

LOCAL RULES
OF
THE FIFTH DISTRICT
COURT OF APPEALS



Effective June 30, 2025

TABLE OF RULES

- 1. Costs Deposits**
 - (A) Original Actions
 - (B) Appeals
 - (C) Actions Brought by Indigents

- 2. Filing Documents; Proposed Judgment Entry Required**
 - (A) Filing Documents
 - (B) Electronic Filing
 - (C) Paper form documents
 - (D) Electronic file stamp
 - (E) Official Record
 - (F) Definitions
 - (G) Signature
 - (H) Exhibits
 - (I) Time of Filing
 - (J) No Electronic Filing with Fifth District Court
 - (K) Clerk Not Obligated to Issue Receipt
 - (L) Risk of Electronic Filing
 - (M) Service
 - (N) Time to Respond or Act
 - (O) Fees and Costs
 - (P) Electronically Signed Court Documents
 - (Q) Proposed Judgment Entry Required

- 3. Designation of Counsel; Application for Leave to Withdraw as Counsel**
 - (A) Designation of Counsel
 - (B) Appointment of Counsel
 - (C) Selection of Counsel
 - (D) Attorney Fees
 - (E) Application for Leave to Withdraw as Counsel

- 4. Original Actions**
 - (A) How Instituted
 - (B) Evidence
 - (C) Dispositive Motions in Mandamus, Prohibition, Procedendo and Quo Warranto Actions
 - (D) Habeas Corpus
 - (E) Absence of Dispositive Motions
 - (F) Election Cases
 - (G) Enlargement or Reduction of Time
 - (H) Consequences of Failure to File Briefs

- 5. Dismissals for Failure to Prosecute the Appeal**

- 6. Docketing Statement; Accelerated Calendar**
 - (A) Docketing Statement
 - (B) Accelerated Calendar

- 7. Expedited Cases**

7.5 Mediation

- (A) Cases Eligible for Mediation.
- (B) Cases Not Eligible for Mediation
- (C) Purpose and Procedure
- (D) Stay of Filing Deadlines
- (E) Confidentiality
- (F) Continuances
- (G) Noncompliance Sanctions
- (H) Referral to Resources
- (I) Evaluation, Comments, and Complaints

8. The Record

- (A) Extensions of Time for Filing the Record
- (B) Inability of Court Reporter to Supply a Necessary Part of the Record
- (C) Evidence Consisting of Weapons, Ammunition, Money, Drugs or Valuables

9. The Briefs

- (A) Contents of Briefs
- (B) Length of Briefs
- (C) Mechanical Requirements
- (D) Font Requirements
- (E) Length of Time for Filing a Brief
- (F) Filing and Service of Briefs on Cross-Appeal
- (G) *Anders* Brief with Motion to Withdraw as Counsel

10. Oral Arguments

- (A) Request for Oral Argument Required
- (B) Default to In-Person
- (C) Submission for Decision
- (D) Sua Sponte Scheduled Argument
- (E) Time Allocated
- (F) Incarcerated Parties Proceeding Pro Se

11. Delivery of Copies of Orders, Judgments and Memorandum Opinions

- (A) Parties
- (B) Judge

12. Consolidation of Appeals

13. Presiding Judge and Administrative Judge

14. Notification of Proposed Changes to the Local Rules of Court

15. Court Security

15.5. Technology Plan

16. Title

Form – Example of Facsimile Filing Cover Page

Form – Example of Notice of Filing an Exhibit

Form – Docketing Statement

INTRODUCTION

The Fifth Appellate Judicial District is comprised of the following fifteen counties: Ashland, Coshocton, Delaware, Fairfield, Guernsey, Holmes, Knox, Licking, Morgan, Morrow, Muskingum, Perry, Richland, Stark, and Tuscarawas.

RULE 1. COSTS DEPOSITS

(A) Original Actions. No complaint in an original action (mandamus, prohibition, procedendo, quo warranto, or except where prohibited by R.C. 2725.28 or other law, habeas corpus) shall be accepted for filing in this Court of Appeals unless the party bringing the action shall first have deposited with the Clerk of the Court of Appeals of the county in which the action is to be brought the sum of eighty-five dollars (\$85) as security for the payment of the costs that may accrue in the action.

Subpoenas shall not issue for witnesses in actions in habeas corpus unless an additional deposit of ten dollars (\$10) per witness is deposited as security for costs with the Clerk of the Court of Appeals of the county in which the action is brought together with the praecipe for subpoena.

(B) Appeals. Within ten days after filing the notice of appeal or cross-appeal, appellants or cross-appellants shall comply with section (C) of this Rule or shall deposit with the Clerk of the Court of Appeals of the county in which the appeal is filed the sum of ninety dollars (\$90) as security for the payment of costs that may accrue in the appeal. Any personal check given for deposit shall be made payable to the "Clerk of the Court of Appeals."

This deposit for costs may be made with the clerk of the trial court when the notice of appeal is filed in that court, and any deposit so made shall be forwarded by that clerk to the Clerk of the Court of Appeals along with the copy of the notice of appeal and other papers required by App.R.3(D).

Failure to make this deposit for costs shall not prevent the filing of a notice of appeal in the trial court.

Failure to make this deposit for costs within ten days of the filing of the notice of appeal is failure to prosecute the appeal for which the appeal may be dismissed pursuant to App.R. 3(A).

(C) Actions Brought by Indigents. If the party bringing an original action, bringing an appeal, or seeking the attendance of witnesses files with the Clerk of the Court of Appeals evidence of indigency (a financial disclosure form establishing indigency or evidence the trial court determined the appellant was indigent for purposes of appeal, such as a copy of the entry of appointment), then the requirements of Sections (A) and (B) of this Rule shall not be effective. Evidence of indigency must be filed for each and every notice of appeal and original action. The party asserting to be indigent is under a continuing duty to notify this Court if the party becomes financially able to secure and pay costs of the action. The Court will impose costs pursuant to App.R. 24 at the conclusion of the case, even if the prepayment of the deposit is waived pursuant to this Rule.

(Former Rule 2 adopted effective May 1, 1981; amended effective September 1, 1981; July 1, 1983; January 1, 1993; August 30, 1995; amended and renumbered as Rule 1 effective May 1, 1997; amended effective January 1, 2008; amended effective January 1, 2015; amended effective January 1, 2019.)

RULE 2. FILING DOCUMENTS; PROPOSED JUDGMENT ENTRY REQUIRED

(A) Filing Documents. Motions, records, briefs, and all other documents required to be filed in this Court or with the Clerk of this Court shall be filed with the Clerk of the Court of Appeals of

the county in which the trial of the action appealed took place or, in the case of original actions, with the Clerk of the Court of Appeals of the county in which the complaint is filed, such county properly being any county where this Court may obtain personal jurisdiction over the parties.

(B) Electronic Filing. The clerk of the court of common pleas in each county is the Clerk of the Court of Appeals of the county. The clerks of the common pleas courts are obligated by the Ohio Revised Code to permit pleadings or documents to be filed in paper format or electronic format. Each clerk may decide whether the filing of pleadings or documents in electronic format may be accomplished by electronic mail or the use of an online platform. Except as specifically provided elsewhere in these Rules, other rules or statutes, or where expressly authorized by an entry of this Court, all documents submitted for filing with the clerks of this Court may be filed in an electronic format if the clerk of the court of common pleas serving as clerk of this court has adopted an electronic filing system. Electronic filings must be completed in compliance with the procedures established by the clerk and will be subject to the following conditions:

(1) Application of Rules and Orders. All rules of procedure, local rules, and court orders shall continue to apply to documents electronically filed. Documents submitted for filing via email or online platform must be in a digitized format specified by the clerk of courts.

(2) Leave to file in paper form. If a clerk has mandated electronic filing, an attorney wishing to file a specific document or all documents in a case in paper form may file a motion requesting leave to do so. Such motion may itself be filed in paper form and shall set forth the exceptional circumstances justifying the request.

(3) Filings not accepted. An appointed counsel's application for attorney fees will not be accepted for electronic filing.

(4) Self-represented filings. Parties not represented by counsel are not required to file documents in electronic format and may file documents in paper form.

(5) Copies. If the clerk provides an electronic filing system and the parties file pleadings in electronic format, the provision of App.R. 18 requiring that the parties file four copies of the brief with the clerk shall be waived.

(C) Paper form documents.

(1) Documents filed in paper form shall be converted to electronic format by the clerk of court if possible.

(2) Documents filed under seal shall not be filed via electronic mail or online platform nor shall they be converted to electronic format by the clerk. The clerk shall maintain all documents filed under seal in paper form only.

(D) Electronic file stamp. Any document filed electronically will be file-stamped in accordance with procedures and rules adopted by the clerk. This stamp will include the date and time that the receiving device of the clerk received the entire transmission.

(E) Official Record. When pleadings or documents are received or created in, or converted to, an electronic format, the pleadings or documents in that format shall be considered the official version of the record.

(F) Definitions. As used in this Rule, unless the context requires otherwise:

(1) Electronic Format means a document not recorded on paper but created by technology using electrical, digital, magnetic, wireless, optical, electromagnetic, or similar technology that may be transmitted or viewed by using electronic mail or an online platform. Facsimile transmission is not electronic format for purposes of this Rule.

(2) Electronic Mail. A web site or other digital application designed to facilitate transmission of pleadings and other documents to a clerk of courts for filing. Facsimile transmission is not electronic mail for purposes of this Rule.

(3) Online Platform. A web site or other digital application designed to facilitate filing of pleadings and other documents with a clerk of courts. Facsimile transmission is not an online platform for purposes of this Rule.

(4) Electronic Filing System. A procedure adopted by the clerk that utilizes an online platform or electronic mail to permit the filing of documents in an electronic format.

(G) Signature. Any signature on electronically transmitted documents shall be considered that of the attorney or party it purports to be for all purposes.

(H) Exhibits.

(1) Exhibits that cannot be accurately transmitted via electronic mail or an online platform for any reason must be replaced by an insert page describing the exhibit and why it is missing. Unless this Court orders otherwise, the missing exhibit shall be filed with the Court, as a separate document, within five court days following the filing of the document filed via electronic mail or online platform. Failure to file the missing exhibits as required may result in the Court striking the document and/or exhibit.

(2) Exhibits filed in this manner shall be attached to a cover sheet containing the caption of the case, which sets forth the name of the court, title of the case, the case number, and the title of the exhibit being filed (*e.g.*, Appellant Smith's Notice of Filing Exhibit "A" to Appellant Smith's Motion to Dismiss), and shall be signed and served in conformance with the rules governing the signing and service of pleadings in this Court.

(I) Time of Filing

(1) An electronic filing may be submitted to the clerk twenty-four (24) hours a day, seven (7) days a week. However, the e-filing rules for the respective clerk of courts shall determine the date and time for acceptance of the filing and corresponding timestamp. This does not alter the provision in App.R. 14(A) that filing deadlines that fall on a Saturday, a Sunday, or a legal holiday run until the end of the following day that is not a Saturday, Sunday, or legal holiday.

(2) Time at this Court (Eastern Standard Time or Eastern Daylight-Saving Time) governs, rather than the time zone from which the filing is made.

(J) No Electronic Filing with Fifth District Court. Electronic mail or online platform filings may NOT be sent directly to this Court for filing but may only be transmitted directly through the equipment operated by the appropriate clerk of court.

(K) Clerk Not Obligated to Issue Receipt. The clerk of court may, but need not, acknowledge receipt of an electronic mail or online platform transmission.

(L) Risk of Electronic Filing. The risks of transmitting a document by electronic mail or online platform to the clerk of court or delay in the document being time-stamped shall be borne entirely by the sending party. Anyone using electronic mail or online platform filing is urged to verify receipt of such filing by the clerk of court through whatever technological means are available. If a party attempts to file a document electronically and the document is not accepted for filing because of an error in the transmission of the document to the electronic filing system, this Court may, upon satisfactory proof, enter an order permitting the document to be filed retroactively to the date it was sent electronically.

(M) Service. Service of documents filed electronically shall be accomplished in the manner prescribed by the Appellate Rules. See App.R. 3 and 13.

(N) Time to Respond or Act. Whenever a time period is measured from the time after a document is filed via email or online platform, the time will be measured from the date the document fulfilled the requirements for successful filing of a document in electronic format as described in Sections I (1) and (2).

(O) Fees and Costs. Any document filed electronically that requires a filing fee may be rejected by the clerk of court unless the filer has complied with the mechanism established by the clerk of court for the payment of filing fees.

(P) Electronically Signed Court Documents.

(1) The following definitions shall apply to this section of the Rule:

a. "Electronic" and "electronic signature" have the same meaning as used in section 1306.01 of the Ohio Revised Code.

b. The term "Document" includes decisions, journal entries, notices, orders, opinions and any other filing by a judge, magistrate or court administrator of this court.

(2) All court documents signed with an electronic signature, whether transmitted to the clerk of courts electronically or via paper, shall have the same force as if the signer had affixed his or her signature to a paper copy of the document.

(3) Electronic transmission of a court document with an electronic signature by a Judge or Magistrate that is sent in compliance with procedures adopted by this Court shall, upon the complete receipt of the same by the clerk of court, constitute the date and time of receipt of the document, if the clerk of court's Office is open for business at the time of receipt. If a document is received at a date and time when the clerk of court's Office is not regularly

scheduled to be open for business, the document shall be considered to have been received the next day and time the clerk's Office is regularly scheduled to be open.

(Q) Proposed Judgment Entry Required. All motions shall be submitted for filing accompanied by a proposed judgment entry suitable for use if the motion is granted.

(Adopted effective August 30, 1995; amended effective May 1, 1997; amended effective January 1, 2008; amended November 19, 2014; amended (renumbered) effective January 1, 2019, Amended effective June 30, 2025.)

RULE 3. DESIGNATION OF COUNSEL; APPLICATION FOR LEAVE TO WITHDRAW AS COUNSEL

(A) Designation of Counsel. Every notice of appeal, pleading, motion, and brief filed shall have typed or printed on it the name, address, and telephone number of the filing counsel (or the party, if not represented by counsel). The attorney registration number shall follow the name of filing counsel on all documents filed with this Court.

Notice or motions to appear as co-counsel with the counsel of record shall be made by the counsel of record.

(B) Appointment of Counsel. Except in appeals pursuant to App.R. 5, a request for appointment of counsel shall be made in the first instance in the trial court. A motion to appoint counsel that is filed in the court of appeals must be accompanied by proof that the trial court denied a request for appointment of counsel.

(C) Selection of Counsel. The Court shall maintain a list of pre-qualified attorneys who have notified the Court of their interest in serving as appointed counsel in criminal cases. Counsel shall be selected in a continual rotation from a list maintained by the Court, except that the Court may consider the experience and expertise of counsel and counsel's management of his/her current appellate caseload. Whenever possible, the Court shall appoint counsel practicing in the county in which the case is filed.

The Court shall keep a record of all counsel appointments made in a given calendar year and shall annually review that record to ensure that appointments are equitably distributed among counsel on the appointment list.

(D) Attorney Fees.

(1) Application. Application by appointed counsel in criminal cases for attorney's fees on appeal shall be completed on the most recent forms prescribed by the Ohio Public Defender. Incomplete applications, applications submitted without the proper financial disclosure form, or applications submitted on the wrong forms shall be returned to counsel and could result in reduction or nonpayment of fees. Untimely applications may also result in reduction or nonpayment of fees.

(2) Limitations on Compensation. Payments for services will not exceed the schedule of fees established by each county pursuant to law, unless counsel also files a motion for extraordinary fees with reasons supporting the request, accompanied by a proposed judgment entry suitable for use if the motion is granted.

(3) Time for filing. All applications for payment of attorney's fees shall be filed after, but within 30 days of, the entry of the decision and journal entry or order that disposes of the appeal. Periodic billing for attorney's fees is not permitted. In cases where appointed counsel withdraws from representation, application for payment of attorneys shall be filed no later than 30 days after counsel withdraws.

(E) Application for Leave to Withdraw as Counsel. Counsel who has entered an appearance with this court, whether appointed or retained, may not withdraw representation without leave of this court. Counsel seeking to withdraw shall file a written motion which shall:

- (1) Show good cause for the request.
- (2) Include notice that a party has 14 days from filing of the motion to withdraw to file any objection to the motion.
- (3) Be signed by the client, signed by the client's new counsel (if any), or contain a certification that the motion was served upon the client by certified or express mail and by regular mail.
- (4) Include the address of the client's new counsel, or if none, the name and address of the client.

(Former Rule 8 adopted effective September 11, 1984. Amended effective August 30, 1995. Amended and renumbered as Rule 3 effective May 1, 1997. Amended effective July 1, 1999; January 1, 2008; January 1, 2015; January 1, 2019; November 1, 2023.)

RULE 4. ORIGINAL ACTIONS

(A) How Instituted. Service in original actions shall be made and the action shall commence upon the filing of a complaint and proceed as a civil case under the Ohio Rules of Civil Procedure unless those Rules are clearly inapplicable. In the absence of extraordinary circumstances, no alternative or peremptory writs will be issued, other than in a habeas corpus action.

(B) Evidence. Unless consent of the Court is otherwise obtained, the evidence in all original actions shall be submitted to the Court by means of an agreed statement of facts, affidavits, stipulations, depositions or exhibits. Oral testimony will not be heard. The evidence in actions in habeas corpus shall be similarly submitted whenever practicable and where the interests of justice will not be defeated by delay.

(C) Dispositive Motions in Mandamus, Prohibition, Procedendo and Quo Warranto Actions. Whenever possible, original actions in mandamus, prohibition, procedendo and quo warranto shall be decided upon either a motion to dismiss, motion for summary judgment or motion for judgment on the pleadings. When any party files a dispositive motion, a brief in support shall be filed with the motion. A brief in opposition to the motion, along with any cross-motion, shall be filed within 20 days after the filing of the initial motion. A reply brief, if any, and/or a response to the cross-motion, if any, shall be filed within 20 days after the filing of the brief in opposition to the motion. No other briefs or memoranda shall be filed except with leave of court, unless a cross-motion has been filed, in which event, the movant may file a reply within 20 days from the filing of opposing party's response. Motions shall be determined without oral argument unless otherwise ordered by the Court.

(D) Habeas Corpus. Habeas corpus actions shall be brought and proceed in accordance with R.C. Chapter 2725. If the Court concludes the habeas corpus petition states a viable claim for relief, an evidentiary hearing shall be scheduled as soon as possible. If the Court concludes the habeas corpus petition may not state a viable claim for relief, an alternative writ shall be issued requiring the respondent to file a written response to the petition. If a written response is required, the parties shall follow the procedure set forth under section (C) regarding the filing of dispositive motions.

(E) Absence of Dispositive Motions. In the event that neither party files dispositive motions in the time allowed or if dispositive motions are filed and denied, the parties shall submit their case to the Court within 20 days of the date that the dispositive motions were due or denied. Each party's case shall be submitted by a brief on the law, an agreed statement of facts, if applicable, and/or stipulations, depositions, and/or affidavits. No hearing will be held unless ordered by the Court. If the Court orders a hearing, court stenographers will not be in attendance at the trial of the action unless arranged for and employed by one or more of the parties and appointed by the Court, except as otherwise ordered by the Court due to exceptional circumstances.

(F) Election Cases. If an original action is filed in an election case within 90 days prior to the election, this Court shall issue a judgment entry setting forth any special procedure to be used in order to ensure the prompt resolution of the action.

(G) Enlargement or Reduction of Time. The Court for good cause shown may upon motion enlarge or reduce the time prescribed by these Rules or by its order for doing any action, or may permit an action to be done after the expiration of such time.

(H) Consequences of Failure to File Briefs. If the relator fails to adhere to the briefing schedule, without cause, the original action shall be dismissed for want of prosecution. If the respondent fails to follow the briefing schedule, the Court may accept the relator's statement of facts and issues as correct and grant the writ if the relator's brief reasonably appears to sustain the writ.

(Adopted effective August 30, 1995; amended effective May 1, 1997; amended effective January 1, 2008; amended November 19, 2014; amended (renumbered) effective January 1, 2019; amended effective June 30, 2025.)

RULE 5. DISMISSALS FOR FAILURE TO PROSECUTE THE APPEAL

Unless the appellant demonstrates that no undue delay and no prejudice to appellee has been caused by the failure to comply with the rules, the following shall be deemed good cause for dismissal of an appeal, *sua sponte*, for failure to prosecute:

- (A)** Failure to cause the record on appeal to be timely transmitted to the clerk of this court.
- (B)** Failure to timely file the brief or otherwise fail to comply with all the provisions of App.R. 16 or Loc.App.R. 9.
- (C)** Failure to timely file a fully completed docketing statement pursuant to Loc.App.R.6.

(Adopted effective May 1, 1997; amended effective March 31, 2011.)

RULE 6. DOCKETING STATEMENT; ACCELERATED CALENDAR

(A) Docketing Statement. Each appellant and cross-appellant shall file a fully completed docketing statement, typed or legibly printed, at the same time as filing the notice of appeal or cross-appeal. A docketing statement is not fully completed unless a time-stamped copy of the judgment being appealed is attached. The party prosecuting an appeal shall serve a copy of the completed docketing statement together with the notice of appeal on the opposing party.

The clerk of the trial court shall provide docketing statement forms as prescribed by this Court. (See Appendix for Docketing Statement Form). Docketing statements of a form other than the one shown in the Appendix will not be allowed. The clerk of the trial court shall send a copy of the docketing statement to the Court of Appeals along with a copy of the notice of appeal.

(B) Accelerated Calendar. Pursuant to [App.R.11.1](#), this Court has adopted an accelerated calendar. The Court shall determine from the docketing statement whether the appeal will be assigned to the accelerated or regular calendar. If the appeal is assigned to the accelerated calendar, oral arguments shall not be scheduled and the matter will be determined upon submission of all briefs.

If appellee or cross-appellee objects to the assignment of the appeal to the accelerated calendar, appellee or cross-appellee may file an objection with this Court within thirty days of the filing of the docketing statement and the case shall be assigned to the regular calendar.

(Former Rule 10 adopted effective September 30, 1995. Amended and renumbered as Rule 6 effective May 1, 1997. Amended effective July 1, 1999; June 1, 2003; January 1, 2008; March 31, 2011; March 1, 2021; November 1, 2023.)

RULE 7. EXPEDITED CASES

(A) A criminal appeal by the state as of right or a civil appeal of the type listed under section (G)(3) of the Docketing Statement must be expedited by this Court. Therefore, all parties shall give their prompt attention to such appeals and prosecute them diligently. Requests for extensions of time to transmit the record or to file the briefs should be minimized.

(B) Oral arguments on expedited cases, once scheduled, will not be continued absent a showing of extraordinary circumstances. Oral Arguments will be scheduled on the earliest available date and, if necessary to expedite, will be held in any county within the Fifth Appellate District.

(Adopted effective May 1, 1997; amended effective March 31, 2011; amended effective March 1, 2021.)

RULE 7.5 MEDIATION

The Court has established a mediation program for litigants who have a case pending in the Court. The Court incorporates by reference R.C. Chapter 2710, the "Uniform Mediation Act" (UMA) into this local Rule. Under App.R. 20, the Court's pre-mediation and mediation conference procedures will operate as follows:

(A) Cases Eligible for Mediation. The Court has discretion to encourage parties to use mediation in any civil or original action filed in this Court, except those types of cases excluded in Section (B) below. A mediation may be initiated in the following ways:

(1) Initiation by Court. The court's mediator will review the notice of appeal, the trial court's judgment entry or order and the docketing statement in all civil and administrative appeals to determine whether a pre-mediation conference is appropriate. The court's mediator will also review original actions, except writs of habeas corpus, for purposes of mediation. If appropriate, the court's mediator will contact the parties to discuss the scheduling of a pre-mediation conference.

(2) Request by Party. Any party may telephone the Court to request a mediation or may do so on the Court's Docketing Statement. Upon request, the request for mediation will be confidential. Requests shall be made as soon as possible after initiation of the appeal or original action, generally within ten (10) days from the filing date of the appeal or original action. However, requests for mediation made by a party beyond the ten (10) day deadline will also be accepted as long as such request is not for purposes of delay. Requests for mediation may or may not be granted by the Court.

(B) Cases Not Eligible for Mediation. Mediation is prohibited in the following: (1) as an alternative to the prosecution or adjudication of domestic violence; (2) in determining whether to grant, modify, or terminate a protection order; (3) in determining the terms and conditions of a protection order; (4) in determining the penalty for violation of a protection order; (5) in habeas corpus original actions; and (6) in permanent custody cases.

Nothing in this division shall prohibit the use of mediation in a subsequent divorce or custody case, even though that case may result in the termination of the provisions of a protection order; or in a juvenile court delinquency case, even though the case involves juvenile-perpetrated domestic violence.

(C) Purpose and Procedure. The court mediator will conduct the mediation. The attorneys primarily responsible for the case, as well as their clients (including insurance adjusters), are required to attend the mediation, or with the approval of the court mediator, by telephone or video conferencing. "Attorneys," for purposes of this Rule, mean the attorneys with primary responsibility for the case and upon whose advice the party relies. Any person excused in advance by the court mediator from attending in person shall be available by telephone.

(1) Goals of Mediation. The goals of the mediation are: (1) to explore settlement possibilities, (2) to simplify the issues in the appeal if settlement is not achieved, and (3) to consider any procedural problems that exist, may arise, or can be anticipated in connection with the appeal. Additionally, any other matters that the court mediator determines may aid in handling the disposition of the proceedings will be considered.

(2) Timing of Mediation. The Court will attempt to schedule the mediation before any additional expense is incurred by the parties in proceeding with the appeal that is, before the transcript of proceedings, if any, is filed or before appellant's brief is due, if no transcript of proceedings is to be filed.

(D) Stay of Filing Deadlines. Upon referral of a case to mediation, the Court may elect to stay all filing deadlines for up to sixty (60) days. The Court will not decide any motions filed with the clerk of courts while a case is stayed unless expressly permitted by these rules or by court order. Only the following documents may be filed while a mediation stay is in effect: (1) Motion to lift the mediation stay; (2) Response to a motion to lift mediation stay; (3) Motion or Stipulation to Dismiss the case; and (4) Notice related to counsel.

(E) Confidentiality. All mediation communications related to or made during the mediation process are subject to and governed by the Uniform Mediation Act (UMA). Mediation communications are confidential and no one shall disclose any of these communications unless all parties and the mediator consent to disclosure. This Court may impose penalties for any improper disclosures made in violation of this Rule. Disputes regarding confidentiality should first be addressed with the mediator where possible.

By participating in mediation, a nonparty participant, as defined in R.C. 2710.01(D), submits to the Court's jurisdiction to the extent necessary for enforcement of this Rule. Any nonparty participant shall have the rights and duties under this Rule as are attributed to parties, except that no evidence privilege shall be expanded.

- a. All mediation communications are confidential with the following exceptions:
 - i. Parties may share all mediation communications with their attorneys or vice versa.
 - ii. The mediator shall inform the Court or report to the proper authorities certain

information, including the following:

1. Certain threats of abuse or neglect of a child or an adult;
2. Statements made during the mediation process to plan or hide an ongoing crime;
3. Statements made during the mediation process that reveal a felony.

(F) Continuances. It is the policy of this Court to determine matters in a timely manner. Continuances of scheduled mediations shall be granted only for good cause shown after a mutually acceptable future date has been determined. If the rescheduled date is more than sixty (60) days after the referral to mediation and the granting of a stay, the mediation may proceed; however, the matter will not be stayed for purposes of the rescheduled mediation.

(G) Noncompliance Sanctions. If a party or attorney fails to comply with the provisions of this Rule or the provisions of the pre-mediation conference order, the Court may hold a party in contempt and/or assess reasonable expenses caused by the failure, including attorney fees. The Court may also assess all or a portion of the appellate costs or dismiss the appeal or original action. Such sanctions may be imposed by the Court sua sponte or at a party's request.

(H) Referral to Resources. The court administrator shall maintain resources for mediation parties, including victims and suspected victims of domestic violence, encouraging appropriate referrals to legal counsel and other support services such as children services, domestic violence prevention, counseling, substance abuse, and mental health services.

(I) Evaluation, Comments, and Complaints. It is the policy of the Court to use mediation to benefit the parties, to assist in reaching a resolution and to provide a process that is timely and flexible, that maintains the trust and confidence of the people. Any mediation participant may submit written comments, complaints, or feedback regarding the performance of the mediator to the court administrator.

(Adopted effective July 1, 2020)

RULE 8. THE RECORD

(A) Extensions of Time for Filing the Record. The trial court shall closely limit its extensions of time for transmission of the record (App. 10 (C)), shall overrule any motion for an extension of time where good cause is not set forth and shown, and in no event shall any such order operate to extend such time beyond the eightieth (80th) day after the filing of the notice of appeal.

(B) Inability of Court Report to Supply a Necessary Part of the Record. Motions filed with this Court to supplement the record or for an extension of time to transmit the record, needed by reason of a claimed inability of the court reporter to supply a necessary part of the record, must be accompanied by an affidavit of the court reporter stating the circumstances relied on as justifying the extension, the date of the notice of appeal, and the date of service of the praecipe to the court reporter ordering the transcript.

(C) Evidence Consisting of Weapons, Ammunition, Money, Drugs, or Valuables. The clerk of the trial court shall not, unless directed to do so by this Court upon a motion by a party, transmit any trial exhibits consisting of weapons, ammunition, money, drugs, or valuables. The list of documents that the trial clerk transmits with the record (App.R. 10(B)) shall designate which exhibits are not being transmitted pursuant to this Rule and the custodian of the exhibits.

(Adopted effective October 1, 1981; amended effective May 1, 1997.)

RULE 9. THE BRIEFS

(A) Contents of Briefs. In addition to the requirements of [App.R. 16](#), the brief of appellant shall contain clear copies of the following:

(1) These documents, as applicable, shall be included as the first exhibits to the brief.

- (a) The judgment entry appealed from; (Handwritten judgment entries are inappropriate and shall not be considered by this Court except for uniform traffic citations. See Ohio Traffic Rules);
- (b) Any opinion of the trial court announcing the decision reflected by the judgment entry appealed from;
- (c) Any written fact findings and conclusions of law signed and/or adopted by the trial judge contained in the record on appeal; and

(2) Where a summary judgment is appealed, a statement on a separate page following the assignments of error, declaring whether the claim is that judgment is inappropriate as a matter of law on the undisputed facts or that a genuine dispute exists as to a material fact or facts, coupled with a separate statement of the specific fact issue or issues claimed in the trial court to have been material and genuinely disputed. See [North v. Pa. Ry. Co., 9 Ohio St.2d 169, 224 N.E.2d 757, syllabus 2.](#)

(B) Length of Briefs. In addition to the requirements of [App.R. 16](#), no brief by any party in an appeal or original action, excluding appendices, table of contents, table of cases, statement of assignments of errors, and statement of the issues shall exceed thirty pages, unless, upon a motion requesting an increase of a specific number of pages and the showing of good cause, this Court orders otherwise. No reply brief shall exceed fifteen pages.

(C) Mechanical Requirements. All documents shall be single-sided and the text shall be at least 12-point, double-spaced, non-condensed type. Footnotes and quotations may be single spaced; however, they shall also be in 12 point, non-condensed type. As used in this provision, “non-condensed type” shall refer to Times New Roman type or Arial.

(D) Font Requirements. The text of all documents shall be at least 12-point, double-spaced, non-condensed type. Footnotes and quotations may be single spaced; however, they shall also be in 12-point, non-condensed type. As used in this provision, “non-condensed type” shall refer to Times New Roman type or Arial.

(E) Length of Time for Filing a Brief. In extension of App.R. 14(B), motions for enlargement of time to file a brief shall state the number of previous extensions granted pursuant to that Rule. A motion to file a brief *instanter* must state that the brief was delivered to the clerk for filing with the motion to file *instanter*.

(F) Filing and Service of Briefs on Cross-Appeal. In extension to [App.R. 18](#), a cross-appellant shall serve and file the cross-appellant brief within the same time guidelines that apply to an appellee brief. The cross-appellee/appellant shall serve and file the cross-appellee brief and may serve and file an appellant reply brief within twenty days after service of the cross-appellant brief. The cross-appellant may serve and file a reply brief within ten days after service of the cross-appellee's brief.

(G) Anders Brief with Motion to Withdraw as Counsel.

(1) In a criminal appeal in which counsel has been appointed for the appellant, counsel may file a no error brief under the procedure identified in *Anders v. California*, 386 U.S. 738, 87 S.Ct. 1396, 18 L.Ed.2d 493 (1967). An *Anders* brief must contain potential assignments of error as well as law and argument with references to the record. When appellant's counsel files an *Anders* brief, counsel shall simultaneously file a separate motion requesting leave to withdraw as counsel. Counsel shall serve the client with the motion to withdraw and the *Anders* brief. Service on the client shall be indicated in the proof of service.

Upon the filing of an *Anders* brief, the court will issue an order that grants appellant leave to file a pro se brief and assignment(s) of error that comports with the Appellate Rules and Local Appellate Rules within 45 days.

If the appellant files a pro se brief, the appellee may respond and the appellant may reply as provided by the Appellate Rules and Local Appellate Rules. Once briefing is complete, or the 45-day period for filing a pro se brief has lapsed without a brief being filed, the appeal and the motion to withdraw will be assigned to a merit panel for review. The panel will conduct an independent examination of the record to determine if it discloses an issue of arguable merit prejudicial to the appellant. The appeal will be considered submitted on the briefs unless the court sua sponte sets an oral argument date. Should the panel find arguable merit, the Court shall order the appointment of new counsel and the matter will proceed accordingly.

(2) The Court will accept *Anders* briefs in criminal appeals only. It will not accept *Anders* briefs in non-criminal appeals, including termination of parental rights or legal custody appeals. See *In the Matter of: K.M., Adjudged Neglected/Dependent Child*, Tuscarawas App. No. 2019 AP 08 0033, 2020-Ohio-350.

(Former Rules 4, 5, and 7 adopted effective October 1, 1981; amended effective May 29, 1984; August 30, 1995; amended and renumbered as Rule 9 effective May 1, 1997; amended effective January 1, 2008; March 31, 2011; February 1, 2012; June 1, 2012; January 1, 2019; July 1, 2020; November 1, 2023.)

RULE 10. ORAL ARGUMENTS

(A) Request for Oral Argument Required. A case will not be set for oral argument unless a party requests it.

(1) Request for In-Person Oral Argument: A party may request **In-Person** oral argument by including the words **"IN-PERSON ORAL ARGUMENT REQUESTED"** prominently on the cover page of the appellant's opening brief or the appellee's brief. See App.R. 21(A). In-person oral arguments will be conducted with counsel and the Court physically present at a location selected at the Court's discretion.

(2) If any party requests in-person oral argument, the case will be scheduled for in-person oral argument and all parties may appear, but only those who have filed a brief may present an argument.

(3). Request for Remote Oral Argument: A party may request Remote oral argument by including the words **"REMOTE ORAL ARGUMENT REQUESTED"** prominently on the cover page of the appellant's opening brief or the appellee's brief. Remote oral arguments will be conducted via an audio/video internet link selected at the discretion of the Court.

(4) If any party requests remote oral argument, and if no other party requests in-person oral argument, the case will be scheduled for remote oral argument. All parties may appear, but only those who have filed a brief may present an argument.

(B) Default to In-Person. If the Court receives a request for oral argument without a clear choice of in-person or remote being expressed, the Court will schedule an in-person oral argument.

(C) Submission for Decision. If no party requests In-Person or Remote oral argument, the Court will submit the case to a panel for decision and the parties will be notified of the submission.

(D) Sua Sponte Scheduled Argument. The Court may sua sponte schedule a case for in-person or remote oral argument at which all persons otherwise permitted to argue shall appear and present oral argument. The Court may limit oral argument to specific issues.

(E) Time Allocated. Oral arguments shall be fifteen minutes per side.

(F) Incarcerated Parties Proceeding Pro Se. Pursuant to App.R. 21(B), an appellate court is not required to schedule oral argument, even if requested, if any of the parties is both incarcerated and proceeding pro se. Accordingly, oral argument shall not be scheduled in such cases.

(Adopted effective July 30, 1995; amended effective January 1, 2019; amended effective March 1, 2021; amended effective June 30, 2025.)

RULE 11. DELIVERY OF COPIES OF ORDERS, JUDGMENTS, AND MEMORANDUM OPINIONS

(A) Parties. In extension of App.R. 30(A), immediately upon the entry of an order or judgment of this Court, the Clerk of this Court shall deliver a copy of the order or judgment and a copy of any accompanying memorandum-opinion to all counsel and to any party not represented by counsel and shall make a note of the delivery in the appearance docket of the Court of Appeals.

(B) Judge. The Clerk of this Court shall deliver a copy of any order or judgment entry terminating an appeal and a copy of any accompanying memorandum-opinion to the judge whose judgment was appealed.

(Adopted effective April 2, 1981.)

RULE 12. CONSOLIDATION OF APPEALS

Cases involving related transactions and the same or similar principles of law may be consolidated at the discretion of the Court either upon motion or *sua sponte*.

When consolidation has been ordered, the parties of each side shall endeavor to prepare a common brief with an allowance for special addenda to cover any proposition deemed essential by a particular party.

When consolidation is ordered, the consolidation order shall specify a controlling case number. The Clerk shall place all pleadings and entries filed subsequent to the consolidation order only in the controlling case number's file.

All pleadings filed in a consolidated case must show each of the case numbers of all the consolidated cases with the controlling case number shown first. The clerk shall place the consolidation order in the file of each of the consolidated case numbers. Any order closing a particular case shall be placed by the clerk in the file of that particular case.

All time constraints for filings shall be determined under the designated controlling case number.

(Adopted effective May 1, 1997.)

RULE 13. PRESIDING JUDGE AND ADMINISTRATIVE JUDGE

A presiding judge and an administrative judge shall be elected pursuant to Supt. R. 3 and 4. The election shall designate by judgment entry signed by three judges of this Court and filed with the Clerk of this Court in Stark County. Such designations and duties shall continue until further order of this Court.

(Adopted effective February 10, 1981; amended effective March 31, 2011.)

RULE 14. NOTIFICATION OF PROPOSED CHANGES TO THE LOCAL RULES OF COURT

This Court shall send to each Clerk of this Court for each county in the Fifth Appellate District a copy of the proposed changes to these Local Appellate Rules. The respective clerks shall post the proposed changes in a conspicuous public place in the office of the clerk, make copies available for distribution to members of the bar and shall send notification of receipt and a copy of the proposed changes to each judge (common pleas, municipal, probate, etc.) in the county for which the clerk serves. The proposed changes shall be open to public comment for a period of thirty days after which time this Court will consider any comments received in adopting said changes to these Local Appellate Rules.

(Adopted effective May 1, 1997.)

RULE 15. COURT SECURITY

The Fifth District Court of Appeals is charged with dispensing justice, resolving disputes, and protecting the constitutional rights of those who appear before the Court. Appropriate levels of security should exist in the court to protect the integrity of the Court procedures, protect the rights of individuals before it, sustain the decorum and dignity of the Court and assure that Court facilities are secure for all those who visit and work there.

(Adopted effective September 1, 1995; amended effective May 1, 1997; amended effective March 31, 2011.)

RULE 15.5. TECHNOLOGY PLAN

In accordance with Superintendence Rule 5(E), the Court shall adopt and maintain a court technology plan which will include:

- (1) A comprehensive strategy for implementing and maintaining technology solutions for conducting remote hearings, electronic service, the acceptance of electronic signatures, and any other technology-related solution utilized by the court or division; and
- (2) Procedures for notifying and providing instructions to the public on how to use the technology solutions implemented by the court or division and how the solutions will comply with any accessibility accommodation requirements, including any applicable requirements of the "Americans with Disabilities Act."

This plan will be available from the Court and posted on the Court's website at www.fifthdist.org or by contacting the Court.

(Adopted effective November 1, 2023.)

RULE 16. TITLE

These rules shall be known as the Local Rules of the Fifth District Court of Appeals of Ohio and may be cited as 5th Dist.Loc.R. ____.

Adopted effective January 1, 2015.

Appendix – Ohio Fifth District Court of Appeals Docketing Statement

FACSIMILE FILING COVER PAGE

NAME OF COURT: _____

FAX NUMBER: _____

SENDING PARTY INFORMATION:

NAME: _____

SUPREME COURT REGISTRATION NO. (If applicable): _____

OFFICE/FIRM: _____

ADDRESS: _____

TELEPHONE NO.: _____

FAX NUMBER: _____

E-MAIL ADDRESS (If applicable): _____

CASE INFORMATION:

TITLE OF THE CASE: _____

CASE NUMBER: _____

TITLE OF THE DOCUMENT: _____

JUDGE(S): _____

FILING INFORMATION:

DATE OF FAX TRANSMISSION: _____

NUMBER OF PAGES (Including this page): _____

STATEMENT EXPLAINING HOW COSTS ARE BEING SUBMITTED, IF APPLICABLE: _____

Effective January 1, 2008

IN THE COURT OF APPEALS FOR ** COUNTY, OHIO
FIFTH APPELLATE DISTRICT

JOHN SMITH	:	
	:	CASE NO. **
Plaintiff-Appellant	:	
	:	
-vs-	:	JUDGES:
	:	(If panel has been assigned)
BILL JONES	:	
	:	
Defendant-Appellee	:	

APPELLANT SMITH'S NOTICE OF FILING EXHIBIT "G"
TO
APPELLANT SMITH'S RESPONSE TO APPELLEE'S MOTION TO DISMISS

Appellant Smith, through counsel hereby files Exhibit "G" to Appellant Smith's Response to Appellee's Motion to Dismiss. The referenced pleading was filed by facsimile transmission with the Court on [date]. Exhibit "G" could not be accurately transmitted by fax and is, therefore, being timely filed as a separate document with the Court pursuant to Loc.R. **. *.

Respectfully submitted,

Attorney Name (S.Ct. Reg. No.)
Office/Firm
Address
Telephone No.
Facsimile No.
E-mail
Counsel for Appellant John Smith

CERTIFICATE OF SERVICE

I certify that a copy of this Notice of File Exhibit "G" was sent by ordinary U.S. mail on [date] to counsel for Appellee Bill Jones, [name and address of recipient].

Effective January 1, 2008

Attorney Name
Counsel for Appellant John Smith

**OHIO FIFTH DISTRICT COURT OF APPEALS
DOCKETING STATEMENT**

Trial Court Judge _____

Appeal No. _____

Trial Court No. _____

Plaintiff's Counsel or Unrepresented Party: _____

Trial Court Caption: _____

Address: _____

Plaintiff - () Appellant () Appellee () Cross Appellant
() Cross Appellee (Check all that apply)

Phone: _____ E-Mail: _____

Defendant's Counsel or Unrepresented Party: _____

-vs-

Address: _____

Defendant - () Appellant () Appellee () Cross Appellant
() Cross Appellee (Check all that apply)

Phone: _____ E-Mail: _____

List any additional parties/attorneys/GAL and their addresses on an attached sheet.

A. DATES of the judgment being appealed: _____

Time to Appeal extended per App.R. () Yes () No

Specify Reason: _____

B. () A time-stamped copy of the judgment entry or order which makes your case appealable as well as a copy of all other judgment entries being appealed is attached. **THIS IS A REQUIREMENT. FAILURE TO DO SO MAY RESULT IN A DISMISSAL.**

C. PROBABLE ISSUES FOR REVIEW: _____

D. () **This is an Interlocutory Marsy's Law Appeal. See R.C. 2930.19(A)(2)(b). (Case has not concluded in trial court.)**

E. THIS APPEAL SHOULD BE ASSIGNED TO: (Check one)

() The regular calendar. () The accelerated calendar. See Loc.R.6(B) and App.R. 11.1.

F. THE RECORD: This Docketing Statement serves as a praecipe to the clerk to prepare and transfer the docket and journal entries. Please indicate the Type of Record to be Filed: (Check One)

() Docket and Journal Entries Only, no transcript of proceedings.

() Transcript has already been prepared. It is a () Full or a () Partial Transcript. If partial, see App.R. 9(B).

() Statement of the record pursuant to App.R. 9(C).

() Agreed Statement of the Record pursuant to App.R. 9(D).

() Transcript of the Proceedings. () Less than or () Greater than 100 pages.

() Full or () Partial transcript has been ordered. If partial, see App.R. 9(B).

WARNING: If a transcript of proceedings is needed, a copy of the notice of appeal and an appropriate praecipe must be served by Appellant on the court reporter. A copy of the praecipe to the court reporter shall be filed with this Court showing service of the notice of appeal and praecipe upon the court reporter.

G. CRIMINAL CASE

1. CHARGE (s): _____
2. DEGREE: () Misdemeanor () Felony () Trial () Guilty/No Contest Plea
3. Is this an appeal of Post-Conviction Relief? (R.C. 2953.21) () Yes () No. If yes, was a hearing held in the trial court?
() Yes () No. What was the original charge and sentence? _____
4. Type of Appeal: (Check One)
() Appeal as of Right () State's Appeal as of Right (R.C. 2945.67(A), Crim.R 12(K) & Loc.R. 7) (Expedited)
() Appeal by Leave of Court (App.R. 5) () State's Appeal by Leave of Court
5. Is this an appeal for review of sentencing pursuant to R.C. 2953.08? () Yes () No
6. Was counsel appointed for trial? () Yes () No
7. Was counsel appointed for appeal? () Yes () No **To request appointed counsel, you must file a separate motion per Loc. R. 3.**

H. CIVIL CASE

1. ACTION BROUGHT IN LOWER COURT:

2. Did this action originate in a Trial Court or in an Administrative Agency? Indicate which:
() County Court () Municipal Court () Common Pleas Court () Administrative Agency () Board of Tax Appeals
() Probate Court () Family Court () Juvenile Court () Court of Claims () Other _____
3. Must this case be expedited as being one of the following types: () Yes () No. If yes, check one of the following:
() Appeal from orders granting or denying (1) termination of parental rights; (2) adoption of a minor child; (3) abortion without parental consent. See App.R. 11.2, Loc.R. 7 & App.R. 11(B).
() Appeal from orders regarding dependent, abused, neglected, unruly, or delinquent children. See App.R. 11.2, Juv.R. 22(F) & Loc.R. 7.
() Appeal involving matters of child custody, allocation of parental rights or responsibilities, or designation of a child's place of residence and legal custodian under R.C. 3109.04(H) & R.C. 3109.06.
() Appeal under determination of local fiscal emergency brought by municipal corporation. R.C. 118.04(C).
() Election contests as provided in R.C. 3515.08.
4. Do you know of another case pending in this Court which raises the same issue(s) or is related to this case? () Yes () No. If yes, please cite case(s): _____
5. Have you determined in good faith the judgment appealed from is a final appealable order? (R.C. 2505.02) () Yes () No.
6. Was a stay of judgment requested in trial court? () Yes () No If yes, stay was: () GRANTED () DENIED () PENDING

I. MEDIATION:

1. Have the parties previously participated in mediation in this dispute: () Yes () No
2. Would a mediation conference assist in the resolution of this matter? () Yes () No () Maybe

CERTIFICATION

I certify that the information provided on this docketing statement is accurate.

Signature of Counsel (or Party if not represented by Counsel)

Supreme Court Registration Number

NOTES: