



Welcome to the re-introduction of a favorite feature on good legal writing. If there are writing topics you'd like to see covered, write to [arizona.attorney@azbar.org](mailto:arizona.attorney@azbar.org)

## The Rules, They Are A-Changin'

As a third-year associate, I was supervising a team polishing a monolithic, multi-issue brief that had taken several attorneys weeks to draft. The evening before we planned to file, I sent the near-final draft to a first-year so that she could check the citation form. Having composed most of the citations myself, I was confident that there would be few, if any, corrections.

The brief landed back on my desk, drenched in red ink. Surely this was wrong! She had abbreviated the first words in the case names! You *never* abbreviate the first words in the case names! I was incensed. This young attorney obviously did not know proper citation form, and now I would have to cite-check the brief again myself.

Fortunately, before I marched down to that other attorney's office to inform her of her error, I secured a copy of what was then the latest edition of *The Bluebook*. Much to my chagrin, she was right and I was wrong; since my law-school graduation, *The Bluebook* had done a 180. What had been prohibited was now mandatory: *The Bluebook* now *required* us to abbreviate the first word in a case name.

I learned my lesson: Writing rules and conventions—and especially citation rules—evolve over time, and it behooves me to pause and check before I get too indignant about someone else's "error." (The experience also fostered my skepticism about judging any attorney's merit by whether she has mastered the latest nuances of citation form, especially because there have been multiple editions of *The Bluebook* and the *ALWD*

*Manual* in the years since I purchased my first ones).

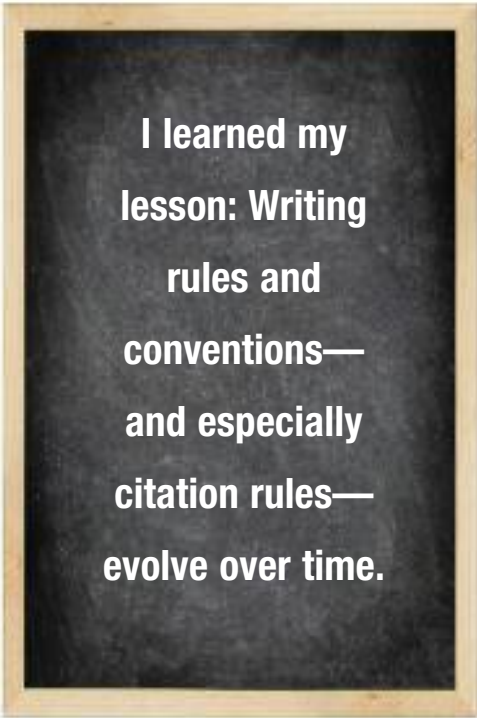
What other "errors," then, are not really wrong? The examples far exceed the length of this column, but here are two I encounter most.

### Split infinitives

Sadly, one of the only grammar rules I could actually cite by name is now obsolete: Splitting infinitives is now permissible. A split infinitive is when someone puts another word—most often an adverb—between the "to" and the bare infinitive form of the verb. Perhaps the most famous split infinitive is the mission of the Starship Enterprise: "to boldly go where no one has gone before." In that case "to go" is the full infinitive, and the adverb "boldly" splits it.

In Latin and many other Romance languages, where the infinitive is one word, you cannot split the infinitive. Thus, reasoned 19th-century grammarians, you should not be able to do so in English, either.

It is easy enough to avoid splitting the infinitive; you just move the offending adverb before the "to" or after the bare



infinitive, so that the Star Trek directive becomes "boldly to go where no one has gone before," or "to go boldly where no one has gone before."

Sometimes, however, moving the adverb changes the meaning or makes the sentence awkward. For example: "Moose decided to quickly shred Susie's shoe while Susie was in the shower." "Quickly" splits the infinitive "to shred." You could change this to "Moose decided quickly to shred Susie's shoe," but then your reader may think the decision, rather than

the shredding, was quick. Or you could say "Moose decided to shred Susie's shoe quickly," but the meaning is still a bit muddled. (Let's not even discuss the mess that is "Moose decided to shred quickly Susie's shoe.") Clarity, accuracy and readability are our ultimate goals, and sometimes splitting the infinitive is the best route.

### Starting a sentence with "and" or "but"

My teachers admonished never to begin a sentence with "and" or "but." After all, conjunctions are for linking elements within a sentence. The beginning is no place for an internal link.

But sometimes starting a sentence with a conjunction provides emphasis or impact. For centuries, the best writers have flouted this "rule," and you can too. Like anything you use for effect, though, that opening conjunction loses effect with overuse. Deploy it judiciously.

Our language—like much in our lives—is evolving rapidly, which can be both exciting and confounding. Let's set high standards for our writing but not rush to judgment when an otherwise effective piece seems to violate some "rule."



*Susie Salmon*

**Susie Salmon** is Assistant Director of Legal Writing and Associate Clinical Professor of Law at The University of Arizona, James E. Rogers College of Law. Before joining Arizona Law, she spent nine years as a commercial litigator at large firms in Tucson and Los Angeles.