

In re:

PROPOSED AMENDMENT TO

WIS. STAT. RULE 809.19 (BRIEFS AND APPENDIX)

PETITION

The Court of Appeals respectfully petitions the Supreme Court to amend WIS. STAT. RULES 809.19(2)(a), 809.19(2)(b), and 809.19(3)(b) as follows:

(2) APPENDIX. (a) *Contents.* The appellant's brief shall include a short appendix ~~providing relevant trial court record entries,~~ containing, at a minimum, the findings or opinion of the ~~trial~~ circuit court and limited portions of the record essential to an understanding of the issues raised, including oral or written rulings or decisions showing the ~~trial~~ circuit court's reasoning regarding those issues. If the appeal is taken from a circuit court order or judgment entered in a s. 227.52 judicial review of an administrative decision, the appendix shall also contain the findings of fact, conclusions of law and final decision of the administrative agency. The appendix shall include a table of contents. If the record is required by law to be confidential, the portions of the record included in the appendix shall be reproduced using first names and last initials instead of full names of persons, specifically including juveniles and parents of juveniles, with a notation that the portions of the record have been so reproduced to preserve confidentiality and with appropriate references to the record.

(2) (b) *Certification.* An appellant's counsel shall append to the appendix a signed certification that the appendix meets the content requirements of par. (a) in the following form:

I hereby certify that filed with this brief, either as a separate document or as a part of this brief, is an appendix that complies with s. 809.19(2)(a) and that contains, at a minimum: (1) a table of contents; (2) ~~relevant trial court record entries~~; ~~(3)~~ the findings or opinion of the ~~trial~~ circuit court; and ~~(4)~~ (43) portions of the record essential to an understanding of the issues raised, including oral or written rulings or decisions showing the ~~trial~~ circuit court's reasoning regarding those issues.

I further certify that if this appeal is taken from a circuit court order or judgment entered in a s. 227.52 judicial review of an administrative decision, the appendix contains the findings of fact, conclusions of law and final decision of the administrative agency.

I further certify that if the record is required by law to be confidential, the portions of the record included in the appendix are reproduced using first names and last initials instead of full names or persons, specifically including juveniles and parents of juveniles, with a notation that the portions of the record have been so reproduced to preserve confidentiality and with appropriate references to the record.

Signed:.....

Signature

(3) RESPONDENT'S BRIEF.

(a) 1. The respondent shall file a brief within the later of any of the following:

a. Thirty days after the date of service of the appellant's brief, and 3 additional days under s. 801.15(5)(a) if service is accomplished by mail.

b. Thirty days after the date on which the court accepts the appellant's brief for filing.

- c. Thirty days after the date on which the record is filed in the office of the clerk.
2. The brief must conform with sub. (1), except that the statement of issues and the statement of the case may be excluded.
3. Within the time limits for filing a respondent's brief, a party who has been designated as a respondent may file a statement with the court that it will not be filing a brief because its interests are not affected by the issues raised in the appellant's brief or because its interests are adequately represented in another respondent's brief.
- (b) The respondent may file with his or her brief a supplemental appendix in conformity with sub. (2). A certification as to content of the supplemental appendix, in a form substantially similar to that set forth in s. 809.19(2)(b), shall be appended to a supplemental appendix filed by respondent's counsel.

Note: This petition refines the appendix certification requirement created in No. 04-11, 2005 WI 149, effective January 1, 2006. This petition deletes language no longer meaningful given current circuit court recordkeeping practices; clarifies that the enumerated appendix items are the minimum required contents of an appendix; and creates a requirement that the administrative agency's findings of fact, conclusions of law and decision be included in the appendix when the appeal arises from a ch. 227 judicial review matter. This petition also clarifies the certification requirement for a respondent who chooses to file a supplemental appendix.

This petition is directed to the Supreme Court's rule-making authority under WIS. CONST., art. VII, sec. 3(1) and WIS. STAT. § 751.12.

Respectfully submitted on ____ ____, 2007.

Thomas Cane
Chief Judge
Wisconsin Court of Appeals