

Leland Communications

When To Quote and What To Quote

Although quotations are essential to all legal writing, we should ensure that our readers know why they are reading a quotation and help them understand what it means.

By necessity, by proclivity, and by delight, we all quote.

— Ralph Waldo Emerson

Quotes — what somebody said before — are the building blocks of all legal writing. When we say what the law is, we quote statutes, ordinances and regulations; when we say what the law means, we quote courts and commentators. Even when we present facts, we quote transcripts, documents and declarations. As Emerson said (there I go), we need to quote.

Unfortunately, quotes create problems for those of us trying to make our legal writing clear, concise and attractive. The statutes, opinions and documents we are quoting are often wordy, awkward, and full of legalese. Similarly, the opportunity to double-indent quotes in our legal writing is a double-edged sword: On one hand, indenting creates white space on the page, making it pleasing to the reader's eyes and emphasizing the quoted passage; on the other hand, a long, single-spaced quote in the middle of double-spaced text actually takes away white space, compressing the text into a dense block in the middle of the page that no one would want to read even if it weren't wordy, awkward and full of legalese.

Since we know that our readers are unlikely to read such a big block of text, we should quote only what we have to. Thus, we need to choose carefully what to quote, rather than quote a whole paragraph. And we need to present the quoted text in a way that helps the reader understand what the quote says.

Leland Communications

When To Quote and What To Quote—*page 2*

WHAT TO QUOTE

To discuss what to quote, we need to distinguish quoting from simply citing precedent. We cite precedent to show that someone else has already expressed the ideas we are expressing; we quote to show exactly how they expressed those ideas — the particular words they used. If we don't care what words they used, chances are we don't need to quote them.

So, when do we care about the exact words someone else used? In the following three situations:

First and most common, when the quote introduces a term or phrase that the writer is going to discuss, such as the standard a court uses to consider some issue, or the terms of a written agreement;

Second, when the quoted words illustrate a point about the speaker or writer: that the court was irritated with opposing counsel, for example, or that a deponent was confused; and

Third, when the quote says what I'm trying to say so well that I couldn't say it a whole lot better.

Since those are the three categories of language we care about quoting, it follows that we can, and should, either leave out the rest, or paraphrase it to make it clear, concise and easy to understand. On those rare occasions when every phrase of a paragraph is a gem that we need to quote for one of the three reasons I've listed, we can still break the quote up into smaller pieces.

Leland Communications

Tell The Reader What It Means

Having decided why we are quoting certain parts of a passage and paraphrasing others, we need to let the reader in on the secret. To help the reader understand the quote, we should say what the quote means and why it matters.

Too often, lawyers introduce quotes by simply saying that what follows is a quote: “In *Mozart v. Beethoven* the Supreme Court said the following: . . .” Instead, we should let the reader know what he or she will find in the quote: “In *Mozart v. Beethoven* the Supreme Court explained the difference between ‘toxic’ and ‘hazardous’ materials: . . .”

To help the reader, we should say as much as we can about what the quote says. Thus, rather than just characterize what the quote says, we can quantify it as well: “In *Mozart v. Beethoven* the Supreme Court listed four important differences between ‘toxic’ and ‘hazardous’ materials: . . . “

These explanatory introductions help the reader by making it easier to figure out what he or she is supposed to glean from the quote. Indeed, a really good explanatory introduction will enable the reader to skim the quote just to confirm that it says what the introduction said it would.

Show The Reader Why It Matters

Finally, to help the reader understand why we thought it was so important to use the exact words someone used before, we should do exactly that: Use them. Somewhere in the first sentence or two after the quote, we should echo something that the quote said. Besides providing a transition from the quote to our own prose, which holds the reader’s interest and makes our writing easier to follow, this echo shows the reader how the quote applies to the point we are making – which, as someone once said, is the point.