

To the Legal Community

(This was to appear in the April Cincinnati Bar Association magazine. After refusing my original column, the CBA invited me to write a final one. But then they refused to publish it too. It needs to be said, so I have paid to publish it here.)

Legal Writer #81

Judge (Retired) Mark P. Painter

Goodbye to the CBA

After contributing 80 columns to the *CBA Report*, this will be my last. After 42 years, I must leave the Cincinnati Bar Association.

I have always believed it was my duty to belong to all three bar associations. At the CBA I have done committee work, been a sustaining member, even served on the board. Most of the time, I was one of the few judicial members. But no longer.

This was not what I wanted to write. But my legal writing column for April was refused by the CBA.

You can see the “offending” column at www.judgepainter.org. Evidently, using court writings as bad examples, which I have frequently done in prior columns—the examples are relevant to Ohio lawyers—is now forbidden. The only court even mentioned was the Ohio Supreme Court. The other examples would have to be searched to find the supposed author. But I was told, in a staff email, that the column was unacceptable to the CBA. Well, censorship is unacceptable to me, so there we are.

Mine is an opinion column. It takes positions on grammar, style, and substance. If it is censored, it is not a column. Pointing out bad writing—whether by judges or lawyers—is part of the teaching process to get lawyers to write in plain English.

The CBA has the right to censor anything going into its publications. But it has confused what it has a *right* to do with what it *ought* to do.

After dozens of seminars on writing, I will no longer teach for the CBA. It would be hypocritical. And I guess I would have to delete many of the examples—both good and bad—from my PowerPoint.

I teach legal writing seminars nationwide, and will continue to do so. But not at the CBA. My writing columns will continue, but without censorship. See the website below for updates.

Thus, after 42 years of being an active and supportive member of the CBA, I have resigned.

Readability

I usually show readability scores for these articles. For this one: 12 words per sentence, grade level 6.6, and passive sentences 16%. (Remember the 1818 Rule—no more than an average of 18 wps or 18% passive.)

Mark P. Painter served as a judge for 30 years (Ides March 1982–Ides March 2012), including 13 years on the Hamilton County Municipal Court, 14 on the Ohio Court of Appeals, and the last 3 on the United Nations Appeals Tribunal. He is now Of Counsel with Manley Burke LPA. Painter is the author of more than 400 nationally published decisions, 160 legal articles, and 6 books, including *The Legal Writer: 40 Rules for the Art of Legal Writing*, which is available at amazon.com. He was an Adjunct Professor of law at UC for 20 years, and has lectured at more than 260 legal seminars worldwide, mostly teaching lawyers to write in plain language.



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