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OH NO! A NEW BLUEBOOK!

James D. Gordon III*

THE BLUEBOOK: A UNIFORM SYSTEM OF CITATION. 15th ed. By the *Columbia Law Review*, the *Harvard Law Review*, the *University of Pennsylvania Law Review*, and *The Yale Law Journal*. Cambridge: Harvard Law Review Association. 1991. Pp. xvii, 343. Paper, \$8.45.

The fifteenth edition of *A Uniform System of Citation* is out, causing lawyers and law students everywhere to hyperventilate with excitement. Calm down. The new edition is not likely to overload the pleasure sensors in the brain.

The title, *A Uniform System of Citation*, has always been somewhat odd. The system is hardly uniform, and the book governs style as well as citations.¹ Moreover, nobody calls it by its title; everybody calls it *The Bluebook*. In fact, the book's almost nameless² editors have amended the title to reflect this fact: it is now titled *The Bluebook: A Uniform System of Citation*.

Readers will be dismayed to learn that the new *Bluebook* is significantly expanded. It is a whopping 343 pages long (not counting the Quick References, Preface, or Table of Contents), a full eighty-eight pages longer than the fourteenth edition. The twelfth edition fit in a person's pocket. The fifteenth edition could have its own carrying case. The twentieth edition will undoubtedly arrive on a flatbed truck.

The new *Bluebook* makes several revisions on the old regime. In case the casual reader might overlook their significance, the changes are glowingly announced in the preface. According to the editors, the new edition is "easier to use" (p. v). Easier than what? An F-16 fighter jet? The preface also boasts that "[t]he quick reference sections, now located inside both the front and back covers, have been expanded to include more examples of representative citations" (p. v). Apparently, the mutual inconsistency between "quick" and "expanded" escaped the editors. The quick reference sections are now twice as long as before, and include references to such often-used sources as United Nations records, pamphlets, and *Vanity Fair*.³

Another new feature is a "short" (p. v) (that is, ten-page-long)

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1. For other misnomers, consider "State Farm Insurance" and "Grape-Nuts."

2. *But see infra* note 17 and accompanying text.

3. Inside front cover, inside back cover.

"Practitioners' Notes" section (printed on light blue stock) that explains the citation style for court documents and legal memoranda (pp. 10-19). This style is, quite conveniently, different from law review citation style. The section serves "as a guide to the *Bluebook* for those who are working with court documents and legal memoranda" (p. v). The editors evidently believe that real lawyers need extra help, whereas law review editors are capable of using the book unassisted. The "Tables and Abbreviations" section (pp. 164-305) is also printed on light blue stock, as the preface explains, for "instant accessibility" (p. v). This is a slight overstatement: a list of rules that is 140 pages long has about the same "instant accessibility" as the Code of Hammurabi. The editors' enthusiasm, however, is undiminished; they gush that cross-references in the margins allow the user to consult other notes or tables "with ease" (p. v).

All of this buoyancy, however, is followed by a warning: "Veterans of *Bluebook* citation should carefully review this edition for rule modifications" (p. v). "Veterans" is the appropriate word — battle-scarred, combat-fatigued, wounded-in-action veterans who fight daily in the brutal and expensive citation wars. For these people, the war has just escalated.

The preface identifies several "more noteworthy" (p. v) changes. The other changes are, one must assume, merely "noteworthy." For instance, Rule 1 is now an introduction to legal citation form. It presents the example of "Meritor Savings Bank v. Vinson, 477 U.S. 57, 60 (1986)" (p. 5). The book carefully explains that Meritor Savings Bank is the "first party" and Vinson is the "second party" (p. 5). This explanation is apparently aimed at people who have difficulty with ordinal numbers. The book explains that "v." stands for "versus" and that 1986 is the "date of decision" (p. 5). This explanation is apparently aimed at people who became lawyers without ever reading any cases.⁴ The book also cites "CHARLES DICKENS, BLEAK HOUSE 50 (Norman Page ed., Penguin Books 1971) (1853)" (p. 8). It explains that "CHARLES DICKENS" is the author's full name and that "BLEAK HOUSE" is the title (p. 8). This explanation is apparently aimed at space aliens.

Another change highlighted in the preface (p. v) is that "in" is now italicized when it indicates related authority, as in "Kay Deaux & Brenda Major, *A Socio-Psychological Model of Gender, in* THEORETICAL PERSPECTIVES ON SEXUAL DIFFERENCE 89, 93 (Deborah L. Rhode ed., 1979)" (p. 29). Show me a person who considers this

4. A law student was interviewing at a Beverly Hills law firm. The interviewer asked if the student wanted to see anything in particular in the office, and the student responded that he would like to see the library. The interviewer looked puzzled, and then explained: "We don't do legal research here. We do deals."

change "more noteworthy," and I will remember not to invite that person to any dinner parties.

The two most significant changes relate to authors' names and parallel citations. Citations must now include the author's full name (pp. 101-02). This is a definite improvement; there are more than forty law professors named Smith,⁵ and of course nonacademics also write articles. I have a suspicion that the fourteen other law professors who share my surname⁶ have been really ticked off⁷ at me until now.⁸ The new rule could defuse some of their animosity. The change is hardly original; *The University of Chicago Manual of Legal Citation* (the *Maroon Book*) adopted it a while ago,⁹ and some law reviews have been doing it as an act of civil disobedience in open defiance of *Bluebook* rules. In a truly original change, students' names must now also be given in full (pp. 113-14), even though after graduation most people eventually wish that their student pieces could become anonymous.¹⁰

The other major change deals with parallel citations. In documents submitted to a state court, parallel citations must still be given to all cases decided by the courts of that state (pp. 14, 61). The good news is that in all other documents, one need only cite the regional reporter (p. 61). The bad news is that California and New York lawyers must still look up pinpoint citations in three separate reporters for their highest courts' cases (pp. 172, 195). Thus, the most burdened practitioners are still burdened.¹¹ Still, this change is a step toward simplification.

The section on introductory signals also contains a few changes. The introductory signals have been attacked elsewhere as

an ultra vires imposition of a full-blown theory of stare decisis. . . . Use *no signal* when you've got the guts. Use *e.g.* when there are other examples you are too lazy to find or are skeptical of unearthing. Use *accord*

5. ASSOCIATION OF AMERICAN LAW SCHOOLS, THE AALS DIRECTORY OF LAW TEACHERS 1991-92, at 823-28 (1991).

6. *Id.* at 393-94.

7. From the German verb, *aufsticken*.

8. Cf. Richard A. Posner, *Goodbye to the Bluebook*, 53 U. CHI. L. REV. 1343, 1345 (1986) ("This is one of the few cases in which the Bluebook sins by omission.")

9. THE UNIVERSITY OF CHICAGO MANUAL OF LEGAL CITATION 14 (1989).

10. This is also true of some law professors' articles, as the Robert Bork hearings showed.

11. The editors would respond that parallel citations are necessary because opposing counsel and judges may not have the same reporter that you have, and therefore they would have to look up your citations at the library. However, the *Bluebook* does not save the cost of looking things up; it simply imposes it on writers instead of readers. In fact, the *Bluebook* increases the aggregate cost, since writers must look up parallel citations even when readers do not need them.

The concern for the opposing lawyer is illusory; she would presumably prefer the cost of looking up the key cases that you cite to the cost of looking up parallel citations to every case that she cites. The concern for judges could also be satisfied. If the *Bluebook* required citations to a single reporter, most people would eventually purchase either that reporter or another with star pagination and parallel citation tables, just as has occurred with U.S. Supreme Court citations.

when one court has cribbed from the other's opinion. Use *see* when the case is on all three's. Use *cf.* when you've wasted your time reading the case. Insert *but* in front of these last two when a frown instead of a smile is indicated.¹²

Discipline was apparently getting a little lax, so the editors have tightened up the rules. For example, "no signal" now requires that the cited authority "*clearly*" state the proposition (p. 22). Evidently, too many people had guts. *See* now requires that the cited authority "*clearly*" support the proposition and that the proposition "obviously" follow (p. 23). The rule explains that "there is an inferential step between the authority cited and the proposition it supports" (p. 23). However, the inferential step contemplated is apparently a baby step.

The *Bluebook* still leaves out some very useful signals, such as *read and weep* and *try to distinguish this one*. For contrary authority, it omits *disregard*, *ignore also*, and *for a really bizarre view, see*. On the other hand, because the *Bluebook* permits the use of signals as verbs in ordinary sentences (p. 24), imaginative lawyers could conceivably use these words unitalicized.

The fifteenth edition has some other changes, as well. The editors have commendably added ethnic and gender diversity to the list of authors cited. They have also included authors who speak in a different voice, thus reflecting the recent broadening in legal scholarship.

The updating does not stop there, however. Enlightened readers will be pleased to discover that the fifteenth edition is the most politically correct of any edition. Nearly every page in the books and periodicals section includes at least one source addressing racism, sexism, feminism, reproductive rights, sexual orientation, AIDS, or deconstruction (pp. 101-25).

The *Bluebook* suffers from other biases, too. Given the more than 1000 legal periodicals¹³ and more than 6000 U.S. law professors, the gang of four law reviews¹⁴ that publish the *Bluebook* and the professors at those schools are cited with incredible frequency. It is no answer that those articles may be better; they are cited for form, not content. Neither are the editors shy about citing themselves.¹⁵ Evidently, now that citations include students' names, the temptation was simply too great. This Ozymandian immortality will only last until

12. Peter Lushing, Book Review, 67 COLUM. L. REV. 599, 601 (1967) (reviewing A UNIFORM SYSTEM OF CITATION (11th ed. 1967)). The *Bluebook* provides that, for untitled nonstudent-written book reviews, it is unnecessary to include a parenthetical indicating the book under review unless there is need to cite it. P. 115. This is wonderfully tautological: it is unnecessary unless there is need.

13. American Association of Law Libraries, 12 CURRENT L. INDEX, Mar. 1991, at vii-xxv.

14. The *Columbia Law Review*, the *Harvard Law Review*, the *University of Pennsylvania Law Review*, and *The Yale Law Journal*.

15. Inside front cover, pp. 24, 111, 120, 121, 124, 125, inside back cover.

the next edition appears, assuming that future editors follow the self-indulgent example set here.

Other self-interested citations include three references to a book note¹⁶ with accompanying explanations slamming the *Maroon Book*: “discussing why users of *The University of Chicago Manual of Legal Citation* are hopelessly marooned”;¹⁷ “a cogent analysis of the more significant flaws in the competing theory” (p. 119); and “arguing against stylistic transformation by self-appointment” (p. 118). The last comment is somewhat ironic, and appears in a citation obliquely comparing the *Maroon Book*'s editors with Robert Bork¹⁸ — a stretch, to say the least.

Bluebook aficionados will be delighted that some of the all-time favorite rules have been retained. Adjacent single capital letters are still closed up.¹⁹ Although it is really neither, “2d” still counts as a single capital (p. 47), illustrating a definitional approach to law. Also, legal writing teachers can still penalize students for failing to grasp the subtle distinction between a period followed by an ellipsis and an ellipsis followed by a period (p. 45). The *Bluebook* is thick with thin things.

Alaska, Guam, Idaho, Iowa, Ohio, and Utah may not be abbreviated (p. 271), presumably because students in the Northeast have never heard of those places.²⁰ Another rationalizing principle might be that names with six or fewer letters should not be abbreviated, but this is contradicted by abbreviations for Hawaii, Kansas, Maine, Nevada, Oregon, and Texas (p. 271). Admittedly, the U.S. Postal Codes, though widely recognized, lack the benefit of pride of authorship.

The main problem with the *Bluebook* is that it severely overemphasizes the benefits of form.²¹ A citation system should be based on three principles: (1) sources should be easily identifiable;²² (2) citations should be consistent enough to permit immediate comprehen-

16. Book Note, *Manual Labor, Chicago Style*, 101 HARV. L. REV. 1323 (1988) (reviewing THE UNIVERSITY OF CHICAGO MANUAL OF LEGAL CITATION (1986)).

17. P. 115. Get it?

18. P. 118 (“E.g., Bruce Ackerman, *Robert Bork’s Grand Inquisition*, 99 YALE L.J. 1419 (book review). Compare *id.* (arguing against constitutional transformation by judicial appointment) with Book Note, *Manual Labor, Chicago Style*, 101 HARV. L. REV. 1323 (1988) (arguing against stylistic transformation by self-appointment).”) The editors accidentally omitted the date from the *Yale* citation. However, I can sympathize; proofreading for *Bluebook* form is tedious work.

19. P. 47. One slight change is that, in periodical abbreviations, single capitals that refer to a geographic or institutional entity must now be set off from other single capitals. P. 47.

20. In schools outside the Northeast, geography is a required subject. Also, according to the *Bluebook*, New York precedes New Mexico alphabetically. P. 271. Apparently, New York is starting to make its move toward the beginning of the alphabet.

21. “The law has outgrown its primitive stage of formalism when the precise word was the sovereign talisman, and every slip was fatal. It takes a broader view today.” Wood v. Lucy, Lady Duff-Gordon, 118 N.E. 214, 214 (N.Y. 1917) (Cardozo, J.).

22. See p. 4 (“The basic purpose of a legal citation is to allow the reader to locate the cited

sion; and (3) the system should not be cumbersome to use. Somewhere along the line, the *Bluebook's* editors lost sight of these principles and adopted two others: (1) Nature abhorreth a vacuum; and (2) anything worth doing is worth overdoing.

The *Bluebook* dictates such trivial stylistic matters as when numbers must be written as numerals and when they must be spelled out (pp. 48-49). Inexplicably, the rule is different for footnotes than it is for text,²³ and the general rules are subject to six (6?) exceptions.²⁴ What difference does it make whether somebody writes "29" or "twenty-nine"? Each is easily understood. There are no fewer than 140 pages of abbreviations (pp. 164-304), which means that the space saved by abbreviations is purchased with the time wasted in looking them up.²⁵ Such slavish adherence to uniformity is, quite frankly, excessive.²⁶

The first *Bluebook* presumably demonstrated how to cite the most commonly used sources. With each successive edition, however, the editors discovered more types of sources in the world. While innumerable sources are rarely (or, for that matter, never) cited in American legal writing, the editors perceived the need for a rule for every situation. Consequently, the *Bluebook* has rules governing citations to such entities as the Argentine provincial courts of labor appeals (p. 219). The result is a 343-page civil code listing thousands of rules, and its complexity makes it cumbersome. Because the *Bluebook* has opted for an illusory completeness over practical realities, it has begun to outgrow its usefulness, something that a practical system cannot afford to

source accurately and efficiently."). Apparently, efficiency counts only for readers, not for writers.

23. "In general, spell out the numbers zero to ninety-nine in text and zero to nine in footnotes; for larger numbers use numerals." P. 48.

24. (i) Any number that *begins a sentence* must be spelled out.

(ii) "Hundred," "thousand," and similar *round numbers* may be spelled out, if done so consistently.

(iii) When a *series* includes one or more numerals under the above rule, numerals should be used for the entire series

(iv) Numerals should be used if the number includes a *decimal point*.

(v) Where material repeatedly refers to *percentages* or *dollar amounts*, numerals should be used for those percentages or amounts.

(vi) Numerals should be used for *section* or *other subdivision* numbers.

Pp. 48-49.

25. "The new *Blue Book* will increase the speed at which the legal enterprise slows down." Alan Strasser, *Technical Due Process: ?*, 12 HARV. C.R.-C.L. L. REV. 507, 507 (1977) (reviewing A UNIFORM SYSTEM OF CITATION (12th ed. 1976)).

26. The *Bluebook* displays an excessive, an unhealthy — one is almost tempted to say, since this is still the land of freedom, an un-American — obsession with uniformity. By teaching that uniformity is one of the most important things in law, the *Bluebook* encourages the tendency of young lawyers . . . to cultivate a most dismal sameness of style, a lowest-common-denominator style. The *Bluebook* creates an atmosphere of formality and redundancy in which the drab, Latinate, plethoric, euphemistic style of law reviews and judicial opinions flourishes.

Posner, *supra* note 8, at 1349.

do. As the world changes and more types of sources appear,²⁷ continued *Bluebook* growth and complexity are inevitable,²⁸ unless the editors change their approach.²⁹

It takes time to consult the *Bluebook* and conform to its rules, and time is a lawyer's stock in trade. While any citation system imposes transaction costs, the *Bluebook's* system is needlessly expensive. At a time when most Americans cannot afford adequate legal assistance, the *Bluebook* imposes a surcharge on legal services. Assume, for example, that one third of the 750,000 U.S. lawyers spend one hour per month looking up *Bluebook* rules³⁰ and conforming their citations to *Bluebook* form (including looking up parallel citations as required). At an assumed average of \$100 per hour, the cost to clients is \$25 million per month, or \$300 million per year. Some of the time and money wasted on form could be much better spent on substance.

Over the years, the *Bluebook* has become a maze, a thicket, a mutant mass of legalisms run rampant. Function now follows form; the servant has become the master. Given the *Bluebook's* increasing commitment to diversity and different voices, its unrelenting insistence on conformity in both citation and style is odd. Given the sponsoring law reviews' affection for the literature of deconstruction, their hegemonic perpetuation of mindless formalism is equally ironic.

Hey hey, ho ho. *Bluebook* culture's gotta go.³¹

27. See p. v (referring to the "ever-expanding range of authorities used in legal writing"); p. 4 ("Because of the ever-increasing range of authorities cited in legal writing, neither the *Bluebook* nor any other system of citation can be complete.").

28. The *Bluebook* currently provides tables for nearly 30 foreign jurisdictions. Pp. 219-58. The fifteenth edition added tables for Austria, the People's Republic of China, Czechoslovakia, Hungary, and Spain. P. vii. This trend will ineluctably produce longer *Bluebooks*.

29. Compare the approach of the *Maroon Book*:

These rules provide a basic framework: they suggest the essential elements of any citation and how they most clearly can be presented. However, because it is neither possible nor desirable to write a particular rule for every sort of citation problem that might arise, the rules leave a fair amount of discretion to practitioners, authors, and editors. Users of this manual are encouraged, where no specific rule covers a situation, to cite authority in a clear, sensible manner.

THE UNIVERSITY OF CHICAGO MANUAL OF LEGAL CITATION, *supra* note 9, at 7. The *Maroon Book* is 63 pages long.

30. The *Bluebook* acknowledges that its complexity requires ongoing reference to the rules. "Some sources are less frequently cited or have more complex citation forms . . . ; you may find yourself referring to the *Bluebook* rule each time such a source appears to ensure that you are citing it correctly. Regardless of how well you know the rules, moreover, you will often need to refer to the tables in the back of the book for technical guidance." P. 4.

31. And with poetry this good, who needs Western culture, either?