

Hunting Down Nouners

By Joseph Kimble

[M]odern style tends to turn thought into a chain of static abstractions linked by prepositions and by weak verbs generally in the passive voice. “Weak” here means that these verbs do not denote any single characteristic action but, like *is* and *have*, draw their strength from the accompanying noun (*give authorization* rather than *permit*; *take appropriate action* in place of *act*).

—Wilson Follett, *Modern American Usage* 229 (1966).

Nouns that express a concept are commonly used in bad writing instead of verbs that tell what somebody did.... Don’t get caught holding a bag full of abstract nouns. You’ll sink to the bottom of the lake and never be seen again.

—William Zinsser, *On Writing Well* 76, 77 (6th rev. ed. 2001).

The noun plague afflicts all modern writing. Note: *afflicts*, not *is an affliction of*. Do you see how using *is an affliction of* would sap the life from that sentence? Resist the impulse to turn strong verbs—action verbs—into abstract nouns:

refer to	make reference to
serve	effectuate service
sue	initiate a lawsuit against
argue	make an argument
mention	make mention of
agrees	is in agreement
complies	is in compliance

Linguists call the examples on the right “nominalizations,” a bit of jargon for nouns derived from verbs and adjectives. Maybe we should call them “nouners,” reminiscent of a limp grounder in baseball, a blooper in television, or a bummer in life. Nouners and the passive voice work together to make writing abstract, indirect, and impersonal. It often becomes hard to tell who is doing what in the sentence.

- There was no **discussion** with the defendants, before **treatment** was rendered, concerning the **expectations** for a full **recovery**. [Four nouners; *treatment was rendered* is passive; no actor in sight.]
- There was no **discussion** with the defendants, before they were treated by the doctor, concerning the **expectations** for a full **recovery**. [Three nouners; *they were treated* is still passive; the actor does show up, but only as part of the passive construction, rather than up front in the sentence.]
- The doctor did not discuss with the defendants, before treating them, whether he expected (they could expect?) a full recovery. [All the main actions are in verbs; the actor appears up front; *before treating them* is not passive; and the only remaining nouner—*recovery*—works fine at the end of the sentence.]

Clear writing is built around actors performing actions, so that readers can see a

picture. Do it the other way only if you *want* to be indirect and abstract.

Here, then, are some tipoffs to the dreaded noun style:

- Overreliance on *be*-verbs or other weak verbs (*make, do, have, concern*). Also watch the indefinite *It is* or *There is* at the beginning of a sentence.
- Overuse of the passive voice.
- Unnecessary prepositional phrases (*we are in receipt of your letter*).
- Loose connectives (*due to, based on, as a result of, in terms of*).
- Noun endings—especially *-ion*, but also *-ment, -ance, -ency*. Obviously, you cannot eliminate nouns, but replace them with strong verbs whenever possible. Try these:

draw a conclusion	?
makes provision for	?
has a tendency to	?
effect a rescission	?
our discussion concerned	?
upon completion of the examination	?

On the next page are some practice sentences, along with suggested revisions to all except the last one. E-mail me your try at

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Clear writing is built around actors performing actions, so that readers can see a picture. Do it the other way only if you *want* to be indirect and abstract.

No. 8. I'll send a free copy of *Lifting the Fog of Legalese: Essays on Plain Language* to the first person who sends me an A revision. I'll have to be the sole judge, and I can't answer each e-mail, but the winning revision will be printed in next month's column.

1. The decisions you and your cabinet make will be determinant as to whether or not a country succeeds that can govern itself, sustain itself, and defend itself. [A *be*-verb and an unnecessary multiword preposition (*as to*).]

2. The company's failure was due to the resignation of the president. [A *be*-verb, a weak connective (*due to*), and an unnecessary prepositional phrase.]

3. The appearance of the defendant before the court was on July 20. [An unnecessary prepositional phrase and a *be*-verb.]

4. There was confusion among practicing lawyers over the split decision in *Hooker v. Boogie Chillen*. [An unnecessary

There was and two unnecessary prepositional phrases.]

5. The testimony of Professor Longhair was offered in regard to the punitive-damages issue. [An unnecessary prepositional phrase, passive voice, and a multiword preposition (*in regard to*) that should be simplified.]

6. The replacement of Byrd with Domino as supervising attorney prior to the conclusion of trial did not lead to any alteration in our strategy. [Four unnecessary prepositional phrases, a multiword preposition (*prior to*), and a weak connective (*lead to*).]

7. Our case is dependent upon whether the statute of limitations is applicable. [Here, the verbs are turned into adjectives.]

8. A successful showing by our client that his action of voluntarily reducing his income was due to his desire to avoid the stress of a large law firm should result in

a reduction of his child-support obligation by the court.

Possible Answers

Below are suggested revisions. Of course, context might call for adjustments in some of them.

1. The decisions that you and your cabinet make will determine whether your country can successfully govern, sustain, and defend itself.

2. The company failed because the president resigned.

3. The defendant appeared in court on July 20.

4. The split decision in *Hooker v. Boogie Chillen* confused practicing lawyers. [Even the passive would be better than the original: Practicing lawyers were confused by the split decision in *Hooker v. Boogie Chillen*.]

5. Professor Longhair testified on the punitive-damages issue.

6. Even though Domino replaced Byrd as supervising attorney before the trial ended, we did not change our strategy.

7. Our case depends on whether the statute of limitations applies.

8. ?

Nouners are everywhere in legal writing—perhaps even in yours. Hunt them down, zap them, and get back to verbs.

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Contest Winner

Last month, I offered a free copy of *Lifting the Fog of Legalese: Essays on Plain Language* to the first person who e-mailed me an unembroidered A version of this sentence:

"This Agreement shall be governed by, and construed and enforced in accordance with, the Laws of the State of Michigan, regardless of the place of execution or the laws that might otherwise govern under applicable principles of conflicts of law thereof."

The winner is Sandra D. Hanshaw, at the Law Office of Julie A. Gafkay, for this version:

"Michigan law governs this agreement."

Some might disagree with this stripped-down language. You might argue for excluding Michigan's choice-of-law principles. But in states that follow the *Restatement (Second) of Conflict of Laws* § 187, the "law" of the chosen state includes choice-of-law principles only if the parties specify that it does. Still, I'm happy to name a second winner, Peter L. Wagner, general counsel for Atlantic Associates, for this version:

"Michigan law (excluding its conflict-of-law provisions) governs this agreement."

Some might still object. Should you say "Michigan law governs the interpretation and enforcement of this agreement"—on the theory that, if the question ever arises, a court might read "govern" in some constricted way?

These are perhaps the hardest calls in drafting—what degree of detail to include, whether to draft for improbable contingencies and interpretations, and where to draw the line if you do.

In any event, most drafting experts prefer a plain choice-of-law provision. See, e.g., Kenneth A. Adams, *Legal Usage in Drafting Corporate Agreements* 101, 188, 197 (2001); Scott J. Burnham, *Drafting and Analyzing Contracts* 334 (3d ed. 2003); Bryan A. Garner, *The Redbook: A Manual on Legal Style* 470 (2d ed. 2006); Peter Siviglia, *Exercises in Commercial Transactions* 86–87 (1995).



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