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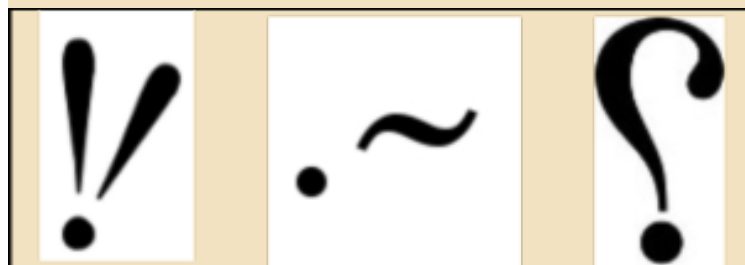
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Innovative Punctuation for Innovative Legal Writing?

Jul14 by [Brian M. Stewart](#)



Chances are, you've never used an interrobang in a legal brief. Chances are, you've never come across a snark mark, an acclamation point, or a rhetorical question mark in a legal opinion. Although such punctuation exists,¹ it is not common. And what would happen if you used a punctuation mark that a reader had never seen before? Most legal writing instructors would likely discourage the use of unknown punctuation, but creativity is often sacrificed in the name of "good" legal writing. Although straying from standard punctuation may seem risky at first, standard punctuation is far too outdated to meet the writing needs of the modern lawyer...



From left to right: the acclamation point, the snark mark, and the percontation point (rhetorical question mark)

Punctuation does not merely guide the reader; it shapes the language. Lawyers more than any other group must be able to manipulate language. Why must we be stuck with the basic punctuation of previous generations<insert semi-quolon> don't we deserve better? While emoticons and emojis are used as shorthand for words, phrases, even entire conversations<insert semi-exclamacolon> where are we at with new punctuation? We have to use tired, old question marks to represent every type of question we have? We have to use commas to mean 70,000,000 different things, resulting in their horrible, misuse? Apostrophes' and "quotation marks" are also similarly abused.²

Punctuation is not just something you stick into sentences to make sure they do not run on too long they are important for alerting the reader when to pause when to pay attention how you signal these is critical to good communication Failing to include such signals every now and again would make reading this nearly impossible We might be able to understand what the writer was saying but the writers true intent would remain ambiguous




Legal writing is dull enough without being stuck with 19th century punctuation. Legal writers must guard against using legalese, argle-bargle, or other language that may be distracting. Meanwhile, while forced to carefully construct each sentence, some of the most basic building blocks are in dire need of update. Standard punctuation has been forced to take on so many meanings as to have little meaning at all. I'm not saying there is anything wrong with modern punctuation, period. I just think we can do better<insert ElRey mark>³

In honor of these punctuation marks, and following in the spirit of College Humor's [8 Punctuation Marks We Really Need](#),⁴ I delved deep into my legal writing laboratory and developed some new punctuation marks that lawyers, judges, law professors, and law students alike should begin immediately incorporating into their writing.⁵

Symbols: Latin Abbreviations Abbreviated

Talk about old, how many phrases must we use in law that date back to ancient Rome, e.g., et al., etc. And how many times have we seen punctuation go awry when using trying to abbreviate words many don't know, e.g., et. al, etc. I suggest we replace these phrases with easy-to-use symbols that mean the same thing.

Symbols: Latin Abbreviations

	Et cetera (etc.)	Andcetera : Used to mean all the same things etc. means: and so on, and so forth &
	Et alia (et al.)	Andwhom : Used to signify additional known or unknown parties, authors &
	Exempli gratia (e.g.)	Example Mark : To be used in place of e.g., especially for citation purposes. See § R.1.2(a).

Equivocation

Lawyers love to muddle language. But sometimes words and numbers can have very definite meanings. The following symbols should be used to denote that the language being used should not necessarily mean what it says.

Rough Quotes

Equivocation: Rough Quotes

“Xyz”



{{Xyz}}

Used to denote that the quote used is an approximation of what the individual said rather than a direct quote. Rough quotes can also be used to insinuate “air quotes.”

§ And that is when I said to the defendant, “Please, sir, would you consider removing your dog’s droppings from my lawn?”

Rough Dollars and Percents

Equivocation: Dollars and Percents



Used to denote approximate dollar amounts and percentages. These allow the author to say, “Don’t hold me to these numbers.” Can also be used to denote numbers that sound right, but may have no basis in fact.

- 99% of legal writing instructors discourage the use of rogue punctuation.
- Defendant caused \$50,000,000 in damages.

Em Tilde (Um Dash)

Equivocation: Em Tilde (a/k/a Um Dash)

Xyz—xyz



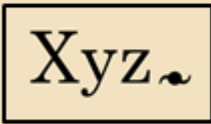
Xyz~xyz

The em dash is a misunderstood—though useful—punctuation mark that can be used in place of commas, parentheses, or colons. The em tilde accomplishes the same thing, but indicates that what follows may be based on suspicion rather than fact.

§ The defendant had to know~long before the filing of this lawsuit~that the painting's provenance was questionable.

Semiperiod

Equivocation: Semiperiod

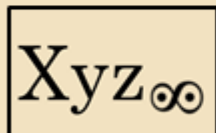
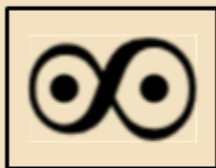


The semiperiod signifies a fact that was true to the best of the writer's knowledge at the time of the writing, but may be moot by the time the reader acknowledges it. Such a mark may be useful when discussing demands that have yet to be met or discussing cases that may be overturned in the near future.

§ Plaintiff has submitted a records request, but has not received any documents.~

Infinite Period

Certainty: Infinite Period



The infinite period signifies an indisputable fact, particularly one established through judicial notice. The facts that precede an infinite period should either 1) be generally known within the jurisdiction; or 2) be able to be accurately and readily determined from sources whose accuracy cannot reasonably be questioned. *See* Fed. R. Evid. 201(b). Sentences followed by an infinite period should not require citation.

⌘ In a closed system, entropy cannot decrease over time.₄₆

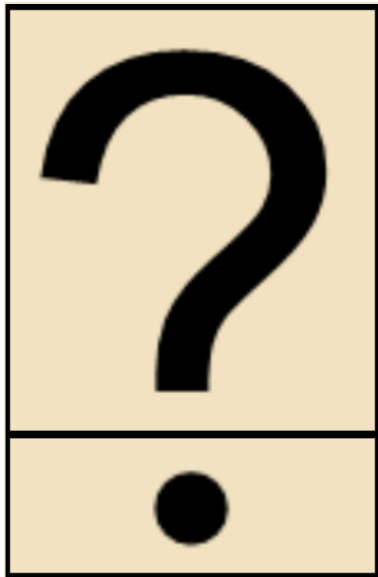
Punctuating the Future: Malleable Punctuation

One of the limitations on creating new punctuation marks is technology. Manipulating these marks and symbols into text requires some trickery. In order for any such marks to be adopted on any significant scale, the symbols would need to be easy to recreate and place in text.⁶ So, as long as we agree that punctuation needs to be updated in the future, let us also look into futuristic punctuation.

The Questionable Mark

There are so many different types of questions, especially in the law, but only one question mark? We have questions of law, questions of fact, federal questions, copyright questions, rhetorical questions, leading questions, cross questions <insert andcetera> The standard question mark is so two-dimensional. Perhaps we can do better in the future.

The questionable mark allows the user to alter the top and/or bottom part of a standard question mark to allow the author to 1) indicate what type of question it is (rhetorical, open-ended); 2) direct the reader (look this up, ask the nearest hippie⁷); 3) communicate whole phrases or sentences (ready to settle? is this subject to copyright?); or 4) otherwise group or distinguish questions in a systematic way.⁸



Ghost Punctuation

Catching and pointing out someone else's spelling and grammatical errors can be fun,⁹ but it can also be annoying. [Sic] can be used to maintain the original language, but it does not cure the defect and the writer is forced to decide if they want to be known as the type of person to use [sic]. To complicate matters, when quoting a source containing a [sic], the reader cannot be sure where the [sic] originated.

Ghost punctuation solves this by allowing writers to correct mistakes subtly. Rather than reproducing an error in a quote, write it as it should be and “ghost out” the offending language. Ghosting involves fading and subtly bracketing the error, denoting that it was in the original language, but it is wrong. If a third source cites to the language containing ghost punctuation, that third party can eliminate the erroneous material altogether, thus fading it out of existence.

[Sic] Punctuation: Ghosting

Xyz's



Xyz^[s]s



Xyzs

Sick of trying to figure out when to use [sic]? Would you like to point out someone else's poor grammar without being obnoxious? Ghosting allows you to draw attention to errors in the original text without drawing attention to the fact that you are trying to draw attention to them.

The neighbors' were not home.
The neighbors^[s] were not home.

The neighbors were not homes.
The neighbors were not home[s].

The neiighbors were not home.
The neighbors were not home.

The neighbors, were not home.
The neighbors_{,,} were not home.

In/justice Mark

One more mark where the design exceeds current punctuation tech. The in/justice mark is designed to express equality or inequality. The scales can be raised or lowered to demonstrate the imbalance the author wishes to express. Letters or symbols can be placed on the scales to represent groups, individuals, objects, or more abstract concepts.

Malleable Punctuation: In/justice Mark




The injustice mark is designed to show balance or imbalance. The scales can be adjusted up or down and the a symbol of the author's choice can be placed on each scale to represent the author's intent or emphasize a point.

The amount of public funds allocated to the predominantly white community was far greater than the amount given to the historically black community_{⚖️}

Obviously, it will take some time for these new symbols and punctuation to become commonplace in the written language. But there is no time like the present to begin injecting them into your work to set yourself apart from other writers. And if anyone asks who on Earth thinks using unknown punctuation is OK, just send them here.

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1. See Adrienne Crezo, [13 Little-Known Punctuation Marks We Should Be Using](#), Mental_Floss; Emily Temple, [10 Obscure Punctuation Marks That Should Really Get More Play](#), Flavorwire, Feb. 15, 2013.
2. *Grammar Police SWAT Team kicks in the door* “Nobody move!”
3. The ElRey mark [“resides in the emotional range between the just-the-facts period and the whoop-to-do excitability of the exclamation point.”](#)
4. Including such marks as the “andorpersand” symbolizing “and/or;” and “sarcastises” to indicate sarcasm.
5. Note that a number of these marks can be created in Word simply by manipulating existing symbols.
6. Basically, Microsoft and Apple need to add these into their word processing programs or future opinions are unlikely to be filled with semiperiods and um dashes.
7. See Obergefell v. Hodges, [576 U.S. ____ \(2015\)](#), Scalia, J., dissenting, at 8.
8. Is the questionable mark app far off?
9. Particularly errors made by opposing counsel.