

Cross-references to material in both text and notes

⁹⁶For examples of the most common errors in drafting partnership agreements, review *supra* notes 47–58 and accompanying text.

¹⁰¹*Infra* n. 218 and accompanying text (discussing Justice Scalia’s dissent).

Cross-references to other material within the paper

⁹⁸For a more complete description of each state’s kidnapping statute, see *infra* appendix 3.

⁷⁵*Supra* tbl. 5 (listing settlement rates for civil cases in each federal district court).

SIDEBAR 10.1

THE TWO USES OF *SUPRA*

In legal citation, the word “*supra*” has two distinct functions. As noted in Rule 10.3(a), *supra* is sometimes used as an internal cross-reference. But as explained in Rule 11.4, *supra* also can be used as a short citation for certain types of sources. Although the formats are somewhat different, both uses lead readers to information that appears earlier in the paper.

11.0**INTRODUCTION TO FULL AND SHORT
CITATION FORMATS****11.1 Full Citation Format****11.1(a) Definition**

A full citation includes each component required for that particular source and gives readers sufficient information to locate that source in a library or an online database.

11.1(b) Components of a full citation

Each specific source will require slightly different components. Subject to special forms developed in Rules 12 through 42, the types of information typically provided in a full citation include the author's name; the title or name of the source; the volume, if any; the page, section, or other subdivision within which the referenced material is located within the source; the publisher; and the date.

11.1(c) Use

- 1) Use a full citation the first time a source is cited in the paper.
- 2) Some attorneys and judges prefer that a source be cited in full only once in the paper. Others prefer that full citations be used more frequently—such as each time the writer reaches a new major section of the paper. Either preference is permissible.

11.2 Short Citation Format**11.2(a) Definition**

A short citation is used only after an authority has been cited once in full citation format. A short citation typically omits some of the required full citation components but still provides enough information for readers to identify and locate the source.

11.2(b) Use

- 1) Short citations are used to save space in a paper. In addition, they are less disruptive to the flow of text than are full citations.

- (2) Use a short citation when (a) the reader will not be confused about which source is being referenced, and (b) the reader will not have trouble locating the full citation quickly. Thus, in a short legal document, you may need only one full citation for a particular source and then may use short citations in each instance thereafter. In longer legal documents, you may need a full citation each time you start a new section.
- (3) Throughout this book, you will be introduced to several variations of short citations. The types of short citation that can be used will vary depending on (a) whether the paper you are preparing is one with citations embedded within the text or one with footnotes, (b) where the short citation appears in relation to the full citation, and (c) the type of source cited.
- (4) In this book, each rule for a specific source contains information on both the full and short citation formats. Accordingly, consult the rule for the particular source you are citing for in-depth information on appropriate uses and formats.

11.3 *Id.* as a Short Citation

11.3(a) Definition

“*Id.*” is the abbreviation for “*idem*,” which means “the same.”

11.3(b) Use

- (1) Except when used in a parallel citation (Rule 12.21(f)), *id.* replaces as much of the immediately preceding citation as is identical with the current one.
- (2) *Id.* may be used as a short citation for any source except appellate records (Rule 29.6) and internal cross-references (Rule 10).
- (3) If *id.* is appropriate, use *id.* as the preferred short citation.

SIDEBAR 11.1

ID. VERSUS IBID.

Id. is used in legal citations the same way *ibid.* is used in nonlegal citation systems.

(4) *Id.* may be used only in the following circumstances:

- (a) In papers without footnotes, use *id.* only when referring to the immediately preceding authority.**

Example

Full citation for first case

Id., alone, is correct because this citation is also to page 784 of *Johnson*.

Full citation for second case

Id. is proper because it refers to *R.R.*; since the material is from page 791, not page 796, add the new page number.

Id. is not appropriate because the preceding case is *R.R.*; thus, you must use another short citation format.

Some states have enforced surrogacy agreements. For example, the California Supreme Court held that surrogacy contracts do not violate the policies governing the termination of parental rights. *Johnson v. Calvert*, 851 P.2d 776, 784 (Cal. 1993). The Court reached this ruling because the contract was based on services, not the termination of parental rights. *Id.* Other states, however, have refused to enforce surrogacy agreements. The Massachusetts Supreme Court, for example, held that a contract in which the birth mother receives payment for her services is not enforceable if the payment is used to influence her decision to relinquish custody. *R.R. v. M.H.*, 689 N.E.2d 790, 796 (Mass. 1998). In *R.R.*, the surrogate was artificially inseminated with the intended father's sperm. *Id.* at 791. The contract indicated that the surrogate would receive \$10,000 for delivering the child. The Court refused to enforce the contract because the payment vitiated the surrogate's intent. *Id.* at 796.

The California Court gave several public policy reasons why surrogacy contracts should be enforced. *Johnson*, 851 P.2d at 784.

- (b) In papers with footnotes, use *id.* only when referring to (1) the immediately preceding authority within the same footnote or (2) the immediately preceding authority in the preceding footnote. For a clear reference to material in the preceding footnote, that footnote must contain only one source. If the preceding footnote contains multiple sources, do not use *id.***

Examples

Refers to *Nollan* at page 834

Refers to *Nollan* at page 835

Refers to *Richardson* at page 1157

Id. is not appropriate because note 23 concerns *Nollan*, not *Richardson*.

¹⁸*Nollan v. Cal. Coastal Commn.*, 483 U.S. 825, 834 (1987).

¹⁹*Id.*

²⁰See *id.* at 835.

²¹*Richardson v. City of Honolulu*, 124 F.3d 1150, 1155–1160 (9th Cir. 1997).

²²*Id.* at 1157.

²³*Nollan*, 438 U.S. at 834.

Id. is not appropriate because the preceding note contains multiple sources.

²⁴*Haw. Hous. Auth. v. Midkiff*, 467 U.S. 229 (1984); *Loretto v. Teleprompter Manhattan CATV Corp.*, 458 U.S. 419 (1982).

²⁵*Loretto*, 458 U.S. at 432.

Id. is appropriate because the preceding note contains one source.

²⁶*Id.* at 436.

11.3(c) Typeface

Italicize *id.* If you use underlining to represent italics, underline the period in *id.* (id.).

11.3(d) Capitalization

When *id.* begins a sentence, capitalize the “i.” When *id.* does not start a sentence, use a lowercase “i.”

Examples

¹⁸*Nollan v. Cal. Coastal Commn.*, 483 U.S. 825, 834 (1987).

¹⁹*Id.*

²⁰See *id.* at 835.

11.3(e) *Id.* used with pinpoint references

When *id.* is used with a pinpoint reference, include “at” before the pinpoint page, section, paragraph, or other division.

Examples

Page number: *Id.* at 321.

Section number: *Id.* at § 14.3.

Paragraph number: *Id.* at ¶ 6-6.

Other reference: *Id.* at app. 1.

11.3(f) Referring to shorter works within a collection

When citing a shorter work in a collection, use *id.* to refer to the shorter work, not to the collection. For books, also consult Rules 22.1(l), 22.1(m), and 22.3.

Examples

Correct

⁴⁵Stanley D. Robinson, *Antitrust Developments: 1973*, in *Antitrust in Transition* vol. 1, 1, 7 (Milton Handler ed., Transnatl. Juris Publications 1991).

⁴⁶*Id.* at 3.

Incorrect

⁴⁵Stanley D. Robinson, *Antitrust Developments: 1973*, in *Antitrust in Transition* vol. 1, 1, 7 (Milton Handler ed., Transnatl. Juris Publications 1991).

⁴⁶Michael Malina, *The Antitrust Jurisprudence in the Second Circuit*, in *id.* at 817.

11.3(g) Intervening sources

Sources included in an explanatory parenthetical (**Rule 46**), a subsequent history designation (**Rule 12.8**), or a prior history designation (**Rule 12.9**) are not considered intervening sources for purposes of determining when *id.* can be used. The following examples reflect the correct use of *id.* This rule also applies to documents without footnotes, such as memos and briefs.

Examples

¹⁰⁰*Haw. Hous. Auth. v. Midkiff*, 467 U.S. 229, 241 (1984) (quoting *U.S. v. Gettysburg Elec. Ry.*, 160 U.S. 668, 680 (1896)).

¹⁰¹*Id.* at 242.

¹⁰²634 N.Y.S.2d 740 (App. Div. 2d Dept. 1995), *aff'd*, 679 N.E.2d 1035 (N.Y. 1997).

¹⁰³*Id.* at 741.

11.4 *Supra* as a Short Citation

11.4(a) Definition

The term “*supra*,” which means “above,” can be used to develop a short citation that cross-references the full citation. This use of *supra* is different from that described in **Rule 10.3**. Consult **Sidebar 10.1** for additional information on the different uses of *supra*.

11.4(b) Use

- (1) As with any short citation, use *supra* only after the source has been cited once in full format.
- (2) Although a source cited in full format for the first time in an explanatory parenthetical may be used as a full citation for purposes of this rule, the

writer should evaluate whether readers will be able to easily find the full citation when it is part of a parenthetical. If the writer determines that readers should be able to find the full citation format easily, the *supra* short form may be used. Alternatively, the writer may choose to cite the source again in full format, and use the short form thereafter.

- (3) Do not use *supra* if *id.* is appropriate.
- (4) The *supra* citation format cannot be used for all sources. *Supra* most typically is used for sources cited by author name, such as books, law review articles, and Web sites. Do **not** use *supra* as a short citation for the following sources: cases, statutes, session laws, ordinances, legislative materials (other than hearings), constitutions, and administrative regulations.
- (5) If the source is not listed in the “not” portion of **Rule 11.4(b)(4)**, *supra* is appropriate. For additional information on using the *supra* format for a particular source, consult the “short citation format” rule for the source you are citing.

11.4(c) Format

Use the following format for a *supra* short citation for documents with footnotes. Retain the word “at” even if the pinpoint reference is a section or paragraph number.

Author’s last name (or, if not available, *Title*),[●]*supra* n.▲Note number,●at Pinpoint reference.

Examples

³Debra Baker, *How Safe Is Your 'Burb?* 85 ABA J. 50, 51–52 (Sept. 1999).

¹⁴Baker, *supra* n. 3, at 55.

11.4(d) “Hereinafter” and *supra*

- (1) Use
 - (a) “Hereinafter” can be used in limited circumstances to shorten a *supra* citation or to shorten a long title that must be used in the short citation format.

Examples

²¹*Terrorism: Victims’ Access to Terrorist Assets: Hearing before the Senate Committee on the Judiciary*, 106th Cong. 17 (1999) [hereinafter *Terrorism Hearing*].

²⁴*Terrorism Hearing*, *supra* n. 21, at 17–18.

(b) Use “hereinafter” in only the following circumstances:

- ★ When the cited source has no author and the title is long.

Examples

¹⁴³*Settlement Reached in Case Arising from Electrocution of Worker When Crane Struck Power Line*, 10 *Verdicts, Settles. & Tactics* 215 (June 1990) [hereinafter *Power Line Settlement*].

. . . .

¹⁴⁷*Power Line Settlement*, *supra* n. 143, at 215.

- ★ When the full citation appears in a footnote that contains at least two authorities by the same author.

Examples

⁵Lani Guinier, *Lessons and Challenges of Becoming Gentlemen*, 24 *N.Y.U. Rev. L. & Soc. Change* 1, 11 (1998) [hereinafter *Guinier, Lessons*]; Lani Guinier, *Reframing the Affirmative Action Debate*, 86 *Ky. L.J.* 505, 517–518 (1997–1998) [hereinafter *Guinier, Reframing Debate*].

. . . .

¹⁸*Guinier, Lessons*, *supra* n. 5, at 12–15.

¹⁹*Id.* at 13, 17.

²⁰*Guinier, Reframing Debate*, *supra* n. 5, at 520.

- ★ When the regular shortened form would confuse the reader, or when the “hereinafter” format would help readers identify the source more readily. However, be careful not to overuse the “hereinafter” format.

Examples

¹⁹¹*Santa Clara U., Santa Clara Law Review, Candidate Cite-Checking Handbook 2004–2005*, http://www.scu.edu/law/client/pdf/lawreview_cite-checking.pdf (accessed July 17, 2005) [hereinafter *Santa Clara Handbook*].

. . . .

²⁰⁰*Santa Clara Handbook*, *supra* n. 191.

³⁹*Fla. Legis., Off. of Prog. Policy Analysis & Govt. Accountability, Private Prison Review 2* (Rpt. No. 99-33 Feb. 2000) (available at <http://www.oppaga.state.fl.us/reports/crime/r99-33s.html>) [hereinafter *Florida Study*].

. . . .

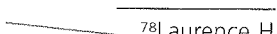
⁴⁶*Florida Study*, *supra* n. 39, at 4.

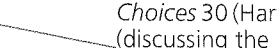
- ★ As described in Rule 22.2(b).


(2) Format

- (a) The “hereinafter” designation appears in brackets ([]) at the end of the first full citation to the authority. Insert one space between the full citation and the “hereinafter” designation. (No punctuation should intervene.) Within the brackets, insert the word “hereinafter,” one space, and the shortened form of the title you have selected.
- (b) The word “hereinafter” should appear in ordinary type.
- (c) Present the information following “hereinafter” in the same typeface as the material would appear in the full citation.
- (d) If you are using “hereinafter” because the title is long, either use the first few words of the full title, or use a shortened form that conveys the subject matter of the source. See the *Power Line Settlement* examples in Rule 11.4(d)(1)(b).
- (e) If you are using “hereinafter” to avoid ambiguity, use the author’s last name and a shortened version of the title. See the Lani Guinier examples above in Rule 11.4(d)(1)(b).
- (f) Place the hereinafter information before any explanatory parenthetical.

Example

Insert one space before the “hereinafter” bracket. 

Insert the “hereinafter” designation before the explanatory parenthetical. 

Do not need “hereinafter” because the author is different. 

⁷⁸Laurence H. Tribe, *American Constitutional Law* ch. 5 (3d ed., Found. Press 2000) [hereinafter Tribe, *American Constitutional Law*]; Laurence H. Tribe, *Constitutional Choices* 30 (Harv. U. Press 1985) [hereinafter Tribe, *Choices*] (discussing the need to interpret the words of a statute as written); Laurence H. Tribe & Michael C. Dorf, *On Reading the Constitution* (Harv. U. Press 1991).

P A R T

3

CITING SPECIFIC

PRINT SOURCES

	<u>Page</u>
12.0 Cases	64
13.0 Constitutions	107
14.0 Statutory Codes, Session Laws, and Slip Laws	111
15.0 Other Federal Legislative Materials	124
16.0 Other State Legislative Materials	142
17.0 Court Rules, Ethics Rules and Opinions, and Jury Instructions	156
18.0 Local Ordinances	162
19.0 Federal Administrative and Executive Materials	167
20.0 State Administrative and Executive Materials	182
21.0 Treaties and Conventions to Which the United States Is a Party, International Sources, and Foreign Sources	187
22.0 Books, Treatises, and Other Nonperiodic Materials	202
23.0 Legal and Other Periodicals	217
24.0 A.L.R. Annotations	227
25.0 Legal Dictionaries	231
26.0 Legal Encyclopedias	234

	<u>Page</u>
27.0	Restatements, Model Codes, Uniform Laws, and Sentencing Guidelines 239
28.0	Looseleaf Services and Reporters 246
29.0	Practitioner and Court Documents, Transcripts, and Appellate Records 253
30.0	Speeches, Addresses, and Other Oral Presentations 259
31.0	Interviews 264
32.0	Letters and Memoranda 268
33.0	Video and Visual Recordings and Broadcasts 273
34.0	Sound Recordings 278
35.0	Microformed Materials 281
36.0	Forthcoming Works 284
37.0	Unpublished Works and Working Papers 286



FAST FORMATS

CASES

United States Supreme Court

Tenn. v. Lane, 541 U.S. 509 (2004).

United States Court of Appeals

Knology, Inc. v. Insight Commun. Co., 393 F.3d 656 (6th Cir. 2004).

Morris v. Diaz, 119 Fed. Appx. 316 (2d Cir. 2004) (unpublished).

United States District Court

Stratton v. Marsh, 71 F. Supp. 2d 475 (E.D. Pa. 1999).

Dukes v. Wal-Mart Stores, Inc., 222 F.R.D. 137 (N.D. Cal. 2004).

**State supreme court
(not using local rule)**

Fletcher Hill, Inc. v. Crosbie, 872 A.2d 292 (VT. 2005).

**State appellate court
(not using local rule)**

Dunston v. Miss. Dept. Marine Resources, 892 So. 2d 837 (Miss. App. 2005).

Parallel citation

Jackson v. Greger, 160 Ohio App. 3d 258, 826 N.E.2d 900 (2d Dist. 2005).

Electronic citation

Jackson v. Mich. St. U., 2005 WL 1652195 (Mich. App. July 14, 2005).

Dissenting opinion

Meister v. Safety Kleen, 987 S.W.2d 749, 751 (Ark. App. Divs. II & III 1999) (Hart, Neal & Meads, JJ., dissenting).

Short citations

Id. at 838.
892 So. 2d at 838.
Dunston, 892 So. 2d at 838.

12.0

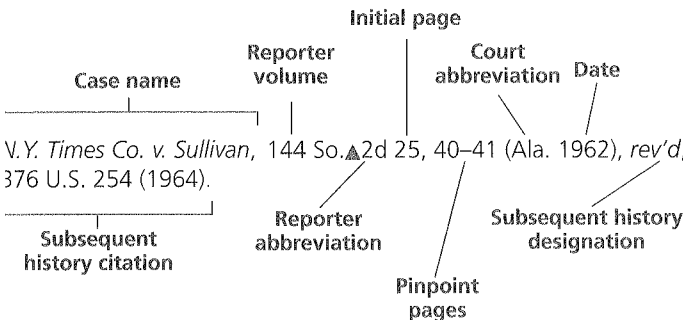
CASES

12.1 Full Citation Format

A full citation for a case may contain as many as nine components. However, some citations will contain fewer components.

Case name, *Reporter volume*, *Reporter abbreviation*, *Initial page*, *Pinpoint page*, *(Court abbreviation)*, *Date*, *Subsequent history designation*, *Subsequent history citation* [if any].

Example



12.2 Case Name

12.2(a) Typeface and punctuation

Italicize or underline the case name. Do not italicize or underline the comma that follows the case name.

12.2(b) Case cited

1) Consolidated actions

If the caption lists two or more cases, cite only the case first listed.

Example

Caption (as it appears in a reporter or an online database)

The New York Times Company v. L.B. Sullivan
 Ralph B. Abernathy et al. v. L.B. Sullivan

Correct name: *N.Y. Times Co. v. Sullivan*

(2) Two names for one case

If one case has two different names, use the one listed first. For additional information on bankruptcy cases, which often have two names, see Rule 12.2(o)(2).

Example

Caption

In re Trans World Airlines, Incorporated

Interface Group-Nevada, Incorporated v. Trans World Airlines, Incorporated

Correct name: *In re Trans World Airlines, Inc.*

SIDEBAR 12.1

DISTINGUISHING CASE NAMES FROM PARTY NAMES

In a textual sentence, use italics or underlining to refer to the case name, but use regular type to refer to the name of the person.

Case name

In *Smith*, the jury rendered a verdict in favor of the prosecution.

Person

Smith was convicted for larceny.

12.2(c) Parties cited

- (1) Cite only the first-listed party on each side of the case. Also include the first-listed relator, if any. Consult Rule 12.2(n) for information on relators.
- (2) Do not use “*et al.*,” “*et ux.*,” or other terms to denote omitted parties.
- (3) If a party has been otherwise named, do not include any party’s designation, such as plaintiff, defendant, appellant, appellee, petitioner, respondent, intervenor, administrator, executor, licensee, or trustee.
- (4) Place a “*v.*” between the parties’ names if that is done in the caption.

Examples

Caption

Floyzell Jones et al., Plaintiffs and Appellants v. KMart Corporation et al., Defendants and Appellees

Correct name: *Jones v. KMart Corp.*

Caption

United States ex rel. David Hancock, Plaintiff, and Relator v. Charles F. Regan, Jr., William A. Gordon, Harold J. Neems, Robert H. Thomas, Howard Pepper, Harry C. Burgess, Francis S. Blake, John F. Welch, Mayer, Brown & Platt, an Illinois partnership, and General Electric Company, a corporation, Defendants

Correct name: *U.S. ex rel. Hancock v. Regan*

12.2(d) Individual as party

- (1) Use only the individual's surname (last name). Retain all parts of the surname, even if it is hyphenated or contains more than one word. If you are unsure about what part of an individual party's name to include as the surname, consult the index of the reporter in which the case appears. Do not use **Appendix 3** to abbreviate an individual's name, even if the name appears in **Appendix 3**.

Examples

Caption

Vivian C. Smith-Gregg v. Department of Interior

Correct name: *Smith-Gregg v. Dept. of Int.*

Caption

Herbert H. Becker v. Ellen M. Von Nardroff

Correct name: *Becker v. Von Nardroff*

- (2) In some cultures, the family name comes first, and in others there are two family names, one for each parent. Retain names that follow a family name. Thus, if the name is entirely in a language in which the family name comes first, such as Chinese, Korean, or Vietnamese, retain the full name. For Spanish and Portuguese names, include the family name and all following names. For additional information on names, consult the most recent edition of *The Chicago Manual of Style*.



Examples

Caption

Kang Joo Kwan v. United States

Correct name: Kang Joo Kwan v. U.S.

Caption

Juan Manuel Ortiz Alvear v. United States

Correct name: Ortiz Alvear v. U.S.

Caption

Pedro Luis Rodriguez y Paz v. National Products Company

Correct name: Rodriguez y Paz v. Natl. Prods. Co.

- (3) If a party is designated only by initials (usually to preserve anonymity), retain all initials as the name. If a party's last name is reduced to a single initial (usually to preserve anonymity), use both the first name and the initial that represents the surname.

Examples

J.M. v. Webster County Bd. of Educ.

Nancy P. v. D'Amato

12.2(e) Organization as party

- (1) Include the organization's full name, but omit abbreviations such as "d/b/a" ("doing business as") and words that follow such abbreviations. As noted in Rule 12.2(q), typically omit "The" when it appears as the first word in a party's name.

Examples

Caption

Taylor Equipment, Inc., dba Midcon Equipment Company v. John Deere Company

Correct name: Taylor Equip., Inc. v. John Deere Co.

Caption

James R. Richardson v. The State-Record Company, Inc.

Correct name: Richardson v. State-Record Co.

- (2) If the organization name includes the name of an individual, include the full name, not just the surname.

Example

Caption

William Lloyd, Inc. v. Walter Hrab

Correct name: *William Lloyd, Inc. v. Hrab*

- (3) When a case name appears in a citation clause or sentence (**Rule 43**), you may abbreviate any word in the party's name included in **Appendix 3**. When you abbreviate one word in a case name, you should abbreviate all words listed in **Appendix 3**. However, if an abbreviation would cause confusion, do not use it even if the word appears in **Appendix 3**. Using this rationale—except for state names—do not abbreviate a name that consists only of one word. Do not abbreviate words not listed in **Appendix 3**, even if the source cited, such as a reporter, abbreviates those words.

Example when abbreviating words might cause confusion

Caption

Walter Flagg v. Northern Pacific Transportation Company

Confusing abbreviation: *Flagg v. N.P. Transp. Co.*

Better abbreviations: *Flagg v. N. Pacific Transp. Co.* or
Flagg v. Northern P. Transp. Co.

- (4) As noted in **Rule 2.3**, if the case name appears in text, it is traditional to spell out virtually all words in the name. However, the following words need not be spelled out: and (&), Association (Assn.), Brothers (Bros.), Company (Co.), Corporation (Corp.), Incorporated (Inc.), Limited (Ltd.), Number (No.), and United States (U.S.). See **Rule 12.2(g)** regarding “United States as party.”
- (5) You may shorten long organization names (more than five words) in a sensible way by eliminating some words from the end of the name. You also may omit geographical terms that are not essential parts of the organization name, and prepositions and articles that are not needed for clarity.

Examples

Caption

Harrison H. Young v. Motor City Apartments Limited Dividend Housing Association No. 1 and No. 2

Correct name: *Young v. Motor City Apts.*

Caption

Sci-Tel Associates v. Michigan National Bank, Village of Franklin

Correct name: *Sci-Tel Assocs. v. Mich. Natl. Bank*

- (6) When there is no danger of confusion, commonly known initials may be substituted for a party's complete name. Do not insert periods between the initials. Examples include ACLU, NAACP, and MADD.
- (7) When a name includes two business designations, delete the second business designation. Business designations are Assn., Co., Corp., F.S.B., Inc., L.L.C., LLP, LP, Ltd., N.A., P.A., P.C., R.R., Ry., and S.A.

Example**Caption**

Morgan and Company, Inc. v. Olin Corporation, Inc.

Correct name: *Morgan & Co. v. Olin Corp.*

12.2(f) Union as party

Cite only the local unit. Otherwise, follow Rule 12.2(e) for organizations.

Example**Caption**

Teamsters Brewery & Soft Drink Workers Local Union 896, International Brotherhood of Teamsters, AFL-CIO v. Anheuser-Busch, Inc., et al.

Correct name: *Teamsters Brewery & Soft Drink Workers Loc. Union 896 v. Anheuser-Busch, Inc.*

12.2(g) United States as party

Cite as U.S. Omit "of America."

Examples

Browne v. U.S. *U.S. v. Rouse*

12.2(h) State or commonwealth as party

When a U.S. state is a party to a case, indicate its name differently according to whether the case is decided by a court of that same state or by another court.

- (1) When citing a decision of that state's court, retain only "State," "Commonwealth," or "People," depending on how the caption of the case reads. For example, if an Iowa court decides a case that involves the State of Iowa, use only "State" as the party name. For clarity, do not abbreviate "State" or "Commonwealth" in this situation.

Example

Caption

Commonwealth of Massachusetts v. Armand R. Therrien, 703 N.E.2d 1175 (Mass. 1998)

Correct citation: *Commonwealth v. Therrien*, 703 N.E.2d 1175 (Mass. 1998).

- (2) If the case is decided by another state's court or by a federal court, use only the state's name or abbreviation from **Appendix 3**. For example, if a federal district court decides a case involving the State of New York, use "N.Y." as the party name.

Example

Caption

Dennis L. Blackhawk v. Commonwealth of Pennsylvania, et al., 381 F.3d 202 (3d Cir. 2004)

Correct citation: *Blackhawk v. Pa.*, 381 F.3d 202 (3d Cir. 2004).

12.2(i) Cities and municipalities as parties

Retain the full names of cities and other municipalities. You may omit larger geographical references.

Example

Caption

Charlie D. Love v. Town of Lake Providence, Louisiana, et al.

Correct name: *Love v. Town of Lake Providence*

12.2(j) Commissioner of Internal Revenue as party

Cite as *Commr.*

Example

Matteson v. Commr.

12.2(k) Individual government official as party

Follow Rule 12.2(d) regarding individuals as parties. Omit the individual's title or office.

Example

Caption

Einar R. Petersen v. Elizabeth Dole, Secretary of Labor

Correct name: *Petersen v. Dole*

12.2(l) Other governmental parties

For other governmental parties, such as agencies and departments, follow Rule 12.2(e) for organizations. When there is no danger of confusion, commonly known initials, such as FAA, NLRB, OSHA, and SEC, may be substituted for a party's complete name.

Examples

Caption

M. Lorene Pyle, Petitioner v. Department of Public Welfare, Respondent

Correct name: *Pyle v. Dept. of Pub. Welfare*

SIDEBAR 12.2

PUBLIC OFFICIAL NAMED AS A PARTY

When a federal public official is a party to an action in his or her official capacity and the official leaves office during the pendency of the case, the name of the case will change to that of the successor. Fed. R. Civ. P. 25(d).

For example, when Lloyd Bentsen became Secretary of the Treasury, he was substituted for Nicholas Brady, the former Treasury Secretary, on all pending cases in which Brady had been sued in an official capacity. Thus, *Fulani v. Brady*, 809 F. Supp. 1112 (S.D.N.Y. 1993), was affirmed on appeal *sub nom. Fulani v. Bentsen*, 35 F.3d 49 (2d Cir. 1994). (Consult Rule 12.10(b) about when to use "sub nom.")

Many state rules of civil procedure contain similar provisions about substituting public officials.

Caption

Paul A. Bilzerian v. Securities and Exchange Commission

Correct name: *Bilzerian v. SEC*

12.2(m) Property as party

include only the first-listed piece of real or personal property. For addresses, use the street address. You may omit larger geographical designations.

Examples**Caption**

United States of America v. 5307 West 90th Street, Oak Lawn, Illinois, and Gary Taylor

Correct name: *U.S. v. 5307 W. 90th St.*

Caption

United States of America v. One 1969 Plymouth Fury Automobile, Serial No. M43G9D199088

Correct name: *U.S. v. One 1969 Plymouth Fury*

12.2(n) Relator as party

- 1) A relator is a party who sues on behalf of another interested person or entity. For example, a guardian may sue on behalf of a ward, or a government may sue on behalf of a private citizen.
- 2) Put the relator's name in front of the procedural phrase "*ex rel.*" and the interested person or entity after "*ex rel.*" "*Ex rel.*" is defined in **Sidebar 12.3**. If the caption contains multiple relators or interested persons, include only the first-listed relator or interested person per side.

Examples**Caption**

Donald F. Petronella, Commissioner of Labor, ex rel. Glenn Maiorano et al. v. Venture Partners, Ltd., et al.

Correct name: *Petronella ex rel. Maiorano v. Venture Partners, Ltd.*

Caption

United States of America, ex rel. Gary R. Eitel v. Roy D. Reagan et al.

Correct name: *U.S. ex rel. Eitel v. Reagan*

12.2(o) Procedural phrases in case names

- (1) Include “*in re*,” “*ex parte*,” and “*ex rel.*” when these procedural phrases, or related phrases, appear in case names. These terms are defined in **Sidebar 12.3**. Also consult **Sidebar 12.3** to determine when to replace other terms, such as “in the matter of,” with the listed terms.
- (2) Bankruptcy cases often have two names, one adversary (one party v. another party) and one nonadversary (typically starting with “*In re*”). If a bankruptcy case has two names, use the adversary name, even if it is not listed first. Although not required, it is permissible to also include the nonadversary name in parentheses following the adversary name. Do not italicize or underline the parentheses around the nonadversary case name. If the case has only one name, use just that name; do not attempt to create a second name for the case.

Example

Caption

In re Frank Lamont Swain and Esther Marie Swain, Debtors

Frank Lamont Swain and Esther Marie Swain, Plaintiffs-Appellants v. Dredging, Inc., d/b/a Scott’s Concrete and Jane Ellen Martin, Defendants-Appellees

Correct citation: *Swain v. Dredging, Inc.*, 325 B.R. 264 (Bankr. App. 8th Cir. 2005).

Permissible citation: *Swain v. Dredging, Inc. (In re Swain)*, 325 B.R. 264 (Bankr. App. 8th Cir. 2005).

- (3) Omit all procedural phrases except the first.
- (4) “Estate of” and “will of” are not treated as procedural phrases and should be included in the case name.
- (5) Present procedural phrases in italics, as you would the rest of the case name.

Examples

Caption

Ex parte Caterpillar, Inc. (Re T.A. Hall v. Thompson Tractor Company, Inc., and Caterpillar, Inc.)

Correct name: *Ex parte Caterpillar, Inc.*

Caption

In the Matter of the Estate of Edith B. Allen

Correct name: *In re Est. of Allen*

Caption

Matter of Attorney Janese B. Crosgrove

Correct name: *In re Crosgrove*

12.2(p) Geographical locations

Retain only the first geographical location in a party's name.

Example**Caption**

Alexander Leon v. Superior Court of California, Los Angeles County

Correct name: *Leon v. Super. Ct. of Cal.*

12.2(q) "The" as first word of a party's name

Omit "the" if it is the first word in a party's name except (1) when it is part of an object in an in rem action, (2) when referring to an established popular name, and (3) when referring to "The King" or "The Queen" as a party.

Examples**Caption (example of general rule)**

The New Yorker Magazine, Inc. v. Lawrence E. Gerosa

Correct name: *New Yorker Mag., Inc. v. Gerosa*

Caption (in rem)

Callaway Ice & Fuel Co., Inc. v. The Rutheline, her engines, tackle, furniture, apparel, etc.

Correct name: *Callaway Ice & Fuel Co. v. The Rutheline*

Caption (established popular name)

The Civil Rights Cases

Correct name: *The Civil Rights Cases*

Caption (English case)

Barry Victor Randall v. The Queen

Correct name: *Randall v. The Queen*

SIDEBAR 12.3

EXPLANATION OF COMMONLY USED PROCEDURAL PHRASES

In re

“*In re*” means “regarding.” It is the usual method of labeling a proceeding with no adversarial parties, but with some res, such as a bankrupt’s estate or a proposed public project. “*In re*” is used to replace phrases such as “in the matter of,” “matter of,” “petition of,” and “application of.”

Ex parte

“*Ex parte*” means “from or on behalf of only one side to a lawsuit.” It is the usual method of labeling an action made by, for, or on behalf of one party, often without notice to or contest by the other side. For example, an *ex parte* divorce hearing is one in which only one spouse participates and the other does not appear.

Ex rel.

“*Ex rel.*” is the abbreviation for “*ex relatione*,” which means “upon relation or information.” It is the usual method of labeling an action instituted by one person on behalf of another. In citations, “*ex rel.*” is used to replace phrases such as “on the relation of,” “for the use of,” and “on behalf of.”

12.2(r) Popular case names

Sometimes, a case or group of cases becomes well known by a popular name, as opposed to the formal name that appears in the reporter. The popular name may either be substituted for the formal name that appears in the reporter or may be added parenthetically after the formal name. Do not italicize or underline the parentheses around the popular case name.

Examples

Correct citation: *Slaughter-House Cases*, 83 U.S. 36 (1872).

Correct citation: *Butchers’ Benv. Assn. of New Orleans v. Crescent City Live-Stock Landing & Slaughter-House Co. (Slaughter-House Cases)*, 83 U.S. 36 (1872).

12.2(s) Cases with multiple decisions

Sometimes, when multiple decisions have been issued in a single case, it may help readers to provide an identifier for each decision. The identifier is typically the short case name followed by a Roman numeral. The identifier may be embedded within nonitalicized or nonunderlined parentheses following the formal case name or may be included in a “hereinafter” construction after the date parenthetical. Whichever format you select, use the same format throughout the paper you are writing. The identifier also may be used in textual sentences.

Examples

U.S. v. Singleton (Singleton II), 165 F.3d 1297 (10th Cir. 1999).

U.S. v. Singleton, 165 F.3d 1297 (10th Cir. 1999) [hereinafter *Singleton II*].
In *Singleton II*, the court held

12.3 Reporter Volume

After the case name, include the volume number of the cited reporter. Insert one space before and after the volume number.

12.4 Reporter Abbreviation

12.4(a) Placement

- [1] After the volume number, include the abbreviation for the reporter in which the case appears. **Chart 12.1** contains abbreviations for many commonly used reporters. Other abbreviations are listed in **Appendix 1**.
- [2] For any reporter series other than the first, include the series number as part of the reporter abbreviation. To denote the series, use an ordinal contraction (**Rule 4.3**).

Examples

2, P.2d, P.3d

F. Supp., F. Supp. 2d

- [3] Insert one space after the reporter abbreviation

12.4(b) General rules regarding which reporter or reporters to cite

- [1] Case citations in court documents

- [a] **State courts:** When submitting a document, such as a brief, to a state court, conform all case citations to the local rules of that court, if

CHART 12.1**COMMON REPORTER ABBREVIATIONS**

(The symbol ▲ denotes a space.)

Reporter	Abbreviation
United States Reports	U.S.
Supreme Court Reporter	S.▲Ct.
United States Supreme Court Reports, Lawyers' Edition	L.▲Ed., L.▲Ed.▲2d
Federal Reporter	F., F.2d, F.3d
Federal Appendix	Fed.▲Appx.
Federal Supplement	F.▲Supp., F.▲Supp.▲2d
Federal Rules Decisions	F.R.D.
Bankruptcy Reporter	B.R.
Atlantic Reporter	A., A.2d
California Reporter	Cal.▲Rptr., Cal.▲Rptr.▲2d, Cal.▲Rptr.▲3d
New York Supplement	N.Y.S., N.Y.S.2d
North Eastern Reporter	N.E., N.E.2d
North Western Reporter	N.W., N.W.2d
Pacific Reporter	P., P.2d, P.3d
South Eastern Reporter	S.E., S.E.2d
South Western Reporter	S.W., S.W.2d, S.W.3d
Southern Reporter	So., So.▲2d

Note: West Group typically starts a new reporter series when the prior series reaches volume 999. To date, West has not permitted a series of reporters to reach volume 1000.

any. Local rules for state courts that have them are reprinted in **Appendix 2**. If a state court requires the citation of both official and unofficial reporters (a “parallel citation”), and does not provide a specific format within its own rules, use **Rule 12.4(d)** for guidance. If the court does not have local rules, cite only one source, most typically the West regional reporter, as described in **Rule 12.4(b)(2)**.

(b) Federal courts: When submitting a document, such as a brief, to a federal court, conform all case citations to the local rules of that

court, if any. Local rules for federal courts that have them are reprinted in **Appendix 2**. If the court does not have local rules, cite only one source, most typically the West regional reporter, as described in **Rule 12.4(b)(2)**.

(2) Case citations in other documents

(a) When citing cases in noncourt documents, such as office memoranda and law review articles, cite only one source, in the following order of preference:

- A West reporter (regional reporters for state cases and the appropriate reporter, such as F.3d or F. Supp. 2d, for federal cases; see **Rule 12.4(c)** regarding United States Supreme Court cases).
- Another print reporter in which the case appears (for example, an offset reporter such as N.Y.S.2d or an official reporter such as Ohio App. 3d);
- An online source (see **Rule 39** for examples, including citations to LexisNexis and Westlaw databases and **Rule 40** for other Internet citations);
- A looseleaf reporter (see **Rule 28** for examples);
- Any other source in which the case appears (for example, a legal newspaper).

(b) California Reporter and New York Supplement

When citing a case that appears in both North Eastern Reporter and New York Supplement, cite the North Eastern Reporter, unless there is a strong local preference to the contrary (as there is in New York).

When citing a case that appears in both the Pacific Reporter and the California Reporter, cite the Pacific Reporter, unless there is a strong local preference (as there is in California).

Thus, when preparing noncourt documents for California or New York attorneys, it often is best to cite Cal. Rptr. and N.Y.S., respectively, instead of the West regional reporter.

12.4(c) Reporter for United States Supreme Court cases

(1) Unless required by local rule (see **Appendix 2**), typically cite only one source, in the following order of preference:

- United States Reports;
- Supreme Court Reporter;
- United States Supreme Court Reports, Lawyers' Edition;
- United States Law Week;
- An online source (such as LexisNexis, Westlaw, or the Internet);
- Any other source.

Example

Brown v. Bd. of Educ., 349 U.S. 294 (1955).

- (2) Many attorneys prefer to include a parallel citation that includes the United States Reports, the Supreme Court Reporter, and sometimes the Lawyers' Edition—in that order. Although not preferred, this citation format is permitted.

Example of alternate format

Brown v. Bd. of Educ., 349 U.S. 294, 75 S. Ct. 753, 99 L. Ed. 1083 (1955).

- (3) Do not cite named reporters, such as Dallas or Cranch, because United States Reports now subsumes those reporters. For additional information on named reporters, consult **Sidebar 12.4**.

Example

Correct: *Marbury v. Madison*, 5 U.S. 137 (1803).

Incorrect: *Marbury v. Madison*, 1 Cranch 137 (1803).

Marbury v. Madison, 5 U.S. (1 Cranch) 137 (1803).

12.4(d) Parallel citations and court reporters

(1) Definition

A parallel citation is a citation that lists two or more sources that have published the same cited authority. For example, the following citation contains a parallel citation to a case that appears in both Nevada Reports and Pacific Reporter, Second Series. Consult **Sidebar 12.5** for information on how to locate parallel citations.

Example

Dow Chem. Co. v. Mahlum, 114 Nev. 1468, 970 P.2d 98 (1998).

(2) Use

Use parallel citations only when required by local rule or custom, or if they will be particularly helpful to the reader. A parallel citation “will be particularly helpful to the reader” if the writer knows that the reader may have only the official set of reporters available in his or her office. Consult **Appendix 2** to determine whether a particular court requires parallel citations. If the court does not have local rules, follow **Rule 12(b)(1)**. **Appendix 2** also refers to some local customs; however, the best way to determine local custom is to speak with

SIDEBAR 12.4**EARLY SUPREME COURT REPORTERS**

The first 90 volumes of United States Reports originally were named for the individuals (the “reporters”) who compiled the cases for publication. Although you should not cite the named reporter, you will find several sources that do. Therefore, use this chart only for purposes of conversion.

Reporter and Abbreviation	U.S. Volumes	Years
Dallas (Dall.)	1–4	1789–1800
Cranch (Cranch)	5–13	1801–1815
Wheaton (Wheat.)	14–25	1816–1827
Peters (Pet.)	26–41	1828–1842
Howard (How.)	42–65	1843–1860
Black (Black)	66–67	1861–1862
Wallace (Wal.)	68–90	1863–1874

The first 107 volumes of United States Reports (through the 1882 term) generally do not provide the exact date of the decision. The United States Supreme Court’s official Web site, <http://www.supremecourtus.gov>, now provides the exact date for each decision issued during this period. When you visit the Court’s Web site, select “Opinions” and then “Dates of Early Supreme Court Decisions.”

attorneys and judges who practice in the jurisdiction and to consult local research guides, such as *Illinois Legal Research* (Carolina Academic Press 2003) by Professor Mark E. Wojcik, or *Oregon Legal Research* (Carolina Academic Press 2003) by Professor Suzanne Rowe.

(3) Format for parallel citations

- (a) Cite official reporters before unofficial reporters. Consult **Appendix 1** to determine which reporters are official and which are unofficial.
- (b) If there are two official reporters, place the government-published reporter before the commercially published reporter. This rule typically means that the West regional reporter, which is an official reporter in some states, will be cited last.

SIDEBAR 12.5

LOCATING PARALLEL CITATIONS

Not every case will have a parallel citation because the opinion may appear in only one source. However, if a court's opinions are published in more than one source and you must include a parallel citation, below are several easy ways to locate the parallel citation. To use these methods, you need to know only one citation for the case.

- ★ The first page of the West unofficial reporter typically provides the parallel citation to the official reporter.
- ★ The first page of some official reporters prints the unofficial citation.
- ★ Cases retrieved on LexisNexis and Westlaw typically reprint the official reporter citation on the first page of the case.
- ★ Shepard's on LexisNexis and Westlaw's KeyCite provide parallel citations.
- ★ Shepard's citators include parallel citations for cases that have them. In Shepard's, parallel citations are enclosed in parentheses and are located at the top of the list of entries.
- ★ Many digests provide parallel citations.

In addition, it often is not necessary to consult both versions of the case to determine internal pagination. Instead, some reporters embed the pagination for the parallel reporter within the text of the case.

For example, opinions in permanent versions of the Supreme Court Reporter and the Lawyers' Edition include references that allow you to determine how the case is paginated in United States Reports. In the Supreme Court Reporter, the United States Reports page numbers are located throughout the opinion and appear as subscript numbers (example: \perp_{188}). In the Lawyers' Edition, United States Reports numbers appear in bolded superscript and are enclosed in brackets (example: ^[513 U.S. 1304]).

- (c) Except as required in Rule 12.4(c) for United States Supreme Court cases, if there are two unofficial reporters, place the West reporter last.
- (d) If both unofficial reporters are published by West, place the regional reporter last.
- (e) If a court uses neutral parallel citations, also consult Rule 12.16(b).
- (f) Separate each citation with a comma and one space.

- (g) Eliminate all or part of the court abbreviation if the name of any cited reporter clearly indicates which court decided the case. Consult Rule 12.6(e) for additional explanation and examples.

Examples

Parallel citations

┌──────────┴──────────┐
 ┌──────────┴──────────┐
O'Connell v. Kirchner, 513 U.S. 1303, 115 S. Ct. 891, 130 L. Ed. 2d 873 (1995).

Parallel citations

┌──────────┴──────────┐
 ┌──────────┴──────────┐
People v. Sargent, 19 Cal. 4th 1206, 81 Cal. Rptr. 2d 835, 970 P.2d 409 (1999).

└──────────┬──────────┘
**Cal. 4th signals a California
 Supreme Court case**

Wainwright v. Perreault, 254 Ga. App. 470, 563 S.E.2d 135 (2002).

In re Estate of Netherton, 62 Ill. App. 3d 55, 57–58, 378 N.E.2d 800, 802 (3d Dist. 1978).

Argonaut Ins. Co. v. Safway Steel Prods., Inc., 355 Ill. App. 3d 1, 290 Ill. Dec. 797, 322 N.E.2d 79 (1st Dist. 2004).

People v. Glanda, 18 A.D.3d 956, 794 N.Y.S.2d 712 (3d Dept. 2005).

12.5 Page Numbers

12.5(a) Initial page numbers

After the reporter abbreviation, include the initial page number, which is the page on which the case begins. For more information on pages, consult Rule 5.

12.5(b) Pinpoint references

If referring to specific pages within the case, also include the relevant pinpoint references, as described more fully in Rule 5.2.

12.5(c) Pinpoint references and parallel citations

- 1) When using parallel citations (Rule 12.4(d)), provide pinpoint references for at least the West reporter.
- 2) Other pinpoint references are optional. It is best, however, to include pinpoint references for each source to which readers would have ready access. In practice, you may anticipate that readers have ready access to West's National Reporter System and to official reporters for the state in which they work.

- (3) Consult Sidebar 12.5 for information on locating pinpoint references for parallel citations.

12.5(d) Dissenting and concurring opinions

Give the initial page on which the case begins, not the page on which the dissenting or concurring opinion begins. Then include pinpoint references to the pages that contain the cited material. See Rule 12.11(a) for additional information about dissenting and concurring opinions.

Examples of different page numbers

- Initial page only:** *In re Estate of Hewitt*, 721 A.2d 1082 (Pa. 1998).
- Pinpoint reference:** *In re Estate of Hewitt*, 721 A.2d 1082, 1085–1086 (Pa. 1998).
- Parallel citation with pinpoint references:** *In re Estate of Hewitt*, 554 Pa. 486, 493, 721 A.2d 1082, 1085 (1998).
- Dissenting opinion:** *In re Estate of Hewitt*, 721 A.2d 1082, 1089 (Pa. 1998) (Catille, J., dissenting).

12.6 Court Abbreviation

12.6(a) General rules

- (1) Include the abbreviation for the court that decided the case. **Appendices 1 and 4** list court abbreviations.
- (2) Except as noted in Rule 12.6(d) for United States Supreme Court cases and Rule 12.6(e) for some parallel citations, the court abbreviation should appear in a parenthetical that also includes the date.

Example

Thomas v. N.W. Natl. Ins. Co., 973 P.2d 804 (Mont. 1998).

- (3) Insert the opening parenthesis before the court abbreviation and insert one space after the court abbreviation.
- (4) Do not include state designations when citing United States Courts of Appeals cases.

Example

Correct: *Howard v. Wal-Mart Stores, Inc.*, 160 F.3d 358 (7th Cir. 1998).

Incorrect: *Howard v. Wal-Mart Stores, Inc.*, 160 F.3d 358 (7th Cir. Ill. 1998).

12.6(b) Counties, departments, districts, and divisions

- (1) Except as noted in Rule 12.6(c), when citing a federal case, do not include information about divisions.

Examples

Correct: *Lipford v. Carnival Corp.*, 346 F. Supp. 2d 1276 (S.D. Fla. 2004).

Incorrect: *Lipford v. Carnival Corp.*, 346 F. Supp. 2d 1276 (S.D. Fla. Miami Div. 2004)..

Correct: *Fireman's Fund Mortg. Corp. v. Zollicoffer*, 719 F. Supp. 650 (N.D. Ill. 1989).

Incorrect: *Fireman's Fund Mortg. Corp. v. Zollicoffer*, 719 F. Supp. 650 (N.D. Ill. E. Div. 1989).

- (2) When citing a state case, include available information about counties, departments, districts, or divisions (see Appendix 1) to inform readers whether the case is binding within a certain jurisdiction or to reflect the weight of the case. The ALWD Web site, <http://www.alwd.org>, contains Chart 12.7, State Appellate Court Divisions, which shows each state and whether and how its appellate court is divided. If there are multiple subdivisions, include only the largest. Present the county, department, district, or division information in the order and numerical style used by the particular court; thus, “First District” would become “1st Dist.,” “Division 2” would become “Div. 2,” and Department III would become “Dept. III.” Include the county, department, district, or division information after the court abbreviation but before the date.

Examples

Deere v. State, 59 Ark. App. 174, 954 S.W.2d 943 (Div. III 1997).

Griffin v. Paul, 901 So. 2d 1034 (Fla. 2d Dist. App. 2005).

Breaux v. Auto Zone, Inc., 787 So. 2d 322 (La. App. 1st Cir. 2000).

Dearlove v. Genzyme Transgenics Corp., 70 Pa. D. & C. 4th 314 (Common Pleas Phila. Co. 2004).

12.6(c) Fifth Circuit split

(1) History

On October 1, 1981, the former United States Court of Appeals for the Fifth Circuit was divided to create the current Fifth and Eleventh Circuits.

(2) Binding precedent in the Eleventh Circuit

Former Fifth Circuit cases decided before October 1, 1981, are binding precedent in the Eleventh Circuit unless overruled by the Eleventh Circuit sitting en banc.

In addition, decisions of Unit B of the former Fifth Circuit and en banc decisions of the former Fifth Circuit handed down after September 30, 1981, are binding on the Eleventh Circuit unless overruled by the Eleventh Circuit sitting en banc. Unit A en banc decisions and Unit A panel decisions decided after September 30, 1981, are only persuasive precedent in the Eleventh Circuit.

(3) Binding precedent in the Fifth Circuit

Decisions of the former Fifth Circuit, regardless of date and unit, are binding on the new Fifth Circuit.

(4) Citation format

- (a) For any former Fifth Circuit case, insert “Unit A” or “Unit B” after “5th Cir.” whenever possible.
- (b) For en banc decisions of the former Fifth Circuit decided after September 30, 1981, use “Former 5th Cir.” as the court abbreviation.

Examples

Gullatte v. Potts, 654 F.2d 1007 (5th Cir. Unit B 1981).

Wilkinson v. D.M. Weatherly Co., 655 F.2d 47 (5th Cir. Unit A 1981).

U.S. v. Martino, 681 F.2d 952 (Former 5th Cir. 1981) (en banc).

12.6(d) United States Supreme Court

For United States Supreme Court decisions, do not include the court abbreviation in the date parenthetical unless citing United States Law Week (U.S.L.W.).

Examples

Correct: *Penry v. Lynaugh*, 492 U.S. 302 (1989).

Incorrect: *Penry v. Lynaugh*, 492 U.S. 302 (U.S. 1989).

Correct: *Kelo v. City of New London*, 73 U.S.L.W. 4552 (U.S. June 23, 2005).

Incorrect: *Kelo v. City of New London*, 73 U.S.L.W. 4552 (2005).

12.6(e) Parallel citations and court abbreviations

As noted in Rule 12.4(d)(3), eliminate all or part of the court abbreviation in the date parenthetical if the name of any cited reporter clearly indicates which court decided the case.

Examples

Ascuttito v. Farricielli, 244 Conn. 692, 711 A.2d 708 (1998).

The court abbreviation “Conn.” for Connecticut Supreme Court has been eliminated from the date parenthetical because the abbreviation for the official reporter, “Conn.” for Connecticut Reports, clearly indicates that the Connecticut Supreme Court decided the case.

People v. Carroll, 300 A.D.2d 911, 753 N.Y.S.2d 148 (3d Dept. 2002).

The abbreviation “N.Y.” for “New York” and the abbreviation “App. Div.” for “Appellate Division” have been eliminated from the court abbreviations because the official reporter, A.D.2d, which stands for Appellate Division, Second Series, and the abbreviation for the West reporter, New York Supplement, Second Series, together indicate that the New York Appellate Division decided the case. However, the abbreviation “3d Dept.” for “Third Department” must be included because that departmental information is required and cannot be gleaned from the reporter abbreviations. Important note: Individuals preparing documents for New York courts always should consult the local rules of court (Appendix 2).

For additional guidance, see the parallel citation examples accompanying Rule 12.6(b).

12.7 Date

12.7(a) General rule

After the court abbreviation, if any, include the date on which the case was decided. Insert a closing parenthesis after the date.

12.7(b) Dates for cases in reporters

Include only the year in which the case was decided.

Examples

Estate of Zimmerman v. S.E. Pa. Transp. Auth., 168 F.3d 680 (3d Cir. 1999).

Pittman v. Stevens, 613 S.E.2d 378 (S.C. 2005).

12.7(c) Dates for cases in other sources

For unpublished cases and cases available only in online or looseleaf format, provide the exact date (month-day-year) of the decision to help readers locate

the case. When providing the exact date, abbreviate the month according to Appendix 3.

Examples

Allen v. Adams, 2004 U.S. Dist. LEXIS 6313 (W.D. Tex. Mar. 30, 2004).

Klein v. Salvi, 2004 WL 596109 (S.D.N.Y. Mar. 30, 2004).

M.T. McBrian, Inc. v. Liebert Corp., 38 Fed. R. Serv. 3d 1294 (N.D. Ill. Nov. 20, 1996).

12.8 Subsequent History

Include subsequent history if the action is listed in **Rule 12.8(a)**. Also indicate when a judgment in a cited case has been overruled.

12.8(a) Actions to include

Include the following actions, and any other actions with similar effect. Do not italicize or underline the comma that precedes or follows the history designation.

- (1) **Affirmed** (, *aff'd*,).
- (2) **Affirmed on other grounds** (, *aff'd on other grounds*,).
- (3) **Affirmed in part, reversed in part** (, *aff'd in part and rev'd in part*,).
- (4) **Appeal denied** (, *appeal denied*,) if the cited case—not the denial—was decided within the last two years or if the denial is particularly important to the discussion. Consult **Sidebar 12.6** for a discussion of what is considered “particularly important.”
- (5) **Appeal dismissed** (, *appeal dismissed*,) if the cited case—not the dismissal—was decided within the last two years.
- (6) **Appeal filed** (, *appeal filed*,). Do not include “*appeal filed*” information after the higher court decides the case.
- (7) **Certiorari denied** (, *cert. denied*,) if the cited case—not the denial of certiorari—was decided within the last two years or if the denial is particularly important to the discussion. Consult **Sidebar 12.6** for additional information on denials of certiorari.
- (8) **Certiorari dismissed** (, *cert. dismissed*,) if the cited case—not the dismissal—was decided within the last two years.
- (9) **Certiorari granted** (, *cert. granted*,). Do not include “*cert. granted*” information after the higher court decides the case.

SIDEBAR 12.6

INFORMATION ABOUT DENIALS
OF CERTIORARI

A writ of certiorari is a device used by courts of last resort, such as the United States Supreme Court, that have discretion to select the cases they want to hear. If the party who lost in the court below seeks review in a court that has discretion to hear the appeal, that party files a “Petition for Writ of Certiorari.” If the court grants the petition, it will hear the appeal. If the court denies the petition, it will not hear the appeal.

Precedential Value

Denials of certiorari—abbreviated “*cert. denied*” in citations—carry no precedential value and do not indicate that the higher court agreed with the lower court’s decision. Accordingly, denials of certiorari typically should not be included as subsequent history. However, because denials inform readers that the lower court’s decision has become final, the information should be included if the cited lower-court decision is two years old or less. Two years was selected because that is the time within which most cases are resolved on appeal.

“Particularly Important”

The denial also should be included if the case is particularly important to the discussion in your paper. A denial of certiorari is important if the case is the focus of the discussion. It also is important when the higher court issues an opinion explaining why a petition for certiorari was denied or when a judge issues a dissenting opinion concerning the denial of certiorari.

Be careful not to copy “*cert. denied*” information from other sources, as they may not follow **Rule 12.8**.

- (10) Certifying question to (, *certifying question to*,).
- (11) Enforced (, *enforced*,).
- (12) Mandamus denied (, *mandamus denied*,).
- (13) Modified (, *modified*,).

- (14) Overruled (, *overruled*,).
- (15) Petition for certiorari filed (, *petition for cert. filed*,). Do not include this information after the higher court decides the case.
- (16) Reversed (, *rev'd*,).
- (17) Reversed in part on other grounds (, *rev'd in part on other grounds*,).
- (18) Reversed in part and affirmed in part (, *rev'd in part and aff'd in part*,).
- (19) Superseded (, *superseded*,).
- (20) Vacated (, *vacated*,).
- (21) Withdrawn (, *withdrawn*,).

12.8(b) Actions to exclude

Do not include information concerning remands, rehearings, or rehearings en banc, unless the history is particularly relevant (defined in Sidebar 12.6) to the purpose for which the case is cited.

12.8(c) Placement and format of subsequent history

- (1) Include appropriate subsequent history as defined in Rules 12.8(a) and (b) whenever citing the lower court case in full. Never attach subsequent history to a short citation.
- (2) Insert the history designation after the court and date parenthetical. Italicize the history designation but not the comma preceding or following the designation.
- (3) After the history designation, include all required components of the higher court case, but typically exclude the case name. If the case name changed on appeal, follow Rule 12.10(b). “Overruled” is one exception to this general principle because two separate cases are involved.
- (4) When citing a decision with multiple decisions in the same year, include the year for each cited decision. If you will be referring to the multiple decisions several times in your paper, consider using Rule 12.2(s).
- (5) If the history is not separately reported but is denoted only on the face of a lower court opinion, include only the court abbreviation and exact date (month-day-year) in a parenthetical that follows the history designation.

Examples

Am. Natl. Fire Ins. Co. v. B & L Trucking & Constr. Co., 920 P.2d 192 (Wash. App. Div. 2 1996), *aff'd*, 951 P.2d 250 (Wash. 1998).

Bowers v. Hardwick, 478 U.S. 186, 195–196 (1986), *overruled*, *Lawrence v. Tex.*, 539 U.S. 558 (2003).

Crockett v. Essex, 9 S.W.3d 561 (Ark. App. Divs. II & III 2000), *rev'd*, 19 S.W.3d 585 (Ark. 2000).

History not separately printed

Mellies v. Dearborn, 558 S.E.2d 460 (Ga. App. 2001), *cert. denied*, (Ga. Apr. 15, 2002).

12.9 Prior History

12.9(a) Use

- (1) It is never mandatory to include prior history.
- (2) Use prior history sparingly.
- (3) Include prior history only when it is significant to a point addressed in your paper. For example, if you are writing about a supreme court opinion and include a discussion about what happened in the lower courts, you might use a prior history citation.

12.9(b) Format

- (1) Attach prior history after a full citation. Do not attach prior history to a short citation.
- (2) Most subsequent history designations in **Rule 12.8(a)** can be converted to prior history designations by replacing the “-ed” suffix with an “-ing” suffix. Examples: affirming (, *aff'g*), reversing (, *rev'g*), and vacating (, *vacating*).
- (3) Insert prior history in the same manner as subsequent history (**Rule 12.8(c)**).

Example

Snyder v. U.S. Fid. & Guar. Co., 70 Cal. Rptr. 2d 498 (App. 1st Dist. 1997), *vacating* 58 Cal. Rptr. 2d 396 (App. 1st Dist. 1997).

12.10 Additional Rules Concerning Subsequent and Prior History

12.10(a) Explanation of history

You may include an explanation for the disposition. Examples include *vacating as moot*, *appeal dismissed per stipulation*, *rev'd without opinion*, and *aff'd by an equally divided court*.

12.10(b) Case name changed on appeal

- (1) When the case name is changed on appeal, provide the new case name as part of the history **except** when (a) the parties' names are merely reversed or (b) certiorari has been denied under a different name.
- (2) Use the italicized abbreviation "*sub nom.*" to denote the name change. "*Sub nom.*" is short for "*sub nomine*," which means "under the name."
- (3) Insert *sub nom.* directly after the history designation and drop the comma that normally would follow the designation. Insert one space between *sub nom.* and the changed case name, followed by the rest of the subsequent history case components.

Examples

Subsequent history

McHenry v. Fla. Bar, 808 F. Supp. 1543 (M.D. Fla. 1992), *aff'd*, 21 F.3d 1038 (11th Cir. 1994), *rev'd sub nom. Fla. Bar v. Went For It, Inc.*, 515 U.S. 618 (1995).

Prior history

Fla. Bar v. Went For It, Inc., 515 U.S. 618 (1995), *rev'g sub nom. McHenry v. Fla. Bar*, 21 F.3d 1038 (11th Cir. 1994).

12.10(c) Order of multiple histories

- (1) If the history itself has history, attach the additional history with another history term. See the subsequent history example in Rule 12.10(b).
- (2) If citing both prior and subsequent histories, provide the prior history first. Include the italicized word "*and*" before the subsequent history.

Example

McHenry v. Fla. Bar, 21 F.3d 1038 (11th Cir. 1994), *aff'g* 808 F. Supp. 1543 (M.D. Fla. 1992), *and rev'd sub nom. Fla. Bar v. Went For It, Inc.*, 515 U.S. 618 (1995).

12.10(d) Multiple decisions by a single court

Connect multiple decisions by a single court with the italicized word “*and*.”

Example

Shell Oil Co. v. Meyer, 684 N.E.2d 504 (Ind. App. 4th Dist. 1997), *vacated*, 698 N.E.2d 1183 (Ind. 1998), *and aff'd in part and vacated in part*, 705 N.E.2d 962 (Ind. 1998).

12.10(e) Relation to parenthetical information

Follow Rule 46 regarding placement of parenthetical information. Thus, if the parenthetical concerns the lower court case, it should follow the lower court case. If the parenthetical concerns the higher court case, it should follow the higher court case.

Examples

Parenthetical relates to lower court case

Mapp v. Ohio, 166 N.E.2d 387 (Ohio 1960) (holding that contraband obtained by an unlawful search is admissible evidence), *rev'd*, 347 U.S. 643 (1961).

Parenthetical relates to higher court case

Mapp v. Ohio, 166 N.E.2d 387 (Ohio 1960), *rev'd*, 347 U.S. 643 (1961) (holding that evidence obtained by an unconstitutional search is not admissible).

12.10(f) No effect on order of authorities

As explained in Rule 45.3(d), subsequent history is a “tagalong” to the cited case and thus does not affect the order of authorities within a signal.

12.10(g) No effect on use of *id.*

As explained in Rule 11.3(f), prior and subsequent histories are not intervening sources and thus do not prohibit the use of *id.*

12.11 Parenthetical Information

12.11(a) Dissenting, concurring, and plurality opinions

- (1) In a separate parenthetical, identify any opinion, such as a dissenting opinion, concurring opinion, or plurality opinion, that does not constitute the majority opinion.
- (2) This type of parenthetical should follow both full citations and short citations.
- (3) Follow the formatting instructions in Rule 46.3.
- (4) For plurality opinions, simply include “plurality” in the parenthetical.
- (5) For dissents and concurrences, include the last name and title abbreviation of any judge who participated in the minority decision. List the names in the order they appear on the decision. Chart 12.2 lists common title abbreviations for judges and other judicial officials. After the judge’s title and abbreviation, indicate the type of opinion.

Example

Meister v. Safety Kleen, 987 S.W.2d 749, 751 (Ark. App. Divs. II & III 1999) (Hart, Neal & Meads, JJ., dissenting).

Other examples

(O’Connor, Ginsburg & Breyer, JJ., dissenting in part and concurring in part).

(Rehnquist, C.J. & Thomas, J., concurring in parts I–III, and dissenting from parts IV–VII).

- (6) When alternating between citations to different opinions within the same case, include a designating parenthetical each time you switch opinions. As illustrated below, if using *id.* to refer to the same opinion within the case, the parenthetical need not be repeated with the *id.* citation.

Examples

⁵⁹*Id.* at 381 (Souter, J., concurring).

⁶⁰*Id.*

⁶¹*Id.* at 387 (Scalia, J., dissenting).

⁶²*Id.* at 382 (Souter, J., concurring).

⁶³*Id.* at 369 (majority).

⁶⁴*Id.* at 371.

⁶⁵*Id.* at 389 (Scalia, J., dissenting).

CHART 12.2

ABBREVIATIONS FOR TITLES OF JUDGES AND OTHER JUDICIAL OFFICIALS

Administrative Law Judge	A.L.J.
Arbitrator	Arb.
Chief Judge, Chief Justice	C.J.
Commissioner	Commr.
Judge, Justice	J.
Judges, Justices	JJ.
Magistrate, Magistrate Judge	Mag.
Mediator	Med.
President	Pres.

12.11(b) Weight of authority

You may parenthetically provide information about the weight of the case. Examples include whether the opinion is an en banc decision or a per curiam opinion; the split among the judges who decided the case; whether the cited proposition is dictum as opposed to a holding; and whether a disposition is without an opinion, which is called a memorandum opinion and is abbreviated ‘mem.’”

Examples

Ellis v. Anderson Tully Co., 727 So. 2d 716 (Miss. 1998) (en banc).

Brown v. Mentz Found., Inc., 126 S.W.3d 770 (Mo. App. E. Dist. 2004) (mem.).

Aguilar v. Felton, 473 U.S. 402 (1985) (affirming 5–4).

12.11(c) Explanatory parentheticals

It is often helpful to provide an explanatory parenthetical that summarizes the holding, provides a pertinent quotation, or explains the relevance of the cited case. Consult Rule 46 for additional information about explanatory parentheticals.

12.12 Cases Published Only on LexisNexis or Westlaw

12.12(a) Format

- (1) When a case is published only on LexisNexis or Westlaw, include the case name as required by Rule 12.2; the database identifier, which typically

includes the year, the name of the database (either LEXIS or WL), and a unique document number; and a parenthetical that includes the court abbreviation and exact date (month-day-year).

- (2) If the database identifier clearly indicates which court decided the case, all or part of the court abbreviation may be eliminated. The database identifier clearly indicates which court decided the case if the database abbreviation is identical to the court abbreviation listed in Appendix 1.

Examples

Goodyear Tire & Rubber Co. v. Moore, 2005 WL 1611323 (Va. App. July 12, 2005).

Boedeker v. Larson, 2004 Va. App. LEXIS 596 (Dec. 7, 2004).

12.12(b) Pinpoint references

To provide a pinpoint reference, insert the word “at” after the database identifier. Then insert one asterisk (for a single page) or two asterisks (for multiple pages) and the page number or numbers.

Examples

Am. Online, Inc. v. IMS, 1998 U.S. Dist. LEXIS 20645 at *5 (E.D. Va. Dec. 30, 1998).

Am. Online, Inc. v. IMS, 1998 U.S. Dist. LEXIS 20645 at **5–9 (E.D. Va. Dec. 30, 1998).

12.12(c) Parallel citations

Do not include a parallel citation to LexisNexis or Westlaw when the case is available in a reporter. LexisNexis and Westlaw, through their “get a document” and “find” functions, permit users to easily access the case using the reporter information.

12.13 Cases Not Yet Reported

If a case will be printed in a reporter but the volume and page numbers are not yet available, use the rules for reported cases, except (a) replace both the volume number and the page number with three underlined spaces, (b) include a parallel citation to Westlaw or LexisNexis when available, and (c) use the exact date (month-day-year).

Example

People v. Carter, ___ N.W.2d ___, 2005 WL 473932 (Mich. App. Mar. 1, 2005).

12.14 Table Cases and Federal Appendix Cases

12.14(a) Cases in reporter tables

If only the disposition of a case is listed in a reporter table, use the format for published cases. However, insert one space and “(table)” after the citation. If the entire opinion, as opposed to the disposition, is on LexisNexis or Westlaw, insert “(table)” after the initial page number and include the database identifier.

Examples

If opinion is not available online

U.S. v. Maden, 173 F.3d 865 (10th Cir. 1999) (table).

If opinion is available online

U.S. v. Maden, 173 F.3d 865 (table), 1999 WL 261014 (10th Cir. 1999).

12.14(b) Cases in Federal Appendix

(1) Background

On September 1, 2001, West began publishing a reporter called Federal Appendix; cases in this reporter date from January 1, 2001. Federal Appendix contains unpublished cases from all federal courts of appeals except the Third Circuit, Fifth Circuit, and Eleventh Circuit. (West does not receive unpublished opinions from these three courts.) An “unpublished case” is a term of art that means that the case was not selected by the court for official publication. The general rule is that unpublished cases cannot serve as binding precedent; indeed, many courts prohibit attorneys from citing unpublished cases (Sidebar 12.7). Cases that appear in Federal Appendix do not lose their “unpublished” status; thus, attorneys should consult the controlling rules before citing a case that appears in Federal Appendix.

(2) Format

Cite Federal Appendix cases using the format for United States Court of Appeals cases, but add a separate parenthetical noting that the case has been designated as “unpublished.” Abbreviate “Federal Appendix” as “Fed. Appx.,” which is the abbreviation selected by West.

Example

Scarborough v. Morgan, 21 Fed. Appx. 279, 280 (6th Cir. 2001) (unpublished).

12.15 Cases on the Internet

12.15(a) Use

Do not cite the Internet if the case is available in a reporter, an online database such as Westlaw or LexisNexis, or a looseleaf service.

12.15(b) Format

If it is necessary to cite a case published on the Internet, provide the case name as required by Rule 12.2. Then either (1) use the neutral format in Rule 12.16 or (2) insert the Uniform Resource Locator (URL) and a parenthetical with the court abbreviation and exact date (month-day-year). For additional information on citing Internet sources, consult Rule 40.

Example using URL

John's Heating Serv. v. Lamb, <http://touchngo.com/sp/html/sp-5572.htm> (Alaska May 10, 2002).

12.15(c) Pinpoint reference

It may not be possible to provide pinpoint references for court decisions found on the Internet. Some courts, however, number each paragraph of the opinion or include page numbers within the posted opinion. When possible, include a pinpoint reference using the formats below.

Examples

Page number

In re Vt. Verde Antique Intl., Inc., http://dol.state.vt.us/gopher_root3/supct/current/2001-116.op, at 4 (Vt. Sept. 6, 2002).

Paragraph number

Savage v. Savage, http://www.sdbar.org/opinions/2003/April/2003_046.htm, at ¶ 10 (S.D. Apr. 23, 2003).

12.16 Neutral Citations

12.16(a) Definition

Neutral citations are ones that do not refer to a particular vendor's source (such as West Group's regional reporters) or to a particular type of source (such as a reporter, a CD-ROM, or an Internet site).

12.16(b) Use

Use neutral citations when required by local rule. Consult **Appendix 2** to determine whether a particular court requires neutral citations. If a court does not require neutral citations, you may still include a neutral citation as a parallel citation as explained in **Rule 12.16(c)**.

12.16(c) Format

To include a neutral citation, use either the format adopted by the court to which you are submitting the document or the following format:

Case name, ●Year of decision●Court abbreviation●Opinion number,●Citation to reporter or online source.

Examples

North Dakota Supreme Court local format

Johnson v. Traynor, 1998 ND 115, 579 N.W.2d 184.

ALWD format with reporter citation

Johnson v. Traynor, 1998 N.D. 115, 579 N.W.2d 184.

ALWD format with online citation

State v. Robinson, 1999 Me. 86, 1999 WL 353072 (June 3, 1999).

12.17 Cases Published Only in a Looseleaf Service

Follow **Rule 28**.

12.18 Unreported Cases

12.18(a) Format

When a case is unreported and is available only in a separately paginated slip opinion, include the following components:

Case name,●Docket number●(Court abbreviation●Exact date of disposition).

Example

Operator Serv. Co. v. Croteau, No. CL961672AI (Fla. 15th Cir. Aug. 5, 1996).

12.18(b) Pinpoint reference

To include a pinpoint reference, insert the following after the docket number: a comma, the phrase “slip op. at” and the cited page or pages.

Example

Operator Serv. Co. v. Croteau, No. CL961672AI, slip op. at 2 (Fla. 15th Cir. Aug. 5, 1996).

12.18(c) Date other than disposition

If the date included is not the date of disposition, indicate the significance immediately before the date.

Example

Woods v. Wyeth Labs. Inc., No. 94-1493 (W.D. Pa. filed Sept. 1, 1994).

12.19 Early Federal Circuit Cases

When citing cases from the old federal circuits, which were abolished on June 1, 1912, follow the format for current United States Court of Appeals cases, but alter the court abbreviation to include “C.C.” instead of “Cir.”

Example

Combs v. Hodge, 6 F. Cas. 194 (C.C.D.C. 1857), *rev'd*, 62 U.S. 397 (1858).

12.20 Court Documents, Transcripts, and Records

Insert the title of the document as identified on its cover or first page, followed by a pinpoint reference and a citation to the case to which it relates. Abbreviate words in the title according to **Appendix 3**. Present the title in ordinary type.

Consult **Rule 29** to cite practitioner documents (such as pleadings, motions, and affidavits), transcripts, and records in documents submitted in the same case as the cited materials.

SIDEBAR 12.7

**COURT RULES PROHIBITING OR LIMITING
CITATION OF UNREPORTED CASES
IN BRIEFS**

Since the 1970s, an increasing number of court decisions are not published in reporters. Even though cases designated “unpublished” by the court do not appear in reporters, they may be available online or through other sources.

Before citing an opinion designated “unpublished,” check the controlling local court rules. Different courts have differing rules on whether litigants can cite “unpublished” cases. Even if “unpublished” cases can be cited, some courts limit the precedential value these cases carry.

Three court rules concerning the citation of unpublished cases in briefs or other documents submitted to the court are listed below. These are only samples; always consult the rules for the particular court in which you are practicing.

- ★ **Iowa Court of Appeals:** “An unpublished opinion of the Iowa appellate courts or of any other appellate court may be cited in a brief; however, unpublished opinions shall not constitute controlling legal authority. A copy of the unpublished opinion shall be attached to the brief and shall be accompanied by a certification that counsel has conducted a diligent search for, and fully disclosed, any subsequent disposition of the unpublished opinion. For purposes of these rules, an ‘unpublished’ opinion means an opinion the text of which is not included or designated for inclusion in the National Reporter System. When citing an unpublished appellate opinion, a party shall include, when available, an electronic citation indicating where the opinion may be readily accessed on line.” Iowa R. App. P. 6.14.
- ★ **United States Court of Appeals for the First Circuit:** “Unpublished opinions may be cited only in related cases. Only published opinions may be cited otherwise.” 1st Cir. R. 36(b)(2).
- ★ **United States Court of Appeals for the Eleventh Circuit:** “Unpublished opinions are not considered binding precedent. They may be cited as persuasive authority, provided that a copy of the unpublished opinion is attached to or incorporated within the brief, petition, motion or response in which such citation is made.” 11th Cir. R. 36-2.