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BY US MAIL AND E-MAIL

Carl Malamud
Public.Resource.Org
1005 Gravenstein Highway North
Sebastopol, CA 95472

Re: *The Bluebook: A Uniform System of Citation*

Dear Mr. Malamud:

This firm represents the Harvard Law Review Association, which publishes and distributes *The Bluebook: A Uniform System of Citation* (“*The Bluebook*”). Together with the Columbia Law Review Association, Inc., The Yale Law Journal Company, Inc.—each a non-profit law review association—and the University of Pennsylvania Law Review—an operating unit of the University of Pennsylvania—the Harvard Law Review Association edits, revises and produces new editions of, and owns all copyright and trademark rights in and to, *The Bluebook*.

I write in response to your June 14, 2013 letter to Dean Martha L. Minow (copied on this correspondence) and unidentified members of the faculty of the Harvard Law School concerning the copyright protections afforded to *The Bluebook*. Although your request was directed to the Harvard Law School, we have interpreted it as a request directed to the Harvard Law Review Association, and respond accordingly.

We appreciate the questions you have posed regarding *The Bluebook*. By the same token, we appreciate your recognition that these issues are “complicated, involving large sums of money and four institutional stakeholders.” Indeed, your questions implicate the law reviews’ mission to develop and promulgate a uniform system of legal citation, their financial sustainability, their contractual obligations, and applicable law.

We believe that any discussion of the issues you have raised must be informed by the history of *The Bluebook* and the role that it plays in the legal community. For your convenience, we summarize this background as follows:

The first edition of *The Bluebook* was published in 1926 as a style and citation manual for the Harvard Law Review. By 1934, several other law reviews had adopted *The Bluebook* as a style

and citation guide. The 1934 edition and all subsequent editions were jointly prepared by members of the Harvard Law Review, the Columbia Law Review, the University of Pennsylvania Law Review and the Yale Law Journal. Over the next fifteen years, *The Bluebook* evolved into an authoritative system of citation for law reviews in the United States. The Twelfth Edition, published in 1976, further expanded *The Bluebook's* influence as the first edition marketed to both courts and legal practitioners as a uniform guide to legal citation. Now in its Nineteenth Edition, *The Bluebook* has grown from a 26-page pamphlet intended for use by a single law review to a full-fledged reference book over 500 pages long outlining a system of citation that communicates key information to legal scholars and practitioners alike.

The contents of *The Bluebook* include not only rules of legal citation developed by the law reviews over the years as described above, but also the law reviews' carefully curated examples, explanations and other textual materials, all of which have been diligently selected, coordinated and arranged over decades. The four law reviews invest significant time and effort to revise, update and continually improve *The Bluebook* in the face of rapid developments in the legal scholarship and publication technology. Each new edition, which is published roughly every five years, is the result of an extensive operation. Collectively, the editors of the law reviews spend upward of one thousand hours across two years in research, planning and collaboration. They survey developing trends in legal scholarship to find and address emerging practices in each new edition. For example, as legal scholarship has become increasingly international in scope, *The Bluebook* has expanded its coverage of international publications and legal sources. Similarly, recent editions of *The Bluebook* have standardized styles for citations to blogs, podcasts and other online forms of communication. These periodic updates also endeavor to correct any errors and inconsistencies in previous editions, and to incorporate and respond to feedback from lawyers, judges, law librarians, professors, students and other commentators.

The production of each new edition of *The Bluebook* is also a significant financial undertaking. For example, the law review associations bear the cost of printing *The Bluebook*. The Nineteenth Edition is now going into its seventh printing. In the last six years, the law reviews have also invested significant financial resources in developing and hosting *The Bluebook's* online subscription service, *The Bluebook Online*.

On top of publication costs, the law reviews bear the salaries of two permanent staff members employed by the Harvard Law Review Association to manage the day-to-day operations, customer service, logistics and business of the enterprise. In addition, the law reviews incur other overhead costs for the benefit of *The Bluebook*, such as the cost of computer and other equipment, software licenses, supplies, and so forth.

All of these publication and infrastructure costs are covered by the revenues derived from sales of *The Bluebook* and subscriptions to *The Bluebook Online*. No endowment, grant or award funds *The Bluebook*, and the represented law schools contribute no material support to the enterprise.

Revenues from *The Bluebook* are not used solely to perpetuate *The Bluebook*. They also support the efforts of the law reviews to identify, publish and disseminate legal scholarship, and to contribute to advances in legal academia, practice and reform. Indeed, some of the law reviews rely on revenues from sale and licenses of *The Bluebook* to remain independent from their respective law schools, giving them a platform to publish legal scholarship reflecting a variety of viewpoints.

In spite of the costs of publishing *The Bluebook*, the law reviews recognize that it is used primarily by students, and have made a substantial effort to keep it as affordable as possible. Thirty-four dollars is a fraction of the cost of most books required for a legal education. It is also a minimal investment for legal practitioners. As for *pro se* litigants, copies of *The Bluebook* are generally available for free at any law library and in many public libraries.

The law reviews also recognize the momentum of innovation in the Internet age and have begun to respond. In February 2008, they published *The Bluebook Online*. An institutional site license for *The Bluebook Online*—one that would provide access to multiple users at large organizations under a single license—is currently in development. In addition, the law reviews have posted some older editions of *The Bluebook* online for personal, non-commercial use as items of general, historical and scholarly interest.

While we of course disagree with many of the statements and positions in your letter (such as, among others, your characterization of *The Bluebook* as an “edict of government”), the law reviews believe that these disagreements can best be addressed through a dialogue about the issues you have raised. In that spirit, we would be happy to discuss your concerns at a mutually convenient time.

The law reviews are concerned that a productive dialogue regarding the questions you have posed will not be possible if it takes place under threat of unilateral actions that would imperil the economic viability of *The Bluebook* by making it freely available. As the law reviews in good faith consider the matters raised in your letter, we ask, in turn, that you and Public.Resource.Org in good faith remove the materials that you have posted without their permission on the Public.Resource.Org website, and that you not distribute digital copies of *The Bluebook* in any form by any means. Removing these files would also allow the law reviews to consider your positions without the risk that doing so could be argued to constitute a waiver of any legal rights which they may have. Please let us know at your earliest convenience whether you are amenable to proceeding in this manner.

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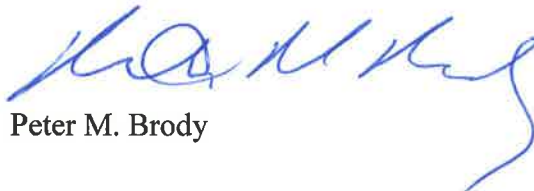
Carl Malamud

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The foregoing is without prejudice to or limitation of the law reviews' rights and remedies in this matter, which are expressly reserved.

Sincerely,



Peter M. Brody

cc: Dean Martha L. Minow