

§ 12.3 Petition for Judicial Review—Workers Compensation Cases

IN THE COURT OF APPEALS OF THE STATE OF KANSAS

[Insert Name],)	
)	
Claimant/[Insert Appellate Designation],)	
)	
vs.)	[Insert Workers Comp Docket Number]
)	
[Insert Name],)	
)	
Respondent/[Insert Appellate Designation],)	
)	
and)	
)	
[Insert Name],)	
)	
Insurance Carrier/[Insert Appellate)	
_____Designation]_____)	

PETITION FOR JUDICIAL REVIEW

COMES NOW the [Petitioner] and hereby petitions the Court of Appeals for judicial review of the decision of the Workers Compensation Board. Pursuant to the provisions of K.S.A. 77-614 and Kansas Supreme Court Rule 9.04, petitioner states as follows:

1. Name and mailing address of the petitioner:
[Insert information]
2. Name and mailing address of the agency whose action is at issue:
[Insert information]
3. Identification of the agency action at issue, together with a duplicate copy, summary, or brief description of the agency action.

The Workers Compensation Board entered an order dated [Insert date] in which the Board awarded workers compensation benefits to claimant, finding that his injury on [Insert date] while

riding a go-cart at a recreational event fell within the course and scope of his employment with respondent.

Certified copies of the order of the administrative law judge, the request for Board review, and the order of the Board are attached.

4. Identification of persons who were parties in any adjudicative proceedings that led to the agency action.

[Insert information]

5. Facts to demonstrate that the petitioner is entitled to obtain judicial review.

The administrative law judge entered an order dated [Insert date] granting claimant benefits and ruling that his injury did fall within the scope of employment as an exception to K.S.A. 44-508(f). Thereafter, petitioner filed a notice of appeal dated [Insert date] with the Workers Compensation Board, completed briefs, and orally argued the matter. The Board affirmed the ruling of the administrative law judge in an order dated [Insert date]. Pursuant to K.S.A. 44-556, petitioner is allowed to appeal the decision of the Board to the Court of Appeals.

6. The petitioner's reasons for believing that relief should be granted.

Petitioner states that the Workers Compensation Board erred in finding that the injury of claimant was compensable. *Inter alia*, the Board failed to follow the strict statutory language of K.S.A. 44-508(f). The Board considered other factors in making its determination not included in the language of K.S.A. 44-508(f). The Board found an implied duty where the greater and overwhelming weight of the evidence would not allow such conclusion. In addition, there was insufficient evidence to support the finding of the Board that an implied duty existed for claimant to attend the recreational/social event where he was injured.

7. Petitioner's request for relief, specifying the type and extent of relief requested.

Petitioner requests the Court of Appeals enter an order finding that the Workers Compensation Board erred as a matter of law in finding that the injury to claimant was work-related and that benefits should be awarded for such injury.

[Name of Law Firm or Agency]

BY _____
[Attorney's Name and Registration Number]
[Address]
[City, State and Zip Code]
[Telephone Number]
Attorney for [Insert party designation]

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Petition for Judicial Review was furnished by United States Mail, postage prepaid, this [Insert Date], to:

[Insert names and addresses of those on whom service is made.]

[Attorney's Name and Registration Number]

PRACTICE NOTE: See § 12.4, *infra*, to request certification of the record.

The petition for judicial review in workers compensation cases is filed in the Court of Appeals. See K.S.A. 44-556(a) and Rule 9.04.

The petition for judicial review must be in compliance with K.S.A. 77-614. Some petitions may be more factually complex than the form and require citation to case law as well as statutory authority, but the format remains the same.

