

# Writing for Dollars, Writing to Please

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There's one piece of unfinished business, one more link in the chain, one last proof to be made against legalese. We who extol plain language need to show, conclusively, that it works. We need to show that it saves time and money and that it beats legalese in every way with readers.

Call it the benefits of plain language. The literature contains studies about these benefits, but no one has ever collected and summarized the studies in a way that makes their full force apparent. As you read the summaries in this article, try to imagine the costs of poor writing — typified by officialese and legalese — in business, government, and law. The costs are almost beyond imagining, and certainly beyond calculating. If this evidence doesn't convince organizations and individual writers that plain language can change their fortunes, probably nothing will.

## Getting Past the Myths About Plain Language

For years, plain-language advocates have sought to debunk the myths and misconceptions about plain language.<sup>1</sup> I'll briefly mention them again only because they are so stubborn and lawyers can be so blinded by them. They need to be exposed at every opportunity.

First, plain language does not mean baby talk or dumbing down the language. It means clear and effective communication — the opposite of legalese —and it has a long literary tradition.

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<sup>1</sup> See, e.g., LAW REFORM COMM'N OF VICTORIA, PLAIN ENGLISH AND THE LAW 45-52 (1987; repr. 1990); Robert W. Benson, *The End of Legalese: The Game Is Over*, 13 N.Y.U. REV. L. & SOC. CHANGE 519, 559-67 (1984-1985); Joseph Kimble, *Answering the Critics of Plain Language*, 5 SCRIBES J. LEGAL WRITING 51 (1994-1995).

Second, plain language and precision are complementary goals, not antagonists. The choice between clarity and precision is usually a false choice. Countless projects worldwide have shown that even complex subjects can be translated into plain language with no loss of accuracy or precision. (The most recent example is the Securities and Exchange Commission's pilot program to write parts of disclosure documents in plain language.<sup>2</sup>) If anything, plain language is *more* precise than traditional legal writing because it uncovers the ambiguities and errors that traditional style, with all its excesses, tends to hide. People and organizations that undertake plain-language projects are routinely surprised, and sometimes terrified, by the deficiencies they discover in their trusted old documents. So plain language is not only the great clarifier — it improves accuracy as well.

Third, plain language is not subverted by the need to use technical terms or terms of art. Real terms of art are a tiny part of any legal document. What's more, lawyers have an exaggerated notion of the extent to which legal terms are precise or are settled and unchangeable. I invite anyone to find a case saying that *give* won't do in a will — that it has to be *give, devise, and bequeath*.

Fourth, plain language is not just about vocabulary. It involves all the techniques for clear communication — planning the document, designing it, organizing it, writing clear sentences, using plain words, and testing the document whenever possible on typical readers. Well, then, why not just use the term “clear communication”? For one thing, “plain language” has come to signify the kind of fundamental change — in attitude and practice — that's needed to finally break the cycle of poor legal writing. Plain language has transforming power. For another thing, a body of literature has grown up around the plain-language movement. This literature goes beyond the typical “style” texts in its willingness to innovate, to consider research from

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<sup>2</sup> See Plain English Disclosure, 62 Fed. Reg. 3152, 3154 (1997).

various disciplines, and to test its advice to show that readers are better served by plain language.

Finally, contrary to what some critics have said, there's a pile of hard evidence showing that plain language is more understandable to readers than the traditional style of official and legal writing. I'll review some of that evidence in this article.

### **Gathering Evidence About Plain Language**

To most nonlawyers, 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 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.

There is, in fact, much informal evidence to this effect. Take, for example, three publications called *The Productivity of Plain English*,<sup>3</sup> *How Plain English Works for Business: Twelve Case Studies*,<sup>4</sup> and *Plain English for Better Business*.<sup>5</sup> They are full of testimonials from officials at trade associations (American Council of Life Insurance, American Gas Association) and at businesses (Shell Oil, Target Stores, Pfizer, Sentry Insurance, Bank of America, General Motors). These officials offer the evidence of their senses. They can see and feel the change that plain language makes:

- It streamlines procedures and paperwork, makes it easier to train staff, and increases staff productivity and morale.

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<sup>3</sup> OFFICE OF CONSUMER AFFAIRS, U.S. DEP'T OF COMMERCE (1983).

<sup>4</sup> OFFICE OF CONSUMER AFFAIRS, U.S. DEP'T OF COMMERCE (1984).

<sup>5</sup> COUNCIL OF BETTER BUSINESS BUREAUS, TENTH ANNUAL WASHINGTON FORUM: A SUMMARY OF PROCEEDINGS (1986).

- It reduces confusion, complaints, and claims, and it improves customer satisfaction.
- It increases sales and raises the company's standing in the marketplace.

But — and here is the irony — for the very reason that these benefits are so apparent, companies and agencies are not inclined to try to measure them. Why spend more money to study how much money the company was losing and is now saving? Rather, the company knows from experience that a document is causing trouble; somebody revises the document; and if the trouble seems to go away, the company calls it good.

To do otherwise would require a cost-benefits study, which is inherently difficult. You have to collect before-and-after data about the document. How many errors was the staff having to correct, or how many phone calls was it getting? How long did it take, on average, to fix the error or answer the call or process the document? (Sometimes you have to make a conservative estimate.) Then you have to figure out how much the staff's time was worth. Then you have to calculate how much it cost to develop the new document. Finally, you have to get parallel data for the new document. And after all that, you can't be sure that you'll realize similar savings by converting a different document into plain language. There are too many kinds of documents and too many variables.

Despite these difficulties and limitations, though, studies have been done. Most of them have been done not by accountants, not by managers, but by persons with a concern for writing — consultants, technical writers, and proponents of plain language. If numbers are needed to make the case for clear writing, then we've got numbers.

### **Assessing the Studies from a Legal Perspective**

I've divided the studies, somewhat artificially, into two groups. The first group reflects the cost benefits of plain language for the writer's company or agency. The second group confirms the many benefits of plain language for the reader. Of course, the benefits for the reader usually produce the benefits for the writer's organization.

You might ask, Why should a lawyer or judge care about these studies? The reasons total four, at least.

First, lawyers and judges — who write for a living — surely care about the effect their writing has on readers. So even though some lawyers and judges might not be inspired by the studies on cost savings, the second group of studies — on pleasing and persuading readers — should be of particular interest.

Second, corporate lawyers and government lawyers need to know what kinds of tangible and intangible harm their organizations may suffer by clinging to legalese. Armed with the evidence, enlightened lawyers can lead the way to plain-language reform.

Third, the studies contain philosophical lessons for all writers, including all lawyers. The lessons may not be new, but the studies bear them out:

- Write for your readers. Select only the content they need, without trying to cover every conceivable detail, however remote. Overprecision tends to be self-defeating, and perfect precision is a dream. Since even private legal documents should be flexible, the writer often needs to use language that is vague to some appropriate degree.<sup>6</sup>
- Writing major public documents in plain language involves a process. You have to do more than sit in a room and trust your intuition. You should consult with those who handle the

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<sup>6</sup> See BARBARA CHILD, *DRAFTING LEGAL DOCUMENTS* 303-13 (2d ed. 1992); REED DICKERSON, *THE FUNDAMENTALS OF LEGAL DRAFTING* § 3.5 (2d ed. 1986).

document, negotiate (if necessary) about some of the changes, and test the document on typical readers.

- Writing in plain language almost always improves the content. By improving the structure and style, you improve the substance.
- Readers are more likely to read documents that are written in plain language. It greatly increases your chances of getting fully and attentively heard.

Last, and equally important, the studies contain practical lessons for all writers. Although only about half the studies and examples are from legal documents, remember that legal writing is just one kind, one subset, of technical writing. The same guidelines and techniques should apply across the board, to all kinds of technical writing. Once again, these guidelines are old news, but the studies show that, used sensibly, they work. Here are some of them:

- Pay attention to document design — the typeface, length of line, white space, and so on.
- Use short sections, or subdivide longer ones.
- Use lots of headings. In public documents, try putting the main headings in the form of a question.
- Group related ideas together, and order the parts in a logical sequence.
- At the beginning of most documents, have an executive summary (for memos and judicial opinions) or a purpose statement (for legislation) or a table of contents (for manuals and long contracts).
- Don't hesitate to use examples, tables, and charts.
- Eliminate unnecessary words and details.

- Break up long sentences.
- Don't put too much information before or between the main subject, verb, and object.
- Prefer the active voice.
- Put the central action in verbs, not in abstract nouns.
- Use a list — at the end of the sentence — for multiple conditions, consequences, or rules.
- Try to address the reader as “you” in public documents.
- Give *shall* the boot; use *must* instead.
- Use familiar words —the ones that are simple and direct and human.

Behold, then, the 25 studies and reports that follow. Those in the first section show that plain language —in its full scope —can save organizations a ton of money. Those in the second section cement what we probably knew all along: readers strongly prefer plain language in public and legal documents, they understand it better than legalistic style, they find it faster and easier to use, they are more likely to comply with it, and they are much more likely to read it in the first place.

### **Category 1: Saving Time and Money**

#### ***1. U.S.: Federal Communications Commission — Regulations<sup>7</sup>***

When the FCC's regulations for CB radios were written in legalese, the agency needed five full-time staff members to answer

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<sup>7</sup> *Plain Language Pays*, SIMPLY STATED No. 63 (Document Design Center), Feb. 1986, at 1, 4.

questions from the public. In 1977 or 1978, the FCC rewrote the regulations in plain language and was able to reassign the five staff members.

Incidentally, in the 20 years since, there has not been a single case that implicates the plain language in those regulations. In fact, I could find only three published cases that even cite the regulations in passing.<sup>8</sup> So much for the fear that plain language will create litigation. If anything, it probably decreases litigation.

Below is a before-and-after example that shows the difference just in headings, which are vitally important to readers who come to legal documents wanting to find answers to their questions. (The examples are from Title 47 of the *Code of Federal Regulations*.)

***Before:***

- § 95.455 Authorized frequencies.
- § 95.457 Policy governing the availability of frequencies.
- § 95.437 Limitations on antenna structures.
- § 95.511 Transmitter service and maintenance.
- § 95.613 Transmitter power.
- § 95.509 External radio frequency power amplifiers prohibited

***After*** (as they appear in the 1997 C.F.R.):

- § 95.407 On what channels may I operate?
- § 95.408 How high may I put my antenna?
- § 95.409 What equipment may I use at my CB station?
- § 95.410 How much power may I use?
- § 95.411 May I use power amplifiers?

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<sup>8</sup> See *United States v. Basey*, 816 F.2d 980, 992 n.21 (5th Cir. 1987); *American Radio Relay League, Inc. v. Federal Communications Comm'n*, 617 F.2d 875, 878 (D.C. Cir. 1980); *People v. Burkes*, 318 N.W.2d 535, 537 (Mich. Ct. App. 1992).

## 2. U.S.: Department of Veterans Affairs – Form Letters<sup>9</sup>

This is an example of a project done right. It involved enlisting the help of a writing consultant, training the staff, testing the documents, revising them in light of the testing, and then trying to measure the benefits.

The project, called “Writing for Real People,” was conducted at the VA regional offices in Jackson, Mississippi, and Little Rock, Arkansas. In February 1991, the consultant began training the VA letter writers. As part of the training, the writers revised some of the VA's form letters. To make sure that the new form letters worked, they were tested in two ways: through cued-response protocol tests, in which veterans read the letters out loud and tried to paraphrase them at certain spots; and through focus groups. The new letters were then further revised.

This project bears witness to the fundamental truth that good writing will improve the content: “In revising these letters, the writers do much more than merely simplify sentences and shorten words. They rethink the entire letter. Often their revisions result in radically changed content to better meet the readers' needs.”<sup>10</sup>

The VA then tried to measure the results. In Jackson, the agency asked five benefits counselors how many phone calls they received about a selected old letter in one year and about the new letter in the next year. The counselors hadn't kept a log, but their individual estimates were quite consistent. (They figured calls per month, which were then multiplied by 12.) Results for the old letter: 750 sent out and 1,128 calls received. For the new letter: 710 sent out and 192 calls received. The VA project coordinator estimated that the savings on this *one letter alone*, if adopted at VA offices nationwide, would be

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<sup>9</sup> Reva Daniel & William Schuetz, VA's “Writing for Real People” Pays Off (May 1994) (unpublished report, on file with author); *see also* Reva Daniel, *Revising Letters to Veterans*, 42 TECHNICAL COMM. 69 (1995) (containing most of the same information, but not the estimated dollar savings and the sample letters cited in this summary).

<sup>10</sup> Daniel & Schuetz, *supra* note 9, at 6-4; Daniel, *supra* note 9, at 70.

more than \$40,000 a year. And remember that the VA sends out thousands of different letters.

Below are the old and new letters.<sup>11</sup> Notice just some of the improvements in the new one: it provides a context; it divides up the information and uses headings; it uses more white space; it's simple and direct (“Send us . . .”); it cuts out unnecessary detail, like the comment about not having to get a new examination and the citation to the *United States Code*; and it uses contractions.

***Before:***

Dear \_\_\_\_\_:

Please furnish medical evidence in support of your pension claim. The best evidence to submit would be a report of a recent examination by your personal physician, or a report from a hospital or clinic that has treated you recently. The report should include complete findings and diagnoses of the condition which renders you permanently and totally disabled. It is not necessary for you to receive an examination at this time. We only need a report from a doctor, hospital, or clinic that has treated you recently.

This evidence should be submitted as soon as possible, preferably within 60 days. If we do not receive this information within 60 days from the date of this letter, your claim will be denied. Evidence must be received in the Department of Veterans Affairs within one year from the date of this letter; otherwise, benefits, if entitlement is established, may not be paid prior to the date of its receipt. SHOW VETERAN'S FULL NAME AND VA FILE NUMBER ON ALL EVIDENCE SUBMITTED.

Privacy Act Information: The information requested by this letter is authorized by existing law (38 U.S.C. 210 (c)(1)) and is considered necessary and relevant to determine entitlement to maximum benefits applied for under the law. The information submitted may be disclosed outside the Department of Veterans Affairs only as permitted by law.

\_\_\_\_\_  
Adjudication Officer

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<sup>11</sup> Daniel & Schuetz, *supra* note 9, at 6-25 to -26.

**After:**

Dear \_\_\_\_\_:

We have your claim for a pension. Our laws require us to ask you for more information. The information you give us will help us decide whether we can pay you a pension.

**What We Need**

Send us a medical report from a doctor or clinic that you visited in the past six months. The report should show why you can't work.

Please take this letter and the enclosed Guide to your doctor.

**When We Need It**

We need the doctor's report by January 28, 1992. We'll have to turn down your claim if we don't get the report by that date.

**Your Right to Privacy**

The information you give us is private. We might have to give out this information in a few special cases. But we will not give it out to the *general public* without your permission. We've attached a form which explains your privacy rights.

If you have any questions about this letter, you may call us at 1-800-827-1000. The call is free.

Sincerely,

\_\_\_\_\_

Enclosures: Doctor's Guide, Your Privacy Rights

### 3. *U.S.: Naval Officers — Business Memos*<sup>12</sup>

In the next section, under item 8, I summarize a 1989 study of naval officers who read a business memo that was written either in a plain style or in a bureaucratic style. Officers who read the plain memo, besides having significantly higher comprehension, took 17% to 23% less time to read it and felt less need to reread it.

In another study two years later, the authors put dollar figures on their results. They determined the average hourly pay for a naval officer. They then constructed two scenarios: one used a very low estimate of how many pages of reports and memos an officer reads in a year; the other used a more likely estimate. In each case, the authors applied the reading-time differences, in seconds per page, from their original study.

Under the first scenario, the Navy would save between \$27 and \$37 million worth of time each year if its officers routinely read plain writing. Under the second scenario, the savings would total between \$53 and \$73 million. Even more staggering are the savings if all naval personnel (not just officers) read plain documents: \$250 to \$350 million a year.

That is just one kind of cost benefit measured across just one government agency.

### 4. *U.S.: Allen-Bradley Company — Computer Manuals*<sup>13</sup>

When Allen-Bradley surveyed the marketplace for its programmable computers, it found that the documents that accompany the product were the second most important factor (after workmanship) in influencing customers to buy. With the help of

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<sup>12</sup> James Suchan & Robert Colucci, *The High Cost of Bureaucratic Written Communications*, 34 BUS. COMM. 68 (1991).

<sup>13</sup> Barry Jereb, *Plain English on the Plant Floor*, in PLAIN LANGUAGE: PRINCIPLES AND PRACTICE 207 (Erwin R. Steinberg ed., 1991).

writing consultants, the company developed a training program for its writers, prepared a style manual for its writers and one for its vendors, and began to review its computer manuals. The new manuals were tested —that critical step again —and further revised before the company put them into the field. And as just one benefit from the new plain-English manuals, calls to the company's phone center fell dramatically — from more than 50 *a day* to only 2 a month.

Below is a short bit from the company's style manual for vendors.<sup>14</sup> Notice the use of personal pronouns and the active voice. People who write for the public should have learned those lessons a long time ago.

#### **Help Users Picture Themselves in the Text**

**Guideline 1:** Address the reader directly.

##### **Original**

It is suggested that the wire should be connected to the terminal by the engineer when the switch-box assembly is completed.

##### **Revised**

We suggest that you connect the wire to the terminal when you finish assembling the switch-box.

#### **5. U.S.: General Electric Company — Software Manuals<sup>15</sup>**

Different company, same story. The technical writers at General Electric Information Services, working as part of individual product teams, develop high-quality manuals for the company's software. In

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<sup>14</sup> *Id.* at 212.

<sup>15</sup> Cathy J. Spencer & Diana Kilbourn Yates, *A Good User's Guide Means Fewer Support Calls and Lower Support Costs*, 42 TECHNICAL COMM. 52 (1995).

one test, customers who used an earlier version of the manual made about 125 more calls a month than customers who used the clearly written, approved manual. Applying industry standards for the average cost of support calls, the company estimates that it saves between \$22,000 and \$375,000 a year for each business customer who uses the revised manual.

### **6. U.S.: Federal Express – Operations Manuals<sup>16</sup>**

From 1992 to 1995, a consultant worked with the technical writers at Federal Express to reorganize and revise the company's ground-operations manuals. The team took all the steps: they did a field study of users, tested the old manuals for usability, and compared the manuals to benchmark standards. The team identified the following needs (among others):

- An organization based on user tasks rather than formal job titles.
- A more accessible and readable format.
- Better tables of contents and indexes.
- Improvements in the readability of the text through font changes and writing style.
- Substantially increased use of graphics and tables.

In the testing, readers of the old manuals searched for an average of 5 minutes to find information and found the correct answer only 53% of the time. With the new manuals, the average search time dropped to 3.6 minutes, and the success rate improved to 80%. With

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<sup>16</sup> JoAnn T. Hackos & Julian S. Winstead, *Finding Out What Users Need and Giving It to Them: A Case Study at Federal Express*, 42 TECHNICAL COMM. 322 (1995).

some further improvements to the index, the team estimates—very conservatively—that the new manuals would save the company \$400,000 in the first year, just in the time that employees spend searching for information. That's not counting costs that flow from getting wrong answers.

### **7. *Canada: Alberta Agriculture, Food, and Rural Development — Forms***<sup>17</sup>

A writing consultant, Susan Barylo, began working with Alberta Agriculture in 1993 to revise its forms. Again, she didn't just start rewriting; instead, she has a process for gathering information from the form's “sponsor” within the organization, from every staff member who touches it, including those who produce and print it, and from the readers who fill it in. She asks the sponsor to figure out things like the form's return rate and error rate and the staff time to fix errors. And before the final printing, she tests it on at least seven typical users.

Over three years, Barylo revised 92 of the 700 or so forms in the department's inventory. More than a million copies of those 92 forms are used each year. Her evidence shows that the department is saving at least 10 minutes on each new form it receives—which she says is a conservative estimate. Total savings each year for the 92 forms: about Can\$3.5 million. Here's a glimpse at the kinds of savings:

- On a form to request free trees, the error rate fell from 40% to 20%. For each incorrect form, the staff has to call the applicant and clarify the order. The new form saved about 18 days' worth of staff time.

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<sup>17</sup> Christine Mowat, *Alberta Agriculture Saves Money with Plain Language*, CLARITY No. 38, Jan. 1997, at 6; Susan Barylo, Handouts for “Plain Language in Progress 97” Conference (Sept. 25, 1997) (on file with author).

- On a form to apply for an agricultural-society operating grant, the processing time was reduced from 20 minutes to 3 minutes, again saving about 18 days a year.
- On a registration certificate for livestock, less than 40% of the producers updated it as required; now 95% of them update it without any prompting by the staff.

### **8. U.K.: Royal Mail — Form<sup>18</sup>**

Siegel & Gale, an American firm, is one of the pioneers in the plain-language movement. Over the last 25 years, the firm has simplified business and legal documents —through plain language, logical structure, and clear design — for hundreds of companies worldwide.

Before Siegel & Gale clarified a redirection-of-mail form for the Royal Mail (the British postal service), there was an 87% error rate when customers filled it out. Royal Mail was spending over £10,000 a week to deal with complaints and to reprocess the incorrect forms. The new form reduced the error rate dramatically, so that Royal Mail saved £500,000 in just the next nine months.

### **9. U.K.: British Telecom — Bill<sup>19</sup>**

British Telecom was receiving almost a million inquiries a year from customers about their phone bills. Siegel & Gale “worked with BT to organize information logically — providing summary billing information on the first page and more detail on follow-on pages.

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<sup>18</sup> Siegel & Gale, Proposal for [X] Rental Car Company 25 (Apr. 16, 1997) (on file with author) (summarizing several of the firm's projects, including the Royal Mail project).

<sup>19</sup> Siegel & Gale, *BT — A Phone Bill That Everyone Can Understand* (visited Oct. 17, 1997) < <http://www.siegelgale.com/simplified/bt.html> > .

[The revisions] grouped charges, explained them in clear, simple language, and provided easy-to-understand calculations.”<sup>20</sup> With the new bill, the number of customer complaints and inquiries fell by 25%. Also, customers paid the new bill more promptly, improving cash flow and reducing the cost of collecting overdue bills.

### **10. U.K.: British Government — Forms<sup>21</sup>**

In 1982, the British government issued a White Paper, *Administrative Forms in Government*, requiring that all departments undertake a continuous and thorough program to eliminate forms whenever possible and to simplify the rest. What followed was probably the most extensive work on forms that any government has ever carried out. In each of the next three years, 1983 through 1985, the Cabinet Office prepared for the Prime Minister a lengthy, detailed report describing the activities of every government department. Those reports are filled with references to forms eliminated, forms revised, money saved, awards won, training accomplished, special units created, tens of thousands of booklets (like *The Word Is . . . Plain English* and *Good Forms Guide*) distributed, and work done by the ever-present Plain English Campaign. The items below are mostly from the 1985 report:

- By 1985, the government had scrapped 15,700 types of forms, improved another 21,300, and reviewed another 46,900.
- By 1985, the estimated cost savings to the departments totaled about £9 million.

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<sup>20</sup> *Id.*

<sup>21</sup> CABINET OFFICE, MANAGEMENT AND PERSONNEL OFFICE, REVIEW OF ADMINISTRATIVE FORMS: THIRD PROGRESS REPORT TO THE PRIME MINISTER (1985) (these reports don't have page numbers; they are on file with author).

- The cost of producing the new forms was less than half the money they saved. And most of the production costs were presumably one-time costs, while the forms would continue to save money each year.
- Example: a legalistic “Notice Claiming the Right to Buy,” from the Department of Environment. The old form had an error rate of about 60% in one London test borough; the new form reduced the error rate to below 5%.
- Another example: a form called “Duty Free Allowances,” from the Department of Customs and Excise. On this form, used for missing or delayed baggage, the error rate was reduced from 55% to 3%. The new form cost £2,500 and saves £33,000 a year in staff time — not to mention 7,500 hours for passengers.
- One more example: a form called “Civilian Travel Claim Form,” from the Ministry of Defence. Over 750,000 are filled out each year. The new form cut the error rate by half, the time to complete it by 10%, and the processing time by 15%. It cost £12,000 and saves £400,000 a year in staff time.
- In an independent study for the Department of Health and Social Security, Coopers & Lybrand concluded that the annual cost to the agency of errors on its forms was “of the order of £675 million,” that the costs to employers and members of the public were “of similar magnitude,” and that the total costs from one common form alone were £3.5 million.<sup>22</sup>

### ***11. Australia: Victorian Government — Legal Form***<sup>23</sup>

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<sup>22</sup> Coopers & Lybrand Associates, Dep't of Health and Social Security, Forms Effectiveness Study 1, 30 (July 1984) (on file with author).

<sup>23</sup> PLAIN ENGLISH AND THE LAW, *supra* note 1, at 68-69; ROBERT D. EAGLESON, WRITING IN PLAIN ENGLISH 6, 72-73 (1990; repr. 1994).

In the mid-1980s, the Law Reform Commission of Victoria produced a monumental four-volume study called *Plain English and the Law*. It should have ended all the debate, then and there.

As a small part of that study, the Commission completely redesigned and rewrote an old legal-style court summons. With the new form, the Victorian government was able to reassign 26 staff members, including 15 from the police force — and save the equivalent of Aus\$400,000 a year in staff salaries.

## Category 2: Pleasing and Persuading Readers

### 1. U.S.: Judges and Lawyers — Various Legal Documents<sup>24</sup>

In 1987, a colleague and I sent a survey to 300 Michigan judges and 500 lawyers. We received responses from 425. We asked readers simply to check off their preference for the A or B version of six different paragraphs from various legal documents. One version of each paragraph was in plain language and the other in traditional legal style. Neither the survey itself nor the cover letter referred to “legalese” or “plain English.” Rather, the cover letter said the survey was part of an effort to “test language trends in the legal profession.”

The same study was then repeated in three other states — Florida, Louisiana, and Texas. In Louisiana and Texas, only judges were surveyed. All told, 1,462 judges and lawyers returned the survey. And in all four states, they preferred the plain-language versions by margins running from 80% to 86%. A slam dunk.

Here is one of the six paragraphs, taken from jury instructions.<sup>25</sup> (Of course, we didn't always put the plain-language version second.)

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<sup>24</sup> Joseph Kimble & Joseph A. Prokop, Jr., *Strike Three for Legalese*, 69 MICH. B.J. 418 (1990) (reporting the results in Michigan, Florida, and Louisiana); Kevin Dubose, *The Court Has Ruled*, THE SECOND DRAFT (Legal Writing Institute), Oct. 1991, at 8 (reporting the results in Texas).

<sup>25</sup> Kimble & Prokop, *supra* note 24, at 419.

**A [ ]** One test that is helpful in determining whether or not a person was negligent is to ask and answer whether or not, if a person of ordinary prudence had been in the same situation and possessed of the same knowledge, he would have foreseen or anticipated that someone might have been injured by or as a result of his action or inaction. If such a result from certain conduct would be foreseeable by a person of ordinary prudence with like knowledge and in like situation, and if the conduct reasonably could be avoidable, then not to avoid it would be negligence.

**B [ ]** To decide whether the defendant was negligent, there is a test you can use. Consider how a reasonably careful person would have acted in the same situation. To find the defendant negligent, you would have to answer “yes” to the following two questions:

- 1) Would a reasonably careful person have realized in advance that someone might be injured by the defendant's conduct?
- 2) Could a reasonably careful person have avoided behaving as defendant did?

If your answer to both of these questions is “yes,” then the defendant was negligent. You can use the same test in deciding whether the plaintiff was negligent.

Notice that the B version uses shorter sentences; it addresses jurors as “you”; it avoids redundant pairs like *foreseen or anticipated* and *by or as a result of*; instead of the multiple conditions at the beginning of the last sentence in A (a so-called left-branching sentence), it uses a list at the end of a sentence; and it defines “negligence” positively. Version B is no shorter than version A, but plain language does not always mean the fewest possible words.

## ***2. U.S.: Appellate Judges and Law Clerks – Appellate Briefs***<sup>26</sup>

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<sup>26</sup> Robert W. Benson & Joan B. Kessler, *Legalese v. Plain English: An Empirical Study of Persuasion and Credibility in Appellate Brief Writing*, 20 LOY. L.A. L. REV. 301 (1987).

This study involved 10 judges and 33 research attorneys at the California Court of Appeal in Los Angeles. The judges and attorneys were given alternative versions of two paragraphs from appellate documents. One was a headnote, or argumentative heading, taken from an appellate brief. The other was a paragraph from a petition for rehearing. Once again, the paragraphs were not labeled as “traditional legalese” and “plain English.” The judges and attorneys were asked to rate the different versions in a number of categories, indicating how persuasive, logical, and comprehensible each version was and whether the writer was from a prestigious law firm.

Can you guess the results? By statistically significant margins, the readers rated the passages in legalese to be “substantively weaker and less persuasive than the plain English versions.”<sup>27</sup> What's more, they inferred that the writers of the plain-language versions came from more prestigious law firms.

Here are the alternative paragraphs from the petition for rehearing.<sup>28</sup>

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<sup>27</sup> *Id.* at 301.

<sup>28</sup> *Id.* at 309, 311.

*First Version:***PETITION FOR REHEARING**

Needless to say, we disagree with much that is set forth in the Court of Appeal's *Opinion* herein. Nevertheless, this *Petition for Rehearing* is restricted to but a single aspect of the said *Opinion*. This single aspect is the one which pertains to that ratification of an act of his agent which is submitted to flow from the facts as represented by Mr. Jones to the Superior Court (*Opinion*: page 4, line 2 to page 5, line 2, page 11, line 7 to page 12, line 19). Specifically, we respectfully submit that the Court of Appeal's views relative to the assumed non-existence of such ratification, are predicated upon a factual assumption which is disclosed by the *record* to be *incorrect*. This being so, we submit that the *actual facts*, revealed by the *record*, are such as clearly to entitle us to prevail in respect of the ratification *theory*.

*Second Version:***PETITION FOR REHEARING**

Although we disagree with much of the Court of Appeal's opinion, we limit this Petition for Rehearing to a single aspect: The question of whether Mr. Jones ratified the act of his agent. The Court found that he did not (*Opinion*, pp. 4-5, 11-12). We respectfully submit that this finding was based upon a misreading of the facts. The Court assumed facts that were clearly contrary to those in the trial record which pointed to ratification. We are, therefore, entitled to a rehearing.

The second version is shorter; it has shorter sentences; it straightens out the tangle of prepositional phrases in the original third sentence (“This single aspect . . .”); it replaces a lot of inflated diction (*relative to, assumed non-existence, predicated upon, are such as to, in respect of*); it uses verbs (*ratified, assumed*) instead of abstract nouns (*ratification, assumption*); and it's generally straightforward and sincere.

### 3. U.S.: Lawyers — Court Rules<sup>29</sup>

The United States Supreme Court, in April 1998, gave final approval to a remarkably progressive set of court rules. The Federal Rules of Appellate Procedure have now been revised as a possible first step toward redrafting all the federal court rules.

The revised rules were not formally tested, but two committees of distinguished judges and lawyers reviewed the draft version and suggested further improvements. The rules were then disseminated for comment. Of the 18 persons who responded, all but one were strongly in favor. This sample may be small, but the results confirm what the previous two studies show: when the argument comes down to concrete cases, when lawyers can see traditional legal writing side by side with plain language, the winner is clear. You can see for yourself in this example:<sup>30</sup>

*Old Rule* (Fed. R. App. P. 3(e)):

(e) Payment of fees. —Upon the filing of any separate or joint notice of appeal from the district court, the appellant shall pay to the clerk of the district court such fees as are established by statute, and also the docket fee prescribed by the Judicial Conference of the United States, the latter to be received by the clerk of the district court on behalf of the court of appeals.

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<sup>29</sup> Carol Ann Mooney, Minutes of the Advisory Committee on Appellate Rules 1 (Apr. 3 & 4, 1997) (on file with author).

<sup>30</sup> COMMITTEE ON RULES OF PRACTICE AND PROCEDURE OF THE JUDICIAL CONFERENCE OF THE U.S., PRELIMINARY DRAFT OF PROPOSED REVISION OF THE FEDERAL RULES OF APPELLATE PROCEDURE 5 (1996); *see also* BRYAN A. GARNER, GUIDELINES FOR DRAFTING AND EDITING COURT RULES (1996) (explaining the drafting principles used in revising the federal rules).

*New Rule:*

- (e) **Payment of Fees.** Upon filing a notice of appeal, the appellant must pay the district clerk all required fees. The district clerk receives the appellate docket fee on behalf of the court of appeals.

#### 4. *U.S.: Lawyers — Judicial Opinions*

As far as I know, no one has ever tested judicial opinions. I'm now doing that with a random selection of Michigan lawyers. They are getting two versions of a short appellate opinion, together with a few questions to answer. The opinions are identified only as X and O. Among other differences, one opinion begins with a summary that states and answers the deep issue;<sup>31</sup> it summarizes at other places in the opinion; it uses headings; and it cites only the controlling cases.

In initial testing, that opinion was the one preferred by 66% of lawyers. Look for a full report in the next volume of the *Scribes Journal*.

Meanwhile, here is the difference in the two first paragraphs:

*Opinion O:*

Plaintiff Robert Wills filed a declaratory judgment action against defendant State Farm Insurance Company to determine whether defendant has a duty to pay benefits under the uninsured motorist provisions found in plaintiff's policy with defendant. Pursuant to the parties' stipulated statement of facts, the trial court granted summary disposition in plaintiff's favor upon finding coverage where gunshots fired from a unidentified automobile passing plaintiff's vehicle caused plaintiff to drive off the road and suffer injuries. Defendant appeals as of right. We reverse and remand.

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<sup>31</sup> See Bryan A. Garner, *The Deep Issue: A New Approach to Framing Legal Questions*, 5 SCRIBES J. LEGAL WRITING 1 (1994–1995).

*Opinion X:***Summary**

Robert Wills was injured when someone drove by him and fired shots toward his car, causing him to swerve into a tree. He filed a declaratory-judgment action to determine whether State Farm had to pay him uninsured-motorist benefits. The issue is whether there was a “substantial physical nexus” between the unidentified car and Wills’s car. The trial court answered yes and granted a summary disposition for Wills. We disagree and reverse. We do not find a substantial physical nexus between the two cars because the bullets were not projected by the unidentified car itself.

**5. U.S.: Law Students and Law-School Staff — Legislation<sup>32</sup>**

In 1995, three of us revised into plain language the South African *Human Rights Commission Bill* as a demonstration project for South Africa’s Ministry of Justice. I tested the two versions on 43 law students and 24 staff members at my school. Readers of the revised version were about 19% more accurate in answering questions. They were also 7% faster. And on a scale of 1 (very easy) to 10 (very hard), they rated the original statute at 6.52 and the revised version at 4.35, for an improvement of about 33%.<sup>33</sup>

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<sup>32</sup> Kimble, *supra* note 1, at 69, 71.

<sup>33</sup> Cf. PHILIP KNIGHT, CLEARLY BETTER DRAFTING: A REPORT TO THE PLAIN ENGLISH CAMPAIGN 18, 26, 34 (1996) (reporting similar, and in some respects better, results from testing the bill in South Africa); Kimble, *supra* note 1, at 62-65, 69-70 (citing more than a dozen additional studies showing that plain language improves comprehension).

## 6. U.S.: General Public — Government Regulations<sup>34</sup>

Earlier, I mentioned the FCC's work in the late 1970s on regulations for CB radios. In the early 1980s, the FCC reorganized and rewrote its regulations for marine radios on recreational boats. (Apparently, though, the new rules were never incorporated into the *Code of Federal Regulations* but were put only in a booklet for the public.) The FCC asked the Document Design Center — another pioneering organization — to test the old and new versions. Readers of the old rules got an average of 10.66 questions right out of 20; readers of the new rules got an average of 16.85 right. The average response time improved from 2.97 minutes to 1.62 minutes. Finally, on a scale of 1 (very easy) to 5 (very hard), readers rated the old rules at 4.59 and the new rules at 1.88.

In revising these rules, the FCC adhered to what may be the hardest principle of all to follow, because it involves judgment and restraint — don't try to cover every remote possibility under the sun:

Probably the most important guideline used in revising the FCC's marine radio rules . . . was one that would say “select only the content that the audience needs.” The rules for recreational boaters were originally mixed in with rules for ocean liners and merchant ships and were loaded down with exceptions and rules to handle unusual cases.<sup>35</sup>

The cardinal rule of clarity is to put yourself solidly in the minds of your readers: what would they like to know, and how would they like to get it?

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<sup>34</sup> JANICE C. REDISH, HOW TO WRITE REGULATIONS AND OTHER LEGAL DOCUMENTS IN CLEAR ENGLISH 42-43 (1991); Janice C. Redish et al., *Evaluating the Effects of Document Design Principles*, 2 INFO. DESIGN J. 236 (1981).

<sup>35</sup> Redish et al., *supra* note 34, at 240.

### **7. U.S.: General Public – Government Letters<sup>36</sup>**

The Veterans Administration has centralized its efforts to write clearer letters to the veterans it serves. The VA is working with consultants on a program called “Reader-Focused Writing.” They are training staff writers, interviewing veterans, and testing on veterans the revised versions of selected letters.

In a test of one traditional-versus-revised letter, the percentage of veterans who failed to understand the letter dropped from 56% to 11% for the revised version. The average reading time dropped from 8 minutes to 6 minutes. And the percentage of veterans who judged the letter as somewhat difficult dropped from 44% to 0%.

### **8. U.S.: Naval Officers – Business Memos<sup>37</sup>**

Researchers studied the difference between what they called “high-impact” style and “traditional bureaucratic” style. The readers were 262 naval officers (about half of them from the Pentagon), but the document was a general business memo, not one specific to the Navy. As a context, the readers were given a hypothetical case in which a home-office adviser visited a local-office manager. The home-office adviser then followed up with a memo that suggested a way to improve productivity and morale.

In the testing, readers of the high-impact memo had a higher percentage of correct answers on each of seven questions. They read the memo in 17% less time (23% less for the D.C. group). And only half as many felt the need to reread it.

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<sup>36</sup> Melodee Mercer, Handouts from the National Performance Review's “Plain English Forums” (May 14 & 22, 1997; Sept. 9, 1997) (on file with author).

<sup>37</sup> James Suchan & Robert Colucci, *An Analysis of Communication Efficiency Between High-Impact and Bureaucratic Written Communication*, 2 MANAGEMENT COMM. Q. 454 (1989).

Here's how the researchers described the high-impact style:<sup>38</sup>

- The bottom line (the purpose of the report) stated in the first paragraph.
- A contract sentence (stating what major points the report will cover) immediately following the bottom line.
- Short paragraphs, boldface headings that mirror the language in the contract sentence, and lists.
- Simple sentences without a lot of information before or between the main parts (subject–verb–object).
- Subjects and verbs, especially, as close to each other as possible.
- Verbs in the active voice.
- Concrete, easy-to-understand language.
- First- and second-person personal pronouns.

### 9. *U.S.: Army Officers — Business Memos*<sup>39</sup>

Another study of “high-impact” style. This time, the researchers wanted to see whether that style is more effective in getting readers to comply with written instructions. They tested 129 Army officers, who were given one of two versions of a memo suggesting that they perform a specific task. Readers of the high-impact memo were twice as likely to comply with the memo on the same day they got it.

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<sup>38</sup> *Id.* at 462, 464-65.

<sup>39</sup> Hiluard G. Rogers & F. William Brown, *The Impact of Writing Style on Compliance with Instructions*, 23 J. TECHNICAL WRITING & COMM. 53 (1993).

### ***10. U.S.: General Public — Tax Forms***<sup>40</sup>

In a project for the Internal Revenue Service, the Document Design Center revised a tax form for the sale of a house. In tests of the old form, only 10% of taxpayers performed well — that is, completed it without significant errors. The Center could not change everything that needed changing because some of the terms appeared in other, related forms. Still, in tests of the revised form, the percentage of taxpayers who performed well increased to 55%. In addition, they “appeared less confused and less frustrated than those who tested the [old form]. Even without micro-level data, participants' body language suggested that while there were more line items on the revised form, they found it easier to fill out.”<sup>41</sup>

### ***11. U.S.: General Public — Owner's Manual***<sup>42</sup>

In 1988, Ford Motor Company asked the Document Design Center to produce a plain-language version of the owner's manual for the Ford Taurus. When the new manual was tested on buyers, 85% of them said they preferred the plain-language version.

### ***12. U.S.: General Public — Medical Pamphlet***<sup>43</sup>

In this study, researchers used two versions of a medical pamphlet on polio vaccine. The original pamphlet was from the Center for

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<sup>40</sup> Anita D. Wright, *The Value of Usability Testing in Document Design*, CLARITY No. 30, Mar. 1994, at 24.

<sup>41</sup> *Id.* at 30.

<sup>42</sup> *Plain English Pays*, SIMPLY STATED No. 80 (Document Design Center), Mar. 1989, at 1.

<sup>43</sup> Terry C. Davis et al., *Parent Comprehension of Polio Vaccine Information Pamphlets*, 97 PEDIATRICS 804 (1996).

Disease Control. The revised pamphlet, which was developed by the Louisiana State University Medical Center in Shreveport, simplified the original but still kept the essential information that the doctors believed parents should know. The pamphlets were tested on 522 parents who visited pediatric clinics during July 1993.

The parents' comprehension and reading time improved substantially with the revised version; in fact, reading time dropped from almost 14 minutes to about 4½ minutes. Even more revealing is which pamphlet the parents would be more likely to read. Only 49% said the chances were very good to excellent that they would read the original pamphlet. But 81% said the chances were very good to excellent that they would read the revised pamphlet. There you have the ultimate value of plain language in public documents: it motivates readers to read.

### *13. U.S.: General Public – Investment Documents*<sup>44</sup>

Here is more evidence that plain-language documents get read. In 1995, the Securities and Exchange Commission, the Investment Company Institute, and eight mutual-fund groups worked together to develop a “profile prospectus” for people to read before investing in a mutual fund. Each profile prospectus contains concise information on 11 investment points—and takes just a few pages, as opposed to the 12 or more pages in a traditional prospectus. The Investment Company Institute then tested the two kinds of prospectuses on 1,000 persons who had recently bought mutual funds.

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<sup>44</sup> 1 INVESTMENT COMPANY INSTITUTE, *THE PROFILE PROSPECTUS: AN ASSESSMENT BY MUTUAL FUND SHAREHOLDERS* 3-7 (1996); *see also* New Disclosure Option for Open-End Management Investment Companies, 63 Fed. Reg. 13,968, 13,969 n.11 (1998) (authorizing mutual funds to offer the profile prospectus and noting that 88% of the 256 comment letters to the SEC on the proposal were in support).

In every one of a series of comparisons —including how easy it was to find and understand several important items —the buyers rated the profile prospectus higher than the traditional prospectus. What's more, most of the buyers had not even read the traditional prospectus before investing; but 61% of that group said they would be very likely to read the profile prospectus.

#### ***14. Australia: Lawyers — Legislation***<sup>45</sup>

As another one of its demonstration projects, the Law Reform Commission of Victoria redrafted Australia's complex Takeovers Code. They cut it by almost half. They checked the new version for accuracy with substantive experts. And when the Commission tested the two versions on lawyers and law students, those readers comprehended the plain-language version in half to a third of the average time needed to comprehend the original version.

### **A Parting Look at Precision**

Of all the barriers to change —and to realizing the benefits of plain language —none is greater than the myth that clarity has to be sacrificed for precision, especially with complex subjects. Don't believe it. The murkiness that plagues so much official and legal prose is usually generated by the writer, not by the substance. It comes more from bad style than from the inherent difficulty of the subject. And that's when the need for “precision” becomes a lame excuse for lame writing.

The examples are endless:

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<sup>45</sup> PLAIN ENGLISH AND THE LAW, *supra* note 1, at 69-70.

- “This agreement to arbitrate is not a prerequisite to health care or treatment and may be revoked within 60 days after execution by notification in writing.”<sup>46</sup>

In other words, “You don't have to sign this to get treatment here. And if you do sign it, you can cancel within 60 days after you sign by writing to \_\_\_\_\_.”

- “A person commits the crime of sexual misconduct in the first degree if he has deviate sexual intercourse with another person of the same sex or he purposely subjects another person to sexual contact or engages in conduct which would constitute sexual contact except that the touching occurs through the clothing without that person's consent.”<sup>47</sup>

What does “without that person's consent” modify? It has to modify the second item — “he purposely subjects another person to sexual contact” — or sex is illegal in this state. But does the phrase also modify the first item, concerning deviate sexual intercourse, or does the second “he” signal a break? One remedy: use a vertical list, and be careful where you put “without that person's consent.” You may need it twice.

- “The undersigned borrower(s) for and in consideration of The Mortgage Company, this date funding the closing of the above referenced property, agrees, if requested by Lender or Closing Agent for Lender, to fully cooperate and adjust for clerical errors, any or all loan closing documentation if deemed necessary or desirable in the reasonable discretion of Lender to enable Lender to sell, convey, seek guarantee, or market said loan to any entity, including but not limited to an investor, Federal National Mortgage Association, Federal Home Loan Mortgage Corporation or the Federal Housing Authority. The undersigned borrower(s) do hereby so agree and covenant in order to assure that the loan documentation executed this date will conform and be acceptable in the market place in the instance of transfer, sale or conveyance by Lender of its interest in and to said loan documentation.”<sup>48</sup>

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<sup>46</sup> From a medical arbitration form used for years in Michigan.

<sup>47</sup> MO. ANN. STAT. § 566.090(1) (West Supp. 1998).

<sup>48</sup> From my mortgage papers.

This mass of verbiage can be replaced —with greater precision, in fact — by the following sentence: “If the lender asks us to, we will cooperate in fixing clerical errors in the closing documents so that the loan can be marketed and transferred to someone else.”

Certainly, everyone recognizes that subjects vary in their complexity, that some ideas can be stated only so clearly, and that practically no writing will be understandable to all readers. Granted, too, that writers *are* sometimes faced with hard choices between clarity and degree of detail and that a sense of caution, especially in private legal documents, may push the writer toward more detail. Granted, in short, that a few more words are better than a lawsuit or a legal claim.

But lawyers have overdone it. We add not just a few extra words, but extra words by the bucketful. We are given to excessive detail, thinking that Judge Fiendish might somehow decide that, as in the last example above, “transfer” does not include “convey” or that “transfer to someone else” does not include a transfer to the Federal Housing Authority. Although the line between caution and excessive caution may be hard to draw, we might at least start to recognize that our professional habit is to cross over that line —and then some.

Let me offer one last shining example, which I discovered on a plane flight not long ago. It's an exit-seat card, taken almost word for word from the *Code of Federal Regulations*.<sup>49</sup>

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<sup>49</sup> See 14 C.F.R. § 121.585(b)-(d).

## Exit Seating

The Federal Aviation Administration (FAA) regulations (14 CFR, Part 121) outline specific policies and procedures U.S. air carriers must follow concerning exit seating in aircraft. The following content of the rules is being provided for your information and guidance.

### **RESTRICTIONS**

No air carrier may seat a person in a designated exit seat if it is likely that the person would be unable to perform one or more of the applicable functions listed under REQUIREMENTS below because —

1. The person lacks sufficient mobility, strength, or dexterity in both arms and hands, and both legs to:
  - (A) reach upward, sideways, and downward to the location of emergency exit and exit slide operating mechanisms;
  - (B) grasp and push, pull, turn, or otherwise manipulate those mechanisms;
  - (C) push, shove, pull or otherwise open emergency exits;
  - (D) lift out, hold, deposit on nearby seats, or maneuver over the seatbacks to the next row objects the size and weight of over-wing window exit doors (approximately 24 1/4" x 39" and up to 53 lbs.);
  - (E) remove obstructions similar in size and weight to over-wing exit doors (approximately 24 1/4" x 39" and up to 53 lbs.);
  - (F) reach the emergency exit expeditiously;
  - (G) maintain balance while removing obstructions;
  - (H) exit expeditiously;
  - (I) stabilize an escape slide after deployment; or
  - (J) assist others in getting off an escape slide; or
2. The person is less than 15 years of age; or

3. The person lacks the capacity to perform one or more of the applicable functions without the assistance of an adult companion, parent, or other relative; or
4. The person lacks the ability to read and understand instructions related to emergency evacuation provided by the air carrier in printed or graphic form or the ability to understand oral crew commands; or
5. The person lacks sufficient visual capacity to perform one or more of the applicable functions without the assistance of visual aids beyond contact lenses or eyeglasses; or
6. The person lacks sufficient aural capacity to hear and understand instructions shouted by crew members without assistance beyond a hearing aid; or
7. The person lacks the ability to convey information orally to other passengers; or
8. The person has (a) a condition or responsibilities, such as caring for small children, that might prevent the person from performing one or more of the applicable functions; or (b) a condition that might cause the person harm if he or she performs one or more of the applicable functions.

#### **REQUIREMENTS FOR SITTING IN EXIT SEATS**

In the event of an emergency in which a crew member is not available to assist in an evacuation of the aircraft, a passenger occupying an exit seat may be asked to perform the following functions:

1. Locate the emergency exit;
2. Recognize the emergency exit opening mechanism;
3. Comprehend the instructions for operating the emergency exit;
4. Operate the emergency exit;
5. Assess whether opening the emergency exit will increase the hazards to which passengers may be exposed;
6. Follow oral directions and hand signals given by a crew member;

7. Stow or secure the emergency exit door so that it will not impede use of the exit;
8. Assess the condition of an escape slide, activate the slide, and stabilize the slide after deployment to assist others in getting off the slide;
9. Pass expeditiously through the emergency exit; and
10. Assess, select, and follow a safe path away from the emergency exit and aircraft.

Don't you love it? My favorite bit is “approximately 24 1/4" x 39”,” which is pretty precise in my book. If you're going to approximate, approximate. And why include this at all? Anyway, here's the larger question: why all the repetition? The organizing logic seems to be, Don't put a person in an exit seat if the person could not do X (Requirements) because the person is unable to do X (Restrictions). Nifty. Now multiply this example by all the others in the 200 or so volumes of the *Code of Federal Regulations*, even if the others are only partly as bad.

Since discovering this exit-seat card, I have asked several audiences if anyone has ever read it. Not one person has said yes.

Here is a possible translation, which you might pare down even a little more:

**Can I Sit in an Exit Seat?**

To sit in an exit seat, you must be able to help in an emergency. You must meet these conditions:

- (1) You are willing and able to reach the emergency exit, open the door, lift out the door (about 50 pounds), work the exit slide, and help others to use the slide.
- (2) You can do these things without hurting yourself.
- (3) You can see, hear, and read well enough to follow instructions — both written instructions and those that the crew may shout out.
- (4) You can give directions to other people.
- (5) You are at least 15 years old.

Now, should the writer worry that “you are willing and able to . . . work the exit slide” does not specifically include “stabilize the slide after deployment”? Should the writer worry about omitting the last item in the original — “Assess, select, and follow a safe path away from the emergency exit and aircraft” — or is it too obvious for words? Those are the kinds of decisions that have to be made. The goal, of course, is to provide only the information that's necessary, in a straightforward, logical way, without repetition. That way you can achieve clarity and precision, both.

### **Conclusion**

There is now compelling evidence that plain language saves money and pleases readers: it is much more likely to be read and understood and heeded — in much less time. It could even help to restore faith in public institutions. Yet the torrent of words continues, driving everyone crazy who has to deal with official and legal documents.

We can take heart from the plain-language activities in some important quarters, like the Securities and Exchange Commission (investment documents), the National Partnership for Reinventing Government (federal regulations), the British Inland Revenue (income-tax law), and the Australian Tax Law Project (income tax).<sup>50</sup> But the trouble runs so deep — after centuries of poor models, bad habits, professionalitis, inadequate training, and general neglect — that it will take a universal commitment to fix it. It will take a cultural change, one that enshrines clarity and simplicity.

Start today.

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<sup>50</sup> See CLARITY No. 40, Aug. 1997, at 2, 6, 34; CLARITY No. 38, Jan. 1997, at 21; see also Mark Duckworth & Christopher Balmford, *Convincing Business That Clarity Pays*, 73 MICH. B.J. 1314, 1315-16 (1994) (discussing how some of Australia's largest and most respected law firms are marketing plain-language services); Kimble, *supra* note 1, at 56-59 (summarizing additional activities worldwide).