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May 10, 2005

Alan M. Dershowitz
Felix Frankfurter Professor of Law
Hauser 520
Harvard Law School

Dear Alan,

Should an author (1) who wants to use a quotation from another author (2) that he found while reading the work of a third author (3) cite to the original source (2) or to the work (3) that cited it?

It is common practice in both legal and non-legal citation to cite to the original source. "Whenever possible, a quotation within a quotation should be attributed to its original source."¹ "Authors should check every quotation against the original or, if the original is unavailable, against a careful transcription of the passage."²

Peter Martin, the former dean at Cornell Law School and co-founder of the Legal Information Institute, has developed a very well respected online guide to legal citation.³ According to Professor Martin⁴, the purpose of a citation is to:

- identify the document and document part to which the author is referring
- provide the reader with sufficient information to find the document or document part in the sources the *reader* has available (which may or may not be the same sources as those used by the writer), and
- furnish important additional information about the referenced material and its connection to the writer's

¹ *The Bluebook: A Uniform System of Citation* (17th ed. 2000), §5.2.

² *The Chicago Manual of Style* (15th rev. ed. 2002), §11.6.

³ See <http://www.law.cornell.edu/citation/index.htm>.

⁴ *Id.* At §1-200.


argument that a reader trying to decide whether or not to pursue the reference would want to know.

If a legal writer reads a passage from the Constitution or from a Restatement of the Law and wants to use that passage himself in a piece he is writing, he will not cite to the quoting work but to the original. Generally speaking, the legal reader is interested in the quality of the argument and the weight of the authority, not the trail of research undertaken by the author.

Are there exceptions? As explained by the Chicago Manual, when the original source is not available to the author, a respected transcription may be used. Furthermore, where the original source might be difficult for most readers to locate, a citation to a more accessible source – preferably additional to the original – might be a service to the reader. Situations can also arise in literary criticism where how one author uses the words of another is closely analyzed. In that case, clarity might require quoting the quoter rather than the original source. But the general rule is to cite the first source not the repeater.

I believe this was your instinct and I think you are certainly correct.

Sincerely,

A handwritten signature in cursive script that reads "Harry S. Martin III". The signature is written in dark ink and is positioned below the word "Sincerely,".

Harry S. Martin III
Henry N. Ess III Librarian & Professor of Law

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