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COMMENT

OLD HABITS DIE HARD: DISENGAGING FROM THE BLUEBOOK

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Incoming first-year law students dread many aspects of what lies ahead: the cold calls, the challenging course load, and the general stress that is associated with starting a new phase in one's life. Most students, however, do not expect that *the Bluebook*¹—the citation system used ubiquitously throughout the legal landscape—will inflict “more pain” on them “than any other publication in legal history.”² This pain might be a shock to many who are accustomed to the simpler systems utilized in other academic fields.³ A citation itself is, after all, merely a reference; it is “neither scholarship nor analysis.”⁴ Preferably, a system of citations needs to be simple and functional so as to not distract the reader from paying attention to the author's reasoning. The *Bluebook's* “complexity and insularity” made it anathema to many lawyers and stirred up significant criticism.⁵ This Comment will explore the current rationales for the *Bluebook's* eminence, followed by a discussion of the *Bluebook's* many shortcomings. Finally, it will propose a pragmatic alternative to the *Bluebook*

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1. *The Bluebook: A Uniform System of Citation* (Harvard L Rev Assoc, 19th ed 2010).

2. Ian Gallacher, *Cite Unseen: How Neutral Citation and America's Law Schools Can Cure Our Strange Devotion to Bibliographical Orthodoxy and the Constriction of Open and Equal Access to the Law*, 70 Albany L Rev 491, 494 (2007), quoting Robert Berring, *Introduction in The Bluebook: A Sixty-Five Year Retrospective* v (W.S. Hein 1998).

3. Ilya Somin, *The Case for Abolishing the Blue Book*, Volokh Conspiracy (May 2, 2006), online at <http://www.volokh.com/posts/1146601166.shtml> (visited Mar 10, 2013).

4. Gallacher, 70 Albany L Rev at 491 (cited in note 2).

5. A. Darby Dickerson, *An Un-Uniform System of Citation: Surviving With The New Bluebook (Including Compendia of State and Federal Court Rules Concerning Citation Form)*, 26 Stetson L Rev 53, 56 (1996) (footnote omitted) (explaining that the *Bluebook* “attracted challengers who want either to supplement the *Bluebook's* citation system or to supplant it completely”).

that will satisfy the need for a useful system of citation without any of the tangential headaches.

Originally published in 1926,⁶ the *Bluebook* was a mere twenty-six pages long. By the tenth edition, published in 1958, it had grown to 124 pages.⁷ Since then, in a little over half a century, it has “increased in length by almost four hundred percent,”⁸ and today the *Bluebook* weighs in at a bulky 511 pages.⁹ Its sheer size has prompted the release of an explanatory guide that itself is over one hundred pages long.¹⁰

Judge Richard A. Posner of the United States Court of Appeals for the Seventh Circuit has put forth a number of reasons to explain the *Bluebook's* continuing prominence. For example, he takes note of the “prestige of its sponsors (originally the Harvard Law Review, but now also the Yale, Columbia, and Pennsylvania reviews), ... its length (lawyers are suspicious of brevity in any form), ... [and] its having been the first published manual of legal citations.”¹¹ Another reason is the uniformity that it provides across legal writings, but the uniformity advantage may be overstated because many legal publishers, including those of judicial opinions, do not use the *Bluebook* or impose any particular citation style.¹² Indeed, as others have noted, even “most faculty edited law journals” opt for “simplified citation systems,” a sign that “leading scholars ... do not consider the Blue Book an essential element of good scholarship.”¹³ Additionally, some suggest that the American legal culture’s inherently conservative nature provides the inertia that keeps the *Bluebook* at the forefront of legal citations.¹⁴ On the law school front, this attitude is further entrenched. Any reform will only impact future law

6. Richard A. Posner, *The Bluebook Blues*, 120 Yale L.J. 850, 857 (2011).

7. *Id.*

8. *Id.*

9. *Id.* at 851.

10. Linda J. Barris, *Understanding and Mastering The Bluebook: A Guide for Students and Practitioners* (Carolina Academic 2007).

11. Posner, 120 Yale L.J. at 859 (cited in note 6).

12. *Id.*

13. Somini, *Case for Abolishing the Blue Book*, Volokh Conspiracy (cited in note 3).

14. See generally Gallacher, 70 Albany L. Rev. at 509–10 (cited in note 2) (explaining that the relative success of the ALWD Manual, an alternative citation system that’s similar to the *Bluebook*, might be attributed to the conservative nature of the American legal culture).

review and journal members, so current members lack incentive to advance a positive change whose benefits they will not enjoy.¹⁵

However, none of the aforementioned reasons for the *Bluebook's* prevalence relate to its functionality or utility. That is because many believe that there is “zero evidence that having a hyper-complex citation system improves the quality of legal scholarship.”¹⁶ Some believe that the *Bluebook* is simply a waste of time and that the “thousands of man-hours [spent] editing articles to make sure that they conform to the Blue Book rules, taking Blue Book tests, and engaging in other Blue Book-related activities” could be spent doing things that are more productive.¹⁷ Consider, for example, that a part of the *Bluebook's* growth in size over its existence is due to the authors’ decision “to prescribe an abbreviation for every law review, court reporter, statute book, etc., in the world.”¹⁸ The proliferation of abbreviations has resulted in terms such as “Fort.” (fortnightly),¹⁹ “C.C.P.A.” (Court of Customs and Patent Appeal),²⁰ and “ASBCA” (Armed Services Board of Contract Appeals).²¹ In the name of uniformity, the *Bluebook's* authors have ignored basic rules of citation and writing, such as avoiding “nonobvious abbreviations.”²²

Recognizing this, students “at the University of Chicago Law School have mounted a bold challenge to the *Bluebook's* hegemony: *The University of Chicago Manual of Legal Citation*.”²³ Also known as the *Maroonbook*,²⁴ The University of Chicago’s response to the *Bluebook* recognizes that it’s impractical—and potentially impossible—to try to generate a rule for every imaginable exigency.²⁵ The *Maroonbook* eliminates many vague abbreviations and makes citations more accessible by

15. Somin, *Case for Abolishing the Blue Book*, Volokh Conspiracy (cited in note 3) (“Board members serve for only 1 year; the costs of any reform are likely to be born in that year, while most of the benefits will be reaped in later years.”).

16. *Id.*

17. *Id.*

18. Posner, 120 Yale L.J. at 860 (cited in note 6).

19. *The Bluebook* at 451 (cited in note 1).

20. *Id.* at 433.

21. *Id.* at 432.

22. Posner, 120 Yale L.J. at 853 (cited in note 6).

23. Richard A. Posner, *Goodbye to the Bluebook*, 53 U Chi L Rev 1343, 1343 (1986).

24. *The Maroonbook: The University of Chicago Manual of Legal Citation* (U Chi L Rev 2013), online at <http://lawreview.uchicago.edu/sites/lawreview.uchicago.edu/files/uploads/80%20MB.pdf> (visited Mar 10, 2013).

25. *Id.* at vi.

emphasizing clarity through the use of “plain English ... and avoiding the use of confusing words.”²⁶ Although citations must be internally consistent lest readers “puzzle over whether the differences are accidents or have some intended significance,”²⁷ the *Maroonbook* doesn’t require uniformity “across all legal materials.”²⁸ As such, at a mere ninety-four pages, the *Maroonbook* provides a practical citation system that authors can customize to their needs.²⁹ It achieves this without sacrificing the principal function of any citation system, which is to provide a reader with a source’s importance and identifying information.³⁰ This underscores a sentiment that perhaps many share but are afraid to voice aloud: unless a citation’s “form is outlandish, it is invisible.”³¹ In other words, readers generally pore over an article for its content, not for its citations. Hence, an article’s author ought to focus more on writing and less on adhering to every miniscule citation detail. The *University of Chicago Law Review* and other University of Chicago journals have been practicing this mantra since the *Maroonbook’s* inception in 1986, and there “is no evidence that the quality of scholarship ... declined as a result.”³² This very Comment was written using the *Maroonbook* citation system, and whatever deficiencies it may have are likely unrelated to the lack of a single italicized “Id.”³³

Law schools, law reviews, and other law journals should adopt the *Maroonbook* and its principal tenets as their main system of citation. Such “collective action would be particularly useful if initiated by one or more of the journals that publish the Bluebook,”³⁴ as it will lend the reform a stamp of authorizing legitimacy. This could be accomplished through a swift transition from the *Bluebook* to its maroon counterpart, or through a more gradual change whereby each of the publishing journals initially requires at least one article to be cited using the *Maroonbook*. A slower approach will ease in reticent students and practitioners who have gotten too used to the old system. One author believes

26. Id.

27. Posner, 120 Yale L.J. at 852 (cited in note 6).

28. *The Maroonbook* at vi (cited in note 24).

29. Id.

30. Posner, 120 Yale L.J. at 852 (cited in note 6).

31. Id. at 853.

32. Somin, *Case for Abolishing the Blue Book*, Volokh Conspiracy (cited in note 3).

33. *The Bluebook* at 72 (cited in note 1).

34. Somin, *Case for Abolishing the Blue Book*, Volokh Conspiracy (cited in note 3).

that, as of today, the *Maroonbook* is still used solely by its school of origin because its publishers “were insufficiently active in publicizing *The Maroonbook’s* benefits.”³⁵ This Comment hopes to augment the publicity of the *Maroonbok’s* benefits as an easier, more intelligible citation system.

Encouragingly, because of the *Bluebook’s* current complexity, individuals who have been using it will have an easy time transitioning to the *Maroonbook* because of its simplified system of citations. As this Comment’s author noticed, transitioning to the *Maroonbook* is less about learning new conventions and more about unlearning old habits. Those who have yet to use either system, such as incoming law students, will welcome the fact that their future journal and class assignments will be significantly easier from a citation standpoint. Moreover, if readers of the popular legal blog *Above the Law* are representative of the broader legal community, most people are already in favor of reforming the *Bluebook*.³⁶ Although attorneys prefer to give the impression of “inscrutable rigor” in their methods,³⁷ a simplified system of citations will not damage this image; it will only enhance it. A citation system that efficiently identifies a referenced source is the mark of a profession that is able to keep sight of the bigger picture—quality scholarship—without becoming entangled in immaterial minutiae.

35. Gallacher, 70 Albany L Rev at 508 (cited in note 2).

36. Staci Zaretsky, *Grammar Pole of the Weak: Backburner for the Bluebook?*, Above The Law (Nov 11, 2011), online at <http://abovethelaw.com/tag/the-bluebook/> (visited Mar 10, 2013).

37. Posner, 120 Yale L J at 860 (cited in note 6).