

Lehigh County Law Library Pathfinder

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SAMPLE PLEADING: MOTION FOR LEAVE TO APPEAL NUNC PRO TUNC

- This sample pleading illustrates the format for a request for permission to Appeal Nunc Pro Tunc.
- Nunc Pro Tunc means “Now For Then” and is used when an appeal deadline is missed by a party through the fault of another.
- Note: See the Pennsylvania Rules of Appellate Procedure online at www.pacode.com for more information on enlarging time and appeals in general.

COURT OF COMMON PLEAS OF SAMPLE COUNTY, PENNSYLVANIA. Civil/Criminal Division

COMMONWEALTH OF PENNSYLVANIA, :
Department of Transportation : No. 1234- XX-2014
Bureau of Driver Licensing, Respondent :
v. :
Jack Smith, Petitioner :

MOTION FOR LEAVE TO FILE APPEAL NUNC PRO TUNC FROM SUSPENSION OF OPERATOR'S LICENSE OF JACK SMITH

AND NOW, comes the Petitioner, JACK SMITH, Pro Se, filing the within Petition, and respectfully averring as follows:

1. Movant is Jack Smith, who resides at 123 Hill Drive, Fairyland, Pennsylvania 12345.
2. On or about October 9, 2014, Movant was notified by the Pennsylvania Department of Transportation that his operator's license bearing number 123456 was being suspended for a period of one (1) year effective November 13, 2014, due to Petitioner's violation of Section 1543(A) of the Pennsylvania Motor Vehicle Code. (a true and correct copy of this letter is attached hereto as Exhibit “A”)
3. Movant, at some time following the receipt of his Official Notice of Suspension from the Department, and prior to the expiration of thirty (30) days past the mail date of said Notice, consulted with Attorney Ima Slacker concerning filing an appeal from the suspension.
4. During said telephone consultation with Attorney Slacker, Attorney Slacker directed Movant to fax his Notice of Suspension to him and assured him that he would timely file an appeal from the Notice of Suspension.
5. Movant subsequently faxed the Notice of Suspension to Attorney Slacker on a date which was well in advance of the expiration of the thirty (30) day period in which Movant was permitted to perfect an appeal.

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6. Attorney Slacker, after receiving the Notice of Suspension from Movant, subsequently ceased to communicate with Movant, failing to return his telephone calls repeatedly and failing to respond to his visits to his office.
7. Only after November 8, 2014, the date upon which the thirty (30) day appeal period expired, did Movant learn that Attorney Slacker had failed to file any appeal on his behalf.
8. Movant seeks permission from this Honorable Court to file an appeal nunc pro tunc from said suspension and such appeal is meritorious because the suspension under which Movant was allegedly driving was a mistake and Movant is in the process of appealing the underlying conviction of violating Section 1543 (A) of the Motor Vehicle Code.
9. Movant surrendered his operator's license on November 13, 2014.
10. Movant was unable to file a timely appeal from the November 13, 2014 suspension imposed by the Department due to a breakdown in the system which was a miscommunication with Attorney Slacker and the negligence of Attorney Slacker, which caused him to believe that said appeal from Notice of Suspension would be timely filed.
11. The entry of an Order by this Honorable Court granting Movant leave to file an appeal nunc pro tunc will not prejudice the Department of Transportation.

WHEREFORE, Petitioner respectfully prays that this Honorable Court issue an Order granting Movant, JACK SMITH, leave to file an appeal from his operator's license suspension nunc pro tunc.

Respectfully Submitted,

JACK SMITH

JACK SMITH
123 Hill Drive
Fairyland, PA 12345
555-123-4567

*Note: See the Pennsylvania Rules of Appellate Procedure at www.pacode.com for more information on enlarging time.