

ENGLISH IS DIFFICULT: MODEST PROPOSALS THAT CAN DRASTICALLY IMPROVE THE QUALITY OF LEGAL ENGLISH COMPOSITION

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Composing legal English text poses challenges for all writers, especially for non-native English speakers. Historically, legal English was comprised of difficult to understand language replete with jargon and what derisively has been called legalese. The plain English movement has attempted to rectify this, but changing the legal profession's attitudes and long-held habits about how to effectively communicate in writing with our audiences has proven challenging. It is imperative that English legal text be written clearly, concisely, completely and correctly. These objectives can be achieved by following a number of relatively easy strategies. As with architects, composers and artists, authors of legal texts must first conceive a well thought out and organized plan. They must, above all else, consider the specific needs of their audiences. Authors should employ a simple and direct style that makes consuming their work a pleasure not a chore. This can be achieved through a number of mechanisms including using everyday language and preferring the familiar word to the obscure and complex; by preferring the short word and short sentence to the long; by preferring the active voice to the passive; by avoiding foreign phrases to the extent possible; by preferring the single word to the circumlocution; by preferring positive words over the negative; by eliminating pronominal adverbs and other vestiges of legalese; and, by mastering the proper use of English articles. Plain talk should prevail over stilted language. Both vigorous and diligent planning and editing hold the keys to drastically improving the quality of English legal writing.

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1 Introduction

The English language is difficult. An internet search on nearly any topic will inevitably direct the reader to lists. For example, the top ten burger joints in Manhattan or the best sushi restaurants in Tokyo. There are also lists of the so-called easiest and most difficult languages to learn. In fact, some governments publish formal rankings of these languages. For example, the Defense Language Institute (DLI), which is a United States Department of Defense educational and research institution, has established four categories of languages classified by their level of difficulty. Those in category one supposedly are the easiest to learn with those in category four the hardest.¹ Many of these lists rank Spanish, French, Italian and Portuguese as among the so-called easiest while Arabic, Mandarin Chinese, Japanese, and Korean are the most difficult.² It objectively is true that some languages are more difficult than others. On the other hand, the difficulty in learning a particular language, especially for non-native speakers of that language, depends on a host of factors such as innate talent, motivation, the ability to regularly engage in oral discourse with others in that language, available learning resources, and perhaps most importantly, how closely related the language being learned is to the languages already learned.³ Marian argues, for example, that the relative ease or difficulty of learning a new language depends upon such factors as whether the language already known and the one being studied share common vocabularies, grammar and pronunciation.⁴

While few lists classify English as one of the more difficult languages to master, there are undoubtedly many aspects of the language that are challenging. Learning basic vocabulary is probably the single most important aspect of learning a language. Knowing the meaning of words must be the starting point. One must also know a critical number of words in order to be able to communicate. According to the Oxford English Dictionary, there are an estimated 171,146 words currently in use in the English language, along with another 47,156 obsolete words. Stuart Webb, professor of applied linguistics at the University of Western Ontario, determined that native speakers typically know approximately 15,000-to-20,000-word families,

¹ See, Defense Language Institute Foreign Language Center web page, <www.dliflc.edu>.

² What are the Hardest Languages to Learn? <www.lingholic.com>.

³ See, Comparison of Difficulty of Different Languages, by Jakub Marian, <www.jakubmarian.com>.

⁴ Id.

or lemmas, in their first native language.⁵ Professor Webb found that people who have studied languages often struggle to learn more than 2,000 to 3,000 words even after years of study. In addition to the sheer volume of words comprising the English language, the Oxford Royale Academy points to the “Innumerable examples of conundrums” or “contradictions” in English, which are confusing and illogical to non-native speakers. The Academy gives the following two examples. “There is no ham in hamburger. Neither is there any apple nor pine in pineapple. ‘Overlook’ and ‘oversee’ have opposite meanings, while ‘look’ and ‘see’ mean the same thing.”⁶ Your authors would add another. We “left” our law faculty today and immediately made a “right” turn to head to lunch. Even the simple word “left” has two meanings. It has a directional meaning but also means depart. The word “right” has a directional meaning as well and also means correct. The words “right” and “write” are also homophones (yet another major complicating factor in English). Homophones are words that sound the same, but spelled differently, and have different meanings. Consider how confusing the following additional examples must be to a non-native English speaker. “**A bandage is wound around a wound** (‘wound’, pronounced ‘wowned’ is the past tense of ‘wind’, as well as an injury when pronounced ‘woond’). **The door was too close to the table to close** (the first ‘close’ is pronounced with a soft ‘S’ and means ‘near’, while the second is pronounced with a hard ‘S’ and means ‘shut’).”⁷ Some homophones that exist in the English language have as many as seven different meanings.

The Oxford Royale Academy points to the many exceptions to the general rules that exist in English. “A good example is the rule for remembering whether a word is spelt ‘ie’ or ‘ei’: ‘I before E except after C’. Thus, ‘believe’ and ‘receipt’. But this is English – it’s not as simple as that. What about ‘science’? Or ‘weird’? Or ‘seize’? There are loads of irregular verbs, too, such as ‘fought’, which is the past tense of ‘fight’, while the past tense of ‘light’ is ‘lit’. So learning English isn’t just a question of learning the rules – it’s about learning the many exceptions to the rules. The numerous exceptions make it difficult to apply existing knowledge and use the same principle with a new word, so it’s harder to make quick progress.”⁸

⁵ How many words do you need to speak a language? By Beth Sagar-Fenton & Lizzy McNeill, BBC News. 24 June 2018, <www.bbc.com>.

⁶ Why is English So Hard to Learn? Oxford Royale Academy, <www.oxford-royale.com>.

⁷ Id.

⁸ Id.

Word order also poses many problems. Native English speakers have the rules drilled into them from an early age and “intuitively know what order to put words in.”⁹ As with other languages, with experience, the native speaker is able to choose the right word order without giving it much thought. As the Oxford Royale Academy states, to the native speaker the correct word order “just sounds right.”¹⁰ However, learning the correct word order is extremely difficult for those learning English as a second language, especially when the person’s native language employs fundamentally different grammatical rules. For example, in German, at least depending on the tense involved, the verb often goes at the end of the sentence.

Synonyms present enormous challenges as well. A synonym is generally defined as a word or phrase that means exactly or nearly the same as another word or phrase. Choose any English word and look it up in either a thesaurus or any online search engine and you usually will find long lists of synonyms. As a drastic case, one search engine lists 5,596 synonyms for the four-letter word idea.¹¹ Defined as something created or imagined in the mind, Wordhippo lists some synonyms for the word idea as including the words concept, notion, belief, theme, and thought among the options. The reality is that most of the time each “synonym” has a slightly different meaning, making it extremely difficult for the non-native English speaker to choose the best alternative. Just referring to the thesaurus or other search engine and picking an alternative word will not work.

One of your authors is a native English speaker who practiced law for over 35 years in the United States and now is an Adjunct Professor and Senior Lecturer in Slovenia. In that capacity, he has edited thousands of pages of legal articles written or translated into English by non-native English speakers/writers. He also lectures on topics pertaining to Legal English Terminology. Your other author is a native Uzbek who has studied pedagogy and lectures at the most prominent law faculty in Uzbekistan. Together, your authors have identified many of the recurring problems that they have observed in legal English writing. This article modestly aims to provide concrete strategies to eliminate these problems. Despite the many problems in mastering English, only some of which have been identified in this Introduction,

⁹ Id.

¹⁰ Id.

¹¹ See <www.wordhippo.com>.

we believe that utilizing these tips will help any person writing legal English to drastically improve their work.¹²

2 Follow the four c's: how to write clearly, concisely, completely and correctly.

It is widely accepted that effective writing is clear, complete, concise, and correct. This stylistic formula is referred to as the four C's of effective writing.¹³ Following this prescription for persuasive writing is easier said than done. If this were not the case then everyone would be a proficient writer.¹⁴ In many ways, these four hallmarks of effective writing are both intertwined and conclusory. Simply telling someone to follow the four C's and expecting them to deliver well written materials is much like telling a novice driver to drive safely, without teaching the new driver how to operate a vehicle and what exactly is required to drive safely.

Strunk and White, in *The Elements of Style*,¹⁵ explain that, "Vigorous writing is concise. A sentence should contain no unnecessary words, a paragraph no unnecessary sentences, for the same reason that a drawing should have no unnecessary lines and a machine no unnecessary parts. This requires not that the writer make all sentences short or avoid all detail and treat subjects only in outline, but that every word tell."

Since the aim of this article is to provide legal writers with modest proposals to write in accordance with the four C's it obviously does not canvass all aspects of English grammar. Your authors suggest that reading *The Elements of Style* and referring to it often when writing in English will prove invaluable. Osbek¹⁶ likewise has written an excellent law review article on the Plain Language Movement in the law, and what constitutes good legal writing. Our paper is inspired by Osbek's work, which we also

¹² The modest recommendations we propose in this article apply to all writers of legal English, native and non-native English speakers alike. Writing simply, however, and using very common words and short sentences (a primary theme of our article), should prove especially helpful to non-native English speakers that have a limited English vocabulary. After all, using mostly simple, everyday words when writing has the dual benefits of allowing the author to write clear and understandable legal English text even with a relatively limited English vocabulary.

¹³ See, e.g., Purdue Global University, <www.purdueglobalwriting.center>.

¹⁴ The Economist reports that in 2017 only 48 percent of Americans are proficient readers. It follows that if so few Americans are able to read at a proficient level they can hardly be expected to write proficiently. Correlatively, this highlights challenges that non-native English speakers face when trying to master English writing. See, The reading wars, *The Economist*, 12–18 June 2021, pp. 31–32.

¹⁵ William Strunk, Jr., and E.B. White, *The Elements of Style*, Fourth Edition, p. 10.

¹⁶ Mark Osbek, What is "Good Legal Writing" and Why Does it Matter? University of Michigan Law School Scholarship Repository (2012), <<https://repository.law.umich.edu/articles/938>>.

strongly suggest you read. The balance of this paper is designed to provide the reader with concrete tips on how to write clearly, concisely, completely and correctly. Or, to use Osbek's terminology, what makes for "Good Legal Writing?"

2.1 Know Your Audience

All writers must first consider their audience. Novelists write to entertain. Biographers meticulously chronicle a person's life story. Lawyers have multiple audiences depending on the situation. When lawyers write legal briefs, they are writing to educate judges, arbitrators or mediators in order to inform and persuade these readers in the justness and correctness of their client's cause. Legal professionals must carefully structure their writing so as to meet the needs of these particular readers. Trial judges are extremely busy and have limited time to read and perform extensive research. It is therefore best to keep trial court briefs (memoranda) as short as possible. Courts of Appeal, on the other hand, are more deliberative bodies and have more time to read and consider briefs written to them. While this reality does not mean a lawyer should violate the rule of being concise simply because the audience is different, it does mean the lawyer is justified in writing briefs with more detail and which are more nuanced. Writing to mediators presents special problems. Mediation memoranda generally should inform the mediator of both the strengths and weaknesses of the client's case, so as to promote the goal of mediation, which is case resolution through honest negotiations. The process generally does not work when the lawyers for the respective parties do not candidly acknowledge weaknesses in their client's case. Lawyers write to clients to inform and explain to them the status of their case and to provide legal options and advice. How the lawyer writes to a corporate client will differ from the way the lawyer writes to an unsophisticated client. Law professors and others writing articles on the law have yet another audience. Whatever the specific purpose of your writing, your primary goal should be to determine the specific needs of your audience and to take pains to satisfy those needs. Sometimes your audience will require more detail while at other times it will require less. While the audience will vary, the constant in every case is that the message imparted must be clear, concise, complete and correct.

2.2 Have a Well-Constructed Plan and Provide Road Maps

Having a well thought out plan before writing is crucial. Preparing a formal outline, with both main topics and subtopics, is key in this process. Just as a well-constructed building requires meticulous planning by an architect, so does an informative piece of legal prose require diligent groundwork by the lawyer. Having a solid plan at the outset will help bring organization and clarity to the final work product. The degree of planning and organization will necessarily vary depending on what is being written. An appellate brief, or legal periodical meant for a journal, will require more planning than a letter to a client or opposing counsel. But in all cases, the work product should be structured in a coherent and logical fashion so that the reader can easily understand the document without having to labor through it, or read it several times to understand the import of its content. Everyone is busy. In the internet age this is even more true. Your readers do not have time to pour over your writing multiple times to determine what you are saying.

Road maps are headings and subheadings. Crucially, these instantly highlight for the reader what the critical information is in your writing and where it is located. Well-constructed headings and subheadings should fully encapsulate your principal points, so that all the reader is left to do is to read what comes after those headings for the detailed reasoning that supports those main contentions. Road maps can be helpful in correspondence, especially lengthier correspondence, as well as in trial and appellate briefs, arbitration memoranda, mediation submittals and settlement demand letters. Again, the key is to consider your audience. In structuring writing, one size does not fit all. For example, in writing a detailed opinion letter or status update letter to a client it often is helpful to start with what is known as an executive summary.

The executive summary should succinctly and clearly spell out your ultimate conclusion and recommendation. The balance of the letter can then serve to provide the detailed reasoning supporting the executive summary. Providing executive summaries is a desirable method of informing your audience of your bottom line so that, if the reader does not have the time initially to read the entire document, the reader at least will understand your ultimate conclusion and recommendation. The reader then can return to the document at a later time for the details.

In a trial, appellate court or arbitration memorandum the headings and subheadings should set forth your client's ultimate position that you want the tribunal to adopt. Planning these road maps can be painstaking work and require skill and diligence. However, they are essential to effective writing. The same holds true for academic writing. Just as clear roadway signs enable travelers to easily get to their ultimate destination, providing your reader with easy-to-follow roadmaps makes it easy for your audience to understand your messages.

2.3 Remember the Primacy and Recency Effects

Especially when writing advocacy pieces, or scholarly articles, it is critical to remember the importance of the so-called primacy and recency effects. Psychologists have determined that people will better remember the first thing they saw or read and the last.¹⁷ They do not remember as well what is buried somewhere in the middle. This principle plays a major role in both litigation (trial advocacy) and in writing in general.¹⁸ While excellent writing should follow the 4's throughout, it is critically important to start and to end strong.

Written in 1859 by Charles Dickens, *A Tale of Two Cities* is a historical novel set in London and Paris during the French Revolution. Dickens opens his book with the following: "It was the best of times, it was the worst of times, it was the age of wisdom, it was the age of foolishness, it was the epoch of belief, it was the epoch of incredulity, it was the season of Light, it was the season of Darkness, it was the spring of hope, it was the winter of despair, we had everything before us, we had nothing before us, we were all going direct to Heaven, we were all going direct the other way- in short, the period was so far like the present period, that some of its noisiest authorities insisted on its being received for good or for evil, in the superlative degree of comparison only."

A Tale of Two Cities is a novel and not a legal work. However, as legal writers there is a good deal we can learn from Dickens. His strong opening lines, which paint such a marvelous picture, and which set the stage for the remainder of his book, grip the reader and compels us to read on. Especially when writing legal briefs or academic

¹⁷ See, Dirk D. Steiner and Jeffrey S. Rain, Immediate and Delayed Primacy and Recency Effects in Performance Evaluation, *Journal of Applied Psychology*, Vol. 74, No. 1, 136-142 (1989), <www.researchgate.net>.

¹⁸ See, Bill Kanasky, The Primacy and Recency Effects: The Secret Weapons of Opening Statements, <www.courtroomsciences.com>.

articles, it is important for legal writers to give particular effort to the beginning of the work product. This is, of course, important under the primacy effect. Additionally, a solid opening will compel the reader to continue on.

It is equally important, under the recency effect, to conclude strong. The conclusion of the written work is the final opportunity the author has to make a lasting impact on and to persuade the reader to the author's point of view. Do not waste that opportunity. Especially readers of this article that have children may recall E.B. White's enchanting novel *Charlotte's Web*, which tells the story of a livestock pig named Wilbur and his friendship with a barn spider named Charlotte. When Wilbur is in danger of being slaughtered by the farmer, Charlotte writes messages praising Wilbur (such as "He is Some Pig") in her web in order to persuade the farmer to let him live. White ends his delightful novel with the following memorable line, "It is not often that someone comes along who is a true friend and a good writer. Charlotte was both."

Where the Wild Things Are, another children's story, by Maurice Sendak, tells the story of a little boy and main character of the story, named Max. After his mother sends him to bed without dinner, Max falls asleep and his room immediately transforms into a moonlit forest surrounded by a vast ocean. Sendak ends his novel with a line as memorable as that of White, "Max stepped into his private boat and waved goodbye and sailed back over a year and in and out of weeks and through a day and into the night of his very own room where he found his supper waiting for him – and it was still not."

As legal professionals, especially those of us that work in the litigation arena, we too are storytellers. True, our stories have to be told within the confines of both the legal substantive laws and the rules of evidence. But those strictures allow plenty of leeway to craft our clients' stories in both compelling and memorable ways. This is called (great) advocacy. While lawyers and other legal professionals do not write in flowery prose the way fictional authors do, nevertheless we should learn from greats such as E.B. White and Sendak. What we say last leaves the final impression on the audience. Make every word count. Amen!

2.4 Haste Makes Waste

There is the story of the lawyer that hands the judge a hurriedly written brief and while doing so apologizes, “I am sorry your Honor. If I only had more time, I would have written less.” This story highlights a truism: it takes more time, effort and planning to construct writing that is clear and concise. The effort is worthwhile, however, since well-organized and structured legal writing has the power to both inform and persuade. Writing that is rambling, repetitive and disorganized, or which uses language that is difficult to comprehend, quickly loses the reader’s attention and is ineffective. The client, judge, arbitrator, mediator or opposing counsel reading poorly written text will not think highly of such a lawyer.

Winston Churchill is best remembered as the British prime minister whose speeches rallied Britain under a relentless Nazi onslaught in World War II. Churchill won the Nobel Prize in Literature in part because of his masterful speechmaking. According to Andrew Roberts, author of a history of World War II called *The Storm of War*, “Winston Churchill managed to combine the most magnificent use of English – usually short words, Anglo-Saxon words, Shakespearean. And also this incredibly powerful delivery. And he did it at a time when the world was in such peril from Nazism, that every word mattered.” In one famous speech, Churchill proclaimed: “You ask, what is our aim? I can answer in one word; victory. Victory at all costs. Victory in spite of all terror. Victory, however long and hard the road may be, for without victory there is no survival.”

In modern times, most politicians have speech writers that do most of the work for them. Not so with Churchill. He wrote every word of many of his speeches and he said he spent an hour working on every minute of a speech he made.¹⁹ As legal writers, especially practitioners, it is unrealistic to think we have as much time as Churchill did to craft our written product. Lawyers do not have that luxury of time, and even if they did, the clients would not pay for the time. Still, as legal writers we do well to bear in mind that taking our time to put hard effort into what we say matters. Indeed, in our everyday writing each word does, indeed, still matter.

¹⁹ Tom Vitale, Winston Churchill’s Way With Words, National Public Radio History, 14 July 2012, <www.npr.org>.

2.5 Plain Talk is Best – How to Simplify and Hone Your Message

Warren Buffett is one of the world's most famous and successful investors. He also is a masterful writer. Buffett wrote the preface in the *Plain English Handbook*, published in August 1998 by the U.S. Securities and Exchange Commission. There Buffett offered great advice, not only for those drafting SEC disclosure documents, but to all writers. For example, Buffett suggests to “Write with a specific person in mind.” The so-called Oracle of Omaha, Nebraska also stated that “When writing Berkshire Hathaway’s annual report, I pretend that I’m talking to my sisters. I have no trouble picturing them: though highly intelligent, they are not experts in accounting or finance. They will understand plain English, but jargon may puzzle them.” Further, “My goal is simply to give them the information I would wish them to supply me if our positions were reversed. To succeed, I don’t need to be Shakespeare; I must, though, have a sincere desire to inform.”

The SEC’s *Plain English Handbook* puts it this way: “A plain English document uses words economically and at a level the audience can understand. Its sentence structure is tight. Its tone is welcoming and direct. Its design visually appealing. A plain English document is easy to read and looks like it’s meant to be read.” Or as Bryan Garner states, “A lawyer should keep in mind that the purpose of communication is to communicate, and this can’t be done if the reader or listener doesn’t understand the words used.”²⁰

John Ernst Steinbeck was an American author and in 1962 won a Nobel Prize in literature. He authored 33 books. The Pulitzer Prize-winning *The Grapes of Wrath* (1939) is considered his masterpiece and is one of the greatest books ever written. In the first 75 years after it was published, it sold 14 million copies. The novel is about a poor Midwest family forced off their land. They travel to California, en route staying in what were called Hoovervilles²¹ in the hope of finding a better life, suffering the misfortunes of the homeless in the Great Depression. Consider the

²⁰ Bryan A. Garner, *The Redbook: A Manual on Legal Style* 183 (2d ed. 2002).

²¹ During the Great Depression, which began in 1929 and lasted approximately a decade, shantytowns appeared across the United States as unemployed people were evicted from their homes. As the Depression worsened in the 1930s, causing severe hardships for millions of Americans, many looked to the federal government for assistance. When the government failed to provide relief, President Herbert Hoover (1874-1964) was blamed for the intolerable economic and social conditions, and the shantytowns that cropped up across the nation, primarily on the outskirts of major cities, became known as Hoovervilles. See, Hoovervilles, History.Com Editors. The original article was published 5 March 2010 and updated 2 November 2018, <www.history.com>.

following quote from the opening chapter of the novel which describes the Oklahoma landscape as the drought settles over it: “In the last part of May the sky grew pale and the clouds that had hung in high puffs for so long in the spring were dissipated. The sun flared down on the growing corn day after day until a line of brown spread along the edge of each green bayonet. The clouds appeared, and went away, and in a while they did not try any more. The weeds grew darker green to protect themselves, and they did not spread any more. The surface of the earth crusted, a thin hard crust, and as the sky became pale, so the earth became pale, pink in the red country and while in the gray country.”

Wealthy investors such as Buffett and literary icons such as Steinbeck do not grow on trees. Yet, there is much that the rest of us can learn from their writing styles. Note that both of them write similarly. Both used ordinary, everyday words to impart their messages. In Steinbeck’s opening lines the most complicated word he used was dissipated. As was his literary style, Steinbeck used simple words all of his readers could understand to paint very vivid pictures. Likewise, we as legal writers should strive to use, whenever possible, plain and simple words to convey our messages to our audiences.

2.5.1 Eliminate Pronominal Adverbs

As a starting point, lawyers must avoid the use of what is called legalese. Pergjegii²² describes legalese as, “The archaic legal language or in other words expressions of old times, considered as bizarre in the modern English language, that are still in use in legal papers since their meaning is widely acknowledged in this environment. The core vocabulary of this distinguished jargon consists of Latin, French and Old English words that are not in use in the everyday language and that are used only among lawyers, words like aforementioned or hereinafter are hardly every used outside the context of the legal sentences or documents.” Thomas Jefferson, one of the Founding Fathers of the United States, and also the third U.S. President, a lawyer, diplomat, philosopher, architect, and statesman, said that one writes like a lawyer “by making every other word a ‘said’, or ‘aforesaid,’ and by saying everything over two or three times, so that nobody but we of the craft can untwist the diction.” More recently, Will Rogers, an American actor, humorist, newspaper writer said,

²² Greta Pergjegii, Modern Tendencies and Characteristics of Legal Writing in English for Specific Purposes, *Journal of Education and Practice*, Vol. 9, No. 3, 2018, <www.core.ac.uk>.

“The minute you read something that you can’t understand, you can almost be sure that it was drawn up by a lawyer.”

We encourage our students, and we encourage you, to think of yourselves as sanitation engineers when writing: to eliminate and throw in the trash bin pronominal adverbs including hereof, thereof, whereof, hereinafter, hereinbefore, hereby, said, heretofore etc.²³ The English language unfortunately is littered with these, and the fact is that even most native English speakers would struggle to know what these words mean and when to properly use them. They traditionally have been used primarily in legal writing. However, since the law is for ordinary people and should be understandable to ordinary people, these outdated, confusing words should be eliminated from legal (indeed all) writing.²⁴

2.5.2 Whenever Possible Eliminate Foreign Phrases

Several years ago, your American author was lecturing on English legal terminology to Erasmus students. The lecture concerned the four C’s. Your author suggested strongly that students avoid using foreign phrases when possible. At that point a Portuguese student raised her hand and stated, Professor, I disagree with you. At our Faculty in Lisbon, we receive more points on exams and papers when we use foreign phrases. This comment gave your author pause, but only momentarily.

We urge legal writers to avoid foreign phrases such as Latin, French and German whenever possible. It is admittedly true that there are certain foreign phrases that have been used for so long, have such distinctive meaning, and have such universal understanding in the legal community (across legal systems, civil and common law alike), that they are nearly unavoidable and will most likely be used forever. Included in this category are the Latin phrases *res judicata*, *ad hoc*, *ex post facto*, *ab initio*, *res ipsa loquitur*, *caveat*, *in rem*, *de novo*, *in personam*, *pro se*, etc. However, your authors urge restraint in such usage. For the same reason that it is difficult and often

²³ English pronominal adverbs are English adverbs that are formed by combining a pronoun with a preposition.

²⁴ We direct you to Osbeck’s excellent article referenced in fn. 16, What is “Good Legal Writing” and Why Does it Matter? At page 430, Osbeck quotes a passage from Judge Cardozo’s opinion in the landmark case *Palsgraf v. Long Island Railroad Co.*, 162 N.E. 99,99 (N.Y. 1928). *Palsgraf* is a leading case discussing the doctrine of proximate cause. All American law students have read this case in their first year Torts class. Judge Cardozo masterfully summarized the “complicated events that led to the plaintiff’s injuries in a lucid and succinct fashion.” Indeed, Cardozo’s masterful statement of the facts at the beginning of the opinion is a lesson in how to use simple, concrete writing and everyday words to convey information.

annoying to read text that constantly uses the largest and most obscure words (that the author likely hunted for in the thesaurus), the author that seemingly goes out of the way to use foreign phrases at every opportunity violates the four C's by unnecessarily increasing the complexity and difficulty of the text. Writing that decreases instead of increases clarity is poor writing. It does not impress your audience, it depresses it. Write in English.

2.5.3 Use Everyday Words

Many judges, lawyers and other legal writers in years past, but unfortunately still too many at present, have employed writing styles that seem to suggest that they believe their educations will have been wasted if they do not use the longest and most obscure words whenever and as often as possible. How often have you decided to read a book, only to be disappointed by the difficulty of the text, made arduous by the frequent use of words you have never heard of, and which require a trip to Google to decipher. Good legal writing is the opposite. The author's intent should be easy to glean. The text should be economical. Use of complicated words should be the exception and not the rule. If you must use technical terms, and sometimes that is the case, explain them on the first reference. Do not force your reader to perform research to understand the meaning of the word. The goal should be to impress the reader through English syntax that easily and persuasively informs the reader. Just as the talented footballer makes the sport seem easy, the skilled legal writer should make reading a pleasure, not a difficult chore.

Persons that learn English as a second language often are overwhelmed by the vast vocabulary. These writers often resort to the thesaurus or Google to locate synonyms to locate what the writer thinks is a good choice. This is a reasonable strategy. However, we suggest that a useful guide is that you use the simpler synonym whenever possible. As suggested in *The Plain English Handbook*,²⁵ "Surround complex ideas with short, common words. For example, use *end* instead of *terminate*, *explain* rather than *elucidate*, and *use* instead of *utilize*. When a shorter, simpler synonym exists, use it." (Italics in original).

²⁵ See, *A Plain English Handbook* at page 31.

The following are examples of simple alternatives to complex words used in the legal and business world:

Complex word	Everyday alternative
Close proximity	near
Consolidate	combine
Convene	meet
Disseminate	send
Necessitate	cause
Promulgate	issue
Remuneration	payment
Commence	start
(it is) Compulsory	(you) must
Endeavor	try

*The Elements of Style*²⁶ cautions writers to avoid fancy words. “Avoid the elaborate, the pretentious, the coy, and the cute. Do not be tempted by a twenty-dollar word when there is a ten-center handy, ready and able.” You are not writing to show off the extent of your vocabulary. Instead, impress your audience by how well you can convey your message in understandable terms. Be respectful of their time. In sum, when you write, follow Warren Buffett’s sage advice. Do not use words that you would not use when engaged in every day discussions with family and friends. You will find that you do not need a huge English vocabulary to write effectively.²⁷ U.S. Supreme Court Justice Benjamin Cardozo, one of America’s great jurists, proved just how effective simple, everyday English can be used in his famous *Palsgraf* opinion.²⁸ Educated at Ivy League Columbia University, Justice Cardozo showed off his high-priced private education by writing simply and clearly, imparting his messages in a fashion his readers could easily comprehend. We can all learn valuable lessons in writing from Justice Cardozo.

²⁶ See fn. 14, *supra*, at page 73.

²⁷ An excellent reference source is *The A – Z of alternative words*. This source can be accessed at www.plainenglish.co.uk. This site provides hundreds of plain English alternatives “to the pompous words and phrases that litter official writing.” As stated in the introduction to this source, “on its own the guide won’t teach you how to write in plain English. There’s more to it than just replacing ‘hard’ words with ‘easy’ words, and many of these alternatives won’t work in every situation. But it will help if you want to get rid of words like ‘notwithstanding’, ‘expeditiously’ and phrases like ‘in the majority of instances’ and ‘at this moment in time’. And using everyday words is an important first step towards clearer writing.” ²⁸ See fn. 25, *supra*.

2.5.4 Omit Superfluous Words

Omit unneeded words. Words are superfluous when they can be replaced with fewer words that mean the same thing. The following useful list is taken from *A Plain English Handbook*, discussed earlier:²⁸

Superfluous words	Single word alternative
In order to	to
In the event that	if
Subsequent to	after
Prior to	before
Despite the fact that	although
Because of the fact that	because, since
In light of	because, since
Owing to the fact that	because, since
In the absence of	without
In the near future	soon
In view of the fact that	as/because
On numerous occasions	often

Be considerate of your reader's time. Consider the following word choices. "An exact replication of the Power of Attorney is annexed hereto and incorporated by this reference as if fully restated herein." This is a classic example of legal jargon. Is it not more concise and clear to simply state, "A copy of the Power of Attorney is attached." Legalese states in twenty-one words what can more clearly be stated in nine. Consider the following in a client status letter. "After having performed considerable legal research, I was able to ascertain that your legal claim is almost certainly precluded under the doctrine known as *res judicata*." A clearer, more concise way of stating this would be as follows. "The court will likely not allow your claim because of *res judicata*, a Latin term which means it already had been litigated in an earlier case."

2.5.5 Omit Doublets and Triplets

Another peculiarity of English, and which adds to confusion and wordiness, is its use of what is known as doublets and triplets. Doublets are two synonyms used together while triplets are three synonyms used together. Historically, doublets and triplets have been used in legal writing, adding to the problem with legalese.

²⁸ See, *A Plain English Handbook* at page 25.

However, it is not only legal writing that is weighed down with this linguistic style as doublets and triplets are used in ordinary writing as well.²⁹ Alliteration is a literary device in which a series of words begin with the same consonant sound. This device is used to emphasize something important that a writer or speaker would like to express. In the business world, companies make effective use of alliteration so that the public will remember their names. For example, Bed Bath & Beyond, Lulu Lemon, Chuck E. Cheese. Doublets are often found in ordinary English writing. Common examples include ‘fame and fortune,’ ‘part and parcel,’ ‘safe and sound.’

Although this particular form of wordiness is not constrained to legal writing, traditionally it has plagued legal English and has contributed greatly to the overall problem of legalese. Some claim the problem dates to 1066 and William the Conqueror.³⁰ The following is a particularly egregious example. “The Lessee covenants with the Lessor to observe and perform the terms, covenants and conditions contained in the Land Use Right and on the Lessor’s part to be observed and performed in the same manner in all respects as if those terms, covenants and conditions, with such modifications only as may be necessary to make them applicable to this Lease, had been repeated in full Lease as terms covenants and conditions binding on the lessee in favour of the Lessor.” In addition to the triplet used above, terms, covenants and conditions, the following is a list of some of the more common legal doublets, together with the single word that can be used in their place to simplify and clarify your English legal writing:

Doublet	single word
Cease and desist	stop
Covenant and agree	agree
Deem and consider	consider
Due and payable	to be paid
Fit and proper	legitimate/fit
Null and void	void
Part and parcel	part of
Perform and discharge	to do
Signed and sealed	signed
Sole and exclusive	exclusive rights
Terms and conditions	terms
Will and testament	will

²⁹ For a detailed discussion of doublets and triplets see Hovels, Jens Peters. *Characteristics of English Legal Language* (2006); Cao, Deborah. *Translating Law*. Toronto: Multilingual Matters. Ltd. (2007).

³⁰ Myers, Sean. *Confused By Legal Phrases Like “Null and Void”? Thank William the Conqueror*. www.writingcooperative.com

2.5.6 Omit Meta-Discourse

We frequently observe the following needless phrases in both oral discourse and writing. As they fail to add value to the message we are trying to impart to our already busy audience, these so-called throat clearing phrases³¹ or metadiscourse should be eliminated:

- It is important to note that (if it has a home in your writing it is important)
- It should be noted/pointed out that (do you not want your reader to note everything in your article?)
- As previously (already) discussed earlier/above/hereinabove (you said it once)
- As will be discussed hereinbelow (later) in this paper (you will get to it!)
- It is clear that (maybe it's clear to you; leave this up to your reader)

The defendant would respectfully draw the court's attention to the fact that (do not worry, the court will be attentive, but statements such as this detract from your message)

These are examples of flabby sentence openers that attempt to manufacture emphasis but instead just postpone getting to the point. These phrases, and others such as them, are no more than space-fillers that fail to convey meaningful information and waste the reader's time. Eliminate them from your writing and oral discourse.

2.5.7 Use Positive Instead of Negative Words

Using positive instead of negative words or phrases not only strengthens your writing but makes it more concise and easier to understand. Using positive words makes it much more likely the reader will not have to go back and read the sentence a second time due to ambiguities that often result from using negative verbiage. The following examples are taken from *A Plain English Handbook*.³² You will note that the positive, single word alternative replaces the negative phrase, and so has the benefit of using fewer words to express the same meaning.

³¹ See, Linda H. Edwards, *Legal Writing: Process, Analysis and Organization* at 27980 (5th ed. 2010); Veda R. Charrow et. al., *Clear and Effective Writing* at 163–165 (2007).

³² See page 27, *A Plain English Handbook*.

Negative compound	single word
Not able	unable
Not accept	reject
Not certain	uncertain
Not unlike	similar, alike
Does not have	lacks
Does not include	exclude, omits
Not many	few
Not often	rarely
Not the same	different
Not ... unless	only if
Not ... except	only if
Not ... until	only when
Not honest	dishonest
Did not remember	forgot
Did not pay attention to	ignored

Consider the following example that illustrates how much easier it is to understand ideas when positive language is used and negative compounds are omitted. **Before:** persons other than the primary beneficiary may not receive these dividends. **After:** Only the primary beneficiary may receive these dividends.³³ Avoiding negative words and phrases will make your writing more powerful and clear.

2.5.8 Use short sentences

Just as using everyday common words, avoiding jargon, and limiting your use of foreign phrases leads to clear and concise writing, so does using shorter sentences and paragraphs. It is difficult for the reader to grasp the meaning of ideas when the author constantly uses long sentences, especially ones containing complex and negative words. We again do well to follow Warren Buffett's advice. When we speak to our family and friends we usually do not speak in long sentences. Our writing form, whenever possible, should mimic how we talk. The problem with sentences that are routinely too long is that the writer's idea easily can get lost among the verbiage. As a reader, it is frustrating to have to read a sentence a second or third time to figure out what the writer is trying to say.

It is often difficult to explain complicated legal subjects to our audience in writing. This article has offered various tips to assist in the process. Still, the writing process is difficult. Finding the correct words, and then placing them in the correct order,

³³ Example taken from, *A Plain English Handbook*, p. 27.

using correct grammar to express the central idea can at times be overwhelming. Your authors have observed that when editing legal text that is difficult to understand, a common method of making the text easier to understand is to break the original long sentence down into two or occasionally even three new, shorter sentences. Try this when you write and you will be surprised how employing this technique will simplify and clarify your writing.

2.5.9 Use the active voice

In general, it is better to use the active voice whenever possible. While it is not “wrong” to use the passive voice, active voice sentences usually require fewer words, are clearer, more concise, and more powerful. As stated by The Writing Center at the University of Wisconsin - Madison³⁴ “In a sentence written in the active voice, the subject of [the] sentence performs the action. In a sentence written in the passive voice the subject receives the action. **Active:** The candidate believes that Congress must place a ceiling on the budget. **Passive:** It is believed by the candidate that a ceiling must be placed on the budget by Congress. **Active:** Researchers earlier showed that high stress can cause heart attacks. **Passive:** It was earlier demonstrated that heart attacks can be caused by high stress. **Active:** The dog bit the man. **Passive:** The man was bitten by the dog.” On the other hand, there are instances where using the passive voice is not only acceptable but even preferable. This is the case, for example, when the emphasis of the sentence should not be on the actor but rather on what was, is, or will be done. For example, **Passive:** Explosives must be handled with extreme care. **Active:** You must handle explosives with extreme care. **Passive:** Your order for a new mobile phone has been received. **Active:** We have received your order for a new mobile phone.

3 Mastering the articles: when and how to use the, an and a

English has two articles: **the** and **a/an**. Articles are adjectives. Like adjectives, articles modify nouns. Properly using articles is one of the trickiest and most difficult aspects of writing in English. The reason for this difficulty is that many languages do not have articles, and those that do (such as German) apply different usage rules. The Slavic languages do not use articles. For persons that speak a Slavic language as

³⁴ Can be accessed at: www.writing.wisc.edu.

their first language, learning when and how to use English articles is particularly challenging. Indeed, the correct usage of articles is confusing even to native English speakers. We observe both in our teaching English and reviewing written work, that non-native English speakers struggle with when and how to use English articles. Correctly using articles will, therefore, greatly enhance the quality of your written work. Our goal, is to provide the basic rules of how and when to use English articles.³⁵

3.1 General Rules regarding definite and indefinite articles: the, a, an

There are two types of articles: **the** is a definite article while **a** and **an** are indefinite articles. Knowing the two types of articles is the starting point. The following are the general rules of when to use articles. First, place the article before the noun. For example: the judge, the courtroom, the lawyer's theory of the case; or, a lawsuit, a verdict, a judgment. Secondly, place the article before the adjective when the noun is modified by an adjective. For example: the congested docket, the complicated lawsuit, the impressive lawyer, the fair judge; or, a short opening statement, a brilliant closing argument, an open case. Proper placement of the article is important. Accordingly, it is incorrect to state: the docket congested a statement short.

Possessive pronouns are: my, his, her, our, their. Demonstrative pronouns are: this, that. Do not include any article when the nouns have either a possessive or a demonstrative pronoun. For example: my law firm, her brief, that attorney, this motion. Applying this rule, it would be incorrect to state: the my law firm or the this motion.

3.2 Definite Article: the

As stated by the Bracken Business Communications Clinic (BBCC), the following rules apply when using the definite article the.

³⁵ The basic grammar surrounding the use of English articles as discussed in this section is taken largely from a primer prepared by the Bracken Business Communications Clinic (BBCC), Montana State University, <www.montana.edu>. Your authors found this primer particularly helpful because it did an excellent job of simplifying what is a complex topic. However, your authors modified the examples for legal writing, using common legal terminology in place of the everyday examples provided in the BBCC article.

- “Use *the* to identify specific or definite nouns: nouns that represent things, place, ideas of persons that can be identified specifically.
- Use *the* with both singular and plural definite nouns. e.g., the house the houses the business the businesses
- Use *the* to identify things, places, ideas, or persons that represent a specific or definite group or category. E.g., The students in Professor Smith’s class should study harder. The automobile revolutionized travel and industry. (*the automobile* identifies a specific category of transportation)”

3.3 Indefinite Article: *a* or *an*

The BBCC states the following rules regarding the use of the indefinite articles, **a** or **an**.

- “Use *a* or *an* to identify nouns that are not definite and not specific. Think of *a* and *an* as meaning *any* or *one among many*. e.g., a book (any book) a dog (any dog) a cat (one cat) a house (one among many houses) – Use *a* or *an* only for singular nouns.
- Do not use an article for a plural, indefinite noun. Think of a plural, indefinite noun as meaning *all*. e.g., Students should study hard. (All students should study hard.)

When to use *a* and when to use *an*

- Choose when to use *a* or *an* according to the sound of the noun that follow it. E.g., a book a dog.
- Use *a* before a sounded *h*, a long *u*, and *o* with the sound of *m*. e.g., a hat a house a union a uniform a one-hour appointment
- Use *an* before vowel sounds (except long *u*). e.g., an asset an essay an index an onion an umbrella
- Use *an* when *h* is not sounded. e.g., an honor an hour”

Admittedly, mastering the use of English articles is challenging. And that is an understatement. The harsh reality is that native English speakers learn these rules in elementary school. They are drilled into students daily until their use becomes

second nature. When and how to use the articles becomes a matter of what sounds right. The actual rules have long since been forgotten, even to your American author. However, your authors hope that this brief explanation will help with your use of English articles.

4 Edit, edit, edit

We cannot stress enough the important role that disciplined editing plays in crafting clear and concise writing. Once you have prepared a draft of your work, it is a good idea to set the draft aside for at least a day before returning to it. This break will give you time to mentally (and perhaps physically) reset. When reviewing your draft, stay objective. Review the draft as if you were an editor seeing the work for the first time. Ask yourself the following questions. Above all else, are the main contentions of the work clear. Is the work well-organized and easy to follow. Are there redundancies that should be eliminated. Are there words or phrases that can be eliminated because they do not add anything to the work. Have you failed in your initial draft to fully explain or flesh out your arguments? If so, you may well need to add language to the initial draft (we find that providing examples to be useful) in order to ensure your audience will fully understand your contentions. In sum, during the editing process keep in mind that your ultimate goal is to produce a final work product that is clear, concise, complete and correct.

5 Conclusion

Your authors promised to provide modest proposals for improving your legal English composition. Accordingly, this short article does not cover all of the rules of English syntax and grammar. To assist you with those rules we have provided several reference sources which we urge you to refer to when necessary. The primary aim of this article was to identify some of the main culprits that stand in the way of generating solid legal English composition and to provide specific strategies for writing that is clear and concise.

As is true with constructing a building, composing a piece of music or generating art work, the first step in laying the foundation for a solid piece of writing is to conceive a well-designed plan. Preparing an outline is always time well spent. An outline will

help you organize your thoughts and assist you in developing written work product that logically flows and is understandable to your audience.

One of the principal elements of planning is understanding the needs of your particular audience. Your primary objective must be to communicate your message to your audience as clearly, concisely, completely and correctly as possible. This can be a daunting task in legal writing, since the subject matter often is difficult and technical and the competences of your audience will vary, meaning that as the author you will need to tailor your writing from project to project. Whoever the audience, be respectful of their time. Remember, you are not a novelist. You are not writing with a literary flare.

Haste makes waste. Be deliberate in your writing. Your audience will become frustrated if your writing fails to flow logically and if it is too difficult to understand. In many instances you will be more knowledgeable about the subject matter than your reading audience. You may be more highly educated. Do not write in a style that forces your audience to read your work several times in order to understand it. Do not force your audience to keep a dictionary nearby when reading your work. If the written work is written clearly and concisely your audience should be able to peruse your work product and understand it.

Remember Justice Benjamin Cardozo, the Columbia University trained jurist or President Thomas Jefferson. Both highly educated and brilliant men, they managed to dazzle with the crispness and clarity of their writing. Remember, too, the lessons we have learned from other great writers (all intellectuals by the way) such as Warren Buffet, Winston Churchill and John Steinbeck. Use language that your audience can easily relate to. Write in a manner as if you were having an oral conversation with them. Often in legal (or other technical) writing the author cannot avoid some degree of complexity in words chosen. Sometimes it is not possible to use everyday words and to always have short sentences. However, we do urge you to always be mindful of constructing your work in a fashion that is as simple and direct as possible.

Use the more familiar word to the complex and obscure. People usually understand and remember familiar words and may fail to comprehend sophisticated or complex words. Eliminate all superfluous words. The use of doublets and triplets defeats writing in plain English. The use of meta-discourse and other throat clearing

expressions and jargon merely wastes your audience's time and therefore is disrespectful to your reader. Use positive words and eliminate the negative. Remove pronominal adverbs from your writing. Use foreign phrases only when absolutely necessary. Prefer the active voice to the passive and shorter paragraphs and sentences to lengthy ones. Remember the psychology of primacy and recency. Start strong and end strong.

To write in a manner consistent with our recommendations requires discipline. It also requires you to be a ruthless editor and self-critic. It will require you to carefully parse your draft work and weed out the clutter and the ambiguities. Just as travel is fatal to bigotry,³⁶ careful and disciplined editing is fatal to a poor writing style.

Naslov v slovenskem jeziku

Angleščina je težka: skromni predlogi, ki lahko drastično izboljšajo kakovost pravnih angleških besedil

Povzetek v slovenskem jeziku

Priprava pravnih angleških besedil je izziv za vse pisce, še zlasti za tiste, ki jim angleščina ni materni jezik. Zgodovinsko gledano je pravno angleščino tvoril težko razumljiv jezik, poln žargona in tistega, kar je bilo zaničljivo poimenovano pravniški žargon. Gibanje za preprosto angleščino se je trudilo to popraviti, vendar je bila sprememba odnosa in dolgoletnih navad pravne stroke glede učinkovitega pisnega sporazumevanja z našimi ciljnim skupinami zahtevna.

Angleščina je težka. Spletno iskanje o skoraj katerikoli temi bo bralca neizogibno usmerilo na seznane. Na primer deset najboljših hamburgerjev na Manhattnu ali najboljše restavracije s sušijem v Tokiu. Obstajajo tudi sezname tako imenovanih najlažjih in najtežjih jezikov za učenje. Pravzaprav nekatere vlade objavljajo uradne lestvice teh jezikov. Inštitut obrambe za jezik (*Defense Language Institute* – DLI), ki je izobraževalna in raziskovalna ustanova ministrstva za obrambo Združenih držav Amerike, je vzpostavil štiri kategorije jezikov, razvrščenih glede na stopnjo zahtevnosti.³⁷ Tisti v prvi kategoriji se menda najlažje učijo, tisti v četrti pa najtežje. Številni od teh seznamov uvrščajo španščino, francoščino, italijanščino in portugalsščino med tako imenovane najlažje, arabsščina, mandarinščina, kitajščina, japonsščina in korejščina pa so najtežji.³⁸

Objektivno je res, da so nekateri jeziki težji od drugih. Na drugi strani pa je težava pri učenju posameznega jezika, zlasti za nematerne govorce tega jezika, odvisna od množice dejavnikov, kot so prirojeni talent, motivacija, sposobnost rednega ustnega pogovora z drugimi v tem jeziku, učni viri, ki so na voljo, in morda najpomembnejše, kako tesno je jezik, ki se ga posameznik uči, povezan z že naučenimi jeziki.³⁹ Marian na primer trdi, da je relativna preprostost ali težavnost učenja novega jezika

³⁶ Mark Twain, a famous American author and philosopher, famously wrote, "Travel is fatal to prejudice, bigotry, and narrow-mindedness, and many of our people need it sorely on these accounts. Broad, wholesome, charitable views of men and things cannot be acquired vegetating in one little corner of the earth all one's lifetime."

³⁷ Glej spletno stran <www.dlilc.edu>.

³⁸ What are the Hardest Languages to Learn? <www.lingholic.com>.

³⁹ Glej primerjavo zahtevnosti različnih jezikov, Jakub Marian, na <www.jakubmarian.com>.

odvisna od dejavnikov, kot je, ali imata jezik, ki ga že poznamo, in tisti, ki ga preučujete, skupen besednjak, slovnico in izgovorjavo.⁴⁰

Čeprav le malo seznamov uvršča angleščino med jezike, ki jih je težje obvladati, je nedvomno veliko vidikov jezika, ki so izziv. Učenje osnovnega besedišča je verjetno najpomembnejši vidik učenja jezika. Izhodišče mora biti poznavanje pomena besed. Človek mora poznati tudi kritično število besed, da se lahko sporazumeva. Po Oxfordskem angleškem slovarju (*Oxford English Dictionary*) je v angleškem jeziku trenutno v uporabi približno 171.146 besed, skupaj s še 47.156 zastarelimi besedami. Stuart Webb, profesor uporabne lingvistike na Univerzi v Zahodnem Ontariu, je ugotovil, da domači govorci običajno poznajo približno 15.000 do 20.000 besednih družin ali lem v svojem prvem maternem jeziku.⁴¹ Profesor Webb je ugotovil, da se ljudje, ki so študirali jezike, pogosto težko naučijo več kot 2.000 do 3.000 besed tudi po letih študija. Nujno je, da so angleška pravna besedila napisana jasno, jedrnato, popolno in pravilno.

Tako temeljito načrtovanje kot tudi vztrajno urejanje sta bistvena za drastično izboljšanje kakovosti angleškega pravnega pisanja. Eden od glavnih elementov načrtovanja je razumevanje potreb vaše ciljne skupine. Vaš primarni cilj mora biti posredovati svoje sporočilo občinstvu čim bolj jasno, jedrnato, popolno in pravilno. To je lahko zastrašujoča naloga pri pravnem pisanju, saj je tema pogosto težka in tehnična, kompetence vašega občinstva pa se razlikujejo, kar pomeni, da boste morali kot avtor svoje pisanje prilagajati od projekta do projekta. Ne glede na to, kdo je občinstvo, spoštujte njihov čas. Ne pozabite, da niste romanopisec. Ne pišete z literarnim žarom.

Naglica poraja odpadke. Pri pisanju bodite premišljeni. Vaše občinstvo bo razočarano, če vaše pisanje ne teče logično in če je pretežko za razumevanje. V številnih primerih boste o zadevi bolje seznanjeni kot vaše bralsko občinstvo.

Morda ste bolj izobraženi. Ne pišite v slogu, ki vaše občinstvo prisili, da večkrat prebere vaše delo, da bi ga razumelo. Ne silite občinstva, naj ima pri sebi slovar, ko bere vaše delo. Če je pisno delo napisano jasno in jedrnato, mora biti vaše občinstvo sposobno prebrati vaš delovni izdelek in ga razumeti.

Tako kot arhitekti, skladatelji in umetniki morajo tudi avtorji pravnih besedil najprej pripraviti premišljen in organiziran načrt. Predvsem morajo upoštevati specifične potrebe svojih ciljnih skupin. Avtorji naj uporabljajo preprost in neposreden slog, ki omogoča, da je branje njihovega dela užitek in ne trud. To je mogoče doseči z uporabo vsakdanjega jezika in dajanjem prednosti znanim besedam pred zapletenimi in nejasnimi; z dajanjem prednosti kratkim besedam in stavkom pred dolgimi; z dajanjem rednosti aktivnemu glagolskemu načinu pred pasivnim; z izogibanjem tujim frazam, kolikor je to mogoče; z dajanjem prednosti enojnim besedam pred besedičenjem; z dajanjem prednosti pozitivnim besedam pred negativnimi; z odpravljanjem prislovnih zaimkov in drugih ostankov pravniskega žargona; ter z obvladovanjem pravilne uporabe angleških členov. Preprost govor naj prevlada nad težkim jezikom.

Ključne besede v slovenskem jeziku

Pisanje pravnih angleških besedil, preprosta angleščina, jasno in jedrnato pisanje, primat in aktualnost v pravnem angleškem pisanju, urejanje pravnih angleških besedil.

⁴⁰ Prav tam.

⁴¹ Beth Sagar-Fenton in Lizzy McNeill: How many words do you need to speak a language? v: BBC News. 24. junij 2018; <www.bbc.com>.