IN THE SUPREME COURT
STATE OF NORTH DAKOTA

ORDER OF ADOPTION

Supreme Court No. 20250316

Amendments to North Dakota Rule of Appellate Procedure 25 Regarding Filing and Service

[¶1] On September 8, 2025, the Clerk of the Supreme Court submitted proposed amendments to North Dakota Rule of Appellate Procedure 25 regarding filing and service. The proposal is available here. Individuals who do not have internet access may contact the Office of the Clerk of the Supreme Court to obtain a copy of the proposal. The Court allowed public comment on the proposal. The Court considered the matter, and

[¶2] IT IS HEREBY ORDERED that as further amended by the Court, the amendments to North Dakota Rule of Appellate Procedure 25 are ADOPTED effective January 1, 2026.

[¶3] The Supreme Court of the State of North Dakota convened with the Honorable Jon J. Jensen, Chief Justice, and the Honorable Daniel J. Crothers, the Honorable Lisa Fair McEvers, the Honorable Jerod E. Tufte, and the Honorable Douglas A. Bahr, Justices, directing the Clerk of the Supreme Court to enter the above order.

[¶4] Dated: 12/29/2025

Petra H. Mandigo Hulm
Clerk
North Dakota Supreme Court

RULE 25. FILING AND SERVICE

~~(a) General~~

~~(1) Filing may be accomplished electronically, by mail, or delivery addressed to the clerk or by electronic means as provided in these rules, but filing is not timely unless the clerk receives the documents within the time fixed for filing.~~

~~(2) A document submitted for electronic filing must comply with published guidelines (N.D.R.App.P. Appendix B. Rule 25 Electronic Filing Requirements).~~

~~(b~~a) Electronic Filing.

(1) Unless otherwise permitted under this Rule, all documents filed in the supreme court must be submitted through the supreme court electronic filing system within the time fixed for filing.

(2) A document submitted for electronic filing must comply with published guidelines (N.D.R.App.P. Appendix B. Rule 25 Electronic Filing Requirements).

~~(2)~~(3) Self-represented litigants and prisoners are exempt from the electronic filing requirement. They may submit paper documents in person, by mail, or by third party commercial carrier. They may submit documents by electronic means through the supreme court electronic filing system or submit documents with the clerk of the supreme court by e-mail sent to the

following e-mail address: supclerkofcourt@ndcourts.gov.

(3) Prisoners may submit documents through the supreme court prison electronic filing system, but ~~filing is not timely unless the clerk receives the documents~~ must be filed within the time fixed for filing. Filings by prisoners using this system are exempt from the service requirements of subdivision (d).(~~3~~4) On a showing of exceptional circumstances in a particular case, the clerk of the supreme court or court may grant anyone leave to file paper documents.

(45) The typed attorney or party name or facsimile signature on a document filed electronically has the same effect as an original manually affixed signature.

(~~c~~b) Time of Filing.

(1) A document in compliance with these rules and submitted electronically to the clerk of the supreme court by 11:59 p.m. Bismarck, North Dakota, time is considered filed on the date submitted.

(2) If a document submitted for electronic filing is rejected, the time for filing is tolled from the time of submission to the time the rejection notice is sent. A corrected document will be considered timely filed if submitted and served within three days after the notice of rejection.

(~~d~~c) Electronic Document Formats. All documents submitted to the court in electronic form must be in an approved word processing format or portable document format (PDF). Documents filed in PDF format must be directly converted from a word

processing file, rather than scanned if possible. Documents or parts of documents not available in electronic form may be converted to PDF from scanned images. To the extent practicable, PDF documents converted from scanned images should be text-searchable. Electronically filed documents may not be locked, password protected, or contain embedded files or scripts.

(1) Approved word processing formats for documents submitted in electronic form are Word and ASCII.

(2) Page breaks must separate the cover, table of contents, table of cases, and body of briefs.

(d) Service of All Documents Required. A party must, at or before the time of filing a document, 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. Filings by prisoners using the supreme court prison electronic filing system are exempt from serving documents on other parties.

(~~f~~e) Manner of Service.

(1) Electronic Service

(A) All documents filed electronically must be served on registered users through the supreme court electronic filing system. Otherwise, documents must be served by electronic means to the e-mail address published on the supreme court's website or known to a party.

(B) Paper documents must be served when a self-represented litigant or prisoner cannot accept electronic service. On a showing of

exceptional circumstances in a particular case, anyone may be granted leave of court to serve paper documents or to be exempt from receiving electronic service.

(C) Service by electronic means is complete on transmission, unless the party making service is notified that the document was not received by the party served.

(D) Attorneys must provide an e-mail address to the court and must accept electronic service. Attorneys may designate a law firm e-mail address as their e-mail address for the purpose of accepting electronic service.

(E) If the recipient's e-mail address is published on the supreme court's website or known to a party, the document must be served by electronic means to that e-mail address.

(2) Service of Paper Documents. Service on a party exempt from receiving electronic service or on a self-represented litigant or prisoner who cannot accept electronic service may be any of the following:

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

(B) by mail; or

(C) by third-party commercial carrier for delivery within three days.

(3) 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 document with the court.

(4) Service by mail is complete upon mailing. Service via a third-party commercial carrier is complete upon deposit of the document to be served with the commercial carrier.

(5) The clerk will provide a copy of documents filed through the supreme court prison electronic filing system to other parties.

(~~g~~f) Proof of Service. A document presented for filing must contain an acknowledgment of service by the person served or proof of service by the person who made service. Proof of service may appear on or be affixed to the document filed. The clerk may permit a document to be filed without acknowledgment or proof of service but must require acknowledgment or proof of service to be filed promptly.

(~~h~~g) Technical Issues; Relief. On a showing of good cause, the court may grant appropriate relief if electronic filing or electronic service was not completed due to technical problems with the court's electronic filing system or public access to that system.

(~~i~~h) Each document submitted for filing must be separately submitted.

(~~j~~i) The clerk, a justice, or the court may issue routine orders by a text-only entry upon the docket. A PDF document will not be attached. The text-only entry will constitute the supreme court's only order on the matter. A paper copy of the text-only order will be sent to a party exempt from receiving electronic service and on a self-represented litigant or prisoner who cannot accept electronic service.

EXPLANATORY NOTE

Rule 25 was amended, effective January 1, 1988; on an emergency basis, September 5, 1990; on an emergency basis, November 16, 1994; March 1, 1996; March 1, 1999; March 1, 2003; March 1, 2008; March 1, 2011; October 1, 2014; March 1, 2019; March 1, 2022; August 1, 2023; April 8, 2024;_____.

This rule is derived from Fed.R.App.P. 25. Rule 25 was amended, effective March 1, 1999, to allow the use of a third-party commercial carrier as an alternative to the Postal Service. The phrase "commercial carrier" is not intended to encompass electronic delivery services.

Subdivision (a) provides documents are not considered filed until they are received by the clerk of the supreme court.

Rule 25, effective March 1, 2003, allows the court to accept documents filed by electronic means.

Rule 25 was amended, effective March 1, 2019, to require electronic filing by all parties other than self-represented litigants and prisoners and to eliminate most fees that applied specifically to electronic filing.

Rule 25 was amended, effective March 1, 2019, to add requirements for documents filed electronically.

Rule 25 was amended, effective August 1, 2023, to clarify that hard page breaks must separate the cover, table of contents, table of cases, and body of all briefs.

Rule 25 was amended, effective March 1, 2008, to provide for service by electronic means.

Rule 25 was amended, effective March 1, 2011, to change the reference from

"calendar days" to "days."

Rule 25 was amended, effective March 1, 2019, to require electronic service of documents filed electronically except when a self-represented litigant or prisoner cannot accept electronic service.

Rule 25 allows proof of service by admission of service, affidavit of service, or certificate of an attorney.

Rule 25 was amended, effective March 1, 2003, in response to the December 1, 1998, amendments to Fed. R. App. P. 25. The language and organization of the rule were changed to make the rule more easily understood and to make style and terminology consistent throughout the rules.

Rule 25 was amended, effective October 1, 2014, to replace "supreme court clerk" with "clerk of the supreme court" and "paper" with "document."

Rule 25 was amended, effective March 1, 2022, to remove references to the appendix.

Rule 25 was amended, effective, April 8, 2024, upon the adoption of the supreme court's electronic filing system. Unless otherwise exempted under the rule, parties are required to electronically file and serve documents with the clerk of the supreme court.

SOURCES: Supreme Court Rulemaking of April 3, 2024; March 12, 2024; Joint Procedure Committee Minutes of April 28, 2023, pages 11-13; September 30, 2021, pages 2-9; April 27, 2018, pages 2-4; January 25, 2018, pages 11-12; September 26, 2013, page 22-24; April 29-30, 2010, page 20; January 25, 2007, page 17; April 25-26, 2002, pages 3-5; April 26-27, 2001, page 10; April 30-May 1, 1998, page 3; January 29-

30, 1998, page 21; January 26-27, 1995, pages 6-7; September 29-30, 1994, page 12; February 19-20, 1987, pages 6-7; September 18-19, 1986, pages 14-15; May 25-26, 1978, page 10; March 16-17, 1978, pages 3-4. Fed.R.App.P. 25.

STATUTES AFFECTED:

SUPERSEDED: N.D.C.C. § 28-27-05.

CROSS REFERENCE: N.D.R.App.P. 10 (The Record on Appeal); N.D.R.App.P. 26(c) (Computing and Extending Time).