

Briefing a Case - FIDS Case Analysis

Facts — Issues — Decision — Significance.

FACTS What are the facts of the case? Why was this case brought to this Court level? Briefly give the facts of the case, without every little detail, even if you find those interesting. Unless it is relevant, do not include it. Unless this is a TRIAL DECISION (court of first instance), it is an APPEAL. Who won? Why is the case being appealed? Look at the case citation. If you are looking at a Supreme Court of Canada case (and most of the time you will be), then the decisions of the lower courts are FACTS in the case, they are not the decisions with which we are concerned.

Ask yourself some basic questions about the case:

1. Who started this action? (Civil = Plaintiff; Criminal = Crown Prosecutor)(F)
2. Who is (are) the Defendants? (F)
3. What happened to give rise to this action? (F)
4. How did the trial judge decide the issue? Why? (F)
5. If applicable, how did the Court of Appeal decide? (F)

ISSUES What are the questions the Court is being asked to answer? Is the decision of a lower court being disputed? Why? Very often these questions will begin with the word "whether", for example, in *Childs v. Desormeaux* the Supreme Court was being asked whether social hosts were liable to third parties who might be injured by the actions of their guests. There is always a legal element to be decided.

Ask yourself this question about the case:

6. What is the issue which the trial judge, the judges at the Court of Appeal, and the justices at the Supreme Court of Canada are being asked to decide? (I)

DECISION What did the court decide and what were its reasons for the decision? What is the principle of law determined in this case? Was there a precedent set by this case? If so, what was it? Did all the judges agree? Was it a unanimous decision, or a split decision? A unanimous decision tells us very emphatically that this is the law. However, a split decision—especially a close call—can mean that the law on this matter is pretty volatile and is subject to change quickly as society changes. Here, we are concerned only with the decision of the last Court to decide—usually this is the Supreme Court of Canada. A decision of a lower court is really part of the facts, not the decision.

These are the questions to think about when identifying the decision in a case:

7. How did the LAST Appeal Court decide the issue? (D)
8. What was their reasoning? (D)

SIGNIFICANCE What is the social significance of the decision? What does it mean to the Canadian public? Justify your response. Do not give an opinion. Analyze the decision and its effects and potential effects. If it helps, consider what the result might have been to Canadians if the Supreme Court had decided the opposite way. It's wonderful if you can analyze a case and identify the precise legal meaning and principles decided. However, it's so much better if you can give practical meaning to the decision.

These are the questions you should ask and answer (this time, in paragraph form) to determine the significance of a legal decision:

9. For practical purposes, what effect does the ruling in this case have on society? (S)
10. Why does it matter? (S)