

ARTICLE III. THE RECORD

Rule 3-1. Preparation of the record.

(a) *Generally.* All records shall begin with the style of the court in which the controversy was heard, the name of the judge presiding when the decree, judgment or order was rendered and its date, the names of all the parties litigant, and the nature of the suit or motion. For example: "Trial before A.B., judge of the circuit court on the ____ day of _____, ____;

John Doe, Plaintiff

vs.

Action on Promissory Note"

Jane Doe, Defendant

(b) *Dates.* Whenever an order of the court is mentioned, the date shall be specifically stated, rather than by reference to the day and year "aforesaid".

(c) *Duplications.* No part of the record shall be copied more than once. When a particular record recurs, a reference should be made to pages in the preceding part of the record.

(d) *Depositions.* When depositions are taken on interrogatories and included in the record, the answers must be placed immediately after the questions to which they are responsive.

(e) *Record on second appeal.* When a cause has been once before the Court and a record is again required (for the purpose of correcting error which occurred on retrial), the second record shall begin where the former ended; that is, with the judgment of the appellate court, which should be entered of record in the circuit court, omitting the opinion of the appellate court. The appeal or supersedeas bond should be the last entry included.

(f) *Table of contents.* Every record shall include a table of contents, which refers to pages in the record where the matter identified is copied. For example:

.....

Exhibit A (note of J.B. to C.F.) Page 3
.....

Answer Page 4
.....

Exhibit B (deed from A to B) Page 5
.....

Decree (or judgment) Page 6
.....

(g) *Fee for index.* Clerks may add to their fee for the record a reasonable charge for these items where no charge is fixed by statute.

(h) *Record fee and costs certified.* The fee for the production of the record must be certified in all cases; in addition, all costs in the circuit court must be reported, and by whom paid.

(i) *Clerk's record and reporter's transcript — Paper size and preparation.* The transcript must be prepared in plain typewriting or computer or word processor printing of the first impression, not copies, on 8¹/₂" x 11" paper. The record, as defined in paragraph (m) [paragraph (n)] of this Rule, shall be fastened on the left of the page. All transcripts shall be prepared by certified court reporters and comport with the following rules:

- (1) No fewer than 25 typed lines on standard 8¹/₂" x 11" paper;
- (2) No fewer than 9 or 10 characters to the typed inch;
- (3) Left-hand margins to be set at no more than 1³/₄";
- (4) Right-hand margins to be set at no more than ³/₈";
- (5) Each question and answer to begin on a separate line;
- (6) Each question and answer to begin at the left-hand margin with no more than 5 spaces from the "Q" and "A" to the text;
- (7) Carry-over "Q" and "A" lines to begin at the left-hand margin;
- (8) Colloquy material, quoted material, parentheticals and exhibit markings to begin no more than 15 spaces from the left-hand margin with carry-over lines to begin no more than 10 spaces from the left-hand margin;

(9) All transcripts to be prepared in the lower case;

(10) All depositions prepared for use as evidence in any court to comply with these Rules, except that the left-hand margin is to be set at no more than $1\frac{3}{4}$ " and bound on the left.

(j) *Exhibits.* Documents of unusual bulk or weight shall not be transmitted by the clerk of the circuit court unless the clerk is directed to do so by a party or by the Clerk of the Court. Physical exhibits other than documents shall not be transmitted by the clerk of the circuit court except by order of the Court.

(k) *Folding of record.* Records must be transmitted to the Clerk without being folded or creased.

(l) *Surveys.* Real property surveys which form a part of the record shall not be fastened to the record.

(m) *Record in volumes.* Where the record is too large to be conveniently bound in one volume, it shall be divided into separate volumes of convenient size and numbered sequentially.

(n) *Definition of record.* The term "record" in civil cases, and as used in these Rules, refers only to the pleadings, judgment, decree, order appealed, transcript, exhibits, and certificates.

Rule 3-2. Items to be omitted from the record.

(a) *Generally.* The clerks of the circuit courts in making records to be transmitted to the Court, shall, unless excepted by the provisions of this Rule, include all matters in the record as required by Rule 3-1(n).

(b) *Summons.* In cases where the defendant has appeared, the clerk shall not set out any summons or other writ of process for appearance or the return thereof, but shall state: "Summons issued", (showing date) "and served", (showing date).

(c) *Amended pleadings.* In case of an amendment to the pleadings by substitution, the clerks shall treat the amended pleading as the only one and shall refrain from copying into the records any pleadings withdrawn, waived or superseded by amendment, unless it is expressly called for by a party's designation of the record.

(d) *Incidental matters.* Clerks shall not insert in the record any matter concerning the organization or adjournment of court, the impaneling or swearing of the jury, the names of jurors, including any motion, affidavit, or order or ruling in reference thereto, any continuance or commission to take testimony or the return thereto, any notice to take depositions or the caption or certificate of the officer before whom such depositions are taken, or any other incidental matter, unless it is expressly called for by a party's

designation of the record.

Rule 3-3. Record in civil cases.

Not all records in civil cases will have the same contents. To the extent possible, items will be arranged in the following sequence:

1. The Complaint;
2. Plaintiff 's exhibits which accompany the Complaint;
3. Statement regarding summons, set out in Rule 3-2(b);
4. Answer;
5. Defendant's exhibits which accompany the Answer;
6. Subsequent pleadings and orders in chronological order;
7. Final judgment, decree, or order appealed;
8. Post-judgment decree, order or motion (e.g., motions for new trial);
9. Orders granting or denying post-judgment motions;
10. Notice of appeal and designation of record;
11. Statement of points to be relied upon if abbreviated record designated;
12. Extensions of time to file record on appeal;
13. Stipulations to abbreviated records;
14. Narrative of testimony upon stipulations;
15. Depositions introduced;
16. Reporters' transcription of testimony;
17. Supersedeas bond;
18. Certificate, duly acknowledged;
19. Certificate of costs, indicating payor.

Rule 3-4. Record in criminal cases.

(a) *Order of record.* In all criminal cases, after the caption set forth in Rule 3-1, the record shall be organized in the following sequence:

1. Return of the indictment or information;
2. Defendant's pleadings;
3. Subsequent pleadings and orders in chronological order;
4. Final judgment and commitment or order appealed;
5. Motion for new trial, to set aside, amend, etc.;
6. Order granting or denying above motions;
7. Notice of appeal and designation of record;
8. Extensions of time to file record on appeal;
9. Reporters' transcription of testimony;
10. Appeal bond;
11. Certificate, duly acknowledged.

(b) *Record of jury matters.* The record shall not include the impaneling or swearing of the jury, the names of the jurors, or any motion, affidavit, order, or ruling in reference thereto unless expressly called for by a party's designation of the record.

(c) *Exhibits.* Photographs, charts, drawings and other documents that can be inserted into the record shall be included. Documents of unusual bulk or weight shall not be transmitted by the clerk of the circuit court unless the clerk is directed to do so by a party or by the Clerk of the Court. Physical evidence, other than documents, shall not be transmitted unless directed by an order of the Court.

Rule 3-5. Certiorari to complete the record.

(a) *Authorization for writ of certiorari.* When jurisdiction is conferred by filing, within the time allowed for appeal, a dated and certified copy of the order or judgment appealed from, the Clerk may, upon authorization by the Court, issue a writ of certiorari to the clerk of the circuit court, the reporter, or any other person charged with the duty of preparing the record on appeal, directing that any omissions or errors in the record be corrected.

(b) *Contents of writ.* The writ shall order that the record be completed and certified within thirty days, and the explanation for any default in complying with the writ must be

made on the return within the time directed. This procedure may be used in appeals of civil, criminal, and administrative agency or commission cases.

Rule 3-6. Disposal of record and exhibits.

(a) *Procedure to obtain — Failure to return.* Attorneys may obtain from the Clerk the record in a disposed of case by giving a receipt and may retain the record for a period of not more than thirty days. No extension of time will be granted until the record has been returned, and then only upon order of the Court. Upon failure to return the record within the time allotted, the Clerk shall demand its return. If the demand is not complied with within ten days, the delinquency shall be reported to the Court at which time a citation shall issue commanding the attorney to appear before the Court immediately and show cause why a citation for contempt should not issue.

(b) *Failure to claim exhibits in civil cases.* All exhibits filed in civil cases and not attached to the transcript, in the Supreme Court and Court of Appeals, must be claimed by the party who presented the exhibit to the circuit court and be removed from the Clerk's office within 90 days from the date the mandate is issued. The attorney receiving the exhibits must sign the docket showing their receipt. If an exhibit is not claimed within the 90 days, the Clerk may destroy or dispose of it after giving the parties, or the attorneys of record, 30 days notice of the Clerk's intention to do so.

(c) *Exhibits in criminal cases.*

(1) Exhibits in cases in which the mandate has been issued for more than five years shall be disposed of in the following manner:

(A) Physical exhibits consisting of weapons, in whatever form, shall be transferred to the U.S. Bureau of Alcohol, Tobacco & Firearms for disposal pursuant to Bureau policy.

(B) Controlled substances, in whatever form, shall be transferred to the Arkansas Department of Health for disposal pursuant to Department policy.

(C) All other exhibits, except those contained in the record, may be destroyed at the discretion of the Clerk.

(2) All exhibits shall be retained in cases that are subject to continuing litigation or in which the defendant received a sentence of death.

(3) Exhibits in cases which are reversed on appeal shall be transferred to the Office of the Prosecutor Coordinator when the mandate from the Court issues.