

A Verb's Lament

On a hunch, I stepped into a bar around the corner from an office building filled with law firms. B.B. King riffs filled the smoky room. And there it was: Sitting at the bar, with its head hung over a Scotch and water, was a verb.

Author: Why so glum?

Verb: You know, just the usual stuff.

Author: What usual stuff?

Verb: Well, it's those lawyers again. A lot of them just don't seem to like me. They make me feel so...so...well...*nominalized*.

Author: Buddy, I'm no psychiatrist. What do you mean?

Verb: I'm a nice, simple verb, but they aren't satisfied with that. They try to change me into some highfalutin, abstract noun with a bunch of extra words.

Author: Give me an example.

Verb: Sure. Suppose a lawyer wants to say that a statute "protects" a certain class of people. That's just fine the way it is. But many lawyers inflate simple verbs like *protects* to make them sound more impressive: "The statute *provides protection* for workers who are discriminated against because of their age." That took three words to say what one simple verb said better. They...they do it to me all the time. [The author hands the verb a tissue.]

Author: Does nominalizing a verb always add extra words?

Verb: I can't see how it wouldn't. Sometimes it takes three, four, even five words to say what one little verb says just fine. Check these out:

Example: The defendant *made the argument* that the plaintiff's lawsuit was untimely.

Better: The defendant *argued* that the plaintiff's lawsuit was untimely.

Example: The parties *engaged in a discussion over* the possibility of settlement.

Better: The parties *discussed* the possibility of settlement.

Author: I see the improvement.

Verb: Some writing experts call nominalized verbs "buried" verbs. A writer who nominalizes a verb has killed the poor thing, so it might as well be buried. It's verbicide!

Author: Settle down, fella. Is this really that big a deal?

Verb: Imagine being forced to read these wordy, lifeless nominalizations page after page in a long brief. Which style do you think a busy judge would rather read?

Author: Okay, okay, I get it. But what makes you think that lawyers are the culprits?

Verb: Don't get me started on letters to clients, with all that *we have effectuated*

"Plain Language" is a regular feature of the *Michigan Bar Journal*, edited by Joseph Kimble for the Plain English Subcommittee of the Publications and Website Advisory Committee. We seek to improve the clarity of legal writing and the public opinion of lawyers by eliminating legalese. Want to contribute a plain-English article? Contact Prof. Kimble at Thomas Cooley Law School, P.O. Box 13038, Lansing, MI 48901, or at kimblej@cooley.edu. For more information about plain English, see our website—www.michbar.org/generalinfo/plainenglish/.

service on junk instead of *we served*. And I see it in briefs all the time.

Author: Prove it.

Verb: Okay, smart guy. Here are some real-life examples:

Brief: "This event...caused an interruption in the flow of their testimony."

Better: This event *interrupted* the flow of their testimony.

Brief: "Neither she nor any other individual had made an assessment of [the] attachment."

Better: Neither she nor anyone else had *assessed* the attachment.

Brief: "APHIS then undertook an investigation into the cause of the larvae finds."

Better: APHIS then *investigated* the cause of the larvae finds.

Author: You've certainly done some digging.

Verb: You and your lawyer friends will impress judges, judicial clerks, and clients far more if you just give us verbs a chance.

Author: Yeah, well, I guess now we've come to an understanding about each other.

Verb: You mean, now we *understand* each other. You're all hopeless. Bartender!

This piece first appeared in the Winter 2005 issue of The Scrivener, the newsletter of Scribes—The American Society of Writers on Legal Subjects. ♦

Mark Cooney is an assistant professor at Thomas M. Cooley Law School, where he teaches legal research and writing. Before joining Cooley's faculty, he spent 10 years in private practice with defense-litigation firms, most recently Collins, Einhorn, Farrell & Ulanoff, in Southfield.