Laughing All the Way to Court: Avoiding the Humor and Headaches Created by Misplaced Modifiers

Tenielle Fordyce-Ruff

Concordia University School of Law, tfordyce@cu-portland.edu

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LAUGHING ALL THE WAY TO COURT: AVOIDING THE HUMOR AND HEADACHES CREATED BY MISPLACED MODIFIERS

Tenielle Fordyce-Ruff
Rainey Law Office

My client has discussed your proposal to fill the drainage ditch with his associates.

Do you have a wonderful image of your client tossing his associates into a ditch? Technically, that’s what this sentence says. While I’m sure we have all had moments when throwing a client’s associates into a drainage ditch makes sense, it’s not likely that the writer actually proposed this remedy. Instead, the hasty author probably created some unintended humor with a misplaced modifier.

Most would understand that the client in this example had a conversation with his associates about the proposal, but this sentence makes the reader pause and then choose between the technical meaning or the most logical intended meaning. The clearer version, the one that keeps the reader from guessing, is:

My client has discussed with his associates your proposal to fill the drainage ditch.

Misplace a modifier and your word order might lead the reader to chuckle, or worse... Modifiers

Of course, before you can figure out where to put a modifier, you need to know what one looks like. Modifiers modify: They limit, change, describe, or add detail. They help add color and additional meaning to the basic English sentence patterns.

Modifiers can be single words or groups of words. Single word modifiers come in two flavors: adjectives and adverbs. Adjectives modify nouns or pronouns — illogical argument, thoughtful lawyers. Adverbs modify verbs, adjectives or other adverbs — quickly answered, finished soon, very recently. Phrases (groups of words acting as modifiers) always lack a subject, a verb, or both. Applying the test, the court ruled the defendant’s constitutional rights were not violated.

So, now that you remember what a modifier looks like, let’s move on to where to put them.

Logic and placement

English is supposed to be logical and your readers expect a basic sentence pattern: subject, verb, object. Keeping subjects and verbs close together creates logical sentences. Lawyers make arguments. Placing modifiers close to the words they modify creates interesting, logical sentences. Thoughtful lawyers make very persuasive arguments.

Readers understand this, and they logically attach a modifier to the words nearest it in the sentence. Understanding this basic premise can help you convey the meaning you intend.

Only lawyers can research in the firm’s library. (Non-lawyers must keep out.)

Lawyers can only research in the firm’s library. (They can’t write there.)

Lawyers can research only in the firm’s library. (They can’t research at their desks.)

Each of these sentences is grammatically correct. The placement of the word only changes the writer’s intent significantly. Stated differently, your intent, as the writer-determines the proper placement of the modifier.

Now that you understand what modifiers look like and where to put them, let’s move on to how to fix common gaffes. Who is insane? Technically, being insane modifies the judge. The writer intended to convey that the petitioner is insane, but allowed the modifier to drift. There are two fixes for this sentence: move the insane modifier closer to the petitioner or move the petitioner closer to the insane modifier.

Being insane, the petitioner’s transfer to the mental hospital was ordered by the judge.

This sentence clarifies that the petitioner, not the judge, is the insane party, but if you want to avoid the passive voice, you would choose the second option.

The judge ordered the insane petitioner’s transfer to a mental hospital.

Here is another drifter to consider:

Megan was hit by a motorcycle walking her dog.

Do you picture a Harley out for a leisurely stroll with a cute puppy? Technically, that’s what this sentence means. In this instance, moving walking her dog closer to Megan creates the correct mental picture.

A motorcycle hit Megan, who was walking her dog.

While walking her dog, Megan was hit by a motorcycle.

Squinting Modifiers

Squishing modifiers into the middle of a sentence is another source of humor and consternation.

A trustee who steals dividends often cannot be punished.

Here, often is a squinting modifier. It could modify either what comes before or after it: Either crime frequently pays, or...
Because to be implemented at the first meeting? At our first meeting, or are the new procedures the new procedures. We agreed at our first meeting to implement the new procedures.

Did the agreement take place at the first meeting, or are the new procedures to be implemented at the first meeting? Because at our first meeting is squinting, the reader can’t know for sure. Make your intent clear by moving the modifier next to what it modifies.

At our first meeting, we agreed to implement the new procedures. We agreed to implement the new procedures at our first meeting.

Overreaching modifiers

Misplaced modifiers in lists create ambiguities because the reader won’t know for sure how far the modifier reaches.

The defendant was charged with transporting endangered salamanders and frogs.

Were both the frogs and the salamanders endangering or is transporting frogs illegal regardless of their status? Ease the reader’s burden by either repeating the modifier or rearranging the list.

The defendant was charged with transporting endangered salamanders and endangered frogs.

The defendant was charged with transporting frogs and endangered salamanders.

Nesting modifiers

We legal writers are particularly notorious for using nested modifiers—sets of modifying phrases each nested in the next. These eggs are a headache for the reader to unscramble.

A claim for a homestead exemption, which in the case of a dwelling used for housing not more than a single family, shall not exceed $200,000 or fifty percent of the fair market value, whichever is less, must be filed with the county assessor by April 10.

(How many times did you have to pause while reading that gem to figure out the details?) To fix nested modifiers, keep each egg in its proper shell by delivering the information in multiple sentences.

A claim for a homestead exemption must be filed with the county assessor by April 10. A homestead exemption claim for a single-family dwelling cannot exceed $200,000, or fifty percent of the fair market value, whichever is less.

Dangling modifiers

These modifiers modify something, but whatever or whoever it is doesn’t appear on the page. (Quelle mystère!)

Going around the bend, the peaks of the Sawtooths came into view.

I assure you that the peaks were not travelling! Instead, some unknown person was out for a lovely afternoon drive. Fix this sentence by making sure the reader knows who enjoys a leisurely trip.

As Sadie came around the bend, the peaks of the Sawtooths came into view.

Conclusion

Who knew that misplacing a simple adjective or adverb could create humor, ambiguity, headaches, and mysteries! Taking a few extra minutes to make sure your modifiers are near to the words they modify can avoid inadvertent humor, ambiguity in a contract, or having to explain to the judge that you did not really mean to suggest that he was insane.

About the Author

Tenielle Fordyce-Ruff is a partner at Rainey Law Office. Her practice focuses on civil appeals. She was a visiting professor at University of Oregon School of Law teaching Legal Research and Writing, Advanced Legal Research, and Intensive Legal Writing and, prior to that, clerked for Justice Roger Burdick of the Idaho Supreme Court. While clerking for Justice Burdick, she authored Idaho Legal Research, a book designed to help law students, new attorneys, and paralegals navigate the intricacies of researching Idaho law. You can reach her at tfr@raineylawoffice.com.

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