

CHAPTER 3

FILING PROCEDURES

RULE 3.01

FILES AND FILING PROCEDURE

A. FORM OF FILINGS, UNLESS DIRECTED OTHERWISE BY A JUDGE.

1. In addition to the requirements of Civ. R. 10, all papers filed with the Clerk as pleadings, motions, applications, judgments and orders shall be on 8½ by 11 inch white paper, typewritten, or printed in a neat and legible manner, securely fastened together and page numbered if consisting of more than a single sheet.
2. Each paper filed by each party shall designate on the first page thereof the parties, the case number, the name of the judge, the identification of the filing, the name, address, Ohio Supreme Court registration number, telephone number, fax number and e-mail address, if any, of the counsel filing the paper or; if there is no counsel, then the party filing the paper.
3. All papers shall have a blank space of at least two and one-half (2½) inches at the top of the first page for file marks by the Clerk. All subsequent pages shall have a top margin of not less than one (1) inch.
4. All pleadings, motions or other papers of a party represented by an attorney shall be signed by at least one attorney of record. A party who is not represented by an attorney shall sign the pleading, motion or other paper. The Clerk shall reject any unsigned filing.
5. Subsequent to the date of the appointment of a visiting judge, counsel shall supply a copy of all pleadings, motions, or other papers filed for record with the visiting judge.

B. JURY DEMAND

If a jury demand, pursuant to Rule 38 of the Ohio Civil Rules of Procedure, is endorsed upon a pleading, the caption of the pleading shall state, "Jury demand endorsed hereon". Failure

to comply with Ohio Civil Rule 38 shall result in the case being tried to the Court and failure to include this statement on the caption shall be a waiver of jury trial, unless the demand for jury is contained in the body of the pleading. (See also, Local Rule (3.02(B)(4)).

C. NUMBER OF COPIES TO BE FILED

Upon the filing of a complaint or any other pleading or motion for which the service of summons by the Clerk of Courts is required, sufficient copies shall be filed so that one copy thereof may be provided to each party.

D. FILE SHALL REMAIN IN CLERK'S OFFICE

All papers filed with the Clerk in any action or proceeding shall remain in the Clerk's office except when required by the Court. No case file shall be removed from the Clerk's office by any party or any attorney.

E. AMENDING A PLEADING OR MOTION

Pleadings and motions may be amended at such time and in a manner provided by Civ. R. 15. However, no pleading or motion shall be amended by interlineation or obliteration, except upon leave of court.

F. FILING WITH CLERK OF COURTS BY ELECTRONIC MEANS

Pleadings and other papers may be filed with the Clerk of Courts by facsimile transmission to the court subject to the following conditions:

1. The following documents will not be accepted for fax filing: original wills and codicils, cognovit and promissory notes.
2. A document filed by fax shall be accepted as the original filing. The person making a fax filing need not file any source document with the Clerk of Courts but must, however, maintain in his or her records and have available for production on request by the court the source 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.

3. The source document filed by fax shall be maintained by the person making the filing until the case is closed and all opportunities for appeals are exhausted.
4. As used in these Rules, unless the context requires otherwise;
 - (a) A “facsimile transmission” means the transmission of a source document by a system that encodes a document into optical or electrical signals, transmits and reconstructs the signals to print a duplicate of the source document at the receiving end.
 - (b) A “facsimile machine” means a machine that can send and or receive a facsimile transmission.
 - (c) “Fax” is an abbreviation for “facsimile” and refers, as indicated by the context, to a facsimile transmission or to a document so transmitted.
5. The person filing a document by fax shall also provide therewith a cover page containing the following information:
 - (a) The name of the court;
 - (b) The title of the case;
 - (c) The case number;
 - (d) The assigned judge;
 - (e) The title of the document being filed (e.g. Defendant Jones’ Answer to Amended Complaint; Plaintiff Smith’s Response to Defendants’ Motion to Dismiss; Plaintiff Smith’s Notice of Filing Exhibit “G” to Plaintiff Smith’s Response to Defendants’ Motion to Dismiss);
 - (f) The date of transmission;
 - (g) The transmitting fax number;
 - (h) An indication of the number of pages included in the transmission, including the cover page;
 - (i) If a judge or case number has not been assigned, state that fact on the cover page;

- (j) The name, address, telephone number, fax number, Supreme Court registration number, if applicable, and e-mail address of the person filing the fax document if available; and
 - (k) If applicable, a statement explaining how costs are being submitted.
6. If a document is sent by fax to the Clerk of Courts without the cover page information listed above, the Clerk may, at his/her discretion:
 - (a) Enter the document in the Case Docket and file the document; or
 - (b) Deposit the document in a file of failed faxed documents with a notation of the reason for the failure; in this instance, the document *shall not* be considered filed with the Clerk of Courts.
 7. The document filed by fax shall not exceed twelve (12) pages in length excluding the cover page.
 8. The Clerk of Courts is not required to send any form of notice to the sender of a failed fax filing. However, if practicable, the Clerk of Courts may inform the sender of a failed fax filing.
 - (a) A party who wishes to file a signed source document by fax shall either:
 - 1) Fax a copy of the signed source or document, or
 - 2) Fax a copy of the document without the signature but with the notation “/s/” followed by the name of the signing person where the signature appears in the signed source document.
 9. The Clerk of Courts shall not be required to make additional copies for service. Parties requesting service by the Clerk shall supply the additional copies to be served by the Clerk within seven (7) day s of the facsimile filing.
 10. A party who files a signed document by fax represents that the physically signed source document is in his/her possession or control.
 11. Each exhibit to a facsimile produced document that cannot be accurately transmitted via facsimile transmission for any reason must be replaced by an insert page describing the exhibit and why it is missing. Unless the court otherwise orders, the missing exhibit shall be filed with the court, as a separate document, not later than five (5) court days following the filing of the facsimile document. Failure to file the missing exhibits as required by this paragraph may result in the court striking the document and/or exhibit.

12. Any exhibit filed in this manner shall be attached to a cover sheet containing the caption of the case which sets forth the name of the court, title of the case, the case number, name of the judge and the title of the exhibit being filed (e.g., Plaintiff Smith's Notice of Filing Exhibit "G" to Plaintiff Smith's Response to Defendants' Motion to Dismiss), and shall be signed and served in conformance with the rules governing the signing and service of pleadings in this court.
13. Subject to the provisions of these Rules, all documents sent by fax and accepted by the Clerk shall be considered filed with the Clerk of Courts as of the date and time the Clerk time-stamps the document received, as opposed to the date and time of the fax transmission. The office of the Clerk of Courts will be deemed open to receive facsimile transmission of documents on the same days and at the same time the court is regularly open for business.
14. 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.
15. The Clerk of Courts may, but need not, acknowledge receipt of a facsimile transmission.
16. 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 filing by the Clerk of Courts through whatever technological means are available.
17. No document filed by facsimile that requires a filing fee shall be accepted by the Clerk for filing until court cost and fees have been paid. Documents tendered to the Clerk without payment of court costs and fees, or which do not conform to applicable rules will not be filed.
18. No additional fee shall be assessed for facsimile filings.

G. THE COURT MAY DEVELOP RULES FOR OTHER FORMS OF ELECTRONIC FILING.

H. FILING VIDEO DEPOSITIONS

The filing of video deposition shall conform to Sup.R. 13, and in addition, a typed

certified copy of the transcript and a list of objections shall be filed along with the video deposition. (See also Local Rule 4.13).

I. SIGNATURE LINE

All Magistrate's decisions and all orders of the Magistrates and Judges shall have the name of the respective Magistrate or Judge printed or typed below their respective signature line.

RULE 3.02

COSTS AND SECURITY FOR COSTS

A. No motion to proceed In Forma Pauperis shall be granted by the Court unless there is attached thereto a statement by the attorney for the party executing such affidavit that he or she has not accepted and will not accept any attorney's fees in said cause until the costs are paid or secured to be paid.

B. Unless a motion to proceed In Forma Pauperis is filed and accepted by the Court or the Court waives deposit for costs or costs, the following amounts shall be deposited with the Clerk of Courts:

1. \$228.00 – Complaint, Counter-claim, Cross-claim or Third Party Complaint – Civil.
2. \$273.00 - Divorce, Dissolution, Alimony, Annulment or Cross-claim **with children**
3. \$223.00 - Divorce, Dissolution, Alimony, Annulment or cross-claim
 - (a) However the Court may determine at the first hearing the party most able to make the deposit; and upon Order of the Court, that party shall deposit an amount determined by the Court; and if the Court so orders, the Clerk shall refund the original deposit to the extent that combined deposit exceeds that required.
 - (b) Failure by the part to deposit the amount ordered may result in the party being sanctioned including the striking of any pleading or the case proceeding as in default.
4. \$500.00 – Service by Publication (in addition to the court deposit)
5. \$125.00 – Expungement/Sealing of Records (includes state fee)
6. \$150.00 – All Post-Judgment Motions **with children**
7. \$150.00 – All Post-Judgment Motions requiring a hearing

8. \$ 25.00 – Any Motion with Consent Judgment Entry modifying a previous final Judgment Entry or Decree of Dissolution of Marriage - \$plus \$2.00 per page journal charges. If A-OK ordered, the parties are to pay directly to A-OK program.
9. \$150.00 – Execution, or Order i n Aid of Execution, Debtors Exam, Garnishments
10. \$100.00 – Cognovit notes
11. \$ 25.00 – Service by Foreign county sheriff (for each service)
12. \$ 27.00 – Certificate of Judgment from another court
13. \$ 32.00 – Certificate of Judgment from the State of Ohio (includes release)
14. \$ 25.00 – Certificate of Judgment – making and filing
15. \$ 8.00 – Judgment Certificate – make and send to another court
16. \$ 33.00 – Foreign Judgment (per Am.S.B. No. 23)
17. \$ 5.00 – Certificate of Judgment release
18. \$ 5.00 – Recording of Notary Public Commission
19. \$ 7.00 – Recording of Notary Public Commission with oath
20. \$ 2.00 – Acknowledging all instruments in writing
21. \$ 7.50 – Victims of Crime Application filing payable to: Clerk of Courts
22. \$ 25.00 – Court Reporter Trials
23. Certified copy requests - \$.25 per page, plus \$1.00 per certification certificate, not added to costs paid by party requesting.
24. If a party is due a refund of deposit in any case, before making said refund, the Clerk of Courts may apply said refund to any court costs then owed by the said party.

C. Unless a poverty affidavit is filed and accepted by the Court, the following amounts shall be paid to the Clerk of Courts:

1. \$27.00- Judgment lien from another Court;

2. \$25.00 - Judgment lien from this Court;
3. \$.25 - Copy fee per page for the first 25 pages;
\$.12 - per page for the next 75 pages;
\$.06 - per page thereafter.
4. Facsimile documents:
 - (a) A use fee of \$2.00 plus \$1.00 per page payable to the Clerk of Courts for transmitting from the Clerk's electronic facsimile machine. No fee for use of the Clerk's electronic facsimile machine shall be charged for cases involving Domestic Violence.
 - (b) The costs associated with facsimile transmissions shall be billed immediately to the party either transmitting or requesting receipt of facsimile copies.
 - (c) If the attorney requires a file-stamped copy to be returned to him or her and has not provided a copy for this purpose or if the attorney has not provided a copy for the judge's file, the charge for making copies will be \$.25 per page for the first twenty-five (25) pages, \$.12 per page for the next seventy-five (75) pages, and \$.06 per page thereafter. (See Local Rule 3.01(F)(5)).

D. If a check or other negotiable instrument for deposit for costs is dishonored for any reason, the filing may be dismissed by the Court after ten (10) days notice is given to the filer for failure to pay the required security for costs.

E. If at any time the deposit for costs becomes insufficient in any case, the Clerk shall require of the appropriate parties an additional deposit in an amount sufficient to secure the reasonably anticipated costs.

F. When a judgment entry orders payment of costs by a party who has a deposit with the Clerk, the costs shall be deducted from that party's deposit, if sufficient, and any balance shall be returned to the depositor. If, however, the deposit is insufficient or that party has no deposit, then the amount still due shall be deducted from any deposit held in the case. If there is a failure to pay within sixty (60) days from the Clerk's cost statement by the party so ordered, the Clerk shall deduct the costs from any deposit held in their case. The Clerk shall bill the party ordered to pay costs for any deficiency. Upon payment, the Clerk shall refund the deposits to the appropriate party.

G. If notice of voluntary dismissal is filed by a plaintiff or an appellant, the dismissal shall be at the cost of the dismissing party, unless otherwise ordered.

H. When the final judgment entry does not specify who is to pay costs, the Clerk shall deduct the costs equally from any deposits held and refund the remainder. If the deposits are insufficient to satisfy the Court costs, the clerk shall then assess the excess costs to the parties equally unless otherwise ordered.

I. Clerk shall keep a list of all unpaid or accrued costs in all proceedings where costs have been taxed and shall send statements to all persons against whom costs have been taxed, in all proceedings that have become final, at least every three (3) months. After two (2) such notices, if the costs have not been paid, the Clerk may issue a certificate of judgment for the amount of such costs without further order.

J. The commission charged by the Clerk of Courts pursuant to R.C. 2303.20(V) shall be paid by the party paying or depositing money with the Clerk unless otherwise ordered by the Court.

K. Arrangements for the payment of the costs of transcripts shall be made with the Court Reporter at the time the transcript is ordered.