M.R. 3140

IN THE
SUPREME COURT
OF
THE STATE OF ILLINOIS

Order entered November 21, 2017.

(Deleted material is struck through, and new material is underscored.)

Effective immediately, Miscellaneous Record No. 10343 as appended to Illinois Supreme Court Rule 23 is amended, as follows.

Amended M.R. No. 10343

Rule 23. Disposition of Cases in the Appellate Court

The decision of the Appellate Court may be expressed in one of the following forms: a full opinion, a concise written order, or a summary order conforming to the provisions of this rule. All dispositive opinions and orders shall contain the names of the judges who rendered the opinion or order.

(a) Opinions. A case may be disposed of by an opinion only when a majority of the panel deciding the case determines that at least one of the following criteria is satisfied:

(1) the decision establishes a new rule of law or modifies, explains or criticizes an existing rule of law; or

(2) the decision resolves, creates, or avoids an apparent conflict of authority within the Appellate Court.

(b) Written Order. Cases which do not qualify for disposition by opinion may be disposed of by a concise written order which shall succinctly state:

(1) in a separate introductory paragraph, a concise syllabus of the court's holding(s) in the case;

(2) the germane facts;

(3) the issues and contentions of the parties when appropriate;

(4) the reasons for the decision; and

(5) the judgment of the court.

(c) Summary Order. In any case in which the panel unanimously determines that any one or more of the following dispositive circumstances exist, the decision of the court may be made by summary order. A summary order may be utilized when:

(1) the Appellate Court lacks jurisdiction;

(2) the disposition is clearly controlled by case law precedent, statute, or rules of court;

(3) the appeal is moot;

(4) the issues involve no more than an application of well-settled rules to recurring fact situations;

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(5) the opinion or findings of fact and conclusions of law of the trial court or agency adequately explain the decision;

(6) no error of law appears on the record;

(7) the trial court or agency did not abuse its discretion; or

(8) the record does not demonstrate that the decision of the trier of fact is against the manifest weight of the evidence.

When a summary order is issued it shall contain:

(i) a statement describing the nature of the case and the dispositive issues without a discussion of the facts;

(ii) a citation to controlling precedent, if any; and

(iii) the judgment of the court and a citation to one or more of the criteria under this rule which supports the judgment, *e.g.*, "Affirmed in accordance with Supreme Court Rule 23(c)(1)."

The court may dispose of a case by summary order at any time after the case is docketed in the Appellate Court. The disposition may provide for dismissal, affirmance, remand, reversal or any combination thereof as appropriate to the case. A summary order may be entered after a dispositive issue has been fully briefed, or if the issue has been raised by motion of a party or by the court, *sua sponte*, after expiration of the time for filing a response to the motion or rule to show cause issued by the court.

(d) Captions. All opinions and orders entered under this rule shall bear a caption substantially conforming to the requirements of Rule 330. Additionally, an opinion or order entered under subpart (a) or (b) of this rule must clearly show the date of filing on its initial page.

(e) Effect of Orders.

(1) An order entered under subpart (b) or (c) of this rule is not precedential and may not be cited by any party except to support contentions of double jeopardy, *res judicata*, collateral estoppel or law of the case. When cited for these purposes, a copy of the order shall be furnished to all other counsel and the court.

(2) An order entered under subpart (b) of this rule must contain on its first page a notice in substantially the following form:

> **NOTICE:** This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

(f) Motions to Publish. If an appeal is disposed of by order, any party may move to have the order published as an opinion. The motion shall set forth the reasons why the order satisfies the criteria for disposition as an opinion and shall be filed within 21 days of the entry of the order.

(g) Electronic Publication. In order to make available to the public all opinions and orders entered under subparts (a) and (b) of this rule, the clerks of the Appellate Court shall transmit an electronic copy of each opinion or order filed in his or her district to the webmaster of the Illinois Supreme and Appellate Courts' Web site on the day of filing. No opinion or order may be posted to the Web site that does not substantially comply with the Style Manual for the Supreme and Appellate Courts.

(h) Public-Domain Case Designators

An opinion or order entered under subpart (a) or (b) of this rule must be assigned a public-domain case designator and internal paragraph numbers, as set forth in the accompanying administrative order.

Effective January 31, 1972; amended effective July 1, 1975; amended February 19, 1982, effective April 1, 1982; amended May 18, 1988, effective August 1, 1988; amended November 21, 1988, effective January 1, 1989; amended and Commentary and Administrative Order adopted June 27, 1994, effective July 1, 1994; amended May 30, 2008, effective immediately; amended September 13, 2010, effective January 1, 2011; amended May 31, 2011, effective July 1, 2011.

M.R. No. 10343

(Amended November 21, 2017)

(October 4, 2011)

Under the general administrative and supervisory authority granted the Illinois Supreme Court over the courts of this state (Ill. Const. 1970, art. VI, §16), the order entered under Supreme Court Rule 23, dated May 31, 2011, is amended as follows:

(A) Assignment of Public-Domain Case Designators

The Districts of the Illinois Appellate Court shall assign a public-domain case designator to those opinions filed on or after July 1, 2011. This designator number for an opinion must be unique to that opinion and shall include the year of decision, the court abbreviation, and an identifier number comprised of the final six digits of the docket number, or the final six digits of the initial docket number in a consolidated appeal, without use of the hyphen. In the case of opinions by the Workers' Compensation Commission Division of the Appellate Court, the letters "WC" shall be added as a suffix. The public-domain identifier shall appear at top of the first page of an opinion and shall be in the following form:

[year] IL App (1st) [no.]

[year] IL App (2d) [no.]

[year] IL App (3d) [no.]

[year] IL App (4th) [no.]

[year] IL App (5th) [no.]

Workers' Compensation Commission Division

2011 IL App ([dist.]) [no.]WC

By way of example, should the First District file an opinion in cause No. 1-10-1234 in 2011, the public-domain case designator will be "2011 IL App (1st) 101234."

Where a second opinion is filed under the same docket number after remand, a capital letter "B" will be appended to the case-designator number, regardless of the year-designator portion of the citation:

2011 IL App (1st) 101159

2012 IL App (1st) 101159-B

Any further opinions arising from the same appeal shall be assigned an alphabetic letter consecutive to the preceding opinion.

However, where an opinion is withdrawn while jurisdiction has been retained by the issuing court, the new opinion or order in the matter shall be given the same case-designator number as the withdrawn opinion without the addition of a sequential alphabetic designator.

Orders filed under Illinois Supreme Court Rule 23(b) shall have the letter "U," preceded by a hyphen, appended to the case-designator number:

2011 IL App (5th) 101160-U

A subsequently filed unpublished order in the same cause of action will result in use of both a "U" and an alphabetic designator:

2011 IL App (5th) 101160-UB

Use of the "U" designator for unpublished decisions and use of an alphabetic designator ("B," "C," *etc.*) for a subsequent opinion or order are independent elements of the case-designator number:

2011 IL App (5th) 101160-U [unpublished; initial decision]

2011 IL App (5th) 101160-B [published; decision after remand]

2011 IL App (5th) 101160-UC [unpublished; decision after second remand]

Should an unpublished order under Supreme Court Rule 23 be converted to a published opinion, the "U" designation shall be deleted.

(B) Internal Paragraphing of Opinions

Illinois reviewing court opinions shall include internally numbered paragraphs as directed below. Use of internal paragraph numbers allows a pinpoint citation to the appropriate portions of an opinion when cited for a specific proposition. Such a citation will include the case name, the public-domain designator number, and the specific, or pinpoint, paragraph or paragraph numbers within the opinion:

People v. Doe, 2011 IL App (1st) 101157, ¶ 15

People v. Doe, 2011 IL App (1st) 101157, ¶¶ 21-23

People v. Doe, 2011 IL App (1st) 101157, ¶¶ 57, 68

Except for the materials denoted in paragraph below, each paragraph of text is to be numbered consecutively beginning after the heading "OPINION" or "ORDER" (including the lead-in line to a separate opinion and any joiner lines thereto).

(2) The numbering of paragraphs within a separate opinion shall be consecutive to the final paragraph number of the opinion that precedes it, beginning with the lead-in line to the separate opinion, as shown in the example below:

¶ 43	CONCLUSION
¶ 44	For the reason stated, the judgment of the circuit court

> is reversed and the cause is remanded to that court for further proceedings.
>
> ¶ 45 Judgment reversed;
> ¶ 46 cause remanded.
>
> ¶ 47 JUSTICE DOE, dissenting:
> ¶ 48 Because I believe the circuit court correctly resolved the issues presented in the motion to suppress, I would affirm.

The following portions of an opinion do not constitute new paragraphs and shall not be numbered:

(a) indented (blocked) text, regardless of the nature material (*e.g.*, quotation, listing of issues, *etc.*) or the length of the material;

(b) text immediately following indented text, unless such text begins a new paragraph;

(c) text within footnotes;

(d) appendices or other attachments.

If quoted text, including indented quotations, is derived from a source that uses numbered paragraphs under a public-domain system of citation, the numbers from the original source shall not be shown in the quoted material but in the citation only.

If a supplemental document is filed, the paragraph numbering in the original document shall be continued into the supplemental document, including any lead-in lines and document headings (*e.g.*, "Supplemental Opinion"; "Dissent Upon Denial of Rehearing").

~~Where revisions are made to an opinion following filing that result in the addition of a new paragraph or paragraphs, the new paragraph(s) shall be denoted by use of the paragraph number that preceded the new materials, plus the addition of consecutive, alphabetical letters (*e.g.*, ¶ 11b, ¶ 11c, etc.)~~

Each paragraph number shall be shown using the paragraph symbol, followed by a space, and then the number (*e.g.*, ¶ 1). The paragraph number is placed at the left margin, followed by a tab that indents the paragraphed text, as follows:

> ¶ 23 The appellate court found that *Grant* supported its conclusion that the designation of the NAF in the agreement to arbitrate was integral to the agreement. Specifically, citing *Grant*, the court noted:
>
> > "[The NAF] has a very specific set of rules and procedures that has implications for every aspect of the arbitration process."
>
> Thus the court found that section 5 of the Arbitration Act could not be used to reform the arbitration provision.
>
> ¶ 24 The defendant argues that the appellate court

erroneously determined there is a split in federal case law as to the proper application of section 5 of the Act.

M.R. 10343
IN THE
SUPREME COURT
OF
THE STATE OF ILLINOIS

Order entered December 18, 2006.

***In re* Administrative Order No. M.R. 10343**

On the court's own motion, effective January 1, 2007, the administrative order entered in M.R. No. 10343, on June 27, 1994, is hereby vacated.

Order entered by the Court.

Commentary
(June 27, 1994)

By this amendment, Rule 23 creates a presumption against disposing of Appellate Court cases by full, published opinions and authorizes a third type of disposition by summary order in select circumstances. The concept of the traditional "Rule 23 order" remains, but conciseness is encouraged. Disposition by order rather than by opinion reflects the precedential value of a case, not necessarily its merits.

Two of the criteria upon which a case could qualify for disposition by opinion and the preference for publishing cases which include concurring and/or dissenting opinions have been eliminated consistent with the presumption against publication.