

STATE OF WEST VIRGINIA

On May 21, 2026, the Supreme Court of Appeals of West Virginia made and entered the following order:

RE: REQUEST FOR PUBLIC COMMENT ON AMENDMENTS TO RULE 5 OF THE RULES OF APPELLATE PROCEDURE, No. 25-57

Under Article VIII, §§ 1 and 3 of the West Virginia Constitution, the Court has jurisdiction to promulgate, amend, or abrogate court rules. By that authority, the Court has considered proposed amendments to Rule 5 of the Rules of Appellate Procedure.

Upon consideration and review, the Court is of the opinion that the following amendments to Rule 5 of the Rules of Appellate Procedure should be published for a period of public comment for 30 days. Comments may be filed in writing with the office of the clerk on or before June 22, 2026. Additions are indicated by underscoring, and deletions are indicated by strike-through.

Rules of Appellate Procedure

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Rule 5. Appeals from circuit courts, administrative agencies, the Health Care Authority, and the Intermediate Court of Appeals.

(a) Applicability. This rule governs all appeals from an appealable order of a circuit court, a final judgment of an administrative agency, a final order of the Health Care Authority in certificate of need review proceedings, a mandate or other final decision order of the Intermediate Court, or any other appealable judgment as set forth in West Virginia Code § 58-5-1, except: (1) appeals from orders in abuse and neglect proceedings under West Virginia Code § 49-4-601, et seq., which are governed by Rule 11; (2) appeals in workers' compensation proceedings under West Virginia Code §23-5-1 et seq., which are governed by Rule 12; (3) appeals from final family court orders to the Intermediate Court or the Supreme Court, which are governed by Rule 13; (4) appeals from the Public Service Commission which are governed by Rule 14; and (5) certified questions which are governed by Rule 17.

(b) Docketing the appeal. Within thirty days of entry of the ~~judgment~~ final order or mandate being appealed, the party appealing shall file the notice of appeal, including attachments required in the notice of appeal form contained in Appendix A of these Rules. To appeal an opinion or memorandum decision of the Intermediate Court to the Supreme Court, the party appealing shall attach the Intermediate Court's mandate. The notice of appeal, including attachments, shall be filed in the Office of the Clerk as required by Rule 38. The petitioner must comply with Rule 38. In addition to serving the notice of appeal in accordance with Rule 37, the party appealing a final

order shall serve the notice of appeal, including attachments, on all parties to the action, on the clerk of the circuit court from which the appeal is taken—which shall be made a part of the record in the circuit court—and on each court reporter from whom a transcript is requested.

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A True Copy

Attest: /s/ C. Casey Forbes
Clerk of Court

