

NOTES ON CITATIONS IN LEGAL MEMORANDA

Remember first that the Bluebook (18th ed.) has two typeface conventions, one for law review footnotes (inside front cover) and one for court documents and legal memoranda (inside back cover). Be aware that, in addition to the general rules of civil, criminal, or appellate procedure, courts often also have their own rules of citation and that almost all courts have their own "local rules" about how documents are to be formatted. Many courts now require that documents be able to be scanned into digital form.

The typeface and format for citations used in court documents and legal memoranda are governed by the Bluepages section of the Bluebook. Specific examples of the most common kinds of legal citations are also set out in the Bluepages (pp. 3-24). This typeface in the Bluepages is the typeface that we will be using in our legal research and writing course. Remember, however, that the Bluepages are only an "abbreviated introduction" to the whole Bluebook.

For more detail than is included in the Bluepages, one must consult the main body of the Bluebook. But remember that any specific examples of citations in the main portion of the Bluebook will be given in the typeface for use in law journals' footnotes. For example, under Rule 15 both the author and the title of a book are set out in large and small capital letters in law review footnotes, but this convention is not used in court documents or legal memos, as one can see by looking at Bluepages B8. Be careful to modify examples from the main portion of the Bluebook, so that they fit the typeface conventions for court documents and legal memoranda.

The Bluepages are supplemented and explained by the rest of the Bluebook. Notice that Rules 1-9 are generally applicable to any document or authority that you may need to cite. Rules 10-21, however, are each applicable to only one specific type of document. For example, Rule 10 governs cases, Rule 11 constitutions, Rule 12 statutes, etc. Both the Bluepages and the Rules provide cross-references to the tables of abbreviations. The tables fill in the details on specific abbreviations and forms, and they too are on light blue paper or blue-edged paper.

Both Bluepages B5 and Rule 10 require that a so-called "full citation" be given when you introduce a case into the discussion for the first time. A full citation must include the name of the case, the source where it may be found, the starting page of the case, usually a pinpoint or jump citation, and a parenthesis that indicates the court and jurisdiction and the year of the decision. An explanatory parenthetical may be added to show the weight of authority or to make clear to the reader the reason for the citation to the case. All subsequent history of the case should also be given (except for denials of certiorari greater than 2 years old, denials of rehearings, or histories on remand). Prior history of a case is given only rarely when it is somehow more significant to the point for which the case is cited than the case is itself.

Sampson v. Delilah, 778 F.2d 101, 105-06 (6th Cir. 1985)(setting out the four part test for statutory ambiguity), rev'd, 478 U.S. 444 (1987).

Under Rule 10 after you have given a case's full citation, you should then use a short form citation, as long as it is in the same general discussion. Use id. if there has been no

other intervening authority. Use a short form other than id. if there has been an intervening authority.

In Sampson v. Delilah, 778 F.2d 101, 105-06 (6th Cir. 1985), aff'd, 478 U.S. 444 (1987), the court announced a four part test to determine when a statute is ambiguous. The court noted that the first and most important factor, formal plurisignation, was formerly called "formal ambiguity." Id. at 108. The Supreme Court of the United States, however, modified the Delilah test in Michie v. Minnie, 485 U.S. 542, 544 (1990). After Michie, it is clear that the second Delilah factor, stylistic ambiguity, is just as important as plurisignation. Id. at 546. The other factors set out by the court in Delilah, malapropism and equivocation, have "little application outside political speeches," but cannot be completely ignored. Delilah, 778 F.2d at 110.

Rule 4.2 does not permit the use of supra or infra to refer to primary authorities (with the exception of treaties and legislative hearings).

Rule 5.1 requires that quotations of 50 or more words be indented on both the left and right margins in a "block quote." There are no quotation marks used in a block quote, and the citation to a block quote is added back at the left margin after one has skipped a line.

Remember that with very few exceptions the Bluebook does not seek to govern what you write in a textual sentence but only what you put in the citation. You are in general free to cast your textual sentence however you will. It is only the citation that is controlled by the Bluebook. One exception to this general rule, however, is case names. The Bluebook regulates case names both in citations and in textual sentences. Compare Rule 10.2.1 with Rule 10.2.2.

While you are first learning, do not spend too much time trying to get the citations exactly correct as you go. Write your paper first. Then go back to clean up your cites. (You will, of course, need to have recorded the information necessary to produce proper citations while you were writing!) Proper citation form should become just another part of the editing process. Just as you scan your work for typographical errors, misspellings, and grammatical errors (before you print your document!), so too do you check for incorrect citation form. Lawyers will judge your written work by the conventions that they use in practice. If you do not learn how to produce the kind of citations that lawyers expect, your work will not be respected. If you want to be a member of the legal profession, then you must take its conventions seriously and do your best to master them.

