

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

Rule 5:1. Scope, Citation, Applicability, and General Provisions.

(a) *Scope of Rules.* Part Five governs all proceedings in the Supreme Court of Virginia.

(b) *Citation.* These Rules may be cited generally as the “Rules of the Supreme Court of Virginia” and specifically as “Rule 5:___.”

(c) *Definitions.*

(1) "clerk" means clerk of the court or commission from which an appeal is taken unless some other clerk is specified and, unless the context otherwise requires, includes a deputy clerk;

(2) "clerk of this Court" includes a deputy clerk;

(3) "counsel" has the definition given in Rule 1:5 and in this Part Five includes a party not represented by counsel;

(4) "counsel for the appellant" means one of the attorneys representing each appellant represented by an attorney and each appellant not represented by an attorney;

(5) "counsel for the appellee" means one of the attorneys representing each appellee represented by an attorney and each appellee not represented by an attorney. In an appeal from the State Corporation Commission, "counsel for the appellee" shall also include counsel for the Commission and, unless the Commonwealth is the appellant, the Attorney General;

(6) "Court of Appeals" means the Court of Appeals of Virginia;

(7) "opposing counsel" means, depending on the context, "counsel for the appellant" or "counsel for the appellee";

(8) "judge" means judge of the trial court, unless the context otherwise requires, or if the judge of the trial court is not available, any judge authorized to act under Rule 5:12;

(9) "judgment" includes an order or decree from which an appeal is taken;

(10) "trial court" means the circuit court from which an appeal is taken;

(11) the "date of entry" of any final judgment or other appealable order or decree shall be the date the judgment, order, or decree is signed by the judge.

(d) *Service.* Unless service or notice is otherwise specified in a given Rule, any paper or object filed with this Court must have included within it or appended to it a certificate of service or acceptance of service showing that a copy has been transmitted to all counsel and showing the date and manner of transmittal. If a word count is used, the certificate must also state the number of words (headings, footnotes, and quotations count

towards the word limitation; the cover page, table of contents, table of authorities, and certificate do not count towards the word count).

(e) *Notice of Change of Address and Other Contact Information.* If an attorney has a change in mailing address, telephone number, facsimile number, or e-mail address any time after the filing of the notice of appeal, the attorney must immediately notify the clerk of this Court and all other counsel of record in writing. The notice must reference the style and record number of all cases pending before this Court.

(f) *Citing Unpublished Judicial Dispositions.* The citation of judicial opinions, orders, judgments, or other written dispositions that are not officially reported, whether designated as “unpublished,” “not for publication,” “non precedential,” or the like, is permitted as informative, but shall not be received as binding authority. If the cited disposition is not available in a publicly accessible electronic database, a copy of that disposition must be filed with the brief or other paper in which it is cited.

(g) Filings. Every paper or object filed with or transmitted to this Court shall be filed or transmitted in compliance with these Rules. Originals or copies of papers or objects shall not be filed with or transmitted to any justice of this Court, unless expressly authorized by the Court. A failure to comply with this prohibition may result in the imposition of penalties under Rule 5:1A.

Promulgated by Order dated Friday, April 16, 2018; effective June 15, 2018.

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THE SUPREME COURT
G. PROCEDURE FOLLOWING PERFECTION OF APPEAL

Rule 5:33. Oral Argument.

(a) *Notice.* Whenever an appeal lies as a matter of right or a petition for appeal has been granted, the clerk of this Court, except in extraordinary circumstances, shall give at least 15 days notice to counsel of the date, approximate time, and location for oral argument.

(b) *Length.* Except as otherwise directed by this Court, argument for a party shall not exceed 15 minutes in length. Such time may be apportioned among counsel for the same side at their discretion.

(c) *Appearance Pro Hac Vice.* Any lawyer not licensed in Virginia who seeks to appear pro hac vice to present oral argument to the Court must comply with the requirements of Rule 1A:4.

(d) *Amicus Curiae.* No oral argument by amicus curiae is permitted except by leave of this Court. Leave may be granted upon the joint written request of amicus curiae and the party whose position amicus curiae supports. The request shall specify the amount of its allotted time the supported party is willing to yield to amicus curiae.

(e) *Waiver.* During oral argument, it shall not be necessary for any party to expressly reserve any argument made on brief, and the failure to raise any such argument shall not constitute a waiver. Any party may, without waiving the arguments made on brief, waive oral argument.

(f) *Demonstrative Exhibits.* No demonstrative exhibit shall be used by or on behalf of a party during oral argument without the prior consent of the Court. A party or counsel intending to use a demonstrative exhibit during oral argument shall notify the clerk of this Court by letter, with a copy to all other parties, at least five (5) business days prior to the scheduled date of the oral argument. The letter must describe the proposed demonstrative exhibit and the manner in which it will be used. The Court, in its discretion, may refuse to allow the use of the demonstrative exhibit. No demonstrative exhibit shall be brought into the courtroom unless the Court has consented to its use during oral argument.

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