

Legal Liabilities in Safety and Loss Prevention: A Practical Guide

SECOND EDITION

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Preface

READING, ANALYZING, AND BRIEFING A COURT DECISION

Safety and loss prevention professionals who are unfamiliar with reviewing, analyzing, and briefing a court decision, the following synopsis is provided to assist you through this process.

Reading a Court Decision

- Read the case in total to acquire a “flavor” for the type of case.
- Determine what type of case you are reading, e.g., civil, criminal, administrative, etc.
- Examine the title of the case and identify the court making the decision, e.g., U.S. Supreme Court, 4th Circuit Court of Appeals, etc.
- Identify the date of the decision.
- Review the brief summary or headnote, usually provided at the beginning of each decision.
- If the case is an appeal, note whether the decision was unanimous or handed down by a divided court.

Note if there is a dissenting opinion provided by the judges who did not agree with the majority decision.

- Read the case again with specificity. Identify the parties, issues, arguments, and decision.
- **Always** look up legal terms you do not fully understand in a legal dictionary or a reputable Web site.
- Brief your case in order to fully understand the issues, facts, and decision in the case.

Analyzing the Case

Case law is an accumulation of court decisions that provide guidance and direction on current and future cases and decisions. Cases usually start at the district or lowest level of the courts and are often appealed to a higher appellate court, up to and including the U.S. Supreme Court. There are federal court decisions as well as individual state court decisions and administrative decisions, such as the OSHRC.

As a general rule, when analyzing a case, you should read the case in detail one time to acquire a “flavor” for the case. On the second reading, the issues in the case, as well as the facts of the case and the decision, should be

identified. On the third reading of the case, you should take notes for future reference, identifying the issues of the case, the important or pertinent facts of the case, the decision of the court, and any dissent.

It is important to carefully analyze each issue in the case and determine why the court decided the case in this manner. Do you agree or disagree with the court's decision and why? Was the court's decision overturned at any level of appeal?

Briefing the Case

The primary reason for "briefing" a case is to assist you in understanding the particular legal issues and their significance. There are various methods of briefing a case, and the following format is only offered as an example of one of these methods. No matter what method you adopt, it is vital that you read the case thoroughly at least one time to acquire a general idea of what it is about before beginning to take notes and develop your brief.

1. List the case name, the court, and the date of the decision.
Joe Anyone v. Tom's Widget Company, Inc.
Madison County Circuit Court—4th Division
September 1, 2010
2. **Issues:** In 1–2 sentences, identify the key issue or issues in the case.
3. **Facts:** Usually in 1–2 paragraphs, summarize the key facts involved.
4. **Holding (or Decision):** Identify the decision of the court.
5. **Dissent (or Dissenting opinion):** Identify any dissenting opinions provided by the minority in the decision. Note: Usually, dissenting opinions are provided only on appellate cases.
6. **My Opinion:** Do you agree or disagree with the decision and why?

A brief should not be more than one (1) page in length; thus, it should be very concise and "to the point." Your

brief can be used to assist you in your course work as well as to refresh your memory regarding the case.

EXAMPLE CASE BRIEF

Case Name: *Marshall v. Barlow's Inc.*, 436 U.S. 307 (1978)

Issue: Is Section 8(a) of the OSH Act unconstitutional in that it violates the Fourth Amendment?

Facts: Appellee (Barlow's) initially brought this action to obtain injunctive relief against a warrantless inspection of its business by OSHA. The inspection was permitted under Section 8(a) of the OSH Act, which authorized agents of the Secretary of Labor to search the work area of any facility within OSHA's jurisdiction for safety hazards and violations without obtaining a search warrant or other processes. A three-judge Idaho District Court rules in favor of Barlow's and concluded that the Fourth Amendment required a warrant for this type of search and that the statutory authorization for warrantless inspections was unconstitutional. This appeal resulted.

Holding: Yes, Section 8(a) of the OSH Act was unconstitutional in that it violated the Fourth Amendment. The U.S. Supreme Court affirmed the decision of the Idaho District court and granted Barlow's an injunction enjoining the enforcement of the Act to that extent. The Court stated that the rule against warrantless searches applies to commercial premises as well as private homes. Although an exception to this rule is applied to certain "carefully defined classes of cases" including closely regulated businesses such as firearms and liquor industries, this exception does not automatically apply to all businesses engaged in interstate commerce.

My Opinion: I agree with the Court in this case. OSHA should be required to provide a reason for the inspection and show proof supporting the reason for an inspection if the employer or business does not waive his/her rights. The requirement for OSHA to acquire an administrative search warrant provides the employer or business the opportunity to argue his/her case before permitting the inspection.



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