



ARTICLE

Teaching Law Students Not to Make a Mess of (cleaned up)

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Teaching law students how to quote and cite effectively has always been challenging. An emerging citation practice—a parenthetical that says “cleaned up”—promises an easier way to quote and cite altered quotations. This should be cause for celebration, but as this article explains, (cleaned up) offers simplicity at the expense of accuracy.

Despite serious concerns about (cleaned up), legal writing professors should teach law students about the new parenthetical. The goal is not to teach law students that they *should* use (cleaned up), but rather, to use the new parenthetical as a jumping off point to discuss a broader and more foundational point about the role quotations and citations play in precise legal writing.

This article begins with a brief overview of the traditional citation conventions governing how to quote altered quotations; it then explains the origins of (cleaned up), how the parenthetical became popular, and why it attracted critics; and finally, the article offers some discussion questions and potential answers to use in class with law students.

1. The Status Quo: Show Your Work

National citation guides, such as the *ALWD Guide* and *The Bluebook*, provide formatting rules for quoting and citing a source. The guides also provide rules for using a quotation that quotes another source. To use these quotations within quotations, legal writers must keep multiple levels of nested quotation marks, alternating between double and single quotation marks as appropriate.

The guides also allow legal writers to alter a quotation that would not otherwise fit within their prose. Under the current rules, legal writers can alter quotations by substituting letters, substituting words, inserting new material, adding emphasis, omitting emphasis, omitting letters, omitting words, omitting citations, and so on. All the guides ask in return is that legal writers “show their work.” That is, the guides require legal writers to indicate the changes they make to quotations—and to quotations within quotations—through some combination of brackets, ellipses, and parentheticals.

This arrangement created a lot of work for legal writers and their cite checkers, but such was a fact of law life, where precision is paramount. At least that seemed to be the consensus view, until #AppellateTwitter chimed in. Or rather, until Jack Metzler¹ *tweeted* in.

2. The Proposal: Improve Readability

Metzler took to Twitter to propose a new parenthetical for quotations within quotations; he called it “(cleaned up).” A few days after the tweet, Metzler posted an article to SSRN² describing a new citation rule that would allow legal writers to use (cleaned up) and make the following edits to quotations within quotations in the name of readability:

- Remove non-substantive material like brackets, ellipses, quotation marks, footnote call numbers, and internal citations;
- Change a letter’s case without placing the changed letter in brackets; and
- Omit any reference to an intermediate decision in a chain of at least three decisions—i.e., when quoting a decision that quotes a

¹ Jack Metzler is an appellate lawyer with the Federal Trade Commission.

² Later that year, Metzler published his article in a legal journal. See Jack Metzler, *Cleaning Up Quotations*, 18 J. APP. PRAC. & PROCESS 143 (2017).

second decision that quotes a third decision, omit reference to the second decision.

By using (cleaned up), legal writers can avoid cluttered quotations and citations like the one below, which follows conventional citation rules:

The First Circuit has held that “[p]ersecution normally involves ‘severe mistreatment at the hands of [a petitioner’s] own government,’ but it may also arise where ‘non-governmental actors . . . are in league with the government or are not controllable by the government.’ ” *Ayala v. Holder*, 683 F.3d 15, 17 (1st Cir. 2012) (second alteration and ellipsis in original) (quoting *Silva v. Ashcroft*, 394 F.3d 1, 7 (1st Cir. 2005)).

Instead, legal writers can produce more streamlined quotations and citations like this one:

The First Circuit has held that “persecution normally involves severe mistreatment at the hands of a petitioner’s own government, but it may also arise where non-governmental actors are in league with the government or are not controllable by the government.” *Ayala v. Holder*, 683 F.3d 15, 17 (1st Cir. 2012) (cleaned up).³

The proposal immediately gained traction. Attorneys began using (cleaned up) in briefs. Then some courts began using it in opinions. And earlier this year, (cleaned up) appeared for the first time in a Supreme Court decision: *Brownback v. King*.⁴ Although the legal blogosphere was quick to warn that (cleaned up) could be used to obfuscate or mislead,⁵ commentators retorted that such unethical practices were possible under current rules governing alterations to quotations.⁶ Cold comfort, indeed.

³ See *id.* at 157.

⁴ 141 S. Ct. 740, 748 (2021) (Thomas, J.). Notably, Justice Thomas used (cleaned up) to transform a distinction into a definition. See Katrina Robinson & Suzanne Rowe, *SCOTUS (cleaned up): Should Oregon Attorneys Clean Up Quotations, Too?*, OR. STATE BAR BULL. (forthcoming 2021).

⁵ See, e.g., Adam Eakman, *Why Attorneys Should Stop Using “(cleaned up),” Attorney Words* (Apr. 10, 2018), <https://perma.cc/RGX7-27JY>.

⁶ See, e.g., Eugene Volokh, *New Twist of Legal Citations: The “(Cleaned Up)” Parenthetical*, *The Volokh Conspiracy* (July 24, 2018), <https://reason.com/volokh/2018/07/24/new-twist-on-legal-citations-the-cleaned/>.

Legal scholars have begun to consider (cleaned up),⁷ but because the norms of using (cleaned up) in practice are still developing⁸ and because using (cleaned up) too liberally will be attractive to law students who already quote too much and paraphrase too little, professors should prepare to address it. By doing so, professors can teach law students not to make a mess of (cleaned up).

3. The Call to Action: Teach Respect for Precision

After devoting months to teaching law students the communicative value of legal citations, a professor might cap the year with a lively debate about (cleaned up). By that point, the students will have read and written enough quotations and citations to have ideas about precedent, weight of authority, accuracy, and credibility. To build on that knowledge, invite students to think critically about why modern legal writing might benefit from or be harmed by (cleaned up).

Consider asking students some of the following discussion questions or using some of the following proposed answers to encourage students to grapple with the importance of clarity and precision in legal writing.

If paraphrasing is permissible, why should (cleaned up) not be?

The (cleaned up) proposal makes it too easy for legal writers to mischaracterize the law. Brackets, ellipses, and parentheticals serve as helpful warning signs, alerting the legal reader that the legal writer might be up to something and the reader would be wise to verify the accuracy of what she has read. Although (cleaned up) is intended to serve this same function, in practice, it is a muted alert at best. By lumping a number of different types of edits to a quotation into one short parenthetical, (cleaned up) forgoes opportunities to communicate valuable information to the legal reader about changes underfoot. Where the legal

⁷ See, e.g., Carolyn V. Williams, *ALWD Guide to Legal Citation* 406 (7th ed. 2021) (advising law students to check with professors, and practitioners to check with supervisors and judges, before using (cleaned up) because “it is far from standard practice”); Alexa Z. Chew, *Stylish Legal Citation*, 71 ARK. L. REV. 823, 871 (2019) (describing citation options, including (cleaned up), for citing and quoting parentheticals); Tessa Dysart, *Clean[] Up Your House, Your Car, Your Life—Not Your Citations*, Appellate Advocacy Blog (Oct. 18, 2021), https://lawprofessors.typepad.com/appellate_advocacy/2021/10/clean-up-your-house-your-car-your-life-not-your-citations.html.

⁸ The original proposal for (cleaned up) targeted quotations within quotations, but some practitioners have already ignored this limitation and begun appending (cleaned up) to quotations that they have altered in the first instance. If (cleaned up) creeps into first level quotations, the threat to precise legal writing rises significantly.

reader might have noted three warning signs for one quotation—a bracket, an ellipsis, and a parenthetical—the legal reader would now only get one: (cleaned up). This is especially problematic because quotations within quotations purport to be the law, and as a result, legal readers often treat them as weightier than a paraphrase.

Can (cleaned up) address the tension between the simplicity legal writers want and the accuracy legal readers need?

A legal writer seeks to persuade. To persuade, the legal writer must provide confidence that the law presented and relied on is accurate. Precision in quoting and citing gives legal readers this confidence. It is possible for a legal writer to use (cleaned up) judiciously and still maintain the legal reader's trust that the quotations and citations are what the writer says they are, but in doing so the writer might test the reader's patience by forcing the reader to do the detective work to uncover what changes or omissions the writer made to the quoted language. On balance, creating work for the legal reader to make quoting and citing easier for the legal writer is not saving the right kind of time.

Would the debate around (cleaned up) change with widespread adoption of hyperlinked citations in briefs and opinions?

Hyperlinking citations allows the reader to quickly access the source of the quoted language, but it does not help the reader compare the brief or opinion she was reading with the quoted language in the original source. Increasing accessibility makes it more likely that legal readers will verify the accuracy of the quoted language, which is important for the preservation of precise legal writing. But we would need an additional feature to help readers with the comparison task.

What other rules would you propose for the national citation guides?

If we are going to add a new parenthetical, it should be Michael Kwun's proposal for "(all good)."⁹ This parenthetical offers a way out of that awkward moment when a legal writer needs to quote a prior opinion of a presiding judge that happens to include a typo. Rather than fix the typo and use brackets or insert a [sic], both of which draw attention to the typo, the legal writer can fix the typo somewhat inconspicuously and then add (all good).

* * *

⁹ See Michael S. Kwun, *The New Parentheticals*, 22 GREEN BAG 2d 13, 14 (2018).

By having these discussions with law students, citations and quotations will continue to receive the respect they deserve. Just don't quote me on that. But if you do quote me on that, please don't clean it up.