

# Time for a Clearer, Plainer Alternative to Our Lawyer's Oath?

By Joseph Kimble

*Editor's Note: This column is a long-delayed follow-up to one I wrote in 2011.*

In May 1998 and January 1999, George Hathaway published two columns promoting a new, plain-English oath for lawyers being admitted to the Michigan bar. The new oath was written by Judge Chad Schmucker, Judge William Caprath, and the members of what was then the State Bar's Plain-English Committee. Mr. Hathaway presented supporting comments from several people, including these from me: "Some might regard the current oath as quaint—and right for a ceremonial occasion. But I suspect that many or most new lawyers find it unclear in places and rather odd—the verbal equivalent of wearing spats or a coat with tails. Why start lawyers off like this? The plain-English version is solemn, dignified, and equally right for a ceremonial occasion."

Mr. Hathaway was proposing the plain-English oath as an option only: if practical, perhaps the new lawyers could be given the choice, since it is their day. The Representative Assembly approved the optional version in 1998, but the Supreme Court did not, and it was never published for comment.

For more background, you can find Mr. Hathaway's columns at <http://www.michbar.org/generalinfo/plainenglish/home>.

More than ten years later, in January 2011, I wrote a column called "Please Vote on Two Versions of Our Lawyer's Oath." I presented the current oath and the revised version side by side, as "Version #1" and "Version #2." And I asked readers to vote for one of three choices:

- Forget #2
- Allow #2 as an option
- Require #2



"Plain Language," edited by Joseph Kimble, has been a regular feature of the *Michigan Bar Journal* for 35 years. To contribute an article, contact Prof. Kimble at WMU-Cooley Law School, 300 S. Capitol Ave., Lansing, MI 48933, or at [kimblej@cooley.edu](mailto:kimblej@cooley.edu). For an index of past columns, Google "Plain Language column index."

Current Oath	Plainer Version
I do solemnly swear (or affirm):	For the privilege of joining the State Bar of Michigan, I solemnly swear (or affirm):
I will support the Constitution of the United States and the Constitution of the State of Michigan;	I will support the Constitutions of the United States and the State of Michigan;
I will maintain the respect due to courts of justice and judicial officers;	I will promote respect for courts and court officers;
I will not counsel or maintain any suit or proceeding which shall appear to me to be unjust, nor any defense except such as I believe to be honestly debatable under the law of the land;	I will pursue a claim only if it appears to be just, and will offer a defense only if it may be honestly argued under law;
I will employ for the purpose of maintaining the causes confided to me such means only as are consistent with truth and honor, and will never seek to mislead the judge or jury by any artifice or false statement of fact or law;	I will pursue my client's case with truth and honor; I will never mislead a judge or jury, and will never delay a case for money or malice;
I will maintain the confidence and preserve inviolate the secrets of my client, and will accept no compensation in connection with my client's business except with my client's knowledge and approval;	I will protect my client's secrets, and will accept compensation for my client's business only with my client's approval;
I will abstain from all offensive personality, and advance no fact prejudicial to the honor or reputation of a party or witness, unless required by the justice of the cause with which I am charged;	I will practice law civilly and avoid offensive conduct; I will never attack the honor or reputation of a party or witness unless the justice of the cause demands it;
I will never reject, from any consideration personal to myself, the cause of the defenseless or oppressed, or delay any cause for lucre or malice;	I will not, for personal reasons, reject the cause of the defenseless or oppressed;
I will in all other respects conduct myself personally and professionally in conformity with the high standards of conduct imposed upon members of the bar as conditions for the privilege to practice law in this State.	I will personally and professionally comply with the high standards of conduct imposed on members of the bar.

Now, at long last, I announce the results: 30 votes to forget #2 (the plainer version); 16 to allow it as an option; and 63 to require it. If you combine the latter two, you get a wide margin.

On the left, you can see the two oaths. I did make two changes to the plainer version. At the suggestion of several readers, I restored “solemnly swear (or affirm)” to the introductory language. And in the fourth line or part, I replaced “only if it is just” with “only if it appears to be just,” which seems to more accurately reflect the current oath.

Perhaps the time is right for the Supreme Court to again consider a change. If the Representative Assembly has to review it once again, fine. Why not give plain language a chance as new lawyers take the oath that officially begins their careers? ■



*Joseph Kimble taught legal writing for 30 years at WMU–Cooley Law School. His third and latest book is *Seeing Through Legalese: More Essays on Plain Language*. He is senior editor of *The Scribes Journal of Legal Writing*, editor of the “Redlines” column in *Judicature*, a past president of the international organization *Clarity*, and a drafting consultant on all federal court rules. He led the work of redrafting the *Federal Rules of Civil Procedure* and *Federal Rules of Evidence*. Follow him on Twitter @ProfJoeKimble.*

