

Adapted from

• The Legal Writing Center at Cardozo •

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Guidelines for Case Briefing

A case brief is not a formal legal document. However, as a beginning law student, "briefing" the cases you are reading for your courses will be very helpful to you both in class and later when you are outlining the course material and studying for your examinations. The best way to master the technique of case analysis is to prepare case briefs of the cases you read and to take systematic and thorough notes of the discussions of the cases in class. The form of the brief helps you to organize case related information and refer to it easily.

There is not one way to brief a case. Many forms may be used with success. Your Elements text suggests one approach. The most important learning and study aid you should be working on in the early days of your law school career is the briefing form that works best for you. It must allow you to distill the important elements of each case quickly and accurately and it must provide you with sufficient information to make it useful in understanding the case, in following the discussion of the case in class, in answering questions about the case if called upon in class and in studying for the course's examination.

The basic outline of the briefs you prepare for the beginning legal writing classes is as follows:

1. Case Citation. This should contain the full and proper citation of the case. The correct citation identifies the case and specifies where it may be found should you want to read a more complete version of the case than is typically given to you in your casebook, and tells you important information about the decision, including the court that decided the case and when it was decided.

2. Procedural History. Most decisions you will read are from appellate courts. The procedural history of such cases should include a statement of how the case arrived at the appellate court whose opinion is now being read and analyzed. Who won in the lower court, who is appealing and what is the outcome in this appeal.

3. Statement of Facts. Record only those facts or parts of the story of the case that are most important to this opinion and the legal issues of this case and most likely to be important in using this case to predict the outcome of a similar controversy.

4. Issue(s). The issue is the legal question that is actually before the court. When the court answers that question, in most instances it has decided the case. Usually, the party appealing will be complaining about an error of law that was made by the lower court. The issue may

ask whether the lower court erred when it made a particular ruling in the context of the particular dispute. Sometimes, there may be sub-issues, and procedural issues, that must be solved in order to resolve the primary issue.

5. **Holding.** The holding is the decision of the court. It generally includes the decision and the application of the rule of law that compelled the result, the decision, in this case. The holding answers the question posed by the issue with more than a simple "yes" or "no." The holding may be framed in the language of the court, although you should be able to state it in your own words as well. Note that particular language of the court does not become the holding simply because the judge might call it that.

6. **Reasoning.** The reasoning is the basis on which the court justifies its decision. It may contain doctrine (the basis in law for the decision), and policy (other factors which may account for the decision).

7. **Disposition.** Outcome of this case; how court "disposes" of case; what court instructs to happen.

Notes, Dissents. This section may be helpful in further explaining aspects of the case or in raising questions you want to remember. It is optional; you may choose to add it.