

## GOING IN STYLE (#3): ON TYPOGRAPHY, PART 2

Typography is “the visual component of the written word.” (Matthew Butterick, *Typography for Lawyers: Essential Tools for Polished & Persuasive Documents* (2nd ed. 2015) p. 20.) As discussed in the previous issue of this series, typography is a subtle but significant aspect of every brief we file, with the capacity to improve persuasiveness by making reading easier and demonstrating professionalism through attention to detail. While there are few hard rules in brief typography, there are many areas that call for practitioners’ consideration and consistency. The previous issue addressed two aspects of typography — type composition and text formatting. Here we will take up a third — page layout.

### PAGE LAYOUT

Page layout is the way text looks on the page, including the amount of white space. The California Rules of Court impose a single page layout requirement: rule 8.204(b)(6)<sup>1</sup> requires margins of 1.5" on left and right sides, 1" top and bottom. Other than that, brief writers have decisions to make.

- **Line spacing**

Line spacing, the vertical distance between lines of text, must be a minimum 1.5 lines. (Rule 8.204(b)(5).) Although experts generally say something slightly less than 1.5-spaced lines is best for reading, it depends on how long the lines are. (See Ruth Anne Robbins, *Painting with print: Incorporating concepts of typographic and layout design into the text of legal writing documents* (2004) 2 J. Assoc. of Legal Writing Directors 108, 123–124.) In an appellate brief with 1.5" margins on an 8.5 x 11" page, 1.5-spaced lines, which is what the

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1 Citations to rules refer to the California Rules of Court.

Attorney General’s office uses, can feel a little crowded. For now, I am sticking with double-spacing in briefs, which remains standard. (This document follows Butterick’s recommendation to use “proportional line spacing” set between 120 and 145 percent, 140 percent in this case. [See Butterick, *supra*, at pp. 137–138.]<sup>2</sup>)

Even with double-spacing, some briefs have a “crowded” look with no space between major sections. This may have originated with the Attorney General’s respondent briefing, but it’s not the best typographic practice. (See, e.g., Butterick, *supra*, at p. 156.) Adding some breathing space — a line or two or a page break between sections of a brief — makes reading feel less oppressive, more like a thoughtful walk than a crowded race to the end. Butterick compares white space between sections to a dramatic pause in speech: “You draw a listener’s attention through contrast.” (*Ibid.*) If a sub-heading is within a few lines of the bottom of a page, consider using a hard page break (Ctrl-Enter) to move it to the top of the next page. I do the same with an argument heading if it would be more than half-way down the page.

Sometimes page numbers in footers can be uncomfortably close to the last line of text on the page. You can create some space by adding another line to the footer: put the cursor before the page number and press the Enter key. (You might have to do this on page 1 to ensure it happens all the way through the document, or page 2 if you “suppress” the page number on the cover, which must *be* page 1, under Rule 8.204(b)(7), but does not have to bear the page number.)

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2 Proportional line spacing is easy in LibreOffice, the free open source program used to prepare this document. But, as Butterick notes, it is complicated in Word and WordPerfect, requiring translating proportions into inches. (Butterick, *supra*, at pp. 138-139.)

- **Paragraphs**

Paragraphs are distinguished either by a space above, as in this document, or, as is typical of an appellate brief, a new line and a first-line indent. Unless one is using single-spacing between lines, use of both is redundant.

Butterick encourages using paragraph formatting to get a properly-sized first-line indent and does not approve of the use of a tab. (Butterick, *supra*, at p. 135.) Garner seems okay with a tab indent as long as it's not "the puzzlingly common double-indent." (Bryan Garner, *The Winning Brief* (2nd ed. 2015) p. 316.) A tab continues to look fine to me, and it's easy, so that's what I do in my briefs.

- **Justification**

Another choice a brief writer has to make is whether blocks of text are "left-aligned" or "fully-justified." In justified text, both left and right edges of a paragraph are aligned. Most books are justified; many newspapers and magazines use a mix of justified and left-aligned. (Butterick, *supra*, at p. 134.) Robbins reports that experts say left-aligned is easier to read "because there is no adjustment needed to word spacing and because 'the resulting "ragged" right margin adds variety and interest to the page without interfering with legibility.'" (Robbins, *supra*, at p. 130.) Justification can create odd, distracting spacing between words, and the uniformity on the right edge makes it a bit harder to move one's eyes to the next line.

Butterick says the choice of left-aligned or justified paragraphs is a matter of personal preference. (Butterick, *supra*, at p. 134.) He prefers left-aligned text for work produced on word processors because their simplified versions of the mathematical process required for

justification do not consistently produce good-looking results — “[l]eft aligning is more reliable.” (*Ibid.*) Slip opinions in California courts use left-aligned text. If you prefer to justify, use your program’s hyphenation feature, and check your paragraphs for too much white space and words that look too close together. If you prefer not to think too much about it, use left-aligned. It almost always looks fine.

- **Centered text**

Centered text should mostly be limited to major section headings (e.g., “Statement of Facts”). If centered text is more than one line, use a hard return (Enter key) to create balance. Compare these two centered texts:

Appeal from the Superior Court of California for the County of San Bernardino

Appeal from the Superior Court of California  
for the County of San Bernardino

To me, the second one reads better and looks more professional; the first one seems ‘unconsidered.’ In this case, consideration is awareness of the ability to make it look better and then making a line break at a good spot. (And for perfect centering, delete any blank spaces at the beginning and end of every line.)

- **Argument organization**

How to organize arguments on the page is another area of authorial discretion, calling for consideration and consistency. Most of us still use some version of the standard outline structure:

- I.
  - A.
    - 1.
      - a.

Butterick recommends using no more than two indentations, no matter the number of heading levels. (Butterick, *supra*, at p. 91.) Garner advocates no indenting at all, with the headings for all levels of the outline placed flush left. (Garner, *supra* at pp. 309–310.)

Butterick proposes an alternative to the standard outline form from technical writing: tiered numbers.

1. Primary heading
  - 1.1 Secondary heading
  - 1.2 Another secondary heading
    - 1.2.1 Tertiary heading
    - 1.2.2 Another tertiary heading
2. Another primary heading

Butterick considers tiered numbers clearer and more navigable, making it easier for a reader to know where she is in an argument. (Butterick, *supra*, at pp. 106–107.) I have seen briefs from a few panel attorneys using tiered numbers. I will consider changing, but am not there yet.

## **CONCLUSION**

That concludes our review of typographic principles and practices. Remember, typography is *for the reader* and making reading easier means your arguments are more likely to persuade. Every brief writer should make considered typographic choices and then apply them consistently. Butterick notes that issues of typography are best solved not logically, but visually. (Butterick, *supra*, at p. 169.) So try different options on test pages, print them, and consider their relative readability. Asking for others' reactions can be helpful as well. Once you have decided on a well-considered, readable template, you can apply it consistently and put aside typographic issues if they don't interest you. But, again, a bit of attention to typography can make a significant difference in the professional appearance of appellate briefs

and petitions. (Feel free to share thoughts by emailing [abm@adi-sandiego.com](mailto:abm@adi-sandiego.com).)