

WRITING TIPS ...

THE MATTER OF MISTAKES

BY MARTHA FAULK

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Modern technology greatly simplifies the legal writing process. Rather than looking up words in a dictionary, for example, we can simply rely on our spell Czech function to correct those irritating orthographic irregularities. Sometimes, though, the computer program fails to recognize important semantic distinctions, and the result can be both costly and embarrassing. Consider the famous case of Judge Jacon the Terrible.

Attorney's Fees Reduced

In the U.S. District Court for the Eastern District of Pennsylvania, Magistrate Judge Jacob Hart reduced an award of attorney fees because the lawyer's written work was "careless to the point of disrespectful."¹ The case involved attorney Brian Puricelli, who represented a Philadelphia police officer in a wrongful discharge suit. Puricelli competently performed in the courtroom, but his documents lacked attention to proofreading. Judge Hart therefore reduced Puricelli's fees to \$150 per hour for the pleadings rather than the \$300 per hour rate for courtroom activity. The judge noted in his opinion, "[Puricelli's] errors, not just typographical, caused the court a considerable amount of work. ... Hence, a substantial reduction is in order. We believe that \$150 per hour is, in fact, generous."²

Among Puricelli's errors, he referred to the court as the "Easter" district of Pennsylvania. Judge Hart, who is Jewish, opined that considering his religious persuasion, "the Passover district

might have been more appropriate."³ The final insult came when Puricelli misspelled Judge Hart's first name as "Jacon." This caused some merriment among other members of the court, who began referring to the Judge as "Jacon the Terrible." After he penalized Puricelli, Judge Hart began to scrutinize his own writing more carefully and now proofreads his opinions "three or four times because the first time that I write an opinion now that has more than one typo, the people at the local legal paper are going to pick it up and have a field day with it."⁴

**Proofreading:
What's Good for the Judge ...**

As Judge Hart's experience suggests, proofreading can benefit everyone in the legal profession. There are reasons why careful attention to detail still matters in the age of computer software, and there are several techniques that can improve your proofreading ability.

- Read the material carefully, looking for wrong words and omissions.
- Read aloud. Articulating each word will slow down the reading process and help you to see mistakes.
- Read backwards, from end to start. Reading backwards will focus your attention on each word or figure instead of on entire phrases.
- Always check identifying and reference material. It's easy to overlook errors in identifying material such as names, places, and dates with which you are familiar.
- Check titles and headings as well as the body of the material.
- Check consistency of format such as placement of page numbers and size and type of fonts.
- Try to have someone else proofread your writing. If you proofread your own, allow a couple of days for "cool-off."

“There are reasons why careful attention to detail still matters in the age of computer software ...”

¹ Melissa Block, "Interview: Magistrate Judge Jacob P. Hart discusses his fight to get lawyers to clean up their written work," National Public Radio [transcript], March 4, 2004.

² Devore v. City of Philadelphia, No. Civ.A. 00-3598, 2004 WL 414085, at *3 (E.D. Pa. Feb. 20, 2004).

³ *Id.* at *2.

⁴ Block, *supra* note 1.

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Lack of care in producing written documents may indicate a lack of respect and consideration, as Judge Hart pointed out. Readers expect a level of competence, care, and sophistication in writing. When those elements are missing, the writer presumably does not possess the necessary legal skills or fails to display consideration for his audience. The fact that software programs can monitor our writing does not excuse a failure to exercise diligence—it exacerbates it. If we rely solely on mechanical means to clean up our writing, we neglect the uniquely human capacity for language that adds depth, complexity, and meaning to communication.

Linguistic nuance eludes the most sophisticated software even though shades of meaning are essential to effective communication. Precisely because of his witty, acerbic attack on sloppy legal writing, Judge Hart became a minor media celebrity. Consider just one example from the opinion. After Puricelli incorrectly spelled Hart’s first name, Hart wrote “I appreciate the elevation to what sounds like a character in *Lord of the Rings*, but alas, I am but a judge.”⁵ Humor and irony seldom emanate from the grammatical lexicon of electronic editors.

Wrong Words Embarrass Us

Moreover, as our Czech speller shows, programmers fail to catch semantic differentiations. When Puricelli wanted to strike back at the opposing counsel, to illustrate, he informed the judge: “Further, had the Defendants not tired [sic] to paper Plaintiff’s counsel to death, some type [sic] would not have occurred.” As the judge suggested, “If these mistakes were purposeful, they would be brilliant.” Puricelli’s work, unfortunately, suggested otherwise.

⁵ Quoted in Shannon P. Duffy, “Trouble with Typos Cuts Fees; Judge Praises Lawyer’s Courtroom Work—but Pleadings Draw Wrath,” *Nat’l L.J.*, Mar. 1, 2004, at 5.

To conclude with the words of an anonymous poet, here is a cautionary verse:

Spell Czech

I half a spelling checker,
It come with my PC,
It plainly mark four my revue,
Mistakes I cannot sea.

I’ve run this poem threw it,
I’m sure your pleas too no,
It’s letter perfect in it’s weigh,
My checker tolled me sew.

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