

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
6 by the clerk of the trial court to conform to the original may be substituted for the
7 original as the record on appeal. Only those papers prescribed under paragraph (d) of
8 this rule 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
22 constituting the record with a sequential number using one series of numerals for the
23 entire record.

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

31 (b)(3) The clerk shall prepare a chronological index of the record. The index shall
32 contain a reference to the date on which the paper, deposition or transcript was filed in
33 the trial court and the starting page of the record on which the paper, deposition or
34 transcript will be found.

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

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

43 (d) Papers on appeal.

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

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

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

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

54 (e)(1) Request for transcript; time for filing. Within 10 days after filing the notice of
55 appeal, the appellant shall ~~file with the clerk of the appellate court a written request for~~
56 ~~transcript, order the transcript(s) online at www.utcourts.gov~~, specifying the entire
57 proceeding or parts of the proceeding to be transcribed that are not already on file.
58 ~~Within the same period, a copy shall be filed with the clerk of the trial court.~~ If the
59 appellant desires a transcript in a compressed format, appellant shall include the
60 request for a compressed format within the request for transcript. If no such parts of the

61 proceedings are to be requested, within the same period the appellant shall file a
62 certificate to that effect with the clerk of the appellate court ~~and a copy with the clerk of~~
63 ~~the trial court.~~

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

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

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

91 the statement by the trial court.

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

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

113 Advisory Committee Notes

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