

1 **Rule 11. The record on appeal.**

2 (a) Composition of the record on appeal. The original papers and exhibits filed in the
3 trial court, including the presentence report in criminal matters, the transcript of
4 proceedings, if any, the index prepared by the clerk of the trial court, and the docket
5 sheet, shall constitute the record on appeal in all cases. A copy of the record certified by
6 the clerk of the trial court to conform to the original may be substituted for the original as
7 the record on appeal. Only those papers prescribed under paragraph (d) of this rule
8 shall be transmitted to the appellate court.

9 (b) Pagination and indexing of record.

10 (b)(1) Immediately upon filing of the notice of appeal, the clerk of the trial court shall
11 securely fasten the record in a trial court case file, with collation in the following order:

12 (b)(1)(A) the index prepared by the clerk;

13 (b)(1)(B) the docket sheet;

14 (b)(1)(C) all original papers in chronological order;

15 (b)(1)(D) all published depositions in chronological order;

16 (b)(1)(E) all transcripts prepared for appeal in chronological order;

17 (b)(1)(F) a list of all exhibits offered in the proceeding; and

18 (b)(1)(G) in criminal cases, the presentence investigation report.

19 (b)(2)(A) The clerk shall mark the bottom right corner of every page of the collated
20 index, docket sheet, and all original papers as well as the cover page only of all
21 published depositions and the cover page only of each volume of transcripts constituting
22 the record with a sequential number using one series of numerals for the entire record.

23 (b)(2)(B) If a supplemental record is forwarded to the appellate court, the clerk shall
24 collate the papers, depositions, and transcripts of the supplemental record in the same
25 order as the original record and mark the bottom right corner of each page of the
26 collated original papers as well as the cover page only of all published depositions and
27 the cover page only of each volume of transcripts constituting the supplemental record
28 with a sequential number beginning with the number next following the number of the
29 last page of the original record.

30 (b)(3) The clerk shall prepare a chronological index of the record. The index shall
31 contain a reference to the date on which the paper, deposition or transcript was filed in

32 the trial court and the starting page of the record on which the paper, deposition or
33 transcript will be found.

34 (b)(4) Clerks of the trial and appellate courts shall establish rules and procedures for
35 checking out the record after pagination for use by the parties in preparing briefs for an
36 appeal or in preparing or briefing a petition for writ of certiorari.

37 (c) Duty of appellant. After filing the notice of appeal, the appellant, or in the event
38 that more than one appeal is taken, each appellant, shall comply with the provisions of
39 paragraphs (d) and (e) of this rule and shall take any other action necessary to enable
40 the clerk of the trial court to assemble and transmit the record. A single record shall be
41 transmitted.

42 (d) Papers on appeal.

43 (d)(1) Criminal cases. All of the papers in a criminal case shall be included by the
44 clerk of the trial court as part of the record on appeal.

45 (d)(2) Civil cases. Unless otherwise directed by the appellate court upon sua sponte
46 motion or motion of a party, the clerk of the trial court shall include all of the papers in a
47 civil case as part of the record on appeal.

48 (d)(3) Agency cases. Unless otherwise directed by the appellate court upon sua
49 sponte motion or motion of a party, the agency shall include all papers in the agency file
50 as part of the record.

51 (e) The transcript of proceedings; duty of appellant to order; notice to appellee if
52 partial transcript is ordered.

53 (e)(1) Request for transcript; time for filing. Within 10 days after filing the notice of
54 appeal, the appellant shall file with the clerk of the appellate court a written request ~~from~~
55 ~~the court executive a transcript of such parts of the proceedings not already on file as~~
56 ~~the appellant deems necessary. The request shall be in writing and shall state that the~~
57 ~~transcript is needed for purposes of an appeal~~ for transcript, specifying the entire
58 proceeding or parts of the proceeding to be transcribed that are not already on file.
59 Within the same period, a copy shall be filed with the clerk of the trial court ~~and the clerk~~
60 ~~of the appellate court.~~ If the appellant desires a transcript in a compressed format,
61 appellant shall include the request for a compressed format within the request for
62 transcript. If no such parts of the proceedings are to be requested, within the same

63 period the appellant shall file a certificate to that effect with the ~~clerk of the trial court~~
64 ~~and a copy with the~~ clerk of the appellate court and a copy with the clerk of the trial
65 court.

66 (e)(2) Transcript required of all evidence regarding challenged finding or conclusion.
67 If the appellant intends to urge on appeal that a finding or conclusion is unsupported by
68 or is contrary to the evidence, the appellant shall include in the record a transcript of all
69 evidence relevant to such finding or conclusion. Neither the court nor the appellee is
70 obligated to correct appellant's deficiencies in providing the relevant portions of the
71 transcript.

72 (e)(3) Statement of issues; cross-designation by appellee. Unless the entire
73 transcript is to be included, the appellant shall, within 10 days after filing the notice of
74 appeal, file a statement of the issues that will be presented on appeal and shall serve
75 on the appellee a copy of the request or certificate and a copy of the statement. If the
76 appellee deems a transcript of other parts of the proceedings to be necessary, the
77 appellee shall, within 10 days after the service of the request or certificate and the
78 statement of the appellant, file and serve on the appellant a designation of additional
79 parts to be included. Unless within 10 days after service of such designation the
80 appellant has requested such parts and has so notified the appellee, the appellee may
81 within the following 10 days either request the parts or move in the trial court for an
82 order requiring the appellant to do so.

83 (f) Agreed statement as the record on appeal. In lieu of the record on appeal as
84 defined in paragraph (a) of this rule, the parties may prepare and sign a statement of
85 the case, showing how the issues presented by the appeal arose and were decided in
86 the trial court and setting forth only so many of the facts averred and proved or sought
87 to be proved as are essential to a decision of the issues presented. If the statement
88 conforms to the truth, it, together with such additions as the trial court may consider
89 necessary fully to present the issues raised by the appeal, shall be approved by the trial
90 court. The clerk of the trial court shall transmit the statement to the clerk of the appellate
91 court within the time prescribed by Rule 12(b)(2). The clerk of the trial court shall
92 transmit the index of the record to the clerk of the appellate court upon approval of the
93 statement by the trial court.

94 (g) Statement of evidence or proceedings when no report was made or when
95 transcript is unavailable. If no report of the evidence or proceedings at a hearing or trial
96 was made, or if a transcript is unavailable, or if the appellant is impecunious and unable
97 to afford a transcript in a civil case, the appellant may prepare a statement of the
98 evidence or proceedings from the best available means, including recollection. The
99 statement shall be served on the appellee, who may serve objections or propose
100 amendments within 10 days after service. The statement and any objections or
101 proposed amendments shall be submitted to the trial court for settlement and approval
102 and, as settled and approved, shall be included by the clerk of the trial court in the
103 record on appeal.

104 (h) Correction or modification of the record. If any difference arises as to whether the
105 record truly discloses what occurred in the trial court, the difference shall be submitted
106 to and settled by that court and the record made to conform to the truth. If anything
107 material to either party is omitted from the record by error or accident or is misstated,
108 the parties by stipulation, the trial court, or the appellate court, either before or after the
109 record is transmitted, may direct that the omission or misstatement be corrected and if
110 necessary that a supplemental record be certified and transmitted. The moving party, or
111 the court if it is acting on its own initiative, shall serve on the parties a statement of the
112 proposed changes. Within 10 days after service, any party may serve objections to the
113 proposed changes. All other questions as to the form and content of the record shall be
114 presented to the appellate court.

115 **Advisory Committee Notes**

116 The rule is amended to make applicable in the Supreme Court a procedure of the
117 Court of Appeals for preparing a transcript where the record is maintained by an
118 electronic recording device. The rule is modified slightly from the former Court of
119 Appeals rule to make it the appellant's responsibility, not the clerk's responsibility to
120 arrange for the preparation of the transcript.

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