Citation Form: Getting it Right

by Susan W. Fox

Every lawyer needs to know proper citation form. Sloppy or inaccurate form suggests inattention to detail or ignorance of the correct form. Even so, errors in citation form are rampant in today's legal writing. And not just in lawyers' writing—judicial opinions contain errors, too.

There are several possible reasons for this. The rules have changed since most of us went to law school. Our memory of the forms learned in law school may have faded or become crowded out by more recent information. While some forms may have become second nature to us, others are merely an educated guess unless we look them up every time we use them. Because articles and CLE lectures on the topic are rare, we do not remain as current on this subject as on those that are covered frequently. Some newer forms of citation have developed through the use of the Internet, and rules for citation of those sources are just developing. Bottom line, we all focus on the substance of our writing more than on the form.

This article will explain the proper current forms of citation in Florida and will also clarify some common misunderstandings of the citation rules.

Sources of Citation Rules


Purpose of Citation Rules

Florida's citation system was adopted by the Supreme Court of Florida "to standardize appellate practice and ease the burden on the courts." Fla. R. App. P. 9.800 committee's notes. "It is the duty of each litigant and counsel to assist the judicial system by use of these standard forms of citation." Id. Apparently, the court believes that nonstandard forms are a burden and fail to assist courts.

"The basic purpose of a legal citation is to allow the reader to locate a cited source accurately and efficiently." Bluebook at 4. Citation forms are designed to provide the minimum amount of information necessary to lead the reader to the source and to convey key information concerning the source. See id.

A citation consists of three basic parts: an introductory signal; a description of the authority; and an optional parenthetical phrase explaining its relevance. The rules for each of these sections are discussed below.

Introductory Signals—Rule 1.2

In every type of legal writing, the citation of an authority is customary to show support for or contradiction of legal or factual propositions or arguments. The introductory signal tells the reader how the authority relates to your proposition. This is true in appellate briefs, judicial opinions, and even in opinion letters, as well as in scholarly writing.

You may think that it is unnecessary to use introductory signals for simple legal writing. Unfortunately, this is not the case. It is almost never correct to cite an authority without an introductory signal.

There are ten introductory signals: [no signal]; accord; see; see also; cf.; compare . . . with . . . ; but see but cf.; see generally; and e.g. (when used in combination with
other signals). The first five indicate authorities that support a stated proposition. The sixth suggests a useful comparison. The seventh and eighth show contradiction. The ninth indicates helpful background material. The last, "e.g.,” indicates the cited authorities are examples. The proper use of signals is addressed in further detail below.

"[No signal],” which is the citation of an authority without an introductory signal, is now used only to identify the source of a quotation in the preceding sentence or to further identify an authority referred to in the text. Thus, except for these two instances, an authority may not be cited without an introductory signal. This is a drastic change from when most of us went to law school; in those days "[no signal]” was common and signified that an authority clearly stated the proposition in the text. The "[no signal]” signal is no longer used to indicate that the case supports the proposition you have just stated. Additionally, the "[no signal]” signal cannot be appropriately used in advance of a string citation, since the quotation or authority referred to in the text would be only a single source.

"See” is used to indicate that the authority "directly states or clearly supports” the proposition addressed in the text. Bluebook at 22. While prior editions of the Bluebook allowed use of "see” to show an authority that "clearly states” a proposition, in common practice, this role was given to "[no signal].” See, e.g., Bluebook at 22 (15th ed. 1991). The "clearly states” function formerly ascribed to "[no signal]” was transferred entirely to the "see” signal in the 16th edition Bluebook. Formerly, "see” was used instead of "[no signal]” primarily when the proposition was not directly stated in the authority but logically followed from another principle stated in it. This function is not covered in the current Bluebook.

"See also” is used when the cited authority "constitutes additional source material that supports the proposition.” Bluebook at 22. Use it after you have already quoted an authority using "[no signal]” or have supported a proposition using “see.” A parenthetical explanation following such a cite is strongly encouraged.

"Accord” is used when a single authority is quoted in the text, but one or more other cited authorities also "clearly support” the proposition. Id. The signal is also used to show that the law of another jurisdiction is in accord with the cited authority.

"Cf.” identifies support of a proposition different from the main proposition, but sufficiently analogous to lend support. Parenthetical explanations are "strongly recommended.” Bluebook at 23.

"Compare . . . [and] . . . with . . . [and] . . .” suggests a useful comparison or illustrates the proposition. Since the relevance of the comparison will usually be apparent only if explained, parenthetical explanations are "strongly recommended.” Id.

"But see” introduces an authority that clearly supports a proposition contrary to the main proposition. Use where "see” would be used for support.

"But cf.” signifies an authority that supports a proposition analogous to the contrary of the main proposition. Again, a parenthetical explanation is "strongly recommended.” Bluebook at 23.

"See generally” suggests that the cited authority presents helpful background information related to the proposition. A parenthetical explanation following each such authority is again encouraged.

"E.g.” changed its function in the 16th edition Bluebook; it was eliminated altogether as a stand-alone signal, and can now be used only in combination with other signals. Under the old system, the "e.g.” signal meant that the writer could cite many authorities for the proposition, but was naming just a few. Now, it would be used, for example, with "see” to signify citations of sample case(s) directly supporting a well-established proposition.

In one of the more quizzical technicalities, one of the signals that can now be combined with “e.g.” is the "[no signal]” signal. This, of course, would result in the use of “e.g.” all by itself, which seems to restore "e.g.” as a stand-alone signal. Such would be appropriate, however, only if the text quoted a statement for which the writer chose to cite only one or a few sources by way of example.

"Contra” has been eliminated entirely as a signal, its function having been transferred to the "but see” signal. While "contra” had been used to show authority directly contrary to the cited proposition, just as "[no signal]” would be used for direct support, it has now been removed from the lexicon. Thus, the most common past usages of both "contra” (direct contradiction) and "[no signal]” (direct support) have been merged into "but see” and "see” respectively.

In a frustrating omission, the editors of the Bluebook no longer tell us how to signal that the proposition obviously follows from the cited authority (with an inferential step), although not directly stated in it. In prior editions, "see” was commonly used as this signal, but "see” is now limited to direct or clear support, and the Bluebook is silent on indirect support. Writers will be left to make the judgment call as to whether the authority's support is direct enough to warrant use of "see,” or is so indirect as to require the ambiguous "Cf.” Since the only other signals that show support—"see also” and "accord”—are clearly limited (consistent with prior editions) to citations of additional authority where a primary case has already been cited, the elimination of a method of citing indirect support creates a troubling lack of guidance.

Description of Source

• Rules for Citing Cases

The anatomy of a citation to a case is known to all lawyers and need not be explained. The basic rules will be touched on in passing only, and some rules that may not be as well known will be covered here.

Common citation forms are as fol-
laws: Felon v. State, 594 So. 2d 292 (Fla. 1992), signifies an opinion of the Florida Supreme Court; and Sotolongo v. State, 530 So. 2d 514 (Fla. 2d DCA 1998), signifies a district court of appeal decision.1 The only tricky rule here is that Second District opinions are cited as “2d DCA,” not “2nd DCA,” and Third District opinions are cited as “3d DCA.” The other districts are cited as 1st, 4th, and 5th.

Trailer v. State, 17 Fl. L. Weekly S42 (Fla. Jan. 16, 1992), signifies a recent Supreme Court opinion not yet published in Southern Reporter. For a recent district court opinion not yet published, the page number should include the “D” prefix and the parenthetical should include a citation to the applicable district court (for example, “Fla. 4th DCA”). A common error in these forms is the miscitation of Florida Law Weekly, which is frequently abbreviated “FLW.” The date of the opinion is also important in locating a case too recent for the official reporter and should not be omitted.

For circuit or county court opinions, the Florida Supplement should be cited, e.g., Whidden v. Frances, 27 Fl. Supp. 80 (Fla. 11th Cir. Ct. 1996), or State v. Alvarez, 42 Fl. Supp. 83 (Fla. Dade Cty. Ct. 1975).

For Florida administrative agencies, one of three applicable Reporters should be cited. Using the following examples, cite decisions of the Florida Employee Relations Commission as: Wilson v. School Board, 4 F.P.R.E. ¶4262 (1978); decisions of the Florida Public Service Commission as: In Re Application for Approval of Transfer, 89 F.P.S.C. 11:5 (1989); and decisions of all other agencies as: Insurance Co. v. Department of Ins., 2 F.A.L.R. 648-A (Fla. Dept. of Ins. 1980).

For opinions of the United States Supreme Court, only the citation to United States Reporter is required, e.g., Sansone v. United States, 380 U.S. 343 (1965), but if the United States Reporter cite is not available, “cite to Supreme Court Reporter, Lawyers’ Edition or United States Law Week in that order of preference.” Fla. R. App. P. 9.800(k). Only

The date of the opinion is also important in locating a case too recent for the official reporter and should not be omitted.

if the opinions are not yet published in these reports is Florida Law Weekly Federal an appropriate cite. I.d. Citations to other federal cases are the same as the Bluebook.

All case names should be underscored (or italicized), whether in text or footnotes. The first word of either party’s name is not abbreviated, but after the first word, “[a]llways abbreviate any word listed in table T.6.” Bluebook at 61. (See reprint in box below for the most common abbreviations and recent additions to the abbreviation list in table T.6.)

Omit denials of certiorari in describing subsequent history “unless the decision is less than two years old or the denial is particularly relevant.” Bluebook at 66. Especially for Florida practitioners dealing with conflict between districts, the relevance of the denial of certiorari will, without a doubt, depend on whether the writer is urging the court to follow or depart from the cited authority.

Statutes, Constitutions, and Rules

Florida Statutes are frequently cited a variety of ways, but there are only two correct forms of citation. Use one or the other depending on whether your reference is to the main volume or to a supplement: §120.53, Fla. Stat. (Supp. 1974); or §350.34, Fla. Stat. (1973).

It is common to see “Florida Statutes” spelled out in cites, to see the source and section number in inverted order, to see the year omitted, or to see inappropriate underlining. Of these errors, failure to include the year of the statute is a pet peeve of many judges. In many cases, the year of a frequently amended statute will be critical to the legal issues. Florida Statutes Annotated is not to be cited except for court-appointed rules or references to other nonstatutory materials that do not appear in an official publication.

If a law is not in the Florida Statutes or if citation of the session law is desired for clarity or adoption reference, cite it as: Chapter 74-177, §5 at 453, Laws of Fla.

The Florida Constitution is cited as follows: Art. V, §3(b)(3), Fla. Const. The year of adoption must be given only if necessary to avoid confusion.

To cite Florida Rules, Rule 9.800 calls for the abbreviated rules reference followed by the rule number, e.g., Fla. R. Civ. P. 1.180. The table of proper rule abbreviations in Rule 9.800 should be consulted if you have any uncertainty. The Florida Administrative Code is included in this list and is cited as: Fla. Admin. Code R.8H-3.02 (not “F.A.C.” as is commonly used).

Official Public Domain Citations

The use of an official public domain citation is now preferred when available, pursuant to Bluebook Rule 10.3. This rule reflects a trend among courts to upload their opinions to a source available on the Internet. This public domain citation (also referred to as medium neutral citations) source has become the citation of choice by the Bluebook editors, who instruct use of this cite “instead” of the regional reporter citations. Bluebook at 62. Official and regional reporters are still required, but if a public domain citation exists, it should be cited, and the other citations are then optional. The method for citing decisions available in public domain format is to include: case name; year of decision as volume number; name of court issuing the decision (using the appropriate abbreviations for regional cites); and the sequential
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In general, citations to a case that has been cited in full may be shortened if the shortened citation clearly identifies the case. Short forms of case citations give the name of one or both parties and do not give the first page of the case or the court or year of decision; they do include the word "at" to indicate the page on which the specific materials appear. The name of a governmental party or other common litigant should not be used in the short form, when shortening to the name of a single party. Acceptable short forms for State v. Walborn, 729 So. 2d 504 (Fla. 2d DCA 1999), are thus: Walborn, 729 So. 2d at 505; 729 So. 2d at 505; Id. at 505. (Not: State of Florida, 729 So. 2d at 505.)

Books, pamphlets, periodicals, and other similar materials may be referred to by the "supra" short form, once cited in full.

There is no appropriate short form for a cite to a constitution, so always repeat the cite in full. The Bluebook does suggest short forms for statutory cites, but the Florida form is so short already that no shorter form seems appropriate. Omission of even the date of the statute is advisable only where there have been no relevant amendments that could have a bearing on the case.

Parenthetical Information—Rule 1.5

The Bluebook continues to recom-
Is Your Bar Address Correct?

Rule 1-3.3 of the Rules Regulating The Florida Bar, effective January 1, 1992, Chapter 1, Paragraph 1-3.3 states:

“Official Bar Address: Each member of The Florida Bar shall designate an official bar mailing address and business telephone number. If the address given is not the physical location or street address of the principal place of employment, then such information shall also be given. Each member shall promptly notify the executive director of any changes in any information required by this rule.”

To update your official record address, mail the form below to Address Changes, Membership Records Department, The Florida Bar, 650 Apalachee Parkway, Tallahassee, FL 32399-2300.

Attn: Address Changes, Membership Records Department, The Florida Bar, 650 Apalachee Parkway, Tallahassee, FL 32399-2300

Attorney Number __________________________________________

Name ____________________________________________________

Address __________________________________________________

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Business Phone ____________________________________________

Facsimile Number __________________________________________

E-mail ____________________________________________________

Signature ____________________________________________

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This column is submitted on behalf of the Appellate Practice Section, Lucinda Ann Hofmann, chair, and Jacqueline E. Shapiro, editor.