

The James A. Walsh Courthouse
United States District Court
DISTRICT OF ARIZONA
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Developing an alternative citation system in theory might be desirable, but realistically the proposed alternative, citing to the original Order, is of little use to anyone wishing to read an opinion in published, hard copy, form. West case reporters are commonly and conveniently available and hard copy court Orders are not. It is inconvenient, time consuming and expensive to obtain copies of Court Orders from clerks' offices. Availability, is the key to the effectiveness of the citation.

If the real benefit of the "new" system is to provide an alternative (non-West) citation for electronic reporter services, then these services should develop and implement such an alternative citation system on their own. The burden should not fall on the courts. The Court only needs to consider whether or not to allow alternative citations to be used in court documents. Of course, parallel West citations will be necessary "until electronic publication of case reports become generally available to and commonly relied upon by courts and lawyers in the jurisdiction." (ABA Special Committee on Citation Issues Report and Recommendation at D.) This admission by the ABA, undercuts the argument that the alternative citation system is necessary because of copyright issues involved when other reporting services use West's citations.

To accept responsibility for implementing the "new" citation system would be a great undertaking for the courts. It would be especially difficult in jurisdictions which operate in different locations with separate clerk offices, such as this Court with clerk offices in Phoenix and Tucson. We would have to develop a coordinated system for assigning citation numbers to Orders. Our clerk offices do not even have such a unified system for assigning case numbers. Instead, the Phoenix and Tucson offices assign case numbers separately. They assign case numbers up front when a case is filed, and the assigned number serves to identify "all" documents filed in the case. The proposed citation system is more burdensome because it requires a citation assignment for each Order, not just for a case.

Currently, the Court's files are organized by case numbers which identify: 1) the place of filing (Phoenix or Tucson); 2) the sequential number of the case, assigned at the time of filing, and 3) the judge. Every document within a file is sequentially numbered with a document/docket number. The proposed citation form has no relationship to the existing system. The courts will have to reorganize their files and record rooms to make the proposed citation system meaningful. In other words, case numbers and document numbers will have to be cross-referenced to correspond with Order citations before a citation could be used to actually locate a hard-copy Order. It seems absurd to develop an entirely new, and meaningless, citation system to locate Orders that our existing case numbering system and docketing numbering system are perfectly capable of locating.

Our clerks should not be burdened with the responsibility of assigning citation numbers to Orders. Docketing of issued Orders is performed by multiple clerks in the two offices. Assigning citations would require some sort of giant computerized network which

would coordinate the assignment citations for issued Orders. There are many routine nondispositive Orders issued by courts which would be ridiculous to cite. District court opinions which are not routinely published would be automatically published in the new system. If these two things resulted from the proposed citation system, the realm of citable materials would vastly increase and much of it would have absolutely no precedential value.

In conclusion, the proposed citation form is burdensome, cumbersome, and unnecessary. I see no reason for the Court to foot the bill for such an undertaking, especially when the primary benefit inheres to private reporter services and not the general public.