

Citation Form: The Rules Are Changing Again

Part One of a Two-Part Series

Preface

In the past year, the Appellate Practice Section has published several articles dealing with the changing complexities of legal citation form. As it turns out, our section was not the only group grappling with this issue.

The Association of Legal Writing Directors (ALWD) published its own citation manual, as an alternative to the *Bluebook*, in April 2000. A Subcommittee of the Appellate Court Rules Committee is studying whether to amend Rule 9.800 to authorize use of the ALWD manual as an alternative to the *Bluebook*.

The ALWD manual has been already accepted by some law reviews and legal writing departments in Florida and around the nation.

Since the ALWD manual's author is Dean Darby Dickerson of Stetson University College of Law, we asked her to write an article for the *Record* about why ALWD published this manual and how it differs from the *Bluebook*.

In the Winter issue of the *Record*, we will review the 17th Edition *Bluebook* which has not yet been released as this issue goes to press.

— Susan W. Fox, Editor

Professionalizing Legal Citation: The ALWD Citation Manual

Darby Dickerson

To be effective, a system of legal citation must be consistent, rational, and stable. For many decades, the accepted system of legal citation has been *The Bluebook: A Uniform System of Citation*, which is prepared by law review students at Harvard, Yale, Columbia, and Penn. Despite its title, *The Bluebook* is far from uniform. Moreover, it contains many internal inconsistencies and other rules that simply do not make sense, especially from a practitioner's per-

spective.

A perennial problem is that *The Bluebook* issues a new edition about every five years.² In each edition, the student-editors make unnecessary changes – changes that sometimes affect the substantive content of legal opinions and other legal work. Introductory signals are a prime example. Signals indicate the type and degree of support that an authority provides for the stated proposition. If “see” means indirect support in one *Bluebook* edition, but means direct support in another, it is impossible for attorneys to know what the “see” signal means when used in a judicial opinion from a certain date – unless they have the corresponding *Bluebook* edition in front of them.³

Another frustrating aspect of *The Bluebook* is its dogmatic insistence that inconsequential rules be followed without deviation. Providing certainty is fine – and even necessary – but dictating on too many details is overkill. For example, when citing a span of pages, does it really matter when the reference is 512-513 or 512-13? The reader can easily find the material using either form.

A third problem from a practitioner's perspective is that *The Bluebook* requires attorneys to use the Practitioners' Note form, which differs from “law review” form, but then proceeds to place virtually all examples in law review form. This forces practitioners to first find the applicable rule and then to waste valuable time fig-

uring out how to convert the citation to “practitioner” form.

Finally, *The Bluebook* gives short shrift to mandatory local court rules. Florida,⁴ and several other states, have local court rules that require attorneys to cite certain sources in ways that deviate from *Bluebook* form. Except for a few passing references, *The Bluebook* ignores these rules.

For these and other reasons, the Association of Legal Writing Directors (ALWD; pronounced ALL-wid), which is devoted to producing quality legal scholarship on topics related to research and writing, determined that it was time to professionalize legal citation and to end the frustrating cycle of changes. Because I had an interest and expertise in legal citation, leaders within ALWD approached me about serving as lead author for an alternative – and hopefully replacement – citation manual. In cooperation with the ALWD leadership and a twelve-person Advisory Committee with members from public and private law schools across the country – I set about drafting the *ALWD Citation Manual: A Professional System of Citation*, which was published by Aspen Law & Business in March 2000.

Since March 2000, professors at over 73 law schools across the nation – including Research, Writing & Analysis professors at Florida State University College of Law, Nova Southeastern University, Stetson

continued, next page

This newsletter is prepared and published by
the Appellate Practice and Advocacy Section of The Florida Bar.

Benedict P. Kuehne, Miami	Chair
Hala A. Sandridge, Tampa	Chair-elect
Angela C. Flowers, Miami	Vice-Chair
Raoul G. Cantero III, Miami	Secretary
Jack J. Aiello, West Palm Beach	Treasurer
Susan Whaley Fox, Tampa	Editor
Austin Newberry, Tallahassee	Program Administrator
Lynn M. Brady, Tallahassee	Layout

Statements or expressions of opinion or comments appearing herein are those of
the editor and contributors and not of The Florida Bar or the Section.