

COMMON STUDENT CITATION ERRORS

BY WAYNE SCHIESS

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Introduction

This piece discusses the most common citation errors law students (primarily first-year students) make, particularly when using case citations in practitioner documents. I offer explanations for the mistakes and possible solutions.

Why should students and their teachers care about common citation errors? Three reasons: journals, seminar papers, and jobs. Journal work is an opportunity students have during the second and third years, and they'll need to be proficient at legal citation. Plus, they'll save themselves a lot of time and headaches if they learn correct citation form during the first year. Students will also write seminar papers during the second and third years. The professors will no doubt require correct citation form in the papers, so getting the basics down now will help. And jobs. Most employers will require new lawyers to cite sources correctly. Certainly, judges and their clerks will expect correct citations. Lawyers cannot afford to hurt their clients' cases because the citations are sloppy.

But poor citation form is a much more common mistake than I, as a legal writing instructor, would like to believe. In fact, in a survey of Texas appellate judges and their clerks conducted in 1994, many complained that too many briefs use "citation form so wrong as to be distracting."¹

In this piece I take a stab at solving citation problems by identifying the most common ones. One note: I have based this piece on my experience as a legal writing instructor—10 years of teaching legal research and writing at the University of Texas School of Law. Because my

students use *The Bluebook*,² my comments are based primarily on it. But I am familiar with the *ALWD Citation Manual*,³ and I happen to think that some of these errors would be reduced if we all adopted it, so I have included comments on it as well.

These are the most common mistakes I see:

Error one: Abbreviations.

This is the most common error. *The Bluebook* requires you to abbreviate certain words in certain situations. But students often do not. Here are some reasons:

Failure to understand the rules. I think it is hard for students to understand the rules that govern abbreviations. Following are the two main rules briefly:

Rule	Topic	Effect
10.2.1(c)	Case names in textual sentences.	A few "always" abbreviations.
10.2.2	Case names in citations.	The "always" abbreviations plus those in table T.6.

(The *ALWD Citation Manual* rules on abbreviations—2.1(a) and 12.2(e), along with Appendixes 3, 4, and 5—are quite similar.)

One problem with these *Bluebook* abbreviation rules is terminology. Many students find the phrases "case names in textual sentences" and "case names in citations" confusing or unclear. To help, I use these phrases:

Rule	Topic	Effect
10.2.1	Case names in textual sentences.	Inserted citations.
10.2.2	Case names in citations.	End-of-sentence citations.

Inserted citations do not require the Table T.6 abbreviations, just the always-abbreviated *&*, *Ass'n*, *Bros.*, *Co.*, *Corp.*, *Inc.*, *Ltd.*, and *No.* End-of-

¹ Pamela Stanton Baron & Douglas W. Alexander, *Briefing to the Texas Courts of Appeals and the Texas Supreme Court—Avoiding Common Mistakes*, 4th Annual Conf. on Techniques for Handling Civil Appeals in State and Federal Court (University of Texas School of Law 1994).

² *The Bluebook: A Uniform System of Citation* 57, 62 (Columbia Law Review Ass'n et al. eds., 17th ed., 2000).

³ Assn. of Leg. Writing Dirs. & Darby Dickerson, *ALWD Citation Manual: A Professional System of Citation* (Aspen L. & Bus. 2000).

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sentence citations require all the abbreviations in Table T.6.

I also encourage my students to use end-of-sentence citations. Inserted citations can be distracting.⁴ So most of my students avoid inserted citations and thus avoid remembering two abbreviation rules. They just remember to always abbreviate.

Difficulty in finding the list of abbreviations.

Often, when students work on a document, they do not have *The Bluebook* or the *ALWD Citation Manual* at hand. “I’ll fix the citations later,” many think. And even when the citation manual is handy, it is often inconvenient to look up a word in the tables or appendixes to see if it should be abbreviated.

I recommend that students make a copy of *Bluebook* table T.6 or *ALWD Citation Manual* Appendix 3 and keep it next to their computers. I do that. Even now, when nearly all the abbreviations are second nature to me, it is more convenient to glance at the copy instead of opening my citation manual and locating the table.

Error two: Not providing pinpoint citations.

When you pinpoint, you show the exact page from which your statement, information, or proposition was taken, like this:

No pinpoint:	Pinpoint (highlighted):
<i>Nolan v. Graves Corp.</i> , 10 S.W.3d 216 (Tex. 1999).	<i>Nolan v. Graves Corp.</i> , 10 S.W.3d 216, 220 (Tex. 1999).
<i>Nolan</i> , 10 S.W.3d 216.	<i>Nolan</i> , 10 S.W.3d at 220 .

Probably 80–90 percent of citations should have pinpoints. In other words, eight or nine times out of 10 when you cite a case, you should refer the reader to a specific page. Yet probably only half the citations that need pinpoints have them.

The authors of the *ALWD Citation Manual* recognize that pinpoints are important:

The importance of including pinpoint references whenever possible cannot be overstated. If you do not refer readers to

specific pages or other subdivisions where the referenced material appears, readers will be frustrated. Moreover, if a judge or a judicial law clerk cannot locate support for your position, you may lose credibility with the court, or the court may discount your position. Accordingly, always spend the extra time it takes to insert the pinpoint reference.⁵

Pinpoints are valuable to anyone who reads and checks on a piece of legal analysis. Careful readers such as judges and their clerks—and legal writing instructors—appreciate pinpoint citations and can get highly annoyed when they are not used. Without pinpoints, the reader’s or checker’s job is much more difficult. In reality, students who do not provide pinpoints are shifting work from themselves to the reader.

Judges agree. Here is Justice Channell, writing for the California Court of Appeals, criticizing a lawyer for failing to use pinpoints: “We were not aided in our resolution of this appeal by the appellants’ opening brief, which was riddled with inaccurate and incomplete case citations and which frequently referred to cases without reference to the pages on which the cited holdings appear.”⁶

Error three: Incorrect short forms.

The mistake is usually this:

Not correct	Correct
Example 1: <i>Calandra</i> , at 343.	Example 2: <i>Calandra</i> , 414 U.S. at 343. ⁷

Those who know *The Bluebook* know that you must give the volume and reporter (414 U.S.) in this type of short form.

As a former practitioner, I know that many practicing lawyers use Example 1, which omits the volume number and reporter name. I did. So do many students. Example 1 seems so logical and so easy. But do not be confused by what seems easy. Usually, a citation rule is aimed at accuracy, thoroughness, and consistency—not at ease. So

⁵ *ALWD Citation Manual*, at 27.

⁶ Howard v. Oakland Tribune, 245 Cal. Rptr. 449, 451 n.6 (Cal. App. 4th Dist. 1988).

⁷ *The Bluebook*, at 15.

Example 1 is not correct under *The Bluebook* or the *ALWD Citation Manual*. Students should start now to get in the habit of providing the volume and reporter in short forms. (You can omit the volume and reporter in *id.* forms—with a few exceptions.)

Error four: Failure to cite where needed.

Bluebook and *ALWD Citation Manual* rules, as well as the conventions for attribution in legal analysis, require writers to provide a citation after every sentence—or sometimes even after every idea in a sentence.

This rule causes repetition, and students probably resist it for that reason. Perhaps it seems unnecessary to students—when they are discussing one case at a time—because the rule requires *id.*, *id.*, *id.* But careful writers and experienced lawyers know that the correct rule is to cite for all information, all propositions, and all statements drawn from the source.

For example, here are two typical paragraphs from a student-written memo. In these examples, I put the citations in boldface type:

Correct

Two important Texas cases have provided scenarios in which the server did not fulfill his obligation to inform the recipient of the nature of the process and that service was being attempted. In one, a language barrier frustrated the server. *Dosamantes v. Dosamantes*, 500 S.W.2d 233, 237 (Tex. Civ. App.—Texarkana 1973, writ **dism'd w.o.j.**). There, the English-speaking process server attempted to deliver papers to the defendant, a Spanish speaker, at his home. ***Id.* at 235.** When the defendant refused the papers, the server gave them to a maid, who handed them back. ***Id.*** The server then pushed them under the door and left. ***Id.*** Because delivery was attempted in English, the court held that service was invalid; the case did not come within the exception that applies when the recipient evades or refuses service. ***Id.* at 237.** The defendant, the court implied, was not informed of the nature of the process and that service was being attempted. ***Id.***

Not Correct

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Correct

In the second important case, a person was aware that papers might be served in the near future, but the server did not inform the person at the time of the attempt. *Tex. Indus., Inc. v. Sanchez*, 521 S.W.2d 133, 135 (Tex. Civ. App.—Dallas 1975, writ **ref'd n.r.e.**). In *Texas Industries*, a sheriff's deputy attempted to serve Henry Sanchez, a member of the Texas Legislature. ***Id.* at 135.** The deputy had served Sanchez before, and he called Sanchez and told him he “had some more papers” for him; Sanchez told him to take them to his office. ***Id.*** The deputy did not find Sanchez there, but later that day saw him at the courthouse, and said to Sanchez, “I'm glad I saw you. You saved me a trip.” ***Id.*** The deputy then got the papers and brought them to the courthouse, where he found Sanchez in a press room, talking on the phone; two reporters were with him. ***Id.* at 136.** The deputy placed the papers, in an

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Legal readers have become accustomed to seeing citations for every statement or proposition; the reader gets used to a series of *id.* short forms. Of course, journals and seminar papers will require this meticulous citing. So the conscientious student writer should learn to provide all the citations.

Error five. Mimicking or shortcutting.

This is not so much a citation mistake as it is the cause of many citation mistakes. Too many law students try to get through their assignments without digging into *The Bluebook*. They use the Quick Reference inside the front and back covers, they ask a friend or a *Bluebook* hotshot, or they copy citations out of opinions they are reading. (Yet the first rule of learning citations is that you should not rely on citation form in judicial opinions.)

Those approaches will not take students very far. Why the hesitance to actually use the book and look up the rules and apply them? Three reasons, I think:

Haste. A law student facing a huge task, such as writing a brief—in the middle of a busy semester—will usually look for a shortcut. It can be time-consuming and boring to look things up in *The Bluebook*. So some students try shortcuts, hoping to get their citations close enough.

Apathy. Many students do not care much about case citations. For some of my students, all my explanations and warnings will not sink in until they are on their first job. For some, citations are too ponderous, too dull to be interested in. And for many, “close enough” is good enough. That is too often the case outside the law school, too.

But learning correct citation form is like learning anything tedious; once it becomes important, you are motivated to learn it. So I start with the expectation that students will learn citation correctly, and I stress its importance. I have found that if I treat it as important and teach it as important, most students will treat it as important.

Difficulty using *The Bluebook*. *The Bluebook* is not a plain-language masterpiece. Its rules can be hard to understand and apply. Its sheer length is daunting; the coverage and depth are a bit overwhelming at first. And one huge frustration for first-year law students is that the examples in the text use law review typeface conventions, yet first-year students are writing practitioner documents.

There is not much the teacher of citation can do about these problems with *The Bluebook*. I already spend a lot of class time explaining that students should not copy the typefaces from the examples in the main text of *The Bluebook*.

But the *ALWD Citation Manual* offers great relief here. It has

- a more logical organization,
- more and clearer examples, and
- better explanations.

What's even better, the *ALWD Citation Manual* has abandoned different typefaces for practitioner documents and scholarly documents. That is wonderful.

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A final note of warning.

An easy-to-use citation manual such as the *ALWD Citation Manual* can be a great help because poor citation can get you in trouble.

For example, the authors of a 95-page brief were sanctioned \$750 for various citation problems in *Hurlbert v. Gordon*, handed down by the Washington Court of Appeals in 1992. The problems included citation to clerks' papers that were nonexistent, typographical errors in citations, reference to 20–100 pages of material for a single point (no pinpoints), lack of citation to the record, and case citations with numerous form errors.⁸

So students should dig into their citation manuals. They should begin preparing now for journal work, seminar papers, and jobs. Mastering citation may never be rewarding in itself, but mastery will lead to success in law school and on the job.

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⁸ *Hurlbert v. Gordon*, 824 P.2d 1238, 1245 (Wash. App. 1992).

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