# A LAWYER'S GUIDE TO WRITING WELL

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Legal writing is often verbose and filled with archaic phrases, making it difficult to understand. However, it doesn't have to be this way. You can (and should) write in plain English.

## PLAIN ENGLISH

Well-written, ordinary English is concise and clear. It uses words that the average person understands and uses in everyday conversations. It is easy to read and uses fewer words, making it easier to meet any page limitations.

## BREAK BAD HABITS

Break your bad writing habits by following these rules:

### BE CONCISE

Concise writing is easier to read and beneficial when your brief is running up against the page limit. Legal writing is typically filled with needlessly wordy expressions. Check your writing for these bad habits:

### "THE FACT THAT"

This phrase is usually irrelevant and should be removed.

- *Don't write*: Defendant is guilty because of the fact that he ran the red light.
- *Rewrite*: Defendant is guilty because he ran the red light.

### "IT IS"

Often, "it" does not refer to anything specific.

- *Don't write*: It is a challenge to accept Defendant's position.
- *Rewrite*: Defendant's position is hard to accept.

### COUPLED SYNONYMS

Legal writing is filled with coupled synonyms (words used together that mean the same thing). Most of these have roots in the early days of civilization. Often, the phrases contain a Latin or French word and its Old/Middle English synonym (for example: "free and clear"). Other times, the phrases are alliterative and date back to when transactions were oral to aid memory (for example: "to have and to hold"). Sometimes, the phrases just sound impressive (for example: "ordered, judged, and decreed).

Reduce coupled synonyms to a single word:

- Free and clear
- Ordered, judged, and decreed
- Last will and testament
- Give, bequeath, and devise

### NEEDLESSLY WORDY PHRASES

Replace wordy phrases with simpler alternatives. For example, "a sufficient number" can be replaced with "enough," and "for the purpose of" can be replaced with "to."

## USE ACTIVE VOICE

Using active voice makes your writing more concise and clearer. It shows action, making your writing more interesting to read. Passive voice typically uses a form of the verb "to be." In active voice, the subject does the action.

- *Don't write*: John was struck by Adam's car.
- *Rewrite*: Adam's car struck John.
- *Don't write*: This is supported by the facts.
- *Rewrite*: The facts support this.

## USE LISTS

Break long sentences into numbered, lettered, or bullet-pointed lists. Lists are easiest to read when each item is on its own line. Use parallel structure: each item in the list should start with the same form of speech (such as a noun or verb).

## AVOID "AND/OR"

While lawyers use "and/or" for clarity, it is actually less clear. Use "and" or "or" to improve clarity. Several courts have expressed distaste for "and/or."

- *Don't write*: Talking and/or eating are prohibited in the library.
- *Rewrite*: Talking and eating are prohibited in the library.

## ELIMINATE "SHALL"

"Shall" is not plain English and is ambiguous. Replace "shall" with words like "must" or "may."

- *Don't write*: Employees shall enter their time every day.
- Rewrite: Employees must enter their time every day.
- *Don't write*: No unqualified person shall enter the quarantined area.
- Rewrite: No unqualified person may enter the quarantined area.

## "SAID" IS THE PAST TENSE OF "SAY"

Use "said" only if someone said something.

- *Don't write*: Said agreement is subject to renegotiation.
- Rewrite: The agreement is subject to renegotiation.

## REPLACE "SAME" WITH "IT"

"Same" is not more precise than "it."

- *Don't write*: I received your email and responded to same.
- *Rewrite*: I received your email and responded to it.

## USE NAMES

Replace legal labels (Plaintiff, Defendant, Lessor, Lessee, etc.) with names. Good writing tells a story, and stories use names. However, it is fine to use legal labels when discussing other cases or referring to classes of people.

- *Don't write*: Plaintiff's car struck Defendant.
- *Rewrite*: Smith's car struck Jones.

# EDIT YOUR WRITING

To become a better writer, you need to make time to edit your writing. Editing is not the same as proofreading. When proofreading, you look for typos and obvious errors. When editing, you look for ways to improve your writing

beyond the obvious. It's best to set aside your writing for a few days between drafting and editing; you'll bring a fresher set of eyes to editing and get better results.

## SPECIFIC WORDS AND PHRASES

Compile a list of words and phrases you want to eliminate from your writing. When you are done drafting a document, review it for that list. Use your word processor's search utility to search for each word/phrase. Suggested words and phrases to get you started include:

- The fact that
- It is
- Free and clear
- Last will and testament
- Give, bequeath, and devise
- Ordered, judged, and decreed
- A sufficient number
- In the amount of
- And/or
- Shall
- Said
- Same
- Plaintiff
- Defendant
- Lessor
- Lessee

## PASSIVE VOICE

While you can search your writing for forms of the verb "to be," you'll need to read each sentence to determine if it uses active or passive voice. Many active voice sentences use forms of "to be."

## READ OUT LOUD

Take a moment to read your writing out loud. Listen to how the words sound, particularly for wordy sentences and phrases.

# TOOLS TO HELP

## MICROSOFT WORD'S EDITOR

Microsoft Word's Editor is a comprehensive tool designed to improve the quality and clarity of your writing by offering advanced spelling, grammar, and style suggestions. It analyzes your document for errors, readability, and consistency, providing tailored recommendations to enhance your text. Editor also includes refinements like tone suggestions and clarity improvements.

Editor is included with Word for Windows and Word for Mac. Look for the blue pencil button on the right side of the **Home** ribbon. It's labeled Editor. Clicking that button displays a detailed Editor pane where you can navigate through suggestions and adjust with ease.

## AI VIA CHATGPT AND MICROSOFT COPILOT

ChatGPT, Microsoft Copilot, and similar tools, can enhance the clarity and quality of your writing by providing intelligent, real-time assistance. ChatGPT offers a conversational interface to refine ideas, suggest edits, and generate creative content tailored to your needs. It can help rewrite complex sentences, ensure tone consistency, and clarify ambiguities. Microsoft Copilot, integrated with Microsoft 365 apps, provides contextual suggestions directly within Word, Outlook, and other tools, offering grammar corrections, style improvements, and tone adjustments.

Both products offer free and paid versions. Premium versions start at $20/month for ChatGPT and $30/month for Microsoft 365 Copilot. Of these offerings, all are suitable for general business writing. Only the paid Microsoft 365 Copilot provides sufficient security and privacy for confidential business or client information.

### WORDRAKE

[WordRake](#) is a Word add-in that edits your writing for grammatical errors and style. It runs on both Windows and macOS but does not work on mobile devices or your internet browser. It makes suggestions using a feature like track changes but does not explain why it is recommending the change.

### GRAMMARLY

[Grammarly](#) is like WordRake. It can be installed on up to 5 devices, including mobile devices. There is also a web interface. It opens a pane next to your document with suggestions and explains why it is making those suggestions, often offering multiple suggestions for you to choose from.

## RESOURCES

- *Legal Writing in Plain English* by Bryan A. Garner
- *Just Writing* by Anne Enquist and Laurel Currie Oats
- *Plain English for Lawyers* by Richard C. Wydick and Amy E. Sloan
- *The Elements of Style* by William Strunk Jr. and E.B. White