

## PROPOSED AMENDMENT TO LOC.APP.R. 3

**Comments Requested:** The Court of Appeals of Ohio, Eighth Appellate District will accept public comments until April 9, 2018, on the following proposed amendment to Loc.App.R. 3. Comments on the proposed amendment should be submitted in writing to: Court Administrator, Eighth District Court of Appeals, 1 Lakeside Ave., Rm. #202, Cleveland, Ohio 44113 or [emo@8thappeals.com](mailto:emo@8thappeals.com) not later than April 9, 2018. Please include your full name and mailing address in any comments submitted by e-mail.

Key to Proposed Amendment:

1. Existing language appears in regular type. Example: text.
2. Existing language to be deleted appears in strikethrough: Example: ~~text~~.
3. New language to be added appears in underline. Example: text.

**RULE 3. APPEAL AS OF RIGHT — HOW TAKEN;  
COST DEPOSIT; CONSOLIDATED APPEALS**

(A) **Filing Fee And Cost Deposit.** The clerk will not accept for filing any notice of appeal, notice of cross-appeal, or original action unless the party bringing the action deposits with the clerk of courts the sum of \$175.00. Of that sum, \$150.00 will be security for the payment of costs, and \$25.00 is a fee, authorized under R.C. 2501.16(B), for the operation of the court. But, the clerk will receive and file the appeal or action without the payment of \$175.00:

- (1) If the appellant files with the clerk a sworn affidavit or affirmation of inability to secure costs by prepayment; or
- (2) If the appellant produces evidence that the trial court determined that the appellant was indigent for purposes of appeal; or
- (3) If the requirement of prepayment is otherwise excused by operation of law, e.g., R.C. 109.19 and 325.31(C).

[Amended effective July 1, 2012.] [*Proposed effective date April 9, 2018.*]

**(B) Appeal As Of Right.**

- (1) The notice of appeal must individually name each party taking the appeal and must have attached to it a copy of the judgment or order appealed from (journal entry) signed by the trial judge and bearing the clerk's stamp "Received for Filing" with the date of receipt by the clerk and a copy of Affidavit of Indigency where relevant. The subject attachments are not jurisdictional but their omission may be the basis for a dismissal.

[Amended effective July 1, 1999.]

- (2) A party is required to file only one notice of appeal from a judgment entered in cases consolidated in the trial court. The notice of appeal must list all consolidated case numbers. The appeal will proceed under one case number unless otherwise ordered by the court.
- (3) Counsel, or litigants filing notices of appeal on their own behalf, must include current names and addresses for counsel of record for appellees with sufficient copies for service on all counsel. In the event an appellee is unrepresented, then the appellee's

current address and a copy for service on that appellee must be provided.

**(C) Consolidation Of Appeals.**

- (1) Consolidation Of Appeals. Either on motion or sua sponte, the court may consolidate cases involving related transactions or the same or similar principles of law, even though the parties are not identical. When consolidation has been ordered, the parties with a common interest must try to prepare a common brief with an addendum to cover any proposition that a party deems unique to that party.
- (2) Service In Consolidated Appeals. When appeals are consolidated, the clerk of the court of appeals may limit its notice of journal entries to one notice for each counsel (or party, if not represented by counsel) where identical journal entries are being made in each consolidated appeal. Such service will constitute due notice as to all the consolidated appeals. Costs will ordinarily be assigned to the lowest case number.

**(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](mailto:pdgeneral@cuyahogacounty.us). The fact of service to the Cuyahoga County Public Defender's Office shall be included within the certificate of service. [Adopted effective August 1, 2016.]