

**PRO PER APPLICATION FOR LEAVE TO APPEAL  
IN A CIVIL CASE TO THE MICHIGAN SUPREME COURT  
GENERAL INSTRUCTIONS**

This form is for people who want to file an application for leave to appeal in a civil case, including appeals from an administrative agency or the termination of parental rights, with the Michigan Supreme Court but do not have an attorney to assist them. The party appealing the civil case to the Supreme Court is called the "Appellant." The party opposing the appeal is the "Appellee."

This form was created by the Clerk's Office of the Michigan Supreme Court. It satisfies the formatting and structural requirements of the court rules if it is completed in accordance with the instructions. Use of the form is not required and you may create your own application so long as it conforms to the court rule requirements. The form and instructions are not intended to provide legal advice on whether you should file the application, what factual information you should include, or what issues you should raise and argue. By providing this form, the Clerk's Office is not encouraging you to act without the assistance of counsel in the Supreme Court. There are many strategic and procedural decisions that must be made during the appeal process, and an attorney's assistance could be critical to the success of your application.

**Filing Deadline** – An application for leave to appeal must be *received* by the Supreme Court within 42 days of the Court of Appeals decision in a regular civil case or within 28 days in a termination of parental rights case.

For all civil cases, the applications must be received by the Supreme Court on or before the filing deadlines. It does not matter when you became aware of the Court of Appeals decision from your attorney. No extensions for filing the application can be given even if you were not informed of the decision right away. A late-filed application will be rejected by the Clerk's Office. You should mail your application at least 1 week before the deadline to allow sufficient time for delivery.

**Pages** – Check that all the pages are included in this packet. You should have the following items:

Instructions	3 pages
Cover letter	1 page
Title page and application form	9 pages
Motion to Temporarily Waive Fees/ Affidavit of Indigency	1 page
Motion to Waive Fees/Affidavit of Indigency	1 page
Proof of Service	1 page
Notice of Filing Application	1 page

Read the form carefully. There are additional instructions on the pages themselves. Having your Court of Appeals decision and Court of Appeals brief at hand will make it easier for you when filling out the pages.

**Documents** – You can access and print the Court of Appeals decision online at [www.courts.mi.gov/courts/coa/](http://www.courts.mi.gov/courts/coa/). Under "Cases, Opinions & Orders" at the top of the screen, click on "Opinion & Order Search." It works best if the Court of Appeals case number is used for the search. If you are incarcerated and cannot access the Internet, you may be able to have a friend or relative obtain a copy of the decision for you.

The Court of Appeals briefs are not available online. If you did not receive or keep a copy of your brief, you can order it for \$ .50 per page directly from that court. You must first contact the Court of Appeals to find out the number of pages in the brief. Give the clerk your name, the Court of Appeals case number, and the name of the trial court. He or she will advise you of the total cost of the copies. Send a letter with the above information, along with a money transfer in the amount owed, explaining what you need to the Court of Appeals Clerk, P.O. Box 30022, Lansing, MI 48909 [(517) 373-0786]. Include your return address.

*If you request but do not receive the Court of Appeals decision or brief in a timely manner, complete the application form as best as you can and mail it without delay.* Explain in a letter why you did not include certain documents or did not fill in some information, and state that you will provide the documents or information as soon as you can.

**Extra pages** – Add extra pages if you need more space for an answer or if you have additional issues. If you add pages, write "continued on extra page" at the bottom of the form and write the number of the issue you are addressing at the top of the extra page. Use letter sized paper only.

**Copies** –You will need the originals and at least 2 copies of the completed form and attachments. Be sure you also have the same number of copies made of any extra pages that you are including with the application form. You must include copies of the trial court and Court of Appeals decisions with the application form but you do not need to attach copies of briefs or other documents filed in the Court of Appeals. Send the original documents to the Supreme Court and 1 copy to *each* of the

opposing parties in a civil case. Keep 1 copy of the documents for your file.

For incarcerated persons, you should check with the correctional facility on what can be copied for you and, if copied, how long it will take to get the copies back.

### **FILLING IN THE FORM**

This application form is designed for civil appeals only. If you are appealing a Court of Appeals decision involving a criminal case, you should use the application form designed for that appeal type.

**Cover Letter, page 1** – Fill in all the blanks except the Supreme Court number. The Clerk of the Court will assign a six-digit case number to your application when it is docketed. You can get the other court numbers from the Court of Appeals decision.

**Application, Title Page, page 2** – You should write your answers on scrap paper first to minimize mistakes on the application. Once you are satisfied with the answers, write them on the form as neatly as you can. You can usually get all the information you need for the Title Page from the Court of Appeals decision or the brief filed in that court.

**Application, Existing Issues, pages 3-7** – In section A, write out those issues that were raised in the Court of Appeals that you now want to raise in the Supreme Court. The Court of Appeals issues may have been in a brief prepared and filed by you or an attorney.

**IMPORTANT:** If you do not explicitly raise an issue in the Supreme Court by writing it out in the application form, it will not be addressed by the Supreme Court even if it was raised in the Court of Appeals.

Do not include issues in section A if they were not raised in the Court of Appeals. There is a section for new issues later in the application form.

In section B, check the reasons why you think the Supreme Court should consider the issue. You must check at least 1 of the choices. You may check more than 1.

In section C, you may rely on the facts and the law contained in the Court of Appeals brief. But you may also cite new case law and legal authority, and provide additional facts and legal arguments to support the issues.

There are enough pages for 5 issues. If you raise more than that number, you should attach additional pages that contain the same information as required on the application form. If you have fewer issues, leave out the

blank pages.

**Application, New Issues, pages 8-9** – On these pages, you may ask the Supreme Court to consider issues that were not raised in the Court of Appeals. Do not fill in this section unless you have new issues. In section A, write the title of the issue or the issue heading. This is just a short statement of the error that was made and why it was wrong. Make it as clear as possible. In section B, check the reasons why you think the Supreme Court should consider the issue. You must check at least 1 reason, but you may check more than 1. In section C, explain the facts and list the case law and other legal authority that show what the error was and why it should entitle you to some relief. Use simple language and write clearly and carefully to avoid mistakes. There are pages for 2 new issues. Attach additional pages if you have more than 2 new issues or if you need more space for your answers.

**Relief Requested & Signature Page, page 10** – Print and sign your name and write the date on this page. Also provide your MDOC number (if incarcerated) and mailing address.

**Attachments** – Attach copies of the trial court and Court of Appeals decisions that you are appealing to your application form. The Supreme Court will have the trial court record and all filings in the Court of Appeals when making its decision so you need not include other parts of the record. Matters outside the record will not be considered by the Supreme Court except by an order granting a motion to expand the record.

**Motion to Temporarily Waive Fees and Affidavit of Indigency, page 11 (For Incarcerated Persons)** – State law allows an indigent person who is incarcerated in a state correctional facility to file an appeal in a civil case without paying the full filing fee upfront. MCL 600.2963. The prisoner might have to make an initial partial payment, which is determined by the current balance and the average monthly deposits in and withdrawals from the prisoner's account, and must resubmit the application as an acknowledgement of responsibility to pay the full fee, which will be collected incrementally from the prisoner's account. The statute precludes the Supreme Court from granting a fee waiver in civil appeals filed by a prisoner. Moreover, the statute precludes the prisoner from filing a new civil appeal if he or she still owes fees from a prior appeal filed in the Supreme Court.

If you seek a temporary waiver of fees, you must complete the Motion to Temporarily Waive Fees and the Affidavit of Indigency. Enter your name in the caption and fill in the trial court and Court of Appeals numbers. Enter the date, print and sign your name, and provide your MDOC number. You must also provide the Supreme

Court with a Statement of Prisoner Account.

**Motion to Waive Fees and Affidavit of Indigency, page 12 (For Non-Incarcerated Persons)** – You must complete the motion to waive fees and affidavit of indigency to obtain a waiver of the filing fee. If you were granted a fee waiver by the Court of Appeals, the Supreme Court will likely grant your motion. But you must still indicate whether you are receiving some type of public assistance and, if not, you must list your income, assets, and obligations. If the Court denies your motion in whole or part, you will be notified by letter of the amount owed for the filing. The case may be administratively dismissed if the fee is not paid by the date identified in the letter.

**Proof of Service, page 13** – Check the items that you are serving on the opposing parties and fill in their mailing addresses. Enter the mailing date and sign and print your name. For incarcerated persons, the mailing date is the day that you give the application form and other documents to the appropriate prison official for mailing to the Supreme Court.

**Notice of Filing Application, page 14** – Fill in the information, and sign and date the notice. Mail 1 copy to the Court of Appeals and 1 copy to the trial court. You do not have to serve either court with the application form or other documents.

### **DOCUMENTS, ADDRESSES, AND MAILING**

In a civil case, you will need enough copies of the documents you are filing with the Supreme Court to serve the opposing attorneys (or the parties if unrepresented). You can usually get the addresses for the opposing attorneys / parties from the Court of Appeals brief or the proof of service filed in that court. Keep 1 copy of the documents for your file.

You must sign all the pages on the lines indicated but you do not need to have them notarized. Under the court rules, your signature means that you have read the application, that it is true to the best of your knowledge, information and belief, that it is based on facts and existing law or is based on a good argument for changing existing law, and that you filed the application to get the relief requested, not to harass the opposing party. MCR 2.114(D). If you sign any pleading knowing that it violates this rule, the Court may impose sanctions on you.

### **FINAL CHECK LIST**

Applications must be *received* by the Supreme Court within 42 days of the Court of Appeals decisions in civil

cases and within 28 days in appeals involving the termination of parental rights. There are no exceptions to these filing deadlines.

Make sure that you do the following:

- Complete the cover letter on page 1.
- Complete all the information required on the form for each issue being raised.
- Sign and date the application on page 10
- Attach copies of the trial court and Court of Appeals decisions. You need not attach any briefs or other documents that were filed in the trial court or Court of Appeals.
- Attach your Statement of Prisoner Account.
- For **incarcerated persons** who are requesting a temporary waiver of the filing fee, sign and date the Motion to Temporarily Waive Fees and Affidavit of Indigency on page 11. Provide a copy of your Statement of Prisoner Account.
- For **non-incarcerated persons** who are requesting a waiver of the filing fee, sign and date the Motion to Waive Fees and complete the Affidavit of Indigency on page 12.
- Complete, sign and date the Proof of Service on page 13.

Put the originals of the above documents in an envelope with prepaid first class postage that is addressed to:

Clerk's Office  
Michigan Supreme Court  
Hall of Justice  
P.O. Box 30052  
Lansing, MI 48909

Finally, complete, sign and date the Notice of Filing Application on page 14. Mail 1 copy to the Court of Appeals and 1 copy to the trial court.

## COVER LETTER

\_\_\_\_\_  
(Date of mailing to the Supreme Court)

Clerk's Office  
Michigan Supreme Court  
Hall of Justice  
P.O. Box 30052  
Lansing, MI 48909

\_\_\_\_\_ v \_\_\_\_\_  
(Print case title from Court of Appeals order or opinion)

Supreme Court No. \_\_\_\_\_ (Leave blank – the Clerk will assign a docket number.)  
Court of Appeals No. \_\_\_\_\_ (Get this number from the Court of Appeals decision.)  
Trial Court No. \_\_\_\_\_ (Get this number from the Court of Appeals decision or a trial court document.)

Dear Clerk:

Enclosed please find the originals of the documents checked below. (Put a check mark in the boxes of the documents you are sending.)

- Application for Leave to Appeal
- Copy of Trial Court decision being appealed
- Copy of Court of Appeals decision being appealed
- Statement of Prisoner Account (if incarcerated)
- Motion to Temporarily Waive Fees / Affidavit of Indigency (if incarcerated)
- Motion to Waive Fees / Affidavit of Indigency (if not incarcerated)
- Proof of Service
- Other \_\_\_\_\_

*\*\*\*You do not have to provide any briefs or other documents filed in the trial court or Court of Appeals\*\*\**

\_\_\_\_\_  
(Sign your name)

\_\_\_\_\_  
(Print your name and, if incarcerated, your MDOC number)

\_\_\_\_\_  
(Print name of correctional facility, if incarcerated)

\_\_\_\_\_  
(Print your address or address of correctional facility)

Copy/Copies sent to:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

### INSTRUCTIONS

- 1.** You will need multiple copies and the original of this letter and the pleadings listed above.
- 2.** Mail the originals of this letter and the pleadings to the Supreme Court Clerk.
- 3.** Mail copies of this letter and the pleadings to the opposing attorneys (or parties if unrepresented).
- 4.** Keep 1 copy of this letter and the pleadings for your file.

## TITLE PAGE

**INSTRUCTIONS: This application is for use in *civil* cases only.** If you are appealing a Court of Appeals decision involving a criminal action, use the form designed for that appeal type. Answer each question completely and add more pages if necessary.

### IN THE MICHIGAN SUPREME COURT PRO PER CIVIL APPLICATION FOR LEAVE TO APPEAL

I am appealing a Court of Appeals decision that, in whole or part, either affirmed the trial court decision or denied my leave application or original action.

My name is: \_\_\_\_\_

My lawsuit is against the following party or parties: \_\_\_\_\_  
\_\_\_\_\_

Docket number of Court of Appeals case: \_\_\_\_\_

Date of Court of Appeals opinion or order being appealed: \_\_\_\_\_

Docket number of trial court case: \_\_\_\_\_

I am not incarcerated in a Michigan, federal, or other state correctional facility.

I am currently incarcerated at \_\_\_\_\_ in \_\_\_\_\_  
(Print name of correctional facility) (Print name of city and state)

There are pending or prior appeals in the Court of Appeals or the Supreme Court that arose out of the same transaction or lower court case, or between the same parties.  Yes  No

If Yes, specify the case name, lower court number(s), and Court of Appeals number(s):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**FILING DEADLINE:** This application must be mailed with sufficient time to be *received* by the Supreme Court within 42 days of the Court of Appeals decision in a civil case or within 28 days of the Court of Appeals decision in an appeal involving the termination of parental rights. Late applications will not be accepted by the Supreme Court in civil cases under any circumstances.















## RELIEF REQUESTED

9. For the above reasons I request that the Supreme Court grant my application for leave to appeal or order any other relief that it decides I am entitled to receive.

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Sign your name)

\_\_\_\_\_  
(Print your name and, if incarcerated, your MDOC number)

\_\_\_\_\_  
(Print the name of the correctional facility if incarcerated)

\_\_\_\_\_  
(Print your address or address of the correctional facility)

**After this page, you should attach copies of the trial court and Court of Appeals decisions being appealed and any other required documents.**

**IN THE MICHIGAN SUPREME COURT**

\_\_\_\_\_, Appellant Court of Appeals No. \_\_\_\_\_  
(Print your name)

**MOTION TO TEMPORARILY WAIVE FEES  
(FOR USE BY AN APPELLANT WHO IS INCARCERATED)**

Pursuant to MCR 7.319(C) and MCL 600.2963, for the reasons stated in the attached affidavit of indigency, I request that this Court temporarily waive the full payment of the filing fee for the attached pleading and determine an initial partial payment amount. I acknowledge my responsibility to pay the full amount of the filing fee and understand that the Michigan Department of Corrections will collect the remaining fee as additional money becomes available in my prison account and will pay it to this Court at a later date, in accordance with MCL 600.2963. If the Court does not allow this, I will be unable to file the attached pleading in a timely manner.

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Sign your name)

\_\_\_\_\_  
(Print your name and MDOC number)

**AFFIDAVIT OF INDIGENCY**

My name is \_\_\_\_\_ and my MDOC number is \_\_\_\_\_.

I am in prison at \_\_\_\_\_ in \_\_\_\_\_.  
(Name of correctional facility) (City and state)

My income and assets are: (Check the boxes that apply to you.)

- My only source of income is from my prison job and I make \$\_\_\_\_\_ per day.
- I have no income.
- I have no assets that can be converted to cash.
- I cannot pay the full filing fees for the attached application.

I have enclosed a copy of my Statement of Prisoner Account.

I declare that the statements above are true to the best of my knowledge, information and belief.

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Sign your name.)

\_\_\_\_\_  
(Print your name and MDOC number)

\_\_\_\_\_  
(Print the name of the correctional facility)

\_\_\_\_\_  
(Print the address of the correctional facility)

**IN THE MICHIGAN SUPREME COURT**

\_\_\_\_\_, Appellant Court of Appeals No. \_\_\_\_\_  
(Print your name)

**MOTION TO WAIVE FEES  
(FOR USE BY AN APPELLANT WHO IS NOT INCARCERATED)**

I request that the Michigan Supreme Court waive the filing fees for this case because I cannot afford to pay them, as established by my affidavit of indigency (below).

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Sign your name)

\_\_\_\_\_  
(Print your name)

**AFFIDAVIT OF INDIGENCY**

- 1. The Court of Appeals granted my motion to waive fees in that court.  Yes  No  Not Applicable
- 2. I am currently receiving public assistance.  Yes  No

If Yes, state the type of assistance and identify the government agency that provides it:

\_\_\_\_\_  
\_\_\_\_\_

If No, provide the information requested below:

Average monthly income from all sources: \_\_\_\_\_

Assets (specify value of home and other real estate, car, bank deposits, cash, bonds, stocks, etc.):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Obligations (specify amount of monthly rent or mortgage, child support, installment payments, etc.):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Marital status and number of dependents: \_\_\_\_\_

I declare that the statements above are true to the best of my knowledge, information and belief.

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Sign your name.)

\_\_\_\_\_  
(Print your name)

\_\_\_\_\_  
(Print your address)

\_\_\_\_\_  
\_\_\_\_\_

**IN THE MICHIGAN SUPREME COURT**

\_\_\_\_\_, Appellant Court of Appeals No. \_\_\_\_\_

**PROOF OF SERVICE**

(Fill out a separate copy of this form for each appellee being served)

On \_\_\_\_\_, 20\_\_\_\_, I mailed by U.S. mail 1 copy of the documents checked below:

- Application for Leave to Appeal
- Copy of Trial Court decision being appealed
- Copy of Court of Appeals decision being appealed
- Statement of Prisoner Account (if incarcerated)
- Motion to Temporarily Waive Fees / Affidavit of Indigency (if incarcerated)
- Motion to Waive Fees / Affidavit of Indigency (if not incarcerated)
- Proof of Service
- Other: \_\_\_\_\_

\*\*\*You do not have to provide any briefs or other documents filed in the trial court or Court of Appeals\*\*\*

TO: \_\_\_\_\_ at  
(Name of appellee) (Street address)

\_\_\_\_\_  
(City) (State) (Zip Code)

I declare that the statements above are true to the best of my knowledge, information and belief.

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Sign your name)

\_\_\_\_\_  
(Print your name and, if incarcerated, your MDOC number)

\_\_\_\_\_  
(Print name of correctional facility if incarcerated)

\_\_\_\_\_  
(Print your address or address of correctional facility)

**NOTICE OF FILING APPLICATION  
IN THE MICHIGAN SUPREME COURT**

(Mail 1 copy of this notice to the Court of Appeals and 1 copy to the trial court)

\_\_\_\_\_  
(Today's Date)

Michigan Court of Appeals  
Clerk's Office  
Hall of Justice  
P.O. Box 30022  
Lansing, MI 48909

\_\_\_\_\_ (Name of Trial Court)  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ (Address of Trial Court)

\_\_\_\_\_ v \_\_\_\_\_  
(Print case title from Court of Appeals order or opinion)

Court of Appeals No. \_\_\_\_\_  
(Get this number from the Court of Appeals decision)

Trial Court No. \_\_\_\_\_  
(Get this number from the Court of Appeals brief or a trial court document)

Dear Clerk:

On this date I have filed an application for leave to appeal with the Michigan Supreme Court in the above-captioned matter.

\_\_\_\_\_  
(Sign your name)

\_\_\_\_\_  
(Print your name and, if incarcerated, your MDOC number)

\_\_\_\_\_  
(Print name of the correctional facility if incarcerated)

\_\_\_\_\_  
(Print your address or address of the correctional facility)