



## **An Overview of the Appellate Process at the Twelfth District**

### **NOTICE OF APPEAL** (See [App.R. 3](#) and [App.R. 4](#))

This Court acquires jurisdiction of a case when a party files a Notice of Appeal. This notice must be filed in the trial court within 30 days of the trial court's entry of the final appealable order. (See [R.C. 2505.02](#) and [Crim.R. 32](#)).

### **DOCKET STATEMENT** (See [Loc.R. 4\(A\)](#) and [Loc.R. 12](#))

The Docket Statement must be filed with the Notice of Appeal or within five days thereafter and is used by the Court in determining which track a case will take. If a case is a [civil matter](#), it can be set for a settlement conference or placed on the Court's regular or [accelerated calendar](#). If a case is a [criminal matter](#), it is placed on either the regular or accelerated calendar. The entire Docket Statement must be completed. If a transcript of proceedings is to be filed, counsel must make the appropriate arrangements for filing. If a transcript of proceedings is unnecessary or is already a part of the record, counsel should so indicate by filing a [Loc.R. 5](#) notice or checking the appropriate box on the Docket Statement.

If the appellant fails to timely file a Docket Statement, such may result in dismissal of the appeal, or may result in assessing against the appellant such court costs as may be attributable to failure to file the Docket Statement.

### **SCHEDULING ORDER** (See [Loc.R. 4\(B\)](#))

The Scheduling Order will normally be issued within two to three weeks from the filing of the Notice of Appeal and the Docket Statement. It establishes the time for the appellate process and indicates whether the case is placed on the accelerated or regular calendar.

### **RECORD** (See [App.R. 9](#), [App.R. 10](#) and [Loc.R. 10](#))

Once the Scheduling Order has been issued, the Court awaits the timely filing of the record, which consists of (1) the transcript of the docket and journal certified by the trial court, and (2) the transcript of proceedings (where applicable).

Normally, the Clerk will file the docket and journal within the time frame originally established in the Scheduling Order. Counsel should go to the Clerk's office to verify that the complete docket and journal have been filed.

Where a transcript of proceedings is to be filed, counsel should contact the court reporter to verify that the transcript will be filed by the date established in the Scheduling Order. If additional time is needed to file the transcript of proceedings, counsel should file a motion to extend time, including an affidavit from the court reporter as to why the transcript cannot be timely filed.

As a reviewing court, this Court cannot consider matters outside of the record described above. It is counsel's duty to see that a record sufficient to exemplify the error alleged is timely filed. Failure to timely file the record may result in dismissal of the appeal. Moreover, failure to provide sufficient record may result in the Court's inability to review the assignments of error presented.

After the transcript of docket and journal entries and the transcript are filed, the Clerk will send an [App.R. 11\(B\) notice](#) to the parties. This notice means that the record on appeal is complete and starts the time for filing the briefs.

**BRIEFS** (See [App.R. 16](#) and [Loc.R. 11](#))

Counsel shall file with the Clerk an original and three copies of his or her [brief](#) by the date provided in the Scheduling Order. Additionally, counsel must serve a copy of the brief on opposing counsel.

Refer to The Rules of Appellate Procedure and the Local Rules for guidance as to the form and the content of briefs. The following are a few highlights:

- Accelerated cases are limited to 15 pages in length.
- Cases on the regular calendar are limited to 20 pages in length. Reply briefs are to be filed 10 days after service of the appellee's brief and are limited to 10 pages.
- [Loc.R. 11\(D\)](#) requires the appellant to append the following to its brief:
  - the entry or order appealed from
  - all entries or orders which are the basis of any assigned error
  - all trial court, magistrate or arbitration decisions or opinions explaining the basis for an entry or order required to be attached above
  - all ordinances, local rules and regulations that are dispositive of an assignment of error or are to be given consideration in connection with any assignment of error.
- The appellant shall state "assignments of error," not "propositions of law" and shall include specific citations to the portion of the record where an error is alleged to have occurred.
- If a brief exceeds the page limit, is not double-spaced, or otherwise violates the general or Local Rules, the Court will strike the brief and order an amended brief to be filed.

## **ARGUMENT** (See [Loc.R. 12](#))

Oral argument will be heard only if requested by counsel for either party. The request must be filed as a separate pleading and not appended to any brief, notice or other paper. Oral argument is usually scheduled within 60 days of the date the last brief is filed. Counsel are notified by letter as to the time and date of oral argument. Requests by counsel that the oral argument date be changed due to a conflict are liberally granted if the Court is notified in writing within 10 days of the date of oral argument letter. If such notification is not received, the argument date will only be changed due to extraordinary circumstances.

## **RELEASE OF DECISIONS**

On Mondays, the Court releases opinions and judgment entries for cases on both the regular and accelerated calendars. Courtesy copies are sent to counsel and the trial judge on the Friday prior to release. It typically takes 40 to 60 days from the date of argument or submission for a decision to be released.

## **SPECIAL REMINDERS**

### **SCHEDULING ORDERS AND EXTENSIONS**

Once the Court issues a scheduling order, it is reluctant to grant extensions. However, if an extension is needed, a motion should be filed before the time sought to be extended has expired. If a motion is not filed within that time, the case is subject to dismissal and extensions will be granted only in extraordinary circumstances.

### **BRIEFS**

Counsel should be sure to observe the page limitations for accelerated calendar (15 pgs.) and regular calendar (20 pgs.) cases. Counsel should further be sure to attach the appendices required by [Loc.R. 11\(D\)](#) and discussed above.

### **APPOINTMENT OF COUNSEL**

[Loc.R. 9\(C\)](#) provides that in cases where [appointment of appellate counsel](#) is necessary, such appointment shall be sought in the first instance in the trial court.

### **STAYS**

The rules require that applications for stays of execution must be filed in the first instance in the trial court. If the trial court denies a motion for stay, the motion may then be filed in the Court of Appeals. Unless circumstances dictate otherwise, the Court will allow a 10-day response period on all motions for stay. Motions for stay and supporting memoranda should be as detailed and comprehensive as possible, as the Court rarely hears oral argument on these matters.