

SUPREME COURT OF WISCONSIN

NOTICE

This order is subject to further editing and modification. The final version will appear in the bound volume of the official reports.

No. 10-01 & 10-02

In the matter of the petition to amend Wis. Stat. § (Rule) 809.19 relating to the content of appellate appendices.

FILED

MAY 27, 2010

In the matter of the petition to amend Wis. Stat. § (Rule) 809.62 relating to content of Appendix to Petitions for Review.

David R. Schanker
Clerk of Supreme Court
Madison, WI

On January 14, 2010, the Wisconsin Court of Appeals, by Chief Judge Richard S. Brown, petitioned this court to amend Wis. Stat. § (Rule) 809.19 relating to the content of appellate appendices (Petition 10-01). On February 5, 2010, David R. Schanker, Clerk of the Supreme Court, petitioned this court to amend Wis. Stat. § (Rule) 809.62 relating to content of appendices to petitions for review (Petition 10-02).

On May 11, 2010, the court held a public hearing on the petitions. Upon consideration of matters presented at the public hearing and submissions made in response to the proposed amendments, the court unanimously adopted the petitions with modifications.

Therefore,

IT IS ORDERED that effective January 1, 2011:

SECTION 1. 809.19 (2) of the statutes is amended to read:

809.19 (2) APPENDIX. (a) *Contents.* The appellant's brief shall include a short appendix containing, at a minimum, the findings or opinion of the 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oral or written rulings or decisions showing the circuit court's reasoning regarding those issues, and a copy of any unpublished opinion cited under s. 809.23(3)(a) or (b). If the appeal is taken from a circuit court order or judgment entered in a judicial review of an administrative decision, the appendix shall also contain the findings of fact and conclusions of law, if any, 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.

(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) the findings or opinion of

the circuit court; ~~and~~ (3) a copy of any unpublished opinion cited under s. 809.23(3)(a) or (b); and (4) portions of the record essential to an understanding of the issues raised, including oral or written rulings or decisions showing the 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 judicial review of an administrative decision, the appendix contains the findings of fact and conclusions of law, if any, 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 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.

Signed:

Signature

SECTION 2. 809.19(3)(b) of the statutes is amended to read:

809.19 (3) (b) The respondent may file with his or her brief a supplemental appendix. If the record is required by law to be confidential, the supplemental appendix must comply with the confidentiality requirements under sub. (2)(a). Any supplemental appendix shall include a table of contents, a copy of any unpublished opinion cited under s. 809.23(3)(a) or (b), and a signed certification that the appendix complies with the

confidentiality requirements under sub. (2)(a) in a form substantially similar to the confidentiality provision under sub. (2)(b).

SECTION 3. 809.19(4)(b) of the statutes is amended to read:

809.19 **(4)** (b) The reply brief under par. (a) shall comply with sub. (1)(e) and (f). If an unpublished opinion is cited under s. 809.23(3)(a) or (b), a copy of the opinion shall be provided in an appendix to the reply brief.

SECTION 4. 809.19(7)(b) of the statutes is amended to read:

809.19 **(7)** (b) If the brief will support or oppose a petition under s. 809.62 or 809.70, the brief shall accompany the motion and shall be filed within the time permitted for the opposing party to file a response to the petition. If an unpublished opinion is cited under s. 809.23(3)(a) or (b), a copy of the opinion shall be provided in an appendix to the brief.

SECTION 5. 809.19(7)(c) of the statutes is amended to read:

809.19 **(7)** (c) Except as provided in par. (b), the motion shall be filed not later than 14 days after the respondent's brief is filed, and the brief shall be filed within the time specified by the court. If an unpublished opinion is cited under s. 809.23(3)(a) or (b), a copy of the opinion shall be provided in an appendix to the brief.

SECTION 6. 809.19(8m) of the statutes is amended to read:

809.19 **(8m)** GUARDIAN AD LITEM BRIEF. If the guardian ad litem chooses to participate in an appeal and takes the position of an appellant, the guardian ad litem's brief shall be filed within 40 days after the filing in the court of the record on appeal.

If the guardian ad litem chooses to participate in an appeal and takes the position of a respondent, the guardian ad litem's brief shall be filed within 30 days after service of the appellant's brief. If an unpublished opinion is cited under s. 809.23(3)(a) or (b), a copy of the opinion shall be provided in an appendix to the brief. If the guardian ad litem chooses not to participate in an appeal of an action or proceeding, the guardian ad litem shall file with the court a statement of reasons for not participating within 20 days after the filing of the appellant's brief.

SECTION 7. 809.62(2)(f)4. of the statutes is created to read:

809.62 **(2)** (f) 4. A copy of any unpublished opinion cited under s. 809.23(3)(a) or (b).

SECTION 8. 809.62(3) of the statutes is amended to read:

809.62 **(3)** Except as provided in sub. (1m) and s. 809.32(4) and (5), an opposing party may file a response to the petition within 14 days after the service of the petition. If an unpublished opinion is cited under s. 809.23(3)(a) or (b), a copy of the opinion shall be provided in an appendix to the response. If filed, the response may contain any of the following:

IT IS FURTHER ORDERED that notice of this amendment of Wis. Stat. § (Rule) 809.19 and Wis. Stat. § (Rule) 809.62 be given by a single publication of a copy of this order in the official state newspaper and in an official publication of the State Bar of Wisconsin.

Dated at Madison, Wisconsin, this 27th day of May, 2010.

BY THE COURT:

David R. Schanker
Clerk of Supreme Court

