoweroftheSpokenWord.pdf>

Tips for Appellate Brief Writing

- **Impactful Standard of Review** – Use as a persuasive opportunity; don't provide a rote standard. Find cases that state the standard of review in a

favorable way to your argument, and if possible, cite to cases where the outcome is what you advocate the Court should do in your case.

- **Compelling Statement of Facts** – Be faithful to the record, but tell a story that prepares the Court to accept your arguments.
- **Concise and Precise Arguments** – Keep your argument simple and focused. Repeat your themes throughout your statement of the issues, the brief headings, and the conclusion.
- **Conclusion** – Make it meaningful, focused, and ask the Court for precise relief.

Tips for Oral Argument

- Know what you want and why you should get it
- Have a one-minute introduction and conclusion that explain just that
- Welcome questions and be ready to answer them
- Know the record and the key cases cold
- Have a conversation with the court

Step 6: Win the appeal

- **You Win!**
 - Tax Costs (Rule 139, Form 139)
 - Release Bond(s) (or funds in lieu)
- **You Don't Win...**
 - Petition for Review by the Minnesota Supreme Court?
 - See earlier discussion of costs and benefits
 - The statistics about success rates for obtaining review (roughly 10%) and prevailing before the Supreme Court

(affirmance of court of appeals in nearly half of cases taken) are even more sobering.

- If you do proceed, Rule 117 sets out the requirements. Petition for Review and related papers must be filed within 30 days of the filing of the Court of Appeals' decision.
 - The Supreme Court needs to understand why this case matters – to others beyond your client. Unlike the Court of Appeals, which is an error-correcting court, the Supreme Court can make law. Convince the Court in your five-page PFR that law must be made, and they should take your case.
- Win the appeal the second time around.

Example pleadings and forms

- A. Sample pleadings from *Zavadil v. Comm'r of Revenue*, Petition for Writ to Minnesota Supreme Court from Tax Court under Rule 116
- B. Forms 115A and B, 116A and B (from the Forms Appendix for the Rules of Civil Appellate Procedure)

Example A

ROBINS  KAPLAN, LLP

800 LASALLE AVENUE
SUITE 2800
MINNEAPOLIS, MN 55402
TEL: 612 349 8500 FAX: 612 339 4181
robinskaplan.com

Lisa Lodin Peralta
LPeralta@RobinsKaplan.com
612-349-8529

By Hand Delivery

April 14, 2015

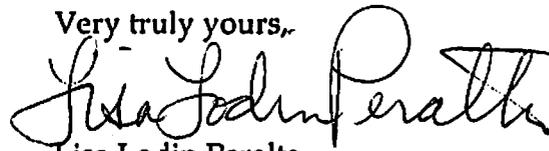
Court Administrator
Minnesota Tax Court
25 Rev. Dr. Martin Luther King Jr. Blvd.
Room 245
St. Paul, MN 55155

Re: Larry and Diane Zavadil vs. Commissioner of Revenue
Tax Court File No. 8433-R

Dear Clerk:

Enclosed for filing please find a Writ of Certiorari with regard to the above matter. Thank you.

Very truly yours,



Lisa Lodin Peralta

LLP/kd
Enclosure

85766175.1

STATE OF MINNESOTA
IN SUPREME COURT

Larry and Diane Zavadil,

Relators,

vs.

Commissioner of Revenue,

Respondent.

PETITION FOR WRIT OF CERTIORARI

SUPREME COURT NUMBER:

TAX COURT NUMBER: 8433-R

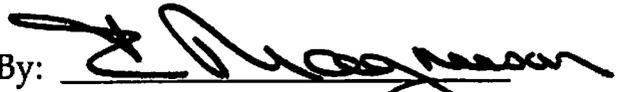
DATE OF NOTICE OF FILING OF TAX
COURT DECISION: April 13, 2015

TO: The Supreme Court of the State of Minnesota

The above-named relators hereby petition the Supreme Court for a Writ of Certiorari to review a decision of the Tax Court, a copy of which is attached hereto, upon the grounds that the Order of the Tax Court is not in conformity with law and is not justified by the evidence, as further specified in Relators' Statement of the Case.

Dated: April 14, 2015.

ROBINS KAPLAN LLP

By: 
Eric J. Magnuson (Reg. No. 66412)
2800 LaSalle Plaza
800 LaSalle Avenue
Minneapolis, MN 55402
Phone: 612-349-8500
Email: EMagnuson@RobinsKaplan.com

Joseph A. Nilan (Reg. No. 121277)
Joshua A. Dorothy (Reg. No. 0388843)
GREGERSON, ROSOW, JOHNSON &
NILAN, LTD.
100 Washington Avenue South
Suite 1550
Minneapolis, MN 55401
Phone: 612.338.0755
Fax: 612.349.6718
Email: jnilan@grjn.com
Email: jdorothy@grjn.com

**ATTORNEYS FOR RELATORS
LARRY AND DIANE ZAVADIL**

85760079.1

STATE OF MINNESOTA
IN SUPREME COURT

Larry and Diane Zavadil,

Relators,

Tax Court No.: 8433-R
Hon. Joanne H. Turner
Appellate Case No. _____

v.

**STATEMENT OF THE CASE OF
RELATORS**

Commissioner of Revenue,

Respondent.

Date Judgment Entered:
April 2, 2015

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

Pope County, Tax Court, Regular Division, the Honorable Joanne H. Turner presiding

2. Jurisdictional statement.

A. Appeal from district court.

- | | |
|---|-----------------------|
| (1) Statute, rule or other authority authorizing appeal: | <i>Not Applicable</i> |
| (2) Date of entry of judgment or date of service of notice of filing of order from which appeal is taken: | <i>Not Applicable</i> |
| (3) Authority fixing time limit for filing notice of appeal (specify applicable rule or statute): | <i>Not Applicable</i> |
| (4) Date of filing any motion that tolls appeal time: | <i>Not Applicable</i> |
| (5) Date of filing of order deciding tolling motion and date of service of | <i>Not Applicable</i> |

notice of filing:

B. Certiorari Appeal.

- | | |
|--|--|
| (1) Statute, rule or other authority authorizing certiorari appeal: | <i>Minn. Stat. § 271.10, subd. 1; Minn. R. Civ. App. P. 116.01</i> |
| (2) Authority fixing time limit for obtaining certiorari review (cite statutory section and date of event triggering appeal time, e.g., mailing of decision, receipt of decision, or receipt of other notice): | <i>Minn. Stat. § 271.10, subd. 2 (60 days from April 13, 2015); see Minn. R. Civ. App. P. 116.01, 116.03, subd. 4 (30 days "unless an applicable statute prescribes a different period of time")</i> |

C. Other appellate proceedings:

- | | |
|--|-----------------------|
| (1) Statute, rule or other authority authorizing appellate proceeding: | <i>Not Applicable</i> |
| (2) Authority fixing time limit for appellate review (cite statutory section and date of event triggering appeal time, e.g., mailing decision, receipt of decision, or receipt of other notice): | <i>Not Applicable</i> |

D. Finality of order or judgment.

- | | |
|--|-----------------------|
| (1) Does the judgment or order to be reviewed dispose of all claims by and against all parties, including attorneys' fees? | Yes |
| (a) If yes, provide date of order/ judgment: | <i>March 18, 2015</i> |
| (b) If no, did the district court order entry of a final partial judgment for immediate appeal pursuant to | |

Minn. R. Civ. App. P. 101.01?

- (i) If yes, provide date of order: *Not Applicable*
- (ii) If no, is the order or judgment appealed from reviewable under any exception to the finality rule? *Not Applicable*

E. Criminal Only

- (1) Has a sentence been imposed or imposition of sentence stayed? *Not Applicable*
- (a) If no, cite statute or rule authorizing interlocutory appeal. *Not Applicable*

3. **State type of litigation and designate any statutes at issue.** This is a Tax Court appeal concerning Zavadils' residency for tax purposes for part of calendar year 2005 and all of calendar year 2006. For tax purposes, the term "resident" is defined by Minn.Stat. § 290.01, subd. 7. That provision is supplemented by Minn. R. 8001.0300 (the Residency Rule).

4. **Brief description of claims, defenses, issues litigated and result below. For criminal cases, specify whether conviction was for a misdemeanor, gross misdemeanor, or felony offense.** The Zavadils moved from Minnesota to a newly built home in Nevada in 2005 and stayed there through 2006. For part of 2005 and all of 2006, they filed Minnesota tax returns asserting that they were Nevada residents. The Commissioner of Revenue conducted an audit and assessed the Zavadils more than \$1 million additional in taxes, penalty and interest. The Zavadils administratively appealed and lost. The Zavadils appealed to the Tax Court, asking the court to conclude based on the facts presented that they became Nevada domiciliaries in November 2005 and remained so through 2006. The Tax Court affirmed the Commissioner's Order determining that the Zavadils remained Minnesota domiciliaries for late 2005 and all of 2006.

5. List specific issues proposed to be raised on appeal.

- A. Whether the order of the Tax Court is justified by the evidence and is in conformity with law.
- B. Whether the Zavadils became Nevada domiciliaries in November 2005 and remained so through 2006.
- C. Such other issues as are presented by the proceedings below and the nature of a tax appeal.

6. Related appeals.

- A. List all prior or pending appeals arising from the same action as this appeal. If none, so state. *None*
- B. List any known pending appeals in separate actions raising similar issues to this appeal. If none known, so state. *None*

7. Contents of record.

- A. Is a transcript necessary to review the issues on appeal? *Yes*
 - (1) If yes, full or partial transcript? *Full*
 - (2) Has the transcript already been delivered to the parties and filed with the court administrator? *Yes, with regard to the transcript of trial held July 21-24, 2014, August 21-22, 2014, and September 22, 2014. No, with regard to the transcript of pretrial hearing held July 16, 2014.*
 - (3) If not, has it been ordered from the court reporter? *Yes*
- B. If a transcript is unavailable, is a statement of the proceedings under Rule 110.03 necessary? *Not Applicable*

C. In lieu of the record as defined in Rule 110.01, have the parties agreed to prepare a statement of the record pursuant to Rule 110.04? *Not Applicable*

8. Is oral argument requested? *Yes*

A. If so, is argument requested at a location other than that provided in Rule 134.09, subd. 2? *No*

(1) If yes, state where argument is requested: *Not Applicable*

9. Identify the type of brief to be filed.

A. Formal brief under Rule 128.02 (X)

B. Informal brief under Rule 128.01, subd. 1 ()
(must be accompanied by motion to accept unless submitted by claimant for reemployment benefits)

C. Trial memoranda, supplemented by a short letter argument, under Rule 128.01, subd. 2. ()

10. Names, addresses, zip codes and telephone numbers of attorneys for relators and respondent.

ROBINS KAPLAN LLP
Eric J. Magnuson (Reg. No. 66412)
2800 LaSalle Plaza
800 LaSalle Avenue
Minneapolis, MN 55402
Phone: 612-349-8500
Email: EMagnuson@RobinsKaplan.com

GREGERSON, ROSOW, JOHNSON
& NILAN, LTD.

OFFICE OF THE ATTORNEY GENERAL
Lori Swanson
Attorney General
Sara L. Bruggeman (Reg. No. 0386863)
Assistant Attorney General
Tamar N. Gronvall (0307166)
Assistant Attorney General
445 Minnesota Street, Suite 900
(651) 757-1455

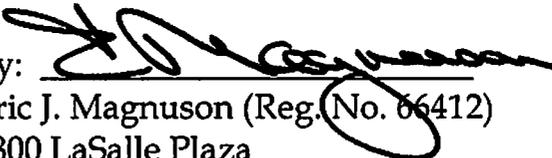
Joseph A. Nilan (Reg. No. 121277)
Joshua A. Dorothy (Reg. No. 0388843)
100 Washington Avenue South
Suite 1550
Minneapolis, MN 55401
Phone: 612.338.0755
Fax: 612.349.6718
Email: jnilan@grjn.com
Email: jdorothy@grjn.com

*Attorneys for Relators
Larry and Diane Zavadil*

Dated: April 14, 2015.

*Attorneys for Respondent
Commissioner of Revenue*

ROBINS KAPLAN LLP

By: 
Eric J. Magnuson (Reg. No. 66412)
2800 LaSalle Plaza
800 LaSalle Avenue
Minneapolis, MN 55402
Phone: 612-349-8500
Email: EMagnuson@RobinsKaplan.com

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GREGERSON, ROSOW, JOHNSON &
NILAN, LTD.
100 Washington Avenue South
Suite 1550
Minneapolis, MN 55401
Phone: 612.338.0755
Fax: 612.349.6718
Email: jnilan@grjn.com
Email: jdorothy@grjn.com

**ATTORNEYS FOR RELATORS
LARRY AND DIANE ZAVADIL**

STATE OF MINNESOTA

TAX COURT

COUNTY OF POPE

REGULAR DIVISION

Larry and Diane Zavadil,
Appellants,
vs.

**FINDINGS OF FACT
CONCLUSIONS OF LAW, AND
ORDER FOR JUDGMENT**

Commissioner of Revenue,
Appellee.

Docket No. 8433-R

Filed: March 18, 2015

This matter came on for trial before The Honorable Joanne H. Turner, Chief Judge of the Minnesota Tax Court, on July 21-24, August 21-22, and September 22, 2014, regarding the resident status of appellants Larry and Diane Zavadil for tax years 2005 and 2006.

Joseph A. Nilan and Joshua A. Dorothy, Gregerson, Rosow, Johnson & Nilan, Ltd., Minneapolis, Minnesota, represented appellants.

Sara L. Bruggeman and Tamar Gronvall, Assistant Minnesota Attorneys General, represented appellee Commissioner of Revenue.

The Zavadils filed their 2005 Minnesota income tax return as part-year residents and their 2006 Minnesota income tax return as nonresidents, claiming that in November 2005 they became Nevada residents. The Commissioner audited Mr. and Ms. Zavadils' 2005 and 2006 income tax returns and in January 2012 assessed the Zavadils for additional Minnesota income tax, penalty, and interest on the ground that they remained domiciled in Minnesota during both years. Although Mr. and Ms. Zavadil filed an administrative appeal, the Commissioner affirmed her original order. Mr. and Ms. Zavadil subsequently appealed to this court. We affirm the Commissioner's order.

April 15, 2015

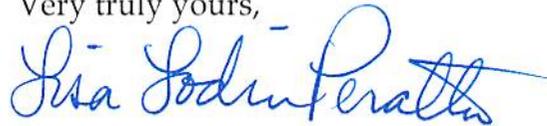
Court Administrator
Minnesota Tax Court
25 Rev. Dr. Martin Luther King Jr. Blvd.
Room 245
St. Paul, MN 55155

Re: Larry and Diane Zavadil vs. Commissioner of Revenue
Tax Court File No. 8433-R

Dear Clerk:

Enclosed for filing please find an original Affidavit of Service with regard to the above matter. Thank you.

Very truly yours,



Lisa Lodin Peralta

LLP/ajj
Enclosure

85769722.1

AFFIDAVIT OF SERVICE AND FILING

STATE OF MINNESOTA)
) ss
COUNTY OF HENNEPIN)

Larry and Diane Zavadril v.
Commissioner of Revenue
Tax Court File No. 8433-R

Lisa Lodin Peralta, County of Hennepin, State of Minnesota, says that on the 14th day of April, 2015, she made personal service of Relators Larry and Diane Zavadril's Petition for Writ of Certiorari and Writ of Certiorari, and Relators' Statement of the Case, by hand delivery of a true and correct copy to the to the reception office at the following location:

Lori Swanson
Minnesota Attorney General
445 Minnesota Street, Suite 900
St. Paul, MN 55101-2127

and that on the 14th day of April, 2015, she personally filed a Writ of Certiorari to the Tax Court in the above-entitled matter by hand delivery of a true and correct copy to the reception office at the following location:

Tax Court Administrator
Minnesota Judicial Center, #245
25 Rev. Dr. Martin Luther King Jr. Blvd.
St. Paul, MN 55155

Subscribed and sworn to
before me this 15th day of April, 2015.



Lisa Lodin Peralta



Notary Public

85753750.2



STATE OF MINNESOTA
IN SUPREME COURT

Larry and Diane Zavadil,

Relators,

vs.

Commissioner of Revenue,

Respondent.

WRIT OF CERTIORARI

SUPREME COURT NUMBER:

TAX COURT NUMBER: 8433-R

DATE OF NOTICE OF FILING OF TAX
COURT DECISION: April 13, 2015

TO: THE MINNESOTA TAX COURT

YOU ARE HEREBY ORDERED to return to the Supreme Court of the State of Minnesota within thirty (30) days from this date the record, exhibits, and proceedings in the above-entitled matter so that this Court may review the decision and order of the Tax Court.

Copies of this writ and accompanying petition shall be served forthwith either personally or by mail upon the Administrator of the Minnesota Tax Court and upon Respondent above-named or its attorneys, Lori Swanson, Minnesota Attorney General, 445 Minnesota Street, Suite 900, St. Paul, Minnesota, 55101-2127.

Proof of Service shall be filed with the Clerk of Appellate Courts.

Dated: April 14, 2015.

Clerk of Appellate Courts

By: *Janet Chapdelaine*
Deputy Clerk

Example B

FORM 115A. PETITION FOR WRIT OR CERTIORARI

STATE OF MINNESOTA
IN COURT OF APPEALS

CASE TITLE:

Petitioner,

PETITION FOR WRIT OF CERTIORARI

vs.

APPELLATE COURT CASE NUMBER:
[TO BE ADDED BY CLERK]

Respondent,

(AGENCY OR BODY) NUMBER:

(Agency or Body),
Respondent.

DATE OF DECISION:

DATE AND DESCRIPTION OF EVENT
TRIGGERING APPEAL TIME (for example,
mailing of decision, receipt of decision, or receipt
of other notice):

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

The above-named petitioner hereby petitions the Court of Appeals for a Writ of Certiorari to review a decision of the (agency or body) issued on the date noted above, upon the grounds that (specify grounds and statute authorizing certiorari review).

DATED:

NAME OF [PETITIONER] AND ATTORNEY (IF APPLICABLE), ADDRESS
(INCLUDING ZIP CODE), TELEPHONE NUMBER, EMAIL ADDRESS (IF
AVAILABLE)

SIGNATURE [OF PETITIONER, OR ATTORNEY IF REPRESENTED]

(The procedure for obtaining a writ of certiorari from the Court of Appeals is set forth in the applicable statutes and in RCAP 115. The applicable statutes prescribe the subject matter of writs in the Court of Appeals, time limitations, and requirements for service. The rule prescribes the manner of securing a writ, contents of the petition, bonds, filing and fees, and preparation of the record. A completed statement of the case must accompany the petition. RCAP 133.03.

The date of the event that triggered the appeal period must be indicated on the petition. The nature of this event varies, depending on the requirements of the statute authorizing certiorari review in the Court of Appeals. See RCAP 115 comment.)

FORM 115B. WRIT OF CERTIORARI

STATE OF MINNESOTA IN COURT OF APPEALS

CASE TITLE:

WRIT OF CERTIORARI

Relator,

vs.

COURT OF APPEALS NUMBER:

Respondent,

(AGENCY OR BODY) NUMBER:

(Agency or Body),
Respondent.

DATE OF DECISION:

TO: (Agency or Body)

You are hereby ordered to return to the Court of Appeals and serve on all parties in accordance with Rule 115.04, subdivision 3, within 30 days after service of the petition or 14 days after delivery of a transcript, whichever is later, an itemized statement of the record, exhibits and proceedings in the above-entitled matter so that this court may review the decision of the (agency or body) issued on the date noted above.

You are further directed to retain the actual record, exhibits, and transcript of proceedings (if any) until requested by the clerk of the appellate courts to deliver them in accordance with Rule 115.04, subdivision 5.

Copies of this writ and accompanying petition shall be served forthwith either personally or by mail upon the respondent (agency or body) and upon the respondent or its attorney at:

(address)

Proof of service of the writ and of the itemized statement shall be filed with the clerk of the appellate courts.

DATED:

Clerk of Appellate Courts

(Clerk's File Stamp)

By: _____
Assistant Clerk

FORM 116A. PETITION FOR WRIT OF CERTIORARI

STATE OF MINNESOTA
IN SUPREME COURT

CASE TITLE:

Employee / Taxpayer,

PETITION FOR WRIT OF CERTIORARI

APPELLATE COURT CASE NUMBER:
[TO BE ADDED BY CLERK]

vs.

Employer / Commissioner
Insurer / of Revenue.

WORKERS' COMPENSATION COURT
OF APPEALS [OR TAX COURT]

DATE OF SERVICE OF WRITTEN
NOTICE OF DECISION: [DATE OF
FILING OF TAX COURT DECISION]

TO: The Supreme Court of the State of Minnesota:

The above-named relator hereby petitions the Supreme Court for a Writ of Certiorari to review a decision of the Workers' Compensation Court of Appeals [Tax Court], upon the grounds that it is not in conformity with the terms of the Workers' Compensation Act and is unwarranted by the evidence [The Tax Court was without jurisdiction, the Order of the Tax Court was not justified by the evidence, or the Tax Court committed an error of law].

DATED:

NAME OF [RELATOR] AND ATTORNEY (IF APPLICABLE), ADDRESS (INCLUDING ZIP CODE), TELEPHONE NUMBER, EMAIL ADDRESS (IF AVAILABLE)

SIGNATURE [OF RELATOR, OR ATTORNEY IF REPRESENTED]

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

FORM 116B. WRIT OF CERTIORARI

STATE OF MINNESOTA
IN SUPREME COURT

CASE TITLE:

Employee / Taxpayer,

WRIT OF CERTIORARI

APPELLATE COURT CASE NUMBER:
[TO BE ADDED BY CLERK]

vs.

Employer / Commissioner
Insurer / of Revenue.

WORKERS' COMPENSATION COURT
OF APPEALS [OR TAX COURT]

DATE OF SERVICE OF WRITTEN
NOTICE OF DECISION: [DATE OF
FILING OF TAX COURT DECISION]

TO: The Workers' Compensation Court of Appeals:

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

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

(address)

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

DATED:

Clerk of Appellate Courts

(Clerk's File Stamp)

By: _____
Assistant Clerk