Resisting the Devil’s Voice: Write Short, Simple Sentences

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Many otherwise sensible legal writers are addicted to long, convoluted sentences. If writing were a diving competition, these sentences would get a “10” for difficulty but only a “2” for grace. In some lawyers, particularly younger ones, this addiction is so strong that it resists argument, ignores preaching and withstands the application of brute force. In law firms all over the country, partners who take their writing seriously snarl at young associates, “Write short, simple, declarative sentences.” The associates nod respectfully and, for a minute, may even think that the gray-hair is right, for once. But the devil’s voice inside them whispers another, more tempting message: “Simple sentences are for the simpleminded. Where’s the challenge? Write sentences that are hard to write, and take pride in them.”

As always, the devil’s argument is plausible, and those who teach legal writing need to understand its attractiveness. Why do so many smart, well-educated (or, at least, much-educated) writers refuse to let go of their penchant for overly complicated sentences? To a cynic, the diagnosis is obvious: They are trying to impress their audience. But that is not the whole story. These writers have skill (although seldom enough to write truly good long sentences), and they want to exercise it and take pride in it. This is to be encouraged. The problem is that—being lawyers—they instinctively associate skill with length and complexity. Writing long, complex sentences, they think, is like ballet (if only they could stop tripping over their feet). Writing short, simple sentences is no more difficult than walking in Kansas.

To convince them otherwise, it is not enough to berate them for inflicting pain on their readers, or to repeat “clarity” like a mantra. We have to steal part of the devil’s message: We must convince them that they can take pride in writing a passage of relatively short, relatively simple sentences. Writing “simple” sentences well takes just as much linguistic skill as writing baroquely complicated ones. It also demands just as much, if not more, intellectual skill, because writing “simply” does not mean simplifying your thinking for an audience of idiots. The opposite is true: If you write shorter, simpler sentences the way they should be written, the effort can clarify your thinking, making it more precise and nuanced.

Here is one way to present this argument to your students.

Writing is not just the communication of discrete bits of information. Nor is it just a matter of linking these bits into a logical sequence—although this is the level of skill at which many legal writers get stuck. A good writer constructs sentences and paragraphs that convey the nuances of the relationships among the bits: Which matter most? Which are just a part of the background? Which role does each play in the analysis or description being created? To write shorter, simpler sentences effectively, lawyers have to master a set of skills that allows them to orchestrate details into a whole that is not just roughly logical, but entirely coherent. What are these skills?

The most fundamental is intellectual, not linguistic: the ability to identify what truly deserves attention in a sequence of information. Focus on the second sentence in the following passage:

Before the hearing for summary judgment, appellant’s counsel stipulated that he had not served a notice of intent to file litigation against appellees. The trial court heard argument on May 9, 1989, and entered final summary judgment in favor of appellees which in essence was based on the applicability of § 768.57 and appellant’s failure to comply with the pre-filing notice requirements of the statute.

In the sentence, the most important information is probably the grounds for the court’s decision. The fact that the court reached a decision is itself important, of course, but only as a necessary step toward discussing its grounds. The fact that the court heard argument on May 9 is probably unimportant, at best a necessary piece of procedural background. But the structure of the sentence obscures these relationships, because the writer had not mastered the basic techniques for writing sentences so that their form clarifies their content.
1. Match the importance of the information to the importance of the grammatical “container.”

In the hierarchy of grammatical units, an independent clause is more “important” than a dependent clause, a clause more important than a phrase, and a phrase more important than a word. Most of the time, more important information should go in the more important grammatical container. A particularly important bit of information probably deserves a sentence to itself, without other phrases or clauses to distract the reader. A corollary to this technique is that equal or parallel grammatical structures should contain bits of information that deserve roughly the same degree of emphasis.

Now reexamine the sentence above. Its crucial information is relegated to a dependent clause (“which in essence was based ...”), while the secondary information occupies the sentence’s primary grammatical slots—the subject and its two parallel verb-object combinations (“heard argument” and “entered final summary judgment”). To make matters worse, the parallel structure implies that the court’s having heard argument was just as important as its having entered summary judgment.

2. Make use of a sentence’s natural points of emphasis.

In any sequence, readers (or listeners) are likely to pay most attention to the beginning and the end, and to remember them best. As a result, the beginning and end of a sentence, especially the end, should be occupied by important information. (This, incidentally, is the true reason for thinking twice before ending a sentence with a preposition.) In the sentence above, the writer at least put the key information (“... failure to comply with ...”) at the end. But the effect is ruined by two syntactical mistakes: The earlier parts of the sentence send misleading signals about what is important, and the sentence contains such a long, uninterrupted string of words that, by the time readers reach its end, they no longer care what it says.

3. Make use of a sentence’s rhythm.

Prose should have rhythm: enough variety in the length and structure of its sentences to keep the reader alert. But the variety should not be random. The rhythm of a sentence, and of a sequence of sentences, can encourage a reader either to move quickly and casually onward, or to slow down and pay attention. Readers are forced to focus by anything that interrupts a sentence’s flow—punctuation, for example, or a phrase inserted between parts of the sentence that fit naturally together (such as the subject and verb). They are also brought to attention by sharp contrasts—for example, a very short sentence that follows some longer ones. Rhythm, therefore, can be used to emphasize what is important, not just to keep readers awake.

Let’s now try a revision of our original example, relying primarily on the first technique:

[First sentence remains the same.] After hearing argument on May 9, 1989, the trial court entered final summary judgment in favor of appellees. In essence, the court held that § 768.57 applied and that appellant had failed to comply with the statute’s pre-filing notice requirements.

To spell out the changes:

- In the new second sentence, the hearing has been demoted to a phrase, while the summary judgment—the more important information—occupies the sentence’s main clause.
- The most important information (the court’s analysis) has a sentence to itself, as it deserves.
- Because the string of words now has a structure, it also has some rhetorical vitality.

Two questions remain about what has not been changed. First, is the last sentence properly constructed? It depends upon whether the writer’s analysis will have two legs: (1) the statute applies and (2) the appellant failed to comply with it. If so, the sentence’s syntax structure should reflect that conceptual structure, as it does. If not—because the applicability of § 768.57 was not contested—the sentence could be shortened: In essence, the court held that appellant had failed to comply with § 768.57’s pre-filing notice requirements.

Second, is the phrase “pre-filing notice requirements” too cryptic? Should it be expanded into “requirements that notice be provided before filing”? (In other words, do we need a clause, not just a phrase, here?) The answer depends on the audience: Is it familiar enough with the subject matter so that it has no trouble understanding the verbal shorthand? If not, the clause works better than the phrase, for reasons of clarity if not emphasis.

Here is another before-and-after exercise:

The implementation of the proposal would force Widget Corp. to breach existing contracts because it would have to change its source of raw material.
From the perspective of an advocate for Widget Corp., the most important information—the breach of existing contracts—is buried in the middle of a badly structured sentence. A revision gives it the prominence it deserves:

To implement the proposal, Widget Corp. would have to change its source of raw material, and therefore to breach existing contracts.

Or even more emphatically,

The proposal would force Widget Corp. to change its source of raw material. This would breach its existing contracts.

The third technique is more difficult to master than the first two, because it requires more precise attention to the details of a sentence’s punctuation and structure:

Before:
Moreover, the conflict involves an important question of law on which a uniform nationwide rule is essential. For example, it would be intolerable for the minimum wage provisions to be applied differently in different regions of the country. In the same way, it would also be intolerable for courts in some states but not others to grant exceptions to the priority of a secured creditor’s perfected lien under the UCC. The continuing inconsistency in these matters could have serious economic consequences because creditors would be reluctant to finance businesses in regions whose liens may not enjoy true priority.

After:
Moreover, the conflict involves an important question of law on which a uniform nationwide rule is essential. It would be intolerable, for example, for the minimum wage provisions to be applied differently in different regions of the country. Similarly, it would be intolerable for courts in some states, but not in others, to grant exceptions to the priority of a secured creditor’s perfected lien under the UCC. This inconsistency would do more than inconvenience specific creditors. In a region where creditors are reluctant to finance businesses because their liens may not enjoy true priority, the region’s economy could suffer serious economic consequences.

The changes are designed to make the reader pause at points that deserve special emphasis. At the paragraph’s end, this goal had to be accomplished by more drastic means than using a little punctuation. The short penultimate sentence interrupts the paragraph’s flow in order to slow the reader down for the information in the last sentence. In that sentence, the most crucial bit of information—the serious economic consequences—has been moved to the sentence’s end, the place of maximum emphasis. But this move reveals a flaw in the writer’s thinking, not just his or her writing. The words “serious economic consequences” are too abstract, too empty to have much impact. The next step in the revision would be to flesh out the phrase in another sentence (or paragraph).

As even these brief and easy examples show, writing shorter sentences requires some linguistic skill—or, at a minimum, some concentration on syntax. This alone is often a revelation to legal writers. In addition, though, crafting shorter sentences requires a good deal of intellectual concentration, with results that again and again refine the content, not just the style, of a document. Until legal writers grasp this truth, they will find the devil’s stylistic message—be proud of your complexity—hard to resist.