

BRIEFING



HOW DO I BRIEF?

Popular options include

- a regular brief
- book briefing
- flashcards

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WHAT IS A BRIEF?

A brief is a short summary of a case, ideally one page or less.

It includes concepts from the case such as:

- Parties
- Facts
- Procedural history
- Issue
- Rule
- Analysis
- Conclusion
- Holding

See the attached for more information on each of these concepts.

Case Briefing Cheat Sheet: What to Search for in a Judicial Opinion

1. Case Name	The case name is always located at the top of the case. It gives the names of the parties. It is generally formatted like the following: Plaintiff v. Defendant, <i>Petitioner v. Respondent</i> , <i>Appellant v. Appellee</i> . E.g. <i>Garratt v. Dailey</i> . Remember, the Petitioner/Appellant may or may not be the original plaintiff. This designates the party bringing the appeal and not the party who initiated the original lawsuit.
2. Court & Date	This is the court writing the opinion you are reading (Ex: Washington Supreme Court) and the year of the opinion.
3. Procedural History	The procedural history is found in several paragraphs and describes (i) how the defendant wronged the plaintiff; (ii) what the parties argued in the lower court(s); (iii) how the lower court(s) ruled; (iv) how and why the case moved from a lower court to the higher court (i.e. the basis of the appeal or what the person appealing wants from the higher court). It may be a blend of facts and legal language. You should distill the procedural facts from the case facts.
4. Question Presented or Issue	Generally, a legal or procedural question that the appellant wants the higher court to answer. It is the reason why the case moved from the lower court to the higher court. Remember, an appellant may ask more than one question and the court may, occasionally, raise legal questions on its own.
5. Facts	Not all facts are relevant; some are relevant for one purpose but not for another. Once you find the question presented/issue and the legal holding, you should have a better sense about which facts are truly important. The facts do not include the court's opinion, but rather include the legally significant points of the story from the plaintiff's and the defendant's points of view.
6. Rule (i.e. the law)	The rule may be found in three places: (i) a succinct statement of the governing legal principle that the higher court uses to decide the case (about a sentence or two in length); (ii) a sentence or paragraph where the higher court answers the question presented; (iii) a paragraph that describes under what circumstances a person is liable. The rule may be found in all three places. You will very often need to reduce the number of words the court used—without losing meaning—in your case brief.

7. Reasoning	The reasoning is generally several paragraphs following the rule where the court explains how and why it answered the question presented as it did. It is a blend of facts and legal language. Pay close attention to this as you will have to explain the court's reasoning in class and show your own reasoning when you answer essay questions. Take time to fully wrap your head around how the court explains its decision. You will encounter clear and well-explained reasoning as well as fuzzy and heard-to-follow reasoning.
8. Holding	The holding is the court's answer to the question(s) presented. There are very narrow procedural holdings (for example, "case reversed and remanded") and broader substantive holdings that typically deal with the interpretation of the Constitution, statutes, or judicial doctrines. If the issues were stated precisely, the holding can be stated as "yes" or "no" or in short statements taken from the language of court. Sometimes, but not always, the court will begin its holding with explicit language, such as "We hold that . . . "
9. Main Takeaway	Every case is in the casebook for a reason. Before you read and while you read, you should be asking yourself, "What is the main takeaway of this case? Why have the authors included this case in the book? And why have they placed this case in this particular section?" If you find this, you are well on your way to understanding the main takeaway. Remember, that your professor may use a case for different or additional reasons beyond what the casebook author intended. If this happens, don't get nervous, just try to understand why the professor is going there.

Template for Case Brief
(last updated August 26, 2020)

There is no one uniform way to brief cases. Below is a proposed format.

Case caption
(Name of case, court, year)

I. Background

A. Parties

(you should identify the important parties in the case)

B. Facts

(this should only include the salient facts. To identify which facts are important, you may need to first identify the legal issues involved in the case)

C. Procedural History

(this part should indicate how the matter was resolved by the trial court and by each appellate court that reviewed the matter.)

II. Legal Issues

A. Issue(s) on appeal

(you should identify the specific question that the court is trying to resolve. The answer to this question will guide you to the court's holding.)

B. Parties' Argument

(what are the parties' competing argument about the legal issue on appeal?)

C. Court's Holding(s)

(this is the court's binding resolution of the legal issues in the case. This is to be distinguished from non-binding dicta. If there is important dicta, you can include it, but label it as such.)

D. Court's Reasoning

1. Applicable legal rules

(here you should identify the "law"; that is, the legal principles, rules or standards)

2. Analysis

(here you should indicate how the court applied the "law" to the facts of the case)

III. Conclusion

A. Court's Judgment

(this is a short statement of the court's disposition of the case.)

B. Your Evaluation

(you need to evaluate every case you read; what are its positive and negative aspects).

1. Ex Post

(this is a backward looking evaluation: what do you think about how the court resolved the particular dispute between the parties. You should pay attention to any assumptions the court made and the internal logic of the court's arguments.)

2. Ex Ante

(this is a forward looking evaluation: what does the court's resolution mean for future cases.)

Case caption

I. Background

A. Parties

B. Facts

C. Procedural History

II. Legal Issues

A. Issue(s) on appeal

B. Parties' Argument

C. Court's Holding(s)

D. Court's Reasoning

1. Applicable legal rules

2. Analysis

III. Conclusion

A. Court's Judgment

B. Your Evaluation

1. Ex Post

2. Ex Ante

Mas v. Perry
489 F.2nd 1396 (5th Cir. 1974)

Procedural History

Mr. and Mrs. Mas (plaintiff-appellees) were awarded \$5,000 and \$15,000, respectively, by a jury. At conclusion of trial, defendant-appellant made an oral motion to dismiss for lack of jurisdiction, which was denied by the district court.

Facts

Mr. Mas, a citizen of France, and Mrs. Mas married in her hometown of Mississippi, then moved back to Baton Rouge where they worked. At this time, they rented an apartment from appellant Oliver Perry. At some time they discovered the bedroom and bathroom had two way mirrors and they were being monitored through these mirrors by the Perry.

Arguments

Defendant-appellant Perry argued that there was not diversity of citizenship among the parties.

Issue

Was appellee Mrs. Mas a citizen of Mississippi for diversity purposes?

Rule

To be a citizen of a state under §1332, a person must be a citizen of both the US and a domiciliary of the state. Domicile may only change by taking up a new one *with the intention to stay there permanently*.

Holding

District court's denial of motion to dismiss, and damages affirmed.

Rationale

Mr. Mas is a citizen of France, Mr. Perry a citizen of Louisiana, and Mrs. Mas a citizen of Mississippi for diversity purposes, *therefore the district court had proper jurisdiction*.

Mrs. Mas stated she did not intend to return to Mississippi after her marriage, but that she also lacked requisite intention to remain in Louisiana. Therefore, *since she did not yet acquire a new domicile, she is still domiciled in Mississippi*.

- Why does the court conclude that Mrs. Mas did not acquire a domicile in Louisiana while there as a student? Is its analysis consistent with *Gordon v. Steele*?
- Note that at the time of *Mas* the amount in controversy was required to exceed \$10,000, not \$75,000.
- Students often find this case frustrating, because it appears to contradict *Gordon v. Steele*. The *Mas* court concludes that the Mases did not acquire domicile because they were “in Louisiana only as students and lacked the requisite intention to remain there.” Consider whether the court adequately explains its conclusion that Mrs. Mas never acquired domicile in Louisiana. And, perhaps, ask yourself why the coursebook authors might include the case if it somewhat “muddies the waters” with regard to the domicile test.

MAS v. PERRY

489 F.2d 1396 (5th Cir. 1974)

AINSWORTH, Circuit Judge:

This case presents questions pertaining to federal diversity jurisdiction under 28 U.S.C. § 1332, which, pursuant to article III, section II of the Constitution, provides for original jurisdiction in federal district courts of all civil actions that are between, *inter alia*, citizens of different States or citizens of a State and citizens of foreign states and in which the amount in controversy is more than \$10,000.

Appellees Jean Paul Mas, a citizen of France, and Judy Mas were married at her home in Jackson, Mississippi. Prior to their marriage, Mr. and Mrs. Mas were graduate assistants, pursuing coursework as well as performing teaching duties, for approximately nine months and one year, respectively, at Louisiana State University in Baton Rouge, Louisiana. Shortly after their marriage, they returned to Baton Rouge to resume their duties as graduate assistants at LSU. They remained in Baton Rouge for approximately two more years, after which they moved to Park Ridge, Illinois. At the time of the trial in this case, it was their intention to return to Baton Rouge while Mr. Mas finished his studies for the degree of Doctor of Philosophy. Mr. and Mrs. Mas were undecided as to where they would reside after that.

Upon their return to Baton Rouge after their marriage, appellees rented an apartment from appellant Oliver H. Perry, a citizen of Louisiana. This appeal arises from a final judgment entered on a jury verdict awarding \$5,000 to Mr. Mas and \$15,000 to Mrs. Mas for damages incurred by them as a result of the discovery that their bedroom and bathroom contained “two-way” mirrors and that they had been watched through them by the appellant during three of the first four months of their marriage.

At the close of the appellees’ case at trial, ^{Perry} appellant made an oral motion to dismiss for lack of jurisdiction. . . . The motion was denied by the district court. Before this Court, appellant challenges the final judgment below solely on jurisdictional grounds, contending that appellees failed to prove diversity of citizenship among the parties and that the requisite jurisdictional amount is lacking with

I
appellant's
Perry's
argument

PH

respect to Mr. Mas. Finding no merit to these contentions, we affirm. Under section 1332(a)(2), the federal judicial power extends to the claim of Mr. Mas, a citizen of France, against the appellant, a citizen of Louisiana. Since we conclude that Mrs. Mas is a citizen of Mississippi for diversity purposes, the district court also properly had jurisdiction under section 1332(a)(1) of her claim.

It has long been the general rule that complete diversity of parties is required in order that diversity jurisdiction obtain; that is, no party on one side may be a citizen of the same State as any party on the other side. *Strawbridge v. Curtiss*, 7 U.S. (3 Cranch) 267 (1806). This determination of one's State citizenship for diversity purposes is controlled by federal law, not by the law of any State. As is the case in other areas of federal jurisdiction, the diverse citizenship among adverse parties must be present at the time the complaint is filed. The burden of pleading the diverse citizenship is upon the party invoking federal jurisdiction... and if the diversity jurisdiction is properly challenged, that party also bears the burden of proof...

To be a citizen of a State within the meaning of section 1332, a natural person must be both a citizen of the United States... and a domiciliary of that State. For diversity purposes, citizenship means domicile; mere residence in the State is not sufficient.

A person's domicile is the place of "his true, fixed, and permanent home and principal establishment, and to which he has the intention of returning whenever he is absent therefrom..." *Stine v. Moore*, 5 Cir., 1954, 213 F.2d 446, 448. A change of domicile may be effected only by a combination of two elements: (a) taking up residence in a different domicile with (b) the intention to remain there.

It is clear that at the time of her marriage, Mrs. Mas was a domiciliary of the State of Mississippi. While it is generally the case that the domicile of the wife—and, consequently, her State citizenship for purposes of diversity jurisdiction—is deemed to be that of her husband, we find no precedent for extending this concept to the situation here, in which the husband is a citizen of a foreign state but resides in the United States. Indeed, such a fiction would work absurd results on the facts before us. If Mr. Mas were considered a domiciliary of France—as he would be since he had lived in Louisiana as a student-teaching assistant prior to filing this suit—then Mrs. Mas would also be deemed a domiciliary, and thus, fictionally at least, a citizen of France. She would not be a citizen of any State and could not sue in a federal court on that basis; nor could she invoke the alienage jurisdiction to bring her claim in federal court, since she is not an alien. On the other hand, if Mrs. Mas's domicile were Louisiana, she would become a Louisiana citizen for diversity purposes and could not bring suit with her husband against appellant, also a Louisiana citizen, on the basis of diversity jurisdiction. These are curious results under a rule arising from the theoretical identity of person and interest of the married couple.

An American woman is not deemed to have lost her United States citizenship solely by reason of her marriage to an alien. 8 U.S.C. § 1489. Similarly, we conclude that for diversity purposes a woman does not have her domicile or State citizenship changed solely by reason of her marriage to an alien.

Mrs. Mas's Mississippi domicile was disturbed neither by her year in Louisiana prior to her marriage nor as a result of the time she and her husband spent at LSU after their marriage, since for both periods she was a graduate assistant at LSU. Though she testified that after her marriage she had no intention of returning to her parents' home in Mississippi, Mrs. Mas did not effect a change of domicile

requirements of diversity jurisdiction

(R)

reqs. for domicile to change

assigning husband's domicile to wife would lead to absurd outcome

conclusion

A

since she and Mr. Mas were in Louisiana only as students and lacked the requisite intention to remain there. Until she acquires a new domicile, she remains a domiciliary, and thus a citizen, of Mississippi.²

Appellant also contends that Mr. Mas's claim should have been dismissed for failure to establish the requisite jurisdictional amount for diversity cases of more than \$10,000. In their complaint Mr. and Mrs. Mas alleged that they had each been damaged in the amount of \$100,000. As we have noted, Mr. Mas ultimately recovered \$5,000.

It is well settled that the amount in controversy is determined by the amount claimed by the plaintiff in good faith. Federal jurisdiction is not lost because a judgment of less than the jurisdictional amount is awarded. That Mr. Mas recovered only \$5,000 is, therefore, not compelling. As the Supreme Court stated in *St. Paul Mercury Indemnity Co. v. Red Cab Co.*, 303 U.S. 283, 288–290:

[T]he sum claimed by the plaintiff controls if the claim is apparently made in good faith.

It must appear to a legal certainty that the claim is really for less than the jurisdictional amount to justify dismissal. The inability of the plaintiff to recover an amount adequate to give the court jurisdiction does not show his bad faith or oust the jurisdiction. . . .

His good faith in choosing the federal forum is open to challenge not only by resort to the face of his complaint, but by the facts disclosed at trial, and if from either source it is clear that his claim never could have amounted to the sum necessary to give jurisdiction there is no injustice in dismissing the suit.

Having heard the evidence presented at the trial, the district court concluded that the appellees properly met the requirements of section 1332 with respect to jurisdictional amount. Upon examination of the record in this case, we are also satisfied that the requisite amount was in controversy.

Thus the power of the federal district court to entertain the claims of appellees in this case stands on two separate legs of diversity jurisdiction: a claim by an alien against a State citizen; and an action between citizens of different States. We also note, however, the propriety of having the federal district court entertain a spouse's action against a defendant, where the district court already has jurisdiction over a claim, arising from the same transaction, by the other spouse against the same defendant. In the case before us, such a result is particularly desirable. The claims of Mr. and Mrs. Mas arise from the same operative facts, and there was almost complete interdependence between their claims with respect to the proof required and the issues raised at trial. Thus, since the district court had jurisdiction of Mr. Mas's action, sound judicial administration militates strongly in favor of federal jurisdiction of Mrs. Mas's claim.

Affirmed.

H

Find for Mas

2. The original complaint in this case was filed within several days of Mr. and Mrs. Mas's realization that they had been watched through the mirrors, quite some time before they moved to Park Ridge, Illinois. Because the district court's jurisdiction is not affected by actions of the parties subsequent to the commencement of the suit, the testimony concerning Mr. and Mrs. Mas's moves after that time is not determinative of the issue of diverse citizenship, though it is of interest insofar as it supports their lack of intent to remain permanently in Louisiana.