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Begin Paragraphs With Ideas Rather Than Case Names

'In *Smith v. Jones*' is a tempting but weak transition

By Kenneth F. Oettle

Awriter must retain the attention of the reader just as a speaker must retain the attention of the audience. If you lose the reader's attention, you cannot communicate, and if you cannot communicate, then you cannot persuade.

Think of a child watching television. Does the child hear you when you speak? Not likely. Their attention is on the television, not on you. Therefore, they receive no message from you.

It is the same for the reader. Lose their attention, and they receive no message from you. Accordingly, you must judge every sentence and every word by whether it helps you keep the reader's attention.

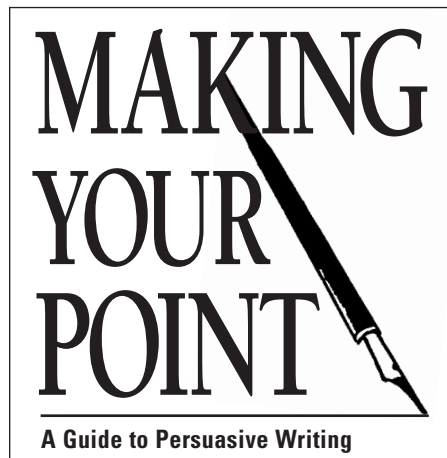
One place you may lose the reader's attention is between paragraphs, in the change of ideas. It's like the gap between segments of model railroad track — if the gap is wide enough, the train derails.

I asked an associate why she hadn't used a transition between two paragraphs that didn't seem to connect. She said the idea in the second paragraph was different from the idea in the first, and she couldn't think of a transition, so she figured none was better than a bad one. She knew she didn't have a transi-

The author is a partner and co-chair of the Appellate Group and writing and mentor programs at Sills Cummis Radin Tischman Epstein & Gross. He invites questions and suggestions for future columns to koettle@sillscummis.com. "Making Your Point" appears every other week.

tion, but she didn't think that was so bad.

I told her that without a transition, she would lose the reader's attention. She thought about that and was concerned. I asked if she had considered the reader, and she admitted she hadn't. The associate knew, in theory, that transitions are important, but she hadn't made the connection between transitions and



keeping the reader's attention.

To the reader, good transitions are "transparent." They go unnoticed until a missing transition or a weak one calls attention to the prose.

To the writer, transitions are a challenge. They require effort because they depend on overview, which requires thought. Moreover, if you realize you lack a good transition, you may be forced to admit that the ideas you have trouble connecting don't make a set. Now you have the unpleasant task of moving or even rejecting one or both of them. It is no wonder that writers sometimes leave the challenge of transitions

unanswered.

One of the most popular ways to avoid the task of writing a good transition is to begin a paragraph with a case name:

In *Smith v. Jones*, 999 F.2d 99 (15th Cir. 1999), the court held that an insurer was not prejudiced by late notice because it had a full opportunity to investigate the claim.

The format "In *Smith v. Jones*" seems logical because our legal system is based on stare decisis — the invocation of precedent. Since precedent is embodied in case law, we figure we are developing a thesis by beginning a unit of thought — a paragraph — with a case name ("In *Smith v. Jones*").

Notwithstanding the importance of case law, paragraphs should begin with ideas rather than case names. A revision of the above sentence might read as follows:

Courts find no prejudice from late notice where the insurer had a full opportunity to investigate the claim. For example, in *Smith v. Jones* ...

The idea for which you cite *Smith v. Jones* is that courts do not find prejudice from late notice of a claim if the insurance company had a full opportunity to investigate. Beginning a paragraph with that idea rather than the case name has several virtues.

The idea can echo something in the previous paragraph, thus tying the new paragraph to the old and maintaining the flow of the argument. In contrast, a case name provides no connection. It is

inherently meaningless unless the previous paragraph was about *Smith v. Jones*. The case name thus creates a dead spot, a gap in the flow. If the material is difficult or the reader inattentive, you may lose the reader's attention.

Second, having to state your point forces you to decide what it is. This is a good self-monitoring device. If you cannot state your point, you may not have one.

Third, stating your point at the beginning of the paragraph shows a willingness to take control of the material, which makes you look confident. If you look confident, the reader is more likely to trust you and your argument.

Finally, stating your point at the beginning of the paragraph sets up a challenge. If the rest of the paragraph supports your point, you have met the challenge, and the reader gains confidence in you and your argument.

In short, beginning paragraphs with

ideas rather than case names serves several tactical purposes. It takes more work than "In *Smith v. Jones*," but the work, if done well, pays off.

Puzzler

How would you tighten and sharpen the following sentence?

In the event that the court orders a remand for an evidentiary hearing in resolving this appeal, appellant will then have the opportunity to cross-examine the expert and use the transcript of his deposition testimony at that time if he wishes.

"In the event that" can be shortened to "If." "Orders" is implicit and falls away, as does the phrase "in resolving this appeal." "Will then have the opportunity" can be shortened to "can." Since

the point is that counsel will be able to use a deposition transcript to cross-examine the expert, say "cross-examine the expert using the deposition transcript" rather than "cross-examine the expert and use the deposition transcript." "The transcript of his deposition testimony" can be shortened to "his deposition transcript," and the rest of the sentence ("at that time if he wishes") can be dropped as unnecessary.

The revised version:

If the court remands for an evidentiary hearing, appellant can cross-examine the expert using his deposition transcript.

Alternate:

If the court remands for an evidentiary hearing, appellant can use the expert's deposition transcript for cross-examination. ■