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Legal Citation Part II: Tips & Tricks to Avoid Common Errors

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Legal Citation Part II: Tips & Tricks to Avoid Common Errors

Tenielle Fordyce-Ruff
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Last month this column explored the language of legal citation, noting that a legal citation instructs the reader on locating a source; informs the reader about the weight, currency, and persuasiveness of a source; conveys the type and degree of support for a proposition; and demonstrate the author's thorough research.¹ The column also noted how legal citation conveys information succinctly and efficiently by adhering to four principles:

- 1) core identification principles,
- 2) minimum content principles,
- 3) compacting principles, and
- 4) formatting principles.²

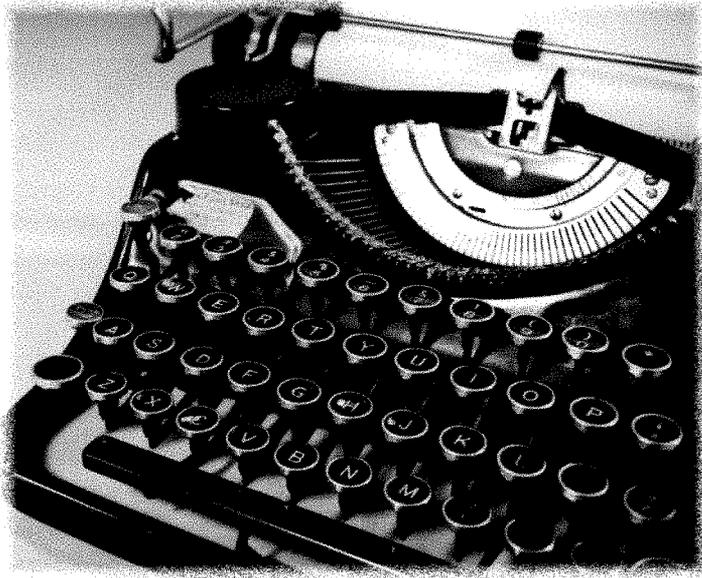
Now that you understand that legal readers read citation just like a language and expect it to convey information by sticking to these four principles, we will continue our exploration of creating correct legal citations. This month, however, we will go over quick and easy tips to help you avoid the most common citation typeface and abbreviation errors often seen in practitioner filings.

Typeface fixes

Because legal citation must convey so much information in such a compact space, legal citation uses different typeface to help the reader quickly read the various parts of a citation. The most common errors in practitioner documents dealing with typeface are using superscript in ordinal contractions and using large and small caps for citation in practitioner documents.

Don't use superscript for ordinals contractions

For some reason, word processing programs believe that ordinal con-



tractions need to use superscript and come with a default that makes this happen. Okay, let's unpack that in case you don't remember your mathematics or typeface vocabulary.

An ordinal number indicates a something's position in a series: first, second, ninety-ninth, etc. An ordinal contraction uses Arabic numerals with letters to indicate this position: 1st, 2nd, 99th, etc. Superscript is a character (like a letter, number, or symbol) that is printed above the normal line of text: 1st, 2nd, 99th, etc.

Here's the rub: while legal citations use ordinal contractions all the time, they don't use superscript for ordinal contracts.³ So you have two options: (1) proofread your documents carefully to ensure that you have manually removed all ordinal contractions or (2) get rid of the default setting that automatically creates superscripted ordinal contractions. (We recommend the second course of action!)

Don't use large and small caps

One of the real insults of legal citation is that it has two systems: one

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for law review articles and one for all other legal documents, including practice documents.⁴ Many attorneys who were on a law review or who had to write a research paper in law school spent countless hours

learning the system for law review articles, but not much time learning the system for all other legal documents.

Here's the rub: for academic papers, legal citation uses large and small caps for part of the citations, but this typeface isn't used in other legal documents. So, in a law review article, you would cite a book as follows:

LINDA H. EDWARDS, *ESTATES IN LAND & FUTURE INTERESTS: A STEP-BY-STEP GUIDE* ch. 13 (4th ed. 2013).

But in a practice document, such as a brief, the correct citation for practice documents would be this:

Linda H. Edwards, *Estates in Land & Future Interests: A Step-by-Step Guide* ch. 13 (4th ed. 2013).

Fortunately, the fix for this one is relatively easy and doesn't involve finding and changing default word processing functions. Simply stop editing your citations to use large and small caps. Instead, for most titles, put the title in italics and leave the rest of the citation in normal, roman typeface.

Abbreviation fixes

Just as it uses typeface to help convey information, legal citation also uses abbreviations to help convey a lot of information in a short space. While you may use many of the abbreviations without a second thought, there are a few pesky rules to follow to make sure your citations are correct.

Reporter abbreviations

Most common reporter abbreviations are hardwired for practitioners. The biggest issue comes in when to use a space in a reporter abbreviation. Here's the basic rule: for abbreviations whose component parts consist of single letters, do not use spaces; for abbreviations with multiple

letters for the component parts, use spaces. For this rule, you treat an ordinal contraction as a single letter.⁵

For example, the Federal Reporter, Second Series is abbreviated as "F.2d" in the following citation: *Thomas v. Board. of Educ., Granville Cent. Sch. Dist.*, 607 F.2d 1043, 1044-45 (2d Cir. 1979). This is because the abbreviation for the Federal Reporter is a single letter: "F" and the abbreviation for second "2d" is treated as a single letter.

Most words that appear on the list of approved abbreviations are always abbreviated in citation sentences.

For other reporters, like the Federal Supplement, there would be spaces. For example, *Coeur d'Alene Tribe of Idaho v. Idaho*, 798 F. Supp. 1443 (D. Idaho 1992). This, too, follows the rule—because the abbreviation for supplement is more than one letter "supp.," the reporter abbreviation contains spaces.

Case name abbreviations

Legal citation manuals contain charts of commonly used words that are abbreviated in case names for organizations. For example, Corporation is abbreviated as Corp. and

Board as Bd. Keep in mind that the use of these abbreviations is required in some instances but discouraged or disallowed in others.

For instance, most words that appear on the list of approved abbreviations are always abbreviated in citation sentences. There are a few exceptions: the first instance of a geographical reference, the first word in an organization's name, and when the United States is a party. In textual sentences, however, most words are not abbreviated. Compare:

Brentwood Acad. v. Tennessee Secondary Sch. Athletic Ass'n, 531 U.S. 288, 295 (2001). (*citation sentence*)

Brentwood Academy v. Tennessee Secondary School Athletic Ass'n, 531 U.S. 288, 295 (2001). (*textual sentence*)

Also, when a state is a party in a case decided by a court in that jurisdiction (e.g., the State of Idaho in a case decided by the Idaho Supreme Court or Court of Appeals), reference the State and dispense with the phrase "the State of Idaho" in the legal citation. For example: *State v. DeWitt*, 145 Idaho 709, 184 P.3d 215 (Ct. App. 2008).

The plural form of most abbreviations is designated by simply adding an "s." But the words abbreviated and the abbreviations are not always intuitive. When in doubt, check a citation manual to ensure that your instinct is correct.

Ordinal contractions and typographic symbols

Most common ordinal abbreviations present few problems, other than the word processing propensity to default to superscript. But the ordinal abbreviations used in legal citations for two common abbreviations get mangled: second and third. Rather than the 2nd and 3rd, these are abbreviated as 2d and 3d in legal citations. For example, *Wisniewski v. Board of Educ. of Weedsport Cent.*

Sch. Dist., 494 F.3d 34 (2d Cir. 2007). Notice, too, that ordinal contractions are not followed by a period.

Also, citations to statutes utilize the section symbol, “§” following the code abbreviation to cite to a particular code section. Always place a space on each side of the section symbol in a legal citation:

42 U.S.C. § 1983 (2012).

Use two consecutive section symbols to cite to multiple code sections:

Idaho Code §§ 2701-2704 (2017).

Of note, older pleading and practice documents commonly used “Sec.” in lieu of a section symbol since many typewriters could not produce a section symbol. This practice ceased in the age of word processing.

Likewise, citations also use “¶” to denote references to a specific paragraph. Just like §, simply double the ¶ to denote reference to multiple paragraphs. And, just like “sec.” older pleadings may have use “para.” Instead of the typographic symbol.

Note, too, that these common symbols are not used to begin textual sentences. Compare:

She argued the charter school was a state entity under § 1983.

She argued the charter school was a state entity under section 1983.

Section 1983 provides liability for private entities in specific situations.

Conclusion

Next month this column will complete the trifecta of legal citation. It will go over when and how to use signals and explanatory parentheticals.

Endnotes

1. Hollee S. Temple, *West Virginia Legal Research*, X (2d ed 2018) (forthcoming).
2. The Legal Information Institute, *Types of Citation Principles*, § 1-300, available

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at <https://www.law.cornell.edu/citation/1-300> (last visited Mar. 14, 2018).

3. Coleen M. Barger, *ALWD Guide to Legal Citation* 26 (6th ed. 2017); The Columbia Law Review et al., *The Bluebook: A Uniform System of Citation* 89 (20th ed. 2015).

4. Coleen M. Barger, *ALWD Guide to Legal Citation* xxiii-xxiv (6th ed. 2017); The Columbia Law Review et al., *The Bluebook: A Uniform System of Citation* 3 (20th ed. 2015). *The Bluebook*, as the first and most well know citation guide started this system. The current edition includes “bluepages” and notes that the rules in

those pages are for documents used in practice. Thus to create correct citations, practitioners need to consult the main rules in the “whitepages” and then modify those citations using the rules in the “bluepages.” *ALWD*, on the other hand, focuses on citations for documents used in practice and has only one set of rules. The rules for modifying citations for academic papers appear at the end of each rule.

5. Coleen M. Barger, *ALWD Guide to Legal Citation* 15(6th ed. 2017); The Columbia Law Review et al., *The Bluebook: A Uniform System of Citation* 89 (20th ed. 2015).

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