



Bluebooking in Practice

Hobgoblins for little minds

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Reference Librarian
March 7, 2007

What this session is about

- The Bluebook: A Uniform System of Citation (Columbia Law Review Ass'n, Harvard Law Review Ass'n, Univ. of Pa. Law Review, and The Yale Law Journal ed., 18th ed. 2005) [hereinafter BB] (including section entitled the Bluepages).
- DON'T PANIC

What this session is not about

- Journal-style citations
- The “Yellow Book”:
 - Edward W. Jessen, California Style Manual: A Handbook of Legal Style for California Courts and Lawyers (4th ed. 2000). **KFC75 J47 2000 [REF & Patron Services]**
 - Susan Heinrich-Wells, Using the California Style Manual and The Bluebook: A Practitioner’s Guide (2000). **KFC75 H45 2000 [REF]**
- Court rules: BB, supra, at 27-43 tbl.BT.2.

Introduction to Citation

- sentences versus clauses
- 2 typefaces
- general style issues (R3, 5-9)
- citation structure:
 - Signal
 - Source[s] / authority[ies] – full or short form
 - Explanatory parenthetical



Signals . . .

- Support

- judgment calls

- persuasion, credibility

- accuracy, intellectual honesty

- Contradiction

- Background

Signals

- in order (R1.3) = by persuasiveness:
 - first group by signal type
 - then order by signal
 - then list by order of authorities (R1.4 [default])
- periods and semicolons

Explanatory parentheticals

- When to use – R1.2
- Opportunity for advocacy
- Format issues:
 - (“[B]lah blah blah.”).
 - (holding that “blah blah blah”).
 - subsequent history – BB, supra, at 11.

Source / Authority

- See generally BB, supra, at 6-23.
- main portion of BB
 - cross-references, sources not covered
 - abbreviations
 - typefaces. See id. at 23-24.
- using Tables
- short forms



Some Problem Areas

- deposition transcripts
- official case reporters
- electronic version / only nonprint (**R18**)
 - differences between print and online
 - mystery meat
 - deciphering

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6 WITPROC Ch. VII, s 46

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1. Insurer Insolvencies: Looking Back and Forging Ahead
2006

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6 WITPROC Ch. VII, § 46

6 Witkin, Cal. Proc. 4th (1997) PWT, § 46, p. 441
Chapter VII. Proceedings Without Trial
3. [§ 46] Grounds for Relief. (Approx. 4 pages)

anticipated filing. "Parties should be given opportunity to brief new issues that arise after submission," and a motion for reconsideration is the appropriate response to the denial of that opportunity. (98 C.A.4th 314.)

(New) Order based on curable procedural defect and resulting in adverse judgment: In [Kalivas v. Barry Controls Corp. \(1996\) 49 C.A.4th 1152, 57 C.R.2d 200](#), a "courtroom local rule" (applicable only in the trial judge's courtroom) required the parties to a summary judgment proceeding to file a **joint statement of disputed and undisputed facts**, and took the action off calendar until they did so. Relying on the rule, plaintiff's counsel did not file an opposition and separate statement to defendant's summary judgment motion, and did not appear at the hearing on the motion. The trial judge granted summary judgment for defendant. *Held*, denial of plaintiff's subsequent motion for reconsideration was an abuse of discretion.

(1) *Courtroom local rule invalid.* The courtroom local rule was invalid. It violated C.C.P. 437c(b) (text, §§196, 197), requiring each party to a summary judgment proceeding to file a separate statement. (49 C.A.4th 1158.) Moreover, it served to prejudicially mislead plaintiff and her counsel, leading them to believe that the **<<*Supp. p.106>>** trial court had taken the summary judgment off calendar. (49 C.A.4th 1160.)

(2) *Two prongs of Mink test satisfied.* To be entitled to reconsideration, a party must (a) show evidence of new or different facts and (b) provide a satisfactory explanation for failing to produce this evidence at an earlier time. (49 C.A.4th 1160, citing [Mink v. Superior Court \(1992\) 2 C.A.4th 1338, 1342, 4 C.R.2d 195.](#)) Plaintiff's showing on the motion for reconsideration satisfied both prongs of the *Mink* test. The local rule misled plaintiff's counsel, so that he failed to file an opposition and separate statement and did not appear at the hearing on the summary judgment motion. Thus, the trial court never received plaintiff's evidence or considered her arguments on the merits. This constituted an adequate showing of new or different facts under the first prong of the test. The flawed local rule provides a satisfactory explanation, under the second prong, why plaintiff did not produce

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Chapter VII. Proceedings Without Trial
3. [§ 46] Grounds for Relief. (Approx. 4 pages)

****SUPPLEMENT****

6 Witkin, Cal. Proc. 4th (2006 supp.) PWT, § 46, p. 104

3. [§ 46] Grounds for Relief.

p. 442:

(a) *Motion by Party for Reconsideration.* See [Lucas v. Santa Maria Public Airport Dist. \(1995\) 39 C.A.4th 1017, 1027, 46 C.R.2d 177](#) [plaintiff's motion for reconsideration of orders sustaining demurrers to his first and second amended complaints was not "based upon new or different facts, circumstances, or law" where statements in declaration supporting motion were either dated before initial complaint was filed or legally insufficient]; [Garcia v. Hejmadi \(1997\) 58 C.A.4th 674, 690, 68 C.R.2d 228](#) [plaintiff's motion consisting of his own declared knowledge previously available but not submitted and previously omitted citation of specific paragraph number not considered new or different facts and plaintiff supplied no satisfactory explanation for not providing these matters earlier]; [Baldwin v. Home Savings of America \(1997\) 59 C.A.4th 1192, 1200, 69 C.R.2d 592](#) [diligence requirement applicable to motion to reconsider on basis of different facts is also applicable to motion on basis of different law]; [Pazderka v. Caballeros Dimas Alang \(1998\) 62 C.A.4th 658, 670, 73 C.R.2d 242](#) [mistake based on ignorance of law or imprecision in drafting settlement offer is not proper basis for reconsideration]; [International Ins. Co. v. Superior Court \(1998\) 62 C.A.4th 784, 787, 72 C.R.2d 849](#) [recent cases constituted "change of law" within meaning of statute]; [Hollister v. Benzl \(1999\) 71 C.A.4th 582, 585, 83 C.R.2d 903](#) [discovery documents establishing relationship between defendant physician and health care provider that were produced at time motion for reconsideration was heard constituted new evidence and were proper basis for reconsidering order compelling arbitration]; [Golden Eagle Refinery Co. v. Associated Int. Ins. Co. \(2001\) 85 C.A.4th 1300, 1318, 102 C.R.2d 83](#) [declaration accompanying plaintiff's motion merely catalogued declarant's review of material presented neither new evidence nor satisfactory explanation for failure to produce evidence]

A particularly hairy one

- unpublished / depublished
 - **BT.2.** See also BB, supra, at 90, 96.
 - Fed. R. App. P. 32.1(a) – cases decided Jan. 1, 2007 or later
 - citable, but precedent or not??

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53 Fed.Appx. 837

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U.S. v. Massoudi

53 Fed.Appx. 837

C.A.9 (Cal.),2002.

December 18, 2002 (Approx. 4 pages)

FOR EDUCATIONAL USE ONLY

53 Fed.Appx. 837, 2002 WL 31855601 (C.A.9 (Cal.))

[Briefs and Other Related Documents](#)

This case was not selected for publication in the Federal Reporter.

Please use FIND to look at the applicable circuit court rule before citing this opinion. (FIND CTA9 Rule 36-3.)

United States Court of Appeals,
Ninth Circuit.
UNITED STATES of America, Plaintiff-Appellee,
v.
Aram Hanna MASSOUDI, Defendant-Appellant.
No. 00-50712.
D.C. No. CR-99-00040-RT.
Submitted Nov. 8, 2002. [FN*](#)

[FN*](#) This panel unanimously finds this case suitable for decision without oral argument. See [Fed. R.App. P. 34\(a\)\(2\)](#).

Decided Dec. 18, 2002.

Defendant was convicted by a jury in the United States District Court for the Central District of California, Robert J. [Timlin](#), J., of distributing, possessing, and conspiring to possess and distribute pseudoephedrine. Defendant appealed. The Court of Appeals held that: (1) jury instruction on knowledge requirement was proper; (2)

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Rule 36-3. Citation of Unpublished Dispositions or Orders
Approx. 3 pages

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United States Court of Appeals. for the Ninth Circuit ([Refs & Annos](#))
 [Title VII](#). General Provisions
➔ Rule 36-3. Citation of Unpublished Dispositions or Orders

(a) Not Precedent. Unpublished dispositions and orders of this Court are not binding precedent, except when relevant under the doctrine of law of the case, res judicata, and collateral estoppel.

(b) Citation. Unpublished dispositions and orders of this Court may not be cited to or by the courts of this circuit, except in the following circumstances.

(i) They may be cited to this Court or to or by any other court in this circuit when relevant under the doctrine of law of the case, res judicata, or collateral estoppel.

(ii) They may be cited to this Court or by any other courts in this circuit for factual purposes, such as to show double jeopardy, sanctionable conduct, notice, entitlement to attorneys' fees, or the existence of a related case.

(iii) They may be cited to this Court in a request to publish a disposition or order made pursuant to Circuit Rule 36-4, or in a petition for panel rehearing or rehearing en banc, in order to demonstrate the existence of a conflict among opinions, dispositions, or orders.

(c) Attach Copy. A copy of any cited unpublished disposition or order must be attached to the document in which it is cited, as an appendix.

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UNITED STATES COURT OF APPEALS NINTH CIRCUIT REVISED LOCAL CIRCUIT RULES 21-5, 36-3, 32-2 (ADVISORY COMMITTEE NOTE)

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<< CTA9 Rule **36-3** >>

CIRCUIT RULE 36-3

CITATION OF UNPUBLISHED DISPOSITIONS OR ORDERS

(a) Not Precedent: Unpublished dispositions and orders of this Court are not precedent, except when relevant under the doctrine of law of the case or rules of claim preclusion or issue preclusion.

(b) Citation of Unpublished Dispositions and Orders Issued on or after January 1, 2007: Unpublished dispositions and orders of this court issued on or after January 1, 2007 may be cited to the courts of this circuit in accordance with Fed. R. App. P. 32.1.

(c) Citation of Unpublished Dispositions and Orders Issued before January 1, 2007: Unpublished dispositions and orders of this Court issued before January 1, 2007 may not be cited to the courts of this circuit, except in the following circumstances.

(i) They may be cited to this Court or to or by any other court in this circuit when relevant under the doctrine of law of the case or rules of claim preclusion or issue preclusion.

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<< CTA9 Rule 32-2 >>

CIRCUIT RULE 32-2

MOTIONS TO EXCEED THE PAGE OR TYPE-VOLUME LIMITATION

Term

Finding Help

- inside back / front covers
- index and table of contents
- Alan L. Dworsky, User's Guide to the Bluebook (rev. for the 18th ed. 2006). **KF245 .D853 2000 [REF]**
- Peter W. Martin, Introduction to Basic Legal Citation (2006),
<http://www.law.cornell.edu/citation/>.
- your legal reference librarian

Sanity Check

- R.W. Emerson, Self-Reliance, in Essays, First Series 37, 50 (Phillips, Sampson & Co. 1856) (1847) (“A foolish consistency is the hobgoblin of little minds, adored by little statesmen and philosophers and divines.”)