

Supreme Court of Virginia

Appellate Filing Procedure



Est. 1992

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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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Supreme Court of Virginia

FILING SCHEDULE

The following Rule of the Virginia Supreme Court, **Rule 5:26(c)**, has been condensed into the filing schedule below:

Brief of Appellant:	40 days after the date of the certificate of appeal issued by the Clerk of the Supreme Court
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 5:6:

- Paper: 8-½ x 11 inches in size
- Margins: At least 1 inch on all sides
- Type: 14 point or greater
Must use one of the following fonts: Courier, Arial or Verdana. NO OTHER FONTS ARE ACCEPTABLE.
- Spacing: Double-Spacing, except for footnotes and quotations

Number of copies: Rule 5:26(b) and (e)

- File: 15 copies
Electronic copy must also be filed in Adobe PDF on floppy disc, CD or by emailing to:
scvbriefts@courts.state.va.us.
- Serve: 3 copies plus one electronic copy
- Page/Word Limit: 50 pages or 8,750 words

Color of cover: Rule 5:31

- Brief of appellant: White

Requirements for the Brief of Appellant

The brief of appellant shall contain under appropriate and separate headings (Rule 5:27):

1. Table of Contents
2. Table of Authorities
3. Assignment(s) of Error (must include a reference to the record where the error was preserved in the lower proceeding)
4. Statement of the Nature of the Case and of the Material Proceedings in the Trial Court
5. Statement of the Facts (must include appropriate references to the record)
6. Argument, including Standard of Review
7. Conclusion with counsel's signature (which need not be in handwriting), Virginia Bar number, address, phone number (with applicable extension), fax number and email address
8. Certificate of Service (which need not be signed in handwriting) (*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 CERTIFICATE OF SERVICE

CERTIFICATE OF SERVICE

I hereby certify that Rule 5:26(e) of the Supreme Court of Virginia has been complied with and pursuant to the Rule, fifteen (15) copies of this Opening Brief of Appellant, and one electronic copy (via email or CD) have been filed with the Clerk of the Supreme Court of Virginia and three (3) copies, and one electronic copy, have been mailed postage prepaid and/or hand delivered to _____, _____, on this ____ day of _____, 201____.

(If a word count is used, language similar to the following must be added)

I also certify compliance with the word count in that this brief contains ____ words, exclusive of those parts that by rule do not count toward the word limit.

Attorney's Name

RULE 5:32 – APPENDIX

Rule 5:32(a): Requirements for the Joint Appendix

1. Table of Contents
2. Basic Initial Pleading, as amended
3. Final Judgments of all tribunals that considered the case, including Judgment appealed from, and any Memorandum or Opinions relating to such Judgments
4. Assignments of Error
5. Any other relevant parts of the Record
6. Any relevant exhibits of the Record

Rule 5:32(b)(1): Designation of Contents of Appendix

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

Rule 5:32(d): 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. Witness testimony must listed by name in the table of contents and indicate direct, cross, redirect, etc. Omissions in the text of documents shall be indicated by asterisks, and exhibits should include a description, not just the exhibits number.

Rule 5:32(b)(3): Costs

Unless counsel otherwise agree, the cost of producing the appendix shall initially be paid by the appellant, but if the appellant considers designations of the appellee unnecessary for the determination of the issues, he may so advise the appellee and the appellee shall advance the costs for printing those parts. Costs of producing the appendix shall be taxed as costs in the case.

Rule 5:31: Color of Cover

Red

Rule: 5:26(e): Filing and Service

File: 15 copies (or 10 paper copies and 10 electronic copies on disc)
Serve: 2 copies (or 2 paper copies and one electronic copy)
Page Limit: N/A

DESIGNATION FORMAT

IN THE SUPREME COURT OF VIRGINIA

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

APPELLANT'S DESIGNATION

Pursuant to Rule 5:32(b) of the Rules of the Supreme Court of Virginia, the appellant, _____, submits the following Designation of the Contents to the Appendix:

1. The initial pleading (as finally amended), unless other version are necessary to consider the assignments of error;
2. Final judgments of all tribunals that have considered the case, including the judgments appealed from, and any opinion relating to such judgments;
3. Testimony and other incidents of the case germane to the assignments of error;
4. Exhibits necessary for an understanding of the case that can be reasonably reproduced;
5. The granted assignments of error and cross-error;
6. Other parts of the record to which the parties wish to direct the Court's attention;

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__.

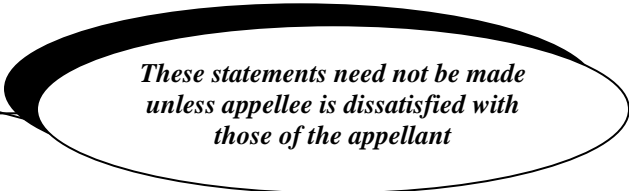
 Name

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 5:28:

1. Table of Contents
2. Table of Authorities*
3. Statement of the Case
4. Statement of the Facts
5. Argument and Standard of Review
6. Assignments of Cross Error, if any, and Argument
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 15 pages or 2,625 words.

Rule 5:29:

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

FILING REQUIREMENTS SUMMARY (HARD COPY)

<u>NAME</u>	<u>COLOR</u>	<u>FILE</u>	<u>SERVE</u>	<u>PG./WORD LIMIT</u>
Brief of Appellant	White	15	3	50 or 8,750
Brief of Appellee	Blue	15	3	50 or 8,750
Reply Brief of Appellant	Green	15	3	15 or 2,625
Appendix	Red	15	2	N/A
Brief of Amicus Curiae	Gray	15	3	50 or 8,750

(Special note for appeals in death penalty cases: the page/word limit is expanded to 100 pages or 17,500 words for the Brief of Appellant and Brief of Appellee; 50 pages or 8,750 words for the Reply Brief)

===== RULE 5:6(b): COVER INFORMATION =====

1. Name of Court and Record Number
2. Style of Case
3. Title of Document
4. Names, Virginia Bar numbers, addresses, telephone numbers (including any applicable extension), fax numbers and email addresses of counsel representing the party on whose behalf the document is filed.

Continued on next page

FILING REQUIREMENTS SUMMARY (ELECTRONIC)

RULE 5:26(e): Specifies that in addition to the Hard Copy filing requirements, one copy of the following documents must be filed and served electronically:

Brief of Appellant
Brief of Appellee
Reply Brief
Brief Amicus Curiae

Electronic copies can be filed on floppy disc, CD or via e-mail at:

scvbrieff@courts.state.va.us

RULE 5:32(a)(3): There are two options for filing the appendix regarding both tangible copies and electronic copies:

(i) Generally. The appellant must file 15 copies of the appendix with appellant's brief, and must serve two copies on counsel for each party separately represented. This Court may by order require the filing or service of a different number.

(ii) Special Rule for Electronic Filing of the Appendix. In lieu of the 15 tangible copies.... The appellant may file 10 tangible copies of the appendix and 10 electronic copies of the appendix as an Adobe PDF format document on CD-ROM. If the appellant filed 10 electronic copies with this Court, then it must also serve one electronic copy on counsel for each party separately represented in addition to one tangible copy.

RULE 5:37: Petitions for Rehearing: Notice of intent to file must be filed with the clerk of Court within 10 days after the date of the order or opinion of Court. Must be filed electronically and can be served via email. Petitions for Rehearing will be limited to 1,750 words. Petitions must be e-mailed to the Supreme Court at:

scvpfr@courts.state.va.us

SUMMARY OF SERVICES

Joint Appendix

- Obtain documents from the original record located at the Supreme Court Clerk's Office
- Make sure all documents required by the court are included in the appendix
- Complete assembly of the appendix according to the rules of the court
 - ◆ Place all documents in chronological order
 - ◆ 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
- Provide electronic copy for client and for court

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
- Provide electronic copy for client and for court

Briefs and Appendices

- Produce number of copies required for filing and service
- File required copies of briefs and appendices in court by hand, including the required electronic copies
- 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 approximately 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 that carry no additional charges:

- 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 p.m., while often still hand filed, may be filed via hand or certified mail, dependant on circumstances.

Fee Schedule

Supreme Court of Virginia

Petitions, Briefs and Appendices

Base Charge (Briefs and Petitions only).....	\$125.00
Preparation for and filing of Petitions or Briefs – per original page	\$4.50
Assembly, preparation for and filing of Appendix – per original page	\$3.50
Paper copies filed/served per copy (Filing under 5:32(a)(3)(i))	\$0.10
<u>(If option 5:32(a)(3)(ii) is taken for filing the appendix, paper copies will be charged at \$0.12 per copy. All pricing above includes the respective electronic filing and service)</u>	

Petitions for Rehearing

Electronic filing of petition (flat fee).....	\$100
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Copying of Designated Appendix Documents from the Record at the Supreme Court

Per Copy.....	\$0.40
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Please note: *Our professional relationship is with you rather than your client, so the invoice represents your obligation to us.*

Services include (but are not limited to):

- No hourly fees – all of our services are included in the above fee schedule, including:
access to an experienced appellate attorney, formatting of briefs, preparation of tables of contents and authorities, etc.
- Copy of the Table of Contents to the Record on Appeal faxed or emailed to your office.
- Filing and Service of the Designation of Contents of the Appendix.
- Filing and Service of any Motions.
- Complete assembly of the Appendix according to the Rules of the Court.
- 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)
- Typesetting of covers for both the Appendix and the Brief.
- Guaranteed, same day hand filing of your brief with the Court if received by 1:00 p.m.
Briefs received after 1:00 p.m. may be filed via hand or certified mail, dependant on circumstances. **NEVER ANY RUSH/AFTER HOURS CHARGES**
- Review of your Brief to ensure correct format/compliance with the Rules of the Court.
- Edits and corrections to Brief if required.
- Samples of briefs, motions, designations – anything you need, emailed or faxed to you.
- Date-stamped copy of all filings for your records. We also send date-stamped copies to your opposing counsel.
- Confirmation call after filing and service of your documents.

Web site: lantagne.com

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