

APPENDIX C

Citation Guide

The following abbreviated Citation Guide conforms to the Guide used by the Kansas Appellate Courts for citation to authority in appellate court opinions.

CASE CITATIONS

The case name appearing at the top-of-the-page “header” of official reports is the “official” name given to a case cite. For example, in the case *Northern Natural Gas Company, Appellant, v. ONEOK Field Services Company, L.L.C.*, the header is *Northern Natural Gas Co. v. ONEOK Field Services Co.*—that will be the name to be used for citation purposes.

Cites should be to official sources whenever possible. Secondary sources, such as the Pacific Reports or Lawyers Edition, may not contain the final edited version of a court’s opinion. The United States Supreme Court, for example, may make changes to opinions up to the time the bound volume goes to print, including removing or adding sentences or paragraphs. Reporters of Decisions for many state courts (not Kansas) do their editorial work *after* an opinion has been publicly released by the respective state court, and even the advance sheets for the Kansas Reports and Kansas Court of Appeals Reports 2d are not considered final and “official” reports of the opinions.

FEDERAL COURTS

When citing to multiple federal cases in a single citation sentence the cites should be in the following order: United States Supreme Court, federal courts

of appeal, federal district courts. Within the same court, cases are arranged in reverse chronological order (most recent decision first).

United States Supreme Court cases have an official citation and two unofficial parallel citations (Supreme Court Reports and Lawyers Edition). Cite to the official reports for case name, quotes, pinpoint reference, etc., when possible, and put the year of the decision at the end in parentheses:

Kansas v. Ventris, 556 U.S. 586, 593, 129 S. Ct. 1841, 173 L. Ed. 2d 801 (2009)

Courts of appeals cases are reported in the Federal Reports. Give the circuit number and year of decision:

Lees v. Carthage College, 714 F.3d 516 (7th Cir. 2013)

United States v. McCoy, 429 F.2d 739 (D.C. Cir. 1970)

For subsequent history of a court of appeals decision involving the Supreme Court when *certiorari* is denied, it is only necessary to cite to the U.S. Reports and not to the secondary reports:

United States v. Mackay, 491 F.2d 616 (10th Cir. 1973), cert. denied 416 U.S. 972 (1974)

District court cases are reported in the Federal Supplement (F. Supp.). It is not necessary to show divisions within a district:

Beattie v. Skyline Corp., 906 F. Supp. 2d 528 (S.D. W. Va. 2012)

STATE COURTS

Citations should identify the state, the court (unless it is the highest court of the jurisdiction), and the year of decision. When citing cases from multiple state jurisdictions, cite in alphabetical order, with cases from the highest court of the state cited first. If citing multiple cases from the same court, cite to the most recent case first. Cite to both official and unofficial (West) reports, with case name, quotes, pinpoint reference, etc. to official reports where possible:

Gerlt v. Planning & Zoning Commission, 290 Conn. 313, 316, 963 A.2d 31 (2009); *Snider v. American Family Mut. Ins. Co.*, 297 Kan. 157, 160, 298 P.3d 1120 (2013); *Pratt v. Kansas Dept. of Revenue*, 48 Kan. App. 2d 586, 588, 296 P.3d 1128 (2013); *Holmes v. Crawford Machine, Inc.*, 134 Ohio St. 3d 303, 307, 982 N.E.2d 643 (2012)

New York Court of Appeals (the highest court of New York) and California Supreme Court cases are reported with independent pagination in two reports of the National Reporter System; cases from those jurisdictions should be cited to the official and both unofficial reports:

Cohen v. Cuomo, 19 N.Y.3d 196, 946 N.Y.S.2d 536, 969 N.E.2d 754 (2012)

Smith v. Superior Court, 54 Cal. 4th 592, 142 Cal. Rptr. 3d 880, 278 P.3d 1231 (2012)

California courts of appeals will be cited to Cal. App. and Cal. Rptr.:

Gemini Ins. Co. v. Delos Ins. Co., 211 Cal. App. 4th 719, 149 Cal. Rptr. 3d 889 (2012)

The following states do not use abbreviations in state court citations: Alaska, Hawaii, Idaho, Ohio, Utah

Durkee v. Busk, 355 P.2d 588 (Alaska 1960)

The following states now have official opinions on-line and no longer print official reports for cases filed after the date the on-line version was designated the official version:

Arkansas, since 2009; Illinois, since 2012; Ohio Court of Appeals, since 2012 (Ohio Supreme Court opinions are still printed in official reports)

Rees v. Smith, 2009 Ark. 169, 301 S.W.3d 469 [note: the year is part of the cite: 2009]

State v. Hoseclaw, 2013-Ohio-3486, ___ N.E.2d___ (Ohio App.) [note: the year is part of the cite: 2013]

New Mexico has official opinions on-line but continues to print its reports.

UNPUBLISHED OPINIONS

Kansas Supreme Court Rule 7.04(g)(2) (2012 Kan. Ct. R. Annot. 60) addresses citations to unpublished opinions. The Rule clarifies that an unpublished opinion is not binding precedent (except under the doctrines of law of the case, *res judicata*, and collateral estoppel) but may be cited as persuasive authority “with respect to a material issue not addressed in a published opinion of a Kansas appellate court” and if it “would assist the court in disposition of the issue.”

Unpublished opinions are cited with the case name, docket number, and Westlaw citation; the cite should also indicate it is an unpublished opinion unless it is clear within the context of the discussion that the opinion is unpublished:

In re Care & Treatment of Burch, No. 102,468, 2010 WL 3324271 (Kan. App. 2010) (unpublished opinion)

PUBLISHED OPINION NOT YET IN PRINT:

If an opinion has been filed and the official cite is not yet available, cite to the slip opinion, to the unofficial report, or to Westlaw:

Shelby County v. Holder, 570 U.S. ___, 133 S. Ct. 2612, 2617, 186 L. Ed. 2d 651 (2013)

State v. Abrens, 296 Kan. ___, ___P.3d___ (No. 103,662, filed December 21, 2012), slip op. at 12-13

State v. Huffmier, 297 Kan. ___, 301 P.3d 669, 673 (2013)

Rinehart v. Morton Buildings, Inc., ___Kan. ___, ___P.3d___, 2013 WL 3835833, at *6 (No. 101,940)

PRIOR OR SUBSEQUENT HISTORY

Italicize prior and subsequent history phrases:

affirmed—*aff’d*

certiorari granted—*cert. granted*

petition for review granted—*rev. granted*

petition for review denied—*rev. denied*

rehearing denied—*reb. denied*

Morton Bldgs., Inc. v. Department of Human Resources, 10 Kan. App. 2d 197, 695 P.2d 450, *rev. denied* 237 Kan. 887 (1985).

United States v. Van Poyck, 77 F.3d 285 (9th Cir.), *cert. denied* 519 U.S. 912 (1996) [note: when year of subsequent history is same as year of original decision, put year at the end of full citation]

When a petition for review of a Kansas Court of Appeals case has been filed but is pending before the Supreme Court, Kansas Supreme Court Rule 8.03(i) indicates that the opinion of the Court of Appeals is not binding but may be used for persuasive authority before the mandate is issued. The Rule further states that an interested person citing to the opinion must note in the citation that the case is not final:

Markovich v. Green, 48 Kan. App. 2d 567, 297 P.3d 1176 (2013) (petition for rev. filed March 8, 2013)

SIGNALS

Citations are introduced by signals (or no signal) that indicate the purpose for the cited authority and the degree of support for the proposition being cited. Signals are divided into categories of support: positive, comparative, negative, or background. Signals may be strung together within a single citation sentence if they are of the same type, but when a different type is used, a new citation sentence begins.

A. Signals that indicate support:

1. [No signal] Cited authority clearly states the proposition or identifies a quotation source or an authority referred to in the text.
2. *E.g.* Cited authority states the proposition; although other authorities also state the proposition, citation to them would not be necessary or helpful.
3. Accord Cited authority directly supports the proposition but in a slightly different way than authority first cited.
4. See Cited authority directly supports the proposition but is not stated by the cited authority.

5. See also Cited authority constitutes additional source material that supports the proposition; generally used with a parenthetical explanation.

6. *Cf.* “Compare.” Cited authority supports a proposition different from the main proposition but sufficiently analogous to lend support; generally used with a parenthetical explanation.

B. Signal that suggests an appropriate comparison of multiple sources

Compare ____ [and ____] with ____ [and ____]

C. Signals that indicate contradiction:

1. *Contra* Cited authority states the contrary of the proposition.

2. *But see* Cited authority directly contradicts the proposition.

3. *But cf.* Cited authority supports a proposition analogous to the contrary of the main proposition.

D. Signal that indicates background material

See generally Cited authority presents helpful background material related to the proposition; generally used with a parenthetical explanation.

Baska v. Scherzer, 283 Kan. 750, 755, 156 P.3d 617 (2007); see *Golden v. Den-Mat Corporation*, 47 Kan. App. 2d 450, 461, 276 P.3d 773 (2012); accord *Nungesser v. Bryant*, 283 Kan. 550, 559, 153 P.3d 1277 (2007). See generally *Viernow v. Euripides Development Corp.*, 157 F.3d 785, 790 n.9 (10th Cir. 1998) (issues raised for the first time in a plaintiff’s response to a motion for summary judgment may be considered a request to amend the complaint).

STATUTES, RULES, AND REGULATIONS

FEDERAL:

Statutes:

A. United States Code (U.S.C.)

___ U.S.C. § __ (20__): 42 U.S.C. § 4332(2)(C)(iii) (2006)

B. Statutes currently in force but not in U.S.C. (by reverse chronological order of enactment)

Rules:

A. Federal Rules of Evidence: Fed. R. Evid. 702

B. Federal Rules of Civil Procedure: Fed. R. Civ. P. 32(a)(3)(B)

C. Federal Rules of Criminal Procedure: Fed. R. Crim. P. 58

Regulations:

Code of Federal Regulations: (name), __ C.F.R. § __ (20__): Cardiovascular Prosthetic Devices, C.F.R. § 870.3545 (2013)

STATES:

Kansas statutes:

A. Cite to bound volume if in effect: K.S.A. 60-455

B. Cite to Supplement if in effect; however, if an older Supp. was in effect but there are no substantive changes to that statute in the current Supp., it is permissible to cite to the most recent Supp.: K.S.A. 2012 Supp. 21-6001

C. Entire statutory act:

1. Kansas Tort Claims Act, K.S.A. 75-6101 *et seq.* [cite to bound volume even if some parts of Act were amended and appear in the Supp.]
2. Revised Kansas Sentencing Guidelines Act, K.S.A. 2012 Supp. 21-6801 *et seq.* [entire act appears in the Supp.]

D. Citation to superseded statute book:

If the applicable statute to be cited is in a superseded bound volume of the K.S.A.'s, include the name of the Revisor of Statutes in parentheses following the cite to distinguish it from the current bound volume: K.S.A. 21-3721 (Weeks).

Kansas Session Laws:

Cite to L., year, chapter, and section: L. 2010, ch. 51, sec. 1 [note: for session laws, sec. is used as the abbreviation instead of the symbol §]

Rules of the Kansas Supreme Court:

The official source for the Supreme Court Rules is the blue Rule Book that is published and annotated annually by the Reporter's office. Cite the year, Kan. Ct. R. Annot. __: Rule 133 (2012 Kan. Ct. R. Annot. 238).

Kansas Administrative Regulations:

Current regulation: K.A.R. 36-17-8

Amendment to current regulation: K.A.R. 82-4-56a (2012 Supp.)

Noncurrent regulation: K.A.R. 74-11-6 (2003)

Other State Statutes:

Cite to state statutes alphabetically by state when citing to statutes from multiple states

MISCELLANEOUS CITATIONS

Attorney General Opinions:

Cite to year-number: Att’y Gen. Op. No. 2013-08

Pattern Jury Instructions for Kansas (PIK):

PIK Crim. 4th 54.290

PIK Crim. 4th 56.080 (2012 Supp.)

PIK Civ. 4th 123.43

Constitutions:

United States Constitution:

U.S. Const. amend. XIV, § 1

U.S. Const. art. I, § 10, cl. 2

Kansas Constitution:

Kan. Const. art. 11, § 1 (2012 Supp.)

Kan. Const. Bill of Rights, § 5

Restatements:

Restatements are identified by the year adopted, not by the year of publication:

Restatement (Second) of Contracts § 238 (1979)

Restatement (Third) of Torts § 9, p. 187 (1997)

Occasionally, the number of a Tentative Draft is necessary to identify the Restatement since there are no Supplements as such to the Restatements:

Restatement (Third) of Agency § 8.06 (Tent. Draft No. 6, 2005)

Books and Digests:

Give last name of author as well as volume numbers where appropriate:

1. Williston on Contracts

11 Lord, Williston on Contracts 4th § 31:6 (2012)

2. Wigmore on Evidence:
Kaye, Bernstein & Mnookin, *The New Wigmore: Expert Evidence* § 4.10 (2d ed. 2010)
3. Wright etc. on Federal Practice and Procedure:
16 Wright, Miller & Cooper, *Federal Practice and Procedure: Jurisdiction* § 3920 (3d ed. 2012)

Dictionaries:

Cite by name, page, edition, and date:

1. Black's Law Dictionary 977 (9th ed. 2009)
2. Webster's Third New International Dictionary 699 (1993)

Law Review and Journal Articles:

Cite by author, title, volume, name of publication, page, and year.
Abbreviate where appropriate.

1. Articles:
Dau-Schmidt, *Promises to Keep: Ensuring the Payment of Americans' Pension Benefits in the Wake of the Great Recession*, 52 Washburn L.J. 393 (2013)
2. Comments (name of student author is not given):
Comment, *Reduction in the Protection for Mentally Ill Criminal Defendants: Kansas Upholds the Replacement of the M'Naughten Approach with the Mens Rea Approach, Effectively Eliminating the Insanity Defense*, 44 Washburn L.J. 213 (2004)
Comment, "Fraccident": *An Argument Against Strict Liability for Hydraulic Fracturing*, 60 Kan. L. Rev. 1215 (2012)

3. Notes (name of student author is not given)

Note, *Enabling Television Competition in a Converged Market*, 126 Harv. L. Rev. 2083 (2013)

4. Bar association journal:

Zimmerman, *E-Filing: Alive and Well*, 82 J.K.B.A. 13 (March 2013)

