

## Preparing Briefs for In-Class discussion

### How to brief a case: (Keep this for a guide for future cases)<sup>1</sup>

1. Pinpoint the determinative facts of a case (re: those that make a difference in the outcome).
2. Trace the procedural history (re: what happened in the case [in either or both the trial court and appeals court] before it reached the current court)
3. Formulate the main issue (or issues) of the case in the form of a question, preferably with a yes or no answer. Doing so will help you more clearly state the holding in the next section of the case brief.
4. The holding should directly respond to the question in the "Issue." Begin with "yes" or "no," and then elaborate with "because..." from there. If the opinion in the case says "We hold..." that's the holding. NOTE: Some holdings aren't so easy to pinpoint, so be sure to look for the lines in the opinion that answer your Issue question.
5. Rule of Law: In some cases, this will be clearer than others, but basically you want to identify the principle of law on which the judge or justice is basing the resolution of the case. This is often called "black letter law."
6. Legal Reasoning/Analysis: This is the most important part of your brief as it describes why the court ruled the way it did. Be sure to focus on the how the court applies the facts to the rule to make its decision. So, for example, if the issue is whether the trial court properly used summary judgment, the court will first discuss what summary judgment is and then if it is applicable to the situation presented in the facts of the case.

### Advice from the Prof:

- a. There is **no set length** for our briefs. But, you should always make sure it is complete. If and when you are called upon in class (and you will), a good brief will be a tool to help you answer the questions presented to you in class.
- b. You **should** avoid direct quotes from the case. Instead, your briefs should be written in your own words. In others, paraphrase what is in the case – do not simply copy and paste. By taking the time to do so, you will walk away with a better understanding of the both the rule of law contained within the case and how it can be applied in other circumstances.
- c. When in doubt, **don't be afraid to ask questions**. If there is a part within the case you do not understand, reach out and ask either me or one of your classmates.
- d. **Study groups are okay**, but you should never use someone else's briefs. If called upon, I will quickly be able to identify whether or not you took the time to read and brief the cases independently. The more effort you put into your work (and the mundane stuff), the easier time you will have on the exams.
- e. **And, understand the context**. In other words, make sure you understand why you were presented with the particular case. The reason why it was assigned is somehow related to a legal or procedural concept covered in class and/or in the text. Figuring out "why" I wanted you to read is almost as important and useful as understanding "what" the case was actually about.

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<sup>1</sup> From: <http://lawschool.about.com/od/casebriefs/ht/howtocasebriefs.htm>.