



TIPS FOR EFFECTIVE PUNCTUATION IN LEGAL WRITING*

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Punctuation can be either your friend or your enemy. A typical reader will seldom notice good punctuation (though some readers do appreciate truly excellent punctuation). However, problematic punctuation will stand out to your reader and ultimately damage your credibility as a writer. The tips below are intended to help you reap the benefits of sophisticated punctuation while avoiding common pitfalls. But remember, if a sentence presents a particularly thorny punctuation problem, you may want to consider rephrasing for greater clarity.

This handout addresses the following topics:

THE COMMA (,)	2
PUNCTUATING QUOTATIONS	4
THE ELLIPSIS (. . .)	4
THE APOSTROPHE (')	7
THE HYPHEN (-)	8
THE DASH (—)	10
THE SEMICOLON (;)	11
THE COLON (:)	12

* By Alison Suthers and Michael Roberts, November 2005.

THE COMMA (,)

COMMA: The comma is probably the most commonly used punctuation mark.¹

Commas can show the reader how extra information has been added to a sentence:

- 1) Use a comma to set off introductory phrases. The comma is sometimes considered optional for very short introductory phrases.
To prevail in this matter, the plaintiff must satisfy four elements.
First, the plaintiff must demonstrate that the defendant's statement was false.
- 2) Use a comma to set off an interrupting phrase or "nonrestrictive" clause.
The complainant, a local homeowner, has contacted police nine times.
The officer pushed on the door, which was in a state of disrepair, and it opened.
The witness claimed that he, not the defendant, was driving the car.
The judge, however, focused on the policy implications of the decision.
- 3) Use a comma to indicate that more information follows.
The plaintiff filed his reply brief, which was longer than court rules permitted.
The court held for the plaintiff, finding that the defendant's explanation was not credible.
- 4) Use a comma before a conjunction that introduces a new subject and verb.
The Court declined the appeal, but the Governor is considering clemency.

Commas are also used to coordinate dates, separate items in a list, and set off quotations. For more information on the use of commas with quotations, see *infra* on "Punctuating Quotations."

TIP: Avoid using a comma between a subject and its verb. For example, do not use a comma between two subjects that share a verb or between two verbs that share a subject.

The leaders of the union and the owners of the team met to begin negotiations.

NOT: The leaders of the union, and the owners of the team met to begin negotiations.

The lawyer objected to the statement and moved to strike it from the record.

NOT: The lawyer objected to the statement, and moved to strike it from the record.

¹ LAUREL CURRIE OATES ET AL., *THE LEGAL WRITING HANDBOOK: ANALYSIS, RESEARCH AND WRITING* 797 (3d ed. 2002). The information in this section has been adapted from OATES at 798-99, and MARY BERNARD RAY & JILL J. RAMSFIELD, *LEGAL WRITING: GETTING IT RIGHT AND GETTING IT WRITTEN* 79-82 (3d ed. 2000).

THE COMMA, continued

TIP: Use a comma between the last items in a series. Though sometimes considered optional, the use of this comma in legal writing is recommended to avoid any possible confusion.

My estate is to be divided equally among my nephew, my son, my daughter, and my son-in-law.²

TIP: Commas are generally used with “which” clauses but not with “that” clauses.

- The word “which” usually indicates a “nonrestrictive” clause, which is a phrase that provides additional information but does not restrict or limit the object it modifies.

“The taxes, which have been paid, should not appear on this statement.”
(All taxes have been paid.)

- The word “that” usually indicates a clause that provides essential information restricting or limiting the object it modifies, also known as a “restrictive” clause.

“The taxes that have been paid should not appear on this statement.”³
(Only some of the taxes have been paid.)

TIP: The “pause” rule is imperfect.

- “Many fairly good legal writers . . . rely on the ‘rule’ that one should use a comma whenever the reader should pause—advice that works only about 70 percent of the time.”⁴
- However, when polishing a piece of writing, you may use the “pause” rule to find and fix problem areas, especially if reading the piece aloud.

² RAY & RAMSFIELD, *supra* note 1, at 81.

³ *Id.* at 369-70.

⁴ OATES, *supra* note 1, at 797.

PUNCTUATING QUOTATIONS

QUOTATIONS: Some special considerations apply to punctuation used in conjunction with quotation marks.

1) Use a comma before a quote when a phrase introduces the quote, but do not use a comma if the quote is integrated into a larger sentence.

He replied, "I think the car was blue."

He replied that the car was "blue with white racing stripes."

2) Commas and periods always go inside of the closing quotation mark.⁵

3) All other marks go inside the closing quotation mark only if the mark is part of the quote.

He asked, "What time is lunch?"

4) All other marks go outside the closing quotation mark if the mark is part of the larger sentence.

Did he really call his classmate an "obsequious sycophant"?

She said "next Sunday"; however, I think she meant tomorrow.

THE ELLIPSIS (...)

ELLIPSIS: An ellipsis (three periods separated by spaces) is used to indicate the omission of one or more words from a quotation.⁶

Advantage: Ellipses help writers retain conciseness in legal writing and draw clearer meaning out of quoted language by permitting the omission of text that is not necessary for the present discussion.

Disadvantage: The overuse of ellipses may suggest that you are manipulating the authority and thus may harm your credibility with the reader.

CAUTION: Use care not to omit material that is necessary to retain the original meaning of quote.⁷

⁵ British English follows a different rule.

⁶ For more information on omissions from quotations, see THE BLUEBOOK: A UNIFORM SYSTEM OF CITATION R. 5.3, at 70-71 (Columbia Law Review Ass'n et al. eds., 18th ed. 2005).

THE ELLIPSIS, continued

TIP: According to the Bluebook, include a space before and after each period in an ellipsis.⁸ Note that some word processing autocorrect features automatically insert a special “ellipsis” character when you type three periods; this character does not conform to the Bluebook.

“Congress shall make no law . . . abridging the freedom of speech”

TIP: Include ending punctuation after an ellipsis if the sentence ends with the quotation. Above, the second ellipsis (for an omission at the end of the sentence) is followed by the original ending punctuation (the fourth period in the sequence).

TIP: Do not use an ellipsis to begin a quotation or indicate the alteration of an individual word. Brackets are typically used in these instances.⁹

“[N]o warrant shall issue, but upon probable cause”

TIP: Do not use an ellipsis to begin or end a quotation when the quoted language is used only as a phrase or clause of the ultimate sentence.

Congress, the drafters agreed, could “make no law” that abridges the fundamental democratic freedoms of speech and the press.

NOT: Congress, the drafters agreed, could “. . . make no law” that abridges the fundamental democratic freedoms of speech and the press.”

TIP: When omitting text after the end of a quoted sentence and the sentence is followed by further quotation, retain the original punctuation at the end of the sentence and then include an ellipsis before continuing. Do not add a space before the ending punctuation.

From: “The Plaintiff met her burden. The Defendant has raised no affirmative defenses, and thus judgment is granted for the Plaintiff.”

To: “The Plaintiff met her burden. . . . [J]udgment is granted for the Plaintiff.”

⁷ Lawyers may be subjected to sanctions for misrepresenting the meaning of quoted language through selective omission. See *Precision Specialty Metals, Inc. v. United States*, 315 F. 3d 1346 (Fed. Cir. 2003) (affirming formal reprimand for government attorney whose omission broadened the original meaning of a quoted passage).

⁸ THE BLUEBOOK, *supra* note 6, R. 5.3, at 70.

⁹ For more information on alterations, see THE BLUEBOOK, *supra* note 6, R. 5.2, at 69-70.

THE ELLIPSIS, continued

TIP: When a paragraph or more is omitted from a quotation, start a new line, indent, and include four periods with spaces in between (representing an ellipsis and a fourth period for the ending punctuation).

Our opinions, like our building, have recognized the role the Decalogue plays in America's heritage. The Executive and Legislative Branches have also acknowledged the historical role of the Ten Commandments. These displays and recognitions of the Ten Commandments bespeak the rich American tradition of religious acknowledgments.

.....

There are, of course, limits to the display of religious messages or symbols. For example, we held unconstitutional a Kentucky statute requiring the posting of the Ten Commandments in every public schoolroom. In the classroom context, we found that the Kentucky statute had an improper and plainly religious purpose.¹⁰

TIP: Do not use an ellipsis to indicate the omission of a footnote or citation. Instead include a “(footnote omitted)” or “(citation omitted)” parenthetical explanation.¹¹

¹⁰ Van Orden v. Perry, 125 S. Ct. 2854, 2863 (2005) (citations and footnotes omitted). The original passage included an additional paragraph:

Our opinions, like our building, have recognized the role the Decalogue plays in America's heritage. The Executive and Legislative Branches have also acknowledged the historical role of the Ten Commandments. These displays and recognitions of the Ten Commandments bespeak the rich American tradition of religious acknowledgments.

Of course, the Ten Commandments are religious—they were so viewed at their inception and so remain. The monument, therefore, has religious significance. According to Judeo-Christian belief, the Ten Commandments were given to Moses by God on Mt. Sinai. But Moses was a lawgiver as well as a religious leader. And the Ten Commandments have an undeniable historical meaning, as the foregoing examples demonstrate. Simply having religious content or promoting a message consistent with a religious doctrine does not run afoul of the Establishment Clause.

There are, of course, limits to the display of religious messages or symbols. For example, we held unconstitutional a Kentucky statute requiring the posting of the Ten Commandments in every public schoolroom. In the classroom context, we found that the Kentucky statute had an improper and plainly religious purpose.

Id. (citations and footnotes omitted).

¹¹ THE BLUEBOOK, *supra* note 6, R. 5.2-5.3, at 69-71.

THE APOSTROPHE¹² (')

APOSTROPHE: Apostrophes are used to indicate letters missing from words and to create possessive forms of nouns.

TIP: Avoid the use of informal contractions (e.g., “shouldn’t”) in formal legal writing.

TIP: Do not use an apostrophe to form possessives of pronouns.
his, hers, its, theirs, ours, yours, whose

TIP: Do not use an apostrophe to create a plural form of a name that ends with an “s.” Instead add “es” to the word.
two Robertses on the Court, four Joneses at the reunion

TIP: Use an apostrophe in legal writing to form the plural of a letter, figure or symbol.¹³
7’s, C’s, M’s, 1960’s, Boeing 767’s

TIP: Apostrophes are used to abbreviate words in citation sentences (e.g., “Nat’l” for “National” in case citations). Consult the Bluebook rule for your particular source; cases and a few other sources utilize the abbreviations in Table T.6 of the Bluebook.

Tips for Possessive Forms¹⁴

TIP: Nouns that do not end with “s” (singular & plural) → Add apostrophe and “s”
defendant’s alibi, family’s income, children’s guardian, everyone’s concern

TIP: Plural nouns that end with “s” → Add an apostrophe but not an “s”
framers’ intent, workers’ rights, thirty days’ notice

¹² See generally RAY & RAMSFIELD, *supra* note 1, at 19; OATES, *supra* note 1, at 835-39.

¹³ Some modern style guides disagree and omit the apostrophe, but the Bluebook and Government Printing Office Style Manual still require this apostrophe when expressing plural forms. See RAY & RAMSFIELD, *supra* note 1, at 19.

¹⁴ These rules have been adapted from OATES, *supra* note 1, at 835.

THE APOSTROPHE, continued

TIP: Singular nouns that end with “s” → it depends (and style guides differ)

- Use the apostrophe plus “s” form (’s) if the resulting word is not difficult to pronounce.
Congress’s authority, witness’s testimony, James’s contract¹⁵
- If the possessive word is followed by a word beginning with an “s” sound, creating three “s” sounds together, the “s” after the apostrophe is dropped for ease in pronunciation.¹⁶
business’ sales, witness’ signature

TIP: To show possession for two or more nouns:

- Use the apostrophe plus “s” (’s) after the last name only to indicate joint possession.
John and Mary’s stocks (stocks jointly owned by John and Mary)
- Use the apostrophe plus “s” (’s) after each name to indicate individual possession.
John’s and Mary’s stocks (some stocks owned by John, some owned by Mary)

THE HYPHEN¹⁷ (-)

HYPHEN: Hyphens can be used between two words that function together to modify a subsequent word in the sentence, as in “well-pled complaint.” Hyphens can also be used to connect some prefixes to words.

Advantages: Hyphenated words can assist with conciseness by eliminating the need for additional adverbial phrases.

CAUTION: Emphasis and sometimes meaning will change when replacing a descriptive phrase with hyphenated words.

¹⁵ Oates notes that some style guides recommend the use of an apostrophe alone with singular proper names. See OATES, *supra* note 1, at 835 n.3.

¹⁶ *Id.* at 835.

¹⁷ See generally RAY & RAMSFIELD, *supra* note 1, at 166-167; OATES, *supra* note 1, at 853-56.

THE HYPHEN, continued

TIP: Hyphenate the two words that work together when they appear before the word they modify, but not when they appear after:

The brief contained well-developed policy arguments.

The brief contained policy arguments that were well developed.

TIP: A hyphen can be used to connect some prefixes to words.¹⁸

- (a) Use a hyphen when adding a prefix to a proper name: *un-American*.
- (b) Use a hyphen when the prefix ends with the same vowel that begins the main word: *re-examine*, *semi-independent*.
- (c) Use a hyphen with *self-* when the word is used as a prefix: *self-employed*, *self-sufficient*.
- (d) Use a hyphen with *ex-* when the word means former: *ex-wife*.
- (e) Use a hyphen whenever omitting it will confuse readers. *He wanted to re-lease the apartment*. Or reword the sentence to avoid the problem. *He wanted to lease the apartment again*.

TIP: Do not hyphenate proper names.
the Supreme Court building, the South American trade embargo

TIP: Do not confuse hyphens with Em dashes (—), which are alternate ways to include additional information in a sentence (see *infra* on “The Dash”).

¹⁸ RAY & RAMSFIELD, *supra* note 1, at 167.

THE DASH (—)

DASH: Dashes set off additional information or a modifying clause.

One crucial witness—the defendant’s mother—refused to corroborate the alibi.

Effect: As opposed to parentheses or commas, dashes create emphasis and give the impression that the added information is important, surprising, or abrupt.

CAUTION: Dashes can also connect related clauses or ideas. However, when used to connect clauses, dashes can be too vague and informal for legal writing.¹⁹ Dashes indicate that what follows is a marginally-related afterthought. The following example does not tell the reader how the ideas are connected. It is not clear to the reader whether the writer was actually expecting a plumber to come or why the writer stayed home today.

I stayed home from work today—the plumber didn’t come.

Using a colon or semicolon instead of a dash can indicate a more precise logical relation between ideas. *See infra* on “The Semicolon” and “The Colon.” The following example more strongly conveys the idea that the writer stayed home from work to wait for the plumber and is a bit annoyed about being stood up.

I stayed home from work today: the plumber didn’t come.

Please note, however, that the preceding example still requires the reader to use logical inferences to make assumptions about the writer’s meaning. As a legal writer, you should strive to avoid any ambiguity by explicitly providing all of the information the reader needs.

I stayed home from work today to wait for the plumber; yet the plumber never came.

TIP: For a more polished look, use Em dashes (—) rather than double hyphens (--) or En dashes (–). Do not use a space on either side of the dash. This is the style preferred by many law journals.

¹⁹ OATES, *supra* note 1, at 856. You will nevertheless find that many respectable legal writers use dashes prolifically. Use your best judgment.

THE SEMICOLON (;)

SEMICOLON: Semicolons connect independent sentences that are logically closely related or work together as part of a larger idea.

Effect: Semicolons tell the reader that more information, following the semicolon, will clarify your meaning. They add emphasis to the second clause as an important explanation of the first.

Advantages: Semicolons can highlight connections between ideas that will help the reader understand your meaning.

Disadvantages: Critics complain that writers use semicolons to gloss over imprecise thought.²⁰ Like any sentence structure, semicolons can be over-used.

Semicolons also separate items in a list when the individual items are long or if any one item contains a comma.

I have lived in New York; Washington, D.C.; and Bismarck, North Dakota.

The elements of defamation include a defamatory statement concerning another; publication to a third party; and fault amounting to at least negligence.

TIP: To avoid charges of imprecise thinking, make sure that the logical connection between phrases joined by a semicolon is clear.

- For example, you can use a conjunctive adverb (such as also, furthermore, nevertheless, thus, however) after the semicolon to more precisely describe the relation between ideas.²¹
- Additionally, some writers prefer to use a semicolon before the coordinating conjunctions “yet” and “so.”²²

²⁰ See LYNNE TRUSS, EATS, SHOOT, & LEAVES: THE ZERO TOLERANCE APPROACH TO PUNCTUATION 124 (2003) (citing Paul Robinson, *The Philosophy of Punctuation*, THE NEW REPUBLIC, April 26, 1980, available at <http://www.press.uchicago.edu/Misc/Chicago/721833.html>).

²¹ OATES, *supra* note 1, at 828. Other conjunctive adverbs include accordingly, besides, consequently, hence, however, indeed, instead, likewise, meanwhile, moreover, still, then, and therefore.

²² *Id.* at 830-31.

THE COLON (:)

COLON: Colons end a sentence that creates anticipation or suspense that the next sentence or phrase resolves.²³

Effect: Colons create an expectation that what follows is surprising, important, or especially interesting.

Advantages: Colons can highlight crucial information by adding emphasis to what follows the colon.

Disadvantages: Because the colon is a dramatic sentence structure, colons can lose emphasis and credibility if over-used.²⁴ Generally, use colons when no other punctuation can create the desired effect.

Colons also introduce a list or introduce a quotation that is not integrated into the writer's sentence.

The court applied the following four factors to the facts at issue: . . .

The court explained that location can also contribute to reasonable suspicion: “[O]fficers are not required to ignore the relevant characteristics of a location”²⁵

TIP: Some readers and writers think of a colon simply as shorthand for “for example” or “therefore.”²⁶ However, you can also use colons to add an extra element of drama or suspense.

TIP: Because the colon introduces what will follow, it is usually preceded by a complete sentence. What follows the colon may or may not be a complete sentence.

Days later the plaintiff received a reply to her harassment complaint: a pink slip.
The court's decision is not likely to eliminate controversy: environmentalists say they will continue the debate in the legislature.

²³ RAY & RAMSFIELD, *supra* note 1, at 78.

²⁴ *Id.*

²⁵ Illinois v. Wardlow, 528 U.S. 119, 124 (2000).

²⁶ JOSEPH M. WILLIAMS, *STYLE: TEN LESSONS IN CLARITY AND GRACE* 233 (8th ed. 2005).