

FILING A PETITION FOR JUDICIAL REVIEW IN AN UNEMPLOYMENT CASE

WHERE TO FILE: The law requires that you file the petition in the superior court of the **county in which you were last employed**. If the employer's main office is in another city and you worked at a local office, file your petition in the county where you last worked.

WHEN TO FILE: The decision of the Board of Review of the Georgia Department of Labor has the deadline listed after the words "Judicial Review rights expire: ." Your petition for judicial review must be **filed** in the superior court clerk's office by the date given. No faxes are accepted. The law does not allow for filing later than this deadline except where your judicial review rights expire on a weekend or state holiday. Then you must file the next business day. The case is filed in the Superior Court Clerk's office.

INSTRUCTIONS FOR COMPLETING THE PETITION: There are two respondents in the case, the Commissioner of the Department of Labor, and your employer. The court will assign the civil action number when you file the petition. Fill in all other blanks on the petition, circling one when options are given. If you did not file a motion for reconsideration with the Board of Review, cross through that line in paragraph 9. You are not required to file a motion for reconsideration before proceeding to court. The decision of the Board of Review is a final agency decision that may be appealed. At the end, be sure to include your mailing address and phone number so that the court can notify you of hearings or rulings by the court.

As the petition states, no filing fee may be charged in this case. In other types of appeals, the courts may charge a filing fee. You will need to tell the clerk that O.C.G.A. § 34-8-251 says that no agency or court may charge a fee in connection with a claim for unemployment benefits. If the clerk will not help you and says that you have to file a "pauper's affidavit" or pay a filing fee, ask the clerk to call the Department of Labor legal department at (404) 232-3310 and ask to speak to one of the attorneys there.

WHAT TO FILE: After you complete the documents, take the original to the Superior Court clerk's office in the county in which you are filing. File the originals and tell the clerk that the only SERVICE required for these cases is that the Commissioner of the Georgia Department of Labor be served with **TWO** copies.

SERVING THE PETITION ON THE RESPONDENTS: **No service on the employer is required** because the law provides that the Commissioner will serve the employer. Get all copies stamped with the filing date. You can either arrange for personal service of two copies on the Commissioner of the Department of Labor, or can send two copies of the petition to the Department of Labor's legal department, along with the Acknowledgment of Service form included in this packet. You should also include a self-addressed envelope so that the legal department can easily send the Acknowledgment of Service back to you. The address is: Brock C. Timmons, Esq., Georgia Department of Labor, Suite 826, 148 Andrew Young International Blvd., NE, Atlanta, 30303-1751.

After you receive the Acknowledgment of Service from the DOL legal department, make one copy. File the original at the Superior Court Clerk's office. The Acknowledgment shows the court that the Respondents have been served. Keep the other copy for your records.

AFTER YOU FILE: The Commissioner is required to file a copy of the entire administrative record in your case with the court within thirty (30) days from the date of service upon the Commissioner. The Commissioner will send a copy of the record to you at the mailing address given on your petition. After the record is filed, it will be up to you to get the case heard. It is best if you have legal counsel to prepare a legal argument, or brief, on your behalf. If that is not possible, you should try to write a legal argument for the court's consideration. The court has to base its decision on the record from the agency below and on the arguments presented to the court. Generally, the court is not allowed to make new factual findings or consider new evidence. The court should decide whether the agency committed legal error in its decision.

IN THE SUPERIOR COURT OF CHEROKEE COUNTY

STATE OF GEORGIA

_____,'	:	
	:	
Petitioner (your name),	:	
	:	
v.	:	Civil Action
	:	
MARK BUTLER, Commissioner	:	File No.
of Georgia Department of Labor,	:	
and	:	
_____,'	:	
(Employer)	:	
	:	
Respondents.	:	

PETITION FOR JUDICIAL REVIEW

Comes now _____, petitioner in the above-styled case and respectfully shows the court the following:

1.

This action is brought by petitioner pursuant to O.C.G.A. ' 34-8-223, and concerns the denial of unemployment compensation benefits to petitioner. Petitioner shows the court that no filing fee or other charges may be charged by the court or any officer thereof in connection with this proceeding, pursuant to O.C.G.A. ' 34-8-251.

2.

Petitioner is a resident of _____ County, and was last employed by _____ in _____ County,

Georgia.

3.

Respondent MARK BUTLER is the Commissioner of the Department of Labor, an agency of the State of Georgia.

4.

Respondent Employer _____ is located in _____ County, Georgia.

5.

Petitioner was employed by _____ from _____ to _____, when s/he became separated from that employment. S/He then filed a claim for unemployment compensation benefits.

6.

A claims examiner at the Georgia Department of Labor determined that petitioner was/was not (circle one) eligible to receive unemployment benefits.

7.

Petitioner/Employer (circle one) appealed the claims examiner's decision and requested a hearing before an administrative hearing officer.

8.

The hearing was held on _____, and the claimant was

unrepresented by counsel. A decision was later issued by the hearing officer, affirming/reversing (circle one) the claims examiner's decision.

9.

The claimant appealed, this time to the Board of Review of the Georgia Department of Labor. The Board issued a decision affirming the hearing officer's decision on _____, 20__.

Claimant then filed a Motion for Reconsideration before the Board, which also resulted in an affirmance.

10.

The decision of the Board of Review is the final decision of the Department of Labor. Petitioner now files this timely Petition for Judicial Review.

11.

The decision appealed from is invalid in that:

- (a) It is not supported by evidence; and
- (b) It is contrary to statutory, constitutional, and other law.

WHEREFORE, Petitioner prays:

- (a) That service of both Respondents be made to the Commissioner of Labor pursuant to O.C.G.A. ' 34-8-223;
- (b) That the court set up a briefing schedule and put this

case on a motion calendar for oral arguments;

(c) That this court review and reverse the decision of the Board of Review, or remand it to the agency as it deems appropriate; and

(d) That this Court grant such other and further relief as it deems equitable and just.

Respectfully submitted,

Petitioner

Petitioner's address:

Petitioner's phone number:

IN THE SUPERIOR COURT OF CHEROKEE COUNTY

STATE OF GEORGIA

_____,
Petitioner,

v. Civil Action

MARK BUTLER, Commissioner : File No. _____
of Georgia Department of Labor, and:

Respondents.

Acknowledgment of Service

Respondent MARK BUTLER, Commissioner of Georgia Department of Labor, hereby acknowledges service of two copies of the Petition for Judicial Review in the above-styled case and, as provided in O.C.G.A. § 34-8-223(b), notifies the court that such service on the Commissioner "shall be deemed completed service on all parties." As required by that section, the Commissioner has mailed a copy of the petition to the Respondent employer in this case, _____. No further service of process is required upon the Respondents in this case.

This the _____ day of _____, 20____.

MARK BUTLER or his designee

Sworn to and subscribed to before
me this _____ day of _____, 20____.

Notary Public, State of Georgia