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## Use Quotation Marks to Focus the Reader's Attention

The punctuation should go with the flow rather than interrupt it

By Kenneth F. Oettle

**W**e quote judicial opinions, statutes and rules to invoke the authority of our source or to report precisely what it says. These are solid purposes. But sometimes we quote too much.

I have seen a full page of text constructed with quotations alone, as if the trick were to run together as many quotations as possible and still make sense. And I have seen block quotes so large that they make the print on the page look like a distended Roman numeral one. Oddly, some writers think courts will read the entire block.

The motivation for over-quoting varies with the writer and the circumstance, but it is usually some combination of, “If the court said it, it must be well-phrased”; “if I quote the opinion (or the statute), no one can say I mischaracterized it”; “judicial, statutory and regulatory language is authoritative — the more I quote, the more authoritative I’ll be”; and last, but not least, “the more I quote, the less I need to write.”

Writers who over-quote often lack confidence in their analysis or their ability to express it, and they are looking for someone else to make their point.

The example below involves mild

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over-quoting of a kind that even an experienced lawyer might produce. The subject matter is a bidding statute that did not make clear whether municipal contracts for curbside collection of recyclable materials had to be publicly bid. The statute made an exception to the bidding requirement for the “marketing of recyclable materials recovered through a recycling program,” but the word “marketing” was ambiguous. It



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could include curbside collection as well as the sale of recyclable materials, or it could cover just the sale.

The court held that in view of the strong public policy favoring competitive bidding in the garbage collection industry, the word “marketing” was not intended to include curbside collection. (The statute has since been clarified to that effect.) This meant that contracts for curbside collection of recyclables, unlike contracts for their sale, had to be publicly bid. A memo reporting that result read as follows:

The court held that the public bidding exemption for “marketing of recyclable materials recovered through a recycling program” does not relieve a municipality from publicly bidding contracts for the curbside collection of recyclables.

The length of the quotation (“marketing of recyclable materials recovered through a recycling program”) dilutes its impact. The quotation marks should bracket only “marketing,” not the full statutory phrase, because that word was the focus of the litigation. Quoting the full phrase masks the essence of the court’s ruling. Did the court interpret “marketing,” “recyclable materials,” the “recycling program” or all three?

As a general rule, the shorter the quotation, the greater the impact. Sophisticated writers tend to quote minimally and to paraphrase or track the rest.

If the words of the statute flow well in context, you can track them. Don’t worry about being accused of plagiarizing. You aren’t trying to pass off the statute’s words as your own.

### Don’t Quote Yourself

Writers also include too much within quotation marks when they place a piece of what they are saying within the material being quoted, as in the following:

The expert explained “that contaminants spread downhill from the site of deposit.”

The quotation marks should be placed before “contaminants,” not

before “that,” even if the expert said, “It is clear that contaminants spread downhill from the site of deposit.”

Although the quotation in the above example accurately reports a portion of what the expert said, it is not reader-friendly. The writer, not the expert, is using the word “that.” The writer is saying that the expert explained something (“The expert explained that . . .”). Until the reader passes the word “that,” which concludes the writer’s introduction to what the expert said, the reader isn’t ready for what the expert said.

If the expert were speaking, the expert would not begin with “that,” which is generally found in the middle of sentences. The expert would begin with a subject, such as “contaminants.” Including “that” within the quotation will make the reader’s task more difficult, costing you a tempo and possibly, together with other glitches, costing you credibility.

Not only is the inclusion of “that” within the quotation grammatically awkward, but it diminishes the power of the quotation by ceding prime position to a warm-up word. Quotation marks draw the reader’s attention. Take advantage of the publicity by placing key words under the spotlight.

### **Begin at the Beginning**

Quotations can also be awkward where the writer fails to quote every word that should be quoted, as in the following:

The psychiatrist concluded that the “incident has had an indelible and permanent effect on her.”

As in the previous example, the reader expects the quoted material to follow the word “that” because the writer says the psychiatrist “concluded that . . .” The reader wants to know what “that” is.

The word that begins to satisfy the reader’s curiosity is “the,” not “incident,” because the psychiatrist’s conclusion begins with “the incident,” not “incident.” The article “the” belongs to what the psychiatrist said, not to what the writer says the psychiatrist said.

In sum, the touchstone for placing quotation marks is a combination of the reader’s expectations and the writer’s focus. The writer serves both needs by quoting the essence of the material, neither more nor less.

## **Puzzler**

How would you tighten and sharpen the following sentence?

Defendant attempts to dispute Plaintiff’s standing but does not cite a single decision that abrogates Plaintiff’s taxpayer standing or negates the case law cited by Plaintiff, which recognizes that a taxpayer’s standing is undiminished by his personal interest in the outcome of the litigation.

The sentence makes two points: (1) a plaintiff’s personal interest in a litigation does not diminish the plaintiff’s standing as a taxpayer, and (2) the defendant fails to cite any law challenging this rule. Because the rule is helpful, present it up front.

Don’t temporize with “Defendant attempts to dispute Plaintiff’s standing.” That is understood. Focus on the defendant’s failure and reduce the ponderous “Defendant . . . does not cite a single decision that abrogates Plaintiff’s taxpayer standing or negates the case law cited by Plaintiff” to “Defendant cites no law challenging the well-established rule.”

“Well-established rule” is better than “case law cited by the plaintiff, which recognizes.” You can characterize what several cases say as a rule, and you can call the rule well-established because no case law holds to the contrary.

The revised version:

Defendant cites no law challenging the well-established rule that a taxpayer’s standing is undiminished by his personal interest in the outcome of the litigation.<sup>1</sup>

### **Footnote:**

1. The rule as articulated in case law says “his personal interest,” and the taxpayer in the case from which the example was taken was male. If the taxpayer were female, I would say “her personal interest.” ■