

Appellate Transcript Procedures

(Includes reference materials for eTransmission of transcripts)

Revised December 2015

Appellate Court Services Division
Supreme Court Building
1163 State Street
Salem, OR 97301-2563



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GENERAL CONTACT INFORMATION

Appellate Court Services Division (ACSD)

Division Director: Rebecca J. (Becky) Osborne

Mailing address: Appellate Court Services Division
Supreme Court Building
1163 State Street
Salem, Oregon 97301-2563

Telephone: 503-986-5555 (extension 5, for transcript matters)

Email address: appealsclerk@ojd.state.or.us

Webpage: <http://courts.oregon.gov/OJD/OSCA/acs/records/index.page>

Transcriber list/
trial court updates &
designated users'
access, only: coty.m.llerenas@ojd.state.or.us

Electronic transmission
of trial court files,
exhibits &
transcripts webpage: <http://courts.oregon.gov/OJD/OSCA/acs/records/eTransmission.page>

TRIAL COURT STAFF INFORMATION

Responsibilities of transcript coordinator

The transcript coordinator plays a vital role in the timely processing of appellate cases.

Per Oregon Rules of Appellate Procedure (ORAP) 3.33(1) – [Appendix C](#), the transcript coordinator of each circuit court will be served a copy of the notice of appeal. Once served, that transcript coordinator determines:

1. Whether the party has designated a record of oral proceedings as part of the record on appeal;
2. Whether preparation of a transcript of the designated proceedings is required by law or these rules; and
3. Whether the proceedings were reported by a court reporter or recorded by audio or video recording equipment, or both.

If the transcript is to be prepared at the states expense, the transcript coordinator will also receive a copy of the authorization and shall forward the authorization to the transcriber. The Office of Public Defense Services (OPDS) authorizes these particular types of financial arrangements.

Transcript coordinators typically have limited interactions with parties because, except as noted in the previous sentence, transcribers make financial arrangements directly with the parties for preparation of the transcript.

Assignment of a transcriber for the record

When a party requests a transcript be made of the circuit court oral proceedings, that is being appealed, the transcript coordinator decides who will create the transcript of the proceedings. Often the transcriber will also be a certified court reporter. For purposes of this document, ACSD will refer to both certified court reporters and transcribers as simply ‘transcribers’. The transcript coordinator will forward both a copy of the notice of appeal as well as the certified copy of the audio/visual recording of the proceedings to a transcriber, who the transcript coordinator selects from the list of transcribers who have signed the required confidentiality form (see below). The transcript coordinator must also inform the assigned transcriber the date when the transcript is due at the appellate court. [Appendix C](#).

Transcriber Confidentiality form

Effective May 1, 2012, all transcription work on appellate cases must be completed by transcribers who have signed a confidentiality agreement with OJD. The form was sent to all trial court administrators statewide in March 2012, to distribute to all the transcribers in each circuit court’s geographical area. ACSD maintains a list on its website of all transcribers who have signed the confidentiality form. The statewide list allows transcript coordinators to choose transcribers near their court or outside their local area. A larger distribution area for transcription work and etransmission of transcripts facilitate timely case processing.

[Appendix A](#)

<https://intranet.ojd.state.or.us/OJDIntra/docs/osca/acsd/transcribercompliance.pdf>

Notifying the appellate court

Once the transcript coordinator has assigned a transcriber to prepare the appellate transcript, he or she must notify the appellate court and the parties to the appellate case as to whom preparation of the record was assigned. This notification must include the name, address, telephone number and email address of each person assigned to prepare the transcript. The transcript coordinator may assign more than one transcriber or reporter to parts of the same transcript. [Appendix C](#)

The transcript coordinator shall notify the appellate court if:

- he or she has not forwarded the notice of appeal to the transcriber, or
- he or she has not forwarded a certified copy of the audio/visual recording to a transcriber prior the transcript due date. [Appendix C](#)

Motions for extension of time for preparation of transcript

When the transcript is delayed, a motion requesting an extension of time to produce and file the appellate transcript must be received by ACSD prior to the transcript due date. The appeal will be placed in default if a motion for extension of time is not timely filed in writing. A motion for extension of time is not restricted to future due dates; any gap in time between the transcript due date and the transcript received date, must be addressed by a motion for extension of time.

Parties/their attorneys, transcribers and transcript coordinators may all file motions for extension of time. The \$50.00 motion filing fee does not apply to transcribers or transcript coordinators.

Frequently Asked Questions (FAQs)

- **Do I need Adobe to make a pdf (portable document format)? Can I use another software program?**

We do not endorse one program over another; as long as the software program is capable of saving the file in pdf format, this should satisfy the courts' needs.

- **Do I have to serve an electronic version of the transcript on the party? (note: this is a change in general practice for some)**

Prior January 1, 2011, the longstanding practice was to serve transcripts as print media. After January 1, 2011, the default service method on parties represented by attorneys was electronic media. Contrarily, the default service method on parties not represented by attorneys was print media. However, arrangements can be made, between the parties and the transcriber(s) to change the service delivery method. Email addresses identified in the notice of appeal shall be used for service when appropriate.

- **How do I make a scanned document searchable?**

A transcript saved as a pdf becomes a searchable document.

- **Can we print labels for optical disks? How many pages can I transmit via disk?**

Permanent marker is best. The permanent marker ensures that the optical disk (CD/DVD) remains marked and the information is available for easy identification. Labeling software may also be used, because the software produces a reliably adherent label. Conventional labels will degrade over time, and can separate from the optical disk. There is no page limit if the transcript is submitted via optical disk – the page limitation applies to email submission and conventional transmission.

- **How do I combine the index, the transcript, and the service certificate into one document?**

We recognize that many transcribers formerly saved their index, transcript and certificate in separate electronic documents. We now need these as one pdf. The copy and paste function may be used to combine all the documents into one, before saving as a pdf; software programs can combine separate pdf documents into one pdf. A local, technical resource may be able to assist with more options.

- **Can transcribers submit requests for extensions of time via email?**

No. Requests for extension of time must be submitted conventionally.

- **Are there any changes in the amounts transcribers can bill, or in the process for billing for services?**

The fees are set by the legislature, and are not affected by our recent process or rule changes. Many billing questions are redirected to OPDS, simply because they are a large user of transcriber services. Their business services division contact number is 503-378-2478.

- **Can the naming convention please be better explained or clarified?**

Correction: The naming convention that the transcriber will use will not include a second date at the end of the string.

- **Why the AM/PM distinction? What does the naming convention look like on transcripts spanning dates?**

*The AM/PM distinction is only for cases in which multiple transcribers are responsible for the same date of transcripts. If one transcriber has transcribed the entire date, omit the AM/PM distinction. Cases spanning multiple dates should be saved as a single pdf file, with the date span included in the name file, such as: **SC012345_transcript-2002-02-15to2002-02-20_johnsonerin**. The same naming convention should also be used when labeling the optical disk.*

- **Why can't all transcripts be submitted via email to save mailing expense and time?**

Due to security reasons our email system is unable to receive very large transcript files, which many transcripts often are.

- **Do the separate days of a transcript need to be separate pdfs?**

*No. The transcript **MUST** be combined into one document, regardless of the number of days of testimony.*

TRANSCRIBER INFORMATION

Responsibilities of transcriber

Effective May 1, 2012 all transcribers interested in performing appellate transcription work must complete a confidentiality agreement with ACSD. ACSD maintains the list of transcribers, who have signed and returned the form and who are, therefore, available for appellate case transcription. The expansive list with contact information is not available to the public, but is available to all transcript coordinators statewide via the Oregon Judicial Department's (OJD) intranet website. The list, with contact information is available to self-represented persons. Presence on the list does not mean that ACSD guarantees quality of work, or timeliness of work. [Appendix A](#)

The transcript coordinator from each circuit court assigns the transcript to one of more transcribers from the list. The transcript is due within 30 days from the date the notice of appeal is filed with the appellate court.

Financial arrangements

The fees a transcriber may charge for transcripts on appeal are set by the legislature. Per ORS 21.345, a transcriber may not charge more than \$3.00 per page for the original transcript, and may not charge more than \$.25 per page for each additional copy of the transcript.

Different circuit court case types require different types of financial arrangement. Please find each circuit court case type below to determine how to handle financial arrangement.

Criminal cases

Indigence: Do not begin transcript until an order is signed by the trial judge. Such order authorizes payment for the production of the transcript. Payment for transcript preparation in this instance would be paid through state funds. The billing is done after the transcript is completed.

OPDS: Transcripts are paid from the *Public Defense Services Commission* funds. Questions about the notice of appeal on a criminal case should be directed to the OPDS office. Their contact information is as follows:

Office of Public Defense Services
1175 Court Street NE
Salem, Oregon 97301
Telephone: 503-378-3349
www.oregon.gov/OPDS

Because OPDS is a 'public body', the transcriber may not charge more than the amounts mentioned above. OPDS requires a specific form for billing: *Public Defense Provider's Fee Statement for Transcripts on Appeal*; contact OPDS directly for more information.

Send the completed fee statement to:

Accounts Payable
Public Defense Services Commission
1175 Court Street NE
Salem, Oregon 97301

The phone number for OPDS' Contract & Business Services Division is 503-378-2478.

Privately retained attorney OR pro se party: Upon receipt of the notice of appeal and/or audio tapes from the transcript coordinator, the transcriber should request advanced payment or make arrangements for payment with the attorney (or with the appellant, for parties appearing without an attorney).

Do not begin work on the transcript until financial arrangements have been made.

1. If arrangements have not been made within 14 days, send a letter to ACSD (sample at [Appendix I](#)) advising that you have not begun preparation of the transcript because no payment agreement has been reached. Include with that letter a copy of the letter sent to the attorney(s) or party(s) requesting payment for the appeal transcript. See the '[General Contact Information](#)' section at the beginning of this manual for ACSD's mailing address.
2. If the payment or arrangement for payment has been made after the 14-day letter has been sent to the ACRS, file a written request for an extension of time (sample at [Appendix B](#)) with the ACRS informing them those arrangements have now been made. Include the date of the payment or arrangement and request a new due date for the transcript.
3. If the payment or arrangement is not made by the attorney(s) or party(s) requesting the transcript on appeal, a transcript will not be prepared and the appeal may go forward without a transcript or the case may be dismissed.

Civil cases

For circuit court civil cases, generally the transcriber deals with privately retained counsel or pro se parties.

Privately retained attorney OR pro se party: Upon receipt of the notice of appeal and/or audio tapes from the transcript coordinator, request advanced payment or make arrangements for payment with the attorney (or with the appellant, for parties appearing without an attorney).

Do not begin work on the transcript until financial arrangements have been made.

1. If arrangements have not been made within 14 days, send a letter to the ACRS (sample at [Appendix I](#)) advising that you have not begun preparation of the transcript because no agreement has been reached. Include with that letter a copy of the letter sent to the attorney(s) or party(s) requesting payment for the appeal transcript. See the '[General Contact Information](#)' section at the beginning of this manual for ACRS' mailing address.
2. If the payment or arrangement for payment has been made after the 14-day letter has been sent to ACRS, file a written request for an extension of time (sample at [Appendix B](#)) with the ACRS informing them those arrangements have now been made. Include the date of the payment or arrangement and request a new due date for the transcript.
3. If the payment or arrangement is not made by the attorney(s) or party(s) requesting the transcript on appeal, a transcript is not prepared and the appeal may go forward without a transcript or the case may be dismissed.

Juvenile cases

Indigence: Do not begin transcript until an order is signed by the trial judge, which authorizes payment for the production of the transcript.

DOJ: No advanced payment is required. Billing occurs after the transcript is complete; mail to:

Appellate Division
Department of Justice
1162 Court Street NE
Salem, Oregon 97310
Telephone: 503-378-4400
doj.info@state.or.us
www.doj.state.or.us

Privately retained attorney OR pro se party: Upon receipt of the notice of appeal and/or audio tapes from the transcript coordinator, request advanced payment or make arrangements for payment with the attorney (or with the appellant, for parties appearing without an attorney).

Do not begin work on the transcript until financial arrangements have been made.

1. If arrangements have not been made within 14 days, send a letter to the ACRS (sample at [Appendix I](#)) advising that you have not begun preparation of the transcript because no agreement has been reached. Include with that letter a copy of the letter sent to the attorney(s) or party(s) requesting payment for the appeal transcript. See the '[General Contact Information](#)' section at the beginning of this manual for ACRS' mailing address.
2. If the payment or arrangement for payment has been made after the 14-day letter has been sent to the ACRS, file a written request for an extension of time (sample at [Appendix B](#)) with ACRS informing them those arrangements have now been made. Include the date of the payment or arrangement and request a new due date for the transcript.
3. If the payment or arrangement is not made by the attorney(s) or party(s) requesting the transcript on appeal, a transcript will not be prepared, and the appeal may go forward without a transcript or the case may be dismissed.

Post-conviction relief cases

Indigence: The request for transcript is usually filed in the county where the defendant is incarcerated. Do not begin transcript until an order is signed by the trial judge, which authorizes payment for the production of the transcript. Payment for transcript preparation in this instance would be paid through state funds. The billing can be issued after the transcript has been completed.

Privately retained attorney OR pro se party: Upon receipt of the notice of appeal and/or audio tapes from the transcript coordinator, request advanced payment or make arrangements for payment with the attorney (or with the appellant, for parties appearing without an attorney).

Do not begin work on the transcript until financial arrangements have been made.

1. If arrangements have not been made within 14 days, send a letter to the ACRS (sample at [Appendix I](#)) advising that you have not begun preparation of the transcript because no agreement has been reached. Include with that letter a copy of the letter sent to the attorney(s) or party(s) requesting payment for the appeal transcript. See the '[General Contact Information](#)' section at the beginning of this manual for ACRS' mailing address.
2. If the payment or arrangement for payment has been made after the 14-day letter has been sent to the ACRS, file a written request for an extension of time (sample at [Appendix B](#)) with the ACRS informing them those arrangements have now been made. Include the date of the payment or arrangement and request a new due date for the transcript.
3. If the payment or arrangement is not made by the attorney(s) or party(s) requesting the transcript on appeal, a transcript will not be prepared and the appeal may go forward without a transcript or the case may be dismissed.

Transcript content and specifications

- Title page
- Index of trial or hearing
- Exhibit index
- Transcript of the trial or hearing
- Certificate of Preparation and Service of Transcript (sample at [Appendix K](#))

Title page

An appropriate title page will have the appellate case number and caption, the lower (circuit) court case number, and indicate volume number (if applicable).

Indexes: trial/hearing and exhibit

The trial/hearing index shall note the first page of each: direct, cross, redirect and re-cross testimony of each witness. Exhibits shall be noted with its type, the page of the record where offered and received in evidence. Other proceedings should be indexed, when appropriate: motions for involuntary dismissal and directed verdict, requested jury instructions and jury instructions, opinion of the court and other matters of special importance.

Transcript of the trial or hearing

Appearance

The transcript shall be a uniform document. Double-sided, white 8.5 x 11 inches copy paper, shall be used. Margins shall be one inch. Uniformly spaced type shall be at 10 characters per inch. Proportionally spaced type from a computer shall be at no smaller than 12 point font. The same sized font shall be used throughout the document. Twenty five, numbered lines of double-spaced text shall be contained on each page (except for the last page).

Rules of grammar shall be observed (for example, a transcript shall not be prepared using all uppercase letters). The following shall begin no more than 15 character spaces from the left margin: colloquy, parenthetical phrases, exhibit marking, quoted material. Quoted material that carries to the next line shall begin no more than 10 character spaces from the left margin.

Organization

All formats

Questions and answers shall be prefaced by 'Q' and 'A' as appropriate, and each question and answer will begin on its own line. Pagination of the entire document shall be placed in the top right corner. To the left of the page number, at the top of the page, shall be the witness' name (as applicable) and whether the testimony is: direct (D), cross (X), redirect (ReD), or recross (ReX) examination.

Paper format

Conventionally filed transcripts shall be bound to lie flat when open. A plastic comb binding, set within three-eighths of an inch from the left paper edge of the transcript, shall bind each hard copy transcript volume. If a transcript exceeds 200 pages, it shall be bound into volumes of approximately equal size (and not more than 200 pages each). Volumes must be consecutively numbered on their covers. Covers of transcripts shall be either a clear plastic sheet or 65-pound weight paper.

Electronic format

Electronically filed transcripts shall be in pdf that allows text searching and copy/paste function. Transcript pagination, whether hard copy or electronic, must all be the same for briefing purposes later in the case chronology. This is achieved by converting transcripts to pdf format prior to printing. If a pdf file contains more than one proceeding date, the beginning of each proceeding date must be bookmarked.

If a transcript exceeds 450 pages, it shall be bound into volumes of approximately equal size (and not more than 450 pages each).

Naming conventions are as follows: [Appendix O](#)

Non-confidential cases

[Appellate Case Number]_transcript-[year-month-day, of hearing-am/pm if appropriate]_[court reporter or transcriber last, first name]

Example: CA123456_transcript-2002-02-15-am_johnsonerin

If the transcript spans several dates, then the date span should be indicated, such as:
SC012345_transcript-2002-02-15to2002-02-20_johnsonerin

Confidential cases

[Appellate Case Number]_transcript-confidentialcase-[year-month-day, of hearing-am/pm if appropriate]_[court reporter or transcriber last, first name]

Example: CA123456_transcript-confidentialcase-2002-02-15-am_johnsonerin

Transcribers shall use optical disks to send transcripts containing more than two volumes to ACSD. The naming convention shall follow the guidelines above; labeling software may be used to burn the naming convention directly onto the disk, however, the preferred method is to write directly onto the disk with a permanent marker. Conventional, paper labels are not to be used due their ability to degrade over time and separate from the disk. The electronic transcript shall comply with ORAP 3.35(1)(a), (c), (d), (e), (f), (g), and (h). Notwithstanding ORAP 3.33(5)(b), the electronic transcript filed with the court shall be prepared in the one page of transcript per one standard page format.

[Certificate of preparation and service of transcript](#)

Effective January 1, 2011, transcribers shall serve transcripts in electronic format on attorneys representing parties, and shall serve transcripts in paper format on parties appearing *pro se*. This is a change in previous practice. Different service formats may be arranged between attorneys/parties and transcribers, but the aforementioned shall be the default service methods in absence of specific arrangements to the contrary.

File this document with ACSD. Transcribers may provide this document either electronically or conventionally. However, please do not provide the same document in both formats. Send the certificate to the address in the general contact information at the beginning of this document. Serve copies of the certificate on both the transcript coordinator and the trial court administrator. Serve a copy of the certificate as well as a copy of the transcript on each party. Do not send the transcript to the appellate court at this time. Send the transcript to the appellate court after it has settled. [Appendix K](#)

[Appellate settlement conference program](#)

If the appellate case is assigned to the settlement conference program, the preparation of the transcript, record and briefing schedule will be held in abeyance. The abeyance period is for 120 days. A party may still submit a motion to the court to hold in abeyance another aspect of the appeal, seek an extension of time, or any other task required by law or the ORAP. A party may request an extension of the abeyance for up to 60 days, or possibly longer if all parties agree. [Appendix O](#)

[Addition or correction of transcript](#)

After the transcriber has served copies of the certificate and transcript on the parties, the parties determine whether any corrections or additions need to be made. The parties have 15 days after service of the certificate and transcript, to file a motion in the circuit court asking for additions or corrections. The parties shall also serve a copy of the motion on the transcript coordinator. [Appendix L](#)

The appeal is held in abeyance until the circuit court grants or denies the motion to supplement or correct the transcript. The transcript could be in multiple parts – whether through multiple parts of the oral record designated on appeal or through multiple transcribers preparing the transcript. All parts of the transcript must be complete before it is settled. The appeal remains in abeyance if the circuit court grants a motion to add to the transcript. A motion to correct may still be filed on a transcript to which additions have been made. The same timelines apply until the circuit court orders the transcript settled.

Settling transcript

If no motion to correct or add to the transcript is filed, the transcript shall be deemed settled, 15 days after it was served on the parties. The appeals clerk will notify the transcriber(s) and will request the transcript.

If, however, a party asks for corrections or a supplement, after transcriber makes any necessary corrections, the transcriber must file a certificate of preparation on the corrected transcript

The briefing schedule begins with the appellant's/appellants' opening brief, which is due either within 49 days for non-expedited cases and within 28 days for expedited cases, after the transcript has settled.

Filing & delivery of settled transcript

Submit transcripts directly to ACSD as a pdf via one of two methods: 1) optical disk, or 2) email. For cases with a notice of appeal filed prior the aforementioned date, conventionally-filed transcripts are allowable. For purposes of the OJD, the pdf version of the transcript is the original transcript effective August 30, 2010 to each party on the appellate case. Serve a *Certificate of Filing of Transcript*. [Appendix N](#)

Via email

Two volumes or less may be emailed to appealsclerk@ojd.state.or.us If the transcript needs to be rejected (virus or malware issues), ACSD will notify the transcriber(s) the reason for the rejection, and instruct as to how to resubmit the transcript. More than two volumes of transcript require filing in the appellate court via optical disk.

APPENDICES

Appendix A – Certificate of Compliance for Transcripts

OREGON JUDICIAL DEPARTMENT, APPELLATE COURT SERVICES DIVISION
NOTICE OF REQUIREMENT and
CERTIFICATE OF COMPLIANCE FOR PREPARATION OF TRANSCRIPTS ON APPEAL

NOTICE: To prepare appellate transcripts, you must agree to meet the following requirements.

1. You must not discuss the proceedings with anyone other than state court officials, except to make arrangements for preparation, copying, or delivery of the transcripts.
2. You must not show or give materials relating to state court proceedings to anyone except
 - a. employees of the trial court or Appellate Court Services Division,
 - b. the people preparing or proofreading the transcripts,
 - c. the people copying the transcripts,
 - d. the people delivering the transcripts to you or the court system.
 - e. the attorneys or parties ordering the copies.
3. You must not leave materials relating to the proceedings unattended and must store them using a secure storage method.
4. If you know any person or persons involved in the proceedings, you must immediately notify the Transcript Coordinator. After giving that notice, you must STOP work on the transcripts unless the Transcript Coordinator authorizes you to continue.
5. When you complete the transcript, you must return to the court all the materials related to the proceeding that the court initially provided to you.
6. Within 90 days after the court settles the transcript, you must
 - a. deliver to the court an electronic copy of the final transcript;
 - b. delete and erase all computer files relating to the transcripts; and
 - c. shred or otherwise destroy all materials that you created that are related to transcript preparation and that you do not return to the court (pursuant to item 5 above), including drafts and unofficial copies of the transcript, to ensure that no one can read any electronically stored images or copies.

The following certificate covers all transcripts for as long as you are listed on the OJD Transcriptionist List kept by the Appellate Court Services Division Records Office.

Certificate of Compliance

I certify that I will meet these requirements when preparing, proofreading, copying, and delivering transcripts and handling related materials in Oregon state court proceedings. I understand that my failure to comply with this obligation may disqualify me and anyone for whom I work from transcribing Oregon state court proceedings in the future. I also understand that I am responsible to file a signed

Certificate of Compliance for each of my employees or contractors involved in the preparation, edit function, duplication, or delivery of any transcript.

Date

Transcriber's Signature

Email Address

Printed Name

Telephone

Business Name

Mailing Address

Return by scan, fax (503.986.5560), or mail to Appellate Court Services Division Records Section
Attn: Transcript Compliance, 1163 State Street, Salem, OR 97301

Appendix B – Reporter’s Request for Time Extension for Preparation of Transcript

IN THE COURT OF APPEALS (SUPREME COURT) OF THE STATE OF OREGON

Plaintiff-Appellant (or Plaintiff-Respondent),

v.

Defendant-Respondent (or Defendant-Appellant).

County Circuit Court No.

CA A

REPORTER’S REQUEST FOR TIME EXTENSION FOR PREPARATION OF TRANSCRIPT

1. I reported all (or a part) of the proceedings identified in the designation of record. I am responsible for preparing a transcript for days of proceedings and a transcript of those proceedings will be approximately pages. The transcript was ordered on [date].
2. I request an extension of time of ___ days, from _____ through _____, within which to prepare, serve, and file the transcript. This is the request for a time extension and is sought because:
 - I have not received payment for the transcript and a satisfactory arrangement for payment has not been made. [or]
 - I have now received payment for the transcript. [or]
 - a satisfactory arrangement for payment has been made. [or]
 - [Other reason:].
3. On order from me, and undelivered to date, are transcripts in the following cases: [Attach additional sheet(s) if necessary.]

[For each case, include the following information: Case caption, circuit court, date ordered, whether or not an extension has been allowed, date now due, and the estimated number of pages.]
4. I have served copies of this request on: [List names and complete addresses of all counsel, parties, and, when appropriate, the trial court judge(s)]

Date:

[Transcriber Name]

[County]

[Email]

[Phone]

Appendix C – ORAP 3.33

PREPARATION, SERVICE, AND FILING OF TRANSCRIPT

- 1) On being served with a copy of a notice of appeal, the transcript coordinator shall examine the notice of appeal and determine:
 - (a) Whether the party has designated a record of oral proceedings as part of the record on appeal;
 - (b) Whether preparation of a transcript of the designated proceedings is required by law or these rules; and
 - (c) Whether the proceedings were reported by a court reporter or recorded by audio or video recording equipment, or both.
 - (2) (a) When a party has designated as part of the record on appeal a transcript of oral proceedings reported by:
 - (i) A court reporter, the transcript coordinator shall forward a copy of the notice of appeal to the court reporter or reporters who reported the proceedings designated as part of the record on appeal and inform the reporter(s) of the due date of the transcript.
 - (ii) Audio or video recording, the transcript coordinator shall identify one or more qualified transcribers, forward a copy of the notice of appeal to the transcriber(s) along with a certified copy of the audio or video tape recording, and inform the transcriber(s) of the due date of the transcript.
 - (b) Except as provided in paragraph (c) of this subsection, the party shall make financial arrangements with the court reporter(s) or transcriber(s) for preparation of the transcript.
 - (c) When the appellant is eligible for court appointed counsel on appeal, authorization for the preparation of the transcript at state expense is governed by the policies and procedures of the Office of Public Defense Services.
 - (d) If the transcript coordinator has not forwarded the notice of appeal to the court reporter(s) or has not forwarded the notice of appeal and a certified copy of the audio or video tape recording to a transcriber before the transcript due date, the transcript coordinator shall notify the appellate court of that fact.
- (3) After making arrangements with the court reporter(s) or transcriber(s) as provided in subsection (2) of this rule, the transcript coordinator shall notify the appellate court and the parties to the appeal of the name, address, telephone number, and e-mail address of each court reporter or transcriber, or both, as appropriate, who will be preparing all or a part of the transcript.

- (4) It shall be the responsibility of each court reporter or Transcriber with whom arrangements have been made to prepare a transcript to:
- (a) Cause the transcript to be prepared in conformity with ORAP 3.35.
 - (b) Serve a copy of the transcript on each party required by ORS 19.370 and file with the Administrator and serve on each party, the trial court administrator, and the transcript coordinator a certificate of preparation and service of transcript within the time provided in ORS 19.370. In a criminal case, the state's copy of the transcript shall be served on the Attorney General. If the transcript is not served and the certificate is not served and filed within that time, the court reporter or transcriber shall move for an extension of time.
 - (c) Upon notice from the Administrator of the settlement of the transcript, file with the Administrator an electronic version of the transcript in the form required by ORAP 3.35(2) and file with the Administrator and serve on each party a certificate of filing of transcript. Filing an electronic version of the transcript with the Administrator is in lieu of filing a paper transcript and shall be in the form provided in ORAP 3.35(2).
- (5) (a) The court reporter or transcriber shall serve the appellant and the respondent each with a copy of the transcript as follows:
- (i) If a party is represented by an attorney, unless the attorney has made other arrangements with the court reporter or transcriber, the court reporter or transcriber shall serve the transcript in electronic form on the attorney at the e-mail address identified in the notice of appeal as required by ORAP 2.05(5). If a party is not represented by an attorney, unless the party has made other arrangements with the court reporter or transcriber, the court reporter or transcriber shall serve a paper copy of the transcript on the party. In addition to or in lieu of service by e-mail or by paper copy, an attorney or party may make arrangements with the court reporter or transcriber to provide a copy of the transcript to that attorney or party on an optical disk or USB drive, or in other comparable medium.
 - (ii) If two or more respondents not represented by attorneys must be served by paper copy as provided in clause (5)(a)(i) of this rule, the court reporter or transcriber shall provide one copy of the transcript to the trial court administrator for use by all such respondents. The copy of the transcript provided to the trial court administrator under this clause shall be in the medium (*e.g.*, paper or optical disk) requested by the trial court.
- (b) If a party or attorney negotiates with a court reporter or transcriber to provide the transcript in a medium, other than paper or e-mail, provided by the court reporter or transcriber, the court reporter or transcriber may request payment of no more than \$5.00 per optical disk, USB drive, or other comparable medium.
 - (c) A party may specify in the party's designation of record or other request for preparation of a transcript on appeal that the version of the transcript to be provided to that party be

prepared by reducing the pages of the transcript in such a manner as to fit up to four pages of transcript onto a single 8-1/2 x 11 inch page or in the one page of transcript per one standard page format. If a party not responsible for arranging for preparation of a transcript is served with a transcript containing four reduced pages of transcript on one standard page, that party may arrange with the court reporter or transcriber, at the party's own expense, for preparation of a transcript in the one page of transcript per one standard page format.

- (6) The court reporter or transcriber may not charge for preparing more than one original transcript and may charge only at the rate for copying a transcript for any additional transcript that may be needed for an appeal or appeals:
- (a) When two or more cases are heard simultaneously in the circuit court from which one or more appeals are taken, either as consolidated cases or otherwise; or
 - (b) When two or more cases not heard simultaneously in the circuit court are consolidated on appeal before the transcripts are prepared.

Appendix D – ORAP 3.35 FORM OF TRANSCRIPT

- (1) A transcript shall meet these specifications:
 - (a) It shall be prepared using either uniformly spaced type (such as produced by typewriters) or proportionally spaced type (such as produced by commercial printers and many computer printers). Uniformly spaced type shall be 10 characters per inch (cpi). If proportionally spaced type is used, it shall be 12 point type. The font size shall be uniform and not vary from line to line or within the same line. Uppercase and lowercase letters shall be used according to rules of grammar; a transcript shall not be prepared using all uppercase letters.
 - (b) It shall be prepared on good quality white, opaque, unglazed paper, 8-1/2 x 11 inches in size, with numbered lines, and printed on both sides of each page. It shall be double-spaced and each page shall contain 25 lines of text, no more and no less, except for the last page of the transcript. The margins of each page shall be one inch on each side, at the top, and at the bottom.
 - (c) Each question shall be prefaced by “Q” and each answer shall be prefaced by “A.” Each question and answer shall begin on a separate line no more than five spaces from the left margin and no more than five spaces from the “Q” and “A” to the beginning of the text. Text that carries on to the next line shall begin at the left margin.
 - (d) Colloquy, parenthetical, and exhibit markings shall begin no more than 15 spaces from the left margin. Text that carries on to the next line shall begin at the left margin.
 - (e) Quoted material shall begin no more than 15 spaces from the left margin. Text that carries on to the next line shall begin no more than 10 spaces from the left margin.
 - (f) Each page shall be consecutively numbered at the top right corner, and to the left thereof shall be given the name of the witness followed by a notation indicating whether the testimony is on direct, cross, redirect or recross examination, indicated by “D,” “X,” “ReD,” or “ReX.”
 - (g) Appropriate notation similarly shall be made of other proceedings, such as a motion for dismissal or a directed verdict, requested jury instructions, jury instructions, any opinion by the court, and other matters of special importance.
 - (h) It shall be preceded by an appropriate title page followed by an index noting:
 - (i) the first page of the direct, cross, redirect, and recross testimony of each witness;
 - (ii) all exhibits, with notation of the nature thereof and of the page of the record where offered and, when appropriate, where received in evidence; and

(iii) appropriate notations of other proceedings such as motions for involuntary dismissal and directed verdict, requested jury instructions, jury instructions, opinion of the court and other matters of special importance.

(i) Each transcript volume shall be bound in a manner that allows the pages of the transcript to lie flat when the transcript is open, as provided in this paragraph. The transcript volume shall be bound with a plastic comb binding, with the binding within 3/8 inch from the left edge of the transcript. A transcript volume may be bound by stapling if the transcript does not exceed 20 pages (10 pieces of paper), excluding the cover. A transcript volume bound by stapling shall be secured by a single staple placed as close to the upper left-hand corner as is consistent with securely binding the transcript.

(j) It shall have a cover sheet of clear plastic or 65-pound weight paper, front and back.

(k) If a transcript exceeds 200 pages, it shall be bound into volumes of approximately equal size of not more than 200 pages each. Volumes shall be consecutively numbered on their covers.

(2) The electronic version of the transcript filed with the Administrator as required by ORAP 3.33(4)(c) shall be in the following form:

(a) The electronic transcript shall be in Portable Document Format (PDF) that allows text searching, and copying and pasting into another document. The pagination of the transcript served on the parties shall correspond to the pagination of the electronic transcript filed with the court.

(b) If the transcript exceeds 450 pages, the electronic transcript shall be broken into separate PDF files of approximately equal length not to exceed 450 pages. Regardless of whether a disk contains one or more PDF files, each file shall be named in accordance with the file naming conventions set out in Appendix 3.35. If a PDF file contains more than one proceeding date, the beginning of each proceeding shall be bookmarked.

(c) If the transcript is in two volumes or less, it may be filed by attaching the electronic transcript to an e-mail directed to appealsclerk@ojd.state.or.us. If the Administrator determines that an electronic transcript must be rejected for security reasons (e.g., virus or malware), the court reporter or transcriber shall resubmit the transcript as directed by the Administrator. If the transcript is more than two volumes, it shall be filed by optical disk.

(d) The electronic transcript shall comply with ORAP 3.35(1)(a), (c), (d), (e), (f), (g), and (h). The electronic transcript also shall comply with ORAP 3.35(1)(c), except that it will not be printed. Notwithstanding ORAP 3.33(5)(b), the electronic transcript filed with the court shall be prepared in the one page of transcript per one standard page format.

Appendix E – ORS 19.370

CERTIFICATION OF TRANSCRIPT; EFFECT OF REFERRAL TO APPELLATE MEDIATION; CORRECTION OF ERRORS; SETTLEMENT ORDER

- (1) If a transcript is prepared from audio records by a person other than the reporter, then the reporter shall certify the audio records and the transcript shall be certified by the person preparing it. In all other cases the transcript shall be certified by the reporter or the trial judge.
- (2) Except as provided in subsection (3) of this section, the person preparing the transcript shall file the transcript with the trial court administrator within 30 days after the filing of the notice of appeal. The person preparing the transcript shall give immediate notice in writing to the parties that the transcript has been filed. Except as provided in subsection (4) of this section, the person preparing the transcript shall serve the respondent with a copy of the transcript and shall, at the time of filing the original transcript, file proof of such service with the trial court administrator, and with the State Court Administrator.
- (3) If an appeal is referred to mediation under the rules of the appellate mediation program established by the Court of Appeals pursuant to ORS 2.560, the transcript must be filed within 30 days after expiration of the period of time specified in the rules during which the appeal is held in abeyance, or within 30 days after the court directs that the appeal no longer be held in abeyance, whichever occurs first.
- (4) If there are two or more parties in addition to the appellant who have appeared in the trial court and who are represented by different attorneys, the person preparing the transcript shall at the time of filing the original transcript deposit a copy thereof with the trial court administrator for use by all such other parties. The person preparing the transcript shall serve notice of such deposit upon all such parties and file proof of such service with the trial court administrator and with the State Court Administrator.
- (5) Except as provided in subsection (6) of this section, within 15 days after the transcript is filed, any party may move the trial court for an order to correct any errors appearing in the transcript or, where the interests of justice require, to have additional parts of the proceedings included in the transcript. If two or more persons are preparing parts of the transcript, the motion must be filed within 15 days after the last part of the transcript is filed. A copy of any such motion shall be filed with the court to which the appeal is made. The trial court shall direct the making of such corrections and the adding of such matter as may be appropriate and shall fix the time within which such corrections or additions shall be made.
- (6) If an appeal is referred to mediation under the rules of the appellate mediation program established by the Court of Appeals pursuant to ORS 2.560, and the transcript is filed during any period of time specified in the rules during which the appeal is held in abeyance, a motion under subsection (5) of this section must be filed within 15 days after expiration of the period of time the appeal is held in abeyance, or within 15 days after the court directs that the appeal no longer be held in abeyance, whichever occurs first.

(7) Upon the denial of a motion to correct or add to the transcript under subsection (5) of this section, or upon the making of such corrections or additions as may be ordered, whichever last occurs, the trial court shall enter an order settling the transcript and send copies thereof to each of the parties or their attorneys and to the State Court Administrator. In the absence of a motion to correct or add to the transcript, the transcript shall be deemed automatically settled 15 days after it is filed. [Formerly 19.078; 1999 c.367 §13; 2001 c.341 §1; 2001 c.962 §62]

Appendix F – ORS 8.350

TRANSCRIPT OF TESTIMONY

When a report of the proceedings, or any part thereof, has been made in any case as provided in ORS 8.340, if the court or either party to the suit or action or the party's attorney requests transcription of the notes or audio records into longhand, the official reporter shall cause full and accurate typewritten transcripts to be made of the testimony or other proceedings, which shall, when certified to as provided in ORS 8.360, be filed with the clerk of the court where the cause was tried or heard, for the use of the court or parties. [Amended by 1955 c.497 §3; 1985 c.496 §10; 1985 c.540 §43; 2009 c.11 §3]

Appendix G – ORS 21.470
TRANSCRIPT FEES; RULES

- (1) A reporter appointed under ORS 8.340 (2) may not charge more than \$3.00 per page for the original transcript, or more than 25 cents per page for each additional copy, for preparing transcripts on appeal as provided in ORS 21.345.
- (2) Except as provided in subsection (3) of this section, a reporter employed by one of the parties may charge fees as agreed to between the reporter and all of the parties to the proceeding for preparing transcripts on appeal as provided in ORS 8.350. The reporter and the parties shall agree to the fees to be charged prior to the commencement of the proceeding to be recorded. Any fees agreed upon shall be charged to parties joining the proceeding after the commencement of the proceeding for preparing transcripts on appeal as provided in ORS 8.350.
- (3) A reporter employed by one of the parties may not charge a public body, as defined by ORS 174.109, fees for preparing transcripts on appeal as provided in ORS 8.350 that exceed the fees established by subsection (1) of this section.
- (4) Each page of the original transcript on appeal prepared by a reporter under this section must be prepared as specified by rules for transcripts on appeal adopted by the Supreme Court.
- (5) Except as otherwise provided by law, the fees for preparing a transcript requested by a party shall be paid forthwith by the party, and when paid shall be taxable as disbursements in the case. The fees for preparing a transcript requested by the court, and not by a party, shall be paid by the state from funds available for the purpose.
- (6) When the court provides personnel to prepare transcripts from audio records of court proceedings, the transcript fees provided in subsection (1) of this section to be paid by a party shall be paid to the clerk of the court. [Amended by 1959 c.446 §1; 1971 c.565 §15; 1973 c.195 §1; 1979 c.833 §11; 1981 s.s. c.3 §86; 1987 c.796 §1; 2005 c.164 §1]

Appendix H – Letter Requesting Advance Payment

[Date]

[Addressee's Mailing Address]

RE: [Case Name]
[Name] County Case No. [Number]
CA A123456 (Appellate Case No.)

Dear [Name]:

The Transcript Coordinator for [County Name] County designated me as the transcriber of record in the matter of [Short Title of Case], [County Case Number].

It is my policy to request payment in advance for transcript preparation. I estimate the transcript will be approximately [Number] pages. Per statute, the cost to prepare the transcript is \$2.50 for the original and .25 per page for copies. The estimated cost to prepare and file this transcript is \$[Dollar Amount].

Payment should be made as soon as possible to avoid undue delay in the appellate process. Checks should be made payable to [Name/Business Name] and mailed to [Address]. Please feel free to contact me at [Phone Number], or email [Email Address]. Transcripts are not prepared until or unless payment in advance is received. This transcript is due [Date], so your immediate attention is appreciated.

Please keep in mind the number of pages is an estimate and an adjustment will be made, as needed, upon completion of the transcript.

Sincerely,

[Transcriber]

Appendix I – Letter Notifying No Payment Arrangements Made

[Date]

Appellate Court Administrator
Supreme Court Building
1163 State Street
Salem, OR 97301-2563

RE: [Case Name]
[Name] County Case No. [Number]
CA A123456 (Appellate Case No.)

To Whom It May Concern:

Please be advised the transcript in this matter has not been produced because appellant has not responded to my requests to make the financial arrangements necessary for transcript preparation.

Sincerely,

[Transcriber]

Enclosure

Appendix J – Certificate of Preparation and Service of Transcript
ORAP APPENDIX 3.33-1

IN THE COURT OF APPEALS (SUPREME COURT) OF THE STATE OF OREGON

Plaintiff-Appellant (or Plaintiff-Respondent),
v.

Defendant-Respondent (or Defendant-Appellant).

County Circuit Court No.

CA A

CERTIFICATE OF PREPARATION AND SERVICE OF TRANSCRIPT

I certify that I prepared:

All of the transcript designated as part of the record for this appeal. [or]

These parts of the transcript designated as part of the record for this appeal:

I certify that the original of this Certificate was filed with the Appellate Court Administrator and copies were served on the trial court administrator and transcript coordinator on [date].

I certify that on [date] a copy of the transcript or part thereof prepared by me and a copy of this Certificate were served on:

[name and address of each person served]

Date:

[Reporter/Transcriber Name] [County] [Telephone No.]

Appendix K – ORAP 3.40

ADDITION TO OR CORRECTION OF TRANSCRIPT

- (1) A party desiring to correct or add to the transcript shall file a motion in the trial court within 15 days after the service of the transcript and serve a copy of the motion on the Administrator and on the transcript coordinator. When multiple parts of the oral record have been designated as part of the record on appeal or if more than one court reporter or transcriber is preparing the transcript, the transcript is not deemed filed until the last part of the transcript due on appeal is filed.
- (2) The Administrator will hold the appeal in abeyance pending the trial court's disposition of the motion and the occurrence of one of the events specified in paragraph (5)(b) or (c) of this rule.
- (3) After the filing of a timely motion to correct or add to the transcript, the trial court shall have the authority to grant an extension of time for making the corrections or additions to the transcript.
- (4) (a) If the trial court allows a motion to correct the transcript, after the filing of the corrected transcript, the moving party shall request that the trial court enter an order settling the transcript. The appeal will remain in abeyance until transcriber files certificate of preparation on the corrected transcript.

(b) If the trial court allows a motion to add to the transcript, the appeal will remain in abeyance for a period of 15 days after the filing of the additional transcript. If a motion to correct the additional transcript is filed timely, the appeal will continue in abeyance pending disposition of the motion to correct and receipt of an order settling the transcript as provided in paragraph (5)(b) of this rule.

(c) If the trial court denies the motion, the appeal will be reactivated as provided in paragraph (5)(c) of this rule.
- (5) (a) If no motion to correct or add to the transcript is filed, the transcript shall be deemed settled 15 days after it is served, and the period for filing the appellant's opening brief shall begin the next day.

(b) If a motion to correct or add to the transcript is filed and allowed, the period for filing the appellant's opening brief shall begin from the file date of the certificate of preparation on corrected transcript.

(c) If a motion to correct or add to the transcript is filed and denied, the period for filing the appellant's opening brief shall begin the day after entry by the trial court administrator of the order settling the transcript.

Appendix L – ORAP 3.10

DUTIES OF TRIAL COURT ADMINISTRATOR REGARDING JUDGMENTS AND ORDERS ENTERED AFTER NOTICE OF APPEAL

(1) The trial court administrator shall promptly send to the Administrator and to each party to the appeal a copy of any order settling the transcript. If the date of entry in the register is not apparent from the order, the trial court administrator shall state on the order the date of entry.

(2) In criminal and other cases in which the trial court appoints an attorney to represent a party or authorizes preparation of a transcript at state expense, the trial court administrator shall promptly send to the Administrator and provide to the transcript coordinator a copy of any order appointing an attorney on appeal or authorizing preparation of a transcript at state expense.

(3) In a criminal case, after a notice of appeal is filed, if the trial court, on motion of a party or on its own motion, enters a judgment or a modified, corrected or amended judgment, the trial court administrator promptly shall send a copy of the judgment to the Administrator, to the defendant or to the attorney for the defendant if the defendant is represented by counsel, to the district attorney, and to the Solicitor General of the Department of Justice.

(4) If a case is transferred to another circuit court after a notice of appeal is filed, the trial court administrator in the originating circuit court shall promptly notify the Administrator of the date of the transfer and the circuit court to which the case has been transferred.

Appendix M – Certificate of Filing of Transcript
ORAP APPENDIX 3.33-2

IN THE COURT OF APPEALS (SUPREME COURT) OF THE STATE OF OREGON

Plaintiff-Appellant (or Plaintiff-Respondent),
v.

Defendant-Respondent (or Defendant-Appellant).

County Circuit Court No.

CA A

CERTIFICATE OF FILING OF TRANSCRIPT

I certify that I prepared:

All of the transcript designated as part of the record for this appeal. [or]

These parts of the transcript designated as part of the record for this appeal:

The transcript is now settled.

I certify that on [date] the transcript or part thereof prepared by me was filed with the Appellate Court Administrator in electronic form in the form required by ORAP 3.35(2).

I certify on [date] a copy of this Certificate was served on:

[name and address of each person served]

Date:

[Reporter/Transcriber Name]

[County]

[Telephone No.]

Appendix N – ORAP 15.05

APPELLATE SETTLEMENT CONFERENCE PROGRAM

(4) Abeyance of Appeal

- (a) (i) On assignment of a case to the program, the court will hold preparation of the transcript (including correcting it or adding to it), preparation of the record, and briefing, in abeyance for a period of 120 days after the date of the notice of assignment of the case to the program. During that time, a party to the appeal may file an amended designation of record. A party wishing to hold in abeyance any other aspect of the appeal or seeking an extension of time to complete any other task required by law or by the Oregon Rules of Appellate Procedure must file an appropriate motion with the court.
- (ii) At the end of the 120-day abeyance period, if the parties have engaged in settlement negotiations and need more time to reduce the settlement to writing or to implement a settlement, any party may request the program director to order, and the program director may order, an extension of the abeyance period for up to 60 days. If all parties to an appeal agree to an extension for longer than 60 days, the program director may extend the abeyance period for as long as reasonably necessary to implement a settlement.

Appendix O – Naming Conventions for Electronic Transcripts
ORAP APPENDIX 3.35 - Illustration for ORAP 3.35(2)(b)

File Naming Conventions for Electronic Transcripts

Transcripts, Nonconfidential Case:

[Appellate Case Number] transcript-[year-month-day, of hearing-am/pm if appropriate] [court reporter or transcriber last, first name]

Example: CA123456 transcript-2002-02-15-amjohnsonerin

If the transcript spans several dates, then the date span should be indicated, such as:

SC012345 transcript-2002-02-15to2002-02-20 johnsonerin

Transcripts, Confidential Cases (juvenile, adoption, mental commitment):

[Appellate Case Number] transcript-confidentialcase-[year-month-day, of hearing-am/pm if appropriate] [court reporter or transcriber last, first name]

Example: CA123456 transcript-confidentialcase-2002-02-15-am johnsonerin