

## UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS

Misc. No. 04-26

IN RE: RULES OF PRACTICE AND PROCEDURE AND COURT FORMS

### ORDER

Pursuant to the authority of 38 U.S.C. § 7264(a) and consistent with 28 U.S.C. § 2071(b), the Court has determined that revisions are needed for Rule 3 (Appellate Procedure), Rule 26(a) (Computation and Extension of Time), and Form 1 (Notice of Appeal). In addition, the Court has determined that a new proposed form, designated as Form 1b (Statement by Potential Accrued-Benefits Claimant), is warranted.

Accordingly, it is

ORDERED that the attached proposed revisions to the Court's Rules of Practice and Procedure, Rule 3 (Appellate Procedure), Rule 26(a) (Computation and Extension of Time), and Form 1 (Notice of Appeal), and the proposed new form designated as Form 1b (Statement by Potential Accrued-Benefits Claimant) are hereby published for public comment for a period of 30 days. Comments must be submitted to the Clerk of the Court by May 29, 2026, at [comments@uscourts.cavc.gov](mailto:comments@uscourts.cavc.gov) or 625 Indiana Avenue, NW, Suite 900, Washington, DC 20004.

DATED: April 29, 2026

FOR THE COURT:

/s/ Tiffany M. Wagner  
TIFFANY M. WAGNER  
Clerk of the Court

#### Attachments:

1. Proposed revised Rule 3
2. Proposed revised Rule 3 with changes shown
3. Proposed revised Rule 26(a)
4. Proposed revised Rule 26(a) with changes shown
5. Proposed revised Form 1
6. Proposed revised Form 1 with changes shown
7. Proposed Form 1(b)

### **Rule 3: Appellate Procedure**

**(a) Filing.** To appeal a Board of Veterans' Appeals (Board) decision, a person adversely affected by the decision must file a Notice of Appeal with the Clerk within the time allowed by law. *See* Rule 4(a) (Notice of Appeal). Because the Notice of Appeal will likely contain personal identifiers, that electronic record will be locked and accessible through CM/ECF only to CM/ECF Users in that case. *See* E-Rule 4(b) (Locked Documents, Redaction). Failure to file a timely Notice of Appeal in accordance with law will result in dismissal of the appeal except to the extent an untimely Notice of Appeal satisfies Rule 4(a)(3) (Timeliness; Good Cause or Excusable Neglect; Equitable Tolling). *See* Rule 38(b) (Failure to Act).

**(b) Service.** The appellant shall serve a copy of the Notice of Appeal on any party to the proceedings before the Board other than the Secretary of Veterans Affairs (Secretary), as well as any person whose absence from the appeal may, as a practical matter, impair or impede that person's ability to protect his or her interest. *See* Rule 25 (Filing and Service).

**(c) Content.** The Notice of Appeal

(1) should show the name, address, and telephone number of the person or persons making the appeal, and the appropriate Department of Veterans Affairs (VA) claims file number;

(2) shall reasonably identify the Board decision being appealed and shall be capable of being reasonably construed, on its face or from the surrounding circumstances, as expressing an intent to seek Court review of that decision; and,

(3) if filed by a representative, must be accompanied by the documents specified in Rule 46(b)(1)(A) (Appellants' Representatives).

Form 1 in the Appendix of Forms is the recommended form for a Notice of Appeal.

Form 1b (Statement by Potential Accrued-Benefits Claimant) in the Appendix of Forms or a statement containing the details called for in that form should be filed with a Notice of Appeal when the person filing the appeal is claiming to be eligible to receive accrued benefits.

**Practitioner's Note: To assist the Court in identifying the Board decision being appealed, include the Board's docket number on the Notice of Appeal. File separate Notices of Appeal for Board decisions issued under separate docket numbers, even when the decisions are issued on the same day.**

**(d) Joint Appeals.** If more than one person is entitled to appeal a decision of the Board and their interests make joinder practicable, they may file a joint Notice of Appeal, and the case shall proceed as a single appeal. If separate Notices of Appeal have been filed timely, the parties may jointly move to join appeals and, if the motion is granted, the case shall thereafter proceed as a single appeal. *See* Rule 15 (Intervention).

**(e) Consolidated Appeals.** Appeals may be consolidated by order of the Court on its own initiative or on a party's motion. Any motion to consolidate must assert why consolidation is appropriate, be served on all involved parties, and comply with the requirements of Rule 27 (Motions).

**(f) Payment of Fees.** A \$50 nonrefundable filing fee, payable to "U.S. Court of Appeals for Veterans Claims," shall be submitted with the Notice of Appeal or received by the Court not later than 14 days after the filing of the Notice of Appeal. See [U.S. Court of Appeals for Veterans Claims - Filing Fee](#). *But see* Rule 24 (Waiver of Filing Fee).

**(g) Address and Fax Number.** The Court's mailing address is Clerk of the Court, U.S. Court of Appeals for Veterans Claims, 625 Indiana Avenue NW, Suite 900, Washington, DC 20004- 2950. The Court's fax number is (202) 501-5848. The Court's website is [www.uscourts.cavc.gov](http://www.uscourts.cavc.gov).

**(h) Translations.** The Court conducts its reviews and deliberations in English. Any document transmitted to the Court in a language other than English shall be accompanied by an English translation that is certified as true and correct by the translator, pursuant to 28 U.S.C. § 1746.

### Rule 3: Appellate Procedure

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**(b) Service.** The appellant shall serve a copy of the Notice of Appeal on any party to the proceedings before the Board other than the Secretary of Veterans Affairs (Secretary), as well as any person whose absence from the appeal may, as a practical matter, impair or impede that person's ability to protect his or her interest. See Rule 25 (Filing and Service).

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(1) should show the name, address, and telephone number of the person or persons making the appeal, and the appropriate Department of Veterans Affairs (VA) claims file number;

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(3) if filed by a representative, must be accompanied by the documents specified in Rule 46(b)(1)(A) (Appellant's Representatives).

Form 1 in the Appendix of Forms is the recommended form for a Notice of Appeal.

Form 1b (Statement by Potential Accrued-Benefits Claimant) in the Appendix of Forms or a statement containing the details called for in that form should be filed with a Notice of Appeal when the person filing the appeal is claiming to be eligible to receive accrued benefits.

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**(g) Addresses and Fax Number.** The Court's mailing address is: Clerk of the Court, U.S. Court of Appeals for Veterans Claims, 625 Indiana Avenue, NW, Suite 900, Washington, DC 20004-2950. The Court's fax number is: (202) 501-5848. The Court's website is ~~located at~~ [www.uscourts.cavc.gov](http://www.uscourts.cavc.gov).

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## **Rule 26: Computation and Extension of Time**

### **(a) Computing Time.**

(1) *General rule.* To compute a period of time set by these Rules, by a Court order, or by a statute that does not specify a method of computing time—

(A) exclude the day of the event that triggers the period;

(B) count every day, including intermediate non-business days; and

(C) include the last day of the period, but if the last day is not a business day, the period continues to run until the end of the next business day.

(2) *Exception.* If a filing is served on a non-business day, then calculate the corresponding deadline as though the document was served on the next business day.

(3) *Definitions.* In this Rule, a "business day" means any day except for Saturday, Sunday, a legal holiday, or another day that the Court is closed at the direction of the Chief Judge; and a "legal holiday" means the day set aside by statute for observing New Year's Day, Birthday of Martin Luther King, Jr., Washington's Birthday (Presidents' Day), Memorial Day, Juneteenth National Independence Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day, Christmas Day, and any other day declared a holiday by the President or Congress.

(4) *Notices.* Notice that the Court is closed or inaccessible will be posted publicly, on the Court's website, if circumstances permit. See [www.uscourts.cavc.gov](http://www.uscourts.cavc.gov).

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(1) *General rule.* ~~In computing~~To compute a period of time set by these Rules, ~~or~~ by a Court order, or by a statute ~~that does not specify a method of computing time—, the day of the event that begins the period is not included. The last day of the period is included, unless it is a Saturday, Sunday, legal holiday, or day the Court is closed at the direction of the Chief Judge.~~

(A) exclude the day of the event that triggers the period;

(B) count every day, including intermediate non-business days; and

(C) include the last day of the period, but if the last day is not a business day, the period continues to run until the end of the next business day.

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**UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS**  
**Notice of Appeal (NOA)**

The following named appellant appeals to the Court from a final Board of Veterans' Appeals (Board) decision.

The Board's decision was dated \_\_\_\_\_.

\_\_\_\_\_  
Name listed on Board decision

\_\_\_\_\_  
Board docket number

\_\_\_\_\_  
Appellant's printed name

\_\_\_\_\_  
SSN or VA claims file number on Board decision

\_\_\_\_\_  
Appellant's telephone number

\_\_\_\_\_  
Appellant's address

\_\_\_\_\_  
Appellant's email address

\_\_\_\_\_  
If other than appellant, your name/relationship to appellant

By initialing here, appellant requests that the Court send all appeal-related documents by email instead of mail.	(initial)
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\_\_\_\_\_  
Signature\* of person filing this notice

(\*You may electronically sign by typing "/s/" and then your name in the signature block above: for example, /s/John Doe, or you may sign with an electronic signature from a commercial provider such as DocuSign, Adobe Sign, SignRequest, etc.)

**If you are filing this NOA because the person listed on the Board decision died after the Board issued its decision but before filing an NOA, and you are claiming to be an accrued-benefits claimant, complete this form and Form 1b.**

**Check this box if you are submitting Form 1b with your NOA. (Note: The time requirements for filing an NOA are described in the instructions box below.)**

**Only if this NOA is filed by a representative, check one of the following:**

My Notice of Appearance is attached

My representation is limited to the filing of this NOA, and I aver to the Court, in accordance with Rule 46(b)(2), that appellant has been advised, or alternatively will be advised, of appellant's responsibility to abide by the Court's Rules of Practice and Procedure, including the need to timely serve and submit for filing a brief.

(Complete items below).

\_\_\_\_\_  
Representative's printed name

\_\_\_\_\_  
Representative's telephone number

\_\_\_\_\_  
Representative's fax number

\_\_\_\_\_  
Representative's address

\_\_\_\_\_  
Representative's email address

### **INSTRUCTIONS**

The NOA must be received by the Court or properly addressed and postmarked by the U.S. Postal Service not later than 120 days after the date on which the Board issued notice of the final Board decision being appealed. 38 U.S.C. § 7266(a). A separate NOA should be filed for Board decisions issued under separate docket numbers, even when the decisions are issued on the same day. The Court may accept an NOA filed after the 120-day appeal period as timely in limited circumstances. *See* Court Rules of Practice and Procedure 4 and 25.

You may file an NOA by either (1) emailing it to [self-rep@uscourts.cavc.gov](mailto:self-rep@uscourts.cavc.gov) for self-represented parties, or [esubmission@uscourts.cavc.gov](mailto:esubmission@uscourts.cavc.gov) for represented parties, **OR** (2) faxing it to (202) 501-5848, **OR** (3) mailing it to: Clerk, U.S. Court of Appeals for Veterans Claims, 625 Indiana Avenue NW, Suite 900, Washington, DC 20004-2950.

There is a \$50 filing fee for an appeal. Please wait to pay until you have received your USCAVC case number. You may pay through [pay.gov](https://www.uscourts.cavc.gov/fee_filingfee.php) ([https://www.uscourts.cavc.gov/fee\\_filingfee.php](https://www.uscourts.cavc.gov/fee_filingfee.php)) or you may send a check or money order, payable to "U.S. Court of Appeals for Veterans Claims." **DO NOT SEND CASH.** To request a waiver of the filing fee, email, fax, or mail the Court a completed Form 4a (Declaration of Financial Hardship – Rule 24).

**UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS**  
**Notice of Appeal (NOA)**

The following named Appellant appeals to the Court from a final Board of Veterans' Appeals (Board) decision.  
The Board's decision was dated \_\_\_\_\_.

\_\_\_\_\_  
Name listed on Board decision Board docket number

\_\_\_\_\_  
Appellant's printed name SSN or VA claims file number on Board decision

\_\_\_\_\_  
Appellant's telephone number

\_\_\_\_\_  
Appellant's address Appellant's email address

\_\_\_\_\_  
If other than Appellant, your name/relationship to Appellant

By initialing here, <u>A</u> ppellant requests that the Court send all appeal-related documents by email instead of mail.	(initial)
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\_\_\_\_\_  
Signature\* of person filing this notice  
(\*You may electronically sign by typing "/s/" and then your name in the signature block above: for example, /s/John Doe, or may sign with an electronic signature from a commercial provider such as DocuSign, Adobe Sign, SignRequest, etc.)

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(Complete items below).

\_\_\_\_\_  
Representative's printed name Representative's telephone number

\_\_\_\_\_  
Representative's fax number

\_\_\_\_\_  
Representative's address Representative's email address

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The NOA must be received by the Court, or properly addressed and postmarked by the U.S. Postal Service, not later than 120 days after the date on which the Board issued notice of the final Board decision being appealed. 38 U.S.C. § 7266(a). A separate NOA should be filed for Board decisions issued under separate docket numbers, even when the decisions are issued on the same day. The Court may accept an NOA filed after the 120-day appeal period~~that date~~ as timely in limited circumstances. See Court Rules of Practice and Procedure 4 and 25.

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**UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS**

**Statement by Potential Accrued-Benefits Claimant**

(Statement pursuant to *Demery v. Wilkie*, 30 Vet.App. 430 (2019) (per curiam order))

\_\_\_\_\_  
Name of deceased

\_\_\_\_\_  
Date of death

\_\_\_\_\_  
Date of Board of Veterans' Appeals (Board) decision

\_\_\_\_\_  
Board docket number

\_\_\_\_\_  
Name of appellant

\_\_\_\_\_  
Relationship to deceased or basis  
for claiming accrued benefits

**For purposes of establishing proof of death, check one of the following:**

Death certificate is attached.

Death certificate requested on \_\_\_\_\_, but it is not yet available.

Unable to obtain death certificate. (*Describe efforts made and provide other proof of death.*)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Have you submitted a request to VA for a determination regarding your eligibility as an accrued-benefits claimant (for example, an application for accrued benefits)?**

Yes. I submitted a request on \_\_\_\_\_. I have not received a decision.

Yes. I submitted a request and received a decision, which is attached.

No. (**Note:** You do not need to submit a request to VA before you file a Notice of Appeal (NOA). *See* instructions below.)

\_\_\_\_\_  
Signature\* of person filing this statement

\_\_\_\_\_  
Date

(\*You may electronically sign by typing "/s/" and then your name in the signature block above: for example, /s/John Doe, or you may sign with an electronic signature from a commercial provider such as DocuSign, Adobe Sign, SignRequest, etc.)

**INSTRUCTIONS**

When the person named in the Board decision died after the Board issued its decision and before filing an NOA, you may file the NOA if you (1) believe that you are eligible to receive accrued benefits (you are permitted to establish eligibility after the NOA is filed), and (2) otherwise comply with the requirements for filing an NOA. *See* Form 1; Court Rules of Practice and Procedure 3(c), 4, 25. Section 5121 of title 38, U.S. Code, lists those persons that may be an eligible accrued-benefits claimant. 38 U.S.C. § 5121(a)(1)-(6); *see* 38 U.S.C. § 5121A.

Eligibility as an accrued-benefits claimant is a factual determination that must be made by VA. The Court is not part of VA. This means that you need to make a separate request to the Agency. You do not need to make that request prior to filing an NOA, but the request must be made within 1 year after the claimant's date of death. *See* 38 U.S.C. § 5121(c); 38 C.F.R. § 3.1000(c); *see also* 38 U.S.C. § 5121A(a)(1); 38 C.F.R. § 3.1010(b).