This month we present a new feature of the Plain Language column — Dear Seldy. T. Selden Edgerton answers intimate questions from the legaleseform... 

The Letter
Dear Seldy,

My boyfriend is a lawyer and insists on doing it twice each time — first the English way and then the French way. He says that once each time is not enough. I disagree with him but he won’t listen to me. Please help. I’m so confused I don’t know which way to turn.

Signed,

Terrified by Redundant Tautologies

The Answer
Dear Terri,

Since this is a Michigan Bar Journal column on clear writing you must be referring to letters, possibly love letters, from your lawyer boyfriend. Furthermore, it’s obvious that you are referring to your boyfriend’s use of two words when only one word is required. This is referred to by many names — unnecessary word pairing, redundant phrases, coupled synonyms, tautologies, pleonasm and double dipping. Lawyers are famous for these phrases. There are about one hundred of them. Table 1 is a complete list of the “Horrible Hundred” redundant phrases of legalese. (The list actually contains 127 phrases, but lawyers are so terrible at arithmetic that they’ll never notice the difference.)

The Historical Reason
The generally accepted explanation for these redundant phrases is that they originated in the twelfth century in England. At that time the good guys (the Anglo-Saxons) had been invaded and conquered by the bad guys (the Normans, who spoke French). Therefore, for quite some time the country had to use two languages — Anglo-Saxon and Norman French. To make sure that everyone understood the law, most phrases were stated in both languages. Thus originated phrases such as fit (an Anglo-Saxon word) and proper (a French word). Since some combinations are both Anglo-Saxon (force and effect) or both French (covenant and agree), there must be other sources for redundancies.

Nevertheless, every legal writing textbook in every law school in the country has recommended that redundant phrases be abolished.

The Real Reason
Many practicing lawyers simply thumb their noses at the legal writing textbooks and continue to use redundant phrases. The reasons they give for using the redundant phrase is, “WHAT IF there is a difference between the two words? It’s better to be safe than sorry.” So they use both words just for safety’s sake. Besides, the combination has been used for so long that it now has a reassuring sound.

These lawyers really don’t care what the words mean. All they want to do is sling around a little legalese to make their writing look impressive. And looking impressive is all they’re concerned about. It covers up their insecurity.

A Possible Solution
But Terri, although this might help explain why your lawyer boyfriend uses redundant phrases, I realize it does not explain how to get him to stop. The problem is many centuries old.

Here is what the experts have discovered. Simply confronting your boyfriend with authority from legal textbooks won’t work. He doesn’t give a darn what the legal writing textbooks say. It’s going to take quite a jolt to separate him from his beloved redundant phrases.

One possibility: Give him a word processing computer. But be careful here, because many computers would simply present him with 150 new ways to abuse the language. There are, however, computers and computer programs today that can help to remedy the problem.

First your boyfriend types his brief or writing into a computer. Next he summons up a program that automatically underlines all the redundant...
A Few Final Words

This use of the computer to reform legal writing is so desperately needed, is so simple, and is so sure of working, that it obviously will not be accepted without a long, hard battle, which will probably go on for a great many years or even generations. (Except in Kansas. There they have the ability to stop the clock long enough to accomplish whatever they want.)

The first criticism will be that the computer cannot transform garbage into great literature. The cognoscenti call this principle the output of GIGO (Garbage In, Garbage Out). The answer is that today's editing programs doesn't smell nearly as bad as the input.

The second criticism is that these computer programs will take a recognized classic such as "Hamlet" or the Gettysburg Address, and print an output that lists all kinds of changes. Well, Terri, let me tell you that people who voice this criticism have their heads in a very unusual place. What we are talking about is effective communication in 1986, not 1600 or 1863. Anyone who uses Shakespeare's style or Lincoln's style of writing today will not enjoy nearly as much success as Bill or Abe had with it.

So there you have it Terri: Four feet on the floor and a computer terminal in your boyfriend's hands may solve your problem. But you should also know that some lawyers become so infatuated with the computer that they say it's even better for their insecurity than sex. They are usually the ones who don't like sex, or at least haven't tried it for a while.

Yours truly,
Seldy

The “Horrible Hundred”
Redundant Phrases of Legalese

acknowledge and confess
act and deed
aid and abet
aid and comfort
all and every
alter or change
annul and set aside
any and all
approve and accept
assume and agree
authorize and direct
authorize and empower
authorize and require
bind and obligate
by and between
by and under
by and with
cease and come to an end
cease and desist
chargeable or accountable
conjecture and surmise
convey, embrace and include
convey, transfer and set over
covenant and agree
deem and consider
desire and require
due and owing
due and payable
each and all
each and every
tightly and completely
final and conclusive
finish and complete
fit and proper
fit and suitable
for and during
for and in behalf of
for and in consideration of
force and effect
fraud and deceit
free and clear
free and unfettered
from and after
full and complete
full faith and credit
furnish and supply
give and grant
give, devise and bequeath
good and sufficient
goods and chattels
had and received
have and hold
have and obtain
heed and care
hold and keep
hold, perform, observe, fulfill and keep
in lieu of in place, instead of in substitution of
in my stead and place
intents and purposes
in truth and in fact
just and reasonable
keep and maintain
kept and performed
kind and character
kind and nature
known and described as
last will and testament
let or hindrance
lot, tract or parcel of land
made and entered into
made and provided
made, ordained, constituted
and appointed
1986-1987 Meetings: Board of Commissioners

July 25, 1986 . . . . . . Lansing
September 19, 1986 . . . . . Detroit
October 31, 1986 . . . . . . Lansing
December 5, 1986 . . . . . . Lansing
January 16, 1987 . . . . . . Lansing
February 27, 1987 . . . . . . Lansing
April 3, 1987 . . . . . . . . . . . . Lansing
May 8, 1987 . . . . . . . . . . . . Lansing
June 12, 1987 . . . . Mackinac Island
July 24, 1987 . . . . . . . . Lansing
Sept. 18, 1987 . . . . . . . Grand Rapids

1986-1987 Meetings: Representative Assembly

September 18, 1986 . . . . . Detroit
April 4, 1987 . . . . . . . . . . . . Lansing

Plain Language The “Horrible Hundred” continued

maintenance and upkeep may have access to and examine means and includes mentioned and referred to meet and just mind and memory modified and changed null and void null and void and of no force or effect of and concerning order and direct ordered, adjudged and decreed over, above and in addition to pardon and forgive part and parcel peace and quiet perform and discharge perform or observe power and authority quiet and peaceable ratifying and consenting relieve and discharge remise, release and quitclaim request and demand rest, reside and remain revoked, annulled and held for nought save and except seized and possessed shall and will shun and avoid shall have and exercise situate lying and being in sort of kind sole and exclusive stand, remain and be in full force suffer or permit supersede and displace then and in that event true and correct truth and veracity type and kind under and subject to understood and agreed undertake and agree unless and until void and of no effect void and of no force void and of no value void and of non effect various and sundry ways and means when and as will and testament within and under the terms of

This list was compiled from the following legal writing textbooks:
1. Dickerson, Fundamentals of Legal Drafting, p. 125.
2. Mellinkoff, Legal Writing: Sense and Nonsense App C.
4. Wernofen, Legal Writing Style, p. 45.
5. Wyckoff, Plain English for Lawyers, p. 18.

We get letters from readers:

Mr. Edgerton:

SS

Sincerely,
Paul J. Greenwald

And we respond:

Dear Mr. Greenwald:

Thank you for your letter. You have brilliantly captured the essence of my first two articles. Though we may not agree in substance, we agree in spirit. And if you did not like the first two articles, you’ll hate the next four.

T. Selden Edgerton

"Plain Language" is a regular feature of the Michigan Bar Journal, edited by George H. Hathaway, Chairperson of the State Bar Plain English Committee. Through this column the Committee hopes to promote the use of plain English in the law. Want to contribute a Plain English article? Contact Mr. Hathaway at The Detroit Edison Co., Room 668 WCB, 2000 Second Ave., Detroit, MI 48226.