

AN UN-UNIFORM SYSTEM OF CITATION:
SURVIVING WITH THE NEW *BLUEBOOK*
(Including Compendia of State and Federal Court
Rules Concerning Citation Form)*

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I. INTRODUCTION

Five years¹ have flown by and another edition of the venerable

1. In recent years, new *Bluebook* editions have appeared every five years. Earlier editions, however, were issued on a more ad hoc basis. Each edition and its original publication date (many editions had several printings) are listed below.

	<i>Edition</i>	<i>Initial Publication Date</i>
	First	
1926	Second	
1928	Third	
1931	Fourth	
1934	Fifth	
1936	Sixth	

*Bluebook*² has hit the shelves. The Sixteenth Edition's arrival was

1939	Seventh
1947	Eighth
1949	Ninth
1955	Tenth
1958	Eleventh
1967	Twelfth
1976	Thirteenth
1981	Fourteenth
1986	Fifteenth
1991	Sixteenth
1996	

Interestingly, these dates were difficult to locate, primarily because scholarly interest in the *Bluebook* did not begin until the late 1950s and most libraries did not keep copies of past editions. See Stanley E. Tobin, Book Review, 11 STAN. L. REV. 410 (1959) (reviewing the Tenth Edition) (this is the first review of the *Bluebook* the Author could locate; although others may exist, they cannot be easily located in periodical indices); see also *With the Editors*, 68 HARV. L. REV. vii, viii (Feb. 1955) (available only in the unbound paper volume) (stating incorrectly that “the publication [of the *Bluebook*] dates from 1931”); Geoffrey C. Mangum, Book Review, 18 WAKE FOREST L. REV. 645, 649 n.14 (1982) (indicating that “[l]ittle is known about the Second and Third Editions. The Fourth (1934), Fifth (1936), and Sixth (1939) Editions are known only from their listing in 150 LIBRARY OF CONGRESS, CATALOG OF BOOKS 676 (1942).”); cf. Books Noted, 50 COLUM. L. REV. 877, 877 (1950) (describing *A Practical Manual of Standard Legal Citations* by Miles O. Price as “seek[ing] to give some measure of coherence to the largely untreated area of legal citation” (emphasis added)). Indeed, the only place the Author could find all sixteen editions was the *Harvard Law Review* Business Office.

However, the *Bluebook* was an institution among law-review editors as early as the mid-1950s. See Edmond Cahn, *The Editor's Secret*, 28 N.Y.U. L. REV. 922, 922, 925 (1953) (addressing the Second National Conference of Law Review Editors and stating that “the law review editor enjoys a special pedantry in his stickler's devotion to form. In that devotion, we have invented an important new verb, ‘to bluebook.’” (footnote omitted)); cf. James W. Paulsen, *An Uninformed System of Citation*, 105 HARV. L. REV. 1780, 1783 (1992) (reviewing the Fifteenth Edition) (indicating that the *Bluebook* was first advertised for sale in 1947, and that in 1949, the First National Conference of Law Review Editors proposed that the *Bluebook* be adopted as a national system of citation).

2. See THE BLUEBOOK: A UNIFORM SYSTEM OF CITATION (*Columbia Law Review et al.* eds., 16th ed. 1996). To conserve space, the various *Bluebook* editions will be cited by their edition number, e.g., FIRST EDITION, SECOND EDITION, etc. Interestingly, no one

long-anticipated. Why? Because some segments of the legal community were anxious to see what changes the *Bluebook* editors would implement.³ This anticipation is ironic, because why should “A *Uniform System of Citation*” contain many changes? If it is truly uniform, very little should change, and the changes made should be primarily updates (such as adding F.3d) and developments since the last edition (such as increased coverage of electronic sources). Unfortunately, the Sixteenth Edition does not present a uniform system of citation. Instead, it contributes to the United States' un-uniform system of citation.

The U.S. citation system is un-uniform for at least four reasons. First, each edition of the *Bluebook* changes basic rules. Instead of adding rules for new sources that have appeared since the last edition, the editors tinker with other rules that many have committed to memory, used, and relied upon.⁴ Therefore, any true level of consistency is impossible. Second, the schools that produce the *Bluebook* do not always follow its dictates.⁵ If the *Bluebook* editors do not follow their own “uniform” rules, why should others? Third, the *Bluebook* is not consistent with mandatory court rules that practitioners must follow.⁶ Because the *Bluebook* does not incorporate or adequately reference these court rules, it does not truly provide a uniform citation system — at least for practitioners. Fourth, because of its complexity and insularity, the *Bluebook* has attracted challengers who want either to supplement the *Bluebook's* citation system or to supplant it completely.⁷

This Article explores all four reasons for un-uniformity. But

really knows how to cite the *Bluebook*. For various guesses, see *infra* note 319.

3. In addition, legal educators were hoping that the new edition would arrive before Fall classes began. Unlike the last two editions, which did not arrive until the middle of the Fall semester, the Sixteenth Edition arrived a day or so before many schools began classes. See Louis J. Sirico, Jr., *Fiddling with Footnotes*, 60 U. CIN. L. REV. 1273, 1273 (1992) (reviewing the Fifteenth Edition) (complaining that “[a] new edition published at the start of the school year and printed in insufficient numbers — we did not acquire enough copies until mid-October — is an outrageous imposition. But, then again, the editors pulled the same stunt with the fourteenth edition.” (footnote omitted)). Those of us who teach research and writing implore the editors to complete their work so that the new edition arrives well before the start of Fall classes.

4. See *infra* section III and app. A.

5. See *infra* section IV.

6. See *infra* section V and apps. B-1 to B-3.

7. See *infra* section VI.

first, the Article briefly traces the *Bluebook's* origins and history.⁸ Realizing that the next edition is less than five years away, the Article concludes with proposed changes the *Bluebook* editors should consider for the Seventeenth Edition.⁹

II. SEVENTY YEARS OF BLUEBOOK HISTORY

What we now know as the *Bluebook* debuted seventy years ago, in 1926.¹⁰ During his summer break, Erwin N. Griswold, then a second-year law student at Harvard,¹¹ had his hometown printer in Cleveland, Ohio prepare a twenty-six-page¹² pamphlet concerning the form of law-review footnotes.¹³ Griswold's pamphlet was an expanded version of "Instructions for Editorial Work," an eight-page, internal manual for new *Harvard Law Review* members that was prepared sometime during the 1920s.¹⁴

8. See *infra* section II.

9. See *infra* section VII.

10. FIRST EDITION cover (1926) (portions on file with the *Stetson Law Review*). The *Bluebook* debuted well after the first student-edited law review was established. The first lasting student-edited law review — the *Harvard Law Review* — appeared in April 1887. See John Jay McKelvey, *The Law School Review 1887–1937*, 50 HARV. L. REV. 868, 869 (1937). However, the very first student-edited law review was the *Albany Law School Journal*, which was published in 1875 but survived only one academic year. See Michael I. Swygert & Jon W. Bruce, *The Historical Origins, Founding, and Early Development of Student-Edited Law Reviews*, 36 HASTINGS L.J. 739, 764 (1985). Ten years later, the *Columbia Jurist* was founded and lasted almost three years. See *id.* at 766–68.

11. Griswold was editor-in-chief of the *Harvard Law Review* in 1927–28. See ERWIN N. GRISWOLD, *OULD FIELDS, NEW CORNE* ch. III, at 67–68 (1992). He later served as Dean of Harvard Law School and Solicitor General of the United States. See *id.* chs. VI & IX; Henry J. Friendly, *Erwin N. Griswold — Some Fond Recollections*, 86 HARV. L. REV. 1365, 1365 (1973).

12. One author has indicated that the First Edition was 30 pages long, see Mary I. Coombs, *Lowering One's Cites: A (Sort of) Review of the University of Chicago Manual of Legal Citation*, 76 VA. L. REV. 1099, 1102 n.16 (1990); however, the last numbered page was 26. FIRST EDITION 26 (portions on file with the *Stetson Law Review*).

13. See Paulsen, *supra* note 1, at 1782 & n.14. Legal citation predates the *Bluebook*; indeed, legal citation can be traced to Ancient Rome. See Byron D. Cooper, *Anglo-American Legal Citation: Historical Development and Library Implications*, 75 L. LIBR. J. 3, 4 (1982) (tracing legal citation to A.D. 71). The earliest known citation manual, the *Modus Legendi Abbreuiaturas in Utroque Iure*, dates to approximately 1475. See *id.* at 20 & n.140.

14. See Jim C. Chen, *Something Old, Something New, Something Borrowed, Something Blue*, 58 U. CHI. L. REV. 1527, 1529–30 & n.10 (1991) (quoting Erwin N. Griswold, *The Harvard Law Review — Glimpses of its History as Seen by an Aficionado*, in HARVARD LAW REVIEW: CENTENNIAL ALBUM 1, 12 (1987)). Griswold wrote:

In due course, this booklet developed and was revised: other law reviews heard

Back then, however, the *Bluebook* was not blue,¹⁵ and it was not called the *Bluebook*.¹⁶ Instead, the First Edition was called *A Uniform System of Citation* and was graced with a grayish-olive cover.¹⁷ The next four editions bore brown covers.¹⁸ In 1939, the covers were changed to a “more patriotic blue”¹⁹ — a change some attributed to the editors' desire to dissociate with the brown worn by Adolph Hitler's troops.²⁰ After about thirty years of blue covers, the Eleventh Edition appeared in 1967 with a white cover and “only a thin blue border . . . as a mocking reminder of the old ways.”²¹ Many people called this edition the *White Book*.²² In 1976, the two hundredth anniversary of our Nation's birth, patriotism was in the air again, and a bright blue cover adorned the newly-published Twelfth Edition.²³ For the last four editions, the *Bluebook* has worn royal blue

about it, and made suggestions for its improvement. This led to a meeting of the Presidents of the *Harvard*, *Columbia*, and *University of Pennsylvania Law Reviews*, and the *Yale Law Journal*. As a result of this meeting, the four journals now publish the *Bluebook* jointly and share the revenues; but virtually all the editorial work is still done at Harvard

Id. (quoting Griswold, *supra*, at 12).

15. In a 1955 issue of the *Harvard Law Review*, the editors, who had just released the Ninth Edition, wrote that recent covers had “ranged from calamine to ultramarine.” *With the Editors*, *supra* note 1, at viii.

16. Lawyers should note that the *Bluebook* is not the only “blue book.” See *Kelley Blue Book v. Car-Smarts, Inc.*, 802 F. Supp. 278, 285 (C.D. Cal. 1992) (explaining that the phrase “blue book” is not a generic term for vehicle valuation guides; “blue book” standing alone, refers to a number of items, including blank booklets used in taking examinations, directories of socially prominent persons, official British publications, a telephone directory and price guides for a wide variety of products”).

17. See Paulsen, *supra* note 1, at 1782; Telephone Conversation with Colleen Verner, *Harvard Law Review Business Office* (Sept. 6, 1996) (verifying the cover color).

18. Telephone Conversation with Colleen Verner, *Harvard Law Review Business Office* (Sept. 6, 1996).

19. See Paulsen, *supra* note 1, at 1783.

20. See *id.* at 1782 (writing that “*The Bluebook* was marching toward world conquest, sporting a brown cover that some have found suspiciously similar in shade to shirts worn by Hitler's goon squads” (footnote omitted)); Alan Strasser, Book Note, *Technical Due Process*: ?, 12 HARV. C.R.-C.L. L. REV. 507, 508 (1977) (reviewing the Twelfth Edition) (indicating that “Germanic brown” covers “had disgraced the 1936 edition”).

21. Strasser, *supra* note 20, at 508; see also Kevin G. Gralley & John C. Aisenbrey, Book Note, 65 GEO. L.J. 871, 872 n.10 (1977) (recounting that “[i]t has been suggested that the color white was chosen to symbolize the intellectual purity of virgin thought, and ‘bluebook’ was chosen as a moniker in remembrance of the blood sweat by countless Ivy Leaguers to give it birth”).

22. See Jonathan M. Jacobson, Book Review, 43 BROOK. L. REV. 826, 826 (1977) (reviewing the Twelfth Edition).

23. TWELFTH EDITION cover (1976). The Twelfth Edition was printed in several

covers.²⁴ Although the nickname “the *Bluebook*” developed shortly after the 1939 edition, it did not become part of the official title until 1991, when the editors of the Fifteenth Edition re-christened it: *The Bluebook: A Uniform System of Citation*.²⁵

The *Bluebook*'s size and price have also changed over the years. The First Edition measured approximately 3¼-by-5¾ inches and was only twenty-six pages long.²⁶ Since the First Edition seemingly was used only at Harvard, law-review students probably received copies at no charge. Both the Second Edition and the Third Edition measured approximately 3½-by-6 inches and were thirty-eight pages long.²⁷ Again, no information exists to assume that these editions were used outside Harvard. The Fourth Edition, which was the first jointly prepared by Columbia, Harvard, Pennsylvania, and Yale, was forty-eight pages long; the dimensions were the same as the Third Edition.²⁸ The Fifth Edition and the Sixth Edition were both fifty-one pages long, and again possessed the same measurements as earlier editions.²⁹ The Seventh Edition measured 4-by-6 inches and was sixty-five pages long.³⁰ The Eighth Edition also measured 4-by-6

different shades of blue. Books in the first printing had pastel blue colors. Later printings bore royal blue covers. See Richard L. Bowler, Book Review, 44 U. CHI. L. REV. 695, 695 n.1 (1977) (reviewing the Twelfth Edition). One author queried:

Why were blue and white the only choices? The entire rainbow beckoned. To be sure, brown was historically suspect. The same domestic critics that decried brown covers in 1937 made red covers suspect during the 1950's and 1960's. Red and white seem equally un-American; no one seems to have considered red, white, and blue. Magenta, of course, would command no respect. Blue and white became the only choices through a process of elimination of unconsidered alternatives.

Strasser, *supra* note 20, at 508–09 (footnotes omitted).

24. THIRTEENTH EDITION cover (1981); FOURTEENTH EDITION cover (1986); FIFTEENTH EDITION cover (1991); SIXTEENTH EDITION cover (1996).

25. FIFTEENTH EDITION cover (1991).

26. FIRST EDITION (1926) (portions on file with the *Stetson Law Review*); see also *supra* note 12.

27. SECOND EDITION (1928); THIRD EDITION (1931) (portions of both are on file with the *Stetson Law Review*).

28. FOURTH EDITION (1934) (portions on file with the *Stetson Law Review*). This is the first edition with a copyright notation. See *id.* inside cover. No price information is available. See also text accompanying *infra* note 61 (indicating that the Fourth Edition is the first edition available at the Library of Congress).

29. FIFTH EDITION (1936); SIXTH EDITION (1939) (portions of both are on file with the *Stetson Law Review*).

30. SEVENTH EDITION (1947) (portions on file with the *Stetson Law Review*).

inches but was eighty-four pages long.³¹ The Ninth Edition was ninety-two pages long, measured 4-by-5¾ inches,³² and cost fifty cents.³³ The Tenth Edition, which was first published in 1958, cost seventy-five cents, measured 4½-by-6 inches, and was 124 pages long.³⁴ The Eleventh Edition was 117 pages long, had the same dimensions as the Tenth Edition, and cost \$1.00.³⁵ The Twelfth Edition was also 4½-by-6 inches, was 190 pages long,³⁶ and cost \$1.50.³⁷

The Thirteenth Edition was enlarged to 5½-by-8½ inches, contained 237 pages,³⁸ and sold for \$2.50.³⁹ The Thirteenth Edition also introduced some helpful enhancements, including the "Quick References."⁴⁰ The Fourteenth Edition measured 6-by-8½ inches, contained 255 pages,⁴¹ and cost \$6.50.⁴² The Fifteenth Edition measured 5¼-by-8 inches, contained 343 pages,⁴³ and cost \$7.50.⁴⁴ The Sixteenth Edition, which is 365 pages long and measures 5¼-by-8 inches,⁴⁵ retails for \$9.00.⁴⁶

Just as the *Bluebook's* color, size, and name have changed, so has its purpose. Originally prepared as an internal guide to teach

31. EIGHTH EDITION (1949) (portions on file with the *Stetson Law Review*).

32. NINTH EDITION (1955) (portions on file with the *Stetson Law Review*).

33. See *With the Editors*, *supra* note 1, at x.

34. TENTH EDITION (1958) (portions on file with the *Stetson Law Review*); see Tobin, *supra* note 1, at 410.

35. ELEVENTH EDITION (1967) (portions on file with the *Stetson Law Review*); see Peter Lushing, Book Review, 67 COLUM. L. REV. 599, 599 (1967) (reviewing the Eleventh Edition).

36. TWELFTH EDITION (1976). The Author discovered that the Twelfth Edition is the first that can be easily found in libraries and sitting on some attorneys' bookshelves.

37. See Gary G. Sackett, Book Note, 3 J. CONTEMP. L. 140, 140 (1976) (reviewing the Twelfth Edition); cf. Jacobson, *supra* note 22, at 826 (indicating that the Twelfth Edition cost \$2.25).

38. THIRTEENTH EDITION (1981).

39. See Marilyn R. Walter, *The Lawyer's Bookshelf*, N.Y. L.J., Mar. 12, 1982, at 2 (reviewing the Thirteenth Edition).

40. THIRTEENTH EDITION v (1981).

41. FOURTEENTH EDITION (1986).

42. See Richard Saver, *Singing the Blues over Cite Rules*, LEGAL TIMES, Oct. 28, 1991, at 46.

43. FIFTEENTH EDITION (1991).

44. See Saver, *supra* note 42, at 46.

45. SIXTEENTH EDITION (1996). See generally Christopher W. Lane, *Bluebooks, Filled Milk, and Infield Flies: Deconstruction, the Footnote, and a Uniform System of Citation*, 19 WM. MITCHELL L. REV. 161, 171 n.57 (1993) (observing that "[t]he *Bluebook*, like other products of the bureaucratic process, is the victim of inevitable metastasization").

46. See Advertisement, 109 HARV. L. REV. v (June 1996) (unbound paper volume) (giving a discount to those who order 25 or more copies).

*Harvard Law Review*⁴⁷ members how to prepare footnotes published in their own law review, the *Bluebook* evolved first into a citation guide widely adopted by law-review editors,⁴⁸ and then into a citation guide used by virtually all attorneys for virtually all types of legal documents.⁴⁹ Indeed, the *Bluebook* has been called “the Bible of

47. Editors at Columbia, University of Pennsylvania, and Yale did not join in preparing the *Bluebook* until the Fourth Edition, which was published in 1934. FOURTH EDITION inside front cover (1934); Telephone Conversation with Colleen Verner, *Harvard Law Review* Business Office (Sept. 6, 1996). The cartel almost crumbled in the 1970s, when editors at Columbia, Penn, and Yale threatened to create a competing manual because they believed Harvard was not fairly dividing *Bluebook* profits. The matter was settled peacefully. See Chen, *supra* note 14, at 1530; W. Duane Benton, Book Review, 86 YALE L.J. 197, 202 n.30 (1976) (reviewing the Twelfth Edition). Yale, Columbia, and Penn

felt that Harvard was illegally keeping all profits from the first eleven editions, estimated to total \$20,000 per year. However, the discontented trio had lost the correspondence indicating an agreement to split the profits. Their threats to sue brought a peaceful settlement, in the form of a contract which provides Harvard with only twice the profits of each of the other schools in return for continued production and distribution services.

Id. (citations omitted).

48. See KENT C. OLSON & ROBERT C. BERRING, PRACTICAL APPROACHES TO LEGAL RESEARCH 10 (1988) (noting that the Fourteenth Edition “lays down rules of style for legal writing, quotation, and citation which are scrupulously followed by law reviews”); Cahn, *supra* note 1, at 925–26; Paulsen, *supra* note 1, at 1782–85. In 1955, *Harvard Law Review* editors, in a preface to the February issue, explained:

A reader with an eye for the minute and a technical turn of mind may spot a few citations in this issue whose forms are a trifle irregular. They will, we trust, soon lose their novelty. For it is with this issue that the *Review* adopts the citation forms prescribed by the ninth edition of *A Uniform System of Citation*, which has just been published. . . . The idea was to establish a systematic uniform method of citation out of the prevailing chaos. The law reviews at Columbia, Pennsylvania, and Yale joined with Harvard in collecting and organizing for the first time what was thought to be the most sensible of the forms then in use by the reviews, courts, and lawyers. Early editions, as the present one, gave suggested forms for citing American and foreign cases and reports, periodicals, treatises, services, restatements, government publications, and international materials, as well as prescribing rules for capitalization, italicization, and punctuation. In the back were rather full listings of legal abbreviations. And the first edition, as the ninth, was published in a convenient pocket size.

With the Editors, *supra* note 1, at viii, x.

49. The Twelfth Edition was the first time the *Bluebook* was marketed as a practice guide for courts and attorneys. See Paulsen, *supra* note 1, at 1784. Another commentator agreed that the Twelfth Edition was a watershed event:

Although earlier editions gave some hints of the gradual attempt to extend the *Bluebook's* authority, the Twelfth Edition's extension is proclaimed more openly and is reflected in two significant innovations: explicit provisions governing citation in briefs and a shift from a form-book format, built around specific, self-contained rules for particular types of publications (*e.g.*, cases, statutes,

citation form,⁵⁰ “a legal *Pilgrim's Progress*,”⁵¹ the “*Kama Sutra* of legal citation,”⁵² the “Divine Word' on citing,”⁵³ the “pioneer citation manual,”⁵⁴ “a librarian's dream,”⁵⁵ and “the book that ends arguments.”⁵⁶ Even reviewing the *Bluebook* has be

books, periodicals), to a manual-of-style format, emphasizing general rules purporting to cover a wide range of different types of authorities.

Bowler, *supra* note 23, at 698 (footnotes omitted).

Also, from the 1950s until publication of the Twelfth Edition in 1976, the *Harvard Law Review* Association printed a related publication called, at different times, *Citations to Current American Statutory Compilations*, *Citations to American Statutory Compilations*, and *State Statutory Codifications*, which contained a guide to citing American statutes. This publication was discontinued in 1976 because the information was incorporated into the Twelfth Edition of the *Bluebook*. See Cooper, *supra* note 13, at 21 n.143.

50. Jacobson, *supra* note 22, at 826.

51. Chen, *supra* note 14, at 1527.

52. Lushing, *supra* note 35, at 599.

53. Gene W. Teitelbaum, *The Periodical Section of the “Uniform System of Citation,” Thirteenth Edition: A Review and Some Suggestions*, 76 L. LIBR. J. 264, 264 (1983).

54. MILES O. PRICE, A PRACTICAL MANUAL OF STANDARD LEGAL CITATIONS iv (1st ed. 1950).

55. OLSON & BERRING, *supra* note 48, at 10 (adding that “[t]his book is all form and no substance”).

56. Saver, *supra* note 42, at 46 (quoting the senior executive editor of the *California Law Review*). Some, of course, have not been so kind. See, e.g., Floyd Abrams, *A Worthy Tradition: The Scholar and the First Amendment*, 103 HARV. L. REV. 1162, 1162 n.11 (1990) (calling the *Bluebook* tyrannical); Arthur D. Austin, *Footnote* Skulduggery** and Other Bad Habits****, 44 U. MIAMI L. REV. 1009, 1025 (1990) (referring to *Bluebook* form as “puritanical handcuffs”); Arthur D. Austin, *Footnotes as Product Differentiation*, 40 VAND. L. REV. 1131, 1140 & n.41 (1987) (calling the *Bluebook* “nit-picking” and “formalistic”); Richard A. Posner, *Goodbye to the Bluebook*, 53 U. CHI. L. REV. 1343, 1343 (1986) (referring to the *Bluebook* as the “hypertrophy of law”); Benton, *supra* note 47, at 197 (writing that the Twelfth Edition “joins Amy Vanderbilt, the Rules of Baseball, and totalitarian regimes throughout history in a modest quest to impose uniformity on more mundane spheres of human activity”); Bruce E. Parmley, Book Review, 27 CATH. U. L. REV. 449, 449 (1978) (reviewing the Twelfth Edition) (dubbing the *Bluebook* the “lawyer's dictionary of abbreviated mumbo jumbo (*abrv. mbo. jbo.*)”); Sackett, *supra* note 37, at 140 (sniping that “[t]his is a review of a work which is proffered as the ultimate, stone-tablet authority in a substantively vacuous, yet functionally necessary, field; it is therefore not unlike a review of a cross-word puzzle dictionary”); *id.* at 142 (calling the Twelfth Edition the “Sea of Minutiae”); Aside, *Don't Cry Over Filled Milk: The Neglected Footnote Three to Carolene Products*, 136 U. PA. L. REV. 1553, 1565 (1988) (suggesting that extraterrestrials wrote the *Bluebook* because “[l]ike the technology of the ancient astronauts, the *Bluebook* is puzzling to all but an anointed few — who are probably not entirely human” (footnotes omitted)); Richard A. Leiter, *The Blue Book*, LEGAL ASSISTANT TODAY, July–Aug. 1995, at 76, 76 (commenting that “[t]he *Bluebook* has managed to become to legal writers what the Internal Revenue Code has become to Americans in general — so complex that not only are ordinary citizens completely baffled, but professionals are compelled to reach for a pack of Tums whenever they must put cites in their legal writing

come somewhat of a cottage industry.⁵⁷ Recent editions have been reviewed in verse,⁵⁸ as a review of a romance novel,⁵⁹ and as an imitation of Dante's *Divine Comedy*.⁶⁰

The *Bluebook*, however, was not an overnight success. Instead, it was an acquired taste. As one scholar discovered, "it was not by any means adopted immediately by other academic law journals. In fact, much evidence suggests that the manual was not widely adopted until the 1930s. The first copy owned by the Library of Congress was the fourth edition, published in 1934 and acquired in 1936."⁶¹ As late as 1976, one reviewer bemoaned that "[t]he popular press has ignored the new edition of the *Blue Book*, and the literary establishment considers the book closed even before it has been opened. Not since the St. Louis Browns played their last game has so much labor produced so little public acclaim or public interest"⁶²

The introductory notes and prefaces tell an interesting story about the *Bluebook's* evolution.⁶³ The First Edition was very unas-

into Bluebook form"); cf. Lawrence Savell, *The Bluebook Blues*, NAT'L L.J., Apr. 10, 1995, at A19, A19 (stating sarcastically that "the Bluebook was created and is maintained by students at four leading law schools to ensure that, when they and their peers take their places at the bottom of the food chain of some prestigious firm, they will be regarded as competent in at least some small aspect of the practice of the law").

57. Indeed, the Fifteenth Edition was reviewed at least 14 times. See Steve Bromberg, Book Review, 55 TEX. B.J. 1192 (1992); Beverly Ray Burlingame, Book Review, 2 SCRIBES JOURNAL OF LEGAL WRITING 168 (1991); Campano, *infra* note 59; Chen, *supra* note 14; Gordon, *infra* note 99; Lane, *supra* note 45; Paulsen, *supra* note 1; Sirico, *supra* note 3; Slomanson, *infra* note 58; Smith, *infra* note 149; Jay W. Stein, Book Review, 59 DEF. COUNS. J. 592 (1992); Book Review, 11 CAL. LAW., Oct. 1991, at 67; George Gerard Campion, *On 15th Try, Bluebook Made Eas[er]*, N.J. L.J., Apr. 20, 1992, at 15; Savell, *supra* note 56.

58. See William R. Slomanson, Book Review, 13 LEGAL REFERENCE SERVICES Q. 117 (1993) (reviewing the Fifteenth Edition); William R. Slomanson, (Blue) Book Review, 39 OKLA. L. REV. 565 (1986) (reviewing the Fourteenth Edition); Tobin, *supra* note 1, at 411. Tobin composed the following rhyme:

Handy to carry in pocket or purse
Written in language inscrutably terse

Id.

59. See Arnold B. Kanter, *Putting Your Best Footnote Forward*, BARRISTER, Spring 1982, at 42; see also Paul F. Campano, *A Kinder, Gentler Bluebook?*, 22 SETON HALL L. REV. 627 (1992) (reviewing the Fifteenth Edition in the format of a private confession).

60. See Mangum, *supra* note 1.

61. Cooper, *supra* note 13, at 21 (footnote omitted).

62. Strasser, *supra* note 20, at 507 (footnotes omitted).

63. See app. D (reprinting portions of prefaces, forewords, and introductory notes from all sixteen editions).

suming. Limited to leading articles, it started by explaining: “This pamphlet does not pretend to include a complete list of abbreviations or all the necessary data as to form. It aims to deal with the more common abbreviations and forms to which one has occasion to refer.”⁶⁴ This unassuming nature continued until the Fourth Edition in 1934. Although still limited to leading articles, the Fourth Edition's Foreword declared that “[i]ts purpose is to indicate the more common abbreviations and . . . forms to which constant reference is made *to constitute a basis for a complete citation system*.”⁶⁵ By the Eighth Edition in 1949, the *Bluebook* no longer limited itself to leading articles.⁶⁶ By the Eleventh Edition in 1967, the editors unabashedly stated that “[t]he purpose of this uniform system of citation is to ensure that the authorities cited in legal writing can be identified and found by most readers.”⁶⁷ By the Twelfth Edition in 1976, the *Bluebook* proclaimed that “[t]he following uniform system of citation has been designed for use in all forms of legal writing.”⁶⁸ The Fifteenth and Sixteenth Editions took one final step and announced that “[t]he *Bluebook* . . . sets forth general standards of citation *and style* to be used throughout legal writing.”⁶⁹ So the unpretentious, internal citation guide for leading articles published in the *Harvard Law Review* has grown into an citation and style institution used and relied upon by large segments of the legal community.

III. THE SIXTEENTH EDITION: MAJOR CHANGES AND UN-UNIFORMITY

A. Initial Impressions

64. FIRST EDITION Foreword (1926) (portions reprinted in Appendix D).

65. FOURTH EDITION Foreword (1934) (emphasis added). It is important to remember that the Fourth Edition was the first jointly prepared by Harvard, Columbia, Penn, and Yale. See *supra* note 28 and accompanying text.

66. See EIGHTH EDITION Foreword (1949) (portions reprinted in Appendix D).

67. ELEVENTH EDITION Note (1967) (portions reprinted in Appendix D).

68. TWELFTH EDITION 1 (1976) (portions reprinted in Appendix D).

69. FIFTEENTH EDITION 3 (1991) (emphasis added); SIXTEENTH EDITION 3 (1996) (emphasis added) (portions of both reprinted in Appendix D).

At first glance, the Sixteenth Edition appears to be a clone of the Fifteenth. The covers are identical, except that the word “Sixteenth” has replaced “Fifteenth”; the books are about the same size (343 pages in the Fifteenth, 365 in the Sixteenth); and the color scheme for internal pages is identical (blue for Practitioners' Notes and tables, and white for the rest). The Sixteenth Edition's pagination is very close to that used in the Fifteenth.⁷⁰ The Quick Reference sections in the front and back look virtually identical to those in the Fifteenth.

A review of the Sixteenth Edition's Preface reinforces the impression that the changes are relatively benign. Ironically, the Sixteenth-Edition editors list sixteen “noteworthy” changes, including:

- “**Rule 3.3** has been expanded to include citation formats for endnotes and graphical materials.”⁷¹
- “**Rule 12.8.5** has been expanded to include sentencing guidelines.”⁷²
- “New **rule 17.3.3** provides guidance for citing materials found on the Internet.”⁷³
- “**Rule 20.8.4** now provides citation formats for World Trade Organization and GATT materials.”⁷⁴
- “**Table 14** (Periodicals in Foreign Languages) has been eliminated. As a result, **tables 15 to 17** have been renumbered as **tables 14 to 16**.”⁷⁵

Having been comforted by initial appearances, users who venture beyond the Preface will be surprised by the sheer number of changes — both large and small, substantive and inconsequential — incorporated into the Sixteenth Edition. Although the Preface lists only sixteen noteworthy changes, many other changes were made. Several sections were renumbered or numbered for the first time.⁷⁶

70. For example, the Practitioners' Notes begin on page 11 of both editions. Rule 11 falls on page 73 in both editions. Table 1 begins on page 165 of both editions.

71. SIXTEENTH EDITION at v.

72. *Id.*

73. *Id.* at vi.

74. *Id.*

75. *Id.*

76. *See, e.g.*, SIXTEENTH EDITION rules 2.1, 2.2, 3.3, 10.5(b), 10.5(c), 10.5(d), 10.6.1, 10.6.2, 10.7.1(b), 10.7.1(c) & 17.3.

Some sections were added.⁷⁷ Some changes are notable and will affect everyday citation.⁷⁸ Some changes have no apparent purpose, other than to drive users insane.⁷⁹ What follows is a description and critique of the more significant revisions. Appendix A compiles most other changes included in the Sixteenth Edition.

B. Significant Revisions⁸⁰

1. Introductory Signals

The editors substantially revised rule 1.2 on introductory signals.⁸¹ As they noted in the Preface, “The number of signals has been reduced and the distinction between signals has been simplified.”⁸² Specifically, the “*contra*” signal and arguably the “*e.g.*,” signal,⁸³ have been deleted.⁸⁴ The definitions for [no signal], “*see*,” “*accord*,” and “*but see*” have been altered. The primary fallout from these changes probably will be that the number of “[no signal]” cites will decrease and the number of “*see*” cites will increase, because “*see*” must now be used to show that the cited authority “directly states or clearly supports” the proposition.⁸⁵ Table 1 contains a comparison of introductory signals in the Fifteenth and Sixteenth Editions.

77. See, e.g., *id.* rules 10.9(a)(ii) & 17.3.3.

78. See, e.g., *id.* rules 10.3.1(b), 10.7 & 10.9(a)(ii).

79. See, e.g., *id.* rules 10.9(a) & 12.9(c).

80. For revisions both significant and insignificant, see Appendix A.

81. Revising the introductory signal section appears to be a rite of passage for *Bluebook* editors. Since at least the Seventh Edition, the signals have been changed. See apps. C-1 & C-2 (listing changes in signals from the Seventh Edition through the Fourteenth Edition). According to Colleen Verner of the *Harvard Law Review* Business Office, the first six editions did not contain a section on introductory signals. See *supra* note 17.

82. SIXTEENTH EDITION at v.

83. See *infra* note 89.

84. Compare FIFTEENTH EDITION rule 1.2(a) & (c) with SIXTEENTH EDITION rule 1.2(a) & (c).

85. SIXTEENTH EDITION rule 1.2(a) (emphasis omitted).

Table 1

86 87 88 89 90 91

The editors also rewrote the rule about “signals as verbs.” In the Fifteenth Edition, the rule reads that “‘*See*,’ ‘*but see*,’ and so forth may be used as the verbs of ordinary sentences, in which case they are not italicized ‘*Cf.*’ becomes ‘compare’ when used in this manner.”⁹² The Sixteenth Edition provides:

Signals may be used as the verbs of ordinary sentences, in which case they are not italicized When signals are used as verbs, matter that would be included in a parenthetical explanation should be made part of the sentence itself. . . . ‘*Cf.*’ becomes ‘compare’ and ‘*e.g.*’ becomes ‘for example’ when used in this manner.⁹³

The rules concerning introductory signals are the *Bluebook*

86. Guidelines about when a parenthetical must or should be used are not included because they were not changed in the Sixteenth Edition. *See also* apps. C-1 & C-2 (concerning introductory signals for the Seventh through Fourteenth Editions).

87. All citations in this column are from rule 1.2 in the Fifteenth Edition.

88. All citations in this column are from rule 1.2 in the Sixteenth Edition.

89. The Preface explains that “[u]nder the modified rule, ‘*e.g.*,’ no longer appears as a separate signal but may still be used in conjunction with other signals.” Rule 1.2(e), however, lists “*E.g.*,” as a stand-alone signal. *Compare* SIXTEENTH EDITION at v *with id.* rule 1.2(e).

90. The fact that the “*cf.*” signal was not reworded is surprising because “*cf.*” is the signal with which courts and attorneys seem to have the most difficulty. *See, e.g.*, *Chemical Bank v. Arthur Andersen & Co.*, 726 F.2d 930, 938 n.14 (2d Cir. 1984); *Palmigiano v. Houle*, 618 F.2d 877, 881 n.5 (1st Cir. 1980); *Doleman v. Muncy*, 579 F.2d 1258, 1264 (4th Cir. 1978); *Gates v. Henderson*, 568 F.2d 830, 837–38 (2d Cir. 1977); *Local 194, Retail, Wholesale & Dep’t Store Union v. Standard Brands, Inc.*, 540 F.2d 864, 867 n.4 (7th Cir. 1976); *Givens v. United States*, 644 A.2d 1373, 1376 (D.C. App. 1994) (Mack, S.J., dissenting); *Connell v. Francisco*, 898 P.2d 831, 838 (Wash. 1995) (Utter, J., dissenting); *see also Givens*, 644 A.2d at 1374 n.3 (concerning the “*but cf.*” signal).

As one reviewer observed:

The introductory signals approved by the *Bluebook* have been the source of dispositive judicial debate. A single “*cf.*” signal in a Supreme Court decision fostered extensive scrutiny among the circuits, and, with singular irony, the *Bluebook* was the source of ultimate authority in settling the legal questions raised in the cases.

Peter Phillips, Book Note, 32 N.Y.L. SCH. L. REV. 199, 199–200 (1987) (reviewing the Fourteenth Edition) (footnotes omitted). The case at issue was *Stone v. Powell*, 428 U.S. 465, 494 n.36 (1976). *See* Phillips, *supra*, at 200 n.8.

91. The Sixteenth Edition now illustrates how to use this signal. *See* SIXTEENTH EDITION at 23.

92. FIFTEENTH EDITION rule 1.2(e).

93. SIXTEENTH EDITION rule 1.2(f).

rules referred to most often in court opinions.⁹⁴ This is but one reason why changing the introductory signals every few years destroys uniformity. Authors use signals to indicate the purpose for which an authority is cited and the weight with which an authority supports or contradicts a particular proposition.⁹⁵ Changing what the signals mean effectively changes the substance of our common law.⁹⁶ If a 1932 decision states a proposition, followed by a case introduced by “see,” one would need the Third Edition to determine what degree of support the cited case gives the legal proposition.⁹⁷

Of course, many have no idea that the signals change from edi-

94. See, e.g., *Schmidt v. McCarthy*, 369 F.2d 176, 182 n.18 (D.C. Cir. 1966) (explaining the significance of using “see” before a case cite); *National Org. for Women, Inc. v. Scheidler*, 897 F. Supp. 1047, 1062 n.14 (N.D. Ill. 1995) (concerning “see”); *State v. A.D.H.*, 429 So. 2d 1316, 1318 (Fla. 5th Dist. Ct. App. 1983) (chastising an attorney for failing to follow the *Bluebook’s* introductory signals); *Apgar & Markham Constr., Inc. v. MacAsphalt, Inc.*, 424 So. 2d 41, 42 (Fla. 5th Dist. Ct. App. 1982) (concluding that the “but see” signal indicated that the case cited contradicted the stated proposition); see also *supra* note 90 (concerning “cf.”).

95. See, e.g., TENTH EDITION at 83–84.

96. See Bowler, *supra* note 23, at 701. Bowler agrees that [although signal] changes are subtle and some are arguably of little substance, . . . any change in the longstanding rules for a highly technical and specific system of signals means that signals in one generation of law reviews denote a set of significations that could be inconsistent with the usages known to a later generation. Since the purpose of a signal system is to facilitate an orderly presentation of authority which gives readers the opportunity to reproduce the author’s research and the significance he assigns to his conclusions and authorities, changes in the signals could bring an accurate author’s credibility into question.

Id. At least one court has commented on the ever-changing signal system. See *Willett v. Lockhart*, 37 F.3d 1265, 1268 n.3 (8th Cir. 1994) (commenting on the “cf.” signal as used in two *Bluebook* editions), *cert. denied*, 115 S. Ct. 1432 (1995).

97. See Donald H. Gjerdingen, *A Uniform System of Citation*, 4 WM. MITCHELL L. REV. 499, 510 (1978) (reviewing the Twelfth Edition). This commentator observed that signal changes can change the meaning of a passage:

The tragedy is that one edition’s signals are meaningless to a person schooled in a different edition. Thus to a reader familiar with the Seventh Edition, the footnote citation “*But cf. Jones v. Smith*, 245 Minn. 567, 568, 23 N. W. 2d 490 (1943)” means contrary, distinguishable dictum. But to a reader familiar only with the Twelfth Edition the cite would mean the authority on those pages supports a proposition analogous to the contrary of the position stated in the text (and also that the citation was missing both a jump cite and an explanatory parenthetical, and that spaces between the initials of the regional reporter had been incorrectly inserted).

Id. (footnotes omitted); see also Bowler, *supra* note 23, at 700 (recognizing that “[a] more substantive problem with the Twelfth Edition’s treatment of the signal system lies in the subtle but potentially disruptive alterations in meaning in the signal terms themselves”).

tion to edition to edition. And hardly anyone keeps old *Bluebook* editions lying around. Therefore, most will be surprised to learn that “*see also*” was not a signal option until the 1981 Thirteenth Edition, and that “*see* (no italics)” was a signal from the Eighth Edition in 1949 until the Eleventh Edition was published in 1967.⁹⁸ As one commentator explained, “A signal gives a writer’s analysis of the law. Change the signals and a later reader may misinterpret the meaning of the citation.”⁹⁹ Change the signals and destroy any hope of building a truly uniform citation system.

2. *Public Domain Citations*

Public domain citations appear to be the wave of the future — if not the present.¹⁰⁰ A public domain citation is one that can be used by any publisher “without requiring reference to the proprietary products of any particular publisher.”¹⁰¹ Fortunately, the *Bluebook*

98. See apps. C-1 & C-2. Reviewing the table of historical signals will also show younger lawyers that more experienced lawyers learned (and may still be using) older rules. For example, the *contra* signal has at various times been followed by a comma, a colon, and nothing. See app. C-2.

99. Gjerdingen, *supra* note 97, at 508. In a review of the Eleventh Edition, the signals were humorously (and somewhat accurately) described as follows:

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* 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. *See generally* and *see also* are retained with an apparent acknowledgment that there is no difference between the two.

Lushing, *supra* note 35, at 601; see also Coombs, *supra* note 12, at 1108–11 & n.60 (proposing the following signals: “[w]ill not see in,” “[t]rust me, I’ve looked for it,” “[s]ee, sort of,” “[s]ee, randomly,” “[r]eally should see,” “[p]retend to have seen,” “[d]on’t you wish you could see,” and “[f]eel, e.g.,”); James D. Gordon III, *Oh No! A New Bluebook!*, 90 MICH. L. REV. 1698, 1701 (1992) (reviewing the Fifteenth Edition) (joking that “[t]he *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*.”); cf. Savell, *supra* note 56, at A20 (remarking that “[e]nterprising marketers and propagandists appear to have inserted references to automobile models (‘*Accord*’), political groups (‘*Contra*’), Freudian psychotherapy concepts (‘*Id.*’) and eschatological constructs (‘*Hereinafter*’). There should be absolutely no place for the hawking of wares in the pages of an objective rule book. Where will it all end?”).

100. See Michael Gebhardt, *Vendor-Neutral: A Cite for Sore Eyes*, RECORDER, Aug. 9, 1996, at 4, 4 (recognizing that “[p]ublic domain citation is the future. And frankly, it’s such a simple concept, it should be the present.”).

101. See American Association of Law Librarians Task Force on Citation Formats, March 1, 1995 Report, at 5 [hereinafter AALL Report] (available on the Internet:

editors had the good sense to include a new section on public domain citations. Rule 10.3.1 now includes the following instructions:

If the decision is available as an official public domain citation (also referred to as a medium neutral citation), that citation should be provided instead [of the regional reporter]. A parallel citation to the regional reporter may be provided as well. When citing a decision available in public domain format, provide the case name, the year of decision, the name of the court issuing the decision, and the sequential number of the decision. When referencing specific material within the decision, a pinpoint citation should be made to the paragraph number at which the material appears in the public domain citation. The following fictitious examples are representative of the recommended public domain citation format:

Stevens v. State, 1996 S.D. 1, ¶ 217.

Jenkins v. Patterson, 1997 Wis. Ct. App. 45, ¶ 157, 600 N.W.2d 435.¹⁰²

This rule comes just in time. Many courts are adopting vendor-neutral, or public domain, citation formats — or are at least studying the matter. On January 1, 1994, the United States Court of Appeals for the Sixth Circuit “adopted an optional parallel electronic citation form.”¹⁰³ That same day, Louisiana's public domain ci

<<http://lawlib.wuacc.edu/aallnet/citeform.html>>). Public domain citations are not necessarily vendor-neutral or medium-neutral. For example, “[c]itations to official reporters (Ill. and U.S., for example) are in the public domain.” *Id.* at 6. A “[m]edium neutral citation form” is one “that may be employed to refer to information in either book or electronic form, without additional information needing to be added to either. It may not refer to volumes or pages, for these exist naturally only in the book medium.” *Id.* A “[v]endor neutral citation form” is one that “may contain medium-specific information, but not vendor-specific information. For example, 366 Ark. 1 is a vendor neutral citation; the vendor that publishes Ark. is the lowest bidder, and changes over time. However, 366 Ark. 1 is not medium neutral. 1995 Wis 46 is both vendor and medium neutral. It should be noted that all official reporter citations are vendor neutral.” *Id.*

102. SIXTEENTH EDITION rule 10.3.1(b), at 62. Users should note that Wisconsin has not yet adopted a public domain citation format. *See infra* note 106.

103. Kelly Browne, *The Ins and Outs of a Uniform Citation System*, NAT'L L.J., July 17, 1995, at C5, C5. In 1992, the Judicial Conference of the United States considered changing the citation form for all U.S. Court of Appeals decisions. The new citation form would have been: *Smith v. Jones*, 1990 FED App. 0322P (5th Cir.), where 1990 is the year, 322 is the 332d opinion issued during 1990, and P is for published opinion. This proposed form would have been used only until a West reporter citation became available. Although the Judicial Conference refused to adopt the proposal, it left each federal

tation format took effect.¹⁰⁴ In May 1994, the Colorado Supreme Court ordered that its decisions be numbered by paragraph, stating that the paragraph numbers were acceptable alternative pinpoint citations to West's *Pacific Reporter* page numbers.¹⁰⁵ South Dakota switched to a vendor-neutral format effective January 1, 1996.¹⁰⁶ In May 1995, Wisconsin's Supreme Court decided to archive its opinions electronically for one year and then reconsider a petition by the State Bar and the Wisconsin Judicial Council to adopt a vendor-neutral citation system.¹⁰⁷ California is also considering a vendor-

court free to adopt it individually. To date, only the Sixth Circuit has adopted the rule. See AALL Report, *supra* note 101, at 10. See generally Eric L. Brown, *Inexpensive Computer Research Plan Dealt Death Blow by Judicial Conference of the United States*, N.Y. ST. B.J., Feb. 1993, at 57 (discussing the Judicial Conference's decision and the status of electronic bulletin boards and electronic citations).

104. See Carol D. Billings, *Adoption of New Public Domain Citation Format Promotes Access to Legal Information*, 41 LA. B.J. 557, 557 (1994); Richard C. Reuben, *Numbers to Live By*, A.B.A. J., Oct. 1994, at 22, 22. Louisiana became the first state to adopt its own public domain citation system, implementing it on July 1, 1993 for all cases decided after December 31, 1993. "For cases decided before then, West citations prevail. The new format uses the case name, the date of issue, and the docket number, with pinpoint cites to the slip opinion. For now, lawyers still must use parallel references to West's Southern Reporter." *Id.* "Criticisms of the Louisiana form are that it uses page numbers (of the official slip opinion); that it is lengthy; that it is not medium neutral; and that it is not permanent until the Southern citation appears." AALL Report, *supra* note 101, at 11.

105. See Browne, *supra* note 103, at C5. "Criticisms of this form are that it is not permanent until the Pacific citation appears; and that it is not medium neutral." AALL Report, *supra* note 101, at 11.

106. See Kelly Browne, *Committee on Citation Formats*, 27 AM. ASS'N L. LIBR. NEWSL. 274, 274 (1996); Jill Schachner Chanen, *In the Matter of Cites*, A.B.A. J., Feb. 1996, at 87, 87. "[T]he state bar has been publishing opinions for two years using a sequential case numbering system similar to the one proposed in Wisconsin. Paragraphs also are numbered to provide the pinpoint citation. The South Dakota Supreme Court began issuing opinions using this cite format in January." *Id.*; see also Dana Coleman, . . . *Other States Battling over Universal Citations*, N.J. LAW., July 31, 1995 (LEXIS, NEXIS Library, LREV File) (detailing South Dakota's switch to the vendor-neutral format).

107. See Chanen, *supra* note 106, at 87 (explaining that "[t]he Wisconsin state bar . . . proposed identifying case law by a year, the court issuing the opinion and a sequential number" and that "[e]ach paragraph of the opinion also would be numbered, providing an alternative pinpoint citation"); see also Cary Griffith, *A Vendor/Media Neutral System of Citation?*, INFO. TODAY, Oct. 1994, at 16; John J. Oslund, *Wisconsin High Court Delays Decision on Case Citation Plan; West Publishing Opposes Proposed Change*, STAR TRIB., May 26, 1995, at 1D (both tracing Wisconsin's debate over vendor-neutral citations). As of late September 1996, Wisconsin still had not adopted a vendor-neutral format. Telephone Conversation with the Clerk of the Wisconsin Supreme Court (Sept. 23, 1996). For concerns about and criticisms of Wisconsin's proposed system, see AALL Report, *supra* note 101, at 11-12.

neutral citation format.¹⁰⁸

Within the last two years, two prominent and powerful professional organizations, the American Bar Association¹⁰⁹ and the American Association of Law Librarians,¹¹⁰ passed resolutions calling for a vendor-neutral citation system. The ABA proposal recommends that states adopt a uniform citation system that could eventually eliminate references to bound reporters.¹¹¹ Specifically, the resolution calls for courts to assign permanent citations when cases are decided, as opposed to relying on commercial publishers to designate the citation by placing the case on a certain page, in a certain volume, or in a certain reporter set.¹¹² The change would make on-line systems (such as computer bulletin boards,¹¹³ electronic databases, and the Internet) and CD-ROM products more valuable research tools, because they typically appear before the printed reports.¹¹⁴ In

108. See Robert C. Berring, *California's Rush To Be in the Vanguard of Uniform Citation Might Be Jumping the Gun*, RECORDER, May 15, 1996, at 4, 4 (indicating that "[a] proposal on this issue has been reported on favorably by the California State Bar and is heading for the state Supreme court, which will hold hearings on adopting it").

109. See ABA Special Committee on Citation Issues, Report and Recommendations (May 23, 1996) [hereinafter ABA Report]. The ABA recommendations were passed on August 6, 1996. The recommendations, however, did not have unanimous support. The Conference of Chief Justices, which comprises the top judges in each state, asked the ABA to postpone the vote until the committee recommendation could be further evaluated. In addition, the ABA's intellectual property section formally opposed the plan. See Krysten Crawford & Thomas Scheffey, *ABA Backs Neutral Citation; Delegate Vote, Coupled with DOJ Stance in Suit, Forms Double Blow to West*, LEGAL TIMES, Aug. 19, 1996, at 2.

110. See AALL Report, *supra* note 101.

111. The Report begins: "BE IT RESOLVED, that the American Bar Association recommends that: 1. All jurisdictions adopt a system for official citation to case reports that is equally effective for printed case reports and for case reports electronically published on computer disks or network services" ABA Report, *supra* note 109, at 2.

112. See *id.* The Report recommends that:

- A. The court should include the distinctive sequential decision number . . . in each decision at the time it is made available to the public.
- B. The court should number the paragraphs in the decision.

Id. The Report also indicates that its purpose is to "develop citation methods that work effectively both with books and with computer databases." *Id.* at 3.

113. At least 24 state courts, the U.S. Courts of Appeals, and U.S. Supreme Court now publish decisions on electronic bulletin boards. See *A Non-Lawyer's Look at the Case Citation Controversy; Nonproprietary Legal Case Citation Systems*, SEARCHER, Nov. 1994, at 10, 10.

114. See ABA Report, *supra* note 109, at 3. Many view vendor-neutral citations, or public domain citations, as a direct threat to West's virtual monopoly on primary sources. See Crawford & Scheffey, *supra* note 109, at 2 (observing that the ABA's August 6, 1996 resolution "is a blow to the West Publishing Co., which controls the de facto

jurisdictions in which commercial publishers have copyrighted reporter page numbers, the resolution would open the market to other vendors¹¹⁵ because citations would not rely on West's claimed copyright in its National Reporter System volume and page numbers.¹¹⁶

format for citing federal court decisions"); John E. Morris, *How West Was Won*, AM. LAW., Sept. 1996, at 73, 90.

Should West lose its page number monopoly, the door would be opened for new publishers, who can already obtain the text of many recent decisions electronically via the Internet but who have a hard time competing without the West pagination. With or without its page numbers, electronic dissemination of decisions threatens West's lock on primary materials.

Id.

115. See Edward A. Adams, *ABA Urges Uniform Case Citation System for States*, N.Y. L.J., Mar. 29, 1996, at 1, col. 4, 4, col. 4; Crawford & Sheffey, *supra* note 109, at 2 (quoting Alan Sugarman, president of HyperLaw, Inc., a West competitor, as saying that the ABA resolution "shows that this is a mainstream approach to dealing with citation and the modern dissemination of legal opinions. It strengthens the hand in those states where attorneys and the judiciary want to deal with this."); Gebhardt, *supra* note 10, at 4.

Vendor-neutral citation would inject a much-needed [element] of competition into the legal publishing market. Alert entrepreneurs, unburdened by the overhead of a large corporation, could drastically reduce the price of legal resource materials by introducing lower-cost alternatives. Competition could also only help to serve the important goal of ensuring timely and accurate publication of court decisions.

Id.

116. As one reporter explained:

West citations, ubiquitous in legal discourse in America, list the edition, volume and page number of cases in West-published compilations, just as early volumes of U.S. case law are still referenced by the names of the editors who collected them, often while riding judicial circuits on a horse. No one may sell compilations of cases online or via CD-ROM that incorporate West page numbers without a license from the Minnesota-based concern.

"For over a century, West has . . . [collected] the case law of the United States. For this, they deserve much credit and appropriate reward," Robert L. Oakley, the Washington, D.C., affairs representative for the American Association of Law Libraries, wrote Attorney General Janet Reno Sept. 1, shortly before he was interviewed about the CALR business by Justice Department anti-trust attorneys. "However, West's claim of copyright in the . . . pagination of its volumes, together with [traditional] requirements . . . that pinpoint cites be provided to West products, gives West near monopoly-like power and severely limits the ability of others to enter the market and compete effectively."

Harvey Berkman, *Are Case Cites Public Property?*, NAT'L L.J., Oct. 17, 1994, at A6; see also Reuben, *supra* note 104, at 22 (explaining that "[a]s a private concern, West copyrights its publications, including page numbers. While West does not claim a copyright in the volume and initial page number of an opinion, the Minnesota-based publisher does enforce a copyright to the rest of the pages of the opinion."). See generally L. Ray Patterson & Craig Joyce, *Monopolizing the Law: The Scope of Copyright Protection for Law Reports and Statutory Compilations*, 36 UCLA L. REV. 719 (1989).

If courts adopt the ABA recommendations,¹¹⁷ each individual court would number opinions in the order issued. Within an opinion, each paragraph would be sequentially numbered. The court would require its cases to be cited by year, court designator, sequential decision number, and the paragraph number¹¹⁸ that supports the stated proposition.¹¹⁹ Further, “[u]ntil electronic publications of case reports become generally available to and commonly relied upon by courts and lawyers in the jurisdiction, the court should strongly encourage parallel citations.”¹²⁰ Thus, according to the ABA, a sample citation for the Fifth Circuit would read: “*Smith v. Jones*, 1996 5Cir 15, ¶18, 22 F.3d 955.”¹²¹ A decision from the United States District Court for the Southern District of New York would be cited: “*Smith v. Jones*, 1996 SDNY 15.”¹²² A Maryland Supreme Court case would be cited: “*Smith v. Jones*, 1996 MD 15, 696 A2d 321.”¹²³

In mid-1994, the American Association of Law Librarians

West's claimed copyright has generated heated litigation. Mead Data Central, which offers the LEXIS/NEXIS databases sued West several years ago. But the U.S. Circuit Court of Appeals for the Eighth Circuit ruled for West, finding that West's page-numbering system fell within its copyright. *See West Publ'g Co. v. Mead Data Cent.*, 799 F.2d 1219, 1229 (8th Cir. 1986). West later licensed its page-numbering system to Mead Data. *See Reuben*, *supra* note 104, at 22. Matthew Bender and HyperLaw also have sued to challenge West's copyright to reporter page numbers; that case is currently pending in a New York federal district court. *See Morris*, *supra* note 114, at 19.

117. One problem with the ABA recommendations is that they fail to address how the new format will fit with the *Bluebook*. The format uses some *Bluebook* conventions (such as the abbreviation of F. Supp.) but ignores others (such as the abbreviation of F3d and spacing between a paragraph symbol and number). When presented with this conflict, one member of the ABA committee responded:

The editors of the Blue Book were invited to comment during our proceedings and, I assume, will integrate our conclusions into their formats. I note your comment that our report only incompletely uses Blue Book formats for court names. You are of course correct and I do not have a full response. I can note, however, that we were urged to eliminate as many as possible of the period and spacing intricacies of the Blue Book.

Letter from Prof. Patricia Brumfield Fry to Prof. Darby Dickerson (June 27, 1996) (on file with the *Stetson Law Review*).

118. *See Gebhardt*, *supra* note 100, at 4 (explaining that “[w]hen courts put decisions on an electronic bulletin board and/or Web site, the concept of ‘page’ has no relevance — the new case law is just a long block of text”).

119. *See ABA Report*, *supra* note 109, at 6.

120. *Id.* at 2.

121. *Id.* (the quotation marks are not part of the ABA's proposed citation format).

122. *Id.* at 9.

123. *Id.* app. A, ¶ 3.

(AALL) formed a Task Force on Citations.¹²⁴ The Task Force was created in response to the Sixth Circuit's and the Louisiana Supreme Court's adoption of alternative citation formats.¹²⁵ The AALL Task Force's primary goal was to "consider and develop non-medium dependent citation forms for legal materials."¹²⁶ After examining possible alternatives,¹²⁷ the AALL Task Force proposed the following citation form for case law:

For those jurisdictions considering change to a medium neutral citation form, the Task Force recommends the use of the following case citation form: case name, year of decision, court, opinion number, and, where a pinpoint citation is needed, paragraph number.¹²⁸

Paragraph numbers would begin with the decision's first paragraph; indented quotations and footnotes would not be numbered; and numbering would be consecutive from beginning to end, including concurrences and dissents.¹²⁹ Finally:

124. See AALL Report, *supra* note 101, at 2.

125. *Id.*; see *supra* notes 103–04 and accompanying text.

126. AALL Report, *supra* note 101, at 2.

127. In addition to discussing the systems adopted by Louisiana and Colorado and the system proposed in Wisconsin, the Task Force also examined the "docket number approach" and the "percentage point system." See AALL Report, *supra* note 101, at 13. Under the docket number approach, the case would be designated by its given docket number. This approach was rejected because

docket numbers have no connection with whether a case is published or not; they do not indicate the sequence of publication; they are often quite long numbers, with more possibility for error; in some jurisdictions they are not unique; and they require adding the date to the citation. Using docket numbers would not only require continual revision of . . . each issue of the National Reporter Blue Book, but also official reports and print versions of Shepard's as well. Further, many electronic case law validation and research tools do not work with docket numbers.

Id.

The percentage point system requires that the pinpoint citation be to a percentage of the document length. *Id.*

For example, if the pinpointed material lay at a distance 25.3% [sic] from the beginning of the opinion, the citation would be Smith v. Jones, 513 N.W.2d 723, 24.3 (Iowa 1968); or Smith v. Jones, 1996 Wis 353, 24.3. The advantages of percentage systems are that they are easy to calculate with computers and that they solve the copyright problem. The disadvantages are that they do not work easily with print publications, and would be quite foreign to both attorneys and publishers.

Id.

128. *Id.*

129. See AALL Report, *supra* note 101, at 13.

Each court should have its own abbreviation. Periods should be left off, as they are superfluous. Intermediate appellate court circuits or districts which are not bound by each other's law should state the circuit or district number in parentheses, e.g., La App (5th), US App (8th). Lower courts should use their standard abbreviations, minus Ct., which is superfluous, e.g., Del Fam, Ill Cl, Mass Dist, NY Sup, NY Cl, NY Civ, etc., with any important information following in parentheses.¹³⁰

For statutes, the Task Force recommended that “the actual date of the latest amendment to the statutory section cited should be the one listed in parentheses, for example: 42 U.S.C. 1006 (1/31/94).”¹³¹ The Task Force also studied, but issued no recommendations concerning, session laws,¹³² administrative law,¹³³ administrative decisions and orders,¹³⁴ administrative rules and regulations,¹³⁵ administrative codes,¹³⁶ and secondary authori

130. *Id.*

131. *Id.* at 15 (the trailing period is not part of the recommended citation).

132. *See id.* at 15. The AALL Report states:

Citations to session laws must contain years (or legislative sessions) and sequential numbers for laws. At the federal level, Public Law numbers meet this requirement, but not citations to Statutes at Large, which contain volume and page numbers. Generally, session laws are internally numbered by section numbers, so citations to pages are not necessary.

Id.

133. *See id.* (explaining that “[j]ust as administrative law is similar in form and publication to either case law or statutory law, so deficiencies in current citation practices mirror deficiencies in case and statutory citation form”).

134. *See* AALL Report, *supra* note 101, at 15 (observing that “[a]dministrative decisions and orders can be analogized to cases. Administrative agencies could number their decisions sequentially; some already do. Internally, paragraph numbers should be inserted to end dependence on pages.”).

135. *See id.* at 16. The AALL Report indicates:

Administrative rules and regulations can be analogized to statutes. Registers are similar to session laws, in that adjacent material is essentially unrelated. Registers are different in that material is emanating from many different agencies . . . and also in that registers contain proposed rules, and other types of material . . . and not just the text of laws. The Federal Register . . . assigns each item published an “FR Doc.” number . . . A citation to the Federal Register could thus include this document number and the date of the Register and be unique and complete enough to find either in print or online . . . State registers could work the same way.

Id.

136. *See id.* (stating that “[a]dministrative codes represent the same problems as statutory codes. Using the dating method . . . would work for administrative codes as

ty.¹³⁷ The AALL Executive Board adopted the Task Force's report on November 6, 1994.¹³⁸ Since then, AALL members have been consulting with the ABA about the ABA's proposal.¹³⁹

In light of these changes, the *Bluebook* editors wisely included a new rule on public domain citations.¹⁴⁰ They made a good start upon which future editors will need to build. In the not-so-distant future, the editors inevitably will need to develop public domain citations for all types of legal authorities, not just cases, and may eventually need to replace citations for print sources with public domain citations.¹⁴¹

3. *Subsequent History*

Rule 10.7 now provides that references to denials of certiorari or other discretionary appeals should not be included “unless the decision is less than two years old or the denial is particularly relevant.”¹⁴² This change is particularly welcome because such denials carry no precedential value and do not indicate that the higher court agreed with the lower court's decision.¹⁴³ The exception that denials

well.”).

137. *See id.* (noting that “all secondary authority is copyrighted by someone,” [but that] “secondary authority is being produced and published in electronic form and thus the same problems with citation form arise. For example, researchers who obtain periodical articles from online services do not have internal page numbers to include in their citations.”).

138. *See Fight over Legal Citations Heats up*, SEARCHER, Jan. 1995, at 8, 8.

139. *See Browne*, *supra* note 106, at 274; *see also supra* notes 109–12 (discussing the ABA proposal).

140. *See* SIXTEENTH EDITION rule 10.3.1(b).

141. *See supra* notes 100–04 and accompanying text.

142. SIXTEENTH EDITION rule 10.7. Although the editors failed to explain what “particularly relevant” means, users probably will want to include the *cert. denied* designation (a) when the case in which the subsequent history is particularly important to the author's discussion or analysis, such as when an author prepares a comment on a particular case, and (b) when the Supreme Court issues an opinion explaining why a petition for certiorari was denied or when a dissenting opinion concerning the denial of certiorari has been prepared. *See generally* ROBERT L. STERN ET AL., SUPREME COURT PRACTICE §§ 5.5 & 5.6 (7th ed. 1993).

143. *See Darr v. Burford*, 339 U.S. 200, 227 (1950) (Frankfurter, J., dissenting on denial of *cert.*) (explaining that “[n]othing is more basic to the functioning of this Court than an understanding that denial of certiorari is occasioned by a variety of reasons which precludes the implication that were the case here the merits would go against the petitioner”); *United States v. Carver*, 260 U.S. 482, 490 (1923) (emphasizing that “[t]he denial of a writ of certiorari imports no expression upon the merits of the case, as the bar has been told many times”). *See generally* STERN, *supra* note 142, § 5.7.

should be included if the case is less than two years old is a good one because it informs readers that the lower court's decision has become final.¹⁴⁴ Unfortunately, this change may not have materialized if the *Bluebook's* primary competitor, the *Maroonbook*,¹⁴⁵ had not included the change first.¹⁴⁶

4. Authors' Names

The Sixteenth-Edition editors rewrote the rules about how to cite an author's name.¹⁴⁷ This change was prompted by a Fifteenth-Edition change that was both widely applauded¹⁴⁸ and roundly criticized.¹⁴⁹ Traditionally, the *Bluebook* provided that an author was listed by only his or her last name and a single first initial.¹⁵⁰ The Fifteenth-Edition editors finally¹⁵¹ recognized that using just an author's last name did not give the author just credit for his or her¹⁵² work¹⁵³ and could confuse readers when several authors shared a

144. The editors did a good job conforming examples throughout the Sixteenth Edition to reflect this rule change. However, a few stray "*cert. denied's*" still remain. See, e.g., SIXTEENTH EDITION at 12.

145. See *infra* notes 255–60 and accompanying text (concerning the *Maroonbook*).

146. See UNIVERSITY OF CHICAGO MANUAL OF LEGAL CITATION 17 (*University of Chicago Law Review* and *University of Chicago Legal Forum* eds. 1989) [hereinafter MAROONBOOK]; see also *infra* section VI.

147. See SIXTEENTH EDITION rules 15.1.1, 16.1 & 16.5.1(a).

148. See, e.g., Gordon, *supra* note 99, at 1700; Paulsen, *supra* note 1, at 1792; cf. Savell, *supra* note 56, at A20 (wondering whether the change was made to make authors "more identifiable to talk-show or news-analysis producers in search of 'experts'").

149. See, e.g., Paulsen, *supra* note 1, at 1792–93 (calling the rule "a little too rigid" and wondering: "[A]re we really supposed to provide a first name and middle initial any time we cite a source, even if the author does not provide that information?"); David E.B. Smith, *Just When You Thought It Was Safe To Go Back into the Bluebook: Notes on the Fifteenth Edition*, 67 CHI.-KENT L. REV. 275, 277–78 (1991) (arguing that "[a]uthors should be able to get proper credit for their efforts without having editors mangle their names" (footnotes omitted)); see also *infra* note 154.

150. See, e.g., FOURTEENTH EDITION rule 15.1. Judge Posner recognized that "[t]his is one of the few cases in which the Bluebook sins by omission." Posner, *supra* note 56, at 1345.

151. Some speculate that this change was fueled by the *Bluebook's* chief competitor, the *Maroonbook*, "which instructs users to supply full names in the interest of providing full information." Chen, *supra* note 14, at 1536.

152. See Katharine T. Bartlett, *Feminist Legal Methods*, 103 HARV. L. REV. 829, 829 n.* (1990) (complaining that omitting first names eliminated "one dignified way in which women could distinguish themselves from their fathers and their husbands"); see also Paulsen, *supra* note 1, at 1792.

153. See, e.g., Smith, *supra* note 149, at 278. But see Sirico, *supra* note 3, at 1276 (commenting that "this innovation certainly will make footnotes longer and nurture the

surname.¹⁵⁴ It therefore provided that citations generally¹⁵⁵ should include the first name, middle initial, and last name of those who authored books,¹⁵⁶ articles,¹⁵⁷ student works,¹⁵⁸ and A.L.R. annotations.¹⁵⁹ This change was applauded.¹⁶⁰ However, the Fifteenth Edition dictated that any middle name should be shortened to a middle initial “unless the author uses an initial in place of his or her first name, in which case retain the first initial and the full middle name.”¹⁶¹ This change was criticized.¹⁶² If users followed this rule, they were forced to refer to Justice Oliver Wendell Holmes as Oliver W. Holmes.¹⁶³

On this point, the Sixteenth-Edition editors listened to those who suggested that “[p]erhaps the next edition . . . can simply state the rule as ‘Cite the author's name as the author wants it.’”¹⁶⁴ The Sixteenth Edition now instructs users, when citing a book,¹⁶⁵ period-

egos of cited writers”).

154. See Gordon, *supra* note 99, at 1700 (calling the change an improvement because “[t]here are more than forty law professors named Smith, and of course nonacademics also write articles. I have a suspicion that the fourteen other law professors who share my surname have been really ticked off at me until now.” (footnotes omitted)); Posner, *supra* note 56, at 1345 (urging that an author's full name be given — especially “in an era of multiple Ackermans, Dworkins, Epsteins, Whites, [and] Schwartzes” — “so that the reader will be in no doubt who the author is — a bit of information that may tell him how much weight he wants to give the citation and whether he wants to look it up”); Paulsen, *supra* note 1, at 1792 (agreeing that “first names help”). *But see* Sirico, *supra* note 3, at 1276. Sirico remarked:

I do not understand why the reader needs this information in a citation. He or she can find it by checking the cited material. In those occasional instances when the writer wants to insure that the reader knows the cited author is a prominent individual — for example, Harry W. Jones and not Buster Jones — the savvy writer can find a way to convey this information.

Id. (footnote omitted).

155. As always, exceptions were noted. See Fifteenth Edition text accompanying *infra* note 156.

156. See FIFTEENTH EDITION rule 15.1.1.

157. See *id.* rule 16.1.

158. See *id.* rule 16.5.1(a).

159. See *id.* rule 16.5.5.

160. See *supra* note 148.

161. *Id.* rule 15.1.1. Some construed the “middle initial only” rule as antifeminist. See, e.g., Ruth Colker, *An Equal Protection Analysis of United States Reproductive Health Policy: Gender, Race, Age, and Class*, 1991 DUKE L.J. 324, 324 n.*.

162. See *supra* note 149.

163. The Fifteenth Edition uses this example in rule 15.5.1(b).

164. Smith, *supra* note 149, at 278.

165. See SIXTEENTH EDITION rule 15.1.1.

ical,¹⁶⁶ student work,¹⁶⁷ or A.L.R. annotation,¹⁶⁸ to “always give the author’s full name as it appears on the publication.”¹⁶⁹ Now we may refer to Oliver Wendell Holmes,¹⁷⁰ John Hart Ely,¹⁷¹ Charles Alan Wright,¹⁷² Justice Ruth Bader Ginsburg,¹⁷³ and many others as we have come to know them and as they wish to be known. This is the way it should be. Bravo.

5. *Legislative Material*

The editors revised and expanded rule 13 concerning legislative materials. First, the editors modified rule 13 to eliminate the identification of the session number for federal legislative materials when the reader can infer the session from the remainder of the citation.¹⁷⁴ Consequently, a citation to a federal unenacted bill will read:

H.R. 3055, 94th Cong. § 2 (1976).¹⁷⁵

Not: H.R. 3055, 94th Cong., 2d Sess. § 2 (1976).¹⁷⁶
A U.S. Senate report will be cited:

S. REP. NO. 84-2, at 7 (1955).¹⁷⁷

166. *See id.* rule 16.1

167. *See id.* rule 16.5.1.

168. *See id.* rule 16.5.5.

169. SIXTEENTH EDITION rule 15.1.1. The new rule also applies to editors and translators. *See id.* rule 15.1.2 (instructing users to “always give the full name of an editor or translator according to **rule 15.1.1**”).

170. *See id.* at 12, 108.

171. *See id.* at 35, 36, 109.

172. *See id.* at 103.

173. *See id.* at 113.

174. *See* SIXTEENTH EDITION rule 13. This rule explains:

[I]nclude parenthetically the session number for both House and Senate materials published before the 60th Congress (1907), House Reports published before the 47th Congress (1881), and Senate Reports published before the 40th Congress (1847). For House and Senate materials published after these dates, the session number can be inferred from the year of publication: first sessions always fall in odd numbered years, while second sessions always fall in even numbered years.

Id.

175. SIXTEENTH EDITION Quick Reference: Law Review Footnotes.

176. FIFTEENTH EDITION Quick Reference: Law Review Footnotes.

177. SIXTEENTH EDITION rule 13.4, at 91.

Not: S. REP. NO. 2, 84th Cong., 1st Sess. 7 (1955).¹⁷⁸

In addition, the editors augmented narrative instructions for citing state legislative materials and added examples illustrating the rules.¹⁷⁹ Unfortunately, citations to state legislative material must include a session number,¹⁸⁰ thus making state and federal citation forms inconsistent and more difficult to remember.¹⁸¹

6. *Internet Material*

Another evolutionary change is found in newly-added rule 17.3.3, which instructs users how to cite Internet sources.¹⁸² The rule begins:

Because of the transient nature of many Internet sources, citation to Internet sources is discouraged unless the materials are unavailable in printed form or are difficult to obtain in their original form. When citing to materials found on the Internet, provide the name of the author (if any), the title or top-level heading of the material being cited, and the Uniform Resource Locator (URL). The Uniform Resource Locator is the electronic address of the information and should be given in angled brackets. For electronic journals and publications, the actual date of publication should be given. Otherwise, provide the most recent modification date of the source preceded by the term “last modified” or the date of access preceded by the term “visited” if the modification date is unavailable:

Mark Israel, *The alt.usage.english FAQ File* (last modified Nov. 17, 1995) <ftp://rtfm.mit.edu/pub/usenet/alt.usage/english/alt.usage.english_FAQ>.

Scott Adams, *The Dilbert Zone* (visited Jan. 20, 1996) <http://www.unitedmedia.com/comics/dilbert>.¹⁸³

178. FIFTEENTH EDITION rule 13.4, at 88.

179. See SIXTEENTH EDITION rules 13.2(c) & 13.4(d).

180. See *id.* rules 13.2(c) & 13.4(d).

181. See *id.* rule 13.7(c) (showing complete citation forms and short citation forms for both federal and state legislative materials).

182. See SIXTEENTH EDITION rule 17.3.3.

183. SIXTEENTH EDITION rule 17.3.3; see also Michael A. Arnzen, *Cyber Citations*, INTERNET WORLD, Sept. 1996, at 72, 72 (suggesting that Internet users “save or print all documents [they] intend to cite,” instructing users to “[r]efer to a printed source, if available,” and advising that users should “[o]pt for signed articles whenever possible” be-

The new rule also provides the following information about citing e-journals:

Citations to journals that appear only on the Internet should include the volume number, the title of the journal, and the sequential article number. Pinpoint citations should refer to the paragraph number, if available:

Dan L. Burk, *Trademarks Along the Infobahn: A First Look at the Emerging Law of Cybermarks*, 1 RICH. J.L. & TECH. 1, ¶ 12 (Apr. 10, 1995)
<<http://www.urich.edu/~jolt/vlil/burk.html>>. ¹⁸⁴

Although rule 17.3.3 provides a decent start, it is fairly limited. The next *Bluebook* editors need to go further and provide information and examples concerning other Internet materials — such as how to cite a Web site or Gopher — and other electronic materials, such as e-mail.¹⁸⁵ The editors might also consider adding a rule concerning parallel electronic and hard-copy citations, so users may choose which type of source to access.

C. Other Notable Changes

1. Textual Material in Footnotes

The Sixteenth Edition clarifies how certain material should be treated when it appears as textual material in footnotes. First, rule 2 has been reworked.¹⁸⁶ It now expressly distinguishes between textual material in the main text of a law-review article and textual material in the footnotes of a law-review article.¹⁸⁷ Whereas the

cause on the Internet “anyone can publish anything”).

184. SIXTEENTH EDITION rule 17.3.3. For a list of e-journals, visit the following Web site: <<http://www.urich.edu/~jolt/other.html>>.

185. The following sources contain additional information about how to cite electronic and Internet sources: ANDREW HARNACK & GENE KLEPPINGER, BEYOND THE MLA HANDBOOK: DOCUMENTING ELECTRONIC SOURCES ON THE INTERNET (visited Oct. 20, 1996) <<http://falcon.eku.edu/honors/beyond-mla>>. See generally Arnzen, *supra* note 183, at 74 (describing several electronic citation manuals and providing the Internet address for each).

186. See SIXTEENTH EDITION rule 2; see also *infra* app. A.

187. See SIXTEENTH EDITION rule 2.2.

Fifteenth Edition instructed users to abbreviate case names that appeared in footnote text when “only one of the two adversary parties is named or when no citation is given”¹⁸⁸ — meaning that regular roman typeface would be used when both parties' names appeared within a citation — the Sixteenth Edition calls for italics “[w]hen a case name is grammatically part of the sentence in which it appears.”¹⁸⁹ The Sixteenth Edition's rule is easier to remember and eliminates an unnecessary distinction.¹⁹⁰

In addition, rule 6.2(b) now instructs users to spell out the words “section” and “paragraph” in the text, “whether main text or footnote text.”¹⁹¹ This change also eliminates unnecessary distinctions between the text and footnotes of a law-review article. Unfortunately, the editors forgot to revise rule 12.9, which is cross-referenced in rule 6.2(b). Rule 12.9(c) still provides that “except when referring to the U.S. Code provisions, the word ‘section’ should be spelled out in law review text and footnote text.”¹⁹² Surely the editors intend for rule 6.2(b) to control; otherwise, they would not have added the language concerning state codes.

2. *Endnotes and Graphical Material*

Recognizing that some publications use endnotes as opposed to footnotes and that many authors now append graphical material to papers, the *Bluebook* editors expanded the scope of rule 3.3, which is now entitled “Pages, Footnotes, Endnotes, and Graphical Materials.”¹⁹³ The endnote rule is clear and straightforward; it instructs users: “To cite to an endnote, give the page on which the endnote appears (not the page on which the call number appears), ‘n.’ and the endnote number, with no space between ‘n.’ and the number.”¹⁹⁴ Thus, a cite for an endnote will look just like a cite for a footnote.¹⁹⁵

The new rule on citing graphical material is also clear and straightforward: “When citing tables, figures, charts, graphs, or

188. FIFTEENTH EDITION rule 2.2(b).

189. SIXTEENTH EDITION rule 2.2(b)(i).

190. Many other rules now conform to the new “main text” and “footnote text” division. *See, e.g.*, SIXTEENTH EDITION rules 12.9 & 13.7.

191. *Id.* rule 6.2(b).

192. *Id.* rule 12.9(c), at 87.

193. SIXTEENTH EDITION rule 3.3.

194. *Id.* rule 3.3(c).

195. *Compare id.* rule 3.3(b) example *with id.* rule 3.3(c) example.

other graphical materials, give the page number on which the graphical material appears and the designation, if any, provided in the source. Use the abbreviations in **table T.16**.¹⁹⁶ Table 16 contains abbreviations such as “fig.” for “figure”; “fol.” for “folio”; “illus.” for “illustration”; and “tbl.” for “table.”¹⁹⁷ Thus, a table might be cited:

Kevin M. Clermont & Theodore Eisenberg, *Xenophilia in American Courts*, 109 HARV. L. REV. 1120, 1131 tbl.2 (1996).¹⁹⁸

3. Referencing Districts or Departments

Rule 10.4(b) provides that “[w]hen the department or district is of particular relevance, that information should be indicated.”¹⁹⁹ It is sometimes important to know which division of a court — for example, the Florida Second District Court of Appeal as opposed to the Florida Third District Court of Appeal — decided the case. The Sixteenth Edition now illustrates how that additional information can be conveyed.²⁰⁰

4. Short Cites for Cases

The editors made one completely unnecessary change and one very needed change regarding short cites for cases. First the unnecessary change. Rule 10.9(a) now provides:

In law review footnotes, a short form for a case may be used if it clearly identifies a case that is either already cited in the *same* footnote, is cited (in either full or short form, including “*id.*”) in a *manner such that it can be readily found in one of the preceding **five** footnotes*, or is named in the *same general textual discussion* to which the footnote is appended.²⁰¹

196. *Id.* rule 3.3(e).

197. SIXTEENTH EDITION T.16.

198. *Id.* rule 3.3(e) example.

199. SIXTEENTH EDITION rule 10.4(b).

200. *See id.* (using as an example: “Schiffman v. Corsi, 50 N.Y.S.2d 897 (Sup. Ct. N.Y. County 1944).”).

201. SIXTEENTH EDITION rule 10.9(a) (bold emphasis added); *see also id.* rule 12.9(c) (same rule, but regarding statutes).

The rule is exactly as it appears in the Fifteenth Edition, except that the Fifteenth Edition used the number four instead of five.²⁰² This is exactly the type of change the editors should have avoided. There is no apparent reason for the change. This change appears to have been made merely for the sake of change. Many people memorized the “four” rule and must now unlearn that rule and remember the “five” rule — and for no reason other than the new *Bluebook* says so.

The editors redeemed themselves one page later. Rule 10.9(a)(ii) now explains how to short cite cases available on an electronic database. Writers should “use a unique database identifier, if one has been assigned.”²⁰³ The examples given are analogous to other short cites:

Clark v. Homrighous, No. CIV.A.90-1380-T, 1991 WL 55402,
at *3 (D. Kan. Apr. 10, 1991)

becomes: *Clark*, 1991 WL 55402, at *2.

Albrecht v. Stanczek, No. 87-C9535, 1991 U.S. Dist. LEXIS
5088, at *1 (N.D. Ill. Apr. 18, 1991)

becomes: *Albrecht*, 1991 U.S. Dist. LEXIS 5088, at *2.²⁰⁴

Given the increasing number of cases available only in electronic databases, this addition fills an important gap.

5. *Foreign Material*

The editors made positive changes in the *Bluebook* sections that cover materials from other countries. They updated the table of countries to reflect newly created sovereigns.²⁰⁵ They similarly updated the table of foreign jurisdictions.²⁰⁶ Most importantly, for many foreign sources, Table 2 now provides citation formats for each individual country, so guessing and discretion should be minimized.²⁰⁷ As the *Bluebook* editors explained, “**Rule 19** has been

202. See FIFTEENTH EDITION rule 10.9.

203. SIXTEENTH EDITION rule 10.9(a)(ii).

204. *Id.*

205. See SIXTEENTH EDITION T.10.

206. See *id.* T.2.

207. See *id.*

modified and now requires that citations to foreign materials conform as closely as possible to local citation practice of the jurisdictions whose material is being cited.²⁰⁸ Users can also take comfort in the fact that a group of outside experts assisted the *Bluebook* editors in revising the foreign materials.²⁰⁹

6. *Parallel Citations to U.S. Supreme Court Cases*

Table 1 no longer states: “Do not give a parallel citation” when citing U.S. Supreme Court cases.²¹⁰ However, examples in the *Bluebook* continue to use only the United States Reporter cite. Since the editors did not explain this omission, readers will be left to wonder whether they omitted the language accidentally or intentionally.

7. *Table Numbering*

Former Table 14, “Periodicals in Foreign Languages,” has been eliminated.²¹¹ Although the editors offer no explanation, one might assume that the table was deleted because it was used infrequently. Because of this change, readers should note that all remaining tables have been renumbered. Therefore, Table 14 is now “Publishing Terms,” Table 15 is now “Services,” and Table 16 is now “Subdivisions.”²¹²

D. Overall Critique of Sixteenth-Edition Changes

Changes in the Sixteenth Edition are truly a mixed lot. Some changes — such as the addition of public domain citation formats²¹³ and examples of Internet citations²¹⁴ — are evolutionary and beneficial. Other changes — such as changing how many consecutive *id.*'s

208. *Id.* at vi.

209. *See id.* at vi. For example, Jarka Looks is a lawyer and librarian at the Swiss Institute of Comparative Law in Lausanne, Switzerland. *See* <<http://www.zsz.ch:888/Lcn>>. Vratislav Pechota is the assistant director of the Parker School of Comparative Law at Columbia University. *See* <<http://www.jurispub.com/ptot/p/arb3.htm>>.

210. Compare FIFTEENTH EDITION T.1, at 165 with SIXTEENTH EDITION T.1, at 165.

211. Compare FIFTEENTH EDITION T.14 (“Periodicals in Foreign Languages”) with SIXTEENTH EDITION T.14 (“Publishing Terms”).

212. *See* SIXTEENTH EDITION at vi; *see also* app. A (listing other changes in the tables).

213. *See supra* notes 100–41 and accompanying text.

214. *See supra* notes 182–85 and accompanying text.

can be used in law-review footnotes²¹⁵ — serve no apparent purpose and are detrimental. Although the Sixteenth-Edition editors did a fair job of not making changes solely for the sake of change, they sinned at least to some extent. It is these changes that add to the un-uniformity of the United States citation system.

Even if not perfect,²¹⁶ to have a truly uniform citation system, we must have some sense of history and tradition upon which to rely. Stated differently:

[W]hen . . . a standard is altered, confusion and distraction arise as those mechanical matters formerly submerged into the subconscious are evoked once more by unfamiliarity. The promulgation of a new standard . . . forces those who have mastered the obscurities of the old standard to start the bedeviling learning process anew.²¹⁷

The editors cannot continue to change the citation system every five years.²¹⁸ The tinkering must stop.²¹⁹

215. See *supra* notes 201–02 and accompanying text.

216. See Phillips, *supra* note 90, at 201 (explaining that “a uniform system of citation need not be rational to be useful. It is the nature of uniformity that, at times, consistency prevail over logic”).

217. Smith, *supra* note 149, at 275 (footnote omitted); see also Gjerdingen, *supra* note 97, at 503 (explaining that “[t]o be useful, a system of citation must serve several needs. First, it must be workable. It should treat questions of citation in proportion to their occurrence and require only information of practical significance. A successful system of citation must be capable of use by practitioners and law review editors alike.”); Gralley & Aisenbrey, *supra* note 21, at 874 (warning that “[t]hose who have committed prior editions to memory may shrink from the prospect of reindoctrination”); Sackett, *supra* note 37, at 140 (referring to the “transient disorientation caused by a new edition”).

218. See Phillips, *supra* note 90, at 201 (complaining: “But now we are advised from Parnassus-on-the-Charles that the strict rules set forth in 1981 are being replaced by new strict rules. Why? No explanation is given.” (footnote omitted)).

219. Sirico, *supra* note 3, at 1279. Sirico explained:

Intricate rules apparently do something to the psyche that compels tinkering. Even when a change has a rationale that is arguably functional, the rationale is often exceedingly thin. . . . The preoccupation with fiddling turns the best and brightest law students into players of a small, elaborate game of trivia. I have little hope that the sixteenth edition will have fewer rules and fewer trivial changes.

Id.

IV. THE BLUEBOOK EDITORS DO NOT FOLLOW THE
“UNIFORM” RULES

Despite their desire to make the *Bluebook* the sole arbiter of legal citation form in the United States, even the four schools that produce the *Bluebook* do not always agree on style and do not always follow its rules. In a 1991 article, a former *Harvard Law Review* executive editor disclosed that “Columbia . . . fails to use roman, italic, and large and small capitals as the *Bluebook* commands,”²²⁰ that Harvard compiles its own “common law” interpretations of vague and ambiguous rules in a document called the *Executive Editor Handbook*,²²¹ and that *Harvard Law Review* ignores many rules it champions in the *Bluebook*.²²² Another author noted that *Harvard Law Review* does not follow the multiple author directive²²³ contained in rule 15.1.1.²²⁴ If the editors do not follow their own rules, why should they expect others to? More importantly, if they use different rules, how can they claim the *Bluebook* system is uniform?

220. Chen, *supra* note 14, at 1531.

221. *See id.* at 1531 & n.13.

222. *See id.* at 1531. With regard to the Fifteenth Edition, Chen explained that: *Bluebook 15*'s examples on the use of parentheticals contradict the *Harvard Law Review*'s practice *Bluebook 15* may not believe in the use of articles within parentheticals, but Harvard does. Other examples abound. . . . [T]he example *Bluebook 15* gives to illustrate the line between “contra” and “but see” would be incorrect at the *Harvard Law Review*. . . . [and] “accord” and “contra” have fallen into nearly complete disuse at Harvard.

Id.

223. This rule states: “If a work has more than two authors, use the first author's name followed by “ET AL.” SIXTEENTH EDITION rule 15.1.1.

224. *See* Paulsen, *supra* note 1, at 1793 & n.86. This author wrote:

Let us say, hypothetically speaking, that Arthur (sorry, “Arthur R.”) Miller were to submit an article to the *Harvard Law Review* and cite sources such as “Wright, Miller & whomever.” Under a new *Bluebook* rule for multiple-author works . . . , because “Wright, Miller & whomever” are more than two authors, everybody but “Wright,” including famous-Harvard-Law-professor-and-grader-of-student-papers Arthur Miller, would just become another “et al.” In any event, for some mysterious reason, the new “et al.” rule has already been scrapped at Harvard.

Id. at 1793 (footnotes omitted).

V. *THE BLUEBOOK IS NOT A UNIFORM GUIDE FOR PRACTITIONERS*

For decades, the *Bluebook's* sole purpose was to instruct law-review members how to cite sources in the footnotes of leading articles.²²⁵ It was not concerned with papers filed with courts.²²⁶ Beginning with the Twelfth Edition, however, it started to include citation information for legal memoranda, briefs, and court documents.²²⁷ Although the Sixteenth Edition does a better job than its predecessors, the *Bluebook* editors — who presumably have not practiced law — do not adequately explain that if practitioners blindly follow *Bluebook* rules, they may find themselves incurring a judge's wrath.

The *Bluebook*, in the Practitioners' Notes, now warns attorneys:

*Make sure that you are familiar with and abide by any additional or different citation requirements of the court to which the document is to be submitted. If you are not certain about what a court requires, you should consult with someone who is familiar with the court's rules or with the clerk of the court.*²²⁸

In addition, Table 1 — before the Alabama listing — states that “in-state abbreviation and citation conventions may differ from those listed in this table.”²²⁹ However, the *Bluebook* then purports to instruct attorneys how to cite sources in documents submitted to courts in each listed jurisdiction.²³⁰

Although some courts have adopted the forms articulated in the *Bluebook*, many states have enacted rules requiring attorneys to cite sources in ways that deviate from pure *Bluebook* form.²³¹ And court rules trump the *Bluebook* every time.²³² Unfortunately, the *Bluebook*

225. See app. D (reflecting the *Bluebook's* stated purpose).

226. See *id.*

227. See *supra* note 49.

228. See SIXTEENTH EDITION at 11.

229. *Id.* at 170.

230. See *id.* T.1.

231. See apps. B-1 to B-3.

232. As one attorney recalled:

Having earned their wrath, I left law school a Bluebookophile, ready to educate bar examiners and practitioners on the proper way to do things. My first shock came when the judge for whom I was clerking returned a draft memorandum with my *sees* changed to sees. “Improper,” said I, making reference to pages 6 and 7 of the “Bible.” “I don't care,” said he, making reference to his 25 years experience as appellate lawyer and judge. His sees would never

does not include, or even reference, these controlling rules and statutes, even though such information is readily available and could be easily added.²³³ Accordingly, the *Bluebook* does not contain a uniform citation system — because it does not conform to controlling, mandatory rules by which practitioners must abide.

VI. COMPETITION AND UN-UNIFORMITY

Another reason that the *Bluebook* is truly not a uniform system is that competitive citation systems did and still do exist.²³⁴ For many years, the chief alternative²³⁵ to the *Bluebook* was Miles O. Price's *A Practical Manual of Standard Legal Citations*.²³⁶ According to one citation historian:

In the late 1940s, complaints about the “Harvard Citator” were frequent, especially among practitioners and beginning law students. In the course of preparing *Effective Legal Research* along with Harry Bitner, Price developed a citation manual, which was separately published in 1950, with a second edition in 1958. He based it primarily on citation practices he found in briefs.²³⁷

Price's guide was clearly written and gave many examples; it even showed users how to place cites within a brief.²³⁸ According to Price,

be sees, you see. He had a good point. How many of us see?
Parnley, *supra* note 56, at 450; see also *Oasis Publ'g Co. v. West Publ'g Co.*, 924 F. Supp. 918, 921 (D. Minn. 1996) (complaining that the Fifteenth Edition “does not direct citation to, or even mention the [official reporter] Florida Cases”); Campano, *supra* note 59, at 629.

[A]s omnipotent as prior renditions of *The Bluebook* purported to be, they never really had authoritative impact upon practitioners in the many jurisdictions, who generally followed local tradition. To the best of my knowledge, no argument has ever been precluded, or case lost, as a sanction for ignoring *The Bluebook*.

Id.

233. See apps. B-1 to B-3 (compiling court rules and statutes concerning citation format).

234. See *supra* note 13. One scholar discovered that “[l]egal citation manuals . . . were rare before the twentieth century. A simple one consisting of only nineteen short rules was published by the Reporter of the Nebraska Supreme Court in the 1890s. In the early twentieth century, the Judge Advocate General's office also compiled a citation manual.” Cooper, *supra* note 13, at 20–21 (footnotes omitted).

235. Cooper, *supra* note 13, at 22.

236. MILES O. PRICE, *A PRACTICAL MANUAL OF LEGAL CITATIONS* (1st ed. 1950).

237. Cooper, *supra* note 13, at 22 (footnote omitted).

238. See *id.*; see also *supra* note 236.

his manual “was widely adopted in legal writing courses and by the bar.”²³⁹ The latest version of Price's manual appeared in the 1979 version of *Effective Legal Research*.²⁴⁰

Other citation manuals have been prepared for typewritten work,²⁴¹ for briefs,²⁴² for particular jurisdictions,²⁴³ for government publications,²⁴⁴ and for international materials.²⁴⁵ In addition, some law review staffs, including those at St. John's,²⁴⁶ Ohio Northern University,²⁴⁷ the University of Florida,²⁴⁸ the University of Louisiana,²⁴⁹ and the University of Texas,²⁵⁰ have published adaptations of or supplements to the *Bluebook*.²⁵¹ Other law reviews, including the *Berkeley Journal of Employment and Labor Law*,²⁵² have developed their own lists of deviations from the *Bluebook*²⁵³ or follow the *Bluebook* sometimes, but not always.²⁵⁴

In 1986, the *Bluebook's* most serious challenger emerged when the various University of Chicago law journals, with the support of

239. Cooper, *supra* note 13, at 22 & n. 162 (citing: Letter from M. Price to Legal Bibliography Teachers (July 12, 1956)).

240. See MILES O. PRICE ET AL., *EFFECTIVE LEGAL RESEARCH* ch. 32 (4th ed. 1979).

241. See, e.g., C. EDWARD GOOD, *CITING AND TYPING THE LAW* (3d ed. 1992).

242. See, e.g., EDWARD D. RE & JOSEPH R. RE, *LAW STUDENTS' MANUAL ON LEGAL WRITING AND ORAL ARGUMENT* (4th rev. ed. 1974).

243. See, e.g., *infra* app. B-1 notes 400 & 406.

244. See GEORGE D. BRIGHTBILL & WAYNE C. MAXSON, *CITATION MANUAL FOR UNITED STATES GOVERNMENT PUBLICATIONS* (1974).

245. See, e.g., *International and Foreign Law Citator*, 6 VA. J. INT'L L. app. (1966); *Draft Selections: A.S.I.L.S. International Law Citation Manual*, 2 ASILS INT'L L.J. 53 (1978).

246. See *infra* app. B-1 note 406.

247. See *infra* app. B-1 note 408.

248. See *infra* app. B-1 note 403.

249. See *infra* app. B-1 note 404.

250. See *infra* app. B-1 note 411. As law librarian Richard L. Bowler explained in his 1977 *Bluebook* review, this guide was “the outgrowth of an article by Judge Greenhill . . . of the Texas Supreme Court, who set out a rather complete system of citation for Texas lawyers. Greenhill, *Uniform Citation for Briefs*, 27 TEX. B.J. 323 (1964).” Bowler, *supra* note 23, at 696 n.3.

251. See generally Teitelbaum, *supra* note 53, at 265.

252. See 16 BERKELEY J. EMP. & LAB. L. vi (1995) (offering to send authors “a style sheet listing the Journal's departures from Bluebook style”).

253. See, e.g., 42 LOY. L. REV. ii (1996) (modifying citations for Louisiana appellate courts).

254. See, e.g., 20 OKLA. CITY U. L. REV. iv (Spring 1994) (indicating that “[t]he text and footnotes in the *Oklahoma City University Law Review* conform to *The Bluebook* . . . except where common sense dictates otherwise”); 43 UCLA L. REV. ii (Apr. 1996) (informing potential authors that citations “conform generally” to the *Bluebook*).

several commercial publishers,²⁵⁵ unveiled *The University of Chicago Manual of Legal Citation*, also known as the *Maroonbook*.²⁵⁶ Some viewed the *Maroonbook* as the savior from the more rigid *Bluebook*.²⁵⁷ Weighing in at a “shockingly slim”²⁵⁸ sixty-three pages, the *Maroonbook* sought to “provide[] a simple, workable system of citation for legal writing,”²⁵⁹ and to encourage users to “adapt the rules to the particular needs of their formats.”²⁶⁰

Although the *Maroonbook* has its admirers, the number of converts is relatively few. *Vanderbilt Law Review*,²⁶¹ *Berkeley Women's Law Journal*,²⁶² and *The Supreme Court Review*²⁶³ have switched.²⁶⁴

255. The publishers are Lawyers Co-operative Publishing Co., Bancroft-Whitney Co., and Mead Data Central, Inc. See UNIVERSITY OF CHICAGO MANUAL OF LEGAL CITATION title page (*University of Chicago Law Review* and *University of Chicago Legal Forum* eds. 1989) [hereinafter MAROONBOOK].

256. The *Maroonbook* first appeared as an appendix to Richard A. Posner, *Goodbye to the Bluebook*, 53 U. CHI. L. REV. 1343 (1986). In 1989, it was published as a separately-bound booklet. See MAROONBOOK, *supra* note 255, title page.

257. See Douglas Laycock, *The Maroonbook v. The Bluebook: A Comparative Review*, 1 SCRIBES J. LEGAL WRITING 181, 181 (1990) (welcoming a second citation manual “[b]ecause the first one has become a monstrosity, consuming vast amounts of scarce time and some amount of scare dollars and sabotaging its basic purpose”); Posner, *supra* note 56, at 1343. *But see* Bryan A. Garner, *An Uninformed System of Citation: The Maroonbook Blues*, 1 SCRIBES J. LEGAL WRITING 191, 191, 193–94 (1990) (explaining that the “*Maroonbook* would unsettle us all by replacing our old standards with new illusory ones, these based on individual discretion” and that this discretion may hinder computer research).

258. Letter from Tom Dupree, Editor, *University of Chicago Law Review*, to ABA Special Committee on Citation Issues (July 21, 1996) (copy on file with the *Stetson Law Review*).

259. MAROONBOOK, *supra* note 255, at 7.

260. *Id.* A current *University of Chicago Law Review* editor has written that the *Maroonbook* reflects

our belief that a citation system should prize ease of reference and internal consistency within a journal over a rigid adherence to form. We also believe that our writers and editors should devote their time to writing and editing, rather than spend hours slogging through the *Bluebook* to unearth an answer. Since it is neither possible nor desirable to craft a rule for every citation problem that could arise, the *Maroonbook* grants writers and editors a fair amount of discretion. This above all: Be clear, sensible, and consistent.

Dupree, *supra* note 258.

261. See 49 VAND. L. REV. i (Jan. 1996) (indicating that “[t]he *Review* will convert accepted articles to the *University of Chicago Manual of Legal Citation* style”).

262. See 6 BERKELEY WOMEN'S L.J. i (1990–91) (stating that “[c]itations generally follow *The University of Chicago Manual of Legal Citation*”).

263. See generally 1995 SUP. CT. REV. 1 (evidencing *The University of Chicago Manual of Legal Citation* form throughout).

264. *Duquesne Law Review* switched to the *Maroonbook*, but then switched back to

But most law reviews still cling to the *Bluebook*, flaws and all. Why? Four reasons come immediately to mind.

First, Harvard's allure attracts followers. For generations, other law reviews have emulated the *Harvard Law Review*. Harvard is still the top-ranked law review,²⁶⁵ so why tinker with success? Try to emulate number one.²⁶⁶ Second, many editors were forced to learn the *Bluebook* as part of their first-year curriculum and have no desire to learn another citation system.²⁶⁷ Third, because the *Maroonbook* gives more leeway than the *Bluebook*, it is more difficult for editors to point to "the answer" when dealing with authors or other staff members. Whereas the *Bluebook* is the book that ends arguments,²⁶⁸ the *Maroonbook* may be the book that perpetuates them.²⁶⁹ Finally, judges and practitioners have not widely adopted the *Maroonbook*.²⁷⁰ Thus, many law schools have been reluctant to switch from the *Bluebook*, realizing that teaching only the *Maroonbook* may place their graduates at a disadvantage.²⁷¹

the *Bluebook*. Compare 30 DUQ. L. REV. vii (1991) (indicating that citations should conform to the *University of Chicago Manual of Legal Citation*) with 34 DUQ. L. REV. iv (1996) (indicating that citations should conform to the *Bluebook*). Some commercial publishers, such as Lawyers Co-operative, also follow *Maroonbook* form. Telephone conversation with Tom Dupree, Editor, *University of Chicago Law Review* (Sept. 6, 1996); see also Cooper, *supra* note 13, at 21 (stating that "[p]ublishers of law books generally do not use the 'Harvard Citator' and prefer instead to employ citation formats that facilitate the use of their other publications").

265. See Colleen M. Cullen & S. Randall Kalberg, *Faculty Scholarship Survey: Chicago-Kent Law Review Faculty Scholarship Survey*, 70 CHI-KENT L. REV. 1445, 1454 tbl.III (1995).

266. See Gjerdingen, *supra* note 97, at 501 (explaining that "most treat A *Uniform System of Citation* as scripture. This may be due in part because the *Columbia Law Review*, *Harvard Law Review*, *University of Pennsylvania Law Review*, and *Yale Law Journal* stand behind it . . .").

267. A current editor at the *University of Chicago Law Review* takes issue with this point. See Dupree, *supra* note 258 (writing that "[a]fter our staffers' initial reluctance to master a different citation system, they come to appreciate the *Maroonbook's* many strengths").

268. See *supra* text accompanying note 56.

269. See Garner, *supra* note 257, at 193 (asking: "Why not leave it to every legal journal, then, to devise its own system?").

270. See *id.* at 192.

271. See *id.* In his article, Garner opined:

If we are to talk about pedagogical malpractice, the charge should be leveled not against those who teach the *Bluebook*, but against legal-writing instructors who teach the seat-of-your-pants *Maroonbook*. How will law students fare once they hit the streets? The law school that [teaches the *Maroonbook*] may briefly "raise student morale," but in the upper echelons the improvement will disap-

The *Maroonbook* has, however, served an important function. If nothing else, it has shaken the *Bluebook* editors from their complacency and made them reconsider some of their more rigid and illogical rules. For example, we can thank the *Maroonbook* for positive changes in the new *Bluebook* concerning citing authors' names²⁷² and citations to subsequent history.²⁷³ If only the *Maroonbook* editors and the *Bluebook* editors would combine forces, they could probably produce a logical, well-organized, less-confusing citation system that might, at some point, become truly uniform.

The *Maroonbook's* failure to convert the masses, however, does not necessarily mean that the *Bluebook's* future is secure. Other threats are on the horizon.²⁷⁴ As one commentator noted, "Clearly the *Bluebook* is still not the last word, nor is it ever likely to be."²⁷⁵

VII. THOUGHTS FOR THE SEVENTEENTH EDITION

One problem with any student-run publication is the turnover. With students coming and going each year, it is difficult to establish a well-developed institutional memory.²⁷⁶ As a result, bad rules go unchanged and good rules are never added. Uniformity suffers. Nevertheless, below are several suggestions the Seventeenth-Edition editors should consider.

A. Include, or at Least Reference, State Citation Requirements

As emphasized earlier, the *Bluebook* does not control citations in court documents, unless local court rules have adopted the *Bluebook* format or are silent about citation format.²⁷⁷ The disclaimers

pear shortly, once the top students learn that judges such as John Minor Wisdom and Thomas Gibbs Gee are reluctant to hire clerks whose knowledge of citing legal materials extends only to the breadth of their discretion.

Id.

272. See SIXTEENTH EDITION rule 15.1.1; see also *supra* section III(B)(4) (discussing this rule change).

273. See SIXTEENTH EDITION rule 10.7; see also *supra* section III(B)(3) (discussing this rule change).

274. See, e.g., *supra* notes 101 & 109 and accompanying text.

275. Bowler, *supra* note 23, at 697.

276. See, e.g., *With the Editors*, *supra* note 1, at i, vii (*Harvard Law Review* editors incorrectly asserted that the First Edition appeared in 1931, as opposed to 1926).

277. See *supra* section V.

currently contained in the Practitioners' Notes²⁷⁸ and Table 1²⁷⁹ simply are not sufficient. If the *Bluebook* aspires to be a truly uniform system used by editors and practitioners alike, it should include the citation forms required by courts. Adding an additional table, or incorporating the pertinent information into Table 1, would not be unduly burdensome and would benefit many users.²⁸⁰

B. Eliminate Distinctions Between Law Reviews and Court Documents

The Sixteenth Edition retains the typeface distinctions for law-review footnotes and for legal memoranda and court documents.²⁸¹ Although typeface distinctions may have been necessary in the age of typewriters and typesetters, such distinctions no longer make sense.²⁸² Most word processors can make large and small caps. Therefore, practitioners preparing memoranda and court documents could easily incorporate law-review fonts.²⁸³ Or, the *Bluebook* could follow the *Maroonbook*²⁸⁴ and many commercial publishers and completely eliminate the complex typeface conventions.²⁸⁵

If the editors believe that the current typeface distinctions should be continued, they should give examples for citations in court

278. See text accompanying *supra* note 228.

279. See text accompanying *supra* note 229.

280. The information that should be included has been compiled in Appendices B-1 to B-3. At a minimum, the editors could cite to controlling rules and statutes and indicate that if no reference is given, the court expects, or at least accepts, *Bluebook* form.

281. See SIXTEENTH EDITION rule 2.

282. According to one scholar:

[T]he use of large and small capital letters had developed shortly before World War I. At first the editors of the *Harvard Law Review* used them only in referring to their journal; gradually the practice was extended to titles of books and journals in editorial notes and, finally, by 1915, to such citations in all articles. Cooper, *supra* note 13, at 21.

283. The rule regarding typeface conventions has softened over time. For example, the Eleventh Edition was very strict and dictated that law reviews conform exactly to the listed typeface conventions. See ELEVENTH EDITION at 96–98. The Twelfth Edition, however, stated that “[u]se of large and small capitals . . . is optional.” TWELFTH EDITION at 1. By the Fourteenth Edition, the *Bluebook* recognized that “[l]aw reviews use various typeface conventions with the forms given in this book for citation in footnotes.” FOURTEENTH EDITION at 5. The Sixteenth Edition continues to acknowledge that some law reviews no longer employ large and small capitals or italics. See SIXTEENTH EDITION at 30.

284. See MAROONBOOK, *supra* note 255, rule 1.

285. See *supra* note 220 and accompanying text (concerning typeface conventions used by the *Columbia Law Review*).

documents throughout the book, not just in the Practitioners' Notes and the Quick Reference for Legal Memoranda and Court Documents. Other publications give examples for both law-review footnotes and practitioners' documents;²⁸⁶ it would not seem unduly burdensome for the *Bluebook* to do so as well. This change — which is the next best alternative to one set of typeface conventions for all documents — would at least eliminate the two-step process²⁸⁷ practitioners must now endure to conform to proper *Bluebook* form.²⁸⁸

C. When Revising, Strive for Consistency²⁸⁹

The *Bluebook* is — and for some time has been²⁹⁰ — internally inconsistent. Ponder the following internal inconsistencies:²⁹¹

286. See, e.g., MARY MILES PRINCE, BIEBER'S DICTIONARY OF LEGAL CITATIONS (4th ed. 1992).

287. Practitioners (and students writing briefs and memos) must first find the applicable rule and then use either the Practitioners' Notes or the Quick Reference for Court Documents and Legal Memoranda to “adapt” the examples shown within the *Bluebook*. See SIXTEENTH EDITION at 11.

288. See Bowler, *supra* note 23, at 699 (observing that “while Rule 1(b)(iii) [of the Twelfth Edition] says that the typeface conventions illustrated in the examples throughout the book should be used in law review footnotes, the existence of Rules 1 and 2 giving general typeface rules now makes all references to the *Bluebook* at two-step, rather than a one-step process”) (footnote omitted).

289. The only written description of the revision process appears in an editors' note at the front of the February 1955 *Harvard Law Review* (unbound paper copies only):

The files now bulge with the hot arguments that took place then and before each of the eight subsequent revisions. We welcome all our readers and all users of the Blue Book to join the fun. We always appreciate suggestions for improvement. Since a new edition is published every few years, they will not go long before fulfillment.

Active work on the present revision of the Blue Book began in the fall of 1953. Letters were sent out to the nation's law reviews and other Blue Book users, soliciting comments. Editors went to work checking through libraries and listings to bring the abbreviations up to date . . . The Topical Index was expanded and checked. Finally this fall a conference of the participating law reviews was held to work out final agreement.

As with past revisions, the system as a whole has been left essentially the same; the main effort was directed toward carefully eliminating possible ambiguities and confusion. The present wide acceptance of Blue Book citation forms, not only by legal publications but by an increasing number of law offices, judges, and textbook writers, made it advisable to leave settled all that could be, consistent with clarity and uniformity.

With the Editors, *supra* note 1, at x.

290. One reviewer made similar suggestions back in 1991. See Chen, *supra* note 14, at 1537–38.

291. In his review that satirizes Dante's *Divine Comedy*, attorney Geoffrey C.

- Why use “So. 2d” instead of “S.2d” when “S.” represents every other instance of “Southern”?²⁹²
- Why have two different abbreviations of “Supplement” — “Supp.” in “F. Supp.” and “S.” in “N.Y.S.2d”?²⁹³
- Why use “P.2d” as a reporter abbreviation but “Pac.” for periodicals and case names?²⁹⁴
- Why abbreviate “federal” as “F.” in “F. Supp.” and “F.3d,” but as “Fed.” in “Fed. Reg.” and “Fed. R. Serv. 2d”?²⁹⁵
- Why abbreviate “Bankruptcy Court” as “Bankr.” when the “*Bankruptcy Reporter*” is abbreviated “B.R.”?²⁹⁶

Mangum wrote:

The case had challenged the fundament of empire, posing as it did the disarmingly simply (but unthinkable!) question: “Is the Blue Book infallible?” Once admit that the Blue Book might contain inconsistencies, the fabric of civilization would surely unravel. Clerk recognized that only the most thoroughgoing explication of the Blue Book’s inherent infallibility could support a judgment against this peon.

As he reexamined every aspect of the Blue Book, as he paged through old volumes of *Harvard Law Review* in search of the answer, the question raised by the peon plagued him. At every turn, what once seemed clear, concise, apt, became in his eyes nettlesome, inadequate, fraught with the peculiarity that corrodes high principle.

Mangum, *supra* note 1, at 647.

292. See Chen, *supra* note 14, at 1537. Compare SIXTEENTH EDITION T.1, at 180 with *id.* T.13, at 314 (abbreviating “*Southern University Law Review*” as “S.U. L. REV.” and “*South Carolina Law Review*” as “S.C. L. REV.”) and *id.* T.10, at 293 (abbreviating “New South Wales” as “N.S.W.”) and *id.* T.6, at 286 (indicating that “South[ern]” should be abbreviated as “S.”). Cf. MAROONBOOK, *supra* note 255, at 34 (listing “S” and “S2d” as suggested abbreviations for the *Southern Reporter*).

293. See Chen, *supra* note 14, at 1537. Compare SIXTEENTH EDITION T.1, at 167 with *id.* at 200. The *Maroonbook* also uses two abbreviations for “supplement.” Compare MAROONBOOK, *supra* note 255, at 32 (“F Supp”) with *id.* at 33 (“NYS,” “NYS2d”).

294. Compare SIXTEENTH EDITION T.1, at 199 with *id.* at T.13, at 311 and T.6, at 286.

295. See Chen, *supra* note 14, at 1537. Compare SIXTEENTH EDITION T.1, at 166 with *id.* at 93 and *id.* T.15, at 321. The *Maroonbook* also abbreviates “federal” two different ways. See MAROONBOOK, *supra* note 255, at 32 (abbreviating “*Federal Supplement*” as “F Supp” and “*Federal Rules Service*” as “Fed Rules Serv”).

296. See SIXTEENTH EDITION T.1, at 167; see also *id.* T.13, at 301 (abbreviating “Bankruptcy,” when used in a periodical title, as “BANKR.”).

- Why abbreviate the “*Supreme Court Reporter*” as “S. Ct.” when “*Supreme Court Review*” is abbreviated “SUP. CT. REV.”?²⁹⁷
- Why instruct users to abbreviate “university” as “univ.” when used in a case name but as “U.” when used in a periodical title?²⁹⁸
- Why abbreviate certain words in periodical titles but not in case names?²⁹⁹

And the list could go on and on.³⁰⁰ So, as long as the *Bluebook* editors are making changes, they should strive for some degree of internal uniformity.

D. Eliminate Rules and Exceptions that Everyone Believes Are Incorrect

The *Bluebook* contains rules which, if actually used, are typically changed by editors or supervisors, because no one remembers the rule. The best example is rule 1.4, which states: “If one authority is considerably more helpful or authoritative than the other authori-

297. Compare SIXTEENTH EDITION T.1, at 165 with *id.* T.13, at 314.

298. Compare SIXTEENTH EDITION T.6, at 286 with *id.* T.13, at 315.

299. Compare SIXTEENTH EDITION T.6 with *id.* T.13. For example, Table 13 instructs users to abbreviate the following words, which Table 6 indicates (by omission) should not be abbreviated: Account[ant, ants, ing, ancyl], bar, college, commerc[e, ial], estate[s], histor[ical, yl], human, journal, justice, juvenile, local, management, planning, property, and urban. Compare *id.* T.6 with *id.* T.13.

Tables 6 and 13 are also inconsistent in that Table 6 designates “lab.” as the abbreviation for “laborator[y, ies],” while Table 13 designates “lab.” as the abbreviation for “labo[r ur].” Compare *id.* T.6, at 285 with *id.* T.13, at 309. On a slightly different note, why use the abbreviation “sec.” for both “section” and “securities”? See *id.* T.13, at 313.

300. For the nonbelievers, below are two more examples:

- “Comm.,” when used in a case name means “committee,” but “comm.” when used in “Comm. Fut. L. Rep.” means “commodity.” Compare SIXTEENTH EDITION T.6, at 285 with *id.* T.15, at 320.
- Users can abbreviate “employment” or “employee” in some services but not in others, see *id.* T.15, at 320 (“Employee Benefits Cas. (BNA)” versus “Empl. Coordinator (RIA)”); further, users cannot abbreviate “employment” or “employee” in a periodical title. See *id.* T.13, at 304 (no abbreviations listed for these terms).

ties cited within a signal, it should precede the others.”³⁰¹ Whenever an author uses this rule, everyone thinks she is wrong. This rule and similar rules should be eliminated.³⁰²

E. Miscellaneous Matters

1. *Order for D.C. Courts*

Rule 1.4(d) provides that “[c]ases decided by the same court are arranged in reverse chronological order; for this purpose the numbered United States courts of appeals are treated as one court”³⁰³ No separate rule addresses how the D.C. federal courts should be ordered within a signal. Why not include the D.C. Circuit in this rule? There is no reason not to do so.

2. *Designate Reporter Series*

Bluebook Table 1 does a good job of indicating which reporters contain which materials. For example, by using Table 1, attorneys and students know that decisions by the various U.S. Courts of Appeals appear in the *Federal Reporter* from 1891 to date.³⁰⁴ They can also see that the *Federal Reporter* is now in the Third Series.³⁰⁵ What the *Bluebook* does not do for most states is indicate when reporter series begin and end. In other words, by looking up Massachusetts on page 192, the user knows that the correct regional

301. SIXTEENTH EDITION rule 1.4. Even a former Executive Editor of the *Harvard Law Review* forgot this rule when penning a review of the Fifteenth Edition:

[M]any disputes between law review editors and authors revolve around *Bluebook* form. The editors' often superior grasp of *Bluebook* arcana enables them to enjoy a rare edge over their professors. For example, *Bluebook 15*'s three-page rule on the order of authorities within each signal (pp 25–27) gives editors leverage over uncooperative authors who insist that an obscure article by the chairman of the tenure committee better supports a point than does a recent Supreme Court decision.

Chen, *supra* note 14, at 1535. Using Mr. Chen's example, the professor would be correct under the express exception in rule 1.4 that “[i]f one authority is considerably more helpful or authoritative than the other authorities cited within a signal, it should precede the others.” SIXTEENTH EDITION rule 1.4.

302. Another rule many mark wrong when actually correct is the portion of rule 4.1 that states “[s]ources identified in explanatory phrases . . . are ignored for purposes of this rule.” SIXTEENTH EDITION rule 4.1, at 41.

303. *Id.* rule 1.4(d).

304. *See* SIXTEENTH EDITION T.1, at 165.

305. *See id.*

reporter is the *North Eastern Reporter*, but cannot tell when citations to the *North Eastern Reporter, Second Series* begin.³⁰⁶ This information would be helpful, especially if an attorney or student needs to quickly verify whether the correct reporter was used in a citation.

3. Explain Title Changes

The tables concerning periodicals and services reflect that some material was added and some was deleted.³⁰⁷ An unknowledgeable reader using those tables would probably think that all deleted references are no longer published and that the new material was truly new. Such a reading, however, is inaccurate, because many modifications in those two tables simply reflect name changes. For example, since the Fifteenth Edition, Memphis State University School of Law changed its name to University of Memphis School of Law.³⁰⁸

Not surprisingly, the school's law review also changed its name.³⁰⁹ In the Sixteenth Edition, the new name (*University of Memphis Law Review*) is listed and the old name (*Memphis State University Law Review*) has been deleted.³¹⁰ But the publication is the same review, just with a name change. Unfortunately, without cross-references, many people would not know this. In addition, according to the *Bluebook's* own dictates, older editions must reflect the old abbreviation.³¹¹

To reduce confusion, the Seventeenth-Edition editors should (1) cross-reference name changes, (2) indicate the volume of the name change, and (3) continue to list the old abbreviation.³¹² Therefore, a sample entry might read:

Cooley Law Review

COOLEY L. REV.
(use this abbreviation for volumes 1-7;

306. See *id.* at 192.

307. See SIXTEENTH EDITION T.13 & T.15; see also app. A (reflecting changes made to these tables in the Sixteenth Edition).

308. See *infra* note 310.

309. See app. A (section concerning Table 13).

310. See SIXTEENTH EDITION T.13.

311. See *id.* T.13, at 299.

312. For those who believe this suggestion is nitpicky, some changes are not as obvious as the Memphis example. Who would have thought that the *Territorial Sea Journal* has been continued as the *Ocean and Coastal Law Journal*? See *infra* note 361.

*for more current volumes, see
Thomas M. Cooley Law Review)*

* * * *

Thomas M. Cooley Law Review

T.M. COOLEY L. REV.
*(use this abbreviation for
volumes 8–date; for volumes
1–7, see Cooley Law Review)*

With this information, users could cite the review's older and newer versions without confusion or any additional research.

4. Add a Table Listing Abbreviations for all Federal Courts

Despite rule 6, spacing rules still give many attorneys a headache. After forgetting to leave a space between the “F.” and “Supp.” and between the “So.” and “2d,” the most commonly missed abbreviations are those for the various United States District Courts and for the United States Courts of Appeals for the Second and Third Circuits. The next editors should consider adding a table that lists all federal court abbreviations. This material is not easily found within the *Bluebook* and its inclusion would assist both *Bluebook* novices and more experienced users who want to verify their work.

5. Add a Rule Regarding Ordinal Numbers

The *Bluebook* should follow the *Maroonbook*'s lead and add a rule explaining how to treat ordinal numbers.³¹³ Most people entering law abbreviate “second” as “2nd,” not “2d,” and need a written reference.³¹⁴

6. Proofread Again

313. See MAROONBOOK, *supra* note 255, rule 2.5 (explaining: “For ordinal numbers in citations, use 1st, 2d, 3d, 4th, 5th, etc. Spell out ordinal numbers appearing in the text.”).

314. The Sixteenth Edition shows, but does not explain, abbreviations for “second” and “third.” See SIXTEENTH EDITION at 48. In addition, Table 1 now uses the Second Circuit as one of the examples under the section for United States Court of Appeals. See *id.* T.1, at 165.

Although the editors, in most instances, did a good job of conforming citations throughout the book to Sixteenth-Edition amendments, they did not do a perfect job. Some examples do not conform to Sixteenth-Edition revisions,³¹⁵ some statutory citations were not updated to reflect the most recent editions or supplements,³¹⁶ and the editors' proofreading — although better than in some prior editions³¹⁷ — was not perfect.³¹⁸ Given the authoritative nature of the *Bluebook* and the number of careful editors working on the project, these mistakes should have been caught and corrected.

7. *Show How to Cite the Bluebook*

Solve the mystery. How do the *Bluebook* editors think the *Bluebook* should be cited? Reviewers have noted this omission and attempted several different formats.³¹⁹ Why not just include an ex

315. See, e.g., SIXTEENTH EDITION at 12 (example under P.1(a), which is a 1971 case from the United States Court of Appeals for the Ninth Circuit, contains a *cert. denied* reference, despite amended rule 10.7).

316. See *id.* at 74; see also *infra* app. A at 69 (discussing these examples).

317. See Gjerdingen, *supra* note 97, at 512 & app. (1978) (reviewing the Twelfth Edition of the *Bluebook* and pointing out that the first printing of the Twelfth Edition contained “at least forty typographical errors” (footnote omitted)).

318. As just a few examples, see the Sixteenth Edition at:

- Page 40 (the Fifteenth Edition, on page 39, read like this as well): “Indicate any particular in which the subsequent citation varies from the former.” SIXTEENTH EDITION at 40.
- Page 43: On page 42, the *Bluebook* directs users not to place “hereinafter” in italics. Yet, on page 43 (Rule 4.2(b)), “hereinafter” appears once in italics. *Id.* at 42–43.
- Page 74: Citation is misspelled as “citationas.” *Id.* at 74.
- Page 170: Extra space added, the example now reads: “National Railroad Adj ustment Board.” *Id.* at 170.

319. See, e.g., Coombs, *supra* note 13, at 1102 n.16 (expressing surprise that “[g]iven the length of the *Bluebook*, one is surprised to find a gap in its prescriptions. Yet the correct citation form for a book like the *Bluebook*, lacking listed author or editor, is unclear.”); Lane, *supra* note 45, at 169 n.45 (listing several reviewers' attempts to cite the *Bluebook*); Mangum, *supra* note 1, at 645 n.2 (noting that “[o]ne of life's little ironies is that there is no definitive citation form for the Blue Book”); Parmley, *supra* note 56, at 449 (starting: “A Uniform System of Citation (Twelfth Edition) By ? ? ? ? ? ? ? ?” (footnote omitted)); Sirico, *supra* note 3, at 1273 n.1 (observing that “[t]he *Bluebook* does not explain how to cite itself. . . . Though it has no editors, but only compilers, I follow the rule for citing a book with institutional editors. Though the *Bluebook* is organized not by paragraphs and sections, but by rules, I follow the analogous rule for books with paragraph or section numbers, which requires omitting the page number from a citation unless necessary to locate readily the specific matter cited.” (citations omitted)); see also Smith, *supra* note 149, at 275 n.1. For this Author's attempt to cite the *Bluebook*, see

ample?

8. *Improve Physical Durability*

The next editors should use a better binding technique. Although better binding might cost a bit more, most attorneys probably would be willing to pay more for a sturdier product. For every *Bluebook* edition I have used (three, for those who are counting), I have had to buy at least two because the plastic spirals have broken off and several pages have ripped out. Although I like that the book lies flat when open,³²⁰ more durable materials (such as plastic covers and three-ring binding) could achieve the same result.

9. *Distribute a “Redline” Version of the New Edition*

One reason attorneys — and especially legal educators — dread new editions of the *Bluebook* is that it is difficult — without a lengthy and time-consuming effort — to determine exactly what changes have been made.³²¹ Although the preface typically lists several noteworthy changes, it by no means includes them all. To reduce anxiety, the editors should produce and distribute a redline version that shows what language has been added and deleted.³²² In this computer age, such a document would not be difficult to produce — and it might actually outsell the new edition — which means more revenues for the *Bluebook* editors.

VIII. CONCLUSION

Despite having recently celebrated its seventieth birthday, the *Bluebook* still does not live up to its original title, “*A Uniform System of Citation*.” Uniformity remains but an elusive and unfulfilled aspiration. However, the dream need not remain unfulfilled. Of all

supra note 2, which uses rule 15.1.3(b).

320. The spiral binding was first used with the Thirteenth Edition. Before that time, the books were paper bound; users had to crack the spine to make the book lie flat.

321. See Campano, *supra* note 59, at 632 (lamenting that the editors “have secreted a number of new rules and rule changes, some of which substantially alter former rules To the great majority of us who are veterans of previous editions, . . . it is impossible to understand the changes without a laborious comparison of former and current rules. So much for user-friendliness.” (footnote omitted)).

322. I must thank my Stetson colleague, Professor Peter L. Fitzgerald, for sharing this idea with me.

the citation manuals, the *Bluebook* is the only one considered authoritative. It is the most complete and the most used. It has the potential to become a truly uniform system, but only if the editors take decisive steps.

First, the editors need to stop making petty changes. Second, the editors need to stop making drastic changes not warranted by evolving standards of practice and technology. Third, the editors need to be sensitive to the needs of courts and practitioners. Specifically, the *Bluebook* should reference or, even better, spell out, citation rules mandated by state and federal courts. Similarly, the editors must look outside the Halls of Ivy; they must examine innovations developed by competitors and other organizations. Finally, the editors must follow their own rules. Meanwhile, we must all live with un-uniformity and try to survive with the Sixteenth Edition.

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