

TRANSCRIPT LEVEL 2



Case Study: **OAKHURST DAIRY.**

We are here this morning in the capital of the United States--We're in Washington D.C. and I'm standing right now outside of the U.S. Court of Appeals for the first circuit, and it was right here that in early 2018 the dairy company lost five million dollars because of a punctuation choice. How on Earth did a company lose 5 million dollars because of a comma of all things? Let's dive-in to the case study and really think about what happened. So, Oakhurst Dairy is a dairy company that operates out of Portland, Maine and they basically manufacture and ship dairy products. Their truck drivers decided that, "You know, we should really get paid for all of our overtime work." But, Maine state legislature has overtime laws and the way that the overtime laws were written, basically looks like this: overtime rules do not apply to the canning, processing, preserving, freezing, drying, marketing, storing, packing for shipment or distribution of agricultural products and other items. So, that's a pretty long list of items, right? And when you notice the very last part of the list, it's "(comma) packing for shipment or distribution of." Interesting that there's no comma after the word "shipment." So, in the English language that last comma in a list is known as the "Serial Comma." More conversationally, it's called the Oxford comma and fun fact: that's because Oxford University Press oftentimes puts that last comma when they're building manuscripts--so, very popular in the United Kingdom. A lot of people around the world use it as well, but it's sort of a comma that, in the United States anyway, you can take it or you can leave it. That's the Oxford comma.

Well, in the case of Maine's legislative documents oftentimes people don't include the Oxford comma. Well, in this case it created a lot of ambiguity for truck drivers who said, "Now wait a second, does that mean that our work--distribution work--is not allowed to get overtime pay?" And basically, this went to court. It went so far that it came all the way here to Washington D.C. to the Court of Appeals. And here's how the arguments went down. First of all, the dairy company argued that--okay, Maine has this legislative drafting manual inside of it. It encourages people not to use the Oxford comma. Well, in the courts, the truck drivers responded, "You know it says, but it's not dogmatic about it."

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It's not a hard and fast rule, so it's not like they couldn't have used the comma and geez, it created a lot of ambiguity for us. It's not very clear, if we're saying that packing for shipment or packing for distribution or are we saying asking for shipment (comma) or distribution. Is distribution separate or is it only talking about the process of packing an item in order to go ship it out? Interesting, right? So, that was one of the arguments that was made.

The second big argument that was made by the dairy company is that if you notice, there's no conjunction before the word "packing." So, in a long list, we typically see all the list items broken up by commas and then a conjunction right before the last item. Conjunction, of course, you probably remember from Schoolhouse Rock! is: "Conjunction junction, what's your function?" And it's "and," "but," or "or." So, there's no "or" in front of the word "packing," so it's not clear again if they're saying, "or packing for shipment or distribution." So, that's what the dairy farm argued that distribution stands on its own as a list item because there is no conjunction in front of "packing for shipment." Now, when the final ruling came out on this case, the court said that was the strongest argument that the dairy company made. Now, the truck driver side--they tried to argue against that to say, "Well, you know actually, they're using the rhetorical effect of asyndeton. Asyndeton is a pretty fancy rhetorical tool. It was used in ancient Greece and first sort of cited as a rhetorical method in ancient Greece, and it basically means you remove all conjunctions from a sentence or a list. So, think of Julius Caesar: "Friends, Romans, countrymen lend me your ears." There's no "and," "but," or "or" in that list, right? And it adds rhetorical effect and intensity to it. The court said, "Ehh, that was kind of a weak argument, but we'll hear you out, whatever."

In the end, the reason why the truck drivers won is because the court said, "Despite the fact that the whole conjunction thing was a good idea, you know despite the fact that the dairy company made a lot of good points, these laws are written to protect workers. And so, because it is so ambiguous we're going to rule in their favor." So, that is the interesting case study of how a dairy company lost five million dollars, but its employees gained five million dollars all because of a comma.

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So, the next time you think about punctuation and grammar not mattering to the business world, think about this case study.