

# Plain Language: What's Happening Today

## Carol Ann Wilson



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It's been some time since I updated you on what's happening in the world of Plain Language. Legal Secretaries International Inc. adopted a resolution in 1997 at its annual meeting in Portland,

Oregon, that *"We support the use of plain language in legal documents."* So some of us are doing our part, but we can do more, including being aware of what is happening today. The blissfully simple concept of plain language is creeping into the lives of lawyers, legislators, and laymen, but slowly.

Representative Bruce Braley (D-Iowa) has spearheaded the Plain Language in Government Communications Act (H.R. 3548), which mandates the use of plain language on government forms, benefit applications, reports, and other documents, but not regulations. With bipartisan support he shepherded it through the House on April 14, 2008, passing **376-1!** (I don't even want to know who that ONE was.)

Senator Daniel Akaka (D-Hawaii) sponsored the legislation in the Senate, as S. 2291: Plain Language in Government Communications Act of 2007. It sits there, waiting for action, as it was stalled in September by Utah Senator Robert Bennett, aided by Iowa Senator Charles Grassley, both Republicans. What's there to be partisan about when it comes to plain language? Methinks it's a matter of educating the legislating. I hope that you, your family, and your friends will urge your senators to get that bill passed. This article will highlight a few of the reasons.

American citizens should be able to understand loan documents, tax forms, applications for benefits and things like college aid. Any government can learn about plain language by reading the Plain English Handbook published by the Securities and Exchange Commission or the Federal Plain English Guidelines. "We need to do a lot of education about effective communication," Braley said, adding that "in the past, that has not been a priority in how the federal government does its work."

Why would the bill not apply to federal regulations, which are notorious for using gobbledegook and impossible-to-understand language? I believe it's because of the lobbying in Congress and at the White House, with confusion being the goal in many instances.

Senator Akaka said that "filling out government forms should not be like solving a complex crossword puzzle," and that senior citizens, veterans, and taxpayers should be able to understand public documents. Who could disagree?

Efforts have been underway for many years, and it reminds me of India pushing up the Himalayas. It's *s-l-o-w*. President Clinton's administration made headway, the SEC has helped and continues to do so, and organizations like PLAIN ([www.plainlanguagenetwork.org](http://www.plainlanguagenetwork.org)), Plain Language Commission ([www.clearest.co.uk](http://www.clearest.co.uk)), Michigan's Joseph Kimble, Australia's Peter Butt ([www.plainlanguage.org](http://www.plainlanguage.org)) and others around the globe continue to pursue the commitment to conciseness.

MasterCard Canada has partnered with the Financial Consumer Agency of Canada to design a new credit application form without the legalese so consumers can understand how interest rates balloon if they don't pay their bills. Does anybody doubt that most customers

don't read the information in dense, fine print? In a survey using focus groups from households earning less than \$60,000, the plain-language application was preferred over the traditional form. They liked the simple language, the readable font size, and the uncluttered layout—all attributes of plain language principles. Most even said that they learned information they had not known, despite years of credit card use. Perhaps the banking industry will get on board.

The Florida city of Tallahassee has published its annual report in a four-page clear format that shows where the city's dollars have been spent ([www.talgov.com/auditing/pdf/citizenreportt2007.pdf](http://www.talgov.com/auditing/pdf/citizenreportt2007.pdf)).

A young lawyer named John G. Browning writes for *The Southeast Texas Record* ([www.setexasrecord.com/arguments/201125-legally-speaking](http://www.setexasrecord.com/arguments/201125-legally-speaking)) in Beaumont, and he makes this excellent point: "In legalese, when you 'execute' a document you bring it into existence; with a convicted criminal, you're doing the exact opposite." He describes legalese as "an unnecessary barrier between lawyers and the rest of society." I'd like to share a couple of his examples:

(1) A Connecticut jury instruction reads "A superseding cause is any force which, by its intervention in the sequence of events from the defendant's negligence to the plaintiff's injury, legally prevents the defendant from being held liable for the injury even though his negligence has been a substantial part in bringing the injury about. To establish that a third person's intervening act was not a superseding cause of an injury, the plaintiff must therefore prove at least one of the following facts: first, that the third person's intervening conduct was not a legal cause of the injury; second, that such conduct was not intentionally harmful; and/or third, that the injury was not outside the scope of the risk created by the defendant's negligence." [Now, be honest: did you really read all that???

*Translation:* Even if the defendant behaved carelessly, you can't hold him liable if the plaintiff's injury was really caused by the

harmful act of another person. With jury instructions like these, no wonder that they called the movie *Twelve Angry Men*.

(2) A publishing contract provides the following: "For services rendered and to be rendered, it is agreed between the Author and the Author's agent that the Author does hereby irrevocably assign and transfer to said agent and agent shall retain for the life of the Work a sum equal to fifteen percent (15percent) as an agency coupled with an interest of the gross monies accruing to the account of the Author per the Agreement and any subsequent agreements for the life of the Work in all its editions, revisions and adaptations, prior to deductions from or charges against such monies for any reason whatsoever."

*Translation:* We will deduct a 15 percent commission for your agent.

What can you do? Employ plain language principles in your documents. Look for ways to make your documents easy on the reader—which includes concise terms, short sentences, lists, white space, readable fonts (try 13 instead of 12 and see how much easier it is to read!), and even things like not making a letter run over to two pages when you can fit it onto one!

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Carol Ann Wilson lives in Houston and is trying to be retired, but she spends a lot of her time helping lawyers to write better. She authored *Plain Language Pleadings* (Prentice Hall 1996).