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Checking Up on Court Citation Standards: How Neutral Citation Improves Public Access to Case Law

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A small number of appellate courts require neutral citation, a legal citation format that frees citation to judicial decisions from adherence to particular formats or vendors. As law libraries increasingly rid their print collections of case law reporters, a gap appears in public access to the law, as many courts still require citation to print-based formats from particular commercial publishers. With widespread availability of case law in electronic formats through commercial databases and government Web sites, law librarians must continue to urge courts to consider adopting neutral citation principles to ensure greater accessibility to court opinions. This article retraces the history and quirks of neutral citation and aims to ground the arguments for more widespread adoption of neutral citation in the increasing concern over public access to the law.

KEYWORDS neutral citation, legal citation, public access, legal publishing

INTRODUCTION

Neutral citation to judicial opinions does not require reference to a specific format or access to materials that are unavailable to the public. The story
of this citation format is a history of legal publishers, their relations to legal professionals, and the mediating effects of law librarians. First conceived in the early 1990s, the movement has gone through several phases, ranging from the early years of excitement among states and librarians, through a period of complacency, and now to a resurgence in interest among legal and library professionals. Perhaps now is an appropriate time not just to look to the movement’s potential, but also to its actual viability.

Neutral citation has variously been referred to as vendor-neutral, medium-neutral, public domain, and universal citation; regardless of which term is used, the underlying theory is that access to the law should not be predicated on a format tethered to the constraints of private publishing companies. During the past two decades, law librarians have frequently advocated using neutral citation and encouraged its adoption to increase access and make equitable the legal publishing world.

There have been many eloquent calls for reform and change from legal information professionals in the movement’s nearly twenty years, but it would be difficult to say that neutral citation has firmly taken hold of legal citation and left traditional, print-based formats in the past. At this point, it is necessary to consider whether, given the current publishing landscape and the state of law libraries, the movement can progress beyond being more than a good idea.

With this article, I intend to trace the history of the neutral citation movement. Changes in the legal publishing industry during the 1990s allowed the movement to gain support among legal professionals in courts and academia alike. Since that time, corporate interests have often tried to quell the movement and force it underground once more. In addition, the movement has coincided with the rise of widespread Internet access in this country and the appearance of the law in electronic formats.

An integral aspect of the movement is the question of who owns the law. By handing editorial control over the format of decisions to publishers, courts relinquish their power and authority over their own case law. As a matter of policy, if not right, citizens should enjoy the greatest access to the pronouncements of their government. In the words of John Cannan, research and instructional services librarian at the Earle Mack School of Law at Drexel University, in the American Association of Law Libraries (AALL) White Paper on universal citation, “[v]endor-neutral citation reduces the inefficiencies of the current paper-based system and liberates legal information so that it may be used more freely.” The Obama administration has recently made clear the government’s interest in increasing citizens’ access to government information so that citizens can have an increased presence in their government. This directive should be a priority among courts, law librarians, and legal professionals alike.

Although it is arguable that the need for a neutral citation format will diminish over time, as more and better legal information providers enter the
market and electronic formats become more prevalent, a unique problem is predicted to arise that should give opponents of neutral citation pause. As courts, and indeed the entire publishing industry, move forward with electronic formats, the demand for print materials will slacken considerably. As a consequence, in a world with fewer print materials but continued reliance on print-based formats for citation, people who do not have access to print collections of case law will be placed in increasingly worse standing with respect to access to the law, despite the increased availability of the law in digital formats. As a result, there is a seemingly counterintuitive but burgeoning need for a neutral citation system despite the widespread availability of legal materials online. This problem will only worsen as law libraries continue to trim their collections of print materials accessible to library patrons.

With these concerns in mind, this article aims to explore both the development of the neutral citation movement and the ways that the goal of increased public access to the law can be achieved.

WHAT IS NEUTRAL CITATION?

Before reaching the history of neutral citation, it is important to explain the idea behind the format and how it operates in practice. As mentioned, the underlying idea is that access to the law should not be predicated primarily on access to formats provided or shaped by legal publishing companies. Although neutral citation has taken a few different forms, certain state courts have developed exemplary schemes that implement the guidelines for neutral citation developed by AALL’s Citation Formats Committee. The current neutral citation systems adopted by many jurisdictions embody the guidelines of the second edition of the committee’s Universal Citation Guide.

Format

Any explanation of neutral citation format first requires knowledge of the alternative format that has been widely established as standard in the legal scholarly and publishing world. The official versions of most court opinions under current guidelines, especially those of the Bluebook, “are labeled according to their placement in reporters.” The citation to a particular opinion thus includes the title of the reporter in which it is included, the reporter’s volume number, and the page number in that volume on which the opinion appears.

Because a given opinion may appear in multiple reporters, say both in a regional reporter and a state-specific reporter, citations for opinions may include references to multiple reporters. As an example, here is what a citation to a recent Washington Supreme Court opinion published in multiple reporters would look like:
In this particular citation, “Wash.2d” refers to the Washington Reports, Second Series, which is published by the Washington State Law Reports Office, and “P.3d” refers to West’s Pacific Reporter, Third Series. To use the page numbers that refer to West’s reporters, legal information providers must enter into a licensing agreement with West, a practice that relates to the company’s dubious claims of copyright over the page numbers.

What distinguishes a neutral citation format is that it does not make reference to reporters at all but instead “labels government decrees or pronouncements, with legal force, such as court opinions, statutes, and regulations, using a uniform set of symbols.” This system has the effect of un-tethering legal citations from references to particular formats, such as print reporters, or proprietary information, such as specific titles or page numbers. These aspects of neutral citation are termed, respectively, “medium neutrality” and “vendor neutrality.” In this manner, there is no need for a person who wishes to view a particular court opinion to seek out a volume printed by any specific publisher.

Under the citation format outlined in the second edition of the Universal Citation Guide, the earlier-presented case would appear as:


The two letter state abbreviation (“WA”) uses a federal postal abbreviation to indicate that the court issuing this opinion is the highest court in the state of Washington. Here, the digit (“2”) that follows the state designation indicates the decision is sequentially the second opinion issued by the court during that year, here 2011. Additionally, if this citation required a pinpoint cite to a particular section of the opinion, it would involve not a page number from a reporter but a paragraph number that, in most cases, would be provided by the court issuing the opinion. The following example demonstrates a pinpoint citation to the fourth paragraph in this opinion:


This citation format provides a reader with information as to the parties, the court issuing the opinion, its year, its sequential placement in that year, and a pinpoint citation, “effectively decoupling a judicial opinion text from its appearance in any particular publication, print or electronic.”
Professional Recommendations

The format as presented in the *Universal Citation Guide* is the result of many recommendations developed during the previous decade. The format was first suggested by the State Bar of Wisconsin Technology Resources Committee as a way to allow retrieval of both print volumes and electronic versions of opinions.\(^{22}\) The Wisconsin Committee proposal involved four components: 1) year of the decision, 2) an abbreviation of the court issuing the opinion, 3) a number indicating the sequential release of the opinion, and 4) a paragraph number for pinpoint citations.\(^{23}\) Many law librarians began to fear that citation requirements could quickly become Balkanized if multiple organizations developed their own neutral citation formats, and AALL accordingly spearheaded attempts to promote uniformity in this area by forming the Task Force on Citation Formats in April 1994.\(^{24}\) This task force added inclusion of the case name to the Wisconsin Report’s proposal, subsequently presenting its neutral citation format to a national audience in 1995.\(^{25}\)

The following year, the American Bar Association (ABA) developed its own neutral citation guidelines, some of which the AALL Task Force on Citation Formats included in its updated edition of the *Universal Citation Guide* in 2004.\(^{26}\) Among the adopted guidelines was a change in how state courts were designated in the citation.\(^{27}\) Previously, the *Universal Citation Guide* had used the state abbreviations as recommended by the *Bluebook*, but the ABA’s proposed use of the two-letter postal abbreviations to indicate each state court reflected a more standardized and recognizable format and was thus incorporated.\(^{28}\)

The major difference between the ABA’s proposal and the AALL’s format rested with a fundamental dispute as to how to designate certain courts, including federal courts and nonunified state appellate courts.\(^{29}\) Whereas the ABA’s recommendations are intuitive and easily recognizable, they overcomplicate the abbreviations for specific courts by setting different rules for federal and state courts. On the other hand, the AALL model unifies this division by applying to both state and federal courts a “simple algorithm which builds a court identifier from a logical progression of abbreviations.”\(^{30}\)

In the past decade, the *Bluebook* and other citation guides such as the *Association of Legal Writing Directors Citation Manual (ALWD)* began to include provisions accommodating neutral citation. In the *Bluebook*, Rule 10.3.3 sets out guidelines for a “public domain citation” format similar to the *Universal Citation Guide*’s, as does Rule 12.6 in *ALWD*.\(^{31}\) Although the various models involve minor conceptual differences, they are overall similar in goal and format and reflect an established if not widespread acceptance of universal citation in the legal scholarly community.

In summary, neutral citation is best defined in contrast to the traditional citation system formerly embraced nearly universally by academics,
courts, and librarians. This older system remains tied to the products of established legal publishers, while neutral citation allows newer legal information providers to enter the market on equal terms so that “[n]o one entity can lay claim to the citation methodology that all others have to pay to use.”\textsuperscript{32}

THE WILD WEST & A NEW CITATION FORMAT IN TOWN

The neutral citation movement arose in large part in reaction to the business practices and reorganizations of a limited number of legal publishing companies.\textsuperscript{33} Chief among these international publishing conglomerations is the Thomson-Reuters Corporation of Canada, which counts the West Publishing Company as one of its acquisitions.\textsuperscript{34} The West Publishing Company has occupied a central position in the history of the universal citation movement due to its status as the foremost provider of reported decisions of case law, its practices of licensing out its star pagination system to other publishers, and the legal consequences of its sale to the Thomson Corporation in 1996.\textsuperscript{35}

West & Company

John West began the legal publishing company bearing his name in 1876 to address the “inability of governmental entities to respond to the needs of attorneys in a timely fashion.”\textsuperscript{36} In the late 19th century, John West and his brother Horatio developed West’s National Reporter System, a case-reporting service that helped West Publishing “become the premier legal publisher in the United States.”\textsuperscript{37} Another significant innovation in the legal publishing world was the introduction in 1973 of Mead Data Central’s computer-assisted legal research system, LexisNexis, which West matched in 1975 with the introduction of a competing service called Westlaw.\textsuperscript{38} In 1986, West sued Mead and successfully asserted its copyright over the addition of page numbers to decisions, allowing West to use its pagination system to preserve its leading market position.\textsuperscript{39} In 1994, Reed Elsevier, the other major international publishing company besides Thomson-Reuters and Wolters-Kluwer, bought LexisNexis from the Mead Corporation.\textsuperscript{40}

After the State Bar of Wisconsin Technology Resources Committee presented its report on neutral citation, the West Publishing Company, “viewing Wisconsin as a critical front in a much broader assault on the market dominance of its comprehensive and integrated system of U.S. case reports, committed major resources to defeating the plan.”\textsuperscript{41} After a hearing on the matter, the Wisconsin Supreme Court in May 1995 found West’s arguments against the new citation format convincing enough to defer a decision on implementing a change for a number of years, eventually adopting a citation scheme that required neutral citation in parallel with citations to proprietary print formats.\textsuperscript{42}
During the debate in Wisconsin, the West Publishing Company presented itself “as a true partner with the nation’s courts and legislatures, serving the public interest in the timely and accurate dissemination of law—being uniquely suited for this role by virtue of the company’s long history and U.S. ownership.” After the British–Dutch conglomerate Reed Elsevier purchased LexisNexis in 1994, West’s president proclaimed that “[t]his American-owned company is not for sale,” mere months before it hired an investment company to search for potential purchasers.

The Thomson Corporation of Canada was interested in purchasing West because of its electronic database platform, Westlaw, and its standing as a major publisher of legal materials. Thomson announced its intention to purchase West on Feb. 26, 1996, for $3.425 billion, pending the Department of Justice’s approval with respect to antitrust concerns. The Department of Justice’s Antitrust Division approved a consent decree for the sale on June 19, 1999, despite the vocal protest of law librarians, many of whom were wary of the sale due to the price escalation that had resulted from previous mergers involving Thomson.

As Kendall Svengalis irreverently points out, the Department of Justice proved itself either willfully ignorant or entirely clueless by publicly proclaiming the merger “a victory for all of us.” Looking at the actual terms of the consent decree, it is clear that Thomson-West received the better end of the bargain, as the requirements mandated merely divestiture of fifty-one print titles, an electronic citation verification service, a number of state-specific titles, and six national treatises. It appears that the Antitrust Division was persuaded to accept the consent decree by Thomson-West’s agreeing to “openly license” West’s star pagination system.

Perhaps the consent decree was permitted because “the Justice Department was convinced that weaknesses in West’s star pagination copyright claims together with the momentum of vendor-neutral case citation, were sufficient to protect the public interest.” In hindsight, it is apparent that neutral citation alone was not enough to justify allowing the Thomson-West merger to continue.

At the time of the Department of Justice’s statement, it perhaps did seem as though the specter of a neutral citation format had a legitimate chance to temper West’s practices. Beyond the support of professional organizations such as AALL, the ABA, and the National Conference of Commissioners on Uniform State Law, neutral citation was gaining momentum at the state level, with eleven states having adopted a variation of universal citation by 1998. But as the AALL White Paper points out, the movement appeared to crest in 1998. Recently, the adoption of neutral citation in the past three years by Arkansas, Illinois, and Colorado may indicate that states are becoming more willing to look to uniform citation as an alternate citation format, especially in times of budgetary constraints.

The Department of Justice should have recognized that West’s agreement to openly license its star pagination was ultimately of dubious value,
as the legitimacy of West’s copyright claim over these page breaks was in doubt after the Supreme Court’s decision in *Feist v. Rural* that “a work must show creative spark and originality to warrant copyright protection.” The doubtful worth of the concession to license the star pagination was echoed by Judge Paul Friedman of the U.S. District Court for the District of Columbia, charged with deciding whether to approve the Thomson-West merger, who expressed concern over both the legitimacy of West's copyright claims and the possible appearance of endorsement by the court of those claims.55

The merger was allowed to proceed after Thomson-West agreed to grant other publishers free use of the star pagination system until the matter was resolved.56 In the intervening years, Thomson-West, subsequently known as Thomson-Reuters after another merger in 2008, continued to hold out the threat of litigation over its alleged copyright claims over the star pagination system, forcing competing publishers to license them from Thomson-Reuters or else face the threat of legal action.58 Smaller publishers have largely complied with Thomson-Reuters’s licensing scheme rather than direct energy at citation reform efforts.59

It may be instructive to examine how particular jurisdictions have implemented neutral citation as a consequence of publishers’ practices and to assess the impact of these changes in each of these court systems. The manner and effect of the early adopters’ implementation of a neutral citation format may present strong arguments for more widespread use, or may perhaps signal that even the most efficient and cost-effective use of the citation format cannot persuade the vast majority of jurisdictions in this country to adopt it. After analyzing each jurisdiction, I will attempt to explain why a universal neutral citation system has not caught on, how it could be implemented better and more widely, and what realities the movement faces going forward.

**NEUTRAL CITATION IN STATE APPELLATE COURTS**

As of this writing, seventeen states have adopted some form of neutral citation. This number includes both jurisdictions that adopted the format during its initial heyday of widespread interest, plus a few states that have more recently turned to neutral citation as a potential cost-saving measure. In looking at these jurisdictions, a number of trends become apparent that will aid in shaping the movement’s future.

Early Adopters and Outliers

Louisiana, the first state to adopt a vendor-neutral citation format, is instructive as an initial example because it represents a transitional variant that bridges the divide between print-based and medium-neutral formats, and because it has adopted the new format with success.
Although the 1994 suggestions of the State Bar of Wisconsin Technology Resources Committee represent the most unified early approach to adopting a universal citation format, Wisconsin was not the first state to develop and attempt to implement universal citation. That honor belongs to Louisiana, which instituted a modified form of neutral citation in December 1993 per an order of its Supreme Court. The change in format was brought about by a belief that “opening the legal publishing marketplace to competition might save the courts money while improving their access to legal information.”

Additionally, a vendor-neutral format would increase access to legal information not just for courts but also members of the bar and the public. Louisiana appellate courts had stopped publishing their official decisions by 1973, after which West’s *Southern Reporter* became the sole and official reporter for the state’s courts. Multiple smaller publishers desired to publish Louisiana opinions but were cautious because of the threat of copyright claims from West over its pagination system. Carol Billings, the director of the Law Library of Louisiana from 1981 to 2007, urged in the early 1990s that “allowing competing publishers to enter the market could lower prices and make legal information more affordable.” With increasing Internet access, the Louisiana Supreme Court saw an opportunity for more affordable and widespread access to its opinions for smaller publishers and the public, without having to use a vendor-based citation system.

Starting July 1, 1994, filings made in Louisiana’s appellate courts had to adhere to the new public domain citation format. As an early adopter predating the suggestions of organizations such as AALL and the ABA, Louisiana’s format is unique among states with neutral citation. Citations in filings made in Louisiana appellate courts must contain a case name, docket number, slip opinion pagination for pinpoint citation, court abbreviation, date of decision, and parallel citation to West’s *Southern Reporter*. For example:

*Smith v. Jones*, 94-2345, p. 7 (La. 7/15/94); 650 So.2d 500, 504

The incorporation of docket numbers and slip opinion pagination was the result of a compromise between advocates of the change and the Supreme Court, which was concerned about the potential costs of a full transition. Louisiana is surprisingly not alone in utilizing the docket number rather than a sequentially assigned number in tandem with a year to identify opinions. To date, two other states have incorporated the same numbering system in their citation format: Mississippi in 1997 and Illinois in 2011. The use of the docket number rather than a sequentially assigned number is likely intended to reduce additional labor costs by utilizing extant information already associated with each opinion.
Despite initial concerns over costs, Louisiana appellate courts began requiring neutral citations, allowing smaller publishers to sell the courts’ opinions on CD-ROM at prices lower than that offered by West, driving the larger company to lower the purchase price for its own products significantly. Soon thereafter, Louisiana’s courts of appeal began offering their opinions electronically in a move that substantially bolstered access to the opinions of the state’s courts. Neutral citation in Louisiana achieved its goal of moderating costs and increasing access to the state’s judicial decisions.

Ohio

Ohio presents a unique case among states with neutral citation provisions, in that it “diverges from the model recommended by the AALL and ABA [but] fully qualifies as neutral.” The Supreme Court of Ohio’s revised Writing Manual specifies that citations for opinions decided on or after May 1, 2002, should include the case name, a citation to the Ohio Reports, a WebCite, a parallel citation to West’s North Eastern Reporter, and a paragraph number for pinpoint citation. For example:

*Bonacorsi v. Wheeling & Lake Erie Ry. Co.*, 95 Ohio St.3d 314, 2002-Ohio-2220, 767 N.E.2d 707, ¶15

The most notable feature of this citation is the WebCite component, “2002-Ohio-2220.” Here, “2002” is the year of the decision and “2220” is the decision’s unique identifying number. Rather than being a sequential number corresponding to a particular court, the WebCite “operates across the entire state court system rather than court by court.” Thus, the WebCite number for sequential opinions of the Ohio Supreme Court may not bear numbers that follow in direct sequence, as from six to seven. This variation is minor and does not interfere at all with the medium or vendor neutrality of Ohio’s citation system.

Federal Courts

It is worth noting as well that two federal jurisdictions have adopted neutral citation principles, although neither court ever required this format under its court rules. First, the U.S. Court of Appeals for the Sixth Circuit began using vendor-neutral citations for its opinions in 1994 as part of a one-year trial, without ever requiring attorneys to use them or applying the format to its prior reported decisions. Additionally, per a standing order, the U.S. District Court for the District of South Dakota for a time required a vendor- and medium-neutral citation for any citation to decisions of the Court after October 1, 1996, in court filings. According to Martin, only some of the
court’s judges applied the neutral format to their decisions or the citations to them. In 2009, the District of South Dakota formally abandoned the format in an order, and by 2010, the Sixth Circuit had stopped using neutral citation principles in its opinions.

Neutral citation has not achieved widespread acceptance among the federal courts and appears to have been only utilized in a limited capacity in the courts that did recognize neutral citation principles. The movement never received the necessary momentum to take hold because of a lack of interest among federal judges and clerks, who essentially expressed their desire to maintain the status quo in a survey conducted by the Administrative Office of the Courts in 1997. This indifference may be attributable to the federal courts’ ready access to print materials and the perception that any change would bring an aesthetic and financial burden. Despite the change in circumstances in the legal publishing world since that time, there has been no further push among federal courts to move to the neutral citation format. Much more success has been achieved at the state level, where the movement has steadily gained interest and support during the years.

Best Adopters

Although the above state jurisdictions have adopted neutral citation principles in some capacity, implementation in these jurisdictions has diverged somewhat from the recommendations of the major organizations supporting the movement. Far more typical is a universal citation format that adheres to the guidelines of the AALL Task Force on Citation Formats as embodied in its *Universal Citation Guide*. This format includes five elements: 1) a case name, 2) the year of decision, 3) a court abbreviation, 4) the decision’s sequential number, and 5) a paragraph number for pinpoint citations. To date, twelve of the seventeen state jurisdictions that have adopted universal citation principles utilize this typical format. The most successful adopters of neutral citation, including Oklahoma and North Dakota, have used this format to effect an efficient, cost-effective transition to vendor- and medium-neutral citations.

**Oklahoma**

In many ways, the Oklahoma Supreme Court’s implementation of neutral citation stands as the exemplar of a resourceful transition between the world of print legal publishing and court-controlled and -owned digital provision of case law. By the evaluation of commentators as well as the court’s own professionals who oversaw the changes, the Oklahoma Supreme Court’s efforts to transition to a neutral citation format have been highly successful in lowering expenses paid to publishing companies and augmenting public access to legal information.
Citations to decisions of Oklahoma appellate courts include the case name, the year of decision, the state abbreviation “OK,” the sequential number of the decision, a paragraph number for pinpoint citations, and a parallel citation to West’s *Pacific Reporter*; for example:92

**Skinner v. Braum’s Ice Cream Store, 1995 OK 11, ¶9, 890 P.2d 922**93

This citation format resembles the *Universal Citation Guide*’s recommendation, with the exception of the inclusion of a parallel citation to West’s *Pacific Reporter*. Although this parallel citation feature appears to diminish the vendor neutrality of the format, the court’s Web site provides a free service called QuickCase94 that allows users to convert neutral citations such as “1995 OK 11” to parallel citations such as “890 P.2d 922,” so that access to a print reporter or commercial online database is not required.

According to Justice Yvonne Kaugер, who at the time was the chief justice on the Oklahoma Supreme Court, in developing this neutral citation format, the court was committed to providing access to its decisions and “financial necessity prompted [them] to initiate citation reform.”95 The court’s library and information services director, Greg Lambert, and a newly hired information systems director, Kevin King, were enlisted to create a Web site for the court and to devise a new case-numbering system and way to publish the court’s decision on the Internet.96 The story of Oklahoma’s application of neutral citation demonstrates that costs accompany a transition to a new system but also that these costs are not overly burdensome and become resource-saving measures over time.

West’s *Pacific Reporter* had become the official reporter of Oklahoma after the state stopped publishing its own reporter in 1953.97 The creation in 1997 of the Oklahoma State Court Network (OSCN)—“without dispute the most comprehensive court-based legal information site in the United States”98—was precipitated by the fact that Oklahoma county law libraries had unpaid bills to the West Publishing Company and sought independence from the publisher’s costs for access to citable versions of the state’s own case law.99 To achieve its desired independence from the vendor, the court decided to attempt to apply neutral citation rules not just to prospective case law but also to past opinions that were previously reported by West.100 Internal citations to prior case law in the text of opinions within OSCN were hyperlinked to the full opinions so that there was no need to convert these in-text citations to a neutral format.

As a result of the court’s initiative, the OSCN became a full retrospective archive of past Oklahoma Supreme Court opinions that was available to the public.101 The end result of the retrospective case law project was a database that included neutrally cited versions of every Oklahoma Supreme Court decision, every opinion of the Oklahoma Court of Criminal Appeals, and decisions of the Oklahoma Court of Civil Appeals from 1968.102
This large collection of neutrally cited case law was created through the cost-effective use of available technology at minimal expense to the court. Lambert and King constructed the court's database using existing technologies, initially populating the database through the assistance of local law students, who input the opinions to the database after an automated program converted the texts from WordPerfect, which the judges used, to Microsoft Word. The court was assisted as well by its new vendor, Loislaw, which enabled it to obtain its own cases back to 1950, after which the court added paragraph numbers and uploaded the documents to the database.

One of the best features of Oklahoma’s database is its searching capability. References to prior legal information, such as statutory provisions, were indexed and hyperlinked so that a researcher could easily look at that information from the citing opinion. The database was greatly improved through the implementation of a tool the team termed the “citationizer” that “lists citing references for retrieved documents and even translates reporter volume and page numbers to corresponding neutral citations.” Accordingly, the OSCN’s features gave researchers and professionals access not just to current law in a neutral format but to prior decisions and materials in a similarly neutral format.

This efficient use of resources is instructive to other states looking to adopt the neutral citation format and rebuffs the arguments of the concept’s antagonists, who often complain that moving to the new format would be cost-prohibitive. This transition was born of necessity, but the end result has actually increased the level of access that the public has to Oklahoma’s legal materials while freeing the courts from recurring financial burdens and granting them the power to own and control the products of their court system.

NORTH DAKOTA

The story of North Dakota’s transition to neutral citation is similar to Oklahoma’s, as the court issued an order in January 1997 that summarily mandated a vendor- and medium-neutral format based on AALL’s model recommendations. Shortly thereafter, the North Dakota Supreme Court issued a rule that required submissions to the court to use neutral citations when citing decisions issued on or after January 1, 1997. The citation format requires inclusion of the case name, the year of decision, the state abbreviation “ND,” the sequential number of release, a paragraph number for pinpoint citation, and a parallel citation to West’s North Western Reporter; for example:

Smith v. Jones, 1997 ND 15, ¶21, 600 N.W.2d 900

Ted Smith, who remains the librarian at the North Dakota Supreme Court Law Library, authored a persuasive memorandum to Chief Justice Gerald
W. VandeWalle in 1995 that was instrumental in prompting change in the way the state handled publication of decisions.\footnote{112} North Dakota’s implementation of neutral citation is perhaps less notable for its format, which is typical, than for its concomitant creation of an advanced online repository of North Dakota Supreme Court opinions.\footnote{113} The database initially offered decisions in neutral citation format dating back to 1995 but has incrementally increased the scope of its collection dating back to December 1965.\footnote{114} The site automatically associates decisions released online with the volume and page numbers from West’s \textit{North Western Reporter} so that researchers may search the database using either the traditional format or the new neutral citation format.\footnote{115}

What is even more remarkable is that the site allows commercial searching services, like Google, to fully index their databases. Accordingly, online searches for North Dakota Supreme Court cases will direct the user to the court’s Web site, making the database “an open public resource in the contemporary sense.”\footnote{116} Retrieving opinions on the court’s site also provides the user with additional materials related to the case, such as audio files of oral arguments and parties’ briefs.\footnote{117} The site was recognized as the best judicial site by AALL in 1997 and “has, ever since, set a standard for ‘best practices,’ offering excellent search capability and a regularly expanding collection of retrospective opinions.”\footnote{118} The North Dakota Supreme Court’s Web site remains an exemplary service that increases public access to the law, a practice that is made possible in part by the court’s implementation of neutral citation.

Recent Adopters

Peter W. Martin’s extensive exploration of the history and implementation of the universal citation movement was published in 2007. In the intervening five years, three states have adopted a neutral citation format: Arkansas in 2009,\footnote{119} Illinois in 2011,\footnote{120} and Colorado in 2012.\footnote{121} It is worth examining how these states have implemented neutral citation principles.

ARKANSAS

The Supreme Court of Arkansas has varied the traditional neutral citation format slightly by requiring the pinpoint citation be a page number from the officially released PDFs of court opinions rather than a paragraph number; for example:\footnote{122}

\textit{Smith v. Hickman}, 2009 Ark. 12, at 1, 273 S.W.3d 340, 343\footnote{123}

Here, “at 1” refers to the first page of the official electronic file of the decision as released by the Arkansas Judiciary.\footnote{124} This implementation of a print-based format unfortunately ignores the realities of legal scholarship and prevents
its neutral citation system from being fully compatible with the movement’s
desire for medium neutrality in addition to vendor neutrality.

ILLINOIS

The adoption of neutral citation by the Supreme Court of Illinois in 2011
marked an important development in the history of the movement, as Illi-
nois joined Ohio as the only two among the ten most populous states to
incorporate the new format. Although this is perhaps indicative of a po-
tential trend among the larger states, the problem is that both these states
have implemented variations on the suggestions by AALL that could give
rise to a lack of unity among neutral citation formats. To wit, Ohio’s ap-
plication of sequential numbers across the entire Ohio court system creates
unnecessary confusion as to the source of a court document.

In a similar threat to uniformity and simplicity, Illinois’s adoption of the
format involves the use of docket numbers rather than sequential numbers
that represent the order of publication of the Supreme Court’s opinions:

*People v. Doe, 2011 IL 102345, ¶15*

Using the docket number, here “102345,” unnecessarily creates a longer and
potentially more complex citation, especially when, as the Supreme Court of
Illinois has recognized, subsequent opinions are filed under identical docket
numbers, as when there is reconsideration of the cause after remand. In
this situation, a sequential capital letter is added to the docket number, adding an additional layer to an already lengthy identifying number.

An additional problem is that the Supreme Court of Illinois, like the
Supreme Court of Arkansas, releases its opinions in PDF format rather than
a native, more versatile format such as HTML or Word. The utilization of
PDFs represents a conservative approach and prevents the courts’ opinions
from being able to be indexed and searched, either by users or other pub-
lishers, using metadata. As commentators have noted, it would be more
practical and useful for the Supreme Court of Illinois to issue its opinions in
additional formats, as it did from 1996 through 2005.

COLORADO

Unlike Illinois and Arkansas, Colorado has instituted a neutral citation format
that essentially adopts AALL’s recommendations in full. Although Colorado
did allow publishers in 1994–95 to include paragraph numbers in published
opinions, no formal step was taken until 2012 to institute a court policy
mandating neutral citation, which represents an encouraging step for the
movement. A press release proclaims that the application of neutral cita-
tion to opinions “is part of a broader effort by the Colorado Supreme Court to improve access to justice by integrating court resources and electronic technology.”

The format used by Colorado perhaps most directly, among all the states that have adopted neutral citation, reflects the recommendations of the *Universal Citation Guide*; for example:

*Smith v. Jones*, 2012 CO 22, ¶13

This format is simple and directly satisfies the requirements of both vendor and medium neutrality by using paragraph numbers and not requiring a parallel citation to any print reporter.

Although Colorado’s application of neutral citation is encouraging, the nonstandard features of other recent implementations of neutral citation are worrisome because they perhaps indicate a departure from the standardization proposed by AALL. The possibility of Balkanization of the format could threaten the movement’s momentum just as interest seems to be waxing. More optimistically, the freedom to adopt neutral citation in a variety of configurations could empower other states to adopt the format according to their own needs and terms.

**ISSUES UNIQUE TO THE FORMAT**

Although it is promising for the movement that Arkansas, Illinois, and Colorado have recently adopted neutral citation principles, the diversity of features in their implementation brings to the fore the fact that neutral citation has its own unique set of problems. These difficulties nearly all reflect neutral citation’s development at the transitional period between the older, print-based format and the newer electronic format. Unlike the traditional citation paradigm, neutral citation is a format in full conformity with the modern trends in legal publishing and scholarship when implemented smartly and efficiently; however, many legal professionals remain entrenched in the older, print-based paradigm.

The adoption of neutral citation, even in jurisdictions amenable to its principles and benefits, has often been compromised by attachment to past methods and priorities. In this section, I will examine some of the unique problems that have arisen, often using Oklahoma and North Dakota as counterexamples of ways to implement neutral citation without compromising its aims.
What Is a Paragraph?

Under the recommendations of AALL for universal neutral citation, the paragraph is considered to be the most meaningful indication of location of content within a judicial opinion, as it stays consistent between formats, does not refer to a particular publisher’s products, and tends to reflect an author’s consistent thought or idea. Although the concept of a paragraph seems intuitively self-evident, there has been some consternation among advocates of the movement as to how exactly to define a paragraph.

Being able to distinguish among paragraphs is a threshold requirement for a system that uses paragraphs for pinpoint citation. Unless a pilcrow (¶), the symbol representing a paragraph break, is manually inserted at the correct place, an automated system will have to be developed that can recognize the breaks and differentiate them from block quotes and various other breaks for the purpose of retrospective application of neutral citations. Additionally, the paragraph only carries meaning so long as the judicial author uses it discriminately; it is conceivable that an opinion with virtually no paragraph breaks would serve to undermine the purpose of using paragraph breaks as a pinpoint utility. However, this possibility would likely only arise in the case of decisions written in a more archaic style.

Parallel Citations

A major issue is the lingering requirement among some state courts that citations include a parallel citation to print reporters in addition to a neutral citation. In jurisdictions other than North Dakota and Oklahoma, which have retrospectively applied neutral citations to older case law, a parallel citation is needed to use conversion tables to locate non-neutrally cited material. The 1996 guidelines of the ABA contemplated parallel citations to print reporters as a consequence of the transition between the print medium and the new electronic formats: “Until electronic publications of case reports become generally available to and commonly relied upon by courts and lawyers in the jurisdiction, the court should strongly encourage parallel citations, in addition to the [neutral] primary citation . . . , to commonly used printed case reports.” As indicated in the ABA’s resolution, the inclusion of parallel citations was intended to be transitional, and the plan did not contemplate the use of pinpoint citations from print reports.

Unfortunately, certain states have required in their court rules that a researcher must include both a paragraph number and a pinpoint page from the print reporter when crafting citations for opinions. Although having a parallel citation to a print reporter itself does not compromise the neutrality of a citation, the requirement of a pinpoint page in the print reporter does by requiring a person to have access to the print version or
an electronic version that includes traditional page numbers as provided by Thomson-West.\textsuperscript{141}

States like Mississippi,\textsuperscript{142} Wyoming,\textsuperscript{143} and most recently, Colorado\textsuperscript{144} have crafted neutral citation systems that do not require parallel citation to reporters. Additionally, although both Oklahoma and North Dakota require parallel citations to print reports, their digital case law archives automatically provide that information to the researcher so that no access to the traditional print-based information is required. In automatically providing that information in their case law archives, North Dakota and Oklahoma’s systems “[place] users of the public site and collections derived from it in parity with those working from print reports and their electronic counterparts.”\textsuperscript{145}

Authentication and Final Versions

As many courts have developed a system for releasing their opinions in electronic format, a problem has arisen with regard to the accuracy of these versions and whether they are considered “official.” Even though a state may issue its opinions to the public online, by not expressing assurance that these versions are final or official, the courts both discourage users dependent on this access from relying on the electronic decisions\textsuperscript{146} and surrender ultimate control over their opinions to publishers.\textsuperscript{147} This problem of not having authenticated electronic legal material is being addressed at the national level by the Uniform Law Commission through the Uniform Electronic Legal Material Act (UELMA),\textsuperscript{148} of which Colorado and California recently became the first states to adopt.\textsuperscript{149}

In the absence of adoption of UELMA, some states, including South Dakota, New Hampshire, and Wisconsin, have attached a disclaimer to the opinions released on their Web site, alerting researchers that the version is subject to revision and may contain errors.\textsuperscript{150} Both Oklahoma and North Dakota contract with Thomson-West to publish their opinions, but neither state directs the user of their archives to the published version as being more authoritative or official than the state-provided electronic version.\textsuperscript{151} Both these states incorporate revisions made later in the editorial process into their electronically released opinions,\textsuperscript{152} and a few others draw attention to later revisions by flagging amended sections.\textsuperscript{153}

To maintain not just medium neutrality but also vendor neutrality, courts that release their opinions electronically should carefully consider during the editorial process whether their electronic publishing system is undermining citation neutrality.

Electronic Format

As mentioned previously, some courts that release their opinions electronically have made these decisions available in print-replicating formats that
do not take advantage of the benefits of the digital format and prolong the attachment to and dependence on print-based legal research. Most often released as PDFs, opinions from these courts’ Web sites are intended to be similar in appearance and format to printed slip opinions. This practice encourages readers to think of the opinion in terms of a passage from a print-based collection and does not support the features of electronic formats that significantly enhance access to the law, such as full-text searching. Moreover, formats such as PDF, although prevalent today, may not be the format of tomorrow.

As paragons of effective distribution of case law in an age dominated by Internet use and digital access, Oklahoma and North Dakota have established themselves as exemplary users of the electronic format. Their case-law archives have been designed with the Internet and electronic format in mind so that they are effectively online databases rather than imitations of print collections.

Cases in these archives have been tagged with essential metadata that allow users to efficiently search through the archives by fields such as author, party name, title, date, and traditional or neutral citation. The electronic format also allows for the linking of related documents, such as briefs or oral argument audio files. Both the North Dakota Supreme Court and the Oklahoma Supreme Court allow commercial search engines to index their collections, therefore allowing users to locate these states’ opinions not just through the courts’ Web sites, but also through widely used search engines such as Google.

FUTURE PROBLEMS?

Although seventeen states currently have neutral citation systems in some form, that number means thirty-three states still employ the traditional citation style. Although it is comforting for the movement that Arkansas, Illinois, and Colorado have recently adopted neutral citation principles, there remain many problems and misconceptions with the implementation of a neutral citation system.

Peter W. Martin in Neutral Citation, Court Web Sites, and Access to Authoritative Case Law addressed the issue of why more states, as of 2007, had not adopted neutral citation. Many of the problems he identified involve perceptions that have persisted from the first days of the movement to the present. Some of these actually remain difficulties the movement must face, while others no longer reflect the realities of the legal publishing market or the legal research paradigm.

In this section, I will address these problems, both perceived and actual, and attempt to address the arguments others have made, updating and countering them with more current information. After responding to arguments for and against a more widespread implementation of neutral citation, I will address the role legal and law library professionals
can and must play in the movement if it is to have a future in this country.

Trends Among the States

The location and characteristics of the states whose court systems have adopted a neutral citation scheme is hardly inconsequential. As can be seen from the map in Appendix A, the state court jurisdictions that have adopted neutral citation have been overwhelmingly located in less heavily populated states in the heart of the country, although the adoption by Ohio in 2002 and Illinois in 2011 has partly bucked this trend. That said, the simple fact of the matter is that smaller states produce fewer reported opinions not only because of their smaller populations, but also because they tend to have a smaller population of attorneys and legal systems with fewer appellate court levels or divisions.

As Martin points out, most of the states with neutral citation systems resemble North Dakota far more than they resemble New York or California, both of which were ranked in the top three states in terms of population in the 2010 U.S. Census, and both of which rank in the top four states in terms of total incoming appellate cases in 2009. Often it appears much more difficult to institute such an impactful change as a transition to a new citation format “[i]n jurisdictions with greater scale and institutional complexity, thousands of decisions, and an intermediate appellate court with multiple districts or departments.”

On the other hand, while the states that have switched to universal citation have tended to be in the bottom half of the nation in terms of population and scale of their judicial systems, both Ohio and Illinois ranked in the top ten in terms of population in the 2010 census, and these states are joined in the top ten by Louisiana in terms of total cases. Furthermore, as one of the most effective adopters of neutral citation and maintenance of a court Web site amenable to public access, Oklahoma, which is ranked twenty-third in terms of cases and twenty-ninth in terms of 2010 population rank, has fully digitized its case law going back to the beginning of its court system and implemented neutral citation at minimal cost and effort through judicial oversight and efficient use of resources.

Market Conditions

Because neutral citation developed as a reaction to the changes in the legal publishing world in the 1990s and is posed as a movement in opposition to the less equitable practices of publishers, the status of neutral citation is largely dependent on the costs and demands of the legal publishing market.
The decision to transition to a neutral system must reflect not just a desire to increase public access to legal information but also a desire to free this information from the constricting fetters of outside forces. In the cases of certain more populous and influential states, there is the perception that a movement to neutral citation would run counter to the state courts’ interests, and it is not difficult to understand why.

CONTRACTS WITH PUBLISHERS

Both California and New York, each heavily populated and lawyered, continued to receive a substantial benefit from having their opinions reported by commercial publishers under contracts to print the states’ “official reports.” While states such as Oklahoma and North Dakota benefitted through reduced expenses from commercial publishers on account of the increased competition that releasing their opinions in a publicly accessible format yielded, for states such as New York and California, which generate substantial revenue from exclusive contracts with publishing companies, “shifting to a pro-competitive scheme that affords all publishers equal access to citable, final decisions in digital format has limited appeal.”

California and New York have contracts with publishers that grant these companies the exclusive right to publish the courts’ case law. Not coincidentally, both New York and California were strongly against the neutral citation format, lobbying heavily against the idea during discussions of the AALL Task Force for Citation Formats in 1995. Their reasons for opposing the changes came down to the benefits they derived under their contracts with Thomson-Reuters and LexisNexis, respectively.

New York’s Law Reporting Bureau has enjoyed a contractual deal with Thomson-Reuters requiring no payment at all from the state. In fact, Thomson-Reuters has given the state the hardware, software, support, and training necessary for the editing of New York’s case law, in addition to numerous other tangible benefits to the office and the judiciary—all simply for the right to produce and sell New York’s case law in print and electronic format. California’s contractual relationship with LexisNexis has involved fewer tangible benefits but shifted the burden of editorial work to the publisher, a service furnished to the state free of charge in exchange for the right to publish California’s case law.

Although not all states have publishing contracts as beneficial as New York’s and California’s, “few state offices that contract for and oversee production of ‘official reports’ are likely to favor creation of a public case law archive with neutral citation.” The benefit of the proposed model of having a state’s own digital archive of case law, which, again, can be accessed by publishers just as by users, is that as the demand for print resources decreases and the cost increases, those states that have created
their own “official reports” will be able to move their collection of case law easily to a digital format without fear of claims of copyright in the reported material from publishers. As print continues to be in less demand and electronic formats prove more popular, publishing companies with these contracts will likely seek more from the states obligated to them and will possibly use the threat of litigation as a way to maintain the status quo.

Copyright claims

Although it is not possible to copyright the opinions of federal or state courts, the Thomson-Reuters company has a history of trying to enforce its copyright claims in the pagination system it uses in editing case law. Although it is unnecessary to recount the arguments in detail, it is worth reviewing West's claims to determine if they have merit and whether they could continue to pose a threat to other publishers.

In 1986, West won a lawsuit over whether it could copyright the star pagination system it developed in litigation against Mead Data, the company that developed LexisNexis before it was bought by Reed Elsevier in 1994. In unrelated litigation in 1991, the U.S. Supreme Court rejected the argument of a company that it was entitled to copyright in compiling the information of telephone numbers in a directory. This decision, Feist v. Rural, established that a work must have a minimal amount of original creativity to be copyrighted.

In light of Feist, there was some dispute as to the validity of West's copyright claim over the star pagination system until the district court for the District of Minnesota stated that Feist did not preclude West from claiming copyright in the pagination system because of the effort it took to institute it. However, the Second Circuit ruled in 1998 against West in deciding the question of the merit of West's copyright claim over the star pagination system yet again. The Supreme Court denied review of this determination, but West has never renounced its claims to copyright in the star pagination system. Because the validity of the copyright claim has been left unchallenged over time, “publishers either continue to license National Reporter System pagination or exclude it completely, making their reporters difficult for users to cite.”

The risk for litigation by a large international corporation continues to direct the actions of smaller publishing companies, even though it no longer blocks access to the case law market for smaller publishers. Although it appears that the threat has greatly diminished over time, it is possible that West might become aggressive in enforcing its copyright claims as print becomes less prevalent and more publishers offer case law in affordable packages. That said, a neutral citation system would
allow publishers to market themselves as providers of value-added services rather than of the case law itself. This change would obviate any need for concern over the constant possibility of litigation that smaller publishers face.

THE RISE OF SMALLER LEGAL INFORMATION PROVIDERS

Although the threat of copyright litigation does direct the actions of smaller publishers to this day, there are many more of these smaller companies that are able to offer services similar to those of the international corporations at a much lower price. The market has altered substantially since the 1990s when neutral citation emerged, and has even changed appreciably since Peter W. Martin published his evaluation of the format in 2007.

Martin mentions smaller companies such as Loislaw and VersusLaw, which offer low-cost research packages that Westlaw and LexisNexis have come to mimic in their pricing options. Now there are even more options with the introduction of free legal research services such as Casemaker, Law.com, Justia, Findlaw, Fastcase’s Public Library of the Law, and Cornell Law School's Legal Information Institute. Google Scholar's legal opinion search feature, which was introduced in November 2009, has quickly become a reliable source of free case law, with wide coverage of state and federal opinions and a newly instituted citator service.

As Cannan points out, even though there are now many ways to access the law online, judicial systems may require access to physical reporters if they continue to rely on traditional, print-based citation, even as law libraries continue to jettison these materials from their collections. Consequently, neutral citation remains a vital concern in the legal research world in terms of public access to the law.

LAW LIBRARIANS AND THE FUTURE OF ACCESS TO THE LAW

As the legal publishing paradigm continues to shift steadily toward a predominantly electronic-based model, the demand for print materials has decreased, as it will continue to do. If citation formats continue to be tied to print-based materials within this new paradigm, those researchers who cannot find print collections to use will encounter less access to the law despite the seeming surplus of readily available electronic legal materials. This problem is one that the law librarianship profession needs to continue to confront directly if it intends to promote access to the law as an important guiding principle of the profession.

Martin’s survey of the landscape with regard to citation reform somewhat pessimistically concluded that legal professionals, especially law librarians, seem no longer interested in neutral citation despite the increasing limitations...
on access in light of disappearing print collections. That said, the adoption of the format by Arkansas, Illinois, and Colorado, and the recent collaborative effort undertaken in the creation of a white paper by AALL, may indicate that the conditions could be improving for the neutral citation movement.

It seems evident to nearly all interested parties, excepting possibly the large publishing companies, that neutral citation results in a net benefit for courts, the public, and professionals alike. On the other hand, it appears that a kind of complacency or equilibrium has been reached with respect to neutral citation. Perhaps the movement needs to feed on general dissatisfaction with accepted conventions, such as those in the Bluebook, which Judge Richard Posner continues to roundly trounce as “hypertrophic.” Another novel but unlikely solution to the problem has been the creation of a consortium of law schools that would “find, edit, and publish American common law for the benefit of all.” This idea is obviously outlandish, but it reflects the type of thinking the movement may need to progress.

Although the professional organizations remain committed to citation reform—“AALL eagerly anticipates continued work with its partners in the legal community to reform the way legal information is disseminated and to improve the quality of justice for all people”—satisfaction with the status quo cannot be enough to effect citation reform. Despite near-universal recognition as a positive step toward increased access to the law, neutral citation may not have a future unless it becomes necessary.

It is worth iterating that the aim of the neutral citation movement is not to eradicate legal publishers but merely to provide more equitable access to the law in a way that promotes competitive fairness. Courts and publishers large and small alike will be better able to participate in the provision of legal information to the citizenry under a neutral citation system.

Finally, I think law librarians must play an integral role in spreading awareness of the necessity and benefits of neutral citation principles, as law librarians “have a great professional stake in successful citation reform.” Law librarians have been the leaders of successful change in citation format reform and continue to have a duty to rally behind neutral citation, remembering both its past and the risks for the future if we do not work to improve the state of public access to the law.

NOTES

2. That said, the decision to term the movement “universal citation” originated with the American Bar Association and reflected a desire to be inclusive of the ideas of vendor and medium neutrality. See Special Committee on Citation Issues, American Bar Association, Report and Recommendations (May 23, 1996).
7. Cannan, supra n. 5, at 354.
10. Although the Bluebook has a section on neutral citation, the section is cautious in calling the format either “public domain” or “medium-neutral,” making no references to vendor neutrality. The Bluebook: A Uniform System of Citation R. 10.3.3, at 96 (Columbia Law Review Assn. et al. eds., 19th ed. 2010).
12. Id.
13. Id.
14. Id.
15. Id. at 336.
16. The Citation Formats Committee of AALL defines medium neutrality in a citation as involving “data elements which have intellectual or location relevance without regard to the physical medium in which a document is fixed.” Citation Formats Comm., AALL, The Universal Legal Citation Project: A Draft User Guide to the AALL Universal Case Citation, 89 L. Lib. J. 7, 8, n. 4 (1997).
17. According to the Citation Formats Committee, “[a] vendor-neutral citation contains no proprietary data elements and makes no reference to a proprietary publication.” Id. at n. 3.
18. That said, the person may have good reason to seek out such a volume for the value-added editorial content provided by the publishing company.
19. AALL, supra n. 8, at ¶¶53–54 (identifying the rules for both highest and intermediate courts of appeal at the federal and state levels).
22. AALL, supra n. 8, at ¶42; see also Martin, supra n. 3, at 1–2 (discussing the so-called “Wisconsin Report”).
23. AALL, supra n. 8, at ¶42.
25. AALL, supra n. 8, at ¶42.
26. Id. at ¶44.
27. Id. at n.19. The chief adoptions include use of the term “universal citation,” use of state postal abbreviations, and adoption of the pilcrow, or paragraph symbol, which publishers had persuaded AALL would be impossible to implement.
28. Id.
29. Id. at ¶45 n. 20.
30. Id. For the Universal Citation Guide’s algorithm, see generally AALL, supra n. 8, at ¶¶48–61.
31. Id. at ¶46.
33. “While there are totally independent grounds for citation reform, there seems little doubt that much of the energy behind the drive for ‘vendor neutral’ or ‘public domain’ citation during the 1990s came from a desire to break through the barrier to competition posed by West’s refusal to allow others to incorporate National Reporter System pagination.” Martin, supra n. 3, at 356.
35. Id. at 10–11.
36. Id. at 709.
37. Id. at 709.
38. Id.
40. Svengalis, supra n. 34, at 703.
41. West’s tactics included mailing Wisconsin attorneys information packets about the alleged expenses and dangers of neutral citation, conducting a phone survey to confirm that Wisconsin legal professions strongly preferred print materials, commissioning a study that asserted the high costs of implementing the new citation format, and bringing a known opponent of the format to testify at a hearing before the Wisconsin Supreme Court. Martin, supra n. 3, at 2.

42. Id. at 3.
43. Id. at 3.

45. Svengalis, supra n. 34, at 709.
46. Id. at 10.
47. Id.
48. Id.
49. Id.
50. Id. at 10–11.
51. Id. at 4.

52. Judy Meadows, President’s Briefing: Citation Reform, AALL Spectrum (July 1998), at 13, 14 (displaying the eleven states in a shaded map as Arizona, Colorado, Louisiana, Maine, Missouri, Montana, New Mexico, North Dakota, Oklahoma, South Dakota, Wisconsin).

54. Billings & Carlson, AALL and the Dawn of Citation Reform, supra n. 24, at 340.

56. Svengalis, supra n. 34, at 710.
57. Id. at 705.
58. Martin, supra n. 3, at 357.
59. Id. at 356.
60. Billings & Carlson, AALL and the Dawn of Citation Reform, supra n. 24, at 340.

61. Id. at 341.
62. Carol Billings & Kathy Carlson, Implementing Citation Reform in Selected Jurisdictions, 103 L. Lib. J. 348, 348 (2012).

63. Many other states that adopted neutral citation had long abandoned printing their own official reporters, although a few states that use neutral citation continue to publish their own decisions. It is difficult to draw any conclusions from this characteristic, but it is possible that the lack of an official, state-published reporter made the transition to a neutral format an easier decision.

64. Billings & Carlson, Implementing Citation Reform in Selected Jurisdictions, supra n. 62, at 348.

65. Id.
67. Billings & Carlson, Implementing Citation Reform in Selected Jurisdictions, supra n. 62, at 348.

69. Billings & Carlson, Implementing Citation Reform in Selected Jurisdictions, supra n. 62, at 348.

72. Billings & Carlson, Implementing Citation Reform in Selected Jurisdictions, supra n. 62, at 348–349.

73. Id. at 349.
74. Martin, supra n. 3, at 348.

76. Id.
77. Id.
78. Peter W. Martin, Introduction to Basic Legal Citation, § 2–230 (online ed. 2012), available at http://www.law.cornell.edu/citation/
80. Billings & Carlson, *AALL and the Dawn of Citation Reform*, supra n. 24, at 341.
81. Martin, *Introduction to Basic Legal Citation*, supra n. 78, at § 2–230.
82. AALL, *In Re: The Citation of District Court Opinions*, available at http://www.aallnet.org/main-menu/Advocacy/access/citation/neutralrules/rules-6.html
83. Martin, *Introduction to Basic Legal Citation*, supra n. 78, at § 2–230.
84. See *Change in Citation of Opinions for the District of South Dakota*, library newsletter (Eighth Circuit Courts Library, November/December 2009), available at http://www.lb8.uscourts.gov/pubsandservices/publications/novdec09.sdcitations.html
85. Cannan, supra n. 5, at 353.
86. Martin, supra n. 3, at 352.
87. Id. at 352–353.
88. See supra n. 8, pp. 2–3 (comparing the neutral citation with the traditional, print-based citation format).
89. The state courts that follow this format are: Arkansas, Colorado, Maine, Montana, New Mexico, North Dakota, Oklahoma, South Dakota, Utah, Vermont, Wisconsin, and Wyoming.
92. O.S. § 1.200(e)(2).
93. Id.
95. Kauger, supra n. 91, at 333.
96. Id.
98. Martin, supra n. 3, at 338.
99. Id.
100. Id.
101. Id. at 338–339.
102. Kauger, supra n. 91, at 333. The decisions of the Oklahoma Supreme Court date back to its first opinions from 1890. The collection of the Oklahoma Court of Criminal Appeals dates to 1908, the year of its first decision. Finally, the decisions of the Oklahoma Court of Civil Appeals date to 1968 because that was the first year the court's opinions appeared in West's *Pacific Reporter*.
104. Id.
105. Id.
106. Martin, supra n. 3, at 339.
107. Kauger, supra n. 91, at 333; see also Martin, supra n. 3, at 359; see also Billings & Carlson, *Implementing Citation Reform in Selected Jurisdictions*, supra n. 62, at 350.
108. Billings & Carlson, *AALL and the Dawn of Citation Reform*, supra n. 24, at 344.
110. N.D. Sup. Ct. R. 11.6(b).
113. Id. at 338.
114. *Implementing Citation Reform in Selected Jurisdictions*, supra n. 62, at 350.
115. Martin, supra n. 3, at 337.
116. Id. at 338.
117. Id.
118. Billings & Carlson, *AALL and the Dawn of Citation Reform*, supra n. 24, at 344.
120. Ill. Sup. Ct. R. 6, 23(h).
122. Martin, *Introduction to Basic Legal Citation*, supra n. 78, at § 2-230.
124. Id.
126. Martin, *Introduction to Basic Legal Citation*, supra n. 78, at § 2-230.
128. Id.
130. Martin, supra n. 3, at 346.
131. Masters, supra n. 129.
133. Id.
137. Cannan, supra n. 5, at 357.
138. ABA, *Universal Citation Resolution* (1996), quoted in Martin, supra n. 3, at 340.
139. Martin, supra n. 3, at 340.
140. See, e.g., Wis. Sup. Ct. R. 80.02(1)(c); see also Me. Supreme Judicial Court, Order SJC-216 (Aug. 20, 1996).
141. Martin, supra n. 3, at 341.
144. Chief Justice Directive 12-01, supra n. 121.
145. Martin, supra n. 3, at 341-342.
146. Id. at 342-343.
147. Id. at 343.
150. Martin, supra n. 3, at 342.
151. Id. at 343.
152. Id.
153. Id. at n. 74.
154. Id. at 346.
155. Id.
156. Id.
157. Id.
158. Id.
159. See Martin, supra n. 3.
160. U.S. Census Bureau, supra n. 125.
162. Martin, supra n. 3, at 354.
163. U.S. Census Bureau, supra n. 125.
164. Court Statistics Project, supra n. 160.
165. Id.
166. U.S. Census Bureau, supra n. 125.
167. See Martin, supra n. 3, at 354; see also Kauger, supra n. 91, at 333.
169. Id. at 350.
170. Id. (noting that New York and California’s arguments amounted to a defense that they did not need neutrality because they each had beneficial relations with publishers already).
171. Id. at 351.
172. Id.
173. Id.
174. Id.
175. Id. at n. 112 (discussing Illinois’s then-current contract with Thomson-West).
176. Id. at 352.
177. Id.
182. Id. at 363 (“As a constitutional matter, copyright protects only those constituent elements of a work that possess more than a de minimis quantum of creativity.”)
183. Oasis, supra n. 177, 924 F. Supp. at 924.
186. Martin, supra n. 3, at 357.
187. Billings & Carlson, AALL and the Dawn of Citation Reform, supra n. 24, at 346.
188. Martin, supra n. 3, at 362.
189. Id. at 358-359.
190. Cannan, supra n. 5, at 355.
195. Ian Gallacher, Cite Unseen: How Neutral Citation and America’s Law Schools Can Cure Our Strange Devotion to Bibliographical Orthodoxy and the Constriction of Open and Equal Access to the Law, 70 Albany L. Rev. 491, 531 (2007).
196. Billings & Carlson, AALL and the Dawn of Citation Reform, supra n. 24, at 347.
197. AALL, supra n. 8, at ¶18.