

## PLAIN LANGUAGE

# 40 years and counting

BY JOSEPH KIMBLE

*This column updates one that I wrote 10 years ago. Tempus fugit. And the story grows ever more remarkable.*

You know what is by far the longest-running legal-writing column in the history of the known universe? This one. And because 2024 marks its 40th year, perhaps readers will allow me a look back and a little celebration.

Credit for introducing the column goes to George Hathaway, who was then a staff attorney at Detroit Edison. Earlier, in 1979, the same year that two plain-English bills were introduced in the legislature, the State Bar had formed a standing Plain English Committee. The first chair was Irwin Alterman. Sadly, the bills never passed (one opponent: the Michigan Bankers Association), but the committee lived on, and Hathaway became the chair. In November 1983, he coordinated a superb “Plain English” theme issue of the *Bar Journal* — still worth reading today<sup>1</sup> — which was the precursor to this column. The first one appeared in May 1984, written by Gregory Ulrich.

A complete collection is available at [www.michbar.org/generalinfo/plainenglish/home](http://www.michbar.org/generalinfo/plainenglish/home). I am grateful to Linda Novak, the *Bar Journal*’s former editor, for getting all the older columns online.

Hathaway’s contributions during those earlier years were memorable in more ways than one. I’ve always thought that a table he created for his “Overview” article in the 1983 theme issue was a masterstroke — at least for that time; it replied to “reasons” given for traditional legal language.<sup>2</sup> Hathaway adopted a pseudonym, T. Selden Edgerton, the name of a great-grandfather, to write eight columns in the mid-’80s. Most were accompanied by drawings and photos that must have brought smiles and laughs to readers. In one column (January 1986), Edgerton was photographed

with a bag over his head because, as a plain-English lawyer, he wanted to remain anonymous. In another (July 1986), he was covered with a blanket to demonstrate the “security blanket” style of writing with doublets and triplets. Hathaway even invented Mr. Edmund Z. Righter for a mock column (January 1987) called *In Defense of Legalese*, and Edgerton answered (March 1987) with one called *In Disgust of Legalese*.

I became the column’s editor in 1988 — last year was my own 35th anniversary — and Hathaway continued as the chair of the Plain English Committee. Over the years, the committee organized two more “Plain English” theme issues of the *Bar Journal* (January 1994 and January 2000); produced a videotape called *Everything You Wanted to Know About Legalese . . . But Were Afraid to Ask*; promoted the move from legal size to standard 8½-by-11-inch paper in Michigan courts; worked on a number of forms projects; and gave nationally publicized Clarity Awards to well-written documents throughout the 1990s. The committee itself was discontinued in 2001 but left the column as its enduring legacy.

How do I try to capture the column’s accomplishments and influence? We have published articles by the luminaries of legal writing and plain language: Bryan Garner, Reed Dickerson, Robert Benson, Irving Younger, Peter Butt, Christopher Balmford, Wayne Schiess, Ross Guberman, my colleague Mark Cooney, and many others. We published articles by former Chief Justice Bridget Mary McCormack and three federal judges. Perhaps you’ll take my word that the column has an international reputation and has been cited in countless books, articles, and news releases — not to mention the committee notes to Rule 1 of the restyled Federal Rules of Evidence and restyled Federal Rules of Bankruptcy Procedure. The column was even praised in a two-page piece in the *ABA Journal*.<sup>3</sup>

**40**  
FORTY YEARS OF  
PLAIN LANGUAGE

“Plain Language,” edited by Joseph Kimble, has been a regular feature of the *Michigan Bar Journal* for 40 years. To contribute an article, contact Prof. Kimble at Cooley Law School, 300 S. Capitol Ave., Lansing, MI 48933, or at [kimblej@cooley.edu](mailto:kimblej@cooley.edu). For an index of past columns, visit [www.michbar.org/plainlanguage](http://www.michbar.org/plainlanguage).

We have published hundreds and hundreds of before-and-after examples. We previewed the complete redrafts of the Federal Rules of Evidence, Federal Rules of Bankruptcy Procedure, and Michigan Rules of Evidence. We ran about a dozen contests to revise passages and gave books to the winners (I need to revive that). We have covered seemingly every subject under the sun — from word choice, to supposed terms of art, to sentence structure, to organization, to design (formatting) and headings, to artificial intelligence, to developments in the world of plain language.

Several columns (October 1987, May 1990, March 2006, September 2011, September 2012, and October 2016) have reported on the incontrovertible empirical evidence that all readers — legal and nonlegal — strongly prefer plain language to legalese. We were among the first to develop data from the actual testing of legal documents (October 1987 and March 2006). Similarly, another influential column (October 1985) reported on a study of a real-estate sales contract: the authors found that less than 3% of the words had significant legal meaning based on precedent. So much for the myth that terms of art subvert efforts to write in plain language.

Ah, yes, the myths and false criticisms. We have seen — and exposed — them all (I won't cite columns because we've addressed these myths repeatedly):

- Plain language is baby talk, or Dick-and-Jane style. It dumbs down. [Has any reader ever complained about a legal document in those terms — that it is just too clear or too condescendingly simple?]
- Plain language is dull and drab. [It can be lively and expressive in the right context, such as an appellate brief. And how ironic that critics would say this about plain language, given that legal writing has been assailed for centuries as verbose, opaque, convoluted, confounding — pick your adjective.]
- Plain language is all about simple words and short sentences. [It is about all the techniques for clear communication, and they number in the dozens.]
- Plain language is less precise than traditional legal style. [It's actually more precise because it unearths the ambiguities, inconsistencies, and errors that traditional style, with all its excesses, tends to hide.]
- Legalese is required by law — statutes or regulations or precedent. [While these sources may require that certain information be provided, they typically do not prescribe exact wording.]
- Some ideas are too complex for plain language. [For the last several decades around the world, proponents have revised countless legal documents and passages of all kinds into plain — or much plainer — language.]<sup>4</sup>

The only things standing in the way of plain language are the will and the skill to use it. I said in the 1994 theme issue that “nothing

would do more to improve the image of lawyers.” And I think nothing is more likely to make readers and listeners happy.

Finally, some thank-yous are in order. To the State Bar and the *Bar Journal* Committee for supporting the column. To the *Bar Journal* editors — Nancy Brown, Sheldon Hochman, Valerie Robinson, Amy Ellsworth, Linda Novak, and Mike Eidelbes — for putting up with my nonstop tinkering. (One of them told me once, “I am putting my foot down.” No more changes to that column.)

And of course, thanks to all you loyal readers. In a 2002 readership survey, “Plain Language” ranked third on the list of monthly features that members are most likely to read always or most of the time. Almost half of those who responded fell into that category — always or usually. A 2014 readership survey produced similar rankings and results: third most popular of the monthly features, frequently read by 40% of those who responded, and occasionally read by another 45%. On the electronic front, according to data that I received from the State Bar back in 2013 — a decade ago — the column had received over 100,000 page views.

The column is a labor of love, but a labor nonetheless. It's taken a good slice of my working life. But I'm proud to have done it. Happy anniversary, “Plain Language.”



**Joseph Kimble** taught legal writing for 30 years at Cooley Law School. His third and latest book is *Seeing Through Legalese: More Essays on Plain Language*. He is a senior editor of *The Scribes Journal of Legal Writing*, editor of the Redlines column in *Judicature*, a past president of the international organization Clarity, and a drafting consultant on all federal court rules. He led the work of redrafting the Federal Rules of Civil Procedure, Federal Rules of Evidence, and Michigan Rules of Evidence. Most recently, he won a 2023 Roberts P. Hudson Award from the State Bar of Michigan.

## ENDNOTES

1. 62 Mich B J 945 (1983). This issue (like all others going back to 1921) is available through HeinOnline at the member area of the State Bar's website <<https://e.michbar.org>> (accessed December 11, 2023).
2. *Id.* at 946.
3. Garner, *Celebrating Plain Language in Michigan*, ABA Journal (October–November 2021) <<https://www.abajournal.com/magazine/article/celebrating-plain-english-in-michigan>> (available to ABA members only). Reprint available at <<https://www.michbar.org/journal/Details/Celebrating-plain-English-in-Michigan?ArticleID=4291>> (accessed December 11, 2023).
4. For still more on these and other myths and misconceptions, see Kimble, *Writing for Dollars, Writing to Please: The Case for Plain Language in Business, Government, and Law* (Durham: Carolina Academic Press, 2d ed 2023), pp 11–43; *Flimsy Claims for Legalese and False Criticisms of Plain Language: A 30-Year Collection*, 19 Scribes J Legal Writing 1 (2020) <<https://scribes.org/wp-content/uploads/2022/10/Kimble-8.23.21.pdf>> (accessed December 11, 2023).