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Thorough Editing Proceeds in Stages

Your initial changes may reveal more opportunities for improvement

By Kenneth F. Oettle

The editing process should consist of more than one read-through of what you dictate or type. Sometimes you have to make one change before you see the possibility of another.

Consider the following sentence from a brief in which counsel contended that a partnership never arose between Jones and Smith:

A partnership between Jones and Smith was never thought of and never came into existence.

What problems do you notice with this sentence?

Did you notice that the phrase “was never thought of and never came into existence” is wordy? That the verbs are passive, not active? Or did you notice that the phrases “never thought of” and “never came into existence” are connected merely by “and,” neither phrase being featured above, or subordinated to, the other.

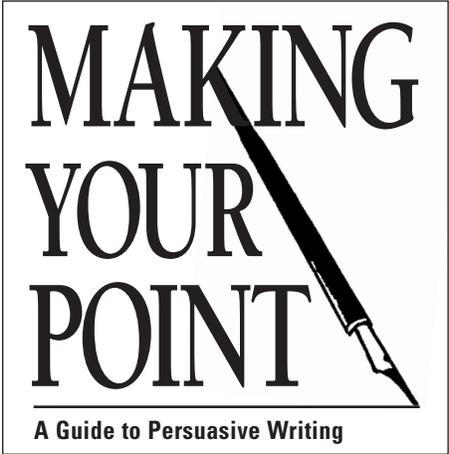
You could emphasize the absence of a partnership by saying that not only didn’t the partnership exist, but Jones and Smith never even thought of creating one. If the parties never thought

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about creating a partnership, they could hardly have entered into one.

Initially, you might not spot this possibility in a wordy sentence where the verbs are passive. Your first reaction may be to trim the sentence or to see if you can make the verbs active rather than passive.

For discussion purposes, let’s trim the sentence, recognizing that if we



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A Guide to Persuasive Writing

looked initially to change the verbs from passive to active, the progression would be different:

A partnership between Jones and Smith was neither contemplated [instead of “never thought of”] nor created [instead of “never came into existence”].

“Contemplated” and “created” are more compact than what they replace, and they form a nice alliterative combination. I prefer created to “commenced,” which would be too formal.

“Neither . . . nor” improves on the two “nevers,” at least in this version.

Shortening the sentence helps us see that one thought can be subordinated to the other:

A partnership between Jones and Smith was never even contemplated, let alone created.

“Never even” and “let alone” accomplish the subordination, and “neither . . . nor” falls away in deference to the stronger relationship.

Having produced subordination for emphasis, you would now ask whether the verbs can be made active (e.g., “created”) rather than passive (“was . . . created”). If the verbs stay in the same order, the active voice may not be a good option:

Jones and Smith never even contemplated a partnership, let alone created one.

“Let alone created one” is awkward. Perhaps we can improve the sentence by moving “partnership” to the end:

Jones and Smith never even contemplated, let alone created, a partnership.

This seems like too much action (“never even contemplated, let alone created”) before the reader finds out what is being acted upon (the partnership). Also, the phrase “let alone created” is still awkward.

Suppose we reverse the order of the verbs:

Not only did Jones and Smith never create a partnership, but they never even contemplated one.

This formulation is not bad, but it is long. Let's delete "not only ... but they" and drop one of the "nevers":

Jones and Smith never created a partnership or even contemplated one.

That is the shortest of the active versions, but I prefer the passive construction because it allows me to highlight the phrase "was never even contemplated," which sets forth my most emphatic fact. After running all the possibilities, I choose the passive voice:

A partnership between Jones and Smith was never even contemplated, let alone created.

As editing processes go, this one was relatively brief. First, the prose was streamlined. Then one part of the sentence was subordinated to another for emphasis. Finally, we considered converting the verbs from passive to active but didn't.

As in most editing opportunities, even individual word choice was at issue. Contemplated and created were chosen for brevity and alliteration. Each reduced a phrase to one word.

Every sentence in a brief should go through this process, even language that you lift from judicial opinions but don't quote. The longer the sentence, the greater the number of variables and the more combinations you have to consider.

It's no wonder that a lawyer reviewing someone else's work product can almost always improve it. Legal issues generate sentences and paragraphs with so many combinations that one mind can rarely master them.

The active/passive issue is to some degree a matter of taste (with a strong bias toward the active), but subordination is a different story. When you find yourself connecting two thoughts with "and," look for subordination opportunities.

Often you will merely be tacking one idea to another where you could create a tighter relationship between them. The stronger the relationships you create among thoughts, the easier you make the reader's task and the more successful you will be in directing the reader to the conclusion you seek.

Puzzler

How would you tighten and sharpen the following sentence?

Plaintiff seeks to recover damages on his own behalf without alleging any specific harm that he purportedly suffered that is distinct from that allegedly suffered by ABC Corp.'s other shareholders.

This sentence appeared in the argument section of a brief in support of a motion to dismiss an individual action that should have been brought as a derivative action, in other words, as an action by one shareholder for the benefit of all. The opening clause ("Plaintiff seeks to recover damages on his own behalf") is unnecessary because plaintiff's having brought suit as an individual has undoubtedly been mentioned earlier. Here, it is used merely as a warm-up.

"That he purportedly suffered" is implicit, as is "specific." "That is" is unnecessary in front of "distinct." "Alleges no" is stronger than "without alleging."

The revised version:

Plaintiff alleges no harm distinct from that allegedly suffered by ABC Corp.'s other shareholders. ■