

Step 3: Record on Appeal

1. **Purpose:** The Court of Appeals is a reviewing court and does not accept new evidence. Therefore, the District Court must send the documents, exhibits, transcripts of the hearing or trial, and orders to the Court of Appeals. These things create the Record on Appeal.
2. **What's in the Record:** Your Record on Appeal includes the items that were listed in the Designation of Record (Appeal Step 2). These items may include documents from your case file, exhibits that were submitted at a hearing or trial, orders, and any transcripts that were purchased.
3. **Deadline:** Within 13 Weeks after filing the Notice of Appeal.
4. **Sent by the District Court:** The District Court must send the Record on Appeal to the Court of Appeals. Do NOT send any documents from your case file, exhibits, or transcripts to the Court of Appeals yourself.
5. **Do the Following:** While you do not send the Record on Appeal to the Court of Appeals, you are still responsible for making sure it gets there. Here are common problems that might prevent the Record from being sent:
 - a. **No Appeal Cost Bond:** The Appellant must post a \$250 Appeal Cost Bond with the District Court. Contact the District Court for more information on how to post or waive the Appeal Cost Bond.
 - b. **No Notice of Appeal:** A copy of the Notice of Appeal (Appeal Step 1) must be filed with the District Court.
 - c. **No Designation of Record:** A Designation of Record (Appeal Step 2) must be filed with the District Court. This is the list of items that the parties' want the District Court to include in the Record on Appeal.
 - d. **Failure to Designate Specific Transcripts:** In your Designation of Record, you need to list by name and date the specific transcripts that you want included in the Record on Appeal. A vague statement about transcripts does

not give the District Court enough information to determine which transcripts to include.

Good example:

“Trial Day 1 - June 15, 2015, beginning at 9 am - electronically recorded”

Bad example:

“Reporter's original transcript of the hearing or trial.”

- e. **Failure to Order the Transcripts:** If you designated any transcripts, you will need to order those from the District Court so they will be ready by the deadline. Fill out a [Transcript Request Form \(JDF 4\)](#) and submit it to the District Court.
 - f. **Failure to Pay for the Transcripts:** The cost of a transcript may not be waived in a civil case. After you order a transcript, the transcriptionist will contact you about payment. Without full payment from you, the transcript will not be completed or sent to the Court of Appeals.
- 6. Your Copy:** Once the Record on Appeal has been received by the Court of Appeals, you will receive an electronic copy of it on a CD.
- 7. Inaccurate Record:** Carefully review your copy of the Record on Appeal. It is your responsibility to make sure it is accurate. If the Record does not accurately reflect what happened in court, then you may file a “Motion to Correct the Record” with the District Court.
- 8. Incomplete Record:** If there are items that you listed in your Designation of Record that are missing from the Record on Appeal, then you may file a “Motion to Complete the Record” with the Court of Appeals. You may use a general motion form JDF 645 (Civil or Domestic) or JDF 652 (Probate) to tell the Court what items are missing.

Good example:

“The record is missing Petitioner’s Exhibits 7 and 8 from the June 22, 2014 Permanent Orders Hearing.”

Bad example:

“The record is missing some exhibits from the hearing.”

- 9. More Time:** If there are problems with the accuracy or completeness of the Record or if you are waiting for transcripts to be prepared, you may need to ask for more time than the 13 weeks allowed for the Record on Appeal to be received by the Court of Appeals.

To do this, file a Motion for More Time to File, JDF 643 (Civil or Domestic) or JDF 650 (Probate), with the Court of Appeals. If you need more time because you are waiting for the transcripts, you will also need to include an affidavit from the transcriptionist telling the Court of Appeals that the transcripts have been paid for and when they will likely be finished.

- 10. Be Sure to Read:** Colorado Appellate Rule (C.A.R.) 10 and 11. You may view these and other court rules at:

<http://www.lexisnexis.com/hottopics/colorado/>

Appeal Steps:

- Step 1: Notice of Appeal - Start of the appeal.
- Step 2: Designation of Record - Packing list of documents.
- Step 3: Record on Appeal – Case file, exhibits and transcripts.**
- Step 4: Opening Brief - Written arguments for the appeal.
- Step 5: Answer Brief - Written response to the appeal.
- Step 6: Reply Brief - Written response to the Answer Brief.
- Step 7: Opinion - The Court of Appeals’ decision.

Next Step

Step 4: Opening Brief – Due within 42 days (6 weeks) after the record being certified.