

## **FILING AND SERVICE**

### **Electronic Filing and Service by Counsel**

The Fourth Circuit adopted mandatory electronic filing by counsel for all cases effective June 1, 2008. Therefore, counsel must register for electronic filing and file and serve documents through the court's CM/ECF system. Counsel unable to file electronically may request exemption for good cause shown in a particular case. Counsel appointed in the district court who wish to withdraw from CJA representation on appeal may file a motion to withdraw in paper form instead of registering for electronic filing for the sole purpose of withdrawing from the case. Electronic filing is complete at the time and date stated in the notice of docket activity.

CM/ECF automatically serves case participants who have registered with the court for electronic service; participants who do not receive electronic service through CM/ECF must be served by counsel as otherwise authorized by Fed. R. App. P. 25(c). A service preference report is available from the CM/ECF reports menu that identifies which participants counsel must serve conventionally. In addition, the notice of docket activity received upon completion of filing identifies the participants who must be served conventionally. In addition, sealed documents are not served through CM/ECF and must be served conventionally on any case participants authorized to see the sealed documents.

### **Paper Filing and Service by Pro Se Litigants**

Pro se litigants are not required to file documents electronically, though they may request leave to file electronically in individual cases. Pro se documents filed in paper form should be addressed to: Patricia S. Connor, Clerk, United States Court of Appeals for the Fourth Circuit, 1100 E. Main Street, Suite 501, Richmond, Virginia 23219-3517.

Filing is not timely unless the clerk **receives** the papers within the time fixed for filing. Fed. R. App. P. 25(a). However, a paper filed by an inmate is timely if evidence, such as a postmark, date-stamp, or sworn inmate declaration of date of deposit with prepaid postage, shows that the paper was deposited in the institution's internal mailing system on or before the last day for filing. Briefs are timely filed if placed in first-class mail or dispatched to a third-party courier within the time fixed for filing.

### **Certificates of Service**

Service on a party represented by counsel must be on all counsel of record, except as provided by rule or order. Fed. R. App. P. 25(b). Service may be personal, by mail, or by third-party commercial carrier for delivery within three days. Fed. R. App. P. 25(c). Electronic service is made through CM/ECF on registered users of the CM/ECF system. Service by electronic means is complete on transmission unless the party making service is notified that the paper was not received by the party served. Fed. R. App. P. 25(c).

All papers presented for filing must contain a signed certificate of service certifying the date and manner of service and the name and address of persons served. Fed. R. App. P. 25(d). If service was by fax or e-mail, the certificate must provide the fax number or e-mail address of the person served. Fed. R. App. P. 25(d). When a brief or appendix is filed by mailing or dispatch, the certificate of service must also state the date and manner by which the document was mailed or dispatched to the clerk. Fed. R. App. P. 25(d)(3). The notice of docket activity does not satisfy the certificate of service requirement.

### Computation of Time

In computing any time period stated in days or a longer unit of time, “(A) exclude the day of the event that triggers the period; (B) count every day, including intermediate Saturdays, Sundays, and legal holidays; and (C) include the last day of the period, but if the last day is a Saturday, Sunday, or legal holiday, the period continues to run until the end of the next day that is not a Saturday, Sunday, or legal holiday.” Fed. R. App. P. 26(a)(1).

In computing a time period stated in hours, “(A) begin counting immediately on the occurrence of the event that triggers the period; (B) count every hour, including hours during intermediate Saturdays, Sundays, and legal holidays; and (C) if the period would end on a Saturday, Sunday, or legal holiday, the period continues to run until the same time on the next day that is not a Saturday, Sunday, or legal holiday.” Fed. R. App. P. 26(a)(2).

### Deadlines Running from Service of a Document

Whenever a party is required or permitted to act within a prescribed period after service of a paper upon that party, three days are added to this prescribed period unless the paper is delivered on the date of service stated in the proof of service. Fed. R. App. P. 26(c). A paper that is served electronically **is treated as delivered on the date of service**; thus, three days are not added to deadlines running from electronic service of a document. Fed. R. App. P. 26(c) (effective Dec. 1, 2016).

### Specific Documents (chart)

Type of Document	How to File
Case initiating documents-- petitions for permission to appeal, petitions for review, applications for enforcement, petitions for mandamus or prohibition, motions to authorize successive habeas petitions	Case initiating documents can be submitted to the court in any of the following ways: (1) upload electronically through CM/ECF utility to submit new case; or (2) mail to Clerk’s Office, 1100 E. Main St., Suite 501, Richmond, VA 23219. Additional copies are not required for filing, but documents must be served conventionally.
Notice of appeal	File electronically in district court.

<p>Initial forms -- appearance of counsel, disclosure of corporate affiliations, docketing statement, transcript order form</p>	<p>File electronically in court of appeals.</p> <p>Send copy of transcript order to court reporter and district court, and attach copy to docketing statement filed in the court of appeals. In CJA cases, submit all transcript authorization requests through the district court's eVoucher system. Attach copy of CJA 24 form or printed copy of AUTH-24 request to transcript order form.</p>
<p>Motions, responses, replies</p>	<p>File electronically in court of appeals. Exhibits should be filed as part of the <b>Motion</b> or <b>Response/answer</b> event, clearly identified by letter or number.</p>
<p>Formal briefs</p>	<p>File electronically in court of appeals using <b>BRIEF</b> event; also file 1 paper copy.</p> <p>The court's paper copy must be filed with the court or delivered to the post or courier the next business day. Service of paper copies on opposing counsel is not required.</p> <p>If the case is tentatively calendared for oral argument, all filers are required to file 3 additional paper copies.</p> <p>A paper copy of an amicus brief filed at the petition for rehearing stage is <b>not</b> required.</p>
<p>Sealed version of formal briefs</p>	<p>File electronically in court of appeals using <b>SEALED BRIEF</b> event; also file 1 paper copy and file a <b>certificate of confidentiality</b>.</p> <p>The court's paper copy must be filed with the court or delivered to the post or courier the next business day. Paper copies must also be served on opposing counsel.</p> <p>If the case is tentatively calendared for oral argument, all filers are required to file 3 additional paper copies.</p>
<p>Appendix</p>	<p>File electronically in court of appeals using <b>APPENDIX</b> event. File 1 paper copy.</p> <p>The court's paper copy must be filed with the court or delivered to the post or courier the next business day. If an electronic appendix is used, service of the paper appendix on opposing counsel is not required. If an electronic appendix excerpt is used, a paper appendix must be served on opposing counsel.</p> <p>If the case is tentatively calendared for oral argument, all filers are required to file 3 additional paper copies.</p>

Sealed appendix volumes	<p>File electronically in court of appeals using <b>SEALED APPENDIX</b> entry; also file 1 paper copy.</p> <p>The court's paper copies must be filed with the court or delivered to the post or courier the next business day. Paper copies must also be served on opposing counsel.</p> <p>If the case is tentatively calendared for oral argument, all filers are required to file 3 additional paper copies, with additional copies being ordered by the court if otherwise needed.</p>
Certificate of confidentiality or motion to seal	File electronically in court of appeals using entry <b>Certificate of Confidentiality</b> or <b>MOTION/Seal</b> ; also file 1 paper copy with paper copy of sealed brief or appendix.
Informal briefs	File electronically in court of appeals and serve pro se litigants with paper copy. Most pro se litigants are not registered as filing users and therefore must be served conventionally.
Notices regarding availability for argument	File electronically in court of appeals
Acknowledgments of oral argument notification	File electronically in court of appeals
Supplemental authorities, status reports, memoranda, correspondence	File electronically in court of appeals
Petitions for rehearing and rehearing en banc	File electronically in court of appeals
Bills of cost and objections to bills of cost	File electronically in court of appeals
CJA and other financial vouchers	File CJA vouchers electronically in CJA eVoucher; file other vouchers in paper form.

## Related Links

- [Rule 25, Filing and Service \(with Local Rules\)](#)
- [Rule 26, Computing and Extending Time \(with local Rule\)](#)
- [Case Information & eFiling](#)
- [Declaration of Inmate Filing](#)
- [CJA eVoucher](#)