

Rule 323. Report of Proceedings

(a) Contents; Preparation. A report of proceedings may include evidence, oral rulings of the trial judge, a brief statement of the trial judge of the reasons for his decision, and any other proceedings that the party submitting it desires to have incorporated in the record on appeal. The report of proceedings shall include all the evidence pertinent to the issues on appeal.

Within the time for filing the docketing statement under Rule 312 the appellant shall make a written request to the court reporting personnel as defined in Rule 46 to prepare a transcript of the proceedings that appellant wishes included in the report of proceedings. Within 7 days after service on the appellee of the docketing statement and the request for transcript the appellee may serve on the appellant a designation of additional portions of the proceedings that the appellee deems necessary for inclusion in the report of proceedings. Within 7 days after service of such designation the appellant shall request the court reporting personnel to include the portions of the proceedings so designated or make a motion in the trial court for an order that such portions not be included unless the cost is advanced by the appellee.

The entire expense of incorporating unnecessary and immaterial matter in the report of proceedings may be assessed by the reviewing court as costs against the party who designated that matter, irrespective of how the appeal is decided.

(b) Certification and Filing. Court reporting personnel who transcribe a report of proceedings shall certify to its accuracy and shall notify all parties that the report of proceedings has been completed and filed with the clerk of the circuit court. The report of proceedings shall be taken as true and correct unless shown to be otherwise and corrected in the manner permitted by Rule 329 for the record on appeal.

The court reporting personnel shall electronically file the reports of proceedings in searchable PDF format to the circuit court clerk within 49 days after the filing of the notice of appeal. There shall be a separate, transcribed, dated, and numbered PDF file for each report of proceedings. Reports of proceedings shall be clearly labeled on the first page with the date of the hearing or court proceeding, the type of proceeding, trial court case number, case caption, and the name of the presiding judge.

(c) Procedure If No Verbatim Transcript Is Available (Bystander's Report). If no verbatim transcript of the evidence of proceedings is obtainable the appellant may prepare a proposed report of proceedings from the best available sources, including recollection. In any trial court, a party may request from the court official any recording of the proceedings. The court official or any person who prepared and kept, in accordance with these rules, any recording of the proceedings shall produce such recording to be provided at the party's expense. Such recording may be transcribed for use in preparation of a bystander's report. The proposed report shall be served on all parties within 28 days after the notice of appeal is filed. Within 14 days after service of the proposed report of proceedings, any other party may serve proposed amendments or an alternative proposed report of proceedings. Within 7 days thereafter, the appellant shall, upon notice, present the proposed report or reports and any proposed amendments to the trial court for settlement and approval. The court, holding hearings if necessary, shall promptly settle, certify, and order filed an accurate report of proceedings. Absent stipulation, only the report of proceedings so certified shall be included in the record on appeal.

(d) Agreed Statement of Facts. The parties by written stipulation may agree upon a statement

of facts material to the controversy and file it without certification in lieu of and within the time for filing a report of proceedings.

(e) Extension of Time. The reviewing court or any judge thereof may extend the time for filing, in the trial court, the report of proceedings or agreed statement of facts or for serving a proposed report of proceedings, on notice and motion filed in the reviewing court before the expiration of the original or extended time, or on notice and motion filed within 35 days thereafter. Motions for extensions of time shall be supported by an affidavit showing the necessity for extension, and motions made after expiration of the original or extended time shall be further supported by a showing of reasonable excuse for failure to file the motion earlier. Any motion for extension of time shall be served on the clerk preparing the record on appeal.

Amended October 21, 1969, effective January 1, 1970; amended effective July 1, 1971; amended July 30, 1979, effective October 15, 1979; amended January 5, 1981, effective February 1, 1981; amended February 19, 1982, effective April 1, 1982; amended October 25, 1990, effective November 1, 1990; amended December 17, 1993, effective February 1, 1994; amended September 23, 1996, effective immediately; amended December 13, 2005, effective immediately; [amended June 22, 2017, eff. July 1, 2017](#).

Committee Comments
(Revised February 1982)

This rule is based upon former Rules 36(1)(c) and (d), and 36-1(3)(c), as they existed before 1967, with certain provisions added to make the paragraph a complete statement as to the contents of the report of proceedings and the procedure for having it approved and filed.

Paragraph (a)

Paragraph (a), as originally adopted, was based upon former Rule 36(1)(c). The provision that the report of proceedings shall include “all the evidence pertinent to the issues on appeal” was new. The second paragraph was added in 1979 and is designed to assure early settlement of the contents of the report of proceedings. Formerly the failure of the appellant to order necessary parts of the proceedings transcribed and included would not be apparent until the report of proceedings was presented to the trial judge for certification, which, under paragraph (b), could take place late in the 49-day period allowed for the filing of the report of proceedings. The new provision, patterned in part on Rule 10(b) of the Federal Rules of Appellate Procedure, gives the appellee early notice of any omissions and avoids the alternatives of late motions for extension of time and over designation out of an abundance of caution, the first productive of unnecessary delay in the hearing of the appeal and the second unnecessary expense. See the committee comments to Rule 330.

Paragraph (b)

Paragraph (b) is also derived from former Rule 36(1)(c). The 49-day (instead of 50-day) time period follows the principle of multiples of seven. The words “in the trial court” were inserted in 1969 to state the existing practice. (See Rule 608(b).) In 1967, paragraph (b) was amended to provide for stipulations dispensing with the necessity of certification. The last sentence of this paragraph, added in 1969, is based upon Federal Rule of Appellate Procedure 11(a).

Paragraph (c)

Paragraph (c) is taken from former Rule 36-1(3)(c), which was included by the Illinois Supreme Court in Rule 36-1 as a part of the “expeditious and inexpensive” appeal procedure instituted May 18, 1964, in appeals from cases assignable to magistrates. The comments of the Illinois Supreme Court Rules Committee to Rule 36-1 (53 Ill. B.J. 18 (1964)) indicate the common-law background of the procedure outlined in this paragraph. The changes in substance in the revised paragraph are the deletion of the requirement that the trial court settle and certify the report and order it filed within 14 days after presentation in favor of an admonition that it do so “promptly,” and the insertion of the words “holding hearings if necessary” in the last sentence to make explicit what was implied in the former rule. In 1971, the time within which the appellant’s proposed report of proceedings must be served was increased from 7 to 14 days and the last sentence of the paragraph was added to make it explicit that after a report of proceedings has been settled or agreed upon, only that report is to be included in the record on appeal.

Paragraph (d)

Paragraph (d) is a simplified version of former Rule 36-1(d). If the parties agree upon a statement of facts, it is filed in lieu of the report of proceedings and the time requirements for the report of proceedings apply. The words “without certification” were added in 1971.

Paragraph (e)

Paragraph (e) is derived from the final paragraph of former Rule 36(1)(c). The main point of the 1981 amendment is to place the sole authority for granting extensions of time under this rule in the reviewing court. The rule contains a “safety valve” which did not appear in the former rule, allowing the court to extend the time on motion filed within 35 days after the expiration of the time for filing the report of proceedings, supported by a showing of reasonable excuse. The former rule allowed no relief, however compelling the circumstances, once the time period had expired. The last sentence, as amended in 1981, also contains a requirement that any motion for extension of time be supported by a showing of necessity. This is in line with the general policy of deciding cases on appeal expeditiously; unnecessary delay is not favored. In 1971, paragraph (e) was amended to make it explicit that the reviewing court may extend the time for serving a proposed report of proceedings under paragraph (c) as well as for filing the report of proceedings. This amendment is consonant with other amendments made in 1979 placing in the reviewing court the general supervision of the progress of the appeal. See the committee comments to Rule 303(f).

Commentary
(December 17, 1993)

Paragraph (a) is amended to require that the appellant's written request for preparation of the report of proceedings be made within the applicable time for filing the docketing statement under new Rule 312. Previously the request was to be made within 14 days of the filing of the notice of appeal regardless of whether the appeal was direct or interlocutory in nature. The requirement that appellant serve notice of the request upon all parties is now contained in Rule 312. The provision for assessment of costs of incorporating unnecessary matters was taken from former Rule 330.

Paragraph (c), as amended, now contains the appellation "Bystander's Report," clarifies that the proposed report of proceedings shall be served on all parties, and reallocates the times for preparing and serving the proposed report and any proposed amendments or alternative report, without lengthening the overall time for the procedure.