Do you have questions about legal writing? K.K. DuVivier will be happy to address them through the Scrivener column. Send your questions to: kkduvivier@law.du.edu or call her at (303) 871-6281.

I frequently get questions from readers, and when possible, answer them immediately. However, the following question was complex enough that I thought I would share it, as well as my response, through a column.

KK: I missed the memo that changed noun-verb agreement on nouns formerly defined as singular i.e. "staff," meaning more than one person, as in "the staff are." When did it change from "the staff is"? Who decided on this change, and why wasn't I notified? I'm making light of this issue, but I'm perplexed. P.S. Grammar check didn't get the memo either.

District Judge Marilyn Leonard

Compound Subjects

The general rule is that a singular subject takes a singular verb and a plural subject takes a plural verb.

Examples:

—*She enjoys chocolate cake.* (Singular subject with singular verb.)

—*They enjoy chocolate cake, too.* (Plural subject with plural verb.)

But what happens when the subject is two or more nouns combined by a conjunction? These "conjunctive-compound subjects" usually take a plural verb.

Example:

—*The plaintiff and defendant agree to the continuance.*

(Nouns joined by the conjunction "and" create a plural subject both acting on the verb.)

There are at least two exceptions to the general rule. First, if the nouns are joined by a disjunctive compound, such as "or" or "nor," the verb should agree with the subject closest to the verb. When the
subject involves both a singular and plural noun, it is best to place the plural noun near the verb to avoid an awkward result.

Examples:

—Neither the prosecution nor the defense is ready for trial.

(Nouns joined by the disjunctive "nor" act independently and warrant a singular verb.)

—Neither the jurors nor the judge seems sympathetic to our argument.

(This version correctly uses a singular verb after the singular noun "judge," but seems more awkward than the construction below.)

—Neither the judge nor the jurors seem sympathetic to our argument.

(This version uses the plural noun "jurors" and follows it with a plural verb.)

The second exception to the rule that compound subjects require a plural verb is a compound subject representing a singular object or idea. When the compound subject is singular in this way, the verb should be singular to match.

Examples:

—Black tie and tails is the designated attire.

—To forsake my client and to settle for less than my client has actually paid in medical bills is out of the question.

(The two indefinite phrases refer to the same action, so the sense is singular in number.)

—A philanthropist, author, and scholar is with us tonight.

("Philanthropist, author, and scholar" all refer to the same person. The singular determiner "a" before the list is a clear signal that the phrase is singular in meaning.)

Subject–Verb Agreement—Collective Nouns

A collective noun is a noun "that appears singular in formal shape but denotes a group of persons or objects." Some of the most commonly-used collective nouns in legal writing include "jury," "family," "appellate court," and "majority." Many of us had conscientious writing teachers drum into our heads that these collective nouns always require a singular verb. Thus, even if the Supreme Court is composed of nine justices, the proper form requires a singular verb: "the Supreme Court issues its decision," instead of "the Supreme Court issue their decision."

Although the consistency of a rule requiring a singular verb with all collective nouns may be comforting, use of plural verbs with some collective nouns has long been recognized. The frayed pages of my vintage unabridged dictionary contain the same rule on collective nouns as that set out in most recent authorities on writing style. If we are using a collective noun as the subject, the context of the sentence will cue us as to whether the verb should be singular or plural. If the collective noun describes a combined
group action, we should use a singular verb. If the sentence describes actions of individuals in the collective group, we use a plural verb.  

Examples:

— The band plays The Star Spangled Banner. (Clearly collective.)  

— The band warm up on their instruments. (Clearly individual.)

Conclusion

So, my answer to Judge Leonard’s question above is a lawyer-like, "it depends." If her staff is taking a collective action, the verb should be singular. If the staff are acting independently, however, she should use a plural verb.

Example:

— The staff agrees to the contract change. (Collective action.)  

— The staff are divided in their views about the contract language. (Individual action.)

Furthermore, if the context allows either a singular or plural interpretation, the choice often comes down to which form reads most smoothly. Because the goal is to avoid constructions that might distract readers from the content of our writing, we must primarily be consistent about whichever choice we make within a document. Unfortunately, because the decision about whether to use a singular or plural verb requires discretion, we can’t always trust grammar check to set us straight.

NOTES


2. Id. at 138-39.

3. Examples taken verbatim from The Redbook, supra, note 1 at 143.

4. Id. at 138-39.


8. The Redbook, supra, note 1 at 141 (Although this is not the main thrust of the rule, this section of The Redbook notes, “The American preference is to use collective nouns (e.g., committee) as singular, and to specify individuals (e.g., committee members) when individual action is implied.” None of the other authorities indicates this is an American peculiarity.)
9. "When a singular verb is used with [a collective] noun, it is thought of as naming a unit, as family in 'My family is related to Washington'; when a plural verb is used, it is thought of as referring to individuals, as in 'My family are all at home.'" The Random House Dictionary, supra, note 5 at 290.

10. The Redbook, supra, note 1 at 141; Just Writing, supra, note 6 at 187-88. See also Sebranek, Kemper, and Meyer, Writers Inc. 479 (Wilmington, MA: Write Source, 2001). But cf. Getting It Right, supra, note 7 at 217 (suggesting only the singular form is appropriate for collective subjects).

11. Examples taken verbatim from The Redbook, supra, note 1 at 141.

12. Id. at 141.