

# The State of Law: A Legal Pandemic

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## Abstract

The purpose of this paper is to explore the systemic issues of ambiguity, complexity, and contradiction in legal contracts, and how these flaws have led to significant legal disputes, operational inefficiencies, and financial losses. Through an in-depth analysis of case studies and legal precedents, this paper advocates for a shift towards plain language in legal drafting. In the practice of law and procurement, the precision and clarity of contract language are critical. Ambiguities and complexities within legal documents frequently precipitate expensive disputes, project delays, and undermine the integrity of agreements. This paper delves into these prevalent challenges by analyzing real-world cases, prominently featuring *Codelfa Construction Pty Ltd v State Rail Authority of New South Wales* (1982) to illustrate the significant legal complications arising from unclear contractual terms. It underscores the adverse impacts of legal jargon and antiquated drafting methods that often exclude non-legal stakeholders and engender contractual inconsistencies. Advocating for a paradigm shift, this study promotes the adoption of plain language in legal documents alongside the implementation of advanced, AI-driven tools that can enhance ambiguity detection and resolution capabilities. The integration of such innovations is portrayed as essential for fostering more transparent and accessible legal drafting practices. The transition advocated by this paper aims to minimize legal disputes, protect the interests of all contractual parties, and ensure that contracts fulfill their intended roles effectively. Ultimately, this shift is envisioned to not only improve the clarity and enforceability of legal agreements but also to promote a culture of precision and mutual understanding in legal communications. The tool used by the author in this research, STRATETGEN ANALYTICS, was developed over five years by the author himself. Additionally, the author employed other tools that is covered under methodology. The author's deep understanding of language and its nuances can be reviewed in his publication in the Open Journal of Modern Linguistics titled "Unraveling Speech Styles through Linguistic Analysis: Insights from Academic Perspectives."

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## Keywords

Contract Ambiguity, Legal Language, Plain Language, Procurement Contracts, Complexity in Legal Documents, Contractual Disputes, STRATETGEN ANALYTICS, AI-Powered Contract Analysis, Contract Drafting, Legal Risk Management, Contractual Precision, Legal Jargon, Contract Review, Legal Clarity, Contractual Agreements

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## 1. Problem Statement

In today's legal and procurement sectors, the stakes have never been higher. Ambiguity and complexity in contractual language not only threaten the integrity of legal agreements but also expose businesses and governments to significant risks. These issues are pervasive, affecting projects, leading to costly disputes, and undermining the effectiveness of contracts. *"A clear illustration of this risk is seen in the Codelfa Construction Pty Ltd v State Rail Authority of New South Wales (1982) case, where ambiguity in contract terms led to significant disputes over project delays. This case highlights how imprecise language in contracts can result in costly legal battles, underscoring the need for unambiguous and precise drafting."*

We are currently navigating a critical juncture where the clarity and precision of legal language have never been more essential. Across the plain of contractual agreements, the pervasive issue of ambiguity is increasingly apparent—a concern I've consistently observed through years of analyzing literally hundreds of contract agreements. Alongside ambiguity, the challenges of contractual conflict and complexity are also undermining procurement efforts, leading to less favorable outcomes. Although in this paper we focus on Contract Agreements, these issues extend far beyond individual contracts, permeating the entire legal spectrum and posing serious risks to businesses and government entities alike.

In the midst of GE retooling their legal departments to be plain language compliant, they shared one example of when they reworded a clause to read:

*"During the contract term, we will comply with all of our legal obligations."*

*One sentence containing 13 very understandable words. The previous iteration of that clause consisted of **five** distinct subsections, **nine** sentences, **417** words, and a reference to the president of the United States.*

The consequences of such ambiguity are significant, often eroding the integrity of legal and procurement processes. News stories frequently highlight projects plagued by delays, cost overruns, and contracts that fail to offer the necessary protections. In times when the reliability and security of strong contractual agreements are paramount, many find themselves ensnared in inadequate and unclear contracts. The widespread mismanagement in procurement underscores the urgent need for clarity and exemplifies the dangers posed by ambiguity.

However, as we will cover in this paper, the problem extends beyond mere

ambiguity; it is compounded by the persistent use of legal jargon and complex language. Many law firms still employ outdated contractual automation tools that rely on standard clauses written in dense legalese, intended for lawyers rather than laypeople. This approach not only makes it challenging for non-lawyers to understand the terms of their own agreements but also conceals potential clause conflicts within these stitched-together documents. As a result, stakeholders are often sidelined, unable to participate fully in negotiations or comprehend the legal battles that may significantly impact them. This paper will explore these issues through detailed case studies and legal analysis, highlighting the need for a paradigm shift in contract drafting practices.

## **2. Outcomes of Ambiguity, Complexity, and Contradiction in Legal Contracts**

Over the past four plus years (Since 2020), the analysis of various contracts has unveiled profound insights into the structural shortcomings of legal documents. This analysis has consistently highlighted that ambiguity, complexity, and contradiction in contract language are far from being mere academic concerns; they are systemic issues that have tangible, detrimental effects on the effectiveness and enforceability of agreements across sectors.

In projects, these linguistic flaws frequently lead to delays and significant cost overruns. Ambiguous contract terms can result in prolonged legal disputes or misinterpretations that stall project progress, ultimately burdening taxpayers with unexpected costs. Complexity and contradictory stipulations in contract language often necessitate extensive legal consultations and revisions, slowing down project timelines and inflating budgets unexpectedly. Moreover, it is worth noting that this situation can be beneficial for lawyers, who are typically compensated on an hourly basis. As such, they may not have a strong incentive to push for clearer language or streamlined processes. This dynamic can lead to a cycle where lawyers are content to engage in extensive back-and-forth discussions over contract language, as their compensation is not tied directly to the efficient completion of projects.

Moreover, these contractual issues foster a lack of clarity and trust among stakeholders, leading to a cautious and sometimes adversarial approach to business dealings. This not only affects individual projects but can also tarnish a company's reputation and its ability to forge new partnerships.

It is imperative that contract language be as clear, concise, and consistent as possible. There are many tools available that can assist in simplifying complex language and reducing ambiguity, one of which is Grammarly. This tool can be tailored to help users enhance clarity in their writing by suggesting simpler word choices and restructuring sentences for better comprehension.

Tools like Grammarly employs advanced natural language processing to identify complex words and provide alternative suggestions, making it easier to communicate effectively. Its tone detector also helps ensure that the intended message

is conveyed clearly, thereby minimizing misunderstandings that may arise from vague language.

While Grammarly is a valuable resource, it should be viewed as part of a broader strategy to improve communication rather than a one-size-fits-all solution. Combining its capabilities with other practices, such as clear writing guidelines and regular feedback, can lead to more effective outcomes in both legal and business contexts.

A proactive approach not only enhances the enforceability of contracts but also contributes to more predictable project outcomes and more stable business relationships, underscoring the critical role of clear legal language in the success of government and business projects alike.

### **1) Increased Risk of Disputes and Litigation**

Ambiguous terms in contracts often lead to disputes, as parties may interpret the same clauses differently. This divergence in understanding can result in prolonged negotiations, delays in project execution, and even litigation. The lack of clarity in legal language creates a fertile ground for misunderstandings, where each party believes their interpretation is correct, only for these differences to be resolved in court, often at great expense and with uncertain outcomes. STRATETGEN ANALYTICS's analysis highlights these ambiguities and provides recommendations to resolve them before they become contentious issues.

### **2) Erosion of Contractual Strength**

Complex and contradictory language undermines the strength of legal agreements. Contracts that are not clearly drafted can become ineffective over time, as stakeholders struggle to enforce unclear terms. This erosion is akin to a lock rusting internally, leaving the agreement vulnerable and unreliable. The goal is to prevent this by meticulously analyzing contracts to identify and rectify complex and contradictory language, ensuring that the contract remains robust and enforceable throughout its lifecycle.

### **3) Operational Inefficiencies and Increased Costs**

The time and resources required to navigate complex legal jargon can lead to significant operational inefficiencies. Legal teams and contract managers often spend an inordinate amount of time deciphering convoluted language, which could have been better spent on strategic tasks. This inefficiency not only delays project timelines but also increases legal and staffing costs. Effective advanced tools address this by reducing the time required for contract reviews by up to 90%, thus significantly lowering legal expenses and enabling quicker decision-making.

### **4) Barriers to Inclusive Decision-Making**

Complex legal language often excludes non-legal stakeholders from fully participating in the decision-making process. When contracts are difficult to understand, operations staff and other stakeholders may be unable to engage meaningfully, leading to a top-heavy decision-making process that may overlook critical operational insights. By translating legal jargon into plain language, uncomplicates the contract review process, ensuring that all stakeholders can fully understand

and contribute to the discussions, leading to more informed and balanced decisions.

#### **5) Negative Impact on Vendor Relationships and Project Success**

Ambiguities and contradictions within contracts can lead to strained vendor relationships and unsuccessful project outcomes. When expectations are not clearly defined, or when terms are open to interpretation, it becomes challenging to hold vendors accountable or to resolve conflicts amicably.

### **3. Real-Life Examples of Ambiguity and Complex Language**

To illustrate the pervasive issues caused by ambiguity in contractual language, the case of Walsh Construction and Ontario's TTC provides a compelling example. The recent final ruling in this case reveals how ambiguity significantly contributed to the challenges faced during the project. Through a thorough analysis of the judge's decision, it becomes clear that unclear terms and vague provisions were at the heart of the disputes that plagued the project from start to finish.

#### **Supporting Evidence from Walsh Construction Article**

In your article on Walsh Construction, the issue of ambiguity is clearly highlighted as a significant factor in the legal disputes that arose during the Toronto-York Spadina Subway Extension (TYSSE) project. For instance, you discuss how the use of the term "timely" in GC 31.1 was a source of ambiguity, leading to disputes about what constituted a reasonable time for submitting claims. This lack of precision required judicial interpretation, which could have been avoided with clearer language (Article—Walsh Contruc...).

#### **Supporting Evidence from the Judge's Ruling**

The judge's ruling further supports this assertion by highlighting specific instances where contractual ambiguity led to legal challenges. Here are some examples from the ruling:

**1) SC 8.4 and GC 31.1 Clauses:** The judge had to interpret whether SC 8.4 applied to certain change work and if the requirements of GC 31.1 regarding timely submissions were met. The fact that these clauses were open to interpretation suggests that the contract's language was not sufficiently clear, thus leading to legal disputes (Article—Walsh Contruc...).

**2) Discussion of GC 31.10:** The ambiguity surrounding the applicability of interest on outstanding claims also required judicial interpretation, which indicates that the contract could have benefited from more explicit language to avoid such disputes (Article—Walsh Contruc...).

**3) Subcontractor Claims:** The ruling pointed out that Walsh Construction's attempt to pass through claims from subcontractors to the Toronto Transit Commission (TTC) was complicated by pre-existing agreements that released Walsh from liability. This complexity in managing subcontractor relationships and the contractual ambiguities involved further exemplifies how unclear terms can lead to significant legal and financial challenges (Article—Walsh Contruc...).

The ambiguity and complexity observed in both the contractual language

discussed in your article and the examples provided in the judge's ruling clearly illustrate the risks that such language poses to the integrity of legal agreements. These issues not only lead to costly legal disputes but also undermine the effectiveness and enforceability of the contracts, ultimately exposing businesses and governments to substantial risks.

This evidence reinforces the need for precise, unambiguous contractual language to minimize the likelihood of disputes and ensure that all parties have a clear understanding of their obligations, thereby protecting the interests of all stakeholders involved.

Here are a few additional real-life examples of contract agreements that resulted in litigation due to serious ambiguity, noting phrases like "standard quality", "As soon as practical" or "in a timely manner" are used, which I have seen used extensively in contracts.

#### 1) **Sattva Capital Corp. v. Creston Moly Corp. (2014):**

- **Ambiguity:** The dispute centered around the date for evaluating a share price to determine a finder's fee. The contract did not clearly specify this date, leading to differing interpretations by the parties involved.
- **Resolution:** The Supreme Court of Canada emphasized the importance of considering the surrounding circumstances to interpret the contract. The Court ruled that understanding the context and the parties' intentions is crucial when the language alone is ambiguous.

#### 2) **Resolute FP Canada Inc. v. Ontario:**

- **Ambiguity:** This case involved a revenue-sharing agreement where the terms were not clearly defined, leading to disputes over the interpretation of "revenues" and how they should be shared.
- **Resolution:** The Court considered the history of litigation between the parties and their shared objectives to interpret the ambiguous terms. This case highlighted the admissibility of pre-contractual negotiations as evidence to clarify the parties' intentions.

#### 3) **General Ambiguity in Contracts:**

- **Ambiguity:** Contracts often become ambiguous when terms are not clearly defined or when the language used is open to multiple interpretations. For example, terms like "reasonable delivery time" or "standard quality" can lead to disputes if not explicitly defined.
- **Resolution:** Courts typically use the doctrine of *contra proferentem*, interpreting ambiguities against the party that drafted the contract. They may also consider extrinsic evidence, such as prior dealings or industry standards, to resolve ambiguities.

These examples illustrate how ambiguity in contract language can lead to significant legal disputes and the importance of clear and precise drafting to prevent such issues.

Here is a list of common ambiguous terms often found in contracts, which can lead to differing interpretations and potential disputes:

1) **“Standard Quality”**: This term can be ambiguous because it does not specify the criteria or benchmarks for quality. What is considered “standard” may vary between industries or parties, leading to disputes over whether the delivered goods or services meet the expected quality.

2) **“As Soon as Practical”**: This phrase is often used to indicate a timeline for performance but is inherently vague. It can lead to disagreements over what constitutes a reasonable or practical timeframe for completing an obligation.

3) **“In a Timely Manner”**: Similar to “as soon as practical,” this term lacks specificity and can result in differing expectations about the speed or urgency required in fulfilling contractual duties.

4) **“Reasonable Efforts”**: This term is open to interpretation as it does not define what constitutes “reasonable.” Parties may have different views on the extent of effort required to meet contractual obligations.

5) **“Best Efforts”**: While seemingly straightforward, this term can be ambiguous because it does not specify the level of effort or resources that must be expended, leading to potential disputes over whether a party has met its obligations.

6) **“Market Rate”**: This term can be ambiguous as it does not specify which market or what time frame is being referenced. Fluctuations in market conditions can lead to disagreements over the applicable rate.

7) **“Subject to Approval”**: This phrase can be unclear if it does not specify whose approval is required or the criteria for granting approval, leading to potential delays or disputes.

8) **“Including but Not Limited to”**: While intended to be inclusive, this phrase can create ambiguity by leaving the scope of what is included open-ended, leading to differing interpretations.

9) **“Material Adverse Change”**: Often used in financial and business contracts, this term can be ambiguous because it does not clearly define what constitutes a “material” change, leading to disputes over its application.

10) **“Force Majeure”**: While generally understood to refer to unforeseeable events, the specific events covered can be ambiguous if not explicitly listed, leading to disagreements about whether a particular event qualifies.

These terms highlight the importance of precise language in contract drafting to avoid misunderstandings and potential litigation. Defining terms clearly and providing specific criteria or examples can help mitigate the risks associated with ambiguous contract language.

#### 4. Other Studies

The topic of ambiguity, complex language, and conflicting clauses in contracts has been the subject of numerous studies and articles, demonstrating its significance in the field of contract law and business relationships. Various researchers and legal experts have explored the implications of these issues, providing valuable insights into their effects on contract interpretation, dispute resolution, and overall business outcomes.

Below are a few other key studies that have examined the effects of ambiguity, complex language, and conflicting clauses in contracts:

1) [Zhao, Gao, and Gu \(2022\)](#) conducted an empirical study on the use of ambiguous language in contract adjustment and its impact on interfirm relationship performance. Their research explored how ambiguous language in contracts influences the focal firm's relationship performance.

2) [Carson, Madhok, and Wu \(2006\)](#) investigated the effects of volatility and ambiguity on formal and relational contracting in their study "Uncertainty, Opportunism, and Governance: The Effects of Volatility and Ambiguity on Formal and Relational Contracting". This research examined how uncertainty and ambiguity affect different types of contracting mechanisms.

3) [Lumineau and Henderson \(2012\)](#) explored the connection between contract design, trust dynamics, and contract application in their study "Toward An Integrative Perspective on Alliance Governance: Connecting Contract Design, Trust Dynamics, and Contract Application". This research provides insights into how contract ambiguity can impact alliance governance.

4) [Cao and Lumineau \(2015\)](#) examined the effects of contract specificity, contract violation, and relationship performance in international buyer-supplier relationships. Their study sheds light on how contract ambiguity or specificity can influence relationship outcomes in an international context.

5) [Weber and Mayer \(2014\)](#) investigated the effects of contract ambiguity in interorganizational governance. Their research provides valuable insights into how ambiguity in contracts affects the governance of relationships between organizations.

These studies collectively demonstrate that ambiguity, complex language, and conflicting clauses in contracts can have significant impacts on business relationships, performance outcomes, and dispute resolution. They highlight the importance of clear and precise contract language in fostering successful business partnerships and avoiding potential conflicts.

## 5. Methodology

The breadth of my analysis considered many aspects of contract agreements. However, the issues identified in this paper stood out prominently.

To conduct this research and analysis, a multi-faceted approach was employed, combining both qualitative and quantitative methods. The goal was to thoroughly investigate the pervasive issues of ambiguity and complexity in contractual language, particularly within legal and procurement contexts. The following steps outline the methodology used:

**Advanced AI-powered analysis:** STRATETGEN ANALYTICS, developed by Strategen Analytics, was utilized to analyze over 35 contractual elements, including ambiguity, risks, and legal jargon. Unique in its field, this AI tool employs sophisticated methods to ensure superior results, maintaining control and precision in outputs rather than relying on "auto-pilot" mode.

**Comprehensive contract type detection:** An advanced text-processing algorithm was used to categorize contracts into 18 distinct types based on specific keywords. This automated classification streamlines contract management processes and aids in risk management by identifying the specific nature of each agreement.

**Clarity and readability enhancement:** The AI tool scanned legal documents for complex language and suggested clearer alternatives, making contracts more accessible and reducing negotiation times and costs.

**Grammarly:** In addition to utilizing STRATETGEN ANALYTICS, this study also employed Grammarly, a widely recognized tool designed to improve writing clarity, detect ambiguity, and tailor content to specific audiences. Grammarly is an AI-powered writing assistant that offers real-time suggestions for grammar, punctuation, style, and tone. It goes beyond basic proofreading by providing advanced features that can be customized to fit different writing styles and target audiences.

One of Grammarly's key strengths lies in its ability to set the complexity of language according to the intended audience. This is particularly important in legal and technical writing, where the need for precision and clarity is paramount. Grammarly allows users to adjust settings to ensure that the writing is neither too simplistic nor overly complex, thereby improving the overall readability of the document.

Moreover, Grammarly is highly effective in detecting ambiguity within texts. Its advanced algorithms can identify ambiguous phrases or sentences that might lead to misinterpretation. While this feature is beneficial for enhancing clarity, it can sometimes be too sensitive, flagging language that may be intentionally nuanced or complex. This dual capability makes Grammarly an excellent tool for refining legal documents, ensuring that they are both clear and precise without sacrificing necessary detail.

**Microsoft Word:** In addition to these tools, Microsoft Word's built-in features also play a crucial role in evaluating the complexity and readability of documents. Microsoft Word offers a variety of industry-standard readability scores that help authors assess how easily a document can be understood by its intended audience.

One of the primary tools within Microsoft Word for this purpose is the Readability Statistics feature, which provides detailed metrics about a document's text. After running a spelling and grammar check, Word presents the user with readability scores based on established formulas:

**1) Flesch Reading Ease:** This score rates text on a 100-point scale, with higher scores indicating easier reading. A score between 60 and 70 is generally considered acceptable for most standard documents. The formula considers both the average sentence length and the average number of syllables per word, making it an effective measure of a document's overall readability.

**2) Flesch-Kincaid Grade Level:** This score translates the Flesch Reading Ease score into a U.S. school grade level, indicating the minimum education level needed to understand the text. For example, a score of 8.0 means that an eighth grader

can understand the document. This score is particularly useful for ensuring that legal and technical documents are accessible to their intended audience.

**3) Passive Sentences Percentage:** This metric measures the proportion of sentences written in the passive voice, which can often make text more complex and harder to follow. Word encourages a lower percentage of passive sentences to improve clarity and directness in writing.

**4) Words Per Sentence and Characters Per Word:** These statistics give insight into the complexity of sentence structure and word choice, respectively. Longer sentences and more complex words can increase the difficulty of reading and understanding a document.

These built-in features of Microsoft Word are invaluable for authors looking to fine-tune their documents to meet specific readability standards. By providing objective, industry-standard assessments, Word helps ensure that documents are appropriately tailored to their audience, enhancing overall clarity and effectiveness.

**CFG Checker for Context-Free Grammar Analysis:** To further enhance the detection of ambiguity within the contractual language, the “CFG Checker” program available on GitHub was employed. This program is designed to search for ambiguities in context-free grammars. Since it is only semi-decidable to determine whether an arbitrary context-free grammar is ambiguous, CFG Checker generates all derivations in a breadth-first fashion and looks for two that produce the same sentential form. If the input grammar is ambiguous, CFG Checker will eventually find a minimal ambiguous sentential form. If the grammar is unambiguous, CFG Checker will either conclude so or continue searching indefinitely. This tool was particularly useful in identifying deeper structural ambiguities that might not be immediately evident through traditional or AI-driven analysis.

**Sentimind:** Using proven algorithms and large corpuses of data, this tool would perform a low-level scan and would detect the most subtle instances of ambiguity. This used several proprietary methods and would often detect instances other tools would miss.

The multi-faceted methodology employed in this study facilitated a comprehensive examination of contractual language issues. The analysis, which encompassed over 35 contractual elements, was conducted without preconceived notions or assumptions. This extensive and unbiased approach led to the emergence of three predominant issues that stood out above all others: ambiguity, complexity, and contradiction in contract language. These findings were not predetermined but rather surfaced naturally as a result of the thorough and impartial investigation. The findings presented in this paper are a direct outcome of the comprehensive analysis, rather than being based on predetermined assumptions or limited to examining only one or two issues. This approach ensured that the research was unbiased and allowed the most pressing concerns to naturally surface from the data. The prominence of these three issues underscores their critical importance in the area of legal language and contract management, highlighting the urgent need for clearer and more concise legal communication.

**1) Literature Review:**

- A comprehensive review of existing literature on contract ambiguity, legal language complexity, and the movement towards plain language was conducted. Sources included academic journals, case law, legal analyses, and government publications. This review provided a foundational understanding of the challenges and informed the analysis of real-world examples.

**2) Case Analysis:**

- Real-world cases, such as the *Codelfa Construction Pty Ltd v State Rail Authority of New South Wales* (1982), were examined to highlight the consequences of ambiguous language in contracts. This case, along with others, served as a basis for understanding how legal disputes arise from unclear contract terms and provided concrete examples of the issues at hand.

**3) Document Analysis:**

- The tool STRATETGEN ANALYTICS, was utilized to perform an in-depth analysis of a wide range of contracts. This AI-powered tool is designed to detect ambiguity, contradictions, and complex legal language. Its ability to evaluate over 35 contractual elements, including jurisdictional insights and readability enhancements, was critical in identifying systemic issues in contract drafting and review.

**4) Qualitative Analysis:**

- Detailed qualitative assessments were conducted on the contracts analyzed by the methods identified. The focus was on identifying patterns of ambiguity, understanding the impact of complex language on contract interpretation, and evaluating the effectiveness of plain language revisions suggested by the AI tool.
- The qualitative analysis also included a review of the negotiation processes and outcomes associated with the contracts, assessing how ambiguity and complexity influenced these factors.

**5) Expert Consultation:**

- Consultations with legal experts and procurement professionals were undertaken to gain insights into the practical challenges of contract management. These discussions provided additional context to the findings from the methods used and helped in formulating practical recommendations for improving contract clarity and effectiveness.

**6) Synthesis of Findings:**

- The data collected from the literature review, case analysis, AI-driven contract analysis, and expert consultations were synthesized to identify key themes and trends. The findings were used to develop a set of actionable recommendations aimed at remedying the issues of ambiguity and complexity in legal contracts.

**7) Recommendations Development:**

- Based on the synthesis of findings, a set of recommendations was formulated, focusing on the adoption of plain language, the integration of AI tools, and the implementation of standardized contract review processes. These recom-

mendations are designed to mitigate risks, reduce disputes, and enhance the overall effectiveness of legal agreements.

This methodology ensured a thorough investigation of the issues, combining theoretical analysis with practical, data-driven insights. The use of advanced AI tools alongside traditional analysis methods provided a robust framework for understanding and addressing the challenges of contract ambiguity, contract complexity and clause conflict.

## 6. Introduction

The use of complex legal language known as legalese and automated stitching of standard clauses often leads to contractual contradictions. When multiple pre-drafted clauses are combined without a thorough review, they can conflict with one another, creating contradictions that are not immediately apparent. These contradictions can invalidate portions of a contract or lead to legal disputes as parties interpret conflicting clauses in different ways. This lack of coherence within contracts can further exacerbate the issues of ambiguity, leading to costly legal battles and undermining the trust between contracting parties.—*Burton, Shawn. 2018. “The Case for Plain-Language Contracts.” Harvard Business Review, January-February, 23-45*

This situation represents not just a ripple within the legal community but a tidal wave of confusion with lasting repercussions. The movement towards plain language in legal documents, championed by countries like Canada, Australia, the UK, and Sweden, aims to democratize the legal process, ensuring that all parties can engage meaningfully in contract discussions and enforcement. The need for clear, explicit, and detailed legal communications has never been more apparent, emphasizing the critical shift required to enhance transparency, reduce conflicts, and improve the efficiency and fairness of legal documents.—*The importance of plain language is further emphasized by resources like PlainLanguage.gov, which advocates for the use of clear and familiar language to make legal documents more accessible. This aligns with the broader global trend towards plain language in legal communications, as also discussed by Judge Frank H. Easterbrook in a Cambridge University Press publication, where he notes that ambiguity in statutes can lead to judicial reliance on external guidance, underscoring the need for clarity in legal drafting.*

Today’s contractual agreements are increasingly plagued by systemic ambiguity, transforming interpretation into a Herculean endeavor. This issue is particularly pressing for businesses, which frequently find themselves ensnared in legal disputes due to poorly constructed contracts. It is becoming apparent that many initiatives stall, prompting speculation that this may be partially due to staff fears of entanglement in a hornet’s nest of litigation over projects that veer off course without a solid contract to provide protection.

Contracts need to be clear. Ideally, they should be free of any ambiguity in their terms or conditions. For one reason or another, people often struggle with the

rights and responsibilities laid out in a contract. Everyone involved should be aware of what they're entitled to and what they're expected to do. Don't make assumptions. You can never know you'll be able to reach an agreement about what work should be done. Put it all down in writing, not handshakes.

## 7. Case Law

A list of notable case law where ambiguity in contracts was a central issue:

1) *Sattva Capital Corp. v Creston Moly Corp.*, 2014 SCC 53

This landmark Canadian Supreme Court case clarified principles of contract interpretation, emphasizing the importance of considering surrounding circumstances when interpreting potentially ambiguous contract terms.

2) *Resolute FP Canada Inc. v Ontario* (Supreme Court of Canada)

This case further elaborated on the use of surrounding circumstances in interpreting ambiguous contracts, including the consideration of parties' history and shared objectives.

3) *ICS Ltd v West Bromwich Building Society* [1998] 1 WLR 896

This UK case established the principle that when interpreting an ambiguous term, courts should consider what a reasonable person would have understood the term to mean.

4) *Investors Compensation Scheme Ltd v West Bromwich Building Society* [1998] 1 WLR 896

Another significant UK case that set out principles for interpreting ambiguous contracts, emphasizing the importance of context and business common sense.

5) *Rainy Sky SA v Kookmin Bank* [2011] UKSC 50

This UK Supreme Court case dealt with ambiguity in a refund guarantee, emphasizing that when language is ambiguous, the court should adopt the interpretation that is most consistent with business common sense.

6) *Wood v Capita Insurance Services Ltd* [2017] UKSC 24

This case refined the approach to contractual interpretation, balancing textual analysis and consideration of the commercial context when dealing with ambiguous terms.

7) *Chartbrook Ltd v Persimmon Homes Ltd* [2009] UKHL 38

This case addressed the issue of rectification in cases of ambiguity, setting out principles for when courts can correct mistakes in written contracts.

These cases demonstrate that ambiguity in contracts is a recurring issue in various jurisdictions, leading to significant legal precedents in contract interpretation. They highlight the courts' approaches to resolving ambiguity, including considering surrounding circumstances, applying reasonable person standards, and prioritizing business common sense in interpretation.

## 8. Case Studies

As seen in **Figure 1**, the analysis provided below highlights areas of the contract where the language is vague or lacks specificity, leading to potential misunder-

standings and disputes. These sections of the contract, marked by ambiguity, are identified to ensure that all parties clearly understand their obligations and the scope of services. This ambiguity could result in differing interpretations, impacting the execution and enforcement of the agreement.

4) Ambiguity Found: "Contractor agrees to provide services as set forth in the Nonpublic, Nonsectarian School/Agency Services Master Contract and is fully incorporated in its entirety."  
 Explanation: The term "Nonpublic, Nonsectarian School/Agency Services Master Contract" is vague and lacks specificity. It is unclear what specific services and obligations are encompassed within this contract. This ambiguity could lead to misunderstandings regarding the scope of services to be provided by the Contractor and the corresponding responsibilities of the District.

**Figure 1.** Ambiguity in scope and obligations of master contract.

In this next example, (**Figure 2**) identifies areas within the contract where the authorization process and financial provisions lack clarity. These ambiguities concern the procedures for approving services and adjusting agreed-upon amounts, potentially leading to misunderstandings. Addressing these issues is crucial to prevent disputes related to billing, payment, and the financial obligations of both parties.

5) Ambiguity Found: "The total amount of services requested by District and provided by Contractor under this agreement shall be authorized by Purchase Order. This amount may be increased by mutual agreement of both parties by written agreement."  
 Explanation: The language regarding the authorization of services through a Purchase Order and the potential for an increase in the agreed-upon amount lacks clarity. It is ambiguous as to how the parties will determine the total amount of services requested and provided, as well as the specific process for obtaining mutual agreement for any increases. This ambiguity could result in disputes over billing, payment, and the overall financial obligations of the parties.

**Figure 2.** Ambiguity in service authorization and payment terms.

The ambiguity in the dispute resolution clause you've highlighted could lead to several significant issues:

- 1) **Unclear Procedures:** The grammatical errors and vague language make it difficult to understand the steps for initiating or amending the dispute resolution process, leading to procedural confusion.
- 2) **Delays and Costs:** Without clear guidelines, resolving disputes can be delayed, increasing legal costs and negatively impacting project timelines and financial outcomes.
- 3) **Relationship Strain:** Ambiguities can strain business relationships, as parties may perceive the lack of clarity as poor planning or a lack of good faith.
- 4) **Enforceability Concerns:** The vagueness of the clause might lead to issues with enforceability in legal settings, potentially forcing parties into unwanted judicial processes.

To avoid these issues, the clause should be revised for clarity, with explicit steps, processes, and timelines for dispute resolution. These outcomes illustrate how the lack of clarity and precision in legal language contributes to ambiguity.

In our next example is found withing a dispute resolution clause.

- **Original Clause:** “With respect to any breach or dispute arising under this Agreement, the Parties shall meet and attempt, in good faith and using their best and reasonable efforts, to resolve may be amended at any time by the same. If such breach or dispute is not resolved by the Parties, then the Parties shall meet and attempt to agree on an appropriate mode of resolving the dispute or breach, e.g., arbitration, mediation or other forms of alternative dispute resolution.”
- **Core Issue:** This clause is poorly constructed, particularly in its confusing suggestion that the method to resolve disputes ‘may be amended at any time by the same.’ This phrase is not only a grammatical travesty but a clear dereliction of duty in providing explicit guidance on how disputes should be managed. It leaves open-ended the vital procedures necessary for resolving conflicts, essentially ensuring that any resolution process could be as malleable and unpredictable as a weathervane in a storm.
- **Consequences:** This type of linguistic negligence invites chaos and protracted legal skirmishes, undermining the very purpose of a dispute resolution clause. It threatens the seamless execution of contracts and exposes governmental entities to unnecessary legal peril and inefficiency.

Such contractual formulations are not merely inadequate; they are a veritable invitation to discord and dysfunction, calling into question the competence with which these agreements are drafted. It is a testament to the urgent need for a dramatic overhaul in the clarity and precision of contract language.

Legal language is a specialized form of communication that employs a vast repertoire of terms, phrases, and constructs unique to the legal profession. This language includes boilerplate terminology—standard, tried-and-tested phrases used across countless documents to ensure consistency and legal efficacy. While this practice streamlines contract drafting and fortifies legal intent, it also presents a double-edged sword. **Boilerplate language, when modified even slightly, can introduce ambiguity into a contract, potentially altering its interpretation and execution in significant ways.**

## 9. Ambiguity Detection

The detection of ambiguity requires more than just a deep understanding of legal principles; it demands a strong command of the language and its nuances. Linguistic proficiency enables lawyers to discern subtle differences in meaning, syntax, and context—differences that might elude those who focus solely on legal terminology without appreciating the broader linguistic landscape. This skill is crucial when reviewing or drafting contracts, as the precision of language directly impacts the enforceability and interpretation of legal agreements.

Consider the following clause in a contract: “The lessee shall use the leased premises exclusively for commercial purposes, which may include retail, office, or any other business activity approved by the lessor.”

At first glance, this clause appears straightforward, specifying the use of the premises for commercial activities. However, ambiguity arises from the phrase “or any other business activity approved by the lessor.” This could be interpreted in several ways:

- Does it mean the lessee can engage in any business activity, as long as it is approved by the lessor?
- Or is the scope of permissible activities limited to those similar to retail and office, with the lessor’s approval being an additional requirement?

This ambiguity could lead to disputes between the two parties regarding the range of permissible activities. In this example, a lessee might believe they can pursue any commercial venture subject to lessor’s approval, while the lessor might argue that only activities akin to retail or office are allowable, contingent on approval.

Ambiguity in contracts introduces excessive interpretative flexibility. When terms lack clear definitions or when language is ensnared in what some might deride as “legal word salad,” the door is opened wide for disputes. These aren’t minor disagreements over semantics; they often escalate into high-stakes conflicts resulting in significant financial and reputational harm.—*As highlighted in the Financial Institutions Legal Snapshot, ambiguity in legal documents can lead to multiple interpretations, often resulting in disputes and litigation. The dangers of unclear contract terms are real and costly, making the need for precision in legal drafting all the more critical.*

## 10. Controversies

Far too often it seems businesses and agencies repeatedly find themselves embroiled in controversies over contracts gone awry, whether due to the contract’s language or vendor performance issues, with ambiguity frequently at the heart of these disputes. The resultant lack of clear language affords the various branches of government little in the way of recourse, trapping them in a dilemma with few favorable outcomes.

This gravitation towards ambiguity is not merely a byproduct of inadequate drafting but reflects a more profound issue within the legal profession and the perception of contracts. Some contend that and I wonder if contracts have increasingly become vehicles for showcasing unique drafting styles rather than facilitating clear, mutual understanding. Perhaps too much reliance on automation and boilerplates.

As we witness the continuation of this trend towards ambiguity, it’s imperative for those involved in the drafting and interpretation of contracts to reflect on the impact of their words.

To the untrained eye, ambiguity can slip by undetected. Detecting ambiguity in legal contracts is a nuanced task that requires a delicate balance between legal expertise and linguistic acuity. Lawyers must not only be versed in the lexicon of law but also possess a keen understanding of the English language and its quirks and

subtleties. The challenge lies not just in the complexity of legal terminology but in ensuring that every word, phrase, and clause serves its intended purpose without leaving room for misinterpretation. As legal documents continue to evolve in complexity, the ability to identify and resolve ambiguity will remain a cornerstone of effective legal practice.

The detrimental effects of ambiguity on cognitive performance, mental well-being, and decision-making are well-documented across various fields. For instance, the study *Effects of Visual Complexity and Ambiguity of Verbal Instructions on Visual Information Processing* by Höffler, Prechtel, and Nerdel (2010) highlights how ambiguous verbal instructions can impair visual information processing, leading to increased cognitive load and diminished task performance. This research underscores the necessity for clear and precise communication, particularly in contexts where ambiguity can exacerbate cognitive overload.

In the medical field, the systematic review *Tolerance of Ambiguity and Psychological Well-being in Medical Training* by Hancock and Mattick (2020) explores the relationship between tolerance for ambiguity and psychological well-being among medical professionals. The review finds that low tolerance for ambiguity is closely associated with elevated stress levels, burnout, and other mental health challenges. Tools like the Physicians' Reactions to Uncertainty (PRU) Scale and the Intolerance of Uncertainty Scale (IUS-12) provide empirical support for these findings, demonstrating the significant psychological burden that ambiguity imposes on medical practitioners.

Moreover, ambiguity's impact extends beyond individual well-being to broader societal concerns, such as energy governance. The paper *Complexity, Uncertainty, and Ambiguity: Implications for European Union Energy Governance* by Hancher and Winters (2016) discusses how ambiguity and complexity in policy-making can undermine energy security. The study presents empirical data showing that these factors contribute to rising energy prices and reduced accessibility, which ultimately jeopardize the stability of energy supplies. This underscores the critical importance of addressing ambiguity within policy frameworks to ensure robust and secure energy governance.

Finally, the research titled *Ambiguity and Uncertainty Tolerance, Need for Cognition, and Their Association with Stress* by Berjot et al. (2011) delves into the association between ambiguity intolerance and stress among Italian physicians. The study reveals that physicians with low tolerance for ambiguity tend to experience higher stress levels, often leading to unnecessary diagnostic testing—a response to mitigate the discomfort caused by uncertainty. This highlights the negative implications of ambiguity in clinical settings, both for healthcare providers and patient outcomes.

## 11. Clarity and Precision

The pervasive issue of ambiguity in contracts highlights the urgent need for tools and strategies that can bring clarity to these essential documents. Smartly and

effectively utilizing advanced AI technology, empowers legal professionals and organizations to streamline the contract review process, reduce disputes, and ensure that agreements are clear and enforceable.

Legal professionals, government agencies, and all stakeholders must embrace these advancements and foster a culture of transparency in contractual engagements. The path towards eliminating ambiguity in contracts is complex and fraught with challenges, yet with the right tools and a commitment to clear communication, it is a goal within reach.

Let's not underestimate the significance of this endeavor. Clear, unambiguous contracts are the bedrock of fair and efficient legal exchanges, essential for the smooth functioning of society and the economy at large. In embracing solutions as used in this study, we take a crucial step towards a future where legal disputes are minimized, and mutual understanding prevails. Together, we can transform the landscape of legal contracts, ensuring that they serve their purpose as instruments of clarity and mutual benefit, rather than sources of contention and confusion.

Contracts are fundamental in establishing clear terms and conditions between parties in various transactions and agreements. However, within these legal documents, contradictions can arise, creating confusion and potential conflicts. Contractual contradictions, much like ambiguities, can have serious consequences for both clients and vendors. We now delve into the intricacies of contractual contradictions, emphasizing the importance of a comprehensive focus on the contract in its entirety to avoid detrimental outcomes.

While specific case law directly attributing legal disputes to complex language in contracts may be limited, the implications and effects of such complexity are far-reaching and warrant thorough examination. Complex contractual language presents multifaceted challenges that extend beyond the courtroom, affecting comprehension, interpretation, and the overall efficacy of legal agreements. In the following sections, we will delve into various aspects of complex language in contracts, including its impact on parties' understanding, its role in potential disputes, and the broader implications for business relationships and legal practice.

## 12. Discussion: The Call for Plain Language

In recent years, there has been a marked shift in legal practices towards the adoption of plain language in contractual and legal communications. This trend reflects a growing global consensus on the importance of making legal documents more accessible and understandable to a wider audience. Historically, complex legal language—often referred to as “legalese” or “legal jargon”—has been criticized for its complexity and obscurity, which can alienate non-specialists and obscure key information. Countries such as Australia, the UK, Sweden, and Canada have been at the forefront of this movement, advocating for clear, explicit, and detailed legal documents that minimize ambiguity and increase transparency.

The movement towards plain language not only enhances mutual understanding

among contracting parties but also democratizes the legal process. By stripping away unnecessary complexity, plain language enables all stakeholders—not just legal professionals—to engage more effectively in negotiations, compliance, and enforcement. This approach aligns with broader efforts to improve transparency in governance and business, ensuring that individuals and companies can make informed decisions based on defined articulated rights and obligations.

Here are a few relevant quotes about the downsides of legal jargon compared to plain language. From an article on Plain Language.gov discussing the importance of avoiding jargon: “*Readers complain about jargon more than any other writing fault, because writers often fail to realize that terms they know well may be difficult or meaningless to their audience. Try to substitute everyday language for jargon as often as possible.*”

In a piece examining plain language in legal writing, the National Magazine of the Canadian Bar Association notes: “*Readers prefer familiar and concrete words. They prefer simplicity and consistency. They prefer genuineness to pretension, modern expressions to archaic words.*”

The Institute of Legal Secretaries and PAs (ILSPA) offers this insight on why complex legal language persists: “*Legalese persists for a lot of bad reasons—habit, inertia, fear of change, the overwhelming influence of poorly written opinions and forms, false notions of prestige, and any number of myths about plain language...*”

In discussing the complexities of statutory interpretation, Judge Frank H. Easterbrook notes in a Cambridge University Press publication is quoted as saying “*If the statute is ambiguous, the judge might then become interested in sources of guidance, such as legislative history, that wouldn’t otherwise be considered.*”

This quote underscores how ambiguity in legal texts can lead judges to seek additional context beyond the text itself. Addressing the concept of ambiguity in contracts, a Financial Institutions Legal Snapshot article cites a US case that provides a clear definition: “*It is well settled that [a] contract is unambiguous if the language it uses has a definite and precise meaning, unattended by danger of misconception in the purport of the agreement itself, and concerning which there is no reasonable basis for a difference of opinion.*”

In the article “The Case for Plain-Language Contracts” by Shawn Burton, published in the Harvard Business Review (HBR) in January-February 2018. This article discusses GE Aviation’s initiative to simplify their contracts using plain language.—Burton, Shawn. 2018. “*The Case for Plain-Language Contracts.*” *Harvard Business Review, January-February, 23-45*

The article was written by Shawn Burton, who was the general counsel for GE Aviation’s Business & General Aviation and Integrated Systems businesses.

1) Burton describes a three-plus-year effort to promote plain-language contracts at GE Aviation’s digital-services business, which started in 2014.

2) The initiative aimed to replace complex, jargon-filled contracts with a single, simplified contract that “even a high schooler could understand”.

3) The results of this initiative were significant:

- Contracts took 60% less time to negotiate.
  - There was not a single dispute over wording.
  - Some contracts were signed without any changes.
  - Customer feedback was universally positive.
- 4) The new contract was radically shorter and easier to understand, replacing seven complicated contracts with one simple document.
- 5) This approach to plain-language contracts began to spread within GE after its success in the aviation division.

They go on to say how using plain language in contracts can lead to significant time and cost savings, improved customer relationships, and more efficient business operations. It serves as a case study for the benefits of adopting plain language in legal documents, particularly in a business context.

This definition highlights the importance of clear and precise language in legal documents to avoid ambiguity.

### 13. Harvard Business Review

In the Harvard Business Review article “The Case for Plain-Language Contracts” by Shawn Burton, there’s a specific example provided of how GE Aviation rewrote a section of their contract using plain language. Here’s the relevant excerpt:

Original version:

*“INDEMNITY. Supplier shall indemnify, defend, and hold Company harmless from and against any and all claims, demands, suits, losses, damages, costs (including attorneys’ fees), and expenses arising out of or relating to any claims, demands, or suits brought by a third party alleging 1) any breach of this Agreement by Supplier, 2) any defective Goods, or 3) any negligent act, error, or omission, or willful misconduct of Supplier.”*

Rewritten in plain language:

*“Protection against third-party claims. Supplier protects GE from any claim brought by a third party alleging harm caused by the supplier’s product or service.”*

This example dramatically illustrates the difference between traditional legal language and plain language.

The rewritten version is much shorter (23 words versus 66), clearer, and easier to understand, while still conveying the essential legal concept.

The article notes that this simplification was part of a broader effort to make GE Aviation’s contracts more accessible and understandable, which resulted in significant improvements in negotiation time and customer satisfaction.

From the Harvard Business Review article, it discusses the benefits of using plain language in contracts. It mentions that plain language contracts can lead to faster negotiations. The article states: “Those agreements took a whopping 60% less time to negotiate than their previous legalese-laden versions did.” This suggests that plain language contracts can lead to more efficient negotiations.

Lawyers, trained in the nuances of legal language, often navigate through

complex legal jargon and contractual frameworks with ease. This legal-speak, while efficient for the trained eye, harbors its own set of challenges, especially when it comes to detecting ambiguity. Ambiguity in legal documents can lead to disputes, protracted litigation, and unintended outcomes, making its identification and resolution a critical skill in legal practice. However, despite rigorous training, lawyers who may not have a strong academic grasp of the English language itself may find detecting such ambiguities particularly challenging. Let's look at a few examples from one such contract.

The following examples were taken from real, in-play contracts that I sourced through the proper legal channels. In this specific example of unclear language, in the section about ending the agreement early, the contract shows how vague terms can lead to big problems:

- **Original Clause:** “The term of this agreement is for the 2021/2022 school year; however, the agreement may be amended at any time by the mutual consent of the parties hereto and may be terminated by either party upon thirty (30) days written notice to the other of its intention to do so. In the event this agreement is terminated, the cost shall be prorated on the basis on one tenth per month of the remainder of the actual agreed services performed hereunder.”
- **Problem:** The contract does not clearly explain how costs should be calculated if the agreement is ended early. The phrase ‘prorated on the basis of one-tenth per month of the remainder of the actual agreed services performed hereunder’ lacks clarity. The lack of specificity opens the door to multiple interpretations, which could easily lead to disputes over the calculation of costs if the contract is terminated early.

For Canada, the push towards plain language in legal contracts and communications is part of a broader initiative to make legal and governmental documents more accessible to the public. This commitment to plain language is seen as essential for promoting fairness, reducing potential conflicts, and enhancing the overall efficacy of legal documentation. As this trend continues to gain momentum, it is reshaping how legal information is communicated across various sectors, making it more accessible for everyone involved, from individual citizens to large corporations.

Despite the growing preference for plain language, some law firms continue to rely on older contractual automation tools that utilize outdated standard clauses designed primarily for legal professionals. These clauses, steeped in traditional legalese, are often difficult for non-lawyers to understand, effectively sidelining them during negotiations. As lawyers exchange drafts, the substance of their disputes can be obscure to the very stakeholders most affected by the contract's terms.

Moreover, these traditional tools often compile contracts using pre-existing templates that may not always align seamlessly with each other. This method of “stitching” together clauses can lead to what is known as “word salad”—complex, jargon-filled text that can be nearly indecipherable to anyone without a legal

background. Such complexity not only hampers comprehension but also obscures any conflicts between clauses, making it challenging to ascertain whether different parts of the contract are even consistent with one another.

This reliance on outdated tools and methods poses significant risks: it not only excludes non-legal stakeholders from fully engaging with the documents that affect their interests but also increases the potential for legal oversights that could have far-reaching consequences. As the movement toward plain language gains momentum, there is a pressing need for modernization in legal drafting practices to ensure that contracts are both accessible and internally coherent, reflecting the evolving demands of a more informed and involved clientele.

Countries like Australia, The UK, Sweden and Canada to name a few, have a low tolerance for ambiguity in contracts sharing a preference for clear, explicit, and detailed legal documents.

For Canada, this is what they have stated where Canada is promoting plain language in legal contracts and communications:

1) The Government of Canada's Directive on the Management of Communications emphasizes that plain language is to be used in all communications with the public. This directive requires department heads of communications to ensure that communications products and activities are written in plain language.

2) The Canadian Style, a government publication, states that "The Government of Canada calls for plain language to be used in its communications with the public." It emphasizes that information about government policies, programs, and services should be clear, objective, simple, and readily understandable.

3) The Canada.ca Content Style Guide promotes the use of plain language in government communications, explaining that it makes critical information accessible and readable for everyone.

4) There are legal requirements in Canada for certain consumer contracts to be written in "clear and easily understandable language".

5) The Canadian Bar Association and the Canadian Bankers' Association jointly produced a report called "The Decline and Fall of Gobbledygook: Report on Plain Language Documentation," which promotes the use of plain language in legal documents.

6) Various Canadian organizations and institutions, such as the Public Legal Education and Information Service of New Brunswick, have been promoting plain language in legal writing since the early days of the plain language movement.

This demonstrates that Canada has been actively promoting the use of plain language in legal contracts and government communications across various sectors and levels of government.

A contractual contradiction occurs when two or more clauses within the same contract provide conflicting information or directives. These inconsistencies can lead to disputes about the interpretation of the contract, resulting in legal battles, financial losses, and damaged relationships between the parties involved. For instance, a contract might specify different delivery dates for the same product in

separate sections, leading to confusion about the actual deadline.

## 14. Case Law

There are several relevant cases and principles regarding conflicting clauses in contracts:

1) *Fiona Trust presumption*: This principle, established in *Fiona Trust & Holding Corp v Privalov*, states that rational businesspeople intend any disputes arising from their relationship to be decided in the same way. This presumption applies when dealing with inconsistent dispute resolution clauses within the same contract.

2) *Deutsche Bank AG v Comune di Savona*: This case dealt with conflicting dispute resolution clauses in two related agreements. The court looked at the “center of gravity” of the dispute to determine which forum was most appropriate, rather than strictly applying the *Fiona Trust* presumption.

3) *Autoridad del Canal de Panamá v Sacyr*: This case involved inconsistent jurisdiction clauses between a main contract and related guarantees. The court held that the orderly resolution of the dispute as a whole prevailed over the “one stop shop” approach.

4) *Monde Petroleum SA v Westernzagros Ltd*: The court held that a dispute resolution clause in a settlement agreement superseded the conflicting clause in the underlying agreement, emphasizing the likely intention of parties in related agreements.

5) General principles from California Civil Code:

- Contracts should be interpreted to give effect to the mutual intention of the parties (§1636)
- The whole contract should be taken together to give effect to every part (§1641)
- Inconsistencies must be reconciled, if possible, by an interpretation that gives some effect to inconsistent clauses, subordinate to the general intent of the whole contract (§1652)

6) *Septo Trading Inc v Tintrade Ltd*: This case outlined an approach for dealing with inconsistent terms, suggesting that courts should first form a provisional view of a term’s meaning before considering how it interacts with other clauses.

These cases and principles demonstrate that courts generally try to reconcile conflicting clauses when possible, looking at the contract as a whole and considering the likely intentions of the parties. When reconciliation is not possible, courts may consider factors like the “center of gravity” of the dispute or which agreement is more specific or recent to resolve the conflict.

## 15. Causes of Contractual Contradictions

Several factors contribute to the presence of contradictions in contracts:

1) **Complexity and Length**: Longer and more complex contracts increase the likelihood of contradictions, as it becomes challenging to maintain consistency throughout the document.

**2) Multiple Authors:** When multiple individuals or teams draft different sections of a contract without thorough coordination, inconsistencies are more likely to arise.

**3) Frequent Revisions:** Contracts that undergo numerous revisions without comprehensive reviews can end up with conflicting clauses, especially if earlier versions are not adequately reconciled with later changes.

**4) Lack of Standardization:** Without standardized templates and clear guidelines, the drafting process can lead to varied interpretations and conflicting clauses.

**5) Use of Multiple Templates:** The practice of stitching together several templates can result in overlapping and contradictory clauses if not carefully integrated.

## 16. The Consequences of Contractual Contradictions

Contractual contradictions can have far-reaching implications, including:

**1) Legal Disputes:** Contradictions can result in legal disputes as parties may interpret conflicting clauses differently. Resolving these disputes often requires court intervention, leading to costly and time-consuming litigation.

**2) Financial Losses:** Both clients and vendors can incur financial losses due to delays, additional costs, or penalties arising from contradictory terms. For example, if delivery dates are inconsistent, a vendor might face penalties for late delivery, while the client could suffer from operational disruptions.

**3) Damage to Relationships:** Trust is crucial in business relationships. Contractual contradictions can erode trust, leading to strained relationships and a reluctance to engage in future collaborations.

**4) Operational Inefficiencies:** Conflicting terms can cause operational inefficiencies as parties struggle to determine which clauses to follow. This can lead to delays, miscommunications, and suboptimal performance.

## 17. Preventing Contractual Contradictions

Preventing contradictions requires a meticulous approach to contract drafting and review:

**1) Comprehensive Review:** A thorough review of the entire contract by legal experts is essential to identify and resolve contradictions before the contract is finalized.

**2) Clear Communication:** Ensuring clear and consistent communication among all parties involved in drafting the contract helps maintain coherence and avoid conflicting terms.

**3) Standardized Templates:** Using standardized contract templates and adhering to established guidelines can reduce the risk of inconsistencies. *This only works if the templates are current and accurate—usually does well in an ISO environment.*

**4) Regular Updates:** Keeping contracts up-to-date with current laws and best practices helps maintain consistency and relevance.

**5) Integrated Drafting Tools:** Utilizing integrated drafting tools and software can assist in identifying potential contradictions and ensuring uniformity across the document.

Contractual contradictions, like ambiguities, pose significant risks to the successful execution of agreements between clients and vendors. By understanding the intricacies of these contradictions and adopting a diligent approach to contract drafting and review, parties can minimize the risk of conflicts and ensure that their contracts are clear, consistent, and enforceable. The consequences of overlooking these contradictions can be severe, underscoring the need for a keen focus on the contract in its entirety.

Provided are some actual examples of contractual contradiction (**Figure 3** & **Figure 4**), from a more common sized contract, and secondly, a much larger contract spanning almost 200 pages.

In this example, **Figure 3**, the analysis addresses the presence of contradictions within the contractual clauses, which can lead to ambiguity and potential conflicts. By highlighting these inconsistencies, the aim is to ensure that the contract is clear and coherent, minimizing the risk of disputes. Addressing these contradictions will help clarify the responsibilities and obligations of all parties involved, fostering a smoother and more effective contractual relationship.

CONTRACTUAL CONTRADICTIONS:

Upon review of the contractual clauses, potential contradictions and competing clauses have been identified that could lead to ambiguity and inconsistency within the contract agreement.

The first contradiction relates to the Relationship with You clause and the Service Level Guarantees clause, which may conflict in terms of SFC's responsibility and guarantees provided.

Secondly, a potential contradiction exists between the Shipping Accuracy Guarantee clause and the Receiving Requirements clause, as errors in receiving inventory could impact the accuracy of shipments, leading to disputes over liability for errors.

Finally, a contradiction arises between the Fees clause and the Waiver of PayPal dispute process clause, where disputes over fees may arise, and the exclusion of external dispute resolution mechanisms could limit users' recourse in resolving such disputes.

Therefore, to ensure clarity and consistency in the contract agreement, it is advisable to review and revise the identified contradictory clauses, clarifying the rights, responsibilities, and obligations of the parties involved. By addressing these contradictions and ensuring alignment between clauses, potential disputes and ambiguities can be effectively mitigated, fostering a transparent and mutually beneficial relationship between the parties.

**Figure 3.** Key contractual contradictions in clause alignment.

In this example, the report identifies significant contradictions within the contract that may lead to operational inefficiencies and legal disputes. Clarifying these areas is essential to ensure both parties understand their obligations and can work together effectively without misinterpretation.

Contradictions or competing clauses in lengthy contracts often stems from the natural limitations of human cognitive attention and the practical realities of a lawyer's daily responsibilities. Contracts spanning over 30 pages, and sometimes well over 50 pages are not only dense with intricate legal terms and stipulations, but also require sustained, detailed focus to ensure consistency and coherence

**CONTRACTUAL CONTRADICTIONS:**

Confidentiality requirements necessitate both parties to safeguard sensitive information, while the Consultant's right to make public statements is limited without written consent from the Client. This creates a potential conflict when the Consultant seeks to promote their services based on project outcomes. A compromise allowing the Consultant to make non-specific promotional statements without revealing confidential details is recommended.

The Client's responsibility to compensate the Consultant for services is countered by the Consultant's right to suspend services due to payment delays. This could cause project interruptions. Establishing a clear payment timeline along with a dispute resolution mechanism, including a grace period prior to suspension, is advisable to facilitate payment rectification without service disruption.

The Consultant must uphold a health and safety management plan but does not assume the Client's responsibilities under the Health and Safety at Work Act. Clarification on the specific health and safety obligations for both parties is necessary to mitigate liability disputes stemming from incidents related to safety measure deficiencies.

The Variations clause permits the Client to request service alterations, while changes in legislation impacting cost or duration are treated as Variations. This duality may cause uncertainty in whether new legislative requirements need Client approval. Defining a process for managing legislative changes distinctly from Client-initiated variations will enhance mutual understanding and compliance.

The Client must promptly address the Consultants requests to prevent project delays while also being required to supply necessary resources and approvals. Delays in resource provision may compromise the

**Figure 4.** Addressing conflicting consultant and client obligations.

throughout the document. This level of attentiveness is challenging to maintain, particularly when lawyers are tasked with handling multiple cases at once.

## 18. Cognitive Overload

From a humanistic perspective, it's essential to recognize that lawyers, while highly skilled and committed, are not impervious to the effects of fatigue and cognitive overload. Each contract demands a thorough understanding and meticulous scrutiny, but the vast amount of information can sometimes lead to oversight. The truth is that maintaining an unbroken focus on every single clause of a voluminous contract is an arduous task, compounded by tight deadlines and the expectation to juggle various other legal duties.

Cognitive overload impairs executive function, making it difficult to manage competing priorities effectively, leading to decreased decision-making quality and increased susceptibility to errors. Overwork and stress further exacerbate these challenges, compromising both personal well-being and professional performance. This phenomenon is well-documented, with research highlighting the detrimental effects of excessive cognitive demands on lawyers' cognitive capacities and overall mental health (Krill et al., 2016). **Reference:** Krill, P. R., Johnson, R., & Albert, L. (2016). The Prevalence of Substance Use and Other Mental Health Concerns Among American Attorneys. *Journal of Addiction Medicine*, 10 (1), 46-52.

Amanda M. Clevinger (2014), published as a thesis at Georgia State University in 2014. This article explores how cognitive load affects reading comprehension, which is directly related to retaining what one reads. Here's a relevant quote you could use in your paper: "The cognitive load theory of attention and cognitive control posits that interference from distracters or irrelevant information depends on the amount of cognitive resources available".

Lawyers often employ a blend of detailed manual review and assistance from legal aides or technological tools to manage and cross-reference large quantities of data. However, the possibility of human error persists. Therefore, contradictions and competing clauses might go unnoticed, not due to a lack of expertise or diligence, but as a result of the human elements of legal practice — where the ability to detect every inconsistency is always at odds with human limits and the complex nature of legal work.

We must recognize the critical nature of clarity and precision in legal contracts. The rise of ambiguity and contractual contradictions, whether stemming from poor drafting, linguistic errors, or the sheer complexity of legal documents, poses significant risks to the effectiveness and fairness of these agreements. As these issues continue to escalate, the consequences are profound, leading to legal disputes, financial losses, and a breakdown of trust between contracting parties.

## 19. Case Studies: Real Life Examples

To fully grasp the impact of these issues, let's examine real-life examples where ambiguity and complex language have led to significant challenges and potential risks.

First, here are examples of ambiguity identified from the reports provided, organized by the specific contractual agreements:

## 20. Ambiguity

### 1) Ambiguity in the Contractual Agreement between Palm Springs Unified School District and Local Law Enforcement

- **Ambiguity Found:**

- **Statement:** “Basic responsibilities of the SRO will include but will not be limited to: Protect the students, staff, and public at large against criminal activity.”
- **Explanation:** The inclusion of the phrase “will not be limited to” creates uncertainty regarding the precise scope of the SRO’s responsibilities. This language opens the door to varying interpretations of what constitutes “basic responsibilities.”

- **Ambiguity Found:**

- **Statement:** “The total compensation will be adjusted based on the full execution date.”
- **Explanation:** The term “full execution date” is vague and does not clearly define when this date is achieved, leading to potential disputes about when the compensation adjustment should occur.

- **Ambiguity Found:**

- **Statement:** “The agreement may be terminated at any time with reasonable notice provided to the other party.”
- **Explanation:** The phrase “reasonable notice” lacks specificity, which could result in disagreements over the adequacy of the notice period before termination.

## 2) Ambiguity in the Association of Consulting Engineers New Zealand Inc (ACENZ)

- **Ambiguity Found:**
  - **Statement:** “Payment will be made upon satisfactory completion of services.”
  - **Explanation:** The term “satisfactory completion” is vague and subject to interpretation, potentially leading to disputes over whether the services meet the required standard for payment.
- **Ambiguity Found:**
  - **Statement:** “The contractor shall maintain necessary insurance coverage for the duration of the project.”
  - **Explanation:** The phrase “necessary insurance coverage” is ambiguous as it does not specify the type or amount of insurance required, which could lead to conflicts over what is considered sufficient coverage.
- **Ambiguity Found:**
  - **Statement:** “The contract may be amended at any time by mutual consent of the parties.”
  - **Explanation:** The term “mutual consent” is not further defined, leading to potential confusion about how and when amendments can be effectively agreed upon.

## 3) Ambiguity in the Environmental Assessment Agreement for the City of Ottawa

- **Ambiguity Found:**
  - **Statement:** “Broader area to be assessed as part of the environmental impact study.”
  - **Explanation:** The phrase “broader area” is vague and lacks a precise definition, leading to potential misunderstandings regarding the scope of the environmental impact study.
- **Ambiguity Found:**
  - **Statement:** “Improve pedestrian accessibility.”
  - **Explanation:** The term “improve” is not quantified or clearly defined, which could result in differing interpretations of what constitutes adequate improvement.
- **Ambiguity Found:**
  - **Statement:** “The contract renewal process will be initiated if required.”
  - **Explanation:** The phrase “if required” is ambiguous as it does not specify the criteria for determining when a renewal is necessary, potentially leading to disputes over the continuation of the contract.

## 4) Ambiguity in the Agreement between Halton Community Housing Corporation (HCHC) and The Regional Municipality of Halton

- **Ambiguity Found:**
  - **Statement:** “The Region will operate, maintain, and repair HCHC housing assets and related equipment and systems, in accordance with applicable municipal and provincial codes, standards, regulations and accepted industry prac-

tices.”

- **Explanation:** The phrase “accepted industry practices” is ambiguous as it does not define what specific practices or standards are considered acceptable. This could lead to differing interpretations of the maintenance required, potentially causing disputes over the quality and scope of services provided.
- **Ambiguity Found:**
- **Statement:** “The Region will prepare an annual budget and audited financial statements for HCHC, oversee compliance with and implement the Purchasing By-law, provide full accounts receivable services, accounts payable services, coordinate investment and banking services and capital finance planning as well as Information Technology (IT) support and systems software/hardware for HCHC.”
- **Explanation:** The clause regarding the Region’s responsibilities for financial and IT services lacks clarity in specifying the extent of IT support and systems software/hardware to be provided. This ambiguity could lead to misunderstandings about the scope of IT services included in the agreement, potentially affecting the efficiency and effectiveness of HCHC’s operations.
- **Ambiguity Found:**
- **Statement:** “The Parties agree that no further consultant, specialist, individual from a firm or corporation other than the Region is retained by HCHC under this Agreement unless so authorized in writing by the General Manager of HCHC.”
- **Explanation:** The term “no further consultant” is ambiguous as it does not clarify the criteria or process for retaining additional consultants, which could result in disagreements about the necessary expertise or services required, potentially leading to project delays or increased costs.

#### 5) Ambiguity in the Vendor Agreement between SynGen Services and Client

- **Ambiguity Found:**
- **Statement:** “The vendor shall comply with all applicable regulations as deemed necessary by the governing authority.”
- **Explanation:** The phrase “as deemed necessary” is ambiguous because it does not clearly define who determines necessity or which regulations apply, leading to potential compliance issues.
- **Ambiguity Found:**
- **Statement:** “Payment will be made upon satisfactory completion of services.”
- **Explanation:** The term “satisfactory completion” is vague and subject to interpretation, which could lead to disputes over whether the services meet the required standard for payment.
- **Ambiguity Found:**
- **Statement:** “The contract may be terminated at any time with reasonable notice provided to the other party.”
- **Explanation:** The term “reasonable notice” lacks specificity, potentially resul-

ting in disagreements over the adequacy of the notice period before termination.

#### 6) Ambiguity in the Master Agreement between City of Toronto and Environmental Assessment Contractor

- **Ambiguity Found:**
  - **Statement:** “The contractor shall ensure compliance with all applicable environmental regulations as required.”
  - **Explanation:** The term “as required” is ambiguous because it does not specify which regulations are applicable or the criteria for compliance, leading to potential disagreements about the contractor’s responsibilities.
- **Ambiguity Found:**
  - **Statement:** “The City reserves the right to terminate the agreement if the contractor fails to meet any of the outlined performance standards.”
  - **Explanation:** The phrase “outlined performance standards” is vague if the standards are not clearly defined within the agreement, potentially leading to disputes over what constitutes a failure to meet these standards.
- **Ambiguity Found:**
  - **Statement:** “The contract will be reviewed annually and adjustments will be made as necessary.”
  - **Explanation:** The term “as necessary” is ambiguous because it does not specify the criteria for making adjustments, which could lead to disagreements during the review process.
- These examples provide a well-rounded view of the ambiguities present in different types of contracts, each associated with a specific agreement between identifiable parties. This information is well-organized and should be useful in your paper on the state of law, particularly in illustrating how ambiguous language can lead to significant risks and potential disputes.

## 21. Complex Language

Now let’s review examples of complex language identified from the reports provided, organized by the specific contractual agreements:

#### 1) Complex Language in the Agreement between Palm Springs Unified School District and Local Law Enforcement

- **Complex Language Found:**
  - **Statement:** “The City and the School District agree that the provision of law enforcement services under this Agreement is solely an administrative function of the City and shall not constitute the enforcement of school policies by the City.”
  - **Explanation:** This clause uses legal language that could be simplified for better clarity, particularly for non-legal stakeholders. The phrase “solely an administrative function” could be misinterpreted or misunderstood.
  - **Suggested Rewrite:** “The City and the School District agree that the police services provided under this Agreement are for administrative purposes only and

do not involve enforcing school rules.”

- **Complex Language Found:**

- **Statement:** “This Agreement may be terminated by either party upon written notice provided to the other party not less than thirty (30) days prior to the effective date of termination.”
- **Explanation:** The formal legal language here could be simplified to make it more accessible.
- **Suggested Rewrite:** “Either party can end this Agreement by giving the other party at least 30 days’ written notice.”

## 2) Complex Language in the Association of Consulting Engineers New Zealand Inc (ACENZ)

- **Complex Language Found:**

- **Statement:** “The Consultant must provide the Services as set out in Appendix A and perform the Services in accordance with the timetable set out in Appendix A.”
- **Explanation:** This sentence uses repetitive and formal legal language that could be streamlined for clarity.
- **Suggested Rewrite:** “The Consultant must deliver the services and follow the schedule detailed in Appendix A.”

- **Complex Language Found:**

- **Statement:** “Where the Consultant breaches this Agreement, the Consultant is liable to the Client for reasonably foreseeable claims, damages, liabilities, losses, or expenses caused directly by the breach.”
- **Explanation:** This sentence contains complex legal terms that might be difficult for non-legal professionals to understand.
- **Suggested Rewrite:** “If the Consultant fails to meet the terms of this Agreement, they are responsible for any predictable damages or costs that result from that failure.”

## 3) Complex Language in the Master Services Agreement between Halton Community Housing Corporation (HCHC) and The Regional Municipality of Halton

- **Complex Language Found:**

- **Statement:** “The Intellectual Property Rights in LandIS are owned jointly and severally by Cranfield and DEFRA as described in Schedule 1 Annex B of this agreement.”
- **Explanation:** The use of legal jargon like “jointly and severally” and references to annexes and schedules can complicate the understanding for non-legal stakeholders.
- **Suggested Rewrite:** “Cranfield and DEFRA share ownership of the intellectual property rights in LandIS, as detailed in Schedule 1 Annex B.”

- **Complex Language Found:**

- **Statement:** “Derived Data means any data that has been manipulated to such a degree that it cannot be reverse-engineered and is not capable of use as a

substitute for the Raw Data.”

- **Explanation:** The original language is dense and could be simplified for better clarity.
- **Suggested Rewrite:** “Derived Data refers to information that has been changed so much that it can’t be turned back into its original form or used as a direct replacement for the original data.”

#### 4) Complex Language in the Environmental Assessment Agreement for the City of Ottawa

- **Complex Language Found:**

- **Statement:** “The contract does not specify standard fees for the Environmental Assessment (EA) study or the pathway connection project, raising concerns about financial transparency.”
- **Explanation:** The use of formal legal language could be simplified to make the financial terms clearer.
- **Suggested Rewrite:** “The contract doesn’t list the standard fees for the Environmental Assessment study or the pathway project, which could cause confusion about the costs.”

- **Complex Language Found:**

- **Statement:** “The contract lacks provisions detailing how to manage potential conflicts arising from divergent interests between the City and the School District.”
- **Explanation:** The sentence structure and legal jargon could be simplified for clarity.
- **Suggested Rewrite:** “The contract does not explain how to handle conflicts of interest between the City and the School District.”

#### 5) Complex Language in the Vendor Agreement between SynGen Services and Client

- **Complex Language Found:**

- **Statement:** “The Vendor shall indemnify and hold harmless the Client from any and all claims, liabilities, losses, or expenses (including reasonable attorneys’ fees) arising out of or in connection with the performance of this Agreement.”
- **Explanation:** The use of legal jargon like “indemnify” and “hold harmless” can be confusing for non-legal stakeholders.
- **Suggested Rewrite:** “The Vendor will protect the Client from any claims, losses, or costs (including legal fees) that result from this Agreement.”

- **Complex Language Found:**

- **Statement:** “This Agreement constitutes the entire agreement between the parties and supersedes all prior negotiations, understandings, and agreements, whether written or oral.”
- **Explanation:** The legal terminology and formal phrasing could be simplified for easier understanding.
- **Suggested Rewrite:** “This Agreement is the complete understanding between

both parties and replaces any previous discussions or agreements.”

#### **6) Complex Language in the Master Agreement between City of Toronto and Environmental Assessment Contractor**

- **Complex Language Found:**

- **Statement:** “The Contractor agrees to comply with all applicable statutes, laws, ordinances, regulations, and by-laws of any government authority having jurisdiction, in connection with the performance of the Services.”
- **Explanation:** The phrase “statutes, laws, ordinances, regulations, and by-laws” could be overwhelming and redundant, making it harder for non-legal professionals to grasp.
- **Suggested Rewrite:** “The Contractor agrees to follow all relevant laws and regulations while performing the Services.”

- **Complex Language Found:**

- **Statement:** “The City shall not be liable to the Contractor for any indirect, incidental, consequential, special, or punitive damages arising out of or related to this Agreement.”
- **Explanation:** The use of multiple legal terms to describe types of damages can be complex and confusing.
- **Suggested Rewrite:** “The City will not be responsible for any special or indirect damages that result from this Agreement.”

#### **7) Complex Language in the Halton Community Housing Corporation (HCHC) Service Agreement**

- **Complex Language Found:**

- **Statement:** “Notwithstanding anything to the contrary herein, the Region reserves the right to terminate this Agreement upon thirty (30) days’ written notice, without cause.”
- **Explanation:** The use of “notwithstanding anything to the contrary herein” and “without cause” complicates the meaning and could be simplified.
- **Suggested Rewrite:** “The Region can end this Agreement with 30 days’ notice, even without a specific reason.”

- **Complex Language Found:**

- **Statement:** “The services provided under this Agreement shall be rendered in a professional and workmanlike manner, consistent with the standards prevailing in the industry.”
- **Explanation:** The phrase “professional and workmanlike manner, consistent with the standards prevailing in the industry” is formal and could be simplified for clarity.
- **Suggested Rewrite:** “The services under this Agreement must meet industry standards.”

These examples further illustrate the complexity of legal language in different contracts, emphasizing the need for simplification to make these documents more accessible and understandable for all stakeholders involved. Each instance is tied to a specific contractual agreement, offering clear examples that could be valuable

in your paper on the state of law.

## 22. Contradiction in Clauses

And finally, examples of contradicting clauses, organized by the specific contractual agreements:

### 1) Contradiction in Clauses in the Agreement between Palm Springs Unified School District and Local Law Enforcement

- **Contradiction Found:**

- **Statement 1:** “The SRO will be responsible for maintaining a safe school environment.”
- **Statement 2:** “The SRO shall not engage in any actions that could be interpreted as disciplinary measures against students.”
- **Explanation:** These two clauses are contradictory because maintaining a safe school environment may require actions that could be interpreted as disciplinary, leading to confusion about the SRO’s role.

- **Contradiction Found:**

- **Statement 1:** “The total compensation for the SRO will be determined based on hours worked.”
- **Statement 2:** “The SRO is expected to be available for emergency situations outside of regular hours, without additional compensation.”
- **Explanation:** The contradiction arises because one clause implies compensation based on hours worked, while the other expects availability without additional compensation.

### 2) Contradiction in Clauses in the Association of Consulting Engineers New Zealand Inc (ACENZ)

- **Contradiction Found:**

- **Statement 1:** “The Consultant will be compensated for all reasonable expenses incurred during the provision of services.”
- **Statement 2:** “Expenses exceeding \$500 must be pre-approved by the Client, or they will not be reimbursed.”
- **Explanation:** These clauses contradict each other as one implies full compensation for reasonable expenses, while the other limits reimbursement based on pre-approval, creating confusion on which expenses are covered.

- **Contradiction Found:**

- **Statement 1:** “The Consultant is responsible for all aspects of project management.”
- **Statement 2:** “The Client retains the right to approve all project management decisions.”
- **Explanation:** The contradiction here is between the Consultant’s responsibility for project management and the Client’s retention of decision approval, leading to possible conflicts in project execution.

### 3) Contradiction in Clauses in the Master Services Agreement between Halton Community Housing Corporation (HCHC) and The Regional Municipality of Halton

- **Contradiction Found:**
  - **Statement 1:** “HCHC shall provide annual budget projections for the upcoming fiscal year.”
  - **Statement 2:** “The Region will establish the budget for HCHC based on its own financial projections.”
  - **Explanation:** These clauses are contradictory as they both imply authority over budget projections, creating uncertainty about which party has the final say in budget matters.
- **Contradiction Found:**
  - **Statement 1:** “The Region is responsible for maintaining HCHC housing assets.”
  - **Statement 2:** “HCHC is responsible for ensuring the maintenance of its housing assets.”
  - **Explanation:** These statements are contradictory because they assign the same responsibility to both the Region and HCHC, leading to potential disputes over maintenance duties.

#### **4) Contradiction in Clauses in the Vendor Agreement between SynGen Services and Client**

- **Contradiction Found:**
  - **Statement 1:** “Payment for services rendered will be made within 30 days of receipt of invoice.”
  - **Statement 2:** “Payments may be delayed up to 60 days if additional documentation is required.”
  - **Explanation:** The contradiction arises from the conflicting payment terms, with one clause promising payment within 30 days, while the other allows for delays up to 60 days.
- **Contradiction Found:**
  - **Statement 1:** “The Vendor shall comply with all applicable local, state, and federal regulations.”
  - **Statement 2:** “Compliance with local regulations is the responsibility of the Client.”
  - **Explanation:** These clauses contradict each other regarding who is responsible for compliance with local regulations, potentially leading to legal disputes.

#### **5) Contradiction in Clauses in the Master Agreement between City of Toronto and Environmental Assessment Contractor**

- **Contradiction Found:**
  - **Statement 1:** “The Contractor shall ensure that all deliverables are completed by the agreed-upon deadlines.”
  - **Statement 2:** “The City reserves the right to extend the deadlines for any deliverables at its discretion.”
  - **Explanation:** These clauses are contradictory because one mandates strict adherence to deadlines, while the other allows for discretionary extensions, leading to potential confusion about project timelines.

- **Contradiction Found:**
- **Statement 1:** “The Contractor will provide weekly progress reports to the City.”
- **Statement 2:** “The Contractor shall only provide progress reports upon request from the City.”
- **Explanation:** The contradiction lies in the requirement to submit progress reports weekly versus only when requested, which could lead to inconsistencies in project reporting and communication.

#### 6) Contradiction in Clauses in the Halton Community Housing Corporation (HCHC) Service Agreement

- **Contradiction Found:**
- **Statement 1:** “The Region is responsible for the procurement of all necessary supplies and services.”
- **Statement 2:** “HCHC shall independently procure all necessary supplies and services unless otherwise directed by the Region.”
- **Explanation:** These clauses conflict as they assign procurement responsibilities to both the Region and HCHC, leading to ambiguity about who has ultimate authority over procurement decisions.

- **Contradiction Found:**
- **Statement 1:** “The Region will handle all maintenance requests submitted by HCHC.”
- **Statement 2:** “HCHC is responsible for managing and responding to its own maintenance requests.”
- **Explanation:** This contradiction creates uncertainty about which entity is responsible for handling maintenance requests, potentially leading to gaps in service provision.

#### 7) Contradiction in Clauses in the Association of Consulting Engineers New Zealand Inc (ACENZ)

- **Contradiction Found:**
- **Statement 1:** “The Consultant shall retain all intellectual property rights to the materials developed under this Agreement.”
- **Statement 2:** “All materials developed under this Agreement shall become the exclusive property of the Client upon completion.”
- **Explanation:** These clauses are directly contradictory regarding the ownership of intellectual property, creating significant legal risks for both parties.

- **Contradiction Found:**
- **Statement 1:** “The Consultant will be responsible for all project management activities.”
- **Statement 2:** “The Client reserves the right to oversee and direct all project management activities.”
- **Explanation:** This contradiction arises from both parties claiming responsibility for project management, which could lead to conflicts over decision-making and project execution.

### 8) Contradiction in Clauses in the Vendor Agreement between SynGen Services and Client

- **Contradiction Found:**

- **Statement 1:** “The Vendor shall invoice the Client on a monthly basis.”
- **Statement 2:** “The Vendor may submit invoices as services are rendered, with no set schedule.”
- **Explanation:** These clauses contradict each other by providing conflicting instructions for invoicing, potentially leading to disputes over payment timing and amounts.

- **Contradiction Found:**

- **Statement 1:** “All disputes arising under this Agreement shall be resolved through binding arbitration.”
- **Statement 2:** “The Client reserves the right to pursue any legal remedies available under law, including litigation.”
- **Explanation:** These clauses are contradictory because one mandates arbitration as the sole method for dispute resolution, while the other allows for litigation, creating legal uncertainty.

These additional examples further illustrate the complexities and risks associated with contradictory clauses in legal contracts. By identifying and addressing these contradictions, parties can prevent potential disputes and ensure that their agreements are clear, enforceable, and effective. Each example is tied to a specific contractual agreement, providing valuable insights for your paper on the state of law.

## 23. General Score of Contracts

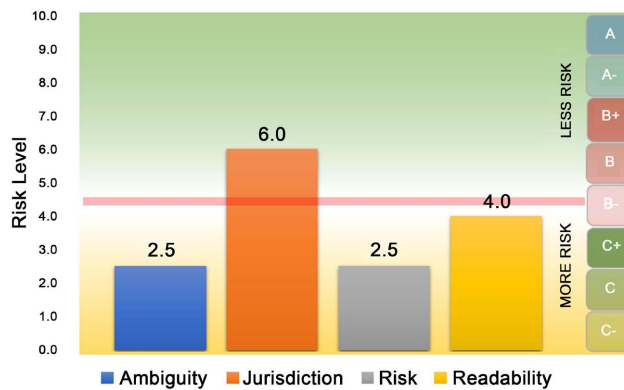
In this study, we present further empirical analysis of contract complexity and clarity across a broad spectrum of legal agreements sourced from jurisdictions including Canada, the United States, and Australia. Our methodology involved the meticulous examination of several hundred contracts, enabling a robust statistical assessment of common contractual elements such as ambiguity, readability, jurisdictional specificity, and associated risks.

The figures below depict a subset of our comprehensive dataset, illustrating the general trends and notable patterns observed across these dimensions. The first set of charts provides a detailed breakdown of contract scores based on four critical criteria: Ambiguity, Jurisdiction, Risk, and Readability. These criteria are pivotal in understanding the effectiveness and enforceability of contractual agreements. Each chart is representative of broader patterns identified through our analysis, offering insights into the prevalence of certain contract characteristics that may influence the parties’ understanding and legal standings.

The analysis seeks to illuminate the underlying complexities inherent in modern contract law and aims to foster a more nuanced understanding of how contracts can be structured more effectively to reduce litigation risk and enhance clarity for all parties involved. Through this exploration, we contribute to the ongoing

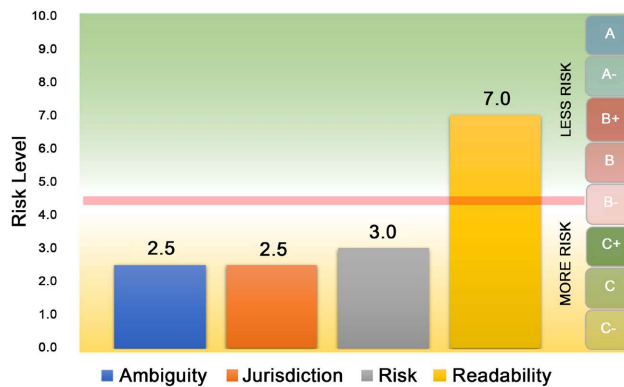
dialogue on legal standards and practices, providing actionable insights for legal practitioners, scholars, and policymakers striving to optimize contractual engagements in increasingly globalized business environments.

**Figure 5** resulted from an agreement for the maintenance and licensing of LANDIS between Cranfield University and the Department for Environment, Food and Rural Affairs (DEFRA). Cranfield is responsible for managing and developing LANDIS, while DEFRA and other Crown Users are granted free licenses. Terms of the agreement include clarifying rights, obligations, and fees associated with the intellectual property rights owned jointly by Cranfield and DEFRA.



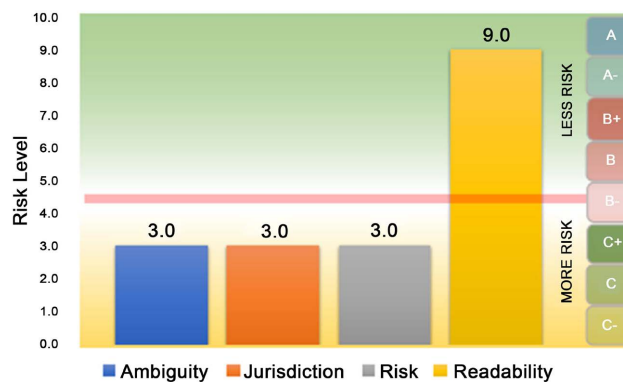
**Figure 5.** General contract scoring.

**Figure 6** resulted from a Master Services Agreement outlines the terms and conditions governing the access and use of services between two parties the service provider (referred to as “Us”) and the client (referred to as “You”). Key services described include cloud services, online training, support, and professional services, and the agreement sets forth the rights and obligations of both parties concerning the use, payment, data ownership, and compliance with applicable laws. The agreement emphasizes that the client owns their customer data while the provider retains ownership of the services and associated intellectual property.



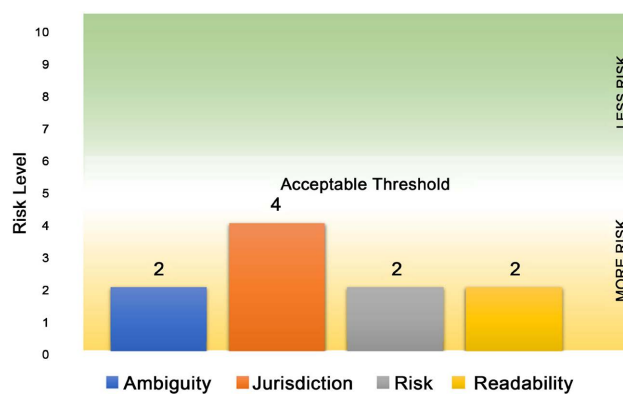
**Figure 6.** General contract scoring.

**Figure 7** resulted from a Distributor Agreement between I-D Foods Corporation, based in Laval, Quebec, Canada, and Alimentos Prosalud, located in San Jose, Costa Rica. Prosalud grants I-D Foods exclusive rights to distribute and sell its Tuna Products in Canada, outlining terms related to product promotion, distribution territories, trademark usage, and termination clauses. The agreement focuses on maximizing product distribution and consumer acceptance while establishing a long-term partnership between the two parties.



**Figure 7.** General contract scoring.

**Figure 8** resulted from a Memorandum of Understanding (MOU) outlines an agreement between Conservation Halton, the Halton Region Conservation Authority, and the local municipalities of Burlington, Halton Hills, Milton, and Oakville to collaborate on providing environmental and watershed services within the Halton Region. The MOU sets out terms and conditions for the delivery of Category 2 and/or Category 3 programs and services, funded either through the budget and apportionment process or outside it, aiming to streamline efforts, optimize resources, and protect natural resources in the region.



**Figure 8.** General contract scoring.

## 24. Summary: The Severity of Ambiguity, Complexity, And Contradiction in Legal Contracts

As this paper illustrates the legal and procurement sectors are currently grappling

with pervasive issues stemming from ambiguity, complexity, and contradiction in contractual language. These flaws not only undermine the integrity of legal agreements but also expose businesses and governments to significant risks, often leading to costly disputes and project delays. The need for clarity and precision in legal documents has never been more critical.

The problem is starkly illustrated through various case studies, such as the *Codelfa Construction Pty Ltd v State Rail Authority of New South Wales* (1982) case, where ambiguity in contract terms resulted in substantial disputes over project delays. Similarly, the *Walsh Construction and Toronto Transit Commission (TTC)* case underscores how unclear contractual language can lead to prolonged legal battles, as seen in the disputes over the term “timely” in General Condition 31.1 (*Walsh Construction v. Toronto Transit Commission et al.*, 2024).

Further examples, such as the *Sattva Capital Corp. v. Creston Moly Corp.* (2014) case, highlight how the lack of specificity in contract terms like the evaluation date for a share price can result in differing interpretations and legal challenges. These cases, among others, demonstrate the severe consequences of ambiguous language—ranging from financial losses to strained business relationships.

Ambiguity is not the only issue; complex and contradictory language also plays a significant role in undermining contract effectiveness. The analysis reveals that these issues are not merely academic concerns but systemic problems that have real-world impacts. For instance, the conflicting clauses identified in various agreements, such as those between Palm Springs Unified School District and local law enforcement, and the City of Ottawa’s Environmental Assessment Agreement, further exemplify how unclear language can lead to operational inefficiencies, increased legal costs, and damaged relationships.

The cumulative effect of these issues highlights the urgent need for a paradigm shift towards plain language in legal drafting. Simplifying legal language not only enhances the clarity and enforceability of contracts but also fosters better understanding among all stakeholders, reducing the likelihood of disputes and ensuring that contracts fulfill their intended purposes effectively.

## 25. Recommendations

### **Embracing Modern Tools: Moving away from Dated Methods**

As the legal industry continues to evolve, law firms must recognize the imperative to transition away from traditional methods and outdated templates that no longer serve the complex needs of today’s legal environment. The legal landscape is increasingly demanding clarity, precision, and efficiency—requirements that the old ways of contract drafting and review cannot meet. To stay competitive and provide the best possible service to clients, law firms need to embrace plain language and the effective use of advanced contractual drafting tools some of which utilize AI.

### **The Need for Plain Language in Legal Contracts**

For too long, legal contracts have been bogged down by convoluted language,

technical jargon, and unnecessarily complex clauses. This not only makes contracts difficult for non-legal stakeholders to understand but also increases the likelihood of disputes due to misinterpretation. The global movement towards plain language in legal documents is gaining momentum, and for good reason. Contracts written in plain language are easier to understand, reducing the risk of disputes and fostering better communication between parties. Law firms that continue to rely on outdated, complex language are doing a disservice to their clients and are increasingly out of step with the direction in which the industry is moving.

### **The Role of AI in Modern Legal Practice: Beyond Chatbots**

The integration of AI into legal practice is not just about adding a new tool to the lawyer's arsenal; it's about fundamentally transforming how legal work is done. However, there is a significant difference between the effective use of AI and the superficial application of AI tools like chatbots. While chatbots, often perceived as merely enhanced search engines, can provide basic answers to simple queries, they fall short when it comes to the nuanced and complex analysis required in legal contexts.

There are more sophisticated tools out there as used in the methods of this paper, by contrast, leverages the power of the OpenAI (API)—not a chatbot—to deliver deep, contextually-aware insights that are tailored to the specific needs of legal professionals. This is not just a matter of plugging in questions and getting answers; for example, STRATETGEN ANALYTICS uses sophisticated prompts that can exceed 8000 characters, and also incorporate the use of Chain of Thought (CoT) reasoning to ensure that the outputs are not only accurate but also deeply informed by the context of the entire contract. This approach allows lawyers to dissect complex legal documents with precision, identifying ambiguities, inconsistencies, and areas of potential risk that a chatbot simply could not discern.

### **Overcoming the Misconceptions About AI in Law**

One of the challenges law firms face in adopting AI tools is the prevalent misconception that AI, particularly in the form of chatbots, is unreliable and prone to error. This misconception often stems from improper use or misunderstanding of how to effectively interact with AI tools. When users treat a sophisticated AI tool as if it were simply another search engine or fail to provide it with the detailed context it needs to function optimally, the results can indeed be poor. However, this is a reflection of user error rather than the tool's capabilities.

The more advanced tool sets out there, as used in the methods for this paper are designed to overcome these challenges by providing a robust framework for contract analysis that goes far beyond the capabilities of chatbots. Its use of long, detailed prompts and advanced reasoning techniques like Chain of Thought ensures that the insights generated are both accurate and actionable.

However, discerning between the AI noise and real solutions is crucial. Not all AI tools are created equal, and law firms must be careful to choose tools that are designed specifically for the legal context, like the methods employed in this study, built to handle the intricacies of legal documents and provide results that are as

reliable as they are insightful. By making this shift, law firms can not only improve their own operations but also offer their clients a level of service that is truly cutting-edge.

The tools are available, and the benefits are clear. It is now up to law firms to make the decision to move forward, embracing plain language and the effective use of AI to stay ahead in a rapidly changing industry.

## 26. A Call to Action for Law Firms

The legal industry is at a crossroads. On one hand, there is the familiar, comfortable reliance on traditional methods and templates—methods that have served the profession for decades but are increasingly showing their age, or at least should be. On the other hand, there is the promise of advanced AI tools sets, which offer a way to enhance the quality, speed, and clarity of legal work. For law firms, the choice is clear: those that continue to cling to outdated methods risk falling behind, while those that embrace the full potential of AI will find themselves better equipped to meet the demands of modern legal practice. May law firms are still hesitant to embrace new technologies and I fear if they do not, they will be left behind by those who do. I have written an article on this which you can find here. [Reevaluating Torys LLP’s Approach to AI: A Missed Opportunity for Leadership in Legal Tech](#)—My Personal Blog (marksdeephoughts.ca)

To address the pervasive issues of ambiguity and complexity in contractual agreements, several strategies can be implemented to enhance clarity, reduce disputes, and improve the overall efficacy of contracts:

- **Adoption of Plain Language:**
- **Simplification of Legal Jargon:** One of the most effective remedies is the shift towards plain language in legal documents. This approach has been championed by several countries and is increasingly recognized as a global best practice. By replacing complex legal jargon with clear, accessible language, contracts become easier to understand for all parties involved. For instance, replacing terms like “covenants” with “promises” can significantly reduce confusion and improve the enforceability of the contract (Latest Sample Report).
- **Comprehensive Contract Review:**
- **Thorough Pre-Finalization Review:** Before finalizing any contract, a detailed review by legal experts is essential. This review should focus on identifying and resolving ambiguities, contradictions, and potential areas of dispute. Such a review ensures that all terms are clear, precise, and align with the intentions of the parties involved.
- **Use of Standardized Templates:**
- **Standardization and Customization:** Utilizing standardized contract templates that adhere to current laws and best practices can help maintain consistency and reduce the risk of ambiguities. However, these templates must be regularly updated to reflect changes in the legal landscape and should be customized to fit the specific needs of the parties involved.

- **Integration of Advanced Drafting Tools:**
  - **AI-Powered Contract Analysis:** Implementing AI tools like STRATETGEN ANALYTICS can revolutionize the contract review process. These tools are designed to identify ambiguous language and suggest clearer alternatives, making contracts more understandable and less prone to disputes. By leveraging such technology, organizations can streamline their contract drafting processes, reduce legal costs, and enhance the overall quality of their agreements.
- **Regular Training for Legal Professionals:**
  - **Ongoing Education:** Continuous training for legal professionals on the importance of clarity in contract drafting is crucial. This training should emphasize the risks associated with ambiguity and the benefits of plain language, ensuring that legal practitioners are well-equipped to draft clear, enforceable agreements.
- **Routine Updates and Compliance Checks:**
  - **Maintaining Relevance:** Contracts should be regularly updated to reflect changes in laws and regulations. Compliance checks should be integrated into the contract management process to ensure that all agreements remain legally sound and enforceable over time (Latest Sample Report).

By implementing these strategies, organizations can mitigate the risks associated with ambiguous and complex contracts, fostering more transparent and effective legal agreements that benefit all parties involved.

## 27. Conclusion: There Remains Hope

This analysis has highlighted the urgent need for a shift in how we approach contract drafting and review. The use of advanced tools like STRATETGEN ANALYTICS offers a transformative solution, enabling us to identify and address ambiguities and contradictions with unparalleled accuracy. By leveraging AI and plain language analytics, we can streamline the contract review process, reduce legal risks, and foster a culture of transparency and mutual understanding.

The journey towards this future may be long, but it is undoubtedly worthwhile. By prioritizing clarity and precision in our legal documents, we safeguard the interests of all parties involved and uphold the principles of justice and fairness that underpin our legal system. Let us all commit to this vital mission, for the betterment of our legal practices and the society we serve.

As we navigate an increasingly complex legal landscape, the shift towards clarity is not just desirable—it is essential. By embracing tools like STRATETGEN ANALYTICS and committing to precision in legal drafting, we can transform contracts from sources of confusion into instruments of justice and efficiency. The future of legal agreements depends on it.

## 28. Integration of Findings

The exploration of ambiguity, complexity, and contradiction in legal contracts reveals a consistent and alarming pattern across various sectors and case studies.

This section integrates the key findings from the analysis, highlighting how these issues collectively undermine the integrity, enforceability, and effectiveness of contractual agreements.

#### **Ambiguity: A Recurring Legal Hazard**

The problem of ambiguity is pervasive and manifests in numerous ways within legal contracts. As illustrated by the **Codelfa Construction Pty Ltd v State Rail Authority of New South Wales (1982)** case, ambiguous terms can lead to significant disputes over project timelines, costing parties both time and money. Similarly, the **Walsh Construction and Toronto Transit Commission (TTC)** case demonstrates how vague contractual language, such as the term “timely,” can necessitate judicial intervention to resolve, further complicating project execution and leading to financial overruns.

Moreover, real-world examples, including the **Sattva Capital Corp. v. Creston Moly Corp. (2014)** case, emphasize how a lack of clarity in defining critical contract elements like evaluation dates can result in costly legal battles. These instances underscore that ambiguity is not a mere drafting oversight but a systemic issue that poses substantial risks to the parties involved.

#### **Complexity: Obscuring Intent and Understanding**

The complexity of legal language further compounds the challenges posed by ambiguity. The detailed analysis of contracts, such as the **Palm Springs Unified School District agreement with local law enforcement** and the **City of Ottawa’s Environmental Assessment Agreement**, reveals how convoluted language can obscure the true intent of contractual obligations. This complexity not only hinders the understanding of non-legal stakeholders but also increases the likelihood of misinterpretation, leading to operational inefficiencies and strained relationships between contracting parties.

The research presented in this document shows that complex language often results in legal disputes where simpler, more direct language could have sufficed. The necessity for clear and precise communication becomes evident when considering the time and resources wasted on deciphering legal jargon that could have been avoided with plain language.

#### **Contradiction: Undermining Contract Integrity**

Contractual contradictions, as seen in various agreements, present another layer of risk. For example, the conflicting clauses identified in the **Halton Community Housing Corporation’s agreement with The Regional Municipality of Halton** highlight how poorly coordinated drafting efforts can lead to internal inconsistencies. These contradictions not only create confusion but also jeopardize the enforceability of the entire contract, making it difficult for parties to fulfill their obligations without dispute.

The case law examined in this document, including the **Monde Petroleum SA v Westernzagros Ltd** case, illustrates the severe consequences of contradictory clauses. Such conflicts often require judicial interpretation, which can result in unpredictable outcomes and further complicate business relationships.

### The Path Forward: Embracing Plain Language and Clarity

The integrated findings from this analysis make it abundantly clear that the traditional approach to contract drafting—steeped in legalese and complex formulations—is increasingly untenable in a modern legal environment. The evidence supports a strong case for adopting plain language in legal contracts, which would enhance clarity, reduce disputes, and ensure that contracts are accessible and understandable to all stakeholders.

The integration of advanced tools like **STRATETGEN ANALYTICS**, which was used extensively in this research, provides a practical pathway forward. These tools can detect and rectify ambiguities, complexities, and contradictions in real-time, ensuring that contracts are not only legally sound but also operationally effective.

This paper underscores the urgent need for a paradigm shift in contract drafting practices. By embracing plain language and leveraging advanced analytical tools, legal professionals can mitigate the risks associated with ambiguity, complexity, and contradiction, ultimately fostering a more transparent, efficient, and fair legal system.

### Conflicts of Interest

The author declares no conflicts of interest regarding the publication of this paper.

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## Supplementary Materials

### 1) **Codelfa Construction Pty Ltd v State Rail Authority of New South Wales (1982)**

- **Relevance:** This landmark legal case highlights the significant risks posed by ambiguity in contract terms. The case is often cited to emphasize the importance of clear and precise language in contractual agreements, particularly in the context of large-scale projects where disputes over interpretation can lead to costly delays and litigation.

### 2) **“The Case for Plain-Language Contracts” by Shawn Burton**

- **Source:** Harvard Business Review
- **Relevance:** This article discusses GE Aviation’s successful initiative to simplify their contracts using plain language. The case study illustrates the benefits of moving away from legal jargon, including faster negotiations, fewer disputes, and positive customer feedback. It serves as a strong example of the advantages of adopting plain language in legal documents.

Why It’s Time to Kill Legalese (hbr.org)

### 3) **Financial Institutions Legal Snapshot**

- **Relevance:** This source provides a clear definition of ambiguity in legal documents and offers examples of how unclear language can lead to multiple interpretations, resulting in disputes and litigation. It underscores the critical need for precision in legal drafting to avoid costly misunderstandings.

### 4) **PlainLanguage.gov**

- **Relevance:** PlainLanguage.gov advocates for the use of clear, accessible language in legal and governmental documents. The site supports your argument that legalese can alienate non-specialists and obscure key information, making the case for plain language as a means to improve understanding and transparency in legal agreements.

### 5) **Cambridge University Press—Judge Frank H. Easterbrook**

- **Relevance:** Judge Frank H. Easterbrook’s work is referenced to discuss how ambiguity in statutes and legal texts can lead judges to seek additional context beyond the text itself. This highlights the dangers of unclear legal drafting and reinforces the need for clarity and precision in contracts.
- **Contracts AI-Strategen Analytics-Strategen Analytics|AI Contract Review**
- **The Department of Justice** is committed to ensuring that the guidelines it provides be written in clear and plain language

<https://www.justice.gc.ca/eng/trans/ar-lr/ior-icr.html>

### **Plain language, accessibility, and inclusive communications**

Plain language, accessibility, and inclusive communications—Privy Council Office—Canada.ca

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