

# New Jersey Law Journal

VOL. CLXXX- NO. 5 - INDEX 360

MAY 2, 2005

ESTABLISHED 1878

## Be Brief but Not Brusque in Your Shorthand References

Anticipate the reader's likely reaction to your terms

By Kenneth F. Oettle

Using shorthand references for names is a universal convention for saving space and maintaining the pace of briefs, memos and letters. After identifying the Department of Environmental Protection, for example, you would call it "the DEP." After identifying the Division of Gaming Enforcement, you would call it "the DGE" or "the Division."

Choosing a shorthand reference is, like everything else in persuasive writing, a matter of strategy. The reference should be unambiguous; it should evoke connotations helpful to your case if possible; and it should be unobtrusive.

The shorthand reference needs no introduction, like "hereinafter" or "hereinafter referred to," as in the following:

Consolidated      Affiliated  
Corporation      (hereinafter  
referred to as "Consolidated")  
objects to Defendant  
Transglobal      Insurance  
Company's      (hereinafter  
referred as "Transglobal") first  
request to produce documents

*The author is a partner and co-chair of the writing and mentor programs at Sills Cummis Epstein & Gross. He invites questions and suggestions for future columns to koettle@sillscummis.com. "Making Your Point" appears every other week.*

as set forth below.

Limit the parentheses to "Consolidated and "Transglobal." "Hereinafter referred to" is assumed.

In lieu of creating a shorthand reference by extracting one or two words from a multiword name, you can use the first letters of the name, as in DEP



or DGE. I recommend against this method in the above example because the shorthand "CAC" would, for some readers, become an acronym pronounced "kack," a dissonant if not gagging sound that may evoke unattractive images. "Consolidated" has more dignity.

Suppose that in a contract dispute, the parties exchanged memoranda of understanding that, taken together, may constitute an agreement. Assuming you don't want to disparage the documents (a risky tactic), call them "Memoranda," not

"MOUs" (memoranda of understanding). Would you want a reader sounding out "Mooz" and thinking of cows each time the memoranda are mentioned?

The second parenthetical in the sample sentence exemplifies a common mistake: creating a shorthand reference to a possessive. It's a no-win situation. The shorthand reference is awkward as a nonpossessive (Transglobal) because it is inconsistent with its antecedent, and it is imprecise as a possessive (Transglobal's) because subsequent references will not be possessive. Rephrase using the preposition "of":

Consolidated      Affiliated  
Corporation ("Consolidated")  
objects to the request of  
Defendant      Transglobal  
Insurance      Company  
("Transglobal") to produce ...

Suppose you are defending a wrongful discharge action against "PG & C Information Systems," a subsidiary of a hypothetical Fortune 500 communications company named "PG & C." You don't want to clog your brief with the client's full name, so you need a shorthand reference. Would you call your client PG&C, PG&C-IS, Information Systems or just Systems?

I prefer "Information Systems." "PG & C" would confuse the subsidiary (PG & C Information Systems) with the parent (PG & C). Also, you don't want to be viewed as defending Big Communications. PG & C-IS is precise, but it is a drag for readers who

sound out letters in shorthand references (“Pee gee and see — eye, ess”), and it is dissonant for readers who treat the shorthand as an acronym and pronounce the letters as a unit (“Pidgick is”). Some lawyers refer to excessive or otherwise inappropriate initials as “alphabet soup.”

“Information Systems” is easy to say silently, and it has positive connotations. “Information” is generally considered good (except, perhaps, by those who abhor information glut), and “Systems,” though clichéd, is at worst bland. If you find that the flow of your brief requires multiple references to the client, you could use both Information Systems and Systems, whichever sounds best in context. Your initial shorthand identifier would then read as follows:

PG & C Information Systems  
 (“Information Systems” or  
 “Systems”)

#### **Gathering Names**

You can apply a shorthand reference to more than one individual or entity. Use “together” or “collectively,” as in the following:

ABL Life Assurance Corp, as assignee of Associated Benefit Life Insurance Company in Rehabilitation (together, “ABL Life”)

XYZ Corp.’s employees, including John Doe, Jane Doe and Richard Roe (collectively, “the XYZ employees”).

#### **Showing Respect**

Don’t try to do too much with your shorthand reference. It should be convenient but not caustic. For example, suppose you are suing the Archdiocese of a large city for breach of contract. Would your shorthand reference be “the Archdiocese” or “the defendant”? You might figure that by referring to the Archdiocese as “the defendant,” you could tarnish the adversary’s halo, as it were.

The tactic is so obvious that you’re better off with “the Archdiocese.” You can’t overcome the inherent respect for the Church with the demeaning term “defendant.” Go with the flow and let the facts of the contract breach speak for themselves.

#### **A Punctuating Note**

The shorthand reference goes inside the comma, not outside, where the antecedent is followed by a comma:

Wrong: Because of the negligence of Dr. John Smith, (“Dr. Smith”) plaintiff suffered serious injury.

Right: Because of the negligence of Dr. John Smith (“Dr. Smith”), plaintiff suffered serious injury.

#### **Puzzler**

How would you tighten and sharpen the following sentence?

XYZ Corp. refused to sign the reservation of rights letter, obtained its own defense counsel and the underlying action was litigated to conclusion.

The comma after “letter” tells the reader that XYZ Corp. took a series of actions, the first two of which were “refused” and “obtained.” Because the comma is not an “and,” the reader looks for another verb describing action by XYZ Corp.

The sentence then surprises — and it may annoy or confuse — by switching subjects from XYZ Corp. to “the underlying action.” Because of the switch, the construction is not “parallel.” A collateral benefit of keeping the same subject (XYZ Corp.) is that the passive verb “was litigated” becomes the active verb “litigated,” which has the same structure as (is parallel to) “refused” and “obtained.”

The sentence also “runs on” by omitting a comma after “counsel,” thus joining independent clauses (clauses that are sentences in their own right) without punctuation. In the revised version, the comma after “counsel” is optional because the sentence no longer concludes with an independent clause.

The revised version: XYZ Corp. refused to sign the reservation of rights letter, obtained its own defense counsel, and litigated the underlying action to conclusion. ■