



Plain as the Nose on Your Face

In a meeting for a local nonprofit I support, I sat with several other board members, puzzling over the intricacies of a convoluted contract provision. Frustrated, one of the other board members exclaimed, “Lawyers! I guess Susie teaches them to write like that!”

In truth, I spend most of my time teaching exactly the opposite. Although lawyers have a sometimes-well-deserved reputation for obfuscation, for over two decades, plain language has been the mantra of legal-writing professors and experts like Bryan Garner, Richard Wydick, Joe Kimble, and countless others. Many legal-writing programs require Wydick’s *Plain English for Lawyers*, and still others include it on their syllabi as a recommended text.

The plain-language movement has gained such momentum that even the federal government is on board: The Plain Writing Act of 2010 recognizes that writing understandable material that the reader can use is a worthy goal. Many states have adopted plain-language court forms and instructions. Various watchdog organizations monitor banks, insurance companies, and other corporations in hopes of pressuring them into communicating coherently with consumers. And the international community has recognized, through the U.N. Convention on the Rights of Persons with Disabilities, that plain language is actually a civil rights issue: People deserve to be able to understand communications from their governments and other institutions.

What does it mean to write in plain language? Plain language means more than eschewing five-dollar words: Documents drafted in plain language are clear, concise, and complete, but most of all they focus on audience needs. From word choice to organization to formatting, plain-language documents demonstrate the author’s knowledge of her audience and her awareness of how that audience will use those documents. This may mean that a document drafted for one audience may differ in vocabulary, format, and emphasis from a document drafted for another. Of course, documents written in plain language avoid needless jargon or legalese.

However, this does not mean that such documents are glib, oversimplified, or condescending. Nor does the emphasis on plain language provide a license for excessively informal language or slang.

Plain-language writing is just good writing. It prefers active voice. It favors strong nouns and verbs. It omits surplus words and gratuitous complexity. Most of all, plain-language writing is mindful writing; such writers choose and arrange words deliberately and with care.

Plain-language writers vary their sentence length, but they err on the side of shorter, declarative sentences, especially for key points, because they know that forcing a reader to parse longer, more complex sentences risks losing that reader (or wasting that reader’s time). Most sentences include only one main thought, and the average sentence length hovers below 25 words. Just as an effective cross-examination breaks key points into bite-sized morsels, luring the witness inescapably to the admissions you seek, so a compelling brief breaks important points into digestible pieces that lead your reader to find your conclusion inevitable.

Why should you write in plain language?

First, you probably wish to be understood. There may be exceptions where injecting a bit of ambiguity preserves options for you or your client. Most of the time, however, when addressing a court, a client, or an opposing party, you have a message to communicate, and you want your audience to receive that message.


I also find writing in plain language to be a helpful intellectual exercise. Distilling a complex issue to its essence forces me to understand that issue thoroughly. It also encourages me to identify precisely what it is that I intend to communicate, which may not always be what I put forth in an initial draft.

Plain-language communication—especially between attorney and client—also enhances trust. No one likes to feel stupid. No one likes to feel that someone else is deliberately muddying important issues. And no one *wants* to distrust her own lawyer. We communicate matters that affect our clients’ lives, liberty, or livelihood. When we communicate simply and directly, our clients can make better, more confident decisions, and they can feel that, no matter how bad the news or the prospects, they at least understand what is happening and why. Our clients deserve no less.

Finally, plain-language communication persuades. If you want to win a point, it’s best to make the conclusion you seek seem both obvious and inevitable.

Picture two parties in a negotiation. One states her position simply and directly, then looks calmly and silently at the other party. The second starts strong, but, made nervous by the other party’s quiet stare, begins babbling to fill the silence.¹

Which negotiator is more compelling? Simplicity and directness convey confidence, and confidence persuades.

Know your audience. Know your purpose. Own your meaning. Write mindfully. The rewards warrant the effort. 



Susie Salmon

Susie Salmon is Assistant Director of Legal Writing and Associate Clinical Professor of Law at The University of Arizona, James E. Rogers College of Law. Before joining Arizona Law, she spent nine years as a commercial litigator at large firms in Tucson and Los Angeles.

endnotes

1. This person might be me.