

Surviving the Write-On Competition and other sound advice...

Prepared for you by the Editors of the Houston Law Review.

Selected Tips From: EUGENE VOLOKH, *GETTING STARTED: ACADEMIC LEGAL WRITING* (3rd ed. 2007).

(Page numbers where each section start are noted in parenthesis next to heading)

Before the Competition Starts (218)

- Refamiliarize yourself with the Bluebook
 - Now would be a good time to tab sections: abbreviations, jurisdictions, parentheticals and signals, etc.
- “Oh, no! I’m reading this book the day before the competition is to start.”
 - “Don’t panic”
 - “Preparation is helpful, not mandatory”

After the Competition Starts (224–26)

- Read instructions carefully
- Read assignment and sources completely before you start writing
 - Note whether sources are relevant to the problem, how they can be used for or against possible solutions, and what similarities or differences exist between cases cited and the current fact pattern
- Choose a claim. Good claims are:
 - Legally defensible (soundness)
 - Politically inoffensive
 - Creative
 - And sometimes a “nuanced solution is actually more sound than the yes-or-no one.”
- Write the rough draft quickly
 - Don’t proofread as you write – you will need to spend a lot of time editing at the end anyways
 - Don’t worry about page limit, trim down later
 - Deal with counterarguments and do not overstate the strength of position
 - Use facts but don’t focus too much on them
 - Use headings for each subsection
 - Keep it clear and simple, avoiding redundancy and jargon
 - Avoid sarcasm, snideness, and humor

- Add footnotes as you write, but don't let formatting distract you too much
- Pay attention to weight of authorities
- Cite everything

Editing (242)

- Never hand in the 1st-3rd drafts
- The more proofreading passes, the better
- Cut unnecessary clauses and facts/principles that ultimately end up not being relevant
- Ensure that introduction reflects final thinking on the subject
- Remember a solid argument is better than a brilliant argument
- Remember that citation formats do not always follow what was cited in the case itself

Other suggestions (246, 38)

- Don't spend too many pages restating the facts or law
- Claims should be novel, nonobvious, useful, and sound
 - "The majority opinion misconstrued these precedents in these ways, and the rule the court should have adopted is this-and-such, and the opinion leaves open these questions that should be answered in these ways."
 - Majority opinion misinterprets/misapplies precedent or statute, makes unjustified logical leap, fails to respond to certain counterarguments
 - Criticisms that point to the bad results that the majority opinion may lead to
 - Criticisms of the vagueness or uncertainty of the majority's rule
 - Criticisms of the concurring and dissenting opinions
 - Proposals for a better rule
 - Explanations of the unresolved questions left by the majority opinion

The Test Suite (21)

- When thinking about prescriptive proposal, don't ignore other scenarios to which your proposal might apply
- The test suite is a set of cases that programmers enter into the programs to see whether the results look right – use it for legal proposals, looking at various, plausible cases to which your proposal might apply
- What you might find
 - Proposal reaches results that even you yourself think are wrong
 - Proposal is unacceptably vague
 - Proposal reaches a surprise result – so discuss this in you note
 - Proposal reaches proper results
- Test cases should include famous precedents in this field, cases that challenge for the proposal, cases that differ from each other, that appeal to different political/policy perspectives, and cases that yield different results

Miscellaneous Advice from Folks Who've Been There, Done That:

- Don't be intimidated by the length or complexity of the case. The more that's there, the more you have to work with. Your paper will ultimately focus on fleshing out a specific aspect or element of the opinion.

* * *

- Do not get stuck on writing the perfect introduction – you could easily spend hours on this when you need to move on. Just be sure your thesis and main points are written down, if you get stuck here.
- Almost every sentence should be supported by citation.
- Always use parentheticals with citations that do not directly cite the authority (ex: See, See generally, Contra, etc.).
- Go back and check your arguments for soundness and explanatory clearness – sometimes you will find that you've actually skipped logical reasoning steps, because the arguments are so clearly laid out already in your head.
- Do not worry about where other people are in the process, but do get started as soon as possible.
- Take a look at what arguments were made during oral argument and in the briefs to see what issues were unresolved or excluded.
- Your research will help direct you toward a thesis. Don't decide on a thesis first and then fruitlessly try to find cases that narrowly support your idea.
- KEYCITE. Don't use overruled cases.

* * *

- Before the competition begins, do some prep work: read the rules in advance at the Houston Law Review website; look at a few casenotes published in HLR; make sure you know how to access HLR articles in the library and on-line; read the instructions and look at the samples posted on the HLR website. Familiarize yourself with the general structure of the casenote. Also make sure you know exactly when and where the submission must be delivered (even fill out the Write-On Competition ID Form in advance). If at all possible, attend Professor Tabor's workshop. If not, watch the video. Do all these things before the competition begins.
- Set aside as much time as possible to devote to this task. Plan exactly when you are able to devote time to the competition, pencil it into your calendar, and stick to it.
- On the day the case is released, read it, mark it up, and get copies of the legal materials referenced by that case. Reread the case a couple of times over the next few days. I needed a few days to let the case and relevant references percolate in my head before I could settle on a topic.
- The thing that gave me the most trouble was the ATL:BTL requirement. Because of the page limits for our appellate briefs in Legal & Creative Writing, I developed the habit of keeping my footnotes as short as possible. The HLR casenote format requires exactly the opposite, and my first draft ATL:BTL was 70:30--way off. I skimmed several HLR articles to get ideas how to pump up the volume BTL. I would also recommend reviewing

the rules on signals and parentheticals, and asking questions of Professor Tabor, before the competition begins.

- Finish your actual writing a couple of days before the deadline. Spend the last 2-3 days combing through your submission, checking spelling, grammar, Bluebooking, passive voice, etc. Meticulously go through the technical requirement lists Professor Tabor provides. Whenever I had an unusual BTL reference, I always looked for a similar entry published in HLR for comparison.
- Make sure you are done, done, done at least one day in advance. Put the paper down and walk away. Then, on the last day, do 2-3 readthroughs. You're not looking for major changes, you're looking for piddly errors and readability with a fresh set of eyes. Sometimes, things get dragged or cut-and-pasted to the oddest places.

* * *

- Get very acquainted with the bluebook. There is probably a rule in the BB about everything you put in your paper. Especially pay attention to the proper usage of signals, parentheticals and short cites.

THE TOP 18 THINGS YOU NEED TO KNOW ABOUT LAW REVIEW BLUEBOOK CITATIONS
BY SPENCER SOLOMON

1. All citations to cases, law review articles, statutes, websites, etc. are done in FOOTNOTES in 10-POINT FONT, not in the actual text.
2. After the first time you cite to a law review article, book, treatise, periodical, or website in a footnote, EVERY OTHER TIME you cite to it in any other footnote do it this way (REMEMBER to keep a book or treatise author's last name in small caps):

⁷ Spencer D. Solomon, *How to Bluebook for Law Review*, 55 S. TEX. L. REV. 121, 137 (2009).

...

²⁸ Solomon, *supra* note 7, at 139.

3. The first time you cite to a case, you should give a full citation and the case name SHOULD NOT BE ITALICIZED. In fact, whenever you give a full citation to a case, the case name should NOT be italicized.
4. If you cite to an IMMEDIATELY preceding case, statute, or rule (in full citation, short citation, or otherwise), use an *Id.* This is true if you're citing to the immediately preceding cited authority in a new footnote or in the same footnote. However, if there is more than one authority cited in the immediately preceding footnote, you cannot use *Id.* to cite to one of those authorities in the next footnote (i.e., to *Id.* cite an authority in the immediately preceding footnote in the next footnote, the immediately preceding footnote must contain only that authority and no others)
5. If you cite to a CASE that was cited somewhere in the last FIVE footnotes in any way (i.e. short cites and *Id.* cites included), you may use the short citation form for cases. If you cite to a case that was NOT previously cited in the last five footnotes, you must give the FULL CITATION for that case (you cannot use the short citation form). This rule ONLY APPLIES TO CASES, not to law review articles, or statutes. Knowing this "five footnote rule" will impress law review editors big time. Here's an example of the five footnote rule in action:

¹ Brown v. Bd. of Educ., 347 U.S. 483, 485 (1954).

² *Id.* at 488.

³ *Id.* at 493. ← LAST CITE TO CASE

⁴ See, e.g., Campbell v. Countrywide Home Loans, Inc., 545 F.3d 348, 356 n.1 (5th Cir. 2008) (noting that Bankruptcy Rule 9011 and 11 U.S.C. § 105 provide "mechanisms to impose sanctions on parties who may attempt to abuse the procedural mechanisms within the bankruptcy court").

⁵ *Id.* at 358–59.

⁶ *Id.* at 360.

⁷ *Brown*, 347 U.S. at 494.

¹ Brown v. Bd. of Educ., 347 U.S. 483, 485 (1954). ← LAST CITE TO CASE

² See, e.g., Campbell v. Countrywide Home Loans, Inc., 545 F.3d 348, 356 n.1 (5th Cir. 2008) (noting that Bankruptcy Rule 9011 and 11 U.S.C. § 105 provide "mechanisms to impose sanctions on parties who may attempt to abuse the procedural mechanisms within the bankruptcy court").

³ *Id.* at 358–59.

⁴ *Id.* at 360.

⁵ See Spencer D. Solomon, *How to Bluebook in Law Review Format*, 55 S. TEX. L. REV. 121, 137–45 (2009).

⁶ Solomon, *supra* note 5, at 152 n.3.

⁷ *Brown v. Bd. of Educ.*, 347 U.S. 483, 491 (1954).

6. Here are the terms that are ALWAYS ITALICIZED: *Id.*, *supra*, *infra*, and all signals (*see*; *see, e.g.*; *see also*; *see generally*; *cf.*)
7. NEVER ITALICIZE COMMAS—well, almost never. You only italicize commas when (a) they are actually a part of the case name or the title of the article you are citing; or (b) the first comma in the signal *See, e.g.*,
8. The first page of your law review article, case note, etc. should look like this (the title is 14-point font and in SMALL CAPS, the author’s name is in 12-point font in SMALL CAPS, roman-numeraled headings are in SMALL CAPS, capital letter and numbered subheadings are in *italics*, but lower-case letter subheadings are in normal font. NOTE that all the actual headings in the body of your paper should be in the same font style—see rule 18, below):

<p>HOW TO BLUEBOOK FOR LAW REVIEW: A GUIDE TO THE DARKEST REACHES OF THE DREADED CITATION MANUAL</p> <p>SPENCER D. SOLOMON</p>	
I. INTRODUCTION.....	1
II. BACKGROUND OF THE BLUEBOOK.....	3
A. <i>Precursors to the BlueBook</i>	5
B. <i>The Sadists who Created the Dreaded Manual</i>	8
III. THE BLUEBOOK’S HARMFUL EFFECTS ON LAW STUDENTS.....	12
A. <i>BlueBook-Related Suicide</i>	13
1. <i>The Case of Francis Begbie</i>	16
a. Intrigue at South Texas.....	18
b. Intrigue Abroad.....	19
2. <i>The Case of Anon Amous</i>	20
B. <i>BlueBook and Chemical Dependency</i>	25
1. <i>Uppers</i>	27
2. <i>Downers</i>	31
IV. THE SOLUTION.....	33
A. <i>Burn the BlueBook</i>	35
B. <i>The NewBook Proposal</i>	38
V. CONCLUSION.....	42

9. Buy a copy of the **Texas Law Review Manual on Usage & Style**. It contains every non-BlueBook piece of information you need to know, such as how to properly quote material, how to omit words or phrases from quotes, how to properly use ellipses, when to capitalize, when to use italics, how to use semi-colons, colons, and commas properly, and a myriad of other helpful tidbits which every law review member and editor needs to survive.
10. When you are citing to consecutive pages, use an en-dash (can be found in Microsoft Word by going to Insert > Symbols, and then selecting the “Special Characters” tab—the same is true for em-dashes. Here’s the difference (and a good editor will notice it):

Id. at 256–59. ← This citation has an en-dash.

Id. at 256-59. ← This one doesn’t.

11. Here's how you cite to various sorts of cases (remember to check Table 6 of the BlueBook to see what words should be abbreviated in case names):

a. U.S. Supreme Court

Brown v. Bd. of Educ., 347 U.S. 483, 485 (1954).

Always cite to the U.S. Reporter ONLY,
not S.Ct. or L.Ed., and not all three

Do not put "U.S." in the date parenthetical

b. U.S. Court of Appeals

Campbell v. Countrywide Home Loans, Inc., 545 F.3d 348, 356 (5th Cir. 2008).

Do NOT put "th," or "d" in superscript.
Also, it's 3d and 2d, not 3rd and 2nd.

c. U.S. District Court

Charlesworth v. Mack, 725 F. Supp. 1407, 1410 (D. Mass. 1990).

Remember to put a space between F. and Supp.

d. State Supreme Court

Allen v. Crowell-Collier Publ'g Co., 235 N.E.2d 430, 432 (N.Y. 1968).

Cite the regional reporter, NOT the state reporter.

Remember to put the abbreviated
state name in the date parenthetical

e. State Appellate Court (Generally, but see Table 1 of the Bluebook to determine how to identify the court in the date parenthetical)

Shively v. Bozanich, 80 P.3d 676, 680 (Cal. Ct. App. 2003).

Remember to cite the regional reporter, not the state reporter. Check Table 1 of the BlueBook to see how to note the state appellate court's name in the date parenthetical

f. Texas Appellate Court (SPECIAL – too complicated to go through here, so read the GreenBook, but remember when to cite Tex. Civ. App. as opposed to Tex. App., and when to give writ history vs. pet. history, but always remember to include the specific appellate court and to give the writ/pet. history)

Thomas-Smith v. Mackin, 238 S.W.3d 503, 508 (Tex. App.—Houston [14th Dist.] 2007, no pet.).

Use an em-dash here.

This bracketed district notation
is only for Houston cases

Give the applicable writ/pet. history

g. Unpublished/Slip Opinions

In re Ginther Trusts, No. 06-3556, 2006 WL 3805670, at *19 (Bankr. S.D. Tex. Dec. 22, 2006).

Give the case number.
(found just above the date)

Cite to the electronic database.

How you cite the page #.

Give the full date.

12. Here's how you cite a law review article:

Spencer D. Solomon, *How to Bluebook for Law Review*, 55 S. TEX. L. REV. 121, 137 (2009).

Author's full name Title in *italics* with first letters capitalized except articles, conjunctions, and prepositions with less than 4 letters. Volume number law review as listed in Table 13 with font in SMALL CAPS.

13. Here's how you cite a statute (Note: there are special rules for citing state statutes and you'll need to look up the particular state in Table 1 for details):

28 U.S.C. § 1983 (2000).

When citing to multiple sections, use §§, instead of § (i.e. 11 U.S.C. §§ 1322, 1325 (2000)) They're supposed to come out with a new U.S. Code every 6 years, but they've been on 2000 for a while—until they do, cite to the 2000 version of the Code.

14. Here's how you cite to a book:

CHARLES DICKENS, BLEAK HOUSE 50 (Norman Page ed., Penguin Books 1971) (1853).

Author's name in SMALL CAPS Title in SMALL CAPS Editor Publisher Year of cited edition Year it was first published

15. Here's how you cite a legal treatise that comes in volumes:

4 CHARLES ALAN WRIGHT & ARTHUR R. MILLER, FEDERAL PRACTICE AND PROCEDURE § 1006 (2d ed. 1987).

Volume # Author's name in SMALL CAPS Title in SMALL CAPS Edition Publication date

16. Here's how you cite a Federal Rule of Procedure or Evidence (do not give any dates):

FED. R. CIV. P. 12(b)(6).

FED. R. EVID. 803(21).

17. Here's the most common way to cite a website (NOTE: the rules are different for citing online articles and other specific things):

Faculty of South Texas College of Law, <http://www.stcl.edu/faculty-dir/facultyhome.htm> (last visited June 15, 2009).

Title of webpage as it appears on the top blue bar of Microsoft Internet Explorer

18. Headings and subheadings **within** your article (i.e. not in the Table of Contents) are formatted in the following manner: Roman-numeraled main headings are CENTERED, but EVERY OTHER subheading is FLUSH-LEFT. Observe, and remember these font styles from rule 8, above:

I. INTRODUCTION
A. <i>Subheading A</i>
B. <i>Subheading B</i>
1. <i>Sub-subheading 1</i>
a. Sub-sub-subheading a