

This new Rule 48 authorizes a court of appeals to appoint a special master to make recommendations concerning ancillary matters. The courts of appeals have long used masters in contempt proceedings where the issue is compliance with an enforcement order. See Polish National Alliance v. NLRB, 159 F.2d 38 (7th Cir. 1946); NLRB v. Arcade-Sunshine Co., 132 F.2d 8 (D.C. Cir. 1942); NLRB v. Remington Rand, Inc., 130 F.2d 919 (2d Cir. 1942). There are other instances when the question before a court of appeals requires a factual determination. An application for fees or eligibility for Criminal Justice Act status on appeal are examples.

Ordinarily when a factual issue is unresolved, a court of appeals remands the case to the district court or agency that originally heard the case. It is not the Committee's intent to alter that practice. However, when factual issues arise in the first instance in the court of appeals, such as fees for representation on appeal, it would be useful to have authority to refer such determinations to a master for a recommendation.

COMMITTEE NOTES ON RULES—1998 AMENDMENT

The language and organization of the rule are amended to make the rule more easily understood. In addition to changes made to improve the understanding, the Advisory Committee has changed language to make style and terminology consistent throughout the appellate rules. These changes are intended to be stylistic only.

APPENDIX OF FORMS

Form 1. Notice of Appeal to a Court of Appeals From a Judgment or Order of a District Court

United States District Court for the _____ District of _____

File Number _____

A.B., Plaintiff
v.
C. D., Defendant } Notice of Appeal

Notice is hereby given that _____ (here name all parties taking the appeal) _____, (plaintiffs) (defendants) in the above named case,* hereby appeal to the United States Court of Appeals for the _____ Circuit (from the final judgment) (from an order (describing it)) entered in this action on the _____ day of _____, 20__.

(s) _____
Attorney for _____
Address: _____

* See Rule 3(c) for permissible ways of identifying appellants.

(As amended Apr. 22, 1993, eff. Dec. 1, 1993; Mar. 27, 2003, eff. Dec. 1, 2003.)

Form 2. Notice of Appeal to a Court of Appeals From a Decision of the United States Tax Court

UNITED STATES TAX COURT

Washington, D.C.

A.B., Petitioner
v.
Commissioner of Internal Revenue, Respondent } Docket No. _____

Notice of Appeal

Notice is hereby given that _____ (here name all parties taking the appeal)* _____ hereby appeal to the United States Court of Appeals for the _____ Circuit from (that part of) the decision of this court entered in the above captioned proceeding on the _____ day of _____, 20__ (relating to _____).

(s) _____
Counsel for _____
Address: _____

* See Rule 3(c) for permissible ways of identifying appellants.

(As amended Apr. 22, 1993, eff. Dec. 1, 1993; Mar. 27, 2003, eff. Dec. 1, 2003.)

Form 3. Petition for Review of Order of an Agency, Board, Commission or Officer

United States Court of Appeals for the _____ Circuit

A.B., Petitioner
v.
XYZ Commission, Respondent } Petition for Review

_____ (here name all parties bringing the petition)* _____ hereby petition the court for review of the Order of the XYZ Commission (describe the order) entered on _____, 20__.

(s) _____
Attorney for Petitioners
Address: _____

* See Rule 15.

(As amended Apr. 22, 1993, eff. Dec. 1, 1993; Mar. 27, 2003, eff. Dec. 1, 2003.)

Form 4. Affidavit Accompanying Motion for Permission to Appeal In Forma Pauperis

Form 4
Affidavit Accompanying Motion for
Permission to Appeal In Forma Pauperis

United States District Court for the _____ District of _____

A.B., Plaintiff

v.

Case No. _____

C.D., Defendant

Affidavit in Support of Motion	Instructions
I swear or affirm under penalty of perjury that, because of my poverty, I cannot prepay the docket fees of my appeal or post a bond for them. I believe I am entitled to redress. I swear or affirm under penalty of perjury under United States laws that my answers on this form are true and correct. (28 U.S.C. § 1746; 18 U.S.C § 1621.) Signed: _____	Complete all questions in this application and then sign it. Do not leave any blanks: if the answer to a question is "0," "none," or "not applicable (N/A)," write in that response. If you need more space to answer a question or to explain your answer, attach a separate sheet of paper identified with your name, your case's docket number, and the question number. Date: _____

My issues on appeal are:

1. For both you and your spouse estimate the average amount of money received from each of the following sources during the past 12 months. Adjust any amount that was received weekly, biweekly, quarterly, semiannually, or annually to show the monthly rate. Use gross amounts, that is, amounts before any deductions for taxes or otherwise.

Income source	Average monthly amount during the past 12 months	Amount expected next month
	You	You
Employment	\$ _____	\$ _____
Self-employment	\$ _____	\$ _____
Income from real property (such as rental income)	\$ _____	\$ _____
Interest and dividends	\$ _____	\$ _____
Gifts	\$ _____	\$ _____
Alimony	\$ _____	\$ _____
Child support	\$ _____	\$ _____
Retirement (such as social security, pensions, annuities, insurance)	\$ _____	\$ _____
Disability (such as social security, insurance payments)	\$ _____	\$ _____
Unemployment payments	\$ _____	\$ _____
Public-assistance (such as welfare)	\$ _____	\$ _____
Other (specify): _____	\$ _____	\$ _____
Total monthly income:	\$ _____	\$ _____

2. List your employment history, most recent employer first. (Gross monthly pay is before taxes or other deductions.)

Employer	Address	Dates of employment	Gross monthly pay
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

3. List your spouse's employment history, most recent employer first. (Gross monthly pay is before taxes or other deductions.)

Employer	Address	Dates of employment	Gross monthly pay
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

4. How much cash do you and your spouse have? \$ _____
Below, state any money you or your spouse have in bank accounts or in any other financial institution.

Financial institution	Type of account	Amount you have	Amount your spouse has
_____	_____	\$ _____	\$ _____
_____	_____	\$ _____	\$ _____
_____	_____	\$ _____	\$ _____

If you are a prisoner, you must attach a statement certified by the appropriate institutional officer showing all receipts, expenditures, and balances during the last six months in your institutional accounts. If you have multiple accounts, perhaps because you have been in multiple institutions, attach one certified statement of each account.

5. List the assets, and their values, which you own or your spouse owns. Do not list clothing and ordinary household furnishings.

Home	(Value)	Other real estate	(Value)	Motor vehicle #1	(Value)
_____	_____	_____	_____	Make & year: _____	
_____	_____	_____	_____	Model: _____	
_____	_____	_____	_____	Registration #: _____	
Motor vehicle #2	(Value)	Other assets	(Value)	Other assets	(Value)
_____	_____	_____	_____	Make & year: _____	
_____	_____	_____	_____	Model: _____	
_____	_____	_____	_____	Registration #: _____	

6. State every person, business, or organization owing you or your spouse money, and the amount owed.

Person owing you or your spouse money	Amount owed to you	Amount owed to your spouse
_____	_____	_____
_____	_____	_____
_____	_____	_____

7. State the persons who rely on you or your spouse for support.

Name	Relationship	Age
_____	_____	_____
_____	_____	_____
_____	_____	_____

8. *Estimate the average monthly expenses of you and your family. Show separately the amounts paid by your spouse. Adjust any payments that are made weekly, biweekly, quarterly, semiannually, or annually to show the monthly rate.*

	You	Your Spouse
Rent or home-mortgage payment (include lot rented for mobile home)	\$ _____	\$ _____
Are real-estate taxes included? <input type="checkbox"/> Yes <input type="checkbox"/> No		
Is property insurance included? <input type="checkbox"/> Yes <input type="checkbox"/> No		
Utilities (electricity, heating fuel, water, sewer, and Telephone)	\$ _____	\$ _____
Home maintenance (repairs and upkeep)	\$ _____	\$ _____
Food	\$ _____	\$ _____
Clothing	\$ _____	\$ _____
Laundry and dry-cleaning	\$ _____	\$ _____
Medical and dental expenses	\$ _____	\$ _____
Transportation (not including motor vehicle payments)	\$ _____	\$ _____
Recreation, entertainment, newspapers, magazines, etc.	\$ _____	\$ _____
Insurance (not deducted from wages or included in Mortgage payments)	\$ _____	\$ _____
Homeowner's or renter's	\$ _____	\$ _____
Life	\$ _____	\$ _____
Health	\$ _____	\$ _____
Motor Vehicle	\$ _____	\$ _____
Other: _____	\$ _____	\$ _____
Taxes (not deducted from wages or included in Mortgage payments) (specify): _____	\$ _____	\$ _____
Installment payments	\$ _____	\$ _____
Motor Vehicle	\$ _____	\$ _____
Credit card (name): _____	\$ _____	\$ _____
Department store (name): _____	\$ _____	\$ _____
Other: _____	\$ _____	\$ _____
Alimony, maintenance, and support paid to others	\$ _____	\$ _____
Regular expenses for operation of business, profession, or farm (attach detailed statement)	\$ _____	\$ _____
Other (specify): _____	\$ _____	\$ _____
Total monthly expenses:	\$ _____	\$ _____

9. Do you expect any major changes to your monthly income or expenses or in your assets or liabilities during the next 12 months?

Yes No

If yes, describe on an attached sheet.

10. Have you paid — or will you be paying — an attorney any money for services in connection with this case, including the completion of this form? Yes No

If yes, how much? \$ _____

If yes, state the attorney's name, address, and telephone number:

11. Have you paid — or will you be paying — anyone other than an attorney (such as a paralegal or a typist) any money for services in connection with this case, including the completion of this form?

Yes No

If yes, how much? \$ _____

If yes, state the person's name, address, and telephone number:

12. Provide any other information that will help explain why you cannot pay the docket fees for your appeal.

13. State the address of your legal residence.

Your daytime phone number: (____) _____

Your age: _____ Your years of schooling: _____

Your social-security number: _____

(As amended Apr. 24, 1998, eff. Dec. 1, 1998.)

CODIFICATION

Form 4 is set out in this supplement to replace an incorrect version of the form which appeared in the main edition. The form is set out as it appeared on pages 86 to 89 of House Document 105-269.

Form 5. Notice of Appeal to a Court of Appeals from a Judgment or Order of a District Court or a Bankruptcy Appellate Panel

United States District Court for the _____
District of _____

In re

Debtor

Plaintiff
v.

Defendant

File No. _____

Notice of Appeal to United States Court of Appeals for the _____ Circuit

_____, the plaintiff [or defendant or other party] appeals to the United States Court of Appeals for the _____ Circuit from the final judgment [or order or decree] of the district court for the district of _____ [or