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Briefly: Column to continue with new authors at helm

By: Katie Barrett Wiik, Erica Holzer and Eric Magnuson ○ January 24, 2023

A new year always brings change, but 2023 also ushers in a new era for this column. Founder and longtime author, former state Chief Justice Eric Magnuson, is passing the torch for these monthly musings to Erica Holzer and Katie Barrett Wiik. This month's column gives readers an insight into the trio's discussions of this transition.

Katie: Happy New Year, Eric! We are excited to move forward with your "Briefly" column as you are taking some professional obligations off your plate to make more time for yourself and your family. And fishing.

Erica: Yes, thank you for trusting us with this labor of love. We both realized that learning some of the history of the column from you would be helpful as we take the helm.

Eric: Absolutely. Where would you like to start?

Erica: Let's start at the beginning. How did the column originate?

Eric: Minnesota Lawyer's Barb Jones suggested it to me about a decade ago, and it grew from there. Before I went on the bench, I regularly received calls from lawyers who wanted to "buy" 15 minutes of my time to consult on a procedural appellate issue. Rather than open a file, I would agree to consult colleague to colleague, with the "fee" being a copy of any order the inquiring lawyer might receive answering the question that we discussed. It was a great way to add to the annual Appellate Rules Annotated in the *Minnesota Practice Series*. [Another writing project that Holzer and Barrett Wiik have inherited.] My first column was an invitation for the practicing bar to call me again, as I returned to my law practice.

Katie: Marketing genius! Having had the privilege of practicing with you for a number of years, I knew making yourself available to chat with other lawyers was a generous practice,

but I didn't realize that it also fed into the "Briefly" column. Makes good sense!

Eric: Since then, I have published well over 100 articles ranging from light-hearted discussions of the foibles of appellate practice to serious discussions of the structure of the appellate courts, with a good dose of practical "how to" pieces. I enjoyed writing them and enjoyed even more when a lawyer or judge would send me a note thanking me for addressing an arcane or troubling issue.



From left: Katie Barrett Wiik, Erica Holzer, Eric Magnuson

Erica: What has been your goal in writing the column?

Eric: I really liked sharing my thoughts on appellate issues, but also had some specific objectives, including to:

- Educate the average practitioner about appellate developments, pitfalls, and strategy.
- Give other lawyers a forum for writing about appellate issues. Many of the columns had co-authors, including newer lawyers interested in building an appellate practice, something I regularly encouraged.
- Discuss issues that impact appellate practice more generally and, at times, advocate for change.

Katie: These goals are pretty timeless and will remain a focus for us. Providing a forum for emerging practitioners to bring their voices to the dialogue on appellate law within our practice community is something we all value. I personally benefited from getting to co-author a number of these columns with you when we practiced together, and I want to provide the same opportunities for the next generations.

Erica: I wholeheartedly agree. We certainly intend to keep that up, as we both have colleagues at our firms and in the Minnesota appellate practice community with energy and enthusiasm for appellate law. Many also bring more recent clerkship experience and can share insights from behind the scenes.

Katie: How do you pick your topics?

Eric: I watch the news from the appellate courts, often picking topics discussed by others for further examination. I read case decisions and rule changes on both a state and federal level and identify those that might deserve more discussion. I also use my own experience in cases to highlight interesting issues for appellate practice, since much of what I write about comes from unpublished orders that I receive in cases, or that lawyers send me for comment or after they have consulted with me colleague to colleague.

Erica: How is writing this column different from other legal writing?

Eric: It's refreshingly lighter and less formal. It's not a legal brief or law review article, which makes the writing much easier. It has always been pretty loosely structured and conversational, which is something that I really enjoyed. It was a versatile forum to highlight a wide variety of topics. I felt free to opine (some may say pontificate) with my own opinions as primary authority.

Katie: (Laughs) You've earned that! Those who know you well know you have some healthy humility thrown in there. You are always willing to listen and learn. In terms of centering our own opinions, it may take a few more years for us to be as comfortable doing that. You leave

big footprints to fill, here and in the appellate practice arena, but we're up to the challenge and there is some impressive talent in these next generations.

Eric: I know you are both ready to take the helm and bring your expertise and energy to make the appellate courts and the lawyers who practice before them better.

Erica: What sort of feedback have you received on your column?

Eric: I've received rich feedback, which has made the effort worthwhile. As I noted earlier, lawyers and judges frequently thank me for clarifying areas of appellate and trial practice that are confusing if you aren't wrestling with them every day. They also provide me with more war stories from the trenches that are fodder for future columns.

Katie: Do you ever receive feedback from our appellate judges?

Eric: Yes, frequently in addition to trial judges and lawyers. I get lots positives when I have written something focused on helping lawyers to help the courts. That should be a primary focus of appellate practitioners. Sometimes, however, I also hear disagreement (particularly from appellate judges) when I take a position on either substance or procedure that they think is wrong.

Erica: That dialogue is so valuable though and demonstrates that this column is an important forum that makes those exchanges possible.

Eric: I agree. Practitioners have a lot to learn from the courts, and vice versa.

Katie: Do you intend to stay involved with the column?

Eric: I sure hope so. I have been a student of appellate law for more than 45 years. It is hard to stop watching the law, and having opinions on it, cold turkey. I have great confidence that you two will continue the tradition, but I probably won't be able to keep my fingers completely out of the pie.

Erica: (Laughs) We welcome that! You've already sent us a number of strong ideas for 2023 columns.

Katie: Agree. Thank you for this opportunity, and you're welcome as a guest columnist any time "semi-retirement" gets boring.

Eric: I appreciate the invitation. I would also like to thank Minnesota Lawyer for giving me this platform for the last decade where I could muse on pretty much any topic that came to mind, as long as it had something to do with appellate law and the appellate courts. It was a rare chance to share my thoughts with those willing to read them, and I feel very fortunate for the opportunity.

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Eric J. Magnuson is a partner at Robins Kaplan LLP and served as Chief Justice of the Minnesota Supreme Court from 2008 to 2010. He has more than 40 years of experience practicing law and he focuses his practice almost exclusively in appellate courts.