

NOW COMES THE UNBENDING BOSS

By Richard Bingler

The first warning I ever received about the evils of legalese came from my professor of legal research and writing. It was almost a decade ago, but I can still hear in my mind's ear how he began that warning. He held up one of the most conspicuous examples: the phrase *Now comes the plaintiff; by and through his attorneys*. . . . Then he screwed up his nose as though the words were a loathsome creature long overdue for extinction. He called the *now comes* opener a perfect example of lawyers' using nine words to convey the same meaning that three could.

The professor immediately asked us for plain-English alternatives. But since none of us knew what *Now comes the plaintiff, by and through his attorneys* meant or that it historically began complaints, the room was silent. He smiled and said he was counting on us to set the example, counting on us to be the new breed of lawyers who speak plain English and start complaints with three simple, understandable words: *The plaintiff says*.

"The plaintiff says," he repeated slowly, letting it roll off his tongue like a melody, "is what *Now comes* means—and what normal folks say when not overdressing their language." He urged us to write like literate normal folks as often as we could, though he acknowledged with a small frown that most of us would be mere associates at law firms where the dragons of legalese still walked the earth.

Imbued with the noble mission of slaying that dragon at every encounter, I headed out into the legal world after graduation. I accepted a job in a small-town firm where the supervising attorney was about my age—a good sign, I thought. Surely he has heard of the plain-English movement. Surely he embraces it as warmly as I do.

Because it was a small firm, I was soon asked to draft a complaint, a prospect that thrilled me. Of course, since I had no idea about how to do this, I did what most lawyers do: I went to a formbook in the firm li-

brary and found an appropriate complaint for the case—a simple slip-and-fall case. But then I did what most lawyers probably do not do: I ignored the legalese in that form complaint—especially the opening legalese. I was confident that at least I knew how to begin any complaint.

As any young, eager lawyer might, I labored over every word in that complaint, making sure that it was as nearly perfect as it could be. When I'd finished, I was sure that I'd done my duty: on my first encounter with the *Now comes* dragon, I had slain it and drunk its blood.

I put the complaint in the supervising attorney's in-box. Back in my office, I imagined myself receiving an award for the complaint's clear language and then proudly displaying the award on a special shelf with a tiny light to guide visitors' eyes to the spot. Eventually, I would even emblazon my business cards with a small depiction of the award, accompanied by some pithy phrase.

Before I could think up such a phrase, I was startled by the buzz of the intercom. The supervising attorney wanted to see me. In his office, he handed me back the complaint and simply said, "This ain't gonna fly." Meekly, I asked why not. He stared at me: "We don't

start complaints this way. Didn't you look in the formbook?" I was crestfallen.

As politely as possible and with as much restraint as I could muster, I said, with a half-smile, "Have you ever heard of the plain-English movement?" Before he could answer, though, I launched into a full-scale attack, using the famous shotgun approach of law-school exams: pump in every legal fact, theory, and holding that pops into your head—relevant or irrelevant—in the hope that something you've written will come close to answering the question. In my best oratorical style, I made the standard arguments against plain English and then my counterarguments for plain English. My presentation went uninterrupted.

When I'd finished, he smiled and said, "This is a small town, and new things come slowly to it. Our clients pay us a lot of money to do their work, and *The plaintiff says* doesn't sound like we did much work for their money. Go to the formbook and put in the *Now comes the plaintiff* beginning. Make the clients happy. Make me happy." I started to open my mouth to make a closing argument beginning with a "but, but." I didn't get past the *b* sound of the first "but" before he added, "Remember who signs your paychecks."

Later, after I had cheerfully put in a *Now comes* and the supervising attorney had approved the revised complaint, the client came in to sign the verification. I met with her alone. Even though I had encouraged her to carefully read every word of the complaint for accuracy before she signed, I was not surprised that she barely glanced at it. Instead, she remarked, "Oh, why should I? I never can understand the gobbledygook you lawyers write anyway." I didn't respond.

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Richard Bingler is a 1991 graduate of Thomas Cooley Law School. He is employed as an editor/writer for the Bureau of National Affairs in Washington, D.C.

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