

# University of Ottawa Faculty of Law (Civil Law Section)

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From the Selected Works of Hon. Gerald Lebovits

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## Document Design: Pretty in Print—Part I

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# THE LEGAL WRITER

BY GERALD LEBOVITS



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## Document Design: Pretty in Print — Part I

**H**ow a document looks is as important as what it says. Document design isn't only about including visuals — charts, diagrams, exhibits, graphics, maps, photographs, and the like — an aid all readers appreciate.<sup>1</sup> Document design, or typography, refers to the visual component of a word: typeface, type size, white space, margins, alignment, horizontal and vertical spacing, headings, footnotes, endnotes, superscript, straight and curly quotes, boldface, italics, and underlining.

Design has pragmatic and aesthetic functions. Sometimes what's pretty isn't pragmatic. Because typography affects legibility and readability,<sup>2</sup> lawyers must, when in doubt, prefer legible to beautiful and, then, complying with rules to legibility. For court documents, always tailor them to the court's rules. Court rules might be different from what the legal-writing typographers recommend. For internal office documents, always tailor them to your firm's preference.<sup>3</sup> When office preferences or court rules don't conflict with what the typographers suggest, trust the typographers.

Without effective, legible typography, the reader won't appreciate a document's content. When you have a choice, make the document accessible, comprehensible, persuasive, and professional.

Persuasion isn't only about substance. How a lawyer speaks in court affects whether the lawyer will persuade. Will the lawyer read from a brief monotonously? Not if the lawyer wants to persuade. To persuade, the lawyer will engage the judge and grab

attention by delivery speed, delivery volume, making eye contact, gesturing, and extemporizing, all without shouting or banging on the table. As one design expert explains, "You do this because you don't merely want to be heard — you want to persuade. The text matters, but so does the presentation."<sup>4</sup>

**1. Typeface.** Readers appreciate nice-looking, readable documents. The more readable the document, the more the reader will understand and recall its substance. The goal of document design is to maximize legibility.

Typeface — called "fonts" on computers — are grouped based on visual characteristics. Typefaces fall into three categories: decorative, serif, and sans serif. Decorative typefaces resemble handwriting or calligraphy. They're inappropriate in legal documents. Use decorative typefaces for informal writing like advertisements, e-mails, logos, or personal invitations. Examples of decorative typefaces: Algerian, Comic Sans, Lucida Calligraphy, and Old English.

Legal writers should format documents using a serif typeface, the most legible kind. Serif typefaces are characterized by decorative or finishing strokes, also known as "feet" or "wings," added to the bottom of each character. The feet or wings are most noticeable on the letters "m" and "n." The decorative lines on a serif typeface guide the reader's eyes from one stroke to the next.<sup>5</sup> Because serif typefaces make documents more readable, writers use these typefaces in legal documents, books, magazines, and newspapers. Examples of serif typefaces:

Courier New, Garamond, and Times New Roman.

Although "[s]cience leaves the designer more or less at sea in terms of font choice,"<sup>6</sup> most experts reject Times New Roman, the default font in Word and WordPerfect.<sup>7</sup> Here's the classic Seventh Circuit advice: "Use typefaces . . . designed for books. Both the Supreme Court and the Solicitor General use Century. . . . [F]aces in the Bookman and Century families are preferable to faces in the Garamond and Times families."<sup>8</sup>

**"Legal writers should stick to left-aligned (right-ragged) text."**

Unlike a decorative or serif typeface, the sans-serif typeface — "sans" means "without" in French — has no decorative finishing strokes. Sans serif typefaces are difficult to read in long passages. Use sans serif typefaces for emphasis, headings, short passages, or single lines of text. Examples of sans serif typefaces: Arial, Helvetica, Gill Sans, and Univers.

Except for the cover page and to contrast headings from text (see below), don't mix typefaces in a document; use only one typeface. To make stylistic changes, choose roman, italic, or bold styles. Different typefaces will confuse

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readers. Writing in the same typeface signals that all the information is significant. Using different typefaces gives a document a cut-and-paste, distracting appearance. The document will look like a ransom note.<sup>9</sup> Use different typefaces in advertisements, not legal documents.

Some type is monospaced; some is proportionally spaced. Monospaced: Every letter takes up the same amount of space. Example: Courier. In Courier, a capital “W” takes up the same space as a lowercase “i.” Proportionally

“White space helps readers focus on the text.”

spaced: Every letter is spaced according to its proportion. For example, a capital “W” takes up more space than a lowercase “i.” Examples: Garamond and Times New Roman. The difference in type is noticeable in characters that are narrow in proportional fonts like f, i, j, l, r, t, commas, and periods. Proportionally spaced type is easier to read and occupies less horizontal space than monospaced types. Use monospaced type only when typing on a typewriter.

**2. Type Size.** Type size, like typeface, affects a document’s clarity and readability. Type size, the height of an individual character, is measured in “points.” The most common type size — 12-point type — is one-sixth of an inch high. A 72-point type size equals a one-inch character height. Type size should never be smaller than 10-point type size or larger than 14 points. Large type sizes (16 points and larger), like all-capital letters,<sup>10</sup> decrease readability and look aggressively artificial, as if you’re yelling at the reader. Small typefaces (10 points or smaller) resemble fine print, discouraging readers from reading the text.

Some type sizes vary even when the writer chooses the same point size. They vary because of the x-height: the height of a lowercase “x” rather than the average of all the letters on a line of text. Type size with a larger x-height is easy to read. Type size with a smaller x-height fits more characters on a line.

In New York, the Civil Practice Law and Rules (CPLR) 105(t) explains how to determine whether you’ve complied with text-size requirements: CPLR 2101(a) provides that the letters in a summons be no less than 12 points and that the letters in all other litigation papers be no less than 10 points; CPLR 4544 renders some contracts inadmissible in evidence if the print is less than 8 points (or 5½ points for upper-case type); and CPLR 8019(e) provides that papers filed with a county clerk for recording and indexing must contain print no less than 8 points.

You’ve met the CPLR requirement “if the x-height of the type is a minimum of 45 percent of the specified point size.”<sup>11</sup> The x-height is equal to the measure, in millimeters, of the lowercase letters, without ascenders or descenders like the line topping an “h” or the line bottoming a “p,” divided by .351. For example, if the lower-case letter “m” in the word “motion” measures two millimeters and the lowercase letter “r” in the word “regulation” also measures two millimeters, the measurement of the letters divided by .351 equals 5.698, which satisfies CPLR 105(t): It’s greater than 45% of the required font size of 10 points.<sup>12</sup>

At least one expert recommends using 13-point type size,<sup>13</sup> but the standard for federal appellate briefs is 14-point type.<sup>14</sup> For the rules applicable to New York state courts and to federal courts in New York, see the next issue’s Legal Writer column: “Document Design: Pretty in Print — Part II” (May 2009).

**3. White Space.** The trend in court rules is to move from page limits to word limits. That trend encourages legal writers to add plenty of white space to enhance legibility.

White space refers to the area on the page where no text appears. White space includes the margins, the space around headings, and the space around block quotations. White space doesn’t include the blank lines in double-spaced text. White space affects document readability. White space helps readers focus on the text: It makes the text stand out. White space also lets readers rest after reading the text: It breaks the monotony. White space gives readers information in bite-sized bits to enable the reader to digest information. The goal is to have about 50% text and 50% white space.<sup>15</sup>

To maximize white space:

- Use 1.25-inch margins;
- Avoid long paragraphs;
- Add headings and subheadings;
- Indent a full tab for each paragraph;
- Skip a space between paragraphs whether you single-space or double-space your text;
- Add a line between sections;
- Use bullet points and numbered lists;
- Use left-justified (right-ragged) margins;
- Avoid block quotations and lengthy footnotes or endnotes; and
- Add a line before and after block quotations and between footnotes and endnotes.<sup>16</sup>

**4. Margins.** In Word and WordPerfect, the margin default rule is one inch on the top, bottom, right, and left, a vestige from monospaced typewriter fonts. Experts recommend 1.25 inches, however, and some recommend even more for a 12-point proportionally spaced font: “The smaller your font size, the larger your margins will need to be, and vice versa.”<sup>17</sup> Some courts also require that margins exceed one inch. Read the court’s rules before filing any legal document. If a court requires briefs to have at least one-inch margins, you may increase the left- and right-side margins beyond the one-inch standard to maximize legibility and readability.<sup>18</sup> The extra space will give



the judges and their law clerks space on which to write notes.

If a court requires you to bind a document, add an extra half-inch to the gutter margins. A gutter margin is the space created by the adjoining inside margins of two facing pages in a book or the space between columns on a page. If a court requires you to print on one side of the paper, add extra space to the left side of the page. If a court requires you print on both sides of the paper, add extra space to the left margin.

**5. Alignment.** Alignment refers to lining up text with a vertical line on a page. Alignment falls into four categories: right-aligned, left-aligned, center-aligned, and full justification. Right-aligned text is set flush with the right-hand margin. Left-aligned text is set flush with the left-hand margin. Centered text is set centered on the page. Fully justified text is lined up at both the left and right sides.

Avoid fully justified formatting in typed documents as opposed to published documents. Full justification, especially with monospaced type, leads to odd spacing between letters and words. The text in full justification is forced to the left- and right-hand side of the page. Full justification makes letters appear stretched. The text will appear to slide down the page. Full justification might also lead to rivers of white space. A “river” refers to the white space between words that appear near each other on consecutive lines of text. Rivers also occur when the line length is too long or too short.

Legal writers, as opposed to publishers, should stick to left-aligned text; it’s easiest to read. The uneven margin on the right-hand side, also known as a right-ragged effect, helps readers find the beginning of the next line. It helps readers keep on reading.

Use center-aligned text for titles, captions, headings, and page numbers.

Legal writers rarely use flush-right text, although they may use it to set the court name and case number on pleadings and motions.

## “Using different typefaces will make the document like a ransom note.”

Avoid using more than one text alignment on a page. It’s messy and difficult to read.<sup>19</sup>

### **6. Horizontal and Vertical Spacing.**

Horizontal spacing refers to the space in the text before a sentence (called “indentations” or “indents”) and the space between sentences. Vertical spacing refers to single- or double-spacing between lines of text.

All legal-writing and publishing authorities recommend using one space between words and one space after punctuation marks.<sup>20</sup>

Most authorities recommend using one space between sentences. As the Seventh Circuit explains, “[p]ut only one space after punctuation. The typewriter convention of two spaces is for monospaced type only. When used with proportionally spaced type, extra spaces lead to . . . wide, meandering areas of white space up and down a page [that] interfere with the eyes’ movement from one word to the next.”<sup>21</sup>

Use your computer’s hard-space function where you don’t want a line to break and separate citation symbols like the section symbol (§) or the paragraph symbol (§). Use the hard-space function before and between a series of ellipses. This will ensure that the ellipses are spaced evenly. *Incorrect:* “The judge ordered her to...produce the documents.” *Correct:* “The judge ordered her to . . . produce the documents.”

Indenting paragraphs, block quotations, and lists gives the text definition and makes it stand out. Most readers prefer indented paragraphs. Indent the first line of each paragraph. Although the Seventh Circuit recommends short indents,<sup>22</sup> the Legal Writer recommends indenting paragraphs one full tab, or one-half inch from the margin. A full tab is the default indent in Word and WordPerfect, and a full tab increases white space. Don’t use the spacebar to create an indent; use a tab. For block

quotations, indent on the left-hand margin and the right-hand margin; the indents should be equally sized, or double indented. Keep indents uniform: If you use one-half inch indents for paragraphs, use the same width throughout the text.

Width, sometimes called the length of text lines, also affects readability. Our eyes naturally shift from one set of words to the next, pausing between each set of words. This stop is called a “fixation pause.”<sup>23</sup> Legibility decreases when the width of a text line becomes small. A document that contains fewer fixation pauses allows greater retention and comprehension.<sup>24</sup> The optimal length of text lines depends on the type size. For a 12-point type size, line length should range from 2.75 to 4 inches. Line length explains why block quotations are difficult to process. Block quotations contain shortened text lines. They force readers to search for the next text line and cause the reader to tire.<sup>25</sup>

For office documents and letters, single-space between lines of text, but add a line (hard return or “enter”) after every paragraph. Single-spacing is user-friendly. Single-spacing leads to shorter documents and thus looks more concise: A paragraph that could be the size of a page if double-spaced becomes half the size when single-spaced. Single-spacing also makes it easier for readers to see and read: The text jumps out at the reader. Double-spacing makes reading difficult: Readers have a hard time following the text. The structure of the text gets lost on the page. But many courts require double-spacing between lines. See the next issue’s Legal Writer column for more on this topic.

**7. Headings.** Headings and sub-headings are visually effective mechanisms that enable better recall of substantive information. Headings group related information. Readers are more likely to remember information sepa-

rated into parts, especially information contained in the heading itself. Create persuasive and conclusory headings to make information sink in.<sup>26</sup>

Headings and subheadings should be the same size as the text. Headings may be set to a slightly larger size than the text — if the text is 12 points — but should not exceed size 14-point font. Use a different typeface to distinguish text from headings and subheadings, just as you'd do so, sparingly, on the cover page of a document: "The contrast between the serif and sans-serif typefaces should make the latter jump off the page."<sup>27</sup>

Headings and subheadings may be formatted in bold to make the text stand out. Place headings in a hierarchy: Use boldface capital letters for the main heading, boldface capitals and lowercase letters for the next level, and boldface italics for subheadings.<sup>28</sup> Indent them the same width from the margin. Leave plenty of room for dot leaders in the table of contents so that the headings and subheadings don't obscure the page numbers. Except for main section headings, left justify all other headings. Single-space headings even if you double-space the document. Insert an extra space in the text before a main heading to help readers breathe before they read further.

In the next issue, the Legal Writer will continue in Part II with more document design. ■

tional advice as it is for its exceptional design — offers another example. You're hiring a lawyer. You get three résumés, all with identical information. Whom would you interview first? Butterick dryly notes that "Steven and Roscoe have a few things to learn."

Anastasia K. Johnson  
ATTORNEY AT LAW

Roscoe S. Feinberg  
attorney at law

STEVEN R. COLTRANE  
ATTORNEY AT LAW

5. Robbins, *supra* note 2, at 119–20.

6. Ellen Lupton, *Cold Eye*, Print Mag. (Summer 2003), available at *The Science of Typography* [http://www.typotheque.com/articles/the\\_science\\_of\\_typography](http://www.typotheque.com/articles/the_science_of_typography) (last visited Jan. 29, 2009).

7. Seventh Circuit, Requirements and Suggestions for Typography in Briefs and Other Papers 5, <http://www.ca7.uscourts.gov/rules/type.pdf> (last visited Jan. 29, 2009) ("Professional typographers avoid using Times New Roman for book-length (or brief-length) documents. This face was designed for newspapers, which are printed in narrow columns, and has a small x-height in order to squeeze extra characters into the narrow space.") (hereinafter "Seventh Circuit"); Typography, *supra* note 4, at <http://www.typographyforlawyers.com/?p=687> (last visited Jan. 29, 2009) ("It bewilders me to visit big law firms [that] clearly spent top dollar on their websites and their Aeron chairs but that still use Times . . ."); Raymond P. Ward, *Writer's Corner, Good Writing, Good Reading: Advice on Typography*, [Jan. 2005] For the Defense 60, available at <http://home.earthlink.net/~thelegalwriter/sitebuildercontent/sitebuilderfiles/typography.pdf> (last visited Jan. 29, 2009) ("While Times New Roman is acceptable for most legal writing, it's not the best font you can use for briefs.").

8. Seventh Circuit, *supra* note 7, at 5.

9. Bryan A. Garner et al., *The Redbook: A Manual on Legal Style* Rule 4.4(b), at 79 (2d ed. 2006).

10. Seventh Circuit, *supra* note 7, at 6 ("Capitals all are rectangular, so the reader can't use shapes (including ascenders and descenders) as cues.").

11. CPLR 105(t); see *Gouveneur Gardens Hous. Corp. v. Lee*, 2 Misc. 3d 525, 526, 769 N.Y.S.2d 829, 830-831 (Hous. Part Civ. Ct. N.Y. County 2003).

12. For more on this topic, see *Glorius v. Siegel*, 2004 N.Y. Slip Op. 51378(U), \*2-3, 2004 WL 2609413, at \*2, 2004 N.Y. Misc. LEXIS 2195, at \*2-3 (Hous. Part Civ. Ct. N.Y. County 2004).

13. See Garner, *supra* note 9, Rule 4.5(a), at 79.

14. Fed. R. App. P. 32(a)(5).

15. Raymond P. Ward, *Writer's Corner, Good Writing, Good Reading: Advice on Typography*, [Jan. 2005] For the Defense 60, available at <http://home.earthlink.net/~thelegalwriter/sitebuildercontent/sitebuilderfiles/typography.pdf> (last visited Jan. 29, 2009).

16. Some of these suggestions come from Morkan, *supra* note 1, at 31.

17. Typography, *supra* note 4, at <http://www.typographyforlawyers.com/?p=944> (last visited Jan. 29, 2008).

18. Robbins, *supra* note 2, at 124.

19. *Id.* at 131.

20. Garner, *supra* note 9, Rule 4.12, at 83.

21. Seventh Circuit, *supra* note 7, at 5.

22. *Id.* at 6 ("Indent the first line of each paragraph ¼ inch or less. Big indents disrupt the flow of text.").

23. Robbins, *supra* note 2, at 122.

24. *Id.*

25. *Id.* at 123.

26. *Id.* at 125.

27. Raymond P. Ward, *Writer's Corner, The Right Tool for the Job*, [Winter 2008] *Certworthy* 16, 16, available at [http://raymondward.typepad.com/newlegalwriter/typography\\_and\\_document\\_design](http://raymondward.typepad.com/newlegalwriter/typography_and_document_design) (last visited Jan. 29, 2009); accord Morkan, *supra* note 1, at 29. Morkan calls this contrast "emphasis" and "cueing," a technique designed "to get your reader's attention and direct it to particular points in your argument."

28. Garner, *supra* note 9, Rule 4.20(f), at 87.

1. Linda L. Morkan, Appellate Advocacy, *The Gestalt of Brief Writing: Visual Rhetoric in the Appellate Brief* [July 2008] For the Defense 27, 31, available at <http://www.rc.com/publications/Morkan.pdf> (last visited Jan. 29, 2009) ("Readers love visual aids. Love them to death, eat-them-up kind of love.").

2. Ruth Anne Robbins, *Painting with Print: Incorporating Concepts of Typographic and Layout Design into the Text of Legal Writing Documents*, 2 J. Ass'n Legal Writing Directors 108, 112 (2004), available at [http://www.ca7.uscourts.gov/Rules/Painting\\_with\\_Print.pdf](http://www.ca7.uscourts.gov/Rules/Painting_with_Print.pdf) (last visited Jan. 29, 2009).

3. Wayne Schiess, *Schiess's Basic Document Design for Lawyers*, <http://www.utexas.edu/law/faculty/wschiess/legalwriting/2008/07/schiesss-basic-document-design-for.html> (last visited Jan. 29, 2009) (advising lawyers to do as the experts say "[u]nless required by rule or your boss").

4. Matthew Butterick, *Typography for Lawyers*, <http://www.typographyforlawyers.com/?p=106> (last visited Jan. 29, 2009) (hereinafter "Typography"). Butterick's site — as noteworthy for its excep-



"You can read my decision on my blog:  
[www.yougotjustice.com](http://www.yougotjustice.com)."