Benchmarks of Good Legal Writing

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Communication is a lawyer's stock and trade and every practitioner should strive to make her or his written communications useful for the reader. Just as an opinion letter that is clear and direct in addressing the reader's concerns will, more likely than not, result in better attorney-client relationships, the attorney that presents the court with succinct and effective documents will improve her attorney-court relationships. One, often overlooked, aspect of good document drafting is the proper use of citations when making attribution to relevant authority.

The Florida Rules of Appellate Procedure, § 9.800, requires that citations shall conform to the latest edition of The Bluebook, A Uniform System of Citation and if an authority is not included in The Bluebook, the writer is directed to the Florida Style Manual. Inasmuch as this article addresses citation use and form, I believe it is important to note that another citation manual has already been adopted at many law schools as being a superior teaching tool. The AL WD Citation Manual A Professional System of Citation has been adopted at 90+ law schools and 35+ paralegal schools. The citation manual, developed by the Association of Legal Writing Directors, includes the rules for Florida jurisdictions in Appendix 2 by presenting clear examples of proper citations for use by the practicing lawyer and does not focus on law review editors. A recent opinion from the Florida Supreme Court reaffirms the court's decision to insist on uniformity in citation form while also making adjustments to the rule so as to comply with The Bluebook.1

Perhaps one of the most common mistakes in the use of citations is found in the application of "short cites". As an example, a complete citation to a relevant case will include, at a minimum, party identifiers (style of the case or caption), the volume and page number along with an abbreviation for the reporter, and a parenthetical that identifies the jurisdiction and year, e.g. Sotolongo v. State, 530 So. 2d 514 (Fla. 2d DCA 1988). The form of the citation indicates to the reader that this authority is being presented in support of a proposition of law. Repeated references to this same authority, without any intervening authority, are represented by the use of Id. The most common error occurs when, later in the document, the writer refers back to the fully cited authority. Many writers will use a short form of the citation that looks like this: Sotolongo, at 516. The correct short form of the citation is Sotolongo, 530 So. 2d at 516.2

The use of incomplete citations, included in court documents, has been the basis for court sanctions. A 1992 appellate case opinion from the State of Washington included a $750.00 fine imposed against counsel for not including pinpoints in the citations.3 Pinpoint citations use will be the subject of a future edition of Benchmarks of Good Legal Writing.

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