



Common Filing Errors

The Clerk's Office has identified the following five 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- **Issue:** Counsel submit forms that are incomplete, outdated, or have incorrect information.
- **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. Addenda Lack All Required Material

- **Issue:** Counsel are not including all required material in the addendum.
- **How to Avoid:** Both FCR 28(a)(11) and (12) were amended in July 2020. Subsection 11 requires principal briefs to include the judgment or order being appealed and any opinions or findings supporting the judgment or order being appealed. These items must also include the corresponding appendix pagination, in compliance with FCR 30(c)(2), since they are also required to be included in the appendix. Subsection 12 requires an addendum to the principal brief in a patent appeal or petition that contains all patents in suit reproduced in their entirety.
- **References:**
 - FCR 28(a)(11)-(12)(A): Principal briefs must contain the following in the order listed: . . . (11) an addendum containing the judgments, orders, agency actions, or other decisions in question and any opinions, memoranda, or findings and conclusions supporting them (this requirement applies only to the principal brief of an appellant, petitioner, or cross-party and is met when the appendix is bound with the brief. See Federal Circuit Rule 30(c)(1) and (d) for a duplicative requirement of the appendix); (12) additional content in an appeal or petition involving a patent — (A) all patents in suit reproduced in their



entirety as an addendum to the principal brief of a petitioner or appellant

- FCR 28.1 (d): Appellant's principal brief must comply with Federal Circuit Rule 28(a). . . . Appellee's principal and response brief must also include the addendum under Federal Circuit Rule 28(a)(11) to the extent that the materials differ from those produced in the appellant's principal brief.

3. Corrected Briefs Do Not Include "Corrected" on the Cover

- **Issue:** Counsel fail to include "corrected" on the cover of briefs and other documents filed with the court.
- **How to Avoid:** Verify that you have included "corrected" either in the title or on the cover of any corrected document filed with the court. Additionally, verify that you have or plan to file a Notice of Correction with the corrected document.
- **References:**
 - Federal Circuit Rule 25(i)(2): A corrected document must indicate "corrected" in the title or on the cover.
 - Federal Circuit Rule 25(i)(3): A Notice of Correction must be filed contemporaneously with the corrected document and must specifically delineate each correction. A Notice of Correction is not required for changes to a document when those changes have been ordered by the court or the clerk of court.

4. Not Updating Contact Information with PACER

- **Issue:** Counsel fail to update their contact information with PACER before filing an entry of appearance ([Form 8A](#)) or include different contact information on the cover of a brief. Filing an entry of appearance does not update a filer's contact information and the Clerk's Office does not have the ability to change it locally.
- **How to Avoid:** Before filing any entry of appearance or brief with the court, make sure to log in and check your PACER account to confirm that your contact information is up-to-date and matches the information on your entry of appearance or brief. For issues with your PACER account, please contact the [PACER Service Center](#).



- **References:**

- FCR 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.
- [Entry of Appearance Form 8A](#)
- [PACER Home Page](#)
- [PACER Service Center](#)

5. Extension of Time Motions for Briefs - Procedural Misunderstanding

- **Issues:** Filing an extension motion on a brief does not change the deadline for the brief until the motion is acted upon by the court. However, the Practice Note to Rule 26 clarifies that unless the court has previously ordered that there will be no further extensions, an appeal will not be dismissed for failure to file the principal brief if appellant or petitioner files a motion to extend the time to file the brief at least seven days before the due date.
- **How to Avoid:** Until explicitly stated otherwise by the court in an order, all deadlines remain as stated by the Federal Circuit Rules.
- **References:**
 - Practice Notes to Rule 26: Unless the court has previously ordered that there will be no further extensions, an appeal will not be dismissed for failure to file appellant's brief if appellant's motion to extend the time for filing was filed and served at least seven (7) days before the due date for the brief, but the motion has not been acted on by the due date.