

Notes on Writing for Law Students

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Different kinds of writing have different purposes and different conventions, and, alas, some of the conventions that you may have learned in other disciplines are not appropriate for legal writing. In most legal writing, the goal is persuasion through effective reasoning, with precise and concise writing as the means. Writing clearly is more important than writing evocatively; plain writing is more effective than rhetorical flourishes or a grand style.

In other writing, you might use the thesaurus function to find synonyms for a word that you use repeatedly; in legal writing, a change in term signals a change in meaning. The monotony of consistency is preferable to the uncertainty of variation. In other writing, too, you may have been encouraged to use the passive voice, that is, to write as if everything happened without human agency. Instructors might have been encouraged you to write up lab reports of experiments in which "the water was poured" (passive voice) instead of "John poured the water" (active voice). Who poured the water may not matter to the experiment, but in legal writing, the reader often cares very much who did what. So use the active voice.

The above examples are two habits of writing that you may have to eliminate to make your writing clear, precise and concise. The following notes provide some help in doing that, but they are just notes. You should purchase a good grammar and style guide for yourself, and you should work through some of the exercises in those books. The notes below refer to Strunk and White, *Elements of Style*, a classic style guide, now available from various online sources simply by typing Strunk and White into your web-browser. Entertaining and brief, it does not attempt to answer a great many questions that vex grammarians. Neither do these notes, but if you follow them in your writing, you may be able to avoid vexing the grammarians among your readers. Along with the notes are simple exercises, with answers. Have fun with them, with the many "plain language" websites now available, and with the books on writing on reserve in the library, such as *Synthesis: Legal Reading, Reasoning and Writing In Canada*, 2nd edition.

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1. The Building Blocks of Sentences

Nouns and Verbs

Nouns identify people, places, things (tangible and intangible), and concepts. Nouns are used as subjects and as object of verbs, i.e., to identify who or what is the actor in the sentence and who or what is the focus or recipient of the action. Verbs express the action in a sentence.

Example: When professors make mistakes, students notice.

subject verb object subject verb

Adjectives (adj.) add information about nouns. Adverbs (adv.) add information about verbs.

Example: Busy professors sometimes make careless mistakes. Alert students quickly notice.

adj. adv. adj. adj. adv.

Verbs come in many forms. The root form is called the infinitive, e.g., to do, to think, to act. Adding "ing" to a verb form creates a gerund, eg. doing, thinking, acting. Gerunds can serve as nouns (Thinking takes effort.), as adjectives (Thinking professors make fewer mistakes.), or as the opening word in phrases that function as adjectives (Thinking about the work to do, she began to panic.).

Subject/Verb Agreement

In English, verbs may have different forms indicating singular and plural, and indicating whether the subject of the sentence is first person (I/we), second person (you/you), or third person (she, he, it, John, Jane/they, John & Jane). The verb must agree in number and person with the subject of the sentence.

Correct Example: (all of the underlined verbs are in the simple present tense) The President of the Law Students' Society is (singular, third person) at a press conference this morning to explain the report. Students who disagree (plural, third person) with the report are (plural, third person) there to express their concerns. Jane disagrees (singular, third person) with the report but she and I are (plural, first person) too busy to go.

Most students write sentences of this sort correctly even if they do not have the technical language to explain what they are doing, but they may make mistakes with more complex sentences, especially if the subject is separated from the verb by a group of words that seems to be the subject.

Correct Example: The excitement of the first day of school--fresh pencils and erasers, clean notebooks, unopened texts--slowly ebbs away. (The singular noun "excitement" is the subject, and so the verb is also in the singular.)

Correct Example: One of the joys of the first day of school is making new friends. (The subject here is "one", not "joys", and so the verb is in the singular.)

Subject and Verb Proximity

In English, the order of words in a sentence may determine the meaning of the sentence. "The man bit the dog." describes quite a different event than "The dog bit the man." Ordinarily, readers expect to find the subject at the beginning of the sentence, with the verb following soon thereafter. If you leave the verb to the end of a long sentence, readers may lose track of the message, as in the following egregious example of a delayed verb:

"Carlos, by beginning his work early, using online catalogues and electronic databases to compile a bibliography, reading broadly, making careful notes, synthesizing material from many sources, developing a tentative thesis and argument, organizing the material to support his argument, drafting effective topic sentences, editing for precision, clarity and conciseness, and meeting deadlines, wrote a good paper."

Reword this sentence so that the reader already knows the significance of the long list of gerundial phrases that will follow, by beginning with the main subject and verb: "John wrote a good paper by beginning his work early" Even better, break up the list into a couple of sentences.

2. Sentence Construction: Avoiding Dangling or Misplaced Modifiers

When using adjectival or adverbial phrases, make sure that the phrase modifies the appropriate noun. In the following sentences, adapted from Strunk and White, *The Elements of Style*, or from student papers, the adjectival phrase is either misplaced (separated from the noun it modifies), or dangling (with no appropriate noun or pronoun to modify). In both cases, it may be necessary to re-structure the sentence to clarify how the adjectival phrase fits with the rest of the sentence.

Incorrect Example: Divided into three parts, the author deals with the factual background, the legal arguments, and the public response. (dangling)

Corrected: The book is divided into three parts, dealing with the factual background, the legal arguments, and the public response.

OR The author divides the book into three parts, dealing with the factual background, the legal arguments, and the public response.

Incorrect Example: Wondering irresolutely what to do next, the clock struck twelve. (dangling)

Corrected: As I wondered irresolutely what to do next, the clock struck twelve.

Incorrect Example: Being in a dilapidated condition, John bought the house cheaply. (misplaced)

Corrected: Because the house was in a dilapidated condition, John was able to buy it cheaply.

Incorrect Example: The *Canadian Dictionary of Biography* is now available online for those who died before 1920. (misplaced)

Corrected: The *Canadian Dictionary of Biography*, including those who died before 1920, is now available online.

3. Linking Dependent and Independent Clauses: Punctuation and Conjunctions

Great creative writers can dispense with punctuation. Novelist José Saramago and poet e. e. cummings, among others, broke the rules about capitalization, spacing and punctuation to convey their message. But novels and poetry are a different genre than legal writing. The legal writer generally writes to persuade others through reasoned argument, supported with evidence, and the reader of legal writing expects proper punctuation. Clarity matters, and punctuation helps with clarity by showing the reader how to divide the words on the page into information items or groups of items, and how these items or groups of items are related. Different punctuation indicates different relationships.

The period (.) marks a full stop, and is used at the end of a sentence. A sentence makes a grammatically complete statement (or question, request, command or exclamation). It is possible to have complete sentences that are composed of a single word (Stop! Why? Never!), but most sentences contain, as their basic components, both subject and verb. It may be possible to express a complete thought without the necessary components for a complete sentence, but in legal writing, readers expect complete sentences, with a capital for the first word in the sentence and a period after the last word.

In more complicated sentences, with more than one verb and subject, appropriate punctuation establishes the relationship of the component parts of the sentence. Colons (:) and semi-colons (;) are used to join independent clauses that the author has decided are so closely connected that they should be presented in a single sentence, even though they have the grammatical elements necessary to be separate sentences. To join independent clauses, choose the punctuation that conveys the closeness of the connection.

Correct Examples:

She rose early every morning. The silence soothed her.

She rose early every morning: the silence soothed her.

She rose early every morning; the silence soothed her.

Commas can be used to link independent clauses, but only if they are used with a co-ordinating conjunction, such as "and," "but," "nor," "so," or "yet." According to the conventions of English grammar, a comma is not strong enough to join two independent clauses. The first example below is correctly punctuated. The second is not; it uses a comma alone to link two independent clauses -- an error that grammarians call a comma splice.

Correct Example: She rose early every morning, and the silence soothed her.

Incorrect Example: She rose early every morning, the silence soothed her.

For a full stop between two independent clauses, make them into separate sentences with a period. To link two independent clauses in single sentence, use a colon, or semi-colon. Students more often err by using commas in situations that are beyond the comma's ability than by using a colon or semi-colon incorrectly.

Two independent clauses can be linked with a comma and a co-ordinating conjunction, or, for relatively short sentences, with just a co-ordinating conjunction. If the words used between two independent clauses are not co-ordinating conjunctions, the sentence requires different punctuation, as in the next example. Because "however" is not a co-ordinating conjunction, if it is used to show the relationship between two independent clauses, the punctuation that links the two must be stronger than a comma.

Incorrect Example: She rose early every morning, however, the silence soothed her.

Correct Examples:

She rose early every morning; however, the silence soothed her.

She rose early every morning. However, the silence soothed her.

(Note that use of "however" asserts something different about the relationship between the early rising and the silence than did the previous sentences.)

Writers may choose to turn one of two or more independent clauses into a subordinate, or dependent clause, and connect it to the remaining independent clause with a conjunction that emphasizes a particular logical relationship, as follows:

Correct Example: She rose early every morning because the silence soothed her.

The choice of which clause to subordinate, or which subordinating conjunction to use, is a choice about meaning. For example, think about how the following sentences differ in meaning from each other and from the previous sentences.

Correct Examples:

The silence soothed her because she rose early every morning. (assertion of causation)

She rose early every morning even though the silence soothed her. (assertion of contrary relationship -- the silence soothes her, but she gets up anyway -- the silence is now the silence that she leaves behind in rising, not the silence that greets her on rising)

As she rose early every morning, the silence soothed her. (statement of temporal relationship - at the time that she rose, the silence soothed her OR assertion of causation -- the silence soothed her because she rose early)

A sentence fragment is usually the product of incorrect use of punctuation, not of the writer failing to express a complete thought. Once one of two related independent clauses has been subordinated to the other, it cannot stand as a separate sentence, separated from the independent clause with a period, but must be tied to the main clause with punctuation and conjunctions.

Incorrect Example: She rose early every morning. Because the silence soothed her.

Corrected: She rose early every morning because the silence soothed her.

OR Because she found the silence soothing, she rose early every morning.

When using conjunctions and other words or phrases as signposts for the reader, choose the one that is least ambiguous.

The following list groups commonly-used conjunctions and other transition words and phrases by their purpose:

To introduce: first, initially, to begin, primarily, in general

To establish a sequence: first, second, third; initially, next, finally; earlier, later; before, subsequently, after; simultaneously

To establish a causal or logical connection: because, accordingly, consequently, since, so, thereby, therefore, thus, hence, as

To offer an example: for example, for instance, that is, to illustrate, in particular, specifically

To signal an analogy: similarly, also, analogously, again

To contrast: however, but, on the other hand, yet, unlike x, in contrast, nevertheless, nonetheless, rather, although, despite, alternatively

To add or amplify: again, moreover, furthermore, additionally, similarly, also

To restate: that is, in other words, more simply, in brief, as noted

To wrap up: to conclude, in summary, to review, finally, as a result, as we have seen, thus, so

For maximum clarity, choose words that have one meaning rather than many.

"Because" makes a claim about a causal connection — that something happened by reason of or on account of something else -- and is a good word to use in analytical papers in which you are trying to explain why things happened as they did.

"Since" and "as" are also on the list above as words to establish a causal or logical connection, but because they have other meanings as well, "because" is usually a better choice when you want a word to establish a causal connection.

"As" is particularly likely to introduce ambiguity, because it has four different purposes. It can show a causative relationship (because), or a contrary relationship (though). It can also show a concurrent temporal relationship (while, when), or it can show sameness (as if, in the same manner or degree, in accordance with).

"Therefore" and "however" are NOT interchangeable. Look at the list above and choose the one that conveys what you mean.

4. Verb Tense

Verbs express the action of a sentence, and indicate the time frame of the action -- past, present or future. Very simply put, if the action is in the past, use the past tense. If the action will happen in the future, use the future tense. The present tense is for what is happening now, e.g.: Yesterday I bought a cat. (past) Now the cat sleeps on my favourite chair. (present) Perhaps tomorrow I will give the cat to my sister. (future)

The following list provides examples of the main verb tenses used in English.

<i>Tense</i>	<i>Examples (all in the active voice)</i>
past perfect	The dog had chased the cat yesterday before the cat disappeared.
past perfect progressive	The dog <i>had been chasing</i> the cat yesterday before the cat disappeared.
past progressive	The dog <i>was chasing</i> the cat when the cat disappeared.
simple past	The dog chased the cat yesterday.
present perfect	The dog has chased the cat continuously since yesterday.
present perfect progressive	The dog <i>has been chasing</i> the cat all day.
present progressive	The dog <i>is chasing</i> the cat now.
simple present	The dog chases the cat every day.
future perfect	The dog will have chased the cat by the time we get there.
future perfect progressive	The dog <i>will have been chasing</i> the cat for several hours by the time we get there.
future progressive	The dog <i>will be chasing</i> the cat all day tomorrow.
simple future	The dog will chase the cat tomorrow.

The simple past, present and future are the most commonly used tenses, but in the English language, it is possible to express quite complex time relationships using perfect tenses (for an actions that was, is or will be completed) and progressive tenses (for an action that was, is or will be ongoing.) Progressive tenses combine a form of the verb "to be" (had been, has been, will have been, was/were, is/are, will be) with another verb. These forms are put in italics in the example above. Future tenses also used a form of the verb "to be" (will).

In legal writing, use the past tense to summarize what judges decided in their reasons for decision, but use the present tense to summarize what a statute requires.

5. Verb Voice: The Perils of the Passive

Sometimes students confuse the tense of a verb with the passive voice form of a verb. Voice is used, among other things, to describe the distinction between an active form of a verb (expressing what an identified actor or agent is doing) or a passive form of a verb (expressing the outcome of the action, using the object of the action as the subject of the sentence). For example:

Active Voice: The dog chased the cat.

Passive Voice: The cat was chased by the dog.

All forms of the passive voice combine a form of the verb "to be" with another verb. The examples of verb tenses above are in the active voice. Here are the same verb tenses in the passive voice, with underlining to show the form of the verb "to be" used to make the passive voice.

<i>Tense</i>	<i>Examples (all in the passive voice)</i>
past perfect	The cat had <u>been</u> chased yesterday before the cat disappeared.
past perfect progressive	The cat had been <u>being</u> chased yesterday before the cat disappeared.
past progressive	The cat was <u>being</u> chased when the cat disappeared.
simple past	The cat <u>was</u> chased yesterday.
present perfect	The cat has <u>been</u> chased continuously since yesterday.
present perfect progressive	The cat has been <u>being</u> chased all day.
present progressive	The cat is <u>being</u> chased now.
simple present	The cat <u>is</u> chased every day.
future perfect	The cat will have <u>been</u> chased by the time we get there.
future perfect progressive	The cat will have been <u>being</u> chased for several hours by the time we get there.
future progressive	The cat will be <u>being</u> chased all day tomorrow.
simple future	The cat will <u>be</u> chased tomorrow.

Passive voice constructions have their place, for example, if the writer cannot identify the agent of the action (The cat was chased, but no one knew by whom.) or does not want to identify the agent of the action (The cat was chased.).

Perhaps the writer wanted to avoid naming the agent of the action in the previous example because it was the writer's dog that chased the cat. Passive voice can be used to obscure agency and thereby to suggest that no one is responsible for whatever happened. Think about the impact of a politician or an administrator saying "Mistakes were made" -- acknowledging wrongdoing and disavowing responsibility for it at the same time.

In law, we are often concerned with assigning liability for errors or wrongdoing, and that requires us to identify the agent responsible for the action. If we use the passive voice, we may lose sight of the responsible agent. Here is the passive voice version of the previous sentence: "If the passive voice is used, the responsible agent may be lost sight of." Note how human agency disappears, and how stilted the sentence sounds.

Often, passive voice constructions are more awkward and wordy than active voice constructions, while conveying less information. For example:

Passive Voice: It will have to be established that a promise was made by Fred that the leaking roof would be fixed by his company. (Who has to establish the promise?)

Active Voice: The plaintiffs will have to establish that Fred promised that his company would fix the leaking roof.

Passive Voice: It was decided by a majority of the court to deny the appeal.

Active Voice: A majority of the court denied the appeal.

Shifting from passive voice to active ensures that you identify the person who is the subject (the actor or agent), and usually gives you a shorter, more effective sentence.

6. Pronouns and Antecedents

Pronouns are words to use in place of nouns (words that name people, places, things, or abstractions) in order to refer back to the noun without repeating it. The form of pronouns may vary according to the case (determined by function in the sentence), the number of the person or thing that the pronoun refers to (either singular or plural) and whether the pronoun refers to what grammarians call the first person (I, we), the second person (you), or the third person (he, she, it, they).

Pronouns must refer back to an identifiable antecedent -- the word, phrase or clause to which the pronoun refers -- and must agree in person, number, and gender with their antecedents. Thus, a singular noun should be replaced by a singular pronoun, and a plural noun by a plural pronoun. Writers are likely to err here if they lose track of the antecedent, or if they think of the antecedent as many individuals when it is really a collectivity.

Incorrect example: The court rejected the defendant's argument because they distinguished between a right and a privilege.

How to correct: Use "it" in place of "they" OR replace "The court" with "The justices"

It is becoming acceptable to use the plural pronoun to refer to both plural and singular antecedents, in order to eliminate language that perpetuates gender-stereotyping but, in order to avoid the censure of old-fashioned readers, try rewording the sentence to use a plural antecedent instead.

Correct Example: Cabinet ministers are chosen for their experience.

Not: A Cabinet minister is chosen for his (his or her) (their) experience.

In using pronouns, where there is any possibility of ambiguity, repeat the antecedent rather than substituting a pronoun. The writer of the following sentence intended "they" to refer to the paintings, but the word order suggests that "they" refers to the donors. Did the donors donate the paintings because the gallery staff framed the donors?

Incorrect Example: The current exhibit at the art gallery features paintings purchased for the gallery by donors. They were all framed by gallery staff.

i) Personal, possessive and reflexive pronouns

Personal pronouns in the subjective or nominative case are used as the subject of a verb.

Example: **I** wrote the paper.

Personal pronouns in the objective case are used as the object of a verb or a preposition.

object of a verb – Here is another paper. Jill wrote **it**.

object of a preposition – The binder is on the table. Put the paper in **it**.

Possessive pronouns show the relationship between the thing referred to and a particular person.

Example: This paper is **mine**. That paper is **hers**.

The list below includes possessive adjectives for comparison with possessive pronouns.

Possessive adjectives are used with a noun to show the relationship between it and a particular person.

Example: This is **my** paper. That is **his** paper.

Reflexive pronouns show that the object or indirect object of a verb is the same person or thing as the subject of the verb.

Example: We all introduced **ourselves**.

	Personal Pronouns		Possessive Pronouns	Possessive Adjectives	Reflexive Pronouns
	Subjective case (replace subjects)	Objective case (replace objects)			
<u>Singular</u>					
1st	I	me	mine	my	myself
2nd	you	you	yours	your	yourself
3rd	he, she, it	him, her it	his, hers its	his, hers its	himself, herself itself
	one	one	one's	one's	oneself
<u>Plural</u>					
1st	we	us	ours	our	ourselves
2nd	you	you	yours	your	yourselves
3rd	they	them	theirs	their	themselves

Nowhere in this table is the word "it's." "It's" is a contraction of a pronoun, "it" and a verb, "is", just as "that's" is a contraction of "that is" and "I'm" is a contraction of "I am." Contractions are not appropriate for formal prose, so "it's" should never appear in formal writing. Just remember that "its," like "his" and "hers" departs from the ordinary English use of the apostrophe to show possession.

ii) **Demonstrative Pronouns: This and That**

English uses the demonstrative pronouns, this and that, to demonstrate which of two things the speaker is indicating.

Example: **This** paper is mine. **That** one is yours.

Do not use "this" to refer vaguely to some antecedent that is not identified in the text.

Incorrect example: For many years, the villagers had been complaining that their water was

contaminated with pollutants, their sewage system leaked, and their hospital was understaffed. This contributed to disease.

To correct: Replace "this" with an appropriate noun, such as "These problems"

iii) Relative Pronouns: That and Which, Who and Whoever

Relative pronouns serve as conjunctions, joining a relative clause to a main clause. A relative clause provides more information about someone or something in the main clause. As this is also the function of adjectives, these relative clauses are sometimes called adjectival clauses. They are also referred to as dependent clauses or subordinate clauses, because they cannot stand alone but must be connected to a main clause. Common relative pronouns are that, which, who/whom, whoever/whomever, whose.

Those who would like different pronouns to have different functions insist on a usage distinction between the words "that" and "which," based on a distinction between two different kinds of relative clauses. Accordingly to these grammarians, **that** should be used to introduce restrictive relative clauses, while **which** should be used to introduce non-restrictive relative clauses.

Restrictive relative clauses define the thing referred to by limiting the reference to one specific item within an otherwise general category.

Examples: People were eager to see the horse that won the race.

Make of list of the books that have influenced your thinking.

Non-restrictive relative clauses give further information about something but the information is not needed to identify or limit the reference.

Correct Examples: The car, which was recently painted, looks almost new.

I have read all of her books, which have influenced me greatly.

There is generally more use of "that" as a relative pronoun in informal communication than in formal communication. This is not because "that" is informal while "which" is formal, but because in everyday speech, with its short detached sentences, we are less likely to use sentences that include non-restrictive relative clauses. So resist the temptation to change every "that" to a "which" to make your writing sound more formal. And avoid distracting readers by substituting "which" for "that" arbitrarily, especially in the same sentence, in the misguided quest for elegant variation.

As Sir Ernest Gowers ruefully observed in the 2nd edition of *Fowler's Modern English Usage* (1965), "what grammarians say should be has perhaps less influence on what shall be than even the more modest of them realize; usage evolves itself little disturbed by their likes and dislikes." In short, usage changes, so writers need not agonize over the choice of "that" or "which" as the correct relative pronoun, unless they are writing for old-fashioned grammarians.

Grammarians who insist on the usage distinction between "that" and "which" also insist that all non-restrictive relative clauses (introduced by "which") should be bracketed with commas while restrictive relative clauses (introduced by "that") should not be bracketed with commas. The more contemporary approach is to use commas to bracket longer relative clauses, and to omit the commas with shorter relative clauses. If you use commas to bracket a clause that does not begin or conclude a sentence, make sure to close the brackets with a comma before and after the

clause.

As relative pronouns, "that" and "which" can be used to refer to people or things, but "who" can be used only for people. Relative pronouns do not have different forms for different persons, numbers or genders. But "who" and "whoever" have different forms in the subjective and the objective cases.

Subjective (who, whoever)

We have hats for everyone
who offered to help.

We have jobs for all who can
help, whoever they are.

Objective (whom, whomever)

We have hats for everyone
whom we contacted.

We have jobs for whomever
we contacted.

iv) Interrogative Pronouns

Most of the relative pronouns can also be used as interrogative pronouns, to ask a question. Interrogative pronouns do not have different forms for different persons, numbers or genders, but "who" and "whoever" have different forms in the subjective and the objective cases. Note that "whoever" and "whomever" as interrogative pronouns are used to make the question more emphatic, but they sound somewhat stilted to the modern ear.

Subjective (who, whoever)

Who offered to help?

Whoever would agree to help
under those conditions?

Objective (whom, whomever)

Whom did they get to help?

Whomever could they get to help
under those conditions?

v) Indefinite Pronouns

Indefinite pronouns, such as anybody, somebody, or everybody, do not refer to a specific person or thing. Grammarians differ as to which indefinite pronouns are singular and which plural, but the list below is generally unlikely offend anyone.

singular: anybody, anyone, anything, each, everybody, everyone, everything, nobody, no one, nothing, somebody, someone, something

variable: all, any, either, neither, none, most, some

plural: few, many, several

Correct example: Each is entitled to have his or her money refunded

Either of the employees is willing to serve this client.

None of the employees is willing to serve this client.

Some of the employees are willing to serve this client.

All of the employees are willing to serve this client.

None of us are satisfied with our dinner, and few of us are satisfied with the service.

7. Plurals, Possessives, and Contractions

In English, we generally add an "s" or "es" to the singular form of a noun to make it into a plural noun (one dog, three dogs; one dish, three dishes). There are, of course, irregular plurals (one child, three children; one ox, two oxen) and one simply has to learn these. There are no plural forms, though, that are made by adding an apostrophe to a singular noun.

In English, we generally add an apostrophe (') followed by an "s" to make the possessive form of a singular noun, i.e., to show that some one or thing has ownership or possession or custody (not in the legal sense of any of those words) of something else, or that some thing is an attribute or action of some one or thing. For example, we might say child's dish, dog's tail, library's rules, gambler's addiction, men's room, car's arrival. It is grammatically correct, too, to create the possessive form by saying "the dish of the child" although we ordinarily use "of the" to make the possessive when the possessive form with the apostrophe is awkward, e.g. the decision of the ten members of the inner circle; the rules of the main and satellite libraries.

To make a noun both plural and possessive, create the plural form first, then the possessive form, as in "the children's dish". If the plural form ends in an "s", as most English plurals do, add an apostrophe alone to the plural form, without the "s" that ordinarily shows the possessive (the dogs' dishes) or, if that is awkward, use the "of" form of the possessive (the dishes of the dog).

Possessive adjectives and possessive pronouns (my/mine, your/yours, his, hers, its, our/ours, their/theirs) do not contain an apostrophe.

Correct Example: It's so cold in here that the dog has hidden its paws under its head.

Note that the sentence above illustrates another use of the apostrophe in English -- to indicate that two words have been combined into one by eliminating some letters and running what is left together -- here "it's" for "it is". Most often when we do this in English, we combine a pronoun and a noun (I'm, you're, he's, she's, we're, they're; we've, they've) but we can also combine a verb and its negative (can't, don't, won't, haven't, shouldn't). All of these word forms are called contractions: contractions are not appropriate for legal writing.

8. Italics

In legal writing, use italics (*italics*) for titles of statutes, style of cause of cases, titles of works of art, titles of books, names of newspapers, and names of ships. If your manuscript is not in typescript, or if you cannot produce italics on your typewriter or printer, use underlining to indicate italics.

Use italics as well for words or abbreviations in foreign languages, unless common use of the foreign word or abbreviation has made it part of everyday English. The choice whether to italicize a word or abbreviation from a foreign language may depend on audience. Words that have been anglicized among legal writers might require italics in writing intended for a general audience. Consult a good contemporary legal dictionary or style guide for current usage.

9. Parallelism

Elements in a list or in a series must be in the same grammatical form -- whether the list or series is incorporated in a sentence with the elements of the list or series joined by commas and a conjunction, or whether the elements are presented explicitly as a list with items that are numbered or lettered. Parallel form for the parts of a sentence that have the same function helps the reader keep track of how the parts of the sentence fit together.

In the following examples, the list or series are in italics, the conjunctions are in boldface, and the function of the words in the list is explained in parentheses.

Correct Examples:

The draft contract is *accurate, complete, and concise*. (series of three adjectives)

The lawyer *drafted* the contract, *reviewed* it carefully, **and** *sent* it to the client by courier. (series of three verbs, all in the past tense)

The social worker approached the counselling session *efficiently*, **yet** *compassionately*. (series of two adverbs)

Incorrect Example:

I like being at law school because I like being in congenial company, fascinating Supreme Court decisions, and having time to bake bread.

In the sentence above, the words "being" and "having" introduce gerundial phrases, but the word "fascinating" does not. You can re-write this sentence by supplying the missing gerund (reading fascinating Supreme Court decisions) or by changing the gerundial phrases to noun phrases (congenial company, fascinating Supreme Court decisions, and time to bake bread.)

The more complex your sentences, the more important and the more difficult it becomes to maintain parallel grammatical forms. Maintain the parallel form even if you have to repeat some elements of the sentence. Variation for the sake of variation is not a virtue in legal writing. The following examples are drawn from Strunk and White, *The Elements of Style*.

Incorrect Example:

Formerly, science was taught by the textbook method, while now the laboratory method is employed.

Strunk and White comment that with the first version of this sentence, the writer is either undecided as to what to say or too timid to say it. They suggest instead:

Corrected: Formerly, science was taught by the textbook method; now, it is taught by the laboratory method.

Incorrect Example: It was both a long ceremony and very tedious.

Corrected: The ceremony was both long and tedious.

Incorrect Example: The captain announced that it was a time not for words, but action.

Corrected: The captain announced that was a time not for words, but for action.

10. FOUR Ways to Eliminate Wordiness

ONE: Eliminate empty words and phrases.

Often you can delete the following words or phrases with no change in meaning or loss of clarity. Use a search command to find and eliminate them, and then adjust the wording and punctuation as necessary.

- a total of
- absolutely
- abundantly
- actually
- aforementioned
- aforesaid
- all things being equal
- arguably
- as a matter of fact
- as far as I am concerned
- at the end of the day
- at this moment in time
- basically
- clearly
- current, currently
- during the period from
- each and every one
- existing
- extremely
- herein before mentioned; herein after mentioned
- I am of the opinion that
- I would like to say
- I would like to take this opportunity to
- in due course
- in my opinion
- in the end
- in the final analysis
- in this connection
- in total
- in view of the fact that
- it can be argued that
- it is arguable that
- it is important to note that
- it is true that
- it should be noted that
- it should be understood that
- last but not least
- obviously
- of course
- one can argue that

- one can see that
- one can agree that
- one of the main arguments is that
- other things being equal
- quite
- really
- really quite
- regarding the (whatever), it was
- the fact that, the fact of the matter is
- the month(s) of
- there is evidence for the fact that
- to all intents and purposes
- to one's own mind
- very

TWO: Replace unnecessary phrases with single words.

Replace

an absence of
 an abundance of
 according to our records
 accordingly in line with this
 afford an opportunity
 along the lines of
 as a consequence, as a result (of)
 as of the date of
 at an early date
 at the moment, at the present time
 was aware of the fact that
 by means of
 by reason of
 by virtue of
 because of the fact that
 despite the fact that
 due to the fact that
 during which time, during the time that
 for the duration of
 for the period of
 for the purpose of
 for the reason that
 goes on to, went on to do whatever
 in a number of cases
 in addition (to)
 in advance
 inasmuch as
 in conjunction with
 in connection with

with

no, none
 enough, plenty, a lot (or say how many)
 our records show
 so
 let, allow
 like, as in
 because, consequently
 from
 soon (or say when)
 now (or edit out)
 knew
 by
 because of
 by, under
 because
 though, although, even though
 because, as
 while
 during, while
 for
 to, for
 because
 does, did whatever
 some (or say how many)
 and, as well as, also
 before
 since
 and, with
 with, about, concerning

in consequence	because
in excess of	more than
in favour of	for
in lieu of	instead of
in many cases	often
in order that, in order to	so that, to
in receipt of	received
in relation to	about, concerning
in respect of	about, for
in some instances, in some cases	sometimes
in the absence of	without
in the course of	while, during
in the event of/that	if
in the majority of instances	most, mostly, usually
in the nature of	like
in the near future	soon
in the neighbourhood of	about, around
in view of the fact that	as, because
irrespective of	despite
is of the opinion	thinks
(a) large number of	many, most (or say how many)
(it is) mandatory	(you) must
may in the future	may, might, could
(it is) obligatory	(you) must
on behalf of	for
on numerous occasions	often
on the basis that	because
on the occasion that	when, if
piece of legislation	legislation, act, statute
profusion of	plenty, too many (or say how many)
prior to	before
subsequent to/upon	after
that being the case	if, so
the question as to whether	whether
there was no doubt but that	doubtless, no doubt
there was a situation in which	there
this is a ___ that	that
to date so far	up to now
to the extent that	if, when
until such time as	until
ways and means	ways
whether or not	whether
will be able to	can or may (depending on meaning)
will have the capacity to	can
with a view to	to, so that
with effect from	from
with reference to	about, concerning

with regard to	about, for
with respect to	about, for
with the minimum of delay	quickly (or say when)
with a view to	to
you are requested	please
your attention is drawn	please see, please note

THREE: Replace nominalizations with simpler verb forms.

In English, we generally use verbs to express the action of a sentence. A nominalization turns the main action of the sentence into a noun, making the sentence longer than necessary and usually stuffier than desired. In the first sentence in each pair below, the action is expressed in the underlined noun, which, along with the necessary articles, prepositions, and verb, substitutes for a single verb that express the same action more succinctly. The second sentence in each pair replaces the verb plus a noun with a verb.

Nominalization: She brought forth (or put forward, or made) the argument that . . .
 Replace with: She argued that . . .

Nominalization: He made the choice of ice cream rather than pie.
 Replace with: He chose ice cream rather than pie.

Nominalization: The boy offered the admission that he had the intent to skip school.
 Replace with: The boy admitted that he intended to skip school.

Nominalization: The lawyer made an interpretation of . . .
 Replace with: The lawyer interpreted . . .

Nominalization: The doctor made a referral of the patient to a specialist.
 Replace with: The doctor referred the patient to a specialist.

Nominalization: The parties made (came to, reached) an agreement that . . .
 Replace with: The parties agreed that . . .

Nominalization: The lawyer made (came to, reached) an arrangement . . .
 Replace with: The lawyer arranged . . .

Nominalization: The court made (came to, reached) the decision that . . .
 Replace with: The court decided . . .

Nominalization: She formulated the thought that . . .
 Replace with: She thought . . .

FOUR: Change passive voice constructions to active voice constructions.

Passive voice: It was decided by the arbitration board that mistakes were made by the supervisor.

Active voice: The arbitration board decided that the supervisor made mistakes.