

## **Citation of Unpublished Opinions As Precedent in the State Courts**

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<b>STATE</b>	<b>TREATMENT</b>	<b>AUTHORITY</b>
Alabama	Not precedent; may not be cited except for purposes set forth in rule; delay in publication caused by applications for rehearing or further appellate review or petitions for certiorari shall not affect the precedential value of an opinion.	Alabama Rules of Appellate Procedure Rule 53(d) and (e)
Alaska	Not precedent; Appellate Rule states that unpublished opinions may not be cited in briefs; Alaska Court of Appeals construed the rule to permit attorneys and judges to cite and rely upon unpublished opinions for persuasive value.	Alaska Rules of Appellate Procedure Rule 214(d), but see <i>McCoy v. State</i> , 80 P.3d 757 (2002)

Arizona	Not precedent; may not be cited to any court except for purposes set forth in rule	Arizona Rules of Civil Appellate Procedure Rule 28(c); <i>Walden Books Co. v. Department of Revenue</i> , 198 Ariz. 584, 12 P.3d 809 (2000) (holding Rule 28(c) applies to unpublished decisions of any court)
Arkansas	May not be cited, quoted or referred to except on an issue such as res judicata, collateral estoppel or law of the case	Arkansas Supreme Court Rule 5-2(d)
California	May not be cited or relied upon except for purposes set forth in Rule	California Rules of Court Rule 8.1115(a)
Colorado	Not precedent	Colorado Appellate Rule 35(f); <i>Bittle v. Brunetti</i> , 750 P.2d 49 (1988)
Connecticut	Decision not officially reported may be cited so long as copy is provided to court and opposing counsel	Conn. Rules of Appellate Procedure Practice Book 1998 §67.9

Delaware	Unreported opinions are precedent in Delaware; citing party must file copy of unreported opinion and use one of three citation forms in compliance with Del. Sup. Ct. Rule 14(b)(vi)(4) and 14(g)(ii).	Del. Sup. Ct. Rule 17(a) commentary; Rule 14(b)(vi)(4) & (g)(ii).
District of Columbia	May not be cited in appellate briefs except for purposes set forth in rule	DC Court of Appeals Rule 28(g)
Florida	Unwritten <i>per curiam</i> decision from another court has no relevance and may not be cited; Unwritten opinions of the same court, although not precedent, may be cited for persuasive reasoning.	<i>Department of Legal Affairs v. District Court of Appeal, Fifth Circuit</i> , 434 So.2d 310 (Fla. 1983) (petition for mandamus to permit citation of unwritten opinions)
Georgia	Unreported decision is neither physical nor binding precedent	Georgia Court of Appeals Rule 33(b)

Hawai'i	May not be cited except to establish law of the case, res judicata or collateral estoppel or in a criminal matter involving same respondent; Attorneys may cite unpublished opinions from jurisdictions other than Hawai'i	Hawai'i Rules of Appellate Procedure Rule 35(c); Cf. <i>Douglass v. Pflueger Hawai'i, Inc.</i> , 110 Haw. 520, 135 P.3d 129 (2006) (Rule 35(c) prohibition is limited to opinions issued by Hawai'i courts).
Idaho	Not precedent; may not be cited in any court	Idaho Supreme Court Operating Rule 15(f)
Illinois	Not precedent; may not be cited except to establish double jeopardy, res judicata, collateral estoppel or law of the case	Illinois Supreme Court Rule 23(e)
Indiana	Not precedent; may not be cited except to establish law of the case, collateral estoppel or res judicata	Indiana Rules of Appellate Procedure Rule 65(D)
Iowa	Not precedent; may be cited, so long as citing party complies with rule	Iowa R. App. P. Rule 6.14(5)

Kansas	Not favored for citation. May be cited as persuasive authority for a material issue not addressed in a published opinion; copy must be attached to citing document.	Kansas Supreme Court Rule 7.04(f)
Kentucky	Not precedent; may not be cited. However, unpublished Kentucky appellate decisions, rendered after January 1, 2003, may be cited for consideration by the court if there is no published opinion that would adequately address the issue before the court.	Kentucky Rules of Civil Procedure Rule 76.28(4)(c)
Louisiana	Unpublished opinions “shall not be cited, quoted or referred to” (sanctions apply)	Louisiana Uniform Rules – Court of Appeals Rule 2-16.3
Maine	Not precedent	Maine Rules of Appellate Procedure Rule 12(c)
Maryland	May be cited for any purpose other than as precedent or as persuasive authority.	Maryland Rules 1-104.

Massachusetts	Not to be cited or relied upon as authority in unrelated cases	<i>Lyons v. Labor Relations Commission</i> , 19 Mass. App. Ct. 562, 476 N.E.2d 243 (1985)
Michigan	Not precedent; may be cited so long as copy is provided to court and all parties	Michigan Court Rules Rule 7.215(C)(1)
Minnesota	Not precedent; may not be cited unless counsel provides copy to all other parties at least 48 hours before its use	M.S.A. §480A.08, subd. 3; Minnesota Court of Appeals Rule 4.
Mississippi	May not be cited, quoted or referred to except in continuing or related litigation upon an issue such as res judicata, collateral estoppel or law of the case.	Mississippi Rules of Appellate Procedure Rules 35-A(b) and 35-B(b)
Missouri	Shall not be cited or otherwise used in any case before any court.	Missouri Supreme Court Rule 84.16(b)
Montana	Not precedent; citations to unpublished opinions will not be recognized	<i>State v. Little</i> , 260 Mont. 460, 861 P.2d 154 (1993)

Nebraska	Not precedent; may be cited only when case is related, by identity of parties or causes of action, to the case then before the court	Nebraska Supreme Court Rules of Practice and Procedure Rule 2E(4); <i>State v. James</i> , 6 Neb. App. 444, 573 N.W.2d 816 (1998)
Nevada	Not precedent; may not be cited as legal authority except for purposes set forth in rule	Nevada Supreme Court Rules Rule 123
New Hampshire	All citations to New Hampshire cases must be to the New Hampshire Reports; citations to cases from other states must include National Reporter System citation; orders without written opinions are non-precedential	N.H. Sup. Ct. R. 16 and 20; see also <i>State v. LeBaron</i> , 148 N.H. 226, 808 A.2s 451 (2002) (N.H. Supreme Court declined to rule on the precedential value of unpublished decisions)
New Jersey	Not precedent; citation permitted as long as counsel serves court and all parties with copy of opinion and all other relevant unpublished opinions known to counsel, including those adverse to client's position	New Jersey Rules of Court Rule 1:36-3

New Mexico	Not precedent; may not be cited as precedent in any court.	N.M. Rules of Appellate Procedure Rule 12-405(C); <i>Romero v. City of Santa Fe</i> , 139 N.M. 440, 134 P.3d 131 (N. Mex. App. 2006)
New York	Not precedent, although entitled to respectful consideration	See generally, <i>Yellow Book of NY L.P. v. Dimilia</i> , 188 Misc.2d 489, 729 N.Y.S.2d 286 (2001); <i>Eaton v. Chahal</i> , 146 Misc.2d 977, 553 N.Y.S.2d 642 (1990)
North Carolina	Citation is expressly disfavored but permitted if a party believes there is no published opinion on point	North Carolina Rules of Appellate Procedure Rule 30(e)(3)
North Dakota	Not precedent; may be cited for persuasive reasoning	<i>In re Guardianship of Barros</i> , 701 N.W.2d 402 (N.D. 2005) (concerning unpublished Iowa opinion)

Ohio	All distinctions in authority based upon form of publication have been abolished. All Court of Appeals opinions issued after May 1, 2002 may be cited as authority and weighted as deemed appropriate by the courts	Ohio Supreme Court Rules for the Reporting of Opinions, Rule 4
Oklahoma	Not precedent; may not be cited in civil cases except to establish res judicata, collateral estoppel or law of the case; may be cited in criminal cases when no published opinion would serve as well.	Oklahoma Supreme Court Rule 1:200(b)(5); Oklahoma Crim. App. R. 3.5(c)(3)
Oregon	No rule of law regarding citation to unpublished opinions, however, as a matter of comity, Oregon does not permit citation to unpublished 9 <sup>th</sup> Circuit cases when such cases cannot be cited within the 9 <sup>th</sup> Circuit	<i>In re Conduct of Davenport</i> , 335 Or. 67, 57 P.3d 897 (2002)

<p>Pennsylvania</p>	<p>Not precedent; may not be cited or relied upon other than to establish law of the case, collateral estoppel or res judicata</p>	<p><i>Boring v. Erie Insurance Co.</i>, 434 Pa. Super. 40, 641 A.2d 1189 (1994) (citing Internal Operating Procedures of Superior Court of Pennsylvania, Rule 444B); see also Superior Court of Pennsylvania Notice to the Bar, 598 A.2d 1324 (1991)</p>
<p>Rhode Island</p>	<p>If an authority is not available in a National Reporter, a copy must be included and served on all parties; unpublished orders will not be cited by the Court and will not be cited by counsels in their briefs; unpublished orders are without precedential effect.</p>	<p>Rhode Island Sup. Ct. Rules, art. 1, Rule 16(e) and (j)</p>
<p>South Carolina</p>	<p>Not precedent; should not be cited except in related cases</p>	<p>South Carolina Appellate Court Rules Rule 220(a); Rule 239(d)(2).</p>

South Dakota	Shall not be cited except to establish res judicata, law of the case, collateral estoppel or in a criminal or disciplinary action involving same person	South Dakota Codified Laws §15-26A-87.1(E)
Tennessee	Persuasive authority unless designated “Not for Citation”; party relying thereon must provide copy to Court and parties	Tennessee Supreme Court Rule 4(G)(1)
Texas	No precedential value, but may be cited in civil cases with a parenthetical notation “Not designated for publication”; may not be cited in criminal cases.	Texas Rules of Appellate Procedure Rule 47.7(civil appeals); Rule 77.3 (criminal appeals)
Utah	Unpublished decisions of the Court of Appeals issued on or after October 1, 1998, may be cited as precedent. Other unpublished decisions may be cited, so long as copy is provided to court and parties.	Utah Rules of Appellate Procedure Rule 30(f)

Vermont	Not precedent except with respect to claim preclusion, issue preclusion, law of the case or similar issues; may be cited as persuasive authority	Vermont Rules of Appellate Procedure Rule 33.1(c)
Virginia	May not be cited or relied upon as precedent except for the purpose of establishing res judicata, estoppel or the law of the case.	<i>Grajales v. Commonwealth</i> , 4 Va. App. 1, 353 S.E.2d 789 (1987)
Washington	Not precedent; may not be cited.	Washington Rules of Appellate Procedure Rule 10.4(h)
West Virginia	Not precedent; may not be cited in any court except to establish res judicata, collateral estoppel or law of the case.	<i>Pugh v. Worker's Compensation Commissioner</i> , 188 W. Va. 414, 424 S.E.2d 759 (1992)
Wisconsin	Not precedent; may not be cited except for claim preclusion, issue preclusion or law of the case.	W.S.A. 809.23(3); <i>Tamminen v. Aetna Casualty &amp; Surety Co.</i> , 109 Wis. 2d 536, 327 N.W.2d 55 (1982)(attorney fined for citing unpublished opinion in violation of rule)

Wyoming	Not precedent	Wyoming Rules of Appellate Procedure Rule 9.06
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