

The Scrivener: Modern Legal Writing



The Period and Its Pals

by K.K. DuVivier

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*Frequent and soft as falls the winter's snow,
Thus from his lips the copious periods flow.*¹
Homer, The Iliad, Bk. iii, l. 222

Over the last five years, no *Scrivener* column has focused on punctuation. Columns instead covered more global techniques for helping you use writing to clarify your ideas and to communicate those ideas to readers.

Judges are more likely to rule against you if they cannot understand your points and if your arguments do not seem well-reasoned. In contrast, punctuation errors may be irritating, but they will rarely, if ever, cause you to lose the case. The Honorable Sandra Rothenberg recently noted, while participating on a panel about brief writing, "With respect to punctuation, we have a bucket of commas at the Colorado Court of Appeals. We'll fill one in for you if you miss one."²

Although punctuation may not be a critical component, we should not denigrate its significant role in communication. In conversation, we use an arsenal of techniques to emphasize certain points, including pace, volume, pitch and hand signals. We do not have this full spectrum of techniques available in writing, but we can use punctuation to achieve some of the same emphasis.³

In the third century B.C.E., some writers began adding marks to their written speeches to signal when to pause.⁴ Like these early writers, we still use various punctuation marks to signal the length of a pause. This column begins to address punctuation marks that create a change in pace—stopping, pausing, slowing down or speeding up. It covers the period and those marks that contain a period within them: the colon and the semicolon.

The Period (.) (stop completely for a moment)

In formal writing, the period is most often used to mark the end of a sentence, a complete independent clause with a

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subject and predicate. The most common problem with periods is their use at the end of a partial sentence or sentence fragment, especially a dependent clause. The best way to correct such a sentence fragment is to connect the dependent clause to an independent clause or, in some instances, simply to eliminate the connecting words that make the clause dependent.

Example: Even though the skier's contributory negligence may reduce the award (*dependent clause or sentence fragment*).

Rewrite I: Even though the skier's contributory negligence may reduce the award (*dependent clause*), she still should recover (*independent clause*).

Rewrite II: (connecting words eliminated) The skier's contributory negligence may reduce the award.

Another frequent problem is the placement of periods within parentheticals. When a parenthetical sentence is *inside* another sentence or *inside* a citation sentence, do not begin the parenthetical with a capital letter or end it with a period. However, when the parenthetical sentence is placed *outside* another sentence or stands as its own citation sentence, capitalize the first letter and place the period inside the parenthesis.⁵

Parentheticals Inside:

Example I: This is not the holding of the majority of the *Munser* court (instead it is dictum).

Example II: The witness observed two men (R. at 45-48), but otherwise she saw nothing.

Parentheticals Outside:

Example I: This is not the holding of the majority of the *Munser* court. (Instead the court held against the lender.)

Example II: The witness observed two men, but otherwise she saw nothing. (R. at 45-48.)

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The Colon (:) (strong pause, but also a connection)

The colon serves a distinct function: it produces a pause alerting readers that more is about to follow.⁶ These are the three main uses of colons: (1) to connect two independent clauses when the second amplifies or clarifies the first (as in the previous sentence); (2) to introduce a list or tabulation like this one; and (3) to emphasize a word or idea by setting it apart from the rest of the sentence. The first two uses of colons are illustrated in this paragraph; the third use, emphasizing an idea, is illustrated below.

Example: The Stecklers had only one objective: to destroy the plaintiff's business.

Semicolon (;) (stop, but then immediately read on)

Notice how a semicolon is constructed: it includes both a period ("stop") and a comma ("pause, but read on"). Generally, semicolons are used to join two independent clauses that seem too closely related for a period, but are not closely related enough to use a comma.

Remember that semicolons are used to connect independent clauses; either clause could stand on its own as a complete sentence. Be careful to use a comma, not a semicolon, however, when one of the connecting clauses is dependent.

Example I (two independent clauses connected by a semicolon): Jack celebrated all night; he was very ill the next day.

Example II (dependent clause connected to an independent clause by a comma): Because Jack celebrated all night, he was very ill the next day.

For some writers, the most common use of semicolons is in a long list. When commas or other punctuation marks occur within any element of the list, the semicolon helps readers see where each item of the list begins and ends.

Example (with commas only): Defendants drove to Tucson, Arizona, Albuquerque, New Mexico, and Pueblo, Colorado.

Rewrite (with semicolons): Defendants drove to Tucson, Arizona; Albuquerque, New Mexico; and Pueblo, Colorado.

Both the colon and semicolon can add variety and drama to your writing. They break concepts into manageable chunks without the choppiness created by a sequence of short sentences with periods.

However, the colon and semicolon should be used in moderation. Your message may be obliterated by focus on your technique. The period is inconspicuous; the colon and semicolon are conspicuous. Conspicuous pauses in writing, as in speaking, quickly become distracting. As a result, your writing may become halting, rather than dramatic. Instead, let your pauses flow softly.

NOTES

1. The translator probably took some liberty with the choice of words here because the mark we call a period was not used by Homer. Aristophanes of Byzantium, who became the librarian of the Museum of Alexandria around 200 B.C.E., is frequently credited with invention of the signals that formed the beginnings of the Greek system of punctuation. 29 *The New Encyclopaedia Britannica* 15th ed., 1050-51 (Chicago: Britannica, 1991)(*hereafter*, "*Britannica*").

2. "Writing to Win" at the Colorado Women's Bar Association Convention, Keystone, Colorado, May 20, 1995.

3. Two schools debated the significance of punctuation. The elocutionary school believed punctuation was an indication of lengths of pause, particularly for reading aloud. The syntactical school believed punctuation was a guide to grammatical construction. *Britannica*, *supra*, note 1 at 1050.

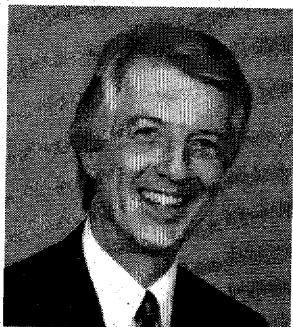
4. LeClercq, *Guide to Legal Writing Style* 113 (Boston, MA: Little Brown & Co., 1995). See also *Britannica*, *supra*, note 1 at 1050-51, for a short history of punctuation's origins.

5. Ray and Ramsfield, *Getting It Right and Getting It Written*, 2d ed., 213 (St. Paul, Minn.: West Publishing, 1993)(*hereafter*, "*Getting It Right*"). See also The Harvard Law Review Association, *The Bluebook, A Uniform System of Citation*, 15th ed., 18-19, 27-28 (Cambridge: Gannett House, 1991).

6. You may, but need not, capitalize the first letter of the first word after a colon when the words can stand alone as a sentence. *E.g.*, "The colon serves a distinct function: It produces. . . ." Some editors feel that this internal capitalization "makes the sentence self-consciously ornate." See *Getting it Right*, *supra*, note 5 at 59-60. See also Tarshis, *Grammar for Smart People* 108 (New York, N.Y.: Pocket Books/Simon & Schuster, Inc., 1992)



Clifton Kruse Elected President of National Academy of Elder Law Attorneys



Colorado Springs attorney Clifton B. Kruse, Jr., of the law firm of Kruse and Lynch, was elected president of the National Academy of Elder Law Attorneys ("NAELA") at NAELA's Symposium on Elder Law in May. He will serve a one-year term. Kruse is also a Fellow of the NAELA—the highest designation a NAELA member can receive for dedication to the field of elder law and NAELA.

NAELA was formed in 1987 to enhance the quality of legal services available to older persons in the United States. Members of NAELA are attorneys who have demonstrated experience and training in working with older Americans' legal problems. NAELA presently has more than 2,600 members across the United States.