

# Are my emails sufficient to form a contract?

April 23, 2020

Final Appealable Order

## ***Milton Banking Co. v. Adkins, 4th Dist. Jackson No. 19CA07, 2020-Ohio-1481***

In this case, the Fourth Appellate District dismissed the appeal, holding that the judgment entry of foreclosure was not a final and appealable order as it failed to address the interests and rights of all the lienholders.

**The Bullet Point:** In Ohio, appellate courts have no jurisdiction to review a matter unless the lower court entered a ‘final and appealable’ order. Under R.C. 2505.02(B)(1), an order is final and appealable if it “affects a substantial right in an action that in effect determines the action and prevents a judgment.” Stated differently, an order must fully dispose of liability to be a final and appealable order. A judgment decree in foreclosure fully disposes of liability if it “determines the extent of each lienholder’s interest, sets forth the priority of the liens, and determines the other rights and responsibilities of each party in the action.” As such, a judgment entry ordering a foreclosure sale is not final and appealable unless it resolves all of the issues involved in the foreclosure, including: 1) whether an order of sale is to be issued; 2) what other liens must be marshaled before distribution is ordered; 3) the priority of any such liens; and 4) the amounts that are due the various claimants.

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## Contract Formation

## ***N. Side Bank & Trust Co. v. Trinity Aviation LLC, 1st Dist. Hamilton No. C-190021 C-190023, 2020-Ohio-1470***

In this appeal, the First Appellate District vacated in part and reversed in part the trial court’s decision, finding that the emails between the parties contained the basic elements for contract formation and demonstrated the required meeting of the minds sufficient to create an enforceable contract.

**The Bullet Point:** In order to form a valid contract, there must be a ‘meeting of the minds’ on the essential terms of the agreement, which is usually demonstrated by 1) an offer, 2) acceptance, and 3) consideration. In addition, the essential terms must be definite and certain. In Ohio, “the essential terms of a contract include: the identity of the parties, the subject matter, consideration, a quantity term, and a price term.” These essential terms do not need to be contained in one written document. On the contrary, a party may prove the existence of an enforceable written contract with multiple writings or emails that, when taken together, demonstrate the scope of the parties’ agreement.

## Defamation

### ***Johnson v. Johnson*, 8th Dist. Cuyahoga No. 108420, 2020-Ohio-1381**

In this appeal, the Eighth Appellate District affirmed in part and reversed in part the trial court's decision, finding that the plaintiff presented sufficient facts that the defendant allegedly defamed him with actual malice by making false statements to the police, and if proven, could warrant the plaintiff relief.

**The Bullet Point:** Defamation can occur in two forms — slander, which is spoken, and libel, which is written. To establish a claim for either slander or libel, a plaintiff must show: (1) a false statement of fact was made about the plaintiff, (2) the statement was defamatory, (3) the statement was published, (4) the plaintiff suffered injury as a proximate result of the publication, and (5) the defendant acted with the requisite degree of fault in publishing the statement. However, not all false statements are defamatory. In order for a false statement to be defamatory, the false statement must be “made with some degree of fault that (1) reflects injuriously on one’s reputation, or (2) exposes a person to public hatred, contempt, ridicule, shame, or disgrace, or (3) affects a person adversely in his or her trade, business, or profession.” In addition, statements made to law enforcement personnel for the prevention or detection of crime are ‘qualifiedly privileged’ and cannot serve as the basis for a defamation claim, absent actual malice. Stated differently, a qualified privilege exists for defamatory comments made to law enforcement for the prevention or detection of crime and are not actionable unless the speaker was motivated by ill will.

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