Don’t Sacrifice “Good Sense to a Syllogism”: Tips for Writing Great Case Briefs

Professor Allen Blair
Where Does Briefing Fit in?

<table>
<thead>
<tr>
<th>Step</th>
</tr>
</thead>
<tbody>
<tr>
<td>You read your cases</td>
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<tr>
<td>You Brief those cases (second and third readings)</td>
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<td>You go to class and discuss those cases, taking notes</td>
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<tr>
<td>You review and revise your notes</td>
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<tr>
<td>You Outline</td>
</tr>
</tbody>
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You Take Your Exam
Third Most Popular Pathetic Reason I Hear For Not Briefing

I’m too busy (or there’s too much to read).
Second Most Popular Pathetic Reason I Hear for Not Briefing

Each Professor wants something different – It’s too hard to please everyone.
Most Popular Pathetic Reason I Hear for Not Briefing

Upper-Class folks don’t do it and neither do practitioners, so why should I.

HAMLINE UNIVERSITY
School of Law
Some Reasons to Brief

1. Active learning
   a. People learn best by participating actively in the learning process.
   b. People learn best by repeating (preview-do-review).
   c. Briefing prepares you to engage actively in class.

2. Learning to read cases

3. Practice writing and identifying relevant legal issues and rules
# Styles for Case Briefs

## Briefing a Case—Orientation Format

1. **Caption**—Case name, court, and date
2. **Procedural posture**—include ultimate resolution of case in opinion being briefed
3. **Facts**
4. **Issue**—include relevant description of the statute or rule in question
5. **Holding**—restate the issue so it includes the answer
6. **Reasoning**—will include references to pre-existing rules as part of describing the step-by-step process used to reach the decision
7. **Rule(s)**—include both pre-existing rules referred to in court’s reasoning and the overall principle(s) arising from the decision that will serve as precedent

## Briefing a Case—Eaglewoman Format

1. **Heading**
2. **Procedural History**—include ultimate resolution of case in opinion being briefed
3. **Key Facts**
4. **Question(s) Presented or Issue(s)**—state simply
5. **Court’s Holding or Decision**
6. **Court’s Reasoning**—include both pre-existing rules referred to in court’s reasoning and the overall principle(s) arising from the decision that will serve as precedent
Tip One: Don’t Get Stuck Following One Prefabricated Format

- Remember, a brief is for you.
  - Briefing is first and foremost a process.
  - Briefs are also devices to help you in class.
    - Give yourself clues.
  - Tailor your briefs to each class.
    - If your torts professor always asks you about policy rationales, then include a specific Policy section in your brief.
Tip Two: Read Cases at Least Three Times Before Class

• Read the first time to give yourself the gist of the case.

• Read the second time while you write your brief.
  – This second reading is your chance to work with the text – to ask questions of the text and seek answers.

• Read the third time to confirm that you briefed the case fully and that you understand the case.
Tip Three: Use Your Own Words

- The best remedy for disambiguating dense text: rewrite it in your own words.

- Copying the words used by a court doesn’t engage you in the process at the heart of briefing.
Tip Four: Revise Your Briefs

• Briefing is, as I’ve repeatedly suggested, a process.
• Your brief shouldn’t stay static.
• Revise it in light of what’s happening in class.
• Revise it after class.
Tip Five: Think About Context

• What class are you in?

• Look at the syllabus and the table of contents – what topics or issues are you discussing?
  – What’s the subject? Is it the same as the subject of the last case, a subset of the same subject, or a brand new subject?

• How does the case relate to the other cases you’ve read?
Ultimately, Remember: Don’t Sacrifice “Good Sense to a Syllogism”
Case Briefing Bottom Lines

• Do you know what happened in the court system before this case?
• Do you understand what question(s) the court was trying to answer?
• Do you understand what facts made a difference in the court’s decision?
• Do you understand the reasoning steps the court followed to decide the answer to each of the questions?
• Do you understand the pre-existing rules the court relied on in reaching its decision?
• Do you understand the new or potentially new rule(s) that result from the court’s decision?