

Court of Appeals of the State of Georgia

ATLANTA, October 20, 2026

The Court of Appeals hereby passes the following order:

A26A1456. MOHAMAD TUHIN KHAN et al. v. DINESH RAI.

Plaintiff Dinesh Rai entered into a contract with Defendant Mohamad Tuhin Khan to purchase 49% of Khan's interest in Defendant N Nahar Investment, LLC, which owns and operates a Chevron gas station. The parties additionally agreed to the terms of an operating agreement. Under this agreement, Plaintiff was solely responsible for the day-to-day operation of the business for a defined period of time. Prior to expiration of this term, Defendant Khan exercised his right under the operating agreement to remove Plaintiff as the store's operator. Plaintiff sued Defendants, raising claims for breach of contract, fraud and misrepresentation, and conversion. Defendants counterclaimed for breach of contract. Following a three-day trial, the jury returned a verdict finding all parties in breach of the contract. On appeal, Defendants challenge the award of restitution as damages for Plaintiff's breach of contract claim.

The transcript of the jury trial is imperative to resolution of this appeal. However, the manner in which the transcript was transmitted to us violates both our Rules and the Appellate Practice Act. OCGA § 5-6-41(e) provides that "[w]here a civil ... trial is reported by a court reporter," the court reporter is required to "complete the transcript and file the original and one copy thereof with the clerk of the trial court, together with the court reporter's certificate attesting to the correctness thereof." The trial court clerk then shall transmit the original transcript "as part of the record on appeal." *Id.*; OCGA § 5-6-43(a). Our Rule 17 similarly requires the trial court clerk to certify and transmit a copy of the original transcript.

Rule 19 further provides that “the original transcript shall be a separate document or compact disc and not attached to the record” and that each part be certified by the court reporter and the trial court clerk.

Here, rather than the court reporter transmitting the trial transcripts to the clerk of the trial court, the Appellant filed the trial transcripts as part of the trial court record. The transcripts thus were transmitted to us as part of the trial court record instead of as separate volumes. Additionally, none of the trial exhibits were included. Complicating matters further, each of the three days of trial was reported by a different court reporter, none of whom appear to have attached an original seal. The transcript for the first day of trial also contains a certification from the court reporting company referring to the day’s proceeding as a deposition rather than a trial, while the court reporter for the final day referred to the testimony as pertaining to a plea.

These deficiencies are not fatal to the appeal. They do, however, necessitate remand to the trial court clerk so that they may be corrected in accordance with our Rules and the governing statute. Once these deficiencies are corrected, the record and trial transcripts should be re-transmitted to us, along with a copy of this order. The case then will be re-docketed pursuant to the notice of appeal filed in this case.



Court of Appeals of the State of Georgia
Clerk’s Office, Atlanta, 10/20/2026

*I certify that the above is a true extract from
the minutes of the Court of Appeals of Georgia.*

*Witness my signature and the seal of said court
hereto affixed the day and year last above written.*

Christina Bailey Smith, Clerk.