

# Point Headings

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- Point headings are one sentence conclusions of law (as applied to the facts of the case) that should be used at the beginning of each section of an appellate brief.
- These are thesis statements that lay out clearly what you are trying to argue in each section.
- They also serve to make your argument more understandable to the reader (remember “signposts”).
- Think of these as “mission statements” for each section of your brief.

# How to Organize Headings

- Use one point heading at the outset of a major portion of your argument
  - “The indictment must be dismissed because there is insufficient admissible evidence to sustain a conviction against John Smith.”
- Then, use another heading for each issue discussed in that section.
  - “The bloody knife must be excluded because it was obtained by the police during an illegal search.”
- Use another heading for each sub-issue
  - “The consent given by Mr. Smith to the police search was invalid because it was obtained by trickery.”

# How to Draft Point Headings

- Points should be both easily readable and as specific as possible.
  - If accepted by the court, your client must win the case
- Point headings should be based on the organizational scheme of your brief. You should use your point headings when drafting your table of contents.
  - In fact, often, point headings are put directly into the table of contents.

# Statement of Facts in a Brief

- In a brief, statements of facts often include some elements that are not present in another type of memo:
  - Facts that have an emotional impact, even if they do not have a strict legal significance.
    - Even judges have emotions and can be swayed by emotion
    - However, you should always try to couch your arguments in legal terms
- In a brief, the statement of facts should encapsulate the procedural background and history of the case
- In a brief, you will make frequent reference to the trial record (transcript) and exhibits. E.g.,
  - T:28 to reference page 28 of the transcript

# Tactics in Stating the Facts

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- State the facts as your client saw them
- Play up the emotional facts that support your side
- Downplay or “dryly” describe the emotional facts that don’t support your side
- Emphasize favorable facts in general and deemphasize unfavorable facts
  - E.g. Favorable:
    - The plaintiff’s interests were brutally disregarded by an uncaring defendant corporation.
  - Unfavorable
    - The plaintiff was undoubtedly the victim of some poor fortune.