

Court of Appeals of Virginia

Appellate Filing Procedure

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ABOUT LANTAGNE LEGAL

Lantagne Legal Printing (Est. 1992) is a family-run business serving the legal community as a professional service specializing in appellate procedure. We provide the highest levels of quality, service and expertise to our clients, drawing on over a century of combined appellate experience. Our staff is uniquely prepared to meet all of your appellate needs.

In 1997 we welcomed Brief Printing Specialists to the Lantagne Legal Printing family. At that time Kay Craig and May Serafim had worked in the appellate field for over 13 years. During those years they established an impressive reputation for quality and service. The combination of our staffs created the strongest, most experienced appellate services company operating in Richmond today. Kay has since retired but May is still with us serving the legal community in appellate filings.

As a company, we constantly strive to be the very best at what we do. Our commitment to our clients is to provide superior service at a fair price. Comments and suggestions on our work and how we might improve our services are always welcome and can be sent directly to me.

Sincerely,

Donald G. Lantagne
President

ABOUT THIS HANDBOOK

This handbook provided by Lantagne Legal Printing is intended as a helpful guideline for the appellate process and is not intended as a substitute for the Rules of the Virginia Supreme Court. For detailed and definitive answers to appellate procedures and questions, the actual Rules of the Virginia Supreme Court should be consulted. We are more than happy to provide copies of the actual rules when requested.

Be sure to visit us on the web at lantagne.com

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Court of Appeals of Virginia

FILING SCHEDULE

The following Rules of the Virginia Supreme Court, **Rule 5A:19(b) and (c) - Briefs**, have been condensed into the filing schedule below:

APPEAL AS A MATTER OF RIGHT:

| | |
|---------------------------|---|
| Brief of Appellant: | 40 days after filing the Record with the Court of Appeals of Virginia |
| Joint Appendix: | Filed along with Brief of Appellant |
| Brief of Appellee: | 25 days after filing of the Brief of Appellant |
| Reply Brief of Appellant: | 14 days after filing of the Brief of Appellee |

GRANT OF A PETITION FOR APPEAL:

| | |
|---------------------------|---|
| Brief of Appellant: | 40 days after the date of the certificate of appeal issued by the Clerk of the Court of Appeals |
| Joint Appendix: | Filed along with Brief of Appellant |
| Brief of Appellee: | 25 days after filing of the Brief of Appellant |
| Reply Brief of Appellant: | 14 days after filing of the Brief of Appellee |

Specifications for the Brief of Appellant

Rule 5A:4:

Paper: 8-½ x 11 inches in size
Margins: One inch on all sides
Type: 12 point or greater
Spacing: Double-Spacing, except for footnotes and quotations

Number of copies: Rule 5A:19(a) and (f)

File: 7 copies
Serve: 1 copy
Word Limit: 12,300 words

Color of cover: Rule 5A:24

Brief of Appellant: White

Requirements for the Brief of Appellant

The brief of appellant shall contain (Rule 5A:20):

1. Table of Contents
2. Table of Authorities
3. Statement of the Nature of the Case and of the Material Proceedings in the Trial Court
4. Assignments of Error (must include a reference to the record where the question was preserved in the lower proceeding)
5. Statement of the Facts (must include appropriate references to the record)
6. Argument, including the Standard of Review
7. Conclusion
8. Counsel's signature (need not be in handwriting), mailing address, telephone number (with applicable extension), fax number, Email, and VSB Number.
9. Certificate of Service (*see following page for examples*)

On Binding: These bindings are NOT accepted by the Court:

- **Spiral binding/ring notebooks (includes GBC binding)**
- **Acco fasteners**
- **Plastic report covers with detachable spines**

SAMPLE CERTIFICATES OF SERVICE

1.

CERTIFICATE OF SERVICE

I hereby certify that Rule 5A:19(f) of the Rules of the Supreme Court of Virginia has been complied with on this ____ day of _____, 201__ . Counsel does (or does not) desire to waive oral argument. This brief contains _____ words, excluding those portions that by rule do not count toward the word limit.

Attorney's Name

2.

CERTIFICATE OF SERVICE

I hereby certify that Rule 5A:19(f) of the Supreme Court of Virginia has been complied with and pursuant to the Rule, seven (7) copies of this Opening Brief of Appellant have been filed with the Clerk of the Court of Appeals of Virginia and one copy has been (mailed postage prepaid **or** hand delivered) to _____, _____, on this ___ day of _____, 201__ . Counsel does (or does not) desire to waive oral argument. This brief contains _____ words, excluding those portions that by rule do not count toward the word limit.

Attorney's Name

RULE 5A:25 – APPENDIX

Rule 5A:25(c): Requirements for the Joint Appendix

1. Table of Contents
2. Basic Initial Pleading, as amended
3. Judgment appealed from
4. Any other relevant parts of the Record
5. Any relevant exhibits of the Record

Rule 5A:25(d): Designation of Contents of Appendix

Joint Designation: 10 days from certificate of appeal/record filed
Appellant Designation: 15 days from certificate of appeal/record filed
Appellee Designation: 10 days from filing of Appellant’s designation

Rule 5A:25(e): Form of Presentation

At the beginning to the appendix there shall be a table of contents. Thereafter, the parts of the record to be reproduced shall be set out in chronological order.

Rule 5A:25(f): Costs

Unless counsel otherwise agree, the cost of producing the appendix shall initially be paid by the appellant.

Rule 5A:24: Color of Cover

Red

Rule: 5A:19(f): Filing and Service

File: 7 copies
Serve: 1 copy
Page Limit: N/A

DESIGNATION FORMAT

IN THE COURT OF APPEALS OF VIRGINIA

_____,)
 Appellant,)
 v.) Record No.: _____
 _____,)
 Appellee.)

APPELLANT’S DESIGNATION AND ASSIGNMENTS OF ERROR

Pursuant to Rule 5A:25(d) of the Rules of the Supreme Court of Virginia, the appellant, _____, submits the following Designation of the Contents to the Appendix:

1. Basic initial pleading (as finally amended);
2. Judgment appealed from, and any memorandum or opinion relating thereto;
3. Testimony and other incidents of the case germane to the assignments of error;
4. Exhibits necessary for and understanding of the case that can be reasonably reproduced;
5. Granted assignments of error and cross-error.

Respectfully Submitted,
 Appellant’s Name
 By Counsel

 Name
 Firm
 Address
 Phone Number

Certificate of Service

I hereby certify that a true and exact copy of the foregoing Designation of Record was mailed and/or hand-delivered to Name , Address , this ___ day of _____, 201__.

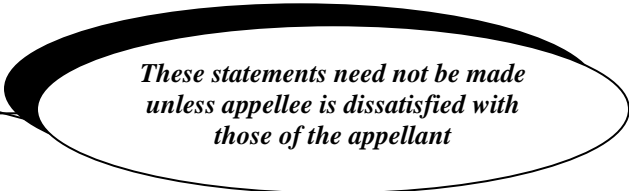
 Name

Brief of Appellee: Content Requirements

Specifications for the Brief of Appellee are identical to those for the brief of appellant (see page 2), except the cover is BLUE.

Rule 5A:21:

1. Table of Contents
2. Table of Authorities
3. Statement of the Case
4. Assignments of Error
5. Statement of the Facts
6. Argument, including the Standard of Review
7. Conclusion
8. Certificate of Service



These statements need not be made unless appellee is dissatisfied with those of the appellant

Reply Brief of Appellant: Content Requirements

Specifications for the Reply Brief of Appellant are identical to those for the brief of appellant (see page 2), except the cover is GREEN and it is limited to 3,500 words.

Rule 5A:22:

1. Table of Contents
2. Table of Authorities
3. Argument
4. Conclusion
5. Certificate of Service

FILING REQUIREMENTS SUMMARY

Hard Copy Requirements:

| <u>NAME</u> | <u>COLOR</u> | <u>FILE</u> | <u>SERVE</u> | <u>WORD LIMIT</u> |
|--------------------------|--------------|-------------|--------------|-----------------------|
| Brief of Appellant | White | 7 | 1 | 12,300 |
| Brief of Appellee | Blue | 7 | 1 | 12,300 |
| Reply Brief of Appellant | Green | 7 | 1 | 3,500 |
| Appendix | Red | 7 | 1 | N/A |
| Brief of Amicus Curiae | Gray | 7 | 1 | 12,300 |

Electronic Copy Requirements:

At this time the Court of Appeals is requiring four electronic copies on CD's of all above listed documents to be filed at the Court of Appeals along with the hard copies. This requirement is specified in the notice sent to the attorney when the appeal is granted.

RULE 5A:33 (Petitions for Rehearing) and **RULE 5A:34 (Petitions for Rehearing En Banc)** require that either of these be limited to 5,300 words and that they be filed **electronically**. The rules also state that these may be served via email.

===== **RULE 5A:4(b): COVER INFORMATION**=====

1. Name of Court and Record Number
2. Style of Case
3. Title of Document – (Brief of Appellant, Brief of Appellee, etc.)
4. Names, addresses, VSB numbers, telephone numbers (with applicable extension), fax numbers and email addresses of counsel representing the party on whose behalf the document is filed.

SUMMARY OF SERVICES

Joint Appendix

- Obtain documents from the original record located at the Court of Appeals Clerk's Office
- Make sure all documents required by the court for inclusion are in the appendix
- Complete assembly of the appendix according to the rules of the court
 - ◆ Place all documents in chronological order
 - ◆ Type witness names on excerpts of transcript testimony
 - ◆ Place asterisk symbols for omissions of text in a document
 - ◆ Number each page
- Large exhibits produced full size if possible or reduced in size – as requested
- Prepare table of contents
- Prepare cover and copy on appropriate color cover stock
- Send finished copy of the Joint Appendix via overnight mail or hand-delivery for your review, approval and use to finalize referencing your brief

Briefs

- Ability to accept briefs via e-mail, disc, fax or hard copy the day it is due for filing. No later than 1:00 p.m. guarantees hand-filing
- Thoroughly examine and check brief for compliance with all Rules of the Court, notifying you of any needed changes
- Prepare cover and copy on appropriate color cover stock

Briefs and Appendices

- Produce number of copies required for filing and service
- File required copies of briefs and appendices in court by hand whenever possible
- Have the Clerk's Office stamp two (2) copies of the brief – one copy for our client and one for opposing counsel
- Serve opposing counsel via U.S. Postal Service, overnight service (if requested) or hand-delivery
- Call you to confirm the filing and serving has been completed

BENEFITS TO OUR CLIENTS

- The most experienced staff you can find with over a century of combined experience specializing in appellate filing procedures.
- A licensed attorney on staff with extensive appellate experience – a former Appellate Defender and private practice lawyer, published author in various law journals, previous member of the adjunct faculty at the T. C. Williams School of Law of the University of Richmond and has been approved since 2007 by the Virginia State Bar to teach a CLE class in appellate procedure. We provide this CLE free of charge to various organizations and law firms – please feel free to inquire.
- Convenience to court – we are located about a city block from the Virginia Supreme Court, Virginia Court of Appeals and the Fourth Circuit Court of Appeals.
- Personal service/personal attention
- Samples of briefs and other pertinent documents provided upon request free of charge.
- **NO RUSH CHARGES – NO HIDDEN COSTS**
- Prompt payment discounts are shown on the invoice when available.

A few of the services frequently requested by clients for which we normally do not charge are:

- Preparation of Tables of Contents and Authorities
- A copy of the table of contents to the record on appeal faxed to your office when requested.
- Filing and service of the designation of contents of the appendix.
- Filing and service of any motions.
- Minor edits and corrections to briefs, if required.
- Guaranteed, same-day filing of your brief with the court if received by 1:00 p.m. Briefs received after 1:00 a.m. may be filed via hand or certified mail, dependant on circumstances.

Fee Schedule

Court of Appeals of Virginia

Petitions, Briefs and Appendices

| | |
|---|----------|
| Base Charge | \$125.00 |
| Preparation for and filing of Petitions or Briefs – per original page..... | \$4.50 |
| Assembly, preparation for and filing of Appendices – per original page..... | \$3.50 |
| Paper copies filed/served, per copy | \$0.10 |

Prices include the Digital Brief Package requested by the Court

Petitions for Rehearing

| | |
|---|----------|
| Electronic Filing of Petition for Rehearing (flat fee)..... | \$100.00 |
|---|----------|

Copying of Designated Appendix Documents from the Record at the Court of Appeals

| | |
|---------------|--------|
| Per Copy..... | \$0.40 |
|---------------|--------|

Please note: *Our professional relationship is with you rather than your client, so the invoice represents your obligation to us.*

Services included are (but are not limited to):

- No hourly fees – all of our services are included in the above fee schedule. Some of these services are: **access to an experienced appellate attorney**, formatting of briefs, preparation of tables of contents and authorities on request, etc. (For preparation of tables of contents and authorities we may need the brief sent to us a little earlier – please ask us about this service in advance)
- Filing and service of any motions.
- Typesetting of covers.
- Review of brief to ensure compliance with all rules.
- Edits or corrections to brief if required.
- Advance copy of the appendix delivered to your office, via overnight delivery, hand delivery, email or the internet for your use in preparing your Brief. (shipping charges apply to overnight delivery)
- Guaranteed same day filing of your brief with the court if received by 1:00 p.m. Briefs received after 1:00 p.m. may be filed by hand or by certified mail, dependant on circumstances. **NEVER ANY RUSH/AFTER HOURS CHARGES.**
- Hand file 7 paper copies and 4 digital copies on CDs with the court.
- Serve 1 paper copy and 1 digital copy to opposing counsel. (the paper copy will be file stamped by the court, provided we were able to hand file)
- Mail 3 paper copies and 1 digital copy to our client. One paper copy will be file stamped by the court, provided we were able to hand file.
- Call client’s office to confirm filing.

Web site: lantagne.com

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