

Step 3: Record on Appeal

- 1. Purpose:** The Court of Appeals is a reviewing court and does not accept new evidence. The District Court must send the documents from your case to the Court of Appeals. These documents constitute the Record on Appeal.
- 2. What's in the Record:** Your Record on Appeal includes the case file, exhibits, and any orders. The Record may also include transcripts. See the [Step 2 Instructions](#) for more information on ordering transcripts.
- 3. Deadline:** Within 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 documents or transcripts to the Court of Appeals yourself.
- 5. Do the Following:** You do not send the Record on Appeal to the Court of Appeals. But, you are responsible for making sure it gets there. Here are common problems that might prevent the Record from being sent:
 - **No Notice of Appeal:** A copy of the Notice of Appeal (Step 1) must be filed with the District Court and the Court of Appeals.
 - **No Designation of Transcripts:** If you want transcripts included in the Record on Appeal, you must file a Designation of Transcripts (Step 2). This is the list of transcripts the parties' want included in the Record.
 - **Failure to 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.”

- **Failure to 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.

- **Failure to Pay for the Transcripts:** You must fully pay for the transcript. A transcriptionist will arrange payment after you submit the order form.

The state will only pay for transcripts if the District Court determines they are needed for the appeal. (See the [Motion for State Paid Transcripts - JDF 673](#)). You must also meet the income requirements to qualify.

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

7. 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 Add to the Record on Appeal - C.A.R. Form 9](#).
- **Where to File:** Only in the Court of Appeals.
- **What to include in the motion:** Be specific about what 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.

8. 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 666](#).
- **Where to File:** Only with the Court of Appeals.

- **Be Sure to Include:** If you need more time for the transcripts, include an affidavit. The affidavit is a formal letter from the transcriptionist. The transcriptionist needs to state:
 - You fully paid for the transcripts. And,
 - When the transcripts will be completed.

9. **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 - Packing list of documents.

Step 3: Record on Appeal – Case file, exhibits and transcripts.

Step 4: Opening Brief - Your written arguments.

Step 5: Answer Brief - Government's response.

Step 6: Reply Brief - Your reply to the government's response.

Step 7: Opinion - The Court of Appeals' decision.

Next Step

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