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Clarity for Lawyers: Effective Legal Language (3d ed). By Mark Adler and Daphne Perry. Law Society Publishing, 2017. Pp. 270, $44.55.

The third edition of *Clarity for Lawyers* builds on the popular UK text's previous editions by adding, among other things, a co-author. The original (1990) and second (2007) editions were authored by Mark Adler, a veteran solicitor turned plain-language champion who was a founding member of Clarity International. For this edition, he's joined by Daphne Perry, an accomplished London commercial barrister who now devotes herself to consulting, writing, and training.

The book's anticipated coverage of plain style and sound mechanics features prominently, of course. Its core section on "How to make legal writing more effective" remains intact but now includes chapters on computer aids and document testing. Yet this book is so much more than a plain-language manual. The book is holistic and comprehensive. It transcends what's found, for example, in Richard Wydick's rightfully revered *Plain English for Lawyers*. Adler and Perry cover everything from attitude to process to analysis to persuasion. In short, this is a book about clear thinking, too.

Perhaps the most welcome surprise for this reader is the authors' deep dive into "How misunderstandings arise," a new section with chapters devoted to vagueness, ambiguity, miscuing, the loss of nontextual clues, and more. And the authors follow with a section on the rules of interpretation (which also appeared in the second edition), exploring how courts attempt to unravel the uncertainties discussed in the "misunderstandings" section. The succession of these sections adds context and interest to each.

The book closes with appendixes containing practical exercises (with analysis) and instructive redrafts. Some authors shy

away from publishing their own redrafts for public and critical consumption. Adler and Perry do not.

Given the book's breadth and quality, I could cherry-pick highlights from almost any page or chapter. But time and space limit me to a few that will, I hope, help you taste the book's overall flavor. My choices surely betray my own areas of curiosity.

The "Sentences" chapter includes deliciously frightful examples written, it would seem, by the proverbial lawyer being paid by the word. Anecdotes liven the mix, like the one (courtesy of Professor Peter Butt) about a 1,100-word sentence in a bank's standard mortgage agreement. One example — a complex sentence exceeding 150 words — shows the ills of rampant subordinate clauses. The authors have subdued the original, striking through the surplus and underlining parts that "should be shipped off somewhere else."[1] With this and other examples, the authors emphasize not only the need for careful editing at the word, phrase, and clause level but also the virtues of careful formatting and organization. We needn't say it *all* in a single breath. And there's no law against helpful (cleansing) vertical lists.

The chapter on sentences is but one of many benefiting from the authors' research and careful selection of real-world examples. No lawyer who reads this book could persist in thinking that our profession's linguistic shortcomings are exaggerated, subjective, or inevitable.

I was especially curious how the authors would treat readability tests and style-checking software. For readability, their main focus is the Flesch test, and they make no bones about the rule's mathematical artificiality — its potential to oversimplify. "You cannot write by numbers," they observe.[2] Yet the careful writer–editor can still benefit from the test, they note, using it as

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[1] Mark Adler & Daphne Perry, *Clarity for Lawyers: Effective Legal Language* 121 (3d ed. 2017).

[2] *Id.* at 167.

a piece of evidence to consider — a "rough guide," more or less.[3] If a writer consistently sees scores trending toward undue complexity, this might be a red flag worth investigating.

The authors' treatment of the Great *Shall* Debate — whether it's best to use *shall*, *must*, or *will* to create a duty or promise — is informative and, again, well researched. (The authors also add another possibility that's finding its feet in the UK: *is to*.) The authors aren't pushy and make no endorsement, though they note that *shall* is more "portentous" than precise and, given all its possible shades, is ripe for misuse by undisciplined drafters. The examples show *shall* granting discretion, stating a simple truth or fact, and indicating future tense. So much for an ironclad duty signal. But the authors add that *must* is no elixir, though less given to mischief. They also note *must*'s value as a first-draft placeholder for those who prefer *shall* in the final product.

If I had my way, every law student and lawyer in the English-speaking world would read the "Be human" chapter, a welcome carryover from the second edition. If you're inclined toward skepticism, let me assure you that the chapter does not devolve into feel-good platitudes or abstractions. On the contrary, it's just like the other chapters: chock-full of real-world examples — both good and bad — followed by *concrete* analysis and advice. Adler and Perry quote one insensitive letter (from a divorce lawyer to an unrepresented soon-to-be-ex-wife) that reveals lawyering at its ham-handed worst. The authors offer an alternative opening paragraph in the chapter but add a full revision in an appendix. This chapter isn't rote lawyer-bashing, however. In fact, the authors note that what smacks of insensitivity often reflects more thoughtlessness than malice. And many lapses in humanity are more akin to automated phone messages than the Howlers of Harry Potter fame. A few quoted passages (some from court

[3] *Id.* at 166.

opinions) are distinctly positive, illustrating how a more thoughtful tone can not only show empathy but also serve the author's rhetorical aims.

Although *Clarity for Lawyers* will benefit lawyers in every practice area, some courtroom practitioners might balk at the book's heavy attention to transactional drafting and informal correspondence. True, the persuasion material doesn't rival a treatise chapter on rhetoric. And it wouldn't supplant, say, Bryan Garner's *The Winning Brief*. Yet it's not meant to. The authors' strategies for persuasion fit within the book's larger context and are designed to have broad application. And many lawyers, I suspect, will find the attention to correspondence refreshing. The advice on persuasion is deceptively comprehensive and emphasizes *connecting* with readers, explaining in detail the styles and tactics that do and do not facilitate that connection. This should draw keen interest from litigators looking to win fans in the courthouse.

As is so often true of books authored by plain-language advocates (in the States, think Garner, Joseph Kimble, Wayne Schiess, and Wydick), the authors practice what they preach, so the book is a joy to read. Readers will learn much by occasionally disregarding the substance and dissecting the writing itself. The authors show taste, economy, and creativity. Their writing is vivid and reflects the confidence, insight, and purpose born of hard-won expertise. And I dare add that the book offers glimpses of charm and brims with, yes, humanity.