

IN THE SUPREME COURT OF NORTH CAROLINA

ORDER AMENDING THE
RULES OF APPELLATE PROCEDURE

Pursuant to Article IV, Section 13(2), of the Constitution of North Carolina, the Court hereby amends Rule 26 of the North Carolina Rules of Appellate Procedure.

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Rule 26. Filing and Service

(a) **Filing.** Counsel must file documents in the appellate courts electronically. ~~The electronic filing site for the appellate courts is located at <https://www.ncappellatecourts.org>.~~ If a technical failure prevents counsel from filing a document by use of the electronic-filing site, then the clerk of the appellate court may permit the document to be filed in paper by hand delivery, mail, or fax. Counsel may file copies of oversized documents and non-documentary items electronically if permitted to do so by the electronic-filing site, but otherwise by hand delivery or mail.

A person who is not represented by counsel is encouraged to file items in the appellate courts electronically but is not required to do so. A person not represented by counsel may file items by hand delivery or mail.

An item is filed in the appellate court electronically when it is received by the electronic-filing site. An item is filed in paper when it is received by the clerk, except that motions, responses to petitions, the record on appeal, and briefs filed by mail are deemed filed on the date of mailing as evidenced by the proof of service.

(b) **Service Required.** Copies of all items filed by any party ~~and not required by these rules to be served by the clerk~~ shall, at or before the time of filing, be served on all other parties to the appeal.

(c) **Manner of Service.** Service of any item may be made upon a party's attorney of record or upon a party in the manner provided for service and return of process in Rule 4 of the Rules of Civil Procedure ~~and may be so made upon a party or upon its attorney of record.~~ Service of any item may also alternatively be made upon a ~~party or its attorney of record~~ party's attorney of record or upon a party by delivering a copy to either or by mailing a copy to the recipient's last known address, or if no address is known, by filing it in the office of the clerk with whom the original item is filed. Delivery of a copy within this rule means handing it to the attorney or to the party, or leaving it at the attorney's office with a partner or employee. Service by mail is complete upon deposit of the item enclosed in a postpaid, properly addressed wrapper in a post office or official depository under the exclusive care and custody of

the United States Postal Service, or, for those having access to such services, upon deposit with the State Courier Service or Inter-Office Mail. ~~When a document is filed electronically to the electronic filing site, service also may be accomplished electronically by use of the other counsel's correct and current e-mail address(es), or service may be accomplished in the manner described previously in this subsection.~~

If the item to be served is filed electronically in the appellate courts using the appellate courts' electronic-filing site, then service may alternatively be made upon a party's attorney of record by e-mail to the attorney's correct and current e-mail address. If the item to be served is filed with the clerk of superior court using Odyssey, the trial court's electronic-filing system, then service may alternatively be made using the service feature in that system.

(d) **Proof of Service.** Items presented for filing shall contain an acknowledgment of service by the person served or proof of service in the form of a statement of the date and manner of service and of the names of the persons served, certified by the person who made service. Proof of service shall appear on or be affixed to the items filed. But if the item is filed with the clerk of superior court and served using Odyssey, then a Notification of Service generated by that system satisfies the requirements of this subsection.

(e) **Joint Appellants and Appellees.** Any item required by these rules to be served on a party is properly served upon all parties joined in the appeal by service upon any one of them.

(f) **Numerous Parties to Appeal Proceeding Separately.** When there are unusually large numbers of appellees or appellants proceeding separately, the trial tribunal, upon motion of any party or on its own initiative, may order that any items required by these rules to be served by a party on all other parties need be served only upon parties designated in the order, and that the filing of such an item and service thereof upon the parties designated constitutes due notice of it to all other parties. A copy of every such order shall be served upon all parties to the action in such manner and form as the court directs.

(g) **Formatting of Documents Filed with Appellate Courts.**

(1) **Form of Documents.** Documents composed for an appeal and presented to either appellate court for filing shall be letter size (8½ x 11"). Documents shall be prepared using a proportionally spaced font with serifs that is no smaller than 12-point and no larger than 14-point in size. Examples of proportionally spaced fonts with serifs include, but are not limited to, Constantia and Century typeface as described in Appendix B to these rules. The body of text shall be presented with double spacing between each line of text. Lines of text shall be no wider than 6½ inches, leaving a margin of approximately one inch on each side. The format of all documents presented for filing shall follow the additional instructions found in the appendixes to these rules.

The format of briefs shall follow the additional instructions found in Rule 28(j).

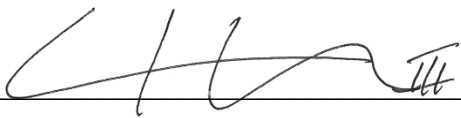
- (2) **Index Required.** Documents composed for an appeal and presented to either appellate court, other than records on appeal, which in this respect are governed by Rule 9, shall, unless they are less than ten pages in length, be preceded by a subject index of the matter contained therein, with page references, and a table of authorities, i.e., cases (alphabetically arranged), constitutional provisions, statutes, and textbooks cited, with references to the pages where they are cited.
- (3) **Closing.** The body of a document composed for an appeal shall at its close bear the printed name, post office address, telephone number, State Bar number, and e-mail address of counsel of record, and in addition, at the appropriate place, the signature of counsel of record.

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These amendments to the North Carolina Rules of Appellate Procedure are effective 13 February 2023 and apply to cases that are appealed on or after that date.


These amendments shall be published in the North Carolina Reports and posted on the rules web page of the Supreme Court of North Carolina.

Ordered by the Court in Conference, this the 1st day of March 2023,
nunc pro tunc 13 February 2023.



For the Court

WITNESS my hand and the seal of the Supreme Court of North Carolina, this the 1st day of March 2023.



GRANT E. BUCKNER
Clerk of the Supreme Court