SEVENTH APPELLATE DISTRICT
Local Rules

RULE I. Procedure in suspending sentence and setting bonds in criminal cases.

A. FELONY CASES

1. Before the filing of a notice of appeal in a criminal case, a copy thereof must be served upon the Prosecuting Attorney. R.C. Section 2953.06; Rule 3(E) and 13(B) of Rules of Appellate Procedure.

2. When a motion to suspend the sentence in a felony case is filed pursuant to R.C. Section 2953.09, a copy thereof must be served upon the Prosecuting Attorney.

3. Before a motion to suspend the sentence in a felony case is acted upon by a Judge of this Court, the Prosecuting Attorney will be given the opportunity to indicate his position on the suspension of the sentence and the amount of the bond to be set.

B. MISDEMEANOR CASES

1. Before the filing of a notice of appeal in a criminal case wherein the defendant is convicted of a misdemeanor, or the violation of an ordinance, a copy thereof must be served upon the Prosecuting Attorney, Law Director or City Solicitor, according to who is handling the prosecution of the case.

2. If the defendant is on bail when such a notice of appeal is filed, the execution of the sentence shall thereby be suspended and the defendant shall continue on the same bail during the pendency of the appeal unless the magistrate or this Court, for good cause shown, orders a new or additional bond R.C. Section 2953.051.

3. When the prosecution files a motion for a new or additional bond, a copy thereof must be served upon either the defendant or his counsel.

4. If no bond has been set by the magistrate at the time that a notice of appeal is filed, a motion may be filed in this Court to suspend the sentence in a misdemeanor or ordinance case. When such a motion is filed, a copy thereof must be served upon either the Prosecuting Attorney, Law Director or City Solicitor according to who is handling the prosecution of the case. Before such a motion to suspend the sentence in a misdemeanor or ordinance case is acted upon by a Judge of this Court, the person handling the prosecution of the case will be given the opportunity to indicate his position on the suspension of the sentence and the amount of the bond to be set.

RULE II. Procedure in filing assignments of error and briefs

1. If an appellant fails to file his assignments of error and brief within the time provided by Rule 18(A) of Rules of Appellate Procedure, or within the time as extended, unless good cause is shown for such non-compliance with such Rule, the cause will be dismissed for want of prosecution or otherwise disposed of at the discretion of the Court. Rule 18(C) of Rules of Appellate Procedure, R.C. Section 2505.21. If an appellee fails to file his brief within the time provided by Rule 18(A) of Rules of Appellate Procedure or within the time as extended, he will not be heard at oral argument except by permission of this court.

2. An application for extension of time within which to file assignments of error or brief must be by motion. Proof of notice to opposite counsel of the filing thereof shall be filed with the Court.

3. The first motion for extension of time to file assignment of error or briefs of an appellant that is filed within the time set out in the Rules of Appellate Procedure will be granted unless time is of the essence in the case or a similar good reason requires, in the discretion of at least two members of the Court, that no extension of time be permitted.

4. A motion for extension of time by an appellant to file assignments of error and merit brief beyond the first extension of time will be denied unless good cause is shown in writing why an extension of time should be allowed by this court.

5. (A) The signature of only one judge of this Court shall be required on the docket and journal entries of this Court for sustaining all motions of an appellant to extend the time within which to file his assignments of error and brief that are filed in compliance with Section 3 of this Rules, as well as all motions filed with the signed approval of opposing counsel pursuant to Section 4 of this Rule and for all motions for an extension of time within which to file appellee's brief or appellant's reply briefs.

(B) When motions of an appellant for an extension of time within which to file his assignments of error and brief are filed pursuant to Section 4 of the Rule and are opposed by appellee's counsel, the signatures of at least two judges of this Court shall be required on the docket and journal entries of this Court in order to sustain such motions.

RULE III. Cost deposits upon appeal

(A) Upon the filing of an appeal, cross-appeal or delayed appeal from lower tribunals, the clerk of courts shall not accept the appropriate notice of appeal unless the party bringing the action first deposits with the clerk of courts the sum of Fifty Dollars ($50.00) as security for the payment of costs. If the appellant either files with the clerk a sworn affidavit or affirmation of inability to secure costs by prepayment or produces evidence that the trial court determined the appellant was indigent for purposes of appeal, the

clerk shall receive and file the appeal without security deposit. No security deposit shall be required on appeals by the State or any of its subdivisions.

(B) Upon the filing of an original action, the clerk of courts shall secure as security for costs the sum of Fifty Dollars ($50.00). In addition to said security cost, subpoenas shall not be issued in original actions unless a security deposit in the amount of Twenty Dollars ($20.00) per witness is deposited with the clerk. If the party bringing the original action or the party seeking the attendance of witnesses files with the clerk a sworn affidavit or inability to secure costs by prepayment, the clerk shall receive and file the complaint or subpoena the witness without security deposit. No security deposits shall be required upon the filing of original actions or the subpoenaing of witnesses by the State or any of its subdivisions.

RULE IV. Brief

1. The initial and answer brief of parties shall not exceed thirty-five (35) pages, exclusive of the appendix, synopsis of argument, lists of authorities an appended texts of statutes and constitutional provisions, if any. No brief may be filed which exceeds such limitation except by prior permission by the court. Application for such permission shall be by motion specifying the number of extra pages required and specifying reasons why extra pages are required. Except by permission of the court, reply briefs shall not exceed ten (10) pages, exclusive of index, list of authorities, and appendix, if any, and shall be restricted to matters in rebuttal of the answer brief. Proper rebuttal is confined to new matters in the answer brief.

2. In the event that the trial court has filed or rendered an opinion, findings of fact and conclusions of law or memorandum expressing the rationale of its decision, a copy of such opinion, findings of fact and conclusions of law or memorandum shall be attached as an appendix to the appellant's brief.

RULE V. Oral Argument

No oral argument will be heard on any appeal unless requested by counsel for either party.

Oral arguments may be requested by filing a request for argument in the clerk's office within the time provided for the filing of the appellant's reply brief. The request for oral argument shall be filed as a separate pleading and not appended to any brief, notice or other paper. If any party fails to appear to present oral argument, the court shall hear argument on behalf of the opposing party, unless waived. The court may require oral argument in any case.

RULE VI. Court Security

Pursuant to Court of Appeals Superintendence Rule 5(B), there is here adopted the Seventh District Court of Appeals Court Security Operations Manual, on file with the

Clerk of the Ohio Supreme Court. The effective date of adoption of this rule is July 1, 1995.

RULE VII.

RULE 3. Notice of appeal, docketing statement and praecipe

(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 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) **Praecipe.** Each appellant and cross-appellant shall file a praecipe with their respective notice of appeal. The clerk of the trial court shall provide praecipe forms as prescribed by this Court. (See Appendix for Praecipe Form.) Praecipes of a form other than one shown in the Appendix will not be allowed. The clerk of the trial court shall send a copy of the praecipe to the Court of Appeals along with a copy of the notice of appeal. A copy of the praecipe designating the parts of the transcript to be included in the record shall be served by the appellant on the appellee in fulfillment of the requirements of Appellate Rule 9(B). No oral direction by counsel will be recognized.

(C) Failure to file a docketing statement and/or praecipe may result in dismissal of the appeal, or may result in assessing against the appellant such court costs as may be attributable to failure to file the docketing statement and/or praecipe.

Rule VIII: Prehearing Conference and Mediation

Pursuant to App. R. 41 and App.R. 20, this Court hereby adopts the following prehearing and mediation conference procedure, applicable only to civil appeals and original actions filed in this court.

(A) Requesting and Scheduling a Prehearing Conference.

(1) The court shall review the docketing statement filed pursuant to Loc. R. VII to determine whether a prehearing conference under Ohio Appellate Rule 20 would be of assistance to the parties or the court, and if mediation will be part of the prehearing conference.

(2) If an appeal or original action is selected for conference and/or mediation, the Court conferencing attorney shall notify the parties of the date, time and location of the prehearing conference. A minimum notice of ten (10) calendar days shall be provided from the date that the notice of conference schedule is mailed.

(3) In addition, any party may request a prehearing conference or mediation by contacting the court conferencing attorney by phone, email, or fax, or by filing a notice with the court. Such requests may be made confidentially if the requesting party desires. Such requests shall be submitted as soon as possible after initiation of the appeal or original action, generally within ten (10) days from the date the appeal or original action is filed. Requests for a prehearing mediation conference may or may not be granted by the court.

(B) Purposes and Procedure of Prehearing Mediation Conference.

(1) The primary purposes of the prehearing mediation conference are: (1) to explore settlement possibilities through mediation, (2) to simplify the issues in the appeal or original action if settlement is not possible, and (3) to address any anticipated procedural problems. Additionally, any other matters that the conference attorney determines may aid in handling the disposition of the proceedings will be considered.

(2) The prehearing conference shall be held with the court's conferencing attorney. Conferences conducted in person shall be subject to the attendance requirements of Section (C) of this rule. Follow-up conferences may be conducted, either in person or by telephone, as directed by the court.

(3) The scheduling of a prehearing conference does not stay the time for filing the record, transcript of proceedings, or briefs. If a prehearing conference is scheduled, any party may request an extension of time by phoning the conference attorney, or making an oral or written request at the conference, and one (1) limited 21-day extension shall normally be granted if requested. Any other requests for extensions of time shall be by motion filed with the court. Generally, no more than one (1) extension shall be granted, unless such an extension will facilitate settlement. In all cases, requests for extensions of time must be made prior to the time sought be extended.

(C) Attendance. Unless otherwise instructed by the court, the following persons shall attend the prehearing mediation conference in person: counsel; the parties necessary for full settlement authority including insurance adjustors; and litigants not represented by counsel. "Counsel," for purposes of this rule, means the attorney with primary responsibility for the case and upon whose advice the party relies. Persons excused in advance by the court from attending in person shall be available by telephone during the scheduled conference.

(E) Privilege and Confidentiality. The privilege provisions of the Uniform Mediation Act, R.C. Chapter 2710, apply to all mediation conferences and communications. Mediation communications shall be privileged and therefore shall not be disclosed by

the conference attorney or by the parties and shall not be used by the parties when presenting or arguing the case.

(F) Mediation Information Form. If a case is selected for a preconference hearing that involves mediation, the parties shall deliver to the conferencing attorney a confidential mediation information form provided by the Court. This form **shall not** be delivered or disclosed to any other party in the case, and **shall not** be filed with the court, but shall be delivered directly to the conferencing attorney by mail, fax, or email.

(F) Prehearing Mediation Conference Order. At the conclusion of the prehearing mediation conference, the Court, upon recommendation of the conference attorney, may enter an order setting forth the actions taken based on the agreements reached by the parties. Such order shall govern the subsequent course of proceedings, unless modified by the Court.

(G) Noncompliance Sanctions. Failure to comply with the provisions of this rule or any order of the court relating to a prehearing mediation conference may result in dismissal of the proceeding or an assessment of such costs as may be attributable to noncompliance including, but not limited to, attorney fees and court costs.

[Loc.R. VIII adopted effective November 1, 2015]