



# THE NATIONAL JUDICIAL COLLEGE

Est. 1963

*Making the world a more just place by educating and inspiring its judiciary*

## JUDICIAL WRITING

## DIVIDER 1

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### OBJECTIVES:

After this session you will be able to:

1. Use a common vocabulary of grammatical terms;
2. Recognize the kinds of sentence structures you tend to use;
3. Better edit your own writing by using the Editing Guide; and
4. Identify what we do when we read.

### REQUIRED READING:

### PAGE

1.	Ronald Hofer, <i>Four Sentences</i> (Mar. 2016) [NJC Document] .....	1
2.	Ronald Hofer, <i>A Guide for Analyzing and Editing Your Own Writing</i> (Mar. 2016) [NJC Document].....	19
3.	Ronald Hofer, <i>Examples</i> (Mar. 2016) [NJC Document] .....	21



The plaintiff contends that the court erred when it rejected the credentials of the expert.

It is contended by the plaintiff that error was committed by the court when the credentials of the expert were rejected.

The contention of the plaintiff is that the rejection by the court of the credentials of the expert was error.

It is the contention of the plaintiff that it was the rejection by the court of the credentials of the expert that was error.



The plaintiff contends  
that the court erred  
when it rejected the  
credentials of the expert.



## THE ACTIVE VOICE--Efficient, straightforward

subject                  verb  
*"The plaintiff contends...."*  
actor                      action

An active voice sentence requires two things:

1. Verb expresses action.
2. Subject ('plaintiff') **is** actor of the action in the verb ('contends')

Tip: Active voice should be your default structure.

It is contended by the  
plaintiff that error was  
committed by the court  
when the credentials of the  
expert were rejected.



## THE PASSIVE VOICE--Wordy, but writer can 'hide' the actor

subject      verb

*"It is contended by the plaintiff...."*

action

actor

An passive voice sentence requires two things:

1. Verb expresses action.
2. Subject ('it') **is not** actor of the action in the verb ('is contended')

Test for whether a sentence or clause is active or passive:

1. Find the verb.
2. Find the actor of the verb's action.

If the **actor comes before the verb = active voice.**

If the **actor comes after the verb (or isn't in the sentence) = passive voice.**

Tip: Use passive voice if actor is unknown or unimportant, or if you don't want to identify the actor. Otherwise, avoid passives.

The contention of the plaintiff is that the rejection by the court of the credentials of the expert was error.



It is the contention of the plaintiff that it was the rejection by the court of the credentials of the expert was error.

## **EXPLETIVES**--Unnecessary clauses; linguistic place keepers

subject verb      predicate nominative

"It is the contention of the plaintiff...."  
                                action                                  actor

Indefinite pronoun ('It' or 'There') + some form of verb of being  
'is, am, are, was, were, be, being, been'

Tip: Avoid where possible.

E.g., "It is clear...." becomes "Clearly, "

## **A Guide for Analyzing and Editing Your Own Writing**

- 1. Draw circles around the passive verbs.*
- 2. Draw boxes around verbs of being and expletives.*
- 3. Underline the nominalizations.*
- 4. Note distance between subject and verb.*

### **Definitions:**

**Passive verbs:** Verbs whose subjects are not the actors of the actions, but rather are the things acted upon. Usually signaled by a form of the verb, "be," and the past participle of the verb.

**Verbs of being:** Linguistic 'equals signs'--"is, am, are, was, were, be, being, been."

**Expletives:** "it is...," "there is...," and "there are...," where 'it' and 'there' are empty slots that merely fill in the blank before a being verb.

**Nominalizations:** Nouns (and sometimes adjectives) made from verbs and often marked by the suffixes "-nce," "-al," "ion," "-ment," "-ure" and "-ity."

## EXAMPLES

1. The court can arrive at a determination of the questions by the application of well-settled principles of law.
2. In the claimant's complaint, it is alleged that she was unable to be located due to a change of address and that, for said reason, a continuance was requested but denied without the opportunity to cross-examine the employer and its witnesses having been afforded to counsel for the claimant.
3. The defendant's principal contention here is that the closing remarks of the district attorney to the jury were of such nature and so prejudicial that a reversal and new trial is commanded by law.
4. The injection of the question of negligence in this suit for malicious prosecution even though at the time it was given no objection was made, so infected the trial that it would have to be returned for a new trial had the greater error of failure to prove a cause of action not occurred.