

Toothless Act

To the Editor:

I write you regarding Jane Siegel's "The Politics and Power of Plain Language" (February 2011 *Michigan Bar Journal*). The Plain Writing Act of 2010 is a farce. It is yet another example of the façade of "change" to which President Obama weds himself (and in this case, apparently Congress, too). The Act has no "teeth," as Siegel claims. In fact, Section 6 of the Act says, "There shall be no judicial review of compliance or noncompliance with any provision of this Act." In addition, Section 6 says "[n]o provision of this Act shall be construed to create any right or benefit, substantive or procedural, enforceable by any administrative or judicial action." Wow. This truly is remarkable law. Remarkable because its "plain language" indicates that it is not enforceable in any way, and, adapting the words of William Shakespeare, it is a law "full of sound and fury, signifying nothing" (from Shakespeare's *Macbeth*).

I wish that the *Michigan Bar Journal* would return to publishing meaningful articles in its Plain Language column.

Jaron P. Thompson
Sterling Heights

Response from the Author

I cannot help but think that the real purpose of Mr. Thompson's letter was to throw a few f- words (farce and façade) in President Obama's direction. Nevertheless, I'll answer his critique.

First, President Obama had little to do with the Plain Writing Act. He was one of several original Senate cosponsors of the bill introduced in 2007, and he signed it in 2010. But it was a group of interested citizens and a few congressional representatives who spearheaded this legislation several years ago (see the June 2006 Plain Language column, "Testifying to Plain Language"). In the end, the vote in the House was 376 to 33; the vote in the Senate was unanimous. The Act had strong bipartisan support.

Second, a law can have teeth without fangs. True, the Act doesn't give citizens the right to litigate, but it does make federal agencies accountable. Unlike previous federal plain-language initiatives, this Act has a procedure for carrying it out. That procedure depends on action from the executive branch—and action is already underway. The first step was for the Office of Management and Budget (OMB) to issue draft guidance; they did so on November 22, 2010 (<http://www.whitehouse.gov/sites/default/files/omb/memoranda/2011/m11-05.pdf>). Among other provisions, the guidance reiterates the definition of plain language and the need for high-level managers in federal agencies to oversee implementing the Act. It designates the federal plain-language advocacy group, PLAIN, as the group that OMB will use to help write the guidance (<http://www.plainlanguage.gov/index.cfm>) and it reiterates that agencies should follow the guidance in the Federal Plain-Language Guidelines (<http://www.plainlanguage.gov/howto/guidelines/bigdoc/index.cfm>).

Finally, before pouncing on the Act with tooth and claw, Mr. Thompson might at least give it some time to work. The Act is just five months old! Agencies are not required to start writing in plain language until a year after the Act was signed: October 2011. The real test will be whether, over the next few years, we see a change in the mountain of information about federal benefits and services that we as citizens get from our federal government.

Jane M. Siegel
Grand Rapids

Recommending Scribes

To the Editor:

As a member of Scribes, I read with great interest Norman Otto Stockmeyer's message in "Meet Scribes—A Society That Promotes Legal Writing Excellence" in the March issue of the *Michigan Bar Journal*.

As a recent contributing author to the *Bar Journal* (January and March 2011), I can attest to the benefits of membership in Scribes. If one wants to improve his or her appellate briefs, memoranda, motions, pleadings, and other writings, I highly recommend Scribes (www.scribes.org).

James A. Johnson
Southfield

Kudos for the March Bar Journal

To the Editor:

Another EXCELLENT issue. Thank you.

Norman K. Marsh
Everett, Washington

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