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# Wonder Twin Powers, Activate! Form of Citation!



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Long ago, Yale Law School Professor Fred Rodell – called the “bad boy of American legal academia” – trenchantly observed: “There are two things wrong with almost all legal writing. One is its style. The other is its content.” *Goodbye to Law Reviews*, 23 *Va. L. Rev.* 38 (1936). Rodell never bothered to become a member of any bar, and so never actually practiced law. Had he done so, his criticism of legal style would undoubtedly have led him to further castigate legal citation guides. Yet, even without the redoubtable Rodell as authority, countless others have filled that role.

Last month’s column, Supraman’s Kryptonite, added a grain to the mountain of literature criticizing legal citation rules. That piece, about the histories and shortcomings of A Uniform System of Citation (aka the Bluebook) and the California Style Manual (aka the Yellowbook), prompted a surprising deluge of feedback from lawyers, judges, and academics. One Professor, Bill Slomanson, pointed out that he has repeatedly waxed poetic in multiple book reviews of citation guides – written in verse. E.g., *Blue Book Rhapsody*, 66 *J. Legal Educ.* 696 (2017); 42 *J. Legal Educ.* 147 (1992) (reviewing the 15th edition of the Bluebook 15th ed.); 52 *Fordham L. Rev.* 428 (1983); 68 *ABA J.* 735 (1982) (reviewing the Bluebook 13th edition). This sort of creative levity (albeit laced with criticism) contrasts markedly with how many lawyers still suffer law-school/law-review PTSD when citation rules are mentioned. The pains, horrors, and annoyances of legal citation trigger strong reactions.

Some wrote in to complain about the Bluebook’s frequent revised editions, which are disruptive to those who had bothered to master one version, only to have to learn new rules (usually without any rhyme, reason, or tangible benefit). But this complaint is double-edged: One of the biggest criticisms of the Yellowbook is how out-of-date (and out-of-touch) it is. Sticking with the SupraFriends theme, perhaps what’s needed is an activation of Wonder Powers, combining the best of the Blue and Yellow (and maybe other color-coded guides too: The Chicago Law Review’s guide is the Maroonbook; the Texas Law Review’s is the Greenbook).

Calls for updating and improving the Yellowbook are nothing new. A decade ago Judge Curtis Karnow published a clever ditty titled *Revising the California Style Manual*. Recognizing that the world has bigger problems than citation form, his honor nonetheless felt compelled to propose improvements to the Yellowbook. After all, he also confessed his “darkest secret”: that he was “one of the gnomes who worked on the 12th edition of the Bluebook.” Some of his targets were the same as those in Supraman’s Kryptonite: The absurdly redundant use of *supra* and the unnecessary use of “p.” and “pp.” to indicate page references.

A decade on, Judge Karnow’s points remain valid and unaddressed. Maybe what’s needed is an even longer list of complaints? The following is not intended to be exhaustive, of course, but covers key areas to get the ball rolling.

As noted already, there's room for improvement in ditching unnecessary Latin. And if we're going to throw out *supra* and its ilk, we may as well also drop *Ibid.* and only use *Id.* The Yellowbook also has a Table of Frequently Used Abbreviations (pages xvii to xxiv). But the Bluebook has an equally extensive list of abbreviations—and they differ. The Yellowbook uses periods (e.g., Gov. and Assn. for government and association) where the Bluebook uses an apostrophe (Gov't and Ass'n). Would it be so awful if the Yellowbook simply deferred to the Bluebook's abbreviations?

Returning to frustrating case citations, the Yellowbook requires Westlaw cites to look like this: “Ghana v. Pierce (9th Cir. Nov. 5, 1998, No. 97-35588) 1998 WL 790346.” Yet it seems unnecessary to use the case date and number. Indeed, since Westlaw (and many other online-service) citations already include the year baked in, wouldn't this do: “Ghana v. Pierce (9th Cir.) 1998 WL 790346”?

Similarly, the Yellowbook suggests that to use a shortened case name, writers should define it in parentheses after the initial cite, e.g., “Zamudio v. State of California (1998) 62 Cal.App.4th 673 (hereafter Zamudio).” But that “hereafter” parenthetical is redundant, if not unnecessary. As with the *supra* discussion, readers should be trusted to figure out a short-form citation when they see it, and are smart enough to discern what case is being referenced.

The Yellowbook form for citing footnotes is “fn. #.” The Bluebook's format is the shorter and preferable (no space) “n.#.” On the other hand, the Bluebook format for identifying courts in citations inserts spaces, where the Yellowbook wisely does not: e.g., “Neb. Ct. App.” and “C.D. Cal.” (Bluebook) would be “Neb.Ct.App.” and “C.D.Cal.” (Yellowbook). This can be taken to extremes, however. Both Blue and Yellow use “9th Cir.” whereas the U.S. Supreme Court uses “CA9” – which saves a word, but doesn't work well in California, where CA invokes the state abbreviation rather than “Court of Appeals.”

Turning to statutory citations, consider this Yellowbook exemplar: “Code Civ. Proc., § 564, subd. (a).” The Bluebook version would be “Cal. Civ. Proc. Code § 564(a).” This is another ideal opportunity for a Wonder Twins activation.

The Yellowbook's comma after the code name is ridiculous. Equally unnecessary is the Yellowbook's insistence of expressly writing “subdivision.” It is true that California statutes sometimes have both subdivisions and lettered sections, e.g., the Code of Civil Procedure has a section 12, a section 12a, and even a subdivision (a) to section 12a. But most sections don't have lettered counterparts, and using parentheses in the traditional way makes it clear enough when a citation is to section 12, 12a, or 12a(a). The Yellowbook itself acknowledges that “repeated use of ‘subdivision’ in text and ‘subd.’ in connection with oft-repeated citations is unwieldy.” (CSM §2.7 at 50.) The Yellowbook's solution is to insert another silly “hereafter” parenthetical to expressly define “Penal

Code section 243, subdivision (f) (hereafter Penal Code section 243(f)).” Uh, why not just skip having to waste words with an obvious definition to begin with?

Here’s something really radical to consider: What about dropping the space between the section symbol and the number? So instead of “Code Civ. Proc. § 12(a)” we’d have “Code Civ. Proc. §12(a).” Bet we could all handle that. It cuts down on word count too. Need authority? The United States Supreme Court uses this no-space-after-§ style. (Of course, SCOTUS case citation style inserts all manner of other weird spaces and commas, e.g.: “Heller, 544 U. S., at 614” and “Kachalsky, 701 F. 3d 81.” We can do without that!) The proposed outcome? How about this: “Code Civ. Proc. §564(a)”? This gets the job done, and counts as only four words, as opposed to the Yellowbook’s seven and Bluebook’s six.

When citing the California Rules of Court, the Yellowbook insists on “California Rules of Court, rule 224.” There’s that silly comma again. Why not just “California Rule of Court 224” (dropping the “s” and the redundant “rule”). This suggested revision, like many of the preceding proposals, is probably actually used in many filings, not as a matter of citational subversion, but merely as common sense. Only citation pedants (i.e., SupraFriends) would be troubled by these changes – and only because they are unorthodox under existing standards. Standards can and should evolve. Even the Bluebook recently recognized that requiring “Cal. App. 5th” instead of “Cal.App.5th” was a wasteful use of limited word-count.

When citing articles, Yellowbook format uses just an author’s last name, rather than full name (with middle initial). That’s good. So is the Yellowbook’s use of “L.Rev.” where the Bluebook would waste a word with “L. Rev.”

Despite its frustrating shortcomings, the Yellowbook is an incredibly useful resource. Lawyers who aren’t using it really should be. Although The Yellowbook retails on Amazon for \$16.95, it is also available online for free, courtesy of the Sixth District Appellate Program’s website (<http://www.sdap.org/downloads/Style-Manual.pdf>). This is a terrific public service (and a page well-worth bookmarking). (Whether it’s kosher under copyright law to publicly post an entire book, we’ll leave to our IP partners to debate.)

That said, it’s worth urging again – as many have done before these columns – that the Yellowbook is long overdue for revision. And given the reaction to Supraman’s Kryptonite, there is an eager cadre of SupraFriends as well as iconoclastic volunteers willing to help with that effort.