

Nine Punctuation Issues

Punctuation isn't decoration. Proper punctuation shows the reader how your sentences are structured, and that makes your writing more clear and the reader's job easier.

Issue 1 — Apostrophes

For many readers, apostrophe mistakes are like hearing fingernails scraping a chalkboard. Start by distinguishing among plurals (more than one); possessives (which show ownership or something similar); and contractions (two words mashed together).

In a formal memo or brief, do not use contractions, although they are fine in an informal client letter. (The textbook includes contractions because most students find reading easier that way. But we, the authors, do not use contractions in the legal documents we prepare.)

Nouns: A plural noun usually ends in an s with no apostrophe (“six plaintiffs”). A possessive noun usually ends in an s with an apostrophe (“the plaintiff’s complaint”).

wrong: Both the legislature and the court’s have refused to modify the rule.

also wrong: The defendant appealed the courts decision.

Pronouns: The rules for pronouns are different. That’s where the trouble usually starts. Don’t confuse a contraction with a possessive. Be careful with *it*, *who*, and *they*.

See the table on the next page.

“it”

contraction:	<i>it's</i> = <i>it is</i> or <i>it has</i> (“it’s election day tomorrow”)
possessive:	<i>its</i> means that <i>it</i> possesses whatever follows (“the state reelected <i>its</i> governor”)
fingernails on a chalkboard:	writing <i>it's</i> when you mean that <i>it</i> possesses something — write <i>its</i> instead

“who”

contraction:	<i>who's</i> = <i>who is</i> or <i>who has</i> (“who’s going to lunch?”)
possessive:	<i>whose</i> means that <i>who</i> possesses whatever follows (“whose sandwich is this?”)
fingernails on a chalkboard:	writing <i>who's</i> when you mean that <i>who</i> possesses something — write <i>whose</i> instead

“they”

contraction:	<i>they're</i> = <i>they are</i> (“they’re late”)
possessive:	<i>their</i> means that <i>they</i> possess whatever follows (“their papers were time-stamped too late”)
fingernails on a chalkboard:	writing <i>they're</i> when you mean that <i>they</i> possess something — write <i>their</i> instead

Remember this: Because a pronoun’s contraction is formed with an apostrophe, its possessive cannot have an apostrophe. Otherwise, the contraction and the possessive would look exactly the same. The following might help you remember:

the contraction	the possessive
it’s (it is)	its
who’s (who is)	whose
they’re (they are)	their

What's wrong with each of the following sentences?

Courts have limited this precedent to it's facts.

Courts can impose sanctions on a party who's complaint lacks a basis in law or fact.

Courts have streamlined they're procedures by adopting a new set of rules.

Issue 2 — Commas with Introductory Words and Phrases

An introductory phrase is usually set off from the rest of the sentence by a comma. Without the comma, the first example below is confusing:

wrong: Frustrated with all the spyware and viruses on his computer the mouse potato threw it out the window.

right: Frustrated with all the spyware and viruses on his computer, the mouse potato threw it out the window.

If the introductory word or phrase could have been moved elsewhere in the sentence and would not have needed a comma there, a comma is not usually required to set it off at the beginning of the sentence. But you might want to use a comma anyway for stylistic reasons.

right: Unfortunately, he then sat in front of the television and became a couch potato.

also right: Unfortunately he then sat in front of the television and became a couch potato.

also right: He then sat in front of the television and unfortunately became a couch potato.

To prevent confusion, set off a *long* introductory phrase with a comma, even if it isn't required.

Issue 3 — Commas Before and After an Interruption

If a word, phrase, or clause should be set off with commas because of the way it interrupts a sentence, one comma should precede it and a second comma should follow. You need both the "before" comma and the "after" comma. Do not leave one of them out.

- wrong:** Joe who has been granted parole, will be released.
- also wrong:** Joe, who has been granted parole will be released.
- right:** Joe, who has been granted parole, will be released.

Issue 4 — Commas and Independent Clauses

Two independent clauses can be joined together into one sentence with a conjunction (*and*, *but*, *or*). When you do that, put a comma before the conjunction.

- wrong:** The T-Rex in *Jurassic Park* ate a lawyer and audiences cheered.

This sentence has two independent clauses. Each has a subject (“The T-Rex in *Jurassic Park*” and “audiences”). And each has a verb (“ate” and “cheered”). Each clause could be a separate sentence. That’s why they’re independent. The conjunction “and” isn’t enough to join them together. It needs a comma as well:

- right:** The T-Rex in *Jurassic Park* ate a lawyer, and audiences cheered.

If what comes after the conjunction doesn’t have a separate subject of its own, don’t add a comma:

- wrong:** The T-Rex in *Jurassic Park* ate a lawyer, and got indigestion.

“The T-Rex in *Jurassic Park*” is the subject for both “ate a lawyer” and “got indigestion.”

- right:** The T-Rex in *Jurassic Park* ate a lawyer and got indigestion.

Issue 5 — Commas and Breathing

Don’t add a comma just because a person reading the sentence aloud would run out of breath. No rule of grammar justifies the comma in this sentence:

- wrong:** The argument that Napster did not infringe Metallica’s copyrights when distributing the band’s music over the Internet, is undermined by case law.

If reading the sentence aloud would cause a breathing problem, something is probably wrong with the sentence. Try moving the big, complicated part of the sentence to the end:

right: Case law undermines the argument that Napster did not infringe Metallica's copyrights when distributing the band's music over the Internet.

Issue 6 — Commas and Missing Words

Don't add a comma just because you have left out a word. No rule of grammar justifies the comma in this sentence:

wrong: The court held, abduction by aliens does not excuse failure to attend one's own deposition.

Take out the comma and insert the missing word:

right: The court held **that** abduction by aliens does not excuse failure to attend one's own deposition.

Issue 8 — Punctuation at the End of a Quotation

If you add punctuation at the end of a quotation, does it go inside the quotation marks or outside? A comma or a period goes *inside* the quote marks, even if it's your own comma or period and did not appear in the original quotation. But if you add a colon, semicolon, dash, or question mark, put it *outside* the quote marks.

right: The defendant may have called the plaintiff "the worst Elvis impersonator in the state," but that is hardly defamatory.

Did the defendant use the comma? Or was it added by the writer? It doesn't matter. Either way, it goes inside the quote marks.

also right: In fact, it would be futile to try to find defamatory meaning in "the worst Elvis impersonator in the state"; our state is so richly endowed with excellent Elvis impersonators that our least talented practitioner might be considered brilliant elsewhere.

Here it does matter where the colon came from. If it was added by the writer, it goes outside the quote marks.

Issue 8 — Commas and Semicolons in Simple Lists and in Complicated Lists

Law is full of lists. Lawyers therefore must be able to express lists in ways that are crystal-clear to the reader. In a simple and easily understood list, separate the items with commas. If the list is so complicated that commas will not clearly show where one item ends and the next begins, use semicolons instead.

right: The plaintiff sued, went to trial, and lost.

also right: The court ordered the corporation dissolved; placed the property under the control of a receiver; and enjoined the defendants from conducting business by interstate telephone, wire, or delivery service.

The second example has a list within a list:

1. ordered the corporation dissolved;
2. placed the property under the control of a receiver; and
3. enjoined the defendants from conducting business by
 - a. interstate telephone,
 - b. wire, or
 - c. delivery service.

Using semicolons for the big list allows you to use commas for the little list that's inside the third item in the big list.

Issue 9 — Parentheses and Enumeration

Enumeration is the numbering of items in a list. When lawyers and judges state a rule of law, they often enumerate the elements or factors. When you do that, enclose each number completely in parentheses.

wrong: At common law, a person committed burglary by 1) breaking and 2) entering . . .

right: At common law, a person committed burglary by (1) breaking and (2) entering. . . .