[Cite as *25 Citizens of Nelsonville v. Statutory Govt. Candidates of Nelsonville*, 2026-Ohio-4641.]

IN THE COURT OF APPEALS OF OHIO
FOURTH APPELLATE DISTRICT
ATHENS COUNTY

25 Citizens of the City of Nelsonville, Ohio, Cory W. Taylor, et al.,	:	Case No. 26CA8
Plaintiffs-Appellees,	:	DECISION AND
v.	:	JUDGMENT ENTRY
Statutory Govt. Candidates for the City of Nelsonville, Ohio Rep Jonathan R. Flowers, et al.,	:	**RELEASED 11/16/2026**
Defendants-Appellants.	:	

APPEARANCES:

Daniel H. Klos, Lancaster, Ohio, for appellant.

Jonathan E. Robe, Robe Law Office, Athens, Ohio, for appellees Cory Taylor, Gregg Clement, and Missy Clement.

Hess, J.

{¶1} Andrea Nicole Thompson Hashman appeals from a judgment denying her motion for sanctions for frivolous conduct under R.C. 2323.51. She presents six assignments of error. The first four assignments of error raise issues with (1) a trial court order in a separate action that is not the subject of this appeal and (2) an order in the underlying action in this appeal, but which was not timely appealed. In those first four assignments of error, Hashman asks us for a finding that the trial court abused its discretion in entering those orders, but she asks for no reversal, vacation, or modification of those orders. Hashman's fifth and sixth assignments of error raise issues with the trial

court's order denying her request for sanctions for frivolous conduct. She contends that the trial court abused its discretion in finding that the complaint was not frivolous and finding it "fatally flawed" but "entirely understandable." She asks us to find that the trial court erred in failing to find the conduct frivolous and asks us to remand the matter to the trial court for a hearing on whether fees and costs are to be awarded and to consider Hashman's fees to pursue this appeal as part of the fee determination.

{¶2} We lack jurisdiction over the first four assignments of error and dismiss them for lack of jurisdiction. We find that the trial court's decision denying frivolous conduct sanctions was not arbitrary, unreasonable, or unconscionable and overrule the fifth and sixth assignments of error. We affirm the trial court's judgment.

I. PROCEDURAL HISTORY

{¶3} On December 8, 2025, Cory W. Taylor and others filed a complaint with a petition containing the signatures of 24 other purported voters challenging 14 candidate-defendants that were slated for office in the City of Nelsonville, Ohio. Hashman filed an answer on December 18, 2025. Another defendant filed a pro se response on December 19, 2025. On December 19, 2025, the trial court sua sponte dismissed the complaint.

{¶4} In the dismissal entry, the trial court noted that the complaint was captioned "motion" and that it asked to have the 14 candidate-defendants stricken under Civ.R. 12(F). The trial court also found that Taylor appeared to bring the action not just on his own behalf, but on behalf of the other 24 plaintiffs who signed the petition, but that Taylor appeared to be a layperson. Next, the trial court determined that the complaint might be an attempt at an election contest pursuant to Title 35 of the Ohio Revised Code. The trial court found that by including a petition with signatures from 25 voters who voted in the

last election, Taylor may have been attempting to comply with R.C. 3515.09, governing a petition to contest an election. The court also noted that the complaint included two "acknowledgment certificates" with notarized signatures of two of the petitioners, which may be an attempt to comply with the R.C. 3515.09 requirement that the complaint "be verified by the oath of at least two petitioners." The trial court found that Taylor failed to comply with the bond requirement contained in that same statutory provision. The trial court found that if it were "to consider the filing as an election contest, the petition would still require dismissal based on non-compliance with Chapter 35 of the Revised Code."

{¶5} The trial court sua sponte dismissed the complaint under Civ.R. 12(B)(6) (failure to state a claim for which relief can be granted) after finding that the complaint had numerous flaws (i.e., it was captioned as a Civ.R. 12(F) motion; it was filed by a layperson representing not just himself but 24 others; and it failed to meet the statutory criteria of an election contest petition) and thus was "fatally defective." The dismissal entry was filed on December 19, 2025.

{¶6} No appeal from the dismissal was filed by any of the parties.

{¶7} On January 12, 2026, Hashman filed a motion under R.C. 2323.51 (governing sanctions for frivolous conduct) for court costs, attorney's fees, and other reasonable expenses she incurred in connection with the action. On February 5, 2026, the trial court denied the motion. The trial court found that Hashman had incorrectly determined that the trial court had dismissed the complaint because it was frivolous, when instead the trial court had dismissed the complaint because the claimant could not prevail on the facts alleged in the complaint:

> Defendant refers repeatedly to page 7 of this Court's entry of dismissal to argue that this Court has already found the complaint to be frivolous and

> that the claimant cannot prevail on the facts alleged. However, that is not what the Court's entry of dismissal states. The entry states, "[i]t has been further observed that '[a] court may *sua sponte* dismiss a complaint without notice and an opportunity to respond pursuant to Civ.R. 12(B)(6), if 'the complaint is frivolous ***or*** the claimant obviously cannot prevail on the facts alleged in the complaint.' " The Court did not state that the Complaint was frivolous, but rather, "[t]he Complaint before the Court, while *fatally flawed*, is an entirely understandable attempt by several well-meaning citizens of Nelsonville to obtain clarity over what has become an absurd situation." [emphasis added].
>
> Again, the Court believes that the individuals who brought this case did so in good faith, albeit in a way that was legally inactionable. It was filed erroneously, not frivolously.

Journal Entry, p. 2. (Citations omitted.) (Emphasis and brackets in original).

{¶8} On March 2, 2026, Hashman filed an appeal from the trial court's entry denying her motion for sanctions.

II. ASSIGNMENTS OF ERROR

{¶9} Hashman presents six assignments of error:

I. The Trial Court abused its discretion and erred by striking PLAINTIFF'S MOTION TO STRIKE THE STATUTORY GOVT. CANDIDATES SLATED FOR OFFICE IN THE CITY OF NELSONVILLE, OHIO EFFECTIVE JANUARY 1, 2026 in case 25CI0312 [Docket 25CI0312 12/11/2025 09:55 AM APPENDIX 3] and permitting Cory Taylor to file PLAINTIFF'S MOTION TO STRIKE THE STATUTORY GOVT. CANDIDATES SLATED FOR OFFICE IN THE CITY OF NELSONVILLE, OHIO EFFECTIVE JANUARY 1, 2026 in case 25CI0386 by order of the Trial Court [Docket 25CI0386 12/19/25 p.1]. The Trial Court had no jurisdiction to permit further action by Taylor or any other intervenor based on the elements of the motion. The Trial Court further abused its discretion by acting upon Taylor's Motion after case 25CI0312 had been unconditionally dismissed.

II. The Trial Court abused its discretion and erred in ordering the refiling of Cory Taylor's "PLAINTIFF'S MOTION TO STRIKE THE STATUTORY GOVT. CANDIDATES SLATED FOR OFFICE IN THE CITY OF NELSONVILLE, OHIO EFFECTIVE JANUARY 1, 2026" as a "Complaint" in case 25CI0386 [Docket 25CI0386 12/19/25 p.1].

III. The Trial Court abused its discretion and erred, failing as neutral arbiter of the issues presented by Taylor by acting as an advocate for Taylor, changing the original questions presented by Taylor and ordering the refiling of Cory Taylor's "PLAINTIFF'S MOTION TO STRIKE THE STATUTORY GOVT. CANDIDATES SLATED FOR OFFICE IN THE CITY OF NELSONVILLE, OHIO EFFECTIVE JANUARY 1, 2026" a "Complaint" in case 25CI0386 and then waiting until after Ms. Andrea Hashman filed an Answer before *sue sponte* [sic] dismissing the "Complaint."

IV. The Trial Court abused its discretion and erred failing as neutral arbiter of the original issues presented by Taylor by failing in its judicial duty to dismiss Taylor's pleading as a 12(F) motion, changing the very nature of the pleading to a "Complaint," continuing to entertain Taylor's "Complaint" despite the lack of standing to practice before the Court, and unreasonably disregarding the format of the pleading which contained specific elements of statutory pleading required under Election Contest statute R.C. 3515.09 opting instead to ignore each of these inarguable fatal deficiencies to dismiss the "Complaint" and sua sponte analyze the pleading under Civ.R. 12(B)(6), dismissing the "Complaint" on that basis [Docket 25CI0386 12/19/25 p.7].

V. The Trial Court abused its discretion in its DECISION DENYING MOTION FOR VIOLATION OF R.C. 2323.51 FRIVOLOUS CONDUCT IN FILING CIVIL CLAIMS; JOURNAL ENTRY by arbitrarily and without a reasonable decision process when it stated "The Trial Court did not state the Complaint was frivolous. . ." by intentionally ignoring its finding that the pleading of Taylor was both frivolous and that the claimant Taylor obviously could not prevail on the facts alleged in the complaint "The Court herein so finds." See [Docket 25CI0386 12/19/25 p.5]

VI. Did the Trial Court commit error as an abuse of discretion as identified in Assignment of Error 6 in its DECISION DENYING MOTION FOR VIOLATION OF R.C. 2323.51 FRIVOLOUS CONDUCT IN FILING CIVIL CLAIMS; JOURNAL ENTRY by substituting the Trial Court's dicta of "[t]he Complaint before the court, while *fatally flawed*, [emphasis in the original] is an entirely understandable attempt by several well-meaning citizens of Nelsonville to obtain clarity over what has become an absurd situation." [Docket 25CI0386 12/19/25 p.2] to excuse the frivolous conduct of Taylor in bringing his original and refiled action.

III. LAW AND ANALYSIS

A. The Trial Court's Treatment of Taylor's Pro Se Filing

{¶10} In Hashman's first four assignments of error, which we consider together, she contends that the trial court abused its discretion when it ordered a motion Taylor filed in another action to be stricken and filed as a complaint in its own action. Then, after Taylor refiled the motion as a separate action, Hashman contends that the trial court erred by (1) allowing Taylor to refile his motion as a separate action, (2) recasting the motion as a complaint, (3) dismissing it on grounds other than as a Civ.R. 12(F) motion to strike.

{¶11} As to Hashman's first assignment of error, appellees argue that we lack jurisdiction to review the trial court's order striking Taylor's motion because that occurred in a separate action that is not the subject of this appeal. Appellees contend that Hashman has filed an appeal from that other action and it is pending before us as a separate appellate case. Any purported errors made by the trial court in that action should be raised in that appeal.

{¶12} We agree. We lack jurisdiction to review and vacate, reverse, or modify trial court orders in actions that are not the action from which the appeal was filed and therefore dismiss Hashman's first assignment of error.

{¶13} As to Hashman's second, third and fourth assignments of error, appellees argue that we lack jurisdiction to review the trial court's dismissal entry because Hashman did not file a timely appeal from it and she lacks standing to appeal it because it was in her favor.

{¶14} We agree. The dismissal entry was issued on December 19, 2025. Hashman's appeal was filed March 2, 2026, more than 30 days afterwards. App.R. 4(A). Additionally, Hashman lacks standing to appeal an order in her favor.

> Under Ohio law, " '[a]ppeal lies only on behalf of a party aggrieved by the final order appealed from. Appeals are not allowed for the purpose of settling abstract questions, but only to correct errors injuriously affecting the appellant.' " *Midwest Fireworks Mfg. Co. v. Deerfield Twp. Bd. of Zoning Appeals,* 91 Ohio St.3d 174, 177, 2001–Ohio–24, 743 N.E.2d 894, quoting *Ohio Contract Carriers Assn., Inc. v. Public Utilities Comm.* (1942), 140 Ohio St. 160, 42 N.E.2d 758, at the syllabus. See, also, *Papadelis v. Fragedakis,* Cuyahoga App. No. 86068, 2005–Ohio–6008, at ¶ 9 (holding that a defendant has no standing to appeal a dismissal of the plaintiff's case without prejudice); *Hellman v. Motorists Mut. Ins. Co.,* 153 Ohio App.3d 405, 2003–Ohio–2671, 794 N.E.2d 688, at ¶ 24 [3d Dist.] ("A party to a civil lawsuit has no standing to cross-appeal a final judgment in its favor." (citing *Seringetti Constr. Co. v. Cincinnati* (1988), 51 Ohio App.3d 1, 553 N.E.2d 1371)); *Clevenger v. Huling* (1964), 4 Ohio App.2d 45, 46, 211 N.E.2d 84 ("A party receiving a favorable verdict by the jury cannot claim prejudicial error in the trial of the case.").

B & B Rentals v. Fisher, 2008-Ohio-2062, ¶ 3 (4th Dist.).

{¶15} Because Hashman did not file a timely appeal from the dismissal entry nor did she have standing to do so, we lack jurisdiction to review Hashman's second, third, and fourth assignments of error and therefore dismiss them.

{¶16} In her reply brief, Hashman argues that a reason she raised errors with the trial court's dismissal entry is to bolster her argument that the trial court abused its discretion in denying her sanctions as it shows a consistent pattern of abuse of discretion or lack of neutrality throughout the proceeding. To the extent Hashman's arguments were raised for that purpose, we briefly address the trial court's decision (1) allowing Taylor to refile his motion as a separate action, (2) recasting the motion as a complaint, and (3) dismissing it on grounds other than as a Civ.R. 12(F) motion.

{¶17} Three judicial principles support the trial court's actions. First, courts routinely recast irregular motions filed by pro se litigants. The Supreme Court of Ohio has held that "[c]ourts may recast irregular motions into whatever category necessary to identify and establish the criteria by which the motion should be judged." *State v. Lewis*, 2021-Ohio-4264, ¶ 16 (11th Dist.), quoting *State v. Schlee,* 2008-Ohio-545, ¶ 12; *Castro v. U.S.*, 540 U.S. 375, 381-382 (2003) (discussing federal courts' ability to recast irregular pro se filings as complaints). Second, trial courts have inherent power to manage their own dockets, the progress of the proceedings before them, and the course of the litigation before them. *Nuckols v. Consol. Rail Corp.*, 2024-Ohio-1070, ¶ 15 (6th Dist.). Third, courts must be mindful of the admonition that cases should be decided on their merits, where possible, rather than mere technicalities. *Natl. City Real Estate Services LLC v. Frazier*, 2018-Ohio-982, ¶ 74 (4th Dist.), citing *State ex rel. Lindenschmidt v. Butler Cty. Bd. of Commrs.,* 72 Ohio St.3d 464, 466 (1997).

{¶18} We find that the trial court's decision to move the motion off the docket of an existing action and have it filed as a new action, to recast the motion as a complaint, and to dismiss it on Civ.R. 12(B)(6) grounds is supported by these judicial principles and does not support Hashman's contention that the trial court abused its discretion or lacked neutrality in denying her motion for sanctions.

B. Denial of Frivolous Conduct Sanctions

{¶19} In her fifth and sixth assignments of error, Hashman contends that the trial court abused its discretion in denying her motion for sanctions for frivolous conduct because the language the trial court used in the dismissal entry included findings that the conduct was frivolous. She asks that we remand the case to the trial court for a hearing

to determine whether fees and costs are to be awarded and to consider Hashman's fees to pursue this appeal as part of the fee determination.

1. Standard of Review

{¶20} The standard of review on appeal from the denial or grant of a motion for sanctions under R.C. 2323.51 depends on the frivolous conduct alleged and the trial court's findings.

> No single standard of review applies in R.C. 2323.51 cases. Indeed, the controlling standard of review hinges on whether the trial court's determination resulted from factual findings or a legal analysis. R.C. 2323.51(A)(2)(a)(i), (iii), and (iv) require the trial court to make factual determinations. Our review of these factual determinations is subject to deference and will not be disturbed where the record contains competent, credible evidence to support the trial court's findings. By contrast, a determination under R.C. 2323.51(A)(2)(a)(ii) that conduct is not warranted under existing law and cannot be supported by a good faith argument for an extension, modification, or reversal of existing law requires a legal analysis and is, therefore, subject to de novo review. Finally, where a trial court finds frivolous conduct, the decision whether to assess a penalty lies within the sound discretion of the trial court.

(Citations omitted.) *Friedman v. Bexley Pub. Library,* 2025-Ohio-1799, ¶ 35 (10th Dist.). Even if frivolous conduct exists, a trial court has discretion to deny sanctions. *FIG OH18, LLC v. Valentik*, 2026-Ohio-2410, ¶ 26 (8th Dist.). A trial court is not required to conduct a hearing before denying a motion for sanctions when it determines the motion lacks merit. Under such circumstances, the hearing would be perfunctory, meaningless, or redundant. *Id*. at ¶ 31.

2. Legal Analysis

{¶21} Frivolous conduct, as it relates to this case, is defined in R.C. 2323.51(A)(2)(a):

> (2) "Frivolous conduct" means either of the following:

> (a) Conduct of an inmate or other party to a civil action, of an inmate who has filed an appeal of the type described in division (A)(1)(b) of this section, or of the inmate's or other party's counsel of record that satisfies any of the following:
>
> (i) It obviously serves merely to harass or maliciously injure another party to the civil action or appeal or is for another improper purpose, including, but not limited to, causing unnecessary delay or a needless increase in the cost of litigation.
>
> (ii) It is not warranted under existing law, cannot be supported by a good faith argument for an extension, modification, or reversal of existing law, or cannot be supported by a good faith argument for the establishment of new law.
>
> (iii) The conduct consists of allegations or other factual contentions that have no evidentiary support or, if specifically so identified, are not likely to have evidentiary support after a reasonable opportunity for further investigation or discovery.
>
> (iv) The conduct consists of denials or factual contentions that are not warranted by the evidence or, if specifically so identified, are not reasonably based on a lack of information or belief.

{¶22} We have explained:

> Courts must carefully apply R.C. 2323.51 " 'so that legitimate claims are not chilled.' " *Burchett v. Larkin,* 2011–Ohio–684, ¶ 20 (4th Dist.), quoting *Hickman v. Murray*,1996 WL 125916, *5 (2d Dist. Mar. 22, 1996). As we noted in *Burchett*, the *Hickman* court explained that:
>
> > A party is not frivolous merely because a claim is not well-grounded in fact. Furthermore, the statute was not intended to punish mere misjudgment or tactical error. Instead, the statute was designed to chill egregious, overzealous, unjustifiable, and frivolous action.
> >
> > Whether a claim is warranted under existing law is an objective consideration. The test, we find, is whether no reasonable lawyer would have brought the action in light of the existing law. In other words, a claim is frivolous if it is absolutely clear under the existing law that no reasonable lawyer could argue the claim.

(Citations omitted.) *Ohio Power Co. v. Ogle*, 2013-Ohio-1745, ¶ 29-30 (4th Dist.).

{¶23} Hashman's motion for sanctions alleged that the frivolous conduct was the filing of the complaint. She argued that the trial court's dismissal contained the findings that supported a frivolous conduct finding under all four prongs in R.C. 2323.51(A)(2)(a)(i),(ii), (iii), and (iv). Specifically, she argued that the trial court found both that the "complaint is frivolous" and that "the claimant obviously cannot prevail on the facts alleged." Those findings, she argued, supported a finding of frivolous conduct under subparts (ii), (iii), and (iv). Further, she argued that the trial court's finding that "the document is so defective on its face that, for the reasons explained below, it requires dismissal" supported a finding under subpart (i) (harass, maliciously injure or other improper purpose). Hashman also argued in her motion for sanctions that when Taylor added two "acknowledgment certificates" to the filing, "it goes to the issue of intent to file an election contest" under R.C. 3519.09, requiring an election contest to be verified by the oath of two of the 25 petitioners.

{¶24} Hashman's motion then outlines five specific procedural errors she argues Taylor made and how each error fits within the frivolous conduct framework. First, Taylor requested the complaint be served by regular U.S. mail instead of certified mail under Civ.R. 4 and 4.1. She contends this violated subpart (ii) – the complaint is not warranted under existing law or a good faith argument for an extension, modification, reversal of existing law or an establishment of new law. Second, Taylor labeled his filing a Civ.R. 12(F) motion to strike, when it should have been labeled a complaint. She argued this also violated subpart (ii). Third, she argued that Taylor's complaint appeared to be attempting to strike all elected candidates, leaving Nelsonville with no elected government and this also violated subpart (ii). Fourth, she argued that it is unquestionable that Taylor's

complaint was an election contest petition under R.C. 3519.09 that failed to comply with all the statutory requirements and this violated subpart (ii) and (iv) (factual contentions are not warranted by the evidence). Fifth, the litigation history supports a finding that the complaint violated subpart (ii) because the complaint was barred by res judicata.

{¶25} The trial court denied the motion. First, it found that the filing of the complaint constituted "conduct" under R.C. 2121.51(A)(1)(a) (conduct includes "the filing of a civil action"). However, the trial court did not find that the plaintiffs engaged in frivolous conduct. The trial court explained that its dismissal entry states that it is dismissing the complaint under Civ.R. 12(B)(6) sua sponte, without notice, and that it may do so only if "the complaint is frivolous ***or*** the claimant obviously cannot prevail on the facts alleged in the complaint." *See State ex rel. Mayer v. Henson*, 2002-Ohio-6323, ¶ 11. It rejected Hashman's characterization of the dismissal entry as containing a finding that the complaint was frivolous. The trial court explained that in its dismissal entry, it found that the complaint contained fatal flaws but was "an understandable attempt . . . to obtain clarity . . . ." And that the individuals who brought the complaint did so "in good faith, abeit in a way that was legally inactionable. It was filed erroneously, not frivolously."

{¶26} We find that the trial court did not err in finding that the conduct was not frivolous. It appears from the complaint that Taylor and the other petitioners were contesting the "election of any person to any public office" under R.C. 3515.08(A), specifically those statutory candidates that were lawfully on the ballot and duly voted into office after the City of Nelsonville's effort to force them off the ballot was expressly rejected by the Supreme Court of Ohio. *State ex rel. Nelsonville v. Athens Cnty. Bd. of Elections*, 2025-Ohio-4363, ¶ 28-37. In order to prevail in an election contest, Taylor and

the others had to prove by clear and convincing evidence that one or more election irregularities occurred and that the irregularity or irregularities affected enough votes to change or make uncertain the result of the special election. *In re Election Contest of Dec. 14, 1999 Special Election*, 91 Ohio St.3d 302, 305 (2001); *O'Farrell v. Landis*, 2013-Ohio-93, ¶ 11 ("election irregularities must constitute more than a disagreement with a board of elections in the execution of its proper duties or an allegation that its members abused a discretion given them by statute. No case specifically defines an 'election irregularity', but examples from numerous cases indicate that it must at least involve the potential violation of a constitution, statute, or rule pertaining to the election in question, or defective language on the ballot, or some other egregious defect or fraud in the ballot or election procedure."). Here, the complaint alleged that the contested candidates were incorrectly placed on the ballot in violation of a city ordinance.

{¶27} The complaint was filed in Athens County Common Pleas Court, in accordance with R.C. 3515.08(C), which gives a judge in the common pleas court of the county in which the election was held jurisdiction over the matter, unless "any contestant alleges prejudice on the part of the judges" in which case another judge may be assigned. The complaint also attempted to comply with R.C. 3515.09 in that a petition to contest an election is commenced by filing a petition signed by at least 25 voters who voted at the last election for or against a candidate. However, as the trial court found, the complaint failed to comply with several of the provisions in R.C. 3515.09 and R.C. 3515.10, which requires the petition "be verified by the oath of at least two such petitioners" and accompanied by a bond and there appeared to be lacking a proper instruction for service as it did not ask the court to serve a copy of the petition on the contestees in the same

manner as a summons in a civil action. It is unclear from the record whether the petition was filed within 15 days after the results of the election had been ascertained and announced by the proper authority as required by R.C. 3515.09 and this potential error was not addressed by the trial court or parties below.

{¶28} The complaint contained numerous procedural errors, including all the procedural errors Hashman identified in her motion, as well as the lack of a bond, and these defects were, in part, the basis for the trial court's dismissal. However, the failure to comply with certain statutory requirements like failing to post a bond, failing to include accurate instructions for service, or miscaptioning a pleading as a motion are not frivolous conduct – they are mistakes or errors. When viewed in totality, the complaint was, at best, a procedurally-flawed attempt at an election contest which could not prevail on the facts alleged because the Ohio Supreme Court had previously denied the City of Nelsonville's request to have those contested candidates removed from the ballot.

{¶29} We find that the trial court did not err in finding that the complaint was not frivolous and in denying Hashman's motion for sanctions.

{¶30} We overrule Hashman's fifth and sixth assignments of error.

IV. CONCLUSION

{¶31} We overrule all assignments of error and affirm the trial court's judgment.

JUDGMENT AFFIRMED.

JUDGMENT ENTRY

It is ordered that the JUDGMENT IS AFFIRMED and that appellant shall pay the costs.

The Court finds there were reasonable grounds for this appeal.

It is ordered that a special mandate issue out of this Court directing the Athens County Common Pleas Court to carry this judgment into execution.

A certified copy of this entry shall constitute the mandate pursuant to Rule 27 of the Rules of Appellate Procedure.

Smith, P.J. & Wilkin, J.: Concur in Judgment and Opinion.

For the Court

BY: _____
Michael D. Hess, Judge

NOTICE TO COUNSEL

Pursuant to Local Rule No. 22, this document constitutes a final judgment entry and the time period for further appeal commences from the date of filing with the clerk.