

Good Medicine Doesn't Have to Taste Bad

The (Not Too Serious) Grammar, Punctuation, and Style Guide to Legal Writing

Diana J. Simon (Carolina Academic Press 2022), 203 pages

Wayne Schiess, rev'r*

Professor Diana Simon has achieved something you might think impossible: She has written a witty and engaging book about grammar, and that's grammar in the context of *legal writing*. It's quite an accomplishment. But the book is more than witty and engaging:

- It's exhaustively sourced—I found my grammar-nerd-self consulting the footnotes to learn more and to find out, “who says so?”
- It has lots of real-world examples, including from more than a dozen cases, to drive home the point that grammar matters—especially to lawyers.
- It's firm but reasoned. Professor Simon stands by traditional grammar and punctuation rules, but never resorts to “because I said so.”

The chapters grab your attention by describing the importance of the punctuation mark or grammatical matter under discussion. You then get historical background, some concrete practical rules on the subject, and thoroughly supported, practical, and reliable advice for making correct choices. For each topic, Professor Simon provides numerous before-and-after examples showing correct and incorrect use. Any lawyer, paralegal, law professor, or law student will enjoy the book and learn a lot, too. So what will you learn?

You'll encounter Professor Simon's theory of comma-splice proliferation in her students' writing, which is based on the Harry Potter

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novels.¹ Rowling’s novels use comma splices, particularly in dialogue: 474 times in *Harry Potter and the Deathly Hallows* alone.² (What were you thinking, J. K. Rowling?) The Harry Potter books, which many of Professor Simon’s students have read, have caused those students to think comma splices are okay. But do comma splices matter? Yes, and Professor Simon cites a case to prove it: a federal district court applying South Dakota law commented that the relevant legal standard was unclear because a state court had used a comma splice in stating the standard.³

You’ve heard about the case of the serial comma that cost millions?⁴ Now you’ll meet the semi-snobby semicolon: “Semicolons are like kale,” Professor Simon declares. “Some writers like them and some don’t, but they are good for you if you know how to use them.”⁵ After digesting the advice, you can read about the Hungarian manslaughter-deportation case that hinged on a semicolon.⁶

Nerdy enough for you yet?

Well, there’s a whole chapter on the apostrophe: The Double Life of the Apostrophe,⁷ in which Professor Simon tells the tale of an advocate’s misuse of apostrophes in an offer of settlement before trial. Result? The offer failed to satisfy the “particularity requirement,” and on appeal, the court reversed an award of attorney’s fees.⁸

And yes, the book acknowledges and offers advice for handling the recurring conundrum over where to place the apostrophe in “attorney’s fees” (attorney fees? attorneys’ fees?).⁹

The chapter on passive voice was enjoyed by me. There, you can review the appropriate roles that active and passive voice play in legal writing, and you can chuckle (if you dare) at the client whose due process claim was dismissed because a lawyer failed to identify who did the “assuring” in the following statement from the complaint: “[s]he was assured that she would continue on the job as long as she performed satisfactorily.”¹⁰

1 DIANA J. SIMON, *THE (NOT TOO SERIOUS) GRAMMAR, PUNCTUATION, AND STYLE GUIDE TO LEGAL WRITING* 9–12 (2022).

2 *Id.* at 12 (citing Alan Warhaftig, *No Wiz at Grammar*, *EDUC. WK.*, Sept. 24, 2007, <https://www.edweek.org/teaching-learning/opinion-no-wiz-at-grammar/2007/09>).

3 *Id.* at 14 (citing *Anderson v. W. Nat’l Mut. Ins. Co.*, 857 F. Supp. 2d 896, 903 (D.S.D. 2012)). The South Dakota court later corrected the splice and re-issued the opinion.

4 *Id.* at 39.

5 *Id.* at 21.

6 *Id.* at 31.

7 *Id.* at 53.

8 *Id.* at 63.

9 *Id.* at 61–62. Bottom line: there is no clear-cut answer. Follow any relevant style guide and otherwise be consistent.

10 *Id.* at 148.

But please don't think that this book just points out controversies and tells practical, sometimes scary real-world stories. If that's all it did, it would still be excellent. But it has entire chapters on recurring grammar problems and on basic grammar knowledge every legal writer needs. If students (and lawyers) want rules, this book has rules.

Beyond the practical, the book will hold your interest on a variety of topics:

- Chapter 4 on the serial comma includes an explanation of why it's sometimes called the "Oxford comma."
- Chapter 6 is about hyphens and em dashes and en dashes (oh my!).
- Chapter 7 addresses pronouns, with good advice for the singular *they*.
- Chapter 9 on quotations addresses how to use quotation marks correctly, as well as when to quote, when not to quote, and how to present a block quotation effectively.
- Chapter 12 contains a thorough discussion of transitions and cites research showing that transitions enhance readers' understanding.
- Chapter 13 presents a thorough discussion of explanatory parentheticals with good examples, poor examples, and practical advice for using them—and not using them.
- And more. The book does more than entertain; it teaches. Of course, I now have to ask myself if Professor Simon would approve of that semicolon.

But that's another great aspect of her book: it invites readers to question their own grammar and punctuation practices, a great habit that lawyers and law students should take up, and probably will, after reading the book. Readers will come to understand that these pesky rules actually matter, and they'll start to care.

I can't recommend this book highly enough. If you're a dedicated grammar nerd (often called a legal writing teacher), you'll love the thoroughness and the sources, the rules, and the examples. Yes, there's a teacher's manual. If you're a practicing lawyer, you'll learn plenty of good reasons to double- and triple-check your work for proper use of commas, apostrophes, semicolons, passive voice, transitions, and more. If you're a law student, you'll get a readable, engrossing introduction to the world of legal writing mechanics. And an important world it is.