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CLERK, SUPREME COURT
By _____

Chief Deputy Clerk
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July 31, 1995

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

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

Dear Justices of The Florida Supreme Court:

I am writing to you on behalf of the American Association of Law Libraries (AALL) concerning the proposed change in Florida Rule of Appellate Procedure 9.800(n) relating to pinpoint citation to Florida case law.

The AALL is a nonprofit organization with over 5,000 members, over 110 of whom are from the State of Florida. AALL responds to the legal information needs of the judiciary and other public officials at all levels of government, attorneys, corporations, law professors and students, and members of the general public. Free and effective access to government information is a governing principle of the AALL Code of Ethics.

The issues surrounding the current debate on legal citation formats are succinctly reviewed in the report of the Subcommittee on Legal Citation Format for the Appellate Rules Committee of the Florida State Bar. I will therefore not reiterate them here, but would point out that the report does comment that AALL has "taken the lead in identifying the issues that must be addressed in forming a workable policy regarding generic citation format." The AALL Task Force on Citation Formats, after extensive study and consultation on these issues, reported to the AALL Executive Board on March 1, 1995. For your information, a copy of the report of the Task Force will be sent directly to you from the AALL headquarters office in Chicago.

On July 18, 1995, at the annual meeting of the AALL membership in Pittsburgh, the Executive Board approved and adopted the following recommendations of the Task Force:

1. For those jurisdictions considering change to a medium neutral citation form, the use of the following case citation form is recommended: case name, year of

decision, court, opinion number, and **where a pinpoint citation is needed, paragraph number.** [emphasis added]

2. Regardless of whether or when jurisdictions adopt recommendation 1, all jurisdictions are encouraged to number their decisions by paragraphs, and to allow citation to paragraph numbers.

Although the AALL Task Force was disbanded upon acceptance of its report, a new standing Committee on Citation Formats was established by the Executive Board and charged "to work with the judiciary, the bar, the ABA, the editors of the Uniform System of Citation and other groups to promote uniformity of citation reform." It is in the capacity as chair of that Committee that I am writing to you to comment on your proposed rule.

This proposal adds the following sentence to Rule 9.800(n):

When referring to specific material within a Florida court's opinion, pinpoint citation to the page of the Southern Reporter where that material occurs is optional, although preferred.

The current version of Rule 9.800(n) refers to the latest edition of the Uniform System of Citation (The Blue Book) for general guidance on citation rules not otherwise covered in Rule 9.800. The proposed change, which makes pinpoint citation optional, is contrary to Blue Book Rule 3.3:

When referring to specific material within such a source, include both the page on which the source begins **and the page on which the specific material appears**, separated by commas. . . [emphasis added]

My comments on your proposal relate to the substantive effect of optional pinpoint citation on Florida legal research and practice and also to the timing of your adoption of this rule change.

First, making pinpoint citations optional will undermine a basic tenet of legal citation convention, that is, "to allow the reader to locate a cited source accurately and efficiently." (A Uniform System of Citation -- Introduction, 1.2) When an advocate is relying on a particular passage in an opinion but cites only to the beginning of that case, it will be incumbent on courts, opposing counsel and other readers to locate the passage in question if possible. Furthermore, if the advocate no longer is required to provide explicit direction to that passage, there is less accountability for reliance on particular legal authority and potentially a consequent erosion of the principle of stare decisis.

An alternative scenario is that pinpoint citation will continue consistent with the stated preference in the proposed


rule change. In the interest of accountability, accuracy and efficiency, practitioners and others will continue to use pinpoint citations to the Southern Reporter. In that case, what have you accomplished by proposing the new sentence? And how is the practitioner who has obtained the case from an electronic source that is not the Southern Reporter but who seeks to be accountable, accurate and efficient, to provide pinpoint citation information derived from the source used?

Our Committee therefore commends to you the position adopted by the AALL, and that a system of paragraph numbering be implemented in Florida with pinpoint citations to paragraphs for internal citations.

Regarding the timing of your proposed rule change, I would point out that a revision of the Blue Book is underway with a Sixteenth Edition due out next summer. While many would question the convention that requires us all to look to a group of third year law students to solve the problems of citation to legal authority in the electronic age, it is a fact that this revision will be an important development in resolving many of these issues. It is anticipated that serious consideration will be given to the complex and important issues discussed in the Florida Bar Committee and the AALL Task Force reports. Given that both the current and proposed versions of Rule 9.800(n) look to the current edition of the Uniform System of Citation for guidance, it would be less disruptive to the state of Florida to have to re-examine many of these issues again next year.

On behalf of the American Association of Law Libraries, I therefore urge the Supreme Court not to adopt the proposed change in Rule 9.800(n). I further urge you to consider immediate adoption of a paragraph numbering convention to facilitate pinpoint citation to electronic texts.

Sincerely,


Rita T. Reusch
Law Library Director

Chair, AALL Committee on
Citation Formats

cc: Patrick Kehoe, President
American Association of Law Libraries