

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

Comments Requested: The Supreme Court of Ohio will accept public comment until November 13, 2012, 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 no later than November 13, 2012. Please include your full name and mailing address in any comments submitted by email.

Key to Proposed Amendment:

1. Original language of the rule appears as regular typescript.
2. Language to be deleted appears ~~thus~~.
3. Language to be added appears thus.

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RULES OF PRACTICE OF THE SUPREME COURT OF OHIO

(Including amendments effective January 1, 2013)

5 The following Rules of Practice of the Supreme Court of Ohio include all amendments adopted
6 and effective through January 1, 2013, and apply to practice and procedure in cases before the
7 Supreme Court of Ohio.

8
9 Some of the rules are followed by commentary. The commentary has not been adopted by the
10 Supreme Court.

11
12 Appendices following the rules include prescribed forms and samples of the types of documents
13 most commonly filed in the Supreme Court. The samples are included to illustrate to attorneys
14 and litigants the proper form to be used for documents filed in the Supreme Court. To ensure
15 compliance with the rules, the complete text of the relevant rules should also be reviewed before
16 documents are submitted for filing.

17
18 Filings may be made by delivering the documents in person or by mail addressed to the clerk of
19 the Supreme Court at the following address:

20
21 **Clerk of the Supreme Court**
22 **Supreme Court of Ohio**
23 **65 South Front Street, 8th Floor**
24 **Columbus, Ohio 43215-3431**
25

26 Certain documents may be filed by e-mail transmission to the clerk's office at the following
27 address: filing@sc.ohio.gov. Before a document is sent by e-mail, S.Ct.Prac.R. 3.01(C) should
28 be consulted to determine whether it is the type of document that may be filed in that manner.

29
30 All filings must be made during the regular business hours of the clerk's office, which are 8:00
31 a.m. to 5:00 p.m., Monday through Friday, excluding holidays. The Supreme Court has adopted
32 security procedures that apply to all visitors and persons with business before the court. These
33 include check-in with the State Highway Patrol, which requires the presentation of photo
34 identification, and scanning of all materials brought into the court. Persons hand-delivering
35 documents to the clerk's office should allow extra time for these security procedures, which must
36 be followed before gaining access to the clerk's office. Documents received in the clerk's office
37 after 5:00 p.m. will not be filed until the next business day.

38
39 The Supreme Court's website may be accessed to review frequently asked questions and answers
40 about filing: www.supremecourt.ohio.gov. Questions regarding the Rules of Practice or the
41 status of cases pending before the Supreme Court may be directed to the clerk's office at the
42 following phone numbers: **(614) 387-9530 or (614) 387-9531**.

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

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379 **INTRODUCTION**

380
381 The Supreme Court is the highest court in the state of Ohio. The court consists of a
382 Chief Justice and six Justices who are elected by the citizens of the state of Ohio to six-year
383 terms. A majority of the Supreme Court is necessary to constitute a quorum or to render a
384 judgment.

385
386 The jurisdiction of the Supreme Court is outlined in the Ohio Constitution Article IV,
387 Section 2(B), as summarized below.

388 The Supreme Court has original jurisdiction in the following types of cases:

- 389
390
391 (1) Quo warranto;
392 (2) Mandamus;
393 (3) Habeas corpus;
394 (4) Prohibition;
395 (5) Procedendo;
396 (6) Any cause on review as may be necessary to its complete determination;
397 (7) Admission to the practice of law, the discipline of persons admitted to the
398 practice of law, and all other matters relating to the practice of law.

399
400 The Supreme Court has appellate jurisdiction in the following types of cases:

- 401
402 (1) Appeals from the courts of appeals as a matter of right in the following:
403 (a) Cases originating in the courts of appeals;
404 (b) Cases involving questions arising under the Constitution of the United
405 States or of Ohio;
406 (2) Appeals from the courts of appeals in felony cases if leave is first obtained;
407 (3) Direct appeals from the courts of common pleas or other courts of record
408 inferior to the court of appeals as a matter of right in cases in which the death
409 penalty has been imposed (for an offense committed on or after January 1, 1995);
410 (4) Appeals of the proceedings of certain administrative officers or agencies as
411 provided by statute;
412 (5) Cases of public or great general interest, if the Supreme Court directs a court
413 of appeals to certify its record to the Supreme Court; and
414 (6) Any case certified by a court of appeals to the Supreme Court pursuant to the
415 Ohio Constitution Article IV, Section 3(B)(4).

416
417 The Supreme Court holds regular sessions that are open to the public. Generally, these
418 sessions are held in the Supreme Court courtroom on the first floor of the Thomas J. Moyer
419 Ohio Judicial Center, 65 South Front Street, Columbus, Ohio. Calendars of the court
420 sessions are available in the Clerk’s Office and on the Supreme Court of Ohio’s website at:
421 www.supremecourt.ohio.gov.

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SECTION 1. GENERAL RULES.

S.Ct.Prac.R. 1.01. Title.

These rules shall be known as the “Rules of Practice of the Supreme Court of Ohio.”

Effective Date:_____

S.Ct.Prac.R. 1.02. Purpose.

The purpose of the Rules of Practice of the Supreme Court of Ohio is to promote the efficient administration of justice in cases filed with the Supreme Court.

Effective Date:_____

S.Ct.Prac.R. 1.03. Authority.

The Rules of Practice of the Supreme Court of Ohio are promulgated pursuant to the Ohio Constitution, Article IV, Section 5.

Effective Date:_____

S.Ct.Prac.R. 1.04. Applicability.

The Rules of Practice of the Supreme Court of Ohio shall apply to all cases filed with the Supreme Court.

Effective Date:_____

S.Ct.Prac.R. 1.05. Citation.

The Rules of Practice of the Supreme Court of Ohio shall be cited as "S.Ct.Prac.R. _____".

Effective Date:_____

470 **SECTION 1.2. REQUIREMENTS FOR ATTORNEYS PRACTICING BEFORE**
471 **THE SUPREME COURT.**

472
473 **S.Ct.Prac.R. 1.1. 2.01. Prerequisites to Appearance.**

474
475 **(A) Requirements**

476
477 In order to file documents other than those required to perfect an appeal, or to
478 participate in oral argument, attorneys shall be registered for active status with the
479 Office of Attorney Services of the Supreme Court as required by Gov.Bar R. VI or
480 shall have complied with the pro hac vice requirements of S.Ct.Prac.R. ~~1.2~~ 2.02. In
481 addition to meeting the preceding requirements, in death-penalty cases, any
482 appointed attorney shall satisfy the certification requirements of ~~the Rules of~~
483 ~~Superintendence for the Courts of Ohio~~ Sup.R. 20 through 20.05 and appear on the
484 list of attorneys certified to represent capital defendants on appeal.

485
486 **(B) Notice of appearance**

487
488 The first document filed by a party shall serve as the notice of appearance of
489 counsel. Any attorney appearing in a case after the first document has been filed
490 shall file a notice of appearance identifying the party on whose behalf the attorney is
491 appearing. Any attorney who withdraws representation of a party shall file a notice
492 of withdrawal.

493
494 **(C) Striking of documents**

495
496 The Supreme Court may strike documents filed by attorneys who do not in
497 compliance comply with this rule, may strike from the docket the names of attorneys
498 who are not in compliance with this rule, or may take any other action as the
499 Supreme Court deems appropriate.

500
501 Effective Date: June 1, 1994

502 Amended: April 1, 1996; June 1, 2000; July 1, 2004; January 1, 2008; January 1,
503 2010;_____

504
505
506
507 **S.Ct.Prac.R. 1.2. 2.02. Pro Hac Vice Admission.**

508
509 **(A) General**

510
511 The Supreme Court may permit any attorney who has complied with the
512 requirements of Gov.Bar R. XII to appear pro hac vice and to file documents or
513 participate in oral argument before the Supreme Court. The Supreme Court may
514 withdraw pro hac vice admission at any time.

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(B) Motion

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

(2) A motion for pro hac vice admission shall be filed with the first document on which the attorney's name appears that is filed by a party that the attorney files represents, except when filing documents to perfect an appeal as provided in S.Ct.Prac.R. ~~4-4~~ 2.01.

(3) If an attorney required by S.Ct.Prac.R. ~~4-4~~ 2.01 to be admitted pro hac vice has perfected an appeal without filing a motion for pro hac vice admission, the attorney shall file the motion no later than thirty days after the filing of the appeal or with the first document filed after perfecting an appeal, whichever occurs first.

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

(C) Refusal to file

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

(D) Notification and renewal

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

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

Effective Date: June 1, 1994
Amended: April 1, 1996; June 1, 2000; July 1, 2004; January 1, 2008; January 1, 2010; January 1, 2011; October 1, 2011;_____

563 **S.Ct.Prac.R. ~~1.3.~~ 2.03. Designation of Counsel of Record.**

564

565 **(A) General**

566

567 The attorney representing a party shall be designated as counsel of record for that
568 party. ~~Where~~ When two or more attorneys represent a party, only one attorney shall
569 be designated as counsel of record to receive notices and service on behalf of that
570 party. The designation shall be made on the cover page of the first document filed by
571 the party in the Supreme Court. If ~~an~~ no attorney is ~~not~~ designated counsel of record,
572 the first attorney listed for the party on the cover page of the first document filed
573 shall be considered the counsel of record. To change a party's designation of its
574 counsel of record, the party shall file a ~~separate notice of change~~ new designation of
575 counsel of record.

576

577 **(B) Notification**

578

579 (1) The Clerk ~~of the Supreme Court~~ shall send notices and orders in a case to
580 counsel of record at the office address that counsel has registered with the Office of
581 Attorney Services of the Supreme Court under Gov.Bar R. VI. If no office address is
582 registered, the Clerk will send notices and orders to the residence address that
583 counsel has registered with the Office of Attorney Services.

584

585 (2) Counsel of record may request that the Clerk send notices and orders in a
586 case to an address other than one registered with the Office of Attorney Services by
587 filing a notice with the Clerk designating the address to be used in that case.

588

589 Effective Date: June 1, 1994

590 Amended: April 1, 1996; June 1, 2000; July 1, 2004; January 1, 2008; January 1,
591 2010;_____

592

593 **SECTION 14. 3. GENERAL PROVISIONS PROCEDURAL REQUIREMENTS.**

594

595 **S.Ct.Prac.R. 14.1. 3.01. Filing with the Supreme Court.**

596

597 **(A) Filing defined**

598

599 (1) Filing with the Supreme Court shall be made by submitting the documents to
600 the Clerk of the Supreme Court during the regular business hours of the Clerk's
601 Office. Only documents that are timely received and in compliance with these rules
602 shall be filed by the Clerk. Documents may be submitted for filing in person; by
603 delivery service; or; by mail addressed to the Clerk, The Supreme Court of Ohio, 65
604 S. Front St., 8th Floor, Columbus, Ohio 43215-3431; or by e-mail as specified by
605 S.Ct.Prac.R. 3.01(C)(1).

606

607 (2) Documents submitted by mail, e-mail, or delivery service shall not be
608 considered for filing until received in the Clerk's Office. Documents received in the
609 Clerk's Office after 5:00 p.m. shall not be considered for filing until the next
610 business day. Confirmation of delivery by any source other than the Clerk's Office
611 does not verify actual receipt by the Clerk's Office. The alteration of hours or
612 procedures by any delivery service, including but not limited to the United States
613 Postal Service, shall not affect the filing deadlines and requirements imposed by
614 these rules.

615

616 **(B) Filings treated as public records**

617

618 Documents filed with the Supreme Court ~~shall be treated as~~ are public records unless
619 they have been sealed pursuant to a court order or are the subject of a motion to seal
620 pending in the Supreme Court.

621

622 **(C) Filing by ~~facsimile transmission~~ e-mail**

623

624 (1) The following documents may be filed by ~~facsimile transmission to~~ e-mail
625 ~~the Clerk:~~

626

627 (a) A request for extension of time or a stipulation to an agreed extension
628 of time that complies with S.Ct.Prac.R. ~~14.3~~ 3.02;

629

630 (b) A list of additional authorities filed ~~under~~ pursuant to S.Ct.Prac.R. ~~6.8~~
631 16.08 or ~~9.8~~ 17.08;

632

633 (c) An application for dismissal filed ~~by an appellant or a relator~~ pursuant
634 to S.Ct.Prac.R. 4.05;

635

636 (d) A waiver of oral argument filed ~~under~~ pursuant to S.Ct.Prac.R. ~~9.3~~
637 17.03;

638

639 (e) A notice related to attorney representation filed ~~under~~ pursuant to
640 S.Ct.Prac.R. ~~4.3~~ 2.03;

641
642 (f) A notice of a court of appeals' determination of no conflict filed
643 ~~under~~ pursuant to S.Ct.Prac.R. ~~4.4(B)~~ 7.07(B); and

644
645 (g) A waiver of a memorandum in response ~~under~~ filed pursuant to
646 S.Ct.Prac.R. ~~3.2(E)~~ 7.03(E).

647
648 (2) ~~Each facsimile transmission shall be accompanied by a cover page requesting~~
649 ~~that the document be filed and providing the name, telephone number, and facsimile~~
650 ~~number of the person transmitting the document. A document permitted to be filed~~
651 ~~by e-mail pursuant to division (C)(1) of this rule shall be sent to the Clerk's Office~~
652 ~~using the following e-mail address: filing@sc.ohio.gov. Documents sent to any other~~
653 ~~e-mail address of the Supreme Court shall not be considered for filing under any~~
654 ~~circumstances.~~

655
656 (3) ~~Only one copy of the document shall be transmitted. The Clerk shall provide~~
657 ~~any additional copies required to be filed by these rules. The person filing a~~
658 ~~document by facsimile transmission shall retain the original document and make it~~
659 ~~available upon request of the Supreme Court. Any document filed by e-mail pursuant~~
660 ~~to division (C)(1) of this rule shall meet all requirements of the Rules of Practice of~~
661 ~~the Supreme Court of Ohio, except that multiple copies of a document are not~~
662 ~~required.~~

663
664 (4) A document permitted to be filed by e-mail pursuant to division (C)(1) of this
665 rule shall be submitted as an Adobe® PDF file (Portable Document Format).

666
667 ~~(4)(5) Documents transmitted by facsimile transmission~~ e-mail pursuant to division
668 (C)(1) of this rule and received in the Clerk's Office on a Saturday, Sunday, or other
669 day on which the Clerk's Office is closed to the public, or after 5:00 p.m. on a
670 business day, shall be considered for filing on the next business day. The time of
671 receipt of a document is the timestamp provided by the Supreme Court's e-mail
672 system, and the timestamp provided by any other computer system shall not alter the
673 time of receipt and effect of this rule.

674
675 **(D) Prohibition against untimely filings**

676
677 No document may be filed after the filing deadlines imposed by these rules, set by
678 Supreme Court order, or as extended in accordance with S.Ct.Prac.R. ~~14.3(B)(2)~~
679 ~~3.02(B)(2)~~ or with S.Ct.Prac.R. ~~19.5(C)~~ 11.04(C). The Clerk shall refuse to file a
680 document that is not timely received in accordance with S.Ct.Prac.R. ~~14.1(A)~~
681 ~~3.01(A)~~. Motions to waive this rule are prohibited and shall not be filed.

682
683
684

685 (E) **Rejection of noncomplying documents**

686

687 The Clerk may reject documents ~~unless they are legible~~ that are not clearly legible
688 ~~and or that fail to~~ comply with the requirements of these rules.

689

690 Effective Date: June 1, 1994

691 Amended: April 1, 1996; April 28, 1997; July 1, 2004; October 1, 2005; January 1, 2008;

692 January 1, 2010; _____

693

694

695

696 **S.Ct.Prac.R. ~~14.3.~~ 3.02. Computation and Extension of Time.**

697

698 (A) **Computation of time**

699

700 (1) In computing any period of time prescribed or allowed by these rules or by
701 an order of the Supreme Court, the day of the act from which the designated period
702 of time begins to run shall not be included, and the last day of the period shall be
703 included. If the last day of the period is a Saturday, Sunday, or legal holiday, the
704 period runs until the end of the next day that is not a Saturday, Sunday, or legal
705 holiday.

706

707 (2) Notwithstanding Civ.R. 6(A), when the period of time prescribed or allowed
708 is less than seven days, as in expedited election cases under S.Ct.Prac.R. ~~40.9~~ 12.8,
709 intermediate Saturdays, Sundays, and legal holidays shall be included in the
710 computation.

711

712 (3) When the Clerk's Office of the Supreme Court is closed to the public for the
713 entire day that constitutes the last day for doing an act, or is closed before the usual
714 closing time on that day, then that act may be performed on the next day that is not a
715 Saturday, Sunday, or legal holiday.

716

717 (B) **Extension of time**

718

719 (1) **General prohibition against extensions of time.**

720

721 Except as provided in division (B)(2) of this rule, the Supreme Court will not
722 extend the time for filing a document as prescribed by these rules or by court
723 order, and the Clerk of the Supreme Court shall refuse to file requests for
724 extension of time.

725

726 (2) **Extension of time to file certain documents.**

727

728 (a) (i) Except in expedited election cases under S.Ct.Prac.R. ~~40.9~~
729 12.08, parties may stipulate to extensions of time to file merit briefs,
730 including reply briefs, under S.Ct.Prac.R. ~~6.2~~ 16.02 through ~~6.5~~

731 16.05; merit briefs, including reply briefs, under S.Ct.Prac.R. ~~49.6~~
732 11.05; or the response to a complaint or evidence under S.Ct.Prac.R.
733 ~~40.5~~ 12.04 and ~~40.6~~ 12.06. ~~Each~~ A stipulated extension of time shall
734 be effective only if it is filed with the Clerk within the time prescribed
735 by these rules for filing the brief or other document that is the subject
736 of the stipulation. The stipulation shall state the new date for filing
737 agreed to by the parties.

738
739 (ii) Each party may obtain in a case only one ~~agreed~~ stipulated
740 extension of time not to exceed twenty days, provided the party has
741 not previously obtained an extension of time from the Supreme Court
742 under division B(2)(b) of this rule. ~~An agreed extension of time shall~~
743 ~~be effective only if a stipulation to the agreed extension of time is~~
744 ~~filed with the Clerk within the time prescribed by these rules for filing~~
745 ~~the brief or other document that is the subject of the agreement. The~~
746 ~~stipulation shall state affirmatively the new date for filing agreed to~~
747 ~~by the parties.~~ The Clerk shall refuse to file a stipulation to an agreed
748 extension of time that is not tendered timely in accordance with this
749 rule, or if a request for extension of time has already been granted to
750 the party filing the stipulation under division (B)(2)(b) of this rule ~~to~~
751 ~~the party filing the stipulation.~~

752
753 (b) (i) In an expedited election case or any other case where a
754 stipulation to an agreed extension of time cannot be obtained, ~~under~~
755 ~~S.Ct.Prac.R. 14.3(B)(2)(a)~~ a party may file a request for extension of
756 time to file a merit brief, including a reply brief, the response to a
757 complaint, or evidence. The Supreme Court will grant a party only
758 one extension of time, not to exceed ten days, provided the request
759 for extension of time states good cause for an extension and is filed
760 with the Clerk within the time prescribed by the rules for filing the
761 brief or other document that is the subject of the request.

762
763 (ii) The Clerk shall refuse to file a request for extension of time
764 that is not tendered timely in accordance with this rule or if a
765 stipulation to an agreed extension of time has already been filed under
766 division (B)(2)(a) of this rule by the party filing the request.

767
768 **(3) Effect of extension of time upon other parties on the same side.**

769
770 When one party receives an extension of time under division (B)(2) of this
771 rule, the extension shall apply to all other parties on that side.

772
773 Effective Date: June 1, 1994

774 Amended: April 1, 1996; April 28, 1997; July 1, 2004; October 1, 2005; January 1, 2008;
775 January 1, 2010; _____

778 **S.Ct.Prac.R. 15.1. 3.03. Filing Fees to Institute a Case.**

779

780 The following filing fees are imposed by ~~section~~ R.C. 2503.17 and shall be paid before a
781 case is filed:

782

783	For filing a notice of appeal	\$100
784	For filing a notice of cross-appeal	\$100
785	For filing an order of a court of appeals certifying a conflict	\$100
786	For instituting an original action	\$100

787

788 Effective Date: June 1, 1994

789 Amended: April 1, 1996; July 1, 2004; January 1, 2008; October 16, 2009; January 1,
790 2010;_____

791

792

793

794 **S.Ct.Prac.R. 15.2. 3.04. Security Deposits in Original Actions.**

795

796 Original actions also require a deposit in the amount of one hundred dollars as security for
797 costs. The security deposit shall be paid before the case is filed. In extraordinary
798 circumstances, the Supreme Court may require an additional security deposit at any time
799 during the action.

800

801 Effective Date: June 1, 1994

802 Amended: April 1, 1996; July 1, 2004; January 1, 2008; January 1, 2010;_____

803

804

805

806 **S.Ct.Prac.R. 15.3. 3.05. Affidavit of ~~Indigency~~ Indigence or Entry of Appointment**
807 **of Counsel in Lieu of Fees.**

808

809 *[See Appendix A following these rules for an affidavit-of-indigence form.]*

810

811 **(A) Affidavit of indigence**

812

813 An affidavit of ~~indigency~~ indigence may be filed in lieu of filing fees or security
814 deposits. The affidavit shall be notarized and executed within six months prior to
815 being filed in the Supreme Court by the party on whose behalf it is filed. The
816 affidavit shall state the specific reasons the party does not have sufficient funds to
817 pay the filing fee or the security deposit. The Clerk of the Supreme Court shall
818 refuse to file an affidavit of ~~indigency~~ indigence that does not comply with this rule.

819

820

821

822

823

824 (B) **Entry appointing counsel**

825

826 Where counsel has been appointed by a trial or appellate court to represent an
827 indigent party, a copy of the entry of appointment may be filed in lieu of an affidavit
828 of ~~indigency~~ indigence.

829

830 Effective Date: June 1, 1994

831 Amended: April 1, 1996; July 1, 2004; January 1, 2008; January 1, 2010; _____

832

833

834

835 **S.Ct.Prac.R. ~~8-2~~ 3.06. Cover Page.**

836

837 (A) **General**

838

839 Each document filed in the Supreme Court shall contain a cover page, which shall be
840 white. Except as provided in division (B) of this rule, the cover page shall contain
841 only the following information:

842

843 (1) The case name and the case number assigned when the case was filed
844 in the Supreme Court;

845

846 (2) The nature of the proceeding in the Supreme Court (e.g., appeal,
847 original action in mandamus);

848

849 (3) If the proceeding is an appeal, the name of the court or the
850 administrative agency from which the appeal is taken;

851

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

854

855 (5) An identification of the party on whose behalf the document is filed;

856

857 (6) The name, attorney-registration number, address, telephone number,
858 facsimile number, and e-mail address, if available, of each attorney who has
859 filed an appearance in the case; an indication as to ~~what~~ which party each
860 attorney represents; and, where two or more attorneys represent a party, ~~an~~
861 ~~indication~~ designation of counsel of record in accordance with S.Ct.Prac.R.
862 ~~4-3~~ 2.03. A party who is not represented by an attorney shall indicate his or
863 her name, address, and telephone number.

864

865 (B) **Name of appellees**

866

867 The cover page of a notice of appeal shall also provide the name of each appellee in
868 the appeal before the Supreme Court.

869

870 Effective Date: June 1, 1994
871 Amended: April 1, 1996; June 1, 2000; February 1, 2001; July 1, 2004; February 1, 2007;
872 January 1, 2008; January 1, 2010;_____

873
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875

876 **S.Ct.Prac.R. 8-3. 3.07. Signature.**

877

878 **(A) Hardcopy Documents**

879

880 The original of every document filed in the Supreme Court shall be signed by an
881 attorney representing the party on whose behalf the document is filed. A party
882 who is not represented by an attorney shall sign the document being filed.

883

884 **(B) Electronic Documents**

885

886 A document that may be filed by e-mail pursuant to S.Ct.Prac.R. 3.01(C) or by
887 order of the Supreme Court, shall include a scanned version of the person's
888 original signature or a signature line with a backslash followed by a "s" followed
889 by the person's name in print (i.e., /s John T. Smith).

890

891 Effective Date: June 1, 1994

892 Amended: April 1, 1996; June 1, 2000; February 1, 2001; July 1, 2004; February 1, 2007;
893 January 1, 2008; January 1, 2010;_____

894

895

896

897 **S.Ct.Prac.R. 8-4. 3.08. Mechanical Requirements.**

898

899 **(A) Style of documents**

900

901 Unless otherwise specified in this rule, parties shall refer to the "Supreme Court's
902 Writing Manual: A Guide to Citations, Style and Judicial Opinion Writing" for
903 guidance on the style of documents filed with the Supreme Court.

904

905 **(B) General**

906

907 **(1) Typeface**

908

909 (a) Every original document filed with the Supreme Court shall be
910 single-sided, shall be typewritten or prepared by computer, word processor
911 or other standard typographic process, and shall comply with the
912 requirements of this rule.

913

914 (b) ~~A medium weight, noncondensed Roman type style is preferred, and~~
915 ~~italic type style may be used only for case citations and emphasis.~~ The text of
916 all documents shall be in one of the following typefaces:

- 917 (i) Times New Roman – at least 12 point;
918
919 (ii) Cambria – at least 12 point;
920
921 (iii) Calibri – at least 12 point; or
922
923 (iv) Arial – at least 12 point.
924
925 (c) If one of the typefaces specified by S.Ct.Prac.R. 3.08(B)(1)(b) is not
926 available, the filing party shall use a typeface that is substantially equivalent
927 to the typefaces listed in that division and that has no more than eighty
928 characters to a line of text.
929
930 (d) Italic type may be used only for case citations and emphasis.
931
932 (e) The Clerk of the Supreme Court may accept a handwritten document
933 for filing only in an emergency, provided the document is clearly legible.
934

935 **(2) Paper**

- 936
937 (a) All documents shall be on opaque, unglazed, 20- to 22-pound weight
938 white paper, 8½ by 11 inches in size.
939
940 (b) The original shall not be stapled nor otherwise bound and shall not
941 contain dividers or tabs.
942
943 (c) All margins shall be at least one inch, and the left margin shall be
944 justified.
945
946 (d) Documents shall not be enclosed in notebooks or binders and shall
947 not have plastic cover pages.
948

949 **(3) Spacing and Footnotes**

950
951 The text of all documents shall be ~~at least 12 point,~~ double-spaced
952 ~~noncondensed~~ type. Footnotes and quotations may be single-spaced;
953 however, they shall also be in 12-point, ~~noncondensed~~ type. ~~As used in this~~
954 ~~provision, “noncondensed type” shall refer either to Times New Roman type~~
955 ~~or to another type that has no more than eighty characters to a line of text.~~
956

957 **(C) Copy of an opinion or decision**

- 958
959 (1) When these rules require that a copy of ~~the~~ a court or agency opinion or
960 decision ~~being appealed~~ be attached to a document filed with the Supreme Court, the
961 copy shall be either of the following:
962

963 ~~(1)~~(a) A photocopy of the opinion or decision issued directly by the court or
964 agency;

965
966 ~~(2)~~(b) An electronically generated copy that meets the requirements of
967 division (B)(3) of this rule, except that an electronically generated copy of an
968 opinion may be single-spaced.

969
970 (2) Unless otherwise required by these rules or the Supreme Court Rules for the
971 Reporting of Opinions, parties are discouraged from attaching to briefs any legal
972 decision generally accessible through online legal-research databases.

973
974 **(D) Supplements to briefs**

975
976 Any supplement to the briefs filed pursuant to S.Ct.Prac.R. ~~7.1~~ 16.09 may be
977 prepared and reproduced by photocopying the relevant documents in the record,
978 even if those documents do not comply with the mechanical requirements of division
979 ~~(A)~~ (B) of this rule, provided that the requirements as to paper size and paper type
980 are met and each page of the supplement is clearly legible. Both sides of the paper
981 may be used in preparing a supplement.

982
983 **(E) Volumes**

984
985 Any document filed with the Supreme Court that exceeds two inches in thickness
986 shall be bound and numbered in two or more parts, with each part containing a cover
987 page.

988
989 **(F) Failure to comply**

990
991 Documents that fail to comply with the requirements of this rule may be stricken by
992 the Supreme Court.

993
994 Effective Date: June 1, 1994
995 Amended: April 1, 1996; June 1, 2000; February 1, 2001; July 1, 2004; February 1, 2007;
996 January 1, 2008; January 1, 2010; _____

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998
999

1000 **S.Ct.Prac.R. ~~8.5.~~ 3.09. Number and Form of Copies.**

1001
1002 **(A) Number of copies**

1003
1004 The original of a document filed in the Supreme Court shall be accompanied by an
1005 appropriate number of copies as follows, unless otherwise provided by S.Ct.Prac.R.
1006 ~~14.1(C)(3)~~ 3.01(C)(3):

1007
1008

Notice of appeal	1
Notice of cross-appeal	1
Praecipe filed in death-penalty appeal	1
Jurisdictional memorandum	8
Waiver of memorandum in response	0
Brief in an appeal or original action	16
List of additional authorities filed pursuant to S.Ct.Prac.R. 9.8 <u>17.08</u>	16
Supplement to a merit brief filed pursuant to S.Ct.Prac.R. 7.4 <u>16.09</u>	2
Complaint in an original action	10 plus an additional copy for each named respondent
Evidence in an original action	10
Request for extension of time	0
Stipulation to an agreed extension of time	0
Notices related to attorney representation under S.Ct.Prac.R. 4.4 <u>2.01</u> through 4.3 <u>2.03</u>	0
Affidavits of compliance	1
Application for dismissal <u>filed pursuant to S.Ct.Prac.R. 4.05</u>	1
Any other document	10

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(B) Date-stamped copy

Any party wishing to receive a date-stamped copy of a document submitted for filing with the Clerk of the Supreme Court shall provide the Clerk with an extra copy of the document and an appropriately sized, self-addressed, postage-paid envelope.

(C) Form of copies

(1) Copies of documents shall be on opaque, unglazed, 20- to 22-pound weight, white paper, 8 1/2 by 11 inches in size.

(2) Copies shall be secured firmly ~~stapled or bound on the left margin~~ by a single staple in the upper-left hand corner of the document or shall be spiral bound.

(3) With the exception of jurisdictional memoranda ~~in support of or in response to jurisdiction~~ and merit briefs, which shall be single-sided, both sides of the paper may be used as long as the document is clearly legible.

(4) Copies shall not be enclosed in notebooks or binders and shall not have plastic cover pages.

1031 Effective Date: June 1, 1994
1032 Amended: April 1, 1996; June 1, 2000; February 1, 2001; July 1, 2004; February 1, 2007;
1033 January 1, 2008; January 1, 2010; October 1, 2011; _____
1034
1035
1036

1037 **S.Ct.Prac.R. ~~14.2~~, 3.10. Service of Documents; Notice When Documents are**
1038 **Rejected for Filing.**

1039
1040 **(A) Service requirement**

1041
1042 (1) (a) Except as provided by S.Ct.Prac.R. 3.10(A)(1)(b), when a party or an
1043 amicus curiae files any document with the Clerk of the Supreme Court,
1044 except a complaint filed to institute an original action or a form containing
1045 omitted personal identifiers as required by the Rules of Superintendence for
1046 the Courts of Ohio, that party or amicus curiae shall also serve a copy of the
1047 document on all parties to the case. Service on a party represented by counsel
1048 shall be made on counsel of record.
1049

1050 (b) A party is not required to serve a copy of a complaint filed to institute
1051 an original action, a form containing omitted personal identifiers as required
1052 by Sup.R. 45(D), or an affidavit of indigence or entry appointing counsel
1053 submitted in lieu of a filing fee.
1054

1055 (2) Service of a copy of a notice of appeal from a decision of the Public Utilities
1056 Commission or the Power Siting Board shall be made pursuant to R.C. 4903.13. In
1057 an appeal or a cross-appeal from the Public Utilities Commission or the Power Siting
1058 Board, a copy of the notice of appeal or cross-appeal shall also be served upon all
1059 parties to the proceeding before the Public Utilities Commission or the Power Siting
1060 Board that is the subject of the appeal or cross-appeal.
1061

1062 (3) In a case involving a felony, when a county prosecutor files a notice of
1063 appeal under S.Ct.Prac.R. ~~2.2~~ 7.01 ~~or 2.3~~ or an order certifying a conflict under
1064 S.Ct.Prac.R. ~~4.1~~ 8.01, the county prosecutor shall also serve a copy of the notice or
1065 order on the Ohio Public Defender.
1066

1067 **(B) Manner of service**
1068

1069 (1) Except as otherwise provided by this rule, service may be personal or by
1070 delivery service, mail, e-mail, or facsimile transmission. Except as provided in
1071 division (A) of this rule, personal service includes delivery of the copy to counsel or
1072 to a responsible person at the office of counsel and is effected upon delivery. Service
1073 by delivery service is effected by depositing the copy with the delivery service.
1074 Service by mail is effected by depositing the copy with the United States Postal
1075 Service for mailing. Service by e-mail is effected upon the successful electronic

1076 transmission of the copy. Service by facsimile transmission is effected upon the
1077 successful electronic transmission of the copy by facsimile process.

1078
1079 (2) In appeals from the Board of Tax Appeals under S.Ct.Prac.R. ~~2.3(A)~~ 10.01,
1080 service of a notice of appeal or cross-appeal shall be made by certified mail.

1081
1082 (3) In expedited election cases under S.Ct.Prac.R. ~~10.9~~ 12.08, service of all
1083 documents, except the complaint filed to institute the original action, shall be
1084 personal, by e-mail, or by facsimile transmission.

1085
1086 **(C) Certificate of service; certificate of filing**

1087
1088 (1) (a) Unless a document is filed jointly and is signed by all parties to the
1089 case, or is not required to be served pursuant to S.Ct.Prac.R. 3.10(A)(1)(b),
1090 all documents presented for filing with the Clerk, ~~except complaints filed to~~
1091 ~~institute an original action or a form containing omitted personal identifiers~~
1092 ~~as required by the Rules of Superintendence for the Courts of Ohio~~, shall
1093 contain a certificate of service. The certificate of service shall state the date
1094 and manner of service and identify the names of the persons served and shall
1095 be signed by the party or the amicus curiae who files the document. ~~The~~
1096 ~~certificate of service for a document served by facsimile transmission shall~~
1097 ~~also state the facsimile number of the person to whom the document was~~
1098 ~~transmitted. The~~

1099
1100 (b) The Clerk shall refuse to accept for filing any document that does not
1101 contain a certificate of service, unless these rules require that the document is
1102 to be served by the Clerk.

1103
1104 (2) In an appeal from the Public Utilities Commission or the Power Siting Board,
1105 the notice of appeal shall also contain a certificate of filing to ~~evidence~~ demonstrate
1106 that the appellant filed a notice of appeal with the docketing division of the Public
1107 Utilities Commission in accordance with ~~sections~~ Ohio Administrative Code 4901-1-
1108 02(A) and 4901-1-36 of the Ohio Administrative Code.

1109
1110 **(D) Failure to provide service**

1111
1112 (1) When a party or amicus curiae fails to ~~provide service upon~~ serve a party or
1113 parties to the case in accordance with S.Ct.Prac.R. ~~14.2(A)~~ 3.10(A), any party
1114 adversely affected may file a motion to strike the document that was not served.
1115 Within ten days after a motion to strike is filed, the party or amicus curiae against
1116 whom the motion is filed may file a memorandum ~~opposing the motion~~ in response.

1117
1118 (2) If the Supreme Court determines that service was not made as required by
1119 this rule, it may strike the document or, if the interests of justice warrant, order that
1120 the document be served and impose a new deadline for filing any responsive
1121 document. If the Supreme Court determines that service was made as required by

1122 this rule or that service was not made but the movant was not adversely affected, it
1123 may deny the motion to strike.

1124

1125 **(E) Notice to other parties when document is rejected for filing**

1126

1127 If a document presented for filing is rejected by the Clerk under these rules, the party
1128 or amicus curiae who presented the document for filing shall promptly notify all of
1129 the parties served with a copy of the document that the document was not filed in the
1130 case.

1131

1132 Effective Date: June 1, 1994

1133 Amended: April 1, 1996; April 28, 1997; July 1, 2004; October 1, 2005; January 1, 2008;

1134 January 1, 2010;_____

1135

1136

1137

1138 **S.Ct.Prac.R. 8-6. 3.11. Maintaining Privacy of Personal Identifying Information.**

1139

1140 *[See Appendix B for a sample personal-identifier form.]*

1141

1142 **(A) Presumption of public access**

1143

1144 Pursuant to Sup.R. 44 through 47 and as indicated in S.Ct.Prac.R. ~~14.1(B)~~ 3.01(B),
1145 all documents filed with the Supreme Court ~~shall be treated as~~ are public records.

1146

1147 **(B) Redaction of personal identifiers**

1148

1149 (1) To protect legitimate personal privacy interests, social security numbers and
1150 other personal identifying information shall be redacted from documents before the
1151 documents are filed with the Supreme Court in accordance with Sup.R. 45(D). The
1152 responsibility for redacting personal identifying information rests solely with the
1153 attorneys and parties who file the documents. The Clerk of the Supreme Court will
1154 not review the documents to confirm that personal identifying information has been
1155 excluded.

1156

1157 (2) If personal identifying information is redacted or omitted from a document,
1158 the information shall be provided to the court on a separate form that indicates what
1159 information has been redacted or omitted, and provides the location of the redacted
1160 or omitted information.

1161

1162 **(C) Motion for leave to redact**

1163

1164 Notwithstanding S.Ct.Prac.R. ~~8-7~~ 3.12, a party may file a motion for leave to redact
1165 the original of a previously filed document if personal identifying information was
1166 not omitted or redacted when the document was initially filed.

1167

1168 Effective Date: June 1, 1994

1169 Amended: April 1, 1996; June 1, 2000; February 1, 2001; July 1, 2004; February 1, 2007;
1170 January 1, 2008; January 1, 2010;_____

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1174 **S.Ct.Prac.R. 8-7. 3.12. Corrections or Additions to Previously Filed Documents.**

1175

1176 A party who wishes to make corrections or additions to a previously filed document shall
1177 file a revised document and copies that completely incorporate the corrections or additions.

1178 The revised document shall be filed within the time permitted by these rules for filing the
1179 original document, except that corrections or additions shall not be made to a motion if a

1180 memorandum opposing the motion has already been filed. Time permitted by these rules for
1181 filing any responsive document shall begin to run when the revised document is filed. The

1182 Clerk of the Supreme Court shall refuse to file a revised document that is not submitted in
1183 the form and within the deadlines prescribed by this rule.

1184

1185 Effective Date: June 1, 1994

1186 Amended: April 1, 1996; June 1, 2000; February 1, 2001; July 1, 2004; February 1, 2007;
1187 January 1, 2008; January 1, 2010;_____

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1190

1191 **S.Ct.Prac.R. 2-5. 3.13. Name of Case on Appeal.**

1192

1193 **(A) Appeals, certified conflicts, and certified questions of state law**

1194

1195 Unless rule, statute, or the ~~Clerk's~~ discretion of the Clerk of the Supreme Court
1196 requires otherwise, an appeal, certified conflict, or certified question of state law

1197 shall be docketed under the case name assigned to the action ~~in~~ by the court or
1198 agency whose decision is being appealed or certified.

1199

1200 **(B) Original actions, petition challenges, election contests and apportionment**
1201 **cases**

1202

1203 Unless rule, statute, or the discretion of the Clerk of the Supreme Court requires
1204 otherwise, an original action, petition challenge, election contest or apportionment

1205 case shall be docketed as provided on the initial document that is filed to institute
1206 the case.

1207

1208 **(C) Practice-of-law cases**

1209

1210 Unless the discretion of the Clerk of the Supreme Court requires otherwise, a
1211 practice-of-law case shall be docketed as provided on the board report that is filed

1212 to institute the case.

1213

1214 Effective Date: June 1, 1994

1215 Amended: April 1, 1996; April 1, 2000; June 1, 2000; July 1, 2004; August 1, 2004;
1216 January 1, 2008; January 1, 2010;_____

1217

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1219

1220 **S.Ct.Prac.R. ~~2.4.~~ 3.14. Filing of Joint Notice of Appeal.**

1221

1222 ~~Where there are~~ When multiple parties ~~appealing~~ appeal from the same decision of a court
1223 of appeals or an administrative agency, ~~appellants~~ they may join as appellants in the filing of
1224 a single notice of appeal.

1225

1226 Effective Date: June 1, 1994

1227 Amended: April 1, 1996; April 1, 2000; June 1, 2000; July 1, 2004; August 1, 2004;
1228 January 1, 2008; January 1, 2010;_____

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SECTION 4. GENERAL MOTIONS AND APPLICATIONS.

S.Ct.Prac.R. 14.4. 4.01. Motions; Responses.

(A) Motion for order or relief

(1) Unless otherwise ~~prohibited~~ addressed by these rules, an application for an order or other relief shall be made by filing a motion for the order or relief. The motion shall state with particularity the grounds on which it is based.

(2) A motion to stay a lower court’s decision pending appeal shall include relevant information regarding bond. A copy of the lower court’s decision and any applicable opinion shall be attached to the motion.

(B) Response to a motion

(1) If a party files a motion with the Supreme Court, any other party may file a ~~memorandum opposing~~ response to the motion within ten days from the date the motion is filed, unless otherwise provided in these rules or by order of the Supreme Court.

(2) A reply to a ~~memorandum opposing~~ response to a motion shall not be filed by the moving party. The Clerk of the Supreme Court shall refuse to file a reply to a ~~memorandum opposing~~ response to a motion, and motions to waive this rule are prohibited and shall not be filed.

(C) Supreme Court action

The Supreme Court may act upon a motion before the deadline for filing a ~~memorandum opposing~~ response to the motion, if the interests of justice warrant immediate consideration by the Supreme Court. ~~Any party adversely affected by the action of the Supreme Court may file a motion to vacate the action.~~

Effective Date: June 1, 1994
Amended: April 1, 1996; April 28, 1997; July 1, 2004; October 1, 2005; January 1, 2008; January 1, 2010; _____

S.Ct.Prac.R. ~~2.6.~~ 4.02. Request for Mediation.

~~In any discretionary~~ Except in a criminal appeal or ~~claimed appeal of right~~ of a civil case related to the practice of law, a party may file a motion to refer the case to mediation pursuant to S.Ct.Prac.R. ~~17.1~~ 19.01. ~~The motion should be filed no later than thirty days after the filing of the memorandum in support of jurisdiction.~~ The Clerk of the Supreme Court shall refuse to file a motion to refer a criminal case appeal or a case related to the practice of law to mediation.

1277 Effective Date: January 1, 2010
1278 Amended: _____

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1281

1282 **S.Ct.Prac.R. ~~14.5.~~ 4.03. Frivolous Actions; Sanctions; Vexatious Litigators.**

1283

1284 **(A) Supreme Court sanction**

1285

1286 If the Supreme Court, sua sponte or on motion by a party, determines that an appeal
1287 or other action is frivolous or is prosecuted for delay, harassment, or any other
1288 improper purpose, it may impose appropriate sanctions on the person who signed the
1289 appeal or action, a represented party, or both, ~~appropriate sanctions~~. The sanctions
1290 may include an award to the opposing party of reasonable expenses, reasonable
1291 attorney fees, costs or double costs, or any other sanction the Supreme Court
1292 considers just. An appeal or other action shall be considered frivolous if it is not
1293 reasonably well-grounded in fact or warranted by existing law or a good-faith
1294 argument for the extension, modification, or reversal of existing law.

1295

1296 **(B) Vexatious litigator**

1297

1298 If a party habitually, persistently, and without reasonable cause engages in frivolous
1299 conduct under division (A) of this rule, the Supreme Court may, sua sponte or on
1300 motion by a party, find the party to be a vexatious litigator. If the Supreme Court
1301 determines that a party is a vexatious litigator under division (A) of this rule, the
1302 court may impose filing restrictions on the party. The restrictions may include
1303 prohibiting the party from continuing or instituting legal proceedings in the Supreme
1304 Court without first obtaining leave, prohibiting the filing of actions in the Supreme
1305 Court without the filing fee or security for costs required by S.Ct.Prac.R. ~~15.1~~ 3.03
1306 and ~~15.2~~ 3.04, or any other restriction the Supreme Court considers just.

1307

1308 Effective Date: June 1, 1994

1309 Amended: April 1, 1996; April 28, 1997; July 1, 2004; October 1, 2005; January 1, 2008;
1310 January 1, 2010; _____

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1314 **S.Ct.Prac.R. ~~14.6.~~ 4.04. Recusal or Disqualification of a Justice.**

1315

1316 **(A) Definition**

1317

1318 As used in this rule, “justice” means the Chief Justice or any justice of the Supreme
1319 Court or any judge of the court of appeals assigned to sit in place of the Chief Justice
1320 or a justice pursuant to the Ohio Constitution, Article IV, Section 2.

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(B) Request to recuse

(1) A party to a case pending before the Supreme Court or the counsel for a party may request the recusal of a justice by filing a request with the Clerk of the Supreme Court. The request shall be in the form of a letter addressed to the Clerk that includes the name and number of the case and the name of the justice whose recusal is being requested. The letter shall be accompanied by an affidavit, signed by the party or party’s counsel, that includes the specific basis for the recusal request and facts in support of the request. Notwithstanding the requirements of S.Ct.Prac.R. ~~14.2(C)~~ 3.10(C), the party or counsel filing the request shall provide a copy of the letter and affidavit to all parties to the case.

(2) The request for recusal shall be filed promptly when a party or party’s counsel becomes aware of the existence of a basis for recusal. In a case in which oral argument is scheduled, the request for recusal shall be submitted to the Clerk no later than fifteen days before the date of oral argument, except with leave of court.

(3) An amicus curiae ~~may~~ shall not file a request for recusal.

(4) The Clerk shall refuse to file a request for recusal ~~unless it is legible~~ if it is illegible and ~~fails to comply~~ complies with the requirements of this rule.

(C) Response to request

The justice named in the request shall submit a written response to the Clerk indicating whether the justice will recuse from the case. ~~In a case in which oral argument is scheduled, the response of the justice to the recusal request shall be provided to the Clerk no later than seven days prior to the date of oral argument. In all other cases,~~ The response of the justice shall be provided to the Clerk as soon as practicable. The Clerk shall file the response of the justice and serve a copy by certified mail on all parties to the case.

(D) Disclosure to parties of a potential basis for disqualification; waiver

(1) A justice who believes there may be a basis for disqualification under Jud.Cond.R. 2.11 may disclose the basis for the disqualification and may ask the parties and their counsel, exclusive of an amicus curiae, to consider whether to waive disqualification. The disclosure and request shall be made in writing and submitted to the Clerk. The Clerk shall file the disclosure and request and serve a copy by certified mail on all parties to the ~~counsel of record for each party and to each party that is not represented by counsel~~ case.

(2) The parties and their counsel shall file a response with the Clerk within fifteen days of receipt of the disclosure and request. ~~If the parties and their counsel agree that the justice should not be disqualified, the justice may participate in the~~

1369 ease. The failure of a party or counsel to respond timely to a disclosure and request
1370 shall be considered a waiver of disqualification.

1371

1372 Effective Date: April 1, 2011

1373 Amended: _____

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1377 **S.Ct.Prac.R. 4.05. Application for Dismissal of a Case.**

1378

1379 In any case filed with the Supreme Court, a party who filed the case may at any time file an
1380 application for dismissal of the case. The application shall briefly state the reasons
1381 requesting dismissal of the case and shall comply with the service requirements of
1382 S.Ct.Prac.R. 3.10(C).

1383

1384 Effective Date: _____

1385

SECTION 5. CASE TYPES.

S.Ct.Prac.R. 2-1. 5.01. Types of Appeals of Right.

(A) Appeals from courts of appeals Definition

As used in these rules, an "appeal of right;" is one of the following:

- (1) An appeal from a decision of a court of appeals of in a case in which the death penalty has been affirmed for an offense committed prior to January 1, 1995;
(2) An appeal from the decision of a court of appeals under App.R. 26(B) in a capital case;
(3) An appeal from a decision of a court of appeals in a case that originated in the court of appeals and that invokes the appellate jurisdiction of the Supreme Court and shall be designated an appeal of right.;
(4) An appeal of from a decision of a court of common pleas in a case in which the death penalty has been imposed for an offense committed on or after January 1, 1995, invokes the appellate jurisdiction of the Supreme Court and shall be designated an appeal of right. The Supreme Court will render judgment after the parties are given an opportunity to brief the case on the merits in accordance with S.Ct.Prac.R. 6.1 through 6.8 and 19.06.;
(5) An appeal of from a decision of a court of common pleas in a case contesting an election under R.C. 3515.15 shall be designated an appeal of right. The Supreme Court will render judgment after the parties are given an opportunity to brief the case on the merits in accordance with S.Ct.Prac.R. 6.1 through 6.8.

(B) Instituting a case

- (1) An appeal of right as designated in S.Ct.Prac.R. 5.01(A)(1), (2), and (4) shall be filed as provided for in S.Ct.Prac.R. 11.01.
(2) An appeal of right as designated in S.Ct.Prac.R. 5.01(A)(3) and (5) shall be filed as provided for in S.Ct.Prac.R. 6.01.

Effective Date: June 1, 1994
Amended: April 1, 1996; April 1, 2000; June 1, 2000; July 1, 2004; August 1, 2004; January 1, 2008; January 1, 2010;

1432 **S.Ct.Prac.R. 5.02.** **Jurisdictional Appeals.**

1433

1434 **(A)** **Definition**

1435

1436 As used in these rules, a “jurisdictional appeal” is an appeal from a decision of a
1437 court of appeals that asserts one or more of the following:

1438

1439 ~~(1) Claimed appeals of right. An appeal that claims~~ The case involves a
1440 substantial constitutional question, including an appeal from the decision of a
1441 court of appeals under App.R. 26(B) in a noncapital case, may invoke the
1442 appellate jurisdiction of the Supreme Court and shall be designated a claimed
1443 appeal of right. In accordance with S.Ct.Prac.R. 3.6, the Supreme Court will
1444 determine whether to accept the appeal. pursuant to the Ohio Constitution,
1445 Article IV, Section 2(B)(2)(a)(ii);

1446

1447 ~~(2) Discretionary appeals. An appeal that~~ The case involves a felony or a
1448 question of public or great general interest invokes the discretionary
1449 jurisdiction of the Supreme Court and shall be designated a discretionary
1450 appeal. In accordance with S.Ct.Prac.R. 3.6, the Supreme Court will
1451 determine whether to accept the appeal. pursuant to the Ohio Constitution
1452 Article IV, Section 2(B)(2)(b).

1453

1454 ~~(3) The case involves a question of public or great general interest~~
1455 pursuant to the Ohio Constitution, Article IV, Section 2(B)(2)(e).

1456

1457 **(B)** **Instituting a case**

1458

1459 A jurisdictional appeal shall be filed as provided for in S.Ct.Prac.R. 7.01 and shall
1460 proceed in accordance with S.Ct.Prac.R. 3.6 7.08, the Supreme Court will determine
1461 whether to accept the appeal.

1462

1463 Effective Date:_____

1464

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1466

1467 **S.Ct.Prac.R. 5.03.** **Certified-Conflict Cases.**

1468

1469 **(A)** **Definition**

1470

1471 ~~A~~ As used in these rules, a “certified-conflict case” is a case in which the court of
1472 appeals has issued an order certifying a conflict under Article IV, Section 3(B)(4)
1473 of the Ohio Constitution invokes the appellate jurisdiction of the Supreme Court
1474 pursuant to the Ohio Constitution, Article IV, Section 3(B)(4). In accordance with
1475 S.Ct.Prac.R. 4.2, the Supreme Court will act upon the court of appeals order.

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(B) Procedure

~~A certified-conflict case shall be filed as provided for in S.Ct.Prac.R. 8.01 in accordance with S.Ct.Prac.R. 8.2, the Supreme Court will act upon the court of appeals order.~~

Effective Date: _____

S.Ct.Prac.R. 5.04. Certification of Questions of State Law from Federal Courts.

(A) Definition

~~As used in these rules, a “certified question of state law” case is a case in which the Supreme Court may answer a question of state law certified to it by a court of the United States.~~

(B) Instituting a case

~~A certified-question-of-state-law case shall be filed as provided for in S.Ct.Prac.R. 9.01 and shall proceed in accordance with S.Ct.Prac.R. 9.05 through 9.08.~~

Effective Date: _____

S.Ct.Prac.R. 5.05. Administrative-Agency Appeals.

(A) Definition

~~As used in these rules, an “administrative agency” appeal is an appeal that involves review of the action of the Board of Tax Appeals, the Public Utilities Commission, or the Power Siting Board ~~invokes the appellate jurisdiction of the Supreme Court.~~ The Supreme Court will render judgment after the parties are given an opportunity to brief the case on the merits in accordance with S.Ct.Prac.R. 6.1 through 6.8.~~

(B) Instituting a case

~~An administrative-agency appeal shall be filed as provided for in S.Ct.Prac.R. 10.01 through 10.03 the Supreme Court will render judgment after the parties are given an opportunity to brief the case on the merits in accordance with S.Ct.Prac.R. 6.1 through 6.08.~~

Effective Date: _____

1524 **S.Ct.Prac.R. 5.06.** **Original Actions.**

1525

1526 **(A) Definition**

1527

1528 As used in these rules, an “original action” is a case that invokes the original
1529 jurisdiction of the Supreme Court pursuant to the Ohio Constitution, Article IV,
1530 Section 2(B)(1)(a) through (e).

1531

1532 **(B) Instituting a case**

1533

1534 An original action shall be filed as provided for in S.Ct.Prac.R. 12.01.

1535

1536 Effective Date:_____

1537

1538

1539

1540 **S.Ct.Prac.R. 5.07.** **Practice-of-Law Cases.**

1541

1542 **(A) Definition**

1543

1544 As used in these rules, a “practice of law” case is a case that involves admission to
1545 the practice of law, the discipline of persons so admitted, and all other matters
1546 relating to the practice of law as provided for in the Ohio Constitution, Article IV,
1547 Section 2(B)(1)(g).

1548

1549 **(B) Instituting a case**

1550

1551 A practice-of-law case shall be filed as provided for in S.Ct.Prac.R. 13.01.

1552

1553 Effective Date:_____

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1557 **S.Ct.Prac.R. 5.08.** **Petition Challenges, Election Contests, and Apportionment**
1558 **Cases.**

1559

1560 **(A) Definitions**

1561

1562 As used in these rules:

1563

1564 (1) A “petition challenge” case is a case that invokes the jurisdiction of
1565 the Supreme Court as provided for in the Ohio Constitution, Article II,
1566 Section 1g.

1567

1568 (2) An “election contest” case is a case filed pursuant to R.C. 3515.08(B).

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(3) An “apportionment” case is a case that invokes the jurisdiction of the Supreme Court as provided for in the Ohio Constitution, Article XI, Section 13.

(B) Procedure

- (1) A petition-challenge case shall be filed as provided in S.Ct.Prac.R. 14.01.
- (2) An election-contest case shall be filed as provided in S.Ct.Prac.R. 14.02.
- (3) An apportionment case shall be filed as provided in S.Ct.Prac.R. 14.03.

Effective Date:_____

1584 SECTION 6. APPEALS OF RIGHT.
1585

1586 **S.Ct.Prac.R. 6.01. Institution of an Appeal of Right.**
1587

1588 **(A) Perfection of appeal**
1589

1590 (1) To perfect an appeal of right as defined by S.Ct.Prac.R. 5.01(A)(3), the
1591 appellant shall file a notice of appeal in the Supreme Court within forty-five days
1592 from the entry of the judgment being appealed.
1593

1594 (2) To perfect an appeal of right as defined by S.Ct.Prac.R. 5.01(A)(5), the
1595 appellant shall file a notice of appeal in the Supreme Court within twenty days from
1596 the entry of the judgment being appealed.
1597

1598 (3) The time period designated in this rule for filing a notice of appeal is
1599 mandatory, and the appellant's failure to file within this time period shall divest the
1600 Supreme Court of jurisdiction to hear the appeal. The Clerk of the Supreme Court
1601 shall refuse to file a notice of appeal that is received for filing after this time period
1602 has passed.
1603

1604 **(B) Notice of appeal**
1605

1606 (1) The notice of appeal for an appeal of right shall state all of the following:
1607

1608 (a) The name of the court whose judgment is being appealed;
1609

1610 (b) The case name and number assigned to the case by the court;
1611

1612 (c) The date of the entry of the judgment being appealed;
1613

1614 (d) That one of the following is applicable:
1615

1616 (i) The case originated in the court of appeals;
1617

1618 (ii) The case originated in the court of common pleas and is an
1619 appeal of a contest of an election under R.C. 3515.15.
1620

1621 (2) (a) A date-stamped copy of the court's judgment entry that is being
1622 appealed shall be attached to the notice of appeal. For purposes of this rule, a
1623 date-stamped copy of the court's judgment entry shall mean a copy bearing
1624 the file stamp of the clerk of the court and reflecting the date the court filed
1625 its judgment entry for journalization with its clerk.
1626

1627 (b) In an appeal from a case that originated in the court of appeals, if the
1628 opinion of the court of appeals serves as its judgment entry, a date-stamped
1629 copy of the opinion shall be attached.

1630 Effective Date:_____

1631

1632

1633

1634 **S.Ct.Prac.R. 6.02.** **Ordering of the Record and Briefing.**

1635

1636 **(A)** **The record**

1637

1638 Upon the filing of an appeal of right pursuant to S.Ct.Prac.R. 6.01, the Clerk of the
1639 Supreme Court shall issue an order for the transmittal of the record from the clerk of
1640 the court where the judgment on appeal was rendered.

1641

1642 **(B)** **Briefing**

1643

1644 After the record is filed by the Clerk of the Supreme Court, briefing in an appeal of
1645 right shall proceed as provided for by S.Ct.Prac.R. 16.01 through 16.09.

1646

1647 Effective Date:_____

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SECTION 7. JURISDICTIONAL APPEALS.

S.Ct.Prac.R. ~~2.2~~ 7.01. Institution of Jurisdictional Appeal from Court of Appeals.

(A) Perfection of appeal

(1) Time to file and documents required

- (a) (i) To perfect ~~an~~ a jurisdictional appeal from a court of appeals to the Supreme Court as defined by S.Ct.Prac.R. 5.02(A), ~~other than in a certified conflict case, which is addressed in S.Ct.Prac.R. 4.1~~, the appellant shall file a notice of appeal in the Supreme Court within forty-five days from the entry of the judgment being appealed. The date the court of appeals filed its judgment entry for journalization with its clerk, in accordance with App.R. 22, shall be considered the date of entry of the judgment being appealed.
- (ii) ~~If the appeal is a claimed appeal of right or a discretionary appeal,~~ Except as provided by S.Ct.Prac.R. 7.01(A)(3), the appellant shall also file a memorandum in support of jurisdiction, in accordance with S.Ct.Prac.R. ~~3.4~~ 7.02, at the time the notice of appeal is filed.
- (b) Except as provided in divisions (A)(2), (3), (4), (5), and (6) of this rule, the time period designated in this rule for filing a notice of appeal and memorandum in support of jurisdiction is mandatory, and the appellant's failure to file within this time period shall divest the Supreme Court of jurisdiction to hear the appeal. The Clerk of the Supreme Court shall refuse to file a notice of appeal or a memorandum in support of jurisdiction that is received for filing after this time period has passed.

(2) Subsequent notices of appeal and cross-appeal

- (a) If a party timely files a notice of appeal in the Supreme Court, any other party may file a notice of appeal or cross-appeal in the Supreme Court within ~~the later of~~ the time prescribed by division (A)(1) of this rule or ten days after the first notice of appeal was filed, whichever is later.
- (b) A notice of appeal shall be designated and treated as a notice of cross-appeal if it is filed both:
 - (i) After the original notice of appeal was filed in the case;
 - (ii) By a party against whom the original notice of appeal was filed.

1695 (c) If a notice of cross-appeal is filed, a combined memorandum both in
1696 response to appellant/cross-appellee's memorandum and in support of
1697 jurisdiction for the cross-appeal shall be filed by the deadline imposed in
1698 S.Ct.Prac.R. ~~3-4~~ 7.05.

1699
1700 **(3) Motion for stay in advance of filing a memorandum in support of**
1701 **jurisdiction**

1702
1703 (a) In a ~~claimed appeal of right or a discretionary jurisdictional~~ appeal, if
1704 the appellant ~~intends to~~ seeks from the Supreme Court an immediate stay of
1705 the court of appeals' judgment that is being appealed, the appellant may file a
1706 notice of appeal in the Supreme Court without an accompanying
1707 memorandum in support of jurisdiction, provided both of the following
1708 conditions are satisfied:

1709
1710 (i) A motion for stay of the court of appeals' judgment ~~shall~~
1711 ~~accompany~~ is filed with the notice of appeal; and

1712
1713 (ii) A copy of the court of appeals' opinion and judgment entry
1714 being appealed ~~shall be~~ is attached to the motion for stay.

1715
1716 (b) If pursuant to S.Ct.Prac.R. 7.01(A)(3)(a) a memorandum in support of
1717 jurisdiction is not filed with the notice of appeal, then a memorandum in
1718 support of jurisdiction shall be filed no later than forty-five days from the
1719 date of the entry of the court of appeals' judgment being appealed. The
1720 Supreme Court will dismiss the appeal if the memorandum in support of
1721 jurisdiction is not timely filed pursuant to this provision.

1722
1723 **(4) Motion for a delayed appeal in felony cases**

1724
1725 (a) In a felony case, when the time has expired for filing a notice of
1726 appeal in the Supreme Court, the appellant may ~~seek to~~ file a delayed appeal
1727 by filing a notice of appeal and a motion for delayed appeal and a notice of
1728 ~~appeal~~ that complies with the following requirements:

1729
1730 (i) The motion shall state the date of entry of the judgment being
1731 appealed and the reasons for the delay;

1732
1733 (ii) Facts supporting the motion shall be set forth in an affidavit;

1734
1735 (iii) A copy of the court of appeals' opinion and the judgment
1736 entry being appealed shall be attached to the motion.

1737
1738 (b) A memorandum in support of jurisdiction shall not be filed at the time
1739 a motion for delayed appeal is filed. If the Supreme Court grants a motion for
1740 delayed appeal, the appellant shall file a memorandum in support of

1741 jurisdiction within thirty days after the motion for delayed appeal is granted.
1742 If a memorandum in support of jurisdiction is not timely filed after a motion
1743 for delayed appeal has been granted, the Supreme Court will dismiss the
1744 appeal.

1745
1746 (c) The provision for delayed appeal does not apply to appeals involving
1747 postconviction relief or appeals brought pursuant to App.R. 26(B). The Clerk
1748 shall refuse to file motions for delayed appeal involving postconviction relief
1749 or App.R. 26(B).

1750
1751 **(5) Effect of a timely filed application for reconsideration with court of**
1752 **appeals**

1753
1754 (a) When a party timely files an application for reconsideration in the
1755 court of appeals pursuant to App.R. 26(A)(1), the time for filing a notice of
1756 appeal from the court of appeals' entry of judgment shall be tolled.

1757
1758 (b) If a timely application for reconsideration is filed in the court of
1759 appeals, and the appellant seeks to appeal from the court of appeals' entry of
1760 judgment, the appellant shall file a notice of appeal within forty-five days of
1761 the court of appeals' decision denying the application for reconsideration, or
1762 if reconsideration is granted, from the subsequent entry of judgment.

1763
1764 (c) To file an appeal from the court of appeals' opinion and judgment
1765 entry after the court of appeals has ruled on an application for
1766 reconsideration, the appellant shall comply with the time frame imposed by
1767 S.Ct.Prac.R. ~~2.2(A)(5)(b)~~ 7.01(A)(5)(b) and shall include both of the
1768 following:

1769
1770 (i) A notice of appeal that complies with the requirements of
1771 S.Ct.Prac.R. ~~2.2(B)~~ 7.01(B) and that indicates the date of the filing of
1772 the application for reconsideration, the date of the court of appeals'
1773 decision on the application for reconsideration, and the date of the
1774 court of appeals' opinion and judgment entry that is being appealed;
1775 and

1776
1777 (ii) A memorandum in support of jurisdiction that complies with
1778 the requirements of S.Ct.Prac.R. ~~3.1~~ 7.02 and that also has attached a
1779 date-stamped copy of the court of appeals' decision denying the
1780 application for reconsideration, or if reconsideration is granted, ~~from~~
1781 the subsequent entry of judgment.

1782
1783 **(6) Effect of en banc consideration by the court of appeals**

1784
1785 (a) When, ~~pursuant to App.R. 26(A)(2)~~, a party timely files an
1786 application for en banc consideration in the court of appeals pursuant to

1787 App.R. 26(A)(2), the time for filing a notice of appeal from the court of
1788 appeals' entry of judgment shall be tolled.

1789
1790 (b) If a timely application for en banc consideration is filed in the court of
1791 appeals and the appellant seeks to appeal from the court of appeals' entry of
1792 judgment, the appellant shall file a notice of appeal within forty-five days of
1793 the court of appeals' decision denying the application for en banc
1794 consideration, or if en banc consideration is granted, ~~from~~ the subsequent
1795 entry of judgment.

1796
1797 (c) To file an appeal from the court of appeals' opinion and judgment
1798 entry after the court of appeals has ruled on an application for en banc
1799 consideration, the appellant shall comply with the time frame imposed by
1800 S.Ct.Prac.R. ~~2.2(A)(6)(b)~~ 7.01(A)(6)(b) and shall include both of the
1801 following:

1802
1803 (i) A notice of appeal that complies with the requirements of
1804 S.Ct.Prac.R. ~~2.2(B)~~ 7.01(B), and that indicates the date of the filing of
1805 the application for en banc consideration, the date of the court of
1806 appeals' decision on the application for en banc consideration, and the
1807 date of the court of appeals' opinion and judgment entry that is being
1808 appealed; and

1809
1810 (ii) A memorandum in support of jurisdiction that complies with
1811 the requirements of S.Ct.Prac.R. ~~3.1~~ 7.02, and that also has attached a
1812 date-stamped copy of the court of appeals' decision denying the
1813 application for en banc consideration, or if en banc consideration is
1814 granted, ~~from~~ the subsequent entry of judgment.

1815
1816 (d) If a timely sua sponte en banc consideration is initiated by the court of
1817 appeals but an appeal to the Supreme Court has not been perfected, the
1818 appellant may file a notice of appeal within forty-five days of the court of
1819 appeals' final en banc ~~consideration~~ decision.

1820
1821 (e) To file an appeal from the court of appeals' opinion and judgment
1822 entry after the court of appeals completes the sua sponte en banc
1823 consideration process, the appellant shall comply with the time frame
1824 imposed by S.Ct.Prac.R. ~~2.2(A)(6)(d)~~ 7.01(A)(6)(d) and shall include both of
1825 the following:

1826
1827 (i) A notice of appeal that complies with the requirements of
1828 S.Ct.Prac.R. ~~2.2(B)~~ 7.01(B) and that indicates the date of the decision
1829 of the court of appeals initiating the sua sponte en banc consideration,
1830 the date of the court of appeals' final decision on the sua sponte en
1831 banc consideration, and the date of the court of appeals' opinion and
1832 judgment entry that is being appealed; and

1833 (ii) A memorandum in support of jurisdiction that complies with
1834 the requirements of S.Ct.Prac.R. ~~3-1~~ 7.02 and that also has attached a
1835 date-stamped copy of the court of appeals' decision initiating the sua
1836 sponte en banc consideration process and a date-stamped copy of the
1837 court of appeals' final en banc consideration decision.
1838

1839 (f) If a party perfected a ~~discretionary appeal or a claimed appeal of right~~
1840 jurisdictional appeal with the Supreme Court in accordance with S.Ct.Prac.R.
1841 ~~2.2(A)~~ 7.01(A), and the court of appeals subsequently initiates timely sua
1842 sponte en banc consideration, the party shall file a notice with the Supreme
1843 Court that an en banc decision is forthcoming from the court of appeals. The
1844 Supreme Court will stay consideration of the jurisdictional memoranda ~~filed~~
1845 ~~in the discretionary appeal or claimed appeal of right~~ until after the court of
1846 appeals' en banc decision.
1847

1848 **(B) Contents of notice of appeal**
1849

1850 *[See Appendix C for a sample notice of appeal from a court of appeals.]*
1851

1852 (1) The notice of appeal for a jurisdictional appeal shall ~~state~~ contain all of the
1853 following:
1854

- 1855 (a) The name of the court of appeals whose judgment is being appealed;
1856
1857 (b) The case name and number assigned to the case by the court of
1858 appeals;
1859
1860 (c) The date of the entry of the judgment being appealed;
1861
1862 (d) ~~That~~ A statement that one or more of the following are applicable:
1863
1864 (i) ~~The case involves affirmance of the death penalty;~~
1865
1866 ~~(ii) The case originated in the court of appeals;~~
1867
1868 ~~(iii)~~ The case raises a substantial constitutional question;
1869
1870 ~~(iv)~~(ii) The case involves a felony;
1871
1872 ~~(v)~~(iii) The case is one of public or great general interest;
1873
1874 ~~(vi)~~(iv) The case involves termination of parental rights or adoption of
1875 a minor child, or both;
1876
1877 ~~(vii)~~(v) The case is an appeal of a court of appeals' determination
1878 under App.R. 26(B);

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~~(viii)(vi)~~ The case involves death-penalty postconviction proceedings.

~~(2) In an appeal of right under S.Ct.Prac.R. 2.1(A)(1), a date stamped copy of the court of appeals' judgment entry that is being appealed shall be attached to the notice of appeal. For purposes of this rule, a date stamped copy of the court of appeals' judgment entry shall mean a copy bearing the file stamp of the clerk of the court of appeals and reflecting the date the court of appeals filed its judgment entry for journalization with its clerk under App. R. 22. If the opinion of the court of appeals serves as its judgment entry, a date stamped copy of the opinion shall be attached.~~

~~(3) In a discretionary appeal or claimed appeal of right jurisdictional appeal, if a party has timely moved the court of appeals to certify a conflict under App.R. 25, the notice of appeal shall be accompanied by a notice of pending motion to certify a conflict, in accordance with S.Ct.Prac.R. 4.4(A) 7.07(A), stating that a motion to certify a conflict is pending with the court of appeals.~~

(C) Notice to the court of appeals

The Clerk of the Supreme Court shall send a copy of any notice of appeal or cross-appeal to the clerk of the court of appeals whose judgment is being appealed.

(D) Jurisdiction of court of appeals after appeal to Supreme Court is perfected

(1) After an appeal is perfected from a court of appeals to the Supreme Court, the court of appeals is divested of jurisdiction, except to take action in aid of the appeal, to rule on an application timely filed with the court of appeals pursuant to App.R. 26, or to rule on a motion to certify a conflict ~~under~~ pursuant to the Ohio Constitution, Article IV, Section 3(B)(4) of the Ohio Constitution.

(2) In all appeals from a court of appeals, the court of appeals retains jurisdiction to appoint counsel to represent indigent parties before the Supreme Court ~~where~~ when a judgment of the court of appeals is being defended by a defendant or ~~upon order of~~ when the Supreme Court has ordered that counsel be appointed in a particular case.

Effective Date: June 1, 1994

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

1923 **S.Ct.Prac.R. 3.1. 7.02. Memorandum in Support of Jurisdiction.**

1924

1925

[See Appendix B following these rules for a sample memorandum.]

1926

1927 **(A) Filing**

1928

1929

In a ~~claimed appeal of right or a discretionary~~ jurisdictional appeal, unless otherwise provided in S.Ct.Prac.R. 7.01, the appellant shall file a memorandum in support of jurisdiction with the notice of appeal.

1930

1931

1932

1933 **(B) Page limitation**

1934

1935

Except in postconviction death-penalty cases, a memorandum shall not exceed fifteen numbered pages, exclusive of the table of contents and the certificate of service.

1936

1937

1938

1939 **(C) Parts of the memorandum**

1940

A memorandum in support of jurisdiction shall contain all of the following:

1941

1942

1943

(1) A table of contents, which shall include ~~the~~ numbered propositions of law arranged in order;

1944

1945

1946

(2) A thorough explanation of why a substantial constitutional question is involved, why the case is of public or great general interest, or, in a felony case, why leave to appeal should be granted;

1947

1948

1949

1950

(3) A statement of the case and facts;

1951

1952

(4) A brief and concise argument in support of each proposition of law.

1953

1954

(D) Required Attachments

1955

1956

(1) A date-stamped copy of the court of appeals opinion and judgment entry being appealed shall be attached to the memorandum. For purposes of this rule, a date-stamped copy of the court of appeals judgment entry shall mean a copy bearing the file stamp of the clerk of the court of appeals and reflecting the date on which the court of appeals filed its judgment entry for journalization with its clerk under App.R. 22.

1957

1958

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1963

(2) In postconviction death penalty cases, the appellant shall also attach the findings of fact and conclusions of law ~~entered~~ issued by the trial court or a notice that no findings of fact or conclusions of law were issued by the trial court.

1964

1965

1966

1967 (3) The appellant may also attach any other judgment entries or opinions issued
1968 in the case, if relevant to the appeal. The memorandum shall not include any other
1969 attachments.

1970

1971 (E) **Refusal to file**

1972

1973 Except as otherwise provided in S.Ct.Prac.R. ~~2.2(A)~~ 7.01(A), if the appellant does
1974 not tender a memorandum in support of jurisdiction for timely filing along with the
1975 notice of appeal, the Clerk of the Supreme Court shall refuse to file the notice of
1976 appeal.

1977

1978 Effective Date: June 1, 1994

1979 Amended: April 1, 1996; April 1, 2000; April 1, 2002; July 1, 2004; January 1, 2008;

1980 January 1, 2010; _____

1981

1982

1983

1984 **S.Ct.Prac.R. ~~3.2.~~ 7.03. Memorandum in Response.**

1985

1986 (A) **Deadline for filing**

1987

1988 (1) Within thirty days after the appellant's memorandum in support of
1989 jurisdiction is filed, the appellee may file a memorandum in response.

1990

1991 (2) If the appeal involves termination of parental rights or adoption of a minor
1992 child, or both, any memorandum in response shall be filed within twenty days after
1993 the memorandum in support of jurisdiction is filed.

1994

1995 (B) **Page limitation and contents of memorandum**

1996

1997 Except in postconviction death-penalty cases, the memorandum in response shall not
1998 exceed fifteen numbered pages, exclusive of the certificate of service; shall not
1999 include any attachments; and shall contain both of the following:

2000

2001 (1) A statement of appellee's position as to whether a substantial
2002 constitutional question is involved, whether leave to appeal in a felony case
2003 should be granted, or whether the case is of public or great general interest;

2004

2005 (2) A brief and concise argument in support of the appellee's position
2006 regarding each proposition of law raised in the memorandum in support of
2007 jurisdiction.

2008

2009 (C) **Case Number**

2010

2011 The appellee shall include the Supreme Court case number on the cover page of the
2012 memorandum in response.

2013 (D) **Multiple memoranda and time for response**

2014

2015 If two or more memoranda in support of jurisdiction are filed in a case, the appellee
2016 shall file only one memorandum in response. The time specified in division (A) of
2017 this rule for filing the memorandum in response shall be calculated from the date the
2018 last memorandum in support of jurisdiction was filed in the case.

2019

2020 (E) **Waiver of memorandum in response**

2021

2022 The appellee may waive the filing of a memorandum in response. A waiver shall be
2023 on a form prescribed by the Clerk of the Supreme Court and shall be filed within
2024 twenty days after the memorandum in support of jurisdiction is filed.

2025

2026 *[See Appendix D following these rules for the prescribed waiver form.]*

2027

2028 Effective Date: June 1, 1994

2029 Amended: April 1, 1996; April 1, 2000; April 1, 2002; July 1, 2004; January 1, 2008;
2030 January 1, 2010; _____

2031

2032

2033

2034 **S.Ct.Prac.R. ~~3.3~~ 7.04. Prohibition Against Supplemental and Reply Memoranda.**

2035

2036 (A) **Supplemental memoranda**

2037

2038 (1) Except as provided in S.Ct.Prac.R. ~~8-7~~ 3.12, jurisdictional memoranda shall
2039 not be supplemented.

2040

2041 (2) If a relevant authority is issued after the deadline has passed for filing a
2042 party's jurisdictional memorandum, that party may file a citation to the relevant
2043 authority but shall not file additional argument.

2044

2045 (B) **Reply memoranda**

2046

2047 The appellant shall not file a reply to the memorandum in response filed by the
2048 appellee under S.Ct.Prac.R. ~~3-2~~ 7.03.

2049

2050 (C) **Refusal to file**

2051

2052 The Clerk of the Supreme Court shall refuse to file supplemental or reply
2053 memoranda received for filing in violation of this rule and motions to waive the
2054 provisions of this rule are prohibited and shall not be filed.

2055

2056 Effective Date: June 1, 1994

2057 Amended: April 1, 1996; April 1, 2000; April 1, 2002; July 1, 2004; January 1, 2008;
2058 January 1, 2010; _____

2059 **S.Ct.Prac.R. ~~3.4.~~ 7.05. Jurisdictional Memoranda in Case Involving Cross-**
2060 **Appeal.**

2061

2062 **(A) General**

2063

2064 (1) In a case involving a cross-appeal, the appellee/cross-appellant shall file a
2065 combined memorandum both in response to appellant/cross-appellee’s memorandum
2066 and in support of jurisdiction for the cross-appeal within thirty days of the filing of
2067 appellant/cross-appellee’s memorandum in support of jurisdiction.

2068

2069 (2) Except as otherwise provided by this rule, the combined memorandum shall
2070 comply with all of the requirements contained in S.Ct.Prac.R. ~~3-1~~ 7.02 and ~~3-2~~ 7.03;
2071 however, a date-stamped copy of the court of appeals opinion and judgment entry
2072 being appealed need not be attached to the combined memorandum.

2073

2074 (3) Within thirty days after the filing of appellee/cross-appellant’s combined
2075 memorandum, the appellant/cross-appellee shall file the last memorandum, which
2076 shall be limited to a response to appellee/cross-appellant’s arguments in support of
2077 jurisdiction for the cross-appeal.

2078

2079 **(B) Termination of parental rights or adoption**

2080

2081 If the appeal or the cross-appeal involves termination of parental rights or adoption
2082 of a minor child, or both, the combined memorandum of appellee/cross-appellant
2083 shall be filed within twenty days after the filing of appellant/cross-appellee’s
2084 memorandum in support of jurisdiction, and the last memorandum of
2085 appellant/cross-appellee shall be filed within twenty days after the filing of
2086 appellee/cross-appellant’s combined memorandum.

2087

2088 **(C) Page limitation**

2089

2090 Except in postconviction death penalty cases, a memorandum filed under this rule by
2091 the appellant/cross-appellee shall not exceed fifteen numbered pages, and the
2092 memorandum filed by the appellee/cross-appellant shall not exceed thirty numbered
2093 pages.

2094

2095 Effective Date: June 1, 1994
2096 Amended: April 1, 1996; April 1, 2000; April 1, 2002; July 1, 2004; January 1, 2008;
2097 January 1, 2010;_____

2098

2099

2100

2101 **S.Ct.Prac.R. 3.5- 7.06. Jurisdictional Memorandum of Amicus Curiae.**

2102

2103 **(A) General**

2104

2105 (1) An amicus curiae may file a jurisdictional memorandum urging the Supreme
2106 Court to accept or decline to accept a ~~claimed appeal of right or a discretionary~~
2107 jurisdictional appeal. Leave to file an amicus memorandum is not required.

2108

2109 (2) An amicus memorandum shall conform to the requirements of this rule,
2110 except that a copy of the court of appeals opinion and judgment entry is not required
2111 to be attached to the amicus memorandum.

2112

2113 **(B) Deadline for filing**

2114

2115 (1) An amicus memorandum in support of jurisdiction shall be filed by the
2116 appellant's deadline for perfecting an appeal to the Supreme Court or, ~~if later,~~ by the
2117 appellant's deadline for filing a memorandum in support of jurisdiction, whichever is
2118 later.

2119

2120 (2) An amicus memorandum in response shall be filed by the appellee's deadline
2121 for filing a memorandum in response.

2122

2123 (3) The Clerk of the Supreme Court shall refuse to file an amicus memorandum
2124 that is not timely received.

2125

2126 Effective Date: June 1, 1994

2127 Amended: April 1, 1996; April 1, 2000; April 1, 2002; July 1, 2004; January 1, 2008;
2128 January 1, 2010; _____

2129

2130

2131

2132 **S.Ct.Prac.R. 4.4- 7.07. Effect of Pending Motion to Certify a Conflict upon**
2133 **Discretionary a Jurisdictional Appeal or Claimed Appeal of Right Filed in Supreme**
2134 **Court.**

2135

2136 **(A) General**

2137

2138 (1) If a party has perfected a ~~discretionary appeal or a claimed~~ jurisdictional
2139 appeal of right with the Supreme Court in accordance with S.Ct.Prac.R. ~~2.2(A)~~
2140 7.01(A), but also has timely moved the court of appeals to certify a conflict in the
2141 case, that party shall file a notice with the Supreme Court that a motion to certify a
2142 conflict is pending in the court of appeals.

2143

2144 (2) The Supreme Court will stay consideration of the jurisdictional memoranda
2145 filed in the ~~discretionary appeal or claimed appeal of right~~ jurisdictional appeal until
2146 the court of appeals has determined whether to certify a conflict in the case.

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(B) Determination of no conflict by the court of appeals

(1) If the court of appeals determines that a conflict does not exist, the party that moved the court of appeals to certify a conflict shall immediately file a notice of that determination with the Supreme Court.

(2) In accordance with S.Ct.Prac.R. ~~3-6~~ 7.08, the Supreme Court will consider the jurisdictional memoranda filed in the ~~discretionary appeal or the claimed jurisdictional~~ appeal of right.

(C) Determination of conflict by the court of appeals

(1) If both a certified conflict and ~~discretionary appeal or claimed jurisdictional~~ appeal of right are perfected, the Supreme Court will review the court of appeals order certifying a conflict when it reviews the jurisdictional memoranda filed by the parties.

(2) In accordance with S.Ct.Prac.R. ~~3-6~~ 7.08 and ~~4-2~~ 8.02, the Supreme Court will issue an order determining both whether a conflict exists and whether to ~~allow~~ accept the ~~discretionary appeal or the claimed jurisdictional~~ appeal of right, and consolidating the cases if necessary.

Effective Date: June 1, 1994

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

S.Ct.Prac.R. ~~3-6~~ 7.08. Determination of Jurisdiction by the Supreme Court.

(A) Time to review

(1) (a) After the time for filing jurisdictional memoranda has passed, the Supreme Court will review the jurisdictional memoranda filed and determine whether to accept the appeal and decide the case on the merits.

(b) If the appeal involves termination of parental rights or adoption of a minor child, or both, the Supreme Court will expedite its review and determination.

(2) (a) If the appellee has filed a waiver in lieu of a memorandum in response, the Supreme Court may review the memorandum in support of jurisdiction and determine whether to ~~allow~~ accept the appeal before the deadline for filing the memorandum in response.

2192 (b) Upon review of the memorandum in support of jurisdiction and
2193 notwithstanding the appellee's filing of a waiver, the Supreme Court may
2194 direct the appellee to file a memorandum in response before it decides
2195 whether to ~~allow~~ accept the appeal.

2196
2197 (3) The Supreme Court may hold its determination of ~~jurisdiction on a claimed~~
2198 ~~whether to accept a jurisdictional~~ appeal ~~of right or a discretionary~~ appeal pending
2199 the outcome of any other case before the Supreme Court that may involve a
2200 dispositive issue.

2201
2202 **(B) Decision on jurisdiction**

2203
2204 (1) ~~If the appeal is a claimed appeal of right, the Supreme Court will either:~~

2205
2206 (a) ~~Dismiss the appeal as not involving any substantial constitutional~~
2207 ~~question; or~~

2208
2209 (b) ~~Accept the appeal, and either order the case or limited issues in the~~
2210 ~~case to be briefed and heard on the merits or enter judgment summarily.~~

2211
2212 (2) ~~If the appeal is a discretionary appeal involving a felony, the Supreme Court~~
2213 ~~will either:~~

2214
2215 (a) ~~Deny leave to appeal, refusing jurisdiction to hear the case on the~~
2216 ~~merits; or~~

2217
2218 (b) ~~Grant leave to appeal, accepting the appeal, and either order the case~~
2219 ~~or limited issues in the case to be briefed and heard on the merits or enter~~
2220 ~~judgment summarily.~~

2221
2222 (3) ~~If the appeal is a discretionary appeal asserting a question of public or great~~
2223 ~~general interest, the Supreme Court will either:~~

2224
2225 (a) ~~Decline jurisdiction to decide the case on the merits; or~~

2226
2227 (b) ~~Grant jurisdiction to hear the case on the merits, accepting the appeal,~~
2228 ~~and either order the case or limited issues in the case to be briefed and heard~~
2229 ~~on the merits or enter judgment summarily.~~

2230
2231 Upon review of the jurisdictional memoranda, the Supreme Court will do one of the
2232 following:

2233
2234 (1) Accept the appeal and order that the case be briefed in accordance
2235 with the applicable provisions of S.Ct.Prac.R. 16.01 through 16.08;

2236

- 2237 (2) Accept the appeal and hold the decision in the appeal for another case
 2238 that is pending before the Supreme Court;
- 2239
- 2240 (3) Accept the appeal and enter judgment summarily;
- 2241
- 2242 (4) Decline to accept the appeal. In declining to accept an appeal the
 2243 Supreme Court has determined that one or more of the following are
 2244 applicable after review of the jurisdictional memoranda:
- 2245
- 2246 (a) The appeal does not involve a substantial constitutional
 2247 question and should be dismissed;
- 2248
- 2249 (b) The appeal does not involve a question of great general or
 2250 public interest;
- 2251
- 2252 (c) The appeal does not involve a felony;
- 2253
- 2254 (d) The appeal does involve a felony, but leave to appeal is not
 2255 warranted.
- 2256
- 2257 (5) Take any other action the Supreme Court deems appropriate.
- 2258

2259 **(C) Jurisdictional memorandum from state solicitor**

2260

2261 In any ~~claimed appeal of right or discretionary~~ jurisdictional appeal in which the state is not
 2262 a party but nevertheless may have an interest, the Supreme Court may invite the state
 2263 solicitor to file a jurisdictional memorandum expressing the views of the state before
 2264 making its determination of jurisdiction.

2265

2266 Effective Date: June 1, 1994

2267 Amended: April 1, 1996; April 1, 2000; April 1, 2002; July 1, 2004; January 1, 2008;
 2268 January 1, 2010; _____

2269

2270

2271

2272 **S.Ct.Prac.R. 3-7. 7.09. Appointment of Counsel in Felony Cases.**

2273

2274 If the Supreme Court ~~grants leave to appeal in a discretionary~~ accepts a jurisdictional appeal
 2275 involving a felony and an unrepresented party to the appeal is indigent, the Supreme Court
 2276 will appoint the Ohio Public Defender or other counsel to represent the indigent party or
 2277 order the court of appeals to appoint counsel as provided in S.Ct.Prac.R. ~~2-2(D)(2)~~
 2278 7.01(D)(2).

2279

2280 Effective Date: June 1, 1994

2281 Amended: April 1, 1996; April 1, 2000; April 1, 2002; July 1, 2004; January 1, 2008;
 2282 January 1, 2010; _____

2283 **S.Ct.Prac.R. ~~12.1~~ 7.10. Improvidently Accepted Jurisdictional Appeals.**

2284

2285 When a case has been accepted for determination on the merits pursuant to S.Ct.Prac.R. ~~3-6~~
2286 7.08, the Supreme Court may later find that there is no substantial constitutional question or
2287 question of public or great general interest, that leave to appeal in a felony case was not
2288 warranted, or that the same question has been raised and passed upon in a prior appeal.
2289 Accordingly, the Supreme Court may sua sponte dismiss the case as having been
2290 improvidently accepted or summarily reverse or affirm on the basis of precedent.

2291

2292 Effective Date: June 1, 1994

2293 Amended: April 1, 1996; July 1, 2004; January 1, 2008; January 1, 2010; _____

2294

2295 SECTION 4. 8. ~~CERTIFICATION OF CONFLICT BY COURT OF APPEALS~~
2296 CERTIFIED-CONFLICT CASES.

2298 ~~S.Ct.Prac.R. 4.1. 8.01. Filing of Court of Appeals Order Certifying a Institution~~
2299 ~~of a Certified Conflict Case.~~

2301 **(A) General**

2302
2303 When a court of appeals issues an order certifying a conflict pursuant to the Ohio
2304 Constitution, Article IV, Section 3(B)(4), any interested party to the proceeding may
2305 institute ~~an appeal~~ a certified-conflict case by filing a notice of certified conflict in
2306 the Supreme Court.

2308 **(B) Procedure**

2309
2310 The notice of certified conflict shall have attached all of the following:

2311
2312 (1) A copy of the court of appeals order certifying a conflict;

2313
2314 (2) A copy of the certifying court's opinion; ~~and~~

2315
2316 (3) Copies of the conflicting court of appeals' opinions.

2317
2318 **(C) Party status**

2319
2320 The party who files the order certifying a conflict shall be considered the appellant.

2321
2322 **(D) Jurisdiction and refusal to file**

2323
2324 Failure to file the court of appeals order certifying a conflict within thirty days after
2325 the date of such order shall divest the Supreme Court of jurisdiction to consider the
2326 order certifying a conflict. The Clerk of the Supreme Court shall refuse to file a
2327 notice of certified conflict that is received for filing after this time period has passed.

2328
2329 Effective Date: June 1, 1994

2330 Amended: April 1, 1996; April 1, 2000; June 1, 2000; July 1, 2004; January 1, 2008;
2331 January 1, 2010; _____

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2336 **S.Ct.Prac.R. 4.2. 8.02. Supreme Court Review of Court of Appeals Order**
2337 **Certifying a Conflict.**

2338

2339 **(A) General**

2340

2341 The Supreme Court will review the court of appeals' order certifying a conflict. If
2342 the case involves termination of parental rights or adoption of a minor child, or both,
2343 the Supreme Court will expedite its review.

2344

2345 **(B) Clarity of order**

2346

2347 If the rule of law upon which the alleged conflict exists is not clearly set forth in the
2348 order certifying a conflict, the Supreme Court may dismiss the case or remand it to
2349 the court of appeals with an order that the court of appeals clarify the issue
2350 presented.

2351

2352 **(C) Determination of no conflict**

2353

2354 If the Supreme Court determines that a conflict does not exist, it will issue an order
2355 dismissing the case.

2356

2357 **(D) Determination of conflict**

2358

2359 If the Supreme Court determines that a conflict exists, it will issue an order finding a
2360 conflict, identifying those issues raised in the case that will be considered by the
2361 Supreme Court on appeal, and ordering those issues to be briefed.

2362

2363 Effective Date: June 1, 1994

2364 Amended: April 1, 1996; April 1, 2000; June 1, 2000; July 1, 2004; January 1, 2008;
2365 January 1, 2010;_____

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2367

2368

2369 **S.Ct.Prac.R. 4.3. 8.03. Briefs; Supplement to the Briefs Briefing of**
2370 **Certified-Conflict Cases.**

2371

2372 **(A) Briefs**

2373

2374 If the Supreme Court determines that a conflict exists, the parties shall file their
2375 merit briefs in conformance with S.Ct.Prac.R. ~~6.1~~ 16.01 through ~~6.8~~ 16.10 and, if
2376 applicable, supplements in conformance with S.Ct.Prac.R. ~~7.1~~ and ~~7.2~~.

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(B) Scope

The parties shall brief only the issues identified in the order of the Supreme Court as issues to be considered ~~on appeal~~, and those issues shall be clearly identified in the table of contents, in accordance with S.Ct.Prac.R. ~~6.2(B)(1)~~ 16.02(B)(1).

(C) When a certified-conflict case is consolidated with a jurisdictional appeal

In cases where ~~an appeal from an order certifying~~ a certified-conflict case has been consolidated with an appeal under S.Ct.Prac.R. ~~4.4(C)~~ 7.07(C), the brief shall identify the issues that have been found by the Supreme Court to be in conflict and shall distinguish those issues from any other issues being briefed in the consolidated appeal.

Effective Date: June 1, 1994
Amended: April 1, 1996; April 1, 2000; June 1, 2000; July 1, 2004; January 1, 2008; January 1, 2010;_____

S.Ct.Prac.R. ~~12.2~~ 8.04. Improvidently Certified Conflicts.

When the Supreme Court finds a conflict pursuant to S.Ct.Prac.R. ~~4.2~~ 8.02, it may later find that there is no conflict or that the same question has been raised and passed upon in a prior appeal. Accordingly, the Supreme Court may sua sponte dismiss the case as having been improvidently certified or summarily reverse or affirm on the basis of precedent.

Effective Date: June 1, 1994
Amended: April 1, 1996; July 1, 2004; January 1, 2008; January 1, 2010;_____

2458 **S.Ct.Prac.R. ~~18.3.~~ 9.03. Preparation of Certification Order; Notice of Filing.**

2459

2460 **(A) Certification order**

2461

2462 The certification order shall be signed by any justice or judge presiding over the
2463 cause or by a magistrate judge presiding over the cause pursuant to 28 U.S.C. 636(c).
2464 The clerk of the certifying court shall serve copies of the certification order upon all
2465 parties or their counsel of record and file with the Clerk of the Supreme Court the
2466 certification order under seal of the certifying court.

2467

2468 **(B) Notice of filing**

2469

2470 Upon the filing of a certification order with the Supreme Court, the Clerk of the
2471 Supreme Court shall issue a notice of filing to all parties or their counsel of record at
2472 the address provided on the certification order. The notice shall inform the parties of
2473 the case number assigned by the Clerk, the date of the filing of the case, and the
2474 requirement to file preliminary memoranda in the case pursuant to S.Ct.Prac.R. ~~18.6~~
2475 9.05.

2476

2477 Effective Date: June 1, 1994

2478 Amended: April 1, 1996; July 1, 2004; January 1, 2008; January 1, 2010; October 1,
2479 2011; _____

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2483 **S.Ct.Prac.R. ~~18.5.~~ 9.04. Parties.**

2484

2485 The party designated by the certifying court as the moving party shall be referred to as the
2486 petitioner. The party adverse to the petitioner shall be referred to as the respondent.

2487

2488 Effective Date: June 1, 1994

2489 Amended: April 1, 1996; July 1, 2004; January 1, 2008; January 1, 2010; _____

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2492

2493 **S.Ct.Prac.R. ~~18.6.~~ 9.05. Preliminary Memoranda; Court Determination of
2494 Whether to Answer Question Certified.**

2495

2496 **(A) Preliminary memoranda**

2497

2498 (1) Within twenty days after a certification order is filed with the Supreme Court,
2499 each party shall file a memorandum, not to exceed fifteen pages in length, addressing
2500 all questions of law certified to the Supreme Court.

2501

2502 (2) An amicus curiae may file a memorandum conforming to the requirements of
2503 this rule and supporting either party within twenty days after a certification order is
2504 filed with the Supreme Court.

2506 **(B) Court determination**

2507
2508 The Supreme Court will review the memoranda and issue an order identifying the
2509 question or questions it will answer or decline to answer. The Clerk of the Supreme
2510 Court shall send a copy of the order to the certifying court and to all parties or their
2511 counsel.

2512
2513 Effective Date: June 1, 1994

2514 Amended: April 1, 1996; July 1, 2004; January 1, 2008; January 1, 2010;_____

2515

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2517

2518 **S.Ct.Prac.R. ~~18.4.~~ 9.06. Record.**

2519

2520 The Supreme Court sua sponte or on motion of a party may request that copies of all or any
2521 portion of the record before the certifying court be transmitted to the Clerk of the Supreme
2522 Court.

2523

2524 Effective Date: June 1, 1994

2525 Amended: April 1, 1996; July 1, 2004; January 1, 2008; January 1, 2010;_____

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2528

2529 **S.Ct.Prac.R. ~~18.7.~~ 9.07. Merit Briefs Briefing and Oral Argument.**

2530

2531 **(A) Briefing**

2532

2533 If the Supreme Court decides to answer any of the questions certified to it, the
2534 parties shall brief the merits of the issue certified in accordance with S.Ct.Prac.R. ~~6.2~~
2535 16.01 through ~~6.4~~ 16.10. The petitioner shall proceed under the provisions of
2536 S.Ct.Prac.R. ~~6.2~~ 16.01 through ~~6.4~~ 16.10 that are applicable to an appellant and the
2537 respondent shall proceed under the provisions applicable to an appellee.

2538

2539 **(B) Oral argument**

2540

2541 After a case is briefed in accordance with S.Ct.Prac.R. 16.01 through 16.10, oral
2542 argument will be scheduled pursuant to S.Ct.Prac.R. 17.01(C).

2543

2544 Effective Date: June 1, 1994

2545 Amended: April 1, 1996; July 1, 2004; January 1, 2008; January 1, 2010;_____

2546

2547

2548 **S.Ct.Prac.R. ~~18.8.~~ 9.08. Opinion.**

2549

2550 If the Supreme Court decides to answer a question or questions certified to it, it will issue a
2551 written opinion stating the law governing the question or questions certified. The Clerk of
2552 the Supreme Court shall send a copy of the opinion to the certifying court and to the parties
2553 or their counsel.

2554

2555 Effective Date: June 1, 1994

2556 Amended: April 1, 1996; July 1, 2004; January 1, 2008; January 1, 2010;_____

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SECTION 10. ADMINISTRATIVE-AGENCY APPEALS.

S.Ct.Prac.R. ~~2.3~~ 10.01. Institution of an Appeal from Administrative Agency the Board of Tax Appeals.

(A) ~~Appeal from the Board of Tax Appeals~~ Perfection of an appeal

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

(2) The notice of appeal shall include a copy of the decision being appealed, set forth the claimed errors, comply with the service requirements of S.Ct.Prac.R. ~~14.2(B)(2)~~ 3.10(B)(2), and otherwise be in conformance with R.C. 5717.04.

~~(2)~~(3) If a party timely files a notice of appeal in the Supreme Court, any other party may file a notice of appeal pursuant to R.C. 5717.04.

(B) Proceedings

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

Effective Date: June 1, 1994
Amended: April 1, 1996; April 1, 2000; June 1, 2000; July 1, 2004; August 1, 2004; January 1, 2008; January 1, 2010; _____

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

(A) ~~Appeal from the Public Utilities Commission~~ Perfection of an appeal

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

(2) The notice of appeal shall include a copy of the decision being appealed, comply with the service requirements of S.Ct.Prac.R. 3.10(A)(2), and contain a certificate of filing pursuant to S.Ct.Prac.R. 3.10(C)(2).

(3) If a party files a notice of appeal in the Supreme Court, any other party may file a notice of cross-appeal pursuant to R.C. 4903.13. The notice of cross-appeal

2604 shall be filed within the later of the time prescribed by R.C. 4903.11 or ten days after
2605 the first notice of appeal was filed.

2606
2607 **(B) Proceedings**

2608
2609 After the record in an appeal from the Public Utilities Commission is filed by the
2610 Clerk of the Supreme Court, the parties shall brief the case in accordance with the
2611 applicable provisions of S.Ct.Prac.R. 16.01 through 16.10.

2612
2613 Effective Date: June 1, 1994
2614 Amended: April 1, 1996; April 1, 2000; June 1, 2000; July 1, 2004; August 1, 2004;
2615 January 1, 2008; January 1, 2010; _____

2616
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2618
2619 **S.Ct.Prac.R. 10.03. Institution of an Appeal from the Power Siting Board.**

2620
2621 **(A) Appeal from the Power Siting Board Perfection of an appeal**

2622
2623 A notice of appeal or cross-appeal from the Power Siting Board shall be filed with
2624 the Supreme Court and the board in accordance with ~~division (B) of this rule~~
2625 S.Ct.Prac.R. 10.02(A) and pursuant to R.C. 4906.12.

2626
2627 **(B) Proceedings**

2628
2629 After the record in an appeal from the Power Siting Board is filed by the Clerk of the
2630 Supreme Court, the parties shall brief the case in accordance with the applicable
2631 provisions of S.Ct.Prac.R. 16.01 through 16.10.

2632
2633 Effective Date: June 1, 1994
2634 Amended: April 1, 1996; April 1, 2000; June 1, 2000; July 1, 2004; August 1, 2004;
2635 January 1, 2008; January 1, 2010; _____

2636

2683 pursuant to R.C. 2929.03(F), and adequate reasons for the delay. Facts supporting
2684 the motion shall be set forth in an affidavit.

2685
2686 **(C) Copy of the praecipe to court reporter**

2687
2688 The A notice of appeal filed pursuant to S.Ct.Prac.R. 11.01(B)(1) shall be
2689 accompanied by a copy of the praecipe that was served by the appellant on the court
2690 reporter pursuant to S.Ct.Prac.R. ~~19.4(B)(2)~~ 11.03(C)(2). The appellant shall certify
2691 on this copy the date the praecipe was served on the reporter.

2692
2693 **(D) Notice to ~~the common pleas~~ lower court**

2694
2695 The Clerk of the Supreme Court shall send a date-stamped copy of the notice of
2696 appeal to the clerk of the court of common pleas or of the court of appeals whose
2697 judgment is being appealed.

2698
2699 **(E) Jurisdiction of common pleas court and court of appeals after appeal to**
2700 **Supreme Court is perfected**

2701
2702 After ~~an~~ a death-penalty appeal of right is perfected from a court of common pleas or
2703 court of appeals to the Supreme Court, the court of common pleas or court of appeals
2704 is divested of jurisdiction, except to take action in aid of the appeal, to grant a stay of
2705 execution if the Supreme Court has not set an execution date, or to appoint counsel.

2706
2707 Effective: June 1, 1994
2708 Amended: April 1, 1996; June 1, 1998; June 1, 2000; July 1, 2004; October 1, 2005;
2709 January 1, 2008; January 1, 2010;_____

2710
2711
2712
2713 **S.Ct.Prac.R. ~~19.3.~~ 11.02. Appointment of Counsel.**

2714
2715 If a capital appellant is unrepresented and is indigent, the Supreme Court will appoint the
2716 Ohio Public Defender or other counsel qualified pursuant to ~~the Rules of Superintendence~~
2717 Sup.R. 20 through 20.05 to represent the appellant or order the trial court or court of appeals
2718 to appoint qualified counsel.

2719
2720 Effective: June 1, 1994
2721 Amended: April 1, 1996; June 1, 1998; June 1, 2000; July 1, 2004; October 1, 2005;
2722 January 1, 2008; January 1, 2010;_____

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2726 **S.Ct.Prac.R. 19.4. 11.03. Record on Appeal.**

2727

2728 **(A) Composition of record to be transmitted in an appeal from the court of appeals**

2729

2730 In an appeal of right from the court of appeals filed pursuant to S.Ct.Prac.R.
2731 5.01(A)(1) or (2), the record shall be transmitted in accordance with the applicable
2732 provisions of S.Ct.Prac.R. 15.01 through 15.09.

2733

2734 **(B) Composition of the record to be transmitted in an appeal from the court of**
2735 **common pleas**

2736

2737 (1) In an appeal of right from the court of common pleas filed pursuant to
2738 S.Ct.Prac.R. 5.01(A)(4), the record shall be transmitted in accordance with
2739 S.Ct.Prac.R. 11.03(B) through (E) and 11.04.

2740

2741 (2) Unless otherwise ordered by the Supreme Court, the record to be transmitted
2742 on appeal shall consist of the original papers filed in the trial court; the transcript of
2743 proceedings, an electronic version of the transcript, if available; and a certified copy
2744 of the docket and journal entries prepared by the clerk of the trial court.

2745

2746 (3) The custodian of the record shall not transmit any physical exhibits unless
2747 directed to do so by the Clerk of the Supreme Court or as provided by S.Ct.Prac.R.
2748 ~~19.4(A)(3)~~ 11.03(B)(4).

2749

2750 (4) The custodian shall transmit the jury questionnaires and any audio exhibits,
2751 video exhibits, and documents such as papers, maps, or photographs.

2752

2753 (5) If exhibits are not transmitted pursuant to ~~subdivision (2)~~ division (B)(3) of
2754 this rule, the custodian who certifies the record shall designate in the index the
2755 exhibits not being transmitted and identify the custodian of those exhibits.

2756

2757 **(C) The transcript of proceedings; duty of appellant to order**

2758

2759 (1) The transcript of proceedings shall be prepared by the court reporter
2760 appointed by the trial court to transcribe the proceedings for the trial court. The
2761 reporter shall transcribe into written form all of the trial court proceedings, including
2762 pretrial, trial, hearing, and other proceedings.

2763

2764 (2) Before filing a notice of appeal pursuant to S.Ct.Prac.R. 11.01(B)(1) in the
2765 Supreme Court, the appellant shall, by written praecipe, order from the reporter a
2766 complete transcript of the proceedings.

2767

2768 (3) A transcript prepared by a reporter under this rule shall be in the following
2769 form:

2770

- 2771 (a) The transcript shall include a front and back cover; the front cover
2772 shall bear the case name and number and the name of the court in which the
2773 proceedings occurred;
- 2774 (b) The transcript shall be firmly bound on the left side;
- 2775
2776
- 2777 (c) The first page inside the front cover shall set forth the nature of the
2778 proceedings, the date or dates of the proceedings, and the judge or judges
2779 who presided;
- 2780
- 2781 (d) The transcript shall be prepared on white paper, 8 1/2 by 11 inches in
2782 size, with the lines of each page numbered and the pages sequentially
2783 numbered;
- 2784
- 2785 (e) An index of witnesses shall be included in the front of each volume of
2786 the transcript and shall contain page and line references to direct, cross, re-
2787 direct, and re-cross examination;
- 2788
- 2789 (f) An index to exhibits, whether admitted or rejected, briefly identifying
2790 each exhibit, shall be included in each volume following the index of
2791 witnesses and shall reflect page and line references where each exhibit was
2792 identified and offered into evidence, was admitted or rejected, and if any
2793 objection was interposed;
- 2794
- 2795 (g) No volume of a transcript shall exceed two hundred fifty pages in
2796 length, except it may be enlarged to three hundred pages, if necessary, to
2797 complete a part of the voir dire, opening statements, closing arguments, or
2798 jury instructions. When it is necessary to prepare more than one volume, each
2799 volume shall contain the number and name of the case and be numbered
2800 sequentially and consecutively from the previous volume, and the separate
2801 volumes shall be approximately equal in length.

2802
2803 (4) The reporter shall certify that the transcript is correct and complete.
2804

2805 **(D) Statement of the evidence or proceedings when no report was made or when the**
2806 **transcript is unavailable**

2807
2808 If no report of the evidence or proceedings at a hearing or trial was made, or if a
2809 transcript is unavailable, the appellant may prepare a statement of the evidence or
2810 proceedings from the best available means, including the appellant's recollection.
2811 The statement shall be served on the appellee no later than twenty days prior to the
2812 time for transmission of the record pursuant to S.Ct.Prac.R. ~~49-5~~ 11.04. The appellee
2813 may serve objections or proposed amendments to the statement within ten days after
2814 service. The statement and any objections or proposed amendments shall be
2815 forthwith submitted to the trial court for settlement and approval. The trial court
2816 shall act prior to the time for transmission of the record pursuant to S.Ct.Prac.R. ~~49-5~~

2817 11.04, and, as settled and approved, the statement shall be included by the clerk of
2818 the trial court in the record on appeal.

2819
2820 **(E) Correction or modification of the record**

2821
2822 If any difference arises as to whether the record truly discloses what occurred in the
2823 trial court, the difference shall be submitted to and settled by that court and the
2824 record made to conform to the truth. If anything material to either party is omitted
2825 from the record by error or accident or is misstated in the record, the parties by
2826 stipulation, or the trial court, either before or after the record is transmitted to the
2827 Supreme Court, or the Supreme Court, sua sponte or upon motion, may direct that
2828 the omission or misstatement be corrected, and if necessary that a supplemental
2829 record be certified and transmitted. All other questions as to the form and content of
2830 the record shall be presented to the Supreme Court.

2831
2832 Effective: June 1, 1994
2833 Amended: April 1, 1996; June 1, 1998; June 1, 2000; July 1, 2004; October 1, 2005;
2834 January 1, 2008; January 1, 2010; _____

2835
2836
2837
2838 **S.Ct.Prac.R. ~~19.5.~~ 11.04. Transmission of the Record.**

2839
2840 **(A) Time for transmission; duty of appellant**

2841
2842 (1) The clerk of the trial court shall prepare a certified copy of the docket and
2843 journal entries, assemble the original papers, and transmit the record on appeal to the
2844 Clerk of the Supreme Court within ninety days after the date the notice of appeal is
2845 filed in the Supreme Court, unless an extension of time is granted under division (C)
2846 of this rule.

2847
2848 (2) The appellant shall take any action necessary to enable the Clerk to assemble
2849 and transmit the record, including, if required, filing a motion for an extension of
2850 time for transmission of the record under division (C) of this rule. Before the record
2851 is transmitted, the appellant shall verify with the clerk of the trial court that the
2852 record is complete and accurate and shall provide notice of the verification to the
2853 clerk of the trial court for transmission with the record.

2854
2855 **(B) Duty of trial court and Supreme Court clerks**

2856
2857 (1) (a) Before transmitting the record to the Supreme Court, the clerk of the
2858 trial court shall number the documents, transcripts, and exhibits comprising
2859 the record. The clerk of the trial court shall prepare an index of the
2860 documents, transcripts, and exhibits, correspondingly numbered and
2861 identified. All exhibits listed in the index shall be briefly described. If
2862 applicable, a separate index shall be prepared identifying any exhibits that are

2863 part of the record, but which have not been transmitted under division (B)(3)
2864 of this rule.

2865
2866 (b) At least ten days before the clerk of the trial court transmits the
2867 record, the clerk ~~of the trial court~~ shall send a copy of each index to all
2868 counsel of record in the case.

2869
2870 (c) When the clerk of the trial court transmits the record, it shall and
2871 transmit each the index with the record to the Clerk of the Supreme Court.

2872
2873 (2) Documentary exhibits offered at trial whose admission was denied shall be
2874 included with the record and transmitted in a separate envelope with a notation that
2875 they were not admitted.

2876
2877 (3) Transmission of the record is effected when the Clerk of the Supreme Court
2878 files the record. The Clerk ~~of the Supreme Court~~ shall notify counsel of record and
2879 the clerk of the trial court when the record is filed in the Supreme Court.

2880
2881 (C) **Extension of time for transmission of the record**

2882
2883 (1) The Supreme Court may extend the time for transmitting the record or,
2884 notwithstanding the provisions of S.Ct.Prac.R. ~~44.1~~ 3.01, may permit the record to
2885 be transmitted after the expiration of the time prescribed by this rule or set by order
2886 of the Supreme Court.

2887
2888 (2) A request for extension of time to transmit the record shall be made by
2889 motion, stating good cause for the extension and accompanied by one or more
2890 affidavits setting forth facts to demonstrate good cause. The motion shall be filed
2891 within the time originally prescribed for transmission of the record or within the time
2892 permitted by a previously granted extension.

2893
2894 (3) A request for extension of time to transmit the record shall be accompanied
2895 by an affidavit of the court reporter if the extension is necessitated by the court
2896 reporter's inability to transcribe the proceedings in a timely manner.

2897
2898 (D) **Retention of copy of the record in the trial court**

2899
2900 (1) Before transmitting the record to the Clerk of the Supreme Court, the clerk of
2901 the trial court shall make a copy of the record. A copy of the original papers,
2902 transcript of proceedings, and any documentary exhibits shall be made by
2903 photocopying the original papers, transcript of proceedings, and documentary
2904 exhibits. A copy of any physical exhibits may be made by either photographing or
2905 videotaping the physical exhibits. A copy of a video, audio, or other electronic
2906 recording that is part of the record shall be made by making a duplicate recording.

2907

2908 (2) The clerk of the trial court shall retain the copy of the record for use in any
2909 postconviction proceeding authorized by R.C. 2953.21 or for any other proceeding
2910 authorized by these rules.

2911

2912 Effective: June 1, 1994

2913 Amended: April 1, 1996; June 1, 1998; June 1, 2000; July 1, 2004; October 1, 2005;

2914 January 1, 2008; January 1, 2010; _____

2915

2916

2917

2918 **S.Ct.Prac.R. ~~19.6.~~ Briefs on the Merits 11.05. Briefing.**

2919

2920 **(A) Briefs in an appeal from the court of appeals**

2921

2922 In an appeal of right from the court of appeals filed pursuant to S.Ct.Prac.R.
2923 11.1(A)(1) or (2), the parties shall brief the case in accordance with the applicable
2924 provisions of S.Ct.Prac.R. 16.01 through 16.10.

2925

2926 **(B) Briefs in an appeal from the court of common pleas**

2927

2928 In an appeal of right from the court of common pleas filed pursuant to S.Ct.Prac.R.
2929 11.01(B)(1), the parties shall brief the case as follows:

2930

2931 ~~(A)~~(1) The appellant shall file a merit brief with the Supreme Court within
2932 one hundred eighty days from the date the Clerk of the Supreme Court files
2933 the record from the trial court-;

2934

2935 ~~(B)~~(2) Within one hundred twenty days after the filing of the appellant's
2936 brief, the appellee shall file a merit brief-;

2937

2938 ~~(C)~~(3) The appellant may file a reply brief within forty-five days after the
2939 filing of appellee's brief-;

2940

2941 ~~(D)~~(4) The form of the briefs shall comply with the provisions of
2942 S.Ct.Prac.R. ~~6-4~~ 16.01 through ~~6-8~~ 16.10;

2943

2944 ~~(E)~~(5) A party may obtain one extension of time to file a merit brief in
2945 accordance with the provisions of S.Ct.Prac.R. ~~14.3(B)(2)~~ 3.02(B)(2).

2946

2947 Effective: June 1, 1994

2948 Amended: April 1, 1996; June 1, 1998; June 1, 2000; July 1, 2004; October 1, 2005;

2949 January 1, 2008; January 1, 2010; _____

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2954 **S.Ct.Prac.R. 11.06. Application for Reopening.**

2955

2956 **(A) General**

2957

2958 An appellant in a death-penalty case involving an offense committed on or after
2959 January 1, 1995, may apply for reopening of the appeal from the judgment of
2960 conviction and sentence, based on a claim of ineffective assistance of appellate
2961 counsel in the Supreme Court. An application for reopening shall be filed within
2962 ninety days from the issuance of the mandate of the Supreme Court, unless the
2963 appellant shows good cause for filing at a later time.

2964

2965 **(B) Requirements**

2966

2967 An application for reopening shall contain all of the following:

2968

2969 (1) The Supreme Court case number in which reopening is sought and the
2970 trial court case number or numbers from which the appeal was taken;

2971

2972 (2) A showing of good cause for untimely filing if the application is filed
2973 more than ninety days after entry of the judgment of the Supreme Court;

2974

2975 (3) One or more propositions of law or arguments in support of
2976 propositions of law that previously were not considered on the merits in the
2977 case or that were considered on an incomplete record because of the claimed
2978 ineffective representation of appellate counsel;

2979

2980 (4) An affidavit stating the basis for the claim that appellate counsel's
2981 representation was ineffective with respect to the propositions of law or
2982 arguments raised pursuant to S.Ct.Prac.R. 11.06(B)(3) and the manner in
2983 which the claimed deficiency prejudicially affected the outcome of the
2984 appeal, which affidavit may include citations to applicable authorities and
2985 references to the record;

2986

2987 (5) Any relevant parts of the record available to the applicant and all
2988 supplemental affidavits upon which the applicant relies.

2989

2990 **(C) Response to an application for reopening**

2991

2992 Within thirty days from the filing of the application, the attorney for the prosecution
2993 may file and serve affidavits, parts of the record, and a memorandum of law in
2994 ~~opposition~~ response to the application.

2995

2996

2997

2998

2999

- 3000 (D) **Page limitation**
3001
3002 An application for reopening and ~~an opposing memorandum~~ a response to an
3003 application for reopening shall not exceed ten pages, exclusive of affidavits and parts
3004 of the record.
3005
- 3006 (E) **Grounds for granting application**
3007
3008 An application for reopening shall be granted if there is a genuine issue as to whether
3009 the applicant was deprived of the effective assistance of counsel on appeal.
3010
- 3011 (F) **Notice and appointment of counsel**
3012
3013 If the Supreme Court grants the application, the Clerk of the Supreme Court shall
3014 serve notice on the clerk of the trial court, and the Supreme Court will do both of the
3015 following:
3016
- 3017 (1) Appoint counsel to represent the applicant if the applicant is indigent
3018 and not currently represented;
3019
- 3020 (2) Impose conditions, if any, necessary to preserve the status quo during
3021 the pendency of the reopened appeal.
3022
- 3023 (G) **Procedure after granting an application**
3024
- 3025 (1) If the application is granted, the case shall proceed as on an initial appeal in
3026 accordance with these rules except that the Supreme Court may limit its review to
3027 those propositions of law and arguments not previously considered.
3028
- 3029 (2) The time limits for preparation and transmission of the record pursuant to
3030 S.Ct.Prac.R. ~~49.5~~ 11.04 shall run from entry of the order granting the application.
3031 The parties shall address in their briefs the claim that representation by prior
3032 appellate counsel was deficient and that the applicant was prejudiced by that
3033 deficiency.
3034
- 3035 (H) **Evidentiary hearing**
3036
3037 If the Supreme Court determines that an evidentiary hearing is necessary, the
3038 evidentiary hearing may be conducted by the Supreme Court or referred to a master
3039 commissioner.
3040
- 3041 (I) **Supreme Court decision**
3042
3043 If the Supreme Court finds that the performance of appellate counsel was deficient
3044 and the applicant was prejudiced by that deficiency, the Supreme Court shall vacate

3045 its prior judgment and enter the appropriate judgment. If the Supreme Court does not
3046 so find, it shall issue an order confirming its prior judgment.

3047

3048 Effective Date: June 1, 1994

3049 Amended: April 1, 1996; April 1, 2000; July 1, 2004; January 1, 2008; January 1,
3050 2010; _____

3051

3052

3053 **SECTION ~~10~~ 12. ORIGINAL ACTIONS.**

3054

3055 **S.Ct.Prac.R. ~~10.1~~ 12.01. Application of Rules.**

3056

3057 **(A) General**

3058

3059 (1) S.Ct.Prac.R. ~~10.1~~ 12.01 through ~~10.12~~ 12.10 apply only to actions, other than
3060 habeas corpus, within the original jurisdiction of the Supreme Court under the Ohio
3061 Constitution, Article IV, Section 2. The following Revised Code chapters also are
3062 applicable: Mandamus, R.C. Chapter 2731; Quo Warranto, R.C. Chapter 2733.

3063

3064 (2) (a) In all original actions filed in the Supreme Court, the Rules of
3065 Practice of the Supreme Court of Ohio shall govern the procedure and the
3066 form of documents filed in the actions.

3067

3068 (b) The Ohio Rules of Civil Procedure shall supplement these rules
3069 unless clearly inapplicable. Where these rules conflict with the Ohio Rules of
3070 Civil Procedure, these rules shall control.

3071

3072 **(B) Habeas corpus**

3073

3074 Habeas corpus actions shall be brought and proceed in accordance with R.C. Chapter
3075 2725.

3076

3077 Effective Date: June 1, 1994

3078 Amended: April 1, 1996; April 1, 2000; August 1, 2002; July 1, 2004; January 1, 2008;
3079 January 1, 2010; _____

3080

3081

3082

3083 **S.Ct.Prac.R. ~~10.2~~. Form and Procedure.**

3084

3085 ~~In all original actions filed in the Supreme Court of Ohio, the Rules of Practice of the~~
3086 ~~Supreme Court of Ohio shall govern the procedure and the form of documents filed in the~~
3087 ~~actions. The Ohio Rules of Civil Procedure shall supplement these rules unless clearly~~
3088 ~~inapplicable. Where these rules conflict with the Ohio Rules of Civil Procedure, these rules~~
3089 ~~shall control.~~

3090

3091 ~~Effective Date: June 1, 1994~~
3092 ~~Amended: April 1, 1996; April 1, 2000; August 1, 2002; July 1, 2004; January 1, 2008;~~
3093 ~~January 1, 2010.~~

3094
3095
3096

3097 **S.Ct.Prac.R. ~~10.4.~~ 12.02. Institution of an Original Action.**

3098
3099
3100

(A) **General**

3101 (1) An original action shall be instituted by the filing of a complaint. The cover
3102 page of the complaint shall contain the nature of the proceeding and the name, title,
3103 and address of the respondent.

3104
3105
3106

3107 (2) The Clerk of the Supreme Court shall issue a summons and serve the
3108 summons and a copy of the complaint by certified mail sent to the address of the
3109 respondent as indicated on the cover page of the complaint. The summons shall
3110 inform the respondent of the time permitted to respond to the complaint pursuant to
3111 S.Ct.Prac.R. ~~10.5~~ 12.04, 12.08, or 12.09.

3112
3113

(B) **Complaint requirements**

3114 (1) All complaints shall contain a specific statement of facts upon which the
3115 claim for relief is based, shall be supported by an affidavit specifying the details of
3116 the claim, and may be accompanied by a memorandum in support of the writ.

3117
3118
3119

3120 (2) The affidavit required by this division shall be made on personal knowledge,
3121 setting forth facts admissible in evidence, and showing affirmatively that the affiant
3122 is competent to testify to all matters stated in the affidavit.

3123
3124

3125 (3) All relief sought, including the issuance of an alternative writ, shall be set
3126 forth in the complaint.

3127
3128
3129

3130 Effective Date: June 1, 1994
3131 Amended: April 1, 1996; April 1, 2000; August 1, 2002; July 1, 2004; January 1, 2008;
3132 January 1, 2010;_____

3133
3134
3135

3136 **S.Ct.Prac.R. ~~10.3.~~ 12.03. Parties.**

3137
3138
3139

3140 The party filing an action in mandamus, prohibition, procedendo, or quo warranto shall be
3141 referred to as the relator. The party named in an original action shall be referred to as the
3142 respondent.

3143
3144

3145 Effective Date: June 1, 1994

3137 Amended: April 1, 1996; April 1, 2000; August 1, 2002; July 1, 2004; January 1, 2008;
3138 January 1, 2010;_____

3139

3140

3141

3142 **S.Ct.Prac.R. ~~10.5.~~ 12.04. Response to Complaint; Court Action.**

3143

3144 (A) **Time to file response to complaint**

3145

3146 (1) Except as provided by S.Ct.Prac.R. ~~10.9~~ 12.08 and ~~10.10~~ 12.09, the
3147 respondent shall file an answer to the complaint or a motion to dismiss within
3148 twenty-one days of service of the summons and complaint.

3149

3150 (2) If an amended complaint is filed under S.Ct.Prac.R. ~~8.7~~ 3.12, and Civ.R.
3151 15(A), the respondent shall file an answer to the amended complaint or a motion to
3152 dismiss within twenty-one days of the filing of the amended complaint.

3153

3154 (B) **Responses**

3155

3156 (1) The respondent may file a motion for judgment on the pleadings at the same
3157 time an answer is filed. The relator may not file a motion for judgment on the
3158 pleadings or a response to an answer.

3159

3160 (2) The relator may file a memorandum in ~~opposition~~ response to a motion to
3161 dismiss or a memorandum in response to a motion for judgment on the pleadings
3162 within ten days of the filing of the motion.

3163

3164 (3) Neither party may file a motion for summary judgment.

3165

3166 (4) The Clerk of the Supreme Court shall refuse to file a response that is
3167 untimely or prohibited by this rule.

3168

3169 (C) **Supreme Court action**

3170

3171 After the time for filing an answer to the complaint or a motion to dismiss, the
3172 Supreme Court will either dismiss the case or issue an alternative or a peremptory
3173 writ, if a writ has not already been issued.

3174

3175 Effective Date: June 1, 1994

3176 Amended: April 1, 1996; April 1, 2000; August 1, 2002; July 1, 2004; January 1, 2008;
3177 January 1, 2010;_____

3178

3179

3180

3181

3182 **S.Ct.Prac.R. ~~10.6.~~ 12.05. Alternative Writs.**

3183

3184 ~~When~~ If an alternative writ is issued, the Supreme Court will issue a schedule for the
3185 presentation of evidence and the filing and service of briefs or other pleadings. Unless the
3186 Supreme Court orders otherwise, issuance of an alternative writ in a prohibition case stays
3187 proceedings in the action sought to be prohibited until final determination of the Supreme
3188 Court.

3189 Effective Date: June 1, 1994

3190 Amended: April 1, 1996; April 1, 2000; August 1, 2002; July 1, 2004; January 1, 2008;
3191 January 1, 2010;_____

3192

3193

3194

3195 **S.Ct.Prac.R. ~~10.7.~~ 12.06. Presentation of Evidence.**

3196

3197 To facilitate the consideration and disposition of original actions, counsel, ~~when possible,~~
3198 should submit, when possible, an agreed statement of facts to the Supreme Court. All other
3199 evidence shall be submitted by affidavits, stipulations, depositions, and exhibits. Affidavits
3200 shall be made on personal knowledge, setting forth facts admissible in evidence, and
3201 showing affirmatively that the affiant is competent to testify to all matters stated in the
3202 affidavit. Sworn or certified copies of all papers or parts of papers referred to in an affidavit
3203 shall be attached.

3204

3205 Effective Date: June 1, 1994

3206 Amended: April 1, 1996; April 1, 2000; August 1, 2002; July 1, 2004; January 1, 2008;
3207 January 1, 2010;_____

3208

3209

3210

3211 **S.Ct.Prac.R. ~~10.8.~~ 12.07. Merit Briefs Briefing.**

3212

3213 **(A) General**

3214

3215 All merit briefs shall conform to the requirements set forth in S.Ct.Prac.R. ~~6.4~~ 16.01
3216 through ~~6.8~~ 16.10 and ~~8.1 through 8.7,~~ to the extent those rules are applicable.

3217

3218 **(B) Consequence of failure to file briefs**

3219

3220 (1) If the relator fails to file a merit brief within the time provided by these rules
3221 or as ordered by the Supreme Court, the original action shall be dismissed for want
3222 of prosecution.

3223

3224 (2) Unless otherwise ordered by the Supreme Court, a dismissal under this rule
3225 operates as an adjudication on the merits.

3226

3227 (3) If the respondent fails to file a merit brief within the time provided by this
3228 rule or as ordered by the Supreme Court, the Supreme Court may accept the relator's
3229 statement of facts and issues as correct and grant the writ if the relator's brief
3230 reasonably appears to sustain the writ.

3231

3232 Effective Date: June 1, 1994

3233 Amended: April 1, 1996; April 1, 2000; August 1, 2002; July 1, 2004; January 1, 2008;

3234 January 1, 2010; _____

3235

3236

3237

3238 **S.Ct.Prac.R. 10-9. 12.08. Expedited Election Cases.**

3239

3240 **(A) Procedure**

3241

3242 (1) Because of the necessity of a prompt disposition of an original action relating
3243 to a pending election, and in order to give the Supreme Court adequate time for full
3244 consideration of the case, if the action is filed within ninety days prior to the
3245 election, the respondent shall file an answer to the complaint within five days after
3246 service of the summons.

3247

3248 (2) Unless otherwise ordered by the Supreme Court, original actions governed by
3249 this rule shall proceed as follows:

3250

3251 (a) Relator shall file any evidence and a merit brief in support of the
3252 complaint within three days after the filing of the answer or, if no answer is
3253 filed, within three days after the answer was due.

3254

3255 (b) Respondent shall file any evidence and a merit brief within three days
3256 after the filing of relator's merit brief, and

3257

3258 (c) Relator may file a reply brief within three days after the filing of
3259 respondent's merit brief.

3260

3261 (3) Motions to dismiss and for judgment on the pleadings shall not be filed in
3262 expedited election cases.

3263

3264 **(B) Reconsideration**

3265

3266 A motion for reconsideration may be filed in an expedited election case. Any motion
3267 for reconsideration shall be filed within three days after the Supreme Court's
3268 judgment entry or order is filed with the Clerk of the Supreme Court. A
3269 memorandum in ~~opposition~~ response may be filed within three days of the filing of
3270 the motion for reconsideration.

3271

3272

3273 (C) **Service of documents**

3274

3275 All documents in expedited election cases shall be served on the date of filing by
3276 personal service, facsimile transmission, or e-mail.

3277

3278 Effective Date: June 1, 1994

3279 Amended: April 1, 1996; April 1, 2000; August 1, 2002; July 1, 2004; January 1, 2008;
3280 January 1, 2010; _____

3281

3282

3283

3284 **S.Ct.Prac.R. ~~10-10.~~ 12.09. Expedited Adoption/Termination of Parental Rights**
3285 **Cases.**

3286

3287 **(A) General**

3288

3289 In order to invoke expedited procedures in a case that involves the termination of
3290 parental rights or adoption of a minor child, or both, the relator shall designate on the
3291 cover page of the complaint that the original action involves termination of parental
3292 rights or adoption of a minor child, or both.

3293

3294 **(B) Response**

3295

3296 If the original action involves termination of parental rights or adoption of a minor
3297 child, or both, the respondent shall file ~~a response~~ an answer to the complaint or a
3298 motion to dismiss within fifteen days after service of the summons.

3299

3300 **(C) Supreme Court action**

3301

3302 After the time for filing a response to the complaint, the Supreme Court will decide
3303 on an expedited basis whether to dismiss the case or issue an alternative or a
3304 peremptory writ, if a writ has not already been issued. ~~In order to invoke these~~
3305 ~~expedited procedures, the relator shall designate on the cover page of the complaint~~
3306 ~~that the original action involves termination of parental rights or adoption of a minor~~
3307 ~~child, or both.~~

3308

3309 Effective Date: June 1, 1994

3310 Amended: April 1, 1996; April 1, 2000; August 1, 2002; July 1, 2004; January 1, 2008;
3311 January 1, 2010; _____

3312

3313

3314

3315 **S.Ct.Prac.R. ~~10-11.~~ 12.10. Reference to a Master Commissioner.**

3316

3317 The Supreme Court may refer original actions to a master commissioner for the presentation
3318 of evidence, hearings, and oral argument.

3319 Effective Date: June 1, 1994
3320 Amended: April 1, 1996; April 1, 2000; August 1, 2002; July 1, 2004; January 1, 2008;
3321 January 1, 2010;_____

3322
3323
3324

3325 **S.Ct.Prac.R. 10.12. Consequence of Failure to File Briefs.**

3326

3327 ~~If the relator fails to file a merit brief within the time provided by this rule or as ordered by~~
3328 ~~the Supreme Court, an original action shall be dismissed for want of prosecution. Unless~~
3329 ~~otherwise ordered by the Supreme Court, a dismissal under this rule operates as an~~
3330 ~~adjudication on the merits. If the respondent fails to file a merit brief within the time~~
3331 ~~provided by this rule or as ordered by the Supreme Court, the Supreme Court may accept the~~
3332 ~~relator's statement of facts and issues as correct and grant the writ if relator's brief~~
3333 ~~reasonably appears to sustain the writ.~~

3334

3335 ~~Effective Date: June 1, 1994~~

3336 ~~Amended: April 1, 1996; April 1, 2000; August 1, 2002; July 1, 2004; January 1, 2008;~~
3337 ~~January 1, 2010.~~

3338

3339 **SECTION 13.** **MATTERS RELATED TO THE PRACTICE OF LAW.**

3340

3341 **S.Ct.Prac.R. 13.01.** **Application of Rules.**

3342

3343 **(A)** **General**

3344

3345 S.Ct.Prac.R. 13.01 through 13.05 shall apply to cases that involve the admission to
3346 the practice of law, the discipline of persons so admitted, and all other matters
3347 relating to the practice of law as provided for in the Ohio Constitution, Article IV,
3348 Section 2(B)(1)(g).

3349

3350 **(B)** **Applicable rules**

3351

3352 The Rules of Practice of the Supreme Court of Ohio shall govern the procedure and
3353 form of documents filed in matters related to the practice of law, except where
3354 express provision is made to the contrary in the Rules for the Government of the Bar
3355 or the Rules for the Government of the Judiciary or where the application of a
3356 particular rule would be clearly inapplicable.

3357

3358 Effective Date:_____

3359

3360

3361

3362 **S.Ct.Prac.R. 13.02.** **Consideration and Disposition of Matters Related to the**
3363 **Practice of Law.**

3364

3365 The Rules for the Government of the Bar and the Rules for the Government of the Judiciary
3366 govern when a matter related to the practice of law may be considered by the Supreme
3367 Court.

3368

3369 Effective Date:_____

3370

3371

3372

3373 **S.Ct.Prac.R. 13.03.** **Briefing.**

3374

3375 **(A)** **Time to file**

3376

3377 The filing of objections or an answer along with the accompanying brief required by
3378 the Rules for the Government of the Bar or the Rules for the Government of the
3379 Judiciary shall proceed as ordered by the Supreme Court.

3380

3381 **(B)** **Form**

3382

3383 All briefs filed in support of objections or an answer shall conform to the
3384 requirements set forth in S.Ct.Prac.R. 3.06 through 3.09.

3385 Effective Date:_____

3386

3387

3388

3389 **S.Ct.Prac.R. 13.04.** **Oral Argument.**

3390

3391 **(A)** **Scheduling**

3392

3393 (1) Oral argument will be scheduled and heard after the filing of objections and
3394 briefs to a final certified report filed by the Board of Commissioners on Character
3395 and Fitness, the Board of Commissioners on Grievances and Discipline, or the Board
3396 on the Unauthorized Practice of Law.

3397

3398 (2) Division (A)(1) of this rule notwithstanding, in cases in which a party files
3399 objections to a certified report filed by the Board of Commissioners on Grievances
3400 and Discipline regarding a petition for reinstatement, oral argument will not be
3401 scheduled; however, the Supreme Court may order oral argument on the merits
3402 either sua sponte or in response to a request by either party. A request for oral
3403 argument shall be by motion and filed no later than twenty days after the objections
3404 and brief of petitioner or relator.

3405

3406 **(B)** **Waiver of oral argument**

3407

3408 (1) Any party may waive oral argument as provided for in S.Ct.Prac.R. 17.03.

3409

3410 (2) Any party who fails to file objections or an answer and the accompanying
3411 brief as required by the Rules for the Government of the Bar or the Rules for the
3412 Government of the Judiciary shall be deemed to have waived oral argument.

3413

3414 Effective Date:_____

3415

3416

3417

3418 **S.Ct.Prac.R. 13.05.** **Costs.**

3419

3420 **(A)** **General**

3421

3422 (1) Costs shall be paid by order of the Supreme Court at the conclusion of the
3423 case.

3424

3425 (2) Costs shall be payable to the Supreme Court by cashier's check or money
3426 order.

3427

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(B) Definition of costs

(1) As used in this rule, “costs” includes the costs and expenses incurred by the Board of Commissioners on Character and Fitness or their panel, the Board of Commissioners on Grievances and Discipline or their panel, or the Board on the Unauthorized Practice of Law or their panel.

(2) As used in this rule, “costs” includes the cost of publication.

(C) Interest

If costs are not paid within the time provided by the Supreme Court’s order, interest at a rate of ten percent per annum shall accrue from the date payment was due.

(D) Collection

If costs are not paid within the time provided by the Supreme Court’s order, the matter may be referred to the Office of the Ohio Attorney General for collection.

Effective Date:_____

3498 (2) The Supreme Court may also order oral argument before the court.

3499

3500 (E) **Power of Supreme Court**

3501

3502 In a challenge to an initiative, supplementary, or referendum petition brought under
3503 the Ohio Constitution, Article II, Section 1g, the Supreme Court may do all things
3504 necessary for an efficient and timely ruling on the challenge. The Supreme Court
3505 may sua sponte, or on motion by a party, issue a procedural order to govern the
3506 receipt of evidence, filing of briefs, conduct of hearings, and manner for ruling on
3507 any challenges.

3508

3509 (F) **Service of documents**

3510

3511 All documents filed under this rule, including the challenge, shall be served by the
3512 parties on the date of filing by personal service, facsimile transmission, or e-mail.

3513

3514 Effective Date: January 1, 2010

3515 Amended: _____

3516

3517

3518

3519 **S.Ct.Prac.R. 13.2. 14.02. Contest of an Election.**

3520

3521 Contests of an election brought pursuant to R.C. 3515.08 shall proceed in accordance with
3522 the applicable provisions of R.C. Chapter 3515.

3523

3524 Effective Date: January 1, 2010

3525 Amended: _____

3526

3527

3528

3529 **S.Ct.Prac.R. 14.03. Apportionment Cases.**

3530

3531 (A) **General**

3532

3533 To invoke the original jurisdiction of the Supreme Court pursuant to the Ohio
3534 Constitution, Article XI, Section 13, a party shall file a complaint with the Clerk of
3535 the Supreme Court. The complaint shall clearly identify that the case involves a
3536 challenge to apportionment or a plan of apportionment promulgated pursuant to
3537 Article XI.

3538

3539 (B) **Procedure**

3540

3541 After a complaint is filed pursuant to division (A) of this rule, the Supreme Court
3542 shall issue an order setting a schedule for the filing of briefs and evidence in the
3543 case.

3544 **(C) Reference to a master commissioner; oral argument**

3545

3546 (1) The Supreme Court may refer apportionment cases to a master commissioner
3547 for any purpose, including resolution of discovery disputes, and to conduct a hearing
3548 for the presentation of evidence.

3549

3550 (2) The Supreme Court may also order oral argument before the court.

3551

3552 Effective Date:_____

3553

3554 **SECTION 5. 15. RECORD ON APPEAL.**

3555
3556 **S.Ct.Prac.R. 5.1. 15.01. Composition of the Record on Appeal.**

3557
3558 **(A) General**

3559 (1) In all appeals, the record on appeal shall consist of the following:

3560 (a) The original papers and exhibits to those papers;

3561
3562 (b) The transcript of proceedings and exhibits, along with an electronic
3563 version of the transcript, if available; ~~and~~

3564 (c) Certified copies of the journal entries and the docket prepared by the
3565 clerk of the court or other custodian of the original papers.

3566
3567 (2) Where applicable, the record on appeal shall consist of all ~~of~~ the above items
3568 from both the court of appeals and the trial court.

3569
3570
3571
3572
3573 **(B) Audio and video exhibits and other documents**

3574
3575 The custodian shall transmit any audio exhibits, video exhibits, and documents such
3576 as papers, maps, or photographs.

3577
3578 Effective Date: June 1, 1994

3579 Amended: April 1, 1996; April 1, 2000; July 1, 2004; January 1, 2008; January 1,
3580 2010;_____

3581
3582
3583
3584 **S.Ct.Prac.R. 5.2. 15.02. When Record Is to Be Transmitted to Supreme Court**
3585 **from Court of Appeals.**

3586
3587 In every case on appeal to the Supreme Court from a court of appeals, the clerk of the court
3588 of appeals or other custodian having possession of the record shall not transmit the record to
3589 the Clerk of the Supreme Court unless and until the Supreme Court issues an order to the
3590 custodian to transmit the record pursuant to S.Ct.Prac.R. ~~5.3~~ 15.03.

3591
3592 Effective Date: June 1, 1994

3593 Amended: April 1, 1996; April 1, 2000; July 1, 2004; January 1, 2008; January 1,
3594 2010;_____

3598 **S.Ct.Prac.R. ~~5.3.~~ 15.03. Certification and Transmission of Record from Court of**
3599 **Appeals.**

3600
3601 **(A) General**

3602
3603 (1) Upon order of the Supreme Court, the clerk of the court of appeals or other
3604 custodian having possession of the record shall certify and transmit the record to the
3605 Clerk of the Supreme Court. Unless otherwise ordered by the Supreme Court, the
3606 record shall be transmitted within twenty days of the order.

3607
3608 (2) If the case involves termination of parental rights or adoption of a minor
3609 child, or both, preparation and transmission of the record shall be expedited and
3610 given priority over preparation and transmission of the records in other cases.

3611
3612 **(B) Index**

3613
3614 The record shall be transmitted along with an index that lists all items included in the
3615 record. All items and exhibits listed in the index, regardless of whether they are
3616 transmitted, shall be briefly described. The clerk of the court of appeals or other
3617 custodian transmitting the record shall send a copy of the index to all counsel of
3618 record in the case. The Clerk of the Supreme Court shall notify counsel of record
3619 when the record is filed in the Supreme Court.

3620
3621 Effective Date: June 1, 1994
3622 Amended: April 1, 1996; April 1, 2000; July 1, 2004; January 1, 2008; January 1,
3623 2010; _____
3624
3625

3626
3627 **S.Ct.Prac.R. ~~5.4.~~ 15.04. Submission of Record from Board of Tax Appeals.**

3628
3629 **(A) General**

3630
3631 Transmission of the record in an appeal of a decision from the Board of Tax Appeals
3632 shall be as prescribed by R.C. 5717.04. For the purposes of filing the record with the
3633 Clerk of the Supreme Court, the Board may transmit a video or audio record of any
3634 hearing before the Board, and if a written transcript was created, it shall be included.

3635
3636 **(B) Written transcript**

3637
3638 If a written transcript of a hearing is not included, the appellant shall file a written
3639 transcript of the hearing with the Clerk of the Supreme Court when the appellant
3640 files its merit brief as provided by S.Ct.Prac.R. ~~6.2~~ 16.02. The Supreme Court may
3641 dismiss an appeal where no written transcript has been provided, or sua sponte order
3642 the appellant to file a written transcript.
3643

3644 Effective Date: January 1, 2010
3645 Amended: _____

3646
3647
3648

3649 **S.Ct.Prac.R. ~~5.5.~~ 15.05. **Submission of Record from Public Utilities Commission.****

3650

3651 The word “forthwith” as used in R.C. 4903.21, providing that upon service or waiver of
3652 service of the notice of appeal the Public Utilities Commission shall forthwith transmit to
3653 the Clerk of the Supreme Court a complete transcript of the proceeding, shall mean a period
3654 of thirty days. If at the expiration of thirty days the transcript has not been filed, the
3655 appellant shall have an additional three days in which to file a complaint in the Supreme
3656 Court for a writ of mandamus to compel the Commission to file the transcript. The appeal
3657 shall be dismissed if, at the expiration of thirty-three days, neither the transcript nor a
3658 complaint for a writ of mandamus has been filed.

3659

3660 Effective Date: June 1, 1994

3661 Amended: April 1, 1996; April 1, 2000; July 1, 2004; January 1, 2008; January 1,
3662 2010; _____

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3666 **S.Ct.Prac.R. ~~5.6.~~ 15.06. **Items Not to Be Transmitted with the Record.****

3667

3668 **(A) Physical exhibits**

3669

3670 The custodian of the record shall not transmit any physical exhibits unless directed to
3671 do so by the Clerk of the Supreme Court or as required by ~~division (B) of this rule~~
3672 S.Ct.Prac.R. 15.01(B).

3673

3674 **(B)** ~~The custodian shall transmit any audio exhibits, video exhibits, and documents such~~
3675 ~~as papers, maps, or photographs.~~

3676

3677 **(~~C~~) Index of exhibits not transmitted**

3678

3679 If exhibits are not transmitted pursuant to division (A) of this rule the custodian who
3680 certifies the record shall designate in the index the exhibits not being transmitted and
3681 identify the custodian of those exhibits.

3682

3683 Effective Date: June 1, 1994

3684 Amended: April 1, 1996; April 1, 2000; July 1, 2004; January 1, 2008; January 1,
3685 2010; _____

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3687

3688

3689 **S.Ct.Prac.R. ~~5.7.~~ 15.07. **Transmission of Record in Death-Penalty Appeals.****

3690

3691 **(A) Offenses committed before January 1, 1995**

3692

3693 In cases in which the death penalty has been imposed by the court of common pleas
3694 for an offense committed before January 1, 1995, the creation, transmission,
3695 supplementation, and correction of the record shall be governed by S.Ct.Prac.R. ~~5.4~~
3696 15.01 through ~~5.8~~ 15.09.

3697

3698 **(B) Offenses committed on or after January 1, 1995**

3699

3700 In cases in which the death penalty has been imposed by the court of common pleas
3701 for an offense committed on or after January 1, 1995, the creation, transmission,
3702 supplementation, and correction of the record shall be governed by S.Ct.Prac.R. ~~19.4~~
3703 11.03 and ~~19.5~~ 11.04.

3704

3705 Effective Date: June 1, 1994

3706 Amended: April 1, 1996; April 1, 2000; July 1, 2004; January 1, 2008; January 1,
3707 2010;_____

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3711 **S.Ct.Prac.R. ~~5.8.~~ 15.08. **Supplementation of the Record.****

3712

3713 If any part of the record is not transmitted to the Supreme Court but is necessary to the
3714 Supreme Court's consideration of the questions presented on appeal, the Supreme Court, ~~on~~
3715 ~~its own initiative~~ sua sponte or on motion of a party, may direct that a supplemental record
3716 be certified and transmitted to the Clerk of the Supreme Court in accordance with
3717 S.Ct.Prac.R. ~~5.3(B)~~ 15.03(B).

3718

3719 Effective Date: June 1, 1994

3720 Amended: April 1, 1996; April 1, 2000; July 1, 2004; January 1, 2008; January 1,
3721 2010;_____

3722

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3724

3725 **S.Ct.Prac.R. ~~5.9.~~ 15.09. **Return of Record.****

3726

3727 After the mandate has been issued in a case on appeal, the Clerk of the Supreme Court shall
3728 return the record to the clerk or custodian that transmitted the record.

3729

3730 Effective Date: January 1, 2010.

3731 Amended:_____

3732

3733 **SECTION 6. 16. BRIEFS ON THE MERITS IN APPEALS.**
3734

3735 **S.Ct.Prac.R. ~~6-1~~ 16.01. Limitation on Application of Briefing Rules.**
3736

3737 The filing deadlines imposed by S.Ct.Prac.R. ~~6-2~~ 16.02 through ~~6-7~~ 16.07 do not apply to
3738 appeals involving the imposition of the death penalty for an offense committed on or after
3739 January 1, 1995, and instituted under S.Ct.Prac.R. ~~2-1(C)(4)~~ 11.01(B)(1). Filing deadlines
3740 for briefs in those appeals are governed by S.Ct.Prac.R. ~~49-6~~ 11.05(B).
3741

3742 Effective Date: June 1, 1994

3743 Amended: April 1, 1996; April 1, 2000; June 1, 2000; July 1, 2004; January 1, 2008;

3744 January 1, 2010; _____
3745

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3747
3748 **S.Ct.Prac.R. ~~6-2~~ 16.02. Appellant’s Brief.**
3749

3750 *[See Appendix E following these rules for a sample brief.]*
3751

3752 **(A) Time to file**
3753

3754 (1) In every appeal involving termination of parental rights or adoption of a
3755 minor child, or both, the appellant shall file a merit brief with the Supreme Court
3756 within twenty days from the date the Clerk of the Supreme Court files the record
3757 from the court of appeals.
3758

3759 (2) In every other appeal, the appellant shall file a merit brief within forty days
3760 from the date the clerk files the record from the court of appeals or the administrative
3761 agency. In any case, the appellant shall not file a merit brief prior to the filing of the
3762 record by the clerk.
3763

3764 **(B) Contents**
3765

3766 The appellant’s brief shall contain all of the following:
3767

3768 (1) A table of contents listing with references to the pages of the brief
3769 where each of the following appears:
3770

3771 (a) The table of authorities cited;_;
3772

3773 (b) The statement of facts;_;
3774

3775 (c) The argument with numbered ~~proposition~~ or propositions of
3776 law, ~~and~~;
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~~(d) The appendix, with references to the pages of the brief where each appears.~~

(2) A table of the authorities cited, listing the citations for all cases or other authorities, arranged alphabetically; constitutional provisions; statutes; ordinances; and administrative rules or regulations upon which appellant relies, with references to the pages of the brief where each citation appears.

(3) A statement of the facts with page references, in parentheses, to supporting portions of both the original transcript of testimony and any supplement filed in the case pursuant to S.Ct.Prac.R. ~~7.4~~ 16.09 through ~~7.2~~ 16.10.

(4) An argument, headed by the proposition of law that appellant contends is applicable to the facts of the case and that could serve as a syllabus for the case if the appellant prevails. If several propositions of law are presented, the argument shall be divided with each proposition set forth as a subheading.

(5) An appendix, numbered separately from the body of the brief, containing copies of all of the following:

(a) The date-stamped notice of appeal to the Supreme Court, the notice of certified conflict, or the federal court certification order, whichever is applicable;

(b) The judgment or order from which the appeal is taken;

(c) The opinion, if any, relating to the judgment or order being appealed;

(d) All judgments, orders, and opinions rendered by any court or agency in the case, if relevant to the issues on appeal;

(e) Any relevant rules or regulations of any department, board, commission, or any other agency, upon which the appellant relies;

(f) Any constitutional provision, statute, or ordinance upon which the appellant relies, to be construed, or otherwise involved in the case;

(g) In appeals from the Public Utilities Commission, the appellant's application for rehearing.

3824 (C) **Page limit**

3825

3826 (1) Except in death-penalty appeals of right, the appellant's brief shall not
3827 exceed fifty numbered pages, exclusive of the table of contents, the table of
3828 authorities cited, the certificate of service, and the appendix.

3829

3830 (2) In a death penalty appeal of right filed pursuant to S.Ct.Prac.R. 5.01(A)(1),
3831 (2), or (4), the appellant's brief has no page limitation.

3832

3833 Effective Date: June 1, 1994

3834 Amended: April 1, 1996; April 1, 2000; June 1, 2000; July 1, 2004; January 1, 2008;

3835 January 1, 2010; _____

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3838

3839 **S.Ct.Prac.R. ~~6.3.~~ 16.03. Appellee's Brief.**

3840

3841 (A) **Time to file**

3842

3843 (1) In every appeal involving termination of parental rights or adoption of a
3844 minor child, or both, within twenty days after the filing of the appellant's brief the
3845 appellee shall file a merit brief.

3846

3847 (2) In every other appeal, the appellee shall file a merit brief within thirty days
3848 after the filing of the appellant's brief.

3849

3850 (3) If the case involves multiple appellants who file separate merit briefs, the
3851 appellee shall file only one merit brief responding to all of the appellants' merit
3852 briefs. The time for filing the appellee's brief shall be calculated from the date the
3853 last brief in support of the appellant is filed, not including an amicus brief in support
3854 of the appellants.

3855

3856 (B) **Contents**

3857

3858 (1) The appellee's brief shall comply with the provisions in S.Ct.Prac.R. ~~6.2(B)~~
3859 ~~16.02(B)~~, answer the appellant's contentions, and make any other appropriate
3860 contentions as reasons for affirmance of the order or judgment from which the
3861 appeal is taken.

3862

3863 (2) A statement of facts may be omitted from the appellee's brief if the appellee
3864 agrees with the statement of facts given in the appellant's merit brief.

3865

3866 (3) The appendix need not duplicate any materials provided in the appendix of
3867 the appellant's brief.

3868

3869

3870 (C) **Page limit**

3871

3872 (1) Except in death penalty appeals of right, the appellee's brief shall not exceed
3873 fifty numbered pages, exclusive of the table of contents, the table of authorities cited,
3874 the certificate of service, and the appendix.

3875

3876 (2) In a death-penalty appeal of right filed pursuant to S.Ct.Prac.R. 5.01(A)(1),
3877 (2), or (4), the appellee's brief shall not have a page limitation.

3878

3879 Effective Date: June 1, 1994

3880 Amended: April 1, 1996; April 1, 2000; June 1, 2000; July 1, 2004; January 1, 2008;

3881 January 1, 2010; _____

3882

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3884

3885 **S.Ct.Prac.R. 6-4. 16.04. Appellant's Reply Brief.**

3886

3887 (A) **Time to file**

3888

3889 (1) In every appeal involving termination of parental rights or adoption of a
3890 minor child, or both, the appellant may file a reply brief within fifteen days after the
3891 filing of the appellee's brief.

3892

3893 (2) In every other appeal, the appellant may file a reply brief within twenty days
3894 after the filing of the appellee's brief.

3895

3896 (3) If the case involves multiple appellees who file separate merit briefs, the
3897 appellant shall file only one reply brief, if any, responding to all of the appellees'
3898 merit briefs. The time for filing the appellant's reply brief, if any, shall be calculated
3899 from the date the last brief in support of the appellee is filed, not including an amicus
3900 brief in support of the appellees.

3901

3902 (B) **Page limit**

3903

3904 (1) Except in death penalty appeals of right, the reply brief shall not exceed
3905 twenty numbered pages, exclusive of the table of contents, the table of authorities
3906 cited, the certificate of service, and any appendix.

3907

3908 (2) In a death-penalty appeal of right filed pursuant to S.Ct.Prac.R. 5.01(A)(1),
3909 (2), or (4), the reply brief has no page limitation.

3910

3911 Effective Date: June 1, 1994

3912 Amended: April 1, 1996; April 1, 2000; June 1, 2000; July 1, 2004; January 1, 2008;

3913 January 1, 2010; _____

3914

3915

3916 **S.Ct.Prac.R. ~~6.5~~ 16.05. Merit Briefs in Case Involving Cross-Appeal.**

3917

3918 **(A) Requirements**

3919

3920 In a case involving a cross-appeal, each of the parties shall be permitted to file two
3921 briefs, and each brief shall conform to the requirements of S.Ct.Prac.R. ~~6.2(B)~~
3922 16.02(B).

3923

3924 **(B) First brief**

3925

3926 (1) (a) In every appeal involving termination of parental rights or adoption of
3927 a minor child, or both, the appellant/cross-appellee shall file the first merit
3928 brief within twenty days from the date the clerk files the record from the
3929 court of appeals.

3930

3931 (b) In every other appeal, the appellant/cross-appellee shall file the first
3932 merit brief within forty days from the date the clerk files the record from the
3933 court of appeals or the administrative agency.

3934

3935 (2) (a) Except in death-penalty appeals of right filed pursuant to S.Ct.Prac.R.
3936 5.01(A)(1), (2), or (4), this first brief shall not exceed fifty numbered pages,
3937 exclusive of the table of contents, the table of authorities cited, the certificate
3938 of service, and the appendix.

3939

3940 (b) In a death-penalty appeal of right filed pursuant to S.Ct.Prac.R.
3941 5.01(A)(1), (2), or (4), the first brief has no page limitation.

3942

3943 **(C) Second brief**

3944

3945 (1) (a) In every appeal involving termination of parental rights or adoption of a
3946 minor child, or both, the appellee/cross-appellant shall file the second merit
3947 brief within twenty days after the filing of the first brief.

3948

3949 (b) In every other appeal, the appellee/cross-appellant shall file the
3950 second merit brief within thirty days after the filing of the first brief. The
3951 second brief shall be a combined brief containing both a response to the
3952 appellant/cross-appellee's brief and the propositions of law and arguments in
3953 support of the cross-appeal.

3954

3955 (2) (a) Except in death-penalty appeals of right filed pursuant to S.Ct.Prac.R.
3956 5.01(A)(1), (2), or (4), the second brief shall not exceed fifty numbered
3957 pages, exclusive of the table of contents, the table of authorities cited, the
3958 certificate of service, and the appendix.

3959

3960 (b) In a death-penalty appeal of right filed pursuant to S.Ct.Prac.R.
3961 5.01(A)(1), (2), or (4), the second brief has no page limitation.

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(D) Third brief

- (1) (a) In every appeal involving termination of parental rights or adoption of a minor child, or both, the appellant/cross-appellee shall file the third merit brief within twenty days after the filing of the second brief.
- (b) In every other appeal, the appellant/cross-appellee shall file the third merit brief within thirty days after the filing of the second brief. If the appellant/cross-appellee elects to file a reply brief in that party's appeal, the third brief shall be a combined brief containing both a reply and a response to the arguments in the cross-appeal. Otherwise, the third brief shall include only a response in opposition to the cross-appeal.
- (2) (a) Except in death-penalty appeals of right filed pursuant to S.Ct.Prac.R. 5.01(A)(1), (2), or (4), the third brief shall not exceed fifty numbered pages, exclusive of the table of contents, the table of authorities cited, the certificate of service, and any appendix.
- (b) In a death-penalty appeal of right filed pursuant to S.Ct.Prac.R. 5.01(A)(1), (2), or (4), the third brief has no page limitation.

(E) Fourth brief

- (1) The fourth brief may be filed by the appellee/cross-appellant only as a reply brief in the cross-appeal.
- (a) In every appeal involving termination of parental rights or adoption of a minor child, or both, if a fourth brief is filed, it shall be filed within fifteen days after the filing of the third brief.
- (b) In every other appeal, if a fourth brief is filed, it shall be filed within twenty days after the filing of the third brief.
- (2) (a) Except in death-penalty appeals of right filed pursuant to S.Ct.Prac.R. 5.01(A)(1), (2), or (4), a fourth brief shall not exceed twenty numbered pages, exclusive of the table of contents, the table of authorities cited, the certificate of service, and any appendix.
- (b) In a death-penalty appeal of right filed pursuant to S.Ct.Prac.R. 5.01(A)(1), (2), or (4), the fourth brief has no page limitation.

Effective Date: June 1, 1994

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

4008 **S.Ct.Prac.R. ~~6-6.~~ 16.06. Brief of Amicus Curiae.**

4009

4010 **(A) General**

4011

4012 An amicus curiae may file a brief urging affirmance or reversal, and leave to file an
4013 amicus brief is not required. The brief shall conform to the requirements of ~~this rule~~
4014 S.Ct.Prac.R. 16.02 through 16.05, except that an amicus filing a brief in support of
4015 an appellant need not include the appendix required by S.Ct.Prac.R. ~~6.2(B)(5)~~
4016 16.02(B)(5).

4017

4018 **(B) Time to file**

4019

4020 (1) The cover page of an amicus brief shall identify the party on whose behalf
4021 the brief is being submitted or indicate that the brief does not expressly support the
4022 position of any parties to the appeal.

4023

4024 (2) If the amicus brief is in support of an appellant, the brief shall be filed within
4025 the time for filing allowed to the appellant to file a merit brief, the amicus curiae
4026 may file a reply brief within the time allowed to the appellant to file a reply brief.

4027

4028 (3) If the amicus brief is in support of an appellee or does not expressly support
4029 the position of any party, then the brief shall be filed within the time for filing
4030 allowed to the appellee to file a merit brief.

4031

4032 **(C) Refusal to file**

4033

4034 The Clerk of the Supreme Court shall refuse to file an amicus brief that is not
4035 submitted timely and that does not comply with the requirements of this rule.

4036

4037 Effective Date: June 1, 1994

4038 Amended: April 1, 1996; April 1, 2000; June 1, 2000; July 1, 2004; January 1, 2008;

4039 January 1, 2010; _____

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4042

4043 **S.Ct.Prac.R. ~~6-7.~~ 16.07. Consequence of Failure to File Briefs.**

4044

4045 **(A) Dismissal of appeal**

4046

4047 If the appellant fails to file a merit brief within the time provided by S.Ct.Prac.R. ~~6-2~~
4048 16.02 or as extended in accordance with S.Ct.Prac.R. ~~14.3~~ 3.02, the Supreme Court
4049 may dismiss the appeal.

4050

4051

4052

4053

4054 (B) **Reversal of judgment**

4055

4056 If the appellee fails to file a merit brief within the time provided by S.Ct.Prac.R. ~~6.3~~
4057 16.03 or as extended in accordance with S.Ct.Prac.R. ~~14.3~~ 3.02, the Supreme Court
4058 may accept the appellant's statement of facts and issues as correct and reverse the
4059 judgment if the appellant's brief reasonably appears to sustain reversal.

4060

4061 Effective Date: June 1, 1994

4062 Amended: April 1, 1996; April 1, 2000; June 1, 2000; July 1, 2004; January 1, 2008;
4063 January 1, 2010;_____

4064

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4066

4067 **S.Ct.Prac.R. ~~6.8.~~ 16.08. Prohibition Against Supplemental Briefing.**

4068

4069 Except as provided in S.Ct.Prac.R. ~~8.7~~ 3.12 and S.Ct.Prac.R. ~~9.8~~ 17.08 and ~~9.9~~ 17.09, merit
4070 briefs shall not be supplemented. If a relevant authority is issued after the deadline has
4071 passed for filing a party's merit brief, that party may file a citation to the relevant authority
4072 but shall not file additional argument.

4073

4074 Effective Date: June 1, 1994

4075 Amended: April 1, 1996; April 1, 2000; June 1, 2000; July 1, 2004; January 1, 2008;
4076 January 1, 2010;_____

4077

4078 **SECTION 7. SUPPLEMENTS TO THE BRIEFS.**

4079

4080 **S.Ct.Prac.R. ~~7.1.~~ 16.09. Parties' Supplements and ~~Content~~ to the Briefs.**

4081

4082 (A) **Appellant's supplement**

4083

4084 In every civil case on appeal to the Supreme Court from a court of appeals or an
4085 administrative agency, the appellant may prepare and file a supplement to the briefs
4086 that contains those portions of the record necessary to enable the Supreme Court to
4087 determine the questions presented. Parties to an appeal are encouraged to consult and
4088 agree on the contents of the supplement to minimize the appellee's need for filing a
4089 supplement. Documents not necessary to determine the questions presented shall not
4090 be included in the supplement. The fact that parts of the record are not included in
4091 the supplement shall not prevent the parties or the Supreme Court from relying on
4092 those parts of the record.

4093

4094 (B) **Appellant's time to file**

4095

4096 The appellant shall file the supplement with the appellant's merit brief.

4097

4098

4099

4100 (C) **Appellee's supplement**

4101

4102 The appellee may file a supplement to the merit briefs in the manner required by
4103 division (A) of this rule. The appellee's supplement shall not unnecessarily duplicate
4104 documents contained in the appellant's supplement.

4105

4106 (D) **Appellee's time to file**

4107

4108 The appellee's supplement shall be filed with the appellee's merit brief.

4109

4110 Effective Date: June 1, 1994

4111 Amended: April 1, 1996; July 1, 2004; January 1, 2008; January 1, 2010; _____

4112

4113

4114

4115 **S.Ct.Prac.R. 7-2. 16.10. Pagination and Indexing of Supplements.**

4116

4117 (A) **Pagination**

4118

4119 The pages of the supplement shall be consecutively numbered in the bottom right-
4120 hand corner.

4121 (B) **Transcripts**

4122

4123 If any portion of a transcript is included in the supplement, the original page
4124 numbering of the transcript shall be placed in parentheses.

4125

4126 (C) **Index**

4127

4128 The supplement shall include an index that lists all items included in the supplement
4129 and references the page numbers at which each item can be located.

4130

4131 Effective Date: June 1, 1994

4132 Amended: April 1, 1996; July 1, 2004; January 1, 2008; January 1, 2010; _____

4133

4134 SECTION 9. 17. ORAL ARGUMENT.

4135
4136 S.Ct.Prac.R. ~~9.1~~ 17.01. Cases in which Oral Argument Will Be Scheduled.

4137
4138 (A) **Appeals Cases from other courts**

4139
4140 Oral argument in the following cases will be scheduled and heard after the case has
4141 been briefed on the merits in accordance with S.Ct.Prac.R. ~~6.1~~ 11.05, or 16.01
4142 through ~~6.8~~ 16.08 ~~19.6~~:

4143
4144 (1) If the ~~appeal~~ case is an appeal of the affirmance of the death penalty
4145 by the court of appeals or the imposition of the death penalty by a court of
4146 common pleas;

4147
4148 (2) If the ~~appeal~~ case is a ~~discretionary~~ jurisdictional appeal that is
4149 accepted by the Supreme Court pursuant to S.Ct.Prac.R. ~~3.6~~ 7.08;

4150
4151 (3) ~~If the appeal is a claimed appeal of right that is not determined~~
4152 ~~summarily by the Supreme Court pursuant to S.Ct.Prac.R. 3.6;~~

4153
4154 (4) If the ~~appeal~~ case is filed pursuant to S.Ct.Prac.R. ~~4.1~~ 8.01 and the
4155 Supreme Court determined the existence of a conflict certified to it by a court
4156 of appeals in accordance with that rule.

4157
4158 (B) **Appeals from administrative agencies**

4159
4160 In an appeal from the Board of Tax Appeals, the Public Utilities Commission, or the
4161 Power Siting Board, oral argument will be scheduled and heard after the case has
4162 been briefed on the merits in accordance with S.Ct.Prac.R. ~~6.1~~ 16.01 through ~~6.8~~
4163 16.08.

4164
4165 (C) **State-law questions**

4166
4167 In a certified state law case under S.Ct.Prac.R. ~~18.1~~ 9.01, oral argument will be
4168 scheduled and heard after the case has been briefed on the merits in accordance with
4169 S.Ct.Prac.R. ~~18.7~~ 9.07.

4170
4171 (D) **Precedence of oral argument**

4172
4173 An oral-argument assignment before the Supreme Court takes precedence over
4174 assignments in other courts of this state.

4175
4176 Effective: June 1, 1994

4177 Amended: April 1, 1996; April 1, 2000; February 1, 2001; April 1, 2002; July 1, 2004;
4178 January 1, 2008; January 1, 2010; _____

4180 **S.Ct.Prac.R. ~~9.2.~~ 17.02. Oral Argument in Other Cases.**

4181

4182 **(A) General**

4183

4184 In an original action, or in an appeal that is not scheduled for oral argument pursuant
4185 to S.Ct.Prac.R. ~~9.4~~ 17.01, the Supreme Court may order oral argument on the merits
4186 either sua sponte or in response to a request by any party.

4187

4188 **(B) Motion for oral argument**

4189

4190 A request for oral argument on the merits shall be by motion and filed no later than
4191 twenty days after the filing of the appellee's or the respondent's merit brief.

4192

4193 Effective: June 1, 1994

4194 Amended: April 1, 1996; April 1, 2000; February 1, 2001; April 1, 2002; July 1, 2004;
4195 January 1, 2008; January 1, 2010;_____

4196

4197

4198

4199 **S.Ct.Prac.R. ~~9.3.~~ 17.03. Waiver of Oral Argument.**

4200

4201 **(A) General**

4202

4203 Any party may waive oral argument and submit the case to the Supreme Court on the
4204 briefs. A waiver of oral argument shall be in writing. It shall be filed at least seven
4205 days before the date scheduled for the oral argument; however, if a party files a
4206 waiver on the seventh day before oral argument, any other party shall have until the
4207 day before oral argument to file a waiver.

4208

4209 **(B) Failure to file merit brief**

4210

4211 Any party who fails to file a merit brief pursuant to S.Ct.Prac.R. ~~6.2~~ 16.02, ~~6.3~~
4212 16.03, or ~~19.6~~ 11.06 shall be deemed to have waived oral argument.

4213

4214 **(C) Parties not waiving oral argument**

4215

4216 If not all parties to a case waive oral argument, ~~the~~ oral argument shall be heard and
4217 the party or parties not waiving shall be permitted to argue.

4218

4219 **(D) Failure to appear**

4220

4221 If an appellant neither waives oral argument pursuant to this rule nor appears at the
4222 argument, the Supreme Court may dismiss the case for lack of prosecution.

4223

4224 Effective: June 1, 1994

4225 Amended: April 1, 1996; April 1, 2000; February 1, 2001; April 1, 2002; July 1, 2004;
4226 January 1, 2008; January 1, 2010;_____

4227

4228

4229

4230 **S.Ct.Prac.R. 9.4. 17.04. Scheduling of Oral Argument in Certain Cases Involving**
4231 **Termination of Parental Rights or Adoption.**

4232

4233 If a case that involves termination of parental rights or adoption of a minor child, or both, is
4234 scheduled for oral argument, it shall be scheduled at the earliest practicable time.

4235

4236 Effective: June 1, 1994

4237 Amended: April 1, 1996; April 1, 2000; February 1, 2001; April 1, 2002; July 1, 2004;
4238 January 1, 2008; January 1, 2010;_____

4239

4240

4241

4242 **S.Ct.Prac.R. 9.5. 17.05. Time and Procedures for Oral Argument.**

4243

4244 (A) **Time for oral argument**

4245

4246 (1) ~~In cases involving affirmance or imposition of the death penalty~~ death-
4247 penalty appeals of right filed pursuant to S.Ct.Prac.R. 11.01, thirty minutes shall be
4248 allotted to each side for oral argument ~~on the merits.~~

4249

4250 (2) In all other cases scheduled for oral argument, fifteen minutes shall be
4251 allotted to each side for argument on the merits. In cases where there are multiple
4252 parties per side, the parties shall share the time allotted to each side.

4253

4254 (B) **Variation of time**

4255

4256 Either sua sponte or upon motion, the Supreme Court may vary the time for oral
4257 argument permitted by this rule. Motions to vary the time for oral argument shall be
4258 filed at least seven days before the date scheduled for oral argument.

4259

4260 (C) **Reservation of time**

4261

4262 The appellant shall open oral argument and may conclude oral argument by
4263 reserving time for rebuttal. In a case involving a cross-appeal, the appellee/cross-
4264 appellant may reserve time for rebuttal of the appellant/cross-appellee's argument in
4265 response to the cross-appeal.

4266

4267 Effective: June 1, 1994

4268 Amended: April 1, 1996; April 1, 2000; February 1, 2001; April 1, 2002; July 1, 2004;
4269 January 1, 2008; January 1, 2010;_____

4270

4271 **S.Ct.Prac.R. 9.6. 17.06. Oral Argument by Amicus Curiae.**

4272

4273 **(A) General**

4274

4275 (1) No time for oral argument shall be allotted to counsel who have filed amicus
4276 curiae briefs. ~~However;~~ however, with leave of the Supreme Court and the consent
4277 of counsel for the side whose position the amicus curiae supports, counsel for the
4278 amicus curiae may present oral argument within the time allotted to that side.

4279

4280 (2) If an amicus curiae wishes to participate in oral argument but either does not
4281 receive the consent of counsel for the side whose position the amicus curiae supports
4282 or does not expressly support the position of any parties to the case, the amicus
4283 curiae may seek leave from the Supreme Court to participate in oral argument, but
4284 such leave will be granted only in the most extraordinary circumstances.

4285

4286 **(B) Motion for leave**

4287

4288 A motion of amicus curiae for leave to participate in oral argument shall be filed at
4289 least ~~seven~~ fifteen days before the date scheduled for ~~the~~ oral argument.

4290

4291 Effective: June 1, 1994

4292 Amended: April 1, 1996; April 1, 2000; February 1, 2001; April 1, 2002; July 1, 2004;
4293 January 1, 2008; January 1, 2010; _____

4294

4295

4296

4297 **S.Ct.Prac.R. 9.7. 17.07. Reference of Certain Cases to Master Commissioner for**
4298 **Oral Argument.**

4299

4300 **(A) Appeals from the Board of Tax Appeals**

4301

4302 (1) Appeals from the Board of Tax Appeals shall be referred to a regular or
4303 special master commissioner for oral argument unless the parties waive the argument
4304 or the Supreme Court, sua sponte or upon motion, decides to hear the argument
4305 itself.

4306

4307 (2) A motion for the Supreme Court to hear oral argument shall be filed within
4308 twenty days after the filing of the appellee's brief.

4309

4310 **(B) Other matters**

4311

4312 The Supreme Court may refer any other matter scheduled for oral argument to a
4313 regular or special master commissioner for argument.

4314

4315 Effective: June 1, 1994

4316 Amended: April 1, 1996; April 1, 2000; February 1, 2001; April 1, 2002; July 1, 2004;
4317 January 1, 2008; January 1, 2010;_____

4318

4319

4320

4321 **S.Ct.Prac.R. 9.8. 17.08. List of Additional Authorities Relied Upon During Oral**
4322 **Argument.**

4323

4324 A party who intends to rely during oral argument on authorities not cited in the merit briefs
4325 shall file a list of citations to those authorities no fewer than seven days before oral
4326 argument.

4327

4328 Effective: June 1, 1994

4329 Amended: April 1, 1996; April 1, 2000; February 1, 2001; April 1, 2002; July 1, 2004;
4330 January 1, 2008; January 1, 2010;_____

4331

4332

4333

4334 **S.Ct.Prac.R. 9.9. 17.09. Supplemental Filings After Oral Argument.**

4335

4336 **(A) Prohibition of supplemental briefing**

4337

4338 Unless ordered by the Supreme Court, the parties shall not tender for filing and the
4339 Clerk of the Supreme Court shall not file any additional briefs or other materials
4340 relating to the merits of the case after the case has been orally argued.

4341

4342 **(B) Citation to relevant authority**

4343

4344 If a relevant authority is issued after oral argument, a party may file a citation to the
4345 relevant authority but shall not file additional argument.

4346

4347 Effective: June 1, 1994

4348 Amended: April 1, 1996; April 1, 2000; February 1, 2001; April 1, 2002; July 1, 2004;
4349 January 1, 2008; January 1, 2010;_____

4350

4351 **SECTION 11.18. ENTRY OF SUPREME COURT JUDGMENT; MOTIONS FOR**
4352 **RECONSIDERATION AND FOR REOPENING; ISSUANCE OF MANDATE.**

4353

4354 **S.Ct.Prac.R. 11.1. 18.01. Entry of Judgment.**

4355

4356 The filing of a judgment entry or other order by the Supreme Court with the Clerk of the
4357 Supreme Court for journalization constitutes entry of the judgment or order. A Supreme
4358 Court judgment entry or other order is effective when it is filed with the Clerk. In every case
4359 involving termination of parental rights or adoption of a minor child, or both, the Supreme
4360 Court will expedite the filing of the judgment entry or other orders for journalization.

4361

4362 Effective Date: June 1, 1994

4363 Amended: April 1, 1996; April 1, 2000; July 1, 2004; January 1, 2008; January 1,
4364 2010;_____

4365

4366

4367

4368 **S.Ct.Prac.R. 11.2. 18.02. Motion for Reconsideration.**

4369

4370 **(A) Time to file**

4371

4372 Except as provided in S.Ct.Prac.R. ~~10.9(B)~~ 12.08(B), any motion for reconsideration
4373 must be filed within ten days after the Supreme ~~Court~~ Court's judgment entry or
4374 order is filed with the Clerk of the Supreme Court.

4375

4376 **(B) Basis for filing**

4377

4378 A motion for reconsideration shall not constitute a reargument of the case and may
4379 be filed only with respect to the following Supreme Court decisions:

4380

4381 (1) ~~The Supreme Court's Refusal to grant jurisdiction to hear a~~
4382 ~~discretionary appeal or the dismissal of a claimed appeal of right as not~~
4383 ~~involving a substantial constitutional question~~ accept a jurisdictional appeal;

4384

4385 (2) The sua sponte dismissal of a case;

4386

4387 (3) The granting of a motion to dismiss;

4388

4389 (4) A decision on the merits of a case.

4390

4391 **(C) Amicus curiae**

4392

4393 An amicus curiae may not file a motion for reconsideration. An amicus curiae may
4394 file a memorandum in support of a motion for reconsideration within the time
4395 permitted for filing a motion for reconsideration.

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(D) Refusal to file

The Clerk shall refuse to file a motion for reconsideration that is not expressly permitted by this rule or that is not timely.

Effective Date: June 1, 1994

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

S.Ct. Prac.R. ~~11.3.~~ 18.03. Memorandum ~~Opposing~~ in Response to Motion for Reconsideration.

(A) Time to file

Except as provided in S.Ct.Prac.R. ~~10.9(B)~~ 12.08(B), a party opposing reconsideration may file a memorandum ~~opposing~~ in response to a motion for reconsideration within ten days of the filing of the motion.

(B) Amicus curiae

An amicus curiae may file a memorandum ~~opposing~~ in response to a motion for reconsideration within ten days of the filing of the motion.

Effective Date: June 1, 1994

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

S.Ct.Prac.R. ~~11.4.~~ 18.04. Issuance of Mandate.

(A) General

After the Supreme Court has decided an appeal on the merits, the Clerk of the Supreme Court shall issue a mandate. The mandate shall be issued ten days after entry of the judgment, unless a motion for reconsideration is filed within that time in accordance with S.Ct.Prac.R. ~~10.9(B)~~ 12.08(B) or ~~11.2~~ 18.02.

(1) If a motion for reconsideration is denied, the mandate shall be issued when the order denying the motion for reconsideration is filed with the Clerk.

(2) If a motion for reconsideration is granted, the mandate shall be issued ten days after the entry of the judgment is filed with the Clerk.

4443 (B) **When mandate is not issued**

4444

4445 No mandate shall be issued on the Supreme Court's refusal to ~~grant jurisdiction to~~
4446 ~~hear a discretionary appeal or the dismissal of a claimed~~ accept a jurisdictional
4447 appeal of right as not involving a substantial constitutional question.

4448

4449 (C) **Mandate**

4450

4451 A certified copy of the judgment entry shall constitute the mandate.

4452

4453 Effective Date: June 1, 1994

4454 Amended: April 1, 1996; April 1, 2000; July 1, 2004; January 1, 2008; January 1,
4455 2010;_____

4456

4457

4458

4459 **S.Ct.Prac.R. ~~11.5.~~ 18.05. Assessment of Costs.**

4460

4461 (A) **General**

4462

4463 Unless otherwise ordered by the Supreme Court, costs in an appeal shall be assessed
4464 as follows at the conclusion of the case:

4465

4466 (1) If an appeal is dismissed, to the appellant;

4467

4468 (2) If the judgment or order being appealed is affirmed, to the appellant;

4469

4470 (3) If the judgment or order being appealed is reversed, to the appellee;

4471

4472 (4) If the judgment or order being appealed is affirmed or reversed in part
4473 or is vacated, the parties shall bear their respective costs.

4474

4475 (B) **Definition of "costs"**

4476

4477 As used in this rule, "costs" includes only the filing fee paid to initiate the appeal
4478 with the Supreme Court, unless the court, sua sponte or upon motion, assesses
4479 additional costs.

4480

4481 Effective Date: June 1, 1994

4482 Amended: April 1, 1996; April 1, 2000; July 1, 2004; January 1, 2008; January 1,
4483 2010;_____

4484

4485 **SECTION 17-19. MEDIATION PROCEEDINGS.**

4486
4487 **S.Ct.Prac.R. 17-1. 19.01. Referral of Cases for Mediation.**

4488
4489 **(A) Referral**

4490
4491 (1) The Supreme Court may, sua sponte or on motion by a party, refer to its
4492 mediator for mediation any case that originated in the court of appeals, any appeal
4493 from an administrative agency, any original action, or, pursuant to S.Ct.Prac.R. 2-6
4494 4.02 any civil case that the Supreme Court deems appropriate. The mediator may
4495 conduct mediation conferences at which the parties shall explore settling the case,
4496 simplifying the issues, and expediting the procedure, and may consider any other
4497 matter that might aid in resolving the case. ~~Unless~~

4498
4499 (2) ~~Unless otherwise provided by court order, referral of a case for mediation~~
4500 ~~does not alter the stays all filing deadlines prescribed by these rules in a case until~~
4501 ~~further notice. The Clerk of the Supreme Court shall not accept for filing any~~
4502 ~~documents while a case is in mediation unless expressly permitted by S.Ct.Prac.R.~~
4503 ~~19.01(A)(3) or by court order.~~

4504
4505 (3) Only the following documents may be filed while a case is in mediation:

- 4506
4507 (a) A motion to lift the mediation stay;
4508
4509 (b) A response to a motion to lift the mediation stay;
4510
4511 (c) A second notice of appeal or notice of cross-appeal;
4512
4513 (d) An application to dismiss the case pursuant to S.Ct.Prac.R. 4.05;
4514
4515 (e) A notice related to counsel.

4516
4517 **(B) Statements**

4518
4519 (1) Any party seeking a monetary settlement shall prepare a statement setting
4520 forth the amount of the demand and a detailed explanation for it. Such party shall
4521 submit this statement to the opposing parties and to the mediator ten days prior to the
4522 scheduled mediation. This statement will not be filed in the case.

4523
4524 (2) Parties may submit to the mediator a confidential statement analyzing the
4525 settlement potential of the case. The mediation counsel will not disclose this
4526 statement to the other parties, unless the submitting party consents to disclosure.
4527 This statement will not be filed in the case.

4531 (C) **Attendance**

4532

4533 (1) If a case is referred for mediation, each party to the case, or the representative
4534 of each party who has full settlement authority, and the attorney for each party shall
4535 attend the mediation conferences, unless excused by the mediator. If a party or its
4536 representative is excused from a conference, the party or its representative must
4537 provide its attorney authority beyond initial mediation positions, and the party or its
4538 representative must be available for consultation during the course of the mediation.
4539

4540 (2) If a party or an attorney fails to attend the mediation conference without
4541 being excused, the Supreme Court may assess the party or the attorney reasonable
4542 expenses caused by the failure, including reasonable attorney fees or all or a part of
4543 the expenses of the other party. The Supreme Court may also dismiss the action,
4544 strike documents filed by the offending party, or impose any other appropriate
4545 penalty.
4546

4547 (D) **Extension of time to file briefs or other documents**

4548

4549 Notwithstanding S.Ct.Prac.R. ~~14.3(B)~~ 3.02(B), the Supreme Court, sua sponte or
4550 upon motion by a party, may extend filing deadlines or stay the case referred under
4551 this rule, if the extension or stay will facilitate mediation. A request for an extension
4552 of time shall be filed with the Clerk of the Supreme Court within the time prescribed
4553 by the rules for filing the brief or other document that is the subject of the request.
4554

4555 (E) **Supreme Court orders**

4556

4557 The Supreme Court may issue orders to supervise mediation. At the conclusion of
4558 the mediation, the Supreme Court will enter an appropriate order.
4559

4560 Effective Date: January 1, 2010

4561 Amended: _____

4562

4563

4564

4565 **S.Ct.Prac.R. ~~17.2.~~ 19.02. Privileges and Confidentiality.**

4566

4567 (A) **General**

4568

4569 The definitions contained in R.C. 2710.01 apply to Supreme Court mediation. The
4570 privileges contained in R.C. 2710.03 and the exceptions contained in R.C. 2710.05
4571 apply to mediation communications. The privileges may be waived under R.C.
4572 2710.04. Mediation communications are confidential, and no one shall disclose any
4573 of these communications unless all parties and the mediator consent to disclosure.
4574 The Supreme Court may impose penalties for any improper disclosures made in
4575 violation of this rule.
4576

4577 **(B) Exceptions**

4578

4579

All mediation communications are confidential with the following exceptions:

4580

4581

(1) Parties may share all mediation communications with their attorneys,

4582

4583

(2) The mediator may inform the Supreme Court or report to the proper authorities certain information, including the following:

4584

4585

4586

(a) Allegations of abuse or neglect of a child;

4587

4588

(b) Certain threats of harm to other people or oneself;

4589

4590

(c) Statements made during the mediation process to plan or hide an ongoing crime;

4591

4592

4593

(d) Statements made during the mediation process that reveal a felony.

4594

4595

4596 Effective Date: January 1, 2010

4597 Amended: _____

4598

4599 **SECTION ~~16.~~ 20. PRESERVATION OF RECORDS AND FILES.**

4600

4601 **S.Ct.Prac.R. ~~16.1.~~ 20.01. Custodian of Documents.**

4602

4603 The Clerk of the Supreme Court is the custodian of all documents and other items filed in
4604 Supreme Court cases, and they shall not be taken from the Clerk's custody unless by order
4605 of the Supreme Court. The Supreme Court may direct that any records may be reproduced
4606 as set forth in R.C. 9.01.

4607

4608 Effective Date: June 1, 1994

4609 Amended: April 1, 1996; January 1, 2010; _____