

do you underline a term of art in legal writing

Do You Underline a Term of Art in Legal Writing?

do you underline a term of art in legal writing is a question that often puzzles law students, paralegals, and even some practicing attorneys. Legal writing has its own unique style and conventions that are important to understand for clarity and professionalism. Terms of art—words or phrases that have a specialized meaning within the legal context—play a pivotal role in legal documents, court briefs, contracts, and scholarly articles. But how exactly should these terms be presented? Should you underline them, italicize, or simply use quotation marks? Let's dive into the nuances of legal writing style to clarify the best practices regarding terms of art.

Understanding Terms of Art in Legal Writing

Before exploring whether to underline a term of art in legal writing, it's essential to define what a term of art actually is. In the legal world, a term of art refers to a word or phrase that carries a specific, often technical, meaning distinct from its everyday usage. These terms are critical because they convey precise legal concepts that can significantly influence interpretation.

For example, words like "consideration" in contract law, "mens rea" in criminal law, or "habeas corpus" in constitutional law are all terms of art. Using them correctly and clearly is crucial to prevent ambiguity and maintain the integrity of your legal argument or document.

Do You Underline a Term of Art in Legal Writing?

The short answer is: No, you typically do not underline terms of art in legal writing. Instead, the conventional practice is to use italics to highlight terms of art when they are introduced or emphasized for the first time. Underlining was historically used in typewritten documents to indicate emphasis or titles because italics weren't available, but modern legal writing and style guides favor italics for clarity and professionalism.

Why Italics and Not Underlining?

Italics help draw attention to specific terms without disrupting the flow of

the text. They are visually cleaner and more modern in appearance compared to underlining, which can clutter the page and confuse readers who might mistake underlined text for hyperlinks or footnotes.

Furthermore, style manuals widely used in legal writing, such as *The Bluebook: A Uniform System of Citation* and *The ALWD Guide to Legal Citation*, recommend italics over underlining for emphasis and for introducing terms of art. This approach aligns with general editorial standards in academic and professional writing.

When to Use Italics for Terms of Art

In legal writing, italicizing terms of art is most appropriate when:

- Introducing a term of art for the first time in a document or article
- Emphasizing a term that may be unfamiliar or requires special attention
- Distinguishing foreign legal terms or Latin phrases

After a term of art has been introduced and explained, subsequent mentions typically return to standard roman type (normal font) without italics, unless you want to re-emphasize the term.

Other Formatting Considerations for Terms of Art

While italics are the preferred method for highlighting terms of art, legal writers should also be aware of other formatting techniques and when they might be appropriate.

Quotation Marks

Sometimes, quotation marks are used to introduce or highlight terms of art, especially when presenting a term as a label or when discussing the term itself rather than applying it. For example, a writer might say: The term “consideration” refers to the exchange of something of value.

However, overuse of quotation marks can be distracting and may imply skepticism or irony. Therefore, italics are generally preferred for neutral emphasis.

Bold and Underlining

Boldface is rarely used in traditional legal writing unless drafting contracts or internal documents where headings and key provisions need to stand out. Underlining, as mentioned earlier, is mostly outdated and discouraged in printed or formal legal documents. It may still appear in handwritten or typewritten materials done on older equipment, but it is avoided in modern digital submissions.

Capitalization of Terms of Art

Some legal writers capitalize terms of art to set them apart, especially in contracts or statutes. For instance, words like “Agreement,” “Party,” or “Confidential Information” may be capitalized throughout a contract once defined. This practice helps maintain clarity and signals that these words carry specific meanings defined within the document.

Why Proper Formatting of Terms of Art Matters

Correctly formatting terms of art is not just about aesthetics; it has practical implications for legal clarity and professionalism.

- **Clarity:** Italics or other appropriate formatting instantly signal to readers that a word has a specialized meaning, prompting them to pay closer attention or refer to a definition.
- **Consistency:** Consistent use of formatting conventions helps maintain a polished and authoritative tone in your writing.
- **Legal Precision:** Since legal documents rely on precision, properly highlighting terms of art avoids confusion between everyday meanings and legal definitions.
- **Reader Guidance:** Judges, clients, opposing counsel, and scholars benefit from clear formatting cues that aid comprehension.

Tips for Using Terms of Art Effectively in Legal Writing

In addition to proper formatting, here are some practical tips to enhance your use of terms of art:

1. **Define Terms Clearly:** When introducing a term of art, provide a concise definition or explanation to avoid ambiguity.
2. **Use Italics Sparingly:** Italicize terms of art on first use or when emphasizing, but don't overdo it—too many italics can overwhelm readers.
3. **Be Consistent:** Follow the same formatting rules throughout your document to maintain professionalism.
4. **Refer to Style Guides:** Consult The Bluebook, ALWD, or your jurisdiction's preferred style manuals for specific formatting rules and examples.
5. **Avoid Mixing Styles:** Don't alternate between underlining and italics for the same purpose; pick one and stick with it.
6. **Watch for Foreign Terms:** Italicize Latin phrases or foreign words that are considered terms of art, such as “*res ipsa loquitur*” or “*force majeure*.”

Common Misconceptions About Underlining Terms of Art

One reason the question “do you underline a term of art in legal writing” persists is because of lingering habits from older writing practices. Here are some common misconceptions worth addressing:

- **Underlining is necessary for emphasis:** In modern legal documents, italics have replaced underlining for emphasis and highlighting terms. Underlining is largely obsolete except in specific contexts like handwritten or typewritten documents.
- **All legal terms must be underlined:** Not every legal term requires special formatting. Only new or particularly important terms of art should be italicized or otherwise emphasized.
- **Underlining looks more professional:** Today, underlining is generally viewed as less professional and can interfere with the readability of legal documents.

By understanding these points, legal writers can avoid outdated practices and adopt clearer, more accepted formatting styles.

How Digital Legal Writing Affects Formatting Choices

With more legal writing done digitally, formatting options have expanded, but so have considerations. For example, underlined text in digital documents often signals hyperlinks, which can confuse readers if used for terms of art. Italics remain the safest choice for emphasis and clarity.

Additionally, legal briefs and courts increasingly accept electronic submissions, which demand clean, standardized formatting. Deviating from accepted conventions can distract judges or clerks and undermine the professionalism of your work.

Summary Thoughts on Do You Underline a Term of Art in Legal Writing

In navigating the question do you underline a term of art in legal writing, the modern consensus is clear: avoid underlining. Instead, italics serve as the preferred method to introduce and emphasize terms of art. This approach aligns with authoritative style guides, enhances readability, and ensures your legal writing stands up to professional scrutiny.

By mastering these formatting nuances and understanding when and how to highlight terms of art, legal writers can communicate more effectively, preserving the precision and clarity that the law demands. Whether drafting a contract, writing a legal memo, or preparing a brief, the subtle art of formatting terms of art correctly will always be a valuable skill in your legal writing toolkit.

Frequently Asked Questions

Do you underline a term of art in legal writing?

In modern legal writing, it is generally not necessary to underline a term of art. Instead, terms of art are often italicized or simply defined clearly within the text.

What is the preferred way to highlight a term of art in legal documents?

The preferred way to highlight a term of art in legal documents is to italicize the term upon its first use and provide a clear definition, rather than underlining it.

Is underlining a term of art considered outdated in legal writing?

Yes, underlining is considered somewhat outdated in legal writing. Italics have largely replaced underlining for emphasis and highlighting terms of art.

Can underlining a term of art cause confusion in legal writing?

Underlining can sometimes cause confusion, as it is often associated with hyperlinks in electronic documents. Italics are clearer and more widely accepted for emphasizing terms of art.

Are there style guides that recommend underlining terms of art in legal writing?

Most modern legal style guides, such as The Bluebook and ALWD, recommend using italics rather than underlining for terms of art.

How should terms of art be introduced in legal writing?

Terms of art should be introduced by italicizing them on first use and providing a precise definition to ensure clarity for the reader.

Does underlining a term of art affect the professionalism of legal writing?

Using underlining instead of italics may make legal writing appear less polished or outdated. Italics are preferred for a more professional appearance.

In handwritten legal notes, is underlining a term of art acceptable?

In handwritten legal notes, underlining a term of art is acceptable and commonly used since italics are not feasible in handwriting.

Additional Resources

****Do You Underline a Term of Art in Legal Writing? Exploring Conventions and Best Practices****

do you underline a term of art in legal writing is a question that often arises among law students, legal professionals, and writers striving to master the nuances of legal drafting. Legal writing demands precision,

clarity, and adherence to stylistic conventions that ensure the text is both authoritative and accessible. Terms of art—words or phrases with specialized, technical meanings within the law—play a critical role in shaping legal arguments and documents. Understanding how to present these terms typographically, such as whether to underline them, is essential for effective communication.

This article delves into the conventions surrounding the presentation of terms of art in legal writing, evaluating whether underlining is appropriate or outdated, and discussing alternative methods such as italics or quotation marks. It examines authoritative style guides, legal writing manuals, and practical considerations that influence these choices.

Understanding Terms of Art in Legal Contexts

A term of art in legal writing refers to a word or phrase that has a specific, often technical, meaning distinct from its ordinary usage. Examples include "consideration," "mens rea," and "due process." These terms carry significant weight in legal analysis and arguments because their precise meanings can determine case outcomes.

Highlighting terms of art helps readers recognize when a word is being used in its specialized sense rather than its general meaning. This clarity is particularly crucial for judges, opposing counsel, or clients who may not be familiar with every legal nuance.

Why Does Formatting Matter?

Formatting terms of art effectively aids comprehension. Legal documents are dense and complex; typographical signals guide the reader toward important distinctions. The question of whether to underline a term of art touches on broader issues of readability, professionalism, and adherence to accepted legal writing standards.

Historically, underlining was used extensively in handwritten or typewritten legal documents to indicate emphasis or titles, especially before the widespread adoption of word processors that enabled easy use of italics. Today, with digital publishing the norm, the choice of formatting has evolved.

Do You Underline a Term of Art in Legal Writing? Reviewing Style Guide Recommendations

The short answer is that underlining a term of art is generally not the

preferred or standard practice in modern legal writing. Instead, italics are widely recommended for emphasizing terms of art or introducing specialized legal terms.

Bluebook and ALWD Citation Manual

The Bluebook: A Uniform System of Citation, the most authoritative style guide for legal citation in the United States, recommends the use of italics for case names, statutory titles, and sometimes for emphasis. While the Bluebook primarily addresses citation rather than general text formatting, it has influenced broader legal writing conventions.

Similarly, the ALWD Guide to Legal Citation endorses italics over underlining. Both guides reflect a shift away from underlining, which was once common in typewritten documents due to technical limitations.

Legal Writing Textbooks

Influential legal writing manuals, such as Bryan Garner's **Legal Writing in Plain English** and **The Redbook: A Manual on Legal Style**, consistently advocate for italics when highlighting terms of art on first use. Garner emphasizes clarity and modern typographic standards, noting that italics signal to readers that a term carries a specialized meaning without cluttering the text.

Underlining is often described as outdated or reserved for handwriting or when italics are not available.

Judicial Opinions and Law Review Articles

A survey of judicial opinions and law review articles confirms the predominance of italics over underlining. Courts frequently italicize terms of art or foreign phrases, helping readers identify their significance. Law reviews, which adhere to Bluebook standards, also prefer italics, reserving underlining mostly for hyperlinks or specific stylistic choices in online publications.

Alternatives to Underlining Terms of Art

While underlining is generally discouraged, legal writers have several options to ensure terms of art stand out appropriately:

- **Italics:** The most common and preferred method for introducing or emphasizing terms of art.
- **Quotation Marks:** Sometimes used to denote terms of art, especially when first defining or explaining them. However, overuse can clutter text and reduce readability.
- **Boldface:** Rare in legal writing, as it can appear too informal or aggressive, but may be used in instructional materials or presentations.
- **Capitalization:** Occasionally employed for defined terms in contracts to signal their special meaning, for example, "Confidential Information."

These alternatives balance the need for clarity with professional presentation.

When Might Underlining Be Appropriate?

Although underlining terms of art in legal writing is uncommon and generally discouraged, certain contexts might warrant its use:

1. **Manuscript or Typewritten Documents:** If italics are unavailable due to formatting limitations, underlining can substitute.
2. **Emphasis in Handwritten Notes:** Lawyers or students taking handwritten notes might underline terms of art for quick reference.
3. **Hyperlinked Digital Documents:** Underlining is standard for hyperlinks, so terms of art linked to definitions or sources may appear underlined, though this is a function of the hyperlink style rather than typographical choice.

Overall, these cases are exceptions rather than the rule.

Pros and Cons of Underlining Terms of Art

Evaluating whether to underline terms of art requires weighing advantages and disadvantages:

- **Pros:**
 - Provides clear visual emphasis.

- Traditionally accepted before word processing.
- Useful when italics are unavailable.
- **Cons:**
 - Can clutter the text and reduce readability.
 - Outdated in the era of digital publishing.
 - May be confused with hyperlinks or titles.
 - Not aligned with most modern legal style guides.

The cons generally outweigh the pros, which is why italics have become the norm.

Impact on SEO and Digital Readability

From an SEO perspective, the formatting of terms of art in online legal content can influence user engagement and search engine understanding. Italics are semantically neutral but visually distinctive, helping human readers identify important terms without triggering misinterpretation by search engines.

Underlining, on the other hand, is often associated with hyperlinks in web contexts. Overusing underlining outside hyperlinks can confuse users and lead to poor user experience, potentially increasing bounce rates—a negative SEO factor.

Therefore, for legal blogs, articles, and online publications, it is advisable to use italics for terms of art rather than underlining.

Practical Tips for Legal Writers

For lawyers, law students, and legal writers wondering do you underline a term of art in legal writing, the following guidelines can improve clarity and professionalism:

- **Use italics when introducing a term of art for the first time.** This

signals to readers that the term has specialized meaning.

- **Define the term clearly upon first use.** Formatting alone isn't sufficient; a precise definition is essential.
- **Avoid overusing quotation marks or boldface as they can detract from readability.**
- **Reserve underlining for situations where formatting tools are limited or for hyperlinks in digital content.**
- **Consult the specific style guide relevant to your jurisdiction or institution.** Some courts or law reviews may have unique preferences.

Being consistent with formatting not only enhances the readability of legal documents but also reflects the writer's professionalism and attention to detail.

Examples of Formatting Terms of Art

Consider the term "consideration," a fundamental contract law concept:

- Correct: The contract lacked *consideration*, rendering it unenforceable.
- Less preferred: The contract lacked consideration, rendering it unenforceable.
- Acceptable when defining: The term "consideration" refers to the bargained-for exchange of value.

Such examples illustrate how italics function as the preferred method for highlighting terms of art.

In legal writing, clarity and precision are paramount. While the instinct to underline a term of art may stem from tradition or habit, modern standards and digital formats favor italics for their clean appearance and alignment with authoritative style guides. Understanding these conventions ensures legal documents communicate effectively, uphold professionalism, and meet the expectations of judges, clients, and readers alike.

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