

IV. Questions by the Court

AN ORAL ARGUMENT IS A CONVERSATION with the court, not a speech or a debate. The purpose of oral argument is to give the judges the opportunity to ask questions. Many first-year students, mainly because of nervousness, however, react to questions as if they were unwarranted interruptions or attacks. Instead of responding this way, you should try to welcome the judges' questions and be receptive and flexible. Use the questioning as an opportunity to find out the judges' thinking on the issues in the case and to resolve any problems the judges may have in deciding the case in your favor. Be sure to respond directly to the question a judge has asked. If it raises a thorny problem that you do not respond to effectively, you may have lost an opportunity to convince the court. Always answer a judge's question, even if, as will often happen, the question takes you away from your prepared outline. In that event, return to the structure of your argument when you have completed your answer so that you can retain control over the argument until the next question.

Expect the court to question you on the weaknesses of your case. Do not evade or misrepresent your case's weak points, but decide how you can limit their importance. You gain the court's confidence by knowing the law and presenting it fairly. If, by evasion or lack of candor, you lose the court's confidence, the judges will look to the other attorney to find out what the case is really about. Your frankness and integrity are essential.

Some questioners will ask you to discuss legal authority, others will be concerned with policy matters, and still others may be concerned simply with clarifying the facts of the case. A judge may ask a series of hypotheticals to try to define the limits of your claim. It is essential that you anticipate every possible area of questioning. Decide how to reply to cases against your position and work out acceptable responses before you go into the argument.

Do not be fooled if, as an appellee, you hear the court rigorously questioning the appellant and believe that the court is on your side and that your own argument will be uninterrupted. The court may do the very same thing to you.

Always remember that you are in an appellate courtroom. Address the judges as "Your Honor" or "Justice." When a judge asks a question, never cut the judge off before the judge has finished. Never indicate that you think the judge's question is unwise or irrelevant. If

you disagree with a judge's statement, such as a judge's description of a case holding, do so politely. For example, you can say, "Your Honor, my reading of the case, which seems to differ from yours, is that...." Some lawyers preface their disagreement with a phrase like "With all due respect, Your Honor."

Answer the judge's question directly and immediately. Do not tell a judge you will answer the question later even if the question is about a topic you wanted to put off until later in your presentation. If you can, use your response as a means of returning to the original topic of your argument. Frequently, returning to your argument will not be easy or possible, either because the judge has jumped ahead, or has returned to an earlier point, or because the judge has decided to take you down the slippery slope. Try not to allow yourself to be led too far afield, but do not openly resist a line of questioning. If you must abandon your outline, do so until the line of questioning ends or a subsequent question offers you an avenue of escape. When you have the opportunity, there is nothing wrong in saying "Now, Your Honors, returning to my earlier point ...," or "Your Honors, the second reason that Field Brothers does not discriminate is"

Even if you have prepared your argument carefully, you may have difficulty responding to some questions.¹ Respond to a confusing question by requesting a clarification from the court. If you are asked a question and cannot think of an answer, or if the question relates to an area of law with which you are not familiar, first try to give a partial answer that in some way responds to the court's question and gives you a moment to think. If the court is still not satisfied, you would be better off simply saying that you do not know the answer rather than wasting the court's time giving an uninformed response. If you are asked about a case that you did not read or cannot remember, simply say that you are not familiar with the case. The judge may stop the line of questioning there or may explain the case to you and ask how it relates to your case.

Sometimes a judge will pursue a line of questioning that culminates in the request that you concede a point in your argument. Think carefully before conceding. Some points are peripheral and your arguments may be weak. Therefore, you may want to concede that point to maintain your credibility if a concession in no way diminishes your

¹ For other suggestions on how to respond to difficult questions, see the *Handbook of Appellate Advocacy* 31–35 (UCLA 3rd ed. 1993).

other arguments. Beware of conceding a point that is necessary for your case, however.

V. Citation of Authority

YOU MAY WISH TO REFER TO crucial cases in your argument, but you should limit severely the number of cases you mention. Use your time in oral argument to concentrate on facts, reasoning, analysis, and policy. Remember that your brief contains the cases and the citations. In addition, do not give the reporter citations to cases that you mention unless the court requests them. Reading case citations impedes the conversation with the bench and is awkward.

VI. Speaking Style

THERE IS NO ONE SINGLE WAY to present an oral argument. Instead there is a wide range of successful, yet different, styles. Your presentation will depend on your personality, skills, imagination, and your reactions to speaking in public and being questioned by a panel of judges.

You should not read your argument. Try to maintain a conversational tone. Speak without notes as much as possible. Look at the judges when you deliver your prepared remarks and when you answer their questions. Do not punctuate your argument with phrases like "I think," "I believe," or "The Appellant would argue". Just state the arguments themselves.

Ideally, you should be poised, confident, and professional. You should speak slowly (nervousness tends to speed up one's speaking style) and clearly. But do not speak in a monotone. Vary your tone to give emphasis to your statements and to maintain the judges' interest. You should also try to stand straight and avoid distracting body movements, like extravagant gestures, or overly casual movements, like slouching over the podium. Do not interrupt the judges, even if they interrupt you. Be polite but not subservient. Above all, try to be relaxed. However, realize that very few law students can accomplish these goals without a good deal of practice and oral argument experience.

Even without much experience, however, you can accomplish the essentials: know your case, look at the judges instead of at your notes, and concentrate on the judges' questions. The best oral arguments

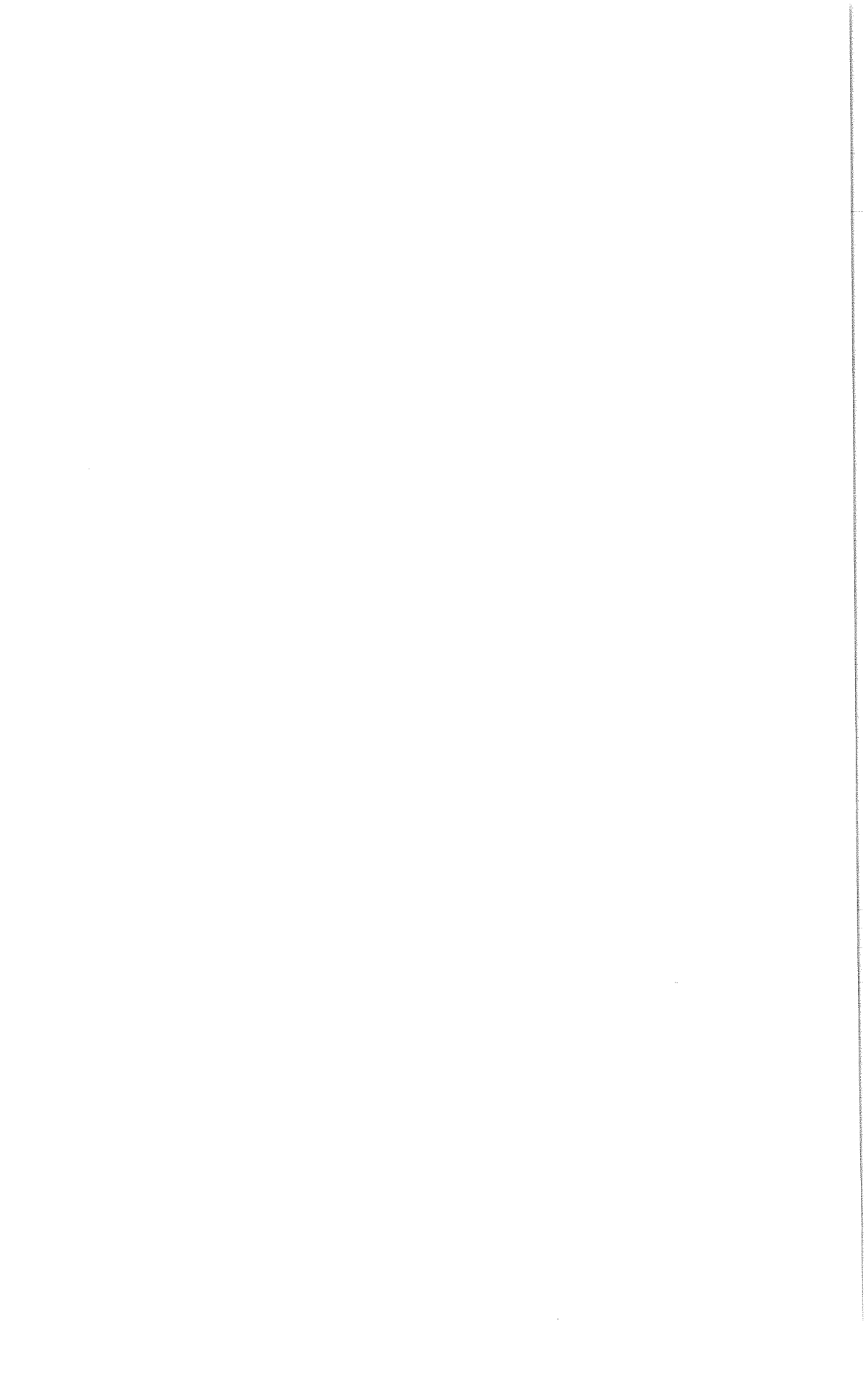
are those in which advocates know their case inside out and have a dialogue with the judges in response to their inquiries.

Your speaking style should also convey conviction on behalf of your client's cause. If you are not convinced that your client should win, the court will not be either. As an appellate advocate, your argument may be the last step between your client and imprisonment or a burdensome damage award or fine. Your oral skills and legal ability may win the day.

VII. Prayer for Relief

CLOSE YOUR ARGUMENT WITH A prayer for relief, such as "For the reasons stated, appellant respectfully requests this court to reverse the judgment of the court below" (or use the specific name of the court below). You may want to briefly remind the court of one central point before you state the prayer for relief, but you must not irritate the court by dragging on the argument or by giving lengthy summaries once your time has elapsed.

Appendices



Appendix A

Grammar, Punctuation, and Quotation

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A. Grammar and Punctuation

1. Comma Usage

- a. Put a comma before a coordinating conjunction—*and, but, or, nor, for, yet*—when the conjunction is connecting two independent clauses (unless the sentences are short).

Example:

A statute must provide fair warning to the public of the nature of the proscribed conduct, and it must provide explicit standards for the application of the statute by the people enforcing it.

- b. Do not put a comma before a coordinating conjunction when that conjunction is forming a compound subject, verb, or object.

Compound Subject Example:

The wrench that flew out of defendant's hand and the box of nails that the wrench dislodged lacerated plaintiff's face (no comma before "and the box of nails").

Compound Verb Example:

The wrench flew out of his hand and hit plaintiff in the mouth (no comma before "and hit").

Compound Object Example:

Counsel labeled the charges ridiculous and the decision laughable (no comma before "and the decision laughable").

- c. When a dependent clause follows an independent clause, put a comma before a subordinating conjunction connecting an independent clause to a dependent clause **only** when the dependent clause is nonrestrictive (that is, the dependent clause gives information that is descriptive but not essential to the sentence).

Non-restrictive Example:

The court upheld the decision, although there was a dissenting vote (comma needed).

Restrictive Example:

The plaintiff will agree to settle if the defendant accepts these conditions (no comma—the condition is essential).

- d. When a dependent clause or introductory phrase comes first, put a comma after an introductory phrase or dependent clause to separate it from the independent clause. You may omit the comma only if the introductory phrase is short and cannot be misread.

Introductory Clause Example:

If a court finds a contract is unconscionable, it may refuse to enforce it.

Introductory Phrase Example:

To establish economic duress, plaintiff must show three elements.

Comma for Clarity Example:

To clarify, the element requires a showing of involuntary submission to a person in authority. (Without the comma after “clarify,” a misreading is possible.)

- e. Do not use a comma to separate a complex or compound subject from its verb. You may want to avoid long, complex subjects by rephrasing your sentence.

Example:

Relying on the employee-at-will doctrine may prove to be a mistake (no comma after the complex subject “relying on the employee-at-will doctrine”).

- f. Surround nonrestrictive, interrupting words, phrases, or clauses with commas. A nonrestrictive element contributes information to the sentence but does not limit or define the meaning of the word/s it modifies. A nonrestrictive modifier can be omitted without altering the meaning of the sentence. (See Chapter 10, #8.)

Example:

Jessica Stone and Michael Asch, while in their senior years at college, met and fell in love.

- g. Do not surround restrictive phrases or clauses with commas. A restrictive modifier identifies or limits the word it modifies and is essential to the sentence. (“That” always introduces restrictive modifiers; “which” and “who” can be restrictive or nonrestrictive; “which” cannot refer to persons.)

Example:

One jurisdiction that does not award pecuniary damages for loss of consortium is Kent.

- h. Separate the elements of a series with commas. Although a comma before the conjunction joining the last element is optional, most grammar and usage books encourage its use because a comma before the conjunction connecting the last element can clarify the number of units you have in the series and their proper division.

Example:

Since then, Mrs. Pascal has been suffering from depression, insomnia, recurring nightmares, and severe weight loss.

Example of an Ambiguous Series:

He wrote to several department stores, including Macy's, Bloomingdales and Abraham and Strauss. (Do we have a series of two—Macy's, Bloomingdales & Abraham & Strauss—or a series of three—Macy's, Bloomingdales, Abraham & Strauss? What are the proper divisions—Macy's, Bloomingdales, and Abraham & Strauss? Macy's, Bloomingdales & Abraham, and Strauss? To avoid this ambiguity, put a comma before the conjunction introducing the last element.)

- i. You may put a comma before a phrase or a word you wish to highlight.

Example:

The vice-president had called for the meeting, then missed it.

- j. Commas (and periods) are put inside quotation marks but outside parenthesis and brackets. (If the parenthetical material is a complete sentence, however, the period goes inside the parenthesis.)

Example: Quotation Marks

Once we recognize that "designed for use" means "intended by the manufacturer," the court's application seems reasonable.

Example: Parenthesis

Given the limitation on length (20 pages), we dropped that discussion.

Example: Complete Parenthetical Sentence

Given the limitation on length, we dropped that discussion.
(The brief could not be longer than twenty pages.)

2. Semicolon Usage

- a. Connect two independent clauses with a semicolon when they are not linked by a conjunction.

Example:

Her moods wavered between depression and hostility; she often expressed a wish to die.

- b. When a conjunctive adverb (however, hence, therefore, etc.) or other transitional expression links two independent clauses, put a semicolon before the conjunctive adverb and a comma after it.

Conjunctive Adverb:

Bills are admissible if they comply with CPLR § 4533a; however, judges can relax those standards.

Transitional Phrases:

A formal defect may be waived by a guilty plea or by a failure to object at trial or on appeal; on the other hand, a fatal defect may always be challenged by a writ of habeas corpus.

- c. When elements in a series are long or contain internal punctuation, use a semicolon to separate the elements.

Example:

There are three steps outlined in this section of the statute: first, the jury must decide the full value of the injured party's damages; second, they must decide the extent, in form of a percentage, of each party's negligence, with a total of all percentages of negligence of all parties equal to 100; third, the judge must mold the judgment from the jury's findings of facts.

- d. Semicolons and colons go outside quotation marks.

Example:

The ex-husband felt entitled to a share of Jane's royalties for "Cases on Torts"; in response, Jane asked for a share of his stocks.

3. Colon Usage

- a. Colons are used to introduce enumerations or lists, but you should not put a colon between a verb and its complement. Finish the sentence and then put the colon after the complement, as in the example below.

Example:

The contractor made three demands: first, Charo must fire Smith; second, Charo must enter an exclusive distributorship agreement with Champlow; third, Charo must fly to N.Y. to sign a contract to this effect.

- b. Colons may be used to introduce and highlight a formal statement or example.

Example:

The jury had been out for twelve hours: this may account for the defendant's edginess.

- c. Colons are used to introduce a long quotation.

4. Sentence Fragments and Run-Ons

a. Sentence Fragments

A sentence must have a subject and a predicate. Most sentence fragments do not result from the absence of a subject and a predicate; rather they are the result of punctuating a dependent clause as a sentence. A dependent clause does not express a complete thought and must, therefore, be combined with an independent clause.

Example of Fragment:

Even though his contributory negligence may diminish damages.

You must either add a comma and finish the sentence with an independent clause or omit “even though.”

Rewrite:

Even though his contributory negligence may diminish damages, he will recover.

b. Run-On Sentences

There are two kinds of run-on sentences. First, there are those in which two complete sentences are written as one, i.e., with no punctuation before the conjunction (fused sentence). Second, there are those run-on sentences in which two complete sentences are joined by a comma instead of a semicolon (comma splice).

Fused Sentence Example:

Personal service upon Multitech Associates was not proper and Village Realty's suit will therefore be dismissed.

Rewrite:

Personal service upon Multitech Associates was not proper, and Village Realty's suit will therefore be dismissed.

Comma Splice Example:

Multitech had not designated Sue Johnson to accept summons, she had neither express nor implied authority.

Rewrite:

Multitech had not designated Sue Johnson to accept summons; she had neither express nor implied authority.

5. Apostrophe Usage

Apostrophes are used to indicate possession or contraction.

- a. Singular possessive nouns are formed with 's.
(The court's decision)
- b. If a singular possessive noun ends in s, add an 's. (Some writers use an apostrophe only.)
(James's plea)
- c. Plurals not ending in s take an 's.
(Women's rights)
- d. Plurals ending in s take an apostrophe.
(The associates' employment handbook)

- e. The possessive case of two closely linked nouns is formed by the addition of a single 's if, and only if, one thing is possessed by both. (The brother and sister's treehouse) (the brother's and sister's workbooks).
- f. *Note an important exception: possessive pronouns are not formed with apostrophes.*
 "It's" is the contraction of "it is."
 The possessive form of "it" is "its."
 "Who's" means "who is." "Whose" is the possessive form.
6. **Agreement Between Subjects and Verbs**
 A verb must agree in number with its subject.
- a. If the subject is singular, the verb must be singular. (Everyone, everybody, each, either, nobody, one, and anyone are singular.)
- b. If the subject is plural, the verb must be plural.
- c. If the subject is third person and singular (he, she, it), the present tense verb ends in s.
- d. If 2 singular subjects are connected by an **or** or **nor**, the verb is singular. (Either John or Jane is willing to speak to the professor.)
- e. If 2 plural subjects are connected by **or** or **nor**, the verb is plural. (Either 1st-year or 2nd-year students are registering on Friday.)
- f. If one singular and one plural subject are connected by **or** or **nor**, the verb agrees with the nearer subject. (Neither Joan nor her classmates want to rewrite the memorandum.)
- g. If the subject is a collective noun, like jury, the verb is plural if the writer is thinking of the individuals and singular if the writer is thinking of the group. (The jury [individuals] were [plural] fighting over the verdict. The jury [group] has rendered [singular] a guilty verdict.)
7. **Agreement Between Pronouns and Their Antecedents**
 Just as subject and verb must agree in number, so subjects and pronouns must agree in number and person.
 This line, for example, was the lead into an ad for a well-known Chicago store:

EVERYONE HAS THEIR PRICE

"Everyone" is singular, and "has" is singular. But "their" is plural and does not agree with the subject to which it refers. Of course, in correcting the "their," the copy writer should try to rewrite the ad without using sexist language. The writer could try "his or her" or

could look for some other construction that attracts less attention. You could try an article, for example.

EVERYONE HAS A PRICE

The following rules govern subject-pronoun agreement.

- a. If the antecedent is singular, the pronoun is singular.
- b. If the antecedent is plural, the pronoun is plural.
- c. If the antecedent is **everyone, everybody, each, either, neither, nobody, one** or **anyone**, the pronoun is singular.
- d. If the antecedent is two nouns joined by **and**, the pronoun is plural.
- e. If the antecedent is two singular nouns joined by **or** or **nor**, the pronoun is singular.
- f. If the antecedent is two plural nouns joined by **or** or **nor**, the pronoun is plural.
- g. If the antecedent is singular and neuter (neither masculine nor feminine), the pronoun is **it** or **its**.

Example:

The court recessed for lunch. It returned at 1:00 p.m.

8. Pronoun Reference

- a. **Avoid Vague Referents.** If the pronoun is **this, that, it, such,** or **which** and refers to a preceding noun or statement, the relationship between the pronoun and the noun should be clear.
 - “This” is best used in combination with a noun so that it is absolutely clear what the “this” refers to.

Example of Vague Reference:

The defendant travelled west on Main Street at fifty miles per hour. This violates the law.

Since the “this” could refer to travelling west as well as to the rate of speed, the word “this” needs a noun.

Rewrite:

“This rate of speed violates the law.”

- If the pronoun can refer to two preceding nouns, make it clear which noun the pronoun refers to.

Example I:

The parent corporation and the subsidiary, which places great emphasis on loyalty, have a singularly responsive relationship.

Rewrite:

The parent corporation, which places great emphasis on loyalty, has a singularly responsive relationship with its subsidiary.

Example II:

Jim talked to John while he waited for the elevator.

Rewrite:

While Jim waited for the elevator, he talked to John.

- b. The referent or antecedent for every pronoun should be present in the sentence or, at least, in the preceding sentence.

B. Use of Quotations

Keep quotes short. But if you do use a long passage of fifty words or more, you must set out the quote in block form, that is, indented and single spaced. You do not use quotation marks when you set out a quote in block form. Put the citation as the first nonindented text after the quotation.

When you do use quotations, it is important to use them accurately. You must quote material exactly as it appears in the source from which you quote. You may alter the quote, but if you do, you must indicate the alterations. Use these devices.

- 1. Indicate omissions with an ellipsis (three periods). Do not indicate omissions from the beginning of the quote. When an omission indicated by ellipsis points occurs at the end of the sentence, you must add a fourth dot which is the period for the sentence.

Examples: “and so ... ask not what your country can do for you, ask what you can do for your country.”

And

“ask not what your country can do for you, ask what you can do”

But Not

John F. Kennedy said, "... ask not what your country can do for you."

2. Indicate explanations and changes, such as changing a letter from upper to lower case, with brackets. Put your own version inside the brackets.

Examples: "[A]sk what you can do for your country."

Or

The court said, "he [the defendant] must have known the gun was loaded."

In the first sentence, the writer used "Ask" to begin a sentence. The writer had to capitalize the "a." The writer of the second sentence decided to clarify the referent for the pronoun "he."

3. You may underline to add emphasis but you must explain your additions after the citation. Use this device sparingly.

Example: "The statute applies to tort actions only." *Jones v. Smith*, 510 S.E.2d 53 (Fla. 1980) (emphasis supplied).

If the underlining is part of the original quotation, put in parenthesis (emphasis in the original).

4. Use "[sic]" to indicate that you have quoted accurately and that the original contains a mistake.

Example: "The statue [sic] applies to tort actions only."

5. Begin a quotation with a capital letter if it is introduced by a colon or if the quotation is syntactically independent of the rest of the sentence. If the quotation is a syntactical part of the sentence, do not capitalize the first letter.

Example: As the judge said, "The motion is denied."

Example: He said that the cross-examination was "almost finished."

Example: The testimony of the plaintiff was explicit: "At all times, I was free to leave the site of the polygraph examination."

Exercise A-1: Grammar and Punctuation

Correct the grammar and punctuation errors in the following sentences.

1. Every decision concerning the children were made jointly.
2. It is unlawful in N. Y. to confine a person against their will.
3. The filing fee violates Doone's right to be heard in court, therefore, this fee requirement should be invalid.
4. The aerial surveillance was a concentrated search undertaken for the express purpose of observing defendants activities.
5. Olympia Department Store denied they had committed outrageous acts.
6. As a general rule the court will refuse to enforce that part of the contract that is unconscionable.
7. The District Court following a hearing denied defendant's suppression motion.
8. A sufficient connection between the litigation and the forum state exist; therefore, the court possesses jurisdiction over the defendant, and they should hear the case.
9. Based on aerial surveillance, the police entered the premises seized certain evidence and arrested the three defendants.
10. The requirement, that interrogatories be answered by the production of the relevant documents, was not met.
11. CPLR § 3124 requires disclosure "if a person, without having made timely objection, fails to answer interrogatories".
12. The superintendent's answer was insufficient and the protective order was unjustified.
13. Neither defendants nor plaintiff contest the facts.
14. Its reasonable to take inflation into account.
15. When Mr. Lattimore refused to answer Mr. Smith, he upset a salad tray.
16. We needed to edit (given the twenty-page limitation.)
17. The court said that "the actor disregarded the probability that severe distress would follow ..."
18. Once we recognized that "designed for use" means "intended by the manufacturer", the court's application seems reasonable.
19. The court denied the defendant's motion because they had not filed in time.
20. Given the limitation on length (twenty pages) we dropped that discussion.

21. There is no reason to strike burdensome interrogatories if they are "... necessary to a resolution of defendant's affirmative defense."

Exercise A-2: Grammar and Punctuation

Correct the errors in the following sentences.

1. The Board's refusal to act makes them liable.
2. When Jane Edwards sought to end the harassment her complaints were disregarded. First by her supervisor then by the Personnel Sub-Committee, and finally by the Board itself.
3. Church's are free to enter into contracts.
4. The statute does not begin to run if the defendant "... through fraud or concealment causes the plaintiff to relax his vigilance ..."
5. Rev. Bryant who is sixty-five refers to himself as "the rock'n roll preacher".
6. After careful consideration I believe your sexual harassment claim is solid.
7. The Board failed to act therefore it will be held liable.
8. Jane Edwards threatened to complain to the Minnesota Department of Human Rights after which she was fired.
9. If there is no invocation at graduation, their right to free exercise of religion is violated.
10. He had a contractual agreement with Healthdrink Inc. not to discuss Healthdrink and it's deceptive advertising.
11. The first amendment protects churches from state intervention in church affairs and thus the court is unlikely to order your reinstatement.
12. Her complaints were ignored by Bryant by the Personnel Sub-Committee and then by the Board.
13. The chain of events, described in Mr. Miller's testimony, suggest an act of robbery.

Exercise A-3: Review Exercise—Coherence, Grammar, and Style

Diagnose errors and revise.

(1) "First, the conduct must be extreme and outrageous". (2) In Davis the court argued that if the tactics' used by the creditors have involved the use of abusive language, repeated threats of ruination of credit and threats to the debtor's employer to endanger his job, recovery could be

sustained, citing authorities and previous cases in other jurisdictions. *Id.*, at p. 407. (3) It is clear that based on these tests liability could be established by the various tactics used by the Department store. (4) Disregarding, for now, the fact that Augusta the plaintiff herein didn't actually owe money, the employee of the credit department used abusive language such as "four-flushing bitch," sent letters with statements threatening to report Augusta's delinquency to the credit rating bureau which, if done, would substantially hurt her credit rating and, in addition, on numerous occasions threatened to report her "refusal" to pay to her employer which might be construed by a reasonable person as a serious impairment to her continued employment. (5) An argument that could be made by Olympia, at this juncture, is that some meaningless speech from a collection department employee would hardly be considered oppressive or outrageous. (6) One only has to look at the aforementioned decisions to see that the store's position is weak at best. (7) In finding only one instance of outrageous conduct in *Davis*, the number of extreme actions here are clearly distinguishable. (8) The second factor involves the foreseeability by the store that the severe emotional distress will occur. (9) "Liability extends to situations in which there is a high degree of probability that the severe distress will follow and the actor goes ahead in conscious disregard of it" is a direct extraction from the courts opinion. *Davis*, *supra*. (10) This standard can be used as a basis for the instant situation, thus, the letter written by Augusta to the store's president is evidence that the store knew of the situation in April, and the harassment was not stopped nor correcting the billing error. (11) If a letter to the store's president is not sufficient information, establishing foreseeability, and consequences that might result from the store's continued actions then what is?

Appendix B-1

Introduction to Bluebook Citation Form

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I. INTRODUCTION

In legal writing, a citation is used to identify the authority for a statement or the source of a quotation or paraphrase, and to tell the reader where to find that authority or source. For example, citations to articles identify the author, title, periodical in which the article is published, page numbers, and date of publication. Citations also provide other information, such as the kind of support that the cited source supplies for your statement. For example, a case citation tells you which court decided the case, and thus, whether the case is binding precedent or not. Legal citations are very stylized and accurate citation form is often important. If you join a journal at your law school or submit documents to a court you will find that accurate citation form may be crucial. You most likely will be learning legal citation in your first year of law school according to one of two citation systems, either *A Uniform System of Citation*, commonly known as The Bluebook, or a newer source, the *ALWD Citation Manual*.¹ This Appendix will explain the rules of the Bluebook, while Appendix B-2 will explain the rules of the *ALWD Citation Manual*.

In your first year of law school you will mainly write legal memoranda and trial or appellate briefs. In these forms of writing, you cite authority within the text rather than in footnotes, and you put the citation right after the text that you are citing to. In other forms of writing, such as law review articles, you cite authority in footnotes. The information in this Appendix is about citing in text. Moreover, because most of the authorities you will use for first-year memoranda and briefs are cases, statutes, constitutions, law review pieces, and books, this Appendix includes only the rules for citing these authorities.

A citation can be in the form of either a sentence or a clause. A citation sentence comes after the sentence of text that it is the authority for and is punctuated as a separate sentence. You use a citation sentence if the authority you cite supports the entire sentence in your text. If the citation supports only part of your sentence of text, then use a citation clause following that part of the sentence it is an authority for. Set off the citation clause with commas, as in the example below where the case names in italics represent citations.

¹ Another source of citations is The University of Chicago Manual of Legal Citation (the Maroon Book).

Parents may be immune from a tort suit brought by their children. *Senior v. Junior*. However, parents are not immune from suits for intentional torts, *Red v. Green*, or from suits brought by emancipated children, *Fred v. Frank*.

In this example, *Senior v. Junior* is the case authority for the information in the sentence about parental immunity that precedes it. *Senior v. Junior* is written as a separate citation sentence. There are two citation clauses in the next sentence. Each citation provides authority for a part of the sentence. The writer has cited *Red v. Green* for its holding that there is no immunity from intentional torts, and cited *Fred v. Frank* for its holding that there is no immunity from suits brought by emancipated minors. Each citation clause is set off by commas.

II. CASE CITATIONS

A case citation identifies the case and gives the reader the information necessary to find the print or electronic version of that case. The first time you cite a case, you must include the name of the case, the reporter in which it is published (or, if not yet in a reporter, its place of publication, which may be a looseleaf service or a computer database), the page on which the case begins, the date the case was decided, and, if necessary, the court that decided the case. The date and the court information are enclosed in parentheses. The examples in these materials are for citations of cases from the United States published in case reporters or in other sources. This section uses an example of a reported case from a state court.

Table T.1 in the Bluebook lists each jurisdiction in the United States. It tells you the names of the courts in each jurisdiction, the case reporters to which to cite, and the abbreviations for the jurisdiction, its courts, and the reporters. It also provides Internet addresses where you can find additional information for each jurisdiction.

Below is an example and explanation of a typical citation of a state case. State cases are cited to the regional reporter, published by West, in this case the Pacific Reporter, Second Series, abbreviated P.2d. (The supernumerals are not part of the citation, but are keyed to explanations below.)

1 2 3 4 5 6
Adams v. Brown, 25 P.2d 100 (Okla. 1955).

1. Name of case, italicized, or if typed or written, then underlined. If a party is an individual, then use only the last name of the party. However, if a party is a business entity, use the complete name of the business. Rule 10.2.1(h) instructs that abbreviations such as “Inc.” or “Ltd.” be omitted if a party’s name also contains words such as “R.R.,” “Co.,” “Bros.,” or “Ass’n,” which indicate that the party is a business firm. Also, for business entities, abbreviate as required in rule 10.2.1 (case names in textual sentences) and rule 10.2.2 (case names in citations), and tables T.6 and T.11. For example, if “Brown” were the “Brown & Smith Steel Company, Incorporated,” you would write as *Brown & Smith Steel Co.*, abbreviating Company and eliminating Incorporated.

For both individual and business parties, use only the first named party when there is more than one plaintiff or defendant.

2. Comma after the case name.

3. Volume number of the case reporter and name of the reporter, abbreviated. Leave a space between volume number and name of reporter.

Do not put a space between P. and 2d because there should be no space between adjacent single capitals, and the ordinal “2d” is considered a single capital. If the reporter were the South Eastern Reporter, Second Series, you would abbreviate as S.E.2d. If the reporter were the Southern Reporter, Second Series, however, you would abbreviate as So. 2d (leaving a space between So. and 2d) because “So.” is not a single capital and thus requires a space before the numeral.

4. Page number at which the case begins.

5. No punctuation, but leave a space.

6. Parenthetical that identifies the jurisdiction and court, and the year the case was decided. Because the Pacific Reporter includes cases from many states, you must identify the jurisdiction of the case. Identification by the abbreviation of the state alone means that the case was decided by the highest court in that state. Thus, the abbreviation “Okla.” means that the case was decided by the Oklahoma Supreme Court. If the case was not decided by the highest court, for example, the intermediate court of appeals, then identify the court if it is not otherwise identified by the name of the reporter. For example, if a case was decided by the Illinois Appellate Court in 1978, cite as “(Ill. App. 1978).” If the reporter you cite publishes cases from only one jurisdiction, for example, the New York Supplement (N.Y.S or N.Y.S.2d) do not include the jurisdiction in the parentheses. Bluebook table T.1 lists the proper abbreviations for the courts in each jurisdiction. Note that these abbreviations are not the same as state abbreviations used by the Post Office.

You will cite most state court decisions according to the format in the *Adams v. Brown* example, subject to the following exceptions.

A. Parallel Citation to State Court Cases

Some states publish their court decisions in an officially published reporter. These cases are thus published in two case reporters: the state's official reporter and West's regional reporter.

Before the 15th edition of the Bluebook was published in 1991, Bluebook rules required citation to both reporters for all state cases published in an official reporter. This practice is called parallel citation.

The 15th edition of the Bluebook in 1991 required parallel citations only for documents submitted to state courts for citations to cases decided by courts of that state and published in an official reporter. The current Bluebook edition now requires parallel citations only for documents submitted to a court whose rules require parallel cites. However, you may still see parallel citations in some materials that were written according to the previous Bluebook rules.

When providing a parallel citation, cite the official reporter first, followed by the cite to the regional reporter, as in the examples below.

Blue v. Green, 85 Wis. 2d 768, 270 N.W.2d 390 (1980).

This case is from the Wisconsin Supreme Court. The jurisdiction is identified in the cite to the state reporter and thus does not appear in the parenthetical at the end.

Blue v. Green, 85 Ill. App. 2d 768, 270 N.E.2d 390 (1980).

This case is from the Illinois Appellate Court, which is not the highest court in the state. However, the Illinois case reporter identifies the court so this information is not identified in the parentheses.

B. Parallel Citation to California, New York, and Illinois Cases

West publishes additional reporters for California, New York, and Illinois cases - the California Reporter (Cal. Rptr.), the New York Supplement (N.Y.S.), and Illinois Decisions (Ill. Dec.). Older parallel citations often included the third reporter. You need not cite all three reporters under the new rules for parallel citations, however, because the court rules require cites to the official reporters only, not the additional West reporters.

A full three-reporter case cite looks like this.

Blue v. Green, 46 N.Y.2d 401, 186 N.E.2d 807, 413 N.Y.S.2d 895 (1978).
Blue v. Green, 50 Cal. 3d 247, 786 P.2d 375, 266 Cal. Rptr. 649 (1989).

C. Citation to Federal Court Cases

1. The Supreme Court of the United States

Supreme Court cases are cited to the official reporter, United States Reports, abbreviated U.S., so that a citation to a case would be

Nathanson v. Victor, 300 U.S. 52 (1980).

If a case is not reported yet in United States Reports, you may cite to West's Supreme Court Reporter (S. Ct.) or the Lawyer's Edition (L. Ed.), in that order. If the case is not yet reported in any reporter, cite to United States Law Week (U.S.L.W.) or to a computer database. Do not give parallel citations for Supreme Court cases.

2. United States District Courts and Courts of Appeals

There are no official reporters for decisions from these courts. The cases are cited to West reporters: district court cases are cited to the Federal Supplement (F. Supp. or F. Supp. 2d), and courts of appeals cases designated for official publication are cited to Federal Reports (F., F.2d, or F.3d). Another reporter, Federal Rules Decisions (F.R.D.), reports cases concerning federal procedural issues. Also, since 2001, West has reported certain courts of appeals opinions in the Federal Appendix (abbreviated by West as Fed. Appx.), which contains cases which were not selected for official publication and have limited precedential value. This source was created after the publication of the current Bluebook and is not yet addressed by its rules.

Because the citation does not identify the court in which the cited case was decided, you must always identify the court, by district or by circuit, in the parentheses.

John v. Marshall, 400 F. Supp. 12 (W.D. Va. 1976).

This case is from the United States District Court for the Western District of Virginia.

John v. Marshall, 400 F. Supp. 12 (D.R.I. 1976).

This case is from the United States District Court for the District of Rhode Island. Rhode Island comprises one federal district.

John v. Marshall, 400 F.2d 12 (2d Cir. 1976).

This case is from the United States Court of Appeals for the Second Circuit.

John v. Marshall, 400 F.2d 12 (D.C. Cir. 1976).

This case is from the United States Court of Appeals for the District of Columbia Circuit.

D. Alternative Sources

Court cases can now be found in a number of sources other than a bound, published case reporter. Courts will often issue slip opinions (individual court decisions issued shortly after they are rendered), which will either be separately paginated or consecutively paginated along with other slip opinions. In addition, a number of cases can be found on electronic databases, such as LEXIS or Westlaw, or the Internet. To cite to these alternative sources, follow the guidelines below. However, if these cases can also be found in a bound reporter, then cite only to that reporter. Do not provide additional citation information for the alternative sources unless the printed source is obscure or hard to find. If so, and citation to the alternative source will substantially improve accessibility to the information, then provide the alternative source citation as a parallel cite, after the citation to the bound reporter. Keep in mind that cases not selected for official publication from the federal courts of appeals are now available in bound case reporters through the Federal Appendix, and should be cited to these reporters, rather than an alternative source.

1. Slip Opinions

To cite cases that are reported only in slip opinions, cite by the case name, the case's docket number, and the page preceded by "slip op. at." Also, indicate the court, and the month, day and year of the decision in parentheses. See rule 10.8.1.

If the opinion is separately paginated from other slip opinions, then indicate only the page on which the cited material appears.

Silver v. Gold, No. 92-28, slip op. at 6 (E.D. Mich. June 9, 1993).

If the opinion is not separately paginated, but consecutively paginated along with other slip opinions, then cite the page on which the case begins and the page on which the material is located.

Silver v. Gold, No. 92-95, slip op. 600, 602 (E.D. Mich. June 9, 1993).

2. *LEXIS* or *Westlaw*

To cite to cases available only on electronic databases, cite the case name, the docket number, the unique *LEXIS* or *Westlaw* identifier assigned to the case, the screen or page number (if assigned) preceded by “at *,” and a parenthetical that includes the court abbreviation and full date (month, day and year) of the decision. See Bluebook rule 18.1.1

Bush v. Gore, No. 2000-150, 2000 WL 345789, at *5 (N.D. Fla. Dec. 5, 2000).

3. *Cases on the Internet*

If a case appears only on the Internet, and is not available through a reporter or any other alternative source, then cite according to Bluebook rule 18.2. If alternative sources are available, then cite to those preferred sources.

E. *Case History*

Because parties to litigation may appeal losing decisions, many cases build up a litigation “history.” This history may include a decision on a motion or trial, one or more appeals, and one or more rehearings. Some or all of this prior or subsequent history of a case may be relevant authority for your analysis and should be cited when appropriate.

Give the prior history (usually the trial court decision) only if significant to the point for which you cite the case.

On the other hand, the entire subsequent history (usually appellate decisions or denials of further review) should be included, unless the cite is

for a denial of certiorari or discretionary appeal if the case is more than two years old, or for the case history on remand if it is not relevant to your analysis. Subsequent history includes a case that overrules the cited cases.

Subsequent history citations should be preceded by a word or phrase that explains the history, such as *aff'd*, which means that the higher court affirmed the decision below, or *rev'd*, which means that the higher court reversed. These explanatory words and phrases are quite stylized and are explained in the Bluebook rule 10.7 and table T.9. Note that the explanatory phrases are underlined or italicized and are preceded and followed by a comma.

Blue v. Green, 100 F.3d 25 (7th Cir. 2001), *cert. granted*, 312 U.S. 420 (2002).

This citation means that the Supreme Court of the United States granted review of the case that had been submitted by a petition for a writ of certiorari. If the date of the two decisions were the same, both 2002, then omit the date in the citation to the earlier decision.

III. CONSTITUTIONAL AND STATUTORY CITATIONS

A. Constitutions

Cite constitutions by country or state and abbreviate "Constitution" as "Const." Do not include a date unless the constitution you are citing has been superseded.

U.S. Const. art. III, § 1, cl. 2.
N.M. Const. art. IV, § 7.

B. Statutes

1. Codes

Statutes are published in codes and are cited to the current official code volumes. The basic citation form includes the abbreviated name and volume of the code in which the statute appears, the section number (or whichever identification is used) of the statute, and the year the code was published. Statutes are also published by private publishing companies in codes that are annotated. Cite to the annotated code only if there is no

official code cite; do not use parallel citations. When you cite to an annotated code, include the name of the publisher in the parenthetical. You will find the title of each jurisdiction's codes as well as other compilations and their abbreviations in table T.1 of the Bluebook. The following cite is to the official version of the United States Code, which uses a title number rather than a volume number.

42 U.S.C. § 1985(3) (1994).

The cited statute is found in Title 42 of The United States Code at section 1985(3). The date is the year the code was published, not the year the statute was passed.

If the statute is published entirely in the supplement because it was enacted after the code was published in hardcover, then cite to the supplement:

42 U.S.C. § 2000f(a)-(b) (Supp. 1996).

If you are citing to an amended statute where the original version appears in the code and the amendment is in the supplement, cite to the code and the supplement:

42 U.S.C. § 2000e(k)-(m) (1994 & Supp. 1996).

2. *Session laws*

If a statute has not yet been published in the code, then cite it as an act in the session laws (laws enacted by a legislature during one of its annual sessions that are published yearly and bound in the order of their enactment). Give its name and public law number, the section number, the volume and name of the session laws (for state laws, begin with the name of the state) and page. The following is a cite to *The Statutes at Large*, which is the compilation of session laws of the United States Congress.

Public Debt Act, Pub. L. No. 86-74, §1, 73 Stat. 156 (1986).

Also cite to the act in the session laws if you are using material that is not published in the code, such as the statement of legislative purpose.

Some statutes that have been codified are commonly still cited by the name and identification from their original passage as a public act, in addition to their current code citation. For example,

The Omnibus Crime Control and Safe Streets Act of 1968, Title III, 18 U.S.C. §§ 2510-2515 (1988).

3. *Electronic Database*

If you have used an electronic database, then cite by adding a parenthetical that includes the name of the database and its currency rather than the year the code was published. See Bluebook rule 18.1.2. For unofficial codes also include the publisher, editor, or compiler.

IV. PERIODICALS

Your most common citations to periodicals will be to law reviews. To cite law review material in your text, first give the author's full name as it appears in the publication. Include designations such as "Jr." if used in the periodical.

Follow the author's name with the title of the material, underlined or italicized. Then give the volume number of the periodical, a space, the abbreviated name of the periodical in roman type (not large and small capitals), the page on which the piece begins, and in parentheses the year of publication. See Bluebook table T.14 for the abbreviations for periodicals, and table T.11 for geographic abbreviations.

A. *Lead Material*

Lead articles, usually written by faculty and practicing attorneys, are cited by the author's full name and the material described above, as in this example.

Phil J. Friday, Jr., *Just the Facts*, 50 J. Crim. L. & Criminology 78 (1980).

B. *Student Material*

Cite signed student work by the author's full name in the same manner as other signed law review articles. Student work is signed if the author is credited with the piece anywhere in the issue in which it appears, for example at the end of the piece. If only the author's initials are provided, the piece is unsigned.

In order to indicate that a student wrote the material, cite the designation of the piece, for example, Comment or Note, before the title.

Moira Standish, Comment, *Will Thanksgiving Never Come?*, 50 Nw. U. L. Rev. 5 (1986).

If the title is merely a long, digest-like heading, or a series of keywords, it should be omitted and the work cited solely by its designation. For example,

Richard Martin, Recent Case, 46 Nw. U. L. Rev. 357 (1982).

NOT: Richard Martin, Recent Case, Constitutional law - Right of Privacy - Abortion - Family Law - As Applied to Immature, Unemancipated and Dependent Minors, a State Statute Requiring a Physician to Notify a Pregnant Minor's Parents Prior to the Performing of an Abortion is Constitutional, 46 Nw. U. L. Rev. 357 (1982).

If the piece is unsigned, use the designation given by the periodical.

Comment, *Will Thanksgiving Never Come?*, 50 Nw. U. L. Rev. 5 (1986).

C. Abbreviations and Spacing

The general rule is to close up adjacent single capitals. However, for abbreviations of names of periodicals, do not close up single capitals if one or more refers to a geographic or institutional entity. In that case, set off with a space the capitals that refer to the entity from the adjacent single capital.

Moira Standish, Comment, *Will Thanksgiving Never Come?*, 50 Nw. U. L. Rev. 5 (1986).

This article is in the Northwestern University Law Review. Because the "U." is an abbreviation of part of the name of the institution, it is set off from the "L.," which is the abbreviation for "Law."

V. BOOKS

Cite books with the author's full name as it appears on the publication's title page. Next, cite the title of the book (italicized or underlined) as it appears on the title page (include the subtitle only if particularly relevant), and the page, section or paragraph from which the material is taken. Fi-

nally, in parentheses, include the edition (if more than one edition) and the year of publication. See Bluebook rule 15.

Benjamin N. Cardozo, *The Growth of the Law* 16 (1924).

If the book has an editor, give the editor's name as it appears on the title page, followed by "ed.," in the parenthetical before all other information. This is an example of a citation for a multi-volume set with an editor.

2 *Page on Wills* § 152 (Bowe M. Parker ed. 1991).

The "2" indicates the second volume of a multi-volume set.

If the book has two authors, include both names, using full names and an ampersand (&) to connect them. If the book has more than two authors, you have two options under Bluebook rule 15. Either include the first author's name followed by "et al.," or include full names for each author. Use an ampersand between the last two names. The Bluebook suggests this last option only if all the names are particularly relevant.

Either of these examples is correct.

W. Page Keeton, Dan B. Dobbs, Robert E. Keeton & David G. Owen, *Prosser and Keeton on the Law of Torts* § 10 (5th ed. 1984).

or

W. Page Keeton et al., *Prosser and Keeton on the Law of Torts* § 10 (5th ed. 1984).

VI. GENERAL CITATION INFORMATION

A. Citation to a Particular Page

If you quote from a source or discuss material on a particular page or pages in the source, you must cite the page or pages on which the quotation or material can be found. If you are citing the source for the first time, put the page citation after you cite the page at which the source begins. This second page citation is often called a jump cite or a pinpoint citation. For example,

Blue v. Gold, 200 N.W.2d 108, 110 (Mich. 1975).

In this example, the quotation from *Blue* is on page 110 of the Northwestern Reporter. The case begins at page 108. If this cite required a parallel cite, it would also have to include a parallel pinpoint cite to the official state reporter, hence:

Blue v. Gold, 50 Mich. 100, 104, 200 N.W.2d 108, 110 (1975).

The parallel cite informs the court that the quotation can also be found on page 104 of the official state reporter.

B. Short Citation Form

Once you have cited an authority with a complete citation, you may use a short citation form for subsequent citations if the short form does not confuse the reader as to what the cite is for, the full citation is in the same general discussion, and the reader can locate the full citation easily.

1. *Id.*

Id. is a citation form that refers to the immediately preceding cited authority, and can be used to refer to any kind of authority. If the second citation is to material on the same page as the preceding cite, use just *id.*

Citation one: *Blue v. Gold*, 233 A.2d 562, 564 (Pa. 1967).

Citation two: *Id.*

If the citation is to a different page, use “*id. at*” the page number. For example:

Citation one: Benjamin N. Cardozo, *The Growth of the Law* 16 (1924).

Citation two: *Id. at* 25.

If the citation is to a case that requires a parallel citation, use “*id. at*” the page number for the first reporter cited and then the short form of the parallel citation. See B(3) below for short form. See Bluebook practitioners’ note P.4.

Citation one: *Blue v. Gold*, 426 Pa. 464, 233 A.2d 562 (1967).

Citation two: *Id. at* 473, 233 A.2d at 581.

Do not capitalize *id.* if you use it within a sentence as a citation clause. For example,

Because the thirteenth amendment does not require state action, *id.* at 104, the court should hold that a private conspiracy violates that amendment.

2. *Supra*

Supra is used as a short citation when the authority has been fully cited previously but is not the immediately preceding citation. Do not use *supra* to cite to cases, statutes, or constitutions. For these, use *id.* where appropriate or use the form discussed below in (3). Use *supra* to cite to books and articles.

Cardozo, *supra*, at 10. [This refers to material on page 10 of Cardozo's previously cited book.]

3. Short Form for Cases Where *Id.* is Not Appropriate

The short form consists of the name of the case, the volume and name of the case reporter, and the page number (for each reporter if a parallel citation is required). You have a choice as to how much of the case name to include. You may omit the case name and cite to the reporter and page when it is perfectly clear which case you are referring to, as when the case name appears in the preceding sentence; or you may shorten the case name to the name of one party, for example, if the case name is not included in the text of the sentence; or you may provide the full case name. If in doubt, use at least one party's name. For example:

Grey v. Pink, 270 N.W.2d at 390.

or

Grey, 270 N.W.2d at 390.

or

270 N.W.2d at 390.

Typically, if you use the name of one party, use the name of the first named party. However, if that party is a government or a very common name, or is

the same name as a party in another case, use the name of the second named party. So, for example, for *State v. Gray*, use *Gray*.

If this citation were to appear in a document submitted to a court that requires parallel cites, for example, a Wisconsin court, the pinpoint cite to the official state reporter would also be included.

Grey v. Pink, 85 Wis. 2d at 768, 270 N.W.2d at 390.

or

Grey, 85 Wis. 2d at 768, 270 N.W.2d at 390.

or

85 Wis. 2d at 768, 270 N.W.2d at 390.

When you discuss a case in text, as opposed to citing the case, you may always refer to the case by the name of a party if you have already cited the case. Again, do not identify a case only by the governmental party, such as “In *United States*. . .”

To invalidate an agreement, one court has required actual fraud. *Bubble v. South*, 35 P. 220 (Okla. 1910). However, later courts have limited *Bubble* to its specific facts.

or

Fraud under the FTC requires intentional conduct. *United States v. Mobilier*, 35 F. Supp. 12 (E.D.N.Y. 1960). Later courts have limited *Mobilier* to its facts.

4. *Electronic Database*

Use the unique database identifier for the case short form. See Bluebook rule 18.7(a).

Grey, 2001 WL 185042, at *1.

5. *Short Form for Statutes Where id. is Not Appropriate*

You may use a short form to cite a statute in the same general discussion in which you have cited the statute in full as long as the citation is clear to the

reader. For example, if you are discussing the Civil Rights Act, 42 U.S.C. § 1983, you may cite it as § 1983 in that discussion, or as the Civil Rights Act § 1983, or as 42 U.S.C. § 1983. When you discuss a statute in text, as opposed to a citation, you may also use a short designation. Most people probably use just the section number, that is, section 1983, when the textual reference is clear. However, you must write out the word “section” in textual references, rather than use the section symbol “§.” See Bluebook rule 12.9.

6. *Constitutions*

Do not use a short form citation except *id.* where appropriate.

7. *Hereinafter*

You may devise your own short form for particularly cumbersome citations to any kind of material. After you cite the material in full, follow with “hereinafter” and the form you will use. Enclose this information in brackets.

Paul Bator et al., *Hart and Wechsler’s The Federal Courts and the Federal System* 300 (3d ed. 1988) [hereinafter Hart & Wechsler].

Do not use hereinafter for case names or for any statutes unless the name is extremely long.

C. *String Citation*

A list of citations to several authorities for a particular point is called a string citation. You will see string cites used in judicial opinions and in memoranda and briefs, but you should use long ones sparingly. Unless your purpose is to actually list every case or other authority on point, or to literally show overwhelming authority, a string cite is usually not necessary and is difficult to read. The reader will tend to avoid it.

A citation of just a few authorities, however, is fairly common. The authority or authorities that are considerably more helpful or important than the others should be cited first. The others should follow in the order listed in the Bluebook rule 1.4—enacted law first (constitutions, statutes, and other enacted law), international agreements, case law, and others as listed in the rule. If no authorities stand out, this ordering scheme governs the

entire string cite. There is also a correct order within each type of authority. For case law, the order is federal cases, state cases, listed alphabetically by state, and foreign cases. Within each jurisdiction (each federal appellate and district court is a separate jurisdiction), cite cases from highest court to lowest court, and within each court level, most recent to least recent. Use the same order of jurisdictions to cite constitutions and statutes. Separate each citation with a semicolon.

Sosa v. Alou, 350 F. Supp. 80 (N.D. Ill. 1987); *Smoltz v. Jones*, 400 S.E.2d 10 (Ga. 1986); *Martinez v. Vina*, 430 S.W.2d 85 (Mo. 1986); *Jeter v. O'Neill*, 500 N.E.2d 3 (N.Y. 1985); *Bagwell v. Biggio*, 150 S.W.2d 82 (Tex. 1979); *Olerud v. Boone*, 200 P.2d 20 (Wash. 2000).

Remember that not all authorities are equal in weight. A string cite obscures the differences in the importance of the authorities listed. A case or statute from the jurisdiction of your assignment, for example, should be more important than those from other jurisdictions, and these citations should precede the others. Although you may cite controlling authority first in a string cite, you should also consider citing controlling authority alone, after the proposition it supports. Then, use an introductory signal (see below) to cite supporting cases from other jurisdictions, as is done in this example from an Illinois problem:

A parent is not immune from suit brought by an emancipated minor. *Oscar v. Green*, 350 N.E.2d 10 (Ill. 1971). *See also* *Roosevelt v. Franklin*, 390 A.2d 50 (N.J. 1965); *Kit v. Carson*, 41 N.W.2d 200 (N.D. 1962); *Black v. Hills*, 460 N.W.2d 80 (S.D. 1964).

D. Introductory Signals

Introductory signals are the italicized or underlined words that often precede citations to authority. Signals are used to show what type of support the citation supplies for the author's statement. The meanings of the most used signals are described below.

1. Direct citation without a signal: Use no signal before a citation if the authority

- a. is the source of a quotation or paraphrase, or
- b. identifies an authority referred to in the text, or
- c. is direct support for the proposition.

2. Introductory signals

a. *See* is the signal most often used. It means that the cited authority is a basic source material for the proposition in the text. *See* is used if the proposition is not directly stated in the cited authority (use no signal if it is) but follows directly from it.

See also is used to give additional support, especially after other supporting authorities have been cited and discussed.

Because Jones did not act intentionally or recklessly, she is not guilty of criminal contempt. *See Yellow v. Orange*, 100 F. Supp. 58 (S.D.N.Y. 1951).²

Because Jones did not act intentionally or recklessly, she is not guilty of criminal contempt under the rule of *Yellow v. Orange*. *See also William v. Jefferson*, 394 F.2d 42 (D.C. Cir. 1971); *Silver v. Copper*, 285 F.2d 512 (D.C. Cir. 1968).

b. *E.g.* means “for example.” Use it to give one or more examples of support for the proposition in the text. *E.g.* may be combined with other signals, such as in *See, e.g. E.g.* is followed by a comma.

Most state statutes require that the defendant act intentionally or recklessly. *See, e.g.,* N.Y. Penal Law § 50 (McKinney 1980); Or. Rev. Stat. § 32 (1985); Utah Code Ann. § 12 (1981). A defendant, therefore, should not be guilty if he acted negligently. *See, e.g., Blue v. Green*, 400 F.2d 12 (7th Cir. 1972) (defendant “just careless”); *Gold v. Brass*, 394 F.2d 42 (9th Cir. 1971) (defendant “merely inadvertent”); *Yellow v. Orange*, 100 F. Supp. 58 (S.D.N.Y. 1951) (defendant’s “mere oversight”).

c. *Cf.* means that the proposition in the cited authority is different from, but analogous to, the proposition in the text. *Cf.* can show comparisons, as can the signal “*Compare.*”

d. *Contra* is used to show authority in direct contradiction to your proposition. You may also show authority in contradiction with a signal introduced by “*but,*” such as “*but see,*” and “*but cf.*”

² *See* is used instead of no signal because *Yellow v. Orange* does not say anything about Jones.

Either intentional or reckless disregard of a court order constitutes criminal contempt. *Gold v. Brass*, 394 F.2d 42 (D.C. Cir. 1971). *But see Lead v. Pipe*, 512 F.2d 65 (10th Cir. 1980) (requiring intentional conduct for criminal contempt).

A signal may be used with an explanatory parenthetical as in the examples above. The Bluebook and most readers encourage parenthetical information to be added to the basic citation in order to explain the relevance of the authority cited with an introductory signal. The parenthetical information should relate to the material discussed in your text. Generally, a parenthetical should be a phrase, not a sentence, and should begin with a present participle (example 2(d)). However, if you do not need a complete participial phrase, use a shorter parenthetical (example 2(b)).

Do not use parentheticals for an important point, however. The facts of important cases should be discussed in your text, not relegated to parentheticals.

Another use of parentheticals is to supply other information, such as information that explains the weight of the cited authority, as in these examples.

Lawless v. Justice, 394 F.2d 42 (D.C. Cir. 1971) (Bork, J., dissenting).
Lead v. Pipe, 512 U.S. 65 (1980) (per curiam).

Bluebook Exercises

Rewrite these citations correctly. If the correct form requires information that you do not have, such as a page number, indicate the information with an underline.

1. *Johnson et al. v. Smith* 312 N.E.2d 600 (Il. 1964).
2. *Michaels v. Jordan*, 100 F.Supp. 5 (R.I. 1941).
3. *Jordans v. Marsh Corp. Inc.*, 206 So.2d 3 (Miss. 1959).
4. *Marsh v. Metropolitan Housing Institute*, 6 F.3d 9 (CA 2 1992).
5. *Simon v. Pauls*, 210 U.S. 15, 200 S. Ct. 7, 190 L.Ed. 16 (Sct. 1965).
6. In this appeal, the defendant has raised an error he did not raise at trial. See *U.S. v. Carter*, 230 F.2d 62 (1971) quoted on page 64. See also, *State v. Brown*, 400 P.2d 10 (Calif. 1990), *State v. Wallace*, 100 So.2d 7 (Ala. 1951), *State v. LaFollette*, 100 Wisc.2d 48 (1985), 312 N.W.2d 30 (1985).
7. In *Ryan v. Quinn Brothers Corporation*, 318 N.E.2d 6 (Mass. 1964), the court held that the defendant had violated Section 12 Mass. Annotated Laws Chapter 5. However, the plaintiff received only nominal damages. *Ryan*, *supra* on page 10.
8. Title 15 Section 552 Part a4 of The United States Code published in 1989 permits a court to award fees "reasonably incurred" to a successful litigant [my emphasis].
9. The appellee has distinguished Maryland law from the cases that the appellant has relied on. (a) For example, the appellee distinguishes *Pioneer Lands Inc., v. Agnew*, 400 A.2d 36, 390 Md. Repts. 165 (Md. 1981). (b) The Environmental Preservation Act, Md. Code Annot. [Environ.] § 36 (1992), the statute at issue in *Pioneer Lands*, is different from the one at issue here. (c) *Pioneer Lands* at 38. [Correct the citations at (a), (b), and (c).]
10. The statute requires that three witnesses sign the will. § 15 Miss. code Ann. Only two witnesses signed the decedent's will, and the will is invalid. See, *Macabre v. Macabre*, 150 So.2d 35 (Miss. 1972), *Rigor v. Mortis*, 182 So.2d 10 (Miss. 1979). This court has said, "It is more important that the statue [error in original] be enforced than the will be valid," *Macabre*, at 37.

11. You are citing to the book *Learned Hand, The Man and the Judge*, by Gerald Gunther, published by Alfred Knopf in 1994, for information in footnote 148 on page 37. Cite this source.
12. You have just read a law review article "Videotaping Wills: a new frontier in estate planning." The author is Alfred W. Buckley. It appeared in volume 11 Ohio Northern University's law review in 1984 on pages 271-287. Cite it.

Appendix B-2

Introduction to ALWD Citation Manual Form

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I. INTRODUCTION

In legal writing, a citation is used to identify the authority for a statement or the source of a quotation or paraphrase, and to tell the reader where to find that authority or source. For example, citations to articles identify the author, title, periodical in which the article is published, page numbers, and date of publication. Citations also provide other information, such as the kind of support that the cited source supplies for your statement. For example, a case citation tells you which court decided the case, and thus, whether the case is binding precedent or not. Legal citations are very stylized and accurate citation form is often important. If you join a journal at your law school or submit documents to a court you will find that accurate citation form may be crucial. You most likely will be learning legal citation in your first year of law school according to one of two citation systems, either *A Uniform System of Citation*, commonly known as The Bluebook, or a newer source, the *ALWD Citation Manual*.¹ This Appendix will explain the rules of the *ALWD Citation Manual*, while Appendix B-1 covers the rules of the Bluebook.

In your first year of law school you will mainly write legal memoranda and trial or appellate briefs. Because in these forms of writing, you generally cite authority within the text rather than in footnotes, and you put the citation right after the text that you are citing to, the information in this Appendix is about citing in text. Moreover, because most of the authorities you will use for first-year memoranda and briefs are cases, statutes, constitutions, law review pieces, and books, this Appendix includes only the rules for citing these authorities.

A citation can be in the form of either a sentence or a clause. A citation sentence comes after the sentence of text that it is the authority for and is punctuated as a separate sentence. You use a citation sentence if the authority you cite supports the entire sentence in your text. If the citation supports only part of your sentence of text, then use a citation clause following that part of the sentence it is an authority for. Set off the citation clause with commas, as in the example below where the case names in italics represent citations.

¹ Another source of citations is The University of Chicago Manual of Legal Citation (the Maroon Book).

Parents may be immune from a tort suit brought by their children. *Senior v. Junior*. However, parents are not immune from suits for intentional torts, *Red v. Green*, or from suits brought by emancipated children, *Fred v. Frank*.

In this example, *Senior v. Junior* is the case authority for the information in the sentence about parental immunity that precedes it. *Senior v. Junior* is written as a separate citation sentence. There are two citation clauses in the next sentence. Each citation provides authority for a part of the sentence. The writer has cited *Red v. Green* for its holding that there is no immunity from intentional torts, and cited *Fred v. Frank* for its holding that there is no immunity from suits brought by emancipated minors. Each citation clause is set off by commas.

II. CASE CITATIONS

A case citation identifies the case and gives the reader the information necessary to find the print or electronic version of that case. The first time you cite a case, you must include the name of the case, the reporter in which it is published (or, if not yet in a reporter, its place of publication, which may be a looseleaf service or a computer database), the page on which the case begins, the date the case was decided, and, if necessary, the court that decided the case. The date and the court information are enclosed in parentheses. The examples in these materials are for citations of cases from the United States published in case reporters or in other sources. This section uses an example of a reported case from a state court.

Appendix 1 in the ALWD Manual lists each jurisdiction in the United States. It tells you the names of the courts in each jurisdiction, the case reporters to which to cite, and the abbreviations for the jurisdiction, its courts, and the reporters. It also tells you whether the jurisdiction's courts have local citation rules. Those rules are found in Appendix 2.

Below is an example and explanation of a typical citation of a state case. State cases are cited to the regional reporter, published by West, in this case the Pacific Reporter, Second Series, abbreviated P.2d. (The supersumerals are not part of the citation, but are keyed to explanations below.)

1 2 3 4 5 6
Adams v. Brown, 25 P.2d 100 (Okla. 1955).

1. Name of case, italicized or underlined. If a party is an individual, then use only the last name of the party. However, if a party is a business entity, use the complete name of the business. The ALWD Manual Rule 12.2 (e)(5) allows you the option of omitting a second business designation such as “Inc.” or “Ltd.” if a party’s name already contains words such as “R.R.,” “Co.,” “Bros.,” or “Ass’n,” which indicate that the party is a business firm. Also, for business entities, you may abbreviate words listed in Appendix 3. For example, if “Brown” were the “Brown & Smith Steel Company, Incorporated,” you would write as *Brown & Smith Steel Co.*, abbreviating Company and eliminating Incorporated.

For both individual and business parties, use only the first named party when there is more than one plaintiff or defendant.

2. Comma after the case name.

3. Volume number of the case reporter and name of the reporter, abbreviated. Leave a space between volume number and name of reporter.

Do not put a space between P. and 2d because there should be no space between adjacent single capitals, and the ordinal “2d” is considered a single capital. If the reporter were the South Eastern Reporter, Second Series, you would abbreviate as S.E.2d.

4. Page number at which the case begins.

5. No punctuation, but leave a space.

6. Parenthetical that identifies the jurisdiction and court, and the year the case was decided. Because the Pacific Reporter includes cases from many states, you must identify the jurisdiction of the case. Identification by the abbreviation of the state alone means that the case was decided by the highest court in that state. Thus, the abbreviation “Okla.” means that the case was decided by the Oklahoma Supreme Court. If the case was not decided by the highest court, for example, the intermediate court of appeals, then identify the court if it is not otherwise identified by the name of the reporter. For example, if a case was decided by the Illinois Appellate Court, in the 1st District in 1978, cite as “(Ill. App. 1st Dist. 1978).” If the reporter you cite publishes cases from only one jurisdiction, for example, the New York Supplement (N.Y.S or N.Y.S.2d) do not include the jurisdiction in the parentheses. ALWD Manual Appendix 1 lists the proper abbreviations for the courts in each jurisdiction. Note that these abbreviations are not the same as state abbreviations used by the Post Office.

Because the particular department, division or district of a court can be important to determine whether a case is binding precedent, the ALWD Manual Rule 12.6 (b)(2) includes this information for state citations inside the parentheses between the court information and the date.

You will cite most state court decisions according to the format in the *Adams v. Brown* example, subject to the following exceptions.

A. Parallel Citation to State Cases

Some states publish their court decisions in an officially published reporter. These cases are thus published in two case reporters: the state's official reporter and West's regional reporter.

Older versions of the Bluebook published before the ALWD Manual required citation to both reporters for all state cases published in an official reporter. This practice is called parallel citation.

The ALWD Manual and the current Bluebook now require parallel citations only for documents submitted to a court whose rules require parallel cites. However, you may still see parallel citations in some materials that were written according to the previous Bluebook rules.

When providing a parallel citation, cite the official reporter first, followed by the cite to the regional reporter, as in the examples below.

Blue v. Green, 85 Wis. 2d 768, 270 N.W.2d 390 (1980).

This case is from the Wisconsin Supreme Court. The jurisdiction is identified in the cite to the state reporter and thus does not appear in the parenthetical at the end.

Blue v. Green, 85 Ill. App. 2d 768, 270 N.E.2d 390 (1st Dist. 1980).

This case is from the Illinois Appellate Court, which is not the highest court in the state. However, the Illinois case reporter identifies the court so this information is not identified in the parentheses. Only the district which decided the case is included, because that information cannot be determined from the case reporter.

B. Parallel Citation to California, New York, and Illinois Cases

West publishes additional reporters for California, New York, and Illinois cases - the California Reporter (Cal. Rptr.), the New York Supplement (N.Y.S.), and Illinois Decisions (Ill. Dec.). Older parallel citations often included the third reporter. You need not cite all three reporters under the new rules for parallel citations, however, because the court rules require cites to the official reporters only, not the additional West reporters.

A full three-reporter case cite looks like this.

Blue v. Green, 46 N.Y.2d 401, 186 N.E.2d 807, 413 N.Y.S.2d 895 (1978).
Blue v. Green, 50 Cal. 3d 247, 786 P.2d 375, 266 Cal. Rptr. 649 (1989).

C. Citation to Federal Court Cases

1. The Supreme Court of the United States

Supreme Court cases are cited to the official reporter, United States Reports, abbreviated U.S., so that a citation to a case would be

Nathanson v. Victor, 300 U.S. 52 (1980).

If a case is not reported yet in United States Reports, you may cite to West's Supreme Court Reporter (S. Ct.) or the Lawyer's Edition (L. Ed.), in that order. If the case is not yet reported in any reporter, cite to United States Law Week (U.S.L.W.) or to a computer database. Do not give parallel citations for Supreme Court cases. (But see Rule 12.4(b)(2): many attorneys use parallel cites for Supreme Court decisions).

2. United States District Courts and Courts of Appeals

There are no official reporters for decisions from these courts. The cases are cited to West reporters: district court cases are cited to the Federal Supplement (F. Supp. or F. Supp. 2d), and courts of appeals cases designated for official publication are cited to Federal Reports (F., F.2d, or F.3d). Another reporter, Federal Rules Decisions (F.R.D.), reports cases concerning federal procedural issues. Also, since 2001, West has reported certain courts of appeals opinions in the Federal Appendix (abbreviated by West as Fed. Appx.), which contains cases which were not selected for official publication and have limited precedential value. This source was created after the publication of the ALWD Manual and is not yet addressed by its rules.

Because the citation does not identify the court in which the cited case was decided, you must always identify the court, by district or by circuit, in the parentheses.

John v. Marshall, 400 F. Supp. 12 (W.D. Va. 1976).

This case is from the United States District Court for the Western District of Virginia.

John v. Marshall, 400 F. Supp. 12 (D.R.I. 1976).

This case is from the United States District Court for the District of Rhode Island. Rhode Island comprises one federal district.

John v. Marshall, 400 F.2d 12 (2d Cir. 1976).

This case is from the United States Court of Appeals for the Second Circuit.

John v. Marshall, 400 F.2d 12 (D.C. Cir. 1976).

This case is from the United States Court of Appeals for the District of Columbia Circuit.

D. Alternative Sources

Court cases can now be found in a number of sources other than a bound, published case reporter. Courts will often issue slip opinions (individual court decisions issued shortly after they are rendered), which will either be separately paginated or consecutively paginated along with other slip opinions. In addition, a number of cases can be found on electronic databases, such as LEXIS or Westlaw, or the Internet. To cite to these alternative sources, follow the guidelines below. However, if these cases can also be found in a bound reporter, then cite only to that reporter – do not provide additional citation information for the alternative sources since most alternative sources cross-reference to the citation of the reporter. Keep in mind that cases not selected for official publication from the federal courts of appeals are now available in bound case reporters through the Federal Appendix, and should be cited to these reporters, rather than an alternative source.

I. Slip Opinions

To cite cases that are reported only in slip opinions, cite by the case name, the case's docket number, and the page preceded by "slip op. at." Also, in-

dicating the court, and the month, day and year of the decision in parenthesis. See ALWD Manual Rule 12.18.

Silver v. Gold, No. 92-28, slip op. at 6 (E.D. Mich. June 9, 1993).

2. LEXIS or Westlaw

To cite to cases available only on electronic databases, cite the case name, the unique LEXIS or Westlaw identifier assigned to the case, the page number (if assigned) preceded by “at *,” and a parenthetical that includes the court abbreviation and the full date (month, day and year) of the decision. See ALWD Manual Rule 12.12.

Bush v. Gore, 2000 WL 345678 at *5 (N.D. Fla. Dec. 5, 2000).

3. Cases on the Internet

If a case appears only on the Internet, and is not available through a reporter or any other alternative source, then cite according to ALWD Manual Rule 12.15. If alternative sources are available, then cite to those preferred sources.

E. Case History

Because parties to litigation may appeal losing decisions, many cases build up a litigation “history.” This history may include a decision on a motion or trial, one or more appeals, and one or more rehearings. Some or all of this prior or subsequent history of a case may be relevant authority for your analysis and should be cited when appropriate.

Give the prior history (usually the trial court decision) only if significant to the point for which you cite the case.

On the other hand, the entire subsequent history (usually appellate decisions or denials of further review) should be included, unless the cite is for a denial of certiorari or discretionary appeal if the case is more than two years old, or for the case history on remand if it is not relevant to your analysis. Subsequent history includes a case that overrules the cited cases.

Subsequent history citations should be preceded by a word or phrase that explains the history, such as *aff’d*, which means that the higher court affirmed the decision below, or *rev’d*, which means that the higher court reversed. These explanatory words and phrases are quite stylized and are