

Student Bar Association Sample Briefs

In an ongoing effort to help students succeed in law school, the Student Bar Association has provided the following briefs as examples of how to brief a case. The following briefs are only designed to provide students with guidance as to how to brief a case, and are not meant to suggest that this is the only way or right way to brief a case. These briefs have not been reviewed by any faculty member for accuracy or content. If a professor suggests you brief a case in a different manner, then you should follow their direction.

Rael v. Cadena, 93 N.M. 684, 604 P.2d 822 (Ct. App. 1979)

Parties:

Eddie Rael, Plaintiff-Appellee
Emilio Cadena and Manuel Cadena, Defendants-Appellants

Prior Proceedings:

Eddie Rael sued Emilio and Manuel Cadena for civil battery. The trial court, sitting without a jury (bench trial), found Emilio jointly liable with Manuel for the battery. Emilio appealed the judgment of the trial court.

Facts

While visiting Emilio Cadena's home, Eddie Rael was beaten by Emilio's nephew, Manuel Cadena. After the attack began, Emilio yelled to Manuel "kill him!" and "hit him more!" Emilio never actually struck Rael nor physically participated in the battery. Rael was hospitalized as a result of the beating.

Issue

Under New Mexico tort law, does liability for battery arise when an individual, present during the battery, encourages the perpetrator of the battery by yelling "kill him" and "hit him more" thus inciting the perpetration of the battery though he takes no actual part in the physical beating?

Rule

Yes. An individual may be liable for battery by encouraging or inciting the perpetrator by words or acts.

Analysis/Reasoning

The rule of law in the United States is: Civil liability for assault and battery is not limited to the direct perpetrator, but extends to any person who, by any means, aids or encourages the act. The act of verbal encouragement at the scene may give rise to liability because the perpetrator is goaded and encouraged at the behest of the person encouraging the battery. Here, Emilio encouraged Manuel to beat Rael and to continue to beat him. The battery may not have occurred or continued but for Emilio's encouragement. Therefore, Emilio had some part in the beating even though he never physically contacted Rael. Thus, Emilio is liable for the battery for aiding in its commission and encouraging the act.

Conclusion (holding/disposition)

The judgment against Emilio Cadena is affirmed.

Note: Notice the use of the IRAC format in the outline, also notice the use of here. . . /because. . . in the analysis. Although you may not understand why now, it is invaluable when taking exams to learn to analyze cases in this manner. Do not worry if you do not fully understand these concepts now you will be learning these strategies during your first year in legal research/ writing and the substantive classes.

Aguilar v. Atlantic Richfield Co. (2001) 25 Cal.4th 826 [107 Cal.Rptr.2d 841]

Facts

Antitrust action complaint filed by Theresa Aguilar on behalf of 24 million retail consumers of California Air Resources Board (CARB) gasoline against defendants Atlantic Richfield, Chevron, Exxon, Mobil Oil, Union Oil, Shell Oil, Texaco, Tosco, and Ultramar.

Plaintiff alleged the oil and gas companies conspired to raise California gas prices in violation of the Business and Professions Code and the Cartwright Act. She also alleged, in the alternative, the oil companies violated the unfair competition law of the Business and Professions Code.

Defendants moved for summary judgment and submitted declarations from their officers in support thereof. The trial court granted summary judgment in favor of the oil and gas companies. The Court of Appeals upheld the order and plaintiff appeals to the California Supreme Court.

Issue

Must a party moving for summary judgment bear the initial burden of production to make a prima facie showing of the nonexistence of a triable issue of material fact?

Rule

To show a triable issue of material fact does not exist, the defendant must only establish that the plaintiff's evidence is insufficient as to an element of his cause of action. Evidence that is ambiguous and consistent with permissible competition as with unlawful conspiracy, is insufficient to prove a conspiracy under the Cartwright Act.

Application

The Supreme Court held that the defendant moving for summary judgment no longer needed to negate an element of the plaintiff's cause of action, but only establish that plaintiff does not offer sufficient evidence of that element to create an issue of material fact. Defendants cannot simply outright deny the allegations when moving for summary judgment, but they must provide specific evidence as to why they would prevail at trial.

The defendant oil companies' evidence in support of their motions for summary judgment were sufficiently detailed and were not simply a general denial of the allegations. The court held that these declarations were sufficient to carry the defendant's burden of proof to make a prima facie showing of an absence of a conspiracy. Therefore, the burden shifted to the plaintiff to produce evidence that would contravene the defendants' supporting evidence. The plaintiff had to produce evidence that would show "more likely than not" that a conspiracy existed. The plaintiff failed to meet this burden.

With regard to the plaintiff's conspiracy allegations, the court found the plaintiff's evidence was ambiguous and defendant's practices were consistent with permissible competition strategies. Although plaintiff contended the oil companies used a common source to gather and disseminate capacity, production, and pricing information, the court relied on a precedent (*Maple Flooring Mfrs. v. U.S.* 268 U.S. 563) holding that this practice was pro-competitive and that this practice tended to stabilize industry.

With regard to the plaintiff's evidence that the companies used the same consultants, the court noted there were very few consultants with the requisite expertise. Not surprising, they all used the same consultants to meet the same strict standards in California.

The court found also that the exchange of information between companies was not uncommon in the industry and therefore could not be evidence of a conspiracy.

Conclusion

Affirmed against plaintiff for failure to rebut the defendants' showing that there was no triable issue of material fact.