Attaching People to Their Problems: Eliminating Passive Voice and Vague - "ing" Words from Your Writing

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ATTACHING PEOPLE TO THEIR PROBLEMS: ELIMINATING PASSIVE VOICE AND VAGUE – “ING” WORDS FROM YOUR WRITING

Tenille Fordyce-Ruff

I enjoy curling up with a good mystery as much as the next person. For me, curling up with a great page-turner can make a dreary day positively blissful. I don’t, however, appreciate mysteries when they appear in legal writing. All legal problems share one characteristic: people. I don’t want to be in the dark about who’s doing what when I’m reading a brief. I want the writer to make that basic information clear.

Humor me, and imagine coming across this during your busy day:

A puzzling caper at the local museum of modern art needed to be solved quickly, so the facts were examined by the detective. Last night, everything was being prepared for opening night of the much-anticipated exhibition of self-portraits. It was discovered by the cleaning crew that one painting had been defaced. When the crime scene was studied closely by the detective, it was revealed that a portrait of a man had been scribbled on with red crayon. It was decided a visit needed to be paid to the man whose self-portrait had been given a mustache.

Or this:

Solving this assault with a dessert fork was a priority because snacking on éclairs from Monsieur Gourmand’s patisserie was enjoyable when not working. Questioning the witness led to information that the crime occurred while preparing some chocolate-filled delights. Two vital clues were then uncovered when pointing out an abandoned razor near the scene and hinting that the new waiter might be involved.

Now, once the thoughts of great art and gourmet chocolate are out of your head, imagine you’re a judge trying to decipher these paragraphs and understand the case before you. Scratching your head? If you’re confused it’s because the author has detached the people from the problem.

Legal writers often unknowingly use the passive voice or vague –“ing” words to create detachment. The problem with this is threefold: it leaves the reader wondering who is doing what, it’s boring, and it’s confusing. Fortunately, getting rid of detachment in your writing is easy if you identify and eliminate passive voice and vague –“ing” words.

Passive voice

Conceptually, it is easy to understand that writing should be active—the actor should be doing the action in the sentence (grammatically, the actor should be the subject of the sentence). Yet, because writers know whom they are talking about, they forget to put that person in the sentence to help the reader understand. This familiarity inadvertently creates passive sentences that can confuse an unfamiliar reader.

So, how can you tell if your sentence is passive or active? Gear up for a little bit of grammar, but just a little bit.

Passive voice contains (1) a form of the verb “to be” and (2) a past participle. Don’t worry if you can’t remember what a past participle is, there is a simple trick to help you identify passive voice—the verb will always be two words. For instance, each of the following sentences is passive.

The brief was filed.
The car is being stolen.
The prosecution’s motions were granted.

Too much time had been spent composing interrogatories.

Notice that each sentence contains a two-word verb and the first verb is always a “to be” verb. To find the passive voice in your writing, you can scan your writing looking for “to be” verbs, or you can use your word processor’s “find” function to search for be, am, is, are, was, were, being, and been. Once you have found the “to be” verb, look for a second verb ending in –d, –ed, -n, -en, or –t. (It’s important to check that the second verb is a past participle because “to be” can be used actively, such as, “I am spending time composing interrogatories.”)

After you have found the two-word verb, check the sentence to see if the person doing the action is the subject of the sentence. If she isn’t, re-write the sentence. A case in point: “The prosecution’s motions were granted” should read, “The judge granted the prosecution’s motions.”

However, be careful when re-writing. Writers, sometimes realize that they haven’t identified who is doing what, so they attempt to help the reader by adding the word “by” followed by the actor. For instance, “The brief was filed by Tenielle” is still passive, although it doesn’t leave the reader wondering who filed the brief. So, while this helps the precision problem created by passive voice, it still creates a boring sentence. The active option is “Tenielle filed the brief.”

Vague ‘–ing’ words

The second type of detachment is using vague –“ing” words. Not all –“ing” words are vague. Words ending in –“ing” frequently appear in English. However, when an –“ing” word hides the subject of a sentence, it creates boredom and confusion. For example, each of these sentences contains a vague –“ing” word.

Spending excess time composing interrogatories wasted my evening.
The brief was a wonderful way to end the workday.
The arsonist caught the thief while hiding the murder weapon.
After testifying the truth came to light.
Generally, if you find an –“ing” word in one of these two spots, the subject won’t be clear to your reader, and you will need to fix your sentence.

In addition to creating more interesting sentences, fixing vague –“ing” words can help eliminate confusion. “The arsonist caught the thief while hiding the murder weapon” has two possible meanings and leaves the reader wondering who was hiding the murder weapon—the arsonist or the thief? The fix for this sentence should clear up that confusion and let the reader know exactly what transpired: either “The arsonist caught the thief, who was hiding the murder weapon” or “While the arsonist was hiding the murder weapon, he caught the thief.”

Conclusion
So, now that I’ve helped you put the people back in your writing, I’m off to the chocolate shop. Some nice dark chocolate is just what I need to perk me up before my trip to the museum. That’s another way to spend a blissful afternoon!

About the Author
Tenielle Fordyce-Ruff is a member of the Idaho State Bar. 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.

Sources
The mysterious examples are adapted from Bonnie Trenga, The Curious Case of the Misplaced Modifier: How to Solve the Mysteries of Weak Writing, 9, 29 (2006).

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