Give bullet points a try

WITH HELP FROM THE LIBRARY STAFF AT COOLEY LAW SCHOOL, I CONDUCTED AN EXPERIMENT. Randomly take 100 federal cases, 50 from the courts of appeals and 50 from the district courts. See how many of them use bullets even once. A total of 11 did, so roughly 10 percent. I'd submit that bullets are more useful than these results suggest.

Bullets are perfect for giving added emphasis to a list of important items—more emphasis than they would receive in a horizontal list. Bullets make it easy for readers to take in each of the items. And they add a touch of visual interest. Just don't overuse them, or they lose some of their punch. And think twice about using them if the items have a rank order of importance that might be better suited to a numbered list.

Some recommendations for formatting bullets:

- Indent the bullets slightly to the right of the normal paragraph indent, as in this list. Or at least align them with the paragraph indent—and not to the left of it.
- Set the first word of text only about two letter spaces from the bullet.
- Use hanging indents within each item; don't bring a second (or later) line back any farther than the first word in the first line of the bullet.
- Add some extra line space between the items.
- If each item is a full sentence, then capitalize the first word in each sentence and end each one with a period, as you normally would; if the items are all phrases or clauses, put a semicolon after each item except the last one and use *and* or *or* after the next-to-last item.

Before

The purpose of the rule is to prevent an attorney from being in the awkward position of acting as both a witness and an advocate at trial, which could create some of the following problems:

> the possibility that, in addressing the jury, the lawyer will appear to vouch for his own credibility; the unfair and difficult situation which arises when an opposing counsel has to cross-examine a lawyer–adversary and seek to impeach his credibility; and the appearance of impropriety created, i.e., the likely implication that the testifying lawyer may well be distorting the truth for the sake of his client.

After

The rule's purpose is to prevent an attorney from being in the awkward position of acting as both a witness and an advocate at trial—thus creating some of the following problems:

- the possibility that, in addressing the jury, the lawyer will appear to vouch for their own credibility;
- the unfair and difficult situation that arises when an opposing counsel has to cross-examine a lawyer–adversary and seek to impeach their credibility; and
- the appearance of impropriety created, i.e., the likely implication that the testifying lawyer may well be distorting the truth for the sake of their client.

JOSEPH KIMBLE is an emeritus professor at Cooley Law School. He is also a senior editor of *The Scribes Journal of Legal Writing*, the editor of the Plain Language column in the *Michigan Bar Journal*, and the author of three books and many articles on legal writing (not to mention two children's books). He served as a drafting consultant on the projects to restyle the Federal Rules of Civil Procedure, Bankruptcy Procedure, and Evidence.

Before

Nothing in Mr. Munson's complaints supports an inference that Mr. Robinson had been "subdued." He had a firearm with him as he was driving, and he had shot at pursuing police officers. There is no allegation that he had indicated he was surrendering or was rendered dead or unconscious by the crash. And, in a statement in the memorandum decision and order that was not challenged on appeal, the district court said that a bystander video of the shooting "makes clear that Mr. Robinson was not incapacitated by the crash." (Citation omitted.)

On June 14, 2015, Plaintiff, Patricia Lopez, slipped and fell while shopping for groceries at Cardenas. Video footage of the incident establishes the following timeline. At 11:59:54, a customer's child dropped a bottle near the meat department, creating a spill. At 12:00:12, a customer walked through the area and did not fall. At 12:00:30, a second customer walked through the area and did not fall. At 12:01:04, Cardenas employee Cruz Olmos walked through the area and did not fall or notice the spill. Four more customers walked through the area between 12:01:13 and 12:01:16 and did not fall. Plaintiff walked through the area at 12:01:20 and fell. At 12:01:45, Mr. Olmos placed a yellow caution cone in the area. By 12:02:24, Mr. Olmos had obtained a roll of paper towels and was cleaning the spill.

The Supreme Court had told district courts to ask four questions when deciding whether a general technique is the "product of reliable principles and methods" sufficient to allow a jury to consider it in a specific case. (Citation omitted.) Can third parties "test" the technique . . . ? Have other knowledgeable experts engaged in "peer review" . . . ? Does the technique have a "known or potential rate of error"? And has the "relevant scientific community" come to generally accept the technique?

After

Nothing in Mr. Munson's complaints supports an inference that Mr. Robinson had been "subdued":

- He had a firearm with him as he was driving, and he had shot at pursuing police officers.
- There is no allegation that he had indicated that he was surrendering or was rendered dead or unconscious by the crash.
- Finally, in a statement in the memorandum decision and order that was not challenged on appeal, the district court said that a bystander's video of the shooting "makes clear that Mr. Robinson was not incapacitated by the crash." (Citation omitted.)

On June 14, 2015, Plaintiff Patricia Lopez slipped and fell while shopping for groceries at Cardenas. Video footage of the incident establishes this timeline, lasting $2\frac{1}{2}$ minutes:

- At 11:59:54, a customer's child dropped a bottle near the meat department, creating a spill.
- Between 12:00:12 and 12:00:30, two customers walked through the area and did not fall.
- At 12:01:04, Cardenas employee Cruz Olmos walked through the area and did not fall or notice the spill.
- Between 12:01:13 and 12:01:16, four more customers walked through the area and did not fall.
- At 12:01:20, Lopez walked through the area and fell.
- At 12:01:45, Olmos placed a yellow caution cone in the area.
- By 12:02:24, Olmos had obtained a roll of paper towels and was cleaning the spill.

The Supreme Court had told district courts to ask four questions when deciding whether a general technique is the "product of reliable principles and methods" sufficient to allow a jury to consider it in a specific case. (Citation omitted.)

- Can third parties "test" the technique . . . ?
- Have other knowledgeable experts engaged in "peer review" . . . ?
- Does the technique have a "known or potential rate of error"?
- And has the "relevant scientific community" come to generally accept the technique?