Formatting An Appellate Brief

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FORMATTING AN APPELLATE BRIEF

This seminar is designed to show you how to use a Microsoft Word Appellate Brief template which you can download for free here: [http://tinyurl.com/ybbpp95v](http://tinyurl.com/ybbpp95v) (no password required)

CHAPTER I.
ARCHITECTURE OF THE TEMPLATE

The template consists of multiple sections:

1. **Section 1 - Title Page**: This is the first page of the template and it is not page numbered.

2. **Section 2**: This is comprised of the following.
   
   a. **Questions Presented**: This is page numbered with Romanettes.
   
   b. **Table of Contents**: This is page numbered with Romanettes consecutively from the Questions Presented. The TOC can be automatically updated to reflect any changes in the document by simply hitting Ctrl+A (which selects the entire document) and hitting the F9 key (which updates all fields).
   
   c. **Table of Authorities**: This is also consecutively page numbered with Romanettes. There’s currently no TOA in the template because you have to build it (which we’ll do together and the instructions for doing so are below).

3. **Section 3 - Body of the Brief**: This is the body of the brief which contains titled sections and a 4 level deep, auto-paragraph numbered outline. The page numbering starts over here at Arabic page 1 and continues consecutively for the rest of the document. The following sections exist:
   
   a. Opinions Below
   
   b. Jurisdiction
   
   c. Constitutional Provisions & Statutes Involved
   
   d. Standard of Review
   
   e. Statement of The Case
   
   f. Summary of The Argument
   
   g. Argument
   
   h. Conclusion
   
   i. Certificate of Service
CHAPTER II.
STYLES IN GENERAL

1. **What Are Styles?** A style is a set of formatting characteristics that you can apply to text, tables, and lists in your document to quickly change their appearance. When you apply a style, you apply a whole group of formats at once. A useful way to think of styles is like a car radio pre-set button. Every time you push the button, you’re back on the exact station you programmed the button for.

2. **Open The Styles Pane:** In Word for Windows, you can view styles by clicking the **Home ribbon ➔ Styles launcher** to reveal the **Styles pane** (see Figure 1 below). You can also use the speed key **Alt+Shift+Ctrl+S**.

   ![Figure 1](image1.png)

   In Word for Mac, there’s a **Styles Pane button** on the Home ribbon.

   ![Figure 2](image2.png)

   A **subset** of all of the styles available are also visible in the Styles gallery on the Home ribbon. However, the styles gallery is mostly useless.

   ![Figure 3](image3.png)

3. **All-Important Rules of Styles:** It’s critical that you keep the following rules in mind.

   A. **Every Instance of Unique Formatting Requires a Different Style:** When you just type in a document, Word automatically applies the Normal style to the text. However, in order to properly use styles, you need to apply a different style to
each type of unique formatting within the document. For example, in Figure 4 below, there are 4 levels of outline numbered paragraphs. Each one is a unique type of formatting and requires a different style. The proper way to format such a document would be to apply the style called Heading 1 to the Articles, Heading 2 to the 2nd level of the outline, Heading 3 to the 3rd level and Heading 4 to the 4th level. Of course, if these Heading styles do not currently format the text the way I see it, I will have to alter their settings so they match the formatting I’m trying to achieve (which you would do by simply right-clicking the style name in the style pane or style gallery and choosing "modify" from the menu that appears.

Having said that, if there's a section of easy formatting somewhere in the document and that formatting doesn't reappear anywhere else, it's fine to manually format those things. For example, a signature block may not require its own style because by the time you create one to handle it, you could have already formatted it manually and moved on.

<table>
<thead>
<tr>
<th>ARTICLE III.</th>
</tr>
</thead>
<tbody>
<tr>
<td>CAPITAL CONTRIBUTIONS</td>
</tr>
</tbody>
</table>

3.1. **Initial Capital Contributions.**

(a) Each Member shall contribute to the capital of the Company the amounts set forth opposite such Member’s name on Exhibit B.

(b) No interest shall accrue on any capital contribution and no Member shall have any right to withdraw or to be repaid any capital contribution except as provided in this Agreement.

3.2. **Additional Capital Contributions.** The Members shall contribute to the capital of the Company such amounts as the Manager may determine to be necessary or appropriate to conduct the business or carry out the purposes of the Company. Any such additional capital shall be contributed by the Members pro rata, in proportion to their Units, or on any other basis agreeable to them.

3.3. **Loans.**

(a) If any Member (a "Declining Member") declines to contribute additional capital to the Company following a request for additional capital by the Manager pursuant to Section 3.2 above, then the other Members shall have the right, but not the obligation, to take whichever (if either) of the following actions that the Manager deems appropriate:

(1) Loan to the Company, in the ratios that the Percentage Interests of such other Members bear to each other or in any other ratios agreeable to them, the entire amount requested by the Manager. Any such loan(s) shall (i) be unsecured, unless all of such other Members agree otherwise, (ii) bear interest at 2% over the prime rate as publicly announced from time to time by the Bank, and (iii) be repayable from the first funds available to the Company.

Figure 4
Therefore, if properly constructed, the paragraphs would have the following headings applied (see labels to the left):

<table>
<thead>
<tr>
<th>Heading 1</th>
</tr>
</thead>
<tbody>
<tr>
<td>Heading 2</td>
</tr>
<tr>
<td>Heading 3</td>
</tr>
<tr>
<td>Heading 3</td>
</tr>
<tr>
<td>Heading 2</td>
</tr>
</tbody>
</table>

ARTICLE III.
CAPITAL CONTRIBUTIONS

3.1. **Initial Capital Contributions.**

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Figure 5

B. **Word Uses Styles Without Your Knowledge or Consent**: When you type text into a document, Word automatically applies a specific style depending upon where your cursor is and what you’re doing. For example, if you’re in a header, Word automatically applies a style called Header. The mere act of typing in a header box causes this to happen.

C. **There is No Off Button**: I’ve heard many people tell me that they don't use styles in Word. That's impossible because you can't turn styles off and as described in the previous rule, Word applies them automatically. It's impossible to have text in a Word document (any version) to which a style is not applied.

D. **If You Don't Control Styles, They Control You**: This is about as blunt as I can get. Styles will always win the formatting battle. All of the direct formatting in the world isn't going to change that. So you're infinitely better off learning how to control styles so you aren't constantly struggling against them. They are completely controllable (as is Word in general), once you've mastered them.

E. **Every Document Has 247 Styles Built In**: When you create a new document in Word, there are 247 styles already in the document although only a small subset might actually be used. We refer these built-in styles as "System" styles. To see all of these styles, you can either:

   i. Open the styles pane ➤ click the Options link (bottom, right corner of the Styles pane) ➤ under "Select styles to show:" choose All Styles ➤ under "Select how list is sorted:" choose Alphabetical ➤ clear every checkbox in
this dialog → click OK. All available styles will now appear in the styles pane.

ii. Open the styles pane → click the Manage Styles button (bottom of the Styles pane) → click the EDIT tab in the subsequent dialog and there you will see all of the available styles.

F. **You Can't Delete System Styles But You Can Change What They Do:** Any system style can be altered so that it produces the formatting you want.

G. **You Can Create Your Own Styles:** It's also possible to create your own styles by using the New Style button at the bottom of the Styles task pane:

H. **The Style Inspector Will Make All Of This Much Easier:** NOTE that this is only available in Word for Windows and not in Word for Mac. If you're not sure what style is being applied to text in your document, just follow these steps to find out: Open the Styles pane → click the Style Inspector button. A panel will open and show you the Paragraph formatting and Text level formatting. You are concerned about the Paragraph formatting style. Once the Style Inspector is open, you can also modify a style by right-clicking it and choosing Modify from the menu that appears.

I. **Once a Style Is Applied to Text, You Can Change The Text By Modifying The Style:** Let's say you have 50 footnotes in your document and you don't like how they look. There's a style called Footnote Text which Word automatically applies to every footnote. Therefore, you can change all of your footnotes at once by modifying the Footnote Text style. As soon as you change the style definition, every footnote will update its formatting automatically to match your changes assuming you didn't already apply direct formatting. If you had already selected each footnote and applied custom formatting (see discussion of Direct Formatting above), then that formatting will need to be removed to reveal the default style formatting beneath it (see previous rule).

### CHAPTER III.

**LIST OF STYLES BUILT INTO THE APPELLATE BRIEF TEMPLATE**

1. **Block Text** makes text look like this (.5” indent left and right, single spaced, 12 pt after for vertical spacing):

   A person liable under this section may be charged with and convicted of the crime although the person who directly committed it has not been convicted, or has been convicted of some other degree of the crime or of some other crime based on the same act, or if the person is a juvenile who has not been found delinquent for the act.
2. **Body Text First Indent** makes text look like this (double space, first line .5” indent):

   Respondents were sitting at an illuminated kitchen table facing a window of a ground-floor apartment and packaging cocaine. Respondents should have realized that a passerby could have looked into the apartment and noticed the illegal activity occurring within the apartment. Thus, Respondents can claim no subjective expectation of privacy.

3. **Body Text No Indent** makes text look like this (double space, no indent):

   This Court is being asked to reverse a Minnesota Supreme Court judgment that Respondents were entitled to suppress evidence on Fourth Amendment grounds. The issue at hand is the constitutionality of an officer’s naked-eye observation of Respondents as they bagged cocaine in an apartment in which they were neither residents nor overnight guests.

4. **Heading 1** makes text look like this (automatic paragraph numbering, .5” hanging indent, single spaced, bold, 12 pt after). Any text to which this style is applied gets pulled into the Table of Contents.

   I. As temporary business invitees present in another’s residence for the sole purpose of packaging drugs, Respondents had no legitimate expectation of privacy and, thus, may not invoke the Fourth Amendment’s protections.

5. **Heading 2** makes text look like this (automatic paragraph numbering, .5” left indent, .5” hanging indent, single spaced, bold, 12 pt after). Any text to which this style is applied gets pulled into the Table of Contents.

   A. Respondents failed to meet their burden of proving that they had a legitimate expectation of privacy because they introduced absolutely no evidence regarding their status in Thompson’s apartment.

6. **Heading 3** makes text look like this (automatic paragraph numbering, 1” left indent, .5” hanging indent, single spaced, bold, 12 pt after). Any text to which this style is applied gets pulled into the Table of Contents.

   1. The Olson rule dictates that only overnight guests have a connection to a premises that gives rise to a legitimate expectation of privacy.
7. **Heading 4** makes text look like this (automatic paragraph numbering, 1.5” left indent, .5” hanging indent, single spaced, bold, 12 pt after). Any text to which this style is applied gets pulled into the Table of Contents.
   
   a. Illegal drug distribution is not a longstanding social custom that serves functions recognized as valuable by society

8. **Questions Presented** makes text look like this (automatic paragraph numbering, single spaced, 12 pt after).

1. Whether the Court should expand the class of individuals who can claim a legitimate expectation of privacy under the Fourth Amendment to include a temporary invitee who is present on the premises only to conduct an illegal business activity?

9. **Title** makes text look like this (center, bold, all caps, single spaced, 12 pt after). Any text to which this style is applied gets pulled into the Table of Contents.

**QUESTIONS PRESENTED**

10. **TOC 1, TOC 2, TOC 3 & TOC 4** control how the 4 levels of the table of contents look. Figure 6 is a screen shot of how the 4 levels look in the document.

---

ARGUMENT .............................................................................................................................................................. 2

I. As temporary business invitees present in another’s residence for the sole purpose of packaging drugs, Respondents had no legitimate expectation of privacy and, thus, may not invoke the Fourth Amendment’s protections.................................................. 2

   A. Respondents failed to meet their burden of proving that they had a legitimate expectation of privacy because they introduced absolutely no evidence regarding their status in Thompson’s apartment........................................................................................................... 2

   B. Respondents had no legitimate expectation of privacy because any subjective expectation they might have had while temporarily in another’s home for the sole purpose of conducting illegal business was not one society recognizes as reasonable.................................................. 2

   1. The Olson rule dictates that only overnight guests have a connection to a premises that gives rise to a legitimate expectation of privacy ................................................................................................................... 2

---

Figure 6
CHAPTER IV.
HOW TO USE THE STYLES BUILT INTO THE TEMPLATE

It is imperative that you learn to use the styles that are conveniently built into the template and which control all of the formatting in it.

1. **Open The Styles Pane:** Open the styles template and then open the **Styles Pane**. For instructions, see CHAPTER II.2. on page 5 above.

2. **Click Show Preview:** If you’re using Word for Windows, make sure you check the Show Preview box at the bottom of the styles pane so you can see what they look like. This checkbox doesn’t exist in Word for Mac but you can already see what the styles look like in the Mac styles pane.

3. **Practice Applying Styles:** For example, click your cursor somewhere in the paragraph under Opinions Below on page 1 of the body of the brief. Do not select even a single character, just put your cursor in the paragraph. Now single (left) click the Block Text style in the Style Pane. Now click on Body Text First Indent. You can see how the text immediately reformats to match the style definition.

   If you want to apply a style to multiple paragraphs at once, select/block the entirety of the paragraphs in question and then click the style you want to apply. If you select only a few characters of a paragraph and click a style, it may not work. Either select nothing, or select the entire paragraph. I know this is a weird rule, but just trust me.

CHAPTER V.
HOW TO CHANGE THE FONT FOR THE ENTIRE TEMPLATES

The template is obviously set up for Times New Roman, 12 pt, left justified. If you want to make the entire template switch to something else (let’s say Arial 12 pt), then **do not select the entire document and manually switch it to something else using the font drop down menu**. Instead, follow these steps:

1. **Open the Styles Pane.**

2. **Right-click the Normal style ➪ choose Modify from the menu that appears.**
3. In the next dialog, click the Format button at the bottom, left corner and then choose Font. Change the Font to Arial and the size to 11, then click OK.

![Figure 8](image)

4. Click OK once more. This will change all of the styles to Arial except for the Title style.

5. Now right-click and modify the Title style ➤ Format button ➤ Font ➤ change to Arial, 11 pt ➤ OK ➤ OK.

CHAPTER VI.
HOW TO UPDATE THE TABLE OF CONTENTS

After you’ve modified the document, make sure that the styles Title, Heading 1, Heading 2, Heading 3 or Heading 4 are applied to the text you want to pull into the Table of Contents. Next, select the entire document (Ctrl+A is the easiest way to do this), then hit the F9 key on your keyboard. You’ll likely see a dialog like Figure 9 below. Choose Update entire table ➤ OK button.
CHAPTER VII.
HOW TO BUILD A TABLE OF AUTHORITIES

1. **You Should Never Type a Table of Authorities:** If you type a TOA, you’re just painfully wasting your time. In this template, we’re going to use Word’s built-in feature for this which will automatically build the TOA after we mark all of our entries. If your jurisdiction requires something for a TOA that Word is incapable of, then check out Best Authority by Levit & James, Inc. For more information about this program see [http://tinyurl.com/y7dpmxlv](http://tinyurl.com/y7dpmxlv). For more information, call 571.570.1100.

2. **The Basic Procedure:** The process of creating a table of authorities using Word’s built-in feature involves two steps:
   
   A. Mark the citations.
   
   B. Generate the table of authorities based on the marked citations.

3. **Mark the Citations:**
   
   A. Click the References ribbon ➔ Table of Authorities group ➔ Mark Citation... button. A dialog box should appear.
   
   B. Click on the Next Citation button.
   
   C. Word will find the first citation in your document. Click back in the document and highlight the text with the full citation.
   
   D. With the citation highlighted, click in the Selected Text area in the dialog box. Word will insert the highlighted text.
   
   E. Select the proper Category (Cases, Statutes, etc.)
   
   F. In the Short Citations box, edit the cite as it appears in the document as the short citation.
   
   G. Click the Mark button or the Mark All button to mark all citations. Note: We believe that Word falls short when it tries to update newly added citations. It was
inconsistent, at best, when we tested this feature. As such, we recommend that you create the table of authorities at the very end of the drafting process.

H. Repeat the above steps to mark all citations and close the Mark Citation dialog box.

4. **Generate a Table of Authorities Based on Your Marked Citations:**

   A. Place the cursor where you want to insert the table of authorities.
   
   B. Select **References ribbon ➔ Table of Authorities group ➔ Insert Table of Authorities button**.
   
   C. Pick the desired format.
   
   D. Deselect the **Use passim** option.
   
   E. Deselect the **Keep original formatting** option.
   
   F. Select **All** under **Category** so that Cases, Statutes, etc. will appear in the table of authorities.
   
   G. Click **OK** to insert the table of authorities.

5. **Page Number Warning:** **NOTE:** When the Table of Authorities fields are visible (Show/Hide is turned on), *the page numbers will not accurately reflect the actual page numbers of the document*. This is because the Table of Authorities fields, when visible, take up significant additional space which will make your document appear longer than it is (and seemingly make the Table of Contents or Table of Authorities page number appear to be incorrect). Simply click the **Home ribbon ➔ Paragraph group ➔ Show/Hide button**. This will hide the Table of Authorities fields, and display accurate page numbers. Then update your Table of Authority page numbers (click in the Table of Authorities and click **Update field**).
6. **Editing Table of Authorities Entries by Editing TOA Fields**: Microsoft Word "marks" entries by placing a Table of Authorities field immediately after the citation. There are two types of Table of Authorities fields (1) long citation fields and (2) short citation fields. Once the fields are in the document, edit the fields directly to change the Table of Authorities entry.

A. **Long Citation Fields**: Long citation fields are used by Word to mark the first instance of a citation. Long citation fields have the following format:
{ TA \"Smith v. Jones (1988), 85 Ohio St.3d 123, 54 N.E.2d 98\" \s "Smith" \c 1}\n
**TA** is the field code for Table of Authorities

\l designates how the Table of Authorities entry should be displayed in the actual Table of Authorities.

\s is the short citation form that Word will use to search for and mark additional entries.

\c is the category of the citation; i.e. Case, Statute or Rule.

---

**Figure 12**

The diagram illustrates the process of marking a citation in Word. It shows the fields for selecting text, category, short citation, and long citation. The fields are labeled with explanations for each component: the TA field is for the Table of Authorities, \l designates the display format, \s marks the short citation, and \c denotes the citation category such as Case, Statute, or Rule.
B. **Short Citation Fields**: Short citation fields are used by word to mark additional instances of a citation in a document. Short citation fields have the following format:

```
{ TA \s "Smith" }
```

- **TA** is the field code for Table of Authorities
- **\s** is the short citation form that Word will use to search for and mark additional entries.

![Mark Citation Dialog](image.png)

**Figure 13**

C. **How Word uses Long and Short Citation Fields**: Word uses the long citation field to mark the first instance of a citation, and the short citation field to mark additional instances. Therefore, there should be only one long citation field per unique citation and multiple short citation fields for additional instances of that unique citation. See the example below (emphasis added):
Before the Act was adopted to promote this objective, public labor relations were characterized by wide and irrational variations among various local governmental entities relating to all manner of terms and conditions of employment. Not long ago, this court recalled that deplorable time. In Kettering v. State Emp. Relations Bd. (1986), 26 Ohio St.3d 50, 56, 26 OBR 42, 496 N.E.2d 983, this court stated ****

The decision below represents precisely the sort of return to the pre-Act “system” that this court condemned in Kettering, supra. This court’s holding in Kettering makes clear that, under the Act, a collective bargaining agreement binds the municipality and all of its agencies. No municipal agency can operate independently of that agreement; nor can it render the agreement a nullity by purporting to assume control over a term or condition of employment that is governed by the agreement.

D. Changing the format or text of the case citation in the Table of Authorities: Edit the long citation field to change the format or text of a case citation entry in the Table of Authorities. So for example, if the case name has to be in italics in the Table of Authorities, then make the case name italics in the long citation field. Select the name of the case contained within the quotation marks and make the text italics:

Change:

{ TA "Smith v. Jones (1988), 85 Ohio St.3d 123, 54 N.E.2d 98" "Smith" c 1}

To:

{ TA "Smith v. Jones (1988), 85 Ohio St.3d 123, 54 N.E.2d 98" "Smith" c 1}

This will cause the case name to display with italics in the actual Table of Authorities entry.

To force the case name to be on a separate line within the Table of Authorities, you need to insert a line break (SHIFT + ENTER) into the long citation field where you want to start a second line.

Change:

{ TA "Smith v. Jones (1988), 85 Ohio St.3d 123, 54 N.E.2d 98" "Smith" c 1}

To:

{ TA "Smith v. Jones (1988), 85 Ohio St.3d 123, 54 N.E.2d 98" "Smith" c 1}

Don’t worry if the field looks strange in your document. The field does not print, but it will force a line break in your Table of Authorities.
Figure 14

E. **Table of Authorities Styles**: There are two Table of Authorities styles to be aware of (1) Table of Authorities, and (2) TOA Heading. These two styles control how the Table of Authorities is actually formatted. So, for example, to add a space between the word "Cases" and the citations, you need to modify the TOA Heading style to add a 12 pt space after the paragraph.

Similarly, to add a space between each citation, edit the Table of Authorities style to add a 12 pt space after the paragraph.

Figure 15

F. **Changing or Renaming Categories**: Word supports up to 16 different categories of citations, numbered 1 through 16. The labels for these categories can be changed on the **Mark Citations dialog** (References ribbon ➤ Table of Authorities group ➤ Mark Citations button). Open the dialog and click **Category....**
This will open the **Edit Category dialog** to rename (replace) any of the 16 categories. So to replace the **Cases category** with "Ohio Case Law", simply select **Cases** (i.e. category number 1), type "Ohio Case Law" in the **Replace with box**, and click **Replace**. Click **OK**, then **Close**.

Now update the Table of Authorities to update the label (right click on the Table of Authorities and select **Update Field**).
G. **Changing a Citation's Category:** Sometimes a citation gets placed into the wrong category. For example, a case gets marked as a statute. To change a citation's category, **edit the long citation field,** and change the category to the correct number. For example, if "Cases" is category 1, and "Statutes" is category 2, then to change the citation from being listed in "Statutes" to being listed in "Cases", change the category from 2 to 1. The category is defined in the Long Citation field after the "\c":

**Change:**

\{ TA \"Smith v. Jones (1988), 85 Ohio St.3d 123, 54 N.E.2d 98" \s "Smith" \c 2} 

**To:**

\{ TA \"Smith v. Jones (1988), 85 Ohio St.3d 123, 54 N.E.2d 98" \s "Smith" \c 1}
7. **Steps For Building a TOA In The Template:**

A. First, we need to get our Categories in order for this brief. Click the References ribbon ➔ Mark Citation button ➔ Category button. Whatever appears in your list of categories can be changed. Further, the order that they appear (top to bottom) dictates the order that each category will appear in your Table of Authorities. For this exercise, we need the categories shown below in the order they appear. After you’re done updating/replacing the categories to reflect the 5 below, click OK.

![Figure 19](image)

B. You should still be in the Mark Citation dialog at this point. So now click Next Citation until you find State v. Carter. Follow these steps:

i. Select the entire citation (*State v. Carter, 569 N.W.2d 169 (Minn. 1997)*)

ii. Switch the Category to State Court Cases.

iii. Click in the Selected Text box (which will populate that box with that you selected).

iv. Leave the short citation the same as the long citation and click the Mark All button. This will turn on Show/Hide so you can see the hidden codes.

C. Click Next Citation. Select State v. Johns ➔ click in the Selected text box ➔ click Mark All.

D. Click Next Citation. Note that the next State v. Carter is a different case than the one we previously marked. Mark it as above.

E. Next Citation should take you to 28 U.S.C. § 1257 (1997). Mark it as a Federal Statute (don’t forget to change your Category before clicking Mark All).
F. Mark U.S. Const. Amend. IV as a Constitutional Provision.

G. Mark Minnesota Statute § 609.05 as a State Statute. Then select it again below the block quote, click on Minnesota Statute §609.05 in the list under Short Citation and click Mark.


J. You’re going to find State v. Carter, 569 N.W.2d 169, 172 (Minn.1997) again on a later page. Select it first, then click on State v. Carter, 569 N.W.2d 169, 172 (Minn.1997) in the list of short citations and click Mark.

K. Mark the rest of the citations.

L. When you’re done, put your cursor on the third line of the Table of Authorities Page (v.) ➔ click the References ribbon ➔ click the Insert Table of Authorities button on the right side.

M. If you want to change the way the categories are showing up, modify the TOA Heading style which will appear in your styles pane. If you want to change the entries themselves, then modify the style called Table of Authorities.

QUESTIONS ABOUT WORD?

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