

## University of Ottawa Faculty of Law (Civil Law Section)

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From the Selected Works of Hon. Gerald Lebovits

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# Tanbook, Bluebook, and ALWD Citations: A 2007 Update

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# NEW YORK STATE BAR ASSOCIATION Journal



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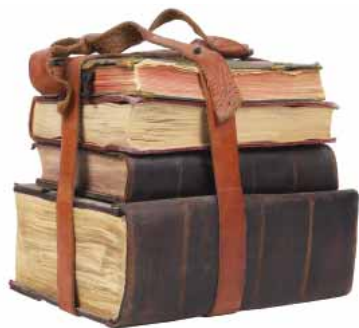
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## Tanbook, Bluebook, and ALWD Citations: A 2007 Update

Citing is power. Lawyers cite not merely to help their readers find the law. They cite to attribute and support. Good citing is the mark of a good lawyer. Good citing makes legal writing concise and honest. Good citing informs and persuades. Good citing impresses. Citing well isn't just a matter of following rules. It's also a matter of knowing your audience and following the right rules.

New Yorkers are rich with uniform systems of citation. But this wealth makes New York citing systemically un-uniform.

New York lawyers have several citing options.<sup>1</sup> The leader is The Bluebook: A Uniform System of Citation.<sup>2</sup> Established in 1926, The Bluebook is in its eighteenth (2005) edition. Less used, but gaining in popularity in the law schools, is a Bluebook competitor, the ALWD Citation Manual: A Professional System of Citation.<sup>3</sup> ALWD first appeared in 2000. It's already in its third (2006) edition.

This month — October 2007 — New Yorkers will have a new-and-improved option: The 2007 New York Law Reports Style Manual, Official Edition, commonly called the Tanbook,<sup>4</sup> initially published in 1956 and currently published by Thomson West. The 2007 Tanbook will be available for free online this month in PDF and HTML. Go to “<http://www.nycourts.gov/reporter>” and click the “Style Manual” link on the left.

The 2007 Tanbook is the best option for New York practitioners. It's also the only option for New York practitioners.

### The Official Style Manual

The Tanbook offers rules and suggestions on citing cases, statutes, rules, regulations, and secondary authority like law journals and treatises. It guides readers on style, usage, quoting, capitalizing, punctuating, and word choice. In the 2007 version, the rules and suggestions go on for 205 pages.

Tanbook citing is immediately recognizable because citations are surrounded by parentheses, supporting information is added in brackets, and periods — like those after the “v” in “versus” — are omitted in key places. Here are three examples from the 2007 Tanbook: Case law: (*Matter of Ganley v Giuliani*, 253 AD2d 579, 580 [1st Dept 1998], *rev'd* 94 NY2d 207 [1999].) Statute: (Penal Law § 125.20 [4].) Secondary authority: (The Bluebook: A Uniform System of Citation [Colum L Rev Assn et al. eds, 18th ed 2005].).

The Tanbook is prepared by the New York State Law Reporting Bureau (LRB),<sup>5</sup> an arm of the New York Court of Appeals. The LRB's prime responsibility is to collate, select, and edit judicial opinions for publication online<sup>6</sup> and in New York's Official Reports: the Miscellaneous (Misc.), Appellate Division (A.D.), and New York (N.Y.) (Court of Appeals) reports. Opinions printed in the Official Reports conform to Tanbook citing. Readers can always find examples of perfect Tanbook citing by looking at a recent volume of the Official Reports, or even by going online and skimming a few cases.

The citation schemes for New York opinions published unofficially are Bluebook-based but Bluebook inaccurate. Thomson West's N.Y.S.2d and

N.E.2d use The Bluebook, but spacing and other significant details differ from The Bluebook's. The New York Law Journal uses whatever system the author uses; it re-prints the opinion as submitted. The Law Journal will simply make some minor changes like adding periods after a “v” for “versus” in a case citation if the Tanbook-compliant author omits the period.

New York judges who want to publish their opinions in the Official Reports must cite Tanbook-style. New York lawyers, at their best when they make it easy for judges to rule for their clients, should cite Tanbook-style. As the 2007 Tanbook modestly explains, “Although not binding on them, many lawyers find the Manual useful in preparing papers for submission to New York courts.”<sup>7</sup> Beyond using the Tanbook to help judges, lawyers should use the Tanbook because it's always accurate. The LRB knows New York legal research — New York cases, statutes, and secondary authority — better than anyone.

The Tanbook shines by itself and by comparison. The Bluebook is always wrong on New York sources. New York practitioners who rely on The Bluebook do so at their peril. And ALWD makes no pretense about whether it applies to New Yorkers. ALWD itself tells its New York readers to cite Tanbook-style.<sup>8</sup>

### The Bluebook

The Bluebook is right for national and international sources. It's right for law-review and law-journal editors and readers. It's right for federal judges and practitioners. It's wrong for law-

CONTINUED ON PAGE 52

yers who write to or for New York State courts.

The Bluebook is wrong about official citations. The Bluebook tells users to cite the unofficial N.E.2d for Court of Appeals cases instead of the official N.Y.3d. It also tells users to cite the unofficial N.Y.S.2d instead of the official A.D.3d or Misc. 3d for decisions from other courts. An example from The Bluebook is *Palsgraf v. Long Island Railroad Co.*, 162 N.E. 99 (N.Y. 1928).<sup>9</sup> Why The Bluebook favors the unofficial

Tanbook explains, “Parallel unofficial citations are not used for officially reported New York State cases.”<sup>15</sup>

The Bluebook is wrong, moreover, in directing writers to cite New York’s intermediate courts’ departments or districts only when that information “is of particular relevance.”<sup>16</sup> The Bluebook cites as examples *Schiffman v. Corsi*, 50 N.Y.S.2d 897 (Sup. Ct. 1944), and *Schiffman v. Corsi*, 50 N.Y.S.2d 897 (Sup. Ct. N.Y. County 1944).<sup>17</sup> Both the rule and the examples are wrong. Legal writers should always give the

later, The Bluebook contradicts itself — it gives a consecutively paginated way to cite the Law Journal (124 N.Y. L.J. 1221 (1950)) that will allow no one to find the reference.<sup>19</sup>

### The New York Rules of Citation

The only way for New York lawyers to use The Bluebook is to fix it with the New York Rules of Citation, published by St. John’s University School of Law. Now in its fifth edition, revised in late 2005 to incorporate The Bluebook’s eighteenth-edition revisions, the Rules

## New York judges who want to publish their opinions in the Official Reports must cite Tanbook-style.

reports is a mystery. Unofficial reports are often inaccurate, and New York requires official citations for decisions appearing in the Official Reports and in practitioners’ appellate papers.<sup>10</sup>

The Bluebook is also wrong about parallel citations and what New York’s “local” rules demand. The Bluebook properly directs that “[i]n documents submitted to state courts, all case citations should be to the reporters required by local rules.”<sup>11</sup> The Bluebook correctly refers its readers to Table BT.2, which commendably cites the Tanbook, the CPLR, and Court of Appeals and Appellate Division rules as the sources of New York’s local rules.<sup>12</sup> But The Bluebook gets it wrong from there. The Bluebook explains that “[l]ocal rules often require citation to both the official state reporter *and* the unofficial regional and/or state-specific reporter”<sup>13</sup> and cites *Kenford Co. v. County of Erie*, 73 N.Y.2d 312, 537 N.E.2d 176, 540 N.Y.S.2d 1 (1989),<sup>14</sup> as an example of the supposed New York local rule requiring parallel citations.

That rule doesn’t exist. According to the CPLR and New York court rules, parallel citations to New York cases aren’t required for New York lawyers. Nor are they helpful to New York judges, who rely, and properly so, on official citations only. As the 2007

department or district, for intermediate appellate courts and for trial courts, to tell readers whether the authority is binding or persuasive and, if persuasive, how persuasive. Additionally, The Bluebook’s citation to *Schiffman* isn’t from an intermediate appellate court, like New York’s Appellate Division or Appellate Term. It’s from a court of first instance: Supreme Court, Special Term. And *Schiffman* really does have intermediate appellate history. The Bluebook should have given this citation: *In re Schiffman v. Corsi*, 182 Misc. 498, 50 N.Y.S.2d 897 (Sup. Ct. N.Y. County), *aff’d mem. sub nom. In re Schiffman v. Murphy*, 268 App. Div. 765, 50 N.Y.S.2d 132 (1st Dep’t 1944), *rev’d sub nom. Schiffman v. Corsi*, 294 N.Y. 305, 62 N.E. 81, *cert. denied*, 326 U.S. 744 (1945).

The Bluebook continues to be wrong about the New York Law Journal. The Bluebook offers two ways to cite the Law Journal. Both are wrong. In one place, The Bluebook tells us that the Law Journal publishes opinions from the federal district court in Massachusetts and that dates of decision, in addition to publication dates, are available for citing. Neither is true. The Bluebook example is *Charlesworth v. Mack*, N.Y. L.J., Dec. 5, 1990, at 1 (D. Mass. Dec. 4, 1990).<sup>18</sup> Sixty-one pages

of Citation explains The Bluebook’s deficiencies and tells lawyers, law students, and law-journal editors how to correct them. If you must use The Bluebook, combine it with the Rules of Citation. The Rules of Citation is prepared by St. John’s law librarian William H. Manz, who also wrote Gibson’s New York Legal Research Guide (3d ed. 2004), which dedicates many pages to comparing Bluebook, ALWD, and Tanbook citing.

### ALWD

The ALWD citation manual is designed by legal-writing experts to substitute for the inordinately complex Bluebook. ALWD has succeeded in its mission: It’s much easier to use than The Bluebook. For example, it eliminates the unnecessary distinction between citing for law reviews and law journals and citing in practitioners’ legal documents.

Experts doubt whether ALWD will ever rival The Bluebook in popularity. The subtle distinctions in citing between ALWD and The Bluebook are noticeable to experienced practitioners and recent graduates from law review and moot court. They will assume that those who cite ALWD-style don’t know how to use The Bluebook.

In terms of New York citations, ALWD, in its third edition, is a vastly



improved product. In its first edition, every ALWD example for New York law was wrong. ALWD now refers its New York readers to the Tanbook.<sup>20</sup> For its national readers, ALWD still makes too many mistakes about New York. In one place, ALWD, like The Bluebook, uses unofficial citations instead of official citations and tells writers to add “App. Div.,” even though all New Yorkers know that “2d Dept.” means the Appellate Division: 634 N.Y.S.2d 740 (App. Div. 2d Dept. 1995), *aff’d*, 679 N.E.2d 1035 (N.Y. 1997).<sup>21</sup> Later, ALWD, in its parallel-citing section, omits the “App. Div.” reference: *People v. Glanda*, 18 A.D.3d 956, 794 N.Y.S.2d 712 (3d Dept. 2005).<sup>22</sup>

ALWD also errs the one time it gives an example of a rule. Calling New York’s ethics rules a “uniform law,” ALWD offers this citation: “N.Y. Code of Prof. Resp. DR 4-101(c)(2) (1999). [New York version of the Model Code of Professional Responsibility DR 4-101(c)(2)].”<sup>23</sup> This is all wrong. New York has not adopted the Model Code. And if one cites DR 4-101(c)(2), one must also add its 22 NYCRR parallel citation, because the Code of Professional Responsibility is binding only to the extent that the departments of the Appellate Division have adopted it. The correct way to cite the rule according to the Tanbook: (Code of Professional Responsibility DR 4-101 [c] [2] [22 NYCRR 1200.19 (c) (2)]).

### 2007 Tanbook Revisions

The 2007 Tanbook re-works the 2002 edition, which itself was updated by some amendments in 2004.<sup>24</sup> It’s the best Tanbook yet. In her foreword to the Tanbook’s 2002 edition, Chief Judge Judith S. Kaye wrote that the 2002 changes, encouraging “clearer, cleaner, more readable” legal writing, “ma[de] my heart jump with joy.”<sup>25</sup> The Chief Judge’s 2007 foreword explains that the current revision — she calls it “updating” — “is more akin to filling crevices than bridging chasms . . . . Always the movement, happily, is toward more readable text.”

Revisions for 2007 include rules requiring writers to add years of decision to case-law authority, eliminating “supra” usage, and new rules aiding writers’ use of electronic formats and making it easier to quote. The 2007 Tanbook offers new abbreviations, fewer capitalizations, and excellent guidance on gender-neutral writing and writing in plain English, such as avoiding Latinisms and legalisms. It also offers advice on reducing excessive hyphenation and italics. The 2007 revisions incorporate revisions from 2004, including eliminating asterisks “\* \* \*” in favor of ellipses “. . .” and forbidding commas after signals like “see” and “contra.”

The 2007 Tanbook still includes two relics: Citations surrounded by disconcerting parentheses and brackets. The original view was that citations should be placed into but set off from the text. Parentheses and brackets satisfied that mandate. Today they are an anachronism, included, perhaps, only because the LRB must change citation usage incrementally, not wholesale. Another problem with the Tanbook is that it gives writers too much discretion in citing cases and secondary authority. Writers and readers want and need to be told what to do. As lawyers, we are confused when we have too many choices.<sup>26</sup> That discretion includes whether a citation will be part of the sentence or a separate sentence.

Despite the Tanbook’s relics and excessive permissiveness, New York lawyers, trained in The Bluebook and, increasingly, ALWD, would be smart to keep the 2007 Tanbook on their desks. The 2007 Tanbook is user-friendly in organization. It is accurate and comprehensive in legal research. It is progressive and informative on usage and style. It’s the best of the options by far. It’s for New Yorkers, by New Yorkers.

Some say you get what you pay for. Not so the 2007 Tanbook, available for free online. Other than the LRB’s free online case-law publication service, it’s the best free legal resource in New York.

**New York lawyers,  
at their best when  
they make it easy for  
judges to rule for their  
clients, should cite  
Tanbook-style.**

In the next issue, the Legal Writer will continue with its series on Legal Writing Do’s, Don’ts and Maybes. ■

1. Compounding the problem is that many publications use their own citation systems. These publications include all State Bar publications, such as the *Journal*. State Bar publications use their own Bluebook variant. See [http://www.nysba.org/Content/NavigationMenu/Publications19/Bar\\_Journal/Article\\_Submission22/Article\\_Submission.htm](http://www.nysba.org/Content/NavigationMenu/Publications19/Bar_Journal/Article_Submission22/Article_Submission.htm) (last visited Aug. 14, 2007). Everyone, it seems, wants to set a different uniform citation method, including the American Association of Law Libraries, which has developed its Universal Citation Guide for courts designing medium-neutral citation schemes, or citation schemes that cite print and electronic sources the same way and which cite to paragraphs, not pages. See <http://www.aallnet.org/committee/citation/ucg/index.html> (last visited Aug. 14, 2007) (offering prior Universal Citation Guide version 2.1).

2. See <http://www.legalbluebook.com> (last visited Aug. 14, 2007).

3. ALWD is so-named because it’s written by the Association of Legal Writing Directors and Darby Dickerson, Stetson University College of Law’s dean. See [http://www.alwd.org/publications/citation\\_manual.html](http://www.alwd.org/publications/citation_manual.html) (last visited Aug. 14, 2007). ALWD is published by Aspen Publishers, which has a helpful Web site that offers charts, appendixes, and updates. See [http://www.alwdmanual.com/books/dickerson\\_alwd/default.asp](http://www.alwdmanual.com/books/dickerson_alwd/default.asp) (last visited Aug. 14, 2007).

4. Competing for the moniker “Tanbook” is LexisNexis’s New York Landlord-Tenant Law (Tanbook), currently in its 2007 edition.

5. For the Law Reporting Bureau’s Web site, go to <http://www.nycourts.gov/reporter> (last visited Aug. 14, 2007). The LRB’s editors who prepared the 2007 Tanbook are Gary Spivey, the State Reporter, and Charles A. Ashe, William J. Hooks, Michael Moran, Katherine D. LaBoda, Chilton B. Latham, Kathleen B. Hughes, and Cynthia A. McCormick.

6. See <http://www.nycourts.gov/reporter/Decisions.htm> (last visited Aug. 14, 2007).

7. Tanbook Preface at v.

8. ALWD Appendix 2, at 425 (citing 2002 Tanbook and quoting Gerald Lebovits, *New Edition of State’s “Tanbook” Implements Extensive Revisions in Quest for Greater Clarity*, 74 N.Y. St. B.J. 8 (Mar./Apr. 2002)).

9. Bluebook Rule B5.1.5, at 11. This cite also contradicts Bluebook rules. “Railroad” must be abbreviated as “R.R.” Bluebook Rule T.6, at 336.

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## THE LEGAL WRITER

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10. See, e.g., *Disenhouse Assocs. v. Mazzaferro*, 135 Misc. 2d 1135, 1137 n.\*, 519 N.Y.S.2d 119, 120 n.\* (Civ. Ct. N.Y. County 1987) (urging attorneys not to cite "the unofficial reports only") (citing CPLR 5529(e), which provides that in their appellate briefs, attorneys who cite New York cases must cite the Official Reports, if available); *People v. Matera*, 52 Misc. 2d 674, 687, 276 N.Y.S.2d 776, 789 (Sup. Ct. Queens County 1967) ("[W]e are required, in the rendition of our opinions, to cite New York decisions from the official reports, if any, as the counsel themselves are bound to do in their briefs on appeal.").

11. Bluebook Rule B5.1.3, at 9 (bold omitted).

12. *Id.* Rule BT.2, at 38.

13. *Id.* Rule B5.1.3, at 9 (emphasis in original).

14. *Id.*

15. Tanbook Rule 2.2 (b)(1), at 14.

16. Bluebook Rule 10.4(b), at 90.

17. *Id.*

18. *Id.* Rule 10.1, at 80.

19. *Id.* Rule 16.5(c), at 141.

20. See *supra* text and accompanying note 8.

21. ALWD Rule 11.3(g), at 56.

22. *Id.* Rule 12.4(d)(3)(g), at 82.

23. *Id.* Rule 27.4(f), at 243.

24. The 2002 Tanbook, accessible in HTML and PDF versions, is found at [http://www.courts.state.ny.us/reporter/Styman\\_Menu.htm](http://www.courts.state.ny.us/reporter/Styman_Menu.htm) (last visited Aug. 14, 2007). It is reviewed and compared to The Bluebook (17th ed. 2000) and ALWD (1st ed. 2000) in Lebovits, *supra* note 8.

25. Tanbook Foreword at iii.

26. An earlier Bluebook competitor, The University of Chicago's Maroonbook, failed because it offered too much discretion. Bryan A. Garner, *Practice Strategies: Legal Writing*, available at <http://www.abanet.org/genpractice/newlawyer/2003/nov/strategies2.html> (last visited Aug. 17, 2007) (discussing The Bluebook, ALWD, New York's Tanbook, and other citation schemes). The Tanbook's built-in audience and team of experts who keep it current will assure its success.



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