

**How to brief a case:**

Briefs should only be about  $\frac{3}{4}$  of a page. Only in unusual circumstances (very long cases; cases with dissenting opinion), should they be more than 1  $\frac{1}{2}$  pages.

**1) Parties and roles.** (*Tenant Jill Jones, plaintiff, is suing her landlord Joe Smith, defendant, for failure to return a security deposit.*)

**2) Dispositive and material facts.**

**3) Procedural history** (prior proceedings, including the action the court is reviewing). (*Trial court granted defendant's motion for summary judgment. Plaintiff is appealing the trial court's decision.*) The procedural history is the past route the case took before it got to the present level. It does not include this court's ruling.

**4) Issues. What legal questions did the court decide?** Usually one sentence per issue. For learning purposes in our class, your issue statement must contain (a) the procedural question and (b) the substantive legal question. Please combine these into one sentence.

**A. The Procedural Question** is what the appellant claims the immediately preceding court did wrong. What does the appellant want the court to do? Correct "wrong" jury instructions? Order a new trial? Reverse the lower court's grant of summary judgment? (*Did the trial court err in instructing the jury that [insert substantive question here]? Did the trial court err in refusing to allow the witness to testify about his past conduct, given that [insert substantive question here]?*)

**B. The Substantive Question** is the precise legal rule being argued about. It must stand on its own, such that a lawyer could take this phrase and nothing else into a library and research it to determine the generally accepted law. (*[Insert procedural question here], on the grounds that a 5-year old child cannot formulate an intent to batter?*)

**5) Holding.** There is one holding per issue. The holding should be one sentence that addresses the issue. (*Yes, the trial court erred in finding that a 5-year old child cannot formulate an intent to batter.*)

**6) Reasoning.** This is the basis for the holding. Include each reason the court gave. This will be important when you study for the exam, on which you will have to compare hypothetical cases with the logic used in the cases studied in class.