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Do's, Don'ts & Maybes: Legal Writing Punctuation—Part I

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Do's, Don'ts, and Maybes: Legal Writing Punctuation — Part I

In six of the last seven columns, the Legal Writer covered legal writing's do's, don'ts, and maybes. The last two columns discussed grammar. We continue with seven punctuation issues and, in the next two columns, eight more. This three-part series addresses periods, question marks, exclamation points, colons, semicolons, parentheses, brackets, commas, hyphens, quotation marks, apostrophes, dashes, slashes, ellipses, and accent marks.

Punctuation refers to symbols that organize and give structure to writing. Punctuation lets you change the inflection of your voice and give meaning to your words.

Punctuation helps speed up or slow down language. *Example of speeding up language:* "The associate won her first trial today." In this example, the reader reaches the end of the sentence without stopping for any punctuation. The period tells you when to rest. *Example of slowing down language:* "The associate, fresh out of law school, won her first trial today." The commas in this example cause the reader to slow down twice before reaching the end of the sentence. Commas tell you when to breathe.

Punctuation lets writers emphasize some words and de-emphasize others. *Example:* "Mr. Roe — a professional and diligent attorney — argued the motion." Or: "Mr. Roe argued the motion. (He's a professional and diligent attorney.)"

Punctuation tells readers when to feel emotion. *Example:* "Wonderful!"

Punctuation tells readers when to pay attention. *Example:* "When will he be released from jail?"

Punctuation clarifies. Consider this classic example: "Woman without her man is nothing." Depending on how you punctuate, the sentence will have different meanings. *Example 1:* "Woman: Without her, man is nothing." *Example 2:* "Woman, without her man, is nothing." The punctuation you use and where you put it will alter how readers will interpret what you write.

Good punctuation makes you feel, hear, and understand language. Bad punctuation is confusing and off-putting.

1. Periods. Three punctuation marks end a sentence: periods, question marks, and exclamation points. Lawyers don't use enough periods. Thoughts without periods are lengthy and convoluted.

Use periods at the end of a declarative sentence. A declarative sentence states an argument, fact, or idea. It doesn't require the reader to take action or answer. *Examples:* "Some writers don't know how to punctuate." "If you know how to punctuate, you'll be seen as a good writer."

Use periods at the end of commands. *Examples:* "Submit your briefs by Friday." "Evacuate the courtroom quietly."

Use periods at the end of a citation before a new sentence. *Incorrect:* "Landlord v. Tenant, 100 A.D.3d 21, 22, 111 N.Y.S.2d 41, 42 (4th Dep't 2007) In Tenant, the court applied the rule against perpetuities." *Correct:* "Landlord v. Tenant, 100 A.D.3d 21, 22, 111 N.Y.S.2d 41, 42 (4th Dep't 2007). In Tenant, the court applied the rule against perpetuities."

Use periods, not question marks, after indirect questions. *Examples:* "The judge asked me why wasn't I ready for trial." "My client wanted to know why he paid the filing fees." "She asked whether I could argue the motion."

Use one period, not two, when the sentence ends in an abbreviation. *Incorrect:* "I reached the courthouse at 9:30 a.m." *Correct:* "I reached the courthouse at 9:30 a.m." If the sentence ends in a question mark or an exclamation point, use a period after the abbreviation. *Examples:* "How was your trip to Washington, D.C.?" "Court begins at 9:30 a.m.!"

Abbreviated American and British weights and measures end in periods. *Examples:* "qt." for "quart" and "pt." for "pint." Don't put periods after degrees and metric abbreviations. *Examples:* "C" for "Centigrade," "cm" for "centimeter," "cms" for "centimeters," and "F" for "Fahrenheit."

Put a period at the end of an abbreviated title, even if the title isn't a true abbreviation. *Example:* "Ms." Put a period at the end of an abbreviated title, even if the last letter of the abbreviated title wouldn't end with a period were it unabbreviated. *Incorrect:* "Dr Smith." ("Dr Smith" is correct in British usage.) *Correct:* "Dr. Smith." *Other examples:* "C.P.A." "D.D.S." "Hon." "Jr." "M.D." "Mr." "Ph.D." "Sen."

Add no space between periods when using initials. *Incorrect:* "Mary Smith, J. D." *Correct:* "Mary Smith, J.D." *Incorrect:* "J. O. Doe." *Correct:* "J.O. Doe." *Exception:* Use spaces if the person prefers them: "John D. B. Jones."

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Don't use periods for acronyms. To create an acronym, take the first letter from a series of words to form a pronounceable word that stands for something. *Examples:* "AIDS" and "NATO." "AIDS" stands for Acquired Immune Deficiency Syndrome. "NATO" stands for North Atlantic Treaty Organization. Because you can pronounce acronyms as words, you don't need periods.

Use periods for abbreviations. Abbreviations are different from acro-

nym; you pronounce each individual letter in an abbreviation. *Examples:* U.S.A., N.A.A.C.P., N.C.A.A., F.B.I. Newspapers and magazines omit the periods from common abbreviations to save space. If your readers are familiar with the abbreviation, don't use periods.

In American usage, always put periods inside quotation marks. *Incorrect:* Judge Joe said, "I want order in the courtroom". *Correct:* Judge Joe said, "I want order in the courtroom."

2. Question marks. Use a question mark at the end of a direct question, or one to which you expect an answer. *Examples:* "When does the courthouse close?" "Who's your next witness?"

Don't use a question mark for an indirect question or declaration. *Example of indirect question:* "I wonder whether I'll finish the trial this week." *Example of declaration:* "Albany is New York's capital."

Put a question mark at the end of a sentence if a question is embedded in the sentence. *Examples:* "We can get to the courthouse, can't we, if we take the Brooklyn Bridge?" "I wonder: will Joe run for office?"

Don't use a question mark for a polite request. *Examples:* "Would everyone in the courtroom please check in with the court officer." "Please send me a copy of the opinion."

Don't put a question mark at the end of a sentence that begins with "whether." "Whether" is a statement, not a question. *Correct:* "Whether the defendant's conviction should be reversed is the only issue before the court."

Put a question mark inside quotation marks if the question is in the original. Put it outside if it's not in the original. *Example of a question mark in the original:* The judge asked, "How long will you cross-examine this wit-

ness?" *Example of a question mark not in the original:* Does the judge always need to say, "Counselor, let's move it along"?

If the sentence and the quoted material are questions, don't use two question marks. *Incorrect:* Did I just say, "May I use your telephone to call my client?"? *Correct:* Did I just say, "May I use your telephone to call my client?"

When a question ends with a series of brief questions that are follow-up questions to the main question, each follow-up question should begin with a lowercased letter and end with a question mark. *Example:* "Who's responsible for this mistake? the associate? the partner? the paralegal?"

Question marks denote uncertainty: "Judge Abe wrote two (?) opinions today."

Place question marks inside parentheses when asking a question: "Judge Z's opinion (when did she learn to write so well?) is stellar."

Rhetorical questions, or questions a writer asks for which the writer doesn't expect an answer, should end with a question mark. *Example:* "How else should we end the brief, after all?" But avoid using question marks unless you're quoting. Good legal writers answer questions, not ask them.

3. Exclamation points. Use an exclamation point at the end of a command,

emphatic declaration, or interjection. *Examples of commands:* "Stop!" "Quiet in the courtroom!" *Examples of emphatic declarations:* "Wow!" "His direct examination was brilliant!" *Examples of interjections:* "Excuse me!" "Cheers!"

Put an exclamation point inside the quotation mark if the exclamation point is in the original. Put an exclamation point outside if the exclamation point is not in the original. *Example of an exclamation point in the original:* The judge said, "Stop screaming at the witness!" *Example of an exclamation point not in the original:* The partner

told her to rewrite her brief because it was "ungrammatical and incomprehensible trash"!

Exclamation points may accompany mimetically produced sounds: "All night long, I heard the dogs woof! in my neighbor's apartment." "The dog went Grr!, and I left the room."

Avoid exclamation points in legal writing. They tell readers that you're exaggerating or screaming at them. Use exclamation points for informal writing, like birthday wishes to a loved one or the occasional informal e-mail. Instead of using exclamation points to intensify your writing, use concrete nouns and, even better, vigorous verbs.

4. Colons. Colons press readers forward. Use a colon after a salutation in formal writing. *Example:* "Dear Ms. Doe:" Use a comma, not a colon, after a salutation when writing to friends. *Incorrect:* "Dear Joe:" becomes "Dear Joe,"

Separate hours from minutes with a colon. *Example:* "2:15 p.m." Separate book titles from subtitles with a colon. *Example:* "Advanced Judicial Opinion Writing: A Handbook for New York State Trial and Appellate Courts." Separate chapter from verse with a colon. *Example:* "Thou shall not kill."

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Good punctuation makes you feel, hear, and understand language.

Exodus 20:13 (King James). Use a colon to introduce a definition. *Example:* “Lawyer: An individual with a briefcase who can steal more than a hundred men with guns.”¹ Use a colon to replace “is” or “are.” *Example:* “The diagnosis: terminal double-speak.”

Use a colon after an independent clause — defined as a clause that has a subject, a verb, and can stand on its own as a sentence — to (1) introduce lists, (2) introduce an illustrative quotation, or (3) show that something will follow. *Example of an independent clause introducing a list:* “The defendant asserted three defenses: insanity, extreme emotional disturbance, and self-defense.” But consider the following example: “The attorney determined that his client’s best defenses included insanity, extreme emotional disturbance, and self-defense.” You don’t need a colon after “included”; the preceding clause isn’t an independent clause. *Example*

**“Parentheses are
(usually) too informal
for legal writing.”**

of an independent clause introducing a quotation: The court ruled against the petitioner: “Doe proved she’s the real tenant.” *Example of an independent clause showing that something will follow:* “The Civil Court instituted a new rule: Guardians ad litem must complete a case summary form.” Colons signal that clarifying information will follow.

Unless what follows is a quotation, a colon may not follow a dependent clause, defined as a clause that can’t stand on its own as a sentence. *Incorrect:* “The area codes she calls most often are: (212), (718), (917), and (646).” *Correct:* “The area codes she calls most often are (212), (718), (917), and (646).” *Correct:* His advice was: “Be confident but not over-confident.” *Better:* His advice: “Be confident but not over-confident.”

Uppercase the first word after a colon when an independent clause fol-

lows the colon. *Examples:* “The judge gave her a useful suggestion; Evaluate a case before you accept a client.” “The judge made one finding; The defendant failed to prove her insanity defense.” Don’t capitalize after a colon when a dependent clause follows the colon. *Examples:* “The judge gave her a useful suggestion; to evaluate the merits of a case before accepting a client.” “The judge made one finding; defendant’s failure to prove her insanity defense.” If more than one independent clause follows the colon, begin each independent clause with a capital letter: “Andrea was acquitted for two reasons; First, the People failed to prove that she committed the crime beyond a reasonable doubt. Second, the jurors didn’t find the People’s witnesses credible.”

Colons always go outside quotation marks. *Example:* She described her legal career as a “roller-coaster ride”; some successes, some failures, and everything in between.

Spacing: Use two spaces after a colon in typing and one space in publishing.

5. Semicolons. Don’t confuse colons with semicolons. Colons press readers forward. Semicolons slow readers down.

Use semicolons to connect closely related independent clauses. *Example:* “In straightforward cases, the judge issues a decision in three days; in complicated cases, it’s 30 days.” Don’t use semicolons — use commas — to connect dependent clauses to independent clauses. *Incorrect:* “While we were waiting in court; the defendant attacked the prosecutor.”

Use semicolons to avoid run-on sentences. Use semicolons, not commas, to separate two independent clauses if the second independent clause begins with a conjunctive adverb (“accordingly,” “again,” “also,” “besides,” “consequently,” “finally,” “for example,” “furthermore,” “hence,” “however,” “moreover,” “nevertheless,” “on the other hand,” “otherwise,” “rather,” “similarly,” “then,” “therefore,” “thus”). *Example:* “In straightforward

cases, the judge issues a decision in three days; therefore, litigants don’t have to wait for justice.” Use a semicolon to separate two independent clauses if the second independent clause has a conjunctive adverb somewhere in the sentence, usually after the subject. *Example:* “The judge told his law clerk to evaluate the merits of the case; he therefore told his law clerk to prefer logic to emotion.”

Use semicolons in lists that contain internal commas or an “and” or “or.” *Example of a list with an internal comma:* “On trial for embezzlement were Lawyer A of Queens, New York; Lawyer B of White Plains, New York; and Lawyer C of The Bronx, New York.” *Example of a list containing “and”:* “For the firm’s holiday party, please buy roast beef and turkey sandwiches; red and white wine; and diet and regular soda.” *Example of a list containing “or”:* “Check-in at 9:30 a.m. in Parts A or B; at 11:30 a.m. in Parts C or D; or at 2:15 p.m. in Parts E or F.” It’s acceptable in lists to use two or more semicolons in the same sentence.

Use semicolons to replace commas and coordinating conjunctions (“and,” “but,” “for,” “nor,” “or,” “yet”). *Example (replacing “but”):* “The respondent didn’t agree with paragraph seven of the stipulation; he agreed with everything else.” *Example (replacing “or”):* “Arrive at the courthouse by 9:30 a.m.; your case will be dismissed at 10:30 a.m.”

The first letter after a semicolon is lowercased, unless the word is a proper noun. *Examples:* “John Doe takes a week to pick a jury; James Roe, his partner, takes an hour to pick a jury.” “The attorney takes a week to pick a jury; his partner takes an hour to pick a jury.”

Use a semicolon between string citations. *Example:* *Plaintiff v. Defendant*, 999 U.S. 999 (2009); *Plaintiff v. Defendant*, 98 U.S. 890 (2008). Use commas, not semicolons, within a parallel citation. *Incorrect:* *Plaintiff v. Defendant*, 99 N.Y.3d 123; 100 N.E.2d 100; 500 N.Y.S.2d 799 (2009).

Put semicolons after and outside parentheses. *Example:* “Lawyer F lost the case (his tenth loss in 12 months); this year he might not get a bonus.”

When a semicolon follows an abbreviation with periods, it’s acceptable to put a semicolon after a period. *Example:* “The witness testified that in 1993 he received his B.A.; he graduated from SUNY Plattsburgh.”

Semicolons always go outside the quotation mark. *Example:* The judge told the defendant, “I want to make sure you never get out of jail”; thus, he sentenced the defendant to life without parole.”

Spacing: Put one space after a semicolon.

6. Parentheses. Parentheses direct readers to additional and slightly different information. They also set off explanations, interruptions, or phrases that obscure the main text. *Examples:* “Parentheses are (usually) too informal for legal writing.” “Settle this case (trust me!).”

Parentheses introduce abbreviations and acronyms. *Example:* The New York City Police Department (NYPD).

Use parentheses for citations in official New York State (Tanbook) style.² *Example:* “Because the landlord knew about the subtenant’s presence, the court found no illusory tenancy. (*Plaintiff v Defendant*, 50 AD2d 50, 50 [5th Dept 2009].)” Use parentheses to explain ambiguous citations following citations, according to the Bluebook.³ Use brackets, according to the Tanbook.⁴ *Bluebook example:* *Plaintiff v. Defendant*, 99 N.Y.S.2d 500, 511 (3d Dep’t 2009) (finding that plaintiff was not “closely related” to victim). *Tanbook example:* (*Plaintiff v Defendant*, 99 AD3d 500, 501 [3d Dept 2009] [finding that plaintiff was not “closely related” to victim].)

Enclose your parentheses. *Incorrect:* “1).” *Becomes:* “(1).” Unenclosed parentheses are difficult to read.

If the parentheses appear at the end of a sentence, punctuate after the final parenthesis. If the parentheses contain an independent clause, punctuate inside the final parenthesis. *Example of parentheses at the end of a sentence:*

“Lawyers must read carefully (and write carefully).” *Example of an independent clause inside parentheses:* “Lawyers must read carefully. (They must also write carefully.)”

Use double parentheses in a sentence or sentence citation. *Correct Bluebook example:* *Plaintiff v. Defendant*, 99 N.Y.S.2d 500, 511 (3d Dep’t 2009) (citing *C v. D*, 999 U.S. 999 (2007)).

Parentheses de-emphasize. To emphasize, use “em” dashes (“—”).

7. Brackets. In a quotation that contains a factual, spelling, or usage error, use “[sic],” meaning “thus,” after the error. If the context makes it clear that the mistake was in the original, don’t add “[sic].” *Correct:* “The attorney subjected [sic] to the exhibit’s admission in evidence.” The author meant to write “objected,” not “subjected.” Use “[sic]” sparingly. Overusing “[sic]” suggests you’re insulting or embarrassing the original quotation’s author. Consider using brackets to correct the quotation.

Use brackets in a quotation to show alterations or additions to a letter or letters in a word. *Examples:* “Clearly” becomes “Clear[.]” “Proof” becomes “Pro[ve].” “Clearly” becomes “[c]learly.” “Clerly” becomes “Cle[a]rly.” Consider the following original text in a judicial opinion: “For the above-mentioned reasons, the court finds that Defendant has no proof to substantiate her affirmative defense.” *Alteration example (end of a word):* The court determined that Defendant did not “pro[ve] . . . her affirmative defense.” *Alteration example (capitalizing):* The court made the following finding: “[T]he court finds that Defendant has no proof to substantiate her affirmative defense.” *Addition and alteration example:* “[T]he court f[ou]nd[] that Defendant ha[d] no [documentary or testimonial] proof to substantiate her affirmative defense.”

Never add within quotation marks long bracketed text after a quotation. *Incorrect:* The court found that Defendant failed “to substantiate her affirmative defense [by a preponderance of the credible evidence].”

Overusing “[sic]” suggests you’re insulting or embarrassing the original quotation’s author.

According to the Tanbook, use brackets to add information like years and names of courts.⁵ *Example:* (*Plaintiff v Defendant*, 50 AD3d 50, 50 [4th Dept 2009].)

Brackets go inside parentheses.⁶ *Tanbook example:* (*Plaintiff v Defendant*, 50 AD3d 50, 50 [4th Dept 2009].)

Add a space between parentheses and brackets. *Example of spacing between parentheses (Bluebook example):* *Plaintiff v. Defendant*, 55 N.Y.S.2d 55, 56 (2d Dep’t 2009) (finding that plaintiff had no exclusive control over instrumentality). *Example of spacing between a parentheses and a bracket (Bluebook example):* Judith S. Kaye, *Inaugural Hon. Joseph W. Bellacosa Distinguished Jurist-in-Residence Lecture*, 81 St. John’s L. Rev. 743 (2007) [hereinafter *Lecture*]. *Example of spacing between two brackets (Tanbook example):* (*Plaintiff v Defendant*, 99 NY3d 100, 101 [2009] [finding that plaintiff had no exclusive control over instrumentality].)

In the next issue, the Legal Writer will continue with more punctuation. ■

1. Mario Puzo, *The Godfather* 52 (1969). Original quotation: “A lawyer with his briefcase can steal more than a hundred men with guns.”

2. New York Law Reports Style Manual (Tanbook) R. 1.2(a), at 2 (2007), available at http://www.nycourts.gov/reporter/New_Styman.htm (html version) and <http://www.nycourts.gov/reporter/NYStyleMan2007.pdf> (pdf version) (last visited Dec. 11, 2007).

3. The Bluebook: A Uniform System of Citation R. 10.4, 10.5, 10.6, at 89–92 (Columbia Law Review Ass’n et al. eds., 18th ed. 2005).

4. Tanbook R. 1.1(a), at 2.

5. *Id.*

6. *Id.*; R. 1.2(c)(2), at 3.

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