

M E M O R A N D U M

To: Appellate Practitioners/Printers

From: Clerk's Office
Supreme Court, Appellate Division
First Department

Re: Submission of Appellate Briefs and Records Electronically by E-mail

Date: July 2013

Pursuant to 600.10 and 600.11 of the court's rules, each party perfecting or answering an appeal shall file, in addition to the requisite number of paper copies, one pdf copy of each brief, record or appendix via e-mail, and each indorsement required by CPLR 2102(d) shall include an e-mail address.

Having begun the requirement of the e-mailing of pdfs of briefs and records in 2010, and with the cooperation from the Bar and the appellate printers, the submission process of appellate briefs and records has been relatively smooth. However, because there are some existing issues and problems that remain, this memo seeks to address them.

****The most important item to remember and keep in mind is that all pdfs MUST be REDUCED/FLATTENED to their smallest possible file size before emailing or burning onto a CD. Flattening and optimizing pdfs allows for faster uploading, downloading, opening and storage.****

Documents filed via e-mail shall be named, sized and transmitted according to the following outline.

A. General Requirements

-Each brief submitted shall be in a "Portable Document Format" (pdf), specifically PDF/A compliant (for long-term archiving of electronic documents), not exceeding ten (10) megabytes in size. Zip Files or word or wordPerfect documents will be rejected. Multiple pdfs for the same appeal may be attached to one email provided the pdfs' combined size do not exceed ten (10) megabytes. Pdfs greater than ten (10) megabytes must be burned onto a CD and filed with the Court.

-CDs: The top of each CD shall indicate the index # of the appeal (in bold), followed below by its caption, and the type of pdf contained thereon (i.e. record on appeal, vol 1-3) and the date of submission. Each CD shall

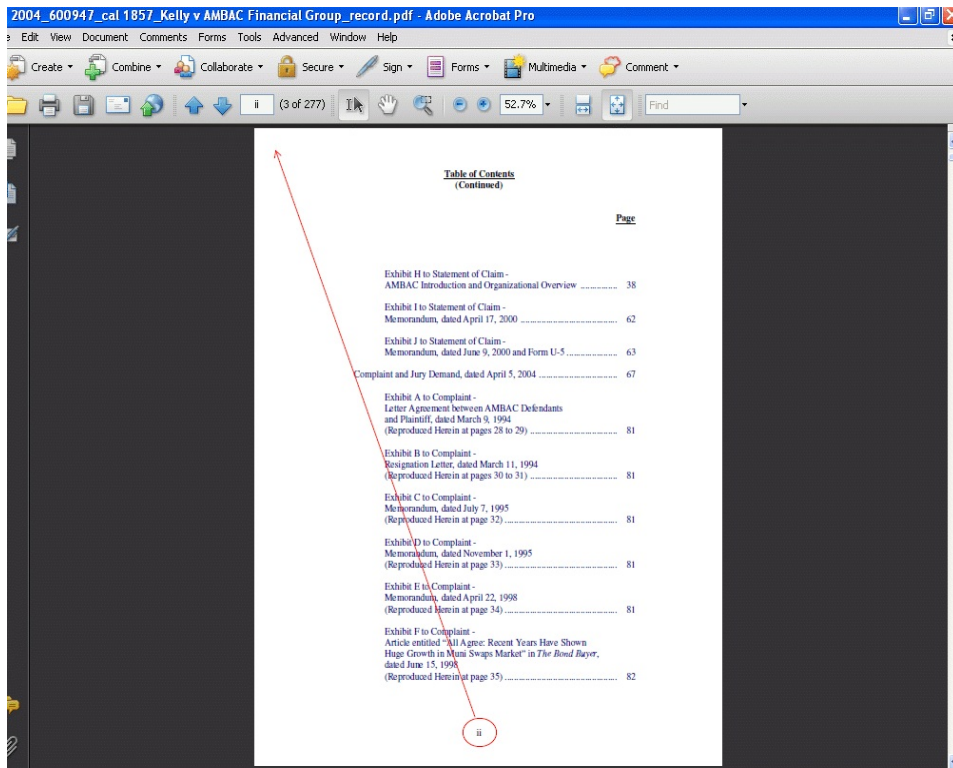
include the following on its right side: “cal ____”. The filer’s name and contact information shall be printed on the CD.

-**All submitted pdfs MUST be text-searchable; if changes are made to a text-searchable pdf, the process of making it text-searchable MUST be re-done. Thus, the OCR process should be the LAST step you do to a pdf before submitting it to the Court.**

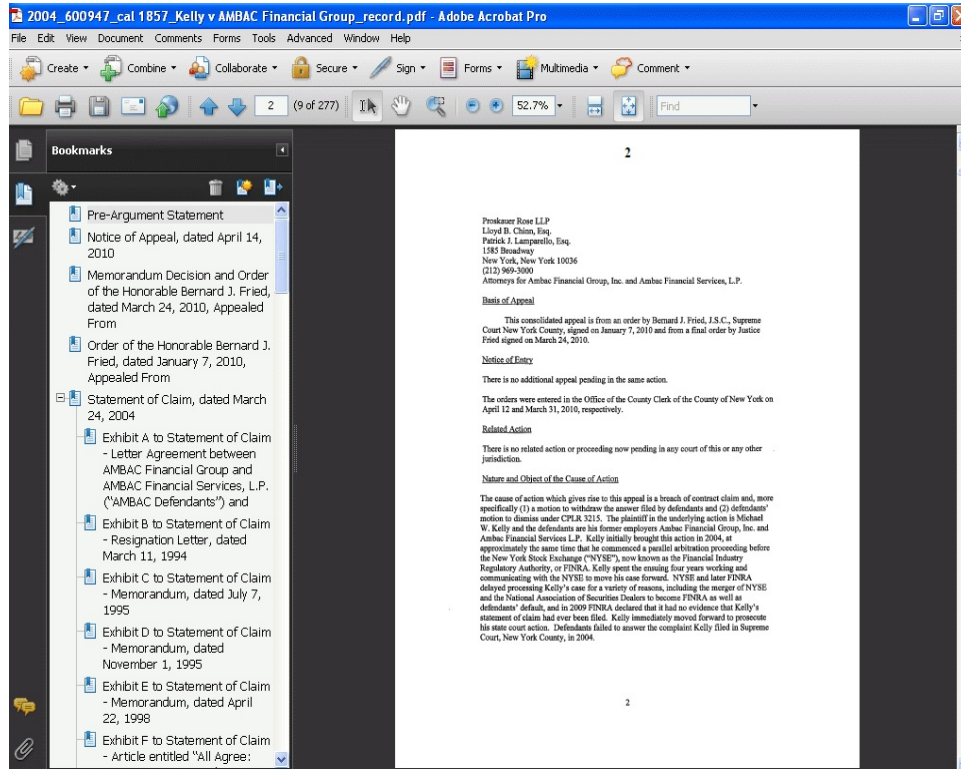
-IMPORTANT: PDF/A compliant documents cannot be changed in any way so if there is even one minor problem with the document, it will be rejected and must be re-submitted in the proper format.

-Each pdf submitted shall be a digital identical copy to the paper document filed with the Court; for each volume of a record filed with the Court, a corresponding pdf shall be submitted as well. A pdf that is incomplete, illegible, or otherwise does not conform to the filed original document will be promptly rejected and treated as not having been received. Corrected pdfs must be submitted as soon as possible.

-**Pagination:** Pdfs that lack pagination or whose pagination does not match up to the paper copy will be rejected. For example, the title cover of a record, which is the first page in every pdf, is not “page 1” of the record; neither are the table of contents (which may be labeled “i, ii, iii, etc). For those pages, (and those which may be labeled with an “A”), the default page numbering must be changed to correspond to the paper copy.



-Bookmarks: Each pdf must contain bookmarks that text link each heading listed in the Table of Contents to its corresponding page in the pdf. The bookmarks must populate on the left side of the pdf on initial view.

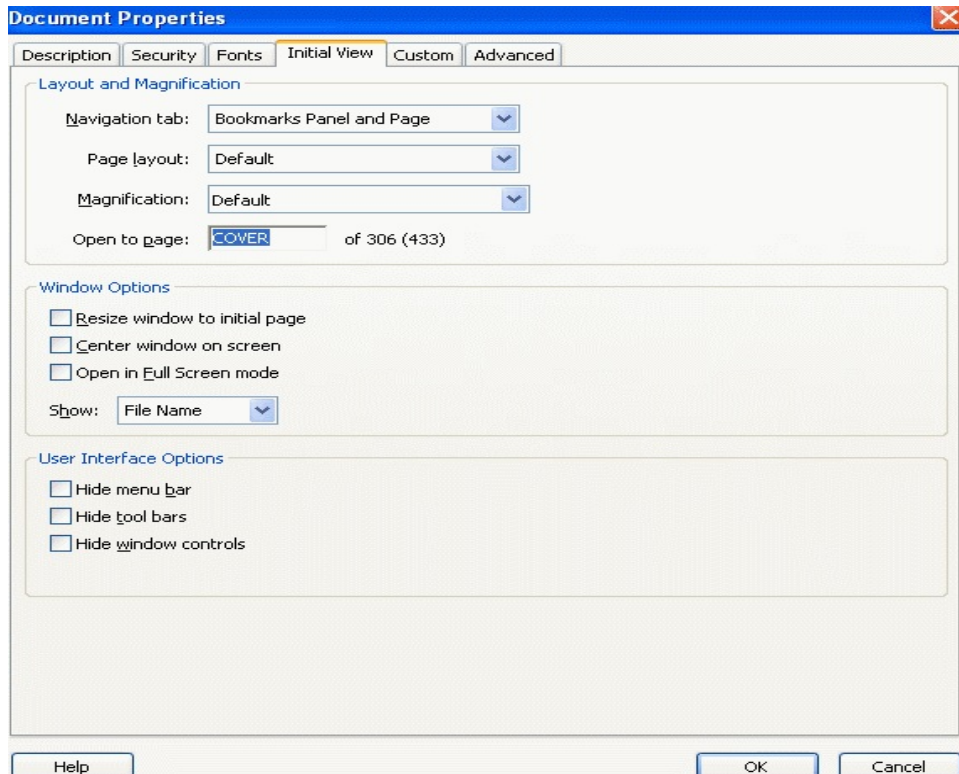


-Pdfs with bookmark links that do NOT work or match up will be rejected. Likewise, pdfs with skeletal bookmarks (i.e. missing headings) will be rejected.

-Bookmarking in multiple volumes: only those bookmarks pertaining to the volume at hand need be shown; however, if, for example, an exhibit starts in the first volume and continues in the second volume, a bookmark stating continuation is required in the second volume.

Initial View of Document: When a pdf is first opened, how the document appears on the screen is called the “initial view.” To manipulate the document to show the bookmarks on the left side of the document, do the following:

1. Open the pdf document
2. Hold the Ctrl + D buttons at the same time
3. In the Document Properties box, click on the Initial View Tab
4. Select “Bookmarks Panel and Page” under the navigation tab
5. Select “Default” for both the Page layout and Magnification tabs
6. Type “Cover” in “Open to Page” box



B. File-Naming Convention (No change)

-Do NOT use commas (,) or dashes (-) when naming pdf file; instead use underscore (_) to add space between words.

1. Civil Appeals

Year_Index #_vol # (omit if sole volume)_abbreviated title of action (use the title of the main action in a third-party or multiple action case)_party’s name_description of document (see B. below)

2. Criminal Appeals

Year_Ind #_defendant's last name_first name_description of document (see B. below)

3. Family Appeals

Year_Dkt # (omit slashes and use first number only)_title of proceeding (see below)_
description of document (see B. below)

-Family court proceedings in which the child's, or children's names do appear (e.g., B, D, E, or N dockets): use the last name of the subject child, and if more than one child, the last name of the subject child listed under the first docket number.

-Proceedings in which the adults' names appear without the name of a subject child (e.g., F, P and V dockets): use the last names of the petitioner.

4. Description of Documents Applicable to all Appeals

-Use the following abbreviations to identify documents:

- for appellant's brief: "appbrief"
- for cross-appellant's brief: "respxappbrief" (second brief in cross-appeal)
- for respondent's brief: "respbrief"
- for reply brief: "replybrief"
- for record on appeal: "record"
- for appendix: "appx"
- for respondent's appendix: "respappx"

-Examples:

Civil - 2009_600124_Smith v Jones_Jones_respbrief
2009_600124_2_Smith v Jones_Smith_appdx
2009_600124_2_Smith v Jones_Smith_record
2009_600234_2_Smith v Jones_Doe_respbrief
(Doe is respondent in a 3rd party action)

2009_600124_2_Smith v Jones_Foe_respbrief
(Foe is not a named party, but appeals; e.g., counsel in litigation with a client named in the caption)

Criminal - 2009_1243_Smith_Jerry_respbrief

Family- 2009_B1243_2_Smith_respbrief
(second part of respondent's brief filed in connection with termination proceeding concerning the Smith child or children).

2009_F1007_Jones_appbrief
(appellant's brief filed in connection with a support proceeding in which Jones is the petitioner).

C. E-Mailing Requirements

-One appeal per e-mail.

-The PDF document shall be submitted as an attachment to an e-mail sent to:

Civil matters (Supreme Court (not including IDV cases), Surrogate's Court, Appellate Term and Court of Claims):

AD1copy-civil@courts.state.ny.us.

Criminal matters: AD1copy-criminal@courts.state.ny.us.

Family Court matters (including IDV matters):

AD1copy-family@courts.state.ny.us.

-The header box ("Re:") of the e-mail to which the PDF is attached shall include the following, in this order:

- a. the index/indictment/docket number used in the trial court;
- b. the caption of the case (e.g., Smith v Jones);
- c. identification of the .PDF document (e.g., "appellant's brief")
- d. if the e-mail contains attachments that do not comprise the entire document, the identification of the part, i.e., "1 of 4" and,
- **e. if this is a repeat submission, indicate so by using terms such as "CORRECTED," "REVISED."

Example: 601230/10, Smith v Jones, *Name of Law Firm*, reply brief

NEW: The "Body" or "Message" portion of the e-mail must include language that the attached pdf is text-searchable and includes bookmarks.

-The PDF version of a document shall be e-mailed to all parties.

-The PDF version of a brief shall be e-mailed no later than the time for filing the required

paper copies with the Clerk's Office.

D. Virus Protection

-Each party submitting a pdf document must provide a signed certificate which certifies that the pdf document has been scanned for viruses and that no virus has been detected. The signed certificate must be filed along with the paper copies of the document with the clerk's Office. A pdf version of the certificate, which need not include an autograph signature, must be attached to the email that includes the pdf document.

E. Retransmission of Filed Document

-If, after e-mailing a PDF document to the Court, a filing party discovers that the PDF version of a filed paper document is incomplete, illegible, or otherwise does not conform to the filed original document, the filing party shall notify the Clerk's Office immediately and transmit a corrected document.

F. Requisite Number of Paper Copies

-Subject to further adjustment, each party shall file eight paper copies (seven copies in Family Court matters) of each brief with the Court.