

RULE 9.200 | THE RECORD**(a) Contents.**

(1) Except as otherwise designated by the parties, the record must consist of all documents filed in the lower tribunal, all exhibits that are not physical evidence, and any transcript(s) of proceedings filed in the lower tribunal, except summonses, praecipes, subpoenas, returns, notices of hearing or of taking deposition, depositions, and other discovery. In criminal cases, when any exhibit, including physical evidence, is to be included in the record, the clerk of the lower tribunal must not, unless ordered by the court, transmit the original and, if capable of reproduction, must transmit a copy, including but not limited to copies of any tapes, CDs, DVDs, or similar electronically recorded evidence. The record must also include a progress docket.

(2) Within 10 days of filing the notice of appeal, an appellant may direct the clerk of the lower tribunal to include or exclude other documents or exhibits filed in the lower tribunal. The directions must be substantially in the form prescribed by rule 9.900(g). If the clerk of the lower tribunal is directed to transmit less than the entire record or a transcript of trial with less than all of the testimony, the appellant must serve with such direction a statement of the judicial acts to be reviewed. Within 20 days of filing the notice, an appellee may direct the clerk of the lower tribunal to include additional documents and exhibits.

(3) The parties may prepare a stipulated statement showing how the issues to be presented arose and were decided in the lower tribunal, attaching a copy of the order to be reviewed and as much of the record in the lower tribunal as is necessary to a determination of the issues to be presented. The parties must advise the clerk of the lower tribunal of their intention to rely on a stipulated statement in lieu of the record as early in advance of filing as possible. The stipulated statement must be filed by the parties and transmitted to the court by the clerk of the lower tribunal within the time prescribed for transmittal of the record.



(b) Transcript(s) of Proceedings.

(1) Designation to Court Reporter. Within 10 days of filing the notice of appeal, the appellant must designate those portions of the proceedings not on file deemed necessary for transcription and inclusion in the record and must serve the designation on the approved court reporter, civil court reporter, or approved transcriptionist. Within 20 days of filing the notice of appeal, an appellee may designate additional portions of the proceedings and must serve the designation on the approved court reporter, civil court reporter, or approved transcriptionist. Copies of designations must be served on the approved court reporter, civil court reporter, or approved transcriptionist. Costs of the transcript(s) so designated will be borne initially by the designating party, subject to appropriate taxation of costs as prescribed by rule 9.400. At the time of the designation, unless other satisfactory arrangements have been made, the designating party must make a deposit of $\frac{1}{2}$ of the estimated transcript costs, and must pay the full balance of the fee on delivery of the completed transcript(s).

(2) Court Reporter's Acknowledgment. On service of a designation, the approved court reporter, civil court reporter, or approved transcriptionist must acknowledge at the foot of the designation the fact that it has been received and the date on which the approved court reporter, civil court reporter, or approved transcriptionist expects to have the transcript(s) completed and must serve the so-endorsed designation on the parties and file it with the clerk of the lower tribunal within 5 days of service. If the transcript(s) cannot be completed within 30 days of service of the designation, the approved court reporter, civil court reporter, or approved transcriptionist must request such additional time as is reasonably necessary and must state the reasons therefor. If the approved court reporter, civil court reporter, or approved transcriptionist requests an extension of time, the court must allow the parties 5 days in which to object or agree. The court must approve the request or take other appropriate action and must notify the reporter and the parties of the due date of the transcript(s).



(3) Time for Service of Transcript. Within 30 days of service of a designation, or within the additional time provided for under subdivision (b)(2) of this rule, the approved court reporter, civil court reporter, or approved transcriptionist must transcribe and file with the clerk of the lower tribunal the designated proceedings and must serve copies as requested in the designation. If a designating party directs the approved court reporter, civil court reporter, or approved transcriptionist to furnish the transcript(s) to fewer than all parties, that designating party must serve a copy of the designated transcript(s) on the parties within 10 days of receipt from the approved court reporter, civil court reporter, or approved transcriptionist.

(4) Organization of Transcript. The transcript of the trial must be filed with the clerk of the lower tribunal separately from the transcript(s) of any other designated proceedings. The transcript of the trial must be followed by a master trial index containing the names of the witnesses, a list of all exhibits offered and introduced in evidence, and the pages where each may be found. The pages, including the index pages, must be consecutively numbered, beginning with page 1. The pages must not be condensed.

(5) Statement of Evidence or Proceedings. If no report of the proceedings was made, or if the transcript is unavailable, a party may prepare a statement of the evidence or proceedings from the best available means, including the party's recollection. The statement must be served on all other parties, who may serve objections or proposed amendments to it within 15 days of service. Thereafter, the statement and any objections or proposed amendments must be filed with the lower tribunal for settlement and approval. As settled and approved, the statement must be included by the clerk of the lower tribunal in the record.

(c) Cross-Appeals. Within 20 days of filing the notice of appeal, a cross-appellant may direct that additional documents, exhibits, or transcript(s) be included in the record. If less than the entire record is designated, the cross-appellant must serve, with the directions, a statement



of the judicial acts to be reviewed. The cross-appellee will have 15 days after such service to direct further additions. The time for preparation and transmittal of the record will be extended by 10 days.

(d) Preparation and Transmission of Electronic Record.

(1) The clerk of the lower tribunal must prepare the record as follows:

(A) The clerk of the lower tribunal must assemble the record on appeal and prepare a cover page and a complete index to the record. The cover page must include the name of the lower tribunal, the style and number of the case, and the caption RECORD ON APPEAL in 48-point bold font. Consistent with Florida Rule of General Practice and Judicial Administration 2.420(g)(8), the index must indicate any confidential information in the record and if the information was determined to be confidential in an order, identify such order by date or docket number and record page number. The clerk of the lower tribunal will not be required to verify and will not charge for the incorporation of any transcript(s) into the record. The transcript of the trial must be kept separate from the remainder of the record on appeal and must not be renumbered by the clerk of the lower tribunal. The progress docket must be incorporated into the record immediately after the index.

(B) All pages of the record must be consecutively numbered. Any transcripts other than the transcript of the trial must continue the pagination of the record pages. Supplements permitted after the clerk of the lower tribunal has transmitted the record to the court must be submitted by the clerk of the lower tribunal as separate Portable Document Format ("PDF") files in which pagination is consecutive from the original record and continues through each supplement.

(C) The entire record, except for the transcript of the trial, must be compiled into a single PDF file. The PDF file must be:



(i) text searchable;

(ii) paginated so that the page numbers displayed by the PDF reader exactly match the pagination of the index; and

(iii) bookmarked, consistently with the index, such that each bookmark states the date, name, and record page of the filing and the bookmarks are viewable in a separate window.

(2) The transcript of the trial must be converted into a second PDF file. The PDF file must be:

(A) text searchable; and

(B) paginated to exactly match the pagination of the master trial index of the transcript of the trial filed under subdivision (b)(4).

(3) The clerk of the lower tribunal must certify the record, redact the PDF files of the record and the transcript of the trial under Florida Rule of General Practice and Judicial Administration 2.420(d), and transmit the redacted PDF files to the court by the method described in subdivisions (d)(4) of this rule. By request or standing agreement with the clerk of the lower tribunal, counsel of record or a pro se party may obtain the record and the transcript of the trial that are unredacted to the extent permitted for access by the requestor. No formal motion will be required. The clerk of the lower tribunal must certify the less redacted record and transmit the PDF files to the court by the method described in subdivision (d)(4) of this rule or file a notice of inability to complete or transmit the record, specifying the reason.

(4) The clerk of the lower tribunal must transmit the record and the transcript of the trial to the court by uploading the PDF files:

(A) via the Florida Courts E-Filing Portal; or

(B) in accordance with the procedure established by the appellate court's administrative order governing transmission of the record.



(5) The court must upload the electronic record to the electronic filing (e-filing) system docket. Attorneys and those parties who are registered users of the court's e-filing system may download the electronic record in their case(s).

(e) Duties of Appellant or Petitioner. The burden to ensure that the record is prepared and transmitted in accordance with these rules will be on the petitioner or the appellant. Any party may enforce the provisions of this rule by motion.

(f) Correcting and Supplementing Record.

(1) If there is an error or omission in the record, the parties by stipulation, the lower tribunal before the record is transmitted, or the court may correct the record.

(2) If the court finds the record is incomplete, it must direct a party to supply the omitted parts of the record. No proceeding will be determined, because of an incomplete record, until an opportunity to supplement the record has been given.

(3) If the court finds that the record is not in compliance with the requirements of subdivision (d) of this rule, it may direct the clerk of the lower tribunal to submit a compliant record, which will replace the previously filed noncompliant record.

Committee Notes

1977 Amendment. This rule replaces former rule 3.6 and represents a complete revision of the matters pertaining to the record for an appellate proceeding. References in this rule to “appellant” and “appellee” should be treated as equivalent to “petitioner” and “respondent,” respectively. See Commentary, Fla. R. App. P. 9.020. This rule is based in part on Federal Rule of Appellate Procedure 10(b).

Subdivision (a)(1) establishes the content of the record unless an appellant within 10 days of filing the notice directs the clerk to exclude portions of the record or to include additional portions, or the appellee within 20 days of the notice being filed directs inclusion of additional portions. In lieu of a record, the parties may prepare a stipulated statement, attaching a copy of the order that is sought to be reviewed and essential portions of the record. If a stipulated statement is prepared, the parties must advise the clerk not to prepare the record. The stipulated statement is to be filed and transmitted within the time prescribed for transmittal of the record. If less than a full record is to be used, the initiating party must serve a statement of the judicial acts to be reviewed so that the opposing party may determine whether additional portions of the record are required. Such a statement is not intended to be the equivalent of assignments of error under former rule 3.5.



Any inadequacy in the statement may be cured by motion to supplement the record under subdivision (f) of this rule.

Subdivision (a) interacts with subdivision (b) so that as soon as the notice is filed the clerk of the lower tribunal will prepare and transmit the complete record of the case as described by the rule. To include in the record any of the items automatically omitted, a party must designate the items desired. A transcript of the proceedings in the lower tribunal will not be prepared or transmitted unless already filed, or the parties designate the portions of the transcript desired to be transmitted. Subdivision (b)(2) imposes on the reporter an affirmative duty to prepare the transcript of the proceedings as soon as designated. It is intended that to complete the preparation of all official papers to be filed with the court, the appellant need only file the notice, designate omitted portions of the record that are desired, and designate the desired portions of the transcript. It therefore will be unnecessary to file directions with the clerk of the lower tribunal in most cases.

Subdivision (b)(1) replaces former rule 3.6(d)(2), and specifically requires service of the designation on the court reporter. This is intended to avoid delays that sometimes occur when a party files the designation, but fails to notify the court reporter that a transcript is needed. The rule also establishes the responsibility of the designating party to initially bear the cost of the transcript.

Subdivision (b)(2) replaces former rule 3.6(e). This rule provides for the form of the transcript, and imposes on the reporter the affirmative duty of delivering copies of the transcript to the ordering parties on request. Such a request may be included in the designation. Under subdivision (e), however, the responsibility for ensuring performance remains with the parties. The requirement that pages be consecutively numbered is new and is deemed necessary to assure continuity and ease of reference for the convenience of the court. This requirement applies even if 2 or more parties designate portions of the proceedings for transcription. It is intended that the transcript portions transmitted to the court constitute a single consecutively numbered document in 1 or more volumes not exceeding 200 pages each. If there is more than 1 court reporter, the clerk will renumber the pages of the transcript copies so that they are sequential. The requirement of a complete index at the beginning of each volume is new, and is necessary to standardize the format and to guide those preparing transcripts.

Subdivision (b)(3) provides the procedures to be followed if no transcript is available.

Subdivision (c) provides the procedures to be followed if there is a cross-appeal or cross-petition.

Subdivision (d) sets forth the manner in which the clerk of the lower tribunal is to prepare the record. The original record is to be transmitted unless the parties stipulate or the lower court orders the original be retained, except that under rule 9.140(d) (governing criminal cases), the original is to be retained unless the court orders otherwise.

Subdivision (e) places the burden of enforcement of this rule on the appellant or petitioner, but any party may move for an order requiring adherence to the rule.

Subdivision (f) replaces former rule 3.6(l). The new rule is intended to ensure that appellate proceedings will be decided on their merits and that no showing of good cause, negligence, or accident is required before the lower tribunal or the court orders the completion of the record. This rule is intended to ensure that any portion of the record in the lower tribunal that is material to a decision by the court will be available to the court. It is specifically intended to avoid those situations that have occurred in the past when an order has been affirmed because appellate counsel

failed to bring up the portions of the record necessary to determine whether there was an error. See *Pan American Metal Prods. Co. v. Healy*, 138 So. 2d 96 (Fla. 3d DCA 1962). The rule is not intended to cure inadequacies in the record that result from the failure of a party to make a proper record during the proceedings in the lower tribunal. The purpose of the rule is to give the parties an opportunity to have the appellate proceedings decided on the record developed in the lower tribunal. This rule does not impose on the lower tribunal or the court a duty to review on their own the adequacy of the preparation of the record. A failure to supplement the record after notice by the court may be held against the party at fault.

Subdivision (g) requires that the record in civil cases be returned to the lower tribunal after final disposition by the court regardless of whether the original record or a copy was used. The court may retain or return the record in criminal cases according to its internal administration policies.

1980 Amendment. Subdivisions (b)(1) and (b)(2) were amended to specify that the party designating portions of the transcript for inclusion in the record on appeal shall pay for the cost of transcription and shall pay for and furnish a copy of the portions designated for all opposing parties. See rule 9.420(b) and 1980 committee note thereto relating to limitations of number of copies.

1987 Amendment. Subdivision (b)(3) above is patterned after Federal Rule of Appellate Procedure 11(b).

1992 Amendment. Subdivisions (b)(2), (d)(1)(A), and (d)(1)(B) were amended to standardize the lower court clerk's procedure with respect to the placement and pagination of the transcript in the record on appeal. This amendment places the duty of paginating the transcript on the court reporter and requires the clerk to include the transcript at the end of the record, without repagination.

1996 Amendment. Subdivision (a)(2) was added because family law cases frequently have continuing activity at the lower tribunal level during the pendency of appellate proceedings and that continued activity may be hampered by the absence of orders being enforced during the pendency of the appeal.

Subdivision (b)(2) was amended to change the wording in the third sentence from "transcript of proceedings" to "transcript of the trial" to be consistent with and to clarify the requirement in subdivision (d)(1)(B) that it is only the transcript of trial that is not to be renumbered by the clerk. Pursuant to subdivision (d)(1)(B), it remains the duty of the clerk to consecutively number transcripts other than the transcript of the trial. Subdivision (b)(2) retains the requirement that the court reporter is to number each page of the transcript of the trial consecutively, but it is the committee's view that if the consecutive pagination requirement is impracticable or becomes a hardship for the court reporting entity, relief may be sought from the court.

2006 Amendment. Subdivision (a)(2) is amended to apply to juvenile dependency and termination of parental rights cases and cases involving families and children in need of services. The justification for retaining the original orders, reports, and recommendations of magistrate or hearing officers, and judgments within the file of the lower tribunal in family law cases applies with equal force in juvenile dependency and termination of parental rights cases, and cases involving families and children in need of services.



2014 Amendment. The phrase “all exhibits that are not physical evidence” in subdivision (a)(1) is intended to encompass all exhibits that are capable of reproduction, including, but not limited to, documents, photographs, tapes, CDs, DVDs, and similar reproducible material. Exhibits that are physical evidence include items that are not capable of reproduction, such as weapons, clothes, biological material, or any physical item that cannot be reproduced as a copy by the clerk’s office.

2015 Amendment. The amendments in *In re Amendments to Rule of Appellate Procedure 9.200*, 164 So. 3d 668 (Fla. 2015), do not modify the clerk’s obligation to transmit a separate copy of the index to the parties, pursuant to rule 9.110(e).

