Predicting the Enforceability of Browse-Wrap Agreements in Ohio

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ABSTRACT

Internet-based commerce has now reached a level where Internet-based businesses, such as amazon.com or ebay.com, sometimes generate more revenue than their brick-and-mortar counterparts. In view of the growth in Internet-based businesses, the courts have been forced to address unconventional contracting mechanisms, such as shrink-wrap, click-wrap, and browse-wrap agreements. Much of the scholarly writing, as well as court opinions, reach a consensus that browse-wrap agreements will be enforceable if there is: (a) sufficient notice of the agreement terms; and (b) clear manifestation of assent to the terms. However, there is very little guidance on how much notice will constitute "sufficient notice." This article analyzes several websites that are likely to withstand judicial scrutiny, and attempts to objectively predict the minimum quanta of notice that is necessary to meet the threshold of "sufficient notice." While the article concentrates on Ohio, the analysis can be translated to 45 other states that have adopted the Uniform Electronic Transactions Act ("UETA"), since the browse-wrap agreement falls within the UETA's definition of a contract.
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I. INTRODUCTION

Statistics relating to the Internet are fascinating, to say the least. For example:

a. Internet-based sales are predicted to reach 204 billion dollars in 2008.2

b. There are over six billion people worldwide, of which almost 1.5 billion access the Internet on a daily basis.3

c. Each of the top five websites4 routinely attracts over 15% of the Internet traffic,5 or over 12 million

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visitors\textsuperscript{6} to each of those sites on a daily basis.

d. Of these websites, google.com and yahoo.com consistently hover at a 30% reach,\textsuperscript{7} attracting 60 million\textsuperscript{8} and 70 million visitors,\textsuperscript{9} respectively.

e. Looking only to the two largest commercial websites,\textsuperscript{10} eBay, Inc. reported net revenues in excess of four billion dollars for the six months ending on June 30, 2008,\textsuperscript{11} while Amazon.com, Inc., reported net sales in excess of eight billion dollars during the same period.\textsuperscript{12}

The statistics go on and on.

Given the ubiquity of the Internet, it is not surprising that almost every major company has a website. Not only so, but


\textsuperscript{7} Website Traffic Comparisons, http://www.alexa.com(input website names in boxes provided and click compare sites) (last visited on Jan. 8, 2008).


\textsuperscript{11} eBay, Inc., Quarterly Report (Form 10-Q) (July 24, 2008).

\textsuperscript{12} Amazon.com, Inc., Quarterly Report (Form 10-Q) (July 25, 2008).
these companies engage in commercial transactions over the
Internet, as evidenced by the numbers for eBay, Inc., and
Amazon.com, Inc. In short, Internet-based commercial
transactions have now become everyday occurrences, and websites
have become valuable assets for companies engaging in online
transactions.

In an effort to govern the behavior of those who access these
websites, companies routinely include notices such as terms-of-
use provisions or privacy-policy provisions. These notices
seek to bind those that visit the website to what is commonly
designated as a "browse-wrap" agreement.

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13 eBay, Inc., Quarterly Report (Form 10-Q) (July 24, 2008).
14 Amazon.com, Inc., Quarterly Report (Form 10-Q) (July 25, 2008).
15 See, e.g., User Agreement at ebay.com,
   http://pages.ebay.com/help/policies/user-agreement.html?_trksid=m40 (last visited on Jan. 9, 2008);
   Conditions of Use at amazon.com,
16 See, e.g., Privacy Policy at ebay.com,
   http://pages.ebay.com/help/policies/privacy-policy.html?_trksid=m40 (last visited on Jan. 9, 2008);
   Privacy Notice at amazon.com,
17 The term is used in Pollstar v. Gigmania Ltd., 170 F. Supp. 2d 974, 981 (E.D. Cal. 2000).
Legal scholars have generally concluded that a browse-wrap agreement will be enforceable if the following two-fold conditions are met: (a) there is sufficient notice of the terms of the browse-wrap agreement; and (b) there is proof of assent by the website visitor.\textsuperscript{18} What is not addressed by those articles, however, is the question of how much notice constitutes sufficient notice for a particular browse-wrap agreement to be binding. In other words, not addressed is the quanta of notice that will suffice for a browse-wrap agreement to withstand judicial scrutiny. Of course, it would be a herculean task to examine every browse-wrap agreement on a case-by-case basis to determine whether or not each browse-wrap agreement is conspicuous enough to withstand scrutiny.

In order to simplify such a herculean task, this paper seeks to determine a minimally-acceptable level of conspicuousness for browse-wrap agreements, such that any browse-wrap agreement that

provides greater notice than this minimum threshold will likely withstand judicial scrutiny. In other words, we intend to recommend a workable guideline, such that one can predict (to some extent) whether or not a particular browse-wrap agreement gives sufficient notice that it will be enforecable against a website visitor.

In suggesting a minimally-acceptable threshold, we limit our analysis to only one jurisdiction, namely, Ohio. The reason being that contract law is forum-dependent, and what may be applicable in one jurisdiction may not necessarily be applicable in another jurisdiction. While a similar approach may be taken to determine minimally-acceptable thresholds for other jurisdictions, we leave those analyses for another day.

With that said, this paper begins with an examination of the Uniform Electronic Transactions Act ("UETA"), which governs electronic transactions, and which has been statutorily enacted in Ohio.\(^\text{19}\) Thereafter, we examine the evolution of the browse-wrap agreement, along with judicial decisions relating to the browse-wrap agreement. From there, examples of Ohio websites, which are likely to withstand scrutiny, are reviewed. We then

\(^{19}\) Ohio Rev. Code Ann. §§ 1306.01 et seq. (West 2008).
parse this information to determine a minimally-acceptable threshold for notice, such that any notice that is more conspicuous than this minimum threshold will likely be sufficient to fulfill the notice requirement.

II. THE UNIFORM ELECTRONIC TRANSACTIONS ACT ("UETA")

The function of the judiciary is to interpret a constitutional or statutory text. Thus, if there is a constitutional or statutory provision that addresses browse-wrap agreements, then that text serves as a starting point for the analysis. As noted by other scholars, the Uniform Electronic Transactions Act ("UETA") deals with the validity of all electronic transactions, which arguably include browse-wrap agreements. As such, we begin with the text of the UETA, specifically as it

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has been enacted in Ohio.\textsuperscript{21}

\textbf{A. History and Purpose of the UETA}

Since Ohio has adopted the UETA, as proposed by the National Conference of Commissioners on Uniform State Laws ("NCCUSL"), we begin our analysis with the NCCUSL version of the UETA. Since the UETA has been exhaustively discussed by others,\textsuperscript{22} we only examine the relevant portions of the UETA here.

The prefatory note to the UETA expressly recites:

\begin{quote}
With the advent of electronic means of communication and information transfer, business models and methods for doing business have evolved to take advantage of the speed, efficiencies, and cost benefits of electronic technologies. These developments have occurred in the face of existing legal barriers to the legal efficacy of records and documents which exist solely in electronic media. Whether the legal requirement that information or an agreement or contract must be contained or set forth in a pen and paper writing derives from a statute of frauds affecting the enforceability of an agreement, or from a record retention statute that calls for keeping the
\end{quote}

\textsuperscript{21} Since both the National Conference of Commissioners on Uniform State Laws ("NCCUSL") and the State of Ohio refer to their respective texts as "Uniform Electronic Transactions Act," we distinguish the two in this paper by referring to the NCCUSL version simply as UETA and the Ohio version as the Ohio-UETA.

paper record of a transaction, such legal requirements raise real barriers to the effective use of electronic media.\textsuperscript{23}

Thus, by its own terms, the UETA arose from a need to accommodate electronic commerce, including communications by electronic means and electronic information transfer. The UETA further recites:

\begin{quote}
It is important to understand that the purpose of the UETA is to remove barriers to electronic commerce by validating and effectuating electronic records and signatures. It is NOT a general contracting statute - the substantive rules of contracts remain unaffected by UETA.\textsuperscript{24}
\end{quote}

Hence, the UETA was never intended to supersede any existing laws in the various jurisdictions. Rather, the UETA's intent was to extend the applicable law in these various states, such that anything that could be done by pen-and-paper, with certain exceptions, could just as easily be done by ones-and-zeros.

With that, we now turn to the Ohio-specific (hereafter "Ohio-UETA"), which has been codified as Ohio Revised Code, §§

\textsuperscript{23} Uniform Electronic Transactions Act (UETA), approved by the National Conference of Commissioners on Uniform State Laws (NCCUSL) on July 23, 1999, Prefatory Note.

\textsuperscript{24} Uniform Electronic Transactions Act (UETA), approved by the National Conference of Commissioners on Uniform State Laws (NCCUSL) on July 23, 1999 (emphasis in original).
B. Enactment of the UETA by Ohio

The Ohio-UETA resulted from File 173, H.B. No. 488, which was introduced to the Ohio legislature on October 27, 1999. The purpose of the bill was to enact sections within the Ohio Uniform Commercial Code ("UCC") that would accommodate electronic records and signatures. Thus, when first introduced, it was designated as the "Electronic Records and Signatures Act." While the originally-introduced bill may have had a different name, its purpose did not evolve much, namely, to facilitate electronic communications.

On April 5, 2000, as reported by the House Financial Institutions, the legislature adopted the Ohio-UETA for use of

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electronic records and signatures. That report did nothing more than highlight various portions of the act, often verbatim regurgitating the language of the eventually-enacted Ohio-UETA.

On April 11, 2000, the bill passed the house with a unanimous 97-0 vote, exactly as reported on April 5, 2000.

On May 17, 2000, it was reported by the Senate Finance & Financial Institutions, and on that same day passed the Senate without modification and by a unanimous 33-0 vote.

The bill was: (a) passed by the General Assembly on May 23, 2000; (b) approved June 14, 2000; and (c) became effective as

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30 For example, the legislative history recites that "a contract may be formed by the interaction of electronic agents of the parties, even if no individual was aware of or reviewed the electronic agents' actions or the resulting terms and agreements." This language is found, verbatim, in the Ohio Revised Code § 1306.13(A) ("A contract may be formed by the interaction of electronic agents of the parties, even if no individual was aware of or reviewed the electronic agents' actions or the resulting terms and agreements."). Other verbatim recitations are found throughout the legislative history.


of September 14, 2000.\textsuperscript{35}

In short, the legislative history recites verbatim the language of the eventually-enacted Ohio-UETA. As such, we presume that the plain and ordinary meaning of the Ohio-UETA controls, and it is to the text of the Ohio-UETA that we now turn our attention.

\textbf{C. Applicability of the Ohio-UETA}

It should be noted at the outset that the Ohio-UETA expressly disclaims applicability to: (a) the execution of wills, codicils, or testamentary trusts;\textsuperscript{36} (b) anything that is already covered by the Ohio Uniform Commercial Code (with certain exceptions);\textsuperscript{37} (c) laws regulating commercial paper;\textsuperscript{38} (d) banking regulations;\textsuperscript{39} (e) laws relating to letters of credit;\textsuperscript{40} (f) warehouse receipts, bills of lading, and other documents of

\begin{itemize}
  \item \textsuperscript{34} H.B. 488, 123d Gen. Assem., (Ohio 2000) File 173.
  \item \textsuperscript{36} Ohio Rev. Code Ann. § 1306.02(B)(1).
  \item \textsuperscript{37} § 1306.02(B)(2).
  \item \textsuperscript{38} § 1306.02(B)(2).
  \item \textsuperscript{39} § 1306.02(B)(2).
  \item \textsuperscript{40} § 1306.02(B)(2).
\end{itemize}
title;\textsuperscript{41} (g) investment securities;\textsuperscript{42} and (h) secured transactions.\textsuperscript{43}

Given these express exclusions, it is doubtful that a browse-wrap agreement can bind a party to any of the above-recited exceptions to the Ohio-UETA. The reason being that: (a) browse-wrap agreements are electronic records\textsuperscript{44} that are created by an electronic signature;\textsuperscript{45} and (b) the Ohio-UETA expressly excludes the use of electronic records and electronic signatures in the above-recited areas. Thus, it seems axiomatic that one cannot bring within the Ohio-UETA something that the Ohio-UETA expressly disclaims.

Insofar as this paper addresses the enforceability of browse-wrap agreements, we analyze the Ohio-UETA in the context of only those transactions that are not expressly excluded by the Ohio-UETA.

\textsuperscript{41} § 1306.02(B)(2).
\textsuperscript{42} § 1306.02(B)(2).
\textsuperscript{43} § 1306.02(B)(2).
\textsuperscript{44} § 1306.01(G).
\textsuperscript{45} § 1306.01(H).
III. THE BROWSE-WRAP AGREEMENT

An exhaustive historical review of the browse-wrap agreement is beyond the scope of this paper. Thus, we limit our review to only select cases that highlight the evolution and the status of the browse-wrap agreement. This is done solely to provide background information on the substantive analysis that follows.

The Ohio legislature, by enacting the Ohio-UETA, has approved of the use of electronic contracts, of which the browse-wrap agreement is a subset. The prudence vel non of the Ohio legislature's policy decision to embrace electronic records (e.g., browse-wrap agreements) is beyond the scope of this paper and will not be discussed.

Finally, we note that our analysis is limited to contract-formation issues; we do not opine on whether or not a particular contract term is substantively repugnant. In other words, we address only the question of whether or not a contract has been formed, and the question of whether the substantive terms of such a contract are binding is beyond the scope of this paper.

With that, we turn our attention to the evolution of the browse-wrap agreement, and select cases that address the predecessors to the browse-wrap.
A. Predecessors to the Browse-Wrap Agreement

The browse-wrap agreement finds its genesis in traditional adhesion contracts. As such, we begin our analysis with the enforceability of non-negotiated contracts of adhesion.


While Carnival Cruise Lines, Inc. v. Shute\(^{46}\) may stand for many different propositions, it also stands for the proposition that non-negotiated contracts of adhesion will be enforceable, so long as the terms of the contract are reasonable. This is so despite the fact that a contract (as in Shute) is in fine-print and on the ticket itself, which likely provided notice to "only the most meticulous passenger."\(^{47}\)

In Shute, despite the relative inconspicuousness of the contract terms, the Court upheld the forum-selection clause in the non-negotiated contract of adhesion, noting that the benchmark for


\(^{47}\) Id. at 597, Stevens, J., dissenting ("I begin my dissent by noting that only the most meticulous passenger is likely to become aware of the forum selection provision. I have therefore appended to this opinion a facsimile of the relevant text, using the type size that actually appears in the ticket itself. A careful reader will find the forum selection clause in the eighth of the twenty-five numbered paragraphs.").
enforceability was whether or not the clause was reasonable. In doing so, the Supreme Court expressed that courts "must . . . account for the realities of form passage contracts." Stated differently, the Court seemed to insinuate that modern-day realities would be a factor in considering the enforcement of adhesion contracts.

While not expressly regurgitating the language of Shute, courts would evaluate commercial realities in determining the enforceability of shrink-wrap, click-wrap, and browse-wrap agreements.

2. The Shrink-Wrap Agreement: ProCD, Inc. v. Zeidenberg

One form of an adhesion contract, known as a shrink-wrap agreement, "gets its name from the fact that retail software packages are covered in plastic or cellophane 'shrinkwrap[.]'" In ProCD, Inc. v. Zeidenberg, the Seventh Circuit Court of Appeals upheld the validity of a shrink-wrap agreement, reciting a litany of examples showing the evolution of business

48 Id. at 593.
49 ProCd, Inc. v. Zeidenberg, 86 F.3d 1447, 1449 (7th Cir. 1996).
50 86 F.3d 1447.
transactions. After providing these examples, the court rejected defendant's position, which would have required all of the licensing terms to be on the outside of the packaging (rather than inside of the shrink-wrap). The Seventh Circuit noted that defendant's position "if taken seriously would drive prices through the ceiling or return transactions to the horse-and-buggy age."

Thus, due in part to the realities of modern-day transactions, the Seventh Circuit endorsed shrink-wrap agreements, despite the fact that shrink-wrap agreements are non-negotiated contracts of adhesion.

3. The Click-Wrap Agreement: Specht v. Netscape Communications Corp.

Subsequent to ProCD, click-wrap licenses emerged as another form of non-negotiated adhesion contract. As noted in Stomp, Inc. v. NeatO, LLC:

A "clickwrap agreement" allows the consumer

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51 Id. at 1450-1452.
52 Id. at 1450.
53 Id. at 1452.
54 61 F. Supp. 2d 1074 (C.D. Cal. 1999).
to manifest its assent to the terms of a contract by "clicking" on an acceptance button on the website. If the consumer does not agree to the contract terms, the website will not accept the consumer's order. Such agreements are common on websites that sell or distribute software programs that the consumer downloads from the website. The term "clickwrap agreement" is borrowed from the idea of "shrinkwrap agreements," which are generally license agreements placed inside the cellophane "shrinkwrap" of computer software boxes that, by their terms, become effective once the "shrinkwrap" is opened.\(^{55}\)

The Second Circuit, in \textit{Specht v. Netscape Communications Corp.},\(^{56}\) struck down a particular click-wrap agreement, finding that the click-wrap agreement in question provided inadequate notice "in the absence of reasonably conspicuous notice that [the offerees] are about to bind themselves to contract terms . . . ."\(^{57}\) In distinguishing \textit{Specht} from \textit{ProCD}, the Second Circuit expressed that, unlike the defendant in \textit{Specht}, "the purchaser in \textit{ProCD} was confronted with conspicuous, mandatory license terms every time he ran the software on his computer . . . ."\(^{58}\)

Thus, while the particular agreement in \textit{Specht} was inadequate,

\(^{55}\) Id. at 1081, FN 11.

\(^{56}\) 306 F.3d 17 (2d Cir. 2002).

\(^{57}\) Id. at 32.

\(^{58}\) Id. at 33.
the Second Circuit seemingly approved of online agreements, as long as there would be "[r]easonably conspicuous notice of the existence of contract terms and unambiguous manifestation of assent to those terms by consumers . . . ."\textsuperscript{59}

As shown in greater detail below, this language approving of "reasonably conspicuous notice" would be a harbinger of the Second Circuit's subsequent decision in Register.com v. Verio, Inc.\textsuperscript{60}

\textbf{B. Judicial Decisions Relating to the Browse-Wrap Agreement}

While a click-wrap agreement appears on a computer screen and prohibits a user from proceeding until the user has manifested the user's assent to the terms and conditions, "a browse-wrap license is part of a web site and the user assents to the contract when the user visits the web site."\textsuperscript{61} Thus, unlike a click-wrap agreement, "[a] defining feature of a browsewrap license is that it does not require the user to manifest assent to the terms and conditions expressly - the user need not sign a

\textsuperscript{59} Id. at 35.

\textsuperscript{60} 356 F.3d 393 (2d Cir. 2004).

document or click on an 'accept' or 'I agree' button. A party instead gives his assent simply by using the website."\(^{62}\)

The following cases exemplify how the courts have handled browse-wrap agreements.

1. **Register.com, Inc. v. Verio, Inc.**

Shortly after deciding *Specht*,\(^ {63}\) in which the Second Circuit ruled that a particular shrink-wrap license was unenforceable because of inadequate notice, that same court upheld the enforceability of a browse-wrap agreement in *Register.com, Inc. v. Verio, Inc.*\(^ {64}\) Distinguishing *Register* from *Specht*, the Second Circuit held that the defendant, Verio, unlike the defendant in *Specht*, was "fully aware of the terms on which Register offered the access."\(^ {65}\)

Additionally, defendant Verio assented to the terms of the browse-wrap agreement by "daily submitting numerous queries, each of which resulted in its receiving notice of the terms

\(^{62}\) *Southwest Airlines Co. v. BoardFirst, LLC*, Civil Action No. 3:06-CV-0891-B (N.D. Tex. 2007) (internal citations omitted).

\(^{63}\) 306 F.3d 17.

\(^{64}\) 356 F.3d 393 (2d Cir. 2004).

\(^{65}\) Id. at 402.
In holding so, the Second Circuit provided the following analogy:

The situation might be compared to one in which plaintiff P maintains a roadside fruit stand displaying bins of apples. A visitor, defendant D, takes an apple and bites into it. As D turns to leave, D sees a sign, visible only as one turns to exit, which says "Apples - 50 cents apiece." D does not pay for the apple. D believes he has no obligation to pay because he had no notice when he bit into the apple that 50 cents was expected in return. D's view is that he never agreed to pay for the apple. Thereafter, each day, several times a day, D revisits the stand, takes an apple, and eats it. D never leaves money.

P sues D in contract for the price of the apples taken. D defends on the ground that on no occasion did he see P's price notice until after he had bitten into the apples. D may well prevail as to the first apple taken. D had no reason to understand upon taking it that P was demanding payment. In our view, however, D cannot continue on a daily basis to take apples for free, knowing full well that P is offering them only in exchange for 50 cents in compensation, merely because the sign demanding payment is so placed that on each occasion D does not see it until he has bitten into the apple.

Verio's circumstance is effectively the same. 67

66 Id. at 401.
67 Id. at 401.
The Second Circuit noted that, "[w]hile new commerce on the Internet has exposed courts to many new situations, it has not fundamentally changed the principles of contract." Thus, when a user is "offered access to information subject to terms of which they [a]re fully aware[,]" then "[t]heir choice [i]s to either accept the offer of contract, taking the information subject to the terms of the offer, or, if the terms [a]re not acceptable, to decline to take the benefit."

In short, the Second Circuit enforced the browse-wrap agreement in Register since: (a) the defendant was aware of the terms (i.e., there was sufficient notice to the user); and (b) the defendant had taken the information (i.e., there was a manifestation of assent).

2. Southwest Airlines Co. v. BoardFirst, LLC

In a recent case, Southwest Airlines Co. v. BoardFirst, LLC, the Northern District of Texas recognized the evolution of commercial transactions in enforcing a browse-wrap agreement. Recognizing that "browsewraps have become more prevalent in

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68 Id. at 403.
69 Id.
70 Civil Action No. 3:06-CV-0891-B (N.D. Tex. 2007).
today's increasingly e-driven commercial landscape,"^71 the court succinctly summarized that "one general principle that emerges is that the validity of a browsewrap license turns on whether a website user has actual or constructive notice of a site's terms and conditions prior to using the site."^72

Indeed, the enforceability of the particular browse-wrap agreement in Southwest turned on the fact that "[t]here [wa]s no dispute that BoardFirst . . . had actual knowledge of Southwest's Terms . . . ."^73

The broad language of the Ohio-UETA bolsters this general principle set forth in Southwest.

C. The Formation of a Browse-Wrap Contract in Accordance with the Ohio-UETA

The evolution of "e-driven commercial landscape,"^74 as addressed by the above-recited cases, affects the construction of the Ohio-UETA, insofar as the statute itself requires the Ohio-UETA to be construed "consistent with reasonable practices concerning

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^71 Southwest at 5.

^72 Southwest at 5 (internal citations omitted).

^73 Southwest at 7.

^74 Southwest at 5.
electronic transactions and with the continued expansion of those practices . . . ."75 Thus, as browse-wrap agreements become more prevalent and commercial practices expand so that companies adopt browse-wrap agreements, the Ohio-UETA must be construed to cover those expanded commercial practices.

The typical parties in the context of a browse-wrap agreement are: (1) an owner or operator of a website, who has packaged the terms-of-use provisions for the website into a browse-wrap agreement; and (2) a visitor to the website. The Ohio-UETA provides guidance on determining whether these two parties do in fact enter into a binding contract.

The browse-wrap agreement itself is an "electronic record" under the Ohio-UETA since it is information that is stored in an electronic medium,76 and can be sent and received by electronic means.77 A binding contract is formed when the visitor electronically signs the browse-wrap agreement by performing an action that is "logically associated with the [browe-wrap agreement] and executed or adopted by [the visitor] with the

75 Ohio Rev. Code Ann. § 1306.05(B).
76 § 1306.01(M).
77 § 1306.01(G).
intent to sign the [browse-wrap agreement]."\textsuperscript{78}

Whether or not the visitor electronically executed the browse-wrap agreement "shall be determined from the context and surrounding circumstance at the time of its creation, execution, or adoption . . . ."\textsuperscript{79} The context and surrounding circumstances include: (a) repeatedly visiting the website; (b) clicking through to links on the website (c) printing or saving the information on the website; (d) or any other action that relates to the website. In fact, a contract is also formed when a visitor uses a program (known as a web-crawler) to automatically access the information on the website,\textsuperscript{80} since a binding contract can be formed "even if no individual was aware of or reviewed . . . the resulting terms and agreements[,]"\textsuperscript{81} as long as the visitor "performs actions that the [visitor] is free to refuse to perform . . . ."\textsuperscript{82}

\textsuperscript{78} § 1306.01(H).

\textsuperscript{79} § 1306.08(B).

\textsuperscript{80} § 1306.13(A) ("A contract may be formed by the interaction of electronic agents of the parties, even if no individual was aware of or reviewed the electronic agents' actions or the resulting terms and agreements.").

\textsuperscript{81} § 1306.13(A).

\textsuperscript{82} § 1306.13(B).
The broad language of the Ohio-UETA bolsters the general principle from *Southwest*. Namely, that "the validity of a browsewrap license turns on whether a website user has actual or constructive notice of a site's terms and conditions prior to using the site."\(^{83}\) In other words, as long as the owner can prove that the browse-wrap agreement was sufficiently conspicuous, then any action by the visitor will be deemed to be an acceptance of the terms of the browse-wrap agreement.

With that, we now turn our attention to various websites that we expect to be valid and enforceable in Ohio.

**IV. EXAMPLES OF OHIO WEBSITES WITH BROWSE-WRAP AGREEMENTS THAT LIKELY PROVIDE SUFFICIENT NOTICE**

While we could have selected browse-wrap agreements from other jurisdictions, which have already been litigated and held to be enforceable, we chose instead to focus on various Ohio websites. Our reasons for selecting the following websites are provided along with our analyses of the websites.

Additionally, in performing our quantitative analyses of the various web pages, we used the Hypertext Markup Language

\(^{83}\) *Southwest* at 5 (internal citations omitted).
("HTML") source for the respective web pages.\textsuperscript{84} As such, not only was the analysis done with a visual inspection, but the analysis actually included a review of the HTML code associated with the web sites.

\section*{A. Example Browse-Wrap Agreements Used by the Ohio Legislature}

As noted earlier, the Ohio-UETA was passed unanimously by both the Ohio Senate and the Ohio House of Representatives.\textsuperscript{85} We presume that those who enacted the Ohio-UETA would know how to provide sufficient notice for browse-wrap agreements, insofar as browse-wrap agreements fall within the definition of "electronic records" under the Ohio-UETA.\textsuperscript{86}

\subsection*{1. The Ohio Senate}

The website for the Ohio Senate\textsuperscript{87} includes a disclaimer,\textsuperscript{88} which is set forth in its entirety in Appendix A. Insofar as the

\begin{itemize}
\item \textsuperscript{84} See http://en.wikipedia.org/wiki/HTML_element.
\item \textsuperscript{86} Ohio Rev. Code Ann. § 1306.01(G).
\item \textsuperscript{87} The Ohio Senate, http://www.senate.state.oh.us (last visited Jan. 9, 2009).
\item \textsuperscript{88} Disclaimer, http://www.senate.state.oh.us/disclaimer.html (last visited Jan. 9, 2009).
\end{itemize}
disclaimer sets forth an agreement between the user and the
General Assembly of Ohio, the disclaimer is a browse-wrap
contract that is governed by the Ohio-UETA.\textsuperscript{89}

The link to the disclaimer is found at the bottom of the web
page,\textsuperscript{90} in a font color that is no different than the font colors
for the other links on that web page, and in an absolute font
size that is smaller than the default font size for most web
pages.\textsuperscript{91} The text is white\textsuperscript{92} contrasted onto a dark blue
background.\textsuperscript{93}

While the link to the disclaimer is in the same font size as all
of the other substantive links (e.g., "Leadership," "Your
Senators," "Committees," etc.),\textsuperscript{94} the disclaimer is not

\textsuperscript{89} Ohio Rev. Code Ann. §§ 1306.01(D) and 1306.01(G).

\textsuperscript{90} The Ohio Senate, supra note 87.

\textsuperscript{91} The HTML source for the disclaimer is: "<a
href="disclaimer.html"><font size="2"
color="#ffffff">Disclaimer</font></a>"

\textsuperscript{92} text="#FFFFFF"

\textsuperscript{93} bgcolor="#003366"

\textsuperscript{94} The HTML source for these substantive links is: "<p
align="center"><font size="2" color="#ff0000">&nbsp;&nbsp;
</font><a href="leadership/"&nbsp;&nbsp;
<font size="2" color="#ffffff"><strong>Leadership</strong></font><font size="2"
color="#ff0000"> | </font></a><a
href="senators/"&nbsp;&nbsp;
<font size="2" color="#ffffff"><strong>Your
Senators</strong></font><font size="2"
color="#ff0000"></font></p>"
emphasized while the other substantive links are in bold. In other words, the link to the browse-wrap agreement is less pronounced than the substantive links.

It is worthwhile to note that the link to the Ohio Senate's browse-wrap agreement can be found only on the front page of the Ohio Senate's website.\footnote{The Ohio Senate, supra note 87} In other words, when a visitor follows any of the links to other parts of the Ohio Senate's website, the disclaimer is conspicuously absent from all of those other pages.\footnote{See, e.g., The Ohio Senate Leadership, http://www.senate.state.oh.us/leadership/index.html (last visited Jan. 9, 2009) (which has no disclaimer).} As such, if a visitor bypasses the front page and goes directly to one of those internal links, then there is arguably no enforceable contract that is formed because the link to the browse-wrap agreement was never visible to the visitor. Conversely, if a visitor accesses the internally-linked pages from the home page of the Ohio Senate's website, then it is
likely that the visitor was provided with constructive notice of the Ohio Senate's browse-wrap agreement.

2. The Ohio House of Representatives

The website for the Ohio House of Representatives also includes a disclaimer, which is set forth in its entirety in Appendix B. Again, insofar as the disclaimer is set forth as an agreement, this will likely fall within the definition of contract, as set forth in the Ohio-UETA.

Unlike the Ohio Senate's disclaimer, the link to the disclaimer for the Ohio House of Representatives appears on each of the internally-linked pages within the domain for the House of Representatives.

The link to the disclaimer is found at the bottom of every web

\footnote{The Ohio Senate, supra note 87.}

\footnote{Ohio House of Representatives Website Disclaimer, http://www.house.state.oh.us/index.php?option=com_content&view=article&id=45&Itemid=89 (last visited Jan. 9, 2009).}

\footnote{Ohio Rev. Code Ann. §§ 1306.01(D) and 1306.01(G).}

\footnote{The Ohio House of Representatives, http://www.house.state.oh.us (last visited Jan. 9, 2009) (and all of its sub-directories).}
PREDICTING THE ENFORCEABILITY OF
BROWSE-WRAP AGREEMENTS IN OHIO

page, in all bold capital letters, in a font color that is no
different than the font colors for several other links on that
web page. The absolute font size is the same as the remainder
of the text on the page. Also, the font color is different
from the substantive text found on the website. Insofar as
the disclaimer is in bold and in all capital letters, it is more
pronounced than the other substantive links.

101 The Ohio House of Representatives, supra note 100.

102 The HTML code for the both the disclaimer and the remainder
of the substantive links is: "<ul class="menu"><li
class="item88"><a
href="http://www.house.state.oh.us/"<span>Home</span></a></li>
<li class="item89"><a
href="/index.php?option=com_content&amp;view=article&amp;id=45&amp;
Itemid=89"><span>Disclaimer</span></a></li><li
class="item125"><a
href="/index.php?option=com_displaymembers&amp;Itemid=125"><span
Representative Directory</span></a></li><li class="item126"><a
href="/index.php?option=com_displaycommittees&amp;Itemid=126"><span
Committee Directory</span></a></li><li class="item127"><a
href="/index.php?option=com_content&amp;view=article&amp;id=54&amp;
Itemid=127"><span>Kids Page</span></a></li><li
class="item128"><a
href="http://www.legislature.state.oh.us/search.cfm"
target="_blank"><span>Find Legislation</span></a></li></ul>"

103 Id.

104 The substantive text is generally in plain text in a normal
font size. One specific example of the HTML code for the
substantive text is: "<p style="margin-bottom: 0in;">I
welcome you to the web site for the Ohio House of
Representatives and the 127<sup>th</sup> General Assembly.
Nowhere is the democratic ideal more evident than in the House
of Representatives - the body of state government closest to the
individual. As you spend time visiting our web site and browsing
3. The Ohio General Assembly

The website for the Ohio General Assembly\textsuperscript{105} also includes a disclaimer,\textsuperscript{106} which is set forth in its entirety in Appendix C. Again, the disclaimer sets forth an agreement that likely falls within the confines of the Ohio-UETA.\textsuperscript{107}

The link to the disclaimer is found at the bottom of the web page,\textsuperscript{108} in a font color that is no different than any of the text on the web page, and in the smallest absolute font size available.\textsuperscript{109} The text is in default black,\textsuperscript{110} contrasted to a

\begin{verbatim}
its many resources, may you catch a glimpse of the work that is conducted on your behalf.</p>"

\textsuperscript{105} 128th General Assembly of Ohio, http://www.legislature.state.oh.us (last visited Jan. 9, 2009).

\textsuperscript{106} 128th General Assembly of Ohio Website Disclaimer, http://www.legislature.state.oh.us/disclaimer.cfm (last visited Jan. 9, 2009).

\textsuperscript{107} Ohio Rev. Code Ann. §§ 1306.01(D) and 1306.01(G).

\textsuperscript{108} 128th General Assembly of Ohio, supra note 105.

\textsuperscript{109} The HTML source shows that the absolute font size is "1," which is the smallest available absolute font size. See, <http://en.wikipedia.org/wiki/HTML_element>. The actual HTML source for this segment of the web page is: "<font size="1">Please send questions and comments to the <a href="mailto:webmaster@lis.state.oh.us">Webmaster</a>.© 2008 Legislative Information Systems | <a href="disclaimer.cfm">Disclaimer</a></font>"

\textsuperscript{110} <a href="site_index.cfm">Index of Legislative Web Sites</a>"
While the link to the disclaimer is underlined to show that it is a hyperlink, the font size is three sizes (out of a total seven sizes) smaller than the substantive text and neither in bold nor italics (i.e., there is no special emphasis).

Similar to the link for the browse-wrap agreement for the Ohio House of Representatives, the link to the browse-wrap agreement for the Ohio General Assembly is located on every page within the primary domain.

B. Example Browse-Wrap Agreements Used by the Ohio Supreme Court

In addition to those who enacted the Ohio-UETA, one would imagine that those who will eventually rule on the enforceability of browse-wrap agreements, namely, the judiciary, would implement a browse-wrap agreement that would withstand their own scrutiny. As such, another presumption that we made

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110 There appears to be no text-color encoding, thereby leading us to presume that the text is in the default black color.

111 bgcolor="#ffffff"

112 The HTML source for the substantive text shows the font size to be "4."

113 The Ohio House of Representatives, supra note 100.
was that the browse-wrap agreements used by the Ohio judiciary would provide sufficient notice to any visitors to their respective sites.

The most comprehensive example of a browse-wrap agreement is found on the website for the Supreme Court of Ohio. Unlike any of the Ohio legislature's websites, the website for the Supreme Court of Ohio includes both the website's privacy policy as well as the website's terms of use. The privacy policy is set forth, in its entirety, as Appendix D, while the terms-of-use page is set forth, in its entirety, as Appendix E.

The Ohio Supreme Court expressly indicates, in both its privacy

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114 Found at either http://www.sconet.state.oh.us or http://www.supremecourtofohio.gov. It should be noted that both of these sites, including all of their internal links, are identical to each other. As such, it seems as if they are either mirrored sites or simply a masked redirect from one site to the other. For purposes of this paper, we refer to <http://www.supremecourtofohio.gov> and its internal links, since that is the link that is provided by the Supreme Court of Ohio in its terms-of-use page.


policy and its terms-of-use, that visitors to the website are agreeing to the conditions set forth in those documents.\textsuperscript{118} Additionally, the Ohio Supreme Court expressly notes that use of the site (i.e., visiting the site) is sufficient to bind the visitor to those terms and conditions.\textsuperscript{119} Hence, there is little doubt that both the privacy policy and the terms-of-use are browse-wrap agreements.

Also, the level of detail in both of these documents, both as to what the document contains as well as to how the visitor is consenting to the terms contained therein, leaves little doubt that they are contracts within the meaning of the Ohio-UETA.\textsuperscript{120}

The links to the browse-wrap agreements for the Ohio Supreme Court are located at the bottom of the home page.\textsuperscript{121} Unlike the home pages for all of the Ohio legislature's websites, there is

\textsuperscript{118} The Supreme Court of Ohio Website Privacy Policy, supra note 116 ("By visiting the Supreme Court of Ohio Web site you are accepting the practices described in this notice."); The Supreme Court of Ohio Terms of Use, supra note 117 ("If you utilize our Web site, you accept these conditions.").

\textsuperscript{119} The Supreme Court of Ohio Website Privacy Policy, supra note 116 ("By visiting the Supreme Court of Ohio Web site you are accepting the practices described in this notice.").

\textsuperscript{120} Ohio Rev. Code Ann. §§ 1306.01(A), 1306.01(D), 1306.01(G), 1306.08(A), 1306.08(B), 1306.13(A), and 1306.13(B).

\textsuperscript{121} The Supreme Court of Ohio, supra note 115.
a substantial amount of content on the home page for the Ohio Supreme Court. Consequently, a visitor to the Ohio Supreme Court's home page must scroll down to the bottom of the page to know that there is even a link to the two browse-wrap agreements.

The link to the browse-wrap agreements are in a font color that is no different than the font color for any of the other links on the Ohio Supreme Court's website, and in a font size that is as large as the substantive text on the site.\textsuperscript{122} All of the substantive text and the links are contrasted to a white background.

Unlike the links to various headlines and other articles on the website, which are in bold, the links to the browse-wrap agreements are neither in bold nor italics (i.e., there is no special emphasis). Similar to the links for the browse-wrap agreements for the Ohio House of Representatives\textsuperscript{123} and the Ohio General Assembly,\textsuperscript{124} the link to the browse-wrap agreements for the Ohio Supreme Court are located on every page within the

\textsuperscript{122} There appears to be no specific HTML coding for the font size.

\textsuperscript{123} The Ohio House of Representatives, \textit{supra} note 100.

\textsuperscript{124} 128th General Assembly of Ohio, \textit{supra} note 105.
primary domain.

V. THE MINIMUM THRESHOLD FOR SUFFICIENT NOTICE

Having reviewed the conspicuousness of browse-wrap agreements for both the Ohio legislature and the judiciary, we now summarize the factors that would likely marshal in favor of sufficient notice for a browse-wrap agreement.

1. Location

All of the websites that we reviewed included a browse-wrap agreement at the bottom of the web page. Indeed, a review of many commercial sites also shows the browse-wrap notice to be on the bottom of the web-page.\footnote{See, e.g., Amazon.com, http://www.amazon.com (last visited Jan. 9, 2009) and Ebay.com, http://www.ebay.com (last visited Jan. 9, 2009).} Furthermore, the notice for Southwest Airline's website, which has already withstood judicial scrutiny, is also at the bottom of Southwest's main web page.\footnote{See Southwest Airlines, http://www.southwest.com (last visited Jan. 9, 2009).}

Thus, one can reasonably conclude that the location of the browse-wrap notice should be at the bottom of the web page. If
a visitor scrolls to the bottom of a particular web page where the visitor expects to see the browse-wrap notice, and it is not there, then it is questionable whether the visitor will spend much time scouring the remainder of the site to find a link to a browse-wrap agreement.

The importance of the location of the notice is evident from the sites reviewed in this article. Namely, every website reviewed has the link to its browse-wrap agreement at the bottom of the web page. Indeed, the location of the browse-wrap notice is the only consistent factor for each of the websites that we have reviewed. Thus, we conclude that having a browse-wrap notice at the bottom of the web page is a significant factor in predicting whether or not there is sufficient notice of a browse-wrap agreement.

2. Font Size and Emphasis

For the four Ohio sites that we reviewed, we found that the

127 The Ohio House of Representatives, supra note 100, The Ohio Senate, supra note 87, 128th General Assembly of Ohio, supra note 105, and The Supreme Court of Ohio, supra note 115.

128 The Ohio Senate, the Ohio House of Representatives, the Ohio General Assembly, and the Supreme Court of Ohio.
font size ranged from the absolute smallest size possible\textsuperscript{129} to a standard font size that was no different than any of the other written text.\textsuperscript{130} In terms of emphasis or special treatment, the website for the Ohio House of Representatives is the only one that emphasized the link to its browse-wrap agreement.\textsuperscript{131}

From this, we conclude that emphasis of the link (e.g., bold, underlined, highlighted, etc.) is not a crucial factor in determining whether or not sufficient notice is provided to the visitor. Additionally, the font size need not be as large as the remainder of the text on the site, as long as it is sufficiently readable to the visitor.

Our conclusion is bolstered by the fact that the notice on the website for Southwest Airlines is also in a font size that is smaller than the substantive text, and there is no special emphasis (e.g., bold) on the link on Southwest Airline's website. Yet, that particular browse-wrap agreement has withstood judicial scrutiny.

\textsuperscript{129} At the site of the Ohio General Assembly, found at 128th General Assembly of Ohio, \textit{supra} note 105.

\textsuperscript{130} For both the Ohio House of Representatives, at The Ohio House of Representatives, \textit{supra} note 100, and the Ohio Supreme Court, at The Supreme Court of Ohio, \textit{supra} note 115.

\textsuperscript{131} The Ohio House of Representatives, \textit{supra} note 100.
While the Texas decision may not be binding in Ohio, it is worthwhile to note that the links to the browse-wrap agreements on the Ohio legislature's sites and the Ohio judiciary's site support our conclusion that the font size and the font emphasis are not significant factors in determining whether or not there is sufficient notice to uphold enforcement of a browse-wrap agreement.

3. Font Color and Contrast

Similar to the font size and emphasis, there was no commonality in the font color for the link on the four sites that we reviewed. Recall, the Ohio Senate exhibited a white text on a dark blue background; the Ohio House of Representatives chose a dark grey text on a white background; the Ohio General Assembly had a simple black-text-to-white-background; and the Supreme Court of Ohio selected a blue text on a white background.

As such, we conclude that the font color is not a significant factor in determining whether or not sufficient notice is provided to the visitor. Rather, so long as there is sufficient contrast between the font color and the background to make the link readily visible to the visitor, the link to the browse-wrap agreement will likely provide sufficient notice to the visitor.
VI. CONCLUDING REMARKS

We have attempted to provide a quantitative review of how much notice constitutes sufficient notice for a particular browse-wrap agreement to be binding.

In reviewing the factors that determine whether or not there is sufficient notice to render a browse-wrap agreement enforceable, we come to the conclusion that the location of the link is of primary importance. Should a visitor to a web page scroll to the bottom of the web page and find that there is no link or notice to a browse-wrap agreement, it is questionable whether or not the visitor will continue to look for the browse-wrap notice, especially when the visitor has arrived at a particular website for other purposes.

Conversely, if the link to the browse-wrap agreement is located at the bottom of the web page, where one would expect to find it, then neither the font size nor font emphasis play a significant role in predicting whether or not the notice of the browse-wrap agreement is sufficiently conspicuous. In other words, if a link to a browse-wrap agreement is visible, readable, and located at the bottom of the web page (where one would expect it to be located), then the minimum quanta of notice is provided to the visitor, such that the browse-wrap
agreement will likely be binding on the visitor to the web-site.

We readily concede that our analysis is limited by the small number of websites that we have reviewed. However, given our presumption that the legislative and judicial branch in Ohio would properly implement their own notice provisions, we intentionally limited our analysis to a small number of websites.

Of course, we had the option of reviewing all of the websites for each of the courts of common pleas that reside in each county within Ohio. However, it made little sense to review each of those sites when an analysis of the site for the Supreme Court of Ohio would be sufficient to show the judiciary's implementation of the browse-wrap agreement.

For future work, what may be of interest is to do a similar review for corresponding websites in all of the states that have enacted the UETA. The strengths and weaknesses of our specific review will likely be revealed as corresponding data from the other jurisdictions are examined.

Another study that may be interesting is to compare the notice provisions for states that have enacted the UETA with states
that have not enacted the UETA (i.e., Georgia, Illinois, New York, and Washington). Specifically, it may be interesting to know whether or not there is any consistency within the states that have enacted the UETA. Also, it may also be interesting to know whether or not there is a disparity between UETA states and non-UETA states.

As noted earlier, we leave the analysis of other jurisdictions for another day.
APPENDIX A: Disclaimer Linked from Only the Home Page of the Ohio Senate's Website

All users of this service agree to hold the General Assembly of Ohio and its agencies harmless from any and all claims, losses, damages, obligations or liabilities, directly or indirectly relating to this service, including, but not limited to the performance of or the use of this service, and/or the networked information available via this service, caused thereby or arising therefrom. In no event shall the General Assembly of Ohio and its agencies have any liability for lost profits or for indirect, special, punitive, incidental, or consequential damages or any liability to any third party, even if the General Assembly of Ohio and its agencies are advised of the possibility of such damages. The use of this service to engage in any activity which constitutes violation of local, state, and/or federal laws is strictly prohibited. External links to other sites are intended to be informational and do not have the endorsement of the General Assembly of Ohio and its agencies.
APPENDIX B: Disclaimer Linked from Every Page of the Ohio House of Representatives Website

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APPENDIX D: Privacy Policy Linked from Every Page of the Ohio Supreme Court's Website

Web Site Privacy Policy

By visiting the Supreme Court of Ohio Web site you are accepting the practices described in this notice.

Cookies

On some of our pages we may receive and store certain types of information whenever you interact with us. For example, we may use "cookies" to obtain certain types of information when you visit our site. Cookies are alphanumeric identifiers that we transfer to your computer's hard drive through your Web browser to enable our systems to recognize your browser and to provide a more personalized experience. For example, one of our search pages uses cookies to store elements of your last search using that page so that you will not have to re-enter as much information on your next search. Most browsers allow you to control when cookies are written to your computer. However, cookies allow you to take full advantage of our personalization features and we therefore recommend that you leave them turned on. Check under "Help" in your browser for more information.
Attorney registration information

The information an attorney provides on the Certificate of Registration is placed on the computer system of the Supreme Court of Ohio and is used to administer the functions of the Supreme Court's Attorney Registration Section and Continuing Legal Education Office. An attorney's address and phone number also may be accessed by the Clerk's Office, in connection with the attorney's participation in cases, by other offices of the Supreme Court, in connection with other matters pending before the Supreme Court, or by ancillary agencies of the Supreme Court, including the Board of Commissioners on Grievances and Discipline and the Ohio Disciplinary Counsel, in connection with an attorney's involvement in a disciplinary matter.

All information provided on a Certificate of Registration is a public record, except to the extent provided in Gov. Bar R. VI, Section 1(G). Under this provision, an attorney's residence phone number and social security number are not public record. In addition, an attorney's residence address is not public record unless the attorney has not provided a business address to the Attorney Registration Section.

The Certificate of Registration includes a separate section for
IOLTA (Interest on Lawyer's Trust Accounts) information. The Attorney Registration Section collects this information from attorneys pursuant to Gov. Bar R. VI, Sec. 1(F). All IOLTA information is forwarded to the Ohio Legal Assistance Foundation (OLAF). The IOLTA information assists OLAF in administering the legal aid fund established under Revised Code Section 120.52.

Agents

We sometimes contract with other companies and individuals to perform functions on our behalf. For example, we may hire a company or individual to develop a computer program, help maintain our computer network, or process online transactions. These parties have access to personal information needed to perform their functions, but may not use it for other purposes.

Protection of your personal information

We work to protect the security of your information during transmission by using Secure Sockets Layer (SSL) software, which encrypts information you input. We will reveal only the last 5 digits of your credit card numbers when confirming a transaction. However, we transmit the entire credit card number to the appropriate credit card company during order processing.
We do not store your credit card numbers on our computers. In order to prevent unauthorized use of your credit card we suggest that you sign off when finished using a shared computer, and take care not to allow unauthorized access to your computer or your passwords.

Access to your information

The Supreme Court of Ohio gives those who register online access to their registration information for the purpose of viewing and, in certain cases, updating that information.

Conditions of Use, Notices, and Revisions

If you choose to visit the Supreme Court of Ohio's Web site, your visit and any dispute over privacy is subject to this Policy and our Conditions of Use, including limitations on damages, arbitration of disputes, and application of the law of the state of Ohio. If you have any concern about privacy at the Supreme Court of Ohio's Web site, please send us a thorough description via our Feedback page, and we will try to resolve it. This notice and the Conditions of Use may change, and use of information we gather now is subject to the Privacy Policy in effect at the time of use. You should check our Web site
frequently for changes.

**Automatic collection of information**

We may collect and analyze certain information automatically: the Internet protocol (IP) address used to connect your computer to the internet; login; email address; password; computer and connection information such as browser type and version, operating system, and platform; registration history; the full Uniform Resource Locators (URL) clickstream to, through, and from our Web site, including date and time; cookie number; pages you viewed, or what you searched for.

**Public Record**

Visitors should be aware that, subject to certain statutory exceptions, most documents and records maintained by the state of Ohio, including but not limited to electronic data, are public records under Ohio law. Therefore, information submitted through this Web site may be subject to disclosure pursuant to a public records request.
APPENDIX E: Terms of Use Linked from Every Page of the Ohio Supreme Court's Website

Terms of Use

Welcome to the Web site of the Supreme Court of Ohio. We provide services to you via this Web site subject to the following conditions. If you utilize our Web site, you accept these conditions. Please read them carefully.

Privacy

Please review our Privacy Policy, which also governs your visit to the Web site of the Supreme Court of Ohio, to understand our practices.

Electronic communications

When you visit the Web site of the Supreme Court of Ohio or send e-mails to us, you are communicating with us electronically. You consent to receive communications from us electronically. We will communicate with you by e-mail or by posting notices on this site. You agree that any agreements, notices, disclosures, and other communications that we provide to you electronically
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false, misleading, derogatory, or otherwise offensive manner.
You may not use the Seal of the Supreme Court of Ohio or any
logo or other proprietary graphic of the Supreme Court of Ohio
as part of the link without express written permission.

**Your account**
If you use this site, you are responsible for maintaining the confidentiality of your account and password and for restricting access to your computer, and you agree to accept responsibility for all activities that occur under your account or password. If you are under 18, you may use the Web site of the Supreme Court of Ohio only with involvement of a parent or guardian. The Supreme Court of Ohio reserves the right to refuse service, terminate accounts, remove or edit content, or cancel transactions.

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This site is provided by the Supreme Court of Ohio on an "as is" and "as available" basis. The Supreme Court of Ohio makes no representations or warranties of any kind, express or implied, as to the operation of this site or the information, content, materials, or products included on this site. You expressly agree that your use of this site is at your sole risk.

Applicable law

By visiting the Supreme Court of Ohio Web site, you agree that the laws of the state of Ohio will govern these Conditions of Use and any dispute of any sort that might arise between you and
the Supreme Court of Ohio.

Unauthorized use

The Supreme Court of Ohio reserves the right to take appropriate legal action in any state or federal court to address any instances of unauthorized use of this site, and you consent to exclusive jurisdiction and venue in such courts.

Site policies, modification, and severability

Please review our Privacy Policy, also posted on this site. These policies govern your visit to the Supreme Court of Ohio's Web site. We reserve the right to make changes to our site, policies, and these Conditions of Use at any time.

Our address

The Supreme Court of Ohio
65 South Front Street
Columbus, Ohio 43215-3431
http://www.supremecourtofohio.gov
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