

Looking at the Numbers

By Stuart M. Israel

Why do lawyers do the things they do? This is a broad topic, so I will address only one type of common lawyer behavior: writing numbers using *both* numerals and words. Some examples:

“In full settlement of all claims, defendant will pay plaintiff the amount of three-hundred twenty-seven thousand, nine hundred and fifteen dollars and twenty-seven cents (\$327,915.27), less applicable taxes.”

“A grievance must be filed within fifteen (15) working days of awareness of the occurrence that is the subject of the grievance.”

“Plaintiff may revoke this agreement by written notice delivered no later than seven (7) calendar days after the signing date.”

“Plaintiff worked for defendant for sixteen (16) months.”

“If you do not respond satisfactorily to this demand within fourteen (14) days, we will be forced to sue you, and you will be relegated to the ninth (9th) level of hell (aitchee-double-hockey-sticks), and, if necessary, we will appeal to the Sixth (6th) Circuit and the nine (9) justices of the Supreme Court.”

Other professionals don't use this dual numerals-and-words system. For example, the opening paragraph of *Genesis* doesn't end with “And there was evening and there was morning, one (1) day.” And even the most avid lawyer-practitioners of the dual system have some sense of proportion. You almost never see it applied to court rules or statutes, like “This motion for summary judgment is made pursuant to Fed. R. Civ. P. fifty-six ce

(56(c)).” Still, you see lawyers apply the dual system every day—in contracts, briefs, letters, and virtually everything else lawyers write. Just last week I saw two (2) contracts, one (1) release, and three (3) letters using the dual system.

Why? Do these lawyers think there are those who can read words, but not numerals? Or numerals, but not words? After all, even newspapers—written for sub-eighth (8th) grade reading ability—don't report on fifty-four (54) yard field goals, fourth (4th) round knock-outs, or nine (9) game losing streaks; or that the stock I just bought is already down one and one-eighth (1 $\frac{1}{8}$); or on six (6) surefire twenty (20) minute casserole recipes; or that the new Arnold Schwarzenegger movie is rated three and one-half (3 $\frac{1}{2}$) stars or two (2) thumbs up. I have identified six (6) possible explanations for why many lawyers use the numerals-and-words system.

Possible explanation one (1). These lawyers are uncertain about what Strunk and White call matters of form. They know there is a rule out there requiring that some numbers are to be set out in words and some in numerals, but they just don't remember exactly what that rule says. So they take a belt-and-suspenders approach. You can't go wrong

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if you use *both* words and numerals. Indeed, this foolproof solution avoids grammatical embarrassment and, as a bonus, prominently displays the foresight and prudence of careful lawyers who know how to protect their clients with backup systems.

Possible explanation two (2). These lawyers are oblivious to the dual system, but their secretaries are not. Their secretaries were trained circa nineteen hundred and fifty-five (c. 1955), or were taught by others trained in that era, and learned that the way you put numbers in a legal document—if you want it to be a *legal* document—is to be sure you type all numbers in both words and numerals.

Possible explanation three (3). These lawyers are not oblivious to the dual system; they're just afraid to tell their legal secretaries not to use it. After all, these secretaries have used the dual system throughout long and successful careers, and any upstart, snott-nosed lawyer who thinks he or she knows better should think again.

Possible explanation four (4). It's tradition. Tradition is good. Indeed, powdered wigs might put a little decorum into circuit-court motion day.

Possible explanation five (5). These lawyers are sensitive to potential readers who suffer from Acute Dysnumeria Onset (AD-ON), a serious but little known medico-socio-cultural syndrome that I made up. (As Judy Tenuta says, it could happen.) Some lawyers use the dual system because they don't want to take any chances that they might make the lives of AD-ON sufferers more miserable than they already are.

There are two types of Acute Dysnumeria Onset. One is the ability to read words coupled with the inability to read numerals. This is called Numerical Acute Dysnumeria Aphasia, or NADA. A NADA sufferer is able to determine the settlement amount *only* when

it is depicted as “three hundred and twenty-seven thousand, nine hundred and fifteen dollars and twenty-seven cents.” A NADA sufferer cannot, of course, make heads or tails out of “\$327,915.27.”

The other type of AD-ON is Dysnumeria Other-Than-Numerical (D’Oh), also called Homer Simpson Syndrome. This is the ability to read numerals coupled with the inability to read words. A Homer Simpson Syndrome sufferer would fully comprehend “\$327,915.27” but would be unable to fathom “three hundred and twenty-seven thousand, nine-hundred and fifteen dollars and twenty-seven cents.” Of course, the Homer Simpson Syndrome sufferer would not be able to read the rest of the settlement agreement, unless maybe it was in pictographs.

For the sake of diagnostic comprehensiveness, it is important to mention that there are those who are unable to read words *and* numerals. Most are referred to as “preschoolers.”

Those of you who would like to contribute to research on the causes and cures of AD-ON may send contributions to me at fourteen hundred (1400) North Park Plaza, one seven one one seven (17117) West Nine (9) Mile Road, Southfield, Michigan, four eight zero seven five (48075). For tax purposes, please make out your checks to “cash.”

The sixth (6th) and best possible explanation. My own theory, the product of no research whatsoever, is that there is a historical reason behind the dual system.

Before there were word processors, laptops, typewriters, or printing presses, written communication was in handwriting, what they now call “cursive.” (This is a pedagogical advancement: when I was in elementary school, teachers chided us for messy handwriting but sent us to the principal if we said something cursive.) Historically, lots of people had messy cursive. They handwrote fives that looked like sixes, sixes that looked like eights, ones that looked like sevens, and so on. This was particularly a problem when writing checks on the sides of cows and engaging in similar commercial conduct that added that element of zaniness to the development of Anglo-American jurisprudence. So to make sure that cowhide checks and metes and bounds descriptions and conveyances of portions of Blackacre and such

didn’t feed the litigation explosion plaguing the Queen’s Bench before “tort reform,” lawyers always wrote numbers twice (2 times)—in numerals *and* words.

Thus, the numerals-and-words system is the legacy of our progenitors’ messy handwriting. In our day and age, however, we have word processors and laptops, rigorous training in cursive, erasers on pencils, and Liquid Paper Correction Fluid. We no longer need

to spell out numbers in *both* words and numerals. The dual system is an anachronism. It’s supernumerary. So, lawyers, please stop it. Okay (o.k.)? ♦

This article is reprinted from Labor and Employment Lawnotes.

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