

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

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

8       **(b) Pagination and indexing of record.**

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

11           ~~(b)(1)(A) the index prepared by the clerk;~~

12           ~~(b)(1)(B) the docket sheet;~~

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

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

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

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

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

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

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

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

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

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

38 **~~(d) Papers on appeal.~~**

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

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

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

46 **~~(e) The transcript of proceedings; duty of appellant to order; notice to appellee if partial~~**  
47 **~~transcript is ordered.~~**

48 ~~(e)(1) Request for transcript; time for filing. Within 10 days after filing the notice of appeal, the~~  
49 ~~appellant shall, order the transcript(s) online at www.utcourts.gov, specifying the entire proceeding or~~  
50 ~~parts of the proceeding to be transcribed that are not already on file. The appellant shall serve on the~~  
51 ~~appellee a designation of those parts of the proceeding to be transcribed. If the appellant desires a~~  
52 ~~transcript in a compressed format, appellant shall include the request for a compressed format within~~  
53 ~~the request for transcript. If no such parts of the proceedings are to be requested, within the same~~  
54 ~~period the appellant shall file a certificate to that effect with the clerk of the appellate court and serve~~  
55 ~~a copy of that certificate on the appellee.~~

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

61 ~~(e)(3) Cross designation by appellee. If the appellant does not order the entire transcript, the~~  
62 ~~appellee may, within 10 days after the service of the designation or certificate described in paragraph~~  
63 ~~(e)(1) of this rule, file and serve on the appellant a designation of additional parts to be included.~~

64 **(b) Access to the record; exhibits.** The electronic record is available through the e-filing system.  
65 Upon application and a showing of good cause, the clerk of the appellate court will print the requested  
66 parts of the record for a self-represented party. The trial court clerk must scan into the trial court record  
67 exhibits capable of being scanned, such as documents and photographs. Upon request by a party or the  
68 clerk of the appellate court, the clerk of the trial court will transmit to the appellate court an exhibit not  
69 capable of being scanned.

70 **~~(f) (c) Agreed statement as the record on appeal.~~** ~~In lieu of~~ Instead of the record on appeal as defined  
71 in paragraph (a) ~~of this rule,~~ the parties may prepare and sign a statement of the case, showing how the  
72 issues ~~presented by the appeal arose and were decided,~~ in the trial court and setting forth only so many  
73 of the facts averred and proved or sought to be proved as are essential to a decision of the issues  
74 presented. If the statement conforms to the truth, it, together with ~~such any~~ such additions as the trial court

75 ~~may consider~~ necessary ~~fully to present the issues raised by the appeal,~~ shall will be approved and  
 76 entered by in the trial court record. The clerk of the trial court ~~shall transmit the statement to~~ will promptly  
 77 notify the clerk of the appellate court ~~within the time prescribed by Rule 12(b)(2) of entry of the statement.~~  
 78 The clerk of the trial court shall transmit the index of the record to the clerk of the appellate court upon  
 79 approval of the statement by the trial court.

80 **(g)-(d) Statement of evidence or proceedings when no report was made or when transcript is**  
 81 **unavailable.** If no report of the evidence or proceedings at a hearing or trial was made, or if a transcript is  
 82 unavailable, or if the appellant is impecunious and unable to afford a transcript in a civil case, the  
 83 appellant may prepare a statement of the evidence or proceedings from the best available means,  
 84 including recollection. The statement ~~shall~~ must be served on the appellee, who may serve objections or  
 85 propose amendments within ~~40~~ 14 days after service. The statement and any objections or proposed  
 86 amendments ~~shall~~ must be submitted to the trial court for settlement and approval and, as settled and  
 87 approved, ~~shall be included by the clerk of the trial court in the record on appeal~~ will be entered in the trial  
 88 court record. The clerk of the trial court will promptly notify the clerk of the appellate court of entry of the  
 89 statement.

90 **(h)-(e) Correction or modification of the record.**

91 (e)(1) If a party claims that the transcript of a hearing is incorrect, the appellate court may  
 92 compare the transcript to the audio or video record or may remand the case to the trial court to  
 93 compare the records. If the transcript does not correctly reflect the content of the audio or video  
 94 record, the court will order the court reporter or official court transcriber to correct the transcript.

95 (e)(2) If any difference other than an incorrect transcript arises as to whether the record truly  
 96 discloses what occurred in the trial court, the difference shall must be submitted to and settled by that  
 97 court and the record made to conform to the truth. If anything material to either party is misstated or is  
 98 omitted from the record by error, by accident, or because the appellant did not order a transcript of  
 99 proceedings that the appellee needs to respond to issues raised in the Brief of Appellant, ~~the parties~~  
 100 ~~by stipulation,~~ the trial court, or the appellate court, ~~either before or after the record is transmitted,~~ on  
 101 motion of a party or on its own initiative, may direct that the omission or misstatement be corrected  
 102 and, if necessary, ~~that a supplemental record be certified and transmitted~~ entered in the trial court  
 103 record. The moving party, or the court if it is acting on its own initiative, ~~shall~~ must serve on the  
 104 parties a statement of the proposed changes. Within ~~40~~ 14 days after service, any party may serve  
 105 objections to the proposed changes. All other questions as to the form and content of the record ~~shall~~  
 106 must be presented to the appellate court.

107 **Advisory Committee Notes**

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

112        The clerk of the appellate court will not print the record unless the self-represented party shows good  
113 cause for doing so. Inmates of the Utah State Prison, for example, are not allowed to use computers and  
114 so do not have access to the electronic file. Every state courthouse has computers for free public use, as  
115 do most libraries. The clerk will not print the record unless the self-represented party shows why this  
116 access is not sufficient. The clerk will print only those parts of the record that are necessary for the  
117 appeal. Even when printing is appropriate, the clerk will not necessarily print the entire record.  
118