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How to Write an Appellate Brief  
November 3, 2010

- I. WIS. STAT. (RULE) 809.19
  - A. Brief Requirements – WIS. STAT. (RULE) 809.19(1)
    1. Table of Contents
    2. Statement of the Issues
    3. Statement on Oral Argument
    4. Statement of the Case
      - a. description of the nature of the case
      - b. procedural status of the case leading up to appeal
      - c. disposition in the trial court
      - d. statement of facts relevant to the issues presented for review with citations to the record
    5. Argument
      - a. in order of the statement of issues
      - b. “must be preceded by a one sentence summary of the argument and is to contain the contention of the appellant, the reasons therefore, with citations to the authorities, statutes and parts of the record relied on...”
    6. Conclusion
    7. Signature of the attorney who files the brief
  - B. Reply Brief Requirements – WIS. STAT. (RULE) 809.19(4)
    1. Only the Argument and Conclusion

- C. Parties – WIS. STAT. (RULE) 809.80(8)
  - 1. First name and last initial, rather than by full name when confidentiality is required
  - 2. Reference to the parties by name, rather than by party designation.
- D. Appendix – WIS. STAT. (RULE) 809.19(2)
  - 1. Required Contents
    - a. table of contents
    - b. the findings or opinion of the circuit court
    - c. “limited portions of the record essential to an understanding of the issues raised, including oral or written rulings or decisions showing the circuit court’s reasoning regarding those issues”
    - d. any unpublished decisions cited under WIS. STAT. (RULE) 809.23(3)(a) or (b).
  - 2. If confidentiality is required, the portions of the record included in the appendix should accordingly redacted.
  - 3. Certification
    - a. See WIS. STAT. (RULE) 809.19(2)(b) for form
- E. Due Date
  - 1. Brief – 40 days from the date the record is filed
  - 2. Reply Briefs – 15 days after the date of service plus three for mailing.
  - 2. Mailbox Rule Applies – WIS. STAT. (RULE) 809.80(3)(b)
    - a. Must include a certification or affidavit setting forth the date and manner by which the document was mailed or delivered to a 3<sup>rd</sup>-party commercial carrier.

- b. If the Certificate of Mailing is attached, the brief is considered filed on the date counsel certifies s/he placed it in the mail.
    - c. If not Certificate of Mailing, then the brief and appendix are filed on the date the clerk's office receives it.
  3. Extendable by motion to the Court of Appeals – WIS. STAT. (RULES) 809.14 and 809.82(2)(a).
- F. Number – WIS. STAT. (RULE) 809.19(8)(a)
  1. Court of Appeals – 10 copies for the court and three for AAG
  2. Supreme Court – 22 copies for the court and three for the AAG
  3. E-filed copy. Section II, *infra*.
- G. Form – WIS. STAT. (RULE) 809.19(8)(b)
  1. Monospaced font: 10 characters per inch, double-spaced, a 1.5 margin on the left side and a 1-inch margin on all other sides
  2. Proportional: proportional serif font, minimum printing resolution of 200 dots per inch, 13 point body text, 11 point for quotes and footnotes, leading of minimum 2 points, maximum 60 characters per full line of body text. No italics unless for citations, headings, emphasis and foreign words.
  3. Securely bound on the left side “with heavy strength staples or by means of velobinding or the ‘perfect’ (‘hot glue’) binding method.”
  4. Pagination at the center of the bottom margin

- H. Length – WIS. STAT. (RULE) 809.19(8)(c)
  - 1. Brief – 50 pages (monospaced font) or 11,000 words (proportional font)
  - 2. Reply Brief – 13 pages (monospaced font) or 3,000 words (proportional font)
- I. Certifications
  - 1. Form and Length
    - a. Certify that brief and appendix meet the form and length requirements. Required language: WIS. STAT. (RULE) 809.19(8)(d)
    - b. Certification of Mailing. Section E, *supra*.
    - c. E-filing Certification. Section II, *infra*.
- J. Brief Covers – WIS. STAT. (RULE) 809.19(9)
  - 1. Front and back
  - 2. Front: name of the court, caption and number of the case, court and judge appealed from, title of the document, name and address of counsel filing
  - 3. Colors
    - a. Appellant – Blue
    - b. Respondent – Red
    - c. Reply – Gray
    - d. Appendix (only if separately printed) – White
- II. E-Filing – WIS. STAT. (RULE) 809.19(12)
  - A. Text-searchable PDF
  - B. Process – WIS. STAT. (RULE) 801.17
    - 1. Register for an account  
<http://www.wicourts.gov/services/attorney/electronicfile.htm>
    - 2. Upload documents

3. Required for briefs and petitions. Appendix is optional. Not done for motions. If counsel opts to e-file the appendix, the same rules for e-filing a brief apply, including the certification.

C. Timing – WIS. STAT. (RULE) 809.19(12)(d)

1. The date the paper copy is filed is the official filing date.
2. Electronic copy must be done on or before the date the paper copy is filed.
  - a. No mailbox rule for e-filing, so anything filed after the close of business is considered e-filed on the next day. However, there was a lot of complaining about this when the rule came out and the Clerk's Office does not seem to be enforcing this rule.

D. Certification – WIS. STAT. (RULE) 809.19(12)(f)

1. On the paper copy, counsel must certify that the electronic copy is identical to the paper copy.

III. Supplements and Corrections

A. Supplemental Authorities – WIS. STAT. (RULE) 809.19(10)

1. Letter to the clerk providing the citation, pages of the brief to which it pertains, and discussing the proposition that the authority supports
2. Response may be filed within 11 days after service discussing reasons why the authority does not support the state position, unless the position is undisputed.

B. Corrections – WIS. STAT. (RULE) 809.19(12)(e)

1. Both paper and e-filed copy must be corrected

IV. Making it Look Pretty

A. Seventh Circuit's *Requirements and Suggestions for Typography in Briefs and Other Papers*

<http://www.ca7.uscourts.gov/Rules/type.pdf>

1. Avoid using Times New Roman as something created for a fast read
2. Use a proportionally spaced type
3. Consider typefaces designed for books: Century (used by the SCOTUS and Solicitor General), New Baskerville, Book Antiqua, Calisto, Century Schoolbook, Bookman Old Style
4. Use italics, not underlining, for case names and emphasis
5. Use smart quotes (curved) not foot and inch marks (straight)
6. Use only one space after punctuation
7. Only justify text if you hyphenate it
8. Do not justify monospaced type
9. Indent the first line of each paragraph  $\frac{1}{4}$  inch or less
10. Avoid long footnotes and block quotes
11. Avoid bold type
12. Avoid setting text in all caps