LOCAL RULES OF THE COURT OF APPEALS,

FIRST APPELLATE DISTRICT OF OHIO

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Foreword

The judges of the First District Court of Appeals have adopted these local rules under the Ohio Constitution, Article IV, Section 5(B), App.R. 41, and Sup.R. 5(A)(1) and (2), and filed them with the clerk of the Supreme Court of Ohio under Sup.R. 5(A)(3).

These local rules shall be referenced herein as "Loc.R. ___." References to "this Court," "the Court," or "the Court of Appeals" are to the First District Court of Appeals of Ohio.

Rule 1 Scope of Rules

(A) Appeals.

The Rules of Appellate Procedure, as supplemented by these local rules, govern all procedures in appeals to the First District Court of Appeals of Ohio from the trial courts of record within the jurisdictional boundaries of the First District and other tribunals as provided by law.

(B) Original Actions.

Original actions filed in this Court are governed by the following:

(1) The Ohio Rules of Civil Procedure;
(2) The local rules of the First District Court of Appeals of Ohio; and
(3) All applicable statutes.

Rule 2 [Reserved]

Rule 3.1 Appeals — How Taken

(A) Required documents.

An appeal as of right shall be taken by filing: (1) a notice of appeal; and (2) a docket statement. The docket statement is not jurisdictional but its omission may be the basis for dismissal of the appeal.

(1) **Notice of Appeal.**
  (a) **Content of the notice of appeal.**
    (i) The notice of appeal shall: (1) specify the party or parties taking the appeal; (2) designate the judgment, order or part thereof appealed from; and (3) state that the appeal is made to the First District Court of Appeals of Ohio.

(ii) The notice of appeal shall have attached to it a copy of the judgment or order being appealed. The subject attachments are not jurisdictional but their omission may be the basis for dismissal of the appeal.

(b) **Amendment of the notice of appeal.**

(i) A party may amend a notice of appeal without leave if the time to appeal from the order that was the subject of the initial notice of appeal has not yet lapsed under App.R. 4. Thereafter, the Court of Appeals within its discretion and upon such terms as are just may allow the amendment of a notice of appeal, so long as the amendment does not seek to appeal from a trial court order beyond the time requirements of App.R. 4.

(ii) If the Court permits an appellant to cure a defective notice of appeal where the time has lapsed under App.R. 4, failure to do so within the time permitted by the Court may result in a dismissal of the appeal.

(iii) An amended notice of appeal shall be filed in both the trial court and the Court of Appeals.

(c) **Cases consolidated below.** A party is required to file only one notice of appeal from a judgment entered in cases consolidated in the trial court. The notice of appeal must list all consolidated case numbers. The appeal will proceed under one case number unless otherwise ordered by the Court.

(See Form 3.3NCR Notice of Appeal — Criminal and Form 3.3NCV Notice of Appeal — Civil, Appendix of Forms.)

(2) **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 a completed criminal docket statement.

(See Form 3.3DCR Docket Statement — Criminal, Appendix of Forms.)

(b) **Civil docket statement.** In a civil appeal, the appellant shall file a completed civil docket statement.

(See Form 3.3DCV Docket Statement — Civil, Appendix of Forms.)

(c) **Docket statement missing or incomplete.** If the appellant fails to file a docket statement with the notice of appeal or otherwise files an

incomplete docket statement as required by this rule, the Court may order the appellant to either file a completed 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 may dismiss the appeal.

(B) Where filed.

(1) For all appeals, the appellant shall file with the clerk of the trial court from which the appeal is taken.

(2) The appellant should file electronically, except as provided in Loc.R. 13.1, via the clerk of court's e-filing system for the trial court from which the appeal is taken. If no e-filing system is available for a particular court, the appeal may be filed in person or by any other means provided for in these rules.

(3) For in-person filings from the General Division of the Hamilton County Court of Common Pleas, the notice of appeal will be accepted at the appellate division of the clerk's office, located on the 12th floor of 230 East Ninth Street, Cincinnati, OH, 45202. The appellant shall file four copies of the notice of appeal and two copies of the docket statement.

(C) Service.

The party filing the notice of appeal shall serve upon the appellee's counsel, or the appellee if unrepresented, a copy of the notice of appeal and a copy of the docket statement.

(D) Waiver of filing fee and cost deposit.

The clerk will not accept for filing any notice of appeal or original action unless the party bringing the action deposits with the clerk of courts the sum of $85.00. But the clerk will receive and file the appeal or action without payment of $85.00:

(1) If the appellant files with the clerk a sworn affidavit of indigency or affirmation of inability to pay (see Form 3.1 Indigency, Appendix of Forms); or

(2) If the appellant produces evidence that the trial court determined that the appellant was indigent for purposes of appeal; or

(3) If the requirement of prepayment is otherwise excused by operation of law.

Rule 3.2 Appeals — Designation of Counsel or Party

(A) Designation of counsel.

The notice of appeal and each subsequent filing shall contain the name, attorney-registration number, office address, telephone number, and e-mail address of counsel representing the

party for whom the document is filed. If counsel is a law firm or a government agency, every filing shall also contain the name and attorney-registration number of the attorney within the firm or agency who is primarily responsible for the case.

(B) Designation of counsel for other parties.

Every 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.

(C) Designation of party — pro se appeals.

If any party is not represented by counsel, every filing shall contain that party's name, street address, e-mail address, and telephone number.

(D) Admission pro hac vice.

(1) An attorney who is not licensed to practice law in the State of Ohio who seeks permission to appear pro hac vice in this Court must first register with the Supreme Court Office of Attorney Services pursuant to Gov.Bar R. XII.

(2) After the attorney completes the registration requirements and receives a certificate of pro hac vice registration, the attorney must file a Motion for Permission to Appear Pro Hac Vice with this Court. The motion must succinctly state the qualifications of the attorney seeking admission, include the certificate of registration furnished by the Supreme Court Office of Attorney Services, and shall contain all of the information required by Gov.Bar R. XII, Section 2(A)(1) through (3).

(E) Withdrawal of designated counsel.

(1) **Appointed trial counsel.** In a case where trial counsel served by appointment, trial counsel may withdraw by motion: (1) affirming that the notice of appeal has been properly filed; (2) demonstrating good cause for withdrawal; (3) bearing proof of service upon the appellant; (4) indicating counsel was appointed below; and (5) requesting appointment of new counsel or indicating that counsel will be hired.

(2) **Criminal appeal.** In a criminal appeal, the Court may, in its discretion, permit designated counsel to withdraw from the case only upon motion: (1) affirming that the appeal has been properly filed under Loc.R. 3.1; (2) demonstrating good cause for withdrawal; and (3) bearing proof of service upon the appellant. If new counsel is seeking to represent the appellant, the motion shall also show the name, attorney-registration number, street address, e-mail address, and telephone number of substitute counsel, and shall be signed by substitute counsel.

(3) **Civil appeal.** In a civil case, designated counsel may withdraw upon notice to the Court bearing proof of service upon all parties and containing the following:

(a) a statement that designated counsel intends to withdraw;

(b) a showing of good cause for withdrawing; and

(c) the name, attorney-registration number, street address, e-mail address, and telephone number of substitute counsel or, if none, the name, street address, e-mail address, and telephone number of the party represented by designated counsel.

Rule 3.3 Appeals — 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 will 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 may dismiss the appeal if the appellant, without good cause, fails to comply with the scheduling order.

Rule 3.4 Appeals — Appointed Counsel

(A) Request for appointment.

A party may request appointed counsel, in a criminal case, by filing a motion with the Court. An affidavit of indigency or proof that the party had appointed counsel below must be attached to such motion.

(B) Selection of counsel.

(1) The Court will maintain a list of qualified attorneys who have notified the Court of their interest in serving as appointed counsel in criminal cases. The Court, in its discretion, may also solicit applications to serve as appointed counsel, from qualified attorneys.

(2) In selecting counsel, the Court may consider the experience and expertise of counsel and counsel's management of his/her current caseload.

(3) The Court will keep a record of all counsel appointments made in a given calendar year and shall review the record periodically to assure that appointments are equitably distributed among counsel on the appointment list.

(C) Appointed counsel fees.

(1) **Application.**

(a) Application for payment of attorney's fees shall be filed with the clerk of the Court of Appeals.

(b) Application by appointed counsel in criminal cases for attorney's fees on appeal shall be completed on the most current forms prescribed by the Hamilton County Public Defender, including the application for fees and a financial disclosure/affidavit of indigency form. However, if an affidavit of indigency has previously been submitted, an affidavit of indigency form is not required to be included in the application for fees and should be noted on the application.

(c) Incomplete applications, applications submitted without the proper financial disclosure/affidavit of indigency form, or applications submitted on the wrong forms will be denied but may be resubmitted with the proper forms.

(2) **Rate of compensation.** The rate of compensation shall not exceed the schedule of fees established by the Hamilton County Board of Commissioners. However, the Court, at its discretion, may approve additional compensation if counsel also files a motion for extraordinary fees with reasons supporting the request.

(3) **Time for Filing.** All applications for payment of attorney's fees shall be filed after, but within 30 days of, the entry of the decision and journal entry or order that disposes of the appeal.

(4) **Periodic billing.** Appointed counsel are not permitted to use periodic billing for attorney's fees.

(5) **Penalties.** The Ohio Public Defender does not reimburse counties for fees paid pursuant to an untimely or improper application. Accordingly, the failure to timely file a proper application and financial disclosure/affidavit of indigency form may result in reduction or non-payment of fees.

(6) **Registration with Hamilton County Public Defender.** Upon receiving their first selection as appointed counsel, attorneys should register as a vendor with the Hamilton County Public Defender. Attorneys serving as appointed counsel are also responsible to notify the Hamilton County Public Defender of any changes to their contact information. Failure to register or update attorney contact information will delay payment of attorney's fees.

Rule 4.1 Motion to Stay Execution of Appealed Civil Judgment

(A) Filing.

All motions for stay of execution of a civil judgment shall be made in the first instance to the trial court, as required by App.R. 7. If any such motion is denied by the trial court, or if application to the trial court for the relief sought is not practicable as contemplated by App.R. 7, the motion may be made in the Court of Appeals. In addition to filing such motion with the

clerk of courts, the moving party shall immediately serve the motion upon the opposing party in accordance with Ohio Civ.R. 5.

(B) Content of the motion.

(1) A motion for stay of execution of an appealed civil judgment shall be accompanied by a memorandum that outlines the reasons for the relief requested, cites to supporting evidence in the trial record, and discusses the relevant factors concerning:

(a) Whether the stay should be granted based on the likelihood of success of the appeal, any irreparable harm to the appellant, any potential harm to the appellee occasioned by a stay, and the public interest; and

(b) Whether the posting of a supersedeas bond should be required and, if so, in what amount.

(2) The motion shall be accompanied by a copy of the trial court's judgment in which it denied a request to stay the appealed judgment. If no such judgment has been entered, the memorandum must also contain an indication that the motion was made and ruled upon on the record in the trial court below or an explanation of why application to the trial court for the relief sought is not practicable as contemplated by App.R. 7.

(C) Emergency motion or application.

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 an emergency stay or emergency bond, the stay motion and memorandum required by subsection (B) shall detail:

(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.

(D) Service of and response to the motion.

(1) When a motion for stay of execution of a civil judgment is filed, it must be served upon the opposing party. The response of the opposing party to a motion for stay of execution of an appealed civil judgment shall be due within seven days from the filing of the motion to stay. The Court, within its discretion, can either extend or shorten the period for the filing of the response.

Rule 4.2 Bail and Stay of Execution in Criminal Cases

(A) Filing.

All motions for bail and stay of execution of a criminal sentence shall be made in the first instance to the trial court, as required by App.R. 8. If any such motion is denied by the trial court, or if the trial court declines to rule on the application within a reasonable amount of time, the motion may be made in the Court of Appeals.

(B) Content of the motion.

All motions for bail and stay of execution of a criminal sentence shall be accompanied by a copy of the judgment entry of sentence. The motion must indicate that the request for stay was made and ruled on in the trial court below or an explanation of why application to the trial court for the relief sought is not practicable as contemplated by App.R. 7.

A memorandum in support, with supporting evidence, shall be filed with the motion, and shall contain:

(1) A statement of the offense for which the party was found guilty and the sentence imposed by the trial court;
(2) A discussion of the defendant's likelihood of success on appeal, along with submission of relevant portions of the record demonstrating error if available;
(3) A listing of the defendant's prior convictions, if any;
(4) A listing of current charges still outstanding against the defendant, if any;
(5) A record of the defendant's failure to appear at court proceedings, or of flight to avoid prosecution;
(6) The defendant's family ties, employment, financial resources, character, mental condition, length of residence in the community, and jurisdiction of residence;
(7) A statement of the amount of bail the party is requesting and in what manner it will be secured;
(8) Any other factor that may be relevant to the Court.

(C) Service of and response to the motion.

When a motion for bail and stay of sentence is filed by the defendant under this rule, it must be served upon the prosecuting attorney, law director, or city solicitor according to whomever is handling the prosecution of the case. The response of the opposing party to a motion for bail and stay of sentence shall be due within seven days from the filing of the motion to stay. The Court, within its discretion, can either extend or shorten the period for the filing of the response.

(D) Decision.

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

Rules 5-8 [Reserved]

Rule 9 The Record on Appeal — Notification

(A) No transcript of proceedings or statement.

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 appellant if unrepresented, shall notify the Court of this fact in writing no later than 30 days after filing the notice of appeal. This required notification may be provided on the docket statement required by App.R. 3 and Loc.R. 3.1.

(B) Transcript of Proceedings.

(1) If the record on appeal will include a transcript of proceedings, the appellant shall order the transcript in writing, including the dates requested to be transcribed, and shall file a copy of the transcript order with the clerk of the trial court in accordance with App.R. 9(B)(3).

(2) The court reporter should include a signed electronic copy of the transcript of proceedings where it is available by emailing the electronic copy of the transcript to COA_transcript@cms.hamilton-co.org. The case number should be included in the subject of the email address. *See* App.R. 9(B)(6)(i).

(3) Transcripts of proceedings will only be considered part of the record on appeal if one of the following apply:

(a) The court reporter has signed and certified the original transcript;

(b) The transcript was originally filed in the trial court;

(c) The court appeals has granted a motion to supplement or complete the record.

(4) No party is permitted to file a copy of a transcript, which is defined as not the original transcript created by the official court reporter, unless leave of court is requested and granted by this court. Any copy of a transcript may be sua sponte stricken by this court.

(C) Exhibits.

Unless otherwise directed by the court of appeals, the clerk of the trial court shall not transmit to the clerk of the court of appeals any physical trial exhibits (e.g. weapons, ammunition,

money, drugs, clothing, or valuables). Where exhibits are retained pursuant to this rule, the clerk shall identify the retained exhibits and the custodian on the transcript of docket and journal entries transmitted pursuant to App.R. 10(B).

Rule 10 Transmitting the Record

(A) Duties of appellant.

(1) It is the duty of the appellant to make reasonable arrangements with the clerk of the trial court to secure the transmission of the docket and journal entries and to effect the transmission of the record, including transcripts and exhibits if applicable, on appeal.

(2) If the appellant fails to timely perform these duties, the Court may dismiss the appeal for failure to prosecute. Cases dismissed under this rule will be reinstated only for good cause shown.

(3) If appellant has made reasonable arrangements for the timely transmission of the record, yet the record is not timely transmitted, the appellant may seek an order from the Court of Appeals compelling the transmission of the record, including, but not limited to the transcripts of proceedings. Requests for such an order must detail the steps taken to cause the transmission of the record.

(B) Extension of time.

(1) Transmission of the record must be complete in accordance with the scheduling order issued pursuant to Loc.R. 3.3. Extensions of time to transmit the record may be granted only by the Court of Appeals. Applications for extension of time to transmit the record must be made by written motion containing a detailed showing of diligence and substantial need for the extension, including the steps taken to cause transmission of the record, and the requested length of the extension.

(2) If the Court grants the appellant an extension of time to file the record, the appellant shall, without further order of the Court, file and serve the appellant's brief within 20 days after the filing of the completed record.

Rule 11.1 Accelerated Calendar

Pursuant to App.R. 11.1, this Court adopts an accelerated calendar which shall be administered in the following manner.

(A) Regular calendar — default.

All appeals shall proceed by default on the regular calendar under the Ohio Rules of Appellate Procedure unless:

(1) The Court, upon review of the docketing statement and/or relevant filings, issues a scheduling order placing the appeal on the accelerated calendar; or

(2) The appellant requests the accelerated calendar.

(B) Accelerated calendar — factors.

In evaluating whether to assign a case to the accelerated calendar under (A)(1) or based on motion under (E), the Court will consider:

(1) Whether a transcript of proceedings is required and the approximate length of the transcript;

(2) In a criminal case, whether the appeal is from a plea or solely challenges the defendant's sentence;

(3) Which court the case is appealed from;

(4) Any need for accelerated treatment;

(5) The anticipated number and complexity of assignments of error;

(6) The presence of a cross-appeal or any appellate jurisdictional dispute; and

(7) Any other factor that implicates the complexity or precedential nature of the appeal.

(C) Method of assignments.

This Court may assign an appeal to the accelerated or regular calendar at any stage of the proceedings:

(1) Upon its own initiative; or

(2) Upon a motion demonstrating good cause filed by any party before the appellant's brief is scheduled to be filed. The motion shall be supported by a memorandum setting forth the specific reasons for the change with reference to the applicable factors identified in subsection (B) above.

(D) Rules governing accelerated appeals.

(1) 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. However, the scheduling order issued pursuant to Loc.R. 3.4 shall set forth deadlines for briefs and transmission of the record.

(2) Oral argument in an accelerated appeal shall be governed by App.R. 21 and Loc.R. 21. Generally, the Court will endeavor to schedule appeals on the accelerated calendar for argument/submission date sooner than contemporaneously filed appeals on the regular calendar.

(3) Briefs filed in an accelerated appeal shall conform to App.R. 16 and Loc.R. 16.1 and 19.1. An appellant may file a reply brief, which shall be filed within ten days of the filing of the appellee's brief.

Rule 12 [Reserved]

Rule 13.1 Electronic Filing and Service

(A) Electronic filing required.

In accordance with App.R. 13, any document to be filed in an appeal or original proceeding before the First District Court of Appeals shall be filed with the clerk electronically, except as otherwise provided in this rule and in Loc.R. 3.3. Such filing shall be in a digitized format specified by the clerk of court's electronic filing procedure, and this Court's local rules and administrative order(s) regarding electronic filing. The clerk of courts is directed to accept any paper filing that is presented. However, the Court may strike such filing and require that it be e-filed if it is found to be in contravention of this rule.

(1) **Format of e-filed documents.** All e-filed documents shall be formatted in accordance with the applicable appellate and local rules governing formatting of paper filings, and as specified by the directions maintained on the clerk of court's website as to e-filing.

(a) All e-filed documents shall be filed in Portable Document Format (PDF) or the preferred PDF/A on 8½ x 11 inch pages. External electronic links, to material outside the filed document, are strictly prohibited. Internal links to other parts of the same filing are permissible.

(b) Proposed Entries and Orders must be submitted in Microsoft Word (.doc or .docx) format and reference the specific motion to which it applies.

(3) **Scanning and uploading paper documents.** Any document filed in paper form will be scanned and uploaded to the clerk of court's e-filing system. The uploaded electronic document shall constitute the original document.

(4) **Filing documents in paper form.** An attorney wishing to file a specific document or all documents in a given case in paper form rather than electronically may file a motion requesting leave to so file. The motion for leave itself may be filed in

paper form and shall set forth the exceptional circumstances justifying the request. The Court generally disfavors such motions.

(5) **Pro se litigants.** Parties who are not represented by counsel are permitted to file documents in paper form without first requesting leave of court.

(6) **Vexatious litigator.** Individuals who have been declared vexatious litigators, pursuant to R.C. 2323.52, will not be permitted to e-file documents and may file only in paper format.

(7) **Fees.** Normal filing fees and case deposits will be collected via user credit card or debit card, or such other method as may be approved by the clerk, at the time the document that requires such a fee or deposit is filed. Any document filed electronically that requires a fee may be rejected by the clerk of court unless the filer completes the necessary documents to apply for waiver.

(B) Date and time of electronic filing.

Provided that the filing is ultimately accepted by the clerk, any document filed electronically shall be considered as filed when the transmission to the Court's authorized electronic filing system is complete. An electronic filing may be submitted to the clerk 24 hours a day, 7 days a week. Any document filed on a Saturday, Sunday, or legal holiday shall be deemed to have been filed on the next Court business day.

(1) **Rejection or acceptance of e-filed documents.**

(a) The clerk may accept/reject any filing pursuant to the clerk of court's electronic filing guidelines.

(b) The clerk will notify the filer when a filing has been accepted or rejected for docketing and filing in the clerk of court's e-filing system.

(2) **Electronic file stamp.** Upon acceptance by the clerk of courts, an e-filed document will be electronically file-stamped. This stamp will include the date and time that the filer transmitted the document to the clerk, as well as the confirmation number of the filing. Once the document is electronically file stamped and entered on the docket, it is considered a permanent part of the case record.

(3) **System or user filing errors.** If a party attempts to e-file a document and the document is not accepted for docketing and filing on the clerk of court's e-filing system because of a technical failure of the clerk of court's system or of the filer, the party may file a corrective filing. A corrective filing within one business day after the notice of rejection will be considered timely filed.

(4) **Jurisdiction.** Subsection (3) does not extend jurisdictional deadlines.

(C) Service.

(1) E-filed documents must be served on the opposing party and shall be accomplished in the manner prescribed by App.R. 13. Notification by the e-fling system is insufficient to accomplish service under this provision.

(2) Whenever a time period is measured from the time after a document is filed, the time will be measured from the date of filing. See Loc.R. 13.1(C).

(D) Signatures.

(1) **Signatures of parties and counsel.** The signature of an attorney or a party on an e-filed document shall be represented with a signature of "/s/ [name]." The conformed signature on an e-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 as set forth in App.R. 13(A)(1). When a stipulation or other document requires two or more signatures, the filing party or attorney will designate in the signature line that it has authority to sign for the other party and how that authority was obtained. If it is established that the documents were transmitted without authority, the Court shall order the filing stricken.

(2) **Signature of third parties.** Documents containing signatures of third parties, including signatures of notaries public, shall be scanned as an image and filed electronically. The filing person shall make the source document available for production and copying at the request of the Court, the clerk, other counsel, or other parties representing themselves.

Rule 13.2 Privacy and Confidentiality

(A) Court records publicly available.

Court records are presumed to be open for public access as set forth in Sup.R. 45(A). Except as provided below, all documents filed with the clerk of this court will be available for public viewing.

(B) Personal and private Information.

(1) **"Personal and private" information defined.** The following information is deemed "personal and private" and shall not be included in any unsealed document filed with this Court or referenced in oral argument:

(a) Social security numbers, except for the last four digits;

(b) Driver's license numbers;

(c) Financial account numbers, including but not limited to bank account numbers and credit and debit card numbers;

(d) Employer and employee identification numbers;

(e) A juvenile's name in an abuse, neglect, dependency, or delinquency case, except for the juvenile's initials or a generic abbreviation such as "CV" for "child victim";

(i) This does not apply to juveniles who have been bound over to the Court of Common Pleas and convicted of criminal charges.

(ii) To the extent reference to another person is likely to reveal the identity of the juvenile, that person should also be identified by a generic term or initials; and

(f) The name of the victim of a sexual offense, except for the victim's initials or a generic term or abbreviation such as "Victim 1" or "V1";

(g) The defendant's or juvenile's name in an appeal from an order expunging or sealing a criminal conviction or finding of delinquency, except for the defendant's or juvenile's initials.

(h) Any other information deemed personal and private by any federal or state constitution, statute, regulation, executive order, or court ruling (e.g., privacy rules under the Health Insurance Portability and Accountability Act ("HIPAA"), Internal Revenue Service ("IRS") income tax filings, etc.).

(i) To the extent a reference to another person is likely to reveal the identity of a person identified in subsections (e)-(g), that person should also be identified by a generic term or initials

(2) **Parties' and counsel's responsibilities regarding personal and private information.** Filing parties and their counsel are responsible for removing personal and private information from any document they file with the clerk, or redacting the information in accordance with the procedure described in subsection (4). This responsibility extends to and includes any exhibits or addenda attached to filings such as bank statements, tax returns, or medical records. The clerk of court is not responsible for the removal of any personal and private information contained in a document filed with the clerk.

(3) **Correction of improperly filed personal and private information.** If personal and private information is improperly included in a filing, either the party who filed the information or the person whose information is disclosed may move the Court for leave to replace the filed document with an identical document with the personal and private information removed or redacted in accordance with the procedure outlined in subsection (4). The proposed replacement document

shall be attached to the motion. If the Court grants the motion, then the clerk will file-stamp the replacement document, replace the originally filed document with the replacement document, and remove the originally filed document from the electronic docket.

(4) **Personal identifier form.** The parties may, without leave of court, file under seal a Personal Identifier Form, see Appendix of Forms, that consists of a correspondence table or key that will allow the Court to identify the referenced personal and private information. The Personal Identifier Form may be filed electronically or in person.

(C) Restricted public access by sealing.

(1) Any party may move the Court to restrict public access of a filed document. When such a request is made, the moving party must file the document in order for the Court to conduct an in-camera inspection of the request. While this motion is pending, the clerk will not make the document available. The Court will restrict public access only if it finds by clear and convincing evidence that the presumption of allowing public access is outweighed by a greater interest after considering the following:

(a) Whether public policy is served by restricting public access;

(b) Whether any federal, state, or common law exempts the document or information from public access;

(c) Whether factors that support restriction of public access exist, including risk of injury to persons, individual privacy rights and interests, proprietary business information, public safety, and fairness of the adjudicatory process.

(2) The Court may also sua sponte seal documents as set forth in Sup.R. 45.

(3) When restricting public access, the Court will use the least restrictive means available as set forth in Sup.R. 45(E).

(D) Requests for restricted public access by a nonparty.

A nonparty may move the Court to restrict public access to information concerning that person in a court document at any time. Upon the movant's request, the Court may order the clerk not to make the subject document available during the pendency of the motion. In determining whether to grant the request, the Court will apply the same standards it applies to a party's request pursuant to subsection (C) above.

(E) Restricted public access by sealing.

Except by order of court, the clerk of courts shall not allow public access to any document for which public access has been restricted.

Rule 14 Extensions of Time to File Brief

The following provisions for extensions of time are applicable to all appeals filed on or after January 1, 2022. For any appeal filed in calendar year 2021 or before, the prior rules governing the extension of time apply.

(A) Notice of automatic extension of time to file brief — regular calendar.

For appeals on the regular calendar, a party may obtain a single, automatic 30-day extension of time to file any brief by filing a Notice of Automatic Extension of Time to File Brief (see Appendix of Forms). The notice must affirmatively state the new due date for the filing of the party's brief, must be served on all opposing parties in accordance with Loc.R. 13.1(D), and shall be effective upon filing. An automatic extension of time is not available in the following circumstances:

(1) If a case has been expedited;
(2) When a notice of oral argument has issued;
(3) For any brief filed in a preliminary injunction appeal, or
(4) Parental termination cases.

Additional extensions for regular calendar cases shall be by motion as set forth in subsection (B) and are generally greatly disfavored and will rarely be granted.

(B) Notice of Automatic Extension of Time to File Brief—Accelerated Calendar.

For appeals on the accelerated calendar, a party may obtain a single, automatic 15-day extension of time to file any brief by filing a Notice of Automatic Extension of Time to File Brief (see Appendix of Forms). The notice must affirmatively state the new due date for the filing of the party's brief, must be served on all opposing parties in accordance with Loc.R. 13.1(D), and shall be effective upon filing. Additional extensions for accelerated calendar cases shall be by motion as set forth in subsection (B) and are generally greatly disfavored and will rarely be granted.

(C) Extensions Other than Automatic Extension—Motion for extension of time to file brief.

In all other instances, an extension of time may be granted only upon written motion supported by a showing of diligence and substantial need. The motion shall be filed at least 3 days before the expiration of the time prescribed for filing the brief, and shall be accompanied by a statement indicating the following:

(1) When the brief is due;

(2) Whether the party has previously obtained an extension (automatic or by motion) to file that brief;
(3) The length of the requested extension, not to exceed 30 days;
(4) The reason an extension is necessary;
(5) Movant's representation that movant has exercised diligence and that the brief will be filed within the time requested; and
(6) Whether any other party separately represented objects to the request, or why the moving party has been unable to determine any such party's position.

A conclusory statement as to the press of business does not constitute a showing of diligence and substantial need.

All motions for extensions of time must be accompanied with a proposed entry.

(D) Late filings.

Court will not ordinarily accept late filings of briefs or motions for extensions of time except upon a showing of extraordinary circumstances made by motion to the court.

Rule 15 Motions

(A) Content of motion.

A motion seeking an order or other relief shall be accompanied by an entry referencing the specific motion to which it applies and granting the relief sought. The entry should be filed in Microsoft Word (.doc or .docx) format, pursuant to Loc.R. 13.1(A)(2)(b).

(B) Opposing memorandum.

Any memorandum opposing a motion seeking substantive relief must 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 Court. The following are examples of routine procedural motions:

(1) Motions to enlarge or reduce the time to file briefs or the record;
(2) Motions to consolidate;
(3) Motions to file non-complying briefs;
(4) Motions to appoint counsel;
(5) Motions to extend the time to act set by the Appellate Rules, local rules, or an order of this Court, including, for example, to comply with in forma pauperis requirements, comply with a show cause order, or to extend a deadline previously set by this Court.

Rule 16.1 Contents of Briefs

(A) Contents of appellant's brief.

Briefs shall be signed by counsel or by the party if pro se and shall follow the format set forth in this rule, in App.R. 16, and in Loc.R. 16.2. The Court may strike a brief that does not substantially comply with these rules. Briefs shall including the following:

(1) **Table of contents, 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, 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.

(2) **Table of authorities.** Consistent with App.R. 16(A)(2), the table of authorities shall list cases, statutes, and other authorities cited, with references to the pages of the brief where cited.

(3) **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 records.

(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 denying 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) **Body of argument.** 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. Each contention supporting an issue presented for review shall contain references to the relevant parts of the record and citations to the relevant legal authorities.

(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.** The certificate of service must be signed and shall specify to whom the brief was served, and the date and manner of service, including the email or mailing address used to complete service, if applicable.

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

(B) Contents of appellee's brief.

The appellee's brief shall comply with subsection (A) of this rule except that the statement of the case or of the facts relevant to the assignments of error need not be made unless the appellee is dissatisfied with the statement of the appellant. The appellee may also recast the appellant's issues presented for review in a manner that supports the appellee's argument on appeal.

(C) Contents of reply brief.

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) Unnecessary and prohibited attachments.

(1) A party should generally refrain from appending a copy of a constitutional provision, statute, ordinance, rule, or regulation to the brief, unless the authority is not readily available on Westlaw, LexisNexis, or the internet.

(2) Attachment of materials not contained within the record is prohibited. If a party appends documents from the record, other than the final order as required by subsection (A)(6) of this Rule, the party must include a table of contents for the Appendix and provide a citation to where the document can be found in the record.

(F) Citations to authorities in briefs.

The citations to authority in the brief shall be in the form adopted by the Supreme Court of Ohio, and shall be in the body of the brief and not in footnotes. The Writing Manual adopted by the Supreme Court of Ohio is available on the Supreme Court of Ohio's website.

https://www.supremecourt.ohio.gov/ROD/manual.pdf

(G) References to the parties in briefs.

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 No-Error Appeals

(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*, 386 U.S. 738, 87 S.Ct. 1396 (1967), 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; and

(3) A reference to any part of the record that might arguably support the appeal.

(4) A Statement of Compliance as set forth in subsection (D).

(C) Procedure before filing a no-error brief: Appellant's issues.

Before filing a no-error brief, 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 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. If counsel has not

received a response from appellant, counsel must detail the efforts made to reach appellant.

(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 will 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 will not treat as an assignment of error or decide any issue appended to a no-error brief.

Rule 17 [Reserved]

Rule 18 Filing and Service of Briefs

(A) Time for filing and serving briefs.

The Court will issue a scheduling order for filing and serving the briefs. If the appellant files a Notice of Automatic Extension of Time to File Brief pursuant to Loc.R. 14(A), or if the Court grants the appellant an extension of time to file the appellant's brief pursuant to Loc.R. 10(B)(2) or 14(B), the appellee shall, without further order of the Court, file and serve the appellee's brief within 20 days after the appellant's brief was filed.

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 one copy of a brief. The original brief shall be unbound and without dividers or tabs, but the copy may be bound at the top left corner.

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

Rule 19 Form of Briefs and Other Pleadings

(A) Filings in general.

Every filing must contain:

(1) The name of the Court and the appeal number;

(2) The caption of the case;
(3) The case number below;
(4) The type of filing;
(5) The designation of counsel pursuant to Loc.R. 3.2;
(6) Signed by the filing party; and
(7) Certificate of Service.

(B) Length of briefs.

(1) Parties' briefs shall not exceed the following limitations, which are exclusive of the cover page, table of contents, table of authorities, certificates of counsel, certificate of compliance, signature blocks, certificate of service, and appendices.

(a) **Length of briefs — regular calendar.**

(i) For appeals on the regular calendar, principal briefs of appellant(s) and appellee(s) shall not exceed 9,000 words OR 40 pages.

(ii) For appeals on the regular calendar, a reply brief of appellant(s) shall not exceed 4,500 words OR 20 pages.

(b) **Length of briefs — accelerated calendar.**

(i) For appeals on the accelerated calendar, principal briefs of appellant(s) and appellee(s) shall not exceed 4,500 words OR 20 pages.

(ii) For appeals on the accelerated calendar, a reply brief of appellant(s) shall not exceed 2,200 words OR 10 pages.

(2) The Court may permit a brief exceeding the limits in subsection (1) upon good cause shown in a written motion filed within the time provided for filing the brief.

(3) If a party's brief exceeds the page limits in subsection (1), the brief must include a certificate of compliance, signed by the attorney or unrepresented party, indicating that the brief complies with the word count limitation. The person preparing the certificate may rely on the word count of the word-processing system used to prepare the brief. The certificate must state the number of words in the brief, as calculated under subsection (1). The following certificate may be used:

CERTIFICATE OF COMPLIANCE

I certify that this Brief complies with the word-count provision set forth in First District Local Rule 19(B)(1). This Brief is printed using

Times New Roman or Georgia 14-point typeface using _____ word processing software and contains _____ words.

_____
Signature

(C) Form of briefs.

(1) **Paper Size.** The brief must be formatted to fit on 8 ½ by 11 inch paper when printed.

(2) **Font size.** All text must be in at least 14-point font.

(3) **Line Spacing.** Text must be doubled-spaced between lines, except quotations more than three lines long may be indented and single-spaced. Headings and footnotes may be single-spaced.

(4) **Margins.** The brief must have margins of at least one inch on all four sides.

(5) **Typeface and Type Style.** The body of the brief must be set in Times New Roman or Georgia typeface. The style of the brief should be set in a plain, roman style, although italics and boldface may be used for emphasis.

(6) **Reproduction.** A brief may be reproduced by any process that yields an image with clear black text in at least 14-point typeface when printed. This applies to both e-filed documents and those submitted in paper form.

(D) Handwritten pleadings and briefs.

Every document filed with the Court shall be typewritten or prepared by a word processor or other standard typographic process. A handwritten document may be accepted for filing only in an emergency, provided the document is legible and an explanation is provided as to why the document is handwritten. As to briefs, a handwritten brief will be permitted only with the permission of the Court.

(E) Failure to comply.

A filing not prepared in accordance with these rules and the Ohio Rules of Appellate Procedure may be stricken with an order for a conforming document to be filed within a specified time. An appellant's failure to conform may result in dismissal of the appeal; an appellee's failure to conform may result in its brief being stricken or the right to argue being denied.

Rule 20.1 Prehearing and Settlement Conferences

(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, upon request by the parties or on the Court's own initiative.

Rule 20.2 Mediation

(A) Cases eligible for mediation.

(1) **General.** The court has discretion to encourage or order parties to mediation in any civil appeal, administrative appeal, or original action filed before this court. The parties may also request mediation at any time during the pendency of the appeal. It is within the court's discretion to grant a request for mediation.

(2) **Exceptions.** Mediation is prohibited in the following types of cases:

(a) As an alternative to prosecution or adjudication of domestic violence;

(b) In determining whether to grant, modify, or terminate a protection order;

(c) In determining the terms and conditions of a protection order;

(d) In determining the penalty for violation of a protection order.

(3) Nothing in Section A.2 of this rule shall prohibit the use of mediation in either of the following cases:

(a) A subsequent divorce or custody case, even though the case may result in the termination of the provision of a protection order pursuant to R.C. 3113.31;

(b) A juvenile delinquency case.

(B) Scheduling mediation

(1) Upon written motion of the parties, or upon order of the court, the court may schedule mediation.

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

(3) If a case is scheduled for mediation, briefing deadlines in the case will be stayed for up to 60 days pending further order of the court.

(4) The mediation may be conducted in person or via teleconference (e.g. Zoom).

(C) Mediation procedure.

(1) **Confidential Mediation Statement.** At least 10 days in advance of the mediation, the parties shall send to the assigned mediator, via email, a confidential mediation statement containing the following information;

(a) Case caption and court of appeals case number;

(b) A brief description of the underlying conflict between the parties that led to the litigation;

(c) A brief statement regarding any final appealable order issues and the standards of review that apply to the instant appeal;

(d) A statement of any significant facts or issues that may have a continuing impact on settlement both from the authoring party's perspective and from what the authoring party perceives to be the opposing party's perspective;

(e) A statement of the strong and weak points of the authoring party's case;

(f) A history of settlement negotiations to date;

(g) A statement of an appropriate settlement, including dollar amount or range and any other terms;

(h) A statement of goals with regard to the dispute, including, but not limited to goals that can be facilitated by the Court;

(i) Disclosure of any other pending or anticipated litigation between the parties.

(2) **Attendance.** Unless otherwise instructed by the Court, the following persons must attend the mediation: counsel, the parties necessary for full settlement authority including insurance adjustors, and self-represented litigants. "Counsel" for purposes of this rule, means the attorney with primary responsibility for the case and upon whose advice that party relies.

(3) **Uniform Mediation Act.** The Ohio Uniform Mediation Act, R.C. Chapter 2710, is incorporated by reference and adopted by this court through this local rule.

(4) **Privileged Communications and Confidentiality.** The privilege and confidentiality provisions of the Uniform Mediation Act, R.C. Chapter 2710, apply to all mediation conferences. Mediation communications shall be privileged and therefore shall not be disclosed by the mediator or by the parties and shall not be used by the parties when presenting or arguing the case. Mediation communications shall also be confidential unless all parties and the mediator

consent to disclosure. The mediator will not discuss the substance of the mediation with any of the judges and will only provide information regarding the final outcome of the mediation (i.e. settled, not settled, continuing negotiations).

(D) Noncompliance sanctions.

If a party or attorney fails to comply with the provisions of this rule or the provisions of the mediation order, the court may hold a party in contempt and/or assess reasonable expenses caused by the failure, including attorney gees. The court may also assess all or a portion of the costs or dismiss the appeal or original action.

(E) Referral to resources.

The court administrator shall maintain resources for mediation parties, including victims and suspected victims of domestic violence, regarding appropriate referrals to legal counsel and other support services.

Rule 21 Oral Argument

(A) Request for oral argument

The Court encourages oral argument. To request oral argument, the party shall note on the cover page of any brief (appellant, appellee, or reply) "Oral Argument Requested." If any party requests oral argument, such requests will be granted and the case will be scheduled for oral argument for all parties, subject to the provisions in subjection (B).

(1) If a party wishes to waive its right to oral argument when filing its brief, it shall note on the cover page of its brief: "[Party] Hereby Waives Its Right to Oral Argument and Submits Its Case."

(2) If no party to an appeal requests oral argument within the time for filing of the appellant's reply brief or if both parties indicate on their briefs that they waive oral argument, the Court will submit the case to a panel for decision without oral argument in due course and the parties will be notified of the date on which the case is submitted.

(3) A party who has requested oral argument cannot subsequently waive appearance at oral argument after the close of briefing, except in emergency circumstances.

(4) Parties shall be present in court 15 minutes prior to the scheduled time of oral argument. If a party is not present in court 15 minutes prior to the scheduled time of oral argument, the Court has the discretion to treat this as a waiver of appearance and the party may not be permitted to argue.

(B) Court ordered oral argument.

The Court may order oral argument in any case even if no request for oral argument has been made.

(C) Oral argument not permitted.

The Court will not hear oral argument and will 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; or

(2) Appellant's counsel has filed a no-error brief under the procedure set forth in Loc.R. 16.2.

(D) Notice of oral argument and of appellate panel.

(1) The Court will provide written notification to all parties of the date, time, and place when oral argument will be heard.

(2) No later than 14 days prior to the date on which oral argument will be heard, the Court will make available to the parties the names of the judges that will hear the case. This information will be posted on the Court's website, and it will also be made available upon inquiry to the Court. Any changes to the panel will be immediately posted on the Court's website and made available to any person making inquiry of the Court.

(E) Remote arguments.

If a party wishes to participate in oral argument remotely via videoconferencing, the party shall file a motion with any brief detailing the reasons underlying the request for remote argument in lieu of in-person oral argument. The Court, in its discretion, will determine whether to grant or deny the request to hold oral argument remotely, or to require in-person oral argument. Request for remote argument after close of briefing will only be considered in emergency circumstances.

(F) Time allowed for oral argument.

Oral argument shall be limited to 15 minutes per side. This time limit applies to all appeals, including cases on the regular calendar, cases involving cross-appeals, and cases in which there are multiple appellants or multiple appellees. 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 will notify counsel, or the party if unrepresented, of the time set.

(G) Citation to additional authorities.

If pertinent and significant authorities come to a party's attention after a party has filed its brief but before the Court has issued its decision, the party may promptly file a notice of supplemental authority, with a copy to all other parties, setting forth the citations. The notice must state the proposition of law for which the supplemental authorities are cited and refer either to an assignment of error or to a point argued orally. The notice must not exceed 300 words. Any response must be made promptly and must be similarly limited.

(H) Courtroom decorum.

During oral argument, no person present in the courtroom shall operate a cellphone or any other electronic device without prior approval of the Court. Counsel of record may use electronic devices at counsel tables or at the podium provided that the devices are set to silent, are not used to photograph, record, or broadcast.

(I) 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.

Rules 22-32 [Reserved]

Rule 33 Original Actions

(A) Cost deposits.

(1) **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.

(2) **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 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.

(B) 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.

(C) Oral argument.

Any oral argument will proceed according to Loc.R. 21(E) and (G).

Rules 34-40 [Reserved]

Rule 41 Adoption and Amendment 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, amending, or deleting a local rule, the Court shall give appropriate notice and afford an opportunity for comment by publishing the rule for 30 days in the local legal newspaper. The Court may immediately delete or modify an existing rule or adopt a new rule if, in the opinion of the Court, either exigent circumstances so require or the rule change is ministerial in nature.

Rule 42 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. _____.

Rule 43 Effective Date

These rules shall take effect on January 1, 2022. Except provided in Loc.R. 14, these rules apply to all filings on or after January 1, 2022.

Rules 44-49 [Reserved]

Rule 50 Security Policy

For purposes of ensuring security in court facilities and pursuant to the provisions of the Ohio Court Security Standards adopted by the Supreme Court of Ohio in Rule 9 of the Rules of Superintendence for the Courts of Ohio, this Court has adopted and implemented a court security plan in conjunction with the Probate Division of the Hamilton County Court of Common Pleas.