



APPELLATE RECORD PREPARATION HANDBOOK
FOR TRIAL COURT CLERKS

REVISED APRIL 2003

Acknowledgment

The Trial Court Clerks of Tennessee do a wonderful job in preparing the record on appeal. Recognition and appreciation for the good work you do is not often appreciated by the bench and bar, but the Appellate Court Clerk's Offices do appreciate your good work. Preparation of records on appeal is a very important part of the appeals process. The appellate judges depend upon the correctness of the record to determine the issues raised in the appeal.

In an effort to help you with preparing the record on appeal, this 2003 edition of the Appellate Record Preparation Handbook for Trial Court Clerks is being provided for your reference. I am especially grateful and want to acknowledge Virginia Rowland, now retired, Circuit Court Clerk's Office for Davidson County; Mahailiah Hughes, Circuit Court Clerk for Sumner County; Claudia Bonnyman, Clerk and Master for Davidson County and Denae Hackett, in our office, for their contributions and editorial assistance in preparing the handbook. I also want to acknowledge and thank all members of my staff and those of you too numerous to mention whose contributions made this publication possible.

I look forward to the coming year and keep up the good work.

Cecil Crowson, Jr.
Clerk of the Appellate Courts

TABLE OF CONTENTS

NOTICES OF APPEAL

The appellate court has provided us with notice of appeal forms. Who fills this out - the clerk, or the attorney?	1
There's a lot of information required on this form. The attorney wants to know what's really important and what he can skip.	1
The attorney has handed me a completed notice of appeal. What do I do now?	1
How do I know which appellate court to send a copy of the notice of appeal to?	1
Both parties have filed a notice of appeal. Which one do I send?	2
If the notice of appeal is filed without an appeal bond, what should I do?	2
What if the appellant files the notice of appeal before the judgment being appealed is signed and entered?	2
I have received the Notice of Appeal. How do I know when the record is due?	2

RULE 9: INTERLOCUTORY APPEAL BY PERMISSION FROM THE TRIAL COURT

When should a party seek a Rule 9 appeal?	3
What is the procedure in the trial court?	3
What do I do when the order is filed allowing the appeal?	3
What happens then?	3
When is the record on appeal due?	3

RULE 10: EXTRAORDINARY APPEAL BY PERMISSION ON ORIGINAL APPLICATION IN THE APPELLATE COURT

When does a party seek a Rule 10 (extraordinary) appeal?	5
What kind of record is required for an extraordinary appeal?	5

COST BONDS

Does the appellant still have to file a \$1,000 cost bond before proceeding with an appeal?	7
Who can act as surety?	7
What if the principal does not have anyone to act as surety?	7
What does the appellate court look for on the bond?	7
The appellant was allowed to proceed as a pauper in the trial court. Does he still have to provide a cost bond on appeal?	7

CONTENTS OF THE RECORD

What's in the record?	9
Suppose the appellant doesn't want to submit the whole record?	10
Why wouldn't the appellant want the whole record filed?	10
What if the appellee disagrees on what the appellant feels the record should contain?	11
Where does the transcript come from?	11
What if there was no court reporter at the trial, and therefore no recording of the testimony?	12
What if the appellant doesn't want to file a transcript or a statement of the evidence?	12
Suppose the appellee wants a copy of the transcript to be included with the record?	12
This was a very long trial, and the court reporter can't get the transcript prepared in the time allotted. What should the court reporter do?	12
What should I do if a transcript or statement of the evidence is presented to me for filing after the expiration of 90 days from the date of filing the notice of appeal?	13
What if the appellant or his attorney files the transcript and asks to check it out immediately?	13
What do I do if the 90 days from the notice of appeal passes and no transcript, statement of the evidence, or T.R.A.P. Rule 24(d) notice has been filed?	13

PUTTING IT ALL TOGETHER

Once the transcript has been filed, what comes next?	15
Is there any particular order for the technical record?	15
What else goes in the technical record?	15
How do I deal with sealed documents when I am compiling the record to the appellate court?	16
Okay, I've got all that together. Now what?	16
Help! I've done my best, but I'm just not going to be able to get this record prepared in the time allotted. What do I do?	17
I sent the transcript to the trial judge for his approval at the end of the 15-day objection period. What if the trial court judge fails to authenticate the transcript within thirty days after the expiration of the 15-day objection period?	17
I just realized that I have missed the time to file a record. What do I do?	18
What if the appellate court clerk's office feels that I've made mistakes in putting the record together?	18
If one of the defects is that unnecessary pages, i.e. minutes of court, subpoenas,	

interrogatories, etc. are included in the technical record, should I adjust the cost for preparing the record on appeal to reflect the reduced number of pages?	18
I am ready to put the record together, but one of the parties has filed a motion. Do I still go ahead and send the record up?	18
Do I number the pages to a deposition, transcript or trial exhibit?	18
EXHIBITS	
Do I send the original exhibits, or do I have to make copies of the exhibits to send?	19
Some of the trial exhibits are really large. What do I do with them?	19
Are there any other exhibits I should <u>not</u> send?	19
If I don't include an exhibit in what I send to the appellate clerk's office, do I list it on the clerk's certificate?	19
I've searched high and low, but I can't find some of the exhibits. What do I do now?	19
How do I indicate to the appellate clerk's office that I have retained an exhibit because of its size?	20
Is there anything else I need to do when I retain exhibits instead of sending them on to the appellate court?	20
The attorney on this case is very unhappy that his oversized exhibits weren't filed with the appellate court. What should he do?	20
What if the court ordered some of the exhibits to be filed "under seal" at the trial?	20
How should I prepare the exhibits to send to the appellate court?	20
Do I have to bind the exhibits into a volume?	21
CHECKLIST	23
RESOURCES	25
DEFINITIONS	27
FORMS	29
Notice of Appeal	31
Appeal Bond for Costs	33
Index	35
Certificate of Appellate Record	37
Technical Record Cover Sheet	39

NOTICES OF APPEAL

The appellate court has provided us with notice of appeal forms. Who fills this out - the clerk, or the attorney?

Filling out the notice of appeal form is the responsibility of the appellant's attorney.

There's a lot of information required on this form. The attorney wants to know what's really important and what he can skip.

The notice of appeal form recommended by the appellate clerk requests the information needed to establish the file prior to receiving the complete record. While all the information requested is important, it is especially crucial that we receive the names and addresses of the attorneys for all parties and the names of every party appealing; please don't use "et al". It is also important that the form be legible. If we can't read the information, we can't prepare the file.

The attorney has handed me a completed notice of appeal. What do I do now?

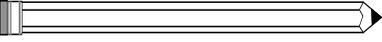
File stamp the notice of appeal, and send a copy of it and a copy of the appeal bond or inmate affidavit to the appellate court. The appellate court clerk will then open a file and assign a cause number to the appeal. (*Note: if a case involving an inmate is dismissed at the trial court due to noncompliance [ex: lit tax not paid, no summons issued and served, or if an inmate does not file all necessary paperwork], then send a letter stating this.)

How do I know which appellate court to send a copy of the notice of appeal to?

Civil cases appealed from Circuit, Chancery, General Sessions, Probate, Juvenile, Boards and Commissions go to the Court of Appeals.

Criminal cases appealed from Criminal, Circuit, or General Sessions courts go to the Court of Criminal Appeals.

Workers' compensation appeals go to the Supreme Court.



Both parties have filed a notice of appeal. Which one do I send?

Send copies of both notices of appeal to the appellate clerk. We will enter a record of both notices of appeal in the computer, and designate one party as the appellant and the other as the appellee. Usually this is determined by which party filed first, but not always.

If a notice of appeal is filed without an appeal bond and the appellant has not been declared a pauper, what should I do?

The trial court clerk must promptly certify the failure to provide an appeal bond to the appellate court. The appellate court will issue a show cause order dismissing the appeal if the appeal bond is not filed in compliance with T.R.A.P. 6. This procedure will help prevent you from preparing a record for an appeal which will later be dismissed by the appellate court.

What if the appellant files the notice of appeal before the judgment being appealed is signed and entered?

A prematurely filed notice of appeal is treated as being filed after the entry of the judgment being appealed, on the same day as the entry of the judgment.

I have received the Notice of Appeal. How do I know when the record is due?

Once a notice of appeal is filed, the parties have 90 days in which to file a transcript or statement of the evidence. Pursuant to Rule 25(a) T.R.A.P., the record shall be sent up within 45 days after the filing of the transcript or statement. In the even there is no transcript or statement filed by the end of the 90 days, then the trial court has 45 days from then to prepare and send up the record.

RULE 9: INTERLOCUTORY APPEAL BY PERMISSION FROM THE TRIAL COURT

When should the party seek a Rule 9 appeal?

A party may seek to appeal an interlocutory (non-final) order issued by the trial court. Rule 9, T.R.A.P., allows for a party to request permission to appeal to the appellate court after obtaining permission from the trial court judge.

What is the procedure in the trial court?

Permission must be sought from the trial court judge within 30 days of the entry of the interlocutory order by filing a motion requesting relief with the trial court clerk. The trial court judge, when ruling on the motion, shall state its reasons for allowing the appeal. The criteria for this statement from the judge is more fully set out in T.R.A.P. 9(b).

What do I do when the order is filed allowing the appeal?

Because application to the appellate court must be made by the appellant within ten (10) days from the date of entry of the trial court's order or the making of the prescribed statement by the trial court, whichever is later, you should ensure that the attorneys of record are notified immediately upon the entry of the order or statement.

What happens then?

The appellant will file an application for permission to appeal with the clerk of the appellate court, to which is attached a copy of the order being appealed and a copy of the trial court's order allowing the appeal pursuant to T.R.A.P. 9. The appellate court will then issue an order either allowing or denying the appeal.

When is the record on appeal due?

The time fixed for preparation of the record runs from the date of entry of an order from the appellate court granting permission to appeal, and is generally set out in the appellate court's order. The appellate court's usual practice is to require that the record be sent within thirty (30) days.

RULE 10: EXTRAORDINARY APPEAL BY PERMISSION ON ORIGINAL APPLICATION IN THE SUPREME COURT

When does a party seek a Rule 10 (extraordinary) appeal?

A Rule 10 appeal, which, like a Rule 9 appeal, is the appeal of an interlocutory (non-final) order, may be sought by a party if they feel that the trial court has so far departed from the accepted and usual course of judicial proceedings as to require immediate review. An application is filed directly with the appellate court requesting permission to appeal the interlocutory order.

What kind of record is required for an extraordinary appeal?

Usually, the application filed by the attorney will be accompanied by copies of any orders or opinions or parts of the record which are felt to be necessary for determination of the request for permission to appeal. If the appellate court feels that additional portions of the record may be necessary, an order will be filed requesting the same and designating a time limit within which the record should be prepared.

COST BONDS

Does the appellant still have to file a \$1,000.00 cost bond before proceeding with an appeal?

The appellate court now requires an open bond, which states that the principal will be responsible for all costs of appeal. In addition to the principal, a surety must also sign the bond.

Who can act as surety?

Basically, a surety is someone who is willing to assume responsibility for the costs if the principal is unwilling or unable to pay them. In practice, the principal's attorney will usually sign as surety. The principal can also obtain a surety from a bonding company, although they will probably have to pay a cash deposit for this. Major insurance companies may also act as surety. A power of attorney for the insurance company will need to be attached to the bond form.

What if the principal does not have anyone to act as surety?

A deposit of \$1,000.00 cash with the trial court clerk in lieu of a surety bond is acceptable to secure the payment of costs on appeal.

What does the appellate court look for on the bond?

We check to see that there is a signature for both the principal and the surety; if the attorney signs for the principal and acts as surety, he needs to sign the form twice. We look for street addresses for both the principal and the surety; P.O. boxes are not acceptable. The surety must reside in the state of Tennessee or be qualified to do business in Tennessee.

The appellant was allowed to proceed as a pauper in the trial court. Does he still have to provide a cost bond on appeal?

If a party has been declared a pauper, or indigent, by the trial judge and has been allowed to proceed as a pauper in the trial court, the party will be allowed to proceed as a pauper on appeal.

CONTENTS OF THE RECORD

NOTE: This section refers specifically to civil records on appeal. Criminal appeals and appeals from summary judgment may require additional documents or information, and are discussed in other sections of this manual. The information contained in those sections should be used in conjunction with the information contained in this section.

What's in the record?

- 1) **Copies** of all papers filed by the parties in the trial court **except for:**
 - A) subpoenas or summonses for any witness or defendant who appeared at trial;
 - B) all papers relating to discovery, including:
 - *depositions,
 - *interrogatories and answers to them,
 - *reports of physical or mental examinations,
 - *requests to admit, and
 - *All notices, motions or orders related to discovery;
 - C) any list from which jurors are selected; and
 - D) trial briefs or memorandums (*Note: if one of the parties file a memorandum in opposition to a motion or memorandum in response to motion, as their response, then it would be included in the record)
 - E) Correspondence

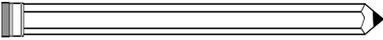
(The above items are left out of the record unless a party designates in writing that it should be included in the record.)

These papers are referred to as the “technical record” or “TR”.

Even after excluding items A-D listed above, I've still got a lot of documents left. Do they all have to be included?

No. Court minutes should not be included, nor should notices sent by the trial court clerk to the attorneys regarding docket calls.

- 2) The **original** of any exhibits filed in the trial court. (See Exhibits, p. 15 of this manual, for more information.)



- 3) The transcript or statement of the evidence or proceedings, which clearly indicates and identifies any exhibits offered in evidence and whether the exhibits were received or rejected by the trial judge.

This transcript is referred to as the “transcript of evidence” or “TE”.

- 4) Any requests for instructions submitted by the jury to the trial judge for consideration, whether acted upon or not.
- 5) Any other matter designated by a party and properly includable in the record as provided in Rule 24(g), T.R.A.P., which states:

“Nothing in this rule shall be construed as empowering the parties or any court to add to or subtract from the record except insofar as may be necessary to convey a fair, accurate and complete account of what transpired in the trial court with respect to those issues that are the bases of appeal.”

Suppose the appellant doesn’t want to submit the whole record?

If the appellant feels that a fair, accurate and complete account of what transpired in court related to the issues being appealed can be presented with less than the full record on appeal (as defined above), the appellant must, **within 15 days after filing the notice of appeal**, file with the trial court clerk a description of the parts of the record the appellant intends to include on appeal, accompanied by a short and plain declaration of the issues the appellant intends to present on appeal. The appellant must also serve a copy of this notice on the appellee’s attorney. If a designation to limit the record is filed, only the designated items are included in the record.

Why wouldn’t the appellant want the whole record filed?

The issues on appeal may be so limited that the full record is not required, and the appellant may designate a smaller record to eliminate any confusion in the issues.

The appellant may also choose to reduce the size of the record to save on costs to his or her client. The trial court charges for certifying the trial court record. They also charge for copying the court record. The fewer pages sent to the appellate court, the



smaller the charge. The appellate court also charges for the documents filed with them. All of these costs are eventually passed on to the appellant or appellee.

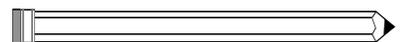
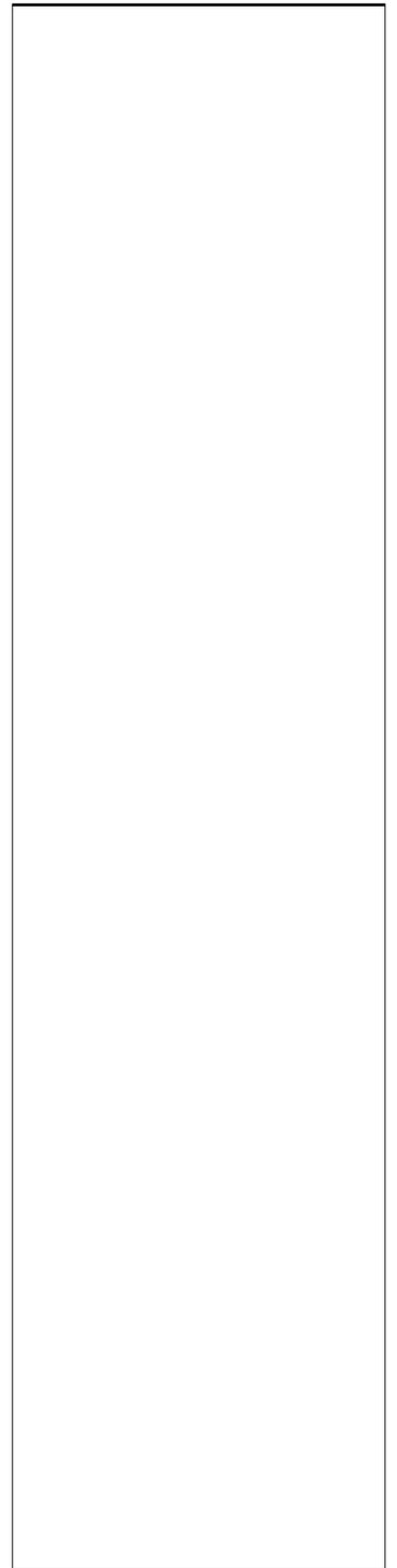
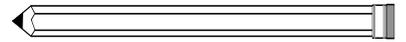
NOTE: T.R.A.P. 40(f) states: “In reviewing the bill of costs of the clerk of the trial court, the clerk of the appellate court shall disallow costs not authorized by law and costs forfeited for failure to comply with these rules.” If the trial court clerk sends records that T.R.A.P. 24(a) indicates should not be sent to the appellate court, the appellate clerk may reduce the costs charged by the trial court clerk for preparation of the record.

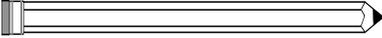
What if the appellee disagrees on what the appellant feels the record should contain?

If the appellee feels that any other parts of the record to be necessary, the appellee must, **within 15 days after service of the description and declaration** (as described above), file a designation of additional parts to be included in the record with the clerk of the trial court. The appellee must also serve a copy of this designation on the appellant’s attorney.

Where does the transcript come from?

The appellant provides the transcript (a word-for-word account of the events that transpired at trial). Rule 24(b), T.R.A.P., describes the process by which counsel determines the content of the transcript. The transcript, certified by the appellant, appellant’s counsel, or the reporter as an accurate account of the proceedings, is filed with the trial court clerk within 90 days after filing the notice of appeal. When the transcript is filed, the appellant must serve notice of the filing on the appellee, with proof of service filed with the trial court clerk. If the appellee has any objections to the transcript, the appellee must file objections with the trial court clerk within fifteen days after service of the notice of the transcript filing.





What if there was no court reporter at the trial, and therefore no recording of the testimony?

The appellant is responsible for preparing a statement of the evidence or proceedings from the best available means, including the appellant's recollection. The proper procedure for preparing this statement, and for dealing with any objections by the appellee, is set out in Rule 24(c), T.R.A.P. The statement of the evidence must be filed with the trial court clerk within 90 days of the filing of the notice of appeal.

What if the appellant doesn't want to file a transcript or a statement of the evidence?

Within fifteen days of filing the notice of appeal, the appellant must file a notice that no transcript or statement is to be filed, and serve a copy of that notice on the appellee, pursuant to T.R.A.P. 24(d).

Suppose the appellee wants a copy of the transcript to be included with the record?

Rule 24(d), T.R.A.P. sets out the procedure by which the appellee can prepare and file the transcript if the appellant chooses not to do so. If the appellee is granted permission to file a copy of the transcript, then the trial court clerk's time for preparation of the record begins to run from the date the appellee's transcript is filed with the trial court. If the appellant is not granted permission, the trial court clerk's time began running from the 90th day after the notice of appeal was filed, or from the date that the statement of evidence or Rule 24(d) notice was filed.

This was a very long trial, and the court reporter can't get the transcript prepared in the time allotted. What should the court reporter do?

The court reporter should make a written request to the appellate court for an extension of time in which to file the transcript. This written request should contain the proper style of the case and the trial court, county, and trial court docket number, along with an anticipated completion date. The appellate court clerk will then notify the attorneys involved and the trial court clerk of the request for extension. The court reporter, trial court clerk and



attorneys will be notified by the appellate court clerk of the court's decision regarding the extension.

What should I do if a transcript or statement of the evidence is presented to me for filing after the expiration of 90 days from the date of filing the notice of appeal?

On the upper right corner of the first page, write: "Lodged 12/31/99, Joe Smith, Clerk, by Mary Jones, Deputy Clerk." Advise the attorney that the transcript or statement has been lodged rather than filed because it is late and that a motion for extension of time must be filed in the appellate court. Unless an order extending time is received, the transcript or statement will not be transmitted with the record.

What if the appellant or his attorney files the transcript and asks to check it out immediately?

During the 15-day objection period following the filing of the transcript, the transcript and exhibits are to be made available to the appellee's attorney. Do not release the transcript or trial exhibits to the appellant's attorney during this period, unless the appellee's attorney has already been given access to the documents. (The appellant's attorney should have copied the transcript before filing it with the clerk.) Be sure to advise the withdrawing party that the transcript and exhibits must be returned prior to the 16th day from the date of filing in order for you to have time to assemble for submission to the trial judge.

What do I do if the 90 days from the notice of appeal passes and no transcript, statement of the evidence, or T.R.A.P. Rule 24(d) notice has been filed?

Notify the appellate court clerk's office of failure to file a transcript or statement of evidence within ninety (90) days of the trial court decision. The appellate court will enter a show cause order requesting the appellant to show cause why the appeal should not be dismissed for failure to comply with T.R.A.P. Rule 24.

NOTE: Sometimes an appellant will include in either the notice of appeal or the designation of record a statement that no transcript or statement of the evidence is to be filed. This is unlikely with the new notice of appeal form (see sample in the Forms Section) but read the designation of record carefully, because the inclusion of such a statement drastically affects timing of the preparation of the record.

PUTTING IT ALL TOGETHER

Once the transcript has been filed, what comes next?

Once the appellant has filed the transcript or statement or has filed a notice that no transcript or statement is to be filed with the trial court clerk's office, the record on appeal is due at the appellate court clerk's office within 45 days.

Is there any particular order for the technical record?

T.R.A.P. 25 states that copies of all papers filed with the trial court (except the transcript or statement of the evidence or proceedings and the exhibits) shall be bound together in chronological order. Chronological order means that the oldest pleading (probably the complaint) is on top, with the newest pleading (possibly the notice of appeal or appeal bond) at the bottom of the stack.

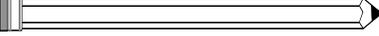
What else goes in the technical record?

There should be a **table of contents** listing the individual contents of the record and each item's page number. For ease of use, it is helpful if this table of contents is alphabetized, although it is not required.

There must also be a **clerk's certificate**, which certifies and enumerates the transmittal of:

- 1) Technical Record volumes
- 2) Transcript of Evidence volumes
- 3) Exhibits
- 4) Depositions
- 5) Any other items transmitted by the trial court that do not fall in the above classifications.

These pages are then numbered by the trial clerk. While T.R.A.P. 25 does not specify where the record should be numbered, it is preferable to number the pages in the lower right corner. Rules of the Court of Appeals, Rule 3 provides that technical record volumes are limited to 150 pages each, so if there are more than 150 pages in the record, you will need to divide the record into multiple



volumes. This rule allows for simplicity in dealing with a very bulky record.

How do I deal with sealed documents when I am compiling the record to send to the appellate court?

Sealed documents need to be clearly marked when they are filed with the appellate court clerk's office. They should not be bound in the technical record or any collection of exhibits. You can place the sealed documents into clearly marked envelopes, or in the case of large quantities of sealed documents, seal them into a banker's box. The order requiring that the documents be sealed should be securely attached to the outside of the envelope or box. Additionally, sealed documents should not be included in the numbering of the technical record. Because sealed documents cannot be checked out by any of the parties without an order from the appellate court, they must not be included in something that could inadvertently be checked out to a party.

Okay, I've got all that together. Now what?

Prepare a **cover** for each volume of the technical record. The cover should contain:

- 1) The trial county and court,
- 2) the name of the judge,
- 3) the trial court docket number,
- 4) the correct and complete style of the case,
- 5) designation of each party as the plaintiff or defendant and appellant or appellee, and
- 6) the names, addresses, phone numbers and BPR numbers of the attorney for each party, along with a designation of which party they represent.
- 7) The date the record is being transmitted to the appellate court clerk's office.

The cover should be titled "Technical Record". Please do not use covers which state that the contents are a "Transcript".

NOTE: If you are preparing a cover sheet for a criminal case, it must also list the following:

- 1) If the defendant is in custody and, if so, his or her TDOC number;
- 2) If the defendant is on bond, the amount of the bond;
- 3) If the defendant is indigent or not; and

4) The judgment conviction and sentence.

Each volume must have a completed cover. Indicate on the cover if there are multiple volumes: i.e., “Volume I of IV”. The cover, both front and back, should be made of a heavier material than ordinary copy paper or construction paper.

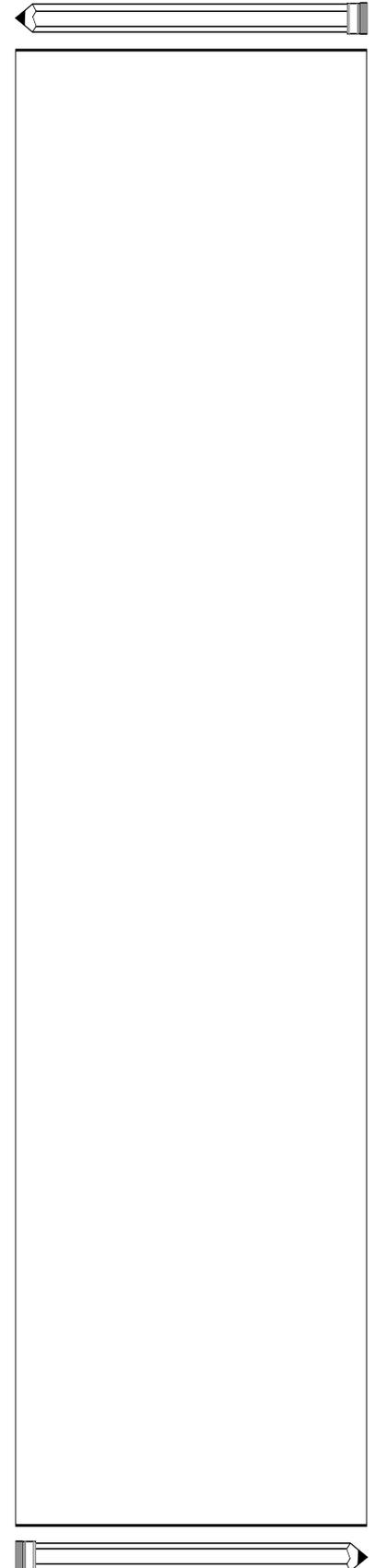
Assemble the record with the cover sheet on top, followed by the table of contents, the pleadings in chronological order, and the clerk’s certificate on the bottom. Holepunch and bind the record firmly at the top, as it will receive much handling by attorneys, judges, and clerks.

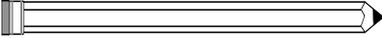
Help! I’ve done my best, but I’m just not going to be able to get this record prepared in the time allotted. What do I do?

You will need to request an extension of time from the appellate court. Your request must set out the reason for the extension and must be made within the time originally allowed for completing the record or within any extension previously granted. The time for completing the record can only be extended for a maximum of fifteen days past the forty-five days set out in the rules for preparation of the record. (If the record is not prepared and filed with the appellate court clerk within the allotted time [plus any extensions granted], the trial court clerk may forfeit the clerk’s entire cost of preparing and transmitting the record.)

I sent the transcript to the trial judge for his approval at the end of the 15-day objection period. What if the trial court judge fails to authenticate the transcript within thirty days after the expiration of the 15-day objection period?

If the trial court judge has not signed the transcript within thirty days after the expiration of the 15-day objection period, it is automatically authenticated by his failure to sign it. Do not withhold a record simply because the trial judge has not signed the transcript.





I just realized that I have missed the time to file a record. What do I do?

If the time has expired for timely filing the record in a case, you will need to file a motion, affidavit and proposed order with the appropriate appellate court to accept a late-filed record. Be aware that the Court can disallow the trial court costs for preparing the record if the record is late-filed.

What if the appellate court clerk's office feels that I've made mistakes in putting the record together?

The appellate court clerk will return the record with instructions on how to correct the mistakes, called defects. Repeated returns of the same record for correction of the mistakes originally noted can result in a contempt order from the appellate court.

If one of the defects is that unnecessary pages, i.e. minutes of court, subpoenas, interrogatories, etc., are included in the technical record, should I adjust the cost for preparing the record on appeal to reflect the reduced number of pages?

Yes.

I am ready to put the record together, but one of the parties has filed a motion. Do I still go ahead and send the record up?

You should wait until all pending motions have been set, heard and the Judge has entered an order before preparing and sending up the record.

Do I number the pages to a deposition, transcript or trial exhibit?

If the deposition is included in the technical record as an attachment to a pleading, then you would number the pages. If the deposition is not attached to a pleading, then the pages should already be numbered by the court reporter. The same goes for the transcript. As for the trial exhibits, you do not number the pages for them.



EXHIBITS

Do I send the original exhibits, or do I have to make copies of the exhibits to send?

You will need to send the original exhibits with the record.

Some of the trial exhibits are really large. What do I do with them?

Exhibits can be the most difficult part of the record to prepare. With the advent of cheap copying and enlarging methods, trial exhibits have routinely become much larger than they ever were before. Sometimes attorneys will offer a piece of equipment or machinery as an exhibit. Unfortunately, the Appellate Clerk's office does not have the space or resources to store oversized exhibits. (A good rule of thumb to follow is to determine if the exhibit will fit into a standard size expanding file.) All oversized exhibits must be held at the trial clerk's office.

Are there any other exhibits I should not send?

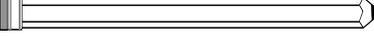
Please do not send money, drugs, or weapons entered as exhibits. If you are unsure about whether an exhibit should be sent, please call the appellate court clerk's office for guidance.

If I don't include an exhibit in what I send to the appellate clerk's office, do I list it on the clerk's certificate?

Yes. All exhibits are listed on the clerk's certificate, whether they are forwarded to the appellate clerk's office or not. See the sample contained in the Forms Section of this manual.

I've searched high and low, but I can't find some of the exhibits. What do I do now?

Obviously, keep looking; but don't hold up transmittal of the record while you find them if it is due. List the exhibits on the clerk's certificate in a separate section setting out exhibits you were unable to locate. See the sample contained in the Forms Section of this manual.



How do I indicate to the appellate clerk’s office that I have retained an exhibit because of its size?

Oversized exhibits retained by the trial clerk’s office should be listed in a separate section on the clerk’s certificate. See the sample contained in the Forms Section of this manual.

Is there anything else I need to do when I retain exhibits instead of sending them on to the appellate court?

T.R.A.P. 25(b) requires that the clerk of the trial court notify the parties if any documents or physical exhibits are not to be transmitted.

The attorney on this case is very unhappy that his oversized exhibits weren’t filed with the appellate court. What should he do?

If an attorney wants to use his oversized exhibits in oral argument, he needs to pick them up from the trial court clerk before his oral argument date and bring them with him. After oral argument, if the court feels that it is necessary to retain the oversized exhibit(s), the attorney must bring them to the appellate court clerk’s office and have them filed. He should not leave his exhibits in the courtroom and assume that they will be included with the case file.

What if the court ordered some of the exhibits to be filed “under seal” at the trial?

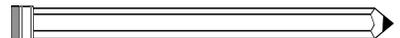
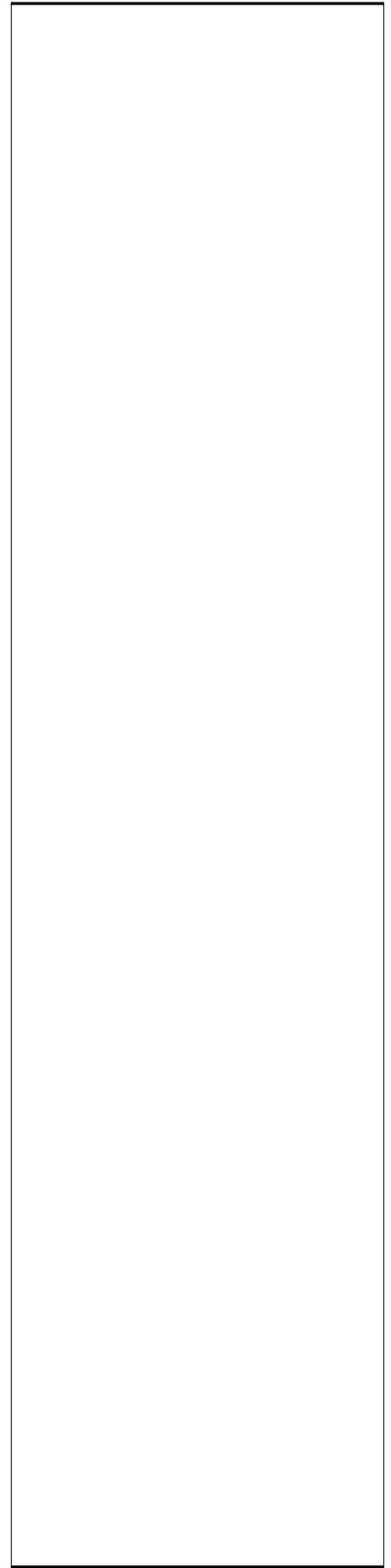
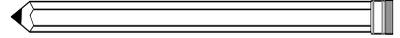
Occasionally, exhibits are sealed by the court. These need to be listed in a separate section on the clerk’s certificate. See the sample contained in the Forms Section of this manual.

How should I prepare the exhibits to send to the appellate court?

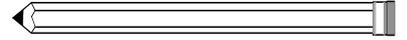
Because exhibits are frequently bulky, it is preferable not to bind the exhibits in with the transcript, although this is allowed by the Tennessee Rules of Appellate Procedure. Each exhibit should be clearly marked with its exhibit number. If an exhibit contains multiple parts, such as photographs, all the parts should be gathered in an envelope and the envelope clearly marked as to the contents.

Do I have to bind the exhibits into a volume?

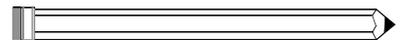
It is not required that exhibits be bound, although they can be for ease of handling. When binding exhibits, please keep in mind that they will be handled extensively by the attorneys, judges, staff attorneys and law clerks. If there are numerous exhibits and they are too large to be bound, they should be placed in a large expanding file so they do not become separated.



CHECKLIST



- _____ **Notice of Appeal(s) sent to appellate court clerk.**
- _____ **Transcript filed and sent to trial judge for approval.**
 OR
_____ **Rule 24(d) notice filed by appellant that no transcript would be filed.**
- _____ **Technical record assembled chronologically.**
- _____ **Alphabetical table of contents prepared.**
- _____ **Exhibits collected and prepared for transmittal.**
- _____ **Clerk's certification prepared.**
- _____ **Clerk's certification compared against the record.**
- _____ **Clerk's certification signed by trial court clerk.**
- _____ **Transmittal date noted on front of technical record.**
- _____ **Record sent or delivered to appellate court clerk's office.**



RESOURCES

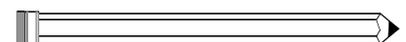
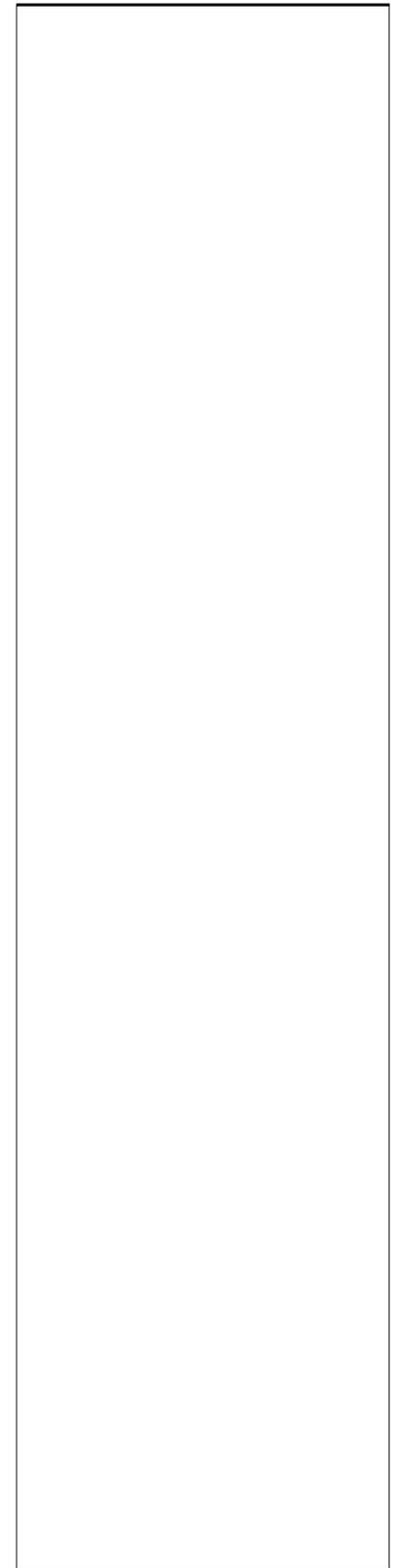
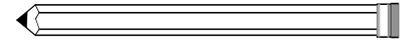
Appellate Court Clerk's Office **Middle Section**
401 7th Avenue North
Nashville, TN 37219-1407
(615) 741-2682

Eastern Section
P.O. Box 444
719 Locust Street, S.W.
Knoxville, TN 37901
(423) 594-6700

Western Section
P.O. Box 909
#6 Highway 45 By-Pass
Jackson, TN 38301
(901) 423-5840

Internet Website Address: **www.tsc.state.tn.us**

Administrative Office of **511 Union Street, Suite 600**
The Courts: **Nashville, TN 37243-0607**
(615) 741-2687



DEFINITIONS

- Appellant:** The party filing the appeal. This can be the plaintiff(s) or defendant(s).
- FYI:** In Tennessee, the style of the case does not change if the defendant appeals. For example, if the case was Smith v. Jones in the trial court, and Jones files an appeal, the case style does not change to Jones v. Smith. It remains Smith v. Jones, and Jones is referred to as the Defendant/Appellant.
- Appellee:** The party who assumes the defending position on appeal.
- Record:** The record on appeal consists of the technical record, the transcript of the evidence, the exhibits, requests for instructions from the jury, and any other items designated by a party and properly includable in the record as provided in Rule 24(g), T.R.A.P.
- TE:** The transcript of the evidence. This is the Court reporters transcription of the proceedings at trial.
- TR:** The technical record, which consists of the papers filed in the trial court.
- T.R.A.P.:** Abbreviation for Tennessee Rules of Appellate Procedure. These rules are contained in the Tennessee Rules of Court, State, published by West Group (1-800-328-9352). You can obtain a copy of this book either through West Group or through the Administrative Office of the Court (615) 741-2687. It is published annually and contains all changes, corrections and additions made to the court rules during the preceding year.

FORMS

APPEAL BOND FOR COSTS

I (we), _____, principal, and I (we), _____
_____, surety, bind ourselves for the costs of appeal in:

vs. Cause No. _____

(signature), or
PRINCIPAL

_____ by _____ (signature)
PRINCIPAL ATTORNEY

PRINCIPAL'S ADDRESS:

(street address only; no P.O. boxes; not in care of principal's attorney)

_____ by _____ (signature)
SURETY _____ (print name)

SURETY'S ADDRESS:

(street address only; no P.O. boxes)

IF THE PRINCIPAL(S) PAY ALL COSTS OF APPEAL, THEN THIS OBLIGATION IS VOID. IF PRINCIPAL(S) FAIL TO PAY, THEN THE SURETY IS OBLIGATED TO PAY ALL COSTS OF APPEAL.

***IF YOU DO NOT HAVE A SURETY TO SIGN YOUR BOND FOR COSTS: A cash deposit of \$1,000.00 is deemed sufficient instead of a surety bond, except as otherwise required by the trial court clerk and/or the Appellate Court Clerk.**

A deposit of \$ _____ in cash has been made by _____ with _____
_____ of the _____ court clerk's office on the ____ day of _____, ____.

APPROVED:

_____ or _____
CLERK OF THE TRIAL COURT CLERK OF THE APPELLATE COURT

I N D E X

PAPERS FILED IN THE TRIAL COURT

Complaint 1

Amended Complaint 4

Plaintiff, John Smith’s Timber Contract 5

Defendant, Bill Black’s Answer 6

Defendant, Jerry Doe’s Answer 10

Defendants’ Counter-Complaint 12

Defendant, Jerry Doe’s Timber Contract 18

Plaintiff’s Answer to Defendants’ Counter-Complaint 20

Order Entered June 30, 1997 24

Order Entered November 19, 1997 26

Defendants’ Motion to Amend Judgment 28

Order Entered March 18, 1998 30

Defendants’ Notice of Appeal 32

Appeal Bond for Costs 33

Certificate of Appellate Record 34

Bill of Costs 35

TRANSCRIPT OF PROCEEDINGS

Volume I 3

Volume II 151

Trial Exhibits 1 - 8 - - -

CERTIFICATE OF APPELLATE RECORD

I, Betty Smith, Clerk of the Circuit Court of Ashford County, Tennessee, do hereby certify that the following items herewith transmitted to the Court of Appeals are originals or true and correct copies of all or of the designated papers on file in my office in the captioned case.

1. Technical record attached to the certificate and consisting of 186 pages contained in two volume(s).

2. Three volume(s) of Transcript filed in my office on June 9, 1999 and authenticated by the Trial Judge or automatically authenticated under T.R.A.P. Rule 24(f).

3. Exhibits filed in my office on May 11, 1998 and authenticated by the Trial Judge or as provided by T.R.A.P. Rule 24(f) and described as follows:
 - Exhibit 1, consisting of county map.
 - Exhibit 2, consisting of warranty deed.
 - Exhibit 3, consisting of easement survey.
 - Exhibit 4, consisting of five photos (collective, in envelope).
 - Exhibit 6, consisting of cancelled check.

4. Sealed documents and/or exhibits filed in my office and authenticated by the Trial Judge or as provided by T.R.A.P. Rule 24(f) and described as follows:
 - Exhibit 7, consisting of net worth statement of plaintiff.
 - One envelope of documents, sealed by order of trial judge entered May 18, 1998.

5. Deposition of Harold Hawkins, Certified Geologist.

6. The following exhibits and/or documents of unusual bulk or weight have been retained in my office due to their size, and are described as follows:
 - Exhibit 5, consisting of a large mounted photograph.
 - Exhibit 8, consisting of an enlarged page of plaintiff's deposition.

This 30th day of June, 1999.

Betty Smith
Clerk of the Circuit Court
Ashford County, Tennessee

TO THE COURT OF APPEALS

AT NASHVILLE, TENNESSEE

FROM

**CHANCERY COURT, PART ONE
DAVIDSON COUNTY
AT NASHVILLE, TENNESSEE**

(J. MICHAEL TOMLIN

(

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RULE NO. 97-2691-I

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**PAPERS FILED
IN
TRIAL COURT**

(COLLEGIATE TECHNOLOGIES, INC.

COUNSEL:

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Donna D. DeLong #19513
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2300 First American Center
315 Deaderick Street
Nashville, TN 37238-2300
(615) 255-7722**

Attorneys for Defendant/Appellee

**Honorable Irvin H. Kilcrease, Jr., Chancellor
Claudia Bonnyman, Clerk and Master**

Transmitted on: June 5, 1999