

Plain English for Lawyers

Plain English for Lawyers

SIXTH EDITION

Richard C. Wydick

LATE OF UC DAVIS SCHOOL OF LAW

Amy E. Sloan

PROFESSOR OF LAW AT UNIVERSITY
OF BALTIMORE SCHOOL OF LAW

CAROLINA ACADEMIC PRESS
Durham, North Carolina

Copyright © 2019
Carolina Academic Press, LLC
All Rights Reserved

Library of Congress Cataloging-in-Publication Data

Names: Wydick, Richard C., author. | Sloan, Amy E., 1964– author.
Title: Plain English for lawyers / Richard C. Wydick and Amy E. Sloan.
Description: Sixth edition. | Durham, North Carolina : Carolina Academic
Press, LLC, [2019] | Includes bibliographical references and index.
Identifiers: LCCN 2018047427 | ISBN 9781531006990 (alk. paper)
Subjects: LCSH: Legal composition.
Classification: LCC KF250 .W9 2019 | DDC 808.06/634—dc23
LC record available at <https://lcn.loc.gov/2018047427>

e-ISBN 978-1-5310-0700-3

Carolina Academic Press, LLC
700 Kent Street
Durham, North Carolina 27701
Telephone (919) 489-7486
Fax (919) 493-5668
www.cap-press.com

Printed in the United States of America

R.C.W.

To JJW, with love

A.E.S.

To MM, ACMS, and JWMS, with love

Contents

	Preface and Acknowledgments, Sixth Edition	xi
	Preface and Acknowledgments, Fifth Edition	xiii
CHAPTER 1	Why Plain English?	3
CHAPTER 2	Omit Surplus Words	7
	How to Spot Bad Construction	7
	Avoid Compound Constructions	11
	Avoid Word-Wasting Expressions	13
	Avoid <i>It is</i> Sentences	16
	Avoid Redundant Legal Phrases	18
CHAPTER 3	Use Verbs to Express Action	23
CHAPTER 4	Prefer the Active Voice	27
	The Difference Between Active and Passive Voice	27
	Problems with the Passive Voice	29
	When to Use the Passive Voice	30
CHAPTER 5	Use Short Sentences	33
CHAPTER 6	Arrange Your Words Carefully	39
	Avoid Wide Gaps Between the Subject, the Verb, and the Object	39
	Put Conditions and Exceptions Where They Are Clear and Easy to Read	42

	When Necessary, Make a List	43
	Put Modifying Words Close to What They Modify	46
	Avoid Noun Chains	50
	Avoid Nested Modifiers	50
	Clarify the Reach of Modifiers	52
CHAPTER 7	Choose Your Words Carefully	55
	Use Concrete Words	56
	Use Familiar Words	59
	Use Gender-Neutral Words	59
	Use Strong Nouns and Verbs to Persuade	61
	Avoid Empty Lawyerisms	64
	Avoid Multiple Negatives	66
	Avoid Distracting Words and Syntax	67
CHAPTER 8	Use Commas Carefully	71
	Definitions of Terms	72
	Comma Usage	74
	Use a Comma to Connect Two Independent Clauses With a Conjunction	74
	Use a Comma After an Introductory Element	76
	Use Commas to Set Off Nonessential Elements from the Rest of the Sentence	77
	Use Commas to Separate Items in a Series	81
	Use Commas to Set Off Dates, Titles, Geographic Names, and Short Quotations	83
CHAPTER 9	Use Other Punctuation Marks Carefully	87
	Periods, Question Marks, and Exclamation Points	88
	Semicolons	89
	Colons	92
	Parentheses	94
	Dashes	96
	Hyphens	98
	Apostrophes	100

CHAPTER 10	Use Easy-to-Read Design Techniques	105
	Choose a Legible Font	107
	Use the Right Amount of Space to Separate Words and Lines	109
	Use Generous Page Margins	110
	Use Visual Clues to Orient the Reader Within the Text	111
	Use Lists and Tables	113
	Special Considerations for Email	115
APPENDIX	Reader's Exercise Key	119
	Chapter Endnotes	145
	Index	155

Preface and Acknowledgments, Sixth Edition

Richard Wydick made *Plain English for Lawyers* a classic book for teaching clear legal writing. Professor Wydick passed away in 2016. I am honored to have the opportunity to revise and update the book.

My goal with the sixth edition is to continue Professor Wydick's vision of offering a concise, practical guide to clear legal writing. This edition retains the earlier editions' essential character. Readers familiar with the book will find that its structure and approach are similar to those of earlier editions—with some timely changes to keep it relevant to the writing challenges lawyers and law students face today. Those readers new to the book will find that it contains practical advice and exercises, making it an excellent choice as an instructional text, writing supplement, or resource for self-directed efforts to improve your writing.

Classic features, including chapters on omitting surplus words, using verbs to express action, and favoring active voice, remain in the book. Material from earlier editions on word choice and language quirks has been reorganized and updated. Although the techniques covered in the book apply in almost any writing context, the book has less emphasis on strategies uniquely suited to transactional or legislative drafting. The material on punctuation has been divided into two chapters, and a new chapter on document design has been added.

Each chapter contains a mix of time-tested and new exercises students can use for self-assessment by comparing their answers with the answer key in the book's Appendix. The chapters on punctuation include short exercises for each rule addressed, along with a comprehensive exercise at the end of each chapter.

Clear writing is a skill that can be learned. It isn't easy, but with instruction and practice, anyone can learn to be a better writer. *Plain English for Lawyers* is a tool for learning and practicing techniques for clear legal writing.

The sixth edition would not have been possible without the help of many people. I am indebted to Eric Easton, Dionne Koller, Kathleen Elliott Vinson, Ruth Anne Robbins, Derek Kiernan-Johnson, and James Beslity for comments on the manuscript. Linda Edwards deserves special thanks for her valuable contributions to the organization and content of the sixth edition. My library colleagues at the University of Baltimore School of Law, especially Adeen Postar and Joanne Colvin, helped me locate source material. Genevieve Hornik provided research support. I want to recognize Dean Ronald Weich and the University of Baltimore School of Law for generous support of this project. Many people at Carolina Academic Press were instrumental in the revision, including Keith Sipe, Carol McGeehan, Linda Lacy, Jennifer Hill, and Elizabeth Ebben. My family was the source of ongoing encouragement and inspiration.

Most especially, I would like to thank the Wydick family, particularly Professor Bruce Wydick, for the opportunity to work on the book and the support they gave me.

Amy E. Sloan
January 2019

Preface and Acknowledgments, Fifth Edition

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