

role can—and often should—go beyond “shuttle diplomacy.” These stories talk of transformation in the mediation process. Transformation involves a change in the parties and their positions and can broaden the parties’ perspectives, open up possibilities, teach the parties the skills of resolving conflict, stem further harm from the litigation process itself, and encourage healing. As the editors explain, “Collectively, these stories are a tribute as to how impactful mediation can be.”

As a litigator and mediator, I have experienced parties and their attorneys who think that their mere presence at the mediation is all that is required to constitute good-faith participation, and they adamantly refuse to become engaged in the process. Mediation is not just a speed bump on the way to the courthouse. *Stories Mediators Tell* certainly will appeal to the mediators, but it is an invaluable opportunity for litigators to appreciate the mediation process and what it can accomplish for clients—which might be what the litigator never could accomplish in the courtroom.

The editors state: “The book celebrates the power and potential of mediation, which is fueled by the careful and skillful work of mediators.” As mediators, we must always be cognizant of the power that exists in the mediation process and use it wisely. With that in mind, all of the stories in *Stories Mediators Tell* were insightful.

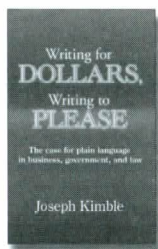
---

### *Writing for Dollars, Writing to Please: The Case for Plain Language in Business, Government, and Law*

by Joseph Kimble  
167 pp.; \$23  
Carolina Academic Press, 2012  
700 Kent St., Durham, NC 27701  
(919) 489-7486; www.cup-press.com

#### *Reviewed by Mark Cohen*

Mark Cohen focuses his practice on drafting and reviewing documents, and litigating business, IP, and real estate disputes. Cohen is the 2012–13 Chair of *The Colorado Lawyer Board*—(303) 546-7937, mark@cohenslaw.com.



We know “legalese” when we see it. Many of us know there is a movement that seeks to reduce legalese and replace it with plain language. This is known as the “plain language movement” or the “plain English movement.”

Joseph Kimble’s book is exactly what it claims to be—a case for plain language in business, government, and law. Kimble knows his topic. He teaches legal writing at Thomas Cooley Law School and led the work of redrafting the Federal Rules of Civil Procedure and the Federal Rules of Evidence.

Kimble begins with a brief story of his journey from unquestioning law student to fierce advocate for simplicity and clarity in

legal writing. He explains elements of plain language, listing several general principles, as well as principles of design, organization, sentence construction, and choice of words. For example, one general principle is to “resist the urge to sound formal.” One design principle is to create a table of contents for long documents. One organizational principle is to break up long paragraphs, striving to keep most paragraphs under six sentences. As for sentences themselves, Kimble encourages short sentences, suggesting that the average sentence contain no more than twenty words. When choosing words, Kimble stresses the importance of choosing familiar words and never using a long word when a shorter one will do.

Kimble’s discussion of the elements of plain language is not the most comprehensive discussion available. There are other resources that provide more detailed discussions and include more examples. These include *Plain English for Lawyers*, by Richard Wydick, and *Legal Writing in Plain English*, by Bryan Garner. The Securities and Exchange Commission also offers *A Plain English Handbook*, which readers can download free of charge at [www.sec.gov/pdf/handbook.pdf](http://www.sec.gov/pdf/handbook.pdf).

However, as the title suggests, Kimble did not just set out to explain what plain language is. He also wanted to demonstrate the importance of plain language in business, government, and law (to which I would add academia, science, and medicine). The book is oriented toward lawyers, and like the lawyer he is, Kimble identifies many common criticisms of plain language and does his best to answer each one. For instance, one frequent criticism is the claim that the use of plain language will result in less work and less prestige for lawyers. Kimble counters that plain language can give lawyers a competitive edge and a way to distinguish themselves through the clarity of their communications.

After answering some common criticisms of plain language, Kimble offers some historical perspective. This is a detailed chronological discussion of the emergence of the plain language movement during the 20th century, with many references to key articles, documents, statutes, organizations, and events. Although this section contains a wealth of information, I wish Kimble had devoted more effort to explaining how legalese became so prevalent in the first place.

Kimble concludes with a discussion of the extraordinary benefits of using plain language. He lists and briefly discusses fifty studies and reports demonstrating that plain language can save organizations money and that readers (including judges) strongly prefer plain language.

Kimble does not merely offer opinions. His book includes hundreds of footnotes with citations to important articles and resources for those interested in plain language. There is a treasure trove of information in these notes, and I plan to obtain copies of several of the articles he cites.

The book is readable and well organized. Kimble’s list of the elements of plain language would be useful for any lawyer. For lawyers interested in more than the basics of plain language, this book is a wonderful resource, and the \$23 price is reasonable. ■

