

# Legal Writing Mechanics

## A Bibliography

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### I. Introduction

Great legal writing is about more than mechanics. But careful attention to legal writing mechanics is nevertheless critical for effective, clear, and persuasive writing. Proper grammar, usage, and correct punctuation makes analysis clearer and therefore more effective. It also shows the reader that the writer has paid close attention to detail, which makes the reader more likely to find the writer credible.<sup>1</sup> Relatedly, communicating in plain language is critical to making sure that “readers can easily find what they need, understand what they find, and use that information.”<sup>2</sup> And proper citation—or even better, stylish citation<sup>3</sup>—helps the reader easily understand what kind of persuasive value the cited authority has, how the cited authority supports the proposition, and where to find the cited authority, all without requiring the reader to read the authority themselves.

Because legal writing mechanics are so essential to effective communication for all legal writers, this bibliography aims to collect resources that explore various types of legal writing mechanics, identify best practices with respect to each of these fundamental aspects of legal writing, and advance our understanding of how legal writing mechanics contribute to overall communication.

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<sup>1</sup> MICHAEL R. SMITH, *ADVANCED LEGAL WRITING: THEORIES AND STRATEGIES IN PERSUASIVE WRITING* 186–87 (2d ed. 2008) (explaining that strong command of grammar, usage, and punctuation is essential to the writer’s credibility).

<sup>2</sup> *Clarity International*, *PLAIN LEGAL LANGUAGE*, <https://www.clarity-international.org/plain-legal-language/> (last visited Feb. 18, 2021).

<sup>3</sup> Alexa Z. Chew, *Stylish Legal Citation*, 71 *ARK. L. REV.* 823 (2019).

## II. The bibliography

Legal writing scholars have invested a significant amount of time and energy in examining legal writing mechanics and setting out best practices. This bibliography gathers these resources and divides them into three broad categories: grammar, usage, and punctuation; plain language; and citation.<sup>4</sup> There is some unavoidable overlap between these categories, so where books or articles could be placed into more than one category, I have attempted to assign each to its primary category. My goal is for this bibliography to serve as a resource for any legal writer, whether practitioner, academic, law student, or judge. I also hope that this bibliography will inspire future scholarship on legal writing mechanics.

This bibliography does not include visual aspects of legal writing such as document design, typography, or images, though those topics could also fall into the broad category of legal writing mechanics. Readers interested in learning more about those areas should consult Ellie Margolis's excellent bibliography on *Visual Legal Writing*.<sup>5</sup> In addition, this bibliography does not include materials focused on legal writing pedagogy and generally excludes bar journal articles, though I hope that the materials included here will nonetheless be helpful resources for teachers and practitioners. For example, many legal writing textbooks cover these topics, but these textbooks have generally been excluded from this bibliography. This bibliography also excludes materials focused specifically on contract drafting.

### A. Grammar, usage, and punctuation

Grammar, usage, and punctuation are critical components of effective legal writing because they have a profound impact on the readability and meaning of a document.<sup>6</sup> As a result, there is a robust body of work focusing on proper grammar, usage, and punctuation; how proper grammar, usage, and punctuation affects legal analysis; and how grammar, usage, and punctuation can be used as tools for effective legal writing style.

Legal scholars have paid particular attention to passive voice, the doctrine of the last antecedent, and, most recently, pronouns and the use of the singular they. On the punctuation side, scholars debate the use of the Oxford (or serial) comma, hyphens, and the possessive apostrophe.

4 In general, this bibliography takes a descriptive approach in that it does not choose between various options for how language should be used but instead compiles resources addressing a range of approaches. In some areas, however, the bibliography is prescriptive in that it focuses on resources that have advocated for legal writers to make particular choices in their writing. See, e.g., *infra* section II.B.

5 Ellie Margolis, *Visual Legal Writing: A Bibliography*, 18 *LEGAL COMM. & RHETORIC* 195 (2021).

6 ALEXA Z. CHEW & KATIE ROSE GUEST PRYAL, *THE COMPLETE LEGAL WRITER* 403 (2d ed. 2020).

Some of the books listed below are style manuals that do not focus exclusively on grammar, usage, and punctuation, but they are included in this bibliography because they include significant discussion of those mechanics specifically in the context of legal writing. Most of the books included in this bibliography are focused specifically on legal writing, but I've included a few others that are especially helpful for legal writers. For example, *Dreyer's English* is particularly helpful for legal writers: it tackles persistent language errors, reinforces good habits, and encourages concision.<sup>7</sup> Similarly, while *Strunk & White* is not written for legal writers, many legal writers have treated it as authoritative on matters of grammar and style, particularly because of its focus on clarity, brevity, and boldness.<sup>8</sup>

### Articles

- Robert Anderson, *Reclaiming the Singular They*, 19 LEGAL COMM. & RHETORIC 55 (2022).
- Jill Barton, *Supreme Court Splits ... on Grammar and Writing Style*, 17 SCRIBES J. LEGAL WRITING 33 (2017).
- Ryan C. Black & Timothy R. Johnson, *Obsessive Over the Possessive at the Supreme Court of the United States: Exploring SCOTUS'/SCOTUS's Use of Possessive Apostrophes*, 22 J. APP. PRAC. & PROCESS 14 (2022).
- Heidi K. Brown, *Get with the Pronoun*, 17 LEGAL COMM. & RHETORIC 61 (2020).
- Jacob Carpenter, *An Active Look at Passive Voice*, 19 LEGAL COMM. & RHETORIC 95 (2022).
- Mark Cooney, *Style is Substance: Collected Cases Showing Why It Matters*, 14 SCRIBES J. LEGAL WRITING 1 (2012).
- Doug Coulson, *More than Verbs: An Introduction to Transitivity in Legal Argument*, 19 SCRIBES J. LEGAL WRITING 81 (2020).
- Judith D. Fischer, *A Contemporary Take on Strunk and White for Legal Writers*, 15 SCRIBES J. LEGAL WRITING 127 (2013).
- Joseph Kimble, *The Doctrine of the Last Antecedent, the Example in Barnhart, Why Both Are Weak, and How Textualism Postures*, 16 SCRIBES J. LEGAL WRITING 5 (2015).
- Terri LeClercq, *Doctrine of the Last Antecedent: The Mystifying Morass of Ambiguous Modifiers*, TEX. J. BUS. L., Fall 2004, at 199.

7 Kristen E. Murray, *Meta-Questions for Legal Writers*, 17 LEGAL COMM. & RHETORIC 167, 169 (2020) (reviewing DREYER'S ENGLISH: AN UTTERLY CORRECT GUIDE TO GRAMMAR AND STYLE); Jonathan Tietz, Book Note, *On Lawyers and Copy Editors*, 118 MICH. L. REV. 1307, 1309 (2020).

8 Judith D. Fischer, *A Contemporary Take on Strunk and White for Legal Writers*, 15 SCRIBES J. LEGAL WRITING 127, 130, 146 (2013).

Joan Ames Magat, *Hawking Hyphens in Compound Modifiers*, 11 LEGAL COMM. & RHETORIC 153 (2014).

David A. Marcello, *The Case of the Serial Comma: What Can Plain-Language Drafting Tell Legislative Drafters?*, 19 SCRIBES J. LEGAL WRITING 127 (2020).

Elitza Meyer, *It's Not the Oxford Comma, It's the Ambiguity*, 8 HOUSTON L. REV.: OFF THE RECORD 25 (2017).

Jery Payne, *Gluing Qualifiers with a Knife: Another Look at Why a List Might Backfire*, 19 SCRIBES J. LEGAL WRITING 143 (2020).

Kristen Konrad Robbins-Tiscione, *The Inside Scoop: What Federal Judges Really Think About the Way Lawyers Write*, 8 LEGAL WRITING 257 (2002).

## Books

STEPHEN V. ARMSTRONG, TIMOTHY TERRELL & JARROD F. REICH, *THINKING LIKE A WRITER: A LAWYER'S GUIDE TO EFFECTIVE WRITING AND EDITING* (4th ed. 2021).

ROBERT E. BACHARACH, *LEGAL WRITING: A JUDGE'S PERSPECTIVE ON THE SCIENCE AND RHETORIC OF THE WRITTEN WORD* (2020).

DEBORAH E. BOUCHOUX, *ASPEN HANDBOOK FOR LEGAL WRITERS: A PRACTICAL REFERENCE* (5th ed. 2021).

DEBORAH CUPPLES & MARGARET TEMPLE-SMITH, *GRAMMAR, PUNCTUATION & STYLE: A QUICK GUIDE FOR LAWYERS AND OTHER WRITERS* (2013).

BENJAMIN DREYER, *DREYER'S ENGLISH: AN UTTERLY CORRECT GUIDE TO CLARITY AND STYLE* (2019).

ANNE ENQUIST, LAUREL CURRIE OATES & JEREMY FRANCIS, *JUST WRITING: GRAMMAR, PUNCTUATION, AND STYLE FOR THE LEGAL WRITER* (6th ed., Aspen Publ'g 2022).

LENNÉ EIDSON ESPENSCHIED, *THE GRAMMAR AND WRITING HANDBOOK FOR LAWYERS* (ABA 2011).

IAN GALLACHER, *A FORM AND STYLE MANUAL FOR LAWYERS* (2005).

BRYAN A. GARNER, *GARNER'S DICTIONARY OF LEGAL USAGE* (3d ed. 2011).

BRYAN A. GARNER, *GARNER ON LANGUAGE AND WRITING: SELECTED ESSAYS AND SPEECHES OF BRYAN A. GARNER* (2009).

BRYAN A. GARNER, *THE ELEMENTS OF LEGAL STYLE* (2d ed. 2002).

- BRYAN A. GARNER, *THE REDBOOK: A MANUAL ON LEGAL STYLE* (4th ed., West Academic 2018).
- BRYAN A. GARNER, *THE WINNING BRIEF: 100 TIPS FOR PERSUASIVE BRIEFING IN TRIAL AND APPELLATE COURTS* (2d ed. 2004) (tips 27 through 62).
- ROSS GUBERMAN, *POINT MADE: HOW TO WRITE LIKE THE NATION'S TOP ADVOCATES* (2d ed. 2014).
- ROSS GUBERMAN, *POINT TAKEN: HOW TO WRITE LIKE THE WORLD'S BEST JUDGES* (2015).
- TERRI LECLERCQ & KARIN MIKA, *GUIDE TO LEGAL WRITING STYLE* (5th ed. 2011).
- JOAN AMES MAGAT, *THE LAWYER'S EDITING MANUAL* (2009).
- RUTH ANN MCKINNEY & KATIE ROSE GUEST PRYAL, *CORE GRAMMAR FOR LAWYERS* (2011), <https://coregrammarforlawyers.com/>.
- SANDRA J. OSTER, *WRITING SHORTER LEGAL DOCUMENTS: STRATEGIES FOR FASTER AND BETTER EDITING* (2011).
- JANE N. RICHMOND, *LEGAL WRITING: FORM AND FUNCTION* (2002).
- UNIVERSITY OF CHICAGO, *CHICAGO MANUAL OF STYLE* (17th ed. 2017), <https://www.chicagomanualofstyle.org/home.html>.

## B. Plain language

Since the early 1990s, most legal writing experts have advocated for the use of “plain language” rather than legalese.<sup>9</sup> Plain language, also referred to as plain English, is about more than vocabulary: “It involves all the techniques for clear communication—planning the document, designing it, organizing it, writing clear sentences, using plain words, and testing the document whenever possible on typical readers.<sup>10</sup> Writing in plain English helps readers better understand what they are reading, leads to fewer questions about what they have read, and saves readers time and money.<sup>11</sup>

It would be difficult to include every plain language resource here because of the large volume of work on plain language communication, so this list focuses on the most authoritative works. This includes numerous works by Professor Joe Kimble, a leading expert on plain language. While

<sup>9</sup> Julie A. Baker, *And the Winner Is: How Principles of Cognitive Science Resolve the Plain Language Debate*, 80 UMKC L. REV. 287 (2011).

<sup>10</sup> Joseph Kimble, *Writing for Dollars, Writing to Please*, 6 SCRIBES J. LEGAL WRITING 1, 3 (1997).

<sup>11</sup> *Id.*

there have been critiques of plain language,<sup>12</sup> this bibliography takes the perspective that writing in plain language is essential to effective communication.

In addition to the articles and books listed below, readers interested in plain language may be interested in *Clarity*,<sup>13</sup> an international plain language organization that publishes *The Clarity Journal*.<sup>14</sup> The Plain Language Action and Information Network, a “working group of federal employees from different agencies and specialties who support the use of clear communication in government writing,” also provides extensive resources on its website.<sup>15</sup> Finally, the *Michigan Bar Journal* publishes a monthly Plain Language column that is “widely read outside Michigan”<sup>16</sup> and “the longest-running legal-writing column in any journal.”<sup>17</sup>

### Articles

Julie A. Baker, *And the Winner Is: How Principles of Cognitive Science Resolve the Plain Language Debate*, 80 UMKC L. REV. 287 (2011).

Joseph Kimble, *A Curious Criticism of Plain Language*, 13 LEGAL COMM. & RHETORIC 181 (2016).

Joseph Kimble, *Answering the Critics of Plain Language*, 5 SCRIBES J. LEGAL WRITING 51 (1995).

Joseph Kimble, *How to Mangle Court Rules and Jury Instructions*, 8 SCRIBES J. LEGAL WRITING 39 (2002).

Joseph Kimble, *Lessons in Drafting from the New Federal Rules of Civil Procedure*, 12 SCRIBES J. LEGAL WRITING 25 (2009).

Joseph Kimble, *Plain English: A Charter for Clear Writing*, 9 T.M. COOLEY L. REV. 1 (1992).

<sup>12</sup> See, e.g., David Crump, *Against Plain English: The Case for a Functional Approach to Legal Document Preparation*, 33 RUTGERS L.J. 713 (2002); Richard Hyland, *A Defense of Legal Writing*, 134 U. PA. L. REV. 599 (1986); Sofia Turfler, *Language Ideology and the Plain-Language Movement: How Straight-Talkers Sell Linguistic Myths*, 12 LEGAL COMM. & RHETORIC 195 (2015).

<sup>13</sup> CLARITY INTERNATIONAL, <https://www.clarity-international.org/> (last visited May 25, 2022).

<sup>14</sup> Available at <https://www.clarity-international.org/clarity-journal/>. *The Clarity Journal* “features the latest plain language research, practical advice, before-and-after examples, success stories, campaign strategies and much more.”

<sup>15</sup> *Plain Language Action and Information Network*, PLAINLANGUAGE.GOV, <https://www.plainlanguage.gov/> (last visited May 25, 2022). These resources include the Plain Writing Act of 2020, the Federal Plain Language Guidelines, and resources for federal departments and agencies. See *Law and Regulations*, PLAINLANGUAGE.GOV, <https://www.plainlanguage.gov/law/> (last visited May 25, 2022). The site also includes federal, state, and international style guidelines. *Style Guides*, PLAINLANGUAGE.GOV, <https://www.plainlanguage.gov/resources/guides/> (last visited May 25, 2022).

<sup>16</sup> Bryan A. Garner, *Bryan Garner touts the Michigan Bar Journal's celebration of plain English*, ABA J. (Oct. 1, 2021), <https://www.abajournal.com/magazine/article/celebrating-plain-english-in-michigan>.

<sup>17</sup> *Plain Language Column*, STATE BAR OF MICHIGAN, <https://www.michbar.org/generalinfo/plainenglish/home> (last visited Feb. 23, 2022).

- Joseph Kimble, *The Great Myth That Plain Language Is Not Precise*, 7 SCRIBES J. LEGAL WRITING 109 (2000).
- Joseph Kimble, *The Straight Skinny on Better Judicial Opinions*, 9 SCRIBES J. LEGAL WRITING 1 (2004).
- Joseph Kimble, *Writing for Dollars, Writing to Please*, 6 SCRIBES J. LEGAL WRITING 1 (1997).
- Mark K. Osbeck, *What Is “Good Legal Writing” and Why Does it Matter?*, 4 DREXEL L. REV. 417 (2012).
- Wayne Schiess, *What Plain English Really Is*, 9 SCRIBES J. LEGAL WRITING 43 (2004).
- Wayne Schiess, *The Art of Consumer Drafting*, 11 SCRIBES J. LEGAL WRITING 1 (2007).
- Wayne Schiess, *Writing for Your Client*, 12 SCRIBES J. LEGAL WRITING 123 (2009).

### **Books**

- MICHÈLE M. ASPREY, *PLAIN LANGUAGE FOR LAWYERS* 83 (4th ed. 2010).
- PETER BUTT, *MODERN LEGAL DRAFTING: A GUIDE TO USING CLEARER LANGUAGE* (Cambridge Univ. Press ed., 3d ed. 2013)
- BRYAN A. GARNER, *LEGAL WRITING IN PLAIN ENGLISH* (2d ed. 2013).
- JOSEPH KIMBLE, *LIFTING THE FOG OF LEGALESE: ESSAYS ON PLAIN LANGUAGE* (2006).
- JOSEPH KIMBLE, *SEEING THROUGH LEGALESE: MORE ESSAYS ON PLAIN LANGUAGE* (2017).
- JOSEPH KIMBLE, *WRITING FOR DOLLARS, WRITING TO PLEASE: THE CASE FOR PLAIN LANGUAGE IN BUSINESS, GOVERNMENT, AND LAW* (2012).
- ROBERT J. MARTINEAU & MICHAEL B. SALERNO, *LEGAL, LEGISLATIVE AND RULE DRAFTING IN PLAIN ENGLISH* (2005).
- DAVID MELLINKOFF, *THE LANGUAGE OF THE LAW* (1963).
- WAYNE SCHIESS, *WRITING FOR THE LEGAL AUDIENCE* (2d ed. 2014).
- WAYNE SCHIESS, *PREPARING PLAIN LEGAL DOCUMENTS FOR NONLAWYERS* (2015).
- RICHARD WYDICK & AMY SLOAN, *PLAIN ENGLISH FOR LAWYERS* (6th ed. 2019).

## C. Citation

### Citation manuals

The legal profession loves rules, and citations are not immune from our affection. The inaugural edition of *The Bluebook* was published in 1926,<sup>18</sup> and it is now in its twenty-first edition. Law journals began adopting *The Bluebook* in the 1930s, and it eventually became the citation guide most widely used by academics and practitioners.<sup>19</sup> *The Bluebook* is now marketed as the “definitive style guide for legal citation in the United States.”<sup>20</sup>

The *ALWD Guide*, initially published in 2000, is another commonly adopted citation manual.<sup>21</sup> The *ALWD Guide* focuses on citation forms used by practitioners, and compared to *The Bluebook*, is recognized as a more user-friendly and more easily taught citation manual.<sup>22</sup>

Another, lesser-used alternative to *The Bluebook* is *The Indigo Book*, which distinguishes itself from *The Bluebook* and other citation manuals by being free of charge, making it a more easily accessible resource.<sup>23</sup> In addition, because it is in the public domain, its creators hope that users will copy it, distribute it, and improve on it.<sup>24</sup> The *Universal Citation Guide* from the American Association of Law Libraries, on the other hand, is not designed to compete with *The Bluebook* but to complement it “by effectively bridging the gap between the current print-based citation forms and the technology-based future of legal information.”<sup>25</sup>

This bibliography does not include jurisdiction-,<sup>26</sup> court-,<sup>27</sup> and journal-specific citation guides<sup>28</sup> because they are not widely adopted.<sup>29</sup>

18 Susie Salmon, *Shedding the Uniform: Beyond a “Uniform System of Citation” to a More Efficient Fit*, 99 MARQ. L. REV. 763, 775 (2016).

19 Alex Glashauser, *Citation and Representation*, 55 VAND. L. REV. 59, 62 (2002).

20 THE BLUEBOOK: A UNIFORM SYSTEM OF CITATION 1 (Columbia L. Review Ass’n et al. eds., 21st ed. 2020).

21 Salmon, *supra* note 18, at 784.

22 *Id.* at 777, 787.

23 THE INDIGO BOOK: AN OPEN AND COMPATIBLE IMPLEMENTATION OF A UNIFORM SYSTEM OF CITATION, *Introduction*, <https://law.resource.org/pub/us/code/blue/IndigoBook.html> (last visited May 25, 2022).

24 *Id.*

25 AM. ASS’N OF LIBRARIES, <https://www.aallnet.org/resources-publications/publications/universal-citation-guide/> (last visited May 11, 2022).

26 See, e.g., TEXAS LAW REVIEW, TEXAS RULES OF FORM: THE GREENBOOK (14th ed. 2018).

27 See, e.g., SUPREME COURT OF THE UNITED STATES OFFICE OF THE REPORTER OF DECISIONS, THE SUPREME COURT’S STYLE GUIDE (Jack Metzler ed. 2016), <https://budgetcounsel.files.wordpress.com/2018/10/supreme-courts-style-guide.pdf>; MICHIGAN SUPREME COURT OFFICE OF THE REPORTER OF DECISIONS, MICHIGAN APPELLATE OPINION MANUAL (2017), <https://www.courts.michigan.gov/4a4a11/siteassets/publications/manuals/msc/miappopmanual.pdf>.

28 See, e.g., THE MAROONBOOK: UNIVERSITY OF CHICAGO MANUAL OF LEGAL CITATION (3d ed. 2019).

29 Interestingly, individual courts are taking the lead in promoting open access to the law, as they are among the first to permit or require vendor-neutral citation. Coleen M. Barger, *The Uncertain Status of Citation Reform: An Update for the Undecided*, 1 J. APP. PRAC. & PROCESS 59, 89 (1999).



AMERICAN ASSOCIATION OF LAW LIBRARIES COMMITTEE ON CITATION FORMATS, *UNIVERSAL CITATION GUIDE* (3d ed. 2014).

THE BLUEBOOK: A UNIFORM SYSTEM OF CITATION (Columbia L. Review Ass'n et al. eds., 21st ed. 2020), also available online at [legalbluebook.com](http://legalbluebook.com).

THE INDIGO BOOK: AN OPEN AND COMPATIBLE IMPLEMENTATION OF A UNIFORM SYSTEM OF CITATION, <https://law.resource.org/pub/us/code/blue/IndigoBook.html>.

CAROLYN V. WILLIAMS, *ALWD GUIDE TO LEGAL CITATION* (Wolters Kluwer ed., 7th ed. 2021).

### Select citation manual reviews

With *The Bluebook's* popularity came “strident criticism,” dating back to at least the 1940s.<sup>30</sup> For example, one critic (hyperbolically) complained that “[t]he operating principle of the Bluebook is that ‘NATURE ABHORRETH A VACUUM,’ so the Bluebook has provided a way to cite every single source since the invention of papyrus.”<sup>31</sup>

Because there is such an extensive history of critique of citation manuals, providing an exhaustive list of reviews would be challenging. So, this list includes only select reviews, focusing in particular on foundational and more recent reviews and reviews with a broader focus than changes to the most recent edition at the time. In addition, it focuses on reviews of *The Bluebook* and *The ALWD Guide* and does not include reviews of other citation manuals. Finally, this list does not include study guides on citation.

Bret D. Asbury & Thomas J.B. Cole, *Why the Bluebook Matters: The Virtues Judge Posner and Other Critics Overlook*, 79 TENN. L. REV. 95 (2012).

Stephen M. Darrow & Jonathan J. Darrow, *Beating the Bluebook Blues: A Response to Judge Posner*, 109 MICH. L. REV. FIRST IMPRESSIONS 92 (2011).

Jennifer L. Cordle, *ALWD Citation Manual: A Grammar Guide to the Language of Legal Citation*, 26 U. ARK. LITTLE ROCK L. REV. 573 (2004).

A. Darby Dickerson, *An Un-Uniform System of Citation: Surviving with the New Bluebook (Including Compendia of State and Federal Court Rules Concerning Citation Form)*, 26 STETSON L. REV. 53 (1996).

<sup>30</sup> Glashausser, *supra* note 19, at 63; Salmon, *supra* note 18, at 779.

<sup>31</sup> James D. Gordon III, *How Not to Succeed in Law School*, 100 YALE L.J. 1679, 1692 (1991).

- Christine Hurt, *The Bluebook at Eighteen: Reflecting and Ratifying Current Trends in Legal Scholarship*, 82 IND. L.J. 49 (2007).
- M.H. Sam Jacobson, *The ALWD Citation Manual: A Clear Improvement Over the Bluebook*, 3 J. APP. PRAC. & PROCESS 139 (2001).
- Alex Glashausser, *Citation and Representation*, 55 VAND. L. REV. 59 (2002).
- James W. Paulsen, *An Uninformed System of Citation*, 105 HARV. L. REV. 1780 (1992).
- Richard A. Posner, *The Bluebook Blues*, 120 YALE L.J. 850 (2011).
- Richard A. Posner, *Goodbye to the Bluebook*, 53 U. CHI. L. REV. 1343 (1986).
- Melissa H. Weresh, *The ALWD Citation Manual: A Coup de Grace*, 23 U. ARK. L. REV. 775 (2001).
- David J.S. Ziff, *The Worst System of Citation Except for All the Others*, 66 J. LEGAL. EDUC. 668 (2017).

### Citation form and its impact

Legal citation has existed in some form since ancient Rome,<sup>32</sup> so it is perhaps not surprising that practitioners, law students, and academics have spent considerable energy focused on its importance and impact. Citations are a critical component of legal analysis because they communicate to the reader both how to find the authority that supports a legal argument *and* the weight of that support.<sup>33</sup> Citations, therefore, serve as a crucial connection between the legal argument and the basis for that argument.<sup>34</sup> As a result, scholarship in this area is about more than just form.

A significant amount of scholarship on citation addresses its broader impact beyond its use in a particular legal document. For example, traditional citation form impacts where legal researchers conduct their research because it directs researchers to “traditional systems developed for references to print sources.”<sup>35</sup> This, in turn, limits open access to the law.<sup>36</sup> In addition, there are costs associated with conforming to uniform citation codes, including time spent teaching citation format as well as the time spent checking and revising citations.<sup>37</sup> These costs, then, may

<sup>32</sup> Salmon, *supra* note 18, at 772–73.

<sup>33</sup> Alexa Z. Chew, *Citation Literacy*, 70 ARK. L. REV. 869, 872–73 (2018).

<sup>34</sup> Kris Franklin, “. . . See Erie.”: *Critical Study of Legal Authority*, 31 U. ARK. LITTLE ROCK L. REV. 109, 111 (2008).

<sup>35</sup> Barger, *supra* note 29, at 60.

<sup>36</sup> *See id.* at 61.

<sup>37</sup> Salmon, *supra* note 18, at 764–65.

contribute to exacerbating existing inequities in the legal system.<sup>38</sup> On the other hand, citations can also be used as a tool to confront the failures of the legal system and its legacy of slavery.<sup>39</sup>

While citation is not just about the form of a citation itself, the form of a citation is nevertheless important. Resources abound as to citation form more generally as well as specific aspects of citation form such as the use of signals, parentheticals, and quotations.

Scholars have spent considerable time debating the benefits of inline citations versus the use of footnoted citations. While Bryan Garner advocates for footnoted citations, most other legal writing experts conclude that inline citations are preferable for the reader, and those resources are included in a separate section below. This debate has been addressed extensively in bar journals, particularly with respect to local practices and issues. However, because bar journals are excluded from this bibliography, those articles are not included here.

This bibliography excludes legal citation resources focused on scholarly citation and scholarly citation counts as outside of the scope of this bibliography. In addition, this bibliography excludes resources that overlap with the concept of citation but which are not focused on the citations themselves. This includes, for example, scholarship on the weight of authority and the differences between unpublished and unreported cases.

### Articles on citation

Coleen M. Barger, *The Uncertain Status of Citation Reform: An Update for the Undecided*, 1 J. APP. PRAC. & PROCESS 59 (1999).

Kevin Bennardo & Alexa Z. Chew, *Citation Stickiness*, 20 J. APP. PRAC. & PROCESS 61 (2019).

Alexa Z. Chew, *Citation Literacy*, 70 ARK. L. REV. 869 (2018).

Alexa Z. Chew, *Stylish Legal Citation*, 71 ARK. L. REV. 823 (2019).

Kris Franklin, “. . . See Erie”: *Critical Study of Legal Authority*, 31 U. ARK. LITTLE ROCK L. REV. 109, 111 (2008).

Ian Gallacher, *Cite Unseen: How Neutral Citation and America’s Law Schools Can Cure Our Strange Devotion to Bibliographical Orthodoxy and the Constriction of Open and Equal Access to the Law*, 70 ALB. L. REV. 491 (2007).

<sup>38</sup> *Id.*

<sup>39</sup> Justin Simard, *Citing Slavery*, 72 STAN. L. REV. 79 (2020); Rule 10.7.1(d), THE BLUEBOOK, *supra* note 20, at 1; *Who is Citing Slavery*, ZIFF BLOG, <https://ziffblog.wordpress.com/2022/02/02/who-is-citing-slavery/> (Feb. 2, 2022).

- Christine Hurt, *Network Effects and Legal Citation: How Antitrust Theory Predicts Who Will Build a Better Bluebook Mousetrap in the Age of Electronic Mice*, 87 IOWA L. REV. 1257 (2002).
- Jack Metzler, *Cleaning Up Quotations*, 18 J. APP. PRAC. & PROCESS 143 (2018).
- Michael D. Murray, *For the Love of Parentheticals: The Story of Parenthetical Usage in Synthesis, Rhetoric, Economics, and Narrative Reasoning*, 38 U. DAYTON L. REV. 175 (2012).
- Michael D. Murray, *The Promise of Parentheticals: An Empirical Study of the Use of Parentheticals in Federal Appellate Briefs*, 10 LEGAL COMM. & RHETORIC 229 (2013).
- Ira P. Robbins, *Semiotics, Analogical Legal Reasoning, and the Cf. Citation: Getting Our Signals Uncrossed*, 48 DUKE L.J. 1043 (1999).
- Susie Salmon, *Shedding the Uniform: Beyond a "Uniform System of Citation" to a More Efficient Fit*, 99 MARQ. L. REV. 763 (2016).
- Justin Simard, *Citing Slavery*, STAN. L. REV. 79 (2020).
- Eric P. Voigt, *Explanatory Parentheticals Can Pack a Persuasive Punch*, 45 MCGEORGE L. REV. 269 (2013).
- James H. Wyman, *Freeing the Law: Case Reporter Copyright and the Universal Citation System*, 24 FLA. ST. U. L. REV. 217 (1996).

#### **Articles on inline citations versus footnoted citations**

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