**HOW TO BRIEF A CASE**

Below I have sketched in the beginnings of a brief as a format. This time-honored method of analysis is the basic unit of law school instruction and so most judicial opinions are written to conform to this approach. Knowing the rules makes watching the game so much more interesting. Start with the name of the Case which is called the “style” of the case.

**PERLA GRAFF v. JAY L. GRAFF, 569 So. 2d 811, Fla. 1st Dist. Ct. App. (1990).** First is the case name, followed by the citation which tells where you can find the hard copy of this case. This particular case is found in Volume 569 of the Southern Reporter, Second Series at page 811 in an opinion written by the First District Court of Appeals for Florida in 1990.

**FACTS:** (*In this section you want to state the circumstances and events that led to the plaintiff suing the defendant as well as any facts relevant to the issue(s).*) The parties were married for over 13 years, but, prior to the marriage the Husband purchased a home solely in his name. Thirteen years into the marriage, and for survivorship purposes only, the Husband deeded the property to both he and his wife as tenants by the entireties. Additionally, the parties used their joint checking account to make the mortgage payments and the parties used marital monies to add a pool and replace the roof. The Husband testified that he purchased the home for $48,000.00 prior to the marriage and that at the time of the divorce the home’s value was between $100,000.00 and $110,000.00.

**ISSUE:** *(In this section you want to state the specific legal question(s) raised in the case. Look at the overall question(s) to be resolved by the court. Sometimes you will have more than one question, but, you want to state your issue as a question or begin your issue with the word ‘whether’)* Whether the increased value of the marital home was a marital asset and therefore whether the Wife was entitled to equitable distribution of that value.

**HOLDING:** *(In this section identify how the court answered the issue. You want to answer the issue(s) in the affirmative or negative, mirroring the issue as you answer it.*) The increased value of the home was a marital asset and the Wife was entitled to equitable distribution of that value.

**LAW:** *(In this section you state the law used by the court to reach its decision. Sometimes it will be common law, meaning a court decision or it will be based on statute.)* Section 61.075, Florida Statutes, *Equitable distribution of marital assets and liabilities.*

**RATIONALE: *(****What legal reasoning formed the court’s decision? What rules of law, for example, did it apply? How did it interpret legal principles or documents? How did it construe the facts? In other words, why did the court reached its decision?)* Here you outline the court’s theory of why the increased value of the Husband’s pre-marital home was a marital asset and therefore why the Wife was entitled to equitable distribution of it. This should always be the longest section of the brief since this is the only actual discussion of legal theory.

The court held in favor of the form wife using Section 61.075 concerning equitable distribution of marital assets and finding that the increased value of an asset solely owned by one spouse prior to the marriage may be a marital asset subject to equitable distribution if the increased value was the result of either the work efforts of one or both spouses or the expenditure of marital funds or earnings of the parties. Pursuant to Sect. 61.075 the Court was required to begin with the understanding that a nonmarital asset is to be set apart to the spouse who held the asset prior to the marriage, however, in this case the Former Husband added the Former Wife to the marital home title thus making the marital home a joint asset for distribution purposes. Thus the court must then, pursuant to Sect. 61.075 divide the equitable value of the property equally, unless there is reason to do otherwise. In this case, the Former Husband attempted to argue the asset should still be treated differently because he only placed the Former Wife’s name on the title in the event of his demise. Even if the Court were to use that argument, the law still entitles the Former Wife to equitable distribution of the asset because the increased value of the asset was based on the joint efforts of both spouses as the Former Husband In making its findings the court looked at the facts the parties used their joint checking account to make the mortgage payments and the parties used marital monies to add a pool and replace the roof. Thus equity required that the increased value of the marital home be treated as a marital asset subject to equal distribution.