

*Clerk of Court*  
**MEMORANDUM** *United States District Court*  
*Northern District of Texas*

February 28, 1997

**TO:** Appellate Court and Circuit Administration Division  
Administrative Office of the U. S. Courts  
ATTN.: ABA Citation Resolution

**FROM:** Nancy Doherty

**SUBJECT:** ABA RESOLUTION ON CITATIONS

Thank you for the opportunity to respond to the ABA resolution on citations. I have advised several judges of my court that I do not believe the courts can implement the ABA resolution without adding a great deal of work to clerk's offices. As most of the judiciary realizes, this system also raises a number of philosophical and quality control issues.

1. **Workload Issues**

In addition to being the official repository for case information, the clerk's office would become responsible for assigning numbers to opinions and storing them in an electronic format that is readily accessible to the public. Also, it will be the responsibility of the clerk's office to ensure that opinions are in the appropriate format and that paragraph numbers are embedded properly. In other words, the clerk's office would take on an entirely new "editorial" role. This new work would come at a time when our office is under increasing pressure to produce more and provide better and faster service with fewer resources.

It does not appear to me that the courts are prepared to take over a service that historically has been provided in the private sector with few problems. Until such time that a system has been designed for federal courts to use to affix citation numbers, embed paragraph numbers and archive opinions and can be easily implemented with existing staff, I am adamantly opposed to our office

taking on this additional responsibility. At the present time we need better systems to support many of our core responsibilities (e.g. electronic filing). Diverting scarce systems resources to develop a new information system for opinions would be counterproductive and costly.

I assume numbering of paragraphs would present extra work for judges' staffs. Depending on when a judge makes the determination about publishing, it's possible that all opinions would require paragraph numbering. At this time, my understanding is that the resolution is only referring to published opinions. However, should this idea merely be a first step toward giving all district court opinions a citation number and making them readily available to the public, there are serious implications for the judiciary. If district judges are called upon to write all opinions for publication, the time it takes to write opinions would increase. And more importantly, if all opinions are "published" electronically, opinions might lose their persuasive value.

## 2. Quality Control Issues

If and when such a system is implemented, it could lead to issues of quality control. Although I am assuming that these issues have been discussed at great length by those who are far more knowledgeable than I am, I mention them for informational purposes only. For example, if a public domain citation system is adopted as proposed, opinions in electronic format will be easy and inexpensive to obtain. As a result, a new cottage industry may emerge. It is certainly possible that not all publishers will adhere to the quality standards we have come to expect from official reporters. Furthermore, electronic information is more easily manipulated than a fixed medium, so unacceptable variances in the opinions may develop. Federal district clerk's offices, as official repositories, will necessarily be involved in verifying information if disputes arise over contents of opinions.

I know there is a great deal of interest in getting opinions electronically rather than through a book publisher. I have been asked on several occasions to provide this kind of information. At this time we only provide it in hard copy and charge \$.50/page. We expect many changes because of the advances in electronic publishing. However, I think the extra work should be borne by vendors and not by the courts.

c: Chief Judge Jerry Buchmeyer