

Court Rules re: Gender Neutrality in Legal Writing

I'm planning to write an article for my newsletter on how to accomplish gender neutrality in legal writing, Do the courts you practice in require gender neutrality, either at a "judge's individual rules" level or at a Local Rules level?

I love this topic and am glad you're writing about it. I'm aware of no rules but here's my personal plea. PLEASE do not endorse use of "their" as a gender-neutral pronoun, such as in, "A witness may testify as to their personal knowledge." I'm well aware there is a pernicious view that this is an acceptable solution. It's not. It's gross writing. I like use of "her" and "she" as the gender-neutral pronouns. Men got the preference for centuries, so women should get the next several centuries. Then we can revisit this in the year 3019.

Tony LaCroix, Missouri

By definition, "her" and "she" are not gender-neutral pronouns.

Andrew C. McDannold, Florida

Literally, no. But I see no need for literal gender neutrality. Writers need to solve a mechanical problem while turning away from the masculine default.

Tony LaCroix

Tony, is your objection based on the fact that "their" is plural not singular? You're technically correct. But I'm not sure the "two wrongs gets you even" approach is the

"right" way to go either. Maybe "their" can be formally redefined (somehow) as either singular or plural; it's already used that way informally anyway.

Amy Breyer, California

I figure if the use of "they/their" as singular gender neutral was good enough for The Bard, it's good enough for me.

That being said, where the gender of a subject is unknown, pronouns can often be avoided, even if at times a bit stiffly.

"A witness may testify as to the witness' own personal knowledge." OR, more briefly,

"A witness may testify only as to first-hand knowledge."

Richard J. Rutledge, Jr., North Carolina

My court rules do not require gender-neutral writing.

When writing an article, I use examples with both he and she, making sure there are good and bad examples for both gender.

When attempting to be gender-neutral, I use "one/one's" for singular or "they/their" for plural.

They/them is one of many non-binary preferred pronouns, but the one I hear the most. Like "you," it is becoming both singular and plural.

My court typically defaults to Debtor, Creditor, or Trustee and the appropriate gender-pronoun for the individual the court is referring to.

Corrine Bielejeski, California

Another alternative:

“Witnesses may testify only as to their own personal knowledge.”

There are almost always alternatives, some better than others.

Brian H. Cole, California

An occasional problem with use of “her” and “she” is the implication that the only persons who engage in the particular activity are female. For example, “If a person wants to become a nurse, she must first” Although the antecedent (“a person”) is gender-neutral, the later use of the feminine pronoun risks being read back into the antecedent, on the order of “If a woman wants to become a nurse, she must first”

Overall, I’m not positive that the remedy for previous problematic usage is to become just as problematic in another way.

Brian H. Cole

How about "A person who wants to become a nurse must first...."

Lisa Solomon, New York

How about: "Anyone who wants to become a nurse must first...."

Russ Carmichael

Easy. Switch to he/him in those situations.

Tony LaCroix

You can like them. You can argue their use is warranted. But it is insane and inane to claim them as gender-neutral. Maybe you meant, "it" and "it"?

Douglas Hofstadter, of Godel, Escher, Bach fame, has taken on the issue of gendered language. Can't imagine a better resource. The paper I'm linking to is ostensibly addressing race, but I take it that was to highlight the need for gender neutrality by way of rhetorical flourish.

<https://www.cs.virginia.edu/~evans/cs655/readings/purity.html>

Robert Thomas Hayes Link, California

We used to say, "One." As in, "One who wants..."

Robert Thomas Hayes Link
