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Parallel Citations-Past and Present

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Parallel Citations-Past and Present

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The Scrivener: Modern Legal Writing



Parallel Citations— Past and Present

by K.K. DuVivier

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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.¹ 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.²

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*³ 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."⁴ Parallel citations were no longer required in legal memoranda or law reviews.⁵ 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.⁶ 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.⁷ 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.⁸

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,⁹ other rules mention the use of the West regional reporter first.¹⁰ 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.¹¹

ALWD Rule

The *ALWD Citation Manual*¹² states that one should not use parallel citations unless required by a local rule.¹³ 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.¹⁴

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 or call her at (303) 871-6281.

K.K. DuVivier is an Assistant Professor and Director of the *Lawyering Process Program* at the University of Denver College of Law.

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.¹⁵ 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.¹⁶ The federal circuit rules state that citation to sources other than the Federal Reporter "are discouraged."¹⁷ 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*.¹⁸ 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 location¹⁹ 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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LEGAL SUPPORT BRIEFS . . .

ALA, Mile High Chapter Fall 2000 NFL Punt, Pass & Kick Competition For Inner City Youth A Success

In the fall 2000, the Association of Legal Administrators ("ALA"), Mile High Chapter, sponsored a community challenge in Denver specifically targeting inner city youth. Former Denver Bronco Mike Horan—also a punter for the Super Bowl champions, the St. Louis Rams—joined forty-seven ALA volunteers at the NFL-sanctioned Punt, Pass & Kick Competition. Horan offered punting lessons for the children, acted as announcer during the day-long event, and awarded certificates to the winning participants. He also signed autographs and posed for photographs with the participants and volunteers. These competitions usually are held in suburban locations, but this particular event provided inner city youth the rare opportunity to participate in the challenge. In fact, a winner in the 8-to-9-year-old-girls category also won at the regional competition, and stands a chance of participating in the national competition this month! Congratulations to all who made this event a momentous occasion for many young people!

ALA, Mile High Chapter Presents "The Administrator's Role in Managing Risk" At Monthly Meeting, January 18, 2001, in Denver

Anthony E. Davis, a partner at Moye, Giles, O'Keefe, Vermeire & Gorrell LLP, will be the key speaker at the monthly meeting of the Association of Legal Administrators ("ALA"), Mile High Chapter. The topic of Davis' presentation will be "The Administrator's Role in Managing Risk." In addition to being a published author, Davis advises law firms on legal professionalism and legal ethics issues, law firm risk management, and loss control. The meeting will be held at the Top of the Rockies restaurant in Denver at noon, January 18, 2001. For complete information or to register, call Sylvia Jackson, (303) 595-0941.

Mile High Association of Legal Support Staff Will Host Seminars and Board Meeting February 2 and 3, 2001, in Denver

On the afternoon of February 2, 2001, the Mile High Association of Legal Support Staff ("MHALSS") will welcome the Clerk of the Fourth Judicial District and two representatives from the Office of the Secretary of State at two separate seminars. The first seminar will be held from 1:00 to 2:30 P.M., Clerk Lee V. Cole, Jr. will discuss e-filings, the new court caption, jury issues, Rule 26 changes, garnishments, and the Family Support Registry. During the break between seminars, a representative from CourtLink will be on hand to answer questions about e-filings. Mike Shea, Director of Operations for the Business Division of the Colorado Secretary of State's Office, and Keith Whitelaw, Director of Policy and Analysis, will lead the second seminar. From 3:00 to 4:30 P.M., they will discuss the current fee schedule, give advice on the various ways of doing searches, and teach how to do filings correctly. MHALSS's second

board meeting will be held on the morning of February 3. The seminars and board meeting will be held at the Embassy Suites Southeast, 7252 E. Hampden Ave., Denver. Cost is \$25 for members, and \$35 for non-members. CLE certificates will be provided. For complete information and to register, call Shelley McKinstry, (303) 388-9311.

Institute for Paralegal Education Presents "Mergers and Acquisitions for Colorado Paralegals" February 6, 2001, Adam's Mark Hotel, in Denver

A nuts-and-bolts seminar, "Mergers and Acquisitions for Colorado Paralegals," will be held on February 6, 2001, at the Adam's Mark Hotel in Denver. The program will provide the foundation needed to grasp merger and acquisition ("M&A") transactions. Attendees will (1) learn how to handle preliminary M&A matters and look at the basic elements of the purchase agreement; and (2) discover the paralegal's role in the closing process, and find out how to get ready to close a deal, as well as learn about post-closing matters. This is a basic-to-intermediate-level course for paralegals, legal assistants, legal secretaries, and other support staff involved in M&As. Registration for this one-day program begins at 8:30 A.M. Tuition, which includes a reference manual, is \$189 per person; \$179 per person for three or more registrations from the same firm or organization. To register, call (715) 835-7145, or visit www.nbi-sems.com.

CBA Paralegal Committee Invites You to an Open House March 7, 2001, CBA Offices in Denver

The CBA Paralegal Committee ("Committee") will hold an open house on March 7, 2001, at the CBA offices, 1900 Grant St., 9th Fl., Denver. All interested persons are invited to attend and learn about the workings of the Committee specifically and about the paralegal profession in general. The open house will begin after 5:00 P.M. and will include refreshments. Various legal vendors will be in attendance to discuss their services. For information, contact Eileen Siemek at esiemek@aol.com.

Organizational Membership Information

**Association of Legal Administrators (ALA),
Mile High Chapter:**

Sylvia Jackson, Denver, (303) 595-0941

Association of Legal Assistants of Colorado (ALAC):
Sunde King, Colorado Springs, (719) 684-9241

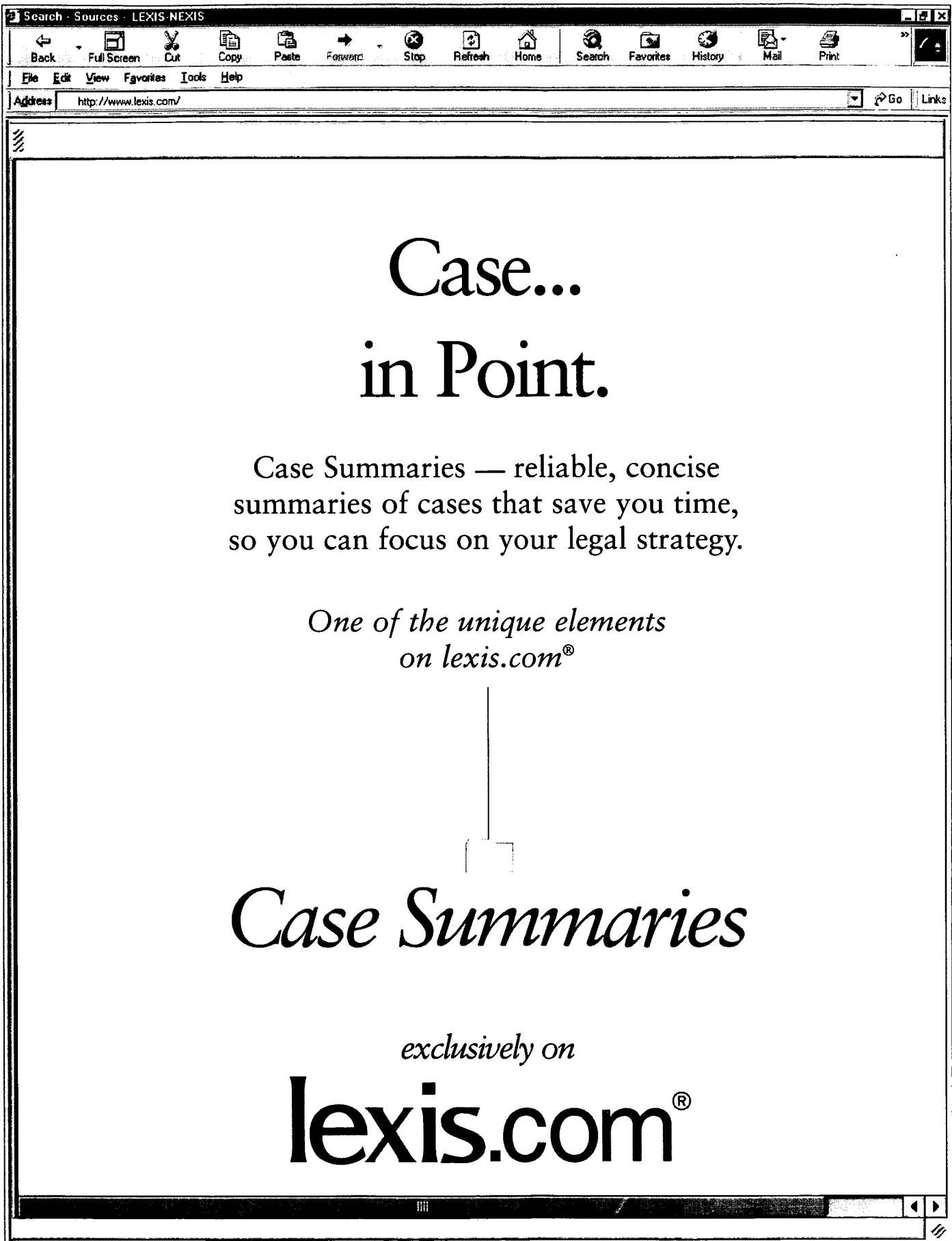
Colorado Association of Legal Support Staff (CALSS):
Janet Boughton, Grand Junction, (970) 241-0316

Colorado Bar Association Paralegal Committee:
Eileen Kelly-Sharpe, Denver, eksparalegal@cs.com

Legal Staff Professionals of Colorado:
Perri Morris, Denver, perrirjoy@aol.com

Mile High Association of Legal Support Staff (MHALSS):
Ronda Bilby, Denver, (303) 864-1000

Rocky Mountain Paralegal Association (RMPA):
Nanette K. Yokomizo, Denver, (303) 860-1900



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