

# The Scrivener: Modern Legal Writing



## Parallel Citations— Past and Present

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If you graduated from law school before 1991, you may be including parallel citations in all of your legal writing. Parallel citations are citations to two or more alternative sources for finding the same authority. The practice of citing more than one source has been around for a long time. In the mid- to late-1800s, many state governments began publishing the state court decisions in official state reporters.<sup>1</sup> From twenty to fifty years later, West Publishing Company began reporting these same cases in its national system, thus creating an alternative source for finding those cases.<sup>2</sup>

Citation to multiple sources became a courtesy, and sometimes a necessity. While the attorney who was preparing a brief might be using the West version of a case, the judges and law clerks reading that brief might have access only to the official state reporter. The burden was placed on the writer to find the citation to the parallel page of the alternative version of a reporter so that the readers could easily verify the information cited.

By quiet decree, the fifteenth edition of the *Bluebook*<sup>3</sup> changed all of this. The convention of using parallel citations was dropped in every instance except for “state court cases in documents submitted to courts of the state that originally decided them.”<sup>4</sup> Parallel citations were no longer required in legal memoranda or law reviews.<sup>5</sup> Furthermore, the fifteenth edition required writers to use only the West version when a single source was listed. This new rule seemed to undermine the value of official citations that traditionally came before the unofficial West versions and suggested a preference for the official source issued by the state governments.

Many factions rebelled against the *Bluebook*'s edict. Some suggested it was inappropriate to favor one particular vendor over another and contributed to the start of a movement toward “vendor neutral” or “medium neutral” citations. Some

courts, such as the Colorado Court of Appeals, simply froze their citation conventions back at the fourteenth edition of the *Bluebook*, which required citation to both the official and unofficial reporter.<sup>6</sup> Below is a summary of the existing rules on parallel citation.

### Seventeenth Edition of The *Bluebook*

The newest edition of the *Bluebook*, the seventeenth edition, seems to be reverting to a parallel citation system. The rule provides for parallel citation not only in documents submitted to state courts but also in all other documents.<sup>7</sup> However, there are at least two differences from the earlier parallel citation rules.

First, the newest *Bluebook* continues with the change of eliminating parallel citation to the states' official reporters that was initiated in the fifteenth edition and continued unchanged in the sixteenth edition. Instead, the newest *Bluebook* rule requires parallel citation when using a medium neutral citation. These medium neutral citations are also called public domain citations. Only a few state courts have adopted the public domain citation format, and Colorado is not one of them.<sup>8</sup>

Second, the seventeenth edition creates ambiguity about the order of citations in parallel citations. Although some of the rules illustrate the use of an official citation or public domain citation first,<sup>9</sup> other rules mention the use of the West regional reporter first.<sup>10</sup> Furthermore, Table T.1 no longer provides a citation order, which is especially confusing for states such as New York and California that have three alternative reporters.<sup>11</sup>

### ALWD Rule

The *ALWD Citation Manual*<sup>12</sup> states that one should not use parallel citations unless required by a local rule.<sup>13</sup> If the local rule does not require a parallel citation, then cite to only one source, in this order of preference: (1) a West reporter; (2) another print reporter; (3) an online source; (4) a looseleaf service; (5) any other source.<sup>14</sup>

#### DO YOU HAVE QUESTIONS ABOUT LEGAL WRITING?

K.K. DuVivier will be happy to address them through the *Scrivener* column. Send your questions to: [kkduvivier@law.du.edu](mailto:kkduvivier@law.du.edu) or call her at (303) 871-6281.

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## Colorado Court Rules

There are no specific rules about the use of parallel citations in briefs submitted to the Colorado courts, but the courts have traditionally had rules about citation in their opinions. As a general rule, the Colorado Supreme Court follows the *Bluebook* rules on citation.<sup>15</sup> However, the Colorado Court of Appeals retained the fourteenth edition's rule about using parallel citations even after the fifteenth edition of the *Bluebook* eliminated this requirement. In its opinions, the Court of Appeals has traditionally cited to both the official and West reporters. Furthermore, the court cites three sources for U.S. Supreme Court decisions: United States Reports (U.S.); Supreme Court Reporter (S.Ct.); and Lawyer's Edition (L.Ed.).

## Federal Court Rules

Some of the federal courts have published rules on the topic of parallel citations. For example, the D.C. Circuit specifically states that parallel citations are not required.<sup>16</sup> The federal circuit rules state that citation to sources other than the Federal Reporter "are discouraged."<sup>17</sup> However, I could find no specific reference to parallel citations in the Local Rules of Practice for the U.S. District Court for the District of Colorado. Furthermore, the Tenth Circuit rules do not specifically address parallel citations, but the practitioners' guide states that the court strongly recommends use of the *Bluebook*.<sup>18</sup> In talking with local federal court clerks, I learned that the only parallel citation rule they follow is citation to alternative reporters for U.S. Supreme Court opinions because of the delay in getting the official version.

## Conclusion

While it is helpful to know the rules on parallel citation, the variation between conventions can be confusing. The original reason for providing parallel citations persists—the writer should try to make it easy for all readers to check the accuracy of an authority regardless of which version of that authority is available to the readers. Consequently, when in doubt, you can

make life easier for all of your readers if you do them the favor of giving them the exact location<sup>19</sup> of the ideas you are referencing by providing a parallel citation.

## NOTES

1. For example, the *Colorado Reports* were first published in 1864.
2. The Pacific Reporter began to report Colorado decisions in 1883.
3. The Harvard Law Review Association, *The Bluebook, A Uniform System of Citation*, 15th ed. (Cambridge, MA: Gannett House, 1991).
4. *Id.* at 61 (Rule 10.3.1(a)).
5. *Id.* (Rule 10.3.1(b)).
6. The Harvard Law Review Association, *The Bluebook, A Uniform System of Citation*, 14th ed. at 42-43 (Cambridge, MA: Gannett House, 1986) (Rule 10.3.1).
7. The Harvard Law Review Association, *The Bluebook, A Uniform System of Citation*, 17th ed. at 62-63 (Cambridge, MA: Gannett House, 2000).
8. *Supra*, note 7 at 64 (Rule 10.3.3).
9. *Id.* at 64 (Rule 10.3.2 and 10.3.3). Here is an example of a parallel citation using a public domain citation: Beck v. Beck, 1999 ME 110, ¶ 6, 733 A.2d 981, 983.
10. *Id.* at 62 (Rule 10.3.1(b)).
11. *Id.* at 191 and 217 (Table T.1). A savvy writer can determine this order by looking at the samples in the Practitioners' Notes. *Id.* at 14 (Rule P.3).
12. Association of Legal Writing Directors and Dickerson, *ALWD Citation Manual* (New York, NY: Aspen L. & Bus., 2000).
13. *Id.* at 70 (Rule 12.4(c)(2)).
14. *Id.* at 67 (Rule 12.4(a)(2)).
15. *Supreme Court of Colorado Law Clerk Manual* (Sept. 1999, rev. ed.). (This edition was issued before the seventeenth edition of the *Bluebook* was released, and it says the court will follow the sixteenth edition of the *Bluebook*.)
16. D.C. Cir. Rule 28 (b).
17. Fed. Cir. Rule 28(e).
18. *Practitioners' Guide to the United States Court of Appeals for the Tenth Circuit* (5th rev. 1998) (Section VI(B)(3)) at 45.
19. For a pinpoint citation, the exact location is a page number. For a public domain citation, it is a paragraph number. ■

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