

**LOCAL RULES OF THE COURT OF APPEALS,  
FIRST APPELLATE DISTRICT OF OHIO**

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**RULE 1.1 Scope of rules**

These rules shall govern local practice in the Court of Appeals, First 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 the court after the rules take effect. The rules shall also govern proceedings in an action pending before the court when the rules take effect, unless the court determines that applying the rules to a pending action would be unfeasible or unjust.

**RULE 2 [Reserved]**

**RULE 3.1 Appeal as of right—how taken—content of notice of appeal and subsequent filings**

**(A) 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 law firm or a government agency, the notice of appeal and each subsequent filing shall also contain the name of the attorney within the firm 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 the court for permission to appear pro hac vice, in a manner consistent with rules prescribed by the Supreme Court of Ohio.

(See Form 3.1A Notice of Appeal-Criminal and Form 3.1B Notice of Appeal-Civil.)

**(B) Withdrawal of designated counsel.**

- (1) In a criminal case, the court may permit the counsel designated in the notice of appeal to withdraw from the appeal only upon an application to the court bearing proof of service upon the appellant and demonstrating good cause for withdrawal.
- (2) In a civil case, the counsel designated in the notice of appeal may withdraw, and new counsel may be substituted, upon notice to the court bearing proof of service upon all parties and containing the following:
  - (a) the name, street address, e-mail address, and telephone number of the party represented by designated counsel;
  - (b) a statement that designated counsel intends to withdraw; and

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

(C) **Pro se appeals.** If the appellant is not represented by counsel, the notice of appeal and each subsequent filing shall contain the appellant's name, street address, e-mail address, and telephone number.

(D) **Counsel for other parties.** The notice of appeal and each subsequent filing shall 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.

### **RULE 3.2 Appeal as of right—how taken—docket statement**

(A) **Criminal docket statement.** 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 copies of a criminal docket statement. (See Form 3.2A Criminal Docket Statement, Appendix of Forms.)

(B) **Civil docket statement.** In a civil appeal, the appellant shall file with the clerk of the trial court, along with the notice of appeal, two copies of a civil docket statement. The appellant shall then serve upon the appellee's counsel or the appellee, if unrepresented, a copy of the docket statement and a copy of the notice of appeal. (See Form 3.2B Civil Docket Statement, Appendix of Forms.)

(C) **Failure to file a docket statement.** If the appellant fails to file the docket statement as required by this rule, the court shall order the appellant to either file the docket statement within seven days or show cause why the appeal should not be dismissed. If the appellant fails to comply with the court's order, the court shall dismiss the appeal.

### **RULE 3.3 Appeal as of right—how taken—scheduling order**

After receiving a docket statement, or following a prehearing conference directed in a civil case under App.R. 20 and Loc.R. 20.1, the court shall issue a scheduling order of events on the appeal. The court may modify the scheduling order upon its own initiative or upon a written motion and a showing of good cause for the modification. The court shall dismiss the appeal if the appellant, without good cause, fails to comply with the scheduling order.

**RULE 4 [Reserved]**

**RULE 5 [Reserved]**

**RULE 6 [Reserved]**

**RULE 7 [Reserved]**

**RULE 8 [Reserved]**

**RULE 9.1 The record on appeal—notification**

If the record on appeal will not include a transcript of proceedings, a statement of the proceedings, or an agreed statement, as described in App.R. 9, counsel for the appellant or the appellee, if unrepresented, shall notify the court of this fact in writing no later than 30 days after filing the notice of appeal. Notification concerning the record may be provided on the docket statement required by App.R. 3 and Loc.R. 3.2.

**RULE 10 [Reserved]**

**RULE 11.1.1 Accelerated calendar**

- (A) **Accelerated calendar adopted.** The court adopts an accelerated calendar. The proceedings in an appeal placed on the accelerated calendar shall be governed by this rule and by the Ohio Rules of Appellate Procedure, including the procedures specific to accelerated appeals set forth in App.R. 3, 10, and 11.1.
- (B) **Placing an appeal on the accelerated calendar.** The court shall issue a scheduling order placing an appeal on the accelerated calendar.
- (C) **Removing an appeal from the accelerated calendar.** The court may remove an appeal from the accelerated calendar and place it on the regular calendar upon its own initiative or upon a motion demonstrating good cause for removal, filed by any party before the appellant’s brief is scheduled to be filed.
- (1) The motion shall be supported by a memorandum setting forth the specific reasons for removal. Within ten days after the motion is filed, a party opposing removal may file a response.
  - (2) Good cause for removal includes, but is not limited to, the unique, complex, or precedential nature of the issues presented. Good cause for removal does not include the length of the appeal record alone.
  - (3) The motion does not toll or extend the time for filing briefs set forth in the scheduling order issued under Loc.R. 3.3.
- (D) **Briefs filed in an accelerated appeal.** A brief filed in an appeal placed on the accelerated calendar shall not exceed 15 pages in length, excluding the table of contents and appendices. In all other respects, the brief shall conform to

App.R. 16 and 19 and Loc. R. 16.1 and 19.1. No reply brief may be filed in an accelerated appeal unless ordered by the court.

(E) **Oral argument in an accelerated appeal.** App.R. 21 and Loc.R. 21.1 shall govern oral argument in an appeal placed on the accelerated calendar.

**RULE 12 [Reserved]**

**RULE 13.1 Filing and service—electronic-transmission filings**

(A) **Facsimile filings.** In conformity with App.R. 13, pleadings and other papers may be filed with the Hamilton County Clerk of Courts by facsimile transmission subject to the following conditions:

(1) **Definitions.** As used in this rule:

(a) Facsimile transmission—means the transmission of a source document by a facsimile machine that encodes a document into signals and transmits and reconstructs the signals to print a duplicate of the source document at the receiving end.

(b) Facsimile machine—means a machine that can send and receive a facsimile transmission either as a stand-alone device or as part of a computer system.

(c) Fax or faxes—is an abbreviation for facsimile and refers, as indicated by the context, to a facsimile transmission or to a document so transmitted.

(d) Source document—means the document transmitted to the court by facsimile machine/system.

(e) Effective-original document—means the facsimile copy of the source document received by the clerk of courts and maintained as the original document in the court's file.

(f) Effective date and time of filing—means the date and time the filing has been received as indicated at the top of each page of the incoming fax transmission as printed out by the clerk of courts facsimile equipment.

(2) **Application of rules and orders.** This local rule has been instituted solely for the convenience of those filing documents with the clerk of courts. Neither the clerk of courts nor the court assumes any new or additional responsibilities, obligations, or liabilities by virtue of this local rule, except as expressly provided for herein. Further, this local rule pertains only to the method of filing; it does not override, alter, amend, revoke, or otherwise change any local or appellate rule respecting the

requirements of any filings, such as obtaining the consent of parties or counsel or obtaining signatures or the authorization to sign for opposing counsel.

- (3) **Filings not accepted.** This rule authorizes the filing of facsimile transmissions of all pleadings, motions, and other documents not exceeding ten pages [see Loc.R. 13.1(A)(6)] that may otherwise be filed with the clerk of courts; except the following documents may not be filed by facsimile transmission:
- (a) any filing commencing an appeal or action (e.g., notice of appeal, notice of cross-appeal, or original action) for which the clerk of courts must collect an initial case deposit against costs or a specific filing fee; and
  - (b) briefs and/or records.
- (4) **Cover page.** The person filing a document by fax shall provide therewith a cover page containing the following information: (a) the case number; (b) the caption of the case; (c) the assigned judge (or indicate none); (d) a description of the documents being filed; (e) the date of transmission; (f) the transmitting fax number; and (g) an indication of the number of pages included in the transmission, including the cover page. If a document is sent by fax to the clerk of courts without the cover page information listed above, it will be deposited in the case jacket, but shall not be entered into the case docket and shall be considered to be a nullity and thereby stricken. The clerk of courts is not required to send any form of notice to the sender of a failed fax filing.
- (5) **Facsimile machine.** The telephone number of the facsimile machine available for receiving fax filings for the appellate division of the clerk of courts is 513-946-3744. These lines are available 24 hours a day, seven days a week. Fax filings may not be sent directly to the court for filing, but may only be transmitted directly through the facsimile equipment operated by the clerk of courts. Transmissions sent to any other location are not covered by or permitted under this local rule. Copies of filings otherwise properly filed with the clerk of courts, however, such as courtesy copies for the court, may be sent by facsimile directly to the court, but any such transmittals shall not be considered as having been filed thereby.
- (6) **Document restrictions.** A fax transmission, as referred to in this local rule, may contain more than one document, but may not apply to more than one case number per transmission. Motions and other filings making reference to or incorporating other documents attached to the motion or other filing as an exhibit thereof shall not be accepted for fax filings. Motions and other filings shall not exceed ten pages.

- (7) **Fees.** There are no additional costs or fees related to facsimile transmissions, except to the extent that the filings are taxed as costs to any case.
- (8) **Filing acceptance or rejection.** The clerk of courts is hereby authorized to reject any facsimile-transmission filing if the sender fails to provide the cover page required under Loc.R. 13.1(A)(4) or if the transmission contains a filing not acceptable under Loc.R. 13.1(A)(3).
- (9) **Date and time.** Subject to the other provisions of this local rule, all documents filed by fax shall be considered filed with the clerk of courts as of the date and time that the fax transmission has been received by the clerk of courts. For purposes of this provision and for entering such filings into the electronic case docket system, a facsimile filing shall be deemed to have been received by the clerk of courts as of the date and time printed at the top of each page of the incoming fax transmission as printed out by the clerk of courts facsimile equipment. There shall be no other date and time stamp required for the filing of a fax document with the clerk of courts. The risks of transmitting a document by fax to the clerk of courts shall be borne entirely by the sender. Anyone using a facsimile filing is urged to verify receipt of such filings by the clerk of courts through whatever technological means are then available, such as the activity register or report function of the transmitting equipment.
- (10) **Original filing.** A document filed by fax shall be accepted as the effective-original filing if the person sending the fax complies with all of the requirements set forth in this rule. The person making a fax filing need not file any source document with the clerk of courts. However, until the case is closed and all opportunities for postjudgment relief are exhausted, the filer must maintain in their records, and must have available for production on request by the court or clerk, the source document of any document filed by fax, with original signatures as otherwise required under the applicable rules, together with the original copy of the facsimile cover sheet used for the subject filing.
- (11) **Signatures.** Facsimile filings shall contain a signature or an /s/ notation, followed by the name of the person signing the source document.
- (B) **Internet electronic filings.** In conformity with App.R. 13, pleadings and other papers may be filed with the clerk of courts electronically via the internet, subject to the following conditions:
- (1) **Definitions.** As used in this rule:
- (a) Electronic filing—(e-filing or efile) means the process of transmitting a digitized source document electronically via the internet to the clerk of court’s office for the purpose of filing the document and refers, as indicated by the context, to the means of transmission or to a document so transmitted.

- (b) Electronic mail—(email or e-mail) means a message sent by a user and received by another through an electronic service system utilizing the public internet.
  - (c) Source document—means the document transmitted to the court via the internet.
  - (d) Original document—means the transmitted copy of the source document received by the clerk of courts and maintained in the court's file.
  - (e) Date and time of filing—means the date and time the filing has been received, as indicated on the sender's computer screen after the document has been uploaded to the clerk of courts, unless rejected and not corrected. (See Loc.R. 13.1[B][8].)
- (2) **Application of rules and orders.** Unless modified by approved stipulation or by order of the court or a judicial officer, all rules of procedure, local rules, and court orders shall continue to apply to documents electronically filed.
- (3) **Filings not accepted.** Any entry that must be signed by a judge of the court or any filing for which a party is obligated to settle final case costs will not be accepted for electronic filing.
- (4) **Account assignment.** Upon receipt of the properly executed and signed User Agreement Form and Credit Card Authorization Form and the deposit of required funds into the clerk's copy-cost account at the clerk of court's office, the clerk of courts shall set up an electronic-filer user account and assign a user-identification number and initial password to be used for electronically filing documents. Electronic filers using third-party electronic-filing providers will not be assigned a user-identification number or password and will not be required to maintain a copy-cost account.
- (5) **Hours of operation.** Electronic filings may be submitted at any time. The electronically filed document will be considered filed as of the date and time that the receiving device of the clerk of courts received the entire transmission. All electronically filed documents shall receive a confirmation date and time acknowledgement.
- (6) **Document format.** Documents submitted must be in a digitized format specified by the clerk of courts as set forth in the online Guide to Electronic Filing.
- (7) **Fees.** Normal filing fees and case deposits will be collected via user credit card at the time the filing is processed by the clerk of courts. Copy costs will be charged against the copy-cost account at the time the filing is

processed by the clerk of courts. Filings made using third-party electronic-filing providers will be charged copy costs via credit card at the time the filing is processed by the clerk of courts. The clerk of courts will, from time to time, establish and publicize the rules and regulations governing the requirements for maintaining the copy-cost accounts.

- (8) **Filing acceptance or rejection cycle.** A confirmation number will be assigned to each filing when it is received in its entirety by the receiving device of the clerk of courts. The confirmation number and the date and time of the filing will be displayed on the screen of the filer's computer upon successful transmission of the filing. Filers using third-party electronic-filing providers will not have the confirmation number and date and time of filing displayed on the screen, but must wait for the confirmation electronic-mail message from the clerk of courts to obtain the confirmation number and date and time of filing. Upon successful processing of the filing by the clerk of courts, an electronic-mail message containing the confirmation number and case number assigned, if any, will be sent to the filer. Filers will be notified via electronic mail if the filing is rejected for any reason. A rejected filing may be resubmitted via electronic mail to the clerk of courts in order to retain the original date and time of filing. Rejected filings which are resubmitted via electronic mail must be received by the clerk of courts within 24 hours of the time that the rejection electronic-mail message was sent by the clerk of courts in order to retain the original date and time of filing and confirmation number. A corrective filing may, however, be sent at a later time if the filer elects to do so, but after the 24-hour period expires, such a filing will be considered a new filing and the prior confirmation will have expired.
- (9) **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. [See Loc.R. 13.1(B)(8)]
- (10) **Disposition and maintenance of source documents.** A document electronically filed shall be accepted as the original filing if the person filing electronically complies with all of the requirements set forth in this rule. The person filing electronically need not file any copy with the clerk of courts, but must maintain in his or her records, and have available for production on request by the court, the clerk of courts, or other counsel, the source copy of any document electronically filed. The filer must maintain this source document until the final disposition of the case and through any appeal period.
- (11) **Public method of access to electronically filed public documents.** Members of the public can obtain copies of or review electronically filed

documents in the same manner as documents filed on paper. Public access to electronically filed public documents will be available via the internet website of the clerk of courts as soon as the clerk of courts has processed the document. If internet website access is unavailable or is not provided by the clerk of courts, or if the clerk of courts is prohibited by the court or by any law from making the document available via the internet website, the document will be available at one or more offices of the clerk of courts, either by computer terminal or in paper form in the case jacket or on microfilm. However, if a document or case record is sealed or expunged, it is unavailable for public disclosure.

- (12) **Operating procedures and instructions.** The clerk of courts is authorized to prepare and maintain operating procedures and instructions for electronic filing.

**RULE 14 [Reserved]**

**RULE 15.1. Motions—content; copies; opposing memorandum; determination**

- (A) **Content of motion; copies.** A motion seeking an order or other relief shall be accompanied by an entry granting the relief sought. If the motion seeks substantive relief, the movant shall file an original and three copies of the motion. If the motion seeks only a procedural order, the movant shall file an original and one copy of the motion.
- (B) **Opposing memorandum.** A memorandum opposing a motion seeking substantive relief may be filed within ten days after the filing of the motion. A memorandum opposing a motion seeking only a procedural order may be filed only by leave of the court.
- (C) **Determination of motion for substantive relief.** A panel of three judges shall decide a motion seeking substantive relief. A single judge of the panel or the presiding judge shall endorse the entry granting or overruling the motion.
- (D) **Determination of motion for procedural order.** The presiding judge or a single judge acting for the presiding judge may decide a motion seeking only a procedural order and shall endorse the entry granting or overruling the motion.

**RULE 16.1 Briefs**

- (A) **Contents.** The briefs shall follow the format set forth in this rule, in App.R. 16, and in Loc.R. 16.2. The court shall strike a brief that does not substantially comply with these rules.

- (1) **Table of Contents, Table of Cases, Assignments of Error, and Issues Presented for Review.** 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. Under each assignment of error, the brief shall list as indented numbered subparagraphs the issues presented for review for the assignment of error. Under each issue presented for review, the brief shall list alphabetically, in a further indented subparagraph, 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.
- (2) **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:
  - (a) **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.
  - (b) **Procedural posture.** The procedural posture shall state the relevant procedural events leading to the action of the trial court appealed and shall contain references to the relevant parts of the record.
  - (c) **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.
- (3) **Argument.** Consistent with App.R. 16(A)(7), 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." An assignment of error shall not be stated as a "proposition of law" as contemplated by S.Ct.Prac.R. VI(2)(B)(4). 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. An issue presented for review may be stated in the manner of a

“proposition of law” as contemplated by S.Ct.Prac.R. VI(2)(B)(4), but shall be designated as an “Issue 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. Citations to authorities shall include any relevant decision of the court, the Supreme Court of Ohio, the United States Supreme Court, or the United States Court of Appeals for the Sixth Circuit.

(4) **Conclusion.** Consistent with App.R. 16(A)(8), the conclusion shall briefly summarize the argument and shall precisely state the relief sought on appeal.

(5) **Certificate of Service.**

(6) **Attachments.** The following shall be attached to the brief:

(a) **Final order.** The appellant shall attach to the brief a copy of the final order from which the appeal was taken, along with any supporting opinion, decision, or findings of fact and conclusions of law.

(b) **Opinion or decision not available in electronic format.** If an opinion or decision cited as authority in the brief is not available in electronic format, a copy shall be attached to the brief, and the brief shall indicate the status of any subsequent disposition of the case. An opinion or decision that is available in electronic format shall not be attached to a brief.

(B) **Brief of the appellee.** The appellee may recast the appellant’s issues presented for review in a manner that supports the appellee’s argument on appeal.

(C) **Reply brief.** An appellant may file a reply brief only in an appeal placed on the regular calendar. A reply brief shall be confined in content to rebutting the appellee’s brief.

(D) **References in briefs to the record.** A reference in a brief to a transcript of proceedings shall be abbreviated “T.p.,” followed by the relevant page number, e.g., “T.p. 25.” A reference to the transcript of the docket, journal entries, and

original papers shall be abbreviated as “T.d.,” followed by the document number assigned by the clerk of courts, e.g., “T.d. 10.” A reference to a page in a multipage document included in the transcript of the docket, journal entries, and original papers shall be made to the document number, followed by “at” and the relevant page number, e.g., “T.d. 10 at 50.”

- (E) **Reproduction of statutes, rules, regulations.** In addition to the attachments required by Loc.R. 16.1(A)(VI), a party may append to the brief a copy of a constitutional provision, statute, ordinance, rule, regulation, or other authority under Civ.R. 44.1 that is dispositive of an assignment of error.
- (F) **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/ROD/>.
- (G) **References in briefs to the parties.** When referring to a party to an appeal, a brief shall use the party’s name or a descriptive term rather than “appellant” or “appellee.”

## **RULE 16.2 Briefs—no-error briefs**

- (A) **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.
- (B) **Contents of a no-error brief.** A no-error brief shall not contain assignments of error and shall contain the following:
  - (1) 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.
  - (2) A request that the court independently examine the record to determine if it discloses an issue of arguable merit prejudicial to the defendant.
  - (3) Reference to any part of the record that might arguably support the appeal.
- (C) **Appellant’s issues.** Before filing a no-error brief, counsel shall communicate with the appellant concerning any issues that the appellant wants counsel to raise on appeal. Counsel shall do all of the following:
  - (1) Notify the appellant in writing that counsel intends to file a no-error brief, and that the appellant should communicate to counsel in writing any issues that the appellant wants counsel to raise on appeal.

- (2) Review the appellant's issues to determine whether the appeal remains wholly frivolous.
  - (a) If counsel's review of the appellant's issues confirms that the appeal is wholly frivolous and counsel has not yet filed a no-error brief, counsel shall append the issues to the no-error brief.
  - (b) If counsel's review of the appellant's issues confirms that the appeal is wholly frivolous and counsel has already filed a no-error brief, counsel shall file with the court a motion for leave to amend the no-error brief to append the issues to the brief.
  - (c) If counsel's review of the appellant's issues discloses an issue of arguable merit and counsel has not yet filed a no-error brief, counsel shall file a merit brief presenting the issue as an assignment of error consistent with App.R. 12.
  - (d) If counsel's review of the appellant's issues discloses an issue of arguable merit and counsel has already filed a no-error brief, counsel shall file with the court a motion for leave to amend the no-error brief to substitute a merit brief presenting the issue as an assignment of error consistent with App.R. 12.

(D) **Filing a no-error brief.** When filing a no-error brief, appointed counsel shall do all of the following:

- (1) **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) Asked the appellant to communicate to counsel in writing any issue that the appellant wants counsel to raise on appeal.
- (2) **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.
- (3) **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.

(E) **Determination of a no-error appeal.** The court shall strike any document styled as an appellate brief or raising an assignment of error, when the document is filed by an appellant who is represented by counsel. The court shall not treat as an assignment of error or decide any issue appended to a no-error brief.

**RULE 17 [Reserved]**

**RULE 18.1 Filing and service of briefs—time for filing and serving briefs; copies**

(A) **Time for filing and serving briefs.** The court shall issue a scheduling order for filing and serving a brief. The court may extend the time for filing and serving a brief upon motion and a showing of good cause. If the court grants the appellant an extension of time to file the appellant's brief, the appellee shall, without further order of the court, file and serve the appellee's brief within 30 days after the appellant's brief was served.

This division shall not apply to an expedited appeal under App.R. 11.2.

(B) **Number of copies to be filed and served.** A party shall file an original and three copies of a brief. The original brief shall be unbound and without dividers or tabs. The three copies of the brief shall be bound along the left margin. When staples are used to bind the brief, the staples shall be covered to ensure that they do not protrude from the back of the brief.

This division shall not apply to briefs filed electronically under Loc.R. 13.1(B).

**RULE 19.1 Form of briefs and other pleadings**

(A) **Length of briefs**

(1) **Length of briefs—regular calendar.** A brief filed by an appellant or by an appellee shall not exceed 35 pages in length, excluding the table of contents and appendices. A reply brief shall not exceed ten pages in length, excluding the table of contents and appendices. The court may permit a brief exceeding these page limits upon good cause shown in a written motion filed within the time provided for filing the brief.

(2) **Length of briefs—accelerated calendar.** A brief filed in an appeal placed on the accelerated calendar shall not exceed 15 pages in the length as prescribed by Loc.R. 11.1.1.

(B) **Handwritten pleadings and briefs.** Every original document filed with the Court shall be typewritten or prepared by a word processor or other standard typographic process. A handwritten document may only be accepted for filing in an emergency, provided the document is legible. As to briefs, a handwritten brief will only be permitted by leave of court.

### **RULE 20.1 Prehearing conference; settlement conference**

- (A) **Prehearing conference.** The court may set an appeal for a prehearing conference to consider matters that might aid the court in disposing of the appeal, including (1) the court's jurisdiction, (2) the record to be filed, (3) the time needed to prepare the record, (4) the time needed for briefing, (5) the assignments of error and issues to be presented, and (6) the relevant case law.
- (B) **Settlement conference.** The court may also set a settlement conference to explore resolving the parties' dispute.

### **RULE 21.1. Oral argument—no argument; time allowed**

- (A) **Oral argument not permitted.** 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:
- (1) An incarcerated appellant is representing himself;
  - (2) Appellant's counsel has filed a no-error brief under the procedure set forth in Loc.R. 16.2; or
  - (3) The court has determined that oral argument is unnecessary.
- (B) **Time allowed for oral argument.** Oral argument shall be limited to 15 minutes per side. 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. If the court enlarges the time for oral argument, it shall notify counsel or the party, if unrepresented, of the time set.
- (C) **Order and content of oral argument; waiver.** With leave of court, counsel or the party, if unrepresented, may waive oral argument, but the court will hear argument from other counsel or the party, if unrepresented. A request to waive oral argument may be made no earlier than 30 days, but no later than three days, before the date set for oral argument.

### **RULE 21.2. Oral argument—courtroom decorum**

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 the court.

### **RULE 21.3 Oral argument—real or demonstrative evidence**

During oral argument, no party shall display real or demonstrative evidence that is contained in the record certified for review, or a reproduction of that evidence that is substantially similar to the evidence itself, unless authorized by the court upon a motion filed no later than seven days before the date set for oral argument.

**RULE 22 [Reserved]**

**RULE 23 [Reserved]**

**RULE 24 [Reserved]**

**RULE 25 [Reserved]**

**RULE 26 [Reserved]**

**RULE 27 [Reserved]**

**RULE 28 [Reserved]**

**RULE 29 [Reserved]**

**RULE 30 [Reserved]**

**RULE 31 [Reserved]**

**RULE 32 [Reserved]**

### **RULE 33.1 Original actions—costs deposit**

(A) **Costs deposit required.** To secure the costs of an original action in mandamus, prohibition, procedendo, quo warranto, or habeas corpus, or to secure the costs of subpoenaing a witness in a habeas corpus action, the petitioner shall, with the petition or the praecipe for subpoena, deposit with the clerk of courts the amount set by the clerk.

(B) **Costs deposit not required.** The clerk of courts shall receive and file a petition, or shall subpoena a witness without secured costs, if the petitioner or the party seeking the witness's attendance files with the clerk of courts an affidavit attesting to the inability to secure costs. An affidavit attesting to the inability to secure costs filed by an inmate of a state correctional institution shall also be accompanied by a certificate of the superintendent or other appropriate officer of the institution, demonstrating that the inmate does not have sufficient funds on deposit with the institution to secure costs.

### **RULE 33.2 Original actions—evidence**

In an original action, the court will not hear oral testimony. To facilitate the consideration and disposition of original actions, counsel, when possible, should submit an agreed statement of facts. All other evidence shall be submitted by affidavits, stipulations, depositions, and exhibits. Affidavits shall be made on personal knowledge, setting forth facts admissible in evidence, and showing affirmatively that the affiant is competent to testify to all matters stated in the affidavit. Sworn or certified copies of all papers or parts of papers referred to in an affidavit shall be attached.

### **RULE 33.3 Original actions—courtroom decorum**

During argument in an original action, no person present in the courtroom shall operate a cellular telephone or any other electronic communication or entertainment device without prior approval of the court.

**RULE 34 [Reserved]**

**RULE 35 [Reserved]**

**RULE 36 [Reserved]**

**RULE 37 [Reserved]**

**RULE 38 [Reserved]**

**RULE 39 [Reserved]**

**RULE 40 [Reserved]**

### **RULE 41.1 Rules of courts of appeals—adoption of local rules**

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, the court shall give appropriate notice and afford an opportunity for comment by publishing the local rule for 30 days in the local legal newspaper. 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.

**RULE 42.1 Title**

These rules shall be known as the local rules of the Court of Appeals, First Appellate District of Ohio, and shall be cited as “Loc.R. \_\_\_\_ of the Court of Appeals, First Appellate District of Ohio.”

**RULE 43.1 Effective date**

These rules shall take effect on October 1, 2010.