

**The Ohio Court of Appeals
Fifth District**



LOCAL RULES

Effective January 1, 2015

TABLE OF RULES

RULE

- 1. Costs Deposits**
 - (A) Original Actions
 - (B) Appeals
 - (C) Actions Brought by Indigents
- 2. Clerks of this Court; Filing Documents; Proposed Judgment Entry Required**
 - (A) Clerks of this Court
 - (B) Filing Documents
 - (C) Electronic Filing
 - (D) Proposed Judgment Entry Required
- 3. Designation of Counsel**
 - (A) Designation of Counsel
 - (B) Application for Leave to Withdraw as Counsel
- 4. Original Actions**
 - (A) How Instituted
 - (B) Evidence
- 5. Dismissals for Failure to Prosecute the Appeal**
- 6. Docketing Statement; Accelerated Calendar**
 - (A) Docketing Statement
 - (B) Accelerated Calendar
- 7. Expedited Cases**
- 8. The Record**
 - (A) Extensions of Time for Filing the Record
 - (B) Inability of Court Reporter to Supply a Necessary Part of the Record
 - (C) Evidence Consisting of Weapons, Ammunition, Money, Drugs or Valuables
- 9. The Briefs**
 - (A) Contents of Briefs
 - (B) Length of Briefs
 - (C) Font Requirements
 - (D) Length of Time for Filing a Brief
 - (E) Filing and Service of Briefs on Cross-Appeal
- 10. Oral Arguments**
- 11. Delivery of Copies of Orders, Judgments and Memorandum-Opinions**
 - (A) Parties
 - (B) Judge
- 12. Consolidation of Appeals**
- 13. Presiding Judge and Administrative Judge**
- 14. Notification of Proposed Changes to the Local Rules of Court**
- 15. Court Security**
- 16. Title**

Form – Example of Facsimile Filing Cover Page

Form – Example of Notice of Filing an Exhibit

Form - Docketing Statement

INTRODUCTION

The Fifth Appellate Judicial District is comprised of the following fifteen counties: Ashland, Coshocton, Delaware, Fairfield, Guernsey, Holmes, Knox, Licking, Morgan, Morrow, Muskingum, Perry, Richland, Stark, and Tuscarawas.

RULE 1. COSTS DEPOSITS

(A) Original Actions. No complaint in an original action (mandamus, prohibition, procedendo, quo warranto, or except where prohibited by R.C. 2725.28 or other law, habeas corpus) shall be accepted for filing in this Court of Appeals unless the party bringing the action shall first have deposited with the Clerk of the Court of Appeals of the county in which the action is to be brought the sum of eighty-five dollars (\$85.00) as security for the payment of the costs that may accrue in the action.

Subpoenas shall not issue for witnesses in actions in habeas corpus unless an additional deposit of ten dollars (\$10.00) per witness is deposited as security for costs with the Clerk of the Court of Appeals of the county in which the action is brought together with the praecipe for subpoena.

(B) Appeals. Within ten (10) days after filing the notice of appeal or cross-appeal, appellants or cross-appellants shall comply with section (C) of this rule or shall deposit with the Clerk of Court of Appeals of the county in which the appeals is filed the sum of ninety dollars (\$90.00) as security for the payment of costs that may accrue in the appeal. Any personal check given for deposit shall be made payable to the Clerk of the Court of Appeals.

This deposit for costs may be made with the clerk of the trial court when the notice of appeal is filed in that court, and any deposit so made shall be forwarded by that clerk to the Clerk of the Court of Appeals along with the copy of the notice of appeals and other papers required by App.R.3(D).

Failure to make this deposit for costs shall not prevent the filing of a notice of appeal in the trial court.

Failure to make this deposit for costs within ten days of the filing of the notice of appeal is failure to prosecute the appeal for which the appeal may be dismissed pursuant to App. R. 3(A).

(C) Actions Brought by Indigents. If the party bringing an original action, bringing an appeal, or seeking the attendance of witnesses files with the Clerk of the Court of Appeals a sworn affidavit of inability to secure costs by such prepayment, the requirements of Sections (A) and (B) of this rule shall not be effective. An affidavit of indigency must be filed for each and every notice of appeal and original action. The party filing the affidavit of indigency is under a continuing duty to notify this Court if the party becomes financially able to secure and pay costs of the action. The Court will impose costs pursuant to App. R. 24 at the conclusion of the case, even if the prepayment of costs is waived pursuant to this Rule.

(Former Rule 2 adopted effective May 1, 1981; amended effective September 1, 1981; July 1, 1983; January 1, 1993; August 30, 1995; amended and renumbered as Rule 1 effective May 1, 1997; amended effective January 1, 2008; amended effective January 1, 2015.)

RULE 2. CLERKS OF THIS COURT; FILING DOCUMENTS; PROPOSED JUDGMENT ENTRY REQUIRED

(A) Clerks of this Court. The Clerks of the Courts of Common Pleas of the counties comprising the Fifth Appellate Judicial District are the Clerks of this Court of Appeals in their respective counties pursuant to R.C. 2303.03.

(B) Filing Documents. Motions, records, briefs, and all other documents required to be filed in this Court or with the Clerk of this Court shall be filed with the Clerk of the Court of Appeals of the county in which the trial of the action appealed took place or, in the case of original actions, with the Clerk of the Court of Appeals of the county in which the complaint is filed, such county properly being any county where this Court may obtain personal jurisdiction over the parties.

Documents mailed, faxed, or delivered directly to the offices of the judges in Canton will not be considered filed either when mailed or when received.

(C) Electronic Filing. The provisions of this local rule are adopted under App.R.13(A). Documents may be filed with the appropriate Clerk of Courts by facsimile transmission subject to the following conditions:

(1) Applicability. Only motions to this Court and their responses, subsequent to a notice of appeal or original action complaint, may be transmitted by facsimile to the appropriate Clerk of this Court for filing. No other pleadings, including the notice of appeal or briefs, shall be filed via facsimile or other electronic transfer.

(2) Original filing

(A) A document received and filed by facsimile shall be accepted by the Clerk of Court as the effective original filing. The source document and additional copies need not follow by mail for purpose of filing. The person making the fax filing must, however, maintain in his or her records and have available for production on request by the Court the source document, filed by fax for with original signatures as otherwise required under applicable rules, together with the original copy of the facsimile cover page used for the subject filing.

(B) The source document filed by fax shall be maintained by the person making the filing until the case is closed and all opportunities for post-judgment relief are exhausted.

(3) Definitions. As used in these rules, unless the context requires otherwise:

(A) A “facsimile transmission” means the transmission of a source document by a facsimile machine that encodes a document into optical or electrical signals, transmits

and reconstructs the signals to print a duplicate of the source document at the receiving end.

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

(4) Cover Page

(A) All documents sent by facsimile shall be accompanied by a cover page containing the following information: (See Appendix for Example.)

(I) The name of the Court

(II) The caption of the case

(III) The case number

(IV) The assigned judge(s), if applicable

(V) The title of the document being filed

(VI) The date of transmission

(VII) The transmitting facsimile number

(VIII) An indication of the numbers of pages included in the transmission, including cover page

(IX) The name, address, telephone number, facsimile number, supreme court registration number, and e-mail address of the person filing the fax document, if available, and

(X) If applicable, a statement explaining how costs are being submitted.

(B) If a document is sent by fax to the clerk of court without the cover page information listed above, the clerk will:

(I) Enter the document in the case docket and file the document, if possible.

(II) If the faxed document(s) does not contain sufficient information to file the document, the clerk of court will deposit the document in a file of failed faxed documents with a notation of the reason for the failure; in this instance, the document *shall not* be considered filed with the clerk of courts.

(C) The clerk of court is not required to send any form of notice to the sending party of a failed fax filing. However, if practicable, the clerk may attempt to inform the sending party of a failed fax filing.

(5) Signature. Any signature on electronically transmitted documents shall be considered that of the attorney or party it purports to be for all purposes. Any party who files a signed document by fax represents that the physically signed source document is in his/her possession or control. Documents may be filed with a signature or with the notation "/s/" followed by the name of the signing person where the signature appears in the signed source document. If it is established that any document was transmitted without authority, the Court shall order the filing stricken.

(6) Exhibits

(A) Each exhibit to a facsimile produced document that cannot be accurately transmitted via facsimile for any reason must be replaced by an insert page describing the exhibit and why it is missing. Unless the Court orders otherwise, the missing exhibit shall be filed

with the Court, as a separate document, not later than five (5) court days following the filing of the facsimile document. Failure to file the missing exhibits as required may result in the Court striking the document and/or exhibit.

(B) Exhibits filed in this manner shall be attached to a cover sheet containing the caption of the case, which sets forth the name of the court, title of the case, the case number, and the title of the exhibit being filed (e.g., Appellant Smith's Notice of Filing Exhibit "A" to Appellant Smith's Motion to Dismiss), and shall be signed and served in conformance with the rules governing the signing and service of pleadings in this Court. (See Appendix for Example).

(7) Time of Filing

(A) Facsimile transmissions may be made on the basis of 24 hours per day, 7 days per week. Each page of any document received by the Clerk will be automatically imprinted with the date and time of receipt. The date and time imprinted on the document will determine the time of filing, provided the document is deemed accepted by the Clerk and the Clerk of Court's office is open for business at the time of receipt. If a document is received on a date and time of which the Clerk of Court's office is not regularly scheduled to be open for business, the document shall be deemed to have been filed on the next day and time the Clerk's office is regularly scheduled to be open.

(B) Fax filings may NOT be sent directly to the Court for filing but may only be transmitted directly through the facsimile equipment operated by the appropriate Clerk of Courts.

(C) The Clerk of Court may, but need not, acknowledge receipt of a facsimile transmission.

(D) The risks of transmitting a document by facsimile to the Clerk of Courts or delay in the document being time-stamped shall be borne entirely by the sending party. Anyone using facsimile filing is urged to verify receipt of such filing by the Clerk of Court through whatever technological means are available

(8) Fees and Costs

(A) No document requiring prepayment of a fee or cost deposit shall be filed by facsimile, unless an acceptable method of payment has been paid or arranged to be paid pursuant to terms acceptable to the respective Clerk. Documents tendered to the Clerk without payment of court costs or fees, or without arranging payment terms with the Clerk will not be filed.

(B) No additional fee shall be assessed for facsimile filings.

(9) Facsimile filings shall not exceed twenty (20) pages in length. The filer shall not transmit service copies by facsimile.

(10) Effective date. These local rules shall be effective January 1, 2008, and shall govern all proceedings in actions brought after they take effect and also further proceedings in pending actions, except to the extent that, in the opinion of the Court, their application in a particular action pending on the effective date would not be feasible or would work an injustice, in which event, the former procedure applies.

(D) Electronically Signed Court Documents

(A) The following definitions shall apply to this rule:

- (I) “Electronic” and “electronic signature” have the same meaning as used in section 1306.01 of the Ohio Revised Code.
- (II) The term “Document” includes decisions, journal entries, notices, orders, opinions, and any other filing by a Judge, Magistrate or Court Administrator of this Court.

(B) 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.

(C) Electronic transmission of a court document with an electronic signature by a Judge or Magistrate that is sent in compliance with procedures adopted by the Court shall, upon the complete receipt of the same by the Clerk of Court, constitute the date and time of receipt of the document, provided that the Clerk of Court’s Office is open for business at the time of receipt. If a document is received at a date and time when the Clerk of Court’s Office is not regularly scheduled to be open for business, the document shall be deemed to have been received at the next day and time the Clerk’s Office is regularly scheduled to be open.

(E) Proposed Judgment Entry Required. All motions shall be submitted for filing accompanied by a proposed judgment entry suitable for use if the motion is granted. (Adopted effective August 30, 1995; amended effective May 1, 1997; amended effective January 1, 2008; amended November 19, 2014).

RULE 3. DESIGNATION OF COUNSEL; APPLICATION FOR LEAVE TO WITHDRAW AS COUNSEL

(A) Designation of Counsel. Every notice of appeal, pleading, motion, and brief filed shall have typed or printed on it the name, address, and telephone number of the filing counsel (or the party, if not represented by counsel). The attorney registration number shall follow the name of filing counsel on all documents filed with this Court.

Notice or motions to appear as co-counsel with the counsel of record shall be made by the counsel of record.

(B) Application for Leave to Withdraw as Counsel. Counsel who has entered an appearance with this court, whether appointed or retained, may not withdraw representation without leave of this court. Counsel seeking to withdraw shall file a written motion which shall:

- (1) show good cause for the request
- (2) include notice that a party has 14 days from filing of the motion to withdraw to file any objection to the motion

- (3) be signed by the client, signed by the client's new counsel (if any), or contain a certification that the motion was served upon the client by certified or express mail and by regular mail
- (4) include the address of the client's new counsel, or if none, the name and address of the client

(Adopted effective September 11, 1984; amended effective August 30, 1995; amended effective May 1, 1997; amended effective July 1, 1999; amended effective January 1, 2008; amended effective January 1, 2015.)

RULE 4. ORIGINAL ACTIONS

- (A) How Instituted.** Service in original actions shall be made and the action shall commence upon the filing of a complaint and proceed as a civil case under the Ohio Rules of Civil Procedure unless those rules are clearly inapplicable.
- (B) Evidence.** Unless consent of the Court is otherwise obtained, the evidence in all original actions, except in habeas corpus, shall be submitted to the Court by means of an agreed statement of facts, affidavits, stipulations, depositions or exhibits; oral testimony will not be heard.

Court stenographers will not be in attendance at the trial of the action unless arranged for and employed by one or more of the parties and appointed by the Court, except as otherwise ordered by the Court due to exceptional circumstances.

(Adopted effective May 1, 1997; amended effective January 1, 2008; amended effective June 1, 2012.)

RULE 5. DISMISSALS FOR FAILURE TO PROSECUTE THE APPEAL

Unless the appellant demonstrates that no undue delay and no prejudice to appellee has been caused by the failure to comply with the rules, the following shall be deemed good cause for dismissal of an appeal, *sua sponte*, for failure to prosecute:

- (A)** Failure to cause the record on appeal to be timely transmitted to the clerk of this court
- (B)** Failure to timely file the brief or otherwise fail to comply with all the provisions of App.R.16 or Loc.App.R.9;
- (C)** Failure to timely file a fully completed docketing statement pursuant to Loc.App.R.6.

(Adopted effective May 1, 1997; amended effective March 31, 2011.)

RULE 6. DOCKETING STATEMENT; ACCELERATED CALENDAR

- (A) Docketing Statement.** Each appellant and cross-appellant shall file a fully completed docketing statement, typed or legibly printed, at the same time as filing the notice of

appeal or cross-appeal. A docketing statement is not fully completed unless a time-stamped copy of the judgment being appealed is attached. The party prosecuting an appeal shall serve a copy of the completed docketing statement together with the notice of appeal on the opposing party.

The clerk of the trial court shall provide docketing statement forms as prescribed by this Court. (See Appendix for Docketing Statement Form). Docketing statements of a form other than the one shown in the Appendix will not be allowed. The clerk of the trial court shall send a copy of the docketing statement to the Court of Appeals along with a copy of the notice of appeal.

(B) Accelerated Calendar. Pursuant to App.R.11.1, this Court has adopted an accelerated calendar. The Court shall determine from the docketing statement whether the appeal will be assigned to the accelerated or regular calendar. If the appeal is assigned to the accelerated calendar, oral arguments shall not be scheduled and the matter will be determined upon submission of all briefs.

If appellee or cross-appellee objects to the assignment of the appeal to the accelerated calendar, appellee or cross-appellee may file an objection with this Court within thirty days of the filing of the docketing statement and the case shall be assigned to the regular calendar.

(Adopted effective September 30, 1995; amended effective May 1, 1997; amended effective January 1, 2008; amended effective March 31, 2011.)

RULE 7. EXPEDITED CASES

(A) A criminal appeal by the state as of right or a civil appeal of the type listed under section (F)(3) of the Docketing Statement must be expedited by this Court. Therefore all parties shall give their prompt attention to such appeals and prosecute them diligently. Requests for extensions of time to transmit the record or to file the briefs should be minimized.

(B) Any request for oral argument pursuant to App.R. 11.2(C)(4)(Adoption and Parental Rights Appeals) must be made by separate motion no later than the date the requesting party files its brief.

(C) Oral arguments on expedited cases, once scheduled, will not be continued absent a showing of extraordinary circumstances. Oral arguments will be scheduled on the earliest available date and, if necessary to expedite, will be held in any county within the Fifth Appellate District.

(Adopted effective May 1, 1997; amended effective March 31, 2011.)

RULE 8. THE RECORD

(A) Extensions of Time for Filing the Record. The trial court shall closely limit its extensions of time for transmission of the record (App.R. 10(C)), shall overrule any motion

for an extension of time where good cause is not set forth and shown, and in no event shall any such order operate to extend such time beyond the eightieth day after the filing of the notice of appeal.

Motions for extensions of time beyond the eightieth day may be made only to this Court and must be filed before the expiration of the last extension granted by the trial court.

(B) Inability of Court Reporter to Supply a Necessary Part of the Record. Motions filed with this Court to supplement the record or for an extension of time to transmit the record, needed by reason of a claimed inability of the court reporter to supply a necessary part of the record, must be accompanied by an affidavit of the court reporter stating the circumstances relied on as justifying the extension, the date of the notice of appeal, and the date of service of the praecipe to the court reporter ordering the transcript.

(C) Evidence Consisting of Weapons, Ammunition, Money, Drugs, or Valuables. The clerk of the trial court shall not, unless directed to do so by this Court upon a motion by a party, transmit any trial exhibits consisting of weapons, ammunition, money, drugs, or valuables. The list of documents that the trial court clerk transmits with the record (App.R. 10(B)) shall designate which exhibits are not being transmitted pursuant to this rule and the custodian of the exhibits.

(Adopted effective October 1, 1981; amended effective May 1, 1997.)

RULE 9. THE BRIEFS

(A) Contents of Brief. In addition to the requirements of App.R. 16, the brief of appellant shall contain clear copies of the following:

- (1)** These documents, as applicable, shall be included as the first exhibits to the brief.
 - (a) The judgment entry appealed from; (Handwritten judgment entries are inappropriate and shall not be considered by this Court except for uniform traffic citations. See Ohio Traffic Rules);
 - (b) Any opinion of the trial court announcing the decision reflected by the judgment entry appealed from;
 - (c) Any written fact findings and conclusions of law signed and/or adopted by the trial judge contained in the record on appeal; and
- (2)** Where a summary judgment is appealed, a statement on a separate page following the assignments of error, declaring whether the claim is that the judgment is inappropriate as a matter of law on the undisputed facts or that a genuine dispute exists as to a material fact or facts, coupled with a separate statement of the specific fact issue or issues claimed in the trial court to have been material and genuinely disputed. See *North v. Pa. Ry. Co.*, 9 Ohio St.2d 169, 224 N.E.2d 757, syllabus 2.

(B) Length of Briefs. In addition to the requirements of App.R. 16, no brief by any party in an appeal or original action, excluding appendices, table of contents, table of cases, statement of assignments of errors, and statement of the issues shall exceed thirty pages, unless, upon a motion requesting an increase of a specific number of pages and the showing of good cause, this Court orders otherwise. No reply brief shall exceed fifteen pages.

(C) Font Requirements. The text of all documents shall be at least 12-point, double-spaced, non-condensed type. Footnotes and quotations may be single spaced; however, they shall also be in 12-point, non-condensed type. As used in this provision, “non-condensed type” shall refer to Times New Roman type or to another type that has no more than 80 characters to a line of text.

(D) Length of Time for Filing a Brief. In extension of App.R. 14(B), motions for enlargement of time to file a brief shall state the number of previous extensions granted pursuant to that rule. A motion to file a brief *instanter* must state that the brief was delivered to the clerk for filing with the motion to file *instanter*.

(E) Filing and Service of Briefs on Cross-Appeal. In extension to App.R. 18, a cross-appellant shall serve and file the cross-appellant brief within the same time guidelines as apply to an appellee brief. The cross-appellee/appellant shall serve and file the cross-appellee brief and may serve and file an appellant reply brief within twenty days after service of the cross-appellant brief. The cross-appellant may serve and file a reply brief within ten days after service of the cross-appellee's brief.

(Former Rules 4, 5, and 7 adopted effective October 1, 1981; amended effective May 29, 1984; August 30, 1995; amended and renumbered as Rule 9 effective May 1, 1997; amended effective January 1, 2008; amended effective March 31, 2011; amended effective February 1, 2012; amended effective June 1, 2012.)

RULE 10. ORAL ARGUMENTS

In accordance with App.R. 21(B), oral arguments shall be reduced from thirty minutes per side to fifteen minutes per side. In those cases where the Court has determined, *sua sponte*, that additional time is needed, the Court shall advise counsel as to the time established.

(Adopted effective July 30, 1995.)

RULE 11. DELIVERY OF COPIES OF ORDERS, JUDGMENTS, AND MEMORANDUM-OPINIONS.

(A) Parties. In extension of App.R. 30(A), immediately upon the entry of an order or judgment of this Court, the Clerk of this Court shall deliver a copy of the order or judgment and a copy of any accompanying memorandum-opinion to all counsel and to any party not represented by counsel and shall make a note of the delivery in the appearance docket of the Court of Appeals.

(B) Judge. The Clerk of this Court shall deliver a copy of any order or judgment entry terminating an appeal and a copy of any accompanying memorandum-opinion to the judge whose judgment was appealed.

(Adopted effective April 2, 1981.)

RULE 12. CONSOLIDATION OF APPEALS

Cases involving related transactions and the same or similar principles of law may be consolidated at the discretion of the Court either upon motion or *sua sponte*.

When consolidation has been ordered, the parties of each side shall endeavor to prepare a common brief with an allowance for special addenda to cover any proposition deemed essential by a particular party.

When consolidation is ordered, the consolidation order shall specify a controlling case number. The Clerk shall place all pleadings and entries filed subsequent to the consolidation order only in the controlling case number's file.

All pleadings filed in a consolidated case must show each of the case numbers of all the consolidated cases with the controlling case number shown first. The clerk shall place the consolidation order in the file of each of the consolidated case numbers. Any order closing a particular case shall be placed by the clerk in the file of that particular case.

All time constraints for filings shall be determined under the designated controlling case number.

(Adopted effective May 1, 1997.)

RULE 13. PRESIDING JUDGE AND ADMINISTRATIVE JUDGE

A presiding judge and an administrative judge shall be elected pursuant to Supt. R. 3 and 4. The election shall be designated by judgment entry signed by three judges of this Court and filed with the Clerk of this Court in Stark County. Such designations and duties shall continue until further order of this Court.

(Adopted effective February 10, 1981; amended effective March 31, 2011.)

RULE 14. NOTIFICATION OF PROPOSED CHANGES TO THE LOCAL RULES OF COURT

This Court shall send to each Clerk of this Court for each county in the Fifth Appellate District a copy of the proposed changes to these Local Appellate Rules. The respective clerks shall post the proposed changes in a conspicuous public place in the office of the clerk, make copies available for distribution to members of the bar and shall send notification of receipt and a copy of the proposed changes to each judge (common pleas, municipal, probate, etc.) in the county for which the clerk serves. The proposed changes shall be open to public comment for a period of thirty days after which time this Court will consider any comments received in adopting said changes to these Local

Appellate Rules.

(Adopted effective May 1, 1997.)

RULE 15. COURT SECURITY

The Fifth 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 in the court 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.

(Adopted effective September 1, 1995; amended effective May 1, 1997; amended effective March 31, 2011.)

RULE 16. TITLE

These rules shall be known as the Local Rules of the Fifth District Court of Appeals of Ohio and may be cited as 5th Dist.Loc.R. _____. Adopted effective January 1, 2015.

(Adopted effective June 1, 2012.)

FACSIMILE FILING COVER PAGE

NAME OF COURT: _____

FAX NUMBER: _____

SENDING PARTY INFORMATION:

NAME: _____

SUPREME COURT REGISTRATION NO. (If applicable): _____

OFFICE/FIRM: _____

ADDRESS: _____

TELEPHONE NO.: _____

FAX NUMBER: _____

E-MAIL ADDRESS (If applicable): _____

CASE INFORMATION:

TITLE OF THE CASE: _____

CASE NUMBER: _____

TITLE OF THE DOCUMENT: _____

JUDGE(S): _____

FILING INFORMATION:

DATE OF FAX TRANSMISSION: _____

NUMBER OF PAGES (Including this page): _____

STATEMENT EXPLAINING HOW COSTS ARE BEING SUBMITTED, IF APPLICABLE: _____

Effective January 1, 2008

IN THE COURT OF APPEALS FOR ** COUNTY, OHIO
FIFTH APPELLATE DISTRICT

JOHN SMITH :
 :
 Plaintiff-Appellant : CASE NO. **
 :
 -vs- :
 : JUDGES:
 : (If panel has been assigned)
 BILL JONES :
 :
 Defendant-Appellee :

APPELLANT SMITH'S NOTICE OF FILING EXHIBIT "G"
TO
APPELLANT SMITH'S RESPONSE TO APPELLEE'S MOTION TO DISMISS

Appellant Smith, through counsel hereby files Exhibit "G" to Appellant Smith's Response to Appellee's Motion to Dismiss. The referenced pleading was filed by facsimile transmission with the Court on [date]. Exhibit "G" could not be accurately transmitted by fax and is, therefore, being timely filed as a separate document with the Court pursuant to Loc.R. **,*. .

Respectfully submitted,

Attorney Name (S.Ct. Reg. No.)
Office/Firm
Address
Telephone No.
Facsimile No.
E-mail
Counsel for Appellant John Smith

CERTIFICATE OF SERVICE

I certify that a copy of this Notice of File Exhibit "G" was sent by ordinary U.S. mail on [date] to counsel for Appellee Bill Jones, [name and address of recipient].

Effective January 1, 2008

Attorney Name
Counsel for Appellant John Smith

**OHIO FIFTH DISTRICT COURT OF APPEALS
DOCKETING STATEMENT**

WARNING: A time-stamped copy of the judgment entry or order which makes your cause appealable as well as a copy of all judgment entries or orders being appealed must be attached to this statement.

WARNING: All requested information *must be provided*. Failure to file a fully completed docketing statement, typed or legibly printed, may result in this appeal being dismissed by the Court, *sua sponte*.

Plaintiff-Appellant Appellee (Circle Designation)

Appeal No. _____
Trial Court No. _____
Trial Court Judge _____

-vs- _____

Defendant-Appellant Appellee (Circle Designation)

Plaintiff's Counsel _____
Phone _____
Defendant's Counsel _____
Phone _____

A. DATES: Of the judgment(s) being appealed _____
Time to Appeal extended per App.R. ()Yes ()No
Specify Reason: _____

B. PROBABLE ISSUES FOR REVIEW: (Including charges in criminal case) _____

C. THIS APPEAL SHOULD BE ASSIGNED TO: (Check One) (See Loc. App. R. 6(B) and App. R. 11.2)

() The regular calendar,
() The accelerated calendar, (See Loc. R. 6(B))
() The expedited calendar. (See Section F(3) of this docketing statement, Loc. R. 7 and App. R. 11.2)

D. THE RECORD: This Docketing Statement will serve as a praecipe to the clerk to prepare and transfer the docket and journal entries.

Please Indicate the Type of Record to be Filed: (Check One).

- () Docket and Journal Entries Only, no transcript of proceedings.
- () Transcript has been prepared already. It is a () Full or () Partial Transcript. If partial, see App.R. 9(B)
- () Statement of the record pursuant to App.R. 9(C).
- () Agreed Statement of the Record pursuant to App.R. 9(D).
- () Transcript of Proceedings. () Less than or () Greater than 100 pages.
() Full or () Partial transcript has been ordered. If partial, see App.R. 9(B).

WARNING: If a transcript of proceedings is needed, a copy of the notice of appeal and an appropriate praecipe must be served by Appellant on the court reporter. A copy of the praecipe to the court reporter shall be filed with this Court showing service of the notice of appeal and praecipe upon the court reporter.

NAME OF COURT REPORTER, DATE SERVED _____

Please state with particularity which exhibits and/or evidence, other than paper exhibits or documentary evidence not of unusual bulk or weight, the parties request be transmitted as part of the record on appeal.
(See APP.R. 10(B); Loc.App.R. 8(C))

E. CRIMINAL CASE

- 1. CHARGE: _____
- 2. DEGREE: () Misdemeanor () Felony
- 3. Is this an appeal of probation revocation? () Yes () No. If yes, what was the original charge and sentence? _____
- 4. Is this an appeal of Post-Conviction Relief? (R.C. 2953.21) () Yes () No. If yes, was a hearing held in the trial court? () Yes () No. What was the original charge and sentence? _____
- 5. Type of Appeal: (Check One)
 - () Appeal as of Right () State's Appeal as of Right (R.C. 2945.67(A))
 - () Appeal by Leave of Court (App.R. 5) () State's Appeal by Leave of Court
- 6. Is this an appeal for review of sentencing pursuant to R.C. 2953.08? () Yes () No.
- 7. Was counsel appointed for trial? () Yes () No.
- 8. Was counsel appointed for appeal? () Yes () No.
- 9. Was a stay of sentence requested in trial court? () Yes () No If yes, stay was: GRANTED DENIED PENDING

F. CIVIL CASE

- 1. ACTION BROUGHT IN LOWER COURT: _____
- 2. Did this action originate in a Trial Court or in an Administrative Agency? Indicate which.
 - () County Court () Municipal Court () Common Pleas Court () Administrative Agency
 - () Probate Court () Family Court () Juvenile Court () Other _____
- 3. Must this case be expedited as being one of the following types: () Yes () No. If yes, check one of the following:
 - () Appeal under determination of local fiscal emergency brought by municipal corporation R.C. 118.04(C)
 - () Appeal brought by minor child under R.C. 2505.073
 - () Appeal involving matters of child custody, allocation of parental rights or responsibilities, or designation of a child's place of residence and legal custodian under R.C. 3109.04(H) and R.C. 3109.06.
 - () Appeal from orders granting or denying (1) termination of parental rights or (2) adoption of a minor child.(See App. R. 11.2 effective July I, 2000) See Loc. R. 7
 - () Appeal from orders regarding dependent, abused, neglected, unruly, or delinquent children. (See App. R. 11.2 effective July I, 2000) See Loc. R. 7
 - () Election contests as provided in R.C. 3515.08
- 4. Do you know of another case pending in this Court which raises the same issue(s)? () Yes () No. If yes, please cite case(s). _____
- 5. Have you determined in good faith that the judgment appealed from is a final appealable order? (R.C. 2505.02) () Yes () No.
- 6. Did the judgment dispose of all claims by and against all parties? () Yes () No.
- 7. If not, is there an express determination that there is "no just reason for delay"? (Civ.R. 54(B)) () Yes () No.
- 8. Was a stay of judgment requested in trial court? () Yes () No If yes, stay was: GRANTED DENIED PENDING

CERTIFICATION

I certify that the information provided on this docketing statement is accurate.

 Signature of Counsel (or Party if not represented by Counsel)
 & Supreme Court Reg. No. _____