



Common Filing Errors

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

1. Incomplete or Improper Forms

- **Issue:** Counsel submit forms that are incomplete, outdated, or have incorrect information. *Note: All court forms have been updated as of July 1, 2020.*
- **How to Avoid:** Verify that you have the most up-to-date form by reviewing the forms on our website, read all instructions carefully, and confirm any empty sections of a form are completed in accordance with the form's instructions or local rules. You may answer "none" if appropriate, or you may use "N/A" if an item does not apply. If there is not enough space to provide a complete answer, you may attach continuation pages.
- **References:**
 - [Entry of Appearance Form 8A](#).
 - Federal Circuit Rule 47.3(b)(6): An entry of appearance ([Form 8A](#)) or notice of unrepresented person appearance ([Form 8B](#)) must be prepared on the form supplied by the clerk of court, and all information requested on the form must be provided.
 - [Certificate of Interest Form 9](#).
 - Federal Circuit Rule 47.4(a): The certificate must contain the information below in the order listed. . . . Negative responses, if applicable, are required as to each item.
 - [Statement Concerning Discrimination Form 10](#).
 - Federal Circuit Rule 15(c)(1): A petitioner must file the statement on the form prescribed by the court.
 - Federal Circuit Rule 15(c)(3): Failure to file a completed discrimination statement may result in dismissal of the petition for review.
 - [Docketing Statement Form 26](#).
 - Federal Circuit Rule 33.1: The court may adopt mediation guidelines with respect to mediation of the cases pending



before the court. These guidelines shall be binding on the parties.

- Appellate Mediation Program Guidelines (3): The docketing statement is a form to be completed by counsel All counsel must complete the form within 14 days of docketing. When the United States or its officer or agency is a party, all counsel must complete the form within 30 days of docketing.
- [Response to Notice of Oral Argument Form 33](#).
 - Federal Circuit Rule 34(e)(1): Arguing counsel must respond to the notice of oral argument on the form prescribed by the clerk of court within the time requested by the clerk of court.
- [Bill of Costs Form 24](#).
 - Federal Circuit Rule 39(b): A party must file the bill of costs on the form prescribed by the court.

2. Improper Appendix Page Numbering and References

- **Issue:** Counsel submit appendices with improper pagination and briefs with appendix citation errors. The court uses a system that links references in briefs to corresponding appendix pages, thus providing chambers immediate access to materials when reviewing briefs electronically. For the system to work, appendix citations and page numbers must follow a specific numbering format.
- **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. Detailed requirements for appendix page and reference formatting is provided in the court's [Electronic Filing Procedures](#), established pursuant to Federal Circuit Rule 25(a)(4).
- **References:**
 - Federal Circuit Rule 28(f): Any reference in a brief to the underlying record or to pages authorized to be included in an appendix must be to the corresponding appendix page number(s) assigned to the material under Federal Circuit Rule 30(b)(2)(C). References must be as short as possible consistent with clarity and must follow the format required by the clerk of court in the court's Electronic Filing Procedures.



- Federal Circuit Rule 29(c): Each amicus brief must comply with Federal Circuit Rule 28(f).
- Federal Circuit Rule 30(b)(2)(C): The pages of the designated material must be numbered by the automated Bates numbering feature of the software used to convert the appendix into a PDF and must be in the format required by the clerk of court in the court's Electronic Filing Procedures.
- Appendix Formatting ([Electronic Filing Procedures](#))

3. Incorrect Cover Pages for Briefs, Appendices, Motions and Petitions

- **Issue:** Filings in a case must use an appropriate cover (or first page, if authorized). The Clerk's Office frequently identifies filings that have a cover or first page that does not contain all required information. The most common error is a cover or first page with a caption that omits parties, uses incorrect designations, or otherwise does not match the official or short caption (unless a local rule states a short caption may be used on a cover or first page, the official caption must be included). Covers must also include other case- and filer-specific information required by the rules. Covers occasionally omit or fail to provide a complete case number, nature of proceedings, document title, and listing of the filer's contact information. Other times, some information does not appear in the required location on the cover.
- **How to Avoid:** Review the rules noted below and verify and copy the caption as provided by the court (attached to notice of docketing; thereafter revised by order or revised caption notice). When in doubt as to whether a cover is necessary or how formal it should be, it is better to include a formal cover—there is no rule preventing excessive formality.
- **Reference:**
 - Rules regarding cover requirements or applicability:
 - Federal Circuit Rule (FCR) 12(b); FCR 15(b)(4); FCR 25(i)(2); FCR 25.1(e)(1)(A); FCR 25.1(e)(1)(B); Federal Rule of Appellate Procedure (FRAP) 27(d)(1)(B); FCR 27(a)(1); FCR 27(b); FCR 27(c)(1); FRAP 28.1(d); FRAP 29(a)(4); FCR 30(a)(4); FCR 30(d)(1); FCR 30(e)(3); FRAP 32(a)(2); FRAP 32(a)(5)(A); FRAP 32(b); FCR 32(a); FCR 32(a); FCR 32(e); FCR 35(d); FCR 35(e)(1)(A); FCR 35(e)(2)(A); FCR 40(a)(1); FCR 40(c)(1)



- Practice Notes with more information regarding covers:
 - “Trial Court Intervenors” (Practice Note to Rule 12); “Participation by Appellees” (Practice Note to Rule 12); “Proper Governmental Party in Appeals from Boards of Contract Appeals” (Practice Note to Rule 15); “Change of Head of Agency” (Practice Note to Rule 15); “Preferred Cover Content” (Practice Note to Rule 32); “Filings in Companion Cases” (Practice Note to Rule 32)
- Corrected Filings ([Electronic Filing Procedures](#))
- Sample Brief Covers:
 - [MSPB Case](#)
 - [District Court Case](#)

4. Lack of Certificate of Compliance with the Word/Line Count

- **Issues:** Counsel fail to include a certificate of compliance stating the exact word/line count when filing briefs, petitions, motions papers, and other filings that require such a certification.
- **How to Avoid:** If the rules specify a word or line count for a filing, it is most likely that a certificate of compliance is required. When filing a certificate of compliance, always ensure the exact count is included. When unsure if a certificate of compliance is required, it is better to include one.
- **References:**
 - Federal Rule of Appellate Procedure 32(g)(1): A brief submitted under Rules 28.1(e)(2), 29(b)(4), or 32(a)(7)(B) — and a paper submitted under Rules 5(c)(1), 21(d)(1), 27(d)(2)(A), 27(d)(2)(C), 35(b)(2)(A), or 40(b)(1) — must include a certificate by the attorney, or an unrepresented party, that the document complies with the type-volume limitation The certificate must state the number of words — or the number of lines of monospaced type — in the document.
 - Federal Circuit Rule 28.1(c): A brief submitted under this rule must comply with Federal Circuit Rule 32(b)(3).



- Federal Circuit Rule 29(b): An amicus brief exceeding the page limitation must include a certificate of compliance with the type-volume limitation that adheres to Federal Rule of Appellate Procedure 32(g).
- Federal Circuit Rule 32(b)(3): Each brief exceeding the page limitation under Federal Rule of Appellate Procedure 32(a)(7)(A) or Federal Circuit Rule 28.1(a) must include a certificate of compliance with the type-volume limitation that adheres to the requirements in Federal Rule of Appellate Procedure 32(g).
- Practice Note to Rule 32 ("Certificate of Compliance"): Using [Federal Circuit Form 19](#) satisfies the requirements for a certificate of compliance with type-volume limitations under Federal Rule of Appellate Procedure 32(g)(1) and Federal Circuit Rule 32(b)(3). Parties are reminded that some software programs do not automatically include footnotes. When certain text is marked for word count or line count purposes, a party may need to separately mark text in footnotes and include those words or lines in the certified count.