

Appellate Practice

Theme Introduction

By Richard Kraus

The articles in this theme issue focus on two different but related topics. The first is practical: how to prepare a brief that complies with the court rules and hopefully persuades the judges on appeal. The second is procedural: how to make sure that the appellate court has jurisdiction over the issues and has the record needed to decide the case.

The first two articles cover the mechanics and techniques for writing an effective appellate brief. In “Brief Writing Tips for the Infrequent Appellate Attorney,” Bridget Brown Powers and I explain the procedural requirements for briefs on appeal, stress the need to understand the institutional functions of appellate courts and the governing standards of review, and suggest ways to persuasively present the facts and argue the law. In “Better Digital Briefs,” Jason Killips explores how practitioners can—and should—take advantage of the opportunities for compelling advocacy that are available when preparing briefs for electronic filing.

The second set of articles offers guidance in maneuvering the jurisdictional boundaries between trial and appellate courts

in family and criminal law. In “The New Domestic Relations Final Order Rule,” six experienced family law appellate practitioners delve into amended court rule MCR 7.202(6)(a)(iii), which defines what post-judgment orders in domestic relations actions are final orders appealable as of right. Finally, in “Thinking Outside the Four Corners,” Brad Hall explains Michigan’s unique criminal appellate procedure that facilitates review of claims dependent on developing a factual record after trial or on appeal. ■



Richard Kraus is a shareholder with Foster, Swift, Collins & Smith, PC, and chair of its appellate group, with more than 40 years' experience in handling state and federal appeals. He is certified as an appellate specialist by the American Institute of Appellate Practice. He is a member of the SBM Appellate Practice Section Council and the ABA Council of Appellate Lawyers Executive Committee and State Chairs Committee.