

Step 3 - Record on Appeal

- 1. Purpose:** The Court of Appeals is a reviewing court. This means it does not accept new evidence. To review the facts of your case, the Court of Appeals must get the exact same information the District Court had. This information is called the Record on Appeal.
- 2. What's in the Record:** Your Record on Appeal includes the:
 - Case file - all the documents you and the other parties filed.
 - Exhibits from the hearing or trial.
 - The District Court's orders.
 - Any transcripts that you purchased.
- 3. Deadline:** Within 63 days (9 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. You do **not** send any Record items to the Court of Appeals yourself.
- 5. Do the Following:** You do not send the Record to the Court of Appeals. But, you are responsible for making sure it gets there. Here are some common problems:
 - **Appeal Cost Bond:** You must post a \$250 Appeal Cost Bond with the District Court. Or, you must file a Motion to waive the bond with the District Court.
 - **Notice of Appeal:** You must file the Notice of Appeal (Step 1) with the District Court **and** the Court of Appeals.
 - **Designation of Transcripts:** If you want transcripts included, you must file a Designation of Transcripts (Step 2). This must be filed in the District Court and in the Court of Appeals.
 - **Designate Specific Transcripts:** In your Designation of Transcripts, you need to list the specific transcripts you want. A vague statement does not give the District Court enough information.

Good example:

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

Bad example:

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

- **Order the Transcripts:** If you designate transcripts, you will need to order those from the District Court. Fill out a [Transcript Request Form \(JDF 4\)](#) and submit it to the District Court.
- **Pay for the Transcripts:** You must fully pay for the transcript. The Court cannot waive the cost of a transcript in a civil case. A transcriptionist will arrange payment after you submit the order form.

6. Your Copy: The Court of Appeals will mail you a copy of the Record on a CD.

7. Inaccurate Record: You must 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. The Record is Missing Things: There may be missing items from the certified Record on Appeal. Or, there may be additional items you want in the Record. To add those items, make that request with the Court of Appeals.

- **What to File:** [Motion to Complete or Supplement the Record - C.A.R. Form 9](#).
- **Where to File:** Only in the Court of Appeals.
- **What to include in the motion:** Be specific about which documents you want added to the Record on Appeal.

Good example:

“The record is missing Defendant’s Exhibits 7 - 9 from the June 2, 2014 Hearing.”

Bad example:

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

- **Importance of Documents:** Let the Court of Appeals know why these documents are needed. Only items that help resolve the Issues on Appeal may be added.

9. More Time to File: Sometimes it may take more than the 9 weeks to prepare the Record on Appeal.

- **What to File:** [Motion for Extension of Time - JDF 643](#).
- **Where to File:** Only with the Court of Appeals.
- **Be Sure to Include:** If you need more time for the transcripts, include an affidavit. This affidavit is a formal letter from the transcriptionist. The transcriptionist needs to state:
 - That you fully paid for the transcripts. And,
 - When the transcripts will be completed.

10. Be Sure to Read: [Colorado Appellate Rule \(C.A.R.\) 10](#). You may view this 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 Transcripts - A list of transcripts for the record.
- Step 3: Record on Appeal – Case file, exhibits and transcripts.**
- Step 4: Opening Brief - Arguments for the appeal.
- Step 5: Answer Brief - *Optional* response to the appeal.
- Step 6: Reply Brief - *Optional* response to the Answer Brief.
- Step 7: Opinion - The Court of Appeals' decision.

Next Step

Read the [Step 4 - Opening Brief](#) instructions.