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You May Need To Reorganize Your Thoughts After Recording Them

Be wary of digressions, which divert the reader

By Kenneth F. Oettle

ape recorders and word processors allow writers to capture ideas almost in real time. The price of this fluidity may be disorganization — an undulating mix of thesis statements, supporting points, background facts and even irrelevancies. Writers who "go with the flow" usually record digressions as well as progressions, creating disjointed paragraphs and pretzel-like sentences in which the ends curl back into the middle and the beginnings are trapped at the end.

The lure of being able to keep up with one's thoughts is palpable — a writer can cobble together work product in less than an hour. But it involves a trade-off: In return for speed, you may sacrifice order. If you write as you think, some of your writing will inevitably digress.

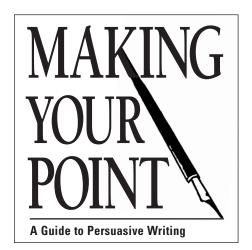
In personal conversation, we can stray from the point and still hold the listener's attention with tones and gestures that acknowledge the detour and assure the listener that we intend to return to the path. In writing, we don't have that luxury.

Writers cannot bring tones and gestures to the printed page. We have no way to urge the reader to bear with us

The author is a partner and co-chair of the Appellate Group and writing and mentor programs at Sills Cummis Radin Tischman Epstein & Gross. He invites questions and suggestions for future columns to koettle@sillscummis.com. "Making Your Point" appears every other week. while we explore a tangent or add a qualification or two, other than to announce, awkwardly, that we intend to digress.

The underlined portion of the following sentence is an example of a typical digression:

An officer of the defendant



mortgagor allegedly entered into an oral agreement with the plaintiff mortgagee, in consideration of the mortgagee's agreement to forbear from foreclosing, that he would pay the principal and interest due on the note within a few months.

The underlined phrase splits the description of the oral agreement in two. The first part of the sentence says the mortgagor allegedly made an oral agreement with the plaintiff mortgagee. A reader would expect at that point to be told what the mortgagor agreed to do.

But the reader does not learn until the end of the sentence that the mortgagor promised to pay the principal and interest on a note.

The digression in the middle ("in consideration of the mortgagee's agreement to forebear from foreclosing") delays the reader's finding out what the mortgagor promised. On the way to describing that promise, the writer seems to have remembered the consideration for the promise and decided to report that first.

When I first read the passage, the digression appeared to be the end rather than the middle of the sentence. I was surprised to see a comma, not a period, after "foreclosing," and I reread the sentence to see if I had missed something. Some readers would just move on.

As with most digressions, the problem can be solved by rearranging. You can move the statement about consideration to the end of the sentence, where it no longer interrupts:

An officer of the defendant mortgagor allegedly entered into an oral agreement with the plaintiff/mortgagee to pay the principal and interest due on the note within a few months, in consideration of the mortgagee's agreement to forbear from foreclosing.

In this restructured sentence, the reader learns first what the mortgagor allegedly agreed to do — pay principal and interest on a note — and then what the mortgagee allegedly agreed to do — forebear from foreclosing. Had the writer tested the passage against the reader's expectations, as all writing

should be tested, the digression might not have occurred.

Chances are the writer didn't realize that the sentence digressed. The writer was probably so familiar with the subject matter that the order in which the facts appeared seemed irrelevant. The writer's mind supplied all the connections. Most readers probably won't make those connections because they are less familiar with the material and don't know the writer's intent.

One could eliminate the digression another way — by beginning the sentence with what used to be the interruption — "In consideration." Assuming the sentence structure isn't dictated by the shape of the sentence before it, I don't favor this approach. I prefer to tell the reader about the mortgagor's promise first because it is the principal subject of the sentence.

A Second Example

In the following sentence, the writer is trying to say that the rules of a stock exchange may deem a director to be "outside" (that is, independent) even if the director provides non-directorial services to the board, for example as a consultant, and receives compensation in addition to director's fees:

The rules of the stock exchange permit persons who provide additional services to the board for separate compensation, except for persons who regularly serve as professional advisors, legal counsel or management consultants, to qualify as outside members.

The writer's point is that persons who provide additional services to the board of directors may still qualify as independent directors unless the services are of a particular kind and are regular. But the idea is broken in two by an "except" clause. The first part of the sentence tells the reader that the rules of the stock exchange permit something, but the next part of the sentence fails to tell the reader what the rules permit.

Instead, the interruption states that the rules have an exception. So the reader knows that rules exist and have an exception, but until the reader completes the sentence and "puts two and two together," the reader doesn't know what the rules allow. By requiring the reader to solve this puzzle, the writer has committed one of the cardinal sins of persuasive writing — making the reader do extra work.

The sentence can be improved by shifting the parts around:

The rules of the stock exchange permit persons who provide additional services to the board for separate compensation to qualify as outside directors unless the persons regularly serve as professional advisors, legal counsel or management consultants. The concept of persons being permitted to qualify as outside directors is now a unit at the beginning of the sentence. The interruption has been removed by shifting the qualification to the end of the sentence, and no information has been lost.

Puzzler

How would you tighten and sharpen the following sentence?

The court ruled that plaintiff could not establish that defendant had any duty whatsoever to preserve the evidence where plaintiff failed to ask defendant to do so.

"Plaintiff could not establish" can be dropped. If the court ruled that the defendant had no duty, then the plaintiff implicitly failed to establish a duty. The intensifier "whatsoever" (first cousin to "in any way") is unnecessary. "Where plaintiff failed to ask defendant to do so" can be shortened to "without being asked." "Unasked" is even shorter, but it could, at least momentarily, be taken to modify "evidence" rather than "preserve."

The revised version:
The court ruled that defendant had no duty to preserve the evidence without being asked.