

The Scrivener: Modern Legal Writing



Power Verbs

by K.K. DuVivier

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The word is the Verb, and the Verb is God.
Victor Hugo, *Contemplations* (1856) bk.1, no.8

To make your writing more vivid and efficient, focus attention on your verbs. For those who were not taught the parts of speech in school, the “subject is that part of a sentence about which something is being said,” and the verb “says something about what the subject is [a state of being] or is doing [an action].”¹

The word “verb” comes from the Latin *verbum*, which means “word.”² The fundamental *word* in any sentence is the verb. Every sentence must have at least one verb, and some sentences consist of a single word, the verb.³ To orient themselves to determine the sentence’s message, your readers will search for the verb.⁴

Often we lawyers do injustice to our potential ally the verb. We have a tendency to weaken our verbs’ power by converting them into long nouns with verb roots called nominalizations. The base verbs are underlined in the following examples of nominalizations:

dismissal agreement detraction
depravity dominance or dominancy

Scrutinize your writing for words with the noun-creating suffixes or endings illustrated in the examples—*-al*, *-ment*, *-tion*, *-ity*, *-ance* or *-ence*, and *-ancy* or *-ency*. Consider whether your sentence could be stronger if you transformed one of these nouns into the main verb of the sentence.

Not all nominalizations can be avoided, but when you invite them into your writing, you often are faced with the dilemma of entertaining their entourage of excess words.

Example: Can we make the assumption that you will come to an agreement?

Revision: Can we assume you will agree?

DO YOU HAVE QUESTIONS ABOUT LEGAL WRITING?

K.K. DuVivier will be happy to address them through *The Scrivener* column. Send your questions to: K.K. DuVivier, University of Colorado School of Law, Campus Box 401, Boulder, CO 80309-0401.

To get the same work out of the noun “assumption” that you did from the one verb “assume,” you need two extra words, a supporting verb (make) and an article (the). When the word “agree” is replaced with “agreement,” you need three extra words, a supporting verb (come), a preposition (to), and an article (an). Thus, you can make more efficient use of your words, and meet court-imposed page limits, if you simply use the base verbs.

Similar problems of surplus words arise when you turn a verb into an adjective and then try to use it as you would a verb. Notice how a simple conversion to a base verb reduces the following sentence by two words.

Example: His actions were violative of provision 6.

Revision: His actions violated provision 6.

In the first paragraph of this article, we noted that a verb can either express actions or describe a state of existence. Forms of the verb “to be” (am, are, is, was, were) describe a state of existence and are appropriate only when the point of the sentence is to focus on the fact that something exists.⁵ When we use the verb “to be” as the main verb of a sentence that concerns action, the reader’s focus is shifted away from the key information in the sentence. By burying the real action in a noun or adjective, we weaken the sentence.

Example: The court’s decision is [form of the verb “to be”] favorable to the plaintiff.

Revision: The court’s decision favours [verb] the plaintiff.

Example: There are [form of the verb “to be”] three elements the plaintiff must prove.

Revision: The plaintiff must prove [verb] three elements.

Similarly, look out for vague verbs such as “have,” “concerns,” “involves” or “deals with” that don’t convey any real action. These words frequently can be replaced by an action verb. For example, the verb “have” should be used only to communicate possession.⁶ If the sentence communicates some action, replace the verb “have” with the verb that conveys the true action of the sentence.

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Example: The environmental impacts have [verb] an effect on whether the Forest Service will approve the permit.
Revision: The environmental impacts affect [verb] whether the Forest Service will approve the permit.

Focusing on verbs will force you to consider the purpose of your sentence and to place key information into the verb location where your reader will notice it.

NOTES

1. Shapo, Walter and Fajans, *Writing and Analysis in the Law* 147 (Westbury, N.Y.: Foundation Press, 1989).

2. My thanks to Martha Faulk, J.D., M.A., for reminding me of the derivation of the word "verb," something I first learned in basic Latin.

3. Verb sentences are commands such as "Look" or "Come." In a few instances, a verb can be inferred, such as in the following sentence: "Here." The verb "come" is inferred so the full sentence would be "Come here."

4. "Writing From The Reader's Perspective," an oral presentation for Holland & Hart on July 1-2, 1992, by George D. Gopen of Duke University.

5. For example, the focus of the sentence "The baby was a boy" is on the baby's existence as a male child.

6. An example of the use of "have" for possession is "We have [possess] a dog."



Do You Know of a New or Recently Renovated County Courthouse?

The staff of *The Colorado Lawyer* has had submissions of photos of both the new Jefferson County Courthouse and the recently renovated Courthouse in San Juan County. We are considering using these photos together on an upcoming journal cover. If you are aware of other new or recently renovated county courthouses, we would like to add their photos to our cover "colage." Please submit photos (black & white or color with good contrast) by the end of January 1994 to *The Colorado Lawyer* at 1900 Grant St., #940, Denver, CO 80203.

Now's the Time to Join CBA Committees!

Attorneys wishing to join one or more CBA committees should act now. The committees cover a wide variety of legal areas and interests, and being an active committee member is an excellent way to network and meet others in your field. Below is a list of existing CBA committees; to sign up, simply copy and complete the form below. For further information about a committee, call Julie Petersen at the CBA office: (303) 860-1115 or (800) 332-6736.

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Return to: Colorado Bar Association, 1900 Grant St. #950, Denver, CO 80203