

## 4: Introduction to Case Briefing

In the next several chapters, you will learn about case briefing. Unfortunately, this term can be confusing. As you probably know from your other legal studies classes, sometimes lawyers file “briefs” with trial courts or appellate courts. These briefs present legal arguments about one or more issues. In contrast, **case briefing** is a tool to help you perform in-depth micro-synthesis on a single case that you have retrieved as a result of your legal research. We used to dissect frogs in high school biology class to see what was inside; with case briefing, you are dissecting a court decision to see what’s inside.

### *Benefits of Case Briefing*

Case briefing is a good way to “divide and conquer” a case to discover its true meaning and applicability. Instead of trying to figure this out after reading through a 50-page decision, case briefing requires you to look at each component of the decision separately. The result is a detailed “roadmap” of the legal analysis used by the court to answer the legal questions involved in the case before it. Understanding the court’s analytical process is an important part of understanding the legal significance of the decision.

### *How to Read a Case*

Before you can effectively brief a case, you’ll need to read it. Sounds simple, right? It is simple once you understand the different parts of a court decision and how they relate to one another.

An essential part of reading cases is breaking down a case into its pieces. By dissecting cases and understanding their parts, you will be equipped to create rules, analogize and distinguish cases, and predict and advocate for outcomes in factual scenarios. You will also detect patterns in judicial reasoning and see legal theory put into practice.

When you read a case, you should read with the goal of pulling information from the text. Ask yourself as you read what facts are relevant, what legal arguments are made, and how the facts and the legal arguments fit together. Determine what reasoning the court uses to reach its conclusion and see how the relevant facts and legal arguments fit into that reasoning. If you read passively, just scanning your eyes across the page and failing to engage with what you are reading, then you are wasting your time.

Below are definitions of the parts of a case to help you locate different pieces and to understand each component’s role. They are listed in the order in which you will typically encounter each one while reading an opinion. Be forewarned, however, that there is never a guarantee that each piece will be found in the same place every time. Judicial writing can, at times, leave a lot to be desired in terms of structure.

**Caption:** Also known as the header; tells you who the parties are in the case, which court the opinion comes from, the date the opinion was issued, and what the case citation is.

**Citation:** A citation is a unique set of numbers and letters that is assigned to that particular case. Think of it like a barcode. A citation for a case typically comes in this format: ### XXX ####. Back when you had to look up cases in bound book volumes, the XXX would tell you which reporter to look for the case in, and the numbers told you what volume of the case would be and page number the case would be. For instance, if a case citation was 123 S.E.2d 456, then that would mean you should look for the case in the 123rd volume of the second series of the Southeastern Reporter on page 456.

**Facts, Substantive:** Facts that the court has decided are relevant or material to its decision-making process. These facts usually include who the parties are, their relationship to each other, and facts that show what the legal dispute is about. A good, quick way to decide if a fact is relevant is to see if it answers part of the issue presented in some way. If the case is about whether there was a signed agreement, then facts surrounding a written document and signatures on the paper will likely be legally significant. Whether the ink used to sign was pink will likely not be legally significant.

**Facts, procedural:** Facts surrounding how the legal dispute got from its start to where it is now. These facts usually include when the harm occurred, when the lawsuit was filed, and what type of proceedings occurred before the court heard the case.

**Issue:** What the legal dispute is about. The issue may be presented in question form asking about what the outcome is when the legal rule is applied to the material facts. Identifying the issue makes following the legal arguments, reasoning, and holding easier because you will see what question the court has decided it needs to answer.

**Rule Statement/Rule of Law:** The legal rule, either from a statute, case, regulation, or some combination, that the court will use to address the legal question.

**Standard of Review:** This will tell you how much deference the appellate court must give the lower court’s decision.

**Reasoning:** Also called rationale. The reasoning usually makes up the bulk of the opinion and is where the court “shows its work,” or explains what sources of law and policy it used to reach the answer to the legal issue. In its reasoning, a court can use statutes, case law, other primary authorities, other secondary authorities, or public policy to support its thought process. If a court is going to rely on precedent or *stare decisis*, a court will show the precedent on which it is relying and explain why.

**Holding:** Outcome of the case when the legal rule is applied to the facts of the case. This outcome can serve as precedent in future cases. While this sounds simple, sometimes locating what the court has held can be challenging. “A holding consists of those propositions along the chosen decisions path or paths of reasoning that (1) are actually decided, (2) are based upon the facts of the case, and (3) lead to the judgment. If not a holding, a proposition stated in a case counts as dicta.” Michael Abramowicz and Maxwell Stearns, *Defining Dicta*, 57 Stan. L. Rev. 953, 1065 (March 2005).

**Disposition:** The procedural outcome of the case. Cases can be **affirmed** (higher court says lower court got it right), **reversed** (higher court says lower court got it wrong and higher court is replacing lower court’s judgment with its own), **vacated** (judgment of the lower court is voided but not replaced with higher court’s judgment), or **remanded** (higher court sends the case back to the lower court to make a new decision in light of higher court’s decision). A case that is vacated will usually also be remanded. Cases can be **affirmed in part and reversed in part** (higher court says lower court got part of it right and part of it wrong).

**Opinion, majority:** Opinion that states the outcome that is controlling in the case. The holding in this case is the one that determines the legal dispute and that can be used as precedent in the future.

**Opinion, concurring:** Opinion in which the author agrees with the holding of the case but not with the reasoning that the majority used. If a casebook includes a concurring opinion, read it carefully because it is likely presenting a nuance in the law that your professor will want to discuss

**Opinion, dissenting:** Opinion in which the author does not agree with the holding of the case and wants to explain why the majority is wrong. If a casebook includes a dissenting opinion, read it carefully because it is likely presenting a counterpoint to the holding in the majority opinion that your professor will want to discuss.

**Footnotes or Endnotes:** Case citations or substantive comments that the author did not place in the main body of the opinion but that relate to the portion of the case where the footnote or endnote is flagged. You should always read the footnotes. If the author felt strongly enough about what is in the footnote to take the time to format the document to add the footnote, it is important. Further, when you see a footnote or endnote included for a case in one of your textbooks, you absolutely should read the footnote or endnote, because not only did the author of the opinion include it, but the textbook author also independently decided it was important

By practicing categorizing the different parts of a case as you read, you will be preparing yourself to brief cases and also how to locate the different components you will want to use for your legal analysis.

[Practice your skills by clicking here and reading the \*Miller v. Thomack\* decision from the Wisconsin Court of Appeals.](#)

## Anatomy of a Case Brief

You’ll notice quite a few similarities between the sections of a case brief and the parts of a court decision. Though the definitions are similar, what you do with the information is slightly different. Case briefing allows you to put the information you learned while reading the court decision into your own words to explain what happened and why.

If you Google “how to write a case brief” (don’t do it!) you’ll end up with a lot of different methods, structures and components. Each professor or lawyer has his/her own preferred way of writing a case brief. For this class, we will use a simplified format designed to help you understand what happened to the case procedurally, the legal issues the court addressed, the facts of the case, the legal rule(s) of the case, and the reasoning the court used to arrive at the legal rule(s).

The case briefing structure we will use in this class has 8 sections:

1. Complete citation of the case being briefed
2. Procedural history
3. Applicable statutes
4. Issues
5. Holdings
6. Facts

7. Reasoning
8. Disposition

Following is a brief (😊 did you get the pun?) description of each section.

### Complete Citation

The complete and proper citation for the case goes at the top of your brief. It will include the name of the case (*italicized*), followed by a citation of all the reporters in which the case is found. In Wisconsin, this would always include the Wisconsin Reports (Wis. or Wis. 2d) and the Northwestern Reporter (N.W. or N.W.2d). Depending on when the case was decided, you'd also have either a public domain citation or a date parenthetical. If you're unsure of the proper citation form, use your *Bluebook*.

### Procedural History

**The procedural history** tells us what the courts have done with the case so far. It should include only facts regarding court action, not substantive facts of the case. Who are the plaintiff and defendant? Who is appealing and why – what did the lower court(s) do that resulted in a loss for the appellant? This section will include very little, if any, of the “story” or “substantive” facts of the case; only procedure is included.

### Applicable Statute(s)

This section tells us which statute(s) if any, the court interpreted or applied in its decision. Usually, it is quite easy to determine which statute(s) to include in this section, because the court tells you in its decision. If the statute is well-written, directly quote it using quotation marks. Include only the words of the statute, and not a statement of how the court interpreted or applied it.

### Issue(s)

Here we explain the legal questions the court is answering in its decision. What is the legal dispute about? The issue is a combination of the legal standard being interpreted and applied (for example, the statutory language) and the legally significant facts of the case (the facts or circumstances to which the statutory language or other legal standard is being applied). The best way to write it is as a question.

### Holding(s)

In this simplified case briefing structure, the holdings are the direct answer to the questions raised in the issues. No additional explanation is provided. All you need to do is answer the question (“yes” or “no”) and then copy and paste your issue question, revising the grammar and punctuation of your issue question into a statement, using the same words in roughly the same order.

### Facts

This is the place to tell the story of the case. All court decisions are based on a certain set of facts. Although appellate courts do not review issues of fact, the facts provide a context for the legal questions. The facts tell us what happened to the persons involved in the appeal – the Who, What, When, Where, Why, and How that are the basis of the parties’ legal dispute. Like the applicable statute(s), the facts are usually quite easy to find because courts often have a “facts” section in the decision.

### Reasoning

This is the longest and most important section of the case brief. While the issue and holding sections tell you what the law is, the reasoning section tells you why the law is what it is. How did the court interpret and apply the legal standard(s) to the facts? What tools (dictionaries, other case law, etc.) did the court use to help it interpret and apply those legal standards? How did the court explain or justify the end result? This section combines the applicable statutes, issues, facts, and holdings into a detailed discussion of the court’s legal and factual analysis.

### Disposition

This section describes the procedural “ending” or resolution of the case. It tells us what the court whose decision we are reading did with the case. Did the court affirm or reverse what happened procedurally in the lower court? In addition to stating whether the reviewing court affirmed or reversed the lower court, it also briefly explains the impact on the parties (for example, the claim was dismissed, or the claim was reinstated). Like the Procedural History section, this section will include very little, if any, of the “story” or “substantive” facts of the case; only procedure is included.

## Case Briefing Tips

Case briefing is one of those tools that “you get out of it what you put into it.” The more time you spend on the case brief, and the more detail you provide, the easier it will be to use it for macro-synthesis and for writing your legal research memorandum. Here are some tips for effective case briefing:

- Read through the entire court decision at least once before starting your case brief
- During your second (and subsequent) read-through, use highlighters to mark the parts of the court decision that will go into the different sections of your case brief. Develop a system of consistently using different colors for each section (for example, yellow for procedure, green for facts, etc.)
- Use your own words when writing your case brief. Copying and pasting from the court decision may seem quick and easy, but it defeats the purposes of writing the case brief in the first place. Using your own words benefits you by
  - Keeping you actively engaged in the process of synthesizing the decision
  - Enhancing your understanding of the decision
- Be detailed rather than summarizing, especially when it comes to the Facts and Reasoning sections. Including lots of details benefits you by
  - Making it easier for you compare what happened in the decision to the client’s facts and legal questions
  - Making macro-synthesis becomes much easier because it’s easier to see the differences (or similarities) in facts, rules (holdings), and reasoning between several cases relating to a single legal issue.

In the next several chapters, you’ll learn how to draft each section of a case brief.

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