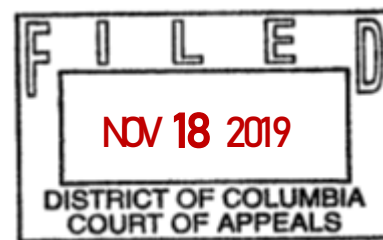


**District of Columbia
Court of Appeals**



No. M-265-19

BEFORE: Blackburne-Rigsby, Chief Judge; Glickman, Fisher, Thompson,
Beckwith, Easterly, and McLeese, Associate Judges.

ORDER

(FILED – November 18, 2019)

On consideration of the proposed amendments to the rules of this court in light of the 2019 amendments to the Federal Rules of Appellate Procedure, published for notice and comment on September 20, 2019, and given the absence of any comments thereto, it is

ORDERED that the proposed amendments reflected below are hereby adopted, effective January 17, 2020.

PER CURIAM

Rule 3. Appeal as of Right — How taken.

(d) Serving the Notice of Appeal.

(1) The Clerk of the Superior Court must serve notice of the filing of a notice of appeal by ~~mailing~~sending a copy to each party's counsel of record — excluding the appellant's — or, if a party is proceeding pro se, to the party's last known address. When a defendant in a criminal case appeals, the Clerk must also serve a copy of the notice of appeal on the defendant, either by personal service or by mail or email addressed to the defendant at the defendant's last known address. The Clerk must promptly send a copy of the notice of appeal and of the docket entries to the Clerk of the Court of Appeals. The Clerk of the Superior Court must note, on each copy, the date when the notice was filed.

(2) If an inmate confined in an institution files a notice of appeal in the manner provided by Rule 4-(d), the Clerk of the Superior Court must also note the date when the Clerk docketed the notice.

(3) The failure of the Clerk of the Superior Court to serve notice does not affect the validity of the appeal. That Clerk must transmit to the Clerk of the Court of Appeals the names of the parties to whom copies have been ~~sentmailed~~ and the date of ~~sending~~mailing. Service is sufficient despite the death of a party or of the party's counsel.

Rule 3. Appeal as of Right — How taken.

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(2) If an inmate confined in an institution files a notice of appeal in the manner provided by Rule 4(d), the Clerk of the Superior Court must also note the date when the Clerk docketed the notice.

(3) The failure of the Clerk of the Superior Court to serve notice does not affect the validity of the appeal. That Clerk must transmit to the Clerk of the Court of Appeals the names of the parties to whom copies have been sent and the date of sending. Service is sufficient despite the death of a party or of the party's counsel.

Rule 25. Filing and Service.

(a) ~~Filing~~FILING.

(1) *Filing with the Clerk.* A paper required or permitted to be filed in this court must be filed with the ~~C~~clerk.

(2) *Filing: Method and Timeliness.*

~~(A) Nonelectronic Filing.~~

~~(iA) In gGeneral.~~ For a paper not filed electronically, filing may be accomplished by mail addressed to the ~~C~~clerk, but filing is not timely unless the ~~C~~clerk receives the papers within the time fixed for filing.

~~(iiB) Inmate filing.~~ If an institution has a system designed for legal mail, an inmate confined there must use that system to receive the benefit of this Rule 25-(a)(2)(B). A paper filed by an inmate is timely if it is deposited in the institution's internal mail system on or before the last day for filing and:

- ~~(+)~~ it is accompanied by: a declaration in compliance with 28 U.S.C. § 1746—or a notarized statement—setting out the date of deposit and stating that first-class postage is being prepaid; or evidence (such as a postmark or date stamp) showing that the paper was so deposited and that postage was prepaid; or
- ~~(+)~~ the court exercises its discretion to permit the later filing of a declaration or notarized statement that satisfies Rule 25-(a)(2)(~~AB~~)(ii).

~~(BC) Electronic Filing and Signing.~~ The following rules apply to electronic filing in this court.

~~(i) In General.~~ Except as otherwise provided by court rule or order, all documents filed in this court must be filed electronically under procedures established by the court. This requirement does not apply to case-initiating documents filed in this court, including notices of appeal, applications for allowance of an appeal, applications for permission to appeal, petitions for reinstatement, petitions for review, and petitions for writs, which all must be filed in paper form. Upon request of the court, the party filing a case-initiating document must promptly provide an electronic copy of the document, unless the party is not subject to efile requirements. All Bar discipline filings must be efiled.

~~(ii) Registration Requirement.~~ Except as provided in Rule 25(a)(2)(B)(iii), all attorneys making an appearance in a case in this court must register for the court's efile system under procedures established by the court.

~~(iii) Self-represented Parties Not Required to File Electronically.~~ A party who is representing himself or herself in a case, and who has not otherwise registered for the court's efile system, is not required to file documents electronically in that case. Such a party may choose to register for the court's efile system. A party who has registered for the court's efile system must file documents electronically.

~~(iv) Materials as to Which Electronic Filing Is Not Reasonably Feasible.~~ Exhibits, attachments, or appendix materials that are of a size, shape, or format that does not reasonably permit electronic filing, or that are illegible when put into an electronic format, may be filed in paper or other appropriate form.

~~(v) Format.~~ Documents filed electronically must be in a format approved by the court. Approved formats include PDF, RTF, TIFF, DOC, and DOCX. The court discourages (but does not prohibit) the submission of electronic files created by the scanning of paper documents. For reasons of image quality, the court prefers electronic files originating from word-processing software.

(vi) Signatures. The person under whose name and password a document is electronically filed must sign the document. A document may be signed either typographically, in the format “s/attorney’s name,” or by means of a scanned handwritten signature. All other necessary signatures must be provided either in one of the preceding formats or through a representation by the filer that other signatories have authorized the filer to sign on their behalf.

(vii) Same as a Written Paper. ~~A document~~paper filed by electronic means in compliance with this court’s rules and administrative orders constitutes electronically is a written paper for the purposes of ~~applying~~ these rules.

(viii) When Filed. An electronically filed document that was timely submitted and is accepted for filing will be deemed to have been filed at the time the document was submitted to the e filing system. Unless the court has set a different time for filing, a filed document that is submitted before midnight Eastern Time will be deemed timely filed on the date of filing. A document that is filed on a day when the court is closed will be deemed to have been filed on the next day on which the court is open.

(ix) Paper Copies. Except for expedited and emergency filings, only two paper copies of documents filed electronically must be submitted. The paper copies may, within two business days of filing, be either hand-delivered to the court or deposited in the mail for delivery to the court. Although emergency and expedited filings may be filed electronically, paper copies of emergency and expedited filings must also be submitted and served on the date of filing, as required by Rules 4(c), 25(c)(3), 27, and 28, except that the electronic filing shall be treated as the original for purposes of determining the number of copies that must be submitted.

(x) Consent to Electronic Service and Notice. Registration for the court’s e filing system constitutes consent to electronic service and notice of case-related documents and orders. For all parties who have consented to electronic service and notice, the corresponding electronic notice generated by the court’s e filing system constitutes personal service of a filed document or notice of a ruling. For any party who has not consented to electronic service, or for documents that are not filed electronically, service or notice must be effected in accordance with Rules 25, 31, and 36.

(xi) Exemption by Court. Upon showing of good cause, the court may exempt a party from otherwise applicable e filing requirements.

(xii) Technical Errors. A party whose document is not filed as a result of technical error may seek appropriate relief from the court. If the e filing system is unavailable for a substantial period on a given day so as to prevent filing on that day, any document filed the next available day will be deemed to have been filed on the day that the e filing system became unavailable.

(xiii) Proper Use of E filing System. The court’s e filing system may be used only for case-related purposes. All users of the court’s e filing system must comply with the procedures established by the court in this rule and in the terms and conditions for use of the e filing system.

(xiii) Ex Parte, Sealed, Expedited, and Emergency Filings. Any document being filed ex parte shall be so designated, shall be filed by paper copy in the Public Office of the court, and shall not be filed electronically. Other documents that are filed under seal may be filed electronically, but must be designated as being filed under seal, both when submitting the document to the e filing system and on the cover of the document itself. An expedited or emergency filing must be so designated, both when submitting the document to the e filing system and on the cover of the document itself.

(b) Service of All Papers Required~~SERVICE OF ALL PAPERS REQUIRED.~~ Unless a rule requires service by the ~~C~~clerk, a party must, at or before the time of filing a paper, serve a copy

on the other parties to the appeal or review. Service on a party represented by counsel must be made on the party's counsel.

(c) ~~Manner of Service~~ **MANNER OF SERVICE.**

(1) ~~Nonelectronic.~~ **Nonelectronic** service may be any of the following:

(A) personal, including delivery to a responsible person at the office of counsel;

(B) by mail;

(C) by third-party commercial carrier for delivery within 3 calendar days; or

~~—(2D) Electronic. Electronic service of a paper may be made by sending it to a registered user through the court's electronic filing system or sending it by other electronic means, if that the party person to be being served consents~~ in writing.

~~(3Z) Request for Expedited or Emergency Consideration. A R~~requests for expedited or emergency consideration by this court must be personally served on all counsel and any party not represented by counsel.

~~(4Z) Expeditious Manner.~~ When reasonable, considering such factors as the immediacy of the relief sought, distance, and cost, service on a party must be by a manner at least as expeditious as the manner used to file the paper with the court.

~~(54) By Mail or Commercial Carrier.~~ Service by mail or by commercial carrier is complete on mailing or delivery to the carrier. Service by electronic means is complete on transmission, unless the party making service is notified that the paper was not received by the party served.

~~—(5) When authorized to do so under this court's rules and administrative orders, a party may use the court's transmission equipment to make electronic service under Rule 25 (e)(1)(D).~~

(d) ~~Proof of Service~~ **PROOF OF SERVICE.**

(1) **In General.** A paper presented for filing must contain either of the following:

(A) an acknowledgment of service by the person served; or

(B) proof of service consisting of a statement by the person who made service certifying:

(i) the date and manner of service;

(ii) the names of the persons served; and

(iii) the mail or electronic addresses, facsimile numbers, or addresses of the places of delivery, as appropriate for the manner of service.

(2) **On or Affixed to the Paper Filed.** Proof of service may appear on or be affixed to the papers filed.

(e) ~~Non-acceptance of Papers by Clerk~~ **NON-ACCEPTANCE OF PAPERS BY CLERK.** If any paper is not accepted by the ~~C~~clerk for filing, the ~~C~~clerk must promptly notify the persons named in the certificate of service.

Rule 25. Filing and Service.

(a) FILING.

(1) *Filing with the Clerk.* A paper required or permitted to be filed in this court must be filed with the clerk.

(2) *Filing: Method and Timeliness.*

(A) Nonelectronic Filing.

(i) *In General.* For a paper not filed electronically, filing may be accomplished by mail addressed to the clerk, but filing is not timely unless the clerk receives the papers within the time fixed for filing.

(ii) *Inmate filing.* If an institution has a system designed for legal mail, an inmate confined there must use that system to receive the benefit of this Rule 25(a)(2)(B). A paper filed by an inmate is timely if it is deposited in the institution's internal mail system on or before the last day for filing and:

- it is accompanied by: a declaration in compliance with 28 U.S.C. § 1746—or a notarized statement—setting out the date of deposit and stating that first-class postage is being prepaid; or evidence (such as a postmark or date stamp) showing that the paper was so deposited and that postage was prepaid; or
- the court exercises its discretion to permit the later filing of a declaration or notarized statement that satisfies Rule 25(a)(2)(A)(ii).

(B) *Electronic Filing and Signing.* The following rules apply to electronic filing in this court.

(i) *In General.* Except as otherwise provided by court rule or order, all documents filed in this court must be filed electronically under procedures established by the court. This requirement does not apply to case-initiating documents filed in this court, including notices of appeal, applications for allowance of an appeal, applications for permission to appeal, petitions for reinstatement, petitions for review, and petitions for writs, which all must be filed in paper form. Upon request of the court, the party filing a case-initiating document must promptly provide an electronic copy of the document, unless the party is not subject to efilings requirements. All Bar discipline filings must be efiled.

(ii) *Registration Requirement.* Except as provided in Rule 25(a)(2)(B)(iii), all attorneys making an appearance in a case in this court must register for the court's efilings system under procedures established by the court.

(iii) *Self-represented Parties Not Required to File Electronically.* A party who is representing himself or herself in a case, and who has not otherwise registered for the court's efilings system, is not required to file documents electronically in that case. Such a party may choose to register for the court's efilings system. A party who has registered for the court's efilings system must file documents electronically.

(iv) *Materials as to Which Electronic Filing Is Not Reasonably Feasible.* Exhibits, attachments, or appendix materials that are of a size, shape, or format that does not reasonably permit electronic filing, or that are illegible when put into an electronic format, may be filed in paper or other appropriate form.

(v) *Format.* Documents filed electronically must be in a format approved by the court. Approved formats include PDF, RTF, TIFF, DOC, and DOCX. The court discourages (but does not prohibit) the submission of electronic files created by the scanning of paper documents. For reasons of image quality, the court prefers electronic files originating from word-processing software.

(vi) *Signatures*. The person under whose name and password a document is electronically filed must sign the document. A document may be signed either typographically, in the format “s/attorney’s name,” or by means of a scanned handwritten signature. All other necessary signatures must be provided either in one of the preceding formats or through a representation by the filer that other signatories have authorized the filer to sign on their behalf.

(vii) *Same as a Written Paper*. A paper filed electronically is a written paper for purposes of these rules.

(viii) *When Filed*. An electronically filed document that was timely submitted and is accepted for filing will be deemed to have been filed at the time the document was submitted to the efilings system. Unless the court has set a different time for filing, a filed document that is submitted before midnight Eastern Time will be deemed timely filed on the date of filing. A document that is filed on a day when the court is closed will be deemed to have been filed on the next day on which the court is open.

(ix) *Paper Copies*. Except for expedited and emergency filings, only two paper copies of documents filed electronically must be submitted. The paper copies may, within two business days of filing, be either hand-delivered to the court or deposited in the mail for delivery to the court. Although emergency and expedited filings may be filed electronically, paper copies of emergency and expedited filings must also be submitted and served on the date of filing, as required by Rules 4(c), 25(c)(3), 27, and 28, except that the electronic filing shall be treated as the original for purposes of determining the number of copies that must be submitted.

(x) *Consent to Electronic Service and Notice*. Registration for the court’s efilings system constitutes consent to electronic service and notice of case-related documents and orders. For all parties who have consented to electronic service and notice, the corresponding electronic notice generated by the court’s efilings system constitutes personal service of a filed document or notice of a ruling. For any party who has not consented to electronic service, or for documents that are not filed electronically, service or notice must be effected in accordance with Rules 25, 31, and 36.

(xi) *Exemption by Court*. Upon showing of good cause, the court may exempt a party from otherwise applicable efilings requirements.

(xii) *Technical Errors*. A party whose document is not filed as a result of technical error may seek appropriate relief from the court. If the efilings system is unavailable for a substantial period on a given day so as to prevent filing on that day, any document filed the next available day will be deemed to have been filed on the day that the efilings system became unavailable.

(xiii) *Proper Use of Efilings System*. The court’s efilings system may be used only for case-related purposes. All users of the court’s efilings system must comply with the procedures established by the court in this rule and in the terms and conditions for use of the efilings system.

(xiii) *Ex Parte, Sealed, Expedited, and Emergency Filings*. Any document being filed ex parte shall be so designated, shall be filed by paper copy in the Public Office of the court, and shall not be filed electronically. Other documents that are filed under seal may be filed electronically, but must be designated as being filed under seal, both when submitting the document to the efilings system and on the cover of the document itself. An expedited or emergency filing must be so designated, both when submitting the document to the efilings system and on the cover of the document itself.

(b) **SERVICE OF ALL PAPERS REQUIRED**. Unless a rule requires service by the clerk, a party must, at or before the time of filing a paper, serve a copy on the other parties to the appeal or review. Service on a party represented by counsel must be made on the party’s counsel.

(c) MANNER OF SERVICE.

(1) *Nonelectronic*. Nonelectronic service may be any of the following:

(A) personal, including delivery to a responsible person at the office of counsel;

(B) by mail;

(C) by third-party commercial carrier for delivery within 3 calendar days; or

(2) *Electronic*. Electronic service of a paper may be made by sending it to a registered user through the court's electronic filing system or sending it by other electronic means that the person to be served consented in writing.

(3) *Request for Expedited or Emergency Consideration*. A request for expedited or emergency consideration by this court must be personally served on all counsel and any party not represented by counsel.

(4) *Expeditious Manner*. When reasonable, considering such factors as the immediacy of the relief sought, distance, and cost, service on a party must be by a manner at least as expeditious as the manner used to file the paper with the court.

(5) *By Mail or Commercial Carrier*. Service by mail or by commercial carrier is complete on mailing or delivery to the carrier. Service by electronic means is complete on transmission, unless the party making service is notified that the paper was not received by the party served.

(d) PROOF OF SERVICE.

(1) *In General*. A paper presented for filing must contain either of the following:

(A) an acknowledgment of service by the person served; or

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(i) the date and manner of service;

(ii) the names of the persons served; and

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(2) *On or Affixed to the Paper Filed*. Proof of service may appear on or be affixed to the papers filed.

(e) NON-ACCEPTANCE OF PAPERS BY CLERK. If any paper is not accepted by the clerk for filing, the clerk must promptly notify the persons named in the certificate of service.

Rule 26.1. Corporate Disclosure Statement.

(a) ~~Who Must File~~NONGOVERNMENTAL CORPORATION OR PARTNERSHIP. Any nongovernmental corporate party to a proceeding in this court must file a statement that identifies any parent corporation and any publicly held corporation that owns 10% or more of its stock or states that there is no such corporation. If a party is a partnership, the party must file a statement listing all partners, including silent partners. The same requirement applies to a partnership or nongovernmental corporation that seeks to intervene.

(b) ORGANIZATIONAL VICTIMS IN CRIMINAL CASES. In a criminal case, unless the government shows good cause, it must file a statement that identifies any organizational victim of the alleged criminal activity. If the organizational victim is a corporation or partnership, the statement must also disclose the information required by Rule 26.1(a) to the extent that it can be obtained through due diligence.

(c) ~~Time for Filing; Supplemental Filing~~TIME FOR FILING; SUPPLEMENTAL FILING. A party must file the Rule 26.1-(a) statement with the principal brief or upon filing a motion, response, petition, or answer in this court, whichever occurs first. Even if the statement has already been filed, the party's principal brief must include the statement before the table of contents. A party must supplement its statement whenever the information that must be disclosed under Rule 26.1-(a) changes.

Rule 26.1. Corporate Disclosure Statement.

(a) **NONGOVERNMENTAL CORPORATION OR PARTNERSHIP.** Any nongovernmental corporate party to a proceeding in this court must file a statement that identifies any parent corporation and any publicly held corporation that owns 10% or more of its stock or states that there is no such corporation. If a party is a partnership, the party must file a statement listing all partners, including silent partners. The same requirement applies to a partnership or nongovernmental corporation that seeks to intervene.

(b) **ORGANIZATIONAL VICTIMS IN CRIMINAL CASES.** In a criminal case, unless the government shows good cause, it must file a statement that identifies any organizational victim of the alleged criminal activity. If the organizational victim is a corporation or partnership, the statement must also disclose the information required by Rule 26.1(a) to the extent that it can be obtained through due diligence.

(c) **TIME FOR FILING; SUPPLEMENTAL FILING.** A party must file the Rule 26.1(a) statement with the principal brief or upon filing a motion, response, petition, or answer in this court, whichever occurs first. Even if the statement has already been filed, the party's principal brief must include the statement before the table of contents. A party must supplement its statement whenever the information that must be disclosed under Rule 26.1(a) changes.