Legal Citations

Citation in LER or HRER courses is a bit complex because the courses are interdisciplinary, and thus aren't legal in the way that a law school course would be. So, some professors may allow or want standard academic style, like Kate Turabian or *Chicago Manual of Style*. Academic citation is complicated by the fact that there are multiple possible sources of advice and guidance on citation.

For our purposes, legal citation is preferred for a simple reason—simplicity. In contrast with citation in the social sciences or humanities, legal citation is dominated by a single course—the *Blue Book*. The *Blue Book* is the nearly universally followed guide to legal citation. If you are planning (or are in) a career in human resources or labor relations including with a union, you should seriously consider buying a *Blue Book*.

Short of buying a *Blue Book,* you can use this link to find citation formats:
Introduction to Basic Legal Citation by Peter W. Martin
<https://www.law.cornell.edu/citation/>

Basics of Legal Citation

The first part of any case citation is the name of the case. The name has at least one or more of the parties to the case. Some cases have a single name, for example *In Re Yamashita* or the NLRB case *ATC Forsythe*. Most cases have two parties, but some have more (particularly class actions which have multiple plaintiffs).

When you cite a case, the case name MUST be in italics or underlined (italics is more current, underline was more the format when typewriters were used). Pick either italics or underline and use it throughout your whole document. Use that name form EVERY time that you mention the case.

Next in case citation is typically something that looks like this - 152 NLRB 25. This is usually the legal source book where the case is found (in this case NLRB bound volumes), with the volume number first and the page number second. In this case, the volume is 152 and the page number is 25. Many cases have multiple volume citations, listing citations found in more than one federal volume, perhaps a Westlaw cite (look for WL in the cite) or a Lexis cite (look for lexis in the cite). For example, *Harris v. United States*, 382 U.S. 162, 167, 86 S.Ct. 352, 15 L.Ed.2d 240 (1965) lists 3 places where you can find the case—U.S. volumes, S. Ct. volumes, or L.Ed. volumes. In this course we will use the first location listed, in this example, the U.S. So you can cite this case as *Harris v. United States*, 382 U.S. 162 (1965).

When citing a decision you must cite the page number where the information you are referencing can be found. Using the prior example we want to cite page 167 where we found a quotation. We would cite *Harris v. United States*, 382 U.S. 162, 167 (1965). We have added a number that is called the pin cite. The first page number—162—is the page in the volume where the first page of the decision appears. The 167 that we added, is the pin cite and is the page where the specific quote is found. This is a very important number, because anyone reading the document needs to know exactly where to find the referenced information. You should include a pin cite for any specific material that you cite.

Since many of your decisions will involve administrative law—EEOC or NLRB—particularly more recent decisions, a few comments are appropriate. Most administrative law decisions have a single name as the title. Recent decisions are not yet included into a bound volume, and appear literally as slips of paper distributed to practitioners not long after the decision is made public. These decisions are called "slip opinions" or "slip ops."

Slip ops typically have three numbers—the volume number, the case number, and a slip op page cite. The volume number is the number of the bound volume in which the case will eventually appear. Cases are given case numbers in order of publication. The first case published or made public in a volume is No. 1, the second is No. 2. The page cite number is a bit complicated. In contrast with decisions found in bound volumes, which have a page number referring to the page where the decision first appears, the slip opinions have no bound volume page number. For that reason, pin cite citations in a slip opinion refer to the actual page in the slip opinion, which will typically be a low number like 1 or 4 or 16.

For example, a case citation like, *St. George Warehouse*, 351 NLRB No. 42, slip op. at 3, will appear in the 351st Board volume, the case was the 42nd issued during the volume period, and the particular proposition, holding, or quotation cited was found on the 3rd page of the slip opinion.

Shepardizing Cases

One more tip on citation. When you cite a case, you should attempt to make sure that the case is still good law, that is, whether the case has been overturned or overruled by a subsequent case. If the case issued very recently this may not be an issue. But with older cases, some or all of the case's holdings or findings may have been overturned. In general, the process of checking to see if a case has been overturned in part or whole or referred to in a subsequent decision is called "Shepardizing" (after the Shepard's volumes where the subsequent history of cases was found). Shepard volumes still exist and are used if you want to check on the subsequent history of cases. In Lexis there is a simple link at the top of the decision to Shepardize the case.

A subsequent history is both the path that a case takes after the initial decision and how the case fared at each step. For example, a Board case might be appealed to the circuit (short for circuit court, in other words the federal appellate court to which the case was appealed) and then go to the Supreme Court. The subsequent history would not only list the courts that reviewed the decision but would also indicate what they did with it (overturned or upheld in part or whole or enforced or remanded). Overturned in part or whole or upheld in part or whole should be obvious. Enforced means that a higher court has upheld a lower court or agency decision and will enforce it. A remand is when a court sends a case or part of a case (like one of the issues or the amount of the recovery) back to an agency or lower court or forum for additional findings. For example, the circuit court might send a Board decision back for fact finding on an issue because the issue was not developed enough in the lower proceedings.

If you were an attorney, reviewing and citing subsequent history would be extremely important. You can be disbarred for harming a client's interests because you failed to "Shepardize" a case and mistakenly cited an overturned case as good law. Such a mistake is also actionable malpractice. For those of you currently in or pondering careers in human resources or unions, the stakes with subsequent history are a bit lower, but you might lose a job or promotion if you cite a bad case. For these reasons, get in the habit of trying to find subsequent history, using Shepards or the Westcite function in Westlaw or the above procedure in Lexis.

In this course, it would be good practice to cite subsequent history. This provides the reader the entire information about the case. You will find Shepardizing very relevant when you are trying to explain the significance of a case you are reviewing. If you find the case is still good law and has not been overturned the fact that another judicial body agreed with the case would buttress your argument. If the contrary were true then it would not be good law and explaining that could make your analysis more complete.