

Scribes



BASIC EDITING TIPS

Objectives



- **Transitions in Legal Writing**
- **Effective Sentences**
- **Punctuation/Grammar**

Generic Transitions



- **However (used in the middle of the sentence):** The home was sold, however, before the party's inquiry.
- **Therefore:** Therefore, this Court should grant the Plaintiff's motion for summary judgment.
- **Consequently:** Consequently, the Defendant failed to meet his burden of proof.
- **Conversely:** Conversely, the Plaintiff lacked the requisite consent required to act.

Generic Transitions



- To be sure, the Court must evaluate whether the Plaintiff acted in good faith.
- To that end, this Court has construed the statute liberally.
- But, here, the Plaintiff failed to notify the Defendant prior to the contract execution.
- Yet, the Defendant's expert lacks the requisite qualifications.

Orienting Transitions



- Provide context
- At 2:00 a.m. on January 1, 2012, Jacob Smith was arrested and charged with reckless driving.
- In *Bugger*, the court found that the petition was lacking.
- In the case at hand, there is no indication that the defendant intended to deceive the plaintiff.
- From the bank's perspective, granting a second loan would be risky.
- Over the last twenty years, courts have realized that exceptions were necessary.

Old and New Information



- While courts have traditionally held that parol evidence is inadmissible, certain exceptions do apply.
- Prior to 2005, no legislation existed regarding governmental waiver of immunity when contracting for goods or services.

Effective Sentences



- The problem with legal writing:

“There are two things wrong with most legal writing. One is style. The other is content.” -- Fred Roddell

Active v. Passive Voice



- The summons was left by the marshal. (passive)
- The marshal left the summons. (active)
- A complaint was filed by the plaintiffs in the Superior Court of Chavez County (passive).
- The plaintiff filed a complaint in the Superior Court of Chavez County (active).

Four Line Rule



- If your sentence goes beyond four lines, break it up.
- Try to keep your sentences to 2-3 lines, but never go over four lines.
- If you have more than two parts, consider breaking it up.

Use Fewer Words



- The plaintiff filed a motion for summary judgment.
- Correct: The plaintiff moved for summary judgment.

- The man devised and bequeathed his estate to his wife.
- Correct: The man gifted his estate to his wife.

Avoid Unnecessary Preambles



- “It is important to note that”
- “It is significant that”
- “It is interesting”
- “The court may recall that”



Get Rid of Legalese



- **Here comes**
 - **Hereinafter**
 - **Aforesaid**
 - **Whereas**
 - **Hereby**
 - **Wherefore**
- 

Avoid Needless Offenses



- Use gender neutral terms... period.
- Avoid references to personal characteristics (size, race, religion)
- If necessary to the matter, use the person as the noun and the reference as the adjective. A “gay man” or a “deaf woman.” Rather than a “Jew.”

Clearly



- **Never use the word “clearly.”**
- **If it was absolutely clear, then the court would not need to hear from you.**
- **Wrong: Clearly, Bayer breached the agreement by failing to pay.**
- **Better: Bayer failed to pay for the services as agreed.**

Words & Phrases



- In order to
- At this point in time
- In the case at bar
- Until such time as
- Whether or not
- During the month of May
- Make an examination of
- Makes mention of
- To
- Now
- Here
- Until
- Whether
- In May
- Examine
- Mentions

Words & Phrases



- **Reveal the identity of**
- **With regard to**
- **Performed a search on**
- **Is violative of**
- **Effectuate**
- **At a later date**
- **Each and every**
- **Bears a significant resemblance**
- **Identify**
- **About**
- **Searched**
- **Violates**
- **Cause**
- **Later**
- **Either one**
- **Resembles**

Other Considerations



- Use one space between sentences (generally unless otherwise instructed).
- Use long quotes sparingly as long blocks are often not read

Objectives



- Grammar & Punctuation

LET'S EAT GRANDMA.
LET'S EAT, GRANDMA.

**COMMAS
SAVE LIVES!**

Agreement



- **Pronoun-Antecedent Agreement**

- **Rule 1:** Singular antecedents require singular pronouns: plural antecedents require plural pronouns.
 - ✦ **William MacDonald** may claim that **his** constitutional rights were violated.
 - ✦ **William MacDonald and Grace Yessler** may claim that **their** constitutional rights were violated.
 - ✦ **Ex:** A **defendant** may claim that **their** constitutional rights were violated.
 - **Fix:** A **defendant** may claim that **his** constitutional rights were violated.
 - **Fix:** **Defendants** may claim that **their** constitutional rights were violated.
 - **Fix:** A **defendant** may claim that constitutional rights were violated.
 - **Fix:** A **defendant** may claim that **his or her** constitutional rights were violated.

Agreement



- **Pronoun-Antecedent Agreement**

- **Rule 2:** When a pronoun refers to two or more antecedents joined by “or” or “nor,” the pronoun agrees with the nearer antecedent
 - ✦ Either David Wilson **or Donald Wilson** left **his** keys in the car.
 - ✦ Neither the defendant **nor his brothers** admit knowing where **their** neighbors keep items of value.
- **Rule 3:** When an indefinite pronoun is the antecedent, use the singular pronoun
 - ✦ **Anyone** would have noticed that **his or her** license plate had been removed.
- **Rule 4:** When a collective noun is the antecedent, use a singular pronoun if you are referring to the group as one unit and a plural pronoun if you are referring to the individual members of the group
 - ✦ The **jury** must not be misled about Jason Richardson’s credibility when **it** is considering his testimony.
 - ✦ **Shopping Haven** discriminated against John Adams when **it** failed to issue him a new credit card for an existing account.

Pronoun References



- Each pronoun should clearly refer back to its antecedent
 - **Ex:** Officer Robert O'Malley, who arrested Howard Davis, said that he was drunk at the time.
 - ✦ **Fix:** Officer Robert O'Malley, who arrested Howard Davis, said that Davis was drunk at the time.
 - ✦ **Fix:** Officer O'Malley was drunk when he arrested Howard Davis.

Modifiers



○ Prepositional Phrases:

- ✦ **Ex:** The defendant owned a cabin with his brother in New Hampshire.
 - **Fix:** The defendant and his brother owned a cabin in New Hampshire.
- ✦ **Ex:** The victim described her attacker as having a tattoo on his right buttock, which was shaped like a peace sign.
 - **Fix:** The victim described her attacker as having a tattoo that was shaped like a peace sign on his right buttock.

Punctuation: The Comma



- **Comma rules**
 - **Rule 1:** Use a comma before a coordinating conjunction joining two main, or independent, clauses.
 - ✦ The prosecutor spoke about the defendant’s motive, and the jury listened carefully.
 - ✦ FANBOYS – for, and, nor, but, or, yet, so
 - **Rule 2:** Use a comma or commas to set off transitional or interrupting words and phrases.
 - ✦ The trial court, however, imposed an exceptional sentence of thirty months.
 - **Rule 3:** Use commas according to convention with quotation marks.
 - ✦ Corbin said, “I never saw the other car.”

Punctuation: The Comma



- **Comma rules**
 - **Rule 4:** Use a comma or commas to set off phrases of contrast.
 - ✦ Adams initially indicated that he, not Wilson, was involved in the robbery.
 - **Rule 5:** Use commas between items in a series (aka serial comma or Oxford comma).
 - ✦ Wong had no money, identification, or jewelry.
 - **Rule 6:** Use a comma between coordinate adjectives not joined by a conjunction.
 - ✦ The contract was written in concise, precise language.
 - **Rule 7:** Use commas according to convention with dates, addresses, and names of geographical locations.
 - ✦ The land in Roswell, New Mexico, was surveyed on October 4, 2001, and purchased less than a month later.

Use The Serial Comma



- In a list of three or more, always use the extra comma before the “and.”
- The company agreed to construct, paint, and seal the roof.
- The company agreed to contract, paint and seal the roof.
- Without the serial comma, the reader can become confused. Is “paint and seal” one or two processes?

The Semicolon



- **Rule 1:** Use a semicolon to separate main, or independent, clauses not joined by a coordinating conjunction.
 - The plaintiff is a Nevada resident; the defendant is a California resident.
 - The summons was not delivered to his usual place of abode; therefore, service was not effected in the manner prescribed by law.

The Semicolon Cont...



- **Rule 2:** Use semicolons to separate items in a series if the items are long or if one or more of the items has internal commas
 - The Montana court has applied these definitions to cases with the following fact patterns: the driver was asleep and intoxicated; the driver was positioned behind the steering wheel; the vehicle's motor was running; and the vehicle was parked.
 - The prosecutor called the following witnesses: Linda Hastings, an advertising executive; Samuel Hedges, an accountant; and Timothy Lessor, president of the company.

Quotation Marks



- Quotation Marks

- Identification of another's written or spoken words

- ✦ The relationship between Southwestern Insurers and each of its agents is governed by an agreement that includes the following statement: “The location of the agent’s office cannot unduly interfere with the business established by another agent.”
- ✦ Ex: In his *Roviaro* dissent, Justice Clark observed that “[e]xperience teaches that once this policy [of confidentiality] is relaxed . . . its effectiveness is destroyed.” Id. at 67.

Ellipses & Brackets



- **Ellipses**

- Indicate an omission in a quotation

- ✦ Hellen signed a quitclaim deed to Richard, disclaiming “an interest in the ... property.”
- ✦ “We the people of the United States, in order to form a more perfect union,... do ordain and establish this Constitution...”

- **Brackets**

- Show changes in quotations

- ✦ The defendant can emphasize that asylum seekers are in a unique position of desperate need for relief, that denial of her claim is “replete with danger... that [she] will be subject to death or persecution if forced to return to [her] home country.”
- ✦ The Fifth Amendment state that “[n]o person ... shall be compelled in any criminal case to be a witness against himself.”
- ✦ The Council authorized the construction of a twelve-story tower, finding that reducing the tower to this height “substantially mitigate[s] adverse impacts on the land use pattern in the vicinity.”

Parentheses



- **Parentheses**
 - To enclose short explanations of cases within citations
 - ✦ Washington courts have held the emergency doctrine inapplicable when the actor is already in a position of peril. *Mills v. Park*, 409 P.2d 646 (Wash. 1996) (where the defendant's vision in a snowstorm was already obscured and a snowplow throwing snow on defendant's car did not constitute a sudden emergency).
 - To enclose numerals that introduce the individual items in a list
 - ✦ The company's regulations list seven circumstances under which an employee may be separated from his or her job: (1) resignation, (2) release, (3) death, (4) retirement, (5) failure to return from a leave of absence, (6) failure to return from a layoff, and (7) discharge or suspension for cause.
 - To introduce abbreviations after a full name is given
 - ✦ Beaver Custom Carpets (BCC) has been in business for one year.

Hyphens



- **Hyphenate compound modifiers.**
 - My hard-headed boss.
- **Hyphenate only when the modifier precedes the term modified.**
 - My boss is hard headed.
- **Generally, don't hyphenate when the first term is an adverb ending in -ly.**
 - He has an overly active imagination.