



2021 Amendment to Illinois Supreme Court Rule 23

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Article analyzes the Illinois Supreme Court amendment of Illinois Supreme Court Rule 23(e) to permit citation to unpublished opinions of the Illinois appellate courts as persuasive authority, effective as of January 1. While the main feature of Rule 23 is to divide appellate dispositions into two types — "opinions," which operate as binding precedent, and "orders," which do not — some felt that prohibiting citation to non-precedential orders unduly restricted the body of available law.

The article concludes while additional changes are not likely, there are a few points practitioners should keep in mind when citing to orders under the amended Rule 23(e). First, the amendment only applies to orders issued after January 1, 2021, so all orders issued before that date cannot be cited. Second, the amendment applies only to written orders under Rule 23(b); summary orders under Rule 23(c) still cannot be cited. Third, orders are only persuasive, not precedential — an appellate court is not bound to follow the reasoning in any order. Fourth, when practitioners cite orders for persuasive purposes, they should be certain to send a copy of the cited order to all other counsel and the court. S.Ct. Rule 23(e).

["2021 Amendment to Illinois Supreme Court Rule 23,"](#) *Civil Litigation FLASHPOINTS*, November 2021

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