# ELEVENTH APPELLATE DISTRICT
# LOCAL RULES

## TITLE I
## APPLICABILITY OF RULES


Rule
1 Applicable Rules
(A) Appeals
(B) Original Actions
2 [Reserved]


## TITLE II
## APPEALS FROM JUDGMENTS AND ORDERS OF COURTS OF RECORD / ORIGINAL ACTIONS


3 Notice of Appeal; Costs Deposits; Multiple Appeals
(A) Notice of Appeal
(B) Costs Deposits of Appeals and Original Actions
(C) Multiple Appeals
(D) Cross-Appeals
3.1 Counsel
(A) Designation of Counsel
(B) Appointment of Counsel
(C) Notice of Appearance/Substitution of Counsel/Co-Counsel
(D) Withdrawal of Counsel
(E) Selection of Counsel/List of Attorneys
(F) Application for Appointed Counsel Fees
(G) County Fee Schedule
(H) Admission Pro Hac Vice
4 Appeal as of Right - When Taken
5 Appeals by Leave of Court
6 Concurrent Jurisdiction in Criminal Actions
7 Stay or Injunction Pending Appeal – Civil and Juvenile Actions
(A) Filing
(B) Duties of the Clerk
(C) Contents of Motion
(D) Response to the Motion
8 Bail and Suspension of Execution of Sentence in Criminal Cases
9 The Record on Appeal - Transcript of Proceedings
(A) Format and Compliance Requirements
(B) Filing Requirements
(C) Electronic Transcript Requirements
(D) Exceptions
10 Transmission of the Record
(A) Extension by the Trial Court
(B) Extension by the Court of Appeals

(C) Responsibility for Filing Transcript of Proceedings
(D) Extension of Time for Briefs
(E) Transmission of Papers to the Court
11 Docketing the Appeal; Filing of the Record
11.1 Accelerated Calendar
(A) Accelerated Calendar Adopted
(B) Assignment to the Accelerated Calendar
(C) Removal from the Accelerated Calendar
(D) Record
(E) Accelerated Calendar Briefs
(F) Oral Argument
(G) Accelerated Decisions
11.2 Expedited Appeals
(A) Priority of Ohio App.R. 11.2 Appeals
(B) Adoption and Parental Rights Appeals
(C) Other Priority Appeals
11.3 Criminal Appeals Involving Denial of Pretrial Bail
(A) Priority
(B) Duties of the Clerk
(C) Record
(D) Briefs
(E) Oral Argument
12 Determination and Judgment on Appeal - Waiver of Assigned Errors

## TITLE III
## GENERAL PROVISIONS

13 Filing and Service
(A) Filings Documents
(B) Signatures of Parties or Counsel
(C) Electronic Filing
14 Computation and Extension of Time
15 Motions
(A) Number of Copies
(B) Responsive Submissions
16 Briefs
(A) Content of Briefs
(B) Substance of Briefs
(C) Length of Briefs
(D) Failure to Comply
(E) No-Merit Briefs in Criminal Cases
17 Brief of an Amicus Curiae
18 Filing and Service of Briefs
(A) Briefing Schedule on Appeal
(B) Briefing Schedule on Cross-Appeal
(C) Briefing Schedule on Accelerated Calendar

19 Form of Briefs and Other Papers
(A) Form
(B) Reference to the Record
(C) Personal and Private Information
20 Prehearing Conference; Mediation
(A) Prehearing Conference and Mediation Scheduling
(B) Purposes and Procedure of Prehearing Conference and Mediation
(C) Privilege and Confidentiality
(D) Judgment Entry
(E) Noncompliance Sanctions
21 Oral Argument
(A) Requests for Oral Argument Required
(B) Location for Oral Argument
(C) Notice
(D) Time Allowed for Argument
(E) Courtroom Decorum
(F) Supplemental Authority
(G) Recordings of Oral Arguments
(H) Broadcasting and Photographing Court Proceedings by Media
22 Entry of Judgment Entries/Orders
(A) Filing
(B) Signature
23 Damages of Delay
24 Costs
25 Motion to Certify a Conflict
26 Application for Reconsideration; Application for En Banc Consideration; Application for Reopening
27 Execution, Mandate
28 Voluntary Dismissal
29 Substitution of Parties
30 Duties of Clerks
31 Failure to Prosecute
32 [Reserved]
33 [Reserved]
34 Appointment of Magistrates
35 [Reserved]
36 [Reserved]
37 [Reserved]
38 [Reserved]
39 [Reserved]
40 [Reserved]
41 Rules of Courts of Appeals
42 [Reserved]
43 Effective Date

## ADMINISTRATIVE RULES


101 Original Actions
- (A) How Instituted
- (B) Dispositive Motions
- (C) Evidence in Original Actions
- (D) Reference to Magistrate
- (E) Original Actions Relating to Elections
- (F) Enlargement or Reduction of Time

102 Transcript of Proceedings of Appellate Evidential Hearings

103 Court Security
- (A) Weapons Prohibited
- (B) Exceptions

104 Presiding Judge

105 Administrative Judge

106 Court Technology Plan


## APPENDIX OF FORMS


A. Notice of Appeal

B. Docketing Statement

C. Instructions for Service of Notice of Appeal

# TITLE I
# APPLICABILITY OF RULES

## RULE 1. APPLICABLE RULES

**(A) Appeals.** The Ohio Rules of Appellate Procedure shall govern procedure in appeals to this court unless otherwise stated or supplemented herein.

**(B) Original Actions.** The Ohio Rules of Civil Procedure shall govern procedure in original actions filed in this court unless otherwise stated or supplemented herein.

## RULE 2. [Reserved]

# TITLE II
# APPEALS FROM JUDGMENTS AND ORDERS OF COURTS OF RECORD / ORIGINAL ACTIONS

## RULE 3. NOTICE OF APPEAL; COSTS DEPOSITS; MULTIPLE APPEALS

**(A) Notice of Appeal.** A sample Notice of Appeal form containing the required information in accordance with this rule is set forth in Appendix A. This court's Docketing Statement in accordance with this rule is set forth in Appendix B.

**(1) Transcript Information.** At the time of filing the Notice of Appeal, the appellant shall designate on the Notice of Appeal whether a complete or a partial transcript of the trial proceedings has been ordered, or whether appellant intends to file a statement pursuant to Ohio App.R. 9(C) or (D) in lieu of a transcript, or whether no transcript or statement pursuant to either Ohio App.R. 9(C) or (D) will be filed.

**(2) Judgment Entries Being Appealed.** The appellant shall attach to the Notice of Appeal, a copy of the judgment entry or entries being appealed.

**(3) Docketing Statement.** The Clerk of Courts will provide Docketing Statement forms as prescribed by this court. The clerk of the trial court shall transmit a copy of the Docketing Statement with the Notice of Appeal to the clerk for the Court of Appeals and to appellee. The purpose of the Docketing Statement is to determine whether an appeal will be assigned to the accelerated calendar or the regular calendar.

**(4) Amending the Notice of Appeal.** A motion for leave to file an Amended Notice of Appeal shall accompany any Amended Notice of Appeal when leave is required pursuant to Ohio App.R. 3(F).

**(B) Costs Deposits of Appeals and Original Actions.**

The deposit as security for the payment of costs due on the filing of any notice of appeal or original action (mandamus, prohibition, procedendo, quo warranto, and habeas corpus) is hereby set at the sum of $150. Failure to make the required deposit shall be grounds for dismissal of the appeal. Subpoenas will not be issued in an original action unless a security deposit in the amount of $20 per witness is deposited with the clerk.

If the party bringing the appeal or original action, or the party seeking the attendance of witnesses, files with the clerk a sworn affidavit of inability to secure costs by prepayment, the clerk shall receive and file the appeal or the complaint or subpoena of witnesses without security deposits. The court reserves the right to require further verification of the party's indigent status.

**(C) Multiple Appeals.**

**(1) Notice of Appeal.** A separate Notice of Appeal shall be filed in the trial court for each case number listed on the appealed entry and for each subdivision of the trial court case number, whether or not the cases were consolidated in the trial court. All trial court case numbers shall be listed on the Notice of Appeal.

**(2) Transcript of Proceedings.** In the event that two or more cases were heard together in the trial court but not consolidated therein and such cases have been appealed to this court, on application to and with leave of this court, a single transcript of proceedings may be filed.

**(3) Consolidation of Appeals.** The court, at its discretion or upon motion, may consolidate cases. In the event that two or more cases are consolidated by this court, any filings submitted to this court shall include all consolidated case numbers. A single set of briefs shall be filed for all consolidated cases, and the assignments of error and arguments shall be sufficiently defined as to which case, or cases, they pertain.

**(4) Costs.** Separate Notices of Appeal filed for each case number listed on the appealed entry and for each subdivision of the trial court case number require only a single cost deposit pursuant to Loc.R. 3(B)(1) of the Eleventh District Court of Appeals.

**(D) Cross-Appeals.** Where two or more Notices of Appeal are filed in the same cause and the parties filing the Notices of Appeal are opposing each other, the party filing the appeal later in time (Ohio App.R. 4[B]), shall caption the Notice of Appeal as a Notice of Cross-Appeal.

**RULE 3.1 COUNSEL**

**(A) Designation of Counsel.**

Every Notice of Appeal, pleading, motion and brief shall have typed or printed thereon the name, address, telephone number, fax number, e-mail address, if available, and registration number of counsel filing the appeal (or the party, if not represented by counsel); when counsel is a firm, whether partnership or corporate, a particular attorney within the firm having primary responsibility for the case shall also be indicated.

Counsel or the party shall alert the court to any change in address or telephone number by adding the phrase "New Address" or "New Telephone Number" to indicate the change. This shall be done under the first designation of counsel.

In an appeal when there are multiple parties in the underlying action in the trial court, and when the appeal is taken as to less than all those parties in the

underlying action, counsel for appellant shall designate in the Notice of Appeal which of those parties are to be served as appellees.

When the appeal is taken as to all adverse parties in the underlying action, appellant shall include the names and addresses of all such parties or their counsel to be served with a copy of the Notice of Appeal pursuant to Ohio Civ.R. 5.

Pursuant to Ohio Civ.R. 5 and Ohio App.R. 3(E), service shall be made by the Clerk of Courts on all parties or their counsel.

**(B) Appointment of Counsel for Indigent Parties.** A copy of the Financial Disclosure/Affidavit of Indigency of the client shall be attached to all motions for appointment of counsel and for transcripts of proceedings at state's expense in those cases where applicable.

**(C) Notice of Appearance/Substitution of Counsel/Co-Counsel.**

**(1)** Any new attorney representing a party on appeal, or substituting for another attorney on appeal, shall file a notice of appearance as counsel with this court.

**(2)** Any additional counsel shall file a notice of appearance as co-counsel with this court.

**(D) Withdrawal of Counsel.**

**(1)** If counsel desires to withdraw from any action before this court, counsel shall submit a motion to withdraw showing: (1) good cause; (2) proof of service of the motion upon the client and opposing counsel; and (3) the name, address, and telephone number of substitute counsel or, if none, that of the client.

**(2)** If court-appointed counsel desires to withdraw from any action before this court, counsel shall submit a motion to withdraw citing the specific reason(s) for the withdrawal.

**(3)** Counsel appointed to represent an indigent party in a criminal matter will not be permitted to withdraw on the grounds that an appeal is frivolous.

**(E) Selection of Counsel/List of Attorneys.**

**(1)** The court shall maintain a list of qualified attorneys who have notified the court of their desire to be placed on the Court-Appointed List.

**(2)** In selecting an attorney from this list for an individual case, the court may consider the skill, expertise, and/or geographical location of the attorney.

Appointments will be reviewed annually to ensure an equitable distribution. Attorneys on the list may be added or removed at the court's discretion.

**(F) Application for Appointed Counsel Fees.** Applications for appointed counsel fees on appeal shall be completed on the form prescribed by the Ohio Public Defender Commission. Such applications shall have appended a copy of the Financial Disclosure/Affidavit of Indigency of the client and a time-stamped copy of the entry of appointment of counsel. Such applications shall be filed with the clerk of courts no earlier than the date this court's decision has been journalized nor later than 30 days thereafter.

**(G) County Fee Schedule.** The rate of compensation for appointed counsel shall be set by the county commissioners in each of the individual counties in the Eleventh District.

**(H) Admission Pro Hac Vice.**

**(1)** This court may permit any out of state attorney who is admitted to practice in the highest court of a state, commonwealth, territory, or possession of the United States or the District of Columbia, or who is admitted to practice in the courts of a foreign state and is in good standing, to appear pro hac vice and file pleadings, memoranda, briefs, or other documents or participate in oral argument before the court.

**(2)** An attorney is eligible to be granted permission to appear pro hac vice upon motion filed with the court only after compliance with the requirements of Gov. Bar R. XII. The motion shall be filed immediately after the filing of a Notice of Appeal if possible. The court may withdraw admission pro hac vice at any stage of the proceedings.

## RULE 4. APPEALS AS OF RIGHT - WHEN TAKEN

See App.R. 4.

## RULE 5. APPEALS BY LEAVE OF COURT

See App.R. 5.

## RULE 6. CONCURRENT JURISDICTION IN CRIMINAL ACTIONS

See App.R 6.

## RULE 7. STAY OR INJUNCTION PENDING APPEAL – CIVIL AND JUVENILE ACTIONS

**(A) Filing.**

**(1)** Any application or request to stay the execution of an appealed judgment shall be made in the form of a motion to this court. In addition to filing such motion with the clerk of courts, the moving party shall immediately serve the motion upon the opposing counsel or party in accordance with Ohio Civ.R. 5.

**(2)** If the moving party can demonstrate the existence of exigent circumstances, the court may ex parte grant a temporary stay until the opposing side can file a response and a final determination can be rendered on the motion. If the moving party specifically requests in the stay motion that a temporary stay be granted before the opposing counsel or party can respond, the stay motion shall be accompanied by an affidavit in which the moving party or counsel explains: (1) the nature of the exigent circumstances; and (2) the efforts which have been made to give the opposing counsel or party notice of the request.

**(B) Duties of the Clerk.**

**(1) Transmission of Motion.** Immediately upon the filing of the motion, the clerk shall transmit the motion to the court at its headquarters in Warren, Ohio by fax, e-mail, or other electronic format.

**(2) Transmission of Order or Judgment Entry.** The Court of Appeals shall transmit any order or judgment entry to the Court of Appeals' clerk by fax, e-mail, or other electronic format which shall constitute an original, and upon receipt, the clerk shall immediately docket and journalize the entry pursuant to Loc.R. 3(F).

**(3) Notice of Order or Judgment.** Immediately upon the entry of judgment or order, the clerk shall comply with Ohio App.R. 30(A), and the clerk shall transmit a time-stamped copy of the order by fax, e-mail, or other electronic format to the parties or their counsel of record, the court, and any other persons or entities affected by the order, including, but not limited to, a county sheriff.

**(C) Contents of Motion.** Any motion to stay shall be accompanied by a memorandum which discusses the relevant factors concerning: (1) whether the stay should be granted; and (2) whether the posting of a supersedeas bond should be required. In addition, any motion to stay shall be accompanied by a copy of the trial court's judgment in which it overruled or denied a request to stay the appealed judgment. The failure of the moving party to satisfy the foregoing requirements may result in the sua sponte denial of the motion to stay.

**(D) Response to the Motion.** The response of the opposing party to the motion to stay shall be filed within seven days from the filing of the motion. This court, within its discretion, can either extend or shorten the period for the filing of the response. The response shall consist of a memorandum which discusses the relevant factors pertaining to the two issues cited in subsection (C) of this rule. Even if the moving party fails to discuss both issues in the memorandum accompanying the motion, the opposing party still has an obligation to discuss both issues. The granting of a temporary stay by this court does not relieve the opposing party of its obligation to submit a response to the motion, since a final decision on the motion still must be made.

## RULE 8. BAIL AND SUSPENSION OF EXECUTION OF SENTENCE IN CRIMINAL CASES

**Contents of Motion.**

Any motion to stay shall be accompanied by a memorandum which discusses the relevant factors concerning: (1) whether the stay should be granted; and (2) whether the posting of a supersedeas bond should be required.

If the motion to stay pertains to a criminal conviction, the moving party's memorandum in support shall also contain the following: (1) a statement of the specific offenses of which the appellant was found guilty; (2) a general statement of the facts upon which the conviction was based; (3) a brief statement of any claimed error and why there is a reasonable chance of success on appeal; (4) a statement of all criminal charges which are presently pending against the appellant in other actions; (5) a statement of the appellant's prior convictions; (6) a statement of appellant's ties to the local community, including any family ties and any employment; and (7) a statement of the bail, if any, the appellant was required to post while the case was pending before the trial court. To the extent that the moving party fails to address any of the foregoing, or if the opposing party contests the truthfulness of the information provided by the moving party, the opposing party should also address the foregoing in its response.

In addition, any motion to stay shall be accompanied by a copy of the trial court's judgment in which it overruled or denied a request to stay the appealed judgment.

The failure of the moving party to satisfy the foregoing requirements may result in the sua sponte denial of the motion to stay.

## RULE 9. THE RECORD ON APPEAL – TRANSCRIPT OF PROCEEDINGS

**(A) Format and Compliance Requirements.**

**(1)** Any transcript of proceedings submitted to this court as part of the record on appeal pursuant to Ohio App.R. 9 shall be in the form set forth in Ohio

App.R. 9(B)(1) through (6). Failure to comply may result in the transcript being stricken from the record on appeal.

**(2)** The formatting and page and line content shall be identical between the paper and electronic versions of any transcript filed.

**(B) Filing Requirements.**

**(1) Filing Options**.

**(a)** The court reporter may, in his or her discretion, file the transcript with the clerk of courts either in paper format or electronically.

**(b)** Each paper transcript shall include a comprehensive index of the proceedings.

**(c)** If filed in paper format, the transcript must bear the original certification of the court reporter attesting to its completeness and accuracy.

**(2) Mandatory Electronic Submission to Court**.

**(a)** Regardless of the filing method chosen for submission to the clerk of courts, the court reporter shall email an electronic copy of the transcript directly to the Court of Appeals at eTranscripts@11thAppealOhio.us.

**(b)** The subject line of the email shall include the case number, case name, and date of filing with the clerk.

**(C) Electronic Transcript Requirements.**

**(1) Format and Features**.

**(a)** All electronic transcripts shall be in a searchable format that permits text recognition and searching, and shall be in Microsoft Word or PDF format.

**(b)** Each electronic transcript shall include a comprehensive index of the proceedings.

**(2) Certification and Security**.

**(a)** All electronic transcripts shall bear the court reporter's digital certification attesting to the completeness and accuracy of the transcript.

**(b)** Court reporters shall utilize digital signature technology that ensures the document cannot be altered once certified.

**(c)** The digital signature shall be applied using secure technology that provides a visible indication of certification and tamper-evident protection.

**(D) Exceptions.** Requests for exceptions to these requirements due to extraordinary circumstances shall be made by written motion to the court and will be considered on a case-by-case basis.

## RULE 10. TRANSMISSION OF THE RECORD

**(A) Extension by the Trial Court.** With the exception of Ohio App.R. 11.2 appeals, the trial court shall limit its extension of time for transmitting the record on appeal to the Clerk for the Court of Appeals pursuant to Ohio App.R. 10 to a total extension of time of no more than 30 days so that the time as extended will in no event extend beyond the 70th day after the filing of the Notice of Appeal. The trial court shall set forth in any entry extending the time for transmitting the record on appeal the factual findings constituting good cause for such extension. No extension by the trial court beyond the seventieth day after filing the Notice of Appeal will be recognized by this court. Extensions for transmission of the record in Ohio App.R. 11.2 appeals shall be granted only by this court.

**(B) Extension by the Court of Appeals.**

The court reporter's affidavit listing all Court of Appeals transcripts currently being worked on, when ordered, number of pages, and estimate as to completion shall be attached to motions for extension of the time for transmitting the record on appeal.

When extensions are requested, the request should be made for an extension to file the record, not for the transcript of proceedings only.

**(C) Responsibility for Filing Transcript of Proceedings.** Counsel or the appellant, and not the court reporter, has the sole responsibility for filing the transcript of proceedings and/or requesting timely extensions for the record.

**(D) Extension of Time for Briefs.** A request for an extension of time to file briefs due to the fact that the court reporter has not completed the transcript of proceedings will not be granted by this court unless accompanied by the court reporter's affidavit stating an estimate as to completion, listing all Court of Appeals transcripts currently being worked on, when ordered, the number of pages, and estimate as to completion for each.

**(E) Transmission of Papers to the Court.** When a Notice of Appeal has been filed in a particular case, the entire trial court record, including the transcript of

proceedings, becomes subject to the exclusive direction and control of the Court of Appeals. With a filing of the notice, any existing authority to allow removal of the transcript of the proceedings from the clerk of courts' office is automatically superseded by the authority of the Court of Appeals. Permission for removal of the transcript may be granted upon application on a form provided and approved by the judges of this court. Any removal permitted shall be conditioned upon the return of the transcript within 14 days from the date of removal or 14 days before the date set for oral argument, whichever is earlier. Copying and disassembling of a transcript filed with the Court of Appeals is prohibited. Failure to comply with this rule may result in the issuance of a citation for contempt of court.

The Court of Appeals reserves the right to limit or restrict access to all items of record in its possession in order to preserve the proper chain of custody and maintain the evidential integrity of the record and its contents.

## RULE 11. DOCKETING THE APPEAL; FILING OF THE RECORD

The docketing of the appeal and filing of the record shall be executed in accordance with App.R. 11.

## RULE 11.1 ACCELERATED CALENDAR

**(A) Accelerated Calendar Adopted.** Pursuant to Ohio App.R. 11.1, this court adopts an accelerated calendar.

**(B) Assignment to the Accelerated Calendar.** Based upon a review of the Docketing Statement and pursuant to Ohio App.R. 3(G), this court may issue an Accelerated Calendar Notice accelerating the appeal. An unexcused failure of the appellant to meet the schedule as set forth in Ohio App.R. 11.1 may result in a dismissal of the appeal sua sponte and without notice. If the appellee fails to file his brief within the time provided by Ohio App.R. 11.1, appellee will not be heard at oral argument except by permission of the court upon a showing of good cause submitted in writing ten days prior to argument. The court may assign an appeal to the accelerated or regular calendar at any stage of the proceedings.

**(C) Removal from the Accelerated Calendar.** Counsel for the appellant or appellee may, within seven days from the time-stamped date of the notice placing the case on the accelerated calendar, file a motion requesting that the appeal be removed from the accelerated calendar. This motion shall set forth good cause for removal and shall be granted if good cause is shown.

**(D) Record.** The trial court record, including the transcript of proceedings, shall be filed with the Clerk for the Court of Appeals when the record is complete for the purposes of the appeal or when 20 days have elapsed after the filing of the Notice of Appeal.

**(E) Accelerated Calendar Briefs.** All briefs filed in a case that has been accelerated shall conform to local rules of this court as to form and content, and shall not exceed 15 pages, excluding Table of Contents, Assignments of Error, Certificate of Service, and appendices, if any. Appellant's Brief shall be served and filed within 15 days after the date on which the record is filed. Appellee's Brief shall be served and filed within 15 days after the date that Appellant's Brief is filed. Reply Briefs shall not be filed unless ordered by the court.

**(F) Oral Argument.** If either party requests oral argument, oral argument shall be scheduled and the parties or their attorneys shall be notified in accordance with these rules. The request for oral argument shall be included on the cover page of the parties' initial briefs pursuant to Ohio App.R. 21(A). If there is no request designated, the party will be deemed to have waived oral argument, unless oral argument is properly requested by another party. The court may sua sponte schedule any case for oral argument. See Loc.R. 21(A).

**(G) Accelerated Decisions.** In its discretion, the court may issue a memorandum decision or a full opinion and pursuant to Ohio App.R. 11.1(E), may state the reason for its ruling on each assignment of error in brief and conclusionary form. The decision may be by judgment entry.

## RULE 11.2 EXPEDITED APPEALS

**(A) Priority of Ohio App.R. 11.2 Appeals.** Ohio App.R. 11.2 appeals shall be given priority over all other cases, including criminal and administrative appeals, and shall be expedited for review and determination in compliance with the time guidelines set forth in Ohio App.R. 11.2.

**(B) Adoption and Parental Rights Appeals.**

**(1) Record.** The trial court record, including the transcript of proceedings, shall be filed with the Clerk for the Court of Appeals when the record is complete for the purposes of the appeal or when 40 days have elapsed after the filing of the Notice of Appeal. Preparation of the record, including the transcript of proceedings, shall be given priority over the preparation of the records in other cases. Extensions for the filing of the record shall not be granted, except in the most unusual circumstances and only for the most compelling reasons in the interest of justice. Extensions for transmission of the record in Ohio App.R. 11.2 appeals shall be granted only by this court.

**(2) Briefs**. Appellant's Brief shall be served and filed no later than 20 days from the date the trial court record, including the transcript of proceedings, is filed with the Clerk for the Court of Appeals. Appellee's Brief shall be served and filed no later than 20 days from the date that appellant's brief was filed. Should the guardian ad litem desire to file a brief, it shall be served and filed no later than 20 from the date that Appellant's Brief was filed. Should appellant desire to file a Reply Brief, it shall be filed no later

than ten days from the date that either Appellee or the Guardian Ad Litem's Brief was filed, whichever is later. Extensions for the filing of briefs shall not be granted, except in the most unusual circumstances and only for the most compelling reasons in the interest of justice.

**(3) Oral Argument.** The case will be considered for immediate decision after all briefs have been filed unless oral argument is properly requested or ordered. The request for oral argument shall be included on the cover page of the parties' initial briefs, or it is deemed waived.

**(4) Entry of Judgment.** The court shall enter judgment within 30 days from submission of the briefs or from the oral argument, whichever is later, unless compelling reasons in the interest of justice require a longer time.

**(C) Other Priority Appeals.** All other expedited appeals shall comply with and be reviewed in accordance with Ohio App.R. 11.2.

## RULE 11.3 CRIMINAL APPEALS INVOLVING DENIAL OF PRETRIAL BAIL

**(A) Priority.** In accordance with R.C. 2937.222(D)(1), an appeal from a trial court's denial of pretrial bail to a criminal defendant shall be placed upon an expedited schedule so that the final disposition of the matter can occur as quickly as feasible. Once the trial record has been submitted and the briefing schedule has been completed, such an appeal shall be given the highest priority, to the extent that it will be set for disposition separately from the court's regular calendar. In this respect, the appeal shall be accorded the same priority as a habeas corpus case which sets forth a viable claim for relief.

**(B) Duties of the Clerk.** Transmission of Notice of Appeal. Immediately upon the filing of the Notice of Appeal, the clerk of courts shall transmit the Notice of Appeal to the court by fax, e-mail, or other electronic format.

**(C) Record.**

The trial court record, including any transcript of proceedings, shall be filed with the clerk for this court in the respective county 20 days from the filing of the Notice of Appeal. Preparation of the record, including any transcript of proceedings, shall be given priority over the preparation of the records in all other cases. Extensions for the filing of the record shall not be granted, except in the most extreme circumstances and only in the interest of justice.

When the employment of an acceptable substitute for the transcript or the entire record would facilitate the submission of the trial court record to the clerk in less than 20 days, counsel for both sides should consider following the procedures set forth in Ohio App.R. 9(C) or 9(D).

**(D)** **Briefs**. Appellant's Brief must be served and filed within seven days from the date the trial court record, including any transcript of proceedings, is filed with the clerk for this court in the respective county. Appellee's Brief must be served and filed within seven days from the date that Appellant's Brief was filed. Consistent with the expedited procedure for the instant appeal, no Reply Brief will be permitted. Extensions for the filing of briefs shall not be granted, except in the most extreme circumstances and only in the interest of justice.

**(E)** **Oral Argument.** The case will be considered for immediate decision after all briefs have been filed unless oral argument is requested and ordered. The request for oral argument shall be included on the cover page of the parties' initial briefs or it is deemed waived.

## RULE 12. DETERMINATION AND JUDGMENT ON APPEAL - WAIVER OF ASSIGNED ERRORS

Assigned errors, once raised in a brief, may only be waived by the party submitting the brief, in a motion filed with this court. This motion shall be submitted prior to or contemporaneously with oral arguments or submission on the briefs, otherwise leave of court is required. All parties to the appeal shall receive service of the motion prior to or contemporaneously with oral arguments or submission on the briefs. An assigned error, once properly waived, will not be addressed in the opinion of this court.

# TITLE III
# GENERAL PROVISIONS

## RULE 13. FILING AND SERVICE

### (A) Filing Documents.

The Clerks of the Courts of Common Pleas of the counties of Ashtabula, Geauga, Lake, Portage, and Trumbull serve as the Clerk of this Court of Appeals in their respective counties. All documents required to be filed in this court shall be filed with the Clerk of the Court of Appeals of the county in which the appeal or original action originated. Documents submitted directly to this court at its headquarters in Warren will not be considered filed, either when mailed or when received.

Any motions, briefs, or other pleadings to be filed with this court may be submitted to the clerk of courts in any manner permitted by the local rules of the Court of Common Pleas in the county where the appeal is filed.

An e-mail to the clerk of courts shall not be considered a proper motion, brief, or other pleading to this court for filing. If e-mail is an accepted form of delivery to the clerk, any motions, briefs, or other pleadings that are e-mailed to the clerk for filing shall be in the form of a separate attachment to that e-mail.

### (B) Signatures of Parties or Counsel.

**(1) Original.** The original of every pleading, memorandum, brief, or other document filed with this court shall be signed by an attorney representing the party on whose behalf the document is filed. A party who is not represented by an attorney shall sign the document being filed. If more than one party who is not represented by an attorney is participating in an appeal, each party shall provide individual signatures on all documents. Failure to comply may result in the document being stricken from the record on appeal.

The signature of an attorney or pro se party constitutes a certificate by the attorney or party that the attorney or party has read the document, and that to the best of the attorney's or party's knowledge, the information is truthful and accurate.

**(2) Electronic.** 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. If it is established that the documents were transmitted

without authority, the court shall order the filing stricken. See App.R. 13(A)(1).

**(C) Electronic Filing.**

For purposes of this rule, e-filing refers to the submission of documents from litigants to a clerk of courts' e-filing system in a digitized format pursuant to that clerk of courts' procedures and instructions and does not include fax filings or e-mail filings.

**(1) Availability.** The clerk of courts of each county within the jurisdiction of the Eleventh District Court of Appeals is authorized to implement an e-filing system and prepare and maintain operating procedures and instructions for their e-filing system. The clerk of courts' operating procedures and instructions shall determine the days and hours during which the e-filing system is available.

**(2) File-stamp.** Upon successful submission, receipt and acceptance by the Clerk of Courts, e-filed documents will be electronically file-stamped and deemed filed as of the date of the file-stamp. The file-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. An e-filed document 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.

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

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

## RULE 14. COMPUTATION AND EXTENSION OF TIME

Computation of time and enlargement or reduction of time shall be calculated in accordance with App.R. 14.

## RULE 15. MOTIONS

**(A) Number of Copies.** An original of all motions shall be filed with the clerk of courts. In the event cases have been consolidated by this court, an original, which lists all consolidated case numbers, shall be filed in each case number.

**(B) Responsive Submissions.** Any party may file a response to a motion other than one for a procedural order within ten days from the filing of the motion, but

motions authorized by Ohio App.R. 7, 8, and 27 may be acted upon after reasonable notice, and the court may shorten or extend the time for responding to any motion. Any other responsive submission filed without leave of court may be sua sponte stricken from the record.

## RULE 16. BRIEFS

**(A) Content of Briefs.** The brief of the appellant, and, correspondingly, that of the appellee, shall consist of five parts satisfying Ohio App.R. 16, as follows:

I. Table of Contents and Assignments of Error.
II. Statement of the Case.
III. Statement of Facts.
IV. Argument.
V. Conclusion.

**(1) Appendices.** With the exception of those items enumerated in Ohio App.R. 16(E) and Loc.R. 16(B)(3), appendices to the brief shall not be employed.

**(2) Footnotes.** The excessive use of footnotes to meet page limitations for briefs, i.e., reduced font size or condensed type style, shall result in a brief being stricken sua sponte.

**(3) Citations.** A hard copy of any case cited in a brief that is available in electronic format shall not be attached to a brief or memoranda. In the event a copy of an electronically unavailable case is supplied with any brief, it shall not be attached again to any subsequent brief.

**(a) Unavailable in Electronic Format.** A legible copy of all authorities that are not available electronically shall be attached to the brief or memorandum in which they are cited and shall indicate the status of any appeal or disposition by the Supreme Court of Ohio.

**(b) Citation Form.** All citations to authorities in briefs or memoranda shall be in accordance with the Manual of Citations adopted by the Reporter of Decisions for the Supreme Court of Ohio. The Manual of Citations is available online at https://www.supremecourt.ohio.gov/opinions-cases/opinions/writing-manual.

**(B) Substance of Briefs.**

**(1) Table of Contents and Assignments of Error.**

The initial briefs of appellant and appellee and any reply briefs shall contain a table of contents. The prime function of the Table of Contents is to list

and index the Assignments of Error and Issues Presented for Review. It is to be noted that the full statement of the Assignments of Error and Issues Presented for Review in the Table of Contents shall be deemed a satisfactory compliance with Ohio App.R. 16 (A)(3) and (4), as applicable. See Section (C)(2) infra. The secondary function of the Table of Contents is to list and index authorities cited.

The Table of Contents shall also serve as and consist of a combined index and table of authorities, with page references for each item listed. Indented as numbered subparagraphs under each assignment of error, shall be the Issues Presented for Review applicable to that assignment. The authorities cited in support of an issue shall be set out in alphabetical order in a further indented paragraph. It is to be noted that the appellee may recast or substitute issues to support his contentions in demonstrating the absence of error.

**(2) Statement of the Case.** Ohio App.R. 16 (A)(5) requires the Statement of the Case to consist of three parts: (1) the nature of the case, (2) the course of proceedings, and (3) the disposition in the court below with appropriate references to the record in accordance with Loc.R. 16(A)(1).

**(3) Statement of the Facts.**

Ohio App.R. 16(A)(6) requires a statement of facts and will be complied with by a separate paragraph headed "Statement of Facts" with appropriate references to the record in accordance with Loc.R. 16(A)(1).

The Statement of Facts consists of a recitation of those portions of the record which support the appellant's assignments of error. This Statement of Facts, demonstrated by citation to the record (see Section [A][1], supra) may be segmented under appropriate headings, where more than one issue is presented for review, to provide a factual basis for determining the applicability of each successive issue presented.

**(4) Argument.**

The Argument shall comprise the main body of the brief and shall be organized consistently with the Assignments of Error and Issues Presented for Review as set forth in the Table of Contents. The Assignments of Error shall be fully set forth verbatim, as shall the Issues Presented for Review, as stated in the Table of Contents.

The Assignments of Error shall assert precisely the manner in which the trial court is alleged to have erred, e.g., "THE TRIAL COURT ERRED IN OVERRULING APPELLANT'S MOTION TO SUPPRESS HIS CONFESSION FROM THE EVIDENCE." An Assignment of Error shall not

be set forth as a proposition of law as envisioned by Rule 16.02(B)(4) of the Rules of Practice of the Supreme Court of Ohio.

**(a)** The statement of the Assignments of Error is not complete without citation to that portion of the record before the court on appeal wherein the lower court committed the error complained of, e.g., "The trial court erred in overruling plaintiff-appellant's motion for summary judgment (T.p. 25) or (Plaintiff's affidavit Dkt. 50, Dkt. 100)."

**(b)** The issues applicable to each Assignment of Error shall be stated verbatim and in the same order as in the Table of Contents, and the argument under each Assignment of Error shall be organized accordingly. The Issues Presented for Review are akin to the propositions of law contemplated by S.Ct.Prac.R. 16.02(B)(4) and in the example found in Appendix D of the Rules of Practice of the Supreme Court of Ohio and may be set out accordingly.

If appellee is defending a judgment or order appealed by an appellant on a ground other than that relied on by the trial court, but does not wish to change the judgment or order, the basis for the alternative defense shall be set forth separately in a cross-assignment of error in the Appellee's Brief. See R.C. 2505.22.

**(5) Conclusion.** The conclusion may briefly summarize the Argument and shall state the precise relief sought on appeal.

**(C) Length of Briefs.**

No initial and no answer brief of the parties shall exceed 35 pages in length, exclusive of the Table of Contents, Assignments of Error, Certificate of Service, and appendices, if any, except as provided in Loc.R. 11.1(E). Reply briefs shall be restricted to matters of rebuttal of the answer brief, and shall not exceed ten pages in length, exclusive of the Table of Contents, Certificate of Service, and appendices, if any, except as provided in Loc.R. 11.1(E). These maximums may be exceeded only with permission of the court granted upon written application and for good cause shown.

No Consolidated Answer Brief and Brief on Cross-Appeal of a cross-appellant shall exceed 70 pages in length, exclusive of the Table of Contents, Assignments of Error on Cross-Appeal, Certificate of Service, and appendices, if any. The portion relating to the appeal shall not exceed 35 pages, and the portion relating to the cross-appeal shall not exceed 35 pages. No Consolidated Reply Brief and Answer Brief on Cross-Appeal of a cross-appellee shall exceed 45 pages in length, exclusive of the Table of Contents, Certificate of Service, and appendices, if any. The portion that is the reply in support of the appeal shall not exceed ten pages, and the portion relating to the cross-appeal shall not exceed 35 pages. No Reply Brief of a cross-

appellant shall exceed ten pages in length, exclusive of the Table of Contents, Certificate of Service, and appendices, if any.

**(D) Failure to Comply.** Counsel are cautioned that a failure to comply with this Rule may result in the brief being stricken on motion or sua sponte, and/or in the dismissal of the appeal, without prior notice in either instance.

**(E) No-Merit Briefs in Criminal Cases.** Briefs filed pursuant to *Anders v. California*, 386 U.S. 738 (1967), will not be accepted. Counsel must file a merit brief, unless the appellant directs counsel that the appeal should be withdrawn.

The following sample "Table of Contents and Assignments of Error" containing the above-required information is in accordance with this rule. Also, there is a sample brief posted on the Eleventh District Court of Appeals' website at www.11thcourt.co.trumbull.oh.us.

**TABLE OF CONTENTS AND ASSIGNMENTS OF ERROR**


STATEMENT OF THE CASE ..... 1

PROCEDURAL POSTURE……. 1

STATEMENT OF FACTS ……... 2

LAW AND ARGUMENT …… 3

FIRST ASSIGNMENT OF ERROR …… 3

The trial court committed prejudicial error in granting defendants-appellees, John Smith and Jane Smith's, motion for summary judgment based upon its opinion that R.C. 3109.10 (strict liability of parents for assaults by their children) is a "principal offender" only statute, finding complicity does not suffice, where appellees' minor child, M.S., was convicted of aggravated murder and robbery, attempted aggravated murder with a firearm specification, and two specifications of aggravating circumstances of aiding and abetting (Dkt. 104, paragraph 3).

ISSUE PRESENTED FOR REVIEW AND ARGUMENT …….. 3

1. Did the trial court err in determining that complicity did not suffice and that R.C. 3109.10 is a "principal offender" only statute in granting defendants-appellees' motion for summary judgment, where appellees' child was an integral part of the common plan of three actors to rob and shoot (kill) the minor plaintiff and her friend and where appellees' child was inside the gas station but did not actually pull the trigger, although she was part of the plan to do so, including the robbery, shooting and getaway?

AUTHORITIES

R.C. 1.49 ……..... 4

R.C. 3109.09 …….. 3

R.C. 3109.10 …….. 3

*Rudney v. Corbett*, 53 Ohio App.2d 311 (8th Dist. 1977) ……..... 3

*State v. Jordan*, 2000-Ohio-225 …… 4

SECOND ASSIGNMENT OF ERROR …… 4

The trial court committed prejudicial error in granting defendants-appellees' motion for summary judgment, finding that the facts do not support a conclusion of negligent supervision where appellees failed to exercise reasonable control over their child, MS., when they had the ability to control but acquiesced as to her known one and one-half year long standing relationship with a known violent man engaged in criminal activity, which required a jury determination as to the foreseeable consequence of appellees' negligence (Dkt. 104, paragraph 4).

ISSUE PRESENTED FOR REVIEW AND ARGUMENT……... 4

1. Did the trial court err in granting summary judgment, where the appellees knew and acquiesced to their minor daughter's long standing (one and one-half year) boyfriend/girlfriend relationship with a known violent man engaged in criminal activity, thus knowing that they needed to exercise control over her, had the ability to exercise control, but did not, and where they knew or should have known that the acts of their child were likely to result in foreseeable harm to someone?

AUTHORITIES

*Cashman v. Reider's Stop-N-Shop Supermarket*, 29 Ohio App.3d 142 (8th Dist. 1986) ……..... 5

*D'Amico v. Burns*, 13 Ohio App.3d 325 (8th Dist. 1984) ……. 4

*Haefele v. Phillips*, 1991 Ohio App. LEXIS 2038 (10th Dist. Apr. 23, 1991) ……. 5

*Huston v. Konieczny*, 52 Ohio St.3d 214 (1990) ……... 5

*Nearor v. Davis*, 118 Ohio App.3d 806 (1st Dist. 1997) …….. 4

*Shupe v. Childers*, 2004-Ohio-1767 (5th Dist.) ……. 4

CONCLUSION…….. 5

AUTHORITIES

R.C. 3109.09 ……..... 5

R.C. 3109.10 ……..... 5

*Byrd v. Smith*, 2006-Ohio-3455 ……. 6

*Dresher v. Burt*, 1996-Ohio-107 ……..... 6

*Gregory v. Abdul-Aal*, 2004-Ohio-1703 (11th Dist.) …… 6

PROOF OF SERVICE …….. 7

## RULE 17. BRIEF OF AN AMICUS CURIAE

A brief of an amicus curiae shall be in compliance with the provisions set forth in Ohio App.R. 17.

## RULE 18. FILING AND SERVICE OF BRIEFS

**(A) Briefing Schedule on Appeal.** Under Ohio App.R. 18, the briefing schedule on an appeal placed on the regular calendar shall be as follows:

**(1)** Assignments of Error and Brief of Appellant: 20 days after record is filed;

**(2)** Answer Brief of Appellee: 20 days from the date the Assignments of Error and Brief of Appellant is filed;

**(3)** Reply Brief of Appellant: Ten days from the date the Answer Brief of Appellee is filed.

**(B) Briefing Schedule on Cross-Appeal.** The briefing schedule in a cross-appeal shall be as follows:

**(1)** Assignments of Error and Brief of Appellant/Cross-Appellee: 20 days after record is filed;

**(2)** Consolidated Answer Brief, and Assignments of Error and Brief of Appellee/Cross-Appellant: 20 days from the date the Assignments of Error and Brief of Appellant/Cross-Appellee is filed;

**(3)** Consolidated Reply Brief and Answer Brief of Appellant/Cross-Appellee: 20 days from the date the Consolidated Answer Brief, and Assignments of Error and Brief of Appellee/Cross-Appellant is filed;

**(4)** Reply Brief of Appellee/Cross-Appellant: Ten days from the date the Consolidated Reply Brief and Answer Brief of Appellant/Cross-Appellee is filed.

**(C) Briefing Schedule on Accelerated Calendar.** The briefing schedule on appeals placed on the accelerated calendar shall be in compliance with the time guidelines set forth in Loc.R. 11.1(E).

## RULE 19. FORM OF BRIEFS AND OTHER PAPERS

**(A) Form.**

An original shall be filed in accordance with Ohio App.R. 19, stapled at the upper left margin. In the event cases have been consolidated by this court, an original, which lists all consolidated case numbers, shall be filed in each case number. No filing shall include a plastic cover or binder.

The text shall be typed in a medium weight, 12-point double spaced noncondensed type style such as Arial. Quotations may be single spaced. Italic type style may be used only for case citations and emphasis.

**(B) Reference to the Record.** Suggested abbreviations for "transcript of proceedings" and "certified copy of the docket and journal entries" are "T.p." and "Dkt.," respectively. Where documents which are part of the latter are relied upon to support the assignment of error, and where such documents consist of more than one page, citation will be to the document number assigned by the Clerk of Courts in preparing the certified copy of the docket and journal entries, followed by the page number integral to the document, e.g., "Defendant's deposition Dkt. 10, p. 50."

**(C) Personal and Private Information.** Briefs should not use the names of minors or individual victims or contain any personal identifiers or information. See Sup.R. 45.

## RULE 20. PREHEARING CONFERENCE; MEDIATION

This court's prehearing conference and mediation procedure will operate as follows:

**(A) Prehearing Conference and Mediation Scheduling.**

**(1)** Civil and administrative appeals will be reviewed by this court's Administrative Counsel promptly after the filing of the notice of appeal to determine whether a prehearing conference under Ohio App.R. 20 and/or

mediation would assist the court or the parties. In addition, any party may call the court's Administrative Counsel to request a prehearing conference to be held or to be canceled. Such request will be confidential if the requesting party desires.

**(2)** If an appeal is selected for conference, upon 21 days-notice from the court, unless excused, counsel and parties (including insurance adjusters) are required to attend a prehearing conference and/or mediation before the court's Administrative Counsel. Persons excused in advance by the Administrative Counsel from attending in person shall be available by telephone. At the discretion of the Administrative Counsel, conferences may be conducted telephonically.

**(B) Purposes and Procedure of Prehearing Conference and Mediation.**

**(1)** The primary purpose of the prehearing conference and/or mediation is to explore settlement possibilities through mediation, to simplify the issues on appeal, and to address anticipated procedural matters. Additionally, any other matters that the Administrative Counsel determines may aid in the disposition of the proceedings will be considered.

**(2)** The scheduling of a prehearing conference and/or mediation does not stay the time for filing the record, transcript of proceedings, or briefs. If a conference is to occur after the date for transmitting the record under App.R. 10, or after the date the appellant's or the appellee's brief is due under App.R. 18, any party may file a motion requesting an order extending the time to transmit the record or file a brief until after the conference. If the court's Administrative Counsel determines that the parties are negotiating in good faith, additional extensions of time may be sought.

**(C) Privilege and Confidentiality.**

**(1)** The privilege and confidentiality provisions of R.C. Chapter 2710, "Uniform Mediation Act" (UMA), are incorporated by reference and adopted by this court through this local rule.

**(a)** The definitions contained in R.C. 2710.01 apply to all mediation conferences.

**(b)** 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.

**(2)** Mediation communications shall be privileged and therefore shall not be disclosed by the court's Administrative Counsel or by the parties and/or their attorneys and shall not be used when presenting or arguing the case.

Mediation communications shall be confidential unless all parties and/or their attorney's consent to disclosure.

**(D) Judgment Entry.** In the event of a resolution and/or upon the filing of a motion to dismiss by appellant or counsel for appellant, the court may issue an entry dismissing the appeal or action upon recommendation of the Administrative Counsel.

**(E) Noncompliance Sanctions.** If a party or attorney fails to comply with the provisions of this rule or the provisions of the prehearing conference order or settlement agreement, this court may dismiss the appeal or action and assess reasonable expenses caused by the noncompliance, including, but not limited to, attorney fees and court costs.

## RULE 21. ORAL ARGUMENT

**(A) Requests for Oral Argument Required.** If either party requests oral argument, oral argument shall be scheduled and the parties or their attorneys shall be notified in accordance with these rules. The request for oral argument shall be included on the cover page of the parties' initial briefs pursuant to Ohio App.R. 21(A). If there is no request designated, the party will be deemed to have waived oral argument, unless oral argument is properly requested by another party. The court may sua sponte schedule any case for oral argument. Notwithstanding any of the foregoing, the court is not required to schedule oral argument, even if requested, if any of the parties is both incarcerated and proceeding pro se.

**(1)** No time for oral argument shall be allotted to counsel who have filed amicus curiae briefs. However, with leave of court and the consent of counsel for the side whose position the amicus curiae supports, counsel for the amicus curiae may present oral argument within the time allotted to that side. If an amicus curiae wishes to participate in oral argument but either does not receive the consent of counsel for the side whose position the amicus curiae supports or does not expressly support the position of any parties to the case, the amicus curiae may seek leave from the court to participate in oral argument, but such leave will be granted at the discretion of the court.

**(2)** A motion for amicus curiae for leave to participate in oral argument shall be in writing and filed at least 30 days before the date scheduled for the oral argument.

**(B) Location for Oral Argument.** Oral argument will be heard in the county where the case originated, unless, for good cause shown, the court determines that the case may be heard in another county in the district. A party or their attorney may indicate their location preference on the docketing statement or file a motion to orally argue the case in the first available county within the district. In the event of adverse weather, public health or other emergency, or upon a motion of a party

for good cause shown, the court may conduct oral arguments via video conference, which will be conducted in accordance with this court's technology plan.

**(C) Notice.** A Notice of Oral Argument will be issued notifying the parties or their attorneys of the date, time, and location of the oral argument. Continuances of oral argument will be considered upon written motion establishing good cause for the continuance. The written motion shall be filed within seven days from the time-stamped date of the Notice of Oral Argument. Said time may be enlarged upon a showing of exceptional circumstances.

**(D) Time Allowed for Argument.** Pursuant to Ohio App.R. 21(C), oral argument will be 15 minutes per side. However, the court may, in its discretion, grant additional time for argument.

**(E) Courtroom Decorum.** Anyone appearing before the court, in any manner, must be dressed appropriately. During oral argument, no person present in the courtroom shall operate a cellphone or any other electronic device without prior approval of the court.

**(F) Supplemental Authority.** If relevant authority is issued by another court after the briefing schedule has been completed, a party may file with this court a citation to that authority but shall not file additional written argument.

**(G) Recording of Oral Arguments.** Oral arguments before a three-judge panel of this court will be recorded by means of this court's digital recording devices. If a recording is available, a copy may be obtained by submitting a written request to the court or by e-mailing a request to requests@11thappealohio.us. A digital copy, if available, will be provided through e-mail, unless a digital storage device and a self-addressed stamped envelope are provided to the court by the requestor.

**(H) Broadcasting and Photographing Court Proceedings by Media.** All media representatives who seek to broadcast, televise, record, or photograph court proceedings shall submit an Application to schedulingnotices@11thappealohio.us at least three days prior to the date requested. The Application is available on the Eleventh District Court of Appeals' website at www.11thcourt.co.trumbull.oh.us. Requests shall be granted in accordance with Sup.R. 12.

**(1)** The provisions of Rule 12 of the Ohio Rules of Superintendence shall apply, except that not more than one portable camera (television, videotape, or movie) with one operator or more than one audio system in the courtroom shall be permitted. Arrangements for the "pooling" of equipment shall be made as set forth in Sup.R. 12.

**(2)** Media representatives shall at all times conduct such activity in a manner whereby the participants shall not be distracted or the dignity of the proceedings impaired.

**(3)** The presiding judge may revoke the permission to broadcast, record, or photograph any proceeding for the failure of any media representatives to conduct themselves accordingly or for failure to comply with Sup.R. 12.

## RULE 22. ENTRY OF JUDGMENT ENTRIES/ORDERS

**(A) Filing.** The Court of Appeals may transmit by fax, e-mail, or other electronic format to the Court of Appeals clerk any decision, judgment entry, or order. The Court of Appeals clerk shall accept the document as the original, and the signatures of the judges shall be accepted as originals.

**(B) Signature.**

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

**(2)** The signature of any judge and/or magistrate on any document may be executed manually or by means of any device or machine including electronic signature.

## RULE 23. DAMAGES OF DELAY

Damages for delay shall be determined in accordance with App.R. 23.

## RULE 24. COSTS

Except as otherwise provided by law, if an appeal is dismissed, costs shall be taxed against the appellant unless otherwise agreed by the parties; if a judgment is affirmed, costs shall be taxed against appellant, unless otherwise ordered; if a judgment is reversed, costs shall be taxed against the appellee, unless otherwise ordered; if a judgment is reversed in part and affirmed in part, costs shall be taxed as ordered by the court.

## RULE 25. MOTION TO CERTIFY A CONFLICT

Motions to certify to the Supreme Court of Ohio because of conflict with a judgment of another Court of Appeals, upon the same question, shall be filed in accordance with Ohio App.R. 25. The motion to certify shall set forth specifically the rule of law upon which the alleged conflict exists in such form that could be set forth in a judgment entry that will satisfy S.Ct.Prac.R. 8.02 in the event the motion is granted. Ohio App.R. 15 shall apply to such motions to certify and to briefs in support and opposition to such motions.

## RULE 26. APPLICATION FOR RECONSIDERATION; APPLICATION FOR EN BANC CONSIDERATION; APPLICATION FOR REOPENING

See App.R. 26.

## RULE 27. EXECUTION, MANDATE

See App.R. 27.

## RULE 28. VOLUNTARY DISMISSAL

See App.R. 28.

## RULE 29. SUBSTITUTION OF PARTIES

See App.R. 29.

## RULE 30. DUTIES OF CLERKS

See App.R. 30.

## RULE 31. FAILURE TO PROSECUTE

Unless it is demonstrated that no undue delay and no prejudice has been caused to the opposing party by the failure to comply with these rules or the Rules of Appellate Procedure, the following shall be deemed good cause for dismissal of an appeal:

**(A)** Failure to cause the record on appeal to be timely transmitted to the clerk of this court. App.R. 11(C);

**(B)** Failure to timely file a brief with assignments of error and issues presented for review. App.R. 18(C);

**(C)** Any other noncompliance with the appellate rules or the rules of this court.

## RULE 32. [Reserved]

## RULE 33. [Reserved]

## RULE 34. APPOINTMENT OF MAGISTRATES

Pursuant to App.R. 34, the court hereby appoints the court administrator to act as magistrate for the limited purpose of ruling on routine procedural motions and entering routine procedural orders.

## RULE 35. [Reserved]

**RULE 36. [Reserved]**

**RULE 37. [Reserved]**

**RULE 38. [Reserved]**

**RULE 39. [Reserved]**

**RULE 40. [Reserved]**

**RULE 41. RULES OF COURTS OF APPEALS**

See App.R. 41.

**RULE 42. [Reserved]**

**RULE 43. EFFECTIVE DATE AND APPLICABILITY**

These rules shall take effect January 1, 1978. All 2026 additions and amendments are approved and adopted as of March 6, 2026, and effective April 1, 2026.

# ADMINISTRATIVE RULES

## RULE 101. ORIGINAL ACTIONS

**(A) How Instituted**. An original action shall be instituted by the filing of a complaint or petition, together with three copies thereof. Service of the complaint or petition shall be made in accordance with the Ohio Rules of Civil Procedure. Upon an initial review of the complaint or petition in any original action, this court shall issue an alternative writ instructing the respondent as to the nature of the required response to the complaint or petition.

In addition to Loc.R. 101, original actions shall comply with Titles II and III of these rules where applicable.

**(B) Dispositive Motions.**

**(1)** In regard to actions in mandamus, prohibition, procedendo, and quo warranto, the actions shall generally proceed in accordance with the Ohio Rules of Civil Procedure. In attempting to obtain a final resolution of these types of original actions, a party may file any dispositive motion which is recognized under the civil rules, such as a motion to dismiss, a motion for judgment on the pleadings, or a motion for summary judgment. When any party files a dispositive motion, a brief in support shall be filed with the motion. A brief in opposition to the motion, along with any cross-motion, shall be filed within 20 days after the filing of the initial motion. A reply brief, if any, and/or a response to the cross-motion, if any, shall be filed within 20 days after the filing of the brief in opposition to the motion. No other briefs or memoranda shall be filed except with leave of court, unless a cross-motion has been filed, in which event, the movant may file a reply within 20 days from the filing of opposing party's response. Thereafter, the matter will be submitted to the court for disposition. All motions shall be ruled upon without oral argument unless otherwise ordered by this court.

**(2)** In regard to an original action in habeas corpus, if this court concludes that the petition in habeas corpus states a viable claim for relief, an evidentiary hearing shall be scheduled as soon as possible. If this court concludes that the petition in habeas corpus may not state a viable claim for relief, an alternative writ shall be issued requiring the respondent to file a written response to the petition. If a written response is required, the action shall then proceed in accordance with the procedure under subsection (B)(1) of this rule concerning the submission of dispositive motions.

**(C) Evidence in Original Actions.**

**(1)** If a final decision on any original action cannot be based upon the dispositive motions filed by the respective parties, the parties shall then be given a period of 60 days in which to conduct any necessary discovery. At

the conclusion of this 60-day period, the parties shall determine whether it is possible that the action can be resolved by means of an agreed statement of facts. If the parties can reach an agreement concerning a statement of all relevant facts in the action, their agreed statement of facts shall be submitted to the court within 20 days after the completion of the 60-day discovery period. Upon receipt of the agreed statement of facts, this court shall issue a judgment entry setting forth a schedule for the submission of the parties' merit briefs. The action shall then be submitted to the court based upon the agreed statement of facts and the briefs. The foregoing procedure can be followed in habeas corpus actions when such procedure is practical and will not defeat the interests of justice.

**(2)** If an agreed statement of facts is not filed within 20 days after the completion of the 60-day discovery period, the matter shall then be scheduled for an evidentiary hearing as soon as possible. The evidentiary hearing shall be conducted by a single judge, a panel of three judges, or a court magistrate. Following the completion of the hearing, the matter shall then proceed to final disposition.

**(D) Reference to Magistrate.**

Original actions in this court may be referred by the court to a Court Magistrate, pursuant to Ohio Civ.R. 53. Unless otherwise indicated in the order of reference to a Court Magistrate, the Court Magistrate shall have all the powers specified in Ohio Civ.R. 53, and the proceedings and decision of the court magistrate shall be governed by Ohio Civ.R. 53.

Any objections to a decision of a Court Magistrate shall be filed in accordance with Ohio Civ.R. 53(D)(3)(b). Such objections will be considered by a three-judge panel of this court. The court may adopt the court Magistrate's Decision if no written objections are filed unless it determines that there is an error of law or other defect on the face of the Court Magistrate's Decision. Any decision rendered by the three-judge panel shall be made in accordance with Ohio Civ.R. 53(D)(4). The court shall rule on any objections. The court may adopt, reject, or modify the court Magistrate's Decision, hear additional evidence, recommit the matter to the Court Magistrate with instructions, or hear the matter. Unless the three-judge panel decides to hear additional evidence pursuant to Ohio Civ.R. 53(D)(4)(d), no oral hearing will be held on the objections prior to the issuance of the panel's final decision in the matter.

**(E) Original Actions Relating to Elections.** Because of the necessity of a prompt disposition of an original action relating to a pending election, or in order to give the court adequate time for full consideration of such case, if such action is filed within 90 days prior to the election, this court shall issue a judgment entry setting forth any special procedure to be used in order to ensure the prompt resolution of the action.

**(F) Enlargement or Reduction of Time.** The court for good cause shown may upon motion enlarge or reduce the time prescribed by these rules or by its order for doing any act, or may permit an act to be done after the expiration of such time. Notice to the parties of such enlargement or reduction of time may be by telephone and later confirmed by order of the court.

## RULE 102. TRANSCRIPT OF PROCEEDINGS OF APPELLATE EVIDENTIAL HEARINGS

Pursuant to this court's judgment entry of November 12, 1993, all evidential hearings before a judge or magistrate of this court shall be recorded by means of this court's digital recording devices. Therefore, the resulting digital recording constitutes the official transcript of proceedings for such a hearing. Any party to the hearing may obtain a copy of the official transcript by submitting a written request to this court accompanied by a digital storage device and a self-addressed stamped envelope. The official transcript shall be recorded onto the digital storage device, which shall then be returned to the party. If the party intends to cite the official transcript in support of any subsequent motion, objection, or proceeding before this court, counsel for the party must, in accordance with the procedure set forth in Ohio App.R. 9, cause the relevant portions of the official transcript to be reproduced in typed or printed form, certify the accuracy of this written copy, and then submit to this court with respect to such proceedings.

## RULE 103. COURT SECURITY

The Eleventh District Court of Appeals is charged with dispensing justice, resolving disputes, and protecting the constitutional rights of those who appear before the court. Appropriate levels of security should exist wherever the court conducts its business and hearings to protect the integrity of the court procedures, protect the rights of individuals before it, sustain the decorum and dignity of the court and assure that court facilities are secure for all those who visit and work there.

The Eleventh District Court of Appeals has authority, which it will exercise in collaboration with any other duly authorized court, agency, office or person to take appropriate measures to maintain a safe and secure environment for those who appear before it, its judges and staff. To that end, this court will develop and implement a court security plan, which may be amended from time to time, in accordance with Sup.R. 9.

**(A) Weapons Prohibited.** The court prohibits all persons, with the exception of those listed in Section B of this rule, from conveying or attempting to convey a deadly weapon or dangerous ordnance into the Eleventh District Court of Appeals Courthouse in Warren, Ohio. This includes anyone who has a concealed handgun permit issued pursuant to R.C. 2923.123 or 2923.125. This courthouse does not provide the service of securing handguns, except for authorized law enforcement personnel. See R.C. 2923.123(C)(6).

**(B) Exceptions.** Any person employed or contracted to perform security duties or functions at this court's facilities (including a law enforcement officer assigned to

court security and bailiffs who perform court security functions) shall be appropriately armed to perform their assigned duties. Any judge in accordance with the court's court security plan and a law enforcement officer in the court's facilities on official business may convey a deadly weapon or dangerous ordnance into the Eleventh District Court of Appeals Courthouse in Warren, Ohio

**RULE 104. PRESIDING JUDGE**

On or before January 1 every year, a Presiding Judge shall be elected by a majority of the judges of this court. Presiding Judge shall be designated by judgment entry signed by a majority of the judges of this court and filed with the Administrative Director of the Supreme Court of Ohio pursuant to Rule 3 of the Rules of Superintendence for the Courts of Ohio.

The Presiding Judge shall preside over all court sessions. The judge who is senior in service on the court shall preside on any three-judge panel of which the presiding judge is not a member. However, only the Presiding Judge of the Eleventh District Court of Appeals shall be designated in written opinions. The Presiding Judge shall perform all duties incumbent upon the office pursuant to Rule 3.01 of the Rules of Superintendence for the Courts of Ohio and shall conduct an annual meeting and other meetings as necessary of the judges of this court for the purpose of discussing and resolving administrative issues of the court. The Presiding Judge shall attend the executive sessions of the Ohio Courts of Appeals Association, and in the event the Presiding Judge cannot attend, the Administrative Judge shall represent this court.

The Presiding Judge shall serve a one-year term and may also serve as Administrative Judge. No limit is placed on the number of terms a judge may hold the office of Presiding Judge.

For good cause shown, a Presiding Judge may be removed from this office by a majority vote of the judges of this court.

**RULE 105. ADMINISTRATIVE JUDGE**

On or before January 1 every year, an Administrative Judge shall be elected by a majority vote of the judges of this court. Administrative Judge shall be designated by judgment entry signed by a majority of the judges of this court and filed with the Administrative Director of the Supreme Court of Ohio pursuant to Rule 4 of the Rules of Superintendence for the Courts of Ohio.

The Administrative Judge shall perform all duties incumbent upon the office pursuant to Rule 4.01 of the Rules of Superintendence for the Courts of Ohio and shall have full responsibility and control over the administration, docket, and calendar of this court and shall be responsible to the Chief Justice of the Supreme Court of Ohio in the discharge of his or her duties, for the observance of these rules, and for the termination of all cases in this court without undue delay and in accordance with the time guidelines set forth in Sup.R. 39.

The Administrative Judge shall timely file all Administrative Judge reports required by the Court Statistical Reporting Section; shall request, as necessary, the assignment of judges to this court by the Chief Justice of the Supreme Court of Ohio; shall have the general responsibility of the court's administrative matters; and shall supervise the administrative staff pursuant to the personnel policies established by this court. Personnel matters are to be considered by this court as a whole.

All media inquiries related to the administration of this court shall be directed to the Administrative Judge for response.

The actions of the Administrative Judge may be modified or vacated by a majority of the judges of this court.

The Administrative Judge shall serve a one-year term and may also serve as Presiding Judge. No limit is placed on the number of terms a judge may hold the office of administrative judge.

For good cause shown, an Administrative Judge may be removed from this office by a majority vote of the judges of this court.

**RULE 106. COURT TECHNOLOGY PLAN**

In accordance with Sup.R. 5(E), this court has adopted and maintains a court technology plan which includes: (A) a comprehensive strategy for implementing and maintaining technology solutions for conducting remote hearings, electronic service, the acceptance of electronic signatures, and any other technology-related solution utilized by the court or division; and (B) procedures for notifying and providing instructions to the public on how to use the technology solutions implemented by the court and how the solutions will comply with any accessibility accommodation requirements, including any applicable requirements of the Americans with Disabilities Act. The court's technology plan is available through this court's headquarters.

APPENDIX A

# NOTICE OF APPEAL

_____

(ENTER NAME OF TRIAL COURT)

_____ Trial Court No. _____

_____

_____

Plaintiff-Appell _____ Court of Appeals No. _____

- vs -

_____

_____

_____

Defendant-Appell _____

Notice is hereby given that (name each Appellant) _____

_____

appeals to the Eleventh District Court of Appeals from the trial court Judgment Entry time-stamped _____

(describe it and attach a copy of each Judgment Entry being appealed) _____

_____

_____

_____

☐ Check here if court-appointed and attach copy of appointment and Financial Disclosure/Affidavit of Indigency.

☐ Check here if any co-counsel for Appellant and attach a separate sheet indicating name, address, telephone no. and fax no

**TRANSCRIPT OF PROCEEDINGS INFORMATION - App. R. 9(B)**
**Counsel or Appellant is responsible for obtaining required information from Court Reporter at the time of filing the Notice of Appeal if a transcript will be ordered.**

☐ I have ordered a complete transcript from the court reporter
Estimated completion date: _____ Estimated number of pages: _____

☐ I have ordered a partial transcript from the court
Estimated completion date: _____ Estimated number of pages: _____

☐ A statement pursuant to App. R. 9(C) or (D) is to be prepared in lieu of a transcript.

☐ Videotapes to be filed. See App. R. 9(A) or (B)

☐ No transcript or statement pursuant to either App. R. 9(C) or (D) is necessary.

☐ Transcript has been completed and already made part of the record.

_____ _____
Date Signature of Attorney or Appellant

_____
Name

_____
Address

_____
Atty. Regis. No.

_____ _____
Telephone No. Fax No.

_____
E-Mail Address

# ELEVENTH DISTRICT COURT OF APPEALS
# DOCKETING STATEMENT

(To be attached to and filed with Notice of Appeal)

Name of Trial Court _____

Trial Court No. _____

Court of Appeals No. _____

Plaintiff-Appell _____

- vs -

Defendant-Appell _____

**REGULAR CALENDAR**

☐ Case should be assigned to the Regular Calendar with full briefing.

**ACCELERATED CALENDAR - (Check if this applies)**

☐ I have read Loc.R.11.1. This appeal meets those requirements, and I request that it be briefed and decided on the Accelerated Calendar.

**EXPEDITED APPEAL**

This case should be heard as an expedited appeal as defined under App.R. 11.2 because: (State provision of App.R. 11.2 or applicable statute): _____

**ORAL ARGUMENT**

☐ To expedite oral argument, I am willing to travel to whichever adjoining county in which the Eleventh District has the first available date.

☐ I want oral argument in this appeal set in the county in which the appeal originates.

**CASE TYPE**

☐ **A. Criminal**
Specify nature of offense(s) (e.g., assault, burglary, rape:) _____

(1) Is the defendant presently in jail? ☐ Yes ☐ No If the answer is "Yes," give date of incarceration _____
When is he/she due to be released (if you know)? _____

(2) Has a stay been filed in the trial court? ☐ Yes ☐ No If granted, what are the terms? _____

(3) Does the judgment entry comply with Crim.R. 32(C) by including the plea, verdict or findings, and a sentence?
☐ Yes ☐ No If the answer is "No," this is not a final appealable order.

☐ **B. Post-Conviction Relief** Date of Conviction: _____

☐ **C. Civil**

Specify cause(s) of action: _____

☐ **App.R. 11.2 (Abortion, Adoption, or Termination of Parental Rights Appeal).**

**PROBABLE ISSUE FOR REVIEW** _____

_____

_____

## THE FOLLOWING QUESTIONS APPLY TO ALL CIVIL AND ADMINISTRATIVE APPEALS

1. **FINAL APPEALABLE ORDER**

(a) Has the trial court disposed of all claims by and against all parties?

☐ Yes (**Attach copies of all judgments and orders indicating that all claims against all parties have been concluded.)**

☐ No

(b) If the answer to (a) is "No," has the trial court made an express determination that there is "no just reason for delay," pursuant to Civ.R. 54(B), with respect to the judgment or order from which the appeal is taken?

☐ Yes (Attach a copy of that order.)

☐ No

(c) Is the judgment order subject to immediate appeal under R.C. 2505.02? If so, set forth the specific provision(s) that authorize this appeal: _____

_____

(d) Does the right to an immediate appeal arise from a provision of a statute other than R.C. 2505.02? If so, identify that statute: _____

2. **MEDIATION**

(a) Would a pre-hearing conference or mediation assist in the resolution of this

☐ matter? Yes ☐ No ☐ Maybe

Please explain (optional) _____

_____

_____

_____

CERTIFICATE OF SERVICE: I certify that I have mailed or otherwise delivered a copy of this Docketing Statement to all counsel of record, or to the parties if unrepresented. The following is a listing of the name, address and telephone number of all counsel and the parties they represent and any parties not represented by counsel: (attach extra sheet if necessary)

_____ _____

_____ _____

_____ _____

_____ _____

_____ _____

_____ _____

_____ _____

_____ _____

DATE _____ SIGNATURE _____

# INSTRUCTIONS FOR SERVICE OF NOTICE OF APPEAL

_____ ,

Plaintiff-Appell _____ ,

- vs -

Trial Court No. _____

_____ ,

Defendant-Appell _____ ,

**PLEASE LIST ALL PARTIES AND THEIR COUNSEL WHO ARE INVOLVED IN THE APPEAL THE CLERK OF COURTS WILL MAKE SERVICE BY REGULAR MAIL.**

1. PARTY/ATTORNEY NAME: _____
   ATTY. REGIS. NO.: _____
   ADDRESS: _____

   PHONE NUMBER: _____
   WHO THEY REPRESENT: _____

   PARTY/ATTORNEY NAME: _____
   ATTY. REGIS. NO.: _____
   ADDRESS: _____

   PHONE NUMBER: _____
   WHO THEY REPRESENT: _____

   PARTY/ATTORNEY NAME: _____
   ATTY. REGIS. NO.: _____
   ADDRESS: _____

   PHONE NUMBER: _____
   WHO THEY REPRESENT: _____

_____ _____

**PARTY OR ATTORNEY FILING APPEAL** **ATTY. REGIS. NO. (IF APPLICABLE)**

_____ _____

**ADDRESS** **PHONE NO.**

_____ _____

**EMAIL ADDRESS**

**(CONTINUE ON NEXT PAGE IF NEEDED)**

PARTY/ATTORNEY NAME: _____

ATTY. REGIS. NO.: _____

ADDRESS: _____

PHONE NUMBER: _____

WHO THEY REPRESENT: _____

PARTY/ATTORNEY NAME: _____

ATTY. REGIS. NO.: _____

ADDRESS: _____

PHONE NUMBER: _____

WHO THEY REPRESENT: _____

PARTY/ATTORNEY NAME: _____

ATTY. REGIS. NO.: _____

ADDRESS: _____

PHONE NUMBER: _____

WHO THEY REPRESENT: _____