

# Briefing Cases

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**a. Briefs?** First, let me say that briefs are never short and succinct. Instead they are usually long and ponderous. Next, landmark Supreme Court decisions, even before the invention of computers, and before that typewriters, were still long in the tooth, even in the days of quill pens.

**b. Excerpts.** Therefore, most Supreme Court cases are heavily excerpted, leaving off repetitive arguments, string cites, and tangential issues. I have attempted to shorten these cases, where appropriate.

**c. Student Material.** Third, briefing cases is an intellectual exercise. By reading the case, what is important? What are the issues? What evidence did the Court find to be persuasive? This is why cases are not highlighted or briefed for law students. They are given excerpted cases, and they are assigned the task of boiling the law down to main ideas.

**d. Traditional briefing** concerns: **1) Facts**, which are germane to the ultimate decision. **2) Holding:** which party prevailed? What rule of law was announced? And **3) Rationale:** what were the reasons given for these decisions?

**e. Updated Briefing.** Given electronic copies of decisions, I find it to be more useful to highlight important points. I create a left hand margin for my short-hand notes. The right hand column is reserved for verbatim quotes from the opinion. I usually add a picture, icon and a summary, so that I can glance at the brief, and understand the main ideas.

**f. Methodology.** Post electronic versions of the excerpted cases for students to brief. I have included my own briefs, for Teachers and/or Professors to use, to conduct Socratic Discussions about each case. Law school tradition provides three cases to be discussed during each one-hour class. My briefs are not authoritative, and the left hand margins are an outline of the main points. The right hand columns have direct quotes. In my experience with arguing with Judges, on the very important points, they want to hear it from the horse's mouth, not my summary or interpretation of it.

Ideally, each Professor would draft their own briefs, in preparation. This is an intellectual exercise, which prepares you to argue these cases.

In court we draft memos, based upon our briefs. At trial, or on appeal, we argue that our interpretation should be followed because it achieves a just result, under the law.

**g. Socratic Discussions.** Socratic Discussions are question and answer periods. Professors devise higher-level, complex questions about the cases, they call on hands or individual students in class, to provide their answers, and to justify their reasoning. Students are encouraged to: challenge each other, argue the points, and to play the “devil’s advocate” when nobody else rises to the occasion, to defend an unpopular rule.

Opened ended, subjective, and interpretative questions are the best. Asking factual recall questions, like “What crime did Miranda commit?” by itself does not serve the purpose of helping students understand the law. However, if the question is, Should the Miranda case be reversed, and his conviction overturned, then it is important to know what type of a person, we are letting back on the streets.

**h. Book.** I have started drafting my book of Landmark Supreme Court cases, by drawing on three of my favorite cases: a) *Loving v. Virginia*: Miscegenation, race mixing and state law. B) *Brown v. Board of Education*. Should the doctrine of Separate but Equal be applied to public education of Negro children in 1950? And c) *Miranda v. Arizona*. How should police officers inform suspects of their rights to remain silent and to be represented by lawyers?

I have Discussion Packets on the Progressive Tax System, Sand Creek Massacre and the Scopes Monkey Trial.

**i. Price List.** The price to buy one of my book is \$100 for an individual teacher or Professor. \$500 for a school, and \$1,000 for a school district.

Feel free to download these cases. If you want a copy of my forthcoming book, email me. If you want me to teach lessons, hire me. I am available to teach TED lessons, or to film demonstrations of my teaching methods.