

Some pet peeves

EVERYONE WHO WRITES ABOUT WRITING or cares about it is entitled to a few pet peeves. Below are some of mine. I won't quote real examples for the first two because they are ubiquitous.

You might be thinking, What's the big deal? They may add just an extra word or even just an extra syllable or two. But more than that, they betray the writer who isn't paying close enough attention to their writing or to the advice of writing experts or to the practices of accomplished stylists. The odds are good that the writer will fall short—or run long—in other ways as well.

Prior to. Technically, it's a multi-word preposition (like *with regard to* or *during the course of*)—three or four words can almost always be replaced by a one-word preposition. I wrote about these little word clots in the Summer 2022 column, but this one takes the booby prize for the most ubiquitous one of all. Why would any writer prefer it to *before*?

Pursuant to. How many times have you seen something akin to *pursuant to the provisions of Rule 4(b)*? That easily translates to *under Rule 4(b)*. But no . . . for most legal drafters, it's *pursuant to this, pursuant to that*. Occasionally, for precision, you might need *in accordance with* or *as authorized by*. But usually, *under* does the job. *Pursuant to* reeks of legalese and is sure to signal to nonlawyers that this is a legalistic document—good luck trying to understand it.

Regarding. It's a mystery why some legal writers are attached to the word *regarding* and averse to using *about* or *on*. Is it habit? Some misguided sense of formality? Ask yourself whether you would ever say, "Let's talk *regarding* those Detroit Lions" or "I have no opinion *regarding* that subject." But it takes only a very brief browse on Westlaw to find sentences like these:

- Dr. Kurtz offers the following five opinions *regarding about* discrimination at Pavex *during the period* from January 1996 through December 2001.
- The Court of Appeals described a split among courts *regarding on* the scope of the "solely for impeachment" exception.
- Plaintiff has testified *regarding on* the assault charges.

Subsequently. It's another mystery why a writer would prefer these four syllables to *later*. I can't remember seeing an instance in which *later* doesn't do the job—crisply.

- Mr. Simon was *subsequently later* convicted of possession of controlled dangerous substances with intent to distribute.
- He *subsequently later* fled the scene in a gray sports utility vehicle. [Hyphen needed: "gray sports-utility vehicle."]
- The Court *subsequently later* held the final pre-trial conference on June 14, 2024, and discussed trial logistics. [Is the date important? And make *pretrial* one word.]

As such. *As such* has become an all-purpose transitional phrase meaning something like "so" or "therefore."

Properly, *as such* needs a referent. Such what?

- A Wal-Mart employee saw [that] Stevens took the glasses and attempted to leave the store without purchasing them, and, *as such, therefore* contacted security. [Also delete last two commas.]
- Ms. Taylor failed to raise this challenge below. *As such, So* she has forfeited the present claim.

Here's a correct use:

- In a word, the claim is a nuisance and should be dealt with as such [that is, as a nuisance].

So (with a following comma). When you start a sentence with *And, But, or So*—as you should with some regularity—don't follow with a comma. Using one after *So* seems especially common, perhaps because Word's style-checker highlights it as a possible error. But they are all the same part of speech—coordinating conjunctions—so they should all be treated the same.

- *So;* the court won't preclude defendants from introducing evidence about insurance coverage.
- *So;* the court will construe Mr. Patterson's complaint liberally.

- So, Plaintiff's proposed amendment naming this Defendant is not futile.

That (ill-advisedly omitted). The word *that* can take several grammatical forms. I'm concerned here with its use as a conjunction: "Plaintiff alleges that her ex-husband lied in court." Some simple verbs (such as *say*, *think*, *hope*) will tolerate the omission of *that* before a clause that follows. But after most verbs, the conjunction provides a joint that makes reading smoother and often prevents miscues.

- We have reviewed the administrative record and find **that** substantial

evidence supports the ALJ's conclusion.

- Cognitive testing showed **that** the claimant had average language skills.
- Powell alleges **that** all of this was done in retaliation for his having filed a grievance.

I suspect that most writers would use *that* naturally in those sentences. Dropping it is false economy. (Note the miscue if I had written "I suspect most writers") And what to do if an editor or style-checker flags the conjunction? Stet.



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