

Rule 321. Contents of the Record on Appeal

The record on appeal shall consist of the judgment appealed from, the notice of appeal, and the entire original common law record, unless the parties stipulate for, or the trial court, after notice and hearing, or the reviewing court, orders less. The common law record includes every document filed and judgment and order entered in the cause and any documentary exhibits offered and filed by any party. Upon motion the reviewing court may order that other exhibits be included in the record. The record on appeal shall also include any report of proceedings prepared in accordance with Rule 323. There is no distinction between the common law record and the report of proceedings for the purpose of determining what is properly before the reviewing court.

Amended July 30, 1979, effective October 15, 1979; amended December 17, 1993, effective February 1, 1994.

Committee Comments (Revised 1979)

As originally adopted Rule 321 provided that the record on appeal consisted of “the judgment appealed from, the notice of appeal, and other parts of the trial court record designated in the praecipes.” (36 Ill. 2d R. 321.) Rule 322 set forth the procedure for the filing of praecipes by the parties designating the parts of the record to be included. In 1979 Rule 321 was amended to provide that unless the parties stipulate for less or the trial or reviewing court orders less, the entire original common law trial record will be transmitted to the reviewing court. Reference to praecipes was deleted, and Rule 322 was abrogated.

While Rule 321, as amended, permits the trial or the reviewing court, or the parties by stipulation, to order that less than the “entire original common law trial court record” be transmitted to the reviewing court, it makes it plain that such portions of the entire trial record as are transmitted should be original papers, and this is underscored by the deletion in Rule 324 of the provision permitting the trial or reviewing court to order otherwise, and the deletion in Rule 331 of the phrase “unless the record contains no original papers.”

Commentary (December 17, 1993)

This rule is amended to describe the contents of the common law record, including any documentary exhibits in the trial court, and to provide that the reviewing court upon motion may order that other exhibits, including physical exhibits and evidence, be included in the record on appeal.