



New York University
A private university in the public service

School of Law

40 Washington Square South, Room 314-C
New York, New York 10012-1099
Telephone: (212) 992-8162
Facsimile: (212) 995-4341
E-mail: christopher.sprigman@nyu.edu

Christopher Jon Sprigman
Professor of Law
Co-Director Engelberg Center on Innovation and Policy

October 6, 2014

Mr. Peter M. Brody
Ropes & Gray LLP
One Metro Center
700 12th Street, N.W., Suite 900
Washington, D.C. 20005-3948

Dear Mr. Brody:

I am writing to you on behalf of Carl Malamud of Public Resource.Org (“Public Resource”). I have been working with Public Resource to analyze the copyright status of The Bluebook.[®] I write to very briefly apprise you of two decisions that we have taken that will be of interest to you and to your client, The Harvard Law Review Association.

First, our research has established that the copyright on the 10th edition of The Bluebook, published in 1958, was never renewed. As a consequence, the 10th edition is in the public domain. Public Resource will thus publish an electronic version of the 10th Edition.

Second, in view of the 10th edition’s public domain status, we have begun an inquiry into the copyright status of the current 19th edition. As Carl has noted in his previous correspondence with you, numerous courts have mandated use of The Bluebook. As a consequence, The Bluebook has been adopted as an edict of government and its contents are in the public domain. But even if we lay that point aside (which, of course, we would not), very little of the 19th edition can be construed as material protected by copyright. Many portions of the 19th edition are identical to or only trivially dissimilar from public domain material contained in the 10th edition. Other portions of the 19th edition are comprised either of material entirely outside the scope of copyright, or material which merges with the system of citation that The Bluebook represents. These portions of the 19th edition are likewise available for public use.

Based on what we’ve learned, we have embarked on a joint project with Public Resource to create and publish a public domain version of The Bluebook – a project we refer to as

Baby Blue. Our project will mix public domain portions of the 19th edition with newly-created material that implements the Bluebook's system of citation in a fully usable form.

In short, The Bluebook will soon face a public domain competitor. And when Baby Blue comes to market, The Harvard Law Review Association is likely to face questions regarding why the public – including pro se and indigent litigants – are obliged to pay for access to a resource that is indispensable to all those who seek justice from our courts. The Harvard Law Review Association is likely also to face questions regarding the financial transparency of the current structure.

My client has requested a discussion of these important issues for many months. There has been no dialogue on this important topic concerning the ownership of the citation scheme underlying our judicial system.

Perhaps The Harvard Law Review Association would be eager to get out in front of us and release a public domain version of its own? But even if The Harvard Law Review Association does not want to get out in front, I hope you will recognize the important place our legal citation system plays in our system of democracy and not stand in our way.

All best regards,

A handwritten signature in black ink, appearing to read 'CS', written in a cursive style.

Christopher Jon Sprigman
Professor, New York University School of Law
Co-Director, Engelberg Center on Innovation Law and Policy