

became enraged when Parker announced that he had no money. He then slashed Parker twice in the stomach. The police arrested Jenkins in the neighborhood later that evening.

Parker was operated on to repair internal injuries from the stab wounds. Although he has recovered physically, he still suffers from extreme anxiety and depression because of the attack.

#### Exercise 9-D

Use the facts and cases in Exercise 7-E(1) on pp. 141-143 to write a Summary of the Facts for a legal memo on behalf of XYZ Corp. Remember to include (1) a context statement, (2) necessary facts, and (3) pertinent supporting facts.

# Writing for Readability

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#### When you master this chapter, you will understand:

1. why readability is the key to good writing;
2. what readability means; and
3. how to make your writing readable.

## A. Thought and Its Expression

Thought and its expression are inextricably intertwined. You communicate your thoughts by putting them into words. The particular words you choose and how you arrange them will determine how well your readers will understand what you are trying to say. The most subtle and penetrating idea is useless if it is not conveyed in understandable prose; the most beautiful arrangement of words is pointless if it does not convey any idea.

A single thought may be expressed in many different ways. Consider these famous lines from the Declaration of Independence:

We hold these truths to be self-evident, that all Men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty, and the Pursuit of Happiness . . . .

Suppose, instead, Thomas Jefferson had written:

It seems perfectly obvious to us, everything considered, that all the various and different people on the earth are deserving of equality with respect to important aspects of their lives, that by virtue of their being human beings created in the image of God they are entitled to make certain claims of right, which nobody can take away from them, that will entitle them to live their lives free from arbitrary restraints and to devise life plans to secure their preferences for happiness. (Version 1)

Or suppose an editor who was unhappy at the length of Version 1 had boiled it down to this sentence:

Obviously, everybody's equal, with the right to live, act freely, and seek to be happy. (Version 2)

You do not need much of an eye or an ear to see immediately that something is very wrong with the way the idea is expressed in these alternative versions. Version 1 is too long; Version 2 is too short. Nor is that all that is wrong. Version 1 is too long because it is wordy: the clutter of unnecessary words leads not to precision but to fuzziness; the sharp, almost poetic style of the original is lost. In contrast, the very brevity of Version 2 distorts the original's meaning and robs it of the beauty of Jefferson's prose.

Composing readable thought is the craft of writing. The craft cannot be captured by a single formula: what is best for one reader on one occasion is not best for another reader on another occasion. Although there are no formulas, there are simple and effective principles that can help you put your thoughts into clear, concise, and coherent prose—writing that is *readable*.

## B. Readability

A document is readable if the reader can understand it on a *single* reading. The more often the reader must reread what you have written, the more likely it is that the reader will either misunderstand or abandon your writing altogether. Sometimes a document is unclear because the writer does not really know what he wants to say. The problem, in other words, may lie in the thought (or lack of thought) itself. But even when the writer has a point to make and knows what it is, the writing may still be difficult to comprehend. Unreadable writing of this sort is caused by one or more of the following:

- *Imprecise vocabulary*: using the wrong word for the intended meaning;
- *Improper word order*: placing words or phrases in the wrong place;
- *Lack of orientation*: omitting appropriate background information;
- *Lack of organization*: failing to present thoughts in a coherent way;
- *Verbosity*: using unnecessary words;
- *Unnecessary complexity*: putting too many thoughts in a single sentence or paragraph;
- *Mistakes in grammar, syntax, and usage*: deviating from the rules for constructing well-ordered sentences; and
- *Incorrect punctuation*: using punctuation that misleads the reader or keeps the reader from understanding intended connections between thoughts.

It is the writer's job to make his writing readable. The writer cannot rely on the reader to work hard at interpreting a difficult document. Moreover, a readable document is almost always shorter than an unreadable one. In the legal profession, brevity is important. More and more, courts and governmental agencies are imposing word or page limits on documents they receive. Even when there is no limit, the reader inevitably will have too much to read and will prefer the short document to the long one. The lawyer-writer must insure that clients do not waste their money on documents that try readers' patience and risk their misunderstanding.

The single most important criterion of readable writing is to *pay attention to your readers*. You are writing for a purpose: to provide information to readers, to give them a point of view, to enable them to see matters in a new light, or to persuade them to take some course of action. Unless you think about who your readers are, what they know, what they want to know, and why they want to know it, you cannot do your job as a lawyer-writer.

Avoiding all potential traps and mistakes is not easy. Professional writers spend years perfecting their writing. Because lawyers are professional writers, it is essential to begin now to cultivate good writing habits that will repay your efforts with rich dividends in the years to come. This and the next chapter are designed to provide you with a solid foundation in the most basic principles of good writing. This chapter reviews the forms of the standard sentence and paragraph. The next chapter examines readers' expectations about the work as a whole.

### C. Fifteen Basic Principles for Making Your Writing Readable

Here are 15 principles for writing that, if practiced diligently, will make your writing readable so that your readers understand, in a single reading, what you have written.

#### 1. Arrange sentence components properly

##### a. The basic components of a sentence and their arrangement

The sentence is the basic unit of thought. Readers expect a standard sentence to have (1) a subject, (2) a verb, and sometimes (3) an object. The subject is what the sentence is about. Ordinarily, the subject performs the action that is expressed in the verb. Many standard sentences also have objects, the thing to which the action of the sentence is done (e.g., Thomas researched the law.), although a sentence need not always have an object to be grammatically correct (e.g., Lauren argued.).

**Sentence 1:** The lawyer drafted the contract.

In Sentence 1, the subject is *lawyer*, the action is expressed in the verb *drafted*, and the object, *contract*, is the thing to which the action is done. A sentence without a subject or verb is a fragment. Formal writing should not contain fragments.

Readers also expect to find the subject, verb, and object closely connected. In Sentence 2, the writer strays from this expectation:

**Sentence 2:** The lawyer, who was feeling sick and had not been to the office in several days, drafted, without the benefit of the proper statutory material or the pertinent cases, the memo.

In this sentence, the writer interrupts the flow of the sentence from subject to verb to object with side thoughts. The reader may be confused when encountering the verb so far away from the subject and the object at the end of the sentence far from the verb. Revised Sentence 2 is much more coherent:

**Revised Sentence 2:** Sick and absent from the office for several days, the lawyer drafted the memo, even though he did not have the proper statutory material or the pertinent cases.

#### Do Exercise 10-A Now, p. 210

Subject, verb, and object are the main components of the sentence. Other components—introductory phrases, subordinate clauses, prepositional phrases, and the like—have an important function in many sentences. These ancillary components will aid your reader's comprehension, but they must be properly connected to one of the main components to be understandable and grammatically correct. One troubling problem is the *dangling modifier*, as in the next example:

**Sentence 3:** Before addressing your specific complaints, *some general comments* are in order.

In this sentence, the first phrase (“Before addressing your specific complaints”) is dangling because it is not connected to the person to whom the action of the phrase refers. Who will address the complaints? The sentence suggests that “some general comments” will address the complaints. That of course makes no sense. It is *the lawyer* who intends to address the client's complaints. Attach the phrase to an appropriate subject:

**Revised Sentence 3:** Before addressing your specific complaints, *the Assistant District Attorney* will offer some general comments.

Another modifier that often plagues careless writers is the word *only*. Different placements of *only* in a single sentence can change the meaning. Consider three places in which *only* might appear in the following sentence:

**Sentence 4:** The lawyer *only* [1] drafted *only* [2] the contract *only* [3] yesterday.

In position 1, the writer is saying that the only thing the lawyer did was draft the contract; he did not do anything else. In position 2, the writer is saying that the lawyer drafted just the contract, not any other document. In position 3, the writer is saying that the lawyer drafted the contract yesterday, not earlier. To insure the accuracy of your writing, pay close attention to the placement of the word *only* in sentences.

**Do Exercise 10-B Now, p. 210**

**b. The substantive arrangement of a sentence**

Beyond the grammatical form of a sentence, readers expect substantive information to be in a particular sequence, according to two general principles:

- Old or less important information should come before new or more important information.
- Short information should come before long information.

1. *Information that is familiar or prepares the reader for new or more important information should be put at the beginning of the sentence.* How do you know whether your reader is familiar with certain information? You might already have made the point expressly, or you might reasonably assume the reader has the necessary background information. Old or less important information is subsidiary to the main point of the sentence. New or more important information should be put at the end of the sentence. This arrangement of old to new and less important to more important prepares the reader to accept new and more important information and facilitates the transitions between sentences, helping them to flow. Consider the placement of information in the following sentence:

**Sentence 5:** The defendant was found guilty by the jury after several hours of deliberation.

In Sentence 5, the reader probably already understands that the jury determines the defendant's fate. The deliberation of the jury is therefore old or less important information than what the jury actually determined—the defendant's guilt. Moreover, the information that the jury took several hours to deliberate is probably less important than that it finally arrived at a guilty verdict. Revise the sentence, therefore, as follows:

**Revised Sentence 5:** After deliberating for several hours, the jury found the defendant guilty.

2. *Short comes before long in a sentence.* This arrangement enhances sentence clarity. If you have two related and equally important points to make in a sentence, and one point can be expressed in fewer words than the other, put the shorter one first. Consider the arrangement of the words in the next example:

**Sentence 6:** The lawyer drafted the contract containing the price, the quantity of products to be sold, and the due dates, and a letter to the client.

In Sentence 6, the writer has used a compound object: a contract and a letter were both drafted. But the description of the contract overwhelms that of the letter, which seems an afterthought. Transpose the two objects, however, and the sentence is clearer:

**Revised Sentence 6:** The lawyer drafted a letter to the client and a contract containing the price, the quantity of products to be sold, and the due dates.

The same rule applies to other long parts of a sentence. A very long sentence can keep the reader from getting to the verb, and the uncertainty prompted by the delay will make the sentence less readable.

**Sentence 7:** Contracts that are clearly drafted, that use precise language, that are not longer than they need to be to achieve their purpose are what we want.

In Sentence 7 the writer takes much too long to get to the verb (and is otherwise wordy). Compare to the revised version:

**Revised Sentence 7a:** We want contracts that are clearly drafted, that use precise language, and that are not longer than they need to be to achieve their purpose.

Revised Sentence 7a can be revised again to eliminate wordiness:

**Revised Sentence 7b:** We want contracts that are clear, precise, and concise.

## 2. Keep sentences short

Put one main thought in each sentence. That thought does not have to be simple-minded; it can be sophisticated and complex. But a sentence that includes too many thoughts makes it difficult to follow the point, as in the next example:

**Sentence 8:** Sick and absent from the office for several days, the lawyer drafted the contract, which concerned the sale of his client's company's chips, which were now being made in a modernized factory capable of producing 10,000 per day, compared to a paltry 1,000 per day before the modernization, allowing the company to cut costs and therefore offer better terms, even though he did not have the statute or the pertinent cases.

Rewriting leads to several sentences, making the point easier to understand:

**Revised Sentence 8:** Recuperating from an illness, the lawyer drafted the new sales contract from home, even though he did not have the statute or pertinent cases. The new contract was necessary because after the client modernized its factory, it produced 10,000 rather than a paltry 1,000 chips per day. This greater efficiency has lowered production costs and permits the client to offer better sale terms.

## 3. Make connections parallel

Many sentences internally connect a series of elements. A sentence might have a compound subject (The lawyer and her *paralegal* drafted the contract.), verb (The lawyer *researched* the law, *drafted* the contract, and *wrote* the letter.), object (The lawyer drafted *a contract and a letter.*), or modifier (The lawyer made *an emotional and persuasive* plea for the defendant's release.). When connecting the elements in a series, each should be of the same grammatical type: nouns, adjectives, verbs, and clauses. When the elements are of the same type, the sentence construction is parallel.

When using *and*, *or*, and other connectives in a sentence, make sure that the elements connected by them are of the same type. Do *not* say:

**Sentence 9:** When writing prospective employers, you should provide personal information *and* why you want to work for them.

The *and* in Sentence 9 signals that a compound object is about to follow. Instead, the writer follows with a clause “why you want to work for them.” Make the sentence parallel either by adding a verb, altering the verb to make the objects parallel, or turning the “why” clause into an object as in the next three revisions:

**Revised Sentence 9a:** When writing prospective employers, you should *provide* personal information and *explain* why you want to work for them. *or*

**Revised Sentence 9b:** When writing prospective employers, you should say *who you are* and *why you want* to work for them. *or*

**Revised Sentence 9c:** When writing prospective employers, you should *provide* personal information and the reason for your application.

In the following example, the writer has included a verb form (“bound to be”) in a string of adjectives (“irrelevant,” “immaterial”):

**Sentence 10:** The judge excluded the evidence because she thought it was irrelevant, immaterial, and *bound to be* prejudicial.

Find a word that will substitute for the thought expressed in the verb (for example, the adverb “clearly”), as follows:

**Revised Sentence 10a:** The judge excluded the evidence because she thought it was irrelevant, immaterial, and clearly prejudicial.

This revision is itself not quite parallel, since only one of the adjectives in the string is qualified by an adverb. Rewrite the sentence to make it fully parallel:

**Revised Sentence 10b:** The judge excluded the evidence because she thought it was completely irrelevant, wholly immaterial, and clearly prejudicial.

The resulting sentence is parallel, but it is now wordy and inflated. Words like “irrelevant” and “immaterial” do not need qualification: something either is or is not relevant or material. A better revision, therefore, is this one:

**Revised Sentence 10c:** The judge excluded the evidence, holding it irrelevant, immaterial, and prejudicial.

Inexperienced writers frequently link adjectives and nouns, usually leaving a wordy, awkward construction:

**Sentence 11:** The adversaries were *knowledgeable* and *people of intelligence*.

In this sentence, the writer has incorrectly linked an adjective (“knowledgeable”) and noun phrase (“people of intelligence”). Rewrite, substituting an adjective for the noun phrase:

**Revised Sentence 11:** The adversaries were *knowledgeable and intelligent* people.

Even when the words in a list are of the same grammatical type, they must be in the same form.

**Sentence 12:** The detective proposed a plan *to raid* the drug dealer’s office and *arresting* all his workers.

The *and* in Sentence 12 signals a connection between “to raid” and “arresting.” But because these verbs are not in the same form, the sentence is difficult to follow. Make the sentence readable by changing one of the verb forms to parallel the other, as in the next two revisions:

**Revised Sentence 12a:** The detective proposed a plan *to raid* the drug dealer’s office and *to arrest* all his workers.

**Revised Sentence 12b:** The detective proposed *raiding* the drug dealer’s office and *arresting* all his workers.

Another common example of faulty parallelism is the omission of a second “that” in a sentence combining or comparing two relative clauses, the first of which begins with “that.”

**Sentence 13:** The weary young lawyer hoped *that* her boss would leave and the phone would stop ringing.

This sentence connects the clause “that her boss would leave” to a noun (“the phone”). Although the writer’s meaning comes through in this sentence, you should get in the habit of introducing both clauses with the same term.

**Revised Sentence 13:** The weary young lawyer hoped *that* her boss would leave and *that* the phone would stop ringing.

Parallelism is especially important when using paired conjunctions, such as *either . . . or, both . . . and, not only . . . but also*. The reader expects the same type

of elements to follow each of the conjunctions in the pair. Failing to make them parallel interferes with readability. For example:

**Sentence 14:** The lawyer *not only* drafted the contract *but also* the letter.

In Sentence 14, the reader expects to see that the lawyer took *two* actions: she *drafted* the contract and did something else—for example, faxed the letter. The end of the sentence tells a different story: the lawyer did not do *two* different things after all. Rather, she did one thing—drafted—to two objects. Rewrite:

**Revised Sentence 14:** The lawyer not only drafted the contract but also faxed it to the client. *or*

**Alternate Revised Sentence 14:** The lawyer drafted not only the contract but also the letter.

In Revised Sentence 14, the writer makes the verbs parallel, showing the lawyer doing two things, *drafting* and *faxing*. In Alternate Revised Sentence 14, the writer has moved *not only* after the verb so that it connects two objects, the *contract* and the *letter*.

#### Do Exercise 10-C Now, p. 210

#### 4. Focus each paragraph on one thought, organize it around a topic sentence, and connect the sentences that follow

Like the sentence, the paragraph is a unit of thought that has a standard form. The standard paragraph begins with a *topic sentence*—a sentence that presents the main point. The rest of the sentences in the paragraph describe, comment on, add to, or otherwise explain the point introduced in the topic sentence. A paragraph is readable when the sentences are arranged in a logical sequence. The writer who follows the basic rules for forming sentences will find that the paragraphs that emerge are generally well-formed as well. If you move from old to new information within your sentences, then each succeeding sentence will begin with a reference or connection to what has gone before (the old). Moving from old to new within a sentence promotes a similar progression within a paragraph. A paragraph that contains sentences that do *not* move from old to new confuses the reader. For example:

**Paragraph 1:** The child was financially supported by an uncle who lived in the same house in the *Mills* case. The aunt did not provide for the child, but she lived in the same apartment in the *Patrick* case. The uncle did not live in the same house, but he lived on the block and took care of the child in the *Smith* case. Susan Johnson lived in the basement of the home where her nephew Frank Taylor lived. Her living quarters were separate. If you reside on a daily basis in the same house or apartment then you are living in the same household. Johnson was living in the same household as Taylor, the courts would probably hold. There were no locks on the door between Johnson's basement quarters and Taylor's upstairs space.

This paragraph is quite jumbled. It does not begin with a topic sentence, so the reader is bewildered after the first few sentences. What point is the writer trying to make? Who cares whether a child was supported by an uncle or not supported by an aunt who happened to live in the same house or on the same block? Why is it important to know that Johnson lived in the basement? Not until much later in the paragraph does the reader learn that the writer has something to say about the rule for determining whether an aunt lives in the "same household" as her nephew. Even then, the writer does not make clear the connection between that rule and the absence of locks. Moreover, the sentences do not present old and less important information first. As a consequence, the sentences do not connect well. Here are the same thoughts rearranged following the old to new information principle:

**Revised Paragraph 1:** The question is whether Susan Johnson lived in the same household as her nephew Frank Taylor [S1]. Living in the same household means residing in the same house or apartment on a daily basis [S2]. In *Mills*, the uncle lived in the same house [S3]. In *Patrick*, the aunt lived in the same apartment [S4]. In *Smith*, the court held that an uncle who lived on the same block and kept the child overnight twice a week did not live in the same household [S5]. Although Johnson had separate living quarters in the basement of the Taylor home, they were accessible from the main floor through a door without locks [S6]. A court, therefore, would probably hold that she and Frank Taylor were living in the same household [S7].

In Revised Paragraph 1, the writer begins with a topic sentence [S1], stating the main point that the paragraph discusses. S2 follows up with a statement of the rule. Note that the first part of S2 contains the older information about "living in

the same household," a phrase already presented in S1. S2 goes on to the new information defining the phrase. S3-S5 describe other cases, beginning with less important information (the names of the cases) and structured in the same way to permit the reader to absorb the information more readily. S6 moves from old information (the location of the living quarters) to a new type of information that may make the difference (no locks to keep her out). S7 provides the reader with a conclusion that follows from the information already presented, again opening with the less important information (it is the court doing the holding) and ending with the more important information (what that holding is likely to be).

### 5. Use transition words properly and sparingly

Transitions are words and phrases that link sentences and paragraphs. Transition words can:

- *sequence* (first, next, finally),
- *oppose* (but, however, nevertheless, although),
- *compare* (in contrast, conversely, similarly, likewise),
- *amplify* (furthermore, moreover, in addition),
- *stress* (indeed, even, in fact),
- *illustrate* (for example, to illustrate), and
- *show logical relation* (therefore, so, as a result, consequently).

Although transitions are extremely useful in showing connections between thoughts, not every pair of sentences needs one, since the internal sense of the sentences may be a sufficient connection. When you do use transitions, use them properly. Transition words have meanings. Using the wrong transition leads to misunderstanding. *Finally*, using an unnecessary one is pedantic and wordy (in this sentence, the word "finally" is superfluous, because the paragraph does not list anything for which "finally" would be a useful conclusion). And avoid transition phrases that are more verbal clutter than functional transitions—for instance, "it is interesting to note that" or "the next item of importance is . . ."

### 6. Put the action of the sentence in the verb

#### a. Remove the action from nouns

The action of a sentence should be expressed in the verb. All too often, however, lawyers put the action in nouns. The overuse of nouns in this way is called *nominalization* (naming the action, rather than showing it). Nominalizing often

makes your sentences longer and less concrete because it forces the writer to use more clauses and weak, general verbs. For example:

**Sentence 15:** The police conducted an investigation of the crime.

In this sentence, the true action is not in the weak verb (*conducted*), but rather what is buried in the object (*investigation*). By using the nominalization, the writer was forced to use the prepositional phrase “of the crime.” Rewritten to eliminate the nominalization—that is, expressing the real action in a more active verb—results in a shorter and more direct sentence.

**Revised Sentence 15:** The police investigated the crime.

**Lawyers frequently use these nominalizations, all of which can be turned into simple, active verbs:**

determination ⇨ determine  
 commencement ⇨ commence (or even better, begin)  
 investigation ⇨ investigate  
 reliance ⇨ rely  
 failure ⇨ fail  
 formulation ⇨ formulate  
 submission ⇨ submit  
 application ⇨ apply  
 violation ⇨ violate  
 analysis ⇨ analyze  
 agreement ⇨ agree  
 settlement ⇨ settle.

**Sentence 16:** The handwriting expert *did an analysis of* the letter.

**Revised Sentence 16:** The handwriting expert *analyzed* the letter.

**Sentence 17:** Our *submission is in support of* our petition.

**Revised Sentence 17:** We *submit* this affidavit *to support* our petition.

#### b. Remove the action from adjectives

Sometimes the writer puts the action of a sentence or clause into an adjective rather than a noun. The same principle applies: the action should be in the verb.

**Sentence 18:** He was *supportive* of her efforts.

**Revised Sentence 18:** He *supported* her efforts.

#### c. Use strong verbs

Strong verbs express action in their very meaning. Relying too frequently on weak verbs like *is*, *has*, or *was* robs your writing of vitality. We could have said: “Relying too frequently on *is*, *has*, or *was* keeps your writing from being vital.” The verb “keep” is dull; it has few, if any connotations. The verb *rob*, with its metaphoric richness, more aptly makes the point.

**Sentence 19:** Two cars were *involved* in the accident at the intersection.

Words like *involve*, *have*, *make*, *do*, and *seem* are weak. They pack little verbal punch. In Sentence 19, what kind of accident was it? The reader cannot tell. The writer should have found a strong verb to express the specific point.

**Revised Sentence 19:** Two cars *crashed* at the intersection.

There are some writers who rely heavily on weak phrases such as *there is* and *there were*, as in this sentence. Look at your own writing to see if you are guilty of overusing these phrases. Find a way to avoid them. In the sentence above, for example, say: “Some writers rely heavily . . . ,” thereby shortening the sentence and beginning more directly.

**Do Exercise 10-D Now, p. 211**

#### 7. Prefer the active to the passive voice

Active sentences are preferable to passive ones because they are more direct, usually shorter, and therefore easier to read. The passive voice is a verb form that disguises who has done the action expressed in the verb. When a sentence is written in the passive, the subject of the sentence is not doing the action in the verb, but is receiving the action. The passive voice can always be spotted by finding (1) the main verb coupled with a form of the verb *to be* (be, being, been, am, is, are, was, were, has been, will be, etc.) and (2) a prepositional phrase beginning with *by*, either actually or implicitly, in the sentence. For example:

**Sentence 20:** The contract *was drafted by* the lawyer. (Passive)



**Revised Sentence 20:** The lawyer *drafted* the contract. (Active)

Notice how in Revised Sentence 20 the subject (the lawyer) is now doing the action (drafting).

Here is an example of the passive construction in which the main verb (*seen*) is coupled with a form of the verb to be (*was*). This example contains an *actual* prepositional phrase beginning with *by*:

**Sentence 21:** The arsonist was seen *by the officer* near the building that burned.

To make this sentence active, eliminate the *to be* verb form and change the object of the preposition *by* into the subject of the sentence:

**Revised Sentence 21:** The officer *saw* the arsonist near the building that burned.

Here is an example of the passive construction in which the main verb (*seen*) is coupled with a form of the verb *to be* (*was*). In this sentence the prepositional phrase is implicit: the reader must guess who observed the arsonist:

**Sentence 22:** The arsonist was *seen* near the building that burned.

In Sentence 22, the writer tells us something about the arsonist but not about who spotted him. To make the sentence active, you will need to identify who saw the arsonist:

**Revised Sentence 22:** The *officer* *saw* the arsonist near the building that burned.

Despite its overuse, the passive voice is a perfectly grammatical device, and it has important functions. The problem with the passive voice is its misuse and overuse, not its use as such. If you find that you write in the passive voice without any clear understanding that you are doing so and without any good reason, then you should edit your sentences to make them active. But if you use the passive voice because the agent is unimportant, or you choose to comment on the object throughout the paragraph, or you wish to link two thoughts from one sentence to the other, then the passive voice may be quite appropriate. Consider the following sentence:

**Sentence 23:** The passive voice can always be spotted by finding two syntactical constructions.

Sentence 23 was written in the passive voice (just as this sentence is being written) for two reasons. First, the subject of the verb—that is, the person doing the spotting—is obviously “you,” the reader. The sentence could have begun: “You can always spot the passive voice by finding . . .” But writing the sentence that way emphasizes the reader rather than the thing to which the writer wishes to call the reader’s attention, namely, the passive voice itself. Second, the rest of the paragraph is about the passive voice. Focusing the topic sentence on the object makes tighter the connection between each of the sentences in the paragraph. Since you will often choose to comment on the object (that is, the thing to which the action is done) rather than the subject (the agent or person or thing doing the action), you should learn when it is appropriate to use the passive voice.

**Sentence 24:** More than 50 arsonists were convicted in this city last year.

Criminal defendants are convicted by juries or judges. But the reader of Sentence 24 does not need to focus on the identity of the fact-finders, since it is obvious that if the arsonists were convicted they were convicted by judges or juries. The writer has chosen to focus the reader’s attention instead on the object of the convictions, namely, the arsonists themselves. Otherwise, the sentence would read:

**Revised Sentence 24a:** Juries convicted more than 50 arsonists in this city last year.

This revision is grammatical and clear, but it changes the focus from arsonists to juries. If that is the focus that you want, the revision makes sense; but if your true focus is on the arsonists, then the passive construction of Sentence 24 is appropriate. Moreover, if the writer wishes to be accurate, and some of the arsonists were convicted by juries and some by judges, this would be the resulting sentence:

**Revised Sentence 24b:** Juries and some judges convicted more than 50 arsonists in this city last year.

This sentence contains more information than is useful, again assuming that the real point is to discuss the number of convictions. The seeming precision of the phrase “juries and some judges” forces the reader’s attention to a different point.

The passive voice is useful in linking sentences while applying the principle that older information should come before newer information in each sentence.

**Sentences 25 and 26:** DNA tests can often identify rapists and murderers. DNA testing is *taught* to forensic scientists in laboratories in all major urban jurisdictions.


The passive voice can also help the writer avoid a top-heavy sentence in which, for example, the subject is extended and the reader must travel a long distance before finding the verb (the subject in the following sentence is in brackets):

**Sentence 27:** [Baseball players, umpires, managers, coaches, scouts, and even the fans themselves] know the problem.

**Revised Sentence 27:** The problem is *known* to baseball players, umpires, managers, coaches, scouts, and even the fans themselves.

In the revision, the passive voice permits the writer to put into the object of the sentence the extended list of people who know the problem, thereby connecting the subject, verb, and object much more closely than in the original sentence.

**Do Exercise 10-E Now, p. 211**

 **8. Write concisely: eliminate verbosity and redundancy**

Using too many words impairs readability simply because a short document is easier to read than a long one. You have already learned that certain habits—nominalizing and using the passive voice—can make a sentence longer. But the most common reason for the overly long sentence is word clutter. Word clutter comes in different forms: verbosity (unnecessary phrases or expressions and multi-word phrases substituting for a single word) and redundancies (repetitive words and phrases).

**a. Verbosity**

**Sentence 28:** We will discuss my recommendation *with regard to* sentencing *in the event that* you are convicted.

Many lawyers use multi-word phrases when single, everyday words will do. *With regard to* and *concerning the matter of* easily translate into *about*. *In the event that* and *under circumstances in which* are inflated ways of saying *if*.

**Revised Sentence 28a:** We will discuss my recommendation about sentencing if you are convicted. Or, even better:

**Revised Sentence 28b:** We will discuss my sentencing recommendation if you are convicted.

Other inflated phrases include:

- *there is a need for* or *it is important that*: use **must** or **should** [*It is important that we be there on time.* ⇒ We **must** be there on time.];
- *is able to* or *has the ability to*: use **can** [*He is able to appeal.* ⇒ He **can** appeal.];
- *it is possible that*: use **might** or **may** or **can** or **could** [*It is possible that he will be acquitted.* ⇒ He **might** be acquitted.];
- *under circumstances in which*: use **when** [*Defendants might be acquitted under circumstances in which eyewitnesses have poor vision.* ⇒ Defendants might be acquitted **when** eyewitnesses have poor vision.];
- *on the grounds that* or *for the reason that*: use **because** [*He was convicted for the reason that he lied.* ⇒ He was convicted **because** he lied.];
- *prior to* or *subsequent to*: use **before** [*Prior to the end of the trial, the defendant confessed.* ⇒ **Before** the end of the trial, the defendant confessed.] or **after** [*Subsequent to the end of the trial, the defendant confessed.* ⇒ **After** the trial, the defendant confessed.];
- *the fact that*: use **although**, **even though**, or **because** [*He missed the trial due to the fact that he was late.* ⇒ He missed the trial **because** he was late.]

Sometimes verbal clutter arises from the writer's false attempt at precision. The result is an extra word or phrase that can be removed without any loss of meaning.

**Sentence 29:** The police failed to discover the *existence of* the conspiracy between the arsonist and the building owner.

In Sentence 29, the writer believes that he is being precise by specifying that the police were after the conspiracy's very existence, but the phrase is verbose and unnecessary. To uncover a conspiracy is the same as uncovering its existence.

**Revised Sentence 29a:** The police failed to discover the conspiracy between the arsonist and the building owner.

You could further revise Sentence 29 by removing the nominalization *conspiracy* to make the sentence even more direct:

**Revised Sentence 29b:** The police failed to discover that the arsonist and the owner conspired to burn down the building.

Another common verbosity is the phrase “the course of”:

**Sentence 30:** He revealed the secret during *the course of* our phone conversation.

Conversations always have a course or duration so the phrase is unnecessary and should be omitted:

**Revised Sentence 30:** He revealed the secret during our phone conversation.

*In terms of* is another overworked phrase in the lawyer’s vocabulary and should be avoided:

**Sentence 31:** It was a favorable case *in terms of* precedent.

**Revised Sentence 31:** The case was a favorable precedent.

A related kind of clutter is the throat-clearing expression that writers sometimes use to introduce a topic or thought. Expressions such as *it is interesting to note that*, *it is important to point out that*, and *needless to say*, are rarely, if ever, necessary. Let the thought itself carry its own interest or importance: if the point is truly interesting or important, let the reader find it so by how you express it.

#### b. Redundancy

Another type of wordiness is redundancy. Redundant words and phrases are those that repeat what has just been said. A simple example is “the officer’s uniform is blue in color.” Blue is a color, so it is enough to say “the officer’s uniform is blue.” Other common redundancies are found in paired words, such as *future plans*, *consensus of opinion*, *terrible tragedy*, *each and every*, and *period of time*. Why speak of your “*future plans* for getting a job,” when plans necessarily point to the future? *Consensus* means the opinion of most people within the group, so *of opinion* is redundant. And if something is a tragedy, how can it not be terrible? Learn to spot and eliminate these types of redundancies.

**Sentence 32:** The lawyers joined *together* in the appeal.

**Revised Sentence 32:** The lawyers joined in the appeal.

### Do Exercise 10-F Now, p. 212

#### 9. Write in the affirmative, not the negative

Probably because it sounds elegant or complex, some writers habitually use double negatives (such as *not without*) to express an affirmative proposition. For example:

**Sentence 33:** The defendant’s argument is *not without* support under the case law.

The statement is confusing. Does the writer mean that case law does support the argument? Or does the argument have some but not an overwhelming amount of support? Using a double negative is always confusing, almost always ambiguous, and almost always unnecessary. Do not make the reader mull over your possible meanings.

**Revised Sentence 33a:** The defendant’s argument is supported by the case law.

Or, even better, eliminate the passive construction:

**Revised Sentence 33b:** Case law supports the defendant’s argument.

Negative statements can also take a simpler form and be eliminated by carefully choosing the right words. For example:

**Sentence 34:** The victim could *not recall* the color of the car that hit him.

**Revised Sentence 34:** The victim *forgot* the color of the car that hit him.

The next time you are tempted to write: “Not many people . . .” write “Few people . . .” instead.

### Do Exercise 10-G Now, p. 212

## 10. Use precise vocabulary

Because the English language has borrowed from almost every language in the world, it has a rich store of synonyms, and by carefully choosing them, the writer can create quite nuanced prose. Suppose you wish to describe the gait of a severely intoxicated defendant. You might simply say he *walked unsteadily*, or *walked like a drunkard*. But consider these alternatives: lunched, wobbled, staggered, swayed, pitched, listed, tilted, stumbled, reeled, rolled, veered, swerved, and careened.

To keep these nuances straight, you must use a dictionary. Adept use of the dictionary will keep you from any number of verbal blunders. Consider, for example, the problem of prepositions, those short words that connect parts of sentences (in, on, under, around, through, by, of, to, etc.). The wrong preposition can dramatically change the meaning of your sentence.

**Here is a list of the prepositions that attach to the simple word look:** look about, look after, look around, look at, look back, look down, look down on, look for, look forward to, look in, look in on, look into, look on, look out, look out for, look over, look to, look up, look up to, and look upon. *Each phrase has a different meaning.*

Avoid the much overused preposition *as to*; substitute the proper idiomatic preposition instead.

**Sentence 35:** The debate *as to* the defendant's identity took two days.

**Revised Sentence 35:** The debate *over* [or *about*] the defendant's identity took two days.

When you use words in a sentence, make sure the words fit together logically. Another common lack of precision comes from the inexact matching of nouns and verbs. For example, in this sentence, the subject and verb do not match:

**Sentence 36:** The *factors analyze* whether the relationship is parental.

Factors do not analyze, courts and lawyers do. Here is a more precise way to express the thought:

**Revised Sentence 36:** Courts apply the factors to determine whether the relationship is parental.

Similarly, here the writer fails to precisely relate the phrase "Dismissing plaintiff's claim" with the verb "interpreted":

**Sentence 37:** *Dismissing plaintiff's claim interpreted* the statute too narrowly.

The sentence's subject (the phrase "Dismissing plaintiff's claim") cannot interpret a statute. What the writer probably means to say is either this:

**Revised Sentence 37a:** The court interpreted the statute too narrowly when it dismissed plaintiff's claim. *Or this:*

**Revised Sentence 37b:** The court's dismissal of plaintiff's claim was based on an overly narrow interpretation of the statute.

Here is another sentence that sloppily connects concepts, in this case mismatching the sentence's verb and object:

**Sentence 38:** The company discriminated against Mr. Smith's religious beliefs.

Civil rights laws prohibit discrimination against people, not things. The company did not discriminate against the *beliefs*; it discriminated against *Mr. Smith* for his beliefs. Revise to link the proper object with the verb:

**Revised Sentence 38:** The company discriminated against Mr. Smith because of his religious beliefs.

## 11. Avoid legalese: Latinisms, pomposities, and bureaucratese

From the first day of law school, you have been learning some bad writing habits quite unintentionally. You have been reading cases and other legal documents, and many of these cases and documents are poorly written. But that writing may seem to you the model that you should follow. Happily, since some time in the 1980s, the old convoluted, pompous, Latinate prose style of the lawyer has been under sustained attack, and many judges and lawyers have begun to write in a more readable style. But much of the old writing style still endures, some of it in older cases that law students must read and some of it produced by lawyers who have not learned their lessons.

A classic instance of legalese run amok is the following passage from an 1842 English case:

The declaration stated, that the plaintiff theretofore, and at the time of the committing of the grievance thereafter mentioned, to wit, on, etc., was lawfully possessed of a certain donkey, which said donkey of the plaintiff was then lawfully in a certain highway; and the defendant was then possessed of a certain wagon and of certain horses drawing the same, which said wagon and horses of the defendant were then under the care, government, and direction of a certain then servant of the defendant, in and along the said highway; nevertheless the defendant . . . then ran and struck with great violence against the said donkey of the plaintiff, and thereby then wounded, crushed, and killed the same. [*Davis v. Mann*, 10 M. & W. 546, 152 Eng. Rep. 588 (Exch. 1842), quoted in Brian A. Garner, *A Dictionary of Modern Legal Usage* (New York: Oxford University Press, 1987), p. 516.]

This passage illustrates the twin evils of legalese: (1) It makes the writing wordy, trying readers' patience with empty words and phrases. (2) It makes the writing murky, confusing the reader, even though it is intended to clarify.

Although such extended passages today are no longer the norm, the use of unnecessary legal words persists. This does not include the *genuine term of art*, the word or phrase that has an exact meaning within the legal system, like "petition for certiorari" or "parol evidence rule." Rather, much legal writing continues to be overrun with terms such as "theretofore," "said," and "hereinafter."

In his well-known *Plain English for Lawyers*, Professor Richard C. Wydick says of legalese: "Lawyerisms are words like *aforementioned*, *whereas*, *res gestae*, and *hereinafter*. They give writing a legal smell, but they carry little or no legal substance. When they are used in writing addressed to nonlawyers, they baffle and annoy. When used in other legal writing, they give a false sense of precision and sometimes obscure a dangerous gap in analysis." [Richard C. Wydick, *Plain English for Lawyers* (Carolina Academic Press, 4th ed., 1998) p. 61.]

Another kind of legalese is more subtle and widespread and should be avoided for the same reasons.

**Sentence 39:** Pursuant to his request, the witness arrived at noon.

**Revised Sentence 39:** As he requested, the witness arrived at noon.

One mark of an insecure writer is the presence of "big" words when simpler words will do. Saying "the trial commenced" instead of "the trial began" makes the writing stuffy, not elegant. Ordinarily you should eschew the polysyllabic (shun large words). Likewise, you should desist from (avoid) pomposities that often are committed to paper (written) as bureaucrat-speak.

**Sentence 40:** The police *apprehended the perpetrator* at the scene of the arson.

**Revised Sentence 40:** The police *arrested the arsonist* at the scene.

## 12. Avoid hedge words and fillers

Lawyers often hedge for no reason other than a fear of committing themselves to a position. The hesitation is expressed in qualifiers such as *almost*, *seemingly*, and *possibly*, which take away the force of a statement. Use these words sparingly, and then only when the qualification is necessary.

Many lawyers also suffer from a verbal caution that adds nothing to their point:

**Sentence 41:** *It would seem* that you should tell the truth at trial.

Why be afraid to say point blank that a witness should tell the truth? *It would seem* minimizes the underlying point or even suggests that the opposite might on some occasions be a better choice.

**Revised Sentence 41:** You should tell the truth at trial.

At the opposite extreme is the reckless writer, who blithely sprinkles his prose with words such as *clearly*, *undoubtedly*, *obviously*, *necessarily*, *as can be plainly seen*, and *certainly*, as if adding these words will convince the reader that the statements they support are true. If a point is really clear, write a sentence or paragraph that shows it to be so. Do not suppose you have proved your point merely by saying it must be *clearly* so.

Some writers throw in fillers, words that mean little, hoping to make the point more precise. Examples of fillers are *basically*, *generally*, *definitely*, *practically*, *actually*, *virtually*, *given*, *various*, and *different*. Learn to avoid these words.

**Sentence 42:** The witness *pretty much* conceded that he did not see the cars crash.

What does this qualifier add to the point of the sentence? Nothing but fill. Write instead:

**Revised Sentence 42:** The witness conceded that he did not see the cars crash.

### 13. Use an appropriate tone

Tone is the manner or mood that the writing sets. When lawyers think about the tone of their writing, they usually are weighing its formality. Consider the following three sentences from a lawyer's letter to a client:

**Sentence 43:** I am enclosing the contract.

**Sentence 44:** The contract is enclosed.

**Sentence 45:** Enclosed herewith please find the contract.

The tone of Sentence 43 is informal, the way one person would talk to another. Sentence 44 is more formal, impersonal, businesslike. Sentence 45 is inflated, pompous, self-important. Setting the appropriate tone depends on the nature of the document you are writing. An informal tone is usually appropriate in writing a letter, unless it is intended as a formal opinion letter. A brief to a court or government agency always should be written in a formal tone. Although many lawyers write in the pompous tone of Sentence 45, you should learn to avoid it. Strive for a quiet, confident tone that does not call attention to itself, as the bombastic, pretentious style always does.

In a brief or formal memorandum, omit references to yourself as the writer. Do not use *I*, *we*, *us*, or *our*.

**Sentence 46:** I wish to point out that the law of this jurisdiction requires *our* client, the defendant, to . . .

**Revised Sentence 46:** The law of this jurisdiction requires the defendant to . . .

Whichever tone you adopt in a particular document, use it consistently. Readers can adapt to your tone, whatever it is, but will have difficulty adjusting to shifts in tone. If you are addressing the recipient of a letter as *you*, do not suddenly refer to him as *the recipient*.

**Sentence 47:** During our afternoon meeting, the applicability of the law became known to *the attendees*.

The first part of the sentence is informal, since it refers to *our* meeting; the second part lapses into a highly formalized and dense description of what happened. Among others attending the meeting were obviously you and I (otherwise, why refer to *our* meeting?), but the writer refers to us, collectively, as *attendees*.

**Revised Sentence 47:** During *our* afternoon meeting, we learned that the law was applicable.

### 14. Be grammatical and observe the important rules of usage

Every law student is presumed to have a solid grounding in grammar. But since a few grammatical problems are so widespread, the most serious infractions are reviewed here.

#### a. Subject-verb agreement

**Sentence 48:** The *complexity* of the tax issues and the potential *liability* of a large number of non-debtor affiliates *militates* towards abstention by the bankruptcy court.

Here is a (poorly-written) sentence that might be found in a legal memo. The writer has not noticed that the subject of the sentence is compound—"complexity" and "liability"—and therefore requires a plural verb to agree:

**Revised Sentence 48:** The *complexity* of the tax issues and the potential *liability* of a large number of non-debtor affiliates *militate* towards abstention by the bankruptcy court.

**Do Exercise 10-H Now, p. 212**

#### b. Objects of prepositions

**Sentence 49:** This matter is highly confidential, so let's keep what we've discussed just *between you and I*.

This expression is one of the most frequently heard mistakes. The word *between* is a preposition and always requires the pronouns that are its objects to be in the objective case.

**Revised Sentence 49:** This matter is highly confidential, so let's keep what we've discussed just *between you and me*.

Also write *between you and her* not *you and she*.

### c. Who-Whom

The distinctions between *who* and *whom* seem to puzzle many people who otherwise know the difference between *she* and *her*. *Who* is a subject; *whom* is an object. Mistakes often arise because the sentence obscures whether *who* or *whom* is being used as subject or object.

**Sentence 50:** The jury acquitted the defendant, *whom* everyone thought was guilty.

A simple trick is to substitute *she* for *who* or *her* for *whom*. You can see instantly that you would not say “everyone thought *her* was guilty.” Another simple trick is to eliminate the subject and verb that immediately follow *who* or *whom*, and if the sentence still makes sense (even if the meaning is changed), then the pronoun should be *who*:

**Revised Sentence 50:** The jury acquitted the defendant, *who* was guilty.

Because the phrase *everyone thought* can be eliminated (even though the meaning has changed), the proper pronoun is *who*.

### d. Proper usage

Usage is simply the *right way* of using words and phrases. Because the language is constantly changing, grammarians and usage experts are never unanimous. But for many contested words and phrases there is a consensus. Good writing requires proper usage. That is why a good usage reference book is as important as a dictionary.

**Sentence 51:** The penalty for violating the law is *comprised of* three parts.

Although *is comprised of* is often used in spoken language, it is not proper written usage. *Comprise* means to include or contain, not to constitute or compose. You would not say “is contained of,” and you should not use *comprise* in that way either.

**Revised Sentence 51:** The penalty for violating the law *comprises* three parts.

Another common usage error is the phrase *based on*, all too often used as a dangling modifier:

**Sentence 52:** *Based on* a close reading of the statute, he concluded that his client could make the deal.

This sentence states that “he” is *based on* a reading of the statute. But obviously, he is not *based on* what he read. The writer meant to say that the lawyer’s *conclusion* was based on his reading of the law. But in the sentence as written, the phrase “based on . . .” attempts to modify the verb and in so doing winds up making a nonsensical comment about the subject.

**Revised Sentence 52a:** His conclusion that his client could make the deal was based on a close reading of the statute.

**Revised Sentence 52b:** He based his conclusion that his client could make the deal on a close reading of the statute.

Another very common usage mistake is the misuse of “where” for “when”:

**Sentence 53:** Students must read assignments nightly, or *where* this is impossible, at least every other night.

The word *where* refers to location, geographic space. The writer used it to refer to time or to a conditional possibility, for which the proper word is *when*.

**Revised Sentence 53:** Students must read assignments nightly, or *when* this is impossible, at least weekly.

Still another common usage mistake is the omission of a necessary word in a coordinating phrase:

**Sentence 54:** This case is just *as or more important than* the other case you cited.

The writer is asserting two comparisons between the cases: The one is either equal in importance to the other or it is more important than the other. As written, the sentence seems to be saying about the first comparison that the one case is “as important than.” That is improper usage. The proper phrase is “as important as.”

**Revised Sentence 54:** This case is just *as important as or more important than* the other case.

### e. Gender-neutral language

In spoken English, the plural pronouns *they*, *their*, and *them* are commonly used when referring to a singular noun or pronoun (*everyone*, *anybody*, *law school graduate*), as in Sentence 55:

**Sentence 55:** Every law school graduate has until June 1 to submit *their* application to take the bar.

In writing, a singular noun or pronoun requires a singular reference: *anyone* . . . *he*; *everyone* . . . *she*. However, applying this rule forces the grammatical writer into using sexist expressions:

**Revised Sentence 55a:** Every law school graduate has until June 1 to submit *his* application to take the bar.

English unfortunately does not have a singular, ungendered pronoun to match *everyone*, *anyone*, etc. To avoid using sexist pronouns, omit the pronoun reference or use the plural.

**Revised Sentence 55b:** Every law school graduate has until June 1 to submit an application to take the bar. (Pronoun omitted)

**Revised Sentence 55c:** All law school graduates have until June 1 to submit *their* applications to take the bar. (Plural)

## 15. Use proper punctuation

Punctuation is a crucial ingredient in written work. Proper punctuation makes connections clear. Improper punctuation can obscure or alter the meaning of a sentence. Here are some common punctuation problems:

### a. Apostrophes

Apostrophes indicate either possession or the combination of two words and the omission of a letter or letters in a contraction. Since contractions should not be used in professional writing, the apostrophe usually indicates possession: the *lawyer's* office, the *women's* vote. Words not ending in “s” rarely pose a problem; singular nouns ending in “s” sometimes prove troublesome. Purists require an apostrophe followed by a final “s”: *James's* car. Plural nouns take the apostrophe after the final “s”: *readers'* eyes. Perhaps the greatest confusion arises between *its* and *it's*.

**Sentence 56:** The security guard reported that the office door had *it's* lock picked; “*its* wide open,” he said.

Both words are incorrectly used in Sentence 56. Referring to the door's locks, the pronoun required is the possessive *its*, without the apostrophe, just as you would say of a person's wallet: *his* or *her* wallet. When the security guard speaks about the door, he means to say that “it is wide open”; *it's* is a contraction for *it is* and takes an apostrophe to indicate the missing letter “i.”

**Revised Sentence 56:** The security guard reported that the office door had *its* lock picked; “*it's* wide open,” he said.

### Do Exercise 10-1 Now, p. 213

### b. Commas

Commas pose many problems for the unwary: the omission of one comma when a pair is required, the misuse of the comma surrounding the word *however*, and the substitution of the comma for other punctuation in run-on sentences.

**Sentence 57:** The *team* of lawyers, working all night *managed* to draft the contract before the office opened.

The phrase *working all night* is an aside, a comment about the team of lawyers. It requires a second comma to set it apart. Not finding it makes the reader lose the connection between the subject, *team*, and the sentence verb, *managed*.

**Revised Sentence 57:** The *team* of lawyers, working all night, *managed* to draft the contract before the office opened.

Including or omitting a pair of commas can change the meaning of a sentence. Pay attention to the way in which commas tell the reader how the phrase applies to the meaning of the noun that the phrase modifies.

**Sentence 58:** Lawyers who work all the time are chronically depressed.

**Sentence 59:** Lawyers, who work all the time, are chronically depressed.

Sentence 58, without the commas, says that only certain lawyers, those who work all the time, are chronically depressed. But Sentence 59 says something



quite different: it asserts that *all* lawyers are chronically depressed. The phrase “who work all the time” is a side comment about lawyers in general.

**Sentence 60:** The client managed to find the crucial documents, however, he did not find them until after the lawyer went home.

Sentence 60 is an example of a run-on sentence (sometimes called a *comma splice*, because two separate sentences are incorrectly connected by a comma). When using the word *however* in this sense, you must separate the first sentence from the second with either a period or a semi-colon.

**Revised Sentence 60a:** The client managed to find the crucial documents. However, he did not find them until after the lawyer went home.

**Revised Sentence 60b:** The client managed to find the crucial documents; however, he did not find them until after the lawyer went home.

Although *however* often seems to lead to comma splices, sentences can be run-on in many other ways.

**Sentence 61:** The lawyer was exhausted, he had been working for 36 hours straight.

These are two separate thoughts, each with a subject and verb, and they cannot be joined by a comma. Use a connecting word, a semi-colon, or a period.

**Revised Sentence 61a:** The lawyer was exhausted *because* he had been working for 36 hours straight.

**Revised Sentence 61b:** The lawyer was exhausted; he had been working for 36 hours straight.

**Revised Sentence 61c:** The lawyer was exhausted. He had been working for 36 hours straight.

When beginning a sentence with a connecting word (*and, but, or, because, yet, etc.*), do *not* follow with a comma:

**Sentence 62:** The lawyer told her client that everything would work out. But she was not so sure.

Incidentally, despite what someone may have told you years ago, there is no rule against beginning a sentence with any one of these words.

**Do Exercise 10-J Now, p. 213**

Much more could, of course, be said about principles of sentence construction, grammar, and usage. The *Merriam-Webster Dictionary of Usage*, for example, is 978 pages long. But the writer who studies and masters the 15 basic principles illustrated in this chapter will avoid the worst mistakes and produce sentences that are guaranteed to be readable.

## EXERCISES

### Exercise 10-A

*Correct the following sentence fragments.*

1. The inmate asked to use the prison law library. To research the grounds for his appeal.
2. Although the employer knew that sexual harassment in the workplace is illegal. She made sexually disparaging remarks to her male employees.
3. The doctor asked his new partner to sign a restrictive covenant. To prevent unfair competition if the partnership terminated.

### Exercise 10-B

*Rewrite the following sentences so that the modifiers refer to the correct word(s).*

1. Only Trial Advocacy is offered in the third year of law school.
2. Well-written and readable, the lawyer drafted a brief.
3. The evidence, a scarf, was introduced by the prosecutor checkered and torn.
4. The student appealed to the teacher trying to raise his grade.
5. The defendant was distraught because the judge, sentenced to fifteen years in prison, showed no mercy.
6. The court reasoned, at the time the purse was taken, that the defendant acted with felonious intent.

### Exercise 10-C

*Rewrite the following sentences so that they have parallel structures.*

1. When writing a legal memo, you should analyze the relevant case law and why certain facts are important.
2. The court admitted the lineup identification, suppressed the confession, and the severance motion was denied.
3. The first-year student hoped that the workload would diminish and the tests would be easy.
4. The attorney interviewed the client, researched the claims, and the facts were investigated.
5. The law review editor reviewed the chronology of the string citations and that the quotations were accurate.

### Exercise 10-D

*Rewrite the following sentences to place the action in the verb.*

1. The detective's failure to uncover sufficient evidence created despair in the assistant district attorney.
2. The chemist made a determination that the white powder was cocaine.
3. The employer did an analysis of the productivity of its workers.
4. The victim was the owner of the jewels.
5. The debtor made an application for an extension of the term of her loan.

### Exercise 10-E

*The following sentences are written in the passive voice. Rewrite them in the active voice.*

1. A counterclaim for misappropriation of trade secret information was filed by Sam Becker, a defendant in a breach of contract case.

2. The brief, addressing the constitutionality of Nirvana's anti-stalking statute, was written by the moot court team.
3. A severance agreement was executed by Jane Williams and EFG Company.
4. The failure to inspect the tires was realized by the mechanic on duty.

**Exercise 10-F**

*Rewrite the following sentences to make them more concise.*

1. The employer could have reasonably concluded and therefore foreseen that the employee was unfit and had something in his background that rendered him dangerous to third parties.
2. Our client, whose name is Jordan Wilson, was engaged in the course of drinking in the company of a friend at a local bar.
3. With respect to the issue of intent, the court admitted the said evidence heretofore offered by the plaintiff.

**Exercise 10-G**

*Rewrite the following sentences in the affirmative.*

1. The litigant's argument is not unlike that in the precedent case.
2. The divorce decree will not become invalid unless it was procured by fraud.
3. Not very many of the employees were entitled to a three-week vacation.

**Exercise 10-H**

*Correct the following sentences to make the verbs agree with the subjects.*

1. One of the assistant district attorneys in the Office of the District Attorney for Arcadia County are charged with witness tampering.
2. Either the plaintiff or defendant are filing a motion.
3. Neither the nurse nor the medical assistants is able to perform the procedure.
4. Neither the father nor the aunt are competent to care for the child.
5. The jury, after deliberating for two weeks, are ready to render a verdict.

**Exercise 10-I**

*Insert necessary apostrophes and delete unnecessary apostrophes in the following sentences.*

1. The law firm invited its' summer associates to a black-tie fund raiser for it's *pro bono* program.
2. The Hathaways fifteen-year-old son was arrested for vehicular homicide.
3. The publisher gave a list of it's new books to the law school.
4. Its very difficult to master legal analysis in the first semester of law school.
5. The court dismissed the co-defendants counterclaims.

**Exercise 10-J**

*Insert necessary commas, delete unnecessary commas, and correct run-on sentences and comma splices in the following sentences.*

1. The lawyer retained a handwriting expert Carter Harris to analyze the documents.
2. The check vouchers however did not incriminate the politician.

3. The student was an excellent writer but she did not proofread her brief before submitting it to a prospective employer.
4. The landlord installed smoke detectors and, repaired the broken door locks.
5. She prepared, for the oral argument, by reviewing the trial transcripts and briefs.
6. The lawyer was late for the hearing. But, he had an excuse.
7. The defendant wanted to represent herself at trial, she thought her attorney was incompetent.
8. Jones filed a negligence claim against the supermarket when she was shopping there she slipped on a banana peel and broke her ankle.
9. The parents complained about the dangerous conditions in their children's school, they wanted metal detectors installed at the entrances to the building.
10. Madison's business is incorporated in Delaware he wants Florida law to apply to the contract.

# Revising for Effectiveness and Editing for Readability

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**When you master this chapter, you will understand why every document must be**

1. revised and edited;
2. properly structured; and
3. edited in discrete steps.