

Legal Analysis *and* Writing

Third Edition

William H. Putman



Overview of Legal Citation

Whenever a reference is made in legal writing to the law (primary authority) or to a non-law source upon which a court may rely on (secondary authority), you must identify the source of the reference. The writer cannot simply say, “This is what the law provides” without a reference to the legal authority that supports the statement. Thus, when an argument is made that a certain legal principle governs a particular set of facts or a legal question, you must reference the source of the principle. That reference is called a citation.

A citation provides the information necessary for the reader to locate the reference (i.e., the specific statute, court opinion, law review, encyclopedia, etc.), thus allowing the reader to check the content of the reference. Citations are usually required in office legal memoranda, court briefs, and scholarly writings such as law review articles. They also may be included in general legal correspondence or in other documents when there is reference to legal authority.

It is essential that the information included in a citation be correct. The writer serves no purpose by referring a reader to a source of information and incorrectly identifying the location of the source. The reader who takes the time to look up the authority and cannot locate the reference at the page or volume indicated in the citation will not be pleased. There are several additional reasons it is important that your citations be correct:

- A citation that is incorrect in either form or content sends the message that the drafter is not careful. If there are errors in citation, the reader may wonder if there are also errors in the substance of the research.
- Errors in documents submitted to a court may cause the judge to question the competence of the attorney and the quality and content of the research and analysis. Court rules require proper form, and improper citation exhibits a disregard for those rules.
- Opposing counsel may question the ability of the attorney to mount an effective opposition and be less inclined to settle a case.
- The writer’s research and analysis skills may become suspect if research sources are not properly presented. One’s professional reputation is often determined by the quality of one’s work product.

Unfortunately, there is no single standard set of rules governing citation form adopted by the jurisdictions in the United States. The main guide and source of authority on legal citations for the past 75 years is *The Bluebook: A Uniform System of Citation (Bluebook)*, published by the Harvard Law Review Association. It presents the rules and proper format for citing constitutions, statutes, regulations, rules, cases, and other legal sources such as legal encyclopedias, law reviews, etc. Some states have adopted *The Bluebook* in whole or in part as the official citation reference for pleadings and papers filed in the state courts. Many states have adopted at least some citation rules that differ from those of *The Bluebook*, especially in the area of citation to state court opinions and statutes. *Therefore, you must check the state and local court rules whenever you are preparing a document to be submitted to a court or for an in-state legal publication.*

As an alternative to *The Bluebook*, the Association of Legal Writing Directors created the *ALWD Citation Manual: A Professional System of Citation* (ALWD). The association's members are professors from nearly all American law schools. The ALWD manual was drafted by Darby Dickerson, professor and associate dean of the Stetson University College of Law, and an authority on American legal citation. Aspen Publishers published the first edition in 2000. The book is designed to be easy to understand and easy to use, providing a single set of rules for all forms of legal writing.

Inasmuch as *The Bluebook* is composed of 389 pages and the second edition of the ALWD has 491 pages, a detailed discussion of the citation rules of either text is beyond the scope of this appendix. The following discussion presents a brief review of the main rules of citation with references to rules from both the ALWD and *The Bluebook*. The goal of this appendix is to provide you with quick access to the main rules of citation in both authorities. The discussion and examples are based upon *The Bluebook: A Uniform System of Citation* (18th ed., 2005) and the *ALWD Citation Manual: A Professional System of Citation* (2nd ed., 2003).

The format of both texts begins with an introduction followed by the general rules of citation, then citation to primary sources (cases, constitutions, and statutes) and secondary sources. Because most researchers are concerned with the citation rules for primary and secondary authority, the appendix presents those rules first, followed by the general rules of citation.

In *The Bluebook* there are some differences between the citation format used in citing authorities in court documents and legal memoranda and the citation format used in citing scholarly pieces such as law review articles. Most of the differences involve the use of different typefaces. In the ALWD, the same format is used for all types of documents. The type of formal legal writing usually engaged in by practitioners, law students, and paralegals involves court documents and legal memoranda, rather than law review articles. Therefore, the focus here is on the citation format used in court documents and legal memoranda and the examples are to citation forms used in those types of legal writing.

Most of the examples provided in the white pages of *The Bluebook* are for citation when writing a law review. The light blue pages of *The Bluebook*, called “Bluepages,” provide guidance on how to adapt the examples found throughout the body of *The Bluebook* to the drafting of legal memoranda and court documents. Cross-references to the “Bluepages” appear throughout the white pages and tables of *The Bluebook*. The end of *The Bluebook* is a “Quick Reference” section that provides examples of citation forms commonly used in court documents and legal memoranda.

The rules discussed in this appendix are referenced as follows: references to *The Bluebook: A Uniform System of Citation* are Bluebook R-____ (Rule Number) or Bluebook B-____ (Bluepages Number); references to the *ALWD Citation Manual: A Professional System of Citation* are ALWD ____ (Rule Number).

For Example

Bluebook R-2 refers to Rule 2 of *The Bluebook*. Bluebook B1 refers to number 1 of the *Bluebook's* Bluepages. ALWD 1 refers to Rule 1 of the *ALWD Citation Manual: A Professional System of Citation*.

I. PRIMARY AUTHORITY

This section presents an overview of rules of citation to be used when citing primary authority—that is, case, constitutional, and enacted (statutory) law. This section also

includes the citation format for rules such as procedural and evidentiary rules. The examples are to citation forms used in court documents and legal memoranda rather than law review articles.

The general rules governing each type of primary authority are listed following the subsection title. A detailed discussion of each rule is beyond the scope of this text.

Note that although most of the citation conventions are the same in both manuals, there are differences between The Bluebook and the ALWD Citation Manual. Do not assume that you can substitute one for the other; always check the rules when preparing these citations.

If the citation rules of the jurisdiction where you are filing a brief or another court document requires the use of *The Bluebook*, then you must cite according to *The Bluebook* rules. Do not substitute the ALWD format when it differs from that of *The Bluebook*.

A. CASE LAW: BLUEBOOK R-10 and B2 and B5; ALWD-12

The following is a list of the components of case citations with examples and a summary of the applicable rules. Citations to federal and state cases are similar in form.

1. Citation Components: BLUEBOOK R-10.1; ALWD-12.1

The components of a case citation are the following:

1. The case name.
2. The reporter in which the case is published (the volume number, abbreviation of the reporter, and page number on which the case begins).
3. Pinpoint page if the citation is to a specific page.
4. The parallel (unofficial) publication, if any (the volume number, abbreviation of the publication, and page number on which the case begins).
5. The abbreviation for the court issuing the opinion, unless the issuing court is included in the reporter abbreviation.
6. The year of the decision in parentheses.
7. Subsequent history of the case, if any.

Some examples are presented first with a “^” symbol indicating where spaces are placed, followed by the example without the space symbol.

For Example

Federal Court Decisions

United States Supreme Court

United ^ States ^ v. ^ Matlock, ^ 415 ^ U.S. ^ 164 ^ (1974)

United States v. Matlock, 415 U.S. 164 (1974)

1. ***United States v. Matlock***—the case name.
2. **415 U.S. 164**—the reporter in which the case is published: 415 is the volume number, 164 is the page number, and *U.S.* is the abbreviation of the case reporter.
3. No parallel publication is included in this citation.
4. The court issuing the opinion is not identified because it is apparent from the citation. United States Reports contains the opinions of the United States Supreme Court. Notice that in the next two examples, the identity of the court issuing the opinion is included—9th Cir. and N.D. Ill.
5. **1974**—the year of the decision.

United States Court of Appeals

United States v. Martinez–Jiminez, 864 F.2d 664 (9th Cir. 1989)

United States v. Martinez–Jiminez, 864 F.2d 664 (9th Cir. 1989)

United States District Court

United States v. Central R.R., 436 F. Supp. 739 (N.D. Ill. 1990)

United States v. Central R.R., 436 F. Supp. 739 (N.D. Ill. 1990)

State Court Decisions

Britton v. Britton, 100 N.M. 424, 671 P.2d 1135 (1983)

Britton v. Britton, 100 N.M. 424, 671 P.2d 1135 (1983)

Burnon v. State, 55 S.W.3d 752 (Tex. Crim. App. 2001)

Burnon v. State, 55 S.W.3d 752 (Tex. Crim. App. 2001)

1. ***Britton v. Britton*** and ***Burnon v. State***—the case names.
2. **100 N.M. 424**—the state reporter in which the case is published: 100 is the volume number, 424 is the page number, and *N.M.* is the abbreviation of the case reporter; **55 S.W.3d 752**—the regional reporter in which the Texas cases are published. Texas does not have a state reporter; therefore, there is no parallel citation.
3. **671 P.2d 1135**—the parallel (unofficial) publication: 671 is the volume number, 1135 is the page number, and P.2d is the abbreviation of the parallel publication.
4. The New Mexico court issuing the opinion is not identified because it is apparent from the citation. The decision was rendered by the New Mexico Supreme Court. If a court other than the New Mexico Supreme Court issued the decision, the initials of the court would be included with the year of the opinion; that is, for example (Ct. App. 1983); **Tex. Crim. App.**—the Texas court that rendered the decision.
5. **1983** and **2001**—the year of the decisions.

2. Case Names: BLUEBOOK R-10.2; ALWD-12.2.

The Bluebook's rules for abbreviating case names have many more exceptions than the ALWD's. But both books have numerous detailed rules governing case names. *Always check the rules when preparing case citations.* The following is a summary of the rules on case names. The case names may be italicized or underscored. The names are italicized in most of the examples in this chapter. (The ALWD states that case names are to be printed the same in both court documents and other documents.)

a. Individual Names. Cite the last names of the individuals, not the first names.

For Example

Correct: *Clothier v. Guillez*

Incorrect: *Daniel J. Clothier v. Mary Guillez*

b. Organization and Business Names. Include an organization's full name. When a business has more than one legal designation (e.g., "Co.," "Ltd.," "Corp.," or "Inc."), use the first designation and omit the others.

For Example Correct: *Clothier v. David Johnson Packing Co.*
 Incorrect: *Clothier v. Johnson*
 Correct: *Davis v. Sally Smits Co.*
 Incorrect: *Davis v. Sally Smits Co., Inc.*

When an organization or a business is commonly known by its initials, you may substitute the initials for the name. Do not use periods with the initials.

For Example Correct: *ACLU v. Houseman*
 Incorrect: *A.C.L.U. v. Houseman*

c. Abbreviations. The abbreviations to be used in party names are presented in Table T.6 of *The Bluebook* and in Appendix 3 of the ALWD. Do not abbreviate names that are not listed.

For Example Corporation—Corp.; Market—Mkt.

d. Multiple Parties. When there are multiple plaintiffs or defendants, include only the first party on each side of the case. Do not use “*et al.*” or “*et ux.*,” to indicate additional parties.

For Example Correct: *Pugh v. Holmes*
 Incorrect: *Pugh, Smith, Reasoner v. Holmes, Taylor, Johnson*
 Incorrect: *Pugh, et al. v. Holmes, et al.*

e. Consolidated Cases. When a case consists of more than one case consolidated together, list only the first case.

For Example Correct: *Davis v. Outland*
 Incorrect: *Davis v. Outland, McCray v. Whensal*

f. United States. When the United States is a party, both *The Bluebook* and the ALWD provide state that “*America*” should be omitted. *The Bluebook* requires that “*United States*” be spelled out. The ALWD states that it should be abbreviated.

For Example *Bluebook* format: *United States v. Leon*
 ALWD format: *U.S. v. Leon*

g. State or Commonwealth. When citing a decision of a court of your state where the state or commonwealth is a party, refer only to the state, commonwealth, or

people. Do not refer to the state, such as “*State of Colorado*” or “*Commonwealth of Massachusetts*.”

For Example Correct: *State v. Benner*
 Incorrect: *State of Maine v. Benner*
 Correct: *Commonwealth v. Shae*
 Incorrect: *Commonwealth of Massachusetts v. Shae*

When you are referring to the decision of another state where the state or commonwealth is a party, refer to the party by state name and do not include “*State of*” or “*Commonwealth of*.”

For Example Correct: *Maine v. Benner*
 Incorrect: *State v. Benner*
 Correct: *Massachusetts v. Shae*
 Incorrect: *Commonwealth of Massachusetts v. Shae*

h. Geographical Terms. Include in the citation only the first geographical location in a party’s name.

For Example Correct: *Smith v. City of Boston*
 Incorrect: *Smith v. City of Boston, Massachusetts*
 Correct: *Smith v. County Commission*
 Incorrect: *Smith v. County Commission of Johnson County*

i. Procedural Phrases: In Re, Ex Parte, and Ex Rel. “*In re*” refers to an action that does not involve adversarial parties, but something such as an estate. “*Ex parte*” refers to an action on behalf of one party without contest by the other side, such as a divorce in which one party does not participate. “*Ex rel.*” refers to an action by one person on behalf of another, such as a parent on behalf of a child. When using “*ex rel.*,” include the names of both parties. These phrases are included when they appear in case names.

For Example *In re Estate of Jones; Ex Parte Turner; New York ex rel. Smith v. Hardworth; Johnson ex rel. Casey v. Carrington*

j. “The.” Do not include “*The*” in a citation when it is the first word of a party name.

For Example Correct: *Los Angeles Times v. Jones*
 Incorrect: *The Los Angeles Times v. Jones*

k. Property. When property is a party, such as when the government is seizing property, include only the first-listed piece of property.

For Example Correct: *Maine v. One 1998 Cadillac Seville*
 Incorrect: *Maine v. One 1998 Cadillac Seville, Serial No. 134998, and One 2001 Toyota Corolla, Serial No. 77564432*

l. Punctuation. The case name is followed by a comma (then the reporter information); the comma is not italicized or underscored.

For Example Correct: *Smith v. Jones*, or *Smith v. Jones*,
 Incorrect: *Smith v. Jones*, or *Smith v. Jones*,

3. Volume, Reporter, and Page: BLUEBOOK R-10.3; ALWD-12.3 to 12.5

Following the case name in a citation is the reference to the reporter where the case is printed. This reference includes the volume number of the reporter and the page where the case begins. The volume number precedes the abbreviation for the reporter, followed by the page number of the case. The following is a summary of the rules governing citation to reporters. Note that local court rules may require differences in citation; therefore, always check the rules.

a. Abbreviations. Do not assume you know the abbreviations for the various reporters. Always consult either *Bluebook* Table T.1 or the ALWD Chart 12.1 and Appendix 2.

b. United States Supreme Court. Unless required by local rule, citation to decisions of the United States Supreme Court should be to the official reporter only, the *United States Reports*. A parallel citation to another reporter, such as the *Supreme Court Reporter* or *United States Supreme Court Reports, Lawyers' Edition*, should not be included.

For Example Correct: *United States v. Matlock*, 415 U.S. 164 (1974).
 Incorrect: *United States v. Matlock*, 415 U.S. 164, 94 S. Ct. 988, 39 L. Ed. 2d 242 (1974).
 Note that this would be correct if the court rule required or allowed parallel citations.

When the *United States Reports* citation is not available, then you may cite to another reporter, such as the *Supreme Court Reporter* (S. Ct.). The order of preference is to cite to the *Supreme Court Reporter*; and when it is not available, then cite to *United States Supreme Court Reports, Lawyers' Edition*.

For Example If the opinion in the previous example was not yet available in the *United States Reports*, a proper citation would be: *United States v. Matlock*, ___ U.S. ___, 94 S. Ct. 988 (1974).

c. United States Courts of Appeals. Decisions to the United States Court of Appeals are cited to the *Federal Reporter*. Note that the circuit that rendered the decision is included in parentheses in the citation.

For Example *United States v. Martinez–Jimenez*, 864 F.2d 664 (9th Cir. 1989).

d. United States District Courts. Decisions to the United States District Courts are cited to the *Federal Supplement*. Note that the district that rendered the decision is included in parentheses in the citation.

For Example *United States v. Central R.R.*, 436 F. Supp. 739 (N.D. Ill. 1990).

e. State Court and Parallel Citations. The format and abbreviations for citing state court decisions are presented in Table T.1 of *The Bluebook* and in ALWD Appendix I. Again, be sure to check local rules. The general rule for state court decisions is to cite the relevant regional reporter.

For Example *Guilbear v. Guilbear*, 326 So.2d 654 (La. App. 1976)

Many state court decisions are published in a regional reporter and a state reporter. When a citation includes a reference to more than one reporter, it is called a parallel citation. Generally, a parallel citation is only used only when it involves a citation to a state court case in a document submitted to a court in that state. Check the state court citation rules to determine when parallel citations are required.

When a parallel citation is required, cite the official reporter before the unofficial reporter, and separate each citation with a comma and one space.

For Example *Race Fork Coal v. Turner*, 5 Va. App. 350, 363 S.E.2d 423 (1985).

f. Page Numbers. The page number on which the case begins follows the reporter abbreviation. When the reference is to a specific page within the case, the reference to the specific page (pinpoint citations) follows the initial page reference.

For Example *Guilbear v. Guilbear*, 326 So.2d 654, 658(La. App. 1976).
Race Fork Coal v. Turner, 5 Va. App. 350, 352, 363 S.E.2d 423, 425 (1985).

Note that in the second example, the pinpoint citation is included with both the state and the parallel regional reporter citations.

Some of the West reporters, such as the *Supreme Court Reports*, include throughout the text of reported cases cross-references to the pages in the official reporter. This cross-reference system is called “star paging.” It saves you the time of looking up a case in more than one reporter when citing page numbers in parallel citations. The cross-reference appears as an upside-down *T* with the page number (⊥234) and is inserted in the text to indicate the beginning of a page in an official reporter.

For Example “Thus, the tolling provision does not apply, and count two is subject to the two-year statute of limitations and was properly dismissed.” Page 234 of the official reporter begins with “*not apply.*”

g. Cases Not Yet Reported: Slip Opinions. A case may be unreported or not yet published in a reporter and may be available only as a separate slip opinion or in loose-leaf form. When this is the situation, the citation should include the case name, docket number, court abbreviation, and date of disposition.

For Example *Jason v. Kelly*, No. 22-231 (Colo. App. Aug. 15, 2002).

4. Date and Court Abbreviation: BLUEBOOK R-10.4 & R-10.5; ALWD-12.5 & 12.6

In parentheses following the reporter and page citation are the court abbreviation (if necessary) and the date on which the case was decided. When the decision is by the United States Supreme Court or highest court of a state, you do not have to insert the court abbreviation. The date appears alone in parentheses. The fact that only the date appears in the parentheses tells the reader that the case is by the highest court. The information in the parentheses is separated from the reporter page by a space. There is no comma used.

For Example *United States v. Matlock*, 415 U.S. 164 (1974); *Kline v. Angle*, 216 Kan. 328, 532 P.2d 1093 (1975)

For any other court decision, include the court abbreviation. The abbreviations are in *The Bluebook* Tables T.1, T.7, and T.10 and in the ALWD Appendices 1 and 4.

For Example *United States v. Central R.R.*, 436 F. Supp. 739 (N.D. Ill. 1990); *Burnon v. State*, 55 S.W.3d 752 (Tex. Crim. App. 2001)

The court abbreviation is not required when the court that decided the case is apparent from the name of the reporter.

For Example *Race Fork Coal v. Turner*, 5 Va. App. 350, 353, 363 S.E.2d 423, 425 (1985). It is apparent from the citation (Va. App.) that the court is the Virginia Court of Appeals.

5. Subsequent History: BLUEBOOK R-10.7; ALWD-12.8

The Bluebook and the ALWD state that the subsequent history should be included in the citation unless it refers to the history on remand, a denial of rehearing, or a denial of certiorari or similar discretionary appeals (where the cited case is more than two years old). The ALWD Rule 12.8(a) includes an exhaustive list of subsequent history actions that should be included. The subsequent history is placed after the full citation. Place a comma after the court and date parenthetical, then include the italicized history designation, a comma, followed by the citation.

For Example *Jackson v. State*, 225 Ga. 790, 167 S.E.2d 628 (1969), *rev'd*, *Furman v. Georgia*, 408 U.S. 238 (1972).

6. Prior History: BLUEBOOK R-10.7; ALWD-12.9

The prior history of a case is not required and should be included in a citation only when it is significant to a point presented in your writing. Place the prior history after the full citation.

For Example *Furman v. Georgia*, 408 U.S. 238 (1972), *rev'g*, *Jackson v. State*, 225 Ga. 790, 167 S.E.2d 628 (1969).

7. Parenthetical Information: Concurring, Dissenting, and Plurality Opinion: BLUEBOOK R-10.6; ALWD-12.11

If the reference in your writing is to a part of an opinion other than the majority opinion, you must so indicate in a parenthetical following the full citation. You may also include parenthetically information about the weight of the case, such as the size of the majority. Insert one space, without a comma, between the court and date parenthetical of the full citation and the parenthetical containing the additional information. When the information in the parenthetical is not a full sentence, do not include final punctuation, such as a period, in the parenthetical.

For Example *United States v. Leon*, 468 U.S. 897 (1984) (Powell, J., dissenting); *United States v. Leon*, 468 U.S. 897 (1984) (5-4 decision).

8. Short Citation Format: BLUEBOOK B5.2; ALWD-12.21

Once a case has been cited in full, several short citation formats may be used, depending on the situation. Do not include subsequent or prior history with a short citation. When the use of *id.* is appropriate, it is the preferred short citation format.

For Example *Id.* at 755

When *id.* cannot be used and the case name or part of the case name is *not* included in the sentence, then use one party's name, the volume number, the reporter, and the page reference. Use the first party's name unless doing so would be confusing.

For Example Full Citation: *Burnon v. State*, 55 S.W.3d 752 (Tex. Crim. App. 2001).
Short Citation: *Burnon*, 55 S.W.3d at 755.

When making a reference to the case in general, rather than to a specific page, do not use “*at.*”

For Example Full Citation: *Burnon v. State*, 55 S.W.3d 752 (Tex. Crim. App. 2001).
Short Citation: *Burnon*, 55 S.W.3d 752.

When the case name or part of the case name *is* included in the sentence, then use only the volume number, reporter, and page reference.

For Example In *Burnon*, the court held that the defendant had the required intent. 55 S.W.3d at 755 (or 55 S.W.3d 752—when the reference is to the case in general).

When the case has a parallel citation, the short citation includes the parallel citations.

For Example Full Citation: *Race Fork Coal v. Turner*, 5 Va. App. 350, 363 S.E.2d 423 (1985).
Short Citation: *Race Fork Coal*, 5 Va. App. at 355, 363 S.E.2d at 427. The ALWD also allows reference to the regional reporter only—*Race Fork Coal*, 363

The *Bluebook* Bluepages note 5.2 allows the use of *id.* as a short form with parallel citations. The ALWD Rule 12.21(f) states that the use of *id.* is *not appropriate with parallel citations.*

For Example Full Citation: *Race Fork Coal v. Turner*, 5 Va. App. 350, 363 S.E.2d 423 (1985).
Short Citation: *Bluebook: Id.* at 355, 363 S.E.2d at 427.

9. Neutral/Public Domain Citations: BLUEBOOK R-10.3.3;

ALWD-12.16

Increasingly, court decisions are available through court Web sites and other sources, such as public domain citations (also referred to as neutral or vendor neutral citations). These citations do not refer to a particular vendor source, such as a West reporter. When such citations are available in a jurisdiction, you must check the local rule to determine what the citation format is and whether the neutral citation is required. See *Bluebook* Table T.1 and ALWD Appendix 2. The standard neutral citation includes the case name, year of the decision, court abbreviation, case number, and citation to a reporter or online source.

For Example *State v. Foster*, 1998-NMCA-163, 976 P.2d 852. The year published is 1998. NMCA is the court—the New Mexico Court of Appeals. The last number, 163, is the case number. The reporter citation is 976 P.2d 852.

10. Cases: Electronic Sources

See BLUEBOOK R-18; ALWD-38 to 42.

B. CONSTITUTIONS: BLUEBOOK R-11; ALWD-13

Constitutions usually are composed of articles and amendments. According to *The Bluebook*, the citation form for a constitution consists of the abbreviated name of the constitution, the article or amendment number, and the section number. The ALWD requires the abbreviated name of the constitution and a pinpoint reference (the pinpoint reference is the article or amendment number and the section number). Regardless of these descriptive differences, the citation format is the same in both *The Bluebook* and the ALWD. *The Bluebook* states that constitutional subdivisions should be abbreviated according to Table T.16; the ALWD states that the jurisdictional and subdivision abbreviations in Appendix 3 should be used. Each example is presented first with a “^” symbol indicating where spaces are placed, followed by the example without the space symbol.

For Example U.S. ^ Const. ^ art. ^ IV, ^ § ^ 3
 U.S. Const. art. IV, § 3
 Conn. ^ Const. ^ art. ^ XII, ^ § ^ 1
 Conn. Const. art. XII, § 1

In the examples, the elements of the citation are as follows:

1. **U.S. Const.** and—**Conn. Const.**—the abbreviated name.
2. **art. IV** and—**art. XII**—the article number.
3. **§ 3** and —**§ 1**—the section number (pinpoint reference).

Include in parentheses information about an article or amendment when the provision has been repealed or superseded.

For Example U.S. Const. amend XVIII (repealed 1933 by U.S. Const. amend. XXI).

The only short-form citation appropriate for use with constitutional citations is *id.* When the use of *id.* is not appropriate, the full citation must be given.

C. STATUTORY LAW: BLUEBOOK R-12 & B6; ALWD-14

Statutes may be cited to the official or unofficial code, session law, or secondary sources. The preference is to cite to the official code, then to the unofficial code. When the citation is not available in the official or unofficial codes, then cite to the session law. The abbreviations and formats for codes and session laws are presented in *Bluebook* Table T.1 and ALWD Appendix 1.

1. General Rules When Citing Statutes

The following rules apply when citing both federal and state statutes:

a. Main Text and Supplements. When the cited material is taken from the main text, the year of the volume of the text is placed in parenthesis at the end of the citation (the year the volume was published, which usually appears on the spine of the volume). When the cited material appears only in the supplement, you must so indicate in the parentheses with the date. When the cited material is taken from the main text and the supplement, it must be indicated with the date.

For Example Citation from main text: 15 U.S.C. § 7 (1988).
 Citation from supplement only: 15 U.S.C. § 7 (Supp. 2002).
 Citation from main text and supplement: 15 U.S.C. § 7 (1988 & Supp. 2002).
 Citation from main text and supplement, unofficial commercial publisher: 15 U.S.C.A. § 7 (West 1988 & Supp. 2002).

b. Section Symbol (§) and Multiple Sections. The section symbol (§) is used to indicate a section of a statute. Note, however, that you may not use the symbol to start a sentence. In such cases, the word “*section*” is used.

For Example Correct: “Section 2253 of the Act provides”
 Incorrect: “§ 2253 of the Act provides”

c. Name of Act. Although it is not required, the name of the act may be included in the citation. In the examples in *The Bluebook*, the name of the act is in regular print. In the ALWD, Rule 14.2(g) states that the name should be in italics.

For Example *Bluebook* format: Robinson–Patman Act, 15 U.S.C. § 7 (1988)—
Bluebook; ALWD format: *Robinson–Patman Act*, 15 U.S.C. § 7 (1988)

2. Federal Statutes: BLUEBOOK R-12; ALWD-14.2

The federal statutes of general public interest are printed in three separate publications:

- United States Code (U.S.C.)—the official code
- United States Code Annotated (U.S.C.A.)—Thomson West, a Thompson Business.
- United States Code Service (U.S.C.S.)—LexisNexis

The citation format for federal statutes is composed of the following elements:

1. Title number.
2. Code abbreviation.
3. Section symbol (§).
4. Section number.
5. Publisher in parentheses when it is a commercial publication.
6. The year of the publication or supplement (the year the volume was published, which usually appears on the spine of the volume)—in parentheses.

For Example

Official code:

15 U.S.C. § 7 (1988).

15 U.S.C. § 7 (1988).

Unofficial codes:

15 U.S.C.A. § 7 (West 1984).

15 U.S.C.S. § 7 (LexisNexis 1984).

1. **15**—the Title number.
2. **U.S.C.**, **U.S.C.A.**, and **U.S.C.S.**—the Abbreviated name of the codes.
3. **§ 7**—the Section symbol and number.
4. **(1988)**, **(West 1984)**, and **(LexisNexis 1984)**—the Year of the publication and the publisher for unofficial codes.

When citing to the Internal Revenue Code, substitute I.R.C. for U.S.C. and omit the title number.

For Example

Correct: I. R. C. § 100 (1994).

Incorrect: 26 U.S.C. § 100 (1994).

Short Citation Format State and Federal Statutes—BLUEBOOK R-12.9; ALWD-14.5. When the use of *id.* is appropriate, it is the preferred short citation format. Otherwise, the short citation is the full citation format without the parenthetical information.

For Example

Full Citations: 15 U.S.C. § 7 (1988 & Supp. 2002); Minn. Stat. § 519 (1990).

Short Citations: 15 U.S.C. § 7; *Id.* § 7; Minn. Stat. § 519; *Id.* § 519

3. State Statutes: BLUEBOOK R-12; ALWD-14.4

The citation form for state statutes varies from state to state. *The Bluebook* Table T.1 and ALWD Appendix 1 present the abbreviations and formats for state statutes. Also note that some states have local citation rules that require a citation format different from that presented in *The Bluebook* and the ALWD. The local court rules should be consulted for the proper citation format. The local rules are included in Appendix 2 of the ALWD.

The citation format for state statutes usually includes the following elements:

1. Name of the code.
2. Section symbol (§).
3. Chapter/title/section number.
4. Publisher in parentheses when it is a commercial publication.
5. The year of the publication or supplement (the year the volume was published, which usually appears on the spine of the volume)—in parentheses.

For Example Official Code: Minn. Stat. § 519 (1990).
Minn. Stat. § 519 (1990).
Unofficial Code: Minn. Stat. Ann. § 519 (West 1991).

1. **Minn. Stat.**—the name of the code.
2. **§**—the section symbol.
3. **519**—the section number.
4. **West**—the publisher of the unofficial code (in the second example.)
5. **1990** and **1991**—the year of the publication in both examples.

Some states, such as California, identify portions of their codes by subject matter rather than by title. For those states, the subject matter code is included in the citation.

For Example Cal. Corp. Code § 200 (West 1986); Tex. Fam. Code Ann. § 2.101 (Vernon 1993).

4. Session Laws: BLUEBOOK R-12.4; ALWD-14.6 to 14.8

When a citation is not available in the official or unofficial codes, then it is appropriate to cite the session law. This may occur when a recently passed law has not yet been published in the official or unofficial codes. As with state statutes, the citation form for session laws varies from state to state. The abbreviations and formats for state session laws are presented in *Bluebook* Table T.1 (T.1) and ALWD Appendix 1.

The basic elements of a federal session law citation are the following:

1. Name or title of the act may be included; it is optional. In the ALWD example, the name/title is italicized. In the *Bluebook* Quick Reference examples, the name/title are neither italicized nor underscored.
2. Law abbreviation and number.
3. Pinpoint reference when citing a specific section.

4. Volume, statute, and initial page number.
5. Pinpoint page reference when referring to a specific page.
6. Date (in parentheses) of the cited volume of the *Statutes at Large*.

For Example Uniformed Services Former Spouses Protection Act, Pub. L. No. 101-510, § 554, 104 Stat. 1569, 1572 (1993).

1. **Uniformed Services Former Spouses Protection Act**—the name or title of the act italicized or underscored.
2. **Pub. L. No. 101--510**—the law abbreviation and number.
3. **§ 554**—the pinpoint reference to a specific section.
4. **104 Stat. 1569**—the volume, statute, and initial page number.
5. **1572**—the pinpoint page reference to a specific page.
6. **(1993)**—the date.

D. RULES OF EVIDENCE AND PROCEDURE: BLUEBOOK R-12.8.3; ALWD-17

The *Bluebook* rule governing citations to evidentiary and procedural rules differs from the ALWD rule. The *Bluebook* provides that the citation should include the abbreviated name of the rule and the number of the rule.

| | | |
|--------------------|---------------------|--|
| For Example | Fed. R. Civ. P. 4 | Rule 4 of the Federal Rules of Civil Procedure |
| | Fed. R. Evid. 407 | Rule 407 of the Federal Rules of Evidence |
| | Fed. R. Crim. P. 18 | Rule 18 of the Federal Rules of Criminal Procedure |

The ALWD rule states that the citation should include, in addition to the abbreviated name and rule number, the name of the publisher when the source is other than an official code, and the year of the publication, both in parentheses.

| | | |
|--------------------|-------------------------------|--|
| For Example | Fed. R. Civ. P. 4 (2001) | Rule 4 of the Federal Rules of Civil Procedure |
| | Fed. R. Evid. 407 (West 2002) | Rule 407 of the Federal Rules of Evidence, published by Thomson West, a Thompson Business |
| | Fed. R. Crim. P. 18 (2001) | Rule 18 of the Federal Rules of Criminal Procedure |

E. ADMINISTRATIVE LAW: BLUEBOOK R-14; ALWD-19

The components of citations to administrative rules or regulations are the as following:

1. The title (topic or agency) number in the code publication.
2. The abbreviated name of the publication (e.g., Code of Federal Regulations—C.F.R.; Federal Register—Fed. Reg.).
3. The section number or page number of the rule or regulation.
4. The year of the publication.

For Example 27 C.F.R. § 20.235 (1988)
48 Fed. Reg. 37,315 (1983)

1. **27** and **48**—the title (topic or agency) number.
2. **C.F.R.** and **Fed. Reg.**—the abbreviated name of the publication
3. **§ 20.235** and **37,315**—the section number or page number.
4. **1988** and **1983**—the year of the publication

II. SECONDARY AUTHORITY

This section presents an overview of rules of citation to be used when citing secondary authority, that is, sources a court may rely on that are not the law, that is, not primary authority. The examples are to citation forms used in court documents and legal memoranda rather than law review articles.

A detailed discussion of the citation rules for each type of secondary authority is beyond the scope of this text. Therefore, this section presents the citation format for the most commonly used secondary authorities. As with the previous sections, *there are differences between The Bluebook and the ALWD Citation Manual. Do not assume that you can substitute one for the other.*

A. Annotated Law Reports: *BLUEBOOK R-16.6.5; ALWD-24*

1. Full Citation Format

The components of an Annotated Law Report (ALR) citation are the following:

1. The full name of the author.
2. The word “*Annotation*.” *Note:* The ALWD omits the use of “*Annotation*” following the author name.
3. The title (italicized or underscored).
4. The volume number.
5. The abbreviated name of the publication.
6. The page number on which the annotation begins (followed by the pinpoint page when a specific page is referred to, for example, 852, 860).
7. The year of publication.

For Example Michael J. Weber, Annotation, *Application of Statute of Limitations to Actions for Breach of Duty in Performing Services of Public Accountant*, 7 A.L.R.5th 852 (1992).

1. **Michael J. Weber**—the full name of the author.
2. The word “**Annotation**”—included when using *The Bluebook*; not included when using the ALWD.
3. ***Application of Statute of Limitations to Actions for Breach of Duty in Performing Services of Public Accountant***—the title (italicized or underscored).
4. **7**—the volume number.
5. **A.L.R.5th**—the abbreviated name of the publication with—no spaces.
6. **852**—the page number on which the annotation begins.
7. **1992**—the year of publication

2. Short Citation Format

Use *id.* when appropriate. When *id.* is not appropriate, include the author's last name, volume number, A.L.R. series, "*at*," and the pinpoint reference.

For Example *Id.* at 861; Weber, 7 A.L.R.5th at 861

B. Legal Dictionary: Bluebook R-15.7; ALWD-25

I. Full Citation Format

A legal dictionary citation should include the following:

1. Author (if any).
2. The full name of the dictionary (underscored or italicized).
3. Page containing the definition (—no comma after the name of the dictionary and the page).
4. Editor—*only required in the ALWD format*—following the opening parenthesis.
5. Edition.
6. Publisher—*only required in the ALWD format*
7. Year of publication—followed by the closing parenthesis.

For Example *Bluebook format:*
Black's Law Dictionary 451 (7th ed. 1992).

1. ***Black's Law Dictionary***—the full name of the dictionary (in italics or underscored).
2. **451**—the page number of the definition.
3. **7th ed. 1992**—the edition and the year of publication

For Example *ALWD format:*
Black's Law Dictionary 451 (Bryan A. Garner ed., 7th ed., West 1992).

1. ***Black's Law Dictionary***—the full name of the dictionary (in italics or underscored).
2. **451**—the page number of the definition.
3. **Bryan A. Garner ed.**—the name of the editor.
4. **7th ed.**—the edition.
5. **West**—the publisher.
6. **1992**—the year of publication.

2. Short Citation Format

Use *id.* when appropriate. When *id.* is not appropriate, repeat the name and the page number.

For Example *Id.* at 451; *Black's Law Dictionary* at 451.

C. Legal Encyclopedia: BLUEBOOK R-15.7; ALWD-26

1. Full Citation Format

A full citation to a legal encyclopedia should contain the following:

1. The volume number of the encyclopedia.
2. The abbreviated name of the encyclopedia, usually either *Am. Jur. 2d* or C.J.S. (no underscoring or italics).
3. The title or topic name (italicized or underscored).
4. The section symbol (§) and section number within the article.
5. The year of publication in parentheses.

For Example 88 C.J.S. *Trial* § 105 (1980).
59A Am. Jur. 2d *Partnership* § 925 (Supp. 1995).

1. **88** and **59A**—the volume number of the encyclopedia.
2. **C.J.S.** and **Am. Jur. 2d**—the abbreviated name of the encyclopedia.
3. ***Trial*** and ***Partnership***—the topic name (italicized).
4. **§ 105** and **§ 925**—the section symbol and section number within the article.
5. **(1980)** and **(Supp. 1995)**—the year of publication.

2. Short Citation Format

Use *id.* when appropriate. When *id.* is not appropriate, repeat the full citation minus without the date.

For Example *Id.* § 925; *Id.* § 105; 59A Am. Jur. 2d *Partnership* § 925; 88 C.J.S. *Trial* § 105.

D. Periodicals—Law Review/Journal Citations— Bluebook R-16; ALWD-23

1. Full Citation Format

The following are the components of a law review, a journal, or another periodical citation:

1. The full name of the author.
2. The title of the article (italicized or underscored).
3. The volume number.
4. The abbreviated title of the periodical.
5. The page number on which the article begins (followed by the pinpoint page when a specific page is referred to, for example, 159, 165).
6. The year of the publication in parentheses.

For Example Patricia W. Bennett, *After White v. Illinois: Fundamental Guarantees to a Hollow Right to Confront Witnesses*, 40 Wayne L. Rev. 159 (1993).

1. **Patricia W. Bennett**—the full name of the author.
2. ***After White v. Illinois: Fundamental Guarantees to a Hollow Right to Confront Witnesses***—the title of the article.
3. **40**—the volume number.
4. **Wayne L. Rev.**—the abbreviated title of the periodical.
5. **159**—the page number on which the article begins.
6. **(1993)**—the year of the publication.

2. Short Citation Format

Use *id.* when appropriate. When *id.* is not appropriate, include the author's last name, the volume number, the periodical abbreviation, "*at*," and the pinpoint reference.

For Example *Id.* at 165; Bennett, 40 Wayne L. Rev. at 165

E. Restatements: Bluebook R-12.85; ALWD-27

1. Full Citation Format

A citation to a Restatement should include the following components:

1. The full name and edition of the Restatement. In the ALWD, the full name and edition is in italics or underscored, including a subtitle when the reference is to a subtitle.
2. The section symbol (§) and number of the Restatement.
3. The year of the publication in parentheses.

For Example Bluebook format: Restatement (Second) of Judgments § 28 (1982);
ALWD format: *Restatement (Second) of Judgments § 28* (1982);
Bluebook format: Restatement (Second) of Torts: Products Liability § 52 (1989).
ALWD: Restatement (Second) of Torts: Products Liability § 52 (1989).

1. **Restatement (Second) of Judgments**—the full name of the Restatement and the edition; ***Restatement (Second) of Torts: Products Liability***—the full name of the Restatement, edition, and subtitle.
2. **§ 28** and **§ 52**—the section numbers.
3. **(1982)** and **(1989)**—the year of the publications.

2. Short Citation Format

Use *id.* when appropriate. Otherwise, repeat the full citation without the date.

For Example *Id.* § 28; *Restatement (Second) of Judgments § 28*

F. Treatises/Books: Bluebook R-15; ALWD-22

1. Full Citation Format

Treatise and book citations should include the following:

1. The volume number when there is more than one volume.
2. The full name of the author or editor when a name is given.
3. The full title of the publication as it appears on the title page, (in italics or underscored).
4. Number of the section, paragraph, or page when you are referring to a specific number, paragraph, or page.
5. The editor when there is an editor, the edition or series number of the book when it is not the first edition, and the publisher. (*The Bluebook* does not require the inclusion of the publisher)—following the opening parenthesis.
6. The year of publication—followed by the closing parenthesis.

For Example 6A Richard R. Powell, *Powell on Real Property* ¶ 899 (Patrick J. Rohan ed., Matthew Bender 1994).

1. **6A**—the volume number.
2. **Richard R. Powell**—the full name of the author.
3. ***Powell on Real Property***—the full title of the publication as it appears on the title page
4. **899**—the number of the paragraph.
5. **(Patrick J. Rohan ed., Matthew Bender 1994)**—the editor, publisher, and year of publication. This is the first edition; therefore, no edition number, such as 3d ed., is used.

2. Short Citation Format

Use *id.* when appropriate. When *id.* is not appropriate, include the author's last name, the title, "at," and the pinpoint reference.

For Example *id.* at ¶ 899; Powell, *Powell on Real Property* 899.

Glossary

A

active voice See *voice*.

adjective A word that modifies a noun or pronoun. An adjective usually describes a noun or pronoun (a *red* car).

administrative law Rules, regulations, orders, and decisions adopted by administrative agencies that have the authority of law.

advocacy To support or urge the adoption of a position through the use of an argument.

advocacy letter See *demand/advocacy letter*.

affirm A decision of an appellate court that upholds the decision of the trial court.

agreement Words that are related must agree in number (singular/plural) and gender (feminine/masculine/neuter) (*e.g.*, *Workers* must wear *their* helmets; *Mary* must wear *her* helmet).

antecedent A word, clause, or phrase referred to by a pronoun. In the following sentence, the word *workers* is the antecedent for the pronoun *their*. The *workers* put on *their* helmets.

apostrophe (') A mark that serves to indicate possession (Mary's hat) or to form a contraction (can't).

appeals court A court that reviews the decision of a trial court or other lower court to determine and correct any error that may have been made.

appellant The party who files an appeal. On appeal, the appellant argues that the lower court made an error that entitles the appellant to relief.

appellate court brief An external memorandum of law submitted to a court of appeals. It presents the legal analysis, authority, and argument in support of a position that the lower court's decision or ruling was either correct or incorrect. It is often referred to as an appellate brief.

appellee The party who opposes the appeal. On appeal, the appellee usually argues that the lower court did not make an error that entitles the appellant to relief.

authority Anything a court may rely on when deciding an issue. It includes the law, such as constitutions and statutes, and non-law sources, such as legal encyclopedias and treatises.

B

background facts Facts presented in a court opinion, case brief, or legal memorandum that put the key

facts in context. They give an overview of a factual event and provide the reader with the overall context within which the key facts occurred.

brackets ([]) Marks used to show changes in or additions to quotations, usually for the purpose of providing clarification to the quotation or indicating an error in the original quotations. ("The privilege [against self-incrimination] allows an individual to remain silent.")

brief See *appellate court brief*; *case brief*; and *trial court brief*.

brief answer A section of a memorandum of law that presents a brief, precise answer to the issue(s) addressed in the memo.

C

canons of construction The rules and guidelines courts use when interpreting statutes.

caption In an opinion, the caption consists of the names of the parties to a lawsuit and their court status (*e.g.*, Eddie RAEL, Plaintiff–Appellee v. Emillio CADENA and Manuel Cadena, Defendants–Appellants).

case brief A written summary identifying the essential components of a court opinion.

case law See *common law/case law*.

case law analysis The analytical process engaged in to determine whether and how a decision in a court opinion either governs or affects the outcome of a client's case.

cause of action The legal basis upon which a lawsuit is based (*e.g.*, negligence). To state a claim in a lawsuit means to allege facts in support of each element of the cause of action (*e.g.*, in a negligence case, there must be facts alleged in support of each of the elements of negligence—duty, breach of duty, proximate cause, and damages).

certiorari See *writ of certiorari*.

citation Information that allows the reader to locate where a reference can be found. In case law, the term refers to the volume number, page number, and name of the reporter where a case may be found.

cite See *citation*.

collateral estoppel—doctrine of The doctrine prevents a party in a lawsuit from relitigating an issue that has been decided in a previous lawsuit.

colon (:) A punctuation mark used to introduce or call attention to information that follows. (The statutory requirements are the following: the will must be witnessed by two witnesses)

comma (,) The most frequently used punctuation mark. It is used to separate parts of a sentence.

common law/case law The body of law created by courts. It is composed of the general legal rules, doctrines, and principles adopted by courts when interpreting existing law or when creating law in the absence of controlling enacted law.

concurring opinion A judicial opinion that agrees with the majority holding in a case but for different or additional reasons than those presented by the majority.

constitution A governing document adopted by the people that establishes the framework for the operation of the government, defines the powers of the government, and guarantees the fundamental rights of the people.

contraction A word formed by combining two words: *can't* (cannot), *isn't* (is not).

counteranalysis The process of discovering and considering the counterargument to a legal position or argument; the process of anticipating the argument the opponent is likely to raise in response to the analysis of an issue. It is the identification and objective evaluation of the strengths and weaknesses of a legal argument.

counterargument The argument in opposition to a legal argument or position. The argument the opponent is likely to raise in response to the analysis of an issue.

court opinion The statement of a court of its decision reached in a case, the rule that applies, and the reasons for the court's decision.

court rules Procedural rules adopted by a court that govern the litigation process. Court rules often govern the format and style of documents submitted to the court.

D

dangling modifier A modifier that does not sensibly modify any other part of a sentence. "Driving by the museum, the fire damage became obvious."

dash (—) A mark used in a sentence to emphasize something, set off lists, briefly summarize materials containing commas, or show an abrupt change of thought or direction. (The items located at the scene—the knife, the drugs, and the scarf—have disappeared from the evidence room.)

defendant The party against whom a lawsuit is brought. "In criminal cases, the person accused

of the crime. In civil matters, the party against whom a lawsuit is brought."?

demand/advocacy letter Correspondence that is designed to persuade someone to take action favorable to the interests of the client or cease acting in a manner that is detrimental to the client.

dissenting opinion A judicial opinion in a case that disagrees with the majority opinion.

district court In many states, the district court is the trial court of general jurisdiction. See also *United States District Court*.

E

ejusdem generis A canon of construction that provides that whenever a statute contains a specific list followed by a general term, the general term is interpreted to be limited to other things of the same class or kind as the list.

element An essential component of a law, rule, principle, or doctrine. In order for a law, rule, and so on to apply, the requirements of each element must be met. (The elements of negligence are duty, breach of duty, proximate cause, and damages. For a claim of negligence to prevail, the plaintiff must establish that the defendant had a duty, the defendant breached the duty, the breach of duty was the cause of the incident, and the plaintiff was damaged as a result of the breach.)

ellipsis The use of three dots to indicate the omission of part of a quotation (*e.g.*, "The statute provides that contractors are responsible for . . . the preparation of work orders")

enacted law The body of law adopted by the people or legislative bodies, including constitutions, statutes, ordinances, and administrative rules and regulations.

expanded outline See *outline—expanded*.

expressio unius A canon of construction that provides that if a statute contains a list of items covered by the statute, everything else is excluded.

external memorandum A memorandum of law that is designed for use outside the law office (*e.g.*, memoranda submitted to a court, such as briefs in support of motions; memoranda designed for other external use, such as for clients or opposing attorneys).

F

fact Information concerning some thing, action, event, or circumstance.

federalism In the United States Constitution, the powers to govern are separated between the federal and state governments. This separation of powers is called federalism.

G

general jurisdiction A court of general jurisdiction has the power, with few exceptions, to hear and decide any matter brought before it.

H

headnotes Summaries of the points of law discussed in a court opinion prepared by the publisher of the opinion.

holding The court's application of the rule of law to the legal question raised by the facts of a case. The court's answer to the legal issue in a case.

hyphen (-) A mark used to form compound modifiers and compound nouns (*e.g.*, well-known, ex-judge).

I

in personam jurisdiction See *personal jurisdiction*.

infinitive A verb form that functions as a noun or as an auxiliary verb (*e.g.*, to argue, to leave). A *split infinitive* refers to the placement of an adverb between *to* and the verb in an infinitive (*e.g.*, to *completely* understand).

information letter Correspondence that provides general legal information or background on a legal issue. It usually involves the communication of the results of legal research and analysis to a client or a third party.

intellectual honesty In the context of legal analysis, intellectual honesty means to research and analyze a problem objectively. This includes analyzing all aspects of a problem free of preconceived notions, personal views, and emotions.

interoffice memorandum of law See *office legal memorandum*.

IRAC An acronym commonly used in reference to the legal analysis process. It is composed of the first letter of the descriptive term for each step of the process—*Issue, Rule, Analysis/Application, Conclusion*. The standard legal analysis process is the identification of the issue, followed by the presentation of the governing rule of law, the analysis/application of the rule of law, and the conclusion.

irrelevant facts Those facts that are coincidental to an event but are not of significant legal importance in a case.

issue The precise legal question raised by the specific facts of a dispute.

issue—comprehensive/narrow statement A complete statement of the issue that includes the specific law, legal question, and key facts.

issue—shorthand/broad statement A broad formulation of the issue that usually does not include reference to the specific facts of the case or the applicable law.

J

jurisdiction The court's authority to hear and resolve specific disputes. Jurisdiction is usually composed of *personal jurisdiction* (authority over persons) and *subject matter jurisdiction* (authority over the types of cases a court may hear and decide).

K

key fact(s) The legally significant facts of a case that raise the legal question of how or whether the law governing the dispute applies. They are the facts upon which the outcome of the case is determined. Key facts establish or satisfy the elements of a cause of action and are necessary to prove or disprove a claim. A key fact is a fact so essential that, if it were changed, the outcome of the case would probably change.

key facts—groups Individual facts that, when considered as a group, are key facts. Individual facts that when treated as a group may determine the outcome of a case.

key facts—individual A key fact that, if it were changed, would affect or change the outcome of the case.

key numbers West Publishing Company has divided all areas of American law into various topics and subtopics. Each area is identified by a topic name, and each specific topic or subtopic is assigned a number called a key number.

L

law The enforceable rules that govern individual and group conduct in a society. The law establishes standards of conduct, the procedures governing standards of conduct, and the remedies available when the standards are not adhered to.

legal analysis The process of identifying the issue or issues presented by a client's facts and determining what law applies and how it applies. The process of applying the law to the facts of a case. It is an exploration of how and why a specific law does or does not apply.

legal issue See *issue*.

legal writing process A systematic approach to legal writing. An organized approach to legal research, analysis, and writing. It is composed of three stages: prewriting, writing, and postwriting.

legislative history The record of legislation during the enactment process. It is composed of committee reports, transcripts of hearings, statements of legislators concerning the legislation, and any other material published for legislative use in regard to the legislation.

limited jurisdiction A court of limited jurisdiction is limited in the types of cases it may hear and decide.

M

- majority opinion** The opinion in a court decision of the majority of judges.
- mandatory authority** Any authority or source of law that a court must rely on or follow when reaching a decision (*e.g.*, a decision of a higher court in the jurisdiction on the same or a similar issue).
- memorandum of law** A written analysis of a legal problem. It is an informative document that summarizes the research and analysis of the legal issue or issues raised by the facts of a case. It contains a summary of the law and how the law applies in the case.
- modifier** A word or phrase that provides a description of the subject, verb, or object in a sentence.

N

- nominalization** A noun created from a verb (*e.g.*, *realization* from the verb *realize*).
- nouns** Words that refer to persons, places, things, or qualities.

O

- office legal memorandum** A legal memorandum prepared for office use. It presents an objective legal analysis of the issue(s) raised by the facts of the client's case and usually includes the arguments in favor of and in opposition to the client's position. It is often referred to by other names, such as interoffice legal research memorandum, office research memorandum, and interoffice memorandum of law.
- on all fours** A prior court opinion in which the key facts and applicable rule of law are identical or nearly identical with those of the client's case or the case before a court.
- on point** A term used to refer to a prior court opinion in which the facts are sufficiently similar to the facts of the client's case or the case before the court for the prior court opinion to apply as precedent. A case is on point if the similarity between the key facts and rule of law or legal principle of the court opinion and those of the client's case is sufficient for the court opinion to govern or provide guidance to a later court in deciding the outcome of the client's case.
- opinion** The written statement by the court expressing how it ruled in a case and the reasons for its ruling.
- opinion letter** Correspondence, usually written to a client, that in addition to informing the reader of how the law applies to a specific question, provides legal advice. It informs the reader how the law applies and advises which steps should be taken.
- outline** The skeletal structure and organizational framework of a writing.
- outline—expanded** An outline that has been expanded so that it may be used in the prewriting stage. The use of an expanded outline allows the integration of all research, analysis, and ideas into an organized outline structure while research and analysis are being conducted. It facilitates the preparation of a rough draft.

P

- paragraph** A group of sentences that address the same topic.
- parallel citation** When a court opinion is printed in more than one reporter, each citation is a parallel citation to the other citation or citations (*e.g.*, *Britton v. Britton*, **100 N.M. 424, 671 P.2d 1135** (1983). The parallel citations are in bold.)
- parentheses“()”** Marks used to set off information in a sentence that is outside the main idea of the sentence or of lesser importance.
- pari materia** A canon of construction that provides that statutes dealing with the same subject should be interpreted consistently.
- party** A plaintiff or defendant in a lawsuit.
- passive voice** See *voice*.
- personal jurisdiction** The authority of the court over the parties to resolve a legal dispute involving the parties.
- persuasive authority** Any authority a court is not bound to consider or follow but may consider or follow when reaching a decision (*e.g.*, a decision of a court in another state on the same or a similar issue, secondary authority, and so on).
- plain meaning rule** A canon of construction that provides that if the meaning of a statute is clear on its face, it will be interpreted according to its plain meaning and the other canons of construction will not be applied by the court.
- plaintiff** The party who starts (files) a lawsuit.
- point heading** A summary of the position advocated in the argument section of a trial or appellate brief.
- postwriting stage** The stage in the legal writing process where an assignment is revised, edited, and assembled in final form.
- precedent** An earlier court decision on an issue that applies to govern or guide a subsequent court in its determination of an identical or similar issue based upon identical or similar key facts. A court opinion is precedent if there is a sufficient similarity between the key facts and rule of law or legal principle of the court's opinion and the matter before the subsequent court.
- predicate** A verb, its modifiers, and the object of the verb, such as a direct object (if necessary). The predicate of a sentence provides information concerning the subject of a sentence. (For example, in

this sentence, the predicate is in bold: “Tom **ran to the store.**”)

prewriting stage The stage in the legal writing process where the assignment is organized, researched, and analyzed.

primary authority Authority that is composed of the law (*e.g.*, constitutions, statutes, and court opinions).

prior proceedings The events that occurred in the litigation in a lower court or administrative hearing.

punctuation Marks or characters used in writing to make the meaning clear and easy to understand (*e.g.*, period [.] , comma [,] , semicolon [;] , and colon [:]).

purpose clause A statutory section that includes the purpose the legislative body intended to accomplish when drafting the statute.

Q

questions of fact In a jury trial, questions of fact such as whether a person performed a certain act are decided by the jury.

questions of law In a jury trial, questions of law such as what the law is or how it applies are decided by the judge.

quotation marks (“”) Punctuation used to identify and set off quoted material. (Mary said, “I do not believe it is true.”)

R

re *Re* means in the matter of, about, or concerning. It is usually placed at the beginning of the reference line in a memo or correspondence.

remand A decision of an appellate court that sends the case back to the trial court for further action.

reverse A decision of an appellate court that disagrees with the decision of the trial court.

rule of law A standard, established by a governing authority, that prescribes or directs action or forbearance.

S

salutation The part of a letter that presents the greeting (*e.g.*, Dear Ms. Jones).

scope A statutory section that states what is specifically covered and not covered by the statute.

secondary authority Any source of law a court may rely on that is not the law (*e.g.*, legal treatises, restatements of the law, and legal encyclopedias).

semicolon (;) A punctuation mark used to separate major elements of complex sentences, or to separate items in a series if the items are long or if one of the items has internal commas. (The shareholders held their meeting at noon; the board of directors met immediately thereafter.)

sentence The fundamental building block of writing. It is composed of a group of words that convey a single thought. It is usually a statement in which the actor (subject) performs some action or describes a state of being (the predicate).

short title The name by which a statute is known (*e.g.*, Uniform Commercial CodeSales).

split infinitive See *infinitive*.

squinting modifier A modifier located in a position in a sentence that makes it unclear whether it modifies the word that precedes it or the word that follows it (*e.g.*, “The report that was prepared *routinely* indicated that the structure was unsafe.” It is unclear whether *routinely* refers to the report being prepared routinely or the report routinely indicated the structure was unsafe.)

stare decisis A basic principle of the common law system that requires a court to follow a previous decision of that court or a higher court when the current decision involves issues and facts similar to those involved in the previous decision. The doctrine that provides that precedent should be followed.

statement of facts The section of a memorandum of law that presents the factual context of the issue(s) addressed in the memorandum.

statutes Laws passed by legislative bodies that declare rights and duties, or command or prohibit certain conduct.

statutory analysis The interpretation and application of statutory law. The process of determining if a statute applies to a specific fact situation, how it applies, and the effect of that application.

statutory elements The specific conditions or components of a statute that must be met for the statute to apply.

statutory law The body of law composed of laws passed by legislative bodies. The term includes laws or ordinances passed by any legislative body.

subject A noun or pronoun that is the actor in a sentence. (For example, the subject in this sentence is in bold: “**Tom** ran to the store.”)

subject matter jurisdiction The types or kinds of cases the court has the authority to hear and decide.

supremacy clause The “supremacy clause” of the United States Constitution (Article VI) provides that between federal and state law, federal law is supreme. If an enacted law or court decision of a state conflicts with a federal law or court decision, the state law or decision is invalid to the extent it conflicts with the federal law or decision.

T

topic sentence The sentence that identifies the subject of a paragraph. It introduces the subject and provides the focus of a paragraph.

trial court The court where the matter is heard and decided. Testimony is taken, the evidence is presented, and the decision is reached in the trial court.

trial court brief An external memorandum of law submitted to a trial court. It presents the legal authority and argument in support of a position advocated by an attorney, usually in regard to a motion or issue being addressed by the court. It is often referred to as a trial brief.

U

United States District Court The trial court of general jurisdiction in the federal judicial system.

United States Supreme Court The final court of appeals in the federal system and the highest court in the United States.

V

verbs Words that express action, a state of being or feeling, or a relation between two things. (For ex-

ample, in this sentence, the verb is in bold: “Tom **ran** to the store.”)

voice The relationship of the subject to the action of the sentence. *Active voice*—the subject of the sentence is performing the action in the sentence. (The automobile hit the child.) *Passive voice*—the subject of the sentence is acted upon. (The child was hit by the automobile.)

W

writing stage The stage in the legal writing process where research, analysis, and ideas are assembled into a written product.

writ of certiorari A writ from a higher court asking a lower court for the record of a case. A petition for a writ of certiorari is a request filed by a party in a lawsuit for a higher court to review the decision of a lower court.

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