

IN THE SUPREME COURT OF TEXAS

Misc. Docket No. 97-9144

ORDER DIRECTING THE FORM OF THE APPELLATE RECORD IN CIVIL CASES

ORDERED that:

Pursuant to Texas Rule of Appellate Procedure 34.4, the Supreme Court orders that the appellate record in civil cases be in the form specified below. All references in this Order to a rule are to the Texas Rules of Appellate Procedure unless otherwise stated.

A. Clerk's Record

1. The trial court clerk must prepare and file the clerk's record in accordance with Rules 34.5 and 35. Even if more than one notice of appeal or request for inclusion of items is filed, the clerk should prepare only one record in a case. To prepare the clerk's record, the trial court clerk must:
 - (a) gather the documents required by Rule 34.5(a) and those requested by a party under Rule 34.5(b);
 - (b) make a legible copy of the documents on opaque, white, 8 ½ x 11 inch paper, if practicable;
 - (c) arrange the documents in ascending chronological order, by date of filing or occurrence;

Misc. Docket No. 97-_____

- (d) consecutively number the pages in the bottom right-hand corner;
 - (e) bind the documents together in one or more group under a heavy cover;
 - (f) prepare, label, and certify the clerk's record as required by this Order.
2. The clerk's record should be in the following form:
- (a) It is preferred that the clerk's record lie flat when opened.
 - (b) If the clerk's record will lie flat when opened, two-sided copies may be included in the clerk's record; otherwise, only one-sided copies may be included.
 - (c) Each individual document must start on a new page.
 - (d) The first volume should be numbered "1" and each succeeding volume numbered sequentially.
 - (e) Page numbering should start on the first page of the first volume of the clerk's record and continue to the final page of the clerk's record without regard for the number of volumes in the clerk's record.
 - (f) It is preferred that the clerk's record be tabbed to show the beginning of each document.
 - (g) Each document must show the date of filing.
 - (h) As far as practicable, each order and judgment must show the date of signing by the judge.
 - (i) The front cover of the first volume of the clerk's record must include the following information and be in substantially the following form:

CLERK'S RECORD

VOLUME ___ of ___

Trial Court Cause No. _____
In the _____ (District or County) Court
of _____ County, Texas,
Honorable _____, Judge Presiding.

_____, Plaintiff(s)

vs.

_____, Defendant(s)

Appealed to the
(Supreme Court of Texas, at Austin, Texas,
or Court of Criminal Appeals of Texas at Austin, Texas,
or Court of Appeals for the ___ District of Texas, at _____, Texas).

Attorney for Appellant(s):

Name _____

Address _____

Telephone no. _____

Fax no. _____

SBOT no. _____

Attorney for: _____, Appellant(s)

Delivered to the (Supreme Court of Texas at Austin, Texas,
or Court of Criminal Appeals of Texas at Austin, Texas,
or Court of Appeals for the _____ District of Texas, at _____, Texas)
on the ___ day of _____, _____.

signature of clerk _____
name of clerk _____
title _____

Appellate Court Cause No. _____

Filed in the (Supreme Court of Texas at Austin, Texas,
or Court of Criminal Appeals of Texas at Austin, Texas,
or Court of Appeals for the _____ District of Texas, at _____, Texas)
this ___ day of _____, _____.

_____, Clerk
By _____, Deputy

- (j) The front cover of the second and subsequent volumes of the clerk's record must include the same information and be in substantially the same form except that second and subsequent volumes may, but need not, include statements of delivery and filing.
- (k) The clerk must prepare and include on the first pages of the clerk's record a detailed index identifying each document included in the clerk's record, the date of filing, and the page where it first appears. The index must be double spaced and conform to the order in which matters appear in the clerk's record, rather than in alphabetical order.
- (l) After the index, the clerk must include the following:

The State of Texas §
 County of _____ §

In the _____ (County Court or Judicial District Court) of _____ County, Texas, the Honorable _____, Judge Presiding, the following proceedings were held and the following instruments and other papers were filed in this cause, to wit:

Trial Court Cause No. _____

_____ , Plaintiff(s)	§	IN THE _____ COURT
	§	
vs.	§	
	§	
_____ , Defendant(s)	§	_____ COUNTY, TEXAS

(m) The clerk's record must conclude with a certificate in substantially the following form:

The State of Texas §
County of _____ §

I, _____, Clerk of the _____ Court of _____ County, Texas do hereby certify that the documents contained in this record to which this certification is attached are all of the documents specified by Texas Rule of Appellate Procedure 34.5(a) and all other documents timely requested by a party to this proceeding under Texas Rule of Appellate Procedure 34.5(b).

GIVEN UNDER MY HAND AND SEAL at my office in _____, County, Texas this _____ day of _____, _____.

signature of clerk _____
name of clerk _____
title _____

- 3. A supplement must be prepared in conformity with this Order.
- 4. In the event of a flagrant violation of this Order in the preparation of the clerk's record, on motion of a party or on its own initiative, the appellate court may require the clerk to amend the clerk's record or to prepare a new clerk's record in proper form — and provide it to any party who has previously made a copy of the original, defective clerk's record — at the clerk's expense.

B. Reporter's Record

- 1. The court reporter must prepare and file the reporter's record in accordance with Rules 34.6 and 35. Even if more than one notice of appeal or request for preparation of the record is filed, the reporter should prepare only one record in a case. The reporter's record must be in the following format:
 - (a) It must be typed or printed on opaque, white, 8½ by 11 inch, 13-pound or heavier paper.
 - (b) It may be printed on both sides of the paper if bound so that it will lie flat when opened; otherwise, it may be printed on one side only.
 - (c) The top and bottom margins must be 1 inch. The margin on the left-hand side of the page must not be less than 1¼ inches or more than 2 inches.
 - (d) It must be in readable 12-point or larger typeface, in upper and lower case.

- (e) It must be double-spaced.
- (f) Each separate proceeding and hearing (pretrial hearing, voir dire, trial on the merits, etc.) must be bound in a separate volume or volumes.
- (g) No volume may be over two inches thick.
- (h) The first volume of the reporter's record should be numbered "1" and each succeeding volume numbered sequentially. The first page of each volume of the reporter's record must be numbered "1" and each following page must be numbered consecutively.
- (i) Each volume must be securely bound on the left margin.
- (j) The front cover page of each volume of the reporter's record must include the following information and be in substantially the following form:

REPORTER'S RECORD

VOLUME ___ of ___

Trial Court Cause No. _____

_____, Plaintiff(s) § IN THE _____ COURT
vs. §
Defendant(s) § _____ COUNTY, TEXAS

APPEARANCES:

Attorney for Plaintiff(s): Attorney for Defendant(s):
Name Name
Address Address
Telephone no. Telephone no.
Fax no. Fax no.
SBOT no. SBOT no.
Attorney for: Attorney for:

On the ___ day of _____, _____, the above entitled and numbered cause came on to be heard (for trial) in the said Court, Honorable _____, Judge Presiding, and following proceedings were held, to wit:

- (k) The first volume of the reporter's record must be a master index listing all witnesses in the order of their appearance at trial and alphabetically, and all exhibits.
(l) The court reporter must include an index of the testimony at the beginning of each volume of the reporter's record showing the following information in substantially the following form:

INDEX OF TESTIMONY

Table with 5 columns: Witness, Direct, Cross, Re-Direct, Re-Cross. Row 1: John Doe, 4, 8, 16, 20

- (m) An index of the exhibits must be included at the beginning of each volume of the reporter's record showing the following information in substantially the following form:

INDEX OF EXHIBITS

<u>Exhibit#</u>	<u>Description</u>	<u>Marked</u>	<u>Identified</u>	<u>Offered</u>	<u>Received</u>
DX 1	Copy of Judgment	3	4	5	6

- (n) Unless ordered otherwise, neither physical evidence nor original exhibits are to be included in the reporter's record, but each item of physical evidence must be described on a separate piece of paper in such a manner that it may be identified, including the exhibit number.
- (o) When a legible copy of a photograph or any other exhibit cannot be made, the original exhibit must be included in the reporter's record under order of the trial court made pursuant to Rule 34.6(g).
- (p) Copies of the exhibits and the descriptions of physical evidence received in each separate proceeding or hearing must be placed in numerical order at the end of the reporter's record of that proceeding or hearing or, if the exhibit material is voluminous, in a separate volume or volumes.
- (q) The reporter's record must conclude with a certificate containing the following information and in substantially the following form:

THE STATE OF TEXAS §
COUNTY OF _____ §

I, _____, official court reporter in and for the _____ Court of _____ County, State of Texas, do hereby certify that the above and foregoing contains a true and correct transcription of all portions of evidence and other proceedings requested in writing by counsel for the parties to be included in the reporter's record in the above styled and numbered cause, all of which occurred in open court or in chambers and were reported by me.

I further certify that this transcription of the proceedings truly and correctly reflects the exhibits, if any, offered by the respective parties.

WITNESS my hand this the ____ day of _____, _____.

(signature) _____
Official Court Reporter

Certification Number: _____

Date of Expiration: _____

Business Address: _____

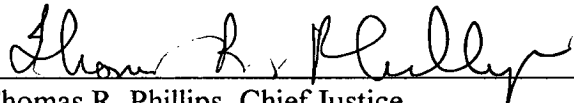
Telephone Number: _____

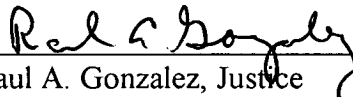
- (r) The reporter's record may be prepared in a compressed, duplex format, with four pages of proceedings printed on each side of the page. Paragraphs (c), (d), and (e) do not apply to such a record. Paragraph (f) does not apply to such a record if the volumes of the record are separated by index tabs. Each


printed copy of such a record must be accompanied by a computer diskette containing of the entire reporter's record in ASCII format.

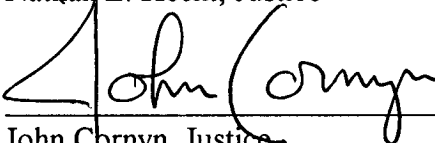
2. In the event of a flagrant violation of this Order in the preparation of a reporter's record, on motion of a party or on the court's own initiative, the appellate court may require the court reporter to amend the reporter's record or to prepare a new reporter's record in proper form — and provide it to any party who has previously made a copy of the original, defective reporter's record — at the reporter's expense.

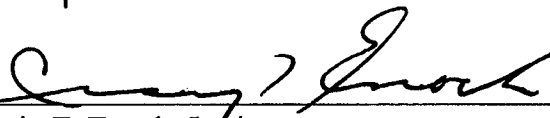
SIGNED AND ENTERED this 15th day of August, 1997.

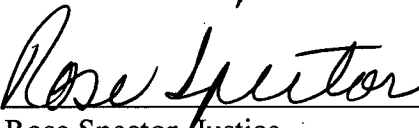

Thomas R. Phillips, Chief Justice



Raul A. Gonzalez, Justice

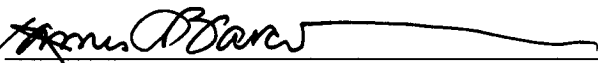

Nathan L. Hecht, Justice

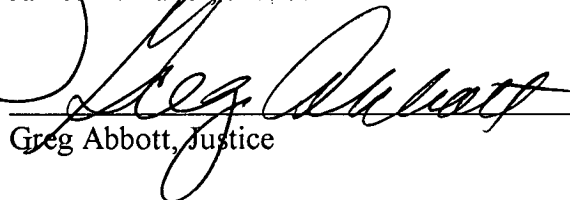

John Cornyn, Justice


Craig T. Enoch, Justice


Rose Spector, Justice


Priscilla R. Owen, Justice


James A. Baker, Justice


Greg Abbott, Justice