**CASE BRIEF**

**How to Write a Case Brief  
  
Procedural Posture:**

Succinctly stating the procedural posture of the case as it comes before the court writing the opinion is a key lawyering skill, because the procedural posture determines precisely what is being decided. You’ll need to state the procedural posture in order to orient the judge to what’s at stake, whenever you argue a case before a court. You’ll also need to be able to state the procedural posture when presenting a case to colleagues for discussion.

**Rule Choice:**

One of the key skills for law students, and lawyers, is making arguments from precedent concerning how the law should apply to a new fact situation, or how the law should evolve to fit changing circumstances. You will be able to do that only if you understand that the law is not fixed, but is constantly changing, and if you pay close attention to factual nuances. One step in learning to argue from precedent is seeing that the court often is choosing between different options for interpreting the law and identifying the option the court chooses.

**Legally Significant Facts:**

A second step in learning to argue from precedent is learning to identify the facts that mattered to the court in reaching its decision, and to predict what universe of facts the court’s rule choice will be applied to in the future. We refer to that facts that mattered to the court as the “legally significant facts.”

**Black Letter Law:**

As a law student, one of your important concerns will be preparing for exams. For the exam you will need to know the current rules on the topics we cover, and not just the specific rule the parties were arguing about in the assigned cases. In order to help prepare you for exams, we’ll spend some time noting how you can use cases to identify the “black letter law” that will go into your outline.

The examples of how to brief a case in the following sections are again based on a brief for *Burns v. Anderson***,** the amount in controversy case used in the 1st Steps handout. For your convenience, a complete Beyond the Basics brief, and the *Burns* case are reprinted at the end of this handout.

**Procedural Posture**

In this section, describe in one or two sentences where the case is in the litigation process, beginning with the step that is before the court issuing the opinion. The items that went into your procedural history should still be included, but now work on compressing them.

Example: Pl. appealed as of right to the 5th Cir. (a federal appellate court) from a decision of the federal trial ct., dismissing the case for want (lack) of diversity of citizenship subject matter jurisdiction.

**Rule Choice**

In this section identify the gap, conflict or ambiguity in the law governing the case, and set out the rule choice or interpretation sought by plaintiff and defendant, or by the majority and the dissent. The opinion will not always set out the choices explicitly and you may have to draw inferences based on the results sought by the parties. After you identify the possibilities, notes which option the court chooses.

The rule choice options in Burns v. Anderson aren’t stated clearly. Plaintiff appears to be arguing that under *Plimsoll* (distinguished by the court in the next to last paragraph of the opinion) it’s never permissible to look beyond the complaint to dismiss a case for lack of amount in controversy. Or in other words, so long as plaintiff alleges a sufficient amount in controversy, the court has subject matter jurisdiction.

Example: Pl argues – sufficiency of amount in controversy is determined by looking at complaint.

Ct’s choice – ok to look beyond the complaint to the discovery to determine “to a legal certainty” whether amount in controversy is sufficient

## **Legally Significant Facts**

Now that you’ve had some practice trying to identify the procedural issue in a general way, it’s time to start being more precise about which facts mattered to the court. Try to identify specifically the facts that the parties relied on in making their arguments, and the court in making its decision (the “legally significant facts”). Think about what changes in the facts would, and would not, lead the court to reach a different decision.

Example:  
May a trial court dismiss a case for insuff. amt in controversy

to establish fed div of citizenship subject matter jurisdiction where:

* the court has allowed discovery,
* based the dismissal on an extensive factual record, and Legally significant
* would granted a “remittitur” facts request to court to reduce jury verdict,if a jury awarded damages that met the amount in controversy?

**Black Letter Law**

The court will base its decision on one or more “rules of law” that it uses for deciding the particular procedural issue before the court. This will include the court’s rule choice, identified above. Often there will be additional steps to the analysis, rules about which there is no dispute—the basic “black letter law” or background rules. Both the court’s rule choice and the additional black letter law relied on by the court may need to be included in your outline at the end of the quarter. You may wish to include these in a case brief or highlight them in the casebook. Do whatever works for you, but recognize that these rules are important and that you’ll need to memorize many of them.

**Two caveats:** First, you can also go to secondary sources such as hornbooks, or commercial outlines to identify the black letter law, remembering to determine whether your secondary source is up-to-date. Second, note that to determine whether the court’s rule choice goes in your outline, you need to figure out whether the case is in the casebook because it’s the key, current precedent on the issue, or whether it’s just an example (sometimes an odd-ball example) from a lower court.

The *Burns* case doesn’t have a section that goes through this “black letter law.” For an example of a case that sets out the “black letter law” at length, see page 10 of your case book, the lengthy quote from *Krasnov v. Dinan* in the *Gordon v. Steele* opinion.

**“Beyond the Basics” Brief**

**Citation.** Burns v. Anderson (5th Cir. 1972)

**Substantive Claim**. Pl. Burns sued def. Anderson in fed ct, E.D. La., seeking damages for injuries from an automobile accident in fed. ct..

**Procedural Posture.** Pl. appealed as of right to the 5th Cir. (a federal appellate court) from a decision of the federal trial ct., dismissing the case for want (lack) of diversity of citizenship subject matter jurisdiction.

**Rule Choice.** Pl argues – sufficiency of amount in controversy is determined by looking at complaint.

Ct’s choice – ok to look beyond the complaint to the discovery to determine “to a legal certainty” whether amount in controversy is sufficient

**Legally Significant Facts**. May a trial court dismiss a case for insuff. amt in controversy

to establish fed div of citizenship subject matter jurisdiction where:

* the court has allowed discovery, [Legally significant
* based the dismissal on an extensive factual record, and facts
* would granted a “remittitur” **(request to court to reduce jury verdict),**
* if a jury awarded damages that met the amount in controversy?

**Disposition or Judgment**

Ct. of appeals aff’d dist ct. Pl. is out of ct. without getting case heard on merits, but could sue in state ct.

**BURNS v. ANDERSON,**

502 F.2d 970 (5th Cir. 1974).

Before BROWN, Chief Judge, and THORNBERRY and AINSWORTH, Circuit judges.

**JOHN R. BROWN, Chief Judge:**

The question on this appeal is whether a district court may dismiss a personal injury diversity suit where it appears 'to a legal certainty' that the claim was 'really for less than the jurisdictional amount.'[[1]](#footnote-1) The suit grew out of an auto accident in which plaintiff Burns' automobile was struck amidships by that of defendant Anderson. Burns' principal injury was a broken thumb. He brought the action in the Eastern District of Louisiana, claiming $1,026.00 in lost wages and medical expenses and another $60,000.00 for pain and suffering. After a pre-trial conference and considerable discovery, the District Court dismissed for want of jurisdiction. Plaintiff appeals.

The test for jurisdictional amount was established by the Supreme Court in St. Paul Mercury Indemnity Co. v. Red Cab Co.[[2]](#footnote-2) There, the Court held that the determinant is plaintiff's good faith claim and that to justify dismissal it must appear to a legal certainty that the claim is really for less than the jurisdictional amount. There is no question but that this is a test of liberality,[[3]](#footnote-3) and it has been treated as such by this Court.[[4]](#footnote-4) This does not mean, however, that Federal Courts must function as small claims courts. The test is an objective one and, once it is clear that as a matter of law the claim is for less than $10,000.00 [DM: the statutory amount now must exceed $75,000, exclusive of costs and interest], the Trial Judge is required to dismiss.

In the instant case, the District Judge dismissed only after examination of an extensive record. This record included the testimony of three doctors who treated Burns, as well as his own deposition. The accident occurred on May 26. The evidence is without contradiction that by the middle of August only very minimal disability remained. By December, even this minor condition had disappeared. Burns' actions speak even more strongly than the medical testimony. In his deposition he testified that he took a job as a carpenter's assistant on June 21 or 22-- less than a month after the accident. He did heavy manual labor for the remainder of the summer with absolutely no indication of any difficulty with his thumb.

It is equally clear that any pain he suffered was not of very great magnitude or lasting duration. Burns admitted that by the end of July there was no pain whatsoever. As a matter of fact, the evidence reveals that the only medication he ever received was a single prescription on the day of the accident for Empirin, a mild aspirin compound. Nor did his special damages take him a significant way down the road to the $10,000.00 minimum. His total medical bills were less than $250.00. Although he claims $800.00 in lost wages, it is difficult to see how this could have amounted to even $300.00 at Burns' rate of pay that summer.[[5]](#footnote-5)

The point of this fact recitation is that it really does appear to a legal certainty that the amount is controversy is less than $10,000. This is no Plimsoll case,[[6]](#footnote-6) where dismissal was based on 'bare bones pleadings' alone. The present situation differs from that case also in that this dismissal was for lack of subject matter jurisdiction not for failure to state a claim. Here the Trial Court examined an extensive record and determined as a matter of law that the requisite amount in controversy was not present. Indeed, had the case gone to trial and had the jury returned an award of $10,000, a Gorsalitz-girded Judge would have been compelled as a matter of law to order a remittitur.

He would have inescapably found that the verdict was 'so inordinately large as obviously to exceed the maximum of the reasonable range within which the jury may properly operate.'[[7]](#footnote-7) Of course, we decline to make any more precise determination of plaintiff's loss since to do so might prejudice his right to a trial in another court. Neither are we affected by plaintiff's plaintive plea that he is being deprived of a jury trial. The question in this case is not whether Burns is entitled to a trial by jury but rather where that trial is to be. We hold only that the case cannot be tried in the Federal Court because competence over it has not been granted to that Court by congress affirmed.

1. [S*t. Paul Mercury Indemnity Co. v. Red Cab Co*., 1938, 303 U.S. 283, 289, 58 S.Ct. 586, 590, 82 L.Ed. 845, 848](http://www.westlaw.com/Find/Default.wl?rs=++++1.0&vr=2.0&DB=708&FindType=Y&ReferencePositionType=S&SerialNum=1938122641&ReferencePosition=590). [↑](#footnote-ref-1)
2. Id. [↑](#footnote-ref-2)
3. See [B*ell v. Preferred Life Assurance Society*, 1943, 320 U.S. 238, 64 S.Ct. 5, 88 L.Ed. 15;](http://www.westlaw.com/Find/Default.wl?rs=++++1.0&vr=2.0&DB=708&FindType=Y&SerialNum=1943116355) [Horton v. Liberty Mutual Ins. Co., 1961, 367 U.S. 348, 81 S.Ct. 1570, 6 L.Ed.2d 890](http://www.westlaw.com/Find/Default.wl?rs=++++1.0&vr=2.0&DB=708&FindType=Y&SerialNum=1961125520) [↑](#footnote-ref-3)
4. E.g. [*Jones v. Landry*, 5 Cir., 1967, 387 F.2d 102;](http://www.westlaw.com/Find/Default.wl?rs=++++1.0&vr=2.0&DB=350&FindType=Y&SerialNum=1967118934) [Mas v. Perry, 5 Cir., 1974, 489 F.2d 1396;](http://www.westlaw.com/Find/Default.wl?rs=++++1.0&vr=2.0&DB=350&FindType=Y&SerialNum=1974108880) [Miami Beach Yacht Corp. v. Terro Corp., 5 Cir., 1972, 461 F.2d 770;](http://www.westlaw.com/Find/Default.wl?rs=++++1.0&vr=2.0&DB=350&FindType=Y&SerialNum=1972110383) [Anderson v. Moorer, 5 Cir., 1967, 372 F.2d 747;](http://www.westlaw.com/Find/Default.wl?rs=++++1.0&vr=2.0&DB=350&FindType=Y&SerialNum=1967115623) [Burks v. Texas, 5 Cir., 1954, 211 F.2d 443.](http://www.westlaw.com/Find/Default.wl?rs=++++1.0&vr=2.0&DB=350&FindType=Y&SerialNum=1954117416) Of course there have been situations where the pain, suffering and other intangible factors were so slight that no substantial evidence could be offered to support a verdict for as much as the jurisdictional amount. [Starks v.](http://www.westlaw.com/Find/Default.wl?rs=++++1.0&vr=2.0&DB=350&FindType=Y&SerialNum=1972112554) [Louisville & Nashville R.R. Co., 5 Cir., 1972, 468 F.2d 896;](http://www.westlaw.com/Find/Default.wl?rs=++++1.0&vr=2.0&DB=350&FindType=Y&SerialNum=1972112554) [Matthiesen v. Northwestern Mutual Ins. Co., 5 Cir., 1961, 286 F.2d 775;](http://www.westlaw.com/Find/Default.wl?rs=++++1.0&vr=2.0&DB=350&FindType=Y&SerialNum=1961112493) [Leehans v. American Employers Ins. Co., 5 Cir., 1959, 273 F.2d 72](http://www.westlaw.com/Find/Default.wl?rs=++++1.0&vr=2.0&DB=350&FindType=Y&SerialNum=1960112212) [↑](#footnote-ref-4)
5. Burns was making the minimum wage, $1.65 an hour. Four forty- hour work weeks at this wage grosses $264.00 [↑](#footnote-ref-5)
6. [*Cook & Nichol, In*c. *v. Plimsoll Club*, 5 Cir., 1971, 451 F.2d](http://www.westlaw.com/Find/Default.wl?rs=++++1.0&vr=2.0&DB=350&FindType=Y&SerialNum=1971113376) [505](http://www.westlaw.com/Find/Default.wl?rs=++++1.0&vr=2.0&DB=350&FindType=Y&SerialNum=1971113376). [↑](#footnote-ref-6)
7. [G*orsalitz* v. *Olin Mathieson Chemical Corp*., 5 Cir., 1970, 429 F.2d 1033, 1046](http://www.westlaw.com/Find/Default.wl?rs=++++1.0&vr=2.0&DB=350&FindType=Y&ReferencePositionType=S&SerialNum=1970119456&ReferencePosition=1046) [↑](#footnote-ref-7)