

A Message to Law Students: Effective Writing Takes a Lifelong Commitment

What's the most important subject you'll study in law school? While some might try to make the case for contracts or torts or procedure—the teachers of those subjects will train you to think like a lawyer—the answer is surely legal writing. Unlike most other subjects, it involves a skill that you'll need to continue developing long after you're through with law school.

Writing is one of the two great skills that will advance your career in law. (The other is people skills.) To write well, you must necessarily do other things well: analyze cogently, organize logically, distill accurately, argue persuasively, cite knowledgeably, punctuate skillfully, and phrase smoothly, among other things. Becoming proficient at all these things is no small feat.

So how well do you write? Some students enter law school thinking they're already good writers. Others consider themselves mediocre. Still others consider themselves poor.

Before deciding where the truth lies, let's recognize that wherever you are on the scale of proficiency, your skills will inevitably (one hopes temporarily) nosedive in law school—

especially during the first year. Whenever you enter an entirely new field, particularly a technical field with a jargon and logic all its own, your writing skills will decline until you become comfortable with the subject matter. It's inescapable. Studies amply support this commonsense observation. That's why, in my view, it makes little or no sense to concentrate on legal writing during the first year of law school; it should be the special province of the second and third years.

But that's another argument—one that could shake up legal academia.

Let's return to the question, How well do you write? If you think you're quite good because you majored in English or journalism, or because you wrote a master's thesis or Ph.D. dissertation, or because you have published short stories, or because various people have said that you have talent as a writer, it's probably a delusion. Sorry, but it's true.

A Million Words

Consider the words of Gorham Munson, who was an accomplished writer and teacher of writing: “[P]rofessional writers, discount-

ing inspiration, discounting even marked talent, say that nobody can be called a writer until he has written a million words, the equivalent of ten good-sized books.” That's a lot of practice—and few law students have had that much. For that matter, few law professors have had it.

If you think you're a mediocre or poor writer, on the other hand, you may underestimate your skills. But it's a healthy turn of mind if you see considerable room for improvement. Assuming that you recognize the value of good writing, you'll do more to hone your skills if you combat any sense of self-satisfaction. You'll see yourself as never having “mastered” the skill, but instead as always needing to learn more. That's the way of the true writer.

By the way, don't ever believe that writers are born (not made). It isn't true, any more than the idea that golfers or violinists or cooks are born. The fact is that even those with talent—Tiger Woods or Itzhak Perlman or Julia Child—have worked extraordinarily hard to develop their technique. It's no different for writers.

Win a Prize

What do you think of this specimen?

“Under the power of sale contained in said mortgage and the statute in such case made and provided, notice is hereby given that said mortgage will be foreclosed by a sale of the mortgaged premises, or some part of them, at public vendue, at the 1st floor of the Ingham County Circuit Courthouse in Mason at 10:00AM on August 10, 2006.”

I'll send a copy of *Lifting the Fog of Legalese: Essays on Plain Language* to the first person who writes an A version of that sentence in plain language. (I'll have to be the sole judge.) E-mail your version to kimblej@cooley.edu before September 25. I can't respond to each e-mail but will print the winner with next month's column.

“Plain Language” is a regular feature of the *Michigan Bar Journal*, edited by Joseph Kimble for the Plain English Subcommittee of the Publications and Website Advisory Committee. We seek to improve the clarity of legal writing and the public opinion of lawyers by eliminating legalese. Want to contribute a plain-English article? Contact Prof. Kimble at Thomas Cooley Law School, P.O. Box 13038, Lansing, MI 48901, or at kimblej@cooley.edu. For more information about plain English, see our website—www.michbar.org/generalinfo/plainenglish/.

Three Battles

If you seriously embark on a lifelong quest to master writing skills, you'll fight three major psychological battles, both with yourself and with others. The harder battles will be internal.

The first struggle will be to overcome the natural tendency to insulate yourself from criticism. People tend to guard themselves against receiving criticism and then to reject it if they can't help hearing it. In the aspiring writer, this is a noxious habit. The healthier attitude is to seek out criticism and learn from it—and to continue seeking it. You'll never transcend the need for a good edit. And the more you undergo frank criticism from readers of all types, the more you'll learn to account for readers' reactions while you write. But if your ego is so delicate that you resent learning that readers can't figure out what you mean, or are distracted by how you put your ideas, your writing probably will be intolerable.

Second, you must struggle to achieve simplicity—and learn to achieve it without oversimplifying. That's a tall order in an intellectually challenging discipline like the law. And it's especially tall when you think of the overwhelming attraction that legalese presents to the average mind. With *pursuant to* and *assuming arguendo* and *hereinafter* and *inter alia*, you have ready-made shortcuts for feeling lawyerly. They're like secret handshakes. They seem to make you a member of the club. Without them, you'll feel like your pre-law-school self at a time when you may really want to feel a difference. Never mind that they typify low-grade legal writing.

Third, you may sometimes feel as if you're forced to adopt a legalistic style if you want to get ahead in the profession. Although I won't deny that a particular boss may require you to use highfalutin jargon at some point in your career, the idea that this is advantageous to you is, in the long run, a big lie. A humongous lie. The truth is, you'll open up all sorts of doors for yourself if you can become a first-rate legal writer—a down-to-earth, sensible stylist with a command of the ideas you're writing about. You'll have many more choices in your career path. If you write well, you'll be a better liti-

gator, a better transactional lawyer, a better judge, a better legal (or nonlegal) journalist, a better whatever you want to be with your law degree.

Meanwhile, there are many obstacles. Perhaps the first is getting the experience of having written a million words. So practice every chance you get, and think hard every time you put words to paper, even if you're jotting a thank-you note. That's what it means to be a writer.

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