

Ohio's New Citation Rules Could Cure 'The Bluebook Blues'

By **L. Bradfield Hughes and Chance Conaway** (August 15, 2024, 5:03 PM EDT)

There is no denying that inserting appropriately formatted legal citations in lengthy briefs and judicial opinions can be a grind for lawyers, law clerks and judges. Frustration with the citation process famously led jurist and legal scholar Richard Posner to pen law review articles bemoaning "The Bluebook, a Uniform System of Citation" and its lengthy, elaborate, and continually updated citation rules.

In the Yale Law Journal, for example, in an article aptly titled "The Bluebook Blues," Judge Posner wrote about an earlier, 511-page edition of the Bluebook:

I have dipped into it, much as one might dip one's toes in a pail of freezing water. I am put in mind of Mr. Kurtz's dying words in Heart of Darkness — "The horror! The horror!"[1]

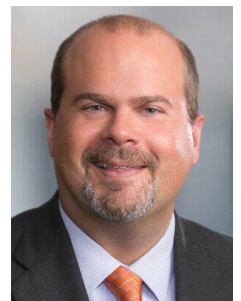
So when a state supreme court takes affirmative steps to simplify the legal citation process, lawyers take note. Earlier this summer, the Ohio Supreme Court did just that, issuing a revised citation manual that may make legal briefs and opinions a bit easier to write and to read in the Buckeye State.

In early 2023, Ohio Chief Justice Sharon Kennedy announced the court's intent to streamline the legal citation process in the state. In furtherance of that goal, the court formed a new committee tasked with proposing changes to the Supreme Court of Ohio Writing Manual, a guide for formatting legal citations in state court.

The Writing Manual Revision Committee's proposed changes were adopted by the court in February 2024, and the new edition of the manual took effect on June 17.[2]

The updated manual includes, among other things: stronger language directing lawyers to follow the manual, the introduction of a navigable homepage presenting examples of properly cited sources, revisions to case and statute citation rules, and guidance on when to use a parenthetical phrase "(cleaned up)" that has sparked recent debate within the legal community.

A lawyer who wants an Ohio state court to more fully appreciate the lawyer's briefs would do well to pay attention to these updates and provide the kind of polished, state-specific work product that the court expects.



L. Bradfield Hughes



Chance Conaway

A Prefatory Note to Encourage Lawyers

A subtle, yet important change in the latest edition of the manual comes in the form of more direct language from the court expressly encouraging lawyers to follow the rules within.

The new manual's preface states, "The Supreme Court will follow the Writing Manual in its opinions. The committee strongly recommends that other Ohio courts and lawyers follow Parts I and II of the manual, and the committee hopes that Part III will be useful in writing opinions and drafting briefs and pleadings." These three parts of the manual address citation formatting rules, writing style and the structure of judicial opinions, respectively.

This language in the preface of the updated manual is more forceful than that used in the previous edition, which stated, "[a]lthough Ohio judges and lawyers are not required to follow this manual, the committee hopes that it will be useful in writing opinions and drafting briefs and pleadings."

Having undertaken the effort to simplify Ohio's citation rules, the Supreme Court evidently wants to more directly prod the bench and bar to follow them.

Identifying and Simplifying the Most Common Citations

One of the most practical and helpful additions to the new manual is the inclusion of a "Citations at a Glance" page located at the beginning of the document. This page provides examples of the most commonly used forms of citation and allows the reader to quickly verify that their citation style is correct. The displayed citations are labeled by jurisdiction and hyperlinked to other parts of the manual.

For example, clicking on the "Ohio Administrative" hyperlink on the page will take the user directly to the section of the manual that fully explains how to cite Ohio administrative decisions. This feature is sure to save legal professionals time previously spent scrolling through the 175-page guide to find the correct citation rules. And saving time for legal professionals should translate to saving money for clients.

Farewell to Parallel Citations

Updated rules for case citations in the manual will shorten them and make them less taxing for the writer and the reader.

In previous editions, the manual directed authors of briefs or opinions to cite multiple reporters in which the same case was published.

For instance, citation of a print-published Ohio appellate decision needed to include the WebCite, the unique, Ohio-based citation given to state cases decided after May 1, 2002, which are publicly available on the Supreme Court's web page; the official Ohio appellate reporter citation; and the Northeastern Reporter citation. For example: *Swartzenruber v. Orville Grace Brethren Church*, 163 Ohio App.3d 96, 2005-Ohio-4264, 836 N.E.2d 619, ¶ 5 (9th Dist.).

The Bluebook, too, calls for parallel citations to court decisions.

However, the Ohio Supreme Court's updated manual dispenses with the need for lawyers to provide parallel citations. Instead, just the WebCite — or, in the event the case was decided before May 1, 2002,

just the official appellate reporter — is now needed.

So the previously cited decision could now be cited as "Swartzenruber v. Orville Grace Brethren Church, 2005-Ohio-4264 ¶ 5 (9th Dist.)." A pre-2002 decision could be cited as "State v. Johnson, 134 Ohio App.3d 586, 591 (1st Dist. 1999)."

This change will meaningfully shorten state case citations and leave more room in briefs and motions for substantive arguments.

Not Quite the Bluebook

Even as the changes in the latest edition of the manual are more streamlined, key differences remain between the Ohio Supreme Court's writing manual and the Bluebook. One of the most notable is the citation rule for statutes. In the updated manual, the Supreme Court directs lawyers to cite the U.S. Code as, for example, "26 U.S.C. 1291." The Bluebook, though, requires the addition of a section symbol, e.g., "26 U.S.C. § 1291."

And when it comes to state statutes, the Supreme Court's updated manual allows the Ohio Revised Code to be cited briefly as, for example, "R.C. 5701.01." The Bluebook, in contrast, would require the same statute to be cited as "Ohio Rev. Code Ann. § 5701.01(West 2024)," which occupies more precious real estate in briefs.

Another key difference arises with regard to the use of small caps in citing the U.S. Constitution. While the Ohio manual does not require small caps in a citation to the U.S. Constitution, the Bluebook does.

There also remain differences about how to abbreviate the names of frequent-flier parties in case citations. For example, whereas the Bluebook wants to see "Commission" abbreviated as "Comm'n," the updated Supreme Court manual calls for "Comm."

Numerous other minor stylistic differences remain between the two guides.

"Cleaned Up" in Parenthetical Citations

Finally, for the first time, the updated Ohio manual addresses the use of the parenthetical "(cleaned up)" in case citations.

Since proposed by appellate lawyer Jack Metzler in 2017,[3] this citation technique has gained recent popularity as an option when, within a quotation, in order to avoid unnecessarily distracting the reader, the author has omitted unnecessary and nonsubstantive material such as: internal quotation marks; alterations (e.g., brackets or ellipses); footnote reference numbers; and/or internal citations, or has altered capitalization without indicating the changes.

Given the potential for abuse by authors intent on selective or misleading quotations, the new Ohio manual advises readers to use "(cleaned up)" only when doing so "would markedly improve readability." Further, the manual reminds readers to use other parentheticals where appropriate, so as not to alter the meaning of the cited information.

Meanwhile, the Bluebook has not yet addressed whether the use of "(cleaned up)" is appropriate, though the U.S. Supreme Court[4] and many other courts, including the Ohio Supreme Court itself,[5]

have issued opinions containing the parenthetical.

A Meaningful Step Toward Simplicity

Leonardo DaVinci was quoted as saying that "simplicity is the ultimate sophistication."

With its latest efforts to streamline and simplify citation format in legal briefs and opinions, the Ohio Supreme Court is encouraging lawyers, law clerks and judges to draft cleaner and less cluttered documents that will give the substance and sophistication of their legal arguments more breathing room to persuade their readers.

L. Bradfield Hughes is a partner and co-chair of the appellate practice group at Porter Wright Morris & Arthur LLP.

Chance Conaway is a J.D. candidate at Capital University Law School. He served as a summer law clerk at Porter Wright in 2024.

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[1] Richard A. Posner, *The Bluebook Blues*, 120 *Yale L.J.* 850, 852 (2010).

[2] The 2024 version of the Supreme Court of Ohio Writing Manual is available at the following URL address: <https://www.supremecourt.ohio.gov/docs/ROD/manual3e.pdf>.

[3] Timothy Kowal, Esq., *The "(cleaned up)" origin story*, with Jack Metzler, podcast available online at: <https://tvalaw.com/publication/the-cleaned-up-origin-story-with-jack-metzler>.

[4] Debra Cassens Weiss, *Justice Thomas goes rogue on the Bluebook with 'cleaned up' citation — to the delight of appellate lawyers*, *ABA Journal* (March 15, 2021), available at: <https://www.abajournal.com/news/article/justice-thomas-goes-rogue-on-the-bluebook-with-cleaned-up-citation-to-the-delight-of-appellate-lawyers>.

[5] E.g., *State v. Knuff*, Slip Opinion No. 2024-Ohio-902, ¶¶ 75, 115.