

LEGAL WRITING: GRAMMAR & USAGE

NORTH CAROLINA JUDICIAL COLLEGE
THURSDAY, DECEMBER 7, 2023



1

RESTRICTIVE VS. NONRESTRICTIVE INFORMATION

Justice Marshall's house, **which has a red door and green shutters**, needs a new roof.



*He has only one home, so the writer does not need to restrict the meaning to be clear; the information in the dependent clause is **not essential**.*

Justice Marshall's house **that has a red door and green shutters** needs a new roof.

*He has more than one home, so the writer needs to restrict the meaning to only the one with a red door and green shutters; the information in the dependent clause is **essential**.*

2

Ms. Johnson inherited her grandfather's hand-carved fountain pen, **which is made of wood**.



*He had only one hand-carved fountain pen, so the writer does not need to restrict the meaning to be clear; the information in the clause is **not essential**.*

Ms. Johnson inherited her grandfather's hand-carved fountain pen **that is made of wood**.

*He had multiple hand-carved fountain pens, so the writer needs to restrict the meaning to only the one made of wood; the information in the clause is **essential**.*

3



The defendant's daughter, **who sat in the courtroom throughout the trial,** maintains that her father was at home when the robbery occurred.

The defendant has one daughter.

The defendant's daughter **who testified yesterday** maintains that her father was at home when the robbery occurred.

The defendant has more than one daughter.

4


COMMAS WITH OTHER NONRESTRICTIVE ELEMENTS

Ellen's husband Tom retired two years after she did.

Ellen's husband, **Tom,** retired two years after she did.

The Tutens' daughter **Emily** completed her law degree at the University of Michigan and began working for a firm in Manhattan in October.

No commas if the Tutens have more than one daughter.




5

Toni Morrison's novel ~~Beloved~~, powerfully depicts the horrors of slavery.

Toni Morrison's novel *Beloved* powerfully depicts the horrors of slavery.

Toni Morrison's 1988 Pulitzer Prize-winning novel, **Beloved,** powerfully depicts the horrors of slavery.



6

WHO VS. WHOM

Who and Whoever = nominative
subjects or subject complements

Whom and Whomever = objective
objects of action verbs, prepositions, or
verbals



7

FOUR-STEP PROCESS

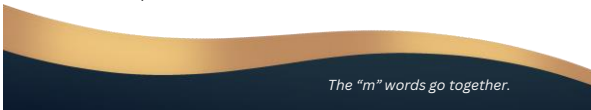
Isolate the clause containing the *who[ever]* or *whom[ever]*.

Ignore the rest of the sentence.

Inquire whether *he* or *him* sounds correct (or *they/them*).

Insert *who/whoever* if *he* sounds correct.

Insert *whom/whomever* if *him* sounds correct.



The "m" words go together.

8

We will give the money to the person who needs it most.

Isolate the clause containing the *who[ever]* or *whom[ever]*.

Ignore the rest of the sentence.

Inquire whether *he* or *him* sounds correct (or *they/them*).

Insert *who/whoever* if *he* sounds correct.

Insert *whom/whomever* if *him/them* sounds correct.



The "m" words go together.

9

We have filed a complaint against the contractor who we hired last month.

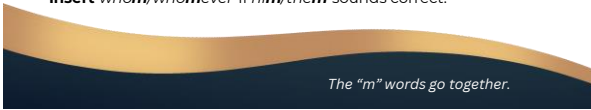
Isolate the clause containing the *who[ever]* or *whom[ever]*.

Ignore the rest of the sentence.

Inquire whether *he* or *him* sounds correct (or *they/them*).

Insert *who/whoever* if *he* sounds correct.

Insert *whom/whomever* if *him/them* sounds correct.



10

No one knows who you are.

Who are you calling?

We will be kind to whomever knocks on our door for help.



11

Whomever we elect for President will be in office for four years.

People do not always vote for the candidate who they believe has the most experience.



12

AGREEMENT WITH RELATIVE PRONOUNS



Which of the following sentences (is/are) correct?

Which ONE of the following sentences IS correct?
Which SEVERAL/MANY of the following sentences ARE correct?

Which of the judges (is/are) going to draft the opinion?

Which ONE of the judges IS going to draft the opinion?
Which SEVERAL/MANY of the judges ARE going to draft the opinion?

13

Every employee of the court **who** (is/are) planning to take a vacation this summer must submit a request in writing by May 10.

This objective correlates with the central performance goals in our corporate renewal plan, **which** (is/are) targeted toward the realignment of our marketing strategies in Europe and Asia.

14



Three recent experiments on the effects of sleep deprivation reveal a clear connection between sleep quality and cognitive functions, **which led researchers to promote better sleep health.**

Three recent experiments on the effects of sleep deprivation reveal a clear connection between sleep quality and cognitive functions, **which decline in direct proportion to sleep deficit.**

Three recent experiments on the effects of sleep deprivation reveal a clear connection between sleep quality and cognitive functions, **leading researchers to promote better sleep health.**

Three recent experiments on the effects of sleep deprivation reveal a clear connection between sleep quality and cognitive functions, a result **that led researchers to promote better sleep health.**

VAGUE PRONOUN REFERENCES

15

Three recent experiments on the effects of sleep deprivation **reveal** a clear connection between sleep quality and cognitive functions **and have led** researchers to promote better sleep health.

Three recent experiments on the effects of sleep deprivation reveal a clear connection between sleep quality and cognitive functions, **so researchers have begun promoting better sleep health.**

16

POSSESSIVE CASE BEFORE A GERUND

Whitaker **did not like the woman** standing in front of him at the parade.

Whitaker **did not like the woman's standing** in front of him at the parade.

17

I appreciate **you taking** the time to draft this opinion.

I appreciate **your taking** the time to draft this opinion.

The revised plan would result in the **family paying** for services that previously would have been covered by the public insurance program.

The revised plan would result in the **family's paying** for services . . .

18

All child safety seats must be properly installed **to reduce the risk of a child** being injured.



All child safety seats must be properly installed **to reduce the risk of a child's being injured.**



19

For years after Tracy Kunding was murdered, her three sisters lived in fear of the killer **[the killer's?]** coming for them next.

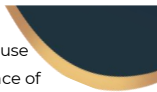


Harris also found there was no previous record of Pereira **[Pereira's?]** hearing voices other than a brief mention from 2004.



20

The judge rejected an application by the Crown to use Pereira's past criminal record as similar-fact evidence of violence toward women stemming from anger and jealousy. Only the first incident involved Pereira **[Pereira's?]** being "spurned as a lover," Harris found.



He neglected to follow his vehicle's suggested maintenance schedule, which resulted in the car **[the car's?]** breaking down frequently.



21

PLACEMENT OF ONLY (AND OTHER ADVERBS)

The budget can **only** be balanced if programs are cut for next year.

Many animals hibernate in the winter, **only** waking occasionally for nourishment.



22

The team **only** scored two runs in the first seven innings.

The corporation will **only** make \$3 million this year.



23

The tornado **only** damaged three empty buildings.

The meeting will **only** be held in San Francisco if the committee can find a hotel there with affordable rates.



24



25

- simply
 - just
 - nearly
 - merely
 - mostly
 - predominately
- and so forth

26

WORD CONFUSION

- Nauseated
- Nauseous
- Nauseating

27

Kenyatta, who is two-months pregnant, will miss the lecture this morning because she is **nauseous**.

The smell of oatmeal makes me **nauseated**.

Because his manners are very poor, Bernard often tells **nauseous** jokes at the dinner table.

28

WORD CONFUSION

- **To lie** (to recline)
- **To lay** (to put or place)

29

Infinitive	Present	Past	Present Participle	Past Participle
To Lie <i>intransitive: no direct object</i>	lie	lay	lying	lain
To Lay <i>transitive: takes a direct object</i>	lay	laid	laying	laid

30

Every afternoon we (lie/ lay) down and rest for an hour.

Luke (lay/laid) on the beach and soaked up the sunshine.

I distinctly remember (laying/lying) my keys on the kitchen counter.

31

The reports were (laying/lying) on my desk this morning.

Yesterday Juan (laid/laid) on his sofa watching television for three hours.

32

SUBJUNCTIVE MOOD

Properties of verbs:

tense, person, number,
voice, and mood



33

“if I were you”
“if need be”
“be that as it may”
“God bless you”
“far be it from me”



34

Indicative vs. Subjunctive

Indicative: fact, true
Subjunctive: hypothetical,
unlikely



35

For the present subjunctive mood of most verbs, we use the form of a verb that usually serves as the third-person plural—that is, the form without the s ending—regardless of whether the subject is singular or plural:

- **Indicative:** The **man leaves** home every morning for work.
- **Subjunctive:** The sheriff insisted that the **man leave** town and never return.



36

For the irregular verb to be, we use **be** for all present tense subjunctive mood verbs and **were** for all past tense forms, regardless of whether the subject is singular or plural:

Indicative: Julio **was** president of his class.

Subjunctive: If Julio **were** president of his class, the meetings would be more orderly.

Indicative: I **am** studying French in preparation for my trip next fall.

Subjunctive: If I **were** to study French, I would be better prepared for my trip next fall.

37

If I (was/were) you, I would increase my weekly contribution to the company's retirement fund.

I wish that his report (was/were) more succinct.

We recommend that the trip (is/be) postponed until next year.

38



The finance department requests that Marcus (submits/submit) updated budget projections each month.

If Smith (were/is) chosen as the corporation's next CEO, she will likely change several controversial hiring practices.

39



- The singular “they”
- “Try and” vs. “try to”
- The Oxford Comma
- The passive voice
- Semicolons vs. colons

40

For further reference:
www.getitwriteonline.com/blog/



41

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