

Notice to Counsel Concerning the Posting of Appellate Briefs on the Internet

Eighth Circuit Local Rule 28A(d) requires filing parties to provide a diskette of all briefs prepared on a computer. In addition to using the diskette to verify volume limits under FRAP 32(a)(7)(B), the clerk's office also uses the diskette to prepare a PDF version of the brief for posting on the court's Internet site. Since January, 2000, the clerk's office has posted more than 6,000 briefs on the site.

Concerns about privacy and the confidentiality of information in the federal courts' electronic case files recently prompted the Judicial Conference of the United States to issue guidelines to courts regarding electronic access to case materials. The E-Government Act of 2002 also contains important provisions governing the electronic filing of documents. While there are many benefits to having electronic access to all of the briefs filed with the Eighth Circuit, parties filing briefs need to be aware that once briefs are posted on the Internet, they are accessible to anyone and can be widely and rapidly distributed.

Counsel should not include sensitive information in the brief unless the inclusion of the information is necessary and relevant to the case. If sensitive information is included, the following personal data and identifiers must be partially redacted, both in the paper and electronic versions of the brief. Examples of such information include Social Security numbers, financial account information, dates of birth, names of minor children and home addresses of any individual. It is acceptable to use the last four digits of Social Security numbers or financial account information, year of birth (but not date of birth) for an individual, and initials of minor children. When providing addresses, counsel may refer to the address as "the 4000 block of Elm." Counsel should also exercise caution when filing briefs which contain other sensitive information, such as driver's license numbers, medical records, employment history, individual financial information and proprietary or trade secret information.

In compliance with the E-Government Act of 2002, a party wishing to file a document containing the personal data identifiers specified above may file an unredacted brief under seal. This document shall be retained by the court as part of the record. The court may, however, require the party to file a redacted copy of the brief for the public file. Please note that it is the sole responsibility of the filer to comply with redaction requirements. The clerk's office will not review every brief for redaction or inclusion of inappropriate materials. Counsel may wish to share this notice with all clients so that an informed decision about the use of the materials can be made.

Additionally, counsel may ask the clerk not to post a brief on the Internet. If you do, please provide a brief statement of reasons when you file your brief. You should also mark the diskette "NOT TO BE FILED ON THE INTERNET."

Questions about the court's policy may be addressed to the St. Louis clerk's office at 314-244-2400.