

The Bluebook: A Uniform System of Salvation

By Ira Cohen, Esq., B.A., J.D., LL.M.



Ira Cohen, Esq., B.A., J.D., LL.M., is an Intellectual Property Attorney and is the founder and principal of Ira Cohen, P.A. of Weston, FL. He is a member of the Florida and New York Bars, has been practicing law for 42 years, and is rated AV Pre-Eminent[®] by Martindale Hubbell.[®] Attorney Cohen served as Judicial Law Clerk to the Honorable Harold J. Raby, United States Magistrate Judge for the Southern District of New York (1982-85). Ira also is the Immediate Past Chair of the FBA's Intellectual Property Law Section, a proud Sustaining Member of the Federal Bar Association, a Lifetime Fellow of the Foundation of FBA, the Columns Editor for The Federal Lawyer, an FBA Moot Court Judge, a Member of FBA National Council, and an FBA Mentor. Ira can be reached at icohen@ictrade-marksandcopyrights.com.

I know what you're thinking. An article about *The Bluebook: A Uniform System of Citation*? As dull as a butter knife.

But there's actually quite a bit more to it. Before you depart in haste for the next article (though doubtless also worth a good read), for your consideration, I offer the following baker's dozen of fun facts about the book that many lawyers love to hate:

1. The original color of the cover of *The Bluebook* was not blue.
2. *The Bluebook* has been the lawyers' dependable companion for almost a century.
3. *The Bluebook* is a team effort by four top-shelf law schools.
4. Notwithstanding the above, for most of its (uncelebrated) history, only one law school earned any money from sales of *The Bluebook*.
5. *The Bluebook* is not the only citation game in town; a number of courts, schools, and states have designed or mandated their own systems.
6. *The Bluebook* was imagined to be a not-for-profit venture.
7. *The Bluebook* has its vocal detractors, but it also has its ardent supporters.
8. THE BLUEBOOK[®] is a federally registered trademark.
9. The proprietors of *The Bluebook* have threatened to sue third parties for trademark and copyright infringement.
10. You can buy *The Bluebook* on Ebay[®] and elsewhere at discount.
11. *The Bluebook* has been available online since 2008.
12. There is a mobile app (available since 2012).
13. You no longer need your hands-and-eyes to use *The Bluebook*.

Introduction

A masterpiece of organization, a veritable gold mine of law-related information—it is a thing to marvel at, not make light of.

The Bluebook is utilized by most federal courts, so federal practitioners are well-acquainted with this behemoth. There is no reason to feel alone! It has be-

witched and beguiled generations of lawyers before us and will continue to far into the foreseeable future.

In the lawyer's toolkit, there are some instruments that rarely are touched, others are of limited utility, and still others are primarily for show. The one piece that is universally needed is *The Bluebook*. By that metric, it has no equal, no replacement, and no substitute.

What Is *The Bluebook*?

Having climbed up the ladder to law school, one of our many student tasks was to learn *The Bluebook* to become citation literate; that is, to read and write legal citations fluently and flawlessly. Legal Citation 101 teaches us that a legal citation is a reference to a legal document such as a case, statute, law review article, or similar. It is a special language that lawyers use. Like a national tongue, or ethnic dialect, Braille, or Morse Code, citation is an efficient means for legal professionals to communicate with each other. It is, so to speak, the *lingua franca* of the officers of the court.

Distilled to its essence, *The Bluebook* is the style manual that governs how jurists, lawyers, law professors, legal scholars, and law students, craft and utilize citations in American legal memoranda, court documents, and law journals. Stated otherwise, it is the standardized format employed that permits legal professionals to refer to legal authorities and facily locate a document, quote, legal principle, or case holding.

As for the anatomy of *The Bluebook*, it is a triad, comprised of three principal parts: the Blue Pages (a how-to guide for basic legal citation), the White Pages (the primary rules of citation and style), and the Tables (to be used in conjunction with the rules).¹ For law review editors, most legal publishers, and judges and practitioners, too, it is like a holy book for citations. Within the framework of *The Bluebook*, help can be found for deciphering the rules of citation.² As for its proper characterization, *The Bluebook* is not so much an authority as a legal reference system; rather, it is *the* authority.

Thus, *The Bluebook* is a sobering—and solidarity-infusing—fact of legal life for virtually all 1Ls. It may be perceived by the uninitiated as an inanimate

nemesis. In a very real sense, however, the old adage applies: “Can’t live with it; can’t live without it.”³

When, Where, and How Was *The Bluebook* Born?

In a not-always-cordial rivalry that may be likened to the disputes concerning the real “inventors” and “birthplaces” of such culinary crowd-pleasers as the Rum & Coke (“Cuba Libre”), Caesar Salad, and the Pisco Sour, Harvard and Yale both lay claim to the mantle of Citation Czar.

In the Legal World (according to Harvard), the blue monolith sprang forth in 1926 in its venerable halls. The apparent animus for the (then) small pamphlet was to breathe life into an evolutionary guide for the proper citation forms for law review articles in their distinguished legal journal. If we credit Harvard’s account, the antecedent for *The Bluebook* was humble, written by the law review editor—Erwin Griswold—to apprise legal writers of the proper citation forms for articles in the Harvard Law Review.⁴ Harvard University has a simple motto: “Veritas” (truth).

However, the ennobled faculty of Yale beg to differ. Yalies posit that the genesis of *The Bluebook* was a 1920 publication by Yale’s own Karl N. Llewellyn on how to write law journal materials.⁵ Additionally, they argued, in 1921, the Yale Law Journal published a blue-colored pamphlet called “Abbreviations and Form of Citation.” Harvard’s later entries allegedly drew on material from the earlier Yale projects. Yale’s motto is “Lux et veritas” (Light and Truth). On its face, that seems to trump “Truth” alone.

We may never get to the bottom of *The Bluebook*’s true provenance. It appears undisputed, however, that the first edition of 1926 was a joint effort of the chief law journal editors then attending the Harvard, Yale, Columbia, and University of Pennsylvania law schools, chief amongst them Harvard’s Henry J. Friendly⁶ and Yale’s Herbert Brownell.⁷

Why Is It Called *The Bluebook*?

As Shakespeare mused, “a rose by any other name would smell as sweet.” To those that have come to fear it, *The Bluebook* would be as abhorrent in any color. Whilst one might surmise that the publication’s title was derived from the hue of its inaugural cover, that would be too simple—the first cover was green.

As the years passed, the covers changed like autumn leaves. The second through fifth editions (1928-1936) sported brown covers. For the first time, in 1939, the color was changed to what has been described as a “patriotic” blue.⁸ To round out the cavalcade of colors, in 1967, the 11th edition showcased a white cover with a blue border. Ever the chameleon, the book turned back to solid blue for the 20th edition in 1976 and so it remains to this day.

The Paperback Prince of Prolivity

The Bluebook is the most ubiquitous legal citation system. It is an inescapable reality that lawyers are forever reading and writing. While, for many, online materials have eclipsed the leather-bound tomes, I still adhere to President Thomas Jefferson’s less-famous declaration: “I cannot live without books.”

Whether we legal craftspeople really require this extreme level of prolivity is another question entirely. Over the course of time, *The Bluebook* has gained girth. Longer than Tolstoy’s *War & Peace*, dryer than Death Valley in Summer, *The Bluebook* is a monumental and ever-mushrooming collection of legal technicalities, jurisprudential trivia, and textual anomalies.

Every once in a great while, the book shrinks. The rare 10th edition, for example (copyright 1958; third printing 1962), was trimmed down to 124 pages. In general, though, it has tended only to gain length and weight. To illustrate, the 19th edition stumbled into the publishing ring at over 500 pages. The 20th edition (2015) ballooned to 560. However, the current—21st—edition (2020) has been clipped down to a mere 365 pages in length. That’s a page-a-day, folks, for those of us who want to pace ourselves.

Whatever the copious content, or page numbering, of *The Bluebook*, would anyone think to criticize *Black’s Law Dictionary* for its bulk? After all, the 11th edition of *Black’s* (2009 ed.) takes up a massive 2,075 pages. I have not heard anyone complaining that *Black’s* is too comprehensive.

Variations on *The Bluebook*

Despite its status amongst legal reference books, not all lawyers are forced to use *The Bluebook*—it is not the only game in town. Some states, like California, by authority of its Supreme Court, allow attorneys to use it or alternative systems, manuals, or style guides.⁹

Michiganders use a separate official citation system issued as an administrative order of the Michigan Supreme Court.¹⁰ In contrast, Texas supplements *The Bluebook* with items that are unique to Texas courts, such as citing cases when Texas was an independent republic, petition and writ history, Attorney General Opinions, and similar issues. The Texas manual is known as “The Greenbook.”¹¹

In the federal sphere, the Solicitor General issues a style guide that is designed to supplement *The Bluebook*.¹² In the highest court in the land, the Supreme Court uses its own unique citation style in its opinions. This is somewhat difficult to explain because most of the justices and their law clerks went to law schools that teach to *The Bluebook*. In that vein, for those of you who will be appearing before the highest court in our land, I heartily recommend to you “The U.S. Supreme Court Brief Writing Style Guide.”¹³

Technological Advances and *The Bluebook*

In 2008, *The Bluebook* went digital. Later, in 2012, it morphed into a mobile app. The mobile version allows legal practitioners to reference federal and state court rules, statutory codes, and various style manuals on their personal devices. Should a researcher need to consult a prior version of *The Bluebook*, the full texts of the first (1926) through the 15th edition (1991) are available on *The Bluebook*’s official website.

The Bluebook enjoys no special immunity to the ravages of time, the vicissitudes of the profession, or the advancements, enhancements, and improvements offered by ever-marching technology. In 2017, for example, a startup company named LegalEase launched a legal citation generator that reportedly enables its users to create citations in *The Bluebook* format.¹⁴ Nowadays, there are excellent computer software programs that will obligingly do all of the legal citation work for you.¹⁵ With the aid and assistance of a marvel of legal software, you can take your hand-wrought legal handiwork and render it picture perfect with software like PerfectIt. Moreover, you may decide any fees associated with such software are paltry compared to time spent with *The Bluebook*.

Challengers to *The Bluebook* and Its Trademark

On Jan. 28, 2009, the quartet of reviews and journals comprising the law school alliance filed three mark applications with the United

States Patent and Trademark Office (USPTO) for *The Bluebook* related marks. On Feb. 16, 2010, they secured from USPTO a Class 41 Service Mark Registration, No. 3,748,511, for THE BLUE BOOK ONLINE, for providing an online publication in the nature of a manual in the field of style for legal citation. Later, on March 9, 2010, USPTO issued THE BLUEBOOK, No. 3,756,727, as both a trademark Registration in Class 16 (for a style manual for legal citation) and service mark Registration in Class 41. Finally, on Dec. 7, 2010, they were awarded trademark and service mark Registration No. 3,886,986, THE BLUEBOOK A UNIFORM SYSTEM OF CITATION, again, in Classes 16 and 41.

All three of the foregoing registered marks seasonably were renewed by the Joint Registrants and are valid and subsisting as of the time of this writing.

For a brief period of time, around 2015–16, there was an academic uprising of sorts involving *The Bluebook*. A mixed group of academics and folks who champion free content hatched a plan to make it available at no cost and to be open as a source for collaboration. They hung their hats on the contention that *The Bluebook's* 10th edition (1958) copyright had not been renewed and, thus, had expired and fallen into the public domain.

To rub salt into the wound, the erstwhile challenger was provocatively called “BabyBlue’s Manual of Legal Citation.” Harvardian litigators started banging their drums and rattling their sabers; they had two legal battlefronts in mind, copyright and trademark infringement, when they dispatched their written warning shot.

When faced with the reality of the law (and not just the printed words and numbers), it seems that all this amounted to a flash in the pan. On March 31, 2016, it was announced that the purported coup against the Crown of Citation had changed its name to the “Indigo Book.”

The Future of *The Bluebook*

The future of *The Bluebook* is a chapter of that has yet to be written. We ought to reasonably anticipate that our computers will work better and smarter and faster for us in times to come. How will AI change *The Bluebook*? In our late 21st century courts, will legal briefs be written by men and women or by electronic and digital means? Will *The Bluebook's* guiding principles be implemented by human intelligence and ingenuity or by the “minds” of machines?

Presumably, even the AI legal “minds” of 2050 or 2100 A.D. will be programmed to adhere to *The Bluebook* (unless they create a more advanced monolith). LexisNexis Brief Analysis already produces a powerful, fast legal argumentation insight generator using the power of AI. That said, as long as there is a requirement for legal briefs, articles, and judicial opinions, *The Bluebook's* dominant perch ostensibly should remain safe. The work will be rendered neither obscure nor obsolete any time soon.

Consequently, my educated guess is that, for at least the foreseeable future, *The Bluebook* will continue to grace our law offices’ and Chambers’ bookshelves. Just as it has served until now, it will continue, in one form or another, to supply the coming generations of legal professionals with its unique legalistic lingo.

We all are quite cognizant that correct citations—finely formatted ones at that—are what is required in our work. Deficient citation form dilutes reader confidence in our handiwork. Mistakes in citations can jeopardize our credibility with our opponents and risk a poor result from a court.

Why should it be that many of us so despise this landmark, and hallmark, publication? I, for one, find it no different than a comprehensive dictionary, encyclopedia, glossary, or thesaurus; perhaps, more accurately, aspects of all of them rolled into one. We all want our legal papers to be proper, polished, and persuasive, do we not? That does not happen by magic.

We lawyerly wordsmiths are, in no small manner, tethered to the power, range, and velocity of our literary firepower. We take careful aim and shoot our wise and witty and wizened words. When we fire, our words must be on-target and deadly dispositive. *The Bluebook* is our sidearm. Close. Reliable. No misfires. As we close in on the centennial of *The Bluebook*, I think it helpful to consider how many tools or weapons have passed the test of time for 100 years or more? And, so, my FBA friends and colleagues, unless and until someone—or something—invents a better weapon for writing, I believe I can predict, with a reasonable degree of confidence, that we legal-folk will continue to reach for *The Bluebook*.

Endnotes

¹The 21st edition of *The Bluebook* governs the style and formatting of various references and elements of a legal publication, including, but not limited to: typefaces for law reviews; subdivisions; short citation forms; quotations; abbreviations, numerals, and symbols; italicization for style and in unique circumstances; capitalization; titles of judges, officials, and terms of court; cases; constitutions; statutes; legislative materials; administrative and executive materials; books, reports, and other nonperiodic materials; periodical materials; unpublished and forthcoming sources; electronic media and other nonprint resources; services; foreign materials; international materials.

²Some of the major changes from the 20th edition are featured in the preface to *The Bluebook's* 21st edition.

³The most frequently used style manual for citing to legal documents is *The Bluebook*. The APA, MLA and Chicago Manual of Style all refer to *The Bluebook* for citing to certain documents such as law cases.

⁴Griswold served as Solicitor General of the United States under Presidents Johnson and Nixon; he later served as the Dean of Harvard Law School for over 20 years.

⁵Llewellyn is remembered as a great legal scholar of the 20th century and a proponent of legal realism. He was a Columbia Law School Professor for over 25 years and one of the principal drafters of the Uniform Commercial Code (U.C.C.)

⁶Judge Friendly sat as a prominent jurist on the U.S. Court of Appeals for the Second Circuit (1959-1986).

⁷Brownell served as U.S. Attorney General under President Eisenhower (1953-1957).

⁸There also is a story floating around that the brown color was eradicated to avoid any comparisons to the dominant brown colors that the Nazis in Germany were prone to use.

⁹California used to require use of the *California Style Manual*. In 2008, the California Supreme Court issued a rule giving an option of using either the *California Style Manual* or *The Bluebook*. (See California Rule of Court, Rule 1.200)

¹⁰The primary difference is that the Michigan system “omits all periods in citations, uses italics somewhat differently, and does not use ‘small caps.’”

¹¹Furthermore, in other states, the courts have their own citation

rules that take precedence over the guide for documents filed with those particular courts. While some of those local rules are simple modifications, in situations such as Delaware, the Supreme Court of that state has laid down significantly different citation rules. In still other states, it may be more of a case of attorneys customarily using *The Bluebook* for federal court matters and their local state-court-endorsed manuals guidelines for state court cases.

¹²This guide focuses on citation for practitioners, so as an example, only two typefaces are used for law reviews, normal and italics. The guide does state that unless explicitly specified otherwise, *The Bluebook* rule takes precedence in the event of conflict.

¹³Dan Schweitzer, U.S. Supreme Court Brief Writing Style Guide, 19 J. APP. PRAC. & PROCESS 129 (2018).

¹⁴<https://legalesecitations.com/>

¹⁵The claim, and the promise, is that with PerfectIt, your raw text's citations (in MS Word) can now be switched over to automatic pilot. The software application checks for and, to the extent necessary, addresses your citation errors (e.g., incorrect capitalization, missing or extra spacing, transposed letters in court and/or reporter names). Moreover, the system checks for appropriate use of the ever-popular *id*, *supra*, and certain other signals of subsequent case history. ☺

President's Message *continued from page 3*

In addition to initiating outreach efforts with Chapters and law schools and working with them to develop a plan for FBA engagement, the group also developed and implemented programs at several law schools across the country focusing on the different types of federal clerkships and tips for applying and also programs on how to get your first in-house counsel job.

While we made significant progress this year, there is still much to be done on all of these fronts. The association is in excellent hands with the leaders in place for the upcoming year (and beyond), all of whom are committed to furthering these same efforts.

Thank you for the opportunity to serve as your National President. ☺

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in order for debate on the bill to occur.

The Senate relies on a different procedure for setting the floor agenda, making the Majority Leader first among equals in terms of floor recognition and giving the Leader the chance to offer a bill for consideration. Because of the filibuster rule, Senate floor consideration often relies upon "unanimous consent" agreements by which senators agree to waive their ability to hold the floor or offer amendments and to permit a bill to be considered and voted upon without much difficulty. It seems to me that over the years, the Leaders have been less likely to attempt to bring controversial bills to the Senate floor or noncontroversial bills that could attract controversial amendments and thus individual senators are not able to pursue as many of their policy objectives. We've even had appropriations cycles where no bills emerged from committee and received votes and the committee was left to publish draft bills and committee reports on its website without formal consideration. That's not good for morale or for policymaking in the long run.

CJ: What do these changes in the legislative process mean for

stakeholders like the FBA, who have an interest in a particular policy or piece of legislation?

DR: In today's Congress, even fairly noncontroversial legislation can have a very difficult time getting from start to finish. And even if one house of Congress approves a bill, getting the other one to go along isn't easy, regardless of whether both have the same party in the majority. What this means is that stakeholders like FBA have to work even harder to develop bipartisan support for their favored proposals. Ultimately, getting in front of members back home in their districts and states can make a big difference in convincing them to support a bill or amendment. Participating in fly-ins and video meetings with their DC policy staff is also essential. Finding allies who have their own independent connections to your legislators can also make a difference. I still believe that good policy can find its way through but, like in Olympic diving where there are different degrees of difficulty, even simple proposals are now like the toughest dives. It takes effort and practice but ultimately you can win if you persevere. ☺