

Citation Form: Getting it Right

by Susan W. Fox

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

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

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

Sources of Citation Rules

Florida lawyers have two main sources of citation forms: *The Bluebook: A Uniform System of Citation* (16th ed.), published in 1996 by the Harvard Law Review Association, and Rule 9.800, Florida

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Rules of Appellate Procedure, which sets forth Florida's "Uniform System of Citation." Rule 9.800 applies in all appellate proceedings in Florida; other citations not covered in the rule should follow the *Bluebook*. "Citations not covered in this rule or in *The Bluebook* shall be in the form prescribed by the Florida Style Manual published by the Florida State University Law Review, Tallahassee, Fla. 32306." Fla. R. App. P. 9.800 (k).

Purpose of Citation Rules

Florida's citation system was adopted by the Supreme Court of Florida "to standardize appellate practice and ease the burden on the courts." Fla. R. App. P. 9.800 committee's notes. "It is the duty of each litigant and counsel to assist

the judicial system by use of these standard forms of citation." *Id.* Apparently, the court believes that nonstandard forms are a burden and fail to assist courts.

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

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

Introductory Signals—Rule 1.2

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

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

There are ten introductory signals: *[no signal]*; *accord*; *see*; *see also*; *cf.*; *compare . . . with . . .*; *but see*; *but cf.*; *see generally*; and *e.g.* (when used in combination with

other signals). The first five indicate authorities that support a stated proposition. The sixth suggests a useful comparison. The seventh and eighth show contradiction. The ninth indicates helpful background material. The last, “*e.g.*,” indicates the cited authorities are examples. The proper use of signals is addressed in further detail below.

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

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

“*See also*” is used when the cited authority “constitutes additional source material that supports the proposition.” *Bluebook* at 22. Use it after you have already quoted an

authority using “*[no signal]*” or have supported a proposition using “*see*.” A parenthetical explanation following such a cite is strongly encouraged.

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

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

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

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

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

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

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

In one of the more quizzical technicalities, one of the signals that can

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

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

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

Description of Source

• *Rules for Citing Cases*

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

Common citation forms are as fol-

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

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

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

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

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

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

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

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

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

Statutes, Constitutions, and Rules

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

It is common to see “Florida Statutes” spelled out in cites, to see the source and section number in in-

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

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

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

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

Official Public Domain Citations

The use of an official public domain citation is now preferred when available, pursuant to *Bluebook* Rule 10.3. This rule reflects a trend among courts to upload their opinions to a source available on the Internet. This public domain citation (also referred to as medium neutral citations) source has become the citation of choice by the *Bluebook* editors, who instruct use of this cite “instead” of the regional reporter citations. *Bluebook* at 62. Official and regional reporters are still required, but if a public domain citation exists, it should be cited, and the other citations are then optional. The method for citing decisions available in public domain format is to include: case name; year of decision as volume number; name of court issuing the decision (using the appropriate abbreviations for regional cites); and the sequential

number of the decision. When referencing specific materials, pinpoint cites with paragraph symbols to the paragraph number of the text are required. Since new public domain citation services are coming online every day in varying formats, the methodology of citation remains somewhat flexible. The *Bluebook* gives two fictitious examples: “*Stevens v. State*, 1996 S.D. 1, ¶1217, and *Jenkins v. Patterson*, 1997 Wis. Ct. App. 45, ¶157, 600 N.W.2d 435.” *Bluebook* at 62. The parenthetical date and name of court references are deleted as unnecessary, since both have been revealed in the public domain citation itself.

• *Other Authorities*

A book, law review, or other publication is cited by the full name of the author(s), followed by the publication’s title (underscored or italicized), section symbol and specific section cited, and a parenthetical citing the date of publication or, if there is an edition, the number and date of the edition, for example: Philip J. Padovano, *Florida Appellate Practice*, §1.1 (2d ed. 1998), or Jon Mills, *Sex, Lies and Genetic Testing: What Are Your Rights to Privacy in Florida*, 48 U. Fla. L. Rev. 813 (1996). Don’t underscore or italicize the author’s name or the name of the periodical; only underscore the title of the book or article.

Legislative materials are treated as books—underscore the title, and print the author’s name (if given) in regular type.

Short Forms

Caution should be used in the application of the still ubiquitous “*supra*” and the less common “*hereinafter*.” The 15th edition *Bluebook* published in 1991 proscribed the use of “*supra*” and “*hereinafter*” to refer to cases, statutes, or constitutions, these being important enough to warrant repetition of the cite unless a short form were appropriate and the full citation immediately apparent. Nine years later, “*supra*” is still inappropriately used in judicial opinions and legal writing to refer back to a previously cited case. Instead, an appropriate short form should be used.

In general, citations to a case that has been cited in full may be shortened if the shortened citation clearly identifies the case.

In general, citations to a case that has been cited in full may be shortened if the shortened citation clearly identifies the case. Short forms of case citations give the name of one or both parties and do not give the first page of the case or the court or year of decision; they do include the word “at” to indicate the page on which the specific materials appear. The name of a governmental party or other common litigant should not be used in the short form, when shortening to the name of a single party. Acceptable short forms for *State v. Walborn*, 729 So. 2d 504 (Fla. 2d DCA 1999), are thus: *Walborn*, 729 So. 2d at 505; 729 So. 2d at 505; *Id.* at 505. (Not: *State of Florida*, 729 So. 2d at 505.)

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

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

Parenthetical Information—Rule 1.5

The *Bluebook* continues to recom-

Common Abbreviations in Citations

Always abbreviate these words in citations unless it is the first word of the name of a party:

Administrat[ive, ion]	Admin.
Agricultur[e, al]	Agric.
America[n]	Am.
Associate	Assoc.
Association *	Ass’n
Authority	Auth.
Board	Bd.
Brothers *	Bros.
Building	Bldg.
Commission	Comm’n
Committee	Comm.
Company *	Co.
Construction	Constr.
Corporation *	Corp.
Department	Dep’t
Division	Div.
Environmental	Envtl.
Federal	Fed.
Financ[e, ial, ing]	Fin.
General	Gen.
Hospital	Hosp.
Incorporated *	Inc.
Insurance	Ins.
International	Int’l
Limited *	Ltd.
Medic[al, ine]	Med.
Metropolitan	Metro.
Mutual	Mut.
National	Nat’l
Professional	Prof’l
Public	Pub.
Road	Rd.
School[s]	Sch.
Street	St.
University	Univ.
Utility	Util.

*Should be abbreviated in text as well as in citations.

Abbreviations are also permissible for other words of eight letters or more if substantial space is saved and the result is unambiguous, and for names like “NAACP” and “NLRB,” which have widely recognized initials.

Do not abbreviate “United States.”

See *Bluebook*, Rule 10.2.2 and table T.6, for a complete list of permissible abbreviations and rules relating to amendments.

Is Your Bar Address Correct?

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

“Official Bar Address: Each member of The Florida Bar shall designate an official bar mailing address and business telephone number.

If the address given is not the physical location or street address of the principal place of employment, then such information shall also be given.

Each member shall promptly notify the executive director of any changes in any information required by this rule.”

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

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

Attorney Number _____

Name _____

Address _____

Business Phone _____

Facsimile Number _____

E-mail _____

Signature _____

mend parenthetical information whenever the relevance of a cited authority might not otherwise be clear to the reader. As a general rule, practitioners should include a parenthetical for every cite preceded by the introductory signals “*See also*”, “*Cf.*”, “*Compare . . . with . . .*”, “*But cf.*”, “*See generally*”, and “*e.g.*”. It is common in Florida appellate practice to use the parenthetical with “*see*” to provide a thumbnail description of the facts of the case.

The *Bluebook* now demands that a parenthetical begin with a present participle rather than a capital letter. Here is an example of an appropriate parenthetical: *But see Flanigan v. United States*, 465 U.S. 259, 264 (1989) (explaining that the final judgment rule reduces the potential for parties to “clog the courts” through a succession of time-consuming appeals). The examples given for parenthetical information now suggest inclusion of everyday articles (a, an, the), by including the articles that had been dropped in the same examples in prior editions of the *Bluebook*. This suggests a trend away from legalese toward readability. □

¹ Florida cases through 1948 require citation to the Florida Reporter; however, a pending rule change submitted by the Appellate Court Rules Committee would delete this requirement.

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