

1-2011

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CU Commons Citation

Tenielle Fordyce-Ruff, Cutting the Clutter: Three Steps to More Concise Legal Writing, *Advocate*, Jan. 2011, at 41.

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CUTTING THE CLUTTER: THREE STEPS TO MORE CONCISE LEGAL WRITING

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A few weeks into law school, once my students understood that legal writing had to have law and analysis, I would hit them with this idea: good legal writing should contain no more and no fewer words than necessary to convey the idea to the reader.

This is true for all legal writing. But how do busy legal writers make their writing more concise given the time pressures of practicing law? I suggest you spend your time removing wordy stock phrases, replacing weak verbs, and eliminating nominalizations to create more concise documents.

Removing wordy stock phrases

We all began our legal writing careers in law school, where we spent hours slogging through horribly written opinions. Of course, as we absorbed the law, we also absorbed the writing. We began to think that because judges wrote this way (even if it was 100 years ago), we should write this way, too. We started to use stock phrases without thinking about whether a shorter phrase might also convey the meaning we intended.

Well, no more! Antiquated, wordy phrases should no longer appear in your writing simply because you got used to using them before you knew any better. Instead, start replacing these long phrases with fewer words that have the same meaning.

Don't use "adequate number of" when "enough" carries the same meaning and is much more concise, and don't use "excessive number of" when "too many" can do the same job in fewer words.

When you speak, do you say "at the present time" or do you say "now?" "Now" is the better choice for conciseness. Similarly, "soon" is more concise than "in the near future." And replace all those instances of "during such time as" in your writing with "when." Your reader will still understand your meaning.

Try inserting "if" instead of "in the event that." Your meaning won't change,



but your writing will be much more concise. Likewise, use "respond" instead of "provide responses." Replace "offer testimony" with "testify." Or, (one of my favorites), never use "due to the fact that" because a simple "because" will do.

Of course, there are many examples of stock phrases. If you find yourself saying a simple phrase when speaking, but using a wordy phrase in your writing to convey the same meaning, you are probably using a wordy stock phrase. Replace it with what you say and your documents will quickly become more concise.

Replacing weak verbs

Weak verbs drag writing down. Not only are they wordy, weak verbs can also be unclear, boring, repetitive, and monotonous. No wonder, then, that we should strive to eliminate them from our writing. Of course, to fix them, we first have to identify them.

Hearing the term "weak verb" you might imagine a wimpy verb, like "cower" or "flutter" or "lose," but weak verbs have nothing to do with passivity. Instead, weak verbs come in two flavors. A weak verb is any form of "to be," especially when used with an adjective or when used with a "there" or an "it." A weak verb is also any form of certain boring verbs: to do, to get, to go, to have, to occur, and to use.

To find weak verbs search for every instance of "to be" (am, is, was, were, be, being, and been). Now, see if it is part of a phrase like "there are," "it is," or "there had been," or if it is used with an adjective. If you find one of these combinations, you've used a weak verb. Likewise, search your document for forms of the other weak verbs: to do, to get, to go, to have, to occur, and to use. You can use the "find" function on your word processor to make this searching more efficient!

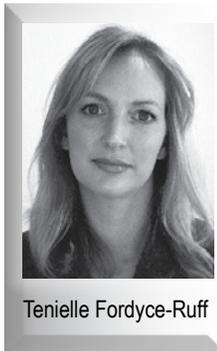
We started to use stock phrases without thinking about whether a shorter phrase might also convey the meaning we intended.

Finding weak verbs is only the first step. Next, you must critically examine your use of the weak verb and consider whether a stronger, more vibrant word choice would help your reader better understand the sentence. You don't need to get pompous or fancy. Simply consider other choices that the reader will still understand. For instance, "*There were* reporters everywhere, so the attorney *was* nervous the first day of trial" contains two weak verbs. A better choice might be, "Reporters packed the courtroom, so the attorney's voice quivered at first."

Of course, you can't replace every weak verb in your writing, but even rewriting a few sentences with strong, vibrant verbs will make your writing more concise and more interesting.

Eliminating nominalizations

Like wordy stock phrases and weak verbs, nominalizations clutter writings. Nominalizations also lead to unclear, monotonous, and wordy sentences, and nominalizations create empty nouns. Because of these problems, we should eliminate nominalizations from our writing.



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A nominalization is a noun formed from a verb. For instance, compliance is the nominalization of the verb to comply, issuance is the nominalization of the verb to issue, and supervision is the nominalization of the verb to supervise. In fact, much to my amusement, nominalization is the nominalization of the verb to nominalize.

You can find nominalizations three ways. First, nominalizations are often followed by the preposition “of.” Therefore, you can search your documents for “of.” Next, nominalizations end in -ion, -ess, or -ing. Scan your writing for words with these endings. Finally, you can simply look for big words. If that word contains a verb you have found a nominalization.

Eliminating nominalizations is easy. You simply turn the nominalization back into its base verb and create an explicit subject for the sentence. For instance, “My happiness was evident after the suspect was arrested” contains a nominalization. I would eliminate that by rewriting the sentence as, “I was happy after the suspect was arrested.”

Likewise, “The taking of depositions was enjoyable” could become “The new associate enjoyed taking depositions.” Or you can become more creative: “Follow-

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ing a conversation with the witness, Mr. Smith felt confidence the case was nearing completion,” could become “Mr. Smith talked to the witness and confidently determined the case was nearly complete.”

Conclusion

Spend some time removing wordy stock phrases, replacing weak verbs, and eliminating nominalizations from your writing. You will be surprised how concise your writing becomes!

Sources

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About the Author

Tenielle Fordyce-Ruff is a member of Smith, Fordyce-Ruff & Penny, PLLC. She clerked for Justice Roger Burdick of the Idaho Supreme Court and taught Legal Research and Writing, Advanced Legal Research, and Intensive Legal Writing at the University of Oregon School of Law. She is also the author of *Idaho Legal Research*, a book designed to help law students, new attorneys, and paralegals navigate the intricacies of researching Idaho law.

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