

May 2012

Appellate Practice Checklist

How can appellate brief writing be made easier for practitioners in Wisconsin courts? In response to this question asked almost two years ago, an ad hoc committee of the Appellate Practice Section has drafted the Appellate Practice Checklist.

The committee had the benefit of a wide range of talent and perspective. It included practitioners with civil and criminal practices in both the private and public sectors. Lawyers participated from large firms and small firms, as well as from a number of Wisconsin counties. The committee members were aware that some organizations with extensive appellate cases loads, including some clerks' offices and judges' chambers, use checklists. Many practitioners also are familiar with the Seventh Circuit checklist for briefs. So the committee decided that a checklist was the answer and settled on a practical format: the first part is a checklist with boxes permitting practitioners literally to check off the items as they are included in a brief, and the second part is an accompanying outline to explain the checklist.

The committee was fortunate that two staff attorneys from the Wisconsin Court of Appeals were willing to review the draft. And once the committee had arrived at a nearly final version, it was sent to all members of the Appellate Practice Section for their review. The Appellate Practice Section Board gave the checklist one additional look, and the work of the ad hoc committee was done. Subsequently, the Clerk's Office reviewed the checklist one more time and included minor additions.

While drafting the checklist entries, the committee was careful to look only at what the rules discussed, not at what practitioners may do as a matter of custom and convention apart from the rules. Both portions of the appellate checklist—the checklist boxes and the outline—carry the disclaimer that they are merely for guidance and should not be considered a definitive statement of the rules. Competent practitioners will always look at the rules, too, of course.

The committee's goal is to make this appellate checklist resource widely available. Please pass it along. Many thanks to the members of the ad hoc committee:

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William Gansner -- Wisconsin Department of Justice
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