

EVERYTHING YOU EVER WANTED TO KNOW ABOUT COMMAS...AND MORE

LEGAL WRITING CLINIC

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Commas: What's the Big Deal?

- Commas are the most frequently used punctuation mark.
- They are also the most misused.
- Myth: “I’ll just put in a comma every time I would pause when speaking.”
- Reality: That only works about 70% of the time.

Let's eat, Grandma.

VS.

Let's eat Grandma.

PUNCTUATION MATTERS

The Rules for Good Comma Karma

- Bad news: There are *numerous* rules about comma usage.
- Good news: We'll focus on only eight of them.
- Even better news: Some rules are far more important than others.

We'll cover the following comma rules from *Just Writing*:

- Rules 1, 2, 4, 5, 7, 9, 10, and 12
 - Red rules change the meaning of an entire sentence or avoid ambiguity.
 - Remaining rules demonstrate that you are educated.
- For an overview of all the comma rules, see pages 202-37 in *Just Writing*.
- Each rule is also explained in depth in the pages that follow the overview.
- You will find practice quizzes on all of these rules on the Legal Writing Clinic TWEN page.

Rule 1

Use a comma before a coordinating conjunction joining two main clauses.

Coordinating Conjunctions:

and

but

or

for

nor

yet

so

Memory clue: FANBOYS (for, and, nor, but, or, yet, so)

Main clauses (also known as “independent clauses”)

- * have their own subject and verb
- * can stand alone as a sentence

Chart for Rule 1:

_____ , *coordinating conjunction* _____ .
[main clause] [main clause]

Examples:

1. Seaview, Inc. has five franchise restaurants, and all are in the State of Washington.
2. Seaview restaurant employs 500 persons, but only thirty of these 500 employees are women.

Do not assume that you should put a comma before every coordinating conjunction.

Example of coordinating conjunction joining compound verbs:

3. Ms. Roberts worked as a busperson and received the highest possible rating on her periodic evaluation.

Example of coordinating conjunction joining “that” clauses:

4. Seaview claims that it is an equal opportunity employer and that it does not discriminate in hiring or promotion.

A. Practice Rule 1: the defendant had erected a “no trespassing” sign on his front door and the City of Olympia had erected a “no trespassing” sign at the entrance to the dirt road leading to the defendant’s house.

1. No comma before
“and”
2. Comma before
“and”

B. Six-week information about a grow operation has been found acceptable and the court has been willing to project that even four-month old information could be sufficiently reliable to establish probable cause.

1. Comma after
“acceptable”
2. No comma after
“acceptable”

C. Jane Doe claims that her anxiety level has increased and that she has had to meet with a therapist twice a week since the incident.

1. Comma after
“increased”
2. No comma after
“increased”

D. Washington courts have vigorously applied the rule against intrusion into private affairs and have shifted the burden of proof to the state to justify its intrusion.

1. Comma after
“affairs”
2. No comma after
“affairs”

Rule 2

Use a comma to set off long introductory clauses or phrases from the main, or independent, clause.

Introductory clauses or phrases are sentence openers that precede the main subject and verb.

Generally, if a clause or phrase has four words or more, it is considered “long” and should be set off with a comma.

Chart for Rule 2

_____ , _____ .
[long introductory phrase/clause] [main clause]

5. After beginning her employment at Seaview, Ms. Roberts attended school part-time at night.
6. Although the Seattle Seaview restaurant has twenty-eight employees, only two of them are women.
7. While living in Korea, Ms. Roberts worked in family restaurants, performing various duties.

Note: Even though dates, case names, and transitions tend to be short introductory phrases, they are usually set off by commas.

8. In 1999, Ms. Roberts received an “above average” rating from her supervisor.
9. In *North Haven v. Bell*, the Supreme Court held that Title IX’s broad protection of “persons” does extend to employees of educational institutions.
10. Therefore, Seaview’s failure to promote Ms. Roberts will probably be considered employment discrimination.

E. Without the illegally obtained evidence of the “smell search” the affidavit in search of the warrant contained insufficient evidence to support probable cause.

1. Comma after
“search”
2. No comma after
“search”

F. In *Johnson* a “no trespassing” sign, fenced property, and a chain link gate manifested a reasonable expectation of privacy.

1. Comma after
“Johnson”
2. No comma after
“Johnson”

G. Consequently the student plaintiff
could bring a cause of action.

1. Comma after
“consequently”
2. No comma after
“consequently”

H. When the information in an affidavit used to gain a search warrant is the fruit of an illegal search the warrant is invalid unless the remaining information can stand alone to establish probable cause.

1. Comma after “fruit of an illegal search”
2. No comma after “fruit of an illegal search”

I. To determine if Panama is a more convenient forum the court will consider the private factors in our case.

1. Comma after
“forum”
2. No comma after
“forum”

Rule 4

Use a comma to set off nonrestrictive phrases or clauses.

Restrictive phrases or clauses restrict or limit the words they modify.

Non-restrictive phrases or clauses do not restrict or limit the words they modify.

Example of a restrictive clause:

[assume there was more than one eyewitness]

11. The eyewitness who refuses to testify will be held in contempt.

Example of a nonrestrictive clause:

12. Melissa Maye, who refuses to testify, will be held in contempt.

Example of a restrictive phrase:

[assume there was more than one “no trespassing” sign]

13. The “No Trespassing” sign on Mr. Gove’s front door indicated Gove’s desire for privacy.
14. The first “No Trespassing” sign, which the City of Olympia had posted at the entrance to the dirt road, could not be interpreted to mean that Mr. Gove’s front porch was not impliedly open.

Note: Restrictive clauses often use “that.” The comparable nonrestrictive clause uses “which.”

Example of incorrect “which”:

15. The “No Trespassing” sign which Mr. Gove put on his front door declared his desire for privacy.

Corrected:

The “No Trespassing” sign that Mr. Gove put on his front door declared his desire for privacy.

Chart for Rule 4

restrictive----->restricts the word it modifies----->no commas->who/whom/that

nonrestrictive->does not restrict word it modifies->commas----->who/whom/which

Restrictive or Nonrestrictive?

The Test

1. Identify the element.
2. Remove the element. Does the sentence's meaning change?
3. If **no**, it's nonrestrictive – needs commas.
If **yes**, it's restrictive – no commas.

--From *The Little, Brown Handbook*

Example:

Mr. Quang who emigrated from Vietnam lives in Denver. Those who emigrated with him live elsewhere.

Mr. Quang lives in Denver. **No meaning change.**

Those live elsewhere. **Yes, meaning changed.** (*Who are “those”?*)

Mr. Quang, who emigrated from Vietnam, lives in Denver. Those who emigrated with him live elsewhere.

What is the difference between these two sentences?

Fences that are clear indications of a homeowner's
desire for privacy must be respected by police officers.

Fences, which are clear indications of a homeowner's
desire for privacy, must be respected by police officers.

The Million Dollar Comma

- The case involved enforcement of a seller's non-compete clause.
 - “That” at the beginning of the clause meant \$0 for the buyer
 - “Which” at the beginning of the clause meant \$1M+ for the buyer
- The clause began with “which,” but no comma.
- What happened?

Practice Rule 4:

J. A California case which is the key to the issue here is *Marks v. Whitney*.

1. “which” with no commas
2. “which” with commas after “case” and “here”
3. “that” with no commas

K. Unlike the doctor in *Grimsby* who had an established relationship with the patient, the state trooper did not have a relationship with the Smiths.

1. Comma after
“Grimsby”
2. No comma after
“Grimsby”

Notice how a single comma changes the meaning in the following two sentences.

1. The prosecutor excluded all jurors who live in neighborhoods with numerous drug-related incidents.
2. The prosecutor excluded all jurors, who live in neighborhoods with numerous drug-related incidents.
1. The prosecutor excluded all jurors who live in neighborhoods with numerous drug-related incidents.
(Prosecutor excluded only jurors who live in neighborhoods with numerous drug-related incidents.)
2. The prosecutor excluded all jurors, who live in neighborhoods with numerous drug-related incidents.
(Prosecutor excluded all jurors.)

Rule 5

Set off nonrestrictive appositives with commas.

Appositives rename a noun to further identify or describe it. Most appositives are nonrestrictive.

Examples:

16. Chris Jones, Seattle University alumnus, was elected mayor.
[appositive]

17. The third factor, whether the possession was hostile, is disputed.
[appositive]

Although most appositives are nonrestrictive, occasionally one will be restrictive.

18. Seattle resident David Hughes was elected governor.

Practice Rule 5:

L. Ms. Maye a U.S. citizen grew up in Korea and moved to the United States at the age of twenty.

1. Commas after “Ms. Maye” and “citizen”
2. No commas after “Ms. Maye” or “citizen”

M. The final element whether the couple suffered severe emotional distress will be difficult to prove.

1. Commas after “element” and “distress”
2. Comma after “element”
3. No commas

- N. Ms. Parsons asked her sister Pamela Barney if Amy could live with Ms. Barney until the mother and daughter could resolve their differences.
- N. Ms. Parsons asked her sister, Pamela Barney, if Amy could live with Ms. Barney until the mother and daughter could resolve their differences. (*correct if there is only one sister*)
- N. Ms. Parsons asked her sister Pamela Barney if Amy could live with Ms. Barney until the mother and daughter could resolve their differences. (*correct if there is more than one sister*)

Rule 7

Use a comma to set off transitional or interrupting words and phrases.

Chart for Rule 7:

_____ , interrupter , _____
[main] [clause]

Examples:

19. The trial court, however, imposed an exceptional sentence.
20. The Court of Appeals held that Wells, through her own fault and connivance, caused the delay.

Note: Many of the same transitions that can interrupt main clauses can also be used between two main clauses. When they occur between two main clauses, they are preceded by a semicolon or a period.

Compare these two charts:

a. _____, transition, _____
[main] [clause]

b. _____;transition, _____
[main clause] [main clause]

a. His vision was, therefore, blurred.

b. The driver lost his contact lenses; therefore, his vision was blurred.

Practice Rule 7:

O. One could infer therefore that the billing procedures were there for her to see.

1. Commas before
and after
“therefore”
2. Comma before
“therefore”
3. No commas

P. Other cases on the other hand suggest that the evidence necessary to satisfy the second element may come from any source.

1. Commas after
“cases” and “hand”
2. Comma after
“cases”
3. No commas

Q. The prosecutor despite several warnings from the judge continued to badger the witness.

1. Commas after
“prosecutor” and
“judge”
2. Comma after
“judge”
3. No commas

R. The jury however believed the police officer.

1. Commas before
and after
“however”
2. Comma after
“however”
3. No commas

S. The defendant testified that she did not reach under the seat of the car however the jury believed the police officer.

1. Commas before and after “however”
2. Semicolon after “car” and comma after “however”
3. No punctuation

Rule 9

Use a comma or commas to set off phrases of contrast.

Phrases of contrast usually begin with “not,” “but,” or “yet.”

Examples:

21. Officer Daley, not Officer Martin, made the arrest.
21. The witness testified about the defendant’s energetic, but incompetent, job performance.
23. The pace was grueling, yet somewhat satisfying.

Rule 10

Use commas between items in a series.

A series is three or more items that are grouped together. Each item may be as short as one word or as long as a clause.

Examples:

24. Wong had no money, identification, or jewelry.
25. “I pulled away from the side of the road, glanced at my mother-in-law, and headed over the embankment.”
26. Jones could not remember who he was, where he lived, what he did for a living, or what he had done during the last two weeks.

Many general writing books say that the serial comma (the one before “and” or “or”) is optional. You should use it in legal writing to avoid potentially ambiguous sentences.

Example:

27. Mr. Wyatt wanted his property divided equally among John Kinney, Connie Fester, June Jensen and Gene Jensen.

Does Mr. Wyatt want his property divided into three or four equal parts?

“For want of a comma, we have this case”

- O’Connor v. Oakhurst Dairy, 851 F.3d 69 (1st Cir. 2017).
 - The dairy drivers claimed overtime pay, but the company had excluded the following activities from overtime:
- *The canning, processing, preserving, freezing, drying, marketing, storing, **packing for shipment or distribution** of:*
- *(1) Agricultural produce;*
(2) Meat and fish products; and
(3) Perishable foods.
- Drivers successfully argued they distributed produce but didn’t pack it, so overtime for distribution shouldn’t be excluded.

Practice Exercises for Rules 9 and 10

- T. Yesler later identified James in a photo montage in a lineup and at trial.
- T. Yesler later identified James in a photo montage, in a lineup, and at trial.
- U. The prosecutor's comment of disbelief was directed only at the defense theory of mistaken identity not at the credibility of a witness.
- U. The prosecutor's comment of disbelief was directed only at the defense theory of mistaken identity, not at the credibility of a witness.

- V. The sanity commission concluded that Thomas was incapable of perceiving the nature of his conduct at the time of the offense was unable to distinguish right from wrong but was competent to stand trial.
- V. The sanity commission concluded that Thomas was incapable of perceiving the nature of his conduct at the time of the offense, was unable to distinguish right from wrong, but was competent to stand trial.

- W. The 90-day “time for trial” rule under CrR 3.3 (c)(1) began to run when Lewis was arraigned not when the State filed the information.

- W. The 90-day “time for trial” rule under CrR 3.3 (c)(1) began to run when Lewis was arraigned, not when the State filed the information.

Use commas according to convention with dates, addresses, and names of geographical locations.

Note that commas are used after the year when a sentence continues after a full date (month, day, and year).

Example:

28. The land was surveyed on October 4, 1998, and purchased less than one month later.

Note that commas separate individual elements in addresses. When a sentence continues after an address or geographical location, comma is used to separate it from the remainder of the sentence.

Example:

29. Send the bill to Mr. Art Meiering, 3000 La Jolla Lane, Roswell, New Mexico 88201, before Tuesday.

Practice Exercise for Rule 12

- X. The string of robberies began in San Diego California and ended in Tacoma Washington after the defendant was picked up on a traffic violation.

- X. The string of robberies began in San Diego, California, and ended in Tacoma, Washington, after the defendant was picked up on a traffic violation.

Review all comma rules: (1)The
cocaine's wholesale value was \$17,000
and its street value was \$80,000.

1. Comma after
\$17,000
2. No comma after
\$17,000

(2) Viewing the evidence in the light most favorable to the prosecution the trial court found the essential elements of the crime.

1. Comma after
“prosecution”
2. Comma after
“favorable”
3. No comma

(3) Trooper Yessler who investigated the accident testified that the “primary causal factor” of the accident had been Morgan’s intoxicated state.

1. Commas after
”Yessler” and
before “testified”
2. Comma after
Yessler
3. No commas

(4)The state trooper who investigated the accident testified that the “primary causal factor” of the accident had been Morgan’s intoxicated state.

1. Commas after
“trooper” and
before “testified”
2. Comma after
“trooper”
3. No commas

(5)The only witness Ann Peters had discussed her criminal liability with the prosecutor.

1. Commas after
“witness” and
“Peters”
2. Comma after
“witness”
3. No commas

(6)An appellate court may however
request additional evidence before
rendering a decision on a case.

1. Commas around
“however”
2. Comma after
“may”
3. No commas

(7) Chavez says he saw a man lying
on the ground not on the street.

1. Comma after
“ground”
2. No commas

(8) Thomas pulled out his gun aimed
it and fired.

1. Commas after
“gun” and “it”
2. Comma after “gun”
only

(9) Johnson moved to Las Vegas,
Nevada on July 21, 1999 so he could
attend college there.

1. Correct as is
2. Commas after
“Nevada” and
“1999”
3. Comma after
“Nevada” only

Thanks for coming!

Any questions, please contact

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