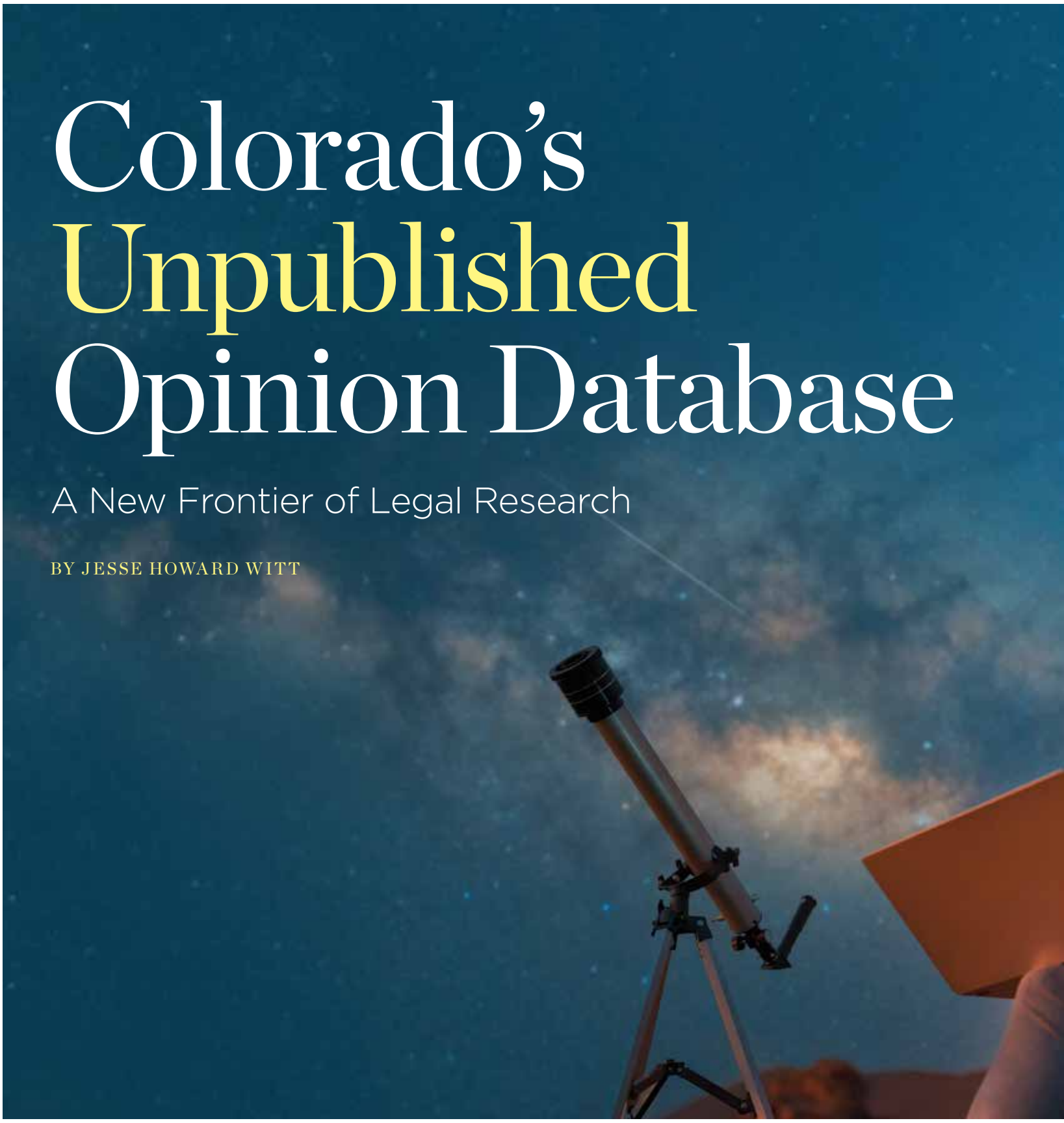
Colorado's Unpublished Opinion Database

A New Frontier of Legal Research

BY JESSE HOWARD WITT



For the first time, unpublished Colorado Court of Appeals opinions are publicly available in a searchable database. This article discusses how practitioners can take advantage of this new resource without violating applicable rules.

In March 2024, the Colorado Judicial Branch announced the launch of a new website containing an archive of appellate opinions dating back to 1864.[1] Soon thereafter, the courts expanded the database to include unpublished opinions of the Colorado Court of Appeals, breaking a long-standing practice of limiting access to such decisions. The website at research.coloradojudicial.gov presents a useful new resource for practitioners, but attorneys should use caution when citing or relying on unpublished cases.

Rule 35 and Colorado's Historic Policy Against Citing Unpublished Opinions

Our court of appeals only publishes a small number of its opinions. On average, the court issues roughly 1,500 opinions per year, and less than 10% of those are typically published.[2]

The criteria for publication are set forth in Colorado Appellate Rule 35, which says that no opinion shall be published unless it: (1) establishes a new rule of law, (2) involves an issue of public interest, (3) directs attention to shortcomings of existing law, or (4) resolves a conflict of authority.[3] Once published, opinions become binding authority and "must be followed as precedent by all lower court judges in the state of Colorado."[4]

Published court of appeals opinions are frequently cited in appellate briefs. Because the court of appeals does not sit en banc, its published opinions are not technically binding on other divisions of the court,[5] but splits of authority are rare. Unlike the Tenth Circuit, no en banc proceeding is needed for one division of the Colorado Court of Appeals to depart from another division's holding.[6]

Conversely, while the Tenth Circuit does allow citation of its own unpublished opinions for their persuasive value,[7] the state court of appeals has maintained an express policy since at least 1994 forbidding citation of unpublished decisions, except in very limited circumstances.[8] The current policy provides: "Opinions not selected for official publication may be cited to the Colorado Court of Appeals only to explain the case history, identify the law of the case, or assert the doctrines of issue preclusion or claim preclusion."[9] It adds: "No other citation of opinions not selected for publication is permitted in proceedings before the Colorado Court of Appeals."[10] Similar policy language appeared on prior iterations of the court's website.[11]

In past years, unpublished opinions were still announced on the website, but the opinions themselves were not linked or made readily available. The court would, however, circulate its unpublished opinions to a handful of specialty bar associations and agencies, and anyone could request copies from the court clerk in person or online, so long as they promised to adhere to the above policies and not upload the unpublished decisions to any online databases (e.g., Westlaw or LexisNexis).[12]

Although its current website does not expound on the reasons for the court's non-citation policy, it has previously offered the following rationale:

> Among the reasons for this policy are: (1) under C.A.R. 35, unpublished opinions are not binding precedent; (2) copies of these opinions are generally not accessible by anyone other than counsel and parties to the case itself because they are not in a published database or other compendium; (3) it is unfair to allow those who are able to maintain such a database (e.g. the state public defender or the attorney general) to cite those opinions when they are not generally available to private practitioners, and opinions that are unpublished which could provide grounds for distinguishing

the case at bar are likewise not available; and (4) since they are intended only for the parties to the case, many unpublished opinions recite few facts, thus making the rationale for the decision less universally applicable.[13]

Citing Unpublished Opinions in Trial Courts: *Patterson v. James*

The court of appeals policy is straightforward in application but has spawned questions regarding its scope. One obvious query was whether the policy extended to trial courts.

In district court motions practice, it is common to attach favorable orders from other district courts, especially when there is no clear appellate case law on point. This would seem to invite citation of unpublished opinions from the court of appeals. After all, if an order from one district court judge is persuasive, would not a decision from three appellate judges be even more persuasive? On the other hand, is it appropriate to rely on an appellate opinion that cannot be cited in the very court where it originated?

Often, whether to cite an unpublished appellate opinion in the trial courts depended on who was citing it. If the unpublished opinion was helpful, a litigator would argue that it should be accepted as persuasive authority and indicative of how any reviewing court would likely rule in future appeals. If the opinion went the other way, however, then it was outrageous that opposing counsel would even mention such a thing, given the issuing court's non-citation policy.

The question of whether unpublished opinions could be cited in the lower courts was finally answered in 2018, when a division of the court of appeals issued its published opinion in *Patterson v. James*.[14] The appeal came after a trial court had awarded attorney fees jointly and severally against an attorney and his client.[15] The attorney appealed on several grounds, including that the trial court should not have considered an unpublished opinion.[16] The attorney argued that "both [opposing counsel]'s citation to an unpublished opinion and the trial court's consideration of that case for its persuasive impact run afoul of the court of appeals's 'Policy Concerning Citation of Unpublished Opinions.'"[17] The court of appeals rejected this argument and concluded that the attorney had misunderstood "the reach of that policy."[18]

The division first explained that, whereas the Colorado Supreme Court holds administrative authority over all lower courts, the court of appeals has no such power.[19] In other words, the court of appeals has jurisdiction to reverse district court judgments, but it cannot dictate policy or tell trial judges what documents can be presented in their courtrooms.[20]

The division next considered the effect of the supreme court's promulgation of Rule 35, which both sets forth the criteria for publication and mandates that published decisions be followed as precedent by all lower court judges.[21] The division held that, while the supreme court has emphasized that unpublished opinions have no value as precedent, there is nothing in either supreme court case law or Rule 35 that prohibits citation of unpublished decisions.[22]

The division made clear that it was not suggesting that trial courts must consider unpublished decisions; it merely acknowledged that "unpublished does not mean confidential," and it observed that unpublished opinions "are routinely shared among . . . certain practice groups and specialty bars," and cited in the trial courts.[23] The division further noted that, should a party or trial judge wish to consider an unpublished opinion, then "all parties should be provided with . . . notice and an opportunity to be heard."[24]

Following *Patterson*, it seemed that unpublished opinions would occupy a peculiar space in Colorado research. There was no comprehensive database available where they could be accessed, searched, or reconciled with other decisions. The court of appeals itself forbade their citation in appellate briefs. They were often released into the wild and discussed among segments of the bar, however.[25] They could also be cited for persuasive value in state trial courts, the Colorado Supreme Court,[26] and federal courts.[27]

Notably, the court of appeals will entertain motions requesting publication of unpublished opinions.[28] In practice, however, this option is rarely invoked due to the potential effect on certiorari petitions. The odds of the supreme court granting certiorari increase dramatically if a court of appeals decision is published.[29] This creates a perverse incentive for the winner of a case to oppose publication; even if the attorney agrees with the decision and believes it to be an important clarification of the law, most clients will not want to risk publication for fear that the supreme court might reverse their favorable result. Conversely, the losing party who feels that an unpublished opinion misstates the law may seek publication in the hope that the supreme court will take up the case and reverse. Exceptions may exist for parties who are willing to gamble their one-time success on the chance of establishing binding precedent for future lawsuits, but this is generally true only for large, institutional clients (e.g., insurance companies, the attorney general, etc.), not the average private litigant.[30]

How Will the Addition of Unpublished Opinions Affect Future Appeals?

In *Patterson*, the division stressed that that litigants have no obligation to cite unpublished opinions, and it observed that "there is at present no comprehensive searchable database available to counsel. Thus, counsel cannot be expected to ferret out every unpublished case that may have conceivable persuasive effect and provide it to the trial court."[31]

While that was true when the court announced *Patterson* in 2018, the landscape changed in 2024, when the judicial branch created its own "comprehensive searchable database" that includes unpublished opinions.

The current archive was implemented to comply with the "Justice Gregory Hobbs Public Access to Case Law Act," passed by the General Assembly in 2022.[32] The Act noted that every person is expected to know the law and that appellate decisions should therefore be freely available and searchable in the same manner as Colorado's constitution, statutes, rules, and regulations.[33] At the time of its announcement, Chief Justice Boatright said he was pleased with the choice of the bill's short title to honor the memory of the former justice's passion for improving Coloradans' access to justice through the courts.[34]

Although the Act did not require the inclusion of unpublished opinions,[35] the judicial branch expanded the site soon after its initial launch to include these decisions. Since then, unpublished opinions have been gradually working their way into proprietary databases such as Westlaw and LexisNexis. As a result, one can expect that citation of unpublished opinions will become far more common in the trial courts in coming years. This, in turn, may present challenges for how our appellate courts deal with these opinions when they are cited in district court proceedings that are later appealed.

As noted above, *Patterson* states that litigants and trial court judges can cite unpublished opinions in the trial courts for persuasive value so long as they provide a copy of the opinion to all parties.[36] In effect, this requires that any unpublished opinion be submitted as an exhibit when cited in a district court, which makes the opinion part of the record on appeal.[37] This may pose a conundrum for appellate practitioners handling appeals from cases where the record includes one or more unpublished opinions.

Assume, for example, that Jack sues Diane and provides the trial court with an unpublished opinion supporting his claim. The judge agrees with Jack and cites the opinion when making findings and conclusions. Diane appeals, and the unpublished opinion is included in the record. Can appellate counsel refer to the unpublished opinion in their briefs?

On the one hand, the unpublished opinion is now an exhibit in the record that informed the lower court's legal rulings. It would be difficult to argue the merits of the appeal without mentioning this document. On the other hand, none of the exceptions in the current policy permit citation to unpublished opinions in the court of appeals, even if the opinion was discussed below.

So far, it appears that this circumstance has only occurred on rare occasion. In the 2020 case of *Guy v. Whitsitt*, a division of the court of appeals declined to sanction an appellant for citing two unpublished opinions in his briefs.[38] The division noted that one case was from another jurisdiction and that the court will "regularly cite with approval unpublished decisions from other jurisdictions."[39] Although the second unpublished case was indeed from Colorado, the division held that this "was first permissibly cited for its persuasive value in the district court" in accordance with *Patterson*.[40] Another division followed the same approach two years later in *Mohammadi v. Kinslow*, where it allowed the parties to discuss an unpublished opinion that had featured prominently in the trial court's analysis.[41] These decisions would seem to suggest that there may now be an unwritten exception to the court's non-citation policy, such that an unpublished opinion can be cited if it was included as an exhibit in the record on appeal.

This is a logical exception, but practitioners should be cautious before taking action that might be interpreted as a disregard of the court's policies. One approach might be to seek leave by motion prior to submission of briefs, so that a motions panel or merits division could clarify how it wishes to address the presence of any unpublished opinions in the record.

Thus far, this has been mostly an abstract or hypothetical question, but it may soon become commonplace now that unpublished opinions are readily available in research databases. One should expect that, as citation of unpublished opinions becomes more common in trial courts, there will be a corresponding increase in the number of appeals that include unpublished opinions as part of the record.

Research Tips for the New Frontier

Unpublished opinions may soon flood online databases as well. Although it does not appear that providers such as Westlaw and LexisNexis have ingested the entire Colorado database of historic opinions yet, they do seem to be adding new unpublished cases as they are announced each week. And because the court of appeals publishes less than 10% of its decisions,[42] this means that nine out of every ten new cases added to the databases may now be unpublished. Practitioners need to consider this circumstance when performing legal research.

First and foremost, attorneys must know the citation rules of whatever court they are appearing before, because these can vary widely across different jurisdictions.[43] Many courts in both Colorado and elsewhere restrict the citation of unpublished cases. Although some commentators and litigants have suggested that rules restricting citation of unpublished opinions impinge on their rights to exercise freedom of speech or to seek judicial notice of uncontested facts, one should be cautious before picking a fight with judges over their court policies, since that is rarely an effective strategy—no matter how good an unpublished case might be.[44]

In Colorado, anyone filing a brief in our court of appeals must be mindful of its policies and avoid citing any unpublished opinions unless one of the narrow exceptions applies. Failure to comply may result in a brief being stricken.

Likewise, even in courts that permit citation of unpublished opinions, practitioners should recognize that not all cases carry equal weight. As *Patterson* and Rule 35 make clear, district courts must follow published decisions, but they are free to disregard unpublished opinions. Local rules may also require that advocates include a parenthetical with their citations to indicate that a decision is unpublished.[45]

At the time of this article, Westlaw and LexisNexis are not flagging unpublished Colorado cases with a KeyCite red flag or a Shepard's stop sign. This differs from their treatment of unpublished opinions in other jurisdictions, such as California, where unpublished opinions display a warning signal to indicate that they are not citable in those courts.[46] Unless this changes, it falls on the practicing attorney to know the difference and recognize which cases are not citable or binding in Colorado courts.

Moreover, because unpublished opinions are neither cited by appellate courts nor subject to being Shepardized or otherwise reviewed for changes in authority, attorneys should take particular care to confirm that an unpublished opinion does not conflict with subsequent published decisions or rest on underlying case law that was later overruled. The luxury of relying on such services to quickly assess whether a holding is good law does not extend to unpublished opinions.

Likewise, Colorado's library of unpublished opinions has not been maintained with the same rigor afforded to published decisions.

Some case names, for example, may appear with nonstandard abbreviations, which could cause them to elude basic searches.[47]

Filters may aid in the research process. On Westlaw and LexisNexis, the default search option will return both published and unpublished cases, but users can easily filter their results by checking one of the boxes under "Reported Status" or "Published Status" on the left sidebar. Thus, if researchers wish to confine their research to published cases that can be cited in the Colorado Court of Appeals, they should check the box to return only "Reported" cases. A similar option is available on the judicial branch's own website at research.coloradojudicial.gov. This site is free to the public and accepts basic Boolean connectors (AND, OR, NOT), but it does not currently offer the more advanced search tools available on paid sites. Initial searches return all cases, published and unpublished, but users can filter by publication status.

None of this is to suggest that unpublished opinions are useless to the appellate practitioner. On the contrary, even if the unpublished opinion itself cannot be cited in all courts, it may contain valuable analysis or lead a practitioner to published case law that can be cited in a brief. Depending on the circumstances, experimenting with different search parameters may prove useful. For major research projects or efforts to learn an unfamiliar area of law, it may be prudent to start with a broad search into all resources (published and unpublished) and then narrow the scope to published opinions later in the process. For more routine tasks, such as quickly finding authority for an established premise, it may be preferable to start with a filter for published decisions only, rather than wade through lengthy lists of unpublished decisions that cannot be cited.

Indeed, this might be the biggest change that Colorado practitioners will face as unpublished opinions become more common. The addition of these decisions to legal databases represents a major shift in legal research in the state, and attorneys must adapt. In the past, almost any case that came back in response to a search term could be cited, and one needed only make sure it did not have a KeyCite red flag or a Shepard's stop sign indicating negative treatment. Now, practitioners must also distinguish published from unpublished opinions and become familiar with search filters that they may have ignored in the past. Going forward, not all search results will constitute binding or citable case law.

Furthermore, unless and until Westlaw and LexisNexis fully incorporate the archive of unpublished case law into their databases, users of those services may wish to take the additional step of running a companion search on the judicial branch website to assess whether any older, unpublished opinions might provide insight on subjects where the courts have published no binding precedent.

This process may evolve as legal research providers race to incorporate artificial intelligence (AI) tools into their platforms. These resources are improving the results of natural language searches and may one day supplant the Boolean queries taught to generations of law school students. One should expect these tools to improve significantly in coming years. At present, AI results appear to exclude unpublished opinions by default, and they do not always summarize published opinions accurately. Current AI results often seem to be on par with the skills of a first-year associate tasked with drafting a memorandum on a new area of law: They can be a useful starting point but require review and verification by experienced counsel.[48] Much like an unpublished opinion, however, AI search results—even if not entirely reliable or citable—can provide useful direction and help practitioners know where to look for controlling authority.

Conclusion

Colorado's database of unpublished opinions provides a wealth of previously unavailable information to the public and the bar, true to the late Justice Hobbs's vision of transparent access to justice for all. Practitioners should use caution when navigating this resource, however, and take care to avoid running afoul of court policies while they explore this new digital frontier. CL

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NOTES

1. Colorado Judicial Branch, "Judicial Launches Website for Colorado Appellate Opinions Dating to 1864" (Mar. 5, 2024), https://perma.cc/F7BG-H5UC. The Colorado Court of Appeals did not exist in 1864, but this database appears to include many or all court of appeals decisions dating back to 1891. *See, e.g.*, *Marks v. Anderson*, 27 P. 168 (Colo.App. 1891).

2. *See* Colorado Judicial Branch, *Colorado Judicial Branch Annual Statistical Report Fiscal Year 2024* 12, https://www.coloradojudicial.gov/sites/default/files/2024-09/FY2024%20Annual%20Statistical%20Report%20FINAL%20%28Final%29_0.pdf. *See also* Colorado Judicial Branch, *Colorado Judicial Branch Annual Statistical Report Fiscal Year 2022* 13, https://www.courts.state.co.us/userfiles/file/Administration/Planning_and_Analysis/Annual_Statistical_Reports/2022/FY2022%20Annual%20Report.pdf.

3. C.A.R. 35(e) states in full that no case shall be published unless it meets one of the following criteria: "(1) the opinion establishes a new rule of law, or alters or modifies an existing rule, or applies an established rule to a novel fact situation; (2) the opinion involves a legal issue of continuing public interest; (3) the majority opinion, dissent, or special concurrence directs attention to the shortcomings of existing common law or inadequacies in statutes; or (4) the opinion resolves an apparent conflict of authority."

4. *Id.*

5. *See Becker v. Becker (In re Estate of Becker)*, 32 P.3d 557, 563 (Colo.App. 2000).

6. *Compare Becker*, 32 P.3d at 563, *with Haynes v. Williams*, 88 F.3d 898, 900 n.4 (10th Cir. 1996).

7. *See United States v. Austin*, 426 F.3d 1266, 1274 (10th Cir. 2005) ("[W]e have generally determined that citation to unpublished opinions is not favored. However, if an unpublished opinion or order and judgment has persuasive value with respect to a material

issue in a case and would assist the court in its disposition, we allow citation to that decision.") (internal citations omitted). *See also* Fed. R. App. P. 32.1.

8. *See* DuVivier, "Not Selected for Official Publication," 26 *Colo. Law.* 79 (July 1997), https://digitalcommons.du.edu/cgi/viewcontent.cgi?article=1369&context=law_facpub.

9. https://www.coloradojudicial.gov/court-appeals/court-appeals-policies [https://perma.cc/WJ2V-4WAW].

10. *Id.*

11. The policy also included an exception for certain cases that West published in the 1970s. In full, it provided: "Citation of unpublished opinions is forbidden, with the following exceptions: "(1) Unpublished opinions may be cited to explain the case history or to establish the doctrines of law of the case, res judicata, or collateral estoppel; (2) This policy shall not apply to opinions that were designated as 'Not Selected for Official Publication' and were announced between January 1, 1970 and November 1, 1975, but nevertheless were published in the Pacific Second Reporter. (Policy adopted April 28, 1994)." It further noted that "[u]npublished opinions are not displayed on this web site," and "[c]opies of unpublished opinions are provided for private use and are not to be included in an electronic database or otherwise published." Colorado Judicial Branch, Court of Appeals Forms and Policies, https://web.archive.org/web/20181003152040/https://www.courts.state.co.us/Courts/Court_Of_Appeals/Forms_Policies.cfm (capturing the policy as it existed on October 3, 2018).

12. *See* https://web.archive.org/web/20231208102820/https:/www.courts.state.co.us/Courts/Court_Of_Appeals/Opinion_Request.cfm (capturing the request form as it existed on December 8, 2023).

13. Casebolt, "Procedures and Policies of the Colorado Court of Appeals," https://web.archive.org/web/20070204033824/http://www.courts.state.co.us/coa/forms/proceduresandpolicies.htm (capturing the article as it existed on Feb. 7, 2007).

14. *Patterson v. James*, 454 P.3d 345 (Colo.App. 2018).

15. *Id.* at 348.

16. *Id.* at 353.

17. *Id.*

18. *Id.*

19. *Id.*

20. *See id.*

21. *Id.* (citing C.A.R. 35(e)).

22. *Id.* (citing C.A.R. 35(e), (f) and *Welby Gardens v. Adams Cnty. Bd. of Equalization*, 71 P.3d 992, 999 (Colo. 2003)).

23. *Id.*

24. *Id.* at 354.

25. Trial court citation of unpublished opinions was particularly common in practice areas where the court of appeals had decided a question of first impression yet decided not to publish. Why this occurs is a frequent subject of frustration among some members of the bar, especially those who practice in niche fields with scant legal authority. The ability to cite an unpublished decision on point can mitigate that. An even more frustrating circumstance arises where appellate counsel knows that a recurring issue has already been decided by one division, but citation to the earlier opinion remains forbidden in subsequent appeals among different parties. Judges have indicated to the author that whether to relax the court's non-citation policy has been recent a topic of discussion, but no changes are currently planned.

26. *But see* DuVivier, *supra* note 8 at 97 (noting that the Colorado Supreme Court disfavors citation of unpublished opinions from the court of appeals).

27. Federal courts in the Tenth Circuit are not bound by the rulings of intermediate state appellate courts, but they will generally follow published opinions of the Colorado Court of Appeals "absent convincing evidence" that the Colorado Supreme Court would decide an issue differently. *Greystone Constr., Inc. v. Nat'l Fire & Marine Ins. Co.*, 661 F.3d 1272, 1282 (10th Cir. 2011). It is hard to predict the weight that a federal appellate or trial judge might give to an *unpublished* court of appeals opinion, but one district court in the Eighth Circuit recently relied on an unpublished Colorado Court of Appeals opinion to decide an unsettled question of Colorado law, citing *Patterson* to bolster its decision to consider the unpublished authority. *Dobles v. Black Hills Corp.*, 768 F.Supp. 3d 991, 1003 (D.S.D. 2025).

28. *See* Low, "Certworthy," 24 *Colo. Law.* 271, 272 (Feb. 1995). *See also, e.g., Haney v. Colo. Dep't of Rev.*, 361 P.3d 1093, 1094 n.1 (Colo.App. 2015).

29. Low, *supra* note 28 at 272.

30. Whether this paradigm offends the principles of democratic government is beyond the scope of this article, but one may consider: Is it fair for a system to give binding effect only to published decisions, when that same system arguably favors publication of case law that benefits insurance companies, prosecutors, and other institutional litigants? Or should the system remove the disincentive for individuals to seek publication of favorable rulings?

31. *Patterson*, 454 P.3d at 353.

32. HB 22-1091, codified at CRS § 13-2-122.

33. HB 22-1091.

34. Colorado Judicial Branch, *supra* note 1.

35. CRS § 13-2-122(2)(b).

36. *Patterson*, 454 P.3d at 353–54.

37. C.A.R. 10(a)(1).

38. *Guy v. Whitsitt*, 469 P.3d 546, 555 n.15 (Colo.App. 2020).

39. *Id.* (citing *People v. Sharp*, 459 P.3d 725, 734 n.7 (Colo.App. 2019); *Gagne v. Gagne*, 459 P.3d 686, 692, 695 (Colo.App. 2019); *People v. Garrison*, 411 P.3d 270, 280 (Colo.App. 2017)).

40. *Id.* (citing *Patterson*, 454 P.3d at 353). That the court of appeals will welcome unpublished opinions from other states but refuse to consider its own unpublished opinions is a peculiar result of its current policy.

41. *Mohammadi v. Kinslow*, 521 P.3d 1057, 1060 (Colo.App. 2022), *rev'd and remanded on other grounds*, 546 P.3d 130 (Colo. 2024).

42. *See Colorado Judicial Branch Annual Statistical Report Fiscal Year 2024, supra* note 2 at 12. *See also Colorado Judicial Branch Annual Statistical Report Fiscal Year 2022, supra* note 2 at 13.

43. For a comprehensive summary, see Cleveland, "Appellate Court Rules Governing Publication, Citation, and Precedential Value of Opinions: An Update," 16 *J. App. Prac. & Process* 257 (Fall 2015), https://bit.ly/44NW1hb.

44. *See, e.g.*, Talkov, "Citing Unpublished Opinions: The Conflict Between the No-Citation Rule and Judicial Notice," Talkov Law Partition Attorneys, www.talkovlaw.com/citing-unpublished-opinions-the-conflict-between-the-no-citation-rule-and-judicial-notice [https://perma.cc/2C3U-KW73]. *See also Smith v. US Ct. of Appeals*, 484 F.3d 1281, 1285 (10th Cir. 2007).

45. *See, e.g.*, 10th Cir. R. 32.1(A) ("Citation to unpublished opinions for which a Federal Appendix cite is unavailable must include an 'unpublished' parenthetical").

46. *Compare* Cal. R. Ct. 8.1115(b) *with* C.A.R. 35(e).

47. For example, when perusing the new database, the author was unable to locate a prior unpublished case until he realized it had been saved in the judicial branch database using acronyms rather than party names, though the full names do appear on Westlaw and LexisNexis. *See PPCA v. PPP*, No. 12CA1539, 2013 Colo.App. LEXIS 2990 (Colo.App. Aug. 22, 2013) (unpublished), *also known as Prospector's Point Condo. Ass'n v. Prospector Point Props., LLC*. At the time the opinion was announced, this was of little consequence because it was only provided to the appellant and appellee, but the opinion is now available to the public. To anticipate such issues, researchers may wish to expand their search terms or check for alternate spellings.

48. The robots may eventually take our jobs, but that day has not come yet. Examples abound of attorneys being sanctioned for failing to review court submissions prepared by open-source AI software such as ChatGPT, which can sometimes hallucinate or refer to nonexistent case citations. *See, e.g.*, Cassens Weiss, "AI-Hallucinated Cases End Up in More Court Filings, and Butler Snow Issues Apology for 'Inexcusable' Lapse," *ABA J.* (May 27, 2025), https://www.abajournal.com/news/article/ai-hallucinated-cases-end-up-in-more-legal-documents-and-butler-snow-issues-apology-for-inexcusable-lapse. Although proprietary legal technology such as AI tools provided by Westlaw and LexisNexis may be less prone to these types of errors, attorneys must still review AI-generated research for accuracy, confirm that case summaries accurately reflect the opinions, and verify that no applicable court rules preclude citation.