

Plain Language: Writing Clearly and Concisely for Everyone

KATHLEEN DILLON NARKO

NORTHWESTERN PRITZKER SCHOOL OF LAW

K-NARKO@LAW.NORTHWESTERN.EDU

What we will
cover today...



What is Plain Language?



Why should we use it?



How do we write in Plain
Language?

What is Plain Language?

Plain Language is a form of English that can be read and understood by the typical nonlawyer.

What Is Plain Language?

Plain language means language that the intended audience can readily understand and use.

Plain language is clear, concise, well-organized, and follows other best practices of plain-language writing. (More detail on these best practices later.)

What Is Plain Language?

Writing that is simple,
direct, and human.

Why Use Plain Language?

“It strikes everyone as an extreme case of the evils of jargon when a man is tried by a law he can’t read, in a court which uses a language he can’t understand.”

- -A.P. Rossiter, *Our Living Language* p. 86 (1953) (quoted in J. Kimble, *Lifting the Fog of Legalese: Essays on Plain Language* p. 178 (Carolina Academic Press 2006))

Why Plain Language?

To most people, the benefits of plain language are intuitive. If readers understand plain language better, then no doubt they'll like it better than the dense, impersonal prose of most public and legal documents.

And because they understand it better, they'll make fewer mistakes in dealing with it, have fewer questions, and ultimately save time and money – for themselves and for the writer's company or agency.

- – Joseph Kimble, *Writing for Dollars Writing to Please*.

Why Plain Language?

All legal writing should be appropriate for its audience—it should speak to the reader in words, sentences, and forms the intended reader can understand.

- Wayne Schiess

Benefits of Plain Language

Goal: Write so the public can understand.

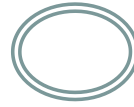
Benefits:

- Promote understanding of the judicial branch through clear documents
 - Court rules and other documents
 - Opinions— Enhance litigants' understanding and ease enforcement
- Assist self-represented litigants
- Promote public's faith in the judicial branch

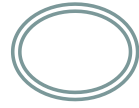
WE NEED SOME NEW TARGON,
THE PUBLIC ARE STARTING TO
UNDERSTAND WHAT WE'RE
TALKING ABOUT!



How to Implement Plain Language



- Concision: Eliminating Clutter from Your Sentences
- Clarity: Easing the Burden on Your Audience
- Document Design



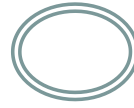
- Concision: Eliminating clutter from your sentences

Concision



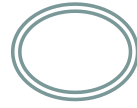
- Focus for today:
 - Eliminate empty phrases
 - Avoid nominalizations
 - Simplify words

Concision

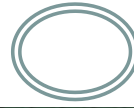


- Anti-clutter lesson #1:
 - Eliminate unnecessary words

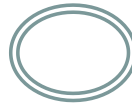
Eliminate Empty Phrases



- *“There is,” “there are” and other empty phrases*
- **Problem:** “Empty phrases” use several words to do the work of one or two words. They do not add meaning to a sentence and should be removed or replaced with shorter, more meaningful phrases or words.

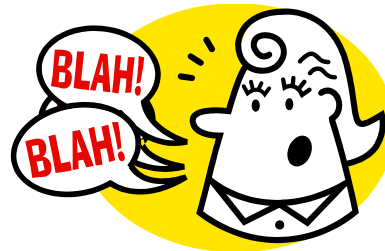


Eliminate Empty Phrases



- Despite the fact that
- In some instances
- For the duration of
- He was aware of the fact that
- At that point in time
- For the reason that
- It should be noted that

Although
Sometimes
During
He knew
Then
Because
[Omit]



Eliminate Empty Phrases

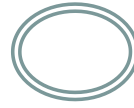


- **There is/there are:** Often used as lead-ins to a sentence, “there is” and “there are” should be replaced by the real actor.

Eliminate Empty Phrases



- **Example:** There are three reasons Supporting the Motion for Summary Judgment.



- **Example:** There are three reasons Supporting the Motion for Summary Judgment.
- **Revised:** The Motion for Summary Judgment fails for three reasons.

Anti-clutter lesson #2



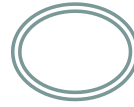
- Do not turn verbs into nouns (*i.e.*, avoid nominalizations)

Avoid Nominalizations



- **Defined:** A nominalization is a verb that has been changed into a noun – usually an abstract noun that ends in **-tion**, **-sion**, **-ence**, **-ance** or **-ity**. Lawyers often rely on nominalizations instead of base verbs.
- Word search for endings

Avoid Nominalizations



- **Problem:** Nominalizations slow the prose, inhibit the audience's understanding, and make sentences dull.
- **Solution:** Learn to spot verbs in noun clothing and turn them back into core verbs.

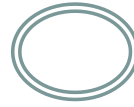
Avoid Nominalizations



✦ ***Exercise:*** *Change the nominalizations back to core verbs.*

- | | |
|---------------------------|------------------|
| • came to a conclusion | concluded |
| • bring an action against | sue |
| • utilization of | _____ |
| • stating an objection | _____ |
| • take into consideration | _____ |

Avoid Nominalizations



- came to a conclusion
- bring an action against
- utilization of
- stated an objection
- take into consideration

concluded

sue

use

objected

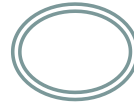
consider

Avoid Nominalizations



- Identify the nominalizations:
- Rejection of an insurance policy holder's facially valid claim is not an action that an insurance claims agent should undertake lightly.
- --Wydick

Avoid Nominalizations



- **Rejection** of an insurance policy holder's facially valid claim is not an **action** that an insurance claims agent should undertake lightly.

Avoid Nominalizations



- Revised
- An insurance claims agent should not lightly reject a policy holder's facially valid claim.
- --Wydick

Anti-clutter lesson #3



- Simplify your words

Simplify Words



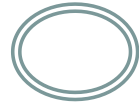
- **Problem:** Professional writing is often full of puffed-up language and jargon.
- **Solution:** Fight the urge to sound like a lawyer. Use straightforward, simple words with fewer syllables and letters.

● From Rococo...



- To Minimalism...





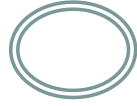
- Ludwig Mies van der Rohe (1886-1969)
- “Less is more.”

Simplify Words



• <i>Instead of:</i>	<i>Use:</i>
• Commenced	began
• Concerning	about
• Endeavor	try
• Instrument	document
• Promulgate	issue, publish
• Prior to	before
• Subsequent	after
• Utilize	use

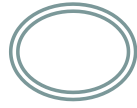
Simplify Words



- **Lawyerisms:** Lawyerisms are cumbersome, vague words and phrases that uniquely plague legal documents. Examples of lawyerisms include *hereinafter*, *hereto*, *hereby*, *aforementioned*, and *whereas*.



Simplify Words



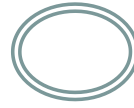
- **Example:**
- Comes now ABC Corp., by and through its attorneys, and in support of its Motion to Dismiss the Complaint at Law brought by XYZ Corp., hereby states as follows: (29 words)
- **Translation:** In support of its motion to dismiss the Complaint, ABC Corp. states as follows: (14 words)

Simplify Words



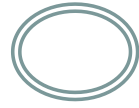
- ***Exercise:*** Rewrite the following excerpt to remove the lawyerisms.
- Said defendant Database Systems Lab is hereinafter referred to as “DSL.”

Simplify Words



- **Possible revision:** Defendant Database Systems Lab (DSL)

Clarice
clar-i-ty
Clanguage
Clark (klärk)
Beauchamp
Rogers
17



- Clarity: Easing the Burden on Your Audience

Clarity



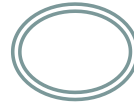
- Favor subject-verb-object construction
- Choose words precisely
- Shorten sentences

Clarity lesson #1



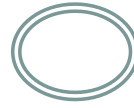
- Favor a subject-verb-object structure

Subject-Verb-Object



- *Keep subject, verb and object close together*
- Writing is easiest to understand when it follows the typical English word order: subject-verb-object.

Subject-Verb-Object



- **Problem:** When several words separate these core grammatical components, the reader has trouble understanding the sentence.
- **Solutions:**
- (1) Divide the sentence into two;
- (2) move the interrupting words to the end of the sentence.

Subject-Verb-Object

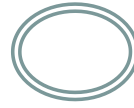


Where are the subject, verb, and object in this example?

A building contractor, after complying with a property owner's request to make a significant deviation from the plans previously agreed upon, may impose a reasonable additional charge for the deviation.

-- Wydick

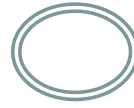
Subject-Verb-Object



A building **contractor**, after complying with a property owner's request to make a significant deviation from the plans previously agreed upon, **may impose** a reasonable additional **charge** for the deviation.

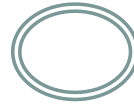
-- Wydick

Subject-Verb-Object



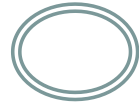
- A building **contractor may impose a reasonable additional charge** for complying with a property owner's request to make a significant deviation from the plans previously agreed upon.
- Sometimes a property owner asks the building contractor to deviate significantly from the plans previously agreed upon. The building **contractor may charge a reasonable amount** extra for the deviation.
- --Wydick

Avoid Passive Voice



- *Eliminate the passive voice (in most cases)*
 - **Defined:** In active-voice sentences, the subject performs the action. In passive-voice sentences, the subject receives the action.
 - “Billy threw the ball.” [ACTIVE] vs. “The ball was thrown by Billy.” [PASSIVE]





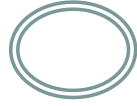
- “The active voice is usually more direct and vigorous than the passive: I shall always remember my first visit to Boston.
- This is much better than: My first visit to Boston will always be remembered by me.”
- --Strunk & White, *The Elements of Style*

Avoid Passive Voice



- **Solution:** Change to active voice. Make sure your sentence shows who is doing what.

Avoid Passive Voice



- ***Identify the passive voice in this example:***

After 180 days, this Agreement can be terminated by either party.

--Wydick

Avoid Passive Voice

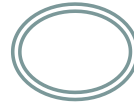


- ***Passive voice changed to active voice:***

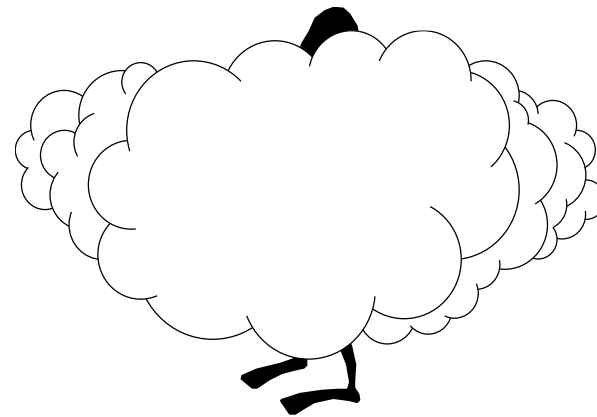
After 180 days, either party can terminate this Agreement.

--Wydick

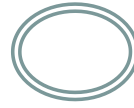
When you might use passive voice . . .



- **Exceptions:**
- (1) where the actor is unimportant;
- (2) where the actor is unknown;
- (3) to minimize unfavorable facts.



When you might use passive voice...



- The subpoena was served on January 19.
- The data files were mysteriously destroyed.
- The plaintiff's teeth were knocked out.
 - Wydick

Clarity lesson #2



- Be precise in your word choice

Precise Word Choice



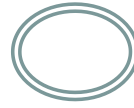
- | | |
|------------------------------|------------------------|
| • appraise | apprise |
| • [to value] | [inform] |
| • averse | adverse |
| • [negative reaction] | [opposing] |
| • contest | contend |
| • [challenge] | [argue, allege] |
| • disinterested | uninterested |
| • found | held |
| • means | includes |
| • principle | principal |
| • regardless | irregardless |

Precise Word Choice



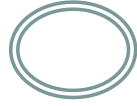
- | | |
|-----------------------------|------------------------------------|
| • disinterested | uninterested |
| • [impartial] | [bored] |
| • found | held |
| • [facts] | [law applied to facts] |
| • means | includes |
| • [meaning complete] | [part of meaning expressed] |
| • principle | principal |
| • [tenet] | [main or person] |
| • regardless | irregardless |
| • [a word] | [non-standard English] |

Precise Word Choice



- **Exercise:** *Circle the poor word choice and suggest alternatives.*
- The firm executed several steps to keep its software a trade secret.
- The following details of the employee are significant.

Precise Word Choice



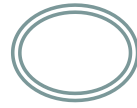
- The firm **executed** several steps to keep its software a trade secret. **[took]**
- The following **details** of the employee are significant. **[characteristics, life]**

Clarity lesson #3



- Shorten your sentences

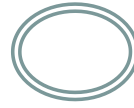
Shorten Sentences



What's a good average sentence length? The experts say between 20 and 25 words:

- below 25—Wydick, *Plain English for Lawyers*, at 36.
- about 22—Enquist & Oates, *Just Writing: Grammar, Punctuation, and Style for the Legal Writer*, at 85.
- about 20—Garner, *Legal Writing in Plain English*, at 19.

Shorten Sentences



- **Problem:** Lengthy sentences usually merge several different ideas, confuse logical relationships, and strain the reader's memory.
- **Solution:** Keep most of your sentences to 25 words or less, and limit most to one main idea.
- [*See* KDN article, “Sentences: Short and Sweet”]

Shorten sentences



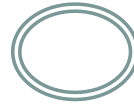
The woman brought two glasses of beer and two felt pads. She put the felt pads and the beer glass on the table and looked at the man and the girl. The girl was looking off at the line of hills. They were white in the sun and the country was brown and dry.

“They look like white elephants,” she said.

(12.2 words/sentence avg.)

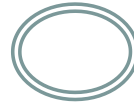
- -- Ernest Hemingway, “Hills Like White Elephants”

Shorten sentences



- Apart from the habit of exaggeration which they had from her, and from the implication (which was true) that she asked too many people to stay, and had to lodge some in the town, she could not bear incivility to her guests, to young men in particular, who were poor as church mice, “exceptionally able,” her husband said, his great admirers, and come there for a holiday.
- (66 words)
- Virginia Woolf, *To the Lighthouse*

Shorten Sentences

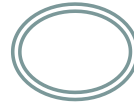


- **Example:** As we have already explained, although Dr. Kraus stated that Jeffrey's parents neglected Jeffrey's needs by not accepting all recommendations that medical and educational professionals gave them, they were not required to do so, and their reliance on their own opinions of what was best for Jeffrey did not compel a finding of neglect.

Shorten Sentences

- **Possible revision:**
- Jeffrey's parents did not neglect their son by deciding on their own what was best for him. Contrary to Dr. Kraus' assertion, they were not required to accept all the recommendations that medical and educational professionals gave them.

Language Change

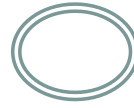


- Should we follow traditional grammar rules?
 - No split infinitives
 - Use “they” instead of “he or she”?

Write for your audience (?)

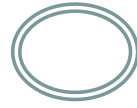
[See KDN article, "To Split or Not to Split"]

Language Change



- Generational shift
- Reflect fluid gender constructs
- Singular “they,” “ze,” “hir”
 - See KDN article, “They and Ze: the Power of Pronouns”
 - See KDN article, “The Power of Pronouns: 5 Years Later”

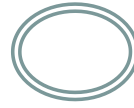
Document Design



- Document Design
- How a document looks is as important as what it says.
 - ✦ Gerald Lebovits

[See KDN article, "How Do I Look? Design Your Documents for Greater Legibility and Persuasion"]

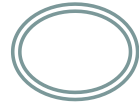
Document Design



- Document design isn't only about including visuals -- charts, diagrams, exhibits, graphics, maps, photographs, and the like -- an aid all readers appreciate. Document design, or **typography**, refers to the visual component of a word: typeface, type size, white space, margins, alignment, horizontal and vertical spacing, headings, footnotes, endnotes, superscript, straight and curly quotes, boldface, italics, and underlining.

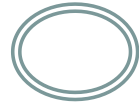
✦ Gerald Lebovits

Document Design



- Without effective, legible typography, the reader won't appreciate a document's content. When you have a choice, make the document accessible, comprehensible, persuasive, and professional.
- Gerald Lebovits

Document Design



- Typeface (Font choice)
 - Monospace or proportional
 - Serif or sans serif

Document Design

Justification of text

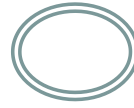
Left, right, or centered?

How a document looks is as important as what it says. Without effective, legible typography, the reader won't appreciate a document's content. When you have a choice, make the document accessible, comprehensible, persuasive, and professional.

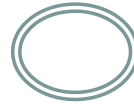
How a document looks is as important as what it says. Without effective, legible typography, the reader won't appreciate a document's content. When you have a choice, make the document accessible, comprehensible, persuasive, and professional.

How a document looks is as important as what it says. Without effective, legible typography, the reader won't appreciate a document's content. When you have a choice, make the document accessible, comprehensible, persuasive, and professional.

Document Design



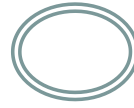
- To maximize **white space**:
 - Use 1.25-inch margins;
 - Avoid long paragraphs;
 - Add headings and subheadings;
 - Add a line between sections;
 - Use bullet points and numbered lists;
 - Use left-justified (right-ragged) margins;
 - Avoid block quotations and lengthy footnotes or endnotes



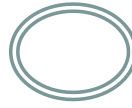
Plain English refers language that is clear, direct, and straightforward. It is language that avoids obscurity, inflated vocabulary and convoluted sentence construction. It is language that allows readers to concentrate on the message conveyed, not on the difficulty of the language used. Plain English uses the right word for the right occasion and does not use unnecessary words.

The main goal in writing is to put your message across clearly and concisely. Readers want an effortless, readable and clear writing style. Plain English is clear English – it is simple and direct but not simplistic.

- John Pease

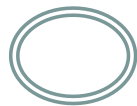


- Summing it up... Today you learned about
 - Plain Language
 - What it is
 - Why we should use it
 - Writing concisely
 - Eliminate empty phrases
 - Avoid nominalizations
 - Simplify words



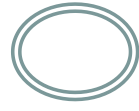
- Writing clearly
 - Favor subject-verb-object construction
 - Choose words precisely
 - Shorten sentences

- Document Design
 - Choice of typeface
 - Alignment
 - Increased whitespace



- **For More Information**

- Kathleen Dillon Narko
- Northwestern Pritzker School of Law
- k-narko@law.northwestern.edu
- 312-503-8555



ANY QUESTIONS?