

The Pleading

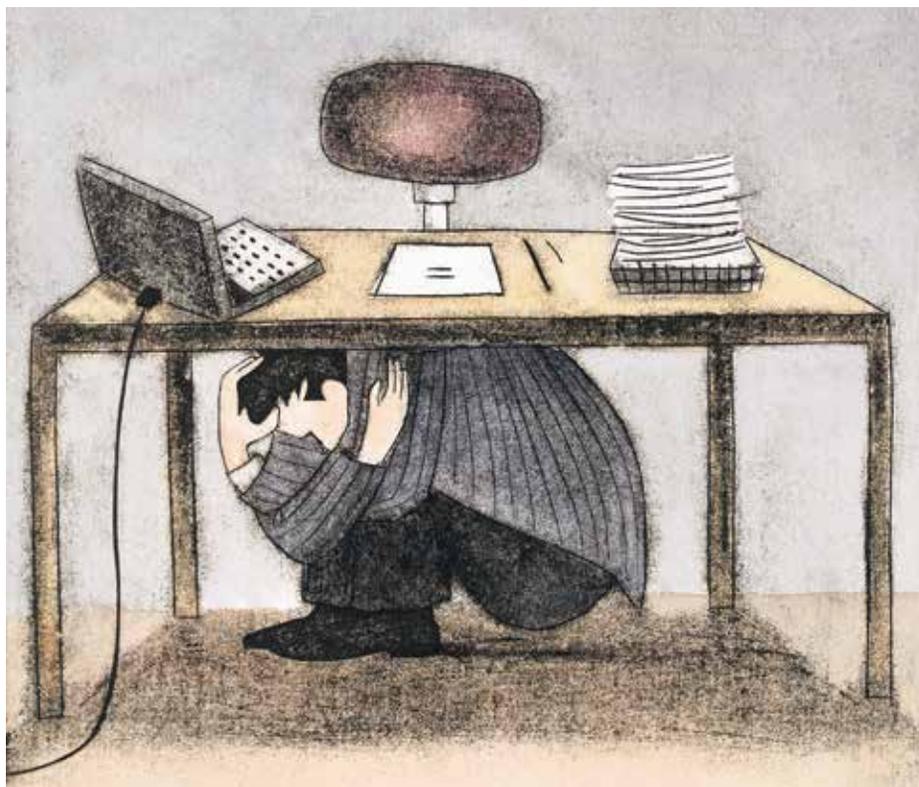
By Mark Cooney

Once upon a docket dreary, as I pondered
after hearings,
Over many a curious case then pending
with the busy court,
While I read, attention sapping, suddenly
there came a tapping,
As of someone gently rapping, rapping at
my chambers door.
"Tis my clerk again," I grumbled, "tapping
on my chambers door—
Oh, yet another matter more."

Pausing just a moment further, bracing
for the fresh-faced fervor,
Up I turned my heavy head to bid my
clerk in through the door.
In he stepped with youthful stride,
brand-new filing at his side,
Still another motion coming briskly
through my chambers door—
A docket full and motions more, another
through my chambers door—
Coming through my chambers door.

And this motion raised debate, invoking
mandates from Rule 8,
A rule demanding something simple,
clarity of pen, no more,
A "short[,] plain statement of the claim,"
demands the rule in firm refrain,

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So there I took to read the Pleading that
the plaintiff's claim set forth,
My hopes on high the words would
teach me, each one clearer than before,
Then the page read, "Heretofore."

Startled by word so archaic, stark
departure from prosaic,
"No doubt," said I, "more prudent prose
will sense and clarity restore."
As optimist continued reading, wanting
true and simple meaning,
Follow surely lucid language giving
message pure and sure;
Would the drafter offer words imposing
not a burden more?
Quoth the Pleading, "Heretofore."

Then, I thought, the prose grew denser,
lacking editorial censor;
Had the drafter failed to read the court
rule setting out the score?
If Rule 8 one does inspect, the writing
style "must be . . . direct";
Why then, drafter, use a style that's
destined only to obscure?
Heedless drafter, may your next words
shed this style bound to obscure.
Quoth the Pleading, "Heretofore."

Then I sat while forced to guessing,
barely seeing word expressing
Claim purported to be resting on the
law's secure support;
More I sat in hopes divining, thoughts
awhirl, for meaning pining,

For the plaintiff's meaning mining;
 over it I sat and pored—
 For the plaintiff's meaning mining—
 pond'rous style and more in store,
 Stilted prose and hardly more.

"Complaint!" said I, "thing of muddle!—
 English still, yet mind befuddle!
 Respite—respite, rescue from your turgid,
 swollen, retread form,
 Writing, yes, yet all-confounding, in these
 words the meaning drowning,
 Bloated, excess verbiage hounding—
 tell me truly, I implore—
 Is there—is there balm for eyes?—
 tell me—tell me, I implore!"
 Quoth the Pleading, "Heretofore."

"Complaint!" said I, "thing of muddle!—
 English still, yet mind befuddle!
 By the rule that binds us both, why the
 legalese that I abhor?
 The law is clear in its decree, as under
 Rule 8 you will see

The statement of the claim must be
 both plain and simple in its form—
 Give me now your claim in style that
 fed'ral law means to ensure."
 Quoth the Pleading, "Heretofore."

And the Pleading, unremitting, still was
 sitting, still was sitting
 On the desk beside the file residing near
 my chambers door;
 And its words had all the seeming of a
 scriv'ner's empty scheming,
 Failing not to stifle meaning, threw its
 darkness on me more;
 My comprehension still in shadows
 what my mind could scarce endure—
 Why this haughty "Heretofore"?

"Be your words our sign in parting,
 wretched fiend," I barked, upstarting—
 "Return your prose to eras gone;
 your style remit to days long yore!
 Amend you will this murky mire, soon my
 order will require,

Discard this toilsome legalese, and lift
 away this needless chore!
 Take your vexing cloud of prose, and take
 your leave, be out my door;
 Haunt my chambers nevermore!"

[The author begs forgiveness for sullyng the
 magnificent Mr. Poe's coattails.]



Mark Cooney is a professor at Western Michigan University Cooley Law School, where he teaches legal writing. He is editor in chief of The Scribes Journal of Legal Writing and author of Sketches on Legal Style. Before teaching, he was a civil litigator, most recently with Collins Einhorn Farrell PC, in Southfield.

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