



Ohio Eighth District Court of Appeals Appellate Brief Template User Guide

Published August 2023

The Ohio Eighth District Court of Appeals
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A. Introduction

An appeal may be largely decided on the record and arguments made in the briefs submitted to the court. Oral arguments can have an impact, but the brief is the first, and sometimes only opportunity to persuade a panel of appellate judges of the merits of your appeal. The brief should be clear, concise, and argue your position using citation to the record, any relevant case law, and statutory or other authority. Writing an appellate brief can be a difficult process. You should give yourself plenty of time to prepare. This process can be challenging without the assistance of an attorney. The Ohio Eighth District Court of Appeals maintains a list of local organizations that may offer assistance or free representation on our [website](https://appeals.cuyahogacounty.us) (appeals.cuyahogacounty.us). Additional resources for self-represented litigants can also be found there.

The [Ohio Appellate Rules](#) (cited as “App.R.”) and the [Local Rules of the Eighth District Court of Appeals](#) (cited as “Loc.App.R.”) govern the form of a brief. These rules will be referenced throughout this document, so access to the text of the rules is important. They are available on the [Eighth District Court of Appeals website](#).

Some brief formatting requirements change depending on whether the case is on the accelerated or regular calendar. The appellant can select to have the case assigned to the accelerated calendar when filling out and filing the [praecipe and docketing statement](#) that is filed along with the notice of appeal. If a case is on the accelerated calendar, please consult Loc.App.R. 11.1 for these requirements.

B. Using the Appellate Brief Template

This document is meant to assist the brief-writer in using the Appellate Brief Template available on the Eighth District Court of Appeals [website](https://appeals.cuyahogacounty.us/forms), (appeals.cuyahogacounty.us/forms). Information in the brief template that is included between brackets, such as [Information], is meant to be replaced with information specific to your appeal. The template is designed for use with newer versions of Microsoft Word. When using the desktop version of Word, text tips will appear when you hover your mouse pointer over various sections that need to be filled in as well as section headings. If you do not have access to Microsoft Word, free word processing software like

Google Docs can be used to edit the Appellate Brief Template. However, the text tips will not appear. Further, some formatting may change when using alternative word processing software that may require the brief-writer to adjust line spacing or other formatting issues. One example is that, at the time of writing, Google Docs does not allow the user to change the format of page numbers to use Roman numerals. Therefore, a brief created using Google Docs will have page numbers restart at page one after the opening sections of the appellate brief.

More information about the appellate process is available in the [Self-Representation Guide](#) available on our website. You can also call the Eighth District Court of Appeals at 216-443-6350 and ask to speak to a staff attorney who will answer general questions about appellate procedure but cannot direct you what to include or not include in your brief. Finally, this guide should not be construed as legal advice. Self-represented litigants in an appeal are responsible for complying with appellate and local appellate rules. If questions arise during the brief-writing process that go beyond those involving appellate procedure, court employees cannot offer guidance. Self-represented litigants should consult an attorney.

C. The Format of an Appellate Brief

i. Document Properties

An appellate brief must conform to various rules to be accepted by an appellate court. Brief-writers who do not strictly comply with these rules risk having their brief stricken. App.R. 19 and Loc.App.R. 19 govern the form that a brief must take. App.R. 16 governs the content. These rules require that the brief fit on a standard 8.5-inch by 11-inch sheet of paper, have one-inch margins on all sides, and be printed in black text with at least 12-point font. Footnotes must also be in at least 12-point font and many word processing programs default to a font size smaller than this. The typeface used should be legible and easy to read. The Eighth District Court of Appeals has a preferred font, Georgia, but no specific font is required. Loc.App.R. 16(A)(3). Line spacing must be double-spaced, except that quoted material, such a quote from a case or statute, longer than 4 lines may be single-spaced and indented.

A brief should include a page number at the bottom right of each page. For appeals on the regular calendar, the opening brief of appellant or appellee's brief must not exceed 40 pages as defined by Loc.App.R. 16.¹ The appellant's reply brief may not exceed ten pages. Loc.App.R. 16(A)(1). For appeals on the accelerated calendar, the briefs may not exceed 15 pages and no reply brief is allowed. Loc.App.R. 11.1(A)(2). The cover page, table of content, table of authorities, certificate of service, and any appendices are not included in the page total. Loc.App.R. 16(A)(5). All other sections of the brief count toward the page total. For appeals that involve cross-appeals, please see Loc.App.R. 16(A)(2) and 16(A)(3) for direction on the page limitations.

E-filing is the preferred means of filing a brief. Briefs may be e-filed through the [Cuyahoga County Clerk of Courts website \(coc.cuyahogacounty.us\)](http://coc.cuyahogacounty.us). E-filed briefs must be in PDF format that is searchable, but not editable. Loc.App.R. 16(A)(1). Attorneys must e-file any appellate brief submitted to the court or seek leave to file a brief in paper form. Loc.App.R. 13.1(A)(4). Persons representing themselves may file a brief in paper form with the Eighth District Court of Appeals Clerk of Courts without seeking leave. Loc.App.R. 13.1(A)(5). A party who files a brief in paper form must include a total of four copies when filed. App.R. 18(B).

ii. Protected Information

Certain information, defined in Loc.App.R. 13.2, must not be included in any document filed in the Eighth District Court of Appeals. This rule is designed to protect the identity of children and victims of sexual offenses and exclude certain personal and private information from publication. Social security numbers, bank account information, employer identification numbers, and driver's license numbers are all prohibited from inclusion in any filed document that is publicly available. Loc.App.R. 13.2(B)(1).

In cases that involve a juvenile or victim of sexual offense, all documents, the notice of appeal, briefs, and any motion, including attachments, must replace the juvenile's

¹ App.R. 19(A) provides for a shorter brief that is limited to 35 pages or 9,000 words. However, Loc.App.R. 16 provides for a 40-page appellant or appellee brief. A motion to exceed the page limit may be filed prior to the filing of the brief. See Loc.App.R. 16(A)(6).

name with initials or a generic term like “child” or “victim.” If a court filing requires the attachment of a document that has protected information in it, the person filing the document must redact this protected information by blacking it out or otherwise making it illegible and replacing the information with initials or a generic identifying term. Loc.App.R. 13.2(B)(4).

D. Sections of an Appellate Brief

Section 1: The Cover Page

i. The Case Caption

The cover page of an appellate brief informs the court of the pertinent information about the case, the parties, on whose behalf the brief is written, and if desired, requests oral arguments. The top of the brief cover page contains the case caption, a requirement that is defined in the [Ohio Rules of Civil Procedure](#) (cited as “Civ.R.”), Civ.R. 10(A). A case caption must include (1) the name of the court, (2) the title of the action, (3) the case number, and (4) the type of document (for example, “Appellant’s Brief”). A case caption for an appellate brief does not have to take any specific form, but many brief writers use the format presented in *Image 1* below.

In the Court of Appeals Eighth Judicial District Cuyahoga County, Ohio	
[NAME OF PLAINTIFF] [PARTY DESIGNATION]	Appellate Case No. [Appeal Number]
V	
[NAME OF DEFENDANT] [PARTY DESIGNATION]	An appeal from: [Trial or Lower Court name], [Lower Court Case Number]
<hr style="border: 0.5px solid black;"/> Brief of [Name of Appellant or Appellee] [The party’s designation in the appeal]	
[Oral Argument Requested]	

Image 1: Case caption from the brief template available on the Eighth District Court of Appeals website.

The caption includes the court designation centered at the top. Immediately below that on the left side column is the title of the action. The names in this section generally are the same as the title from filings in the lower court. Some titles do not include the name of two parties. For instance, in matters that originate from a juvenile court, the case title may be similar to “In re: A.B.C.” where A.B.C. are the initials of the child that is the subject of the court proceeding.² In these cases, the case title will consist of that one line. The appellant may add a line under that indicting who is appealing the decision, such as “Appeal by Mother” or “Appeal by Father.” In most other cases, the case title will be the name of the first plaintiff versus the name of the first defendant. Where there is more than one plaintiff or defendant, the name is usually followed by “et al.” to indicate that there are multiple parties. The party designation will be determined by who is appealing the trial court’s decision. If the plaintiff files a notice of appeal first, then the plaintiff will be the appellant. If a defendant filed first, then the defendant will be the appellant. If a party files a cross-appeal, then a cross-appellate designation should be added as listed in Loc.App.R. 16. A party who files a cross-appeal becomes the cross-appellant. For instance, the appellant may be the plaintiff-appellant/cross-appellee, and the original appellee may be the defendant-appellee/cross-appellant.

Case information is included in the column to the right. The appellate case number or numbers should be listed first, then the court where the appeal originated (usually the trial court), and the case number or numbers from the lower court proceedings. This lower court case information can be found on the trial court docket or journal entries that were issued in the case prior to the filing of the notice of appeal.

Finally, below these columns is a place for the name of the party filing the brief and what type of party they are in the appeal. It should immediately be clear to the reader who is filing the brief and their role in the appeal, for example, “Brief of J. Doe, Appellant.”

ii. Request for Oral Argument

Appeals submitted to the Eighth District Court of Appeals will be decided on the briefs of the parties if a request for oral arguments is not made. A request for oral

² Loc.App.R. 13.2 prohibits the inclusion of the name of a juvenile in any document filed with the court of appeals as discussed in Part B of the Introduction.

arguments can be made on the cover page of the appellant’s brief or the appellee’s brief. Loc.App.R. 21(A). The request must be conspicuous — prominently placed on the cover page of the brief. In *Image 1* above, the template has a place for this request in the middle of the page, just below the name of the party on whose behalf the brief is submitted. The request for oral arguments is optional. The appellant or appellee may request oral arguments, and if either does so, the case will be scheduled for arguments before a three-judge panel of the court of appeals for all parties. If you would not like to request oral arguments, remove the text in the brackets and leave the line blank. If the opposing party requests oral argument and you do not wish to argue, you can file a motion to waive oral argument for yourself in compliance with Loc.App.R. 21.

iii. Contact information for the Parties

The final section of the cover page lists all the parties to the appeal and their contact information. This information may require a second page where there are multiple parties. Parties represented by an attorney must include the contact information for the attorney, not the individual party. Here is an example for a party represented by an attorney on the left and for a self-represented individual on the right. Not all the information included below may be available to you. Please include all the information that is available:

J. Doe
Attorney Reg. No. 0012345
The Law Firm of Doe & Smith, L.L.P.
Suite 1000
1234 West Main Street
Cleveland, Ohio 44110
Phone: (216) 555-5555
Email: doe@email.com
Attorney for Appellant

J. Doe
Self-represented
1234 West Main Street
Cleveland, Ohio 44110
Phone: (216) 555-5555
Email: doe@email.com
Appellant

Section 2: Table of Contents

A table of contents with page references is a necessary component of an appellate brief according to App.R. 16(A)(1) and App.R. 16(B). The table of contents should list all the required elements of a brief and in the order specified by App.R. 16(A). The Brief

Template has these sections in the proper order. A brief-writer must fill in the page numbers where each of these sections start in the brief.

Generally, the page numbers for a brief only start at the statement of the assignments of error because the sections that proceed it are not included in the page limitations. Loc.App.R. 16(A)(5). These sections generally use a different page number notation, such as Roman numerals, to denote that they are not included. The Brief Template uses lower case Roman numerals for these first sections of the brief that are not included in the page limit.

Section 3: Table of Authorities

The Table of Authorities must include each citation made in the brief to case law, statutes, ordinances, constitutions, or other authorities. It must also list each page where the citation occurs in the brief. Citations should be in the form found in the [Supreme Court of Ohio's Writing Manual](#). At a minimum, each citation should be detailed enough to allow the court to find the source of legal authority using an electronic legal database. A short sample Table of Authorities is included in *Image 2* below.

TABLE OF AUTHORITIES	
CASES	Page(s)
<i>State v. Thompkins</i> , 78 Ohio St.3d 380, 678 N.E.2d 541 (1997).....	4, 5
<i>State v. Jones</i> , 154 Ohio App.3d 231, 2003-Ohio-4669, 796 N.E.2d 989 (8th Dist.).....	5
<i>Std. Oil Co. v. Fairview Park</i> , 8th Dist. Cuyahoga No. 39908, 1979 Ohio App. LEXIS 11428, 4 (Dec. 20, 1979).....	5
<i>State v. Jones</i> , 10th Dist. Franklin No. 02AP-1390, 2003-Ohio-5994.....	5
CODE SECTIONS	
Cleveland Codified Ordinances 693.07.....	5
OTHER AUTHORITIES	
Article IV, Section 3, Ohio Constitution.....	4-5

Image 2: Sample Table of Authorities

Section 4: Statement of the Assignments of Error

An assignment of error is a concise statement of the question to be reviewed. Each assignment of error that is included by the brief-writer should be a short statement about how the lower court erred or why an appellate court should reverse, modify, or vacate the lower court decision. “The ‘Assignments of Error’ should designate specific rulings that the appellant challenges on appeal. They may dispute the final judgment itself or other procedural events in the trial court.” *N. Coast Cookies, Inc. v. Sweet Temptations, Inc.*, 16 Ohio App.3d 342, 343, 476 N.E.2d 388 (8th Dist.1984). There is no limit on the number of assignments of errors that can be raised in an appeal, but the maximum page restriction does control the number of arguments that can be thoroughly briefed in the number of pages allowed. Each assigned error should be argued separately and supported by citation to the appellate record, case law, and any other relevant authority. An appellate court may disregard an assignment of error that is not supported by citation to the record or argued separately. App.R. 12(A)(2). Here are some examples of errors that have been assigned on appeal:

The trial court erred in granting permanent custody to the childcare agency where the findings made by the trial court are not supported by evidence in the record.

Appellant’s conviction is against the manifest weight of the evidence.

The lower Court erred in denying appellant’s motion to vacate filed pursuant to Rule 60(B) of the Ohio Rules of Civil Procedure.

The proper formulation of an assignment of error is a complex topic covered in numerous treatises and law review articles. In crafting your own assignments of error, it may be helpful to research the assignments of error that were raised in prior appellate decisions that involve issues similar to the ones in your case. There are several free and low-cost legal research tools available online. The Cleveland Law Library has free legal research resources available on its [website \(clevelandlawlibrary.org\)](http://clevelandlawlibrary.org). Local law schools and public libraries may also have legal research resources available.

Section 5: Statement of the Issues for Review

Like the statement of the assignments of error, many treatises and law review articles discuss the formulation of a statement of issues presented for review. At its most basic, the statement of issues presented for review frames the legal issues that the appellate court must decide. It may take any form but is often written: “Whether [legal question] under [controlling law] when [legally significant facts].” Greenberg and Weingast, *Persuasive Issue Statements*, The Writing Center at Georgetown University Law Center (2015), <https://www.law.georgetown.edu/wp-content/uploads/2018/07/Geenberg-Weingast-Issue-Statement.pdf>. This is your opportunity to frame the discussion for the court. For each assignment of error, there should also be at least one corresponding statement of the issue that the error presents. “The ‘Statement of Issues’ should express one or more legal grounds to contest the procedural actions challenged by the assigned errors. They may subdivide questions presented by individual assigned errors, or they may be substantially equivalent to the assigned errors.” *N. Coast Cookies, Inc.*, 16 Ohio App.3d at 343-344, 476 N.E.2d 388.

Section 6: Statement of the Case

A statement of the case is a brief statement of the history of the case related to the lower court proceedings. It should include important filings, along with the dates and citation to the record where they can be found. A civil case may begin with the filing of a complaint. A criminal case may begin with the filing of an indictment. You should include in the case history all the information that a court needs to decide the case, and where those important filings can be found in the record. Citation to the record should be in the form required by App.R. 16(D). This rule states that citation to a part of the record should be to the pages of parts of the record involved. The references used should allow the court to easily identify and review the evidence or filing referenced. Some examples include Answer filed January 1, 2000, p. 7; Plaintiff’s Motion for Summary Judgment filed January 1, 2000, p.8; or Transcript p.250. When an appellate record is filed, the clerk of courts prepares a pagination of record and assigns each document a pagination number. A brief-writer may also refer to documents in the record by its pagination number.

Section 7: Statement of the Facts

A statement of the facts is a recitation of the fact surrounding the case. This may be what facts underpin the legal claims or what brought about a lawsuit or criminal indictment. Citation to the record where these facts can be found is important. Again, citation to the record should take the form required by App.R. 16(D) as explained in Section 6.

Section 8: Law and Argument

This section should comprise most of an appellate brief. Here, you can point out the standard of review an appellate court should employ, the legal principles and precedence that govern each of the issues raised and apply the facts to the governing law. Each assignment of error must be separately argued and supported. App.R. 12(A)(2). You should try to list the relevant case law, statutes, or other authority and apply this to the facts of your case that are included in the Statement of the Facts section of the brief. Be clear in your presentation. What you are arguing and why should be understandable to an average reader. There are several free and low-cost legal research tools available online. The Cleveland Law Library has free legal research resources available on its [website \(clevelandlawlibrary.org\)](http://clevelandlawlibrary.org). Local law schools and public libraries may also have legal research resources available. For most issues, the focus should be on state law such as a controlling statute, regulation, ordinance, rule, or court case. Cases from the United States Supreme Court, the Supreme Court of Ohio, or the Eighth District Court of Appeals are authority that a court in Cuyahoga County must follow. Cases from other courts outside of Cuyahoga County or from other states may guide a court in its decision-making, but a Cuyahoga County court, including the Eighth District Court of Appeals, may not have to follow it.

Section 9: Conclusion

The conclusion section is your chance to sum up your argument and clearly state the relief or outcome requested from the court. Your requested outcome should be specific. Tell the court what you want the outcome to be.

Section 10: Signature Block

Each document submitted to the court should be signed, either by an attorney representing a party or by the self-represented individual. The Eighth District Court of Appeals allows for the electronic filing of briefs. Loc.App.R. 13(A). A document that is submitted electronically should be signed using the procedure found in Loc.App.R. 13.1(E). The brief-writer indicates their signature by typing “/s/ [name].” The signature block should also include contact information and the party on whose behalf the brief is filed or “self-represented” if the brief-writer is not represented by an attorney.

Section 11: Certificate of Service

App.R. 18 and App.R. 13(B) require that all briefs are served on the other parties to the appeal. App.R. 13(C) states the ways service may be accomplished and mirrors Civ.R. 5(B)(2). A proper certificate of service lists the parties that were served with a copy of the brief, the date they were served, and the manner of service for each party. App.R. 13(E). The certificate must also be signed. A court cannot consider a document that is filed without a proper certificate of service. App.R. 13(E).

The Eighth District Court of Appeals allows electronic service of briefs to any party that is registered for electronic service using the court’s electronic filing transmission facilities. Pursuant to Loc.App.R. 13.1(C), if a party is set up for electronic service, then service can be accomplished through the electronic transmission facilities available in clerk’s office electronic filing system. If a party is not set up for electronic service, the brief-writer must serve the party using one of the other means listed in App.R. 13(C).

Section 12: Appendices

Any attachment to a brief should be contained in an appendix to the brief. An example of an appropriate attachment may be the text of a court decision that is difficult to locate because of the age of the decision or its jurisdiction. App.R. 16(E) discourages the attachment of legal authority that is readily available through an online legal research database. A brief-writer may decide to attach a journal entry that is a part of the record for ease of discussion — to ensure that the court has an important document at hand when reading the brief. However, an appellate court has access to the complete record and

attaching parts of the record to the brief is not necessary. Attaching documents to a brief that are not part of the appellate record is not permissible. An appellate court will not consider such attachments when deciding an appeal. This is because an appellate court is limited in what it may consider and is generally limited to the information that was before the trial court when it made the decision being appealed.

App.R. 9 governs the record an appellate court may consider when deciding an appeal. With limited exception, this consists of all the filings and entries that are included on the docket of the trial court up to and including the notice of appeal. These, together with any optional transcripts of hearings ordered by and submitted to the court pursuant App.R. 9(B), usually make up the record. This is all an appellate court may consider outside of other provisions made in App.R. 9(C) through 9(E). A brief-writer may not attach things to a brief as a means of supplementing the record on appeal. App.R. 9 provides a means of completing an incomplete record through an App.R. 9(C) or 9(D) statement of the evidence, or to supplement the record through App.R. 9(E).



Administrative Judge

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Judges

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Lisa Forbes

Eileen A. Gallagher

Eileen T. Gallagher

Sean C. Gallagher

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Published by the Ohio Eighth
District Court of Appeals