

Plain Language for the Legal Assistant— Preparing Enclosure Letters

By Susan McIntyre

Legal assistants are often asked to prepare enclosure letters to send pleadings or other documents to the client, other interested parties, or other counsel in a case. This task is so routine that the question of plain language may never have been considered. However, there are a number of things to consider when preparing an enclosure letter.

Perhaps because enclosure letters are so mundane, they have often been a target for the use of stilted and somewhat absurd language. For example:

"Enclosed please find...."

"Enclosed you will find...."

"[Worse yet] Enclosed herewith please find such-and-such with regard to the above-captioned matter."

Is it necessary to offer an invitation? Is there any doubt the person receiving the envelope will discover its contents? Would the contents be enclosed somewhere other than with the letter? Would the enclosure be "with regard to" a matter other than the one referenced? Such language is artificial, ludicrous, and unnecessary.

Depending on the nature or purpose of the transmittal, the following are examples of language that is accurate, succinct, and appropriate:

"Enclosed for your records is (are)."

"Enclosed as requested is (are)."

"Enclosed for filing are an original and however many copies of."

Then list by name or detailed description the documents or pleadings enclosed.

Plain language and straightforward syntax should always be the goal when preparing letters and documents. However, plain language involves more than grammar, vocabulary, and sentence structure. It also involves considering the persons who may use the document in the future and the purposes it may serve beyond the initial transmittal of a document. A recent "Plain Language" column included a definition of "Plain English" attributed to Janice Redish, a former director of the Document Design Center of the American Institutes for Research in Washington, D.C. The definition, which follows, has broad implications for documents such as resolutions, statutes, executive orders, contracts, and agreements. However, the principles apply just as well to the routine enclosure letter.

First the definition, then the application of the elements to the enclosure letter.

We have always defined Plain English and document design, not as a single set of style guidelines, but as a process that results in a document that works for its users. Plain English has always meant a process of planning that includes understanding:

- What all the interested groups within the organization want to achieve.
- Who all the users are (inside and outside the organization).
- What task users need to accomplish.
- How different people are going to use the document(s).
- How the document fits into the system.

Plain English has always meant developing documents that meet the needs of the users, deciding what type of document is appropriate for the users and the situation, selecting guidelines for organization, style, layout, and graphics that are appropriate to the users and the situation, and testing iteratively with users, revising with users until we know that we have made good choices.¹

Each of these five elements applies to the enclosure letter. (1) It may serve more than one interested group. (2) It serves various users (inside and outside the firm). (3) It

serves several purposes. (4) It will be used differently by different people. (5) It is an important part of the records kept by a law office in its client files.

The letter that sends pleadings to the court for filing may also serve to send copies to those on whom the pleadings are to be served. This can be accomplished by including the parties to be served under the cc:, indicating that they will receive copies of the enclosures as well as copies of the letter. (See Figure 1 for an example.)

Users may ultimately include more persons than just the sender and receiver. The enclosure letter should be designed to serve those persons as well. For example, the letter that simply states, "Enclosed are the documents you requested" may be accurate, but inadequate for later users in the sender's office who may need to determine what was sent and for what purpose. It may also be inadequate for a later user in the receiver's office who cannot remember or locate what was sent and needs to be reminded, needs titles to make a search, or may need to make a second request. (This happens more often than might be expected, and it is often the task of the legal assistant to find the documents in question or request additional copies. The detailed enclosure letter found in the correspondence file is extremely helpful.)

"Enclosed are the documents you requested" is also inadequate for yet another purpose as part of a larger system within a law practice. At some later date, the letter may be valuable as evidence of the transmittal of a certain document on a certain date. If a certificate of service is not appropriate or required, but the receiving party becomes adversarial or hostile for some unforeseeable reason, a record of what and when something was sent may become extremely important.

Even an enclosure letter that names the document may later be inadequate if information that would more completely document the transmittal is not included in the letter. For example, a letter that simply states "Enclosed is correspondence of John

"Plain Language" is a regular feature of the **Michigan Bar Journal**, edited by Joseph Kimble for the State Bar's Plain English Committee. The 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.

Figure 1

November 1, 1995

Clerk of the Court
United States Bankruptcy Court
(Street Address)
(City, State, Zip Code)

Re: (Case Name) _____
(Case No.) _____

Dear Clerk:

Enclosed for filing are an original and three copies of:

1. Notice of Filing of Creditor and Litigation Trustee's First Set of Objections to General Unsecured Claims,
2. First Set of Objections to General Unsecured Claims, and
3. Proof of Service.

Please return a time-stamped copy of each document in the enclosed self-addressed, stamped envelope.

Very truly yours,

Legal Assistant

LA/sm
Enclosures

cc: All Claimants on the Attached List (w/enclosure)
All Parties on the Attached Service List (w/enclosure)
Mr. Trustee (w/enclosure)
Supervising Attorney

Figure 2

November 1, 1995

(Name)
(Firm)
(Street Address)
(City, State, Zip Code)

Re: (Case Name) _____
(Case No.) _____

Dear Ms. Attorney:

As you requested, enclosed is a copy of correspondence dated December 12, 1992 from Joseph Smith to John Anderson about revisions to the contract between ABC and Superior.

This letter was produced by Superior in response to a request for documents dated December 2, 1994. The original is in the Court record as Exhibit 15.

If you have any questions or need further information, please call me.

Very truly yours,

Legal Assistant

LA/sm
Enclosure

cc: Supervising Attorney

Smith" may not be very useful later if there is an abundance of such correspondence in the file, all of differing dates and addressing different matters. (See Figure 2 for an example of a detailed letter.)

Many courts continue to issue opinions and orders that are simply entitled "Opinion" or "Order." When sending such an opinion or order in a case where more than one opinion may be encountered or in which many orders may have been entered, it will be helpful to later users if some language is included in the letter that identifies the nature of the specific opinion or order enclosed. (See Figure 3 for an example.)

Finally, if an enclosure letter transmits a document that requires a response, the

letter can serve as a convenient follow-up in a tickler file for the legal assistant who sent the letter. For example, when sending a copy of an order awarding fees and allowing reimbursement of expenses, the letter that states the amounts awarded and the date of the order will verify the amount of the check when it is received. It also contains information needed to make a follow-up telephone call if a response is not received within a reasonable time. (See Figure 4 for an example.) The same letter may serve an additional purpose for the receiver as well. It contains a statement of amounts due. For the party who is ordered to pay under the order, it is much easier to refer to the letter than a lengthy, often verbose or-

der when submitting a check request to the accounting department. For the sender, the same letter transmits the information to others copied (w/out enclosure) within the office.

The simple enclosure letter transmits and records important information. When the writer uses plain language and thinks carefully about the letter's future significance, the enclosure letter can save time and effort and avoid potential confusion later in a case. ■

Footnote

1. Hathaway & Willard, *Resolutions*, 74 Mich BJ 695, 695 (1995).



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Susan McIntyre is a legal assistant in the Detroit office of Pepper, Hamilton & Scheetz. She has assisted attorneys since 1979 in representing debtors, trustees, and creditor committees in bankruptcy-court cases, state-court proceedings, and out-of-court workouts. Susan is an affiliate member of the State Bar of Michigan. She has a B.A. degree from the University of Redlands and a legal assistant diploma from Oakland University. She has written articles and course materials and participated on panels for programs and workshops dealing with a variety of topics for bankruptcy legal assistants.

Figure 3

November 1, 1995

(Name)
 (Firm)
 (Street Address)
 (City, State, Zip Code)

Re: (Case Name) _____
 (Case No.) _____

Dear Mr. Attorney:

Enclosed for your records is a copy of Judge Smith's Opinion and Order, dated January 16, 1995, granting the Creditors' Committee's Motion to Convert this case to a Chapter 7 proceeding.

Very truly yours,

 Legal Assistant

LA/sm
 Enclosure
 cc: Supervising Attorney

Figure 4

November 1, 1995

(Name)
 (Company)
 (Street Address)
 (City, State, Zip Code)

Re: (Case Name) _____
 (Case No.) _____

Dear Mr. Debtor:

Enclosed is a copy of Order Awarding Interim Fees and Expenses to Smith, Jones & Brown, P.C. for Services Rendered as Counsel for the Debtor for the Period June 1, 1994 through January 22, 1995. The Order was entered on April 11, 1995.

Please forward a check to me, payable to Smith, Jones & Brown, P.C., in the total amount awarded of \$xx,xxx.xx.

Fees	\$xx,xxx.xx
Expenses	<u>x,xxx.xx</u>
Total	<u>\$xx,xxx.xx</u>

Very truly yours,

 Legal Assistant

LA/sm
 Enclosure
 cc: Supervising Attorney

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