

**COURT OF APPEALS OF OHIO  
SECOND APPELLATE DISTRICT**

**LOCAL APPELLATE RULES  
Effective February 1, 1984,  
as Amended Through May 1, 2011**

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

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**RULE 1****SCOPE, APPLICATION AND MODIFICATION OF RULES.***[Effective Nov. 15, 1992]*

(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, however, the court shall propose a new rule or an amendment or modification of an existing rule for notice and comment by interested persons at least sixty (60)-days before the effective date of the new rule or amendment or modification of an existing rule. Notice shall be accomplished by placing the proposed change on the public record with the clerks of the courts of appeals and by mailing a copy to the judges of the trial courts, to associations of members of the bar, and to interested persons and any other persons who request a copy. Following the sixty (60)-day period for comment, the court in its discretion may amend or modify a proposed rule change, or adopt the rule change as originally proposed. 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. Public comments should be forwarded in writing to the court administrator of the court of appeals, 41 North Perry Street, Dayton, Ohio 45422-2170.

**RULE 2****SECURITY DEPOSIT and FILING FEE.***(Effective January 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 Dec. 9, 1988)*

Whenever a notice of appeal is filed, 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.

**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 Nov. 15, 1992)*

(A) No initial brief of appellant or cross-appellant and no answer brief of appellee or cross-appellee shall exceed twenty-five (25) pages in length, exclusive of the table of contents, table of cases, statutes and other authorities cited, 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 ten pages in length, exclusive of the table of contents, table of cases, statutes, and other authorities cited, 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).

**RULE 2.21****ORDER OF BRIEFS IN CROSS APPEALS.***(Effective November 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****BRIEF - 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. 1, 2010)*

(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. A motion for oral argument must be filed by not later than the seventh (7) day after the earlier of the date that the appellee's brief is filed, or the date on which the appellee's brief could have been filed.

(C) 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****TIME WHEN APPEAL DEEMED SUBMITTED.***[Effective November 15, 1992]*

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 upon written motion of any party to the appeal. A motion for oral argument must be filed by not later than the fourteenth (14) day after the earlier of the following:

- (i) the date that the appellee's brief is filed; or
- (ii) the last date on which the appellee's brief could have been filed, after considering any extensions granted by the court for the filing of the appellee's brief.

**RULE 3.1****ORAL ARGUMENT - CONTINUANCES.***[Effective Nov. 15, 1992]*

Oral argument must be requested pursuant to Local Rule 3. 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 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 March 1, 1992)*

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, the firm, if any, office address and telephone number of counsel, or, if there is no counsel, the party filing the same. 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 February 21, 2006)*

(A) 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 court reporter. The appellant is responsible for contacting and ordering the Transcript of Proceedings from the court reporter and for the filing of such Transcript of Proceedings with the clerk of the Trial Court in accordance with App.R. 9(B). The court reporter 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.

(B) When the transcript is in the video medium and the appellant appends to its brief, or separately files, only a portion or portions of the transcript in typed or printed form, the appellee may apply to the Court of Appeals, within ten (10) days after the filing of appellant's brief, or within ten (10) days of appellant's filing of a typed or printed transcript, whichever is later, for an order requiring the appellant to file additional typed or printed portions of the transcript that the appellee considers necessary to resolve error which the appellant has assigned.

When the appellant files a typed or printed transcript separately from the brief, in an appeal in which the transcript is in the video medium, the appellant shall serve notice of the filing on all other parties to the appeal.

**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***(Effective Jan. 1, 2010)*

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.***(Effective Nov. 15, 1992)*

(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****UNREPORTED OPINIONS.***(Effective Nov. 15, 1992)*

If an unreported opinion is relied upon, reference shall be made to the county, date, and case number of the opinion. A copy of the opinion shall be attached to each brief or other appropriate filing.

**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.

**RULE 11****APPOINTMENT OF COUNSEL IN CRIMINAL APPEALS.** *(Effective Nov. 15, 1992)*

Requests for appointment of appellate counsel in criminal cases shall be made in the first instance in the trial court prior to the filing of the notice of appeal.

**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 February 1, 1984. 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.**

(Effective Feb. 20, 2006)

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 Feb. 20, 2006)*

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(C)(3)(b).

## **APPENDIX - FORMS**

Rule 2.13

Civil Docket Statement (Form)

Rule 2.13

Criminal Docket Statement (Form)

Rule 2.23

Rule 11(B) Notification: Record for Appeal is Complete (Form)

**Civil Docket Statement**  
**(Clerk needs 5 copies at filing)**

TRIAL NO. \_\_\_\_\_ Court of Appeals of Ohio DATE CIV.R. 58(B)  
APPEAL NO. \_\_\_\_\_ Second Appellate District NOTICE SERVED:  
RELATED APPEALS \_\_\_\_\_ CIVIL DOCKET STATEMENT \_\_\_\_\_  
CLERKS USE ONLY  
 DIRECT APPEAL  CROSS-APPEAL  JOINT APPEAL

NOTE: A TIME-STAMPED COPY OF THE FINAL JUDGMENT BEING APPEALED MUST  
BE ATTACHED  
TO THIS STATEMENT.

-----  
**CASE CAPTION**

\_\_\_\_\_ VERSUS \_\_\_\_\_

\_\_\_\_\_  
Plaintiff-Appellant/Appellee (Circle Defendant-Appellant/Appellee  
Designation) (Circle Designation)

\_\_\_\_\_  
Counsel for Plaintiff, S.Ct. Regis. Counsel for Defendant, S.Ct.  
No./Pro Se Plaintiff Regis. No./Pro Se Defendant

\_\_\_\_\_  
Address Address

\_\_\_\_\_  
Phone Number (List additional Phone Number (List additional  
attorneys on back of this sheet.) attorneys on back of this  
sheet.)

-----  
(Check appropriate box and provide requested information)

**HISTORY OF THE CASE:**

TRIAL COURT \_\_\_\_\_ DATES: JUDGMENT APPEALED \_\_\_\_\_ NOTICE OF APPEAL \_\_\_\_\_

DOES THIS APPEAL INVOLVE SUMMARY JUDGMENT? MOTION TO DISMISS?  
 Yes  No  Yes  No

GRANT/VACATE DEFAULT JUDGMENT?  Yes  No

**NATURE OF THE CASE:**

ORIGINAL ACTION  DOMESTIC  ADMINISTRATIVE  
APPEAL

GENERAL CIVIL APPEAL  JUVENILE/PROBATE

PROBABLE ISSUE(S) FOR REVIEW AND SPECIFY NATURE \_\_\_\_\_

**MULTIPLE CLAIMS/PARTIES:** CIV. R. 54(B) APPLY:  Yes  No

IS THERE "NO JUST REASON FOR DELAY" CERTIFICATION:  Yes  No

THE RECORD (Indicate the type of record to be filed):

SUMMARY OF DOCKET AND JOURNAL ENTRIES ONLY (No transcript, App. R. 9(C) statement, or agreed statement will be filed).

STATEMENT OF THE RECORD PURSUANT  AGREED STATEMENT OF THE RECORD TO APP. R. 9(C) PURSUANT TO APP. R. 9(D)

TRANSCRIPT OF PROCEEDINGS:  Full  Partial--Designate Part(s) \_\_\_\_\_

**NAME OF THE COURT REPORTER:** PROJECTED DATE FOR FILING TRANSCRIPT:

**NOTE: A COPY OF THE REQUEST FOR THE TRANSCRIPT MUST BE FILED WITH THE CLERK AND A FILE-STAMPED COPY SERVED ON THE COURT REPORTER.**

-----  
**COURT OF APPEALS--SECOND APPELLATE DISTRICT  
CIVIL DOCKET STATEMENT INSTRUCTIONS**

Loc. App. R. 2.13 (effective August 15, 1991)

-----  
**WARNING: A TIME STAMPED COPY OF THE FINAL JUDGMENT BEING APPEALED MUST BE ATTACHED TO THIS STATEMENT.**

NOTE: This form must be filed by counsel for appellant(s) [or appellant(s) pro se, if not represented by counsel] and all cross-appellants, along with the notice of appeal. All requested information must be provided; the form may be returned if incomplete. The appeal may be dismissed by the Court, sua sponte, if you do not file a civil docket statement.

- 
1. TYPE OR PRINT ALL INFORMATION COMPLETELY. Use sufficient pressure to ensure that the information reproduces on all copies. Hand-printed copies MAY NOT be legible.
  2. PROVIDE THE SUPREME COURT REGISTRATION NUMBER OF THE ATTORNEY RESPONSIBLE FOR COMPLETING THIS FORM, pursuant to C.A. Sup. R. 3. You do not have to provide the registration number of other attorneys.
  3. IDENTIFY THE TYPE OF CASE AND INDICATE THE SPECIFIC NATURE OF the case. This is a non-binding statement.
  4. CONTACT THE COURT REPORTER AND OBTAIN THE PROJECTED DATE FOR FILING THE TRANSCRIPT. Provide the name of the Court Reporter.
  5. ATTACH A TIME-STAMPED COPY OF THE FINAL JUDGMENT BEING APPEALED



**Criminal Docket Statement**  
**(Clerk needs 5 copies at filing)**

TRIAL NO. \_\_\_\_\_ Court of Appeals of Ohio  
APPEAL NO. \_\_\_\_\_ Second Appellate District  
RELATED APPEALS \_\_\_\_\_ CRIMINAL DOCKET  
STATEMENT

DIRECT APPEAL  CROSS-APPEAL  JOINT APPEAL

NOTE: A TIME-STAMPED COPY OF THE FINAL JUDGMENT BEING APPEALED MUST  
BE  
ATTACHED TO THIS STATEMENT.

-----  
**CASE CAPTION**

\_\_\_\_\_ VERSUS \_\_\_\_\_

\_\_\_\_\_  
Plaintiff-Appellant/Appellee (Circle Defendant-Appellant/Appellee  
Designation) (Circle Designation)

\_\_\_\_\_  
Counsel for State, S.Ct. Regis. No. Counsel for Defendant, S.Ct.  
Regis. No.

\_\_\_\_\_  
Address Address

\_\_\_\_\_  
Phone Number (List additional Phone Number (List additional  
attorneys on back of this sheet.) attorneys on back of this  
sheet.)

-----  
(Check appropriate box and provide requested information)

**HISTORY OF THE CASE:**

TRIAL COURT \_\_\_\_\_ DATES: JUDGMENT APPEALED \_\_\_\_\_ NOTICE OF APPEAL \_\_\_\_\_

COUNSEL APPOINTED FOR TRIAL?  Yes  No APPEAL:  Yes  No

IS SUBSTITUTE COUNSEL REQUESTED FOR APPEAL?  Yes  No

WAS STAY OF SENTENCE GRANTED BY THE TRIAL COURT?  Yes  No

IS A STAY REQUESTED OF THE COURT OF APPEALS?  Yes  No

**NATURE OF THE CASE:**

MISDEMEANOR (TRIAL)  FELONY (TRIAL)  GUILTY/NO CONTEST PLEA

CHARGE \_\_\_\_\_ SENTENCE \_\_\_\_\_

PROBATION REVOCATION PRIOR CHARGE \_\_\_\_\_ SENTENCE \_\_\_\_\_

APPEAL BY STATE (R.C.  OF RIGHT  WITH LEAVE OF COURT  
2945.67) (Discretionary)

APP. R. 5 (Leave to file delayed appeal)

POST-CONVICTION RELIEF (R.C. 2953.21) WAS A HEARING HELD IN THE TRIAL  
COURT?  Yes  No Date \_\_\_\_\_

**PROBABLE ISSUE(S) FOR REVIEW** \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

**THE RECORD** (Indicate the type of record to be filed):

SUMMARY OF DOCKET AND JOURNAL ENTRIES ONLY (No transcript, App. R. 9(C)  
statement, or agreed statement will be filed).

STATEMENT OF THE RECORD PURSUANT  AGREED STATEMENT OF THE RECORD  
TO APP. R. 9(C) PURSUANT TO APP. R. 9(D)

TRANSCRIPT OF PROCEEDINGS:  Full  Partial--Designate Part(s) \_\_\_\_\_

NAME OF THE COURT REPORTER: PROJECTED DATE FOR FILING TRANSCRIPT:

\_\_\_\_\_  
NOTE: A COPY OF THE REQUEST FOR THE TRANSCRIPT MUST BE FILED WITH THE  
CLERK AND  
A TIME-STAMPED COPY SERVED ON THE COURT REPORTER.  
-----

**COURT OF APPEALS--SECOND APPELLATE DISTRICT  
CRIMINAL DOCKET STATEMENT INSTRUCTIONS**

Loc. App. R. 2.13 (effective August 15, 1991)

-----  
WARNING: A TIME STAMPED COPY OF THE FINAL JUDGMENT BEING APPEALED  
MUST BE ATTACHED TO THIS STATEMENT.  
-----

NOTE:

This form must be filed by counsel for appellant(s) [or appellant(s) pro se, if not represented by counsel] and all cross-appellants, along with the notice of appeal. All requested information must be provided; the form may be returned if incomplete. The appeal may be dismissed by the Court, sua sponte, if you do not file a civil docket statement.

- 
1. TYPE OR PRINT ALL INFORMATION COMPLETELY. Use sufficient pressure to ensure that the information reproduces on all copies. Hand-printed copies MAY NOT be legible.
  2. PROVIDE THE SUPREME COURT REGISTRATION NUMBER OF THE ATTORNEY RESPONSIBLE FOR COMPLETING THIS FORM, pursuant to C.A. Sup. R. 3. You do not have to provide the registration number of other attorneys.
  3. IDENTIFY THE TYPE OF CASE AND INDICATE THE SPECIFIC NATURE OF the case. This is a non-binding statement.
  4. CONTACT THE COURT REPORTER AND OBTAIN THE PROJECTED DATE FOR FILING THE TRANSCRIPT. Provide the name of the Court Reporter.
  5. ATTACH A TIME-STAMPED COPY OF THE FINAL JUDGMENT BEING APPEALED TO THIS DOCKET STATEMENT.
  6. FILE THIS COMPLETED DOCKET STATEMENT ALONG WITH THE NOTICE OF APPEAL OR NOTICE OF CROSS-APPEAL. The Clerk of Courts will forward copies to the appropriate agencies, departments, and personnel.
- 

NOTE: Pursuant to App. R. 9(B), you must deliver to the court reporter a written request for the transcript and file a copy of that order with the clerk.

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USE THIS SPACE FOR ADDITIONAL ATTORNEYS  
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\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



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.)