

INSTRUCTIONS FOR WRITING A CASE NOTE

NAME OF PLAINTIFF v NAME OF DEFENDANT¹

NAME OF STUDENT

I BACKGROUND INFORMATION

Full citation	Make sure the full citation is AGLC-compliant: in particular, that you have complied with r 2.1.1 (parties' names) and chosen the correct citation (the authorised reported version if available) (see r 2)
Parties	Explain who the parties are, including their role, eg 'plaintiff/tourist' and 'defendant/tour provider'. This will help the reader to understand both the factual context and the cause of action
Date	State the date of the decision
Court	State the court in which the decision was heard
Coram	State the names of the judge/s who heard the case

II COURT AND LITIGATION HISTORY

In this section explain the history of this case, ie what litigation came before and after this decision (prior and subsequent decisions). The reader needs to know this, so that he/she can look at the prior or subsequent decisions if necessary. If the decision is a 'first instance' decision (ie this is the first time the case has been heard in court) you need to state whether the case was subsequently appealed and, if so, provide full AGLC-compliant citations for each subsequent decision. If the decision is an appellate decision, you need to provide full AGLC-compliant citations for each prior and subsequent decision.

III BRIEF STATEMENT OF MATERIAL FACTS

How do you know if the facts of a case are material? Facts are material only if they are relevant to an element of the cause of action or defence in dispute. So you need to begin by working out what is in dispute. Do this by asking yourself 'who are the parties, what happened and why are they still arguing?'

For a cause of action for breach of contract where the defendant relied on 'duress' to avoid liability, you would need to state the parties to the contract, the relevant contractual terms and the facts giving rise to the claim for duress, eg 'the defendant sought to enforce a contract for the sale of a house for \$2 from the defendant psychiatrist to the plaintiff patient.' The address of the house is not material. The fact that the psychiatrist and patient are the same age, or the patient was being treated for arachnophobia may or may not be relevant. You will

¹ Insert citation here.

only be able to finally decide what is material after you have identified the legal issues and applied the law to the facts. This is an iterative process.

IV LEGAL ISSUES

Here you tell the reader the nature of the cause of action, and the issues to be decided by the court. It is good practice to write the legal issues as questions, for instance ‘was there a valid contract?’ or ‘was the defendant in breach of clause 1 of the agreement?’ or ‘was the contract voidable for duress?’ There will usually be more than one legal issue in a case. Your list of questions should flow logically. Your lecturer may ask you to focus on only one issue if the case raises issues that cross several areas of law. If that is the case, explain that other issues arose, but that the case note focuses on one particular issue or cause of action only, and why.

V APPLICABLE LAW

Here you need to identify the law that the parties say applies to resolve the dispute. You need to state the law clearly and concisely. You should use primary sources only (ie case law and legislation) here. Where possible, quote the relevant legislative provisions or key phrases. This section should be enough that anyone who reads your case note can understand and apply the law without doing any further research.

It is likely that the plaintiff and defendant will contend either that different law applies, or that the same law applies in a different way to achieve a different result. If so, you must clearly set out the contentions of each party. For instance: ‘the plaintiff contended that...’ and ‘the defendant contended that...’

VI APPLICATION OF THE LAW TO THE FACTS

Here you need to explain how the court applied the law to the facts. This is where you need to analyse the decision to find out the court/judges’ reasoning on each issue. You must not cite any case digest or other secondary source to apply the law to the facts, although you may use these resources to help you to understand the decision itself. You will need to use the word ‘because’ frequently in this section. For instance, ‘the court found that the defendant breached clause 1 of the contract because...’ or ‘the court found that the defendant did not exercise ‘reasonable care’ because...’

VII DECISION AND ORDERS

Here you need to state the verdict of the jury on the facts, the judgement/decision of the court on the law, and the remedy or other orders that the court/judge makes. If this is an appellate decision you will not need to state the verdict of the jury on the facts.

VII RATIO DECIDENDI

The ratio is the reason for the court’s decision concisely stated (usually in a sentence or two), that may be applied in a subsequent case. To identify the ratio, imagine how this case might be used in another factual situation. The head note or CaseBase or FirstPoint summary may identify the ratio or rationes of the decision.