An Example of a Brief Sample Court Case

As an example of the format used in briefing cases, we present here a briefed version of the sample court case that was presented in Exhibit 1A–3 on page 32.

**BERGER v. CITY OF SEATTLE**

United States Court of Appeals,

Ninth Circuit, 2008.

512 F.3d 582.

**FACTS** The Seattle Center is an entertainment “zone” in downtown Seattle, Washington, thatattracts nearly ten million tourists each year. The center encompasses theaters, arenas, museums, exhibition halls, conference rooms, outdoor stadiums, and restaurants, and features street perfor-mers. Under the authority of the city, the center’s director issued rules in 2002 to address safety con-cerns and other matters. Among other things, street performers were required to obtain permits and wear badges. After members of the public filed numerous complaints of threatening behavior by street performer and balloon artist Michael Berger, Seattle Center staff cited Berger for several rules violations. He filed a suit in a federal district court against the city and others, alleging, in part, that the rules violated his free speech rights under the First Amendment to the U.S. Constitution. The court issued a judgment in the plaintiff’s favor. The city appealed to the U.S. Court of Appeals for the Ninth Circuit.

**ISSUE** Did the rules issued by the Seattle Center under the city’s authority meet the require-ments for valid restrictions on speech under the First Amendment?

**DECISION** Yes. The U.S. Court of Appeals for the Ninth Circuit reversed the decision of thelower court and remanded the case for further proceedings. “Such content neutral and narrowly tai-lored rules \* \* \* must be upheld.”

**REASON** The court concluded first that the rules requiring permits and badges were “contentneutral.” Time, place, and manner restrictions do not violate the First Amendment if they burden all expression equally and do not allow officials to treat different messages differently. In this case, the rules met this test and thus did not discriminate based on content. The court also concluded that the rules were “narrowly tailored” to “promote a substantial government interest that would be achieved less effectively” otherwise. With the rules, the city was trying to “reduce territorial disputes among performers, deter patron harassment, and facilitate the identification and apprehension of offending performers.” This was pursuant to the valid governmental objective of protecting the safety and convenience of the other performers and the public generally. The public’s complaints about Berger and others showed that unregulated street performances posed a threat to these inter-ests. The court was “satisfied that the city’s permit scheme was designed to further valid governmen-tal objectives.”