

**PROPOSED AMENDMENTS TO THE RULES OF PRACTICE OF
THE SUPREME COURT OF OHIO**

Comments Requested: The Supreme Court of Ohio will accept public comments until November 9, 2016, on the following proposed amendments to the Rules of Practice of the Supreme Court of Ohio.

Comments on the proposed amendments should be submitted in writing to Justin Kudela, Case Management Counsel, Supreme Court of Ohio, 65 South Front Street, 8th Floor, Columbus, Ohio 43215-3431 or justin.kudela@sc.ohio.gov not later than November 9, 2016. Please include your full name and mailing address in any comments submitted by e-mail.

Key to Proposed Amendment:

1. Existing language appears in regular type. Example: text
2. Existing language to be deleted appears in strikethrough. Example: ~~text~~
3. New language to be added appears in underline. Example: text

1 **RULES OF PRACTICE OF THE SUPREME COURT OF OHIO**

2
3 **S.Ct.Prac.R. 1.04. Applicability.**

4
5 The Rules of Practice of the Supreme Court of Ohio shall apply to all ~~eases~~ documents filed with
6 the Supreme Court.

7
8 Effective Date: January 1, 2013

9 Amended:_____

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12 **S.Ct.Prac.R. 2.01. Prerequisites to Filing and Appearance.**

13
14 **(A) Requirements**

15
16 **(1) General**

17
18 (a) In order to file documents other than those required to perfect an appeal, or
19 to participate in oral argument, attorneys shall be registered for active status with
20 the Office of Attorney Services of the Supreme Court as required by Gov.Bar R.
21 VI or shall have complied with the pro hac vice requirements of S.Ct.Prac.R. 2.02.

22
23 (b) Only persons who are attorneys qualified pursuant to division (A)(1)(a) of
24 this rule may file documents on behalf of another person or on behalf of an entity.

25
26 **(2) Death-penalty cases**

27
28 In addition to meeting the requirements of division (A)(1)(a) of this rule, in death-
29 penalty cases, any appointed attorney shall satisfy the certification requirements of
30 ~~Sup.R. 20 through 20.05~~ the Rules for Appointment of Counsel in Capital Cases
31 and appear on the list of attorneys certified to represent capital defendants on
32 appeal.

33
34 **(3) E-Filing Portal**

35
36 (a) The use of the Supreme Court’s E-Filing Portal is optional.

37
38 (b) All persons who choose to file documents through the E-Filing Portal shall
39 register and set up an account through the E-Filing Portal. Registered users shall
40 be responsible for maintaining the accuracy of their E-Filing Portal account
41 information.

42
43 (c) No registered user of the E-Filing Portal shall authorize or permit anyone to
44 use the registered user’s E-Filing Portal account except on behalf of the registered
45 user, in which event the registered user shall be deemed to be the filer.

47 **(B) Notice of appearance and withdrawal**

48
49 (1) The For attorneys registered for active status with the Office of Attorney Services
50 of the Supreme Court of Ohio, the first document filed by a party serves as the notice of
51 appearance of counsel for the attorneys who represent the filing party.

52
53 (2) Any attorney who first appears in a case after the first document has been filed by
54 the party that the attorney represents shall do one of the following:

55
56 (a) File a notice of appearance identifying the party on whose behalf the
57 attorney is appearing;

58
59 (b) Specify on the document being filed that this is the attorney's first
60 appearance in the case;

61
62 (c) If the document is filed through the E-Filing Portal, add the attorney and
63 identify the party the attorney represents.

64
65 (3) Any attorney who has made an appearance in a case and later withdraws from
66 representation of a party shall file a notice of withdrawal.

67
68 (4) For an attorney not registered for active status with the Office of Attorney Services
69 of the Supreme Court of Ohio, to make an appearance the attorney shall comply with
70 S.Ct.Prac.R. 2.02.

71
72 **(C) Striking of documents**

73
74 The Supreme Court may strike documents filed by attorneys who do not comply with this
75 rule, may strike from the docket the names of attorneys who are not in compliance with
76 this rule, or may take any other action as the Supreme Court deems appropriate.

77
78 Effective Date: June 1, 1994

79 Amended: April 1, 1996; June 1, 2000; July 1, 2004; January 1, 2008; January 1, 2010; January
80 1, 2013; January 1, 2015; July 22, 2015;_____

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82
83 **S.Ct.Prac.R. 2.02. Pro Hac Vice Admission.**

84
85 **(A) General**

86
87 (1) The Supreme Court may permit an attorney who is not registered for active status
88 with the Office of Attorney Services of the Supreme Court of Ohio to appear pro hac vice
89 and to file documents or participate in oral argument in a case before the Supreme Court
90 of Ohio if the attorney has complied with the requirements of Gov.Bar R. XII and this rule.

91
92 (2) The Supreme Court may withdraw pro hac vice admission at any time.

93 **(B) Motion**

94
95 (1) Pro hac vice admission will be allowed only on motion of an attorney who has
96 complied with all the requirements of Gov.Bar R. XII. The motion shall succinctly state
97 the qualifications of the attorney seeking admission and shall contain all information
98 required by Gov.Bar R. XII(2)(A)(6)(a) through (e), including the affidavit. A copy of the
99 certificate of registration furnished by the Office of Attorney Services of the Supreme
100 Court as required by Gov.Bar R. XII(2)(A)(6) shall also be attached.

101
102 (2) ~~A If the Supreme Court grants a motion for pro hac vice admission then the attorney~~
103 ~~shall be filed with the first document on which the attorney's name appears that is filed by~~
104 ~~a party that the attorney represents, except when filing documents to perfect an appeal as~~
105 ~~provided in S.Ct.Prac.R. 2.01, deemed to have made an appearance in the case and a notice~~
106 ~~of appearance under S.Ct.Prac.R. 2.01(B)(2) is not required.~~

107
108 (3) If an attorney required by S.Ct.Prac.R. 2.01 to be admitted pro hac vice has
109 perfected an appeal without filing a motion for pro hac vice admission, the attorney shall
110 file the motion no later than thirty days after the filing of the appeal ~~or with the first~~
111 ~~document filed after perfecting an appeal, whichever occurs first.~~

112
113 (4) If ~~the~~ an attorney seeks to participate pro hac vice in oral argument and has not
114 already been admitted in the case, the motion for pro hac vice admission shall be filed at
115 least thirty days before oral argument.

116
117 **(C) Refusal to file**

118
119 The Clerk of the Supreme Court shall refuse to file motions for pro hac vice admission that
120 are not timely submitted or that fail to comply with these rules.

121
122 **(D) Notification and renewal**

123
124 (1) Within thirty days of being admitted pro hac vice before the Supreme Court, the
125 attorney shall file a notice of permission to appear pro hac vice with the Office of Attorney
126 Services of the Supreme Court as required by Gov.Bar R. XII.

127
128 (2) In any case that is pending as of the first day of a new calendar year, the attorney
129 admitted pro hac vice shall comply with the registration renewal requirements of Gov.Bar
130 R. XII within thirty days of the start of that calendar year.

131
132 Effective Date: June 1, 1994

133 Amended: April 1, 1996; June 1, 2000; July 1, 2004; January 1, 2008; January 1, 2010; January
134 1, 2011; October 1, 2011; January 1, 2013; _____

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138 **S.Ct.Prac.R. 3.02. Filing with the Supreme Court.**

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(A) Filing

(1) Definition and filings treated as public records

(a) Filing is effectuated when the Clerk’s Office file-stamps a document and docket it in a case.

(b) Documents filed with the Supreme Court shall be available for public access pursuant to Sup.R. 44 through 47. A document that has been sealed pursuant to a court order, administrative agency order, or board order, or is the subject of a motion to seal pending in the Supreme Court, shall remain under seal and not be made available for public access unless ordered by the Supreme Court.

(2) Filing paper documents

(a) Filing paper documents with the Supreme Court shall be made by submitting the documents to the Clerk of the Supreme Court during the regular business hours of the Clerk’s Office. Only documents that are timely received and in compliance with these rules shall be filed by the Clerk.

(b) Paper documents may be submitted for filing in person; by delivery service; by mail addressed to the Clerk, The Supreme Court of Ohio, 65 S. Front St., 8th Floor, Columbus, Ohio 43215-3431; or by e-mail as specified in division (A)(4) of this rule.

(c) Paper documents received in the Clerk’s Office after 5:00 p.m. shall not be considered for filing until the next business day.

(3) Filing electronic documents through the E-Filing Portal

(a) Filing of electronic documents shall be made by submitting the documents through the E-Filing Portal. Confirmation of receipt by the E-Filing Portal is only a confirmation of receipt of the documents, not a confirmation that the documents were accepted for filing.

(b) Any document filed through the E-Filing Portal pursuant to division (A)(3) of this rule shall meet all requirements of these rules, except that multiple copies of a document are not required unless requested by the Clerk pursuant to S.Ct.Prac.R. 3.10.

(c) A document filed through the E-Filing Portal pursuant to division (A)(3) of this rule shall be submitted as a Portable Document Format (“PDF”) file.

183 (d) Filing documents through the E-Filing Portal does not alter any filing
184 deadlines imposed by the Rules of Practice of the Supreme Court of Ohio.
185

186 (e) Documents received after 5:00:00 p.m. local observed time in Columbus,
187 Ohio through the E-Filing Portal shall not be considered for filing until the next
188 business day. The time of receipt of a document is the time-stamp provided by the
189 Supreme Court's E-Filing Portal, and the time-stamp provided by any other
190 computer system shall not alter the time of receipt and effect of this rule.
191

192 (f) After review by the Clerk's Office, a separate communication that indicates
193 whether the documents were accepted for filing will be sent to the e-mail address
194 registered with the account of the person who submitted the documents through the
195 E-Filing Portal.
196

197 **(4) Filing electronic documents by e-mail**
198

199 ~~(a) Filing by e-mail is restricted to the following documents:~~
200

201 ~~(i) A request for extension of time or a stipulation to an agreed~~
202 ~~extension of time that complies with S.Ct.Prac.R. 3.03;~~
203

204 ~~(ii) A list of additional authorities filed pursuant to S.Ct.Prac.R. 16.08~~
205 ~~or 17.08;~~
206

207 ~~(iii) An application for dismissal filed pursuant to S.Ct.Prac.R. 4.05;~~
208

209 ~~(iv) A waiver of oral argument filed pursuant to S.Ct.Prac.R. 17.03;~~
210

211 ~~(v) A notice related to attorney representation filed pursuant to~~
212 ~~S.Ct.Prac.R. 2.03;~~
213

214 ~~(vi) A notice of a court of appeals' determination of no conflict filed~~
215 ~~pursuant to S.Ct.Prac.R. 7.07(B);~~
216

217 ~~(vii) A waiver of a memorandum in response filed pursuant to~~
218 ~~S.Ct.Prac.R. 7.03(E);~~
219

220 ~~(viii) A joint motion to remand a case to a lower court or agency.~~
221

222 (b) A document permitted to be filed by e-mail pursuant to division (A)(4)(a)
223 of this rule shall be sent to the Clerk's Office using the following e-mail address:
224 filing@sc.ohio.gov. Documents sent to any other e-mail address of the Supreme
225 Court shall not be considered for filing under any circumstances.
226

227 ~~(e) Any document filed by e-mail pursuant to division (A)(4)(a) of this rule~~
228 ~~shall meet all requirements of these rules, except that multiple copies of a document~~
229 ~~are not required.~~

231 ~~(d) A document permitted to be filed by e-mail pursuant to division (A)(4)(a)~~
232 ~~of this rule shall be submitted as an a Portable Document Format (“PDF”) file.~~

234 ~~(e) Documents transmitted by e-mail pursuant to division (A)(4)(a) of this rule~~
235 ~~and received on a Saturday, Sunday, or other day on which the Clerk’s Office is~~
236 ~~closed to the public, or after 5:00 p.m. on a business day, shall be considered for~~
237 ~~filing on the next business day. The time of receipt of a document is the time stamp~~
238 ~~provided by the Supreme Court’s e-mail system, and the time stamp provided by~~
239 ~~any other computer system shall not alter the time of receipt and effect of this rule.~~

241 **(5) Consideration for filing**

242
243 Documents submitted by mail, ~~e-mail~~, delivery service, or through the E-Filing
244 Portal shall not be considered for filing until received by the Clerk’s Office.

246 **~~(6)~~(5) Confirmation of delivery and filing deadlines**

247
248 (a) Confirmation of delivery by any source other than the Clerk’s Office or the
249 E-Filing Portal does not verify actual receipt by the Clerk’s Office.

250
251 (b) The alteration of hours or procedures by any delivery service, including but
252 not limited to the United States Postal Service, shall not affect the filing deadlines
253 and requirements imposed by these rules.

254
255 **(B) Prohibition against untimely filings**

256
257 No document may be filed after the filing deadlines imposed by these rules, set by Supreme
258 Court order, or as extended in accordance with S.Ct.Prac.R. 3.03(B)(2) or 11.04(C). The
259 Clerk shall refuse to file a document that is not timely received in accordance with
260 S.Ct.Prac.R. 3.02(A). Motions to waive this rule are prohibited and shall not be filed.

261
262 **(C) Rejection of noncomplying documents**

263
264 The Clerk may reject documents that are not clearly legible or that fail to comply with the
265 requirements of these rules.

266
267 Effective Date: June 1, 1994
268 Amended: April 1, 1996; April 28, 1997; July 1, 2004; October 1, 2005; January 1, 2008; January
269 1, 2010; January 1, 2013; January 1, 2015; July 22, 2015;_____

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272 **S.Ct.Prac.R. 3.07. Cover Page.**

273

274 **(A) General**

275

276 Each document filed in the Supreme Court shall contain a cover page, which shall be white.
277 ~~Except as provided in division (B) of this rule, the~~ The cover page shall contain only the
278 following information:

279

280 ~~(1)~~(A) The case name and the case number assigned when the case was filed in the
281 Supreme Court;

282

283 ~~(2)~~(B) The nature of the proceeding in the Supreme Court (e.g., appeal, original
284 action in mandamus);

285

286 ~~(3)~~(C) If the proceeding is an appeal, the name of the court or the administrative
287 agency from which the appeal is taken;

288

289 ~~(4)~~(D) The title of the document (e.g., notice of appeal, appellant's merit brief,
290 memorandum in support of jurisdiction);

291

292 ~~(5)~~(E) An identification of the party on whose behalf the document is filed;

293

294 ~~(6)~~(F) The name, attorney-registration number, address, telephone number,
295 facsimile number, and e-mail address, if available, of each attorney who has filed
296 an appearance in the case; an indication as to which party each attorney represents;
297 and, where two or more attorneys represent a party, designation of counsel of record
298 in accordance with S.Ct.Prac.R. 2.03. A party who is not represented by an attorney
299 shall indicate the party's name, address, and telephone number.

300

301 **(B) Name of appellees**

302

303 ~~The cover page of a notice of appeal shall also provide the name of each appellee in the~~
304 ~~appeal before the Supreme Court.~~

305

306 Effective Date: June 1, 1994

307 Amended: April 1, 1996; June 1, 2000; February 1, 2001; July 1, 2004; February 1, 2007; January
308 1, 2008; January 1, 2010; January 1, 2013;_____

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318 **S.Ct.Prac.R. 4.06. Substitution of Parties**

319

320 **(A) General**

321

322 **(1) Original actions**

323

324 In original actions, except as provided for in division (B) of this rule, substitution
325 of a party shall be governed by the applicable provisions of the Ohio Rules of Civil
326 Procedure.

327

328 **(2) Other case types**

329

330 In all other cases, except as provided for in division (B) of this rule, if substitution
331 of a party is necessary, a motion shall be filed that designates the person to be
332 substituted and states the reasons the substitution is required.

333

334 **(B) Public officers; death or separation from office**

335

336 Unless otherwise provided for by this rule, when a public officer in the officer's official
337 capacity is a party to an appeal or other proceeding in the Supreme Court of Ohio and
338 ceases to hold office while the matter is pending, the action does not abate and the successor
339 officer is automatically substituted as a party. Proceedings following the substitution shall
340 be in the name of the substituted party. Any misnomer not affecting the substantial rights
341 of the parties shall be disregarded. An order of substitution may be entered at any time.
342 The omission to enter such an order shall not affect the substitution.

343

344 Effective: _____

345

346

347 **S.Ct.Prac.R. 7.01. Institution of Jurisdictional Appeal.**

348

349 **(A) Perfection of appeal**

350

351 **(1) Time to file and documents required**

352

353 (a) (i) To perfect a jurisdictional appeal from a court of appeals to the
354 Supreme Court as defined by S.Ct.Prac.R. 5.02(A), the appellant shall file a notice
355 of appeal in the Supreme Court within forty-five days from the entry of the
356 judgment being appealed. The date the court of appeals filed its judgment entry for
357 journalization with its clerk, in accordance with App.R. 22, shall be considered the
358 date of entry of the judgment being appealed.

359

360 (ii) Except as provided by S.Ct.Prac.R. 7.01(A)(3), the appellant shall also file
361 a memorandum in support of jurisdiction, in accordance with S.Ct.Prac.R. 7.02, at
362 the time the notice of appeal is filed.

363

364 (b) Except as provided in divisions (A)(2), (3), (4), (5), and (6) of this rule, the
365 time period designated in this rule for filing a notice of appeal and memorandum in
366 support of jurisdiction is mandatory, and the appellant's failure to file within this
367 time period shall divest the Supreme Court of jurisdiction to hear the appeal. The
368 Clerk of the Supreme Court shall refuse to file a notice of appeal or a memorandum
369 in support of jurisdiction that is received for filing after this time period has passed.
370

371 **(2) Subsequent notices of appeal and cross-appeal**

372
373 (a) If a party timely files a notice of appeal in the Supreme Court, any other
374 party may file a notice of appeal or cross-appeal in the Supreme Court within the
375 time prescribed by division (A)(1) of this rule or ten days after the first notice of
376 appeal was filed, whichever is later.
377

378 (b) A notice of appeal shall be designated and treated as a notice of cross-appeal
379 if both of the following requirements are met:

- 380 (i) It is filed after the original notice of appeal was filed in the case;
- 381 (ii) It is filed by a party against whom the original notice of appeal was
382 filed.

383
384 (c) If a notice of cross-appeal is filed, a combined memorandum both in
385 response to appellant/cross-appellee's memorandum and in support of jurisdiction
386 for the cross-appeal shall be filed by the deadline imposed in S.Ct.Prac.R. 7.05.
387
388
389

390 **(3) Motion for stay in advance of filing a memorandum in support of jurisdiction**

391
392 (a) In a jurisdictional appeal, if the appellant seeks from the Supreme Court an
393 immediate stay of the court of appeals' judgment that is being appealed, the
394 appellant may file a notice of appeal in the Supreme Court without an
395 accompanying memorandum in support of jurisdiction, provided both of the
396 following conditions are satisfied:
397

- 398 (i) A motion for stay of the court of appeals' judgment is filed with
399 the notice of appeal;
- 400 (ii) A date-stamped copy of the court of appeals' opinion and judgment
401 entry being appealed is attached to the motion for stay.
402

403
404 (b) If pursuant to S.Ct.Prac.R. 7.01(A)(3)(a) a memorandum in support of
405 jurisdiction is not filed with the notice of appeal, then a memorandum in support of
406 jurisdiction shall be filed no later than forty-five days from the date of the entry of
407 the court of appeals' judgment being appealed. The Supreme Court will dismiss the
408 appeal if the memorandum in support of jurisdiction is not timely filed pursuant to
409 this provision.

410 **(4) Motion for a delayed appeal in felony cases**

411
412 (a) In a felony case, when the time has expired for filing a notice of appeal in
413 the Supreme Court, the appellant may file a delayed appeal by filing a notice of
414 appeal and a motion for delayed appeal that complies with the following
415 requirements:

416
417 (i) The motion shall state the date of entry of the judgment being
418 appealed and the reasons for the delay;

419
420 (ii) Facts supporting the motion shall be set forth in an affidavit;

421
422 (iii) A date-stamped copy of the court of appeals' opinion and the
423 judgment entry being appealed shall be attached to the motion.

424
425 (b) A memorandum in support of jurisdiction shall not be filed at the time a
426 motion for delayed appeal is filed. If the Supreme Court grants a motion for delayed
427 appeal, the appellant shall file a memorandum in support of jurisdiction within
428 thirty days after the motion for delayed appeal is granted. If a memorandum in
429 support of jurisdiction is not timely filed after a motion for delayed appeal has been
430 granted, the Supreme Court will dismiss the appeal.

431
432 (c) The provision for delayed appeal does not apply to appeals involving
433 postconviction relief or appeals brought pursuant to App.R. 26(B). The Clerk shall
434 refuse to file motions for delayed appeal involving postconviction relief or App.R.
435 26(B).

436
437 **[Existing language unaffected by the amendments is omitted to conserve space]**

438
439 Effective Date: June 1, 1994

440 Amended: April 1, 1996; April 1, 2000; June 1, 2000; July 1, 2004; August 1, 2004; January 1,
441 2008; January 1, 2010; July 1, 2010; October 1, 2011; January 1, 2013;_____

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443
444 **S.Ct.Prac.R. 8.01. Institution of a Certified-Conflict Case.**

445
446 **(A) General**

447
448 When a court of appeals issues an order certifying a conflict pursuant to Article IV, Section
449 3(B)(4) of the Ohio Constitution, any interested party to the proceeding may institute a
450 certified-conflict case by filing a notice of certified conflict in the Supreme Court.

451
452 **(B) Procedure**

453
454 The notice of certified conflict shall have attached or be accompanied by all of the
455 following:

456

- 457 (1) A date-stamped copy of the court of appeals order certifying a conflict;
458
459 (2) A copy of the certifying court's opinion;
460
461 (3) Copies of the conflicting court of appeals' opinions.
462

463 **(C) Party status**

464
465 The party who files the order certifying a conflict shall be considered the appellant.
466

467 **(D) Jurisdiction and refusal to file**

468
469 Failure to file the court of appeals order certifying a conflict within thirty days after the
470 date of such order shall divest the Supreme Court of jurisdiction to consider the order
471 certifying a conflict. The Clerk of the Supreme Court shall refuse to file a notice of certified
472 conflict that is received for filing after this time period has passed.
473

474 Effective Date: June 1, 1994

475 Amended: April 1, 1996; April 1, 2000; June 1, 2000; July 1, 2004; January 1, 2008; January 1,
476 2010; January 1, 2013; January 1, 2015;_____

477
478
479 **S.Ct.Prac.R. 9.01. Institution of a Case Certifying a Question of State Law.**

480
481 **(A) General**

482
483 The Supreme Court may answer a question of law certified to it by a court of the United
484 States. This rule is invoked if the certifying court, in a proceeding before it, issues a
485 certification order finding there is a question of Ohio law that may be determinative of the
486 proceeding and for which there is no controlling precedent in the decisions of this Supreme
487 Court.
488

489 **(B) Procedure**

490
491 (1) A case certifying a question of state law shall be instituted by the clerk of the
492 certifying court filing with the Clerk of the Supreme Court a date-stamped certification
493 order from a court of the United States as specified by S.Ct.Prac.R. 9.02 and 9.03.
494

495 (2) A case certifying a question of state law may be initiated with a paper filing or
496 through the E-Filing Portal.
497

498 Effective Date: June 1, 1994

499 Amended: April 1, 1996; July 1, 2004; January 1, 2008; January 1, 2010; January 1, 2013; January
500 1, 2015;_____

501
502

503 **S.Ct.Prac.R. 10.01. Institution of an Appeal from the Board of Tax Appeals.**

504

505 **(A) Perfection of an appeal**

506

507 (1) A notice of appeal from the Board of Tax Appeals shall be filed with the Supreme
508 Court and the Board within thirty days from the date of the entry of the decision of the
509 Board.

510

511 (2) The notice of appeal shall be accompanied by a date-stamped copy of the decision
512 being appealed, set forth the claimed errors, comply with the service requirements of
513 S.Ct.Prac.R. 3.11(C)(2), and otherwise be in conformance with R.C. 5717.04.

514

515 (3) If a party timely files a notice of appeal in the Supreme Court, any other party may
516 file a notice of appeal pursuant to R.C. 5717.04.

517

518 **(B) Proceedings**

519

520 After the record in an appeal from the Board of Tax Appeals is filed by the Clerk of the
521 Supreme Court, the parties shall brief the case in accordance with the applicable provisions
522 of S.Ct.Prac.R. 16.01 through 16.10.

523

524 Effective Date: June 1, 1994

525 Amended: April 1, 1996; April 1, 2000; June 1, 2000; July 1, 2004; August 1, 2004; January 1,
526 2008; January 1, 2010; January 1, 2013; January 1, 2015;_____

527

528

529 **S.Ct.Prac.R. 10.02. Institution of an Appeal from the Public Utilities Commission.**

530

531 **(A) Perfection of an appeal**

532

533 (1) A notice of appeal from the Public Utilities Commission shall be filed with the
534 Supreme Court and with the commission within the time specified in and in conformance
535 with R.C. 4903.11 and 4903.13 and Ohio Adm. Code 4901-1-02(A) and 4901-1-36.

536

537 (2) (a) The notice of appeal shall be accompanied by a date-stamped copy of the
538 decision being appealed, comply with the service requirements of S.Ct.Prac.R.
539 3.11(B)(2), and contain a certificate of filing pursuant to S.Ct.Prac.R. 3.11(D)(2).

540

541 (b) The notice of appeal shall identify where in the application for rehearing
542 that was filed pursuant to R.C. 4903.10 the issues to be raised on appeal were
543 preserved.

544

545 (3) If a party files a notice of appeal in the Supreme Court, any other party may file a
546 notice of cross-appeal pursuant to R.C. 4903.13. The notice of cross-appeal shall be filed
547 within the later of the time prescribed by R.C. 4903.11 or ten days after the first notice of
548 appeal was filed.

549 **(B) Proceedings**

550

551 After the record in an appeal from the Public Utilities Commission is filed by the Clerk of
552 the Supreme Court, the parties shall brief the case in accordance with the applicable
553 provisions of S.Ct.Prac.R. 16.01 through 16.10.

554

555 Effective Date: June 1, 1994

556 Amended: April 1, 1996; April 1, 2000; June 1, 2000; July 1, 2004; August 1, 2004; January 1,
557 2008; January 1, 2010; January 1, 2013; January 1, 2015;_____

558

559

560 **S.Ct.Prac.R. 11.06. Application for Reopening.**

561

562 **(A) General**

563

564 An appellant in a death-penalty case involving an offense committed on or after January 1,
565 1995, may apply for reopening of the appeal from the judgment of conviction and sentence,
566 based on a claim of ineffective assistance of appellate counsel in the Supreme Court. An
567 application for reopening shall be filed within ninety days from the issuance of the mandate
568 of the Supreme Court, unless the appellant shows good cause for filing at a later time.

569

570 **(B) Requirements**

571

572 An application for reopening shall contain all of the following:

573

574 (1) The Supreme Court case number in which reopening is sought and the trial
575 court case number or numbers from which the appeal was taken;

576

577 (2) A showing of good cause for untimely filing if the application is filed more
578 than ninety days after entry of the judgment of the Supreme Court;

579

580 (3) One or more propositions of law or arguments in support of propositions of
581 law that previously were not considered on the merits in the case or that were
582 considered on an incomplete record because of the claimed ineffective
583 representation of appellate counsel;

584

585 (4) An affidavit stating the basis for the claim that appellate counsel's
586 representation was ineffective with respect to the propositions of law or arguments
587 raised pursuant to S.Ct.Prac.R. 11.06(B)(3) and the manner in which the claimed
588 deficiency prejudicially affected the outcome of the appeal, which affidavit may
589 include citations to applicable authorities and references to the record;

590

591 (5) Any ~~If~~ the application is filed more than ninety days after the issuance of
592 the mandate of the Supreme Court, any relevant parts of the record available to the
593 applicant ~~and all~~;

594

595 (6) All supplemental affidavits upon which the applicant relies;

596

597 (7) Specific citations to the record, as necessary to support the claims raised in
598 the application.

599

600 **(C) Response to an application for reopening**

601

602 Within thirty days from the filing of the application, the attorney for the prosecution may
603 file and serve affidavits, parts of the record, and a memorandum of law in response to the
604 application. Any memorandum in response shall include specific citations to the record, as
605 necessary to respond to the claims raised in the application.

606

607 **(D) Page limitation**

608

609 An application for reopening and a response to an application for reopening shall not
610 exceed ~~ten~~ fifteen pages, exclusive of affidavits and parts of the record.

611

612 **(E) Grounds for granting application**

613

614 An application for reopening shall be granted if there is a genuine issue as to whether the
615 applicant was deprived of the effective assistance of counsel on appeal.

616

617 **(F) Notice and appointment of counsel**

618

619 If the Supreme Court grants the application, the Clerk of the Supreme Court shall serve
620 notice on the clerk of the trial court, and the Supreme Court will do both of the following:

621

622 (1) Appoint counsel to represent the applicant if the applicant is indigent
623 and not currently represented;

624

625 (2) Impose conditions, if any, necessary to preserve the status quo during the
626 pendency of the reopened appeal.

627

628 **(G) Procedure after granting an application**

629

630 (1) If the application is granted, the case shall proceed as on an initial appeal in
631 accordance with these rules except that the Supreme Court may limit its review to those
632 propositions of law and arguments not previously considered.

633

634 (2) The time limits for preparation and transmission of the record pursuant to
635 S.Ct.Prac.R. 11.04 shall run from entry of the order granting the application. The parties
636 shall address in their briefs the claim that representation by prior appellate counsel was
637 deficient and that the applicant was prejudiced by that deficiency.

638

639

640

641 **(H) Evidentiary hearing**

642
643 If the Supreme Court determines that an evidentiary hearing is necessary, the evidentiary
644 hearing may be conducted by the Supreme Court or referred to a master commissioner.
645

646 **(I) Supreme Court decision**

647
648 If the Supreme Court finds that the performance of appellate counsel was deficient and the
649 applicant was prejudiced by that deficiency, the Supreme Court shall vacate its prior
650 judgment and enter the appropriate judgment. If the Supreme Court does not so find, it
651 shall issue an order confirming its prior judgment.
652

653 Effective Date: June 1, 1994

654 Amended: April 1, 1996; April 1, 2000; July 1, 2004; January 1, 2008; January 1, 2010; January
655 1, 2013;_____

656

657

658 **S.Ct.Prac.R. 12.04. Response to Complaint; Court Action.**

659

660 **(A) Time to file response to complaint**

661

662 (1) Except as provided by S.Ct.Prac.R. 12.08 and 12.09, the respondent shall file an
663 answer to the complaint or a motion to dismiss within twenty-one days of service of the
664 summons and complaint.
665

666

667 (2) If an amended complaint is filed under S.Ct.Prac.R. 3.13, and Civ.R. 15(A),
668 the respondent shall file an answer to the amended complaint or a motion to dismiss
669 within twenty-one days of the filing of the amended complaint.

670

670 **(B) Responses**

671

672 (1) The respondent may file a motion for judgment on the pleadings at the same time
673 an answer is filed. The relator may not file a motion for judgment on the pleadings or a
674 response to an answer.
675

676

677 (2) The relator may file a memorandum in response to a motion to dismiss or a
678 memorandum in response to a motion for judgment on the pleadings within ten days of the
679 filing of the motion.

680

680 (3) Neither party may file a motion for summary judgment.

681

682 (4) The Clerk of the Supreme Court shall refuse to file a response that is untimely or
683 prohibited by this rule.
684

685

686

687 (C) **Supreme Court action**

688

689 After the time for filing an answer to the complaint or a motion to dismiss, the Supreme
690 Court will ~~either~~ dismiss the case or; issue an alternative or a peremptory writ, if a writ has
691 not already been issued; or deny the request for the writ.

692

693 Effective Date: June 1, 1994

694 Amended: April 1, 1996; April 1, 2000; August 1, 2002; July 1, 2004; January 1, 2008; January
695 1, 2010; January 1, 2013;_____

696

697

698 **S.Ct.Prac.R. 12.08. Expedited Election Cases.**

699

700 (A) **Procedure**

701

702 (1) Because of the necessity of a prompt disposition of an original action relating to a
703 pending election, and in order to give the Supreme Court adequate time for full
704 consideration of the case, if the action is filed within ninety days prior to the election, the
705 respondent shall file an answer to the complaint within five days after service of the
706 summons.

707

708 (2) Unless otherwise ordered by the Supreme Court, and pursuant to the provisions of
709 S.Ct.Prac.R. 12.07, original actions governed by this rule shall proceed as follows:

710

711 (a) Relator shall file any evidence and a merit brief in support of the complaint
712 within three days after the filing of the answer or, if no answer is filed, within three
713 days after the answer was due;

714

715 (b) Respondent shall file any evidence and a merit brief within three days after
716 the filing of relator's merit brief;

717

718 (c) Relator may file a reply brief within three days after the filing of
719 respondent's merit brief.

720

721 (3) Motions to dismiss and for judgment on the pleadings shall not be filed in expedited
722 election cases.

723

724 (B) **Reconsideration**

725

726 A motion for reconsideration may be filed in an expedited election case. Any motion for
727 reconsideration shall be filed within three days after the Supreme Court's judgment entry
728 or order is filed with the Clerk of the Supreme Court. A memorandum in response may be
729 filed within three days of the filing of the motion for reconsideration.

730

731

732

733 (C) **Service of documents**

734

735 All documents in expedited election cases, except those filed to initiate a case under this
736 rule, shall be served on the date of filing by personal service, facsimile transmission, or e-
737 mail.

738

739 Effective Date: June 1, 1994

740 Amended: April 1, 1996; April 1, 2000; August 1, 2002; July 1, 2004; January 1, 2008; January
741 1, 2010; January 1, 2013;_____

742

743

744 **S.Ct.Prac.R. 13.04. Oral Argument.**

745

746 (A) **Scheduling**

747

748 (1) Oral argument will be scheduled and heard after the filing of objections and briefs
749 to a final certified report filed by the Board of Commissioners on Character and Fitness,
750 the Board of Professional Conduct, or the Board on the Unauthorized Practice of Law.

751

752 (2) Division (A)(1) of this rule notwithstanding, in cases in which a party files
753 objections to a certified report filed by the Board of Professional Conduct regarding a
754 petition for reinstatement, a petition for revocation of probation, or in reciprocal discipline
755 cases, oral argument will not be scheduled; however, the Supreme Court may order oral
756 argument on the merits either sua sponte or in response to a request by either party. A
757 request for oral argument shall be by motion and filed no later than twenty days after the
758 objections and brief of petitioner or relator.

759

760 (B) **Waiver of oral argument**

761

762 (1) Any party may waive oral argument as provided for in S.Ct.Prac.R. 17.03.

763

764 (2) Any party who fails to file objections or an answer and the accompanying brief as
765 required by the Supreme Court Rules for the Government of the Bar of Ohio or the Supreme
766 Court Rules for the Government of the Judiciary of Ohio shall be deemed to have waived
767 oral argument.

768

769 Effective Date: January 1, 2013

770 Amended: January 1, 2015;_____

771

772

773 **S.Ct.Prac.R. 16.08. Prohibition Against Supplemental Briefing.**

774

775 Except as provided in S.Ct.Prac.R. 3.13, ~~and S.Ct.Prac.R. 17.08,~~ and 17.09, merit briefs shall not
776 be supplemented. If a relevant authority is issued after the deadline has passed for filing a party's
777 merit brief, that party may file a citation to the relevant authority but shall not file additional

778 argument. In cases scheduled for oral argument, citations to additional authority may be filed
779 pursuant to S.Ct.Prac.R. 17.08.

780

781 Effective Date: June 1, 1994

782 Amended: April 1, 1996; April 1, 2000; June 1, 2000; July 1, 2004; January 1, 2008; January 1,
783 2010; January 1, 2013;_____

784

785

786 **S.Ct.Prac.R. 17.08. List of Additional Authorities Relied Upon During Oral**
787 **Argument.**

788

789 **(A) General**

790

791 A party who intends to rely during oral argument on authorities not cited in the merit briefs
792 shall file a list of citations to those authorities no later than seven days before the date of
793 the oral argument. The party shall not file additional argument.

794

795 **(B) Exception**

796

797 If relevant authority is issued less than seven days before the date of oral argument, a party
798 may file a citation to the relevant authority but shall not cite to any other authority that was
799 issued more than seven days before oral argument. The party shall not file additional
800 argument.

801

802 Effective: June 1, 1994

803 Amended: April 1, 1996; April 1, 2000; February 1, 2001; April 1, 2002; July 1, 2004; January 1,
804 2008; January 1, 2010; January 1, 2013; January 1, 2015;_____