Author: Norman Meyer at "4DC-VAE-ALEXANDRIA
Date: 3/10/97 3:27 PM
Priority: Normal
TO: citation at AO-OCPPO
CC: Joan E. Countryman at AO-OCPPo
Subject: Comments on ABA Resolution on Citations

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TO: Appellate Court and Circuit Court Admin. Div., A.O. U.S. Courts

FROM: Norman H. Meyer, Jr., Clerk of Court, E. District of Virginia

RE: Comments on ABA Resolution on Citations

I have reviewed the proposed uniform citation system contemplated by the ABA resolution, and I have a significant concern regarding the logistics of implementing this system in a large federal trial court such as the Eastern District of Virginia.

Each court using this system will have to sequentially number "each decision at the time it is made available to the public." This court, as is the case with most federal courts, has multiple geographic divisions. We have four divisions spread across cities 200 miles apart with over twenty judicial officers, each issuing many decisions and opinions on a regular basis. I am concerned about how this court, and in particular my office, can effectively implement a sequential numbering system with the judges.

If the proposed system is restricted to solely the "published" opinions of the court, the problem exists but is probably manageable, albeit with an additional layer of work for the court. In 1995 we had 182 opinions published in F.Supp., and in 1996 there were 143. The problem becomes enormous, however, if the definition of opinions includes the thousands of opinions we issue that are "unpublished." The daily management of the checking and assigning of sequential numbers on a district-wide basis is an additional workload burden on judicial staff and the Clerk's office that I do not see an easy solution to at this time. Ultimately an automated system may be possible, but I do not see one available now. In any case, what would be the real purpose or advantage of including these opinions, most of which are very brief and only of value to their cases, in a national citation system?

I have checked with the ABA, and in particular with J.D. Fleming who chaired the ABA Special Committee on Citation Issues, to see if the intent of the resolution and proposed system is to include unpublished trial court opinions. Mr. Fleming informed me that it was his opinion that the system contemplates having courts decide this question locally, numbering unpublished opinions in the system voluntarily. He stated that those courts which have already adopted the system are numbering all opinions in a common numbering sequence, adding a suffix of "(U)" to the citation to denote those not intended for precedential purposes. Thus if the system is adopted, we may be able to minimize the problem I raise by local choice--I certainly hope so and advocate this be explicitly spelled out. My clear preference, though, is to have the system, if adopted, clearly exclude trial court unpublished opinions.

Thank you for this opportunity to comment on the ABA resolution.

If there is any question about this message, please do not hesitate to contact me via e-mail or by my phone at 703-299-2177 in Alexandria.

Norman Meyer
Clerk of Court
E. District of Virginia