

ORAL ADVOCACY (7): CITING CASES

EN: Hi, welcome back. I'm Eric and this is the Quick Guide to Oral Advocacy. This episode features how to cite another legal authority, that is, cases.

EN: Specifically, we hope you learn: the elements of a case citation – name, court and year; a useful expression to introduce a case – *in the case of*; and a useful reporting verb *held*.

EN: Not surprisingly, as you cite cases, it's important to include all essential information the judges need so that they can identify quickly what you are referring to. What is this information? In principle, there are three key elements: name of the case, name of the court, year.

EN: Let's watch how Mansi cites a case neatly including all three elements:

MS: In fact, in a similar case of *Fluor v Solutia*, which was decided by a United States court in 2001, there was merely a 30-day negotiation period which had been specified. And in that case as well they held, that the specification of a time period was in fact enough.

EN: In Mansi's example, you can first identify clearly the name of the case, that is, *Fluor v Solutia*. Then, you can identify easily that the case was heard in a United States court in 2001. Of course, it would have been even better if she had specified exactly which U.S. court heard the case. After that, Mansi uses one sentence to summarize and highlight what is useful for her submission.

EN: An important point to note here is you can often use expressions such as *in the case of* to introduce a case.

SL: In fact, in a similar case of *Fluor v Solutia*, which was decided by a United States court in 2001, there was merely a 30-day negotiation period which had been specified.

EN: What's worth noticing here is the way that Mansi uses the adjective *similar* to show that the case she is citing and the present case share similar fact patterns. This highlights the applicability of the precedent case.

EN: Now, let's observe how Patrick mentions three cases in one go and highlights their similarity relevant to his submission:

PW: If I may refer the Tribunal to three Hong Kong cases, the first of these is *Fai Tak v Sui Chong*, heard in the Hong Kong District Court in 2009; the second is *Hercules v Koywa*, heard in the Hong Kong High Court in 2001; and the third is *Astel-Peiniger v Argos*, heard in the High Court in 2003. In regards to these three cases, it was held in all of them that where a party has not complied with its pre-arbitral negotiation requirements, that may indeed result in a party who is perceived to be wronged by those requirements not being satisfied to make a claim for damages.

EN: In both examples, you can actually find that *held*, either in the active voice or passive voice, is commonly used to report the decision of the court.

EN: Active voice:

SL: And in that case as well *they held*, that the specification of a time period was in fact enough.

EN: Passive voice:

SL: In regards to these three cases, *it was held* in all of them that...

EN: In the context of law, this reporting verb is used to report the decision of the court, or the principle established in a case.

EN: So remember, a case citation has three main elements: name of the case, name of the court and year – *Fai Tak v Sui Chong, heard in the Hong Kong District Court in 2009*. If you want to introduce the case clearly, use expressions such as *in the case of* – *in the case of Fluor v Solutia*. Use the verb *held*, either in the active voice or passive voice, to report the court's decision – *It was held in all of them that*.

EN: In the next episode, we'll see how to make use of signposts to guide your audience through your presentation. You can't afford to miss it! See you soon.