

The Pros Know: Plain Language Is Just Good Writing

By Mark Cooney

Is plain language foreign to “real” writers? To the pros, I mean? Would professional writers, editors, and literary agents outside our field scoff at the plain style that this column has long endorsed? Would plain English draw ridicule in those quarters? Too childish? Dumbed down? Illiterate? And would readers of literate magazines, technical journals, or fiction balk at the simplicity, the directness?

This is an easy one: no—on all counts.

Plain language is just good writing. Period. That’s all it means. And it’s a writing style that’s not only embraced but demanded (on pain of rejection) by literary professionals outside the legal arena. In case you doubt this, let’s look at some submission guidelines and advice from publishers and literary experts.

What style soars in popular fiction?

If you were an aspiring novelist submitting a manuscript to literary agents or publishers, what writing style would best serve you? The answer may surprise you. When one literary agent and publishing consultant recently listed her top eight reasons for rejecting manuscripts, one was that “[t]he

writing made me sad”—not sad because of a tearjerker plot, but because of prose that was flowery instead of confident:

Good, smooth, confident writing is important, obviously. I have fairly high standards in this area—an awkward or overly flowery writing style sets my teeth on edge and makes it very difficult for me to keep reading.¹

Similarly, an editor with more than 30 years of experience listed “unpolished prose” as one of the four most common flaws in fiction manuscripts. And what is unpolished prose, in her mind? It’s prose that, among other things, isn’t clear and simple enough:

You simply have to learn how to write clearly. . . . Simple syntax: subject-verb. Simple rhythms: subtle variations on a few short sentences and a long, or a few longs and a short. . . . Proper grammar and punctuation.²

As this same expert put it, simplicity is the key:

Classic language is simple language. The reader’s pleasure lies not in the effort you put into a trumpeting voice, but in how invisible you make the words, just how close you can get to telepathy.³

That first line is worth repeating: classic language is simple language.

What about publications catering to the cultural elite?

Fiction publishers and literary agents may prefer simple language, but popular fiction isn’t always synonymous with decorum or sophistication. So what about publications targeting well-educated professionals with refined tastes?

For instance, suppose a writer hopes to publish an article in *Washingtonian*. The edi-

tors of that magazine make no bones about their readership’s sophistication: “[A]lmost all have attended college, and half have graduate degrees. . . . They make up an active, educated, affluent audience.”⁴ Given this urbane D.C. crowd, which includes more than a few lawyers, what do the editors tell prospective authors?

Speak to the reader as an intelligent friend. The best style is clear, honest, and direct. We like sophisticated ideas and simple language, not the reverse. And don’t forget the favorite question of the late *New Yorker* editor Harold Ross: “What the hell do you mean?”⁵

Prospective *Washingtonian* authors also find advice openly lifted from Strunk & White’s *The Elements of Style*: “Be specific, concrete, definite. Use the active rather than the passive voice. . . . Avoid fancy words. Be clear.”⁶

You’ve seen the same advice in this column—for decades.

But mustn’t writers abandon plain language for technical subjects?

We lawyers write about intricate, technical concepts. We dissect regulations and contractual fine print and court opinions. And yes, there are true terms of art that we can’t shed. Surely, then, we must move beyond the plain style embraced in other sectors, right?

Not so fast. The notion that plain language is ill-suited for technical writing is a fallacy, and publishers know it. For instance, if you were to submit an article to *Science* magazine, you’d find this advice:

Avoid jargon; explain obscure terms and define acronyms (keep in mind that many potential readers of your work will not be specialists in your field). . . . Use active

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voice when suitable.... Write concisely (e.g., “even though,” not “in spite of the fact that”).⁷

Again, if you’ve read this column before, or any leading text on legal style, that advice is familiar indeed.

An author hoping to publish in *The Economist* would find similar style advice on that magazine’s submissions page—advice that sings simplicity’s praises:

The first requirement of *The Economist* is that it should be readily understandable. Clarity of writing usually follows clarity of thought. So think what you want to say, then say it as simply as possible.⁸

To punctuate this point, the editors take aim at inflated diction and long, complicated sentences:

Do not be stuffy.... Use the language of everyday speech, not that of spokesmen, lawyers or bureaucrats.... Pomposity and long-windedness tend to obscure meaning, or reveal the lack of it: strip them away in favour of plain words.... Simple sentences help. Keep complicated constructions and gimmicks to a minimum.... Long paragraphs, like long sentences, can confuse the reader.⁹

Where does this leave lawyers?

And so you see what the pros want, whether they evaluate works meant for mainstream audiences or for sophisticated audiences or for those interested in highly technical subjects. Where are the calls for flowery prose (*pursuant to* instead of *under*)? Where are the calls for bigger words (*subsequent to* instead of *after*, or *utilization* instead of *use*)? Where are the calls for antiquated style (*said* or *aforesaid* instead of *the*, *this*, or *that*—or *mentioned above*)? Where are the calls for acronyms and jargon?

You don’t see it. Publishers, editors, and literary agents don’t want it. They won’t have it. And if they accept a submission, they won’t leave it. They don’t want it because it puts off readers, and they don’t want to lose readership. They want writing that connects, not clutters.

Some lawyers may feel immune to concerns over reader interest or loyalty. After all, our readers are captives. The court *has*

to read our brief, right? I suppose. But how carefully will a judge or judicial clerk read our brief if our already-complicated case is weighed down by old-school legal style? And how will that judge or judicial clerk view our message, our credibility?

Might a court react like the United States Supreme Court did recently, when it ordered a lawyer to show cause why he shouldn’t be disciplined for failing to write “in plain terms” about a technical patent issue?¹⁰ Maybe not. But a court’s private frustration over needless jargon or inflated prose may be almost as damaging. One oft-cited study revealed that judges find stuffy briefs “unpersuasive and substantively weak”—and their authors “less credible.”¹¹

Are these judges telling us the same thing that editors of nonlegal publications tell prospective authors?

As for legal drafting, I suppose that the public is stuck for now with our statutes and ordinances. And clients are, as a practical matter, stuck with our wills and contracts. They usually just sign on the dotted line. But does this resigned tolerance make the inflated style acceptable? Good? And in a profession that’s all about words, should we be satisfied with hiding behind musty traditions while our readers are at a loss?

And is our “But it’s a *legal* document” refuge as safe as we think it is?

The veteran judge in the historic Detroit bankruptcy case wasn’t impressed with traditional legal style. When he saw one tortuous document, he urged lawyers to redraft it in “plain English,” quipping, “I wish you had an eighth-grade teacher on staff to edit this for you.”¹² Little glory there—or refuge—for a drafter whose unquestioning reliance on legalese was on full display beneath the public microscope. The *Detroit Free Press* ran a story on it.

So strive to write like the pros do. Communicate. Connect. Why let the discredited comforts of legal tradition fog up your message? Before starting your next court brief, read a literate magazine like *National Geographic*, *Smithsonian*, or *The Atlantic*. Pay close attention to how those professional writers (who have the added luxury of professional copyeditors) use language. Study their word choices, syntax, punctuation, and tone. Note the clarity. Note how it inspires your confidence in both writer and message.

For drafting style, study the federal rules. Bryan Garner and Joseph Kimble restyled them, and they’re among our profession’s best models of clear, well-organized drafting. And they’re potent proof that a plain style, in careful hands, delivers the same substance—only better.

And the “plain language” moniker? Don’t get tripped up by that label or its unwarranted baggage. It’s just good writing. Ask any pro... and ask any reader. ■



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ENDNOTES

1. Lydia Moëd, *Agenting*, translation, books, tea, *Eight Reasons to Reject a Manuscript* <<http://lydiamoed.wordpress.com/2014/10/20/eight-reasons-to-reject-a-manuscript>> (posted October 20, 2014). All websites cited in this article were accessed August 25, 2015.
2. Victoria Mixon, *Helping Writers Become Authors*, *The 4 Most Common Mistakes Fiction Editors See* <<http://www.helpingwritersbecomeauthors.com/2011/02/4-most-common-mistakes-fiction-editors.html>> (posted February 4, 2011).
3. *Id.*
4. *Washingtonian*, *Writer’s Guidelines* <<http://www.washingtonian.com/writers-guidelines>>.
5. *Id.*
6. *Id.*
7. Science, *Some Notes on Science Style* <<http://www.sciencemag.org/site/feature/contribinfo/prep/res/style.xhtml>>.
8. *The Economist*, *Style Guide* <<http://www.economist.com/styleguide/introduction>>.
9. *Id.*
10. See *In re Shipley*, ___ US ___; 135 S Ct 1589; 191 L Ed 2d 670 (2015).
11. Benson & Kessler, *Legalese v. Plain English: An Empirical Study of Persuasion and Credibility in Appellate Brief Writing*, 20 Loy L R 301, 319 (1987). For additional studies of legal readers, see Kimble, *Writing for Dollars, Writing to Please: The Case for Plain Language in Business, Government, and Law* (Carolina Academic Press, 2012), pp 135–136, 139–142, 151–154.
12. Bomey, *Bankruptcy Lawyers Get a Scolding from Judge: Hey, Write It in English*, *Detroit Free Press* (November 14, 2013) <<http://archive.freep.com/article/20131114/NEWS01/311140133/bankruptcy-judge-steven-rhodes-detroit-bankruptcy>>.