

# Plain English for Lawyers



# Plain English for Lawyers

FIFTH EDITION

Richard C. Wydick

EMERITUS PROFESSOR OF LAW  
UNIVERSITY OF CALIFORNIA, DAVIS

CAROLINA ACADEMIC PRESS  
Durham, North Carolina

Copyright © 2005 Richard C. Wydick  
All Rights Reserved

**Library of Congress Cataloging-in-Publication Data**

Wydick, Richard C.  
Plain English for lawyers / by Richard C. Wydick. -- 5th ed.  
p. cm.  
Includes bibliographical references and index.  
ISBN 1-59460-151-8 (alk. paper)  
1. Legal composition. I. Title.

KF250.W9 2005  
808'.06634--dc22  
2005016369

**CAROLINA ACADEMIC PRESS**  
700 Kent Street  
Durham, North Carolina 27701  
Telephone (919) 489-7486  
Fax (919) 493-5668  
[www.cap-press.com](http://www.cap-press.com)

Printed in the United States of America

*To JJW, with love*



# Contents

	Preface and Acknowledgments	xi
<b>Chapter 1</b>	<b>Why Plain English?</b>	3
<b>Chapter 2</b>	<b>Omit Surplus Words</b>	7
	How to Spot Bad Construction	7
	Avoid Compound Constructions	11
	Avoid Word-Wasting Idioms	13
	Focus on the Actor, the Action, and the Object	15
	Do Not Use Redundant Legal Phrases	17
<b>Chapter 3</b>	<b>Use Base Verbs, Not Nominalizations</b>	23
<b>Chapter 4</b>	<b>Prefer the Active Voice</b>	27
	The Difference Between Active and Passive Voice	27
	The Passive Can Create Ambiguity	30
<b>Chapter 5</b>	<b>Use Short Sentences</b>	33
<b>Chapter 6</b>	<b>Arrange Your Words with Care</b>	41
	Avoid Wide Gaps Between the Subject, the Verb, and the Object	41
	Put Conditions and Exceptions Where They Are Clear and Easy to Read	44
	When Necessary, Make a List	45
	Put Modifying Words Close to What They Modify	47

	Avoid Nested Modifiers	50
	Clarify the Reach of Modifiers	51
<b>Chapter 7</b>	<b>Choose Your Words with Care</b>	<b>55</b>
	Use Concrete Words	56
	Use Familiar Words	57
	Do Not Use Lawyerisms	58
	Avoid Shotgunning	61
	In Rule Drafting, Prefer the Singular Number and the Present Tense	62
	Use Words of Authority with Care	63
<b>Chapter 8</b>	<b>Avoid Language Quirks</b>	<b>69</b>
	Avoid Elegant Variation	69
	Avoid Noun Chains	71
	Avoid Multiple Negatives	71
	Avoid Cosmic Detachment	72
	Use Strong Nouns and Verbs	73
	Avoid Sexist Language	74
<b>Chapter 9</b>	<b>Punctuate Carefully</b>	<b>81</b>
	How Punctuation Developed	81
	Lawyers' Distrust of Punctuation	82
	Punctuate Carefully	83
	Definition of Terms	84
	Commas	85
	Semicolons	90
	Colons	92
	Dashes	93
	Parentheses	94
	Apostrophes	95
	Hyphens	97
	Periods, Question Marks, and Exclamation Points	99
	Quotations	101



Appendix: Reader's Exercise Key	109
Index and Lawyer's Word Guide	121



## Preface and Acknowledgments

The first edition of *Plain English for Lawyers* was a revised version of an article that appeared in 66 *California Law Review* 727, published by the students of the University of California, Berkeley, School of Law, copyright 1978, by the California Law Review, Inc.

Many of the changes made in subsequent editions reflect the ideas, writings, and suggestions made by others who toil in the field of legal writing. My debts to them are so many that to acknowledge all of them properly in footnotes or endnotes would distract the reader—a sin that all of us in the field preach against. Thus, let me here thank my scholarly creditors including the following: Kenneth Adams, Mark Adler, Robert Benson, Norman Brand, Robert Chaim, Robert Charrow, Veda Charrow, Martin Cutts, Robert Eagleson, J.M. Foers, Bryan Garner, Tom Goldstein, George Hathaway, Margaret Johns, Joseph Kimble, Philip Knight, Jethro Lieberman, Ray Parnas, Janice Redish, Peter Tiersma, Richard Thomas, and Garth Thornton. Thanks also to Keltie Jones for her fine work on the punctuation chapter.

I owe special thanks to David Mellinkoff, who died on the last day of the 20th century. He was educated at Stanford University and Harvard Law School. After serving as an artillery officer in World War II, he became a successful practicing lawyer in Beverly Hills and later a beloved law professor at UCLA. All of us in the field of legal writing have benefitted from his careful scholarship and wise guidance expressed in *The Language of the Law* (1963), *Legal Writing:*

*Sense & Nonsense* (1982), and *Mellinkoff's Dictionary of American Legal Usage* (1992).

Richard C. Wydick  
Davis, California  
June 2005