

COURT OF APPEALS OF OHIO
SECOND APPELLATE DISTRICT

LOCAL APPELLATE RULES
Effective February 1, 1984, as
Amended September 1, 2024

Serving Champaign, Clark, Darke, Greene,
Miami, and Montgomery Counties.

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RULE 1**SCOPE, APPLICATION AND MODIFICATION OF RULES.***(Effective Sept. 1, 2024)*

(A) The Ohio Rules of Appellate Procedure and these Rules prescribe the procedure to be followed in the Second District Court of Appeals and all parties, whether represented or unrepresented, must follow them.

(B) Adoption, amendment or modification of the local rules of practice for the Second District Court of Appeals is the prerogative of the court. Ordinarily, the court will post a new rule or an amendment or modification of an existing rule for public comment at least 30 days before the effective date of the new rule or amendment or modification of an existing rule. The court reserves the authority to increase or decrease the public comment period. Moreover, the court may immediately adopt a new rule or amend or modify an existing rule if, in the opinion of the court, exigent circumstances so require.

The court will post the new rule or amendment or modification of an existing rule on its website, with the clerks of the courts of appeals, with the judges of the trial courts in the Second Appellate District, and with local bar associations. During the public comment period, all interested persons may respond to the new rule or amendment or modification of an existing rule. Public comments should be submitted in writing to the Second District Court of Appeals, 41 N. Perry Street, 5th Floor, Dayton, Ohio 45422, or OhioSecondDistrict@mcoho.org.

Following the public comment period, the court in its discretion may amend or modify a proposed rule change or adopt the rule change as originally proposed.

RULE 2**SECURITY DEPOSIT AND FILING FEE.***(Effective Jan. 1, 2010)*

A party filing a notice of appeal or an original action shall deposit with the Clerk of the Trial Court the sum of \$100.00, plus such other fees as the Clerk is authorized by law to collect, except where the party who proffers the filing establishes by affidavit his inability to advance security, or produces evidence that the Trial Court determined that appellant was indigent for purposes of appeal. Of that sum, \$75.00 will be security for the payment of costs, and \$25.00 is a court of appeals fee, authorized under R. C. 2501.16(B), for the operation of the court. Failure to make the required deposit shall be grounds for dismissal of the appeal.

If an inmate of a state institution files an affidavit of his inability to advance security, the affidavit shall be accompanied by a certificate of the superintendent or other appropriate officer of the institution setting forth the amount of funds, if any, which the inmate may have on deposit with the institution available to the inmate to secure costs. If the certificate demonstrates that the inmate has sufficient funds available to him to secure costs, the Clerk shall not file the notice of appeal or original action until the costs are thus secured.

RULE 2.1**NOTICE OF APPEAL.***(Effective July 1, 2015)*

(A) Whenever a notice of appeal is filed with the clerk of the trial court electronically in accordance with the trial court's electronic filing procedures or on paper, a copy of the notice of appeal and a copy of the order or judgment being appealed from shall be forwarded by the party filing the appeal to the Court of Appeals, 41 North Perry Street, Room 515, Dayton, OH 45422, within three days of the date on which the notice of appeal is filed. The failure to forward a copy of the notice and the order appealed from to the Court of Appeals either by mail or hand within three days may result in assessing the appellant such court costs as may be attributable to the failure to comply with this rule.

(1) "Electronic Filing" is defined for the purpose of this rule as the electronic transmission, acceptance, and processing of a filing. A submission consists of data, one or more documents, and images. This definition of electronic filing does not apply to facsimile or email.

(B) If a trial court has an electronic filing system, an appeal to the Second District Court of Appeals shall be taken by filing a notice of appeal electronically with the clerk of the trial court in accordance with the trial court's electronic filing procedures, except as provided otherwise by this rule or statute. The notice of appeal shall be in a digitized format specified by the clerk of the trial court pursuant to the court's electronic filing procedure.

(1) Signatures. Any signature on an electronically transmitted notice of appeal shall be considered the signature of the attorney or party it purports to be for all purposes and shall be deemed to constitute a signature on the notice of appeal for the purposes of the signature requirements of the Ohio Rules of Superintendence, Rules of Civil Procedure, Rules of Criminal Procedure, Rules of Appellate Procedure

and/or any other law. If it is established that the notice of appeal was transmitted without authority, the court shall order the notice of appeal stricken.

(2) Submission and Receipt. An electronically filed notice of appeal will be received by the clerk of the trial court twenty-four (24) hours a day, seven (7) days a week. An electronically filed notice of appeal received after 11:59 p.m. Eastern Standard Time shall be deemed to have been received on the next day. The timeframes set forth in this section do not modify computations of any period of time prescribed or allowed by the Rules of Civil Procedure and the Rules of Appellate Procedure.

(3) Date and Time of Electronic Filing. A notice of appeal filed electronically shall be considered filed with the trial court when the transmission to the court's authorized electronic filing system is complete.

(4) Collection of Filing Deposit and Fees. A notice of appeal 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 court for the payment of filing fees.

(5) Pro Se Litigants. Parties not represented by counsel are permitted to file a notice of appeal in paper form. Pro se litigants who choose to file a notice of appeal in paper form shall present a paper version of the notice of appeal to the clerk of the trial court. The clerk of the trial court shall scan the paper document and return the paper version to the pro se litigant.

RULE 2.11**DESIGNATION OF PRIMARY COUNSEL.***(Effective Feb. 15, 1994)*

Upon the filing of a notice of appeal in an action (1) involving a class of litigants represented by more than one attorney of record, (2) in which a party is represented by more than one attorney of record, or (3) in which parties having similar interests in the appeal are represented by more than one attorney of record, a designation of primary counsel for service of court documents shall be filed with the notice of appeal. The designation shall be signed by the designated primary counsel and all other attorneys representing any class member or party having interests in the appeal similar to those of the party or class represented by the designated primary counsel. All court orders, decisions, opinions, or papers served by the court or its clerk shall be served solely upon the designated primary counsel for the class, party, or parties. Primary counsel shall be responsible for notifying and serving in a timely manner all parties or attorneys of record having similar interests in the action with copies of the court's orders, decisions, opinions or other papers.

RULE 2.12**NOTICE OF APPEAL - DUTY OF TRIAL COURT
CLERK.***(Effective Nov. 15, 1992)*

The clerk of the trial court shall mail or otherwise forward to the Clerk of the Court of Appeals a copy of the notice of appeal and docket statement prescribed by Local Rule 2.13 within three (3) business days of the filing of the notice with the clerk of the trial court.

RULE 2.13**DOCKET STATEMENTS.***(Effective Nov. 15, 1992)*

(A) Civil Appeals and Original Actions. In each civil appeal or cross- appeal filed in a trial court in the Second Appellate District, or original action filed in the Second District Court of Appeals, counsel for the appellant(s) (or appellant(s) pro se, if not represented by counsel) shall complete a civil docket statement on a form to be determined and prescribed by the Court. Simultaneously with the filing of the notice of appeal, or complaint if an original action, the appellant shall file with the clerk of the appropriate court a completed docket statement. See, Appendix of Forms.

(B) Criminal Appeals. In each criminal appeal or cross-appeal filed in a trial court in the Second Appellate District, counsel for the appellant(s) (or appellant(s), pro se, if not represented by counsel) shall complete a criminal docket statement on a form to be determined and prescribed by the Court. Simultaneously with the filing of the notice of appeal, the appellant shall file with the clerk of the trial court a completed docket statement. See, Appendix of Forms.

(C) Consequences of the failure to file a docket statement. Failure to timely file the docket statement required by this rule may result in contempt proceedings to be commenced against appellant or appellant's counsel, or may result in the dismissal of the appeal by the court, sua sponte.

RULE 2.14**PROCEDURES GOVERNING REAL PROPERTY BONDS.***(Effective Nov. 15, 1992)*

Whenever a party to an appeal seeks to obtain a stay of execution of a sentence or judgment pending appeal, and will post in whole or in part real property as security for a bond, the party seeking the stay shall provide this Court with the following: (1) a

copy of the motion for stay, (2) a current, complete and accurate title report on the real property posted as security, and (3) a current, complete and accurate statement substantiating the equity in the property presently owned by the pledgor. No stay will be granted by the Court until such time as the party seeking the stay provides the above documentation.

RULE 2.2

BRIEFS.

(Effective Sept. 1, 2024)

(A) No initial brief of appellant or cross-appellant and no answer brief of appellee or cross-appellee shall exceed 25 pages in length, exclusive of the cover page, table of contents, table of cases, statutes and other authorities cited, statement regarding oral argument, certificates of counsel, signature blocks, certificate of service, and appendices, if any, except by prior leave of the court. Application for leave to file a longer brief shall be by motion specifying the unusual circumstances which necessitate the filing of a brief that exceeds the limits imposed by this rule. Except upon prior leave of the court, no reply brief shall exceed 10 pages in length, exclusive of the cover page, table of contents, table of cases, statutes and other authorities cited, certificates of counsel, signature blocks, certificate of service, and appendices, if any. Reply briefs shall be restricted to matters in rebuttal of the answer brief.

(B) Any brief that fails to comply with this rule, App.R. 16, or App.R. 19 may be returned by the court for reformation. Appellant's failure to reform a non-complying brief may result in the appeal being dismissed by this court, sua sponte. Appellee's failure to reform a non-complying brief may result in the brief being stricken and determination of the appeal as provided in App.R. 18(C).

(C) No brief shall include photographs or digital images without prior court approval upon good cause shown.

RULE 2.21**ORDER OF BRIEFS IN CROSS APPEALS.***(Effective Nov. 15, 1992)*

When an appeal also involves a cross-appeal, or where two appeals have been consolidated by order of the court thereby resulting in the parties to the appeal presenting competing assignments of error, the party first in time in filing a notice of appeal shall be designated appellant/cross-appellee and shall file a merit brief within the time provided by App.R. 18(A), or as may be extended by order of this court. The party second in time in filing a notice of appeal shall be designated appellee/cross-appellant. Upon the filing of appellant/cross-appellee's merit brief, the appellee/cross-appellant shall file as one brief a first response to appellant/cross-appellee's asserted errors and then set forth the cross assignments of error and arguments thereto. This brief shall be filed within the time provided by App.R. 18(A), or as may be extended by order of this court. Thereafter, appellant/cross-appellee shall file as one brief a responsive brief in answer to appellee/cross-appellant's assignments of error and a reply brief, if any, in rebuttal to the cross-appellee's answer brief. Appellee/cross-appellant shall then file a reply brief, if any, in rebuttal to the cross-appellee's answer brief. Each brief shall clearly designate on its face the nature of the brief being filed and shall divide the brief into clearly designated sections. No other briefs shall be filed without leave of court. Subject to Loc.R. 2.2(A), each division of the initial brief and answer brief shall not exceed twenty-five pages, and each reply section shall not exceed ten pages.

RULE 2.22**BRIEFS - EXTENSION OF TIME.***(Effective Nov. 15, 1992)*

A request for an extension of time within which to file a brief shall be made by written motion, filed with the clerk of courts prior to the due date of the brief, supported by a memorandum stating with specificity the reasons for the request and establishing good cause for an extension.

The signature of the attorney constitutes a certification by him that to the best of his knowledge, information, and belief there is good cause for an extension and that the extension is not interposed for delay.

RULE 2.23**NOTICE THAT THE RECORD IS COMPLETE - DUTY OF CLERK.***(Effective Nov. 15, 1992)*

Upon the filing of a complete record for purposes of an appeal, the Clerk of the Court of Appeals shall serve upon all parties to the appeal notice as required by App.R. 11(B) on a form to be determined and prescribed by this Court. Simultaneously with serving said notice upon the parties, the clerk shall forward a copy of the notice to the Assignment Commissioner of the Court of Appeals at Room 515, 41 North Perry St., Dayton, OH 45422. See, Appendix of Forms.

RULE 2.24**CONCEDED ERROR.***(Effective July 29, 2010)*

When a party concedes error in a responsive brief and that error is dispositive of the entire appeal (i.e., there are no material disputes remaining for decision on appeal), the party conceding the error shall file a separate notice of conceded error along with the responsive brief. The party conceding error shall also, upon filing the notice of conceded error, immediately provide a copy of that notice to the Court's Administrator.

RULE 2.7**ACCELERATED CALENDAR.***(Effective Jan. 9, 2012)*

(A) Pursuant to App. R. 11.1, this Court adopts an accelerated calendar. The Court may assign or remove an appeal from the accelerated calendar at any stage of the proceedings. Any party may file a motion setting forth good cause for removal of an appeal from the accelerated calendar and shall be granted if good cause is shown.

(B) If the Court assigns an appeal to the accelerated calendar prior to the filing of briefs, briefs shall not exceed 15 pages in length excluding table of contents, lists of authorities, and appendix. Appellant's brief shall be filed within 15 days after the date on which the record is filed. Appellee's brief shall be filed within 15 days after service of Appellant's brief. A reply brief shall not be filed unless ordered by the Court.

(C) Upon the filing of appellee's brief, or, if no appellee's brief is filed, upon the running of the time for filing appellee's brief, the appeal will be deemed ready for submission to the court for disposition on its merits unless the court orders oral

argument, sua sponte, or unless a party has requested oral argument in the manner set forth in Ohio App. R. 21(A).

(D) Pursuant to App. R. 11.1(E), the Court may state the reasons for its ruling on each assignment of error in brief and conclusionary form.

RULE 2.8

GENERAL RULE ON EXPEDITION.

(Effective Feb. 15, 1995)

(A) Expedition Required. The following cases will be given calendar priority and will be expedited for review and determination:

(1) Appeals by a prosecuting attorney brought under Crim. R. 12(J);

(2) Appeals brought by a municipal corporation under R.C. 118.04(C) from a determination by the auditor of the state that a local fiscal emergency exists;

(3) Appeals brought by a minor child under R.C. 2505.073 from a juvenile court judgment dismissing a complaint for permission to have an abortion without notification to her parents, guardian or custodian;

(4) Appeals involving matters of child custody, allocation of parental rights and responsibilities, and designation of a child's place of residence and legal custodian as provided in R.C. 3109.04(H) and R.C. 3109.06;

(5) Appeals from orders permanently terminating parental rights;

(6) Election contests as provided in R.C. 3515.08;

(7) Complaints for a writ of habeas corpus, or for a peremptory or alternative writ, where the party seeking relief alleges that time is of the essence and the court of appeals finds that extraordinary circumstances warrant expedited consideration of the action.

The schedule for disposition of these cases will be set by special order of the court or, in the case of original actions, as provided in Loc.R. 8. All parties to the appeal shall give such cases due attention and abide by the scheduling orders of the court.

(B) Discretionary Expedition. Except as provided in part (A) of this rule, any party to an appeal may at any time after the filing of the notice of appeal file an application with the court requesting that a case be expedited for review and determination. Such application shall state the essential facts and circumstances supporting the request. The court of appeals reserves the right to determine whether the facts and circumstances warrant expedited review and determination of the case. Where the court grants such an application, the schedule for disposition of the appeal shall be set by separate entry of the court and all parties shall give the case prompt attention and abide by the scheduling order(s) of the court. Where a request for expedited review is denied, the appeal shall proceed as provided in the Ohio Rules of Appellate Procedure. This rule shall not be construed as limiting the authority of the court to order on its own motion that a case not otherwise subject to section (A) be expedited for review and determination.

(C) Oral Argument in Expedited Cases. Upon granting a motion for oral argument, argument shall be scheduled on the earliest available date. Once scheduled, oral argument will not be continued absent a showing of extraordinary circumstances. The application of section (A) of this rule, or an order issued under section (B) of this rule, shall constitute good cause under R.C. 2501.05 for moving argument to any county within the Second Appellate District for consideration.

RULE 3**SUBMISSION OF APPEAL; ORAL ARGUMENT.***(Effective Jan. 9, 2012)*

(A) On the fourteenth (14) day after the filing of appellee's brief in a civil or criminal case, the appeal will be deemed submitted to the court for disposition on its merits, unless the court orders oral argument, sua sponte, or unless a party has requested oral argument in the manner set forth in Ohio App. R. 21(A).

(B) Parties or their attorneys will be notified in writing of the date and time oral argument of their case is scheduled. No continuances of oral argument will be granted unless the party requesting a continuance applies by written motion, filed within seven (7) days after the date of the written notice of scheduling of oral argument. If no written motion for continuance is filed within seven (7) days, the case will be heard on the date and time contained in the court's written notice to the parties. If a motion for continuance is granted, the parties or their attorneys will be notified in writing of a new time and date for oral argument.

RULE 4**ORAL ARGUMENT.***(Effective Nov. 15, 1992)*

Pursuant to App.R. 21(B), oral argument shall be fifteen (15) minutes per side.

Any motion for additional time, with supporting reasons for the request, must be made within the time provided for the filing of briefs by either party. However, the Court, sua sponte may determine at any time that additional argument is needed in a case.

RULE 4.1**RECORDING ORAL ARGUMENTS***(Effective Dec. 20, 2021)*

(A) Pursuant to App.R. 21(J), the Second District Court of Appeals will video record all oral arguments before the court.

(B) Requests for Recorded Arguments. Argument recordings will be maintained by the court for one year after the argument date. While maintained by the court, recordings will be made available upon request. Requests may be submitted to the court by email at OhioSecondDistrict@mcoho.org, by telephone at 937-225-4464, or on paper to the court's administrative office at 41 N. Perry Street, 5th Floor, Dayton, Ohio 45422. Requests shall specify: the requestor's name, the appellate case name and number, the oral argument date, and the requestor's email address, phone number, and mailing address. A request form is available on the court's website.

(C) Recordings. Upon receipt of a request, the court will provide access to a recorded argument by sharing an internet link to the recording. Alternatively, the court will provide a copy of a recorded argument on a portable flash drive that will be available, without charge, for pick-up at the court's administrative office, 41 N. Perry Street, 5th Floor, Dayton, Ohio 45422.

(D) Reference to video recorded oral arguments. Video recorded oral arguments are not part of the official case record and shall not be cited. Recordings are made available for informational purposes only.

RULE 5**FILINGS AND DESIGNATION OF COUNSEL.***(Effective Nov. 15, 1992)*

(A) All papers required or permitted to be filed shall be filed with the Clerk in the appropriate county. Copies of all filings and all correspondence with the Court relative to any case shall contain the name and address of counsel filing the same or of the party, if not represented by counsel, and the name and address of opposing counsel or party as required by App.R. 13. Unless opposing counsel acknowledges receipt or endorsement each filing shall contain a certificate of proof of service.

(B) If counsel desires to withdraw, he shall, with his application showing good cause for withdrawal, submit proof of service of notice of withdrawal upon his client or proof of consent by his client, and the name and address of any substitute counsel, or, if none, the name and address of his client.

RULE 5.1**FORM OF FILINGS.***(Effective May 17, 2021)*

All pleadings, motions, briefs and other papers filed with the clerk of the court of appeals shall be legibly typewritten or printed on 8½ x 11 paper. Every filing shall contain the appropriate case caption; attorney's name and Supreme Court registration number; attorney's firm, if any, and office address; attorney's telephone number and email address; or, if a party is not represented by counsel, every filing shall contain the appropriate case caption, the party's printed name, street address, email address, and telephone number. In all filings, a blank space of at least four (4) inches shall be left at the top of the first page for endorsements thereon.

RULE 6**FILING OF THE RECORD.***(Effective Jan. 9, 2012)*

If a Transcript of Proceedings is to be filed in accordance with App. R. 9(B), a copy of the notice of appeal with praecipe shall be served by the appellant upon the transcriber or such other person as the trial court may designate to receive such request. The appellant is responsible for ordering the Transcript of Proceedings and for the filing of such Transcript of Proceedings with the clerk of the Trial Court in accordance with App. R. 9(B). The transcriber shall comply and prepare those portions and only those portions of the record enumerated in the praecipe, subject to being made secure in the payment of his or her fees by the party who ordered the record or transcript.

RULE 6.1**TRANSMITTING THE RECORD - EXTENSIONS BY TRIAL COURT.***(Effective Nov. 15, 1992)*

The trial court shall not extend the time for transmitting the record beyond the eightieth day after the filing of the notice of appeal, and the Court of Appeals will not recognize an order of the trial court purporting to do so.

Extensions of time for transmitting the record beyond the eightieth day may be granted only by the Court of Appeals.

Applications to the Court of Appeals for extensions of time shall be made by written motion, supported by an affidavit or affidavits based on personal knowledge, which set forth facts demonstrating good cause for the extension.

The appellant is responsible for causing timely transmission of the record and for obtaining such extensions as are necessary to discharge this responsibility. The

appellant shall file with the clerk of the Court of Appeals a copy of any extension obtained from the trial court.

This local rule does not relax any of the requirements of App.R. 10(C) pertaining to the trial court's authority to extend the time within which to transmit the record.

RULE 6.2	TRANSMITTING THE RECORD - SUMMARY OF DOCKET PAGE NUMBERING. <i>(Effective Jan. 1, 2010)</i>
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When numbering a document in the record pursuant to App. R. 10(B), the clerk shall inscribe the number on the lower right corner of the document.

RULE 7	DUTIES OF THE CLERK. <i>(Effective Nov. 15, 1992)</i>
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(A) Upon the filing of a notice of appeal or an original action, the Clerk in each county shall forward a copy of the notice of appeal and praecipe or a copy of the complaint in the original action to this Court at 41 N. Perry Street, Dayton, OH 45422. Thereafter, the Clerk shall forward a copy of any subsequent filings to Dayton, Ohio. The forwarding of a copy of the front time-stamped title page of transcript of docket, transcript of testimony, or brief will be considered compliance with this rule.

(B) When a motion, other requests or memorandum contra is filed, the Clerk shall retain the original and immediately mail or deliver three copies to the Court at Dayton, Ohio.

RULE 8**PROCEDURES GOVERNING ORIGINAL ACTIONS.***(Effective June 7, 1993)*

(A) How Instituted. An original action shall be instituted by filing a complaint, together with three copies thereof, with the clerk of the court of appeals for the county in which the action originates. Upon the filing of the complaint, the clerk shall serve summons upon the respondent(s) in the manner prescribed by the Ohio Rules of Civil Procedure. Original actions shall ordinarily proceed as civil actions under the Ohio Rules of Civil Procedure. However, where a petitioner requests an alternative or peremptory writ, or where a petitioner requests a writ of habeas corpus, or where the court determines that the interests of justice would be better served, application of the civil rules may be suspended and the action will proceed as the court may direct.

(B) Requests for Alternative or Peremptory Writs. Application for an alternative or peremptory writ shall be by a complaint which clearly indicates in both the caption and prayer for relief that an alternative or peremptory writ is requested. Absent extraordinary circumstances, no alternative or peremptory writ will be issued in an original action, other than habeas corpus. If the court declines to grant an alternative or peremptory writ, the matter shall proceed as any other civil action under the rules of civil procedure as provided in section (A) above and other applicable sections of this rule. When the court determines that the complaint establishes prima facie grounds for the issuance of an alternative or peremptory writ, or where the petitioner requests a writ of habeas corpus, the schedule for disposition of the action shall be set by separate order from this court and shall not be controlled by subsection (F) below.

(C) Deposit for Costs. A deposit for costs in an original action and for subpoenas to issue shall be paid as set forth in Loc. R. 2, supra.

(D) Prehearing Conference. After the filing of respondent(s)' answer, any party to the action may request by motion, or the court may order on its own initiative, that a prehearing conference be scheduled with the court administrator, a member of the court, or a magistrate if the matter has been so referred pursuant to subsection (H) below. A prehearing conference shall be scheduled as soon as is practicable to discuss the action, set a schedule, if necessary, resolve discovery problems, if any, and entertain such other matters as are necessary for the prompt disposition of the cause.

(E) Discovery and Presentation of Evidence. Any party to an original action may conduct discovery at any time after the filing of the complaint by first issuing a notice of intent to conduct discovery, and the court or its magistrate may order discovery to be completed at a fixed time. Once a party has sought discovery, discovery shall be conducted pursuant to Title V of the Ohio Rules of Civil Procedure. Counsel shall freely exchange discoverable information and documents upon informal request. The court will not become involved in the discovery process except to the extent necessary to rule on a motion for a protective order or compel compliance with a discovery request. Interrogatories and answers thereto, requests for admission, requests for documents and all other discoverable papers which do not require a ruling of the court shall be dated and filed with the clerk of the court of appeals for the county in which the action originates, but shall not be forwarded to the court until specifically requested by the court. The schedule contained in this rule shall be suspended as to all proceedings during discovery. Upon completion of discovery, both parties shall file a stipulation and serve a copy upon the court indicating that discovery is complete. Once the stipulation is filed, the parties shall proceed with the action as provided in section (F) below, or as provided in a separate scheduling order, if any. The evidence in an original action, except habeas corpus, shall be submitted to the court by means of an

agreed statement of facts, stipulations, depositions, interrogatories, requests for production of documents, and requests for admissions. Oral testimony will not be taken unless ordered by the court.

(F) Schedule Controlling Original Actions. Unless otherwise altered by order of this court, the following schedule shall control the disposition of all original actions except habeas corpus, requests for alternative or peremptory writs, or actions subject to a separate scheduling order:

(1) Time for Responding to the Complaint. Respondent(s) shall answer or otherwise respond to the complaint within the time provided by the civil rules.

(2) Dispositive Motions. When any party to the action files a dispositive motion, either as a motion to dismiss or a motion for judgment, a brief in support shall be filed along with the motion and shall indicate whether disposition of the motion will dispose of the merits of the complaint. A brief in opposition to the motion along with any cross-motion shall be filed within twenty (20) days after the filing of the initial motion and shall indicate whether disposition of the motion will dispose of the complaint. A reply brief, if any, and/or a response to the cross-motion, if any, shall be filed within twenty (20) days after the filing of the brief in opposition to the motion. No other briefs or memorandum 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 twenty (20) day of the filing of opposing party's response. Briefs shall comply with the rules of appellate procedure and Loc. R. 2.22. Thereafter, the matter will be submitted to the court for disposition. The time for presenting evidence or filing briefs under subsections (F)(3) and (F)(4) shall be suspended during the pendency of the disposition of any motion

filed pursuant to this section. All motions shall be ruled upon without oral argument unless otherwise ordered by this court.

(3) Time for Presentation of Evidence. Unless extended by order of the court, or by operation of Divisions (E) or (F)(2) of this Rule, the evidence upon which the case is to be submitted to the court shall be filed within sixty (60) days of the filing of the answer to the complaint. The petitioner shall have the primary responsibility for complying with Division (E), but all parties shall cooperate as necessary for the timely presentation of relevant evidence to this court. The petitioner shall file a notice that this division has been complied with.

(4) Time for Filing Briefs. The petitioner(s) shall file a brief within twenty (20) days after the presentation of the evidence, or as may be extended by order from this court. Thereafter, the respondent(s) shall file a brief within twenty (20) days from the service of petitioner(s)' brief. A reply brief, if any, shall be filed within ten (10) days of the service of respondent(s)' brief. All briefs shall comply with the appellate rules and Loc. R. 2.22. Service of a copy of a brief shall be made upon opposing counsel, or the opposing party if pro se, as provided in App. R. 13 and proof of service shall be filed with the clerk. No other briefs shall be filed except with leave of court.

(G) Oral Argument. Either party may move for oral argument. However, oral argument in original actions may only be had with approval of the court. The court reserves the right to order oral argument, on its own motion.

(H) Referral to a Magistrate. Original actions may, upon motion of any party or on the court's initiative, be referred to a magistrate pursuant to Civ. R. 53. Unless otherwise limited by the order of reference, the magistrate shall have all powers

conferred by Civ. R. 53, and all proceedings, the report and recommendation, and objections, if any, shall be governed by Civ. R. 53.

If an objection is filed, briefs shall be filed as provided in section (F)(4) of this rule, with the time for filing the initial brief commencing with the filing of the objection. The objecting party shall file the initial brief unless both parties object in which event the petitioner shall file the initial brief. There will be no oral argument on the objections to the report and recommendation unless ordered by the court. If no timely objections to the magistrate's report are filed, the parties will be deemed to have consented to the report.

(I) Dismissal for Want of Prosecution. Failure to comply with the time limits provided in this rule or by a separate scheduling order may result in the dismissal of the action, or in any other appropriate sanction. In any event, an original action not subject to a separate scheduling order may be dismissed, without notice, for want of prosecution if no evidence has been presented or no petitioner(s)' brief has been filed within four (4) months after the filing of the complaint. However, no original action shall be dismissed for want of prosecution while any dispositive motion is pending before the court.

RULE 9**CITED AUTHORITY.***(Effective Sept. 1, 2024)*

Opinions and other authorities shall be cited in accordance with the *Supreme Court of Ohio Writing Manual, Third Edition* (Part I. Manual of Citations), which is available on the Supreme Court of Ohio's website.

RULE 9.1**REPORTING OF OPINIONS.***(Effective Nov. 15, 1992)*

In accordance with Rule 2(C) of the Supreme Court's Rules for the Reporting of Opinions, each opinion of this Court may be sent to the Supreme Court Reporter for determination of whether it shall be reported in the Ohio Official Reports.

RULE 10**MOTIONS, BAIL, BONDS, AND STAYS.***(Effective Nov. 15, 1992)*

(A) Oral argument will not be scheduled on any motion except upon order of the court in exceptional circumstances.

(B) Pursuant to App.R. 8, motions for bail and suspension of execution pending review are to be determined promptly upon such paper, affidavits, and portions of the record as the parties shall present. Further a party may ask this court to secure any presentence investigation and report or pretrial investigation and report, to be delivered to the court under seal and subject to the confidential nature of the report (See Crim.R. 32.2), for use in review of the motion.

(A) Requests for Counsel. Except in appeals taken pursuant to App.R. 5, motions for appointment of counsel in criminal and other limited appeals shall be made in the first instance in the trial court prior to the filing of the notice of appeal. If the motion is denied, deferred, or not resolved in a timely manner, a motion may be filed in the court of appeals, or the court of appeals may appoint counsel sua sponte. A copy of the Office of the Ohio Public Defender's most current Financial Disclosure Form shall be filed at the same time as all motions for appointment of counsel.

(B) Selection of Counsel. The court will maintain a list of qualified attorneys who have applied to and been approved by the court to serve as appointed counsel.

(1) Applications. Applications to be on the court's appointed counsel list are available on the court's website: www.seconddistrictcoa.org. When reviewing applications, the court considers the applicant's current standing with the Ohio Supreme Court; experience, training, and qualifications to accept certain types of appointments; and geographic location. The court may, at its discretion, institute additional education and/or training requirements.

(2) Selection Process. In making an appointment, counsel shall be selected in a continual rotation from the list maintained by the court, except that the court will take into account the complexity of the case, the experience and expertise of counsel, and any conflicts of interest or other situations that may delay the timely completion of the case or prohibit quality representation to the indigent client.

(3) Review. The court will keep a record of all counsel appointments made in a given year and will review that record periodically to ensure that appointments are

equitably distributed among counsel on the appointment list while also taking into consideration the factors listed in section (B)(2).

(C) Appointed Counsel Fees.

(1) Application. Application by appointed counsel for attorney's fees on appeal shall be completed on the most current forms prescribed by the Office of 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 but may be resubmitted when complete and/or with the proper forms.

(2) Time for Filing. Except in cases where appointed counsel withdraws from representation, all applications for payment of attorney's fees shall be submitted to the court's administrative office at 41 N. Perry Street, 5th Floor, Dayton, Ohio 45422, within 30 days from the entry of the final judgment or order that disposes of the appeal. In cases where appointed counsel withdraws from representation, applications shall be submitted no later than 30 days after counsel withdraws. Untimely applications may result in the reduction or non-payment of fees.

(3) Compensation. The rate of compensation for appointed counsel shall be in accordance with the fee schedule adopted by the county commissioners in the county from which the case arose. Fee schedules are available on the court's website: www.seconddistrictcoa.org. Payment for services will not exceed the fee schedules established by each county pursuant to law unless counsel also files a motion for extraordinary fees in the court of appeals with reasons supporting the request, and the extraordinary fee request is approved by the court.

(D) Appeals to the Supreme Court of Ohio. A party wishing to have counsel appointed for purposes of appealing a decision or defending a judgment of this court to the Ohio Supreme Court shall file a motion seeking such appointment.

RULE 11.1**MOTIONS FOR APPROVAL OF APPOINTED COUNSEL FEES.***(Effective Nov. 15, 1992)*

Motions for Approval of Appointed Counsel Fees and Expenses shall be submitted to the court on a form approved by the auditor of the county in which the appeal was taken. A copy of the entry appointing counsel who submits the motion must be attached to it. If the fee requested exceeds the maximum that has been set pursuant to R.C. 2941.51 by the Board of Commissioners of the county in which the appeal was taken, counsel shall also submit a separate motion for extraordinary fees justifying the request for fees in excess of the county maximum. Counsel must explain the exceptional circumstances involved in the case which warrant the payment of an extraordinary fee.

RULE 12**EFFECTIVE DATE.**

These amended rules shall take effect December 20, 2021. They govern all proceedings in actions brought after they (or the amendments) take effect and also all further proceedings in actions then pending, except to the extent that, in the opinion of the court, their application in a particular action pending when these rules take effect would not be feasible or would work injustice.

RULE 13 ELECTION OF PRESIDING JUDGE AND ADMINISTRATIVE JUDGE. <i>(Effective Feb. 20, 2006)</i>

This rule is adopted pursuant to R.C. 2501.06 and Rules 3 and 4 of the Rules of Superintendence for the Courts of Ohio.

On or before December 31 of every year, or as soon thereafter as may be practicable, the judges of this court then in office shall elect one of their number to be presiding judge of this court, for a one-year term beginning on January 1st of the ensuing year. In the event of a vacancy caused by the death, disability, resignation, or other inability of the presiding judge, the judges of the court then in office shall elect one of their number as presiding judge, to serve for the balance of the unexpired one-year term. The presiding judge may also be elected as the administrative judge, as set forth in the following paragraph.

On or before December 31 of every year, or as soon thereafter as may be practicable, the judges of this court then in office shall elect one of their number to be administrative judge of this court, for a one-year term beginning on January 1st of the ensuing year. In the event of a vacancy caused by the death, disability, resignation, or other inability of the administrative judge, the judges of the court then in office shall elect one of their number as administrative judge, to serve for the balance of the unexpired one-year.

RULE 14**MAGISTRATES.***(Effective Jan. 9, 2012)*

Pursuant to App. R. 34 and Civ.R. 53, the Court may appoint one or more magistrates to whom, by general or specific order of reference by the Court or its Presiding or Administrative Judge, are referred categories of pre-judgment motions and other applications filed by a party or by the Court on its own motion in an appeal or an original action, to enter orders thereon as are necessary to regulate proceedings in the appeal or original action. A party may appeal to the court from any order of a magistrate pursuant to Civ. R. 53(D)(2)(b).

RULE 15**AUTHORIZED SIGNATURES ON JUDGMENT ENTRIES,
DECISIONS, AND ORDERS.***(Effective May 17, 2021)*

The signature of any judge or magistrate on any judgment entry, decision, or order may be executed manually or by means of any device or machine, including electronic signature or signature stamp. No judgment entry, decision, or order shall be signed for any judge or magistrate manually or by means of any device or machine, including electronic signature or signature stamp, without first obtaining permission indicating the intention of the signer to authenticate the signature and the document.

Signatures of judges and magistrates executed by means of any device or machine, including electronic signature or signature stamp, shall be accepted as original signatures.

APPENDIX - FORMS

Rule 2.13
Rule 2.13
Rule 2.23

Civil Docket Statement – See website for PDF
Criminal Docket Statement – See website for PDF
Rule 11(B) Notification: Record for Appeal is
Complete

Rule 11(B) Notification record for appeal is complete

CLERK OF THE COURT OF APPEALS
SECOND APPELLATE DISTRICT

	:	
	:	
	:	
Plaintiff :	:	
	:	
vs.	:	Case No. _____
	:	
	:	Date _____
	:	
Defendant :	:	
.....		
.....		

Rule 11(B) Notification
Record for Appeal is
Complete
.....
.....

TO:

Pursuant to App. R. 11(B), you are hereby notified that the record for appeal in the above case is complete. Accordingly, your attention is directed to the rules of appellate procedure on the reverse side of this notification.

Sincerely,

CLERK OF COURTS
BY

Deputy Clerk of Courts

Summary of Docket and Journal Entries filed_____.

Transcript of Proceedings filed_____.

cc. Assignment Commissioner
Court of Appeals

[Back side]

In compliance with the Ohio Rules of Appellate Procedure, your attention is directed to the following rules:

App. R. 18(A) Time for Serving and Filing Briefs.

Except as provided in Rule 14(C), the appellant shall serve and file his brief within twenty days after the date on which the clerk has mailed the notice required by Rule 11(B). The appellee shall serve and file his brief within twenty days after service of the brief of the appellant. The appellant may serve and file a reply brief within ten days after service of the brief of the appellee.

App. R. 14(B) 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 act, or may permit an act to be done after the expiration of such time.

Local Rule 2.22 Briefs: Extensions of Time.

A request for an extension of time within which to file a brief shall be by written motion, filed with the clerk prior to the due date of the brief, supported by an affidavit or affidavits based on personal knowledge which set forth facts establishing good cause for an extension.

App. R. 18(C) Consequences of Failure to File Briefs.

If an appellant fails to file his brief within the time provided by this rule, or within the time as extended, the court may dismiss the appeal. If an appellee fails to file his brief within the time provided by this rule, or within the time as extended, he will not be heard at oral argument except by permission of the court upon a showing of good cause submitted in writing prior to argument; and in determining the appeal, the court may accept the appellant's statement of the facts and issues as correct and reverse the judgment if appellant's brief reasonably appears to sustain such action.

NOTE: Failure to comply with the above provisions may result in the appeal being dismissed by the Court of Appeals, sua sponte.

(Effective November 15, 1992.)