



The KLJ Blog

Online Originals

Submissions

The Print Archive

Membership ▾

Symposium ▾

Subscriptions

About ▾

Home » Content » Featured » The KLJ Blog » #CleanedUp

#CleanedUp

July 24, 2018

Joseph T. McClure, *Senior Staff Editor*^[1]

Maybe Justice Kagan said it best: legal writing is “a lot of banging your head on the computer monitor.”^[2] Citation of authority using the Bluebook certainly adds to the frustration of legal writing. However, when it comes to complex citations, the courts of Kentucky have recently nodded approval to a new doctrine that promises to increase efficiency of writing and ease of reading: (cleaned up).^[3]

#CleanedUp is a “hashtag” that refers to use of the proposed parenthetical “(cleaned up);” the title of this article reflects that this idea was first conceived on Twitter.^[4] “(Cleaned up)” is an alternative to the Bluebook rules for noting the removal of internal punctuation and other unnecessary information when citing an authority that itself quotes an earlier authority.^[5] Legal writing is based on precedent.^[6] In order to be an effective legal writer, lawyers must frequently cite to the words used by other lawyers (including those who sit behind the bench). This often creates a snowball effect: lawyers cite to courts that have used in their opinions quotes from other courts, which drew upon quotes from still other courts. But at each stage, there is a different context for the quoted text, leading to the addition of brackets, ellipses, modification of pronouns and verbs, and marks of emphasis that become part of a jumbled mess that, according to the Bluebook, must be cited and identified in parentheticals.^[7]

“(Cleaned up)” fixes this problem by removing the clutter. “(Cleaned up)” signals that in quoting a court’s decision the author has (i) removed extraneous, non-substantive material like brackets, quotation marks, ellipses, footnote signals, and internal citations; and (ii) may have changed capitalization without brackets.^[8] For example, proponents ask us to consider this quote,^[9] properly cited according to the Bluebook:

“Plaintiffs claiming an equal protection violation must first ‘identify and relate specific instances where persons situated similarly in all relevant aspects were treated differently, instances which have the capacity to demonstrate that [plaintiffs] were singled . . . out for unlawful oppression.’” *Rubinovitz v. Rogato*, 60 F.3d 906, 910 (1st Cir. 1995) (alteration and omission in original) (emphasis added) (quoting *Dartmouth Review v. Dartmouth Coll.*, 889 F.2d 13, 19 (1st Cir. 1989), *overruled on other grounds by Educadores Puertorriqueos en Accion v. Hernandez*, 367 F.3d 61 (1st Cir. 2004)).

The Court’s message is clear, but the citation is extremely distracting and the eyes of the reader glaze over while skimming past all the unnecessary parenthetical explanations the writer was forced to use in order to incorporate previous modifications in accordance with Bluebook rules. Instead, consider:

“Plaintiffs claiming an equal protection violation must first identify and relate specific instances where persons situated similarly in all relevant aspects were treated differently, instances which



Contact Us

620 S. Limestone
40508 Lexington, Kentucky

editors@kentuckylawjournal.org

(859) 257-1678



have the capacity to demonstrate that plaintiffs were singled out for unlawful oppression.”
Buchanan v. Maine, 469 F.3d 158, 178 (1st Cir. 2006) (cleaned up).

These *are* the words written by the First Circuit, but free of the snowballed mess of citation the court inherited from earlier cases. “(Cleaned up) permits the author to treat the words of the opinion as the opinion of the court (which is what they are) even though they first appeared in an earlier decision.”^[10]

Recently, the controlling Kentucky courts have recognized “(cleaned up)” as an acceptable form of tidy legal writing.^[11] The U.S. Court of Appeals for the Sixth Circuit used the parenthetical in *United States v. Joiner*.^[12] The Eastern District of Kentucky found it appropriate in *Kennon v. Comm’r of Soc. Sec.*^[13] The Western District did the same in *Wolz v. Auto Club Prop.-Cas. Ins Co.*^[14] And the Kentucky Supreme Court did so in *Smith v. Commonwealth*.^[15] This resounding nod of approval by the gamut of Kentucky courts should empower legal writers in Kentucky to incorporate “(cleaned up)” in their writing. At first, writers may wish to briefly explain “(cleaned up)” in a footnote and cite either the original proponent or other cases utilizing this new parenthetical.^[16] For example, one such explanatory footnote that the original proponent has endorsed^[17] reads:

“Cleaned up” is a new parenthetical used to eliminate unnecessary explanation of non-substantive prior alterations. See Metzler, Jack, *Cleaning Up Quotations* (March 17, 2017). 18 *Journal of Appellate Practice and Process*, (forthcoming 2018), available at SSRN: <https://ssrn.com/abstract=2935374>.

Using “(cleaned up)” will make quoting authority easier, and more efficient for all legal writers. The result is quotations of judicial authority that read more naturally, and the distracting mess of citation that would normally follow is avoided. “(Cleaned up)” has appeared in filings in the United States Supreme Court, nearly every federal appellate courts, and scores of other courts all over the country.^[18] Its adoption in an array of Kentucky courts should inspire Kentucky advocates to free themselves from the shackles of Bluebook parentheticals, and embrace a new era of legal citation.

^[1] J.D. Candidate May 2019, The University of Kentucky College of Law. Special thanks to Jack Metzler (@SCOTUSPlaces).

^[2] Lori Ringhand (@Lring86), Twitter, <https://twitter.com/Lring86/status/920042516463980545> (last visited April 10, 2018).

^[3] Supreme Court Places (@SCOTUSPlaces), Twitter, <https://twitter.com/SCOTUSPlaces/status/980842201180704768> (last visited April 10, 2018).

^[4] Jack Metzler proposed *(Cleaned Up)* on Twitter, leading to commendation by his “followers.” He later wrote an article articulating what the parenthetical meant and advocating for its use (quoted repeatedly throughout this post). Since his original proposal, Metzler and other members of the legal community on Twitter advocated the use of the parenthetical by “tweeting” pictures and links to opinions and briefs that incorporated it. Often these “tweets” included “#CleanedUp” to reflect endorsement and bring notoriety to those who adopted its use. See *id.*

^[5] Supreme Court Places (@SCOTUSPlaces), TWITTER, <https://twitter.com/SCOTUSPlaces/status/842223292752760832> (last visited April 10, 2018).

^[6] Shackelford Miller, *The Value of Precedent*, 45 AM. L. REV. 857, 874 (1911).

^[7] THE BLUEBOOK: A UNIFORM SYSTEM OF CITATION R. 5, at 83–86 (Columbia Law Review Ass’n et al. eds., 20th ed. 2015).

^[8] Jack Metzler, *Cleaning Up Quotations*, 18 J. APP. PRAC. & PROCESS 143, 153–54 (2017).

^[9] *Id.* at 156–56.

^[10] *Id.* at 156.

^[11] Ringhand, *supra* note 2.

^[12] No. 16-6833, 2018 WL 1211942, at *4 (6th Cir. 2018).

^[13] No. 5:17-cv-400-GFVT, 2018 WL 1474066, at *3 (E.D. Ky., 2018).

^[14] No. 3:15-cv-638-TBR, 2017 WL 1240766, at *4 (W.D. Ky. April 3, 2017); the use of (*Cleaned Up*) is well established in the Western District of Kentucky, *See also* Hillerich & Bradsby Co., Inc. v. Christie's, Inc., No. 3:16-cv-808-TBR, 2017 WL 1788671, at *3 (W.D. Ky. May 4, 2017); Parimax Holdings, LLC v. Kentucky Downs, LLC, No. 1:15-cv-82-GNS, 2017 WL 1829783, at *3 (W.D. Ky. May 5, 2017); Leary v. Ford Motor Co., No. 3:16-cv-48-TBR, 2017 WL 1829785, at *8 (W.D. Ky. May 5, 2017); United States v. Keeling, No. 3:16-cr-127-TBR, 2017 WL 2486353, at *4 (W.D. Ky. June 8, 2017); Morris v. United States, No. 1:15-cv-88-TBR, No. 1:13-cr-39-TBR, 2017 WL 2899843, at *3 (W.D. Ky. July 7, 2017); Radvord v. Ebonite Int'l, Inc., No. 5:15-cv-76-TBR, 2017 WL 3176282, at *4 (W.D. Ky. July 26, 2017); Davis v. Martinrea Hopkinsville, LLC, No. 5:15-cv-28-TBR, 2017 WL 3444802, at *1 (W.D. Ky. Aug. 10, 2017); Westfield Ins. Co. v. Estate of McMahan, Jr., No. 3:16-cv-809-TBR, 2017 WL 3929307, at *5 (W.D. Ky. Sept. 7, 2017); AmTote International Inc. v. Kentucky Downs, LLC, No. 1:15-cv-47-GNS, 2017 WL 6329874, at *5 (W.D. Ky. Dec. 11, 2017); City of Murray v. Robertson Inc. Bridge and Grading Division, No. 5:17-cv-08-TBR, 2018 WL 1612850, at *1 (W.D. Ky. April 3, 2018).

^[15] 520 S.W.3d 340, 354 (Ky. 2017).

^[16] Metzler, *supra* note 8, at 163.

^[17] Supreme Court Places (@SCOTUSPlaces), TWITTER, <https://twitter.com/SCOTUSPlaces/status/956897086649356288> (last visited April 10, 2018).

^[18] Metzler, *supra* note 8, at 160–61.

*Image licensed in the Public Domain, pursuant to [CCO](#)

Tags: [#CleanedUp](#), [Bluebook](#), [Jack Metzler](#), [Joseph T. McClure](#), [Legal Writing](#), [parentheticals](#), [Twitter](#)

Related Posts



“Protect the Jury or Eliminate Racial Bias? How to Proceed After Peña-Rodriguez”

Why You Gotta be So Rude? Don't You Know [a Chimp] Is Human, Too?: Tommy's Claim of Personhood

The New Law School “Class”

About The Author

Mark Blankenship