

Pursuant to Partners' Directive, I Learned to Obfuscate

By Ken Bresler

I've dropped out of the movement for plain legal writing. I used to avoid, but now I embrace, convoluted sentences and legal gobbledygook.

In law school, one of my favorite professors taught me that when I write, I should communicate effectively, not sound like a lawyer. But when I became an associate in a law firm, my writing style—clean, brisk, and straightforward—exasperated the other lawyers. I just didn't sound like one of them.

One partner summoned all his patience, pulled me aside, and gently asked, "Didn't they teach you how to write in law school?" The real answer was, "Yes, and that's what seems to be the problem." Instead I said, "I guess not."

My law firm was willing to train me—or, more accurately, retrain me. It paid my admission to a CLE course that included a writing component. The writing instructor urged us to avoid stuffy and archaic language.

Then it was my turn to be exasperated. During the question-and-answer period, I asked, "Hypothetically, what if an asso-

ciate followed all these rules of modern legal writing, and the partners thought he couldn't write, and then sent him to this course?"

"Well, you would be right, and they would be wrong," the instructor said. This answer didn't solve my problem, but only confirmed it.

Back at my law firm, one partner told me that I was incapable of writing an intelligible English sentence. My writing stank, another partner said, but he used a stronger word. During my semiannual review, I was warned that if I didn't improve my writing, I wouldn't have much of a future at the firm.

I was bewildered—the *National Law Journal*, the *American Bar Association Journal*, and the *Criminal Law Bulletin* were publishing my articles. I knew I could write, and so did other lawyers outside my law firm.

The firm sent me to a second writing seminar. When I walked into the room, I laughed: there was my former law-school professor. The same person who had spent a semester teaching me to write lucidly was supposed to unteach me in one day. And that's what he did, with a single comment.

During the seminar, he mentioned that he often conducts similar training sessions for law firms. Partners hire him to teach their associates who they think can't write. When he arrives, he often finds out that it's the partners who can't write or recognize clean legal prose.

That seemed to be my predicament, I explained, and asked him what I should do. He said, "I teach legal writing. I don't run an outplacement service. Write how they want you to write."

Henceforth, subsequent to receiving an assignment from a partner, but prior to commencing it, I made inquiry of the respective partner's secretary as to the existence and location of any motion or memorandum similar to the aforesaid assignment, and upon conducting a review of an exemplar of such motion or memorandum duly signed by the partner in

question, proceeded to draft the requested document pursuant to and in accordance with the partner's style, as evidenced by aforesaid exemplar.

I combined what should have been two sentences into one sentence. I padded sentences with excess verbiage. I separated sentences' subjects, verbs, and objects with conditional clauses and interjections. I wrote in the passive voice. I threw in Latin phrases when English ones would have done as well.

Writing like a lawyer pained me at first, but my signature wasn't going onto the finished product. I was only a ghostwriter for the partners. I still believed in modern legal writing, but I had gone underground. I figured: when in Rome, use Latin.

My reviews got better. "The courses worked!" a partner exulted. Another partner, eager to see even more improvement, offered to send me to a third writing course. I looked at the syllabus: my former legal-writing professor taught it.

I declined to attend. I needed more time to allow what I had unlearned to sink out. ■

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Ken Bresler is a former trial attorney for the U.S. Justice Department and staff attorney for the Securities and Exchange Commission. He is now a plain-English consultant at ClearWriting.net

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