

RECEIVED, 08/01/2016 12:48:40 PM, Clerk, Supreme Court

APPENDIX C

Proposed Rule	Reason for Change
<p><b>RULE 9.020.        DEFINITIONS</b></p> <p><b>(a)–(k)        [No change]</b></p> <p><b><u>(l)        E-filing System Docket.</u></b> <u>The docket where attorneys and those parties who are registered users of the court’s electronic filing (e-filing) system can view the electronic documents filed in their case(s).</u></p> <p><b>Committee Notes</b></p> <p>[No change]</p>	<p>Creates new subdivision (l) to define e-filing system docket to avoid confusion with other dockets maintained by the clerk or court.</p>

**RULE 9.120. DISCRETIONARY PROCEEDINGS  
TO REVIEW DECISIONS OF  
DISTRICT COURTS OF APPEAL**

**(a)–(d)** [No change]

**(e) Accepting or Postponing Decision on Jurisdiction; Record.** If the supreme court accepts or postpones decision on jurisdiction, the court shall so order and advise the parties and the clerk of the district court of appeal. Within 60 days thereafter or such other time set by the court, the clerk shall electronically transmit the record. The clerk shall transmit separate Portable Format Documents (“PDF”) files of:

(1) the contents of the record as described in rule 9.200(a) and (c);

(2) the transcript as described in rule 9.200(b);  
and

(3) the documents filed in the district court in the record on appeal format described in rule 9.200(a) and (c).

**Committee Notes**

[No change]

The Committee proposes amending subdivision (e) of Rule 9.120 (Discretionary Proceedings to Review Decisions of District Courts of Appeal) to create new subdivisions (e)(1)–(e)(3). The new subdivisions detail that the clerk should transmit the record from the District Court of Appeal to the Supreme Court of Florida in 3 separate Portable Document Format (“PDF”) files.

The first PDF file would be the record on appeal as described in Rule 9.200(a) and (c).

The second PDF file would be the transcript as described in Rule 9.200(b).

The third PDF file would be the documents filed in the District Court of Appeal in the “record on appeal” format described in Rule 9.200(a) and (c).

<p><b>RULE 9.141. REVIEW PROCEEDINGS IN COLLATERAL OR <del>POST-CONVICTION</del><u>POSTCONVICTION</u> CRIMINAL CASES</b></p> <p>(a) [No change]</p> <p>(b) <b>Appeals from <del>Post-Conviction</del><u>Postconviction</u> Proceedings Under Florida Rule of Criminal Procedure 3.800(a), 3.801, <u>3.802</u>, 3.850, or 3.853.</b></p> <p>(1)–(2) [No change]</p> <p>(3) <b>Grant or Denial of Motion after an Evidentiary Hearing was Held on One or More Claims.</b></p> <p>(A) [No change]</p> <p>(B) <b>Record.</b></p> <p>(i) [No change]</p> <p>(ii) Appellant may direct the clerk to include in the record any other documents that were before the lower tribunal at the hearing. <del>If the clerk is directed to include in the record a previously prepared appellate record involving the appellant, the clerk need not reindex or repaginate it.</del></p> <p>(iii) [No change]</p>	<p>NOTE TO THE COURT: Amendments shown in double underline and double strikethrough are pending with the Court in <i>In re: Amendments to Florida Rules of Criminal Procedure and Florida Rule of Appellate Procedure 9.140</i>, SC15-1582. Not all such amendments are shown in this two-column appendix as they are not pertinent to this filing.</p> <p>Deletes the second sentence of subdivision (b)(3)(B)(ii). Requires that the clerk index or paginate the record as required by Rule 9.200 (The Record). Conforms to the Supreme Court’s amendments in <i>In re: Amendments to Rule of Appellate Procedure 9.200</i>, 177 So. 3d 1254 (Fla. 2015).</p>
--	---

**(C)** [No change]

**(c)–(d)** [No change]

**Committee Notes**

[No change]

<p><b>RULE 9.160. DISCRETIONARY PROCEEDINGS TO REVIEW DECISIONS OF COUNTY COURTS</b></p> <p><b>(a)–(f)</b> [No change]</p> <p><b>(g) Record.</b> The record shall be prepared and <del>filed</del><u>transmitted</u> in accord with rule 9.110(e) or 9.140(f), depending on the nature of the appeal.</p> <p><b>(h)–(j)</b> [No change]</p> <p><b>Committee Notes</b></p> <p>[No change]</p>	<p>Amends subdivision (g) to use “transmitted” instead of “filed” when referring to the record on appeal for consistency throughout the rules set.</p>
--	--

<p><b>RULE 9.180. APPEAL PROCEEDINGS TO REVIEW WORKERS' COMPENSATION CASES</b></p> <p><b>(a)–(b)</b> [No change]</p> <p><b>(c) Jurisdiction of Lower Tribunal.</b></p> <p><b>(1)</b> [No change]</p> <p><b>(2) Settlement.</b> At any time before the record on appeal is <del>filed</del><u>transmitted</u> <del>with</del><u>to</u> the court, the lower tribunal shall have the authority to approve settlements or correct clerical errors in the order appealed.</p> <p><b>(3) Relinquishment of Jurisdiction by Court to Consider Settlement.</b> If, after the record on appeal is <del>filed</del><u>transmitted</u>, settlement is reached, the parties shall file a joint motion stating that a settlement has been reached and requesting relinquishment of jurisdiction to the lower tribunal for any necessary approval of the settlement. The court may relinquish jurisdiction for a specified period for entry of an appropriate order. In the event the Division of Workers' Compensation has advanced the costs of preparing the record on appeal or the filing fee, a copy of the joint motion shall be furnished to the division by the appellant.</p> <p><b>(A)–(B)</b> [No change]</p> <p><b>(d)–(e)</b> [No change]</p>	<p>Amends subdivision (c)(2) to use “transmitted” instead of “filed” when referring to the record on appeal for consistency throughout the rules set.</p> <p>Amends subdivision (c)(3) to use “transmitted” instead of “filed” when referring to the record on appeal for consistency throughout the rules set.</p>
--	---

<p><b>(f) Record Contents: Final Orders.</b></p> <p><b>(1)–(6)</b> [No change]</p> <p><b>(7) Preparation, Certification, and TransmittalTransmission of the Record.</b> The deputy chief judge of compensation claims shall designate the person to prepare the record. The clerk of the office of the judges of compensation claims shall supervise the preparation of the record. The record shall be <del>delivered</del><u>transmitted</u> to the lower tribunal in sufficient time for the lower tribunal to review the record and <del>send</del><u>transmit</u> it to the court. The lower tribunal shall review the original record, certify that it was prepared in accordance with these rules, and within 60 days of the notice of appeal being filed transmit the record to the court. The lower tribunal shall provide an electronic image copy of the record to all counsel of record and all unrepresented parties.</p> <p><b>(8)–(9)</b> [No change]</p> <p><b>(g)–(i)</b> [No change]</p> <p><b>Committee Notes</b></p> <p>[No change]</p>	<p>Amends subdivision (f)(7) to use “transmission” instead of “transmittal;” to use “transmitted” instead of “delivered;” to use “transmit” instead of “send” when referring to the record on appeal for consistency throughout the rules set.</p>
---	--

<p><b>RULE 9.200. THE RECORD</b></p> <p>(a)–(c) [No change]</p> <p><b>(d) <del>Duties of Clerk; Preparation and Transmittal</del><u>Transmission</u> of Electronic Record.</b></p> <p>(1) The clerk of the lower tribunal shall prepare the record as follows:</p> <p>(A) The clerk of the lower tribunal shall assemble the record on appeal and prepare a cover page and a complete index to the record. The cover page shall include the name of the lower tribunal, the style and number of the case, and the caption RECORD ON APPEAL in 48-point bold font. Consistent with Florida Rule of Judicial Administration 2.420(g)(8), the index shall indicate any confidential information in the record and if the information was determined to be confidential in an order, identify such order by date or docket number and record page number. The clerk of the lower tribunal shall not be required to verify and shall not charge for the incorporation of any transcript(s) into the record. The transcript of the trial shall be kept separate from the remainder of the record on appeal and shall not be renumbered by the clerk. The progress docket shall be incorporated into the record immediately after the index.</p> <p>(B) All pages of the remainder of the record shall be consecutively numbered. Any transcripts other than the transcript of the trial shall continue the pagination of the record pages. Supplements permitted after the clerk of the lower</p>	<p>Amended the title of subdivision (d) to delete “duties of the clerk” and to use “transmission” instead of “transmittal” for consistency throughout the rules set.</p> <p>Grammatical change to add a hyphen to “48-point bold font.”</p>
---	---



<p>tribunal has transmitted the record to the court shall be submitted by the clerk as separate <u>Portable Document Format (“PDF”)</u> files in which pagination is consecutive from the original record and continues through each supplement.</p> <p>(C) The entire record, except for the transcript of the trial, shall be compiled into a single PDF file. The PDF file shall include all filings in their redacted form. The unredacted version of any information in the record shall be provided to the appellate court upon request. The PDF file shall be:</p> <p>(i)–(iii)[no change]</p> <p>(2)–(3) [No change]</p> <p>(4) <u>The court shall upload the electronic record to the electronic filing (e-filing) system docket. Attorneys and those parties who are registered users of the court’s e-filing system may download the electronic record in their case(s).</u></p> <p>(e) [No change]</p> <p>(f) <b>Correcting and Supplementing Record.</b></p> <p>(1)–(2) [No change]</p> <p>(3) <u>If the court finds that the record is not in compliance with the requirements of this rule, it may direct the clerk of the lower tribunal to submit a compliant record, which will replace the previously filed noncompliant record.</u></p>	<p>Editorial amendment clarifying type of document.</p> <p>Amended to create new subdivision (d)(4) to explain how the court provides the record on appeal to parties.</p> <p>Amended to create new subdivision (f)(3) to create a process for addressing a noncompliant record on appeal.</p>
---	--

### Committee Notes

**2015 Amendment.** The amendments in *In re Amendments to Rule of Appellate Procedure 9.200*, 164 So. 3d 668 (Fla. 2015), do not modify the clerk’s obligation to transmit a separate copy of the index to the ~~the~~ parties, pursuant to ~~R~~rule 9.110(e).

*West* shows an extra “the” in the 2015 Amendment before “parties.” Editorial amendment to “rule 9.110(e).”

**RULE 9.220. APPENDIX**

**(a)** [No change]

**(b) Contents.** The appendix shall contain a coversheet, an index, a certificate of service, and a conformed copy of the opinion or order to be reviewed and may contain any other portions of the record and other authorities. Asterisks should be used to indicate omissions in documents or testimony of witnesses. The cover sheet shall state the name of the court, the style of the cause, including the case number if assigned, the party on whose behalf the appendix is filed, the petition, brief, motion, response, or reply for which the appendix is served, and the name and address of the attorney, or pro se party, filing the appendix.

**(c) Electronic Format.** ~~Unless otherwise authorized by court order or court rule, the appendix shall be prepared and filed electronically with the clerk as an independent PDF file or a series of independent PDF files. The appendix shall be prepared and filed electronically as a separate Portable Document Format (“PDF”) file, or a series of separate PDF files, in compliance with the size limitations and other technical requirements established by the supreme court. The electronically filed appendix shall be filed as one document, unless size limitations or technical requirements established by the supreme court require multiple parts. The appendix shall be consecutively paginated, beginning with the cover sheet as page 1. The appendix must be properly indexed, bookmarked, and fully text searchable.~~

**(d) Paper Format.** When a paper appendix is authorized, it shall be ~~separately bound or separated from the petition, brief, motion, response, or reply by a divider and appropriate tab, and the following requirements shall apply: (1) if~~

The Committee suggests amending subdivision (b) to parallel the Court’s amendments to Rule 9.200 (The Record).

The Committee also suggests amending subdivision (c) and dividing the contents into subdivision (c) “Electronic Format” and subdivision (d) “Paper Format.” The portion of existing subdivision (c) addressing electronic appendices remains as subdivision (c).

Includes a requirement for the pagination of an electronic appendix.

Requires that an electronic appendix be indexed, bookmarked, and fully text searchable.

The portion of existing subdivision (c) addressing paper appendices becomes subdivision (d). The Committee suggests removing the requirement that a paper appendix be bound or

<p><del>the appendix includes documents filed before January 1991 on paper measuring 8 ½ by 14 inches, the documents should be reduced in copying to 8 ½ by 11 inches, if practicable; and (2) if reduction is impracticable, the appendix may measure 8 ½ by 14 inches, but it should be bound separately from the document that it accompanies. The appendix shall be consecutively paginated, beginning with the cover sheet as page 1. In addition, the following requirements shall apply:</del></p> <p><u>(1) if the appendix includes documents filed before January 1991 on paper measuring 8 1/2 by 14 inches, the documents should be reduced in copying to 8 1/2 by 11 inches, if practicable; and</u></p> <p><u>(2) if reduction is impracticable, the appendix may measure 8 1/2 by 14 inches, but must be separated from the 8 1/2 by 11-inch document(s) that it accompanies.</u></p> <p style="text-align: center;"><b>Committee Notes</b></p> <p>[No change]</p>	<p>stapled to assist in the electronic storage of appendices.</p> <p style="text-align: center;">Includes a requirement for the pagination of a paper appendix.</p> <p style="text-align: center;">The specific requirements of the former subdivision (c) is rearranged as new subdivisions (d)(1)–(d)(2).</p>
---	---