

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

**Rule 5A:25. Appendix.**

(a) *When Required.* An appendix shall be filed by the appellant in all cases no later than the time of filing his opening brief.

(b) *Filing.* If the combined lengths of the appendix and the opening brief of the appellant do not exceed the limitation prescribed in Rule 5A:19, the appendix may be filed as an addendum to the opening brief and within the same cover. If the combined lengths of the appendix and the opening brief exceed the limitation prescribed in Rule 5A:19, the appellant shall file the appendix as a separate volume. The appellant must file ~~four~~ 3 printed copies and an electronic version in Portable Document Format (PDF) of the appendix and must serve an electronic copy on counsel for each party separately represented at the time of filing the appendix with the Court. 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. This Court may by order require the filing or service of a different number. The appendix shall 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.courts.state.va.us/online/vaces/resources/guidelines.pdf) <http://www.vacourts.gov/online/vaces/resources/guidelines.pdf>.

(c) *Contents.* An appendix shall 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 the assignments 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.

(d) *Determination of Contents.* Within ten days after the filing of the record with the Court of Appeals or, in a case in which a petition for appeal has been granted, within ten days after the date of the certificate of appeal issued by the clerk of the Court of Appeals, counsel for appellant shall file in the office of the clerk of the Court of Appeals 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 shall file with the clerk of the Court of Appeals a statement of the assignments

of error and a designation of the contents to be included in the appendix within fifteen days after the filing of the record or, in a case in which a petition for appeal has been granted, within fifteen days after the date of the certificate of appeal; not more than ten days after this designation is filed, counsel for appellee shall file with the clerk of the Court of Appeals a designation of any additional contents to be included in the appendix. The appellant shall include in the appendix the parts thus designated, together with any additional parts he considers germane.

(e) *Table of Contents; Form of Presentation.* At the beginning of the appendix there shall be a table of contents, which shall include the name of each witness whose testimony is included in the appendix and the page number of the appendix at which each portion of the testimony of the witness begins. Thereafter, the parts of the record to be reproduced shall be set out in chronological order. When matter contained in the transcript of proceedings is set out in the appendix, the page of the transcript or of the record at which such matter may be found shall be indicated in brackets immediately before the matter which is set out. Omissions in the text of papers or of the transcript must be indicated by asterisks. Immaterial matters (such as captions, subscriptions and acknowledgements) shall be omitted. A question and its answer may be contained in a single paragraph.

(f) *Costs.* Unless counsel otherwise agree, the cost of producing the appendix shall initially be paid by the appellant, but if the appellant considers that parts of the record designated by the appellee for inclusion are unnecessary for the determination of the issue presented, he may so advise the appellee, and the appellee shall advance the cost of including such parts. The cost of producing the appendix shall be taxed as costs in the case.

(g) *Penalty.* Nothing shall be included in the appendix that is not germane to an assignment of error. As examples, no pleadings (other than the basic initial pleading as finally amended) shall be included unless an assignment of error is presented relating to it, and then only the portion thereof to which the assignment relates; and testimony relating solely to the amount of damages shall not be included unless error is assigned relating to the amount of damages. If parts of the record are included in the appendix unnecessarily at the direction of a party, this Court may impose the cost of producing such parts on that party.

(h) *Assumptions.* It will be assumed that the appendix contains everything germane to the assignments of error. The Court of Appeals may, however, consider other parts of the record.

(i) *Sealed Materials in the Appendix.* -- Appendices filed with this Court are a matter of public record. If counsel concludes it is necessary to include sealed material in the appendix, then, in order to maintain the confidentiality of the materials, counsel must designate the sealed material for inclusion in a sealed supplemental appendix to be filed separately from the regular appendix. A sealed volume of the appendix must be filed in the manner prescribed by the VACES Guidelines and User's Manual. The Guidelines are located on the Court's website at

[www.courts.state.va.us/online/vaces/resources/guidelines.pdf](http://www.courts.state.va.us/online/vaces/resources/guidelines.pdf)  
<http://www.vacourts.gov/online/vaces/resources/guidelines.pdf> .

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