

Common Family Law Orders

Appealability is a primary issue in all appeals. The appellate lawyer must determine if and when an appeal can be taken, or must be taken. The following list represents our best judgment on the appealability of the listed order and judgments. Anyone consulting this list should satisfy themselves as to the appealability of the order or judgment they are considering. This list is intended to be an aid in that determination, but it is neither exhaustive nor authoritative. Only the appellate court can determine with finality what is and is not appealable.

Appealable Orders	
<p>Minn. R. Civ. App. P. 103.03(a) “An appeal may be taken to the Court of Appeals . . . from a final judgment, or from a partial judgment entered pursuant to Minn. R. Civ. P. 54.02.”</p>	<p>Examples:</p> <ul style="list-style-type: none"> • Judgment and decrees in divorce • Judgments of paternity • Judgments awarding attorney fees • Judgments awarding child support arrears • Judgments awarding spousal maintenance arrears
<p>Minn. R. Civ. App. P. 103.03(d) “An appeal may be taken to the Court of Appeals . . . from an order denying a new trial, or from an order granting a new trial if the trial court expressly states therein, or in a memorandum attached thereto, that the order is based exclusively upon errors of law occurring at the trial, and upon no other ground”</p>	<p>Examples:</p> <ul style="list-style-type: none"> • Orders denying motion for new trial • Orders granting motion for new trial (with express direction that it is based exclusively on error of law occurring at trial)
<p>Minn. R. Civ. App. P. 103.03(e) “An appeal may be taken to the Court of Appeals . . . from an order which, in effect, determines the action and prevents a judgment from which an appeal might be taken.”</p>	<p>Examples:</p> <ul style="list-style-type: none"> • Orders that deny a motion to re-open a decree
<p>Minn. R. Civ. App. P. 103.03(g) “An appeal may be taken to the Court of Appeals . . . except as otherwise provided by statute, from a final order, decision or judgment affecting a substantial right made in an administrative or other special proceeding.”</p>	<p>Examples:</p> <ul style="list-style-type: none"> • Orders for protection (after hearing, but not ex parte) • Initial child support orders • Child support modification proceedings • Orders to submit to genetic testing
<p>Minn. R. Civ. App. P. 103.03(h) “An appeal may be taken to the Court of Appeals . . . from an order that grants or denies modification of custody, visitation, maintenance, or child support provisions in an existing judgment or decree.”</p>	<p>Examples:</p> <ul style="list-style-type: none"> • Orders granting or denying motions for modification of custody • Orders granting or denying motions to modify child support or spousal maintenance

	<ul style="list-style-type: none"> • Orders granting or denying motions to modify parenting time • Third party custody orders • Orders to stop interest on support arrearages and orders to reinstate • Orders granting or denying motions to change the residence of children to another state • Orders granting or denying cost of living adjustments
<p>Minn. R. Civ. P. 60.01 <i>See Eid v. Hodson</i>, 542 N.W.2d 402 (Minn. Ct. App. 1996) (distinguishing an order denying a motion to set aside a judgment because of clerical error, which is not appealable pursuant to Minn. R. Civ. P. 103.03)</p>	Orders to correct clerical errors
<p>Minn. R. Gen. Prac. 372.12 “Motions to correct clerical mistakes, if any, shall proceed pursuant to Rule 375. . . . Appeal, <i>if any</i>, shall proceed pursuant to Rule 378.” (Emphasis added).</p>	Orders to correct clerical errors in expedited child support process
<p>Minn. R. Gen. Prac. 378.01 “An appeal may be taken to the court of appeals from a final order or judgment of a child support magistrate or from a final order deciding a motion for review under Rule 376.”</p>	Orders from Child Support Magistrates
<p><i>In re Ihde</i>, 800 N.W.2d 808, 811 (Minn. Ct. App. 2011) (“A petition for a writ of prohibition is the proper means of challenging a district court judge’s denial of a notice of removal.”) (citing <i>McClelland v. Pierce</i>, 376 N.W.2d 217, 219 (Minn. 1985)).</p>	Orders relating to removal of judicial officers

Non-appealable Orders	
Type of Order	Authority
Temporary orders, including those pursuant to Minn. Stat. § 518.131	<i>Rigwald v. Rigwald</i> , 423 N.W.2d 701, 705 (Minn. Ct. App. 1988) (distinguishing temporary relief orders in dissolution hearings from final orders in special proceedings which are appealable); <i>Hennepin Cnty. v. Griffin</i> , 429 N.W.2d 283, 284 (Minn. Ct. App. 1988) (stating that temporary orders for support and custody are not generally appealable).

	<p><i>But see Nylan v. Nylan</i>, No. C5-98-31, 1998 WL 252406, at *2 (Minn. Ct. App. May 19, 1998) (stating that although temporary orders are not appealable, they are reviewable to the extent they “affect” the order from which the appeal is taken) (citing Minn. R. Civ. App. P. 103.04).</p>
Awards of attorney fees in Judgment and Decrees or orders	<p><i>Sheeran v. Sheeran</i>, 481 N.W.2d 578, 579 (Minn. Ct. App. 1992) (stating that order awarding attorney fees is not separately appealable; proper appeal is from the resulting judgment).</p>
Orders granting or denying motion for amended findings, or granting new trial if not entered pursuant to Minn. R. Civ. App. P. 103.03(d)	<p>The denial of a motion for amended findings of fact or conclusions of law is not by itself an appealable order. <i>Lehman v. Hansord Pontiac Co.</i>, 246 Minn. 1, 6, 74 N.W.2d 305, 309 (1955). This is true even if the order denying the motion also denies a motion for a new trial. Only the portion of the order denying the new trial request is appealable. <i>Schaedler v. New York Life Ins. Co.</i>, 201 Minn. 327, 276 N.W. 235 (1937). The denial of the motion for amended findings may be reviewed on appeal from the judgment subsequently entered. <i>Rathbun v. W.T. Grant Co.</i>, 300 Minn. 223, 219 N.W.2d 641 (1974).</p>
Contempt	<p>Whether a contempt order is appealable depends on the finality of the order. For example, an order conditionally adjudging a party to be in contempt is not final and not appealable. <i>Peterson v. Peterson</i>, 308 Minn. 365, 242 N.W.2d 103 (1976) (order directing punishment only upon husband’s failure to purge himself of his contempt is not a final order and not appealable). But an order absolutely finding contempt and directing immediate incarceration for contempt is final and appealable. <i>Laff v. Laff</i>, 161 Minn. 122, 123, 200 N.W. 936, 936-37 (1924) (constructive civil contempt order that commits individual is appealable); <i>Maher v. Maher</i>, 393 N.W.2d 190 (Minn. Ct. App. 1986) (order directing immediate incarceration for willful failure to comply with temporary order was immediately appealable).</p>