STATE OF WISCONSIN

COURT OF APPEALS

DISTRICT @

Appeal No. \_\_\_\_\_\_

County Cir. Case No. @

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STATE OF WISCONSIN,

 Plaintiff-Respondent,

 v.

CLIENT,

 Defendant-Appellant.

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PETITION FOR LEAVE TO APPEAL THE (DATE) NON-FINAL ORDER ENTERED BY THE (COUNTY) COURT, HON. (JUDGE) PRESIDING

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BRIEF OF
DEFENDANT-APPELLANT

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Attorney for @

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**CONSTITUTIONAL PROVISIONS
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Issue Presented

1.

Statement of the Case

Statement of Facts

Argument

CLIENT respectfully requests this Court grant him leave to file an interlocutory appeal of Judge NAME’s order denying ….

The Wisconsin Court of Appeals may grant leave to a party to file an interlocutory appeal where any of the following are true: 1) an interlocutory appeal will materially advance the termination of the litigation or clarify further proceedings in the litigation, 2) an interlocutory appeal will protect the petitioner from substantial or irreparable injury, or 3) an interlocutory appeal will help clarify an issue of general importance in the administration of justice. Wis. Stat. § 808.03(2); *State ex rel. Hass v. Wisconsin Court of Appeals*, 2001 WI 128, ¶ 13, 248 Wis. 2d 634, 636 N.W.2d 707. The Court must also consider whether the appellant can establish a substantial likelihood of success on the merits. *Hass*, 2001 WI 128, ¶ 13.

CLIENT is likely to succeed on the merits of his appeal, as evidenced by X. Further, granting CLIENT leave to file an interlocutory appeal will likely terminate the litigation, protect CLIENT from substantial injury and will clarify an issue of general importance in the administration of justice.

Each issue shall be addressed in turn, beginning with the likelihood of success on the merits.

I. CLIENT will likely prevail on the merits, as ……

Where a party seeks leave of the Court of Appeals to file an interlocutory appeal, the party must establish a “substantial likelihood of success on the merits.” *State ex rel. Hass*, 2001 WI 128, ¶ 13, 238 Wis. 2d 634, 636 N.W.2d 707. CLIENT is likely to succeed on the merits of his appeal of the Circuit Court’s order, as evidenced by …

**II. Granting CLIENT leave to file an interlocutory appeal satisfies all of the statutory considerations for granting such an appeal.**

When considering whether to grant a petition for an interlocutory appeal, the Court of Appeals must consider the factors identified by Wis. Stat. § 808.03(2). Wis. Stat. § 808.03(2) states that if the petitioner establishes that an interlocutory appeal will 1) materially advance the termination of the litigation or clarify further proceedings in the litigation, or 2) protect the petitioner from substantial or irreparable injury, or 3) help clarify an issue of general importance in the administration of justice, then the Court of Appeals may grant permission to appeal an order of a court other than a final judgment. *State ex rel. Hass v. Wisconsin Court of Appeals*, 2001 WI 128, ¶ 13, 248 Wis. 2d 634, 636 N.W.2d 707.

A. Granting CLIENT leave to file an interlocutory appeal will likely terminate the litigation.

Granting CLIENT leave to file an interlocutory appeal will almost certainly terminate the litigation in this case. ….

B. Granting CLIENT leave to file an interlocutory appeal will protect him from substantial or irreparable injury

C. Granting CLIENT leave to file an interlocutory appeal will clarify an issue of general importance in the administration of justice

Granting CLIENT leave to file an interlocutory appeal will clarify an issue highly relevant not just to CLIENT, but to other litigants, courts, law enforcement, and the general public.

Therefore, this Court should grant CLIENT leave to file an interlocutory appeal of the Circuit Court’s order.

Conclusion

Because CLIENT is likely to succeed on the merits of his appeal, and granting an interlocutory appeal will: 1) terminate this litigation, 2) protect CLIENT from substantial harm, and 3) clarify an issue of statewide importance – CLIENT respectfully requests this Court grants his petition for an interlocutory appeal.

Dated this @ day of @, @.

Respectfully submitted,

*Electronically signed by
Name of Attorney*

@nAME

@Title

State Bar No. @

@Street Address

@City, State, Zip

@Phone Number

@E-mail Address

Attorney for @

Certification as to Form/Length

I hereby certify that this brief conforms to the rules contained in S. 809.19(8)(b), (bm), and (c) for a brief. the length of this brief is XXXX words.

Certification as to Appendix

I hereby certify that filed with this brief is an appendix that complies with s. 809.19(2)(a) and that contains, at a minimum: (1) a table of contents; (2) the findings or opinion of the circuit court; (3) a copy of any unpublished opinion cited under s. 809.23(3)(a) or (b); and (4) portions of the record essential to an understanding of the issues raised, including oral or written rules or decisions showing the circuit court’s reasoning regarding those issues.

I further certify that if this appeal is taken from a circuit court order or judgment entered in a judicial review or an administrative decision, the appendix contains the findings of fact and conclusions of law, if any, and final decision of the administrative agency.

I further certify that if the record is required by law to be confidential, the portions of the record included in the appendix are reproduced using one or more initials or other appropriate pseudonym or designation instead of full names of persons, specifically including juveniles and parents of juveniles, with a notation that the portions of the record have been so reproduced to preserve confidentiality and with appropriate references to the record.

Dated this @ day of @, @.

Signed:

*Electronically signed by
Name of Attorney*

NAME OF ATTORNEY

Assistant State Public Defender

STATE OF WISCONSIN

COURT OF APPEALS

DISTRICT @

Case No. @

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STATE OF WISCONSIN,

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APPENDIX OF

DEFENDANT-APPELLANT

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