

An Open Request to State-Bar Section Councils

By the Plain English Committee

To: The following Section Councils of the State Bar of Michigan:

Administrative Law
Alternative Dispute Resolution
Antitrust, Franchising and Trade Regulation
Arts, Communication, Entertainment and Sports
Aviation Law
Business Law
Computer Law
Criminal Law
Environmental Law
Family Law
Intellectual Property Law
International Law
Judicial Conference
Juvenile Law
Labor and Employment Law
Latin American Bar Activities
Law Practice Management
Law Student
Legal Administrator
Legal Assistants
Negligence Law
Probate and Estate Planning
Public Corporation Law
Real Property Law
Senior Justice
Taxation
Workers' Compensation Law

"Plain Language" is a regular feature of the **Michigan Bar Journal**, edited by Joseph Kimble for the State Bar Plain English Committee. Assistant editor is George Hathaway, chair of the Committee. The Committee seeks to improve the clarity of legal writing and the public opinion of lawyers by eliminating legalese. Want to contribute a plain English article? Contact Prof. Kimble at Thomas Cooley Law School, P.O. Box 13038, Lansing, MI 48901.

Re: Clarity Awards

The great enemy of clear language is insincerity. When there is a gap between one's real and one's declared aims, one turns as it were instinctively to long words and exhausted idioms, like a cuttlefish squirting out ink.

But if thought corrupts language, language can also corrupt thought. A bad usage can spread by tradition and imitation, even among people who should and do know better.

The point is that the process is reversible. Modern English, especially written English, is full of bad habits which spread by imitation and which can be avoided if one is willing to take the necessary trouble. If one gets rid of these habits one can think more clearly, and to think clearly is a necessary first step toward political regeneration.¹

First Clarity Award

In 1992 we created the Clarity Awards to show that clear writing isn't just a theoretical concept found only in legal writing classrooms in law schools. The purpose of the awards is to encourage lawyers to eliminate legalese. We do this by trying to identify, promote, and publicize many examples of clear legal writing that are actually used in the practice of law in Michigan.² We gave the first Clarity Award to the Michigan Supreme Court's State Court Administrative Office for developing and promoting plain English court forms.³ The State Bar's press release on the Clarity Award was publicized in the *Michigan Lawyers Weekly*, *The Detroit Legal News*, *The New York Times*, and several local radio stations.

1993 Awards

In 1993 we gave six awards,⁴ and the State Bar's press release was publicized in an Associated Press newspaper article carried in newspapers in many states. The committee received inquiries about this article

from North Carolina, Ohio, and Texas. The awards were also publicized in a telephone interview in "The Osgood Report," a nationally broadcast CBS Radio news program.

1994 Awards

This year we gave five awards, and the State Bar's press release was again publicized in legal and general newspapers.

Next Year's Awards

Each year we have asked for nominations for Clarity Awards. But each year we have had to find them ourselves. This is discouraging in a profession that prides itself for the precision and quality of its writing. So this year we're going to step up our requests a notch. We respectfully ask each of the Section Councils of the State Bar to send us one example of clear writing from an area of the law in their Section's jurisdiction. For example, we ask the Council of the Public Corporation Section to submit one example of clear writing that has anything to do with public corporations. Our committee (which includes three legal writing instructors) will then review the clarity of these writings for formalisms, archaic words, redundancies, sentence construction, use of verbs instead of abstract nouns, and other elements of good and bad writing. We would like to give 27 Clarity Awards next year, one for each entry that is submitted by the 27 Section Councils of the State Bar.

Guidelines

Send the examples to Clarity Award, 2000 Second Ave., Rm. 688-WCB, Detroit, MI 48226, c/o George Hathaway, anytime between now and November 15, 1994. Maximum length is five pages. (Do not send briefs.) As a start, we would like to see statutes without "pursuant to"; resolutions

without "Whereas"; administrative rules without long sentences; complaints, answers, and motions without "Now comes" and "Wherefore"; orders without "It is hereby ordered"; subpoenas without "You are hereby commanded"; affidavits without "SS"; listing agreements without "hereby"; sales agreements without "said"; title-insurance policies without "hereof"; deeds without "Know All Men By These Presents"; major-league baseball tickets without "hereof"; land contracts without "commence"; mortgages without "covenants"; car-insurance policies without "In Witness Whereof"; consumer-finance agreements without "hereinafter"; new-car sales agreements without "In the event of"; wills without "heretofore"; and trusts without "saith."

Conclusion

An important . . . innovation rarely makes its way by gradually winning over and converting its opponents: it rarely happens that Saul becomes Paul. What does happen is that its opponents gradually die out and that the growing generation is familiarized with the idea from the beginning.⁵

However, regardless of what law students learn in legal writing classes in law school, they are swamped by the traditional legalese-filled documents and forms when they begin to practice law. Unless these documents are changed now, growing generations of new lawyers, even if familiarized with the idea from the beginning, will forget it in practice. And we will enter the next century with executive orders that squirt out "Given under my hand and the Great Seal of the State of Michigan this 1st day of January, in the Year of our Lord, Two Thousand, and of the Commonwealth, One Hundred Sixty-Four." ■

Footnotes

1. Orwell, *Politics and the English Language*.
2. Lake Superior State College's Unicorn Awards are funny and get a lot of press. But they have zero effect on improving the quality of writing. Everyone laughs, but no one changes, not even those who have been unicornered. D. Robert White writes funny books on lawyer language. But again, everyone laughs; no one changes.
3. Plain English Committee, *The Clarity Award*, 71 Mich B J 430 (May 1992).
4. Plain English Committee, *Clarity Awards for 1993*, 72 Mich B J 692 (July 1993).
5. Planck, *The Philosophy of Physics*.

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