

How to "Brief" a Case

In common law courses the law must be extracted from the decisions of judges. The primary method for extracting the law from a case is to brief the case. A brief is a short abstract of the relevant information in a case. Briefing was developed as a method of separating the relevant from the irrelevant. The emphasis in briefing should be on thinking and analyzing, not on copying. Briefs should not be written transcriptions of the cases. Students tend to go overboard with their early briefs. Since briefs are study aids and nothing more, the student should keep the brief pithy and pointed.

There is no set form for a formal brief. There are several different forms in use. But, there is general agreement on the necessary components that should be included in a formal brief. The following is one recommendation for what information should be included in a formal brief:

1. Case Citation
That name of the case, the place where it is reported, the court, and the date of the opinion.
2. The Relevant Facts of the Case
3. The Procedural History of the Case
The exact procedural route by which the case came to the court of decision.
4. The "Holding" or "Holdings" of the Case
The exact decision of the court including who won.
5. The Court's Reasoning used to Justify the Holding
The reasons presented by the court to justify its result.
6. The Rule or "Ratio Decidendi" of the Case
What rule of law can be extracted from the case and what does this case mean for future courts.

After the cases are read they should be analyzed and formally briefed. Some key questions to answer as the case is read are:

- What are the significant facts of the case?
- Who prevailed against whom?
- Why did the court reach the decision it did?
- What is the Rule of Law of the case?