



ESSAY

The Auteur as Editor

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In a recently published article, I purposefully defied *The Bluebook*. Twice the article cites films, and both times it uses the following format¹:

MOVIE TITLE (Director's Name dir., year).

E.g.: WILD AT HEART (David Lynch dir., 1990).

The Bluebook, in contrast, instructs a different format²:

MOVIE TITLE (Production Company year).

E.g.: THE CONFORMIST (Paramount Pictures 1970).

Sharing in the combination of graphomania and pedantry that generally characterizes legal scholarship, I do not take footnoting lightly. Diverging from *The Bluebook* is serious business. Upon reflection, I came to the conclusion that *The Bluebook* is wrong and I am right. In the hope that others will follow suit, here is the case for updating Rule 18.6 of *The Bluebook*—preferably by its editors,³ but in the meantime by vigilante authors and student editors.

Let me emphasize at the outset that a general critique of this uniform system of citation will not be on offer herein. *The Bluebook* has its many detractors and its few defenders. The former term it, at worst, “nuts,”⁴

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1. Rafi Reznik, *Retributive Abolitionism*, 24 BERKELEY J. CRIM. L., no. 2, 2019, at 123, 134 n.41, 174 n.237.
2. THE BLUEBOOK: A UNIFORM SYSTEM OF CITATION R. 18.6, at 187 (Columbia Law Review Ass'n et al. eds., 20th ed. 2015) [hereinafter BLUEBOOK 20TH ED.].
3. See, e.g., Andrew Jensen Kerr, *To Consider or to Use? Citation to Foreign Authority and Legal Aesthetics*, 94 WASH. U. L. REV. 1369, 1369, 1375 (2017) (suggesting a new rule to denote consideration of non-binding sources and imploring readers to “[p]lease contact your local Bluebook editor to remind them of this important omission”).
4. See Bryan A. Garner, *Singing the Bluebook Blues: The Citation Casebook's 20th Edition Prompts Many Musings*, 101 A.B.A. J., Aug. 2015, at 24, 25.

“totalitarian,”⁵ and “mindless,”⁶ and at best, “a necessary evil;”⁷ the latter retort that it is “meaningful and useful”⁸ as well as “chic and sleek.”⁹ A separate question is whether *The Bluebook* ought to be followed even if or when it is flawed. On both fronts, the current argument is modest. It takes it as a given that this system should be followed, but it submits that *The Bluebook* has fallen to error, on its own terms, with regard to the citation of films.

The rule on how to cite films was introduced in the fourteenth edition of *The Bluebook* (1986).¹⁰ Except for shifting movie titles from italics to small caps in the following edition,¹¹ the rule has not changed since. Reviewers of the fourteenth edition noted the addition but failed to critically assess it,¹² and competing legal citation guides do not challenge it either.¹³ Lamentably, it seems that this rule has escaped reflective scrutiny altogether. Yet it is a bad rule, primarily because it goes against the grain of *The Bluebook* as a humanist endeavor.

The Bluebook? Humanism? Doesn’t it render us all vacuous robots, laboring over self-perpetuating formalities that are far removed from anything that resembles thinking? Critics have described *The Bluebook* as “a victory of rote form over reason”¹⁴ and have demonstrated that it is also a

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5. W. Duane Benton, *Developments in the Law—Legal Citation*, 86 YALE L.J. 197, 197 (1976) (reviewing A UNIFORM SYSTEM OF CITATION (Columbia Law Review Ass’n et al. eds., 12th ed. 1976) [hereinafter BLUEBOOK 12TH ED.]).
 6. Richard A. Posner, *Goodbye to the Bluebook*, 53 U. CHI. L. REV. 1343, 1343 (1986).
 7. David E.B. Smith, *Just When You Thought It Was Safe to Go Back into the Bluebook: Notes on the Fifteenth Edition*, 67 CHI.-KENT L. REV. 275, 275 (1991).
 8. Bret D. Asbury & Thomas J.B. Cole, *Why The Bluebook Matters: The Virtues Judge Posner and Other Critics Overlook*, 79 TENN. L. REV. 95, 97 (2011).
 9. Michael Coenen, *Rhapsody in Blue: An Ode to The Bluebook*, 12 GREEN BAG 2D 115, 115 (2008) (referring to *The Bluebook*’s external “physique,” before praising, tongue-in-cheek, various substantive rules).
 10. A UNIFORM SYSTEM OF CITATION R. 15.5.3, at 88 (Columbia Law Review Ass’n et al. eds., 14th ed. 1986) [hereinafter BLUEBOOK 14TH ED.].
 11. THE BLUEBOOK: A UNIFORM SYSTEM OF CITATION R. 17.5, at 124 (Columbia Law Review Ass’n et al. eds., 15th ed. 1991) [hereinafter BLUEBOOK 15TH ED.].
 12. William R. Slomanson, *Bluebook Review*, 28 ARIZ. L. REV. 47, 48 (1986) (reviewing BLUEBOOK 14TH ED., *supra* note 10); Peter Phillips, *Book Note*, 32 N.Y.L. SCH. L. REV. 199, 206 (1987) (same).
 13. The Association of Legal Writing Directors’ guide follows the same rule as *The Bluebook*. ASS’N OF LEGAL WRITING DIRECTORS & COLEEN M. BARGER, ALWD GUIDE TO LEGAL CITATION 263 (6th ed. 2017) [hereinafter ALWD GUIDE]. The University of Chicago’s *Maroonbook* does not provide a specific rule for film citations. 87 THE MAROONBOOK: THE UNIVERSITY OF CHICAGO MANUAL OF LEGAL CITATION (Univ. of Chi. Law Review ed., 2019), <https://perma.cc/RS2D-3MNV>. In practice, the University of Chicago Law Review follows the same rule as *The Bluebook*, except for italicizing movie titles rather than using small caps. See, e.g., Janet M. Currie & W. Bentley MacLeod, *Savage Tables and Tort Law: An Alternative to the Precaution Model*, 81 U. CHI. L. REV. 53, 69 n.62 (2014).
 14. See Susie Salmon, *Shedding the Uniform: Beyond a “Uniform System of Citation” to a More Efficient Fit*, 99 MARQ. L. REV. 763, 765 (2016).

victory over imagination, commenting on the closed-mindedness of legal scholarship through subversion of its citation rules.¹⁵ Well, maybe so. And yet, *The Bluebook* is human centered in the simple sense that it views scholarship as a people's rather than a corporations' enterprise. The rules on citing secondary sources express a commitment to authors, editors, and translators as either the principal or the exclusive holders of authority, and accordingly *The Bluebook* pushes them to the fore at the expense of corporate entities. Thus, unlike other citation systems, articles are cited beginning with the full name of the author—first and then last name, as in human speak—before going on to name the periodical; and books are cited by persons' names and book title only, sans publisher.¹⁶ Moreover, *The Bluebook* explicitly requires that names be cited as their holder wishes, while flattening hierarchies by barring the use of titles such as Prof. or Dr.¹⁷ It also allows the recognition of as many authors as deemed relevant.¹⁸ As of its fifteenth edition (1991), *The Bluebook* “recognizes student authors as human beings” too, crediting their scholarship by name.¹⁹

The use of first names has been in place since the same fifteenth edition, after some law reviews had started including them on their own, in defiance;²⁰ and the trend continued in the next edition (1996), when middle names became allowed as well.²¹ Legal change often works from the ground up. But

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15. See, e.g., Ruthann Robson, *Footnotes: A Story of Seduction*, 75 UMKC L. REV. 1181 (2007) (a footnote-only essay exploring lesbian passion in and for the margins); J.M. Balkin, *The Footnote*, 83 NW. U. L. REV. 275, 279 (1989) (inserting a footnote into the body of the text, as “my struggle against marginalization, my fight against a convention that I bow to even as I reject it momentarily”).
 16. Except in special cases. BLUEBOOK 20TH ED., *supra* note 2, RR. 15.4(a)(iii), 15.4(c), at 152-53. For a suggestion that greater flexibility with publisher citations would be useful, see Alex Glashausser, *Citation and Representation*, 55 VAND. L. REV. 59, 106-07 (2002). *The Bluebook* also requires the citation of commercial publishers for some statutory compilations. See Christine Hurt, *Network Effect 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, 1294 n.241 (2002).
 17. BLUEBOOK 20TH ED., *supra* note 2, R. 15.1, at 149.
 18. *Id.* R. 15.1(b), at 150. See Mary Whisner, *Bitten by the Reading Bug*, 105 L. LIBR. J. 113, 115 (2013).
 19. Smith, *supra* note 7, at 278-79.
 20. James D. Gordon III, *Oh No! A New Bluebook!*, 90 MICH. L. REV. 1698, 1700 (1992) (reviewing BLUEBOOK 15TH ED., *supra* note 11). Of course, some law reviews were more stringent than others. See Katharine T. Bartlett, *Feminist Legal Methods*, 103 HARV. L. REV. 829, 829 n.* (1990) (complaining, in an article published before *The Bluebook*'s 15th edition came out, that the Harvard Law Review's editors refused the author's request to cite authors by their full name: “In these rules, I see hierarchy, rigidity, and depersonalization, of the not altogether neutral variety. First names have been one dignified way in which women could distinguish themselves from their fathers and their husbands. I apologize to the authors whose identities have been obscured in the apparently higher goals of Bluebook orthodoxy”).
 21. A. Darby Dickerson, *An Un-Uniform System of Citation: Surviving with the New Bluebook*, 26 STETSON L. REV. 53, 79-80 (1996).

book publishers were absent already from *The Bluebook*'s first edition (1926).²² The editors do not explain the rationales underpinning specific rules, and it has been suggested that the absence of publisher names is grounded in none but a historical contingency: When *The Bluebook* first emerged, legal scholarship made use of only a few well-known monographs.²³ Some librarians have decried the persistence of this rule as “no longer excusable”²⁴ and have championed a failed attempt to conform legal citation to the norms of other disciplines by citing publishers.²⁵ But from the perspectives of the authorship and the readership, neglecting to cite publishers can rather be viewed as a triumph: Authority is authored by its author.

The Bluebook does not distinguish fiction from scholarly publications, and rightly so. If scholarship is a necessarily human enterprise, surely art is no less so—film included, notwithstanding it is the most industry-dependent art form.²⁶ And of all the people involved in the production of a film, the director is the most important one. In fact, the influential auteur theory holds that the director is the author of the film.

The concept of the auteur was introduced in the famed French magazine *Cahiers du Cinéma* in the 1950s, and in the following decade it evolved into a comprehensive theory that “provoked a revision of the way in which cinema was perceived in Europe and America.”²⁷ Auteurism asserts that in terms of artistic responsibility, as opposed to the terms of copyright law,²⁸ the film is the director's creation. True, auteurism is not a definitional theory—not every director is necessarily an auteur. Rather, it is a theoretical device used to explain how the best directors infuse the entirety of their oeuvres with unique

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22. A UNIFORM SYSTEM OF CITATION: ABBREVIATIONS AND FORM OF CITATION R. IV, at 11-12 (Harvard Law Review Ass'n ed., 1st ed. 1926).
 23. See Richard L. Bowler, Book Review, 44 U. CHI. L. REV. 695, 711 (1977) (reviewing BLUEBOOK 12TH ED., *supra* note 5).
 24. *Id.* The author served at the time of publication as a law librarian at the University of Chicago Law School Library. *Id.* at 695 n.†.
 25. Pamela Lysaght & Grace Tonner, *Bye-Bye Bluebook?*, 79 MICH. B.J. 1058, 1059 (2000) (discussing “[t]his change [including the name of the publisher in book citations], advanced by some librarians,” in the first edition of the *ALWD Citation Manual* (now called the *ALWD Guide to Legal Citation*)). The guide has since abandoned this rule in favor of the *Bluebook* format. See ALWD GUIDE, *supra* note 14, at 188-93.
 26. See, e.g., Louis Harris, *Auteur! Auteur! Who is the Auteur?*, 8 PERFORMING ARTS REV. 120, 124-25 (1978) (“Historians have stated, in fact, that the only previous enterprise involving so many craftsmen in eras past that can be compared to motion pictures was the creation of the glorious cathedrals during the Middle Ages and the Renaissance.”).
 27. Philip Simpson, *Authorship*, in CRITICAL DICTIONARY OF FILM AND TELEVISION THEORY 41, 41-42 (Roberta E. Pearson & Philip Simpson eds., 2001).
 28. Stuart K. Kauffman, Note, *Motion Pictures, Moral Rights, and the Incentive Theory of Copyright: The Independent Film Producer As “Author,”* 17 CARDOZO ARTS & ENT. L.J. 749, 768-69 (1999); cf. PASCAL KAMINA, FILM COPYRIGHT IN THE EUROPEAN UNION 38-45 (2004) (surveying several European countries that recognize film directors as exclusive or joint authors for copyright purposes).

stylistic and thematic marks, even when working from within commercial Hollywood. The theory also lost traction, at least temporarily, with the rise of post-structuralist and materialist orientations in aesthetics, shifting the focus from creative autonomy to more dispersed loci of constitutive and interpretive powers.²⁹

This dialectic process rages on in film theory; but *The Bluebook* is sturdy. It is structuralist and it is humanist. Within this general framework of aesthetic ideology, auteur theory is particularly useful as a general rule for understanding the central role of the director in the cinematic enterprise. Indeed, the citation guide most popular in the social sciences, the American Psychological Association's, expressly credits directors as the authors of their films.³⁰ This also comports with everyday talk about cinema—"Have you seen the new Greta Gerwig movie?"—and is consistent with *The Bluebook's* efforts at humanizing authors of secondary literature.³¹

Citing the director best promotes the concrete purposes of *The Bluebook*. These are directed primarily at providing relevant information to readers, in a concise and clear form, that would help them identify and locate the cited source.³² Citing directors bolsters efficiency and relevancy and carries no toll in clarity. Every film has a director (save for exceptional experimentations that exist in all media) and, as opposed to production companies, usually only one. It is not only easier to locate a film based on its director, but the reader also learns more from such a citation. The only legal scholars who care about production companies are those writing on commercial disputes within the film industry, and they rarely cite the films themselves anyway—cinematic substance is of no authoritative significance to them. Furthermore, the excessiveness of law review footnoting indicates that we also use citations to pay our respects to the people whose work we appreciate, or at least deem worthy of perusal.³³ Indeed, "legal citation efficiently communicates to the reader the weight and vintage" of the cited authority.³⁴ The weight and vintage of a film rest on the shoulders of its director.

29. See John Caughie, *Authors and Auteurs: The Uses of Theory*, in THE SAGE HANDBOOK OF FILM STUDIES 408, 408-09 (James Donald & Michael Renov eds., 2008); Philip Simpson, *Auteur-Structuralism*, in CRITICAL DICTIONARY OF FILM AND TELEVISION THEORY, *supra* note 27, at 42, 42-46; DUDLEY ANDREW, CONCEPTS IN FILM THEORY 117 (1984).

30. AM. PSYCHOLOGICAL ASS'N, PUBLICATION MANUAL OF THE AMERICAN PSYCHOLOGICAL ASSOCIATION: THE OFFICIAL GUIDE TO APA STYLE 341-43 (7th ed. 2020) [hereinafter APA MANUAL].

31. See *supra* text accompanying notes 16-26.

32. See BLUEBOOK 14TH ED., *supra* note 10, at iv; see also Posner, *supra* note 6, at 1344.

33. Alongside other motivations, such as demonstrating scholarly diligence. See Joan Ames Magat, *Bottomheavy: Legal Footnotes*, 60 J. LEGAL EDUC. 65, 70-72 (2010).

34. Salmon, *supra* note 15, at 769.

If the director is a film's author, why not cite her like an author of a book?
Why not propose this rule:

DIRECTOR'S NAME, MOVIE TITLE (year).

E.g.: JOEL COEN & ETHAN COEN, HAIL, CAESAR! (2016).

The reason for rejecting this rule is that films are still intensely collaborative projects. In this spirit, the most common citation guide in the humanities, the Modern Language Association's (MLA), instructs that authors may identify any person whose role is at the center of their discussion, including directors as well as other contributors.³⁵ In addition, the MLA format requires citing "the organization that had the primary overall responsibility" for the film, as analogous to the publisher cited in book citations.³⁶ These contrasts with *The Bluebook* are informative. First, they highlight that production company is a stand-in for publisher, and hence where publishers are absent the presence of production companies is suspicious. Second, the MLA recognizes the collective character of film projects. But *The Bluebook*, as its full title clarifies, is *uniform*, not only in that it flattens differences across various individual and institutional authors but also in that it mandates consistency.³⁷ To adopt the MLA's flexibility with regard to different cinematic position holders would incur terrible inconsistencies.³⁸

The director is the person to cite, but in a way that elucidates that films are products of collaboration. *The Bluebook* rule for citing edited volumes offers exactly that. Citing the auteur as editor does not charge that texts are necessarily pluralistic projects, nor does it ontologically equate cinematic authorship with editorial work or rob film editors of their title. Rather, it works from within the categories of *The Bluebook* to find a practical solution to the problem of authorship in complex, mechanically reproduced, audiovisual texts. The mold of the edited volume is best suited for that, but the replacement of eds. with dirs. is crucial, for it drives a substantive wedge

35. MODERN LANGUAGE ASS'N OF AM., THE MLA HANDBOOK 24 (8th ed. 2016).

36. *Id.* at 41.

37. *But see* Dickerson, *supra* note 21, at 56-57 (claiming that *The Bluebook* is in fact "un-uniform").

38. For this reason, the rule proposed here does not apply to television programs. Both *The Bluebook* and *The MLA Handbook* lump cinema and TV together. From *The Bluebook's* perspective this is a mistake, because it cannot accommodate citing various position holders. In TV, as opposed to film, there are usually multiple directors for any given program, and they are not necessarily the persons who bear artistic responsibility for the creation, who are most closely associated with the product in the public or in the art world, or whose names are the most pertinent pieces of information for locating the source—these roles might vary between the creators, the broadcasting network, and others involved in the production. *Cf.* APA MANUAL, *supra* note 30, at 341-44 (differentiating films from other audiovisual works as regards authorship. The APA suggests that the executive producer should be cited as the author of TV series, and the writer and director should be cited as authors of specific episodes).

between these positions, letting each reign over their own domain.³⁹ So, the way to cite films in law review articles, in spite of *The Bluebook*, is this:

MOVIE TITLE (Director's Name dir., year).

E.g.: FOOTNOTE (Joseph Cedar dir., 2011).

Footnotes are, “in the most literal sense,” the subtext of scholarly work.⁴⁰ *The Bluebook* wants us to express subtextual misappreciation of cinematic art. As we have seen, however, *The Bluebook* already knows better; and so should we.

39. A comprehensive attempt in the same spirit regarding music citations was undertaken already in 1982, suggesting such abbreviations as perf. (performer) and cond. (conductor). *Special Project: A System of Citation for Phonograph Records*, 1 J. ATTENUATED SUBTLETIES 40, 42 (1982), reprinted in 9 J.L.: PERIODICAL LABORATORY OF LEGAL SCHOLARSHIP 118, 120 (2019), <https://perma.cc/V8PR-6R74>. However, much like audiovisual works, *The Bluebook* still cites music recordings by reference to commercial companies. BLUEBOOK 20TH ED., *supra* note 2, R. 18.7.1, at 188.

40. G.W. Bowersock, *The Art of the Footnote*, 53 AM. SCHOLAR 54, 55 (1984).