

PRESENTED AT

Conference on Criminal Appeals

May 1-3, 2019
Austin, Texas

Effective and Persuasive Briefing

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Conference on Criminal Appeals; May 1, 2019

Effective and Persuasive Briefing

Topic description: Point and counter-point; perspectives on concise, yet effective brief-writing from the prosecution and the defense.

Presenters: Mandy Miller, Attorney at Law, for the defense; Melissa Stryker, Assistant District Attorney, Harris County, Texas, for the prosecution

Brief Writing – Topics for Discussion

1. Requisites of Briefs Filed in Courts of Appeals (COAs)

a. TRAP 38.1 – Appellant’s Brief

The appellant’s brief must, under appropriate headings and in the order here indicated, contain the following:

(a) *Identity of Parties and Counsel*. The brief must give a complete list of all parties to the trial court’s judgment or order appealed from, and the names and addresses of all trial and appellate counsel, except as otherwise provided in Rule 9.8.

(b) *Table of Contents*. The brief must have a table of contents with references to the pages of the brief. The table of contents must indicate the subject matter of each issue or point, or group of issues or points.

*Incorporate your subheadings into your table of contents so that the reader will be able to jump to specific sections in your brief. For example, if your reply to a point of error contains subsections for the standard of review, preservation of error, merits, and a harm analysis, it is useful to have each subheading for those sections in the table of contents, rather than just the line “Reply to Appellant’s First Point of Error.”

(c) *Index of Authorities*. The brief must have an index of authorities arranged alphabetically and indicating the pages of the brief where the authorities are cited.

(d) *Statement of the Case*. The brief must state concisely the nature of the case (e.g., whether it is a suit for damages, on a note, or involving a murder prosecution), the course of proceedings, and the trial court’s disposition of the case. The statement should be supported by record references, should seldom exceed one-half page, and should not discuss the facts.

(e) *Any Statement Regarding Oral Argument*. The brief may include a statement explaining why oral argument should or should not be permitted. Any such statement must not exceed one page and should address how the court’s

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