

Case Briefing

Week One

Professor Betsy Malloy

Welcome To Case Briefing

- Helps prepare for class and for finals
- Not appellate brief

Overview

- Case Briefing Defined
- Case Briefing as Legal Analysis
- Components of a Case Brief
- Trying it Out – A-I Williams Library Cases
- Be Sure to Have Available –
 - A-1 Williams Library Cases
 - Case Brief Form

Case Briefing

- Learning the law from cases
- Look at casebooks – Contain lots of cases
- Reading cases is way you the law during your first year

What is a Case Brief

- The art of taking notes on court decisions has been refined over the years into a widely accepted technique, called “briefing”
- Serves as an efficient means of recording notes and as an additional analytical tool
- Term briefing does have several meanings – appellate brief – formal written argument to an appellate court where lawyer argues why court should affirm or reverse a lower court decision

Why Read Cases (Why not list of rules)

- Law is not as clear as you think
 - Example: No Vehicles Permitted in the Park
 - Child on tricycle
 - Person wants to build a statue of a World War I Jeep in the park
 - What makes something a vehicle? Cases decide
 - Common Law composed of a series of laws – court decisions
 - Precedent – later cases will follow – do similar facts follow or not follow

Read the Cases to Learn the Law

- Extract principles
- Understand and analyze the reasons behind the principles
- Consider how the principles would apply to a different set of facts
 - This is what you do for clients in practice
- Requires reading the case carefully, thinking about it, pulling it apart, extrapolating forward from it to new situations
 - Contracts class – sophisticated consumer and company – enter into K, later consumer unhappy about terms, does not want to comply– tries to get out of K – freedom of K bound by agreements that they make
 - Consumer who cannot read or write, English as second language and company enter into K, Consumer unhappy – does freedom of K still apply is there an important difference between the consumer

Creating the Brief - Overview

- First step – Read the case!
- Skim the case to identify the issues and to see who wins
- Read all the way through before you begin to brief, look for the arguments and the reasoning
- Go back and read the case carefully, briefing as you go
- saves you from writing down more than need, more concise brief

Creating the Brief

- When first start briefing – may seem difficult, may not be “brief”
- Briefing will get easier with practice and you will become quicker and more efficient at creating the brief
- No one correct form. Everyone does it a little differently and different subjects emphasize different components, different styles
 - Example: Civil procedure courses will focus on the procedural posture/history of the class and process by which the case came to this point

Why Brief a Case?



- For Your Use: Makes you really think about it - the point is the thought process that you go through – not owning something that looks like a brief
- Prepare for Class: Puts it in writing so that you have it handy in class (helps ward off those deer in headlights” moments – and in your own words (helps you understand it better, internalize)
- Prepare for your Finals: Will help you synthesize what you have learned in an outline, which will help you study for exams (put in more time now so that you save time later when studying for exams)

Date and Court Citation:

The *style* of the case is the name of the case. For example, in the case where George Hawkins sued Edward McGee the case name is . . .

- Hawkins v. McGee
- Note that the case is styled using the *last* name of the party from each side.

Date and Court Citation:

It can be important to know **which** court decided a case and **when** the case was decided.

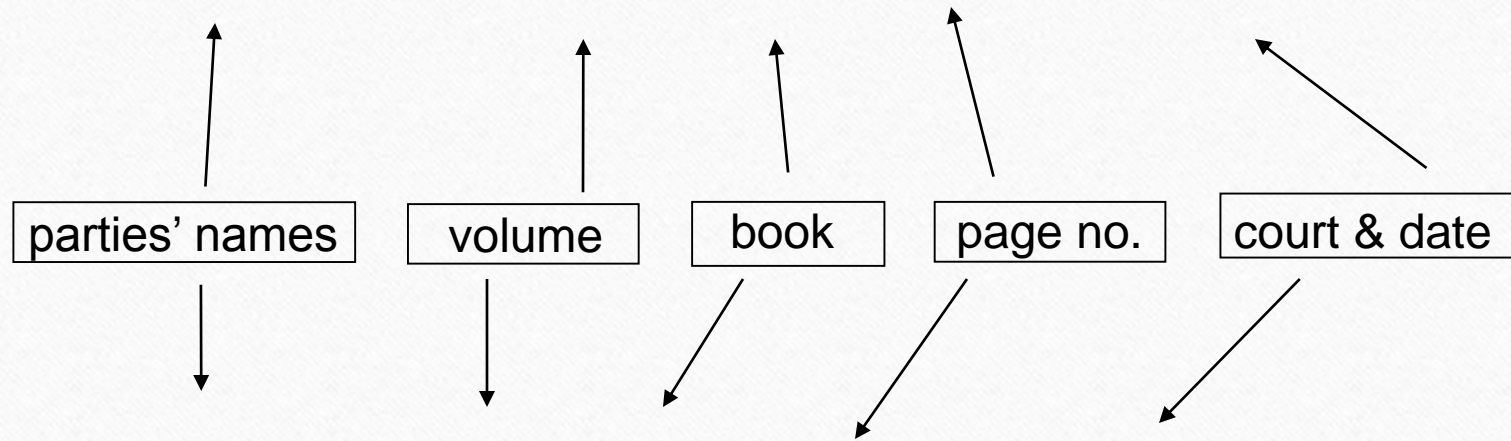
Is it a Federal or State case ?

Is it in the Appellate court of last resort ?

How old is the case?

Reading Case Citations

■ Smith v. Jones, 123 F.2d 456 (2d Cir. 1989)



■ Cat. v. Bat, 123 U.S. 456,460 (1977).

■ Hawkins v. McGee, 146 A. 641 (N.H. 1929)



Parties

Who is the plaintiff ? Π

Who is the Defendant ? Δ

Is there anything about their relationship that effects the legal analysis or outcome of the case?
(i.e. governmental employee; student/teacher relationship, family members)

Relief Requested/ Legal Theories Used

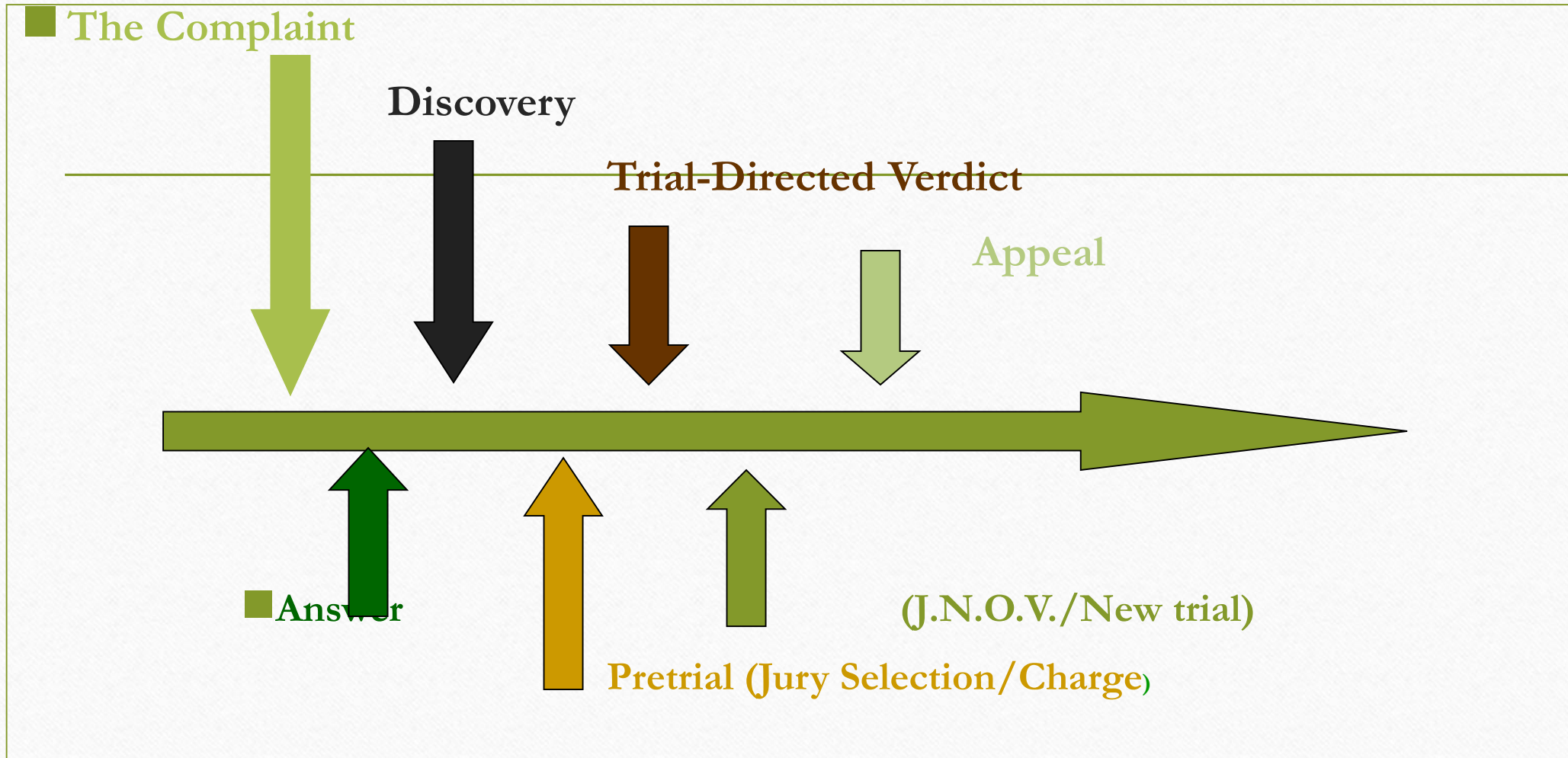
- What do the parties want to happen? Money, injunction, summary judgment?
- What is the theory for recovery ? (i.e. negligence, breach of contract) You may want to write down whether the case was criminal or civil.

Procedural posture:

How did the case get to this court? What were the legal claims and what happened in the lower court.

Identify what happened in prior proceedings first, then present proceedings.

Stages in a Civil Case



Components of the Case Brief - Background

- Caption – Basic information,
 - Case Name (Parties involved in the litigation)
 - Court which issued the decision (precedent value/geography)
 - Year (New/Old)
 - page in casebook
- Facts– What out of court facts made a difference in this case, key facts (limit to those that impact outcome, matter legally)
- Procedural History – What happened in court to the case to the opinion that you are reading
 - Where the case was and how it ended up before the court
 - Defendant's motion to dismiss was granted, plaintiff appeals
 - Judgement for plaintiff, defendant appeals

Components of Brief: The Facts Section

The facts section describes the events between the parties that led to the litigation.

Be sure to include any facts relevant to the outcome. You will have to consider the legal issue or issues before you can determine which facts are relevant.

The Issue(s):

The issue is the question that the court must decide to resolve the dispute between the parties.

You may chose to put the issue section before the facts since the issue determines which facts will be relevant.

But placing the facts first allows you to identify the issues in such a way as to make them more fact specific. This is a matter of preference.

The Issue(s):

To find the issue, you have to identify the rule of law that governs the dispute and ask how it should apply to the given set of facts.

Sometimes a court will provide the issue, sometimes not. Often a case involves multiple issues.

Sometimes you will see a procedural issue before the appellate court as well as a substantive issue.

For example:

One procedural issue might be whether the plaintiff filed suit in time (before the statute of limitations ran out).

A substantive issue might be whether there was sufficient evidence to establish a verdict for breach of contract.

Components of Case Brief: Issue and Reasons

- Issue: What is the court deciding? (may be more than one)

 - May be how law applies to facts of case
 - May be what the law should be (should court keep the law, change it, overrule the law)
 - [variant: Identify the parties competing arguments]
 - Usually stated as a question (Whether . . .)
- Holding: How does the court decide the issue?
 - What rule does the court adopt
- Analysis/Reasoning: Why did the court decide the way it did? (how it may apply in a new situation)
 - Statement of policy
 - What is the rule
 - Impact of the law
 - Analogies to other cases

Reasoning and policy:

The court's reasoning explains why a particular rule of law was controlling in the case or why the particular set of facts provided an exception to the rule of law.

Social policies and goals may also underlie the legal decision in a case. Whether implicit or explicit, they may be important in predicting future outcomes.

Consider the following example:

Suppose Ralphie shoots his red rider BB gun at a concrete driveway. The BB ricochets from the concrete and hits someone in the eye.

A court may hold that it is not inherently dangerous for a mother to give her eleven-year-old son when the son had been around guns all his life and had been to a training class on gun safety.

Example (Continued):

The "because" part is a reason.

because the son had been around guns all his life and had been to a training class on gun safety.

BUT an implicit policy behind that reason might be that although accidents do happen, not every accident should give rise to a legal action.

The Holding:

- The holding answers the issue. It is the court's decision on the question that was before it.
- It is specific to the case because it incorporates relevant facts but it also gives rise to a rule that can be applied to other cases.

In a case with multiple issues, there are multiple holdings.

Bad example:

“Summary Judgment was affirmed.”

Better example:

“The Court held that there was no negligent entrustment because the plaintiff did not establish that a hammer was an inherently dangerous object or that a basement was a readily accessible location. Therefore, the court affirmed the grant of summary judgment.”

Components of a Case Brief: Extras

- Concurring and Dissenting Opinions
 - Concurring – Agree with court's holding but for different reasons
 - Dissenting - Disagree with court's holdings
 - Do Not Skip these – point to different philosophies and be important to apply rule and how it may be changed in the future
- Dicta – Not relevant to holding but may signal future direction
- Definitions of Legal Terms - Need to look up

Dicta

- Along with the holding, a court may make several legal statements, but if they do not relate to the actual question before the court, they are dicta.

You may make the argument that a statement offered by an adverse party as the court's holding in a case, is actually dicta.

Note: Dissenting & Concurring Opinions:

If a decision is not unanimous, at least one of the other judges has dissented.

A dissent means the judge disagrees with the holding and reasoning of the majority opinion.

A concurrence means a judge has agreed with the holding but for different reasons than the majority opinion.