

CC-2008-016

May 21, 2008

Subject: Brief Review Best Practices **Cancel Date:** Upon incorporation into CCDM

Purpose

To describe best practices to be followed by attorneys in the brief review process.

Discussion

Early and frequent communications are essential between Field and National Office attorneys to ensure a timely and quality brief and an efficient work relationship. Considerations should include the following:

- Early identification of a National Office reviewer allows for earlier collaboration and consideration. Both Field and National Office attorneys should be in contact as early as possible in the process in order to identify potential issues and to agree on a review schedule.
- When submitting briefs to TSS4510, attorneys should "cc" the specific National Office attorney(s) they know will be involved in the review process, as early notification permits progress to be made earlier on the review.

The prebrief review process described in CCDM 35.7.3.1 should be used to ensure that the issues and arguments are identified and agreed on. As part of that process, the attorneys will discuss:

- a. whether the position taken is consistent with Service position
- b. whether arguments need to be added or modified
- c. whether the National Office can assist in the preparation of the brief
- d. whether brief review is required.

When submitted for final National Office review, the brief should be fully reviewed and in conformance with the court's rules and with the office procedures for briefs, except, as discussed below, for the Table of Contents and Table of Authorities (TOC/TOA).

The assigned National Office attorney should make the necessary coordinations with other Associate offices as soon as possible after receiving the brief. The assigned attorney should

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serve as the focal point for communicating changes to the Field to ensure that all proposed changes are consistent with one another.

Any substantive disagreement regarding an argument in the brief should be identified as promptly as possible and resolved through established reconciliation procedures. CCDM 31.1.4.

Word Processing Best Practices for Briefs

Special Points of Attention for Field Office Authors/Reviewers/Editors

- Always generate the brief skeleton using the CC Macros system.
- Except when generating tables of contents and authorities, work with the Show/Hide feature turned ON (toggle the ¶ icon on the Standard Toolbar) so as to avoid deleting any key elements (page breaks, section breaks,   icons, table of contents and table of authorities fields, etc.).
- When pasting material into the brief document, make sure to use the Paste Options icon () to select *Keep Text Only*. While this may mean reformatting the pasted material, it will prevent unrecognized or problematic codes and styles (which have the potential of corrupting your document) from being pasted along with the text.
- Since the National Office does not require the TOC/TOA to be generated prior to review, it will probably be most efficient to mark table entries while the document is in review and generate those tables following your review-based revisions. Take special care with any TOC/TOA elements that have been modified by the review process before generating the tables.
- Upon receiving the reviewed electronic document back from the National Office:
 - Open the brief without merging the changes back into your original document (Word will give you this option when you open the reviewed brief, recognizing the document as originating from you even if the National Office has changed its name).
 - Make sure that Track Changes is turned off and that all changes made by the National Office have been accepted.
 - Working from this reviewed document, run Word's *Compare and Merge Documents* feature (*Tools>Compare and Merge Documents*), making sure to select the *Legal Blackline* and *Find Formatting* checkbox options in the *Compare and Merge Documents* dialog box.
 - Use the resulting blacklined document to review the National Office changes, taking special note of changes that may affect section breaks or TOC/TOA elements.
 - It is recommended that you carefully make these corresponding changes by hand in your original document; however, if you determine that none of the National Office changes affect formatting elements or TOC/TOA entries, you may want to re-open the reviewed document and accept the option to merge the changes back into your original. This will allow you to easily accept those changes in that document (either individually or all at once), avoiding manual modification.
- Turn off Show/Hide (¶ icon on the Standard Toolbar) before generating Table of Contents or Table of Authorities to ensure that page references in the tables are correct.
- Manually review the brief and the generated tables to ensure that all headings are included in the Table of Contents and all citations are included in the Table of Authorities. (Troubleshooting: If all of an authority's citations disappear from the Table of Authorities, it

means the marking for the first instance of the citation has been deleted. Either delete all markings for this citation and start over, or cut and paste the marking from the first citation to the second before deleting the first. If a hand-marked entry for the Table of Contents does not appear, regenerate the table and select the "Table Entry Fields" checkbox in the **Options** dialog box (from the **Table of Contents** tab of the **Index and Tables** dialog box).

- Make any changes to the appearance (font, indentation, wrapping etc.) of the TOC/TOA using the underlying styles; NOT by hand in the table, with the following single exception: if the list of page numbers runs off the right margin, you will need to manually insert a manual line break (SHIFT+ENTER) and a TAB in order to show all the page numbers.
- Run the *Purge* option from the e-Word toolbar as your final step and prior to sending the document outside of Counsel or to the Brief Bank. Note that running this tool will create a new file in the same folder and with the same name as the brief document, but with (*checked*) appended to the file name.

Special Points of Attention for National Office Reviewers

- In most cases, the brief document you receive for review will not include the Tables of Contents or Authorities, which will be generated following the review process.
- Since the internal review process at the National Office often requires the use of the Track Changes feature, turn that option on as soon as the brief is received for review. Before returning the reviewed brief to the field, however, that option should be turned off and all changes that have been made to the document "accepted" (this can be done in one step from the *Reviewing* toolbar).
- Work with the Show/Hide feature turned ON (toggle the ¶ icon on the Standard Toolbar) so as to avoid deleting any key elements (page breaks, section breaks,  icons, table of contents and table of authorities fields, etc.).
- If it is necessary to add or remove authorities (citations) and/or headings that would appear in the Table of Contents, reviewers should make a special effort to communicate those changes to the originating author inasmuch as those changes may require special attention for correct generation of the Table of Authorities and Table of Contents.
- When pasting material into the brief document, make sure to use the Paste Options icon () to select *Keep Text Only*. While this may mean reformatting the pasted material, it will prevent unrecognized or problematic codes and styles (which have the potential of corrupting your document) from being pasted along with the text.

/s/

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