

Review of Matthew Butterick's *Typography for Lawyers* (Part 1)

By Matthew R. Salzwedel

Editor's Note: This article is split into two parts. The first part appears below, and the second part will appear in next month's issue.

Stellar legal writing requires planning, organization, clear prose, and impeccable grammar and punctuation. But another key part of excellent legal writing gets little or no attention from all but the most meticulous legal writers—typography. Before your eyes glaze over, grant me a few more sentences to explain why you *should* care about it.

Typography is writing's visual element that, if done correctly, can help your readers enjoy and better understand your work. If you write well but neglect the basic conventions of professional typography, you deserve the same scorn from your readers as the fancy-restaurant chef who serves lobster tails on plastic fast-food trays and fine French wine in paper Dixie® cups. In short, your credibility as a writer is at stake.

Fortunately, if you know nothing about professional typography, you don't have to spend your free time learning it from scratch because Matthew Butterick—a Harvard-trained typographer who doubles as a California lawyer—has written *the* book on how professional typography can improve legal writing. Now in its second edition, Butterick's *Typography for Lawyers*¹ runs about 230 pages and is a quick, easy read.

"Plain Language," edited by Joseph Kimble, has been a regular feature of the *Michigan Bar Journal* for 34 years. To contribute an article, contact Prof. Kimble at WMU-Cooley Law School, 300 S. Capitol Ave., Lansing, MI 48933, or at kimblej@cooley.edu. For an index of past columns, Google "Plain Language column index."

Everyone who works in the law—judges, lawyers, paralegals, and legal assistants—can benefit from reading it.

Butterick's most useful and easy-to-adopt typography recommendations follow. This is *Typography 101*—basic typography conventions, along with step-by-step instructions for changing settings in Microsoft Word 2016. (If you have a Mac, the book includes Mac-specific instructions, or you can find them online.) On a few topics I'll digress to give my own preferences formed during my practice as both a litigator and a corporate lawyer with a heavy contract-drafting practice.

First, though, an important disclaimer is in order: Butterick's recommendations still require that you use your judgment. If a law, court rule, or stubborn senior partner says to do something differently, then of course follow that direction.

Put one space after a punctuation mark

If my Twitter feed is any indication, lawyers remain bitterly divided over whether to insert one or two spaces after a sentence-ending period. Butterick says that you have no choice: it's always one space after a punctuation mark, including after a sentence-ending period.²

He cites professional-typography authorities as well as *The Chicago Manual of Style*,³ *The Redbook: A Manual on Legal Style*,⁴ and the United States Court of Appeals for the Seventh Circuit's *Requirements and Suggestions for Typography in Briefs and Other Papers*.⁵ Butterick explains that the two-space convention is a holdover from the typewriter and that, whatever writers or publishers may have done in the past, professionals now use only one space.⁶

But doesn't new research support the two-space convention? Actually, no. A recent study in the journal *Attention, Perception, & Psychophysics* did claim that two spaces

after a sentence-ending period helps readers better comprehend what they're reading.⁷ But both the study's methodology and its broad conclusion are flimsy at best.⁸

The 60 participants were college students (hardly representative of the population); the study used text set in *Courier New* font, which is rarely used today; using two spaces after a period increased participants' reading speed (by a tiny 3 percent) only if they *already used* two spaces in their writing; and the researchers didn't find that two spaces helped the participants understand the text any better than if one space followed the period.⁹

After recounting even more problems with the study, Butterick accurately describes the attention and weight that you should give to it: "Not much to see here, I'm afraid."¹⁰

Don't underline

Although contract drafters rarely underline words other than section headings, some brief-writers choose to underline case names and words that they want to emphasize. Other brief-writers—especially if they follow *The Bluebook* and other well-accepted style guides—italicize these words.¹¹

Butterick points out that typewriters forced lawyers to underline case names and words that they wanted to emphasize because typewriters couldn't bold or italicize words.¹² Now that lawyers don't use typewriters, there's no need to underline. Underlining is ugly. If you want to emphasize text, either italicize the words or put them in bold.

Don't use monospaced fonts

Courier New and *Lucida Sans Typewriter* are monospaced fonts—each character is the same width. *Times New Roman* and *Century Schoolbook* are proportionally spaced fonts—each character has a different width. Monospaced fonts are another vestige of the typewriter era: they

served only the purpose of satisfying the mechanical needs of typewriters—not “to win beauty contests.”¹³

Butterick suggests that some courts still might require monospaced fonts.¹⁴ But besides the Massachusetts appellate courts—which require submissions in Courier¹⁵—my research has found no other courts that require them. Even so, if you use Courier New or another monospaced font and want to switch to a proportionally spaced font, first check the rules.

Retire Arial and try something other than Times New Roman

Butterick doesn't recommend Arial to lawyers choosing a proportionally spaced font. Its use, he says, “is permanently associated with the work of people who will never care about typography.”¹⁶ Instead of Arial, Butterick recommends the similar-looking professional fonts Neutral, Bernini Sans, and Cooper Hewitt (a free, open-source font designed for the Smithsonian).¹⁷

Butterick may dislike Times New Roman more than Arial. Times New Roman's popularity, he says, is the result of its ubiquity, not its quality. It isn't really a font choice but rather is “the absence of a font choice, like the blackness of deep space is not a color. To look at Times New Roman is to gaze into the void.”¹⁸ For Times New Roman substitutes, he recommends the professional fonts Equity (a font that he created), Tiempos, and Verdigris.¹⁹

But there's a rub with professional fonts. As Butterick acknowledges,²⁰ Microsoft Word doesn't include them as free system fonts; instead, you must buy a third-party license to use them. A single license for a professional-font family can cost up to \$200.²¹ And if you want several people in your law office or legal department to use a professional font, you'll need to buy either several individual licenses or a bulk license. Professional fonts also don't display properly to people who haven't bought the license.²²

Regardless of your choice, you should always ask yourself what font will be the easiest for your readers to read and help them understand what you're trying to convey. After experimenting with different Word system fonts, I now use Segoe UI²³—a proportionally spaced font—for employee-facing documents such as confidentiality

and separation agreements. (Butterick partially blesses Segoe UI, saying that it's “OK in limited doses.”²⁴) In formal contexts—e.g., when nonlawyer company executives will read the document—I default to Times New Roman, the font least prone to cause executive distraction.

I also use Segoe UI for my contracts, but I don't fuss if a vendor's contract uses Arial or another minimally readable font. Ken Adams uses Calibri in his contracts²⁵ (while declaring Segoe UI to be “unobjectionable”),²⁶ and when it comes to contract drafting it's usually safe to follow Ken's recommendations. But don't even think about using Arial Narrow (8.5 pt) or other small, hard-to-read fonts. Tiny, hardly readable fonts tell your readers two things: (1) you don't care about making their day hell, and (2) they need to pay close attention to what's in the contract because you're possibly trying to bury something important.²⁷ ■

The provenance for this article is 10 Takeaways from Typography for Lawyers, which the author originally published at Lawyerist.com on July 7, 2011, and was last updated on October 10, 2015.

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ENDNOTES

1. Butterick, *Typography for Lawyers: Essential Tools for Polished & Persuasive Documents* (Thomson Reuters, 2d ed 2018).
2. *Id.* at 41–44.
3. *The Chicago Manual of Style* (Univ of Chicago Press, 17th ed 2017), Rule 2.9.
4. Garner, *The Redbook: A Manual on Legal Style* (West Academic Publishing, 4th ed 2018), § 4.12.
5. Seventh Circuit Court of Appeals, *Requirements and Suggestions for Typography in Briefs and Other Papers* at 5 <<http://www.ca7.uscourts.gov/forms/type.pdf>> (“Put 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 what typographers call ‘rivers’—wide, meandering areas of white space up and down a page. Rivers interfere with the eyes’ movement from one word to the next.”). All websites cited in this article were accessed on September 14, 2018.
6. *Typography for Lawyers* at 41–42.
7. Johnson, Bui & Schmitt, *Are two spaces better than one? The effect of spacing following periods and commas during reading*, 80 *Atten Percept Psychophys* 6, 1504 (2018) <<https://doi.org/10.3758/s13414-018-1527-6>>.

8. Chen, *Please don't use this study to justify your horrible habit of using two spaces after periods*, *The Verge* (April 30, 2018) <<https://www.theverge.com/2018/4/30/17301868/two-spaces-periods-typography-reading-comprehension>> and Haelle, *One or Two Spaces After a Period? That New Study Can't Tell You*, *Forbes* (May 9, 2018) <<https://www.forbes.com/sites/tarahaelle/2018/05/09/one-or-two-spaces-after-a-period-that-new-study-cant-tell-you/#27481117b3a7>> (“[T]he study is so poorly done that it should not have passed peer review.”).
9. *Id.*
10. Butterick, *Are Two Spaces Better Than One? A Response to New Research*, *Butterick's Practical Typography*, 2nd ed (April 30, 2018) <<https://practicaltypography.com/are-two-spaces-better-than-one.html>>.
11. *Typography for Lawyers* at 75 (noting that *The Bluebook* doesn't mandate underlining except for law-review text and permits practicing lawyers to substitute italics where underscoring is used).
12. *Typography for Lawyers* at 74–75.
13. *Id.* at 77.
14. *Id.*
15. Mass R App P 20(a)(2) (“The typeface shall be a monospaced font [such as pica type produced by a typewriter or a Courier font produced by a computer word processor] of 12 point or larger size and not exceeding 10.5 characters per inch.”). See also Ruch, *Modern typefaces vs the Massachusetts court system*, *Boston Globe* (November 2, 2014) <<https://www.bostonglobe.com/ideas/2014/11/01/modern-typefaces-massachusetts-court-system/PE8IKSWOINdAUf5fv1QJ/story.html>>.
16. *Typography for Lawyers* at 80.
17. *Id.* at 116.
18. *Id.* at 119.
19. *Id.* at 118.
20. Butterick, *System Fonts, Choose Wisely*, *Butterick's Practical Typography*, 2nd ed <<https://practicaltypography.com/system-fonts.html>>.
21. *Typography for Lawyers* at 113.
22. *System Fonts, Choose Wisely* (stating that system fonts are “suitable for sharing draft documents”).
23. Wikipedia, *Segoe* <<https://en.wikipedia.org/wiki/Segoe>>.
24. *Typography for Lawyers* at 79.
25. Adams, *A Manual of Style for Contract Drafting* (ABA, 4th ed 2018), § 16.8 and Adams, *Typography: Revisiting My Choice of Calibri*, Adams on Contract Drafting (April 21, 2010) <<http://www.adamsdrafting.com/typography-revisiting-my-choice-of-calibri/>>.
26. Adams, *Are You Familiar with Segoe UI?*, Adams on Contract Drafting (May 31, 2017) <<http://www.adamsdrafting.com/are-you-familiar-with-segoe-ui/>>.
27. *Typography for Lawyers* at 88 (“Fine print is synonymous with evasion and deception.”).

The Contest

There's still time to try your hand at the latest contest. The deadline is November 19. You'll find it in the September column. Just Google “Plain Language column index.”