

in all motions made under this rule to trial tribunals shall be that provided for motion practice by the N.C. Rules of Civil Procedure; in all motions made under this rule to courts of the appellate division, the procedure shall be that provided by Rule 37 of these rules.

(b) *Sanctions for Failure to Comply with Rules.* A court of the appellate division may, on its own initiative or motion of a party, impose a sanction against a party or attorney or both when the court determines that such party or attorney or both substantially failed to comply with these appellate rules. The court may impose sanctions of the type and in the manner prescribed by Rule 34 for frivolous appeals.

#### ADMINISTRATIVE HISTORY

Adopted: 13 June 1975.  
 Amended: 8 December 1988 -- effective 1 July 1989;  
 6 March 1997 -- 25(a) -- effective upon adoption 6 March 1997.  
 Reenacted: 2 July 2009 -- effective 1 October 2009 and applies to all cases appealed on or after that date.

#### RULE 26 FILING AND SERVICE

(a) *Filing.* Papers required or permitted by these rules to be filed in the trial or appellate divisions shall be filed with the clerk of the appropriate court. Filing may be accomplished by mail or by electronic means as set forth in this rule.

- (1) *Filing by Mail.* Filing may be accomplished by mail addressed to the clerk but is not timely unless the papers are received by the clerk within the time fixed for filing, except that motions, responses to petitions, the record on appeal, and briefs shall be deemed filed on the date of mailing, as evidenced by the proof of service.
- (2) *Filing by Electronic Means.* Filing in the appellate courts may be accomplished by electronic means by use of the electronic filing site at [www.ncappellatecourts.org](http://www.ncappellatecourts.org). All documents may be filed electronically through the use of this site. A document filed by use of the official electronic web site is deemed filed as of the time that the document is received electronically.

Responses and motions may be filed by facsimile machines, if an oral request for permission to do so has first been tendered to and approved by the clerk of the appropriate appellate court.

In all cases in which a document has been filed by facsimile machine pursuant to this rule, counsel must forward the following items by first class mail, contemporaneously with the transmission: the original signed document, the electronic transmission fee, and the applicable filing fee for the document, if any. The party filing a document by electronic means shall be responsible for all costs of the transmission, and neither they nor the electronic transmission fee may be recovered as costs of the appeal. When a document is filed to the electronic filing site at [www.ncappellatecourts.org](http://www.ncappellatecourts.org), counsel may either have his or her account drafted electronically by following the procedures described at the electronic filing site, or counsel must forward the applicable filing fee for the document by first class mail, contemporaneously with the transmission.

(b) *Service of All Papers Required.* Copies of all papers 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 may be made in the manner provided for service and return of process in Rule 4 of the N.C. Rules of Civil Procedure and may be so made upon a party or upon its attorney of record. Service may also be made upon a party or its attorney of record 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 paper 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 paper 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 official web site, service also may be accomplished electronically by use of the other counsel's correct and current electronic mail address(es), or service may be accomplished in the manner described previously in this subsection.

(d) *Proof of Service.* Papers 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 papers filed.

(e) *Joint Appellants and Appellees.* Any paper 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 papers 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 a paper 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) *Documents Filed with Appellate Courts.*

- (1) *Form of Papers.* Papers presented to either appellate court for filing shall be letter size (8½ x 11") with the exception of wills and exhibits. All printed matter must appear in at least 12-point type on unglazed white paper of 16-20 pound substance so as to produce a clear, black image, leaving a margin of approximately one inch on each side. The body of text shall be presented with double spacing between each line of text. No more than twenty-seven lines of double-spaced text may appear on a page, even if proportional type is used. Lines of text shall be no wider than 6½ inches. The format of all papers 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.* All documents 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 the document 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 manuscript signature of counsel of record. If the document has been filed electronically by use of the official web site at [www.ncappellatecourts.org](http://www.ncappellatecourts.org), the manuscript signature of counsel of record is not required.

- (4) *Protecting the Identity of Certain Juveniles.* Parties shall protect the identity of juveniles covered by Rules 3(b)(1), 3.1(b), or 4(e) pursuant to said rules.

#### ADMINISTRATIVE HISTORY

- Adopted: 13 June 1975.  
 Amended: 5 May 1981 -- 26(g) -- effective for all appeals arising from cases filed in the court of original jurisdiction after 1 July 1982;  
 11 February 1982 -- 26(c);  
 7 December 1982 -- 26(g) -- effective for documents filed on and after 1 March 1983;  
 27 November 1984 -- 26(a) -- effective for documents filed on and after 1 February 1985;  
 30 June 1988 -- 26(a), (g) -- effective 1 September 1988;  
 26 July 1990 -- 26(a) -- effective 1 October 1990;  
 6 March 1997 -- 26(b), (g) -- effective 1 July 1997;  
 4 November 1999 -- effective 15 November 1999;  
 18 October 2001 -- 26(g), para. 1 -- effective 31 October 2001;  
 15 August 2002 -- 26(a)(1);  
 3 October 2002 -- 26(g) -- effective 7 October 2002;  
 1 May 2003 -- 26(a)(1);  
 6 May 2004 -- 26(g)(4) -- effective 12 May 2004.
- Reenacted and  
 Amended: 2 July 2009 -- amended 26(g)(3) & (4) -- effective 1 October 2009 and applies to all cases appealed on or after that date.

#### RULE 27 COMPUTATION AND EXTENSION OF TIME

(a) *Computation of Time.* In computing any period of time prescribed or allowed by these rules, by order of court, or by any applicable statute, the day of the act, event, or default after which the designated period of time begins to run is not included. The last day of the period so computed is to be included, unless it is a Saturday, Sunday, or a legal holiday, in which event the period runs until the end of the next day which is not a Saturday, Sunday, or a legal holiday.

(b) *Additional Time After Service by Mail.* Except as to filing of notice of appeal pursuant to Rule 3(c), whenever a party has the right to do some act or take some proceedings within a prescribed period after the service of a notice or other paper and the notice or paper is served by mail, three days shall be added to the prescribed period.

(c) *Extensions of Time; By Which Court Granted.* Except as herein provided, courts for good cause shown may upon motion extend any of the times prescribed by these rules or by order of court for doing any act required or allowed under these rules, or may permit an act to be done after the expiration of such time. Courts may not extend the time for taking an appeal or for filing a petition for discretionary review or a petition for rehearing or the responses thereto prescribed by these rules or by law.

- (1) *Motions for Extension of Time in the Trial Division.* The trial tribunal for good cause shown by the appellant may extend once for no more than thirty days the time permitted by Rule 11 or Rule 18 for service of the proposed record on appeal.

Motions for extensions of time made to a trial tribunal may be made orally or in writing and without notice to other parties and may be determined at any time or place within the state.

Motions made under this Rule 27 to a court of the trial division may be heard and determined by any of those judges of the particular court specified in Rule 36 of these