



Supreme Court

STATE OF ARIZONA

402 ARIZONA STATE COURTS BUILDING
1501 WEST WASHINGTON STREET
PHOENIX, ARIZONA 85007-3231
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NOËL K. DESSAINT
CLERK OF THE COURT

KATHLEEN E. KEMPLEY
CHIEF DEPUTY CLERK

September 18, 2006

RE: VARIOUS RULES RE VERBATIM RECORDING OF PROCEEDINGS
Arizona Supreme Court No. R-05-0037

GREETINGS:

The following action was taken by the Supreme Court of the State of Arizona on September 11, 2006, in regard to the above-referenced cause:

ORDERED: [Petition to Amend Various Rules of Procedure Relating to Verbatim Recording of Judicial Proceedings] = ADOPTED as modified, effective January 1, 2007.

Noel K Dessaint, Clerk

TO:

Jennifer A Greene, Administrative Office of the Courts
Hon Gary E Donahoe, Judge, Maricopa County Superior Court
JoJene E Mills, Law Office of JoJene Mills PC
Leslie A Baird, Court Reporter
Matthew J Smith, Mohave County Attorney
Joel P Borowiec, Borowiec & Borowiec
Stephen H Leshner, Leshner & Leshner PC
Peter B Keller
Jodie L Guhr, Court Reporter
Jeffery J Hernandez, Law Office of Jeffery J Hernandez
Jim L Johnston, Law Office of Jim L Johnston
W Bert Lundy, Court Reporter, Cochise County Superior Court
Don Stapley, Maricopa County Board of Supervisors
Michele E Balmer, Arizona Court Reporters Association
Hon Dan R Slayton, Judge, Coconino County Superior Court
Angela Miller, Court Reporter, Miller Certified Reporting LLC

Patricia A Connolly, Certified Reporter
Michael J Ryan, Broening Oberg Woods & Wilson PC
Theresa M Aguilar, Court Reporter, Graham County Superior Court
Thaddeus G Baker Jr
Teresa L Vos, Certified Reporter
Amy C Prellwitz-Fuller, Court Reporter, Maricopa County Superior Court
Karen R Bolton, Court Reporter, Maricopa County Superior Court
Michael A Babicky, Court Reporter, Maricopa County Superior Court
Tara L Kramer, Court Reporter, Maricopa County Superior Court
Lisa H Vitoff, Court Reporter, Maricopa County Superior Court
Marylynn LeMoine, Court Reporter, Maricopa County Superior Court
Margaret E Harcarik, Court Reporter
Linda C Lopez, Court Reporter, Maricopa County Superior Court
Rochelle Dobbins, Court Reporter, Maricopa County Superior Court
Scott M Coniam, Court Reporter, Maricopa County Superior Court
Penny S Heins, Court Reporter
Christy Berry
Robert B Van Wyck, Chief Counsel, State Bar of Arizona
Cindy A Benner, Court Reporter, Maricopa County Superior Court
Melinda S Setterman, Certified Reporter
Lisa Blanks, Court Reporter, Maricopa County Superior Court
Merilyn Marquardt-Sanchez, President, National Court Reporters Association
Juanita Mann, President, Arizona Association of Superior Court Clerks
Gary Pearlmutter, Coconino County Legal Defender
Traci L Wheeler, Court Reporter, Pinal County Superior Court
Marvin J Atwood, Certified Reporter
Melissa A Gonsalves, Court Reporter
Vivian L McClard, President, Arizona Court Reporters Association
John T Bouley, Certified Reporter
Richard T Treon, Treon Aguirre & Newman PA
Matt N Clifford, Law Office of Matt N Clifford
Patricia J Moore, Court Reporter, Clark Certified Court Reporters
Miguel A Benitez, Court Reporter, Maricopa County Superior Court
Judy A Gibbons, Court Reporter, Maricopa County Superior Court
Maricopa County Superior Court Court Reporters
Andrew P Thomas, Maricopa County Attorney
Attn: Philip J MacDonnell
Bryon Middlebrook, Bryon Middlebrook PC
Hon David L Phares, Presiding Judge, Gilbert/Queen Creek Municipal Court
Frederick M "Fritz" Aspey, Aspey Watkins & Diesel PLLC
Mark E Lassiter, Brown Lassiter & Killoughey PLC
Philip McCarthy Jr, McCarthy Weston PLLC
Louise E Farinech
Joseph H Watson, Law Offices of Joseph H Watson

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William R Preston Jr, Preston & Flick

Aaron L Schlesinger, Court Reporter, Cochise County Superior Court

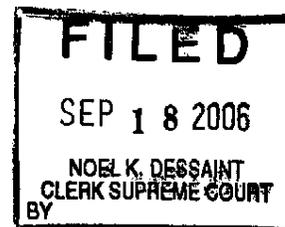
Kara Crosby, Deputy County Attorney, Pima County Attorney's Office

Final Rule Distribution List

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IN THE SUPREME COURT OF THE STATE OF ARIZONA

Supreme Court No. R-05-0037



**ORDER AMENDING
VARIOUS RULES OF PROCEDURE RELATING TO VERBATIM
RECORDING OF JUDICIAL PROCEEDINGS**

IT IS ORDERED that various rules of procedure relating to verbatim recording of judicial proceedings be amended in accordance with Attachments A through L hereto,* effective as of January 1, 2007.

DATED in the City of Phoenix, Arizona at the Arizona Courts Building, this 18th day of September, 2006.

For the Court:



RUTH V. MCGREGOR
Chief Justice

* Changes or additions in text are indicated by underscoring and deletions from text are indicated by ~~strikeouts~~.

Attachment A

ARIZONA RULES OF CIVIL PROCEDURE

* * *

Rule 16(b). Scheduling and Subjects to Be Discussed at Comprehensive Pretrial Conference in Non-Medical Malpractice Cases

Except in medical malpractice cases, upon written request of any party the court shall, or upon its own motion the court may, schedule a comprehensive pretrial conference. At any comprehensive pretrial conference under this rule, except for conferences conducted in medical malpractice cases, the court may:

(1)-(18) [No changes in text.]

(19) Determine how verbatim record of future proceedings in the case will be made.

Rule 16(c). Scheduling and Subject Matter at Comprehensive Pretrial Conferences in Medical Malpractice Cases

In medical malpractice cases, within five days of receiving answers or motions from all defendants who have been served, plaintiff shall notify the court to whom the case has been assigned so that a comprehensive pretrial conference can be set. Within 60 days of receiving that notice, the court shall conduct a comprehensive pretrial conference. At that conference, the court and the parties shall:

(1)-(12) [No changes in text.]

(13) Determine how verbatim record of future proceedings in the case will be made.

Rule 16(d). Joint Pretrial Statement: Preparation; Final Pretrial Conference

Upon the initiative of counsel for the plaintiff, counsel who will try the case and who are authorized to make binding stipulations shall confer and prepare a written pretrial statement, signed by each counsel, to be filed by the plaintiff within the time set by the court in the particular case, or by the applicable Local Rules of Practice, or if no time is set, then not less than five judicial days prior to the date of trial. Such pretrial statement shall contain the following:

(1)-(5) [No changes in text.]

(6) A statement by each party indicating any depositions intended to be offered by that party at the trial, indicating with respect thereto the portions to be offered and the party or parties against whom they will be offered. If any deposition or portion thereof is so offered and such deposition was not transcribed ~~stenographically~~, a ~~stenographic~~ certified transcript of the pertinent portions of the deposition testimony shall be prepared and submitted by the person so offering the deposition.

(7) A statement by each party on how a verbatim record of the trial will be made.

[No changes in remaining text.]

* * *

Rule 30(b). Notice of Examination; General Requirements; Special Notice; Method of Recording; Production of Documents and Things; Deposition of Organization; Deposition by Telephone

(1) Absent a stipulation of all parties to the action or an order of the court authorizing a briefer notice, a party desiring to take the deposition of any person upon oral examination shall give notice in writing to every other party to the action at least ten days prior to the date of the deposition. The notice shall state the date, time and place for taking the deposition, the technique for recording the deposition and the protocols to be used for such recording, the identity of the person recording the deposition, the placement of camera(s) if any, and the name and address of each person to be examined, if known, and, if the name is not known, a general description sufficient to identify the person or the particular class or group to which the person belongs, and the name and address of the person before whom the deposition shall be taken. If a subpoena duces tecum is to be served on the person to be examined, the designation of the materials to be produced as set forth in the subpoena shall be attached to or included in the notice.

If the deposition is to be recorded by audio or audio-video, the notice shall state the technique for recording the deposition and the protocols to be used for such recording, the identity of the person recording the deposition, and the placement of camera(s), if any.

(2)-(3) [No changes in text.]

(4) Unless the parties stipulate or the court orders otherwise, the deposition shall be recorded by a certified court reporter stenographic means and may also be recorded by audio or audio-video sound or sound and visual means. ~~The party taking the deposition shall bear the cost of the recording.~~

When a deposition is recorded only by a certified court reporter, the party taking the deposition shall bear the cost of the recording. If requested by one of the parties, the testimony shall be transcribed. If the testimony is transcribed, the party noticing the deposition or the party causing the deposition to be taken shall be responsible for the cost of the original transcript. A party may arrange to have a certified copy of the transcript made at the party's own expense. If audio or audio-video is additionally requested by one of the parties, the requesting party shall be responsible for the cost of such recording, and a party requesting an audio or audio-video copy of the deposition shall be responsible for the cost of the audio or audio-video copy.

When a deposition is recorded only by audio or audio-video means, the party noticing the deposition shall bear the cost of the recording. A party requesting an audio or audio-video copy of the deposition shall be responsible for the cost of the audio or audio-video copy. The stipulation or order shall designate the person before whom the deposition shall be taken, the manner of recording, preserving and filing the deposition, and may include other provisions to assure that the recorded testimony will be accurate and trustworthy. A party may arrange to have a stenographic certified transcription made at the party's own expense.

Any changes made by the witness, the witness' signature identifying the deposition as the witness' own or the statement of the officer that is required if the witness does not sign as

provided in subdivision (e), and the certification of the officer required by subdivision (f) shall be set forth in a writing to accompany a deposition ~~recorded by nonstenographic means.~~

Unless otherwise agreed by the parties, a deposition shall be conducted before an officer appointed or designated under Rule 28 and shall begin with a statement or notation on the record by the officer that includes (A) the officer's name, certification number, if any, and business address; (B) the date, time and place of the deposition; (C) the name of the deponent; (D) the administration of the oath or affirmation to the deponent; and (E) an identification of all persons present. The officer shall repeat items (A) through (C) at the beginning of each unit of recorded tape or other recording medium. The appearance or demeanor of deponents or attorneys shall not be distorted through camera or sound-recording techniques. At the end of the deposition, the officer shall state or note on the record that the deposition is complete and shall set forth any stipulations made by counsel concerning the custody of the transcript or recording and the exhibits, or concerning other pertinent matters.

(5)-(7) [No changes in text.]

Rule 30(c). Examination and Cross-Examination; Record of Examination; Oath; Objections

Examination and cross-examination of witnesses may proceed as permitted at the trial under the provisions of the Arizona Rules of Evidence. The examination shall commence at the time and place specified in the notice or within thirty minutes thereafter. And, unless otherwise stipulated or ordered, will be continued on successive days, except Saturdays, Sundays and legal holidays until completed. Any party not present within thirty minutes following the time specified in the notice of taking deposition waives any objection that the deposition was taken without that party's presence. The officer before whom the deposition is to be taken shall put the witness on oath and shall personally, or by someone acting under the officer's direction and in the officer's presence, record the testimony of the witness. If the deposition is taken telephonically and the witness is not physically in the presence of the officer before whom the deposition is to be taken, the officer may nonetheless place the witness under oath with the same force and effect as if the witness were physically present before the officer. The testimony shall be taken ~~stenographically or recorded by any other means ordered~~ in accordance with subdivision (b)(4) of this rule. ~~If requested by one of the parties, the testimony shall be transcribed. If the testimony is transcribed, the party noticing the deposition or the party causing the deposition to be taken shall be responsible for the cost of the original transcript.~~

[No changes in remaining text.]

* * *

Rule 30(e). Submission to Witness; Changes, Signing

Before completion of the deposition and if not otherwise informed by counsel, the officer shall advise a deponent of the right to review, modify, and sign the transcript or affirm the accuracy of the audio or video recording. If requested by the deponent or a party before completion of the deposition, the deponent shall have 30 days after being notified by the officer that the transcript or recording is available in which to review the transcript or recording and, if there are changes in form or substance, to sign a statement reciting such changes and the reasons given by the deponent for making them. The officer shall indicate in the certificate prescribed by

subdivision (f)(1) whether any review was requested and, if so, shall append any changes made by the deponent during the period allowed. If the witness does not submit such a statement or a written explanation why such statement cannot be submitted within the time period provided, the officer shall ~~state on the record~~ indicate in the certificate prescribed by subdivision (f)(1) or by affidavit the fact of the refusal to submit a statement with the reason therefore, if any, and the deposition may then be used as fully as though signed unless on a motion to suppress under Rule 32(d)(4) the court holds that the reasons given for the refusal to submit a statement require rejection of the deposition in whole or in part.

Rule 30(f). Certification and Delivery by Officer; Exhibits; Copies

(1) The officer must certify that the witness was duly sworn by the officer and that the deposition is a true record of the testimony given by the witness. This certificate must be in writing and accompany the record of the deposition. Unless otherwise ordered by the court, the officer must securely seal the deposition in an envelope or package endorsed ~~indorsed~~ with the title of the action and marked "Deposition of [here insert name of witness]" and must promptly send it to the attorney who arranged for the transcript or recording, who must store it under conditions that will protect it against loss, destruction, tampering, or deterioration. Documents and things produced for inspection during the examination of the witness must, upon the request of a party, be marked for identification and annexed to the deposition and may be inspected and copied by any party, except that if the person producing the materials desires to retain them the person may (A) offer copies to be marked for identification and annexed to the deposition and to serve thereafter as originals if the person affords to all parties fair opportunity to verify the copies by comparison with the originals, or (B) offer the originals to be marked for identification, after giving to each party an opportunity to inspect and copy them, in which event the materials may then be used in the same manner as if annexed to the deposition. Any party may move for an order that the original be annexed to and returned with the deposition to the court, pending final disposition of the case.

(2) Unless otherwise ordered by the court or agreed by the parties, ~~the officer shall retain stenographic notes and tapes of any deposition and a copy of the recording of any deposition taken by another method for a period of ten years which shall be retained by the officer in such place and manner as to ensure their availability to the court or any party upon request~~ the certified court reporter shall preserve the record of any deposition for a period of time corresponding to the applicable records retention and disposition schedules adopted by the Supreme Court. Upon payment of reasonable charges therefor, the ~~officer~~ certified court reporter shall furnish a copy of the transcript ~~or other recording~~ of the deposition to any party or to the deponent.

If the record of the deposition is created solely by audio or audio-video means, and unless otherwise ordered by the court or agreed by the parties, the officer shall retain the original recording of any deposition for a period of time corresponding to the applicable records retention and disposition schedules adopted by the Supreme Court in such place and manner as to ensure its availability to the court or any party upon request. Upon payment of reasonable charges therefor, the officer shall furnish a copy of the recording of the deposition to any party or to the deponent.

(3) [No changes in text.]

* * *

Rule 32(a). Use of Depositions

At the trial or at any hearing, any part or all of a deposition, so far as admissible under the rules of evidence applied as though the witness were then present and testifying, may be used against any party who was present or represented at the taking of the deposition or who had reasonable notice thereof, and had an opportunity and similar motive to develop the testimony by direct, cross, or redirect examination. The party who seeks admission of ~~said~~ the testimony by deposition may do so without proof of the deponent's unavailability to testify at trial. Nothing contained in this Rule shall be construed to limit, in any way, the right of any party to call the deposed witness to testify in person at trial.

If only part of a deposition is offered in evidence by a party, the court may require the offeror to introduce contemporaneously any other part which ought in fairness to be considered together with the part introduced.

Except as provided in Rule 56(e), the use of the deposition transcript may be supplemented with contemporaneously recorded audio and video files that may be synchronized to the deposition transcript, if any.

Substitution of parties pursuant to Rule 25 does not affect the right to use depositions previously taken; and, when an action has been brought in any court of the United States or of any state, and another action involving the same subject matter is afterward brought between the same parties or their representatives or successors in interest, all depositions lawfully taken and duly filed in the former action may be used in the latter as if originally taken therefor. A deposition previously taken may also be used as permitted by the Arizona Rules of Evidence.

* * *

Rule 51(b). Instructions to jury; notations; filing transcript

1. [No changes in text.]

2. The written instructions shall be filed among the papers in the action and constitute a part of the record. At the request and cost of either party, the entire instructions given by the court shall be transcribed by the certified court reporter or authorized transcriber and filed with the clerk.

3. The court's preliminary and final instructions on the law shall be in written form and a copy of the instructions shall be furnished to each juror before being read by the court. Upon retiring from deliberations the jurors shall take with them all jurors' copies of final written instructions given by the court. In limited jurisdiction courts, the court may record jury instructions ~~on audiotape~~ electronically and provide these ~~audio~~ instructions to the jury for their use during deliberations.

* * *

Rule 55 (f). Judgment when service by publication; statement of evidence

Where service of process has been made by publication and no answer has been filed within the time prescribed by law, judgment shall be rendered as in other cases, but a ~~reporter's transcript certified by the reporter as correct~~ record of the proceedings, in a form approved by the

court, shall be filed as a part of the record maintained by the clerk of the court unless designated otherwise by the court.

* * *

Rule 74. Rulings by arbitrator; hearing; evidence and procedure.

(a)-(i) [No changes in text.]

(j) **Record of proceedings.** The arbitrator shall not be required to make a record of the proceedings. If any party desires ~~the presence of a reporter to make a verbatim record of the proceedings,~~ such party shall pay for and provide for the reporter recording. The charges of the ~~reporter recording~~ shall not be considered costs in the case.

(k) [No changes in text.]

* * *

Attachment B

ARIZONA RULES OF CRIMINAL PROCEDURE

* * *

Rule 5.2. Summoning of witnesses and record of proceedings

The magistrate shall issue process to secure the attendance of witnesses and, shall provide for a verbatim record of proceedings, which may be by a certified court reporter, electronic, or other means in the discretion of the Presiding Judge of the Superior Court unless a certified court reporter is requested by a party. Such request for a certified court reporter shall be honored unless the court is in a geographic location where certified court reporters are not reasonably available.

* * *

Rule 5.5. Review of preliminary hearing.

a.-b. [No changes in text.]

c. **Evidence.** Review of the evidence shall be limited to the certified transcript of the proceedings.

d. [No changes in text.]

Rule 5.6. Transmittal and transcription of record.

Within 3 days after waiver or conclusion of the preliminary hearing, the magistrate shall transmit the ~~audiotape or videotape~~ verbatim record of the preliminary hearing, if any, all papers and records in the case, and a prescribed transmittal form, to the clerk of the Superior Court. No ~~audiotape, videotape or court reporter's notes of the preliminary hearing~~ verbatim record shall be transcribed absent a written request by a party avowing that there is a material need for the transcript, in which case a certified transcript shall be filed in Superior Court no later than 20 days after receipt of such request. Failure to timely file this certified transcript may be treated as a contempt of court.

Rule 5.7. Preservation of recording.

The clerk shall retain and preserve any ~~audiotape or videotape~~ electronic recording of a preliminary hearing in the same manner as required for the original notes of a certified court reporter pursuant to Rule 28.1(c), Rules of Criminal Procedure.

* * *

Rule 12.5. Persons authorized to be present during sessions of the grand jury

No person other than the witness under examination, counsel for the witness if the witness is a person under investigation by the grand jury, prosecutors authorized to present evidence to the grand jury, the certified court reporter, and the interpreter, if any, shall be present during sessions of the grand jury. No person other than the grand jurors shall be present during their deliberation and voting.

* * *

Rule 12.8. Record of proceedings before grand jury

a. Reporter. The presiding or impaneling judge shall assign a regularly appointed certified court reporter to record the proceedings before the grand jury, except ~~their~~ its deliberations.

b. Foreman. The foreman of the grand jury shall keep a record of the numerical count of the grand jury vote for and against such indictment. The foreman's record of the vote from which an indictment is returned shall be transcribed and filed with the clerk of the superior court no later than 20 days following the return of the indictment and made available to the prosecution and defendant only.

c. Filing of the Transcript and Minutes. The certified court reporter's ~~notes containing verbatim record of~~ the proceedings from which an indictment is returned ~~and the foreman's record of the vote~~ shall be transcribed and filed with the clerk of the superior court no later than 20 days following the return of the indictment and ~~such record and~~ the certified transcript shall be made available to the prosecution and defendant only.

Rule 12.9. Challenge to grand jury proceedings

a. [No changes in text.]

b. Timeliness. A motion under Rule 12.9(a) may be filed only after an indictment is returned and no later than 25 days after the certified transcript and minutes of the grand jury proceedings have been filed or 25 days after the arraignment is held, whichever is later.

* * *

Rule 15.3. Depositions

a.-c. [No changes in text.]

d. Manner of Taking. Except as otherwise provided herein or by order of the court, depositions shall be taken in the manner provided in civil actions. With the consent of the parties, the court may order that a deposition be taken on written interrogatories in the manner provided in civil actions. Any statement of the witness being deposed which is in the possession of any party shall be made available for examination and use at the taking of the deposition to any party who would be entitled thereto at trial. A deposition may be recorded by other than ~~stenographic means, such as, by an audio recording device~~ a certified court reporter. If a deposition is recorded by other than ~~stenographic means~~ a certified court reporter, the party taking the deposition shall provide the opposing party with a copy of the recording within 14 days after the taking of the deposition or not less than 10 days before trial, whichever is earlier. The parties may stipulate, or the court may order, that a deposition be taken by telephone, consistent with the provision of Rule 15.3(d).

e.-f. [No changes in text.]

Rule 15.9. Appointment of investigators and expert witnesses for indigent defendants

a. [No changes in text.]

b. Ex Parte Proceeding. No ex parte proceeding, communication, or request may be considered pursuant to this rule unless a proper showing is made concerning the need for confidentiality. Any such proceeding, communication, or request shall be ~~transcribed~~ recorded verbatim and made a part of the record available for appellate review.

c.-d. [No changes in text.]

* * *

Rule 16.3. Procedure on omnibus hearings

a.-d. [No changes in text.]

e. Record of Proceedings. All proceedings at the omnibus hearing shall be ~~reported~~ recorded verbatim.

f. [No changes in text.]

* * *

16.4. Mandatory prehearing conference

a. [No changes in text.]

(b) Request for Court Reporter. Among other issues to be addressed by the parties and reported to the court is a determination of how a verbatim record of future proceedings in the case will be made.

~~(b)~~(c) [No changes in text.]

~~(e)~~(d) [No changes in text.]

* * *

Rule 26.2. Time of rendering judgment

a.-c. [No changes in text.]

d. Factual Determination. In the event the trial court did not make an affirmative finding of a factual basis for the plea pursuant to Rule 17.3, before the entry of the judgment of guilt the trial court shall make such determination. One or more of the following sources may be considered: statements made by the defendant; police reports; certified ~~reporter's~~ transcripts of the proceedings before the grand jury; and other satisfactory information.

* * *

Rule 26.11. Duty of the court after pronouncing sentence

After trial, the court shall, in pronouncing judgment and sentence,:

a. [No changes in text.]

b. If he or she is entitled thereto, advise the defendant that:

(1) [No change in text.]

(2) If the defendant is unable to pay for a certified copy of the record on appeal and the reporter's certified transcript, they will be provided by the county.

c. [No changes in text.]

* * *

Rule 27.8. Revocation of probation

a.-e. [No changes in text.]

f. **Record.** A ~~complete~~ record of the revocation arraignment, violation hearing and disposition hearing shall be made.

* * *

Rule 27.10. Revocation of probation in absentia

a.-e. [No changes in text.]

f. **Record of proceedings.** A ~~complete~~ record shall be made of all proceedings at the revocation hearing in absentia.

* * *

Rule 31.2. Notice of appeal; automatic appeal; joint appeals

a. [No changes in text.]

b. **Automatic Appeal When Defendant is Sentenced to Death.** When a defendant has been sentenced to death, the clerk, pursuant to Rule 26.15, shall file a notice of appeal on his behalf at the time of entry of judgment and sentence. Such notice shall be sufficient as a notice of appeal by the defendant with respect to all judgments entered and sentences imposed in the case. Within 10 days after the filing of the notice of appeal in any capital case, the clerk of the superior court shall notify all authorized transcribers assigned to transcribe any portion of the proceedings that they are required to transmit their portions of the certified transcript to the clerk of the supreme court.

c.-e. [No changes in text.]

f. Service of the Notice of Appeal.

(1) *When Defendant Appeals.* When a defendant appeals, within 8 days of the filing of the notice of appeal, the clerk of the trial court shall send a copy of the notice of appeal to the prosecutor of the county in which the defendant was tried, to the attorney general, to each co-defendant at trial who is not a joint-appellant and defendant's counsel of record, if any, to the appropriate certified court reporter or reporters, or to the court's designated transcript coordinator, if the record was made by electronic or other means, and to the clerk of the proper Appellate Court.

(2) *When the State Appeals.* When the state appeals or cross-appeals, within 8 days of the filing of the notice of appeal, the clerk of the trial court shall send a copy of the notice of appeal to each defendant and defendant's counsel of record, if any, to the appropriate certified court reporter or reporters, or to the court's designated transcript coordinator, if the

record was made by electronic or other means, and to the clerk of the proper Appellate Court.

(3)-(4) [No changes in text.]

g. [No changes in text.]

* * *

Rule 31.4. Motion to stay appeal; notice of reinstatement of appeal; consolidation of appeals

a. Motion to Stay Appeal; Notice of Reinstatement of Appeal.

(1) The appellate court, on motion of a party or on its own initiative, may stay an appeal while a motion under Rule 24 or a petition under Rule 32 is pending. If a stay is ordered, the clerk of the appellate court shall notify all parties, the clerk of the trial court, and, if the certified transcript has not yet been filed, the appropriate ~~court reporters~~ authorized transcribers.

(2) [no changes]

b. [No changes in text.]

Rule 31.5. Appeals by indigents

a. Determination of Indigency.

(1) A defendant who had appointed counsel at the determination of guilt or at sentencing may proceed on appeal as an indigent without further authorization, unless, after a notice of appeal is filed, the trial court finds that the defendant is now able to employ counsel and pay for a certified copy of the record on appeal and the ~~reporter's~~ certified transcript.

(2) [No changes in text.]

b.-c. [No changes in text.]

d. Notice to Clerk of the Appellate Court and to the Certified Court Reporter or to the Court's Designated Transcript Coordinator. A copy of any order or decision made under this rule shall be sent to the parties, the clerk of the appellate court and to the appropriate certified court reporter or reporters, or to the court's designated transcript coordinator, if the record was made by electronic or other means.

* * *

Rule 31.7. Docketing in the appellate court; designation of the parties

a. Docketing the Appeal. Within 5 10 days after filing the notice of appeal, the clerk of the Appellate Court shall docket the appeal.

b. [No changes in text.]

Rule 31.8. The record on appeal; transcript; duty of the ~~court reporter~~ authorized transcriber

a. Composition of the Record on Appeal; Additions; Deletions.

(1) *Composition.* The record on appeal to the appellate court shall be a certified copy of the transcript, all documents, papers, books and photographs introduced into evidence, and all pleadings and documents in the file— (other than subpoenas and praecipes not specifically designated) shall constitute the record on appeal, and if authorized by the appellate court, an electronic recording of the proceeding.

(2) *Additions and deletions.*

(i) By the Appellant. Within 5 days after the filing of the notice of appeal the appellant may file with the clerk of the trial court a designation to include in the record the subpoenas and praecipes ~~he or she~~ appellant deems necessary, and to delete from the record all the documents, papers, books and photographs he or she deems unnecessary.

(ii) By the Appellee. Within 12 days after the filing of the notice of appeal the appellee may file with the clerk of the trial court a designation to include in the record those subpoenas and praecipes ~~he or she~~ appellee deems necessary, and any document, paper, book or photograph deleted by the appellant.

(iii) [No changes in text.]

b. Certified Transcript: Composition, Additions and Exclusions.

(1) For the purpose of these rules, an “authorized transcriber” is a certified court reporter or a transcriber under contract with an Arizona court.

~~(1)(2)~~ *Composition.* Except in cases where the death penalty has been imposed, ~~the transcript shall consist of the reporter’s~~ a certified transcript of the following proceedings shall be provided:

(i)-(v) [No changes in text.]

~~(2)(3)~~ *Composition where the death penalty has been imposed.* The certified transcript shall consist of the reporter’s transcript of all recorded proceedings at which a court reporter was present, including grand jury proceedings.

~~(3)(4)~~ *Additions and deletions.* Within 5 days after the filing of the notice of appeal, the appellant may request the certified court reporter or the court’s designated transcript coordinator, if the record was made by electronic or other means, to add to the certified transcript any proceeding not automatically included, and to exclude from the certified transcript any portion of the proceedings the appellant deems unnecessary for the proper hearing of his or her appeal.

Within 12 days after the filing of the notice of appeal, the appellee may request the certified court reporter or the court’s designated transcript coordinator, if the record was made by electronic or other means, to add to the certified transcript any portion deleted by the appellant or not automatically included under paragraph (1).

c. [No changes in text.]

d. Duty of the Court Reporter Authorized Transcriber; Payment for Certified Transcript; Number of Copies.

(1) The ~~court reporter~~ authorized transcriber shall prepare the certified transcript promptly upon receipt of a notice of appeal by the state or a notice of appeal indicating that the appellant proceeded as an indigent at the determination of guilt or at sentencing.

(2) Within 5 days after the filing of the notice of appeal or within 5 days after denial or a request to proceed as an indigent, an appellant who is not proceeding as an indigent shall make arrangements with the ~~court reporter~~ authorized transcriber to pay for the certified transcript. Thereupon the ~~court reporter~~ authorized transcriber shall promptly prepare the certified transcript. The ~~court reporter~~ authorized transcriber shall notify the appellate court if the appellant fails to make satisfactory arrangements within the prescribed time.

(3) The ~~court reporter~~ authorized transcriber shall promptly make any additions and deletions requested by the parties.

(i) For non-electronically filed transcripts. The ~~court reporter~~ authorized transcriber shall prepare an original and two copies of the certified transcript unless further copies are ordered. The ~~court reporter~~ authorized transcriber shall file the original certified transcript with the clerk of the appellate court within the time for the clerk to file the record pursuant to Rule 31.9(a). When the state is the appellee the ~~court reporter~~ authorized transcriber shall send one copy of the certified transcript to the Office of the Attorney General. When the state is the appellant, the ~~court reporter~~ authorized transcriber shall send one copy of the certified transcript to the agency that prosecuted the case in Superior Court. The ~~court reporter~~ authorized transcriber shall file-submit the copy for the defendant ~~with-to~~ the clerk of the Superior Court, who will retain the copy for release to the defendant's appellate counsel or to the defendant if he or she is proceeding *pro se*, unless there is a local rule or administrative order providing otherwise, in which case the ~~court reporter~~ authorized transcriber shall distribute the defendant's copy as provided by such rule or order. Notice of service of the certified transcript shall be filed with the appellate court reflecting when and upon whom service was made.

(ii) For electronically filed transcripts. In courts that accept electronic filings, the authorized transcriber shall file the original certified electronic transcript with the clerk of the appellate court within the time for the clerk to file the record pursuant to Rule 31.9(a). When the state is the appellee, the authorized transcriber shall send an electronic copy of the certified transcript to the Office of the Attorney General and the appropriate county attorney's office, if any. When the state is the appellant, the authorized transcriber shall send an electronic copy of the certified electronic transcript to the agency that prosecuted the case in Superior Court. The authorized transcriber shall submit the electronic transcript for the defendant to the clerk of the Superior Court, who will provide the electronic transcript to the defendant's appellate counsel or to the defendant if he or she is proceeding pro se. If a paper transcript is required or requested in lieu of an electronic transcript, the authorized transcriber shall submit the paper copy for the defendant to the clerk of the Superior Court, who will retain the copy for release to the defendant's appellate counsel or to the defendant if he or she is

proceeding pro se, unless there is a local rule or administrative order providing otherwise, in which case the authorized transcriber shall distribute the defendant's copy as provided by such rule or order. Notice of service of the certified transcript shall be lodged with the appellate court reflecting when and upon whom service was made.

(iii) Retention of transcript copies. Copies of transcripts retained under this rule shall be retained for 90 days.

e. Responsibility for payment. Non-indigent parties shall pay for all portions of the record on appeal and certified transcript which they have designated or requested. In addition, non-indigent appellants shall pay for those portions of the record on appeal and certified transcript required under Sections (a)(1), (b)(1), and (b)(2) and not deleted.

f. [No changes in text.]

g. Agreed Statement as the Record on Appeal. In lieu of the record on appeal as defined above, the parties may prepare and sign a statement of the case showing how the issues presented by the appeal arose and were decided in the trial court, setting forth only so many of the facts averred and proved or thought to be proved as are essential to a decision of the issues presented. Notice that a statement is being prepared shall be served promptly on the appropriate ~~court reporter or reporters~~ authorized transcriber and on the clerk of the trial court.

The agreed statement shall be submitted for the trial court's approval within 20 days of the filing of the notice of appeal. The court may make such additions as it considers necessary fully to present the appeal.

h. [No changes in text.]

Rule 31.9. Transmission of the record

a. Time for Transmission. Within 45 days after the filing of the notice of appeal, the clerk of the superior court shall transmit to the appellate court a copy of the pleadings, documents, and minute entries, and the original paper and photographic exhibits of a manageable size filed with the clerk of the superior court. ~~Within 10 days after the filing of the notice of appeal in any capital case, the clerk of the superior court shall notify all certified court reporters who reported any portion of the record that the reporters are required to transmit their portions of the record to the clerk of the supreme court.~~

b. Duty to Certify and Transmit the Record. After certifying that it is true, correct, and complete as ordered, the clerk of the trial court and the ~~court reporter or reporters~~ authorized transcriber shall transmit to the clerk of the appellate court the portions of the record on appeal for which ~~they are~~ each is responsible. Each shall number the items comprising ~~his~~ that portion of the record on appeal and shall transmit with that portion a list of the items so numbered.

c. Extension and Reduction of Time for Transmission of the Record. The appellate court, on a showing of good cause, may grant one extension of the time for transmitting the record on appeal which shall not exceed 20 days or it may require the record to be transmitted at any time within the prescribed period. A copy of any order issued under this section shall be sent to the parties, the clerk of the trial court, and to the ~~appropriate court reporter or reporters~~ requesting authorized transcriber.

d. [No changes in text.]

* * *

Rule 31.15. Motion to dismiss

a.-b. [No changes in text.]

c. **Notice of Dismissal.** The clerk of the appellate court shall give prompt notice of dismissal of an appeal to the parties, the clerk of the trial court, and if the certified transcript has not yet been filed, to the appropriate ~~court reporter or reporters~~ authorized transcribers.

* * *

Rule 32.4. Commencement of proceedings

a.-c. [No changes in text.]

d. **Transcript Preparation.** If the ~~transcripts of the~~ trial court proceedings have not been previously transcribed, the defendant may request on a form provided by the clerk of court that ~~the~~ certified transcripts be prepared. The court shall expeditiously review the request and order only those transcripts prepared that it deems necessary to resolve the issues to be raised in the petition. The preparation of the transcripts shall be at county expense if the defendant is indigent. The time for filing of the petition shall be tolled from the time a request for the transcripts is made until the transcripts are prepared or the request is denied. Certified transcripts shall be prepared and filed within sixty days of the order granting the request.

e.-f. [No changes in text.]

* * *

Rule 32.8. Evidentiary hearing

a. **Evidentiary Hearing.** The defendant shall be entitled to a hearing to determine issues of material fact, with the right to be present and to subpoena witnesses. If facilities are available, the court may, in its discretion, order the hearing to be held at the place where the defendant is confined, giving at least 15 days notice to the officer in charge of the confinement facility. In superior court, ~~a complete record of the hearing shall be made~~ recorded.

b.-d. [No changes in text.]

e. **Transcript.** The court may, and shall upon request of a party within the time for filing a petition for review, order that a certified transcript of the evidentiary hearing be prepared. The preparation of the evidentiary hearing transcript shall be at county expense if the defendant is indigent.

Rule 32.9. Review

a.-b. [No changes in text.]

c. **Petition for Review.** Within thirty days after the final decision of the trial court on the petition for post-conviction relief or the motion for rehearing, any party aggrieved may petition the appropriate appellate court for review of the actions of the trial court. A cross-petition for review may be filed within 15 days after service of a petition for review. The petition for review,

cross-petition and all responsive pleadings filed pursuant to this rule shall be filed in the appellate court. Within 3 days after filing a petition or cross-petition for review, the petitioner and cross-petitioner, if any, shall file a notice of such filing with the trial court. The notice of filing may include a designation of record adding to the record defined in Rule 32.9(e) any additional certified transcripts of trial court proceedings that were prepared pursuant to Rule 32.4(d) or that were otherwise available to the trial court and the parties and that are material to the issues raised in the petition for review. Motions for extensions of time to file petitions or cross-petitions shall be filed in and ruled upon by the trial court. All other motions shall be filed in the court in which the petition is to be filed.

1.-2. [No changes in text.]

d. [No changes in text.]

e. **Filing of the Record.** In Rule 32 of-right and non-capital cases, within 45 days after the receipt of the notice of filing of a petition for review, the record, including the trial court file and the ~~reporter's~~ certified transcript, shall be transmitted to the appellate court.

In capital cases, the record of the post-conviction proceedings shall not be transmitted to the appellate court unless requested by that court. If requested by the appellate court, the record shall consist of copies of the notice of post-conviction relief, the petition for post-conviction relief, response and reply, all motions and responsive pleadings filed and all minute entry orders issued in the post-conviction proceedings, plus the ~~reporter's~~ certified transcript and any exhibits admitted by the trial court in the post-conviction proceedings.

f.-h. [No changes in text.]

* * *

Attachment C

RULES OF THE SUPREME COURT

* * *

Rule 30. Verbatim Recording of Judicial Proceedings

(a) Transcripts of court proceedings; standards. A transcript is a document containing a verbatim record of the spoken words of a court proceeding prepared from either the certified reporter's notes or other verbatim record of the proceeding. Transcripts certified for use by any court shall be:

1. Prepared and certified by an authorized transcriber in accordance with the standards set forth in the Arizona Manual of Transcript Procedures. The current version of this manual is available from the Administrative Office of the Courts.

2. For purposes of this rule, an "authorized transcriber" means:

- a. a certified reporter;
- b. an individual or a transcription service under contract with an Arizona court; or
- c. An individual employed by a court whose official duties include the preparation of transcripts.

(b) Use of Court Reporting Resources.

1. Request for certified reporter. Any party to any action in superior court may request that any proceeding in that action be recorded by a certified court reporter. The court shall grant the request if it is made at least three days prior to the proceeding to be recorded unless a different time frame has been established by local rule.

2. Making the record in the absence of a timely request for a court reporter. Except as provided in (C) below, in the absence of a timely request for a certified court reporter the record will be made in a manner within the sound discretion of the court.

3. Proceedings requiring a certified court reporter. The following proceedings shall be recorded by a certified court reporter and not solely by electronic means, unless this requirement is waived by the parties and the court approves the waiver:

- a. Grand jury proceedings;
- b. All proceedings in a first degree murder case, pursuant to A.R.S. §13-1105, once the intention to seek the death penalty notice has been filed;
- c. Felony jury trials;
- d. Initial determinations of sexually violent person status, pursuant to A.R.S. §36-3706;

e. Proceedings on a request for authorization of abortion without parental consent, pursuant to A.R.S. §36-2152.

4. Official record. When an Arizona-certified court reporter records a proceeding in a superior court that is simultaneously recorded by electronic recording equipment, the court reporter's record shall be the official record. The transcript in any case certified by the reporter or other authorized transcriber shall be deemed prima facie a correct statement of the testimony taken and proceedings had. No transcripts of the proceedings of the court shall be considered as official except those made from the records certified by the reporter or other authorized transcriber.

Comment

Rule 30(a). This rule is not intended to prevent a party from retaining a transcriber, at the party's expense, to prepare an unofficial transcript of all or part of a proceeding. An unofficial transcript cannot be referenced or used in any court proceeding.

Rule 30(b)(2). In the absence of a timely request for a certified court reporter, the court may approve use of a certified court reporter, audio or video recording. In exercising its discretion under subsection (B), giving due deference to the parties' preference, the court may consider the following factors: availability of a certified reporter; the probability that a transcript will be requested; the number of litigants; convenience of the parties and the court's schedule; sufficiency of another form of record to convey the substance of the matters discussed at the proceeding; whether testimonial evidence will be presented at the proceeding; presence of non-native English speakers as witnesses or parties; the likelihood that technical or otherwise difficult terminology will be used; the need for formal or informal proceedings; the need for a real-time transcript; the likelihood that daily transcripts will be required; and any other factor which in the interests of justice warrants a particular form of record, or as otherwise required to serve the interests of justice.

* * *

Rule 32. Organization of State Bar of Arizona

(a)-(i) [No changes in text.]

(j) **Formal Requirements of Filings—Papers Filed.** ~~All transcripts of testimony verbatim records and all copies of recommendations, documents, papers, pleadings, reports and records required or permitted by any provision of these rules relating to admission, discipline, disability, and reinstatement may be either typewritten, or electronically prepared, or copied by a any mechanical duplicating process that is clear, and legible, or audible. An original is not and if prepared by duplicating process no original typewritten copy shall be required.~~

(k)- (l) [no changes]

* * *

Rule 46. Jurisdiction in Discipline and Disability Matters; Definitions

(a)-(e) [No changes in text.]

(f) Definitions. Where the context so requires, the following definitions shall apply to the interpretation of these rules relating to discipline, disability and reinstatement of lawyers:

1.-11. [No changes in text.]

12. "Expenses" means all obligations in money, other than costs, necessarily incurred by the state bar and the disciplinary clerk's office in the performance of their duties under these rules. Expenses shall include, but are not limited to, administrative expenses, necessary expenses of hearing officers, commission members, bar counsel or staff, charges of expert witnesses, charges of certified court reporters and all other direct, provable expenses.

13.-17. [No changes in text.]

18. "Record" means the complaint and accompanying panelists' order of probable cause, or other document that commences formal discipline, disability or reinstatement proceedings, or contempt proceedings and every later-filed document or exhibit. Certified transcripts ~~Tape recordings~~ shall ~~not~~ be submitted to the court as part of the record unless the court directs otherwise in a specific case.

19.-21. [No changes in text.]

Rule 47. Rules of Procedure

(a)-(f) [No changes in text.]

(g) Transcript of Hearings. The disciplinary clerk shall cause a record to be made, by ~~stenographic~~ certified court reporters or electronic means, of all evidentiary hearings and oral arguments or upon request of the hearing officer or the parties. Testimony recorded by electronic means is admissible for the same purposes as transcripts ~~provided by certified court reporters~~. After the conclusion of each evidentiary hearing or oral argument in a contested case, the disciplinary clerk shall obtain and file one (1) copy of the ~~written~~ certified transcript of the hearing and serve a copy on bar counsel and respondent. A ~~written~~ certified transcript of an evidentiary hearing before a hearing officer that involves a tender of admissions and agreement for discipline by consent may be secured and filed by the disciplinary clerk only upon the request of the hearing officer, the respondent or bar counsel, the commission or the court. The disciplinary clerk may also cause a record to be made of meetings and oral arguments before the commission. The costs to the disciplinary clerk of the services of a certified court reporter and certified transcripts may be included in the costs of adjudication that are assessed against the respondent pursuant to Rule 60(b).

(h)-(i) [No changes in text.]

(j) Informal Request for Information.

1. [No changes in text.]

2. *Imposition of Costs.* When a lawyer's failure to cooperate results in a deposition being conducted pursuant to the preceding subsection (h)(1), the lawyer shall be liable for the actual costs of conducting the deposition, including but not limited to service fees, certified court reporter fees, travel expenses and the cost of transcribing the deposition,

regardless of the ultimate disposition of the discipline proceeding. Upon application of chief bar counsel to a panelist, itemizing the costs and setting forth the reasons necessitating the deposition, and after giving the lawyer ten (10) days to respond, the panel shall, by order, assess such costs as appear appropriate against the lawyer. Commission review of an order assessing costs under this rule may be had.

(k)-(l) [No changes in text.]

* * *

Rule 56. Discipline by Consent

(a)-(d) [No changes in text.]

(e) **Hearing Officer Report.** Within thirty (30) days of the submission of an agreement and joint memorandum or the conclusion of an evidentiary hearing, if one is held, and receipt of the certified transcript, the hearing officer shall file a report with the disciplinary clerk and serve a copy on the parties. The report shall recommend acceptance, rejection or modification of the proposed agreement and shall address the proportionality of the sanction to be imposed.

1.-3. [No changes in text.]

(f) [No changes in text.]

Rule 57. Formal proceedings

(a)-(i) [No changes in text.]

(j) **Report.** Within thirty (30) days after receiving the certified transcript, the hearing officer shall prepare and file with the disciplinary clerk a written report containing findings of fact, conclusions of law and recommendations regarding discipline, together with a record of the proceedings. The hearing officer shall serve a copy of the report on respondent and on bar counsel. For good cause shown, a hearing officer may request that the chair of the commission, or the chair's designee, grant an extension of time within which to file the report. If no appeal is timely filed, the decision of the hearing officer is final as to any dismissal, diversion, informal reprimand, assessment of costs and expenses, probation and restitution, if not part of a sanction which includes disbarment, suspension or censure.

(k) [No changes in text.]

* * *

Rule 65. Reinstatement; Application and Proceedings

(a) [No changes in text.]

(b) **Reinstatement Proceedings.**

1.-2. [No changes in text.]

3. *Hearing Officer Report.* Within thirty (30) days after receiving the certified transcript, the hearing officer shall file a report containing findings of fact and a recommendation concerning reinstatement with the commission, which shall include a

record of the proceedings. The hearing officer shall serve a copy of the report on the parties.

4.-5. [No changes in text.]

* * *

Rule 78. Initial Proceedings

(a) [No changes in text.]

(b) Screening and Investigation. Upon the commencement of an unauthorized practice of law proceeding against a respondent, the matter shall proceed as provided in this section.

1.-2. [No changes in text.]

3. [No changes in text.]

A. [No changes in text.]

B. *Imposition of Costs.* When a respondent's failure to cooperate results in a deposition being conducted pursuant to the preceding subsection (b)(3)(A), the respondent shall be liable for the actual costs of conducting the deposition, including but not limited to service fees, certified court reporter fees, travel expenses and the cost of transcribing the deposition, regardless of the ultimate disposition of the unauthorized practice of law proceeding. Upon application of chief bar counsel to a panelist, itemizing the costs and setting forth the reasons necessitating the deposition, and after giving the respondent ten days to respond, the panel shall, by order, assess such costs as appear appropriate against the respondent. An order assessing costs under this rule may be appealed to the superior court.

4.-5. [No changes in text.]

(c) [No changes in text.]

* * *

Rule 91. Superior Courts and Clerks

(a)-(g) [No changes in text.]

(h) Uniform Size of Electronic and Paper ~~Pages of~~ Transcripts.

(1) The certified transcript of testimony of any proceeding shall be furnished by the ~~court reporter or~~ authorized transcriber formatted for 8 1/2 by 11 inch paper having 25 lines per page with a left hand margin of 1 3/4 inches and a right hand margin of 3/8 inch total combined margins of text not to exceed 2 and 1/8 inches.

(2) [No changes in text.]

(i) [No changes in text.]

* * *

Rule 95. Visiting Judges

(a)-(d) [No changes in text.]

(e) **Extension of Time.** A judge who has heard and determined a civil action or proceeding in another county may enlarge or extend the time for hearing or determining a motion for new trial or to set aside the judgment, or to file a certified transcript ~~of the reporter's notes or~~ statement of the evidence or proceedings, by a written order signed by the judge, and transmitted by mail to the clerk of the court in which the action or proceeding is pending. The order when filed with the clerk shall have the same force and effect as if made within the county where the action or proceeding is pending.

* * *

Rule 102. Appellate Review of Orders Under A.R.S. Section 36-2153 (Parental Consent Waiver Proceedings)

(a) [No changes in text.]

(b) The clerk of the superior court shall transmit the record in the case to the appellate court forthwith upon the filing of the notice of appeal. The record in the case shall be as defined in Rule 11(a)(1) of the Arizona Rules of Civil Appellate Procedure, except that it shall be required to include a ~~reporter's~~ certified transcript of the proceedings in the superior court.

(c)-(h) [No changes in text.]

* * *

Rule 123. Public Access to the Judicial Records of the State of Arizona.

(a)-(c) [No changes in text.]

(d) **Access to Case Records.**

All case records are open to the public except as may be closed by law, or as provided in this rule. Upon closing any record the court shall state the reason for the action, including a reference to any statute, case, rule or administrative order relied upon.

(1)-(3) [No changes in text.]

(4) Unofficial Verbatim Recordings of Proceedings. Electronic verbatim recordings made by a courtroom clerk or at the direction of the clerk and used in preparing minute entries are closed.

(e)- (h) [No changes in text.]

* * *

Rule 125. Defining Minute Entry, Order, Ruling, and Notice; Party Responsibility

(a) **Minute entry.** A minute entry is the memorialization, electronic or otherwise, either by form or narrative of events occurring during a court proceeding or of matters required to be performed by statute or rule. It is not intended to be a verbatim record of the court proceeding. A court proceeding includes those matters heard in chambers when one or more parties are present or represented by counsel. In addition to the date and starting and ending times of a proceeding and the identity of the certified court reporter, alternative recording method and

operator, or the absence thereof, a minute entry shall include all official acts occurring during the proceeding, which may consist of any or all of the following as applicable:

(1)-(10) [No changes in text.]

(b)-(e) [No changes in text.]

* * *

Attachment D

ARIZONA RULES OF CIVIL APPELLATE PROCEDURE

* * *

Rule 11. Record on Appeal

(a) Composition of Record on Appeal; Transmission of Record.

(1) The ~~papers making up the~~ record on appeal to the appellate court shall be the ~~original papers~~ official documents, exhibits, minute entries, and other objects filed with the clerk of the superior court, and a ~~reporter's~~ certified transcript or narrative or agreed statement, or if authorized by the appellate court, the electronic recording of the proceeding.

(2) The clerk of the superior court shall number the items comprising the record, and shall transmit to the appellate court, within 40 days from the date of filing the notice of appeal, the index listing the contents of the record and the number thereof, together with copies of the final complaint, any minute entry or order waiving filing fees, the judgment from which the appeal lies, the notice of appeal and notice of any cross-appeal, and any civil appeals docketing statement. Upon request of the clerk of the appellate court, the clerk of the superior court shall transmit copies of any other item. The clerk of the superior court shall also serve a copy of the index upon all parties to the appeal. If an enlargement of time is desired, the appellant obtain an order from the superior court extending the time for transmitting the index to not more than 90 days from the date of filing the appeal if the order for extension is made before the expiration of the period for transmittal as originally prescribed or as extended by previous order. If a certified transcript or electronic recording if authorized by the court is not obtained by the date the appeal is docketed application by the appealing party shall be made to the appellate court for relief.

(3) The clerk of the appellate court shall notify the clerk of the superior court when the final brief on appeal has been filed. Within 15 days from the date of such notice, the clerk of the superior court shall transmit to the appellate court the ~~original~~ pleadings, documents, minute entries, and electronic paper and photographic exhibits of a manageable size filed with the clerk of the superior court, and any narrative or agreed statement.

(4)-(6) [No changes in text.]

(b) The Certified Transcript of Proceedings; Duty of Appellant to Order; Notice to Appellee if Partial Transcript is Ordered.

(1) No later than 10 days after filing the notice of appeal, the appellant shall order ~~from the reporter~~ an original and one copy of a certified transcript, if any, of such parts of the proceedings as ~~he~~ the appellant deems necessary for inclusion in the record. If the appellant intends to urge on appeal that a finding or conclusion is unsupported by the evidence or is contrary to the evidence, ~~he~~ the appellant shall include in the record a certified transcript of all evidence relevant to such finding or conclusion.

(2) If the proceedings to be transcribed were recorded by a certified court reporter, the appellant shall order the transcript directly from the court reporter.

(3) If the proceedings to be transcribed were electronically recorded and no certified court reporter was present, the appellant shall order the transcript from an authorized transcriber. The appellant shall promptly file with the superior court clerk and serve on the other parties a copy of the designation of record ordered from the transcriber.

(4) All parties to the appeal shall cooperate with the transcriber by providing such information as is necessary to facilitate transcription, including providing the transcriber with a copy of any designation made under subsection (b)(2) of this rule. The court will furnish the transcriber with a copy of the electronic recording to be transcribed upon receipt of a notice from the transcriber that satisfactory financial arrangements have been completed.

~~(2)~~(5) Unless the entire certified transcript as limited in subparagraph ~~(5)~~ (8) below is to be included, the appellant shall, within the time above provided, file a description of the parts of the certified transcript which he the appellant intends to include in the record and a concise statement of the issues he the appellant intends to present on the appeal, a copy of which shall be served by appellant on appellee. If the appellee deems a certified transcript of other parts of the proceedings to be necessary, he the appellee shall, within 10 days after the service of the statement of the appellant, file a designation of additional parts to be included. If the appellant refuses to order such parts, he the appellant shall, within 5 days, notify the appellee in writing of such refusal. The appellee may either order the parts or apply to the superior court for an order requiring the appellant to do so. At any time prior to submission to the appellate court for decision, a party may apply to the appellate court to include any additional part of the certified transcript.

~~(3)~~(6) At the time of ordering, the party ordering must make satisfactory arrangements with the certified court reporter or authorized transcriber for payment of the cost of the certified transcript and file a notice to that effect. Failure or delay in making satisfactory arrangements with the court reporter shall be cause for such sanctions as the superior court deems proper.

~~(4)~~(7) Unless otherwise ordered by the Court of Appeals, promptly upon the docketing of the appeal, the appellant shall file the original certified transcript with the clerk of the appellate court and shall serve a copy of the certified transcript upon the appellee. Notice of service of the certified transcript shall be filed with the appellate court reflecting when and upon whom service was made. If there is more than one appellee, the appellees shall agree upon and shall promptly inform the appellant of the party upon whom the appellant shall serve the certified transcript copy, and that party shall make the copy available for use by the other appellees.

~~(5)~~(8) The certified transcript shall not contain the testimony of jurors touching on their qualifications, any other matters preceding the impaneling of a jury, or the opening statements or arguments of counsel to the jury, or any part thereof, unless specifically designated by one of the parties to be contained in the certified transcript.

~~(6)~~(9) The parties shall not include in the certified transcript any matter not essential to the decision of questions presented by the appeal. For any infraction of this rule, the appellate court may impose sanctions pursuant to Rule 25.

(10) These rules shall apply to the electronic recording if such has been previously

authorized by the court in accordance with section (a)(1) of this rule.

(c) Narrative Statement of the Evidence or Proceedings When the Certified Transcript is Unavailable. If a certified transcript is unavailable, the appellant may prepare and file a narrative statement of the evidence or proceedings from the best available means, including his the appellant's recollection. The statement shall be filed within 30 days after filing the notice of appeal. The appellee may file objections or proposed amendments thereto within 10 days after service. If the appellant does not file such a statement within the specified time, the appellee may prepare and file such a statement, and the appellant may file objections or proposed amendments thereto within 10 days after service. Thereupon the statement of the appellant or the appellee and any objections or proposed amendments shall be submitted to the superior court for settlement and approval, and as settled and approved shall be transmitted to the appellate court.

(d) Agreed Statements in Lieu of Certified Transcript. In lieu of the certified transcript, the parties may stipulate as to and file an agreed statement, which sets forth such evidence or proceedings as are essential to a decision of the issues presented by the appeal. The agreed statement shall include a statement of the issues the appellant intends to present on the appeal. The agreed statement shall be filed within 30 days after filing the notice of appeal, and shall be submitted to the superior court for settlement and approval. The superior court may make such additions and corrections as it may consider necessary to the issues presented by the appeal. The agreed statement, as corrected and modified, shall thereupon be transmitted to the appellate court.

(e) [No changes in text.]

(f) Several Appeals. When more than one appeal is taken from the same judgment, a single certified transcript (or narrative statement of the evidence or agreed statement) shall be prepared containing all the matter designated or agreed upon by the parties, without duplication.

~~**(g) Transcript Defined.** "Transcript" for purposes of these rules shall refer to a reporter's transcript, a narrative statement of evidence pursuant to Rule 11(e) or an agreed statement pursuant to Rule 11(d).~~

~~**(h)(g)**~~ [No changes in text.]

Rule 12. Notice to Appellant to Pay Fee and File Opening Brief; Docketing the Appeal; Filing of the Record; Docketing Statement

(a)-(c) [No changes in text.]

(d) Dismissal for Failure of Appellant to Cause Timely Filing of the Certified Transcript or to Docket Appeal. If the appellant shall fail to cause timely filing of the certified transcript or to pay the docket fee if a docket fee is required, any appellee may file a motion in the appellate court to dismiss the appeal. The motion shall be supported pursuant to Rule 11(h) with copies of the relevant portions of the record. If the appeal has not been docketed, the clerk shall docket the appeal upon the payment of the appellee's fee. The appellant shall not be permitted to respond to the motion without payment of the docket fee unless he is otherwise exempt therefrom.

(e) [No changes in text.]

Rule 13. Briefs

(a) Brief of the Appellant. The brief of the appellant shall concisely and clearly set forth under the appropriate headings and in the order here indicated:

1.-3. [No changes in text.]

4. A statement of facts relevant to the issues presented for review, with appropriate references to the record. The statement shall not contain evidentiary matter unless material to a proper consideration of the issues presented, in which instance a reference shall be made to the record or page of the certified transcript where such evidence appears. The statement of facts may be combined with the statement of the case.

5.-7. [No changes in text.]

(b)-(f) [No changes in text.]

* * *

Rule 23. Petition for Review

(a)-(b) [No changes in text.]

(c) [No changes in text.]

1. [No changes in text.]

2. The facts material to a consideration of the issues presented to the Supreme Court for review with appropriate references to the record on appeal. No evidentiary matter shall be included unless material to a proper consideration of the issues presented, in which instance a reference shall be made to the record or page of the certified transcript where such evidence appears.

3. [No changes in text.]

(d)-(k) [No changes in text.]

* * *

Rule 30. Arizona Appellate Settlement Conference Program

(a)-(c) [No changes in text.]

(d) [Applicable in Division One] Order of Assignment. [No changes in text.]

(d) [Applicable in Division Two] Order of Assignment. Except as provided in paragraph (f) of this rule, Division Two shall select those cases for assignment to the Program which Division Two deems most likely to benefit from alternative dispute resolution. Within three days after the appellant has filed the Notice of Appeal, Division Two may enter an order notifying the parties to a selected case that the case has been assigned to the Program. The order shall stay the normal appellate briefing schedule pending completion of the settlement process. The order may also stay posting bonds for costs on appeal, filing notices of cross-appeals, ordering certified transcripts ~~from court reporters~~, or transmitting indexes of records on appeal. The assignment

order shall also notify the appellant that the filing fee shall be paid within ten days.

(e)-(r) [No changes in text.]

* * *

Attachment E

RULES OF PROCEDURE FOR SPECIAL ACTIONS

* * *

Rule 7. Special Appellate Court Provisions

(a)-(d) [No changes in text.]

(e) The petition shall consist of a single document. It shall include a jurisdictional statement, a statement of the issues, a statement of the facts material to a consideration of the issues presented, and an argument containing the petitioners' contentions with respect to the issues presented, and the reasons therefor, with citations to the authorities, statutes and appropriate references to the record. A copy of the decision from which the petition is being taken shall be attached to the petition. All references to the record shall be supported by an appendix of documents in the record ~~on appeal~~ before the trial court that are necessary for a determination of the issues raised by the petition. The response to the petition shall, if necessary, be supported by an appendix of documents in the record ~~on appeal~~ before the trial court that are necessary for a determination of the issues raised by the petition which are not contained in the petitioner's appendix. If either party's appendix exceeds 15 pages in length, it shall be fastened together separately from the petition or response. Except by permission of the court, petitions and responses shall not exceed (i) 10,500 words if in proportionate typeface, or (ii) 30 pages if in monospace typeface, exclusive of the appendix and the copy of the decision from which the petition is being taken. The reply, if any, shall not exceed (i) 5,250 words if in proportionate typeface, or (ii) 15 pages if in monospaced typeface. The petition, response and any reply must otherwise comply with Rules 6(c) or 14a(a)(1), ARCAP or Rules 31.12 or 31.13 of the Ariz. R. Crim. P. The petition, response and any reply must each be accompanied by a certificate of compliance that states the petition's line spacing and states either (i) the petition uses a proportionately spaced typeface, together with the typeface, point size, and word count, or (ii) the petition uses a monospaced typeface, together with the number of characters per inch. A party preparing this certificate may rely on the word count of the processing system used to prepare the petition.

(f)-(i) [No changes in text.]

(j) Filing may be accomplished by mail addressed to the clerk, but filing ~~of any papers~~ under this rule shall not be timely unless ~~the papers are~~ received by the clerk within the time fixed for filing.

* * *

Attachment F

ARIZONA RULES OF FAMILY LAW PROCEDURE

* * *

Rule 44. Default Decree

A.-E. [No changes in text.]

F. Judgment When Service by Publication; Statement of Evidence. Where service of process has been made by publication and no answer has been filed within the time prescribed by law, judgment shall be rendered as in other cases, but a record of the proceedings, in a form approved by the court, shall be filed as a part of the record maintained on a tangible medium or that is stored in any electronic or other medium and that is retrievable in perceivable form by the clerk of the court unless designated otherwise by the court.

G. [No changes in text.]

* * *

Rule 76. Pretrial Procedures

A.-B. [No changes in text.]

C. Pretrial Statement, Inventory of Property, and Financial Affidavits; Preparation; Final Pretrial Conference.

1. [No changes in text.]

a.-k. [No changes in text.]

l. a statement by each party on how a verbatim record of the trial will be made.

2.-5. [No changes in text.]

D. [No changes in text.]

* * *

Attachment G

ARIZONA TAX COURT RULES OF PRACTICE

* * *

Rule 6. Cases Transferred to the Tax Court

(a) [No changes in text.]

(b) When a tax case is transferred, the Clerk of the Superior Court from which the case is transferred shall forthwith transmit the file together with all exhibits and certified transcripts to the Clerk of the Tax Court. If the case is transferred from a county other than Maricopa, the Clerk of the county from which the case is received shall remit to the Clerk of the Maricopa County Superior Court Tax Court Department filing and appearance fees paid to the transferring Clerk by the parties. If the case was first filed other than in Maricopa County, the parties shall pay to the Clerk of the Maricopa County Superior Court Tax Court Department such document storage and retrieval fees, and other surcharges as are applicable. Such payment shall be made within 30 days of the order transferring the case.

* * *

Rule 25. Small Claims Hearings and Trials

All testimony in a small claims hearing or trial shall be given under oath. The proceedings need not be ~~reported by a court reporter~~ recorded.

* * *

Attachment H

SUPERIOR COURT RULES OF APPELLATE PROCEDURE-CIVIL

Rule 1. Scope of Rules; Definitions

(a) [No changes in text.]

(b) All appeals from the limited jurisdiction courts shall be on the record. ~~The record may consist of audio, video, digital, transcription or other method of recording as approved by the Supreme Court.~~ The record may be made by a certified court reporter or other electronic means approved by the Supreme Court. A trial de novo shall not be granted when a party who had opportunity to request that a verbatim record of the limited jurisdiction court proceedings be made, failed to do so.

(c)-(g) [No changes in text.]

(h) For the purposes of these rules, an “authorized transcriber” is a certified court reporter or a transcriber under contract with an Arizona court.

* * *

Rule 4. Time for Taking Appeal and Cross-Appeal

(a)-(c) [No changes in text.]

(d) Within the 14 calendar day deadline to file the notice of appeal, or five day deadline in forcible and special detainer cases, the appellant shall also pay the applicable record or transcript fees to the trial court in cash or other manner allowed by the trial court, or make arrangements with ~~court reporters or transcribers~~ an authorized transcriber for the preparation and filing with the trial court of the certified transcript(s). Within the 28 calendar day deadline to file a cross-appeal, or ten day deadline in forcible and special detainer cases, the cross-appellant shall pay the applicable record or transcript fee pertaining to the cross-appeal to the trial court in cash or other manner allowed by the trial court, or make arrangements with ~~court reporters or transcribers~~ the authorized transcriber for the preparation and filing with the trial court of the certified transcript(s) pertaining to the cross-appeal. Appellant shall be responsible for the filing of all certified transcripts with the trial court prior to the filing of its memorandum. Cross-appellant shall be responsible for the filing of all certified transcripts pertaining to the cross-appeal with the trial court prior to the filing of its appellate memorandum. The trial court may assess a separate fee to prepare additional requested copies of the record, including documents, exhibits, ~~tapes, CD's, videos, or other~~ and electronic recordings of proceedings.

(e) [No changes in text.]

* * *

Rule 7. Record on Appeal

(a) **Joint Statement of the Record.** In lieu of any part of the record or transcripts in the trial court, the parties may prepare and submit a joint statement of the record on appeal, signed by all parties and setting forth the issues and pertinent facts presented by the appeal. Notice that a joint statement will be used shall be given to the trial court and any ~~court reporters or~~

authorized transcribers.

(b) Composition of Record. The record on appeal shall consist of originals or certified copies of these items:

(1)-(9) [No changes in text.]

(10) the ~~record~~ recording or certified transcript of the trial (except that oral argument on motions, voir dire, opening and closing arguments, and jury instructions shall not be included unless designated by a party) The Superior Court may require the filing of either of the above;

Unless designated by a party or requested by the Superior Court, the record on appeal shall not include: notices of appearance, discovery disclosures and motions, notices of defense, subpoenas, notices of motion hearings and trial settings, or general correspondence.

(c) Designation of the Record on Appeal. Within the time allowed to appeal, the appellant shall also file an original, and one copy for each party, of a designation of items to be included in the record on appeal. The documents shall be date stamped on their face when received by the trial court. The trial court shall send the copy(ies) to the opposing side(s). Within 14 calendar days of the date of filing, the opposing party(ies) may also file its designation of portions of the record to be included.

(d) Correction or Modification of the Record on Appeal. If anything material to any party is omitted from the record on appeal or is misstated, the parties by stipulation, the trial court (before the record is transmitted to the Superior Court), or the Superior Court (after the record has been transmitted), may direct that the omission or misstatement be corrected or that the record be augmented to reflect what took place, and if necessary, that a supplemental record be certified and transmitted to the Superior Court.

(e) [No changes in text.]

* * *

Attachment I

SUPERIOR COURT RULES OF APPELLATE PROCEDURE-CRIMINAL

Rule 1. Scope; Definitions

a.-e. [No changes in text.]

f. For the purposes of these rules, an “authorized transcriber” is a certified court reporter or a transcriber under contract with an Arizona court.

Rule 2. Record of Proceedings

a. A record in the trial court shall be made by ~~court reporter, video, audio, digital or other method of recording~~ a certified court reporter or other electronic means approved by the Supreme Court.

b.-d. [No changes in text.]

Rule 3. Notice of Appeal

a.-b. [No changes in text.]

c. When a party appeals, the trial court shall send a copy of the notice of appeal to the opposing side and to ~~any court reporters or transcribers~~ authorized transcribers responsible for preparing the transcript, ~~if any,~~ and shall note such fact in the court records.

d. [No changes in text.]

* * *

Rule 7. Record on Appeal

a. Within 14 calendar days after the filing of the notice of appeal, when the defendant is the appellant, a defendant who is not proceeding as an indigent on appeal shall make arrangements with all ~~court reporters or~~ authorized transcribers to pay any record or transcript preparation fees. Thereupon, each ~~court reporter or~~ authorized transcriber shall promptly prepare the transcript.

b. In lieu of the record of proceedings or transcript in the trial court, the parties may submit a joint statement of the record on appeal, prepare and sign an agreed statement as to the record on appeal, setting forth the issues and pertinent facts presented by the appeal. Notice that a joint statement will be used shall be given to the trial court, any ~~court reporter or~~ authorized transcribers.

c. The record on appeal shall consist of originals or certified copies of these items:

(1)-(8) [No changes in text.]

(9) The recording or certified transcript of the trial, as the Superior Court may require (except that voir dire, opening and closing argument, and jury instructions shall not be included unless designated by a party);

(10)-(11) [No changes in text.]

d. [No changes in text.]

e. Correction or modification of the record on appeal. If anything material to either party is omitted from the record on appeal or is misstated therein, the parties by stipulation, the trial court before the record is transmitted to the Superior Court, or the Superior Court on motion of either party or on its own initiative after the record has been transmitted to the Superior Court, may direct that the omission or misstatement be corrected or that the record be augmented to reflect what took place, and if necessary, that a supplemental record be certified and transmitted to the Superior Court.

f. [No changes in text.]

* * *

Rule 16. Forms

[No changes in text.]

Form 1. Defendant's Notice of Right to Appeal (Criminal)

* * *

STAGE ONE - THE TRIAL COURT

1. [No changes in text.]

2. **THE RECORD.** Within 14 calendar days after you file your notice of appeal, you must also arrange to pay for a copy of the proceedings at the hearing. The copy may be a recording or a certified transcript. The clerk will explain which type of record is required. Payment must be in cash or other method explained by the clerk. If you cannot afford to pay for the record, ask the clerk for information about a possible waiver or extension ("deferral") to make payment later. If you fail to pay for the record or certified transcript, your appeal may be dismissed. Additional copies of the trial or proceeding record or certified transcript may be obtained for an additional charge.

3.-8. [No changes in text.]

Form 2. Defendant's Notice of Appeal (Criminal)

* * *

Appellant understands: (1) the instructions set forth in the "Notice of Right to Appeal," including payment for a copy of the record or certified transcript; (2) the need to post bond to stay enforcement of the judgment unless released on "own recognizance"; (3) filing an original and copy of the Appellant's Memorandum with the trial court; and (4) that failure to complete all stages in the appeal may result in the dismissal of the appeal and reinstatement of the trial court judgment.

* * *

Attachment J

RULES OF PROCEDURE FOR THE JUVENILE COURT

Rule 1. Applicability; Definitions

A.-B. [No changes in text.]

C. For the purposes of these rules, an “authorized transcriber” is a certified court reporter or a transcriber under contract with an Arizona court.

* * *

Rule 28. Advisory Hearing

A.-B. [No changes in text.]

C. Procedure. At the advisory hearing the court shall:

1.-8. [No changes in text.]

9. Determine how a verbatim record of the adjudication hearing will be made.

D.-E. [No changes in text.]

* * *

Rule 32. Revocation of Probation

A.-C. [No changes in text.]

D. Advisory Hearing. [No changes in text.]

1. [No change in text.]

2. Procedure. At the advisory hearing the court shall:

a.-g. [No changes in text.]

h. Determine how a verbatim record of the probation violation hearing will be made.

* * *

Rule 34. Transfer for Criminal Prosecution

A.-E. [No changes in text.]

F. Transfer Hearing. [No changes in text.]

1. **Time Limits.** [No changes in text.]

2. **Probable Cause Determination.**

a.-d. [No changes in text.]

e. **Certified Transcript of Proceeding.** The certified transcript of the probable cause phase of the hearing shall be filed with the clerk of the superior court within twenty (20) days of the completion of the hearing if the juvenile is to be transferred.

3.-5. [No changes in text.]

* * *

Rule 54. Pretrial conference

A. [No changes in text.]

B. Procedure.

1. [No changes in text.]

2. If the parties advise the court that the matter will proceed to trial, the parties and the court shall confer to determine:

a.-e. [No changes in text.]

f. How a verbatim record of the dependency adjudication hearing will be made.

* * *

Rule 62. Initial Guardianship Hearing

A.-B. [No changes in text.]

C. **Procedure.** At the initial hearing the court shall:

1.-7. [No changes in text.]

8. Determine how a verbatim record of the guardianship adjudication hearing will be made.

D. [No changes in text.]

* * *

Rule 65. Initial Termination Hearing

A.-B. [No changes in text.]

C. **Procedure.** At the initial hearing the court shall:

1.-6. [No changes in text.]

7. Determine how a verbatim record of the termination adjudication hearing will be made.

* * *

Rule 81. Consent to Adopt

A. [No changes in text.]

B. Procedure. At the hearing, the person seeking to give consent is responsible for the following:

1. [No changes in text.]

2. Making arrangements for the presence of a certified court reporter at the hearing if one is required to effectuate an out-of-state adoption; and

3. [No changes in text.]

C.-D. [No changes in text.]

* * *

Rule 89. Time Within Which an Appeal May be Taken and Notice Thereof; Preparation of Certified Transcript and Record on Appeal

(A)-(B) [No changes in text.]

(C)(1) Immediately upon the filing of a notice of appeal, the clerk of the superior court shall serve copies of the notice of appeal on all parties or their counsel; on each certified court reporter who reported any juvenile court proceeding that is part of the certified transcript as defined by subsection D.2. of this rule; ~~upon each juvenile court word processing operator who has possession of a tape recording of any such proceeding~~ or the court's designated transcript coordinator, if the record was made by electronic or other means, and on the clerk of the court of appeals. The clerk of the superior court shall include with the copy of the notice of appeal served on the clerk of the court of appeals a copy of the order from which the appeal is taken and the names of the ~~court reporters and word processing operators~~ persons who were sent a copy of the notice of appeal.

(2) [No changes in text.]

(D)(1) [No changes in text.]

(2) The certified transcript shall consist of the following:

(a)-(e) [No changes in text.]

Notwithstanding the preceding provisions of Rule 89(D)(2), the certified transcript shall not include any proceeding or portion thereof excluded pursuant to Rule 89(E).

(E) No later than five days after filing the notice of appeal the appellant may file with the clerk of the superior court and serve a pleading entitled "designation of record" (1) requesting that the clerk of the superior court add to the record on appeal specifically identified subpoenas or praecipes, or specifically identified studies, reports or medical or psychological evaluations, or compilations of such studies, reports or evaluations, prepared as required by statute, court rule or order for the use of the juvenile court in the proceedings resulting directly or indirectly in the order from which the appeal is taken and not otherwise part of the record; (2) requesting that the

clerk of the superior court delete from the record specifically identified items otherwise automatically included in the record on appeal; and (3) requesting that one or more certified court reporters or juvenile court word processing personnel the court's designated transcript coordinator, if the record was made by electronic or other means, add to the transcript any proceeding or part thereof not automatically included, and to exclude from the transcript any portion thereof otherwise automatically included. The appellant shall serve the designation of record on all parties, ~~and on each affected court reporter who reported a designated portion of the proceedings, or juvenile court word processing operator~~ and on the court's designated transcript coordinator, if the record was made by electronic or other means.

(F)(1) No later than 12 days after the filing of the notice of appeal any appellee may file with the clerk of the superior court and serve a pleading entitled "supplemental designation of record" (1) requesting that the clerk of the superior court add to the record on appeal specifically identified subpoenas or praecipes, or specifically identified studies, reports or medical or psychological evaluations, or compilations of such studies, reports or evaluations, prepared as required by statute, court rule, or order for the use of the juvenile court in the proceedings resulting directly or indirectly in the order from which the appeal is taken and not otherwise part of the record, or any specifically identified items deleted by appellant's designation of record; and (2) requesting that one or more court reporters or ~~juvenile court word processing personnel~~ authorized transcribers add to the transcript any proceeding or part thereof deleted by appellant's designation of record or not automatically part of the transcript as defined in Rule 89D.2. The supplemental designation of record shall be served on all parties and on each affected court reporter and ~~juvenile court word processing operator~~ authorized transcriber.

(2) [No changes in text.]

(G) No party shall request that ~~the clerk of the superior court or a court reporter or juvenile court word processing operator~~ add any item be added to the record, or any proceeding to the transcript, that is not essential to deciding the issues presented by the appeal. For any infraction of this rule, the appellate court may impose sanctions pursuant to ARCAP 25 made applicable in juvenile appeals by Rule 88G.

(H) The court reporter or reporters or ~~word processing personnel of the juvenile court~~ authorized transcribers shall prepare the original certified transcript and one copy for each party to the appeal who has not filed a notice pursuant to subsection C.2. of this rule promptly upon receiving a notice of appeal filed by a governmental entity or a notice of appeal stating that the appellant was proceeding with appointed counsel in the juvenile court when the final order that is the subject of the appeal was filed.

(I) No later than five days after the filing of the notice of appeal or five days after the denial of a request to proceed with appointed counsel, an appellant who is not proceeding with appointed counsel shall make arrangements with the certified court reporter or ~~reporters or juvenile court word processing personnel~~ authorized transcriber to pay for the transcript. The certified court reporter or ~~reporters or juvenile court word processing personnel~~ authorized transcriber shall immediately notify the appellate court in writing if an appellant fails to make satisfactory arrangements within the prescribed time. When satisfactory payment arrangements are made, the certified court reporter or ~~reporters or juvenile court word processing personnel~~ authorized transcriber shall promptly prepare the certified original transcript and one copy for each party to the appeal who has not filed a notice pursuant to subsection C.2. of this rule.

(J) [No changes in text.]

Rule 90. Docketing of Appeal; Transmission and Filing of Record on Appeal; Filings in Juvenile Court after Commencement of Appeal

(A) [No changes in text.]

(B) The court reporter or reporters or ~~word-processing personnel of the juvenile court~~ authorized transcriber shall file the completed certified ~~original~~ transcript with the clerk of the court of appeals, marked with the number assigned to the appeal by the court of appeals, no later than

(1)-(2) [No changes in text.]

(3) 30 days after the appellant makes satisfactory arrangements to pay for the certified transcript, whichever event first occurs. At the time of filing the ~~original~~ certified transcript, the court reporter or reporters or ~~word-processing personnel of the juvenile court~~ authorized transcriber shall serve one copy of the certified transcript on each appellant and each appellee who has not filed a notice pursuant to Rule 89C.2. The court reporter or reporters or ~~word-processing personnel of the juvenile court~~ authorized transcriber shall contemporaneously file notice of service of the certified transcript with the appellate court, reflecting when, upon whom, and by what means service was made. Service of certified transcript copies shall be made in the manner prescribed by any applicable local rule or administrative order, or otherwise in accordance with the prevailing custom in the juvenile court from which the appeal originates.

(C) If the certified transcript is not timely filed with the clerk of the court of appeals, the noncomplying court reporter or reporters or ~~juvenile court word-processing personnel~~ authorized transcriber shall be subject to such orders or sanctions as the court of appeals deems appropriate in its discretion.

(D) No later than 20 days after the notice of appeals is filed, the clerk of the superior court shall

(1) [No changes in text.]

(2) identify and assemble the original ~~paper, book, binder,~~ documentary and ~~photographic~~ electronic exhibits in the record that are of manageable size, including those added to the record pursuant to Rule 89(E) or (F) and excluding those deleted from the record pursuant to Rule 89(E);

(3)-(5) [No changes in text.]

(E)-(G) [No changes in text.]

Rule 91. Briefing, Consideration and Disposition in the Court of Appeals

(A)-(D) [No changes in text.]

(E) The appellate court, upon motion of the appellee, or upon its own initiative after notice to all parties, may dismiss an appeal for any legal cause including want of prosecution, unless an

affected party makes a showing of good cause why the appeal should not be dismissed. The clerk of the court of appeals shall give prompt notice of dismissal of an appeal to the parties, the clerk of the superior court, and if the certified transcript has not yet been filed, to the appropriate court reporter or reporters or ~~word processing personnel of the juvenile court~~ the court's designated transcript coordinator.

(F) [No changes in text.]

* * *

Rule 92. Petition for Review

(A) [No changes in text.]

(B) [No changes in text.]

1. [No changes in text.]

2. The facts material to a consideration of the issues presented to the supreme court for review with appropriate references to the record on appeal. No evidentiary matter shall be included unless material to a proper consideration of the issues presented, in which instance a reference shall be made to the record or page of the certified transcript where such evidence appears.

3.-4. [No changes in text.]

(C)-(J) [No changes in text.]

* * *

Attachment K

RULES OF PROCEDURE IN CIVIL TRAFFIC VIOLATION CASES

* * *

Rule 20. Record; Summary Transfer

(a) A record of the proceedings shall be made by ~~court reporter, video, audio, digital, or other recording~~ a method approved by the Supreme Court.

(b) [No changes in text.]

* * *

Rule 28. Time for Filing; Payment of Record or Transcript Fee to Trial Court

(a) [No changes in text.]

(b) Within the 14 calendar day deadline to file the notice of appeal, the appellant shall also pay the applicable record ~~or transcript~~ fee to the trial court in cash or other manner allowed by the trial court. The trial court may also assess a separate fee to prepare additional requested copies of recorded proceedings.

* * *

Attachment L

RULES OF THE COMMISSION ON JUDICIAL CONDUCT

* * *

Rule 27. Hearings

(a)-(e) [No changes in text.]

(f) Conduct of hearing. The following rules shall apply to formal hearings:

(1)-(8) [No changes in text.]

(9) The hearing shall be transcribed by a certified court reporter or ~~tape~~ recorded for use by the supreme court, and a certified transcript shall be filed with the commission's recommendations. Any party may obtain a copy of the certified transcript at his or her own expense.

(10) Where a member of a hearing panel has not heard the evidence, that member shall not participate in any deliberations or decisions unless he or she has personally considered the whole record, including any recording or certified transcript from portions of the hearing from which that member was absent.

(g)-(h) [No changes in text.]

Rule 28. Recommendations

(a) By a hearing panel. The hearing panel may file proposed recommendations at any time after the conclusion of the formal hearing and shall do so no later than fifteen days after the certified transcript of the hearing is filed with the commission. The recommendations shall be served on both parties, and either party may file a motion for reconsideration within ten business days. The motion shall be limited to whether the evidence in the record supports the findings of fact. If a motion is filed, the adverse party may file a response within ten business days, and no reply shall be filed unless ordered by the hearing panel. The hearing panel may accept or reject any objections to the factual findings without further proceedings.

(b) By a hearing officer. The hearing officer may file proposed recommendations at any time after the conclusion of the formal hearing and shall do so no later than fifteen days after the certified transcript of the hearing is filed with the commission. Commission members who have not previously participated in the investigation shall review the findings of fact based on a clearly erroneous standard and the conclusions of law on a de novo basis. The commission so constituted may thereafter adopt, reject, or modify the proposed recommendations. The recommendations shall be served on both parties, and either party may file a motion for reconsideration within ten business days. The motion shall be limited to whether the evidence in the record supports the findings of fact. If a motion is filed, the adverse party may file a response within ten business days, and no reply shall be filed unless ordered by the commission. The commission may accept or reject any objections to the factual findings without further proceedings.

(c) [No changes in text.]

* * *