



Common Filing Errors

The Clerk's Office has identified the following five recurring errors with attorney filings over the past six months.

1. Proof of Service

- **Issue:** Counsel either does not include proof of service or the proof of service is incomplete.
- **How to Avoid:** A certificate or proof of service is required on all documents, even if the document is served through CM/ECF. A blank certificate of service that counsel can use is available as [Form 30](#).

- **References:**

- Federal Circuit Rule 25(e)(1):

Documents Submitted by Counsel. Registration as a CM/ECF filer constitutes consent to electronic service of all documents. If a document is filed by counsel through CM/ECF, the Notice of Docketing Activity generated by that filing constitutes service on opposing counsel. A certificate of service should indicate that the document was served through CM/ECF. Service of a filing to an invalid email address constitutes valid service if the individual has failed to timely provide a current email address. If one of the other parties is proceeding pro se, then counsel must serve a paper copy of any document as provided in Federal Rules of Appellate Procedure 25(c), (d), and a certificate of service must be included to explain how service was achieved on the pro se party. If a document is filed and served electronically on a non-business day, timeliness and calculation of any responsive deadlines will begin on the next business day. Three additional days are NOT added to the time to file a responsive document because the court considers service by email through CM/ECF to be delivered when transmitted.

- Federal Circuit Rule 25 Practice Note:

PROOF OF SERVICE. Each brief, petition, motion, response, or reply must contain proof of service. If filed by counsel through CM/ECF, the certificate of service may state that the brief or other document was filed through CM/ECF and thereby served electronically. If filed by or to a pro se party, the certificate must state how the document was mailed or delivered. The original filed pro se with the court must be signed.



2. Official Caption

- **Issue:** Counsel does not include the official caption.
- **How to Avoid:** Verify and copy the caption as shown on CM/ECF.
- **References:**
 - Federal Circuit Rule 27(a)(2):

[The preferred content and organization of a motion are . . .] the caption. If the motion is for a procedural order on consent, the short caption may be used. For any other motion, the official caption must be used.
 - Federal Circuit Rule 32(a)(2)(C):

An appendix must comply with Rule 32(a)(1), (2), (3), and (4)
 - Federal Appellate Rule 32(b):

[The front cover of a brief must contain: . . . (C) the title of the case (see Rule 12(a));
 - Federal Circuit Rule 12 Practice Note:

OFFICIAL CAPTION; PARTICIPATION IN THE APPEAL BY APPELLEES; CONSOLIDATION OF PREVIOUSLY CONSOLIDATED CASES AND CROSS-APPEALS. The clerk will provide the parties with the official caption in the case at the time of docketing. Any objection to the official caption should be made promptly. It is the court's usual practice to include in the caption all parties that participated in the court below, even if they are no longer participating in the case on appeal. Parties included in the trial court title who have an adverse interest to the appellant but who are not cross-appealing will be deemed appellees. Parties permitted to intervene in the trial court as plaintiffs or defendants will be identified only as plaintiff or defendant to avoid confusion with any third party permitted to intervene in the appeal. An appellee desiring not to file a brief or join in another party's brief must notify the clerk of court who will strike the party's designation as an appellee from the official caption. An appeal in a case that was consolidated in the trial court will be docketed under the title used for the consolidated case. When more than one party appeals from the same trial court case, the appeals or cross-appeals will be consolidated by the clerk of court. Other appeals may be consolidated on motion or by the court sua sponte.
 - [Reviewing the Official Caption](#)



3. Addendum

- **Issues:** The addendum is not added to the brief. The addendum pagination does not match the appendix pagination.
- **How to Avoid:** Under Federal Circuit Rule 28(a)(11), certain materials must be included as an addendum to the brief. Additionally, all addendum materials must match the corresponding appendix page numbers, using the court's appendix numbering format.
- **References:**
 - Federal Circuit Rule 28(a)(11):

the judgment, order, or decision in question, and any opinion, memorandum, or findings and conclusions supporting it, as an addendum placed last within the initial brief of the appellant or petitioner. This requirement is met when the appendix is bound with the brief. (See Federal Circuit Rule 30(c)(1) and (d) for a duplicative requirement of the appendix.) Additionally, in an appeal involving a patent, the patent in suit may be included within the addendum of the initial brief and, if included, must be reproduced in its entirety. (See also Federal Circuit Rule 30(a)(2)(A)(iii) and Federal Circuit Rule 30(a)(3) for a requirement that the patent in suit be included in its entirety in the appendix). Addendum material must be paginated with the corresponding appendix page numbers following the numbering format specified in Federal Circuit Rule 30(b)(4)(E), e.g. "Appx134," "Appx3-17," or "SAppx1185";
 - [Appendix Citation Formatting Best Practices Guide](#)



4. Signatures

- **Issue:** Counsel either does not include a signature block or a proper signature within the signature block.
- **How to Avoid:** A signature is required on all filings. For a document electronically filed by counsel, the signature can be a scanned ink signature or an electronic signature. To sign with an electronic signature, the attorney who is signing the document must
 - (1) file the document under that attorney's CM/ECF account and
 - (2) type "/s/" in the signature block where the attorney would have placed an ink signature.

- **References:**

- Federal Rule of Appellate Procedure 32(d):

Signature. Every brief, motion, or other paper filed with the court must be signed by the party filing the paper or, if the party is represented, by one of the party's attorneys.

- Federal Circuit Rule 25(d):

Format of Documents; Signatures. Documents filed electronically and in paper must comply with the format requirements set forth in the Federal Rules of Appellate Procedure, the Federal Circuit Rules, and any other requirements established by the court or by the CM/ECF User Manual. Where the court's rules require a signature on a document, the name of the filer whose log-in and password is used to submit a document may be preceded by "/s/" and typed in the space where the signature would otherwise appear.

- Federal Circuit Rule 47.3:

Signature. At least one copy of each brief, petition, motion, application, notice, or other paper presented for filing must contain the signature of the pro se party or the electronic signature of the attorney who has entered an appearance. When no attorney appearing for a party is available to sign, any person having actual authority may sign on behalf of the attorney of record, attaching an affidavit of authority or an unsworn declaration of authority under penalty of perjury pursuant to 28 U.S.C. § 1746.



5. Appendix Page Formatting

- **Issue:** Appendix pages or references are not formatted using the court's local formatting style.
- **How to Avoid:** All appendix pages must be preceded by Appx or SAppx and then the number, without any intervening non-numerical characters or spaces. For consecutive pagination, do not drop any repeating leading digits, so a reference to pages 123 through 132 would be Appx123-132, not Appx123-32. We have created two resources to assist with creating appendix citation formats that comply with our rules.
- **References:**
 - Federal Circuit Rule 28(f):

Reference to Appendix. Reference in the brief to pages of the joint appendix and, if permitted, of a supplemental appendix must be as short as possible consistent with clarity and must follow the numbering format specified in Federal Circuit Rule 30(b)(4)(E), e.g., "Appx134," "Appx3-17" or "SAppx1185."
 - Federal Circuit Rule 30(b)(4)(E):

The pages of the appendix or supplemental appendix shall be numbered by the automated Bates numbering feature of the software used to convert the appendix to a .pdf document and must be in the format "Appx" or "SAppx" followed by the page number(s); e.g., "Appx134," "Appx3-17," or "SAppx1385."
 - [Appendix Citation Formatting Best Practices Guide](#)
 - [Adding Bates Numbering Guide](#)