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Making the Pen Mightier than the Sword

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Great lawyers seek the highest level of writing competence

There are two—and only two—major skills you need as a lawyer: people skills and writing skills. If you have them, you’re pretty well assured of success in the legal profession. Although some who excel in people skills don’t write well, it’s all but impossible to write well if you don’t understand people. They’re your readers, after all, and you must think about them constantly when you write. Understanding readers is, in legal terms, a condition precedent to good writing.

If you doubt that, consider for a moment the two or three most irritating e-mail messages (apart from spam) you’ve received lately. Now think about the writers of those messages. They have irritating personalities, don’t they? That’s because irksome people write irksome e-mail messages and letters. They probably don’t understand themselves very well—much less their readers.

No one wants to be that type of person or that type of writer. But that’s where anyone might end up who doesn’t toil at honing these all-important skills. Let’s focus on how you can sharpen them.

The American psychologist Abraham Maslow developed a four-stage analysis of how people master a skill:

- First comes “unconscious incompetence”: you have no idea how little you know, and what you don’t know doesn’t faze you.
- Second comes “conscious incompetence”: you’ve learned enough to sense how little you really know, and this incompetence has begun to bother you.
- Third comes “conscious competence”: you’ve learned a good deal and you’re getting the hang of it, but you have to concentrate to get it right.
- Then, finally, comes “unconscious competence”: your skill has become a matter of habit, and you do it well without thinking about technique.

Maslow’s categories apply quite well to legal writers. Consider what each type is like.

Unconsciously incompetent (UI) writers. These are the people who think they know the rules but never bother checking up on their “knowledge.” They’re fond of saying things like this: “You shouldn’t split a verb phrase with an adverb,” “You can’t have a one-sentence paragraph.” “It’s bad grammar to begin a sentence with but.” “I’m concerned with substance, not with style.”

They like phrases such as above-referenced cause, as per, enclosed please find, and pursuant to. They think they learned how to write well in high school, and many of them have grown fond of legalese. These writers are clueless about their own cluelessness. They’re not stupid—they’re just self-deluded.

Consciously incompetent (CI) writers. As you might suspect, relatively few legal writers are in this category because they either repress their awareness (reverting to unconscious incompetence) or work to remedy their deficiencies (progressing to conscious competence). Writers in this category may say things like this: “I don’t know grammar very well.” “I’m not nearly as good a writer as my colleagues.” But not many lawyers own up in these ways. Also, this is a maddening phase because you feel uncertain about how to improve.
Consciously competent (CC) writers. These are the ones who trouble themselves to find out what respected authorities say about writing. They don’t leave readily answerable questions unanswered. They’ll be heard saying things like this: “Although the AP Stylebook rejects the consistent use of the serial comma, I looked and found that all the other punctuation authorities, including The Chicago Manual of Style, favor its uniform use.” “According to Bernstein, careful writers don’t use fortuitous as a synonym for fortunate.” “What’s your authority for stigmatizing split infinitives?” These writers have intellectual curiosity, and they know where to find reliable answers. The Chicago Manual of Style is always on their desk, and Theodore Bernstein is a household name.

Unconsciously competent (UC) writers. These writers have passed through the stage of conscious competence. They have integrated their years of learning so thoroughly into their writing that their accumulated knowledge is like muscle memory. They would never think of writing Enclosed please find. In fact, they’d be embarrassed if someone suggested it. If they’re litigators, they’ve learned to torpedo obvious counterarguments before their adversaries have a chance to write about them. If they’re transactional lawyers, they’ve long since learned to avoid the phrase provided that because it typifies poor drafting and causes needless ambiguities and therefore needless litigation.

While thinking through this column, I sat on an airplane next to Evan Tager, an appellate lawyer who’s a partner at Mayer Brown & Platt in Washington, D.C. By any measure, he’s a successful legal writer. After telling him about Maslow’s categories, I asked him how he’d assess the bar as a whole. His answers:

UI: 65%
CI: 22%
CC: 14.8%
UC: 0.2%

The next day, I taught a seminar in Washington at Swidler & Berlin. I asked the lawyers—a mix of partners and associates—how they’d assess the bar as a whole. Their cumulative answers:

UI: 56%
CI: 22%
CC: 15%
UC: 7%

The day after that, in a Boston seminar, the lawyers at Ropes & Gray—again partners and associates—gave virtually identical answers.

That’s enough surveying to satisfy me (as if I weren’t already convinced) that something is seriously amiss in our literary profession. Remedying the problem will require monumental efforts by thousands of people. Then again, maybe most would be happier simply to repress the thought.

The keys to moving toward competence are fourfold: (1) do lots of writing regularly over many, many years; (2) teach yourself everything you can by closely analyzing how good writers do what they do; (3) learn as much as you can by reading good books about writing techniques; and (4) be as self-critical as you can stand being (but no more).

You must think about your readers constantly when you write.

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Legal Writing

Avoid genteelisms, officialese, and commercialese

Most of us need to work hard at being plain-spoken. Oddly, achieving a natural style takes a lot of effort because of an unconscious tendency toward verbal inflation. When it comes to word choice, we should follow the advice of the revered brothers Fowler, who in their 1906 book *The King’s English* advised: prefer simple words over fancy ones (*house*, not *residence*), concrete words over abstract ones (*pay*, not *remuneration* or *recompense*), short words over long ones (*end* or *fire* over *terminate*).

Three related linguistic viruses discourage plain-spokenness: (1) genteelisms—words and phrases by which insecure people try to raise their social status; (2) officialese—language that many people consider “official-sounding”; and (3) commercialese—language that is commonly found in formulaic business correspondence. The *-ese* suffix found in *officialese* and *commercialese*, as in *legalise*, denotes a caricatured literary style. Other types include academese and journalism. But officialese and commercialese, together with genteelisms, make up a peculiar overlay for lawyers’ language.

Genteelisms move us into the realm of sociolinguistics. They’re a linguistic phenomenon that correlates to social class. You see, sociolinguists have long known that social insecurity leads people to inflate their word choice, as if doing so might enhance their social position. They feel more “professional.” So low-status people adopt what they think are middle-status words. And they virtually always get it wrong. Likewise, middle-status people adopt what they think are high-status words (again getting it wrong). Their attempts backfire. This age-old, much-studied use of genteelisms rigidifies social stratification. Instead of providing people with social uplift, pretentious word choices help keep them down.

Linguists have studied this phenomenon for decades and have tagged it with some jargon of their own: *U* (denoting upper-class speech) and *non-U* (denoting non-upper-class speech). You want examples? *Sweat* (*U*), *perspire* (*non-U*). *Before* (*U*), *prior to* (*non-U*). *Later* (*U*), *subsequently* (*non-U*). *Try* (*U*), *endeavor* (*non-U*). *Now* (*U*), *at this time* (*non-U*). *Happen* (*U*), *transpire* (*non-U*). Do you see a trend there? The fancy-pants expressions are typically non-*U* genteelisms.

Stylists universally condemn genteelisms. Eric Partridge, a lexicographer and usage expert, called them “words and phrases that the semiliterate and far too many of the literate believe to be more elegant than the terms they displace.” Even Emily Post, the 20th century’s leading advisor to Americans on matters of etiquette, scorned genteelisms as “pseudo-elegance . . . on a par with curled up third and little fingers holding a teacup.”

Closely related to genteelisms is “officialese.” It’s the language of petty officials. For example, when you get off an
airplane—or, "deplane"—in Los Angeles, you're greeted with endless repeats of the following message: "Please maintain visual contact with your personal property at all times." Notice but maintain visual contact. Not closely but at all times. Not belongings but personal property (presumably your real property is exempt).

Like genteelisms, officialese is puff-marked up language meant to elevate the user's status. Whereas genteelisms are intended to project an elevated social status, officialese is intended to project an air of authority supposedly fitting a "professional." But the result in either case can be ludicrous. Police-talk, to take an extreme example, is an easy target for satirical jabs: "The white males proceeded at a high rate of speed to the intersection of State Highway 37, where they exited their vehicle. The officers then exited their vehicles and engaged in foot pursuit of the white males." The police don't like getting out of their cars and running after people; they prefer exiting their vehicles and engaging in foot pursuit.

The root of officialese may lie in the official's role as an intermediary between the law and the public. That role often seemingly requires the official to approximate legal language. Further, officials naturally want to dignify their positions. So they prefer long sentences over short ones, fancy words over plain ones, vagueness over directness, passive voice over active, and buzzwords over traditional expressions.

Officials addicted to officialese "incent" their employees. They "utilize" resources. They "effectuate" plans. They "transmit" papers. They "task" people. They "impact" lives. And they love to "administrate" wherever they "office."

And when they write letters, they're fond of commercialese. That is, they've learned to sound like machines, not people. They sound like self-important bureaucrats. They're faceless.

In fact, good business letters—like good personal letters—should reflect that the writer is direct, pleasant, and unpretentious. But most do the opposite. Often, a poor tone in legal and other business correspondence stems from laziness. The classic excuse for using an unduly formal style—"we've always done it that way"—can be hard to stand against.

After all, there are many formulas out there for writing poorly, especially in routine correspondence: you just mimic those ancient and often meaningless words and phrases that you've seen other people use so often.

If you want to write a bad letter, start with Enclosed please find. Business-writing authorities have universally condemned the phrase for well over a century.

Yet there are many hoary old phrases that letter writers keep on life support: at your earliest convenience (make it as soon as you can), in light of the fact that (make it because), pursuant to your instructions (make it as you requested), as per our telephone discussion (make it as we discussed).

Of course, plain English looks easy and sounds easy. But it isn't. As the great historian Jacques Barzun once remarked, "Simple English is no one's mother tongue. It has to be worked for." Indeed, it doesn't come naturally at all. It goes against the grain.

It's far easier to think that subsequent to your matriculation in a school of law, you must pursue standards of good writing, the best you can, to acquire elevated vocabularies. But it's more worthwhile to swear off genteelisms, officialese, and commercialese. You'll gain great power in your writing.

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A summer clerk, intern, or new associate at a law firm, you'll be judged primarily on two things: your interpersonal skills and your writing. Although the requirements of your writing assignments will vary depending on your organization, your supervisor, and your clients, here are 10 points you can be certain about:

1. Be **sure you understand the client's problem.** When you get an assignment, ask plenty of questions. Read the relevant documents and take good notes. Learn all you can about the client's situation. If you're asked to write a memo but aren't told anything about the client's actual problem, ask what it is. There's almost no way to write a good research memo in the abstract. As you're reading cases and examining statutes, you'll be in a much better position to apply your findings to the problem at hand if you know at least some of the specifics.

2. Don't rely exclusively on computer research. Be sure to combine book research with computer research. Don't overlook such obvious resources as *Corpus Juris Secundum* and *American Jurisprudence*. The new eighth edition of *Black's Law Dictionary* may help you get into West's key number system. Look at indexes, digests, hornbooks, and treatises to round out your understanding of the subject.

3. Never turn in a preliminary version of a work in progress. One of the most common shortcomings of a diffident researcher, especially when a project is slightly overdue, is to turn in an interim draft in hopes of getting preliminary feedback. That can be ruinous. Your supervisor typically won't want to read serial drafts. And you shouldn't turn in tentative work—it's better to be a little late than to be wrong. That goes for turning in projects to impatient clients as well.

4. **Summarize your conclusions up front.** Whether you're writing a research memo, an opinion letter, or a brief, you'll need an up-front summary. That typically consists of three things: the questions, the answers to those questions, and the reasons for the answers. If you're drafting a motion, try to state on page one why your client should win—and put it in a way that your mom or dad could understand. That's your biggest challenge.

If you're writing a research memo, put the question, the answer, and the reason up front. Don't delay the conclusion until the end of the memo, as guileless writers do (on the mistaken assumption that the reader will slog all the way through the memo). And don't ever open with a full-blown statement of facts—despite what you may have learned elsewhere.

5. **Make your summary understandable to outsiders.** It's not enough to summarize. You must summarize in a way that every conceivable reader—not just the assigning lawyer—can understand. So don't write your issue this way: "Whether Goliad can take a tax
Use ordinary punctuation and capitalization in your e-mail messages.

much smarter writer when you consider your secondary as well as your primary audience. Hiring decisions are made part-
ly by committees who review writing samples—and those committees have no knowledge of the original assignment.

6. Don’t be too tentative in your conclusions, but don’t be too cock-
sure, either. Law school exams encourage students to give the one-hand-other-hand approach. It could be this or it could be that. In law practice, this approach isn’t valued as much as giving your best thought about how a court will come down on an issue.

Let’s say your firm represents clients in two cases involving similar issues. One case is in the Northern District of Florida and the other is in the Southern District of Florida. You’ve been asked to write about whether the cases in different districts can be consolidated.

As it happens, the answer is pretty clear-cut: no. The Federal Rules require both actions to be before a single judge for the cases to be consolidated. One of the cases will have to be transferred before they are consolidated. So you should say just that. “Probably not” just makes you sound spineless when the rest of your memo shows that the conclusion is pretty clear.

But learn to second-guess yourself before you come out with a “yes” or “no.” Why might it be otherwise? And if it might be otherwise, then say precisely why. If your answer is “probably,” say precisely what kinds of facts might make the decision go the other way. You can do all this as a part of a short, tidy summary.

7. Strike the right professional tone—natural but not chatty. Some law students, when told to avoid legalese, should (but frequently don’t) follow the New York Law Reports Style Manual (2002). In Texas, every knowledgeable practitioner follows the Texas Rules of Form (10th ed. 2003). Other states have their customary guides. Even if you’re not inclined to care much about these things, you’d better learn to obsess over them.

9. Cut every unnecessary sentence; then go back through and cut every unnecessary word. Verbosity will make your writing sag. Never pad, and learn to delete every extra word. For example, “general consensus of opinion is” is doubly redundant: a consensus relates only to opinions, and a consensus is by its very nature general. You can replace the phrase a number of with several or many. And the phrase in order to typically has two words too many—to do the work alone. So instead of in order to determine damages, write to determine damages.

Think of Judge David Bazelon of the United States Court of Appeals for the District of Columbia. He knew the value of tightening prose. When his student clerk, Eugene Gelernter (now a New York litigator), went to see Judge Bazelon about a draft opinion, the great judge said: “Nice draft, Gene. Now go back and read it again. Take out every sentence you don’t need. Then go back and take out every word you don’t need. Then, when you’re done with that, go back and do it all again.” We should all have such a mentor.

10. Proofread one more time than you think necessary. If you ever find yourself getting sick of looking at your work product and start to do something rash such as turn it in at that moment, pull yourself up short. Give it a good dramatic reading. Out loud. You’ll catch some errors—and you’ll be glad you did.

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LEGAL WRITING IS WELL known for being gratuitously dull, slow, cumbersome, obtuse, roundabout, and pedantic. There are many reasons: (1) unnecessary jargon, (2) excessive use of passive voice, (3) overreliance on abstract nouns, (4) overlong sentences, (5) overlong paragraphs, and (6) the failure to differentiate between useful and useless details. Small wonder that so few readers want to give legal writing a good, close reading. You must be paid to read the stuff, and even then it's mostly off-putting.

Although legal briefs and memos constitute the least skimmable prose known to humankind, those who create them commonly do something that forces readers to skip over dozens, even hundreds, of characters in almost every paragraph. These superfluous characters amount to useless detail that distracts the reader from the content. This habit also results both in overlong sentences and paragraphs (the extra character bulk it up, after all) and in underdeveloped paragraphs. I refer, of course, to citations: the volume and page numbers that clutter lawyers' prose.

Some readers of this column already are familiar with my view on this issue. It caused such an uproar that it provoked an above-the-fold front-page article in The New York Times (July 8, 2001). My view is simply this: We'd all be better off if lawyers and judges would move their citations to footnotes and refrain from putting further discussion in them.

When you do this, the advantages are many:

- You shorten your paragraphs.
- You develop your ideas better within those paragraphs.
- You can vary your sentence structure with much greater ease.
- You can write some shorter sentences (no longer needing to spread out the citations with longer sentences).
- You discuss case law more effectively once you see that citations can't substitute for legal analysis.
- You write paragraphs in which you never invite readers to skip over extraneous numbers.

Of course, putting citations in footnotes isn't a traditional way to write legal briefs and memos. It more closely resembles the style of legal scholarship (e.g., law review articles), but even in that context footnotes typically are burdened with extra discussion.

You may wonder why lawyers haven't seriously considered subordinating citations in all their writing. The answer is simple: Until 1985 or so, we didn't really have the option because we were using typewriters. The convention was set long ago when the Royal typewriter represented cutting-edge technology. Today, we can easily sweep these interruptions, such as 529 U.S. 277, 289, 120 S.Ct. 1382, 1391, 146 L.Ed.2d 265, 278 (2000), out of the way.

So would this shift in technique result in all gain and no loss? I wouldn't say that at all. But the gain is pretty darned overwhelming. Imagine the results if you
could focus on tightly reasoned analysis, while being told what authority the writer relies on, without all the numerical hiccups.

Naturally, not everyone agrees with my proposal—even though it’s gaining adherents month by month. My principal detractor is a judicial heavyweight who’s mostly a wonderful writer: Judge Richard Posner. He and I debated the point in the summer 2001 issue of Court Review, a law journal for judges. Posner made three main arguments against me: (1) “very few [lay persons] read judicial opinions or will do so,” and the judge “need not rewrite an opinion so that it will attract a lay audience”; (2) the proposal makes nonscholarly writing resemble scholarship unduly; and (3) it’s distracting to be expected to read past footnote numbers. And he wasn’t amused by my revisions of his judicial opinions. (Yes, I argued by trying to show how the proposal might improve Judge Posner’s opinions.)

My answers to Judge Posner’s points are as follows. First, it matters—it matters a lot—whether nonlawyers can make sense of legal writing. Textual citations make legal writing all but impenetrable to the uninitiated. They contribute to mumbo jumbo. If lawyers and judges write only for and among themselves, the result bodes ill for our legal system, which is supposed to be accessible to everyone. Second, it hardly matters if lawyers’ and judges’ writing resembles a format traditionally associated with scholarship—as long as the result is more readable. Third, surely it’s easier to skip over a superscript than to skip over two or three lines of number-laden type—especially when you know that nothing of any substance will appear in a footnote.

Of course, you’ll end up writing differently once you subordinate volume and page numbers. You’ll often need to say, in the text, what your authority is and how old it is. For example, you won’t write this: “The conflict here hinges on the meaning of Hammond Packing Co. v. Arkansas, 212 U.S. 322, 29 S.Ct. 370, 53 L.Ed. 530 (1909).” Instead, you’ll write this: “The conflict here hinges on the meaning of Hammond Packing Co. v. Arkansas,” decided by the Supreme Court in 1909.” You may think that those two sentences are essentially the same, but they’re not. With the second, it’s much easier for the writer to maintain a narrative line—something that lawyers generally aren’t adept at.

Many lawyers and judges across the country—not a majority, to be sure, but a worthy minority—already have adopted the proposal. You’ll find them in Alaska, California, Delaware, Georgia, Louisiana, Michigan, Texas, Washington, and elsewhere.

Is there a Bluebook rule on this? Not really. In 1991, The Bluebook editors (mostly Harvard law students) issued the 15th edition, which for the first time in-

**We’d all be better off if lawyers and judges would move their citations to footnotes**

cluded a practitioner section putting citations in the text. (There’s a pretty horrendous example that’s been in Rule 16 since, up through the current 17th edition.) It was precisely the wrong message at precisely the wrong time. Given the advent of advanced word processing, The Bluebook should have given brief writers a choice.


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SUCCESSFUL CAREER IN law, we are told time and again, depends on using words well and wisely. William Prosser, the most famous exponent of the law of torts, explicitly called law a profession for writers: “Law is, after all, one of the principal literary professions. One might hazard the supposition that the average lawyer in the course of a lifetime does more writing than a novelist.” Charles Alan Wright, the incomparable writer on federal practice and procedure, took a similar view: “The only tool of the lawyer is words. Whether we are trying a case, writing a brief, drafting a contract, or negotiating with an adversary, words are the only things we have to work with.”

However true these ideas are, you may find that your own experience won’t entirely square with them. In all sorts of ways, law as ordinarily practiced isn’t a literary profession at all. I can point to two large chunks of evidence.

First, much of the writing to be found in lawbooks seems as if it belongs in a morgue. Small wonder that one leading scholar has called that exalted set of books, United States Reports, a “great literary wasteland.” And most of the judicial opinions in law school casebooks, especially opinions issued between 1880 and 1930, are so poorly written that it’s often difficult to wrest any ideas from the wretched language in which they’re expressed.

Second, modern lawyers aren’t, on the whole, an especially literary group. Many don’t go for books—and those who do typically stay away from legal subjects. As Gregory Talbot, owner of the Lawbook Exchange of Clark, N.J., puts it: “Because many lawyers aren’t having fun in day-to-day practice, the idea that they’d continue reading in the legal discipline when they get home doesn’t appeal to them. The mundane legal reading that they must do keeps them from looking into the literature of law.” But then there’s his even more sobering afterthought: “A lot of lawyers just aren’t readers at all. It’s a frightening thought.”

Because lawbooks have been stereotyped as involving boring recitations of facts and subtle procedural points, the wealth of first-rate legal literature often gets overlooked. That’s worse than unfortunate because many lawyers will never see—or learn from—the inspired legal writing that exists.

Let’s assume, though, that you want a true liberal education in the law—that you want a grounding in law that will serve you well no matter what your specialty might end up being. Here are a dozen books that you might profitably read and relish. You’ll find all of them in the law library. Make time to read at least a few chapters each week. They’ll entice and enlighten you, and they’ll broaden your legal education enormously.

Benjamin Cardozo, The Nature of the Judicial Process (1921). Cardozo, a great judge both in New York and on the U.S. Supreme Court, gave us what is probably the wisest exposition of judging ever written. He begins this way: “The work of deciding cases goes on every day in hundreds of courts throughout the land. Any judge, one might suppose, would find it easy to describe the process which he had followed a thousand times or more. Nothing could be farther from the truth.”

Oliver Wendell Holmes, *Collected Legal Papers* (1920). The great thing about this classic collection is that Holmes' major speeches, such as "The Path of the Law" (1897), are here, as well as extremely brief papers and addresses. You can dip into everything from "The Use of Law Schools" to "Legal Interpretation" to "Natural Law." Holmes' words resonate as clearly today as they did when written.

**Learned Hand, The Spirit of Liberty** (3d ed., 1960). This book is a collection of 41 papers by a beautiful legal mind. Some are eloquies of important judges (Justices Holmes, Brandeis, and Cardozo); some are commencement addresses and other orations; and some are essays of inescapable importance: "Morals in Public Life," "A Flea for the Open Mind," and "The Spirit of Liberty."

Max Radin, *The Law and You* (1948). In 155 brisk pages, Radin—an immensely learned law professor who specialized in everything from Roman law to business law to legal lexicography—gives a thumbnail sketch of 10 major areas of law and how they affect everyone in society. Of all the books on the model of "everybody's guide to the law," this is the most readable—and the one written by the most learned author.

**Lon Fuller, Anatomy of the Law** (1968). Fuller, a Harvard law professor and extraordinarily lucid stylist, did the same thing for legal philosophy that Radin did for law in general. If you've assumed that philosophy is dull or esoteric, this book will change your mind—and expand it.

R.E. Megarry, *A Miscellany-at-Law* (1955); *A Second Miscellany-at-Law* (1973). Have you ever wondered whether it's contempt to throw a dead cat at a judge? Whether "oomphies" can be trademarked? What's the legal status of stolen dung? Legal humor isn't limited to derogatory jokes, and it isn't always intentional. These books, by an abominably erudite barrister and later judge, are treasure troves of wit and oddities from judicial opinions, treatises, and statutes spanning more than six centuries.

**Gianvito Williams, Learning the Law** (any edition). Perhaps the most highly respected English law professor of the latter half of the 20th century, Williams wrote this book to prepare entering law students to think about their studies, their profession, and their path in the law. Although America has produced similar books, none comes close to equaling this first-rate analysis.

**Charles E. Wyzanski, Whereas—A Judge's Premises** (1965). Judge Wyzanski, of the U.S. district court in Boston, was a first-rate thinker and writer. This book is a collection of his enlightening essays on judges, the compass of the law, the bar generally, and values in modern society.

**Grant Gilmore, The Death of Contract** (1975). Gilmore, another of the great 20th-century legal thinkers, opens with a grabber: "We are told that Contract ... is dead. And so it is. Indeed the point is hardly worth arguing anymore. The leaders of the Contract Is Dead movement go on to say that Contract, being dead, is no longer a fit or worthwhile subject for study." In 103 sprightly pages, Gilmore shows how contract law is being absorbed into tort law.

In sum, we might say the law at its worst isn't a literary profession at all. Some lawyers see themselves as lowly workers in words. But at its best, it is one of the highest of all literary callings. And if you look hard enough, you'll find that amid all the mind-numbing drivel that fills up lawbooks, there also is a heritage in legal literature that rivals the best of literary traditions.

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Legal Writing in Plain English (Univ. Chicago Press, 2001)
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Garners Language and Writing (ABA, 2008) (with a preface by Justice Ruth Bader Ginsburg)

Making Your Case: The Art of Persuading Judges (West, 2008) (coauthored with Justice Antonin Scalia)

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shr. eds. 2000, 2005)

Texas: Our Texas: Remembrances of the University (Eakin Press, 1984)

Professional Activities
Drafting consultant to:

• Standing Committee on Rules of Practice and Procedure, Judicial Conference of the U.S. (responsible for restyling amendments to federal rules), 1992–1999
• Supreme Court of Delaware (restyling of Delaware Civil Jury Charges and Criminal Jury Charges), 1996–2003
• Supreme Court of Texas (restyling of Texas Rules of Appellate Procedure), 1995–1996
• United States Court of Appeals for the Tenth Circuit (restyling of local rules), 1998

Board of Directors, Texas Law Review Association, 2000–present
Editorial Advisory Boards:

• The Chicago Manual of Style (15th ed. 2003)
• The Copy Editor (journal), 2002–present
• The Green Bag (journal), 2004–present

Columnist, "Legal Writing," Student Lawyer (ABA), 1999–present
President, American Society of Legal Writers (Scribes), 1997-1999
Member, American Law Institute, 1992–present
Member and lead reviser, Special Committee on Bylaws and Council Rules, 1993–1994
Chair, Plain-Language Committee, State Bar of Texas, 1989–1995
Consultant to the Oxford Dictionary Department, Oxford, England, on various dictionaries (since 1988)
Life Fellow, Texas Bar Foundation
Member, Philological Society of Texas
University of Cambridge, Wolfson College, July 1997

Awards
2005 Lifetime Achievement Award in Plain Legal Language, Center for Plain Language (Wash., D.C.)
2000 Scribes Book Award for Research and Writing (for Black's Law Dictionary, 7th ed.)
1998 Outstanding Young Texas Ex Award
1997 Clarity Award for Clear Legal Writing, State Bar of Michigan (for role as principal stylistic revisor of the Federal Rules of Appellate Procedure)
1994 Henry C. Lind Award, Association of Reporters of Judicial Decisions
(for significant contributions to the improved reporting of American judicial decisions)

Education
B.A., 1980, The University of Texas at Austin
Phi Beta Kappa; Special Honors in Plan II; Junior Fellows

J.D., 1984, The University of Texas at Austin