

WRITERS ACCOMMODATE THE PRIMARY AUDIENCE:
A STUDY OF TECHNICAL AND LEGAL WRITERS' COMPOSITION PRINCIPLES
USED FOR USABILITY PURPOSES

by

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ABSTRACT

NICOLE DANCISIN. Writers accommodate the primary audience: a study of technical and legal writers' composition principles used for usability purposes. (Under the direction of DR. GREGORY WICKLIFF)

Kenneth Bruffee argues that for action to commence and for knowledge to be shared and furthered, communication must successfully occur between two or more individuals. Successful communication requires the reader or listener to interpret a message as the communicator had intended. Technical writers are responsible for composing documents that are easy to interpret and are useable for the intended readers. In contrast, lawyers have a reputation for being poor writers despite the extreme importance well written documents have for their careers and the negative consequences that may occur as a result of poorly written documents. Three lawyers and three legal writing professors were interviewed to learn about lawyers' perspectives of the importance of legal writing and how they accommodate primary audiences. Three technical writers and three technical writing professors were also interviewed and asked parallel questions for comparison purposes. The interviews and additional academic resources showed that both technical writers and lawyers value writing in their careers and are responsible for clearly communicating specialized information to their readers. However, lawyers are often responsible for writing contracts that are not necessarily accommodated to the primary audience which makes it difficult for readers of the general public to understand. The thesis concludes that technical writers and lawyers, with the exception of the genre of contracts, use language as a social act to share knowledge and to persuade readers to perform practical tasks

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LIST OF KEY TERMS

The following key terms and phrases are defined here for consistency. If more than one term is listed, they may be used interchangeably. If one term is listed, that single term will encompass the definition for the sake of the thesis.

Terms: Audience, Target Audience, Readers, Users, Decision-Makers,
Action-Takers, Primary Audience, Primary Readers, Primary Users

Definition: Collective primary readers

Terms: Audience Member, Target Audience Member, Reader, User,
Decision-Maker, Action-Taker, Primary Audience Member,
Primary Reader, Primary User

Definition: Single primary reader entity from a collective primary audience

Terms: Technical Writing, Technical Communication

Definition: Technical language

Term: Document

Definition: All forms of communication written by lawyers and technical writers

Terms: Lawyer, Legal Writer

Definition: Lawyer, Legal Writer

CHAPTER 1: INTRODUCTION

Individually we are one drop. Together, we are an ocean.
Ryunosuke Satoro

Language is a social instrument used to carry out practical activities and “generate knowledge that constitutes the world we see in a useful way” (Bruffee 152). Kenneth Bruffee delivered an introductory speech at the Indiana Teachers of Writing Spring Seminar in 1983 called “Reading and Writing as Social Acts.” In his speech, he argued that reading and writing use language as a tool to socially shape action and stimulate learning and knowledge (Vygotsky, Bruffee 151). His theory is stemmed from L.S. Vygotsky’s arguments in *Mind in Society* and Thomas Kuhn’s *The Structure of Scientific Revolutions* (Bruffee 150).

Bruffee subscribed to Vygotsky’s theory that language, whether used in speech or writing, can influence a listener or reader to carry out an action. In essence, Vygotsky explains that language is vital for collaboration of action to ensue.

Kuhn argues that joining a community of knowledgeable peers entails learning the community’s specialized language (Kuhn; Bruffee 152). The knowledge is established and distributed to a knowledgeable community through specialized language and new community members join and learn the community. Then, the community progressively learns together via publications and presentations that are created by and taught by the community. Ultimately, Kuhn argued that knowledge is formed and strengthened collaboratively.

Bruffee integrates Vygotsky and Kuhn’s ideas about language and its vitality for collaboration. Bruffee argues that “knowledge, thought, and learning are intrinsically

social or collaborative in at least two senses: they involve language used to help us do things, and they involve ways of seeing, inherent in that language, that have been tested and shared by a community of knowledgeable peers” (Bruffee 152).

Bruffee argues that for action to commence and for knowledge to be shared and progress, communication must successfully occur between the two individuals communicating. Successful communication involves tailoring a message so that it is comprehensible and meets the interests, objectives, and needs of the audience.

In the case of writing, an author has the same responsibility of persuading the reader to carry out an action or learn or believe information the writer considers knowledge. The writer must also identify what the reader wants to accomplish by using the document and the writer must comprehensively communicate why and how the task should be carried out. Ultimately, knowledge of who the audience is and the accommodation of the document to that audience is what leads to successful communication. Although the writer is establishing the grounds of communication, it is the reader who is constructing the document’s meaning.

The writer is seldom present as a reader reads the document. Walter Ong, author of “The Writer’s Audience is Always a Fiction,” explains that “the recipient of the story is indeed a reader—not a listener, not one of the crowd, but an individual isolated with a text” (Ong 73). As a reader reads a text all that is present is the document itself so it is up to the reader to construct its meaning. Richard Johnson-Sheehan, author of *Technical Communication Today*, declares that, “readers are wholly responsible for interpreting [the writer’s] text. Since [the writer] will not be available to explain the document’s meaning, it is up to the readers to make meaning. What [the writer] meant does not matter if the

readers create a different meaning” (Johnson-Sheehan 45). To accommodate a reader constructing a document’s meaning, Paul Anderson, author of *Technical Communication: A Reader-Centered Approach*, encourages writers to “learn as much as possible about the knowledge your readers will bring to your communication so you can determine how to help them construct the meanings you want them to build” (13).

The audience of a document is a person or persons who reads the document and becomes a consumer of the communication (Lay, Wahlstrom, Rude, Selfe, and Selzer 73). The audience is a complex entity that the writer does not, unfortunately, have the ability to identify wholly. Identifying the audience is often impossible because “you can’t control with certainty who will actually read your work (Lay, Wahlstrom, Rude, Selfe, and Selzer 79). However, regardless of the difficulty of identifying all audience members, they can be categorized as primary readers, secondary readers, tertiary readers, real readers, imagined readers, simple readers or multiple readers. By categorizing the possible readers, it is easier for the writer to deduce who may read the document and what readers should be prioritized. Possible readers include primary, real, imagined, secondary, tertiary, multiple, and simple readers.

Primary readers are the main focus of design and the target audience who receives the document directly (Cooper 137). They are the readers who take action or make decisions in response to the document so it is pertinent to the writer that these readers are satisfied and receive the information they need to take action (Cooper 137; Lay, Wahlstrom, Rude, Selfe, and Selzer 80-81; Johnson-Sheehan 47).

For primary readers, the audience can be either real or imagined depending upon the document’s purpose. Real audiences are document readers that the writer knows in

person and may have the ability to directly communicate with (Lay, Wahlstrom, Rude, Selfe, and Selzer 73). Real audiences can be easier to accommodate because the writer can have verbal conversations with the reader pertaining to the document, and they are able to establish an understanding of each other's professional needs and expectations. Under some circumstances, the reader or a representative of the reader may request a document be written which prompts an explanation about what they want the document to achieve. For example, documents like reports, legal memoranda, or briefs are either requested or required by professionals of a higher authority than the writer. The writer does not need to persuade the reader to read documents they requested or required, but the readers may need to be persuaded to take action in response to the document. The real audience can also be a reader who has a professional relationship with the writer and the writer needs to inform them of information. These documents include correspondence genres such as emails, business memoranda, and letters. Similarly, the writer may not need to persuade the reader to read the document because of their already established relationship but the reader may need to be persuaded to act in response to the text if that is what the document is requesting. Despite the type of relationship the reader and writer have, real audiences can give immediate feedback to the writer after reading the document, which shapes the way the writer will write documents for that reader in the future.

In contrast to real audiences, imagined audiences are abstract notions that are a construct in a writer's mind as she or he composes a document (Lay, Wahlstrom, Rude, Selfe, and Selzer 74). These audiences are "an imaginative concept, rather than a flesh in blood presence" (Lay, Wahlstrom, Rude, Selfe, and Selzer 74). Instructions, websites,

manuals, and brochures are written for imagined audiences. The writers do not know imagined readers directly but it is useful for the writer to develop an audience persona to uncover the document user's value, goals, knowledge, and attitudes to accommodate the audience. Also, it is the reader's responsibility to conform themselves to the persona the writer established if they are interested in using the document.

Secondary readers differ from primary readers because they are viewers of the document who educate or influence the primary audience. Secondary readers can include readers that advise the primary audience about how the document can or should be used. Secondary readers may have the expertise necessary to interpret the document or have more time available than the primary audience to analyze the document. In either case, the secondary reader offers feedback and guidance then the primary reader either reads the document themselves and takes action or takes action solely based on the secondary reader's guidance (Lay, Wahlstrom, Rude, Selfe, and Selzer 81; Johnson-Sheehan 47).

Tertiary readers are considered evaluators of the document who may have an interest in the subject matter. These individuals can be lawyers, auditors, news reporters, etc. Even if the writer does not intend for the document to fall in these individual's hands, the writer should keep them in mind so the information is protected (Johnson-Sheehan 47). Tertiary audience members may also be considered hidden or unintended readers because they differ from primary and secondary readers. They are not primary because the document is not targeted to them nor do they receive the document directly. However, tertiary readers may take it upon themselves to take action as a result of the document but it may not be an action the writer intended to persuade. For example, a memo may be written to inform a department about new policies and procedures but if the new policies

and procedures become evidence in a litigation case, the memo could be used by a judge, clerk, or opposing council to make a case argument. Tertiary readers cannot be considered secondary readers because they have no direct influence over the actions the primary readers take in response to the document. The actions or influences that are hidden or that unintended readers carry out are independent from the primary and secondary readers' actions and influences.

Finally, primary, secondary, and tertiary audiences can be either simple readers or multiple readers. Simple audiences are homogenous readers who have similar backgrounds and needs who use the document for a similar purpose (Lay, Wahlstrom, Rude, Selfe, and Selzer 75). A simple audience can include a single person or many individuals. These audiences are "well-known" and "simple to identify and often simple to address" (Lay, Wahlstrom, Rude, Selfe, and Selzer 75). Multiple readers are the opposite of simple, homogenous readers because they are an assortment of readers, in small and large groups, who have different backgrounds and needs. Multiple readers are collectively using a single document for varying purposes.

Ultimately, the primary readers are the most important for writers to accommodate because they are the ones who will be taking action in response to the document and it is the writer's goal for the document to influence action or construct knowledge (Johnson-Sheehan 22). It is ideal for a document to be written with all potential readers in mind but it is more likely for the writer to make a document useable for primary readers rather than secondary and tertiary ones because secondary and tertiary readers use is unpredictable to the writer. That said, a writer aims to ideally accommodate all audiences but must always aim to accommodate primary audiences.

Accommodation should include identifying the individuals who will be reading and potentially using the document. Additionally, the writer should identify if the primary audience is real or imagined and simple or multiple. Once the audience is identified, the writer can formulate how to adapt the document so it is useable.

Usability is determined by the reader's experience with the document. A document is useable if the user understands the document, knows how to use the document, and the document accommodates the user's occasion and condition of use (Anderson; Kimball and Hawkins). A useable document solves the user's problem or helps the user do what they intended to do, no matter the task (Anderson 58; Krug 5). Anderson stresses that a document is useable depending upon the tasks the user wants to accomplish using the document: "No matter what the reader's task, a workplace communication is highly useable if it enables them to: locate quickly the information they need in order to accomplish their goal, understand the needed information easily and accurately, and use the information to complete their task with minimum effort (10; Lay, Wahlstrom, Rude, Selfe, and Selzer 269). A document is also considered useable if the user avoids errors and is satisfied with the document use (Kimball and Hawkins 66-67).

Usability is intertwined with persuasiveness. Persuasiveness is the ability to influence readers, attitudes, and actions (Anderson 11). Not only do document readers have the option to decide, or be persuaded, to read a document but they also have the option to accept or reject what the document is trying to convince them of (Kimball and Hawkins 63). It is the writer's goal for the document to be usable but also persuasive so the audience is convinced to "adopt the writer's point of view or take a particular action" (Alfred, Brusaw, and Oliu 395). For a writer to perceive their document as successful, it

needs to be useable for the audience but the audience also needs to be persuaded to respond with an action the writer aimed to inspire. However, a document is not determined unusable if the reader is not persuaded to take the action the writer intended or any action at all in response to the included content. For example, a report is still useable if the reader understands the writer's logic and arguments but was still not convinced or persuaded to follow the recommended course of action.

Ultimately, the reader constructs the meaning of a document and, therefore, a reader determines the usability of a document. It is the writer's responsibility to identify why readers would use the document and design the document so readers are able to achieve their goals. However, meaning is not only constructed from comprehension but also from being persuaded to believe an argument or system of logic. Therefore, writers may not only focus on ensuring the readers understand the document, but they try to persuade the reader to use the document how the writer prefers they would.

Technical writers compose technical documents that aim to be useable and persuasive. A technical writer is a professional writer who engages with technical content and produces technical documentation that helps people use a product or service. They write documents such as reports, instructions, user manuals, project plans, etc. and also administrative documents such as memoranda and emails. They write documents that "enable readers to use a technology or understand a process or concept" (Alred, Brusaw, and Oliu 544). A technical document is considered effective if the writer accommodates the document to its audience, purpose, and context in conjunction with the particular assignment. Purpose and context are analyzed in appropriation with the audience. The document's purpose is formulated based on what the reader wants and needs and the

context is determined by the audience's occasion and conditions of use. Audience analysis is vital considering readers construct document meaning and because technical writers create documents to be used by readers who are often non-experts tasked with interpreting specialized information. Technical writers have the skills to create, assimilate, and convey technical material to non-expert audiences, such as consumers or employees, in a concise and effective manner so readers are able to construct accurate meaning out of complex content (Alred, Brusaw, and Oliu 544). To communicate efficiently, particularly with non-expert audiences, technical writers simplify complex concepts and processes by avoiding affectation, using active voice, and using plain language. The final goal of a technical document is to help readers find what they need, understand what they find, and use what they understand appropriately.

Technical writers are not the only professionals who benefit from composing documents that are useable and persuasive for targeted audiences. Lawyers are traditionally known for being skilled orators but they are also responsible for writing large volumes of documentation that can result in persuading readers to take action, change the reader's perspective, and dramatically impact reader's behavior in the legal sense. Lawyers are professionals authorized by states to practice law and they are generally responsible for representing a client, giving legal advice, writing legal documents to meet specific client needs, and sometimes appearing in court (Hames and Ekern 10). The skill sets necessary to carry out a lawyer's responsibilities consists of oral and written communication, research skills, critical thinking/analytical skills, and organizational skills (Hames and Erken 10). The more detailed aspects of a lawyer's day to day activities and responsibilities depend on "his or her position and field of

specialization” (Camenson 7; Hames and Ekern 10). Regardless of a lawyer’s area of practice, good legal writing skills equate to good lawyering (Goldstein and Lieberman 5). Lawyers are responsible for writing documents such as memoranda, briefs, client letters, motions, contracts, etc. and if these documents are not useable they can cause detrimental consequences for the reader, writer, or both. According to Goldstein and Lieberman, writing that is incomprehensible or unusable can result in any of the following depending upon the circumstances the document is being used:

- Wasting judges’, clients’, and other lawyers’ time if they need to re-read a document.
- Costing the firm money if extra time is needed for senior lawyers to interpret documents.
- Costing the society money by establishing documents that court officials cannot understand and, therefore, using extra court time paid by tax payers.
- Losing cases because briefs, motions, opinions, or any other court document are not understandable.
- Ruining the reputation of the lawyer as incomprehensible writing may inadvertently promote a disrespect or indifference to the law, a lack of legal knowledge, or a lack of professionalism.

Despite the extreme importance writing has for a lawyer’s career and the negative effect it can have if not done well, lawyers do not have a reputation of being “good writers.” Richard Wydick, author of *Plain English for Lawyers*, reflects on the reputation of lawyers as writers:

We use eight words to say what could be said in two. We use arcane phrases to express commonplace ideas. Seeking to be precise, we become redundant. Seeking to be cautious, we become verbose. Our sentences twist on, phrase within clause within clause, glazing the eyes and numbing the minds of our readers. The result is a writing style that has, according to one critic, four outstanding characteristics. It is “(1) wordy, (2) unclear, (3) pompous, and (4) dull.”(qtd. in Wydick 3).

Tom Goldstein and Jethro Lieberman, authors of *The Lawyer's Guide to Writing Well*, agree that lawyers do not write well, lack judgment of what content should or should not be included in a text, do not know how to tell a story, and get so carried away with their responsibility to advocate that they “distort and even deceive” through the written language (3). Lawyers may not use writing principles that make for clear writing because they find it important to “write like a lawyer” so they write excessively formal because they are worried of sounding unsophisticated (Schiess viii)

Bryan Garner, author of *The Elements of Legal Style* and *Legal Writing in Plain English*, agreed that lawyers have difficulty writing well and explained the following hurdles and illusions they need to overcome to become good writers:

- Good writing takes dedication and commitment
- Lawyers are constantly reading, interpreting, and studying bad writing so they write the same to seem “lawyer like”
- Lawyers believe that the world is complex, and so is law, so it can only be written in a complex way
- Lawyers have difficulty being psychologically mature and ask themselves if they want to sound like a machine or a human

Like any stereotype, exceptions exist and every single lawyer is not a bad writer. It is clear, however, that there are enough readers who are convinced lawyers are poor

writers for the bad reputation to persist. Lawyers use language both orally and in written form and it is evident that lawyers are known for being good oral advocates and poor communicators on paper.

Lawyers are characterized as both advocates and deceivers of society so it is only fitting that the community has mixed emotions about their communication abilities as well. Disregarding the ethical reasoning behind a lawyer's writing style, it is still a contradictory notion that lawyers, who are paid well over \$100,000 annually, can be paid large sums of money to do their job poorly. If only unsuccessful lawyers wrote poorly, it would not be considered a stereotype of the overall profession; it would be considered a characteristic of an ineffective lawyer.

Considering how essential the use of written language is to a lawyer's career, a question to ask is are lawyers who are poor writers able to be successful if their bad writing can upset judges, clients, and other lawyers, cost money to their firm, the court, and society, make them lose cases, and ruin their reputation? Also, how are lawyers who are poor writers able to collaboratively share knowledge with peers, teach and inform less-specialized readers of need-to-know legal information, and persuade readers to perform practical tasks the lawyer needs to be done?

There seems to be a contradiction between lawyers' reputation as bad writers and Bruffee's theory that language is used as a social instrument to invoke the growth and collaboration of knowledge and to persuade through collaboration on practical tasks. Is the law too complex to write simply? Do lawyers collaborate at all or only orally? Are lawyers experts at persuading verbally but not in writing? How are lawyers trained to write and what is their knowledge of writing's importance on their career? How do

lawyers learn, study, or train if the writing they read is just as complex as the writing they create? Do lawyers alienate themselves from the reader to the extent that they are considered more like a legal phrase generating machine than a human as Garner argues?

The answers lie in the reader's ability to construct meaning from a lawyer's document. The determination of a document's usability is a subjective notion owned by individual readers and depends on individual writers and their unique documents. What can be determined, however, is whether or not lawyers intend to make documents useable for readers, and the question of useable for whom? Lawyers' intention to accommodate their particular readers for usability purposes can be analyzed by researching lawyers' perspective of writing's importance for a lawyer's career, basic writing principles they use, and how legal genres are expected to be written to fulfill the document's purpose and accommodate reader needs and expectations. This data will help determine whether lawyers write their documents with the intention of being useable to accommodate the reader. Hopefully this research will clarify the contradiction that good legal writing equates to good "lawyering" and yet lawyers are often characterized as poor writers.

For this thesis, technical writers' intentions to accommodate readers will be analyzed to act as a constant in comparison to analyzing lawyers' intentions to accommodate readers and work toward document usability.

Technical writers can also be considered technical communicators because, other than writing, they also use other document design principles such as proximity, alignment, repetition, contrast, similarity, order, and enclosure and strategic selection and implementation of color, typography, and graphics to improve the document's readability (Williams; Kimball and Hawkins). However, my thesis will focus tightly on language use

because my analysis is based on Bruffee's concept that language is a social instrument that encourages collaboration to stimulate action and learning. Consequently, this thesis will be focused on technical writing practices rather than technical communication practices that are defined more broadly.

Additionally, technical writers aim for texts to be useable for primary, secondary, tertiary audiences. For this study, however, only primary audiences (real, imagined, simple, and multiple) will be focused on because they are the most important audience to accommodate and secondary and tertiary audience use is unpredictable.

Ultimately, the data will be analyzed to determine whether or not lawyers and technical writers use the same strategies to accommodate primary audiences and if they do, how they do so. Additionally, the research will help determine how lawyers and technical writers composing strategies align with Bruffee's theory that language is a social instrument used to invoke the establishment and collaborative making of knowledge and collaboration in practical tasks.

1.1 Research Process

My primary goal is to gather information pertaining to lawyers' and technical writers' decisions to tailor common documents they write to their audience's needs and expectations and how they do so. To research this topic, I interviewed experts in both technical and legal writing to identify similarities and differences between the interviews to uncover their perspectives and strategies when writing, specifically in reference to audience accommodation. I chose to interview subject matter experts so they could describe their writing practices and beliefs in detail in response to open-ended questions. In other words, I wanted the interviewees to guide the conversation and not be limited to

short answer survey questions. The required IRB approval was received, and to ensure my interviewees felt comfortable openly describing their writing practices, all identifiable information has been kept confidential and each participant was informed that at any moment they had the option to scratch something from the record or withdraw their interview from the research.

1.2 Participants

I interviewed three technical writers, three technical writing professors, three lawyers, and three legal writing professors to gather information pertaining to lawyers' and technical writers' decisions to tailor the documents they write to their audience's needs and expectations. I chose to interview professors rather than six technical writers and six lawyers because I wanted to gain a broad perspective of legal and technical writing rather than learn the specific customs each professional has adapted in accommodation to their local organization's goals and practices.

Technical writers are educated to be self-sufficient and to rely on professional writing, research, and organizational skills to adapt to a variety of working environments and job descriptions. Therefore, technical writers, although relying on similar skills, hold different job responsibilities and work for many different types of companies and organizations. Similarly, lawyers are educated to be self-sufficient and to use problem solving, writing, reading, communication/articulation, investigative/research, and organization skills to adapt to an area of law they select for practice and a specific organization they work for. Similar to technical writers, lawyers also hold different job responsibilities and work for companies with varying legal incentives. However, the technical and legal professionals have been previously educated about the shared legal

and writing skills by professors at a higher education level. Therefore, by comparing both the perspective of professionals and professors (some of whom have professional experience) the goals and strategies of all legal and technical writing participants will be analyzed as a shared set of writing skills.

Interview participants were found and selected via online research and social networking. Each participant was contacted by email and invited to participate. If the participant agreed, an appointment was made for an approximate one hour interview. There was no limitation as to what regional area the participants currently resided or had been employed at and, therefore, nine out of twelve interviews were conducted over the phone because four out of twelve interviewees live and work outside of North Carolina.

Three technical writers, three technical writing professors, three lawyers, and three legal writing professors agreed to be interviewed. Each of the professors has a doctoral degree and is currently instructing legal or technical writing at a university. Each lawyer has attended and graduated from law school, passed the bar exam for the state they practice in, and is currently practicing law with a group or company. Each of the technical writers attended graduate school for technical writing and is currently employed with a job that requires technical writing skills.

All of the interviews were audio-recorded for accuracy purposes. The interviews averaged 36 minutes in length. Five out of twelve were fewer than 30 minutes, five out of twelve were between 30 minutes and an hour, and two out of twelve were longer than one hour.

The interview questions encouraged participants to explain how effective writing supports a technical writer or lawyer's career. I wanted to understand how

enthusiastically technical writers and lawyers approach their writing in comparison to other job responsibilities.

Participants were also asked to explain if legal or technical writing is tailored to audience needs and expectations. I wanted to analyze whether or not audience awareness is considered a factor in effective writing.

Also, professor participants were asked to identify genres they usually teach and professionals were asked to provide genres they usually write. This question was asked to learn the end goal of the specified documents, if/how audiences are a factor in the documents' goals, and the types of audiences who typically read the documents.

Additionally, the questions encouraged participants to explain what technical or legal writing principles are/should be most frequently used. I wanted to learn whether or not professionals share writing principles that result in what they agree to underpin effective writing.

1.3 Analysis of Data

After completing the interviews, I listened to the audio-recordings of each interview and noted all information relevant to the effects of writing on their career, use of audience analysis, genres commonly taught or written by each interviewee, and basic writing principles used. Then, I identified similarities between audience analysis, genres commonly taught or written, and writing principles used between each group of three 1) technical writers; 2) technical writing professors; 3) lawyers; and 4) legal writing professors. Then, I identified similarities between technical writers and technical writing professors as well as lawyers and legal writing professors. Writing principles and audience approach similarities of the six legal and technical group participants were

noted as well as similarities only between the professionals and that only the professors communicated. However, the genres all technical or legal writing professors provided were noted so long as one of the interviewed professionals communicated that they commonly used the genre in their professional work. Finally, the technical writing and legal writing groups were compared and contrasted.

1.4 Academic Support

The twelve participants were intelligent, experienced professionals who provided beneficial information that has guided my analysis to learn more about how technical writers and lawyers write to accommodate their audiences. However, I would have ideally preferred to interview ten technical writers, ten technical writing professors, ten lawyers, and ten legal writing professors to improve the reliability of my data, but constraints prevented me from doing so.

To supplement the interviews, I have reviewed the academic texts the professors required and suggested to their students as secondary sources. Also, the secondary sources have provided additional information about how lawyers and technical writers tailor the documents they write to their audience's needs and expectations.

1.5 Looking Ahead

The thesis is broken into four chapters, including the conclusion. The second chapter will provide all the data found between the technical writers and technical writing professors as well as any information that was consistent between only the technical writers and only the technical writing professors. Chapter Three will provide all the data found between the lawyers and legal writing professors as well as any information that was consistent between only the lawyers and only the legal writing professors. Chapter

Four compares the previous two chapters' data. The fifth chapter concludes that ideally technical writers intend to accommodate primary audiences as a general principle and specifically for emails, memoranda, reports, and instructions. In comparison, ideally lawyers intend to accommodate primary audiences as a general principle and specifically for client letters, memoranda, and reports with the exception of contracts. Contracts' lack of accommodation is further analyzed and compared to other types of contracts that may be consequential to the primary audience due to the lack of accommodation. Finally, the conclusion reevaluates Bruffee's theory and the characterization that lawyers are poor writers with the data and research found.

CHAPTER 2: TECHNICAL WRITERS AND TECHNICAL WRITING PROFESSORS

This chapter presents all data from the technical writers and technical writing professors interviews. All consistencies are supported by secondary sources required or suggested by the technical writing professors.

The first subsection, Section 2.1, includes each technical writer's job title, the type of organization they work for, and a detailed description of their job responsibilities. These details were revealed to demonstrate how each technical writer possesses different responsibilities while also using similar skill sets to work toward their organization's varying missions. Additionally, each technical writer's academic education is included to show the distinctions of their technical writing training. The subsection concludes with the questions that were asked to the technical writers. All identifiable information was kept confidential so each interviewee felt comfortable honestly answering the questions asked.

The next subsection, Section 2.2, includes the university mission and type of university each technical writing professor teaches at. Then, there is a description of what type of students are required or able to take technical writing courses to demonstrate what types of technical writing the students find applicable to their area of study and to demonstrate how the university values technical writing. Additionally, the section includes the academic education and professional experience of each professor to reveal any distinction of technical writing training of each interviewee. Then, the subsection

lists the name of the courses each technical writing professor has taught during their time at the described university to detail each technical writing professor's current specialties and focuses of technical writing. Finally, the subsection concludes with the questions that were asked to the technical writing professors. All identifiable information was kept confidential so each interviewee felt comfortable honestly answering the questions asked.

The next subsection, Section 2.3, includes similar claims made by all technical writers and technical writing professors about writing principles technical writers use to accommodate primary audiences. Ultimately, the section explains that technical writers and technical writing professors agree that technical writers are responsible for clearly communicating specialized information, implementing clarity and conciseness as basic writing principles, writing documents to accommodate audiences, and developing audience personas for imagined audiences to ensure the documents produced target audience needs and expectations.

Then, Section 2.4 includes a definition of genre and why reports, instructions, memoranda, and emails were focused on during the interviews. A full analysis of each specific genre can be found in appendices A through D. Overall, the appendices explain a genre analysis of reports, instructions, memoranda, and emails reveals how technical writers adapt their documentation to accommodate the users of the document by using strategies such as developing an audience persona, usability testing, interviewing subject matter experts, following universal and local organization genre expectations, and using language at an appropriate reading level for the targeted audience. These particular genres were selected because all three technical writing professors teach their students how to write them and at least one technical writer composes each genre.

The chapter does not conclude with relevant, similar claims made only by technical writers or technical writing professors because there were none.

2.1 Technical Writers

Technical writers are educated to be self-sufficient and use professional writing, research, and organizational skills to adapt to a variety of working environments and job descriptions. The three technical writers have differing job titles, job responsibilities, and employers. The differences in job responsibilities are important to reveal because it shows that regardless of their technical writing focus, they are still in agreement about technical writing basics which are shown in the data explanation further into the chapter.

The following list indicates what each interview participant will be identified as for ease of reference and confidentiality purposes followed by their official job title.

- Technical Writer A – Digital Content Editor
- Technical Writer B – Usability Assistant
- Technical Writer C – Technical Writer

Technical Writer A works as a Digital Content Editor for a retirement services company. She creates and edits the company's website content and optimizes the search engine to ensure it is "web-friendly" for the website's users. This position entails the transferring of paper documents to the website interface and editing them to be readable, identifiable, and is easy to scan. She is also responsible for establishing searchable key terms. Technical Writer A has a bachelor's degree in Public Relations and Creative Writing and a master's degree in English with a concentration in Technical/Professional Writing.

Technical Writer B works as a Usability Assistant for a state university. She is responsible for conducting usability tests for products owned or provided by her internal organization or external clients. She then analyzes the data collected and writes reports and organizes presentations to communicate her findings and product recommendations to the professionals within the organization or external clients. Technical Writer B has a bachelor's degree in English and a graduate certificate in Technical Writing.

Technical Writer C works as a Technical Writer for a state healthcare system. She works as a technical writer in the process management department and she considers herself to be a consultant who identifies if the management processes are being used efficiently. Primarily, she creates training tutorials so new employees are well-informed of their job responsibilities and expectations to accommodate the organization's high turn-over rate. Additionally, she creates presentations that are intended to teach external clients about the organization's reasons for certain charges. Technical Writer C has a bachelor's degree in English Literature, a master's degree in English Literature, and has taken 12 credits of Technical Writing graduate courses.

This group of technical writers were interviewed to identify if they tailor their written documents to their audience's needs and expectations and, if so, how and why.

They were asked the following questions:

- How does technical writing support your organization's goals?
- Explain your sense of effective technical writing's importance for your career.
- If you informed a technical writer new to the profession of three writing principles, what should they be?

- How should technical writers determine appropriate audiences for their writing?
- What genres are most important to your work?

2.2 Technical Writing Professors

Like any job, an employee's responsibilities are in accommodation to the organization or company they work for and a technical writing professor's responsibilities are no different. The courses each technical writing professor has taught supports their university's mission in one form or another. Also, technical writing is not always offered as a major or minor for students but sometimes as a general requirement and, therefore, students register for the courses with different educational goals in mind. Additionally, the courses may be central to the subject of technical writing but focus on specific features such as writing principles, theory, document design, editing, business writing, etc. Therefore, there are differences of purpose for the courses each technical writing professor has taught. The differences in teaching responsibilities and locations of employment are important to reveal because it shows that regardless of technical writing focus, they are still in agreement about technical writing basics which are shown in the data explanation further into the chapter.

The following list indicates what each interview participant will now be identified as for ease of reference and confidentiality purposes; it also shows courses they have taught at the university they are currently employed at.

- Technical Writing Professor A
 - Technical and Scientific Content Writing
 - Writing for Business
 - Desktop Publishing
- Technical Writing Professor B
 - Introduction to Technical Writing
 - Principles of Technical Writing
 - Business Professional Writing
- Technical Writing Professor C
 - Technical Writing
 - Business Writing
 - Writing and Computers
 - Grant Writing

Technical Writing Professor A teaches at a public research university with an enrollment of more than 43,000 students. Technical writing courses are available to undergraduate students fulfilling their general education requirements. Additionally, technical writing courses are mandated for engineering students and business students to support the presidential initiative to expand and advance science, technology, and business fields. Technical writing courses are required by the Engineering College to adhere to the Accreditation Board for Engineering and Technology's Criterion 3g that states that all accredited engineering programs must teach students how to efficiently communicate. College of Business students are also mandated to take a business and technical writing course. Business and technical writing courses are also available to

students who have an interest in business but are not ready to take a business course.

Technical Writing Professor A has received a bachelor's, PhD, and has worked as a professional in a chemical industry.

Technical Writing Professor B teaches at a public research university with an enrollment of more than 46,000 students. The university's mission is to encourage students to think critically and to broaden their intellectual horizons in diverse learning environments. Business, professional, and technical writing courses are required for business students. Additionally, technical writing courses are made available to technical applied sciences, communications, and human development and family services students. Also, technical writing is currently offered as an undergraduate minor but is not yet available as a major. Technical Writing Professor B has received a bachelor's in English Language and Literature, a master's in Rhetoric and Composition, a PhD in Philosophy, Rhetoric and Composition, and has worked as a professional for a mobile device company.

Technical Writing Professor C teaches at a comprehensive public research university of 15,000 students that was founded in 1871 to train teachers and teach how sustainability is communicated. Since then, it has acquired new degree programs, including an undergraduate minor in business and technical writing, which still reflect pedagogy and communication themes. Business and Technical Writing is offered as an English undergraduate minor. Additionally, business and technical writing courses are offered for business and computer science majors. Technical Writing Professor C has received a bachelor's, master's in Technical Writing, and PhD.

These three technical writing professors were interviewed to identify if they teach their students to tailor their written documents to their audience's needs and expectations and, if so, how and why. They were asked the following questions:

- How do technical writing courses support your university's mission?
- Explain your sense of effective technical writing's importance for a technical writer's career.
- If every technical writing student of yours graduated knowing and remembering three writing principles, what should they be?
- How should technical writers determine audiences for their writing?
- What genres do you emphasize in your teaching?

For consistency purposes, I asked the technical writing professors to freely answer interview questions based on courses they have taught at the university where they are currently employed at but did not limit the discussion only to the courses they are currently teaching.

2.3 Similarities of Technical Writers and Technical Writing Professors

The following section includes similarities found throughout all the technical writers and technical writing professors interviewed. Primarily, it was identified that technical writers are responsible for ensuring their documents are useable for intended audiences. They do so by aiming to clearly communicate specialized information, implementing clarity and conciseness as basic writing principles, writing for the audiences, and developing an audience persona for primary audiences, particularly imaginary and multiple audiences.

2.3.1 Clearly Communicating Specialized Information

Organizations are constructed on the basis of providing a service or good to those willing to pay for that service. Clients often either cannot or choose not to provide the service themselves because the service requires specialized knowledge that is either inaccessible or inconvenient for them to learn themselves. The service, however, would not exist without a group of experts who established the specialized knowledge by using their educational backgrounds, professional experiences, research, and analysis. This specialized knowledge needs to be communicated to non-expert internal employees so those employees can take responsibility for bringing the knowledge to action.

For example, NASA engineers are constantly doing laboratory tests to discover methods and formulas that will bring astronauts into space. When the engineers conclude that new data yields useable information that can be brought to action, they communicate this specialized knowledge to those who need to be persuaded that the knowledge needs to be used and circulated amongst the company. It is not a single person who brings this into action, however (especially for larger organizations). Legal, accounting, construction, and other engineering departments also need to access and comprehend this information to interpret it, deem it usable, and formulate processes to bring it into action. The new information can be communicated verbally but should also be communicated in written form for legal records, reference material, consistency purposes, and to quickly reach a high volume of readers. If the communication of the specialized engineering information is not clear, however, then NASA, as a whole, will have difficulty using the information cohesively.

Experts like the NASA engineers work to develop specialized information to benefit and support an organization they work for. However, “all specialized information is useless if you don’t know how to communicate it to someone else” (Anderson 4). Technical writers can be hired to aid experts who can “be hindered in their ability to write effectively [...] because they mistakenly think of writing as an afterthought, as merely recording or transmitting information they developed while acting as specialists in their chosen fields” (Anderson 9; Technical Writer A). Technical writers can be considered “expertise writers” because they are responsible for writing the specialized information so that it is easy for internal and external audiences not as familiar with the information to follow and comprehend (Technical Writer A; Johnson-Sheehan 9).

Technical Writing Professor C provided an explanation of a project she assigned to her students to teach how clear communication sometimes does not occur if the expert is the writer. She also designed the assignment to show that clear communication allows audiences to use the information and how the usability of a document benefits an organization. She assigned her students to make an actual organization’s website communicable to their intended audiences and discovered that it was not originally a useable source of communication. The website included all relevant information but it was not presented so that it was easy for users to find, access, understand, and use it (Technical Writing Professor C; Anderson 10). However, the creators of the website did not realize that being a specialist of the information did not make them good communicators of the information:

The creators of the website had been working on it for so long and had gotten tied into it and ingested in it and they knew the information that needed to be there and they understood the processes so the website made sense to them although it didn't make sense to actual users. They were thrown off when my students explained this to them" (Technical Writing Professor C).

The complex, specialized content needs to be accommodated to the audience, not the content developers, for it to be useable. If the website is not useable, then the product is less beneficial for the organization. Technical Writing Professor C drove the point home by explaining, "if your audience can't use the information, you might as well have not made the document in the first place and you probably wasted a whole bunch of money" (Technical Writing Professor C).

Technical Writer A is also responsible for breaking down specialized, complex information so that it is useable for the primary audience of the document. It is her responsibility to ensure that the included legal, industry, human resources, and financial specialized information is "clear, concise, and to the point" for audiences so they are able to understand and use the information. The other technical writers and technical writing professors similarly expressed that technical writers are responsible for communicating specialized information to audiences less knowledgeable of the subjects:

- Technical Writer B: "The main goal is to make your product effective, desirable, and functional, but to reach all these goals you have to be able to discuss that research and let everyone around you understand what you're trying to relay to improve the product and meet those three definitions."

- Technical Writer C: “Technical writing is important to my company because it provides clarity to external clients and one of the issues that the company has is some of our communications and processes with our clients.”
- Technical Writing Professor A: “Many jobs, particularly in law, and other hard core science disciplines are dealing a lot with data and you need to write about in a way that makes sense.”
- Technical Writing Professor B: “Students think that technical writing is only for technical fields but any field is a technical field because it is a field they know a lot about that the people they are trying to communicate with may not.”
- Technical Writing Professor C: “[Technical writers] are in some ways experts and they are in some ways not an expert but they have to figure out how to communicate admittedly technical information to an audience who knows little about it.”

2.3.2 Basic Writing Principles

All three of the technical writers and technical writing professors illustrated common basic writing principles they either use or teach their students to use.

Overall, the interviewees explained technical writing should be easily comprehensible and to the point. Technical Writers A and C said that they focus on making sure their written work is clear and concise.

Technical Writer B promoted clarity as a writing principle by explaining that she always writes in laymen’s terms to “make sure the audience understands what I am trying

to say” (Technical Writer B). Technical Writing Professor A stated that writing should be as “non-complex” as possible and Technical Writing Professor B stressed that the “lowest comprehension level” for usability to ensue should be implemented for unknown audiences.

Technical Writer B expressed that she aims for her writing to be concise and she does so by using short sentences and getting straight to the point (Technical Writer B). Johnson-Sheehan explained that readers prefer concise texts. He explained that the shorter the text the better so the writer should get right to the point and highlight important information for the audience (45).

Finally, Technical Writing Professor C explained that she teaches her students to use plain language. Plain language includes clear and concise writing by using “clear wording and simple prose” for documents used to instruct, teach, or present information for an audience (Johnson-Sheehan 165).

2.3.3 Writing for the Audience

Specialized information that is communicated clearly and concisely is essential to making a document usable. But the way the information is structured to accommodate an audience dictates its clarity and, therefore, its usability.

Communication is not an independent process for the writer. Communication is a social action and an “interchange between particular, individual people: the writer and the readers” (Anderson 9). Therefore, in order for the communication to successfully ensue, the writer needs to be aware of the best way to communicate the information so that it is comprehensible for that specific audience and so that it persuades that audience to use the information (Johnson-Sheehan 7).

All three technical writing professors selected as a key writing principle they hope their technical writing students adapted was to be aware of who the audience is and write for that audience. Technical Writer C also selected this as a writing principle she would emphasize to a technical writer new to the profession. Technical Writing Professor B explained that “[She] focuses on what the reader needs to know from their understanding. This includes the translation from [the writer’s] context to another’s context. Not just using the same language or the same jargon but things like that that won’t make sense to someone else in their own contextual, conceptual language.”

Technical writers are expected to know that audiences comprehend written material differently from one another (Technical Writing Professor C). Technical Writer C provided examples of documents that she wrote differently to accommodate audiences of different needs, values, and expectations. She includes only need-to-know content when writing documents for external clients so they see the big-picture benefit of partnering with the organization and they stay focused on what is being offered to them. However, Technical Writer C would not filter her content as generously when writing informative documents for internal employees because they need to understand how the organization holistically works and not just what they ultimately provide to external clients. It is important for technical writers to anticipate how document users will respond to provide those users with the information they desire and anticipate (Anderson 10; Technical Writing Professor A).

All three technical writers are responsible for communicating specialized information so that it is comprehensible and useable for the targeted audience. Without adapting the text and writing for the audience, the document is unusable and the technical

writers have not fulfilled their jobs. Technical Writer B writes documents for internal clients to inform them of what research she has done and data she has found regarding the usability of their product. Her reports are designed to persuade the clients that her product recommendations are reliable. Technical Writer C is also responsible for establishing documents for external clients to teach them why her organization charges what they do and what is offered for those prices. Both Technical Writers B and C also write documents to internal co-workers informing them of administrative processes and procedures they are recommending be followed. Technical Writer C writes training tutorials for new employees so they are quickly and efficiently taught organization expectations. Technical Writer A is responsible for accommodating her organization's website to the various audiences who use it. The audience includes other corporations, current customers, and potential customers.

2.3.4 Developing an Audience Persona

Technical writers are sometimes responsible for writing to multiple audiences using a single document. The document needs to communicate to a variety of audience members who have different values, who are pursuing different information, and who have different levels of comprehensibility. Technical Writing Professor B explained that “when you're writing for everyone, you're writing for no one. When you're writing for no one, you write for yourself” (Technical Writing Professor B). In other words, technical writers cannot successfully accommodate all audiences by attempting to write for “everyone” but by establishing audience personas and writing the document with these personas in mind. For example, Technical Writer A is responsible for ensuring her company's website is equally accessible and understandable to corporations, current

customers, as well as potential customers. To accommodate all the audiences, she identifies what information each audience is looking for and then designs navigability tabs so they can easily identify where to find needed information. Johnson-Sheehan also supported the semblance that the readers' personas need to be identified by declaring that "there is no such thing as a 'general reader.' Rather, each document is designed to suit the needs of specific types of readers" (44). Technical writers can conduct audience based research to identify an audience persona, especially for imaginary and multiple audiences.

Technical Writing Professor A also expressed that technical writers can "research empathetically to discover a primary audience persona" (Technical Writing Professor A). Technical Writing Professor C expressed that, "audience based research is such a big part of technical writing that you can't do a big project without it" (Technical Writing Professor C). All the technical writing professors and technical writers expressed the same beliefs or provided examples of audience based research to establish an empathetic writing approach to use so documents are useable.

First, technical writers need to identify who would be interested in reading the document. Technical Writer A and C expressed that they begin their audience research by asking who the document will be written for by addressing the question to whomever gave them the assignment (Technical Writer A; Technical Writer C). Once the audience is identified, whether the writer is directly informed or they need to research who the primary audience is, then strategic assumptions need to be made about the audiences' needs, values, and attitudes (Johnson-Sheehan 47-50). Technical writers need to identify what the audience wants, why they want it, how they will react to what is communicated,

and how the technical writer wants to help or influence them (Anderson 9; Johnson-Sheehan 45; Technical Writer A; Technical Writing Professor A). Technical Writer A explained that she also questions if the audience is tech savvy, what their age is, and what they are trying to do (Technical Writer A). Regarding language and content, it is useful to identify the “readers’ familiarity with the subject, professional experience, educational level, reading and comprehension level, and skill level” (Johnson-Sheehan 50). Technical writers can also anticipate reader responses by determining the audience’s conventions, expectations, and situations that may influence the reader (Anderson 10).

Strategic assumptions may not be enough to establish a strong audience persona. Johnson-Sheehan suggests using the internet, interviewing internal or external Subject Matter Experts, and usability testing (44-284). Usability testing is the only method that allows the writers to come in direct contact with the intended audience out of the listed recommendations (Johnson-Sheehan 282). Usability testing can be either informal or formal. Informal usability testing includes asking people to review the document and mark any parts that are unclear (Johnson-Sheehan 282). Formal usability testing is running experiments on the intended audience to test that a document is effective and carries out its purpose (Johnson-Sheehan 282-83).

The end goal of audience based research is that the technical writer is so knowledgeable of the audience’s needs and expectations that they can imagine the audience as a person standing right before them an ideal reader who encapsulates all the different audiences (Technical Writing Professor B; Anderson 9).

2.4 Genres

A technical writer's ultimate goal is to persuade audiences to use a document the way the organization or expert wants them to. Knowledge of the audience persona is essential because audiences construct the meaning of the document then respond by using the information they constructed. If readers interpreted and used the material differently from the organization or expert's desire, then the technical writer did not reach their goal. Conducting audience based research and establishing an audience persona leads the technical writer in the direction of knowing the most efficient method of presenting the information. "Readers' responses are shaped by situation" and the genre depicts how the information is presented which shapes the readers' contextual situation (Anderson 13).

The audience's situation is determined by where the user is, how they want to use the document, and what knowledge and tools are needed for them to use the document. A genre is selected based on what is most appropriate for the audience's situation. Genres are common patterns of writing that maintain established conventions and reveal the document's purpose to the audiences (Johnson-Sheehan 25-7; Anderson 13; Bax 60). Audiences expect and predict the information to be implemented and arranged according to genre rules (Johnson-Sheehan 25; Bax 60). Therefore, genre plays into audience's expectation of document purpose, which further establishes clarity of the specialized information.

To gain a further understanding of how technical writers adjust their writing to accommodate the document user's needs, common technical writing genres were analyzed. These genres include reports, instructions, technical memoranda (as opposed to legal memoranda), and emails. All three technical writing professors teach the genres and

at least one technical writer uses each genre for their profession. The analysis takes a closer look into each document's purpose, format, and writing styles to uncover this information. A close observation of reports, technical memoranda, instructions, and emails can be referred to in Appendices A through D.

CHAPTER 3: LAWYERS AND LEGAL WRITING PROFESSORS

This chapter includes all data found about lawyers and legal writing professors from the interviews. All consistencies will be supported by secondary sources required or suggested by the legal writing professors.

The first subsection, Section 3.1, includes each lawyer's job title, the type of law they are currently practicing, their education, and if they are licensed to practice law. The interviewees' professional education, achievements, and responsibilities were revealed to demonstrate how each lawyer possesses different responsibilities while also using similar skill sets to accommodate their area of law. All identifiable information was kept confidential so each interviewee felt comfortable honestly answering the questions asked. However, they were unable to reveal specific client experiences due to client confidentiality. The subsection concludes with the questions that were asked to the lawyers.

Section 3.2 includes the law school mission, type of law school, and legal writing course requirements for the law schools where each legal writing professor teaches. The legal writing requirements were detailed to grasp the law school's perception of the importance of legal writing for a lawyer's career. All identifiable information was kept confidential so each interviewee felt comfortable honestly answering the questions asked. The subsection concludes with the questions that were asked to the legal writing professors.

The next subsection, Section 3.3, includes the similar claims made by all lawyers and legal writing professors. Lawyers and legal writing professors agree that quality writing benefits a lawyer's career and that legal writers are responsible for communicating clearly and articulately to appropriate audiences. Additionally, the basic writing principles, clarity and conciseness, mentioned by all six interviews will also be provided.

In Section 3.4, a genre analysis of client letters, office memoranda, briefs, and contracts taught by all the professors and at least one lawyer reveals if and how legal writers adapt these genres to accommodate the users of the document.

The final subsection, Section 3.5, explains that there were no relevant consistencies found for only lawyers except that all legal writing professors compared legal writing to technical writing.

3.1 Lawyers

Lawyers are educated to be self-sufficient and utilize problem solving, writing, reading, communication/articulation, investigative/research, and organization skills to adapt to an area of law they select for practice such as transactional law, litigation law, constitutional law, contract law, environmental law, etc. The three lawyers interviewed have different job titles, job responsibilities, and work for different types of companies. The differences in job responsibilities are important to reveal because it shows that regardless of their legal focus, they are still in agreement about legal writing basics which are shown in the data explanation further into the chapter.

The following list describes each interview participants' job title, specialization in an area of law, and how each will be identified here for ease of reference and confidentiality purposes. One of the lawyers is referred to as an "Attorney" and this title is used for any lawyer whose practice includes work in the court room. However, "Lawyer" can be used for all who practice law because it is a general term that encompasses all types of lawyers.

- Lawyer A – Transactional Lawyer: Partner
- Lawyer B – Litigation Attorney
- Lawyer C – Transactional Lawyer

Lawyer A, a transactional lawyer, is the partner of a company where he has worked for over 30 years. He focuses his practice on employee benefits, executive compensation, taxation, and business law. He is a legal representative of his clients but does not typically practice in court. He has received a bachelor's degree, a juris doctorate, and has passed the bar exam for one state.

Lawyer B is a litigation attorney who focuses on environmental and product liability litigation. He practices law in court as a representative for his clients. He has received a bachelor's degree, a Juris Doctorate, and has passed the bar exam in two states.

Lawyer C is a transactional lawyer who works for a state healthcare system. She is responsible for interpreting state and federal legislative regulations, drafting and negotiating contracts, and managing relationships and resolving issues with insurance payers and providers. She is a representative of the organization she works for but does

not typically practice in court. She has a bachelor's degree in International Affairs, a Juris Doctorate, and has passed the bar exam for one state.

The lawyers were interviewed to confirm whether or not writing is a predominant feature and required skill for their careers. The goal is to compare each lawyer's writing responsibilities to those of a technical writer's. More importantly, the three lawyers were interviewed to identify the ways they tailor their written documents to their audience's needs and expectations and why. Each was asked the following questions:

- How does legal writing support your organization's goals?
- Explain your sense of effective legal writing's importance for your career.
- If you informed a lawyer new to the profession of three writing principles, what should they be?
- How should lawyers determine appropriate audiences for their writing?
- What genres are most important to your work?

3.2 Legal Writing Professors

Like any job, an employee's responsibilities accommodate the organization or company they work for and legal writing professor's responsibilities are no different. The legal writing course each legal writing professor has taught supports their law school's mission in one form or another. All law schools require students to take at least one writing course or may require more than that dependent on the school. Additionally, the required legal writing courses may highlight different features of legal writing in comparison to legal writing courses required by other law schools. Finally, a single legal writing professor is usually not the only professor appointed to teach legal writing at a single school, but rather, one of a group of legal writing professors. This shows that the

legal writing professors interviewed may only be teaching a particular section of a holistic legal writing curriculum. Therefore, there are differences of purpose for the courses each legal writing professor has taught. The differences in teaching responsibilities and locations of employment are important to reveal because it shows that regardless of the legal writing focus, they are still in agreement about legal writing basics which are shown in the data explanation further into the chapter.

The following list indicates how each legal writing professor interviewed will be identified for ease of reference and confidentiality purposes as well as a list of courses they have taught at the universities where they are currently employed.

- Legal Writing Professor A
 - Legal Entrepreneur Writing
 - Law and Rhetoric
 - Lawyering Process
 - Strategic Business Communication
- Legal Writing Professor B
 - Business Associations
 - Lawyering Practice
 - Problems in Practice
- Legal Writing Professor C
 - Contract Law
 - Introduction to Law
 - Research and Writing
 - Advanced Writing

Legal Writing Professor A and Legal Writing Professor B teach at the same school, which is a professional graduate law school that has been given full accreditation from the American Bar Association. The law school is student-centered and dedicated to students being taught practical skills like traditions, theory of law, critical thinking, and analytical skills that will allow them to thrive in a professional setting and maintains an enrollment of 1,200 students. Legal writing courses reflect this mission and students are required to take two legal writing courses each semester of their first year and two practical courses that include writing components in the second year.

Legal Writing Professor A has received a bachelor's degree in English, an Advanced Legal Writing Certificate, a Juris Doctorate, PhD in English, and has passed the bar exam in one state. She is currently the director of the writing center for the law school where she teaches.

Legal Writing Professor B has received a bachelor's degree in Political Science, a certificate in Paralegal Studies, a master's degree in Public Administration, a Juris Doctorate, and has passed the bar exam in two states. She is the former director of the writing center for the law school she teaches at.

Legal Writing Professor C teaches at a professional graduate law school that has been given full accreditation from the American Bar Association. The law school has established a practice mission dedicated to students being taught fundamental and basic skills required to practice law, pass the bar exam, and understand the legal, moral, and ethical responsibilities of lawyers. Legal writing courses are the foundation of this practice mission and two of the courses are required for students. The school has an

enrollment of 2,330 students. Legal Writing Professor C has received a bachelor's degree, a Juris Doctorate, and has passed the bar exam in one state.

The legal writing professors were interviewed to confirm whether or not they enforce that writing is a predominant feature and required skill for a lawyer's career to ensure a lawyer's writing responsibilities can be comparable to a technical writer's. More importantly, the three legal writing professors were interviewed to identify if they teach their students to tailor their written documents to their audience's needs and expectations and, if so, how and why. They were asked the following questions:

- How do legal writing courses support your law school's mission?
- Explain your sense of effective legal writing's importance for a lawyer's career.
- If every law student of yours graduated knowing and remembering three writing principles, what should they be?
- How should lawyers determine audiences for their writing?
- What genres do you emphasize in your teaching?

For consistency purposes, I asked the legal writing professors to answer interview questions based on courses they have taught at the law school they are currently employed at but did not limit them only to the courses they are currently teaching.

3.3 Similarities of Lawyers and Legal Writing Professors

The following section includes similarities found throughout all the lawyers and legal writing professors interviewed. They agreed that writing is essential to the success of a lawyer's career in addition to what they are responsible for as writers. They also

agreed that clearly communicating specialized information, clarity and conciseness as basic writing principles, and writing for the audience are legal writing responsibilities.

3.3.1 Quality Writing Benefits a Lawyer's Career

All the lawyers and legal writing professors interviewed agreed that quality writing skills are a fundamental asset to a lawyer's career. Richard Neumann and Sheila Simon, authors of *Legal Writing*, researched surveys that the American Bar Association conducted as they tried to identify what skills hiring partners are looking for and they determined the "job applicant's writing sample to be one of the top factors in deciding to make a job offer" (2). Writing is a skill attractive to hiring partners because lawyers "write and publish more pages than novelists, with more consequences hanging in the balance" (Edwards 1). All lawyers have the responsibility to be professional, well-trained writers "regardless of the practice they choose" (Legal Writing Professor B).

Interviewees agreed that a lawyer should know how to write well by correlating quality writing skills and the success of a lawyer's career:

- Legal Writing Professor B: "You always have to be a good writer to be a good lawyer."
- Lawyer A: "There is a tremendous premium to someone that has a facility for writing well, clearly, and concisely. It is a real detriment for those in a legal career who do not have those writing skills."
- Lawyer A: "The written word is a crucial part of my practice and that of other lawyers in the firm."

Lawyers are not commonly considered writers. A lawyer's main responsibility is to represent a client and legally obtain whatever it is the client legally desires. Neumann and Simon support this by explaining how writing is associated with getting a lawyer's client what they want: "Clients pay lawyers to get results. Lawyers write to cause things to happen. In a lawyer's career, good writing pays well and bad writing pays bad. If you are a better writer than other lawyers, your clients will have the advantage" (2-3).

Being an oral advocate and providing effective arguments are essential to a lawyer's career. However, the court does not officially acknowledge motions, opinions, or arguments unless they are in writing. Also, law firms do not survive without administrative documents written by lawyers to communicate with other lawyers in the firm. Interviewees also acknowledged that lawyers are expected to possess qualities other than writing, especially oral communication skills. But, ultimately, these qualities are nothing without writing.

- Lawyer A: "If you can't write well, you're going to have a hard time unless you're really good at relations and communications and someone is backing you up with writing."
- Lawyer B: "Writing is crucial to what I do. My ability to convince the court of my view or the facts of my case and how they should be applied is almost exclusively done on paper."
- Lawyer C: "[Written documents] govern our relationship with the [clients]. They're very useful and kind of the rulebooks of the relationships with the [clients] going forward for however long."

- Legal Writing Professor A: “Lawyers are really fantastic at talking because they have to get it out and they loathe to write it down in the beginning because they understand the importance of it. I think that’s why lawyers are constantly talking, because they know once the pen hits the paper that is the most important moment of their day.”
- Legal Writing Professor C: “You can be a great oral advocate but have your practice hurt by your inability to research and write.”

The lawyers and legal writing professors agree on the essential nature of quality writing for a lawyer’s career. Legal Writing Professor A proclaimed enthusiastically on behalf of lawyers that, “legal writing is absolutely essential and without it, we would die. It’s like our oxygen. It affects people’s lives. It’s the life of a lawyer’s career” (Legal Writing Professor A).

3.3.2 Clearly Communicating Specialized Information

All three lawyers and legal writing professors explained that legal writers’ main responsibility is to clearly communicate complex information to the audience in written form. These are a few examples of statements the interviewee’s provided:

- Lawyer B: “I try to simplify and break down thoughts into simple, presentable issues that are very easy to grasp.”
- Lawyer C: “I try to have someone who is not involved in the project to review the document and tell me honestly if something is not very clear.”
- Legal Writing Professor B: “The goal is to break it down in a way that is easy to understand the law.”

3.3.3 Basic Writing Principles

All lawyers and legal writing professors interviewed showed consistency regarding basic writing principles they use when writing in general. A common theme was the goal for their writing to be “clear” and “concise” (Lawyer B; Lawyer C; Legal Writing Professor A; Legal Writing Professor C).

If the interviewee did not use the exact words “clear” or “concise” they still provided a list of descriptions of effective writing similar in nature. Lawyer A said he uses uncluttered plain language, avoids “flowery language” reduces the use of pronouns, commas, and postmodifiers, maintains a logical order, and gets to the point as quickly and efficiently as possible (Lawyer A). Legal Writing Professor B advises her students to use good technical writing and plain English, to avoid legalese, and to ensure accessibility to the reader (Legal Writing Professor B).

Neumann and Simon also support that a common writing principle should be clarity and conciseness due to their explanation that “unclear writing can make it hard or impossible for your reader to agree with you” and “even if a reader could—with effort—figure out what you mean, readers in the legal profession usually cannot give you that effort” (149).

3.3.4 Writing for the Audience

Mary Ray and Barbara Cox, authors of *Beyond the Basics: A Text for Legal Writing*, explained that the goal of legal writing is “to communicate your point very clearly” (197). However, writing cannot be declared clear unless the user of the document determines it to be. Legal Writing Professor C explained that clear communication is established by understanding how information is conveyed from one person to another.

Lawyer A and Legal Writing Professor A also acknowledged the importance of writing to a specific audience:

- Lawyer A: “My goal is that the material is understood and clear to the audience. I am constantly calibrating anytime I write: ‘Who is the audience? At what level do I need to be writing?’”
- Legal Writing Professor A: “If it is not clear and effective for that particular audience then the lawyer has failed regardless if they think it is a beautiful piece of writing or if a different audience would understand it.”

Linda Edwards, author of *Legal Writing: Process, Analysis, and Organization*, also maintains that clear communication to the intended audience is essential when writing: “The goal of writing is to communicate with a reader. A document is actually a conversation. The better we know our partners, the more effectively we can communicate. Knowing the characteristics of the reader governs many of the writers’ choices” (161).

3.4 Similarities of Legal Writing Professors

There were no relevant consistencies across only lawyers. However, all the legal writing professors compared legal writing to technical writing.

Legal Writing Professor A explain that in order for a lawyer to be a good editor they need to understand the “mechanical, micro-level aspects of writing” which includes being “technical writing knowledgeable” (Legal Writing Professor A).

When Legal Writing Professor B was asked “if every law student of yours graduated knowing and remembering three writing principles, what should they be?” one of the writing principles she listed was “good technical writing skills” (Legal Writing

Professor B). She later explained that “legal writing is a different type of writing. Not only do you need good technical writing skills but legal writing analytical skills too to analyze the law and then write about it” (Legal Writing Professor B).

Finally, Legal Writing Professor C suggested that “technical writers focus more on how you convey information from one person to another” which he followed up with explaining that his teaching emphasis of legal writing is “more on the technical writing side” (Legal Writing Professor C).

3.5 Genres

Every semester, Legal Writing Professor A teaches her students that “audience is key” in writing by assigning a writing task. She asks her second year law students to use a memorandum they wrote their first year of law school and re-write it, using the same content, but for a different audience (ex: client, judge, colleague, etc.). This assignment helps them understand that a document written for one audience may not communicate clearly to another. The students then exercise varied organization, structural, and language choice strategies that help accommodate different audience needs for effective communication to ensue (Legal Writing Professor A).

After the students have completed the new memorandum, Legal Writing Professor A then asks her students to transform the memorandum into a brief, a different genre. This allows them to learn that the presentation of information changes by genre and audiences have different expectations for different genres (Legal Writing Professor A).

According to Stephen Bax, linguist and writer of *Discourse and Genre: Analysing Language in Context*, genres are socially constructed and shared mental concepts that we

use to prepare for and interpret communicative events (60). They are guided by their function, which then guides their features (location, structure, layout, style, lexis, grammar, etc) (Bax 60). Additionally, the genre is guided by social and contextual attributes and that includes who is making use of the genre (Bax 61). Most importantly, genres are “highly flexible” so they adapt to the genre’s situational changing of function, features, and readers.

To further understand how lawyers adjust their writing based on the document user’s needs, client letters, legal memoranda, briefs, and contracts were analyzed. All three legal writing professors teach the genres and at least one lawyer uses each genre for their practice. This analysis takes a closer look into each document’s purpose, format, and writing styles. A close observation of reports, technical memoranda, instructions, and emails can be referred to in Appendices E through H.

CHAPTER 4: COMPARING TECHNICAL AND LEGAL WRITERS

Three technical writers, three technical writing professors, three lawyers, and three legal writing professors were interviewed to learn how each intends to make a document useable by accommodating the primary audience. Accommodate means to make suitable or to adapt. In reference to writing, accommodation means the writer has attempted to adapt the document so that it is suitable, comprehensible, and useable for the readers based on the readers' and writers' expectations and intentions. Readers, not writers alone, construct the meaning of documents and if they are unable to understand the document or use it how the reader intended then the document is unusable. A reader's determination that a document is unusable or incomprehensible could lead the reader to the conclusion that the writing is not good or effective. Following this logic, lawyers and legal writing professors were interviewed to learn how they accommodate texts to their primary audience. It seems lawyers are often considered bad writers despite the fiscal consequences and importance their writing has on their career. In contrast, technical writers and technical writing professors were interviewed based on the understanding that it is always their responsibility to accommodate audiences and work to make documents useable. The technical writing data was collected to compare to the legal writing data so it is easier to determine whether lawyers accommodate their audiences, how they do so, and to confirm if this is why they are often characterized as bad writers.

This chapter will provide a comparison of legal and technical writers' intention to accommodate primary audiences. There were evident consistencies and inconsistencies found after comparing technical and legal writers' accommodation of audiences as they write documents for their professions. This chapter will not include every consistency or inconsistency of writing principles or strategies found across each group of writers but will instead include a general analysis of the technical and legal writers' writing strategies they use to accommodate primary audiences in pursuit of document usability. Ultimately, the data and research presented here shows that both technical and legal writers believe it is their responsibility to accommodate audiences. All participants expressed this belief when asked about writing's importance for a technical writer or lawyer's career and what basic writing principles they use.

Then, primary audience members and methods of accommodation were analyzed for each of the document types the interviewees mentioned. All the technical writing documents showed that ideally technical writers are expected to accommodate primary audiences in emails, memoranda, reports, and instructions using writing principles such as using organization conventions, persuasion, developing an audience persona, and including a description of the reader when appropriate. In comparison, ideally lawyers are expected to accommodate primary audiences in client letters, memoranda, and briefs by using writing principles such as using plain language for non law-trained audiences, adopting organization's conventions and preferences of senior lawyers, persuasions, etc.

However, the primary audiences of contracts, the clients, are surprisingly not accommodated. The only readers who are expected to interpret and use contracts are the writers of the document (the lawyers of each opposing party) and the judge who

interprets the document in court if the opposing parties come to a disagreement that lawyers cannot resolve themselves. The client is present for the writing of the contract and they trust that the lawyers will not include anything that the client has not agreed to. Therefore, the contract's lack of usability is generally of no concern to the client. For contracts used by clients that are not present for the writing process and are unfamiliar with the content, the document is still not accommodated to the client and the client has few resources to help them comprehend the content.

The remainder of the chapter will be broken down by providing the comparisons of legal writers and technical writers' perspectives of the importance of writing for their careers, their responsibilities as writers, basic writing principles they commonly use, and a comparison of correspondence documents, persuasive document, instructions, and contracts. Then, the chapter will include an argument that contracts do not accommodate primary audiences which can be problematic for clients who need to sign contracts that were not present for the composition of the document and do not usually have legal counsel present. Finally, the chapter will conclude with an explanation of how the US government is attempting to make government documents more useable but these resolutions may not affect business documents, including contracts.

4.1 The Importance of Writing

The whole technical writing group interviewed did not verbalize the overall importance of writing for their profession because its importance is self-evident in their job titles. However, when the technical writing professionals explained their job responsibilities, they clearly explained how their writing skills benefited the organization they work for. Technical Writer A writes to improve the usability of her organization's

website so that other corporations, current customers, and potential customers can use it to answer questions they have about the organization efficiently. Technical Writer B writes to explain her research that identifies strategies to improve client's products. Technical Writer C writes to clarify information to external clients and to accommodate a high-turnover rate by developing new employee tutorials. Additionally, each technical writing professor teaches non-English major or minor students such as business, engineering, computer science, human development and family services, and technical applied sciences students. This evidence identifies the importance of technical writing for varied disciplines and the organizations within each.

Comparatively, each lawyer and legal writing professor verbalized that writing is not only important to a lawyer's career but is also correlated with their success. Lawyers are more commonly considered oral advocates rather than writers. However, nothing can legally be achieved or administered unless it is done in writing. Additionally, writing is an outlet for lawyers to maintain good relations with their clients, senior lawyers, and the court. These good relations can equate to the building of a clientele. Therefore, good legal writing skills can strengthen and provide clarity for agreements between parties, furnish persuasions to the court, and facilitate communication with senior lawyers and clients when informing each about the legal progression of cases.

4.2 Writer Responsibilities

Lawyers explained that they are responsible for breaking down information so that it is clearly communicated to and useable for the intended audience. Lawyers are professional school graduates, and therefore, specialists and experts of the law. So when they are writing documents for clients to interpret, they are ideally expected to break it

down so that is easy for readers to understand by avoiding jargon and legalese and only including need-to-know information. When lawyers write for specialists of the law like senior lawyers and court officials, they try to include only need-to-know information so they do not waste time. However, specialists of the law may find jargon and legalese acceptable if necessary because they can easily understand legal language. Based on the data received, lawyers write documents used by their clients, senior lawyers, judges, and clerks. In most cases, the lawyer has a professional relationship with readers who will be using their document but there are also circumstances of hidden users and future potential users. Regardless, the research revealed that lawyers write with the intention of accommodating the primary user comprehending the document with the exception of contracts. However, referring back to the explanation that experts sometimes have difficulty communicating specialized information and so technical writers take on the responsibility, perhaps this may be a reason that some lawyers have difficulty communicating specialized information; because they are the experts and “they mistakenly think of writing as an afterthought, as merely recording or transmitting information they developed while acting as specialists in their chosen fields” (Anderson 9).

Like lawyers, technical writers are responsible for breaking down and clearly communicating specialized information so that it is useable for an intended audience. However, compared to lawyers who go to professional school and become specialists of law, technical writers are often not formally educated on the specialized information they are writing about. They often learn on the job. Technical writers are responsible for researching specialized information to understand how the process or product works

enough to uncover what information the users need and are in pursuit of. Technical writers are communicating this specialized information either with internal co-workers, external clients, or other external users of the technical documents. Also like lawyers, technical writers are sometimes communicating with individuals or small groups of people that they have had or will have direct contact with. However, they can also find themselves assigned to communicate specialized information to audiences the technical writer will never have direct contact with. These audiences are collectively using the same document but have different goals, familiarity with the specialty, values, and attitudes. The technical writer is responsible for writing to all people of an audience so they need to develop an audience persona by conducting audience-based research. The research includes making strategic assumptions about the audiences' needs, values, and attitudes and also identifying what information the audience is pursuing and why they are pursuing it. Additionally, they may use the internet, Subject Matter Experts, and formal or informal usability testing to conduct the research. The end goal of the research is for the technical writer to obtain enough information so they can imagine the audience as a person right before them that encapsulates all the different people included in the audience and write a single document that every member of the audience can use. The writing principle of developing an audience persona was not verbalized by any of the lawyers or legal writing professors interviewed or academic research studied. This may be the case because the lawyers interviewed only mentioned genres written for simple, real audiences and so they are knowledgeable of their audience and they are not an abstract notion.

4.3 Basic Writing Principles

All of the interviewees agreed that technical and legal writing should be clear and concise so that it is understandable for the intended audience. Lawyer A, Technical Writer B, Technical Writing Professor A, and Technical Writing Professor B explained that language can be clear by avoiding flowery language, reducing the use of pronouns, commas, and post modifiers, and aiming for the language to be non-complex and at the lowest comprehension level for unknown audiences. Additionally, Lawyer A, Legal Writing Professor A, Legal Writing Professor B, Technical Writer B and Technical Writing Professor C identified that it is important to use plain language and to get to the point as efficiently as possible. Finally, all legal writing professors identified that good legal writing includes good technical writing.

4.4 The Intention to Accommodate the Primary Audience

The interviewees and secondary sources showed that ideally technical writers accommodate their primary audience when writing genres such as emails, memoranda, reports, and instructions. Refer to Figure 1 on the next page for details about who the primary audience is, if they are accommodated, and how they are accommodated.

Additionally, the interviewees and secondary sources showed that ideally legal writers accommodate their primary audience when writing genres such as client letters, memoranda, and briefs. However, contracts are not accommodated to the clients, the primary audience. Refer to Figure 2 on the following page for details about who the primary audience is, if they are accommodated, and how they are accommodated.

Technical Writers' Intention to Accommodate Primary Audiences for Mentioned Genres

Technical Writer Genres	Who is the Primary Audience?	Real or Imagined Audience?	Simple, Multiple Audience?	Are they Accommodated?	If so, how are they accommodated?
<i>Email</i>	Internal Co-workers or External Clients	Real	Simple	Yes	<u>All</u> : Prepared to be easy to read; One screen length, include need-to-know information; descriptive subject line; use plain language <u>Internal Co-workers</u> : Organization conventions
<i>Memorandum</i>	Internal Co-workers	Real	Simple	Yes	Organization conventions; use plain language
<i>Report</i>	Internal Co-workers or External Clients	Real	Simple	Yes	Persuasion; includes a description of intended reader; use plain language
<i>Instructions</i>	Dependent on document purpose and writer's determination	Imagined	Simple or Multiple	Yes	Develop an audience persona; interview subject matter experts; conduct usability testing; persuasion; description of intended reader; use plain language or appropriate language level; and prepared to be detailed; easy to navigate; logically organized

Figure 1: All genres also accommodate primary audiences by composing a document that follows genre rules and expectations and are expected to be clear and concise.

**Legal Writers' Intention to Accommodate
Primary Audiences for Mentioned Genres**

Legal Writer Genres	Who is the Primary Audience?	Real or Imagined Audience?	Simple or Multiple Audience?	Are they Accommodated?	If so, how are they accommodated?
<i>Client Letter</i>	Client	Real	Simple	Yes	Plain language; include only need-to-know information
<i>Memorandum</i>	Senior Lawyer	Real	Simple	Yes	Senior lawyer preference; logically organized
<i>Brief</i>	Judge	Real	Simple	Yes	Persuasion; broken down in simple terms; logically organized
<i>Contract (Clients have a hand in the construction of the document)</i>	Clients	Real	Simple	No	-----

<i>Contract (Client does not have a hand in the construction of the document)</i>	Client	Imagined	Multiple	No	-----
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Figure 2: All genres also accommodate primary audiences by composing a document that follows genre rules and expectations and are expected to be clear and concise.

4.4.1 Correspondence Genres

Both groups provided examples of correspondence genres they write for internal co-workers and external clients. The technical writers identified that they write memos and emails that could be written for managers and/or co-workers. The lawyers identified that they write memos for their senior lawyers and client letters for their clients. The research and data revealed that all correspondence genres are expected to be accommodated to the primary audience.

Both technical writers and lawyers write memos to inform the recipient of new information. For lawyers, memos are long, formal documents that function to inform or report to a senior lawyer about the state of a law and objectively determine whether the lawyer's client can or cannot prevail on a particular issue. The lawyer writes a memo to inform about case information so the senior lawyer remains updated on the case's progression and can use it as reference material. The senior lawyer is a primary audience member because they receive the document directly and they are the main focus of the design because they are the person that needs to be informed of the case information.

Technical writers have less definitive but more circumstantial reasons to write a memo. For technical writers, memos are a short, formal correspondence used to inform audiences of general policy announcements, results of important decisions, formal inquiries, refusals, meeting agendas, internal reports, short proposals, and transmittals of important documents or materials that are meant to persuade recipients to take action in a positive way for the organization's benefit. The audience is always changing and the document can be directed towards a single person or a large group of people, also dependent on the circumstances. Their primary audience is always internal co-workers that are real audience members because the technical writer is able to work and

communicate directly with them. If the writer has not met the reader before they are still able to come in direct contact with them if need be. They are simple audiences because the information they are receiving in the memo is equally applicable to each recipient because they all work for the same organization and possess a shared value and need for the information being sent.

Despite the different functions and audiences for the legal and technical memos, both lawyers and technical writers are expected to format and structure the memo based on the local conventions of the organization they work for to accommodate the reader's expectations. A legal memo usually follows a general format: heading, question, brief answer, fact statement, discussion, and conclusion. Lawyers usually follow this format and maintain an internal logic and structure but they must also uncover how the senior lawyer prefers the content to be presented and what content should be included within. For example, the senior lawyer may prefer the content be structured in a "cut and paste method" which means including long passages from relevant cases that are unsupported with analysis so the senior lawyer can make their own conclusions. Another option a senior lawyer may prefer is to include all research and analysis so the senior lawyer does not need to take the time to formulate their own analysis. Ultimately, the writer needs to identify which format the senior lawyer prefers so they are willing to read the document and the memo is the most useable for the senior lawyer and will help whatever action the senior lawyer takes in response to the document.

As for technical writers, the data and research showed that business memo formats usually include a header, introduction, body, and conclusion. The content should be concise and to the point but how the memo is signed is dependent on the norm for the

organization. Again, for the writer to accommodate the audience members, they must use the memo format that is commonly used in the organization so the recipients identify that it is an internal memo, develop and meet document expectations, and will know how to use the document.

Similarly, an email that is being sent to internal workers should be written in correlation to the conventions the organization has adapted. Both lawyers and technical writers write emails but the research and data only reveals the technical writer's approach. The audience members receiving emails are real audiences because, like memos, they are individuals the writer works with and are able to communicate directly with. Again, like memos, the recipients of emails are simple, homogenous audiences because, if there is more than one recipient, the information they are all receiving is equally applicable to each recipient and they should use the information similarly to benefit the organization. Emails are a quick, efficient method of sending messages both internally and externally from the organization. Emails can be written informally or formally, include one sentence or a few paragraphs, begin with a greeting or not, etc. Because emails possess contradicting genre expectations, it is important for the writer to uncover what local conventions the organization has adopted so the writer can accommodate to the reader's expectations. Additionally, emails are sent to external clients so the writer needs to be aware of what expectations the client has for an email. Regardless of the format, however, emails are also accommodated to their recipients if they are prepared to be easy to read by using short paragraphs, blank spaces between paragraphs, and avoiding messages longer than a screen and a half in length.

Additionally, the content and subject line should be concise by including only need-to-know information and being clear and descriptive.

Lawyers also write client letters to send information to the client or get them to learn or do something. Clients are real, simple audience members. It is important for the lawyer to have good professional relationship with the client so any type of correspondence should be understandable to the client. For a letter to be understandable to a reader not specialized in law, the letter should be clear and effective and avoids convoluted language and legal terms. Additionally, the lawyer should select what content to include based on what they know the client should be informed of at the time.

Technical writers write memos and emails with the purpose of informing the recipient of new information. They are not written with the intention of informing people external to the company (other than external client recipients of emails) or other unintended recipients. Because emails and memos are circulated internally using an organization's network system, all memo and emails belong to the organization. Therefore, technical memos and emails have the potential to be used by unintended readers that the writer may not have directed the memo or email to. They have the potential to show up in meetings or courtrooms depending upon the circumstances. If the emails or memos appear in court, the new audiences of the document will either be secondary or tertiary readers, not primary readers, because the writer did not focus the design of the document to these unintended audiences and they did not receive the document directly. Therefore, the primary audience remains accommodated to primary audiences whether or not it is also accommodated to secondary or tertiary audiences.

4.4.2 Persuasive Genres

Usability is intertwined with persuasiveness. Persuasiveness is the ability to influence readers' attitudes and actions. Without usability, persuasiveness cannot ensue because the reader cannot be persuaded to do or believe anything if they do not easily understand the written content. Briefs and reports are documents written to persuade the reader to perform an action or support a perspective argued by the writer.

Briefs function to persuade the judge to support the lawyer's case by describing the story's background, law under discretion, and their legal interpretation of the story and law. Courts don't usually govern the format of briefs so lawyers write the brief to accommodate the actual judge assigned to their case and possibly the clerk. A lawyer may not have too much experience directly communicating or working with the judge but they are able to ask other professionals who have experience working with the judge about what writing preferences the judge has regarding briefs. The judge may react more favorably with a conservative and long-term perspective but practice has also proven that providing a statement of facts, analysis of the statutes involved and the argument pertaining to the client's case in a storytelling form is a reliable and persuasive format lawyers usually use.

In the case of the report, the technical writer is trying to persuade either external clients or internal employees that the report's data and analysis are reliable and, therefore, the conclusions are logical and the recommendations should be followed. There are many types of reports (progress reports, feasibility reports) that can be used depending upon the report's purpose. However, because most reports are meant to persuade the readers to use the included suggestions, they are formatted to present a sound basis for decisions.

External clients or internal co-workers the report is directed to persuade are the primary audience and they are real audience members. There is a chance the writer will not meet every member of the primary audience considering some representatives may communicate the primary audiences' needs and expectations. Regardless, the primary audience is a flesh and blood entity that, even though the writer may not have spoken to face-to-face, the writer is in communication with individuals who are in communication with the primary audience members. Despite the chance that the technical writer may not have direct contact with the entire primary audience, they are aware that the audience is simple so they collectively have similar needs and expectations of the document. Real, simple audiences can be accommodated because the writer can confirm their needs and expectations for the document.

The writer's goal when composing briefs and reports is to convince the reader that the document should be used and not just understood. Both briefs and reports establish a sense of reliability due to the professional relationship that has been established between the writer and the readers when the primary audience is real and simple. Additionally, each document type follows similar formats that help convince the reader that the writer's conclusion is the one to follow. The formats used for both briefs and reports resemble one another because they both provide the facts, a logical analysis, and then conclusions based on the facts and analysis. To persuade the readers, both writers use a persuasive crescendo of logic to convince the readers to act in accordance with the writer's views.

Lawyers may adopt a three part structure to format their brief to help the document persuade the judge. The lawyers can tell their client's story in a three part structure that begins with a state of equilibrium, the equilibrium is then disrupted, and,

finally, the protagonist struggles to restore equilibrium (Neumann and Simon 201). The structure attempts to emotionally convince the audience that the protagonist (client) deserves to return to equilibrium. Additionally, the structure encourages the reader to agree with the writer before the writer has to ask the reader to agree with them. This way, the reader is more committed to the decision. This is done by “telling the reader what you want them to believe, and then you set out the steps of logic to prove that position” (Neumann and Simon 200). The steps of logic are supported by a description of the law under discretion and the legal interpretation of the story and law. Finally, critical word selection helps develop vivid story images which helps the reader remember the story and can make it more believable.

Similarly, reports can be formatted in an effort to persuade the primary audience. Reports generally include the following parts: introduction, methodology, discussion, conclusions, and recommendations (Johnson-Sheehan 25; Anderson 460). The methodology includes a description of how the facts of the report were gathered. This information creates a sense of reliability and trustworthiness of the writer and content (Anderson 460). If the writer accomplishes a sense of reliability, the reader may be persuaded to support the discussion, conclusions, and recommendations and then respond to the document with the writer’s requested actions.

Technical writers can be responsible for writing instructions which also are persuasive documents but function differently in that the audience needs to be persuaded to actually use the document rather than only being persuaded to respond in favor of the writer’s perspective. Instructions are also written for imagined, multiple audiences in comparison to the real, simple audiences that use briefs and reports.

4.4.3 Instructions

Technical writers compose instructions to show or teach someone how to complete a task or a variety of tasks and activities in a step-by-step process. Users can be impatient with and dislike reading instructions. To accommodate this common audience characteristic, technical writers should design instructions to be persuasive and easy to use so users consult with the instructions rather than potentially damaging the product or hurting themselves. Additionally, technical writers should make instructions persuasive and easy to use so the users feel good about the product and recommend it to other potential users.

The user of instructions determines whether or not readers are persuaded to consult with the instructions and, whether or not they are easy to use. Therefore, technical writers must write instructions in accommodation to the audience so that instructions and procedures are used as intended by the writer. Unfortunately, depending upon the product or process that is being shown or taught, instructions are used by multiple, imagined audiences that can be small or very large groups that have different backgrounds, needs, and use the document for a variety of purposes. Therefore, technical writers are tasked with thoroughly researching the product or process, developing an audience persona, and evaluating the situation in which the instructions might be used so that the document includes all relevant information expected and needed by the user. The writing style should be clear and succinct for effortless comprehension and optimistic and excited to energize the user so they look forward to using the product. Additionally, the language should parallel the level of specialization and knowledge the user already has about the product. In other words, plain language is often used for instructions. Finally, the

instructions should be formatted so that it is logically organized and easy to navigate the text because the user is performing the steps after reading each one.

Regardless of common technical writing principles that can be used to establish document usability and appeal, a great deal of the likelihood that the instructions are useable is dependent upon successfully writing for the intended audience. Sometimes the development of an audience persona is only based on strategic assumptions that are subjective notions and have the potential to be unreliable reasoning. With this understanding in mind, usability testing and interviewing subject matter experts can be conducted for intended audiences to confirm that their audience depiction is accurate and the document is appealing and comprehensible for the primary audience. Additionally, instructions include a description of the intended primary audience, like reports, so readers can confirm whether or not they possess the proper needs, expectations, knowledge, materials, and background the reader requires to successfully use the document.

4.4.4 Contracts

Contracts aim to govern relations and behavior between two parties. After the document has been written and signed by each party, the clients are expected to behave in accordance with the document. Essentially, the contract is a piece of paper that has huge legal influence on the clients' lives.

A lawyer is constructing a contract with another lawyer who is representing the opposing party. The contract explains the agreement the two parties have come to and the lawyers make sure each of their parties' requests is clearly stated in the document. The contract aims to be as clear and unambiguous as possible to avoid future litigation over

disagreements. It is the two opposing parties' goals to avoid litigation, and therefore, it is the lawyers' goals to establish a contract that clearly states what the parties have agreed to and can only be interpreted to show that agreement.

To avoid ambiguity, contracts are written so they are interpreted one way: how the parties agreed it should be interpreted. The lawyers are challenged with the task of making the contract as simple as possible but not leaving anything out or making anything unclear. They do so by not being lax with grammar and ensuring the contract can be adaptable to changing conditions. For example, contract writers limit the use of pronouns and choose to refer to parties or any other characters by their formal name through the whole document. They also strategically select articles, prepositions, and conjunctions. Additionally, lawyers define terms that can have a variety of meanings so they are not interpreted in any unintended way. Also, lawyers write to make sure all content of a subject matter remains consistent throughout the document. Finally, the lawyers writing must make sure the contract can be adaptable to changing conditions because the contract may be used for an extensive time period. The legal language used aims to provide clarity of content so the document can be interpreted only one way but it is syntactically complex in comparison to day-to-day English.

Traditionally, contracts are long, convoluted documents that are written by law-trained writers and interpreted by law-trained readers. The content included is determined by the clients' agreed preferences so they are fully aware of what the contract states; however, it would be difficult for them to interpret the document themselves without this previous knowledge. For example, when lawyers write client letters they break the language down so that it is easy for the client to understand by avoiding jargon, legalese,

and convoluted language but contracts are not written this way so the document is interpreted only one way. To put it in perspective, contracts are written at a 20th grade reading level and the average reading level for Americans is the 7th grade (Technical Writing Professor 3; Schiess xii). The language used is archaic and the document is filled with jargon, legalese, and unfamiliar formatting and grammar use. However, in cases that each lawyer cannot put anything in the contract that both parties haven't agreed to, the client is not concerned with being able to independently interpret the text. Clients want to make sure that the contract achieves its goal: to avoid litigation and, if litigation occurs, to ensure the client is still protected by the text.

The clients are taking action in response to the document and the document may have a huge influence on their lives so they are the primary audience of the document. However, the contract is not written to be comprehensible for the clients nor is it designed or expected to be interpreted by the clients. The contract is written as a result of extensive discussions between the clients and their representatives and, therefore, the client is still knowledgeable of what the contract communicates even though they may have difficulties deciphering the content on their own. In the case that the client forgets or is confused about the agreement, the lawyers are the secondary audience members because they use it as a tool to advise the clients what actions should be taken to abide by the contract and avoid any type of litigation. In other words, although the clients are technically the primary audience members, they do not usually read, interpret, or use the document themselves. Instead, the lawyers interpret the document and advise the primary audience of the appropriate actions to take and this comes easy to them because they wrote the contract themselves.

In the case that a party is accused of breaking the contract, the contract will be interpreted by a judge to determine whether or not their actions were in violation of the document. Under these circumstances, the judge is the tertiary reader because one of the lawyer's goals was to avoid the document to be used by a judge in court. In the case that the contract is used in court, the judge is using the document as a reference material to help reach a case resolution which is different from how the primary audience would use the document. Additionally, the judge is an evaluator of the document and the document was not directed to the judge.

However, the contract functions as a document used to govern the relations of opposing parties and avoid litigation. Therefore, the contract is prepared to be used by the lawyers to govern the party relations, not the clients or client relations, and is also composed for the judge in the case that the contract leads to a litigation case. In other words, the text is accommodated to the secondary and tertiary audiences, not the primary audience.

4.5 Contracts: The Primary Audience is Consequently Not Accommodated

Clients who ask their lawyer to write a contract in reference to their specific legal situation are at an advantage because they are fully aware of what content is included in the contract. The contract is not written to be comprehensible or useable for the non law-trained reader but the client is either fully aware of the content included or their lawyer is accessible to interpret the document for the client. In other words, this contract's lack of accommodation is most often no concern to the client. The lawyers and legal writing professors interviewed did not mention any other kinds of contracts. However, the most common contracts circulated throughout society are contracts like apartment leases,

credit-card agreements, insurance policies, homeowner's association by laws, wills etc. (Schiess xiii). Clients need to sign these types of contracts because they are usually consumer transactions or communications between the government and the people that the clients must agree and sign off on to survive as a consumer and law-abiding citizen (Schiess xiv).

The main issue that non law-trained readers have when interpreting contracts is the language used. The legal language used in contracts is often described as not easy to understand, archaic, syntactically complex, dense, unclear, wordy and they include long sentences, unfamiliar legal jargon, typographical errors, and bloated expressions (Schiess xi, Gotti 53, Trosborg 31, Wydick 5; Kimble preface; Garner xvii). Historically, the language originated from the unambiguous legislative language adopted from 16th century England. In the 16th century, laws were still written in French which was inaccessible to the majority of the public because they didn't speak French. Law French was then abolished in 1731 because of its inaccessibility to the general public and this concerned legal officials as they defended that "Law French was more precise than idiomatic English" (Tiersma 22). As a result, lawyers and clerks adopted a "literal, word-for-word, translation" of Law French to Law English (Tiersma 24). Americans retained the same Common Law system along with the archaic, precise translation of English from Law French after the American Revolution and separation from the British Empire (Tiersma).

Today, contracts, as well as legislative laws and statutes, still use precise language because of English's idiomatic nature and the ambition for contracts to be interpreted only as the writer intended. Aside from archaic and jargon-filled word choice, the

language also includes excessively long sentences because they are supported by specifications, post-modifiers, and relative clauses to minimize misunderstanding which can sometimes complicate the relations between nouns and post-modifiers (Gotti 53-54). Additionally, there is a limitation of the use of synonyms and pronouns to further reduce the ambiguity of the content but increases confusion of what subject is being spoken about sentence by sentence (Solan 89; Gotti 54).

This language is used to avoid any type of ambiguity of the contract's contents to protect the content owner from future litigation. This legal language is accessible to law-trained specialists who have studied the language and genres such as contracts and statutes that share a common function of avoiding ambiguity. However, for contracts where the client is the primary audience member is not specialized in law and does not have the economic advantage of hiring legal counsel, the client is put into a difficult situation of either signing a document they do not understand or going without needs like cars, places to live, credit cards, and cell phones to help them function in society.

These contracts are not written in the presence of the client so clients are often not fully aware of the included content and details. Also, the contracts are usually written as templates and only the qualifications of the type of payment agreement are adjusted, similar to Lawyer B's conventions at the state healthcare system. Templates are not written with a particular audience in mind for mass distribution purposes. Additionally, clients are usually unable to independently decipher the content. The client is still considered the primary audience of these contracts because they are an imagined audience member at the time of the writing process. These readers have difficulty understanding the document because they were not present for the document's

establishment, the document is accommodated to law-trained readers, and they may not be at an economic advantage to have legal counsel present.

These contracts function to protect the represented organization that owns the product or service being offered to the client. The function is the same as the contracts described in Section 4.4 and, therefore, the language of the document does not change to ensure the contract is interpreted only one way. However, contracts like apartment leases and credit card agreements are used by imagined, multiple audiences rather than real, simple audiences. Referring back to Table 1, technical documents that are written for imagined, multiple audiences are accommodated by developing an audience persona and accommodating the document to that established persona. It is the expectation that documents written for imagined, multiple audiences should be prepared differently than document used for real, simple audiences considered the genre is altered. There was no research conducted regarding these types of contracts because they were not mentioned by the interviewees so there is no research of composition principles used to accommodate the primary audience. However, considering the contracts described by interviewees did not accommodate primary audiences, contracts used by the general public still use a complex, convoluted language, and contracts used by the general public are commonly composed as templates to be mass distributed, it is presumed that these type of contracts are do not accommodate the primary audience either.

Laws and contracts are written similarly because they both function to be unambiguous documents that are only interpreted one way. Laws had been traditionally written in legal language but government officials identified that legal language is difficult to understand for the general public. The website Plainlanguage.gov was

launched in support of the law President Obama signed called the Plain Writing Act of 2010 (“Plain”). The law requires “clear Government communication that the public can use and understand” (Plain Writing Act). Obama also issued executive orders E.O 13563, E.O 12866, and E.O 12988 that “must ensure that regulations are accessible, consistent, written in plain language, and easy to understand” (qtd. in “Plain”). Plain language is a writing style that is accessible to the general public. Similar to instructions that technical writers write for multiple audiences, contracts’ primary audiences are also multiple audiences who have different backgrounds, education, needs, and use the document for a variety of purposes. Under such circumstances Wayne Schiess, author of *Preparing Documents Nonlawyers can Read and Understand*, suggests aiming for the lowest reading level for the average American which according to his research is the 7th grade (xii). Plain language is not necessarily the “lowest reading level” but is the reading level that is appropriate to all audience members (Schiess 107). Plain language is a writing style that stresses clear wording and simple prose and is most often used to instruct, teach, and present information (Johnson-Sheehan 455; Alred, Brusaw, and Oliu 403). The style is also logically organized, understandable on the first reading, uncomplicated, and accurate (Alred, Brusaw, and Oliu 403). The language should omit surplus words, use base verbs and not nominalizations, use active voice, use short sentences, use familiar language, and avoid legal jargon (Wydict; Kimble; Alred, Brusaw, and Oliu 403; Goldstein and Lieberman; Schiess; Garner). Finally, the writer should assess the “audience carefully to ensure [the] language connects with their level of knowledge” (Alred, Brusaw, and Oliu 403).

Technical writers, whose aim is to make documents useable, use plain language for all the mentioned genres: emails, memoranda, reports, and instructions. Ultimately, the government is trying to enforce the use of plain language in legal regulatory documents so the readers are able to easily use them. Movements such as The Plain Writing Act of 2010 are giving readers the opportunity to construct meaning from documents that not only help them perform actions and build knowledge but help them be active members of society.

However, the Plain Writing Act of 2010 only influences government regulation documents and not business or organization contracts. Contracts that involve an agreement of a product or service are written under the discretion of the organization's legal representation. Considering, it is the legal representation's responsibility to protect the client, they are more prone to use legal language rather than plain language to ensure unambiguity. Therefore, despite the governments influence on documents that enforce the law, the general public is still plagued with the decision of signing off on a contract that is not useable to them in an effort to maintain a standard of living.

CHAPTER 5: CONCLUSION

The goal of this thesis is to reveal technical and legal writers' strategies to accommodate their documents to primary audiences for document usability. However, usability is not merely achieved only through writers' ambitions to accommodate a text for a reader. Readers must also accommodate authors by adapting themselves to the writer's perspective, to the imagined reader invoked by the text. Ong uses this concept to support his argument that the audience of a document is always a fiction. He claims all audiences must adjust their approaches to the document to be the reader the writer implies they should be to successfully use the text:

Readers conform themselves to the projections of the writers they read, or at least how they operate in terms of projections. They have to know how to play the game of being a member of an audience that "really" does exist. And they have to adjust when the rules change, even though no rules thus far have been published and even though the changes in the unpublished rules are themselves for the most part only implied (61).

I support Ong's position that all audience members of any genre can be considered fictional, even real audiences. Real, simple audiences are a fiction because the writer cannot address the reader in the same way as in oral discourse, so the writer must create a special construct of a chirographic and written relationship between themselves and the reader (77). Therefore, real, simple audiences must accommodate themselves to become the constructed reader the writer implied they should be for effective communication to ensue. Imagined audiences are mental constructs, too, but even more so for documents and situations with multiple audiences. The multiple audience members

are usually tasked more with accommodating themselves to the text in comparison to simple audiences. Ong explains that “since individual readers vary in knowledge and competence, the degree to which they must fictionalize themselves to match the level of this or that reading will vary” (77).

Technical writers compose genres for both real, simple audiences and imagined, multiple audiences. Reports are used by real, simple primary audiences and they include a section that provides a description of what type of reader should use the document. Instructions are used by imagined, multiple audiences but they, too, include a section that provides a description of what type of reader should use the document. But as Ong explains, descriptions of readers are more commonly implied rather than described directly in the document. They are implied from the genre used, which reveals the document’s purpose, and the usability of the document. The reader can be persuaded to use a document depending upon an understanding of the genre and the implicit document purpose. Once the readers believe the document can help them learn something or perform a practical task, they attempt to use the document. As they do so, they will subjectively uncover how they can accommodate themselves to understand key sections of the text. However, if the document is not comprehensible then they will have difficulties accommodating themselves to be the reader the writer intended should use the documents.

The professors interviewed and academic texts reviewed to support these conclusions revealed ideal writing principles and genre approaches that technical and legal writers should understand and use. Yet there will always be technical and legal writers who do not use the writing principles and genre approaches suggested.

Nevertheless, based on the research I conducted, lawyers and technical writers are expected to accommodate most of their documents directly to their readers. The notable exception was contracts written by lawyers. Contracts have been traditionally written to be useable for law-trained specialists so the client is protected under legal circumstances. Readers of contracts who have not received a law degree or who do not have a lawyer present and need to sign a contract will have difficulty understanding the text because of jargon, formality, and of an incomprehensible elevated reading level being used. In the case of contracts, the writer has most often accommodated the text to legal professionals so non-law-trained readers are unable to easily accommodate themselves to the text and, therefore, they are unable to effectively use the document. Today's society and economy, however, practically forces the general public to attempt to read contracts for services such as cell phones, internet, apartment rentals, and credit cards to maintain an average standard of living. Therefore, the non-law-trained general public needs to sign contracts that allow them to gain access to such services.

The U.S government has implemented The Plain Writing Act of 2010 and plainlanguage.gov to establish a new tradition in which contracts and other regulatory legal documents are written in plain language. Regardless, the expectations that contracts are a complex and convoluted genre remains today, particularly for businesses and organizations. Based on my research, lawyers possess a goal of accommodating documents to their primary audience and follow this goal for client letters, memoranda, and briefs. Contracts, as interviewees described them, do not accommodate clients as readers. Yet clients are seldom concerned because they are made aware orally of the content included and generally have direct access to a lawyer who is also the writer of the

contract. However, when primary audiences for contracts are unfamiliar with the content of a document and do not have access to legal counsel, they are at a disadvantage.

Because readers construct the meaning of documents, these types of contracts have contributed to the widely-held belief that lawyers are bad writers.

Bruffee argues that language is used as a social instrument to incite action and generate knowledge. My research reveals that lawyers share this belief except when they write contracts because of the genre's traditional rules and expectations, despite the current plain language movement. Lawyers understand that correspondence needs to be written to accommodate the reader in order to maintain good relations with their clients and senior lawyers. The good relations can help the lawyer build their clientele. Other persuasive genres, like briefs or other court documents, need to accommodate the judge so the lawyer can win cases for their client and also so the lawyer maintains a good reputation with the judge and with peers.

Correspondence and other legal genres invoke collaboration between the writer and readers. Lawyers use persuasion to motivate action and to share knowledge. Lawyers who write contracts that are not accommodated to the primary audience of a client, however, are not using language to share knowledge and to motivate an action other than a signature agreement, even though a contract is expected to legally invoke both. In case of the genre of contracts, lawyers are not collaborating with clients as readers. This supports Bryan Garner's notion that lawyers need to become psychologically mature and to ask themselves if they "want to sound like a machine or a human" in order to work toward being considered a good writer (vii). Without such maturity, the reader and writer become increasingly out of reach from one another. The further away they are

from each other, the likelihood of successful communication decreases. Without communication, collaboration does not ensue, action is not motivated, and knowledge is not shared.

CHAPTER 6: CALL FOR MORE RESEARCH

The U.S. government is creating the expectation that regulatory systems will use plain language for the documents they write that are distributed to the general public. The complex, convoluted traditionally used legal language is being discouraged because it is not comprehensible to the general public. However, the formal legal writing style has been used dating back to the 16th century because it is unambiguous and encourages one interpretation of the text in comparison to many interpretations made possible by idiomatic English. That said, can plain language be unambiguous and interpreted in a single way? Or is the law a complex system that must use a complex language to explain itself? What effect would the answer to this question have on our legal system and perhaps our society?

My research shows that when technical writers are writing in common genres for imagined, multiple audiences, they implement more writing strategies to accommodate the audience in comparison to when they write in genres for real, simple audiences (Table 1). They use strategies such as developing an audience persona, usability testing, and interviewing subject matter experts. Would legal professionals benefit from the use of writing strategies like these when writing in legal genres for imagined, multiple audiences like contracts? What about when composing in genres like statutes or laws written by legislators, document that are used by thousands and millions of primary audience members?

Ong argues that the audience is always a fiction. However, does the likelihood of usability increase when writing for a real audience, for people with whom the writer has direct experience, rather than an imagined audience? Does the likelihood of usability increase when writing for simple rather than for multiple audiences? Does it make no difference because all readers are, finally, are mental constructs? Or is it not possible to research these issues in general because usability is determined at on a case by case basis depending upon a particular reader, writer, and document? These are the follow-up questions to which my research into the intersections of legal and technical writing point.

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APPENDIX A: REPORTS

All three technical writing professors teach their students how to write reports and Technical Writer A and B routinely write reports for their professions.

Technical Writing Professor A has worked in the chemical industry as a technical writer previous to teaching at the university. She explained that “every industry I have been associated with uses a report in some fashion” (Technical Writing Professor A). Reports are the most common form of communication prepared at work (Anderson 458).

The technical writing professors teach and Technical Writer A and B write a variety of reports including feasibility and progress reports. Technical Writing Professor B teaches a “meta-genre” of reports that covers common features reports share (Technical Writing Professor B). Anderson agrees with Technical Writing Professor B’s analysis that there are common report features and provides the one important feature they all share: “their readers want to put the information the reports contain to some professional or practical use” (458).

Reports differ from one another and can differ in many ways such as “subject matter, length, purpose, information sources, number and kinds of readers, and the circumstances that led to their preparation” (Anderson 458). However, regardless of how reports may differ, the ultimate objective is to answer a question that was asked and persuade decision-makers of the credibility of the information so they put it to use within the organization (Technical Writer B; Anderson 459). The decision-makers, or primary audience, can either be internal co-workers or external clients. To persuade them that the research, data, and answers/suggestions are reliable, the document should include a sound basis for decisions and actions such as statistics, description of analysis, and explanations of relationships and patterns across the data (Anderson 458; Technical Writer B). So this information is presented clearly, the report should be written in plain language and include only what is useful to the decision-makers and “relevant to their responsibilities, interests, and goals” (Anderson 458).

Reports usually include the following parts: introduction, methodology, discussion, conclusions, and recommendations (Johnson-Sheehan 25; Anderson 460).

The introduction provides a quick answer to the question, the main points, how to put the answers to use, and the scope of the report (Anderson 460). This is useful for audiences that want to locate the report’s concluding solution right away. Additionally, the introduction is advantageous to the audience because it provides a scope of the report, which establishes audience expectations.

The methodology includes a description of how the facts of the report were gathered. This information creates a sense of reliability and trustworthiness of the writer and content (Anderson 460). If the audience is interested in additional information on the subject, this section will provide academic sources used to draw conclusions.

The discussion section shows how the writer interpreted the research and what patterns connected the data. It also provides the audience with the thought process that led the writer to reach their conclusions (Anderson 460).

The conclusion includes a general statement of facts and reiteration of the discussion section that are significant and have led to the recommendations (Anderson 460).

The recommendations section answers the reader's question and reiterates the major recommendations mentioned in the introduction (Anderson 460).

Each part of the report is logically structured and offers the information the audience expects. The organization is logical to establish clarity for the audience, to provide the information the audience seeks, to create reliability for the reader, and to persuade the audience to use the information.

APPENDIX B: INSTRUCTIONS

All three technical writing professors teach instructions, training/tutorials, or user manuals and Technical Writer C writes them in her profession.

Instructions show or teach someone how to complete a task or variety of tasks in a step-by-step process (Johnson-Sheehan 548-553). Like other workplace communications such as reports and memoranda, instructions need to be usable and persuasive (Anderson 555). Experience shows that primary readers are usually impatient with and dislike reading instructions. To accommodate this common audience characteristic, instructions should be designed to persuade the audience to use and consult with the instructions rather than “relying on their own common sense” and “try things out on their own, possibly damaging products, fouling the equipment, and harming themselves” (Anderson 11-555). Additionally, if the instructions are designed for an employer’s product the goal is to persuade the users “to feel so good about [the] product that they will buy from the employer again and recommend that others do as well” (Anderson 555). Audiences feel good about a product based on the product quality and how easy it is to build or use the product that is established from the usability of the instructions.

The content, style, and design of the instructions should be accommodated to the audience and their task at hand (Johnson-Sheehan 549). Sometimes the audience can be simple if the instructions are used in an organization setting because the document users possess similar knowledge of the subject and are using the document to achieve similar goals. However, instructions can also be written for multiple audiences if the instructions can be used by anyone in the general public. For example, a set of IKEA instructions can be used by anyone who bought the piece of furniture. These users have different backgrounds and familiarity of the subject matter. Each of them hopes to use the instructions to help them put the piece of furniture together but some audience members may only use parts of the document. The audience is usually imaginary because instructions are meant to teach a task to a large volume of people the writer may never meet and the document will be used for a potentially long period of time or until the information of the document is no longer relevant.

For any of these audience types, an audience persona can be developed by asking the following questions: What is their skill set? How well do they understand the product or process? What is their age and ability? (Johnson-Sheehan 554). Considering the users are interpreting the instructions to guide them through a process, it is safe to presume the users usually don’t have enough experience and knowledge of the task to fulfill it themselves (Johnson-Sheehan 554).

Instruction writers must also evaluate the situation the instructions might be used in (Johnson-Sheehan 550). Will they be read by the users in a living room? At a work bench? In an office? At a construction site? (Johnson-Sheehan 554). Where the audience may physically be affects the medium selection of the instructions. The instructions can be found in a user manual or even a poster dependent on what would be more useable to the audience dependent on the product and procedure being described (Johnson-Sheehan 554).

The basic features of instructions are: “specific and precise title, introduction with background information, list of parts, tools, and conditions required, sequentially ordered

steps, graphics, safety information, and conclusion that signals completion of task” (Johnson-Sheehan 548-549). Throughout each part, the writer needs to include a specific writing style that persuades the user’s emotions and attitudes towards the task (Johnson-Sheehan 572). As it was mentioned before, users often dislike reading instructions. Therefore, the writing style should include plain language that is clear and succinct for effortless comprehension. The writing style’s tone should also be optimistic and excited to energize the user to look forward to using the product (Anderson 555).

The introduction is an opportunity for the reader to determine whether or not they are an intended user of the instructions. The introduction should explain if the instructions will be of use to the reader and if they are able to use them effectively (Anderson 557). The introduction does this by providing the subject, aim, readers, scope, organization, usage, conventions, motivation, materials needed, safety, necessary technical ability, and time required to complete the task (Anderson 557; Johnson-Sheehan 558). The safety section protects the instructions user of any harmful dangers and protects the organization legally and ethically. It is the writer’s responsibility to evaluate all the steps of the instructions and uncover if any of them can harm the user or the product if the steps are not followed correctly. The introduction provides the danger, warning, and caution notices that will appear at any steps that can be potentially harmful to the user or product (Johnson-Sheehan 568).

The writer should pay special attention to the motions of the subjects and their experiences as they perform each step (Johnson-Sheehan 556). By paying attention to and providing details of appearance, sounds, smells, textures, and tastes, users are constantly confirming if they are on the right track (Johnson-Sheehan 557). Sometimes users can misinterpret information because they are going back and forth between two mental functions: reading and doing. It is the writer’s responsibility to anticipate and inform the user of what to do in case of mistakes and this trouble-shooting advice can be positioned in a subsection below the step (Anderson 567; Johnson-Sheehan 563). The subsection can also include additional advice or definitions for less experienced readers (Johnson-Sheehan 563).

The steps are the centerpiece of instructions and they will usually take up the bulk of the document (Johnson-Sheehan 560). Instructions are used differently in comparison to reports and memorandum because they are not read in one continuous stream, but instead, one sentence at a time (Anderson 555). After each step, users perform the step right away. Therefore, the steps need to be organized “logically and concisely, allowing readers to easily understand them and then complete the task” (Johnson-Sheehan 560). To improve navigability, the steps should use plain language for effortless comprehension, be presented in a list, use active voice and command mood, and highlight key words and information to make it easier for users to find their place each time they look back at the steps after completing a task (Anderson 555-563). Making strategic use of action-oriented headings that clearly describe tasks, numbered steps, blank lines between steps, only one action per step, and a placement of step numbers in their own column also helps the user easily navigate the instructions (Anderson 564-65; Johnson-Sheehan 561).

After the instructions have been written, it is useful to perform usability tests on directed audience because steps that seemed obvious to the writer may not be to the user or the language is not concise enough (Anderson 556). Additionally, it is beneficial to interview product and procedure experts to uncover steps they have discovered users usually have difficulty with so writers can give more attention to those steps (Johnson-Sheehan 556).

APPENDIX C: TECHNICAL MEMORANDA

All three technical writing professors teach their students how to write memoranda (memos) and Technical Writers A and C write them for their professions.

Memoranda are short, formal, internal correspondence to inform audiences of general policy announcements, results of important decisions, formal inquiries, refusals, meeting agendas, internal reports, short proposals, and transmittals of important documents or materials that persuade audiences to take action in positive ways (Technical Writing Professor A; Technical Writer C; Johnson-Sheehan 448-453; Anderson 583-85). The paper-based format implies that the message is too important to include in an informal email (Johnson-Sheehan 448). Memoranda can be written to any internal employees such as coworkers and managers so it is an opportunity for writers to establish important relationships “that go beyond corporate connections” (Anderson 585; Johnson-Sheehan 453). They can be sent to one person or groups of people.

Recipients of memos consider memos to be a “personal one-to-one connection with those readers” because they are receiving it directly (Johnson-Sheehan 465). Because the memo is considered a personal correspondence between the writer and recipient, the readers of the memo may react to the content in an emotional way (Johnson-Sheehan 465). In other words, if the memo seems uncaring, bureaucratic, or indifferent, recipients may react angrily and will not be persuaded to use the included information (Johnson-Sheehan 465). Therefore, the language choice in a memo should be selective and addressed directly to the recipient. If the information is positive or even neutral, the word “you” should be used when addressing the readers so the recipient interprets the good news as a benefit for them and not just the writer (Johnson-Sheehan 465). Additionally, audiences usually react positively to comprehensible language so plain language is usually used in memos.

Memoranda differ depending on purpose, who it is sent to, and the company’s formatting policies. However, memoranda are traditionally formatted with a header, introduction, body, and conclusion (Anderson 582; Johnson-Sheehan 449).

The heading is the most distinguishing feature of a memo and it looks like “a form that has slots for your name, your reader’s name, the date, and memo subject” (Anderson 585; Johnson-Sheehan 449). Unlike a letter, the header does not include the recipient’s address because it is an internal document (Anderson 585).

The introduction sets the context for the memo and provides the purpose of the memo clearly and in the beginning, usually in the first sentence (Johnson-Sheehan 452-449). The introduction should also include the subject and main point of the memo (Johnson-Sheehan 449).

The body is where the writer provides the information the audience needs to know to “make a decision or take action” (Johnson-Sheehan 455). The body should be as concise as possible and only include need-to-know information. Also, the writer should be expressing their “true thoughts and best work” because memoranda can sometimes reappear in performance reviews, court cases, and important meetings. This means that memoranda always have the potential of being used by recipients unknown to the writer (Johnson-Sheehan 477). However, these readers are tertiary audiences because the writer

did not direct the memo to audiences included in performance reviews, court cases, or important meetings.

The conclusion summarizes the main points that were made in the body, looks to the future, and thanks the readers to cordially clarify the memoranda's content to the audience (Johnson-Sheehan 449-457).

Finally, some organizations mandate an inclusion of a signature but not all do. If they do, follow the format to abide by reader expectations (Anderson 585). Usually, if a signature is the norm, only initials need to be signed at the bottom (Johnson-Sheehan 449).

APPENDIX D: EMAILS

All three technical writing professors teach students how to write emails. All three technical writers write emails everyday for their profession.

Email is a quick, easy, efficient method of sending and receiving messages to supervisors, coworkers, and clients over a computer network (Anderson 383; Johnson-Sheehan 332). This form of communication has become a part of daily professional routines (Johnson-Sheehan 332).

Email is considered a hybrid technology because it incorporates the needs, purposes, and functions of phone calls, voicemails, memorandum, as well as letters. It functions similar to the phone because it is an informal, quick, method of communicating that functions the same as voicemail because it is a method of leaving a message the recipient does not need to be present for and they can use as reference material (Anderson 383; Johnson-Sheehan 332-33). It functions similarly to memoranda and letters because it is a formal transmittal of information that is similar to a document used to request information, notify clients about a decision, promote a new idea or service, or inform readers of new policies (Johnson-Sheehan 333).

Because of the conflicting functions of an email, they do not possess a universal convention. Users and writers do not know if emails are informal (due to their efficiency) or formal (due to their similarity to a document). Additionally, they are unaware if the email should replace the memo, letter, or phone call. And finally, it is unsure whether the expected format should be (few body paragraphs with a header and footer or a few brief sentences (Johnson-Sheehan 332). Therefore, it important for the writer to evaluate the local conventions used within the organization so they abide by the expectations of the organization's users (Anderson 383). Additionally, if writing an email to an external client, the writer needs to know what the client determines to be professionally appropriate.

Regardless of what local customs an organization follows, there are still some universal approaches to professional emails based on similarities of users and what situation they read emails in. For example, all work place emails share a common characteristic: they are read on a computer. Digital screens are more difficult to read than printed documents because "the letters on the screen are less distinct, the scrolling required for long communications makes it difficult to flip back and forth between sections, and people dislike sitting in one position for an extended period" (Anderson 383-84). Therefore, emails that are written easy for readers to physically and visually read are more useable. This can be done by using short paragraphs, blank lines between paragraphs, headings for longer communication, headings on their own line, lists when necessary, and a length of no longer than a screen and a half (Anderson 384; Johnson-Sheehan 336). Some professionals receive an abundant amount of emails per day so it is important that the email is written in plain language, is concise, and includes only need-to-know information relevant to a single subject (Johnson-Sheehan 343-44; Anderson 384). The email can be concise by including a brief and descript introduction, body, and conclusion that collectively "state the topic, quickly summarizes background information, and then states the main point and supporting material" (Johnson-Sheehan 336; Anderson 384). It is also useful for the subject to be clearly depicted in the subject line so the user

can easily navigate their inbox if they need to later refer to the information and prioritize what emails should be opened first (Anderson 384).

Another common feature of emails is that they are used in a professional setting. Therefore, emails should be checked for grammatical errors before being sent out so the writer represents themselves professionally.

Company emails legally belong to the company and not to the user (Anderson 385; Johnson-Sheehan 334). In other words, writers should always be aware that the recipient of the email may not only be the only user. The email can also be read by other employees of the company or even the courts. Therefore, the security of emails should be treated as if the email were a postcard: they shouldn't include personal topics, be written about a person that would not be said directly to that person, and should not include confidential information (Anderson 385; Johnson-Sheehan 334).

APPENDIX E: CLIENT LETTERS

All three legal writing professors teach their students about client letters and Lawyer A writes client letters as a transactional lawyer.

Client letters are a form of correspondence a lawyer writes to their client. The client, the user of the document, is usually not a specialist of the law (Lawyer A).

Client letters can be used to “send information” to the client or to “get the reader to do something or learn something” (Ray and Cox 318, 323). Client letters can be used to inform a client of a variety of information but if the lawyer needs to communicate something that may cause the client to respond emotionally, a client letter is usually an appropriate way to communicate such information (Ray and Cox 321). A lawyer may also use a client letter to respond to a client’s legal question.

The lawyer’s approach as a writer needs to be strategic. The client expects the lawyers to quickly and efficiently answer any questions the client may ask (Lawyer A). Lawyers can project efficiency by not including any unnecessary content in the letter. Clients may seem interested in an “explanation of all the possible situations” of a case, but the lawyer does not want to overwhelm or confuse the client so it is the lawyer’s responsibility to only inform of relevant information but also to clearly answer the specific questions asked (Lawyer A).

It is the lawyer’s responsibility for their writing to be “clear and effective” for the client (Legal Writing Professor A). Lawyers can make their writing clear and effective by avoiding “wishy-washy” or convoluted language and implementing plain language (Lawyer A). They may also do so by avoiding any legal terms the client may not understand or that makes the content difficult for the client to comprehend (Ray and Cox 326). Lawyer A does use informal or “folksy” language in client letters to promote clarity and friendly relations but Legal Writing Professor A suggests informal language should be used strategically so the “client doesn’t feel condescended to” (Lawyer A; Legal Writing Professor A). Informal language is also tricky because lawyers do not want their clients to be skeptical about the lawyer’s professionalism (Legal Writing Professor A).

Legal Writing Professor C stated that how a lawyer writes is how they are represented to their clients and Ray and Cox agreed in their text (Legal Writing Professor C; 318). For example, a lawyer that quickly responds to a client’s inquiry in an efficient manner “reassures his client he was not wasting his time and the client’s money” (Ray and Cox 322). Effective correspondence can be an opportunity to “establish goodwill and trust that makes for a solid working relationship” (Ray and Cox 317). Solid working relationships between a lawyer and client are necessary to retain clients over the years (Ray and Cox 317). A lawyer’s ability to retain clients can also build clientele who are impressed with the lawyer’s correspondence abilities (Ray and Cox 317).

Lawyer A expressed, “the highest compliment given is if I am told that my client understands what I am saying” when asked about what approach he uses to write client letters (Lawyer A). This declaration demonstrates that Lawyer A values confirmation that he is effectively communicating with his clients, and therefore, may be benefiting his practice.

APPENDIX F: LEGAL MEMORANDA

All three legal writing professors teach their students about office memoranda and Lawyer A is a recipient and writer of the genre.

Office memoranda (memos) function similarly to a letter because they are written to inform or teach the user of the document. However, they differ from client letters because a memo is an internal working document of a firm and its user is a supervising lawyer, senior lawyer, or partner who is a specialist of the law (Legal Writing Professor A; Edwards 166; Neumann and Simon 1-91). The term “senior lawyer” will be used to describe all the listed users.

An office memorandum often describes whether or not a client can or cannot prevail on a particular issue and the state of a law (Legal Writing Professor A; Neumann and Simon 91). The memo must be predictive, rather than persuasive, in order to take an objective view of a question “rather than advocate for a certain result” (Edwards 167). The lawyer uses a memo to predict objectively how the court will decide on an issue by “weighing the strengths and weaknesses of the possible arguments” and applying law to facts (Neumann and Simon 1; Edwards 2; Legal Writing Professor A). The memo is also used to answer a legal question about “how the law treats certain facts” and to “seek an answer for a particular client in a particular situation” (Neumann and Simon 1; Edwards 166).

Legal Writing Professor A explained that she teaches her to students to include all information regarding the client’s legal situation and to honestly communicate about both the good and bad information (Legal Writing Professor A). The memo is also a good opportunity for the lawyer to objectively evaluate the legal situation in preparation for all future correspondence with the client. If the outcome is predicted to be negative, it is better to inform the senior lawyer and client of the information sooner because “learning later could be costly for [the lawyer’s] client, for the firm, and for [the lawyer]” (Edwards 167).

The senior lawyer expects the writer of a memo to break down the information so that it is “easy to understand the law and the arguments they must use if they go to court” even though the senior lawyer is a specialist of the law who has the ability to do the research and analysis themselves (Legal Writing Professor A). The senior lawyer may not be familiar with the law in accordance with the specific issues the memo is treating or they may use the memo to keep updated on the firm’s cases and offer advice on a plan of action (Neumann and Simon 91). Either way, the memo is used as a tool to inform the senior lawyer about the situation and in a time efficient manner (Neumann and Simon 91).

Lawyer A expressed that a main priority for a lawyer writing a memo is to “avoid stream of consciousness” and to maintain an “internal structure” to increase readability, clarity, and conciseness (Lawyer A; Ray and Cox 197). This allows the user to comprehend the information in a way that is logical to them (Ray and Cox 197). An additional benefit to logical organization is that a lawyer writing about a legal situation and organizing it logically “resolves remaining content questions,” which is beneficial to the lawyer and their legal situation (Ray and Cox 197).

Readability is often increased by accommodating the document to that of the genre expectations. A typical office memorandum includes the following components: heading, question present, brief answer, fact statement, discussion, and conclusion (Edwards 167; Neumann and Simon 92). However, law firms are likely to have a preferred memo format so it is a lawyer's responsibility to abide by these formats to accommodate the senior lawyer's expectations (Edwards 167).

The lawyer/writer must also be aware of what level of formality and tone the senior lawyer prefers. A senior lawyer may be more comfortable with a down-to-earth tone or they may appreciate "a straight-forward opening to sharpen the clarity of the whole memo" (Ray and Cox 200). However, efficiency is a common element of office memorandum so regardless of what tone should be communicated, it should be done in the briefest of ways and the main focus should be the content (Ray and Cox 323). Additionally, the level of formality may also vary dependent on what subject is being communicated in the memo.

The lawyer must understand how the senior lawyer would prefer the content be presented. For example, in the discussion component of the memo, the senior lawyer may prefer the "cut and paste method" which means the lawyer would include long passages from relevant cases that are unsupported with analysis so the senior lawyer can make their own analysis and conclusions (Ray and Cox 198). Or, some users of a memo prefer an analysis and application of the research and, therefore, "do not expect to do the research themselves" (Ray and Cox 198). Others may like a balance of the two but it is ultimately up to the discretion of the user and it is the lawyer's responsibility to figure the senior lawyer's preference out.

However, similar to the client letter, the written work is always a representation of the writer to the user. For example, saying "please" upon request indicates politeness, a concise explanation invokes the lawyer's competence and efficiency, and explaining the reasoning behind a request demonstrates that the writer values the user's understanding of the situation (Ray and Cox 324).

APPENDIX G: BRIEFS

A lawyer is responsible for writing a brief at the beginning of a trial case. A brief tells a case's story by describing the case's background, law under discretion, and legal interpretation of the story and law (Lawyer A). Briefs are considered "a great art form in the legal profession" and "courts live and breathe by them" (Lawyer A; Lawyer B).

Similar to contracts, Legal Writing Professor C explained that briefs "should be written as client representation, the document should reflect what they want and what the document should say" (Legal Writing Professor C). Lawyer B, a litigation attorney, explained that it is important to "look smart and sharp for your client but your writing will take the tone that is suggested or requested of your client." In other words, the document should be swayed in favor of the client. Briefs are one-sided and convincing documents that "persuade the court to make a decision favorable to the client (Legal Writing Professor A; Legal Writing Professor C; Lawyer A; Neumann and Simon 1).

Briefs are persuasive documents that provide a statement of facts, analysis of statutes involved, and argument pertaining to the client's case (Edwards 267-68). This content should be organized in a persuasive "crescendo of logic" that tells a story (Lawyer A; Legal Writing Professor C). A basic principle of telling a persuasive and convincing story is hitting the following three part structure: begin with a "state of equilibrium," then "bad things happen to disrupt the equilibrium," and then the "protagonist struggles to restore the equilibrium" (Neumann and Simon 201). This structure attempts to emotionally convince the audience that the protagonist (the client) deserves to return to equilibrium. Braided within this structure is the persuasive method of "letting the reader decide—on their own—to agree with you before you have to ask them to agree [...and then] they are more committed to it" (Neumann and Simon 200). This is done by "telling the reader what you want them to believe, and then you set out the steps of logic to prove that position" (Neumann and Simon 200). Critical word selection helps develop vivid story images, which "helps the reader remember the story" and "makes the story more believable" (Neumann and Simon 200-03).

The lawyer is responsible for convincing the court that "their position is the correct position" and "at that point it is not [the lawyer's] responsibility to be clear and concise for their client because the audience in that situation is the court" not the client (Legal Writing Professor A). The "court" is the judge, and the judge expects the brief to make an argument on one side of the law for the client (Legal Writing Professor A; Edwards 2; Neumann and Simon 1). Judges are the decision-makers of the brief and so they are the primary audience. Few courts govern the content or format of the brief, so the brief should be written to convince the trial judge who is responsible for the case (Neumann and Simon 186). There are basic principles to use when drafting a brief that can be beneficially persuasive despite what particular judge is working the case.

Judges expect briefs to be cohesive and comprehensible because they are busy people who may not have the time in or out of the court to read a brief from beginning to end, let alone more than once. (Legal Writing Professor C; Edwards 349). Judges are law-trained document users so a brief's vocabulary and syntax can go up a notch, but the text should still break down the included complex information into simple terms (Lawyer A). Like a senior lawyer, even though the judge is a professional of the court, he may not

be fully experienced in interpreting certain laws and is definitely not familiar with how the lawyer situated the case with the law. If the brief is difficult to interpret, this can result in wasting the court's time, which is funded by taxpayer money (Legal Writing Professor C). However, lawyers must be careful to break down the law and argument so that it is cohesive but not enough so to insult the judge's intelligence (Legal Writing Professor A). A lawyer can do this by maintaining the formality of a brief but ensuring that it is clearly and logically organized and includes an infinite number of relevant facts, a persuasive story, and strong arguments (Edwards 263-349).

A lawyer should also decipher how judges "react to issues" and "get inside the decision-maker's thinking" (Neumann and Simon 217-18). Judges anticipate spending many years on the bench and, therefore, take conservative, long-term perspective of decisions (Edwards 263-264). They seek avoiding reversal or dealing with a similar case again so they are interested in social policy implications for decisions. Additionally, judges are aware that lawyers know more about their case than the judge and they, therefore, are always skeptical until a proposition is considered proven (Neumann and Simon 219). To undertake a judge's skepticism, lawyers should avoid pushing a judge too far so they don't lose their cooperation in the process and to also make sure persuasion tactics are not obvious because they can lose their effect (Edwards 264).

Judges may not be the only reader of briefs because they sometimes give briefs to their clerks for review unbeknownst to the lawyer (Lawyer B; Edwards 265). The judge has hired the clerk and thus a clerk's strongest motivation is to please the judge; lawyers should still prioritize the judge, the primary reader, as a user of the document over the clerk (Edwards 265). However, a clerk may review the brief first and offer feedback to the judge before the judge reads the brief so it is still important to be aware of the clerk as a potential secondary reader. Clerks have a turn-over rate of one to two years so lawyers may have "little access to this person" and may have difficulties determining the appropriate way to write for a clerk as a potential audience. Lawyers are aware, however, that clerks are bright, young, recent law graduates "with little or no practical experience" so they pay close attention to the accuracy of details, scrutinize every aspect of the brief, and "draw conclusions about the reliability of the analysis" (Edwards 265). Therefore, it is essential for lawyers to double check facts and not to leave any steps out (Edwards 265).

APPENDIX H: CONTRACTS

All three legal writing professors teach their students about contracts. Lawyer A and Lawyer C write contracts and Lawyer B interprets them in court.

Legal Writing Professor A described a contract as a “piece of paper someone signs that has huge implications” (Legal Writing Professor A). The contracts referenced by the lawyers are documented agreements written by two lawyers that represent two separate parties. Lawyer C represents a state healthcare system and writes contracts for any payment agreements between the organization and external clients. The following is her explanation of a contract’s function:

Contracts govern our relationship with the payers including everything going forward in terms of what we can do, if everything is going well, or if there is a problem that comes up what our rights and duties will be going forward. They basically dictate how we have to interact with them from when we have to notify them, what we have to notify them of, or if there is a negative situation that arises how we handle it. They’re very useful and kind of like rulebooks of the relationships with the payers going forward for however long (Lawyer C).

Lawyer C explains how the transactional contracts she writes function and what kind of content the contract usually dictates. Legal Writing Professor A describes that contracts are usually templates that can be reused or are “formulaic.” Similarly, Lawyer C expressed that she usually begins with a template and then adjusts it based on the qualifications of the new payment agreement (Legal Writing Professor A; Lawyer C). However, Ray and Cox approach the drafting of a contract as “unlike the agreement between any other parties and even unlike other contracts previously drafted for the same parties” (83). No matter the degree of change from one contract to another, they are always adjusted to accommodate the parties’ agreement.

If a happenstance creates a conflict between the two parties that the contract does not clearly articulate, a judge will be interpreting the document. However, if the contract is drafted strategically, the only users of the document will be the lawyers and represented parties. Unlike the client letter, memo, or brief, a contract is usually written and interpreted by law-trained specialists but non-specialist party members act in response to the document. Lawyer C describes contracts as “long, convoluted, and too high of a reading level for the average American” (Lawyer C). Legal Writing Professor C explains that the average reading level for Americans is the 8th grade and the language used in contract law is at the 20th grade reading level (Legal Writing Professor C). In support of this notion, Ray and Cox advise lawyers to ask a law-trained person to review the document “who also drafts contracts and perhaps has had some previous contact with [the] client, so he or she will better be able to focus on what the contract should say” (93). Lawyers C and Lawyer A draft contracts that clients request be drafted and those documents are what Ray and Cox are also referring to.

Like briefs, contracts are written for the clients but they are co-written by two lawyers who represent opposing parties. Considering lawyers are drafting the contracts for the parties to use, “the parties and the drafters must work in synchronized motions to

ensure that the result is one everyone on the team desires” (Ray and Cox 82). A lawyer is trained to use their client as a valuable resource to ensure the client’s goals and the means by which to attain these goals are feasible, are agreed by the collective parties, and the agreement is clearly articulated in the contract (Child 288; Ray and Cox 81).

It is also the lawyer’s responsibility to “always think of what could happen” (Lawyer C). Contracts are drafted to govern the relations between two parties over an extended period of time and to, therefore, include rules that are “adaptable to changing conditions” (Child 112,113). Drafting a contract requires a “great deal of thinking ahead, speculating, and trouble-shooting” to “prevent problems that otherwise might have to be settled in court” (Child 112; Ray and Cox 80). Barbara Child, author of *Drafting Legal Documents: Principles and Practices*, details the extremity of the importance of careful drafting by explaining that “if the parties disagree about even so much as one word, they can find themselves facing expensive and lengthy litigation” (112).

Lawyers follow a few writing principles when drafting a contract to ensure the document can be interpreted only one way in an effort to avoid litigation. Lawyer A expressed that lax use of grammar can enable false interpretation. To avoid ambiguity, he limits his use of pronouns and chooses to refer to the parties or any other characters by their formal name throughout the document (Lawyer A). Ray and Cox also acknowledge the effect grammar and word choices have on a contract’s potential ambiguity: “careful choices of other terms, such as articles, prepositions, and conjunctions, also could have avoided the litigation that has occurred hundreds of times [...] The varying interpretations that can be accorded to every one word illustrates how important each word is to the meaning of the contract” (81).

Lawyers also have the goal of making the contract “in the simplest form” but not “leaving anything out or making anything unclear” in an effort to avoid litigation (Lawyer A). The strategy lawyers use to maintain consistency is defining terms in the beginning of the draft (Lawyer A; Lawyer C). Lawyer C has a low standard of what she determines to be a “commonly used term” so she defines any term that has a slight potential to have multiple meanings “to make sure they have the same meaning [she] intended to have” (Lawyer C). The defined terms can be found in the body paragraph and if they are, the sections need to include proper headings that inform of the section’s content because “courts have been known to refuse to enforce provisions in sections of contracts with headings that do not clearly inform the reader of the content (Child 132). Lawyer A, however, prefers to define them in the beginning of the contract and then present them in between quotation marks or in all capital letters throughout the remainder of the document (Child 126-127; Lawyer A).

Another area where lawyers need to maintain consistency is the recitals of the contract. Recitals are “WHEREAS clauses” that may express the reasons for the contract as “innocuous background statements” (Child 125). The recitals can help to provide the scope of the contract in the case of a dispute but may also be “construed as expressions of intent and as premises on which the parties may enter the contract” (Child 125-126). Drafters of contracts work to make sure all content of a subject remains in agreement throughout the document, but a recital is a section that may provide an outline of various subject matters. Therefore, a subject must be unambiguously and clearly articulated and each section that mentions the subject must be interpreted the same way (Lawyer A; Lawyer C).

Ultimately, contracts are written by law-trained specialists for law-trained specialists to interpret. The clients are users of the document, however, lawyers write the contracts to be interpreted by other lawyers and judges.

APPENDIX I: PLAINLANGUAGE.GOV

Questions Asked to Technical Writers

- Are you familiar with plainlanguage.gov and, if so, what do you refer to it for?
- If you refer to or refer your students to plainlanguage.gov, what do you or do you hope your students will take away from the website?

Data from Technical Writers

None of the technical writers have ever heard of plainlanguage.gov and, therefore, do not use it for their current profession (Technical Writer A; Technical Writer B; Technical Writer C).

Questions Asked to Technical Writing Professors

- Are you familiar with plainlanguage.gov and, if so, what do you refer to it for?
- If you refer to or refer your students to plainlanguage.gov, what do you or do you hope your students will take away from website?

Data from Technical Writing Professors

All of the technical writing professors are aware of Plainlanguage.gov and use the website in their courses (Technical Writing Professor A; Technical Writing Professor B; Technical Writing Professor C).