



State of New York
Supreme Court, Appellate Division
Third Judicial Department
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Sean M. Morton
Deputy Clerk

March 5, 2019

****VIA EMAIL & REGULAR MAIL****

Elena Sassower
10 Stewart Place, Apt. 2D-E
White Plains, NY 10603
elena@judgewatch.org

Re: Request of March 4, 2019 Pursuant to FOIL

Ms. Sassower:

This will acknowledge receipt of your email dated March 4, 2019 requesting a copy of the "written authorization" promulgated by this Court pursuant to CPLR 2219 (b). Your attention is directed to Rules of the Appellate Division, Third Department (22 NYCRR) § 850.16 (a), effective September 17, 2018, and its predecessor regulation, Rules of the Appellate Division, Third Department (22 NYCRR) former § 800.22. For your convenience, copies of both such provisions are attached.

Please direct any further inquiries or requests to my attention.

Very truly yours,

Sean M. Morton, Esq.
Deputy Clerk of the Court

EX A-2

Compilation of Codes, Rules and Regulations of the State of New York Currentness
Title 22. Judiciary
Subtitle B. Courts.
Chapter IV. Supreme Court
Subchapter C. Third Judicial Department
Article 1. Appellate Division
Subarticle D. Orders.
Part 850. Rules of Practice (Refs & Annos)

22 NYCRR 850.16

Section 850.16. Decisions, orders and judgments; costs; remittitur;
motions for reargument or leave to appeal to the Court of Appeals

Editorial Note: This rule was updated pursuant to court order dated June 29, 2018.

(a) The orders, judgments, appointments, assignments and directions of the court shall be signed by the presiding justice, the clerk of the court or a deputy clerk of the court.

(b) Costs in workers' compensation, unemployment insurance appeals and proceedings commenced in this court shall be taxed by the clerk in accordance with CPLR 8403.

Credits

Sec. eff. Sept. 17, 2018.

Current with amendments included in the New York State Register, Volume XXLI, Issue 9 dated February 27, 2019.
Court rules under Title 22 may be more current.

22 NYCRR 850.16, 22 NY ADC 850.16

(g) **Remittitur.** Upon entry of the order on the court's decision, the record on appeal shall be remitted to the attorney general with a copy of the order for filing with the Workers' Compensation Board.

Cross References

CPLR, see McKinney's Book 7B.

Workers' Compensation Law, see McKinney's Book 6L.

§ 800.19. Transferred Proceedings

An article 78 proceeding transferred to this court pursuant to CPLR 7804(g), and an appeal transferred from another department pursuant to CPLR 5711, may be prosecuted in any manner authorized by section 800.4 of this Part. Unless otherwise ordered by the court, the rules governing the content, number and form of records, briefs and appendices shall apply, except that petitioner or appellant shall serve and file the required papers within 60 days after the entry of the order of transfer.

Cross References

CPLR, see McKinney's Book 7B.

§ 800.20. State Human Rights Matters

(a) **Appeals.** An appeal from an order or judgment of the Supreme Court determining a proceeding pursuant to section 298 of the Executive Law shall be prosecuted upon a record consisting of the original papers and the record before the State Division of Human Rights together with seven copies of appellant's brief and appendix, with proof of service of one copy upon each respondent. Appellant's appendix shall contain at least the notice of appeal, the order or judgment appealed from, the decision of the court below and the determination and order of the State Division of Human Rights. Each respondent shall file seven copies of a brief with proof of service of one copy upon appellant. Briefs and appendices shall comply with and be filed within the time specified by sections 800.8 and 800.9 of this Part.

(b) **Transferred Proceedings.** A proceeding transferred to this court for disposition pursuant to section 298 of the Executive Law may be prosecuted upon a single copy of the record on review which shall consist of the notice of petition and petition, answer, reply, if any, the original record and transcript of the public hearing held before the State Division of Human Rights and the division's determination and order. Petitioner shall file seven copies of a brief and appendix, with proof of service of one copy upon each named respondent. Each respondent shall file seven copies of a brief or brief and appendix with proof of service of one copy upon petitioner. Briefs and appendices shall comply with and be filed within the time specified by sections 800.8 and 800.19 of this Part. Unless the court directs otherwise, the division shall file the original record and transcript of public hearing within 45 days of entry of the order of transfer.

Cross References

Executive Law, see McKinney's Book 1S.

§ 800.21. Action on Submitted Facts

An original agreed statement of facts in an action submitted to this court pursuant to CPLR 3222 shall be filed in the office of the county clerk, and a copy shall be appended to appellant's brief as a joint appendix. A statement required by CPLR 5531 shall be prefixed thereto. Briefs shall be served and filed in the manner and in accordance with the time requirements prescribed by sections 800.9 and 800.11 of this Part for appeals.

Cross References

CPLR, see McKinney's Book 7B.

Forms

Action on submitted facts, see West's McKinney's Forms, CPLR, §§ 1-116 to 1-121.

Statement pursuant to CPLR 5531, see West's McKinney's Forms, CPLR, § 9-106.

§ 800.22. Orders; Costs

The orders, appointments, assignments and directions of the court shall be signed by the presiding justice or the clerk of the court. Costs in workers' compensation and unemployment insurance appeals shall be taxed by the clerk in accordance with CPLR 8403.

Cross References

CPLR, see McKinney's Book 7B.

§ 800.23. Fees of the Clerk of the Court

(a) **Fee on Civil Appeals and Proceedings.** In accordance with CPLR 8022, the clerk of the court is directed to charge and is entitled to receive a fee of three hundred fifteen dollars, payable in advance, upon the filing of a record on a civil appeal or statement in lieu of record on a civil appeal, or upon the filing of a notice of petition or order to show cause commencing a special proceeding. The fee shall be paid by check or money order and payment in full shall accompany the record on appeal, statement in lieu of record, notice of petition or order to show cause. A civil appeal or special proceeding shall not be scheduled for argument or submission until the fee is received and the clerk may return a document not accompanied by the fee. The clerk shall not charge or receive a fee from: (1) the State, or any agency or officer thereof, or any party or governmental entity specifically exempted by law from the payment of such fee; (2) any party who by statute, rule or order of the court has been authorized to proceed as a poor person; or (3) a claimant upon an appeal from a decision of the Unemployment Insurance Appeal Board.

(b) **Fee on Motions and Cross Motions.** In accordance with CPLR 8022, the clerk of the court is also entitled, upon the filing of each motion or cross

motion with respect to a proceeding, to a fee in advance. No fee shall be charged for a cross motion filed by a person pursuant to

(c) **Other Fees.** § 265, the clerk of the court is entitled to receive a fee on behalf of the State

(1) For a large admission as an attorney, one hundred dollars.

(2) For a printed good standing certificate, one dollar; for a printed certificate of standing as a counsellor at law, five dollars.

CPLR, see McKinney's Book 7B.

§ 800.21-a. Preliminary Appeals

(a) In every case where a writ is filed or an order is made, except in appeals from Election Law and Family Court proceedings, neglect, juvenile delinquency, supervision, appeal from an Insurance Appeal Board, and (subd. 3) of the Code of Criminal Procedure, together with the fee for filing leave to appeal.

(b) The preliminary fee must set forth:

(1) The title of the case and the date of entry of the order or judgment appealed from.

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