



SAINT PAUL LEGAL LEDGER MINNESOTA LAWYER

- [NEWS](#) ▾
- [FEATURES](#) ▾
- [SPECIAL SECTIONS](#) ▾
- [OPINIONS](#) ▾
- [LAWYER DIRECTORY](#)
- [PARTNER CONTENT](#)
- [PUBLIC NOTICES](#) ▾
- [EVENTS](#) ▾
- [RESOURCES](#)
- [ADVERTISING](#) ▾

2019

LEGAL NEWS

[Briefly: 8th Circuit introduces quality control aid for briefs](#)

[Couple must share undisclosed account](#)

[Supreme Court discipline order draws dissent from 2 justices](#)

[8th Circuit rejects creditor's case in Petters scheme](#)

LEGAL FEATURES

[Briefly: 8th Circuit introduces quality control aid for briefs](#)

[Home](#) / [Expert Testimony](#) / [Briefly: 8th Circuit introduces quality control aid for briefs](#)

Perspectives: Civil ruling may portend Miranda's demise

Breaking the Ice: Attorney: Take breaks to be your best self

Modern Family: Court addresses division of retirement benefits

MORE HEADLINES

GOP attacks Walz over fraud case, dispute with judge

7 ways to improve your cybersecurity posture

Inflation is the elephant in a construction contract

Commentary: Sharp words, unclear terms from Sur Court



Depositphotos.com image

Briefly: 8th Circuit introduces quality control aid for briefs

 By: Sandra J. Badin and Eric J. Magnuson, Special to Minnesota Lawyer  September 27, 2022

The very first article we wrote in this column emphasized the importance of paying attention to the rules governing the perfecting of appeals. See, Eric J. Magnuson, *Magnuson: Crossing the t's and dotting the i's*, Minnesota Lawyer (March 15, 2013). Over the years, we have continued to write articles on the theme of paying attention to the rules, including reviewing why rules exist and the perils of trying to skirt them. See Eric J. Magnuson, *Briefly: There is a reason for all those pesky rules*, Minnesota Lawyer (March 16, 2020); Sandra J. Badin and Eric J. Magnuson, *Briefly: Line Dancing for Lawyers, Take 2*, Minnesota Lawyer (March 16, 2020). One key take-away is that rules governing court submissions allow busy appellate judges and their staff to quickly and efficiently digest the tremendous volume of materials they receive on a daily basis.

We have also written about the impact of technology on appellate practice, and the attendant obligation of appellate lawyers to be both up to speed on and competent in the electronic requirements imposed by the courts. See Eric J. Magnuson, *Ignore technology at your own peril*, Minnesota Lawyer (October 21, 2013). We can safely say that electronic filing is here to stay. See Eric J. Magnuson and Katherine Barrett Wiik, *Briefly: Appellate e-filing has arrived—or I have to pass another test?!*, Minnesota Lawyer (May 14, 2015). And that is a good thing. E-filing allows the court to process the receipt and distribution of written briefs in electronic form, thereby promoting efficiency for the judges and their staff who are in a constant struggle to do more with less as judicial branch budgets remain tight.

Aside from the ease of e-filing—it can be done with a few clicks of a computer keyboard, 24 hours a day, 7 days a week, even when the court is closed—an added benefit is that it provides filing attorneys near-instant feedback. When briefs were filed in

paper format, it could be several weeks before the filing attorney learned that her brief was in some way technically deficient—i.e., that it failed to comply with the Federal Rules of Appellate Procedure or the court’s own rules. While appellate courts are generally pretty lenient about allowing correction of deficient briefs, having to correct them adds another layer of expense and potential delay to the appellate process, not to mention possible embarrassment for the filing attorney.

A few years ago, the Eighth Circuit instituted a policy of having counsel use the court’s electronic filing system (CM/ECF) to submit the electronic version of the brief for review by the Clerk’s Office staff before the brief is deemed “filed” and before counsel are required to submit the paper copies of the brief. This process permits deficiencies to be corrected before filing and before counsel incur the expense of printing and transmitting the paper copies of the brief to the court. Still, the Eighth Circuit issued almost 1,700 deficiency notices last year. Having to issue deficiency notices creates a substantial amount of work for the Clerk’s Office and counsel.

Wouldn’t it be nice if you knew immediately that your brief satisfied all the technical rules of the court—or that you had a chance to correct your brief if it did not? Building on the efforts of the Fifth Circuit, the Eighth Circuit Court of Appeals recently implemented a program that does just that.



Last month, in an effort to reduce the number of deficient briefs filed with the court, the Eighth Circuit’s Clerk’s Office initiated a new Brief Quality Control Program (BriefQC). When filing a brief with the court through CM/ECF, practitioners now have the option of choosing the event titled “Brief Submitted for Review.” If the BriefQC Program finds any errors, the filer will see a new screen titled “Document Check Results.” Examples of errors the program may detect include an incorrect identification (or a failure to identify) the originating court or agency on the cover of the brief, or the use of wrong citation format when citing to the record. The practitioner then has the opportunity to cancel the filing, correct the identified errors, and restart the filing process. No record of the canceled transaction is made on the docket sheet.

The BriefQC program does not identify all potential deficiencies, so all briefs are still manually checked by the Clerk’s Office. And the BriefQC program may sometimes identify a conforming brief as deficient. Filers have the option to proceed with filing regardless of the Brief Quality Control Program Results. Indeed, last-minute filers who are informed that their briefs contain errors may not have the time required to fix the errors before their time to file expires, and so may not have the choice but to file despite the results of the BriefQC program. The court recognizes this and, at least for now, will not fault practitioners for filing briefs they have been informed are deficient. *See* Announcement of New BriefQC Functionality in CM/ECF (August 8, 2022) (available at <https://www.ca8.uscourts.gov/news/announcement-new-briefqc-functionality-cmecf>). Still, practitioners would do

well to submit their briefs to the Brief QC program at least a day or two before the due date to ensure they have sufficient time to correct any errors the program identifies.

Writing an effective appellate brief is all about clear, well-organized communication that allows the reader to absorb your presentation of the facts and law with minimum distractions. Having a technically-conforming brief lets the court concentrate on what's important—the merits of the arguments you are making. Having the appellate court ensure that your brief meets the technical requirements takes one last thing off your plate, and lets you concentrate on what you do best—advocate for your clients.

Sandra J. Badin is a counsel in Robins Kaplan's Boston office, where she practices insurance and appellate litigation.

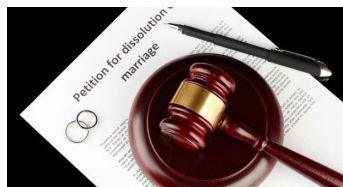
Eric J. Magnuson is a partner at Robins Kaplan LLP and served as Chief Justice of the Minnesota Supreme Court from 2008 to 2010. He has more than 40 years of experience practicing law and he focuses his practice almost exclusively in appellate courts.



ABOUT SANDRA J. BADIN AND ERIC J. MAGNUSON, SPECIAL TO MINNESOTA LAWYER



RELATED



Couple must share undisclosed account

🕒 September 26, 2022



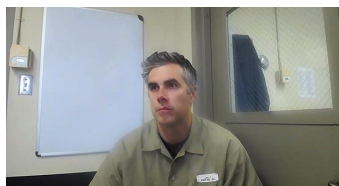
Supreme Court discipline order draws dissent from 2 justices

🕒 September 23, 2022



Perspectives: Civil ruling may portend Miranda's demise

🕒 September 22, 2022



8th Circuit rejects creditor's case in Petters scheme

🕒 September 22, 2022

Ex-cop Thomas Lane gets 3 years for state conviction in killing of Floyd

🕒 September 21, 2022

Modern Family: Court addresses division of retirement benefits

🕒 September 21, 2022

Logged in as emagnuson@robinskaplan.com. [Log out?](#)

I'm not a robot

reCAPTCHA
[Privacy](#) - [Terms](#)

Post Comment

DAILY DOCKET NEWSLETTER



Get Minnesota Lawyer
news in your inbox

[Sign-Up for Free](#)

DIGITAL EDITION

The Digital Edition of Minnesota Lawyer is available to both print and online subscribers.

Current Edition



CALENDAR OF EVENTS



See upcoming events
for lawyers here

MY ACCOUNT

[LOG OUT](#)

[SUBSCRIBE](#)

[FREE EMAIL NEWSLETTERS](#)

[MANAGE ACCOUNT](#)

[PRIVACY POLICY](#)

[YOUR CALIFORNIA PRIVACY RIGHTS/PRIVACY POLICY](#)

[DO NOT SELL MY INFO/COOKIE POLICY](#)

[SUBSCRIBER AGREEMENT](#)

SERVICES

[CONTACT US](#)

[ADVERTISE](#)

[REPRINTS](#)

[ACCESSIBILITY STATEMENT](#)

[FREQUENTLY ASKED QUESTIONS](#)

FOLLOW US



