

if necessary, and to recommend factual findings and disposition in matters ancillary to proceedings in the court. Unless the order referring a matter to a master specifies or limits the master's powers, those powers include, but are not limited to, the following:

- (1) regulating all aspects of a hearing;
(2) taking all appropriate action for the efficient performance of the master's duties under the order;
(3) requiring the production of evidence on all matters embraced in the reference; and
(4) administering oaths and examining witnesses and parties.

(b) COMPENSATION. If the master is not a judge or court employee, the court must determine the master's compensation and whether the cost is to be charged to any party.

(As amended Apr. 29, 1994, eff. Dec. 1, 1994; Apr. 24, 1998, eff. Dec. 1, 1998.)

NOTES OF ADVISORY COMMITTEE ON RULES—1994 AMENDMENT

The text of the existing Rule 48 concerning the title was moved to Rule 1.

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) (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