

Appellate Duties of Trial Counsel in TPR Cases

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October 17, 2014

Accelerated TPR timelines (Wis. Stat § 809.107)

(See Attachment A, Detailed Time Table from the Appellate Handbook, Appendix 1.b)

- After you have an Order terminating your client's parental rights (Do the following **in bold**).

File a notice of intent (NOI) within 30 days (See Attachment B)

- See 809.107 (2)(bm) for who and what to serve
- If other parent is represented, send to counsel for that parent
- Any guardian or custodian (ex. Dept. of Human Services)

If you miss the deadline, you need to do the following:

- File an extension of time motion to file the NOI (in the court of appeals) (See Attachment C)
- File the NOI with the trial court the same day if possible

*If you have to mail it to the trial court state in the ext motion and ask for a week or so for deadline

***IMPORTANT* In privately filed TPRs, there are NO EXTENSIONS of time for filing the NOI or NOA**

After you file the NOI:

- 5 days for clerk to send materials to SPD, or appellant, or appellant's counsel
- 15 days for SPD to appoint an attorney and request court record and transcripts
- 30 days for court record and transcripts to get to appellate attorney
- 30 days to file a notice of appeal (NOA) (different from the notice of intent)

After the NOA is filed by the appellate attorney:

- 15 days for the record to be filed
 - 15 days to file a no-merit report
 - 10 days for client to respond
 - 10 days to file supplemental no-merit report
 - 15 days to file a brief-in-chief
 - 10 days for petitioner's response brief
 - 10 days for appellant reply brief
- 15 days to file a motion for remand (if grounds for appeal requires postjudgment fact-finding (ex. IAC))
 - If COA grants motion, it will set time limits in an order
- 30 days for Court of Appeals opinion
- 30 days to file a Petition for Review in the WI Supreme Court (cannot be extended)

Fill out appellate questionnaire and send the file to the appellate attorney
(CHIPS file, work product, medical/psychological records, reports, depositions, transcripts, etc.)

For reimbursement: www.wisspd.org

- SPD Divisions Tab → Assigned Counsel Division → ACD Forms and Documents
- "Client File Copying and Delivery Reimbursement Form" (See Attachment D)

Obtain and provide appellate attorney with updated contact information for client

RESOURCES

- On Point: <http://www.wisconsinappeals.net/> - search by topic - subscribe
 - o Access PDF of Appellate Practice and Procedure Manual for SPD-Appointed Counsel
- Or Call: Madison Appellate: (608) 266-3440 or Milwaukee Appellate: (414) 227-4805

TPR Appellate Time Table

Termination of parental rights cases are appealed under 809.107.

<u>BETWEEN</u>	<u>AND</u>	<u>TIME</u>
Filing of the dispositional order or other final, appealable order	Filing of the notice of intent to pursue postdisposition or appellate relief (NOI) * Note that where the petitioner was a private party, no extensions of this deadline are permitted. *	30 days 809.107(2)(bm)
Filing of NOI	Clerk of court's transmission of the NOI, judgment, and court reporter list to SPD Intake, or to unrepresented person or retained counsel	5 days 809.107(3)
SPD's receipt of materials from Clerk of Court	SPD's appointment of counsel and request for transcripts and court record	15 days 809.107(4)(a)
Filing of NOI	Retained counsel or unrepresented person's request for transcripts and court record	15 days or 30 days (if denied SPD representation) 809.107(4)(b)
Request for transcripts and court record	Service of transcripts and court record on appellant or counsel	30 days 809.107(4m)
Service of later of: last transcript or court record	Filing of notice of appeal * Note that where the petitioner was a private party, no extensions of this deadline are permitted. *	30 days (plus 3 days for mailed service) 809.107(5)(a); 801.15(5)
Service of later of: last transcript or court record	Service of notice of abandonment of appeal on other parties	30 days (plus 3 days for mailed service) 809.107(5)(am); 801.15(5)
Filing of notice of appeal	Filing of statement on transcript and arranging for service of transcripts on other parties	5 days 809.107(5)(c); 809.107(5)(d)
Filing of notice of appeal	Transmission of record from circuit court to court of appeals (COA)	15 days 809.107
Filing of record in COA	Filing of motion for remand for post-judgment fact finding	15 days 809.107(6)(a); 809.107(6)(am)
Entry of circuit court order determining motion upon remand	Return of record from circuit court to COA	Varies – set by court of appeals in order remanding the case.

Appendix 1.b.

Filing of record or return of record to COA	Filing of appellant's brief	15 days 809.107(6)(a)
Filing of appellant's brief	Filing of respondent's brief	10 days after service of the appellant's brief (plus 3 days for mailed service) 809.107(6)(b); 801.15(5)
Filing of respondent's brief	Filing of reply brief	10 days after service of the respondent's brief (plus 3 days for mailed service) 809.107(6)(c); 801.15(5)
Filing of reply brief	COA decision	30 days 809.107(6)(e)
COA decision	Filing of petition for review * Note that no motion for reconsideration is permitted * * Also note that no extensions of this deadline are permitted *	30 days 809.107(6)(f)
Filing of petition for review	Filing of response to petition for review	14 days (plus 3 days for mailed service) 809.62(3) 801.15(5)

STATE OF WISCONSIN CIRCUIT COURT _____ COUNTY

IN THE INTEREST OF:

Case No. _____

A Child(ren) Under the Age of 18

NOTICE OF INTENT TO PURSUE POSTDISPOSTION RELIEF

The respondent, _____, gives notice that he/she intends to seek postdisposition relief from the order terminating parental rights entered on _____, [month, day, year] in the Circuit Court for _____ County, the Honorable _____, presiding.

[STRIKE ONE OF THE FOLLOWING TWO PARAGRAPHS:]

The respondent's trial counsel was appointed by the State Public Defender and his/her financial circumstances have not materially improved since the date his/her eligibility was determined.

The respondent's trial counsel was not appointed by the State Public Defender, but the respondent now believes that he/she is eligible and asks the State Public Defender to appoint counsel to represent him/her in seeking post-termination relief.

Name of Trial Counsel: _____

Address of Trial Counsel: _____

Address of Respondent: _____

Date

Attorney for Respondent

cc: Clerk of Circuit Court
Guardian ad Litem
Corporation Counsel/Opposing Counsel
Department of Social/Human Services
Attorney for other Parent

STATE OF WISCONSIN
C O U R T O F A P P E A L S
DISTRICT ____

IN THE INTEREST OF:

_____ County
Case No. _____

A Child(ren) Under the Age of 18

MOTION FOR AN EXTENSION OF TIME FOR FILING
A NOTICE OF INTENT TO SEEK POSTDISPOSITION RELIEF

The respondent, _____, moves the court pursuant to Rule 809.82(2), Rules of Appellate Procedure, to extend the time for filing [his][her] Notice of Intent to Pursue Postdisposition Relief.

The following is shown to the court in support of this motion:

1. On _____, [month, day, year] the Honorable _____, presiding, entered an order terminating _____'s parental rights to _____.

2. A Notice of Intent to Pursue Postdisposition Relief [was filed on _____] [is being/was mailed to the trial court on the date that this motion is sent to this court]. The Notice of Intent was not filed within thirty days after entry of the judgment for the following reasons:

The court is requested to find that these circumstances constitute good cause within the meaning of Rule 809.82(2) and to enter an order extending the time for filing the Notice of Intent to Pursue Postdisposition Relief until _____.

Dated _____.

Respectfully submitted,

Attorney for Respondent

Address

cc: Clerk of Circuit Court
Guardian ad Litem
Corporation Counsel/Opposing Counsel
SPD Appellate Intake Unit

Client File Copying and Delivery Expense Reimbursement

Attorney		Total for copying
SBID #		\$
Client		Total for delivery
SPD File No.		\$

I hereby certify that copying and delivery of the client file identified above was necessary because:

The case is concluded and the client has requested his/her file and/or is entitled to a copy of the file under sec. 809.32 Wis. Stats. and I have not previously provided a copy to the client.

OR

Successor counsel requested the file.

For in-office copying:

I certify that the number of pages copied was _____ and I am requesting reimbursement for the copying costs.

Signature Date

In-office copying is allowed and will be reimbursed at \$.10/page. If an outside copying/printing service is used, a copy of a receipt must be attached. A receipt for the delivery costs must be attached. For reimbursement for delivery of files to clients, a copy of the delivery envelope showing the client's name and address must be attached. Attorneys may fax this form and attachments. If you have previously provided a copy of the file to the client, you must contact the Assigned Counsel Division for approval if you are seeking reimbursement.

Submit the completed Reimbursement Form and receipts to:

Wisconsin State Public Defender
Fiscal Unit
PO Box 7923
Madison, WI 53707-7923
Fax: (608) 267-0584