

ORIENTATION 2013 CASE BRIEFING



**HAMLIN
UNIVERSITY**
School of Law

An Introduction to Legal Analysis

Review this case briefing booklet carefully. The materials will guide your creation of brief sections for the case briefing and case synthesis sessions during orientation. Active class participation (voluntary and otherwise) is a certainty. Be prepared!

Case Briefing: An Introduction to Legal Analysis

I. Your Adventure Begins

Welcome to Hamline Law School and the beginning of your adventure in legal education. In many respects, law school is all about the development and refinement of analytical skills. Since case law provides the foundation for much of our legal system, you will spend considerable time in (and after) law school reading court opinions. Each case presents a story, and your ability to understand and analyze those stories will directly bear on your success in law school and in the profession.

Case briefing is a fundamental tool for developing your analytical skills. In essence, a case brief is a written summary presenting your analysis of the decision's significant aspects. There are different formats for briefing cases, and the format will likely vary depending on the context. In general, case briefs often reflect the following organizational structure:

1. Case name, court, and date
2. Procedural posture (some like to include this in "Facts")
3. Facts
4. Issue(s)
5. Holding(s)
6. Reasoning
7. Rule(s)

The appropriate format and content will vary depending upon the underlying purposes and context for the case brief.

Keep in mind that different professors may have different expectations and personal styles regarding case briefing; indeed, most will never explicitly require a written brief. Nonetheless, the case briefing process is a challenging exercise that will force you to break out the relevant components of each decision so that you will understand what the court did and why. This fundamental understanding is key to your well-prepared participation in class, your ability to apply the resulting standards to other cases and exam scenarios, and ultimately to your effective representation of clients as an attorney.

Read the following case closely. The *Motschenbacher* opinion involves fast driving, cigarettes, televised advertising, a bit of photo-shopping, and possible liability for gaining inappropriate financial advantage. Decided in 1974, this tort case introduces you to the concept of commercial appropriation.

II. The *Motschenbacher* Case

Lothar MOTSCHENBACHER, Plaintiff-Appellant,
v.
R. J. REYNOLDS TOBACCO COMPANY, a corporation, and William Esty Company,
Defendants-Appellees.

United States Court of Appeals, Ninth Circuit
No. 72-1419.

June 6, 1974.

KOELSCH, Circuit Judge:

Lothar Motschenbacher appeals from the district court's order granting summary judgment in favor of defendants in his suit seeking injunctive relief and damages for the alleged misappropriation of his name, likeness, personality, and endorsement in nationally televised advertising for Winston cigarettes. ***

The 'facts' on which the district court rendered summary judgment are substantially as follows:¹ Plaintiff Motschenbacher is a professional driver of racing cars, internationally known and recognized in racing circles and by racing fans. He derives part of his income from manufacturers of commercial products who pay him for endorsing their products.

During the relevant time span, plaintiff has consistently 'individualized' his cars to set them apart from those of other drivers and to make them more readily identifiable as his own. Since 1966, each of his cars has displayed a distinctive narrow white pinstripe appearing on no other car. This decoration has adorned the leading edges of the cars' bodies, which have uniformly been solid red. In addition, the white background for his racing number '11' has always been oval, in contrast to the circular backgrounds of all other cars.

In 1970, defendants, R. J. Reynolds Tobacco Company and William Esty Company, produced and caused to be televised a commercial which utilized a 'stock' color photograph depicting several racing cars on a racetrack. Plaintiff's car appears in the foreground [sic], and although plaintiff is the driver, his facial features are not visible.

In producing the commercial, defendants altered the photograph: they changed the numbers on all racing cars depicted, transforming plaintiff's number '11' into '71'; they 'attached' a wing-like device known as a 'spoiler' to plaintiff's car; they added the word 'Winston,' the name of their

¹ We of course express no opinion regarding what facts the evidence may ultimately establish; we simply accept the statements of plaintiff's affiants as true for the purposes of the motion.

product, to that spoiler and removed advertisements for other products from the spoilers of other cars. However, they made no other changes, and the white pinstriping, the oval medallion, and the red color of plaintiff's car were retained. They then made a motion picture from the altered photograph, adding a series of comic strip-type 'balloons' containing written messages of an advertising nature; one such balloon message, appearing to emanate from plaintiff, was: 'Did you know that Winston tastes good, like a cigarette should?' They also added a sound track consisting in part of voices coordinated with, and echoing, the written messages. The commercial was subsequently broadcast nationally on network television and in color.

Several of plaintiff's affiants who had seen the commercial on television had immediately recognized plaintiff's car and had inferred that it was sponsored by Winston cigarettes.

On these facts the district court, characterizing plaintiff's action as one 'for damages for invasion of privacy,' granted summary judgment for defendants, finding as a matter of law that

'... the driver of car No. 71 in the commercial (which was plaintiff's car No. 11 prior to said change of number and design) is anonymous; that is, (a) the person who is driving said car is unrecognizable and unidentified, and (b) a reasonable inference could not be drawn that he is, or could reasonably be understood to be plaintiff, Lothar Motschenbacher, or any other driver or person.'²

'Summary judgment of course is proper only where there is no genuine issue of any material fact or where viewing the evidence . . . in the light most favorable to the adverse party, the movant is clearly entitled to prevail as a matter of law.' See Stansifer v. Chrysler Motors Corporation, 487 F.2d 59, 63 (9th Cir. 1973), and cases cited therein.

* * *

In California, as in the vast majority of jurisdictions, [footnote omitted] the invasion of an individual's right of privacy is an actionable tort. [Melvin v. Reid, 112 Cal.App. 285, 297 P. 91 \(1931\)](#). [footnote omitted] In 1960 Dean Prosser, drawing on over 300 cases, observed that the tort is actually a complex of four separate and distinct torts, each of which is decided under an 'invasion of privacy' label. See Prosser, Privacy, 48 Calif.L.Rev. 383 (1960); Prosser, Law of Torts 804 (4th ed. 1971). Prosser's four categories are: (1) intrusion upon the plaintiff's seclusion or solitude; (2) public disclosure of private facts; (3) placing the plaintiff in a false light in the public eye; and (4) appropriation, for defendant's advantage, of plaintiff's name or likeness. [footnote omitted] The case before us is of the fourth variety-commercial appropriation. [footnote omitted]

* * *

² The district court concluded:

'3. Not having been identified in the commercial either visually, aurally, explicitly, or inferentially, plaintiff's action fails, and the Court is authorized to grant defendants' Motion for Summary Judgment.'

It is true that the injury suffered from an appropriation of the attributes of one's identity⁹ may be 'mental and subjective' - in the nature of humiliation, embarrassment, and outrage. [Fairfield, supra, at 86, 291 P.2d 194](#). However, where the identity appropriated has a commercial value,¹⁰ the injury may be largely, or even wholly, of an economic or material nature.¹¹ Such is the nature of the injury alleged by plaintiff.

Some courts have protected this 'commercial' aspect of an individual's interest in his own identity under a privacy theory. [citations omitted].

Others have sought to protect it under the rubric of 'property' or a so-called 'right of publicity.' [citations omitted].

Prosser synthesizes the approaches as follows:

'Although the element of protection of the plaintiff's personal feelings is obviously not to be ignored in such a case, the effect of the appropriation decisions is to recognize or create an exclusive right in the individual plaintiff to a species of trade name, his own, and a kind of trade mark in his likeness. It seems quite pointless to dispute over whether such a right is to be classified as 'property'; it is at least clearly proprietary in its nature. Once protected by the law, it is a right of value upon which the plaintiff can capitalize by selling licenses.'

Law of Torts (4th ed. 1971), at 807.

So far as we can determine, California has no case in point; the state's appropriation cases uniformly appear to have involved only the 'injury to personal feelings' aspect of the tort. [footnote omitted]

⁹ As Dean Prosser noted in his Law of Torts (4th ed. 1971), at 805-806:

'It is the plaintiff's name as a symbol of his identity that is involved here, and not as a mere name. Unless there is some tortious use made of it, there is no such thing as an exclusive right to the use of a name; and any one can be given or assume any name he likes. It is only when he makes use of the name to pirate the plaintiff's identity for some advantage of his own * * * that he becomes liable. It is in this sense that 'appropriation' must be understood.'

¹⁰ It would be wholly unrealistic to deny that a name, likeness, or other attribute of identity can have commercial value. As the court observed in [Uhlaender v. Henricksen, 316 F.Supp. 1277 \(D.Minn.1970\)](#), at 1283:

'A name is commercially valuable as an endorsement of a product or for financial gain only because the public recognizes it and attributes good will and feats of skill or accomplishments of one sort or another to that personality.'

See also notes 11 and 14, *infra*.

¹¹ Generally, the greater the fame or notoriety of the identity appropriated, the greater will be the extent of the economic injury suffered. However, it is quite possible that the appropriation of the identity of a celebrity may induce humiliation, embarrassment and mental distress, while the appropriation of the identity of a relatively unknown person may result in economic injury or may itself create economic value in what was previously valueless. In this latter context, [citations omitted].

Nevertheless, from our review of the relevant authorities, we conclude that the California appellate courts would, in a case such as this one, afford legal protection to an individual's proprietary interest in his own identity. We need not decide whether they would do so under the rubric of 'privacy,'¹³ 'property,'¹⁴ or 'publicity'; [footnote omitted] we only determine that they would recognize such an interest and protect it. [footnote omitted]

We turn now to the question of 'identifiability.' Clearly, if the district court correctly determined as a matter of law that plaintiff is not identifiable in the commercial, then in no sense has plaintiff's identity been misappropriated nor his interest violated.

Having viewed a film of the commercial, we agree with the district court that the 'likeness' of plaintiff is itself unrecognizable; however, the court's further conclusion of law to the effect that the driver is not identifiable as plaintiff is erroneous in that it wholly fails to attribute proper significance to the distinctive decorations appearing on the car. As pointed out earlier, these markings were not only peculiar to the plaintiff's cars but they caused some persons to think the car in question was plaintiff's and to infer that the person driving the car was the plaintiff.¹⁷

Defendant's reliance on [Branson v. Fawcett Publications, Inc., 124 F.Supp. 429 \(E.D.Ill.1954\)](#), is misplaced. In *Branson*, a part-time racing driver brought suit for invasion of privacy when a photograph of his overturned racing car was printed in a magazine without his consent. In ruling

¹³ Two recent decisions, [Williams v. Weisser, 273 Cal.App.2d 726, 78 Cal.Rptr. 542 \(1969\)](#), and [Stilson v. Reader's Digest Association, Inc., 28 Cal.App.3d 270, 104 Cal.Rptr. 581 \(1972\)](#), suggest that a 'commercial' interest in one's identity may be protected in California under the 'privacy' rationale of *Fairfield*. In *Weisser*, a university professor brought suit for invasion of privacy and infringement of common law copyright when the defendant, without his consent, published student notes of plaintiff's classroom lectures under plaintiff's name. Plaintiff prevailed under both theories and was awarded compensatory damages based on a publisher's testimony of the commercial value of the notes. In *Stilson*, the court noted that 'if commercial exploitation be found, (plaintiffs) would be entitled to nominal recoveries upon little more than an election to proceed' and that 'each such plaintiff has an established right to show the mental anguish, as well as the financial detriment, which may have been caused to him by the use of his name in letters to * * * other persons. This * * * could well concern the status and business relationship to him of the recipients of the letters using his name.' 28 Cal.App.3d at 273-274, 104 Cal.Rptr. at 583.

¹⁴ The interest may likewise be protectable as 'property.' In [Yuba River Power Co. v. Nevada Irrigation District, 207 Cal. 521, 523, 279 P. 128, 129 \(1929\)](#), a water rights case, the California Supreme Court said in construing a statute: 'The term 'property' is sufficiently comprehensive to include every species of estate, real and personal, and everything which one person can own and transfer to another. It extends to every species of right and interest capable of being enjoyed as such upon which it is practicable to place a money value.' In [Republic Pictures Corp. v. Rogers, 213 F.2d 662, 665-666 \(9th Cir. 1954\)](#), this court interpreted California law in a somewhat different context, observing that reproductions of the 'name, voice and likeness' of a performer are valuable because of the notoriety of the performer and his great public following. And in a second appeal of [Fairfield, supra, 158 Cal.App.2d 53, 56, 322 P.2d 93 \(1958\)](#), relating to the question of damages, the California Court of Appeal recognized that the names of celebrities may have substantial commercial value. Accord, [In Re Weingand, 231 Cal.App.2d 289, 293-294, 41 Cal.Rptr. 778 \(1964\)](#).

¹⁷ The addition of a 'Winston' spoiler to the plaintiffs car does not necessarily render the automobile impersonal, for plaintiff's cars have frequently used spoilers; it may be taken as contributing to the inference of sponsorship or endorsement. The alteration which may affect identifiability is the change in numbering, but this alteration does not preclude a finding of identifiability by the trier of fact.

that 'the photograph * * * does not identify the plaintiff to the public or any member thereof,' [124 F.Supp. at 433](#), the court said:

'[T]he automobile is pointed upward in the air and the picture shows primarily the bottom of the racer. The backdrop of the picture is not distinguishable. No likeness, face, image, form or silhouette of the plaintiff or of any person is shown. From all that appears from the picture itself, there is no one in the car. Moreover, no identifying marks or numbers on the car appear . . . Plaintiff does not even assert that the car he was driving was the same color as that which appears in the colored reproduction.'

124 F.Supp. at 432.

But in this case, the car under consideration clearly has a driver and displays several uniquely distinguishing features.

The judgment is vacated and the cause is remanded for further proceedings. [footnote omitted]

III. Looking at Case Briefing in the *Motschenbacher* Context

Now let's break down the *Motschenbacher* decision into a case brief. First, we will consider how each of the seven briefing categories operates. Then, to illustrate each category's operation in more detail, the materials will present some sample case brief sections for *Motschenbacher*. **In some instances, however, you are asked to draft your own "better" versions of certain sections for discussion during Orientation. Be prepared!**

A. Case Name, Court, and Date

This first category is the easy stuff. The case name, court, and date should all readily appear in the case caption at the head of the opinion. Naturally, the name will help you identify the decision and, to some extent, the litigating parties. In law school, you will read hundreds of cases, and recalling case names will help you sort through those decisions. Often, the party bringing the lawsuit (usually the "plaintiff") and/or raising the appeal ("appellant") will be named first.

As for the applicable court, simply abbreviate the relevant identifiers in your brief. Keep in mind the court's place in the overall judicial hierarchy; some courts are more influential than others. The Supreme Court of the United States, for example, carries more weight than a federal district court. You will learn more about the relative pecking order of state and federal courts during your first year.

The case date most often just means knowing the year of decision, although in some contexts the full date may be significant (for example, if the case is extremely recent, or if there are competing decisions with differing results in the same year). Naturally, since legal rules and court rulings change over time, the date has some bearing on the continued vitality of the stated authority. It is usually safer to cite cases from 2012 than from 1812. On the other hand, very old decisions can still be good law.

Finally, you will learn in your Legal Research & Writing class that you must follow certain rigid form requirements when citing a case in an appellate brief or legal memorandum. While those requirements are important, they do not apply to the case briefs you create when evaluating case authority for your own purposes when preparing for class or a court appearance. In other words, pick case name conventions that work for you—the sample section below does NOT reflect technically accurate citation style.

SAMPLE CASE BRIEF SECTION: Case name, court and date

Motschenbacher v. R.J. Reynolds Tobacco Co. (9th Cir. 1974)

B. Procedural Posture

This briefing segment presents a procedural overview of the decision. You should include the basics regarding the parties and their underlying claims, the relevant resolution before the trial court, the alleged errors bringing this matter up on appeal, and the ultimate result. Most of your cases will be appellate decisions setting forth the relevant litigation milestones early in the opinion.

It is crucial to understand precisely what brought this matter to the instant court. After all, the procedural posture can dictate the outcome in the appellate arena. This is because the procedural disposition below will affect the applicable standard of review, and this in turn will control how much deference to accord the lower court's determination. Pay close attention to why the case is up on appeal.

Finally, you need to know the case's ultimate disposition. It is surprising how often a student will read a case and not understand which party prevailed. What relief was granted? Did the appellate court affirm, reverse, remand, or something else? This description differs from the holding, which is discussed in more detail below.

SAMPLE CASE BRIEF SECTION: Procedural posture

Appellant Motschenbacher (pro race car driver) sued appellees RJReynolds Tobacco Co. & William Esty Co. for invasion of privacy. The district court granted appellees' summary judgment motion, finding that their commercial did not invade Motschenbacher's privacy as a matter of law because the person driving the car in the commercial could not be identified visually, aurally, explicitly, or inferentially. Here, the 9th Circuit vacated the lower court's judgment and remanded the matter.

C. Facts

This section is harder than it may seem. This category should include all legally relevant facts. The primary difficulty is discerning the difference between what's relevant and what's not. Many students err by restating all the case facts and cluttering their brief with extraneous stuff. With practice, you will learn how to present a concise narrative that focuses on the determinative information, the facts upon which the court bases its holding. Do not attempt to draft your "facts" section before you have closely evaluated the court's analysis, which should highlight the facts supporting the rationale. You want to present every fact essential to the decision.

Of course, reasonable people may disagree as to what facts are actually essential. This determination may well color the scope of the court's holding. Generally, courts attempt just to reach a fair resolution of the particular controversy before them. Depending on what facts are deemed crucial, the court's holding will or will not extend to future litigation controversies.

Finally, some cases present complex stories, while others are relatively straightforward. Methodically crafting a "facts" section will help you dissect exactly

what's happening, even in cases involving the most convoluted circumstances!

SAMPLE CASE BRIEF SECTION: Facts

Defendants/appellees took a stock color photo depicting several cars on a racetrack, including plaintiff's car, then altered the picture to create a nationally-broadcast commercial. The alterations included a comic strip-type balloon with an advertising message that appeared to come from plaintiff's mouth.

Do the above facts capture the essence of what is legally relevant here? If not, what key facts are missing?

SAMPLE CASE BRIEF SECTION: More Facts!

Plaintiff/appellant was an internationally-known professional race car driver who made part of his income through commercial endorsements. Defendants/respondents created a nationally-televised commercial by altering a stock color photo that depicted several cars on a racetrack, including plaintiff's car. The alterations were: (1) changing the numbers on the race cars; (2) adding a "Winston" spoiler to plaintiff's car; (3) removing the ads for other products from the other cars' spoilers; and (4) adding a comic strip-type balloon with an advertising message that appeared to come from plaintiff's mouth.

Does this beefed-up fact section cover what's required? Are important facts still missing? Does the section include too much?

YOUR ASSIGNMENT: Create the "perfect" fact section! Be prepared to share your creation at the Orientation session on Case Briefing.

D. Issues

This section defines the dispute. The issues are the legal questions that the court must determine to resolve the controversy. If properly constructed, the issue statement should be answerable by "yes" or "no." Cases frequently involve more than one issue. When framing the relevant issues, you must identify the applicable legal rules in light of the central facts.

The issues can be framed broadly or narrowly. With respect to *Motschenbacher*, for example, the opinion suggests several large issues. First, did the district court properly grant the appellees' summary judgment motion? Second, would California courts recognize an appropriation action? Third, was the appellant identifiable in the appellee's commercial? Although these somewhat generic statements do outline some important inquiries, they are not terribly helpful. For example, every appeal from summary judgment necessarily implicates the first question. These broad articulations omit important context that would explain how commercial appropriation and identifiability operate here. In other words, correctly worded statements will give enough information to make the issues concrete, and this will provide meaningful content to the applicable legal rules in future controversies.

A different problem arises if the issue is framed too narrowly. If your issue incorporates facts not relevant to the court’s resolution, then you are confining the instant controversy to the unimportant specifics of the *Motschenbacher* matter. This would improperly undercut the precedential value of the opinion.

SAMPLE CASE BRIEF SECTION: Issues

1. Would California, which has apparently previously recognized appropriation cases only in the “injury to personal feelings” context, afford a misappropriation tort remedy to protect a person’s right to “privacy,” “property,” or “publicity,” where the injury to personal identity interest is largely—or even wholly—of an economic or material nature?

2. YOUR ASSIGNMENT: What about the identifiability issue? Create the “perfect” issue statement for identifiability. Be prepared to share your creation at the Case Briefing session.

E. Holdings

The case holding answers the question posed by the issue. Thus, the holding can often involve simply restating the issue so that it includes the answer.

SAMPLE CASE BRIEF SECTION: Holdings

1. California, which has previously recognized appropriation cases only in instances involving “injury to personal feelings,” would also afford a tort remedy to protect a personal identity interest, even where the injury is largely—or even wholly—of an economic or material nature, regardless of whether that interest is characterized as a right to “privacy,” “property,” or “publicity.”

2. YOUR ASSIGNMENT: What about the holding for the identifiability issue? Create the “perfect” holding statement for identifiability. Be prepared to share your creation at the Case Briefing session.

F. Reasoning

The section presents the court’s justification for its holdings. The court’s reasons may be explicit or implicit. In order to construct the reasoning section, take another look at the court’s holding and summarize the thinking supporting that decision. You want to craft a logical step-by-step explanation for how the court reached its result.

SAMPLE CASE BRIEF SECTION: Reasoning

1. Reasoning Supporting Holding #1:

In the vast majority of jurisdictions, including California, the invasion of an

individual's right of privacy is an actionable tort.

According to Dean Prosser (*Law of Torts*), right of privacy includes the distinct tort of commercial appropriation (the appropriation, for defendant's advantage, of plaintiff's name or likeness).

The appropriation of one's identity may be mental and subjective (humiliation, embarrassment, outrage), and California's appropriation cases have involved only this subjective aspect. When the appropriated identity has commercial value, however, the injury may be entirely of an economic or material nature. Some jurisdictions protect this commercial aspect under a privacy theory; others protect it under a property or "right of publicity" rubric.

Dean Prosser (*Law of Torts*) concludes that the appropriation decisions essentially recognize an individual's exclusive right to a sort of trade mark in his/her likeness; this right is proprietary in its nature (regardless of whether it is classified as "property"), and the law protects its value.

Although California has not previously ruled on whether commercial appropriation of identity is an actionable tort, the state's appellate decisions (*Weisser, Stilson* under a privacy rationale; *Yuba River, Rogers* under a property rationale) suggest that the jurisdiction would protect that interest under some theory—whether under a privacy, property, or publicity approach.

2. YOUR ASSIGNMENT: What about the reasoning supporting the identifiability holding? Create the "perfect" reasoning section for the holding you created. Be prepared to share your creation at the Case Briefing session.

G. Rules

This section states the overall principles arising from the decision. The rules should naturally flow from the issue, holding, and reasoning segments. Here, you identify the legal propositions that will serve as precedent, applying to analogous contexts in future cases.

Often, the legal rules will not be "new", but will simply restate a principle articulated by a prior court. Unless you have read several cases on a particular issue, you may have difficulty discerning the rule or appreciating its significance.

SAMPLE CASE BRIEF SECTION: Rules

1. The vast majority of jurisdictions recognize the invasion of an individual's right of privacy as an actionable tort.
2. The misappropriation of identity may involve "mental and subjective" injury (such as humiliation, embarrassment, and outrage), or when the appropriated identity has commercial value, the injury may be entirely economic and material.

Some courts protect this commercial interest in identity under a privacy theory; others protect the interest under a property or right-of-publicity approach.

3. California law affords a tort remedy to protect a personal identity interest, even where the injury is largely—or even wholly—of an economic or material nature, regardless of whether that interest is characterized as a right to “privacy,” “property,” or “publicity.”

4. YOUR ASSIGNMENT: What about the rule(s) underling the identifiability holding? Create the “perfect” rules for the holding you created. Be prepared to share your creation at the Case Briefing session.

IV. Putting Together the Big Picture

Remember that case analysis is far from easy—that’s why you spend years in law school learning how to think analytically. You are certainly not always expected to produce the “right answer” when you evaluate case authority, and reasonable people can disagree as what that “right answer” might be. So when you come to class and are stunned to discover that your analysis has missed the mark, do not be discouraged. Over time, you will be amazed at how the components of case analysis begin to fall into place.

Keep in mind, too, that some judicial opinions are not well-written, logical, internally consistent, or even coherent. The case you read may not have been “correctly decided,” and you need to retain a critical eye as you review your casebook materials.

In the end, your ability to brief one case in isolation means far less than understanding that opinion’s relationship to other case authority. Case synthesis is the process of distilling a series of decisions into meaningful standards that you can apply to comparable factual and legal contexts. If you are evaluating the commercial misappropriation of personal identity in another case, the *Motschenbacher* decision is just one piece of the puzzle. Is personal identity “property” or not? Does the right of privacy and/or publicity protect that interest? The possible factual twists and legal variations are endless, and your task will be to assess these twists and variations by thinking abstractly and pulling meaningful legal doctrines from a group of similar decisions.

Congratulations! You have completed your first small step towards understanding case briefing as a legal analysis mechanism. At orientation, you will hear much more, and you will see the benefits of briefing firsthand. In your upcoming Case Briefing session, it will be assumed that you have read and understood the materials presented here. More than that, you will be expected to have crafted your own case brief sections (as assigned above) and be prepared to present and defend your choices. If you have done thoughtful preparation, the time will be especially well spent. Be ready to think on your feet!