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SIXTH DISTRICT COURT OF APPEALS
LOCAL RULES

Pursuant to App.R. 1, the following local rules have been adopted by this court. These rules are available on the Internet at www.co.lucas.oh.us by selecting "court of appeals" on the website. (Amended, effective July 1, 2001; July 1, 2006; March 1, 2009; April 30, 2009; January 1, 2011)

RULE 1. REQUIREMENTS OF COUNSEL

(A) **General Requirements.** All attorneys shall include their Ohio Supreme Court registration number on the first page of all documents filed with the court of appeals clerk. In addition, all attorneys, or parties if not represented by counsel, shall include their address, telephone number and fax number, if any.

(B) **Withdrawal of Counsel.** Counsel who has entered an appearance in this court may not withdraw representation without leave of court. Counsel seeking to withdraw shall, with a motion showing good cause, submit proof of service of the motion to withdraw upon the client and the name and address of any substitute counsel, or, if none, the name and address of the client.

(C) **Admission Pro Hac Vice.** An out-of-state attorney may file a motion to appear in this court pro hac vice. The attorney shall attach to the motion a copy of the certificate of pro hac vice registration issued by the Ohio Supreme Court under Gov. Bar R. XII, Section II. The motion shall contain the following:

(1) The attorney's residential address, office address, and the name and address of the attorney's law firm or employer, if applicable;

(2) The jurisdictions in which the attorney has ever been licensed to practice law, including the dates of admission to practice, resignation, or retirement, and any attorney registration numbers;

(3) An affidavit stating that the attorney has never been disbarred and whether the attorney is currently under suspension or has resigned with discipline pending in any jurisdiction the attorney has ever been admitted;

(4) A statement that the attorney has not been granted permission to appear pro hac vice in more than three proceedings before Ohio tribunals in the current calendar year pursuant to Section 2(A)(5);

(5) The name and attorney registration number of an active Ohio attorney, in good standing, who has agreed to associate with the out-of-state attorney.

The motion shall be filed prior to the first pleading, memorandum, brief, or other document the attorney seeking admission pro hac vice files in the court of appeals or at least 14 days before oral argument if the attorney seeks only to participate in oral argument. Responses to the motion may be filed in accordance with App.R. 15(A). The court may withdraw admission pro hac vice at any time. Admission pro hac vice in the trial court does not waive the requirement that counsel must seek admission pro hac vice in the court of appeals.

(Former rule rescinded and new rule adopted effective June 30, 1994; amended, effective March 1, 2006; July 1, 2006; January 1, 2011.)

RULE 2. EXTENSION OF TIME FOR TRANSMITTING RECORD

Prior to the date that the record is originally due to be filed, a motion for extension of time to transmit the record in appeals not assigned to the accelerated calendar must be filed in the trial court. The trial court extension of time shall not exceed 30 days. All other requests for extensions of time must be filed in the court of appeals. See App.R. 10(C). The time for transmitting the record shall not be extended for any period of time by this court in appeals involving adoption of a minor child; termination of parental rights; dependent, neglected, unruly or delinquent children; those assigned to the accelerated calendar; and any criminal appeal by the state, except in extraordinary circumstances.

(Amended, effective July 1, 1981; July 1, 1984; June 1, 1985; October 1, 1991; July 1, 1992; July 1, 1995; January 1, 1998; July 1, 2000; July 1, 2006.)

RULE 3. NOTICE OF APPEAL, PRAECIPE AND DOCKETING STATEMENT

(A) **Notice of Appeal.** The notice of appeal shall have attached to it a copy of the judgment or order from which the appeal is taken, signed by the trial court judge and indicating the date the judgment or order was entered on the journal. Failure to attach the final judgment entry or order may be grounds for dismissal.

(1) **Consolidated Appeals.** If appealing from a judgment that has more than one trial court case number and the cases were not consolidated by the trial court, a party must file a separate notice of appeal for each trial court case number. A party is required

to file only one notice of appeal from a judgment entered in cases which were consolidated in the trial court. The notice of appeal must list all consolidated trial court case numbers.

(2) **Amending the Notice of Appeal.** Where leave of court is required under Ohio App.R. 3(F), an Amended Notice of Appeal shall accompany a motion for leave to file an Amended Notice of Appeal. Any party may file a response in opposition to the motion within three days after service of the motion.

(B) **Praecipe.** A party shall file, with the notice of appeal, a fully completed praecipe, directing the clerk of the trial court to prepare a record of the original papers and exhibits thereto, and a certified copy of the docket and journal entries as specified in App.R. 9(A). The praecipe shall state whether the record will contain a transcript of proceedings pursuant to App.R. 9(B), or a statement pursuant to App.R. 9(C) or (D). If a party has filed a praecipe, a subsequent party filing an appeal need not file a praecipe unless the party requests additional parts of the record. If the record will contain a transcript of proceedings, the party shall take the praecipe to the court reporter who shall complete and sign the "court reporter's certification" at the end of the praecipe. A court reporter's certification that it will take longer than 40 days to prepare a transcript does not relieve the party of the obligation to get an extension of time to file the record. The court reporter who completes and signs the certification shall be the same individual who prepares the transcript of proceedings. The clerk of the trial court will provide the

praecipe form required by this court. This form is also available in pdf format on the Internet at www.co.lucas.oh.us by selecting "court of appeals" on the website and in the appendix to these rules.

If a party designates in the praecipe that the record will include a transcript of proceedings, the party shall specify and enumerate with particularity those segments of the trial or hearing (i.e., voir dire, opening statements, testimony, closing arguments, charge of court, etc.), to be transcribed.

If a transcript of proceedings is to be filed in accordance with App.R. 9(B), a copy of the notice of appeal with the praecipe shall be served by the clerk of the trial court upon the court reporter. The party requesting a transcript of proceedings is responsible for contacting the court reporter to order the transcript of proceedings. The court reporter shall prepare only those portions of the transcript enumerated in the praecipe, subject to being made secure in the payment of his or her fees.

If a praecipe is required and is not filed with the notice of appeal in the trial court, it may be grounds for dismissal of the appeal.

(C) Docketing Statement. A party shall file a docketing statement with the notice of appeal or cross-appeal. The purpose of the docketing statement is to determine whether an appeal will be assigned to the accelerated or regular calendar and the suitability of the appeal for a mediation. The clerk of the trial court will provide the docketing statement form required by this court. This form is also available on the Internet in pdf format at www.co.lucas.oh.us by selecting "court of appeals" on the website and in the appendix to these rules.

If a party fails to file a docketing statement with the notice of appeal in the trial court, it may be grounds for dismissal of the appeal.

(D) Number and Transmittal of Copies. A party shall file with the trial court clerk an original and a sufficient number of copies of the notice of appeal (with a copy of the judgment entry from which the appeal is taken attached), praecipe and docketing statement to enable the clerk to transmit them as follows. Immediately upon receipt and in no event later than the next business day, the trial court clerk shall: (1) place the original documents in the case jacket and keep one copy for his or her discretionary use; (2) transmit 2 copies to the clerk of the court of appeals, along with the costs deposit and 2 copies of the trial court's appearance docket; (3) transmit one copy to the court reporter if a transcript of proceedings has been ordered; and (4) serve one copy on each counsel of record and each unrepresented party.

(Amended, effective June 1, 1982; August 1, 1989; September 1, 1990; October 1, 1991; July 1, 1992; July 1, 1995; January 1, 1998; July 1, 2001; July 1, 2006; January 1, 2011; July 1, 2013.)

RULE 4. JUDGMENT ENTRIES

Appealable decisions of the court are announced when they are entered on the court's journal. Upon receipt by the court of appeals clerk, the clerk shall immediately file-stamp and journalize the decision, at which time it will become the entry of judgment and the period of review will begin to run. See S.Ct.Prac.R. II, Sec. 2(A)(1)(a).

The court of appeals may transmit by fax to the court of appeals clerk any decision, judgment entry or order which will be accepted as the original and the signatures of the judges shall be accepted as originals consistent with Civ.R. 5(E).

(Amended, effective January 1, 1980; July 1, 1992; January 1, 1998; July 1, 2006.)

RULE 5. TIME FOR FILING BRIEFS

(A) **Extensions.** The time for filing briefs as provided by App.R. 11.1(C), 11.2(B)(3)(c) and 18; and 6th Dist.Loc.App.R. 11 and 12(B) is mandatory. In appeals involving adoption of a minor child; termination of parental rights; dependent, neglected, unruly or delinquent children; those assigned to the accelerated calendar; and any criminal appeal by the state, the time for filing briefs shall not be extended for any period of time except in extraordinary circumstances. In all other appeals, either party, upon timely motion, may be granted one automatic extension not to exceed 10 days (or an extension of more than 10 days for good cause shown) for filing any brief. Extensions to file briefs subsequent to the first extension will only be granted for good cause shown.

(B) Effect of Failure to File Briefs Timely.

If the appellant/cross-appellant fails to timely file the assignments of error and brief, the court may dismiss the appeal/cross-appeal without prior notice. If an appellee files a brief late, the brief may be stricken. If appellee's brief is stricken or not filed, appellee will not be allowed to participate in oral argument on the merits.

(C) Pro Se Briefs Filed Pursuant to Anders v. California (1967), 386 U.S. 738.

After service on defendant-appellant of an Anders brief by appointed counsel, defendant-appellant has 45 days to file his or her own assignments of error and brief.

(Amended, effective July 1, 1981; June 1, 1984; June 1, 1985; September 1, 1990; October 1, 1991; July 1, 1992; July 1, 1995; July 1, 1996; January 1, 1998; July 1, 2000; July 1, 2006; amended, effective March 1, 2010.)

RULE 6. ORIGINAL ACTIONS INCLUDING EXPEDITED “PENDING ELECTION” CASES

(A) Habeas Corpus actions shall be brought and proceed in accordance with R.C. Chapter 2725. Petitioner shall file an original and three copies of a complaint in habeas corpus.

(B) Mandamus, Procedendo, Quo Warranto, and Prohibition actions shall be instituted by filing an original and one copy of a complaint for the court's use, plus additional copies as necessary for service to each respondent. The complaint shall contain the name, title, and address of each respondent. The clerk of the court of appeals shall serve a copy of the complaint and summons upon each respondent by certified mail to the address(es) indicated on the complaint. The summons shall state that respondent need not file an answer until directed by the court of appeals to do so. If the complaint appears to properly set forth a claim for relief, the court will issue an alternative writ which will indicate the time for filing an answer or a motion to dismiss pursuant to Civ.R. 12(B)(6). In expedited “pending elections” cases under section (C) of this rule, the alternative writ will state that respondent shall file an answer to the complaint within

eight days of the date the alternative writ is served. Except as delineated below, the original action shall proceed as any civil action under the Ohio Rules of Civil Procedure, as may be applicable to original actions.

Except in (1) habeas corpus and (2) expedited “pending elections” cases under section (C) of this rule, if either party intends to file a motion for summary judgment, the motion shall be filed within 20 days of the date of service of the answer filed by respondent, unless otherwise directed by the court. A response to the motion for summary judgment shall be due within 20 days of the date of service of the motion and a reply shall be due within 10 days of the date of service of the response, at which time the motion will be decisional. No hearing will be held on a motion for summary judgment unless ordered by the court.

In the event that neither party files a motion for summary judgment or a motion to dismiss in the time allowed, or if a motion for summary judgment or a motion to dismiss is filed and denied, the parties shall submit their case to the court within 20 days of the date that the motion for summary judgment or motion to dismiss was due or is denied. Each party's case shall be submitted by a brief on the law, an agreed statement of facts, if applicable, and/or stipulations, depositions, and/or affidavits. No hearing will be held unless ordered by the court. If the court orders a hearing, court stenographers will not be in attendance unless arranged for and employed by one or more of the parties and appointed by the court, or unless, because of exceptional circumstances, otherwise ordered by the court. Such recordings will be by reliable method, which may include a stenographic/shorthand reporter, audio-recording device, and/or video-recording device.

(C) Expedited “Pending Election” Cases.

(1) Procedure

(a) Because of the necessity of a prompt disposition of an original action relating to a pending election, and in order to give the 6th District Court of Appeals adequate time for full consideration of the case, if the action is filed within ninety days prior to the election, and if the court issues an alternative writ, the court will order the respondent to file an answer to the complaint within eight days (including weekends) of the date the alternative writ is served by the clerk of court.

(b) Unless otherwise ordered by the 6th District Court of Appeals, original actions in expedited “pending elections” cases shall proceed as follows:

(i) Relator shall file any evidence and a merit brief in support of the complaint within five days (including weekends) after service of the answer or, if no answer is filed, within three days after the answer was due.

(ii) Respondent shall file any evidence and a merit brief within five days (including weekends) after service of relator’s merit brief, and

(iii) Relator may file a reply brief within three days (including weekends) after service of respondent’s merit brief.

(c) Motions to dismiss, motions for summary judgment, and motions for judgment on the pleadings shall not be filed in expedited “pending election” cases.

(d) Reconsideration

A motion for reconsideration may be filed in an expedited “pending election” case. Any motion for reconsideration shall be filed within three days (including

weekends) after the 6th District Court of Appeals' judgment entry or order is served by the clerk pursuant to App.R. 30(A). A memorandum in opposition may be filed within three days (including weekends) of service of the motion for reconsideration.

(e) Service of documents

All documents in expedited election cases shall be served on the date of filing by personal service, facsimile transmission, or e-mail.

(Effective January 1, 1980; August 1, 1989; September 1, 1990; July 1, 1992; effective January 1, 1998; July 1, 2006; July 1, 2013.)

RULE 7. COST DEPOSITS

(A) **In Original Actions.** No complaint in non-criminal habeas corpus, mandamus, prohibition, procedendo, or quo warranto may be accepted for filing in this court unless the party bringing the action deposits with the clerk of the sum of \$100.00 as security for the payment of the costs that may accrue in the action. A security deposit is not required in a criminal habeas corpus in accordance with R.C. 2725.28. Security for costs, and the taxing of costs and fees in a habeas corpus action are governed by R.C. 2725.28. Except in criminal habeas corpus actions, subpoenas may not issue for witnesses unless an additional deposit in the amount of \$10.00 per subpoena as security for costs is deposited with the clerk together with the praecipe(s) for subpoena. If the party bringing the action or the party seeking the attendance of witnesses files with the clerk his sworn affidavit of inability to secure costs by such prepayment, the clerk shall file the complaint and subpoena the witnesses without the deposits. Except in a criminal habeas corpus action, if the affidavit is filed by an inmate of a state institution it shall be

accompanied, as an exhibit thereto, by a certificate of the superintendent or other appropriate officer of the institution stating the amount of funds, if any, which the inmate has 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 complaint until the costs are secured.

(B) **In Appeals.** At the time of filing a notice of appeal or cross-appeal, the appellant/cross-appellant shall either deposit with the clerk of the trial court the sum of \$150.00 as security for payment of costs, submit a sworn affidavit of financial inability to pay the security deposit, or produce evidence that the trial court determined that the party was indigent for purposes of appeal. No security deposit is required in appeals by the state or any of its subdivisions. R.C. 109.19. The deposit for costs, affidavit, or trial court determination of indigency shall be forwarded immediately upon receipt (and in no event later than the next business day) by the trial court clerk to the court of appeals clerk. Any personal check given for the security deposit shall be made payable to the court of appeals clerk. The deposit for costs shall be in addition to any other fees or deposits required by law, including the lawful fees of the trial court clerk prescribed by R.C. 2303.20 and 2303.31. Failure to comply with this rule shall be grounds for dismissal of the appeal.

(Effective January 1, 1980; amended, effective October 1, 1987; July 1, 1992; June 30, 1994; July 1, 1995; July 1, 1996; January 1, 1998; July 1, 2006.)

RULE 8. FAX FILING, MOTIONS AND ELECTRONIC FILING

(A) **Fax Filing.** Appellate court filings, except complaints or petitions in original actions, appellate briefs, and additional authorities submitted pursuant to App.R. 21(H), may be filed with the court of appeals clerk by telephonic facsimile (fax) by following the same requirements and procedures as set forth in the local rules of the court of appeals clerk where the appeal is pending.

(B) **Motions.** The content of motions for procedural orders shall be in the form prescribed by App.R. 15. All procedural motions shall be accompanied by an entry or order, on a separate sheet, granting the relief sought by the motion. However, any filing due date on the order shall be left blank for the court to fix an appropriate date.

(Effective January 1, 1980; effective July 1, 1992, amended, effective January 1, 2005; July 1, 2006.)

(C) **Internet electronic filings.** The clerk of courts is authorized to prepare and maintain operating procedures and instructions for electronic filing. Where an e-filing system is available for use by the clerk of court, pleadings and other papers shall be filed with the clerk of court electronically via the internet subject to the following conditions:

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

(2) **Leave to file in paper form.** 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 file. Such motion may itself be filed in paper form and shall set forth the exceptional circumstances justifying the request.

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

(4) **Pro se filings.** Parties not represented by counsel are not required to utilize an e-filing system and may file documents in paper form.

(5) **Paper form documents.** Documents filed in paper form shall be scanned and uploaded to the e-filing system by the clerk of court. In such case, the uploaded electronic version of the document shall constitute the original document.

(6) **Electronic file stamp.** Upon successful completion of acceptance processing by the 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, as well as the confirmation number of the filing. 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.

(7) **Time for Filing.** An electronic filing may be submitted to the Clerk twenty-four (24) hours a day, seven (7) days a week for review. However, received documents are only reviewed and deemed filed twenty-four (24) hours a day, five (5) days a week. Documents electronically submitted for review for e-filing shall be deemed accepted and filed on the date and time as outlined below. All items listed herein refer to Eastern Standard Time or Eastern Daylight Savings Time. If the document is accepted for filing, the date and time reflected in the confirmation notice shall serve as the date and time of

filing if filed prior to 11:59 p.m. during a business day. Any documents received after 11:59 p.m. on a Friday, anytime Saturday, anytime Sunday, or anytime during a Court holiday, will be deemed filed on the following business day. This does not in any way alter the provision in Civil Rule 6 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.

(8) **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.

(9) **Fees.** Normal filing fees and case deposits will be collected via user credit card or debit card, or such other method as may be approved by the clerk, at the time the document that requires such a fee or deposit is filed.

(10) **Service.** Service of documents filed electronically shall be accomplished in the manner prescribed by the appellate rules. *See App.R. 3 and 13.*

(11) **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.

(12) **Disposition and Maintenance of Source Documents.** 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. 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.

(13) **Signatures of Parties and Counsel.** 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).*

(a) **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, the court shall order the filing stricken.

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

(Effective January 1, 2016)

RULE 9. ORAL ARGUMENT

(A) **Scheduling of argument.** No oral argument will be scheduled in appeals in which appellant is acting pro se and is incarcerated. For all other appeals, no oral argument will be scheduled unless the court orders it sua sponte or if any party to the appeal files a written notice requesting oral argument. Such request shall be in the form of the words "ORAL ARGUMENT REQUESTED" displayed prominently on the cover page of any appellant's or cross-appellant's opening brief or any appellee's or cross-appellee's brief.

When oral argument is scheduled, all parties who file a brief will be permitted to argue. When no oral argument is scheduled, the court will notify the parties of the date the appeal is submitted for determination.

(B) **Continuance of Oral Argument.** 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 demonstrating exceptional circumstances, 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. Continuances beyond this period will be granted only upon a showing of extraordinary circumstances as determined by the court.

(C) **Length of Time.** In accordance with App.R. 21(B), oral argument shall be 15 minutes per side. A party may file a motion for additional time to argue. The motion

must be filed as a separate document and no later than 14 days after the date that appellee's brief is filed or due to be filed. The motion shall be determined by at least two judges. If the motion is granted, appellant and appellee will receive equal time. Unless the court otherwise orders, if there are multiple appellants and/or appellees, then all appellants and all appellees shall share the time allotted for each side.

(D) Settlement Prior to and After Oral Argument or Submission for Determination. When the court has scheduled or heard a case for oral argument or it has been submitted for determination and is subsequently notified that the case is settled and/or will be dismissed, appellant/cross-appellant shall file a notice of dismissal with the court of appeals clerk within 30 days from the date of notification that the case is settled and/or will be dismissed. If appellant/cross-appellant fails to file a notice of dismissal within 30 days, the court shall sua sponte dismiss the appeal.

(Effective January 1, 1980; effective October 1, 1986; August 1, 1989; October 1, 1991; July 1, 1992; June 30, 1994; January 1, 1998, amended, effective July 1, 2002; July 1, 2006; January 1, 2011; amended effective September 1, 2011; July 1, 2013)

RULE 10. BRIEFS

(A) Filing, Number and Length of Briefs. All parties shall file an original and 4 copies of their briefs. In addition, all parties shall email their briefs, in Microsoft Word or Adobe Acrobat (R) PDF format, to the court at 6thbriefs@co.lucas.oh.us within seven days of the date the brief is filed. A party may apply to the court for a waiver of the email requirement by filing a "Motion for Waiver of Email Requirement" at the time he or she files the brief. If a waiver motion is filed, the seven day time limit will begin to

run after the motion is ruled on. The motion shall state why the waiver is requested. Failure to comply with this rule may result in sanctions.

Initial briefs of appellant and appellee shall not exceed 30 pages, 15 pages for accelerated calendar appeals. Reply briefs shall not exceed 10 pages and are not permitted in accelerated calendar appeals except with leave of court. All page limits are exclusive of the table of contents, lists of authorities, and appendix. For good cause shown, the court may grant a party's motion for leave to file a brief in excess of the page limitation. The motion shall specify the number of extra pages requested and the reasons extra pages are required.

(B) General Requirements. The body text of a brief must be set in a plain legible typeface of at least 12 points, such as Times New Roman or Arial. Footnotes are discouraged but when necessary must be set in the same typeface as the body text of no less than 12 points. The body of the text of a brief and footnotes must be double-spaced, but quotations of fifty words or more may be single spaced and blocked. The excessive use of single spaced block quotations to meet page limitations for briefs, i.e., reduced font size or condensed type style, shall result in a brief being stricken sua sponte.

(C) Citations. Reference to the record must include reference to the volumes and page number of transcript. Case citations and other legal authorities must appear in the text of the argument after the point of law for which the case or legal authority is cited, NOT in a footnote, and must include the volume and page number of the case, and the particular page or paragraph number where the point of law is found. Citations shall

conform to the [Writing Manual A Guide to Citations, Style, and Judicial Opinion Writing issued by the Supreme Court of Ohio \(2013\)](#).

(D) **Contents of Briefs.** Reply briefs shall be restricted to matters in rebuttal of appellee's brief. In addition to the requirements of App.R. 16, the appendix of appellant's brief shall contain a copy of the judgment entry from which the appeal is taken. It is not necessary to include copies of any cases cited in the briefs. An official citation shall be used in the table of cases.

(E) **Appendix.** When the appendix to a brief contains three or more items, each item must be separately identified by consecutive numbers or letters or by name of the document and referred to in the brief by the corresponding number, letter or name.

(F) **Non-conforming Briefs.** A brief not prepared in accordance with this rule, as well as App.Rs. 16 and 19, may be stricken. The court may permit a party to file a revised brief which conforms to the rules.

(G) **No-Error Briefs.** In a criminal appeal in which counsel has been appointed for the appellant, counsel may file a no-error brief under the procedure identified in *Anders v. California* (1967), 386 U.S. 738, 87 S.Ct. 1396, and its progeny, if counsel concludes that the appeal presents no issue of arguable merit prejudicial to the defendant and is wholly frivolous.

(1) Contents of a no-error brief. A no-error brief shall not contain assignments of error and shall contain the following:

(a) A statement that counsel's conscientious examination of the record has led counsel to conclude that the appeal presents no issue of arguable merit prejudicial to the defendant and is wholly frivolous.

(b) A request that the court independently examine the record to determine if it discloses an issue of arguable merit prejudicial to the defendant.

(c) Reference to any part of the record that might arguably support the appeal.

(2) Statement of compliance. Counsel shall state, either in the no-error brief or in an affidavit, that counsel has done all of the following:

(a) Conscientiously examined the record;

(b) Concluded that the record discloses no issue of arguable merit, and that the appeal is wholly frivolous;

(c) Communicated this conclusion to the appellant; and

(d) Informed appellant that appellant may file a pro se brief within 45 days concerning any issues appellant wants to raise on appeal.

(3) Motion to withdraw. Counsel shall file a motion to withdraw as counsel and shall indicate in the motion that counsel remains appointed to assist the appellant in the prosecution of the appeal unless and until the motion is granted.

(4) Service. Counsel shall serve on the appellant, and shall serve as otherwise required by App.R. 13, copies of the no-error brief, counsel's affidavit, if any, and counsel's motion to withdraw.

(Effective January 1, 1980; effective October 1, 1986; August 1, 1989; October 1, 1991; July 1, 1992; June 30, 1994; January 1, 1998, amended, effective July 1, 2002;

July 1, 2006; January 1, 2011; amended effective September 1, 2011; July 1, 2013; July 1, 2014.)

RULE 11. BRIEFING SCHEDULE ON APPEAL--CROSS-APPEAL

Where two or more notices of appeal are filed in the same case and the parties filing the notices of appeal are opposing each other, the party filing the appeal later in time (App.R. 4(B)(1)), shall be referred to as "appellee/cross-appellant" and shall caption the notice of appeal as a cross-appeal. The briefing schedule for both appellant/cross-appellee and appellee/cross-appellant pursuant to App.R. 3(C)(1) and (2) shall be as follows, except as provided in App.R. 14(C):

Filing No. 1: Assignments of error and brief of appellant/cross-appellee: 20 days after the date on which the clerk has mailed the notice required by App.R. 11(B) (15 days from the date the record is filed in accelerated calendar appeals).

Filing(s) No. 2: Assignments of error and brief of appellee/cross-appellant: 20 days after service of appellant's assignments of error and brief (15 days in accelerated calendar appeals).

Appellee/cross-appellant's brief in response to appellant/cross-appellee's assignments of error: 20 days after service of appellant/cross-appellee's assignments of error and brief (15 days in accelerated calendar appeals).

These two briefs may be combined into one document provided it is clearly designated as both briefs and each brief within the document is labeled so that the court can determine that neither brief exceeds the page limit described in 6th Dist.Loc.App.R. 10(A).

Filing(s) No. 3: Appellant/cross-appellee's brief in response to appellee/cross-appellant's assignments of error and brief: 20 days from the date of service of appellee/cross-appellant's assignments of error and brief (15 days in accelerated calendar appeals).

Appellant/cross-appellee's reply brief: 20 days from the date of service of appellee/cross-appellant's brief in response to appellant/cross-appellee's assignments of error and brief. No reply brief is allowed in accelerated calendar appeals without leave of court.

These two briefs may be combined into one document provided it is clearly designated as both briefs and each brief within the document is labeled so that the court can determine that neither brief exceeds the page limit described in 6th Dist.Loc.App.R. 10(A).

Filing No. 4: Appellee/cross-appellant's reply brief: 10 days from the date of service of appellant/cross-appellee's brief in response to appellee/cross-appellant's assignments of error and brief. No reply brief is allowed in accelerated calendar appeals without leave of court.

(Effective March 15, 1983; amended, effective October 1, 1991; July 1, 1992; July 1, 2006.)

RULE 12. ACCELERATED CALENDAR

Pursuant to App.R. 11.1, this court adopts an accelerated calendar. Accelerated calendar appeals have a shortened time to file briefs and strict limitations on extensions of time to file briefs, see 6th Dist.Loc.App.R. 5(A).

(A) Based upon a review of the docketing statement(s), this court may issue a scheduling order placing the appeal on the accelerated calendar. Any party may file a motion to remove an appeal from the accelerated calendar. The court may assign an appeal to, or remove an appeal from, the accelerated calendar at any stage of the proceedings.

(B) All briefs filed in an accelerated calendar appeal shall conform to 6th Dist.Loc.App.R. 10 as to form and content; however, briefs shall not exceed 15 pages, excluding table of contents, lists of authorities and appendix. Appellant's brief shall be filed within 15 days after the date on which the clerk has mailed the App.R. 11(B) notice that the record is filed.

(Former rule rescinded and new rule adopted effective October 1, 1991; July 1, 1995; January 1, 1998; January 1, 2000; July 1, 2000; July 1, 2006; amended effective March 22, 2010; July 1, 2013.)

RULE 13. MEDIATION

The court offers a mediation service to litigants who have a case pending in the court and provides a mediator at no charge. The following mediation procedures apply to this service.

(A) **Scheduling a Mediation.** The court's mediation attorney shall review the notice of appeal, the trial court's judgment from which the appeal is taken, and the docketing statement in all civil and administrative appeals to determine whether a mediation will be scheduled.

If a mediation is scheduled, the court will notify the attorneys, or the parties if unrepresented, of the name of the mediator and the date, time and location of the mediation.

Any party may telephone the court to make a confidential request for mediation or to request that a scheduled mediation be canceled.

(B) Purposes and Procedure of the Mediation. Only the court's mediation attorney will conduct mediations. The attorneys primarily responsible for the case, as well as their clients, are required to attend the mediation in person, or with the approval of the mediator, by telephone. The goals of the mediation are: (1) to explore settlement possibilities, (2) to simplify the issues in the appeal if settlement is not achieved, and (3) to deal with any procedural problems which exist, may arise, or are anticipated in connection with the appeal.

The court will attempt to schedule the mediation before any additional expense is incurred by the parties in proceeding with the appeal, i.e. preparation of the transcript of proceedings or briefs.

(C) Extensions of Time to Transmit Record and File Briefs. The scheduling of a mediation does not stay the time in which the transcript of proceedings or briefs must be filed. Any party may telephone the mediator and request that the court issue a sua sponte order extending the time, until after the mediation, in which to transmit the record or file a brief. Thereafter, if the mediator determines that the parties are negotiating in good faith, additional extensions of time will be recommended by the mediator on a party's oral request.

(D) **Privilege and Confidentiality.** The definitions contained in R.C. 2710.01 apply to all mediation conferences. The privileges contained in R.C. 2710.03 and the exceptions contained in R.C. 2710.05 apply to mediation communications. The privileges may be waived under R.C. 2710.04. Mediation communications are confidential, and no one shall disclose any of these communications unless all parties and the mediator consent to disclosure.

(E) **Noncompliance Sanctions.** If a party or attorney fails to comply with the provisions of this rule, the court may impose appropriate sanctions.

(Effective July 1, 1992; effective January 1, 1998; effective November 1, 2000, amended, effective March 15, 2005; July 1, 2006; July 1, 2013.)

RULE 14. APPOINTMENT OF COUNSEL

(A) **Request for Counsel.** Except in appeals filed pursuant to App.R. 5(A) Delayed Appeals, requests for appointment of counsel and a transcript of proceedings at state expense shall be made in the first instance in the trial court. If the request is denied by the trial court, a subsequent motion may be filed in the court of appeals.

(B) **Selection of Counsel.** The court shall maintain a list of qualified attorneys who have notified the court of their interest in serving as appointed counsel. Counsel shall be selected in a continual rotation from a list maintained by the court, except that the court may consider the experience and expertise of counsel in making an appointment.

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

(C) Appointed Counsel Fees.

(1) Appointed counsel's "Motion for Approval of Payment of Appointed Counsel Fees and Expenses" on appeal shall be submitted on the form prescribed by the Ohio Public Defender. See <http://www.opd.ohio.gov>. Except in cases where appointed counsel withdraws from representation, the motion shall be filed with the court no earlier than the date that the appeal is decided on the merits or is dismissed, and no later than 30 days after the date that the appeal is decided on the merits or is dismissed. In cases where appointed counsel withdraws from representation, motions shall be filed no later than 30 days after counsel withdraws.

Attorney fees and expenses may be reduced or denied if the motion is not timely filed.

(2) The rate of compensation for appointed counsel shall be in accordance with the rate and fee schedule as adopted by the applicable county commissioners. Copies of each fee schedule can be obtained in the Sixth District Court of Appeals Court Administrator's Office.

(Effective July 1, 1995; July 1, 1996; amended, effective January 1, 1998; January 1, 2004; July 1, 2006; May 21, 2012.)

RULE 15. RECORDS RETENTION

Pursuant to Sup.R. 26(G), this court adopts, as its records retention schedule, Sup.R. 26, 26.01, and 26.02. In no event shall any record of this court be retained for a period less than the time established in Sup.R. 26, 26.01 or 26.02.

(Effective July 1, 1995; amended, effective January 1, 1998, January 1, 2000; July 1, 2006.)

RULE 16. BROADCASTING AND PHOTOGRAPHING COURT PROCEEDINGS BY MEDIA

Requests for permission for broadcasting, televising, recording, or taking photographs in the courtroom must be submitted to the court administrator, in writing, on the designated form, at least 24 hours prior to the scheduled time of commencement of the proceeding.

The judge presiding at the hearing or oral argument, or in that judge's absence any member of the panel, shall grant the request for broadcasting, televising, recording or taking photographs in court proceedings open to the public, if the judge determines that to do so would not distract the participants, or impair the dignity of, or otherwise materially interfere with, the proceedings. The request for permission and the allowance of the request must be in writing and made a part of the record of the proceedings.

The court administrator shall specify the place or places in the courtroom where the operators and equipment are to be positioned. The equipment and operators are limited to the following:

- a.) One portable camera with one operator
- b.) One still photographer

c.) One audio system for radio broadcast purposes.

Filming, videotaping, recording, or taking photographs of victims or witnesses, who object is not permitted.

All pooling arrangements are the responsibility of the media representatives. Such arrangements must be made without involving the court. If any disputes arise, the judge may exclude all disputing media representatives.

Upon the failure of any media representative to comply with the conditions prescribed by the judge, the judge may revoke the permission to broadcast, televise, record, or photograph the hearing or oral argument.

Permission under this rule will only be granted to media.

(Effective July 1, 1996; amended, effective July 1, 2006.)

RULE 17. BAIL AND SUSPENSION OF EXECUTION OF SENTENCE IN CRIMINAL CASES

When a party files an application for release on bail and suspension of execution of sentence pursuant to App.R. 8(B), a memorandum in support shall be filed with the application in this court. The party's memorandum shall contain, but is not limited to, the following information, which shall be supported by the papers, affidavits, and portions of the record referred to in App.R. 8(B): (1) confirmation that the motion for release on bail was denied by the trial court, (2) a statement of the offense for which the party was found guilty and the sentence imposed by the trial court, (3) a listing of the party's prior convictions, if any, and if there are none, a statement to that effect, (4) a listing of current charges pending against the party, if any, and if there are none, a statement to that effect,

(5) a statement as to whether the party is currently employed, the name of the party's employer and for how long the party has been employed, (6) a statement of the amount of bail the party is requesting and in what manner the bail will be secured, and (7) a statement of defendant's family or other community ties. Failure to comply with this rule may result in the automatic denial of the application.

(Effective July 1, 2000; effective July 1, 2006; amended, effective March 1, 2010.)

RULE 18. REPORTING OF DECISIONS

Pursuant to Rule 3(C) of the Supreme Court Rules for the Reporting of Opinions, each of this court's decisions, excluding orders on procedural matters, orders without opinion, memorandum decisions, and judgment entries under App.R. 11.1(E), will be sent to the Supreme Court Reporter who will determine whether the decisions will be reported in the Ohio Official Reports.

(Effective July 1, 2000; amended, effective July 1, 2006.)

RULE 19. RECORD ON APPEAL

In addition to the requirements in App.R. 9, a transcript of proceedings prepared by a reporter to be included in the record on appeal shall state "NO EXHIBITS IDENTIFIED" if there are no exhibits identified or otherwise referred to in the transcript. This statement shall be in place of the "index to exhibits" required in App.R. 9(B)(6).

(Effective November 1, 2000; amended, effective July 1, 2006.)

RULE 20. WEAPONS PROHIBITED

(A) The court prohibits all persons, with the exceptions listed in Section B of this rule, from conveying or attempting to convey a deadly weapon or dangerous ordnance

into the Sixth District Court of Appeals Courthouse. This includes anyone who has a concealed handgun permit issued pursuant to R.C. 2923.125 or 2923.123. This courthouse does not provide the service of securing handguns, except for authorized law enforcement personnel. See R.C. 2923.123 (C)(6).

(B) The following persons are allowed to convey a deadly weapon or dangerous ordnance into the Sixth 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, (3) a bailiff or deputy bailiff, (4) a prosecutor or secret service officer as defined in R.C. 2923.123(C)(5).

(Effective April 8, 2004, amended, effective July 1, 2006.)

RULE 21. RESERVED

RULE 22. PRESIDING/ADMINISTRATIVE JUDGE

Pursuant to Sup.R. 3 and 4, one judge shall be elected to be both the presiding judge and the administrative judge, hereinafter designated as presiding judge. In addition to the powers and duties set forth in Sup.R. 3 and 4, the presiding judge shall rule upon all requests for extensions of time and other motions and matters authorized to be handled by a single judge. The presiding judge may refer any such motion or matter to a three-judge panel. The presiding judge shall preside over all sessions and meetings of the court en banc and over any three-judge panel of which the presiding judge is a member. In the absence of the presiding judge, the available judge who is senior in service on the court

shall perform the duties of the presiding judge. The judge who is senior in service on the court shall preside over any three-judge panel of which the presiding judge is not a member.

(Effective June 1, 1985; amended, effective July 1, 1992; July 1, 1993; July 1, 1995; January 1, 1998.)

RULE 23. TITLE

These rules shall be known as the Local Rules of the Sixth District Court of Appeals of Ohio and may be cited as 6th Dist.Loc.App.R. ____.

(Effective July 1, 1992; amended, effective July 1, 1995.)

(TRIAL COURT)

Trial Court Case No. _____

Court of Appeals
Case No. _____

Plaintiff/Appell_____

v.

PRAECIPE
Pursuant to 6th Dist.Loc.App.R. 3(B)

Defendant/Appell_____

TO THE CLERK OF THE TRIAL COURT:

Please prepare and assemble all of the original papers and exhibits thereto filed in the trial court in this case and a certified copy of the docket and journal entries, pursuant to App.R. 9(A).

YES NO This is a criminal appeal of a sentence.

YES NO A presentence, psychiatric, or other investigative report was submitted to the court in writing before the sentence was imposed.

If yes to both, pursuant to R.C. 2953.08(F)(1), the clerk is instructed to include in the record of this case **under seal** any presentence, psychiatric, or other investigative report that was submitted to the court in writing before the sentence was imposed.

In addition, the record in this appeal will:

1. Include, in a juvenile bindover case, the trial court record, including the transcript of _____ in case Number _____.

2. Include a complete transcript pursuant to App.R. 9(B).*

A. List here the dates of all hearings and/or trials to be transcribed.

3. Include a partial transcript pursuant to App.R. 9(B).*

a. Enumerate here the segments of the trial and/or hearings to be transcribed pursuant to 6th Dist.Loc.App.R. 3(B). State specifically the trial or hearing dates, the type of hearing and the segments you want transcribed.

4. Include a statement of evidence or proceedings pursuant to App.R. 9(C) (no report (i.e., record of testimony) made or no transcript available).

5. Include an agreed statement pursuant to App.R. 9(D).

6. Not include a transcript, or other substitute for a transcript.

Name of Attorney or Pro Se Party

Signature

Telephone Number

Attorney for _____

Ohio Supreme Court Registration Number

*If a transcript is to be prepared and included in the record on appeal, counsel for appellant must have the court reporter complete the certification below before filing this praecipe. If the court reporter indicates that it will take longer than 20/40 days to prepare the transcript, you are not relieved of the obligation to file a motion for extension of time to file the record. If the transcript has already been prepared and filed, appellant shall sign the statement under the court reporter's certification.

TO THE COURT REPORTER:

Please complete this certification with your best estimates of the length of the transcript and time you will need to prepare it. If the transcript is not prepared within the time limit for filing the record on appeal, the record will be filed without the transcript unless an extension of time is obtained by the party. Your statement that it will take longer than 20/40 days to prepare the transcript does not relieve you of the obligation to contact the party to file a motion for an extension of time to file the record.

COURT REPORTER'S CERTIFICATION

The transcript as ordered consists of approximately _____ pages. I estimate that _____ days will be needed to prepare the transcript for filing.

Date _____

Court Reporter's Name (Please Print Name)

(Agency)

(Address)

(Phone Number)

FOR THE ATTORNEY

The transcript has already been prepared and filed.

Signature of appellant's attorney
(or pro se appellant)

(TRIAL COURT)

Trial Court No. _____

Court of Appeals No. _____

Plaintiff/Appell_____

Date Trial Court’s Judgment
Entry being appealed was entered
on the journal _____

v.

DOCKETING STATEMENT
Pursuant to App.R. 3(F), 6th Dist.
Loc. App.R. 3(C) and 12(A)

Defendant/Appell_____

1. This appeal should be assigned to:

_____ The expedited calendar for the reason checked:
(See App.R. 11.2 / R.C. 3109.04(H))

_____ A. Abortion related appeal

_____ B. Appeal from order granting or denying adoption of minor or granting or
denying termination of parental rights

_____ C. Appeal concerning dependent, abused, neglected, unruly, delinquent child

_____ D. Prosecutorial appeal from suppression order

_____ The accelerated calendar for the reason checked:
(See App.R. 11.1 and 3(G) as well as 6th Dist. Loc. App.R. 12.)

- _____ A. No transcript is required
- _____ B. The transcript is of such length that its preparation time will not be a source of delay. (The transcript in an accelerated appeal is to be filed within 20 days of filing the notice of appeal. See App. R. 10 (A).)
- _____ C. An agreed statement will be submitted within 20 days.
- _____ D. The record was made in an administrative hearing and was filed with the trial court.
- _____ E. All parties to the appeal (as shown by the attached statement) agree to an assignment to the accelerated calendar.

_____ The regular calendar checked for the reason(s) checked:

- _____ A. The transcript is of such length that its preparation time will take more than 20 days from the date the notice of appeal is filed.
- _____ B. A brief in excess of 15 pages is necessary to adequately argue the issues.
- _____ C. The appeal concerns unique issues of law which will be of substantial precedential value in the determination of similar cases.
- _____ D. Other _____

2. Probable issues for review:

3. Has a notice of appeal been previously filed in this court concerning this case or a related case?

_____ Yes _____ No

If so, what was the previous appellate case number? _____

QUESTIONS 4 THROUGH 8 APPLY TO CIVIL AND ADMINISTRATIVE APPEALS ONLY)

4. Nature of Case: (for example: Personal Injury (slip and fall); administrative appeal (zoning); termination of parental rights; probate (will contest); breach of contract; malpractice (legal); etc.

5 Does the appeal depend on an interpretation or application of a particular case (s) or statute (s).

_____ Yes _____ No If yes, please cite case(s) or statute(s) _____

6. How would you characterize the extent of your settlement discussions prior to judgment in the trial court?

_____ None _____ Minimal _____ Moderate _____ Extensive

7. Have post-judgment settlement discussions taken place?

_____ Yes _____ No

8. Would a mediation pursuant to 6th Dist. Loc. App.R. 13 be of any assistance in the resolution of this matter? *

_____ Yes _____ No _____ Maybe Please explain (optional) _____

(Name)

Attorney for _____

(Address, telephone number)

(Supreme Court Registration Number)

*THE PRIMARY PURPOSE OF A MEDIATION IS TO HELP THE PARTIES EXPLORE POSSIBILITIES FOR SETTLEMENT OF THE CASE BEFORE INCURRING ADDITIONAL EXPENSES.