

United States Department of Justice

OFFICE OF THE SOLICITOR GENERAL

CITATION MANUAL

Revised April 2014

Office Work Product of the
Office of the Solicitor General

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OFFICE OF THE SOLICITOR GENERAL STYLE MANUAL

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Revised April 2014

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INTRODUCTION

The revised Office of the Solicitor General Citation Manual is designed to showcase only the ways in which the OSG citation style differs from the **19th Edition of the Bluebook**, or where a Bluebook rule needs emphasizing due to common errors. Where a rule is not listed below, it can be assumed that the Bluebook rule governs. Where a rule is listed below, the rule is designed to supplement the Bluebook rule, not replace it.

For additional guidance on punctuation, capitalization, compounding, and other matters of style, you may wish to consult the U.S. Government Printing Office Style Manual (2008), available at: <http://www.gpo.gov/fdsys/pkg/GPO-STYLEMANUAL-2008/pdf/GPO-STYLEMANUAL-2008.pdf>.

Recognizing that the Bluebook is the primary source for citation style, this manual is organized to mirror the format of the Bluebook. Users of this manual should consult the Bluebook first, and then check the same rule in this manual.

This manual will be periodically updated. A list of the current versions of all chapters is included on Pages I-II; users of this manual should ensure that their copy contains the most recent versions of chapters. To suggest changes to this manual or to obtain the most recent version of specific chapters, please contact the Director of the Research and Publications Unit.

B Bluepages

The Bluepages in the Bluebook are generally good guidelines for the preparation of briefs for the Supreme Court. As of April 2014, the Supreme Court Rules do not provide any formal citation requirements in addition to the Bluebook, but experience has often suggested preferred alternative conventions. This OSG Style Manual sets forth those preferred stylistic differences.

B1 Typeface Conventions

While Rule B1's statement that there are typically only two typefaces in court documents is generally correct, OSG alters this rule for appendices, which ordinarily will duplicate the typeface used in the original document. For example, if a court of appeals opinion uses large and small capitals (e.g., in citing a book title), the OSG appendix will also use large and small capitals.

There are a few exceptions to this rule, but most involve the cover and signature pages of briefs and the captions of court opinions reproduced in appendices. See OSG Supplement to the Supreme Court Rules, below, for examples for cover and signature pages using large and small capitals.

B1 also states that italics or underscoring are used interchangeably depending on the format of the document. When an IFP brief is filed under Supreme Court Rule 33.2, underscoring is the appropriate typeface convention. In any document prepared under Supreme Court Rule 33.1, whether filed in "page proof" or "final," italics is the appropriate typeface convention. For appendices, text (including headings) that is underscored in the original document is italicized in the printed appendix.

Case Names

The "v." in case names is not italicized. The only exception to this rule is that the "v." or "versus" is italicized in a quote, in the captions of briefs, or in court opinions included in appendices.

Introductory Signals

Introductory signals are neither underscored nor italicized, with "e.g." as the sole exception to this rule.

Explanatory Phrases Introducing Prior or Subsequent History

Explanatory phrases introducing prior or subsequent history are neither underscored nor italicized.

B2 Citation Sentences and Clauses

Citations may be set off from text by the use of commas or parentheses. While a parenthetical may either precede or follow text containing assertions for which the citation is provided, a comma is ordinarily used only when the text containing assertions for which a citation is provided precedes the citation. Where a comma or a pair of parentheses is used to set off citations from text in one clause of a sentence, text in other clauses of the same sentence should ordinarily be set off by the same form.

There is no requirement that citations precede indented quotations. Instead, OSG style permits, but does not require, a citation to follow an indented quotation (appearing at the left margin of the line immediately following the quotation).

Often, authors will refer to court filings within the text, eliminating the need to repeat in the citation the information that is already contained in the text. See the following examples:

As we stated earlier (Pet. Br. 3) * * *.

As we stated in our petition (at 3) * * *.

The amicus maintains (ACLU Br. 8) * * *.

The ACLU maintains (Amicus Br. 8) * * *.

We believe (Gov't Br. 9) * * *.

In our initial brief (at 9) * * *.

B3 Introductory Signals

Despite the Bluebook’s preference for italicizing, the only signal we italicize is “e.g.”

When used as a verb in a textual sentence, a signal normally abbreviated must be spelled out; “cf.” becomes “compare,” and “e.g.” becomes “for example.”

B4 Sources and Authorities: Cases

For short citation forms, clarity and ease in locating a full citation are the governing principles. There are instances in which a full citation is required or preferred. A full citation must be used the first time a source is cited in the brief. If a source is cited for the first time in a footnote, however, the source must be cited in full both in the footnote and where it first appears in the text.¹

Although attorney preference and space constraints may dictate otherwise, it is preferred that a source be cited in full the first time it is cited in the statement of interest, statement, summary of argument, and argument/discussion sections of the brief. Subsequent citations within the same section may take a short form.

“Id. at” and “ibid.” are not to be used when there is an intervening citation (see Rule 4.1).

B4.2 Short Form Citation

A short form for cases that includes both parties’ names, rather than only one, may be used, but such form should be used consistently throughout the brief.

B5 Sources and Authorities: Statutes, Rules, and Regulations

¹ There is one narrow exception to this rule. An attorney may have cited in a footnote a source with an unusually lengthy citation and does not want to repeat the full citation the first time it is used in the text (e.g., a case with a lengthy case history). In those cases, these examples can be followed:

See Jones v. United States, supra note 4, 697 F.2d at 1197.

See Hearings, supra note 7, at 16.

The Internal Revenue Code will be cited with references to 26 U.S.C. (not "I.R.C."). Do not include section symbols (§) in citations to Internal Revenue Code sections in the brief; however, include section symbols (§) with sections of the Internal Revenue Code in the table of authorities.

Citations to the United States Code and the Code of Federal Regulations may use the form "ibid.", but not "id. at" or any of the short forms listed in Bluebook Rule 12.10; unless "ibid." is appropriate, these sources must be cited in full each time. Citations to the Statutes at Large, state statutory codes, and state session laws may take a short form. For example:

The Support for Eastern European Democracy Act (SEED) of 1989, Pub. L. No. 101-179, 103 Stat. 1298, was enacted on November 28, 1989. It required the United States to "implement * * * a concerted Program of Support for East European Democracy" designed to "provide cost-effective assistance to those countries of Eastern Europe that have taken substantial steps toward institutionalizing political democracy." **§ 2, 103 Stat. 1299.**

Searches of committed persons charged with an offense may be "for the purpose of discovering any money or property he may have." **Mo. Ann. Stat. § 542.300 (West 1987).** Any search "shall be conducted in a reasonable manner." **Id. § 542.291.**

B6 Sources and Authorities: Constitutions

B7 Sources and Authorities: Court and Litigation Documents

Citations to court filings (unlike textual references to court filings) are abbreviated. Thus: "J.S." (jurisdictional statement), "Mot. to Affirm" (motion to affirm), "Pet." (petition), "Br. in Opp." (brief in opposition), and so forth. Use "Pet. Br." and "Resp. Br." to refer to briefs for nongovernment parties, "Gov't Br." to refer to briefs on behalf of federal officials or agencies, and "U.S. Br." to refer to briefs for the United States. Spell out "Appellant's," "Appellee's," and "Reply," as well as other identifying adjectives that would create confusion if abbreviated.

In general, any pleading filed in the court of appeals can be cited by adding "C.A." to the appropriate abbreviation (e.g., Jones C.A. Br., Resp. C.A. Br., Pet. C.A. Br., etc.). To avoid confusion when citing briefs for the United

States filed in courts of appeals, avoid the form “U.S. C.A. Br.” and use instead “Gov’t C.A. Br.” No footnoted explanations are necessary for any of these conventions.

Use “App.” to refer to an appendix that is bound together with the document or filing that it accompanies (e.g., Pet. App., J.S. App.). Use “J.A.” to refer to the separately bound joint appendix filed in connection with a merits brief in the Supreme Court. Where there is only one appendix or a joint appendix filed in the court of appeals, it is cited “C.A. App.” When there is more than one appendix or when there are citations to appendices from the Fifth, Ninth, or Eleventh Circuits, follow these examples:

Appellant’s App.

Appellee’s App.

Gov’t C.A. App. [United States appendix or appendix for an agency]

83-1844 C.A. App. [multiple case number appendix]

Jones C.A. App. (multiple party appendix]

C.A. E.R. [Excerpts of Record, Ninth Circuit]

C.A. R.E. [Record Excerpts, Fifth and Eleventh Circuits]

When a brief contains multiple appendices, do not cite a specific appendix (e.g., J.S. App. A, Pet. App. D) except in unusual circumstances (e.g., when multiple appendices are separately paginated, citations to a specific appendix are necessary). As long as the appendix pages are consecutively or distinctively numbered, it is accurate and helpful to the reader to cite the page numbers in referring to the various appendices of a particular brief. Thus:

“The court of appeals affirmed. Pet. App. 1a-45a.”

NOT:

“The court of appeals affirmed. Pet. App. A.”

Use the form “App., infra, la-5a” when referring to an appendix bound together with the brief in which it is cited. When the appendix is separately bound, use the form “Pet. App.” or “App.” without “infra.”

When citing particular pages in the record or transcript, use the abbreviation “R.” or “Tr.” When citing a multivolume record or transcript, include the volume number that appears on the cover page. The volume number should always be in arabic numerals. If there is no volume number, the date can be used in place of the volume number. When citing a table in a document, regulation, or legislative material, use the abbreviation “Tbl.” Examples:

4 R. 68 [NOT: IV R. 68].

5/15/02 Tr. 322

Tbl.

Exhibits are cited as “Ex.,” “U.S. Ex.,” “GX,” “PX,” or “DX.”

It often will not be sufficient to use one of the above conventions without supplying additional identifying information when citing court filings. Examples of such situations are citations to court documents filed in consolidated cases or cases in which multiple petitions or amicus briefs have been filed. In such situations, place additional identifying information before the abbreviated name of the court filing. For example:

77-1401 Pet. 23-29 [docket number]

Smith Pet. 14 [petitioner’s name]

Jones J.S. App. 15a [appellant’s or appellee’s name]

ACLU Amicus Br. [name of amicus]

When introducing page references in citations to court documents related to the instant case—at any level—do not use “at” to introduce page references (e.g., “Pet. 5”; “Br. in Opp. 14”; “J.S. 12”; “Gov’t C.A. Br. 3”; or “Mem. of Points and Authorities 9”).

Occasionally, however, authors will cite court filings that are not part of the instant case. These citations differ from the citations to court filings in the instant case in several ways: (a) “at” will be included after the abbreviated

court filing title and before the page number; (b) a case citation will be included after the cited source; and (c) the docket number will be included if the opinion has been reported. For example:

Gov't Br. at 9, Polsby v. Shalala, 113 S. Ct. 1940 (1993) (No. 92-966)

U.S. Br. at 9, United States v. MacDonald, No. 80-1582 (Mar. 31, 1982)

As discussed in our brief (at 9), Polsby v. Shalala, 113 S. Ct. 1940 (1993) (No. 92-966)

For subsequent citations to court documents not related to the instant case, “supra” can be used in place of the case citation:

Gov't Br. at 10, Polsby, supra (No. 92-966)

No footnoted explanations are necessary for any of these conventions.

B7.3.1 Court

Do not use the form “Court of Appeals for the Second Circuit.” Either use a court’s complete formal name, with appropriate capitalization (e.g., “the United States Court of Appeals for the Second Circuit”) or use one of the following informal references: (a) “the court of appeals” in lower-case letters, relying on the context to identify the court, or (b) “the District of Columbia Circuit” (or “the D.C. Circuit”) or “the Ninth Circuit.”

In accordance with longstanding practice, however, we will permit capitalized references to the “Court of Federal Claims,” the “Court of Claims” (pre-1982), and the “Claims Court” (1982 onward) rather than “the court of claims” and “the claims court.” Authors should endeavor to give the full name of the court (“the United States Claims Court”) the first time they refer to this court in each filing.

References to the “Tax Court” are always capitalized.

B7.3.2 Party Designations

Party designations, such as “petitioner,” “respondent,” “plaintiff,” “defendant,” “appellant,” “appellee,” and so forth are not capitalized, even

when they refer to the parties in the matter that is the subject of the court document or memorandum.

Do not use a definite article with a party designation that refers to a party in the case in which the document is being filed (e.g. “petitioner,” not “the petitioner”).

B7.3.3 Titles of Court Documents

Titles of Supreme Court documents appearing in text are not capitalized. The titles are, however, abbreviated when used in citation sentences. This rule applies regardless of whether the reference to the court document is to its official or its generic title. For example, references in text to “petition for a writ of certiorari,” or “brief in opposition,” are not capitalized. For court documents in all other courts, references are capitalized both in text and in citations. For example:

The petitioner, in his **Memorandum of Points and Authorities in Opposition to Appellant’s Motion to Dismiss**, argued that the Double Jeopardy Clause is not applicable. This argument was renewed in his petition for a writ of certiorari. Pet. 8.

Furthermore, we will continue to use “App.” with a capital “A” in referring to appendices.

General Rules of Citation and Style

1 Structure and Use of Citations

1.2 Introductory Signals

Regardless of the context in which they are used, introductory signals are, with one exception, not italicized. That one exception is “e.g.,” which is italicized when used either by itself or in combination with other signals.

OSG style does not follow the Bluebook rule on grouping/separating families of signals with periods.

1.5 Parenthetical Information

While there are no stylistic differences with the Bluebook on the rule governing parenthetical information, the following portion of Rule 1.5 is reprinted to emphasize rules which often are not followed:

Explanatory parenthetical phrases * * * begin with a present participle and should not begin with a capital letter[.] * * * If, however, the parenthetical information quotes one or more full sentences or a portion of material that reads as a full sentence, it should begin with a capital letter and include appropriate closing punctuation[.] * * * [E]xplanatory parenthetical [phrases should] precede any citation of subsequent history or other related authority.

For example:

Under equivalency analysis, as under literal infringement, the claimed matter must remain the touchstone for a determination of infringement. See Corning Glass Works, 868 F.2d at 1259 (“**In the All Elements rule, ‘element’ is used in the sense of a limitation of a claim.**”).

Under equivalency analysis, as under literal infringement, the claimed matter must remain the touchstone for a determination of infringement. See Corning Glass Works, 868 F.2d at 1259 (**holding that “[i]n the All Elements rule, ‘element’ is used in the sense of a limitation of a claim”**).

Ibid. (quoting American Ass’n of Exporters & Importers v. United States, 583 F. Supp. 591, 598 (Ct. Int’l Trade 1984), *aff’d*, 751 F.2d 1239, 1247 (Fed. Cir. 1985)).

Explanatory parentheticals containing information about a quotation with more than one alteration should include only basic information, omit any duplicative words, and combine words with the conjunction “and” wherever possible. For example:

(citation and footnotes omitted; brackets in original)

NOT:

(citation omitted; footnotes omitted; brackets in original)

BUT:

(citation omitted; emphasis added)

However, when using parenthetical explanatory phrases (or introducing case histories) the repetition of similar phrases is sometimes necessary. For example:

(Powell, J., concurring in part and dissenting in part)

(summary judgment granted in part and denied in part)

(aff'd in part and rev'd in part) [introducing subsequent history]

Explanatory parenthetical phrases immediately follow a citation. But, when the source of a quotation is part of a textual sentence, explanatory phrases or citations are placed in parentheses at the end of the sentence to avoid intrusion into the flow of the text. For example:

The Court has jurisdiction of an appeal of "an interlocutory or final * * * order * * * holding an Act of Congress unconstitutional" (**28 U.S.C. 1252 (emphasis added)**).

OR:

Section 1252 gives the Court jurisdiction of an appeal of "an interlocutory or final * * * order * * * holding an Act of Congress unconstitutional." **28 U.S.C. 1252 (emphasis added)**.

NOT:

Section 1252 (**emphasis added**) gives the Court jurisdiction of an appeal of "an interlocutory or final * * * order * * * holding an Act of Congress unconstitutional."

The same principles should be followed when the source precedes an indented quotation. Examples:

The statute provides (§ 105(a), 60 Stat. 433 (**emphasis added**)):

The maximum lawful price computed under subsection (b) * * * .

OR:

Section 105(a), in pertinent part, states:

The maximum lawful price computed under subsection (b) * * * .

§ 105(a), 60 Stat. 433 (**emphasis added**).

1.6 Related Authority

1.6(a) **“Reprinted In”**

Because it is OSG’s practice to cite only original sources and not additionally to a reprinting, citations typically will not include the phrase “reprinted in.” For example, no citation is made to U.S.C.C.A.N. for congressional materials that are reprinted therein.

However, citations to separately bound legislative histories may be retained when useful (e.g., S. Rep. No. 813, 89th Cong., 1st Sess. 3 (1965), reprinted in Staff of the Subcomm. on Administrative Practice and Procedure, Senate Comm. on the Judiciary, 93d Cong., 2d Sess., Freedom of Information Act Source Book: Legislative Materials, Cases, Articles 38 (Comm. Print 1974)).

[Note: OSG style uses both “Congress” and “Session” and therefore deviates from Bluebook Rule 13, which does not include the “Session.”]

2 Typefaces for Law Reviews

Only two typefaces are used. Titles are in italics (or underlined). The rest of the citation is in roman (with arabic numerals):

Timothy M. Cook, The Americans with Disabilities Act: The Move to Integration, 64 Temp. L. Rev. 393 (1991)

Louis Loss, The SEC Proxy Rules in the Courts, 73 Harv. L. Rev. 1041 (1960)

3 Subdivisions

3.1 Volumes, Parts, and Supplements

3.1(c) Supplements

When citing the United States Code, include a date only for clarity or if the cited section derives from a supplement, from a volume not part of the most recent full edition of the Code, or from an edition other than the most recent full edition of the Code. When an entire act is cited by the use of “et seq.,” do not include a date even if portions of the act are contained in more recent supplements. For example:

Immigration and Nationality Act, 8 U.S.C. 1101
et seq.

NOT:

Immigration and Nationality Act, 8 U.S.C. 1101
et seq. (2006 & Supp. V 2011)

When citing material in federal and state statutes, cite pocket parts and bound supplements as “Supp.” (retain all other normal identifying words). For example:

Mo. Ann. Stat. § 514.140 (West Supp. 1984)

NOT:

Mo. Ann. Stat. § 514.140 (West Cum. Pocket Pt. 1984)

3.2 Pages, Footnotes, Endnotes, and Graphical Materials

3.2(a) Pages

When citing court filings in the instant case, place the cited page numbers directly after the abbreviated name of the court filing, without using the word “at” (e.g., Pet. App. 3a; Pet. 19; C.A. E.R. 46-50; U.S. Br. 9; J.S. 20; J.A. 300-345; Mot. to Affirm 9; GX 3; or 6/19/84 Tr. 9). However, use “, at” to distinguish a page number from a numbered document (e.g., “Doc. 12, at 20”; “C.R. 12, at 20” (this is an example of a numbered document in the Ninth Circuit original record; original paging is retained)). When using this form, always include the comma prior to “at.”

Also, use “at” in parenthetical citation[s] set off from the text when the surrounding context has already identified the court document. For example:

As we stated earlier in our petition (at 3)
* * * .

BUT:

As we stated earlier (Pet. 3) * * * .

Furthermore, use “at” when citing pages using “id.” (e.g., id. at 9a.). Do not, however, use “at” with “id.” when citing sections (§), paragraphs (¶), etc.

Citations of a section or act contained in the Statutes at Large should identify the page on which the section or act begins. Citations of a portion of a section should include only the page(s) on which the relevant material appears.

Citations of the Federal Register should include page references only to those pages on which relevant material appears. Federal Register citations should not include references to the first page on which a document begins.

When a brief contains multiple appendices, do not cite a specific appendix (e.g., J.S. App. A, Pet. App. D) except in unusual circumstances (e.g., when multiple appendices are separately paginated, citations to a specific appendix are necessary). As long as the appendix pages are consecutively or distinctively numbered, it is accurate and helpful to the reader to identify the range of specific page numbers when referring to the particular appendix. Thus:

The court of appeals affirmed. Pet. App. 1a-45a.

NOT:

The court of appeals affirmed. Pet. App. A.

When citing pages from another party’s appendix, eliminate unnecessary hyphens. Thus, even if an appendix is paginated “1-a” or “A-1,” refer to “1a” or “A1.” This will avoid awkward forms (e.g., Pet. App. 1-a to 4-a). It is also acceptable to collapse appendix names and numbering (e.g., Pet. App. B4 rather than Pet. App. B, at 4).

For citation of pages as internal cross-references, see Rule 3.6.

Contrary to Rule 3.3(b), repetitious digits will not be dropped when citing multiple pages and/or footnotes. For example:

88 Harv. L. Rev. 1127, 1130-1136 & nn.106-107

NOT:

88 Harv. L. Rev. 1127, 1130-36 & nn.106-07

“Et seq.” is not used when referring to multiple pages. Rather, “et seq.” is used only when referring to multiple sections or paragraphs. For example:

National Environmental Policy Act of 1969, Pub. L. No. 91-190, 83 Stat. 852

NOT:

National Environmental Policy Act of 1969, Pub. L. No. 91-190, 83 Stat. 852 et seq.

3.2(b)

Footnotes

The OSG style for citing footnotes that span more than one page is the same as that in the Bluebook, but confusion exists concerning its application. Rule 3.2(b) reads (**emphasis added**):

To cite [all of] a footnote that spans more than one page, cite only the page on which the footnote begins, “n.,” and the footnote number[.] * * * When referring only to specific pages of a footnote that spans more than one page, cite only the specific pages, rather than the page on which the footnote begins[.]

When citing a range of pages, as well as a footnote on a page within that range, two choices exist. Either cite the page range followed by an ampersand (&), “n.,” and the footnote number, or cite the page range, followed by the page on which the footnote begins, “n.,” and the footnote number. Examples:

Pet. Br. 3-5 & n.1

OR:

Pet. Br. 3-5, 4 n.1

When a filing has only one footnote in the text, an asterisk (*) is used in lieu of a footnote number. Also, asterisks are used in lieu of footnote numbers in the “Question Presented,” “Parties to the Proceeding,” and signature-block sections. The numeral one (1) will then be used for a single footnote in the text.

3.3 Sections and Paragraphs

Section symbols (§) are not used in citations to the U.S.C. or C.F.R. We will use the section symbol in citations to federal and state session laws and state codes that use section symbols. For example:

42 U.S.C. 2000e

7 C.F.R. 1962.5

Buck Act, ch. 787, § 7, 54 Stat. 1060

Airline Deregulation Act of 1978, Pub. L. No. 95-504,
§ 20(d)(1), 92 Stat. 1722

Act of Apr. 25, 1978, No. 515, § 3, 1978 Ala. Acts 569

Iowa Code § 235A.1 (1994)

Rule 12.4(d) regarding session laws amending prior acts will now be followed. This rule provides that (**emphasis added**):

Session laws amending prior acts are often divided into sections within sections; that is, the session law is divided into primary sections, and these sections, in turn, contain sections of the amended act. Cite the bill's sections by abbreviation (sec.) and the amended act's sections by symbol (§):

Labor-Management Relations Act, ch. 120, sec.
101, § 8(a)(3), 61 Stat. 140-[1]41.

As a general rule, section symbols are not used in text; rather, spell out the word “Section.” An exception to this rule and Rule 12.9.5 occurs when referring to specific sentencing guidelines in accordance with the following examples:

Sentencing Guidelines § 1B1.3 provides that
* * * .

The en banc court of appeals held that **Sentencing Guidelines § 1B1.3** requires * * * .

BUT:

Section 1B1.3 provides * * * .

The en banc court of appeals stated that **Section 1B1.3** should be interpreted as * * * .

When citing an individual paragraph in a source, the written abbreviation (“para.”) should be used when the source itself does not number its paragraphs. When the source uses numbered paragraphs, they may be cited with a paragraph symbol (¶) even if that symbol does not appear next to the numbers in the source (as is commonly the case with Presentence Investigation Reports, pleadings, declarations, affidavits, and orders by administrative agencies).

3.3(b) Multiple Sections and Subsections

We will use “et seq.” in citing multiple sections of statutes or regulations when a precise range of section numbers is not needed for clarity (e.g., Administrative Procedure Act, 5 U.S.C. 551 et seq.). In compilations that use section symbols (§), the symbol should be used twice for “et seq.” citations: “D.C. Code Ann. §§ 36-301 et seq.”

We will not drop digits in citing multiple sections, subsections, or paragraphs (18 U.S.C. 2113, 2114, 2115). We will, however, continue to drop repetitive digits and letters when citing a number of subsections, unless this produces a confusing citation. In addition, we will substitute the word “and” for what would be the comma separating the last two cited subsections. For example:

18 U.S.C. 2113(a) and (d)

18 U.S.C. 2113(a), (b) and (d)

18 U.S.C. 2113(a)-(d)

18 U.S.C. 2113(a)(1) and (d)

18 U.S.C. 1936a-1936d [not: 18 U.S.C. 1936a-d,
which would be confusing]

7 C.F.R. 1980.170(a), (b)(1) and (3)

Multiple paragraphs should be treated like multiple sections.

1 Blue Sky L. Rep. (CCH) ¶¶ 4471-4474

3.4 **Appended Material**

Notwithstanding Rule 3.4, we will continue to use “App.” with a capital “A” in referring to statutory and other appendices.

When citing pages from another party’s appendix, eliminate unnecessary hyphens. For example, even if an appendix is paginated “1-a” or “A-1,” refer to “1a” or “A1.” This will avoid awkward forms (e.g., Pet. App. 1-a to 4-a). It is also acceptable to collapse appendix names and numbering (e.g., Pet. App. B4 rather than Pet. App. B, at 4).

For additional rules on how to cite appendices, see Rules 3.3(a) and 10.8.3.

3.5 **Internal Cross-References**

Despite Rule 3.5, we will continue to cross-reference portions of text and footnotes by placing “supra” or “infra” after the page or note being cross-referenced:

See p. 41, supra.

See note 4, infra.

See also pp. 43-44, supra.

“Page” will generally be abbreviated “p.,” but “note” will be spelled out.

Use the form “App., infra, 1a-5a” or “App., infra” when citing an appendix bound together with the brief it accompanies. For citations to separately bound appendices, use the following form without “infra” (descriptive names, numbers, etc. can be added):

App. 18a

Pet. App. 32a

02-1222 Pet. App. 133

Resp. Exxon App. 12a

4 Short Citation Forms

Short citation forms (e.g., id. at) will usually include “at” preceding the specific page number. However, if what is being referenced is not a page but a section (§) or paragraph (¶), “at” is not used. For example:

Church of Scientology, 506 U.S. at 10

506 U.S. at 11

Id. at 9

Church of Scientology, slip op. 3

Gov’t Br. 26

Id. at 27

Tribe § 26 [a book]

Id. § 27

135 Cong. Rec. at 23,420

4.1 “Id.”

The use of “id. at” and “ibid.” should be limited to instances where the immediately preceding citation refers to the same authority. In other words, if there is an intervening citation to a different authority, then a subsequent citation to a previously cited authority should be cited in full or in an appropriate short form. Note: explanatory parentheticals do not count as intervening citations.

“Id.” and “ibid.” cannot be carried into subsequent paragraphs. A full citation must be recited in each new paragraph.

For purposes of this rule, it should be understood that a mere textual reference to a constitutional, statutory, or regulatory provision, case name, etc., need not be regarded as an intervening citation. For example:

The court of appeals affirmed. **Pet. App. 1a-18a.** **Relying on Smith**, the court upheld the application of Section 201 to this case, **id. at 4a**, and rejected petitioner's challenge under the Due Process Clause, **ibid.**

NOT:

The court of appeals affirmed. **Pet. App. 1a-18a.** **Relying on Smith**, the court upheld the application of Section 201 to this case, **Pet. App. 4a**, and rejected petitioner's challenge under the Due Process Clause, **Pet. App. 4a.**

Sources identified in explanatory parentheticals are ignored for purposes of determining whether to use "id. at" or "ibid." For example:

The court recognized that deference is not owed to an agency's interpretation of a statutory scheme it is charged with administering. **Pet. App. 12a (citing Chevron, 467 U.S. at 843-844).** The court concluded that the agency's construction of Section 201 was a reasonable one. **Id. at 14a.**

NOT:

The court recognized that deference is not owed to an agency's interpretation of a statutory scheme it is charged with administering. **Pet. App. 12a (citing Chevron, 467 U.S. at 843-844).** The court concluded that the agency's construction of Section 201 was a reasonable one. **Pet. App. 14a.**

We will depart from Bluebook Rule 4.1 to the extent that we will use "ibid." when citing the same authority and same page (or section, or paragraph) as in the immediately preceding citation. This rule should not be construed to preclude use of abbreviations such as "Tr.," "Pet.," or "J.A." in consecutive citations. Such abbreviations are convenient and, accordingly, there will normally be no need to replace them with "id. at." Likewise, when an

author or editor wishes for some reason to repeat a complete citation rather than to use “id. at,” it is permissible to do so as long as it is done consistently.

Neither “id. at” nor “ibid.” is used to refer to a source that is part of a citation sentence containing more than one citation unless it is referring to the immediately preceding citation. “Ibid.” can be used to refer to all of the sources identified in a previous citation sentence containing multiple sources, provided that the latter citation also refers to all of the same pages in the prior citations. For example:

Petitioner argued in the court of appeals and the district court that * * * . **Pet. App. 3a; C.A. App. 340.** Petitioner further argued that * * * . **Ibid.**

NOT:

Petitioner argued in the court of appeals and the district court that * * * . **Pet. App. 3a; C.A. App. 340.** Petitioner further argued that * * * . **Id. at 340.**

The Bluebook allows for the use of “id. § X” when citing a different section of the same work cited in the immediately preceding citation. This format (“id.” without the word “at”) may also be used when citing other organized segments (e.g., ch., §, ¶, para., Pt., Subpt., Tbl., Ex., etc.) of a work. This rule, however, shall not be applied to statutory or regulatory sections in the United States Code or C.F.R. For those sources, “id. at” is not an appropriate short form (although “ibid.” is).

4.2 “Supra” and “Hereinafter”

4.2(a) “Supra”

Generally, “supra” is not used. There are two narrow exceptions to this rule: internal cross-references and cases cited to generally.

In most instances, “supra” shall not be used to refer to cases previously cited. However, we will use “supra” when we use the case name without a page citation. A case may be cited in its entirety with its full name and “supra” (e.g., Wuchter v. Pizzutti, supra), but if the case name is long, it is not necessary to repeat it entirely. A previously introduced short cite may be used with supra as well. For example, Valley Forge, supra, would be an ac-

ceptable substitute for Valley Forge Christian College v. Americans United for Separation of Church and State, Inc., supra.

Inclusion of “supra” may also be appropriate if the attorney wishes to ensure that the citation will be noted in the table of authorities (which otherwise does not include page references to cases that are mentioned only textually).

For internal cross-references, see Rule 3.5.

4.2(b) “Hereinafter”

We depart from the Bluebook in that the word “hereinafter” is not used to introduce a short form for an authority that would be cumbersome to cite repeatedly. Instead, a short name will be introduced in parentheses (with-out quotation marks) immediately following the source, and the shortened form shall be in the same typeface as the source. For example:

Proposed Amendments to the Federal Rules of Criminal Procedure: Hearings Before the Subcomm. on Criminal Justice of the House Comm. on the Judiciary, 95th Cong., 1st Sess. 93 (1977) (**Hearings**)

Subsequent references use the defined short form with the appropriate page, section, or paragraph (without the word “at” or “supra”):

Hearings 95

5 Quotations

5.1 Formatting of Quotations

When quoting language that is itself entirely a quotation, do not enclose the quotation in both double (“) and single (‘) quotation marks; double quotation marks alone will do. For example:

In Mead, the Court stated that “[i]f the intent of Congress is clear, that is the end of the matter.” Mead Corp. v. Tilley, 490 U.S. at 722 (quoting Chevron U.S.A. Inc. v. NRDC, Inc., 467 U.S. 837, 842-843 (1987)).

NOT:

In Mead, the Court stated that “[i]f the intent of Congress is clear, that is the end of the matter.” Mead Corp. v. Tilley, 490 U.S. at 722 (quoting Chevron U.S.A. Inc. v. NRDC, Inc., 467 U.S. 837, 842-843 (1987)).

In the first example, it is not necessary to indicate parenthetically “internal quotation marks omitted” in this situation. See Rule 5.3. The office preference is to indicate parenthetically the original sources of “quotes within quotes,” provided the result is unambiguous.

When needed to distinguish quoted material from a quotation of a quotation, however, single and double quotations may be used together for clarity.

In Mead, the Court addressed whether ERISA “requires a plan administrator to pay plan participants unreduced early retirement benefits provided under the plan before residual assets may revert to an employer,” stating that “[i]f the intent of Congress is clear, that is the end of the matter.” Mead Corp. v. Tilley, 490 U.S. at 722 (quoting Chevron U.S.A. Inc. v. Natural Res. Def. Council, 467 U.S. 837, 842-843 (1987)).

We will use double quotation marks (“), not single quotation marks (‘), for material quoted within indented quotations (which do not begin or end with quotation marks). No explanatory parenthetical is needed, nor are any brackets needed to indicate this alteration.

Citations may either precede or follow indented quotations. Citations following an indented quotation are to be aligned with the left margin in the line immediately following the quotation.

5.1(a),
5.1(b)

Quotations of More Than 50 Words; Quotations of 50 or Fewer Words

This office deviates slightly from the Bluebook rule, in that we will follow Supreme Court Rule 33.1(b), which requires quotations in excess of 50 words to be indented. Whether to indent shorter quotations remains a matter of judgment for the author.

5.2

Alterations and Quotations Within Quotations

Alterations to a quotation must be indicated by the use of brackets.

We will use double quotation marks (“), not single quotation marks (‘), for material quoted within indented quotations, which do not begin or end with quotation marks.

Alteration of the emphasis in the original text is indicated in a parenthetical following the quote with either “emphasis added” or “emphasis omitted.” If the emphasis of the original text is not altered, do not indicate in a parenthetical “emphasis in original.” A quotation is presumed to be unaltered unless an alteration is noted.

Any parenthetical that indicates alteration of a quotation contained in a parenthetical should directly follow the quotation and precede any subsequent history. For example:

Campbell v. Fair, 838 F.2d 1, 4 (1st Cir.) (“Mere presence at the scene of the crime, of course, is not evidence of guilt.”) (**emphasis added**), cert. denied, No. 88-3 (Oct. 3, 1988).

NOT:

Campbell v. Fair, 838 F.2d 1, 4 (1st Cir.) (“Mere presence at the scene of the crime, of course, is not evidence of guilt.”), cert. denied, No. 88-3 (Oct. 3, 1988) (**emphasis added**).

Changes in tense or changes to a single word, such as a change from “defendant” to “[petitioner],” are not omissions but substitutions, and need not be indicated with the use of asterisks (* * *). Instead, the substituted word is placed in brackets.

For omissions of citations, footnotes, and internal quotation marks, see Rule 5.3. For structure of the parentheticals, see Rule 1.5.

5.3

Omissions

Notwithstanding Bluebook Rule 5.3 and its endorsement of the ellipsis as a symbol for omissions from quotations, we will continue to use the asterisk form (* * *) that we have used in the past. The use of the asterisks eliminates any problem in determining whether a quoted sentence ends

before or after an omission. However, an ellipsis contained within quoted material should not be translated into asterisks. The ellipsis is the court's, not OSG's, and should not be translated from the court's style into OSG's.

An omission at the end of a quoted sentence should not be indicated by asterisks between the last word quoted and the final punctuation of the sentence quoted.

If language after the end of a quoted sentence is deleted and the sentence is followed by further quotation, retain the punctuation at the end of the sentence and insert asterisks before the remainder of the quotation:

"The need to develop all relevant facts in the adversary system is both fundamental and comprehensive. * * * [I]t is imperative to the function of the courts that compulsory process be available for the production of evidence needed either by the prosecution or by the defense."

If language both at the end and after the end of a quoted sentence is deleted and followed by further quotation, place the final punctuation mark of the quoted sentence in brackets and use only one set of asterisks to indicate both of the omissions:

"The need to develop all relevant facts in the adversary system is * * * **fundamental**[.] * * * [I]t is imperative to the function of the courts that compulsory process be available for the production of evidence needed either by the prosecution or by the defense."

Per Bluebook Rule 5.3, certain omissions need not be indicated by asterisks. For example, omitted citations, footnotes, or internal quotation marks need not be indicated by asterisks; a parenthetical stating "internal citation omitted," "footnote omitted," or "internal quotation marks omitted" suffices. Thus:

"[W]hether the government floods a landowner's property, Pumpelly v. Green Bay Co., 13 Wall. 166 (1872), or does no more than require the landowner to suffer the installation of a cable, Loretto, supra, the Takings Clause requires compensation if the government authorizes a compelled physical

invasion of property.” Yee v. Escondido, 503 U.S. 519, 527 (1992).

can properly be quoted as:

“[W]hether the government floods a landowner’s property, or does no more than require the landowner to suffer the installation of a cable, the Takings Clause requires compensation if the government authorizes a compelled physical invasion of property.” Yee v. Escondido, 503 U.S. 519, 527 (1992) (**internal citations omitted**).

We will not use “footnote omitted” to indicate that a footnote number that follows the last word quoted has been omitted.

We will follow the Bluebook by attributing a quotation within a quotation to the original source. However, if this is not possible, or the attorney does not want to do this, we will use “citation omitted” to indicate that we have not attributed a quotation within a quotation to its original source. We will also use “citation omitted” when we have omitted a citation from quoted material without so indicating by asterisks. Thus, either of the following forms suffices:

Justice White’s dissent in Tarkanian indicated that “the NCAA was ‘jointly engaged with [UNLV] officials in the challenged action,’ and therefore was a state actor.” Slip op. 3 (**citation omitted**).

Justice White’s dissent in Tarkanian indicated that “the NCAA was ‘jointly engaged with [UNLV] officials in the challenged action,’ and therefore was a state actor.” Slip op. 3 (quoting Dennis v. Sparks, 449 U.S. 24, 27-28 (1980)). [**This is the preferred style.**]

For structure of parentheticals, see Rule 1.5.

6 Abbreviations, Numerals, and Symbols

6.1 Abbreviations

Generally, follow the Bluebook’s abbreviations, as set forth in the Tables (**19th edition of the Bluebook**). In text, however, abbreviations are disfavored.

Paralegals should spell out case names in text and abbreviate them in citations. However, it is ultimately the author's decision whether or not to abbreviate words in case names. When a word in a case name is abbreviated, the abbreviations listed in Bluebook T6 govern.

There are four exceptions to this rule as applied to case names:

First, do not abbreviate the first word of a party's name.

Second, abbreviate words to achieve consistency throughout a brief. Once a word in a case name has been abbreviated, that same word is to be abbreviated wherever it appears in any case citation (except when it is the first word in a party's name).

Third, several words always appear as abbreviations in case names: "&", "Ass'n", "Bros.", "Co.", "Corp.", "Inc.", "Int'l", "Ltd.", and "No." For additional rules pertaining to abbreviation of case names, see Rule 10.2.

Fourth, when case names are used textually (in sentences), abbreviations will not be used, except for: "&", "Ass'n", "Bros.", "Co.", "Corp.", "Inc.", "Int'l", "Ltd.", and "No."

Bluebook BT1, at 28-29 (**19th edition of the Bluebook**), sets forth the abbreviations to be followed in court documents.

For business firm designations, follow the **19th edition of the Bluebook**: omit "Inc.," "Ltd.," "L.L.C.," "N.A.," "F.S.B.," and similar terms if the name also contains a word such as "Ass'n," "Bros.," "Co.," "Corp.," or "R.R.," clearly indicating that the party is a business firm. See Rule 10.2.1(h).

Example:

Wisconsin Packing Co. v. Indiana Refrigerator Lines, Inc.

NOT:

Wisconsin Packing Co., Inc. v. Indiana Refrigerator Lines, Inc.

6.2 Numerals and Symbols

6.2(a), 6.2(b) Numerals; Ordinals

Despite Rule 6.2, we will only spell out the numbers from zero through ten (not through 99) and use numerals for larger numbers. We will follow the exceptions to this rule as noted in 6.2(a). For example, round numbers will ordinarily be written out when they are used to indicate approximations; numbers that begin a sentence will always be written out; and numerals will be used where one or more of the numbers in a series exceeds ten. Additionally, numerals will be used in counts of an indictment or complaint (e.g., Count 1).

When referring to dates in text, use numbers, not ordinals. For example, refer to “September 4,” not “September 4th.” The same principle applies in citations, except that in citations the month will be abbreviated as prescribed in Bluebook T12 (e.g., Sept. 4, 1996).

Numbers of five or more digits (including page or paragraph numbers in citations) require commas to separate groups of three digits. Thus, cite “40 Fed. Reg. 56,895”, not “40 Fed. Reg. 56895.” Do not use commas in four-digit numbers. **Exception:** U.S. Senate or House bill numbers of five digits or more (e.g., H.R. 11267) do not take commas.

When ordinals are used (e.g., when indicating which circuit decided a case in a citation), follow the Bluebook and refer to “2d” and “3d,” rather than “2nd” and “3rd.”

Refer to particular hours of the day as follows:

9 a.m.

NOT: 9:00 am.

6.2(c) Section (§) and Paragraph (¶) Symbols

Section symbols (§) are not used in citations to the U.S.C. or C.F.R. However, use the section symbol when citing federal and state session laws and state codes that use section symbols. For example:

42 U.S.C. 2000e

7 C.F.R. 1962.5

Buck Act, ch. 787, § 7, 54 Stat. 1060

Airline Deregulation Act of 1978, Pub. L. No. 95-504,
§ 20(d)(1), 92 Stat. 1722

Act of Apr. 25, 1978, No. 515, § 3, 1978 Ala. Acts
569

Iowa Code § 235A.1 (1994)

Rule 12.4(d) regarding session laws amending prior acts will now be followed. This rule provides that:

Session laws amending prior acts are often divided into sections within sections; that is, the session law is divided into primary sections, and these sections, in turn, contain sections of the amended act. Cite the bill's sections by abbreviation (sec.) and the amended act's sections by symbol (§):

Labor-Management Relations Act, ch. 120, sec.
101, § 8(a)(3), 61 Stat. 140-141.

As a general rule, section symbols are not used in text; rather, spell out the word "section." An exception to this rule occurs when referring to specific sentencing guidelines in accordance with the following examples:

Sentencing Guidelines § 1B1.3 provides that
* * * .

The en banc court of appeals held that **Sentencing Guidelines § 1B1.3** requires * * * .

BUT:

Section 1B1.3 provides * * * .

The en banc court of appeals stated that **Section 1B1.3** should be interpreted as * * * .

6.2(d) Dollar (\$) and Percent (%) Symbols

When referring to large amounts of money, do not use the pure words or pure numbers forms in Bluebook Rule 6.2(d). Rather, use the form "\$65 million." Generally, round off large sums; in any event, refer to even dollars as \$5, not \$5.00.

7 Italicization for Style and in Unique Circumstances

7(b) Foreign Words and Phrases

Despite the strong presumption of Bluebook Rule 7(b) against italicizing Latin words and phrases, we will continue to italicize a fortiori, e.g., et seq., i.e., infra, inter alia, passim, sic, sub nom., and supra. In addition, because the Court itself usually italicizes Latin phrases, the italicization of such phrases will generally be up to the individual author's preference and should not be altered by paralegals. A few phrases, however, are used so frequently in legal writing and have become so incorporated into English usage that we will not italicize them. These are certiorari, mandamus, habeas, per se, pro se, ad hoc, and status quo. Similarly, we will not italicize the phrase "en banc" (or its variant "in banc"), "per curiam," or "mens rea."

The lowercase letters "l" and "o" will be italicized when used as a subsection. For example:

42 U.S.C. 2000e-2(*l*)

42 U.S.C. 2000e-2(*o*)

8 Capitalization

In addition to the notes below, Bluepages B7.3, with its rules on capitalization concerning court documents, party designations, and courts, provides further assistance on capitalization. For other words, use the table of capitalizations in the U.S. Government Printing Office Style Manual (2008), located at <http://www.gpo.gov/fdsys/pkg/GPO-STYLEMANUAL-2008/pdf/GPO-STYLEMANUAL-2008.pdf>.

Appendix Refer to appendices, statutory and otherwise, as "App." with a capital "A."

Chapter,
Subchapter The words "Chapter" and "Subchapter," when referring to regulations, legislative materials, or other materials, will be abbreviated "Ch." and "Subchap." and capitalized. However, when citing session laws from the U.S. Statutes at Large, references to chapter numbers will be abbreviated "ch." and not capitalized (e.g., White-Slave Traffic (Mann) Act, ch. 395, 36 Stat. 825). See Bluebook Rule 12.4.

Constitution Despite Rule 8, references to part of a constitution (federal, state, or foreign) will be capitalized in both text and citations. For example, we will refer in text to the Fifth Amendment and to Article III courts. Rule 11 will be followed in citations, except that the parts are to be capitalized (e.g., U.S. Const. Art. I, § 8, Cl. 5).

Government When referring to the federal government as a party, do not capitalize the word “government.”

Judge,
Justice “Judge” or “Justice” is capitalized only when referring to a Justice or Justices of the Supreme Court of the United States, or when referring to any judge by name. For example:

The case was argued before a panel of three **judges**. In his opinion, **Judge** Posner wrote * * * .

The case was argued before eight **Justices**.

In addition, even though “ALJ” is a commonly used abbreviation, refer to the “administrative law judge,” without capital letters.

Section,
Subsection The words “Section,” “Subsection,” and “Rule,” when referring to statutes and rules of procedure, evidence, bankruptcy, etc., will be capitalized. So will “Act,” whether or not it refers to a specific statute.

Part,
Subpart,
itle,
Subtitle The words “Part” and “Subpart,” when referring to regulations, legislative materials, or other materials will be capitalized. They will be abbreviated in citations as “Pt.” and “Subpt.” “Title” and “Subtitle,” when referring to regulations, legislative materials, or other materials, will be capitalized and will be abbreviated in citations as “Tit.” and “Subtit.”

State,
Nation,
Executive

Capitalize “State(s)” and “Nation” whenever they are used as nouns to refer to one or more of the States or the United States, respectively. Do not capitalize “state” or “national” when used as an adjective, unless it is part of a proper name. Thus, “the State Commissioner,” “the National Guard,” “the state interest,” and “the State argued in the court of appeals” are proper applications of the capitalization rule. Similarly, capitalize “Executive” only when used as a noun, not as an adjective. Likewise, do not capitalize “federal” or “congressional” unless part of a proper name. For example:

The Senate Report clearly indicated the **congressional** intent.

The Senator’s statements were not floor statements, but extensions of remarks placed in the Congressional Record.

Ship names,
Aircraft,
etc.

Use italics with an initial capital letter for the names for the names of ships and aircraft but do not place but do not place preceding names or abbreviations in italics. For example:

the Millennium Falcon

USS Enterprise

9 Titles of Judges, Officials, and Terms of Court

See Rule 8 regarding capitalization of “judge” or “justice.”

10 Cases

For short citations to cases, clarity and ease in locating a full citation are the governing principles. There are instances in which a full citation is required or preferred. A full citation must be used the first time a case is cited in the brief. If a case is cited for the first time in a footnote, however, the source

must be cited in full both in the footnote and where it first appears in the text.²

Although attorney preference and space constraints may dictate otherwise, it is preferred that a case be cited in full the first time it is cited in the statement of interest, statement, summary of argument, and argument/discussion sections of the brief. Subsequent citations within the same section may take a short form.

“Id. at” and “ibid.” are not to be used when there is an intervening citation (see Rule 4.1).

10.1 Basic Citation Forms

10.2 Case Names

10.2.1(a) Actions and Parties Cited

Identifying phrases and party names that appear in the official caption should be appended in parentheses after the formal case name, but before the citation. Alternative designations assigned by OSG should be appended in a parenthetical following the citation:

Angelo v. United States, [citation] (Angelo II)

Area Rate Proceedings (Opinion No. 468), [citation]

Hart v. Roth (In re Campisano), [citation]

ILGWU v. NLRB (Bernhard-Altman Texas Corp.),
[citation]

National Coalition for Public Education &
Religious Liberty (PEARL)[acronym for party's
name] v. Harris, [citation]

² There is one narrow exception to this rule. An attorney may have used a citation that is unusually lengthy in a footnote, but he or she does not want to repeat the full citation the first time it is used in the text (e.g., a case with a complex extended history). In such instances, these examples can be followed:

See Jones v. United States, supra note 4, 697 F.2d at 1197.

See Hearings, supra note 7, at 16.

10.2.1(b) Procedural Phrases

Despite Rule 10.2.1(b), we will generally omit “ex rel.” and the name of the relator when including that information is cumbersome and unnecessary. Thus, use Block v. North Dakota, 461 U.S. 273 (1983), not Block v. North Dakota ex rel. Board of Univ. and Sch. Lands, 461 U.S. 273 (1983). This rule does not mean that ex rel. should always be eliminated; some cases are well known by a name that includes ex rel. (e.g., United States ex rel. Marcus v. Hess, 317 U.S. 537 (1943)). Generally, the attorney has discretion whether or not to include ex rel., and that choice should not be altered by the paralegals.

10.2.1(c) Abbreviations

Paralegals routinely abbreviate case names in citations. However, it is ultimately the attorney’s decision whether or not to abbreviate words in case names. When a word in a case name is abbreviated, the abbreviations listed in Bluebook T6 will govern.

There are four exceptions to this rule. First, paralegals will abbreviate words to achieve consistency throughout a brief. Once a word in a case name has been abbreviated, that same word is to be abbreviated wherever it appears in any case citation (unless it is the first word in a party’s name, including the first word after “In re” or “Ex rel.”).

Second, there are several words that will always appear as abbreviations in case names: “&,” “Ass’n,” “Bros.,” “Co.,” “Corp.,” “Inc.,” “Int’l,” “Ltd.,” and “No.” For additional rules pertaining to abbreviation of case names, see Rule 10.2.

Third, when case names are used in text (in sentences), abbreviations will not be used, except for “&,” “Ass’n,” “Bros.,” “Co.,” “Corp.,” “Inc.,” “Int’l,” “Ltd.,” and “No.”

Fourth, do not abbreviate the first word of a party’s name, including the first word after “In re” or “Ex rel.”

10.2.1(f) Geographical Terms

Rule 10.2.1(f), which prohibits the use of “State of,” “Commonwealth of,” and “People of” in case citations except when citing decisions of the courts of that particular state, is limited to cases where the proper name of a party includes one of those three descriptive terms. In those situations, the prepositional

phrase “of . . . ” is omitted. Thus, where the Commonwealth of Pennsylvania is a party in a Pennsylvania state court, the proper citation would be:

Commonwealth v. Thomas, 506 A.2d 420 (Pa. Super. Ct. 1986)

BUT:

Abu-Jamal v. Pennsylvania, 555 U.S. 916 (2008)

In Virgin Islands cases, we will follow the common practice of using “Government of the Virgin Islands,” rather than eliminating “Government of.” Thus: Government of the Virgin Islands v. Hoheb, 777 F.2d 138 (3d Cir. 1985).

However, where a party to the litigation is a city or other governmental entity of lesser consequence than a State (e.g., City of, Town of, County of, Village of, Township of” or Hamlet of), the descriptive term is omitted unless the expression begins a party name. Accordingly, in cases in which New York is a party, regardless of the court the action is being prosecuted in, the proper citation would be:

Clinton v. City of New York, 524 U.S. 417 (1998)

Omit prepositional phrases of location not following “City” or similar expressions, unless the omission would leave only one word in the name of the party, or unless the name of the party is a corporate name. Include designations of national or larger geographical areas (NOTE: state geographical areas are smaller than national geographical areas), except in union names, but omit “of America” after “United States”. For example:

Kiley v. First Nat’l Bank

Wilder v. City of Richmond

Smilecare Dental Grp. v. Delta Dental Plan of Cal. Inc. [state is part of incorporated name]

NOT:

Kiley v. First Nat’l Bank of Maryland

Wilder v. City of Richmond, Virginia

Smilecare Dental Grp. v. Delta Dental Plan

Be aware that in some cultures, a person’s “last” name may comprise more than one word. For example:

Alvarez-Alvarez v. United States

Garcia y Garcia v. United States

10.3 Reporters and Other Sources

10.3.1 Parallel Citations and Which Source(s) to Cite

Generally, parallel citations will be avoided.

For cases not yet appearing in the U.S. Reports, cite the Supreme Court Reporter, but avoid reference to the Lawyers Edition and United States Law Week. For cases not yet appearing in the Supreme Court Reporter, cite the slip opinion. Parallel citations for state court cases are not required. Citations to an official state reporter should be made only where there is no parallel citation to the regional reporter. For California and New York state cases, cite the regional reporters (California—P., P.2d, P.3d; New York—N.E., N.E.2d); if cases are unavailable in those reporters, then cite West’s state reporters (California—Cal. Rptr., Cal. Rptr. 2d, Cal. Rptr. 3d; New York—N.Y.S., N.Y.S.2d).

10.4 Court and Jurisdiction

Although Rule 10.4 generally provides that “[e]very case citation must indicate which court decided the case,” this rule is altered when the surrounding text clearly indicates which court authored the cited opinion:

The Second Circuit recently held * * * .
British Am. Commodity Options Corp. v. Bagley, 552
F.2d 482 (1977).

BUT:

At least one court has held * * * . British Am.
Commodity Options Corp. v. Bagley, 552 F.2d 482 (2d
Cir. 1977).

If there are several dispositions within a single case by the same court, the court designation needs to be repeated (see example in Rule 10.7.1(a)). For example:

Mata v. Johnson, 99 F.3d 1261 (5th Cir. 1996), vacated in part on reh'g, No. 96-20218, 1997 WL 27052 (5th Cir. Jan. 23, 1997)

NOT:

Mata v. Johnson, 99 F.3d 1261 (1996), vacated in part on reh'g, No. 96-20218, 1997 WL 27052 (5th Cir. Jan. 23, 1997)

10.4(a) Federal Courts

In indicating the court of appeals circuit in a case citation's parenthetical, we will follow the Bluebook and refer to "2d" and "3d" rather than "2nd" and "3rd."

10.4(b) State Courts

When citing state court decisions in regional reporters, include the state name in the court parenthetical even if it duplicates information provided elsewhere within the citation (e.g., Jones v. Smith, 540 P.2d (Mo. Ct. App. 1987), aff'd, 542 P.2d 1 (Mo. 1988)).

10.5 Date or Year

It is not necessary to include a date in the case citation if the surrounding text clearly indicates the date:

In 1977, the Second Circuit held * * *.
British Am. Commodity Options Corp. v. Bagley, 552 F.2d 482.

NOT:

In 1977, the Second Circuit held * * *.
British Am. Commodity Options Corp. v. Bagley, 552 F.2d 482 (2d Cir. 1977)

If there are several dispositions within a single case in the same year, include the year only for the last disposition in that year. For example:

Grimmett v. Brown, 75 F.3d 506 (9th Cir.), cert. granted, 116 S. Ct. 2512 (1996), cert. dismissed, 117 S. Ct. 759 (1997)

NOT:

Grimmett v. Brown, 75 F.3d 506 (9th Cir. 1996), cert. granted, 116 S. Ct. 2512 (1996), cert. dismissed, 117 S. Ct. 759 (1997)

Nineteenth-century Supreme Court opinions (from 2 Dall. through 107 U.S.) are often misdated in the United State Reports; paralegals should refer to the Supreme Court's website for the most accurate information. See Anne Ashmore, Dates of Supreme Court Decisions and Arguments (Aug. 2006) <http://www.supremecourt.gov/opinions/datesofdecisions.pdf>.

10.5(c) Pending Cases and Cases Dismissed Without Opinion

Dates of significant activity in pending cases (e.g., filings, arguments, argument scheduled, etc.) can be noted in parentheses following the case citation. For example:

(a) for a case in which a petition for a writ of certiorari or jurisdictional statement has been filed but not acted on: Smith v. Prisco, petition for cert. pending, No. 88-1039 (**filed Nov. 10, 1988**). United States v. Sperry Corp., appeal pending, No. 88-952 (**docketed Oct. 4, 1987**);

[The term "docketed" is used instead of "filed" when discussing the filing of a jurisdictional statement. Prior to the docketing of the J.S., a Notice of Appeal has been "filed" in the lower court notifying that court that its decision is being appealed. This does not occur with petitions, since petitions are filed directly with the Court.]

(b) for a case in which a petition for a writ of certiorari has been granted or probable jurisdiction noted, but that has not yet been argued: Browning Ferris Indus. v. Kelco Disposal, Inc., **cert. granted**, No. 88-556 (Dec. 5, 1988); United States v. Halper, **probable jurisdiction noted**, No. 87-1383 (June 3, 1988);

(c) for a case in which argument has been scheduled, Suitam v. Tahoe Reg'l Planning, cert. granted, No. 96-243 (**oral argument scheduled for Feb. 26, 1997**); and

(d) for an argued case awaiting decision, Mesa v. California, No. 87-1206 (**argued Dec. 6, 1988**); Jones v. Smith, No. 95-12345 (**9th Cir. argued June 1, 1996**).

Note that not all information about pending cases is included in the table of authorities (TOA). Dates of significant activity are never listed in the TOA; the dates are considered to be parenthetical information (which is not included in a TOA). If an opinion is cited from a case which is still pending, the case is included in the TOA, along with the appropriate subsequent history of that opinion (without dates for portions of the subsequent history that are still pending). For appropriate explanatory phrases of subsequent history, see Bluebook T9.

In citing pending or unreported cases with multiple parties or numbers, only cite the docket number pertaining to the case name listed in the caption; never use “et al.”, “et seq.”, or “etc.” to refer to the other parties or numbers. For example:

Shelly v. Kraemer, No. 83-592

NOT:

Shelly v. Kraemer, et al., Nos. 83-592 & 83-677

NOT:

Shelly v. Kraemer, Nos. 83-592 et al.

10.6 Parenthetical Information Regarding Cases

Parenthetical information about a case should follow directly after the citation for that case, before any citation for prior or subsequent history.

Plurality opinions, as well as other opinions that are not the single, clear holding of the majority, must be indicated parenthetically. For a Supreme Court decision, if the top of the page of the United States Reports is annotated “Opinion of XXXX, J.,” there is a very good possibility that it is a plurality opinion.³

³ The attached guidelines (Attachment 1, p. 64, infra), supplied by the Reporter of Decisions of the

Unless already indicated textually, we will always include the following parenthetical information, if applicable:

(opinion of XXXX, J.) [for plurality opinions]

(XXXX, J., concurring)

(XXXX, J., concurring in the judgment)

(XXXX, J., dissenting)

(XXXX, J., concurring in part and dissenting in part)

(XXXX, J., in chambers) [NOT: (XXXX, J., Circuit Justice)]

(joint opinion of XXXX and XXXX, JJ.)

(per curiam) [for Supreme Court decisions; use of "per curiam" is discretionary for all other courts]

An opinion in a decision in which the result is unclear or complicated (e.g., concurring in part and concurring in part in the result) may be cited as it is noted at the top of the page of the United States Reports to conserve space or minimize word count. (This form should only be used where necessary and not as a replacement for the above-mentioned forms). Thus:

(opinion of XXXX, J.)

10.7 **Prior and Subsequent History**

Denials of certiorari by the Supreme Court should usually be noted; however, we generally do not note when the Court denies rehearing.

Subsequent history does not include negative indirect history (e.g., superseded by statute as stated in, disapproved of by, etc.); however, paralegals should bring relevant indirect negative history to the attention of the assistant revising the brief.

For further information on how to structure case histories, see Rule 1.5.

10.7.1 **Explanatory Phrases and Weight of Authority**

Supreme Court, should be used in determining if an opinion is a plurality opinion.

Do not italicize words and abbreviations used to describe the history of a given case (e.g., cert. denied, aff'd, rev'd).

If a cited case was reversed on other grounds, this fact should be indicated in the explanatory phrase.

10.7.1(d) Multiple Dispositions

Often, there will be multiple dispositions by the same court for the same case. See the following “fictional” examples:

Jones v. Smith, 100 F.3d XXX (5th Cir), **cert. denied**, **502 U.S. 226**, and **502 U.S. 227 (1992)** [multiple denials of cert. in the same year and same volume of U.S.]

Jones v. Smith, 100 F.3d XXX (5th Cir), **cert. denied**, **502 U.S. 226 (1992)** [denial of cert. in the same year]

Jones v. Smith, 100 F.3d XXX (5th Cir), **cert. denied**, **502 U.S. 226**, **502 U.S. 238** and **503 U.S. 300 (1992)** [multiple denials of cert. in the same year but in different volumes of U.S.]

Jones v. Smith, 100 F.3d XXX (5th Cir), **cert. denied**, **502 U.S. 226**, and **cert. dismissed**, **503 U.S. 300 (1992)** [denial of cert. and dismissal of cert. in same year]

Jones v. Smith, 100 F.3d XXX (5th Cir), **cert. denied**, **502 U.S. 226 (1992)**, **aff'd**, **505 U.S. 200 (1993)** [denial of cert., then subsequent affirmance in different years]

10.7.2 Different Case Name on Appeal

The use of sub nom. is governed by Rule 10.7.2. This rule provides (emphasis added):

When the name of a case differs in [prior or] subsequent history, the new name must be given[.]
* * * Do not provide a [new] case name[, however,]
(i) when the parties' names are merely reversed; (ii) when the citation in which the difference occurs is to a denial of certiorari or rehearing[, or] (iii)

when, in the appeal of an administrative action, the name of the private party remains the same[.]

When the name of the administrative officer of an administrative agency changes, this is merely a change in the name of the public party and would not warrant the use of sub nom. to indicate the change of name under this rule.

10.8 Special Citation Forms

10.8.1 Pending and Unreported Cases

10.8.1(a) Cases Available on Electronic Media

It is preferred that parallel citations to electronic databases be included when citing **non-Supreme Court** slip opinions. For decisions that are unpublished or yet to be reported, an electronic database citation, if available, should be included. For example:

Smith v. Ashcroft, No. 02-7079, 2003 WL 21206 (9th Cir. May 20, 2003), **slip op. 3** [**slip op. citation**]

Smith v. Ashcroft, No. 02-7079, **2003 WL 21206, at *3** (9th Cir. May 20, 2003) [**electronic form citation**]

Tate v. Clover, No. 02-1444, **2003 WL 92222 (D. Md. May 1, 2003) (241 F. Supp. 2d 699)** [**by attorney request only**]

For more information concerning electronic media citations, see Rule 10.8.1(a).

10.8.1(b) Cases Available in Slip Opinions

We will follow the Bluebook in citing slip opinions with several exceptions: (1) we will continue to place the slip opinion page citation (but not the database page citation) after the date; (2) we will omit the word “at” when giving slip opinion page citations (but not when giving electronic database page citations) in both full and short citations; (3) the electronic database citations may be included, if available; and (4) page citations can be to either the slip opinion or the electronic database, but not both. Furthermore, the choice of citation (database or slip opinion) should be consistent throughout the brief. A typical **Supreme Court** citation will read as follows:

Babbitt v. Youpee, No. 95-1595 (Jan. 21, 1997), slip op. 3 [standard citation style]

BUT [if attorney requires electronic citations]:

Babbitt v. Youpee, No. 95-1595, 1997 WL 17839, at *3 (Jan. 21, 1997) [must include electronic page number]

For **non-Supreme Court** slip opinions, use the same format but indicate the court in the parenthetical before the date:

Clark v. Homrighous, No. CIV.A.90-1380-T, 1991 WL 55402, at *3 (D. Kan. Apr. 10, 1991)

In citing a recent certiorari denial that is not yet in the Supreme Court Reporter, use the following format:

Tyrues v. Shinseki, cert. denied, No. 13-813 (Apr. 7, 2014)

In citing an unreported original case, use the following style:

Maine v. New York, **No. 94, Orig.** (May 15, 1985)

In citing pending or unreported cases with multiple parties or numbers, only cite the docket number pertaining to the case name listed in the caption; never use “et al.,” “et seq.,” or “etc.” to refer to the other parties or numbers. For example:

Shelly v. Kraemer, **No. 83-592**

NOT:

Shelly v. Kraemer et al., **Nos. 83-592 & 83-677**

NOT:

Shelly v. Kraemer, **Nos. 83-592 et al.**

When citing slip opinions, follow the Court’s own style in case numbering, but abbreviate “civil” and “criminal” as follows:

Jones v. United States, No. 77 Civ. 1782

Smith v. United States, Crim. No. 84-1339

NOT:

Jones v. United States, No. 77 Civil Action 1782

Smith v. United States, Criminal No. 84-1339

In citations, abbreviate case number information wherever possible and eliminate unnecessary words.

See Rule 10.5(c) for further instructions on how to cite pending cases.

10.8.1(c) Other Pending and Unreported Cases

A case published in the Federal Appendix is considered to be an unreported opinion.

10.8.2 Fifth Circuit Split

We will not cite Fifth Circuit decisions rendered in 1981 by month, nor will we distinguish between Units A and B of the former Fifth Circuit.

10.8.3 Briefs, Court Filings, and Transcripts

Citations to court filings (unlike textual references to court filings) are abbreviated. Thus: J.S. (jurisdictional statement), Mot. to Affirm. (motion to affirm), Pet. (petition), or Br. in Opp. (brief in opposition). Use “Pet. Br.” and “Resp. Br.” to refer to briefs for non-government parties, “Gov’t Br.” to refer to briefs on behalf of federal officials or agencies, and “U.S. Br.” to refer to briefs for the United States. Spell out “Appellant’s,” “Appellee’s,” and “Reply,” as well as other identifying adjectives that would create confusion if abbreviated.

In general, any pleading filed in the court of appeals can be cited by adding C.A. to the appropriate abbreviation (e.g., Jones C.A. Br., Resp. C.A. Br., Pet. C.A. Br.). To prevent confusion when citing briefs for the United States filed in courts of appeals, avoid the form “U.S. C.A. Br.” and use instead “Gov’t C.A. Br.” No footnoted explanations are necessary for any of these conventions.

Use “App.” to refer to an appendix that is bound together with the document or filing that it accompanies (e.g., Pet. App.). When there is more than one appendix or when there are citations to appendices from the Fifth, Ninth or Eleventh Circuits, follow the following examples:

Appellant’s App.

Appellee’s App.

Gov’t C.A. App. [United States appendix or appendix for an agency]

83-1844 C.A. App. [multiple case number appendix]

Jones C.A. App. [multiple party appendix]

C.A. E.R. [Excerpts of Record, Ninth Circuit]

C.A. R.E. [Record Excerpts, Fifth and Eleventh Circuits]

When a brief contains multiple appendices, do not cite a specific appendix (e.g., J.S. App. A, Pet. App. D) except in unusual circumstances (e.g., for multiple appendices that are separately numbered, citation to a specific appendix is necessary). As long as the appendix pages are consecutively or distinctively numbered, it is accurate and helpful to the reader to cite the range of specific page numbers when referring to a particular appendix. Thus:

The court of appeals affirmed. Pet. App. 1a-45a.

NOT:

The court of appeals affirmed. Pet. App. A.

Use the form “App., infra, 1a-5a” or “App., infra” when referring to an appendix bound together with the brief in which the citation appears.

When citing particular pages in the record or transcript, use the abbreviation “R.” or “Tr.” When a multivolume record or a multivolume transcript is not paginated consecutively, use the appropriate one of the following forms to refer to particular transcript or record pages.

5 Tr. 322

4 R. 68

Exhibits are cited as “Ex.,” “U.S. Ex.,” “GX,” “PX,” or “DX.”

It often will not be sufficient to use one of the above conventions without supplying additional information when citing court filings. Examples of such situations are citations to court documents filed in consolidated cases or cases in which multiple petitions or amicus briefs have been filed. In such situations, place the additional identifying information before the abbreviated name of the court filing. For example:

77-1401 Pet. 23-29 [docket number]

Smith Pet. 14 [petitioner’s name]

Jones J.S. App. 15a [appellant’s or appellee’s name]

ACLU Amicus Br. [name of amicus]

When introducing page references in citations to court documents related to the instant case at any level, do not use “at” (e.g., Pet. 5; Br. in Opp. 14; J.S. 12; Gov’t C.A. Br. 3; Mem. of Points and Authorities 9). Occasionally, authors will cite court filings that are not part of the instant case. These citations differ from the citations to court filings in the instant case in several ways: They should (a) include “at” after the abbreviated court filing title and before the page number, (b) include a case citation after the cited source, and (c) parenthetically include the docket number if the opinion has been reported. For example:

Gov’t Br. at 9, Polsby v. Shalala, 113 S. Ct. 1940 (1993) (No. 92-966)

U.S. Br. at 9, United States v. MacDonald, No. 80-1582 (Mar. 31, 1982)

As discussed in our brief (at 9), Polsby v. Shalala, 113 S. Ct. 1940 (1993) (No. 92-966)

For subsequent citations to court documents not related to the instant case, “supra” can be used in place of the case citation:

Gov’t Br. at 10, Polsby, supra (No. 92-966)

No footnoted explanations are necessary for any of these conventions. For capitalization of citations to court documents, see Bluepages B7.3. For more information concerning citations to court filings, see Rule 8. For information on how to structure the citation, see Rule 1.

10.9 Short Forms for Cases

As discussed in Rule 4.2(a), generally “supra” is not used to refer to cases previously cited. However, “supra” will be used when citing the case name without page citation. An entire case may be cited with the use of “supra” (e.g., Wuchter v. Pizzutti, supra), but “supra” may also be used with an established short form for a case name. For example, Valley Forge, supra, could be used in place of Valley Forge Christian College v. Americans United for Separation of Church & State, Inc., supra.

A short form of citation can include either one or both parties in the caption, as Rule 10.9 indicates. Thus, both United States v. Calandra, 414 U.S. at 343, and Calandra, 414 U.S. at 343, are good short forms.

Even when a short form for a case name adopts the first word or words of a party’s name, the short form should still be formally established with a parenthetical. Thus:

Goodyear Dunlap Tires Operations, S.A. v. Brown, 131 S. Ct. 2846 (2011) (Goodyear).

NOT:

Goodyear Dunlap Tires Operations, S.A. v. Brown, 131 S. Ct. 2846 (2011). * * * Goodyear, 131 S. Ct. at 2851.

Short citations to slip opinions (as opposed to electronic databases) do not use the word “at” before the page citation. For example:

Carlucci, slip op. 10 [slip opinion]

BUT:

Clark, 1991 WL 5088, at *2 [electronic database]

Constitutions, Statutes, and Legislative, Administrative, and Executive Materials

11 Constitutions

As discussed in Rule 8, references to part of a constitution (federal, state, or foreign) will be capitalized in both text and citations. In text, refer to the “Fifth Amendment” and “Article III.” Follow Bluebook Rule 11 in structuring citations to constitutions (e.g., U.S. Const. Amend. XIV, § 2).

In accordance with Rule 11, there is no comma dividing “U.S. Const.” and the first subdivision in the citation. Thus:

U.S. Const. Art. I, § 9

NOT:

U.S. Const., Art. I, § 9.

12 Statutes

12.3 Current Official and Unofficial Codes

For federal statutes, cite only the United States Code and not unofficial codes (U.S.C.A. or U.S.C.S.). If the relevant section is not yet in the United States Code, cite the Statutes at Large.

Statutes in the United States Code will be cited without section symbols (§). We will, however, continue to use section symbols in citations to the Statutes at Large, state session laws, and state codes that themselves use the symbol.

12.3.1 Additional Information

12.3.1(a) Name and Original Section Number

Abbreviations and popular or shortened names should be appended in parentheses as follows:

Federal Pesticide Act of 1978 (1978 Amendments)

Labor Management Relations (Taft-Hartley) Act

Longshoremen’s and Harbor Worker’s Compensation Act
(Longshoremen’s Act)

Sherman Act (the Act)

Financial Institutions Reform, Recovery, and
Enforcement Act of 1989 (FIRREA)

12.3.1(e) **Supplements**

When citing the United States Code, include a date only for clarity or if the cited section derives from a supplement or from an edition other than the most recent full edition of the Code. When an entire act is cited by the use of “et seq.”, do not include a date even if portions of the act are contained in more recent supplements. For example:

Immigration and Nationality Act, 8 U.S.C. 1101
et seq.

NOT:

Immigration and Nationality Act, 8 U.S.C. 1101
et seq. (2006 & Supp. V 2011)

When citing material in federal and state statutes, cite pocket parts and bound supplements as “Supp.” (Retain all other normal identifying words.) For example:

Mo. Ann. Stat. § 514.140 (West Supp. 1984)

NOT:

Mo. Ann. Stat. § 514.140 (West Cum. Pocket Pt. 1984)

12.3.2 **Year of Code**

United States Code sections will be cited without dates when the statute appears in the most recent full compilation of the United States Code. Currently, the most recent full compilation of the United States Code is the 2006 edition. Even though Supplements I-V and portions of the 2012 United States Code have been published, a citation without a date still refers to the 2006 edition.

When citing years for state statutes (which we do for all such citations), include the year and whether the statute appears in a supplement, but not

the fact that the supplement is a replacement volume, a revised volume, or a reissued volume. For example:

Ind. Code Ann. § 31-1-7-3 (Michie 1980)

S.D. Codified Laws Ann. § 5-11-6 (Michie 1980)

Neb. Rev. Stat. § 33-116 (1978)

NOT:

Ind. Code Ann. § 31-1-7-3 (Michie repl. 1980)

S.D. Codified Laws Ann. § 5-11-6 (rev. 1980)

Neb. Rev. Stat. § 33-116 (1943 reissued 1978)

12.4 Session Laws

Sections will be cited with section symbols (§) in citations to the Statutes at Large, state session laws, and state codes that themselves use the symbol. For example:

Buck Act, ch. 787, § 7, 54 Stat. 1060

Airline Deregulation Act of 1978, Pub. L. No. 95-504,
§ 20(d)(1), 92 Stat. 1722

12.4(a) Name

Append abbreviations, popular names, or shortened names in parentheses as follows:

Federal Pesticide Act of 1978 (1978 Amendments)

Labor Management Relations (Taft-Hartley) Act
Longshoremen's and Harbor Worker's Compensation
Act (Longshoremen's Act)

Sherman Act (the Act)

12.4(b) Volume

Despite Bluebook Rule 12.4(c), do not give the page of the Statutes at Large on which an Act begins when citing only part of that Act:

National Environmental Policy Act of 1969, Pub. L. No. 91-190, § 102, 83 Stat. 853-854

NOT:

National Environmental Policy Act of 1969, Pub. L. No. 91-190, § 102, 83 Stat. 852, 853-854

However, when citing an entire Act (or treaty), give the page on which the Act or treaty begins. Do not follow that page number with et seq., for the reason stated in Rule 3.3(b).

12.4(d) Session Laws Amending Prior Acts

Session laws amending prior acts are often divided into sections within sections; that is, the session law itself is divided into primary sections, and these sections, in turn, contain sections of the amended act. Cite the session law's sections with the abbreviation "sec." and the amended act's sections with the symbol "§":

Labor-Management Relations Act, ch. 120, sec. 101, § 8(a)(3), 61 Stat. 140-141

If the codification information is known, it can be included parenthetically ("to be codified at xx U.S.C. xxx"). However, any "to be codified at" parenthetical is not part of the formal citation; it is merely optional supplemental information.

12.4(e) Year or Date

Acts or sections in the Statutes at Large may be cited with or without dates, although **the preference is to cite without a date.** Even if the author's preference is to include dates, omit the date parenthetical when the year of enactment is clear from the name of the statute.

12.4(f) Codification Information

If a cited session law provision has been codified, give the codified version parenthetically. However, do not indicate that the section is "codified at"; it can be assumed that this is where the provision is codified. If the provision has not yet been codified but the code location is known, it is appropriate to indicate parenthetically "to be codified at."

12.5 **Electronic Media and Online Sources**

When states and municipalities only publish their official statutes or ordinances online, the online source may be directly cited.

12.7 **Invalidation, Repeal, Amendment, and Prior History**

12.7.3 **Amendment**

The Bluebook mandates that subsequent amendments to a statute be noted parenthetically. OSG style does not so mandate, but makes including this information optional.

12.9 **Special Citation Forms**

12.9.1 **Internal Revenue Code**

References in text to the Internal Revenue Code will be to 26 U.S.C.; therefore, do not include section symbols (§) when citing Internal Revenue Code sections in the brief. However, include section symbols with citations to the Internal Revenue Code (I.R.C.) in the **table of authorities and give appropriate citations to 26 U.S.C. parenthetically.**

12.9.3 **Rules of Evidence and Procedure**

The abbreviations in Rule 12.9.3 for rules of evidence and procedure are the appropriate abbreviations to use in citations. In text, rules of evidence and procedure are spelled out.

12.9.5 **Model Codes, Restatements, Standards, and Sentencing Guidelines**

As described in part “B1,” supra, we will identify these sources in ordinary roman type (rather than large and small capitals). To cite a specific Sentencing Guidelines section or commentary, cite as follows:

Basic citations style: Sentencing Guidelines §
2F1.1

Policy Statement: Sentencing Guidelines § 2F1.1,
p.s.

Application note: Sentencing Guidelines § 2F1.1,
comment. (n.1)

Background: Sentencing Guidelines § 2F1.1,
comment. (backg'd.)

Introduction: Sentencing Guidelines Ch. 3, Pt. D,
intro. comment.

Appendix to Guidelines: Sentencing Guidelines App.
C, Amend. 70 (effective date)

Do not include dates when citing current federal sentencing guidelines.

12.10 Short Forms for Statutes

Citations to the United States Code will always be full citations unless “ibid.” would be appropriate. Citations to session laws may be shortened in the following ways:

National Environmental Policy Act (the Act) § 102,
83 Stat. 853-854

Ibid.

§ 102(a), 83 Stat. 854

Id. at 855 [only to be used when there are space
limitations]

Section 102 of the Act provides that * * * .
83 Stat. 854. [textual reference]

Act § 103, 83 Stat. 856

NOT:

§ 102

Citations to **state code provisions** will be full citations, except where id. or ibid. would be appropriate. For example:

Id. § 1701

Id. § 23, 1895 Fla. Laws 20-21

13 **Legislative Materials**

We will continue referring to both the “Congress” and the “Session” despite the Bluebook’s preference for referring only to the “Congress.”

Italicize titles of books, reports, studies, and legislative documents. Hearing titles should always be italicized. Include subject-matter title and bill number(s), if any. Do not italicize Congress, Session, or year. Names of authors, if available, should be given, as well as institutional authors.

13.2 **Bills and Resolutions**

Congressional Record citations will not be given for either enacted or unenacted bills.

13.4 **Reports, Documents, and Committee Prints**

13.4(a) **Numbered Federal Reports and Documents**

Despite Rule 13.4, we will not give parallel citations to the United States Code Congressional and Administrative News (U.S.C.C.A.N.).

We will depart from the Bluebook on citations to reports of congressional committees by stating the Congress and Session separately, and by omitting the number of the Congress from the report number, even when the report itself bears a hyphenated number such as “100-592.” Also, we will insert “No.” before the report number. For example:

S. Rep. No. 592, 100th Cong., **2d sess. 16** (1988)

NOT:

S. Rep. 100-592, **at 16** (1988)

13.5 **Debates**

When citing the Congressional Record, use the permanent bound edition whenever possible. A full citation shall mirror the Bluebook format, but may include additional information at the attorney’s discretion. Example:

135 Cong. Rec. 4610 (1989) (statement of Sen. McClure)

Subsequent citations to the same volume are shortened, and may also include a parenthetical, as shown:

135 Cong. Rec. at 4610 (statement of Sen. McClure)

Except where “id. at” or “ibid.” would be appropriate, a full citation of a daily edition of the Congressional Record is necessary:

140 Cong. Rec. S8525 (daily ed. July 12, 1994)
(statement of Sen. Warner)

Id. at S8526

NOT:

140 Cong. Rec. at ~~S8526~~ (daily ed. July 12, 1994)

13.6 Separately Bound Legislative Histories

Despite OSG’s preference against the use of parallel citations, citations to separately bound legislative histories may be retained when useful:

S. Rep. No. 813, 89th Cong., 1st Sess. 3 (1965),
reprinted in Subcomm. on Admin. Practice and Pro-
cedure, Senate Comm. on the Judiciary, 93d Cong., 2d
Sess., Freedom of Information Act Source Book:
Legislative Materials, Cases, Articles 38 (1974)

14 Administrative and Executive Materials

14.1 Basic Citation Forms

Despite Rule 14.1, when citing the Federal Register, we normally omit the title of the notice or regulation. For short citations, when neither “id. at” nor “ibid.” is appropriate, follow this example:

55 Fed. Reg. at 36,613

14.2 Rules, Regulations, and Other Publications

14.2(a) Final Rules and Regulations

Regulations in the C.F.R. will be cited without dates when the regulation in question appears in the most recent full compilation of C.F.R. that contains

the relevant title. Regulations in the C.F.R. will be cited without section symbols (§) except when the C.F.R. section number does not reveal the part in which it is listed.

When citing the Federal Register, use the full date, and use commas to separate groups of three digits in numbers that contain five or more digits. See Rule 6.2. Do not use commas in numbers with four digits or when citing United States House and Senate Bills (e.g., **H.R. 12222**).

Presidential Papers: Executive Orders, Presidential Proclamations, and Reorganization Plans

As indicated by Bluebook T1 (at 223-224), cite Executive Orders, Presidential Proclamations, and Reorganization Plans according to the version of 3 C.F.R. in which they appear, whenever possible. (This will often require inclusion of the date of the C.F.R. in which the material appears, as these sources appear only once, in the compilation version of the C.F.R. for the year they were ordered or proclaimed.) Executive Orders that can be found in the C.F.R. or the Federal Register will be cited to only one of those sources and not additionally to reprintings in the United States Code.

Books, Periodical Materials, and Secondary Sources

15 Books, Reports, and Other Nonperiodic Materials

15.1 Author

When citing books, pamphlets, and other nonperiodic materials in the text, we will follow the Bluebook and provide the author's full name.

When there are more than two authors, we will follow the Bluebook and use the first author's name followed by "et al.":

William P. Keeton et al., Prosser and Keeton on the Law of Torts § 1, at 2 & n.5 (5th ed. 1984)

15.8 Special Citation Forms

15.8(b) Star Edition

Although the Bluebook correctly notes that many editions of Blackstone's Commentaries have star paging, it has become quite common to cite the widely available reprint of the first edition (the volumes of which date from

1765 to 1769). The pagination in that edition does not always correspond to the star paging, which was based on later editions. Thus, citations of the first edition should track those for a regular book:

1 William Blackstone, Commentaries on the Laws of England 91 (1765)

15.8(c) Other Named Works

The Bluebook's special citation form for *The Federalist* will be followed. Please note, however, that as a general matter, Clinton Rossiter's edition should be disfavored, not simply because it has the wrong title (*The Federalist Papers*), but also because it was not intended to be a scholarly edition and has therefore "modernized" both spelling and punctuation. More reputable editions include those edited by Jacob E. Cooke (1961); George W. Carey and James McClellan (2001); and J.R. Pole (2005).

15.10 Short Citation Forms

15.10.1 Short Forms for Works in Collection

We will generally follow the Bluebook and use "id. at" when referring to books, pamphlets, and nonperiodic materials. However, if citing the same page(s) or subdivision(s) in the same source as the immediately preceding authority, use "ibid." (not "id.").

Supra

When using short citations to books, pamphlets, and nonperiodic materials, do not use "supra." An appropriate short form will include the author's last name with the specific page reference. For example:

4 Wigmore § 1302, at 721

Tribe 1303

Tribe § 15-1, at 1303

16 Periodical Materials

16.2 Author

For signed materials appearing in periodicals, give the author's full name. Examples:

Charles Heilbrun & John Resnick, Convergencies: Law, Literature, and Feminism, 99 Yale L.J. 1913, 1942 n.122 (1990)

Richard A. Posner, Realism About Judges, 105 Nw. U. L. Rev. 577, 581 (2011)

16.9 Short Citation Forms

16.9(a) Id.

We will generally follow the Bluebook and use “id. at” for subsequent citations to periodical materials. However, if citing the same page(s) or subdivision(s) in the same source as the preceding authority, use “ibid.” (not “id.”).

16.9(b) Supra

Do not use “supra” to refer to a previously cited periodical. An appropriate short form will include the author’s last name or title of the article, the volume number, abbreviated periodical title, and “at” before the page citation. Thus:

Merrill, 52 U. Chi. L. Rev. at 11

* * * * *

20 Foreign Materials

20.3 Cases

20.3.1 Common Law Cases

With respect to the citation of cases from Great Britain, Rule 20.3.1 will be relaxed in the event the library does not have some of the preferred sources. We will follow the rule to the extent the library’s collection permits.

21 International Materials

21.4 Treaties and Other International Agreements

For United States treaties, OSG's general rule against the use of parallel citations will be altered. Cite official sources and at least one unofficial source for which a citation is readily available. Example:

Agreement Concerning Payments for Certain Losses
Suffered During World War II, U.S.-Fr., Jan. 18,
2001, Temp. State Dep't No. 01-36, 2001, 2001 WL
416465

Tables

Table numbers used below correspond to Bluebook tables. Any missing table number means that the corresponding Bluebook table is used without exceptions or modifications.

T1 United States Jurisdictions

T1.1 Federal Judicial and Legislative Materials

Federal—Supreme Court

The first volume of U.S. Reports consists of decisions of Pennsylvania courts only, reported by Alexander J. Dallas. Volume 1 contains no U.S. Supreme Court cases. Cite Volume 1 of U.S. Reports as 1 Dall. and identify the appropriate Pennsylvania court.

Example:

Millar v. Hall, 1 Dall. 229 (Pa. 1778)

Respublica v. De Longchamps, 1 Dall. 111 (Pa. Oyer & Terminer 1778)

T6 Case Names and Institutional Authors in Citations

As the Bluebook indicates, this table contains only suggested abbreviations. Authors may or may not abbreviate words in case names, and paralegals should not change the author's choice; however, when a word is abbreviated, it should be abbreviated consistently throughout the document.

Court Documents

The following abbreviations can be added to the Table:

Administrative Record	A.R.
Appendix to a petition for a writ of certiorari	Pet. App.
Appendix/Joint Appendix filed in the court of appeals (unless more than one)	C.A. App.
Brief for nongovernment party	Pet. Br. Resp. Br.
Brief filed by the United States in the court of appeals	Gov't C.A. Br.
Brief in opposition	Br. in Opp.
Brief on behalf of government agency	Gov't Br.
Defendant's Exhibit	DX or Def.[']s] Ex.
Docket entries	
By date	01-1862 Docket entry (8th Cir. Apr. 17, 2002)
By entry number	97-CR-290-1 Docket entry No. 322 (E.D. Mo. July 30, 1999)
Documents (numbered) in original record; original pagination is retained	Doc. 12, at 20 Note: the attorney may also cite to the actual documents in the lower courts: D. Ct. Doc. 658, at 4 (June 23, 2009)
Excerpts of Record (9th Cir.)	E.R.
Exhibit	Ex.
Government (Agency's) Brief	Gov't Br.

Government's Exhibit	GX or Gov't Ex.
Joint Appendix	J.A.
Jurisdictional Statement	J.S.
Merits Brief	Br.
Motion to Affirm	Mot. to Affirm
Motion to Dismiss	Mot. to Dismiss
Petition for a Writ of Certiorari	Pet.
Petition for Rehearing	Pet. for Reh'g
Plaintiff's Exhibit	PX or Pl.[']s] Ex.
Record	R.
Record Excerpts (Fifth and Eleventh Circuits)	R.E.
Reply Brief	Reply Br.
Reply Brief at the Cert. Stage	Cert. Reply Br.
Reply Brief on the Merits	Merits Reply Br.
Supplemental Brief	Supp. Br.
Transcript	Tr.
United States Brief	U.S. Br.
United States Court of Appeals Brief	Gov't C.A. Br.

Miscellaneous abbreviations:

Judgment	J.
Paragraph	Para. or ¶
Plea Transcript	Plea Tr.
Sentencing Transcript	Sent. Tr.

ATTACHMENT 1

10.6 Parenthetical Information Regarding Supreme Court Opinions

A plurality opinion is an opinion announcing the judgment of the Court in a case where a majority of the Court agrees in the result, but there is no majority agreeing with the rationale by which that result is reached, and where there are more Members of the Court agreeing with the rationale in the opinion announcing the judgment than with any other rationale (dissenters are not counted in determining whether there is a plurality). E.g., there was a plurality opinion in United States v. MacCollom, 426 U.S. 317 (1976), where Justice Rehnquist announced the judgment of the Court in an opinion in which the Chief Justice and Justices Stewart and Powell joined, and Justice Blackmun filed an opinion concurring in the judgment.

The joint opinions of Justices Stewart, Powell, and Stevens, announcing the judgments in the death penalty cases Gregg v. Georgia, 428 U.S. 153 (1976); Proffitt v. Florida, 428 U.S. 242 (1976); and Jurek v. Texas, 428 U.S. 262 (1976), have sometimes been erroneously cited as plurality opinions. Those joint opinions are in fact not plurality opinions because there were three other Justices who, while concurring in the judgments, agreed on a rationale different from that of the opinions announcing the judgments. The joint opinions of Justices Stewart, Powell, and Stevens announcing the judgments in the other death penalty case decided at the same time, Woodson v. North Carolina, 428 U.S. 280 (1976), and Roberts v. Louisiana, 428 U.S. 325 (1976), are, however, plurality opinions, because only two other Justices—each of whom filed separate statements concurring in the judgments—have followed a rationale different from the joint opinions in reaching the results.

The joint opinions in Gregg, Proffitt, and Jurek should be referred to as joint opinions. See United States v. Pomponio, 429 U.S. 10 (1976). Do not use the terms “prevailing opinion” or “pivotal opinion,” although the term “principal opinion” may be acceptable (see Wainwright v. Spinklink, 442 U.S. 901, 902 (1979), penult. line; Hopper v. Evans, 456 U.S. 605, 611 (1982)). The term “principal opinion” has also been used to refer to an opinion, part of which is a majority opinion and part of which is a plurality opinion. See Parker v. Randolph, 442 U.S. 62, 77, 78, 80 (1979). An extreme example of a case where the opinion announcing the judgment of the Court is not a plurality opinion is Oregon v. Mitchell, 400 U.S. 112, 117 (1970). Justice Black announced the judgments in an opinion “expressing his own view of the cases.” See also Bellotti v. Baird, 443 U.S. 622, 622, 651 (1979), for another example of a case where there was no plurality opinion (the opinion announcing the judgment is joined by three Justices, but the opinion concurring in the judgment is also joined by three Justices).

NOTE: Concurring in the judgment and concurring in the result mean the same thing. But do not say “Justice X, concurring” where the Justice does not vote with the majority. Also, consistency should be maintained: Do not say “Justice X, concurring in the judgment” where an opinion concludes: “For the foregoing reasons I concur in the result.”

**OFFICE OF THE SOLICITOR GENERAL SUPPLEMENT TO THE
SUPREME COURT RULES**

INTRODUCTION

While the Supreme Court Rules govern the format of briefs filed in the Court, the rules provide only general guidelines. The following rules are intended to supplement the Supreme Court Rules in that they provide detailed information on the format of briefs filed by the Office of the Solicitor General.

A. COVER PAGE

1. Eliminate all punctuation at the end of lines in the counsel listing on the cover and last page of the brief. The typical counsel listing on the cover of a brief will look as follows:

DONALD B. VERRILLI, JR.
Solicitor General
Counsel of Record

STUART F. DELERY
Assistant Attorney General

RICHARD DOE
DAVID DOE
Attorneys

Department of Justice
Washington, D.C. 20530-0001
SupremeCtBriefs@usdoj.gov
(202) 514-2217

When outside agency personnel are listed, the cover page will look as follows:

DONALD B. VERRILLI, JR.
Solicitor General
Counsel of Record

THOMAS L. SANSONETTI
Assistant Attorney General

PAUL D. CLEMENT
Deputy Solicitor General

AUSTIN C. SCHLICK
Assistant to the Solicitor
General

MARY ANNE GIBBONS
General Counsel

DAVID M. COHEN
Attorney

LORI J. DYM
Attorney
Office of General Counsel
United States Postal
Service
Washington, D.C. 20260

Department of Justice
Washington, D.C. 20530-0001
SupremeCtBriefs@usdoj.gov
(202) 514-2217

On a reply brief or memorandum, the counsel listing will look as follows:

DONALD B. VERRILLI, JR.
Solicitor General
Counsel of Record
Department of Justice
Washington, D.C. 20530-000
SupremeCtBriefs@usdoj.gov
(202) 514-2217

2. Cover pages of briefs filed on behalf of military services should use the following format:

NORMAN G. COOPER
Col., JAGC, USA

GARY F. ROBERSON
Lt. Col., JAGC, USA

PATRICK HEWITT
Capt., JAGC, USA
Government Appellate Division
Appellate Government Counsel
United States Army
Legal Services Agency
Falls Church, VA 22041-5013

DONALD B. VERRILLI, JR.
Solicitor General
Counsel of Record
Department of Justice
Washington, D.C. 20530-0001
SupremeCtBriefs@usdoj.gov
202) 514-2217

3. When a single opposition is filed in response to more than one petition, the cover and title pages of the opposition should include appropriate plurals:

ON PETITIONS FOR WRITS OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

Note the special circumstances in which there is a direct appeal from a District Court:

ON APPEAL FROM THE
UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

At the merits stage, the cover and title pages should read:

ON WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

4. Merits briefs as amicus curiae should be entitled either

BRIEF FOR THE UNITED STATES
AS AMICUS CURIAE SUPPORTING PETITIONER

OR

BRIEF FOR THE UNITED STATES
AS AMICUS CURIAE SUPPORTING RESPONDENT

In appeals, the brief should support “appellant” or “appellee” rather than “petitioner” or “respondent.” In briefs filed at the Court’s invitation, omit the phrase “supporting _____.”

5. In cases in which the title of the brief requires more than one line to print, the first line should contain only the words “Brief for” and the name or designation of the client on whose behalf the brief is filed. The second and any subsequent lines should contain all modifying phrases (e.g., in opposition, as respondent supporting petitioner, or as amicus curiae). Thus:

BRIEF FOR THE FEDERAL CROSS-RESPONDENTS
IN OPPOSITION

BRIEF FOR THE UNITED STATES
AS AMICUS CURIAE SUPPORTING PETITIONER

6. Briefs in opposition filed on behalf of federal agencies may be titled either “brief for the [name of agency] in opposition” or “brief for the respondent in opposition,” as the author prefers. When there is more than one respondent, it is often useful to use the name of the agency, but the form “brief for the federal respondent in opposition” will usually suffice. The only hard-and-fast rule in this regard is that the title of the brief must be unambiguous.

7. The parties’ names on the cover and first page of all briefs should be exactly as they appear on the Supreme Court’s docket but for the following exceptions:

- a. If a State is a party, the words “State of,” “Commonwealth of,” or “People of” should be inserted in front of the State’s name. Thus, Long v. Maryland should be altered to read Long v. State of Maryland.
- b. When space or word count is at a premium, if three or more names appear on the docket as parties on one side, drop all the names except the first and add “et al.” If two names appear on the docket, they should both appear on the brief.
- c. Change “United States” to “United States of America” in the caption.
- d. “Secretary of Interior” and “Secretary of Treasury” should be changed to “Secretary of the Interior” and “Secretary of the Treasury.”

e. Do not use “et ux.” or “et vir.” Instead, use the names of both parties.

8. Original and multiple case numbers should appear on the cover as follows:

No. 94, Orig.

Nos. 00-393, 00-407, 00-417, and 00-427

Multiple case numbers should be combined on the cover, as shown below:

Nos. 00-407 and 00-417

In the Supreme Court of the United States

DAVID FICHTENBERG, PETITIONER

v.
FEDERAL COMMUNICATIONS COMMISSION, ET AL.

MICHAEL WORSHAM, PETITIONER

v.
FEDERAL COMMUNICATIONS COMMISSION, ET AL.

ON PETITIONS FOR WRITS OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

BRIEF FOR THE RESPONDENTS IN OPPOSITION

B. PARTIES TO THE PROCEEDING

The identification of parties to the proceeding in the court below, as required by Supreme Court Rules 14.1(b) and 24.1(b) (2013 ed.) for petitions and merits briefs for the petitioner, shall be given in a separate heading entitled “Parties to the Proceeding” placed on the page immediately after the “Question(s) Presented.” Both rules both require the inclusion of

A list of all parties to the proceeding in the court whose judgment is sought to be reviewed (unless the caption of the case contains the names of all the parties).

The beginning page number for this section (II) will appear in parentheses at the bottom of the page.

C. OPINIONS BELOW

1. Although the Rules of the Supreme Court do not strictly require that we list the opinions below in our briefs in opposition, we will continue to do so. See OSG Writing Preferences Rule C.1 regarding the use of the phrases “unreported” and “not yet reported” with respect to opinions below.

For decisions that are not published but are printed in the Federal Appendix, follow the appropriate example below (bracketed material is optional and inserted only at attorney’s request):

The opinion of the court of appeals (Pet. App. 1a-16a) is not published in the Federal Reporter but is reprinted in 27 Fed. Appx. 577[, and is available at 2001 WL 1631432].

The opinion of the district court (Pet. App. 18a-26a) is not published in the Federal Supplement but is available at 2000 WL 89008.

NOTE: We will use the abbreviation “Fed. Appx.” for the Federal Appendix (per Michael Dreeben).

2. Place Pet. App. citations in the “Opinions Below” section of briefs in parentheses. Do not use id. or ibid. in this section.
3. When citing the published opinions of the lower courts in the “Opinions Below” section, do not include the court name and date in parentheses following the citation. Thus:

The opinion of the court of appeals (Pet. App. 1a-5a) is reported at 212 F.3d 1296.

NOT:

The opinion of the court of appeals (Pet. App. 1a-5a) is reported at 212 F.3d 1296 (Fed. Cir. 2000).

D. JURISDICTION

1. Do not refer to petitions for rehearing “en banc” in the jurisdictional section. If the court’s disposition of a petition for rehearing **en banc** is relevant, it should be noted in the “Statement” section. Denial of a petition for rehearing should be noted in the “Jurisdiction” section as follows:

A petition for rehearing was denied on December 30, 1988 (Pet. App. 78a).

A petition for rehearing is timely if filed within 90 days of the court of appeals opinion. Under Supreme Court Rule 13.3, even an untimely petition for rehearing may alter the cert. deadline if it is “appropriately entertain[ed]” by the lower court.

2. When noting the date on which a petition for a writ of certiorari was filed, parenthetically identify the day of the week if the filing would have otherwise been due on a Sunday or holiday. Thus: “(Monday)” or “(Tuesday following a holiday).”
3. A petition filed out of time should be noted as follows:

The petition for a writ of certiorari was not filed until September 21, 1989, and is out of time under Rule 13.1 of the Rules of this Court.

4. If a Justice has extended the deadline for filing a petition for a writ of certiorari, that fact should be noted as follows:

On November 25, 1983, Justice O’Connor extended the time within which to file a petition for a writ of certiorari to and including December 27, 1983, and the petition was filed on that date.

Multiple extensions should be noted as follows:

On June 10, 2005, Justice Souter extended the time within which to file a petition for a writ of certiorari to and including July 22, 2005. On July 8, 2005, Justice Souter further extended the time to August 19, 2005, and the petition was filed on August 18, 2005.

5. The following example is what **may be** included in the “Jurisdiction” section when it is a **merits** brief:

The judgment of the court of appeals (Pet. App. 4a) [INSERT PET. APP. CITATION ONLY IF JUDGMENT IS A SEPARATE DOCUMENT AND NOT JUST PART OF THE C.A. OPINION] was entered on March 24, 2003. On June 13, 2003, Justice Thomas extended the time within which to file a petition for a writ of certiorari to and including July 22, 2003, and the petition was filed on that date. The petition for a writ of certiorari was granted on September 30, 2003. The jurisdiction of this Court rests on 28 U.S.C. 1254(1).

Note: At the merits stage, jurisdiction “rests on 28 U.S.C. 1254(1).” At the petition stage, jurisdiction “is invoked under 28 U.S.C. 1254(1).”

E. CONCLUSION

1. Use the following form for the conclusion in a typical brief in opposition:

The petition for a writ of certiorari should be denied.

Respectfully submitted.

Use the following form for a typical memorandum in opposition:

* * * * *

It is therefore respectfully submitted that the petition for a writ of certiorari should be denied.

2. The following is the appropriate closing for a reply brief at the petition stage:

* * * * *

For the foregoing reasons and those stated in the petition for a writ of certiorari, the petition should be granted.

Respectfully submitted.

3. The following is the appropriate closing for a reply brief at the merits stage:

For the foregoing reasons and those stated in our opening brief, the judgment of the court of appeals should be ____.

Respectfully submitted.

4. The signature section on the last page will look exactly the same as the counsel listing on the front page of the brief or memorandum, with the following exceptions:
 - a. Delete the lines:

Department of Justice
Washington, D.C. 20530-0001
SupremeCtBriefs@usdoj.gov
(202) 514-2217
 - b. When an outside agency is involved, delete the geographical location but keep the agency's name.
 - c. Omit "Counsel of Record" underneath "Solicitor General."

The month and year of filing appear after the signature block. The month is not abbreviated and there is no period after the date.

F. MEMORANDUM FORM

1. Use the memorandum form only for short oppositions to petitions raising a small number of relatively straightforward issues in cases with simple facts. As a general rule, memoranda in opposition should not exceed 1500 words; if the opposition is more than ten pages long, it must be a brief.
2. Entitle the main section of a petition for a writ of certiorari "REASONS FOR GRANTING THE PETITION," not "Reasons the Petition Should be Granted" or some other variation. Entitle the main section of an amicus brief at the petition stage (or a cert.-stage response that does not oppose certiorari) "DISCUSSION." The main section of a brief opposing certiorari or a merits brief should be entitled "ARGUMENT." (Note: There are generally no headings in memoranda.)

OFFICE OF THE SOLICITOR GENERAL WRITING PREFERENCES

The following rules are given their own separate “mini-manual” because they do not fall neatly into the Bluebook/OSG Citation Manual format.

A. MISCELLANEOUS ABBREVIATION RULES

Identifying abbreviations or information should be appended in parentheses as follows:

The administrative law judge (ALJ) ruled * * * .

The Environmental Protection Agency (EPA) is authorized to regulate * * * .

The LaJolla, Rincin, San Pasqual, Pauma and Pala Pards Indians (Tribes) were granted * * * .

B. MISCELLANEOUS CAPITALIZATION RULES

Do not capitalize references to spring, summer, fall, autumn, or winter.

C. MISCELLANEOUS DEFINITIONS

We will not use the phrase “not reported” when referring to opinions that do not appear in a reporter.

Some court opinions are annotated with “not for publication” or other similar note. These opinions are considered “unreported.” If an opinion is less than two years old, check to see if it has been reported (occasionally courts issue new instructions on publication or newly amended opinions). A case in either the federal district court or court of appeals that is more than two years old and not reported is considered “unreported.” This phrase should also be used when referring to very old cases that were never reported.

The phrase “not yet reported” is used when referring to a slip opinion less than three months old or citing a case in a looseleaf service that will be reported in either the West reporters or elsewhere. The phrase is understood to mean that there is every expectation that the case will be reported. Furthermore, if the slip opinion indicates that the opinion is “not for publication,” and there is no indication from West that there will be a reporter citation, the opinion is “unreported,” rather than “not yet reported.” All decisions that are published are considered “reported.” Reported decisions may appear either in full text or in a table. Dispositions that appear in a

table are cases without an opinion or a published opinion and are cited per the following example:

Benge v. Marshall, 709 F.2d 1499 (6th Cir. 1983) (Tbl).

In the jurisdiction section of our briefs, when we are referring to a decision that is published only in a table in a reporter, the following convention shall be followed:

"The opinion of the court of appeals is unpublished, but the decision is noted at 709 F.2d 1499 (Tbl.)."

D. MISCELLANEOUS GRAMMAR PREFERENCES

1. Use "a," not "an," whenever the following word begins with a consonant sound, including an "h" or "y" sound. Thus, "a historical analysis," not "an historical analysis"; "a unanimous Court," not "an unanimous Court."

For abbreviations and acronyms, use "a," not "an," whenever the abbreviation or acronym begins with a consonant sound when pronounced in the conventional fashion. For example, "an SEC rule," not "a SEC rule" ("SEC" is conventionally pronounced "ess-E-C," starting with a vowel sound), "an NAACP fundraiser" ("NAACP" is pronounced "enn-double A-C-P", starting with a vowel sound), and "a FOIA request" ("FOIA" is conventionally pronounced "foy-yah," starting with a consonant sound, not "eff-O-I-A").

2. Use "attorney's fees" rather than "attorneys' fees," unless the governing statute uses another variant.
3. Use "case law" rather than "caselaw." See Memorandum from Charles Fried to OSG Attorneys (Oct. 2, 1987) (calling for "total extirpation" of this "barbarism").
4. When using dates in text, follow the following examples:

September 4, 1996
January 20, 1992
October 1997

NOT:

September 4th, 1996
January 20th, 1992
October, 1997

5. Do not use “et ux.” or “et vir” in the caption of a case or elsewhere. This rule applies even though the Court still uses those archaic phrases in the caption of cases in which both members of a married couple are named parties. Use both names as the party in citation, e.g., “Chantal Sackett and Michael Sackett” (10-1062).
6. When a phrase functions as an adjective, it should generally be hyphenated, but do not use a hyphen to connect an adverb ending in “ly” to the adjective it modifies. Thus, “wholly owned corporation,” not “wholly-owned corporation,” and “fully allocated costs,” not “fully-allocated costs.”

As a general rule, do not use hyphens in words commonly written either with or without a hyphen. For example, use “pretrial” rather than “pre-trial.” We will, however, continue to use hyphens in the words “co-defendant” and “co-conspirator.”

7. Do not use “Mr.” or “Ms.” unless necessary for clarity. In particular, there is no need to refer to a crime victim as “Mr. Smith” or “Ms. Smith” rather than “Smith.” When it is necessary to use a title for clarity and the reference is to a woman, use “Ms.” unless there is some reason to be more specific, e.g., to distinguish a mother and daughter.
8. Use the form, “petitioner was convicted on 17 counts of bank robbery,” rather than “petitioner was convicted of 17 counts of bank robbery.”
9. Use the form, “petitioner pleaded guilty,” rather than “petitioner pled guilty.”
10. Form the possessive of a singular noun ending in “x” or “s” by adding “’s” whenever that is the way it is pronounced. For example: “Congress’s,” “petitioner Jones’s,” and “appendix’s,” but “the court of appeals’.”

E. MISCELLANEOUS PUNCTUATION PREFERENCES

There is no rule against having three consecutive parentheses. Although such punctuation is ugly and should be avoided, it is up to the author in the individual case, not office rules of style, to resolve any problem along these lines.

F. MISCELLANEOUS TYPOGRAPHICAL PREFERENCES

In text that appears in a proportionally spaced font, a hair space should be used to keep a lower-case “f” or “j” from being too close to an apostrophe, quotation mark, parenthesis, or bracket.