



## CHAPTER

# 4

### *The U.S. Legal Education System: Studying the Law and Briefing Cases*

#### **HIGHLIGHTS**

- The study of court opinions is essential to understanding the U.S. legal system.
- Most court opinions found in casebooks are appellate or reviewing court opinions.
- Preparing a case brief for class and using it later when studying for examinations is an essential part of the U.S. educational process.
- When preparing a case brief for class, it is essential to understand the procedural posture of a case, or what aspect of the case was appealed.
  - A motion to dismiss challenges the legal basis for a cause of action or court claim.
  - A motion for summary judgment challenges whether sufficient relevant disputable facts are at issue to justify sending the case to trial.
- A court opinion includes essential information (the “holding”) and sometimes also includes unessential comments (“dicta”).
- Many law school professors use a question and answer method (Socratic method) in the classroom, rather than just lecturing to students.
- Tips for taking notes in class include the use of abbreviations and a system for keeping track of new language and definitions.



## A. *Why We Study Cases as a Means to Learn the Law*

Studying U.S. law involves studying more than rules and codes. It requires critically reviewing U.S. constitutional provisions, statutes, and cases. The overriding goal is to learn (1) what legal principles and policies are relevant to a legal issue; (2) how to analyze and apply those legal principles and policies to a client's set of facts; and (3) how to create arguments on behalf of parties in a legal dispute.

In the U.S. legal system, the specific language of constitutional provisions, statutes, and legal principles developed through court decisions (the common law) is essential to legal analysis.<sup>1</sup> And yet that language does not mean a great deal when studied by itself. The language of a statute, for example, takes on real meaning when a court interprets that language and applies it to the facts in a case. And although the development of the common law results in rules or legal principles similar to statutes, these rules are flexible; they change or are further defined each time a court applies them to a different set of facts. Benjamin Cardozo<sup>2</sup> once stated, “The rules and principles of case law have never been treated as final truths, but as working hypotheses [theories], continually retested in those great laboratories of the law, the courts of justice.”<sup>3</sup>

Thus, while federal and state constitutions, statutes, and cases all provide the foundation for any legal analysis and argument, the outcome of each case depends on how the court interprets and applies the law to a new set of facts. In his book, *The Nature of the Judicial Process*, Justice Cardozo commented on the process from a judge's perspective. He longed for certain answers in the prior case law—clear mandates as to how to decide a new case before the court. He finally realized that

[a]s the years have gone by, and as I have reflected more and more upon the nature of the judicial process, I have become reconciled to the uncertainty, because I have grown to see it as inevitable. I have grown to see that the process in its highest reaches is not discovery,

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1. See Chapter 2 on the U.S. legal system.

2. Benjamin Nathan Cardozo was an Associate Justice of the United States Supreme Court from 1932-1938. Before serving on the Supreme Court, he served as a justice with the New York Court of Appeals for 14 years (Chief Judge for his last 4 years). He was named as the “great common law jurist of America . . . who spoke of the way the Constitution should be approached and the proper job of the judiciary in the American system,” and the “outstanding common-law jurist of the twentieth century.” SIDNEY ASCH, *THE SUPREME COURT AND ITS GREAT JUSTICES* 159 (1993).

3. BENJAMIN N. CARDOZO, *THE NATURE OF THE JUDICIAL PROCESS* 23 (1949).

but creation. . . . [The change is inevitable, where] principles that have served their day expire, and new principles are born.<sup>4</sup>

In the exercises in Chapter 2, a statute was passed to preclude those who killed another from benefiting in any way from the death they caused. The statute read:

No person who intentionally causes the death of another shall in any way benefit by the death. All property of the decedent and all money shall pass as if the guilty person had predeceased the decedent.

Since the statute does not include any definitions of the words used in the section, it is the judge's job to determine what the words mean. Determining how to interpret and apply the language of the statute raises a question of law (also referred to as a legal issue or law-based issue, discussed in Chapter 14). For example, what is not easily apparent from the statutory language is what *intentionally* means. The court must determine what *intentionally* means and then apply that meaning to the facts of the case before it.

The lawyer's job, then, is to argue to the judge what the correct interpretation of the law is and why, in applying that interpretation to the case facts, the outcome favors the lawyer's client. To prove a client's case, a lawyer must show how the client's position conforms to the authority that is binding in the controlling jurisdiction.<sup>5</sup> In particular, a lawyer must show that the facts of the client's case are sufficiently similar to the facts of other cases addressing the same legal issue(s), so that the same outcome reached in the earlier cases should also be reached in the client's case. Further, the lawyer must show why the facts of a client's case are sufficiently different<sup>6</sup> from the facts in those cases decided in opposition to the client's position, so that a different outcome should be reached in the client's case.

Finally, once a judge interprets the language of a statute or a rule, it is the fact-finder's job to answer all questions of fact (also referred to as a fact-based issue or a fact-sensitive issue).<sup>7</sup> In the example referring to a "person who intentionally causes the death of another," the fact-finder

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4. *Id.*

5. Note, however, that on occasion a legal issue is raised where there is no controlling authority in the jurisdiction. This is known as a case of first impression. Lawyers will look to authority (statutes and cases) from other jurisdictions to help argue the client's position, and judges will look to these outside authorities to decide a legal issue. (More on addressing cases of first impression is found in Chapter 14.)

6. When used in a legal context, the terms *factual similarities and differences* are used interchangeably with *factual analogies and distinctions* and *comparing and contrasting facts*.

7. The U.S. jury usually decides questions of fact. Sometimes there is no jury, in which case the judge serves as the fact-finder and decides questions of fact as well as questions of law. See Chapter 3.

would decide whether the defendant acted intentionally based on the judge's interpretation of what *intentionally* means. The judge reveals what *intentionally* means when the judge decides procedural issues or issues jury instructions.



## ***B. Where the Use of Case Law Fits in the Process***

If you have watched a trial on U.S. television, you may have questioned how the use of past cases and other authority actually fits in the overall legal process. Lawyers do not argue the similarity or difference between facts of past cases and the client's case to a U.S. jury. Lawyers argue the importance of the relevant case law to the trial judge when addressing the following issues:

### ***1. Procedural consideration: when determining whether a legal issue will be presented to the fact-finder***

As discussed in Chapter 3, when a plaintiff files a complaint in a civil court, the defendant may file pretrial motions challenging, among other things, the validity of the complaint. If the defendant files a motion to dismiss,<sup>8</sup> the defendant is challenging whether a legal basis for the claim exists. If there is no recognized legal claim or cause of action, the plaintiff has no legal means to recover from the defendant. The plaintiff's lawyer will argue that the client's facts fall within the class of cases covered by a particular law, while the defendant's lawyer will argue that the facts of the case do not fall within the class of cases covered by the plaintiff's claim, so the case should be dismissed.

### ***2. Procedural consideration: when determining whether an issue is in dispute and the case should proceed to trial***

Before a case goes to trial, either or both parties may file a motion for summary judgment. A "court shall grant summary judgment if the movant shows that there is no genuine issue as to any material fact and the movant is entitled to judgment as a matter of law."<sup>9</sup> If the motion

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8. FED. R. CIV. P. 12(b)(6).

9. FED. R. CIV. P. 56(a).

is granted, the judge dismisses the case, and the case never proceeds to trial, unless the decision is reversed on appeal.

The motion for summary judgment is different from a motion to dismiss. In a motion to dismiss, one party is claiming that no legal basis exists for the claim. When moving for summary judgment, the moving party is arguing that, based on the legal claim, no reasonable juror could find for the nonmoving party, even when viewing the facts in a way that is most favorable to the nonmoving party.

### ***3. Substantive considerations: when determining other questions of law***

#### ***a. Determining which rule of law applies***

A judge must sometimes determine which rule of law, among alternative choices, is proper to apply in a particular case. This responsibility requires the court to consider the underlying public policy reasons for creating the law—why the law was created in the first place. Different, sometimes opposing, public policy considerations may exist for adopting one rule of law over another, and it is the court’s duty to determine which policy reasons are stronger and more consistent with other laws in the controlling jurisdiction. (Public policy is discussed in further detail in Chapter 8.)

#### ***b. Determining how to interpret the rule of law***

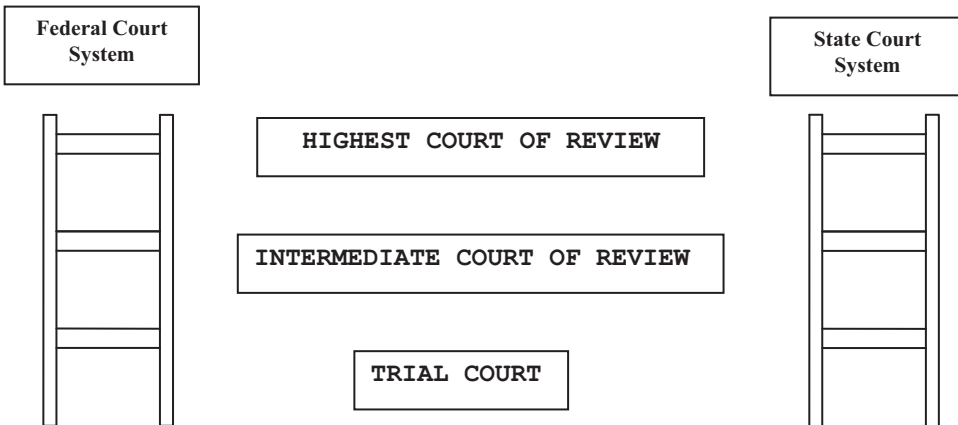
As discussed previously, a court may also need to determine what the relevant law actually says. This responsibility requires the court to interpret the language of the relevant law, whether that law originates in a constitutional provision, a statute, or a binding case. In interpreting the language, the court will consider the underlying public policy reasons supporting the law. One of the judiciary’s goals is to determine the original legislative intent in creating a rule of law. A court will review, among other things, how other courts have interpreted and applied the same rules of law. (Chapter 13 addresses statutory interpretation.)



## ***C. The Study of Appellate Court Cases***

In the U.S. legal education system, much of the discussion in a typical class focuses on the study of federal and state appellate court cases. Rarely are trial court decisions included in a casebook. Appellate cases are studied because the appellate court judges must ensure that the laws are interpreted and applied in a similar way by the lower courts in the

## Court Hierarchy



**Figure 4-1**

same jurisdiction. As explained in Chapter 2, appellate court decisions are binding on decisions reached by lower courts in the same jurisdiction; thus, the intermediate appellate court cases are binding on trial courts in the same jurisdiction, and the highest court decisions are binding on both the intermediate appellate courts and the trial courts within the same jurisdiction.

As Figure 4-1 shows, the U.S. federal and state court systems are separate. In some circumstances, however, federal courts may consider cases that include state law issues, such as when the two parties in a dispute involving state law live in two different states and the claim exceeds \$75,000.<sup>10</sup> State courts may also consider federal issues, for example, when a constitutional question is at issue and the court must consider both the federal and state constitutions. State cases addressing questions of federal law and constitutional issues may be appealed to the United States Supreme Court. (For a more detailed description of the U.S. federal and state court systems, see Chapter 1.)



## **D. Preparing a Case Brief for Class**

### **1. Introduction**

The term *brief* is used in the study of U.S. law in two ways: First, a *persuasive brief* is what a lawyer writes and submits to a court. In a

<sup>10</sup> 28 U.S.C. § 1332 (a).

persuasive brief, a lawyer explains the law relevant to the legal issues before the court and tries to convince the court that the position of the lawyer's client is correct. Second, a *case brief* is what a U.S. law student writes to prepare for class and to use later when studying for examinations. Lawyers often continue briefing cases when they enter law practice. The remaining sections of this chapter explain why briefing cases in a U.S. law school is necessary and how to brief cases when preparing for class, especially for those classes where the Socratic method is used by the professor. (The Socratic method is explained in part G of this chapter.)

A court opinion includes many of the same sections found in a typical piece of fiction writing. In a fictitious story, the writer creates an overall plan for the story (the plot). The plot oftentimes raises questions that are answered as the reader moves through the story. Any good story includes one or more conflicts and a cast of characters who are struggling with these conflicts. Most stories have a beginning, a middle, and an end. By the end, the good writer answers the questions raised in the story and explains how and why the conflicts are resolved.

A court opinion includes many of the same sections as a work of fiction, though they have different labels. A court opinion introduces the characters ("parties") who are in court because they have different opinions about the story ("facts"). These differences about the story and the legal meaning of the story create one or more legal conflicts ("issues"), which may be resolved in a court of law. In answering the questions raised in the dispute, the court resolves the conflicts (by issuing a "holding" and a "judgment"). The court also explains why it resolved the conflict the way it did ("court's reasoning"). Similarly, the writer of a good fictitious story takes care to explain the reasons for the resolutions in the story before ending the story. If this does not happen, the reader often feels frustrated and disappointed.

To better understand how to recognize these sections of a court opinion, read the following case excerpt.<sup>11,12</sup>

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11. This case has been heavily edited, so the page numbers are marked throughout the case by an asterisk (\*) followed by the number where the new page of the original case begins. For example, on the next page \*704 reveals that what follows this number is found on page 704 (until \*705 is indicated). All footnotes in this case have been eliminated.

12. Reviewing courts' powers to review a lower court decision vary according to the issue on appeal. In this case, the review power is limited to whether the judge abused his discretion in reaching the decision. — EDS.

This is the heading as provided by the court. It includes the case name and the citation to the case. In citing this case name, however, you would shorten it as instructed in a legal citation manual such as the *ALWD Guide to Legal Citation or The Bluebook*.

**Supreme Court of Alaska  
In the Matter of the Estate  
of Richard Blodgett**

147 P.3d 702 (Alaska 2006)

[This is the justice who wrote the majority opinion.]

CARPENETI, Justice.

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On September 14, 2003, Robert Blodgett caused the death of his father, Richard Blodgett. Blodgett was indicted for murder in \*704 the second degree, and in January 2004 he was convicted of criminally negligent homicide and given a three-and-one-half-year term of imprisonment.

Blodgett was named in the final Will and Testament (Will) of his father, which left “all properties, Bank accounts, stocks, and insurance policies” to his children. In April 2004 Blodgett petitioned the superior court for a hearing to determine his right to participate in the probate proceedings under the Alaska probate code and the slayer statute. The other beneficiaries of Richard Blodgett’s Will consented to the hearing but argued that Robert intentionally killed his father, so the slayer statute precluded him from receiving any property under the Will.

The superior court denied Robert Blodgett’s petition, preventing him from obtaining any benefits under the Will. The court explained that under the slayer statute he couldn’t benefit unless he proved by a preponderance of the evidence that this would result in manifest injustice,

which Blodgett failed to do. The court considered, and rejected, possible factors it thought might support finding manifest injustice, including past family relationships and Blodgett’s monetary needs. The court found the “great deal of testimony about the nature of the past relationship” between Blodgett and his father “unhelpful” and irrelevant in determining “the justice of denying or allowing recovery.” The court also concluded that “Blodgett retained sufficient income-earning capacity and property holdings that he would not be destitute if he did not receive these funds.” Blodgett appeals.

Because the statutory subsection that governs this case provides that the superior court “may” set aside the application of the slayer statute if manifest injustice would result, we review the superior court’s decision for abuse of discretion. We find an abuse of discretion “only if, based on a review of the whole record, we are left with a definite and firm conviction that a mistake has been made [by the trial judge].”

\* 705 The common law has long followed the policy that “no one should be allowed to profit from his own wrong.” *Riggs v. Palmer*, 22 N.E. 188, 190 (N.Y. 1889). Over the years most legislatures enacted statutes covering these rules, known as “slayer statutes.”

The original Alaska slayer statute, passed in 1972, prevented only those who feloniously and intentionally killed from benefiting. In 1988 the legislature passed an amendment removing the words “intentionally” from the statute, so the statute applied to crimes, including criminally negligent homicide. Ch. 164, § 3-8, SLA 1988.

Shortly after the legislature passed this amendment, the Alaska governor expressed concern that under unusual



circumstances it might be unjust to prohibit a killer from taking the property of the victim, such as in the case of an unintentional felonious killing. Accordingly, another amendment was adopted in 1989, creating the manifest injustice exception for unintentional homicides now found in Alaska Stat. § 13.12.803(k):

In the case of an unintentional felonious killing, a court may set aside the application of [the slayer statute] if the court makes special findings of fact and conclusions of law that the application of the subsection would result in a manifest injustice and that the subsection should not be applied.

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Thus, the legislature broadened the application of the slayer statute—by extending it to unintentional killings—and created an escape clause—by enacting the manifest injustice exception.

Under the current Alaska criminal code, all unjustified killings are considered felonies. This includes murders in the first and second degree, manslaughter, and criminally negligent homicide. Thus, Alaska’s slayer statute encompasses intentional as well as unintentional homicides. Criminally negligent homicide occurs when “the person causes the death of another person.” Alaska Stat. § 11.41.130.

\* **707** The legislature limited the broad reach of the slayer statute by giving trial court judges the discretion to allow killers to benefit from the victim’s assets if manifest injustice would result otherwise. Should an inheritance be denied to the unskilled teenager who drives his car in a criminally negligent manner and acciden-

tally causes the death of his sole remaining parent? The legislature clearly decided that in such a case there should be discretion in the court to consider the specific facts of the homicide and, if denial of the inheritance would be manifestly unjust, to permit it. Where the killer’s act was not intentional, and especially where the act was not even reckless, and where other circumstances lessen the overall effect of the crime, the application of the slayer statute may lead to unnecessarily harsh results. Indeed, the unintended killing of a loved one, as in the example above, would likely cause the killer far greater personal ruin than monetary gain.

In this case, Blodgett was convicted of criminally negligent homicide, which is an unintentional homicide. Therefore, under subsection (k) Blodgett can avoid the effects of the slayer statute only if he proves by a preponderance of the evidence that applying the statute to him will result in manifest injustice.

\* **708** We have not had occasion to define the phrase “manifest injustice” as used in the slayer statute, or to set out the relevant factors that a trial judge should consider when ruling on this question. Similarly, because no other slayer statute contains a provision similar to subsection (k), out-of-jurisdiction case law provides no ready assistance. However, the Alaska Court of Appeals has interpreted this phrase in another, similar context, describing manifest injustice as something that is “plainly unfair” as applied “to a particular defendant.” *Beltz v. State*, 980 P.2d 474, 480 (Alaska Ct. App. 1999). Before finding manifest injustice, the court held that the “judge must articulate specific circumstances making the defendant significantly different from a typical offender within

that category or making the defendant's conduct significantly different from a typical offense." *Id.* We adopt *Beltz's* approach for the purpose of applying subsection (k) of Alaska's slayer statute.

Thus, the relevant comparison here is between Blodgett's conduct and that of a typical offender convicted of negligent homicide. In the criminal proceedings, Blodgett was sentenced to three and one-half years in prison, which is not the lowest possible sentence for negligent homicide. This suggests that the superior court did not believe Blodgett's acts fell at the lowest level of culpability and that the court below considered Blodgett's conduct in relation to other similarly situated defendants when it rejected his claim of manifest injustice.

To try and prove manifest injustice, Blodgett introduced evidence regarding (1) past family relationships, and (2) possible financial hardship if denied the benefits of inheritance. The court found that Blodgett failed to meet his burden of proving, by a preponderance of the evidence, extraordinary circumstances that would have made it manifestly unjust to exclude him from his father's Will. We agree.

The court described the evidence regarding his family relationships as "unhelpful." Witnesses testified that Blodgett and his father shared a "good relationship" marked with occasional fights typical of father-son relationships. Such testimony neither proves nor disproves the fairness of prohibiting Blodgett's inheritance. The court did not abuse its discretion in deciding that Blodgett failed to prove manifest injustice on this basis.

The court also examined Blodgett's argument that "it would be unjust to deny benefits under the Will to some-

one who is physically disabled, who faces unknowable future medical expenses, who has a compromised earning capacity, and who has ongoing psychological needs." The superior court noted that, although Blodgett suffered some medical disabilities, Blodgett's own witness testified that he "is capable at the operation of heavy equipment and has skills as a mechanic." The \* 709 court found that these skills could lead to employment with yearly compensation ranging between \$40,000 and \$50,000 per year. It also found that Blodgett owns other property and that future medical expenses will likely be met through the Alaska Native Health Service. In light of this testimony, the court concluded that Blodgett would not endure financial hardship if he did not receive these funds. Consequently, the court found that Blodgett failed to prove manifest injustice based on monetary need.

While we believe the court did not abuse its discretion in making this determination, we are concerned that the court's analysis could lead to the conclusion that a showing of manifest injustice may turn on predictions concerning the future financial health of the defendant. Such an approach would allow slayers of their victims to inherit if they are poor, but not if they are financially stable. We doubt that this distinction—between different slayers based on their personal wealth—reflects the legislature's purpose in enacting the manifest injustice provision.

Despite these concerns, we conclude that the superior court did not abuse its discretion in finding that Blodgett failed to prove manifest injustice by a preponderance of the evidence.

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Affirmed.

## 2. *The basic sections of a case brief*

Case briefs include all or most of the following sections:

- Heading
- Facts (F)
- Procedural History (PH)
- Statement of the Issue (I)
- Holding (H)
- Judgment (J)
- Relevant Rules/Legal Principles Applied in the Case
- Court's Reasoning
- Concurrence and Dissent
- Personal Comments/Reactions

### a. *Heading*

The heading includes the following information:

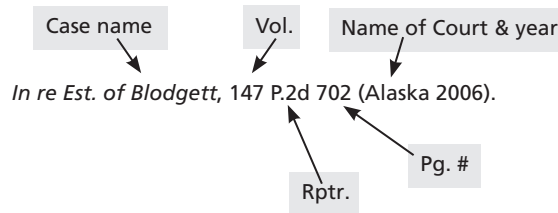
Case Name • Volume # • Reporter Abbreviation • Page # • (Name of Court & Year Decided)

- **Case Name:** Case names are found at the beginning of each court opinion. The name provided in the actual case, however, may not be written using proper citation form. Specific instructions regarding what to include and how to write case names are found in citation manuals.
- **Volume Number and Reporter:** Cases are provided in publications called reporters. The abbreviations for these reporters are found in citation manuals, such as the *ALWD Guide to Legal Citation*.<sup>13</sup> The volume number is found on the spine of each book and at the top of the page of the case found online.
- **Page Number:** The page number in the citation refers to the page where the court opinion begins.
- **Court Decision and Year (in parentheses)**<sup>14</sup>: The name of the court varies, depending on which court decided the case. (*See* Chapter 19 on Citing to Authority.) The year is the year when the case was decided.

13. LINDA BERGER, *ALWD GUIDE TO LEGAL CITATION* (Aspen 2014). *See* Chapter 19 herein on citation form.

14. The court designation and year are enclosed by parentheses. Material within parentheses is sometimes referred to as a parenthetical.

In briefing the sample case, the heading would appear as follows.



The reference to Alaska is necessary to show that the case was decided by the Alaska Supreme Court.

The heading may also include the page number on which the case is found in the casebook assigned for class, for quick reference to the case if needed later on.

### *b. Facts (F)*

This section provides the story. An appellate court opinion contains two types of facts: substantive facts and procedural facts.

#### **(1) Substantive facts**

These facts explain what happened before the case entered the judicial system, that is, before the plaintiff filed a complaint in the court. Your challenge is to determine which of the facts contained in the court opinion are legally significant to the issues addressed in the case. The ability to determine the legally significant facts comes more easily with experience. You cannot know which facts are legally significant without first understanding the issues raised by the court, how the court resolved the issues, and why the court resolved the issues as it did. You must, therefore, read the case thoroughly before completing the substantive facts. This section is usually one of the last sections of the brief you finish. The substantive facts in *Blodgett* follow.

#### Facts:

- Son Blodgett convicted of the criminally negligent homicide of his father.
- Father had executed a Last Will and Testament.

When noting the key facts of the story, write the summary in your own words rather than word-for-word from the court's opinion. Using your own words will help you understand the story and the relationship of the key facts once you get to class and later, when reviewing the cases while preparing for exams.

## (2) *Procedural facts*

This is the part of the story that takes place once the case enters the judicial system, when the plaintiff files the complaint in court. The procedural facts include the cause of action (C/A) that was the subject of the plaintiff's complaint in a civil trial or the prosecution's charge in a criminal trial, and any defenses to the claim raised by the defendant.

The procedural facts in *Blodgett* follow.

C/A: Son requested that the superior (trial) court award him his share of his father's estate as designated in his father's Will.

Since case briefs are for your personal use, you do not need to write the story in paragraph form or even in complete sentences. A list of facts, as in the above examples, is fine, as long as you can understand your notes later on. You may also decide to abbreviate words, discussed in the note-taking section found in section H of this chapter.

### c. *Procedural history (PH)*

This section states what the court(s) below decided. If more than one lower court decision exists, separate the decisions in a manner that helps you to quickly distinguish between the decisions of each court.<sup>15</sup> For example, if you are reading a California Supreme Court decision, you may use *TC* to refer to the trial court and *AC* or *MC* to refer to the middle appellate court. State the judgment in each court below, the basis for the judgment, and the party appealing. The procedural history in *Blodgett* is as follows.

PH:

TC: Court applied Alaska's slayer statute and denied the son's request because (1) he was convicted for his father's death, and (2) no "manifest injustice" would occur by denying the son's request.

### d. *Statement of the issue*

This section focuses on the specific legal issue discussed in the case. (Section E below discusses cases that have more than one issue.) The

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15. In most states there are three levels of courts: the trial court, the middle or intermediate appellate court, and the highest appellate court. In smaller states, however, there may be only two court levels: the trial court level and a single appellate court level.

issue statement is usually written using neutral, generic terms rather than using the personal names of the parties involved in the specific case. If the case involves a contract dispute, for example, instead of referring to the parties as *Smith* and *Jones*, you might refer to them by their relationship, *buyer* and *seller*. If the case involves a medical malpractice claim, instead of referring to the parties as *Dr. Joe Brown* and *Cindy Carson*, you might refer to them as *doctor* and *patient*. When first learning about the sections of a case, you may want to write out separately the substantive issue (SI) raised in the case and the procedural issue (PI) raised in the case.

The substantive issue states the issue based on the legal cause of action. Ideally, the substantive issue statement contains two parts:

- (1) the relevant legal question, and
- (2) (a) if writing a law-based question,<sup>16</sup> just enough of the facts to put the legal question in the proper factual context; or
  - (b) if writing a fact-based question, just enough of the important facts to explain why the issue is in dispute. This will likely require you to include facts supporting both parties.

The substantive issue in *Blodgett* (addressing a fact-based issue) would be as follows.

SI: Under Alaska's slayer statute, which precludes certain killers from receiving the assets of their victims, can a son benefit from his father's Will when the son was convicted of the criminally negligent homicide of his father?

← The first section provides the legal question; what follows are the legally significant facts.

By separating the procedural issue from the substantive issue, you focus on whether the case went to the jury and was decided on the merits<sup>17</sup> or whether the case was dismissed by the judge before it went to the jury based on a procedural motion by one of the parties, such as a motion to dismiss or a motion for summary judgment. The probate court in *Blodgett* decided the case on the merits, so the procedural issue would read like this.

PI: Did the trial court abuse its discretion when it denied a son's request for his father's assets under his father's will?

← The procedural issue addresses the abuse of discretion.

16. A law-based question, for example, would be whether the court adopted the fault or no-fault rule when deciding who pays for damages in an automobile accident.

17. A case decided on the merits is one that was reached at trial.

If you prefer not to separate the substantive and procedural issues, a single statement of the issue in *Blodgett* would read like this.

Under Alaska’s slayer statute, which precludes some killers from receiving the assets of their victims, did the trial court abuse its discretion when it denied a son’s request for his father’s assets designated for the son in the father’s Will when the son was convicted of the criminally negligent homicide of his father?

Legal question first; procedural posture second; legally significant facts third.

### e. *Holding (H)*

The holding or *ratio decidendi* of the case is the court’s answer to the issue. The holding is the “legal principle to be drawn from the opinion (decision) of the court.”<sup>18</sup> If the issue is stated properly, the holding is the positive or negative response to the statement of the issue. The holding in *Blodgett*, then, would read like this.

H: SI: Under Alaska’s slayer statute, a son can be precluded from benefiting from his father’s Will when he is convicted of criminally negligent homicide of his father.  
or  
No.

H: PI: The trial court did not abuse its discretion when it denied the son’s request to benefit from his father’s Will.  
or  
No.

### f. *Judgment (J)*

The judgment is the final decision of the appellate court after reviewing the lower court’s decision. The judgment is usually found at the end of the court’s opinion and may state, for example, that the lower court’s decision was affirmed, reversed, affirmed in part and reversed in part,

18. BRYAN A. GARNER, *BLACK’S LAW DICTIONARY* 552 (1996).

reversed and remanded,<sup>19</sup> or modified. In *Blodgett*, the court upheld the lower court's decision, so the judgment would be stated as follows.

J: Affirmed.

### *g. Relevant rules or legal principles applied in the case*

By separating into their own section the rules or legal principles the court applied in reaching its decision, you emphasize the more general principles that a court is likely to apply when analyzing future cases. By isolating the rules and legal principles, you can more easily access this information later on when preparing an outline and studying for examinations.

You may find that you are repeating the relevant rules or legal principles in the section of the case brief explaining the court's reasoning (see below), which is not unusual. The part of the case brief that reports rules or legal principles applied in *Blodgett* might read as follows.

Relevant Rule:

Alaska's Slayer Statute:

(a) An individual who feloniously kills the decedent forfeits all benefits . . . with respect to the decedent's estate. . . .

(k) In the case of an unintentional felonious killing, a court may set aside the application of section (a) . . . of this section if the court makes special findings of fact and conclusions of law that the application of the subsection would result in a manifest injustice and that the subsection should not be applied.

Alaska Stat. § 13.12.803.

This statement of the slayer statute omits all unimportant language, to save space.

### *h. Court's reasoning*

The reasoning section represents the heart of the court's opinion. A court that thoroughly explains why it decided the case as it did creates useful precedent for later cases that involve the same legal issue. If a court

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19. To remand a case is to send it back to the lower court, with specific instructions about how to proceed.



omits the reasoning section of the opinion, as it sometimes does, the case is often not useful as precedent.

In the reasoning section, the court may address why it rejected the losing party's arguments or why certain rules, principles, and policies were not applied, or why other rules, principles, and policies were applied. A good explanation includes references to both the key language of the rules or legal principles and references to those facts important to the court's reasoning. In *Blodgett*, the court's reasoning might be reported like this.

#### Court's Reasoning:

1. The court did not err in ruling that the son did not prove that a manifest injustice would occur if he was prevented from acquiring the assets of his father.
2. The Alaska Supreme Court had not previously defined "manifest injustice." In this case the court adopted the Alaska Court of Appeals' approach, considering manifest injustice as "plainly unfair" and more than a general finding. Now the court must find special circumstances to consider the defendant something other than a "regular" offender.
3. Here the TC imposed a three-year sentence, not the minimal sentence possible. This sentence suggests that the court considered the son more than minimally responsible. This finding alone supports the conclusion that the son's situation is no different from other regular offenders.
4. The lower court also found that it didn't matter that the son was physically disabled, requiring more finances and arguably more in need of his father's assets. The son could still operate heavy equipment and could work as a mechanic. He still had the potential of making \$40,000-\$50,000 per year.

The Alaska Supreme Court was concerned, however, that future courts might think that a decision on manifest injustice could depend on the defendant's future financial health. The court made clear that this consideration was not the intent of the legislature.

#### *i. Concurrence and dissent*

In addition to the sections listed above, in some court opinions one or more judges other than the judge writing the majority opinion may choose to write an opinion. This opinion may be either (1) a concurring opinion or (2) a dissenting opinion.

Always include a section that notes the concurring or dissenting opinion, if included in the court's opinion in the casebook. Many concurrences and dissents are the focus of classroom discussion and may be adopted in later majority decisions. Be careful, however, to keep your notes on the concurrence and the dissent separate from the other

sections of your case brief. These opinions are not part of the majority's decision.

Judges write concurrences when they agree with the outcome of the case as decided by the majority of the court but do not agree with all or part of the majority's reasoning. The concurrence allows a judge to explain what is wrong with the majority court's reasoning and how the same result can be reached in a different way.

A dissenting judge does not agree with the decision by the majority of the court. The judge may simply say, "I dissent," or the judge may explain why the majority opinion is wrong. Dissenting opinions are especially important when the vote by the members of a court is close, such as a 5-4 decision by the members of the United States Supreme Court. The wise attorney knows that a single change in the membership of an appellate court may affect the outcome in a future case.

### *j. Personal comments and reactions*

This is the one section of the case brief that does not come directly from the court opinion. In this section, state your own thoughts about the case. You may comment on (1) the validity of the decision, (2) the court's reasoning, (3) how this decision fits with other cases studied in class that address the same legal questions, and (4) anything else that might come to mind when thinking about the case. This section of the case brief is also a good place to note why you believe the author chose to include this case in the book. For example, you may find that the author included the case (1) because it helps explain the law you are studying, (2) because it is an example of poor or mistaken reasoning by the court, or (3) because it suggests an alternative approach to analyzing a particular legal issue. These notes can be especially helpful when preparing for class discussion and later when studying for exams.

An example of the full case brief for *Blodgett* follows.

*In re Est. of Blodgett*, 147 P.2d 702 (Alaska 2006).

*Facts:*

- Son Blodgett convicted of the criminally negligent homicide of his father.
- Father had executed a Will.

*C/A:* Son asked the trial court to award to him his share of his father's estate as stated in his father's Will.

*PH:* TC: Court applied Alaska's slayer statute and denied son's request because (1) he was convicted for his father's death, and (2) no "manifest injustice" would occur by denying his request.

*SI:* Under Alaska’s slayer statute, which precludes certain killers from receiving the assets of their victims, can a son benefit from his father’s Will when the son was convicted of the criminally negligent homicide of his father?

*PI:* Did the trial court abuse its discretion by denying a son’s request for his father’s assets under his father’s Will?

*H:* *SI:* Under Alaska’s slayer statute, a son can be precluded from benefiting from his father’s Will when he is convicted of criminally negligent homicide of his father.

*PI:* The trial court did not abuse its discretion by denying the son’s request to benefit from his father’s Will after the son’s conviction for the criminally negligent homicide of his father.

*J:* Affirmed.

*Relevant Rules:*

Alaska’s Slayer Statute (Alaska Stat. § 13.12.803)

(a) An individual who feloniously kills the decedent forfeits all benefits under this chapter with respect to the decedent’s estate. . . .

(k) In the case of an unintentional felonious killing, a court may set aside the application of section (a) . . . of this section if the court makes special findings of fact and conclusions of law that the application of the subsection would result in a manifest injustice and that the subsection should not be applied.

*Court’s Reasoning:*

1. The court did not err in ruling that the son did not prove that a manifest injustice would occur if he was prevented from acquiring the assets of his father.
2. The Alaska Supreme Court had not previously defined “manifest injustice.” In this case the court adopted the Alaska Court of Appeals’ approach, considering manifest injustice as “plainly unfair” and more than a general finding. Now the court must find special circumstances to consider the defendant something other than a “regular” offender.
3. Here the TC imposed a three-year sentence, not the minimal sentence possible. This sentence suggests that the court considered the son more than minimally responsible. This finding alone supports the conclusion that the son’s situation is no different from that of other regular offenders.
4. The lower court also found that it didn’t make a difference that the son was physically disabled, requiring more finances and arguably more in need of his father’s assets. The son could still operate heavy equipment and could work as a mechanic; he still had the potential of making \$40,000-\$50,000 per year.

The Alaska Supreme Court was concerned, however, that future courts might think that a decision on manifest injustice could depend on the defendant's future financial health. The court made clear that this consideration was not the intent of the legislature.

*Personal Comments:*

Although initially you may follow this outline of the case brief sections, you may change how you prepare briefs for your individual classes. Different professors may expect a different type of brief. When first learning how to brief, however, it is better to include rather than exclude information. Once you understand the different sections of a brief and also know what you need for each class, you may adjust your briefs accordingly.



### **E. Briefing a Case with Multiple Issues**

When a court addresses more than one issue, separate those issues throughout your case brief. If there are two issues, for example, provide two separate sections for the statement of the issue, the holding, the relevant rules/legal principles applied, and the court's reasoning. For an example of a case brief with multiple issues, see *Shrader v. Equitable Life Assurance Society*, 485 N.E.2d 1031 (Ohio 1985), found in Appendix A.



### **F. Holding v. Dicta**

A court must decide the issue raised by the parties in the case before the court. Any comment addressing the specific issue before the court is part of the court's holding. Sometimes, however, a court will make statements beyond what is necessary to resolve the specific issue before the court. A court may comment, for example, on the likely outcome of a case with different facts than the case presently before the court. These comments are not binding on future cases, have persuasive value only, and are known as *obiter dicta*. *Obiter dicta* is an assertion "which a party is not bound to make."<sup>20</sup> In *Blodgett*, for example, the court finished its opinion by suggesting that the legislature's purpose was not to focus on a slayer's personal wealth in deciding whether the manifest injustice exception

20. BRYAN A. GARNER, BLACK'S LAW DICTIONARY 449 (1996).

applied. This statement was not necessary to the court's holding because the Alaska Supreme Court relied on the "more than minimal length" of the son's sentence in upholding the superior court's ruling. Thus, while the court's comment on the weight of a slayer's financial security in finding manifest injustice may be predictive of the court's rulings in future cases, it was not a part of the holding in *Blodgett*.



### **G. Class Participation: The Socratic Method**

You must prepare for class in a U.S. law school. Many international classroom professors teach through lecture only, with little or no participation by the students. In many U.S. law classrooms, however, and especially in first-year courses, professors engage students in a dialogue known as the Socratic method.<sup>21</sup> The Socratic method is a way to promote a student's ability to think analytically and to create arguments in support of a party's position. The Socratic method is a method where a professor teaches by asking questions rather than just lecturing. The Socratic method may be the only teaching method used in a law school classroom or it may be combined with other teaching methods, such as a lecture format or the use of in-class exercises. When a professor explores the issues raised in the cases and other material read for class with students through the Socratic method, the classroom becomes a cooperative environment where both professor and student work to help all students understand how to analyze and understand an issue more completely.

The Socratic dialogue requires students to develop, state, and defend their positions. Lawyers are problem solvers, and the primary task in a U.S. law school is to learn the tools needed to solve problems. Laws will change, as will legal problems. Law professors don't have the answers to every legal situation, but they do try to help students develop reasoning skills that can be applied to any legal situation.

Consider a discussion between a professor and student about the court's decision in *Blodgett*:

**Professor:** Do you agree with the opinion in *Blodgett*?

**Student:** Yes, it doesn't seem fair that a son who kills his father could actually profit from his act.

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21. Socrates (469-399 B.C.) was a famous Greek philosopher.

**Professor:** But the statute does allow an exception — the manifest injustice exception. The legislature must have thought that a killer should be able to take assets under some circumstances. How could you argue that the facts in *Blodgett* support applying the exception?

**Student:** Well, a family relationship is special, different from the person on the street who kills another. Also, the son was convicted of criminal negligence rather than murder, so there was no evil intent. Usually, parents want to provide for their children, and the father might have still wanted his son to receive some of his assets.

**Professor:** As you know, that's not what the court decided. Why did the court refuse to grant the exception to the son?

**Student:** The court relied on the sentencing more than anything else. The lower court's sentence was more than the minimal sentence that could be imposed. This sentence suggested that the court viewed the son like anyone else — someone who did not deserve any kind of special consideration.

**Professor:** Did the trial court mention any other reasons for its decision?

**Student:** Yes, the court said the father-son relationship was a typical relationship, which neither supported granting the exception nor not granting the exception. The court also addressed the son's need for the father's assets, finding that despite the son's physical handicaps he was able to take care of himself financially.

**Professor:** Were all these reasons part of the court's holding in the case?

**Student:** Not according to the reviewing court. The court in its opinion made a point to emphasize that it would be wrong to decide the manifest injustice exception based on an individual's income. The appellate court was able to affirm the lower court's opinion because other valid reasons existed for not granting the exception.

**Professor:** So what if in the next case the sentence was the minimal sentence — could the lower court decide the manifest injustice question based on the financial need of the killer?

**Student:** Yes. *Blodgett* says the issue shouldn't be decided based on financial need, but the court also said that wasn't at issue in that case. So the comments are only dicta and not part of the holding in the case.



## H. Abbreviations in Note Taking

Remember that case briefs are used to help your own study and for use later when studying for examinations. Your goal is to write a brief that is as complete as is necessary but is also as concise as possible. Creating a list of abbreviations for commonly used terms will shorten your time

briefing cases and will also help when you take notes in class. Create your own list. Some suggestions are:

K	Contract
P	Plaintiff
D	Defendant
App'ant	Appellant
App'ee	Appellee
Pet.	Petitioner
Resp.	Respondent
BFP	Bona Fide Purchaser
C/A	Cause of Action



## ***I. Legal Terminology***

You will find many new words and phrases when studying the law in the United States. Many of the new words and phrases will be legal terms that have special meaning in U.S. law. For this reason, you will need access to a legal dictionary. You may choose to buy a paperback dictionary that is small enough to keep with you whenever you are in class or are studying. In the alternative, there are many legal dictionaries online.<sup>22</sup> When you keep a single list of definitions, separate that list from your individual class notes. That way you can always check this list first when in the future you read a word or phrase you don't know. If the word or phrase is on the list, you don't need to look further; if not, you can then add the new definition to your master list. By taking the time to learn these terms as you progress through your studies, you should find that eventually you will remember the definition and can then eliminate that word or phrase from your master list. We've also provided a glossary of terms at the end of this book.

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22. See, e.g., FindLaw Law Dictionary, at [dictionary.findlaw.com](http://dictionary.findlaw.com) and [LAW.COM](http://LAW.COM) at [dictionary.law.com](http://dictionary.law.com). Black's Law Dictionary is now also available online through Westlaw.