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BRIEF

I. INTRODUCTION

The instant Original Action, a Complaint in *Quo Warranto*, *Mandamus* and *Prohibition* with Affidavit of the Honorable Judge Angela R. Stokes, attached, was filed by Relator, the Honorable Angela R. Stokes, a judge of the Cleveland Municipal Court (hereinafter "Judge Stokes"), on March 26, 2014, 12 days after Administrative Orders 2014-003 to 2014-008 (hereinafter collectively "The Administrative Orders") and related Inter-Office Correspondence had been filed¹ and/or issued by Respondent the Honorable Ronald B. Adrine, Administrative and Presiding Judge of the Cleveland Municipal Court (hereinafter "Judge Adrine").

The Administrative Orders and Inter-Office Correspondence indeed prevented Judge Stokes from exercising her judicial responsibility in connection with criminal misdemeanor, minor misdemeanor, traffic matters, pending probation matters, matters involving individuals previously sentenced to incarceration and also served to alter her case load by disproportionately increasing civil case assignments to her personal docket in comparison to other Cleveland Municipal Court judges and "continually" assigned her to Particular Session One of the Cleveland Municipal Court 3-out-of-4 weeks each month when previously each judge of the Cleveland Municipal Court was only assigned to Particular Session One once every 12 weeks. See Second Affidavit of

¹ Administrative Orders 2014-003, 004, and 005 were refiled, *nunc pro tunc* on March 21, 2014. The only change within those orders occurred in the last sentence of the first paragraph of each of them which previously had incorrectly cited the Rules of Superintendence on which Judge Adrine relied when he issued such orders, Sup.R. 4 (B) and Sup.R. 4 (B)(1). Instead, the correct Rules of Superintendence were Sup. R. 4.01 (A) and Sup.R. 4.01 (C). See Exs. A – I of the Stipulation of the Parties. Hereinafter, references to the Stipulation of the Parties which was filed on September 23, 2014, shall be cited as "Ex. ___, Stip."

the Honorable Judge Angela R. Stokes.² In addition, the Inter-Office Correspondence (Ex. J, Stip.) served to restrict Judge Stokes' access to case files for which the Clerk of Courts of the Cleveland Municipal Court is the custodian.

Again, as argued in her Memorandum in Support of Writs of *Quo Warranto*, *Mandamus* and *Prohibition*, because the above identified orders have as their explicit basis the pending Certified Complaint filed against Judge Stokes and alleged written incident reports, none of which having been presented contemporaneously with their receipt or otherwise to Judge Stokes,³ Judge Adrine's actions in connection with Judge Stokes' docket, amounts to a usurpation of the Supreme Court of Ohio's Constitutional, exclusive authority to regulate the bar under Article IV, § 2(B) (1)(G) of the Ohio Constitution, (App. A) and a usurpation of the roles of Judge Stokes, Relator's counsel in the discipline matter and the Board of Commissioners on Grievances and Discipline of the Ohio Supreme Court (hereinafter "The Board") in connection with the pending disciplinary matter, which was instituted, in part, by Judge Adrine who filed the initial grievance giving rise to the pending Certified Complaint and Amended Complaint.

In addition, because these very same orders ignore the requirements of Sup.R. 36 (App. B) and Crim.R. 25 (B) (App. C), which Judge Adrine must follow in connection with his assignment and reassignment of cases to and from Judge Stokes, such orders also served to usurp the Ohio Supreme Court's Constitutional authority to promulgate

² Hereinafter, references to the Second Affidavit of the Honorable Judge Angela R. Stokes shall be cited as "Stokes' Second Aff., Ex. ____ or para. ____." Also, references to the Affidavit of Judge Stokes attached to the Complaint in *Quo Warranto*, *Mandamus* and *Prohibition* shall be cited as "Stokes' First Aff., Ex. ____ or para. ____."

³ It was not until Judge Adrine complied with a public records request on May 20, 2014 that Judge Stokes received through her counsel, for the first time, the alleged incident reports.

rules of practice and procedure before all courts of Ohio pursuant to Article IV, § 5(B) of the Ohio Constitution. (App. D)

In addition, because such orders require Judge Stokes' requests for criminal case files to be directed through the office of the Administrative and Presiding Judge, they usurp the authority of the Cleveland Municipal Court's Clerk of Courts under R.C. 1901(31)(E). (App. E).

Finally, despite the rulings of the Presiding Judges of the Cuyahoga County Court of Common Pleas, pursuant to R.C. 2701.031(App. F), Judge Adrine failed to follow the law, did not abide by those rulings and, instead, transferred those cases away from Judge Stokes pursuant to Administrative Order No. 2014-003. (Exs. A, B, Stip.)

For the reasons which follow, the Alternative Writ of Prohibition issued by this Honorable Court by its Order of September 3, 2014, should result in a final determination that Relator is entitled to a permanent Writ of Prohibition as sought in her Original Action.

II. STATEMENT OF FACTS

On March 14, 2014, Judge Adrine, Administrative and Presiding Judge of the Cleveland Municipal Court, issued Administrative Order Nos. 2014-003, 2014-004, 2014-005, 2014-006, 2014-007 and 2014-008. These Orders all concerned the pending and future cases assigned or to be assigned to Judge Stokes in her capacity as a duly elected judge of the Cleveland Municipal Court. (Stokes' First Aff. para. 3, Exs. A-F) Later, on March 21, 2014, Judge Adrine filed Administrative Order Nos. 2014-003,

2014-004 and 2014-005 in a corrected fashion, *nunc pro tunc*, citing the corrected Rules of Superintendence on which he purportedly relied.⁴

Judge Stokes has been a Cleveland Municipal Court judge since December 1995, at which time she was elected to serve an unexpired term. Thereafter, she has been continuously elected to three successive six year terms beginning on January 2, 2000 and most recently January 2, 2012. Since Judge Stokes' admission to the bar in 1984, and during her tenure as a judge, no previous disciplinary matters had been brought against her. (Stokes' First Aff., paras. 1-2,10)

On October 14, 2013, a Certified Complaint was filed before The Board brought by Relator, Disciplinary Counsel. (Hereinafter, "Certified Complaint") Thereafter, on December 6, 2013, an Answer was filed on behalf of Respondent Judge Stokes in the discipline case. The Answer denies each and every allegation of misconduct asserted against her. (Stokes' First Aff., paras. 9, 12)

Consonant with Count Seven of the Certified Complaint (where Relator requests the Board to order a psychiatric examination of Judge Stokes), Disciplinary Counsel moved for a prehearing psychiatric examination on January 7, 2014. Among the evidence attached to the Motion was the Affidavit of Judge Adrine. Thereafter, Judge Stokes opposed such Motion. The Panel denied the Motion by Order issued February 18, 2014. (Stokes' First Aff., Ex. I) As part of its rationale denying the Motion, the Panel indicated that various matters brought to its attention, and which are part of the allegations in the Complaint, did not demonstrate facts or circumstances compelling the

⁴ See footnote 1, *supra*. These orders all concerned the pending and future cases which either already had been assigned to Judge Stokes or would be assigned to her in the future in her capacity as a duly elected judge of the Cleveland Municipal Court. (First Stokes' Aff., para. 3, Exs. A-F; Exh. B, D, and F, Stip.)

conclusion that Judge Stokes was mentally ill as that term is defined under the applicable rule. (Stokes' First Aff., Ex. I)

On April 24, 2014, a First Amended Complaint and Certificate was filed adding Count 8 which purportedly involves conduct occurring after Judge Stokes received notice of the formal complaint. These complaints remain pending before the Board of Commissioners on Grievances and Discipline of the Ohio Supreme Court. An answer denying these new allegations, as well, was filed on July 21, 2014. Trial on these allegations does not begin until February, 2015 with dates for trial set in March, April, May and June, 2015.

It is also noteworthy that no procedure has been undertaken to seek an interim suspension due to mental illness or any other reason. This procedure is available to a relator where substantial credible evidence demonstrates that a judge poses a substantial threat of serious harm to the public. See Gov. Bar R. V, Section 5A, Interim Remedial Suspension. (App. G) Between the time of serving the Notice of Intent to File the Certified Complaint and when the Original Action was filed, criminal defendants filed four Motions to Disqualify which had been ruled upon by the then Presiding Judges of the Cuyahoga County Court of Common Pleas pursuant to the authority granted them under R.C. 2701.031 (App. F), three through counsel and one *pro se*. These cases included *City of Cleveland v. Frank Petrucci*, Case No. Case Nos. 2013 TRD 065646 and 2012 TRC 050939; *City of Cleveland v. William Baeslack*, Case No. 2013 CRB 038243; *City of Cleveland v. Rowan Hayes*, Case No. 2013 CRB 017219; and *City of Cleveland v. Robert W. Downing*, Case No. 2013 TRC 016088. In each of these matters, when ruling upon Affidavits of Disqualification, the Presiding Judges denied the

same, thereby permitting Judge Stokes to continue presiding over them and held that the record was devoid of bias or prejudice. (Stokes' First Aff., Exs. K-M)

By the time of filing of this Original Action, subsequent to these rulings of the Presiding Judges of the Common Pleas Court and the Panel denying the prehearing Motion for Psychiatric Examination, the Cuyahoga County Public Defender filed a Motion on March 7, 2014 seeking to have Judge Stokes removed from all criminal matters in which the Public Defender was involved. In Administrative Order No. 2014-007, Respondent Judge Adrine ruled that such Motion was denied as moot (in light of the other Administrative Orders issued on March 14, 2014, 2014-003 through 2014-006, 2014-008). (Stokes' First Aff., Exs. A-F)

Since such Motion of the Public Defender was ruled upon in less than seven days, Judge Stokes filed her response timely pursuant to Civ.R. 6(B) (App. H) on March 17, 2014. (Stokes' First Aff., Ex. H) When a similar request was made in October 2013, Judge Adrine correctly pointed out that he did not have jurisdiction to rule on that request, but rather, it had to be brought before the Cuyahoga County Court of Common Pleas or to the attention of the Ohio Supreme Court. (Stokes' First Aff., Ex. H, p. 2, Ex. A thereto)

Thus, without affording Judge Stokes a reasonable opportunity to respond to the pending Motion of the Cuyahoga County Public Defender, Judge Adrine, in his capacity as Administrative and Presiding Judge of the Cleveland Municipal Court, issued the Administrative Orders.

In effect, these Orders have accomplished a *de facto* suspension of Judge Stokes from any judicial activities associated with her criminal docket, thereby

precluding her from presiding over the Project Hope docket,⁵ and further, unfairly and inappropriately, increased her civil and Session One assignments in violation of the dictates of Sup.R. 36, (App. B).

It should be noted that the grievance, giving rise to Disciplinary Counsel's investigation of Judge Stokes, was brought by Judge Adrine within days of her re-election to the 2012 term which she currently is serving. (Stokes' First Aff., para. 8) Indeed, it was in May of 2011 when Judge Stokes caused an ethics investigation into a personnel matter which involved Judge Adrine. (Stokes' Third Affidavit, para. 4.) Further, Judge Adrine supplied an Affidavit in connection with Disciplinary Counsel's attempt to cause a prehearing psychiatric examination of Judge Stokes. In apparent retaliation in what can only be described as a personal vendetta by Judge Adrine, he has chosen to impose an interim disciplinary and/or mental illness suspension upon Judge Stokes in connection with all her criminal, quasi-criminal and traffic matters while her aforementioned disciplinary complaint remains pending.

After the issuance of the aforementioned Administrative Orders, Judge Stokes' case load diminished from 956 cases during the February term to 183 cases in April, 94 in May, 97 in June, 104 in July and 114 in August, 2014. (Stokes' Second Aff., para. 1(A).) Furthermore, since that time, Judge Stokes has been assigned Particular Session One assignments 19 times between March 24, 2014 and September 29, 2014. (Stokes' Second Aff., Exs. I, J, and K, para. 1(B).)

Prior to the issuance of the Administrative Orders, the 12 municipal judges of the Cleveland Municipal Court rotated and assumed responsibility for Session One

⁵ Project Hope is a special docket regarding rehabilitation for female prostitution offenders. Judge Stokes' involvement in that docket is a subject of the Certified Complaint.

assignments once every 12 weeks. Session One involves reviewing all magistrate decisions in connection with civil matters which fall into the following categories: default judgments; cognovits judgments; post-judgment proceedings including garnishments and proceedings in aid of execution, and motions for revivor of dormant judgments; third party claims; claims for exemption; motions for relief from judgment; small claims; marriages and indigency affidavits. The marriage responsibility includes performing marriages on Mondays and Fridays. (Stokes' Second Aff., para. 1(D).)

Additionally, between March 14, 2014 and the present, Judge Stokes has received an inequitable and disproportionate assignment of civil cases to her personal docket. (Stokes' Second Aff., Ex. M, an email of Mary Ann Koster, Director of Central Scheduling, which outlines the method by which the judges of the Cleveland Municipal Court have been assigned civil cases to their personal dockets since the issuance of the Administrative Orders, which email was received by Judge Stokes on Monday, September 8, 2014, Stokes' Second Aff., para. 1(E).) In an effort to comply with the Administrative Orders while this Original Action has been pending, Judge Stokes performed 250 marriage ceremonies, reviewed 2,796 Session One civil cases and signed 2,748 judgment entries for Session One civil cases in addition to handling the increased civil docket being assigned to her. (Stokes' Second Aff., paras. 1(E), 2, Exs. N-FF.)

At no time since March 14, 2014 has Judge Stokes presided over any case assignments involving criminal matters, including criminal misdemeanor, criminal minor misdemeanor and traffic matters which had previously been assigned to her. No additional criminal assignments have been made either.

In addition, since the issuance of the Administrative Orders, and in order to provide accurate information during the course of discovery in connection with the formal complaint brought against her by Relator Disciplinary Counsel, each time Judge Stokes required access to a particular criminal case file, she wrote a specific letter to the Clerk of Courts, Earle B. Turner, with a copy to Judge Adrine. (Stokes Second Aff., Exs. GG – OO, para. 3.) Before this time, she was not required to notify Judge Adrine of criminal case files that she had requested. Of course, Judge Adrine is one of the grievants initiating the formal complaint against her and has been working hand-in-hand with Disciplinary Counsel throughout the disciplinary proceeding.

Finally, on September 17, 2014, Judge Adrine issued Administrative Order No. 2014-017, allegedly restoring Judge Stokes' case load in order to comply with S.Ct. Prac. R. 12.05, since this Honorable Court issued an Alternative Writ of Prohibition on September 3, 2014. On September 18, 2014, Judge Adrine issued Inter-Office Correspondence to Judge Stokes as well as separate correspondence to other agencies within the City of Cleveland as well as the Cleveland Municipal Court. (Stokes' Second Aff., Exs. GG, II.) However, while these orders purportedly have as their purpose to restore Judge Stokes to the case load she had before the issuance of the Administrative Orders, the Session One assignment list issued in connection therewith continues to disproportionately assign Judge Stokes to Session One assignments in October, November and December (namely nine times, just as in the past in connection with the Administrative Orders). In essence, Judge Adrine has taken

punitive measures against Judge Stokes by continuing to assign her to disproportionate Session One duties and, at the same time, restore her criminal case load.⁶

III. ARGUMENT

Proposition of Law: A Writ of Prohibition Lies When an Administrative and Presiding Judge of a Court Prevents a Judge of the Same Court From Exercising Judicial Authority Over Cases Previously, Currently and/or to be Assigned to Her and also When Such Judge Restricts Her Access to Court Files in the Custody of the Clerk of Courts.

A. Law Applicable to the Issuance of a Writ of Prohibition

It is black letter law in Ohio that the following conditions must be demonstrated by Relator to support the issuance of a writ of prohibition. The conditions which must exist to support the issuance of a writ of prohibition are:

- (1) The court or officer against whom it is sought must be about to exercise judicial or quasi-judicial power;
- (2) The exercise of such power must be unauthorized by law; and
- (3) It must appear that the refusal of the writ would result in injury for which there is no other adequate remedy in the ordinary course of the law. (State, ex rel. Lehmann v. Cmich, 23 Ohio St. 2D 11, followed.)

State ex rel. McKee v. Kooper, 40 Ohio St. 2d 65, 320 N.E. 2d 286 (1974) (Syllabus 1) (a writ of prohibition issued by a court of appeals was reversed because the parole authority was authorized by law to consider early parole for an inmate sentenced to a reformatory before the expiration of a minimum sentence, as distinct from a felon sentenced to a penitentiary.) That these three elements have been shown by

⁶ In fact, as of October 2, 2014, after a discussion with Mary Ann Koster, Judge Stokes learned that she is has not been placed on the criminal draw at all, contrary to the impression left by Aministrative Order 2014-0017(Stokes' Second Aff. Ex. HH). See Stokes' Third Affidavit, paras. 9 – 10, attached hereto in the Appendix as (App. I)

uncontroverted evidence in this matter is manifest upon review of the affidavits of both parties as well as their stipulation.

Indeed, Judge Adrine has and continues to exercise the judicial power of an administrative judge of a municipal court in connection with the active docket of Judge Stokes. Second, his exercise of power in regard to altering Judge Stokes' docket is unauthorized by law insofar as his Administrative Orders contravene both the exclusive province of the Ohio Supreme Court to regulate the practice of law and the discipline of persons admitted to the practice of law as well as its rule making authority in connection with the practice and procedure in the courts of this state, constitutionally conferred powers exclusively to the Ohio Supreme Court. Third, the refusal of a writ under the circumstances of this case clearly has and continues to cause harm to Judge Stokes in the discharge of her duties as a judge of the Cleveland Municipal Court to which she was elected.

B. RESPONDENT HAS EXERCISED JUDICIAL POWER

Upon the issuance of the Administrative Orders on March 14, 2014, Judge Adrine took the necessary steps as reflected in those Orders and the Inter-Office Correspondence issued contemporaneously with them (Exs. A – J, Stip.). In other words, Judge Stokes' responsibility for criminal misdemeanor, criminal minor misdemeanor and traffic matters previously assigned to her personal docket, along with her supervision of all criminal defendants maintained on probation on her personal docket and all status review of criminal defendants sentenced to incarceration by her were transferred to Judge Adrine who in turn reassigned such matters to other judges within the Cleveland Municipal Court. (Exs. A – F, Stip.) Not only was the responsibility

for presiding over these matters previously on her personal docket taken away, the physical files within her very chambers were physically retrieved from her custody. (Ex. I, Stip.) Indeed, her "access to all of the noted files assigned to [her] before the issuance of (the administrative orders) is now embargoed while the transfer is affected." (Ex. J., Stip.) After the physical retrieval and embargo of all the criminal files previously within Judge Stokes' responsibility before the issuance of the Administrative Orders, she was required to direct all requests for access to criminal case files through the Office of the Administrative Judge. In attempting to comply with this edict, Judge Stokes provided a copy of the requests to Judge Adrine. (Ex. A – J, Stip.; Stokes' First Aff., paras. 7 – 8, 17 – 19, 21 – 22)

After the physical retrieval and embargo of all the criminal files previously within Judge Stokes' responsibility before the issuance of The Administrative Orders, she was required to direct all requests for access to criminal case files through the office of the Administrative Judge. In attempting to comply with this edict, Judge Stokes provided a copy of such requests to Judge Adrine. However, she did not direct requests to or notify Judge Adrine about probation reports and transcripts that she required in connection with her pending disciplinary matter since that was not required. (Stokes' Third Affidavit, para. 12) Importantly, while Judge Stokes vehemently disagreed with this edict, she made a good faith attempt to comply during the pendency of the Original Action.

In addition to interfering with Judge Stokes' discharge of her responsibilities in connection with criminal matters, Judge Adrine's orders also affected her presiding over civil matters. Administrative Order No. 21014-006 (Ex. G, Stip.) adjusted the random

draw of criminal and civil case assignments to her. She was removed from the random draw of criminal misdemeanor, minor misdemeanor and traffic cases and her percentage of civil cases was increased. Indeed, the percentage of civil cases assigned to her personal docket was increased substantially. (Stokes' Second Aff., Ex. M, para. I (E)) Further, her assignment to Particular Session One resulted in a disproportionate assignment to that Particular Session as distinct from all the other judges of the Cleveland Municipal Court.

In this regard, it had previously been the case that each of the 12 municipal judges of the Cleveland Municipal Court would serve one week every 12 weeks in connection with Particular Session One responsibilities. This entailed performing marriages on Mondays and Fridays, as well as reviewing magistrate decisions. See, Section II, supra at 8 – 9.

Additionally, without giving Judge Stokes an opportunity to respond to the Public Defender's motion, in Administrative Order No. 2014-007 (Ex. H, Stip.) Judge Adrine ruled as moot the Public Defender's Motion to Transfer Cases from Docket of Hon. Angela R. Stokes and to stop the further assignment of criminal cases to her docket. This ruling by Judge Adrine was prior to the time within which the Rules of Procedure permitted Judge Stokes' response which she did file on March 17, 2014. (Stokes' First Aff., para. 5) Judge Adrine's reassignment of criminal cases also contravened the express orders of two of the administrative judges of the Cuyahoga County Common Pleas Court after they denied motions to recuse her based on allegations of bias and prejudice. (Stokes' First Aff., para. 16)

Finally, even after Judge Adrine's purported stay of the Administrative Orders in obedience to Sup. Ct. Prac. R. 12.05, she has been treated inequitably and, in fact, punitively in connection with an alleged restoration of her criminal docket and continuing disproportionate assignment to Particular Session One.⁷

Accordingly, it is beyond cavil that Judge Adrine has and continues to exercise judicial power over the docket of Judge Stokes and would continue to this day to do so had the Alternative Writ not issued.

C. **Respondent's Exercise of Judicial Power Was, Is and Continues To Be Unauthorized by Law.**

When Judge Adrine issued the Administrative Orders and Inter-Office Memorandum, explicitly premising them on authority granted him under certain Superintendence Rules of the Ohio Supreme Court and paragraph one of the Preamble to the Code of Judicial Conduct, following such statement with a justification reciting the pendency of a certified complaint before the Board of Commissioners, and 100 additional written incident reports purportedly alleging problems similar to those brought up in the certified complaint, Judge Adrine placed himself in the position of the Ohio Supreme Court which has the constitutionally conferred power to discipline persons admitted to the bar and all other matters relating to the practice of law. See Ohio Constitution, Article IV, § 2(B)(1). The plenary rule reposing authority within the Ohio Supreme Court arises from this constitutional provision as well as Article IV, § 5(B) of the Ohio Constitution regarding prescribing rules governing practice and procedure in all

⁷ Even to this day, while Judge Adrine has purported to stay the Administrative Orders at issue in this matter, Judge Stokes has not been restored to the position she was in before the Administrative Orders were issued. See Reply of Relator to Motion for Clarification of Respondent's Obligations Pursuant to the Court's Alternative Writ, not reproduced and attached to this Brief as it has been filed separately with the Clerk of Court of the Ohio Supreme Court. Also, See Stokes' Third Affidavit, paras 9 - 10.

courts of the state. See Melling v. Stralka, 12 Ohio St. 3d 105, 106, 456 N.E. 2d 857 (1984). Furthermore, while courts may prescribe rules of local practice they may not be inconsistent with rules promulgated by the Ohio Supreme Court nor is such authority to promulgate rules unlimited. Melling, supra, 12 Ohio St. 3d at 107.

As it relates to the discipline of judges, Gov Bar Rule V, § 2(A) (App. J) places the exclusive jurisdiction to bring, conduct and dispose of grievances alleging the misconduct of judges within the Board of Commissioners on Grievances and Discipline of the Supreme Court (hereinafter "The Board"). Indeed, in the case at bar, a Complaint and Amended Complaint are presently pending before The Board. Because Judge Adrine has used as his rationale to issue the Administrative Orders that a complaint is pending before The Board and makes reference to alleged additional incidents,⁸ there is no question that he is issuing some sort of a remedial measure arising from allegations of misconduct concerning Judge Stokes. As such, his actions constitute a usurpation of the role of the Ohio Supreme Court in disciplining judges which it has permissably delegated to The Board, not to Judge Adrine.

Significantly, should it be determined that a lawyer or a judge should be suspended pending a disciplinary case, a specific procedure exists under Gov. Bar V in that regard. Thus, Gov. Bar Rule V, § 5A, which has not been invoked by Relator

⁸ As it relates to the alleged 100 incident reports, at the time of filing the instant Complaint, none of them had been provided to Judge Stokes for her response. It was only by virtue of a public records request issued by her counsel that she ever saw these incident reports. Whether and to what extent such reports have any bearing on her conduct as a judge, they can be considered by Relator disciplinary counsel in the discipline matter presently pending. Presumably, if any of such reports are presented specifically in the context of the pending disciplinary matter or even this one, Judge Stokes should be provided the opportunity to respond to specific allegations concerning them, investigate them and prepare a defense. Judge Adrine is not constitutionally entitled to act as both disciplinary counsel and The Board in respect to those incidents.

Disciplinary Counsel in the discipline matter brought against Judge Stokes, provides in pertinent part:

(A)(1) **Motion; Response.** Upon receipt of substantial, credible evidence demonstrating that a ... judge...has committed a violation of the Code of Judicial Conduct...and poses a substantial threat of serious harm to the public, the Disciplinary Counsel of appropriate Certified Grievance Committee, which shall be referred to as the relator, shall do both of the following:

(a) Prior to filing a motion for an interim remedial suspension, make a reasonable attempt to provide the...judge...who shall be referred to as the respondent, with notice, which may include notice by telephone, that a motion requesting an order for an interim remedial suspension will be filed with the Supreme Court.

(b) File a motion with the Supreme Court requesting that the Court order an interim remedial suspension. The Disciplinary Counsel or appropriate Certified Grievance Committee shall include, in its motion, proposed findings of fact, proposed conclusions of law, and other information in support of the requested order. Evidence relevant to the requested order shall be attached to or filed with the motion. The motion may include a request for immediate, interim remedial suspension pursuant to Rule XIV Section 4(C) of the Rules of Practice of the Supreme Court of Ohio. The motion shall include a certificate detailing the attempts made by the relator to provide advance notice to the respondent of the relator's intent to file the motion. The motion shall also include a certificate of service on the respondent at the most recent address provided by the respondent to the attorney registration office and at the last address of the respondent known to the relator, if different.

(2) After the filing of a motion for an interim remedial suspension, the respondent may file a memorandum opposing the motion in accordance with Rule XIV, Section 4 of the Rules of Practice of the Supreme Court of Ohio. The respondent shall attach to or file with the memorandum any rebuttal evidence

Obviously, this interim procedure has not been sought by Disciplinary Counsel in the discipline matter. Further, when Relator sought a prehearing psychiatric examination, relief it prayed for in Count Seven of his Complaint, the Board's Panel denied such Motion. (Stokes' First Aff., Ex. I) Indeed, the Panel Order indicated that insufficient evidence has been submitted to determine that Judge Stokes is mentally ill as that term is defined in the Ohio Revised Code and used in Gov. Bar R. V(7)(A).

(App. k) As such, an interim suspension based on mental illness is not supported by the evidence either.

As such, the procedure to suspend a judge during the pendency of a discipline matter for misconduct has not been invoked in the instant matter and the procedure to suspend a judge for mental illness has been invoked but denied.

Instead, Judge Adrine has taken it upon himself to suspend Judge Stokes from the execution of her duties as a judge in the Cleveland Municipal Court in respect to the matters addressed in various Administrative Orders. It is beyond argument that his purpose for the Orders derives from his finding that:

- A certified complaint pending against Judge Stokes before the Ohio Supreme Court's Board of Commissioners on Grievances and Discipline was gleaned from approximately 337 alleged violations of the Code of Judicial Conduct presented to the Cleveland Municipal Court.
- All of those allegations concerned her mishandling of criminal matters and mistreatment of participants in criminal hearings, including defendants, witnesses, police officers, prosecutors, private defense counsel, public defenders, court personnel and other members of the general public.

See Stokes' First Aff. Exs. A, B and C.

Administrative Order Nos. 2014-006 and 2014-008 (Stokes' First Aff., Exs. D and F) are derivative of the aforementioned three Orders, insofar as they purport to impermissibly increase Judge Stokes' civil case assignments and Particular Session One assignments, as well as permit the confiscation of all files within her chambers applicable to criminal matters which are the subject of Administrative Order Nos. 2014-003, 2014-004 and 2014-005.

Analogous to the instant matter are the facts underlying *State ex rel. Buck v. Maloney*, 102 Ohio St. 3d 250, 2007-Ohio-2590, 809 N.E. 2d 20. In that case, this Court held that the probate judge did not have jurisdiction to bar Mr. Buck from

practicing law in the Probate Court based upon conduct asserted in connection with several estates and the settlement of a wrongful death claim in connection with one in particular. This court premised the issuance of a writ of prohibition on the Ohio Constitution, Article IV, § 5(A)(1) which reposes within the Supreme Court the general supervisory power over the courts of Ohio. This Court went on to cite its original jurisdiction over the practice of law as conferred upon it through Article IV of the Ohio Constitution. See Buck, supra, 102 Ohio St. 3d at 251.

In this connection explaining its rationale, this court also cited *Melling v. Stralka*, 12 Ohio St. 3d 105, 465 N.E. 2d 857 (1984) and *State v. Steffen*, 70 Ohio St. 3d 399, 409, 639 N.E. 2d 67 (1994).

Notably, *Melling, supra*, involved this Court's granting of a writ of prohibition when a municipal court judge attempted to bar certain city solicitors, law directors, assistants thereof and prosecutors from representing defendants in criminal matters. Again, this Honorable Court resorted to the Constitutional authority reposed in it to regulate the practice of law, thus barring Judge Melling's actions which amounted to the unauthorized exercise of such power. See Buck, supra, 102 Ohio St. 3d at 252.

Of similar import is *State ex rel. Triplett v. Ross*, 111 Ohio St. 3d 231, 2006-Ohio-4705, 855 N.E. 2d 1174. In *Triplett*, this Honorable Court granted a writ of prohibition in a situation where a municipal court, judge and clerk were involved in disqualifying eligible attorneys who had not completed an Ohio Patriot Act Declaration on the basis that such rule was not otherwise authorized by law. Importantly, in *Triplett*, the Court held that the statute cited by Respondents did not provide the authority to do what it did nor did any other rule or precedent. Indeed, in the instant matter, neither the

Rules of Superintendence over the courts of Ohio nor the Rules of Criminal Procedure authorize Judge Adrine's Orders removing Judge Stokes from the lottery in respect to future criminal cases, the increase of her civil case load and the disproportionate assignment of her to Session One responsibilities, much less the transfer of her criminal matters, all matters within the Ohio Supreme Court's exclusive responsibility to prescribe rules governing practice and procedure in all courts of the state conferred upon it by Article 4, § 5 (B) of the Ohio Constitution. As such, it is Judge Adrine's duty to refrain from usurping the duty of the Ohio Supreme Court in this regard. Judge Adrine's exercise of powers as Administrative and Presiding Judge of the Cleveland Municipal Court is in direct contravention of the power granted him under Sup. R. 4.01 (App. L) contrary to his assertion in the Administrative Orders.

In this connection, Sup.R. 4.01 provides in pertinent part:

An administrative judge of a court or a division of a court shall do all of the following:

(A) be responsible for and exercise control over the administration, docket, and calendar of the court or division;

* * *

(C) pursuant to Sup.R. 36, assign cases to individual judges of the court or division or to panels of judges of the court in the court of appeals;

(D) in municipal and county courts, assign cases to particular sessions pursuant to Sup.R. 36.

Further, Sup.R. 36 (App.B) provides as it relates to the assignment of cases to judges the following, in pertinent part:

* * *

(B)(1) **Individual assignment system.** As used in these rules, "individual assignment system" means the system in which, upon the filing in or transfer to the court or a division of the court, a case immediately is assigned by lot to a judge of a division, who becomes primarily responsible for the determination of every issue and proceeding in the case until its termination.

* * *

(2) ...Each multi-judge municipal or county court shall adopt the individual assignment system for the assignment of all cases to the judges of that court, except as otherwise provided in division (C) of this rule. ...

(C) **Assignment system.** In each multi-judge municipal or county court, cases may be assigned to an individual judge or to a particular session of court pursuant to the following system:

(1) **Particular session.** A particular session of court is one in which cases are assigned by subject category rather than by the individual assignment system. ...

(2) **Assignment.** Cases not subject to assignment in a particular session shall be assigned using the individual assignment system. Civil cases shall be assigned under division (C)(2) of this rule when an answer is filed or when a motion, other than one for default judgment, is filed. Criminal cases shall be assigned under division (C)(2) of this rule when a plea of not guilty is entered.

(3) **Duration of assignment to a particular session.** The administrative judge shall equally apportion particular session assignments among all judges. A judge shall not be assigned to a particular session of court for more than two consecutive weeks.

In this regard, Sup.R. 36 requires that the individual assignment system and the assignment system set forth in connection with Particular Sessions apply to all judges in a multi-judge municipal court.

Rule 36(C)(2) states that civil cases be assigned by lot to the judges of the municipal court upon the filing of the Answer and that criminal cases be assigned by lot upon a not guilty plea.

As it relates to Particular Sessions, pursuant to Sup.R. 36(C)(3), such Particular Sessions should be equally apportioned among all judges.

Administrative Order No. 2014-006 (Stokes' First Aff., Ex. D) directly contravenes these subsections of Sup.R. 36, thereby contravening the authority of the Ohio

Supreme Court to prescribe rules of procedure applicable to all the courts of the state under Article IV, Section 5(B) of the Ohio Constitution.

In other words, removing Judge Stokes from the individual assignment system for criminal matters and increasing her personal case load in respect to civil matters directly violates the individual assignment system prescribed under Sup.R. 36(B)(1). Likewise, unfairly and inequitably distributing her assignment to Particular Session One contravenes Sup.R. 36(C)(3).

As it relates to Crim.R. 25(B), (App. C) that rule provides that after verdict or a finding of guilt, a condition that would apply to those aspects of Judge Adrine's Orders related to probation matters (Stokes' First Aff., Ex. B) and the transfer of responsibility for status review of individuals sentenced to incarceration. (Stokes' First Aff., Ex. C) If a judge is unable to perform the duties of the court, then another judge may be designated by the administrative judge to perform such duties. Here, Judge Stokes is certainly capable of performing her duties as a judge of the Cleveland Municipal Court. (Stokes' First Aff., para. 10)

It also should be noted that insofar as Judge Adrine has purported to transfer all criminal cases from Judge Stokes' docket, she is now precluded from presiding over the specialized Project Hope docket, a docket established in connection with rehabilitation efforts directed at female prostitution offenders. The Project Hope docket is one of the subjects of the discipline complaint, and issues associated with it have not yet been adjudicated in the context of the discipline case.

Also, insofar as Judge Adrine transferred four cases on which the Presiding Judges of the Cuyahoga County Court of Common Pleas ruled should remain on Judge

Stokes' docket, having denied Affidavits of Disqualification, Judge Adrine should have followed those rulings as well and not transferred those cases from Judge Stokes' docket. Indeed, his transfer Orders in essence violate R.C. Section 2701.031 (App. F)

As it relates to these cases, Judge Fuerst denied Affidavits of Disqualification in connection with *Rowan Hayes, supra*, and *Robert W. Downing, supra*, finding that the record in those matters was devoid of any bias and prejudice. (Stokes Aff., para. 16, Exs. L and M) Both of these Affidavits of Disqualification were filed after the Notice of Intent to File the Certified Complaint against Judge Stokes had been served in July 2013 but before the Certified Complaint was filed in October 2013.

After the Certified Complaint was filed in October 2013, two additional Affidavits of Disqualification were filed after Judge Stokes denied Motions to Recuse. In those cases, *Frank Petrucci, supra* and *William Baeslack, supra*, then Presiding Judge John Russo of the Cuyahoga County Common Pleas Court again found that there was no basis to remove Judge Stokes, as the record was likewise devoid of any bias and prejudice in those matters. Judge Russo pointed out that the Motion of Attorney Hilow regarding the Certified Complaint, in and of itself, was not a sufficient basis for disqualification. (Stokes' First Aff., para. 16, Ex. K)

In addition, Judge Adrine's transfer of *Rita T. Boutros*, Case Nos. 2014 CRB 004735, 2014 TRC 011087, a case pending where the Court's Central Scheduling Department had set a pretrial before Judge Stokes for March 25, 2014, with a Motion to Recuse pending, violates Sup.R. 36 and Crim.R.25(B).

In respect to the *Boutros* matter, Judge Stokes was precluded from conducting the pretrial to hold a hearing regarding the Motion to Recuse which would have included

the City Prosecutor and defense counsel, assuring that the record is clear as to Judge Stokes' fair and impartial conduct in respect to that matter. (Stokes' First Aff., para. 19)

Finally, Judge Adrine's dictate in his Inter-Office Memorandum of March 14, 2014, requiring that Judge Stokes funnel all requests for criminal case files through his office, violates R.C. 1901.31(E) (App. E) which reposes in the Cleveland Municipal Court's Clerk of Courts the authority to provide access to case files, not Judge Adrine.

D. Respondent Has Been Caused Injury For Which No Other Adequate Remedy In the Ordinary Course of Law Exists.

Since the issuance of the Administrative Orders, Judge Stokes' case load was dramatically affected. Her Session One assignments were disproportionately provided to her as compared to the other judges of the Cleveland Municipal Court, she received no new criminal matters since such date, and her civil cases were disproportionately increased on her personal docket as compared to other judges. (Stokes' Second Aff., para. 1)

In spite of this total disruption of her personal docket and the duties assumed pursuant to her elected office, Judge Stokes worked diligently on the matters Judge Adrine did permit her to address. She performed 215 marriages, reviewed 2,796 civil cases, and signed 2,748 judgment entries arising from her Session One responsibilities alone. She has also diligently performed work upon the civil cases assigned to her personal docket. (Stokes' Second Aff., Exs. C – H) Likewise, the edict issued by Judge Adrine in the Inter-Office Correspondence, (Ex. J, Stip.) has required Judge Stokes to provide notice to Judge Adrine of every single criminal case she is accessing in order to engage in discovery in connection with her discipline case, educate herself and counsel concerning such matter and take steps to defend herself in the ultimate

hearing in connection with that matter. As a prime grievant who instituted the discipline matter presently pending before The Board, this scrutiny by Judge Adrine is unwarranted and an intrusion into her counsels' work product. (Stokes' Third Aff., para. 12)

Judge Stokes also asserts that the harm sustained by her is amenable to no other adequate remedy in the ordinary course of law. She makes this argument despite Judge Adrine's comment in his Affidavit that she has not sought, pursuant to Sup. R. 4.02, which provides an opportunity for judges in a multi-judge court to overturn an administrative order of the administrative judge in such court, a vote of the other judges of the court.

As it relates to the exhaustion of available administrative remedies argument, it is inaccurate to assert that Sup.R. 4.02 amounts to an administrative remedy.

Administrative remedies must meet certain criteria. At a minimum, for a remedy to be one which must be exhausted, the remedy must require notice, the opportunity for a hearing, and the opportunity to introduce evidence. See, *City of Englewood v. Turner*, 168 Ohio App.3d 41, 2006-Ohio-2667, 858 N.E.2d 431 (2d Dist.) citing *State ex rel. McArthur v. DeSouza*, 65 Ohio St.3d 25, 27, 1992-Ohio-18, 599 N.E.2d 268 (1992). Clearly, Sup.R. 4.02 fails to provide these fundamental constituents of an administrative remedy which would have to be exhausted before raising a legal challenge, such as seeking a writ of *prohibition*.

On the contrary, the cases previously cited by Respondent in his Motion to Dismiss involved procedures where such rights certainly exist. *State ex rel. Bailey v. Inds. Comm.*, 62 Ohio St.3d 191, 580 N.E.2d 1081 (1991) is a worker's compensation

claim where notice of hearing and the opportunity to present evidence existed; while *State ex rel. Schindel v. Rowe*, 25 Ohio St.2d 47, 266 N.E.2d 569 involved an application for a zoning variance procedure which likewise provided for notice, a hearing and the opportunity to present evidence.

Further, to repose in the majority of judges in the Cleveland Municipal Court the right to pass on Administrative Orders *only* directed at Judge Stokes, which Orders amount to an usurpation of her duties as a Cleveland Municipal Court judge in regard to civil, Particular Session One and criminal cases, not only would impermissibly alter her personal docket as a result of majority vote, but also would amount to the exercise of discipline within the exclusive constitutional province of the Ohio Supreme Court by majority vote.

Respondents also assert that because Sup.R. 4.01(A) provides the Administrative Judge the responsibility for the need to exercise control over the administration, docket and calendar of the court, and that such judge has the authority to assign cases to individual judges under Sup.R. 4.01(C), this somehow justifies the exercising of power evidenced by the Administrative Orders in this case directed at Judge Stokes and her docket. Not one of the cases cited by Respondents involves the wholesale transfer of a whole genre of cases for the purpose of discipline or while a disciplinary action is pending.

In *Schucker v. Metcalf*, 22 Ohio St.3d 33, 488 N.E.2d 210 (1986), Respondents only cite footnote 2. However, the facts of *Schucker* demonstrate its inapplicability to the instant matter. There, a court of common pleas judge of the general division, on his own, transferred a civil case to a probate judge. As a result of the filing of a writ of

prohibition, the court of appeals reversed this action of the non-presiding judge of the common pleas court. The holding did not turn on whether the transferee judge had jurisdiction over the matter which was transferred, but whether the transferor judge had the authority to make the transfer in the first instance.

Likewise, *Brickman & Sons, Inc. v. Nat'l City Bank*, 106 Ohio St.3d 30, 2005-Ohio-3559, 830 N.E.2d 1151 is inapposite. In *Brickman*, the Supreme Court reversed the court of appeals holding, voiding the reassignment of one matter from one common pleas judge to another and did not state the reason for the transfer in the journal entry. After analyzing the facts of that particular case, the Supreme Court held that it was not necessary for the administrative judge to state the reason for the transfer, since it appeared that judge shopping was not an issue.

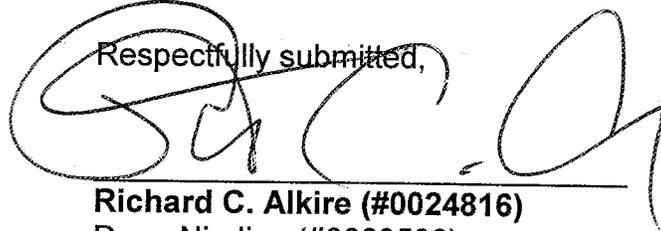
Thus, anticipating Respondent's argument previously raised in its Motion to Dismiss, no other adequate remedy at law exists apart from the instant writ of prohibition.

IV. CONCLUSION

Accordingly, for the foregoing reasons, and those previously expressed in Relator's Memorandum in Opposition to Respondent's Motion to Dismiss and in Relator's Memorandum in Support of Writs of Quo Warranto, Mandamus and Prohibition as they relate to the Writ of Prohibition, Relator respectfully requests that this Honorable Court issue a Writ of Prohibition thereby preventing the enforcement by Judge Adrine of the Administrative Orders, the Inter-Office Memoranda issued in connection therewith and his most recent Administrative Order (2014-017) staying the same, but yet inequitably assigning Judge Stokes to Particular Session One

Responsibilities and allegedly restoring her criminal and civil dockets. In sum, Relator requests that her personal docket be restored in all respects and that she be equitably restored to Particular Sessions assignments.

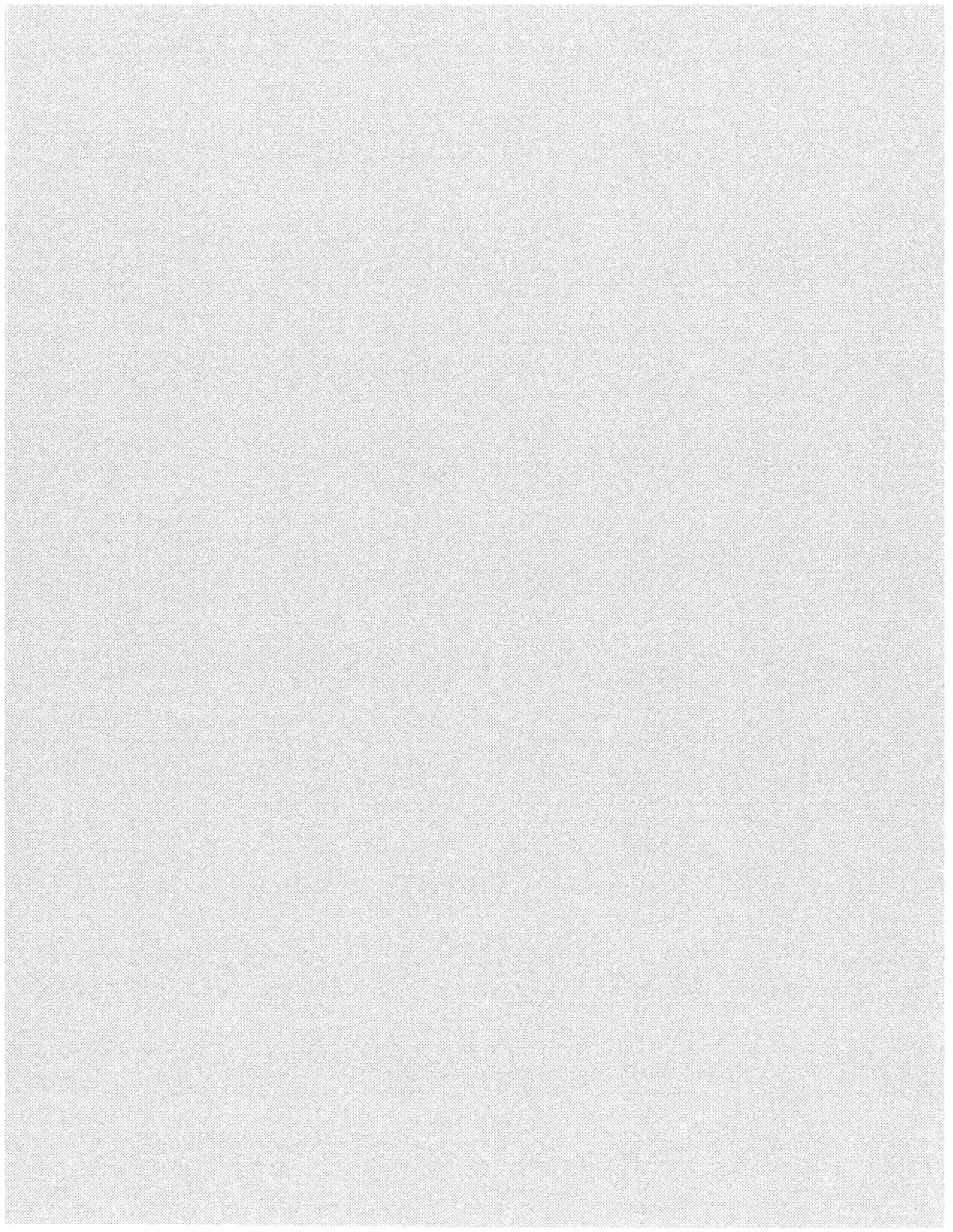
Respectfully submitted,



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The Honorable Angela R. Stokes**



Oh. Const. Art. IV, § 2

Current through Legislation passed by the 130th General Assembly and filed with the Secretary of State through File 140 (SB 143)

Ohio Constitution > *CONSTITUTION OF THE STATE OF OHIO* > *ARTICLE IV. JUDICIAL*

§ 2. The supreme court

- (A) The supreme court shall, until otherwise provided by law, consist of seven judges, who shall be known as the chief justice and justices. In case of the absence or disability of the chief justice, the judge having the period of longest total service upon the court shall be the acting chief justice. If any member of the court shall be unable, by reason of illness, disability or disqualification, to hear, consider and decide a cause or causes, the chief justice or the acting chief justice may direct any judge of any court of appeals to sit with the judges of the supreme court in the place and stead of the absent judge. A majority of the supreme court shall be necessary to constitute a quorum or to render a judgment.
- (B) (1) The supreme court shall have original jurisdiction in the following:
- (a) Quo warranto;
 - (b) Mandamus;
 - (c) Habeas corpus;
 - (d) Prohibition;
 - (e) Procedendo;
 - (f) In any cause on review as may be necessary to its complete determination;
 - (g) Admission to the practice of law, the discipline of persons so admitted, and all other matters relating to the practice of law.
- (2) The supreme court shall have appellate jurisdiction as follows:
- (a) In appeals from the courts of appeals as a matter of right in the following:
 - (i) Cases originating in the courts of appeals;
 - (ii) Cases involving questions arising under the constitution of the United States or of this state.
 - (b) In appeals from the courts of appeals in cases of felony on leave first obtained,
 - (c) In direct appeals from the courts of common pleas or other courts of record inferior to the court of appeals as a matter of right in cases in which the death penalty has been imposed;
 - (d) Such revisory jurisdiction of the proceedings of administrative officers or agencies as may be conferred by law;
 - (e) In cases of public or great general interest, the supreme court may direct any court of appeals to certify its record to the supreme court, and may review and affirm, modify, or reverse the judgment of the court of appeals;
 - (f) The supreme court shall review and affirm, modify, or reverse the judgment in any case certified by any court of appeals pursuant to section 3(B) (4) of this

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article.

(3) No law shall be passed or rule made whereby any person shall be prevented from invoking the original jurisdiction of the supreme court.

(C) The decisions in all cases in the supreme court shall be reported, together with the reasons therefor.

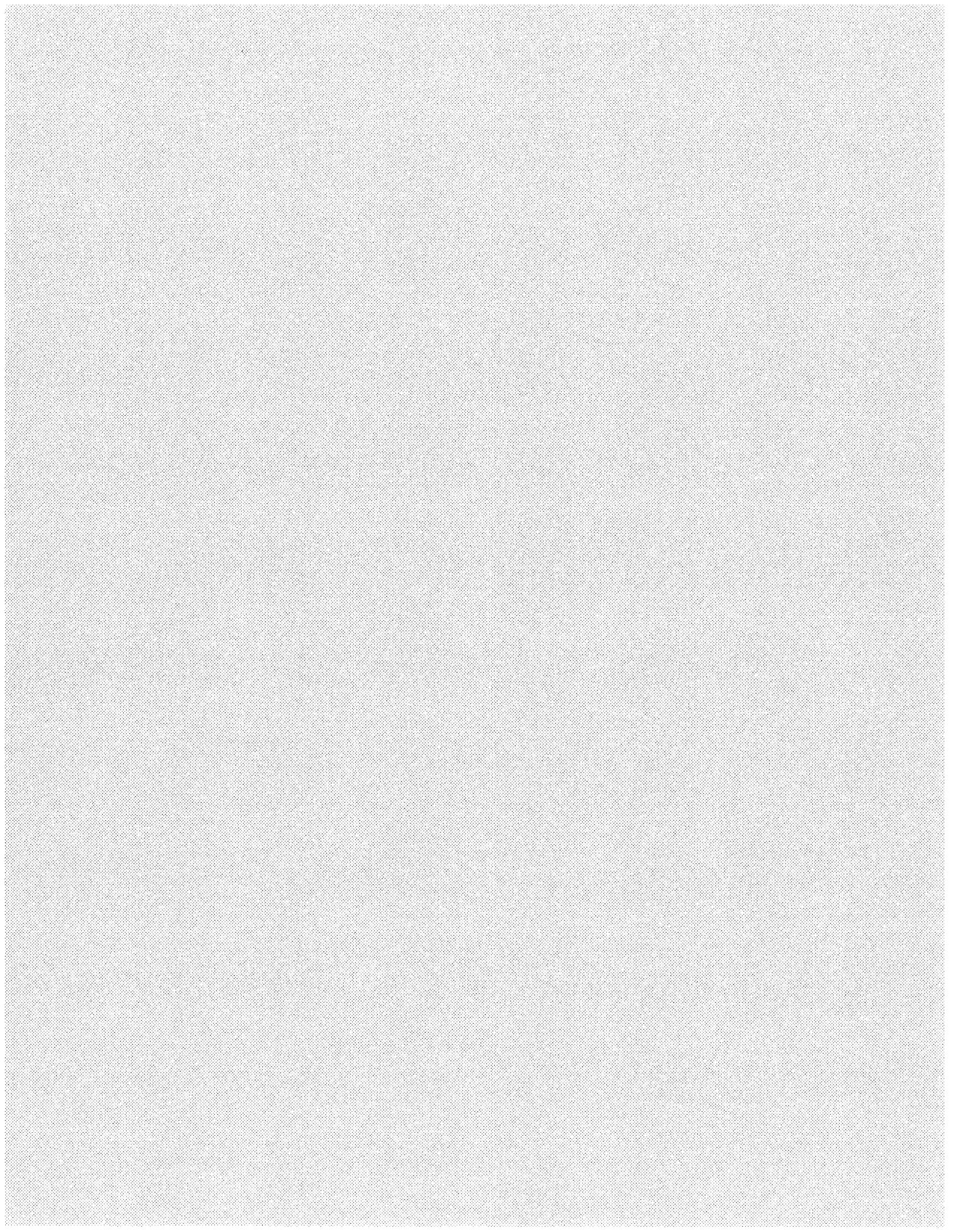
History

(Amended November 8, 1994)

Annotations

Case Notes

ABSENCE OF JUDGES OF SUPREME COURT.
ABUSE OF THE COURT SYSTEM.
AFFIRMANCE.
APPELLATE JURISDICTION.
AUTHORITY OF CLERK OF SUPREME COURT.
AUTHORITY OF GENERAL ASSEMBLY.
CERTIFICATION OF LEGAL QUESTIONS TO SUPREME COURT.
CONTEMPT PROCEEDINGS.
DEATH PENALTY CASES.
DECLARATION OF A PRINCIPLE OF LAW.
DISCRETIONARY POWER OF COURT OF APPEALS.
DISCRETIONARY REVIEW OF NONCONSTITUTIONAL MATTERS.
HABEAS CORPUS PROCEDURE.
JUDGMENT OF SUPREME COURT.
JUDICIAL MISCONDUCT.
JURISDICTION OF COURT OF APPEALS.
JURISDICTION OF SUPREME COURT.
JURISDICTION OF TRIAL COURT.
--CONTEMPT ORDER.
MANDAMUS.
MOOTNESS.
NUNC PRO TUNC ENTRY.
ORDERS SUBJECT TO REVISIONARY JURISDICTION.
ORIGINAL JURISDICTION GENERALLY.
PERSONAL OPINION OF INDIVIDUAL JUDGE.
PRACTICE OF LAW.
--WRIT OF PROHIBITION.
PROHIBITION.
--DUTY TO PROSECUTE PURSUANT TO INDICTMENT.
--ENFORCEMENT OF ORDER OF INDUSTRIAL COMMISSION.
--GOVERNOR'S DISCRETIONARY POWER.



RULE 36. Designation of Trial Attorney; Assignment System.

(A) **Designation of trial attorney.** In civil cases the attorney who is to try the case shall be designated as trial attorney on all pleadings. In criminal cases, except felonies, the attorney who is to try the case, upon being retained or appointed, shall notify the court that he or she is the trial attorney by filing a written statement with the clerk of the court.

(B)(1) **Individual assignment system.** As used in these rules, "individual assignment system" means the system in which, upon the filing in or transfer to the court or a division of the court, a case immediately is assigned by lot to a judge of the division, who becomes primarily responsible for the determination of every issue and proceeding in the case until its termination. All preliminary matters, including requests for continuances, shall be submitted for disposition to the judge to whom the case has been assigned or, if the assigned judge is unavailable, to the administrative judge. The individual assignment system ensures all of the following:

- (a) Judicial accountability for the processing of individual cases;
- (b) Timely processing of cases through prompt judicial control over cases and the pace of litigation;
- (c) Random assignment of cases to judges of the division through an objective and impartial system that ensures the equitable distribution of cases between or among the judges of the division.

(2) Each multi-judge general, domestic relations, and juvenile division of the court of common pleas shall adopt the individual assignment system for the assignment of all cases to judges of the division. Each multi-judge municipal or county court shall adopt the individual assignment system for the assignment of all cases to the judges of that court, except as otherwise provided in division (C) of this rule. Modifications to the individual assignment system may be adopted to provide for the redistribution of cases involving the same criminal defendant, parties, family members, or subject-matter. Any modifications shall satisfy divisions (B)(1)(a) to (c) of this rule and be adopted by local rule of court.

(C) **Assignment system.** In each multi-judge municipal or county court, cases may be assigned to an individual judge or to a particular session of court pursuant to the following system:

(1) **Particular session.** A particular session of court is one in which cases are assigned by subject category rather than by the individual assignment system. The following subject categories shall be disposed of by particular session:

- (a) Civil cases in which a motion for default judgment is made;
- (b) Criminal cases in which a plea of guilty or no contest is entered;
- (c) Initial appearance in criminal cases;

- (d) Preliminary hearings in criminal cases;
- (e) Criminal cases in which an immediate trial is conducted upon initial appearance;
- (f) Small claims cases;
- (g) Forcible entry and detainer cases in which the right to trial by jury is waived or not demanded.
- (h) Cases where a party has made application to, or has been accepted into, a specialized court or docket.

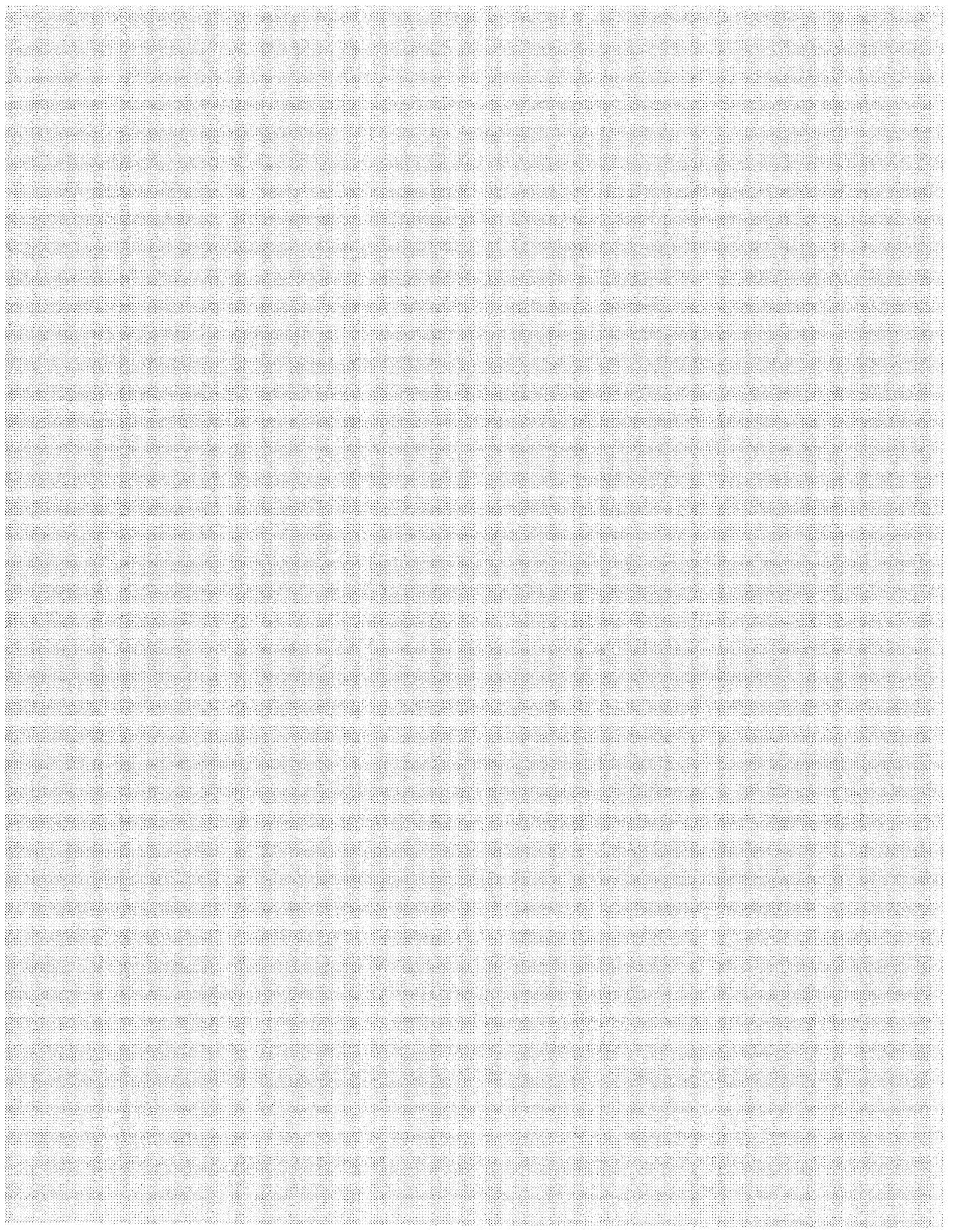
To guarantee a fair and equal distribution of cases, a judge who is assigned a case by subject matter pursuant to Sup. R. 36(B)(2), or by virtue of a specialized court or docket pursuant to Sup. R. 36(C)(1)(h), may request the administrative judge to reassign a similar case by lot to another judge in that multi-judge common pleas, municipal, or county court.

(2) **Assignment.** Cases not subject to assignment in a particular session shall be assigned using the individual assignment system. Civil cases shall be assigned under division (C)(2) of this rule when an answer is filed or when a motion, other than one for default judgment, is filed. Criminal cases shall be assigned under division (C)(2) of this rule when a plea of not guilty is entered.

(3) **Duration of assignment to particular session.** The administrative judge shall equally apportion particular session assignments among all judges. A judge shall not be assigned to a particular session of court for more than two consecutive weeks.

(D) **Assignment of refiled cases.** In any instance where a previously filed and dismissed case is refiled, that case shall be reassigned to the judge originally assigned by lot to hear it unless, for good cause shown, that judge is precluded from hearing the case.

(E) **Assignment--new judicial positions.** After the date of election, but prior to the first day of the term of a new judicial position, the administrative judge of a court or division through a random selection of pending cases shall equitably reassign cases pending in the court or division between or among the judges of the court or division and shall create a docket similar to a representative docket. Reassignment shall be completed in a manner consistent with this rule and may exclude criminal cases and cases scheduled for trial. Any matters arising in cases assigned to the docket for the new judicial position prior to the date on which the judge elected to that position takes office shall be resolved by the administrative judge or assigned to another judge.

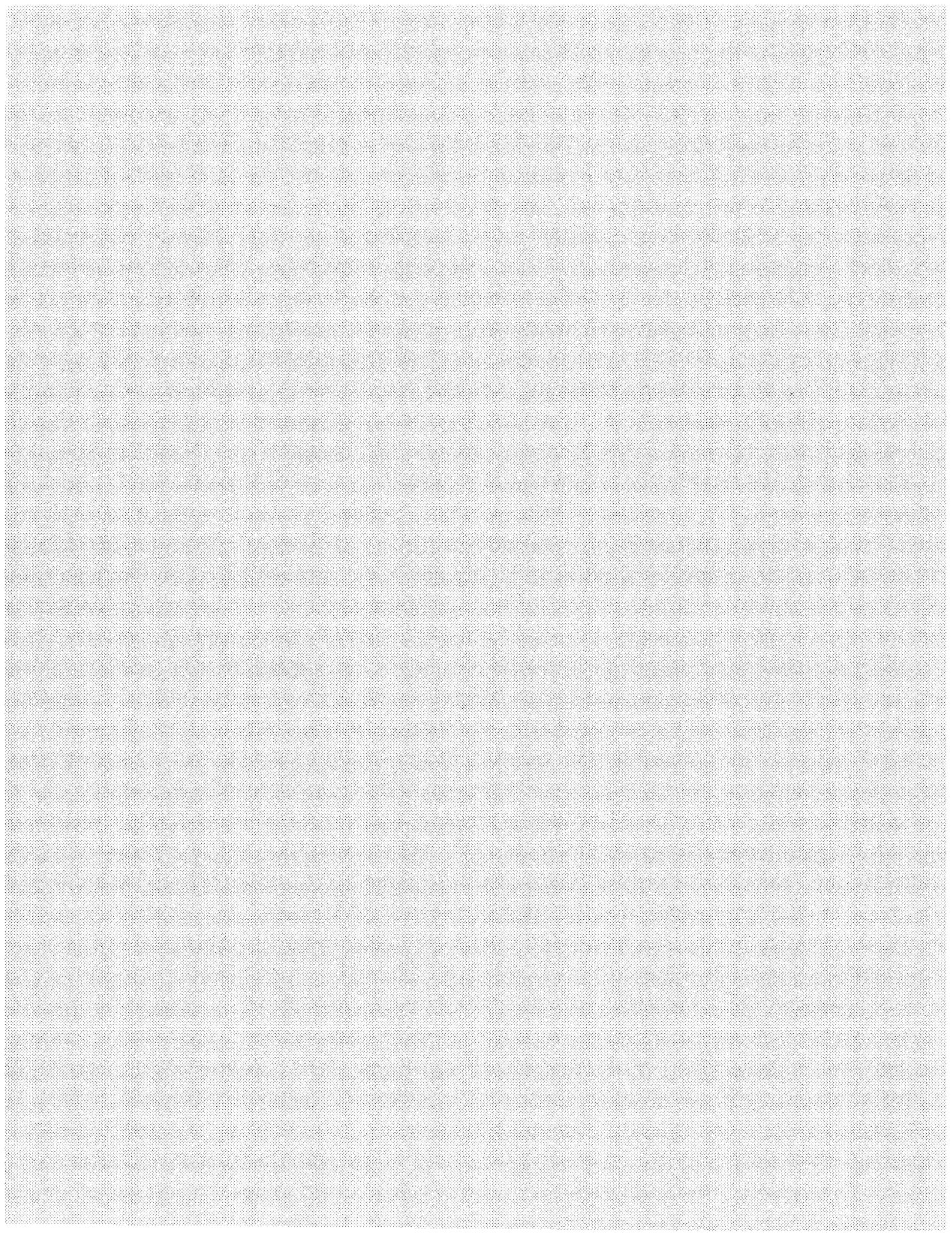


RULE 25. Disability of a Judge

(A) **During trial.** If for any reason the judge before whom a jury trial has commenced is unable to proceed with the trial, another judge designated by the administrative judge, or, in the case of a single-judge division, by the Chief Justice of the Supreme Court of Ohio, may proceed with and finish the trial, upon certifying in the record that he has familiarized himself with the record of the trial. If such other judge is satisfied that he cannot adequately familiarize himself with the record, he may in his discretion grant a new trial.

(B) **After verdict or finding of guilt.** If for any reason the judge before whom the defendant has been tried is unable to perform the duties of the court after a verdict or finding of guilt, another judge designated by the administrative judge, or, in the case of a single-judge division, by the Chief Justice of the Supreme Court of Ohio, may perform those duties. If such other judge is satisfied that he cannot perform those duties because he did not preside at the trial, he may in his discretion grant a new trial.

[Effective: July 1, 1973.]



Oh. Const. Art. IV, § 5

Current through Legislation passed by the 130th General Assembly and filed with the Secretary of State through File 140 (SB 143)

Ohio Constitution > CONSTITUTION OF THE STATE OF OHIO > ARTICLE IV. JUDICIAL

§ 5. Additional powers of supreme court; supervision; rule making

(A)

- (1) In addition to all other powers vested by this article in the supreme court, the supreme court shall have general superintendence over all courts in the state. Such general superintending power shall be exercised by the chief justice in accordance with rules promulgated by the supreme court.
- (2) The supreme court shall appoint an administrative director who shall assist the chief justice and who shall serve at the pleasure of the court. The compensation and duties of the administrative director shall be determined by the court.
- (3) The chief justice or acting chief justice, as necessity arises, shall assign any judge of a court of common pleas or a division thereof temporarily to sit or hold court on any other court of common pleas or division thereof or any court of appeals or shall assign any judge of a court of appeals temporarily to sit or hold court on any other court of appeals or any court of common pleas or division thereof and upon such assignment said judge shall serve in such assigned capacity until the termination of the assignment. Rules may be adopted to provide for the temporary assignment of judges to sit and hold court in any court established by law.

(B) The supreme court shall prescribe rules governing practice and procedure in all courts of the state, which rules shall not abridge, enlarge, or modify any substantive right. Proposed rules shall be filed by the court, not later than the fifteenth day of January, with the clerk of each house of the general assembly during a regular session thereof, and amendments to any such proposed rules may be so filed not later than the first day of May in that session. Such rules shall take effect on the following first day of July, unless prior to such day the general assembly adopts a concurrent resolution of disapproval. All laws in conflict with such rules shall be of no further force or effect after such rules have taken effect.

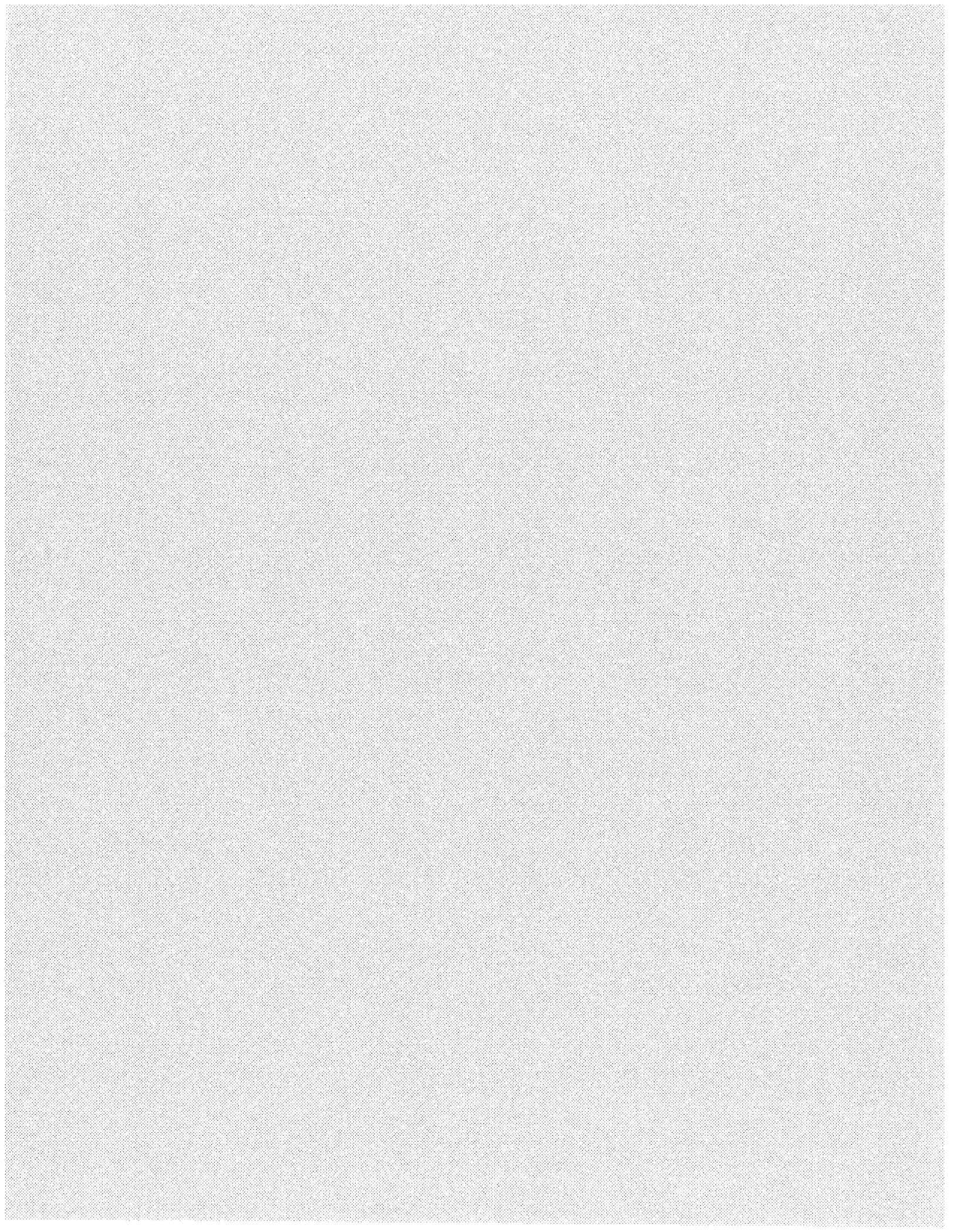
Courts may adopt additional rules concerning local practice in their respective courts which are not inconsistent with the rules promulgated by the supreme court. The supreme court may make rules to require uniform record keeping for all courts of the state, and shall make rules governing the admission to the practice of law and discipline of persons so admitted.

(C) The chief justice of the supreme court or any judge of that court designated by him shall pass upon the disqualification of any judge of the courts of appeals or courts of common pleas or division thereof. Rules may be adopted to provide for the hearing of disqualification matters involving judges of courts established by law.

History

(Amended, effective Nov. 6, 1973; SJR No.30. Adopted May 7, 1968.)

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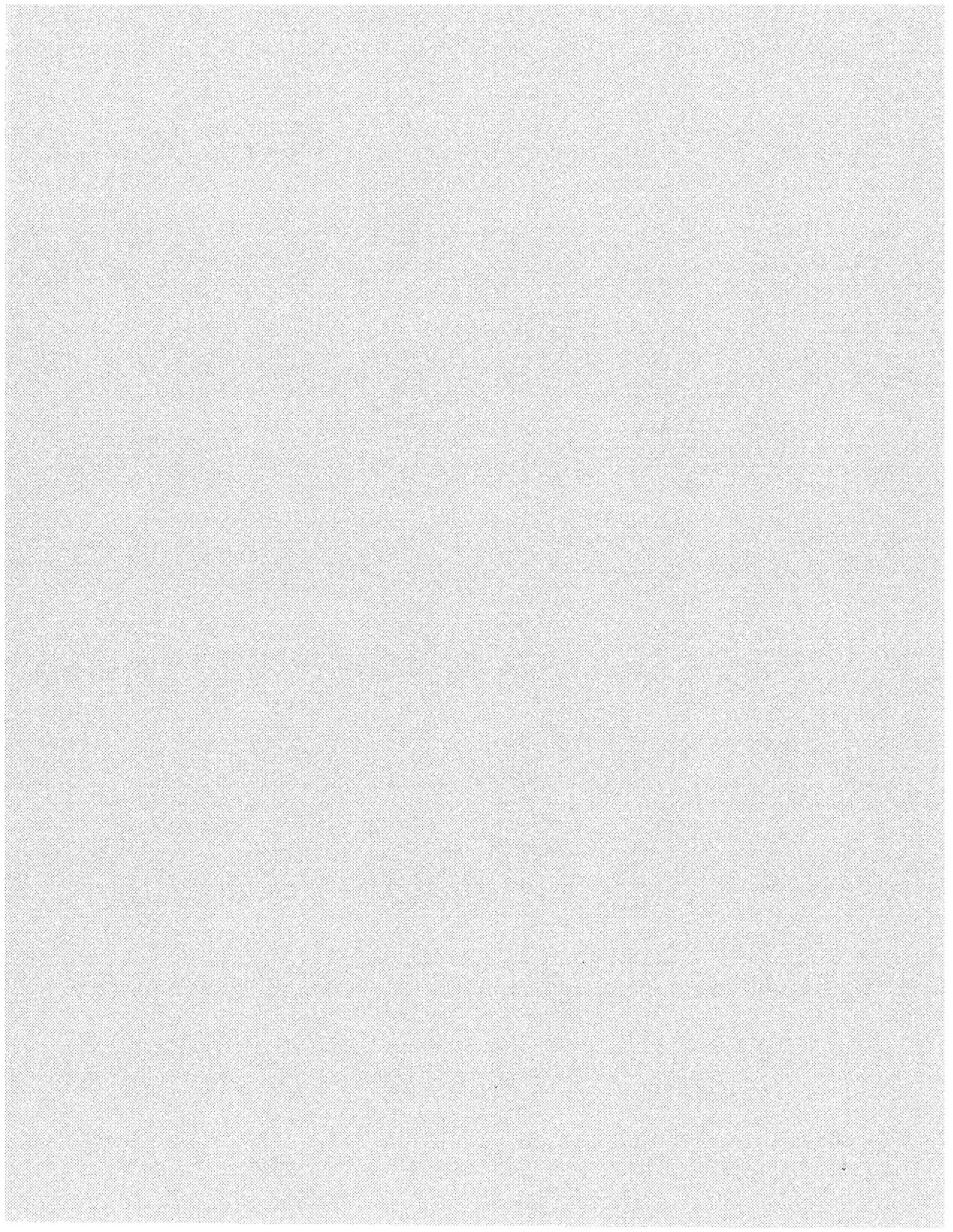


1901.31 Clerk of court.

The clerk and deputy clerks of a municipal court shall be selected, be compensated, give bond, and have powers and duties as follows:

(E) The clerk of a municipal court may do all of the following: administer oaths, take affidavits, and issue executions upon any judgment rendered in the court, including a judgment for unpaid costs; issue, sign, and attach the seal of the court to all writs, process, subpoenas, and papers issuing out of the court; and approve all bonds, sureties, recognizances, and undertakings fixed by any judge of the court or by law. The clerk may refuse to accept for filing any pleading or paper submitted for filing by a person who has been found to be a vexatious litigator under section 2323.52 of the Revised Code and who has failed to obtain leave to proceed under that section. The clerk shall do all of the following: file and safely keep all journals, records, books, and papers belonging or appertaining to the court; record the proceedings of the court; perform all other duties that the judges of the court may prescribe; and keep a book showing all receipts and disbursements, which book shall be open for public inspection at all times.

The clerk shall prepare and maintain a general index, a docket, and other records that the court, by rule, requires, all of which shall be the public records of the court. In the docket, the clerk shall enter, at the time of the commencement of an action, the names of the parties in full, the names of the counsel, and the nature of the proceedings. Under proper dates, the clerk shall note the filing of the complaint, issuing of summons or other process, returns, and any subsequent pleadings. The clerk also shall enter all reports, verdicts, orders, judgments, and proceedings of the court, clearly specifying the relief granted or orders made in each action. The court may order an extended record of any of the above to be made and entered, under the proper action heading, upon the docket at the request of any party to the case, the expense of which record may be taxed as costs in the case or may be required to be prepaid by the party demanding the record, upon order of the court.



2701.031 Disqualification of municipal or county court judge - affidavit.

(A) If a judge of a municipal or county court allegedly is interested in a proceeding pending before the judge, allegedly is related to or has a bias or prejudice for or against a party to a proceeding pending before the judge or to a party's counsel, or allegedly otherwise is disqualified to preside in a proceeding pending before the judge, any party to the proceeding or the party's counsel may file an affidavit of disqualification with the clerk of the court in which the proceeding is pending.

(B) An affidavit of disqualification shall be filed under this section with the clerk of the court in which the proceeding is pending not less than seven calendar days before the day on which the next hearing in the proceeding is scheduled and shall include all of the following:

- (1) The specific allegations on which the claim of interest, bias, prejudice, or disqualification is based and the facts to support each of those allegations;
- (2) The jurat of a notary public or another person authorized to administer oaths or affirmations;
- (3) A certificate indicating that a copy of the affidavit has been served on the judge of the municipal or county court against whom the affidavit is filed and on all other parties or their counsel;
- (4) The date of the next scheduled hearing in the proceeding or, if there is no hearing scheduled, a statement that there is no hearing scheduled.

(C)

(1) Except as provided in division (C)(2) of this section, when an affidavit of disqualification is presented to the clerk of a municipal or county court for filing under division (B) of this section, the clerk shall enter the fact of the filing on the docket in that proceeding and shall provide notice of the filing of the affidavit to one of the following:

- (a) The presiding judge of the court of common pleas of the county;
- (b) If there is no presiding judge of the court of common pleas of the county, a judge of the court of common pleas of the county.

(2) The clerk of the municipal or county court in which a proceeding is pending shall not accept an affidavit of disqualification presented for filing under division (B) of this section if it is not timely presented for filing or does not satisfy the requirements of divisions (B)(2), (3), and (4) of this section.

(D)

(1) Except as provided in divisions (D)(2) to (4) of this section, if the clerk of the municipal or county court in which a proceeding is pending accepts an affidavit of disqualification for filing under divisions (B) and (C) of this section, the affidavit deprives the judge of a municipal or

county court against whom the affidavit was filed of any authority to preside in the proceeding until the judge who was notified pursuant to division (C)(1) of this section rules on the affidavit pursuant to division (E) of this section.

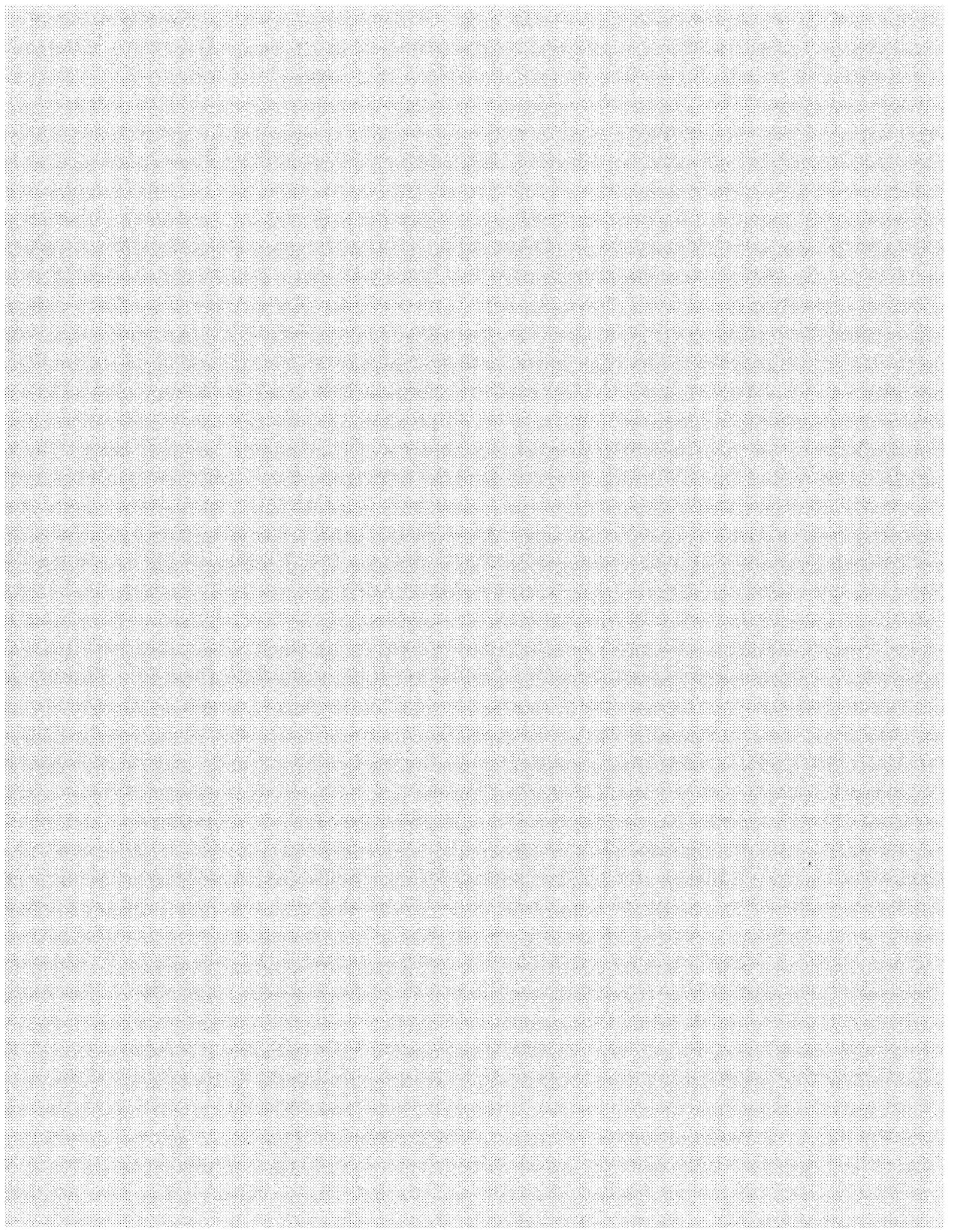
(2) A judge of a municipal or county court against whom an affidavit of disqualification has been filed under divisions (B) and (C) of this section may preside in the proceeding if, based on the scheduled hearing date, the affidavit was not timely filed.

(3) A judge of a municipal or county court against whom an affidavit of disqualification has been filed under divisions (B) and (C) of this section may determine a matter that does not affect a substantive right of any of the parties.

(4) If the clerk of a municipal or county court accepts an affidavit of disqualification for filing under divisions (B) and (C) of this section, if the judge who is notified pursuant to division (C)(1) of this section of the filing of the affidavit of disqualification denies the affidavit pursuant to division (E) of this section, and if, after the denial, a second or subsequent affidavit of disqualification regarding the same judge and the same proceeding is filed by the same party who filed or on whose behalf was filed the affidavit that was denied or by counsel for the same party who filed or on whose behalf was filed the affidavit that was denied, the judge of a municipal or county court against whom the second or subsequent affidavit is filed may preside in the proceeding prior to the ruling, by the judge who is notified pursuant to division (C)(1) of this section, on the second or subsequent affidavit pursuant to division (E) of this section.

(E) If the clerk of a municipal or county court accepts an affidavit of disqualification for filing under division (B) and (C) of this section and if the judge who is notified pursuant to division (C)(1) of this section of the filing of the affidavit determines that the interest, bias, prejudice, or disqualification alleged in the affidavit does not exist, the judge who is so notified shall issue an entry denying the affidavit of disqualification. If the judge who is notified pursuant to division (C)(1) of this section of the filing of the affidavit determines that the interest, bias, prejudice, or disqualification alleged in the affidavit exists, the judge who is so notified shall issue an entry that disqualifies the judge against whom the affidavit was filed from presiding in the proceeding and designate another judge of the municipal or county court, or of the court of common pleas, to preside in the proceeding in place of the disqualified judge.

Effective Date: 11-20-1996



Section 5a. Interim Remedial Suspension.

(A)(1) Motion; Response. Upon receipt of substantial, credible evidence demonstrating that a Justice, judge, or attorney has committed a violation of the Code of Judicial Conduct or Ohio Rules of Professional Conduct and poses a substantial threat of serious harm to the public, the Disciplinary Counsel or appropriate Certified Grievance Committee, which shall be referred to as the relator, shall do both of the following:

(a) Prior to filing a motion for an interim remedial suspension, make a reasonable attempt to provide the Justice, judge, or attorney, who shall be referred to as the respondent, with notice, which may include notice by telephone, that a motion requesting an order for an interim remedial suspension will be filed with the Supreme Court.

(b) File a motion with the Supreme Court requesting that the Court order an interim remedial suspension. The Disciplinary Counsel or appropriate Certified Grievance Committee shall include, in its motion, proposed findings of fact, proposed conclusions of law, and other information in support of the requested order. Evidence relevant to the requested order shall be attached to or filed with the motion. The motion may include a request for an immediate, interim remedial suspension pursuant to Rule XIV, Section 4(C) of the Rules of Practice of the Supreme Court of Ohio. The motion shall include a certificate detailing the attempts made by the relator to provide advance notice to the respondent of the relator's intent to file the motion. The motion also shall include a certificate of service on the respondent at the most recent address provided by the respondent to the attorney registration office and at the last address of the respondent known to the relator, if different.

(2) After the filing of a motion for an interim remedial suspension, the respondent may file a memorandum opposing the motion in accordance with Rule XIV, Section 4 of the Rules of Practice of the Supreme Court of Ohio. The respondent shall attach to or file with the memorandum any rebuttal evidence.

(B) Order. Upon consideration of the motion and any memorandum opposing the motion, the Supreme Court may enter an interim remedial order immediately suspending the respondent, pending final disposition of disciplinary proceedings predicated on the conduct threatening the serious harm or may order other action as the Court considers appropriate. If requested by the relator, the Supreme Court may order an immediate interim remedial suspension, prior to receipt of a memorandum opposing the relator's motion, pursuant to Rule XIV, Section 4(C) of the Rules of Practice of the Supreme Court of Ohio. If an order is entered pursuant to this division, an attorney may be appointed pursuant to Section 8(F) of this rule to protect the interest of the suspended attorney's clients.

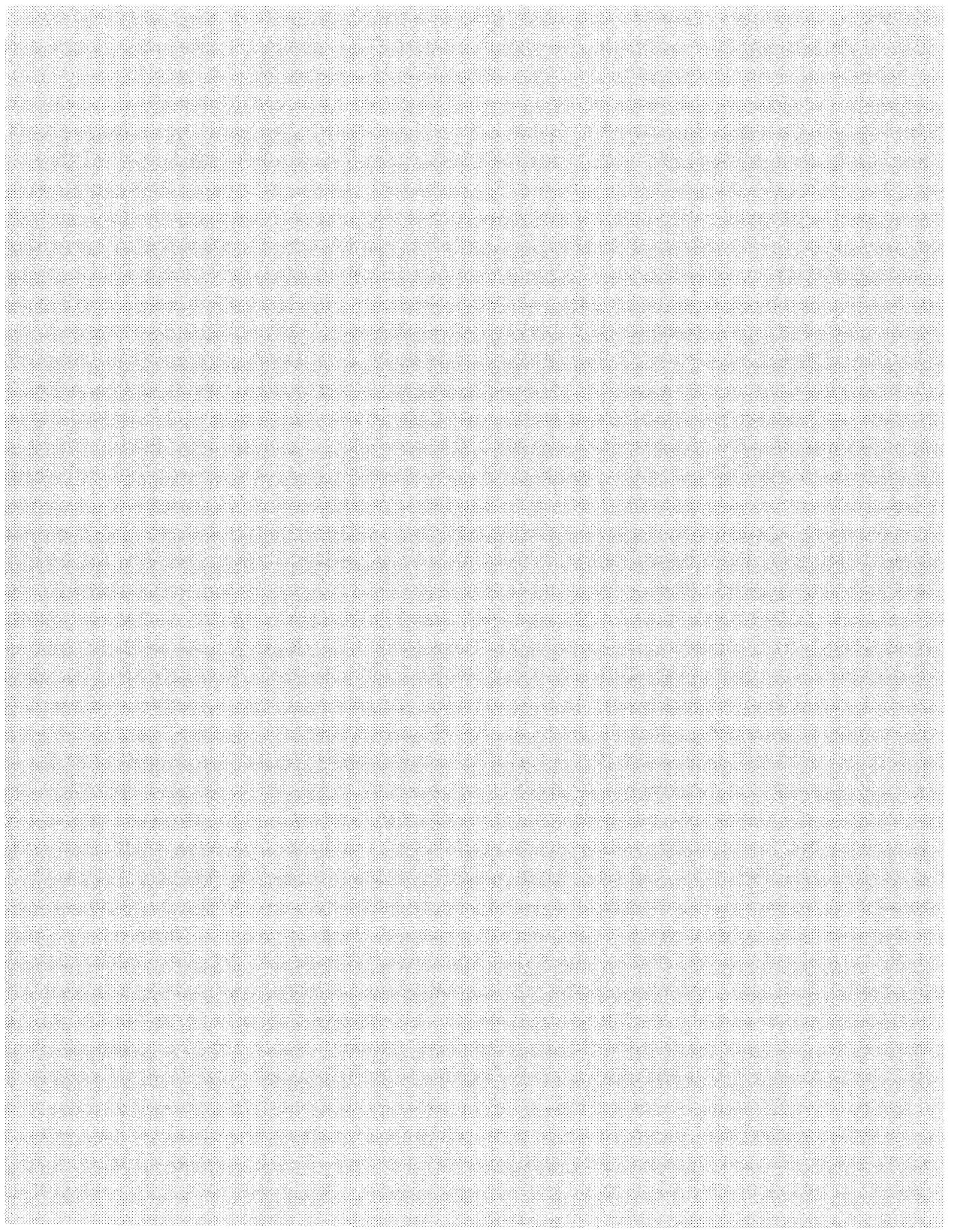
(C)(1) Motion for Dissolution or Modification of the Suspension. The respondent may request dissolution or modification of the order of suspension by filing a motion with the Supreme Court. The motion shall be filed within thirty days of entry of the order imposing the suspension, unless the respondent first obtains leave of the Supreme Court to file a motion beyond that time. The motion shall include a statement and all available evidence as to why the respondent no longer poses a substantial threat of serious harm to the public. A copy of the motion shall be served by the respondent on the relator. The relator shall have ten days from the date the motion is filed to file a response to the motion. The Supreme Court promptly shall

review the motion after a response has been filed or after the time for filing a response has passed.

(2) In addition to the motion allowed by division (C)(1) of this section, the respondent may file a motion requesting dissolution of the interim remedial suspension order, alleging that one hundred eighty days have elapsed since the entry of the order and the relator has failed to file with the Board a formal complaint predicated on the conduct that was the basis of the order. A copy of the motion shall be served by the respondent on the relator. The relator shall have ten days from the date the motion is filed to file a response to the motion. The Supreme Court promptly shall review the motion after a response has been filed or after the time for filing a response has passed.

(D) Procedure. The Rules of Practice of the Supreme Court of Ohio shall apply to interim remedial suspension proceedings filed pursuant to this section.

(E) Duty of Clerk on Entering Order. Upon the entry of an order suspending or reinstating the respondent pursuant to this section, the Clerk of the Supreme Court shall mail certified copies of the order as provided in Section 8(D)(1) of this rule.



RULE 6. Time

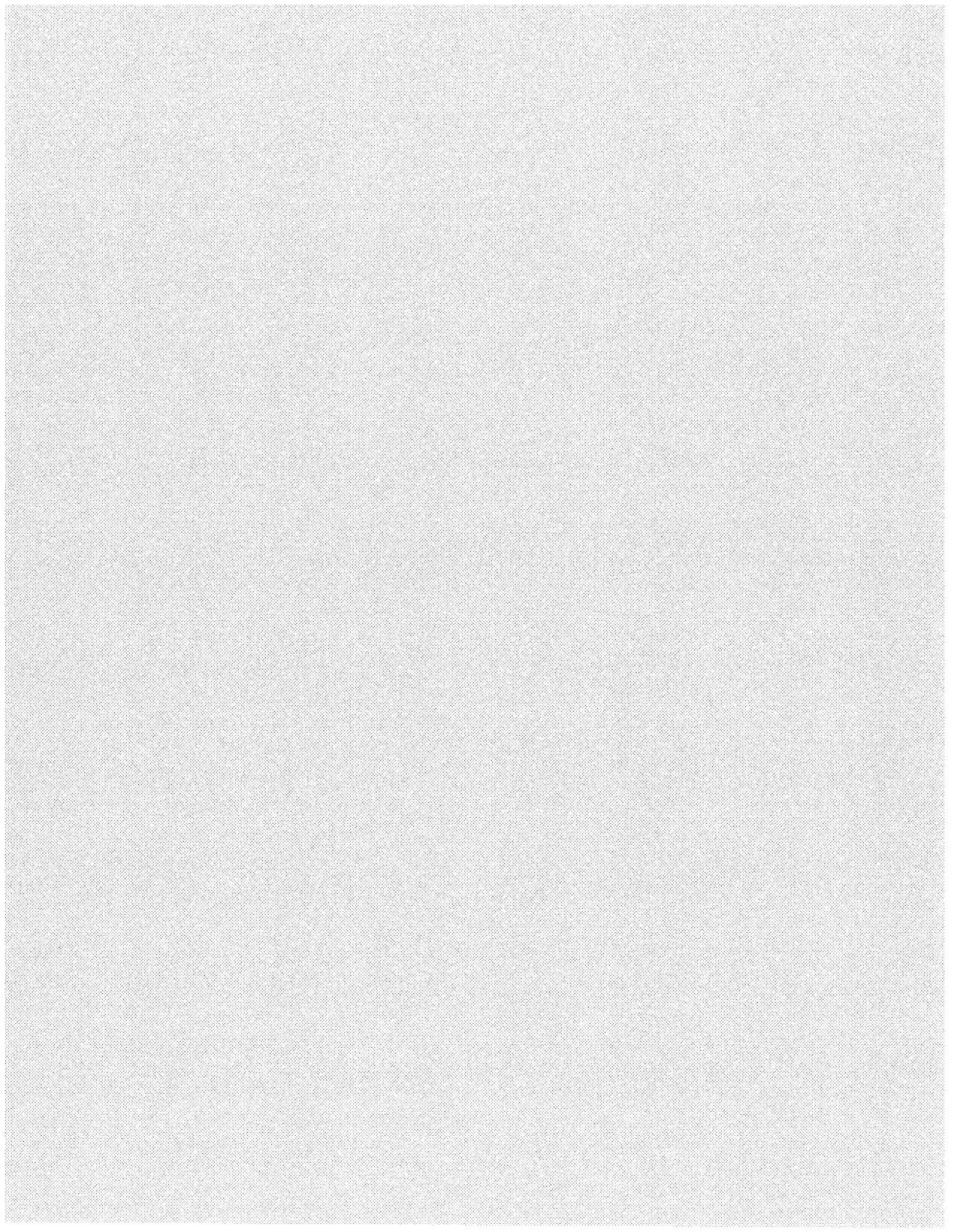
(A) **Time: computation.** In computing any period of time prescribed or allowed by these rules, by the local rules of any court, by order of court, or by any applicable statute, the day of the act, event, or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday, or a legal holiday, in which event the period runs until the end of the next day which is not a Saturday, a Sunday, or a legal holiday. When the period of time prescribed or allowed is less than seven days, intermediate Saturdays, Sundays, and legal holidays shall be excluded in the computation. When a public office in which an act, required by law, rule, or order of court, is to be performed is closed to the public for the entire day which constitutes the last day for doing such an act, or before its usual closing time on such day, then such act may be performed on the next succeeding day which is not a Saturday, a Sunday, or a legal holiday.

(B) **Time: extension.** When by these rules or by a notice given thereunder or by order of court an act is required or allowed to be done at or within a specified time, the court for cause shown may at any time in its discretion (1) with or without motion or notice order the period enlarged if request therefor is made before the expiration of the period originally prescribed or as extended by a previous order, or (2) upon motion made after the expiration of the specified period permit the act to be done where the failure to act was the result of excusable neglect; but it may not extend the time for taking any action under Civ.R. 50(B), Civ.R. 59(B), Civ.R. 59(D), and Civ.R. 60(B), except to the extent and under the conditions stated in them.

(C) **Time: motions.** A written motion, other than one which may be heard ex parte, and notice of the hearing thereof shall be served not later than seven days before the time fixed for the hearing, unless a different period is fixed by these rules or by order of the court. Such an order may for cause shown be made on ex parte application. When a motion is supported by affidavit, the affidavit shall be served with the motion; and, except as otherwise provided in Civ.R. 59(C), opposing affidavits may be served not later than one day before the hearing, unless the court permits them to be served at some other time.

(D) **Time: additional time after service by mail or commercial carrier service.** Whenever a party has the right or is required to do some act or take some proceedings within a prescribed period after the service of a notice or other document upon that party and the notice or paper is served upon that party by mail or commercial carrier service under Civ.R. 5(B)(2)(c) or (d), three days shall be added to the prescribed period. This division does not apply to responses to service of summons under Civ.R. 4 through Civ.R. 4.6.

[Effective: July 1, 1970; amended effective July 1, 1978; July 1, 2012.]



IN THE SUPREME COURT OF OHIO

State ex rel., THE HONORABLE ANGELA R. STOKES, : **CASE NO: 14-0467**
: :
: :
Relator, : **Original Action**
: **In Prohibition**
: :
v. : **Third Affidavit of Judge**
: **Angela R. Stokes**
THE HONORABLE RONALD B. ADRINE, : :
: :
Respondent. : :

STATE OF OHIO :
: **SS:**
COUNTY OF CUYAHOGA :

Affiant, having personal knowledge of the following, competent to testify thereto, deposes and says that:

1. In order to respond, briefly, to certain allegations made by Judge Adrine in his Affidavit filed as evidence in this Original Action in Prohibition, I am constrained to address here on a number of the paragraphs of his Affidavit which I did not have at the time I was required to file evidence in connection with this Original Action.

2. As it relates to paragraph 3 of the Adrine Affidavit, he discusses a variety of circumstances which are the subject of the disciplinary complaint brought against me. At this time, these are only allegations which I have formally denied in my Answer and Amended Answer. These are the very topics which are to be the subject of a hearing

on the merits before the Board of Commissioners on Grievances and Discipline of the Ohio Supreme Court. (hereinafter "The Board")

3. As it relates to paragraph 4 of the Adrine Affidavit, again Judge Adrine makes comments concerning my alleged courtroom conduct which is the subject of the matter which will be heard, in the future, by The Board.

4. As it relates to paragraph 5, Judge Adrine makes allegations, some of which have not been brought to my attention, to my recollection. He does mention the timeframe of "middle of 2011." It was in May, 2011, perhaps not so coincidentally, that I contacted then Deputy Chief Bailiff Gregory Sims, asking him to investigate a personnel matter involving Judge Adrine, when a court employee, Diane Richardson, e-mailed an invitation to Judge Adrine's campaign fundraiser to all judges of the court and to all judges in the Northern Ohio Municipal Judges' Association using the Court's e-mail servers. I asked Bailiff Sims to have this matter investigated in accordance with the Court's Ethics Policy. As a result, Ms. Richardson and one other employee – Judge Adrine's personal administrative assistant, Coleen Radeff – received an unpaid suspension from work. Apparently this action on my part did not improve my relationship with Judge Adrine.

5. As it relates to paragraph 7, Judge Adrine attached the Amended Complaint and Certificate which has been filed. Of course, I have provided my Answer to that Complaint, which denies the additional allegations making them ripe for a hearing before The Board.

6. As it relates to paragraph 8 of the Adrine Affidavit, while Judge Adrine makes comments about allegedly receiving reports, it was only as a result of my

counsel's efforts in making a public records request to receive the alleged reports cited by Judge Adrine in his Administrative Orders issued on March 14, 2014, that I ever saw such reports. To the extent that any of them have any relevance whatsoever, I, heretofore have not had a timely opportunity to address these alleged reports as they arose. At this time, I am unaware by what is meant by Judge Adrine's nomenclature of "informal" versus "formal" complaints, as I had not been given either as they allegedly arose.

7. As it relates to paragraph 10 of the Adrine Affidavit, upon Judge Adrine's reassignment of my criminal cases to himself, he routinely reassigned them to other judges reiterating his reasons as if the allegations against me have been proven and substantiated at a proper hearing after I have had an opportunity to investigate and respond to them, which hearing has not yet occurred. (See form Order used in this connection, Ex. 1)

8. In particular, it is clear that Judge Adrine has made decisions about my behavior as a judge without affording me any opportunity whatsoever to explain my conduct, confront specific allegations about it and adjust my behavior, if appropriate. In other words, Judge Adrine has ignored all the dictates of due process under the law as it relates to his imposition of unilateral discipline which can be the only interpretation of what he has done in connection with my personal docket and Session Assignments. That it has been punitive is beyond dispute.

9. Even to this day, although Judge Adrine in his Administrative Order 2014-017 purportedly "stayed" his previous punitive Administrative Orders, his conduct does not support his own Order. Instead, when I submitted the Case Scheduling Forms for

October and November, and December, properly coordinate with the Court's Scheduler, Mary Ann Koster, I was met with resistance. In this regard, I was informed in no uncertain terms by Ms. Koster on October 1, 2014, that until she receives an oral order from Judge Adrine, I will not be placed on the criminal draw.

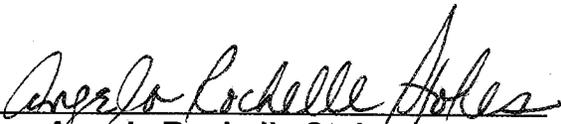
10. Further, in connection with the continuing Session One responsibilities, disproportionately assigned to me versus other judges in the Cleveland Municipal Court in the months of October, November and December, 2014, it has made it difficult, to say the least, to actually know how to schedule cases, criminal and civil alike, because I cannot receive and have not received a straight answer as to when I will be placed back on the criminal draw.

11. As it relates to paragraph 12, while Judge Adrine would have this Court believe I have the same level of staff as every other Cleveland Municipal Court Judge, nothing could be further from the truth. Importantly, I do not have a full time personal bailiff, a staff person which every other judge in the Cleveland Municipal Court has.

12. As it relates to paragraph 13 of the Adrine Affidavit, once again Judge Adrine would have this Court believe that I did not follow his order to me concerning notifying him about the receipt of case files. Indeed, every single case file that I requested was made by a letter to the Clerk of Courts on which Judge Adrine was copied, even though I vehemently disagreed with such procedure. When I required copies of probation reports or transcripts from a court reporter, I did not copy Judge Adrine on those requests as his Inter-Office Correspondence of March 14, 2014 did not require that. That Correspondence only required that I go through the Office of Administrative Judge to obtain **case files**. That he is able to comment about what I

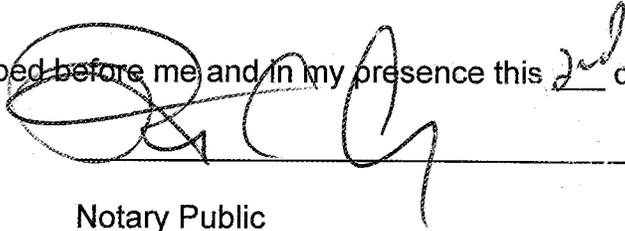
obtained in my defense to the discipline complaint is proof that he has placed himself in a position in this discipline matter to which he is not entitled and which infringes on mine and my attorney's work product. My complaint that I did make about this in the Original Action pending before this Court was both about access and the fact that Judge Adrine could monitor my defense, requiring me to go through his office rather than to the Clerk directly.

FURTHER, AFFIANT SAYETH NAUGHT.



Judge Angela Rochelle Stokes

Sworn to and subscribed before me and in my presence this 2nd day of
October, 2014.



Notary Public

IN THE CLEVELAND MUNICIPAL COURT
CUYAHOGA COUNTY, OHIO

STATE OF OHIO)	
CITY OF CLEVELAND)	CASE NO. _____
)	
PLAINTIFF)	JUDGE R.B. ADRINE
)	
VS.)	
)	JUDGMENT ENTRY
)	
DEFENDANT)	

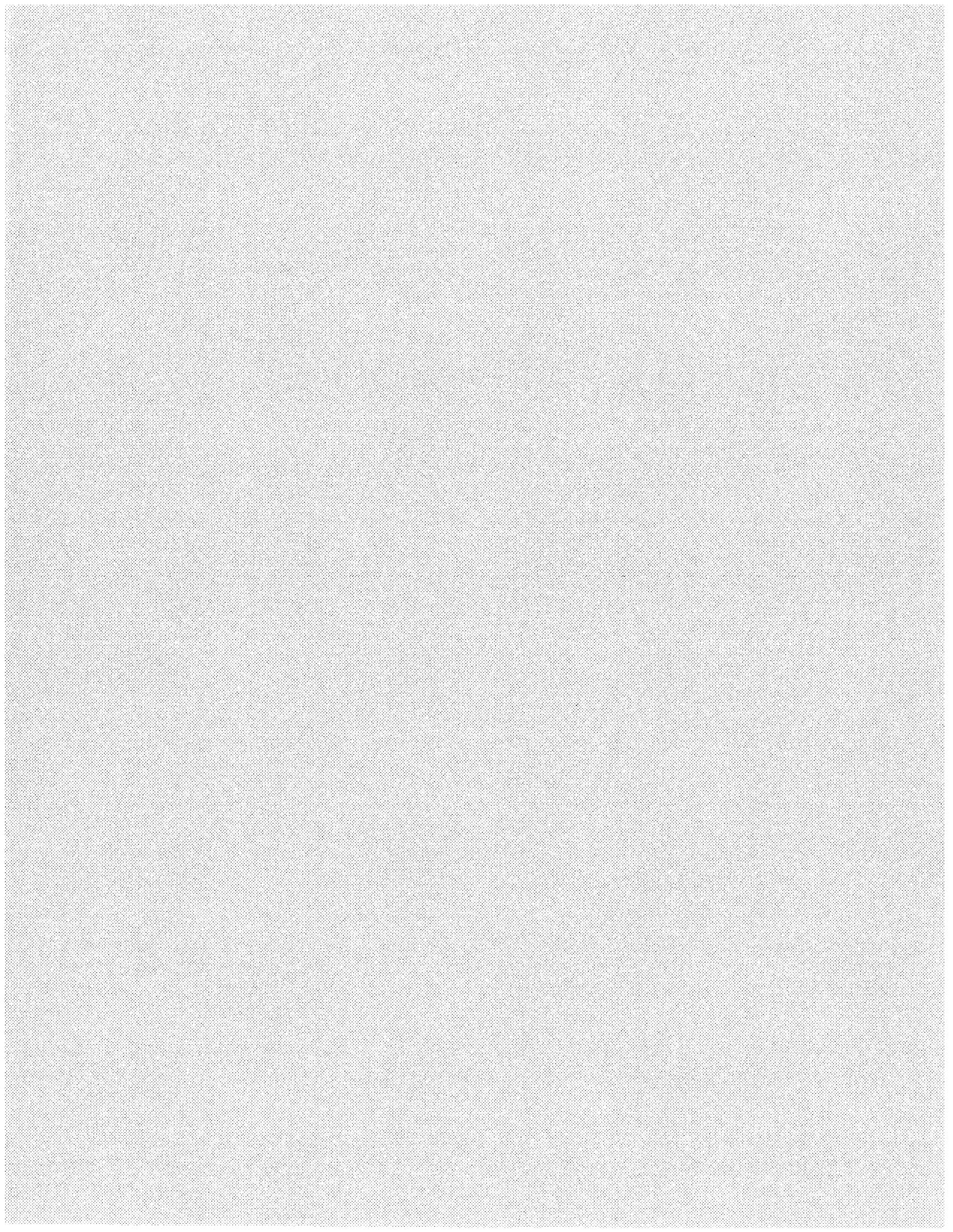
Responsibility for the disposition of the above captioned case is hereby transferred from the docket of the Honorable Angela R. Stokes to the Administrative Judge of the Cleveland Municipal Court, pending status review and/or temporary reassignment. Said transfer and temporary reassignment will only be in effect during the pendency of the certified complaint filed against Judge Stokes with the Supreme Court's Board of Commissioners on Grievances and Discipline on October 14, 2013, unless the case is otherwise resolved in the interim. The transfer is made pursuant to authority granted under Sup. R. 4(B) and Sup. R. 4(B)(1), and in order to maintain and enhance public confidence in the legal system (Paragraph 1, Preamble, Code of Judicial Conduct).

The transfer is justified for the following reasons:

- A certified complaint pending against Judge Stokes before the Ohio Supreme Court's Board of Commissioners on Grievances and Discipline was gleaned from approximately 337 alleged violations of the Code of Judicial Conduct presented to the Cleveland Municipal Court.
- All of those allegations concerned her mishandling of criminal matters and mistreatment of participants in criminal hearings; including defendants, witnesses, police officers, prosecutors, private defense counsel, public defenders, court personnel and other members of the general public.
- Since the original complaint was presented to the Disciplinary Counsel, and continuing through and after the complaint's certification by the Board, nearly 100 additional written incident reports have been received by this office alleging similar problems involving the Judge's handling of her personal criminal docket.
- The court continues to receive, on average, one to two new ethics complaints against Judge Stokes per week.

IT IS SO ORDERED.

Ronald B. Adrine
Administrative & Presiding Judge



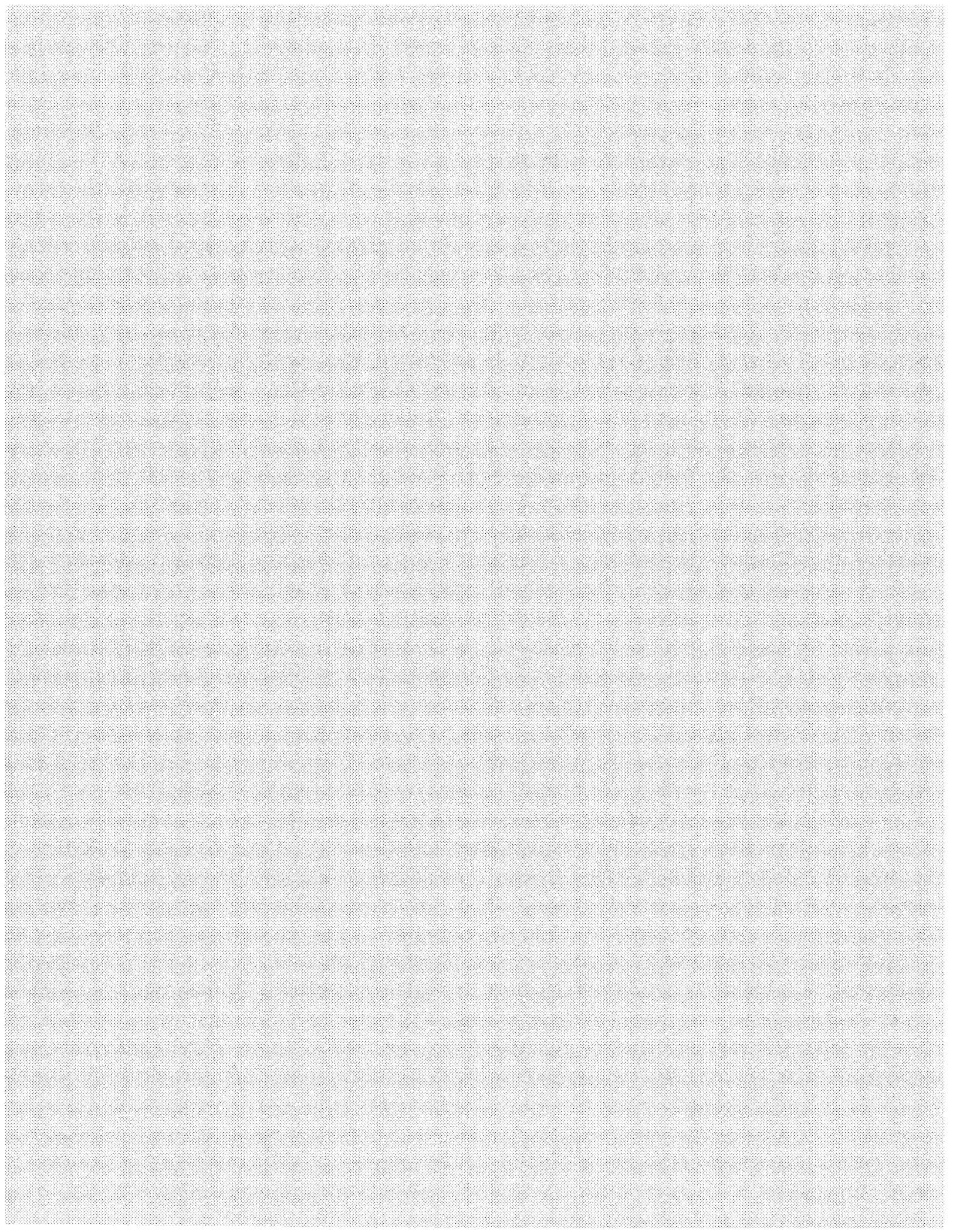
- (G) **Campaign contributions.** Members and employees of the Board, the Disciplinary Counsel, or employees of the Office of Disciplinary Counsel shall not make any contribution to, or for the benefit of, or take part in the campaign of, or campaign for or against, any justice, judge, or judicial candidate in this state. A Board member who is a candidate for a judicial office or for reelection to a judicial office may contribute to, may make a contribution for the benefit of, or take part in his or her own campaign.

Section 2. Jurisdiction and powers of the board.

- (A) **Exclusive jurisdiction.** All grievances involving alleged misconduct by justices, judges, or attorneys, all proceedings with regard to mental illness, all proceedings for the discipline of justices, judges, attorneys, persons under suspension, probation, or disbarred from the practice of law, and all proceedings for the reinstatement as an attorney shall be brought, conducted, and disposed of in accordance with the provisions of this rule.
- (B) **Powers.** The Board shall receive evidence, preserve the record, make findings, and submit recommendations to the Supreme Court as follows:
- (1) Concerning complaints of misconduct that are alleged to have been committed by a judge, an attorney, a person under suspension from the practice of law, or a person on probation;
 - (2) Concerning the mental illness of any judge or attorney;
 - (3) Relating to petitions for reinstatement as an attorney;
 - (4) Upon reference by the Supreme Court of conduct by a judge or an attorney affecting any proceeding under this rule, where the acts allegedly constitute a contempt of the Supreme Court or a breach of these rules but did not take place in the presence of the Supreme Court or a member of the Supreme Court, whether by willful disobedience of any order or judgment of the Supreme Court or the Board, by interference with any officer of the Supreme Court in the prosecution of any duty, or otherwise. This rule shall not limit or affect the plenary power of the Supreme Court to impose punishment for either contempt or breach of these rules committed in its presence, or the plenary power of any other court for contempt committed in its presence.
- (C) **Advisory opinions.** The Board may issue informal, nonbinding advisory opinion letters in response to prospective or hypothetical questions directed to the Board regarding the application of the Supreme Court Rules for the Government of the Bar of Ohio, the Supreme Court Rules for the Government of the Judiciary of Ohio, the Ohio Rules of Professional Conduct, the Code of Judicial Conduct, or the Attorney's Oath of Office. Subject to the approval of the Supreme Court, the Board shall adopt regulations for the issuance of advisory opinions.

Section 3. Secretary; Disciplinary counsel; Certified grievance committees; Administration.

- (A) **Secretary.** There shall be a Secretary of the Board, which shall be a full-time position. The Secretary shall be an attorney admitted to the practice of law in Ohio, shall be



Section 7. Mental Illness Suspension; Standard; Findings; Examination; Duty of Clerk; Termination.

(A) **Definition.** "Mental illness" has the same meaning as in division (A) of section 5122.01 of the Revised Code.

(B) **Mental Illness Suspension.**

(1) After an answer has been filed or the time for answer has elapsed, the Board forthwith shall certify a complaint to the Supreme Court if either of the following applies:

(a) The complaint, answer, or other subsequent pleading alleges mental illness that substantially impairs the ability of the attorney to practice law and is supported by a certified copy of a journal entry of a court of competent jurisdiction adjudicating mental illness:

(b) After an examination as provided in division (C) of this section, the Board finds an existing mental illness that substantially impairs the ability of the attorney to practice law.

(2) Upon receipt of a certified complaint pursuant to division (B)(1) of this section, the Supreme Court may suspend the respondent from the practice of law.

(C) **Examination.**

(1) The Board or hearing panel, on its own motion or motion of either party, may order a medical or psychiatric examination of the respondent if either of the following applies:

(a) The complaint, answer, or any subsequent pleading alleges existing mental illness that substantially impairs the ability of the attorney to practice law but is unsupported by a journal entry of a court of competent jurisdiction;

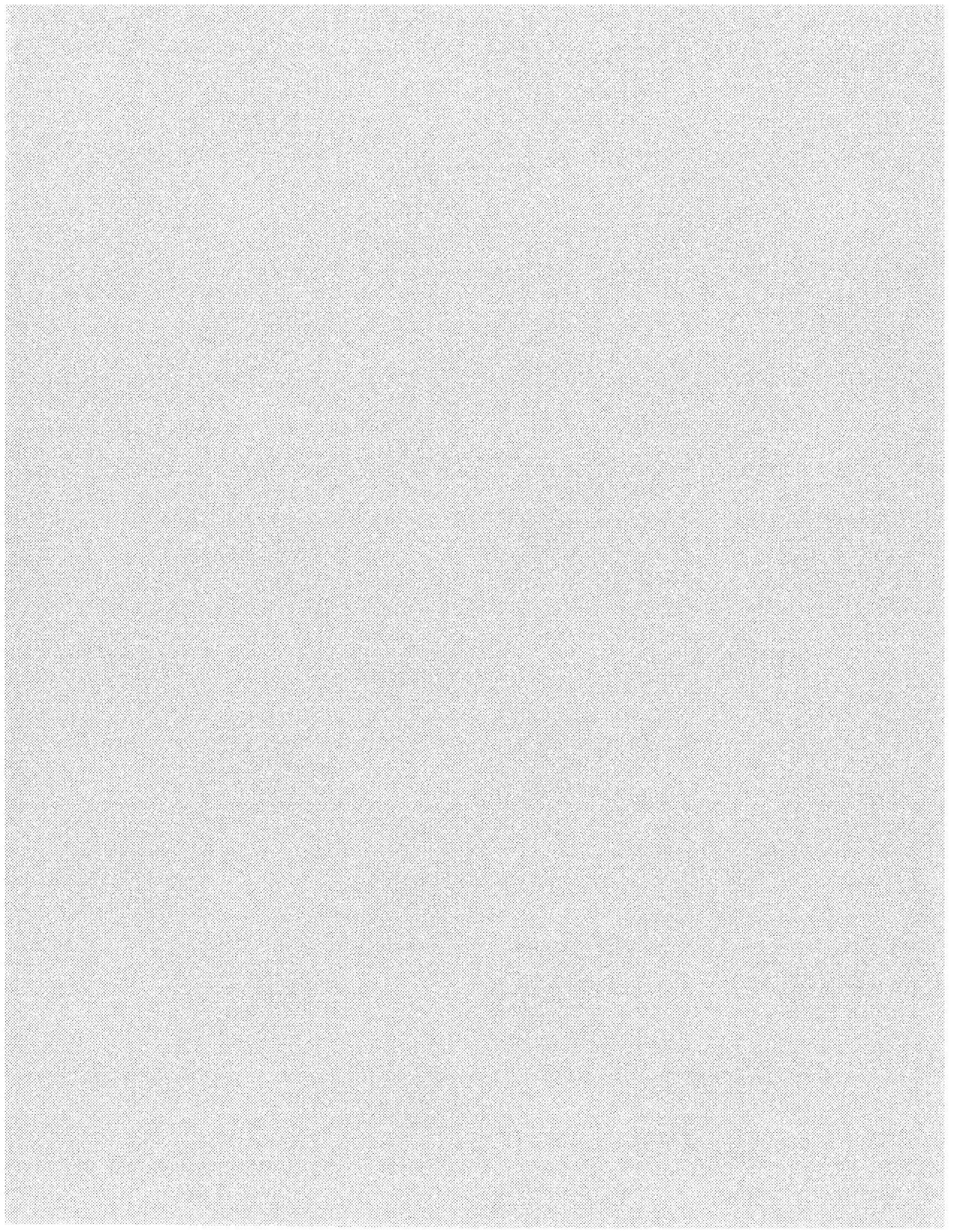
(b) Mental illness that substantially impairs the ability of the attorney to practice law otherwise is placed in issue.

(2) The medical or psychiatric examination of respondent shall be conducted by one or more physicians designated by the Board or hearing panel. The findings of the physician or physicians shall be presented to the Board or hearing panel as evidence and made available to both parties. If the results of the examination are contested, the hearing panel shall submit its findings of fact and conclusions to the Board.

(D) **Board Review.** If, after reviewing the report of the hearing panel, the Board concludes the record establishes that the respondent suffers from mental illness that substantially impairs the ability of the attorney to practice law, the Board forthwith shall certify the complaint to the Supreme Court. The Supreme Court may suspend the respondent from the practice of law.

(E) **Duty of Clerk on Entering Order.** Upon the entry of an order suspending respondent for mental illness that substantially impairs the ability of the attorney to practice law, the Clerk of the Supreme Court shall mail certified copies of the order as provided in Section 8(D)(1) of this rule and shall change the registration of respondent to inactive status. The order shall not be published but shall be a matter of public record.

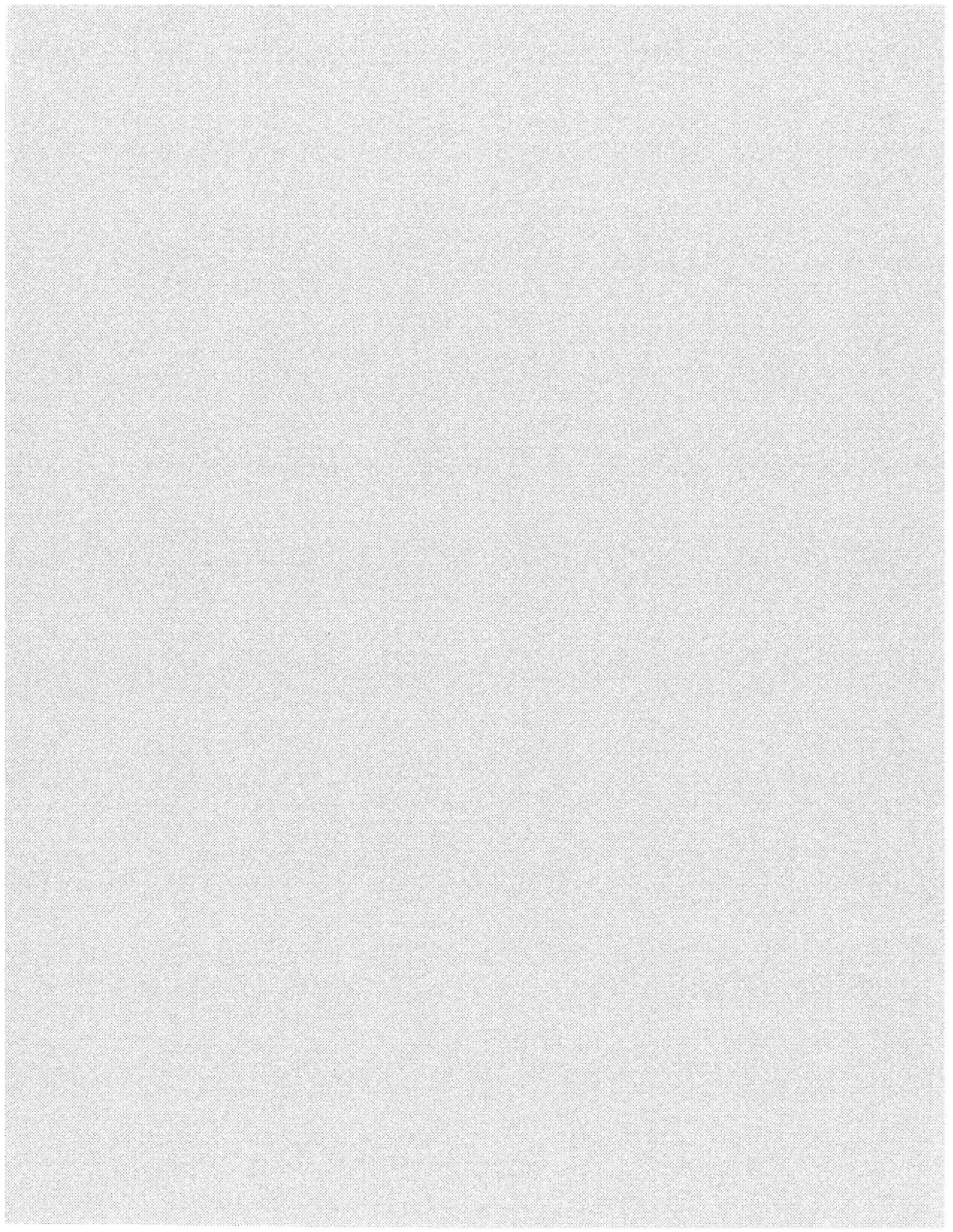
(F) **Termination.** A suspension under this section may be terminated on application of the respondent to the Board and a showing of removal of the cause for the suspension. The termination of the suspension shall be certified by the Board to, and affirmed by, the Supreme Court.



RULE 4.01. Powers and Duties of Administrative Judge.

An administrative judge of a court or a division of a court shall do all of the following:

- (A) Be responsible for and exercise control over the administration, docket, and calendar of the court or division;
- (B) Be responsible to the Chief Justice of the Supreme Court in the discharge of the administrative judge's duties, for the observance of the Rules of Superintendence for the Courts of Ohio, and for the termination of all cases in the court or division without undue delay and in accordance with the time guidelines set forth in Sup.R. 39;
- (C) Pursuant to Sup.R. 36, assign cases to individual judges of the court or division or to panels of judges of the court in the court of appeals;
- (D) In municipal and county courts, assign cases to particular sessions pursuant to Sup.R. 36;
- (E) Require timely and accurate reports from each judge of the court or division concerning the status of individually assigned cases and from judges and court personnel concerning cases assigned to particular sessions;
- (F) Timely file all administrative judge reports required by the Case Management Section of the Supreme Court;
- (G) Develop accounting and auditing systems within the court or division and the office of the clerk of the court that ensure the accuracy and completeness of all required reports;
- (H) Request, as necessary, the assignment of judges to the court or division by the Chief Justice or the presiding judge of the court;
- (I) Administer personnel policies established by the court or division;
- (J) Perform other duties as required by the Revised Code, the Rules of Superintendence of the Courts of Ohio, local rules of the court or division, or the Chief Justice;
- (K) Perform any other duties in furtherance of the responsibilities of the administrative judge.



Ohio Sup. R. 4.02

Rules current through rule amendments received through August 18, 2014

Ohio Court Rules > Rules Of Superintendence For The Courts Of Ohio

Rule 4.02. Modification or Vacation of Administrative Judge Actions

The judges of a court or a division of a court, by majority vote, may modify or vacate the actions of the administrative judge of the court or division.

History

Added 12-1-12.

OHIO RULES OF COURT SERVICE

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APP. M

Richard Alkire

CERTIFICATE OF SERVICE

The foregoing **MERIT BRIEF OF RELATOR** has been filed with the Clerk of the Ohio Supreme Court and emailed and sent via email and ordinary mail to counsel of record this 2nd day of October, 2014 to:

Alvin E. Mathews, Jr. (0038660)
Gerhardt A. Gosnell II (0064919)
JAMES E. ARNOLD & ASSOCIATES, LPA
115 West Main St., Ste. 400
Columbus, OH 43215
amathews@arnlaw.com
ggosnell@arnlaw.com

Counsel for Respondent,
The Honorable Ronald B. Adrine



Richard C. Alkire (#0024816)

LAW OFFICE OF
Richard C. Alkire Co., L.P.A.
250 Spectrum Office Building • 6060 Rockside Woods Boulevard • Independence, Ohio 44131-2335
(216) 674-0550 • Fax: (216) 674-0104