

Example 1.

Not so good: WHETHER THE SUIT IS BARRED BY LACHES.

[This is an ineffective point heading because it is a question that does not help the reader in any way. Answering that question is the job of the writer, not the reader, who usually looks for more guidance in a heading. This is just a sentence fragment identifying an issue.]

Good: THIS SUIT IS BARRED BY LACHES.

[This is better, but it is essentially just an answer to the question presented. The reader has no sense of the "why" or "because"]

Better: THIS SUIT IS BARRED BY LACHES BECAUSE IT WAS BROUGHT TWENTY-FIVE YEARS AFTER THE ISSUANCE OF THE ORIGINAL CERTIFICATE.

[This is much better. After reading the "because" part, the reader knows exactly where the writer is going with his argument.]

Example 2.

Not so good: THE PLAINTIFFS SHOULD NOT GET DAMAGES.

[This is a pretty ineffective point heading. The sentence is just a direct response to the Question Presented and therefore does not advance the writer's rhetoric.]

Good: THE COURT SHOULD NOT AWARD THE PLAINTIFFS DAMAGES FOR THE COSTS OF RAISING THEIR NORMAL, HEALTHY DAUGHTER TO MAJORITY.

[This is better, especially because the language is more precise and powerful. Still, the writer has failed to give the reader the "why."]

Better: I. THE COURT SHOULD NOT AWARD THE PLAINTIFFS DAMAGES FOR THE COSTS OF RAISING THEIR NORMAL, HEALTHY DAUGHTER TO MAJORITY.

A. Suzanne's Birth Did Not Injure The Plaintiffs Because They Sought Sterilization For Non-Economic Reasons.

B. Awarding Full Child-Rearing Costs Harms The Mental Health Of Unwanted Children And Will Discourage Doctors From Performing Needed Sterilizations.

[This is much better. It really helps to crystallize the argument by using subheading and the writer is using powerful language to sway the reader with both legal and public policy arguments, which are effectively separated into subheadings.]

Example 3.

- Not so good: THE TRIAL COURT'S DECISION IS REVERSIBLE.
[Yes, the decision is reversible, but what decision, and why is it reversible?]
- Good: THE TRIAL COURT'S DENIAL OF APPELLANT'S MOTION TO SUPPRESS DIANA'S STATEMENT SHOULD BE REVERSED.
[Now we know what decision we are talking about, and the writer has affirmatively stated her goals, but she has failed to give us the why.]
- Better: THE TRIAL COURT ERRED IN ADMITTING DIANA'S STATEMENT BECAUSE HER STATEMENT WAS THE FRUIT OF AN ILLEGAL POLICE SEIZURE AND THEREFORE MUST BE SUPPRESSED UNDER THE WONG SUN DOCTRINE.
[Now we know what should have been suppressed and why. Also, the writer has given the reader a guide as to the area of law that will be discussed in this section.]

Example 4.

- Not so good: IS THERE JURISDICTION FOR REVIEW OF A REFUSAL TO REOPEN A MEDICARE PROVIDER'S COST REPORT UNDER THE FEDERAL QUESTION STATUTE, 42 USC §1331.
[Once again, this is essentially a question that does not help the reader in any way.]
- Good: FEDERAL COURTS DO NOT HAVE JURISDICTION UNDER 28 USC §1331 TO REVIEW REOPENING DENIALS.
[This is better, but just answers the question presented. The reader has no sense of the "why."]
- Better: I. FEDERAL COURTS DO NOT HAVE JURISDICTION UNDER 28 USC §1331 TO REVIEW REOPENING DENIALS BY INTERMEDIARIES
A. 42 USC §405(H) Prohibits Review Of Reopening Denials Under 28 USC 1331.
B. Preclusion Of Judicial Review Under 28 USC 1331 Is Consistent With Bowen V. Michigan Academy Of Family Physicians.
[This is much better. Even though the technical language is fairly dense, the writer has done a good job of creating accessibility for the reader by separating the arguments into subheadings that deal with separate issues. The writer has applied the facts of the case to the underlying legal principles.]
- Sources: Alan D. Hornstein, Appellate Advocacy in a Nutshell (1998).
Robert J. Martineau, Appellate Practice and Procedure (1987).
Myron Moskovitz, Winning an Appeal (1985).
Introduction to Advocacy: Research, Writing and Argument (6th ed.1996).