

HOW TO WRITE A CASENOTE WORKSHOP

PRESENTED BY THE
UNIVERSITY OF MIAMI LAW
REVIEW



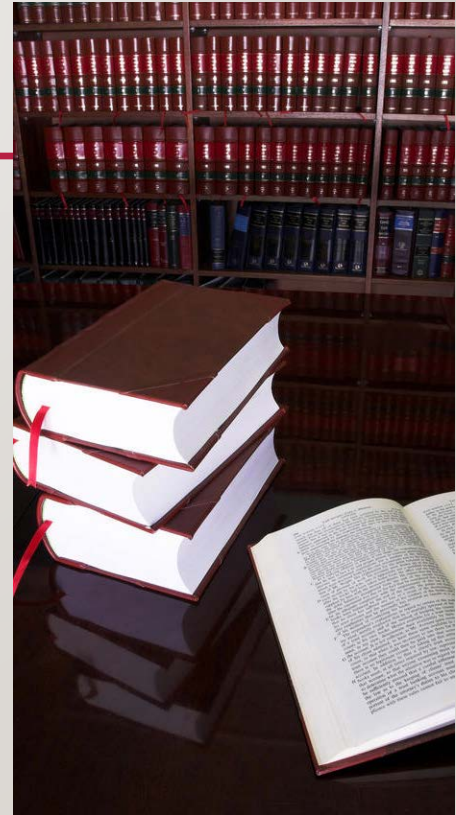
WHAT IS A CASENOTE

A casenote:

- ❖ Is a scholarly report of a recent, significant decision.
- ❖ Is a concise analysis of an opinion.
- ❖ Contains citations to related cases and important secondary authorities.

SECTIONS OF A CASENOTE

- INTRODUCTION
 - Lead Paragraph
 - Background
 - Roadmap
- PRIOR LAW AND PERSPECTIVE
- MAIN CASE
- ANALYSIS
- CONCLUSION



I. INTRODUCTION


- A. Lead Paragraph:** Engage the reader with a sentence, quote, or hypothetical that will pique the reader's interest.
- B. Background:** Paint a broad picture of the paper, setting the stage for what is to come later in the note.
 - Identify the basic issues and themes.
- C. Roadmap:** Explain what each part of your paper is going to say.

A. LEAD PARAGRAPH


- Open with a strong paragraph. Again, grab the readers attention.
- If there is a specific constitutional provision, it might be useful to put it here to set the stage as to where your note is going.

B. BACKGROUND

Give a **brief** description of relevant law leading up to the casenote's topic. Put the lead case in perspective.



Be specific as to the trend that you are focusing on, while setting out relevant facts of your case.



Preview the recent development and the prior law, while simultaneously identifying the most crucial part of your analysis.



Does this development extend the trend or break new ground? Does it clarify the relevant area of law? Is it a new approach to the same problem?

C. ROADMAP

- ❖ Explain the structure of your entire casenote.
 - “In Part I, this note... In Part II this note...”
- ❖ Make sure your own analysis and conclusions are clearly laid out for the reader.
- ❖ It might be helpful to do this at the end. As you write, the way you organize your casenote might change.

II. PRIOR LAW

- ❖ Set out the legal history leading to the recent development discussed in your casenote.
- ❖ Identify the important cases, statutes, and secondary sources in the area.
- ❖ Organize by approaches, not by cases.
- ❖ When discussing case law, discern what is necessary and what is not necessary (e.g., procedural posture, critical facts, reasoning, etc.).

III. MAIN CASE

- ❖ Identify significant facts, procedural posture, and parties **in detail**.
- ❖ Elaborate as to how this case came about and state its impact on prior law.
- ❖ Briefly describe the majority and, if any, concurring or dissenting opinions in your case.

IV. ANALYSIS

- ❖ Here, your creativity and argument emerges.
- ❖ Synthesize the prior law in the area.
- ❖ Elaborate as to how your position reverses, extends, or deviates from prior law.
- ❖ Incorporate analysis, lower court's majority, and dissenting opinions.
- ❖ Note any implications & potential criticisms of your argument.

WRITING THE ANALYSIS SECTION

- ❖ As in a law school exam, this is the most important part of the casenote. Make it count!



TYPES OF ARGUMENTS



THE COURT WAS
RIGHT OR WRONG
AND FOR SPECIFIC
REASONS.



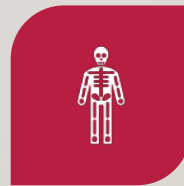
THE COURT DID
NOT REALLY
ACCOMPLISH
ANYTHING.



THE COURT
PROPERLY APPLIED
OR MISAPPLIED PRIOR
LAW OR THE
STATUTE.



WHAT DO YOU
THINK THE COURT
SHOULD HAVE
DONE?



WHAT WILL THE
COURT DO? (WHERE
IT HAS YET TO
DECIDE THE CASE).

V. CONCLUSION

- ❖ Give a big-picture perspective.
- ❖ Do **not** introduce new material or arguments.
- ❖ Flow smoothly from your previous analysis without simply regurgitating it to the reader.

HELPFUL EXAMPLES OF LEGAL WRITING

- ❖ Hannah Gordon, *Cowboys and Indians: Settler Colonialism and the Dog Whistle in U.S. Immigration Policy*, 74 U. MIAMI L. REV. 520 (2020).
- ❖ Laurence H. Tribe, *Death by a Thousand Cuts: Constitutional Wrongs Without Remedies After Wilkie v. Robbins*, 2007 CATO SUP. CT. REV. 23 (2007).
- ❖ Frank H. Easterbrook & Daniel R. Fischel, *The Proper Role of a Target's Management in Responding to a Tender Offer*, 94 HARV. L. REV. 1161 (1981).
- ❖ John Hart Ely, *The Wages of Crying Wolf: A Comment on Roe v. Wade*, 82 YALE L.J. 920 (1973).
- ❖ Samuel D. Warren & Louis D. Brandeis, *The Right to Privacy*, 4 HARV. L. REV. 193 (1890).
- ❖ To see UMLR's other past publications, go to [our website!](#)

HONOR CODE: OVERVIEW

UNIV. OF MIAMI SCH. OF LAW HONOR CODE: [read the full Honor Code here.](#)

- **§ 1.01: Purposes and Objectives**
 - “a. Instilling and perpetuating high standards of ethics and professional conduct among students of the University of Miami School of Law;”
 - “c. Guarding the School’s academic and professional integrity;”
- **§ 1.02: Authority and Guidance**
 - “c. This Code is binding on the students of the School of Law...”
- **§ 1.03: Standards of Conduct**
 - “a. Cheating (acquiring, obtaining, giving or receiving assistance or information on examinations or assignments...)”
 - “b. Plagiarizing (knowingly appropriating another’s words or ideas and representing them as one’s own).”
 - “c. Utilizing unauthorized materials, possessing such materials where they could be utilized, or otherwise breaching, in any manner, the instructions of the instructor of the course regarding examinations or assignments...”
- **Art. IV: Hearing Process**
- **§ 5.02: Sanctions**

HONOR CODE: PLAGIARISM

UNIV. OF MIAMI SCH. OF LAW HONOR CODE

§ 1.03B

NO PLAGIARISM! You cannot use someone else's work and represent that it is your own. This includes, but is not limited to, the following:

- Having someone else write your casenote;
- Having someone else write a portion of your casenote;
- Copying and pasting from sources without putting the material in quotes;
- Copying and pasting from anything you found anywhere and not putting the material in quotes and/or paraphrasing;
- Not giving proper credit to the source where you got information.

Tips: *When in doubt, cite it out!!!!!!!*

- Identify all sources relied upon
- If a direct quote, use quotation marks
- If paraphrased or if ideas are substantially derived from a source, identify the source
- Use SIGNALS when not direct support (like a direct quote).

HONOR CODE: COLLABORATION

UNIV. OF MIAMI SCH. OF LAW HONOR CODE §I.03A

NO OUTSIDE ASSISTANCE!: Any outside assistance AT ALL is prohibited.

This includes, but is not limited to, assistance from all of the following

- Any member of any law review;
- Other students competing in the competition;
- Other students *not* competing in the competition;
- Professors; Bosses; Judges; Paralegals; Moms; Dads; Siblings; Pets;
- Literally anyone, etc.

Disclose close relationships with members of any law review

- BLR (<https://business-law-review.law.miami.edu/about/masthead/>)
- IALR (<https://inter-american-law-review.law.miami.edu/masthead/>)
- ICLR (<https://repository.law.miami.edu/cgi/viewcontent.cgi?article=1333&context=umiclr>)
- RSJLR (<https://race-and-social-justice-review.law.miami.edu/masthead/>)
- UMLR (<https://lawreview.law.miami.edu/masthead/>)

This also means that you cannot read/edit anyone else's casenote or have anyone else read/edit your casenote



HONOR CODE: UNAUTHORIZED MATERIALS

UNIV. OF MIAMI SCH. OF LAW HONOR CODE §1.03C

NO OUTSIDE MATERIALS!:

- You cannot use, cite, review, read, discuss, etc. any sources or materials that we have not provided to you in the materials packet.
- The materials packet will be between 450–550 pages.
- You can *only* cite to materials included in the packet.
- You cannot discuss any other materials that are not in the packet *unless* what you are discussing is “common knowledge.”
- If you have any questions about this rule during the Competition, please reach out to Farah Barquero and she will assist you.

HONOR CODE: ZERO TOLERANCE POLICY

- **UNIV. OF MIAMI SCH. OF LAW HONOR CODE art. IV – Hearing Process**
 - If you are accused of violating the Honor Code, you will have to go through a long, stressful hearing process that is modeled after an actual trial proceeding;
 - It includes pre-trial hearings, discovery, evidence, testimony, etc.
- **UNIV. OF MIAMI SCH. OF LAW HONOR CODE § 5.02 – Sanctions**
 - All of the following are possible consequences for violating the Honor Code during the Writing Competition:
 - Informal or formal warning;
 - Private reprimand, including a letter for the student's permanent school file, and/or notice to student organizations...;
 - Public reprimand;
 - University service;
 - Disciplinary probation;
 - Suspension or loss of specific Law School benefits, privileges, memberships, and or honors, including financial aid and scholarships;
 - Suspension from the School of Law with or without a refund of tuition; and
 - Expulsion from the School of Law with or without a refund of tuition...

SURVIVING THE COMPETITION



Time Management

The packet is an enormous amount of material

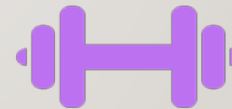
Have a plan going in

- Reading days vs. writing days

Outline before you write

Leave time to revise

Bluebook as you go



Stress Management

Exercise, get sleep, eat right!

Be Creative

LOGISTICS

REGISTRATION AND DEADLINES

Registration

- Opens: **Monday, 6/21/2021 at 10:00 a.m. (EST)**
- Closes: **Thursday, 6/24/2021 at 5:00 p.m. (EST)**
- **Late registrations will NOT be accepted**
- Registration confirmation & Anonymous Grading Number (AGN) emailed by 6/27/2021 at 6:00 p.m.

Starts: Monday, 6/28/2021 at 10:00 a.m. (EST)

- Can pick up printed packet until 5:30 p.m. (details to follow)

Ends: Tuesday, 7/6/2021 at 5:00 p.m. (EST)

- No identifying information; only AGN
- Will receive submission confirmation by 9:00 p.m.
- **No late submissions will be accepted!**

**Announcements of Winners:
Tuesday, 7/17/2021**

FORMAT

- Text and endnotes double-spaced, justified, and with 1-inch margins.
 - 12-page text
 - 8-page endnotes (starts on separate page from main text)
- Font is Times New Roman, font size 12.
- Title, headings, and subheadings are centered.
- Block quotes are single-spaced and indented with 1.5 inches on each side.
- Paginated.
- AGN in header of each page.
- Includes Honor Code certification.
- PDF.

CASENOTE QUESTIONS?

- Time Management?
- Format?
- Honor Code?



BLUEBOOKING: OVERVIEW

- For purposes of the writing competition, Bluebooking can count for as much as one-fourth of your score.
- Strong Bluebooking is crucial for the law review editing process.
- The Bluebook has an online version available by yearly subscription. Visit legalbluebook.com if interested.
- Use the index or search box.
- Use the **white pages**, *not* the blue pages.
- Endnotes only, footnote rules apply.

BLUEBOOKING: QUICK TIPS

- Remember the Five Footnote Rule (R10.9)
- NEVER *supra* to a case, statute, constitution, legislative materials, regulations, model codes, or restatements (R4.2)
- Remember to use the appropriate abbreviations
 - Case names/institutional authors (T6)
 - Periodical names (T13,T10)
 - Dates/months (T12)
- Remember to use Rule 8 capitalization.
- Remember to use the appropriate signals! (R1)
- Remember to use the appropriate typeface for textual materials and citations (R2)
 - **Case names are *not* italicized in full cites (R10).
- If it is available, cite to the U.S. Reporter (U.S.) for cases, *not* the Supreme Court Reporter (S. Ct.) (T1)
- Purchase the online version of the Bluebook if the physical Bluebook is too cumbersome for you. You get a free year of the online bluebook if you look through the first few pages of your physical Bluebook.

BLUEBOOKING: CASES (FULL CITES)

❖ **Example:** United Housing Foundation, Inc., et al. v. Forman et al., 421 U.S. 837, 837 (1975).

- Note: **NO ITALICS** in the case name.

❖ General: **Rule 10.1**

❖ 4 Basic Elements:

- Party Names: **Rule 10.2**
- Reporter: **Rule 10.3** and **T.1**
- Year: **Rule 10.5**
- Short Cites: **Rule 10.9**

BLUEBOOKING: CASES (SHORT CITES)

❖ **Short Citation in Endnotes (Rule 10.9):** *United Hous. Found.*, 421 U.S. at 844.

- Note: Case name in ***italics***.

❖ **Short Cites (Rule 10.9)**

- **The Five Footnote/Endnote Rule:** If a case is cited within the five preceding endnotes, you can short cite. This includes *id.*, meaning you can have as many *id.*'s as you want.
- This includes any citation in a parenthetical. However, you may not use "*id.*" for a cite in a parenthetical

BLUEBOOKING: CASES

❖ Distinguishing Party Names in Text and in Citations:

- **Used As Text** (Rule 10.2): In *United Housing Foundation, Inc. v. Forman*, the Court held that ..
 - ❖ Only abbreviate according to Rule 10.2.1(c) (p. 98).
- **Full Citation in Endnotes** (Rule 10.2): *United Hous. Found., Inc. v. Forman*, 421 U.S. 837, 837 (1975).
 - ❖ Remember to abbreviate according to T.6 (p. 496).

BLUEBOOKING: CASES

- ❖ **Example:** Thompson v. Byers, 555 U.S. 987, 999 (2008) (quoting McGuane v. Fitzgibbons, 400 U.S. 22, 28 (1975)).
 - ❖ McGuane v. Fitzgibbons may be short cited within the next five endnotes.
 - ❖ *Supra* is **NEVER** appropriate for a case or statute.

FIVE FOOTNOTE/ENDNOTE EXAMPLE

¹ *See* United States v. Spivey, 861 F.3d 1207, 1211 (11th Cir. 2017).

² *See id.*

³ *See id.*

⁴ *See id.*

⁵ *See id.*

⁶ *Schneckloth v. Bustamonte*, 412 U.S. 218, 219 (1973).

⁷ U.S. CONST. amend. IV.

⁸ Alafair S. Burke, *Consent Searches and Fourth Amendment Reasonableness*, 67 FLA. L. REV. 509, 511 (2016).

⁹ *Schneckloth*, 412 U.S. at 221.

¹⁰ *Id.* at 227.

¹¹ United States v. Spivey, 861 F.3d 1207, 1213 (11th Cir. 2017).

¹² *Id.* at 1211.

¹³ *See* *Kyllo v. United States*, 533 U.S. 27, 31 (2001).

¹⁴ *Spivey*, 861 F.3d at 1218.



BLUEBOOKING: LAW REVIEW ARTICLES (FULL CITE)

- ❖ Author's Full Name in Ordinary Roman, *Name of the Article in Italics*, 23 L. REV. IN SMALL CAPS 122, 125 (2013).
 - Rule 16 (p. 159)
 - Author's name as it appears in article.
 - Title, capitalized according to Rule 8, but not abbreviating or omitting words.
 - The 23 here is the volume number; the 122 here is the page on which the article begins; the 125 is the pincite.
 - The name of the law review or journal should be abbreviated according to T. 10 and T.13.
 - The year goes in parentheses.

BLUEBOOKING: LAW REVIEW ARTICLES (FULL CITE)

- ❖ **Example:** Robert C. Ellickson, *Of Coase and Cattle: Dispute Resolution Among Neighbors in Shasta County*, 38 STAN. L. REV. 623, 633 (1986).
 - Include the “C” in Robert C. Ellickson—if the author maintained it.
 - If the title was “Of Coase & Cattle,” you should keep the “&.”
 - The title should appear as it appears in the article. Include the subtitle.
 - Stanford Law Review abbreviated as shown **in T.13**. The name of the publication should appear in large and small capitals according to Rule 16.
 - Page 633 is the pincite to the article.




BLUEBOOKING: LAW REVIEW ARTICLES (SHORT CITE)

- ❖ The full citation of the law review article only should be cited to one time.
- ❖ Every other time use “*supra*”
- ❖ Author’s Last Name in Ordinary Roman, *supra* note #, at page number.
 - Rule 4
 - Author’s last name as it appears in article
 - “*supra* note #”
 - # will be the endnote number where you cite the full law review article
 - Pro tip: do this at the end because it will likely change as you edit your paper
- ❖ Pincite to the page number of the article.



BLUEBOOKING: **NEWSPAPERS**

❖ **Example:** Michael Bluth, *Banana Stand Burns Down*, ORANGE COUNTY TRIB., Oct. 30, 2000, at A1.

- **Rule 16.6** (p. 163).
 - Author's name, as it appears in the article.
 - Article title as it appears in italics.
 - Tribune shortened to Trib. according to T.13. The name of the publication is in large and small capitals according to Rule 16.1.
 - Date abbreviated according to T.12.
 - The start page of the article, with an "at" in front.
 - Do not pincite to newspaper articles.
- 

BLUEBOOKING: INTERNET SOURCES

❖ Rule 18

❖ **Articles** and **Blogs** only available on the internet follow **Rule 18.2.2:**

- Douglas Gantenbein, *Mad Cows Come Home*, SLATE (Jan 5, 2004, 12:10 PM), <http://www.slate.com/id/2093396/index.html>.
- *Weird and Dumb International Law*, JUSTICEDAILY.COM, <http://www.justicedaily.com/weird/part2.html> (last visited May 21, 2004).

BLUEBOOKING: INTRODUCTORY SIGNALS

- ❖ Rule 1.2
- ❖ [No signal] if cited authority:
 - Directly states proposition, i.e. direct quote;
 - Identifies source of quotation; or
 - Identifies authority referred to in the text.
- ❖ *E.g.*, if cited authority states proposition and other authorities do as well, but citation to those authorities is not helpful.
- ❖ *Accord* when two or more sources state or support a proposition, but the text only quotes/refers to one; the other sources are introduced by *accord*.

BLUEBOOKING: SIGNALS

- ❖ See when cited authority supports the proposition.
 - Used instead of [no signal] when the proposition is not directly stated by the cited authority, but obviously follows from it.
 - Use *see also* when cited authority constitutes additional source material supporting the proposition.
- ❖ *Cf.* when cited authority supports a proposition different from the main proposition, but sufficiently analogous to lend support. Literally, *cf.* means “compare.”
 - Parenthetical explanations are recommended to clarify relevance to the reader.

BLUEBOOKING: CONTRADICTIONARY SIGNALS

- ❖ *Contra* when cited authority states directly the contrary of the proposition.
- ❖ *But see* when cited authority clearly supports a proposition contrary to the main proposition.
- ❖ *But cf.* when cited authority supports a proposition analogous to the contrary of the main proposition.
 - Explanatory parenthetical strongly recommended.

BLUEBOOKING: SIGNALS INDICATING BACKGROUND & USEFUL COMPARISONS

- ❖ See *generally* when cited authority presents helpful background material related to the proposition.
 - Explanatory parenthetical is highly encouraged.
- ❖ *Compare X and Y with Z.*
 - Comparison of the authorities will offer support or illustrate the proposition. An explanatory parenthetical following each authority is highly recommended.

BLUEBOOKING: *SUPRA*

- ❖ **Use** “*supra*” to refer back to material that has already been fully cited unless “*id.*” is appropriate (it was the citation right before) or “*supra*” is inappropriate for the authority under Rule 4.2.
- ❖ Under Rule 4.2, **do not use** “*supra*” to refer to authorities such as **cases, statutes, constitutions, restatements, model codes, or regulations**. For other sources, *supra* generally may be used (see the rule for an exhaustive list).
- ❖ The “*supra*” form generally consists of the last name of the author of the work, followed by a comma, the word “*supra*” and the endnote in which the full citation can be found, followed by the pincite (if applicable).
 - **Example:** Williams, *supra* note 18, at 6.

BLUEBOOKING: *INFRA*

❖ Use “*infra*” to refer to material that appears **later in the piece** (Rule 3.5)

❖ **Examples:**

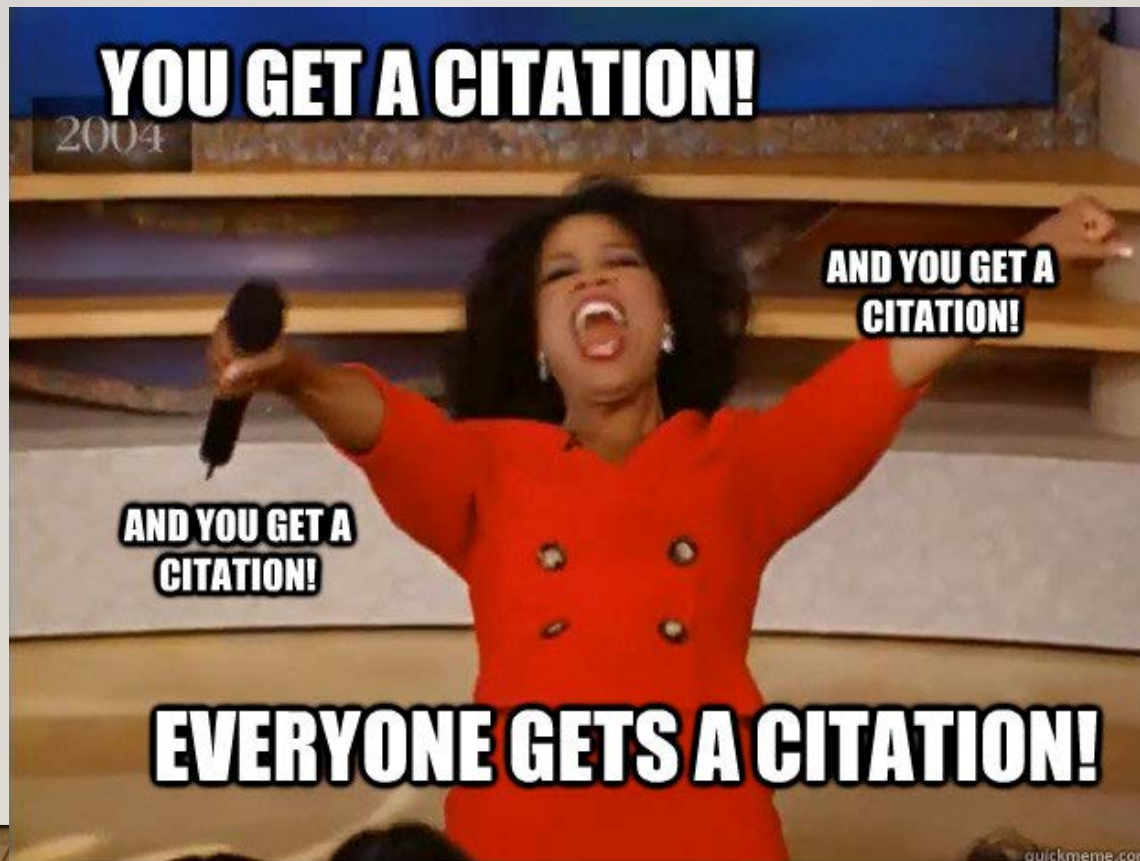
- See discussion *infra* Sections II.B.2, III.C.1.
- See *infra* pp. 106–07.
- See *infra* notes 100–10 and accompanying text.

BLUEBOOKING: “HEREINAFTER”

- ❖ Use “hereinafter” to refer to material that would be cumbersome to cite solely according to traditional short citations or *supras* (Rule 4.2).
- ❖ **Examples:**
 - **FULL CITE:** *Proposed Amendments to the Federal Rules of Criminal Procedure: Hearings Before the Subcomm. on Criminal Justice of the H. Comm. on the Judiciary, 95th Cong. 92–93 (1977) [hereinafter Hearings]* (statement of Prof. Wayne LaFave).
 - **SHORT CITE:** *Hearings, supra* note 95, at 12.

REMEMBER

WHEN IN DOUBT, OVER CITE!



QUESTIONS?

Please, ask them now ...