

Editing for Concision

By Wayne Schiess

You want it shorter? You can make any piece of writing shorter by taking things out. Just cut content. Oh, wait. You want all that content but you still want it shorter? That's different. That's work. You want *concision*. This article offers 14 techniques to create concision. Each of these tips will help you keep the content but use fewer words.

1. Assess passive voice. The passive voice always takes more words than the same idea in the active voice: *The statute was applied by the court* (seven words) becomes *The court applied the statute* (five words). But the passive voice has legitimate uses, such as when the actor is unknown or irrelevant or by keeping sentences connected by not shifting to a new subject. So the advice is not to remove all passive voice but to assess each use. As you edit, ask yourself: Do I need the passive voice here? If not, revising to the active voice promotes concision.

2. Don't fear possessives. Why do we write *the vehicle of the defendant* and *the property of the seller* and *the intent of the testator*? It's probably just habit or imitating the sound of legal writing in our heads. But each of those five-word phrases could be shortened to three: *the defendant's car*, *the*

seller's property, *the testator's intent*. Possessive forms are not informal. Use them to improve concision.

By the way, a few lawyers were taught that inanimate things cannot possess—that it's wrong to write *the book's title*, *the nation's capital*, or *the sun's light*. Instead, we must write *the title of the book*, *the capital of the nation*, and *the light of the sun*. If this advice sounds a bit odd to you, you're right. There is no such rule, and those who once promoted the practice were misconstruing the grammatical term *possessive*. See *Merriam-Webster's Dictionary of English Usage* for an excellent discussion.¹

3. Remove redundancy. For this technique, I'll ignore stock drafting phrases like *above and foregoing*, *agree and covenant*, and *save and except*. They might need pruning, but my focus here is on analytical legal writing.

Some redundancies are obvious: *new innovations*, *past history*, *unexpected surprise*. Remove the redundancy in those pairs, of course—or don't write them in the first place. But other redundancies are harder to spot, and you'll have to have your redundancy antenna up as you edit. Look at this sentence:

- Isam Yasar alleged that in a conversation, his supervisor, Russell Dunagan, told him to stop complaining.

Read it carefully and you'll see that *conversation* and *told* convey the same idea—

they're redundant. Removing that redundancy shortens the sentence from 16 words to 13:

- Isam Yasar alleged that his supervisor, Russell Dunagan, told him to stop complaining.

Naturally, if the existence of the conversation itself is important, leave it in; if it's not, you lose no meaning by deleting it. That's concision.

4. Omit needless details. If the detail isn't relevant or useful, omit it. Often, needless details appear as names and dates. In fact, larding a statement of facts with dates annoys some readers, including judges: "Most dates are clutter," says Judge Mark Painter in his book *The Legal Writer*.² Full names can be clutter, too, if those named aren't important or won't be mentioned again. Using a specific date or name tells the reader it's important; often it's not. Here's an example with a date and three full names:

- On April 4, 2008, Isam Yasar alleged that his supervisor, Russell Dunagan, told him that if Yasar continued to complain, Dunagan would have to discipline and possibly terminate a fellow Muslim and Yasar's coworker, James Lira.

As you edit this sentence, think about the story you're telling and the points you'll argue. If April 4 isn't important and won't appear again, omit it. As for the names, let's imagine that Isam Yasar and James Lira are

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important characters you'll mention several times. Leave them alone. But let's imagine that Russell Dunagan is not important, so you can call him *the supervisor*.

- Isam Yasar alleged that his supervisor told him that if Yasar continued to complain, the supervisor would have to discipline and possibly terminate a fellow Muslim and Yasar's coworker, James Lira.

Same content, but now it's down from 36 words to 31. Concision.

5. Cut throat-clearing phrases. These are flabby sentence-openers that try to manufacture emphasis but often just postpone getting to the point. They look like this:

- It is clear that
- It is important to point out that
- It would appear to be the case that
- A key aspect of this case, which must not be overlooked, is
- The defendant would respectfully draw to the court's attention that

And no, I did not make this up. Many writing guides advise against "throat-clearers." They are "needless buildups";³ are "merely space-fillers";⁴ and "convey little if any information."⁵ Your writing will be more concise, and stronger, without them.

6. Diminish sesquipedalian vocabulary. Or reduce big words. *Sesquipedalian* (*sesqui* + *ped*) means "a foot and a half long," and it's exactly the kind of word to avoid. Unless you need a term of art or a legal word, you'll be more concise and more readable if you use an everyday word instead of a fancy one. So change *ascertain*

to *learn*, *commence* to *start*, and *request* to *ask*. For more ideas, check out Professor Joseph Kimble's list (available online) in the *Michigan Bar Journal*.⁶

As you edit, root out words that are ostentatious (*fancy*), abstruse (*hard*), and infrequent (*rare*). Don't write *She indicated that she had previously encountered this conundrum* when you could write *She said that she had faced this problem before*.

But wait. Lawyers are smart and are used to reading and writing sesquipedalian vocabulary. So if we're capable of handling big words, why should we use small ones? Let me be clear: to write plainly, you don't need to limit your own vocabulary. In fact, the larger your vocabulary, the better a writer you're likely to be. As Rudolf Flesch said, it's not about knowing big words; it's about using them:

So if you have a big vocabulary and know a lot of rare and fancy words, that's fine. Be proud of your knowledge. It's important in reading and in learning. But when it comes to using your vocabulary, don't throw those big words around where they don't belong

It's a good rule to know as many rare words as possible for your reading, but to use as few of them as possible in your writing.⁷

7. Edit for wordiness. Besides using smaller words, concise writers use fewer. Although *wordiness* would cover most of the concision techniques discussed in this article, such as avoiding passive voice, throat-clearers, and redundancy, here we'll focus on commonly used phrases you can almost always shorten: *prior to* becomes *before*,

subsequent to becomes *after*, and *adjacent to* becomes *next to*. Want more? *In the event that* becomes *if*, *at such time as* becomes *when*, and *despite the fact that* becomes *although*. So edit for wordiness—and reduce big words while you're at it: *adequate number of* becomes *sufficient*, and *sufficient* becomes *enough*.

8. Revise unnecessary nominalizations. A nominalization is a noun that could have been a verb, and although it's not an error, it's an overused structure in legal writing. Lawyers often write *make a payment* instead of *pay*, *enter a settlement* instead of *settle*, and *bring suit against* instead of *sue*. For more examples, search these other names for nominalizations: *bidden verb*, *buried verb*, and *zombie noun*. When you engage in a revision (*revise*) for nominalizations, you get vigor as well as concision.

9. Eliminate excessive prepositions. Count the prepositions in this sentence—they're conveniently bolded:

- There is no current estimate **of** the number **of** boxes **of** records **in** the possession **of** the school.

The sentence has five prepositions and is choppy. When you edit, tune your ear for excessive prepositions and cut those you can. Here, we can cut at least two and possibly three, reducing sentence length from 18 to 15 or even 14:

- There is no current estimate of the number of boxes of records the school possesses.
- We have no current estimate of how many boxes of records the school possesses.

10. Deflate compound prepositions. Compound prepositions are prepositions on steroids. Instead of being concise and simple, they're puffed up, like *for the purpose of*, *with a view toward*, *with reference to*, and *in regard to*. They're usually unnecessary, so deflate them. The compound prepositions in this example can be easily shortened to one word:

- Terry hastily prepared the interrogatories *in connection with* (for) the Crispin case *in order to* (to) meet the discovery deadline.

Barbara Kalinowski's excellent discussion of prepositions (including nominalizations and compound prepositions) appeared in this column last year.⁸

11. Choose lighter transitions. Legal writing is full of multisyllabic transitions like *additionally*, *consequently*, *furthermore*, *however*, *moreover*, and *nevertheless*. They're fine, but they can weigh a sentence down. You can improve concision (at least in syllables) by choosing lighter transition words: *and*, *but*, *so*, *still*, *thus*, and *yet*. We all know that beginning with conjunctions isn't wrong—it's a matter of tone and emphasis. So try it. With lighter transitions, you'll get more than concision; you'll get vitality.

12. Turn independent clauses into participial phrases. This means making two sentences into one, but it's a particular way of doing it. Suppose we have these two sentences:

- Yasar and Lira had worked at the fire department together for four years. They had formed a strong friendship.

You can be more concise by converting one of the sentences into a phrase—a group of words that doesn't have a subject and verb—and beginning that phrase with a present participle (*-ing* verb), making it a participial phrase:

- Yasar and Lira, having worked at the fire department together for four years, had formed a strong friendship.
- Having worked at the fire department together for four years, Yasar and Lira had formed a strong friendship.

The original is 19 words, and the revisions are both 18. Granted that one word is a modest gain in concision, that is often how concision works: rather than one big edit that saves many words, you make many small edits that add up.

13. Use pro-verbs and elided verbs. A *pro-verb* is a verb that replaces a noun, and is parallel in meaning to *pronoun*.⁹ The most common pro-verbs are *do* and *do so*. In the next examples, *do so* replaces *order a new trial*.

- The court has the authority to order a new trial, but it should not order a new trial for three reasons.
- The court has the authority to order a new trial, but it should not do so for three reasons.

Using the pro-verb cuts the sentence from 21 words to 19 and avoids repetition.

Legal writers can also elide verbs—omit them—where they're understood. Thus, we can shorten this sentence further by removing words from the second verb phrase: *should not do so* becomes *should not*:

- The court has the authority to order a new trial, but it should not for three reasons.

Now we're down to 17 words. Most of us are probably using pro-verbs and elided verbs to improve concision, even if we didn't know what they were called.

14. Delete *that*—wisely. It's common advice to delete unnecessary *thats*. So this:

- The lawyer thinks *that* Avery should appeal only the issues *that* the lawyer deems dispositive.

becomes this:

- The lawyer thinks Avery should appeal only the issues the lawyer deems dispositive.

But lawyers occasionally overdelete *that*. If we get fixated on deleting *that*, we sometimes create miscues for the reader.

- Mr. Lin acknowledged being a minority made him more sensitive to discrimination.

Here, the phrase *acknowledged being a minority* creates a momentary miscue as we temporarily think Mr. Lin admitted that he was a minority. Only as we read on do we realize that Mr. Lin is acknowledging that his status as a minority causes him to be more sensitive to discrimination. A clearer version would retain *that*:

- Mr. Lin acknowledged that being a minority made him more sensitive to discrimination.

Scrutinize your *thats* and delete them for concision when you can, but don't create miscues for your reader.

Add these concision techniques to your editing toolkit. We're all a bit verbose on the first draft—that's natural. But with these techniques, we can all do a better job of editing for concision. ■



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ENDNOTES

1. Merriam-Webster's Dictionary of English Usage (1994), p 475.
2. Painter, *The Legal Writer: 40 Rules for the Art of Legal Writing* (Cincinnati: John S. Swift Co, 4th ed, 2009), p 33; see also Cooney, *The Dating Game*, 84 Mich B J 40 [December 2005] <<http://www.michbar.org/file/barjournal/article/documents/pdf4article950.pdf>>. All websites cited in this article were accessed November 15, 2016.
3. Garner, *The Elements of Legal Style* (New York: Oxford University Press, 2d ed, 2002), p 53.
4. LeClercq & Mika, *Guide to Legal Writing Style* (New York: Aspen Publishers, 5th ed, 2011), p 48.
5. Enquist & Currie Oates, *Just Writing: Grammar, Punctuation, and Style for the Legal Writer* (New York: Wolters Kluwer, 3d ed, 2009), p 115.
6. Kimble, *Plain Words (Part 1)*, 80 Mich B J 72 (August 2001) <<http://www.michbar.org/file/barjournal/article/documents/pdf4article315.pdf>>.
7. Fleisch, *How to Write Better* (Chicago: Science Research Associates, 1951), pp 25 and 35.
8. Kalinowski, *Lawyers and Prepositional Phrases: What's Of Got to Do with It?*, 94 Mich B J 50 (July 2015) <<https://www.michbar.org/file/barjournal/article/documents/pdf4article2653.pdf>>.
9. About.com, *About Education* <<http://grammar.about.com/od/pa/g/Pro-verb.htm>>.