

# INDIANA STATE BAR ASSOCIATION THE APPELLATE ADVOCATE

SPRING 2011

## **ISBA APPELLATE PRACTICE SECTION**

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**Letter from the Chair**  
**Maggie Smith**  
**Frost Brown Todd, LLC**

I hope you enjoy this edition of the newsletter. Our editor, Paul Jefferson, has made some exciting changes. The first is the creation of a guest column featuring matters affecting appellate practice that may not be covered by any of the other regular articles. This will continue in every edition, so if you have a topic of interest for our section members and would like to submit an article, please contact Paul.

You'll also note at the end of the newsletter a list of upcoming appellate events and items of interest. Please send Paul anything you would like to see added to this list in the upcoming months.

Make sure to mark your calendars for the May 13<sup>th</sup> Appellate Practice Survey CLE, as Kendra Gjerdingen and her committee have put together a day of appellate education you won't want to miss. More details are found in the brochure included with this newsletter.

Additionally, keep on the lookout for the soon-to-be-available appellate listserv. Section members Joel Schumm, Elizabeth Searle, Christina Clark, and Robert Rock are working hard to finalize this and we hope it will be up and running in the next few months.

We've also added a few new members to our council since the last newsletter. We welcome Steve Creason (District 1) and Jeffrey P. Smith (District 3) as they join Paige Freitag (District 1), the Honorable L. Mark Bailey (District 2), Joseph P. Rompala (District 2), and Lucetta Pope (District 3) as our council representatives. We also welcome Jane Dall Wilson as the new liaison to the Young Lawyers Section and Kevin S. Smith as the new liaison to the Appellate Clerk's Office. We are still looking for a paralegal member to add to the council. Please let me know if you can recommend someone.

Finally, we've recently added many new section members to our different appellate committees, which include the following:

Appellate Practice Manual (Timothy J. Vrana, Chair)  
Bench/Bar & Special Projects (Maggie L. Smith, Chair)  
Education (Kendra G. Gjerdingen, Chair)  
Indiana Docs (Cathleen M. Shrader, Chair)  
Membership (Marisol Sanchez, Chair)  
Pro Bono (Jon B. Laramore, Chair)  
Publications/Newsletter (Paul L. Jefferson, Chair)  
Webmaster (Nana Quay-Smith, Chair)

If you are interested in getting more involved in the section, let me know and we'll find a place for you on one of these committees.

# INDIANA STATE BAR ASSOCIATION THE APPELLATE ADVOCATE

## **APPELLATE PRACTICE FROM INSIDE THE DIVISION OF SUPREME COURT ADMINISTRATION**

### ***“Procedure Potpourri”***

**Kevin S. Smith  
Clerk/Administrator  
Indiana Supreme Court**

For a few years now, we’ve kept a folder into which from time to time we place ideas for future *Appellate Advocate* articles. Some have been too small to warrant an entire article devoted to it, so there they sat. Their number has now reached a sufficient critical mass and, since I’m not one to waste anything, now seems an appropriate time to discuss them. So, in no particular order, here are some thoughts, observations, and nuggets of advice from inside the Division of Supreme Court Administration (which, of course, now includes the Appellate Court Clerk’s Office as well) . . .

**Temporary Admission of Out-of-State Attorneys to Practice before Administrative Agencies.** The Supreme Court has exclusive jurisdiction over the admission of attorneys to practice law in this state. See Ind. Const. art. 7, § 4; Ind. Admission and Discipline Rule 3, § 1. Section 2 of Admission and Discipline Rule 3 addresses the procedure through which out-of-state attorneys seek temporary admission (formerly known as *pro hac vice* admission) to practice in specific matters before Indiana’s trial and appellate courts. It does not, however, specify how foreign attorneys are temporarily admitted to appear in matters pending before Indiana administrative agencies, such as the Utility Regulatory Commission, the Department of Workforce Development, the Department of Labor, and the Occupational Safety and Health Administration. The Supreme Court has recognized this problem and has asked its Committee on Rules of Practice and Procedure to look into it and post possible rule changes for public

comment. In the interim, the Supreme Court has instructed the administrative agencies to direct out-of-state attorneys to file their verified petitions for temporary admission, see Admis. Disc. R. 3, § 2(a)(4), with the Supreme Court. If the Court grants the petition, the attorney then proceeds with whatever procedural prerequisites, if any, are required by the administrative agency for an Indiana attorney to appear before it (such as, for example, filing a notice of appearance).

**Supreme Court Emergency Notification Line.** On rare occasions, unanticipated emergent situations may arise in matters that require the Supreme Court's immediate attention because the relief being sought will be unavailable unless the Court considers the filing before the next business day. When such circumstances arise outside the Supreme Court's normal business hours (such as, for example, at 7:30 p.m. on Friday), this poses a particularly thorny problem for the litigant. She can immediately file her papers in the Clerk's "Rotunda Filing Drop Box," located in the second-floor eastside-entrance to the State House, but those papers will not be reviewed by Clerk's Office staff until the next business day (along with all the mailed-in filings that come in that day), and therefore likely will not get transmitted to the Supreme Court before the end of the next business day or the following day, after the relief she is seeking is no longer available.

For such rare but important situations, the Supreme Court has created the "Supreme Court Emergency Notification Line," a telephone number (317-234-6711) that a party can call to inform the Supreme Court Administrator that an emergency filing has just been tendered in the rotunda filing drop box that requires the Court's "after hours" attention. The caller is directed to leave a message after the beep stating the title and nature of the filing and the time it was placed in the rotunda filing drop box. The caller's message is automatically forwarded via e-mail to the Supreme Court Administrator or his designee. Information about the Supreme Court

Emergency Notification Line, including the phone number itself, is available at the Rotunda Filing Drop Box.

Please utilize this service only when the relief you are seeking truly will evaporate unless the Court considers the matter before the start of the next business day. If the matter could be adequately addressed the following business day, then a call to the Supreme Court Administration Office's main line (317-232-2540), letting staff know of the filing and why it needs the Court's immediate attention, would be sufficient to inform the Court of the presence of the filing in the Clerk's Office.

**What Does "Transmitted On Transfer" Mean?** Confusion is sometimes caused by the word "transmitted" appearing on the Clerk of Court's electronic docket in connection with a petition to transfer. When the transfer petition is filed, it waits in the Clerk's Office until the briefing on the petition is complete. When that occurs, the entire "case bundle" (which includes all appellate court filings) is then "transmitted on transfer" to the Supreme Court Administration Office for processing and distribution to the Justices. So, the phrase simply reflects where the case bundle is located -- the ministerial act of "transmitting on transfer" should *not* be confused with the judicial act of "granting transfer."

**Original Action Service Requirements.** Indiana Original Action Rules 2(B) and 6 address service of writ application papers. As those rules specify, proof of service (either an acknowledgement of service by the person served or a certificate of service signed by the party making service) must accompany the application papers when they are submitted by mail or in person to the Supreme Court Administrator for filing. Further, if an emergency writ is requested, the relator must submit the application papers to the Administrator in person after personal service on the respondents and all interested parties has been completed. See Orig. Act. R.

2(B). Frequently, the relator fails in some manner to comply with these service requirements, which may result in delay or in dismissal of the writ application.

That's it for our "procedure potpourri." As always, if you have a question about Supreme Court procedure that is not adequately answered by the applicable court rules, please feel free to call the Supreme Court Administration Office and speak to one of its staff attorneys. While they cannot provide legal advice, they can answer basic questions and might be able to let you know how others have handled prior procedural situations similar to yours.

# INDIANA STATE BAR ASSOCIATION THE APPELLATE ADVOCATE

## *Court of Appeals Oral Argument*

**By Danielle Sheff  
Deputy Administrator, Court of Appeals of Indiana**

Making oral argument accessible to as many members of the public and areas of the state as possible is a leading priority for the Court of Appeals of Indiana. To that end, the Court held 105 oral arguments around the state in 2010.

Various aspects of oral argument will be addressed in future articles by the Court of Appeals' administrative staff. For more information on oral argument, the oral argument calendar, and an interactive map, please see the Court's oral argument webpage at:

<http://www.in.gov/judiciary/appeals/arguments.html>.

In 2009, the Court of Appeals began webcasting the oral arguments held in the Court of Appeals Courtroom at the Statehouse. The oral arguments are viewable in real-time via the internet or on a television monitor outside of the courtroom for anyone working at or visiting the State House. The webcasts are hosted by IHETS, a consortium of public and private entities that collaborate to provide enhanced and cost-effective shared technology and eLearning. The webcasts are designed to allow both real-time or archived viewing. The Court of Appeals oral argument webcast list can be accessed by visiting one of the following two web addresses:

<https://mycourts.in.gov/arguments/default.aspx?court=app>, or

<http://www.in.gov/judiciary/appeals/calendar.html> and clicking on the link to watch live and archived video of oral arguments.

Practice Tips: Indiana Appellate Rules 52 and 53 govern oral argument. Under Appellate Rule 52(A), the court on review may set oral argument on its own motion. A party may seek oral argument as provided in Appellate Rule 52(B) by filing a motion no later than

seven days after any reply brief would be due under Appellate Rule 45(B). Appellate Rule 52(C) requires counsel or an unrepresented party to acknowledge the order setting oral argument within 15 days. On rare occasions the time for acknowledging oral argument is reduced within the order setting oral argument. Oral argument orders should be carefully reviewed for any special instructions about the time, location, and scope of the oral argument.

Appellate Rule 53 sets forth various procedures for oral argument including the time allowed, the order and content of argument, procedures when the case has multiple counsel or parties, argument when a cross-appeal exists, procedures for participation by *amicus curiae*, procedures for using physical exhibits at oral argument, and procedures when counsel for a party fails to appear for argument. In addition, Appellate Rule 53(H) directs parties to follow Administrative Rule 9(G)(4). Administrative Rule 9(G)(4) contains specific requirements for appellate proceedings, including oral arguments involving information excluded from public access.

Local Bar Associations: Please take note of a potential free-CLE opportunity! Chief Judge Margret Robb and her colleagues from the Court of Appeals have coordinated with the Indiana Commission on Continuing Legal Education to allow local Bar Associations to earn two hours of free CLE for Indiana attorneys attending both an off-site oral argument and an attorney-led discussion after the oral argument. For more information, please contact the Commission or Eileen Euzen, Public Information Officer for the Court of Appeals of Indiana, at [eeuzen@courts.state.in.us](mailto:eeuzen@courts.state.in.us) or (317) 234-4859.

# INDIANA STATE BAR ASSOCIATION THE APPELLATE ADVOCATE

## **GUEST COLUMN:**

### ***Filing confidential documents/documents under seal in the appellate courts.***

**Carl Butler**  
**Associate, Frost Brown Todd**

Indiana Administrative Rule 9 governs public access to records and has significant implications for our appellate practice. Administrative Rule 9(G)(4) and several of the Appellate Rules expressly address how to handle records on appeal that have been excluded from public access. When appealing a case involving confidential documents/documents filed under seal at the trial level, attorneys should be aware of these obligations under the Indiana Appellate Rules, and well as possible additional obligations to their clients arising from these Rules.

#### **I. Obligations under the Appellate Rules.**

For the most part, the default under the Appellate Rules regarding confidential filings is to maintain the status quo. If documents were filed on green paper at the trial court, they should likewise be filed on green paper at the appellate court, unless the appellate court orders otherwise. (See the next section for an important additional requirement.)

When documents have been excluded from public access by virtue of a court order, appellate counsel must provide notice of such exclusion on the Appellant's Case Summary, and must attach all trial court orders concerning each exclusion. (See Appellate Rule 15(C), (D); Administrative Rule 9(G)(4)(c)(i).) Failure to follow this procedure can result in the information being released by the clerk and appellate counsel being subjected to sanctions. (Administrative Rule 9(G)(4)(c)(iv).)

In addition, certain categories of documents must be protected from public access under Administrative Rule 9(G). This list includes (1) information that is excluded from public access

under federal law; (2) information that is excluded from public access under Indiana statute or court rules; (3) information excluded from public access by a specific court order; (4) complete Social Security Numbers of living persons; (5) certain information that would personally identify witnesses or victims in criminal or civil protection order proceedings or the addresses of court staff; (6) certain financial account information; (7) criminal or juvenile expungement orders; (8) certain personal and deliberative material of judges, court staff, and jurors; and (9) certain enumerated administrative records. (See Rule 9(G) for non-exhaustive lists.)

If any of the documents listed under Administrative Rule 9(G) are included in the record but not filed on green paper below, appellate counsel has a duty to correct this omission on appeal, subject to the requirements identified in the next section. See Southern v. State, 878 N.E.2d 315 (Ind.Ct.App. 2007); Lemond v. State, 878 N.E.2d 384 (Ind.Ct.App. 2007).

Failure to do so can result in the document that should have been confidential suddenly being made publically available, which can expose the attorney to liability and possible disciplinary action. See J.S. v. State, 928 N.E.2d 576 (Ind. 2010)

## **II. The effect of Administrative Rule 9(G)(1.2) on appellate filings.**

Administrative Rule 9(G)(1.2) provides, “During court proceedings that are open to the public, when information in case records that is excluded from public access pursuant to this rule is admitted into evidence, the information shall remain excluded from public access only if a party or a person affected by the release of the information, prior to or contemporaneously with its introduction into evidence, affirmatively requests that the information remain excluded from public access.”

If trial counsel properly made the Rule 9(G)(1.2) request below, Administrative Rule 9(G)(4) does not require a separate request when including the evidence in appellate filings.

But, should appellate counsel become aware that trial counsel did not make the 9(G)(1.2) request below, counsel should make this affirmative request on appeal prior to or contemporaneous with the filing of this evidence on green paper at the appellate level. As noted above, failure to do so can expose the attorney to liability and possible disciplinary action.

### **III. Mechanics of filing confidential documents with the appellate court.**

Appellate Rule 9(J) directs appellate counsel to file confidential documents in accordance with Trial Rule 5(G) and Administrative Rule 9(G)(4). This means documents excluded from public access must be tendered on light green paper (or be tendered with a light green coversheet attached to the document marked “Not for Public Access” or “Confidential”). (See Trial Rule 5(G).) Additionally, the parties must not disclose any matter excluded from public access. (Administrative Rule 9(G)(4)(a)(ii).)

Because the public has access to Appendices and Briefs filed on appeal, appellate counsel must file two separate versions: a public access version *without* the confidential records and a separate version *with* the confidential records. Although most often this applies only to the Appendix, if appellate counsel discloses any of the confidential information contained in the Appendix in the appellate Briefs, two separate Briefs must be filed as well.

The public access version is tendered on white paper, with the confidential pages omitted and a page noting this omission inserted in their place. The separately-bound confidential version is filed on green paper, and consists only of those confidential documents

removed from the public access version. The confidential document pages should be numbered as if they were part of the public access version.

As noted in the previous section, when filing confidential evidence on appeal, counsel should consider whether a Administrative Rule 9(G)(1.2) request must be made at the appellate level.

Finally, if oral argument is set, Appellate Rule 53(H) requires “the parties and their counsel shall conduct oral argument in a manner reasonably calculated to provide anonymity and privacy in accordance with the requirements of Administrative Rule 9(G)(4).” Administrative Rule 9(G)(4) in turn provides “the parties and counsel, at any oral argument ... shall not disclose any matter excluded from public access.”

In light of these requirements, appellate counsel should employ the use of initials, pseudonyms, and other means when arguing a case involving confidential documents. If there is absolutely no way that counsel can meaningfully conduct oral argument without disclosing matter excluded from public access, counsel should contact the appellate court prior to oral argument to seek guidance as to how to proceed.

#### **IV. Possible additional obligations to your client.**

If a document does not fall within the categories identified by Administrative Rule 9(G) as requiring the document to be excluded from public access, then Administrative Rule 9(H) provides the exclusive means by which a party may file documents under seal. (See Administrative Rule 9(H); Travelers Cas. and Sur. Co. v. U.S. Filter Corp., 895 N.E.2d 114 (Ind. 2008).)

This Rule provides that a request to prohibit public access to information in a court record must be verified, must be in writing, must meet at least one of four factors identified in the Rule, notice of the request must be provided to all parties and other persons as the court may direct. Id. If the trial court does not initially deny the request, it must, after posting advance public notice, conduct a public hearing. Id. In order to prohibit public access to records, the trial court must find “by clear and convincing evidence” that at least one of the conditions listed have been satisfied and it must state in writing the reasons for granting the request. Id. A Trial Rule 26 protective order does *not*, in and of itself, meet the requirements of Administrative Rule 9(H). See Travelers Cas. and Sur. Co. v. U.S. Filter Corp., 895 N.E.2d 114 (Ind. 2008).)

Likewise, as discussed above, an affirmative request is required under Administrative Rule 9(G)(1.2) in order to keep any document introduced at a hearing from public access.

As explained above, appellate counsel’s responsibility under the Appellate Rules is to maintain status quo and to continue to file documents on green paper if those documents were filed on green paper below. If the appellate court has reason to believe that documents were improperly filed under seal below, it regularly issues orders to appellate counsel to show cause as to why the documents should not be unsealed and if counsel cannot show that Rule 9(H) and Rule 9(G)(1.2) were followed, the documents will no longer be treated as confidential.

(Administrative Rule 9(G)(4)(c)(ii).)

Moreover, even if no order to show cause is ever issued, the appellate court can still *sua sponte* unseal the records if its independent review reveals a failure to follow the requirements of Administrative Rule 9(H). See Allianz Ins. Co. v. Guidant Corp., 884 N.E.2d 405 (Ind.Ct.App. 2008); Raess v. Doescher, 883 N.E.2d 790 (Ind. 2008).

Thus, if appellate counsel is concerned that the requirements of Administrative Rule 9(G)(1.2) or 9(H) were not followed below, counsel may need to inform your client of the potential for the documents to be unsealed on appeal. If your client is concerned about these documents being unsealed, you may need to consider either seeking a remand to allow the trial court to hold that hearing and properly protect these documents pursuant to 9(H) or 9(G)(1.2) or requesting that the appellate court hold a hearing in compliance with Administrative Rule (9)(H) to allow the documents to be treated as confidential.

# INDIANA STATE BAR ASSOCIATION THE APPELLATE ADVOCATE

## ***Practice Tips from Recent Cases on Appellate Practice***

**Maggie Smith  
Frost Brown Todd, LLC**

### **I. Errors in assembling the Appendix.**

Once again, the majority of recent decisions addressing appellate practice issues involve improper Appendices tendered by practitioners. Two critical points to remember are discussed below.

#### **A. Do not put any part of the Transcript into the Appendix.**

Past columns have noted the court's repeated frustration with parties including the Transcript in the Appendix. The new amendments to Appellate Rule 50, effective January 1, 2011, address this issue.

Appellate Rule 50 has removed all references to the Transcript in the required documents, and now expressly provides, "Because the Transcript is transmitted to the Court on Appeal pursuant to Rule 12(B), parties should not reproduce any portion of the Transcript in the Appendix." Ind. Appellate Rule 50(F).

Keep in mind, however, that only one copy of the Transcript is provided to the appellate court. Thus, if there are key parts of the Transcript that you believe all judges/justices should see before deciding your appeal, make sure you utilize the Appellate Rule 46(H) Addendum to the Brief.

#### **B. Include *everything* related to the summary judgment proceedings in the Appendix.**

"It is well settled that the duty of presenting a record adequate for intelligent appellate review on points assigned as error falls upon the appellant." Leo Machine & Tool, Inc. v. Poe

Volunteer Fire Dept, Inc., 936 N.E.2d 855, 859 (Ind. Ct. App. 2010). Because summary judgment proceedings are reviewed *de novo*, the appellate court continues to remind practitioners that the presentation of an adequate record requires counsel to include any and all filings related to the summary judgment proceedings in the Appendix. Id.

This includes the summary judgment motions, the memoranda/briefs in support and in opposition, the designations of evidence in support and in opposition, and the actual evidence designated in support and in opposition. See Id.; Harris v. Denning, 900 N.E.2d 765,766 (Ind. Ct. App. 2009); Belden v. American Elec. Components, 885 N.E.2d 751,753 (Ind. Ct. App. 2008).

As this column has noted in the past, the failure to include all of the summary judgment filings can have significant consequences. Although most often the court orders the appellant to supplement the appendix or goes ahead and decides the case on the merits, the Court of Appeals has at times found the failure to include the required materials was fatal to a request for review of a summary judgment ruling. See Hughes v. King, 808 N.E.2d 146, 147 (Ind. Ct. App.2004); Yoquelet v. Marshall County, 811 N.E.2d 826, 830 (Ind. Ct. App.2004).

**II. Trial Rule 60(B) cannot be used as an alternative means to appeal the legal merits of a judgment when the party failed to pursue an appeal.**

The Supreme Court recently reminded counsel that Trial Rule 60(B) cannot be used as an alternative means to appeal the legal merits of a judgment when the party failed to pursue an appeal. In In re Paternity of P.S.S., 934 N.E.2d 737 (Ind. 2010), Father filed a petition to challenge paternity with the juvenile court, which dismissed the petition on December 11, 2008 on the grounds that the dissolution court had exclusive jurisdiction over the case and that the issue of paternity had been raised and resolved in the dissolution proceedings. Father did not

file a Trial Rule 59 motion to correct error or a notice of appeal within thirty days of this final order. Instead, on January 29, 2009, Father filed a motion under Trial Rule 60(B)(2) for relief from the judgment, which the juvenile court denied.

On appeal from the Rule 60(B)(2) denial, Father argued the juvenile court erred in determining it did not have jurisdiction to adjudicate his paternity action. The Supreme Court dismissed the appeal, concluding “the substance of Father's claim is a challenge to the merits of the trial court's order of dismissal” and Father was required to have presented this challenge by way of a timely notice of appeal or a timely motion to correct error within thirty days. Father could not present this challenge by way of Trial Rule 60(B) because “a motion for relief from judgment under Indiana Trial Rule 60(B) is not a substitute for a direct appeal. . . . Trial Rule 60(B) motions address only the procedural, equitable grounds justifying relief from the legal finality of a final judgment, not the legal merits of the judgment.”

### III. **Issues involving the Transcript.**

The Court of Appeals in *In re Paternity of D.L.*, 938 N.E.2d 1221 (Ind. Ct. App. 2010), reminds us that Appellate Rule 28(A)(2) requires the entire Transcript to be consecutively numbered, even if the Transcript contains multiple different hearings.

**PRACTICE APPLICATION:** Recently we had an appeal with thousands of Transcript pages from six different hearings over a two year span. The court reporter separately transcribed each hearing, and numbered each hearing separately (i.e., six different page ones, etc.). The Court of Appeals had to stay proceedings and order the court reporter to submit a new Transcript with consecutive numbering for all six hearings. The court reporter still ended up submitting a different volume for each hearing, but each new volume continued the numbering from the previous volume.

# INDIANA STATE BAR ASSOCIATION THE APPELLATE ADVOCATE

**Seventh Circuit Practice**  
Paul Jefferson  
Partner, Barnes & Thornburg, LLP

## **Mandatory Electronic Filing Is (Almost) Here**

At the time of the submission of this Article, the Seventh Circuit Court of Appeals was soliciting comments regarding proposed rule changes related to mandatory electronic filing. Expected to go into effect on May 1, 2011, Cir. R. 25(a) will require, “All briefs, motions, petitions and similar documents” to be filed and served electronically. While some exceptions exist for *pro se* litigants, and leave may be requested by motion per proposed Cir. R. 25(c), this will be the method of actually filing most documents. While many practitioners are familiar with electronic filings in federal district courts, significant differences exist.

First, please be aware that while the rules contemplate the particular filing will be made electronically, paper copies of “briefs, addenda, appendices and petitions for rehearing” must also be provided to the court within seven (7) days of the Notice of Docket Activity generated by the electronic filing. However, it is the electronic submission which is the “filing.” An electronic filing will be placed on the court’s docket only after it has been reviewed for compliance and accepted. Thus, a practical point will be to electronically file timely, but wait for the docket entry to make the paper submission so as to not submit paper copies of documents the court has not accepted.

Second, the electronic filing procedures specifically allow for hyperlinked documents to be submitted (Filing Procedures part (m)). As many practitioners are aware, this can be a powerful tool to allow the court to have easy access to citations to the record and cases, or demonstrative evidence that may have been submitted below. However, the court’s proposed

procedures are specific as to the hyperlinks allowed, and specific notes that such a link is a convenience and not part of the record or a substitute for a proper citation.

Third, as electronic filers are aware, the electronic filing also constitutes service of the document for those practitioners who have appeared and are registered on the system. However, paper copies must still be served for those who are not “Attorney Filing Users,” such as *pro se* litigants. As a practical issue, this means that if an attorney will be away from the office without access to email, it is good ideas to have someone appear with you, or otherwise monitor the docket, so that electronically filed documents will be promptly addressed. Reliance on old receipt of mailed service may not be appropriate.

Finally, electronic filed documents are publicly available, which requires additional thought when filing personal data or sealed documents. Electronic Filing Procedure (l) contains the pertinent information which must be redacted or altered before a document is electronically filed, such as names of minor children and personal financial information. Moreover, attorneys are cautioned that if a document that was previously under seal is filed electronically without following the proper procedures, it will become public. Electronic Case Filing Procedure (g) addresses this issue, and parties should confront this issue well in advance of any filing deadline.

Appellate electronic filings present some unique challenges and opportunities that do not exist in trial court practice. However, most attorneys agree that electronic filings at the district court level have helped ensure prompt access and delivery of information and eased the volume of paper that must be managed. Particularly if you are not familiar with electronic filing, your will be well-served to make your initial filings in advance as technological issues can sometimes arise which may cause your filing to be delayed. However, the ability to have searchable briefs,

timely service and linked citations will become tools in your practice that you will appreciate if you do not already. Additional information may be found on the Seventh Circuit's website: <http://www.ca7.uscourts.gov>.

**Upcoming Events and Items of Interest (more information can be found in electronic version):**

April 28, 2011 – Section Council Meeting

May 13, 2011 – Appellate Practice Survey 2011 CLE (see enclosed information)

Nov. 10-13, 2011 – Appellate Judges Education Institute's Summit

Appellate Practice Survey 2011

May 13, 2011

ICLEF Conference Facility  
230 E. Ohio Street 5<sup>th</sup> Floor, Indianapolis

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		6.75 CLE 1 Ethics
8:30	Registration & Coffee	
8:55	Welcome and Course Introduction <i>KENDRA G. GJERDINGEN</i>	
9:00	Appellate Lawyering and Appellate Judging <i>CHIEF JUSTICE RANDALL T. SHEPARD</i>	
9:15	Major Considerations Before Taking an Appeal <i>CATHLEEN M. SHRADER, NANA QUAY-SMITH</i>	
9:45	Initiating the Appeal <i>DANIELLE O. SHEFF, MAGGIE L. SMITH</i>	
10:30	Coffee Break	
10:45	Motions Practice <i>HON. CALE J. BRADFORD, CAROL SPARKS DRAKE</i>	
11:15	Interlocutory Appeals <i>HON. EDWARD W. NAJAM JR., BRIAN J. PAUL</i>	
11:45	Lunch Break	
12:00	Criminal Appeals Brown Bag Lunch Session <i>HON. MELISSA S. MAY, PROF. JOEL M. SCHUMM, CYNTHIA L. PLOUGHE</i>	

- 12:45 Break
- 1:00 Appellate Briefs, Appendices, Addendums, and Petitions for Rehearing  
*HON. TERRY A. CRONE, CRYSTAL G. ROWE, MARISOL SANCHEZ*
- 2:00 Oral Argument  
*HON. PAUL D. MATHIAS, PAUL L. JEFFERSON*
- 2:30 Refreshment Break
- 2:45 Petitions to Transfer, Supreme Court Proceedings, and Original Actions  
*HON. BRENT E. DICKSON, GEOFFREY P. DAVIS, JON B. LARAMORE*
- 3:45 Professional Responsibility Issues in Appellate Practice  
*HON. PATRICIA W. RILEY, E. PAIGE FREITAG*
- 4:45 Adjourn