

Frequently Asked Questions:

(Please note that these questions and answers are not a substitute for legal research or counsel. They are advisory only and may or may not apply to your case, depending upon all facts and circumstances.)

Q. What are the Court's hours?

A. The Court is open 8:30 am to 4:30 pm Monday through Friday. However, the hours at each clerk's office for filing may vary. You should check with the clerk's office in the county where your case arises.

Q. Where do I file my documents?

A. The Notice of Appeal is filed with the court from where the case originated. All future filings should be made with the Appellate Clerk of Court's office of the county in which the appeal case arises. You should not mail or bring your documents to the Court's Offices. Never mail your filings to the Judges' offices at their Canton address, we cannot forward the filings onto the proper clerks' office.

Q. Are there forms for filing an appeal?

A. You can obtain a Docketing Statement from the Clerk of Courts or from our website. However, the Court does not have other forms. The law library may have forms for the notice of appeal, motions or briefs.

Q. If I mail my pleadings, when are they considered filed?

A. Pleadings are not considered filed until received by the proper clerk of court. The only exception is that briefs are deemed filed when mailed. See App.R. 13(A).

Q. How should my case be captioned?

A. Generally, your case should be captioned exactly as it was captioned in the lower court. The only addition or change would be the parties' appellate capacity, i.e. Appellant and Appellee in addition to Plaintiff and Defendant. See App.R. 3(D). However, Supt. R. 45 places restrictions on personal identifiers, including a juvenile's name in an abuse, neglect, or dependency case, except for the juvenile's initials or a generic abbreviation such as "CV" for "child victim". Supt. R. 45(D) and Supt. R. 44(H). See Supt. R. 44 and 45 for complete details.

Q. What if I am completing the Docketing Statement and I already have the transcript of proceedings?

- A. Please select the first item in Section D of our docketing statement. The clerk will transmit the record in your case sooner if the clerk knows that no transcript is being prepared.

Q. What is the difference between the regular calendar, accelerated calendar, and expedited calendar?

- A. EXPEDITED: Those cases listed in section F(3) of our docketing statement are mandatorily assigned to the expedited calendar. A litigant is not permitted to choose any other calendar if the litigant's case falls under this section. Extensions of time are closely limited for those cases assigned to the expedited calendar. See also Loc.R. 7.

All other litigants must choose between the regular and accelerated calendars:

REGULAR: Cases assigned to the regular calendar will be set for oral argument. Also, the Court is usually willing to grant a limited number of extensions to these cases.

ACCELERATED: Litigants who select this calendar waive their right to oral argument. However, these cases are submitted to be reviewed more quickly than those assigned to the regular calendar. Extensions of time are granted for cases assigned to the accelerated calendar on a very limited basis. See also Loc.R. 6(B).

Q. Does the Court have a mediation program?

- A. No, the Court does not offer a mediation program.

Q. Will I get a briefing schedule?

- A. No, your brief will be due according to the schedule provided in the appellate rules. The Court will, however, issue a scheduling order for original actions.

Q. Is there a page limit for my brief?

- A. Yes, the Court strictly enforces the page limit found in Loc.R. 9(C).

Q. Will the Court give me more time to file my brief?

- A. The Court will almost always grant the first extension. You should try to get your motion for extension into the Court as soon as possible so you know the Court's decision before your deadline expires. In most cases, if the Court will no longer be granting any extension to you, the Court will advise you by placing "No further extensions" on your entry.

Q. What if my brief is passed due and I didn't get an extension?

A. You can ask the Court to accept your brief instanter although the Court is not required to accept it. You must demonstrate good cause for failing to timely file your brief.

Q. What has to be attached to my brief?

A. The items found in Loc.R. 9(B). If you are the Appellant, you should note the Court requires you to attach a copy of the entry or entries being appealed to your brief.

Q. Do I have to attach unreported cases?

A. Not if the case is available on Westlaw or has an Ohio citation. Otherwise, you should attach caselaw the Court would have difficulty locating.

Q. Where should I attach the disk required by Loc.R. 9(A)?

A. You should attach it to a copy of your brief NOT to the original. The disk does not become part of the record. Rather, it is simply an extra copy of your brief.

Q. Do my exhibits have to be on the disk?

A. No, the Court is not currently requiring exhibits to be on the disk. You may, however, do so, if you would like to do so.

Q. Does my brief have to be typed?

A. Yes, App.R. 19(A) requires briefs to be typewritten.

Q. How do I file a case pursuant to *Anders v. California*?

A. You should file a motion to withdraw accompanied by a brief which contains proposed assignments of error. Before filing an *Anders* brief, please take the time to read *Anders v. California* (1967), 386 U.S. 738. An *Anders* Brief is like any brief you would file with the Court. You should have all of the elements required in App.R. 16 and Loc.R. 9. The brief must contain potential assignments of error as well as law and argument with references to the record. The Court will then issue an entry giving you instructions on advising your client of his right to file a brief and proposed assignments of error. You must then advise the Court that you have given your client the proper notice. Filing an *Anders* brief is not appropriate simply because counsel believes the State may prevail on the merits. As the Second District noted, "*Anders* equates a frivolous appeal with one that presents issues lacking in arguable merit. An issue does not lack arguable merit merely because the prosecution can be expected to present a strong argument in reply, or because it is uncertain whether a defendant will ultimately prevail on that issue on appeal. An issue lacks arguable merit if, on the facts and law involved, no responsible contention can be made that it offers a basis for reversal." *State v. Marbury* 2003 WL 21419286, 1 (Ohio App. 2 Dist.) (internal citations omitted).

Q. Which judges are going to hear my case?

A. Cases are heard by three-Judge panels. Judges are randomly assigned to these panels.

Q. When will my case be set for oral argument?

A. Generally, cases are assigned for oral argument from the oldest to newest cases, depending upon the Court's schedule and ability to travel to the County from which the appeal arises.

Q. Can a case be heard in a County other than the County from which it arises?

A. Yes. Occasionally the Court will schedule the case for an adjoining County to expedite hearing the case and a party may motion the Court to request that the case be heard in another County.

Q. Do I have to have oral argument even if the case is on the regular calendar?

A. No. You may choose to waive oral argument by filing a motion or notice telling the Court that you want to waive oral argument. If all parties to the appeal waive oral argument, it may speed the appeal process.

Q. When will the Court rule on my case?

A. The Court makes every effort to have opinions issued within 60 days of the date the cases were submitted to the Court for merit review. This means 60 days from the date of oral argument for those cases assigned to the regular calendar. Cases assigned to the expedited and accelerated calendars are handled more quickly. You can check the Court's website for opinions which are posted weekly. Additionally, many Clerks of Courts have websites where you can check the status of your case.

Q. What if I have a question for which I still do not have an answer?

A. The Court of Appeals and its staff cannot provide legal advice. However, if you have an administrative type question, call the Court at 330-451-7765 and the Court will help, if possible.