

Lawyers and Prepositional Phrases

What's Of Got to Do with It?

By Barbara A. Kalinowski

Writing experts agree that overusing prepositions can clog prose. Once they're strung together into a sentence, they can create a clunky chain of words that read like an old Pontiac trying to turn over on a winter morning.

A preposition describes the relationship between its object and other words in a sentence.¹ For example, in the phrase *the vacation policy in the employee manual*, the prepositional phrase serves as an adjective modifying *policy*. A prepositional phrase can also serve as an adverb or (less commonly) a noun.

Lawyers and prepositional phrases

Of course, it's impossible to write decently without using prepositional phrases. Nor would a lawyer want to. So many common legal expressions include prepositions: *motion to dismiss*, *statute of limitations*, *court of appeals*, *order for sanctions*, *burden of proof*, *as a matter of law*, and countless others. Since those phrases are so familiar and fixed, it's hard to avoid using them. (Can you imagine writing, "This Court should rule as a *law matter*"?)

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But while many legal prepositional phrases are unavoidable, using them together with other prepositional phrases can create a chain effect:

The discussion by the court in that case of the merits of the motion to dismiss by defendant included citations to cases from other jurisdictions.

That sentence includes eight prepositional phrases: *by the court*, *in that case*, *of the merits*, *of the motion*, *to dismiss*, *by defendant*, *to cases*, and *from other jurisdictions*. The chain effect is caused by the reader's fraction-of-a-second pause—waiting for the information in the prepositional phrase to modify the preceding word. The sentence has a lumbering, unfinished feel to it. One rogue sentence probably won't ruin your document, but if your brief is full of them, you will surely leave your reader fatigued.

Avoiding unnecessary prepositional phrases

To rid your sentences of unnecessary prepositional phrases, first think about economy—why use more words than you need? The Federal Plain Language Guidelines suggest to "watch out for *of*, *to*, *on*, and other prepositions" because they "often mark

phrases you can reduce to one or two words."² So *for a period of* becomes *for*; *in order to* becomes (simply) *to*; *during the course of* becomes *during*; and *on a monthly basis* becomes *monthly*. Even a clunker like *concerning the matter of* can usually be reduced to a single word: *about*.

Professor Joseph Kimble and others advocate questioning every *of*.³ If you use an *of*-phrase, consider moving the object of the prepositional phrase (the part after the *of*) in front of the noun to make it a possessive. Take *the verdict of the jury*, for example. You can make it *the jury's verdict*. (Note: I didn't change *object of the prepositional phrase*; a possessive there would be clumsy.)

Similarly, putting the object in an adjectival position can condense and clarify. Instead of *estimate in writing*, try *written estimate*. *Cost of repairs* can become *repair cost*. Admittedly, saving one word may seem insignificant, but consider the difference when the phrases are used together in a sentence:

Provide an estimate in writing of the cost of repairs.

versus

Provide a written estimate of the repair cost.

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Another way to zap unnecessary prepositions is to avoid nominalizations—nouns that are actually verbs in disguise.

that are actually verbs in disguise.⁴ Using a word like *expectation* in a sentence instead of its root verb *expect* has unintended consequences. Whereas *expect* succinctly expresses action (*shareholders expect quarterly dividends*), *expectation* has to grab three extra words (*shareholders have an expectation of quarterly dividends*) to express the same idea. Lose the nominalization and you'll lose the unnecessary preposition that it brings along.

Finally, always consider whether your sentence can do without a particular prepositional phrase altogether. Lawyers use certain prepositional phrases without thinking. Consider *in this case*. If you are shifting from writing about the law in general to a specific application of the law in your case, then *in this case* superbly conveys that transition. But beyond that specific function, the phrase has limited use. Phrases like *under the law* and *under the facts* are also often thrown into legal writing. If your sentence is clear without the prepositional phrase, strike it out.

With all this in mind, let's edit the original sentence to remove the unnecessary prepositional phrases and nominalizations.

In discussing the merits of defendant's motion to dismiss, the court cited cases from other jurisdictions. [From 25 words to 16]

By returning the nominalization *discussion* to its root verb *discuss*, we forced the rest of the sentence to fall into place: What was discussed? The merits. No need for the preposition *of* anymore. The original sentence also used the nominalization *citation*—a noun made out of the verb *to cite*. When *cite* lost its verbiness by becoming the

noun *citations*, the sentence needed a different verb, *included*, and a preposition, *to*, to do its job. The revised sentence sticks with the verb that actually describes the action: *cited*. And by using a strong verb instead of the nominalization, we knocked out another unnecessary prepositional phrase, *to cases*. We also used a possessive to express *defendant's motion to dismiss*, eliminating another *of*. Finally, the sentence is clear without the prepositional phrase *in that case*, so out it goes.

These kinds of savings can quickly add up.

No need for a prepositional-phrase aversion

One can of course go too far with preposition-ectomies. Don't try to avoid prepositional phrases altogether, or your sentence might sound a bit odd:

In discussing defendant's dismissal motion's merits, the court cited other jurisdictions' cases.

The awkwardness of *defendant's dismissal motion's merits* is obvious. Similarly, reducing a phrase like *motion to extend discovery* to *discovery-extension motion* makes it too compressed. And you probably won't add much clarity by shortening the familiar phrase *court of appeals* to *appeals court*. But red flags (or red editing pens) should fly if you find yourself writing about "the final point in the order for discovery of medical records from the Circuit Court for Macomb County from the third of February."

In your next writing project, choose a few paragraphs and circle the prepositions. See how many you can eliminate to achieve a leaner, more natural style. ■



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ENDNOTES

1. Garner, *The Redbook: A Manual on Legal Style* (3d ed) (West Academic Publishing, 2013), p 209.
2. See PlainLanguage.gov, *Federal Plain Language Guidelines, March 2011: Revision 1, May 2011* <<http://www.plainlanguage.gov/howto/guidelines/FederalPLGuidelines/FederalPLGuidelines.pdf>>, p 38 (accessed June 22, 2015).
3. See Kimble, *Lifting the Fog of Legalese: Essays on Plain Language* (Carolina Academic Press, 2006), pp 72, 93, and 170; Garner, *Legal Writing in Plain English: A Text with Exercises* (2d ed) (Chicago University Press, 2013), pp 50–52.
4. Ray & Ramsfield, *Legal Writing: Getting It Right and Getting It Written* (5th ed) (West Academic Publishing, 2010), pp 248–249.

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