

LEGAL CITATION – CASE LAW FOR CLOSED MEMORANDUM ASSIGNMENT (AND BEYOND)

Introduction

Legal citation provides readers with a concise description of the material to which you are referring. Relating to case law, a citation contains important details so readers can determine if they wish to read the case and, if so, where the case can be found.

Citation Style

At UBC, we currently use the *Canadian Guide to Uniform Legal Citation*, 7th ed (also known as the McGill Guide).

- You will need the McGill Guide for written work throughout your time at law school. You may wish to buy a new or used copy of the 7th ed.
- The Law Library has copies of the McGill Guide in the Reference Room and on the shelves in the Learning Commons (KE 259 C35 2010).
- An online guide, based on the McGill Guide, has been prepared by the Lederman Law Library at Queen's University (<http://library.queensu.ca/law/lederman/legalcitation>). This guide is useful but not comprehensive.

Following the Rules

Citation rules have changed over the years. You will find many different formats, depending on what you are reading and when it was published. Your responsibility is to follow the rules in the McGill Guide, in conjunction with any special instructions your professor has given you. For example, the McGill Guide says that two sources, if available, should always be provided for case citation. If your professor indicates that one citation is sufficient, follow your professor's instructions.

Footnotes, Bibliographies, and In-Text References

The main body of the McGill Guide provides instructions and examples on how to create footnotes for various types of legal materials. The General Rules section of the McGill Guide describes the difference between footnotes, bibliographies, and in-text references. For your memorandum, you have been asked to provide in-text references.

In-Text References

Include the full citation to the case immediately after the relevant text, in parentheses. The first time you create a citation, use the rules from the McGill Guide. If you plan to refer this case later, provide the reader with a short form in brackets (e.g., [*Rohani*]). This makes later references much more succinct (e.g., (*Rohani* at 68) or (*Clearbrook* at para 32)). You should use *ibid* to refer to the immediately preceding reference. Use *supra* when referring to a prior, but not immediately prior, reference.

Here is a sample passage, illustrating how to provide in-text references (modified from the McGill Guide, page E-5):

Besides the requirement of an “actionable wrong”, punitive damages will only be awarded “where the defendant’s misconduct is so malicious” it offends the court’s sense of decency” (*Hill v Church of Scientology of Toronto*, [1995] 2 SCR 1130 at para 196, 186 NR 1, Cory J [*Hill*]). Such behavior has included defamation (*ibid*), failure to provide assistance (*Robitaille v Vancouver Hockey Club* (1981), 124 DLR (3d) 228 (BCCA)), and obnoxious behavior by an insurance firm (*Whitten v Pilot Insurance*, 2002 SCC 18 [*Whitten*]). Punitive damages should rarely be used in a criminal matter (*ibid* at para 69). Only the wrongdoing defendant can be responsible for punitive damages (*Hill* at para 195).

Note: No short form for the *Robitaille* case is needed because it will not be referred to again. However, a short form for *Whitten* is provided because it will be referred to later.

Here is another sample passage, illustrating how to provide in-text references (modified from: <http://www.law.ubc.ca/files/pdf/current/jd/lrw/2010/LRWSampleMemo.pdf>):

The leading case in B.C. on the general test for the existence of a partnership is that of *Hayes v British Columbia Television Broadcasting System Ltd* (1992), 74 BCLR (2d) 120 (CA) [*Hayes*]. In determining whether a partnership has formed, the meaning of the words “carrying on business in common with a view of profit” should be considered (*ibid*).

The parties must intend a partnership to form (*Sproule v McConnell*, [1925] 1 DLR 982 (Sask CA)). The analysis used to discern the intention of the parties is two-pronged. A court will first review the agreement between the parties, then will look to the conduct of the parties (*ibid*). Because there is no express contract in the present circumstances, a court would immediately turn to the second branch of the analysis, which was described as follows:

[It] requires the court to enquire into whether the conduct of the parties during the currency of their joint project constituted a partnership relationship notwithstanding their contrary intention and the provisions of their agreement (*Hayes* at 123).

The parties in *Hayes* did not meet the “business in common with a view to profit” test. While the parties all expected to obtain something of value from the enterprise in that case, the Court observed that it was:

not in the view of either that what would be obtained would be the profit of the business being carried on in common. ... Whether either party realized a profit turned upon that party’s costs and that party’s revenue from that party’s market area (at 126).

As cited in *Hughes v Page* (1998), 77 ACWS (3d) 432 (BCSC) [*Hughes*], it is the majority decision in *Hayes* which sets down the test used today in B.C. The emphasis placed on profit sharing in *Hayes* is not unique to that case. In B.C., see also *Hughes* and *Jenks v McCrory*, [1998] BCJ No 995 (QL) (SC).

Finding Law Reports and Abbreviations

For a very brief overview of finding cases if you have a case citation, see the following UBC Law Library research guide: <http://guides.library.ubc.ca/casecitation#tabs-0>.

For deciphering abbreviations of law reports, use Appendix C in the McGill Guide, an online guide created by the UBC Law Library at <http://guides.library.ubc.ca/legalcitation#tabs-3>, or the Cardiff University online guide at <http://www.legalabbrevs.cardiff.ac.uk/>.

ELEMENTS OF A CASE CITATION

Following is the standard formula for properly citing a case in Canada. This formula also works for cases from the United Kingdom, with one modification related to neutral citation (see below). Not every element is used in every case. See explanations below for further clarification.

<i>Style of Cause</i>	(year of decision),	neutral citation,	[year of reporter]	volume	reporter	(series)	page	(court)
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Examples:

<i>Rohani v Rohani</i>	(2004),			34	BCLR	(4th)	62	(CA).
<i>Clearbrook Iron Works Ltd v Letourneau,</i>		2006 FCA 42,		46	CPR	(4th)	241.	
<i>R v Romeo,</i>			[1991]	1	SCR		86.	

Style of Cause

- A case is identified by the names of those who were parties to the litigation.
- In general, only the last name of the first mentioned party on each side is used.
Example: John Smith et al v Mary Jones becomes *Smith v Jones*.
- The name of the parties and the v are italicized.

Neutral Citation

- Since 1999, many Canadian courts have been assigning neutral citations to their judgments. A court or tribunal assigns this citation at the moment the decision is rendered. This citation is unique, complete, immediately available and permanent.
- Neutral citation allows for the identification of a case independent of the electronic resource or print reporter in which it gets published.
- Neutral citation has four essential elements: the style of cause, the year of the decision, the court or tribunal identifier, and an ordinal number attributed to the decision.

Example: *Lovelace v Ontario*, 2000 SCC 37. In plain language, this is the 37th case decided by the Supreme Court of Canada in the year 2000.

- If your decision has a neutral citation, it should precede any parallel citations to printed reporters. Both are required, as the neutral citation is only a case identifier and does not indicate where a case can be found.
- For cases from the United Kingdom, use brackets around the year of the decision (e.g., *Campbell v MGN Ltd*, [2004] UKHL 22).

Pinpoint

- If you wish to refer the reader to a particular page, follow the initial page of the case with the appropriate page (e.g. 174 DLR (4th) 193 at 204 or 174 DLR (4th) 193 at 204-208). If the case has each paragraph numbered, as in the newer cases, use paragraph numbers (e.g., 2000 SCC 37 at para 82 or 2000 SCC 37 at paras 82-87). See the McGill Guide, Rule 3.6 on page E-53.

Year

- When there is a neutral citation, no date is needed after the style of cause because the neutral citation includes the date.

Example: *Clearbrook Iron Works Ltd v Letourneau*, 2006 FCA 42, 46 CPR (4th) 241.

- However, a reporter series may still require a date in square brackets.

Example: *R v Kang-Brown*, 2008 SCC 18, [2008] 1 SCR 456.

- If there is no neutral citation available, the basic rule stipulates that the year of the decision should be placed in parentheses (round brackets) after the style of cause, followed by a comma.

Example: *R v Borden* (1993), 24 CR (4th) 184 (NSCA).

- If the volumes of a cited reporter are organized by year, square brackets [] are used to identify the year of the volume. Square brackets are used because the year in which the volume was published is essential to locating the volume on the shelf.

Example: *R v Romeo*, [1991] 1 SCR 86.

Note: If this case was decided in 1990 but not published until 1991, the citation would look like this: *R v Romeo* (1990), [1991] 1 SCR 86.

PARALLEL CITATIONS:

- Many decisions are published in multiple formats (both print and electronic) and in multiple case law reporters.
- Parallel citations provide references to reports of the same case, at the same court level, printed in more than one law reporter.
- Parallel citations are provided as a courtesy to the reader, who may have access to only one of the several case law reporters listed in the citation.

SEQUENCE OF LISTING REFERENCES TO A CASE:

Example: *R v Capp*, neutral citation, SCR, DLR, WWR, BCLR, CCC

1. Neutral Citation
2. Official Reporters
3. Semi-Official Reporters
4. Unofficial Reporters

See the McGill Guide, Appendix C for further detail.