

WITTENBERG WINS JUDGE TERENCE T. EVANS HUMOR AND CREATIVITY IN LAW COMPETITION, AGAIN!

O'Neil Cannon attorney Christa Wittenberg was recently announced the winner of the 2024 Judge Terence T. Evans Humor and Creativity in Law Competition, sponsored by the Eastern District of Wisconsin Bar Association. The award is given each year to one attorney whose original creative law-related writing piece is selected by the review committee. Wittenberg is honored to be the first repeat winner of the award, having previously won in 2019. The competition honors the memory of the Honorable Terence T. Evans, former judge of the U.S. District Court, Eastern District of Wisconsin, and U.S. Court of Appeals for the Seventh Circuit, who was known for his wit and creativity throughout his life and his work. At the EDWBA Annual Meeting in May, Wittenberg happily accepted the traveling trophy and brought it back to her office to display for another year. Her winning article is below.

A Point Worth Exclaiming

I have a secret love, hardly befitting a self-anointed top-notch legal writer: I love the exclamation point! There are few greater joys in life than the jovial enthusiasm conjured by that expressive mark. No wonder legal writers scoff—joviality and enthusiasm have no place in legal prose.

My closet adoration isn't all my fault. As with most of my flaws, I can blame my parents. My father has seldom written a text message or email that was not overflowing with exclamation points. In fact, when his stepmother passed away some years ago, he announced it to my sister and me with the following text message:

Girls, I have news!! Grandma Beverly passed this morning!

So sad, but we're glad she's no longer in pain! I love you both!!

That is six too many exclamation points to use to announce someone's death! Yet, outside of death announcements, I also default to the exclamation point in casual writing.

Despite my genetic predisposition toward the exclamation point, I meekly allowed law school and lawyering to beat that penchant out of me. Like one with Stockholm syndrome, I became a militant eradicator of all frivolous punctuation in legal writing. In one of my very first assignments as a young lawyer, fresh out of my federal clerkship and eager to show my legal writing chops, I was asked by a shareholder at my firm to edit a draft brief. I was horrified to see an offending exclamation point in the conclusion of the brief: “The petition must be denied!” I promptly deleted that slender eyesore and put in a modest period. Crisis averted. My colleague narrowly avoided the embarrassment of showing weakness through emphatic punctuation.

Similarly, in professional emails, my legal training and desire to be taken seriously compelled me to banish that beloved bang. Sure, I might want to wish my client a wonderful day, but I sure as hell wouldn’t finish it off with such childish punctuation. So, I would sometimes type this: “Have a nice day.” And then I would promptly delete it because that period changes everything.

“Have a nice day!” says I sincerely hope your day is happy. In contrast, “Have a nice day.” says one of two things: (1) You are my opposing counsel and I know you are going to be filing a copy of this email with the court, so I’d better say something that seems cordial; or (2) I’m a serial killer and you’re my next mark. Either way, it’s not the message I want to send in most of my emails.

I started to wonder about the source of this shared understanding that exclamation points in legal writing are unprofessional. Was it in a footnote in our legal writing textbooks, amidst the lesson on how not to be funny?¹ Is there really any legitimate authority for this ban anyway? Actually, yes, as it turns out. In a leading legal style manual, *The Redbook*, the esteemed Bryan Garner decrees, “An exclamation mark is rarely justified in legal writing except in a direct quotation.”² Well, quote this, Mr. Garner: Nobody asked you!³

After more than a decade of living a double life—exclamation-point-teetotaling by day and exclamation-point-binging by night—I recently took a bold step: I now sometimes use exclamation points in professional emails with people who I know well enough and who have first used an exclamation point in their own emails to me. No doubt, my nomination for the Ruth La Fave Trailblazer Award is forthcoming.

Will I be using an exclamation point in my next brief? Of course not! I’m not a lunatic. But if Judge Easterbrook can whip out an interrobang in a court decision,⁴ maybe one day I will find a legal point worth exclaiming.

¹ Perhaps that footnote said, “Above all, do not use exclamation points!”

² Bryan A. Garner, *The Redbook: A Manual on Legal Style* § 1.76 (3d ed. 2013).

³ If ever Bryan Garner stumbles upon this piece of writing, this footnote is for him: I'm actually a huge fan and I generally follow all of your advice. I trust you recognize and appreciate humor when you see it.

⁴ Elevated in status by Judge Easterbrook's nonchalant use in the decision in *Robert F. Booth Tr. v. Crowley*, 687 F.3d 314, 319 (7th Cir. 2012), the interrobang is a nonstandard punctuation mark that overlays an exclamation point and a question mark when just one won't do. See <https://en.wikipedia.org/wiki/Interrobang>. But don't check Westlaw to see it—the version online swaps in a “!?” instead of a proper interrobang. Isn't that ridiculous?

Read Wittenberg's previous award-winning article from 2019 [here](#).