

# Excerpts of Record in the Ninth Circuit

Updates to Ninth Circuit Rule 30-1, Common Mistakes, and How to Organize Excerpts

# Changes to Ninth Circuit Rule 30-1

as of December 1, 2020

- Citations to Excerpts
- Index
- Page Numbering
- Volume 1
- Notice of Appeal and Transcripts
- Social Security Administrative Record

# Changes to Ninth Circuit Rule 30-1

## Citations to Excerpts

Old Rule	New Rule as of December 1, 2020
No specific format for brief's citations to excerpts.	<ul style="list-style-type: none"><li>• Brief's citations to multi-volume excerpts formatted as [volume #]-ER-[page #].</li><li>• Single volume excerpts cited as ER-[page #].</li><li>• Supplemental excerpts cited as "SER" and further excerpts cited as "FER."</li><li>• Unique identifiers used to cite to separate sets of excerpts by parties on same side.</li></ul>

9<sup>th</sup> Cir. R. 30-1.6

# Changes to Ninth Circuit Rule 30-1

## Index

Old Rule	New Rule as of December 1, 2020
Index is included in each volume.	Index is a separate Index Volume for any multi-volume set of excerpts of record and cannot be included in numbered volumes.

9<sup>th</sup> Cir. R. 30-1.5(a)

# Changes to Ninth Circuit Rule 30-1

## Page Numbering

Old Rule	New Rule as of December 1, 2020
Page numbers begin after index. Option to use separate sets of consecutive page numbers between tabs.	Page numbers begin with caption (cover) page of Volume 1 counted as page 1. <b>All</b> pages of each volume (including caption pages, blank pages, tabs, and certificates) are included in consecutive page numbering, except a separate Index Volume.

9<sup>th</sup> Cir. R. 30-1.5(c)

# Changes to Ninth Circuit Rule 30-1

## Volume 1

Old Rule	New Rule as of December 1, 2020
Volume 1 contains all orders to be reviewed, oral statements of decisions, reports, opinions, memoranda, etc. by lower court judge(s) related to issues being appealed.	Volume 1 of multi-volume excerpts contains all written or oral decisions being appealed, reviewed, or collaterally challenged, and <i>nothing</i> else.  (Clarified to allow strict enforcement of rule.)

9<sup>th</sup> Cir. R. 30-1.4(a)

# Changes to Ninth Circuit Rule 30-1

## Notice of Appeal and Transcripts

Old Rule	New Rule as of December 1, 2020
<ul style="list-style-type: none"><li>• Notice of Appeal placed at beginning of Volume 2.</li><li>• Trial transcripts and exhibits placed by hearing date only.</li></ul>	<ul style="list-style-type: none"><li>• Notice of Appeal placed at end of excerpts, just before docket sheet.</li><li>• Option to submit trial transcripts and documentary trial exhibits as separate volume(s) at end of excerpts.</li></ul>

9<sup>th</sup> Cir. R. 30-1.4(f) & (c)

# Changes to Ninth Circuit Rule 30-1

## Social Security Administrative Record

Old Rule	New Rule as of December 1, 2020
Social security certified administrative record is included in excerpts.	Social security certified administrative record is filed separately from excerpts.

9<sup>th</sup> Cir. R. 30-1.4(e)

# Common Mistakes in Excerpts

- **Brief's citations** are not in [volume #]-ER-[page #] format.
- **Page numbering** does not include all pages.
  - ✓ All pages of each volume, except a separate Index Volume, must be included in consecutive pagination, including caption pages and certificates.
  - ✓ Index must be counted in page numbering if included in a single volume set of excerpts.
- **Notice of Appeal** is not located at end of excerpts with docket sheet.
- **Volume 1** includes documents not permitted to be in Volume 1.
- **Binding** multiple volumes of paper format excerpts together.
  - ✓ Each volume must be separately bound, including a separate Index Volume.

# Ideal Organization of Multi-Volume Excerpts

- **Volume 1**
  - All written/oral decisions being appealed, reviewed, or challenged, in reverse chronological order (newest first)
- **Volumes 2 through \_**
  - All other parts of record (pleadings, etc.), in reverse chronological order (newest first)
- **Transcript volumes**
  - Transcripts, placed by hearing date in regular chronological order (oldest first)
  - Documentary trial exhibits, at end
- **Last non-sealed volume**
  - Transcripts, continued
  - Documentary trial exhibits, continued
  - Notice of appeal
  - Docket sheet
- **Sealed, final volume(s)**
  - All sealed parts of excerpts, in reverse chronological order (newest first)

9<sup>th</sup> Cir. R. 30-1.4

# Ideal Organization of Single-Volume Excerpts

- **No more than 300 pages** in total, including caption and index pages
- **Index** may be included, counted in page numbering (i.e., page 2)
- All parts of record in **reverse chronological order** (newest first)
- **Transcripts** placed by hearing date
- **Notice of appeal** at end, just before docket
- **Docket sheet** last

9<sup>th</sup> Cir. R. 30-1.4 and 30-1.5(b)

# Sealed Excerpts of Record

- Format as **final volume(s)** of excerpts, containing only sealed documents
  - Exception: seal Volume 1 if the entire contents of Volume 1 are sealed, instead of formatting it as the final volume
- Arrange in **reverse chronological order** (newest first)
- Must be accompanied by:
  - **Notice of Sealing** pursuant to 9<sup>th</sup> Cir. R. 27-13(d); or
  - **Motion to Seal** pursuant to 9<sup>th</sup> Cir. R. 27-13(e); or
  - **Notice of Intent to Unseal** pursuant to 9<sup>th</sup> Cir. R. 27-13(f)
- File **pre-sentence report** and related sealed sentencing documents separately from excerpts

9th Cir. R. 27-13 and 30-1.4(d)

# Resources

- Rules:  
<https://www.ca9.uscourts.gov/rules/>
- Sample Excerpts:  
<https://www.ca9.uscourts.gov/efiling/faqs/er/#ecfers-sample>
- Frequently Asked Questions about Excerpts of Record:  
<https://www.ca9.uscourts.gov/efiling/faqs/er/>
- Frequently Asked Questions about Sealed Filings:  
<https://www.ca9.uscourts.gov/efiling/faqs/sealedfilings/>
- Email:  
[questions@ca9.uscourts.gov](mailto:questions@ca9.uscourts.gov)