

## **VIRGINIA:**

*In the Supreme Court of Virginia held at the Supreme Court Building in the City of Richmond on Tuesday the 21st day of November 2023.*

It is ordered that the Rules heretofore adopted and promulgated by this Court and now in effect are hereby amended, effective January 20, 2024.

Amend Rule 5A:25 as follows:

### **Rule 5A:25. Appendix and Designations of Assignments of Error.**

(a) *When Appendix Is Required.* —

(1) *Electronic Record.* Except as provided in Rule 5A:25(a)(3), no appendix is required in cases where the clerk of the trial court or other tribunal has filed the record electronically. In cases where no appendix is required, parties must still file with the clerk of this Court a statement of the assignments of error on the schedule specified in Rule 5A:25(d) below.

(2) *Paper record.* Unless otherwise ordered by the Court, an appendix must be filed in cases where the clerk of the trial court or other tribunal has filed a paper record.

(3) *Videotaped proceedings.* An appendix must be filed in cases where the electronic record filed by the clerk of the trial court includes the official videotape recording of a court proceeding, unless:

(A) the transcript is not needed to resolve any assignment of error; or

(B) a party submits a written statement of facts in accordance with Rule 5A:8(c) in lieu of a transcript of the videotaped proceeding.

(4) *Pro se appellants.* No appendix is required of a *pro se* appellant who is incarcerated.

(5) *Filing time.* When an appendix is required, it must be filed by the appellant no later than the time of filing the opening brief.

(b) *Requiring or dispensing with an appendix.* — This Court may by order require the filing and service of an appendix and may, sua sponte or on motion, enter an order dispensing with the appendix and permitting an appeal to proceed on the original record with any copies of the record, or relevant parts, that this Court may order the parties to file.

(c) *Contents.* — An appendix must include:

(1) the basic initial pleading (as finally amended);

(2) the judgment appealed from, and any memorandum or opinion relating thereto;  
(3) any testimony and other incidents of the case germane to an assignment of error;  
(4) the title (but not the caption) of each paper contained in the appendix, and its filing date;

(5) the names of witnesses printed at the beginning of excerpts from their testimony and at the top of each page thereof; and

(6) exhibits necessary for an understanding of the case that can reasonably be reproduced.

A party is not required to transcribe an exhibit that consists of an audio or video recording.

(d) *Determination of Contents of Appendix and Exchange of Assignments of Error.* — Within 15 days after the filing of the record with this Court or, in a case in which a petition for appeal has been granted, within 15 days after the date of the certificate of appeal issued by the clerk of this Court, counsel for appellant must file in the office of the clerk of this Court a written statement signed by all counsel setting forth an agreed designation of the parts of the record to be included in the appendix. In the absence of such an agreement, counsel for appellant must file with the clerk of this Court a statement of the assignments of error and a designation of the contents to be included in the appendix within 15 days after the filing of the record or, in a case in which a petition for appeal has been granted, within 15 days after the date of the certificate of appeal; not more than 10 days after this designation is filed, counsel for appellee must file with the clerk of this Court a designation of any additional contents to be included in the appendix and, in appeals of right, a statement of any additional assignments of error the appellee wishes to present. The appellant must include in the appendix the parts thus designated, together with any additional parts the appellant considers germane. If a party designates a court proceeding or any portion of a court proceeding recorded only by videotape, the appendix must include a written transcript of the proceeding, or of the portion so designated, prepared by a court reporter.

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A Copy,

Teste:

  
Clerk