

Snap, Crackle, Pop

By Mark Cooney

Legal writing is, to some extent, formal. But that doesn't require heavy starch in every line of every page. And it certainly doesn't require a monotone or sounding like a machine. If a brief is a bowl of Corn Flakes, we should sprinkle in some Rice Krispies here and there. In other words, within the larger and necessary usual, we should look for opportunities to do something slightly unusual—something to add a little pop to our prose.

We might do this in any number of ways. Word choice naturally comes to mind. But we can also grab our readers with techniques tied closely to syntax or paragraph structure. We can even add some snap with (dare I say it?) punctuation.

Here are two of my favorite tricks for adding some pop to a brief, along with a related editorial tip.

The single-sentence effect

Somewhere along the line, you may have heard that single-sentence paragraphs are forbidden. It's not true. But even if it were, savvy writers would occasionally break this nonrule to make an impact. Look closely when you read literate publications. You'll see top writers, especially essayists, sprinkling occasional single-sentence paragraphs into their work.

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The typical strategy is to first build momentum in one direction with an ordinary multiple-sentence paragraph. The writer then follows with a crisp single-sentence paragraph that marks an abrupt conceptual about-face, halting the reader in his or her mental tracks.

I'll first illustrate this approach with an excerpt from a nonlegal essay:

In March 2006, I found myself, at 38, divorced, no kids, no home, and alone in a tiny rowing boat in the middle of the Atlantic Ocean. I hadn't eaten a hot meal in two months. I'd had no human contact for weeks because my satellite phone had stopped working. All four of my oars were broken, patched up with duct tape and splints. I had tendinitis in my shoulders and saltwater sores on my backside.

I couldn't have been happier.¹

In this excerpt, the writer first presents a litany of miseries in a traditional multiple-sentence paragraph. As readers, we feel the waves of hardship and woe conspiring against her. But then, in the short, snappy single-sentence paragraph that follows, the author jolts us to attention with a seemingly incongruous idea: she was *happy*.

By breaking the supposed rule against single-sentence paragraphs, she punctuated her point. She made an impact. It popped.

Lawyers can do the same. Consider this example, which I've lifted from a Detroit

lawyer's appellate brief (with fake party names and liberal editing for brevity):

The Smiths were the majority shareholders; Mr. Jones was a one-third shareholder. Like many small businesses, there was little in the way of corporate formality. Most of what the Smiths and Mr. Jones did was based on a handshake and trust. As is often the case in such relationships, the three shareholders did everything by consensus. For 25 years, they were partners, confidants, and intimate friends who shared and shared alike, and they agreed on every business decision that needed to be made. They received equal distributions without regard to who was contributing what to the business.

Then Mr. Jones got sick.

Snap.

Besides this passage, do you really need to know anything more about the case? No. You know exactly what happened next. You know that the long, loving relationship disintegrated. You know that the storm came (at least from this party's perspective) because of Mr. Jones's sudden illness, which turned his focus from business to recovering his health.

The brief's statement of facts didn't end with this sentence, of course. But this tiny paragraph—a single sentence with just four words in it—set the tone for the rest of the

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document. It established the theme of the case. And how.

Note that in both of these examples, the second paragraph was not only a single sentence, but a single *short* sentence. And that's important for this technique. The pop would be more of a soggy fizzle if that single-sentence paragraph consisted of a long or medium-length sentence. If the single sentence labors, the effect is gone. The power of the short sentence is undeniable. Short is strong, as they say.

We want our readers to notice these techniques yet not notice them.

Colon power

The best writers view punctuation not only as a shield, but also as a sword. Yes, correct punctuation protects us from the ire of critical readers. But when we're at our best, we can wield punctuation to cut to the core of our readers' sensibilities. Case in point: the colon.

The colon is too often left to skulk beside the punch bowl when it should be boogieing beneath the mirror ball. Too many writers relegate it to the mundane. It can do more than precede a list, series, or quotation (yawn). In fact, this little punctuation mark is a firecracker.

First, let's remind ourselves of the general rule for using colons in prose: a complete sentence should normally appear before the colon, and the colon should act as an arrow pointing to the information that follows it.² Writers sometimes break the complete-sentence rule for style (as I did earlier), but our default mode should be to use a complete sentence before the colon. By the way, the information that follows a colon can be anything at all—a series, a single word, or even another complete sentence.³

Here are some before-and-after examples illustrating how colons can add a little pop to your prose:

- *Original*: The sole reason for the bank's misconduct was greed.
- *New*: There was one reason for the bank's misconduct: greed.

Did you sense the difference? Did you feel the pop in the second version? Let's try another, and in this one, let's try a complete sentence after the colon to see how it feels:

- *Original*: The bylaws had a glaring flaw in that they failed to provide for meetings.
- *New*: The bylaws had a glaring flaw: they failed to provide for meetings.

There's still some extra pop there, but not quite as dramatic as in the previous example.

Here are a few more. See which versions you prefer:

- *Original*: The single event leading to this lawsuit was the plaintiff's failure to exercise reasonable care in watching out for dangerous conditions while she was walking.
- *New*: The plaintiff fell for one reason: she didn't watch where she was going.

Did you gasp at the contraction? (Did you notice it?) Have I committed legal-writing heresy? As usual, I'm in Bryan Garner's camp: occasional, strategic contractions are appropriate in legal writing—especially court briefs, which involve storytelling and persuasion.⁴ Here, the contraction tightened up the prose just a bit, maximizing the impact.

Here's another:

- *Original*: The fire escape was the only way out of the building.
- *New*: There was just one way out: the fire escape.

Some writers love em-dashes. I do, too. They set off words and other grammatical elements with undeniable flair. And they too can add a little pop. But sometimes the situation just begs for a colon. And here's the bottom line: if you find yourself agonizing over whether to use a colon or an em-dash to add some pop to your prose, then you're in a good place. That struggle means that

you're doing the type of editorial thinking worthy of a professional writer. And that's what we lawyers are, aren't we?

The chocolate-milkshake test

Now, before I unleash a horde of litigators drunk on colons and single-sentence paragraphs, a word of caution. Whenever we use one of these devices, we should apply the chocolate-milkshake test during our final edits. I suppose I should elaborate.

Nothing is more scrumptious and satisfying than that rare chocolate milkshake. Funny thing, though. As soon as we finish it, the last thing on earth we'd want to drink, or perhaps even see, is another chocolate milkshake. The point is this: the writing techniques described above will taste delicious to readers occasionally. But if we go to them too frequently, our readers will find them much less satisfying—too rich. The crisp pop we seek will become distracting noise. We want our readers to notice these techniques yet not notice them. We want each pop moment to feel like the first chocolate milkshake.

So judicious restraint is the name of the game. But with a sparing, strategic approach, these techniques will make your brief just a bit crisper and more lively—and a bit more memorable—than the rest in the pile. ■



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ENDNOTES

1. Savage, *My Transoceanic Midlife Crisis*, Newsweek, March 20, 2011.
2. Enquist & Currie Oates, *Just Writing: Grammar, Punctuation, and Style for the Legal Writer* (Aspen Publishers, 2d ed, 2005), p 256; Garner, *The Redbook: A Manual on Legal Style* (West Publishing, 3d ed, 2013), p 17.
3. Garner, n 2 *supra* at 17-18.
4. Garner, n 2 *supra* at 57.