Unpublished Opinion Status

- No Citation Rule
- No Precedent Rule
- Equal Weight Rule

Unpublished Decisions in Ohio

- In 1915, judges began to choose which opinions to publish.
- In 1919, law is passed to limit precedential opinions to published cases. (No precedent rule.)
- Actual practice was to cite and rely on unpublished cases. Commercial publishers compiled indexes to unpublished cases.

The Ohio Change

- In 1983, Ohio Supreme Court adopted rule limiting controlling authority to officially published opinions.
- In 2002, Ohio rule changed to equal weight rule.
- Unpublished and published appellate decisions have equal weight.

Research

- Purpose: to verify the assumptions behind the rule change
- A random sample of appellate decisions in 2001 and in 2003 was analyzed to see if the percentage of unreported cases was significantly different.
- Conclusion: there was no significant difference between the percentage of unreported cases cited in 2001 and 2003.
So what does this mean to libraries?

- Even in a jurisdiction that has a no citation or no precedent rule, unpublished cases must be:
  - available and
  - meaningfully indexed.

Availability

- Court Websites
- Commercial Databases
- Preservation
  - Clerk of Courts officially preserves

Indexing

- Key-word searching
- Topic and Key Numbers
- Core Concepts
- Other indexing
  - Court-specific indexing
  - Home-grown indexing
Learning from the “stormy history” in Ohio

- Librarians are uniquely qualified to insure that everyone has meaningful access to judicial opinions.
- Education of users
- Ensuring quality indexing
- Advocating equal access

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