

Transcript Preparation for Court Reporters: The Basics and Beyond

Presented By:

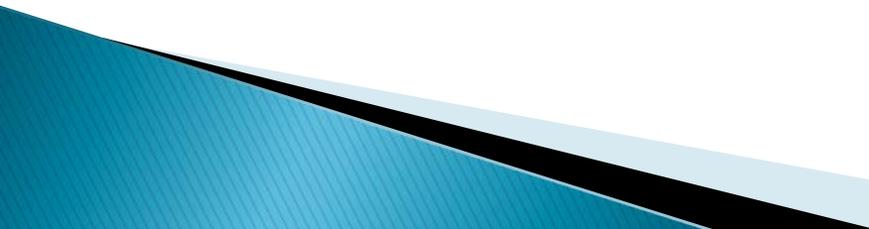
Kyle Gillaspie, Indiana Court of Appeals
Jenni Applegate, Noble Superior Court
Derek Peterson, Marion Superior Court

Upon completion of this session, attendees will:

- ▶ Grasp the Appeals Process.
 - ▶ Enhance their Court Reporter working knowledge.
 - ▶ Learn to apply Basic Appellate Rules during day to day responsibilities
 - ▶ Obtain a list of resources to assist with any Court Reporter related questions.
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Preparation of Transcripts and the Indiana Rules of Appellate Procedure

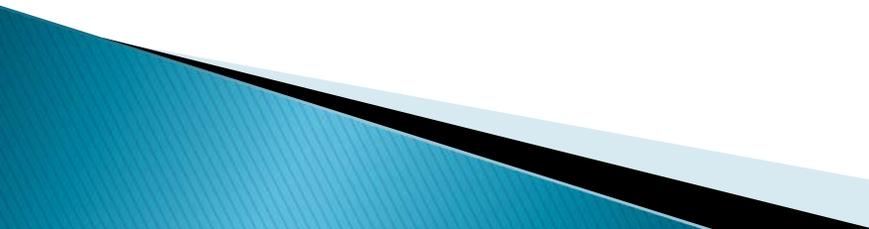
Appellate Rule 2(K)

- ▶ Defines “Transcript”
 - ▶ “Transcript” means the transcript or transcripts of all or part of the proceedings in the trial court designated for inclusion in the Record on Appeal and any exhibits associated therewith.
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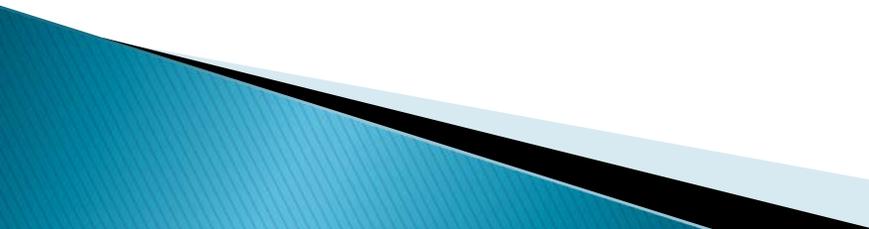
Appellate Rule 8

- ▶ The Court on Appeal acquires jurisdiction on the date the Notice of Completion of Clerk's Record is noted in the Chronological Case Summary.

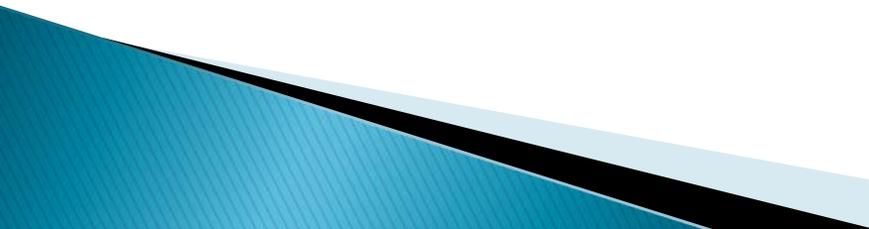
Appellate Rule 9: Initiation of the Appeal and the Notice of Appeal

- ▶ Appellate Rule 9(A)(1): A party initiates an appeal by filing the Notice of Appeal.
 - ▶ The Notice of Appeal must be filed within thirty (30) days after the entry of a final judgment is noted in the Chronological Case Summary.
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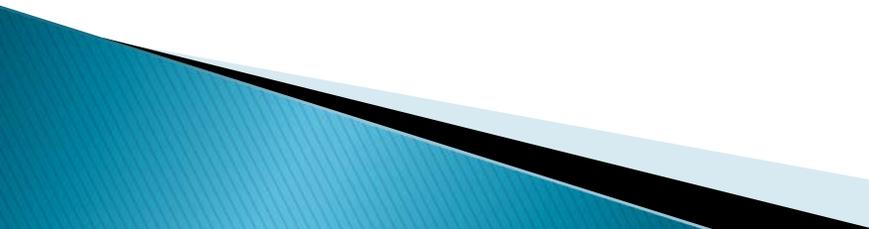
continued

- ▶ The Notice of Appeal should be filed with the Appellate Clerk.
 - ▶ However, parties can continue to file the Notice of Appeal with the Trial Clerk through the end of this year. *See* Ind. Appellate Rule 9(A)(5).
 - ▶ Failure to timely file the Notice of Appeal results in forfeiture of the right to appeal.
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Service of the Notice of Appeal

- ▶ Appellate Rule 24(A)(1): the Court Reporter should be served with the Notice of Appeal.
 - ▶ If the Notice of Appeal is filed with the Appellate Clerk, the Appellate Clerk scans a copy of the Notice of Appeal and emails it to the Trial Clerk.
 - ▶ Appellate Rule 10(A)(1): If the Notice of Appeal requests a transcript, the Trial Clerk should provide notice of the filing of the Notice of Appeal to the Court Reporter.
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Appellate Rule 9(F)(5)

- ▶ The request for preparation of a transcript should be made in the Notice of Appeal.
 - ▶ The Notice of Appeal should designate any and all hearings that the party wants transcribed.
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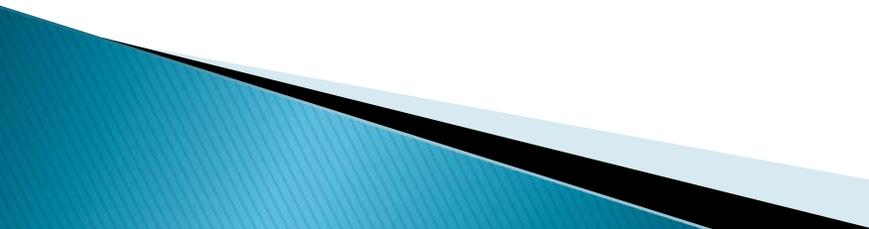
Appellate Rule 9(G)

- ▶ Any party can make a supplemental request for the preparation of a transcript.

Appellate Rule 9(H): Payment for Transcript

- ▶ Within thirty (30) days after the filing of the Notice of Appeal, a party must enter into an agreement with the Court Reporter for payment of the cost of the transcript

Payment for Transcript continued

- ▶ If a party does not make payment arrangements for the transcript and is not entitled to a free transcript, then the Court Reporter should bring this to the attention of the Court on Appeal by filing either (1) a motion for extension of time to complete the transcript; or (2) a notice stating that payment arrangements have not been made for the transcript.
 - ▶ The Court on Appeal will then issue an order to show cause to the party requesting the transcript, which may result in the dismissal of the appeal.
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In Forma Pauperis

- ▶ Under Appellate Rule 40, a party can seek permission from the Court of Appeals to proceed on appeal in forma pauperis.
 - ▶ This only relieves a party of the obligation to pay the appellate filing fee.
 - ▶ This does not entitle a party to a free transcript.
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Appellate Rule 9(J): Confidential Documents Excluded from Public Access

- ▶ Documents and information excluded from public access pursuant to Administrative Rule 9(G) shall be filed in accordance with Trial Rule 5(G) and Administrative Rule 9(G).

Administrative Rule 9(G): Court Records Excluded from Public Access

- ▶ The general rule is that court records should be accessible to the public. *See* Ind. Administrative Rule 9(D)(1).
- ▶ Administrative Rule 9(G)(1) lists information in case records that is excluded from public access and is confidential

Administrative Rule 9(G)(1)

- ▶ The following information is excluded from public access by Administrative Rule 9(G)(1):
 - Adoption, paternity, and juvenile proceedings records
 - Grand jury proceedings and personal information relating to jurors or prospective jurors
 - Pre-Sentence investigation reports
 - Medical, mental health, and tax records
 - Information relating to protective and no-contact orders
 - Social Security and bank account numbers
 - Witnesses or victims of domestic violence or sex crimes

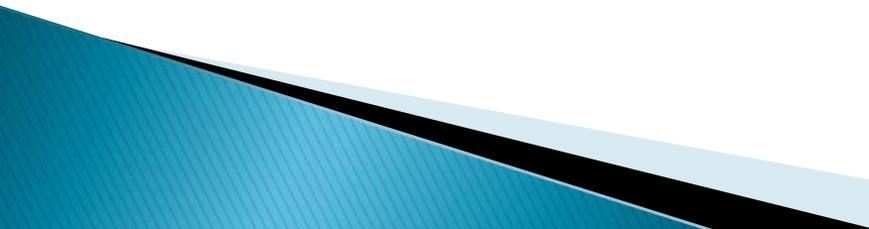
Trial Rule 5(G)

- ▶ If a document includes information that is excluded from public access, then it must be filed in accordance with Trial Rule 5(G).
 - ▶ Whole documents excluded from public access should be placed on light green paper or have a light green coversheet attached to the document marked “Not for Public Access” or “Confidential”.
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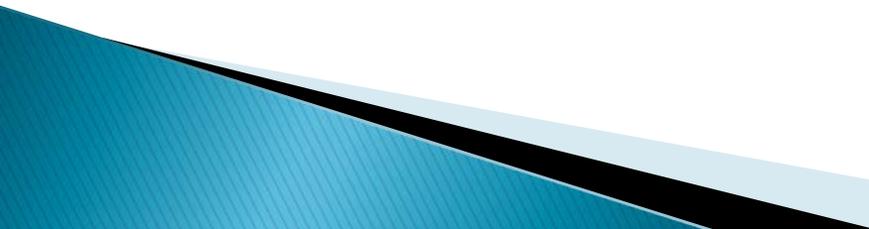
Trial Rule 5(G) continued

- ▶ If a portion of a document contains confidential information excluded from public access:
 - The information should be omitted or redacted from the filed document;
 - The confidential information should be placed on green paper in a separate confidential volume marked “Confidential” or “Not for Public Access”; and
 - It should also identify the document and location within the document to which the redacted material pertains.

Administrative Rule 9(G)(1.2)

- ▶ If information that is excluded from public access is admitted into evidence during court proceedings open to the public, that information remains excluded from public access only if a party prior to or contemporaneously with its introduction into evidence, affirmatively requests that the information remain excluded from public access.
 - ▶ If no affirmative request is made, then confidentiality is waived.
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Administrative Rule 9(H)

- ▶ If information is not confidential under Administrative Rule 9(G) and a party wants that information excluded from public access, then the party must comply with Administrative Rule 9(H), which requires a hearing before the trial court.
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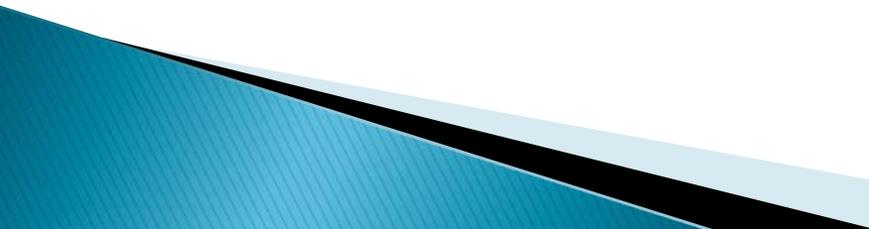
Appellate Rule 11: Duties of Court Reporter

- ▶ Appellate Rule 11(A): the Court Reporter has a duty to prepare, certify, and file the transcript requested in the Notice of Appeal with the Trial Clerk.
 - Preparation of exhibit volumes is considered part of the transcript preparation process
 - Court Reporter shall provide notice to the parties that the transcript has been filed with the trial clerk

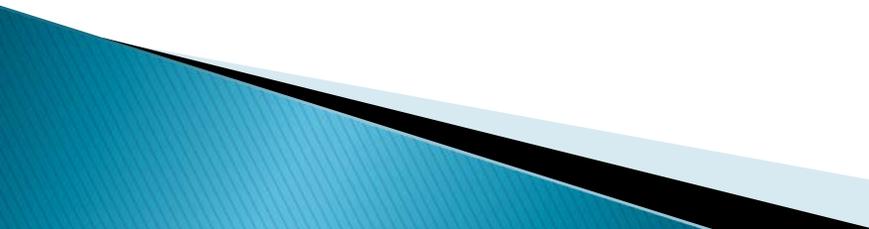
Appellate Rule 11 continued

- ▶ Appellate Rule 11(B): Deadline for filing the transcript is 90 days after the Notice of Appeal is filed.
- ▶ Appellate Rule 11(C): Extensions of Time to File Transcript
 - Should state reason why unable to complete within deadline
 - Should file an original and one (1) copy with Appellate Clerk
 - Disfavored and only granted in extraordinary circumstances in the following types of cases: interlocutory appeals, worker's compensation, child custody, support, visitation, paternity, adoption, CHINS, and termination of parental rights

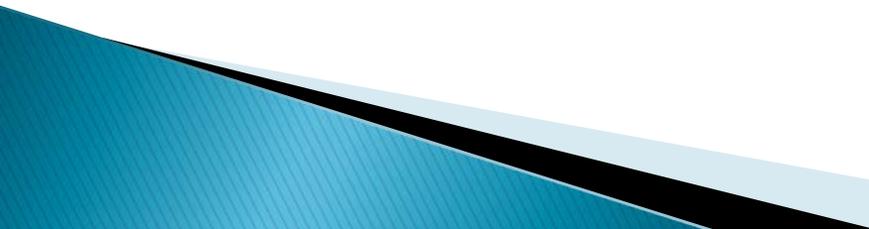
Appellate Rule 11 continued

- ▶ Appellate Rule 11(D): Failure to Complete Transcript
 - ▶ If the Court Reporter fails to file the transcript within 90 days, Appellant has an affirmative duty to file a motion to compel completion of the transcript with the court on appeal within 15 days of when the transcript is due.
 - ▶ Failure to file the motion to compel subjects the appeal to dismissal.
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Appellate Rule 28: Preparation of the Transcript

- ▶ Appellate Rule 28(A) lists format specifications for the Transcript including: paper size, numbering of pages, margins, header and footer notations, font size, line spacing, binding, title page and cover, and table of contents.
 - ▶ Appellate Rule 28(B): the Court Reporter shall certify the transcript is correct.
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Appellate Rule 29: Exhibits

- ▶ Appellate Rule 29(A): Documentary exhibits shall be included in separately bound volumes. An index of the exhibits should be placed at the front of the first exhibit volume.
 - ▶ Appellate Rule 29(B): Non-Documentary exhibits should not be sent to the Court on Appeal and shall remain in the custody of the trial court.
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Appellate Rule 30: Preparation of Transcript in Electronic Format

- ▶ Appellate Rule 30(A): Preparation of a transcript in electronic format can only be done with the approval of the trial court, all parties on appeal, and the court on appeal.

Appellate Rule 32: Correction of the Transcript

- ▶ Appellate Rule 32(A): if the parties disagree about the accuracy of the transcript, the trial court retains jurisdiction to resolve the disagreement until the Appellant's Reply Brief is filed.

Hot Topics:

General Information for Court Reporters

Audibility

- ▶ Always ask yourself “Will I understand this recording if I have to type a transcript?”
 - ▶ The Judge controls the proceedings in the Courtroom.
 - ▶ Alert the Judge to any audibility issues immediately.
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Exhibits

- ▶ Always be attentive to your Exhibits.
- ▶ It's your responsibility to retain Exhibits presented to the Court.
- ▶ Try to Label exhibits prior to a hearing.
 - Maintain consistency.
- ▶ Offered, but not admitted....
 - Still collect the exhibit, for appeal purposes.

Interpreters

- ▶ Parties should notify the Court if an interpreter is required, in advance.
 - ▶ Indiana Code 34-45-1-3, Trial Rule 43(C) and Criminal Rule 21 govern the use of interpreters.
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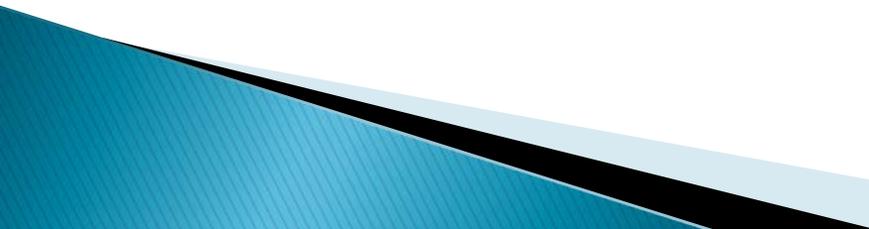
Payment Issues

- ▶ The Notice of Appeal creates an enforceable contract.
 - ▶ The attorney who files the Notice of Appeal is personally liable for the costs.
 - ▶ Appellate Rule 9(H) requires that an attorney make satisfactory payment arrangements with the Court Reporter to begin preparation of the Transcript.
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Payment Issues (cont'd)

- ▶ Document anything related to payment
- ▶ When someone fails to pay, send them a letter:
 - First Letter – Provide basic Info.
 - Second Letter – Provide basic Info, express need for immediate contact.
 - Third Letter – Provide basic Info, also notify that a Motion For Extension of Time is being filed.

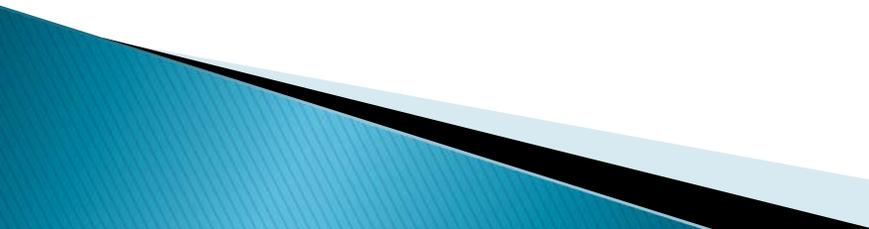
The Appeal's Process

1. Notice of Appeal Filed
 2. The Record as a Whole Filed
 3. Appellant's Brief Filed
 4. Appellee's Brief Filed
 5. Court of Appeals Reviews the Record as a Whole and any Briefs
 6. Court of Appeals issues Decision.
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The Record as a Whole

- ▶ Transcript of Evidence
 - Court Reporter's Responsibility
- ▶ Volume of Exhibits
 - Court Reporter's Responsibility
- ▶ Table of Contents
 - Court Reporter's Responsibility
- ▶ Clerk's Record
 - Clerk's Responsibility

Transcript of Evidence

- ▶ Printed on 8 ½ x 11 –inch White Paper.
 - ▶ 25 Lines to a page.
 - ▶ Pages numbered consecutively.
 - ▶ Font Size no larger than 12.
 - ▶ No More than 250 Pages to a Volume, including Title Page & Cover.
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Transcript of Evidence (cont'd)

- ▶ Header & Footer Notations on the top/bottom of the page where a Witness's Direct, Cross, etc. **begins**.
- ▶ Margins
 - Top = 1-inch from edge.
 - Bottom = 1-inch from edge.
 - Left = No more than 1 ½ - inches from edge of binding.
 - Right = 1-inch from edge .
 - Indented Text = No more than 2-inches from binding.

Volume of Exhibits

- ▶ Separately Bound.
 - ▶ Include an index of Exhibits in first volume.
 - ▶ Do not include non-documentary and oversized exhibits in the Volume of Exhibits.
 - ▶ No more than 250 pages in one Volume.
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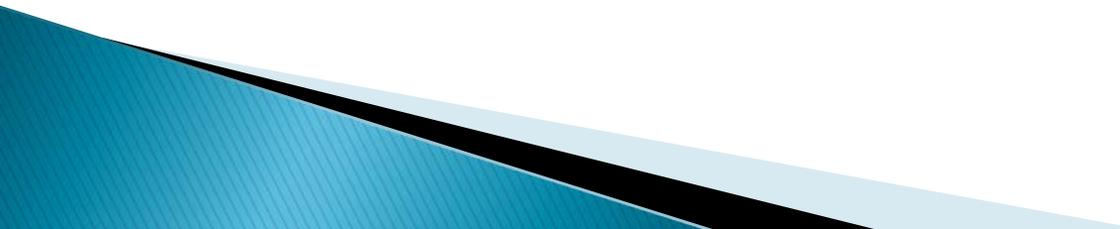
Table of Contents

- ▶ Includes a list of witnesses, and where their testimony is located in the Transcript of Evidence
 - Direct
 - Cross
 - Redirect
 - Recross

Table of Contents (cont'd)

- ▶ Include each Exhibit offered, and list the location in the Transcript of Evidence where the Exhibit is identified, and the ruling made on admissibility.
 - ▶ The Table of Contents is separately bound.
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Clerk's Record

- ▶ Includes the Chronological Case Summary.
 - ▶ Lists all Motions filed by the parties and all Orders issued by the Court.
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Common Mistakes

- ▶ Transcript Not Properly Bound.
 - ▶ Missing Cover Sheets.
 - ▶ Confidential Exhibits not on green paper and separately bound from non-confidential Exhibits.
 - ▶ Confidential Information Pursuant to Admin Rule 9 not redacted
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Common Mistakes (cont'd)

- ▶ Volumes not clearly marked.
 - ▶ Physical Evidence placed in Volume of Exhibits.
 - ▶ Multiple Hearings filed as Multiple Volumes.
 - ▶ Extensions of Time not compliant with the Appellate Rules.
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Court Reporter Resources

- ▶ Court Reporter Handbook
- ▶ <http://in.gov/judiciary/2798.htm>
(Information for Court Staff)
- ▶ Administrative, Appellate, Criminal, Civil and Local Rules (all found on the State's Website).

Court Reporter Resources (Cont'd)

- ▶ Personnel Committee
 - Define and Promote quality education for Indiana Court Employees.
- ▶ Indiana Judicial Center
 - Judge Barbara Harcourt
barbara.harcourt@courts.IN.gov