



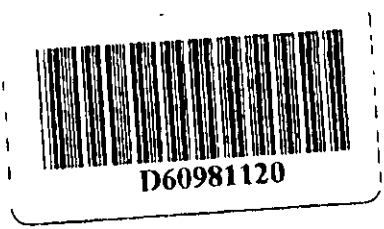
IN THE COURT OF APPEALS
FIRST APPELLATE DISTRICT OF OHIO
HAMILTON COUNTY, OHIO

ENTRY REGARDING LOCAL RULES

Case No. M-040005

The First District Court of Appeals does hereby amend and restate Local Rule 16 and does hereby adopt said amended and restated rule, effective October 1, 2004. (See attached.)

Pursuant to Local Rule 17, the Court finds that there is an immediate need for the adoption of this Local Rules and adopts the same without prior notice and opportunity for comment. However, anyone wishing to comment shall send all comments to: Mark E. Combs, Court Administrator, William Howard Taft Law Center, 12th Floor, 230 East Ninth Street, Cincinnati, Ohio 45202, prior to November 1, 2004.



Rupert A. Doan
Rupert A. Doan, Judge

Lee H. Hildebrandt, Jr.
Lee H. Hildebrandt, Judge

Robert H. Gorman
Robert H Gorman, Judge

Mark P. Painter
Mark P. Painter, Judge

J. Howard Sundermann
J. Howard Sundermann, Judge

Ralph Winkler
Ralph Winkler, Judge

RULE 16. ELECTRONIC TRANSMISSION FILINGS

A Facsimile Filings

In conformity with App Rule 13 and effective upon approval by the Ohio Supreme Court Committee on Technology and the Courts, pleadings and other papers may be filed with the Clerk of Courts by facsimile transmission subject to the following conditions.

1 Definitions The following terms in this Rule shall be as follows:

(a) Facsimile transmission – means the transmission of a source document by a facsimile machine that encodes a document into signals, transmits and reconstructs the signals to print a duplicate of the source document at the receiving end

(b) Facsimile machine – means a machine that can send and receive a facsimile transmission either as a stand-alone device or as part of a computer system

(c) Fax or faxes – an abbreviation for “facsimile” and refers, as indicated by the context, to facsimile transmission or to a document so transmitted

(d) Source document – means the document transmitted to the court by facsimile machine/system

(e) Effective Original document – means the facsimile copy of the source document received by the Clerk of Courts and maintained as the original document in the court’s file

(f) Effective Date and Time of Filing - means the date and time the filing has been received as indicated at the top of each page of the incoming fax transmission as printed out by the Clerk of Courts facsimile equipment

2. Application of Rules and Orders. This Local Rule has been instituted solely for the convenience of those filing documents with the Clerk of Courts. Neither the Clerk of Courts nor the First District Court of Appeals for Hamilton County, Ohio, assumes any new or additional responsibilities, obligations or liabilities by virtue of this Local Rule, except as expressly provided for herein. Further, this Local Rule pertains only to the method of filing, it does **NOT** override, alter, amend, revoke or otherwise change any Local Rule or Ohio Rule of Appellate Procedure respecting the requirements of any filings such as obtaining the consent of parties or counsel or obtaining signatures or the authorization to sign for opposing counsel

3 Filings Not Accepted. This Rule authorizes the filing of facsimile transmissions of all pleadings, motions and other documents not exceeding ten pages (see Section Six (6)) that may otherwise be filed with the Clerk of Courts

but anything stated or implied above to the contrary notwithstanding, the following documents may **NOT** be filed by facsimile transmission

(a) any filing commencing an appeal or action (e.g., Notice of Appeal, Notice of Cross Appeal or Original Action) for which the Clerk of Courts must collect an initial case deposit against costs or a specific filing fee and

(b) briefs and/or records.

4 Cover Page. The person filing a document by fax shall provide therewith a cover page containing the following information (a) the case number; (b) the caption of the case, (c) the assigned judge (or indicate none), (d) a description of the documents being filed, (e) the date of transmission, (f) the transmitting fax number, and (g) an indication of the number of pages included in the transmission, including the cover page. If a document is sent by fax to the Clerk of Courts without the cover page information listed above, it will be deposited in the case jacket but shall not be entered into the Case Docket and shall be considered to be a nullity and thereby stricken. The Clerk of Courts is not required to send any form of notice to the sender of a failed fax filing.

5. Facsimile Machine The telephone number of the facsimile machine available for receiving fax filings for the Appellate Division of the Clerk of Courts is **513-946-3744**. These lines are available twenty-four (24) hours per day seven (7) days per week. Fax filings may **NOT** be sent directly to the Court for filing but may only be transmitted directly through the facsimile equipment operated by the Clerk of Courts. Transmissions sent to any other location are not covered by nor permitted under this Local Rule. Copies of filings otherwise properly filed with the Clerk of Courts, however, such as courtesy copies for the Court, may be sent by facsimile directly to the Court, but any such transmittals shall not be considered as having been filed thereby.

6. Document Restrictions. A "fax transmission", as referred to in this Local Rule, may contain more than one (1) document but may not apply to more than one (1) case number per transmission. Motions and other filings making reference to or incorporating other documents attached to the motion or other filing as an exhibit thereof shall not be accepted for fax filings. Motions and other filings shall not exceed ten (10) pages.

7 Fees. There are no additional costs or fees related to facsimile transmissions except to the extent that the filings are taxed as cost to any case.

8 Filing Acceptance or Rejection. The Clerk of Courts is hereby authorized to reject any facsimile transmission filing if the sender fails to provide the Cover Page required under Section Four (4) of this Rule or if the transmission contains a filing not acceptable under Section Three (3) of this Rule.

9 Date and Time. Subject to the other provisions of this Local Rule, all documents filed by fax shall be considered filed with the Clerk of Courts as of the date and time that the fax transmission has been received by the Clerk of Courts. For purposes of this provision and for entering such filings into the electronic Case Docket system, a facsimile filing shall be deemed to have been received by the Clerk of Courts as of the date and time printed at the top of each page of the incoming fax transmission as printed out by the Clerk of Courts facsimile equipment. There shall be no other date and time stamp required for the filing of a fax document with the Clerk of Courts. The risks of transmitting a document by fax to the Clerk of Courts shall be borne entirely by the sender. Anyone using facsimile filing is urged to verify receipt of such filings by the Clerk of Courts through whatever technological means are then available, such as the activity register or report function of the transmitting equipment.

10 Original Filing. A document filed by fax shall be accepted as the effective original filing if the person sending the fax complies with all of the requirements set forth in this Local Rule. The person making a fax filing need not file any source document with the Clerk of Courts. However, until the case is closed and all opportunities for post judgement relief are exhausted the filer must maintain in their records and have available for production on request by the Court or Clerk the source document of any document filed by fax, with original signatures as otherwise required under the applicable rules, together with the original copy of the facsimile cover sheet used for the subject filing.

11. Signatures. Facsimile filings shall contain a signature or a /s/ notation followed by the name of the person signing the source document.

B. Internet Electronic Filings

In conformity with App Rule 13 and effective when approved by the Ohio Supreme Court Committee on Technology and the Courts, pleadings and other papers may be filed with the Clerk of Courts electronically via the Internet, subject to the following conditions:

1. Definitions. The following terms in this Rule shall be as follows

(a) **Electronic Filing -- (E-filing or efileing)** The process of transmitting a digitized source document electronically via the Internet to the Clerk's office for the purpose of filing the document and refers, as indicated by the context, to the means of transmission or to a document so transmitted

(b) Electronic Mail – (Email or e-mail) Messages sent by a user and received by another through an electronic service system utilizing the public Internet

(c) Source document – means the document transmitted to the court via the Internet

(d) Original document – means the transmitted copy of the source document received by the Clerk of Courts and maintained in the court's file.

(e) Date and Time of Filing - means the date and time the filing has been received, as indicated on the sender's computer screen after the document has been uploaded to the Clerk of Courts, unless rejected and not corrected (See Filing Acceptance or Rejection Cycle below)

2. Application of Rules and Orders. Unless modified by approved stipulation or order of the Court or a judicial officer, all Federal Rules of Civil and Criminal Procedure, Ohio Rules of Civil and Criminal Procedure and Local Rules, Ohio Rules of Appellate Procedure and Local Rules and orders of the Court shall continue to apply to documents electronically filed

3. Filings Not Accepted. Any Entry that must be signed by a Judge of the court or any filing for which a party is obligated to settle final case costs will not be accepted for electronic filing

4. Account Assignment. Upon receipt of the properly executed and signed User Agreement Form and Credit Card Authorization Form and the deposit of required funds into the Clerk's copy cost account at the Clerk of Court's office, the Clerk of Courts shall set up an electronic filer user account and assign a user-id and initial password to be used for electronically filing documents. Electronic filers using third party electronic filing providers will not be assigned a user-id or password and will not be required to maintain a copy cost account.

5 Hours of Operation Electronic filings may be submitted at any time. The electronically filed document will be considered filed as of the date and time that the receiving device of the Clerk of Courts received the entire transmission. All electronically filed documents shall receive a confirmation date and time acknowledgement.

6. Document Format. Documents submitted must be in a digitized format specified by the Clerk of Courts as set forth in the online Guide to Electronic Filing

7. Fees. Normal filing fees and case deposits will be collected via user credit card at the time the filing is processed by the Clerk of Courts. Copy costs will be charged against the copy cost account at the time the filing is processed by the Clerk of Courts. Filings made using third party electronic filing providers will be charged copy costs via

credit card at the time the filing is processed by the Clerk of Courts. The Clerk of Courts will, from time to time, establish and publicize the rules and regulations governing the requirements for maintaining the copy cost accounts.

8. Filing Acceptance or Rejection Cycle. A confirmation number will be assigned to each filing when it is received in its entirety by the receiving device of the Clerk of Courts. The confirmation number and the date and time of the filing will be displayed on the screen of the filer's computer upon successful transmission of the filing. Filers using third-party electronic filing providers will not have the confirmation number and date and time of filing displayed on the screen, but must wait for the confirmation electronic mail message from the Clerk of Courts to obtain the confirmation number and date and time of filing. Upon successful processing of the filing by the Clerk of Courts, an electronic mail message containing the confirmation number and case number assigned, if any, will be sent to the filer. Filers will be notified via electronic mail if the filing is rejected for any reason. A rejected filing may be resubmitted via electronic mail to the Clerk of Courts in order to retain the original date and time of filing. Rejected filings which are resubmitted via electronic mail must be received by the Clerk of Courts within twenty-four (24) hours of the time that the rejection electronic mail message was sent by the Clerk of Courts in order to retain the original date and time of filing and confirmation number. A corrective filing may, however, be sent at a later time if the filer elects to do so, but after the twenty-four (24) hours period expires such a filing will be considered a new filing and the prior confirmation will have expired.

9. Electronic Filed Stamp. Upon successful completion of acceptance processing by the Clerk of Courts a document filed electronically will be electronically filed stamped. This stamp will include the date and time that the receiving device of the Clerk of Courts received the entire transmission as well as the confirmation number of the filing. A document electronically filed that is not successfully processed by the Clerk of Courts will not receive an electronically filed stamp but the filer will receive a rejection e-mail. (See Filing Acceptance or Rejection Cycle above.)

10. Disposition and Maintenance of Source Documents. A document electronically filed shall be accepted as the original filing if the person filing electronically complies with all of the requirements set forth in this Local Rule. The person filing electronically need not file any copy with the Clerk of Courts but must maintain in his or her records, and have available for production on request by the Court, the Clerk of Courts or other counsel, the source copy of any document electronically filed. The filer must maintain this source document until the final disposition of the case and through any appeal period.

11. Public Method of Access to Electronically Filed Public Documents Members of the public can obtain copies of or review electronically filed documents in the same manner as documents filed on paper. Public access to electronically filed public documents will be available via the Internet web site of the Clerk of Courts as soon as the Clerk of Courts has processed the document. If Internet web site access is unavailable or is not provided by the Clerk of Courts, or if the Clerk of Courts is prohibited by the Court or by any law from making the document available via the Internet web site, the document will be available at one or more offices of the Clerk of Courts, either by computer terminal or in paper form in the case jacket or on microfilm. However, if a document or case record is sealed or expunged it is unavailable for public disclosure.

12. Operating Procedures and Instructions. The Clerk of Courts is authorized to prepare and maintain operating procedures and instructions for electronic filing.