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How to Brief a Court Opinion (Case Briefing)

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Note: The following paragraphs were adapted from pages 344 to 352 of the above-referenced textbook.

…. There are almost as many different briefing styles as there are attorneys and paralegals writing briefs. Everyone develops his or her own favorite method for summarizing a court opinion. Therefore, if you are not writing a brief just for yourself, you should always ask the person for whom you are writing the brief about his or her preferred method.

…The case briefing method we will be using in this chapter breaks the case down into the following elements: 1. Case citation, 2. Facts--both procedural and substantive, 3. Rule, 4. Issue, 5. Holding, 6. Reasoning. … After you read the opinion once, put the case citation at the top of your paper, and list the next six items on the left side of the paper, leaving enough room opposite each for the appropriate information. Reread the opinion and fill in the various items.

Although you list the items in a specific order, you may find yourself filling them in out of order. That is fine. Case briefing is a circuitous process. You will often rewrite one part of your brief as your understanding of that part changes based on your work on the other parts. As with any type of writing, thinking and writing are intertwined.

A. Case citation: 1. The name of the case. 2. The court that decided it. 3. Where the reader can locate it, and 4. The year of the decision.

Jones v. Smith, 440 Mass. 99, 548 N.E.2d 50 (1990): This case was between Jim Jones and Sam Smith. The Massachusetts Supreme Judicial Court decided the case in 1990. You can find it on page 99 of volume 440 of the Massachusetts Reports. You can also find it on page 50 of volume 548 of the North Eastern Reporter, Second Series.

B. Facts: Substantive facts deal with what happened to the parties before the litigation began; why are they suing each other? These are the facts that caused the lawsuit. Be sure to state the relevant facts in your own words rather than copying them directly from the opinion.

C. Procedural Facts: Be sure to include what happened in the lower court or courts.

D. Rule: The rule is a general legal principle in existence before the case began.

E. Issue: The issue has two components: first the rule of law that the court used to resolve the current dispute and, second, the specific facts of the case to which the rule of law is being applied. In one sentence you want to let your reader know exactly why the parties are in court. Use the following formula:

Whether the defendant is [guilty of or liable for]
(name the general area of law involved--e.g. battery or murder),

Which requires that
(give the specific part of the rule at issue--e.g., intended contact or willful intent)

When
(give the specific facts -- e.g., the defendant accidentally bumped into the plaintiff).

Keep in mind that this is just a model. There are times when you will need to vary the pattern.

Example: Whether the defendant is liable for battery, which requires that there be an intentional, offensive contact to a person’s body, when the sixteen-year-old defendant did not touch the blind plaintiff but did
knock his cane from his hand.

E. **Holding:** The holding is the court’s answer to the issue. The holding is the new version of the rule, a rule that future courts will look to for assistance in deciding similar cases.

Example: Yes, the defendant should be liable for battery, which requires that there be an intentional, offensive contact to a person’s body, when the sixteen-year-old defendant did not touch the blind plaintiff but did knock his cane from his hand.

F. **Reasoning:** This is an explanation of why the court ruled as it did, stated in your own words. The court’s reasoning gives you your best clue as to how the court may act in the future in a different but similar situation.

Pinpoint as far as is possible the explicit and implicit reasons that the court gave to justify its holding. But do not quote the court’s exact language unless the precise phrasing is critical.