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Why are legal documents so hard to understand?

Many people don't understand their wills and trust documents. The reason? "Lawyer speak" or "legalese," exemplified by run-on sentences, unnecessary jargon, and overly complex phrasing. Estate planning documents like a revocable trust may run 20-50 pages long, and a complex irrevocable trust can have over 100 pages. Many highly skilled and well-educated professionals only have a vague idea of how their estate plan works because the language within the legal documents is confusing. Some attorneys attempt to explain the inner workings of estate documents through brief summaries. Which begs the question, why not write a shorter will or trust document that is easy to understand?

A recent MIT and University of Edinburgh study investigated the root cause of the legalese scourge. The goal was to understand why lawyers avoid using plain language or layman's terms. The study included a group of more than 100 lawyers. Eric Martínez headed the project and tested several theories.

The first theory explored whether lawyers are too smart to 'dumb down' or simplify their writing. Instead, the study found that the lawyers disliked legalese and preferred plain language. Another hypothesis was that lawyers wrote in legalese to sound smarter and demonstrate value to clients. This reasoning proved invalid because clients are more likely to sign and execute documents that include easy-to-understand language.

The third idea investigated whether legalese is a form of "in-group signaling," meaning that lawyers wanted to show other lawyers that they knew what they were doing. This theory also proved false. The consensus among the lawyers was that they are more likely to hire lawyers that write concisely. Another theory was that the precision of legalese was necessary to avoid misinterpretation. However, lawyers in the study stated that simplified provisions are as enforceable as complex ones. The researchers were left with a final theory, the "copy-and-paste hypothesis". Attorneys have likely been reusing the same boilerplate format for decades, copying and pasting from one client to the next.

An important takeaway from the study is that attorneys agree that these documents are unnecessarily complex. We know from our experience that clients would be grateful to receive a simplified and easy to understand set of estate planning documents. The good news is that we are seeing an increasing number of trusts and wills that are written in a simplified manner. However, the majority are still written in legalese. We are happy to help translate estate documents into an easy-to-understand format, unfortunately, we've had a lot of practice. Please reach out to your wealth manager for assistance.

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