



Common Filing Errors

This reference guide identifies common filing errors made by attorneys and parties appearing before the U.S. Court of Appeals for the Federal Circuit. Understanding and avoiding these errors will help ensure compliance with the Federal Circuit Rules of Practice and avoid the need for corrected filings.

1. Caption Errors

Problem: The caption on the cover of the brief is incorrect or incomplete.

Rules: FCR 27(a)(1); FRAP 32(c)(2)(A); FCR 32(a).

How to Avoid:

- Always use the official caption provided by the clerk of court.
- Use the caption generator located in ECF.
- Double-check the caption before filing by comparing it to the one available via PACER.
- Do not create your own caption or modify the official caption unless filing a Notice of Objection to Caption for typographical errors.

Reference: Fed. Cir. R. 32(a)(1): "Whenever a document is filed with a cover, that cover must contain the official caption provided by the clerk of court, unless noted otherwise in these rules."

2. Table of Contents Errors

Problem: The table of contents is incomplete.

Rules: FCR 30(a)(6).

How to Avoid:

- Provide a brief explanation when materials included do not have an identifying designation in the reviewed tribunal; a single explanation can suffice for multiple items.

Reference: Fed. Cir. R. 30(a)(6): "In addition to the page of the appendix at which each entry begins, an appendix table of contents



must include information identifying how the document was designated in the reviewed tribunal (such as the docket or other record number) and if applicable, the corresponding exhibit number or letter.

3. Appendix Reference Errors

Problem: References to the appendix do not follow the required format.

Rules: Fed. Cir. R. 28(f); Fed. Cir. R. 29(c).

How to Avoid:

- All references in briefs to the appendix must be in the format "Appx" followed immediately by the page number with no spaces or characters in between (e.g., "Appx123").
- For supplemental appendices, use "SAppx" followed by the page number.
- Acceptable formats include: "Appx123", "Appx00123", and "APPX123."
- Improper formats include: "Appx.123", "Appx 123", "Appx123.1", "Appx123a", and "JAppx123."
- For consecutive page references, use "Appx123-132" or "Appx123- Appx125."
- For non-consecutive pages, use "Appx123, Appx135."

Reference: Fed. Cir. R. 28(f): "Any reference in a brief to the underlying record or to material 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."

4. Incomplete Addendum

Problem: The addendum does not include all required material.

Rules: FCR 28(c)(1); FCR 28.1(d).



How to Avoid:

- Include in the addendum all judgments, orders, agency actions, or other decisions appealed from.
- Include any opinions, memoranda, findings, and conclusions supporting the appealed decisions.
- Include any rehearing opinions or orders.
- For patent cases, include all patents or applications at issue in their entirety.
- Ensure the addendum materials have the corresponding appendix pagination.

Reference: Fed. Cir. R. 28(c)(1): "Unless an appellant or petitioner permissibly binds an appendix with its principal brief pursuant to Federal Circuit Rule 30(d), the principal brief must include (A) all judgments, orders, agency actions, or other decisions appealed from and any opinions, memoranda, or findings and conclusions supporting them, including any rehearing opinions or orders; and (B) if the appeal involves a patent or patent application, all patents or applications at issue on appeal reproduced in their entirety."

5. Impermissible Addendum Material

Problem: The addendum contains material that should not be included.

Rules: FRAP 28(f); FCR 28(c)(1); FRAP 32.1(b)

How to Avoid:

- Only include material specifically required by the rules in the addendum
- Limit the addendum to only the decisions being appealed from, opinions supporting them, and patents at issue
- Do not include memoranda, transcripts, or other material that belongs in the appendix
- Do not include material that is not relevant to the appeal

Reference: Fed. R. App. P. 28(f): "If the court's determination of the issues presented requires the study of statutes, rules, regulations, etc.,



the relevant parts must be set out in the brief or in an addendum at the end..."

6. Brief Organization Errors

Problem: The contents of the brief do not appear in the correct order.

Rules: FCR 28(a); FCR 28.1(d)

How to Avoid: Follow the exact order specified in Fed. Cir. R. 28(a):

1. Certificate of interest.
2. Table of contents.
3. Table of authorities.
4. Statement of related cases.
5. Jurisdictional statement.
6. Statement of the issues.
7. Statement of the case.
8. Summary of the argument.
9. Argument (including standard of review).
10. Conclusion and statement of relief sought.
11. Required addenda.
12. Certificate of compliance.

Reference: Fed. Cir. R. 28(a): "Principal briefs must contain the following in the order listed..."

7. Confidentiality Marking Errors

Problem: Errors with confidential and nonconfidential versions of documents.

Rules: Fed. Cir. R. 25.1(e)(1)(A)-(B).

How to Avoid:

For confidential versions:



- Clearly label the document as "confidential" on the cover.
- Enclose confidential material in brackets or highlight it clearly.
- Ensure brackets are sized appropriately to be recognizable.
- If an entire page is confidential, use large brackets on the left and right margins or highlight the entire page.
- Include required protective order excerpts at the beginning of a confidential appendix.

For nonconfidential versions:

- Clearly label the document as "nonconfidential" on the cover.
- For each redaction, include a general descriptor of the redacted material where the material would have been (e.g., "dollar amount," "number of items," "chemical name").
- Add a legend in the margin noting the redaction.
- Include a paragraph in the table of contents or as the first paragraph describing the general nature of the confidential material removed and applicable page numbers.
- For entire redacted pages, include a slip sheet with the legend in the center.

Reference: Fed. Cir. R. 25.1(e)(1)(A)-(B): "The cover or front page of the confidential version must be labeled 'confidential'... Each page containing confidential material must enclose this material in brackets or indicate this material by highlighting... The cover or front page of the nonconfidential version must be labeled 'nonconfidential'... Each page from which material subject to a protective order has been deleted or redacted must bear a legend so stating. Except for redactions in exhibits, addenda, and appendices, an adequate, general descriptor of the material must appear over the deletion or redaction."

8. Missing or Incomplete Entries of Appearance

Problem: Counsel listed on filings have not filed entries of appearance, or entries are incomplete.



Rules: Fed. Cir. R. 47.3(b)(1)-(6).

How to Avoid:

- Ensure every attorney who appears on a brief has filed an entry of appearance.
- File entry of appearance within 14 days after docketing or within 14 days after being retained.
- Use Form 8A for entries of appearance and complete all requested information.
- Ensure one counsel is designated as "principal counsel."
- Note that government officials who appear by reason of their status as supervisors or heads of offices may be listed without filing an entry of appearance.
- Answer "none" or "N/A" for sections that do not apply; do not leave sections blank.

Reference: Fed. Cir. R. 47.3(b)(1): "Counsel retained prior to docketing must file an entry of appearance within fourteen (14) days after the court docket the case, and one counsel must be designated as the 'principal counsel.'"

Fed. Cir. R. 47.3(b)(6): "An entry of appearance or notice of unrepresented person appearance must be prepared on the form supplied by the clerk of court, and all information requested on the form must be provided."

9. Incomplete or Improper Forms

Problem: Counsel submit forms that are incomplete, outdated, or have incorrect information.

Rules: Various (depending on form).

How to Avoid:

- Always use the most current forms available from the court's website.
- Complete all sections of required forms, entering "none" or "N/A" where appropriate.
- Follow all instructions on the forms carefully.



- Attach continuation pages if needed for complete answers.
- Commonly used forms include:
 - Entry of Appearance (Form 8A)
 - Certificate of Interest (Form 9)
 - Notice of Related Case Information (Form 9A)
 - Statement Concerning Discrimination (Form 10) for MSPB cases
 - Bill of Costs (Form 24)
 - Docketing Statement (Form 26)
 - Response to Notice of Oral Argument (Form 33)

10. Appendix Pagination Errors

Problem: Appendix page numbers are not properly formatted or positioned.

Rules: Fed. Cir. R. 30(b)(2)(C), 30(c)(2).

How to Avoid:

- Use Bates numbering for appendix pages.
- Ensure numbers are preceded by "Appx" (or "SAppx" for supplemental appendix).
- Place page numbers centered in the bottom margin.
- Redact other marks to avoid confusion with page numbers.
- Do not use sub-organizational indicators like ".1" or "a."
- When preparing pages in landscape orientation, ensure the page number will appear centered at the bottom when printed.

Reference: Fed. Cir. R. 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 document into a PDF and must be in the format required by the clerk of court in the court's Electronic Filing Procedures."



Fed. Cir. R. 30(c)(2): "The page numbers in the appendix must be those assigned to the designated material in accordance with Federal Circuit Rule 30(b), and the pages must appear in numerical order. The pages must retain the Bates numbering of the designated material. The page numbers must appear centered in the bottom margin of each page and meet the font size requirements of Federal Rule of Appellate Procedure 32(a)(5)."

11. Failure to Update Contact Information

Problem: Counsel fail to update their contact information with PACER before filing.

Rules: Fed. Cir. R. 25(a)(5)

How to Avoid:

- Keep PACER account information current at all times.
- Update contact information in your PACER account before filing an entry of appearance.
- Ensure information on brief covers matches information in your PACER account.
- File an amended appearance if your contact information changes during a case.
- Contact the PACER Service Center for account issues, as the Clerk's Office cannot update account information locally.

Reference: Fed. Cir. R. 25(a)(5): "Filers must immediately submit an amended appearance under Federal Circuit Rule 47.3 to notify the clerk of court of a change of name or contact information, including an email address for electronic service. Electronic filers must also update their information in the court's electronic filing system."

12. Certificate of Compliance Errors

Problem: Missing or incorrect certificate of compliance with type-volume limitations.

Rules: FRAP 32(g)(1); FCR 32(b)(3).



How to Avoid:

- Include a certificate of compliance when filing a brief that exceeds the page limit.
- Use Federal Circuit Form 19 to satisfy this requirement.
- Certify the correct word or line count in the certificate.
- Ensure all required text is counted (including footnotes).
- Remember principal briefs are limited to 14,000 words under Fed. Cir. R. 32(b)(1).

Reference: Fed. Cir. R. 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)."

13. Best Practices for Federal Circuit Filings

- **Use Current Forms and Rules:** Always check the court website for the most recent versions of forms and rules before filing.
- **Verify Before Filing:** Double-check all submissions against the applicable rules before filing.
- **Maintain Account Information:** Keep PACER contact information current and immediately update upon changes.
- **Follow Format Requirements Precisely:** Pay close attention to formatting requirements, particularly for appendices, citations, and confidential materials.
- **Review Recent Non-Compliance Notices:** Periodically review the court's common filing errors documentation to stay informed of recurring issues.

14. Resources

- [Federal Circuit Rules of Practice](#)

U.S. COURT OF APPEALS FOR THE FEDERAL CIRCUIT
CLERK'S OFFICE



- [Federal Circuit Forms](#)
- [Electronic Filing Procedures](#)
- [PACER Service Center](#)