

Court of Common Pleas - Civil Division

CUYAHOGA COUNTY, OHIO

Ekatarina Wos, et al.,

Plaintiff

vs.

The City of Cleveland, et al.,

Defendant

Case No. CV-24-993917

NOTICE OF APPEAL

Complaint

CA 24 114279

The appellant, Ekatarina Wos and David Steffes, hereby gives notice of appeal to the Eighth
(PARTY NAME)

District Court of Appeals from the final judgment entry of the Cuyahoga County Court of Common Pleas
(NAME OF TRIAL COURT)

entered on July 26, 2024
(DATE)

/s/ Jay R. Carson (0068526)

(Signature)

6055 Rockside Woods Blvd., Ste 200, Cleveland, OH 44131

(Address)

(216) 642-3342; jrcarson@wegmanlaw.com

(Phone Number and Email)

CERTIFICATE OF SERVICE

I certify that a copy of this notice of appeal was served upon
Counsel for Defendants on 8 / 21 / 2024 in the following
manner: by operation of the Court's electronic filing system.

/s/ Jay R. Carson (0068526)

(Signature)



APPENDIX A

**EIGHTH DISTRICT COURT OF APPEALS
LOCAL APPELLATE RULE 9
Praecept and Docketing Statement**

Name of Trial Court: Cuyahoga County Court of Common Pleas

Case Caption: Ekatarina Wos, et al.,

Plaintiff,

vs.

The City of Cleveland, et al.,

Defendant

Trial Court Case Number: CV-24-993917

Trial Court Judge: Kevin J. Kelley

Date of judgment appealed: 7/26/24

The notice of appeal was filed in compliance with:

- App.R. 4(A) (within 30 days); or
 App.R. 4(B) (time extended); or
 App.R. 5 (delayed appeal)

A. PRAECIPE: REQUESTING THE RECORD

TO THE CLERK OF THE TRIAL COURT:

1. By checking this box, appellant requests that the clerk of the trial court immediately prepare and assemble the original papers and exhibits filed in the trial court and a certified copy of docket and journal entries under App.R. 9(A). **(If appellant only selects this box, appellant acknowledges that no transcript is required to be prepared.)**
2. Check this box if you seek the record in this appeal to include one of the following listed below that is necessary for the resolution of the appeal. **(Please select only one of the following below.)**
 - a. Complete transcript under App.R. 9(B). (Note: the appellant must instruct the court reporter to prepare the transcript.*)
 - b. Partial transcript under App.R. 9(B). (Note: the appellant must instruct the court reporter to prepare the transcript.*)
 - c. Statement of evidence or proceedings under App.R. 9(C).
 - d. Agreed statement under App.R. 9(D).

B. CALENDAR

Choose the appropriate calendar designation for this case. **Check only one of the following:**

■ **Regular Calendar**

This is the appropriate selection if **any** of the following apply:

- Transcript and all other evidentiary materials are more than one hundred pages;
- A brief in excess of 15 pages is necessary to argue the issues adequately;
- Appeal concerns unique issues of law that will be of substantial precedential value in determining similar cases;
- Appeal concerns multiple or complex issues; or
- Do not want accelerated calendar.

□ **Accelerated Calendar** (See LocApp.R. 11.1)

An appeal may be assigned to the accelerated calendar if (1) no transcript is required, or (2) the transcript and all other evidentiary materials consist of 100 or fewer pages. If any of the criteria listed above for regular calendar applies, the appeal will not be assigned to the accelerated calendar.

□ **Expedited Calendar** (See App.R. 11.2)

This is the appropriate selection if any of the following apply. Please designate the specific category below:

- Abortion-related appeal from juvenile court
- Adoption or parental rights appeal (includes award of temporary custody to the agency)
- Dependent, abused, neglected, unruly or delinquent child appeal
- Prosecutorial appeal from suppression order
- Denial of a bail bond as provided in R.C. 2937.222(D)
- Election contests as provided in R.C. 3515.08
- Marsy's law appeal as provided in R.C. 2930.19(A)
- Other: _____

* **Note:** If requesting a transcript from the Cuyahoga County Common Pleas, General Division, you must send a copy of the praecipe to CPREPAPPCOMM@cuyahogacounty.us.

For all other courts, contact the trial court or consult the trial court's website. You may have to file a motion with the trial court to obtain a transcript.

C. GENERAL INFORMATION

1. Was a stay requested in the trial court? Yes No (See App.R. 7 and App.R. 8)

If a stay was requested, how did the trial court rule?

Granted Denied Pending

2. If this case has previously been before this Court, list prior appellate case number(s):

3. List case names and numbers of cases pending in this court that involve the same transaction or controversy involved in this appeal: _____

4. Probable issues for appeal (if known): _____

_____ did the trial court err in determining that it lacked subject matter jurisdiction

5. Have you attached a time-stamped copy of the final judgment being appealed as required under Loc.App.R. 3(B)? Yes

6. Have you been declared a vexatious litigator? Yes No

If yes, did you comply with R.C. 2323.52(F)(2) and seek leave to file?

Yes No

7. Is this an appeal from a decision pertaining to an expungement or civil stalking protection order? Yes No

D. CRIMINAL CASE

(If this is an appeal from a civil case, skip ahead to SECTION E. If a criminal case, complete this section and then skip to the signature block.)

1. Does the sentencing order contain the following **four requirements**:

- fact of conviction for **each** count;
- separate sentence for **each** convicted count;
- signature of trial court judge; and

▪ ~~file stamp of the clerk of court?~~

Yes No

2. If a co-defendant(s) was indicted and convicted under the same complaint, list the name(s) of co-defendant(s):

3. Type of Appeal (**Select only one of the following**):

- Defendant's Appeal as of Right State's Appeal as of Right
- Defendant's Delayed Appeal by Leave of Court (*See App.R. 5(A)*)
- State's Appeal by Leave of Court (*See App.R. 5(B)*)
- Interlocutory Appeal pursuant to R.C. 2930.19

NOTICE TO PROSECUTOR: If this appeal implicates Marsy's law, the prosecutor must notify the victim(s) if required by law. *See* R.C. 2930.15 and 2930.19.

E. CIVIL CASE

1. Specify the type of action in the trial court (e.g., administrative appeal; contract; declaratory judgment; domestic relations; juvenile; medical malpractice; personal injury; probate; etc.):

2. Is the order appealed from a final appealable order:

a. Did the judgment dispose of all claims by and against all parties?

- Yes No

b. If not, is there a determination that there is "no just reason for delay" per Civ.R. 54(B)?

- Yes No

c. If you are appealing an interlocutory order, specify what authority (e.g., specific provision under R.C. 2505.02, other statute, or case law) that gives this court jurisdiction to hear the appeal: _____

3. Settlement discussions:

a. How would you characterize the extent of your settlement discussions before judgment?

- None Minimal
 Moderate Extensive

b. Have settlement discussions taken place since the judgment or order appealed from was entered? Yes No

c. Would a mediation conference assist in the resolution of this matter?

- Yes No
 Maybe

I certify that the above information is accurate to the best of my knowledge. I also acknowledge that I must file the Notice of Appeal along with this Praecipe and Docketing Statement in the trial court.

/s/ Jay R. Carson (0068526)

Appellant or Attorney for Appellant

CERTIFICATE OF SERVICE

I certify that a copy of this Praecipe and Docketing Statement was served upon

Counsel for Defendants _____ on 8 / 21 / 2024 in the following

manner: by operation of the Court's electronic filing system.

/s/ Jay R. Carson (0068526)

(Signature)



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**IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO**

EKATARINA WOS, ET AL.,
Plaintiff

THE CITY OF CLEVELAND, ET AL.
Defendant

Case No: CV-24-993917

Judge: KEVIN J KELLEY

JOURNAL ENTRY

96 DISP.OTHER - FINAL

DEFENDANTS' MOTION TO DISMISS IS GRANTED. PLAINTIFFS HAVE FAILED TO EXHAUST ADMINISTRATIVE REMEDIES. R.C. 718.11(C) STATES THAT ANY PERSON WHO HAS BEEN ISSUED A FINAL ASSESSMENT FROM A TAX ADMINISTRATOR MAY APPEAL THE ASSESSMENT TO THE LOCAL BOARD OF TAX REVIEW BY MAKING A REQUEST IN WRITING, SPECIFYING THE REASONS WHY THE ASSESSMENT WAS INCORRECT OR UNLAWFUL. PLAINTIFFS HAVE VIOLATED THE GENERAL RULE THAT EXHAUSTION OF ADMINISTRATIVE REMEDIES IS CONSIDERED A PREREQUISITE TO FURTHER JUDICIAL REVIEW. BP COMM'NS. ALASKA, INC. V. CENT. COLLECTION AGENCY, 136 OHIO APP.3D 807, 813 (8TH DIST. 2000). THE EXHAUSTION OF ADMINISTRATIVE REMEDIES INCLUDES FILING AN ADMINISTRATIVE APPEAL. STATE EX REL TEAMSTERS LOCAL UNION 436 V. CUYAHOGA CTY. BD. OF COMMRS., 132 OHIO ST.3D 47, 2012-OHIO-1861, PARAGRAPH 22. EXCEPTIONS TO EXHAUSTION HAVE BEEN FOUND IN TWO SITUATIONS: (1) WHERE NO ADMINISTRATIVE REMEDY IS AVAILABLE THAT CAN PROVIDE THE REQUESTED RELIEF OR RESORTING TO THE REMEDY WOULD BE "WHOLLY FUTILE"; AND (2) "WHEN THE AVAILABLE REMEDY IS ONEROUS OR UNUSUALLY EXPENSIVE." HARSON INVESTS. AT PARAGRAPH 17, QUOTING KARCHES V. CITY OF CINCINNATI, 38 OHIO ST.3D 12, 17, 526 N.E. 2D 1350 (1988). "AS TO THE SECOND EXCEPTION, COURTS HAVE FOUND THAT "ONEROUS AND UNUSUALLY EXPENSIVE" MEANS MORE THAN INCONVENIENCE AND MODERATE FEES AND EXPENSES." ENSLEY, 1995 OHIO APP. LEXIS 3366 (WL) AT 7, CITING BURT REALTY CORP. V. COLUMBUS, 21 OHIO ST.2D 265, 257 N.E. 2D 355 (1970), PARAGRAPH ONE OF THE SYLLABUS. HAUGHT V. CITY OF KETTERING, 2024-OHIO-479, P.49, 2024 OHIO APP. LEXIS 486, AT 24, 2024 WL 505135. PLAINTIFFS HAVE AN ADMINISTRATIVE REMEDY IN SEEKING BOTH A REFUND AND INTEREST ON ANY REFUND. THE QUESTION OF HOW SICK AND VACATION DAYS SHOULD BE ASSESSED SHOULD FIRST BE CONSIDERED THROUGH THE ADMINISTRATIVE PROCESS. THE ADMINISTRATIVE PROCESS IS NOT OVERLY ONEROUS, UNUSUALLY EXPENSIVE, OR WHOLLY FUTILE.

Judge Signature

07/26/2024

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NAILAH K. BYRD, CLERK