

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.* ~~One~~ An electronic version, in ~~Adobe Acrobat~~ Portable Document Format (PDF) ~~format~~, 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 ~~may be filed on CD-ROM or emailed to scvbriefs@courts.state.va.us~~ 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. In addition, ~~fifteen~~ 10 printed copies of each brief (including a brief amicus curiae) shall be filed in the office of the clerk of this Court ~~and three copies shall be mailed or delivered to opposing counsel on or before the day on which the brief is filed. Three copies of a brief amicus curiae shall be mailed or delivered to counsel for all parties and to any other~~

~~counsel amicus curiae~~. All briefs shall contain a certificate evidencing ~~such mailing or delivery and~~ the date and method of electronic transmission ~~to the clerk for filing 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 ~~(if any)~~, 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 ~~will not be heard orally, except for good cause shown~~ 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 April 10, 2015; effective July 1, 2015.