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Apostrophe's and Plurals'

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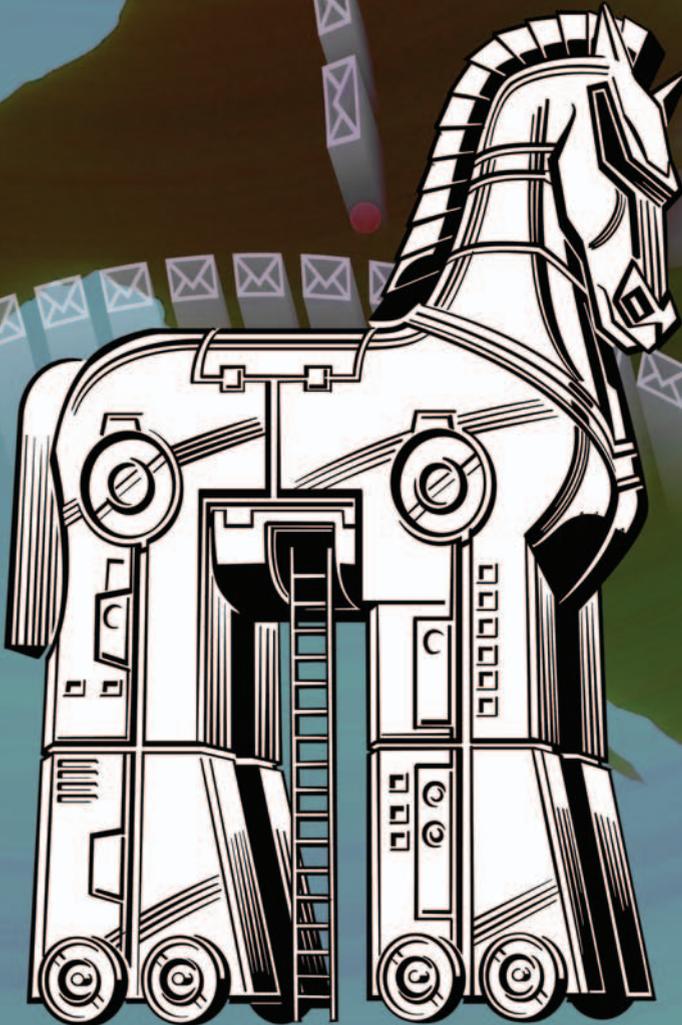


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Apostrophe's and Plurals'

BY GERALD LEBOVITS

Correct apostrophe¹ and plural usage for attorneys isn't just splitting hairs — or splitting heirs. It's about splitting the difference between apostrophes and plurals. Among attorneys (attornies?), apostrophes and plurals have perpetually created more controversies than the rule against perpetuities, partly because the rules keep changing. Like my abs, the rules aren't as firm as they once were.

Attorneys often make apostrophe and plural mistakes. This column offers some malpractice insurance for the apostrophe- and plural-challenged attorney.

Apostrophes show ownership or possession. They're valuable because they condense writing. ("The Board of Directors of ACME Corporation" *vs.* "ACME Corporation's Board of Directors.") Apostrophes apply to people and, with increasing frequency, to inanimate objects. "The rules of the court," for example, are now "the court's rules." Apostrophes for some inanimate objects look inelegant, however: "Section 7's provisions" *becomes* "The provisions of Section 7."

Use an apostrophe "s" after a singular possessive ending in a sibilant (S, X, or Z sound): "Myers's Rum," *not* "Myers' Rum." Without the apostrophe, the latter variant would be pronounced, incorrectly, "Myer's Rum." This rule applies to sibilants, not to words that merely end in "S," "X," or "Z." Thus, *Illinois'* but not *Illinois's*. The "s" in "Illinois" is silent; the state is pronounced "ill-in-oy," not "ill-in-oise."

Don't use an apostrophe "s" after a plural possessive ending in a sibilant: "The courts' rules," *not* "The courts's rules."

Nonpossessive plural: *Mothers-in-law*. Possessive case plural: *Mothers-in-law's*. Use the periphrastic possessive if

the possessive looks awkward: "St. Gertrude's's brief." *Becomes*: "The brief of St. Gertrude's."²

Some nouns violate all the rules. They look like plurals, are pronounced like singulars, and take no apostrophe, even when they're possessive: "United States brief" or "brief for the United States," *not* "United States's brief" or "United States' brief."

The inelegant apostrophe: "Acme Corporation's (Acme) stock certificates." *Becomes*: "The stock certificates of Acme Corporation (Acme)."

Use an apostrophe "s" after a second singular proper noun to show unity: "Ben & Jerry's ice cream," *not* "Ben's and Jerry's ice cream."

Use an apostrophe "s" after each singular proper noun to show disunity: "X's and Y's attorneys moved separately for severance."

Use an apostrophe to show contractions: "Can't" ("cannot," as in "unable," not a two-word "can not" — different from "may not," as in "not permitted to," and "might not," as in "perhaps not"); "I'll" ("I will," "I shall"); "I'm" ("I am"); "it's" ("it is" — different from the possessive "its"); "he's"; "she's"; "should've" ("should have," not "should of"); "they're" ("they are" — different from the possessive "their" or the location "there"); there's ("there is"); "you're" ("you are" — different from the possessive "your"); "you've" ("you have"); "who's" ("who is" — different from the possessive "whose"); and "we're" ("we are" — different from the subjunctive or the past plural "were"). Contractions are warm and friendly in informal writing. Contractions aren't appropriate in formal writing.

If you use contractions, make your verbs agree with their subjects. "He *don't* know where the Appellate Divi-

sion is." *Becomes*: "He *doesn't* know where the Appellate Division is." (The singular *He* agrees with "does." *Don't* is the contraction for "do not.") "*Here's* my law books." *Becomes*: "*Here are* my law books." ("Law books" is a plural noun.) "*There's* my appellate briefs." *Becomes*: "*There are* my appellate briefs." ("Appellate briefs" is a plural noun.)

Use the apostrophe in its proper place and omit its when it's not needed.

Use an apostrophe to omit letters or figures. Letters: "**N Sync*"; "rock 'n' roll"; "Amazin' Mets"; "good ol' boy"; "cause" (for "because"); "bucket o' chicken," Gene Kelly's "Singin' in the Rain"; "till" (for "until") is correct, but 'til is incorrect. Figures: "He wrote his best appellate briefs in the '40s."

Plurals shouldn't have apostrophes if they don't show possession.

Use an apostrophe to omit "of" in dates ("four years' imprisonment").

Pronouns that express ownership never get an apostrophe: "his," "hers," "its," "ours," "theirs," "yours."

Mind your P's and Q's. 1990's or 1990s? The latter is more common, but the apostrophe in the former is no catastrophe. The key is to eliminate confusion. A's, for example, won't confuse. As will. Is As the word or the plural of A? Or maybe the misspelled version of a body part? If your reader will understand you if you don't use an apostrophe, don't use one. But don't add an apostrophe to pluralize an abbreviation that hasn't any internal periods: "OKs." Add an apostrophe to the "s" to abbreviations that have internal periods: "J.D.'s."

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Speaking of J.D.'s, is it "attorney's fees," "attorneys' fees," "attorneys fees," or "attorney fees"? All the variants have their proponents. I prefer "attorney fees" because by law the fees belong to the client, not the attorney, and because "attorney" in this context assumes both singular and plural.

Take a quiz. Is this right? "Mr. Jones's rule provides that its the litigants's burden to satisfy the courts rules on President's Day."

Jones's is correct. *Its* should be *it's*. But because legal writing requires formality, write "it is." *Its* is the possessive, used for inanimate objects the same way "his" applies to "men"; *it's* is the contraction for "it is" and "it has"; *its'* is an illiteracy. "Litigants's" should be *litigants'*. This sentence is therefore all wrong: "Use the apostrophe in it's proper place and omit its' when its not needed." "Courts" should be "court's" or "courts'," depending on whether the word is singular or plural. "President's Day" should be "Presidents Day"; that day is pluralized because it belongs to us, not to Presidents Washington or Lincoln. Similarly, it's "the New Judges Seminar," not "the New Judges' Seminar." The seminar is for new judges; it isn't a seminar of the new judges or a seminar that belongs to new judges.

Follow the governmental, corporate, or institutional organization's usage, even when the usage is incorrect. Thus, write "New York County Lawyers' Association," even though NYCLA shouldn't have an apostrophe.³ It's an association of lawyers. NYCLA doesn't belong to lawyers in New York County. Correct usage: "New York State Trial Lawyers Association."

To pluralize most nouns, add "s" ("lawyers") or "es" ("the Joneses") if the noun ends in "ch," "s," "sh," or "x." To make a singular noun possessive, add an apostrophe "s," even when the noun already ends in an "s." Nouns that end in "y" preceded by a vowel are

pluralized with an "s": "attorneys." Words that end in "uy" follow a different format: "soliloquies." Nouns whose concluding letter is a "y" require that the "y" change to an "i" and that "es" be added: "juries." Nouns ending in "o" are pluralized with an "s" if preceded by a vowel; consult your dictionary if a consonant precedes the final "o." Thus, "zeros" but "tomatoes." Some battles royal have been fought over how to pluralize plural compounds: "Attorneys General," not "Attorney Generals"; "notaries public," not "notary publics"; "passersby," not "passerbys"; "orders to show cause," not "order to show causes."

Add an "s" to a compound plural if there is no noun in the compound ("mix-ups") or if the compound ends in the suffix "-ful" ("armfuls"). Some words, but not names, that end in "f" or "fe" are made plural by changing the ending to "v" and adding "es" ("selves"). The spelling of a few words change when they become plural ("woman" vs. "women," "louse" vs. "lice"). Still other words remain constant whether they're singular or plural ("swine," "series"). Some foreign words are rendered plural by the rules of their language of origin ("analysis" vs. "analyses," "axis" vs. "axes").

To make most singular nouns possessive, add an apostrophe and an "s" if the last letter ends in "s," "x," or "z" sounds. To make plural nouns possessive, add an apostrophe (Joneses'), and add an 's to plural nouns that don't end in "s." Correct: "Women's rights," "Young Men's Christian Association."

But don't use an apostrophe when a word is used in the descriptive sense. Correct: "New York Yankees pitcher."

A proper noun ending in a sibilant is pluralized by adding an "es." One refers to the Lebovits family as the Lebovitses — a construction that makes my kids want to change their last name. A book that belongs to more than one Lebovits is "the Lebovitses' book," not "the Lebovits' book" or "the Lebovitses's book."

Not all legal writers add "es" to pluralize these nouns. This is what one judge thought of the rule:

The author is aware of the grammatical rule which dictates that to create the plural form of a proper name that ends in an 's' one must add an 'es.' E.g., *The Chicago Manual of Style* § 6.5 (13th rev. ed. 1982). Thus, the plural of 'Erkins' would be 'Erkinses.' However, the author finds the name 'Erkinses' so distracting that he chooses to ignore the rule. No such willingness to ignore the rules of the English language should be imputed to Judges Winter or Calabresi.⁴

For attorneys who want to atone for their legal-writing sins, knowing apostrophe and plural rules can mean the difference between a top-notch practice and grammatical malpractice.

Correction:

In my January 2004 column on clarity, I made fun of one part of Urban Lavery's classic article on writing clearly. I'd like to clear something up. Lavery was right all along. The correct French spelling of "clarity" is "clarté," not "clarité." Lavery's quotation is from Jules Renard: "La clarté est la politesse de l'homme de lettres." My eighth-grade French teacher gave me a lousy grade. My error vindicates his assessment. The moral? Legal writers should become good French spellers.

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1. The term "apostrophe" as used in this column doesn't refer to the rhetorical device in which a writer turns from a discussion to address an absent person or personification. Two examples of that device: "Equity, oh Equity, the fairest flower in the judicial garden, where art thou?" *Elliott v. Denton & Denton*, 109 Nev. 979, 983, 860 P.2d 725, 728 (Nev. 1993)