

8: Case Briefing - Put it all Together

Now that you've learned how to draft each of the case brief components separately, it's time to put the components together in the correct order. After that you'll want to carefully review and revise your case brief. This chapter contains some suggested steps and, at the end, a checklist for completing this process.

Step 1: Write the complete citation of the decision you are briefing.

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*.

Step 2: Put the case brief components in the correct order.

Remember, this is the case briefing structure we use in this class. Components 2-8 are labeled within the brief.

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

Step 3: Check the case brief components for accuracy and completeness.

Revision is an important part of excellent legal writing. Re-read the court decision first. Then, review each component of your brief to make sure what you wrote in your brief accurately reflects the reviewing court's decision. Some *common errors to avoid in each component*:

- **Procedural History**

- ⊗ failing to adequately identify the parties involved in the appeal with unique names and with their party designations (plaintiff, defendant, appellant, respondent, petitioner).
- ⊗ failing to describe the procedural action that is being appealed (motion granted, motion denied, judgment entered, etc.).
- ⊗ including what the reviewing court did in its decision.

- **Applicable Statute(s)**

- ⊗ writing the reviewing court's interpretation of the statute(s) rather than the actual statutory language.
- ⊗ failing to use quotation marks when copying/pasting the actual statutory language.
- ⊗ failing to include all statutes related to the legal standard identified in your Issue section.
- ⊗ failing to include the complete citation of the statute(s).

- **Issue(s)**

- ⊗ writing the legal standard too broadly (is someone liable, guilty, responsible, etc.) rather than focusing on the word or phrase being interpreted and applied.
- ⊗ failing to include a list of legally significant facts related to the legal standard.
- ⊗ including facts in the Issue section that are not also included in the Facts section.

- **Holding(s)**

- ⊗ failing to start with yes/no (based on how the reviewing court answered the question in its decision).
- ⊗ inaccurately answering the issue(s) yes/no (based on how the reviewing court answered the question in its decision).

☹ adding explanations or other information to your holding(s) not contained in your issue(s).

- **Facts**

☹ omitting legally significant facts, especially when they weren't included in the reviewing court's "background" or "facts" section of its decision.

☹ omitting contextual facts that help the reader understand what happened to the parties involved in the appeal – especially facts that are similar to your client's facts.

☹ including procedural information (for example, what the trial court did with the case).

☹ including legal conclusions (don't answer the question in the legal standard or make a statement that the legal standard's requirements were met or not met).

☹ including the parties' legal arguments.

- **Reasoning**

☹ failing to include the statutory language that forms the basis of the legal standard.

☹ failing to fully explain the interpretation tools used by the reviewing court.

☹ failing to expressly state the reviewing court's interpretation/definition of the word or phrases in the legal standard.

☹ failing to describe in detail the legally significant facts to which the reviewing court applied the legal standard.

☹ including facts in the Reasoning section that are not also included in the Facts section.

☹ failing to include a conclusion at the end of the reasoning section.

Step 4: Check the case brief components for internal consistency.

After making any necessary revisions in Step 3, you want to make sure your brief is internally consistent structurally, grammatically, and substantively. Some items to check:

- Do you have the same number of Issues, Holdings, and Reasoning sections?
- Is there a one-for-one correlation between each Issue, Holding, and Reasoning Section (that is, do Issue 1, Holding 1, and Reasoning 1 all address the same legal standard)?
- Do you use the same numbering system across the Issues, Holdings, and Reasoning sections?
- Are the verb tenses consistent across all Issues, Holdings, and Reasoning sections (past tense or present tense)?
- Are the names/nouns/pronouns consistent across all Issues, Holdings, and Reasoning sections (plural nouns or singular nouns, for example)?
- Do the legal standards at the beginning of each Reasoning section match the Issue to which they relate?
- Do the conclusions at the end of each Reasoning section match the yes/no in the Holding to which they relate?

Step 5: Proofread the entire brief.

Don't let things like improper citation form, errors in writing mechanics (including grammar, punctuation, capitalization), or spelling errors ruin an otherwise great case brief! Run spell-checker – slowly and carefully! Then put the case brief aside for a while (at least an hour); after that, run "dumb-checker" – consider slowly and carefully reading your case brief out loud.

Briefing cases might not come easily to you at first. That's OK! Your comfort level with the skills involved in briefing a case will increase the more you practice them.

[Click here to see the completed *Miller v. Thomack* case brief.](#)

CHECKLIST FOR DRAFTING THE CASE BRIEF

Use the checklist below to help you write your case brief. Or use access the interactive version. ▯ [Checklist for Drafting The Case Brief.docx](#)

Citation of case:

PROCEDURAL HISTORY:

Court that decided the case:	<input type="checkbox"/> WI Court of Appeals	<input type="checkbox"/> WI Supreme Court
Name of Appellant		N/A
Name of Respondent		
Name of Person who Petitioned Supreme Court for Review	N/A	

What was appealed from?

☐ Trial Court Order granting:

☐ Trial Court Order denying:

☐ Judgment in favor of:

What was the result of the Trial Court's action on the case (dismiss complaint, refuse to dismiss, someone is held liable or not liable, etc.):

If this case is in the Supreme Court, did the Appellate Court: ☐ Affirm ☐ Reverse the Trial Court

DISPOSITION:

The reviewing court (Court that decided the case): (See what you checked in Procedural History, above)	<input type="checkbox"/> WI Court of Appeals	<input type="checkbox"/> WI Supreme Court
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Did the reviewing court: ☐ Affirm ☐ Reverse the Trial Court?

What was the result of the Trial Court's action on the case (dismiss complaint, refuse to dismiss, someone is held liable or not liable, etc.):

APPLICABLE STATUTE(S):

Citation of Statute(s)	Words/Phrases being interpreted/applied (or entire statute, with emphasis on words being interpreted/applied)

☐ Make sure you only have the words of the statute(s) in this section. Don't include any of the Court's interpretation or any facts here.

FACTS:

- ☐ Check the “background or “Facts” section of the Court decision
- ☐ Read through the rest of the Court decision, to see if there are more facts mentioned, or certain facts repeated
- ☐ Double-check your facts:
 - ☐ Do you have enough facts so you can make a comparison to the client’s facts?
 - ☐ Do you have any facts that aren’t relevant to the specific parts of the statute being interpreted? If so, consider taking them out

ISSUE(S):

Narrow Legal Standard from Statute – use the words/phrases you listed above	Case law facts relevant to the legal standard – what behavior or circumstances cause us to wonder whether the statute applies?
1.	
2.	
3.	

- ☐ Double-check your legal standards against the Applicable statutes
- ☐ Double-check the facts you have listed here against your Facts section, above. Do all of the facts you have written here appear in your Facts section?

REASONING:

Reasoning Section #1:

Explain how and why the Court interpreted and applied the statute the way it did, using IRAC Format.

Issue	Legal standard only from Issue #1, above
Conclusion	Answer the question above (Therefore)
Rule	Words of the statute(s) being interpreted and applied in issue #1, above
	Citation of the statute(s) being interpret and applied in issue #1, above
	Is there more than one statute? If so, how are they related? Use a transition sentence or phrase to show this
	Use a transition to introduce the tools the Court used in its Decision to interpret the statute Discuss the tools the Court used in its Decision <input type="checkbox"/> Dictionary? <input type="checkbox"/> Other related statutes? <input type="checkbox"/> Secondary sources (such as Restatement of the law)? <input type="checkbox"/> Other case law interpreting this statute or similar statutes?

Application	<p>Case law facts the Court used when it applied the statute that it interpreted</p> <p>___ Do all of the facts you have written here appear in your Facts section, above?</p> <p>___ Do you have enough facts here to help you compare the case to our client in your analysis section, below?</p>
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Reasoning Section #2:

Explain how and why the Court interpreted and applied the statute the way it did, using IRAC Format.

Issue	Legal standard only from Issue #2, above
Conclusion	Answer the question above (Therefore)
Rule	Words of the statute(s) being interpreted and applied in issue #2, above
	Citation of the statute(s) being interpret and applied in issue #2, above
	Is there more than one statute? If so, how are they related? Use a transition sentence or phrase to show this
	<p>Use a transition to introduce the tools the Court used in its Decision to interpret the statute</p> <p>Discuss the tools the Court used in its Decision</p> <p>___ Dictionary?</p> <p>___ Other related statutes?</p> <p>___ Secondary sources (such as Restatement of the law)?</p> <p>___ Other case law interpreting this statute or similar statutes?</p>
Application	<p>Case law facts the Court used when it applied the statute that it interpreted</p> <p>___ Do all of the facts you have written here appear in your Facts section, above?</p> <p>___ Do you have enough facts here to help you compare the case to our client in your analysis section, below?</p>

Reasoning Section #3:

Explain how and why the Court interpreted and applied the statute the way it did, using IRAC Format.

Issue	Legal standard only from Issue #3, above
Conclusion	Answer the question above (Therefore)
Rule	Words of the statute(s) being interpreted and applied in issue #3, above
	Citation of the statute(s) being interpret and applied in issue #3, above

	Is there more than one statute? If so, how are they related? Use a transition sentence or phrase to show this
	Use a transition to introduce the tools the Court used in its Decision to interpret the statute Discuss the tools the Court used in its Decision ___ Dictionary? ___ Other related statutes? ___ Secondary sources (such as Restatement of the law)? ___ Other case law interpreting this statute or similar statutes?
Application	Case law facts the Court used when it applied the statute that it interpreted ___ Do all of the facts you have written here appear in your Facts section, above? ___ Do you have enough facts here to help you compare the case to our client in your analysis section, below?

Check your entire Reasoning section:

___ Does the content of each the reasoning section match up with the content of your issues (1 matches 1, 2 matches 2, 3 matches 3, etc.)?

Review and revise what you have so far

- ___ Is it complete?
- ___ Does it make sense?
- ___ Is it internally consistent (does everything match up correctly)?

HOLDING(S):

Do not write these until you're finished revising the rest of your brief!

- ___ Copy and paste your issue(s)
- ___ Start with "Yes" or "No" depending on how the Court answered the question
- ___ Make changes to grammar, sentence structure and punctuation as needed to change the question to a statement.

Did you add any words or explanations that are not in your issue? ___ Yes ___ No

If yes, why? ___ I need to revise my issue. ___ My issue is fine, I just couldn't resist adding more (and I will take it out now)

Finalize your case brief!

- ___ Put Case Brief Components in Proper Order
- ___ Run spell-checker (make sure it checks words in all caps)
- ___ Run dumb-checker (carefully proofread everything you've written)
- ___ Is it complete?
- ___ Does it make sense?
- ___ Is it internally consistent (does everything match up correctly)?

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