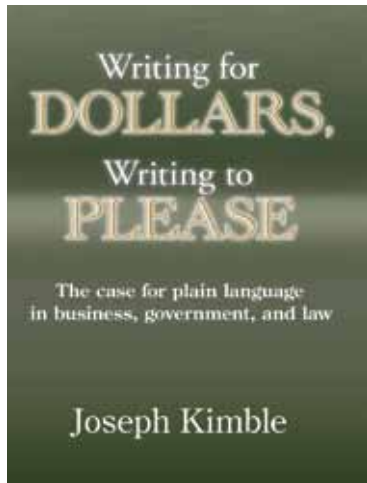


NOTA BENE

BY KATHLEEN DILLON NARKO

Plain Language Pays



Writing in concise, clear English is easier for the reader to understand, whether the reader is your judge, client, or opponent. Legal writing expert, Professor Joseph Kimble, has moved beyond his prior work explaining *how* to write in plain language to *why* plain language pays off. In his new book, *Writing for Dollars, Writing to Please* (Carolina Academic Press 2012), Kimble sets to rest arguments against using plain language and has assembled 50 empirical studies that show readers prefer plain language, and how plain language “can save organizations a

ton of money.” While many books (and bar journal columns) stress how to write better, Kimble’s book gives those who care about good writing the backup they need. Plain language sells better to courts and clients and can save us all a ton of money.

What is plain language?

Plain language is writing clearly and concisely, favoring simpler, shorter sentences and words over the impenetrable “fog” of legalese. Kimble opens the book with six pages of guidelines explaining the elements of plain language. His first recommendation lays the foundation: “As the starting point and at every point, design and write the document in a way that best serves the readers. Your main goal is to convey your ideas with the greatest possible clarity.” His guidelines include document design tips, organization, sentences, and word choice. Readers should also consult Kimble’s prior book, *Lifting the Fog of Legalese: Essays on Plain Language* (Carolina Academic Press 2006), for more detail.

Why should lawyers use plain language?

Everyone, especially lawyers, should use plain language because (i) it saves time and

Kimble sums up the logic behind using plain language:

To most people, the benefits of plain language are intuitive. If readers understand plain language better, then no doubt they’ll like it better than the dense, impersonal prose of most public and legal documents. And because they understand it better, they’ll make fewer mistakes in dealing with it, have fewer questions, and ultimately save time and money – for themselves and for the writer’s company or agency.

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

money, and (ii) readers like it.

Plain language pays

In a book about writing, one expects to focus first on how writers perform their usual job—to communicate and persuade. Not Kimble. He focuses first on how plain language will save a lot of money and time. The numbers are astounding.

Some examples:

- The Cleveland clinic saved \$1 million a month after simplifying its billing statement. They experienced an 80% increase in patient payments.
- A Canadian bank changed its forms to plain language documents. It found improved employee productivity, decreased employee errors, and increased employee satisfaction (by 61.2%). The consultants who revised the documents estimated that the bank could earn a return of Can\$3.5 million to 15.2 million over three years (over \$17 for every \$1 spent).

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This success can translate to law firms. In Australia, where Kimble describes marketing based on plain language has become “mainstream,” firms have reported great success in obtaining new clients.

It makes sense to apply the reasoning from the studies described to law firms and their clients. Non-lawyers are more comfortable with plain language than legalese. It takes them less time to read plain language, they understand it better, and they follow directions better. Clients are happy because they can skip the follow-up phone call to clarify their lawyer’s advice. And lawyers are happy because clients will understand it and heed the legal advice.

Plain language pleases readers

Every lawyer seeks to please and persuade his or her reader. Some might argue that readers expect legalese in legal communications, that lawyers show their expertise by using “heretofore,” “supra,” and “further affiant sayeth naught.” Kimble debunks that notion, along with nine other “myths” about plain language. “Regardless of what readers may expect in legal and official documents, they certainly prefer plain

language,” he writes.

Kimble goes on to show in study after study, that judges, attorneys, and the general public react negatively to legalese.

- Of nearly 1500 judges surveyed, over 80% consistently preferred plain language paragraphs from various legal documents over paragraphs written in traditional legal style. The judges liked plain language paragraphs using shorter sentences, lists, and avoiding redundant phrases.
- In another study, nearly 300 judges across the U.S. reviewed alternate versions of a response to a motion. The judges resoundingly picked the plain language version, which was shorter, used a list to identify the four reasons why the court should deny the motion, contained shorter sentences on average, and had a cleaner visual design.

Kimble makes his point: Lawyers persuade more judges with plain language.

Lawyers also need to communicate with their clients. There are many logical reasons plain language is better for reaching clients. Clients want and need to understand their

attorneys’ advice. Concise client letters convey information quickly. Moreover, if a business client must implement a new, attorney-drafted policy, the company and its employees need to understand the language easily. All this makes sense intuitively, but Kimble proves it is true through numerous empirical studies.

At Northwestern University, for example, researchers simplified the text and icons used in prescription-medication warning labels from “You should avoid prolonged or excessive exposure to direct and/or artificial sunlight while taking this medication” to “Limit your time in the sun.” Over 90% of patients surveyed correctly interpreted the simplified warnings with new icons. Only 79% correctly interpreted the old warnings. Kimble cites numerous additional studies showing that the general public prefers plain language in statutes, regulations, tax forms, and ballot instructions.

By following Kimble’s admonition to write in plain language, readers will understand what you write and are more likely to react the way you want them to. And that’s worth a lot! ■

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