

A Federal Judge Takes On Legalese

This order deserves a wide circulation. Can we please just dispense with the verbose, antiquated, unnecessary, space-wasting boilerplate introductions to court papers? We've written about this before. (See the November 2003 column.) And in actual testing, judges overwhelmingly voted against these kinds of long-winded openers. (See my book Lifting the Fog of Legalese 4, 7-8 (2006).) —JK

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

ZACHARY BELLI, et al.,
Plaintiffs,

v. CASE NO: 8:12-cv-1001-T-23MAP
HEDDEN ENTERPRISES, INC.,
d/b/a INFINITY TECHNOLOGY
SOLUTIONS
Defendant.

ORDER

On August 3, 2012, the plaintiffs moved (Doc. 22) for leave to submit a motion that exceeds the page limit. The motion states, "The complex factual and legal issues involved[] make it difficult to meet the page limitation of twenty-five [] pages." Two hours later and without leave, the plaintiffs submitted (Doc. 23) a twenty-nine-page motion. Because of the mistaken premise that this FLSA collective action presents atypically complex issues, the motion to exceed the page limit (Doc. 22) is **DENIED**. The motion for conditional collective status (Doc. 23) is **STRICKEN**.

A review of the proposed twenty-nine-page motion's commencement confirms that a modicum of informed editorial revision easily reduces the motion to twenty-five pages without a reduction in substance. Compare this:

Plaintiffs, ZACHARY BELLI, BENJAMIN PETERSON, ERIC KINSLEY, and LARRY JOHNSON, (hereinafter referred to as "Plaintiffs"), individually and on behalf of all others similarly situated ("Class members"), by and through the undersigned counsel and pursuant to the Fair Labor Standards Act of 1938;

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(the "FLSA"), 29 U.S.C. § 216(b) files this motion seeking an order [move] (1) [to] conditionally certifying this case as a collective class action; (2) [to] requir[e]ing the Defendant, HEDDEN ENTERPRISES, INC. d/b/a INFINITY TECHNOLOGY SOLUTIONS (hereinafter "Defendant"); to produce and disclose all of the names[,] and last known addresses[,] and telephone numbers of the [each] potential E[c]lass M[m]embers so that notice may be implemented; and (3) [to] authoriz[e]ing notice by U.S. First Class mail to all [of this action to each] similarly situated persons employed by Defendant within the past three (3) years[,] to inform them of the pendency of this suit and to inform them of their right to opt-in to this lawsuit. In support of this Motion, Plaintiffs sets forth the following facts and provides this Court with a Memorandum of Law in support of the Motion, and asserts as follows:

To this:

Plaintiffs move (1) to conditionally certify a collective action; (2) to require Defendant to produce the name, address, and telephone number of each potential class member; and (3) to authorize notice of this action to each similarly situated person employed by Defendant within three years.

Concentrating on the elimination of redundancy, verbosity, and legalisms (see, e.g., BRYAN A. GARNER, *THE ELEMENTS OF LEGAL STYLE* (2d ed. 2002)), the plaintiffs may submit a twenty-five-page motion on or before August 15, 2012.

ORDERED in Tampa, Florida, on **August 7, 2012**.



STEVEN D. MERRYDAY
UNITED STATES DISTRICT JUDGE

The Contest Returns

Below is a sentence from an early draft of a rule. Notice the comma, which is inserted to avoid ambiguity. Admittedly, the meaning here probably wouldn't be mistaken even without the comma, but the pattern is a dangerous one. And it's better if you can just as easily avoid having too much hang on punctuation.

The court may impose a sanction only if the court finds that the failure was willful or in bad faith, and caused substantial prejudice in the litigation.

I'll send a copy of *Writing for Dollars, Writing to Please: The Case for Plain Language in Business, Government, and Law* to the first two persons who send me an A revision. Send an e-mail to kimblej@cooley.edu. The deadline is January 25. And I have to be the sole judge of the winners.

Try it without using a numbered list. I'm a big fan of lists, but in this rule (for certain reasons) a list would not work well. —JK