

Appellate Practice Compendium

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An Insider's Guide to Appeals in Every (Yes, Every) Federal and State Appellate Court

For anyone handling an appeal in another jurisdiction, the American Bar Association's *Appellate Practice Compendium* is truly a must-have. Jointly authored by a veritable who's who of state and federal appellate lawyers, the *Compendium* provides the ultimate insider's look into the rules and procedures of every federal and state appellate court.

What makes this book especially useful is that it is organized for quick reference. It has separate chapters devoted to each federal and state jurisdiction beginning with the federal courts of appeals and followed by the state appellate courts, which are listed in alphabetical order (and include the state's highest court as well as intermediate appellate courts, if any). The *Compendium* also explains the organization and structure of each state's appellate court system.

The book's chapters include topic headings covering everything from beginning the appeal to motions, brief contents, appendices, and oral argument (including advice that in Montana, the Supreme Court only grants oral argument in "approximately 20 cases each year"). In Florida, for example, a motion for an extension of time to file a brief must include "a certification that the opposing counsel has been consulted and an indication whether the parties consent or object." A brief filed in the Georgia Court of Appeals must contain three parts: a concise statement of the proceedings, an "enumeration of errors" (with each enumeration

addressing only a single error), and an argument section that follows the order of the enumeration of errors. In addition to bread-and-butter matters concerning the content and format of briefs, the *Compendium* also addresses such discrete topics as amicus curiae practice, motions for rehearing, and interlocutory review.

Additionally, each chapter begins with a list of top tips for out-of-state practitioners, which is especially helpful in avoiding the most common pitfalls. Filing a brief in the Alaska Supreme Court? You'll need to have your brief and excerpts of record reviewed by the court clerk's office for compliance with format rules *before* they are printed, bound, and served. In the Eighth Circuit, always ask for oral argument, as "some members of the Eighth Circuit take the failure to do so as a signal that the appeal lacks merit." In Hawaii, attorneys are cautioned that many appeals are "dismissed as premature or late based on arcane interpretations of what constitutes a 'final judgment or order.'" In South Dakota, briefs are commonly rejected for "failure to cite the three or four most relevant cases under each issue in the statement of issues (do not cite more than four)."

The *Compendium* is also a useful tool for practice here in Michigan and the Sixth Circuit. The Michigan chapter is coauthored by John Bursch, Michigan's former solicitor general who recently returned to Warner Norcross & Judd, and Gaëtan Gerville-Réache, also with the Warner firm. The Sixth Circuit chapter is written by Plunkett Cooney's Mary Massaron Ross and Hilary Ballentine. Even for those with experience practicing in

the Sixth Circuit, Michigan Supreme Court, and Michigan Court of Appeals, the book is filled with important reminders. In the Sixth Circuit, 14-day briefing extensions are routinely granted, but a motion for an extension must contain a "well-grounded explanation for why the time is needed." Have a question about a pending Sixth Circuit appeal? Your case manager is an invaluable resource. In the Michigan Court of Appeals, "[i]ssues not presented in the 'Statement of Questions Involved' are waived." And in the Michigan Supreme Court, attorneys are advised to "always file a brief in opposition to an application for leave to appeal," as the Supreme Court "enters a peremptory order on the application" in approximately 10 percent of cases.

In a nutshell, the *Compendium* contains a wealth of detailed information on local appellate rules and practices that will serve you well no matter where your appeal may take you. ■



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