



Common Filing Errors

The Clerk's Office has identified the following six recurring errors with attorney filings over the past six months. All rules referenced within the below recommendations can be found in the up to date version of the [Federal Circuit Rules](#), available on the court's website.

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- **Issue:** Counsel submit forms that are incomplete, outdated, or have incorrect information.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 the Federal Circuit 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 on the form to provide a complete answer, you may attach continuation pages in your submission.
- **References:**
 - [Entry of Appearance - Form 8A.](#)
 - 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. Fed. Cir. R. 47.3(b)(6).
 - [Certificate of Interest - Form 9.](#)
 - A certificate of interest is required to determine whether a recusal from a judge is necessary or appropriate. The certificate must contain certain information, detailed in Federal Circuit Rule 47.4(a). Fed. Cir. R. 47.4(a):
 - NOTE: A response is required for each item. Please indicate "none" or "N/A" if appropriate.
 - [Notice of Related Case Information – Form 9A.](#)
 - At the same time a party files its first certificate of interest, the party must also file a separate Notice of Related Case Information if there are related or prior cases that meet the



criteria listed in Fed. Cir. R. 47.5(a). The notice must include the information listed in Fed. Cir. R. 47.5(b).

- [Statement Concerning Discrimination - Form 10.](#)
 - Within fourteen (14) days after a petition for review of a decision of the Merit Systems Protection Board or decision of an arbitrator under 5 U.S.C. § 7121 is docketed, petitioner must file a statement indicating whether a claim of discrimination has been or will be made. Petitioner must file the statement on the form prescribed by the court. Fed. Cir. R. 15(c)(1).
 - Failure to file a completed discrimination statement may result in dismissal of the petition for review. Fed. Cir. R. 15(c)(3).
- [Bill of Costs - Form 24.](#)
 - A party must file the bill of costs on the form prescribed by the court. Fed. Cir. R. 39(b).
- [Docketing Statement - Form 26.](#)
 - Except in cases involving unrepresented parties, each party must file a docketing statement within fourteen (14) days after the case is docketed, or thirty (30) days after the case is docketed if the United States or its officer or agency is a party. Fed. Cir. R. 47.6.
- [Response to Notice of Oral Argument - Form 33.](#)
 - The clerk of court will notify parties when a case has been scheduled for argument. Each party must respond to the notice of oral argument within the time requested by the clerk of court. Fed. Cir. R. 34(e)(1).

2. Addenda Lack All Required Material

- **Issue:** Counsel are not including all required material in the addendum.
- **How to Avoid:** Fed. Cir. R. 28(a)(11) and 28(c) were amended in March 2023.
 - Ensure the principal brief includes any judgment or order being appealed and any opinions or findings supporting the judgment or order being appealed.



- In a patent appeal or application, ensure the addendum includes all patents and applications reproduced in their entirety.
- These items must also include the corresponding appendix pagination, in compliance with Fed. Cir. R. 30(b)(2)(c).

- **References:**

- Fed. Cir. R. 28(a) lists the order of items required within a principal brief.
- Fed. Cir. R. 28(c)(1): Unless an appellant or petitioner permissibly binds an appendix with its principal brief (Fed. Cir. R. 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.
 - Fed. Cir. R. 28.1(d) requires Appellant's principal brief comply with Fed. Cir. R. 28(a) and Appellee's principal and response brief must comply with Fed. Cir. R. 28(c) to the extent the materials differ from those produced in the appellant's principal brief.
- Fed. R. App. P. 28(f) requires relevant portions of statutes, rules, regulations, etc. be included in the addendum, if the court's determination of the issues involved them.

3. Corrected Briefs Fail to Indicate "Corrected" on the Cover

- **Issue:** Counsel fail to indicate documents have been "corrected" on the cover of briefs and other documents filed with the court.
- **How to Avoid:** Ensure you include the word "corrected" either in the title or on the cover of any corrected item filed with the court. Additionally, ensure you file a Notice of Correction at the same time as the corrected brief, if applicable.
- **References:**
 - Fed. Cir. R. 25(i)(2): A corrected document must indicate "corrected" in the title or on the cover.



- Fed. Cir. R. 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, 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:**
 - Fed. Cir. R. 25(a)(5): Filers must immediately submit an amended appearance under Fed. Cir. R. 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. Inadequate Labeling for Confidential and Nonconfidential Versions

- **Issue:** Within the confidential version of a document, counsel fail to adequately highlight the confidential items, and in the nonconfidential version, counsel fail to include redactions of the confidential information with adequate, general descriptors of the material appearing over the deletion or redaction.



- **How to Avoid:** Ensure the confidential version is appropriately labeled, and the confidential items are highlighted. Ensure the nonconfidential versions include appropriate labels and are adequately redacted and updated with general descriptors for the redacted material. Fed. Cir. R. 25.1 (e).
- **References:**
 - Fed. Cir. R. 25.1 (e)(1) requires a document containing material subject to confidentiality as permitted by Fed. Cir. R. 25.1 (d) must be filed with the court in two versions: a confidential version that notes the material marked confidential, and a nonconfidential version containing appropriate redactions.
 - Fed Cir. R. 25.1(e)(1)(A) requires the confidential version be labeled "confidential" and item of confidential material must be enclosed in material in brackets or indicated by highlighting. The confidential version of an appendix must include pertinent excerpts of any statutes imposing confidentiality, or the entirety of any judicial or administrative protective order.
 - Fed. Cir. R. 25.1 Practice Notes: The court requires that confidential information be clearly identifiable in the confidential version, and the filer should ensure that highlighting will not obscure text or be confused with other identifiers elsewhere in the document. Brackets should be sized appropriately to ensure they are readily recognizable. If an entire page is to be marked confidential, the filer may include large brackets on the left and right margin of the page or highlight the entire page. The highlight may be in the form of a box over the entire page or a clearly highlighted border surrounding the page.
 - Fed. Cir. R. 25.1 Practice Notes: When confidential information has been redacted, the legend noting the redaction should appear in the margin of the page. When redacting information from the nonconfidential version, a general descriptor of the redacted information must appear in the place of the redacted information, e.g., "dollar amount," "number of items," "chemical name." If an entire page is redacted, a slip sheet may be included, and the legend may appear in the center of the sheet.



- Fed. Cir. R. 25.1(e)(1)(B) requires the nonconfidential version be labeled "nonconfidential" and any item of confidential material has been deleted or redacted, includes an adequate, a legend to explain the deletions/redactions, and general descriptors of the deleted/redacted material appearing in place of the deletion/redaction. The table of contents or the first paragraph of the document must include a paragraph describing the general nature of the confidential material that has been removed and applicable page numbers.

6. Failure to Utilize the Court's Official Caption

- **Issue:** Counsel does not utilize the correct caption.
- **How to Avoid:** Double check you are using the most up-to-date caption when submitting filings to the court. Parties are provided the official case caption at case opening and whenever the court modifies the caption. Parties may also access the official caption anytime via PACER.
- **References:**
 - Fed. Cir. R. 32(a)(1) requires a document filed with a cover to include the official caption provided by the clerk of court, unless noted otherwise within the Federal Circuit Rules.
 - [PACER Home Page](#)