

The Scrivener: Modern Legal Writing



String Citations—Part I

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The temptation is strong. You spent hours tracking down cases on point, and now you have reams of citations. Shouldn't you include all of them in your brief to demonstrate to the court that you know your stuff? Shouldn't you at least include them to show your client that the billable hours are justified? The answer is no.

“String Citations”

Whenever you list more than one authority to support the same legal proposition, you are using a “string citation.” The name arises from the impression that the writer is “stringing” together several citations. In a string citation, each authority follows the next in a proscribed order: (1) by strength of authority (primary before secondary, enacted law before case law); (2) by jurisdiction (federal before state, alphabetically among states); (3) by rank of court (highest to lowest court); and (4) by date (reverse chronological with most recent first).¹ Semi-colons are placed between each authority.

Using String Citations

String citations are beneficial in some circumstances. For example, it may be essential to show that more than one case supports the proposition you urge. It also may be important to show that a number of jurisdictions have recognized a particular rule. Finally, a string citation may be used strategically to demonstrate the degree of support graphically on the page.² However, string citations are most appropriate when readers are expecting comprehensive treatment of the relevant authorities. Because law review articles attempt to be comprehensive in this way, string citations are the rule, rather than the exception, in the law review context.

String citations can be irritating at best, and disruptive at worst. The longer the string, the more intrusive is the inter-

ruption to your argument's readability. Law reviews use footnotes to minimize this disruption. However, footnotes are discouraged in briefs, so you should reflect carefully before interrupting the flow of your argument with a string citation.

Avoiding String Citations

Generally, cases that are simply listed in a string citation, and not fully discussed, add little to legal analysis. Bare citations give the readers only a place to search for supporting authority; they do not tell the readers much about those authorities. The citations are wasted because most busy readers will simply skip over that part of the text. Furthermore, the doubting reader or conscientious law clerk will feel compelled to check all of the cases cited and will be annoyed if that time was wasted because some of the cases are not pertinent.

In persuasive writing, it is more effective to cite fewer legal authorities, giving those that are cited more extensive treatment. Reduce your string of citations to one when that one case is sufficient to support a legal proposition. There are several ways you can use this valuable newfound space on the page.

- 1) Summarize the relevant facts of the precedent used; do not assume your readers are familiar with the cases.
- 2) Explain more fully the reasoning in the precedent.
- 3) Strengthen your argument by explicitly connecting the facts and reasoning of the precedent with the parties' situation.

How do you choose one case to discuss from the string of citations? Here are some suggestions:

- 1) Concentrate first on relevant, controlling legal authority from your jurisdiction. Generally, such controlling authority will be more valuable to the analysis than persuasive authorities from other jurisdictions, and a more in-depth discussion of the reasoning in one key case can better progress your argument.

- 2) Look for a case that has the same legal issue and is factually on point.

DO YOU HAVE QUESTIONS ABOUT LEGAL WRITING?

K.K. DuVivier will be happy to address them through the *Scrivener* column. Send your questions to: kkduvivier@law.du.edu or call her at (303) 871-6281.

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3) If more than one case is legally and factually relevant, it is preferable to cite to the case decided by the highest controlling court.

4) If you still have a choice of cases, cite to the most recent case.³

There is an exception to the most-recent-case rule: sometimes it is preferable to cite to a seminal case on a particular topic if that case is cited by more recent cases as the source of the rule. However, if you choose to cite to an older case, you may want to signal that this case is still good law. An 1888 case still may be appropriate for interpreting the 1872 Mining Law, but some areas of the law are changing rapidly, and a year-old case may be out-of-date. You can indicate an older case is still relevant by referencing the newer case in commentary after the older one.

Example: Courts can avoid the stubborn enforcement of an honestly mistaken judgment. *Reasoner v. District Court*, 594 P.2d 1060 (Colo. 1979), cited in *Diamond Back Services, Inc. v. Willowbrook Water & Sanitation Dist.*, 961 P.2d 1134 (Colo.App. 1997).⁴

Conclusion

String citations are appropriate when you are trying to give readers comprehensive coverage of an issue. They also are helpful to show that a particular rule is widely accepted. However, in most situations, the court will find one or two well-developed authorities more useful than a slew of them. So if you are considering a string citation, fight the temptation.

NOTES

1. The Harvard Law Review Association: *The Bluebook: A Uniform System of Citation*, 16th ed., Rule 1.4 at 25 (Cambridge, MA: Gannett House, 1996); Association of Legal Writing Directors and Dickerson, *ALWD Citation Manual*, Rule 46 at 305-10 (New York, NY: Aspen L. & Bus., 2000).

2. Edwards, *Legal Writing* (Boston, MA: Little Brown & Co., 1996) at 202.

3. *ALWD Citation Manual*, supra, note 1, Rule 44.4(c) at 300.

4. *The Bluebook*, supra, note 1, Rule 1.6(d) at 29-30. ■

· →→→ · In Memoriam · ←←← ·

The Colorado Bar Association Remembers The Lives and Contributions of Colorado Attorneys

Robert Lee Knous, former Colorado Lieutenant Governor, passed away in May 2000. He was 82. Knous served as Lieutenant Governor from 1959 to 1967. Before that, from 1953 to 1957, he served as a state senator.

He was born in Ouray, Colorado, on November 1, 1917. He attended Montrose public schools and graduated from the University of Colorado in Boulder. Knous received his law degree from the University of Denver College of Law after returning from his tour of duty as a Navy pilot and fighter instructor during World War II.

Knous had a strong interest in politics, which may have stemmed from his father's involvement. William Lee Knous was a former Colorado Governor and Supreme Court Justice. Robert Knous believed that politics was one way to participate "actively" in life. He ran unsuccessfully for the U.S. Senate in 1960. When he ran for the office of Lieutenant Governor in 1962, Knous was the only Democrat to be elected out of eighteen statewide races.

Governor Ed C. Johnson named Knous chairman of a special commission on the aged while he served in the state legislature. It was during this time that Knous wrote Colorado's Old Age Pension Act.

In addition to participating in numerous civic and community organizations, Knous was a member of the Colorado and Denver Bar Associations. He is survived by his wife of fifty-seven years, two daughters and three sons, and many grandchildren.

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Attorney **Howard K. Phillips**, who passed away in April 2000, was remembered in these pages in the June 2000 issue at page 96. Phillips was incorrectly referred to as "Denver's first-appointed municipal judge." Rather, Phillips was reported to have been "the first lawyer to be appointed a Denver municipal judge in the 1960s." *The Colorado Lawyer* regrets the error.

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The Colorado Bar Foundation is one means of commemorating members of the profession. For details, call Dana Vocate in Denver at (303) 824-5318 or toll free within the state at (800) 332-6736.