

Baldwin's Ohio Handbook Series

OHIO APPELLATE PRACTICE

**by Judge (Ret.) Mark P. Painter
and Prof. Andrew S. Pollis**

**2025-2026 Edition
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Introduction to the 2025-2026 Edition

Ohio Appellate Practice, 2025-2026 ed. (Baldwin's Ohio Handbook Series) provides fast answers to questions about appellate practice in Ohio, as well as in-depth analysis of the most recent caselaw, rules, and statutes governing it.

This 2025-2026 Edition of Ohio Appellate Practice replaces the 2024-2025 Edition in its entirety.

Highlights

- Record on appeal—Raising issues and objections (§ 1:36)
- Final orders—R.C. 2505.02—Order granting or denying a provisional remedy—Definition of “provisional remedy” (§ 2:19)
- Time for filing notice of appeal—In general (§ 3:4)
- Statement of evidence or proceedings in lieu of transcript—In general (§ 4:11)
- Merit determination—Effect of events rendering appeal moot or of uncertainty that affects ripeness (§ 7:2)
- Habeas corpus—In general and Ohio practice (§ 10:31)
- Standards of Review (Appendix G)

Thank you for subscribing to *Ohio Appellate Practice, 2025-2026 ed. (Baldwin's Ohio Handbook Series)*. We hope you find this book an invaluable tool for your practice.

THE PUBLISHER

Preface to the 2025-2026 Edition

Welcome to the 2025-2026 edition of Ohio Appellate Practice. We continue our commitment to delivering the most current and comprehensive information that attorneys require when navigating the complexities of Ohio’s appellate system. This edition incorporates the newest case law, statutory modifications, and procedural updates that shape effective appellate advocacy.

While this year brought fewer sweeping changes compared to previous editions, we have made targeted refinements throughout the text to enhance clarity and address emerging issues. We’ve integrated fresh case citations from all appellate districts, prioritizing the most recent decisions to ensure practitioners have access to the latest judicial thinking on key procedural points.

The Ohio Supreme Court’s appellate rules remained largely stable this year, though we’ve incorporated minor adjustments and clarifications that emerged through judicial interpretation and application. Our footnote citations reflect the most current available authority, organized chronologically to highlight recent trends in appellate jurisprudence.

We maintain our commitment to practical utility while preserving comprehensive coverage. Each section continues to balance theoretical foundations with real-world application, ensuring the book serves both newcomers to appellate practice and seasoned practitioners seeking quick reference to evolving standards.

A familiar reminder about citations: The West citation format employed throughout this publication does not align with Ohio’s citation requirements, and our citations omit pinpoint references. When preparing documents for Ohio courts, convert all citations to proper Ohio format and include appropriate pinpoint citations (page numbers for pre-2002 cases, paragraph numbers thereafter). Consult Painter, *The Legal Writer: 40 Rules for the Art of Legal Writing* (44th ed. 2009) 57 for guidance on Ohio citation practices. The current Ohio citation manual remains available at <http://www.supremecourt.ohio.gov/ROD/manual.pdf>.

Footnote advisory: Exercise care when consulting footnotes. We number footnotes separately within each text section, so multiple footnotes marked “1” may appear on a single page. Verify you’re referencing the correct annotation.

Acknowledgments: Our appreciation extends to the editorial staff of the publisher and our readers, whose confidence in our work and constructive suggestions drive continuous improvement; along with Ohio’s appellate judiciary, whose thoughtful opinions advance the law and occasionally cite our work—which we note with appropriate attribution when it occurs.

We welcome your observations about areas requiring expanded coverage or cases meriting inclusion. Contact us at jugpainter@aol.com and andrew.pollis@case.edu. Questions are always appreciated.

Judge (Ret.) Mark P. Painter and Professor Andrew S. Pollis
October 2025



Mark Painter served for exactly 30 years as a judge (Ides March 1982–Ides March 2012). He was elected to the Ohio Court of Appeals in 1994 and re-elected without opposition in 2000 and 2006. Previously, he served on the Hamilton County (Cincinnati) Municipal Court for 13 years.

In 2009 he was elected by the General Assembly of the United Nations to the United Nations Appeals Tribunal. He was the only American on the seven-member court. He left the UN court in 2012 and is now Of Counsel with the Cincinnati firm Helmer Martins.

As a judge, Painter was recognized as an outstanding legal scholar. More than 400 of Judge Painter's decisions were published nationally, making him one of the most-published judges ever. His opinions have been cited as precedent more than 3,500 times in legal encyclopedias, treatises, law reviews, and other cases. One of his opinions was named one of the six best in the nation for 2005.

For 20 years (18 editions), Painter was the author of *Ohio Driving Under the Influence Law*, the only textbook on DUI in Ohio. He is coauthor of another legal treatise, *Ohio Appellate Practice*. He has written four law review articles, 160 articles for other journals, Internet biographies of Oliver Wendell Holmes Jr., William Howard Taft, and Warren Harding, and a biography, *William Howard Taft: President and Chief Justice*. *Write Well: 25 Rules to Improve Your Business and Professional Writing* was published in 2007.

His book on plain writing, *The Legal Writer: 30 Rules for the Art of Legal Writing*, was published in 2002, and sold out within a year. *The Legal Writer: 40 Rules for the Art of Legal Writing* came out in 2003, and is now in its fifth edition (2018).

As an Adjunct Professor of Law at the U.C. College of Law for 20 years, Painter taught agency and partnership for 13 years and advanced legal writing for 7 years. He was named Distinguished Visiting Professor at UC for 2008. He has lectured at more than 260 seminars for the Ohio Judicial College, the Ohio State Bar Association, Professional Education Systems Institute, the National Institute for Trial Advocacy, and countless firms and bar associations nationwide. In 2008, he traveled to Malaysia as one of four international experts on plain-language legal writing. In 2010, he spoke at the Fifth International Conference on Administrative Justice in Montreal.

Painter has served as a Trustee of the Cincinnati Freestore/Foodbank, the Ohio Justice & Policy Institute, the Cincinnati Shakespeare Company, the American Society of Legal Writers (Scribes), the Mary Jo Brueggeman Scholarship Fund, the Friends of the William Howard Taft Birthplace, and the Citizens School Committee. He is a member of the American and Ohio State Bar Associations, the Plain

Language International Network (Plain), Clarity, the National Space Society, the Ohio Historical Society, and the World Future Society; and a life member of Scribes and the Friends of the William Howard Taft Birthplace.

Painter lived in the Cincinnati neighborhood of Clifton Heights–Fairview for 47 years. He and his wife, Sue Ann Painter, married in 1986. They moved to Downtown Cincinnati in 2011.



Andrew S. Pollis is a Professor at Case Western Reserve University School of Law. He teaches Evidence and directs the Appellate Litigation Clinic (part of the Milton and Charlotte Kramer Law Clinic), where he supervises third-year students representing clients in Ohio and federal appellate courts. He previously ran the Civil Litigation Clinic. He also coaches students participating in national moot-court competitions.

Before accepting his appointment at Case Western, Professor Pollis was a partner in the Cleveland-based law firm of Hahn Loeser & Parks LLP, which he joined in 1990 after graduating cum laude from Harvard Law School. While in private practice he argued numerous cases in appellate courts throughout the country and was included in the Best Lawyers in America for his work as an appellate lawyer. In 2008 he became one of the first 11 attorneys to be certified as a specialist in appellate law by the Ohio State Bar Association. He also has extensive trial experience, amassing verdicts totaling over \$560 million since 2003.

In addition to co-authoring the annual editions of Ohio Appellate Practice since 2008, Professor Pollis has published law-review articles on appellate procedure, including *The Need for Non-Discretionary Interlocutory Appellate Review in Multidistrict Litigation*, 79 Fordham Law Rev. 1643 (2011); *Rule 54(b): Seventy-Five and Ready for Retirement*, 65 Fla. Law Rev. 711 (2013); *Fixing the Broken System of Assessing Criminal Appeals for Frivolousness*, 53 Akron L. Rev. 481 (2020); and *The Appellate Judge as the Thirteenth Juror: Combating Implicit Bias in Criminal Convictions*, 95 Temple L. Rev. 1 (2022). He also writes in the area of evidence and trial procedure.

Professor Pollis has served as a member and chair of the Supreme Court Commission on the Rules of Practice and Procedure. He is also active in appellate bar associations at the local, state, and national levels. He has co-chaired the Appellate Practice Committee and Amicus Curiae Briefs Committee of the ABA Section of Litigation, founded the Ohio State Bar Association Appellate Practice Committee and served as its first chair, and was one of the founders of the Council of Appellate Lawyers, an arm of the ABA Judicial Division Appellate Judges Conference. He is a former chair of the Cleveland Metropolitan Bar Association's Appellate Courts Committee. He also lectures frequently on issues related to appellate practice.



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