

Dealing With the Facts and the Record

I. The Record on Appeal.

- A. Court of Appeals.** Pursuant to MCR 7.210(A), the record on appeal consists of:
- Original papers filed in the trial court or a certified copy;
 - Transcript of all testimony or proceedings in the case;
 - Exhibits introduced;
 - Substance or transcript of excluded evidence;
 - Stipulations of the parties;
 - For an appeal from a tribunal or agency, “all documents, files, pleadings, testimony, and opinions and orders of the tribunal, agency, or officer (or a certified copy), except those summarized or omitted in whole or in part by stipulation of the parties.”

Documents or transcripts submitted to the Court of Appeals that were not part of the record at the time the trial court issued the decision being appealed may be stricken or returned on the Court’s own motion or on motion by another party. Internal Operating Procedure (IOP) 7.210(A)-1.

- B. Michigan Supreme Court.** Pursuant to MCR 7.310(A), “[a]n appeal is heard on the original papers, which constitute the record on appeal.”

II. Transmission of the Record to the Appellate Court.

A. Court of Appeals.

- 1. Appellant’s Duties.** The appellant has the following duties in connection with the transmission of the record:
- Pay the \$25.00 record transmittal fee to the trial court, MCL 600.2529(1)(g);
 - Secure the filing of the full transcript of testimony and other proceedings (unless the parties stipulate to or the trial court orders that less than the full transcript be included in the record), serve a copy of each transcript request on all parties and file with the Court of Appeals, MCR 7.210(B)(1)(a);
 - File with the trial court any exhibits in appellant’s possession within 21 days after claim of appeal is filed (unless the court orders or the parties stipulate otherwise), MCR 7.210(C);
 - If part of the record is filed directly with the Court of Appeals, file a proof of service of that filing on opposing counsel, IOP 7.210(A)-2;
 - Serve a copy of the entire record on appeal on each appellee (other than copies of documents in the appellee’s possession) within 21

days after the transcript is filed, and file proof of such service with the trial court and the Court of Appeals, MCR 7.210(F).

2. Appellee's Duties. The appellee has the following duties in connection with the transmission of the record:

- File with the trial court any exhibits in appellee's possession within 21 days after claim of appeal is filed (unless the court orders or the parties stipulate otherwise), MCR 7.210(C);
- If part of the record is filed directly with the Court of Appeals, file a proof of service of that filing on opposing counsel, IOP 7.210(A)-2;
- If the appellee files a cross-appeal, appellee/cross-appellant is only responsible for the filing of the transcript if the initial appeal is abandoned or dismissed, MCR 7.207(D), IOP 7.210(B)(1)-1.

3. Court Reporter's Duties. The court reporter has the following duties in connection with the transmission of the record:

- Furnish a certificate within 7 days, stating that the transcript has been ordered; payment has been made or secured; transcript will be filed as soon as possible or has been filed; the estimated number of pages; whether the court reporter recorded each proceeding requested, and if not, the name and certification number of the court reporter that did; MCR 7.201(B)(3)(a);
- Give the following precedence to the filing of transcripts: 14 days for applications for leave to appeal from orders on motions to suppress evidence in criminal cases; 28 days for appeals of criminal convictions based on plea of guilty, guilty but mentally ill, or nolo contendere; 42 days for any other interlocutory criminal appeal or custody case; 91 days in all other cases; MCR 7.201(B)(3)(b);
- Notify the Court of Appeals and all parties once the transcript is filed with the trial court and file an affidavit of mailing of notice, MCR 7.201(B)(3)(e).

4. Trial Court's Duties. The trial court has the following duties in connection with the transmission of the record:

- Send record on appeal to the Court of Appeals within 21 days after briefs are filed or time for filing appellee's brief has expired, with a certificate identifying the name of the case and papers with reasonable definiteness, MCR 7.210(G);
- When the record is returned, notify all parties of the return of the record and return the exhibits to the parties who filed them, MCR 7.210(C), (I); MCR 7.310(B).

B. Michigan Supreme Court. Upon request by the Supreme Court clerk, the Court of Appeals or trial court clerk shall send all papers or electronic documents on file, certified by the clerk, MCR 7.310(A). After final adjudication or disposition of the

appeal, the Supreme Court clerk shall return the original record to the Court of Appeals or trial court clerk, or to the clerk of the court in which the case has been remanded, and provide a certified copy of the Supreme Court's order or judgment, MCR 7.310(B).