

Rule 3.04

UNAVAILABILITY OF TRANSCRIPT OR EXHIBIT

- (a) **Transcript.** If the transcript of a hearing or trial is unavailable, a party to an appeal may prepare a statement of the evidence or proceedings from the best available means, including the party's own recollection, for use instead of a transcript. The statement must be served on all parties, who may serve an objection or proposed amendment no later than 14 days after being served. The statement and any objection or proposed amendment then must be submitted to the district court for settlement and approval. As settled and approved, the statement must be included by the clerk of the district court in the record on appeal.
- (b) **Exhibit.** If an exhibit offered, admitted, or excluded in a hearing or trial is unavailable, a party to an appeal may prepare a photocopy or any facsimile that accurately duplicates the original exhibit. The substitute exhibit must be served on all parties, who may serve an objection or proposed amendment no later than 14 days after being served. The substitute exhibit and any objection or proposed amendment then must be submitted to the district court for settlement and approval. As settled and approved, the substitute exhibit must be included by the clerk of the district court in the record on appeal.

[**History:** Am. effective July 1, 2010; Restyled rule and amended effective July 1, 2012.]