
Barbara Cox, Reviewer

Follow this and additional works at: http://scholarlycommons.law.cwsl.edu/cwlr

Recommended Citation
Available at: http://scholarlycommons.law.cwsl.edu/cwlr/vol24/iss1/11

This Article is brought to you for free and open access by CWSL Scholarly Commons. It has been accepted for inclusion in California Western Law Review by an authorized administrator of CWSL Scholarly Commons. For more information, please contact alm@cwsl.edu.
BOOK REVIEW

LEGAL WRITING: GETTING IT RIGHT AND GETTING IT WRITTEN.

Reviewed by Barbara Cox*

Until recently, the choice of books on legal writing was virtually nonexistent. This is not to say that there were not numerous books on the market. There were. As in any field, some were excellent, some were moderately useful, and some were downright miserable. But in their coverage and style, they were all pretty much the same. Each one purported to teach its reader how to write in a legal style. They explained what case and statutory analysis are, they dissected memoranda and briefs and explained how to write the major sections of each, and they used examples and exercises to teach their readers how to do "legal writing" well.1 I have used many of these books both as a legal writing student and as a legal writing professor.

But there was a major hole in the field. Once one had mastered or at least become reasonably proficient at basic legal writing form, style and substance, there were no reference books to use in making minor, but sophisticated, decisions about legal writing. There were no books available to help the legal writer make the move from adequate or even good writing to excellent writing. The best choice was Wilma and David Ebbitt's Index to English.2 But, while well done, informative, and easy to use, its emphasis was on English writing. And most of us in the legal field, and virtually everyone outside the field, know that there is little similarity between English writing and legal writing.3

* Assistant Professor of Law, California Western School of Law, B.A. Michigan State University, 1978; J.D. University of Wisconsin Law School, 1982. The author was the Assistant Supervisor and Supervisor of the Legal Writing Program at the University of Wisconsin Law School from 1983-1987 and is currently Director of the Legal Skills Program at California Western School of Law. I would like to thank Mollie Martinek for her editorial assistance.

1. This type of book is useful to the beginning student of legal writing, usually a first-year law student taking a required course in his or her legal education. It is also useful to the legal writing instructor who needs a book and some examples to use in teaching first-year law students just what legal writing is and how to do it correctly and coherently.
3. Even though we teachers of legal writing struggle to convince our students to abandon "legalese" in favor of plain meaning or plain English, we do recognize the need for a specific legal writing style and vocabulary. It is this need that I am referring to here.
Now, Mary Ray and Jill Ramsfield have produced *Legal Writing: Getting it Right and Getting it Written*. Finally, the legal field has a useful “desk-top reference” for both beginning and advanced legal writers. Beginning legal writers will find information on basic considerations and writing formats that are common to legal writing. The book also challenges novice legal writers to use increasingly advanced techniques in order to give their writing sophistication and polish. Advanced writers will find a wealth of information to use in the process of changing their writing from adequate or even good to excellent. As Ray and Ramsfield say in their introduction:

As a handbook, [our book] answers the small technical questions peculiar to legal writing, such as whether to use ‘infer’ or ‘imply’, or what ‘dangling modifier’ means or why there are problems in constructing arguments. It also suggests improvements for large-scale matters, such as organization and tone. It addresses the chronic problems that all writers face now and then, such as getting started and meeting deadlines. And it also answers questions that come up only in legal writing, such as what writing principles are critical when drafting contracts or jury instructions.

In reviewing *Getting It Right*, I will look at each of these areas in the same order as the above quote. First, I will look at the technical questions the book answers—questions that can be peculiar to legal writing, but that also are inherent in any type of professional writing. Second, I will examine the book’s suggestions for outlining and organizing, and other large-scale matters, such as tone, audience, purpose, and sentence structure. Third, I will look at the helpful information the book provides for dealing with typical problems most writers continuously battle: revising, breaking bad habits, overcoming writing block, getting started and when to stop. Finally, I will examine the information the book provides for addressing specifically legal questions such as writing general correspondence letters, drafting contracts and wills, using form books, and drafting jury instructions.

In order for a writer to effectively use a reference book to resolve questions that arise during the writing process, the answers must be easily accessible. Ray and Ramsfield’s commitment to meeting this need may have been what led them to adopt the organizational format that they use, even though some people will inevitably be put off by this format.

Rather than being arranged in the usual format of chapters and

---

5. Id. at xviii.
paragraphs, *Getting It Right* is organized dictionary-style with its entries arranged in alphabetical order. To the reader unwilling or unable to recognize the usefulness of this dictionary format, the organization could seem overwhelming and perhaps annoying. But after flipping through *Getting It Right*, getting used to its dictionary-style organization, and scanning the complete listing of entries given at the beginning of the book, writers will find that this organizational format works well.

I. TECHNICAL QUESTIONS

One of the joys of using *Getting It Right* comes from its consistent, authoritative information on how to answer those minor technical questions that plague all writers and that all writers must resolve in order to give a certain polish to their writing.

The type of technical questions *Getting It Right* answers fall into two major categories. First are questions about correct punctuation and grammar. Ray and Ramsfield discuss how to correctly punctuate quotes, how to use semicolons and hyphens, how to effectively structure lists, how to use modifiers, how to avoid misspellings, how to use unobtrusive definitions, and when to use indented quotes or quotation marks. These are details that most writers frequently have questions about but have not had any quick way to resolve. *Getting It Right* contains concise, helpful statements of the general rules in each of these areas, and many others, so that writers do not have to struggle to resolve any particular question.

The second type of questions answered is those dealing with word choice. These are questions such as when to use “agree to or agree with,” “among or between,” “because or since,” “disinterested or uninterested,” “effect or affect,” “farther or further,” “fewer or less,” “imply or infer,” “persons or people,” “phenomena or phenomenons,” “that or which,” and “well or good.” These questions of word choice are especially important in legal writing because of the altered meaning that can result from use of the wrong word. As Mark Twain said: “[T]he difference between the almost right word and the right word is really a large matter—’tis the difference between the lightning and the lightning bug.”

6. The numerous cross-references at the end of most entries help the reader find exactly the information he or she is looking for. The reader can try a few entries in his or her attempt to find the answer to a specific question. If he or she does not find the desired information, the cross-references provide good clues for where the desired information is located.

Before *Getting It Right*, these were questions that were virtually impossible to resolve without using both a dictionary and an English grammar book.

I was relieved to find that Ray and Ramsfield had addressed the technical question that arises frequently in my writing: in this sentence, should the preceding “that” be a “that” or a “which.” Now I realize that most people do not even think about this question—and therefore, they frequently use the wrong word. Or perhaps they learned the rule well enough in seventh or ninth grade to never be troubled with it again. They just “know” which one to use. Unfortunately, I know that “that” and “which” mean different things and I have been unable to memorize the rule or understand it well enough to instantly know the correct usage in a given situation.

This never really troubled me until I began teaching legal writing and was reminded that there is an appropriate time for “that” and an appropriate time for “which.” And in legal writing, it is a distinction that could have an important effect on one’s meaning.

Rather than struggle to memorize the rule or learn it, I now just flip to the entry “that or which?” in *Getting It Right* and save a little bit of memory for something more useful. The “that or which?” entry contains an explanation of the difference between a restrictive pronoun and a nonrestrictive pronoun. “That” is always a restrictive pronoun; “which” can be either restrictive or nonrestrictive. To avoid ambiguity (the major sin in legal writing), Ray and Ramsfield suggest using “that” to restrict and “which” [not] to restrict. Then they provide several examples of the difference between a “that” which restricts and a “which” that does not restrict. They also suggest using “that which” instead of “that that” if necessary, although their first choice would be for the writer to revise the sentence altogether.

The way this book is meant to be used to answer technical questions came up when I was writing the previous sentence. I wrote it out and ended with “altogether.” For a brief moment, I hesitated.

8. In writing this article, I initially felt foolish admitting that I still hesitate in deciding whether to use “that” or “which” in a given sentence. After all, I teach legal writing by profession and I “should” know these fine distinctions. I was reassured, however, to find that Judge Harry Preserson, United States Circuit Judge of the 9th Circuit Court of Appeals, included deciding whether to use “that” or “which” in his Checklist for Editing for California lawyers. Preserson, *The Seven Sins of Appellate Brief Writing and Other Transgressions*, 34 U.C.L.A. L. Rev. 431, 442, IIA (1986). I decided that if he believed it necessary to include a reference on using “that” or “which” in his article to the California Bar, I was at least in good company on this particular technical question.


10. Id. at 214.

11. Id. at 215.
being unsure whether to use "all together" or "altogether." It seemed to me that because "altogether" came out of my pen, it was probably the correct spelling to use. But I hesitated for just a second. I can tell you from experience that trying to solve this type of dilemma was time-consuming and painful before Getting It Right arrived on the market. But now all I have to do is turn to the entry "all together or altogether?" There it's explained that "all together" means a group of people, things or events that are all together; "altogether" means "entirely," "on the whole," or "with everything considered." Because "entirely" fits my meaning, I quickly was satisfied that "altogether" was correct.

For those of you who believe that these considerations are unnecessary or perhaps pedestrian, I suggest that you flip through Getting It Right to find the entry that addresses your recurrent technical question. Even if it is the question of "a or an," "already or all ready," or "although or though," you'll find your answer in this book.

And these are just a few examples of the type of details the careful, professional writer will want to consider in drafting his or her written products. Getting It Right is so filled with helpful and easy-to-use information on these types of details that the writer no longer has to take time to ponder, ignore, or undertake a lengthy search for an answer. They are at his or her fingertips within seconds when Getting It Right is on your desk or in your bookshelf.

12. I have been blessed with a "pen" that usually makes correct decisions in situations like this which is why I have been able to survive so long without "Getting It Right." But if I ever lose that "pen," I'm reassured to know that Getting It Right is available to take its place.


14. I was recently reviewing a law review article for a colleague who repeatedly used "though" instead of "although" throughout the article. I knew that either word was technically correct but her repeated use of "though" grated on me for an unknown reason. While writing this article, I read the entry "although or though?" which explained my discomfort. As Ray and Ramsfield say, either word is appropriate in most situations. But "although" is more elegant and thus, is more appropriate for briefs, law review articles and all but informal legal writings. Id. at 8-9. It is satisfying to find an answer to why something was grating on my "ear."

15. I have chosen to refer to the reader of this article or the user of Getting It Right as the writer in order to avoid finding myself "awash in he or she's." Id. at 200. But, in those situations when "he" or "she" could not be avoided gracefully, I have chosen to resort to the accurate "he or she" rather than the inaccurate "he." Id. at 201. Other suggestions for ways to avoid sexist language are found in Getting It Right at pages 200-01.

16. Personally, I never let my copy get that far away from my desk, but some people are more daring than I.
II. PLANNING THE LARGE-SCALE COMPONENTS OF LEGAL WRITING

The entries in *Getting It Right* that help the writer think about and plan his or her legal writing are part of what differentiates this book from standard English grammar and writing texts. For while *Getting It Right* addresses many of the common writing and grammar concerns found in those texts, this book is particularly helpful for lawyers because it also explains how to plan and organize legal writing. This group of entries has two major parts—those that remind writers of considerations such as tone, audience, and purpose that must be made before they actually set pen to paper, and those that help writers address matters such as how to outline, how to organize when one has difficulty outlining, and how to use sentence structure to achieve a desired effect on the reader.

Most writers do not consider audience, purpose, and tone at all or only do so subconsciously. However, one's writing is more effective when these issues are carefully considered at the pre-writing stage. *Getting It Right* includes entries on audience, purpose, tone, and pre-writing, as well as other similar considerations. What makes these entries particularly useful for the writer is Ray and Ramsfield's use of examples to explain their points.

For instance, rather than simply explaining what tone is and telling the writer to consider tone at the pre-writing stage, Ray and Ramfield explain how word choice, sentence length, sentence structure, and consistency can be used to set the particular tone that the writer wants to express. They give examples that show how using shorter sentences will convey a clipped, no-nonsense tone; how using longer sentences with the subject and verb at the beginning of the sentence will present a more conversational tone; and how using interrupting phrases will result in a more formal tone. By using these types of examples, Ray and Ramsfield help the writer understand exactly how he or she can select the best tone for a particular document and how to convey it in his or her

17. This is the pre-writing stage of the writing process. Prewriting, according to Ray and Ramsfield, "includes all work done before writing the first substantial draft of any paper. Clear thought and focused effort at this stage will save hours of time in the later stages of the writing process: writing, rewriting, revising, and polishing." M. RAY & J. RAMSFIELD, supra note 4, at 158.

18. For a fuller discussion of prewriting and considerations of audience and purpose, see CHARROW & ERHARDT, CLEAR AND EFFECTIVE LEGAL WRITING 4-6 (1986). Charrow and Erhardt devote an entire chapter to some of the particular concerns that should be addressed in deciding on purpose and audience. They only briefly refer to tone on page 51. I consider it another concern that should be addressed at the prewriting stage which is why I have included it at this point.


20. Id. at 218-19.
In addition to the entries that address pre-writing considerations, Ray and Ramsfield also provide helpful information to the legal writer once he or she gets to the writing stage. After the writer has completed his or her research, determined the issues, and considered the tone, audience and purpose of the particular document, it then becomes time to begin drafting. Most legal writers are well aware that a preliminary and vital step of this phase is outlining and organizing their thoughts. But how to go about it?

Ray and Ramsfield offer some general suggestions on ways to outline; these suggestions emphasize that there are as many ways to outline as there are writers. They reassure writers that outlines can range from lists or barely legible scratchings to flow charts or Venn diagrams. The point is that the writer use a method to ensure that the reader can follow the document’s logic. One suggestion is to start with a general portrait of large-scale ideas that can be filled in with details as the writer rethinks his or her ideas. With an outline that is somewhat detailed, the writer can then start writing the draft by filling in more details and lengthening thoughts into sentences and paragraphs. Ray and Ramsfield suggest this method for writers who find writing uncomfortable, because all they have to do at the writing stage is fill in the gaps in the outline.

But what about those people who cannot outline? Ray and Ramsfield give those writers a seven-step process to use in place of traditional outlining. They suggest starting by brainstorming and listing all the points the writer wants to make or might want to make. The authors caution the writer not to worry about order, quality or anything else at this stage. Simply come up with ideas.

Then the writer should order his or her ideas. He or she can review the brainstorming list to see if the ideas fall into logical groups. The ideas can be grouped in several different ways before

21. Id. at 130.
22. Id.
23. Id. at 131.
24. Id.
25. I say “cannot” with the conviction that there are people who believe that they cannot outline. These people will be helped by the discussion in this next entry. But those who say they cannot outline when they mean that it takes too much time and thought to do so will not find the next entry particularly helpful. There is no way to avoid time and thought if one is going to write in a careful, sophisticated manner.
27. Id. at 127.
deciding on the order that makes the most sense. Then Ray and Ramsfield tell the writer to organize the groups, picking out the main points and subpoints. Then it's time to subdivide even further until only one point is being made at a time. At that point, the writer may be developing topic sentences for paragraphs. Then the writer needs to step back and make sure that the groups are ordered in a logical manner, such as dealing with a jurisdictional question before addressing substantive issues or starting with a winning point before addressing a "potential-but-debatable" point.

At this point, the writer who cannot outline has the same information as the writer who can outline. His or her points are laid out in a logical manner and each point is divided into its subpoints and sub-subpoints. Then both writers can add information and write a rough draft.

Another subject that Ray and Ramsfield address, in a way that can significantly help the advanced writer, is sentence structure. Most writers understand that how one structures his or her sentences will often dramatically affect the tone and impact of his or her writing. But most are also unsure about which sentence structure to use for achieving a particular effect. And in addressing these concerns, Ray and Ramsfield are superb.

They lay out the four basic sentence structures and three ways to exploit the basics to create readable, effective sentences. But it is their use of examples and their explanation of what each sentence structure conveys that makes this entry so useful. For example, after explaining that the simple sentence has only one set of subjects and verbs, Ray and Ramsfield explain that strategically using a simple sentence with fewer than ten words will have a dramatic impact on the reader. Their example shows this well.

The Court of Appeals refused to consider this argument because it 'was not properly . . . presented to the trial court.' The court did not elaborate.

In another example, they suggest using the compound sentence, consisting of two or more independent clauses joined by a conjunction, semicolon or colon, to create a one-two punch. The effect is
even stronger when the second independent clause is short. 36

There can be no negligence without duty; in this case, no duty exists.

or

In this case, one element of negligence is missing: there is no duty. 37

Additionally, Ray and Ramsfield encourage the use of the complex sentence which is particularly useful in legal writing, because of its ability to show the logical interrelationship between two points while emphasizing one of those points. 38 But its use will be effective only if the sentence remains readable and logically structured. 39 The authors warn against two common problems in using complex sentences. First, overuse makes one’s writing less interesting due to the lack of variety in sentence structure and the reader is lulled to sleep by the repetition. 40 Second, overly complex sentences give the reader more than he or she can handle and thus force the reader to reread a sentence in order to understand its meaning. 41 Again, as Mark Twain says:

[O]ne notices, for instance, that long, involved sentences confuse [the reader who] is obliged to re-read them to get the sense . . . . At times [the writer] may indulge himself with a long one, but he will make sure that there are no folds in it, no vaguenesses, no parenthetical interruptions of its view as a whole; when he is done with it, it won’t be a sea-serpent, with half its arches under the water, it will be a torchlight procession. 42

Ray and Ramsfield urge writers to vary their sentence structure by using the variety that comes naturally from the logical demands of content. 43 But it is also important to revise one’s writing with an eye, or perhaps an ear, toward the effect given by one’s choice of sentence structure. For example, the writer should be careful about using short sentences. While they allow the writer to present a clipped, no-nonsense approach, overuse could result in an exasperated tone or an unintended emphasis. 44

The careful writer will seriously consider Ray and Ramsfield’s suggestions while planning and composing his or her writing. By

36. Id.
37. Id.
38. Id. at 196.
39. Id.
40. Id.
41. Id.
42. M. TWAIN, supra note 7, at 226. I encourage the reader to assume that Twain was using “he” generically in this quotation. If he was not, he would have found Ray and Ramsfield’s entry on “Ways to Avoid Sexist Language” instructive. See supra note 15.
43. M. RAY & J. RAMSFIELD, supra note 4, at 197.
44. Id. at 203.
considering the points Ray and Ramsfield make and by using their suggestions, the writer will find it possible to add a sophisticated, consistent quality to his or her writing.

III. DEALING WITH CHRONIC WRITING PROBLEMS: HAVING A WRITING COACH AS CLOSE AS YOUR FINGERTIPS

In addition to needing help to resolve technical questions and plan large-scale matters, many lawyers also struggle with meeting the day-to-day writing demands inherent in their jobs. Even those who write clearly and effectively often run up against chronic problems such as getting started, meeting deadlines, revising, and battling against writing blocks.

In order to solve these chronic problems, most writers need to carefully examine their own writing process. "The writing process is the entire creative, analytical, and critical experience that begins with an idea or assignment and ends with a finished document. The process incorporates five stages: prewriting, writing, rewriting, revising, and polishing." As Ray and Ramsfield note, the most effective way to improve one's writing is to break the writing process into many small pieces and concentrate on fixing one piece at a time.

For example, if revising is burdensome, Ray and Ramsfield suggest not revising all of every sentence at once. Instead, the writer should do several small read-throughs concentrating on one aspect of writing each time. The first read-through can emphasize sentence structure, the second transitions, the third word choice, and so on.

Similarly, the writer can break bad habits one at a time. Ray and Ramsfield use the example of weak transitions to suggest that, when starting a new assignment, the writer who wants to break that bad habit should concentrate on transitions in one complete revision process. He or she should then continue concentrating on using transitions until effective use comes easily. Then the writer can move on to the next bad habit using the same process. Success in solving one bad habit will help the writer gain the confidence necessary to continue working to improve his or her writing.

Another problem all writers face some of the time and some writers face all of the time is dealing with writing block. Ray and Ramsfield explain that writing block is caused because the writer:

45. Id. at 247.
46. Id. at 248.
47. Id.
48. Id.
(1) feels overwhelmed by the task, (2) believes the written product must be perfect, (3) feels he or she is inadequate to the task, or (4) experiences all of the above. They believe that writing block can be overcome by using three simple techniques: divide and conquer, start somewhere else, and separate the essential from the desirable. By starting somewhere else, the authors counsel the writer who is stuck at one point in the writing process to move on to some other task. If the writer cannot decide how to organize the facts section of a memo, for example, he or she should move on to writing the issues. And if that does not work, move on to writing the conclusion. Ray and Ramsfield point out that while any writing project requires completing many tasks, the order in which the tasks are completed is unimportant. Suggestions such as these make it possible for the writer to move beyond the block and learn to complete the writing process with less struggle and dismay.

Ray and Ramsfield also help the writer understand that, when faced with deadlines, revising everything in a written document is not essential. The busy legal writer simply does not have time to make every part of his or her written product perfect. They suggest that, when revising, the writer should focus on accuracy and clear organization, essential parts of every legal document. If time is limited, he or she should set aside considerations of emphasis and tone, which are desirable parts of effective writing, but are not essential to the legal document. In this way, the writer faced with writing block will be sure to concentrate on the most important aspects of his or her writing without sacrificing time on desirable, but nonessential, considerations.

In a closely related entry on when to stop, Ray and Ramsfield help the writer overcome any tendencies to “fiddle with a document forever” thereby missing deadlines, frustrating co-workers and driving him or herself crazy. They acknowledge that while perfection is ideal, reality keeps all writers from attaining, or even trying to attain, perfection in every written document. They counsel the writer to make decisions about which documents to push toward perfection and which documents to complete without even trying to attain perfection.

49. Id. at 246.
50. Id. at 246-47.
51. Id. at 247.
52. Id.
53. Id.
54. Id.
55. Id. at 240.
56. Id.
They set forth an extremely detailed, extremely usable checklist that helps the writer determine when to stop researching and when to stop at each stage of the five-stage writing process.\(^{57}\) For example, in deciding when to stop revising, Ray and Ramsfield tell the writer to ask him or herself specific critical questions before moving on to the polishing concerns that are desirable but not essential.\(^{58}\)

(a) Does each topic sentence state the point clearly and unambiguously? For help here, see Topic Sentences.
(b) Is every sentence accurate and logically connected to the paragraph in which it is included? For help here, see Accuracy and Organization, Small-Scale.
(c) Is all unneeded information omitted?
(d) Is the Point of View consistent and appropriate?
(e) Are the sentences readable? For help here, see Readibility.
(f) Are Positions of Emphasis used effectively?
(g) Are Emphasis techniques used effectively?
(h) Is Tone consistent and appropriate?\(^{59}\)

While many writers struggle with when to stop, an equal or greater number struggle with getting started. Rather than simply providing suggestions for ways of dealing with this problem, Ray and Ramsfield back up a step and explain why a writer may have trouble getting started.

You may dread the job because it is boring, difficult, or crucial to your career. You may not know where to start. Or you may be stuck in the first step. Do not despair; all of these problems are fixable. But to solve these problems you may have to change your approach to the problem.\(^{60}\)

Ray and Ramsfield suggest specific ways to solve the problem of getting started depending on which of these three problems are the cause. For example, when a writer is having trouble getting started because he or she does not know where to start, Ray and Ramsfield make an easy suggestion. Start anywhere.\(^{61}\) For example, start by drafting a subpoint of a memo’s discussion section because that particular point is understood the best. Or when starting a law review article, start with a sentence that sums up the point of the article, without worrying whether that exact sentence will appear in the finished article. By starting with a sum-

---

57. See supra note 45.
58. Id. at 241.
59. Id. The capitalized words refer to entries in Getting It Right where the reader can obtain information on a specific topic. This is one of the cross-reference techniques used in Ray and Ramsfield to help the reader find help or related information in other entries.
60. Id. at 80.
61. Id.
mary of the article, the writer can then step back, list all the points needed to support that summary sentence, and then turn that list into an outline.62

In this particular entry on getting started, Ray and Ramsfield exhibit their thorough understanding of how writers write and how to help struggling writers deal with the problems they encounter while writing. Half the battle with writing well and comfortably is thinking that one can write well and comfortably. The writer who is convinced that he or she always has trouble getting started will indeed have trouble getting started. And helping writers deal with this struggle is one of the successes of Getting It Right. The authors know how to help the writer write. The writer who struggles with getting started must simply start in order to finish. It does not matter where that person starts as long as he or she does start. And Ray and Ramsfield help push that writer along. By encouraging him or her to start by writing a thesis sentence and then listing the points that support that sentence, and then developing an outline from that list, the writer moves past the thought that is blocking progress and on to the actual steps of writing steps.

IV. THE SPECIFICS OF LEGAL WRITING AND HOW TO MASTER THEM

Ray and Ramsfield shine while explaining how to master the specifics of legal writing. For while the help they provide in the areas described in the three previous sections is imminently valuable, the entries comprising this section of Getting It Right are worth the purchase price by themselves. These entries include some rather standard legal writing information such as how to use analogous cases, how to write appellate and trial briefs, how to cite to the record, how to develop a detailed research strategy chart, how to do computerized legal research, and how to address judges. And the information provided in each of these entries is clear, concise and authoritative.

But it is the discussion of how to write specific legal documents that makes Getting It Right most helpful to the practicing legal writer. Ray and Ramsfield give help where the practicing legal writer needs it most often and where most other books on legal writing offer little or no assistance. Two of the areas discussed, and the ones on which I will focus, are how to write the varied types of letters legal writers find themselves faced with and how to use specific writing principles to ensure success when writing legal

62. Id.
documents.

A. Lawyers Writing Letters

The entries on writing letters can be further divided into two major subgroups. The first is on writing specific types of letters, such as general correspondence, opinion, persuasive, payment, and settlement letters. The second is on writing letters generally and includes such topics as openings and closing for letters, tone in letters, sounding tough, giving bad news, and softening bad news. These entries give detailed assistance to the writer who finds him or herself writing numerous letters in practice and needing help on how to most effectively communicate specific information and a desired tone to the reader.

While the temptation is great to set forth all the helpful hints Ray and Ramsfield present in their discussion of opinion letters, requests for payment, and settlement letters, as well as suggestions for sounding tough, giving bad news, and opening and closing letters, I will resist this temptation in the interest of brevity. Instead, I will concentrate on the authors' explanation of how to write general correspondence letters with the expectation that by so doing, the reader will quickly comprehend the usefulness of Getting It Right and read the other entries him or herself.

From the beginning, Ray and Ramsfield show their understanding of the lawyer's chief enemy when it comes to writing letters: "letters take too long to write." 63 And just as quickly they explain the reason for this: "writers spend a long time deciding how to begin and how to organize each letter." 64

According to Ray and Ramsfield, there are only four common types of general correspondence letters. These are "(1) letters delivering information the reader requested, (2) letters delivering information the writer needs the reader to have (for-your-information or FYI letters), (3) letters delivering bad news, and (4) letters trying to persuade the reader to do something." 65 They suggest developing a standard organization for each type of letter and when the time comes to write one, all the writer must do is choose the appropriate tone, salutation and closing. 66

63. Id. at 73.
64. Id. According to Ray and Ramsfield, I am treading on thin ice with my readers at this point. I have just written two sentences and have used a colon in each. They warn against overusing the colon. "It creates a dramatic sentence structure that will become too noticeable if overused." Id. at 43. So even though I was tempted to start the next paragraph with another sentence using a colon, I have resisted that temptation and, I have set up my list as a complete sentence instead.
65. Id. at 73.
66. Id.
But how to decide what kind of letter one plans on writing? Ray and Ramsfield suggest starting out by writing the point of the letter in one sentence. It's ok to be blunt; this sentence is for the writer's own use and not for inclusion in the letter.\(^7\) They provide some examples:

(1) Here, for your review, is your revised will; (2) You may need to change your method of keeping tax records; (3) After meeting you, I know that there is no way I would hire you to work for our company; or (4) I want to get you to pay even though I can't sue you because suit would cost more than it is worth.\(^8\)

An organizational scheme for each type of letter and what to include in each paragraph is provided. For example, for bad news letters, Ray and Ramsfield tell the writer to organize the letter into three parts that (1) set the tone, (2) deliver the bad news, and (3) reset the tone.\(^9\) This organization makes receiving bad news more palatable because something comes before and after the bad news to deflect the reader's attention. Ray and Ramsfield also offer examples of setting the tone that range from kind or warm and personal to tough or distant.\(^0\)

They go on to warn, however, that while this organization will make receiving bad news more palatable for the reader, the writer must accept his or her responsibility to deliver the bad news clearly. It does not help if he or she dances around the bad news so that the reader never gets the message. In stating the bad news, the writer should use an unemotional, matter-of-fact tone, regardless of what tone is used in the letter's other paragraphs.\(^1\) For those writers wanting even more suggestions on how to give bad news and how to soften bad news, there are separate entries that address these concerns in detail.\(^2\)

\(^67.\) Id. Ray and Ramsfield suggest not using "ok" in any of its three forms (ok, o.k., or okay) in formal writing. Id. at 119. But because this review is only semi-formal, I have thrown caution to the wind and have used ok.

\(^68.\) Id. at 73.

\(^69.\) Id. at 74.

\(^70.\) Id.

\(^71.\) Id. at 75.

\(^72.\) Id. at 19-23. While Ray and Ramsfield caution the writer to be careful not to soften the bad news so much that the reader misses the point altogether, they provide three suggestions for softening bad news. First, put the bad news in a dependent clause and join that clause to a sentence containing more favorable information. For example: "Although he was exceeding the speed limit, Mr. Jones was driving no faster than other cars on the road at that time. Indeed he was passed by several cars just a few minutes before the accident." Id. at 22. Second, use abstract terms, rather than concrete terms, to handle facts that cannot be set in a more favorable context. For example, when your client has hit a parked car, they suggest referring to the event by saying "Both cars were damaged in the collision." Id. Third, use a less emphatic sentence structure to deemphasize a point while emphasizing a more favorable point at the same time. For example: "Although defendant
As can be seen from these entries, Ray and Ramsfield go beyond simply acknowledging that much of a lawyer's work centers on writing letters to clients, other attorneys, and judges. Throughout Getting It Right, Ray and Ramsfield actually help the writer write the necessary letters. They give examples of non-sexist salutations, closings consistent with the tone of the letter, sentence structures to use in sounding tough, and organizational schemes for the four most common letters. The legal writer who takes the time to read through all the entries related to letters will find page after page of detailed, useful information to use when actually writing his or her legal letters.

B. Drafting Legal Documents

Similar to the specific assistance given to the legal writer who is drafting general correspondence letters, Ray and Ramsfield encourage the legal writer to emphasize different writing principles depending on what type of legal document is being drafted. For example, precision is the writing principle that should dominate one's thoughts while drafting contracts and wills. Precise drafting of contracts and wills requires the use of simple, unambiguous language and sentence structure. Precision requires the legal writer to carefully determine exactly what the parties want and what situations the contract must cover before drafting. Precision also means reconciling one's self to writing several drafts in order to ensure that both the "big picture" clauses and the minuscule details are included. It also demands that the writer be careful to "make each clause do one thing, not more." And precision helps the writer avoid ambiguity by ensuring that the same person, item or concept is consistently referred to by only one term and that one term does not refer to different items or persons.

Ray and Ramsfield also point out that using form books as the basis for contracts and wills is permissible as long as the writer does not allow the use of a form to substitute for the detailed

73. Simple acknowledgement is more than most legal writing books do. But see WEI-HOFEN, LEGAL WRITING STYLE 164-89, 195-223 (2d ed. 1980); and COOPER, WRITING IN LAW PRACTICE 153-82 (1963).

74. Id. at 54.

75. Id. at 54.

76. Id.

77. Id.
BOOK REVIEW

thinking required to draft either of these documents. Indeed, they note, as many others have, that using form books can cause problems if the writer includes contradictory or nonsensical clauses that do not conform to the specifics of the factual situation.

Ray and Ramsfield continue to stress using specific writing principles when drafting legal documents when they point out that clarity is the writing principle that lawyers should emphasize when writing jury instructions. The entry checklist reminds lawyers that juries usually hear, and do not read, jury instructions. The lawyer, accustomed to fitting his or her writing to the needs of a reader, must alter that writing so that it is understandable to a listener. This reality requires lawyers to meet the needs of their audiences by worrying about clarity more and about conciseness less.

To address this need, Ray and Ramsfield make three specific suggestions for achieving clarity. First, use understandable words, such as automobile rather than motorized vehicle. Second, use understandable sentence structure. Do this by using verbs instead of nouns: “consider all evidence” rather than “give consideration to all the evidence.” Another way to do this is by putting lists at the end of a sentence: “In weighing the evidence, you may consider your own knowledge, observations and life experiences” rather than “You may consider your own knowledge, observations, and life experiences in weighing the evidence.”

Third, personalize jury instructions whenever possible so that the jury will understand how the actual facts fulfill certain legally significant roles. For example, the authors suggest using “[i]f Mr. Ellis had a gun concealed” rather than “[i]f the defendant had a weapon concealed.” In this way, the jury will find it easier to

78. Id. at 71-72.
79. I originally wrote conform “with” and then remembered seeing an entry in Getting It Right addressing whether to use “conform to,” “conform with,” or “conform in.” The entry is quite simple and straightforward. It says “conform to.” Id. at 54.
80. An example of this problem was contained in Vivian Dempsey’s recent article “The Dangers of Junk Documents” in the October 1987 issue of Calif. Law:
Judge Ira Brown, Jr. of San Francisco County Superior Court laughed as he described the hearing. Counsel for the plaintiff was seeking sanctions against the defense attorney for abusing the discovery process. The interrogatories being challenged asked about the plaintiff’s medical history while in the military. The plaintiff was a 6-year-old girl injured on the school playground.
82. Id. at 93-94.
83. Id. at 84.
84. Id.
85. Id. at 95.
apply the law contained in the jury instruction to the actual facts of the case.

By reading the entry or entries on a particular legal document before drafting that document, the lawyer can use *Getting It Right* in much the same way that form books are intended to be used in drafting documents. Ray and Ramsfield lay out suggestions for writing legal documents based on using those writing principles that help achieve the desired result. They provide checklists and examples that help the lawyer ensure that his or her writing leads to a quality legal document.

V. CONCLUSION

Do I praise too much?

Having just reread this book review, I wonder if I have raved about Ray and Ramsfield's *Getting It Right* to such an extent that it is hard to believe that such a useful reference tool is actually available. If you are wondering about that very question, there is only one way to resolve your question: buy the book and read it. All lawyers who pride themselves in their writing, or would like to pride themselves in their writing, will find this book to be a valuable resource. Many lawyers may find themselves pushing the book on their friends and colleagues, along with stories about how it changed their writing lives.

*Legal Writing: Getting It Right and Getting It Written* is not intended to become a crutch for lawyers to use. Legal writers should not simply copy Ray and Ramsfield's suggestions wholesale in the hopes that it will improve their writing, even though this will probably be true. Instead they should use *Getting It Right* to learn what will transform adequate writing into excellent writing. They can then make those changes in their own writing and witness the improvement that results. Presumably, at some point, these legal writers will have mastered all the information and advice Ray and Ramsfield provide and they will be able to set the book aside. Hopefully, a second book will have appeared by that time.