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# Document Design for Lawyers: The End of the Typewriter Era

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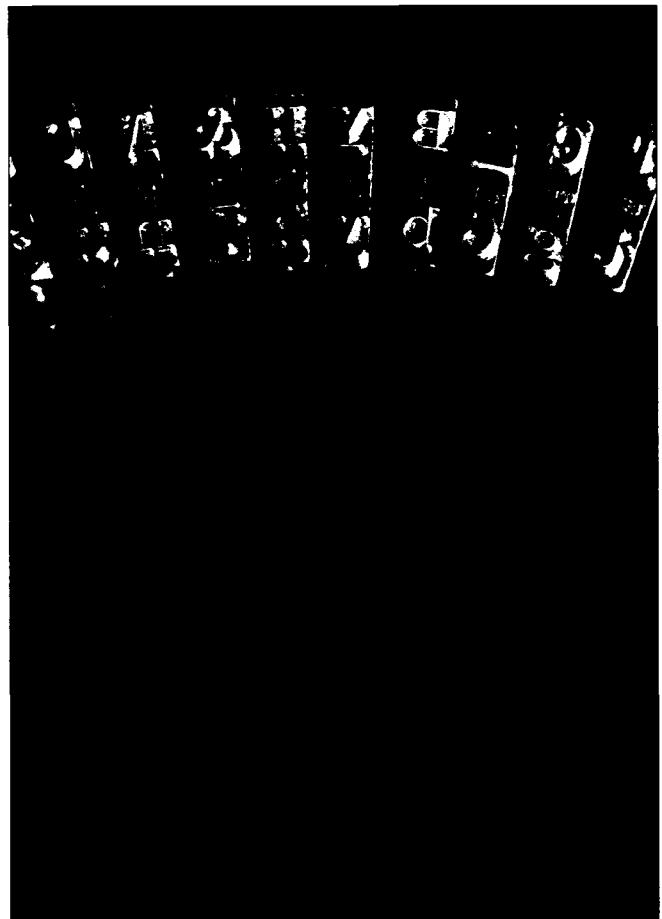
## The End of the Typewriter Era

by Linda Berger

**Y**ou've written the perfect brief. The research was thorough; the arguments are imaginative and well-supported, appealing to both logic and emotion. You've revised, edited, proofread and revised again. It's the complete, persuasive product.

But it looks like it was produced on a last-century Smith Corona: the text appears in double-spaced 12-point Courier with ALL CAPS and underlining for headings. As Bryan Garner notes, the *only* reason to use Courier anymore is if the judge to whom you are writing requires it.

Lawyers today are not only authors, but also self-publishers. Even when court rules restrict lawyers' choices, word-processing programs free lawyers to design their documents to achieve several purposes:

1.  Document design can pull the reader in and keep them engaged by enhancing the accessibility and readability of your document.
2.  Document design can boost your credibility by conveying a knowledgeable and professional image of the lawyer and the lawyer's firm or company.
3.  Document design can support the persuasiveness of your arguments by making your client's story easier to understand and your legal positions harder to dismiss.

The remainder of this article will discuss simple design rules that you can follow in documents that need not comply with court rules and some that you may use even in documents that must comply. Book and magazine publishers apply these tested graphic design principles to skillfully engage readers and amplify their publications' editorial content. As self-publishers, lawyers should make similarly thoughtful choices about the key visual elements of their printed documents. The suggestions here apply primarily to choosing and using fonts, the visual framework of printed document design.

In *Painting with Print*, Ruth Anne Robbins argues persuasively that the application of principles of typography, headings and subheadings, white space and the spatial relationships between them is as "critical an element of persuasion as proper grammar and adherence to the codes of court and citation form." Judge Frank Easterbrook of the U.S. Court of Appeals for the

7th Circuit has written that "[d] esktop publishing does not imply a license to use ugly or inappropriate type and formatting," specifically criticizing the use of the commonly used default font Times New Roman as "utterly inappropriate" for long documents such as briefs. Legal writing expert Bryan Garner devotes a chapter of *The Redbook: A Manual on Legal Style* to document design. Derek Kiernan-Johnson has argued that typography might be used not only to reinforce meaning, but also to independently create it.

## Choosing Typefaces (or Fonts)

"Typography is what language looks like," Ellen Lupton states on the opening page of her book *Thinking With Type*. Given typography's significant role in the communication of ideas, the choice of how best to visually capture our carefully honed words should not be left to the default settings on our word processors.

Your choice of a typeface from the hundreds readily available should take into account maximum legibility (how easy is it to distinguish discrete letters that make up words) and readability (how easy is it to rapidly comprehend whole words and sentences).

Typefaces fall into two major categories: serif and sans serif. Serif faces are distinguished by the delicate chiseled flourishes at the end of each letter's main strokes. Serif faces are easier to read in longer print documents than their sans-serif cousins, which lack the thin end strokes. Experts suggest that serifs help lead the eye to the next letter or word. The text of most nonfiction books and business documents (where the ability to read quickly with comprehension is a key goal) is set in serif typefaces.

Because word-processing software often used Times New Roman as the default typeface, it emerged as the predominant serif typeface. But Times New Roman was designed for narrow newspaper columns and is less desirable than other serif typefaces when producing lengthy single-column business and legal documents.

### Practice Tip
■ Consider one of the popular alternatives to Times New Roman. These include Baskerville, Bembo, Caslon, Century Schoolbook (a Century font is required by the U.S. Supreme Court), Garamond, Jenson, Minion, Palatino, Sabon or one of the typefaces (such as Georgia and Constantia) designed to be legible both on paper and on a computer monitor.

## Choosing Type Size

Type size describes the height and width of the individual characters. Type is measured from the bottom of the descending stroke to the top of the ascending stroke. The so-called "x-height" is a measure of the lowercase "x" or the typeface's height excluding ascenders and descenders. In smaller sizes, typefaces with a larger x-height may appear larger and be easier to read than another face of the same point size with a smaller x-height. But be cautious when specifying a typeface with a disproportionately large x-height, especially in larger sizes. The extreme central roundness in certain letters may actually hinder readability.

### Practice Tip
■ Choose typefaces no smaller than 10 points and no larger than 13 points, depending on the x-height and line length.

## Setting Line Length and Justification

When working with a single-column layout, choose your line length carefully. If the line is too short and

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The rules of the Georgia courts narrow your ability to use document design concepts in briefs filed with the courts, but they appear to allow some flexibility. While both the Supreme Court of Georgia and the Court of Appeals require double spacing and fixed margins, rules that affect line spacing and line length principles, they give lawyers some leeway to choose among fonts. The Supreme Court specifies that the font be no smaller than 12-point Courier or 14-point Times New Roman, and the Court of Appeals allows either 14-point Times New Roman or a font no smaller than 10 characters per inch.

Suggesting that rigid court rules undermine lawyers' design choices, Kendall Gray, *Nerdlaw* blogger, recently wrote:

> I received an e-mail from a friend and superstar appellate colleague the other day. Like me he is a fan of the elegant looking brief, and he was bemoaning the appearance of a brief that he was filing in a jurisdiction with rule-mandated ugliness.

> The jurisdiction, which shall remain nameless . . . required double spaced Times New Roman everything. . . . No chunking, no emphasis or de-emphasis. Nothing to help the reader organize the information, wasted white space [that is] no easier to read or understand.

> My modest proposal would be to eradicate all the typewriter era rules in which length and content were controlled by page count, double spacing, typewritten default margins and font sizes.

the type too large, reading will be uncomfortable, requiring many eye movements. A long line of small type may force the reader to work hard to stay on a smooth linear track. Long lines, too, will require narrow margins, causing the page to appear crowded.

## Practice Tips
- Pick a shorter line length. Robbins suggests a line length of just under six inches, which will mean increasing the standard one-inch margins for court documents. Others have suggested an even shorter line. One standard guide for evaluating a readable line length (or measure) in a specific type size is to make the line 2 to 2.5 times the typeface's alphabet length: 52 to 65 characters.
- Use ragged-right justification. Ragged-right settings allow readers to smoothly move from line to line. The sawtooth right edge also helps achieve consistent and regular word spacing and minimizes awkward hyphenation at the end of the line.
- Match line spacing to line length. For line spacing, remember that the longer the line you choose, the more spacing you will want to insert between lines to aid the eye's movement across the page. Robbins suggests that you choose line spacing between 1 and 5 points larger than the type size — or larger than a single-space setting but slightly less than 1.5 lines.

## Using Subheadings to Provide Guideposts and Markers

Consider subheadings as guideposts that let the reader know where she is and where she is going. These essential markers should work closely with horizontal and vertical white space and optimal-reading line lengths and type sizes — all in the interest of reducing the mental workload required of the reader.

## Practice Tips
- Choose sans serif faces for subheadings. This choice creates emphasis through a pleasing contrast with the serif body text. Try Arial, Century Gothic, Trebuchet and Corbel.
- Avoid ALL CAPS, large and small caps, and underlining. These are unattractive and slow down readers.
- Align subheadings flush left with the left margin. Avoid centering, which results in unbalanced alignment.
- Insert extra space just before each subheading. This links the heading to the related text: the heading appears to move away from the previous section and closer to what it introduces.

## Design, Test, Decide

Matthew Butterick, a lawyer and trained designer, shares his passion for effective typography at www.TypographyforLawyers.com. A recent post suggested a simple process for visually evaluating new font choices. This final recommendation for putting the best face on your documents borrows liberally from his post:

1. Choose several current documents as samples.
2. "Publish" the samples in two or three new typefaces that appear to improve overall design and readability.
3. Mix in several sans-serif subheading options.
4. Produce different options using the same typeface while varying line length and spacing.
5. Post the samples where your colleagues and you can study, review and live with them for a week or so. Solicit opinions, asking for the whys behind their preferences.
6. Pick one or two on the basis of (a) which are the most legible and readable and (b) which best convey your firm's image and identity.
7. Finally, build a straightforward style guide for your firm's self-

publishers, detailing in word and example the accepted typefaces, page designs and logo usage. This guide will help build the consistency and repetition that good design requires and your audiences will come to expect and appreciate.

## Suggested Resources
- Matthew Butterick, www. TypographyforLawyers.com.
- Bryan A. Garner, "The Redbook: A Manual on Legal Style 77-88" (2d ed. West 2006).
- Kendall Gray, http://www. appellaterecord.com/articles/ nerdlaws/.
- Derek H. Kiernan-Johnson, "Telling Through Type: Typography and Narrative in Legal Briefs," 7 J. ALWD 87 (2010) (available at www.alwd/ JALWD/archives.html).
- Ruth Anne Robbins, "Painting With Print: Incorporating Concepts of Typographic and Layout Design into the Text of Legal Writing Documents," 4 J. ALWD 108 (2004) (available at www.alwd/JALWD/ archives.html).
- Wayne Schiess, www. Legalwriting.net.
- Robin Williams, "The Non-Designer's Design Book" (3d ed. Peachpit Press 2008).
- Where to shop for fonts: adobe. com/type/; www.fontbureau. com; fontshop.com; www. linotype.com; www.fonts.com. 🅖🅑

**Linda Berger**, guest columnist, has been a Professor of Law at Mercer University School of Law since July 2008; she previously taught at Thomas Jefferson School of Law in San Diego. Her interest in document design began when she was a reporter for the Associated Press, continued while she was writing briefs for a law firm and became serious during her eight years as editor of the peer-reviewed *Journal of the Association of Legal Writing Directors* (J. ALWD).