

CITATION TRAINING HANDOUT

Prepared by Aletheia V.P. Allen, New Mexico Court of Appeals, and Michelle Haubert, New Mexico Court of Appeals

Last updated: Sept. 2020 (though may not incorporate BB Ed. 21 yet)

Modified for Paralegal CLE, May 2021

Examples of Common Citations

This handout provides common examples and the Appellate Courts' citation format for the most common authorities. It also references the appropriate Rule appendix and/or Bluebook Rule number for further reference and for your future reference on a few less-commonly-cited authorities.

I. CASES

[Examples/Cross-references]

A. NM Cases (Rule 23-112 NMRA; BB 10; BBT6)

1. Long Citation Form

a) Prior to 2012; vendor neutral plus two parallel cites:

State v. Rapchack, 2011-NMCA-116, ¶ 3, 150 N.M. 716, 265 P.3d 1289.

b) Post 2012; vendor neutral plus single parallel cite:

Rodriguez v. Brand W. Dairy, 2015-NMCA-097, ¶¶ 3-5, 356 P.3d 546.

*Note: Do *not* use pinpoint page numbers for parallel citations---i.e., your citation should have reference to the vendor neutral paragraph numbers and *not* to the page numbers for the New Mexico or Pacific Reporters.*

2. Short Citation Form (BB 4.1)

a) Once a case has been cited, use the short form for subsequent cites. The basic format is to use one party name---usually the plaintiff unless it’s a criminal or CYFD case---and the vendor neutral citation:

Rapchack, 2011-NMCA-116, ¶ 4.

Rodriguez, 2015-NMCA-097, ¶ 7.

3. Formal Opinion, No Citation Assigned Yet

State v. Chacon, ___-NMCA-___, ¶ 10, ___ P.3d ___ (No. A-1-CA-34545, Aug. 6, 2018). *Note: each of those “___” is comprised of 3 underscores → this is the format we use for Compilation Commission purposes.*

Note: We have been informed that the Supreme Court does not use “No.” in its citation to cases that refer to the appellate court case number. Nonetheless, the Court of Appeals still uses the “No.”

4. Unpublished Cases/Memorandum Opinions

a) **Long Citation Form:**

State v. Hurd, No. S-1-SC-36153, dec. ¶ 15 (N.M. Sup. Ct. July 26, 2018) (non-precedential).

State v. Curiel, No. A-1-CA-35579, mem. op. ¶ 5 (N.M. Ct. App. Aug. 6, 2018) (non-precedential).

b) **Short Citation Form:** (One party name, Case No., pinpoint)

Hurd, No. S-1-SC-36153, dec. ¶ 16.

Curiel, No. A-1-CA-35579, mem. op. ¶ 6.

B. United States Supreme Court Cases

1. BB T1.1: Cite to U.S. if available; “otherwise, cite to S. Ct., L.Ed., or U.S.L.W., in that order of preference.” Do not cite to anything other than the U.S. Reports, unless it is unavailable.

2. Example of a citation to the U.S. Reports when it is available:

Johnson v. United States, 544 U.S. 295, 298 (2005).

3. Citation to U.S. Reports when it is unavailable.

Carpenter v. United States, ___ U.S. ___, 138 S. Ct. 2206, 2209 (2018).

4. Short citation when U.S. Reports is unavailable.

Carpenter, 138 S. Ct. at 2209.

C. Other Federal Cases (BB 10; BB T1.1)

1. **Long Citation Form**

Smith v. LeJeune, 203 F. Supp. 2d 1260, 1262 (D. Wyo. 2002).

Jaramillo v. Colo. Jud. Dep’t, 427 F.3d 1303, 1309 (10th Cir. 2005).

Note: there are spaces between the F. and the Supp. in cases using the Federal Supplemental reporter; there are not spaces between the F and the 2d/3d when using the Federal (not Supplemental) Reporter.

2. **Short Citation Form**

Smith, 203 F. Supp. 2d at 1263.
Jaramillo, 427 F.3d at 1310.

3. Unreported Decisions

a) Go to BB Rule 10.8.1

Young v. Warren, No. 05-3072 (10th Cir. Oct. 12, 2005).

Note: do not allow your word processor to auto-correct the “th” to superscript font after the Circuit Number. If it does it, simply control-z (undo) the last action and it should undo the superscript formatting. NOTE: In Word, “control-space” strips the formatting of the highlighted text.

D. Federal Appendix (BB 10.5)

The Federal Appendix, which compiles previously unpublished Circuit Court opinions, now has over 700 volumes—all since 2001!

Duncan v. Schwartz, 337 F. App’x 587, 593 (7th Cir. 2009) (“*Faretta* does not require a more searching inquiry whenever a defendant makes ambiguous, equivocal statements that could potentially be construed as indicating a desire for self-representation.”).

E. Other State Cases

1. If State uses vendor neutral (see BB T1.3 to find out):
 - a) Use the vendor neutral citation *and* the regional reporter (subsequent citations use vendor-neutral citation unless no paragraph number, in which case regional reporter is used).
2. If State does not use vendor neutral, just use the regional reporter.

F. Common names/cases with multiple dispositions (BB 10.2.1(k))

1. When you want to cite to a case and then, thereafter, refer to it as *Name II* or something similar, review the Bluebook rule for your situation, and follow the examples.

Note that a case name that you provide that is different from the name in the reporter should appear in parentheses immediately after the reporter case name, not after the full citation. This appears to be true even if you are providing a name that is useful only in the context of your opinion.

Note also that the Bluebook indicates that whether the “nickname” is in italics or not appears to depend on whether the case is commonly known as the nickname given---if it is commonly known as that name, then italics is not used. However, since case names in our opinions appear in italics anyway, we generally just use italics.

Hamdi v. Rumsfeld (Hamdi III), 316 F.3d 450 (4th Cir. 2003) (

Note: parentheses are not italicized.

G. Abbreviations (BB 10.2.1(c), BB 6.1(b), T6)

1. Determining whether you are in a textual sentence or a citation sentence will determine the amount of abbreviation you use for your case names. (This will also be relevant for statutes, discussed below.) To understand the difference between textual and citation sentences, refer to BB 1.1 and BB 10.2.
2. “There are three situations where a case name (or other reference to authority) occurs: (1) following a sentence to support a proposition or acknowledge a quote; (2) within a sentence, parenthetically as a citation clause; and (3) within a sentence as part of its grammatical structure. The phrase ‘textual sentences’ in the Bluebook does not mean ‘in a sentence of text,’ but rather ‘making up an essential grammatical part of a sentence of text.’”
3. When a citation is part of a textual sentence you abbreviate “lightly”; when a citation occurs in a citation sentence or citation

clause; you abbreviate “heavily.”

- a) For light abbreviations, you are limited to BB 10.2.1(b) (procedural phrases), BB 10.2.1(c) (eight identified words), and BB 6.1(b) (widely-known acronyms).
- b) For heavy abbreviations, use the rules discussed above PLUS BB Rule 10.2.2 and BB Tables 6, 7 (not clear in BB, but currently, it seems we abbreviate what’s found in T7 in case names), and 10

4. Examples:

- a) **Textual Sentence** (makes up essential part of text):

The Court in *Acacia Mutual Life Insurance Co. v. American General Life Insurance Co.*, 1990-NMSC-107, ¶ 1, 111 N.M. 106, 802 P.2d 11, held that a contract provision that contravenes the positive law is unenforceable.

- b) **Citation Sentence:**

See Acacia Mut. Life Ins. Co. v. Am. Gen. Life Ins. Co., 1990-NMSC-107, ¶ 1, 111 N.M. 106, 802 P.2d 11.

- c) **Citation Clause** (set off by commas and immediately follow proposition they support; treated like citation sentence):

This Court will not consider propositions that are unsupported by citation to authority, *ITT Educ. Servs., Inc. v. Taxation & Revenue Dep’t*, 1998-NMCA-078, ¶ 10, 125 N.M. 244, 959 P.2d 969, and we may assume that where no authority is cited, none exists, *see In re Adoption of Doe*, 1984-NMSC-024, ¶ 2, 100 N.M. 764, 676 P.2d 1329.

H. Subsequent History and Weight of Authority

Give a case's subsequent history the first time you cite the case; later occurrences of the same citation do not include the subsequent history.

1. Certiorari: You *must* indicate when certiorari has been granted and the case has not yet been addressed or resolved by the Supreme Court (i.e., it's still pending), as well as any denials of certiorari that are fewer than 2 years old or when certiorari has been quashed. You *may* indicate denials of certiorari greater than two years old if particularly relevant. (BB 10.7)

- a) *Cert. Granted or Denied*: The rule is that we are only supposed to use the New Mexico Official Citation to the appropriate certiorari table. There may be a time when the certiorari table cite is not yet available; currently, there are no current cert tables.

- b) Although the New Mexico Certiorari Tables can be found on the New Mexico Compilation Commission website, no tables have been published since February 2016.

- c) The citation format that we are *currently* using is

Morga v. FEDEX Ground Package Sys., Inc., 2018-NMCA-039, 420 P.3d 586, *cert. granted*, 2018-NMCERT-___ (No. S-1-SC-36918, June 4, 2018).

Note: a comma must follow "cert. granted," but the comma should not be italicized. BB T8, BB 2.1(f).

Note: We do not use the P.3d parallel citation for NMCERT citations at this time.

2. You must indicate when cases have been reversed, overruled, abrogated, or superceded.

State v. Radosevich, 2016-NMCA-060, 376 P.3d 871, *rev'd*, 2018-NMSC-028, 419 P.3d 176.

3. Parentheticals vs. Explanatory Phrases (BB T8) (i.e., when to italicize reversed, overruled, etc.): present participles or gerunds, when used in parentheticals, are not italicized; when used as explanatory phrases, they are italicized.

Parenthetical: *State v. Archuleta*, 2015-NMCA-037, 346 P.3d 390 (reversing the Court's previous determination in *State v. Tower*, 2002-NMCA-109, ¶ 9, 133 N.M. 32, 59 P.3d 1264, based on changes to our burglary jurisprudence).

Explanatory Phrase: *State v. Tower*, 2002-NMCA-109, ¶ 9, 133 N.M. 32, 59 P.3d 1264, *overruled on other grounds by State v. Archuleta*, 2015-NMCA-037, 346 P.3d 390.

I. Pitfalls & Things to Avoid

1. Fixing vendor neutral format when you copy and paste from Westlaw. (Compare 2015–NMCA–037 with 2015-NMCA-037) (i.e., en-dash versus hyphen)

II. STATUTES (Rule 23-112(C) NMRA; Rule 23-112 appx. III)

- A. First, we do not use *et seq.* to cite to an entire Act. Instead, we cite to the multiple sections that comprise the Act, as set forth above.
- B. Second, the most commonly asked question is: when do we spell out Section?

Remember the difference between text, citation sentences, and citation clauses, discussed above. We use the **symbol** whenever we are in a citation clause or sentence, *so long as* a citation sentence does not begin with the section symbol. We use the **word**, spelled out, whenever we are in text or when the section symbol would otherwise be the first word in a citation sentence.

*Note: It is fine for a **citation clause** to begin with a section symbol since it is in the middle of a textual sentence (e.g., Rule 23-112 Appx. III(B)(3)).*

C. New

Mexico

1. **Long Citation Form** - We *always cite* to the current 1978 compilation of statutes *unless* we are citing to a *historical* version. In such case, ask your local citation expert for assistance. *See also* Rule 23-112 appx. IV.

The year that you include for citations *not* including citations to Acts (which we will discuss below) is the year that the Statute was enacted or last amended, whichever is *later*, unless otherwise noted below.

Note that we cite a statute by section, not by *subsections*---i.e., if we have already cited to a section, even if to a *different subsection or no subsection*, that section has been deemed cited for purposes of identifying the year of the section and for purposes of determining whether a short cite should be used.

Accordingly, when citing multiple *subsections*, for purposes of determining whether to use 1 or 2 section symbols, remember that you are citing per *section*. So, multiple subsections of one section would only require 1 section symbol.

In Citation sentences/clauses:

<u>Single</u>	<u>Statute:</u>
Citation sentence: NMSA 1978, § 39-1-1	(1917).
In a citation clause: The statute dealing with tort liability for liquor sales, NMSA 1978, § 41-11-1	(1986), states that....

Multiple subsections:
NMSA 1978, § 55-3-104(a)(3), (g) (1992).

Note: even if subsections (a) and (g) were amended in different years, you just pick the last amended year for the whole section and use that.

Multiple statutes with the same year:
NMSA 1978, §§ 55-3-104, -105 (1992) *or*
NMSA 1978, §§ 55-3-104 to -105 (1992).
Either format is fine.

Multiple statutes with different years:
NMSA 1978, §§ 55-3-104 (1992), -106 (2009) *or*
NMSA 1978, §§ 55-3-104 (1992), -105 (1992), -106 (2009) *or*
NMSA 1978, §§ 55-3-104 to -105 (1992), -106 (2009).

Or you could cite them separately: NMSA 1978, § 55-3-104 (1992); NMSA 1978, § 55-3-106 (2009).

Multiple statutes in a series, **including an Act**, with more than one year:

The Medical Malpractice Act, NMSA 1978, §§ 41-5-1 to -29 (1976, as amended through 2015)

Note: the years used are the year that the Act was originally enacted (here, 1976) & the year of the section within the Act with the most recent amendment (here, 2015). The fastest way to do this is to scroll through the statute sections in OneSource to see when the most recent statute was amended within the Act (OR refer to the Annual Update in paper, which apparently shows the most recent amendment).

As a citation clause (where the citation is not part of the textual sentence): Defendant cited the Medical Malpractice Act, NMSA 1978, §§ 41-5-1 to -29 (1976, as amended through 2015), to make her argument that....

An Act with a single year:
The Uniform Statutory Will Act, NMSA 1978, §§ 45-2A-1 to -17 (1991).

In textual sentences:

Single section or multiple sections (not counting whole Acts):
NMSA 1978, Section 55-3-104 (1992) *or*
NMSA 1978, Sections 55-3-104 to -105 (1992) *or*
NMSA 1978, Sections 55-3-104 (1992), -106 (2009), as appropriate.

An Act / multiple consecutive statutes with more than one year
She asked the Legislature to amend NMSA 1978, Sections 41-5-1 to -29 (1976, as amended through 2015), which is named the Medical Malpractice Act, because she felt it was....

Citing prior version of a statute:

NMSA 1978, § 39-3-1.1(C) (1998, amended 1999) *or*
NMSA 1978, Section 39-3-1.1(C) (1998, amended 1999), as appropriate.

Note: If you are discussing both a prior version and a present version, we also short-cite to the prior version's year throughout the discussion, but do not include the present version's year, which is presumed:

Section 39-3-1.1(C) (1998) *or*
§ 39-3-1.1(C) (1998).

If you are only discussing the prior version, we still include the prior version's year in each instance unless we've otherwise noted so in the text or in a footnote.

2. **Short Citation Form** - Once a statute has been cited, use the short form for subsequent citations (including different subsections of sections already cited).

Remember that, if an Act or range of statutes has been cited, even if you did not identify each section within the range/Act, each section within the range/Act is considered cited, so you would use the short form for subsequent citations.

E.g., first cite: NMSA 1978, §§ 41-5-1 to -29 (1976, as amended through 2015).

Subsequent cite to a section within the Act: Section 41-5-13 *or* § 41-5-13, as appropriate.

When it is the first word in a citation sentence or in text:

Section 55-3-104(a)(3) *or*

Sections 55-3-104(g), -106 *or*

Sections 41-5-1, 55-3-104(g), as appropriate.

When it is in a citation clause or when it is in a citation sentence and it does not begin the citation sentence:

See, e.g., Acacia Mut. Life Ins. Co., 1990-NMSC-107, ¶ 1; § 55-3-104(a)(3), (g) or

See § 52-1-1 or

See §§ 41-5-1 to -29, as appropriate.

... the law enforcement exception, § 14-2-1(A)(4), permits...

See Rule 23-112 Appx. III(B)(3) for similar example*

3. **Official Comments** - sometimes it is appropriate and helpful to cite to the official comments of a statute. Do so as set forth above, with the following adjustment:

NMSA 1978, § 55-3-104 cmt. 2 (1992) *or*

§ 55-3-104 cmt. 2 *or*

Section 55-3-104 cmt. 2, as appropriate.

D. Federal (U.S. Code) (Rule 23-112 appx. XIV; BB Rules 12.2, 12.3, 12.10).

First, we cite to the official version of the U.S. Code → we do not cite to U.S.C.A. (Westlaw) or U.S.C.S. (LexisNexis).

1. **Year.** Unlike with New Mexico statutes, for federal statutes, we cite to the most recent edition of the U.S.C. (currently 2018), which is published every six years, or the supplement, which is updated every intervening year. We do NOT cite to the date of the statute's enactment, amendment, or the date found in either the U.S.C.A. or the U.S.C.S. Cite the unofficial versions only if a statute was enacted or amended after the latest edition or supplement of the code. Remember that if a federal statute has not yet been *updated*, you would cite to the 2012 edition (unless an update for that section was included in a supplement). Use <http://uscode.house.gov/browse/&edition=prelim> for citation.

NOTE: I believe the current version of the BB allows for us to omit the year in federal statutes unless we are citing to a prior version. Does anyone know?

The website, <http://uscode.house.gov/currency/currency.shtml>, states: The currency date for each section of the United States Code is displayed above the text of the section. If the section has been affected by any laws enacted after that date, those laws will appear in a list of "Pending Updates". If there are no pending updates listed, the section is current as shown. Remember that "currency" is not the same as the official version. As indicated above, "2018" will be the date cited for most U.S.C. citations.

- | 2. Long | Citation | Form. |
|---------|--|-------|
| | The Indian Child Welfare Act of 1978 (ICWA), 25 U.S.C. §§ 1901-1963 (2018), | |

Note: When citing federal statutes, we do not shorten the second number in a series of numbers. See, e.g., Rule 23-112 appx. XIV(A)(1); BB Rule 12.

3. Short		Citation		Form.
42	U.S.C.	§	1983	<i>or</i>
§ 1983.				

Note: We use the section symbol to refer to sections of the U.S. Code (and the CFR), even in text and even when the section symbol sets off the citation clause, but the word “section” should be used to begin citation and text sentences. Please refer to Bluebook Rules 6.2(c) and 12.10, and the Table on p. 134 of your Bluebook for additional guidance.

E. Other State Statutes

→ Refer to Bluebook T1 (alphabetical by state) for the rules on citing to statutes of other states. Also refer to Rule 23-112 appx. XVII. Note: we do not use “small caps” in the Court; rather, we use regular initial caps or italics, depending on the situation (books, journals, article titles, and similar are italicized; constitutions use initial caps).

F. Constitutions

→ Refer to Rule 23-112 appcs. I (New Mexico), XI (U.S.), XV (other states). Also refer to Bluebook Rule 11. Note that citations to constitutions in text are different than citations to constitutions in a citation clause or sentence.

G. Pitfalls & Things to Avoid

1. Use Control-Shift-Space (Word) to keep your section symbols (§) with your statute numbers and your paragraph symbols (§) with your paragraph numbers (so it does not bleed over onto the next line). **NOTE:** you can replace-all with hard spaces... e.g., replace § with a space after it, with §, but w/ a hard-space after

it

III. RULES (including UJI and NMSC) and ADMINISTRATIVE REGULATIONS (Rule 23-112(D), (E); Rule 23-112 appx. XI)

Note: unlike with statutes, we do not include years for citations to rules and regulations unless we are not citing to the current version. It is otherwise presumed that the rule or regulation is the current version.

A. Rules.

<u>Current</u>	<u>rule</u>	<u>full</u>	<u>citation:</u>		
Rule	1-056		NMRA.		
UJI 14-4502 NMRA.					
Form	9-406		NMRA.		
<u>Prior</u>	<u>version</u>	<u>of</u>	<u>rule</u>	<u>full</u>	<u>citation:</u>
Rule 1-054 NMRA (2001).					
<u>Subsequent</u>	<u>citations:</u>				
Omit	“NMRA”	from	the	above	forms.

B. Local Rules.

Essentially follow the same formatting as with other rules, but using the local rule number designations.

<u>First</u>	<u>full</u>	<u>citation:</u>	LR2-400	NMRA.
<u>Subsequent</u>	<u>citations:</u>			LR2-400.

Citing prior versions: LR2-400(D)(4) NMRA (2014) in the first instance and LR2-400(D)(4), (I) (2014) in subsequent instances.

In text: Generally, using the same citation format as identified above is permissible and preferred. Indeed, if you were inclined to add the “local

rule” designation in text, it is actually debated whether you would use “Local Rule 2-400” or “Local Rule LR2-400.” As such, we are inclined to simply refer to the rule itself (“LR2-400”), even in text, rather than adding the “local rule” designation. If you really want to add the word “rule” in text, you could say “Rule LR2-400.”

C. Rule Changes (number changes).

Rules are sometimes re-numbered. Significantly, a number of the Appellate Rules were somewhat recently renumbered into the 12-300s. Generally, we continue to cite to the current version. E.g., Rule 12-318 NMRA.

If we need to cite to a prior version, it will depend on the context and reason for citing the prior version:

Rule 12-216(B) NMRA (2004) (recompiled as Rule 12-321 NMRA) (*see State v. Turner*, 2017-NMCA-047, ¶ 60, 396 P.3d 184 (Sutin, J.))

or

Rule 12-216(A) NMRA (1993) (*see State v. Vargas*, 2017-NMSC-029, ¶ 13, 404 P.3d 416) *or*

Rule 12-216 NMRA (2014) (amended 2016) (*see BB Rule 12.7.3*) *or*

Rule 12-216 NMRA (2014) (recompiled and amended as Rule 12-321 NMRA, effective Dec. 31, 2016) (*see BB Rule 12.7.3*) *or*

Rule 12-216 NMRA (2014) (current version at Rule 12-321 NMRA (2016)) (*see BB Rule 12.7.3*).

D. Regulations/New Mexico Administrative Code.

The numbers (title, chapter, part, and section) come first, followed by “NMAC.” Again, do *not* include a year unless you are citing to a prior version, in which case, cite to its full effective date (i.e., month, date, and year). Also, do *not* use section symbols when referring to regulations.

Current regulation, initial and subsequent citations: 3.1.3.8 NMAC; 3.1.3.8(A) NMAC.

Prior version of a regulation, initial and subsequent citations: 3.1.3.8 NMAC (10/31/1996).

If you are referring to an entire part, you may omit the section number, but you will need to include the original effective date and the date of the last amendment: 3.1.3 NMAC (7/19/1967, as amended through 12/29/2000).

E. Municipal Ordinances. See Rule 23-112 appx. IX; BB Rule 12.9.2.

IV. SECONDARY AUTHORITIES (Rule 23-112 appx. XVIII)

A. The Appendix for Rule 23-112 briefly covers the most common secondary sources: Law Reviews; Treatises; Restatements; Legal Encyclopedias; American Law Reports (A.L.R.); and Internet Citations, generally.

B. *See also* Bluebook Rules 16 (law reviews), 15 (treatises), 12.9.4 (restatements), 15.8 (legal encyclopedias), 16.7.6 (A.L.R.), 18 (internet citations).

C. Remember, we do not underline or use small caps. We use *italics* or Initial Caps when citing to secondary sources.

V. SHORT CITES, GENERALLY

A. The first time an authority is cited, it should be in long citation form and include relevant subsequent history, etc. A short citation form may be used for subsequent citations. Short citations include the forms discussed above and the use of “*id.*”

B. *Id.*

1. *Id.* may be used when citing the immediately preceding authority, but only when the immediately preceding citation **only includes one authority**. *Id.* cannot follow a string cite.
2. What counts as an intervening cite? A citation to any authority EXCEPT internal citations (such as citations to the record proper or to the transcripts), which are not deemed intervening citations (because they will be removed from the final draft).

C. Remember that pinpoints to page numbers will use “at” while pinpoints to paragraphs will not.

Id. at 483.

Id. ¶ 14.

VI. INTERNAL REFERENCES (*infra*, *supra*, hereinafter)

A. Although such internal references *can* be used to refer to earlier/later parts of the document you are presently working on, we do not *typically* use them in this manner because the Court tends to prefer “simple English”---e.g., “As discussed earlier in this opinion...” or “As we will discuss later in this opinion...”

B. *Supra* and *infra* can also be used for citations to articles, books, etc., with long citations:

See Vivian Chang, Note, *Where Do We Go From Here: Plea Colloquy Warnings and Immigration Consequences Post-Padilla*, 45 U. Mich. J.L. Reform 189, 194 (2011) (recognizing that “non-citizen defendants may be interested in serving longer sentences in order to avoid adverse immigration consequences”).

...

Chang, *supra*, at 216 (noting “that defendants do not currently pay attention to the rote nature of warnings at plea colloquy, and that non-citizen defendants therefore would not actually be put on notice of the immigration consequences they might face”).

Note: We do not use id. when citing to internal cross-references (i.e., when supra is appropriate). (BB Rule 3.5)

VII. INTERNAL CITATIONS (Rule 23-112 appx. X)

- A. When citing to internal references (motions, transcripts, the record, etc.), you should cite to everything that is relevant to help your reader find your source. We also find it helpful to **cite to the Volume Number for records and transcripts.**

[4 RP 525]

[2 Tr. 267]

[1 RP 137 ¶ 3] or [1 RP 137 FOF 3] or [1 RP 137 COL 3]

If you are citing to a volume of a record proper when there is more than 1 district court case that led to the present appeal, or if you are citing to volume of a record proper when there is more than 1 appellate court case (i.e., what will become consolidated cases), just be sure the pertinent information is present and clear. E.g.:

Multiple District Court Cases

[D-202-CV-201800034 RP Vol. 2 p. 49] works

[00034 RP V2 p. 49] also works

Multiple Appellate Court Cases

[A-1-CA-37546 RP Vol. 2 p. 49] works

[37546 RP V2 p. 49] also works

Other examples of internal citations:

[5-3-12 MOT 3 ¶¶ 13, 15]

[5-3-12 MOT 3 ¶ 13, 4 ¶ 14]

[BIC 32]

[AB 12 ¶ 2]

[2MIO 18] (where we are referencing the *second* MIO)

[XBIC 18] (where we are referencing the cross Brief in Chief)

VIII. MISCELLANEOUS (common pitfalls/questions)

A. Explanatory Parentheticals (BB Rule 1.5)

1. **Permissible Formats** (BB 1.5). Essentially, parentheticals supporting authorities take 1 of 3 forms:

- a) Present participle/gerund explanatory phrases (phrases starting with “ing” words) (do not include closing punctuation (period) inside the parentheses)

State v. Chamberlain, 1989-NMCA-082, ¶ 11, 109 N.M. 173, 783 P.2d 483 (holding that the appellant’s failure to provide the court with a summary of all the facts material to consideration of an issue on appeal necessitated a denial of relief).

- b) Complete sentences (do include closing punctuation (period) inside the parentheses)

Elane Photography, LLC v. Willock, 2013-NMSC-040, ¶ 70, 309 P.3d 53 (“We will not review unclear arguments, or guess at what a party’s arguments might be.” (alteration, internal quotation marks, and citation omitted)).

- c) Very short phrases (e.g., if you are referencing multiple statutes to make a point, your parentheticals may be something like: (traffic) (tort) (juvenile offender); or, if you are citing citations for similar propositions, you may just say (same)). (do not include closing punctuation inside the parentheses)

State v. Griffin, 1993-NMSC-071, ¶ 17, 116 N.M. 689, 866 P.2d 1156 (noting that we do not re-weigh the evidence, and we may not substitute our judgment for that of the fact-finder, as long as there is sufficient evidence to support the verdict); *State v. Mora*, 1997-NMSC-060, ¶ 27, 124 N.M. 346, 950 P.2d 789 (same).

2. Alterations and Omissions

- a) We generally refer to “alterations” in the source material, regardless of whether such alterations are additions, modifications, or omissions. Nonetheless, if an omission appears in the source material, we may use the explanatory parenthetical “(omission in original).” We find it awkward to use the explanatory parenthetical “(omission omitted)”; in such case, we simply note that an alteration has been omitted.

- b) **Internal quotation marks and citations omitted (IQMACO).** We differ from the Bluebook on the use of internal quotation marks and the IQMACO parenthetical. The Bluebook no longer requires the phrase “internal quotation marks omitted” and seems to encourage the use of internal quotation marks in certain contexts (*see* Bluebook Rule 5.2(f)); we are still inclined to omit such marks, and we still use the phrase. Moreover, Rule 5.2(f) provides, *inter alia*, that we should *not* omit internal quotation marks from block quotations. Our appellate courts still do so.

Note: if your source material is not a direct quotation, but you are nonetheless omitting citations from within the source material, you would note that with “(citation(s) omitted)” NOT “(internal citation(s) omitted)”

- c) **Ellipses** (BB Rule 5.3)

We do not use auto-formatted ellipses -- we put hard spaces in between each dot. But we are also careful to ensure the ellipses are not split across different lines or pages: we use control-shift-space (Word) between each period to hold the ellipsis dots together.

We do not start a quoted sentence with an ellipsis; we use a bracketed capital letter: “[O]ur Courts....”

The Bluebook permits ending a quoted sentence with four ellipses, a bracketed period, and even a non-bracketed period. The Court of Appeals tends to prefer the use of a simple period unless we want to indicate, for some specific reason, that the sentence continues on.

d) **Work-arounds.** If you find that your parenthetical is awkward, consider a work-around:

(1) Break the sentence(s) up differently

(2) Rephrase and/or paraphrase the material

(3) Try a different portion of the quoted material

3. *Other explanatory parentheticals*

a) Note that some explanatory parentheticals (such as “(emphasis added)”) are best placed as a *separate sentence*. In such case, treat what falls within the parenthetical as a complete sentence → i.e., remember to include your period at the end, *inside* the closing parenthesis: (Emphasis added.)

Example: NMSA 1978, Section 31-3-2 (1993) is titled: “*Failure to appear; forfeiture of bail bonds.*” (Emphasis added.)

4. **Order of parentheticals, generally** (BB Rule 1.5(b)) - there is a Bluebook-mandated order of parentheticals. When you have multiple parentheticals, refer to Rule 1.5(b). New Mexico appellate courts do, however, enjoy using the (alterations, omissions, internal quotation marks, and citations omitted) “all-purpose” parenthetical (in that order). If this is used in

connection with yet other parentheticals, refer to Bluebook Rule 1.5(b).

*Note: when you are using multiple parentheticals, be sure to **nest** appropriately. Ensure that you have closed a parenthetical phrase if you have opened one.*

Also, ensure you have put your parenthetical phrase in the right place! Note the following examples:

“The propriety of denying a jury instruction is a mixed question of law and fact that we review de novo.” *State v. Lucero*, 2015-NMCA-040, ¶ 11, 346 P.3d 1175 (also stating that, “[w]hen considering a defendant’s requested instructions, we view the evidence in the light most favorable to the giving of the requested instructions” (internal quotation marks and citation omitted)). *In this example, the iqmaco parenthetical refers to the quote inside the parentheses, following the citation to Lucero.*

“The propriety of denying a jury instruction is a mixed question of law and fact that we review de novo.” *State v. Lucero*, 2015-NMCA-040, ¶ 11, 346 P.3d 1175 (also stating that, “[w]hen considering a defendant’s requested instructions, we view the evidence in the light most favorable to the giving of the requested instructions”) (internal quotation marks and citation omitted). *In this example, the iqmaco parenthetical refers to the quote outside the parentheses, preceding the citation to Lucero.*

In this example, both quotes are actually quoted in the source material. As such, you would either need to simply re-write your sentence/citation (I would suggest 2 sentences or paraphrasing at least 1 sentence) or use the following somewhat absurd format:

“The propriety of denying a jury instruction is a mixed question of law and fact that we review de novo.” *State v. Lucero*, 2015-NMCA-040, ¶ 11, 346 P.3d 1175 (also stating that, “[w]hen considering a defendant’s requested instructions, we view the evidence in the light most favorable to the giving of the requested instructions” (internal quotation marks and citation omitted)) (internal quotation marks and

citation omitted). *This example is correct. Fun, hey?*

B. Signals (BB 1.2)

1. Common Signals

Do not use a signal when the cited authority directly states the proposition (even if it is not a quote); identifies the source of a quotation; or identifies an authority referenced in the text.

See is used when the authority “clearly supports” the proposition. Note that the proposition should “obviously follow” from the authority, but that there is an “inferential step” required. *See* can be used in connection with a quotation when the quote is used to describe the *present party* in a case and the quotation is, thus, essentially taken out of context.

The easier example is when you are quoting or directly citing source material (e.g., a statute), where you might otherwise use quotation marks, but you are using it in a sentence about a party in your case. Because the statute, e.g., does not actually discuss your party, a see citation is appropriate to infer that it does apply to your party in the manner you are suggesting. An example:

Example: Defendant fails to provide any authority for these contentions or develop his arguments, factually or legally, in any meaningful way, so we decline to consider them. *See State v. Casares*, 2014-NMCA-024, ¶ 18, 318 P.3d 200 (stating that “[w]e will not consider an issue if no authority is cited in support of the issue, because absent cited authority to support an argument, we assume no such authority exists”); *Corona v. Corona*, 2014-NMCA-071, ¶ 28, 329 P.3d 701 (“This Court has no duty to review an argument that is not adequately developed.”).

The harder example to really wrap your brain around is when the source material does not directly support your statement, but essentially supports it, requiring that “inferential step.” An example:

Example: We look to the jury instructions to determine what the jury was required to find in order to convict Defendant beyond a reasonable doubt. *See State v. Holt*, 2016-NMSC-011, ¶ 20, 368 P.3d 409 (“The jury instructions become the law of the case against which the sufficiency of the evidence is to be measured.” (alterations, internal quotation marks, and citation omitted)).

E.g., (the comma following the “e.g.” is *not* italicized) is used when the authority is an example of the proposition; generally, it does state the proposition. Note that *e.g.*, can be, but need not be, used with another signal. In such a case, the comma *preceding* the “e.g.” *is* italicized.

See also is used for additional authority that supports the proposition. New Mexico appellate courts use explanatory parentheticals for *see also* citations when such authorities are being cited for the cited proposition in the first instance (i.e., there’s no need to keep repeating the explanatory parenthetical when the authority is repeatedly used).

Cf. is used when the authority supports a proposition that is *different* from the stated proposition, but sufficiently analogous. Parenthetical explanations are used in the same fashion as with *see also*. A common use of the *cf.* citation is when you are citing a criminal case in a civil context in which the reasoning is not *necessarily* applicable, but we are choosing to apply it. Likewise, if you are citing to a CYFD case in an ICWA case, *cf.* would be appropriate. Another common use is when we are employing the same reasoning in a different context.

But see is used when the cited authority clearly supports a
contrary proposition.

2. **Accord, contra, etc.** For less-commonly used signals, it is always a good idea to refer back to Bluebook Rule 1.2.
3. **Order.** For the order of signals, see Bluebook Rule 1.3 (and discussion below).

C. String Citations (BB 1.2, 1.3, 1.4, B1)

1. B1: “One citation sentence may contain multiple citations separated by semicolons.”
2. BB 1.3 “Within a citation clause, however, citation strings may contain signals of more than one type, separated by semicolons.”
3. BB 1.3: “Signals of the same basic type---supportive, comparative, contradictory, or background---must be strung together within a single citation sentence and separated by semicolons. Signals of different types, however, must be grouped in different citation sentences.”

a) Same Signal Type Example:

“It is too well established for dispute that a party litigant may not invite error and then take advantage of it.” *Hodgkins v. Christopher*, 1954-NMSC-089, ¶ 11, 58 N.M. 637, 274 P.2d 153; *cf. State v. Jim*, 2014-NMCA-089, ¶ 22, 332 P.3d 870 (“It is well established that a party may not invite error and then proceed to complain about it on appeal.”).

b) Different Signal Type Example:

State v. Baca, 1982-NMSC-016, ¶ 18, 97 N.M. 379, 640 P.2d 485. *But see State v. Lujan*, 1998-NMCA-032, ¶ 12, 124 N.M. 494, 953 P.2d 29 (concluding that “basis of knowledge” prong was satisfied where affidavit detailed confidential informant's

actions and statements during and after a controlled buy in such detail that “first-hand knowledge naturally and logically flows from a common-sense reading of the affidavit”).

4. **Order of Signals/Order of Authority:** Remember that string cites must be organized by signal in the order listed in BB 1.2, *see* BB 1.3 (order of signals), and authorities *within each signal* must be ordered according to BB 1.4 (order of authorities).

NOTE: *I believe the current BB permits the order of authority to be based more on author preference (and/or pertinent to the material), rather than an arguably arbitrary list. Does anyone know?*

5. You do not need to repeat the signal. The signal carries throughout the string cite until you change signals.

D. Block Quotes (BB Rule 5.1)

1. Quotations that are 50+ words should be placed in block-quote format (single space, indent the left and right margins by ½ inch, do not use opening and closing quotation marks, and *do* use quotation marks inside the quote as in the source material).

You *may* use block quotation format to quote a source that is fewer than 50 words if it makes sense to do so. This is most commonly used with statutes.

2. *Remember:* we do *not* use the block-quotation format in parentheticals. Consider paraphrasing or using a shorter quote, but, even if you use a full, long quotation, it is still not placed in block-quotation format.