SEVENTH DISTRICT COURT OF APPEALS

LOCAL RULES

Table of Contents

- **Rule 1: Scope of Rules**

A. These rules shall govern local practice in the Court of Appeals, Seventh Appellate District of Ohio, in a manner consistent with rules prescribed by the Supreme Court of Ohio. The rules shall govern proceedings in an action filed in this Court after the rules take effect. The rules shall also govern proceedings in an action pending before this Court when the rules take effect, unless this Court determines that applying the rules to a pending action would be unfeasible or unjust.

- **Rule 2: Cost Deposit**

A. At the time of filing a notice of appeal, cross-appeal, or delayed appeal in the trial court, the appellant and cross-appellant shall deposit with the clerk of courts the sum set by the clerk as security for the payment of costs that may accrue in the appeal. The sum set by the clerk shall not be less than $100.

B. At the time of filing a complaint in an original action (quo warranto, mandamus, habeas corpus, prohibition, or procedendo), the relator shall deposit with the clerk of the Court of Appeals the sum set by the clerk as security for the payment of costs that may accrue in the action. The sum set by the clerk shall not be less than $100. If a party seeks the attendance of a witness through a subpoena, the party shall first deposit with the clerk of the Court of Appeals $20 for each witness.

C. If the party bringing the appeal or original action, or the party seeking the attendance of a witness, claims to be unable to pay a deposit, the party shall:

1. File a motion to waive the payment of the deposit and file a financial disclosure form with certification of indigent status that contains financial information to support the party's claim that the party is unable to make the deposit.

a. The party must use the financial disclosure form with certification approved by this Court as posted on the Court's website. A criminal defendant may use the financial disclosure form prescribed by the Ohio Public Defender's office.

b. If the financial disclosure form with certification is filed out by an inmate of a state institution, it shall be accompanied by a certificate of the superintendent or other appropriate officer of the institution setting forth the amount of available funds, if any, that the inmate has on deposit with the institution.

c. This Court's grant of a waiver of the deposit does not waive the liability to pay the court costs as ordered by this Court at the termination of the appeal or original action.

d. No security deposit shall be required on appeals by the State or any of its subdivisions.

OR

2. Where counsel has been appointed by a trial court to represent an indigent party, a copy of the entry of appointment may be filed in lieu of filing a motion to waive the cost deposit. Counsel shall include a cover page that complies with App.R. 19(B) with the entry of appointment attached. The filing of the order of appointment shall serve to waive the payment of the cost deposit without further order of this Court, but does not waive the liability to pay the court costs as ordered by this Court at the termination of the appeal or original action.

D. Failure to Pay Deposit or File Indigency Forms

1. Appeals: The clerk shall accept a notice of appeal even if the cost deposit has not been paid or the party has failed to follow the requirements of Loc.R. 2(C)(1) for waiving costs, but this Court may dismiss the case at any time if the deposit is not paid or a proper waiver of the payment is not provided as set forth in these local rules.

2. Original Actions: If the party bringing an original action, or the party seeking the attendance of a witness in an original action, files with the clerk a sworn affidavit of inability to secure costs by prepayment, the clerk shall receive and file the complaint or subpoena the witnesses without security deposits. After notice to all of the parties, this Court may dismiss the case at any time if the deposit is not paid or a proper waiver of the payment is not provided as set forth in these local rules.

- **Rule 3: Appeal as of Right - How Taken & Counsel & Consolidation**

A. A Notice of Appeal shall include the following:

1. Contain the words "**NOTICE OF APPEAL**" in bold capital letters in the caption of the notice of appeal;

2. Specify the party or parties taking the appeal;

3. Designate the judgment or order appealed from and attach a copy if possible, designate the date of the judgment of order, the name of the trial court or agency issuing the judgment or order being appealed, and the trial court or agency case number designation;

4. Name the appellate court, including the county designation, to which the appeal is taken;

5. Contain an original signature by the party initiating the appeal, or by counsel for the party;

6. Include proof of service.

Failure to follow this rule may result in dismissal of the appeal.

A notice of appeal e-filed pursuant to Loc.R. 13.1 or any other related local rule shall be filed according to the rules set forth by the trial court for e-filing an appeal.

B. Where to File the Notice of Appeal:

1. A notice of appeal shall be filed with the clerk of the **trial court** exclusively.

2. A notice of cross-appeal shall be filed with the clerk of the trial court and the clerk of the appellate court.

3. An amended notice of appeal shall be filed with both the clerk of the trial court and the clerk of the appellate court.

4. A notice of appeal, cross-appeal, or amended appeal delivered to the office of the Seventh District Court of Appeals in Youngstown, Ohio, or to the clerk of the Court of Appeals in a county within our district, rather than to the Clerk of Court for the respective county trial court shall not be deemed as filed.

C. Designation of Counsel

1. If the appellant is represented by counsel, the notice of appeal and each subsequent filing shall contain counsel’s name, attorney-registration number, street address, e-mail address, and telephone number.

2. If the counsel designated in the notice of appeal is a member of a law firm, legal aid society, public defender's office, or a government agency, the notice of appeal and each subsequent filing shall also contain the name of the attorney within the firm, organization or agency who is primarily responsible for the case.

3. If the counsel designated in the notice of appeal is not admitted to practice in the courts of the State of Ohio, counsel shall apply to this Court for permission to appear pro hac vice in a manner consistent with rules prescribed by the Supreme Court of Ohio.

4. Withdrawal of Designated Counsel.

    a. In indigent cases where counsel has been appointed, this Court may permit the counsel designated in the notice of appeal to withdraw from the appeal upon motion demonstrating good cause for withdrawal and with proof of service to the appellant as well as to all parties.

    b. In all other cases, the counsel designated in the notice of appeal may request to withdraw, and new counsel may be substituted, upon motion bearing proof of service upon all parties and containing the following:

        i. the name, street address, e-mail address, and telephone number of the party represented by designated counsel;

        ii. a statement that designated counsel intends to withdraw; and

        iii. the name, attorney-registration number, street address, e-mail address, and telephone number of the counsel to be substituted for designated counsel.

5. Self-Represented Parties: If a party is not represented by counsel, the notice of appeal and each subsequent filing shall contain the party's printed name, street address, e-mail address (if available), telephone number and original signature with the name printed underneath.

6. Counsel for other parties: The notice of appeal and each subsequent filing must also contain the name, attorney-registration number, street address, e-mail address, and telephone number of counsel of record for all other parties served with the notice of appeal.

7. Notice of Appearance:

    a. All counsel, whether for the appellant or appellee, who intend to actively participate in the appeal must file a notice of appearance within 40 days of the filing of the notice of appeal.

    b. The notice of appearance must contain the name, attorney-registration number, street address, e-mail address, and telephone number of counsel.

    c. If counsel fails to file a notice of appearance, counsel will not be permitted to appear and participate in oral argument before the Court.

D. Criminal Appeals

1. In all criminal and juvenile delinquency appeals, a copy of the notice of appeal must be served upon the prosecuting attorney, law director, city solicitor, or other opposing counsel according to who is handling the prosecution of the case.

E. Consolidated Appeals

1. Either on motion by any party or sua sponte, this Court may consolidate cases involving related transactions or the same or similar principles of law, even though the parties are not identical. When consolidation is sought or has been ordered, the parties may file a motion for leave to submit a common brief, request a briefing schedule, or ask for other relief in order to facilitate the common resolution of the cases or issues, e.g., consolidating oral argument, modifying the page limit of a brief.

- **Rule 3.1: Docketing Statement**

A. Civil Appeals

1. In a civil appeal, each appellant and cross-appellant shall file with the clerk, along with the notice of appeal, two fully completed copies of this Court's civil docketing statement. Current copies of the docketing statement can be found on this Court's website. A docketing statement is not fully completed unless a time-stamped copy of the judgment entry being appealed is attached. The party prosecuting the appeal or cross-appeal shall serve a copy of the completed docketing statement, together with the notice of appeal, on the opposing party. Docketing statements in a form other than the one contained on this Court's website will not be allowed. The clerk shall send a copy of the docketing statement to the Court of Appeals along with a copy of the notice of appeal.

B. Criminal Appeals

1. In a criminal appeal, in an appeal from the denial of postconviction relief, and in an appeal in a juvenile delinquency case, the appellant shall file with the clerk of the trial court, along with the notice of appeal, two fully completed copies of this Court's criminal docketing statement. A docketing statement is not fully completed unless a time-stamped copy of the judgment entry of sentence being appealed is attached. The party filing the appeal shall serve a copy of the completed docketing statement, together with the notice of appeal, on the opposing party. Current copies of the docketing statement can be found on this Court's website. Docketing statements in a form other than the one contained on this Court's website will not be allowed. The clerk of the trial court shall send

a copy of the docketing statement to the Court of Appeals along with a copy of the notice of appeal.

C. Failure to File a Docketing Statement: If the appellant or cross-appellant fails to file the docketing statement as required by this rule, this Court shall order the appellant or cross-appellant to either file the fully completed docketing statement within seven days or show cause why the appeal or cross-appeal should not be dismissed. If the appellant or cross-appellant fails to comply with this Court's order, this Court may dismiss the appeal or cross-appeal.

D. A docketing statement e-filed pursuant to Loc.R. 13.1 or any other related local rule shall be filed according to the rules set forth by the trial court for e-filing a docketing statement.

- **Rule 3.2: Praecipe**

A. Each appellant and cross-appellant shall file a completed praecipe with their respective notice of appeal. The praecipe form can be found on this Court's website. Praecipes in a form other than that found on the Court's website will not be allowed.

B. The praecipe shall designate the parts of the trial transcript to be included in the record.

C. A praecipe ordering all or part of the trial transcripts will not be deemed to be complete unless signed and dated by the court reporter.

D. A copy of the completed praecipe shall be served upon the opposing parties in fulfillment of the requirements of App.R. 9(B).

E. The clerk shall send a copy of the praecipe to the Court of Appeals along with the notice of appeal and the docketing statement.

F. Failure to file a praecipe: If the appellant or cross-appellant fails to file a properly prepared praecipe as required by this rule, this Court shall order the appellant or cross-appellant to either file the fully completed praecipe within seven days or show cause why the appeal or cross-appeal should not be dismissed. If the appellant or cross-appellant fails to comply with this Court's order, the Court may dismiss the appeal or cross-appeal.

G. A praecipe e-filed pursuant to Loc.R. 13.1 or any other related local rule shall be filed according to the rules set forth by the trial court for e-filing a praecipe.

- **Rule 3.3: Change of Address**

A. Notice of Change of Address: If the address listed on the docketing statement for any party to the appeal or for counsel of record is incorrect or changes during the course of an appeal, the party or attorney shall file a written notice of change of address with the clerk of the appellate court. The notice shall be filed in each case pending in the Court of Appeals in which the person is a party to the appeal or the attorney is counsel of record.

B. The clerk of the appellate court shall note upon the docket of each case the change of address of the party or attorney and shall forward a copy of the notice to the Court of Appeals in Youngstown, Ohio.

- **Rule 3.4: Appointment of Counsel by the Court**

A. Appointed Counsel List:

1. The Court will maintain a list of attorneys qualified for appointment in indigency cases.

2. Prior to being included on the appointment list or to being appointed counsel in a case, the attorney must submit an application for inclusion on the appointed attorney list. The application is available on this Court's website. Each attorney is responsible for keeping this Court fully informed regarding the attorney's qualifications or changes in qualifications to be appointed.

3. Qualified attorneys will be selected on a rotating basis for appointment to cases for which they are qualified to be appointed. An attorney will be paired to a case based on the attorney's qualifications and experience regarding the seriousness and complexity of the case. The Court reserves discretion in appointments based on experience and qualifications.

4. An attorney may be removed from the appointment list or from a pending appointed matter. Cause for removal may include, but is not limited to: failure to meet appointment qualifications; violation of court rules; failure to meet filing deadlines; refusal to accept cases after notice of appointment; repeated requests to withdraw from a case after the appointment has been accepted; and repeated failure to follow the established procedures for payment of fees and reimbursements for costs.

    a. Counsel may request removal from the appointment list at any time by notifying this Court in writing. Removal from the list does not affect appointments that have already been made by the Court.

b. Counsel who has been removed from the appointment list by the Court may reapply after one (1) year.

c. If counsel contests this Court's decision to remove counsel's name from the appointment list, counsel may request a hearing by a random three-judge panel to review the decision.

B. Motions for Approval of Appointed Counsel Fees and Expenses shall be submitted by ordinary mail directly to this Court on forms approved by the Court. Forms are available on this Court's website.

1. Counsel must submit a completed Financial Disclosure Statement along with this Court's "Motion, Entry and Certification" form in order to be reimbursed.

2. Appointed counsel must submit an "Itemized Fee Statement" and an "Itemized Description of Services" as part of the reimbursement packet. The forms are part of the "Motion, Entry and Certification" documents on the Court website. Reimbursement may be delayed or denied if the proper forms are not included.

   a. The "Itemized Description of Services" must be typewritten.

   b. Counsel may create and submit an itemized description of services based on counsel's own timekeeping or billing software if the document is substantially similar to the "Itemized Description of Services" found on our website.

3. A copy of the entry appointing counsel must be attached to the fee application packet.

4. Counsel must submit the completed counsel fee application packet within thirty (30) days of the resolution or termination of the case. Applications for fees filed late may have fees reduced by the Court, by the auditor of county from which fees are being paid, or by any other reimbursing authority.

5. Counsel must take the necessary steps with the auditor of the county in which a case originates to become a vendor of the county in order to receive payment.

6. 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 4: Motions for Relief From Judgment and Remand**

    A. If a motion for relief from judgment under Civ.R. 60(B) is pending in the trial court and an appeal from the same judgment is also pending, a party may move this Court, for good cause, to remand the matter to the trial court for a ruling on the motion for relief from judgment.

        1. If the appeal is remanded to the trial court, the movant must promptly notify the Court of Appeals of the trial court's ruling on the motion for relief from judgment.

        2. In order to appeal the trial court's ruling on the motion for relief from judgment, a party must file a new or amended notice of appeal from that ruling.

- **Rules 5-7** [Reserved]

- **Rule 8: Bail and Stay of Execution of Sentence in Criminal Cases**

    A. Misdemeanor Cases

        1. The defendant must first seek application for release on bail and stay of sentence from the trial court.

        2. If the defendant is on bail when the notice of appeal is filed, upon written motion filed by the defendant, the execution of the sentence shall thereby be stayed and the defendant shall continue on the same bail during the pendency of the appeal unless this Court, for good cause shown, orders a new or additional bond. The defendant shall attach a copy of the judgment entry of sentence to the motion, along with proof that he or she was released on bail at the time the notice of appeal was filed.

        3. If the application for release on bail and for stay of sentence is denied by the trial court, or if the trial court declines to rule on the application within a reasonable amount of time, a motion for bail and stay of sentence may be made to the Court of Appeals and decided by a minimum of two judges thereof. A copy of the judgment entry of sentence shall be attached to the application. A memorandum in support shall be filed with the motion and shall contain:

            a. confirmation that the motion for release on bail and stay of sentence was denied by the trial court or has not been ruled upon in a reasonable amount of time;

            b. a statement of the offense for which the party was found guilty and the sentence imposed by the trial court;

c. a listing of the defendant's prior convictions, if any;

d. a listing of current charges pending against the defendant, if any;

e. a record of the defendant's failure to appear at court proceedings, or of flight to avoid prosecution;

f. the defendant's family ties, employment, financial resources, character, mental condition, length of residence in the community, and jurisdiction of residence;

g. a statement of the amount of bail the party is requesting and in what manner it will be secured;

h. any other factor that may be relevant to the Court.

4. When a motion for bail and stay of sentence is filed by the defendant under this rule, it must be served upon the prosecuting attorney, law director, or city solicitor according to whomever is handling the prosecution of the case. Before such a motion is acted upon by this Court, the person handling the prosecution will be given the opportunity to indicate his or her position on the stay of sentence and the amount of bond to be set.

5. The motion shall be ruled upon, after reasonable notice to the appellee, upon the papers, affidavits, and portions of the record presented by the parties.

6. A notation on the docketing statement that bail is being requested is not a substitute for the application for release on bail and for stay of sentence and supporting memorandum set forth in this section.

B. Felony Cases

1. Application for release on bail and for stay of sentence must be made in the first instance to the trial court.

2. If the application is denied or if the trial court declines to rule on the application within a reasonable amount of time, a motion for bail and stay of sentence may be made to the Court of Appeals and decided by a minimum of two judges thereof. A copy of the judgment entry of sentence shall be attached to the application. A memorandum in support shall be filed with the motion, and shall contain:

a. confirmation that the motion for release on bail and stay of sentence was denied by the trial court or has not been ruled upon in a reasonable amount of time;

b. a statement of the offense for which the party was found guilty and the sentence imposed by the trial court;

c. whether, at the time of the offense or at the time of the arrest of the accused, the accused was on probation, parole, post-release control, or other release pending trial, sentencing, appeal, or completion of sentence for the commission of an offense under the laws of this state, another state, or the United States or under a municipal ordinance;

d. a listing of the defendant's prior convictions, if any;

e. a listing of current charges pending against the defendant, if any;

f. a record of the defendant's failure to appear at court proceedings, or of flight to avoid prosecution;

g. the nature and seriousness of the danger to any person or the community that would be posed by the person's release;

h. the defendant's family ties, employment, financial resources, character, mental condition, length of residence in the community, and jurisdiction of residence;

i. a statement of the amount of bail the party is requesting and in what manner it will be secured.

3. When a motion to stay the sentence in a felony case is filed pursuant to R.C. 2953.09, App.R. 8, Crim.R. 46, this Local Rule, or other similar provision:

   a. a copy thereof must be served upon the prosecuting attorney;

   b. before such a motion is acted upon by this Court, the person handling the prosecution will be given the opportunity to indicate his or her position on the stay of sentence and the amount of bond to be set.

4. The motion shall be ruled upon, after reasonable notice to the appellee, upon the papers, affidavits, and portions of the record presented by the parties.

5. A notation on the docketing statement that bail is being requested is not a substitute for the application for release on bail and for stay of sentence and supporting memorandum as set forth in this section.

C. All criminal cases

1. When the prosecutor, law director, or city solicitor files a motion for a new or additional bond, a copy thereof must be served upon either the defendant or defendant's counsel.

- **Rule 9: Record on Appeal**

A. The trial court shall not extend the time for transmitting the record, pursuant to App.R. 10(C), more than once and no such extension shall exceed forty (40) days. Thereafter, any request for extension of time shall be made to the Court of Appeals.

B. If the appellant fails to make reasonable arrangements to cause the record to be filed with the clerk of the Court of Appeals in the time provided by this rule, or as extended by the Court, the Court may dismiss the appeal.

C. No transcript of proceedings shall be considered as a part of the record on appeal unless one of the following applies:

1. The court reporter has certified the transcript;

2. The record contains an entry of the trial court appointing the court reporter who has certified the transcript;

3. The transcript is a part of the original papers and exhibits filed in the trial court;

4. The transcript has been incorporated into an App.R. 9(C) statement that has been approved by the trial court; or,

5. The Court of Appeals has granted a motion to supplement the record with a transcript that was filed in a prior appeal.

D. Digital Copy of the Transcript: In addition to filing a paper copy of a transcript of proceedings, the court reporter should (if reasonably feasible): (1) email a digital copy of the transcript to this Court; or (2) file in the appeal a digital copy of the written transcript of proceedings. See App.R. 9(B)(6)(i). Any digital copy of a transcript sent to this Court shall include the trial court and appeal case numbers, date of hearing, and description of the proceeding.

- **Rule 10-11** [Reserved]

- **Rule 11.1: Accelerated Calendar**

  The court has not adopted an accelerated calendar as defined by App.R. 11.1.

- **Rule 11.2: Expedited Appeals**

  A. Appeals that are designated as expedited, accelerated, or given prompt consideration under App.R. 11.2 or another specific rule or statute will be processed according to the procedure set forth in that rule or statute.

     1. The parties are to notify this Court in the docketing statement and by the filing of a written notice if the appeal is to be expedited, accelerated, or given prompt consideration, and must cite the rule or statute designating the appeal as expedited, accelerated or prompt consideration.

     2. No extensions for the filing of the record or the filing of briefs will be granted in expedited, accelerated or prompt consideration appeals except for extraordinary circumstances.

  B. Discretionary Expedition: Any party to an appeal may at any time after the filing of the notice of appeal file a motion requesting that a case be expedited for review and determination. Such motion 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 this 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. No extensions for filing the record or filing briefs will be granted except for extraordinary circumstances.

- **Rule 12** [Reserved]

- **Rule 13: Filing and Service**

  A. Clerks of this Court: The clerks of the courts of common pleas of the counties comprising the Seventh Appellate Judicial District serve as the clerks of this Court of appeals in their respective counties pursuant to R.C. 2303.03.

  B. Motions, records, briefs, and all other documents required to be filed in this court or with a clerk of this court shall be filed with the clerk of the Court of Appeals of the county in which the trial of the action appealed took place or, in the case of original

actions, with the clerk of the Court of Appeals of the county in which the complaint is filed, such county properly being any county where this court may obtain personal jurisdiction over the parties.

C. The provision in App.R. 13(A) indicating that briefs shall be deemed filed on the day of mailing does not apply to documents filed under App.R. 25 and App.R. 26.

D. Documents mailed, faxed, or delivered directly to the office of the Seventh District Court of Appeals in Youngstown, Ohio will not be deemed to be filed.

- **Rule 13.1: Electronic Filing and Electronic Signatures**

A. Internet electronic filings.

1. The clerk of courts of each county within the jurisdiction of the Seventh District Court of Appeals is authorized to prepare and maintain operating procedures and instructions for electronic court filing ("e-filing").

2. For purposes of this rule, e-filing refers to the automated transmission of legal documents from litigants to a court via the internet, and does not include fax (facsimile) filings or email filings.

3. Where an e-filing system is available for use by the clerk of court, pleadings and other papers, including the notice of appeal, may be filed with the clerk of court electronically via the internet subject to the following conditions:

a. Application of rules and orders. All rules of procedure, local rules, and court orders shall continue to apply to documents electronically filed. Documents submitted for e-filing must be in a digitized format specified by the clerk of courts.

b. Leave to file in paper form. When electronic filing is mandatory pursuant to another rule of court or rule of procedure, an attorney wishing to file a specific document or all documents in a given case in paper form may file a motion requesting leave to do so. Such motion may itself be filed in paper form and shall set forth the exceptional circumstances justifying the request.

c. Filings not accepted. An appointed counsel’s application for attorney fees will not be accepted for electronic filing.

d. Self-represented filings. Parties not represented by counsel are not required to utilize an e-filing system and may file documents in paper form.

e. Paper form documents.

i. Documents filed in paper form shall be scanned and uploaded to the e-filing system by the clerk of court if possible.

ii. Documents filed under seal shall not be filed electronically, nor shall they be scanned by the clerk into an electronic or digital format. The clerk shall maintain all documents filed under seal in paper form only.

f. Electronic file stamp. Upon successful completion of acceptance processing by the respective clerk of courts, a document filed electronically will be electronically file-stamped. This stamp will include the date and time that the receiving device of the clerk of courts received the entire transmission. A document filed electronically that is not successfully processed by the clerk of courts will not receive an electronic file stamp, but the filer will receive a rejection e-mail.

g. Time for Filing.

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

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

h. Any document filed electronically that requires a filing fee may be rejected by the clerk of courts unless the filer has complied with the mechanism established by the Clerk of Court and/or the Court for the payment of filing fees.

i. System or User Filing Errors: If a party attempts to file a document electronically and the document is not accepted for filing because of an error in the transmission of the document to the electronic filing system, the Court may, upon satisfactory proof, enter an order permitting the document to be filed nunc pro tunc to the date it was sent electronically.

j. Service: Service of documents filed electronically shall be accomplished in the manner prescribed by the appellate rules. See App.R. 3 and 13.

k. Time to Respond or Act: Whenever a time period is measured from the time after a document is filed, the time will be measured from the date the electronically filed document is deemed to have been filed.

l. Disposition and Maintenance of Source Documents.

i. The person filing a document electronically shall maintain an exact copy of the source document upon which the electronic filing was based, either in an unalterable electronic format or on paper.

ii. The filing person shall retain this source document until final disposition of the case and through any appeal period. The filing person shall make the source document or a facsimile thereof available for production at the request of the Court, the clerk, other counsel or parties representing themselves.

B. Signatures of Parties and Counsel.

1. The signature of an attorney or a party on a document that is filed electronically shall be represented with a conformed signature of "/s/ [name]." The conformed signature on an electronically filed document is a legal signature for purposes of the signature requirements of the civil and criminal rules of procedure, the rules of superintendence, and any other law, and will be considered the signature of the person it purports to be for all purposes. See App.R. 13(A)(1).

2. Multiple Signatures. When a stipulation or other document requires two or more signatures, the filing party or attorney will confirm in writing that the contents of the document are acceptable to all persons required to sign the document. The filer will indicate the agreement of all necessary parties at the appropriate place in the document, usually, the signature line(s). If it is established that the documents were transmitted without authority, this Court shall order the filing stricken.

3. Signature of Third Parties. Documents containing signatures of third parties, including signatures of notaries public, shall be scanned as an image and filed electronically.

- **Rule 14** [Reserved]

- **<u>Rule 15: Motions</u>**

A. The movant shall file an original and two copies of any motion. The movant shall not provide a proposed order with the motion.

B. The presiding judge or a single judge acting for the presiding judge may endorse any order, judgment or entry, except as otherwise required by these Rules or the Rules of Appellate Procedure.

C. The magistrate or a single judge of this Court may determine all procedural motions and motions having the signed approval of opposing counsel (except for motions requesting release on bail, motions to dismiss, or motions to determine the appeal).

D. Procedural motions may be acted upon immediately by this Court. Parties opposing the motion may file a memorandum in opposition within ten (10) days of the filing of the original motion. If an opposing party files a response in opposition, any party may file a reply within seven (7) days.

    1. If the Court has acted upon the motion prior to the expiration of the period for filing a response opposition, the response in opposition will be deemed to be a motion for reconsideration under App.R. 15(B).

    2. If a party has filed a timely memorandum in opposition to a motion under this rule, and if the Court has not acted upon the motion at the time the memorandum in opposition is reviewed by this court, the motion and memorandum in opposition (and reply, if any) shall be circulated to three judges and the agreement of at least two judges shall be required in order to sustain the motion.

E. Substantive motions may be granted or denied on the basis of two or more judges.

    1. If time is of the essence, or other similar reason, a temporary stay of execution may be granted by a single judge for up to seven (7) days.

    2. If time is of the essence, or other similar reason, a single judge may determine a substantive motion (other than a motion to dismiss or a motion to determine the appeal), and any party adversely affected by the order may request that a three-judge panel review the order.

F. Electronically signed court documents.

    1. The following definitions shall apply to this rule:

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

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

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

3. Electronic transmission of a court document with an electronic signature by a judge or magistrate that is sent in compliance with procedures adopted by the Court shall, upon the complete receipt of the same by the clerk of courts, constitute the date and time of receipt of the document, provided that the clerk of court's office is open for business at the time of receipt. If a document is received at a date and time when the clerk of court's office is not regularly scheduled to be open for business, the document shall be deemed to have been received at the next time the Clerk's Office is regularly scheduled to be open.

- **Rule 16: Briefs**

The briefs shall follow the format set forth in this rule, in App.R. 16, and in Loc.R. 16. The court shall strike a brief that does not substantially comply with these rules.

A. Table of Contents: Consistent with App.R. 16(A)(1) through 16(A)(4), the table of contents shall index the brief's contents and shall set forth the table of cases, the assignments of error, and the issues presented for review.

B. Table of Authorities: The brief shall list the cases cited in support of the issue, followed by a list of the statutes, rules, and other authorities cited in support of the issue.

C. Statement of the Case: Consistent with App.R. 16(A)(5) and 16(A)(6), the statement of the case shall briefly summarize the nature of the case, the course of the proceedings, and the disposition below. The statement of the case shall be followed by, under appropriate headings and in the order indicated, the following:

1. Statement of Jurisdiction: The statement of jurisdiction shall state that the appeal was timely filed and was taken from a final appealable order and shall contain references to the relevant parts of the record and citations to the relevant rules and statutes.

2. Procedural Statement: The procedural statement shall contain the relevant procedural events leading to the appeal and shall contain references to the relevant parts of the record.

3. Statement of the Facts: The statement of the facts shall recite the facts relevant to the assignments of error and shall contain references to the relevant parts of the record.

4. Argument: The argument shall state the assignments of error and the issues presented for review in precisely the same manner and order in which they are stated in the table of contents. The argument shall set forth, in the order indicated, the following:

a. Assignment of Error: An assignment of error shall state how the trial court is alleged to have erred, e.g., "The trial court erred in overruling the motion to suppress." Each assignment of error shall be followed by references to the parts of the record demonstrating the alleged error.

b. Issues Presented for Review: Under each assignment of error, the brief shall set forth the numbered issues presented for review.

c. Standard of Review: Under each numbered issue presented for review, the brief shall state the applicable standard of review.

d. Contentions and Reasons: Under each numbered issue presented for review, after the statement of the applicable standard of review, the brief shall set forth the contentions relevant to the issue and the reasons supporting each contention.

e. References to the Record and Citations to Authorities: Each contention supporting an issue presented for review shall be followed by references to the relevant parts of the record and citations to the relevant authorities. References to the record shall be made pursuant to App.R. 16(D) when feasible, although any reasonable system for citing to the record may be used. References to the record and citations shall be made in the body of the argument rather than in footnotes. Footnotes are discouraged in the briefs.

f. Conclusion: The conclusion shall briefly summarize the argument and shall precisely state the relief sought on appeal.

D. Proper rebuttal in a reply brief is confined to new matters arising in appellee's responsive brief.

E. Certificate of Service

1. Briefs will not be considered without proof of service endorsed on the document or separately filed pursuant to App.R. 13(E).

2. If an appellant's brief does not contain the proper proof of service, the appeal may be dismissed.

F. Attachments of legal authorities is disfavored. A party should refrain from appending any additional documents or papers to a brief not set forth in this rule, or from filing a separate appendix. This includes trial court orders or judgments, copies of constitutional provisions, statutes, ordinances, rules, or regulations. A party may request leave, by separate motion, to file an appendix, describing the specific extraordinary reasons for filing an appendix. A party shall include an index

of the proposed appendix and a summary of the length and content of the appendix.

G. Citations in briefs to authorities. The Manual of Citations adopted by the Supreme Court of Ohio Reporter provides the form of a citation to authority in a brief. The Manual of Citations is available at http://www.sconet.state.oh.us

H. No-merit briefs in criminal cases: This court does not accept "no-merit" briefs filed under *Anders v. California* (1967), 386 U.S. 738, 87 S.Ct. 1396, and its progeny. Counsel must file a merit brief, unless the appellant directs counsel that the appeal should be withdrawn. See *State v. Cruz-Ramos*, 7th Dist. No. 17 MA 0077, 2018-Ohio-1583.

- **Rule 17** [Reserved]

- **Rule 18: Filing and Service of Briefs**

A. The court generally will not issue a briefing scheduling order unless requested by the parties. The court may extend the time for filing and serving a brief upon motion or sua sponte.

B. Number of copies to be filed and served: If a brief is filed in paper form, the party shall file an original and two copies of a brief.

C. If a brief is filed in paper form, the original shall be unbound, except for a paper clip or binder clip in the upper left-hand corner, and shall be without dividers or tabs. Copies of the brief shall be stapled in the upper left-hand corner.

D. The twenty-day time period for filing the appellant's initial brief begins to run when the clerk has mailed the notice required by App.R. 11(B) and noted the mailing on the docket. A second or subsequent App.R. 11(B) notice does not affect the briefing schedule. Any changes to the briefing schedule after the issuance of the initial App.R. 11(B) notice will be governed by court order.

E. Appellee's Brief is due twenty days after the date of service of Appellant's Brief. App.R. 18(A). Three days are added to this period if the Appellant's Brief was served by mail. App.R. 14(C).

F. Any other request for an extension of time within which to file a brief shall be by written motion. Subsequent extension requests shall be supported by a memorandum setting forth facts establishing good cause for an extension. A third or subsequent extension will only be granted for exceptional circumstances. If leave is sought to file a brief instanter, the brief and two copies must be submitted

contemporaneously with the motion for leave; one copy attached to the motion and one copy reserved for filing if the instanter request is granted.

G. A timely filed motion for extension of time to file a brief will toll the time for filing the brief until the motion is ruled upon, unless otherwise ordered by this Court. The motion will be deemed timely filed if filed pursuant to the rules or orders governing the timely filing of the brief itself.

H. Proof of notice to opposing counsel of the filing of all motions for extension shall also be filed with the clerk of court.

- **Rule 19: Form of Briefs and Other Papers**

A. Length of Briefs:

1. Appellant's initial brief and appellee's responsive brief shall not exceed 35 pages or 9,000 words (whichever is greater), exclusive of the table of contents, table of cases, the assignments of error, the issues presented for review, and the appendix (if any). Reply briefs shall not exceed 10 pages or 2,500 words (whichever is greater), exclusive of the table of contents, table of cases, and appendix (if any). No brief may be filed which exceeds such limitation except by prior permission of the Court.

2. Expedited appeals: Appellant's initial brief and appellee's responsive brief filed in an expedited appeal shall not exceed 25 pages or 6,500 words (whichever is greater) excluding the table of contents, table of cases, statutes and other authorities cited, index, and appendices (if any) unless leave is granted. A reply brief may not exceed 10 pages or 2,500 words, excluding the table of contents, table of cases, statutes and other authorities cited, index, and appendices (if any) unless leave is granted.

3. Application for permission to exceed the page limits set by this rule shall be by motion specifying the number of extra pages required and specifying the reasons why extra pages are required.

4. No brief may be filed which exceeds such limitation except by permission of the Court. Application for such permission shall be by motion specifying the number of extra pages or words required and specifying reasons why extra pages or words are required.

B. Other Restrictions:

1. Appendices are not to be attached to a brief or filed as separate filings except by permission of the Court. Rather than attach an appendix, the parties should refer to matters in the record pursuant to App.R. 16(D) and Loc.R. 16(H).

Leave for filing an appendix may be requested by written motion prior to expiration of time for filing the brief.

2. Handwritten pleadings and briefs: Every original document filed with the Court shall be typewritten, or shall be prepared by a word processor or other standard typographic process. The documents must be prepared using one of the following fonts: at least 12-point type in either Times New Roman, Cambria, Calibri, Arial Standard, or Palatino Linotype.

3. A handwritten document may only be accepted for filing in an emergency or extraordinary circumstance, provided the document is legible, and provided that there is an explanation of the emergency or extraordinary circumstance. Handwritten briefs will only be permitted by prior leave of court.

- **Rule 20: Prehearing Conference and Mediation**

A. Pursuant to App. R. 41 and App.R. 20, this court hereby adopts the following prehearing and mediation conference procedure, applicable only to civil appeals and original actions filed in this court.

B. The R.C. 2710 "Uniform Mediation Act" (UMA), including all definitions found in R.C. 2710.01, are incorporated by reference and adopted by this court through this local rule.

C. Requesting and Scheduling Mediation.

1. The court shall review the docketing statement to determine whether mediation would be of assistance to the parties or the Court.

2. The court has discretion to encourage parties to use mediation in any original action or civil appeal filed in this court. A case may be submitted to mediation as provided by this rule at the discretion of this Court. The court may issue an order regarding mediation on its own motion, upon the motion of counsel, upon the request of a party, or upon referral by the mediator.

3. If an appeal or original action is selected for mediation, the mediator shall notify the parties (and any necessary nonparties) of the date, time and location of the mediation conference. Parties (and necessary nonparties) must attend the mediation conference as ordered by the mediator, or must otherwise give prior notice to the mediator of the reasons for non-attendance or the reasons for requesting a continuance of the conference.

4. Any party requesting mediation may contact the mediator by phone, email, or fax, or may file a notice with the Court. Such requests may be made confidentially if the requesting party desires. Such requests shall be submitted

as soon as possible after initiation of the appeal or original action, generally within ten (10) days from the date the appeal or original action is filed.

5. Mediation shall not be used as an alternative to the prosecution or adjudication of domestic violence; in determining whether to grant, modify, or terminate a protection order; in determining the terms and conditions of a protection order; and in determining the penalty for violation of a protection order.

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

D. Purposes and Procedure of a Mediation Conference.

1. The primary purposes of the mediation conference are: (1) to explore settlement possibilities through mediation, (2) to simplify the issues in the appeal or original action if settlement is not possible, and (3) to address any anticipated procedural problems. Additionally, any other matters that the mediator determines may aid in handling the disposition of the proceedings will be considered.

2. The mediation conference shall be held with the Court's mediator. Follow up conferences may be conducted, either in person or by telephone, as directed by the mediator or by the Court.

3. The scheduling of a prehearing mediation conference does not stay the time for filing the record, transcript of proceedings, or briefs.

    a. If a prehearing mediation conference is scheduled, any party may request an extension of time for filing the record or for filing a brief by phoning the mediator, or making an oral or written request at the conference. One (1) limited 20-day extension shall normally be granted if requested. Any other requests for extensions of time shall be by motion filed with the Court, unless otherwise directed by the mediator.

    b. Generally, no more than one (1) extension shall be granted, unless such an extension will facilitate settlement. In all cases, requests for extensions of time should be made prior to the expiration of the time sought to be extended.

E. Attendance. Unless otherwise instructed by this Court, the following persons shall attend the prehearing mediation conference in person: counsel; the parties necessary for full settlement authority including insurance adjustors; and litigants not represented by counsel. "Counsel," for purposes of this rule, means the attorney with primary responsibility for the case and upon whose advice the party

relies. Persons excused in advance by the Court from attending in person shall be available by telephone during the scheduled conference.

F. Privilege and Confidentiality.

1. The privilege provisions of the Uniform Mediation Act, R.C. Chapter 2710, apply to all mediation conferences and communications. Mediation communications shall be privileged and confidential, and therefore, shall not be disclosed by the mediator or by the parties and shall not be used by the parties when presenting or arguing the case.

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

G. Pre-mediation Summary. If a case is selected for a mediation conference, the parties may (optional) provide a confidential and privileged pre-mediation summary or statement prior to the mediation. The parties are not required to serve opposing counsel. The summary or statement shall not be delivered or disclosed to any other party in the case, and shall not be filed with the Court, but shall be delivered directly to the mediator by mail, fax, or email.

H. Prehearing Mediation Conference Order. At the conclusion of the prehearing mediation conference, the Court, upon recommendation of the mediator, may enter an order setting forth the actions taken based on the agreements reached by the parties. Such order shall govern the subsequent course of proceedings, unless modified by this Court.

I. The mediator shall maintain resources for the mediation parties, including victims and suspected victims of domestic violence, encouraging appropriate referrals to legal counsel and other support service such as Children Services, domestic violence prevention, counseling, substance abuse, and mental health services.

J. Noncompliance Sanctions. Failure to comply with the provisions of this rule or any order of this Court relating to a mediation conference may result in dismissal of the proceeding or an assessment of such costs as may be attributable to noncompliance including, but not limited to, attorney fees and court costs.

- **Rule 21: Oral Argument**

A. A case will not be set for oral argument unless requested in writing by including the words:

"**ORAL ARGUMENT REQUESTED"**

prominently displayed on the cover page of the appellant's opening brief or the appellee's brief. See App.R. 21(A). A notation on the docketing statement that oral argument is requested is insufficient to preserve a right to oral argument.

B. A properly filed request for oral argument by any party entitled to appear at argument shall be sufficient to preserve the right of oral argument for all parties who are otherwise permitted to argue pursuant to our Local Rules and The Rules of Appellate Procedure.

C. With leave of court, counsel (or a party, if unrepresented) may waive oral argument, even if argument has previously been requested by the party.

1. A request to waive oral argument shall be made by written motion no later than twenty-one (21) days before the date set for oral argument, unless a different time period is ordered by the Court in a particular case.

2. If any party waives appearance at oral argument, the Court shall hear argument on behalf of any remaining parties, unless oral argument has also been waived by all other parties.

3. Parties shall be present in court 30 minutes prior to the scheduled time of oral argument. If a party is not present in court 30 minutes prior to the scheduled time of oral argument, the Court has the discretion to treat this as a waiver of appearance and the party may not be permitted to argue, at the discretion of the Court.

4. If a party fails to attend oral argument, the Court will hear argument from the remaining parties in attendance at oral argument.

D. Counsel will not be permitted to participate in oral argument without making a proper appearance in the appeal pursuant to Loc.R. 3.

E. The court may require oral argument in any case without a request having been made by any party.

F. Oral argument not permitted:

1. The court shall not hear oral argument and shall notify counsel (or the party, if unrepresented) of the date when the appeal will be submitted on the briefs, under the following circumstances:

    a. An incarcerated appellant is representing himself;

    b. The court has determined that oral argument is unnecessary.

G. Notice of oral argument and of appellate panel:

1. In accordance with App.R. 21(B), the court will issue a Notice of Oral Argument and/or Notice of Submission on Briefs to all parties and counsel of record no later than 14 days prior to the date on which the oral argument/submission on the briefs shall be heard. This Notice shall include the names of the judges assigned to the three-judge panel. If the membership of the panel changes after the Notice is issued, the Court shall immediately issue new notice and advise the self-represented party and counsel of record of the panel changes as well as the identity of the new or amended three-judge panel.

2. The Court shall post the schedule for oral arguments and cases submitted on the briefs on the Court's website.

H. Time allowed for oral argument: Oral argument shall be limited to 15 minutes per side. This time limit applies to all appeals including cases involving cross-appeals, cases in which there are multiple appellants or multiple appellees, and consolidated appeals. The court may enlarge the time for oral argument either upon its own initiative or upon good cause shown in a written motion filed within the time provided for filing the brief.

I. If any party fails to appear to present oral argument, the Court shall hear argument on behalf of the opposing party, unless waived.

J. Oral argument and courtroom decorum:

1. During oral argument, no person present in the courtroom shall operate a cellular telephone or any other electronic communication or entertainment device without prior approval of this Court.

2. Without prior approval of the Court, oral argument proceedings shall not be photographed and shall not be recorded by any sound or video recording device.

K. During oral argument, no party shall exhibit real or demonstrative evidence, or any other type of display, unless authorized by the Court upon a motion filed no later than twenty-one (21) days before the date set for oral argument.

L. In accordance with App.R. 21(J), the Court shall make an audio recording of all oral arguments. Such recording shall be made available for review to the parties or public upon written request. All written requests must include the date of the oral argument and set forth the Court of Appeals Case Number. All written requests shall be sent via U.S. Mail to the following:

Seventh District Court of Appeals
Attn: Oral Argument Recording Request
131 West Federal Street
Youngstown, Ohio 44503

All requests must include the requestor's accurate contact information, including address, telephone number and e-mail address (if applicable). Requestors shall be notified of a date and time to report to the Court when the recording shall be made available for review.

- **Rule 22** [Reserved]

- **<u>Rule 23: Frivolous or Vexatious Conduct</u>**

A. If the Seventh District Court of Appeals, sua sponte or on motion by a party, determines that an appeal, original action, or motion is frivolous or is prosecuted for delay, harassment, or any other improper purpose, it may impose on the person who signed the appeal, original action, or motion, a represented party, or both, appropriate sanctions. The sanctions may include an award to the opposing party of reasonable expenses, reasonable attorney fees, costs or double costs, or any other sanction the Seventh District Court of Appeals considers just. An appeal or original action shall be considered frivolous if it is not reasonably well-grounded in fact, or warranted by existing law, or by a good faith argument for the extension, modification, or reversal of existing law.

B. If a party habitually, persistently, and without reasonable cause engages in frivolous conduct under division (A) of this rule, the Seventh District Court of Appeals may, sua sponte or on motion by a party, find the party to be a vexatious litigator. If the Seventh District Court of Appeals determines that a party is a vexatious litigator under this rule, the Court may impose filing restrictions on the party. The restrictions may include prohibiting the party from continuing or instituting legal proceedings in the Seventh District Court of Appeals without first obtaining leave, prohibiting the filing of actions in the Seventh District Court of Appeals without the filing fee or security for costs required by Loc.R. 2, or any other restriction the Seventh District Court of Appeals considers just.

- **Rule 24-31** [Reserved]

- **Rule 32: Miscellaneous Rules**

  A. Weapons:

  1. The Court prohibits all persons, except for those listed in Section (A)(2) of this rule, from conveying or attempting to convey a deadly weapon or dangerous ordnance into the Seventh District Court of Appeals courthouse without prior approval of this Court. This includes anyone who has a concealed handgun permit issued pursuant to R.C. 2923.125 or 2923.123. This also includes any law enforcement officers who are parties to a judicial proceeding as a plaintiff, defendant, witness, or interested party outside of the scope of their employment. This courthouse provides the service of securing handguns for authorized law enforcement personnel. See R.C. 2923.123 (C)(6).

  2. The following persons are allowed to convey a deadly weapon or dangerous ordnance into the Seventh District Court of Appeals Courthouse: (1) judges of this court, (2) a peace officer as defined in R.C. 2935.01(B) who is acting within the scope of that individual's duties for the Court of Appeals.

- **Rule 33-40** [Reserved]

- **Rule 41: Rules of Courts of Appeals**

  A. The court may, under Section 5(B), Article IV, Ohio Constitution, App.R. 41, and Sup.R. 5(A), adopt rules concerning local practice that are not inconsistent with rules promulgated by the Supreme Court of Ohio. Before adopting a local rule, this Court shall give appropriate notice and afford an opportunity for comment by publishing the local rule for 30 days. If the Court determines that a local rule is needed immediately, the Court may first adopt the rule and then promptly give notice and afford an opportunity for comment.

  B. The judges of the Seventh District Court of Appeals may elect a presiding judge for a term of one or two years, starting on January 1st of the term and ending on December 31st of the term, pursuant to Sup.R. 3. A presiding judge may also serve as administrative judge for the same term.

- **Rule 42: Title**

  A. These rules shall be known as the local rules of the Court of Appeals, Seventh Appellate District of Ohio, and shall be cited as "7th Dist. Loc.R. ___" or "Loc.R. ___."

- **Rule 43: Effective Date**

    A. These rules shall take effect on **September 30, 2022**.