

# AMERICAN ASSOCIATION OF LEGAL PUBLISHERS

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July 31, 1995

Clerk  
Florida Supreme Court  
Supreme Court Building  
500 South Duval Street  
Tallahassee, FL 32399

**FILED**

SID J. WHITE

AUG 1 1995

CLERK, SUPREME COURT

By

Chief Deputy Clerk *sq*

IN RE: FLORIDA RULE OF APPELLATE PROCEDURE 9.800(n), CITATIONS  
Case No. **85,746**

Dear Justices of The Florida Supreme Court:

The American Association of Legal Publishers (AALP), a trade association of print, CD and electronic on-line publishers, is committed to the development of a public domain legal citation system which is not subject to copyright and is equally available to all publishers, so publishers may compete on the basis of the value they add, not access to an acceptable citation system. A copy of AALP's statement of principles is attached.

**AALP** urges the Supreme Court not to adopt the proposed change to Florida Rule of Appellate Procedure 9.800(n) because the only effect of the proposed change is to help West Publishing Company argue to the public and to federal and state government antitrust lawyers that the citation system West **owns** does not constitute a monopoly on citations required by the Florida courts. Instead, the West-owned citation will now be "optional, but preferred" by Florida courts. But since there is no other citation for published opinions accepted by the Florida courts, West's system in reality continues to be required and to operate as a monopoly. The proposed rule change plays with words, but does not change the options available to a lawyer purchasing legal research materials containing pin point citations accepted by the Florida courts.

The result of having a monopoly over legal citations is that all users of legal research materials pay higher prices. Thus, when Florida consumers -- government agencies, lawyers, corporations - purchase Florida case decisions they pay West excessively high prices because there is no price or product competition for these materials. The American Association of Law Libraries reports that the cost of lawbooks and their continuation parts has been increasing annually from 9 to 15% during each of the last four years while the federal government's Office of Management and Budget reported the price of almost all other goods and services was increasing during the last four years from 2 to 4% per year.

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Directors: Joe Acton, Russ Armstrong, Thomas F. Field, David Johnson, Eleanor Lewis, Lisa Richards,  
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Officers: Eleanor J. Lewis, Executive Director; Forrest D. Marovelli, Treasurer; Thomas F. Field, Secretary

**The difference between an annual price increase of 3% and 12% is the cost of having a monopoly control the availability of an acceptable legal citation in lawbooks and their continuations.**

The solution to the existing monopoly is to adopt a public domain citation system. **AALP** urges the Florida Supreme Court to follow your fellow supreme court judges in Louisiana and Colorado where the courts have adopted meaningful citation reform that results in a new, publicly owned citation system being available without charge to all publishers. Louisiana's public domain citation system started on January 1, 1994 and is the slip opinion page number of all appellate and supreme court decisions. As a result, there are now three or four companies, including West, selling Louisiana state legal opinions on CD-ROM. The prices for these products have dropped by over 90%, from approximately \$3,000 per year to under \$300 per year. Louisiana is in the process of preparing a report which documents the benefits from its change. **AALP** urges you to contact Louisiana Supreme Court Chief Justice Pascal R. Calogero, Jr. to learn first-hand how and why the Florida Supreme Court should not proceed with its intended rule change, but should follow other state supreme courts in this matter which have made meaningful changes to promote public access to legal decisions and to increase price and product competition.

The Colorado Supreme Court issued a memorandum on May 5, 1994, stating that paragraph numbering is an acceptable alternative citation system. It is expected that Colorado courts will soon be issuing cases with numbered paragraphs. The Wisconsin Supreme Court considered a public domain citation system at its March 21, 1995 hearing and will revisit the matter in the spring of 1996, although Wisconsin is now posting all legal opinions on a state-operated electronic bulletin board which is a helpful ~~first~~ step in developing a public domain citation system. The South Dakota Supreme Court will consider this matter at a hearing in the fall of 1995; the South Dakota bar unanimously recommended in June 1995 that its supreme court adopt a public domain citation system.

If the proposed change is adopted, Florida will be the first state to consider this matter and to adopt a change that strengthens West's copyright claim and continues to keep all consumers subject to a monopoly in legal citations, thus increasing the cost of legal services for all. In these times of downsizing and shrinking budgets, **AALP** believes the Florida Supreme Court should take all actions possible to reduce costs, increase competition and promote public access to the law. The proposed change does not do that.

Sincerely,

  
Eleanor J. Lewis  
Eleanor J. Lewis  
Executive Director

Enclosure

P.S. Also enclosed and made a part of this submission is a copy of a speech titled "Judicial Information Policy" delivered by Thomas F. Field on July 17, 1995 and a 3 page statement by U.S. Senator Robert C. Byrd delivered on July 28, 1995, a copy of Amendment # 1872 introduced by Senator Byrd to S 1061 on July 28 and a copy of the Roll Call vote for said amendment which passed the U.S. Senate by a vote of 75-23 on July 28, 1995.