

“OBSERVATIONS FROM THE STATE HOUSE”  
CLERKS ASSOCIATION SUMMER MEETING 2015

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**I. APPELLATE PROCEDURE TIPS FOR TRIAL COURT CLERKS**

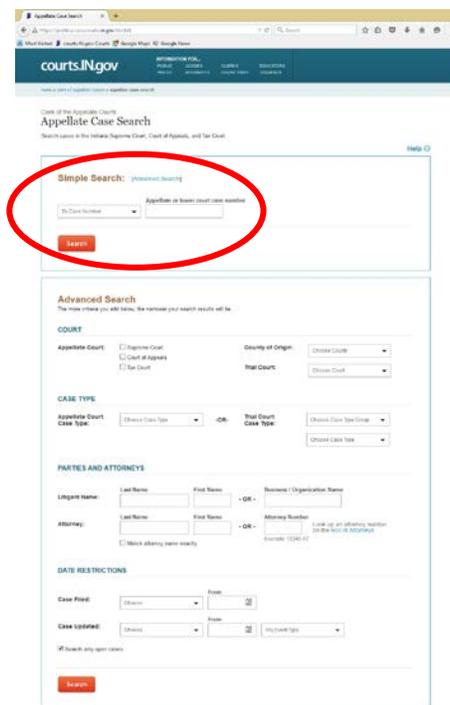
**A. NOTICES OF APPEAL**

**1. NOTICES OF APPEAL ARE “FILED” WITH APPELLATE CLERK AND “SERVED” ON TRIAL COURT CLERK**

- Prior to January 1, 2012, Notices of Appeal (“NOAs”) were filed with the trial court clerk, with a service copy sent to the appellate clerk.
- Effective January 1, 2012, Appellate Rule 9(A) was amended to require the NOA to be filed with the appellate clerk, with a service copy sent to the trial court clerk (and court reporter, and judge, etc.)
  - Appellate Rule 9(A) - “A party initiates an appeal by filing a Notice of Appeal **with the Clerk (as defined in Rule 2(D))** within thirty (30) days after entry of Final Judgment is noted on the Chronological Case Summary.” (emphasis added)
- The order amending the rule provided appellants a “grace period” of two years, stating that until January 1, 2014, an NOA timely filed with the trial court clerk would be deemed timely filed with the appellate court clerk (so the appeal would not be forfeited).
- The grace period ended 18 months ago. *NOAs can no longer be filed with trial court clerks.* Failure to timely file an NOA with my office will forfeit the appeal.
  - Appellate Rule 9(A)(5) – “Unless the Notice of Appeal is timely filed, the right to appeal shall be forfeited except as provided by P.C.R. 2.”
- ✓ **Request: When you receive an NOA, please do not “file” stamp it and/or note it on your docket as “filed”. “Receive” stamp it instead.** Some appellants mistakenly believe they can still file their NOAs with the trial court clerk and, therefore, do not file their NOA with my office. When trial court clerks file-stamp NOAs and/or note NOAs on trial court CCSs as “filed,” this causes some appellants to believe they have “filed their NOA” for purposes of initiating and preserving their right to appeal. They have been wrong, and we have seen many appeals dismissed with prejudice because of this error.
- ✓ **Request: If an appellant attempts to file an NOA with your office (or if you are unsure whether the appellant is trying to file it with you or only provide you the required service copy), please remind the appellant that NOAs must be timely filed with the appellate court clerk.**

## 2. PLEASE DO NOT WAIT TO RECEIVE A COURTESY COPY OF THE NOA FROM THE APPELLATE CLERK BEFORE STARTING TO PREPARE THE CLERK’S RECORD

- When an NOA is filed with the appellate clerk’s office, we email a courtesy copy to the trial court clerk in case appellant forgets to serve a copy of the NOA on the trial court clerk.
  - This emailed NOA from my office is not required by the Appellate Rules – it is sent as a courtesy.
  - Trial court clerks must assemble the Clerk’s Record “within thirty (30) days of the filing of the Notice of Appeal.” -- Appellate Rule 10(A).
  - Some trial court clerks wait to start assembling the Clerk’s Record until they receive the courtesy email from my office, even when they already have been properly served with the NOA by the appellant.
  - Due to workload, absences, etc., my office may not email the courtesy copy of the NOA until several days after it is filed with my office. Clerks who wait to begin assembling the Clerk’s Record until they receive the courtesy email from my office lose valuable time to meet their 30-day deadline.
- ✓ **Request:** If appellant serves you with an un-file-stamped copy of an NOA and you want to know the date on which it was filed with my office (so you can calculate your Clerk’s Record due date), look up the case on the on-line appellate docket (<https://publicaccess.courts.in.gov/docket>) by typing in the trial court case number.



The screenshot shows the 'Appellate Case Search' page on the courts.IN.gov website. The 'Simple Search' section is highlighted with a red circle. It contains a search box labeled 'Appellate or Trial Court Case Number' and a red 'APPEAR' button. Below this is an 'Advanced Search' section with various filters for COURT, CASE TYPE, PARTIES AND ATTORNEYS, and DATE RESTRICTIONS.

And, you can also access the same information on Odyssey through <https://mycase.in.gov>.



### 3. NCCR and NCT – APPELLATE CASE NUMBER NOT KNOWN

- **NCCR and NCT forms contain a space for including appellate cause number.**

**Form App. R. 10-1 Notice of Completion of Clerk's Record**

IN THE  
INDIANA (SUPREME COURT OR COURT OF APPEALS)

Case No.: \_\_\_\_\_  
[Insert Supreme Court or Court of Appeals number, if known]

\_\_\_\_\_ ) Appeal from the \_\_\_\_\_  
                  ) Court  
Appellant(s), )  
                  ) Trial Court Case No: \_\_\_\_\_  
vs. )  
                  ) The Honorable \_\_\_\_\_  
Appellee (s) ) Judge

**NOTICE OF COMPLETION OF CLERK'S RECORD**

\_\_\_\_\_, the Clerk of \_\_\_\_\_ Court, hereby notifies the parties, pursuant to Appellate Rule 10(C), that the Clerk's Record in this case has been assembled and is complete. The Transcript is (circle one):

(a) Completed and filed with this clerk;  
(b) Not yet completed;  
(c) Not requested in the Notice of Appeal.

Attached to this Notice of Completion is a certified and updated copy of the Chronological Case Summary.

\_\_\_\_\_  
Clerk

\_\_\_\_\_  
Date issued  
(see Ind. Appellate Rule 45(B)(1))

**Form 10-2 Notice Of Completion Of Transcript**

IN THE  
INDIANA (SUPREME COURT OR COURT OF APPEALS)

Case No.: \_\_\_\_\_  
[Insert Supreme Court or Court of Appeals number, if known]

\_\_\_\_\_ ) Appeal from the \_\_\_\_\_  
                  ) Court  
Appellant(s), )  
                  ) Trial Court Case No: \_\_\_\_\_  
vs. )  
                  ) The Honorable \_\_\_\_\_  
Appellee (s) ) Judge

**NOTICE OF COMPLETION OF TRANSCRIPT**

\_\_\_\_\_, the Clerk of \_\_\_\_\_ Court, hereby notifies the parties, pursuant to Appellate Rule 10(D), that the Transcript in this case has been completed.

\_\_\_\_\_  
Clerk

\_\_\_\_\_  
Date issued  
(see Ind. Appellate Rule 45(B)(1))

**CERTIFICATE OF SERVICE**

I certify that on [insert date] I served a copy of this document upon the following person(s) by [specify means of service]:

[Separately list name(s) and address(es) of person(s) served]

\_\_\_\_\_  
Clerk

- ✓ **Request:** If you do not know the appellate cause number at the time you prepare the NCCR or the NCT, please find it on the courtesy NOA we emailed to you or look it up on the on-line appellate docket (<https://publicaccess.courts.in.gov/docket>) or through Odyssey (<https://mycase.in.gov>).
- ✓ **Request:** Please do *not* put the trial court cause number in that space, type “xxxxxx” through that space, or write “cause number not known.” If it is too burdensome to look it up, then it is better to leave it blank than to do these things.

### 4. NCCR AND NCT – INSUFFICIENT CERTIFICATES OF SERVICE

- **NCCR AND NCT forms require each person served be listed separately on certificate of service, including name and address.**
- ✓ **Request:** Please list each person served, along with the address at which the person was served. We need to see who was served so we can calculate each appellants’ briefing due date (calculated from when the appellant is served with a copy of NCCR or NCT), and so we can confirm we have added every party and attorney to the appellate case who needs to be added. To help insure you do this, please use the most recent versions of the NCCR and NCT forms (available at the court’s website at <http://www.in.gov/judiciary/2708.htm>).

## 5. THE CLERK'S RECORD STAYS WITH YOU

- **The Clerk's Record always remains with the trial court clerk unless the Court on Appeal specifically orders otherwise.** (Appellate Rule 12(A).)
- ✓ **Request: Please do not send us a copy of the Clerk's Record with the Notice of Completion of Clerk's Record.** This causes unnecessary burden and expense for both offices and wastes paper.

## C. TRANSCRIPTS

### 1. CIVIL APPEALS AND CRIMINAL APPEALS NOT INVOLVING THE STATE PUBLIC DEFENDER

- **In Civil Appeals, and in Criminal Appeals not involving the State Public Defender, you keep the Transcript until notified by us to send it.**
  - Appellate Rule 12(B) – “In appeals other than Criminal Appeals, the trial court clerk shall retain the Transcript until the Clerk notifies the trial court clerk that all briefing is completed, and the trial court clerk shall then transmit the Transcript to the Clerk. In Criminal Appeals in which the appellant is not represented by the State Public Defender, the Clerk shall notify the trial court clerk when the Appellant's brief has been filed, and the trial court clerk will then transmit the Transcript to the Clerk.”
- ✓ **Request: Please do not send Transcripts in these cases until we send our request to you.** The Transcript stays with you to accommodate the attorneys who are drafting the briefs, since in most instances they are geographically closer to you than to us. It can make things difficult on them if the Transcript is sent to us prematurely. It also messes up our internal office procedures, which are set up based on the timing for receipt of the transcript set out in the Appellate Rules.

### 2. CRIMINAL APPEALS INVOLVING THE STATE PUBLIC DEFENDER

- **In Criminal Appeals involving the State Public Defender, you send the Transcript when the court reporter files it, rather than waiting for notification from us.** The transcript gets sent to us after it has been filed to accommodate the State Public Defender's office in drafting the briefs, since they are geographically closer to us.
  - Appellate Rule 12(B) – “In Criminal Appeals in which the appellant is represented by the State Public Defender, the trial court clerk shall transmit the Transcript to the Clerk when the court reporter has completed the preparation, certification and filing . . . .”
- ✓ **Request: When sending Transcripts in State PD cases, please include a sticky note on the Transcript stating that the Appellant is represented by the State PD.** This will help us out quite a bit, because it tells us right away why the Transcript has been sent to us without any notice being sent to you requesting it.

### 3. CHANGES TO YOUR E-MAIL ADDRESSES

- We send App. R. 12(B) transcript request notices via e-mail instead of U.S. mail.
- ✓ **Request:** Please notify us immediately (at [clerk@courts.IN.gov](mailto:clerk@courts.IN.gov)) if your e-mail address, or the e-mail address of any staff member whom you have designated to receive such notices from us, changes. If you forget, then you may not receive our Rule 12(B) notice, resulting in an order from the Court of Appeals ordering you to send the transcript, and nobody wants that! If you retire or otherwise leave office, please make sure someone in your office has an email address on file with us so that emails can still be received.

### 4. ELECTRONIC VERSION OF TRANSCRIPT REQUIRED

- The Appellate Rules require submission of the transcript in an electronic format, *in addition to the paper transcript*.
  - Appellate Rule 28(C) -- “All paper Transcripts generated on a word processing system shall be accompanied by a copy of the Transcript in electronic format.”
- ✓ **Request:** Please comply with this rule and submit the electronic version of the transcript (in PDF format) with the paper transcript. The appellate courts are now processing and reviewing records electronically in preparation for appellate e-filing coming later this year, which requires that we scan all incoming documents. Scanning the transcript takes an inordinately large amount of time – days in some instances. Therefore, it is now critical that court reporters and trial court clerks comply with Appellate Rule 28(C).
- ✓ **Request:** Please submit the electronic copy of the transcript on CDs or a flash drive. It is most helpful to submit the electronic transcript copy on CD(s) or on a flash drive in a sealed envelope marked “electronic copy of transcript” that is stapled to the inside cover of the first volume. For now we can still receive 3.5” floppy discs, but much prefer CDs or flash drives.
- ✓ **Request:** Please have court reporters save the electronic transcripts as PDF documents when they give you the electronic version, or please convert them to PDF yourself before sending them to us, rather than scanning them. PDF documents created directly from a word processing program (such as Word or Word Perfect) create a much smaller file size than scanned documents. They are also text-searchable, whereas scanned documents are not. Plus, it will save you a great deal of time and effort to have your court reporters submit the transcript to you in a PDF file that has been converted directly from Word or Word Perfect, rather than having your staff scan paper transcripts.

## 5. TRANSCRIPT PAGE NUMBERING

- **Transcript page numbering does not start over at “1” with each volume.**
  - Appellate Rule 28(A)(2) – “The pages of the Transcript shall be numbered consecutively regardless of the number of volumes the Transcript requires.”
- ✓ **Request: Please remind your court reporters of this requirement if they are not complying with it, and please send improperly numbered transcripts back to the court reporter for a re-do, citing compliance with Rule 28(A)(2).**

## D. AUDIO AND VIDEO RECORDINGS

### 1. AUDIO AND VIDEO RECORDING EXHIBITS CAN AND SHOULD BE TENDERED WITH THE EXHIBIT VOLUME

- **The Appellate Rules are a bit ambiguous regarding how audio and video recordings, tendered as exhibits at trial, should be handled on appeal. “Documentary exhibits” are sent with the Transcript as part of the exhibit volume, but “nondocumentary and oversized exhibits” are not. (Appellate Rule 29) Audio and video recordings do not fit neatly into either category.**
- **The Supreme Court and Court of Appeals want audio and video recordings exhibits, which were tendered at trial, to be submitted with the exhibit volume.**
- ✓ **Request: Please place the CD, VHS tape, flash drive, etc. containing the audio or video exhibit in an envelope and staple the envelope to a page within the exhibit volume. For an exhibit containing multiple VHS tapes, cassette tapes, or CDs that cannot fit within a single envelope, use multiple envelopes stapled to multiple pages in the exhibit volume.**

### 2. AUDIO AND VIDEO RECORDING EXHIBITS IN CRIMINAL MATTERS WILL BE RETURNED TO YOU FOR STORAGE

- **We hold criminal appellate case records for five years and then microfilm them. At that time, we send any audio and video recording exhibits in such cases back to the trial court clerks. The retention schedule for criminal case records at the appellate level is much shorter than the retention schedule for criminal case records at the trial court level. To protect what might be the original audio and video recording exhibit from being destroyed prematurely, at the five-year mark we send them back to the trial court clerk for maintenance with the original trial court case file.**

## **E. EXPUNGEMENT ORDERS**

### **1. MOST EXPUNGEMENT ORDERS DO NOT AFFECT APPELLATE RECORDS**

- **We receive about 90 expungement orders *each month* from trial court clerks, only 1 or 2 of which typically involve cases that were appealed.** When we receive expungement orders, we must search our docket to determine whether the order affects appellate records. We are wasting a lot of time searching the docket for cases that were never appealed. An expungement order should only be sent to us if it involves a case that was appealed.
- ✓ **Request: Before sending an expungement order to the appellate clerk, please check whether the case being expunged was appealed, and then only send the expungement order to us if it was appealed.** This will save us considerable time.

### **2. EXPUNGEMENT ORDERS INVOLVING APPELLATE OR TAX COURT RECORDS NEED ONLY BE SENT ONCE**

- **In expungement cases where the underlying trial court case *was* appealed, we only need one copy of the expungement order.** Some trial court clerks send us the expungement order three times – one envelope addressed to the Clerk of the Supreme Court, one envelope addressed to the Clerk of the Court of Appeals, and one envelope addressed to the Clerk of the Tax Court. Because the same clerk serves all three courts, it is unnecessary to send the same order in three separate envelopes.

### **3. EXPUNGEMENT DIGESTS**

- **The Division of State Court Administration has prepared helpful guidance on the 2015 amendments to the expungement statutes.** These “Expungement Digests” can be found at [www.in.gov/judiciary/admin/2492.htm](http://www.in.gov/judiciary/admin/2492.htm).

## **F. APPELLATE COURTS NOW ON ODYSSEY**

### **1. SUPREME COURT, COURT OF APPEALS, AND TAX COURT CCSS ARE NOW AVAILABLE ON ODYSSEY.**

- You can now look up appellate case docket information on your cases in Odyssey through <https://mycase.in.gov>.
- In addition, appellate court dockets continue to be available through the original online appellate docket (<https://publicaccess.courts.in.gov/docket>).

**2. SUPREME COURT, COURT OF APPEALS, AND TAX COURT ORDERS AND OPINIONS ARE NOW AVAILABLE ON-LINE THROUGH ODYSSEY.**

- All orders and opinions issued by the appellate courts since May 4, 2015, are available electronically. All you have to do is look up the appellate CCS in and click on the icon next to the order or opinion docket entry or in the “Documents & Media” section.

Clerk of the Appellate Courts

## Appellate Case Search

[Search Results](#) [New Search](#)

### Anderson, Lawrence J. v. State of Indiana

<b>Appellate Court:</b>	Court of Appeals		<b>Documents &amp; Media</b>
<b>Case Number:</b>	79A02-1501-CR-00010		 <a href="#">Opinion (6/30/2015)</a>
<b>Case Type:</b>	Direct appeal		 <a href="#">How to read a case docket</a>
<b>Related Case(s):</b>	Tiptecanoe Superior Court 2 - 79D021402FA9		<a href="#">More documents below</a>

**Parties to the Case** [Show Party Details](#)

Anderson, Lawrence J.; - *Appellant*

State of Indiana; - *Appellee*

**Chronological Case Summary** [Toggle Capitalization](#) [Show Documents Only](#)

Date ▼	Event Details
6/30/2015	Document Transmitted
	 <a href="#">Opinion Issued</a> Judicial Officer: Vaidik, Nancy H. Serve: Broden, Timothy Serve: Pace, Christina Serve: Zoeller, Gregory Affirmed-Vaidik, C.J. Kirsch, J., and Bradford, J., concur.

## **G. TRIAL COURT ADMINISTRATION MANUAL FOR JUDGES AND CLERKS**

1. **The Division of State Court Administration has prepared a helpful manual on issues that trial court judges and clerks most often confront.** It contains 50 chapters concerning various topics, including the following:
  - Notice of Completion of Clerk’s Record in Appeals
  - Court Reporters, Transcript Preparation and Administrative Rule 15
  - Transcripts in Appeals
  - Notice of Completion of Transcript in Appeals
  - Motions for Extension of Time in Appeals
  - Interlocutory Appeals
  - Certification of Appellate Opinions and Memorandum Decisions
2. **This Manual is found at [www.in.gov/judiciary/admin/2492.htm](http://www.in.gov/judiciary/admin/2492.htm).** Please save this website in your “Favorites” and/or on your computer desktop and refer to it often. The Division of State Court Administration strives to keep it current as rule changes occur and opinions are issued interpreting and applying the rules.

## **II. SOME RECENT RULE CHANGES TO NOTE**

### **A. RULE CHANGES TO SPEED UP APPELLATE PROCESS (effective July 1, 2016)**

#### **1. TRANSCRIPT MUST BE PREPARED WITHIN 45 DAYS**

- **Appellate Rule 11(B) – Deadline for Filing Transcript.** “For ~~the period until July 1, 2003, and until revised thereafter~~ **appeals filed on or after July 1, 2016**, the Court Reporter or Administrative Agency shall have ~~ninety (90)~~ **forty-five (45)** days after the appellant files the Notice of Appeal to file the Transcript with the trial court clerk or Administrative Agency.”

#### **2. APPELLANTS MUST ARRANGE FOR TRANSCRIPT PAYMENT MUCH SOONER**

- **Appellate Rule 9(H) – Payment for Transcript.** “Within ~~thirty (30)~~ **ten (10)** days after the filing of a Notice of Appeal a party must enter into an agreement with the court reporter for payment of the cost of the Transcript.”

#### **3. CONTINUED AVAILABILITY OF EXTENSIONS OF TIME TO FILE TRANSCRIPTS IN INTERLOCUTORY APPEALS IS QUESTIONABLE**

- **Appellate Rule 14(G)(1) – Extensions.** “Extensions of time ~~to prepare the Transcript or~~ to file any brief in an interlocutory appeal are disfavored and will be granted only upon a showing of good cause. Any motion for extension must comply with Rule 35.”

#### **4. COPIES FROM CLERK’S RECORD MUST BE PROVIDED MUCH SOONER**

- **Appellate Rule 12(A) – Clerk’s Record.** “A party may request that the trial court clerk copy the Clerk's Record, or a portion thereof, and the clerk shall provide the copies within ~~thirty (30)~~ **seven (7)** days, subject to the payment of any usual and customary copying charges.”

## B. PREPARATION OF EXHIBIT VOLUMES (effective July 1, 2016)

### 1. ONLY COURT REPORTERS CAN PREPARE EXHIBIT VOLUMES

- **Appellate Rule 29(A) – Documentary Exhibits.** “Documentary exhibits, including testimony in written form filed in Administrative Agency proceedings and photographs, shall be included in separately-bound volumes that conform to the requirements of Rule 28(A)(6). The Court Reporter shall also prepare an index of the exhibits contained in the separately-bound volumes, and that index will be placed at the front of the first volume of exhibits. **The Court Reporter shall not utilize any other person, entity, or service to fulfill the obligations contained in this Rule.**”
- **Rule 29(A) applies only to preparation of the exhibit volume, not to preparation of the Transcript.** I am not aware of any rule or case prohibiting court reporters from receiving assistance with the preparation of hearing Transcripts. However, trial court clerks must always be able to certify the correctness of the transcript as required by Appellate Rule 28(B).
  - Appellate Rule 28(B) – Certification: “The Court Reporter shall certify the Transcript is correct, and file the certificate with the trial court clerk or appropriate administrative officer.”

## C. CONFIDENTIALITY OF COURT RECORDS

### 1. IMPORTANT CHANGES TO ADMINISTRATIVE RULE 9

- **Consult the “Public Access to Court Records Handbook”!** (<http://www.in.gov/judiciary/admin/2488.htm>). It should be updated shortly. I can only talk about a few of the changes here.
- **New “Notice to Maintain Exclusion from Public Access” – Admin. R. 9(G)(5)(a).** In cases where only **a portion** of the Court Record is excluded from public access, the party/person submitting the confidential record **must provide notice** that the record is to remain excluded from Public Access:
  - **Admin. R. 9(G)(5)(a)(i)(a):** “***Pleadings or Papers. A Court Record filed with the Clerk of Court that is to be excluded from Public Access must be accompanied by separate written notice identifying the specific 9(G)(2) or 9(G)(3) ground(s) upon which exclusion is based. See Form 9-G1.***”
    - Form 9-G1 is found at <http://www.in.gov/judiciary/4235.htm>.
  - **Admin. R. 9(G)(5)(a)(i)(b):** “***Exhibits. A Court Record tendered or admitted into evidence during an in camera review, hearing, or trial that is to be excluded from Public Access must be accompanied by separate written notice identifying the specific 9(G)(2) or 9(G)(3) ground(s) upon which exclusion is based. See Form 9-G2.***”
    - Form 9-G2 is found at <http://www.in.gov/judiciary/4235.htm>.
  - **Admin. R. 9(G)(5)(a)(i)(c):** “***Oral statements in transcript on appeal. If any oral statement(s) contained in the transcript on appeal is to be excluded from Public Access, then during the hearing or trial, the Court Reporter must be given notice of the exclusion and the specific 9(G)(2) or 9(G)(3)***”

**ground(s) upon which that exclusion is based. If notice was not provided during the hearing or trial, any party or person may provide written notice in accordance with Appellate Rules 28(A)(9)(c) or (d). The Court Reporter must comply with Appellate Rules 28(A)(9) and 29(C) when preparing the transcript on appeal.”**

- ✓ **Request:** These notice requirements became effective January 1, 2015. When preparing the Clerk’s Record, please make sure that any required Notice to Maintain Exclusion from Public Access” is included.
- **Green Paper Requirements Clarified – Admin. R. 9(G)(5)(b).** Where only a portion of a Court Record is excluded from public access, then two versions of the Court Record must be filed – a public access version and a non-public access version.
  - Public Access Version: Filed on white paper, with any confidential portion omitted or redacted and the omission or redaction indicated at the place it occurs in this version. -- Admin. R. 9(G)(5)(b)(i).
  - Non-Public Access Version: Whether a complete copy of the document must be filed as the Non-Public Access version, or only the portions omitted/redacted from the Public Access Version, *depends on the type of document*. – Admin. R. 9(G)(5)(b)(ii).
    - **“If the Court Record is omitted or redacted from an exhibit, attachment, appendix, transcript, evidentiary designation, or similar document, then the separately filed or tendered Non-Public Access version shall consist only of the omitted or redacted Court Record on green paper, with a reference to the location within the Public Access Version to which the omitted or redacted material pertains.”**
    - **“If the Court Record is omitted or redacted from a motion, memorandum, brief, or similar document containing substantive legal argument, then the separately filed Non-Public Access version shall consist of a complete, consecutively-paginated replication including both the Public Access material on white paper and the Non-Public Access material on green paper.”**
    - **The “Unnecessary” Exception: “If the omission or redaction in accordance with 9(G)(5)(b)(i) is not necessary to the disposition of the case, the excluded Court Record need not be filed or tendered in any form and only the Public Access version is required.”**
      - Example: A document containing social security numbers is submitted as an exhibit. If the social security numbers are irrelevant to the case, they can be redacted and the redacted document can be submitted on white paper without a separate “non-public access” version of the exhibit being filed.

## 2. IMPORTANT INFORMATION RE: TRANSCRIPTS AND EXHIBITS

- In cases where all the Court Records are excluded from public access (e.g., adoption, CHINS, etc.), then the Transcript is also excluded from public access. -- Appellate Rule 28(A)(9)(a).
  - Because all the records in these cases are confidential, the Transcripts in these types of cases can be transmitted to the appellate clerk on white paper. – Admin. R. 9(G)(5)(b)(iii).
  - **Exception -- JP Case Records Filed Before July 1, 2014:** Case records filed on or after July 1, 2014, in juvenile paternity cases are not confidential. Therefore, when transmitting to the appellate clerk’s office JP transcripts, exhibits, and case records that were filed in your courts before July 1, 2014, , *please make sure the copies you send are on green paper*. This will help us distinguish, in the appellate case file, the JP records that are confidential from those that are not.
- In cases where some, but not all, the Court Records are excluded from public access, the “green paper” requirements discussed above apply to the Transcript.
  - **“If, during the hearing or trial a party or person identified any oral statement(s) to be excluded from Public Access, the Court Reporter must comply with the requirements of Administrative Rule 9(G)(5)(b) with regard to the statement(s) and must note in the Transcript the specific 9(G)(2) or 9(G)(3) ground(s) identified by the party or person.”** – Appellate R. 28(A)(9)(b).
- If a party/person wants confidential oral testimony excluded from public access, the court reporter must be notified during the hearing. – Admin. R. 9(G)(5)(a)(i)(c).
  - The Court Reporter must note in the Transcript the specific ground(s) identified by the party or person for excluding the testimony from public access. (See rule quoted immediately above.)
- If a party/person fails during the hearing to identify oral statements that are to be excluded from public access, then he/she can do so after the hearing (but before the Transcript is transmitted on appeal) by filing a notice with the trial court clerk that is served upon the court reporter.
  - **“Additionally, until the time the Transcript is transmitted to the Court on Appeal, any party or person may file written notice with the Trial Court identifying: (i) the transcript page and line number(s) containing any Court Record to be excluded from Public Access; and (ii) the specific Administrative Rule 9(G)(2) or 9(G)(3) grounds upon which that exclusion is based. (See Form #App.R. 11-3.)**

**This written notice must be served on the Court Reporter and, upon receipt of the written notice, the Court Reporter must refile the Transcript in compliance with the requirements of Administrative Rule**

**9(G)(5)(b) and must note in the Transcript the specific 9(G)(2) or 9(G)(3) grounds(s) identified by a party or person.”** – Appellate R. 28(A)(9)(c).

- Form App.R. 11-3 is found at <http://www.in.gov/judiciary/2708.htm>.
- **Exhibit volumes must also be filed by court reporters with trial court clerks in compliance with Administrative Rule 9(G)(5)’s “green paper” requirements.**
  - **“If an exhibit was accompanied by the separate written notice required by Administrative Rule 9(G)(5)(a)(i)(b), the court reporter must comply with the requirements of Administrative Rule 9(G)(5)(b) when the exhibit is thereafter filed with the Trial Court Clerk.”** – Appellate R. 29(C).

### **3. TRIAL COURT RECORDS RETAIN THEIR CONFIDENTIALITY ON APPEAL**

- **Appellate Rule 23(F)(2) – “If a Court Record was excluded from Public Access in the trial court in accordance with Administrative Rule 9(G), the Court Record shall remain excluded from Public Access on appeal unless the Court on Appeal determines the conditions in Administrative Rule 9(G)(7) are satisfied.”**
  - Therefore, if it is tendered to you on green paper, then it should be submitted on appeal on green paper.
  - Exception: Again, please be mindful of JP case records filed with the trial court before July 1, 2014, but tendered to the appellate court after July 1, 2014. Those would *not* have been tendered to you on green paper, but it would be very helpful if the copy you send to us *is* on green paper.

## **III. WHAT CAN THE APPELLATE CLERK’S OFFICE DO TO MAKE YOUR LIVES EASIER, AND OTHER COMMENTS & QUESTIONS?**