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Beyond the Basics: Lesser-Used Punctuation Marks

Tenielle Fordyce-Ruff
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Generally, we tell our students to avoid the use of certain punctuation marks, the question mark, slash, and parentheses. Not because the use of these marks should be prohibited in all legal writing, but because we want students to focus on grammar rules for the correct usage of the most common punctuation marks such as commas, semi-colons, and colons. Also, because we want students to learn to write with a formal voice and professional style.

But occasionally, legal writing can benefit from a few lesser-used punctuation marks. This article focuses on the proper use of the question mark, slash, and parentheses in legal writing. Used sparingly and correctly, these marks can enhance the clarity of your legal writing without sacrificing a formal tone or professional style.

Question marks

Shall we start with the easy and obvious? As a caveat, we encourage students to avoid using rhetorical questions in their legal writing. Rhetorical questions can resonate beautifully in the theatre or as oratory devices. Think Juliet pondering, “What is in a name? That which we call a rose by any other name would smell as sweet.” But rhetorical questions tend to fall flat in pages of legal writing. Perhaps because rhetorical questions frame a persuasive query in a manner that commands the reader reach a particular answer. In legal writing, this tends to feel contrived and even manipulative.

Caveat aside, question marks are used to indicate a direct question.

Why did she have to tell us that?

Their usage can be a bit tricky if

the question is within a sentence or it’s an indirect question.

For questions within a sentence, mark the end of the direct question with a question mark. And if the question doesn’t begin the sentence, it shouldn’t start with a capital letter.¹

Why did she have to tell us that? he wondered.

He wondered, why did she have to tell us that?

However, indirect questions don’t take a question mark.

He wondered if he would ever need to know these grammar rules.

Also, question marks can be omitted when the question consists of a single word like who, when, how, or why. Writers can use italics instead of question marks to indicate that the word raises a question.

She asked herself why.

(Note that when type is already in italic, set off the question in non-italics.)

Beyond the use of a question mark to indicate a question, question marks can also be used to show editorial doubt, or at the end of a declarative sentence to show surprise, disbelief, or uncertainty.

Who will represent the indigent?

Using “that” (?) was the topic of her last column.

This is your response?

The use of question marks other than at the end of a question should, however, should be kept to a minimum in legal writing.

Finally, question marks are placed inside of quotation marks, brackets, or parenthesis only when the question is part of the quoted or parenthetical matter.

He asked her, “Why did you tell me that?”

Otherwise, the question mark is properly placed outside of the quotation.

What was she thinking when she said, “Let me write a column about writing”?

Slashes

Slashes come in two varieties—forward (/) and backward (\).² The forward slash can come in handy in legal writing, so let’s look at some of its uses.

The most common usage of a forward slash is to signify two alternatives.

I would love to take a vacation in June/July.

Be careful, as the forward slash is commonly misused between two words intended to be connected jointly, rather than in the alternative. *Slash is a great guitarist/songwriter.*

Commonly, the forward slash demonstrates alternative spellings.

Robert/Bob

Katherine/Kate

He/She

The use of “he/she” is quite common in legal writing, even if it has fallen out of favor in other styles of writing. If possible, avoid that construction by making the antecedent plural and using “they” instead, alternating between “he” and “she,” using an article instead of a pronoun, or using an indefinite pronoun instead of a personal pronoun.³

When a student succeeds in Legal Research & Writing, he/she should thank his/her professor.

This sentence could be revised:

When students succeed in Legal Research & Writing, they should thank their professor.

In addition, forward slashes are commonly used to indicate two-year date spans, although the dash can also show a date span.

They worked together in 2014/15.

Forward slashes can also be used as shorthand for “per” or in place of periods in some abbreviations.

His rate is \$250/hour.

She left w/o signing the letter.

He sent the letter c/o her father as he didn't know her address.

These are, however, very informal usages, and should be avoided in more formal contexts like briefing or correspondence.

Finally, forward slashes are used in dates.

She left for vacation on 7/8/2017.

This usage is also informal, and it can create ambiguity. Americans use the month/day/year convention, but Canadians and Europeans use the day/month/year convention. You likely read the last example and thought she took her vacation in July, but a Canadian would have believed her vacation was in August.

When writing in more formal contexts or to other countries, write out the month to avoid any ambiguity.

She left for vacation on July 8, 2017.

Parentheses

Parentheses are used to set off information from the rest of the sentence. Sometimes a writer might choose to use parentheses instead of commas or dashes to set off information for style or emphasis.⁴ When the information is not grammatically related to the rest of the sentence, however, the writer must use parenthesis or dashes to set it off.

Parenthesis (always used in pairs) add additional information to a sentence.

Most commonly in legal writing, parentheses are used in parentheticals to enclose additional text that follows a legal citation.

Kennedy v. Collagen Corp., 161 F.3d 1226, 1230-31 (9th Cir. 1998) (noting that faults in an expert's specific

methodology go to the weight afforded the testimony rather than its admissibility).

Note that the punctuation for complete sentences is placed within the parentheses. Otherwise, place punctuation outside the parentheses (like here). Parentheses can also be used to denote a series within (a) a sentence, (b) multiple sentences, or (c) a paragraph.

Conclusion

Can your legal writing (from emails to legal briefs) benefit from the occasional use of a few lessor-used punctuation marks such as the (a) question mark, (b) slash, and (c) parentheses? Of course! Used sparingly and with precision, these marks can enhance the clarity of your legal writing without sacrificing a formal tone or professional style.

Source

- *The Chicago Manual of Style*, ch. 6 (16th ed. 2010).

Americans use the month/day/year convention, but Canadians and Europeans use the day/month/year convention.

Endnotes

1. The exception to this is if the internal question is long or has internal punctuation. “Legislators had to be asking themselves, Can the fund be used for the current emergency, or must it remain dedicated to its original purpose?” *The Chicago Manual of Style*, 324 (16th ed. 2010).
2. The forward slash is also known as a virgule, solidus, or slant. *Id.* at 340.
3. I wrote about these helpful techniques in the June/July 2013 edition of this magazine: Tienielle Fordyce-Ruff, *Problems with Pronouns Part III: Gender-Linked Pronouns*, 56-JUL Advocate (Idaho) 48.
4. I addressed the difference in emphasis among commas, dashes, and parentheses in the March/April 2011 edition of this magazine. Tienielle Fordyce-Ruff, *Creating Separation and Emphasis in Your Writing Part II: Using Punctuation within Sentence*, 54-APR Advocate (Idaho) 43.

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