



## How to Brief a Case

When you brief a case, you separate the components of a judicial opinion. By engaging in this exercise, you enhance your understanding of the case itself, how the case relates to the law that was established previously, and how the case may influence the law that will come later.

Before you brief a case, read the entire case at least once to get an idea of the general issues and significant facts. At this time, you can think in terms of who, what, when, where, why, and how.

Preferences vary regarding the content and format of case briefs, as you will see in the sample briefs included in your materials. However, the following sections and content often appear in case briefs, and I recommend that you use this guide when briefing cases.

Note that the items listed under each section of this detailed outline are intended to guide you as you write your brief. You should not break down each section of your brief into sub-sections corresponding to the outline provided here, and you should not write your brief as a series of answers to the questions in this handout. Instead, your brief should sound more like a narrative. Quote directly from the case only when absolutely necessary; using your own words is best.

### 1. Heading

- Case Name (who are the parties?)
- Court (where was the case heard and decided?)
- Date of Decision (when was the case decided?)
- Author of Opinion (who wrote the decision?)

### 2. Facts

- Who are the parties? How are the parties related to each other?
- What happened between the parties that led to this case? What did one party do that the other party did not like? What is the problem that one party wants the court to address?
- What right does one party believe was violated? What relief has one party demanded? What defenses have been offered?

### 3. Procedural History

- Has the case already been heard by a lower court? If yes, in whose favor did the lower court decide, and who appealed the lower court's decision?
- In a few words, why did the lower court come to the conclusion that it reached?

### 4. Judgment

- This is the court's final decision on a case, often stated at the very end of the judicial opinion.
- If you are reading a judicial opinion from an appellate (reviewing) court, then the judgment is stated as affirming, reversing, or remanding the case to the lower court. Therefore, this section of your brief might only be one short sentence.

### 5. Holding

- This is the court's legal conclusion, stated broadly enough to make the case applicable to legal analysis in the future, but also narrowly enough to make the holding specific to the particular case.

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## 6. Reasoning

- Most of your brief should consist of a summary of the reasoning used by the court to reach the conclusion in the case. In this section, describe how the court applied general legal rules and principles to the facts of the specific case.
- Where does the law applied in the case come from? It might come from statutes, regulations, or other cases (common law).
- Does the court apply a particular test in the case that you read? If yes, state the test in your brief and also indicate where the court found this test and why the court believed it was appropriate to apply this test.
- How did the court analyze the issues presented by the parties?
- Did the court need to weigh conflicting rights or interests? How did the court decide which rights or interests outweighed other rights or interests?
- Did the court consider arguments beyond legal rules and principles, such as the policy implications of the court's decision, societal trends, etc.?

## 7. Concurring/Dissenting Opinions

- This section of your brief is required only where there are concurring/dissenting opinions in the case that you read.
- Judges on a court don't always agree with each other! A **dissenting opinion** is a judicial opinion written by a judge who refuses to join the majority opinion because he/she does not agree with the outcome of the case.
  - It is important to read dissenting opinions, because the judge authoring this opinion often provides strong counter-arguments that may be useful to a lawyer arguing a similar case in the future.
  - In your brief, indicate which judge(s) disagreed with the majority opinion and summarize the reason(s) for disagreement.
- Sometimes a judge agrees with the outcome of a case but does not agree with the reasoning used to arrive at that conclusion. Alternatively, a judge might agree with the outcome of a case and the reasoning used, but he/she might have additional reasons for arriving at that conclusion. A **concurring opinion** is a judicial opinion written by a judge who has joined the majority opinion but still has something else to say.
  - In your brief, indicate which judge(s) wrote (a) concurring opinion(s) and summarize the reason(s) why.

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## 8. OPTIONAL: Your Thoughts and Observations

- Include a sentence or two at the end of your brief describing what surprised, confused, or intrigued you about the case that you read.