

RULES OF THE SUPREME COURT OF VIRGINIA
PART THREE
PRACTICE AND PROCEDURE IN CIVIL ACTIONS

Rule 3:8. Answers, Pleas, Demurrers and Motions.

(a) *Response Requirement.* — A defendant must file pleadings in response within 21 days after service of the summons and complaint upon that defendant, or if service of the summons has been timely waived on request under Code § 8.01-286.1, within 60 days after the date when the request for waiver was sent, or within 90 days after that date if the defendant was addressed outside the Commonwealth. Pleadings in response under this Rule – other than an answer – are limited to the following, and are deemed responsive only to the specific count or counts addressed therein: a demurrer, plea, motion to dismiss, motion for a bill of particulars, motion craving oyer, and a written motion asserting any preliminary defense permitted under Code § 8.01-276. If a defendant files no other pleading in response than the answer, it must be filed within the applicable 21-day, 60-day, or 90-day period specified in this Rule. An answer must respond to the paragraphs of the complaint. A general denial of the entire complaint or plea of the general issue is not permitted.

(a1) *Limitation on Serial Pleading.* — After filing any pleading or pleadings as an initial response to a complaint or amended complaint, a defendant may not, without leave of court for good cause shown, file a demurrer, plea, or motion described in subsection (a) except as provided under subsection (b) of this rule or under another rule of court or statute that expressly allows such a pleading or motion to be filed at any other time without leave of court.

(b) *Response After Demurrer, Plea or Motion.* — When the court has entered its order overruling all motions, demurrers and other pleas filed by a defendant as a responsive pleading, such defendant must, unless the defendant has already done so, file an answer within 21 days after the entry of such order, or within such ~~other shorter or longer~~ time as the court may prescribe. If the court grants a motion craving oyer, unless the defendant has already filed an answer or another responsive pleading, the defendant must file an answer or another responsive pleading within 21 days after plaintiff files the document(s) for which oyer was granted, or within such ~~other shorter or longer~~ time as the court may prescribe. If the court overrules a motion objecting to personal jurisdiction or defective process filed as a defendant's sole initial responsive pleading, then the defendant must file an answer or another responsive pleading within 21 days after entry of the court's order overruling the motion, or within such other time as the court may prescribe.

Last amended by Order dated June 18, 2025; effective August 17, 2025.

RULES OF THE SUPREME COURT OF VIRGINIA
PART FOUR
PRETRIAL PROCEDURES, DEPOSITIONS AND PRODUCTION AT TRIAL

Rule 4:7. Use of Depositions in Court Proceedings.

(a) *Use of Depositions.* — At the trial or upon the hearing of a motion or an interlocutory proceeding, any part or all of a deposition, so far as admissible under the rules of evidence applied as though the witness were then present and testifying, may be used against any party who was present or represented at the taking of the deposition or who had reasonable notice thereof, in accordance with any of the following provisions:

(1) Any deposition taken in a civil action may be used for any purpose in supporting or opposing an equitable claim; provided, however, that such a deposition may be used on an issue heard by an advisory jury empaneled pursuant to Code § 8.01-336(E) or a hearing ore tenus only as provided by subdivision (a)(4) of this Rule.

(2) Any deposition may be used by any party for the purpose of contradicting or impeaching the testimony of deponent as a witness.

(3) The deposition of a party or of anyone who at the time of taking the deposition was an officer, director, or managing agent, or a person designated under Rule 4:5(b)(6) or 4:6(a) to testify on behalf of a public or private corporation, partnership or association or governmental agency which is a party may be used by an adverse party for any purpose.

(4) The deposition of a witness, whether or not a party, may be used by any party for any purpose in any action upon a claim arising at law, issue heard by an advisory jury empaneled pursuant to Code § 8.01-336(E), or hearing ore tenus upon an equitable claim if the court finds: (A) that the witness is dead; or (B) that the witness is at a greater distance than 100 miles from the place of trial or hearing, or is out of this Commonwealth, unless it appears that the absence of the witness was procured by the party offering the deposition; or (C) that the witness is unable to attend or testify because of age, illness, infirmity, or imprisonment; or (D) that the party offering the deposition has been unable to procure the attendance of the witness by subpoena; or (E) that the witness is a judge, or is a superintendent of a hospital for the insane more than 30 miles from the place of trial, or is a physician, surgeon, dentist, chiropractor, or registered nurse who, in the regular course of his profession, treated or examined any party to the proceeding, or is in any public office or service the duties of which prevent his attending court provided, however, that if the deponent is subject to the jurisdiction of the court, the court may, upon a showing of good cause or sua sponte, order him to attend and to testify ore tenus; or (F) upon application and notice, that such exceptional circumstances exist as to make it desirable, in the interest of justice and with due regard to the importance of presenting the testimony of witnesses orally in open court, to allow the deposition to be used.

(5) If only part of a deposition is offered in evidence by a party, an adverse party may require him to introduce any other part which ought in fairness to be considered with the part introduced, and any party may introduce any other parts.

(6) No deposition may be read in any action against a person under a disability unless it be taken in the presence of the guardian ad litem appointed or attorney serving pursuant to § 8.01-9, or upon questions agreed on by the guardian or attorney before the taking.

(7) In any action, the fact that a deposition has not been offered in evidence prior to an interlocutory decree or order does not prevent its thereafter being so offered except as to matters ruled upon in such interlocutory decree or order; provided, however, that such deposition may be read as to matters ruled upon in such an interlocutory decree or order if the principles applicable to after- discovered evidence would permit its introduction.

Substitution of parties does not affect the right to use depositions previously taken; and when there are pending in the same court several actions or suits between the same parties, depending upon the same facts, or involving the same matter of controversy, in whole or in part, a deposition taken in one of such actions or suits, upon notice to the same party or parties, may be read in all, so far as it is applicable and relevant to the issue; and, when an action in any court of the United States or of this or any other state has been dismissed and another action involving the same subject matter is afterward brought between the same parties or their representatives or successors in interest, all depositions lawfully taken [and duly filed](#) in the one action may be used in the other as if originally taken therefor.

(b) *Form of Presentation; Objections to Admissibility.* — A party may offer deposition testimony pursuant to this Rule in stenographic or nonstenographic form. Except as otherwise directed by the court, if all or part of a deposition is offered, the offering party must provide the court with a transcript of the portions so offered in either form or in electronic or digitally imaged form. Except as provided in Rule 1:18 and subject to the provisions of subdivision (d)(3) of this Rule, objection may be made at the trial or hearing to receiving in evidence any deposition or part thereof for any reason which would require the exclusion of the evidence if the witness were then present and testifying.

(c) *Effect of Taking or Using Depositions.* — A party does not make a person his own witness for any purpose by taking his deposition. The introduction in evidence of the deposition or any part thereof for any purpose other than that of contradicting or impeaching the deponent makes the deponent the witness of the party introducing the deposition, but this does not apply to the use by an adverse party of a deposition under subdivision (a)(3) of this Rule. At the trial or hearing any party may rebut any relevant evidence contained in a deposition whether introduced by him or by any other party.

(d) *Effect of Errors and Irregularities in Depositions.* —

(1) As to Notice. — All errors and irregularities in the notice for taking a deposition are waived unless written objection is promptly served upon the party giving the notice.

(2) As to Disqualification of Officer. — Objection to taking a deposition because of disqualification of the officer before whom it is to be taken is waived unless made before the taking of the deposition begins or as soon thereafter as the disqualification becomes known or could be discovered with reasonable diligence.

(3) As to Taking of Deposition. —

(A) Objections to the competency of a witness or to the competency, relevancy, or materiality of testimony are not waived by failure to make them before or during the taking of the deposition, unless the ground of the objection is one which might have been obviated or removed if presented at that time.

(B) Errors and irregularities occurring at the oral examination in the manner of taking the deposition, in the form of the questions or answers, in the oath or affirmation, or in the conduct of parties, and errors of any kind which might be obviated, removed, or cured if promptly presented, are waived unless seasonable objection thereto is made at the taking of the deposition.

(C) Objections to the form of written questions submitted under Rule 4:6 are waived unless served in writing upon the party propounding them within the time allowed for serving the succeeding cross or other questions and within 5 days after service of the last questions authorized.

(4) As to Completion and Return of Deposition. — Errors and irregularities in the manner in which the testimony is transcribed or the deposition is prepared, signed, certified, sealed, endorsed, transmitted, filed or otherwise dealt with by the officer under Rules 4:5 and 4:6 are waived unless a motion to suppress the deposition or some part thereof is made with reasonable promptness after such defect is, or with due diligence might have been, ascertained.

(e) *Limitation on Use of Depositions.* — No motion for summary judgment or to strike the evidence may be sustained when based in whole or in part upon any depositions under Rule 4:5, unless such use of depositions is permitted by § 8.01-420.

(f) *Record.* — Depositions become a part of the record only to the extent that they are offered in evidence.

Last amended by Order dated June 18, 2025; effective August 17, 2025.

RULES OF THE SUPREME COURT OF VIRGINIA
PART FIVE
THE SUPREME COURT
A. GENERAL

**Rule 5:5. Filing Deadlines; Post Trial Proceedings Below; Timely Filing by Mail; ~~Inmate~~
~~Filing~~ Filings by Incarcerated Individuals; Extension of Time.**

(a) *Filing Deadlines.* — The times prescribed for filing a notice of appeal (Rules 5:9(a), 5:14(a), 5:21(a)(3), and 5:21(b)(2)), a petition for review pursuant to Code § 8.01-626 (Rule 5:17A) and a petition for rehearing (Rules 5:20 and 5:37), are mandatory. A single extension not to exceed 30 days may be granted if at least two Justices of the Supreme Court of Virginia concur in a finding that an extension for papers to be filed is warranted on motion for good cause shown.

(a1) *Filing Deadlines for Petitions for Appeal.* — The times prescribed for filing a petition for appeal (Rules 5:17(a) and 5:21(a)(6)) are mandatory; provided, however, that an extension may be granted, in the discretion of the Supreme Court, on motion for good cause shown.

(b) *Post-Trial Proceedings Below and Their Effect on the Notice of Appeal.* — The time period for filing a notice of appeal or a petition for appeal where permitted by law is not extended by the filing of a motion for a new trial, a petition for rehearing, or a like pleading unless the final judgment is modified, vacated, or suspended by the trial court or other tribunal, pursuant to Rule 1:1, or a timely petition for rehearing is filed in the Court of Appeals. In any such case, the time for filing a notice of appeal and a petition for appeal is computed from the date of final judgment entered following such modification, vacation, or suspension, or from the date the Court of Appeals refuses a timely petition for rehearing or enters final judgment following the granting of such a petition.

(c) *How to File in a Timely Manner.* — Filing must be accomplished electronically as provided in Rule 5:1B. For any party exempt from the e-filing requirements under Rule 5:1B(b), any document required to be filed with the clerk of this Court is deemed to be timely filed if (1) it is transmitted expense pre-paid to the clerk of this Court by priority, express, registered, or certified mail via the United States Postal Service, or by a third-party commercial carrier for next-day delivery, and (2) if the official receipt therefor be exhibited upon demand of the clerk of this Court or any party and it shows such transmission or mailing within the prescribed time limits. This rule does not apply to documents to be filed in the office of the clerk of the trial court or clerk of the Virginia Workers' Compensation Commission or clerk of the State Corporation Commission.

(d) ~~Inmate Filing~~ Filings by incarcerated individuals. —

(1) Timeliness. — A paper filed by an individual confined in an institution, including a prison, jail, or the Virginia Center for Behavioral Rehabilitation, is timely filed if deposited in the institution's internal mail system on or before the last day for filing. Timely filing of a paper

by an individual confined in such an institution may be established by (1i) an official stamp of the institution showing that the paper was deposited in the internal mail system on or before the last day for filing, (2ii) an official postmark dated on or before the last day for filing, or (3iii) a notarized statement signed by an official of the institution showing that the paper was deposited in the internal mail system on or before the last day for filing.

(2) Extension of time for lack of notice. — Notwithstanding Rule 5:5(a), if an individual confined in an institution did not receive a copy of the final order until after the appellate filing deadline expired because the lower tribunal either (i) mailed the final order to the wrong address or (ii) mailed it 30 days or more after entry, the individual may move for an extension of the filing deadline. The motion must be accompanied by a copy of the lower tribunal envelope displaying the postmark, a copy of the notice of appeal the individual filed in the lower tribunal after receiving the final order, and either (i) an official copy of the institution's mail records or (ii) a notarized statement signed by an official of the institution showing the date the individual received the order. The motion must be filed no later than 30 days after the individual received the order. In evaluating the motion, the Court may consider record information showing a failure to timely mail the final order and other information that may be supplied by the lower tribunal.

(e) *Extensions Generally.* — Except as provided in paragraph (a) of this Rule, a motion for an extension of time is timely if filed either within the original filing deadline or within any extension period specified by the governing rule. Filing the motion within the original filing deadline or within the specified extension period does not toll the original filing deadline or further extend the period of extension.

Last amended by Order dated June 18, 2025; effective August 17, 2025.

RULES OF THE SUPREME COURT OF VIRGINIA
PART FIVE
THE SUPREME COURT

G. PROCEDURE FOLLOWING PERFECTION OF APPEAL

Rule 5:30. Briefs Amicus Curiae.

(a) *Stage of proceedings.*— Subject to the requirements in this Rule, a brief amicus curiae may be filed during the petition, perfected appeal, and rehearing stages of the appellate proceedings in this Court, and in proceedings invoking this Court’s original jurisdiction.

(b) *Who May File a Brief Amicus Curiae Without Leave of Court.* —

- (1) The United States of America; and
- (2) The Commonwealth of Virginia.

(c) *Who Needs Leave of Court to File a Brief Amicus Curiae.* — Except as provided in paragraph (b) of this Rule, any person or entity seeking to file a brief amicus curiae must obtain leave of Court by motion. Such motion must:

- (1) state whether the brief would be in support of a party (and if so, which party or parties), or in support of none of the parties;
- (2) certify that the applicant has sought to obtain consent of all parties;
- (3) state which, if any, of the parties has consented to the motion and whether a party that has not consented has stated an intention to file an opposition to the motion; and
- (4) attach the proposed brief.

(d) *When a Brief Amicus Curiae Must Be Filed.* —

(1) A brief amicus curiae is timely if filed no later than 7 days after the principal brief or filing of the party supported. An amicus brief in support of neither party is timely if filed no later than 7 days after the opening brief or petition. Except by the Court’s permission, an amicus curiae may not file a reply brief.

(2) Unless the amicus curiae is one listed in subparagraph (b) of this Rule, an amicus brief must include a statement that indicates whether:

- (i) a party’s counsel authored the brief in whole or in part;
- (ii) a party or a party’s counsel contributed money that was intended to fund preparing or submitting the brief; and
- (iii) a person—other than the amicus curiae, its members, or its counsel—contributed money that was intended to fund preparing or submitting the brief and, if so, that identifies each such person.

(e) *What a Brief Amicus Curiae Must Contain.* — A brief amicus curiae must comply with the rules applicable to the brief or filing of the party supported. If a person or entity is filing an amicus brief in support of neither party, the brief amicus curiae must comply with the rules applicable to the appellant or petitioner. The cover must identify the party or parties supported, if any.

(f) *This Court's Authority to Request a Brief Amicus Curiae.* — Notwithstanding the provisions of this Rule, this Court may request that a brief amicus curiae be filed at any time.

(g) *Prohibition on Amicus Filings that Would Require Recusal.* — The Court may prohibit the filing of or strike an amicus brief that would result in the recusal of a Justice of this Court.

Promulgated by Order dated Friday, April 30, 2010.

Last amended by Order dated June 18, 2025; effective August 17, 2025.

RULES OF THE SUPREME COURT OF VIRGINIA
PART FIVE
THE SUPREME COURT
I. SETTLEMENT OR WITHDRAWAL

Rule 5:38. Mediation, Settlement or Withdrawal of Pending Appeal.

(a) Upon joint motion of the parties in a civil case, the Court may extend the filing deadlines under Rule 5:17(a), Rule 5:18(a), or Rule 5:26(c) to enable the parties to pursue mediation. An order granting such a time extension will specify new filing deadlines or a deadline for the parties to file a joint progress report

(b) When a case has been settled or the appeal withdrawn at any time after the notice of appeal has been filed, it is the duty of counsel to notify the clerk of this Court by filing a written notice that the case has been settled or the appeal withdrawn. If counsel certifies that the terms of the settlement or withdrawal require further proceedings in the trial court, ~~a single Justice~~ the Court may approve entry of an order of remand.

Promulgated by Order dated Friday, April 30, 2010.

Last amended by Order dated June 18, 2025; effective August 17, 2025.

RULES OF THE SUPREME COURT OF VIRGINIA
PART FIVE A
THE COURT OF APPEALS
A. GENERAL

**Rule 5A:3. Filing Deadlines; Post Trial Proceedings Below; Timely Filing by Mail;
~~Inmate Filing~~ Filings by Incarcerated Individuals; Extension of Time.**

(a) *Certain Filing Deadlines and Extensions.* — The times prescribed for filing a notice of appeal (Rules 5A:6 and 5A:11), a petition for appeal (Rule 5A:12), a petition for rehearing (Rule 5A:33), and a request for rehearing en banc (Rule 5A:34) are mandatory, except that an extension of the time to file a notice of appeal, a petition for rehearing, and a petition for rehearing en banc may be granted in the discretion of this Court on motion for good cause shown. The time period for filing the notice of appeal is not extended by the filing of a motion for a new trial, a petition for rehearing, or a like pleading unless the final judgment is modified, vacated, or suspended by the trial court pursuant to Rule 1:1, in which case the time for filing is computed from the date of the final judgment entered following such modification, vacation, or suspension.

(b) *Extensions Generally.* — Except as provided in paragraph (a) of this Rule, the times prescribed in these Rules for filing papers, except transcripts (Rule 5A:8(a)), may be extended by a judge of the court in which the papers are to be filed on motion for good cause shown. Filing a motion for extension does not toll the applicable deadline.

(c) *Filing Deadlines for Motions for Extension.* — A motion for extension of time is timely if filed:

- (1) within any specific deadline governing motions to extend, *see* Rules 5A:8(a), 5A:13(a), 5A:19(b), and 5A:19(c); or
- (2) if a rule does not provide a specific deadline governing motions to extend, within 30 days after the filing deadline from which an extension is sought.

(d) *How to File by Mail in a Timely Manner.* — A document filed with the clerk of this Court by a litigant permitted to file non-electronically under Rule 5A:1(c) will be deemed to be timely filed if (1) it is transmitted expense pre-paid to the clerk of this Court by priority, express, registered, or certified mail via the United States Postal Service, or by a third-party commercial carrier for next-day delivery, and (2) if the official receipt therefor be exhibited upon demand of the clerk or any party and it shows such transmission or mailing within the prescribed time limits. This Rule does not apply to documents to be filed in the office of the clerk of the trial court or clerk of the Virginia Workers' Compensation Commission.

(e) ~~Inmate Filing~~ Filings by incarcerated individuals. —

(1) Timeliness. — A paper filed by an individual confined in an institution, including a prison, jail, or the Virginia Center for Behavioral Rehabilitation, is timely

filed if deposited in the institution's internal mail system on or before the last day for filing. Timely filing of a paper by an individual confined in such an institution may be established by (4*i*) an official stamp of the institution showing that the paper was deposited in the internal mail system on or before the last day for filing, (2*ii*) an official postmark dated on or before the last day for filing, or (3*iii*) a notarized statement signed by an official of the institution showing that the paper was deposited in the internal mail system on or before the last day for filing.

(2) Extension of time for lack of notice.— Notwithstanding Rule 5A:3(a), if an individual confined in an institution did not receive a copy of the final order until after the appellate filing deadline expired because the lower tribunal either (i) mailed the final order to the wrong address or (ii) mailed it 30 days or more after entry, the individual may move for an extension of the filing deadline. The motion must be accompanied by a copy of the lower tribunal envelope displaying the postmark, a copy of the notice of appeal the individual filed in the lower tribunal after receiving the final order, and either (i) an official copy of the institution's mail records or (ii) a notarized statement signed by an official of the institution showing the date the individual received the order. The motion must be filed no later than 30 days after the individual received the order. In evaluating the motion, the Court may consider record information showing a failure to timely mail the final order and other information that may be supplied by the lower tribunal.

Last amended by Order dated June 18, 2025; effective August 17, 2025.

RULES OF THE SUPREME COURT OF VIRGINIA
PART FIVE A
THE COURT OF APPEALS
F. PROCEDURE FOLLOWING PERFECTION OF APPEAL

Rule 5A:23. Briefs Amicus Curiae.

(a) *Stage of proceedings.* — Subject to the requirements in this Rule, a brief amicus curiae may be filed during the petition, appeal, and rehearing stages of the appellate proceedings in this Court, and in proceedings invoking this Court’s original jurisdiction.

(b) *Who May File a Brief Amicus Curiae Without Leave of Court.* —

- (1) The United States of America; and
- (2) The Commonwealth of Virginia.

(c) *Who Needs Leave of Court to File a Brief Amicus Curiae.* — Except as provided in paragraph (b) of this Rule, any person or entity seeking to file a brief amicus curiae must obtain leave of Court by motion. Such motion must:

- (1) state whether the brief would be in support of a party (and if so, which party or parties) or in support of none of the parties;
- (2) certify that the applicant has sought to obtain consent of all parties;
- (3) state which, if any, of the parties has consented to the motion and whether a party that has not consented has stated an intention to file an opposition to the motion; and
- (4) attach the proposed brief.

(d) *When a Brief Amicus Curiae Must Be Filed.* — A brief amicus curiae is timely if filed no later than 7 days after the principal brief or filing of the party supported. An amicus brief in support of neither party is timely if filed no later than 7 days after the opening brief or petition. Except by the Court’s permission, an amicus curiae may not file a reply brief.

(e) *What a Brief Amicus Curiae Must Contain.* —

(1) A brief amicus curiae must comply with the rules applicable to the brief or filing of the party supported. If a person or entity is filing an amicus brief in support of neither party, the brief amicus curiae must comply with the rules applicable to the appellant or petitioner. The cover must identify the party or parties supported, if any.

(2) Unless the amicus curiae is one listed in subparagraph (b) of this Rule, an amicus brief must include a statement that indicates whether:

- (i) a party’s counsel authored the brief in whole or in part;
- (ii) a party or a party’s counsel contributed money that was intended to fund preparing or submitting the brief; and

(iii) a person—other than the amicus curiae, its members, or its counsel—contributed money that was intended to fund preparing or submitting the brief and, if so, that identifies each such person.

(f) *This Court's Authority to Request a Brief Amicus Curiae.* — Notwithstanding the provisions of this Rule, this Court may request that a brief amicus curiae be filed at any time.

(g) *Prohibition on Amicus Filings that Would Require Recusal.* — The Court may prohibit the filing of or strike an amicus brief that would result in the recusal of a member of the Court who has been assigned to the case or in the recusal of a member of the en banc court from voting on whether to hear or rehear a case en banc.

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RULES OF THE SUPREME COURT OF VIRGINIA
PART FIVE A
THE COURT OF APPEALS
I. SETTLEMENT AND WITHDRAWAL.

Rule 5A:36. Mediation, Settlement or Withdrawal of Pending Appeal.

(a) Upon joint motion of the parties in a civil case, the Court may extend the filing deadlines under Rules 5A:19(b), 5A:19(c) and 5A:25(d) to enable the parties to pursue mediation. An order granting such a time extension will specify new filing deadlines or a deadline for the parties to file a joint progress report.

(b) When a case has been settled or the appeal withdrawn at any time after the notice of appeal has been filed, it is the duty of counsel to notify the clerk of this Court by filing a written notice that the case has been settled or the appeal withdrawn. If counsel certifies that the terms of the settlement or withdrawal require further proceedings in the trial court, ~~a single judge of this~~ the Court may approve entry of an order of remand.

Promulgated by Order dated Friday, April 30, 2010; effective July 1, 2010.

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