

RULES OF SUPREME COURT OF VIRGINIA
PART FIVE
THE SUPREME COURT
G. PROCEDURE FOLLOWING PERFECTION OF APPEAL

Rule 5:26. General Requirements for All Briefs.

(a) *Applicability.* This Rule, along with Rule 5:6, sets forth the general requirements for all briefs filed in this Court. Rule 5:22 sets forth the special rule for appeals in death penalty cases.

(b) *Length.* Except by permission of a Justice of this Court, neither the opening brief of appellant, nor the brief of appellee, nor a brief amicus curiae shall exceed the longer of 50 pages or 8,750 words. No reply brief shall exceed the longer of 15 pages or 2,625 words. Briefs of amici curiae shall comply with the page limits that apply to briefs of the party being supported. The page or word limits under this Rule do not include appendices, the cover page, table of contents, table of authorities, and certificate. There shall be no exception to these limits except by permission of this Court on motion for extension of the limits.

(c) *Filing Time.* In cases in which a petition for appeal has been granted by this Court, briefs shall be filed subject to the provisions of Rule 5:1(d), as follows:

(1) The appellant shall file the opening brief in the office of the clerk of this Court within 40 days after the date of the certificate of appeal issued by the clerk of this Court pursuant to Rule 5:23.

(2) The brief of appellee shall be filed in the office of the clerk of this Court within 25 days after filing of the opening brief.

(3) The appellant may file a reply brief in the office of the clerk of this Court within 14 days after filing of the brief of appellee.

(d) *Extension of Time.* Upon motion and with permission of a Justice of this Court, the time for filing any brief in this Court may be altered.

(e) *Copies for Filing.* An electronic version, in Portable Document Format (PDF), must be filed with the clerk of this Court and served on opposing counsel, unless excused by this Court for good cause shown. An electronic version of a brief amicus curiae shall be filed with the clerk of this Court and served on counsel for all parties and on any other counsel amicus curiae. The electronic version must be filed in the manner prescribed by the VACES Guidelines and User's Manual, using the Virginia Appellate Courts eBriefs System (VACES). The Guidelines are located on the Court's website at www.courts.state.va.us/online/vaces/resources/guidelines.pdf <http://www.vacourts.gov/online/vaces/resources/guidelines/pdf>. In addition, ~~10~~³ printed copies of each brief (including a brief amicus curiae) shall be filed in the office of the clerk of this Court. All briefs shall contain a certificate evidencing the date and method of electronic transmission of the brief to opposing counsel.

(f) *Reference to Parties.* In their briefs, counsel should avoid reference to parties by such designations as “appellant” and “appellee.” Clarity is promoted by the use of the names of the parties or descriptive terms such as “the employee,” “the injured person,” “the driver,” “the wife,” or the designations used in the lower court or commission.

(g) *Arguments Made by Reference.* Attempts to incorporate arguments made below by reference to pleadings, motions, memorandum, or other filings are prohibited.

(h) *Signature and Certificate.* All briefs shall contain the signature, which need not be in handwriting, of at least one counsel of record, counsel’s Virginia State Bar number, address, telephone number, facsimile number (if any), and email address, and a certificate that there has been compliance with this Rule. If a word count is used, the certificate must also state the number of words (headings, footnotes, and quotations count towards the word limitation; the cover page, table of contents, table of authorities, and certificate do not count towards the word count).

(i) *Failure to File Complying Brief.* Any party who fails to file a brief in compliance with these Rules or otherwise fails to file a required brief may be subject to sanctions deemed reasonable by the Court, including, but not limited to, forfeiture of oral argument.

(j) *Technical problems with electronic filing of brief or appendix.* -- A person who files a document electronically shall have the same responsibility as a person filing a document in paper form for ensuring that the document is properly filed, complete, and readable. However, if technical problems at the Supreme Court result in a failure to timely receive the electronically filed brief or appendix, counsel shall provide to the clerk of this Court on the next business day all documentation which exists demonstrating the attempt to electronically file the brief or appendix, any error message received in response to the attempt, documentation that the brief or appendix was later successfully resubmitted, and a motion requesting that the Court accept the resubmitted brief or appendix.

Last amended by Order dated February 27, 2017; effective May 1, 2017.

RULES OF SUPREME COURT OF VIRGINIA
PART FIVE A
THE COURT OF APPEALS
F. PROCEDURE FOLLOWING PERFECTION OF APPEAL

Rule 5A:19. General Requirements for All Briefs.

(a) *Length.* Except by permission of a Judge of this Court, neither the opening brief of appellant, nor the brief of appellee shall exceed 12,300 words. No reply brief shall exceed 3,500 words. Briefs of amici curiae shall comply with the word limits that apply to briefs of the party being supported. Word limits under this Rule do not include appendices, or the cover page, table of contents, table of authorities, and certificate. There shall be no exception to these limits except by permission of this Court on motion for extension of the limits.

(b) *Filing Time: Appeal as a Matter of Right.* In cases when appeal lies as a matter of right to the Court of Appeals, briefs shall be filed as follows:

(1) The appellant shall file the opening brief in the office of the clerk of the Court of Appeals within 40 days after the date of the filing of the record in such office.

(2) The brief of appellee and the brief of the guardian ad litem shall be filed in the office of the clerk of the Court of Appeals within 25 days after filing of the opening brief.

(3) The appellant may file a reply brief in the office of the clerk of the Court of Appeals within 14 days after filing of the brief of appellee or guardian ad litem.

(4) Motions for extensions to these briefing deadlines shall be filed no later than 10 days after the expiration of the deadline.

(c) *Filing Time: Grant of Petition for Appeal.* In cases when a petition for appeal has been granted by the Court of Appeals, briefs shall be filed as follows:

(1) The appellant shall file the opening brief in the office of the clerk of the Court of Appeals within 40 days after the date of the certificate of appeal issued by the clerk of the Court of Appeals pursuant to Rule 5A:16(b).

(2) The brief of appellee shall be filed in the office of the clerk of the Court of Appeals within 25 days after filing of the opening brief.

(3) The appellant may file a reply brief in the office of the clerk of the Court of Appeals within 14 days after filing of the brief of appellee.

(4) Motions for extensions to these briefing deadlines shall be filed no later than 10 days after the expiration of the deadline.

(d) *Participation by Guardian Ad Litem.* If a guardian ad litem joins with either appellant or appellee, the guardian ad litem must notify the Clerk's Office, in writing, which side it joins. Thereafter, the guardian ad litem may rely on the brief of that party and is entitled to oral argument under Rule 5A:26.

(e) *Arguments Made by Reference.* Attempts to incorporate arguments made below by reference to pleadings, motions, memorandum, or other filings are prohibited.

(f) *Copies.* An electronic version, in Portable Document Format (PDF), must be filed with the clerk of this Court and served on opposing counsel at the time of filing the brief with the Court, unless excused by this Court for good cause shown. An electronic version of a brief amicus curiae shall be filed with the clerk of this Court and served on counsel for all parties and on any other counsel amicus curiae. For purposes of this Rule, service by email shall be governed by Rule 1:17, which allows electronic transmission without the need of consent by opposing counsel. The electronic version must be filed in the manner prescribed by the VACES Guidelines and User's Manual, using the Virginia Appellate Courts eBriefs System (VACES). The Guidelines are located on the Court's website at www.courts.state.va.us/online/vaces/resources/guidelines.pdf <http://www.vacourts.gov/online/vaces/resources/guidelines/pdf>. In addition, ~~four~~ 3 printed copies of each brief (including a brief amicus curiae) shall be filed in the office of the clerk of this Court. All briefs shall contain a certificate evidencing the date and method of electronic transmission of the brief to opposing counsel.

(g) *Technical problems with electronic filing of brief or appendix.* A person who files a document electronically shall have the same responsibility as a person filing a document in paper form for ensuring that the document is properly filed, complete, and readable. However, if technical problems at the Court of Appeals result in a failure to timely receive the electronically filed brief or appendix, counsel shall provide to the clerk of this Court on the next business day all documentation which exists demonstrating the attempt to electronically file the brief or appendix, any error message received in response to the attempt, documentation that the brief or appendix was later successfully resubmitted, and a motion requesting that the Court accept the resubmitted brief or appendix.

**Promulgated by Order dated Friday, April 30, 2010; effective July 1, 2010.
Last amended by Order dated February 27, 2017; effective May 1, 2017.**