

A Student's Guide to Case Briefing¹

Case briefing is a tool that law students use to prepare for classes, course outlines, exams, and eventual law practice. It is especially helpful for students in classes using the Socratic or “case method” of teaching.

The Case Method: In first-year law courses, professors typically do not teach by lecturing students about the law in a particular subject area. Instead, they engage students in discussion by asking detailed questions about the assigned reading. The questions are designed to guide students toward increasingly critical reading and analytical skills, as well as greater understanding of the material.

Although it can be stressful to have a professor call on you to “recite” information about a case, the case method of teaching encourages more thorough class preparation and develops oral presentation skills as well. Lawyers have to be able to teach themselves about new areas of law, as well as to respond to tough questions from judges and supervising attorneys. You will learn those skills by practicing them first in your classes and then in other law school contexts.

Case Briefing: Briefing is a way of preparing for courses that use the case method of teaching; “briefing” means isolating the significant elements of a judicial opinion and preparing a short written summary of that information.

Preparing these written summaries serves several purposes. First, briefing requires you to read cases actively and critically. To brief a case, you have to read the court's opinion very carefully and decide which information is important to the result and which is not. To be useful, case briefs should contain *enough* information, but not *too much*. Deciding which information—and how much detail—to include is difficult and time-consuming at first, but that process begins to develop important skills and judgment.

Second, briefing will help you to prepare for your professor's questions in class. After briefing a case, you will understand and remember the material better, and you will have your own written summary of the case at hand.

¹ This guide summarizes some commonly accepted ideas and suggestions relating to case briefing. Individual professors may have different preferences relating to case briefing, and you should follow your professors' instructions if they vary from this guide. Many legal research and writing texts contain further information on case briefing. You may review a number of these texts in the law school's Legal Research & Writing program office, suite 4373.

Although you shouldn't read from your case brief to answer a professor's question, having the brief available can provide a quick reference if necessary.

Your professor's questions will probe your understanding of the case in itself and also may explore what potential significance the case will have as guidance for future courts. Under the doctrine of *stare decisis*, courts rely on previous decisions to decide new cases. An important part of a lawyer's job is to predict how a court will use previous cases to decide new ones, and a key aspect of case analysis and briefing is to predict when a case will supply the rule for future disputes. This will depend on whether the new case is similar to the previous one in ways that were important to the outcome.

Third, case briefs serve as the raw material for compiling a course outline, which, in turn, is an important step in preparing for a law school exam. Case analysis requires that you be able to: (1) understand the internal workings of a case, (2) compare a case to a new situation with similar facts to decide whether the previous case will supply the rule for the new case, (3) synthesize multiple cases to derive a unified, coherent, and potentially complex set of rules in an area of law, and (4) apply the synthesized rules to new facts to predict an outcome. Although case briefing mainly focuses on step (1), it is the starting point for the other analytical steps as well.

Case briefs thus serve as an important learning tool. Your professors will expect you to brief cases to prepare for class, but generally they will not require that you turn in those briefs.

The Sections of a Case Brief: Although there is some variation in how students (and lawyers) prepare case briefs, the following sections are typical. These sections relate to each other, and you should evaluate those connections after you identify information for the separate sections.

Case Citation: A citation is a short reference to a legal source. You will learn proper citation format later in the year, but for case briefing, you should include the following: (1) the name of the case (typically the last names of the opposing parties, e.g., *Smith v. Jones*), (2) basic publication information, including the case reporter volume, the reporter abbreviation, and the first page number of the opinion (e.g., 889 N.E.2d 141), (3) the court that decided the case (e.g., Ohio App.), and (4) the year of the decision. You don't have to memorize the citation of a case, but it is a good habit to write down citations for easy reference to your sources.

The citation itself can give you some initial information about the context of the case. For example, the court's name usually will tell you whether it is a federal or state court. The official name of a federal court will

start with "United States." The court's name can also tell you its position in the legal system. To find the court's level (e.g., trial, intermediate appeals, or high court), you can check Table T-1 of *The Bluebook, A Uniform System of Citation* for a quick overview of the federal and state court systems.

Procedural History: Include who sued whom, asserting what legal claim or theory. Note the significant procedural events in the lower court(s), and give the result of the lawsuit and any appeals.

Facts: Focus on the key facts that actually affected the outcome of the case. Decide which facts the court seemed to emphasize or rely upon in reaching its decision. These could include, for example, events in the case, characteristics of the parties, or even procedural aspects of the dispute. It is usually easier to identify which facts are important after you have read the entire opinion, rather than as you go along.

If a fact was important to the result, that fact will be important in future cases as well. Thus, isolating the key facts will help you judge the reach of the decision for future cases. If certain facts trigger certain legal rules or consequences, then the presence of those facts in future cases should help you predict how the new court will rule. Additionally, for law school exams that consist of hypothetical fact situations, you must know which facts implicate the different rules you learned during the semester.

Be specific enough in summarizing the key facts to remind yourself later of the case details, but don't put so much minutiae in your case brief that you lose perspective of what was important. Courts often include extraneous details that help place the dispute in a larger context or that may otherwise be interesting or unusual, but not all those facts will be important to the decision.

Issue: Identify the specific legal question that was before the court. Because most published opinions are appellate court decisions, the issue will address an error in the lower court's decision.

Usually, the court will identify the issue it is considering. Be careful, however, to test the court's version of the issue against the rest of the opinion. It may be more helpful for your purposes to frame the issue more narrowly, broadly, or specifically than the court articulated it. If the court addressed more than one issue, brief each separately.

Your issue should strike a balance between being overly general and overly specific. Some writers suggest that the issue is basically the holding in

question form, and identifying the holding first may make it easier for you to write an issue statement.²

Holding: The holding should state the result of the dispute, but it also should express what the case adds to the existing body of law in the area.³ Courts are supposed to publish only those decisions that add something new to the existing body of law or that apply existing rules to new or noteworthy facts. Be sure to note the new “rule of the case.”

Again, it may be difficult to decide how broadly or how narrowly to phrase the holding. Framing the holding in very general language may overstate the case’s significance, because the new rule will seem to apply to many situations. Framing the holding in overly fact-specific language may understate its future significance, because it will seem to apply only to cases with identical or very similar facts.

Reasoning: Summarize how and why the court reached its decision. Include how the court interpreted any pre-existing rules and how the court applied those rules to key facts of the case. Additionally, if the court relied explicitly or implicitly on policy considerations (e.g., policies underlying the existing rules, the more general area of law, or even larger social values), summarize that information as well.

Keep the purposes of case briefing clearly in mind as you write this section. Be deliberate in describing those aspects of the court's reasoning that will help you to know, even three months after you first read the case, whether the same reasoning and underlying policy considerations would apply to a new set of facts. Ask yourself how different the facts could be for the same reasoning still to be valid in a new case.

Any discussion of law that is not necessary to the outcome of the dispute between the parties is "dicta" and is not part of the rule of a case. Additionally, if the case includes any concurring or dissenting opinions, make a note of those, but be sure to separate them in your brief (and understanding) of the case.

² See, e.g., John C. Dernbach, et al., *A Practical Guide to Legal Writing & Legal Method* 22-24 (3d ed. 2007); Richard K. Neumann, Jr., *Legal Reasoning and Legal Writing, Structure, Strategy, and Style* 39-41 (6th ed. 2009); Mary Barnard Ray & Jill J. Ramsfield, *Legal Writing: Getting it Right and Getting it Written* 202-05 (5th ed. 2010).

³ Some students prefer to separate the Holding (the result in the particular case) from the Rule of the Case (the new rule that the case established) in their briefs.