

# Case Summary Guidelines

(Updated 9/10/08)

Each case summary should be sent to [jcfiser@uark.edu](mailto:jcfiser@uark.edu) as a separate email attachment (multiple summaries can be sent in a single email, just make sure that each one is a separate file). Use a file name for each summary that is related to the case name. Specific instructions for each section are set out below. An example case summary is also provided at the end.

## Heading

Each case summary needs the following heading at the top of the first page:

Date Decided:  
Case Law Index:  
Blurb:  
Author:

Case Law Index—If the summary goes in multiple indexes, please list each one that it should go in.

Blurb—This should be a few words that indicate the subject of the case. It appears in parentheses in the case law index at the end of each entry. If the case you are summarizing already has a blurb listed in the case law index, use the blurb already provided. If the case does not have a blurb after it in the case law index, create one that is appropriate. Shorter is better.

Author—Include your name as it will appear on the summary and your title (Research Associate, etc.).

## Title

Each summary needs a title. This should give more detail than the blurb in the heading, but should still be short.

## Summary

Summaries should include the following sections:

- Summary of Decision
- Background
- Arguments
- Analysis and Holdings

In some cases, this format may need to be altered to fit the specific case. If you have questions about how to format the summary for a case, please let me know.

Do not capitalize “plaintiff(s)” and “defendant(s).”

Do not capitalize “court” unless referring to the Supreme Court.

Use two spaces between sentences.

Use past tense when discussing the facts and the court’s analysis and holdings.

A typical summary should be between one and three pages long, depending on the case.

## Citations

Each statement that relates to a fact of the case or the court’s analysis and holdings must have a citation (this will be most sentences). A pincite to the specific page must be included. For citation format, follow Bluebook rules. The most commonly used rules are included below for easy reference.

Case name: Rule 10.

- For cases published in a reporter, include the case name, the reporter citation, the court, and the year. The case name is italicized.
  - *In re Riendeau*, 336 F.3d 78 (2d Cir. 2003).
- When a case is only available on Westlaw or Lexis (not in an official reporter), the citation must also include the docket number, the Westlaw or Lexis citation, and the complete date of the decision.
  - *Johnson County Citizen Committee for Clean Air and Water v. EPA*, No. 3:05-0222, 2005 WL 2204953 (M.D. Tenn. Sept. 9, 2005).

Use of *Id.*: Rule 4.1.

- For citations to the same page as the prior citation, use *id.*
- For citations to the same source as the prior citation but to a different page, use *id.* with a pincite to the specific page number. Only “*id.*” is italicized. (example: *Id.* at 14.)
- Use “*id.*” without a signal if the proposition is directly stated in the source. Use “*see id.*” when the source supports the proposition but it is not directly stated.
- *Supra* is never used in a case summary.

**Date Decided: June 6, 2005**  
**Reading Room: Bankruptcy**  
**Blurb: (nondischargeability)**  
**Author: Walt McCarter, Research Associate**

## **Once Debt is Found Nondischargeable, It Is Always Nondischargeable**

### **Summary of Decision**

In *Moncur v. AgrifCredit Acceptance Co. (In re Moncur)*, 328 B.R. 183 (B.A.P. 9th Cir. 2005), the Ninth Circuit Bankruptcy Appellate Panel held that a judgment as to nondischargeability of debt entered in one bankruptcy case was automatically enforceable in the same debtor's subsequent Chapter 7 case, and there is no need for a creditor to file another nondischargeability proceeding.

### **Background**

The Moncurs filed for Chapter 12 bankruptcy in September 1998, and filed for Chapter 7 bankruptcy in September 2001. *Id.* at 185. In the Chapter 12 case, the Moncurs stipulated to a judgment excepted from discharge in favor of AgriCredit. *Id.* In the second bankruptcy the court used a local form of discharge order that deviated from the official form, which contained the following provision:

Any judgment heretofore or hereafter obtained in any court other than this court is null and void as a determination of the personal liability of the debtor with respect to any of the following: . . . (b) unless heretofore and hereafter determined by order of this court to be nondischargeable, debts alleged to be excepted from discharge under [11 U.S.C. § 523(a)] (2), (4), (6), & (15) . . . .

*Id.* AgriCredit did not file another proceeding to have the debt excepted from discharge. *Id.* Two years after the second bankruptcy case, AgriCredit sought to renew its judgment from the Chapter 12 case. *Id.* The Moncurs objected, claiming that the judgment debt was discharged because AgriCredit failed to file a proceeding in the second bankruptcy. *Id.* The court overruled their objection and held that a second adversarial proceeding was not required, and the Moncurs appealed. *Id.* at 186.

### **Arguments**

The Moncurs argued that the nondischargeable debt from their first bankruptcy lost its nondischargeable status when AgriCredit did not file another nondischargeability action in their second bankruptcy case. *Id.* at 185.

AgriCredit argued that the issue was precluded, and that the debt remained nondischargeable after the judgment in the first bankruptcy case, so AgriCredit did not need to file another adversarial proceeding. *Id.*

## Analysis and Holdings

Section 523(b) of the Bankruptcy code implies that once a debt is dischargeable, it is always dischargeable. *Id.* at 186. The foundational requirements for preclusion are that the previous court must have personal and subject matter jurisdiction, and the judgment must be final. *Id.* at 187-88. The bankruptcy court had exclusive jurisdiction over the Moncurs' Chapter 12 case, and the judgment rendered was valid and final. *Id.* at 188. Thus the panel concluded that "the judgment creditor is entitled to assert claim and issue preclusion in the judgment renewal proceeding to preclude the judgment debtors from contending that their debt was discharged in the second bankruptcy case." *Id.* at 191. As to the provision in the discharge order that seemed to render previous judgment debts void, the panel deferred to the bankruptcy court's interpretation (the court had held that the order was not meant to have that effect). *Id.*

Furthermore, the panel noted that a discharge order entered in a Chapter 7 case cannot change the statutory terms of the discharge, and bankruptcy courts do not have the power to create exceptions to the Bankruptcy Code in this way. *Id.* The panel stated that it was "inappropriate, hence impermissible, for a local alteration in an Official Form to have the effect of varying the terms of the Bankruptcy Code or Federal Rules of Bankruptcy Procedure," and held that the local form "did not, and could not, change the terms of the Bankruptcy Code and otherwise applicable law." *Id.* at 192. The panel affirmed the holding of the bankruptcy court that the judgment entered in the first bankruptcy case remained effective in the second bankruptcy. *Id.*