

Massachusetts Appeals Court Checklist for Preparing a Brief and Record Appendix

Important Resources

Massachusetts Rules of Appellate Procedure ("Mass. R. A. P."):
<https://www.mass.gov/law-library/massachusetts-rules-of-appellate-procedure>

Massachusetts Rules of Electronic Filing ("Mass. R. E. F."):
<https://www.mass.gov/supreme-judicial-court-rules/supreme-judicial-court-rule-125-massachusetts-rules-of-electronic>

Massachusetts Appeals Court Rule 13.0 ("M.A.C. Rule 13.0"):
<https://www.mass.gov/appeals-court-rules/appeals-court-rule-130-electronic-filing>

Appeals Court Guide to Electronic Filing:
<https://www.mass.gov/guides/electronic-filing-at-the-appeals-court>

* **Bold** items refer specifically to electronically filed briefs.

<u>Brief Cover and Pagination</u>	
	No color cover for any e-filed brief. Mass. R. A. P. 20(a)(6)(A). No color cover for any brief filed by a self-represented litigant who is confined in an institution. M.A.C. Rule 13.0(f)(2). Otherwise, appellant = blue, appellee = red, reply = gray. Mass. R. A. P. 20(a)(6)(A).
	Include the following: the name of the court and number of the case; title of the case; nature of the proceeding in the appellate court (e.g., Appeal); and title of the document (e.g., Appellant's Brief).
	Include the filing attorney's name, BBO number, mailing address, email address, telephone number, and firm name (if applicable) for each person filing the brief. Mass. R. A. P. 20(a)(6)(B).
	The cover of the brief is marked page 1. Mass. R. A. P. 20(a)(6)(B)(vii). Do not use roman numerals. All subsequent pages are numbered consecutively through the last page, including any addendum. Mass. R. A. P. 20(a)(4)(A). Do not restart the pagination at the addendum.
<u>Brief Format and Length Limits</u>	
	If a proportional font (e.g., Times New Roman) is used, it must be 14 point or larger, all margins must be at least 1", and the word limit must be used. Mass. R. A. P. 20(a)(2)-(4). The certificate of compliance must indicate the font selected, number of words, number of excluded words, and method of computation. Mass. R. A. P. 16(a)(14) and (k).
	If a monospaced font (e.g., Courier New) is used, it must be 12 point or larger and not exceed 10.5 characters per inch, margins must be at least 1" top/bottom, 1.5" left/right, and the page limit must be used. Mass. R. A. P. 20(a)(2)-(4).
	In a non-cross appeal, the length limits are as follows: appellant/appellee brief = 50 pages in monospaced font or 11,000 words in proportional font; reply brief = 20 pages in monospaced font or 4,500 words in proportional font. Mass. R. A. P. 20(a)(2). The cover, table of contents, table of authorities, signature block, addendum, and certificates

	of compliance and service do not count against the length limits. Mass. R. A. P. 20(a)(3)(F). For the length limits in cross appeals, see Mass. R. A. P. 20(a)(3)(A)-(D).
	The font must be black and double spaced. Mass. R. A. P. 20(a)(1) and (a)(4)(C). Headings, footnotes, and quotations use the same font and size, but may be single spaced. Mass. R. A. P. 20(a)(4)(C).
	<u>Brief Contents</u>
	A cover with the items identified above. Mass. R. A. P. 16(a)(1).
	If required by S.J.C. Rule 1:21, a corporate disclosure statement. Mass. R. A. P. 16(a)(2).
	A table of contents with page references. Mass. R. A. P. 16(a)(3).
	A table of authorities with page references. Mass. R. A. P. 16(a)(4).
	A statement of the issues. Mass. R. A. P. 16(a)(5). The appellee does not need to include this, unless the appellee is dissatisfied with the appellant's statement. Mass. R. A. P. 16(b)(1).
	A statement of the case with page references to the appendix or transcript. Mass. R. A. P. 16(a)(6) and 16(e). The appellee does not need to include this, unless the appellee is dissatisfied with the appellant's statement. Mass. R. A. P. 16(b)(1).
	A statement of the facts with page references to the appendix or transcript. Mass. R. A. P. 16(a)(7) and 16(e). The appellee does not need to include this, unless the appellee is dissatisfied with the appellant's statement. Mass. R. A. P. 16(b)(1).
	A summary of the argument. Mass. R. A. P. 16(a)(8). This is only required if the argument exceeds 20 pages in monospaced font or 4,500 words in proportional font. <u>Id.</u>
	An argument section that contains a legal argument addressing issues, supported by legal authority. Mass. R. A. P. 16(a)(9). The argument must contain a statement of the applicable standard of review for each issue raised (this may appear under a separate heading or in the discussion of the issue). Mass. R. A. P. 16(a)(9)(B). The appellee does not need to repeat the standard of review unless dissatisfied with the appellant's statement. Mass. R. A. P. 16(b)(1).
	A conclusion stating the precise relief sought followed by a signature block. Mass. R. A. P. 16(a)(10)-(11).
	An addendum that includes the items identified in Mass. R. A. P. 16(a)(13). This includes (1) a copy of any appealed judgment or order (and a typed copy of any handwritten endorsement), and (2) copies of constitutional provisions; statutes, court rules, regulations, and unpublished decisions cited in the brief. The addendum requires a table of contents with page references. Mass. R. A. P. 16(a)(13)(A). The addendum is also required for an appellee brief insofar as pertinent to the issues argued by the appellee and for any reply brief. Mass. R. A. P. 16(b)(3) and 16(c). The addendum must be bound in a paper brief and included in the same PDF of an electronically filed brief.
	A certificate of compliance with Mass. R. A. P. 16(a)(13), 16(e), 18, 20, 21. Mass. R. A. P. 16(k). The certificate must specify how compliance with the applicable length limit of Mass. R. A. P. 20 was ascertained, by stating either (1) the name, size, and number of characters per inch of the monospaced font used and the number of non-excluded pages, or (2) the name and size of the proportionally spaced font used, the number of non-excluded words, and the name and version of the word-processing program used.
	A certificate of service that complies with Mass. R. A. P. 13(e). Mass. R. A. P. 16(a)(15). The certificate of service must be bound in a paper brief and included in the same PDF of an electronically filed brief.

<u>Filing and Service</u>	
	Deadlines: Appellant's brief = 40 days from the date the appeal is docketed; appellee's brief = 30 days after service of the appellant's brief; reply brief = 14 days after service of appellee's brief. Mass. R. A. P. 19(a). For deadlines in cross-appeals, see Mass. R. A. P. 19(b).
	If brief is served by mail or electronic service, 3 days are added to the due date of the responsive brief Mass. R. A. P. 14(c) and Mass. R. E. F. 7(e). If a brief due date falls on a weekend or holiday, the brief is due on the next business day. Mass. R. A. P. 14(a). For the purposes of determining due date, service is complete the date the opposing party mails the brief. Mass. R. A. P. 13(c).
	Number of copies. If filing on paper, file with the court 4 copies of each brief, 4 copies of each appendix volume, 2 copies of each exhibit volume, and 1 copy of each transcript volume. You must serve 2 copies of each brief and appendix volume and 1 copy of each exhibit or transcript volume on each party. Mass. R. A. P. 19(d). Review that rule for information about serving jointly represented parties or self-represented parties. Attorneys are required to electronically file all non-impounded briefs, appendices, exhibits, and transcripts. M.A.C. Rule 13.0(c). No paper copies are required for any document that is electronically filed. M.A.C. Rule 13.0(h).
	Manner of Service. Service may be made in hand, by first class mail or its equivalent, or electronically with the consent of the party being served. All attorneys with cases pending in the Appeals Court are required to consent to electronic service through eFileMA.com by registering for an account and maintaining their name and business email address on the eFileMA.com "Public List." M.A.C. Rule 13.0(b). If you electronically serve a party, no paper copies are required to be served on that party.
	A PDF must be submitted through eFileMA.com by 11:59 p.m. on the date it is due. Mass. R. E. F. 4(c).
<u>Record Appendix Format</u>	
	The record appendix must be separately bound from the brief. Mass. R. A. P. 18(a). If electronically filed, it must be a separate PDF.
	The record appendix requires a cover with the same information that is included on the brief cover, except the title of the document. The cover is paginated as page 1. Mass. R. A. P. 18(a)(1)(A)(i), 20(a)(5)(A), and 20(a)(6).
	All subsequent pages are numbered consecutively through the end of the volume. Mass. R. A. P. 20(a)(5)(A).
	The maximum size of an appendix volume is 1.5" thick, or 25MB if electronically filed. If your document exceeds these limitations, it must be divided into separately paginated volumes. Mass. R. A. P. 20(a)(5)(B)-(C); Mass. R. E. F. 10.
	For multivolume appendices, each volume of the appendix is separately paginated, beginning at page 1. Mass. R. A. P. 20(a)(5)(B).
	The record appendix requires a table of contents that lists the parts of the record included therein and includes a detailed listing of exhibits, affidavits, and other documents associated with those parts. Mass. R. A. P. 20(a)(1)(A)(ii). For multivolume appendices, the first volume must have a table of contents for all volumes and any subsequent volume requires a table of contents for only that volume. Mass. R. A. P. 18(a)(1)(C).
<u>Record Appendix Content</u>	
	Include a copy of the lower court docket. Mass. R. A. P. 18(a)(1)(A)(iii).

	Include a copy of any order of impoundment or confidentiality from the lower court. Mass. R. A. P. 18(a)(1)(A)(iv).
	Include a copy of any parts of the record relied upon in the brief. Mass. R. A. P. 18(a)(1)(A)(v)(a).
	Include a copy of any document, or portion thereof, filed in the case relating to an issue which is to be argued on appeal. Mass. R. A. P. 18(a)(1)(A)(v)(b).
	Include a copy of any findings or memorandum of decision or order by the lower court pertinent to an issue on appeal, including a typed version of any pertinent handwritten or oral endorsement, notation, findings, or order made by the lower court. Mass. R. A. P. 18(a)(1)(A)(v)(c).
	Include a copy of the judgment, decree, order, or adjudication in question. Mass. R. A. P. 18(a)(1)(A)(v)(d).
	Include the notice(s) of appeal. Mass. R. A. P. 18(a)(1)(A)(v)(e).
	In a criminal case, include a copy of the complaint or indictment. Mass. R. A. P. 18(a)(1)(A)(v)(a).

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