



An Iconoclastic Perspective on Briefing Cases

Torts
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My view, for what it's worth:

- There are not enough hours in a day to follow everyone's advice on what you "have to" do – i.e., what is "essential" to do in studying in law school.
- You should listen to everyone.
- You should of course give particular weight to study strategies suggested by your professor for that professor's class.
- At the end of the day, you need to figure out what works for you.
- I advise above all else when it comes to study strategies: Keep an open mind. Try different things. Value active studying (work that's challenging mentally/intellectually) over rote-type work. Work hard, but stay healthy. Stay curious. Think critically. Trust in your ability.

- **Heading info**

- Case name
- Court

- **Facts**

- Parties
- Legally relevant factual facts

- **Procedural Posture**

- Key procedural facts
- Procedural history

- **Issue**

- **Rule**

- **Holding**

- **Reasoning**

**Traditional
Case Brief**

- **Heading info**

- Case name
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- **Facts**

**I made this by
combining/
synthesizing
various sources on
how to brief a case**

- **Holding**

- **Reasoning**

**Traditional
Case Brief**

How do I know what's "legally relevant"?!?

Traditional Case Brief

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Traditional Case Brief

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How do I know which ones are "key"?!?

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Traditional
Case Brief

What does this
even mean?

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Traditional
Case Brief

How can I tell what
THE issue is? Seems
like they're talking
about lots of issues.

- **Heading info**

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Traditional Case Brief

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Ditto.

Ditto.

Q6H Case Brief

Here, is a different way to think about briefing cases.

Will it work for you? I don't know.

I offer it as a way to broaden your thinking about how to approach reading a case.

Q6H Case Brief

- Who, when, & where?
- What's the main gripe?
- What'd they sue for?
- Who appealed and why?
- Who won?
- Why did they win?

Q6H Case Brief

- Who, when, & where?

I'm going to use a property law case as an example because we lack a good example case from torts right now and because I want to stay away from talking substantive law.

BUT you should of course do whatever your Property professor says to do in Property! (I am not trying to contradict anything from your Property class.) (And I'm sure you have the good sense to not trust me over your Property professor when it comes to property law anyway.)

Q6H Case Brief

• Who, when, & where?

- Case name
- Court
- Year
- Parties (name, Δ/π , relationship, what called by court)

You're orienting yourself to where this took place – geographically and in history – and who the players are.

This is for you, so put in what helps you – and feel free to be snarky.

Q6H Case Brief

• Who, when, & where?

- Case name
- Court
- Year
- Parties (name, Δ/π , relationship, what called by court)

Pierson v. Post

Supreme Court of Judicature (in New York, per internet)
out of Queens, New York, sometime before August 1805

Π Plaintiff: Lodowick Post, fox pursuer, hound user, bad shot, off-target gunman, fox coveter

Δ Defendant: Pierson, fox picker-upper (apparently), better shot (inferably), taunting singer of "finders keepers, losers weepers" (according to my imagination)

Who appealed? I can't tell who appealed. The case seems to be missing a lot of foundational information.

Q6H Case Brief

- What's the main gripe?

Q6H Case Brief

- What'd they sue for?

Q6H Case Brief

- Who appealed and why?

Q6H Case Brief

- Who won?

Q6H Case Brief

- **Why did they win?**

Post won **because:**

Q6H Case Brief

- **Who, when, & where?**
- **What's the main gripe?**
- **What'd they sue for?**
- **Who appealed and why?**
- **Who won?**
- **Why did they win?**
- + **How can I use this?**

Q6H Case Brief

- Who, when, & where?
- What's the main gripe?
- What'd they sue for?
- Who appealed and why?
- Who won?
- Why did they win?
- + How can I use this?

When you're thinking this way, you are up in the high country, my friend!

Why brief cases?

According to wisdom from two law schools and a legal database company

- "Briefing a case helps you understand it."
- "It forces you to unpack the opinion and test your understanding of it"
- "Having a brief gives you a place to start when you are called on."
- "Case briefing aids your memory. Briefs help you remember the cases you read ... for class discussion"
- "[It] helps to encapsulate and analyze the mountainous mass of material that law students must digest."
- "Case briefing helps you acquire the skills of case analysis and legal reasoning."
- "Good briefs provide useful study aids at the end of the semester. You do not have to go back to the casebook to review; you just have to go over your briefs."
- Briefs help you remember the cases you read ... for end-of-semester review for final examinations"

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Re-run slide