

VOLUME 1

AAfPE MONOGRAPH

WRITING RULES FOR THE LEGAL WRITER

Christine Beck Lissitzyn © 2006

BLANK BACK OF COVER

This article addresses the most common errors I see in legal writing, both among students and lawyers. It is not exhaustive, but is a quick reference to use in writing and editing. Each issue is numbered, so that an instructor or editor can mark an error with the corresponding number, rather than correct the error for the writer.

I begin with grammar and syntax, both because these are the errors your instructor or supervisor tends to mark first and because most of us do not remember the grammar rules we learned [or didn't learn] years ago.

SYNTAX AND AGREEMENT BETWEEN SUBJECT AND VERB

1. **Subject Verb Agreement:** Sentences must contain a subject and a verb. A singular subject takes a singular verb, and a plural subject takes a plural verb.

The plaintiff is a twenty-year-old woman. (singular subject and verb)

The plaintiffs are co-owners of a business. (plural subject and verb)

Although the rule is simple to state, it can be difficult to apply. These rules help:

2. The **following nouns are singular** and take a singular verb if they are the subject of a sentence: *anyone, each, either, everybody, everyone, neither, nobody, none (usually), no one, somebody, and someone*. Thus:
Everybody is silent as the judge announces his decision.
None of the jurors understands the expert's testimony.
3. **Collective nouns**, such as *corporation, jury, and class*, are singular.
The corporation has five directors.
4. A **compound subject**, formed when two or more nouns are linked by *and*, usually requires a plural verb.
The plaintiff and the defendant agree that the contract is valid.
5. A **singular subject remains singular** even when other nouns are added with the following words or phrases: *as well as, including, in addition to, and together with*.
The plaintiff as well as the defendant agrees that the contract is valid.
6. **"There" is not a subject.** The verb must agree with the noun following the verb.
There is a document I'd like to introduce at trial.
There are documents I'd like to introduce at trial.
7. Use the proper tense. All discussions of court opinions should be in the past tense. Discussions about prior actions or conversations should be in the past tense.

PRONOUNS

8. The **possessive** pronoun must agree in number and gender with its antecedent (the noun to which it refers).

The corporation filed *its* brief on March 30, 2001

The expert witnesses submitted *their* bills.

Mr. Jones testified about the profitability of *his* business.

9. **A pronoun must agree in number with its antecedent.** It is incorrect to use the possessive pronoun *their* with a singular noun, even to avoid problems with sexism in writing.

Incorrect:

Each student went to *their* locker.

Correct:

Each student went to *his* locker.

Each student went to *her* locker.

The students went to *their* lockers.

10. Pronouns can be used in a sentence as subjects or objects. **Use a subjective pronoun as a subject and an objective pronoun as an object.** The following are subjective: *I, you, he, she, they, who*. The following are objective: *me, him, her, them, whom*.

He [subject] is going to New York tomorrow.

When you see him [object], tell him [object] I said hello.

She and I applied for the waiver.

Her [incorrect: her is objective] and I applied for the waiver.

In an incomplete comparison, use the same pronoun as you would if the comparison were complete.

I am taller than she ["is" is implied, so it takes subjective case.]

She found the case sooner than I [did]

She found Frank sooner than [she found] me.

11. **Who is subjective, and whom is objective.** Remember, the objective case follows a preposition.

Who wants to go first?

I will give the book to *whomever* you wish.

SENTENCE FRAGMENTS AND RUN-ONS (“COMMA SPLICE”)

A sentence is a grammatically independent unit of expression, made up of two essential parts called the subject and the predicate. The subject names the person or thing that the sentence speaks about. The predicate tells what the subject does or asserts that the subject is something. The predicate is made up of a verb and a complement.

12. **Do not write in Fragments.** Sentence fragments are strings of words that cannot stand independently. The first way to guard against them is to be sure your sentence has a subject and a verb. The second way is to write shorter sentences. Frequently, writers end up with fragments that do not “ring a bell” as incorrect because their sentences are too long to spot them.

Filing the brief after the March 14 deadline based on the case Franklin v. Parks discussed by the court. [“Filing the brief” is the subject, but there is no verb. To correct the sentence, you could add “resulted in dismissal of the case.”]

Also, that the sale of goods was the predominant factor and the goods were not incidental to the construction of the pool. [the word that converts what would be a complete sentence into a dependent clause, which can function as a subject but not a sentence. You could fix the sentence by adding: *led the court to hold the pool was not goods.*]

13. **Do not write run-on sentences.** A run-on [sometimes called a “comma splice”] is the result of two independent clauses that are not linked properly. The proper links are a conjunction [*and, or, nor, but, for, yet, so*] or a semicolon. **An improper link is a comma.** The best way to avoid a run-on sentence is to use a period after the first clause and start a new sentence. The second best way is to use a conjunction. Semicolons are trouble; they are hard to use well and often drive your reader crazy. Why risk it?

The court ruled in favor of the defendant, holding that the contract was one for the rendition of services, the contract was not for the sale of goods under the UCC. [the second comma is the “comma splice” — to fix the sentence, either replace it with a period, use a conjunction alone or with a conjunctive adverb (*therefore, however, nevertheless, consequently, furthermore, moreover, hence, thus,*) or — last choice — use a semicolon.]

The court ruled in favor of the defendant, holding that the contract was one for the rendition of services. The contract was not for the sale of goods under the UCC.

The court ruled in favor of the defendant, holding that the contract was one for the rendition of services, and the contract was not for the sale of goods under the UCC.

The court ruled in favor of the defendant, holding that the contract was one for the rendition of services, and therefore, the contract was not for the sale of goods under the UCC.

The court ruled in favor of the defendant, holding that the contract was one for the rendition of services; therefore, the contract was not for the sale of goods under the UCC.

The court ruled in favor of the defendant, holding that the contract was one for the rendition of services; the contract was not for the sale of goods under the UCC.

COMMA RULES

Contrary to the all-purpose comma rule used by most writers, which is to place a comma wherever you would take a breath, commas have specific rules designed to make reading easier. In general, commas help to separate key information from less important information. Here are the most important rules:

14. Use a comma before a **nonessential clause** but not before an essential clause. A nonessential clause is not necessary for the sentence to stand on its own. An essential clause is required for the sentence to be logically complete. Introduce a nonessential clause with *which* and an essential clause with *that*.

The court cited the **Medlin case, which** was decided by the Second Circuit. [There is only one Medlin case, the one decided by the Second Circuit, so the following phrase is not essential to identify it. The sentence is logically complete after the word “case.”]

The court cited the **Medlin case that** was decided by the Second Circuit. [Here there is one Medlin case decided by the Second Circuit and others decided by different courts. The clause is essential to identify which Medlin case we are talking about.]

15. Use a comma to set off an **appositive** that renames or adds information about the subject, but is not essential to the meaning of the sentence. Thus, if a case has only one defendant, use commas to set off the name of the defendant.

The defendant, Albert Jones, decided not to testify. [“Albert Jones” adds information, but is not absolutely necessary to the sentence.]

But if a case has several defendants, commas should not be used to specify a particular defendant.

The defendant Albert Jones decided not to testify. [Albert Jones is essential to the sentence to identify which of several defendants decided not to testify.]

16. Use a comma between compound **sentences joined by a conjunction** [*and, but, or, nor, for, yet, so*], unless they are very short.
- He opened the file on top of his desk, and she saw him glance at the top cover.
- He writes and she edits.
17. Use a comma after an **introductory element** (a phrase or a clause).
- If you want him to testify, you will need to serve him with a subpoena.
- After nightfall, that part of town becomes dangerous.
- In the jury's opinion, he was a poor witness.
18. Do **not** use a comma to separate a compound [more than one] subject or a compound verb [more than one verb].
- If you and the plaintiff's attorney both want him to testify, you will need to call him first.
- If you want him to testify, you and the plaintiff's attorney will need to call him first.
19. Use a comma to set off **parenthetical expressions** (words that interrupt the main flow of thought in a sentence and are not essential to the meaning of the sentence.)
- He was, in the jury's opinion, a poor witness.
- Other common parenthetical expressions include: *as a matter of fact, to tell the truth, of course, incidentally, namely, in the first place, therefore, thus, consequently, however, nevertheless*. You may choose not to set off these short parentheticals if they do not interrupt the flow of the sentence.
- We may therefore want to check her story.
- Therefore, we may want to check her story.
20. Use a comma for items in a **series of three or more**. (Note: some writers omit the comma before "and" or "or" in a series, but including the comma ensures clarity.)
- The book is available in hardcover, paperback, CD, and on tape.

SEMICOLONS

The semicolon signals a greater break in thought than the comma but a lesser break than the period. It is, however, closer to a period than to a comma and is often interchangeable with the period. Therefore, if you are tempted to use a semi-colon between two independent clauses, consider using a period instead to avoid an overly-long sentence.

21. Use a semicolon between **two independent clauses**, whether connected by a conjunctive adverb [“however,” used below] or not.

People are usually willing to give advice; they are much less inclined to take it.

People are usually willing to give advice; however, they are much less inclined to take it.

People are usually willing to give advice. They are much less inclined to take it.

22. Use a semicolon between items in a **series when there are commas** within the items.

I met the first Supreme Court clerk, George Harper; the judge who hired him, Judge Norton; and their relatives.

COLONS

23. Use a colon to **introduce a list** that follows a grammatically complete statement.

Our response consists of four parts: the introduction, the factual statement, the argument, and the conclusion.

The crime of first degree robbery requires the following: breaking and entering, at night, with intent to commit robbery.

24. Use a colon to **introduce a long quotation** (one or more paragraphs):

The court stated in the McKelvy case:

The nature of the crime, coupled with the grave disregard for human life exhibited by the defendant, justifies imposition of the highest possible penalty. Therefore, we believe the lower court was wrong in excluding the testimony during the penalty phase of the trial.

DASHES

25. Use a dash to set off a parenthetical element that is long, that sharply interrupts the sentence, or that otherwise would be hard to distinguish. A dash is made of two hyphens without spaces.

The basic skills—reading, writing, and creating a strong argument—are stressed here.

HYPHENS

26. Use a hyphen to join words used as a **single adjective before a noun**:

His was a well-worn copy of the case book.

She was an at-will employee.

27. Avoid stringing more than two adjective before noun (an adjective cluster):

She was an at-will-common-law employee.

APOSTROPHES

28. Use the apostrophe to form the **possessive** case of nouns.

The woman's coat.

A person's legal right.

29. For singular nouns that end in "s," form the possessive by adding "'s."

The class's performance.

Mr. Davis's car."

30. For plural nouns that end in "s," form the possessive by adding "'s."

The classes' performance.

The Davises' car.

31. Do not confuse the ordinary plural of nouns with the possessive.

Ordinary plural: I know the Davises.

Possessive plural: The Davises' house...

32. If two or more nouns possess something jointly, put an apostrophe only on the last noun.

Burglars ransacked Joe and Ed's apartment.

33. In hyphenated words, add the apostrophe to the last word only.

My father-in-law's wedding.

34. Although possessive personal and interrogative pronouns [yours, hers, whose, its] do not take apostrophes, possessive indefinite pronouns [anybody's, someone's, each other's, someone else's, everybody else's] do take an apostrophe.

CAPITALIZATION

35. Capitalize sparingly. Do not capitalize common nouns like **plaintiff, defendant, court, contract, lessee, motion**, etc. When you choose to capitalize a word, be consistent
36. Capitalize **proper nouns**, such as proper names and places.
Our witness, Roberta Jones, comes from Santa Cruz, California.
37. Capitalize **proper adjectives**, but not the common noun that follows:
Some South American countries have beautiful resorts along the Pacific coastline.
38. Nouns referring to a person or a group should be capitalized only when they identify a specific person, official or group:
Federal Aeronautics Agency [or the Agency]
the Social Security Administrator or [or the Administrator]
the Secretary of Interior [or the Secretary]
the President (of the United States)
39. Do not capitalize adjectives like administrative, agency, presidential, and congressional.
The court gives deference to agency determinations.
Congress needs a two-thirds majority to overturn a presidential veto.
40. Capitalize act, circuit, code, statute, and judge only when referring to a particular one.
The Ninth Circuit
The Fair Debt Collection Practices Act or the Act
But: An act passed by Congress will later be codified.
Judge Newman wrote the opinion.
But: The judge denied the motion for summary judgment.
41. Capitalize constitution when referring to any constitution in full or when referring to the United States Constitution. Do not capitalize parts of the constitution.
The Connecticut Constitution
But: article I, section 10 of the state constitution
The fifth amendment to the Constitution

42. Court and Justice should be capitalized only when referring to a specific court or justice or when referring to the United States Supreme Court.
- The Connecticut Supreme Court,
 - But: the state supreme court
 - The Court of Appeals for the Second Circuit,
 - But: the court of appeals
 - The Court (referring to the United States Supreme Court).
 - Justice Borden,
 - But: the dissenting justice in State v. Johnson
- Capitalize “court” when referring to the court that is hearing your case.
- This Court should deny the plaintiff’s motion for summary judgment.
43. Capitalize state only when the word it modifies is capitalized.
- The State Attorney General,
 - But: state statutes or the state legislature

QUOTATION MARKS

44. Periods and commas always go inside quotation marks.
- “The rule,” stated the court, “requires foreseeability in the view of a reasonable person.”
45. Colons and semicolons always go outside quotation marks.
- The witness concluded, “I didn’t see him coming”; then he was excused.
46. Questions marks go inside quotations marks only when the quoted material is a question.
- The judge asked, “Are you ready to call your first witness?”
- Did the witness say, “I didn’t see him coming”?
47. For a **short quotation** within a complete sentence, use quotation marks and no commas.
- The court held that a contract was “so garbled as to be meaningless.”
48. For a quotation of a paragraph or more, indent and single-space the quotation with no quotation marks. Place the citation at the left margin beneath the quoted material.

49. For a quotation within a quotation, use quotation marks and single quotation marks.

In the Perkins case, the Second Circuit said “we hold that the definition of a reasonable person, as this court has stated in Bailey v. Johnson, ‘differs in a sexual harassment case because of the very nature of the claimed injury.’”

50. Consider whether it is necessary to quote word for word, or whether a paraphrase is sufficient. A writer can often state an argument more strongly and succinctly with concise paraphrases and a few short quotations.

51. **Alterations in quoted material.** If you alter the material quoted, enclose the alterations with brackets. Brackets should be used if you add words or letters to the material, or when you change a letter from upper case to lower case or vice versa.

Executors are not trustees, but “occupy a position in many respects analogous [to trustees].” Hall v. Schoenwetter, 239 Conn. 553,558 (1996).

This Court recently explained that “[t]he clearly erroneous standard does not apply to motions for summary judgment.” Bishel v. Connecticut Yankee

Atomic Power Co. Inc., 62 Conn. App. 637, 639 (2001).

52. Indicate that you have **omitted words** from a quotation by inserting an ellipse, three periods separated by spaces, with a space before and after the last period.

[. . .]. Do not use an ellipse to begin a quotation, or when a word is altered. Ellipses are not necessary for an omitted footnote or citation; instead use a parenthetical phrase such as *footnote* omitted or *citation* omitted at the end of the citation to the quoted material. Omissions at the end of a sentence are indicated by three periods between the last quoted word and the final punctuation, resulting in four periods.

Under the ripeness doctrine, a court must consider whether “a case has matured or ripened into a controversy worthy of adjudication” Sosin v. Scinto, 1998 WL 165056, slip op. at *3 (Conn. Super. 1998), *aff’d*, 57 Conn. App. 581, (2000).

WORD USAGE

53. Avoid **slang**, **unduly informal**, or **“folksy”** language. Do not write, for example, “he made big bucks,” “if you know what I mean,” “it’s my opinion that,” etc.

Here is a list of the most common usage errors. Some are simply unconscious and can be fixed by careful proofreading. I will not give detailed definitions below. If you don’t know what the words mean, look them up.

its	it’s
there	their, they’re
affect	effect
lie	lay
fewer	less
further	farther
different from	different than
principle	principal
accept	except
between	among
compliment	complement
because	since
like	as
like	such as
precede	proceed
imply	infer
everyone	every one
loose	lose
while	whereas
me	myself
insure	ensure

The following are never correct. Do not use them:

alright, a lot, anyways,
nowheres, everywheres, somewheres
can’t hardly, can’t scarcely, can’t help but,
could of, should of, would of, had of, ought to of,
being that, being as how, irregardless.

RULES FOR EDITING AND CONCISE STYLE

Good writing is a process of pre-writing, writing, rewriting, revising, editing, and proofreading. Throughout this process, you refine and clarify your thoughts. Most writers do not know what they want to communicate until they pre-write; they must think about and discuss the issues, and write notes or an outline. During the writing phase, writers produce a first draft by putting their ideas into complete sentences. Few can generate a finished piece after the first draft.

The real work occurs in the rewriting phase, when you reorganize your thoughts into cogent paragraphs that follow in a logical manner. In revising your work, you can use many of the techniques listed below to communicate more succinctly and directly. When editing and proofreading, try to make your work stronger, tighter and more precise, and check for mistakes in usage, spelling, and punctuation. At each stage, ask: "What am I trying to say?" "Do I need this word?" "Can I say this more simply?"

54. Use the Active Voice: Use Actors and Actions. Avoid the Passive Voice.

Writers who use the active voice make the actor the subject of the sentence, and follow the subject with an action verb and a complement. Generally, active sentences are simpler, more interesting, and easier to understand. In changing a passive sentence to an active one, you will discover gaps in your knowledge or thinking.

The active voice is the use of a subject combined with an action verb. **The passive is a past tense verb combined with a form of the verb "to be."**

Active: The suspect **robbed** Mrs. Valentine.

Passive: Mrs. Valentine **was robbed by** the suspect.

In the active sentence above, the defendant is performing the action (robbing).

The victim is the object of the sentence and receives the action. In the passive voice, the passive is the past tense of the verb *to rob* coupled with a form of the verb *to be*, here *was*. The object moves into the position of the subject of the sentence and receives the action. As you can see, the verb "rob" can be used in either the active or passive. But in the active, the sentence is in the expected sentence order: subject, verb, complement. In the passive, the subject [*suspect*] appears at the end of the sentence.

The passive voice is more prevalent in legal writing than the active voice.

Often passive sentences are vague and abstract, masking imprecise thinking. Such sentences leave the reader wondering, "Who did what to whom?" Passive sentences make the reader work too hard to find the actor and the action. By contrast, in an active sentence, you place the actor and action closer together, near the beginning of the sentence.

For instance, look at the following excerpt from a brief:

In this case, where plaintiff and others are being deprived of fundamental rights pursuant to patently unconstitutional governmental regulations, the test for a grant of a TRO and preliminary injunction has been satisfied.

Who is depriving the plaintiff and other of fundamental rights? Who has satisfied the test for granting a TRO? Rewriting the sentence makes it easier for the reader.

The unconstitutional governmental regulations deprive the plaintiff and others of fundamental rights. Therefore, the plaintiff has satisfied the test for granting a TRO and a preliminary injunction.

Notice that often the way to correct a passive sentence is to break it into two clear sentences.

A sentence may be technically “active” but still **vague and abstract**. One solution is to look for the actor in the sentence and rewrite with the actor as the subject.

Restricting the content of speech impinges on constitutional rights.

Who is restricting the speech?

Whose rights are impinged?

You can rewrite this sentence using actors and actions.

When the state restricts the content of speech, it impinges on the constitutional rights of its citizens.

Although the subject is not present in the passive voice, you may occasionally wish to use the passive precisely for this reason. Ask yourself: Does it matter who did the acting? Do I want to hide the actor from the reader? Reversing the passive to the active will help you answer these questions.

55. Choose **Simple, Direct Words**

Many lawyers like to sound erudite by using words like *erudite*. Choose familiar, concrete words instead of abstract words or Latin phrases that make sentences long, pompous, and sometimes wrong. Longer abstract words make sentences awkward and harder to understand.

Instead of:

The defendant operated his motor vehicle at an excessive rate of speed and caused a collision with the median barrier because he had imbibed in an unwarranted amount of alcoholic beverages.

Try:

The defendant speeded and crashed into the guardrail because he was drunk.

56. Use **shorter sentences and paragraphs**.

Both readers and writers get lost in long sentences. If you keep your sentences to twenty-five words or less, you will deliver a clear message to the reader and avoid many syntax errors. Similarly, a reader can more easily digest short paragraphs of three to five sentences. When breaking a long paragraph into shorter ones, find useful **transition words** to guide the reader to the relationship between paragraphs.

57. Make **every word count**: Legal writers attempt to avoid any mistakes by being wordy. They use several words with only slightly different meanings where one will do. In effective writing, however, “[a] sentence should have no unnecessary words, a paragraph no unnecessary sentences for the same reason that a drawing should have no unnecessary lines. . . .” W. Strunk & E. B. White, *The Elements of Style*, 23 (4th ed. 2000).

58. When revising, use one word instead of **redundant phrases**, such as:

failed, refused and neglected;

free and clear;

null and void, etc.,

59. Replace **wordy and abstract** phrases with a single word:

In accordance with *under*

In many cases *often*

At this point in time *now*

In the event that *if*

60. Edit out **deadwood** phrases. Deadwood means words and phrases that do not convey meaning and make it harder for your reader to find your meaning.

Instead of:

I wish to call your attention to the fact that you never answered my discovery requests.

Try:

You have not answered my discovery requests.

Since we are dealing with an issue that involves the Uniform Commercial Code and the legal definition of what goods are, **we must first look at** the General Statutes, which state in Conn. Gen. Stat. § 42a-2-105:

The Uniform Commercial Code defines “goods” as “all things, including specially manufactured goods, which are moveable at the time of identification to the contract for sale. . . .” Conn. Gen. Stat. § 42a-2-105.

61. **Omit legalese.** Words like *hereinafter*, *aforementioned*, *party of the second part*, and *said* (as an adjective) are almost never necessary and can be cut out.

62. Change **negative statements** to positive ones.

It is not unlikely that the court will find for the defendant.

The court will likely find for the defendant.

63. Omit **indirect address**, such as *it is* or *there are*, and phrases such as *it is interesting to note*, or *it bears repeating*.

It is presumed that the defendant is innocent until proven guilty.

The defendant *is presumed* innocent until proven guilty.

There are three documents that prove the plaintiff's case.

Three documents prove the plaintiff's case.

It is interesting to note that the defendant cites no authority for his argument.

The defendant cites no authority for his argument.

64. Use strong **action verbs** instead of noun phrases that are formed from verbs.

conduct an investigation

investigate

Performed an examination

examined

Make an objection

object

AVOID "VAGUE REFERENCE"

65. Vague reference results when a phrase or clause relates back to an earlier word for its meaning, but it is not clear which earlier word is intended.

He gave Joe the assignment because he knows what must be done.

[Who knows what must be done — *he* or *Joe*?]

The only way to avoid vague reference is to make the referent clear.

Because Joe knows what must be done,

his boss gave him the assignment.

LEGAL CITATIONS

Citations include four elements: (1) the name of the case; (2) the official citation, including reporter, volume and page number (3) the court and (4) the year of the decision.

Case names should be underscored or italicized. For specific rules as to parallel citations, refer to your state's rules.

Here are some of the most important general rules regarding citations:

66. **Never use a citation to Lexis, Westlaw, or any online version** of a case unless there is no print version of the case. If the case is not available in print, the proper format for such a citation is as follows:
- name of case; docket number; online reporter citation; name of court and exact date of decision.
- For example:
- Swihart v. Country Home Bakers, No. CV 97060945, 1999 WL 545385, (Superior Court, Judicial District of New Haven, July 16, 1999).
67. Use the last **names of the parties**, if individuals, or the full names of corporations. Some words, such as *Corporation*, *Company*, and *Incorporated*, in a case name may be abbreviated. Use the first-named plaintiff and defendant only. Omit other plaintiffs, defendants, or third parties, and omit the term et al., Jr., Sr., etc. Leave out expressions like "City of" or "Town of" unless they part of a party name.
68. **Watch periods and spacing** in volume names. Federal Cases: Cite federal district court cases to F. Supp., F. Supp.2d and F. Supp.3d. The F and Supp take a period, but the designation 2d does not. Put the appropriate district in parentheses, with the year the case was published.
- Creatore v. Town of Trumbull, 871 F. Supp. 119, 121 (D. Conn. 1994).
- Cite federal court of appeals cases to F., F. 2d, or F. 3d, with the appropriate circuit in parentheses with the year of publication.
- Stathos v. N.Y. City Taxi & Limousine Comm'n, 198 F.3d 317, 321 (2d Cir. 1999).
69. Cite United States Supreme Court cases to the **U.S. Reporter only**. If that citation is not yet available, cite to the Supreme Court Reporter, the Lawyer's Edition, or United States Law Week, in that order of preference. If not yet published in United States Law Week, cite to an electronic database, with the full date in parentheses.
- City of Ladue v. Gilleo, 512 U.S. 43, 48 (1994).
- Wade v. Johnson, _U.S._, 121 S.Ct. 584 (2001).
- Stamper v. United States, _U.S._, 2001 WL 243389 (April 16, 2001).

70. **Subsequent History:** Include relevant subsequent history after the year.

Introduce the subsequent history by a word explaining the action, such as *aff'd*; *vacated*, *rev'd*; *modified*, followed by the citation to the case. Under the Bluebook, legal writers may omit the denials of certiorari or certification, unless the decision is fewer than two years old.

PROOFREAD AND CORRECT

71. At the end of the writing process, legal writers often have difficulty proofreading their own work. Having worked and reworked a brief or memorandum, you may miss glaring mistakes in the finished draft.

72. **Read your work word for word out loud.** By reading every word, you will notice grammar mistakes, omitted words, awkward constructions, spelling mistakes, etc. Be sure to read the finished work in print, not off the computer screen.

73. **Start on the last page and read forward.** By reading a page at a time, starting with the last page, you will avoid being mesmerized by the brilliance of your argument and can concentrate on proofreading.

74. **Read for Particular Mistakes.** If you know you make particular mistakes often (such as calling the plaintiff “the defendant”), you can read the entire brief looking only for that particular mistake. This technique also works well for overused words, such as “however,” or “therefore.”

75. **Ask someone else to read your work.** A fresh pair of eyes will catch mistakes you may have missed.

76. Make sure all spelling is correct and that you have chosen the correct word for your meaning. **Do NOT rely on spell check or grammar check.** There is no substitute for careful proofreading.

77. Some so-called **grammar rules are just plain wrong.** However, if your supervisor insists on using them, remember that your first rule is to write for your audience. Here are some well-loved non-rules:

Never begin a sentence with “I.”

Never use the same word twice in a paragraph.

Never write a one-sentence paragraph.

Never end a sentence with a preposition.

Never split an infinitive.

Never use contractions.

Your first rule is to write a clear, simple sentence. If following the non-rules results in clarity, fine. If using them results in an awkward or contorted sentence, then ignore them and write for clarity.



American Association
for Paralegal Education

19 Mantua Road

Mt. Royal, New Jersey 08061

www.aafpe.org