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'Indeed,' 'Simply' and 'Certain' Are Unnecessary Additives

By Kenneth F. Oettle

Some lawyers challenge themselves to get through a brief without using the word “indeed.” Others permit themselves one per brief, like one dessert per day or one cigarette. The word is tempting, but it can generally be deleted or replaced without loss of emphasis, as in the following example:

Plaintiff offers no justification for filing his motion late. Indeed, the moving papers even fail to mention that the filing was late.

You can drop “indeed” because “even” does the intensifying. In the following paragraph, would you use “indeed” or “to the contrary”?

Investigation turned up no evidence of illegal dumping. [Indeed] [To the contrary], documents accounted for the disposition of every load.

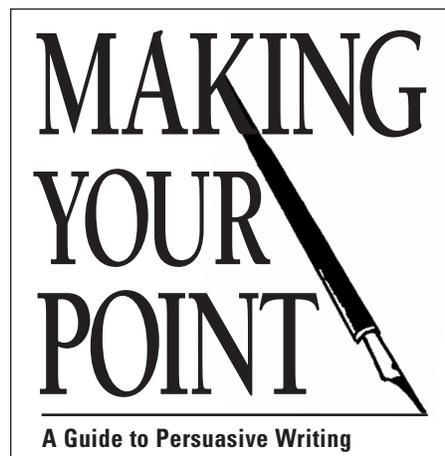
“Indeed” merely tells the reader that something is about to be intensified. It could mean the investigation was particularly thorough, the waste was not even toxic, or the dumping was properly documented, which turned out to be the case.

“To the contrary” is more helpful

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because it suggests the investigation not only failed to find evidence of illegal dumping, but it turned up evidence inconsistent with illegal dumping. The greater specificity of the phrase “to the contrary” connects the second sentence more closely to the first and thus retains a stronger grip on the reader’s attention.

Try one more example:



XYZ Corp. acknowledges that the silicon chip industry is highly competitive. Indeed, all XYZ Corp. employees must sign a secrecy agreement.

“Indeed” does help, but you can link the sentences better and begin the crescendo sooner, thus magnifying the impact, by changing “acknowledges” to “does more than just acknowledge.” With an adjustment to the second sentence as well, the thought reads as follows:

XYZ Corp. does more than just

acknowledge that the silicon chip industry is highly competitive: It requires all its employees to sign a secrecy agreement.

In short, “indeed” is a nonspecific intensifier that can usually be dropped or replaced to good effect. Limit its use.

Simply This and Simply That

Another word I avoid is “simply,” which is often found in a “no-no statement,” that is, an unsupported negation of the other side’s position:

- The defendant is simply incorrect.
- The plaintiff’s position simply has no basis in fact.
- Plaintiff’s accusation that ABC Co. violated the Court’s Order requiring ABC Co. to produce documents is simply wrong.

“Simply” is an unnecessary intensifier. The contentiousness of the adversary system hasn’t escalated to such a degree that one must exaggerate to make a point, as one must ante to participate in a poker game. You don’t have to say the other side is “simply wrong” to persuade the court they are wrong.

Just set forth the facts and the reasoning in support of your position. Then, if you wish, you can finish your presentation — and satisfy your perceived obligation as a forceful advocate — by saying:

Thus, plaintiff’s accusation that ABC Co. failed to comply with the Court’s Order is wrong.

That is enough. The other side’s being wrong is just as bad as their being “simply wrong.” Look at it this way: If you haven’t presented enough facts and deductions to persuade the court that the other side is “wrong,” then you aren’t going to tip the scales with “simply wrong.”

Not only is “simply” unnecessary, but it may undermine the credibility of your thesis because it often marks a lack of analysis, just as bad grammar often marks a bad student. Ironically, though the word is intended to connote clarity, it may highlight the absence of facts and reasoning needed to support the writer’s position.

Finally, the word may even be taken as an insult, as if the writer were suggesting that anyone with half a brain would see — because it so “simple” — that the writer’s position is correct.

‘Certain’ Often Waffles

Another word best omitted is “certain.” It is usually unnecessary and sometimes counterproductive. Consider the following:

The environmental regulators notified ABC Company of certain concerns that arose in the State’s investigation of the dump site.

Why qualify “concerns” with “certain”? Did the regulators also have concerns of which they did not notify ABC Company? That sounds ominous, and you don’t want to suggest it. Try the

sentence without the word “certain”:

The environmental regulators notified ABC Company of concerns that arose in the State’s investigation of the dump site.

It works fine this way.

Writers waffle with “certain.” In the above sentence, it was an attempt to minimize the seriousness of the concerns. The author was saying, “Yes, there were concerns. But it was only certain concerns. It wasn’t numerous concerns. It wasn’t an array of concerns. It was only certain concerns. Therefore, the concerns didn’t amount to much.”

That is, of course, hogwash. “Certain” broadcasts that you are waffling, and the reader will pick up the signal.

The word “certain” reminds me of Jim Carrey’s movie “Liar Liar,” in which Carrey is under a spell that requires him to tell only the truth for 24 hours. Carrey is a lawyer and assumes that as part of his job, he has to lie. When he is forced to tell the truth, he discovers that he is freed by it. Writing is the same way. When you stop waffling and tell the truth, you are freed by it.

Puzzler

Which of the following versions is better?

Version One:

Under statutes pre-existing the current Criminal Code, offenses termed “misdemeanors” are now deemed crimes of the fourth degree.

Version Two:

Offenses termed “misdemeanors” under statutes pre-existing the current Criminal Code are now deemed crimes of the fourth degree.

In Version Two, the prepositional phrase beginning with “under” is interruptive because it separates the subject (offenses) and verb (are deemed), but the sentence is better than Version One, which is inaccurate. Misdemeanors aren’t deemed crimes of the fourth degree “under” pre-existing statutes. Only a section of the current Criminal Code could deem acts that were called “misdemeanors” under the old statutes to be crimes of the fourth degree. ■