



## Kill Nominalizations, Breathe Life Back into Briefs

# Raging Zombies

By Charles N. Insler

**Z**ombies are all the rage these days. *Warm Bodies* captured the poignancy of zombie-human romance on the big screen, and *World War Z* cast Brad Pitt as the fearless investigator hoping to stave off a zombie pandemic. The CW features *iZombie*, and AMC's *The Walking Dead* has proved so popular that the network developed a spinoff. But however popular and prevalent they may be, zombies should not be appearing in your briefs.

A nominalization—or “zombie noun”—is a noun formed from a verb or adjective. Almost any verb or adjective can be nominalized, and nominalizations have become particularly prevalent in legal and academic writing. See Victoria Clayton, *The Needless Complexity of Academic Writing*, *The Atlantic*, Oct. 26, 2015. This is not a good thing. Nominalizations are large and clunky, and they serve only to confuse the reader by weighing down sentences. They also feed the passive voice. Nominalizations are, to quote Helen Sword, “‘zombie nouns’ because they cannibalize active verbs, suck the lifeblood from adjectives and substitute abstract entities for human beings.” Helen Sword, *Zombie Nouns*, *N.Y. Times*, July 23, 2012.

Fortunately, zombie nouns are as easy to spot as their fictional counterparts. While they may not be foaming at the mouth or limping along on lifeless limbs, they have their own tell-tale signs. Zombie nouns have a certain lifeless limp of their own, weighed down by bloated suffixes and endless syllables. They frequently gather in packs, ambling about, infecting innocent parts of speech. Tendency, implacability, abstraction, considerations, and concernment. These are zombie nouns. What were once healthy verbs or adjectives (tends, implacable, abstract, consider, concerns) have lost their self-awareness and now idle along purposelessly.

Zombie nouns are not sophisticated. Similar to their big-screen brethren, they are brain-dead. Shuffling along and multisyllabic, they obscure rather elucidate. To be sure, some nominalizations may be necessary. What would we do without “agreement,” “compliance,” and “violation”? But in most cases, these large words do us no favors.

Great authors agree. “Use the smallest word that does the job,” says E.B. White. “One of the really bad things

you can do to your writing is to dress up the vocabulary, looking for long words because you’re maybe a little bit ashamed of your short ones,” writes Stephen King. Stephen King, *On Writing: A Memoir of the Craft* 110 (2000).

And so, too, do judges. Listening to a litigator from a major law firm arguing an air pollution case, Judge Frank Easterbrook of the U.S. Court of Appeals for the Seventh Circuit found that he and his colleagues could not make sense of the attorney’s arguments. Frank H. Easterbrook, *Friedman Lecture in Appellate Advocacy*, 23 Fed. Circuit B.J. 1, 3 (2013). Faced with a brief and presentation that had been “crammed with industry-specific jargon and acronyms,” the judges “asked the lawyer to use English words of one syllable.” *Id.* When the attorney stated that it had taken him a long time to learn the specifics, Judge Easterbrook said, “in [his] best imitation of Yoda: ‘You must unlearn what you have learned.’” *Id.*

The Supreme Court of Indiana noted the need to “eliminate nominalizations” in an opinion focused on the clarity of jury instructions. *Winegeart v. State*, 665 N.E.2d 893, 900 (Ind. 1996). The California Fourth District Court of Appeal has discussed the confusion of an argument couched in nominalizations. *In re Marriage of Phillips*, No. G027518, 2002 WL 524301, at \*4 n.5 (Cal. Ct. App. Apr. 9, 2002) (not officially published) (“Ah, the power of nominalizations to obscure what is really going on.”).

Fortunately, killing these zombie nouns is relatively easy: an editing knife will do in place of a sharpened machete. To end their rambling, slice off the “-ment,” “-ility” and “-ion,” convert the noun back into an adjective or verb, and swing that part of speech into a meaningful location in your sentence. Killing zombie nouns will quickly breathe life back into a work, for a brief will become increasingly bloated and slow-moving as these zombies proliferate and take over. Killing off the unthinking nouns will also restore clarity and activity to a brief.

“Missouri law prohibits the receipt of consideration by a non-lawyer for the preparation of a document relating to secular rights,” is a veritable zombie-noun apocalypse. But “Missouri law prohibits non-lawyers from being paid for preparing certain documents” is a living, breathing sentence that is easy to follow and leaves your brain unfazed.

George Orwell has, perhaps, the best illustration of zombie nouns on the prowl, in his essay, “Politics and the English Language.” Before dawn, the verse from

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Ecclesiastes reads: "I returned and saw under the sun, that the race is not to the swift, nor the battle to the strong, neither yet bread to the wise, nor yet riches to men of understanding, nor yet favor to men of skill; but time and chance happeneth to them all."

But after a night of flesh and brain eating, the famous verse has become, in Orwell's parody: "Objective consideration of contemporary phenomena compels the conclusion that success or failure in competitive activities exhibits no tendency to be commensurate with innate capacity, but that a considerable element of the unpredictable must invariably be taken into account." William Zinsser, *On Writing Well* 167 (2001) (quoting George Orwell, "Politics and the English Language," (1946)).

Writing and editing a brief, with all of its different components, can be a difficult and stressful endeavor. At times it can seem like a nightmare. But it should never be a horror movie. 