

Citation matters: a quick guide to correct citation form in Indiana

By Prof. Joel M. Schumm

Legal citation is critical to provide courts with essential information about your case. Incomplete or incorrect citations may make it difficult or impossible to find the source. Sloppy citations may also suggest carelessness that could lead some judges to be skeptical of other parts of a brief. The goal of this short article is to provide some fairly basic but important information about citations of the most common sources in Indiana.

Most Indiana court rules shed no light on citation, but Appellate Rule 22 discusses the topic at length and can reasonably be followed in trial courts. Beyond some specific topics discussed in the rule (and summarized below), citations should follow “a current edition of a Uniform System of Citation (Bluebook).”¹

1. Typefaces

Citations in legal briefs should use only one of the following two typefaces: Roman (regular type) or *italics*. Do not

use **bold**, LARGE AND SMALL CAPS, or other typefaces.²

2. Indiana cases

Citation of a case should include the name of the case, the Reporter and pages on which it is located, and the court and year it was decided. For example: *K.F. v. St. Vincent Hosp. & Health Care Ctr.*, 909 N.E.2d 1063, 1066 (Ind. Ct. App. 2009).

2.1 Abbreviating words

Bluebook Rule 10.2.1 provides a litany of rules for case names, which are often abbreviated when used in a citation but usually spelled out in textual sentences.³

Table 6 of the Bluebook provides a detailed list of abbreviations for many words that commonly appear in case citations, such as Corp. (Corporation) or N. (North[ern]).

Geographic terms, like “State of” or “City of,” should almost always be omitted.

2.2 Reporter and pinpoint

Indiana cases appear in the North-eastern reporter, currently N.E.3d. If referring to information taken from a specific page of the case, be sure to include the pinpoint citation. For example, the citation to the *K.F.* opinion tells the

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judge the case begins on page 1063, but you are relying on information from page 1066.⁴ Omitting the pinpoint citation will require the court to scour the entire opinion; a busy judge without time for such a journey may simply disregard the source.⁵

2.3 Court and year

The last part of the citation should include the court deciding the opinion (Ind. for Indiana Supreme Court or Ind. Ct. App. for the Indiana Court of Appeals) followed by the year of the decision.

2.4 Subsequent history/transfer denied

Be sure a case has not been overruled or disapproved before citing it. A red stop sign or flag does not necessarily render a case off-limits. Often an opinion addressing multiple issues will be overruled on a narrow point related to one issue. Advocates are free to use the case for the other issues but should acknowledge the subsequent history of the case. For example: *K.F. v. St. Vincent Hosp. & Health Care Ctr.*, 909 N.E.2d 1063, 1066 (Ind. Ct. App. 2009), *disapproved on other grounds by Civil Commitment of T.K. v.*

Dep't of Veterans Affairs, 27 N.E.3d 271, 274 (Ind. 2015).

Unlike the Bluebook, which requires inclusion of discretionary denials of review during only the past two years, Indiana attorneys are required to note if transfer was denied in every case, regardless of its age. Rule 22(A) provides these examples: *State ex rel. Mass Transp. Auth. of Greater Indianapolis v. Indiana Revenue Bd.*, 144 Ind. App. 63, 242 N.E.2d 642 (1968), *trans. denied by an evenly divided court* 251 Ind. 607, 244 N.E.2d 111 (1969); *Smith v. State*, 717 N.E.2d 127 (Ind. Ct. App. 1999), *trans. denied*.⁶

2.5 Non-Indiana cases

Most of the same principles described above apply to citations of court opinions outside Indiana. Tables 1, 7, and 10 of the Bluebook provide specific guidance for appropriate abbreviations.

2.6 Unpublished decisions

Except in very narrow circumstances, counsel should never cite a memorandum or unpublished decision from the Indiana Court of Appeals.⁷ That rule does not address citations to unpublished decisions from other jurisdictions, which

may have their own rules. Bluebook Rule 10.8.1 addresses citation of pending and unreported decisions.

3. Constitutional provisions

Bluebook Rule 11 addresses citations to constitutional provisions. In text, spell out the words Fourth Amendment; citations abbreviate “U.S. Const. amend. IV.” Citations to the Indiana Constitution may be similarly abbreviated: Ind. Const. Art. 1, Sec. 11.⁸

4. Statutes

Appellate Rule 22(B) provides the following format for an initial citation to a statute: “Ind. Code § 34-1-1-1 (20xx).”

In practice, years are seldom included in appellate opinions or briefs – especially when the current version of the statute applies to the issue raised.⁹ In cases where the statute has changed, however, counsel should be sure to include the year and discuss what has changed.

Subsequent citations to statute may be abbreviated as follows: “I.C. § 34-1-1-1.” Thus, I.C. replaces “Ind. Code” and no year is required.

In a textual sentence, be sure to spell out the words. For example, “Indiana Code section 34-1-1-1.”

5. Court rules

Appellate Rule 22(B) includes a comprehensive list of the citation form to use when first citing a court rule and for each later citation. A few examples include:

Initial – Subsequent

Ind. Trial Rule 56 – T.R. 56
Ind. Crim. Rule 4(B)(1) – Crim. R. 4(B)(1)
Ind. Post-Conviction Rule 2(2)(b) – P-C.R. 2(2)(b)
Ind. Evidence Rule 301 – Evid. R. 301

County Local Rules should be cited using “the county followed by the citation to the local rule, e.g., Adams LR01-TR3.1-1.”¹⁰

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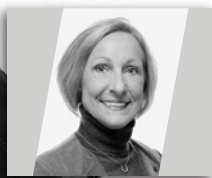
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6. Magazines/books/internet sources

Briefs generally rely on the primary authorities described above, but some will also cite secondary sources such as books or internet sources.

The back cover of the Bluebook provides examples of how to cite these sources. For example:

- Deborah L. Rhode, *Justice and Gender* 56 (1989)
- Andrew Rosenthal, *White House Tutors Kremlin in How a Presidency Works*, N.Y. Times, June 15, 1990, at A1.
- Eric Posner, *More on Section 7 of the Torture Convention*, Volokh Conspiracy (Jan. 29, 2009, 10:04 AM), <http://www.volokh.com/posts/1233241458.shtml>.¹¹

7. Subsequent citations

The earlier paragraphs focus on the initial/first citation of a source. Later citations may be shortened. Appellate

Rule 22 provides specific examples for statutes and court rules, and Bluebook Rule 4 discusses cases and other sources.

When citing a case, if there are no intervening citations to another source, use *Id.* (if the information appears on the same page) or “*Id.* at [page],” if taken from a different page. If there is an intervening citation to another case or source, use the short form, which includes the shortened name of the case and its location without the court or year. For example: *K.F.*, 909 N.E.2d at 1065.

Subsequent citations to books, magazines, etc. generally require the author’s last name, *supra*, and the page. For example: Rhode, *supra*, at 54.

8. The record

Although counsel will rarely, if ever, be faulted for spelling out a word, Rule 22(E) provides several abbreviations that may be used without further explanation:

Addend. (addendum to brief), App. (appendix), Br. (brief), CCS (chronological case summary), Ct. (court), Def. (defendant), Hr. (hearing), Mem. (memorandum), Pet. (petition), Pl. (plaintiff), Supp. (supplemental), Tr. (Transcript).¹²

Conclusion

Following these basic rules will help ensure the court can locate your cited sources and leave a positive impression about your attention to detail. Some online research services include tools to ease inclusion of citations. For example, Westlaw users can highlight text and choose “Copy with Reference” to copy and paste text with quotation marks into a Microsoft Word document, usually with the correct citation form.¹³ Taking a few seconds to double-check citations, regardless of how they were generated, is always time well spent. ⚖️

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1. The Bluebook is currently in the Twentieth Edition and little has changed in recent editions. Moreover, the current (Fifth) edition of the Association of Legal Writing Directors (ALWD) Guide to Legal Citation is not mentioned in Appellate Rule 22 but employs the same citation format as the Bluebook.

Needless to say, citations are placed in the text of a brief and not in footnotes or endnotes as recommended by some commentators. An “experiment” of this alternative by the Indiana Supreme Court was short-lived and not well-received. Kevin S. Smith, *2005 Survey of Recent Developments in Indiana Law: Appellate Procedure*, 39 Ind. L. Rev. 777, 815 (2006) (“An overwhelming majority (seventy-one percent) opposed the placement of citations in footnotes”).

2. Other typefaces may be appropriate in law review footnotes, but court documents should adhere to the rules shown in the Bluepages of the Bluebook and its back cover. Rule B2 explains that “underscoring is the equivalent of italics.” Appellate Rule 22 uses italics, as do recent opinions from the Indiana Supreme Court and Court of Appeals. Some writing experts believe underlining is a “throwback” to an era “when italics weren’t possible. Nobody using a computer in the 21st Century should be underlining text.” Antonin Scalia & Bryan Garner, *Making Your Case: The Art of Persuading Judges* 122 (2008).

3. Pay particular attention to Rules 10.2.1(c) (abbreviations in textual sentences) and 10.2.2 (case names in citations).

4. Most cases decided before the early 1980s appear in the Northeastern reporter volumes as well as the now-defunct Indiana (Ind.) or Indiana Appellate (Ind. App.) official state reporters. Appellate Rule 22 requires citation to both reporters; a pinpoint citation must be included for at least one of the reporters but could be included for both. For example: *Gaddis v. State*, 253 Ind. 73, 77, 251 N.E.2d 658, 660 (1969).

This rule may seem antiquated with all opinions easily accessible through online research services, but the rule requires parallel citations. Some lawyers still have the old volumes, although few pull them off the shelf instead of viewing the case online.

5. Numerous appellate opinions have chastised counsel for failing to use pinpoint citations. See, e.g., *Webb v. Schleutker*, 891 N.E.2d 1144, 1154 n.7 (Ind. Ct. App. 2008).

6. Counsel should also note if rehearing or transfer is pending in a case. If transfer has been granted, the case should not be cited. Ind. Appellate Rule 58(A) (“If transfer is granted, the opinion or memorandum decision of the Court of Appeals shall be automatically vacated ...”).

7. Ind. Appellate Rule 65(D) (permitting citation of memorandum decisions only “to establish *res judicata*, collateral estoppel, or law of the case”).

8. Articles of the United States Constitution use Roman numerals (such as Art. III), while Articles

of the Indiana Constitution use Arabic numerals (Article 3). See *Bonner ex rel. Bonner v. Daniels*, 907 N.E.2d 516, 518 n.2 (Ind. 2009) (“Arabic numerals ... were used by the framers.”).

9. Bluebook Rule 12.3.2 discusses “Year of Code,” and Table 1 advises to cite to the official “Indiana Code,” rather than the annotated code from West or LexisNexis. The table specifically cites to the General Assembly’s website, which includes and regularly updates the Indiana Code. The 2018 code is accessible at <http://iga.in.gov/legislative/laws/2018/ic/titles/001> (last visited Oct. 17, 2018).

10. The rule also provides extensive information about how to cite the Indiana Administrative Code and Indiana Register, both before and after 2006. App. R. 22(B)(1).

11. The focus of this article is citation form and content – not the propriety of citing specific sources, such as internet resources that may raise numerous concerns. See generally Sylvia H. Walbolt & Nicholas A. Brown, *Off the Record or Not?*, Fla. B.J., December 2016, at 30, 32 (“The Supreme Court is not the only court grappling with the propriety of judicial factual research on the internet.”).

12. Bluepages B17 provides some additional abbreviations, such as Aff. for Affidavit or Ex. for Exhibit.

13. These programs are not infallible. For example, using the feature with statutes may only include the section and not subsections or more specific and necessary information.



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