Chapter 3: Briefing Cases

Ah, the b-word. Second only to the o-word (outlining), no other class study tool seems to cause as much stress and confusion as creating an effective case brief. Keep in mind what you learned in the Reading Cases chapter. Reading a case and briefing a case are two actions that are intertwined and yet separate. The definitions stay the same, but what you do with the information changes. Creating a case brief allows you to take the information you learned when you read the case and then work with it to use your own words to explain what happened and why. In this chapter, we cover what you are supposed to include in a case brief, why it is important, and how to prepare each section.

To Include:

1. **Case name**
   1. Importance: Identifies the parties and is how you, your professor, and others will refer to this case
   2. Preparation: Write the case name exactly as it appears in the text that you are reading, even if not all parties are in the case name. If there is an et al. included, then write that. While this may not result in perfect Bluebook format, a correct case name is part of creating a correct legal citation, and you can start practicing now by observing how case names are written and then writing down what you observe.
2. **Case citation**
   1. Importance: Unique set of numbers and letters that is assigned to that particular case that acts like a case’s barcode
   2. Preparation: Write the citation exactly as it appears in the text that you are reading. Make sure you properly place the periods, the spacing between characters, the underlining or italics, the commas, and the parentheses. Again, you are practicing how to form correct legal citations by observing the proper format and then copying down the format.
3. **Legal issue(s)/question(s)**
   1. Importance: What the legal dispute is about; why you are reading this case.
   2. Preparation: Write each legal issue in your own words for your brief. Do not copy directly from the textbook. Try to use 75 words or less. Drafting the legal issue that you identify in your case reading is excellent practice for how to draft your Question Presented/Issue Presented for memos and briefs. A case can have more than one legal issue. Often the cases in your textbooks have been edited to address just one issue. However, if there are multiple legal issues in a case that you are reading, then you should divide each issue out to address separately.
4. **Rule statement/ Rule of law**
   1. Importance: The legal rule, either from a statute, case, regulation, or some combination, that the court will use to address the legal question.
   2. Preparation: Quote the rule statement from the case directly and include the page number on which you found the language. There will be a separate rule statement for each legal issue, so if you have multiple issues, be sure to find a rule for each. Breaking down and putting together rule statements are skills that we spend a lot of time practicing in this class. Taking the time to identify the rules in your readings and noticing how they break down will assist you in writing your assignments for legal writing.
5. **Court’s reasoning**
   1. Importance: What steps the court used to decide how to answer the legal issue/question
   2. Write down the court’s reasoning in your own words. If you absolutely must quote part of the reasoning, then do so, but be sure you indicate where in the opinion you found it. Because reasoning often involves multiple steps before reaching an answer, be sure to clearly label the steps of the process the court took. Using an outline or list format for this portion can be easier to read.
6. **Court’s holding**
   1. Importance: The court’s answer to the legal issue using the facts of this particular situation
   2. Preparation: Write down the court’s holding in your own words. If you absolutely must quote part of the reasoning, then do so, but be sure you indicate where in the opinion you found it. Try to use 75 words or less. Drafting the legal issue that you identify in your case reading is excellent practice for how to draft your Brief Answer for memos. A case can have more than one holding. Often the cases in your textbooks have been edited to address just one issue and thus only has one holding. However, if there are multiple legal issues in a case that you are reading, then you should divide each issue out to address separately and should write out a separate holding for each issue.
7. **Relevant facts**
   1. Importance: The facts that the court used to formulate its holding, meaning how it answered the legal issue through its reasoning
   2. Preparation: Write down these facts in your own words. I include the facts here because you often will not know which facts were relevant until you have identified the legal issue, the reasoning, and the holding. Using an outline or list format for this portion can be easier to read.
8. **Procedural history**
   1. Importance: The different steps the controversy has taken as it moves through the legal system
   2. Preparation: Write the history in your own words. Using an outline or list format for this portion can be easier to read.
9. **Disposition**
   1. Importance: What happens with the case after this judicial opinion?
   2. Preparation: Write the disposition as concisely as possible. Often, you can write new “affirmed” or “reversed.”

I recommend you write a lot of the brief in your own words rather than copying directly from the case. By working with and synthesizing the material you have read to come up with your own way of saying things, you benefit yourself in three ways. First, you remain an engaged learner by using active studying metacognitive strategies while you read your case. Second, when you get called on in class, it is easier to answer the professor’s questions when you do not have to parse through someone else’s words. Third, your case brief will serve as a more helpful tool when you create your outlines and when you are linking this case to other material you learn in the course.

As you get to know your professors, you might see that each chooses to focus on different aspects of cases. Adapt your case briefing to suit the type of questioning and reasoning your professor uses for that class. Chances are, if the professor repeatedly emphasizes a certain part of a case or a way to consider a case, that will be a skill that will be tested on your final exam.

# Conclusion

By thoughtfully categorizing the different parts of a case into case briefs, you are building strength in being able to locate the different components you will want to use for your legal analysis.

# For Further Reading

Nancy Schultz & Louis J. Sirico, Legal Writing and Other Lawyering Skills 23-35 (3d ed. 1998).

John C. Dernbach et. al., Practical Guide to Legal Writing and Legal Methods 23-41 (4th ed. 2010).

Gertrude Block, Effective Legal Writing 1-12 (5th ed. 1999).

Deborah A. Schmedemann & Christina L. Kunz, Synthesis: Legal Reading, Reasoning, and Communication 38-44 (5th ed. 2017).