

# THE JOURNAL OF APPELLATE PRACTICE AND PROCESS

## BOOK REVIEW

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CONVEYING TITLES CLEARLY:  
THOUGHTS ON THE FIFTH EDITION OF  
THE *ALWD GUIDE TO LEGAL CITATION*

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Among lawyers, judges, legal scholars, and law students, few books have inspired as much loathing as the *Bluebook*,<sup>1</sup> a manual that professes to be a uniform system of legal citation. If you are among the *Bluebook*'s small contingent of fans, I warn you now that I'm not on your team. When I've taught the *Bluebook* to first-year law students, I've jokingly thrown up my hands and told them there are only two things wrong with the book: the rules and the way they're presented.

Judge Posner enumerated the book's major flaws in his 1986 essay, *Goodbye to the Bluebook*: "Form is prescribed for the sake of form, not of function; a large structure is built up, all unconsciously, by accretion; the superficial dominates the

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1. THE BLUEBOOK: A UNIFORM SYSTEM OF CITATION (Columbia Law Review Ass'n et al. eds., 19th ed. 2010) (hereinafter BLUEBOOK).

substantive.”<sup>2</sup> He was right about all that. But his prediction of the *Bluebook*’s demise was wrong. Three decades later, the *Bluebook* is still the standard for lawyers, legal scholars, and law students. That may change—and it should—with the fifth edition of the *ALWD Guide to Legal Citation*.<sup>3</sup>

Earlier editions of the *ALWD Guide* carried a slightly different name and a larger purpose.<sup>4</sup> The Association of Legal Writing Directors set out in the first four editions to refine the rules for legal citation in ways that departed from the *Bluebook*. In particular, ALWD’s editors “urged a single and consistent set of rules” for both academic settings and law practice.<sup>5</sup> Darby Dickerson, the author of those editions, also aimed to create a manual that was “easy to use, easy to teach from, and easy to learn from.”<sup>6</sup>

But scholarly traditions—including, apparently, those “built up, all unconsciously, by accretion”—have staying power, and even ALWD’s members urged the group to respect those traditions.<sup>7</sup> As a result, the new *ALWD Guide* has been revised and reorganized to take a different approach. The underlying rules are now intended to be identical to those in the *Bluebook*, and citations produced using the *Guide* should match *Bluebook* citations. The author and editors of the *Guide* have thus conceded the battle over the rules themselves, but they may yet win the war. The choice between the books is no longer a choice between competing sets of rules, but a choice between two books that present the rules in different ways. This is a contest that the *ALWD Guide* can and should win.

Let me follow that assertion with this: ALWD’s strategy of bowing to *Bluebook* form does not render the *Guide* superfluous.

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2. Richard A. Posner, *Goodbye to the Bluebook*, 53 U. CHI. L. REV. 1343, 1344 (Fall 1986).

3. ASS’N OF LEGAL WRITING DIRECTORS & COLEEN M. BARGER, *ALWD GUIDE TO LEGAL CITATION* (5th ed. 2014) (hereinafter *ALWD GUIDE* or *GUIDE*).

4. *See generally* ASS’N OF LEGAL WRITING DIRECTORS & DARBY DICKERSON, *ALWD CITATION MANUAL: A PROFESSIONAL SYSTEM OF CITATION* (4th ed. 2010) (hereinafter *ALWD MANUAL*).

5. *Id.* at xxiii.

6. *Id.*

7. *Id.* (referring to membership surveys indicating that ALWD should “modify its rules to acknowledge those traditions,” an admirably polite circumlocution surely intended to refer to *Bluebook* form).

Consider, for example, that we have one set of rules for English grammar, but no single guide to their use. Scores of such books have been published, and some are far better than others. So it is with legal citation: Leaving aside the relatively few state-specific rules, there is one set of rules for legal citation, and there are now two guides to those rules. And of the two, the *ALWD Guide* is superior.

As a reference manual, the *Bluebook* suffers from a deep flaw: Those who use the book most frequently—practicing lawyers and judges—are not its intended audience. In sharp contrast to the *ALWD Guide*, the *Bluebook* was created by the student editors of student-run journals for the use of student staff members. As a result, the practitioner rules were tacked on as an afterthought, in a set of “Bluepages” appended to the front of the book.<sup>8</sup> But the Bluepages rules are incomplete, and a user who isn’t writing for a law journal must flip back and forth between the Bluepages and the main body of rules to get a citation right.

The *ALWD Guide* eliminates this dysfunctional approach. Consider, for instance, the primary rules for cases. In the *Bluebook*, Rule 10 sets out standards for an academic citation to a case, most (but not all) of which apply in non-academic settings. To get a case citation right, academic users need consult only Rule 10, but practicing lawyers must consult both Rule 10 and Bluepages Rule 4. In the *ALWD Guide*, by contrast, case citations are covered by a single rule focused on the needs of practicing lawyers, while clearly marked subsections show the differences for academic writing.<sup>9</sup> The *Guide*’s approach is clearer, cleaner, and easier to follow. It’s far more useful for practitioners and law students, and no less useful to those who are writing for journals.

The coherent organization of the *ALWD Guide* makes it markedly superior to the *Bluebook* in a second way: The *Guide* has forty rules, as did the *Bluebook*’s tenth edition, which was published back in 1959.<sup>10</sup> The *Bluebook*’s current edition has

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8. BLUEBOOK, *supra* note 1, at 3–51.

9. *E.g.*, *id.* at 62 (Rule 12.2(a)(2)(FN), explaining the use of typefaces for case names in academic footnotes).

10. For PDF files containing scanned images of the first through fifteenth editions of the *Bluebook*, see Josh Kantor, *PDFs of Old Editions of the Bluebook*, Et Seq., The Harvard Law School Library Blog (Mar. 17, 2008), <http://etseq.law.harvard.edu/2008/03/>

twice as many pages as that long-ago predecessor, and yet it includes only half as many rules. Inevitably, some of them have been asked to cover a tangle of loosely related sources, and together, the newest *Bluebook's* twenty-one numbered rules include a dizzying array of sub-sections. To state the obvious, this organizational hodgepodge makes the *Bluebook* hard to use.

Consider, for example, *Bluebook* Rule 12, which governs statutes.<sup>11</sup> Subsections 12.9.1 through 12.9.6, titled “special citation forms,” lump together a potpourri of things that are not statutes, including ordinances, rules of evidence and procedure, restatements, model codes, uniform laws, sentencing guidelines, and opinions on ethics.<sup>12</sup> The *ALWD Guide*, on the other hand, logically sorts these sources into three separate rules.<sup>13</sup> Other *Bluebook* rules suffer from the same impulse to stuff several disparate sources into a single bloated, misshapen rule. In the *Bluebook*, Rule 18 covers “The Internet, Electronic Media, and Other Nonprint Resources.”<sup>14</sup> By contrast, the *ALWD Guide* addresses some non-print sources, ranging from visual media to microfilm, radio, and audio recordings, in a single rule.<sup>15</sup> *The Guide* then divides the Internet and electronic media into four rules, with separate rules for web sites, commercial databases, and other electronic sources like email and CD-ROMs.<sup>16</sup> The *Bluebook's* Rule 18 has twenty subparts, while none of the corresponding *ALWD Guide* rules has more than seven.

A quick scan of the *ALWD Guide's* contents reveals other problems with the *Bluebook*. Although *Bluebook* Rule 12.9.6 covers the ABA's Code of Professional Responsibility and ABA ethics opinions, the *Bluebook* does not include formats for state ethics codes or state ethics opinions. Or perhaps I should qualify that statement: If the *Bluebook* covers those sources, I couldn't

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pdfs\_of\_old\_editions\_of\_the\_bluebook/ (click on desired edition to link to its contents) (accessed Feb. 26, 2015; copy on file with *Journal of Appellate Practice and Process*).

11. BLUEBOOK, *supra* note 1, at 111 (“STATUTES”).

12. *Id.* at 120–25 (including six subsections).

13. *ALWD* Rule 16 covers court rules, ethics opinions, and jury instructions, while its Rule 17 covers ordinances, and its Rule 23 covers restatements, model codes, uniform laws, and sentencing guidelines. *ALWD GUIDE*, *supra* note 3, at 158, 164, 236 (showing section titles).

14. BLUEBOOK, *supra* note 1, at 164 (Rule 18).

15. *ALWD GUIDE*, *supra* note 3, at 268–76 (Rule 28).

16. *Id.* at 284–304 (Rules 30–33).

find them in its index or table of contents. The same is true for jury instructions. The *ALWD Guide*, on the other hand, covers both state ethics materials and jury instructions in Rule 16, and the rule's title makes it clear where to find them.<sup>17</sup>

These distinctions go beyond a simple question of numbering. When I first discuss citation in my classes, I tell students that they will memorize only a small part of the book. The main challenge they'll face, I tell them, will be to find and follow the rules they need. The *ALWD Guide*'s organizational scheme makes that less of an ordeal. Because there are more rules and the rules are more logically organized, its index is shorter,<sup>18</sup> and there is less need for readers to use it.

These points alone give the *ALWD Guide* a distinct edge over the *Bluebook*, but the *Guide*'s virtues go well beyond its structure. In their preface to the fourth edition, the *ALWD Manual*'s editors emphasized that "every effort has gone into writing and printing the book in a format that is accessible as well as gentle on the eye."<sup>19</sup> They succeeded remarkably well with that edition, and the *Guide* takes the same approach. From the first page to the last, it's clear that the *ALWD Guide* was designed, written, and edited by people who care deeply about ease of use. The *Bluebook* is shorter—512 pages versus 608—but that's primarily because the *Bluebook* is dense and poorly designed: The typeface is small, the margins are narrow, and there's little white space between headings and paragraphs. For anyone who has worked professionally in graphic design (as I did for a decade), the *Bluebook* is painful to look at, much less to use.

By contrast, the *ALWD Guide* is a visual pleasure. The typeface is larger, white space is used well, and examples are presented more clearly. The *Guide* makes better use of color and shading, and both charts and "sidebar" discussions cover important points. Each of the rules for specific sources begins with a "Fast Format" section showing examples for sources

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17. *Id.* at 158 ("Court Rules, Ethics Opinions, and Jury Instructions").

18. The *ALWD GUIDE*'s index is forty pages long, while the *BLUEBOOK*'s is thirty-seven. But because the type is larger, the *GUIDE*'s index has forty-seven lines to a page, compared to fifty-eight for the *BLUEBOOK*.

19. *ALWD MANUAL*, *supra* note 4, at xxiii.

covered by the rule.<sup>20</sup> Many rules also include a “snapshot” of the source, showing readers where to find each component of the citation.<sup>21</sup> The *ALWD Guide*’s appendices—the tables covering abbreviations and primary sources by jurisdiction—are also more clear and better organized than the *Bluebook*’s counterparts.<sup>22</sup>

If you doubt that these differences matter, consider this: Professor Barris has written a superb and quite successful book that explains how to use the *Bluebook* in a practice setting.<sup>23</sup> When teaching the *Bluebook*, I require students to use Barris’s book in addition to the *Bluebook* itself, and they are always grateful. But the rules in the *ALWD Guide* are themselves sufficiently clear. No “guide to the guide” is needed.

For law students, the *ALWD Guide* is more friendly than the *Bluebook* in other ways. Throughout, concise explanatory paragraphs educate the reader by putting key information in context. For instance, the *Bluebook* rule on procedural phrases in case names assumes that the reader knows what a “relator” is and understands the difference between “on behalf of” and “in the matter of.”<sup>24</sup> But law students struggle with those points, and the *ALWD Guide* explains them succinctly.<sup>25</sup> For those who teach legal citation, including practicing lawyers and judges who teach as adjuncts, a detailed teaching manual is available, and both instructors and students have free access to an extensive set of online exercises.<sup>26</sup>

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20. For instance, the “Fast Format” section for legislative materials includes formats for House bills, Senate resolutions, Congressional hearings, Congressional reports, and state legislative materials. *ALWD GUIDE*, *supra* note 3, at 124–25 (Rule 15).

21. Rule 18, for example, includes sample pages from the Code of Federal Regulations. *Id.* at 171–72 (Rule 18).

22. To be fair, the *ALWD Guide* does not include tables for foreign jurisdictions and international organizations, which are Tables 2 and 3 of the *Bluebook*. *BLUEBOOK*, *supra* note 1, at 277–425, 426–28. But the *ALWD Guide* refers its readers to other publications specializing in foreign and international citations. *See ALWD GUIDE*, *supra* note 3, at 194 (Rule 19.4).

23. LINDA J. BARRIS, *UNDERSTANDING AND MASTERING THE BLUEBOOK: A GUIDE FOR STUDENTS AND PRACTITIONERS* (2d ed. 2010).

24. *See BLUEBOOK*, *supra* note 1, at 90–91 (Rule 10.2.1(b)).

25. *See ALWD GUIDE*, *supra* note 3, at 72–73 (Rules 12.2(o), (p)).

26. *See id.* at xxiv (noting that “[e]ach student who purchases the *ALWD Guide* will receive access to the online *Companion*, an interactive program designed to guide users in recognizing and constructing accurate citations in context”).

While this essay has focused on ease of use, the choice between the *ALWD Guide* and the *Bluebook* raises larger questions. Faculty who teach law students aim to produce graduates whose professional writing is clear, concise, and precise. We tell students that organization matters, and we urge them to write for their audience. What does it say, then, if we require students to use a citation manual—the *Bluebook*—that is neither clear, nor concise, nor precise, and that is poorly organized to boot? The choice between the books also raises issues related to respect for authority, points that cut to the heart of legal practice. Which authorities should decide how lawyers, judges, and scholars use citations? The inexperienced student editors of student-run journals? Or the highly experienced lawyers who are themselves both scholars and teachers? My answers favor the *ALWD Guide*.

The *Bluebook* remains the most widely used citation manual in U.S. law schools. But if you talk privately to full-time faculty who teach legal skills, you'll quickly learn that most prefer the *ALWD Guide*. As a teaching tool, the *Guide* has always been superior, and with the changes incorporated into its fifth edition, virtually all reasons to prefer the *Bluebook* are gone. At many schools, the only remaining challenge is to convince law journal editors that student staffers should be allowed to use the *ALWD Guide* instead of the *Bluebook*, both when they take student-run journals' citation tests and when they edit articles.<sup>27</sup> There is no rational reason for them to refuse, but tradition and a desire among student editors to make autonomous decisions without advice from faculty may stand in the way. Educating journal editors about one of the *ALWD Guide*'s primary advantages may be the most effective strategy for change: Because the *Guide* is easier to use, staff members on *Guide*-preferred journals should be able to cite-check articles more quickly and accurately.

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27. An editor of the *Buffalo Law Review* once admitted to me that the *Bluebook* is "crappy" and "awful," but its editorial board still declines to let my students use the *Guide* when they take the *Law Review*'s citation test. As a result, every SUNY Buffalo student planning to compete for the *Law Review* must buy a *Bluebook* and spend considerable time learning to use it. Students who've purchased and studied both books have thanked me enthusiastically for teaching from the *Guide* rather than the *Bluebook*, and their praise for the *Guide* closely echoes most of the points I've raised in this review.

To be sure, there are small points that a future edition of the *ALWD Guide* should address. For instance, my students and I discovered that the *Bluebook* and the *Guide* differ on the appropriate order for certain parentheticals. Should “(en banc)” come before “(Posner, J., concurring)”?” The *Bluebook* and logic dictate that it should,<sup>28</sup> but the *ALWD Guide* instructs users to put the parenthetical for a dissenting or concurring opinion before any weight of authority parenthetical, including “en banc.”<sup>29</sup> Alert readers may find other differences, but such discrepancies are trivial and do not detract from the *Guide*’s value.

As a reference tool for lawyers, judges, law students, and legal scholars, the *ALWD Guide* far outshines the *Bluebook*. But if you already own the *Bluebook*, should you buy the *Guide*? As with most questions posed by lawyers, the answer is equivocal: It depends. In one sense, it hardly matters. Even a badly outdated *Bluebook* will produce an acceptable citation in most practice-related situations.<sup>30</sup>

The choice, then, is largely a matter of preference. If you’re comfortable with the *Bluebook* and you own the current edition, there’s no need to switch right now. But if you find the *Bluebook* difficult to use, if you are ready to replace an outdated edition of either the *Bluebook* or the *Manual*, or if you simply want to strike a blow for clarity and ease of use, the *ALWD Guide* is the unmistakably superior choice.



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28. BLUEBOOK, *supra* note 1, at 60 (Rule 1.5(b)).

29. ALWD GUIDE, *supra* note 3, at 329 (Sidebar 37.1).

30. Indeed, if I had used my old law-school copy of the fifteenth edition (current back in 1994) for this essay, it’s possible that no one would have noticed.