

**Supreme Judicial Court
Standing Advisory Committee on the
Rules of Appellate Procedure**

Proposed amendment to Rule 18(b)(1)

[Current text of Mass. R. A. P. 18(b)(1)]

18. Appendix to the Briefs: Contents, Cost, Filing, and Service

...

(b) Determination of Contents of Appendix in Civil Cases; Cost of Producing; Supplemental Appendix.

(1) The parties are encouraged to agree as to the contents of the appendix. In the absence of agreement, the appellant shall, not later than 14 days after receiving from the clerk of the lower court the notice of assembly of the record, serve on the appellee a designation of the parts of the record which the appellant intends to include in the appendix and a statement of the issues which the appellant intends to present for review. If the appellee deems it necessary to direct the particular attention of the court to parts of the record not designated by the appellant, the appellee shall, within 14 days after receipt of the designation, serve upon the appellant a designation of those parts. The parties shall not engage in unnecessary designation and may refer to parts of the record not included in the appendix if permitted by the appellate court or a single justice pursuant to the provisions of Rule 18(a)(1)(D). However, this does not affect the responsibility of the parties to include materials necessary to their appeal, including exhibits, in the appendix.

[Proposed amendments to Mass. R. A. P. 18(b)(1) - redline version]

18. Appendix to the Briefs: Contents, Cost, Filing, and Service

...

(b) Determination of Contents of Appendix in Civil Cases; Cost of Producing; Supplemental Appendix.

(1) The parties are encouraged to agree as to the contents of the appendix. In the absence of agreement, the appellant shall, not later than 14 days after receiving from the clerk of the ~~lower court the notice of assembly of the record~~ appellate court the notice of docketing of the appeal under Rule 10(a)(3), serve on the appellee a designation of the parts of the record which the appellant intends to include in the appendix and a statement of the issues which the appellant intends to present for review. If the appellee deems it necessary to direct the particular attention of the court to parts of the record not designated by the

appellant, the appellee shall, within 14 days after receipt of the designation, serve upon the appellant a designation of those parts. The parties shall not engage in unnecessary designation and may refer to parts of the record not included in the appendix if permitted by the appellate court or a single justice pursuant to the provisions of Rule 18(a)(1)(D). However, this does not affect the responsibility of the parties to include materials necessary to their appeal, including exhibits, in the appendix.

[Proposed amendments to Mass. R. A. P. 18(b)(1) - clean version]

18. Appendix to the Briefs: Contents, Cost, Filing, and Service

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(b) Determination of Contents of Appendix in Civil Cases; Cost of Producing; Supplemental Appendix.

(1) The parties are encouraged to agree as to the contents of the appendix. In the absence of agreement, the appellant shall, not later than 14 days after receiving from the clerk of the appellate court the notice of docketing of the appeal under Rule 10(a)(3), serve on the appellee a designation of the parts of the record which the appellant intends to include in the appendix and a statement of the issues which the appellant intends to present for review. If the appellee deems it necessary to direct the particular attention of the court to parts of the record not designated by the appellant, the appellee shall, within 14 days after receipt of the designation, serve upon the appellant a designation of those parts. The parties shall not engage in unnecessary designation and may refer to parts of the record not included in the appendix if permitted by the appellate court or a single justice pursuant to the provisions of Rule 18(a)(1)(D). However, this does not affect the responsibility of the parties to include materials necessary to their appeal, including exhibits, in the appendix.

DRAFT Reporter's Notes—2025

Rule 18(b)(1) has been amended to redefine the time within which an appellant in a civil case must serve on the appellee a designation of the items the appellant intends to include in the record appendix and a statement of the legal issues the appellant intends to raise. The first sentence of the rule, which remains the same, encourages the parties to agree as to the contents of the record appendix. Formerly, however, in the absence of agreement, the appellant was required to serve its designation of contents and statement of issues within fourteen days after receiving notice from the clerk of the lower court, pursuant to Rule 9(e)(1), that the record had been assembled. As amended, the rule requires the appellant to serve the designation and statement within fourteen days after receiving notice from the clerk of the appellate court, pursuant to Rule 10(a)(3), that the appeal has been docketed in the appellate court. The amendment thus gives the parties more time to settle on the contents, or, barring agreement, more time for the appellant to make its designation, while still allowing the parties sufficient time to obtain a resolution of any disagreements from the lower court before the record appendix is due to be filed.