

This page contains a sample Statement of the Case, which is needed to file an appeal with the Minnesota Court of Appeals. For more explanation of this form, and a complete tutorial on how to file an appeal in Minnesota, please visit:

<http://richardclem.com/articles/MinnesotaAppeal.html>

You can also visit my main page:

<http://www.richardclem.com>

SAMPLE STATEMENT OF THE CASE TAKEN FROM FORM 133

With my comments underlined.

STATE OF MINNESOTA
(IN SUPREME COURT
OR
IN COURT OF APPEALS)

CASE TITLE:

Appellant, STATEMENT OF THE CASE OF
(APPELLANT) (RESPONDENT)

vs. TRIAL COURT CASE NUMBER:

APPELLATE COURT CASE NUMBER:

Respondent.

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

District Court, — Judicial District, — County, the Honorable -----, J.

2. Jurisdictional statement

(A) Appeal from district court.

Statute, rule or other authority authorizing appeal:

In most cases, the answer to this question will be, "Minn. R. Civ. App. P. 103.01"

Date of entry of judgment or date of service of notice of filing of order from which appeal is taken:

This will usually be the date of the entry of the judgment. If there is an order for judgment, the entry of judgment is usually stamped by the district court administrator onto the last page of this document, and the date on that stamp is the date to be used.

Authority fixing time limit for filing notice of appeal (specify applicable rule or statute):

In most cases, the answer to this question will be, "Minn. R. Civ. App. P. 104.01" (60 days)

Date of filing any motion that tolls appeal time:

If any motions were filed in the district court which extend the time for appeal (which are rare), they would be mentioned here. These motions are discussed in Rule 104.01, subd. 2. If, as in most cases, there is no such motion, answer "none" or "N/A".

Date of filing of order deciding tolling motion and date of service of notice of filing:

If such a motion was filed, the date that the motion was decided. If there was no such motion, answer "none" or "N/A".

(B) Certiorari appeal.

The scope of this CLE covers appeals in civil cases. This section of the statement of the case is not used.

Statute, rule or other authority authorizing certiorari appeal:

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):

(C) Other appellate proceedings.

The scope of this CLE covers appeals in civil cases. This section of the statement of the case is not used.

Statute, rule or other authority authorizing appellate proceeding:

Authority fixing time limit for appellate review (cite statutory section and date of event triggering appeal time, e.g., mailing of decision, receipt of decision, or receipt of other notice):

(D) Finality of order or judgment.

Does the judgment or order to be reviewed dispose of all claims by and against all parties, including attorney fees? Yes () No ()

In most cases, the answer will be "yes". If there was a final judgment against one party, but not against other parties, answer "no" and see the second paragraph of Rule 104.01 and Minn. R. Civ. P. 54.02 for the procedure that needs to be followed **in the district court** prior to filing the notice of appeal.

If no:

Did the district court order entry of a final partial judgment for immediate appeal pursuant to [MINN. R. CIV. APP. P. 104.01](#)? Yes () No () or

If yes, provide date of order:

If no, is the order or judgment appealed from reviewable under any exception to the finality rule? Yes () No ()

If yes, cite rule, statute, or other authority authorizing appeal:

(E) Criminal only:

Has a sentence been imposed or imposition of sentence stayed? Yes () No ()

If no, cite statute or rule authorizing interlocutory appeal:

3. State type of litigation and designate any statutes at issue.

Here, include a very brief description of the case. Note that you are writing this mostly for the benefit of the clerk's office to properly categorize the case. You don't need to go into great detail. For example:

This is a personal injury case in which the plaintiff alleges that he was injured by plaintiff's

negligence in an automobile accident. Plaintiff was struck by defendant's vehicle while defendant was making a left turn in front of oncoming traffic. Defendant moved for summary judgment on the grounds that he was immune from liability under Minn. Stat. 123.456, the statute at issue in this appeal. The trial court granted this motion, and plaintiff brings this appeal.

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.

Again, you're writing at this point mostly for the benefit of the clerk's office, so keep your description concise. For example:

Defendant alleged that he was immune from liability under Minn. Stat. 123.456, which grants immunity to extraterrestrial aliens. Plaintiff's position was: (1) The statute does not apply to motor vehicle accidents, and (2) there was a genuine issue of material fact as to whether the defendant was an extraterrestrial alien, or whether he was a citizen of France.

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

This is the first time in the case when you have to tell the court why you are appealing. So you should have given some thought. If you do a reasonably good job at this point, you will probably find yourself cutting and pasting these issues into the brief you will be writing in a few short weeks.

Generally, the issue should be presented in neutral terms, but you needn't go overboard in being neutral. Even at this stage in the process, it's good to be able to write the issue in such a way as it suggests the "correct" answer. For example:

Did the trial court err in granting defendant's motion for summary judgment, when there was evidence that the defendant was making an illegal left turn in front of plaintiff's vehicle?

The issues that you list here are not necessarily cast in stone. If you find you need to tweak the wording slightly when you write your brief, there is no harm in doing so. Also, failure to list an issue isn't necessarily jurisdictional, so you **might** be able to add to them. But personally, I wouldn't want to test the court's patience by doing so. If you include an issue here, you **can** later drop it and not include it in your brief. But it's not a good idea to use this as an invitation to use the shotgun approach and include frivolous issues. The clerk's office, the staff attorneys, and possibly the judges deciding your case will read what you write here, and you want to make a good first impression.

6. Related appeals.

List all prior or pending appeals arising from the same action as this appeal. If none, so state.

List any known pending appeals in separate actions raising similar issues to this appeal. If none are known, so state.

In most cases, the answers to these questions will be "none".

7. Contents of record.

Is a transcript necessary to review the issues on appeal? Yes () No ()

In many cases, "no" is a perfectly acceptable answer to this question. A transcript is generally only necessary for **testimony**. If the case was decided on summary judgment, then there probably is no testimony, and a transcript is probably an unnecessary expense.

If yes, full () or partial () transcript?

Even if a transcript is necessary, a **full** transcript might not be. If there was a trial, do you really need to pay to have your arguments transcribed? As eloquent as you were, it's unlikely that the court will bother reading them. And you can make the same arguments again in your brief.

One exception might be if the other side's arguments were particularly poor, or if you want to argue during the appeal that they need to stay with the same theory of the cases that they used in the trial court. Even in this case, however, it might be possible to present this based upon their written arguments, which are already part of the record.

If the trial judge made all or part of his or her ruling on the record orally in court, then this should probably be transcribed.

Has the transcript already been delivered to the parties and filed with the trial court administrator? Yes () No ()

In most cases, you will be ordering the transcript about the same time as the appeal (or within the next few days), so the answer will be "no".

If not, has it been ordered from the court reporter? Yes () No ()

I like to order the transcript prior to filing the notice of appeal, in which case you would answer "yes". However, you have an additional ten days to order the transcript, in which case you will answer "no".

If a transcript is unavailable, is a statement of the proceedings under [Rule 110.03](#) necessary? Yes () No ()

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](#)? Yes () No ()

Again, I have never done either of these, but if instead of a transcript you proceed under Rule 110.03 or 110.04, answer "yes" accordingly.

8. Is oral argument requested? Yes () No ()

I almost always request oral argument, so the answer is "yes".

If so, is argument requested at a location other than that provided in [Rule 134.09](#), subd. 2? Yes () No ()

For cases from the Twin Cities area, oral argument almost always takes place at the Judicial Center in St. Paul. For cases from outlying areas, the argument is sometimes scheduled at a courthouse in the same county or a nearby county. I always answer "no" to this question. If the court has a good reason to have the oral argument someplace, I'm not going to be the one to ask them to go somewhere else.

If yes, state where argument is requested:

If you're bold enough to ask them to hold oral argument in International Falls, this is where you would make that request.

9. Identify the type of brief to be filed.

Formal brief under [Rule 128.02](#). ()

Informal brief under [Rule 128.01](#), subd. 1 (must be accompanied by motion to accept unless submitted by claimant for reemployment benefits). () Trial memoranda, supplemented by a short letter argument, under [Rule 128.01](#), subd. 2. ()

I always request the "formal brief", and I've never heard of a case that used either of these other methods. Remember, you've taken this CLE, and you know how to make a high-quality formal brief at minimal cost. Your opponent probably hasn't, so why make this concession to save him or her the trouble?

10. Names, addresses, zip codes and telephone numbers of attorney for appellant and respondent.

NAME, ADDRESS, ZIP CODE, TELEPHONE NUMBER, AND ATTORNEY REGISTRATION LICENSE NUMBER OF ATTORNEY(S) FOR (APPELLANT) (RESPONDENT)

Your name, address, phone, and attorney ID, **and the same information for opposing counsel.**

SIGNATURE

Of course, paste in the normal signature block that you use on pleadings.

OR, IF NOT REPRESENTED BY COUNSEL:

NAME, ADDRESS, ZIP CODE AND TELEPHONE NUMBER OF (APPELLANT) (RESPONDENT)

SIGNATURE (OF APPELLANT) (OF RESPONDENT)

Dated:

Don't forget to include the date.