BlueBook Citation II

When to Cite - Prior and Subsequent History - Citation Signals

When to Cite

Legal writing requires precise and frequent citations, probably more than in most fields. Here are the general rules: 1) A citation is needed for every thought, opinion, and fact that comes from another source (not you or your facts). 2) A citation is needed even if one is not quoting. 3) When discussing facts or the holding of a case, a citation is needed to that case even if one is paraphrasing. 4) If one makes a proposition about the state of the law generally, a citation is needed to the source that supports that proposition. 5) When developing a rule that one has synthesized from several sources, citations are needed to those sources.

Prior and Subsequent History

Rule 10.7 of the Bluebook governs which procedural information should be included with case citations. Generally, if a case is cited in full, one should include all subsequent history except for denials of rehearing, history on remand, and certain denials of certiorari. Prior history is not necessary unless it is relevant to a point the author is making. In the event both prior and subsequent history are included in the citation, list prior history first and then subsequent history.


Subsequent History

These are court opinions that review the case after the opinion one cites. The Bluebook requires subsequent history to be included in the citation if the case was addressed by a higher court or if the case is cited in full.

- Subsequent history citations follow the full case cite, separated by a comma.
- Subsequent history is indicated by an explanatory phrase. See T8 of the Bluebook.
- Some explanatory phrases require commas; others do not.

A citation is not required to include subsequent history in the following circumstances:

- The history is a denial of certiorari of a case that is more than two years old.
- The case was remanded to a lower court.
- The disposition was withdrawn by the original deciding authority.

Prior History

This includes opinions issued by the court before the opinion that is cited. Do not include prior history unless:

- The history is significant to the point for which the case is cited.
- The opinion cited does not adequately describe the issue(s) in the case.

If either of the above exceptions is met and a prior history must be included:

- Place the prior history after the full citation with a comma separating the two.
- If both a prior and subsequent history must be included, list the prior history first after the full citation.
Citation Signals

Signals are used to describe the relationship between two or more cited sources or the relationship between the text and a cited source. Signals are underlined or italicized just like the cases they precede and are categorized into four types:

1. Support
2. Comparison
3. Contradiction
4. Background

Common Signals

Signals for support – Rule 1.2(a)

"No signal" is used when the authority cited, (a) directly states the proposition, (b) identifies the source of a quotation, or (c) identifies an authority directly employed in the text.

*E.g.* indicates that a citation directly supports a proposition and there are other authorities that also support the proposition but may not be as useful or necessary.

*Accord* indicates there are additional authorities that either state or clearly support the proposition with which the main citation is associated, but the text quotes only one. Similarly, the law of one jurisdiction may be cited as being in accord with that of another.

*See* indicates that the cited authority clearly supports but does not directly state the writer’s proposition.

*See also* is used when a source has already been discussed using *See* and the writer wishes to add more authorities. *See also* should be accompanied by parentheticals indicating the relevance or difference of the additional sources.

Signals for Comparison – See Rule 1.2 (b)

Signals for Contradiction – Rule 1.2 (c)

*Contra* indicates that a “no signal” authority is directly contradicted by another “no signal” authority.

*But see* shows that the cited authority either contradicts the stated proposition implicitly or contains dicta that contradict the stated proposition. *But see* is used where *See* would be used for support.

Signals for Background Information – Rule 1.2(d)

*See generally* is used to signal other materials that would provide helpful background materials.

Order of Signals – Rule 1.3

When more than one signal is used, the signals (and the authorities they introduce) should appear in the order in which those signals are listed in Rule 1.2. Signals of the same basic type – supportive, comparative, contradictory, or background – must be strung together within a single citation sentence and be separated by semicolons. Signals of different types, however, should be grouped in different citation sentences.