

Local Rule Amendments

Effective August 1, 2016

Loc.App.R. 3

(D) Service by prosecutor.

When a prosecutor takes an appeal either of right or accompanied by a motion for leave to appeal in a felony, misdemeanor, or juvenile delinquency case, and including from an order sealing the record pursuant to R.C. 2952.31 et seq., the prosecutor shall send a notice of the appeal to the Appellate Division of the Cuyahoga County Public Defender's Office via United States mail or by sending an electronic copy to pdgeneral@cuyahogacounty.us. The fact of service to the Cuyahoga County Public Defender's Office shall be included within the certificate of service.

Loc.App.R. 13.1

(C) Service. Service of documents filed electronically shall be accomplished in the manner prescribed by the appellate rules. See App.R. 3 and 13. Parties are authorized to rely on the court's electronic transmission facilities to make service under App.R 13(C)(6) to any party who is registered for electronic service on the court's electronic filing transmission facilities, however, a paper copy of any electronically filed document must be served in accordance with the App.R. 13(C)(1)-(5) upon any party who is not registered for electronic filing on the court's transmission facilities and is therefore not registered for electronic service.

(1) Time to Respond or Act. Whenever a time period is measured from the time after a document is filed, the time will be measured from the date the electronically filed document is deemed to have been filed.

Loc.App.R. 13.2

~~(B)(1)(c) a juvenile's name in an abuse, neglect, dependency, or delinquency case, except for the juvenile's initials, or a generic term or abbreviation such as "child victim" or CV;~~

REPLACE WITH:

~~(c) a juvenile's name in any appeal, except for the juvenile's initials, or a generic term or abbreviation such as "child", however, this does not apply to juveniles who have been bound over to the court of common pleas and convicted of criminal charges.~~

MODIFY (B)(1)(f) as follows:

(e) any other information deemed personal and private by any federal or state constitution, statute, regulation, executive order, or court ruling (e.g., privacy rules under the Health Insurance Portability and Accountability Act (“HIPAA”, **court order pursuant to Sup.R. 45(E)**), Internal Revenue Service (“IRS”) income tax filings, etc.)

Loc.App.R. 20

RULE 20 - PRE-HEARING MEDIATION CONFERENCE

Under App.R. 20, this court’s pre-hearing mediation conference procedure will operate as follows:

(A) Docketing Statement and Mediation Form.

(1) Each appellant and cross-appellant must complete a docketing statement and the praecipe form required by Loc.App.R. 9.

(2) Counsel for appellant, cross-appellant, appellee or a self-represented party must complete and submit to the mediator the confidential mediation form provided by the mediator within ten (10) days from date of receipt. The mediator will not disclose this form or its contents to the other parties, unless the submitting party consents to such disclosure. This form will not be filed with the Clerk of Courts for the Court of Appeals but rather sent directly to the Office of the Conference Mediator. (See ((C.)) Privileged Communications and Confidentiality.)

(B) Pre-hearing Mediation Conference.

(1) The mediator shall review the required docketing statement filed pursuant to Loc.App.R. 9 or complaint filed pursuant to Loc.App.R. 45 to determine whether a prehearing mediation conference, under App.R. 20, would assist the court or parties. Any party may request a pre-hearing mediation conference, but the request need not be granted. The court may, in its discretion, order the parties to mediate any action before the court at any stage in the proceedings.

(2) If an appeal or complaint is selected for a pre-hearing mediation conference, upon seven days’ notice from the office of the conference mediator, unless excused, counsel and parties (including insurance adjusters) are required to attend a pre-hearing mediation conference before the court’s mediator or a visiting judge. The mediation conference is to be held within 21 days after the filing of the notice of appeal or complaint, or as soon thereafter as practicable, to consider the possibility of settlement, the simplification of issues, and such other matters as may aid in the disposition of the proceedings by the court.

(C) Privileged Communications and Confidentiality.

(1) Except to the extent disclosed by the pre-hearing mediation conference order entered under Paragraph (E) of this Rule, the definitions contained in R.C. 2710.01 apply to the mediation. The privileges contained in R.C. 2710.03 and the exceptions contained in R.C.

2710.05 apply to mediation communications. The privileges may be waived under R.C. 2710.04. Mediation communications are also confidential, and no one shall disclose any of these communications unless all parties and the mediator consent to such disclosure. This court may impose sanctions for any improper disclosures made in violation of this rule.

(2) All mediation communications are confidential with the following exceptions:

(a) Parties may share all mediation communications with their attorneys or vice versa.

(b) The mediator shall inform the court or report to the proper authorities certain information, including the following:

(1) Allegations of abuse or neglect of a child or other individual as required by the law;

(2) Certain threats of harm to other people or oneself;

(3) Statements made during the mediation process to plan or hide an ongoing crime;

(4) Statements made during the mediation process that reveal a felony.

(D) Pre-hearing Mediation Conference Order. At the conclusion of the pre-hearing mediation conference, the Administrative Judge, upon recommendation of the mediator, may enter an order setting forth how the action is to proceed. Said order shall remain in force unless modified by the court. If a settlement is reached, the mediator shall submit an outcome report to the Administrative Judge advising the Administrative Judge that the matter is settled and is to be dismissed as final upon application of the appellant or relator to dismiss or remand in compliance with the applicable appellate rules.

(E) Non-Compliance Sanctions. If a party or attorney fails to comply with the provisions of this rule or the provisions of the pre-hearing mediation conference order, the Administrative Judge may hold a party in contempt and/or assess reasonable expenses caused by the failure, including attorney fees. The court may also assess all or a portion of the appellate costs or dismiss the appeal or original action.

DELETED

Loc. R. 48 – Judicial Conference of the Eighth District