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Recommended Citation

Tonner, Grace C. "Bye-bye Bluebook?" P. Lysaght, co-author. Mich. B. J. 79, no. 8 (2000): 1058-60.

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Bye-bye Bluebook?

By Pamela Lysaght and Grace Tonner

In March 2000, Aspen Law & Business published a new citation manual, the *ALWD Citation Manual—A Professional System of Citation*.¹ Developed mostly as a “restatement of citation,” the *ALWD Citation Manual* not only provides the legal academy with a text that simplifies teaching legal citation, but also provides judges and lawyers with a helpful desktop reference book. This article explains why a new citation manual was created and highlights some of its significant features.²

The Need for a New Citation Manual

Many lawyers recall their first law-school encounter with legal citation as a form of intellectual hazing perpetrated by teachers of legal research and writing. At a time when students are trying to master legal concepts such as personal jurisdiction, consideration, future interests, and proximate cause, they are required to learn what seems to be a foreign language or secret code—legal citation.

Legal citation is typically taught in first-year legal-writing courses and is often a frustrating experience for students and professors alike. The students’ frustration stems in part from the variety, complexity,

and quantity of information they have to master. They must learn the methodology of citation formats and abbreviations in order to tell the reader both where to find the supporting authorities and the persuasive value of each authority.

Legal-writing professors often lament that the time spent explaining the intricacies of citation intrudes on teaching such fundamental skills as legal research, legal analysis, problem solving, and effective writing. This difficulty is especially true in the modern legal-research-and-writing course, which most often is taught by legal-writing professors who integrate legal research with legal analysis and problem solving. Learning these skills takes time and requires many diverse writing assignments.

The principal cause of these frustrations has been *The Bluebook*, the dominant system of legal citation taught in American law schools. The first edition, published in 1926,³ was a mere 26-page pamphlet drafted by Erwin N. Griswold, then a second-year law student at Harvard.⁴ The pamphlet was an expanded version of an eight-page manual originally prepared as an internal guide to teach *Harvard Law Review* members how to prepare footnotes for their own law review.⁵ Eventually, it evolved into a citation guide widely adopted by other law-review editors.⁶ And in the absence of another comprehensive system of citation, some state and federal courts adopted it for most legal documents.⁷

The difficulties with *The Bluebook* are legion. The rules are unnecessarily intricate, arbitrary, and inconsistent. Furthermore, the text and examples are confusing for students. Consequently, *The Bluebook* is hard to learn and hard to teach.

Long-standing dissatisfaction with *The Bluebook*, especially among legal-writing professors, intensified in 1996 with the publication of the Sixteenth Edition. At present, *The Bluebook* is published by law-review students at four law schools.⁸ In recent years, it has been published at five-year intervals, which has required an ever-

changing group of editors for each new edition. But instead of striving for consistency and stability when adding citation formats for new sources, successive editorial boards seemingly sought to put their imprint on new editions and made pointless, frivolous changes—such as changing the meaning of key introductory signals in the Sixteenth Edition. Changing the meaning of the signals creates confusion and uncertainty about the purpose, and therefore the value, of the cited authority, because the reader does not know which edition of *The Bluebook* the author of the brief, opinion, or article used.

The Sixteenth Edition also engendered the wrath of law professors, causing the House of Representatives of the Association of American Law Schools to pass a resolution condemning the editors’ changes and encouraging law professors and law reviews to continue to use the signal rules in the Fifteenth Edition.⁹ Implicit in this resolution was discontent with the authoritative value placed on a student-authored text for proper legal-citation format.¹⁰

The challenge to bring stability to legal citation formats—to create a restatement of legal citation—was taken up by two founding members of the Association of Legal Writing Directors, Professor Jan Levine of Temple University, who was then president of the Association, and Professor Richard Neumann of Hofstra University, a member of the Board of Directors. After receiving approval from the Board of Directors, they recruited Professor and Associate Dean Darby Dickerson of Stetson University to draft the new manual. Dean Dickerson is recognized among legal-writing professors as the leading authority on United States legal citation. Additionally, the *ALWD Citation Manual Oversight Committee* was created.¹¹ This committee reviewed drafts and recommended changes after seeking comments from many legal-writing professionals. Thus, the *ALWD Citation Manual* represents a consensus on professional legal-citation format.

“Plain Language” is a regular feature of the *Michigan Bar Journal*, edited by Joseph Kimble for the State Bar’s Plain English Committee. The assistant editor is George Hathaway, chair of the Committee. The Committee seeks to improve the clarity of legal writing and the public opinion of lawyers by eliminating legalese. Want to contribute a plain English article? Contact Prof. Kimble at Thomas Cooley Law School, P.O. Box 13038, Lansing, MI 48901. For information about the Plain English Committee, see our website—www.michbar.org/committees/penglish/pengcom.html

Advantages and Features of the ALWD Citation Manual

Uniformity and simplicity were among the main goals of the new citation manual.¹² As a result, the *ALWD Citation Manual* is an internally consistent, uniform system of citation for all legal documents. Unlike *The Bluebook*, it makes no distinction between citation formats for court documents and journal articles—an especially welcome feature.

The *ALWD Citation Manual* greatly simplifies the learning of legal citation. It is a clear, precise, and user-friendly manual. For example:

- Introductory sections explain the purposes of legal citation and provide details about the effect of word processors on citations.
- “Fast Format” sections provide quick guides for the most commonly cited sources.
- “Side bar” pages provide background information, advice on how to avoid common problems, and additional information on how to locate and cite related sources.
- Detailed diagrams illustrate the various components of citations.

- Definitions, instructions, and examples are provided throughout the manual.

- Appendix 6 provides a full-text memorandum that demonstrates how and where to place the most commonly used citations.

- A website <www.alwd.org> provides, among other things, appendixes to the manual, answers to frequently asked questions, and updates.

Practitioners and judges will be particularly interested in Appendixes 1 and 2, which provide comprehensive coverage of state materials, including the official primary sources for each state and the court-mandated citation rules for every state. *The Bluebook* has no equivalent to Appendix 2.

In keeping with the guiding principles of uniformity and simplicity, few significant changes were made to citation formats. Therefore, most lawyers will not have to learn entirely new formats. Three minor changes, however, deserve mention.

First, citations to books now require the name of the publisher: Arthur L. Corbin, *Corbin on Contracts* (Joseph M. Perillo ed., rev. ed., West 1993). This change, advanced by some librarians, makes legal citation more consistent with general rules of citation in other fields that require the pub-

lisher's name and facilitates locating texts and other authorities.

Second, citations to West's *Southern Reporter* and *Southern Reporter, Second Series*, are no longer abbreviated as “So.” and “So. 2d.” Instead, they are abbreviated as “S.” and “S.2d.” These changes provide greater consistency and uniformity with the well-known abbreviations for courts, journals, and geographical directions. For example, “S.D.N.Y.” for the United States District Court for the Southern District of New York; “S.C. L. Rev.” for *South Carolina Law Review*; and “S.,” “S.W.,” “S.E.” for south, southwest, and southeast.

Third, the citation format for nonconsecutively paginated journals is now consistent with the format for consecutively paginated journals. The only distinction is that the citation for the nonconsecutively paginated journal must include the exact date. Compare, for example, Gita F. Rothschild, *Forum Shopping*, 24 Litig. 40 (Spring 1998), with Cass R. Sunstein, *Affirmative Action, Caste, and Cultural Comparisons*, 97 Mich. L. Rev. 1311 (1999).

There is one temporary drawback to this edition of the *ALWD Citation Manual*: Those seeking citation formats for foreign and international materials will need to wait until summer or fall of 2001, when those materials should appear on the ALWD website. Experts in international law have been added to the *ALWD Citation Manual* Oversight Committee, and they will work with Dean Dickerson to ensure that the rules for foreign and international materials will be thoroughly researched and “sensible, workable, and durable.”¹³

Conclusion

This fall, many legal-writing professors will use the *ALWD Citation Manual* rather

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About the Association of Legal Writing Directors—

The Association of Legal Writing Directors is a society of professors who coordinate legal-writing instruction in law schools. Founded in 1996, ALWD has more than 200 members representing about 150 law schools.

ALWD's goals include improving the educational quality of law-school legal-writing programs, encouraging research and scholarship by legal-writing directors, collecting and disseminating data relevant to directing legal-writing programs, and improving understanding about the field of legal writing.

ALWD holds biennial conferences. The 2001 Biennial Conference will be hosted by the University of Minnesota School of Law. This conference, titled *Erasing Lines: Integrating the Law School Curriculum*, will focus on connecting aspects of legal education—the teaching of doctrine and skills—that are currently perceived as separate. Toward that end, ALWD will invite each law school to send deans and representative faculty to discuss with ALWD members new ways of thinking about the law-school curriculum so that the teaching of doctrine and skills are integrated in all courses.

ALWD coordinates activities and works closely with the Legal Writing Institute, a sister organization that has more than 1,500 members. The Institute promotes the exchange of information and ideas about legal writing and analysis by hosting biennial conferences and through publication of a scholarly journal and a newsletter.

For more information on ALWD or the *ALWD Citation Manual*, or to contact ALWD members, visit ALWD's website at www.alwd.org

than *The Bluebook*¹⁴ to teach legal citation to their first-year students. In fact, when this article went to print, more than 80 United States law schools had adopted the *ALWD Citation Manual*.

Of course, many practicing lawyers use citation systems mandated by court rules or state statutes. Michigan, for example, requires that citations conform to the *Michigan Uniform System of Citation*.¹⁵ But rather than focusing on individual state citation systems, most legal-writing professors choose to teach a comprehensive, model system of citation, because once students master the purposes and elements of legal citation for various primary and secondary sources, they can adapt to other systems of citation. Publication of the *ALWD Citation Manual* gives state and federal courts a real alternative to local citation rules. And as law students taught with the *ALWD Citation Manual* enter the profession, they may urge courts and legislatures to adopt this improved system of citation. A truly uniform system of legal citation, learned in law schools and used in practice, would promote efficiency and provide stability

and consistency in this small but important skill. ■

Footnotes

1. The new manual is cited as Association of Legal Writing Directors & Darby Dickerson, *ALWD Citation Manual* (Aspen L. & Bus. 2000). The citations for this article conform to the new manual.
2. The authors gratefully acknowledge liberal use of materials on the *ALWD Citation Manual* supplied by Professors Sue Liemer, Darby Dickerson, Steven Jamar, Jan Levine, and Richard Neumann. We also thank them for their helpful review of this article.
3. A. Darby Dickinson, *An Un-Uniform System of Citation: Surviving with the New Bluebook*, 26 *Stetson L. Rev.* 53, 57 (1996). For an interesting history of *The Bluebook*, including how the title began as a nickname but became part of the official title, see *id.* at 57-65.
4. *Id.* at 57.
5. *Id.* at 58.
6. *Id.* at 61.
7. See *id.* at apps. B-1 & B-3.
8. Harvard University, Yale University, Columbia University, and the University of Pennsylvania.
9. The resolution was passed at the January 1997 meeting of the Association of American Law Schools.
10. For a criticism of student-edited journals generally, see James Lindgren, *An Author's Manifesto*, 61 *U. Chi. L. Rev.* 527 (1994).
11. This committee was chaired by Professor Steven Jamar of Howard University and Professor Amy Sloan of George Washington University.
12. Steven D. Jamar, *The ALWD Citation Manual—A Professional System of Citation for the Law*, 8 *Persp.* 65, 66 (Winter 2000). Professor Jamar's article provides a detailed discussion of the goals and features of the *ALWD Citation Manual*.
13. *Id.* at 67.
14. The Seventeenth Edition is coming out a year earlier than expected, perhaps in part to respond to the new *ALWD Citation Manual*. For a preview of changes and additions, visit <http://www.legalbluebook.com> (accessed June 19, 2000).
15. *Michigan Rules of Court: State 743* (West 2000). Additionally, "[f]or matters not covered, refer to *A Uniform System of Citation [The Bluebook]*, 13th ed., for guidance, but conform citations to Michigan citation style." *Id.*