

RULE 25. FILING AND SERVICE

(a) Filing.

(1) **Filing With the Clerk.** A paper required or permitted to be filed in the court [~~shall~~] must be filed with the clerk [~~as provided by this Rule~~].

(2) Filing: Method and Timeliness.

~~[(A) Filing may be accomplished by mail addressed to the clerk at the Supreme Court of Nevada, 201 South Carson Street, Suite 201, Carson City, Nevada 89701-4702.]~~

~~[(B)]~~ **(A) Nonelectronic Filing.** A paper not filed electronically [~~Unless the court by order in a particular case directs otherwise, a document~~] is timely filed if, on or before the last day for filing, it is:

(i) delivered to the clerk in person in Carson City;

(ii) mailed to the clerk at the Supreme Court of Nevada, 201 South Carson Street, Suite 201, Carson City, Nevada 89701-4702 by first-class mail, or other class of mail that is at least as expeditious, postage prepaid;

(iii) dispatched to a third-party commercial carrier for delivery to the clerk within 3 days;

(iv) deposited in the Supreme Court drop box as provided in Rule 25(a)(3); or

(v) transmitted directly to the clerk by facsimile transmission as provided in Rule 25(a)(4)[~~; or~~].

(B) Electronic Filing.

(i) By a Represented Person—Generally Required; Exceptions. A person represented by an attorney must file electronically, unless nonelectronic filing is allowed by the court for good cause.

(ii) By an Unrepresented Person—When Allowed. A person not represented by an attorney may file electronically only if allowed by court order.

(iii) Timeliness. A paper is timely filed if, on or before the last day for filing, it is ~~[(vi)]~~ electronically transmitted to the court's electronic filing system consistent with NEFCR 8. If technical failure prevents timely electronic filing of any paper, the filing party shall preserve documentation of the failure and seek appropriate relief from the court.

(iv) Same as a Written Paper. A paper filed electronically is a written paper for the purposes of these rules.

(3) Clerk's Drop Box. ~~[A paper may be submitted for filing with the clerk of the Supreme Court by means of the clerk's drop box as provided in this Rule.]~~

(A) Papers Eligible for Drop Box Submission. Any paper required or permitted to be filed in the court may be ~~[deposited]~~ submitted for filing by depositing the paper in the drop box located in the Las Vegas office of the clerk of the Supreme Court during the hours the Las Vegas office is open. ~~[A document that requires the payment of a filing fee may be deposited in the drop box accompanied by the filing fee in the form of a check or money order payable to the clerk. No cash shall]~~ Cash must not be deposited in the drop box.

(B) Requests for Emergency or Expedited Relief. A request for emergency or expedited relief, or a response thereto, should not be deposited in the drop box. ~~[To ensure timely consideration by the Supreme Court or Court of Appeals, counsel must submit such documents to the clerk's office in Carson City by the most expeditious means feasible, such as overnight delivery, same-day courier service,~~

~~or facsimile transmission as provided for in Rule 25(a)(4).] Emergency filings are governed by Rule 27(e).~~

~~(C) Procedure. [A paper may be deposited in the drop box during all hours the Las Vegas office is open.]~~ Before being placed in the drop box, a paper must be date and time stamped and enclosed in a sealed envelope. Filing is timely if, on or before the last day of the prescribed filing period, the ~~[document]~~ paper is ~~[properly]~~ date and time stamped and deposited in the drop box. ~~[A document is properly date and time stamped if the original document, or the envelope containing the document, bears the drop box stamp.]~~ Stamping of copies submitted to the court is not required.

~~(D) Transmission of [Documents] Papers to Carson City. A [document] paper deposited in the drop box will be transmitted to the clerk's office in Carson City [the next judicial day after its deposit in the drop box. Upon receiving the papers in Carson City, the clerk shall process them] and processed~~ in accordance with these Rules.

~~(4) Filing by Facsimile Transmission. [A paper may be filed with the clerk of the Supreme Court by means of facsimile transmission as provided in this Rule.~~

~~(A) In Cases Involving Death Penalty. Documents that relate to stays of execution in death penalty cases will be received for filing by the clerk of the Supreme Court through facsimile transmission to the facsimile machine situated in the office of the clerk in Carson City. Such transmission may be made whenever counsel believes that the client's interests will be served.~~

~~(B) In Other Cases. In all other cases, documents] Papers~~ may be received for filing by the clerk through facsimile transmission only in

cases of emergency, and only if an oral request for permission to do so has first been tendered to the clerk and approved, upon a showing of good cause, by any justice or judge or the clerk.

~~[(C) Procedure. In all instances, including matters relating to stays of execution in death penalty cases, counsel must first notify the clerk of counsel's intention to transmit documents by facsimile. In all cases not involving stays of execution of the death penalty, counsel must be advised by the clerk that approval has been granted under Rule 25(a)(4)(B) before any document may be transmitted. Upon receiving the transmitted documents, the clerk shall make the number of photocopies of the transmissions required by these Rules and shall file the photocopies.~~

~~(D) Original; Service.]~~ In all cases where a **[document]** paper has been facsimile transmitted and filed under this Rule, **[counsel]** the party who transmitted the paper for filing must file the original **[document]** paper with the clerk, in the manner provided in Rule 25(a)(2)~~[(B)]~~(A)(i)-(iii) or Rule 25(a)(2)(B)(i), within 3 days of the date of the facsimile transmission. The original **[shall]** must be accompanied by proof of service on all parties as required by Rule 25(d). A copy of a **[document]** paper filed by facsimile transmission **[shall]** must be served on all parties ~~[to the appeal or review]~~ by facsimile transmission and ~~[by mail]~~ as required by Rule 25(c) at the time the document is filed with the court.

~~[(E) Costs. The party filing a document by means of facsimile transmission shall be responsible for all costs of the facsimile transmission and the costs of photocopying the documents transmitted. The clerk of the Supreme Court shall promptly inform~~

~~counsel of the amount of costs. Such costs shall be paid within 14 days of the date of the facsimile request.]~~

(5) ~~[Original Signature and Bar Number Required]~~ Signing. All ~~[documents]~~ papers submitted to the court for filing by a represented party ~~[shall]~~ must include the ~~[original]~~ signature of at least 1 attorney of record who is an active member of the bar of this state, and the address, telephone number, and State Bar of Nevada identification number of the attorney and of any associated attorney appearing for the party filing the paper. All ~~[documents]~~ papers submitted to this court for filing by unrepresented parties ~~[shall]~~ must include the ~~[original]~~ signature of the party and ~~[shall]~~ must state the party's address and telephone number. A filing made through a person's electronic-filing account and authorized by that person, together with that person's name on a signature block, constitutes the person's signature.

(b) Service of All Papers Required. Unless a rule requires service by the clerk, a party or person acting for that party must, at or before the time of filing a paper, serve a copy on the other parties to the appeal or review. Service on a party represented by counsel ~~[shall]~~ must be made on the party's counsel.

(c) Manner of Service.

(1) Nonelectronic ~~[S]~~ service may be any of the following:

(A) personal, including delivery ~~[of the copy to a clerk or other]~~ to a responsible person at the office of counsel;

(B) by mail; or

(C) by third-party commercial carrier for delivery within 3 days~~;~~ ;

~~[(D) by electronic means, if the party being served consents in writing; or]~~

~~[(E) notice by electronic means to registered users of the court's electronic filing system consistent with NEFCR 9.]~~

(2) Electronic service of a paper may be made by:

(A) notice by electronic means to registered users of the court's electronic filing system consistent with NEFCR 9; or

(B) other electronic means, if the party being served consents in writing.

~~[(2)]~~ (3) When reasonable, considering such factors as the immediacy of the relief sought, distance, and cost, service on a party ~~[shall]~~ must be by a manner at least as expeditious as the manner used to file the paper with the court.

~~[(3)]~~ (4) Service by mail or by commercial carrier is complete on mailing or delivery to the carrier. Service by electronic means under Rule 25(c)(2)~~[(1)(D)]~~ is complete on filing or transmission, unless the party making service is notified that the paper was not received by the party served. ~~[Service through the court's electronic filing system under Rule 25(c)(1)(E) is complete at the time that the document is submitted to the court's electronic filing system.]~~

(d) Proof of Service.

(1) ~~[Papers]~~ A paper presented for filing ~~[shall]~~ must contain either of the following if it was served other than through the court's electronic filing system:

(A) an acknowledgment of service by the person served; or

(B) proof of service in the form of a statement by the person who made service certifying:

(i) the date and manner of service;

(ii) the names of the persons served; and

(iii) the mail or electronic addresses, facsimile numbers, or the addresses of the places of delivery, as appropriate for the manner of service.

(2) Proof of service may appear on or be affixed to the papers filed.

~~[(3) The clerk may permit papers to be filed without acknowledgment or proof of service but shall require such to be filed promptly thereafter. The court will not take any action on any such papers, including requests for ex parte relief, until an acknowledgment or proof of service is filed.]~~

(e) Clerk's Refusal of Documents. The clerk must not refuse to accept for filing any paper presented for that purpose solely because it is not presented in proper form as required by these Rules.

REVIEWING NOTE

This rule has been reformatted throughout to better match the format of FRAP 25. Because “document” and “paper” were used interchangeably throughout the rule, “document” was changed to “paper” throughout for consistency and to match FRAP 25. NRAP 25(a)(3) does not have a FRAP counterpart and only local court rules have some type of counterpart to NRAP 25(a)(4). Because subdivisions (a)(3) and (a)(4) are used in the Court, the rules have been kept but cleaned up, with the only substantive change intended being to remove subdivision (a)(4)(E), involving costs of fax transmissions, to match current Court practice. Other substantive changes to the rule include:

- Existing Rule 25(a)(2)(A)(vi) simply permits electronic filing and does not differentiate between represented and unrepresented parties. This court, however, does not currently allow unrepresented parties to file electronically. Subdivision (a)(2) was reformatted to match FRAP 25(a)(2), which differentiates between nonelectronic and electronic filing, and adopts the FRAP provisions for electronic filing. Subdivision (a)(2)(B)(i) makes electronic filing by an attorney mandatory, with an exception to file nonelectronically for good cause shown. This change

differs from the current rule which permits, but does not require, electronic filing. Subdivision (a)(2)(B)(ii) permits a person not represented by counsel to file electronically if allowed by court order. Current subdivision (a)(2)(A)(vi) becomes subdivision (a)(2)(B)(iii) and is amended to include a sentence, based on similar language in the 9th Circuit counterpart, to address what a party should do in the event technical failure prevents timely filing. Subdivision (a)(2)(B)(iv) was added to be consistent with its FRAP counterpart.

- The added language in subdivision (d)(1) changes the current rule so that those who are serving a paper through the electronic filing system do not need to file proof of service of the paper. The addition of this language makes the rule consistent with NEFCR 9(b) which provides that the notice issued from the electronic filing system is effective service of the document on registered users and has the same legal effect as service of a paper document.
- Subdivision (e) was added, which prohibits the clerk from refusing to file a document solely because it is not presented in proper form. This rule is taken from FRAP 25(a)(4). As the subcommittee notes, refusing to file papers that are not in the form required by the rule is not a suitable role for the office of the clerk and the practice could expose parties to the hazards of time bars. Currently, the clerk's office does a compliance check on all incoming documents and routinely rejects or returns documents that do not conform to the rules and sends a notice or letter to the party that identifies the deficiency and, usually, provides a time period for the party to resubmit the document. During this process, all copies of that document are either returned to the party or rejected and deleted from the court's case management system. If the party does not

resubmit a conforming document, the document will not be able to be considered by the Court and is never filed in the system. If this rule is adopted, the clerk's office could still do a compliance check and notify the parties of any noncompliance so the parties could correct any deficiency, but the deficient document would be filed and be available to the Court. It would be up to the Court to determine how to proceed if the deficiency is not corrected.

- Subdivision (d)(3) was deleted because it would be unnecessary if subdivision (e) is adopted. If subdivision (e) is not adopted, this provision should remain.