



South Carolina Bar

Continuing Legal Education Division

Order Writing

Kathleen Crater



TIPS ON ORDER WRITING

Kate Crater
Chief Staff Attorney, SC Court of Appeals

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ORDER WRITING TIPS

Kate Crater
Chief Staff Attorney, SC Court of Appeals

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OVERVIEW

1. **Standard of review on appeal from a Master-in-Equity's (MIE) order**
2. **Structural tips**
3. **Stylistic tips**
4. **Grammar suggestions**
5. **Citation tips**
6. **Connecting it all through the appeal**

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1. STANDARD OF REVIEW

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1. STANDARD OF REVIEW

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STANDARD OF REVIEW

Generally

- "Our scope of review for a case heard by a [MIE] who enters a final judgment is the same as that for review of a case heard by a circuit court without a jury." *Tiger, Inc. v. Fisher Agro, Inc.*, 301 S.C. 229, 237, 391 S.E.2d 538, 543 (1990).

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STANDARD OF REVIEW

Equitable Matters

- "When reviewing an equitable action heard first by a [MIE] and appealed directly to an appellate court, the court should review the facts in accordance with its own view of the preponderance of evidence in the record." *Osterneck v. Osterneck*, 374 S.C. 573, 577, 649 S.E.2d 127, 129 (Ct. App. 2007).
- "This broad scope of review does not require the appellate court to ignore the fact that the [MIE] was in a better position to assess the credibility of witnesses and assign weight to their testimony." *Id.*

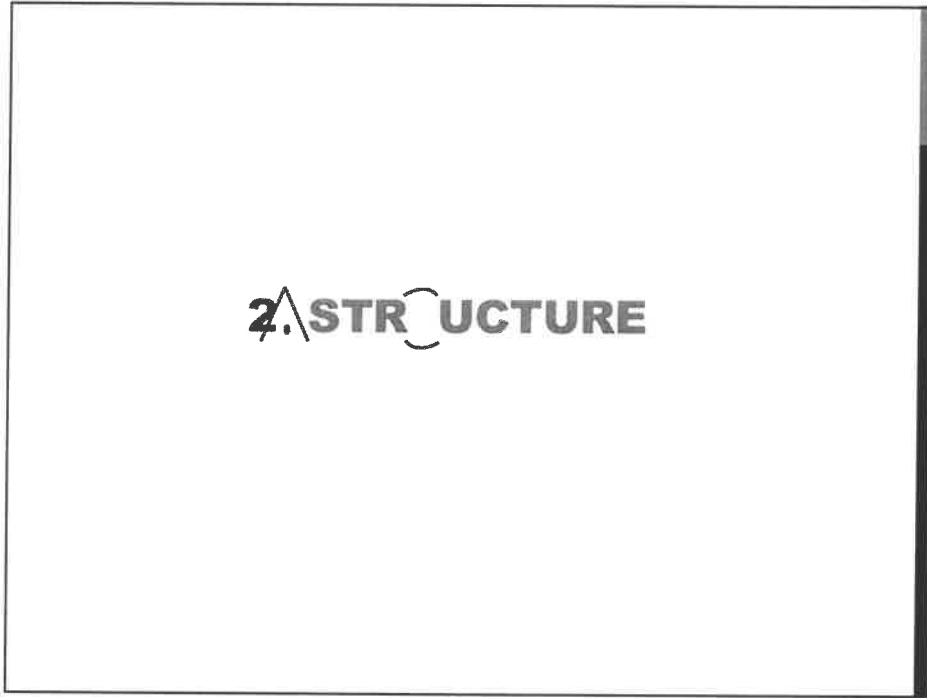
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STANDARD OF REVIEW

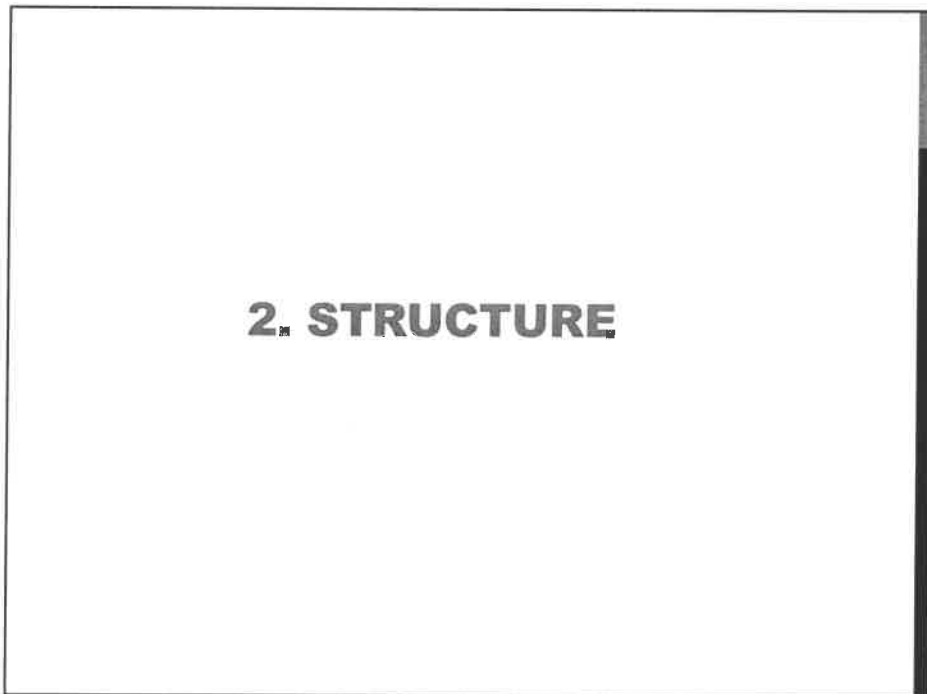
Legal Matters

- "In an action at law tried before a [MIE], the appellate court 'will affirm the [MIE]'s factual findings if there is any evidence in the record which reasonably supports them.'" *Estate of Tenney v. S.C. Dep't of Health & Env'tl. Control*, 393 S.C. 100, 105, 712 S.E.2d 395, 397 (2011) (quoting *Query v. Burgess*, 371 S.C. 407, 410, 639 S.E.2d 455, 456 (Ct. App. 2006)).
- "However, '[a]n appellate court may determine questions of law with no particular deference to the [MIE].'" *Id.* (quoting *Verenes v. Alvanos*, 387 S.C. 11, 14, 690 S.E.2d 771, 772–73 (2010)).

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STRUCTURE

GENERALLY

- Structure is the foundation of a good order
- Requires more than simply signing a party's proposed order
- Final Orders are *the* document from which a party appeals
- Completing certain steps regarding structure can help convince the appellate court to affirm on appeal

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STRUCTURE

FIRST STEP

- Identify the parties
- State the action's nature
- Include relevant pleading and procedural information
- State the issues before your court

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<p>STRUCTURE FIRST STEP EXAMPLE</p> <p>Nature of action</p> <p>Parties</p> <p>Pleadings and Procedural information</p> <p>Issue</p>	<p>STATE OF SOUTH CAROLINA) COUNTY OF RICHLAND) Jan Saww,) Plaintiff,) v.) Ransay Bolton,) Defendant.)</p> <p style="text-align: right;">IN THE COURT OF COMMON PLEAS Civil Action No. 2016-CP-0040000</p> <p style="text-align: center;">ORDER</p> <p>Plaintiff's declaratory judgment action between Jan Saww (Plaintiff) and Ransay Bolton (Defendant) regarding the ownership of a property located at 1 Wisterhill in The North Westons (Wisterhill). The Honorable Tywin Lamister referred this matter by a September 1, 2016 order of reference. At the hearing on October 1, 2016, Kit Harrington represented Plaintiff and Ivan Rheon represented Defendant.</p> <p>Case Summary</p> <p>On August 1, 2016, Plaintiff filed a complaint against Defendant, seeking an order declaring him the legal owner of Wisterhill. Plaintiff claimed Defendant wrongfully possessed Wisterhill as early as 2016 and that Plaintiff was the rightful owner. (Complaint 1-12.) Defendant answered the complaint, denying the allegations. (Answer pp. 3-7.) At the October 1, 2016 hearing, Plaintiff presented the testimony of Susan Stock, former owner of Wisterhill, and Percy Beelish, an expert in property ownership nomenclature. Defendant presented the testimony of Wade Fry, owner of lands adjacent to Wisterhill, and Melvander, an expert in property ownership by direct right.</p> <p>The only issue before the court is whether Plaintiff is the legal owner of Wisterhill.</p>
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STRUCTURE
SECOND STEP

- Summarize facts from pleadings
- Include only and all the relevant facts
 - Is the fact related to the dispositive issues?

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STRUCTURE
THIRD STEP

- **Make factual findings**
 - e.g., “Taking into account the credibility of the witnesses”
- **Define the relative jurisdiction of your court**
- **Define the parties in detail, if necessary**
- **Express relevant findings of fact**
- **NOTES:**
 - Support all information with cites to the record
 - If a fact is relied upon in the law section, that fact must be found in the fact-finding section

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STRUCTURE
THIRD STEP
EXAMPLE

Jurisdiction

Relevant findings of fact

Credibility findings

Findings of Fact

1. This court has jurisdiction over this matter by the agreement of the parties involved. (Hearing Tr. pp. 1-3.)
2. This court finds the People of the North granted Sassa ownership of Winterfell in fee simple. (Hearing Tr. pp. 201-02.)
3. This court finds Sassa granted her entire interest in Winterfell to Plaintiff. (Hearing Tr. pp. 67-03.)
4. This court finds Plaintiff attempted to reconcile matters with Defendant. (Hearing Tr. p. 5.)
5. This court finds Defendant refused to participate in any meaningful conversation with Plaintiff regarding claims to Winterfell. (Hearing Tr. pp. 201-09.)
6. This court finds Melisandre not to be credible, given that she previously supported two other individuals' claim to the entirety of Westeros. (Exhs. 7-8.)
7. Based upon Frey's drunken state at trial and his bias toward Sassa and Plaintiff, this court finds Frey not to be credible. (Hearing Tr. pp. 201-08.)
8. Because of affidavits from every family in the North explaining their respect for Plaintiff, this court finds Plaintiff to be credible. (Exhs. 11-302.)
9. This court makes no credibility finding regarding Daenerys because this court finds it difficult to believe or not believe his statements.
10. Though this court believes Sassa is naive, it finds her to be credible.
11. Defendant is a murderous, hateful being. (Exhs. 1-302.)

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STRUCTURE
FOURTH STEP

- **Make conclusions of law**
- **Explain whether the action is in law or in equity**
- **Make step-by-step legal conclusions**
 - Skipping a step could be fatal to the disposition
- **Explain which party bears the burden of proof**
- **Discuss the law**
 - Include citations from cases/statutes
- **Apply the law**
 - Include citations from the record and cases/statutes

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STRUCTURE
FOURTH STEP EXAMPLE

Action in law or equity

Burden of proof

Application and conclusions of law

Conclusions of Law

Based upon the above findings of fact, this court concludes as follows:

1. This is an action at law. See *July v. Martin*, 381 S.C. 433, 438, 674 S.E.2d 151, 153 (2009) (“Declaratory judgment actions are neither legal nor equitable and, therefore, the standard of review depends on the nature of the underlying issue.”); *Quincy v. Burgess*, 371 S.C. 407, 410, 639 S.E.2d 455, 456 (Ct. App. 2006) (Wheeler) (“the main purpose of the complaint concerns the determination of title to real property, it is an action at law.”)
2. Sonns was the rightful owner of Winterhill in February 2015. See *Clague v. Clague*, 123 S.C. 456, 457, 123 S.E.2d 456, 458 (2012) (“When a property owner dies without a will, the people in the community—by a majority—may issue an order granting ownership of the property to another individual.”)
3. The burden of proving property ownership rested with Plaintiff. See *In re R.R. Martin*, 987 S.C. 654, 655-56, 321 S.E.2d 753, 755 (Ct. App. 2010).
4. By Sonns’s last grant, Plaintiff became the legal owner of Winterhill. See Code of the Sivern Code § 6-80(c) (Supp. 2005) (permitting one to transfer property ownership to another by a reves delivery of a transfer scroll, provided was read the scroll).
4. Although Westeros permits transfers of property by face, this permission is not available to someone as sick as Defendant. See § 6-88(c) (“One so inclined to scoldate his friends, kill his kinship, and abuse his wife, is not entitled to real property ownership.”)

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STRUCTURE**FIFTH STEP**

- **Conclude the order**
- **“IT IS THEREFORE ORDERED”**
- **Date and sign**

ORDERED, ADJUDGED, and DECREED that

1. Plaintiff's request for declaratory judgment is granted,
2. Plaintiff is the legal owner of Winterfell, and
3. Defendant holds no legal interest in Winterfell.

IT IS SO ORDERED.

Tyrrion Lannister
 Honorable Tyrrion Lannister
 Hand of the Master-in-Equity



October 5, 2016
 Richland County, South Carolina

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MOTIONS FOR RECONSIDERATION

- **A MIE may generally deny a motion for reconsideration. See Rule 59, SCRCP (setting forth the rules for filing a motion for reconsideration).**
- **If a party raises issues in a motion for reconsideration that were not previously raised, the MIE should not address those new issues. See *Johnson v. Sonoco Prods. Co.*, 381 S.C. 172, 177, 672 S.E.2d 567, 570 (2009) ("An issue may not be raised for the first time in a motion to reconsider.").**
 - **A proper way to address any new issue may be stated in simply one sentence: "This court will not consider any issues raised for the first time in a motion to reconsider."**

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MOTIONS FOR RECONSIDERATION

**Michigan
Supreme Court,
not afraid to
admit when
they're wrong**

We affirmed the circuit court. *Barnowski v. Clear, Inc.*, unpublished opinion per curiam of the Court of Appeals, issued July 30, 2020 (Case No. 144917) (*Barnowski*). *Barnowski* was not for reconsideration, asserting that our opinion contained significant legal and factual errors. We granted the motion for reconsideration and vacated our July 30, 2020 opinion. We later concluded that the MTC acted as a matter of law by allowing *Barnowski* a hearing on the merits of her appeal. Accordingly, we reverse and remand for further proceedings.

1. MISFEASANCE TEACHING MORNINGS

Conventional wisdom holds that we learn from our mistakes. In the context of reconsideration, *Barnowski* pointed out two mistakes in our initial opinion. The first related to her

1.

require a more accurate understanding of the facts and the legal issues in the case of this case. We reconsideration, we agree that *Barnowski* raised several

A. BACKGROUND FACTS, CORRECTED

As explained above, *Barnowski* had two employers in succession: Clear, Inc. and Advanced Medical. She promised her claim for unemployment benefits on the termination of her employment from Advanced Medical. *Barnowski* filed a single application for benefits in accordance with LIA procedure. In response, she received two letters. The first identified the potential employer as "Mary's Pharmacy" and stated that *Barnowski* was "disqualified for benefits." The second, dated two days later, identified Advanced Medical as the potential employer and advised *Barnowski* that she was "not disqualified for benefits." *Barnowski* claimed that because her claim focused on Advanced Medical rather than Clear, the Advanced Medical determination controlled. She accepted the second letter as being superseded the first and took no further action. Only after the 60-day appeal window closed did she learn that the first notice was defective and started the appeal clock running.

Barnowski filed a request for a redetermination of her claim at the LIA, which was denied because it was late. She appealed that decision when statutorily. An ALJ determined that *Barnowski* had not established good cause for her late protest, the MTC affirmed the ALJ and the circuit court affirmed the MTC. All three courts concluded that *Barnowski* had not good cause for filing an untimely request for redetermination.

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3. STILE

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3. STYLE

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STYLE

GENERALLY

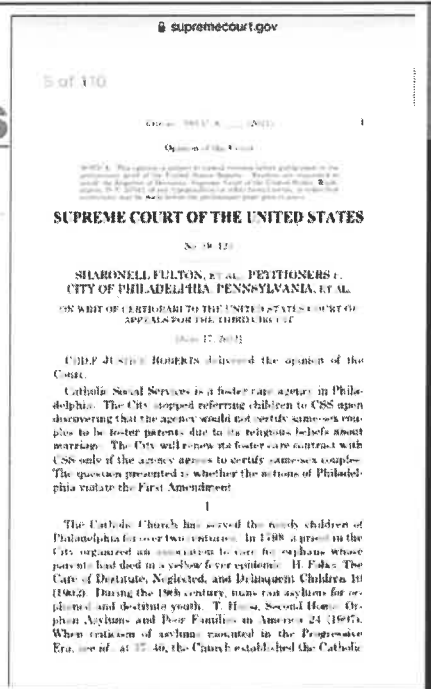
- **Internal Consistency: Once a party is introduced, do not stray from the introduced moniker**
- **Limit unnecessary legalese**
 - e.g., “said contract” or “as per the code”
- **Omit unnecessary and irrelevant information**
 - e.g., dates with no effect, locations that play no role, and monikers never again introduced
- **Avoid excessive, unknown acronyms**
 - Yes: “The Office of Disciplinary Counsel (ODC) found”
 - No: “The Free Times (FT) reported”

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DEFINING TERMS



Jason Mitchell @JasonMitchellISA · 8h
Attention lawyers (and judges): if the (probably) best legal writer in the world didn't need a ("CSS") then you probably don't need to define that term you're about to define...



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SPACES

Whether you use one or two spaces after a period, just be consistent throughout your order.



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NUMBERS

Former Ohio Judge Mark Painter: "Never clutter your document with both words and numbers: 'There were four (4) plaintiffs and six (6) defendants.' Never."

TMS 2.01: Generally –

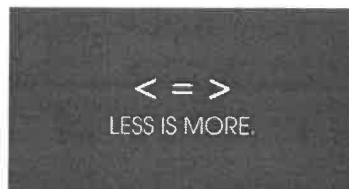
- spell out whole numbers zero to ninety-nine. Use numbers for all larger numbers.
- Always use numerals to express: statistics and scores, decimals, numbers representing subdivisions (such as chapters, parts, and sections), and years.
- Always spell out a number if it begins a sentence

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BREVITY AND CLARITY

- Do not be too wordy in an order because this frustrates the true components that could be more succinctly explained by using less terms and not as many as written in the wordy order that has unnecessary additions.

- **Be brief.**



- Fail to exhibit labyrinthine ideophones when untroublesome vocabulary executes your contemplation as luxuriantly.
 - **Be clear and readable.**

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BREVITY—EXAMPLES

"And in the outset we may as well be frank enough to confess, and, indeed, in view of the seriousness of the consequences which upon fuller reflection we find would inevitably result to municipalities in the matter of street improvements from the conclusion reached and announced in the former opinion, we are pleased to declare that the arguments upon rehearing have convinced us that the decision upon the ultimate question involved here formerly rendered by this court, even if not faulty in its reasoning from the premises announced or wholly erroneous in conclusions as to some of the questions incidentally arising and necessarily legitimate subjects of discussion in the decision of the main proposition, is, at any rate, one which may, under the peculiar circumstances of this case, the more justly and at the same time, upon reasons of equal cogency, be superseded by a conclusion whose effect cannot be to disturb the integrity of the long and well-established system for the improvement of streets in the incorporated cities and towns of California not governed by freeholders' charters." *Chase v. Kalber*, 153 P. 397, 398 (Cal. Dist. Ct. App. 1915).

This court's previous ruling in this appeal was erroneous. Therefore, this opinion supersedes that ruling.

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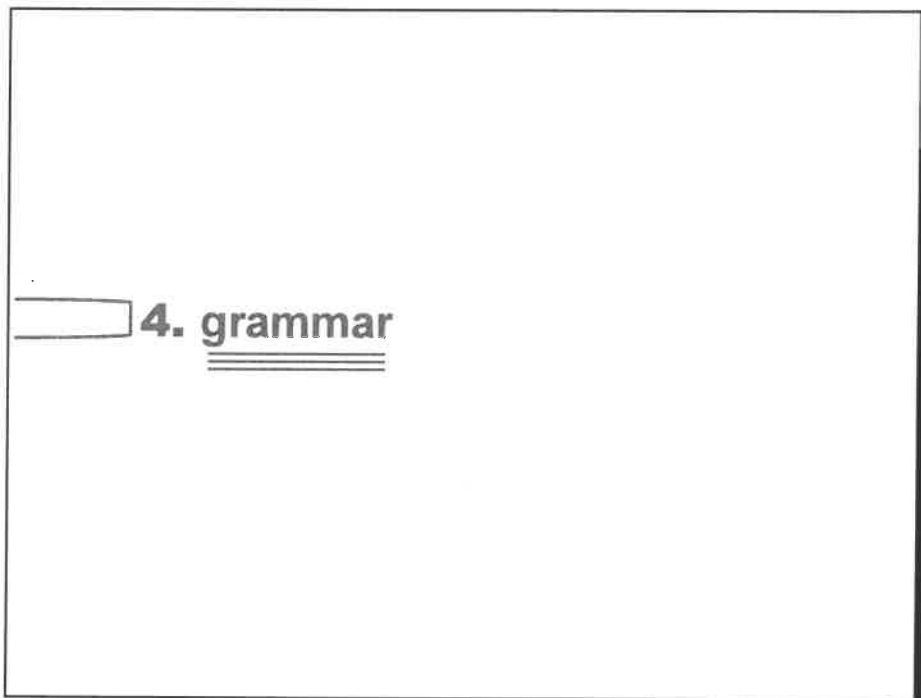
CLARITY—EXAMPLES

"Clearly it is unconscionable to allow MERS, Respondent's assignor, to obtain a security interest in Appellant's residence with complying with the required disclosures dictated by the South Carolina Consumer Protection Code. Since Respondent is not a holder in due course, Respondent took the mortgage subject to all claims and defenses that Appellant had or may have against MERS. Thus a genuine issue of material fact exists as to whether or not Respondent and MERS violated the South Carolina Consumer Protection Code which claims may be asserted against Respondent as there are issues of fact as to whether Respondent is a holder in due course." *From a final brief filed with the court of appeals.*

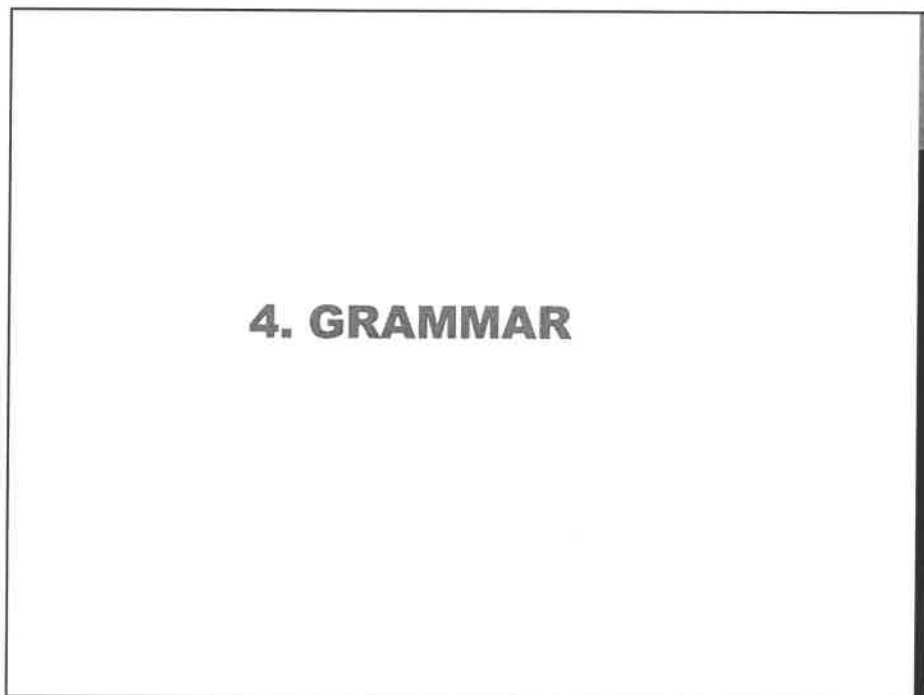
**First, if the issues are so "clear," why did the trial court rule against Appellant?
Revision: *MERS unconscionably obtained a security interest in Appellant's residence because it failed to provide Appellant with required disclosures.*[FN]
["Respondent is not a holder in due course" is a legal conclusion with no reasoning or authority.] A genuine issue of material fact exists regarding whether Respondents and MERS violated the Code and whether Respondent is a holder in due course.**

[FN] [Cite to South Carolina Consumer Protection Code (the Code)]

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GRAMMAR

GENERALLY

- "The greater part of the world's troubles are due to questions of grammar."
 - Michel de Montaigne
- Poor grammar may not affect substantive issues, but it could alter the author's intended meaning
- Good grammar leads to easier reading

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COMMAS THE OXFORD COMMA

With the Oxford Comma:
We invited the rhinoceri, Washington, and Lincoln.



Without the Oxford Comma:
We invited the rhinoceri, Washington and Lincoln.



"I'm sorry, but refusing to use an Oxford comma isn't really grounds for divorce."

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OXFORD COMMA CONTINUED

politics.com

THE FRIDAY COVER

How Harry Reid, a Terrorist Interrogator and the Singer From Blink-182 Took UFOs Mainstream

The hidden history of how Washington embraced a fringe field of science.




305 2,665 28.4K

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PASSIVE VOICE

- **Passive voice occurs when the action described is performed upon the subject or the subject is not in the sentence.**
 - The lien was held in the amount of \$4,000 on the house.
 - The lien was held *by zombies* in the amount of \$4,000 on the house.
- **Active voice involves the subject performing the action.**
 - Plaintiff held a \$4,000 lien on the house.




Rebecca Johnson

Follow


I finally learned how to teach my guys to ID the passive voice. If you can insert "by zombies" after the verb, you have passive voice.

3,295 retweets 1,755 likes



154 1.1K 4.1K

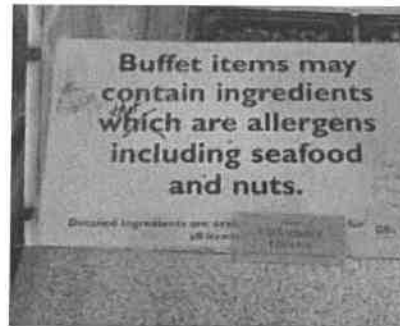
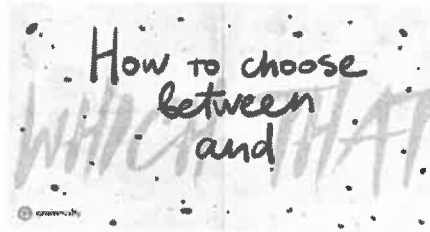
USE ACTIVE VOICE



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THAT VS WHICH

- "That" should be used with restrictive clauses and does not require a comma before.
 - A restrictive clause is a part of a sentence that you can't get rid of because it specifically "restricts" some other part of the sentence.
 - Parakeets that talk often induce headaches
- "Which" should be used with nonrestrictive clauses and requires a comma before.
 - A non-restrictive clause is something that can be left out of a sentence without changing the meaning of the sentence. Simply additional information.
 - Macaws, which are colorful, are bigger than parakeets.
- If removing the clause will change the meaning of the sentence, use **THAT**. If removing the clause doesn't change the meaning of the sentence, use **WHICH**



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WHEN VS WHERE

- "Where" should be used only if explaining a subject's location.
- "When" should be used in most other instances.
- **Not:** The defendant argued he was permitted to stay at the apartment an additional thirty days where the lease was silent regarding its termination.
 - **But:** The defendant argued he was permitted to stay at the apartment an additional thirty days when the lease was silent regarding its termination.

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DANGLING PARTICIPLE



Ross Guberman @legalscholar4me
Replying to @legalscholar4me

Watch for these when the 1st or 2nd word of a sentence ends in -ing and you also see a comma. To fix, change either the verb in the 1st half or the subject in the 2nd. Justice Gorsuch, for example, could have written "After... Jack Phillips was forced to..., we..." 2/



BriefCatch

Justice Gorsuch concurring opinion in Fuller:

"After being forced to litigate all the way to the Supreme Court, we ruled for him on narrow grounds similar to . . ."

- *What is the problem?* Jack Phillips, the Masterpiece Cakeshop baker, was forced to litigate – not "we" the Supreme Court.

Suggested correction:

"After Jack Phillips was forced to litigate all the way to the Supreme Court, we ruled for him . . ."

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5. SUPPORT THE MATERIAL WITH LAW

CITATION

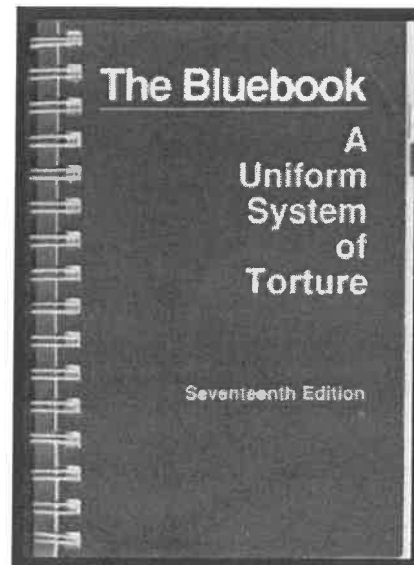
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5. CITATION

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GENERALLY

- **Using the proper case or statute citation:**
 - Supports the writer's position
 - Gives the reader source material
- **Using improper citations:**
 - Leads to confusion in the conclusion
 - Leads to errors of law
- **A few general rules alleviate most citation concerns**
- **Pinpoint citations, parallel citations, signals, and code year matter**



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CLEANED UP

2017 suggestion by an attorney on Twitter (in lieu of stuff like emphasis in original, citations removed, etc.)

Supreme Court Places

I propose a new parenthetical for quotes that delete all messy quotation marks, brackets, ellipses, etc.: (cleaned up).

11/17/2017, 10:45 AM

View Tweet & Reply

27 Retweets, 12 Quote Tweets, 157 Likes

2021 US Supreme Court opinion by Justice Thomas

BROWNLICK v. KING
Opinion of the Court

II

This Court has explained that the judgment bar was drafted against the backdrop doctrine of res judicata. See *Id.* To “trigger[] the doctrine of res judicata or claim preclusion” a judgment must be “on the merits.” *Scott v. Illinois*, 490 U.S. 345, 352 (1989). Under that doctrine as it existed in 1946, a judgment is “on the merits” if the underlying decision “actually passes directly on the substance of a particular claim before the court.” *Id.* at 351–352 (cleaned up). Thus, to determine if the District Court’s decision is claim preclusive, we must determine if it passed directly on the substance of King’s PTCA claims. We conclude that it did.

The District Court’s summary judgment ruling hinged on a quintessential merits decision: whether the undisputed facts established all the elements of King’s PTCA claims.

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CITING TO COVID

Main takeaway from the Chicago Manual of Style: all capitals for COVID-19

The Virus and the Disease

The name of the virus responsible for the current pandemic is severe acute respiratory syndrome coronavirus 2, or SARS-CoV-2.

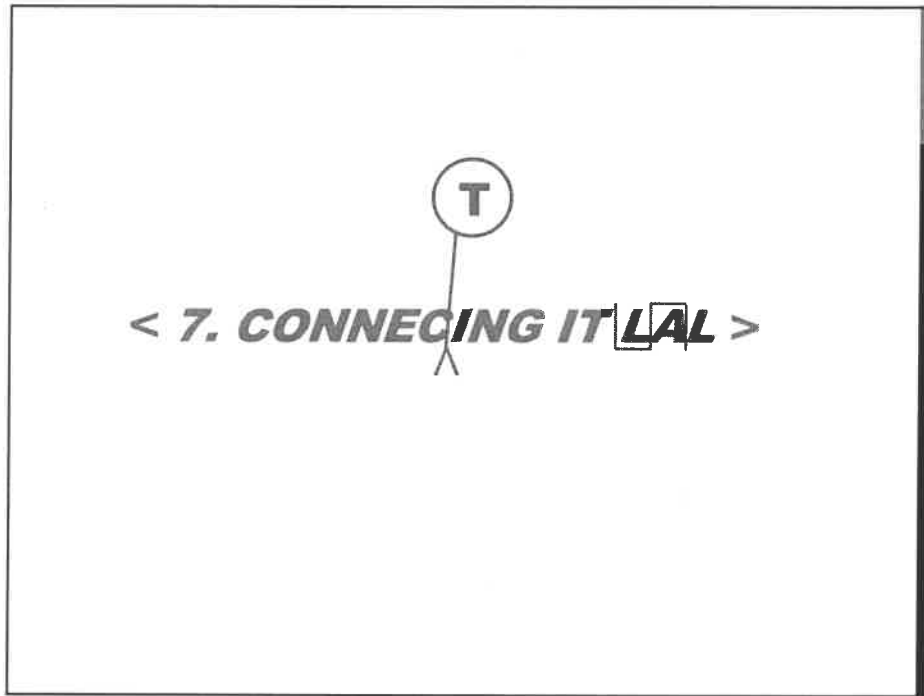
The name of the disease caused by SARS-CoV-2 is COVID-19, which stands for “coronavirus disease 2019.”

Editors, take note: When the name of the virus is spelled out, it is styled in regular text and all lowercase: severe acute respiratory syndrome coronavirus 2. But the species name is in italics and begins with a capital letter: *Severe acute respiratory syndrome-related coronavirus*.

In all but the most technical contexts, however, you won’t need to refer to the official name of the virus or its species. You can simply refer to “the virus responsible for COVID-19” or “the COVID-19 virus.”

By a similar logic, “the coronavirus pandemic” and similar expressions can be used where it is understood that “coronavirus” is short for “coronavirus disease” (and specifically COVID-19).

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Checklist for Attorneys Drafting Proposed Non-Jury Orders¹

Before Drafting:

- Consult with opposing counsel to identify and agree on the following:
 - the legal issues in the case;
 - the stipulated facts in the case; and
 - the disputed facts in the case.
- The proposed orders submitted by each party should include the same number of legal issues, stipulated facts, and disputed facts.

While Drafting:

- Utilize the model non-jury order posted alongside this checklist. If you need additional direction, search for orders in cases with the same or similar causes of action that were previously issued by the judge hearing your case.
- Include a caption that identifies the following:
 - the court;
 - the full name of the case;
 - the case number; and
 - the title of the document.
- Include an introduction or summary that identifies the following:
 - the issues at trial;
 - a brief procedural history of the case leading up to the pending matter; and
 - introductory context that readers need to understand the matter before the court and the findings of fact and conclusions of law that follow in the Order.
- Include the factual background necessary to help the reader understand the findings that the Court will make on the facts to follow.
- Relying *only* on facts included in the record, include findings of fact to
 - explain the version of the facts the Court finds most credible;
 - note uncontested facts that are relevant to the legal conclusions; and

¹ Adapted from Mary L. Dunnewold, et al., *Judicial Clerkships: A Practical Guide* 176-82 (2010).

- make a credibility finding for every witness whose testimony is referred to or relied on in the order.
- Include conclusions of law to
 - explain the relevant law that governs the issues in the case; and
 - explain how the governing law applies to the facts noted in the findings of fact.
- Include an appropriate signature block
 - Include a space for the judge's signature and the date.
- Edit the Order for grammar, punctuation, style, and citation
 - Include a citation to legal authority for every legal proposition included in the order.
 - Include a citation to the record for every fact relied on in the order.
 - Consider utilizing writing software like WordRake to improve readability and conciseness.

After Drafting:

- Exchange your draft order with opposing counsel ten days prior to the deadline for submission of the proposed orders to the court.
- Within five days after receipt of a proposed order from opposing counsel, provide feedback to opposing counsel in an effort to ensure that the orders are similar in breadth and scope so that they may be as useful to the judge as possible.

STATE OF SOUTH CAROLINA)
)
COUNTY OF)
)
)
)
Plaintiff,)
)
v.)
)
)
Defendant.)
_____)

IN THE COURT OF COMMON PLEAS
Civil Action No.

ORDER

This is a _____ action between _____ (Plaintiff) and _____ (Defendant) regarding _____. The Honorable _____ referred this matter by a [Month/Day], [Year], order of reference. At the hearing on [Month/Day], [Year], _____ represented Plaintiff, and _____ represented Defendant.

CASE SUMMARY

In this section, provide a brief description of the life of the case until this point, including the following: date complaint was filed, the primary allegation(s) of the complaint, the defendant’s response (likely an answer denying the allegations), the date of the hearing, and the identification of the witnesses who testified at the hearing. Be sure to include citations to the pleadings. The Case Summary should end with a brief paragraph identifying the issue or issues before the court.

Sample¹:

On August 1, 2016, Plaintiff Jon Snow filed a complaint against Defendant Ramsay

¹ All samples are adapted from materials prepared by S.C. Court of Appeals Judge Aphrodite Konduros, S.C. Court of Appeals Chief Staff Attorney Patricia Howard, and S.C. Court of Appeals Staff Attorney Andrew Johnson for a South Carolina Bar Master-in-Equity CLE.

Bolton, seeking an order declaring him the legal owner of Winterfell. *See* Compl. Plaintiff claimed Defendant wrongfully possessed Winterfell in early 2016 and that Plaintiff was the rightful owner. Compl. ¶¶ 4-8. Defendant answered the complaint, denying the allegations. *See* Answer. At the hearing on October 1, 2016, Plaintiff presented the testimony of Sansa Stark, former owner of Winterfell, and Petyr Baelish, an expert in property ownership manipulation. Defendant presented the testimony of Walda Frey, owner of lands adjacent to Winterfell and Melisandre, and an expert in property ownership by divine right.

The only issue before the court is whether Plaintiff is the legal owner of Winterfell.

FACTUAL ANALYSIS

In the Factual Analysis, summarize the facts from the pleadings, depositions, hearing, etc. Include only those facts that are relevant to the dispositive issues in the case. Be sure to include specific citations to the documents and to attach as exhibits any documents that are not already a part of the court record.

Sample:

On January 8, 2014, Eddard Stark—then the rightful owner of Winterfell—was declared insane and died. Eddard Stark Death Certificate, attached as Ex. 1. Pursuant to his last will and testament, after Eddard "lost his head" and passed away, Eddard's son Robb Stark became the legal owner of Winterfell. Lannister Dep. 7:4-12, attached as Ex. 2. On February 3, 2015, Robb and his wife, Jayne Westerling, died at their wedding. Robb Stark Death Certificate, attached as Ex. 3; Jayne Westerling Death Certificate, attached as Ex. 4. Robb failed to execute a last will and testament. Frey Dep. 10: 7-10, attached as Ex. 5. By order of the People of the North, Sansa became the legal owner of Winterfell on February 28, 2015. Order of the People,

attached as Ex. 6. However, when Sansa attempted to enforce her claim, Defendant intercepted her, unlawfully married her, and abused her. Sansa Dep. 5:8-7:5. Sansa subsequently escaped Defendant and sent a raven to Plaintiff, who at the time lived at 7 Raven, Castle Black, Westeros, notifying him of her troubles. Hearing Tr. 32:4-15.

Sansa believed she could not gain the people's support of her claim to Winterfell, so she contracted with Plaintiff and gave him her alleged fee simple ownership interest in Winterfell. Sansa Dep. Sansa Dep. 8:14-19. Plaintiff visited Winterfell on April 30, accompanied by Sansa and Baelish. Baelish Aff. 6-7. Plaintiff testified that after a brief meeting between him and Defendant, Defendant failed to understand Plaintiff's claim to Winterfell and Defendant refused to grasp the importance of Baelish's support. Hearing Tr. 90:20-25. Ultimately, Plaintiff felt "trapped" in the discussion, while Defendant believed his argument was as straight as an arrow. Hearing Tr. 42:1-5, 75:21-76:4. However, with Baelish's support, Plaintiff kicked Defendant out of Winterfell and "treated him like a dog." Hearing Tr. 67:19-68:3. Defendant, though handcuffed in that predicament, still claimed ownership to Winterfell. Sansa Dep. 12:8-10. Soon thereafter, Plaintiff filed his complaint.

FINDINGS OF FACT

In the Findings of Fact, begin by identifying the basis for the court's jurisdiction over the matter. Next, identify any facts stipulated by the parties. Finally, provide a detailed list of findings on facts that are relevant to the issue(s) in the case and form the basis for the conclusions in the next section. Note that any fact relied upon in the Conclusions of Law must be addressed in the Findings of Fact.

Within this section, be sure to address the credibility of each witness that is relied on for each finding. For example, if two witnesses tell differing stories and your finding of fact is based on one witness over the other, clearly articulate why one witness was more credible and one was less credible. Issues impacting witness credibility include, but are not limited to, the witness's opportunity to perceive the matters testified to, potential bias (interest or motive related to the testimony), prior consistent or inconsistent statements, known character for honesty or dishonesty, and attitude (positive or negative attitude projected during testimony).

Sample:

1. This court has jurisdiction over this matter by the agreement of the parties involved.
Hearing Tr. 1:4-12.
2. This court finds the People of the North granted Sansa ownership of Winterfell in fee simple. Hearing Tr. 301:24-302:20.
3. This court finds Sansa granted her entire interest in Winterfell to Plaintiff. Hearing Tr. 67:12-69:4.
4. This court finds Plaintiff attempted to reconcile matters with Defendant. Hearing Tr. 5:8-12.
5. This court finds Defendant refused to participate in any meaningful conversation with Plaintiff regarding claims to Winterfell. Hearing Tr. 201:16-209:11.
6. This court finds Melisandre not to be credible, given that she previously supported two other individuals' claim to the entirety of Westeros. Exs. 7-8.
7. Based upon Frey's drunken state at trial and his bias toward Sansa and Plaintiff, this court finds Frey not to be credible. Hearing Tr. 180:14-181:14.

8. Because of affidavits from every family in the North explaining their respect for Plaintiff, this court finds Plaintiff to be credible. Exs. 9-187.
9. This court makes no credibility finding regarding Baelish because this court finds it difficult to believe or not believe his statements.
10. Though this court believes Sansa is naïve, it finds her to be credible because her testimony is consistent with testimony of other witnesses. Hearing Tr. 42:15-45:27, 53:12-54:17.
11. Based on the testimony of several witnesses and the affidavits of every family in the North, the court finds that Defendant is a murderous, hateful being. Hearing Tr. 26:14-35:14; Exs. 9-187.

CONCLUSIONS OF LAW

In the Conclusions of Law, begin by explaining whether the action is at law or in equity with a citation to applicable case law. Next, address each cause of action in turn. For each cause of action, provide the elements for that cause of action as well as the burden of proof on that cause of action. The statements of the rules regarding the elements and the burden of proof require citations to legal authority. Also include any additional legal rules relevant to the cause of action with citations to legal authority.

Once you have provided the legal rules, apply the law to the facts that have been found in the Findings of Fact. Note that you must include a legal conclusion for each element of a cause of action even if you think the conclusion is obvious or undisputed. Provide citations to the record and to cases and statutes to support each legal conclusion. As part of your analysis, use comparisons to the applicable case law to show how the facts of your case are similar or

dissimilar to the facts in the existing case law. After walking through the rules and the legal conclusions for the first cause of action, do the same for any remaining causes of action.

Sample:

Based upon the above findings of fact, this court concludes as follows:

1. This is an action at law. *See Judy v. Martin*, 381 S.C. 455, 458, 674 S.E.2d 151, 153 (2009) ("Declaratory judgment actions are neither legal nor equitable and, therefore, the standard of review depends on the nature of the underlying issues."); *Query v. Burgess*, 371 S.C. 407, 410, 639 S.E.2d 455, 456 (Ct. App. 2006) (Whe[n] . . . the main purpose of the complaint concerns the determination of title to real property, it is an action at law.").
2. Sansa was the rightful owner of Winterfell in February 2015. *See Clegane v. Clegane*, 123 S.C. 456, 457, 123 S.E.2d 456, 458 (2012) ("When a property owner dies without a will, the people in the community—by a majority—may issue an order granting ownership of the property to another individual.").
2. The burden of proving property ownership rested with Plaintiff. *See In re R.R. Martin*, 987 S.C. 654, 655-56, 321 S.E.2d 753, 755 (Ct. App. 2010).
3. By Sansa's land grant, Plaintiff became the legal owner of Winterfell. *See Code of the Seven Gods* § 6.80(c) (Supp. 2009) (permitting one to transfer property ownership to another by a raven delivery of a transfer scroll, provided wax seals the scroll).
4. Although Westeros permits transfers of property by force, this permission is not available to someone as sick as Defendant. *See* § 6.08(c) ("One so inclined to mutilate his friends, kill his family, and abuse his wife, is not entitled to real property ownership.").

Based upon the findings of fact, this court concludes as follows:

ORDERED, ADJUDGED, and DECREED that

1. [Articulate the conclusion on each cause of action, the action being taken by the court, and any direct legal impact on the parties. Remember that being explicit here will lessen any confusion by the parties.]
- 2.
- 3.

Sample:

1. Plaintiff's request for declaratory judgment is granted;
2. Plaintiff is the legal owner of Winterfell; and
3. Defendant holds no legal interest in Winterfell.

IT IS SO ORDERED.

Honorable _____
Hand of the Master-in-Equity

[Month/Day], [Year]
_____ County, South Carolina