

## NRAP 9 – Proposed

### RULE 9. TRANSCRIPT; DUTY OF COUNSEL; DUTY OF THE COURT REPORTER OR RECORDER

#### (a) Counsel's Duty to Request Transcript.

##### (1) Necessary Transcripts.

(A) Counsel have a duty to confer and attempt to reach an agreement concerning the transcripts necessary for the court's review on appeal.

(B) Unless otherwise provided in these Rules, the appellant shall file a transcript request form in accordance with Rule 9(a)(3) when a verbatim record was made of the district court proceedings and the necessary portions of the transcript were not prepared and filed in the district court before the appeal was docketed under Rule 12.

(C) If no transcript is to be requested, the appellant shall file and serve a certificate to that effect within the period set forth in Rule 9(a)(3) for the filing of a transcript request form. Such a certificate shall substantially comply with Form 14 in the Appendix of Forms.

**(2) Multiple Appeals.** If more than one appeal is taken, each appellant shall comply with the provisions of this Rule.

##### (3) Transcript Request Form.

**(A) Filing.** The appellant shall file an original transcript request form with the district court clerk and 1 file-stamped copy of the transcript request form with the clerk of the Supreme Court no later than 14 days from the date that the appeal is docketed under Rule 12.

**(B) Service and Deposit.** The appellant shall serve a copy of the transcript request form on the court reporter or recorder who recorded the proceedings and on all parties to the appeal within the time provided in

subparagraph (A). The appellant must pay an appropriate deposit to the court reporter or recorder at the time of service, unless appellant is proceeding in forma pauperis or is otherwise exempt from payment of the fees. Where several parties appeal from the same judgment or any part thereof, or there is a cross-appeal, the deposit shall be borne equally by the parties appealing, or as the parties may agree.

**(C) Contents of Form.** The appellant shall examine the district court minutes to ascertain the name of each court reporter or recorder who recorded the proceedings for which transcripts are necessary. The appellant shall prepare a separate transcript request form addressed to each court reporter or recorder who recorded the necessary proceedings, specifying only those proceedings recorded by the court reporter or recorder named on the request form. The transcript request form must substantially comply with Form 3 in the Appendix of Forms and must contain the following information:

- (i) Name of the judge or officer who heard the proceedings;
- (ii) Date or dates of the trial or hearing to be transcribed; individual dates must be specified, a range of dates is not acceptable;
- (iii) Portions of the transcript requested; specify the type of proceedings (e.g., suppression hearing, trial, closing argument);
- (iv) Number of copies required; and
- (v) A certification by appellant's counsel that the attorney has ordered the required transcripts and has paid the required deposits. This certification shall specify from whom the transcript was ordered, the date the transcript was ordered, and the date the deposit was paid.

**(4) Number of Copies of Transcript; Costs.** Appellant ~~shall~~must provide a copy of the certified transcript to counsel for each party appearing separately. Unless otherwise ordered, the appellant initially ~~shall~~must pay any costs associated with the preparation and delivery of the transcript. Where several parties appeal from the same judgment or any part thereof, or there is a cross-appeal, the costs associated with the preparation and delivery of the transcript ~~shall~~must be borne equally by the parties appealing, or as the parties may agree.

**(5) Supplemental Request.** If the parties cannot agree on the transcripts necessary to the court's review, and appellant requests only part of the transcript, appellant ~~shall~~must request any additional parts of the transcript that the respondent considers necessary. Within 14 days from the date the initial transcript request is filed, respondent ~~shall~~must notify appellant in writing of the additional portions required. Appellant ~~shall~~must have 14 days thereafter within which to file and serve a supplemental transcript request form and pay any additional deposit required.

**(6) In Forma Pauperis.** In a civil case, if appellant is represented by counsel but has been permitted to proceed in forma pauperis or has filed a statement of legal aid eligibility under NRAP 24, counsel may request a waiver of the costs associated with the preparation and delivery of the transcripts by filing a motion with the clerk of the Supreme Court specifying each proceeding for which a transcript is requested and a statement explaining why each transcript is necessary for the court's review on appeal. The court may order that the transcripts be prepared at the expense of the county in which the proceeding occurred, but at a reduced rate established by the county in accordance with NRS 12.015(3).

**(7) Consequences of Failure to Comply.** A party's failure to comply with the provisions of this Rule may result in the imposition of sanctions, including dismissal of the appeal.

**(b) Pro Se Parties' Duty to Request Transcripts in Civil Cases.** A pro se appellant in a civil appeal shall identify and request all necessary transcripts. If no transcript is to be requested, the pro se appellant shall file with the clerk of the Supreme Court and serve upon the parties a certificate to that effect within 14 days of the date the appeal is docketed under Rule 12. Such a certificate shall substantially comply with Form 14 in the Appendix of Forms.

**(1) Transcript Request Form.**

**(A) Filing.** A pro se appellant shall have 14 days from the date the appeal is docketed under Rule 12 to file an original transcript request form with the clerk of the Supreme Court. The transcript request form must substantially comply with Form 17 in the Appendix of Forms.

**(B) Service, Deposit, and Costs.** A pro se appellant who has not been granted in forma pauperis status shall serve a copy of the transcript request form on the court reporter or recorder who recorded the proceedings and on all parties to the appeal within the time provided in subparagraph (A) and must pay an appropriate deposit to the court reporter or recorder at the time of service. Upon receiving the transcript, the litigant(s) requesting that transcript shall file a copy of the transcript with the clerk of the Supreme Court.

**(C) Pro Se Appellant Granted in Forma Pauperis Status.** A pro se appellant proceeding in forma pauperis shall serve a copy of the transcript request form on all parties to the appeal within the time provided in subparagraph (A), but need not serve that document on the court reporter

or recorder. The Supreme Court or Court of Appeals will review any completed transcript request forms and determine which transcripts, if any, shall be prepared and will issue an order directing the preparation of any necessary transcripts.

**(2) Respondent's Request for Transcripts.** Respondent may request any additional transcripts respondent considers necessary to the Supreme Court's or Court of Appeals' review. A transcript request form prepared by a pro se respondent must substantially comply with Form 17 in the Appendix of Forms. A transcript request form prepared by counsel must substantially comply with Form 3 in the Appendix of Forms. Respondents shall have 14 days from the date of service of appellant's transcript request form to request any transcripts that respondent deems necessary. If respondent requests a transcript, respondent shall furnish each party appearing separately with a copy of the transcript. Any costs associated with the preparation and delivery of a transcript requested by respondent shall be paid by the respondent unless otherwise ordered by the Supreme Court or Court of Appeals.

**(c) Duty of the Court Reporter or Recorder.**

**(1) Preparation, Filing, and Delivery of Transcripts.**

**(A) Time to File and Deliver Transcripts.** Upon receiving a transcript request form and the required deposit, the court reporter or recorder shall promptly prepare or arrange for the preparation of the transcript. Except as provided in Rule 9(c)(1)(B) and (c)(4), the court reporter or recorder shall — within 30 days after the date that a request form is served:

- (i) file the original transcript with the district court clerk; and
- (ii) deliver to the party ordering the transcript 1 certified copy and an additional certified copy for the appendix.

**(B) Appellant's Failure to Pay Deposit.** The court reporter or recorder is not obligated to prepare the transcript until receipt of the deposit required by Rule 9(a)(3)(B) or Rule 9(b)(1)(B). If appellant fails to timely pay the deposit, the court reporter or recorder must — no later than 30 days from the date that the transcript request form is served:

(i) file with the clerk of the Supreme Court a written notice that the deposit has not been received, setting forth the full amount of the deposit and the amount that remains unpaid; and

(ii) serve a copy of the notice on the party requesting the transcript.

**(2) Notice to Clerk of the Supreme Court.** Within 14 days after the transcript is filed with the district court and delivered to the requesting party, the court reporter or recorder ~~shall~~must file with the clerk of the Supreme Court a notice that the completed transcript has been filed and delivered. The notice ~~shall~~must specify the transcripts that have been filed and delivered and the date that those transcripts were filed and delivered. Form 15 in the Appendix of Forms is a suggested form of certificate of delivery.

**(3) Format of Transcript.** A certified transcript may be produced in a conventional page-for-page format. A concordance indexing keywords in the transcript ~~shall~~must be provided.

**(4) Extension of Time to Deliver Transcript.**

**(A) Fourteen-day telephonic extension.** A court reporter or recorder may request by telephone a 14-day extension of time to prepare a transcript if the preparation requires more time than is allowed under this Rule. If good cause is shown, the clerk or a designated deputy may grant the request by telephone or by written order of the clerk.

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**(AB) Additional extensions by Motion—Required.**

Subsequent extensions of time for filing a transcript will be granted only upon motion to the court if the court reporter or recorder cannot deliver a transcript within the time provided in Rule 9(c)(1)(A), the reporter or recorder shall seek an extension of time by filing a written motion with the clerk of the Supreme Court on or before the date that the transcripts are-is due.

**(B) Supporting Documentation and Affidavits.** A motion to extend the time for delivering a transcript ~~shall~~must be accompanied by the affidavit or declaration of the court reporter or recorder setting forth the reasons for the requested extension and the length of additional time needed to prepare the transcript.

**(C) Service.** The motion must be served on the party requesting the transcript.

**(D) Standard for Granting.** Requests for extensions of time to prepare a transcript will be closely scrutinized and will be granted only upon a showing of good cause.

**(C) Request for Extension of Briefing Schedule.** The party requesting the transcript may, within 7 days of service of a motion to extend the time for delivering a transcript, file a request to extend the briefing schedule in the event that the motion for extension of time to deliver the transcript is granted. The court may, in its discretion, extend the briefing schedule.

**(5) Sanctions for Failure to Comply.** A court reporter or recorder who fails to file and deliver a timely transcript without sufficient cause as provided in Rule 9(c)(4) may be subject to sanctions under Rule 13.

**(d) Statement of the Evidence When the Proceedings Were Not Recorded or When a Transcript Is Unavailable.** If a hearing or trial was

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not recorded, or if a transcript is unavailable, the appellant may prepare a statement of the evidence or proceedings from the best available means, including the appellant's recollection. The statement ~~shall~~must be served on the respondent, who may serve objections or proposed amendments within 14 days after being served. The statement and any objections or proposed amendments ~~shall~~must then be submitted to the district court for settlement and approval. As settled and approved, the statement ~~shall~~must be included by the district court clerk in the ~~trial-district~~ court record, and the appellant ~~shall~~must include a file-stamped copy of the statement in an appendix filed with the clerk of the Supreme Court.