

GUIDE FOR TRIAL COURT CLERKS
IN TRANSMITTING RECORDS
TO THE COURT OF APPEALS OF GEORGIA

The Clerk's Office of the Court of Appeals of Georgia appreciates the assistance of the trial court clerks in preparing records for docketing in our Court. These guidelines will assist in the preparation of records and transcripts for transmission to this Court. We hope this information will be helpful to you and avoid our having to return records and transcripts to your offices. If you have any questions regarding these guidelines or in the preparation of any record or transcripts for this office, please contact Patty 404-657-8353 or Tabitha at 404-651-2439. We will be happy to assist you.

PREPARING THE RECORD FOR TRANSMISSION

1. **The Index.** Create a complete Index of the record. Number the pages consecutively, and do not make a separate index for each volume of the record. The items of the records should be arranged as follows: 1) the Index, 2) Notice of Appeal with the Certificate of Service for Notice of Appeal, 3) Amended Notice of Appeal or designation of record, 4) Order(s) granting, denying or dismissing any Applications for Discretionary or Interlocutory Appeals, 5) Remand Orders, 6) Pauper's Affidavit or order appointing counsel, Complaint, Answer and other documents in chronological order, 7) Clerks Certificate (signed, dated & sealed), 8) Transcripts (if requested), 9) Depositions, and 10) audio or videotapes that were requested in the Notice of Appeal. In the index, include the date of the order or motion next to all orders and motion titles. The transcript(s) and/or deposition(s) may be listed at the end of the record index. All pages of the record and transcripts should be numbered including exhibits attached to transcripts or depositions.

2. The Notice of Appeal.

a. The Notice of Appeal should be on 8 ½ x 11 inch, letter sized paper, and should show the name of the attorney or pro se party (typed or printed legibly) and his/her address. An attorney's bar number should be placed below his/her name or with the address. Make sure the Notice of Appeal has a legible stamped "filed" date and has a proper Certificate of Service showing the full name and complete mailing address of opposing counsel. We cannot accept a general rubber stamp as a proper Certificate of Service.

b. The Notice of Appeal when prepared by the attorney or pro se party should state to which court he/she is appealing, the Court of Appeals or the Supreme Court, the order(s) to be appealed and any documents he/she wishes omitted from the record. In the Notice of Appeal, the Court appealed to and the Court having jurisdiction must agree. A clear statement transcripts ARE or ARE NOT to be transmitted must be included.

c. The Notice of Appeal should show the name of the attorney representing the appellant or

the name of the appellant, if he/she is pro se, and show his/her full address, telephone number, and bar number, if applicable. Again, a Certificate of Service must accompany the Notice of Appeal and must show the full name and complete mailing address of opposing attorney or pro se party. This is necessary because we obtain the addresses of the parties from the addresses on the Notice of Appeal and the Certificate of Service. We need these addresses to docket the appeal and to send notice to the parties. Please try to impress upon any pro se parties filing a Notice of Appeal a telephone number should accompany the address, and the address of the opposing pro se party, if possible.

d. If a Notice of Appeal is being filed pursuant to an order of the Court of Appeals granting an interlocutory or discretionary application, please include in the record a copy of the Court's order granting the application. Please place the order directly behind the Notice of Appeal.

3. No Oral Orders or Motions. Please impress upon judges and attorneys the Court of Appeals CANNOT ACCEPT ORAL MOTIONS OR ORDERS. All orders must be reduced to writing and filed with the clerk and date stamped. It is not sufficient that a transcript contain the judge's order. Until a judge's order is filed with the clerk of the Court, it is not notice to the world.

4. Stamped Filed date. In addition to the Notice of Appeal, all orders, motions and sentences must have a legible stamped "filed" date. Without a legible stamped "filed" date, the Court cannot determine if an appeal has been timely filed.

5. Order(s). The record MUST include the order or orders being appealed. Civil cases MUST include the complaint and answer. Criminal cases MUST include the charge and sentence. If a Motion for New Trial has been filed, that motion, and the order denying the Motion for New Trial MUST be included in the record. Obviously, if the Motion for New Trial is granted, it may obviate the need for an appeal. Please do not send the record to the Court for docketing until all transcripts described in the Notice of Appeal have been filed with your office.

6. Judge's Signature. The judge's signature on all orders must be legible. You may know your judge's signature because you are familiar with it. However, our office may not be able to decipher it. If the signature is difficult to read, please print or type the name below the signature or print the judge's name on a post-it note and attach the post-it note to the record.

7. All records, transcripts, and depositions must be attached to a record backing and contain a clerk's certificate. Each individual Notice of Appeal must have its own backing. If there are companion or crossappeals, each must have a separate record backing. DO NOT PUT A MAIN APPEAL, A CROSS-APPEAL AND/OR COMPANION NOTICE OF APPEAL IN THE SAME RECORD BACK. Even though each main appeal, cross appeal and companion appeal must be bound separately and contain your certification, the Court of Appeals will need only one complete record.

8. Indigency. If the appellant is an indigent or pauper, please include a Pauper's Affidavit, Affidavit of Indigency or order of appointment in the record and index same.

9. Pending Motions. If any of the following motions are pending after the filing of the Notice of Appeal, the record should be held in the trial court clerk's office until an order has been entered denying these motions:

- Motion to Dismiss
- Motion for Judgment Notwithstanding the Verdict
- Motion for New Trial
- Motion in Arrest of Verdict

If there is a pending Motion for Appointment of Counsel, the record should be held until such time as the motion is granted or denied. If the motion is granted, please include the complete name, mailing address and Bar number of the attorney appointed.

10. Binding. Records transmitted from your office to the Court of Appeals must be bound at the top. If the records are thin enough, you may staple them, but we recommend the records should be two-hole punched at the top and bound with either brass brads, round head fasteners or ACCO clamps. Please do not put tape over the brads or fasteners on the backs of records or transcripts. If you put tape over the brads or fasteners, it makes it difficult for our office to take apart the records if we need to make copies for attorneys, the public or the Court. Also, it makes it difficult for us to attach our Internal documents to the record and transcripts.

11. Size Limits. Please make sure transcripts or record parts are not so voluminous so the top line cannot be read when the transcript or record is folded over. Generally, about 300 pages is as large as a volume of record or transcript can be and still provide the Court access to the top line of each page. Each part of the record or transcript must be certified. Do not split a document unless it is absolutely unavoidable. If the document is split, please place a cover page on the document that is continued that describes what it is continued from.

12. Audio/Video Recordings. If videotapes, audiotapes, CDs or DVDs are requested to be transmitted in the Notice of Appeal, please send copies, rather than the originals, if possible. Please mark the medium with the style and trial court case number or place the medium in an envelope so marked. Each envelope will require your certification. If special software is required to play the item, please notify us immediately.

13. Physical Evidence. Do not transmit any physical evidence that is of a dangerous nature, i.e., guns, knives, alcoholic beverages, ammunition, explosives or the like. **DO NOT SEND ANY CONTRABAND ITEMS.** Should this Court desire such items, the Court will issue an order requesting the items be submitted as a supplemental record.

14. Exhibits. Should the record contain original exhibits or copies of exhibits, and the exhibits are

documents, please make sure the exhibits have a record page number and are correspondingly indexed. Should the record contain an envelope or box marked Exhibit 1 or Exhibit A, and that box or envelope contains scores of pages, without proper pagination and indexing, it is difficult for the attorneys to reference the exhibits in their Briefs and difficult for the Court to locate the items in the record.

15. Sealed Records.

a. Sometimes you will have a case in which the trial court judge has entered an order sealing part(s) or all of the record. Please make sure you include a copy of the trial court order sealing the documents in the record or the whole record. Please send the portions of the record which the trial court has ordered sealed in a sealed condition with a copy of the trial court's order sealing same on that portion of the record. Include a cover letter notifying this Court of the sealed documents and where in the record they are located.

b. Please make sure sealed documents are listed in the record Index and the pages of the sealed documents have a corresponding number to the index. Without this information, even in a sealed record, our office will have to return the record to you for such indexing and identification.

16. Depositions. If you send a deposition or depositions along with the record on appeal, it is not necessary to include the deposition in the record. However, if you do include the deposition in the record, please give each page of the deposition a record page number. We cannot rely on the deposition page number if you make the deposition a part of the record. If you do make the deposition a part of the record, please make sure it is properly indexed. It is permissible to send the deposition in a separate envelope marked "Depositions". It is helpful if you will attach a list or an index of the depositions in the envelope or box and to the record index. Parties may then cite to the deposition as the "Deposition of John Doe, March 31, 2009, Page 12".

17. Insure Proper Appellate Court. Before sending the record, please double check to make sure it is being transmitted to the proper appellate court.

18. Page Numbering. Please number the pages of the record, centered on the bottom of the pages. The record pages should be numbered consecutively beginning with the Notice of Appeal. Do not start over each part of the record with Page 1, but follow through with consecutive numbers no matter how many parts or volumes of the record are transmitted.

19. Single-Sided Print. Records and transcripts should contain single-sided print. Double-sided and reduced print copies may be returned.

20. Our Record Retention Policy. The Court of Appeals retains our copy of the record and the original transcripts and any exhibits submitted with the record for only one year after the remittitur

has issued unless a party requests the Court hold the record for a longer period of time. If the Court receives no written request to hold the record, the record will be recycled and the original exhibits returned to the trial court. If you know a case will be coming back to the Court of Appeals, please notify the clerk's office so we can place a hold on the record and maintain the record. This will save you the time and effort of having to reconstitute the record or save the parties the cost of paying for the record again.

21. Applications-Filed Directly With the Court of Appeals. The Court receives the records in direct appeals which are initiated by filing a Notice of Appeal with your office. The Court of Appeals also receives discretionary or interlocutory applications. These are filed directly with the Court of Appeals rather than with the clerk at the trial court. You should not certify and send to the Court of Appeals an application which is filed with your court. It is the duty of the party filing the application, or the response thereto, to obtain copies or excerpts from the record as needed for the application, and to include a stamped "filed" copy of the order being appealed and a stamped "filed" copy of a Certificate of Immediate Review in the case of an Interlocutory Application.

INDEX AND PREFERRED ORDER OF ITEMS IN RECORD

The Index shall show each and every document contained in the record with its page numbers. The following items should be included in the record on appeal and listed on the index preferably in the following order.

1. Index.
2. Notice of Appeal and Certificate of Service for the Notice of Appeal.
3. Amended Notice of Appeal or designation of record.
4. Order(s) granting, denying or dismissing any Applications for Discretionary or Interlocutory Appeals.
5. Remand Order. If the appeal was remanded by the Court of Appeals to your Court and you are returning the appeal, please include the remand order in the record.
6. Pauper's Affidavit, Affidavit of Indigency or Order Appointing Counsel, Complaint, answer and other items in the record arranged in chronological order and pages numbered.
7. Clerk's Certificate signed, dated and sealed.
8. Transcript(s), if requested, in the Notice of Appeal. The transcript should be page numbered by the court reporter and include the court reporter's certificate and the

clerk's certificate. (Transcripts are not a part of the record, however, the lower court clerk may list them separately on the Index.)

9. Depositions that are requested but not in the record.

10. Audio or videotapes which have been requested in the Notice of Appeal.

We hope this information will be useful to you. We greatly appreciate your assistance and cooperation in preparing and transmitting the Notice of Appeal and record to our Court. If we can be of any further assistance to you, please contact Patty or Tabitha at 404-657-8353/404-651-2439.