THE SUPREME COURT *of* OHIO

Writing Manual

A Guide to Citations, Style, and Judicial-Opinion Writing

Third Edition

Effective June 17, 2024

CITATIONS AT A GLANCE

For easy reference, below are examples of the most commonly used citation forms.

CASES

Jurisdiction	Initial Citation	Subsequent Citation within 2 Paragraphs[†]	Subsequent Citation beyond 2 Paragraphs
Supreme Court of Ohio (WebCite unavailable)	*State v. Carter*, 93 Ohio St.3d 581, 585 (2001)	*Carter* at 581	*Carter*, 93 Ohio St.3d at 585
Supreme Court of Ohio (WebCite available)	*State v. Campbell*, 2003-Ohio-6804, ¶ 14	*Campbell* at ¶ 14	*Campbell*, 2003-Ohio-6804, at ¶ 14
Ohio Courts of Appeals (WebCite unavailable)	*State v. Johnson*, 134 Ohio App.3d 586, 591 (1st Dist. 1999)	*Johnson* at 591	*Johnson*, 134 Ohio App.3d at 591
Ohio Courts of Appeals (WebCite available)	*Swartzentruber v. Orville Grace Brethren Church*, 2005-Ohio-4264, ¶ 5 (9th Dist.)	*Swartzentruber* at ¶ 5	*Swartzentruber*, 2005-Ohio-4254, at ¶ 5 (9th Dist.)
Ohio trial courts (published)	*Daniel v. Univ. of Cincinnati*, 116 Ohio Misc.2d 1, 3 (Ct. of Cl. 2001)	*Daniel* at 3	*Daniel*, 116 Ohio Misc.2d at 3
Ohio trial courts (unpublished)	*Parma v. Ohio Bur. of Workers' Comp.*, Cuyahoga C.P. No. CV-21-943131, 4 (Dec. 27, 2021)	*Parma* at 4	*Parma*, Cuyahoga C.P. No. CV-21-943131, at 4
Ohio administrative	*L.L. Bean, Inc. v. Levin*, BTA No. 2010-2853, 2014 Ohio Tax LEXIS 1539, *2 (Mar. 6, 2014)	*L.L. Bean* at *2	*L.L. Bean*, 2014 Ohio Tax LEXIS 1539, at *2
U.S. Supreme Court	*United States v. Flores-Montano*, 541 U.S. 149, 155, fn. 2 (2004)	*Flores-Montano* at 155, fn. 2	*Flores-Montano*, 541 U.S. at 155, fn. 2
U.S. Courts of Appeals	*Vickers v. Fairfield Med. Ctr.*, 453 F.3d 757, 765 (6th Cir. 2006)	*Vickers* at 765	*Vickers*, 453 F.3d at 765
U.S. District Courts	*Schmitt v. Husted*, 341 F.Supp.3d 784, 790 (S.D.Ohio 2018)	*Schmitt* at 790	*Schmitt*, 341 F.Supp.3d at 790

[†] For subsequent citations within two paragraphs, *Id.* can be used instead of the case name if there is no intervening citation.

OTHER SOURCES

Ohio Const., art. IV, § 3(B)(2)

R.C. 2901.01(A)

2020 Am.Sub.S.B. No. 120

42 U.S.C. 12101 et seq.

Akron City Code 432.16

Civ.R. 56(C)

Fed.R.Civ.P. 12(a)

Adm.Code 3301-2-11(D)(3)

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The Supreme Court *of* Ohio

2023–2024 Writing Manual Revision Committee

Introducing the Third Edition of the Supreme Court of Ohio's Writing Manual, effective June 17, 2024. Adopted by the Court in February 2024, the revisions incorporated in the Third Edition of the Writing Manual were proposed by a committee that Chief Justice Sharon L. Kennedy established in February 2023. Chaired by Justice Pat DeWine and composed of Justices, Supreme Court staff members, practitioners, and legal-writing instructors, the committee resolved to propose revisions that would improve the readability of opinions issued by the Supreme Court and the Courts of Appeals.

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TABLE OF CONTENTS

PREFACE

The Supreme Court of Ohio Writing Manual is a comprehensive guide to judicial-opinion writing published by the court. This third edition of the Writing Manual includes various revisions and updates designed to improve the readability of opinions issued by, and briefs filed in, the Supreme Court of Ohio and Ohio's Courts of Appeals.

Consisting of three parts, the Writing Manual addresses broad areas of interest to judges, court staff, and practitioners:

- Part I, the Manual of Citations, governs the citation format used in Supreme Court opinions. It sets forth rules for the forms of citation for cases, statutes, and other sources, provides examples for each category, and explains the use of WebCites.

- Part II, the Style Guide, provides direction on certain aspects of style used in Supreme Court opinions. Subjects covered include capitalization, punctuation, use of footnotes and headings, captions, and commonly misused words.

- Part III, the Structure of a Judicial Opinion, is a guide intended to assist writers of judicial opinions. It offers an outline setting forth the basic components of an opinion in the traditional sequence, followed by several examples written in the Supreme Court's style.

The Supreme Court will follow the Writing Manual in its opinions. The committee strongly recommends that other Ohio courts and lawyers follow Parts I and II of the manual, and the committee hopes that Part III will be useful in writing opinions and drafting briefs and pleadings. *See* Rule 3.01 ("Parties should refer to the Supreme Court's Writing Manual: A Guide to Citations, Style, and Judicial-Opinion Writing for guidance on the style of documents filed with the Supreme Court.").

If you have any questions about or comments on the Writing Manual, please contact the Reporter's Office at the Supreme Court of Ohio, 65 South Front Street, Columbus, Ohio 43215-3431. Telephone: 614.387.9580 or toll-free at 1.800.826.9010. Email: REP@sc.ohio.gov.


THE SUPREME COURT OF THE STATE OF OHIO

PART I. MANUAL OF CITATIONS

INTRODUCTION to Part I, the Manual of Citations

This Manual of Citations prescribes the standard citation forms for cases, constitutions, statutes and ordinances, rules and regulations, and secondary sources. It also includes helpful citation guidance that is more generally applicable, such as how to use short-form citations, signal words and phrases, and parentheticals to indicate alterations to quotations.

This version of the Manual of Citations includes citation-form updates that recognize that most legal research now utilizes electronic databases. Most notably, parallel case citations are no longer necessary or helpful; the Ohio WebCite is now all the reader needs to locate an opinion issued by the Supreme Court, Courts of Appeals, or Court of Claims. And for older Ohio opinions lacking a WebCite, the regional-reporter (N.E.) citation has become obsolete, given the proliferation of legal-research services, including several that do not require a subscription. Although the shrinking of the citation form for Ohio cases from three parallel sources to one is perhaps the most obvious change from the second edition, this edition's Manual of Citations includes various other changes intended to simplify and modernize citation forms.

SECTION ONE: Cases

(For "**CITATIONS AT A GLANCE**," see inside cover.)

This section shows how an opinion should provide the initial citation to a particular case. For guidance on citing subsequent citations to the same case, see **6.1. Short-Form Citations** below.

1.1. Ohio Cases

Beginning on May 1, 2002, the Supreme Court's website became the repository of opinions of the Supreme Court, the Courts of Appeals, and the Court of Claims, as well as selected opinions of the state's trial courts. Since that time, each opinion posted to the Supreme Court's website has been assigned its own unique number or "WebCite." The WebCite is composed of three elements: the year of decision, the word "Ohio," and a number unique to that opinion—e.g., 2003-Ohio-1234. The search index can be accessed at http://www.supremecourt.ohio.gov/ROD/docs/.

A. Supreme Court of Ohio cases

1. Supreme Court cases with available WebCite

In citations of Supreme Court of Ohio cases with an available WebCite, place the elements of the citation in the following order:

- The name of the case, in italics, followed by a comma;
- The WebCite.

Paragraph numbers, not page numbers, are used to pinpoint text. The year of decision appears in the WebCite, not within parentheses. No parenthetical is necessary to indicate the court; in the absence of a parenthetical, the reader should assume from the WebCite that the decision was issued by the Supreme Court.

HOW TO CITE SUPREME COURT OF OHIO CASES WHEN WEBCITE AVAILABLE

Bonacorsi v. Wheeling & Lake Erie Ry. Co., 2002-Ohio-2220, ¶ 15.
NOTE: Use this form when citing one paragraph of an opinion.

State ex rel. Horton v. Kilbane, 2022-Ohio-205, ¶ 16-18.

Bowling Green v. Godwin, 2006-Ohio-3563, ¶ 13, fn. 1.
NOTE: When citing a footnote, include the paragraph number in which the footnote appears.

Mid-America Tire, Inc. v. PTZ Trading Ltd., 2002-Ohio-2427, paragraph two of the syllabus.
NOTE: Use this form when citing one paragraph of a multiparagraph syllabus.

Ellwood Engineered Castings Co. v. Zaino, 2003-Ohio-1812, ¶ 72 (Cook, J., dissenting).
NOTE: Include the last name of the author when citing a separate opinion.

2. Supreme Court cases without available WebCite

In citations of Supreme Court of Ohio cases without an available WebCite, place the elements of the citation in the following order:

- The name of the case, in italics, followed by a comma;
- The official-reporter citation;
- The year of decision, within parentheses.

The official reporter for the Supreme Court of Ohio is Ohio State Reports (Ohio St.), while the North Eastern Reporter (N.E.) is an unofficial reporter. A citation for the North Eastern Reporter is no longer included unless an official-reporter citation is unavailable.

HOW TO CITE SUPREME COURT OF OHIO CASES WHEN WEBCITE UNAVAILABLE

O'Brien v. Egelhoff, 9 Ohio St.3d 309 (1984).

Greene Cty. Agricultural Soc. v. Liming, 89 Ohio St.3d 551, 554, fn. 3 (2000).

NOTE: When citing a footnote, include the page number on which the footnote appears. The reference to the footnote ("fn.") follows the pincite.

Marrek v. Cleveland Metroparks Bd. of Commrs., 9 Ohio St.3d 194 (1984), syllabus.

NOTE: Use this example when citing a syllabus composed of one paragraph.

Scioto Valley Ry. & Power Co. v. Pub. Util. Comm., 115 Ohio St. 358 (1926), paragraph two of the syllabus.

NOTE: Use this example when citing one paragraph of a multiparagraph syllabus.

Burger Brewing Co. v. Thomas, 42 Ohio St.2d 377, 378-379 (1975).

NOTE: Use this example when referring to a specific page. When citing a range of pages, the full number is provided for the ending page of the range—that is, use 378-379, not 378-79.

Walters v. Knox Cty. Bd. of Revision, 47 Ohio St.3d 23, 26 (1989) (Douglas, J., concurring in judgment only).

NOTE: Use this example when referring to a separate opinion.

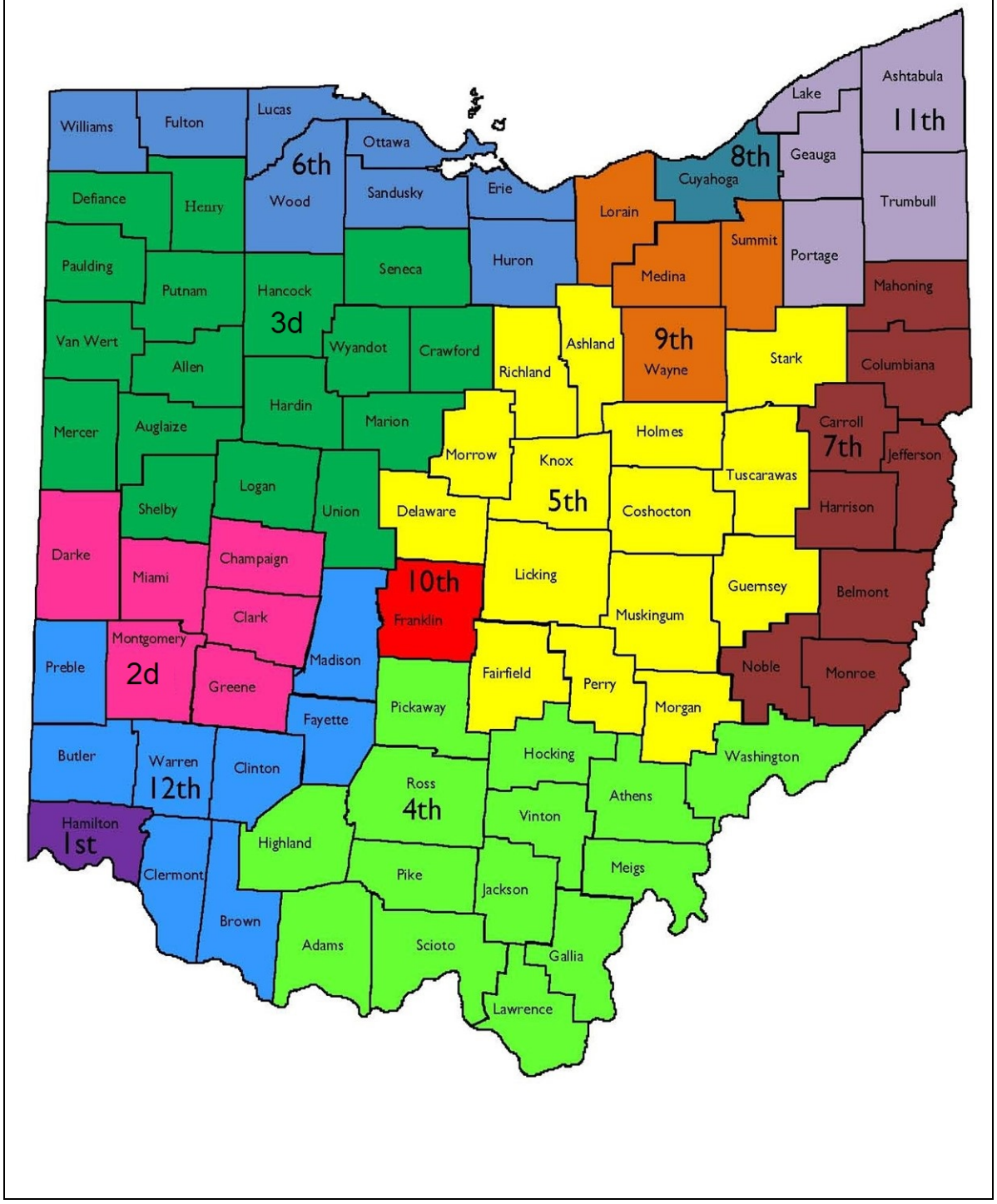
Somerby v. Tappan, Wright 230 (1833).

Bebout v. Simmonds, Tappan 227 (1818).

B. Ohio court-of-appeals cases

The following map and list identify all 12 Ohio appellate districts and their constituent counties.

MAP OF OHIO APPELLATE DISTRICTS



LIST OF OHIO APPELLATE DISTRICTS	
1st	Hamilton
2d	Champaign, Clark, Darke, Greene, Miami, and Montgomery
3d	Allen, Auglaize, Crawford, Defiance, Hancock, Hardin, Henry, Logan, Marion, Mercer, Paulding, Putnam, Seneca, Shelby, Union, Van Wert, and Wyandot
4th	Adams, Athens, Gallia, Highland, Hocking, Jackson, Lawrence, Meigs, Pickaway, Pike, Ross, Scioto, Vinton, and Washington
5th	Ashland, Coshocton, Delaware, Fairfield, Guernsey, Holmes, Knox, Licking, Morgan, Morrow, Muskingum, Perry, Richland, Stark, and Tuscarawas
6th	Erie, Fulton, Huron, Lucas, Ottawa, Sandusky, Williams, and Wood
7th	Belmont, Carroll, Columbiana, Harrison, Jefferson, Mahoning, Monroe, and Noble
8th	Cuyahoga
9th	Lorain, Medina, Summit, and Wayne
10th	Franklin
11th	Ashtabula, Geauga, Lake, Portage, and Trumbull
12th	Brown, Butler, Clermont, Clinton, Fayette, Madison, Preble, and Warren

1. Court-of-appeals cases with available WebCite

In citations of Ohio court-of-appeals cases that have a WebCite, place the elements of the citation in the following order:

- The name of the case, in italics, followed by a comma;
- The WebCite;
- The appellate district, within parentheses—e.g., (1st Dist.).

HOW TO CITE OHIO COURT-OF-APPEALS CASES WHEN WEBCITE AVAILABLE

Byer v. Wright, 2005-Ohio-1797 (11th Dist.).

State v. Jones, 2003-Ohio-4669, ¶ 40 (8th Dist.).

State v. Pointer, 2011-Ohio-1419, ¶ 3, fn. 1 (2d Dist.).

2. Print-published court-of-appeals cases without available WebCite

In citations of Ohio court-of-appeals cases that lack a WebCite but are print-published, place the elements of the citation in the following order:

- The name of the case, in italics, followed by a comma;
- The official-reporter citation, Ohio Appellate Reports, when available;
- The appellate district and year of decision, within parentheses—e.g., (1st Dist. 1983).

HOW TO CITE OHIO COURT-OF-APPEALS CASES WHEN WEBCITE UNAVAILABLE—PRINT-PUBLISHED

Cincinnati Traction Co. v. Cahill, 16 Ohio App. 496, 501 (1st Dist. 1922).

Kessler v. Brown, 30 Ohio Law Abs. 321 (5th Dist. 1939).

NOTE: The O.O. citation could be used instead of Ohio Law Abs., but there is no need to use both, because either can be used to find the opinion in an electronic database.

Gray v. Allison Div., Gen. Motors Corp., 52 Ohio App.2d 348, 351 (8th Dist. 1977).

Hansen v. Hansen, 132 Ohio App.3d 795, 799, fn. 5 (1st Dist. 1999).

Hepner v. Hamilton Cty. Bd. of Rev., 11 O.O.3d 144 (1st Dist. 1978).

State v. McIntire, 720 N.E.2d 222, 223 (9th Dist. 1998).

3. Non-print-published Ohio court-of-appeals cases without available WebCite

In citations of Ohio court-of-appeals cases without an available WebCite that are not print-published, place the elements of the citation in the following order:

- The name of the case, in italics, followed by a comma;
- A Westlaw or Lexis citation (or else the court-of-appeals case number);
- The appellate district and the date of decision within parentheses (month, day, and year)—e.g., (10th Dist. Dec. 2, 1981).

HOW TO CITE OHIO COURT-OF-APPEALS CASES WHEN WEBCITE UNAVAILABLE—NON-PRINT-PUBLISHED

State v. Croston, 2001 WL 1346130 (4th Dist. Oct. 30, 2001).

-or-

State v. Croston, 2001 Ohio App. LEXIS 4870 (4th Dist. Oct. 30, 2001).

Std. Oil Co. v. Fairview Park, 1979 WL 210632, *4 (8th Dist. Dec. 20, 1979).

-or-

Std. Oil Co. v. Fairview Park, 1979 Ohio App. LEXIS 11428, *4 (8th Dist. Dec. 20, 1979).

NOTE: When a Westlaw or Lexis cite is available, use the Westlaw or Lexis star page as a pinpoint.

NOTE: Either electronic-database citation is acceptable.

State v. Smith, No. 02CA00123 (2d Dist. Nov. 1, 2002).

C. Ohio trial-court cases

1. Trial-court cases without available WebCite

a. Print-published cases

In citations of print-published Ohio trial-court cases that lack a WebCite, place the elements of the citation in the following order:

- The name of the case, in italics, followed by a comma;
- The official citation (or, if unavailable, an electronic-database or unofficial-reporter citation);
- The court and the year of decision, within parentheses.

In citations of trial-court cases, an abbreviation for the court of decision must precede the year of decision within the parentheses, unless the reporter itself identifies the court, such as Ohio Nisi Prius Reports. Courts of decision are abbreviated as follows: C.P. = court of common pleas; C.C. = county court; M.C. = municipal court; Ct. of Cl. = Court of Claims of Ohio.

NOTE: Ohio Bar Reports (OBR) and Ohio Opinions (O.O., O.O.2d, and O.O.3d) are not included in the citation. Those sources are cited only when they are the only available source for a case.

HOW TO CITE OHIO TRIAL-COURT CASES WHEN WEBCITE UNAVAILABLE—PRINT-PUBLISHED

State v. Saam, 50 Ohio Law Abs. 5 (C.P. 1947).

Welter v. Welter, 27 Ohio Misc. 44, 46 (C.P. 1971).

Floyd v. Copas, 9 O.O.3d 298, 1977 Ohio Misc. LEXIS 126 (C.P. 1977).

NOTE: If the citation to a reporter listed in Section 1.3 cannot be used to access the case on Westlaw or Lexis, then also provide an electronic-database citation. The O.O.3d citation is included only because it is the only available print-published source for the case.

b. Non-print-published cases

For Ohio trial-court decisions that are not published in print, place the elements of the citation in the following order:

- The name of the case, in italics, followed by a comma;
- The court of decision, including the county or city;
- The case number, written as No. ___;
- A Westlaw or Lexis citation, when available, preceded by a comma;
- The date of decision, within parentheses (month, day, and year).

HOW TO CITE OHIO TRIAL-COURT CASES WHEN WEBCITE UNAVAILABLE—NON-PRINT-PUBLISHED

Fairfield Cty. v. Allstate Ins. Co., Franklin C.P. No. 91CVH02-1112 (July 24, 1992).
NOTE: No Westlaw or Lexis citation is available for this case.

Porter v. Cent. Auto Elec. & Radiator Shop, Inc., New Philadelphia M.C. No. 70890CVF-124, 1990 WL 693198 (Nov. 26, 1990).

Johnson v. Dept. of Rehab. & Corr., Franklin C.P. No. 12 CV 11978, 2013 Ohio Misc. LEXIS 10982 (Jan. 10, 2013).

2. Trial-court cases with available WebCite

a. Print-published cases

In citations of print-published Ohio trial-court cases with an available WebCite, place the elements of the citation in the following order:

- The name of the case, in italics, followed by a comma;
- The WebCite;
- The court of decision (e.g., C.P., M.C.) within parentheses.

Paragraph numbers, not page numbers, are used to pinpoint text.

The year of decision appears in the WebCite, not within parentheses.

HOW TO CITE OHIO TRIAL-COURT CASES—PRINT-PUBLISHED AND WEBCITE AVAILABLE

Cuyahoga Metro. Hous. Auth. v. Harris, 2006-Ohio-6918 (M.C.).

Intercargo Ins. Co. v. Mun. Pipe Contrs., Inc., 2003-Ohio-7363 (C.P.).

In re Wurgler, 2005-Ohio-7139 (C.P.).

NOTE: As of July 1, 2012, trial-court cases are not print-published.

b. Non-print-published cases (Court of Claims cases)

In citations of Ohio trial-court cases that are not published in print and that have a WebCite (a category limited to Court of Claims cases), place the elements of the citation in the following order:

- The name of the case, in italics, followed by a comma;
- The WebCite;
- (Ct. of Cl.)

HOW TO CITE OHIO TRIAL-COURT CASES—NON-PRINT-PUBLISHED AND WEBCITE AVAILABLE

Atkinson v. Dept. of Rehab. & Corr., 2009-Ohio-4271 (Ct. of Cl.).

O'Brien v. Ohio State Univ., 2006-Ohio-1104 (Ct. of Cl.).

1.2. Ohio Administrative Decisions

In citations of Ohio administrative decisions, place the elements of the citation in the following order:

- The name of the case, in italics, followed by a comma;
- The agency of decision;
- The case number, written as No. ___;
- A Westlaw or Lexis citation, if available, preceded by a comma;
- The date of decision, within parentheses (month, day, and year).

HOW TO CITE OHIO ADMINISTRATIVE DECISIONS

Board of Tax Appeals:

Rich's Dept. Stores, Inc. v. Wilkins, BTA No. 2005-T-1609, 2009 WL 294413 (Feb. 3, 2009).

-or-

Rich's Dept. Stores, Inc. v. Wilkins, BTA No. 2005-T-1609, 2009 Ohio Tax LEXIS 2046 (Feb. 3, 2009).

Public Utilities Commission of Ohio:

In re Columbus S. Power Co., PUCO No. 05-376-EL-UNC, 2006 WL 1763724, *5 (June 28, 2006).

-or-

In re Columbus S. Power Co., PUCO No. 05-376-EL-UNC, 2006 Ohio PUC LEXIS 356, *2 (June 28, 2006).

State Employment Relations Board:

In re Norwood, SERB No. 99-025, 3-168 (Oct. 7, 1999).

NOTE: No Westlaw or Lexis citation is available for this case.

1.3. Abbreviations for Reporters of Ohio Cases

Use the following standard abbreviations when citing various reporters of Ohio cases:

ABBREVIATIONS FOR REPORTERS OF OHIO CASES	
Ohio Reports (1823-1851)	Ohio
Ohio State Reports (1852-1964)	Ohio St.
Ohio State Reports, Second Series (1964-1982)	Ohio St.2d
Ohio State Reports, Third Series (1982-date)	Ohio St.3d
Ohio Appellate Reports (1913-1964)	Ohio App.
Ohio Appellate Reports, Second Series (1963-1982)	Ohio App.2d
Ohio Appellate Reports, Third Series (1982-2012)	Ohio App.3d
Ohio Miscellaneous Reports (1963-1982)	Ohio Misc.
Ohio Miscellaneous Reports, Second Series (1982-2012)	Ohio Misc.2d
Ohio Circuit Court Reports (1885-1901)	Ohio C.C.
Ohio Circuit Court Reports, New Series (1903-1917)	Ohio C.C.(N.S.)
Ohio Circuit Decisions (1885-1901)	Ohio C.D.
Ohio Nisi Prius Reports (1894-1901)	Ohio N.P.
Ohio Nisi Prius Reports, New Series (1903-1934)	Ohio N.P.(N.S.)
Ohio Decisions (1894-1920)	Ohio Dec.
Ohio Decisions Reprint (1840-1893)	Ohio Dec.Rep.
Ohio Law Abstracts (1923-1964)	Ohio Law Abs.
Ohio Courts of Appeals Reports (1917-1922)	Ohio C.A.
Ohio Opinions (1934-1956)	O.O.

Ohio Opinions, Second Series (1954-1973).....O.O.2d

Ohio Opinions, Third Series (1973-1982) O.O.3d

Ohio Bar Reports (1982-1987).....OBR

Ohio Supplement (1937-1946).....Ohio Supp.

Tappan's Reports (1816-1819) .....Tappan

Weekly Law Bulletin (1876-1921) .....W.L.B.

Wright's Ohio Supreme Court Reports (1831-1834).....Wright

1.4. Federal Cases

A. United States Supreme Court cases

In citations of United States Supreme Court cases, place the elements of the citation in the following order:

- The name of the case, in italics, followed by a comma;
- The official citation from the U.S. Reports;
- The year of decision, within parentheses.

When citing a case that has not yet been assigned a U.S. Reports volume and page number, provide blanks (__ U.S. __, __) as well as the Supreme Court Reporter citation.

HOW TO CITE UNITED STATES SUPREME COURT CASES

Heckler v. Turner, 470 U.S. 184, 191 (1985).

Beer v. United States, 425 U.S. 130, 143 (1976) (Marshall, J., dissenting).

Dutton v. Evans, 400 U.S. 74, 82, fn. 15 (1970).

United States v. Nixon, 418 U.S. 683, 699-700 (1974).

HOW TO CITE UNITED STATES SUPREME COURT CASES

Southwest Airlines v. Saxon, __ U.S. __, __, 142 S.Ct. 1783, 1789 (2022).
NOTE: When a pinpoint citation is required but is not available in U.S. Reports, use the pinpoint cite from the Supreme Court Reporter.

B. Federal circuit-court cases

In citations of print-published federal circuit-court cases, place the elements of the citation in the following order:

- The name of the case, in italics, followed by a comma;
- The citation (generally, F., F.2d, F.3d, or F.4th);
- The circuit number, written as 1st Cir., 2d Cir., etc., followed by the year of decision, within parentheses—e.g., (10th Cir. 2003).

HOW TO CITE FEDERAL CIRCUIT-COURT CASES—PRINT-PUBLISHED CASES

Bass v. Hoagland, 172 F.2d 205 (5th Cir. 1949).

Thorpe v. Thorpe, 364 F.2d 692 (D.C.Cir. 1966).

Schoenhaus v. Genesco, Inc., 440 F.3d 1354, 1358-1359 (Fed.Cir. 2006).

Motorists Mut. Ins. Co. v. Hardinger, 131 Fed.Appx. 823 (3d Cir. 2005).

In citations of federal circuit-court cases that are not print-published, place the elements of the citation in the following order:

- The name of the case, in italics, followed by a comma;
- A Westlaw or Lexis citation;
- The court and date of decision, within parentheses (month, day, and year).

**HOW TO CITE FEDERAL CIRCUIT-COURT CASES—
NON-PRINT-PUBLISHED CASES**

Moreno v. Curry, 2007 WL 4467580 (5th Cir. Dec. 20, 2007).
-or-
Moreno v. Curry, 2007 U.S. App. LEXIS 29505 (5th Cir. Dec. 20, 2007).

C. Federal district-court cases

In citations of print-published federal district-court cases, place the elements of the citation in the following order:

- The name of the case, in italics, followed by a comma;
- The citation (generally, F.Supp., F.Supp.2d, F.Supp.3d);
- The court of decision (district but not division), followed by the year of decision, within parentheses.

Opinions of the district courts are found primarily in the Federal Supplement (e.g., F.Supp.3d) and the Federal Rules Decisions (F.R.D.), but cases before about 1932 can be found in the Federal Reporter (F.). Opinions of bankruptcy courts can be found in Bankruptcy Reports (B.R.). The year of decision is preceded by the abbreviation "Bankr.," the district, and the state (Bankr.S.D.Ohio 1997). See **1.5(E). Abbreviations for West's regional reporters and others** below.

HOW TO CITE FEDERAL DISTRICT-COURT CASES—PRINT-PUBLISHED CASES

Forbes v. Wilson, 243 F. 264 (N.D.Ohio 1917).

Crews v. Blake, 52 F.R.D. 106, 107 (S.D.Ga. 1971).

Heath v. Westerville Bd. of Edn., 350 F.Supp. 360 (S.D.Ohio 1972).

United States v. Atlantic Richfield Co., 429 F.Supp. 830, 841 (E.D.Pa. 1977), *aff'd sub nom. United States v. Gulf Oil Corp.*, 573 F.2d 1303 (3d Cir. 1978).

Leininger v. United States, 499 F.Supp.3d 973, 997 (D.Kan. 2020).

Stephenson v. Duriron Co., 292 F.Supp. 66 (S.D.Ohio 1968), *aff'd*, 428 F.2d 387 (6th Cir. 1970).

Baylor v. Mading-Dugan Drug Co., 57 F.R.D. 509, 511 (N.D.Ill. 1972).

In citations of federal district-court cases that are not print-published, place the elements of the citation in the following order:

- The name of the case, in italics, followed by a comma;
- A Westlaw or Lexis citation;
- The court and date of decision, within parentheses (month, day, and year).

HOW TO CITE FEDERAL DISTRICT-COURT CASES—NON-PRINT-PUBLISHED CASES

United States v. Hughes, 1987 WL 33806 (N.D.Ohio Nov. 13, 1987).
-or-
United States v. Hughes, 1987 U.S. Dist. LEXIS 11642 (N.D.Ohio Nov. 13, 1987).

1.5. Out-of-State Cases

A. Public-domain citation forms

A number of states have developed their own public-domain citation forms, similar to Ohio's WebCite. Use only these citation forms when they are available.

HOW TO CITE PUBLIC-DOMAIN FORMS
State v. Moore, 2010 ND 229, ¶ 7. *State v. Marinez*, 2010 WI App 34. *Staples v. Michaud*, 2003 ME 133.

B. Print-published cases

In citations of out-of-state court cases that are published in print, place the elements of the citation in the following order:

- The name of the case, in italics, followed by a comma;
  - As shown in the first example below, the names of states are not abbreviated in case captions;
- The official citation (or, if unavailable, an unofficial-reporter citation);
- The year of decision, within parentheses, as follows:
  - If the case is officially reported, only the year will appear in the parentheses;
  - If the case has no official reporter or if the official reporter does not distinguish between court levels:
    - The name of the state (abbreviated or in full, as set forth in **D. Abbreviations for out-of-state reporters** below) appears before the year, if the case is from the state's highest court;
    - The name of the state (abbreviated or in full, as set forth in **D. Abbreviations for out-of-state reporters** below) appears followed by the word "App.," if the case is from an appellate court.

HOW TO CITE OUT-OF-STATE COURT CASES—PRINT-PUBLISHED

Martin v. Mut. Life Ins. Co. of New York, 189 Ark. 291 (1934).

Fendelman v. Fenco Handbag Mfg. Co., 482 S.W.2d 461 (Mo. 1972).

Lawley v. Kansas City, 516 S.W.2d 829, 830 (Mo.App. 1974).

Johnson v. State, 815 S.W.2d 707 (Tex.Crim.App. 1991).

Gissen v. Goodwill, 80 So.2d 701, 702 (Fla. 1955).

Seabrook v. Taylor, 199 So.2d 315 (Fla.App. 1967).

Giguere v. Rosselot, 110 Vt. 173 (1939).

Richards v. Anderson, 9 Utah 2d 17 (1959).

In re Estate of Cavill, 459 Pa. 411 (1974).

Wolf v. People, 329 N.Y.S.2d 291 (1972), *aff'd*, 333 N.Y.S.2d 299 (1972).

Supervisor of Assessments v. Bay Ridge Properties, 270 Md. 216 (1973).

State v. Luck, 353 So.2d 225, 232 (La. 1977).

State v. Lesieure, 404 A.2d 457, 464 (R.I. 1979).

Joseph v. Lowery, 261 Or. 545 (1972).

Turley v. N. Huntingdon Twp., 5 Pa.Commw. 116 (1972).

Wellenkamp v. Bank of Am., 21 Cal.3d 943 (1978).

C. Non-print-published cases without available public-domain citation

In citations of out-of-state court cases that are not published in print and do not have a public-domain citation, place the elements of the citation in the following order:

- The case name, in italics, followed by a comma;
- A Westlaw or Lexis citation;
- The court and date of decision, within parentheses (month, day, and year).

HOW TO CITE OUT-OF-STATE COURT CASES— NON-PRINT-PUBLISHED
D'Agostino v. Lynch, 2008 WL 527059 (Ill.App. Feb. 27, 2008). *-or-* *D'Agostino v. Lynch*, 2008 Ill.App. LEXIS 140 (Feb. 27, 2008). *El-Amin v. Adams*, 1995 WL 293043 (Va.App. May 16, 1995). *-or-* *El-Amin v. Adams*, 1995 Va.App. LEXIS 446 (May 16, 1995).

D. Abbreviations for out-of-state reporters

Use the following abbreviations when citing official reporters for other states or territories; as appropriate, use "2d" for the Second Series, "3d" for the Third Series, "4th" for the Fourth Series, etc. (e.g., Cal.Rptr.4th):

ABBREVIATIONS FOR OUT-OF-STATE REPORTERS	
Alabama Reports	Ala.
Alabama Appellate Reports	Ala.App.
Alaska Reports	Alaska
Arizona Reports	Ariz.
Arizona Appeals Reports	Ariz.App.
Arkansas Reports	Ark.
Arkansas Appellate Reports	Ark.App.
California Reporter (West)	Cal.Rptr.
California Reports	Cal.
California Appellate Reports	Cal.App.
Colorado Reports	Colo.
Colorado Court of Appeals Reports	Colo.App.
Connecticut Reports	Conn.
Connecticut Appellate Reports	Conn.App.
Connecticut Supplement	Conn.Supp.
Delaware Reports	Del.
Delaware Chancery Reports	Del.Ch.
Florida Reports	Fla.

ABBREVIATIONS FOR OUT-OF-STATE REPORTERS

Florida Supplement	Fla.Supp.
Georgia Reports	Ga.
Georgia Appeals Reports	Ga.App.
Hawai‘i Reports	Haw.
Hawai‘i Appellate Reports	Haw.App.
Idaho Reports	Idaho
Illinois Reports	Ill.
Illinois Appellate Court Reports	Ill.App.
Illinois Court of Claims Reports	Ill.Ct.Cl.
Indiana Reports	Ind.
Indiana Court of Appeals Reports	Ind.App.
Iowa Reports	Iowa
Kansas Reports	Kan.
Kansas Court of Appeals Reports	Kan.App.
Kentucky Reports	Ky.
Kentucky Appellate Reports	Ky.App.
Louisiana Reports	La.
Louisiana Court of Appeals Reports	La.App.
Maine Reports	Me.
Maryland Reports	Md.
Maryland Appellate Reports	Md.App.
Massachusetts Reports	Mass.

ABBREVIATIONS FOR OUT-OF-STATE REPORTERS

Massachusetts Appeals Court Reports……..Mass.App.Ct.

Michigan Reports..... Mich.

Michigan Appeals Reports..... Mich.App.

Michigan Court of Claims Reports..... Mich.Ct.Cl.

Minnesota Reports ..... Minn.

Mississippi Reports..... Miss.

Missouri Reports..... Mo.

Missouri Appeals Reports..... Mo.App.

Montana Reports..... Mont.

Navajo Reporter..... Navajo Rptr.

Nebraska Reports..... Neb.

Nebraska Court of Appeals Reports ..... Neb.App.

Nevada Reports..... Nev.

New Hampshire Reports..... N.H.

New Jersey Reports..... N.J.

New Jersey Superior Court Reports..... N.J.Super.

New Jersey Law Reports ..... N.J.L.

New Jersey Equity Reports..... N.J.Eq.

New Mexico Reports ..... N.M.

New York Reports……..……..N.Y.

Appellate Division Reports, Supreme Court..... A.D.

Miscellaneous Reports, New York..... Misc.

ABBREVIATIONS FOR OUT-OF-STATE REPORTERS

New York Supplement	N.Y.S.
North Carolina Reports	N.C.
North Carolina Court of Appeals Reports	N.C.App.
North Dakota Reports	N.D.
Oklahoma Reports	Okla.
Oklahoma Criminal Reports	Okla.Crim.
Oregon Reports	Or.
Oregon Court of Appeals Reports	Or.App.
Pennsylvania State Reports	Pa.
Pennsylvania Commonwealth Court Reports	Pa.Commw.
Pennsylvania Superior Court Reports	Pa.Super.
Pennsylvania District & County Reports	Pa.D.&C.
Pennsylvania District Reports	Pa.D.
Puerto Rico Reports	P.R.
Official Translations of the Opinions of the Supreme Court of Puerto Rico	P.R.Offic.Trans.
Rhode Island Reports	R.I.
South Carolina Reports	S.C.
South Dakota Reports	S.D.
Tennessee Reports	Tenn.
Tennessee Appeals Reports	Tenn.App.
Tennessee Criminal Appeals Reports	Tenn.Crim.App.

ABBREVIATIONS FOR OUT-OF-STATE REPORTERS	
Texas Reports	Tex.
Texas Criminal Reports	Tex.Crim.App.
Texas Civil Appeals Reports	Tex.Civ.App.
Utah Reports	Utah
Vermont Reports	Vt.
Virginia Reports	Va.
Virginia Court of Appeals Reports	Va.App.
Washington Reports	Wash.
Washington Appellate Reports	Wash.App.
Washington Territory Reports	Wash.Terr.
West Virginia Reports	W.Va.
Wisconsin Reports	Wis.
Wyoming Reports	Wyo.

E. Abbreviations for West's regional reporters and others

Use the following list when citing West's regional reporters and other reports; as appropriate, use "2d" for the Second Series, "3d" for the Third Series, "4th" for the Fourth Series, etc. (e.g., P.4th):

ABBREVIATIONS FOR WEST'S REGIONAL REPORTERS AND OTHER REPORTS

Atlantic Reporter.....A.

Bankruptcy Reporter.....B.R.

Decisions and Orders of the National Labor Relations Board.....N.L.R.B.

Federal Cases.....F.Cas.

Federal Communications Commission Reports.....F.C.C.

Federal Power Commission Reports.....F.P.C.

Federal Rules Decisions.....F.R.D.

Federal Rules Service.....Fed.R.Serv.

Federal Trade Commission Decisions.....F.T.C.

Interstate Commerce Commission Reports.....I.C.C.

North Eastern Reporter.....N.E.

North Western Reporter.....N.W.

Pacific Reporter.....P.

South Eastern Reporter.....S.E.

Southern Reporter.....So.

South Western Reporter.....S.W.

Tax Court of the United States Reports.....T.C.

Use the following examples when citing West's regional reporters and other reports:

HOW TO CITE WEST'S REGIONAL REPORTERS AND OTHER REPORTS
In re H & W Ents., Inc., 19 B.R. 582 (N.D.Iowa 1982). *In re Miller*, 10 B.R. 778 (Bankr.Md. 1981). *NOTE: Bankr. = Bankruptcy Court* *In re Amendment of Part 31, First Report & Order*, 85 F.C.C.2d 818 (1981). *Elion Concrete*, 299 N.L.R.B. 1 (1990). *McAlpine v. Pacarro*, 262 P.3d 622, 626 (Alaska 2011).

1.6. Foreign Cases

In citations of foreign cases, place the elements of the citation in the following order:

- The name of the case in italics, followed by a comma;
- The volume and page number of the official reporter;
- The year of decision within parentheses and the jurisdiction if it is not otherwise clear.

HOW TO CITE FOREIGN CASES
Jones v. Smith, 1978 N.Z.L.R. 48 (1977). *The King v. Perkins*, 106 Eng.Rep. 441 (1783). *Green v. Orange*, 207 C.L.R. 12 (Australia 1996).

SECTION TWO: Constitutions

When citing a constitution, use "Const." for "Constitution," "art." for "Article," the section symbol (§) for "Section," "cl." for "Clause," and "amend." for "Amendment."

When citing the Ohio Constitution, place the elements in the following order, separated by commas:

- Name of Constitution, Article, Section

When citing the United States Constitution, place the elements in the following order, separated by commas:

- Name of Constitution, Article or Amendment, Section, Clause

HOW TO CITE THE OHIO AND UNITED STATES CONSTITUTIONS
Ohio Const., art. IV, § 2(B)(1)(g). U.S. Const., art. II, § 1, cl. 1. U.S. Const., amend. XVIII, § 3.

SECTION THREE: Statutes and Ordinances

3.1. Ohio Statutes

A. Abbreviations

When citing an Ohio statute, the following abbreviations apply:

OHIO STATUTE CITATION ABBREVIATIONS	
Revised Code Section	R.C.
Revised Code Chapter	R.C. Ch.
Revised Code Title	R.C. Title
General Code Section	G.C.
Revised Statutes Section (1880-1910)	R.S.

B. Section numbers, chapters, and titles

When citing an Ohio statute, begin with the appropriate abbreviation listed above, followed by the section number. When the effective date of the statute would add clarity, include the date at the end within parentheses.

HOW TO CITE OHIO STATUTES

R.C. 3905.12.

R.C. 2744.02(B)(4) (effective Apr. 9, 2003).

R.C. 4511.19 and 4511.191.
NOTE: "R.C." is not repeated before "4511.191."

R.C. Ch. 2901.
NOTE: Do not insert a period after the chapter number unless the number comes at the end of a sentence.

HOW TO CITE OHIO STATUTES
R.C. Ch. 5739 and 5741. R.C. Title 29. G.C. 1524. G.C. 1465-80 (predecessor section to R.C. 4123.57(C)). Former R.C. 2323.10, repealed in Am.H.B. No. 1201, 133 Ohio Laws, Part III, 3017, 3020.

C. Legislative acts

An act may be designated as follows:

HOW TO CITE OHIO LEGISLATIVE ACTS
Am.Sub.H.B. No. 565, Section 5, 137 Ohio Laws, Part II, 2964. *NOTE: Include the section when citing a section other than Section 1, which includes the text of the statute.* Am.Sub.S.B. No. 257, 136 Ohio Laws, Part I, 646, 653-656. Am.H.B. No. 268, 126 Ohio Laws 730.

When an Ohio Laws cite is not available, cite the year the bill was passed by the General Assembly:

HOW TO CITE LEGISLATIVE ACTS—NO OHIO LAWS CITE
2011 Am.Sub.H.B. No. 1.

3.2. Ohio Municipal Ordinances

Cite municipal ordinances as shown in the following examples; use "Cod." for "Codified," "Ord." for "Ordinances," and "Mun." for "Municipal":

HOW TO CITE OHIO MUNICIPAL ORDINANCES
Cleveland Cod.Ord. 693.07. Cincinnati Mun.Code 910-9. Akron City Code 432.16. Columbus Traf.Code 2133.01(C).

3.3. Federal Statutes

Cite the United States Code by placing the elements of the citation in the following order:

- The title number;
- U.S.C.;
- The section number.

HOW TO CITE FEDERAL STATUTES
26 U.S.C. 501(c)(3). 42 U.S.C. 1983. 5 U.S.C. 551 et seq. are controlling. *NOTE: Use a plural verb following the et seq. in the above example.*

3.4. Out-of-State Statutes

When citing out-of-state statutes, use the following abbreviations:

CITATION ABBREVIATIONS FOR OUT-OF-STATE STATUTES	
Annotated	Ann.
Chapter(s)	Ch.
Civil	Civ.
Compiled	Comp.
Criminal	Crim.
General	Gen.
Revised	Rev.
Statute(s)	Stat.

Cite out-of-state statutes as shown in the following examples; do not use a section symbol:

HOW TO CITE OUT-OF-STATE STATUTES

Ala.Code 11-42-6.

Alaska Stat. 47.07.073.

Ariz.Rev.Stat.Ann. 13-1703.

Cal.Civ.Code 1785.30.

Cal.Penal Code 1103a.

Conn.Gen.Stat.Ann. 4-187.

Del.Code Ann., Title 7.
NOTE: "Title" is preceded by a comma.

HOW TO CITE OUT-OF-STATE STATUTES
Ill.Ann.Stat., Ch. 122. *NOTE: "Ch." is preceded by a comma.* Ky.Rev.Stat.Ann. 177.990 (effective June 10, 1990). Mich.Comp.Laws Ann., Ch. 500. N.Y.Banking Law 380-h. S.D.Codified Laws 21-27-1. Tex.Water Code Ann. 55.519.

3.5. Miscellaneous Foreign Statutes

Cite foreign statutes as shown in the following example:

HOW TO CITE FOREIGN STATUTES
Statute of Anne, 11 Eng.Stat. 161, Ch. 16, § 27 (1705).

SECTION FOUR: Rules and Regulations

4.1. Ohio Rules

Cite Ohio rules of court as follows. There is no need to precede the citation with the word "Ohio" unless the context does not make it clear.

RULE NAMES AND THEIR ABBREVIATIONS	
Rules of Appellate Procedure	App.R. 9
Rules for Appointment of Counsel in Capital Cases	Appt.Coun.R. 3.01
Code of Judicial Conduct	Jud.Cond.R. 1.2 Jud.Cond.Canon 8
Rules of the Court of Claims	C.C.R. 4
Rules of Civil Procedure	Civ.R. 56(C)
Staff Notes to Rules of Civil Procedure	1994 Staff Note, Civ.R. 34
Continuing Legal Education Regulations	CLE Reg. 303.3
Rules of Criminal Procedure	Crim.R. 11
Ethical Considerations of the Code of Professional Responsibility	EC 1-1
Rules of Evidence	Evid.R. 601
Supreme Court Rules for the Government of the Bar	Gov.Bar R. V(4)(G)
Supreme Court Rules for the Government of the Judiciary	Gov.Jud.R. V
Rules of Juvenile Procedure	Juv.R. 21
Mayor's Court Education and Procedure Rules	May.Ed.R. 3
Rules of Professional Conduct	Prof.Cond.R. 1.4(a)

RULE NAMES AND THEIR ABBREVIATIONS	
Rules of Practice of the Supreme Court	Rule
Supreme Court Rules for the Reporting of Opinions	Rep.Op.R. 1.2
Rules of Superintendence for the Courts of Ohio	Sup.R. 43
Traffic Rules	Traf.R. 23
Regulations Governing Procedure on Complaints and Hearings Before the Board on the Unauthorized Practice of Law	UPL Reg. 400(F)

4.2. Ohio Local Rules of Court

Use the preferred short form of citation if the local rules of court set forth a preference. When no preference is stated, follow the examples below.

HOW TO CITE LOCAL RULES OF COURT
Cuyahoga C.P., Gen.Div., Loc.R. 15.
Butler Cty. Probate R. XXVI.
Ninth Dist.Loc.R. 16(D).

4.3. Federal Rules

Use the following abbreviations when citing federal rules:

FEDERAL-RULE ABBREVIATIONS	
Federal Rules of Appellate Procedure	Fed.R.App.P. 48
Federal Rules of Civil Procedure	Fed.R.Civ.P. 12(a)
Federal Rules of Criminal Procedure	Fed.R.Crim.P. 2
Federal Rules of Evidence	Fed.R.Evid. 411
Federal Rules of Bankruptcy Procedure	Fed.R.Bankr.P. 7041

4.4. Ohio Regulations

Cite Ohio regulations as shown in the following examples; do not use the word "section" or the section symbol after "Code":

HOW TO CITE OHIO REGULATIONS
Adm.Code 109:4-3-09.
Adm.Code 5705-3-07(B).
Adm.Code 4901:1-7-01 et seq.
Former Adm.Code 3745-1-05, 1977-1978 Ohio Monthly Record 3-977 (effective Feb. 4, 1978).

4.5. Federal Regulations

Cite federal regulations as shown in the following examples:

HOW TO CITE FEDERAL REGULATIONS
16 C.F.R. 113. *NOTE: C.F.R. = Code of Federal Regulations* 12 C.F.R. 545.8-3(f). 53 Fed.Reg. 24440. *NOTE: Fed.Reg. = Federal Register* Former 29 C.F.R. 101.14, 52 Fed.Reg. 23967, 23970 (effective June 26, 1987).

SECTION FIVE: Secondary Sources

5.1. Restatements

When citing a Restatement, place the elements of the citation in the following order:

- The volume number, if the Restatement has more than one volume;
- The phrase "Restatement of the Law" or "Restatement of the Law 2d," etc., followed by a comma;
- The title of the Restatement (Contracts, Torts, Agency, etc.), followed by a comma;
- The section number when appropriate, preceded by the section symbol;
- The page number;
- The year, within parentheses.

HOW TO CITE RESTATEMENTS

1 Restatement of the Law 3d, Foreign Relations, § 111 (1986).
NOTE: Do not use a page number when citing the section in general.

4 Restatement of the Law 2d, Torts, § 895C(2)(b), Comment a (1965).
NOTE: The letter designating the comment is not italicized. Do not use a page number when citing a comment.

1 Restatement of the Law 2d, Conflict of Laws, § 187, at 561 (1971).
NOTE: Use a page number when citing a specific passage or when quoting.

1 Restatement of the Law 2d, Contracts, § 168, at 20 (Tent.Draft 1967).

1 Restatement of the Law 2d, Contracts, Misrepresentation, § 159 et seq. (1981).

5.2. Texts, Treatises, and Dictionaries

When citing a text, treatise, or dictionary, generally refer to the most recent edition and place the elements of the citation in the following order:

- The volume number, if the source has more than one volume;
- The last name or full name of the author(s) of the source, if one is named, followed by a comma;
- The title of the source, in italics, followed by a comma;
- The section number when appropriate, preceded by the section symbol;
- The page number when appropriate and available (except for dictionaries), preceded by a comma;

- The year, within parentheses. If the volume is later than a first edition, include the number inside the parentheses before the year—e.g., (2d Ed. 2009).

HOW TO CITE TEXTS, TREATISES, AND DICTIONARIES

8C Appleman, *Insurance Law and Practice*, § 5071.45, at 102-103 (1981).
NOTE: Do not use an ampersand character in the titles of texts, treatises, and dictionaries.

Black's Law Dictionary (8th Ed. 2004).
NOTE: Do not include a page number for dictionary citations.

Webster's Third New International Dictionary (1986).

Merriam-Webster Online, https://www.merriam-webster.com/dictionary /appropriate (accessed Dec. 16, 2022) [https://perma.cc/LS44-JLCR].
NOTE: See subsection 5.8 below for information about permalinks.

Chicago Manual of Style 656 (15th Ed. 2003).

1 Jones, *Evidence*, § 4.1, at 377 (6th Ed.Gard Rev. 1972).

3 Wayne R. LaFave, *Search and Seizure*, § 7.1(b) (3d Ed. 1996).

Public Children Services Association of Ohio, *Factbook* (14th Ed. 2019), https://www.pcsao.org/pdf/factbook/2019/StateOfOhioProfile.pdf (accessed Nov. 30, 2022) [https://perma.cc/S9N2-WSQF].

2A Larson, *Law of Workers' Compensation*, § 77.13, at 14-777 through 14-779 (1997).
NOTE: When the source numbers its pages with hyphens, as in this example, do not use a hyphen or en dash to indicate a range. Use the word "through."

McCormick, *Evidence*, § 324.1, at 907-909 (3d Ed.Cleary 1984).

5 McQuillin, *Municipal Corporations*, § 16.55, at 266 (3d Rev.Ed. 1990).

2 Thomas McDermott, *Ohio Real Property Law and Practice*, § 17-41A, at 815 (3d Ed. 1966).

3 Moore, *Federal Practice*, Paragraph 15.13[2] (2d Ed. 1996).

4A Nichols, *Eminent Domain*, § 15.04[2], at 15-29 (3d Rev.Ed. 1997).

HOW TO CITE TEXTS, TREATISES, AND DICTIONARIES

Ohio Jury Instructions, CV § 537.17 (Rev. Dec. 10, 2011).

Keeton, Dobbs, Keeton & Owen, *Prosser and Keeton on the Law of Tort*s, § 4, at 25-26 (5th Ed. 1984).

White & Summers, *Uniform Commercial Code*, § 2-7, at 97 (4th Ed. 1995).

7 Wigmore, *Evidence*, § 1986, at 242-249 (Chadbourn Rev. 1981).

8 Wigmore, *Evidence*, § 2380-2381 (McNaughton Rev. 1961).

5.3. Law Reviews

A. Elements of citation

When citing a law-review article, place the elements of the citation in the following order:

- The last name or full name of the author(s), including student authors, followed by a comma;
- The title of the article, in italics, followed by a comma;
- The volume number of the law review;
- The name of the law review, using Westlaw's or Lexis's abbreviations;
- The page number;
- The year, within parentheses.

B. Title and source

As noted above, the title of an article or note is italicized; authors' first names may but need not be used; and in general, use Westlaw's or Lexis's abbreviations for sources.

HOW TO CITE LAW REVIEWS

Steinberg, *Economic Perspectives on Regulation of Charitable Solicitation*, 39 Case W.Res.L.Rev. 775 (1989).

John Dwight Ingram, *Punitive Damages Should Be Abolished*, 17 Cap.U.L.Rev. 205, 206 (1988).

Quigley, *Ohio's Unique Rule on Burden of Persuasion for Self-Defense: Unraveling the Legislative and Judicial Tangle*, 20 U.Tol.L.Rev. 105 (1988).

Poulin, *Collateral Estoppel in Criminal Cases: Reuse of Evidence After Acquittal*, 58 U.Cin.L.Rev. 1, 3 (1989).

Nagel, *Systems Analysis, Microcomputers, and the Judicial Process*, 14 U.Dayton L.Rev. 309 (1989).

Morgan, *Civil RICO: The Legal Galaxy's Black Hole*, 22 Akron L.Rev. 107, 110 (1988).

Marinelli, *Accountants' Liability to Third Parties*, 16 Ohio N.U.L.Rev. 1 (1989).

Banner, *Please Don't Read the Title*, 50 Ohio St.L.J. 243 (1989).

Clark Evans Downs, *The Use of the Future Test Year in Utility Rate-Making*, 52 B.U.L.Rev. 791, 796 (1972).

Hufstedler, *Is America Over-Lawyered?*, 31 Clev.St.L.Rev. 371, 373, fn. 11 (1982).

Judith Goldstein Korchin, Note, *An Insurance Program to Effectuate Waiver of Sovereign Tort Immunity*, 26 U.Fla.L.Rev. 89, 90 (1973).
NOTE: Use the name of the student author when citing a law-review note.

Hochman, *The Supreme Court and the Constitutionality of Retroactive Legislation*, 73 Harv.L.Rev. 692, 696, 727 (1960).

Miller & Leasure, *Post*-Kelo *Determination of Public Use and Eminent Domain in Economic Development Under Arkansas Law*, 59 Ark.L.Rev. 43 (2006).

5.4. Annotations

The title of an annotation is italicized but is not surrounded by quotation marks. "Annotation" is not abbreviated. Use "A.L.R." for "American Law Reports."

HOW TO CITE ANNOTATIONS
Annotation, 46 A.L.R.3d 578, 584 (1972). *-or-* Annotation, *Rights in Respect of Engagement and Courtship Presents When Marriage Does Not Ensue*, 46 A.L.R.3d 578, 584 (1972). Annotation, 38 A.L.R.3d 1384 (1971). *-or-* Annotation, *Attorney's Fees in Class Actions*, 38 A.L.R.3d 1384 (1971). Annotation, 20 A.L.R.Fed. 448, 454, at § 3 (1974).

5.5. Encyclopedias

Use the following abbreviations when citing encyclopedias, as shown in the following examples:

ENCYCLOPEDIA ABBREVIATIONS	
American	Am.
Corpus Juris	C.J.
Corpus Juris Secundum	C.J.S.
Encyclopedia	Encyc.
Jurisprudence	Jur.

HOW TO CITE ENCYCLOPEDIAS
22 Am.Jur.2d, Damages, § 271, at 367 (1965). 47 C.J., Partition, § 168, at 337-338 (1929). 27B C.J.S., Divorce, § 321, at 656-657 (1959). 7 Encyc.Britannica, Abraham Lincoln, 369 (15th Ed. 1986). 24A C.J.S., Criminal Law, § 1748-1750 (1962, Supp. 1983). 6 Am.Jur.2d, Assault and Battery, § 107 (1963, Supp. 1983). *NOTE: Do not use an ampersand character in topic titles.* 16 Ohio Jur.3d, Condominiums and Co-operative Apartments, § 20 (1979, Supp. 1983). *NOTE: When citing a supplement or pocket part, use the above three examples.* 21 Ohio Jur.3d, Counties, Townships and Municipal Corporations, § 809, at 371 (1980).

5.6. Ohio Attorney General Opinions

Cite Ohio Attorney General opinions as shown in the following examples:

HOW TO CITE OHIO ATTORNEY GENERAL OPINIONS
1974 Ohio Atty.Gen.Ops. No. 74-094, at 2-382. 2011 Ohio Atty.Gen.Ops. No. 2011-003.

5.7. Nonlegal Magazines and Newspapers

Cite nonlegal magazines and newspapers as shown in the following examples; provide the page number if available. For unpublished magazines and newspapers that are accessible online without a subscription, see **5.8 Internet**.

HOW TO CITE PRINT-PUBLISHED NONLEGAL MAGAZINES AND NEWSPAPERS

Thomas, *Ties of Blood & History*, Newsweek 50 (Feb. 26, 2007).

Banerji, *Investors Flock to Options Bets*, Wall Street Journal (Sept. 30, 2019).

Mehring, *Cash Registers Are Ringing Online*, Business Week 24 (Mar. 5, 2007).

Messina, *Elections Director Resigns Post*, Toledo Blade (Dec. 9, 2011).

McCraken, *Desperate to Cut Costs, Ford Gets Union's Help*, Wall Street Journal 6 (Mar. 2, 2007).

Kuhnhenn, *Federal Election Fund-Raising Rules Relaxed*, Cleveland Plain Dealer A2 (Mar. 2, 2007).

Building the Future, Columbus Dispatch A12 (Mar. 2, 2007).

NOTE: In text, the titles of magazines and newspapers should be italicized.

5.8. Internet

A full internet citation includes:

- author (human or institutional), sponsor, or owner of the website, followed by a comma;
- the title, in italics;
- the date of publication, if available, within parentheses, followed by a comma;
- the Uniform Resource Locator (URL);
- the date accessed, within parentheses;
- a permanent link ("permalink") if one can be created.

  NOTE: Read below and visit the Perma.cc website for more information on permalinks. Courts should include permalinks when citing online sources to ensure that they are permanently accessible. Although the need for permanent accessibility may not apply to briefs, practitioners may opt to include them in certain situations at their discretion.

Perma.cc is a tool created by the Harvard Law School Library to avoid "link rot," which occurs when a cited URL leads to a webpage that is broken or blank or has since been altered. A Perma.cc permalink is an archived record of the page as it existed when the permalink was created—i.e., at the time of citation. For more information, visit https://perma.cc/about.

NOTE: Not all the citation elements set forth above are always necessary. For example, the date of publication of statistical information published only online might not be known or important. The name of the entity sponsoring the website need not be given if it is obvious from the URL.

HOW TO CITE INTERNET SOURCES

Supreme Court of Ohio, *Holiday Filing Rule*, https://www.supremecourt.ohio.gov/opinions-cases/clerk-of-court/office/holiday-filing-rule/ (accessed Mar. 7, 2023) [https://perma.cc/5J39-J623].

Ohio Department of Job and Family Services, *Putative Father Registry*, https://jfs.ohio.gov/pfr/index.stm (accessed Dec. 1, 2022) [https://perma.cc/ZHC9-LJ9K].

Thomas Paine, *Common Sense, Part III* (1776), available at http://www.bartleby.com/133/3.html (accessed May 11, 2023) [https://perma.cc/NTJ4-46HG].

NOTE: "Available at" may be used indicate that the source has also been published in print.

American Psychological Association, *Trauma*, https://www.apa.org/topics/trauma (accessed Sept. 1, 2022) [https://perma.cc/M42V-HRKA].

SECTION SIX: Miscellaneous Citation Rules

6.1. Short-Form Citations

A. Generally

Short-form citations are used when a source is cited more than once; the full cite is given when the source is first cited and a short form is used thereafter. The short form generally uses a few identifying words from the full caption. There are no strict rules; how much of the caption to leave out is discretionary. The writer may decide to use only the plaintiff's name or the whole caption as a short form. If the plaintiff's name is lengthy, a partial name could be used (e.g., *Cambridge Commons* for *Cambridge Commons Phase II Ltd. Partnership*). A defendant's name may also be used (e.g., *Schiller* as a short form for *Mendoza-Hernandez Heating & Cooling Co., Inc. v. Schiller*). It is advisable to avoid common names such as Smith or common parties such as a governor or prison warden in a short-form citation.

B. Use of *id.*

Use *id.* when referring to the immediately preceding citation.

HOW TO USE *ID.*

Citing *Haller v. Borror Corp.*, 50 Ohio St.3d 10 (1990), the law firm contends that the settlement was not void but merely voidable. The court in *Haller* held that "a releasor ought not to be allowed to retain the benefit of his act of compromise and at the same time attack its validity." *Id.* at 14.

The element of publication occurs when the defamatory matter is communicated either negligently or intentionally to anyone other than the person defamed. 3 Restatement of the Law 2d, Torts, § 577(1) (1965). Any act by which the defamatory matter is communicated to a third party constitutes publication. *Id.* at Comment a.

Punitive damages are not available in an ordinary negligence action, *id.* at ¶ 11, and appellants were not entitled to an instruction on that issue.

NOTE: Id. *is not capitalized when it appears in midsentence.*

C. Information within a short-form case citation

Provide enough information in the short-form citation—or within two paragraphs preceding it—for the reader to find the case. If the volume number or WebCite of the case is not cited within two paragraphs of the short-form citation, include it in the short-form citation. This saves the reader from having to shuffle through pages looking for the volume number or WebCite. For Ohio cases with an available WebCite, include a parenthetical after the WebCite indicating the court if not the Supreme Court so that the reader may assume from the absence of this parenthetical that it is a Supreme Court decision.

1. Short-form citations for cases without available WebCite

When a citation includes the official volume number, do not repeat the official volume number when citing the same case if no more than two paragraphs separate the previous and current citation. The year is not repeated.

HOW TO USE SHORT-FORM CASE CITATIONS WHEN WEBCITE UNAVAILABLE

Long form:

Van Fossen v. Babcock & Wilcox Co., 36 Ohio St.3d 100 (1988).
State v. Martin, 20 Ohio App.3d 172 (1st Dist. 1983).

Short forms within two paragraphs after official volume number:

Id. at 116 -*or*- *Van Fossen* at paragraph one of the syllabus.
Id. at 174 -*or*- *Martin* at 175.

Short forms appearing more than two paragraphs after official volume number:

Id., 36 Ohio St.3d at 116 -*or*- *Van Fossen*, 36 Ohio St.3d at 116.
Id., 20 Ohio App.3d at 174 -*or*- *Martin*, 20 Ohio App.3d at 174.

2. Short-form citations for cases with available WebCite

For short-form citations of cases with a WebCite, follow the previous guideline, except use paragraph numbers instead of page numbers for pinpoints.

HOW TO USE SHORT-FORM CITATIONS FOR CASES WITH A WEBCITE

Long form:

Bonacorsi v. Wheeling & Lake Erie Ry. Co., 2002-Ohio-2220.
State v. Locke, 2021-Ohio-4609 (8th Dist.).

Short forms appearing within two paragraphs after WebCite:

Id. at ¶ 3 *-or- Bonacorsi* at ¶ 19 *-or- Bonacorsi* at syllabus.
Id. at ¶ 5 *-or- Locke* at ¶ 5.

Short form appearing more than two paragraphs after WebCite:

Bonacorsi, 2002-Ohio-2220, at ¶ 12.
Locke, 2021-Ohio-4609, at ¶ 12 (8th Dist.).

NOTE: When citing a court-of-appeals decision with an available WebCite, include the parenthetical identifying the district to make clear that it is not a Supreme Court decision.

D. Short-form citations for sources other than cases

Use the following examples for short-form citations of sources other than cases.

HOW TO USE SHORT-FORM CITATIONS FOR SOURCES OTHER THAN CASES

Long form:
White & Summers, *Uniform Commercial Code*, § 2-7, at 97 (4th Ed. 1995).
Short form:
White & Summers at 97.

Long form:
Black's Law Dictionary (8th Ed. 2004).
Short form:
Black's.

Long form:
Pushaw, *The Medical Marijuana Case: A Commerce Clause Counter-Revolution?*, 9 Lewis & Clark L.Rev. 879, 897 (2005).
Short form:
Pushaw, 9 Lewis & Clark L.Rev. at 897.

Long form:
1 Restatement of the Law 2d, Torts, § 288A, Comment g (1965).
Short form:
1 Restatement, § 288A, Comment g.

Long form:
Annotation, 73 A.L.R.4th 782, 789-790 (1989).
-or-
Annotation, *Validity, Construction, and Application of State Statute Requiring Doctor or Other Person to Report Child Abuse*, 73 A.L.R.4th 782, 789-790 (1989).
Short form:
73 A.L.R.4th at 789-790.

HOW TO USE SHORT-FORM CITATIONS FOR SOURCES OTHER THAN CASES

Long form:
Siegan, *Property and Freedom: The Constitution, the Courts, and Land-Use Regulation* 18 (1997).
Short form:
Siegan at 18.

Long form:
22 Am.Jur.2d, Damages, § 271, at 367 (1965).
Short form:
22 Am.Jur.2d at 367.

Long form:
2A Larson, *Law of Workers' Compensation*, § 77.13, at 14-778 and 14-779 (1997).
Short form:
2A Larson at 14-778 and 14-779.

Long form:
3 LaFave, *Search and Seizure*, § 7.1(b), at 442 (3d Ed. 1996).
Short form:
3 LaFave at 442.

6.2. Signal Words and Phrases

A. Definition

Signals are words and phrases that are used to introduce legal authority. They tell the reader why a source is being cited when the citation serves a purpose other than direct support. For example, a citation may be intended to provide the reader with authority that contradicts a particular statement; the signal *contra* alerts the reader to that fact.

B. Style

The first letter of signal words should be capitalized only when those words begin a citation sentence. Certain signal words and phrases use commas as indicated in the examples below. Signal words and phrases are italicized.

C. Common signals

The following are common signal words and phrases:

COMMON SIGNAL WORDS AND PHRASES	
accord	*e.g.*,
but see	*see*
compare	*see also*
compare…with	*see, e.g.*,
contra	*see generally*

HOW TO USE COMMON SIGNALS

Accord Superior Uptown, Inc. v. Cleveland, 39 Ohio St.2d 36, 40-41 (1974); *see Haverlack v. Portage Homes, Inc.*, 2 Ohio St.3d 26 (1982), paragraph two of the syllabus; *see also Enghauser Mfg. Co. v. Eriksson Eng. Ltd.*, 6 Ohio St.3d 31, 33 (1983), citing *Russell v. Men of Devon*, 2 T.R. 667, 672-673, 100 Eng.Rep. 359 (1788).

See, e.g., *People v. Honeycutt*, 20 Cal.3d 150 (1977); *see also State v. White*, 15 Ohio St.2d 146 (1968). *See generally State v. Barker*, 8 Ohio St.3d 39 (1983).

D. Use of signals

When a case or other authority is cited as the source of a quote or as direct support for a statement, no signal is necessary. In other situations, however, e.g., when a citation provides indirect support for a statement, contradicts it, or provides a useful comparison, signals are used to explain the level of support or contradiction that the cited authority provides. As the examples below suggest, when using signals, consider including a parenthetical that clarifies why the case is being cited and why the signal is appropriate.

1. No signal

Use no signal before a citation when the citation provides direct support. In other words, use no signal when you are quoting or paraphrasing language from the source or you are identifying a source referred to in the text.

2. *See*

Use *see* when the citation provides clear support for the proposition but the support is indirect. If inference is necessary because the source does not state the proposition explicitly, *see* is the appropriate signal.

HOW TO USE *SEE*

When a taxpayer appeals a determination of the commissioner to the BTA, the commissioner's determination is presumed to be correct, and the taxpayer must shoulder the burden of rebutting that presumption. *See Shiloh Automotive, Inc. v. Levin*, 2008-Ohio-68, ¶ 16 (the taxpayer bears the burden "to show the manner and extent of the error in the Tax Commissioner's final determination" and to demonstrate that the commissioner's findings are "clearly unreasonable or unlawful").

3. *Accord*

After citation or discussion of a source, use *accord* to introduce citations of one or more additional sources that provide direct support for the same proposition.

HOW TO USE *ACCORD*

While boards of revision have inherent authority to reconsider their own decisions, since the power to decide in the first instance carries with it the power to reconsider, such authority does not extend beyond institution of an actual appeal or expiration of the time for appeal. *Cincinnati School Dist. Bd. of Edn. v. Hamilton Cty. Bd. of Revision*, 87 Ohio St.3d 363, 368 (2000); *accord Natl. Tube Co. v. Ayres*, 152 Ohio St. 255 (1949), paragraph one of the syllabus ("The Board of Tax Appeals has control over its decisions until the actual institution of an appeal or the expiration of the time for an appeal.").

4. *See also*

Use *see also* to indicate additional sources that provide indirect support for a proposition (see **2. *See*** above).

HOW TO USE *SEE ALSO*

Because M.B.'s testimony was relevant to prove the essential elements of Cox's menacing-by-stalking charge and was not otherwise unfairly prejudicial to him, the trial court did not abuse its discretion in admitting evidence of Cox's other prior threats and acts of physical violence. *See, e.g.*, *Horsley* at ¶ 27, 29 (evidence of past conduct toward victim, including prior conviction for telephone harassment, is relevant and properly admissible to prove essential elements of menacing-by-stalking charge); *see also Skeens*, 1999 WL 1082658, at *4 (defendant's prior acts of violence and threats toward his wife were admissible because they were directly relevant to her belief that he intended to cause her physical harm).

5. *Cf.*

Do not use *cf.* Instead, use *compare* in a variation on the *compare...with* signal, explained below.

6. *Compare*

Use *compare* alone (i.e., without *with*) when the citation is to be compared with the immediately preceding citation. An explanatory parenthetical is recommended. *Compare* is used alone where *cf.* would have been used.

HOW TO USE *COMPARE*

Unlike other statutes of limitations, R.C. 2305.07 does not define the time at which a claim for the relevant action accrues. *Compare* R.C. 2305.09 (providing that a claim for the wrongful taking of personal property does not accrue until the wrongdoer is discovered).

7. *Compare…with*

Use *compare...with* to compare two or more citations in sequence.

HOW TO USE *COMPARE…WITH*

The 2001 statute eliminated the requirement in former R.C. 3937.18(A) that insureds must be "legally entitled to recover" from their tortfeasors and the provision that coverage is not precluded when the tortfeasor is statutorily immune from liability under R.C. Ch. 2744. *Compare* R.C. 3937.18 *with* former R.C. 3937.18(A)(1), 148 Ohio Laws, Part V, 11380, 11380-11381.

8. *Contra*

Use *contra* when the cited authority directly contradicts the stated proposition. An explanatory parenthetical is recommended.

HOW TO USE *CONTRA*

If "evidence [is] presented on almost every factor" listed in R.C. 3901.04(F)(1), that is "sufficient to indicate that a trial court adequately considered the best interest of the child." *In re Roberts*, 1997 WL 760696, *3 (9th Dist. Nov. 5, 1997). *Contra Dilworth v. Dilworth*, 115 Ohio App.3d 537, 542, fn. 1 (2d Dist. 1996) (interpreting the General Assembly's use of the word "shall" in the statute as mandating that the trial court consider all of the enumerated factors, as well as all other relevant factors, in determining the best interest of the child).

9. *But see*

Use *but see* when the cited authority indirectly contradicts the stated proposition. *But see* is used where *see* would be used to show indirect support. An explanatory parenthetical is recommended.

HOW TO USE *BUT SEE*

While courts have admitted statements made after several hours, days, or even weeks, no court would admit a statement made eight months after the event. *See, e.g.*, *State v. Wallace*, 37 Ohio St.3d 87, 90-91 (1988) (finding that a statement made after 15 hours was admissible); *State v. Nitz*, 2004-Ohio-6478, ¶ 24 (12th Dist.) (finding a statement made after one week admissible). *But see Butcher* at ¶ 29-34 (finding that statements made after two months were inadmissible as an excited utterance).

10. *See generally*

Use *see generally* to introduce helpful background authority.

HOW TO USE *SEE GENERALLY*

Crim.R. 12.1 provides that if a defendant fails to notify the court in writing that he intends to claim alibi, the court may exclude alibi evidence unless the interests of justice require otherwise. *See generally State v. Smith*, 17 Ohio St.3d 98 (1985), paragraph one of the syllabus (upholding Crim.R. 12.1 as constitutional).

11. *E.g.*,

Use *e.g.* when the cited authority directly supports the proposition and is representative of several authorities that are not cited. Accurate use of *e.g.* is an effective way to avoid string cites, which are generally disfavored. *E.g.* is always followed by a comma.

HOW TO USE *E.G.*,

The absence of loan documents does not create an issue of fact in the face of the undisputed testimony. *E.g.*, *Capital-Plus, Inc. v. Potter*, 2001 WL 604226 (10th Dist. June 5, 2001) (although no loan documents existed, accounting documents, coupled with the testimony of the accountant, established a paper trail of the personal loan).

12. *See, e.g.*,

Use *see, e.g.*, to indicate that the cited authority provides indirect support for the proposition and that the cited authority is one of many that provide this same support. Note the use of two commas and that the first one is italicized.

HOW TO USE *SEE, E.G.*,

The CSPA applies to contracts to build a home, however, because these transactions involve the purchase of a service rather than simply the purchase of real estate. *See, e.g.*, *Keiber v. Spicer Constr. Co.*, 85 Ohio App.3d 391, 392 (9th Dist. 1993).

While the contract did not specify exactly what words were needed to effect a cancellation, both parties could reasonably expect that any attempt to cancel would be clear and definite. *See, e.g.*, *Schwer v. Benefit Assn. of Ry. Emps., Inc.*, 153 Ohio St. 312, 319-320 (1950) (notice of policy cancellation need not be in a particular form but must be definite, unequivocal, and certain).

6.3. Citation(s) Omitted

A. Use

When citations are omitted from a quotation, add the parenthetical explanation "citations omitted" immediately after the quotation, before the citation. Place the period inside the parentheses. If "citations omitted" is used, ellipses to mark the omissions are unnecessary. If an ellipsis is used to mark the omission of a citation, "citation omitted" is unnecessary.

HOW TO USE CITATION OMITTED

"Usually, evidence regarding the diminution in value is needed to determine the reasonableness of the restoration costs. Failure to present such evidence, however, is not necessarily fatal to a claim in tort for damages to real property." (Citation omitted.) *Krofta v. Stallard*, 2005-Ohio-3720, ¶ 26 (8th Dist.).

NOTE: The original quoted material from Krofta *cited a case after the first sentence, which the writer using this quote has deliberately chosen to omit. Thus, the parenthetical phrase "citation omitted" appears directly after the closing quotation marks. The use of this phrase obviates the need for an ellipsis inside the quotation.*

B. Attribution of a quotation within a quotation

If there is a quotation within a quotation, the internal quotation must be attributed by adding the citation after the primary citation, following the word "quoting" (not "citing"). Do not omit internal quotation marks. It is not acceptable to use the parenthetical explanation "citations omitted" or "internal quotation marks and citations omitted" to excuse the omission of a citation for a quotation within a quotation. If a quotation is cluttered with internal quotations, consider paraphrasing it instead of quoting it. Alternatively, consider using the parenthetical "cleaned up" in accordance with **Section 6.6(F)** below.

HOW TO ATTRIBUTE AN INTERNAL QUOTATION

A notice of appeal "'must explicitly and precisely recite the errors contained in the tax commissioner's final determination.'" *Newman v. Levin*, 2008-Ohio-5202, ¶ 27, quoting *Cousino Constr. Co. v. Wilkins*, 2006-Ohio-162, ¶ 41.

6.4. Explanatory Case History

A. Style

Explanatory terms such as *overruled by*, *aff'd*, *rev'd*, *rev'd on other grounds*, *overruled in part on other grounds*, or *vacated on other grounds* are italicized and abbreviated, followed by commas.

B. History affecting precedential value

Always indicate any reversal, vacation, or overruling, even if that subsequent action is based on other grounds. Do not include any further history of a case unless it affects the case's precedential value. *Cert. denied* and *appeal dismissed* are examples of subsequent history that have no effect on the authoritativeness of a case and are therefore not used except for a very recent case.

HOW TO ADD AN EXPLANATORY CASE HISTORY

State v. Whitaker, 2022-Ohio-2840, *cert. denied*, __ U.S. __, 143 S.Ct. 2586 (2023).

Taxiputinbay, L.L.C. v. Put-in-Bay, 2023-Ohio-1237 (6th Dist.), *appeal not accepted*, 2023-Ohio-2664.

NOTE: Cert. denied *and* appeal not accepted *are useful in these two examples, in which the case is recent. Otherwise, when the time for reversal has obviously passed, do not record the denial of an appeal in a history line.*

State v. Lockett, 49 Ohio St.2d 48, 65 (1976), *rev'd on other grounds sub nom. Lockett v. Ohio*, 438 U.S. 586 (1978).

NOTE: Use sub nom. *when the name of the case changes in subsequent history.*

Hwy. Truck Drivers & Helpers Local 107 v. Cohen, 284 F.2d 162 (3d Cir. 1960), *aff'g* 182 F.Supp. 608 (E.D.Pa. 1960).

NOTE: Provide this kind of case history only when it is relevant to the text.

But see United States v. Hoffa, E.D.Tenn. No. 11989 (May 2, 1964), *conviction and overruling of first motion for new trial aff'd*, 349 F.2d 20 (6th Cir. 1965), *aff'd*, 385 U.S. 293 (1966), *second motion for new trial denied*, 247 F.Supp. 692 (E.D.Tenn. 1965), *aff'd*, 376 F.2d 1020 (6th Cir. 1967), *third motion for new trial denied*, 247 F.Supp. 692, 698 (E.D.Tenn. 1965), *aff'd*, 382 F.2d 856 (6th Cir. 1967), *fourth motion for new trial denied*, 268 F.Supp. 732 (E.D.Tenn. 1967), *aff'd*, 398 F.2d 291 (6th Cir. 1968), *remanded sub nom. Giordano v. United States*, 394 U.S. 310, *fifth motion for new trial denied,* 307 F.Supp. 112 (E.D.Tenn. 1970).

NOTE: A history line this detailed is rarely necessary or helpful.

State v. Jones, 67 Ohio St.2d 244, 248 (1981), *overruled by State v. Webb*, 70 Ohio St.3d 325 (1994), paragraph one of the syllabus.

State v. Foster, 2006-Ohio-856, ¶ 36-37, *abrogated on other grounds by Oregon v. Ice*, 555 U.S. 160 (2009).

6.5. Placement of Citation

When deciding where to place a citation, strive for maximum readability using the following guidelines:

- Citations offer support. A citation must be provided in support of any sentence in which the writer sets forth a statement of the law, makes a legal argument, refers to a legal source, or quotes or paraphrases language from a source. The guidelines for citation style appear throughout this manual. The entire point of citations and of the signal words or phrases preceding them is to communicate to the reader exactly which source is being relied on and for what purpose (for direct support, for contrast, for background, etc.). When citing, include pinpoint citations to refer the reader to the exact page or paragraph that supports the proposition.

- Citations are best placed at the end of a sentence. Because nonstatutory citations contain abbreviations and numbers, they are not very readable as part of textual sentences. The best way to include nonstatutory citations in text in a way that promotes readability is to put them in a separate citation sentence whenever possible. If a sentence seems to require a citation in the middle, try to restructure the sentence to avoid the midstream citation. Often a sentence with a citation in the middle can be revised by simply extracting the citation from the center of the sentence and moving it to the end.

- Generally, citations should not be placed in footnotes. The practice of placing all citations in footnotes is disfavored, as it makes it difficult for the reader to connect the authority to the proposition. Footnote citations should be reserved for very long URLs, string citations with parentheticals, and other particularly obtrusive citations that would likely distract the reader if placed in the text.

WHERE TO PLACE A CITATION

Bad example:

In *Beckett v. Warren*, 2010-Ohio-4, ¶ 7, the court reiterated that in Ohio, there are two bases for recovery for injuries sustained as a result of a dog bite: common-law and statutory. In *Bora v. Kerchelich*, 2 Ohio St.3d 146, 147 (1983), quoting *Hayes v. Smith*, 62 Ohio St. 161 (1900), paragraph one of the syllabus, the court noted that "[a]t common law, the keeper of a vicious dog could not be liable for personal injury caused by the dog unless [the keeper] knew of the dog's 'vicious propensities.'" However, the court in *Bora* recognized that the statutory cause of action "eliminated the necessity of pleading and proving the keeper's knowledge" of the dog's viciousness. *Id.*

Better example:

In Ohio, there are two bases for recovery for injuries sustained as a result of a dog bite: common-law and statutory. *Beckett v. Warren*, 2010-Ohio-4, ¶ 7. "At common law, the keeper of a vicious dog could not be liable for personal injury caused by the dog unless that person knew of the dog's 'vicious propensities.'" *Bora v. Kerchelich*, 2 Ohio St.3d 146, 147 (1983), quoting *Hayes v. Smith*, 62 Ohio St. 161 (1900), paragraph one of the syllabus. However, the statutory cause of action "eliminated the necessity of pleading and proving the keeper's knowledge" of the dog's viciousness. *Id.*

Bad example:

Ohio courts have recognized more than once that citizens enjoy the right to own dogs. And in *State v. Anderson*, 57 Ohio St.3d 168, 170 (1991), the court recognized the special relationship that often exists between owners and dogs, noting that "[t]o many, a pet dog is as important and as loved as . . . human members of the family."

Better example:

Ohio courts have recognized more than once that citizens enjoy the right to own dogs. A special relationship often exists between owners and dogs and "[t]o many, a pet dog is as important and as loved as . . . human members of the family." *State v. Anderson*, 57 Ohio St.3d 168, 170 (1991).

WHERE TO PLACE A CITATION

Bad example:

In one replevin action, *Butera v. Beesler*, 2023-Ohio-2257, ¶ 12 (11th Dist.), the Eleventh District affirmed the trial court's finding that even though there was no certificate of transfer of ownership, the rightful owner of a dog was not the person who purchased it but instead the person who received the dog as a gift and became the primary caregiver of the dog. In another replevin action, *Eltibi v. Kocsis*, 2021-Ohio-2911, ¶ 17-20 (9th Dist.), the Ninth District determined that a party had met her burden of establishing sole ownership of a dog after she presented an executed adoption contract she had entered into with a humane society, and despite the opposing party's paying for some of the dog's care and registering the dog in her name with the county, the opposing party did not present any evidence establishing a transfer of ownership.

Better example:

In one replevin action, the court found that the rightful owner of a dog was not the person who purchased it but instead was the person who received the dog as a gift and became the primary caregiver of the dog—even though there was no certificate of transfer of ownership. *Butera v. Beesler*, 2023-Ohio-2257, ¶ 12 (11th Dist.). In another replevin action, a party met her burden of establishing sole ownership of a dog after presenting an executed adoption contract she had entered into with a humane society; even though the opposing party had paid for some of the dog's care and registered the dog in her name with the county, the opposing party did not present any evidence establishing a transfer of ownership. *Eltibi v. Kocsis*, 2021-Ohio-2911, ¶ 17-20 (9th Dist.).

6.6. Parentheticals to Indicate Alterations

A. Generally

Emphasis in original, emphasis added, emphasis deleted, and bracketed text in original are parentheticals used to indicate that the immediately preceding quote has been altered. The parentheticals appear after the ending quotation mark but before the citation, with a period inside the closing parenthesis and the first letter of the first word capitalized.

B. Emphasis in original

The parenthetical "emphasis in original" is used to indicate that the word or words emphasized with italics were also italicized in the original.

HOW TO USE EMPHASIS IN ORIGINAL

The contract provides that "the parties *shall* deposit $100 with the escrow agent." (Emphasis in original.)

NOTE: The period appears inside the closing parenthesis.

C. Emphasis added

The parenthetical "emphasis added" is used to indicate that the word or words in italics were not italicized for emphasis in the original.

HOW TO USE EMPHASIS ADDED

The contract provides that "*the parties* shall deposit $100 with the escrow agent." (Emphasis added.)

"[*U*]*nsupported* conclusions are not considered admitted and are not sufficient to withstand a motion to dismiss." (Emphasis added.) *State ex rel. Smith v. Ohio Adult Parole Auth.*, 61 Ohio St.3d 602, 603 (1991).

NOTE: The term "emphasis added" appears after the quote but before the citation.

D. Emphasis deleted

Use the parenthetical "emphasis deleted" to indicate that quoted material had an italicized word or phrase from which the italics have been removed.

HOW TO USE EMPHASIS DELETED

This court concluded that "any stay of an order of the commission is dependent on the execution of an undertaking by the appellant." (Emphasis deleted.) *Columbus v. Pub. Util. Comm.*, 170 Ohio St. 105, 109 (1959).

NOTE: In the original opinion being quoted, the word "appellant" is in italics.

E. Bracketed text in original

The term "bracketed text in original" is used to indicate that one or more bracketed words were included (in brackets) in the original.

HOW TO USE BRACKETED TEXT IN ORIGINAL

Trial errors occur during "'presentation of the case to the jury' and their effect may 'be quantitatively assessed in the context of other evidence presented in order to determine whether [they were] harmless beyond a reasonable doubt.'" (Bracketed text in original.) *United States v. Gonzalez-Lopez*, 548 U.S. 140, 148 (2006), quoting *Arizona v. Fulminante*, 499 U.S. 279, 307-308 (1991).

F. Cleaned up

The parenthetical "cleaned up" should be used sparingly—i.e., only when it would markedly improve readability and would not deprive the reader of necessary information or alter the meaning of the quoted material. The parenthetical indicates that within a quotation, the author has omitted unnecessary, nonsubstantive material such as internal quotation marks, alterations (e.g., brackets or ellipses), footnote reference numbers, and/or internal citations or has altered capitalization without indicating the changes. The quoted language after it has been cleaned up should match the language in the opinion being quoted. Before using "cleaned up," the author should consider whether a narrower indicator such as "citation omitted" should be used or whether the quoted material should be paraphrased instead.

HOW TO USE CLEANED UP

Example based on *Brandt v. Pompa*, 2022-Ohio-4525, ¶ 117 (Fischer, J., dissenting):

> "'A classification does not fail rational-basis review because "'it is not made with mathematical nicety or because in practice it results in some inequality.'"'" *Am. Assn. of Univ. Professors, Cent. State Univ. Chapter v. Cent. State Univ.*, 87 Ohio St.3d 55, 58 (1999), quoting *Heller v. Doe*, 509 U.S. 312, 320 (1993), quoting *Dandridge v. Williams*, 397 U.S. 471, 485 (1970), quoting *Lindsley v. Natural Carbonic Gas Co.*, 220 U.S. 61, 78 (1911).
>
> "A classification does not fail rational-basis review because it is not made with mathematical nicety or because in practice it results in some inequality." (Cleaned up.) *Am. Assn. of Univ. Professors, Cent. State Univ. Chapter v. Cent. State Univ.*, 87 Ohio St.3d 55, 58 (1999).

Example based on *Allen v. Milligan*, 599 U.S. 1, 53-54 (2023) (Thomas, J., dissenting):

> "Just as the State may not, absent extraordinary justification, segregate citizens on the basis of race in its public parks, *New Orleans City Park Improvement Assn. v. Detiege*, 358 U.S. 54 (1958), buses, *Gayle v. Browder*, 352 U.S. 903 (1956), golf courses, *Holmes v. Atlanta*, 350 U.S. 879 (1955), beaches, *Mayor of Baltimore v. Dawson*, 350 U.S. 877 (1955), and schools, *Brown v. Bd. of Ed.*, 347 U.S. 483 (1954), so did we recognize in *Shaw* [*v. Reno*, 509 U.S. 630 (1993),] that it may not separate its citizens into different voting districts on the basis of race." *Miller v. Johnson*, 515 U.S. 900, 911 (1995).
>
> "Just as the State may not, absent extraordinary justification, segregate citizens on the basis of race in its public parks, buses, golf courses, beaches, and schools, so did we recognize in *Shaw* [*v. Reno*, 509 U.S. 630 (1993),] that it may not separate its citizens into different voting districts on the basis of race." (Cleaned up.) *Miller v. Johnson*, 515 U.S. 900, 911 (1995).

6.7. Spacing within Parentheses in Citations

In citations, spacing within parentheses should comply with the following guidelines.

A. Abbreviated words

Except as provided in "**C. Ordinal numbers**" and "**D. Names of months**" below, abbreviated words within parentheses are not followed by a space except that a space is added to separate abbreviated words and the year.

HOW TO USE ABBREVIATED WORDS WITHIN PARENTHESES
Sullivan v. Liberty Mut. Ins. Co., 367 So.2d 658 (Fla.App. 1979). *United States v. Davis*, 562 F.2d 681 (D.C.Cir. 1977).

B. Unabbreviated words

Unabbreviated words within parentheses are followed by a space.

HOW TO USE UNABBREVIATED WORDS WITHIN PARENTHESES
State v. John, 586 P.2d 410 (Utah 1978). *Woods v. Dayton*, 574 F.Supp. 689 (S.D.Ohio 1983).

C. Ordinal numbers

Ordinal numbers within parentheses are followed by a space.

HOW TO USE ORDINAL NUMBERS WITHIN PARENTHESES
Black's Law Dictionary (7th Ed. 1999). Prosser & Keeton, *The Law of Torts*, § 80 (5th Ed. 1984).

D. Names of months

Names of months within parentheses are followed by a space, whether abbreviated or not.

HOW TO USE NAMES OF MONTHS WITHIN PARENTHESES
Hearing v. Delnay, 1976 WL 190452 (10th Dist. Dec. 21, 1976). *Tavzel v. Aetna Life & Cas. Co.*, 1988 WL 86717 (8th Dist. June 16, 1988).

6.8. Months of the Year

In citations, the months of the year are abbreviated as follows:

ABBREVIATIONS FOR MONTHS OF THE YEAR	
January ..... Jan.	July ..... July
February ..... Feb.	August ..... Aug.
March ..... Mar.	September ..... Sept.
April ..... Apr.	October ..... Oct.
May ..... May	November ..... Nov.
June ..... June	December ..... Dec.

6.9. Abbreviations in the Style or Citation of a Case.

Use the following list of abbreviations when citing cases and in the cite-as line. Plurals of these words can, for the most part, be abbreviated by adding an "s" before the period—e.g., "Boards" is replaced with "Bds." If the abbreviation ends in "s," the abbreviation is the same for both the singular and the plural—e.g., "System" and "Systems" are abbreviated "Sys." If an abbreviation ends in "y," the plural form of the word must be spelled out—e.g., "Counties" is not abbreviated.

ABBREVIATIONS IN THE STYLE OR CITATION OF A CASE

Accident ..... Acc.

Administrative ..... Adm.

Administrator (abbreviated in formal case caption) ..... Admr.
NOTE: Do not use "administratrix" and other titles with feminine suffixes (such as -ess, -ette, or -ix) that are increasingly archaic.

Also known as (abbreviated in formal case caption) ..... a.k.a.

America, -n ..... Am.

And ..... &

Apartment ..... Apt.

Associate ..... Assoc.

Association ..... Assn.

Assurance ..... Assur.

Attorney General (abbreviated in formal case caption) ..... Atty. Gen.

Auditor (abbreviated in formal case caption) ..... Aud.

Authority ..... Auth.

Automobile ..... Auto.

Avenue ..... Ave.

ABBREVIATIONS IN THE STYLE OR CITATION OF A CASE

Board	Bd.
Boulevard	Blvd.
Brotherhood	Bhd.
Brothers	Bros.
Building	Bldg.
Bureau	Bur.
Casualty	Cas.
Center	Ctr.
Central	Cent.
Chemical	Chem.
Civil	Civ.
Commission	Comm.
Commissioner (abbreviated in formal case caption when following "Tax")	Commr.
Committee	Commt.
Company	Co.
Compensation	Comp.
Consolidated	Consol.
Construction	Constr.
Contractor	Contr.
Cooperative	Coop.
Corporation	Corp.

ABBREVIATIONS IN THE STYLE OR CITATION OF A CASE

Corrections, -al.....Corr.

County.....Cty.

Department.....Dept.

Development, -al.....Dev.

Director (abbreviated in formal case caption).....Dir.

Distributor, -ion, -ing.....Distrib.

District.....Dist.

Division.....Div.

Doing business as (abbreviated in formal case caption).....d.b.a.

East, -ern.....E.

Education.....Edn.

Electric, -al.....Elec.

Employee, -er, -ment.....Emp.

Engineering.....Eng.

Enterprise.....Ent.

Equipment.....Equip.

Executor (abbreviated in formal case caption).....Exr.
NOTE: Do not use "executrix."

Federal.....Fed.

Federation.....Fedn.

Fidelity.....Fid.

ABBREVIATIONS IN THE STYLE OR CITATION OF A CASE

Finance, -ial .....Fin.

Formerly known as (abbreviated in formal case caption) .....f.k.a.

Foundation .....Found.

General.....Gen.

Government .....Govt.

Guaranty and Guarantee .....Guar.

Guardian (abbreviated in formal case caption) .....Grdn.

Heights.....Hts.

Highway.....Hwy.

Hospital.....Hosp.

Housing.....Hous.

Illuminating.....Illum.

Incorporated (abbreviated in formal case caption).....Inc.

Indemnity .....Indemn.

Independent.....Indep.

Industrial .....Indus.

Institute, -ion.....Inst.

Insurance.....Ins.

In the matter of (abbreviated in formal case caption).....In re

International .....Internatl.

Investment.....Invest.

ABBREVIATIONS IN THE STYLE OR CITATION OF A CASE

Liability.....Liab.

Limited (abbreviated in formal case caption).....Ltd.

Machinery .....Mach.

Management.....Mgt.

Manager (abbreviated in formal case caption) ..... Mgr.

Manufacturer.....Mfr.

Manufacturing.....Mfg.

Market.....Mkt.

Medical .....Med.

Memorial.....Mem.

Metropolitan.....Metro.

Mount.....Mt.

Mortgage.....Mtge.

Municipal.....Mun.

Mutual.....Mut.

National.....Natl.

North, -ern (except when part of state name) .....N.

Now known as (abbreviated in formal case caption) .....n.k.a.

Number .....No.

Organization.....Org.

Product, -ion.....Prod.

ABBREVIATIONS IN THE STYLE OR CITATION OF A CASE

Prosecuting Attorney (abbreviated in formal case caption)	Pros. Atty.
Psychiatric	Psych.
Public	Pub.
Railroad	RR.
Railway	Ry.
Refrigeration	Refrig.
Rehabilitation	Rehab.
Reserve	Res.
Review	Rev.
Road	Rd.
Sanitary	Sanit.
Saving	Sav.
Savings & Loan	S. & L.
Secretary (abbreviated in formal case caption)	Secy.
Security	Sec.
Service	Serv.
Society	Soc.
South, -ern (except when part of state name)	S.
Standard	Std.
Street	St.
Surety	Sur.

ABBREVIATIONS IN THE STYLE OR CITATION OF A CASE

System.....Sys.

Telegraph .....Tel.

Telephone.....Tel.

Township .....Twp.

Transmission.....Transm.

Transportation.....Transp.

Unemployment.....Unemp.

University.....Univ.

Utility and Utilities .....Util.

West, -ern (except when part of state name) .....W.

PART II. STYLE GUIDE

INTRODUCTION to Part II, Style Guide

The Style Guide sets forth standard guidelines for formal English writing. When more than one correct standard or practice exists, one alternative has been chosen.

The guide makes no attempt to be comprehensive. For rules of punctuation, grammar, diction, hyphenation, and usage that are not covered by this guide, the Reporter's Office follows conventions of standard English and relies in particular on *The Chicago Manual of Style*; Johnson, *The Handbook of Good English*; Garner, *A Dictionary of Modern Legal Usage*; *Garner's Modern American Usage*; and Strunk & White, *The Elements of Style.*

For more information on emerging style issues, including issues relating to references to race and gender, see *The Chicago Manual of Style* Sections 5.251 through 5.260 (Bias-Free Language) and Sections 8.38 through 8.43 (Ethnic, Socioeconomic, and Other Groups). Regarding gender, avoid using archaic feminine suffixes (like *-trix* as in *administratrix*, as noted in **6.9. Abbreviations in the Style or Citation of a Case**) and expressions implying value judgments based on gender (e.g., *a manly effort*).

SECTION SEVEN: Capitalization

7.1. Proper Nouns and Proper Adjectives

Capitalize only proper nouns and proper adjectives. While initial capitals are not used for party designations (e.g., relator, appellant), the better practice is to use parties' last names in subsequent references once parties have been introduced with their designations. For an example, see **Example 1 in Part III** below.

7.2. Titles of Persons

Capitalize a person's title when it is used immediately before the personal name as part of the name. Lowercase the title when it follows the name and when it is used in place of the name. Titles are not capitalized when used as appositives, even when they directly precede the name.

HOW TO USE CAPITALIZATION IN PERSONS' TITLES
Lucien Fignon, judge of the Cuyahoga County Common Pleas Court; Judge Fignon; members included the common pleas court judge Lucien Fignon and the banker Bill Coates (appositives); Common Pleas Court Judge Lucien Fignon attended (title); federal judge Ron Gage
Justice Archer; Phillip Archer, justice of the Supreme Court of Ohio; the justices
Gaston Puttemans, J.D.; attorney Puttemans
Mayor Roelants; Emil Roelants, mayor of Columbus
the secretary of state; Secretary Ellenberger; Secretary of State Ellenberger; Marita Ellenberger, secretary of state
the township trustees; the board of trustees; Trustee Laski
the chief justice; the former justice William Rehnquist; Chief Justice Rehnquist; William Rehnquist, chief justice of the United States
Tax Commissioner Phelps; Commissioner Phelps; the commissioner; the tax commissioner

HOW TO USE CAPITALIZATION IN PERSONS' TITLES

the governor; Governor John Landis; John Landis, governor of Ohio; former governor John Landis

the Wood County prosecuting attorney; Prosecuting Attorney Fletcher

7.3. Public Offices, Agencies, and Entities.

Capitalize full proper names of entities and certain short forms.

HOW TO USE CAPITALIZATION IN PROPER NAMES OF ENTITIES AND SHORT FORMS

the State of Ohio; the State

the City of Columbus; the city; the city council; Columbus City Council

the Erie County Court of Appeals; the court of appeals; the court; the Sixth District Court of Appeals; the Sixth District

NOTE: Practitioners may wish to use "the Court" when referring to the court in which they are arguing.

the Supreme Court of Ohio; the Supreme Court; the court

NOTE: "The Court" may be appropriate when a court is referring in its opinion to a superior court, as the next example shows.

the Supreme Court of the United States; the United States Supreme Court; the Court

the General Assembly; the legislature; the Ohio legislature; the House; the Senate; the upper house

the Court of Common Pleas of Franklin County; the Franklin County Common Pleas Court; the court; the common pleas court

the United States District Court for the Northern District of Ohio; the United States District Court; the district court

the Court of Claims

HOW TO USE CAPITALIZATION IN PROPER NAMES OF ENTITIES AND SHORT FORMS

the Bureau of Workers' Compensation; the bureau

Brown Township; the township board of trustees; the Brown Township Board of Trustees; the Board of Trustees of Green Township

the Columbus police; the police department; the Cleveland Division of Police; the Toledo Police Department

Perrysburg City School District; Perrysburg public schools; the school district; the board of education

the State Board of Education; the Department of Education

the Columbiana County Grand Jury; the grand jury

SECTION EIGHT: Dates in Text

Months are spelled out in text. When the date is a full one, i.e., month, day, and year, a comma always follows the day. A comma also follows the year unless (1) the date is being used as an adjective or (2) the year ends the sentence. If only the month and the year are used, do not use a comma or the word "of" after the month.

HOW TO USE DATES IN TEXT

The journal was first issued on August 25, 1948.
NOTE: August is not abbreviated in the above example.

The building was completed in July 1983.
NOTE: There is no comma and no "of" between July and 1983.

On July 7, 26 days later, Snyder filed the first motion for protection.

On February 2, 1984, Carter received the January order.

June 23, 1981, was the date of the journal entry.
NOTE: In a phrase of month, day, and year, put a comma after the year, unless the phrase is used as an adjective, as in the next example.

Turner was not a party to the April 3, 1963 agreement.
NOTE: Do not follow a date used as an adjective with a comma.

from August 22, 1973, to December 1973

July or August 1977

The hearing was held on July 16, August 14, and August 15, 1980.

The hearing was held on March 13, 14, and 15, 2007.

during the 1980-1981 school year

since the 1950s

SECTION NINE: Use of Numbers

Generally, spell out whole cardinal numbers one through ten and ordinals first through tenth (exceptions: citation of editions and of appellate districts). For other numbers, use numerals (exceptions: syllabus paragraph numbers and amendments to the United States Constitution). When numerals and spelled-out numbers would both be used for items in the same category within the same paragraph or series of paragraphs, numerals may be used for all.

Spell out all numbers that begin a sentence—e.g., Three thousand, one hundred thirty-two women registered for the event.

Use numerals with the word "percent" and with abbreviated units of measure.

Numerals may be used for items that are part of a numbered series that are referred to by their numbers—e.g., assignment of error No. 1, state's exhibit No. 5.

The words "thousand," "hundred thousand," "million," and so on may be used to replace a string of zeros.

When using numerals and letters to abbreviate ordinals, do not use superscript letters—e.g., 3d and 21st, not 3^{d} and 21^{st}.

HOW TO USE NUMBERS
paragraph two of the syllabus
First Amendment to the United States Constitution
Fourteenth Amendment to the United States Constitution
East 105th Street
9:00 a.m. or 9 o'clock in the morning
14-year-old girl
The witness was 12 years old.
The neighbor dialed 9-1-1.
The parcel was 1,200 feet wide.

HOW TO USE NUMBERS

one million volts or 1,000,000 volts

$1 million or $1,000,000

$1.3 million or $1,300,000

$7,500 in punitive damages

$56.27

$.05 or five cents

287.06 meters

5 percent

543 automobiles

4.2 acres

He saw only one man in the store.

12-gauge shotgun

.22-caliber rifle

9 mm handgun (use numerals with abbreviations for units)

NOTE: Do not use hyphens to join a numeral to an abbreviated unit of measure. Except for caliber of firearms and very common abbreviations such as m.p.h., do not use abbreviated units of measure in ordinary text: 40 kilograms of cocaine, not 40 kg of cocaine.

9 m.p.h.

a nine-foot pole

the 11th juror

two-thirds of the property

five and a half miles

12.5 miles or 12½ miles

HOW TO USE NUMBERS

fn. 3

The farmer has 25 cows and 4 sheep.

NOTE: This example illustrates the exception to spelled-out numbers in text for items in the same category within the same paragraph or series of paragraphs. The "4" would ordinarily be spelled out.

HOW TO USE NUMBERS IN NUMBERED SERIES

assignment of error No. 1

stipulation No. 2

Count 4 of the indictment

exhibit No. 5

proposition of law No. 3

SECTION TEN: Punctuation

10.1. Lists

Colons are properly used to introduce lists but only if the list is introduced by a full sentence. The presence of a list does not justify using a colon in the middle of a sentence. In particular, do not place a colon between a verb and its object or complement or between a preposition and its object, even if the complement or object is a list. That is, *do not* write, "The elements of a negligence claim are: duty, breach of a duty, causation, and damages."

NOTE: Observe parallelism in lists. For example, if the first four elements in a list are verbs, do not use a noun for the fifth.

HOW TO FORM A LIST	
Incorrect:	A plaintiff in a tort case must prove: (1) duty, (2) breach of that duty, (3) proximate cause, and (4) that he has been damaged.
Correct:	A plaintiff in a tort case must prove (1) duty, (2) breach of that duty, (3) proximate cause, and (4) damages.

Use commas to separate items in a series. When a sentence contains a series of three or more items joined with one conjunction, put commas after each item except the last. The comma placed between the penultimate and last items in a series is sometimes called the Oxford comma. In formal legal writing, use of the Oxford comma avoids ambiguity.

Words introducing a series or list may be followed by a colon only if they are themselves a grammatically complete sentence. For example:

> The officer cited the driver for three offenses: failure to control, operating under the influence, and resisting arrest.
>
> Patrick served multiple forms of discovery: interrogatories, requests for admissions, and requests for production of documents.
>
> There are two sources for the trial court's decision: the Ohio Revised Code and the Ohio Rules of Civil Procedure.

Use semicolons to separate items with internal punctuation or that are long or complex. For example:

> In making its determination, the board looked to the record, which was scant; the statute—since repealed but applicable to conduct occurring at the

> relevant time; the regulations governing drilling, transportation, and noise; and this court's determinations in the *Franklin*, *Hamilton*, and *Madison* cases.

10.2. Placement of Quotation Marks Relative to Other Punctuation

Place quotation marks outside commas and periods but inside semicolons and colons. If the quote is incorporated into a question by the quoter, place the question mark outside the quotation mark.

WHERE TO PLACE QUOTATION MARKS

Bill said, "The manuscript is ready."

What did he mean by "ready"?

Although the statute uses the word "shall," it is clear that the legislature intended "may."

"Property" as defined by R.C. 2901.01(J)(1) means "any property, real or personal."

The court gave the following examples for the use of the word "shall": "(1) . . . ."

The court asked, "Is the manuscript ready?"

Bill informed the court that the manuscript was "ready"; however, the issue was not addressed again.

10.3. Punctuation and Capitalization of Quotations

After an introductory phrase such as *the statute provides*, *we held*, and *the court said*, use a comma or a colon and begin the quotation with an uppercase letter. If the quoted material begins with a lowercase letter, change it to upper case and indicate the change with brackets.

When a quotation is introduced with *that*, as in phrases such as *we held that* and *the rule provides that*, use no comma and begin the quotation with a lowercase letter. If the quote begins with a capital letter, change it to lower case and indicate the change with brackets.

HOW TO PUNCTUATE QUOTATIONS

"No person," the statute commands, "shall spit on the sidewalk."

The statute states that "[n]o person shall spit on the sidewalk."

The statute continues, "The director shall promulgate rules."

The statute says that "[t]he director shall promulgate rules."

"Moreover," he said, "the contract was drafted by a pettifogger."

He said that "the contract was drafted by a pettifogger."

He said: "[T]he contract was drafted by a pettifogger."

10.4. Use of "Sic" in Quotations

The purpose of a "sic" should not be to instruct the reader in grammar or to sneer at the quoted source. The purpose is only to reassure the reader who might otherwise wonder about the correctness of the quoted language. Thus, for example, "we ain't got no" should not be sicced, since it could not possibly be a typo for "we don't have any." The context can be important, too. Although one would assume "they was" not to be a typo, it would be so startling to see it in some types of edited documents that a "sic" might be useful to reassure the reader. But if it is testimony that is quoted, "they was" should not be sicced.

Do not use "sic" or brackets to point out or change a quotation's deviation from our style. For example, if the quotation capitalizes "the trial Court," leave it alone (or silently lowercase it if it is in a quotation that cannot be verified). If the appellate decision in which the quotation appears already has a bracketed lowercase c, restore the original capital. Bracketed changes and "sics" in such situations can only puzzle the reader, who may not have noticed the deviation from the court's style in the first place.

10.5. Block Quotations

Avoid using block quotations extensively; overuse of block quotations can overwhelm the prose and obscure the writer's expression. When it is necessary to quote text longer than four lines, block quotations are generally used. Blocking shorter quotations is permitted when doing so may aid the reader—for example, to set forth a single proposition of law.

For block quotations in opinions, keep line spacing and font type and size the same as the text. *But see* Rule 3.08(B)(3) (permitting block quotations in Supreme Court filings to be single-spaced). Set off the quotation by additional margins on the left and right and a return above and below. Use quotation marks only for quotations within the block text. The source of the quotation may follow the quotation, as in the first example below, or it may introduce the quotation, as in the second example. For proper punctuation when introducing a block quote, see **10.3 Punctuation and Capitalization of Quotations** above.

NOTE: Block quotations should not be given paragraph numbers.

HOW TO FORMAT A BLOCK QUOTATION

{¶ 5} The attorney general claimed to have a conflict of interest and declined to participate in the case in any way, including the appointment of a special counsel. The statute requires the attorney general to

> represent the administrator and the commission. In the event the attorney general or the attorney general's designated assistants or special counsel are absent, the administrator or the commission may select one or more of the attorneys in the employ of the commission . . . .

R.C. 4123.512(C).

{¶10} The Ohio Revised Code permits the admission of expert testimony on battered-woman syndrome in support of the defense of self-defense. R.C. 2901.06(B) provides:

> If a person is charged with an offense involving the use of force against another and the person, as a defense to the offense charged, raises the affirmative defense of self-defense, the person may introduce expert testimony of the "battered woman syndrome" and expert testimony that the person suffered from that syndrome as evidence to establish the requisite belief of an imminent danger of death or great bodily harm that is necessary, as an element of the affirmative defense, to justify the person's use of the force in question. The introduction of any expert testimony under this division shall be in accordance with the Ohio Rules of Evidence.

{¶15} Section E, Article 15 of the collective bargaining agreement between the city and the FOP provides:

> The City and . . . [FOP] agree that, within 60 days of the ratification date of this Agreement, they shall jointly support and petition the . . . Commission to request that the following be included in the Civil Service Rules and Regulations:
>
> . . .
>
> (E) To be eligible for the next promotional examination, the applicant must have had at least 3 years as a Police Officer for the rank of Sergeant and at least one year in prior ranks for all other ranks.

10.6. Ellipses

Indicate an omission of a word or words from quoted material by using an ellipsis (. . .). The ellipsis points are separated by spaces. When using ellipses, observe the following guidelines:

- Do not begin a quotation with an ellipsis;
- At the end of a quotation, do not use an ellipsis after a period;
- If what is quoted is obviously a sentence fragment, do not use an ellipsis at the beginning or end of the quotation.

Indicate the omission of the end of a sentence with an ellipsis, not a bracketed period.

When a paragraph is omitted from the middle of a multiparagraph quote, indicate the omission with a paragraph consisting of an indented ellipsis.

10.7. Placement of Footnote Numerals Relative to Punctuation

Superscript numerals for footnotes go after punctuation (except a dash), including a semicolon.

SECTION ELEVEN: Footnotes

11.1. Use of Footnotes

The use of footnotes is to be discouraged generally. They are intrusive and often unnecessary.

Footnotes can be helpful in certain contexts. A footnote may be appropriate when the point being made is relevant but would distract the reader or interrupt the flow of the text. But footnotes should always be used sparingly. The use of too many footnotes tests the reader's patience and lessens the probability that any will be read.

Footnotes are best reserved for sidelights or peripheral material. Examples of information that may belong in a footnote include unwieldy internet citations, procedural details that do not affect the analysis (e.g., party substitutions), and string citations surveying the law across jurisdictions.

Do not use footnotes for legal analysis. If the point being made is substantive, it belongs in the body of the opinion. If it is nonsubstantive, it may be relegated to a footnote or omitted.

Before adding a footnote, the writer should consider whether the information being imparted is relevant and helpful. If not, the footnote should be discarded.

11.2. Citations in Footnotes

Citations of authority belong in the body of an opinion. Do not follow the practice of relegating all citations to footnotes.

SECTION TWELVE: Italics

12.1. Use of Italics

Do not italicize Latin or other foreign words and phrases.

In quoted material, italics used for emphasis may be retained, added, or deleted, but all three choices must be indicated by the use of "emphasis in original," "emphasis added," or "emphasis deleted," as explained in **6.6. Parentheticals to Indicate Alterations** in the Manual of Citations above.

Use italics for emphasis but sparingly. Overuse of italics can dilute the desired emphasis. Never italicize an entire quotation for emphasis. It will rarely be helpful to italicize even so much as a third of a quotation for emphasis. Emphasis is often best achieved through word choice and sentence structure. Neither boldface nor underlining should be used for emphasis.

12.2. Reverse Italics

When text to be italicized includes words that are already italicized (typically a case name), change them to roman font to preserve the contrast. This so-called reverse italics applies when emphasis is added to quotations and to italicized headings and headnotes.

HOW TO USE REVERSE ITALICS

The court stated, "The statute will always be tolled under these circumstances, *unless the rule in* Storer *applies,* regardless of the saving clause." (Emphasis added.)
NOTE: Example of quoted phrase italicized for emphasis, with case name in reverse italics.

Application of the Storer *doctrine*
NOTE: Example of a heading in italics with case name in reverse italics.

SECTION THIRTEEN: Acronyms, Abbreviations, and Parenthetical References

13.1. Definition

Generally, an abbreviation is formed from the initial letter of each component word—e.g., NBC, IRS, CLE. The author may decide to abbreviate the name of any litigant or other entity. For example: Smith, Jones & Brown, L.L.C. ("SJ&B") sought an injunction in the trial court.

An acronym is distinguished from other abbreviations by the fact that an acronym can be pronounced—e.g., PETA, AIDS, MADD, OSHA, NASDAQ. And acronyms are not always formed from just the first letter of each component part (e.g., FANNIE MAE, NASCAR, NAVSAT), nor are they always all capitals (e.g., Eurail, laser).

13.2. Use and Overuse

Although acronyms and other abbreviations help avoid tedious repetition of the same phrase or name, overuse is counterproductive. A printed page littered with clumps of capital letters will irritate and distract readers. Rather than proliferate abbreviations, forcing the reader to constantly refer to the original uses to understand what they mean, the better practice is to adopt simplified names for parties and frequently repeated phrases.

> *NOTE: Common abbreviations formed by shortening a single word, such as Dr., Feb., and Blvd., are not susceptible of overuse and are not the subject of this section.*

13.3. Identification

A writer should identify acronyms and other abbreviations before using them when they would be unfamiliar to most readers. At the first reference, use the full name with a parenthetical containing the acronym or abbreviation, in quotes. For example: "The former director of the Ohio Department of Natural Resources ("ODNR") was originally named as a respondent in this case."

Avoid using acronyms or other abbreviations that are not already widely used; instead, shorten the name of the entity. For example, after identifying the Greater Cincinnati and Northern Kentucky Car Dealers Association, provide a parenthetical such as ("the car dealers") rather than create the abbreviation "GCNKCDA."

13.4. Plurals

The plural of an acronym or other abbreviation is typically formed by adding a lowercase "s" without an apostrophe—e.g., SUVs, DVDs, PACs, MP3s.

13.5. Parenthetical References

The author may choose a descriptive word to use as a continuing reference for one or more persons or entities. When the shortened form is chosen, later references should always use that form. Do not use parenthetical references for individuals or for companies with just two or three words—e.g., the General Motors Company, Fifth Third Bank.

HOW TO CREATE PARENTHETICAL REFERENCES

Garcia seeks a writ of mandamus against the Board of Commissioners of Lucas County, the Lucas County clerk of courts, and Angela Mitchell, Lucas County treasurer (collectively, "the county").

At the time, R.C. 2929.14 ("the felony-sentencing statute")—the statute that prescribes sentences for felonies—authorized a sentence between one and five years for third-degree felonies.

Relator, Ryan Rodriguez, an inmate at the Springdale Correctional Institution, has filed an original action for a writ of mandamus against respondents, Warden Kelly Nelson, Deputy Warden Daniel Perez, and Correction Officer Erin Carter (collectively, "SCI").

SECTION FOURTEEN: The Case Caption

14.1. The Formal Case Caption

A. Generally

The following rules apply generally to formal captions:

- The formal case caption appears in large and small capital letters, in bold type;
- The "*v.*" is italicized and is lowercase, not a small capital letter;
- First names are omitted;
- Abbreviations are not used unless specified as "abbreviated in formal case caption" under **6.9. Abbreviations in the Style or Citation of a Case** above;
- Titles of public officers (e.g., Atty. Gen., Judge) and fiduciaries (e.g., Admr., Grdn.) are provided after the last name, and other corporate names (e.g., a.k.a., d.b.a.) are provided after the initial corporate name;
- Officer and fiduciary titles are abbreviated as indicated in **6.9. Abbreviations in the Style or Citation of a Case** above;
- Names of juveniles are to be treated in accordance with **16. How to Refer to Parties and Witnesses** below.

B. Appeals, certified conflicts, and certified questions of law

The formal case caption for Supreme Court of Ohio opinions involving appeals, certified conflicts, and certified questions of law mirrors the case name as docketed by the Clerk of the Supreme Court under Rule 3.14 of the Supreme Court Rules of Practice ("Name of Case"), as modified by the general rules in **14.1(A)** above.

HOW TO DO A FORMAL CAPTION FOR APPEALS
STERN, APPELLANT, *v.* INDUSTRIAL COMMISSION OF OHIO ET AL., APPELLEES.

C. Original actions, petition challenges, election contests, and apportionment cases

The formal caption for Supreme Court of Ohio opinions involving original actions, including petition challenges, election contests, and redistricting cases, mirrors the original complaint, or a later-amended complaint if it substitutes a party, as modified by the general rules in **14.1(A)** above. In cases involving more than one plaintiff, relator, defendant, or respondent, include only the first plaintiff or relator and the first defendant or respondent listed in the original or later-amended pleading.

The formal case caption for original actions, petition challenges, election contests, and apportionment cases will not include the parties' status.

HOW TO DO A FORMAL CAPTION FOR ORIGINAL ACTIONS

THE STATE EX REL. STERN *v.* INDUSTRIAL COMMISSION OF OHIO ET AL.

NOT

THE STATE EX REL. STERN, RELATOR, *v.* INDUSTRIAL COMMISSION OF OHIO ET AL., RESPONDENTS.

NOTE: In actions involving the extraordinary writs of mandamus, prohibition, procedendo, and quo warranto, the party bringing the action is the relator and the party against whom the action is brought is the respondent. In habeas corpus actions, the person bringing the action is the petitioner.

14.2. The "Cite-As Line"

The entire cite-as line appears in boldface, with the caption in italics.

Words are abbreviated in the cite-as line but not in the formal case caption.

14.3. In the Matter of…

Always change *In the Matter of* to *In re*, in both the formal caption and the cite-as line.

14.4. Miscellaneous Caption Matters

A. Appellees

An appellee is a party against whom an appeal is taken. To be an appellee, a party must have had at least part of the judgment below entered in that party's favor and must stand to lose it on appeal.

A winner below who is not made a party to an appeal by service is not a party and not an appellee.

B. Cross-appeals

When a party has cross-appealed, follow the rules above, except add the parties' cross-appeal status to the formal case caption.

HOW TO DO A FORMAL CAPTION WHEN THERE IS A CROSS-APPEAL
STERN, APPELLANT AND CROSS-APPELLEE, *v.* XYZ CORPORATION ET AL., APPELLEES AND CROSS-APPELLANTS.

C. Consolidated cases

When two or more cases have been consolidated for a single decision, each case has its own separate formal caption line, starting with the case with the lowest (oldest) Supreme Court docket number.

HOW TO DO A FORMAL CAPTION FOR CONSOLIDATED CASES

For instance, say that the following three cases have been consolidated for decision:

Case No. 2010-1201, State v. Rice
Case No. 2011-0140, State v. Hart
Case No. 2010-0803, State v. Hayes

The formal caption lines would read:

THE STATE OF OHIO, APPELLEE, *v.* HAYES, APPELLANT.

THE STATE OF OHIO, APPELLEE, *v.* RICE, APPELLANT.

THE STATE OF OHIO, APPELLANT, *v.* HART, APPELLEE.

The cite-as line, however, will contain only the first case caption:

[Cite as *State v. Hayes*, 2011-Ohio-___.]

SECTION FIFTEEN: Headings

15.1. Use of Headings

It is the opinion author's prerogative whether to divide an opinion into subparts with headings. Not all opinions will necessarily benefit from the use of headings. The reader of a short or single-issue opinion might find headings more distracting than helpful. The sample opinions included in Part III of the Writing Manual, Structure of a Judicial Opinion, provide examples of effective headings.

Use headings when they will enhance the reader's understanding of the opinion or facilitate the reader's ability to focus on a single issue or to cite a specific part of the opinion.

Headings allow the reader to more easily understand the flow of an opinion and to identify portions of interest. Accordingly, choose headings that clearly identify the content of the applicable material. Do not use numbers or letters alone.

As a last step in drafting, it is generally a good idea to review the headings and subheadings to make sure that they are appropriate, especially if any substantial revisions to the text have been made.

15.2. Form of Headings

Numbered or lettered headings without descriptive text convey no meaning.

Whether numbers and letters should be used in addition to a descriptive heading (e.g., III. Laches) will depend on the complexity of the opinion. Generally, if the content of an opinion has more than two levels of division, the use of numbers and letters, in addition to text, should be considered.

Headings are not followed by periods. An exception exists for headings composed of combinations of a numeral and a word or phrase that are on the same line (e.g., IV. The Spousal Privilege), in which a period will follow the numeral only.

For proper use of multiple levels of headings, see **Example 3 in Part III**.

SECTION SIXTEEN: How to Refer to Parties and Witnesses

Whenever possible, avoid using full names to identify minors, people protected by civil protection orders, and crime victims, especially victims of violent crime.

In any case in which a juvenile is a party, the caption and body of the opinion shall refer to the child by initials or another nameless identifier (e.g., "the child," "the son," "the boy") that does not reveal the minor's identity. Any published opinions issued by the court shall similarly refer to the juvenile by initials or another nameless identifier. To the extent that reference to another person is likely to reveal the identity of the juvenile, that person's full name should not be used; instead, the person should be identified by familial relationship or, if necessary, by initials.

In any case involving a minor victim of child abuse or a minor victim of a sex offense, any published opinions of the court shall refer to the minor victim by initials or another nameless identifier.

When appropriate, consider using descriptive terms (e.g., "the neighbor," "the store clerk," "the pedestrian") for testifying witnesses, especially witnesses who are not professionals. Use nongendered terms if you can do so without artificiality (e.g., *workers* instead of *workmen*, *reasonable person* instead of *reasonable man*, *flight attendant* instead of *stewardess*, *staffed* instead of *manned*); if nongendered language seems artificial (e.g., *waitperson*, *mailperson*), use a different term (e.g., *server*, *letter carrier*) or rephrase by omitting the pronoun, by using plural instead of singular, or by repeating the noun (e.g., "the average citizen enjoys jury duty" instead of "the average citizen enjoys his time on a jury").

SECTION SEVENTEEN:
Commonly Misused Words and Phrases

The following list contains words and phrases that legal writers often confuse and misuse. In general, the list identifies concrete rules for legal usage. In some instances, however, when a particular use is debatable but legal writing experts appear to have reached a consensus on a preferred use, the entry indicates that a particular use is preferred. The Reporter's Office generally will follow these preferred usages.

The primary source for the definitions in the entries is *Webster's Third New International Dictionary* (2002). The primary sources for rules of usage are *Garner's Dictionary of Legal Usage* (3d Ed. 2011), *Garner's Modern English Usage* (5th Ed. 2022), and Strunk & White, *The Elements of Style* (4th Ed. 2000).

COMMONLY MISUSED WORDS AND PHRASES

1. **Above-cited; above-mentioned; above-quoted, etc.** In general, avoid these designations and use more specific references—e.g., the case or the court being referred to.

2. **Accord; accordance.** *In accord* means *in agreement*. For example, "Our holding is in accord with the holdings of other courts in Ohio." *In accordance* means *in conformity or compliance with*. For example, "The officer conducted her search in accordance with constitutional standards."

3. **Adduce; deduce; educe.** *Adduce* means *to offer as proof*. For example, "The State failed to adduce evidence of prior calculation and design." *Deduce* means *to infer*. For example, "The indictment was adequate for Wagner to deduce information necessary for his defense." *Educe* means *to draw out*. For example, "It was proper for trial counsel, on direct examination, to educe Wagner's complete account of what occurred."

4. **Affect; effect.** *Affect* as a verb means *to influence* or *to act on*. For example, "Her attempts to affect the legislative process were unsuccessful." "The wound affected his ability to walk." *Effect* as a noun means *result*. For example, "The legislation had the desired effect." Used as a verb, *effect* means *to achieve or bring about*. For example, "The mediator sought to effect a settlement."

5. **Afterward; afterwards.** *Afterward* is preferred.

COMMONLY MISUSED WORDS AND PHRASES

6. **Alleged; ostensible; purported.** *Allege* means *to assert something as true without having yet proved its truth*; used as an adjective, *alleged* means *accused* or *claimed to be as asserted; supposed*. For example, "In her complaint, Parker alleged that her employer owed her money; she identified her boss as the alleged perpetrator of the fraud." *Ostensible* means *apparent* but suggests that appearance may not reflect reality. For example, "The attorney's ostensible reason for attending the conference was legal education." *Purported* means *supposed*, *assumed to be such, reputed*: "The purported author."

7. **Alternate; alternative**. When used as a noun, *alternate* means *a substitute* or *something that occurs or succeeds by turns.* When used as an adjective, *alternate* means *every second one* or *substitute*. For example, as to the latter meaning, "The defense presented alternate jury instructions." An *alternative* is a *choice*, usually one of two choices. When used as an adjective, *alternative* means *mutually exclusive*. For example, "Although Bell claimed that she did not intend to shoot the victim, she argued that counsel should have presented the alternative theory that she shot the victim in self-defense." *Alternative* can also mean affording a choice, as in "The committee offered several alternative plans."

8. **Amicus brief.** The plural of *amicus brief* is *amicus briefs*, not *amici briefs.*

9. **Amicus curiae.** *Friend of the court*. The plural of *amicus curiae* is *amici curiae*.

10. **Appendices; appendixes.** Either spelling is acceptable as the plural of *appendix*.

11. **As; because; since.** *Because* is the preferred choice to indicate causation; *since* is also acceptable. For example, "Because [or Since] the trial court did not consider these issues, we decline to address them on appeal." To avoid confusion, do not use *as* to mean *because*.

12. **As such.** Use *as such* to refer to an object or idea just expressed. For example, "The juror was a military officer and, as such, was a natural for the role of foreman." Do not use *as such* merely to connect sentences or phrases or as a substitute for *therefore*.

13. **Assure; ensure; insure.** *Assure* means *to convince another of something.* For example, "The defendant assured the victim that the basement was safe." *Ensure* means *to make sure or certain*. For example, "The will ensures her daughter's comfort for life." *Insure* means *to provide insurance.* For example, "He insured his home for more than it's worth."

COMMONLY MISUSED WORDS AND PHRASES

14. **Attorney('s/s') fees.** Use *attorney fees*, *attorney's fees*, or *attorneys' fees* (if it is clear that more than one attorney is charging for services).

15. **Between; among.** *Between* indicates a one-to-one relationship, even if there are more than two objects at issue. For example, "The bonds between the three defendants supported a united front for the jury." *Among* indicates a collective or undefined relationship. For example, "The consensus among the three defendants was that they had been framed."

16. **Cite; cite to; citation.** *Cite* is a verb and, in most legal contexts, means *to refer to* or *to offer as an example or authority*. Use *cite*, not *cite to*. For example, "Gray cites *Miranda* as support for his arguments." *Citation* is a noun and is preferred over *cite*, where appropriate. For example, "Appellant offers a single citation in support of his theory."

17. **Clearly; obviously.** Avoid using *clearly* and *obviously* as mere intensives.

18. **Compose; comprise.** *Compose* means *to form* or *to produce*. For example, "Six Ohio counties compose the Second District Court of Appeals." *Comprise* means *to include* or *to contain*; therefore, the phrase *comprised of* is always wrong. For example, "The Second District Court of Appeals comprises [is composed of] six counties."

19. **Decision; judgment; opinion.** Judges and courts make and issue *decisions* and *judgments*. They write *opinions* to justify *decisions* and *judgments*. For example, "The trial court's opinion fails to explain its decision granting summary judgment."

20. **Finding; holding.** A court makes *findings* on questions of fact and *holdings* (or conclusions) on questions of law. For example, "Because competent, credible evidence supports the trial court's findings, we hold that appellant was entitled to judgment as a matter of law."

21. **Identical with; identical to.** Both are correct.

22. **Impact.** Use *impact* only as a noun. For example, "The impact of the defendants' actions was widespread throughout the community." Rather than using *impact* as a verb, use *affect* or, as appropriate, *touch*, *sway*, or *influence.* For example, "The defendants' actions affected the community."

COMMONLY MISUSED WORDS AND PHRASES

23. **Imply; infer.** *Imply* means *to indicate or express indirectly*. For example, "This language implies that a court may dismiss the claim if the conditions are met." *Infer* means *to arrive at a conclusion from facts or premises.* For example, "We can infer from the applicant's failure to disclose three prior terminations that she intended to deceive the review board." Speakers and writers imply; readers infer.

24. **Irregardless.** Use *irrespective* or *regardless*.

25. **Issue of whether.** Use *issue whether*. For example, "This appeal presents the issue whether the trial court abused its discretion by overruling Hughes's objection."

26. **Its; it's.** *Its* is the possessive form of *it*. For example, "A court speaks only through its journal." *It's* is the contraction of *it is* or *it has*.

27. **Method; methodology.** *Method* means *a process for attaining something.* For example, "The Supreme Court has clarified the method we must use to assign responsibility in multiple-employer situations." *Methodology* means *the study of methods*.

28. **Must; shall; may.** *Must* and *shall* mean *is required to*. For example, "All parties must follow the Rules of Civil Procedure." "The plaintiff shall serve the defendant within 30 days." *May* means *is permitted to*. For example, "The plaintiff may serve the defendant personally."

29. **Pleaded; pled.** *Pleaded* and *pled* are both acceptable, but be consistent.

30. **Posit.** *Posit* means *to state as a premise; to postulate*. For example, "The prosecutor's theory of the case posited a common motive for the crimes." *Posit* is not synonymous with *present, argue,* or *state*.

31. **Practical; practicable.** *Practical* means *useful* or *nontheoretical*. For example, "The trial court imposed practical procedures for concluding discovery." *Practicable* means *feasible*. For example, "The company challenged the agency's assertion that the pollution-control guidelines were practicable."

32. **Prescribe; proscribe.** *Prescribe* means *to dictate*. For example, "Through this statute, the General Assembly prescribed a strict method for determining whether the actions were lawful." *Proscribe* means *to forbid.* For example, "Through this statute, the General Assembly proscribed this conduct altogether."

COMMONLY MISUSED WORDS AND PHRASES

33. **Rebut; refute.** *Rebut* means *to contradict*. For example, "Price rebutted the witness's testimony by presenting his own witness." *Refute* means *to prove wrong*. For example, "The video image of Rogers refuted his claim that he had never been there."

34. **Refer; reference.** In legal contexts, *refer* typically means *to direct attention to.* For example, "He referred to his relationship with the codefendant only in passing." *Refer* is not interchangeable with *reference,* which, used as a verb, means *to supply with references*. Do not use *reference* to mean *cite*, *mention*, or *refer to*.

35. **Remand; remand back.** Use *remand* alone. For example, "We remand this case to the trial court for a new hearing." The issuance of a writ of mandamus to an agency does not constitute a remand to the agency.

36. **Respective.** *Respective* means *separate* or *particular*. It is often an unnecessary adjective and may be deleted. For example, "The parties argued their positions," not "their respective positions."

37. **Said; the said.** Avoid referring to an object, person, or idea as *the said* object, person, or idea. Use more specific references, such as *the*, *that*, or *this.*

38. **Saving clause; savings clause.** Use *saving clause*, not *savings clause*. For example, "Both federal acts contain broad saving clauses that preserve rights and remedies existing outside the securities arena."

39. **Scenario.** *Scenario* refers to imagined events. It is not synonymous with *situation*.

40. **Survival action; survivorship.** An estate pursues a *survival action* to recover for the decedent's pain and suffering before death and for other associated losses. *Survivorship* is a right that arises by virtue of a person having survived another person with a joint interest in property.

41. **That; which.** Use *that* to introduce an adjective clause containing essential information about the preceding noun, i.e., a clause that cannot be eliminated without changing the meaning of the sentence. For example, "A business that violates environmental laws should be punished." Use *which* to introduce clauses containing supplemental information, i.e., clauses that are set off by commas and could be eliminated without changing the meaning of the sentence. For example, "The business, which violated environmental laws, should be punished."

COMMONLY MISUSED WORDS AND PHRASES

42. **Tortious; tortuous; torturous.** *Tortious* means *involving a tort*. For example, "The neighbors complained about the building owner's tortious conduct." *Tortuous* means *marked by repeated twists or turns.* For example, "The court found that Murphy's tortuous explanation of his whereabouts lacked credibility." *Torturous* means *causing torture.*

43. **Toward; towards.** *Toward* is preferred.

44. **Upon.** Generally, use *on* instead.

45. **Verbal; oral.** *Verbal* refers broadly to words, written or spoken: "The student's essay amply demonstrated her verbal skills." *Oral* is narrower and means *spoken*. For example, "The parties had an oral agreement to settle the case."

46. **Verbiage.** *Verbiage* means *an excess of words with little value*.

47. **Whether; whether or not.** Use *whether* alone. For example, "The trial court had discretion to determine whether Bennett was telling the truth." An exception applies when the *whether* clause is an adverb. For example, "The judge had decided in advance to disbelieve Gibson, whether or not Gibson was telling the truth."

PART III. STRUCTURE OF A JUDICIAL OPINION

A Guide for the Writer

INTRODUCTION to Part III, Structure of a Judicial Opinion

The Structure of a Judicial Opinion is offered as a guide to organizing a straightforward judicial opinion. First, it addresses the subject of authorial discretion (**Section 18**). Next, it sets forth the basic components and their subcomponents, arranged in the traditional sequence (**Section 19**). It then presents three examples of fictitious Supreme Court opinions, two civil and one criminal, with each structured to follow the outline (**Section 20**). All three cases are arranged as they would appear in the Ohio Official Reports, except that marginal notes have been added to identify outline elements and explain certain points. **Section 21** discusses dispositional language, with examples of various dispositions. Finally, **Section 22** considers the topic of separate opinions.

There are many ways to write a good judicial opinion. The guide is meant to provide a basic model that can be easily followed and adapted for a variety of cases.

SECTION EIGHTEEN: Authorial Discretion

Organization of an opinion is solely a matter for the author. The elements listed in the sample outline may be useful, but they are not mandatory. The author's own outline of facts, analysis, and conclusion is a good starting point, with further divisions added if desired as the opinion is fleshed out.

However, if the opinion has only one section or subsection, do not use numbers or letters in headings. Thus, for example, a section labeled "I. Defamation" should not have a subsection labeled "A. Communication to Third Party" unless there is also a subsection "B."

SECTION NINETEEN: Outline of a Majority Opinion

The following is offered as a guide to arranging the elements of a typical majority opinion of the Supreme Court of Ohio.

OUTLINE OF A TYPICAL MAJORITY OPINION

I. Introduction

- identifies the main issue of the case
- provides the basic factual and/or procedural context
- states the court's conclusion

II. Statement of Facts

- describes relevant and material events that prompted filing of civil lawsuit or criminal charges—i.e., relevant incidents before any court or agency involvement
- identifies parties and their status (e.g., appellant, appellee)

III. Procedural History

- establishes procedural posture:
    - in civil case, was case decided on summary judgment? on Civ.R. 12(B)(6) dismissal? on judgment after full trial?
    - in criminal case, was case decided on plea of guilty or no contest? on granting of motion to suppress? on judgment after full trial?
- identifies rationale for trial court's (or agency's) decision, if warranted
- states who appealed to court of appeals (or to common pleas court if administrative appeal) and why
- describes how the court of appeals decided the appeal

IV. Legal Analysis

- articulates in precise terms the question presented by the appeal
- identifies which standard of review applies and why
- identifies sources of legal principles (e.g., Constitutions, statutes, rules, caselaw)
    - applies legal principles to facts
    - articulates rationale and, when appropriate:
        - explains parties' arguments
        - settles conflicting cases
        - distinguishes precedent
        - if reversing, identifies error and explains flaw

OUTLINE OF A MAJORITY OPINION

V. Conclusion

- summarizes basis of decision
- states disposition of case (consistent with the Introduction)
    - explains what, if anything, happens next
    - if remand is ordered, specifies where
- states disposition of each motion, if any

SECTION TWENTY: Examples of Opinions Constructed According to the Outline

20.1. Overview

The following section includes three examples of Supreme Court opinions, two civil and one criminal. All three opinions, and the authorities cited in them, are fictitious and all follow the outline contained in **Section 19** above. They are presented as they would appear in the Ohio Official Reports, with certain additional features.

The opinions include notes in both margins. Notes in the right margin point out where elements from the outline appear, and notes in the left margin offer explanations regarding the format of the opinion.

20.2. Components of an Opinion

A. Headnotes

The headnotes are the italicized phrases under the caption. They provide key words and phrases describing the general subject matter of the case (e.g., "Taxation"), the subtopics (e.g., "Real property"), the statute, if any, being interpreted, and the holding. Headnotes are for research purposes only. They are written by the Supreme Court Reporter's Office, not by the court, and do not constitute part of the opinion. They are to be distinguished from the more extensive headnotes written by West, which appear on Westlaw and in the West regional reporters but not in the Ohio Official Reports, and from those written by Lexis, which appear only on Lexis.

B. Syllabus

Historically, a syllabus has sometimes been included to summarize the legal principle(s) set forth in the opinion. If included, the syllabus is written by the author of the opinion and must be approved by a majority of the court. All syllabus paragraphs shall be taken verbatim from the body of the opinion itself (generally omitting citations, if any). A parenthetical explanatory note may be added at the end of a syllabus paragraph that cites an affected case or statute, with a word or phrase that explains how that case or statute is affected by the principle in the syllabus.

Example 1—Civil Case, Single Issue

This line is referred to as the "cite-as line."

PHILLIPS, APPELLANT, *v.* XYZ AUTO SALES, APPELLEE.

[Cite as *Phillips v. XYZ Auto Sales,* 2009-Ohio-0000.]

These italicized headnotes are written by the Supreme Court Reporter's Office, not by the court.

Negligence—Premises liability—Duty to business invitee—Ice and snow—No duty owed to business invitee for injury from fall on ice and snow when conditions on premises are substantially similar to those prevailing generally in area—Court of appeals' judgment affirmed.

(No. 2008-0000—Submitted July 1, 2009—Decided October 10, 2009.)

Unlike in citations, this line uses the county of the trial court, not the district of the court of appeals.

APPEAL from the Court of Appeals for No-Name County, No. 00000, 2008-Ohio-0000.

MILLER, J., authored the opinion of the court, which SMITH, C.J., and JOHNSON, BROWN, WILLIAMS, JONES, and DAVIS, JJ., joined.

Note the use of paragraph numbers. They are added by the Reporter's Office before the opinion is released.

MILLER, J.

{¶ 1} The issue presented in this appeal is whether an owner of property is liable to a business invitee who is injured on the property when the invitee slips on a patch of ice covered by snow. We conclude that the owner is not liable when snow-covered ice prevails generally in the area, because the owner may assume that the business invitee will apprehend the danger and act to ensure the invitee's own safety. Therefore, we affirm the judgment of the Thirteenth District Court of Appeals.

Identifies the main issue and provides the basic factual context.

States the court's conclusion and disposition of the case. The statement of the conclusion here should match the statement of the conclusion in the Conclusion section of the opinion.

Use of headings is discretionary, but often helpful, especially in a lengthy case with multiple issues.

Facts and Procedural History

Identifies parties and their status.

Describes relevant events that prompted filing of lawsuit, i.e., relevant incidents before any court or agency involvement.

Choose one moniker for a party and stick with it. Use last names for people, and use short versions of company names that are long.

{¶ 2} On December 12, 2002, appellant, Heather Phillips, visited the business premises of appellee, XYZ Auto Sales, to buy a car. Although the car lot had been plowed the day before, an overnight blizzard caused a fresh accumulation of ice and snow. As Phillips was crossing the lot, she slipped on a snow-covered icy spot and fell, breaking her wrist.

{¶ 3} Phillips sued XYZ, alleging negligent failure to maintain the lot in a reasonably safe condition. The trial court granted XYZ's motion for summary judgment. The court reasoned that when the owner or occupier of business premises is not shown to have had notice, actual or implied, that the natural accumulation

Establishes procedural posture—case decided on summary judgment.

Identifies rationale for trial court's decision.

of snow and ice on the premises was substantially more dangerous to business invitees than they could reasonably have expected from their knowledge of conditions prevailing generally in the area, the owner is not liable for any injury resulting from snow and ice.

{¶ 4} Phillips appealed, alleging that the trial court had failed to consider that XYZ had superior knowledge of a hidden danger because the ice that caused her fall was under the snow and not observable by Phillips. Thus, she claimed, XYZ had no right to assume that visitors to its premises would recognize the danger and act to ensure their own safety.

States who appealed and why.

{¶ 5} The court of appeals affirmed, holding that even if the ice underneath the snow was hidden, Phillips presented no evidence that this danger substantially exceeded the danger posed by conditions generally prevailing in the area.

Describes how the court of appeals decided the appeal.

{¶ 6} We are asked to define the circumstances, if any, in which a property owner may be liable for an injury to a business invitee caused by a natural accumulation of snow and ice on the premises.

Articulates in precise terms the question presented by the appeal.

Ideally, headings should briefly describe the substance of that section of the opinion.

Invitee Failed to Show That Property Owner Neglected a Legal Duty

{¶7} Because this matter was decided on summary judgment, we review this appeal de novo, governed by the standard set forth in Civ.R. 56. *Seeley v. Gallagher*, 000 Ohio St.3d 555, 556 (2000).

Identifies which standard of review applies and why.

{¶ 8} In Ohio, an owner or occupier owes no duty to keep the business premises free from natural accumulations of snow and ice. *Garcia v. Acme Co.*, 2004-Ohio-0000, ¶ 9; *Lacey v. ABC Corp.*, 000 Ohio St.3d 333, 335 (2001). This court has held that the dangers posed by snow and ice are obvious and that "the owner or occupier has a right to assume that his visitors will appreciate the risk and take action to protect themselves accordingly." *Spears v. Englewood*, 000 Ohio St.3d 444, 447 (1989).

Sets forth legal principles and identifies sources of legal principles.

{¶ 9} Phillips claims that the general rule does not apply here, because the ice that caused her fall was concealed under a covering of snow and the danger was therefore not obvious. We decline to recognize such an exception under the facts of this case. A plaintiff seeking damages from a slip and fall on snow or ice has the burden of showing that the conditions that caused the injury were "substantially more dangerous than those prevailing generally." *Spears* at 445. Phillips has made no such showing. In fact, she admitted that icy patches concealed by snow were common that day because the melting snow had refrozen during the snowfall the previous night.

Explains parties' arguments.

Applies legal principles to facts.

Conclusion

{¶ 10} Because XYZ has demonstrated that no genuine issue of fact exists as to an essential element of Phillips's claim, XYZ is entitled to judgment as a matter of law. The trial court therefore did not err in entering summary judgment for XYZ.

Articulates rationale.

{¶ 11} Accordingly, the judgment of the Thirteenth District Court of Appeals is affirmed.

Sets forth the disposition.

Judgment affirmed.

The plaintiff's attorneys are always listed first, regardless of who is the appellant in this court. Only those attorneys whose names appear on the merit briefs or who argued at oral argument are listed.

Heather A. Phillips, pro se.

Collins, Wilson & Cook, L.P.A., and Michael Wilson, for appellee.

Example 2—Criminal Case, Two Issues

THE STATE OF OHIO, APPELLEE AND CROSS-APPELLANT, *v.*

MYERS, APPELLANT AND CROSS-APPELLEE.

[Cite as *State v. Myers,* 2009-Ohio-0000.]

Criminal law—Felonious assault—Definition of "serious physical harm"—R.C. 2903.11(A)(1)—"Peace officer" specification in R.C. 2903.11(D)(1)(a)—Defendant may be convicted of specification if officer is off duty and out of uniform at time of assault—Court of appeals' judgment affirmed in part and reversed in part.

(No. 2009-0000—Submitted March 15, 2009—Decided June 1, 2009.)

APPEAL and CROSS-APPEAL from the Court of Appeals for Essex County, No. 0000, 2008-Ohio-0000.

Justices may express in their vote line that they join only particular paragraphs of the majority opinion, without having to write a separate opinion.

TAYLOR, J., authored the opinion of the court, which THOMAS, C.J., and THOMPSON, CLARK, and JACKSON, JJ., joined; MARTIN, J., concurred in the judgment and joined paragraphs 20 and 21 of the opinion. WHITE, J., concurred in judgment only, with an opinion. AMANDA B. CLARK, J., of the Thirteenth District Court of Appeals, sitting for BAKER, J.

TAYLOR, J.

{¶ 1} Joshua Myers was convicted by a jury of one count of felonious assault under R.C. 2903.11(A)(1), with the R.C. 2903.11(D)(1)(a) specification that his victim was a police officer. This case presents two issues: (1) Has a defendant who strikes another, breaking the victim's nose, caused "serious physical harm" within the meaning of the felonious-assault statute? and (2) Can a defendant be convicted of the "peace officer" specification when the victim was off duty at the time of the assault? We conclude that a broken nose qualifies as serious physical harm and that a defendant who assaults a police officer may be convicted of the "peace officer" specification even if the officer was off duty and out of uniform at the time of the assault. We therefore affirm in part and reverse in part the judgment of the Fourteenth District Court of Appeals and reinstate the trial court's judgment.

Identifies the legal issues, states the basic factual context from which they arose, and states the court's conclusion.

Division of the opinion into parts is discretionary, but it can be helpful, especially in lengthy opinions. Do not use numbers without descriptive headings.

The Incident and Its Aftermath

Identifies parties and their status (in a criminal case, the defendant is often the only one identified, as the plaintiff is almost always the State).

{¶ 2} On October 19, 2005, appellant and cross-appellee, Joshua Myers, attended a high school football game in Anytown, Ohio. In the parking lot after the game, Myers became belligerent and caused a disturbance. James Walker, an off-duty police officer hired by the school to provide security, approached Myers and ordered him to desist. Myers cursed Walker and stepped toward him menacingly. Walker grasped Myers's arm. Myers shook him off and punched Walker in the face, breaking his nose.

Describes relevant events that prompted the filing of criminal charges, i.e., relevant incidents before any court or agency involvement.

{¶ 3} Myers was arrested and charged with one count of felonious assault under R.C. 2903.11(A)(1), along with a specification of assault on a peace officer under R.C. 2903.11(D)(1)(a), which enhanced the penalty. A jury found him guilty, and the trial court sentenced him accordingly.

Establishes procedural posture—defendant convicted after jury trial.

{¶ 4} Myers appealed, arguing that the harm Walker suffered was not "serious" as required by R.C. 2903.11(A)(1) and that the specification conviction was erroneous because Walker had been off duty. The court of appeals upheld the assault conviction, ruling that Walker's injury constituted serious physical harm. But the court reversed Myers's conviction under the specification and remanded for resentencing, holding that Myers could not be found guilty of the peace-officer specification, because Walker was not engaged in his official duties at the time of the assault.

States who appealed to the court of appeals and why.

Describes how the court of appeals decided the appeal.

{¶ 5} Myers appealed the affirmance of his conviction, and the State cross-appealed the judgment reversing the specification conviction.

A Broken Nose Constitutes Serious Physical Harm under the Felonious-Assault Statute

{¶ 6} Myers asks us to reverse the appellate court's ruling that the injury in this case amounts to "serious physical harm" as required for a conviction under R.C. 2903.11(A)(1). He contends that the evidence was insufficient to show that Walker's injury resulted in substantial suffering.

Articulates in precise terms the question presented by the appeal.

{¶ 7} In reviewing the sufficiency of the evidence supporting an essential element of a criminal offense, a court must determine whether, after viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the element proven beyond a reasonable doubt. *State v. Kim*, 2005-Ohio-0000, ¶ 3.

Identifies which standard of review applies and why.

{¶ 8} R.C. 2903.11(A), the felonious-assault statute, states:

> No person shall knowingly . . . :

(1) Cause serious physical harm to another . . . .

{¶ 9} In this case, the State argued that Walker's injury was serious within the meaning of R.C. 2901.01(A)(5)(c). That provision defines "serious physical harm" as "[a]ny physical harm that involves acute pain of such duration as to result in substantial suffering."

{¶ 10} Officer Walker testified that although he was treated at the scene by medics and not transported to the emergency room, his injury caused him considerable suffering. He testified that the pain on impact was blinding, that the examination and packing of his nose by the medic were so "incredibly" painful that he nearly passed out, that sleeping was difficult for several days because of the pain, and that he experienced frequent headaches for two weeks after the blow. He took pain medication several times daily, missed two days of work, and was assigned to desk duty for a week.

Sets forth legal principles.

{¶ 11} Viewed in the light most favorable to the State, this evidence demonstrated beyond a reasonable doubt that Walker had suffered "serious physical harm" in the form of acute pain that is unbearable—or nearly so. In the context of assault, courts have held that similarly painful but noncatastrophic injuries can constitute serious physical harm. *See, e.g.*, *State v. Morretti*, 000 Ohio App.3d 123 (2d Dist. 2000) (facial bruising); *State v. Beadle*, 2008-Ohio-0000 (4th Dist.) (slash in scalp requiring six stitches).

Applies legal principles to facts, identifies sources of principles, and articulates rationale.

{¶ 12} In arguing that Walker's injury was not serious, Myers points out that no emergency-room visit was required and no major function, such as walking or thinking, was affected. These facts do not avail Myers. We have found no authority for the proposition that a victim who is treated outside a hospital or who retains his ability to walk and think cannot have suffered serious harm. The relevant definition speaks in terms of pain, not incapacity or the need for complex treatment. *See Morretti* at ¶ 6; *Beadle* at ¶ 11.

Explains parties' arguments.

{¶ 13} The concurring opinion abbreviates the analysis necessary to review the proper application of a statute. *See* opinion concurring in judgment only, ¶ 22. While the concurrence correctly notes that the interpretation of a statute is a matter of law, we must also determine whether any rational trier of fact could have found that the State proved the elements of the crime beyond a reasonable doubt. *See State v. Conundrum*, 155 Ohio St. 399 (1845). Not all broken noses necessarily equate with serious physical harm.

{¶ 14} We conclude that Walker's broken nose constitutes serious physical harm. Therefore, the court of appeals did not err in affirming Myers's conviction for felonious assault.

The Statute Does Not Require the Peace Officer to Be on Duty for the Enhancement to Apply

{¶ 15} In its cross-appeal, the State of Ohio asks us to reverse the appellate court's holding that the peace-officer specification set forth in R.C. 2903.11(D)(1)(a) requires a showing that the officer was engaged in official duties at the time of the felonious assault.

Articulates in precise terms the question presented by the cross-appeal.

{¶ 16} Resolution of this question requires nothing more than a simple review of the statute. The specification at issue in this case provides that if the victim of the assault is a peace officer, felonious assault is a felony of the first degree. R.C. 2903.11(D)(1)(a). The specification incorporates by reference the definition of "peace officer" in R.C. 2935.01. Under that definition, "peace officer" includes a "member of the organized police department of any municipal corporation." R.C. 2935.01(B).

Sets forth legal principles and identifies sources of principles (e.g., Constitutions, statutes, caselaw).

{¶ 17} Myers contends that at the time of the offense, Walker was not a peace officer, because he was not engaged in his official duties. The court of appeals agreed with Myers, reversed the specification conviction, and remanded for resentencing.

Explains parties' arguments.

{¶ 18} Walker is a police officer employed by the City of Anytown. Although he was off duty and out of uniform when he was attacked, neither the definition of "peace officer" nor the specification itself requires that the officer be engaged in the officer's official duties or in uniform for the specification to apply. *See State v. Shaw*, 2008-Ohio-0000, ¶ 19 (3d Dist.).

Applies legal principles to facts and articulates rationale.

{¶ 19} Our conclusion is buttressed by the fact that a similar specification in another assault statute does expressly require that the officer be engaged in official duties at the time of the assault. *See* R.C. 2903.13(C)(3) (specification for simple assault applies if offense occurs while officer is "in the performance of [the officer's] official duties"). Had the legislature intended that factor to be an element of the specification at issue, it could have included that language. It did not, and we will not add it.

Further articulates rationale.

{¶ 20} The court of appeals erred in reversing Myers's conviction of the "peace officer" specification under R.C. 2903.11(D)(1)(a). The evidence established that Walker was a police officer at the time of the assault. No more is required.

Identifies error and explains flaw.

Conclusion

{¶ 21} Accordingly, the judgment of the Fourteenth District Court of Appeals is affirmed in part and reversed in part. That portion of the judgment upholding Myers's conviction for felonious assault is affirmed, while the portion reversing his conviction under R.C. 2903.11(D)(1)(a) and remanding for resentencing is reversed. The judgment of the trial court is reinstated.

States disposition, explains which portion of the judgment is affirmed and which is reversed. See pages 149-151 for examples of dispositions.

Judgment affirmed in part
and reversed in part.

WHITE, J., concurring in judgment only.

{¶ 22} I agree with the holding articulated in the majority opinion. I write separately to observe that the majority opinion has rendered unclear the standard of review in this case. The majority seems to suggest that we review issues of statutory interpretation by weighing the evidence. *See* majority opinion, ¶ 7. We do not. The interpretation of a statute is a matter of law that we examine de novo. *State v. Percy*, 2002-Ohio-41, ¶ 75. The victim suffered a broken nose. It is not our job as the court of last resort to investigate the level of his suffering. Because "serious physical harm" has an established definition that describes James Walker's injuries, the conviction of appellant, Joshua Myers, must be affirmed.

Jason Hall, Essex County Prosecuting Attorney, and Melissa C. Anderson, Assistant Prosecuting Attorney, for appellee and cross-appellant.

Matthew Harris, for appellant and cross-appellee.

Example 3—Civil Case, Multiple Issues

LEE ET AL., APPELLEES, *v.* FICTITIOUS HOSPITAL; GREEN ET AL., APPELLANTS.

[Cite as *Lee v. Fictitious Hosp.*, 2009-Ohio-0000.]

Medical malpractice—Expert testimony—Physicians not qualified to testify on standard of care for licensed registered nurses—Expert testimony not required to establish recklessness of physician's conduct in caring for patient—Award not excessive—"Day in the life" video of comatose patient not unduly prejudicial—Court of appeals' judgment affirmed.

(No. 2020-0000—Submitted April 3, 2023—Decided November 30, 2023.)

APPEAL from the Court of Appeals for Nameless County, No. 19-CA-0000, 2020-Ohio-0000.

LEWIS, J., authored the opinion of the court, which ROBINSON, C.J., and YOUNG, KING, ADAMS, and HILL, JJ., joined. MORRIS, J., dissented, with an opinion. JESSICA D. YOUNG, J., of the Nineteenth District Court of Appeals, sitting for ALLEN, J.

LEWIS, J.

{¶ 1} This medical-malpractice appeal alleges trial-court error in precluding expert testimony, in admitting a video of the severely impaired plaintiff, and in allowing excessive compensatory- and punitive-damages awards. We reverse the judgment of the Fourteenth District Court of Appeals to the extent that it affirmed the award of punitive damages against Dr. Elizabeth Reed, and we affirm the judgment in all other respects.

I. BACKGROUND

A. Facts

{¶ 2} Twenty-year-old Nicole Lee arrived at the emergency room of Fictitious Hospital in Nowhere, Ohio, one afternoon in April 2020. She complained of a high fever, disorientation, and vomiting. Within a few hours, due to a tragic series of errors by hospital personnel, Nicole lapsed into a persistent vegetative state, from which she is not expected to emerge.

Dates should be included only when relevant to the analysis.

Although people are generally referred to by last name, sometimes first names are necessary to distinguish between family members.

This opinion is divided into headings and subheadings, following the guide on page 110. A unique typeface is used for each level of heading and subheading.

{¶ 3} On the medical-history form she was handed in the emergency room, Nicole reported that she was on medication for depression. Upon examining her, an ER physician admitted her for hydration and observation.

"ER" does not need to be identified, because it is familiar to most readers.

{¶ 4} Once admitted, Nicole was evaluated by Brian Green, M.D. He could not pinpoint a diagnosis, but he prescribed ibuprofen to reduce the fever.

{¶ 5} At 4:30 p.m., Dr. Green left Nicole in the care of registered nurses. An hour later, when she became agitated and began trying to pull out her IV tubes, nurses tried to contact Dr. Green. They were unable to reach him, however, because contrary to hospital policy, he had turned off his beeper and cellphone and left the building. Nurses then called resident physician Elizabeth Reed, who was on duty. Without examining her personally and without inquiring as to what medication Nicole was taking, Dr. Reed prescribed a sedative and ordered that Nicole be restrained. By 6:10 p.m., Nicole was asleep, and for reasons unknown, nurses failed to check on her for the next several hours. At 10:32 p.m., a nurse checking on Nicole was unable to wake her. Nicole had lapsed into a persistent vegetative state and will most likely never emerge.

{¶ 6} Nicole's vegetative state was caused by the interaction between her depression medication and the sedative administered to control her agitation, an interaction that is known to cause severe harm or even death. It later became known that Dr. Green had been unavailable because he was drinking in a nearby bar.

B. Procedural History

{¶ 7} Appellees Michelle and Joseph Lee, Nicole's parents, brought this action against the hospital and appellants, Drs. Green and Reed and several registered nurses (collectively, "the medical providers"), alleging negligence and recklessness in the care and supervision of their daughter and seeking compensatory and punitive damages. The hospital settled and was dismissed.

{¶ 8} A jury trial commenced in July 2021. The jury found for the Lees and awarded them $5,288,667 in compensatory damages and $20 million in punitive damages, the latter against Drs. Green and Reed only, allocating 25 percent to Reed and 75 percent to Green. The court of appeals affirmed.

This heading will cover the portion of the opinion in which the court considers the arguments and formulates its holdings.

II. ANALYSIS

A. The trial court did not abuse its discretion in refusing to allow a physician to testify as an expert on nursing standard of care

The several issues in the Analysis portion of the opinion may be separated into subheadings and sub-subheadings. Helpfulness to the reader is the touchstone.

{¶ 9} The medical providers argue that the trial court erred in refusing to allow their physician-expert to testify as an expert regarding the standard of care expected of a registered nurse. This is a question of first impression in this state.

{¶ 10} To show that the nurses attending to Nicole Lee did not violate the applicable standard of care in failing to inform Dr. Reed of Nicole's antidepressant medication and in not checking on her for over four hours, the medical providers proffered the testimony of Tiffany Roberts, M.D., a specialist in internal medicine at Fictitious, who taught nurses at the hospital. She also consulted with the nursing staff on a guide to nursing practices and protocols. The trial court refused to permit Dr. Roberts to testify on the grounds that she was unqualified to offer an expert opinion on the applicable standard of care for a registered nurse.

{¶ 11} "The admissibility of expert testimony is a matter committed to the discretion of the trial court, and the court's ruling will not be overturned absent an abuse of that discretion." *In re Carmody*, 2004-Ohio-0000, ¶ 11.

{¶ 12} It is a general rule that to testify as an expert on the standard of care in a given school of medicine, the witness must be licensed in that field. *Bolt v. Surgeons, Inc*., 000 Ohio St.3d 800, 812 (1985). Once that licensure has been established, the trial court has discretion to determine whether the witness is qualified to testify as an expert regarding the standard of care. *Brockmeier v. Fedders*, 2008-Ohio-0000, ¶ 25.

{¶ 13} The rationale behind this licensure requirement is that

This paragraph shows the formatting of a block quote.

> different schools of medicine have varying procedures, practices, and treatments, and it would be unfair for a practitioner of one school to judge the care and skill of a practitioner of another. *Bolt* at 813. Thus, a specialist in radiology cannot testify on the standard of care for a general surgeon, nor can an orthopedist testify on the standard for a neurologist.

Lopez v. Pediatric Ctr., 2009-Ohio-0000, ¶ 33.

{¶ 14} These are well-settled principles. But no Ohio court has ever addressed the issue presented here: whether a physician

of any stripe may testify as an expert on the standard of care applicable to a nurse. We therefore look to our sister states for guidance.

{¶ 15} The clear majority of states hold that physicians are not qualified to offer an expert opinion on the standard of care for nurses or on whether a nurse has deviated from that standard. *See Bristow v. Scanlon*, 000 Cal.Rptr.3d 1111, 1114 (2002) (citing cases); *Verhoff v. Neurological Assocs.*, 000 N.Y.S.3d 12, 15-16 (2006) (citing cases); Jones, *Physician, Judge Thyself: The Growing Trend Toward Limiting Physician Opinion Testimony*, 000 S.W.J.Med.Litig. 40, 66-71 (2019). Physicians are not licensed in nursing. To allow them to opine on the standard of care for nurses would lead to the same muddling of methodologies and principles as allowing a pediatrician to judge a sleep specialist. *Kress v. Horning*, 000 Mass. 222, 230 (2007).

{¶ 16} The medical providers argue that Dr. Roberts is nevertheless qualified to testify as an expert. They point to her years of experience teaching nurses at Fictitious, her work on a guide on nursing practices and protocol, and her extensive experience observing and working with nurses throughout her career.

{¶ 17} We have no doubt that Dr. Roberts is familiar with the methods, procedures, and practices of a registered nurse. Nonetheless, the fact remains that Dr. Roberts is not a licensed registered nurse.

> Relevant licensure is an indispensable requirement for qualification as an expert when a physician seeks to testify on the standard of care in a medical field. The physician must be a licensed practitioner *in the same field*. Those states that have addressed the issue have uniformly declined to deviate from this rule when a physician is offered as an expert on nursing standards. *Bristow*; *Kress.*

(Emphasis added.) *Hanna v. Orthopedic Ctr.*, 000 Ill.2d 444, 449 (2001).

{¶ 18} The dissent asserts that this ruling worked an extreme injustice to the case of certain defendants. *See* dissenting opinion, ¶ 43. But the fact that the medical providers were unable to secure a registered nurse to testify on their behalf speaks volumes about the strength of their case.

{¶ 19} We conclude that the trial court did not abuse its discretion in granting the Lees' motion to disqualify Dr. Roberts as an expert on the standards of care applicable to the nursing profession.

This example illustrates the usefulness of subheadings. The overarching subject is damages. The analysis is divided into compensatory damages and punitive damages, and punitive damages is further divided into sub-subheadings to discuss the two separate issues on that topic.

B. Damages

1. The compensatory damages awarded were not excessive

{¶ 20} The medical providers claim that the trial court erred in denying their motion for remittitur, as the award of compensatory damages was excessive. We review the trial court's order denying remittitur for an abuse of discretion. *Penn v. Roe Corp.*, 000 Ohio St.2d 928 (1976), syllabus. We will not disturb a jury award for excessiveness unless it is grossly disproportionate to the injury suffered, so large as to "shock the conscience," or so exaggerated as to strongly indicate passion, corruption, or other improper motive. *Id.* at 932.

{¶ 21} The compensatory award of $5,288,667 represented $4,288,667 in economic damages (past and future medical expenses and future lost wages) and the statutory limit of $1,000,000 in noneconomic damages.

{¶ 22} The medical providers cite similar cases in which large compensatory awards were overturned as excessive. *See, e.g.*, *Smoot v. Cty. Hosp.*, 000 S.E.2d 666 (Ala.2000); *Younger v. Med. Ctr.*, 000 Wash.App.2d 444 (2008). But it is not enough that the award is very large, that it is larger than awards made in similar cases, or that similar awards have been overturned. Awards must be judged by the unique circumstances of each case. *Penn* at 932.

{¶ 23} Here we have a very young woman, active and healthy, who at the time of her injury was studying for a degree in urban design. Expert testimony was heard on the costs of caring for Nicole for her lifetime and on the income she would have made had she not suffered this catastrophic injury. Further evidence established that she will never recover her mental and physical faculties, that she will survive in her present state for as long as five decades, and that she will always require extraordinary care in a highly specialized environment. The medical providers have not given any indication in the record that the award was motivated by bias, passion, or other improper motive.

{¶ 24} In view of the evidence adduced, the lack of record evidence of bias or other impropriety, and the trial court's superior position for judging whether the award was warranted under the circumstances, we affirm.

2. While the record does not support the punitive damages awarded against Dr. Reed, it does support the punitive damages awarded against Dr. Green

All headings and subheadings are given descriptive titles.

a. Recklessness as a basis for punitive damages

{¶ 25} Drs. Green and Reed next argue that the Lees failed to prove that their conduct was reckless or wanton, which was the basis for the award of punitive damages in this case.

{¶ 26} When reviewing the sufficiency of the evidence in a jury trial, we apply a highly deferential standard of review and will sustain the jury's finding if there is any credible evidence to support it. *Salter v. Ray*, 000 Ohio St.2d 999 (1990), paragraph four of the syllabus. In our review, we are mindful that "recklessness" is defined as "the failure to observe even slight care; carelessness of such a degree as to show utter indifference to the consequences that may ensue." *Osgood v. Lively*, 2003-Ohio-0000, ¶ 14.

{¶ 27} Drs. Green and Reed contend that the Lees failed to provide the expert testimony necessary to prove recklessness in a medical-malpractice context. It is certainly true that a plaintiff in a medical-malpractice case must present expert testimony to establish both the standard of care and deviation from that standard. *Lord v. Med. Ctr.*, 2003-Ohio-0000, ¶ 20. But Drs. Green and Reed have cited no authority that recklessness must be established by expert testimony. Nor are we inclined to adopt such a broad rule. In some cases, medical recklessness can be so gross and so obvious that laypersons can be relied on to judge for themselves. *See, e.g.*, *Davis v. Goff*, 000 A.2d 444, 450 (Me.1999) (elderly patient left unattended for nearly three hours fell off examining table and died from head injuries); *Shorter v. Fassbinder*, 000 Ore. 111 (2001) (physician told office staff to ignore patient who had collapsed in examining room, because "there was not a damn thing wrong with her"). In such cases, the jury may decide whether the deviation from the standard of care was negligent or reckless.

{¶ 28} We now turn to the evidence against the doctors in this case.

i. Dr. Reed was not reckless

{¶ 29} We cannot find that Dr. Reed's conduct in failing to inquire about Nicole's medications was so atrocious as to constitute recklessness. Her conduct was negligent—perhaps even grossly negligent—but it was not "especially egregious," 4 Restatement of the Law 2d, Torts, § 908, Comment b (1965). Punitive damages are reserved for conduct that demonstrates an

"evil motive" or a "reckless indifference to the rights of others." *Id*. at § 908(2). We find no evidence of such a motive or of callous indifference here. This court will not countenance an award of punitive damages for mere gross negligence. *Diaz v. Community Hosp.*, 000 Ohio St.3d 888, 893 (1997). The award of punitive damages against Dr. Reed is reversed.

ii. Dr. Green was reckless

{¶ 30} We have no difficulty finding support for the jury's finding that the conduct of Dr. Green was reckless. Against hospital policy, Dr. Green left the hospital while still on duty, despite being primarily responsible for Nicole's care and despite the fact that her condition was still undiagnosed. Without more, we would most likely call this mere negligence. But Dr. Green did much more. He left without telling anyone. He took affirmative steps to ensure that he could not be reached. He left not because he was suddenly taken ill or because of an emergency, but because he wanted to drink. He could not be located for several hours, and when he was finally found, he was too intoxicated to walk. Thus, we have no difficulty in finding that Dr. Green's deliberate misconduct strayed well beyond mere negligence into utter indifference for the consequences to his patient. Had he been available when Nicole became agitated, his knowledge of her medications might have changed the outcome in this case. Dr. Green acted recklessly, and the award of punitive damages against him is affirmed.

b. The punitive damages awarded against Dr. Green were not excessive

{¶ 31} Drs. Green and Reed attack the award of punitive damages as excessive. Having overturned the award against Dr. Reed, we confine our inquiry to the award against Dr. Green, which amounted to $15 million.

{¶ 32} When a jury award of punitive damages is challenged, an appellate court must conduct a de novo review. *Merritt v. ABC Co.*, 000 U.S. 888, 899 (1996). We have previously held that

> a court reviewing an award of punitive damages for excessiveness must independently analyze (1) the reprehensibility of the conduct, (2) the ratio of the punitive damages to the actual harm inflicted, and (3) sanctions for comparable conduct.

Nestor v. Stubbs, 2008-Ohio-0000, paragraph two of the syllabus. Punitive damages are warranted only when the defendant's conduct is outrageous and is characterized by an evil motive or by a reckless indifference to the rights of others, which must be

proven by clear and convincing evidence. *In re Estate of Winger*, 000 Ohio St.3d 111 (1997), paragraph two of the syllabus.

i. Dr. Green's behavior showed a high degree of reprehensibility

Subheadings i, ii, and iii are all subsets of subheading b ("The punitive damages awarded against Dr. Green were not excessive").

{¶ 33} The degree of reprehensibility of the defendant's conduct is the most important factor in determining whether a punitive award is reasonable. *Merritt* at 899. Factors to be considered when making this determination include whether physical harm was caused and whether the defendant's tortious conduct indicated an indifference to or a reckless disregard of the health or safety of others. *Heller v. Weiss*, 000 U.S. 333, 349 (2003). Here, Dr. Green's conduct certainly resulted in serious physical injury that is most likely permanent. And we have no difficulty concluding that his conduct was outrageous and that it indicated a reckless disregard for his patient's safety. His intoxication while on duty and in charge of patients' lives strongly shows utter indifference to the well-being of those to whom he owed a duty of vigilance and good faith.

ii. The punitive award was not disproportionate to the compensatory award when considering the degree of harm

{¶ 34} Although courts have not put a limit on the ratio of punitive damages to actual harm, the higher the ratio, the more likely that the award is excessive. Here, the jury awarded $15 million in punitive damages and just over $5 million in compensatory damages. The United States Supreme Court has held that when the compensatory award is substantial, as it is here, punitive damages, to be considered reasonable, should not greatly exceed the compensatory award. *Merritt* at 910. Hence, the three-to-one ratio in this case suggests excessiveness, but the actual harm suffered by the patient and her family was grievous in the extreme. *See id.* at 911 (recognizing that grievousness of harm is relevant to excessiveness determination).

iii. The sanction is consistent with sanctions for comparable conduct

{¶ 35} This guidepost calls for comparing the punitive award to the civil or criminal penalties that could be imposed for comparable misconduct. *Kendall v. XYZ Corp.*, 000 Ohio St.3d 444, 449 (2001). The relevant civil "penalty" in this case is the potential damages award in a lawsuit brought by an injured patient as well as the loss or suspension of Dr. Green's license to practice medicine, which would result in an enormous loss of income. *See id.* at 450.

{¶ 36} Having considered the three guideposts set forth by this court in *Nestor*, 2008-Ohio-0000, we find that the punitive-

damages award in this case was not excessive. While the ratio of punitive to compensatory damages is high, it is the degree of reprehensibility that weighs most heavily in judging reasonableness. In this case, the misconduct was extreme and the harm enormous. Thus, we find that the award of punitive damages was reasonable and proportionate to the wrong committed. We therefore affirm the court of appeals' judgment on this issue.

C. The trial court did not abuse its discretion in admitting the "Day in the Life" video

{¶ 37} Finally, the medical providers argue that the trial court erred in allowing the jury to view a video depicting a "day in the life" of Nicole, arguing that it was irrelevant, inflammatory, and prejudicial, resulting in an unfair trial.

{¶ 38} The video in question was five minutes long and showed scenes from Nicole's current life at a brain-injury-care facility. The medical providers objected to the admission of the video, arguing that the prejudicial effect would outweigh whatever probative value it had.

{¶ 39} "Day in the life" videos are becoming increasingly common in trials of this sort. Poe, *"Day in the Life" Videos: Defense Strategies*, 000 Trial Tactician 555, 556 (2007). We have held that a properly authenticated video of a "day in the life" of an injured plaintiff may be admitted into evidence to aid the jury in understanding the nature and extent of the plaintiff's injuries. *Sturgess v. Acme Corp.*, 000 Ohio St.3d 355 (1996), paragraph two of the syllabus. We also rejected an argument that the video in *Sturgess* had no purpose but to inflame the jury and should therefore have been excluded under Evid.R. 403. *Id.* at 360.

{¶ 40} Similarly, we conclude that the video of Nicole was probative of her damage claims and that the trial court did not abuse its discretion in concluding that the probative value of this evidence was not substantially outweighed by the risk of undue prejudice, confusion of issues, or misleading the jury. *See* Evid.R. 403; *Sturgess* at 360. The video assisted the jury in resolving the hotly contested issue whether Nicole requires care at a long-term-care facility, such as the brain-injury center where she was then residing, which charged $600 per day, or at a different facility that costs less than $250 per day. The video was the only means the jury had to observe Nicole's present condition and the medical care being provided to her.

{¶ 41} The medical providers' argument is rejected.

III. CONCLUSION

{¶ 42} Having reviewed the arguments and the record in this case, we affirm the judgment of the Fourteenth District Court of Appeals in part and reverse it in part. Because there was no showing that Dr. Reed was reckless, the award of punitive damages against her is reversed. The remainder of the judgment is affirmed.

This paragraph is an example of a disposition that explains a splintered judgment. See page 150.

Judgment affirmed in part
and reversed in part.

MORRIS, J., dissenting.

{¶ 43} Respectfully, I dissent. The majority is incorrect in holding that the trial court properly prohibited Dr. Tiffany Roberts from testifying as an expert on nursing's standard of care. Astonishingly, the majority holds that a nursing license is the sole relevant threshold credential when determining whether a professional may testify about the standard of care applicable to nurses. Majority opinion, ¶ 17. While that position might make sense generally, it makes no sense as applied to the facts of this case, where the physician-expert actually instructs nurses on their standard of care. *See id.* at ¶ 16. No other state court has so held. *See, e.g.*, *Nertz v. Mayo Clinic*, 71 Minn. 6, 11 (2023) (collecting cases). The cases cited by the majority involved only doctors who were prohibited from testifying as experts at trials of doctors with different specialties. Those cases have no application to the situation at issue here. In my view, the inability of certain defendants to present their case on standard of care tainted the verdicts that followed. Therefore, I would reverse the judgment of the court of appeals and remand this case to the trial court for a new trial.

Christopher Evans, for appellees.

Sarah E. Scott, for appellants.

David Wright, urging affirmance for amicus curiae XYZ Group.

Amy F. Campbell, urging reversal for amicus curiae ABC Association.

SECTION TWENTY-ONE: Dispositions

21.1. Overview

A majority opinion must contain a description of the action the court is taking, i.e., whether it is affirming, reversing, reversing and remanding, etc. This usually occurs in the final paragraph of the opinion and may be helpful to mention in the first paragraph of the opinion. The writer should be careful to be precise and thorough so that the lower court and the parties understand what, if anything, they are being ordered to do and so that the parties and their counsel are clearly apprised of the result.

If the judgment of the court of appeals is being reversed and the case remanded, it is important to clarify which court is receiving the remand. It is also critical to state what the court is expected to do on remand. Be specific. A remand "for further proceedings consistent with this opinion" is not recommended.

21.2. General Dispositions

Dispositions must be clear and thorough.

SAMPLE DISPOSITIONS

The case is remanded to the trial court for entry of judgment for appellants.

The cause is remanded to the trial court for resentencing consistent with *State v. Johnson.*

Accordingly, the judgment of the court of appeals is reversed, and this case is remanded to the trial court for a hearing on prejudgment interest.

We deny the writ of mandamus as moot and award Cooper $1,000 in statutory damages.

The court of appeals' judgment is reversed, and the case is remanded to the trial court to enter an award of reasonable attorney fees to Long.

We reverse the judgment of the court of appeals and reinstate the judgment of the trial court.

We therefore grant the writ and order the board of elections to place the referendum on the general-election ballot.

SAMPLE DISPOSITIONS

The court of appeals' judgment is vacated, and the case is remanded to that court for consideration of assignment of error No. III.

We reverse the judgment of the court of appeals and enter final judgment for Edwards.

The judgment of the appellate court dismissing Bailey's appeal as untimely is reversed, and the case is remanded to that court for a resolution on the merits.

The judgment of the court of appeals is reversed, and Fisher is discharged.

21.3. Splintered Judgments

When the judgment is splintered, i.e., when it affirms in part and reverses in part, explain the result clearly by identifying which portions of the judgment are affirmed and which are reversed.

HOW TO WRITE SPLINTERED JUDGMENTS

Based on the foregoing, we affirm in part and reverse in part. We affirm the portion of the judgment holding that venue was proper. However, we reverse the portion of the judgment upholding the award of punitive damages, and we remand this case to the First District Court of Appeals for a review of the award in light of our holding in *Arbino.*

Therefore, we affirm the judgment of the Tenth District Court of Appeals on the denial of attorney fees under the Consumer Sales Practices Act. We reverse the judgment of the court of appeals on the award of treble damages under the Telephone Consumer Protection Act and remand this case to the trial court for application of the "knowingly" standard of conduct to the facts of this case.

We affirm the Fourth District Court of Appeals' judgment insofar as it upholds the finding of liability, but we reverse that part of the judgment upholding the damages award. This case is remanded to the trial court for retrial on the issue of damages only.

21.4. Judgments Ordering Parties to Act

For cases in which the court orders a party or parties to act, specificity is crucial. Be clear and precise, identifying exactly what act is required and of whom.

HOW TO WRITE JUDGMENTS ORDERING PARTIES TO ACT

The writ is granted in part and denied in part. The City of Cincinnati is ordered to provide access to the requested investigative records, but it may not release those portions that contain identifying information regarding uncharged suspects.

The writ of mandamus is granted, and the Essex County Board of Elections is ordered to certify Richard Roe as a candidate for the office of mayor of the Village of Anytown.

We order the Industrial Commission to vacate its order and issue a new order allowing temporary total disability benefits from July 23, 2018, to October 2, 2019.

SECTION TWENTY-TWO: Types of Opinions

22.1. Majority Opinions vs. Lead Opinions

A **majority opinion** provides the court's explanation for its judgment and is joined by more than half the justices participating in a case. Majority opinions may or may not be authored by a particular justice. A majority opinion that is not attributed to a particular justice is called a per curiam opinion.

A **lead opinion** merely announces the court's judgment and is not joined by more than half the justices participating in a case. The existence of a lead opinion reflects the fact that a majority of justices were unable to agree on the reasons for the court's judgment. A lead opinion that is joined by more justices than any other opinion in the case is sometimes called a plurality opinion. The author line of a lead opinion includes the phrase "announcing the judgment of the court."

22.2. Separate Opinions

Separate opinions serve several functions. They express the particular views of their authors—views that elucidate, expand on, or clash with the views of the majority. They offer additional or contradictory points that may be of use to future courts reconsidering the issue. The majority opinion may even be improved by its response to points brought up in a separate opinion.

The main factor that determines the appropriate label for a separate opinion is whether the author agrees with the judgment of the majority. If the author agrees with the judgment (e.g., reversal, affirmance, etc.) and with at least part of the reasoning the majority uses to support that judgment, the opinion is a concurring opinion. If the author agrees with the judgment but none of the reasoning of the majority opinion, the opinion is an opinion concurring in judgment only. If the author disagrees with the judgment, the opinion is a dissent, regardless of whether the author agrees with the principles expressed in the majority opinion.

A. Concurring

The author of a concurring opinion agrees with both the court's judgment and with at least part of the reasoning of the majority opinion. A judge who writes a concurring opinion might do so simply to express his or her agreement, but often concurrences are written for other reasons. For example, a concurring judge might write to emphasize a certain point or to articulate additional grounds supporting the holding that were not expressed in the majority opinion. *E.g.*, *State v. Shedrick*, 59 Ohio St.3d 146, 151-152 (1991) (Wright, J., concurring) (agreeing with the

majority but writing separately to emphasize a point touched on by the majority opinion, that the statute in question raises serious constitutional concerns in other contexts).

B. Concurring in judgment only

An opinion concurring in judgment only is meant to convey that the writing judge agrees with the result (e.g., affirmance, reversal) but not with the reasoning of the majority opinion. For instance, if the majority decides to reverse because the court of appeals incorrectly upheld a criminal conviction based on a faulty indictment, the judge writing this type of separate opinion would agree that the conviction should be reversed, but for a different reason—e.g., that the jury instructions were flawed but not for the reason advanced by the majority. *E.g.*, *Leisure v. State Farm Mut. Auto. Ins. Co*., 89 Ohio St.3d 110, 111 (2000) (Douglas, J., concurring in judgment only) ("While I agree with the ultimate resolution, I do not subscribe to the majority's reliance on *Cicco v. Stockmaster* (2000), 89 Ohio St.3d 95, 728 N.E.2d 1066, in disposing of this matter. I believe that *Cicco* was not properly decided and, accordingly, I continue to adhere to my dissent therein.").

C. Concurring in part and dissenting in part

This type of separate opinion is fully described in its label. For an example, see *State v. Claytor*, 61 Ohio St.3d 234, 247 (1991) (Resnick, J., concurring in part and dissenting in part) ("I concur with the majority in the affirmance of the convictions, but must respectfully dissent from its reversal of the death penalty."). The "concurring" and "dissenting" points in this kind of opinion relate only to the judgment. In other words, an opinion that concurs wholly in the judgment cannot be labeled a concurrence in part and dissent in part.

D. Dissenting

A dissenting opinion is written to express disagreement with the majority. A dissenter may agree with some of the majority's analysis, but to be properly labeled a dissent, the opinion must disagree with the judgment. *E.g.*, *Morgan v. Children's Hosp.*, 18 Ohio St.3d 185, 190-192 (1985) (Holmes, J., dissenting) (disagreeing with the majority's reversal of the judgment of the court of appeals and expressing the belief that the appellate court did not err in refusing to apply the doctrine of res ipsa loquitur).

E. Other categories

These are the four main categories of separate opinions. Most separate opinions fall into one of the four. Others exist that are used less often.

INDEX

References are to pages. The letter "n" after a page number refers to a note on that page. "EO1," "EO2," and "EO3" refer to the three Example Opinions found in Section 20.


THE SUPREME COURT OF THE STATE OF OHIO

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