

FOR GRADES 3–6

MOCK TRIAL EXERCISES

Featuring Winning Cases from
the New Jersey State Bar Foundation's
Law Fair 2009 Competition



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Preface

Since 1992, the **New Jersey State Bar Foundation** has sponsored a unique, law-related education opportunity for elementary school students — the Law Fair Competition.

Students in grades three through six are invited to create original mock trial cases. The cases are judged on the basis of originality and educational value in teaching students about their legal rights and responsibilities. Winners are selected in each grade level. The trials are then conducted before student audiences at special Law Fair programs in the spring. The third- through sixth-grade audiences serve as juries.

Following are the winning students' cases from the Law Fair 2009 Competition. They may be used as a guide to prepare a submission to the Law Fair Competition or as a classroom exercise. Please note that some of the cases may contain “laws” created by the students for the purposes of this competition, which may not necessarily be actual laws. Since these mock trials were written by children, the content should not be considered technically accurate.

These exercises were created by children and are intended for school use only. Any resemblances to characters, names, events and circumstances are intended only for the purpose of education, and all characters, names, events and circumstances described herein are fictitious.

Because this booklet contains cases written by students from third through sixth grades, teachers should review the cases written by students in the upper grades before distribution in order to determine whether they are appropriate for younger children.

Law Fair has won national recognition for educational excellence from the American Bar Association and the American Society of Association Executives.

This project is made possible by funding from the IOLTA Fund of the Bar of New Jersey.

If you would like to participate in the Law Fair Competition, please call 732-937-7519 or e-mail sboro@njsbf.org.

For information about other free, law-related education services available from the New Jersey State Bar Foundation, visit us online at www.njsbf.org.

The Case of the Messy Diners

SCHOOL

Riker Hill Elementary
Livingston
Grade 3, First Place

TEACHER

Donna Richter-Maschio

STUDENTS

Caleb Chow, Matt Dallow, Jamie Handwerker,
Daniela Hartin, Gabby Levin, Anna Levy,
Lexi Porigow, Rachel Silverman,
Jordan Steinberg, Michael Sun,
Elizabeth Tartatkovsky, Milena Tjin

FACTS

On the afternoon of May 24, 2008, the Dine Out Restaurant was full of customers. Some of the customers were regulars, while some customers were there for the first time. Sarah Server, a longtime waitress there, was very busy taking orders and delivering food. One table with four people, a mom, dad and two young children, took a lot of her time. A table of two also needed a lot of her time. The two people at this table asked for many water and bread refills as well as a “re-heat” for cold food needing to be warmer.

Sarah did her best to please everyone. However, all of the requests were happening at the same time, which meant that some of the customers needed to wait before their requests were answered.

The children at a table of four were playing ice hockey with ice cubes. Many of the cubes landed on the floor. When Mrs. I. Will Sue got up from her table, she did not notice the cubes on the floor and slipped and fell, causing her to injure herself badly. She broke her hip. She is suing the owner of the Dine Out Restaurant for negligence and for payment of all of her medical bills.

ISSUE

Is O. Ner liable for the cost of Mrs. I. Will Sue’s medical bills because she neglected to have her workers keep the floor of the Dine Out Restaurant safe and clean, causing Mrs. I. Will Sue to slip and fall in the restaurant and break her hip?

WITNESSES

For the Plaintiff

I. Will Sue
I. C. Mistakes

For the Defense

O. Ner
Sarah Server

WITNESS STATEMENTS

Testimony of I. Will Sue

My name is I. Will Sue. My husband and I usually go to lunch at Restaurant Fancy Table. However, on May 24, 2008, it was closed for vacation. We decided to try Dine Out Restaurant because our friends had told us great things about the food and service there. From the moment we walked in, we had a bad feeling about the place. It was very noisy and full of kids. We do not like dining in a place with a lot of kids. They are usually loud and wild.

We ordered our food. We were given very small water glasses and a tiny breadbasket. We like our bread and water and had to ask the waitress several times to re-fill them. I don’t know why she couldn’t just leave a pitcher of water on our table. When our food came, it came to the table much too cold. We like our food to be very hot. The waitress needed to bring it back and get it warm enough for us.

After we were done with our meal, we just wanted to leave this loud place. We kept waving to the waitress to bring us our check; she'd run over and say that she would take care of it "in a minute," however, her idea of a minute wasn't 60 seconds. We couldn't stand it any longer and got up to leave. Unfortunately, I did not see the ice cubes on the floor and slipped and fell. I broke my hip! Some of those loud and wild children had been throwing ice onto the floor and the restaurant hadn't done anything to stop them or to clean it up!

The service at Dine Out was just terrible. Now I am in physical therapy and cannot go to any restaurants. The Dine Out Restaurant did not give us good food, nor did they care about our safety. I am suing them for negligence for failing to keep their floors safe for their customers. I hope this lawsuit shuts them down permanently. I do not want anyone else to break a hip because of this terrible restaurant!

Testimony of I. C. Mistakes

My name is I. C. Mistakes. I am a regular customer at the Dine Out Restaurant, not because I like it so much, but because it is within walking distance of my house and I do not know how to cook. On the afternoon of May 24, 2008, the restaurant was very busy. The waitress, Sarah Server, was really running around. I felt sorry for her. The owner should have had more people working in her restaurant. It took a long time to get served. I noticed this awful family with two young children sitting in the back. The children wouldn't stop making noise and flinging food around on their table. I actually told the waitress to tell the children to behave and not to serve them if they kept up their bad behavior. The waitress just smiled at me. I knew that smiling at the children wasn't going to get them to behave.

I saw the children flinging ice cubes around in some sort of game. A few of the cubes landed on the floor. I told the waitress to clean them up before someone fell; a few minutes later, another customer fell and broke her hip. I definitely believe that it is the fault of O. Ner for the accident of Mrs. I. Will Sue. The owner should have had more people serving the customers. The restaurant owner should have

had someone cleaning up the floors and all of the dirty dishes and glasses. The owner should not be serving bad customers.

This lawsuit is long overdue. If restaurants are going to stay in business, they need to take care of their customers, including taking care of their safety.

Testimony of O. Ner

My name is O. Ner. My dad started the Dine Out Restaurant 30 years ago. When he retired, he gave it to me. I love the place. Many of my customers are like family to me. Some, of course, are a little cranky, but they keep coming back and spending their money. We must be doing something right!

On the afternoon of May 24, 2008, I had a lot of customers come in to eat lunch. There were families with children and also a lot of couples. It was a very noisy lunch hour. Unfortunately, two of my waitresses called in sick, so it was tough for the few waitresses who did work that day, although they did make a lot in tips. The waitresses did the best they could to please everyone. I usually sit in the middle of the restaurant and watch to see that all goes well. On this day my cashier was also out so I had to ring up the checks.

Unfortunately, on the afternoon of May 24, 2008, my waitresses did not clean up some spilled ice cubes quickly enough, causing an older customer to slip, fall and break her hip. That was very unfortunate. My waitress told me that she had asked the lady to stay seated until she could clean up the wet slippery floor, but the lady wouldn't wait. I feel terrible about her accident, but the customer had been warned to stay seated until the mess could be cleaned up. Why won't people cooperate? This woman could have avoided her accident if she had just listened to her waitress! I now have this lawsuit that didn't need to happen. People need to have some patience!

Testimony of Sarah Server

My name is Sarah Server. I have been working as a waitress for 10 years, with five of those years working for Ms. O. Ner. She is a wonderful boss. She runs a clean restaurant and serves delicious food; I know how good the food is because all

of the workers get to eat for free on the days we are working. I think that is very generous. It also makes it easy for us to recommend dishes to our customers.

On the afternoon of May 24, 2008, it was a really busy day for me. Usually, I am assigned to waitress for seven tables. That particular lunch hour, I had to waitress for twelve tables because so many workers called in sick. I wasn't feeling that well but I forced myself to come to work because I needed the money. Now, I wish I had decided to stay home on that day, too.

Two of the children at one of my tables kept playing with ice cubes. The parents were busy looking over some papers so they weren't paying attention to their children. At some other tables I was serving, couples needed re-fills on everything every few minutes. I did serve some tables where the customers felt sorry for me and tried not to ask for much. It's my job to please everyone, so that's what I tried to do.

One couple was especially demanding. They wanted me to be their personal waitress. Every time I waited on another table, they needed me to do something for them. I did all I could to make their lunch time a pleasant one. As soon as I served them their dessert, they wanted the check. Unfortunately, I had to serve other people their food before it got too cold.

When I noticed the young children throwing ice cubes around, with some landing on the floor, I knew that I had a problem. I told all of my tables to "please stay seated until I could clean up the floor." Unfortunately, Mrs. I. Will Sue did not listen to me, got up, fell and broke her hip. I am very sorry that she injured herself. If she had just listened to me, she would not have slipped on the wet floor.

I know it is my job to keep the floor clean but people need to be reasonable, too. I am just one person. Mrs. I. Will Sue needed to be a patient customer.

INSTRUCTIONS

The plaintiff must show, by a preponderance of evidence, that that the injuries of Mrs. I. Will Sue were a result of the negligence of O. Ner.

SUB-ISSUES

1. Did Mrs. I. Will Sue contribute to her own injuries by failing to listen to the warning of Sarah Server to stay in her seat until Sarah was able to clean the floor?
2. Did Mrs. I. Will Sue contribute to her own injuries by repeatedly requesting service from the waitress, Sarah Server?
3. Is Mrs. I. Will Sue correct in asking for compensation for her medical bills?

CONCEPTS

1. Burden of proof.
2. Preponderance of the evidence.
3. Negligence.
4. Credibility of the witnesses.
5. Personal and property damages.

LAWS

1. Personal and property damages:

Damage is a loss or harm resulting from injury to a person or property. Damage refers to compensation, such as money judgment, provided to a person who has suffered a loss or harm due to an unlawful act or negligence. The person at fault must compensate the injured party.

2. Negligence:

A person who, through negligence, causes injury to person or property, is responsible for those injuries. It is the failure to exercise that degree of concern for the safety of others or property that a reasonably prudent person would exercise.

The Case of the Lotto Luck Claim

SCHOOL

Harrison Elementary
Livingston
Grade 3, Second Place

TEACHER

Karin Pinto

STUDENTS

Ian Bae, Daniel Cao, Ethan Chung,
Christian Connolly, Claire Dresser,
Brittaney Gui, Vincent Lamiano, Ben Litvin,
Alexander Schwartz, Laura Shu

FACTS

Luke E. Guy bought a lottery ticket. He asked his friend, Monny Maniac, to pick the numbers for the ticket. Monny Maniac chose the numbers 78, 63, 42, 88, 26 and 99 because they were his lucky numbers. A couple of days later, Mr. Guy was watching the news and found out that he won \$50,000. He was so happy that he spent it all on his hobby, collecting ancient artifacts.

Three weeks later, Mr. Maniac visited Mr. Guy's house and saw the artifacts. He asked Luke E. Guy where he had gotten the money to buy them. Mr. Guy told him about the winning lottery ticket.

Monny Maniac feels that he should have gotten at least a portion of money because Luke E. Guy used his numbers. He further contends that Luke E. Guy deliberately concealed the fact that the lottery ticket won. Monny Maniac is taking Luke E. Guy to court to get his portion of the money.

ISSUE

Is Monny Maniac entitled to a portion of Luke E. Guy's lottery winnings because Monny Maniac made up the numbers?

WITNESSES

For the Plaintiff

Monny Maniac
Rick Seller

For the Defense

Luke E. Guy
Lynn Siter



WITNESS STATEMENTS

Testimony of Monny Maniac

I was at the Jackpot Convenience Store with my friend, Luke E. Guy. He suggested we buy a lottery ticket. Luke E. Guy bought the ticket with his dollar. However, he asked me to choose the numbers. I told my friend my lucky numbers 78, 63, 42, 88, 26 and 99. I didn't think about it again until I went to Luke's house a few weeks later. Luke had redecorated with many very expensive ancient artifacts. When I asked him about it, he told me about the \$50,000 winning ticket.

I told Luke E. Guy that I thought he should split the money with me. He said he paid, so the money he won was his alone. I think that I am entitled to a portion of the money because Luke asked me to choose the numbers. Without my numbers, the ticket would not have won.

Testimony of Rick Seller

I work at the Jack Pot Convenience Store. I was working on the day that Luke E. Guy and Monny Maniac bought the winning ticket. I sold the winning ticket to them. After he paid \$1 for the ticket, Luke E. Guy asked Monny Maniac to choose the numbers for him. This gave me the clear impression that they were buying the ticket together. Since the numbers were Monny Maniac's idea, I think that they should have split the winnings. Mr. Guy wouldn't have won without Mr. Maniac's numbers, and it appeared that they were buying the ticket as a team.

Testimony of Luke E. Guy

Monny Maniac and I were wandering through the store when we saw lottery tickets with a \$50,000 jackpot. I had a dollar bill in my pocket left over from lunch, so I suggested I buy a ticket. I didn't want Monny to feel left out, so I asked him to choose the numbers. I was just being nice. We weren't buying the ticket together. I am grateful that the numbers won, but I should keep the money since I bought the ticket.

Testimony of Lynn Siter

I was standing in line when Monny Maniac and Luke E. Guy were buying the lottery ticket. I did see Monny Maniac choose and tell the clerk the numbers, but Luke E. Guy was the one who bought the ticket. Luke E. Guy put the ticket in his pocket and it was clear that the ticket was his, not both of theirs. Any numbers could have been the winning numbers. The ticket belongs to the person who bought it, so Luke E. Guy should keep the money. It was clear that he alone bought the ticket.

INSTRUCTIONS

Monny Maniac must prove that Luke E. Guy purchased the ticket for the both of them. He must prove that Luke established an oral contract by asking Monny for the numbers.

SUB-ISSUES

1. Did Luke enter into an oral contract with Monny when he asked for the numbers?
2. Did Luke and Monny purchase the ticket together?

CONCEPTS

1. Burden of proof.
2. Oral contract.
3. Damages.
4. Circumstantial evidence v. direct proof.

LAW

State law dictates that any lottery winnings must be distributed to only one ticket holder. It is up to the ticket holders to decide how to distribute winnings if a group has purchased the ticket. An oral contract is a contract in words that is not written down.

The Case of the Skater Taking a Spill

SCHOOL

Washington
Nutley
Grade 3, Honorable Mention

TEACHER

Daryl Heller

STUDENTS

Stephanie Fleser, Francesca Lentini,
Jessica Marx, Ellie McCreesh, Natalie Muzzicato,
Victoria Palmieri, James Quinn, Brian Savage

FACTS

Sara Spinner goes to the Ice World Skating Rink every Sunday and Tuesday night for ice skating lessons from 5:30 p.m. - 6:30 p.m. On December 2, 2008 Sara was dropped off by her mother at the ice skating rink as she always was. Sara was early for her lesson so she had her skates sharpened and was anxious to go out on the ice and give them a try.

The Zamboni comes out every hour on the hour at the skating rink to clean the ice, and at 5:00 p.m. the Zamboni was on the ice, cleaning as it always does. It takes about 10 - 15 minutes to clean off the entire rink before it is ready to skate on again.

Sara went onto the ice after the Zamboni was finished cleaning since she had a few more minutes before her 5:30 p.m. lesson started. As she was skating around the side of the rink, Sara fell on the ice. She seemed to be in a lot of pain and was unable to get up. Her skating teacher saw Sara lying on the ice and immediately called 911. Emergency workers arrived at the rink and rushed Sara to the hospital where she was treated for a broken ankle.

Mr. and Mrs. Spinner are suing the Ice World Skating Rink for negligence. They are claiming that the Zamboni was not used properly and the operator of the machine was careless and missed several areas on the ice. Mr. and Mrs. Spinner want Ice World to pay for all of the medical bills, as well as pain and suffering.

ISSUE

Is Ice World Skating Rink responsible for Sara Spinner's medical expenses, as well as the pain and suffering she experienced as a result of the fall?

WITNESSES

For the Plaintiff

Sara Spinner
I. Scader

For the Defense

Cody Cleaner
Ralph Rink

WITNESS STATEMENTS

Testimony of Sara Spinner

My name is Sara Spinner. I am 11 years old and have been skating since I was 5 years old. I go to Ice World every Tuesday and Sunday night for my 5:30 p.m. skating lessons. I love ice skating and it is my favorite hobby and everyone tells me I am a very good skater.

On December 2, 2008 my mom dropped me off at my skating lesson as she always does. We got to the skating rink early so I had the blades on my skates sharpened and could not wait to get on the ice. It was now 5:00 p.m. and everyone had to get off

the ice to have it cleaned. When I was watching the man clean the ice, it looked like he was not taking as much time to clean as he usually does. It really looked like the cleaning guy was in his own little world out there.

As soon as the Zamboni was off the ice, I got on to skate. I noticed immediately that there were several patches of ice that were not very smooth, but before I could go around the area that looked all rough, I tripped, fell and broke my ankle. I was in so much pain I could not even move. My mom says I have to keep going to physical therapy for six more months!

I have seen the Zamboni miss some areas of ice before, but they usually put signs up so you do not skate in that area. They should have had a sign up to warn skaters. The Zamboni man should also take a lot more time to clean the ice; it gets really beat up from the hockey players.

Testimony of I. Scader

Hi. My name is Mrs. Amy I. Scader. I am an ice skating instructor at Ice World and have been teaching there for the past 9 years. I have been ice skating myself since I was 7 years old. I am at the skating rink every day except Wednesday and Thursday from 3:00 p.m.-8:00 p.m.

On Tuesday December 2, 2008, I arrived at the skating rink at 3:00 p.m., my usual time. I have been giving Sara Spinner skating lessons for 3 years now; she is a very strong skater. As always the Zamboni was cleaning the ice at 5:00 p.m. They clean it every hour. People sometimes complain because the ice is not always perfectly clean. I think the machine is old, and sometimes it seems they are in a rush to clean.

Anyway, I was waiting for my 5:30 p.m. lesson at the side of the rink, talking to some parents, and saw Sara skating around the ice. All of a sudden, Sara just tripped. It had to be due to the ice not being cleaned well. I felt so bad. She could not move. As soon as I realized she could not move, I called 911. It is such a shame; they really should take more time to clean the ice. It gets pretty cut up from the hockey skates.



Testimony of Cody Cleaner

Hey. My name is Cody Cleaner and my job is to drive the Zamboni machine at Ice World. I come in a few days after college to work; it is not a bad job. I like that I do my job and no one bothers me. On December 2nd I was scheduled to work from 3:00 p.m. to closing. I clean the ice every hour on the hour, so at 5:00 p.m. I took the Zamboni machine out to clean the rink. Some days the Zamboni works better than other days but it does a decent job. If the Zamboni misses a small area, we have some signs to put out on the ice to warn the people skating to go around.

On this day I cleaned the ice and really thought the Zamboni did a pretty good job. The rule is the kids have to wait for the Zamboni to exit the ice before they come on to skate, but before I was even off the ice, the kids were already skating and Sara Spinner was one of them. I was on my way to get the signs that say "Stay Away, Bad Ice" when I heard all the commotion out on the rink. I ran out of the back room and saw her lying on the ice. I feel really bad for the girl but it is not my fault she fell on the ice. First of all, she was on the ice before I was off the ice and I also saw her at the counter getting her skates sharpened and maybe that is why she fell. Ice skaters fall, nobody is a perfect skater. It is not my fault or the rink's fault that the girl fell.

Testimony of Ralph Rink

My name is Ralph Rink and I have owned Ice World for the past 15 years. I take a lot of pride in my rink and always try to keep it in tip-top shape. I have the Zamboni come out every hour to clean the ice and my drivers are all licensed and trained to drive the Zamboni. I have had the Zamboni since we opened but I get maintenance on it to keep it up and running. I am at the rink every day to supervise what is going on. When Sara fell on the ice, I was in my office paying some bills.

I know some of the kids sneak onto the ice before the Zamboni is even off and I heard that she was one of them. I also found out that she was alone at the rink with no supervision. She should have been supervised at the rink. Parents are not allowed to drop a minor off and go.

I am sorry that Sara Spinner got hurt, but there are certain risks that must be assumed by participants in recreational activities, especially on ice which is in itself dangerous because of its slippery and hard nature. I even have a sign next to the skating rink that states: "Skate under your own risk."

INSTRUCTIONS

The jury must decide if the defendant was negligent and was the cause of the plaintiff's injuries.

SUB-ISSUES

1. Was it Sara Spinner's responsibility to stay away from areas that were not cleaned well by the Zamboni machine?
2. Was it Cody Cleaner's responsibility to put out a caution sign on the ice where the machine did not clean it well?
3. Did Sara Spinner get on the ice before they were allowed to skate?
4. Is it possible that the ice skates were not sharpened correctly?

CONCEPTS

1. Negligence.
2. Contributory negligence.
3. Pain and suffering.
4. Accountability.

LAWS

1. The participant understands and agrees that the sport of ice skating has physical dangers/which may result in serious injury or death.
2. The defendant will be found negligent if the plaintiff can prove the defendant's conduct was the cause of injuries.
3. Parental responsibilities.
4. The defendant will be found negligent if the plaintiff can prove that the defendant's conduct was a cause of injuries.

The Case of the Big Slip

SCHOOL

Maud Abrams
Cape May
Grade 3, Honorable Mention

TEACHER

Janet Sweeten

STUDENTS

Grafton Adams, Paige Golden, Anthony Kapurelos,
Anna Kelly, Madison McGay, Liam Mulligan,
Lucas Rooney, Margaret Roth, Caitlin Wiseman

FACTS

On August 15, 2003, the Falls family went to Slippery Slope Water Park in Wildwood, NJ. At about 2 p.m. something happened. Bobby Falls slipped on a wet spot on the concrete pool deck and broke his arm. There was a lifeguard and signs that said, “No Running,” “Caution-Slippery When Wet” and “All children 7 years old and under must be accompanied by an adult.” Bobby is five years old and cannot read. Mr. And Mrs. Falls are suing Joe Parker, owner of Slippery Slope Water Park, for negligence to pay for Bobby’s medical bills.

ISSUE

Is Joe Parker, owner of Slippery Slope Water Park, liable for the cost of Bobby Fall’s medical bills because he was negligent in being responsible for the safety of the customers at the water park?

WITNESSES

For the Plaintiff

Rebecca Falls
Bobby Falls

For the Defense

Joe Parker
Kurt Abs

WITNESS STATEMENTS

Testimony of Rebecca Falls

My name is Rebecca Falls. On August 15, 2003, at about 2 p.m., there was a problem at Slippery Slope Water Park. My son, Bobby Falls, slipped and broke his arm. My eight-year-old daughter, Bailey, was heading over to get on one of the slides. I turned to get my towel to dry my face off when Bobby tried to follow Bailey to go on the slide. When I took the towel off my face, I saw Bobby running after my daughter. I called him to have him come back, but he didn’t hear me because the lifeguard was talking and laughing loudly with his friend. The lifeguard called to Bobby to stop running, but because he was distracted talking to his friend, he was too late. I think the owner of the water park is responsible because he did not hire responsible lifeguards and he did not maintain the safety of the pool deck.

Testimony of Bobby Falls

I’m Bobby Falls and I am five years old. My family and I spent the day at the water park. My older sister Bailey was going to get on one of the slides and I wanted to go with her. I thought the slide looked cool. I saw signs but I don’t know what they said. I almost caught up with my sister, but I slipped and fell on the wet floor. I heard the lifeguard saying stop running, but it was too late. I already fell.

Testimony of Joe Parker

Hi, my name is Joe Parker. I'm the owner of Slippery Slope Water Park. On August 15, 2003, at about 2 p.m., there was a problem at the water park. I was in my office when I was informed a child fell and got hurt. I felt bad the little boy got hurt, but we have many policies and procedures to keep people safe. We have signs posted that say "No Running," "Caution-Slippery When Wet" and "All children 7 years old and under must be accompanied by an adult." Also, when you enter the water park, you are told the rules that are located on the signs all over the park. All of our lifeguards receive training to keep people safe and are very responsible. I think the mother is negligent and should pay Bobby's medical bills because she was not with Bobby and she did not explain or enforce the rules.

Testimony of Kurt Abs

Hello, I am Kurt Abs, the lifeguard at Slippery Slope Water Park. On August 15, Bobby and his family were at the water park. I had to tell Bobby to stop running many times that day. Sometime in the afternoon, my friend stopped by and I was talking to him. All of a sudden, I saw Bobby running. I called to him to stop running, but he didn't listen and he slipped and got hurt. Even though I was talking, I was still watching my area of the water park. I think the parents are responsible because he was running around all day and the parents never made him stop. There are signs that say "Caution-Slippery When Wet" and "No Running" all over the place. One rule is that children must be with an adult and Bobby was not with an adult. The parents should have made him familiar with the rules.

INSTRUCTIONS

The jury must decide if Joe Parker, owner of Slippery Slope Water Park, was negligent in failing to provide proper safety measures and supervision for Bobby Falls.

SUB-ISSUES

1. Are the parents of Bobby Falls negligent for not paying attention to Bobby or for not instructing Bobby not to run in the water park?
2. Is the water park negligent for not maintaining the pool areas?
3. Were there adequate lifeguards around the water park?
4. Were the signs posted adequate enough for safety measures?
5. Was Bobby old enough to be responsible for reading the signs?
6. Are the parents of Bobby Falls being reasonable in asking for medical bills to be paid?

CONCEPTS

1. Definition of negligence.
2. Burden of proof - preponderance of evidence.
3. Evidence sufficient to meet burden of proof.
4. Contributory negligence on Rebecca Falls.
5. Contributory negligence on Slippery Slope Water Park.
6. Attractive nuisance.
7. Credibility of witnesses.
8. If negligence is found – what is the amount of damages?

LAWS

1. Negligence Torts – The breach of duty of care expected of people who run businesses that attract children to the premises.
2. Contributory Negligence – If the plaintiff's mother's or plaintiff's negligence contributed to his or her injury, and he/she failed to act responsibly for his or her age, then his or her carelessness may reduce the responsibility of other parties.

The Key to Catastrophe

SCHOOL

Milltown Primary
Bridgewater
Grade 4, First Place

TEACHER

Patricia Pillon

STUDENTS

Imani Bell, Anjali Bordoloi, Christopher Borell, William Brown, Melanie DeSimone, Sonia Gupta, Tyler Kim, Kunal Hanagandi, Tiffany Hunt, Natalie Khait, Jocelyn Lee, Rayeed Mizan, Emily Pribula, Grace Schwiederek, Balraj Sehgal, Katie Stone, E.J. Sutphen, Vikas Vijaykumar

FACTS

On August 4, 2008 Burt Dayboy had a party at his parents' house to celebrate his 9th birthday. He invited his whole soccer team except for his neighbor and former best friend, Part E. Crasher, who was also a member of the soccer team. Part and Burt had a fight on the soccer field a few weeks before, and they had not been friends since then. Team members have said that the two boys were very hostile to one another since the fight, and it has caused many problems for the team.

On the day in question, Burt had his birthday party guests on the front lawn of his house when his parents presented him with a brand new quad vehicle, the Racer 500. His parents allowed the guests to take short rides on the vehicle. Part was sitting on his front porch the whole time watching the party, although he was never invited over. It was well known by the entire soccer team that both Burt and Part had been talking about wanting a Racer 500 for the last few months before their fight. For a while, that was all they would talk about.

After a few brief supervised rides, the entire party headed into the back yard to go swimming in the Dayboy's pool, including Burt's parents. The parents admit that they left the key in the quad by mistake. When everyone had gone, Part went into the Dayboy's yard, sat down on the quad and started it up. Part claims that he did not really know how to ride this vehicle and it got out of control after he started it up. The quad, with Part on it, went into the garage and crashed into the presents, cake and a

video camera that were set up for the rest of the party. Damage to the quad, the video camera and the ruined presents is estimated to be \$1500. The Dayboy family is suing Part E. Crasher's family for that amount. As a countersuit, the Crashers are suing the Dayboys for the hospital bills for a finger Part broke in the accident.

ISSUE

Is Part E. Crasher responsible for the damages that occurred at the party, or is the Dayboy family responsible for Part's injuries because they left the keys in the quad unsupervised?

WITNESSES

For the Plaintiff

Petti Walker
Burt Dayboy

For the Defense

Notta Crasher
Part E. Crasher

WITNESS STATEMENTS

Testimony of Petti Walker

My name is Petti Walker, and I live about a block away from the Dayboys' and Crashers' houses. I had just started walking my dog and was about a half a block away from the Dayboys' house, when I noticed that they were having a party of some sort with a large group of boys. They were all standing around a 4-wheeler in the front lawn, and it appeared that the parents were allowing the boys to take rides in a small circle. I noticed that Part E. Crasher was sitting on his front porch and he looked really angry. I heard Burt shouting something to him and Part was shouting back, but I was too far away to hear what he said. I wasn't surprised that Part wasn't at the party. I had heard that he and Burt were no longer friends. In my opinion that is because lately, Part has been acting up. He even teased my dog once when I walked past his house, which is really not nice. I think Burt is better off without him.

After the rides, I saw the whole party head to the back yard where the Dayboys have a pool. As soon as they left, Part got off his porch and ran over to the quad and got on it. He started it up and took off quickly, headed straight for the garage. He aimed right for the table that had presents and a cake on it. As soon as he crashed, he jumped off the quad and ran inside his house next door. He was holding his arm as if he had hurt it.

Everybody came running from the back yard when they heard the crash to see what happened. I ran over to tell them what I had seen. Part had crashed into the table, run over the presents, made the camera fall and damaged the cake. He had ruined Burt's birthday party, and I think he should be held responsible for what he did.

Testimony of Burt Dayboy

My name is Burt Dayboy. I turned nine on August 4, 2008. My parents had a party for me and I had invited my whole soccer team, except for my ex-best friend, Part E. Crasher, because we had a bad fight a few weeks ago at one of our soccer games. He was teasing me about the way I play, and I was sick of it.

At my party my parents surprised me with a great gift, a Racer 500, which is a fast quad that I always wanted. Part always said he wanted one, too. When we were friends, we used to talk about that all the time. We had both ridden on another friend's go-cart a lot, but we thought a quad would be even cooler. While some of my friends were taking turns on my quad while my parents watched us, I saw Part sitting on his porch glaring at us. He even shouted that my new quad was a piece of junk. I could tell he was jealous.

After a while we all went into the back yard to jump into my pool. All of us, my teammates and my parents, were just getting into the pool when suddenly we heard a huge crash in the garage. When I got to the garage, I couldn't believe that Part had trespassed onto my property, ran my new quad into my presents and cake, and had even run over my parents' expensive video camera. He ruined my party, that's for sure. It was really mean.

Testimony of Notta Crasher

My name is Notta Crasher, and I am Part E. Crasher's mom. My son had always been best friends with Burt Dayboy, and he was devastated when he was not invited to that party. I tried to get him off that porch, but he just refused to leave. I felt so bad for him. They had been best friends since they were little, but lately Burt was always picking on him at the soccer games and trying to get all the other boys against my son. I think he is jealous that Part is a much better soccer player than he is.

They finally had a big fight at one of the games, and Part told me that Burt had said that he was going to have a party for his birthday and he was going to invite everyone but Part. I remember that Part had cried that day about it.

On the day of the party, I couldn't believe that Burt's parents bought him that giant, fast quad. The boys are only nine and that quad is way too powerful for a nine-year-old. I knew the boys had always talked about the Racer 500, but it's not a safe vehicle for them and I would never consider buying one for Part until he was older. It seemed as if his parents had decided to buy it just to spite my son and make him feel even worse. Then, they let the whole party ride around the yard in front of Part. I had been

inside the house taking care of our baby and didn't see when the party went into the back yard to go swimming.

That's when Part made the decision to go and sit on the new quad. He couldn't help himself when it was left right out in the open like that. And Burt's parents left the key in it! How irresponsible! Part knew he shouldn't turn it on, but he's just a kid. He started it up and I guess it just went crazy and crashed into the garage. It's too bad that it ruined Burt's party, but his parents are totally responsible for leaving the key in the quad to begin with. It really fits the definition of an attractive nuisance and they knew Part was sitting there watching them and feeling left out.

On top of that, my poor Part broke a finger in the accident. They were lucky his injury wasn't worse, or I'd really be suing them for a lot more than a few medical bills.

Testimony of Part E. Crasher

My name is Part E. Crasher. On August 4 my ex-best friend, Burt, had a birthday party and I was so upset that he didn't invite me. My whole soccer team had been talking about it for weeks, and it made me feel really bad. I don't know why Burt started treating me so badly at the soccer games and practices. He might have been jealous that I was scoring more goals than him and making him look bad. I just know that he didn't want me at his party.

On the day of the party my mom told me not to sit on the front porch and watch the party, but I did it anyway. I couldn't believe it when Burt's dad brought out the new Racer 500. Burt knew that it was my favorite type of quad, and I remember thinking that he had asked for it just to be mean to me. He knew that I had always wanted that quad. He even pointed at me and said, "Ha! Ha! Look what I have and you can't ride it!" The other boys laughed when he said that. I felt really terrible. After Burt and his parents let everyone ride on it, they all headed into the back yard where their pool was. It was really hot, and I wanted to go, too, but I wasn't invited.

I know it was a bad decision for me to go over into Burt's yard, but I just had to see that quad. When I got over to it, I saw that they had left the key in it and I just was going to start it up to hear how it sounded. I jumped on it and started it. Before I knew it, I was moving. I thought I could handle it because I know how to drive a go-cart, but I guess I was wrong. The quad went out of control and I accidentally ran it into the garage. I didn't mean to wreck the presents and the cake, and I never even saw a video camera there. After the crash, I was so scared that I just ran home to my mom. I smashed my finger on something and it really hurt. Afterwards, I found out I had broken it. I'm still seeing a doctor because I can't bend it.

I am really sorry for making such a stupid choice, but I guess I wasn't thinking straight after Burt deliberately made me feel so bad. I'm just a kid, and if the key hadn't been left in the quad, none of this would have happened.

INSTRUCTIONS

The plaintiff must prove through a preponderance of the evidence that Part E. Crasher is solely responsible for the damage to the quad, presents and video camera. In the countersuit, the defendant must prove through a preponderance of the evidence that the Dayboys' failure to remove the key was the cause of the damage and Part's injury.

SUB-ISSUES

1. Was the adults' failure to remove the key the reason Part was able to cause so much damage?
2. Was Part an able rider, and did he crash the gifts and cake on purpose?
3. Was Burt responsible for teasing Part so much that he couldn't control his feelings?
4. Were Burt's parents irresponsible in getting such a powerful quad for their nine-year-old son simply because he wanted it?
5. Can the quad be considered an "attractive nuisance" for a nine-year-old boy, or is he old enough to know that he was not supposed to trespass on the Dayboy property?

6. Is Petti Walker's testimony reliable or was she too far away to really see what happened?
7. Does Petti Walker dislike Part because he teased her dog once?
8. Did Part's mother fail to supervise her son's activities?

In most states, courts hold that very young children, typically those under seven years of age, are incapable of contributory negligence. For older children, between seven and 14, there is often a rebuttable assumption that they are incapable of contributory negligence. With sufficient evidence concerning their intelligence, maturity, and the circumstances of the case, this presumption can be rebutted and the court can find them negligent and bar any recovery.

CONCEPTS

1. Credibility of witnesses.
2. Negligence.
3. Malicious intent.
4. Trespassing
5. Attractive nuisance.
6. Comparative negligence.

LAWS

1. A property owner has a duty to inspect his/her property to see if there are any potentially dangerous conditions that might attract children and, if there are, act immediately to correct the unsafe condition(s). A property owner may be liable for an injury to a trespassing child if he/she knew, or should have known:
 - a) young children were likely to trespass in the area of a dangerous condition on the property that involved an unreasonable risk of bodily harm to children,
 - b) young children would not be aware of the risk, and
 - c) the utility of the condition is small compared to the risk it represents.
2. Negligence - A person must exercise a degree of care for the safety of self and others that a reasonably prudent person would exercise. A person who causes injury or a loss due to negligence is liable.
3. Attractive nuisance: Something on a piece of property that attracts children but also endangers their safety. For example, unfenced swimming pools, open pits, farm equipment and abandoned refrigerators have all qualified as attractive nuisances.

Sale and Fail

SCHOOL

Mount Pleasant Elementary
Livingston
Grade 4, Second Place

TEACHER

Donna Richter-Maschio

STUDENTS

David Braunstein, Josh Brodtkin, Kayla Francione, Lindsay Friedman, Jordan Goldberg, Lindsay Kantor, Maya Lipshitz, Allan Lvov, Emily Mendelson, Jamie Mendelson, Arya Mirchandani, Nikita Palli, Matthew Steinberg, Henry Steiner, Aaron Tucker, Zach Zamore, Jessica Zhang

FACTS

On November 14, 2008 Bryan Bargain went to the Good Life Department Store to buy his fiancée Hope a wedding ring. He had been looking to buy this ring for a long time. His fiancée had shown it to him many times—whenever they were in the Good Life Department Store. She would hint to him how much she loved that ring. Bryan was determined to surprise her with this ring. He waited and waited for the ring to go on sale because it was very expensive. Finally, the Good Life Department Store ran a huge sale: everything in the store was to be discounted by 50% on Saturday, November 14, 2008, from opening time (7:00 a.m. until 1:00 p.m.) After 1:00 p.m. all store items will go back to their regular price.

Bryan arrived at the store on November 14, 2008 at approximately 12:30 p.m. He headed right to the jewelry department to buy the ring. There were a lot of people at the jewelry counter waiting to be helped. Finally, at approximately 12:45 p.m. a salesperson started to help Bryan. He decided to look at a few other wedding rings before buying the ring that Hope loved. Finally he looked at the special wedding ring. When he went to purchase it, the cashier began to ring it up at less 50% of \$2,500. Bryan had remembered the ring to cost \$1,500. He told the salesperson this price and asked her to check the price with her manager.

The salesperson had to find the manager of the jewelry department. The salesperson was gone for a long time. Bryan began to get nervous because

the time was passing. The salesperson finally came back with the corrected price. Bryan had been correct: the ring cost \$1,500. When the salesperson rang up the sale, the price on the register came out to be \$1,500 plus 7% tax (\$105) totaling \$1,605. Bryan reminded the salesperson of the 50% discount, which would discount the ring by \$750. The cash register refused to take the sale price because it was now 1:13 p.m. The salesperson stated that the sale was over; the computers automatically void all sales pricing after 1:00 p.m. Bryan asked to speak to the manager. The manager was unavailable. Bryan paid the \$1,605 for the ring, but is suing the store for the \$750 plus extra tax.



ISSUE

Did Ian Charge, the manager of the Good Life Department Store, breach the terms of his contract when the 50% off sale price on the wedding ring was not honored, claiming that the time of the sale had expired in spite of the fact that the jewelry salesperson and jewelry department manager required time to check the price of the ring, causing the ringing up of the jewelry to occur after 1:00 p.m.?

WITNESSES

For the Plaintiff

Bryan Bargain

Vicky Vision

For the Defense

Ian Charge

Jason Diamond

WITNESS STATEMENTS

Testimony of Bryan Bargain

My name is Bryan Bargain. On November 14, 2008 there was a storewide 50% off sale on everything in the Good Life Department Store until 1 p.m. I arrived in the store at approximately 12:30 p.m. to buy a wedding ring for my fiancée. The ring usually cost \$1,500. As the salesperson was ringing up the sale, an incorrect price of \$2,500 appeared on the register. It took the salesperson a very long time, approximately 15 minutes, to contact the department manager to correct the price mistake. By the time the corrected price was entered into the cash register, it was after 1:00 p.m. and the cash register refused to take the sale price. Because I started the purchase before one o'clock and because the store made the pricing mistake, I feel that they should give me the sale price. It is only fair!

The jewelry department manager, Jason Diamond, refused to give me the sale price. That is not fair! I paid the extra money at first, because I did not want anyone else to buy that ring. I am suing

the store for breach of contract because I made the jewelry purchase before the sale deadline, 1:00 p.m. This store will not get away with overcharging its customers.

Testimony of Vicky Vision

My name is Vicky Vision. I was also shopping in the jewelry department of the Good Life Department Store on November 14, 2008. I wanted to get a diamond bracelet for my daughter. There were a lot of people trying to take advantage of the great, 50% off everything sale. I was next in line to be served after Bryan Bargain. Poor Mr. Bargain had a lot of trouble getting the correct price for his wedding ring. It took the salesperson a long time to give him the correct price. It was not his fault that the store made a mistake with the pricing. Because of their mistake, the clock ran out and it was past 1:00 p.m. by the time the correct price was put into the cash register. Not only did Mr. Bargain miss getting his discount, I also did not get my discount because his purchase took so long. Now, I need to buy my daughter a full price gift because of the store's negligence to have the correct prices placed in its computer system. When I heard Mr. Bargain say that he was planning on suing the store, I told him that I would be a witness for him.

Testimony of Ian Charge

My name is Ian Charge. I am the manager of the Good Life Department Store. Mr. Bryan Bargain feels that he should be given the 50% discount on his wedding ring purchase because he entered my store around 12:30 p.m. on November 14, 2008. He may have entered the store 30 minutes before the sale was over, however, he took too long actually deciding to buy the wedding ring and take it to the cash register. We have sales in our department store all the time. If we keep making pricing exceptions for all of our customers, we will never make any profit. I am sorry that our store's policies seem unfair to Mr. Bargain. We are not forcing him to shop in our store. He will not win this lawsuit because all of our advertising stated that the sale ended at 1 p.m. that day.

Testimony of Jason Diamond

My name is Jason Diamond. I am the manager of the jewelry department in the Good Life Department Store. On the afternoon of November 14, 2008 Mr. Bryan Bargain was shopping in my jewelry department. He arrived in my department a little before 1 p.m. He said that he had come to buy his fiancée her wedding ring; she had picked it out a long time ago. I mentioned to him that if he knew exactly which ring he wanted he should purchase it before 1:00 p.m. in order to receive the 50% discount. He stated that he wanted to be sure that it was the best ring of all so he wanted to look at all of my rings. This took time.

Finally, he was ready to buy the ring. Unfortunately, the ring rang up on the cash register price that Mr. Bargain stated was incorrect. It did take me a few minutes to straighten out the price mistake but not that long. He just ran out of time to get the discount. I think that it was very foolish of him to waste time looking at other rings when he had already picked out the one he intended to buy. He is wrong in trying to sue the store. He should just buy his fiancée the ring she wants. It's a once in a lifetime purchase, and she deserves it to be a lovely experience, not the topic of a lawsuit.

INSTRUCTIONS

The plaintiff, Bryan Bargain, must prove by a preponderance of the evidence that Ian Charge, owner of the Good Life Department Store, breached his contract with him by refusing to honor the 50% discount price on a wedding ring purchased at 1:13 p.m. on November 14, 2008. Ian Charge must show that he had a compelling reason to refuse to honor the sale price on the wedding ring.

SUB-ISSUES

1. Did Ian Charge breach his contract with Bryan Bargain when he refused to override the cash register and give Bryan Bargain a 50% discount on the wedding ring purchased on November 14, 2008?
2. Is Bryan Bargain correct in asking for the 50% discount on the wedding ring?

CONCEPTS

1. Burden of proof.
2. Preponderance of evidence.
3. Breach of contract.

LAW

A breach of contract occurs when the promisor fails to perform an absolute duty that he or she had promised to perform.

Math, Mischief and Mold

SCHOOL

Glenwood
Short Hills
Grade 4, Honorable Mention

TEACHER

Kate Naso
Leigh Raffaele

STUDENTS

William Anton, Rachel Bencivenga, Emily Cohen, Rachael Freundlich, Jonathan Gaelen, Maura Herbertson, Mohar Kalra, Julia Kaminski, Daniel Kanef, Danilo Kzyk, Taylor Lucas, Weston Maki, Kaye Otake, Abby Ow, Rachel Prince, Jonathan Rosen, Evangeline Schott, Tara Shirvaikar, Malin Stuart, Maude Weiss

FACTS

On October 31, 2008, Allie Allergie, a fourth-grader at DeKaye Elementary School in Allergenna, NJ, left the classroom before her math test and went to the restroom. Her substitute teacher, Mrs. Forgitmoore, did not notice she was missing. Allie hid in the bathroom stall and set her watch alarm for 45 minutes.

She washed her hands, dried them and tried to throw the paper towel in the garbage can. She missed, so she went to pick it up. As she picked it up, she saw a blackish clump in the corner of the wall under the sink. The clump reminded Allie of the black putty from art class, so she decided to play with it.

When her alarm rang 45 minutes later, she walked back to class and she felt dizzy and had a headache. She sat at her desk and felt nauseous and had difficult time breathing. Mrs. Forgitmoore called for the nurse.

The nurse called an ambulance and Allie was rushed to the hospital. At the emergency room, Doctor Blackspot, who was an allergy specialist, examined her and discovered she had allergic bronchopulmonary aspergillosis. Allie remained in the hospital for two weeks.

Mr. & Mrs. Allergie are suing DeKaye Elementary School for medical bills and emotional stress caused by this experience.

ISSUE

Is DeKaye Elementary School negligent because of the mold in the girls' bathroom, or did Allie's irresponsible actions cause her injury?

WITNESSES

For the Plaintiff

Allie Allergie
Dr. Blackspot

For the Defense

Principal Foongus
Mrs. Forgitmoore

WITNESS STATEMENTS

Testimony of Allie Allergie

My name is Allie Allergie and I go to DeKaye Elementary School. On October 31, I went to the bathroom because I really did have to, not because I wanted to miss my math test. We had a substitute teacher named Mrs. Forgitmoore that day. I started playing around with a black clump under the sink. When my alarm went off, I walked back to class, but it got hard to breathe. I started coughing and got dizzy and really sick to my stomach.

The next thing I knew, I was in the hospital. Dr. Blackspot was really nice. He said I had an allergy called bronchopulmonary aspergillosis. I had a needle in my arm for two weeks. It felt really awful. I was so sick, and I couldn't go home for such a long time.

Testimony of Dr. Blackspot

I am Dr. Blackspot, an allergy specialist. I specialize in allergic reactions. I have had patients with this same allergic reaction. I examined Allie and she had allergic bronchopulmonary aspergillosis, which was caused from mold spores reaching the lining of the lungs.

In the hospital, Allie required a 2-week course of I.V. amphotericin B, as well as immunosuppressant therapy.

In my expert opinion, Allie was exposed to the mold for too long, about 45 minutes. Most people in the bathroom for five minutes would not have a reaction, but since Allie played with the toxic mold for at least 30 minutes, her reaction was extreme.

Testimony of Principal Foongus

My name is Frank Foongus. I am the principal of DeKaye Elementary School. I am absolutely sure that Allie went to the bathroom to miss her 6th period math test. She has a reputation for missing tests, you know, especially important ones. Mrs. Forgitmoore gave out the test, and monitored the students. It was Allie's fault that she stayed in the bathroom so long.

Testimony of Mrs. Forgitmoore

I'm well. . .well I think I am Mrs. Forgitmoore. Yes, I am. I'm a substitute teacher at um. . .DeKaye Elementary School. I think I understand that I am here giving a testimony for a reason. The reason I do not know. You see, I can be forgetful. I think Allie was in my class one time. . .yes that sounds right. She was a very good student. Wait, am I here because she was bad? Oh, what a devil she was! That trickster. Well what did she do? If she did something bad, shame on her. I was just being a teacher. Anyway if you think that this was my fault, blame the principal for picking me. That is enough for now.

INSTRUCTIONS

The plaintiff must prove by a preponderance of the evidence that DeKaye Elementary School was negligent in their supervision of Allie and in the cleanliness of their school.

SUB-ISSUES

1. Should Allie have been in the bathroom for 45 minutes?
2. Would Allie have gotten sick if she did not play with the mold?
3. Was it reasonable for the school to have some mold in the bathroom?
4. Why didn't Mrs. Forgitmoore realize that Allie was missing?
5. Why did the school hire an irresponsible substitute?
6. Was the bathroom too moist, which caused the mold to grow?
7. How long was the mold in the bathroom?
8. Did any other child become ill as a result of the mold?
9. Was the school aware of the mold?

CONCEPTS

1. Burden of proof.
2. Credibility of witnesses.
3. Negligence.

LAW

Negligence is defined as conduct, which falls below the standard established by law for the protection of others against unreasonable risk of harm.

The Baffling Bike Accident

SCHOOL

Radcliffe
Nutley
Grade 4, Honorable Mention

TEACHER

Marcia Napolitano

STUDENTS

Joseph Amendola, Megan Amendola,
Marissa Ammiano, Marissa Catalano,
Lauren Facher, Sarah Frobose, Alana Gabriele,
Bella Little, Alexandria Lombardi, Sara McEnery,
Rudy Meglio, Courtney Pickering, Max Tucholski,
Gabby Salzarulo

FACTS

On July 19, 2008, Abby Wobbler and Susie Safety were riding their bikes down Main Street on their way to shop at a store in Mishap Town. They were almost at the store when they came to a steep downhill section of Main Street, called Never Ending Hill. They began to ride their bikes down the hill in single file with Abby in front.

The girls were about halfway down the hill when Abby's bike struck a car owned by Walter Wheel, who was pulling out of his driveway. Abby was thrown from her bike, landing on Mr. Wheel's front lawn. She was knocked unconscious and rushed by ambulance to the hospital. As a result of the accident, Abby had a concussion, a broken collar bone, and many cuts and bruises.

Mr. and Mrs. Wobbler are suing Mr. Wheel for all their daughter's medical expenses, as well as for the pain and suffering she experienced during her long recovery. They claim that Mr. Wheel's car was blocking the sidewalk, causing their daughter's bicycle to collide with the car.

ISSUE

Is Mr. Wheel responsible for the injuries of Abby Wobbler and should he pay for all medical expenses?

WITNESSES

For the Plaintiff

Abby Wobbler
Susie Safety

For the Defense

Walter Wheel
Moe N. Watch

WITNESS STATEMENTS

Testimony of Abby Wobbler

My name is Abby Wobbler. I am 12 years old and in the 6th grade. I have been riding a bicycle since I was five years old. My father still talks about how well I could ride at such a young age. I have also always followed bicycle safety rules.

On July 19, 2008, I was riding my bike with my best friend, Susie Safety. Our parents allow us to ride our bikes all around the town, as long as we follow safety rules, which we do! On that day, we were on our way to the downtown shopping area of Mishap Town because there was a clearance on shoes, 50% off your second pair. We were planning to each buy a pair and share the savings.

As we started down Never Ending Hill, we moved to the sidewalk. It is a long hill and I feel safer being on the sidewalk when I am riding down a steep hill. We were riding in single file and I

applied my brakes for the careful trip down the hill.

The next thing I knew, there was a car right in front of me on the sidewalk. Mr. Wheel was driving the car. I had no warning that it was coming; it was suddenly there. I tried to stop but there was no time. I struck the car and flew off my bike onto the man's lawn. Luckily, I didn't go the other way into the street or I would have been struck by oncoming traffic. Because I was wearing a helmet, I was not as badly injured as I could have been.

My parents are suing Mr. Wheel for all my medical bills. His car was blocking the sidewalk and he should have stopped when he saw a bicycle coming.

Testimony of Susie Safety

My name is Susie Safety and I am 13 years old. Abby Wobbler and I have been friends since the first grade. We also have been riding bikes together for many years. On July 19, 2008, we were enjoying a day out on our bikes. We were on our way to the stores in Mishap Town when we came to Never Ending Hill. Abby is always a little nervous about that hill, because it is very long and she does not want to lose control of her bike on the way down. That is why I suggested that we use the sidewalk, so we could travel more slowly and not worry about traffic.

We were about halfway down the hill when a car came out of a driveway and stopped on the sidewalk. There was a man in the car and he was talking on a cell phone. It was Mr. Wheel. It happened so fast that Abby had no time to stop and struck the car. Unfortunately, she kept going, flying through the air, over the roof of the car and onto the man's lawn.

The accident was all Mr. Wheel's fault, he never looked for pedestrians or bicycles on the sidewalk; he just pulled right out. He was also talking on his cell phone! He was not following driver safety rules!

Testimony of Walter Wheel

My name is Walter Wheel. I have been a licensed driver for 35 years and have never had an accident. I

am a very safe driver and always follow automobile safety laws. I live on a busy street and have to enter and exit my driveway regularly. I do this slowly and carefully and have never had a problem.

On July 19, 2008, I was on my way to the grocery store to buy some milk and eggs. I made sure that I looked in my rear-view mirror and my passenger and driver-side view mirrors before I started to back out of my driveway. I was crossing over the sidewalk when all of a sudden something struck my car with a boom. At first I did not know what had happened. Then I saw the girl with the helmet fly across the top of my car and land on my lawn. I got out of my car quickly and saw her lying there. I thought at first she was unconscious. But then she slowly started to get up. I told her not to move as I called 911. Her friend was there and telephoned the girl's parents.

I have been upset since the accident happened. I keep going over and over the event in my mind. I remember it like it was yesterday. That is why I am sure that it was not my fault. I looked both ways, there was nothing coming. Ms. Wobbler was going too fast down a hill and not following safety rules. That is how and why the accident happened.

Testimony of Moe N. Watch

My name is Moe N. Watch. I have lived next door to Walter Wheel for eight years. During that time, we have become very friendly and often talk to each other. We have both mentioned how dangerous our street is when pulling out of a driveway. There is a lot of traffic and it is difficult to see.

On the afternoon of July 19, I was mowing my lawn when Mr. Wheel came out of his house and got into his car. He pulled down the window, and we chatted for a few minutes before he started to pull out of the driveway. I did not at any time see a cell phone in his possession!

All of a sudden, two bicycles came flying down the street, or rather the sidewalk, because that is where they were traveling. I could not believe how fast they were going. They were even traveling faster than the cars that were on the road! I started to call out to them to slow down when the bicycle in front struck Walter's car with a boom. The girl flew

over the top of the car and landed on the lawn. I ran to see if she was all right; Walter had gotten to her first and was calling 911 when I arrived.

Both girls need to review their bicycle safety manuals and follow the laws concerning speed limits for all vehicles. It wasn't Mr. Wheel who was breaking any laws...the girls were! Also, shouldn't bikes be on the street, and not the sidewalks?

INSTRUCTIONS

The jury must decide by a preponderance of the evidence who was responsible for the accident in which Abby Wobbler was injured and if Walter Wheel should pay for her medical bills, as well as compensation for her pain and suffering.

SUB-ISSUES

1. Did Mr. Wheel stop and look carefully before exiting his driveway?
2. Was Abby Wobbler traveling at an excessive speed?
3. Was the defendant talking on a cell phone at the time of the accident?
4. Was the plaintiff following all bicycle safety laws?
5. Did Abby Wobbler's actions contribute to her injuries?
6. Was the accident caused by Mr. Wheel's inattention or Abby Wobbler's excessive speed?

CONCEPTS

1. Liability.
2. Negligence.
3. Contributory negligence.
4. Credibility of witnesses.
5. Foreseeability.
6. Burden of proof.
7. Pain and suffering.
8. Preponderance of the evidence.

LAWS

1. NJ Statute 39:4 – In New Jersey, the law states that a bicyclist must obey all state and local automobile driving laws, including local ordinances on speed limits.
2. Every person riding a bicycle on a roadway is granted all the rights and subject to all of the duties of the motor vehicle driver.
3. Drivers crossing a sidewalk, entering or exiting a driveway, must yield to pedestrians and bicyclists.
4. Bicyclists must stop and observe traffic when crossing driveways.
5. While riding down a hill, bicyclists should attempt to maintain sufficient control of their bicycles such that they will be able to come to a controlled stop in the event of an emergency, and should take care that their speed is not excessive for the number of intersections in the roadway or the condition of the road.
6. Contributory negligence – If the plaintiff's acts contributed to the injury, such acts may reduce, but not necessarily eliminate the responsibility of the defendant.
7. Damages for personal injury – Plaintiff is to be compensated for all his damages, both special and general. This includes fair and adequate compensation for medical expenses, as well as pain and suffering.
8. Negligence – The defendant will be found negligent if the plaintiff can prove that the defendant's conduct was the cause of injuries.

Color My World Red

SCHOOL

Johnnie L. Cochran, Jr. Academy
East Orange
Grade 5, First Place

TEACHER

Patricia Hurt

STUDENTS

Kristyann Abraham, Eric Arnold, Inayah Bashir,
Stephanie Brewster, Rickey Close,
Darius Phillips, Paula Salvant, Jocelyn Willoughby

FACTS

On April 1, 2008, the Board of Education passed a resolution establishing a district-wide student dress code banning the color red as a part of student apparel due to the increased violence from gang members wearing the color red while on school property. The intent of the policy was to support school safety. In recent months students wearing red have been causing disruption during the lunchroom period. An investigation by school officials revealed that students in red apparel antagonized and taunted students while they ate their lunch. The policy became effective April 10, 2008.

The Policy states:

“The Delinquent Town Board of Education believes that its duty is to maintain student and staff safety. Therefore, effective April 10th, no high school student may wear clothing that is the color red. Any student that violates this policy will be subject to an immediate suspension from school for three days.”

On May 1, 2008, Onika Honors, a junior and class president, entered Delinquent High School with a red shirt, red skinny jeans and red sneakers. The front of the shirt had the emblem of the Delta Teens. Printed on the back of the shirt were the words, “DELTA’S RULE.” Principal Stopster saw her and stopped her in the hallway. The principal questioned Onika in light of the new rule that bans red apparel being worn on school property. Onika told Principal Stopster that red is her favorite color

and reassured her that she is not a member of any gang.

Principal Stopster advised Onika as she was suspended for three days for breaking the new school rule. Onika was devastated by the suspension. Her favorite color is red. Her aspirations are to join a sorority that wears red once she enters college. In fact, it is the same sorority of which her mother is a member.

Onika is currently a member of the Delta Teens. Onika believes that wearing red does not necessarily signify that you are a member of a gang. Her mother, Delta Honors, has filed a lawsuit on her behalf, claiming the ban violates her First Amendment rights.



ISSUE

Is the Board Policy banning red a violation of the constitutional rights of Onika Honors?

WITNESSES

For the Plaintiff

Onika Honors

Delta Honors

For the Defense

Principal Stopster

Superintendent Ed U. Cate

WITNESS STATEMENTS

Testimony of Onika Honors

I am a junior at Delinquent High School. On May 1, 2008 I wore a red Delta Teen shirt, a pair of red skinny jeans, and a pair of red sneakers to school. After Principal Stopster saw me in the hallway, she stopped me and informed me that I was disobeying the new school rule by wearing the color red. She said it represented gang paraphernalia, which was banned on school property. Before suspending me for three days, she informed me that on April 10, 2008, the new rule was enacted. I left school early on that day. I was never told that the color red was banned.

I had reasons why I was wearing red to school. Since red is my favorite color, I have a lot of the color red in my wardrobe. I am also a member of the Delta Teens. My mom is a Delta, which is a national sorority. She promised me that right after school I could go to a Delta Teen meeting with her. The Delta Teens were planning to go to Washington, DC with the Delta Sorority to celebrate the founders of the organization. Delta women wear red!

I am not affiliated with any gang! As a matter of fact, I don't even have time to be associated with any gang activity. All of my time is taken up with academics, community service, and after-school activities. I am on the Delinquent High cheerleading squad, the chess team, the math team, and the track team. I am also the president of my class. In addition,

I am a member of the National Honor Society. I did not know that the color red was banned on school property and I definitely am not a part of a gang.

Phil McGrave, another junior, wore all blue and he didn't get interrogated by the principal. As far as I am concerned, blue is a part of gang paraphernalia too. It's unjust that Phil didn't get suspended when he wore blue, which represents gang paraphernalia too. I feel discriminated against. There were also girls wearing all purple. Purple is a part of gang paraphernalia too. It is just not fair. Red isn't the only part of gang paraphernalia, and I wasn't the only one to wear a color that was a part of gang paraphernalia. There is purple, red, blue, yellow, gold, pink, gray, black, white and many more colors. There are even parts of gang paraphernalia to identify each other, such as hats, beads, dances, handshakes, tattoos, scarves, etc. If they are going to ban colors on school property due to gang paraphernalia, then they would have to ban more than just the color red. I feel discriminated against just for the fact that they stopped me because I had red on but they didn't stop everybody else who had other gang colors on. I should have the right and freedom to express myself as well as everybody else. Red is the expression of my Delta heritage.

Testimony of Delta Honors

My daughter was suspended from school for three days. My daughter has never been suspended from school. I have raised my child to respect her teachers and the principal. This suspension will go on her permanent record and that's not good for college applications. My daughter studies hard and stays active. She even volunteers every other weekend at the soup kitchen.

On May 1, 2008, I sent my daughter to school in a Delta Teen shirt, a pair of red skinny jeans, and a pair of red sneakers. In fact, I told her to wear red on that day because she was coming to one of my Delta meetings right after school and she wanted to follow in my footsteps supporting the Deltas. This was a special meeting of the Deltas with the Delta Teens. It's a family tradition. Her great-grandmother was the founder of one of the Delta chapters here in the State of New Jersey and she also believes in academic excellence. Onika has consistently

been on the honor roll. My daughter is an excellent student and every teacher in that school knows it!

Furthermore, I was not informed that the color red was banned in the school. I have a copy of the student handbook, which was given to all parents at the beginning of the school year. When my daughter was suspended, I went back and read the district's dress code that is contained in the handbook. There is nothing in the handbook which states the color red is prohibited to wear to school.

I think it's absurd that my daughter can't wear the color red to school. I would know if my child was associated with a gang. You can't just ban one color that is associated with gangs. You have to ban all gang-related colors. Can you imagine that? By the time they finish banning colors that involve gang violence, there won't be any colors for children to wear to school! Almost every color is associated with gang violence and parents can't afford to buy clothes in colors that gangs don't wear, especially with the recession going on. At Delinquent High School, 85% of the families are struggling, including me. It's hard enough to buy food and pay the bills. I am just making it. As far as I am concerned, I believe that she was being targeted.

Testimony of Principal Stopster

I am the principal of Delinquent High School. On May 1, 2008, I stopped Onika in the hallway. I told her she had on colors that were banned from the school and that she would be suspended for three days. On April 10, 2008, we had an assembly about gang awareness and after the assembly I informed everybody that no one is allowed to wear the color red while on school property.

I am almost 100% sure that Onika was there on April 10th, because right before the assembly she gave a pep talk about the upcoming student fundraiser for the school. Parents had the choice if they wanted their child to wear uniforms as opposed to banning certain gang colors in the school dress code. I believe the Board administration conducted a parent survey. I am sure the Board sent notices to the parents about the new policy. It is also posted on our district website.

I'm very cautious of my students' safety. And

I have to be concerned, since most gangs are just right outside the school. If there were ever to be gang violence, then school would have to be canceled and that would harm the student's education. All of the fights that have started involved people who were wearing red. I will not allow gangs into my school.

Testimony of Superintendent Ed U. Cate

I am the superintendent of Delinquent Town Public Schools. Over the years, principals have complained to me that they needed a policy passed by the Board regarding gang colors in the school system. In particular, the high school has been experiencing increased gang-related incidents in 2008. The gang problem was escalating. Immediate action had to be taken. Therefore, out of concern for teacher-student safety, the Board adopted a policy of no red colors in the high school.

As the superintendent, I have a legal obligation to create a safe environment conducive to learning for all students. The needs of the many outweigh the needs of the few. Parents had a choice of school uniforms or banning certain colors which cause unrest among the student population. I believe that students have a right to freedom of expression under certain guidelines. I also believe the U.S. Constitution supports this ban as long as it is rationally related to legitimate governmental purpose. My focus is on the safety issues first and foremost. This ban will serve as a role model for students to understand the seriousness of the gang problem. Many gangs use colors as a symbol to represent their gang. The most predominant color in our high school appears to be red. Along with this ban, the school district will have pamphlets making parents aware of signs of gang activities.

INSTRUCTIONS

The plaintiff must prove by a preponderance of the evidence that the defendant violated her constitutional rights.

SUB-ISSUES

1. Does the policy support maintaining a safe and effective educational environment?
2. Does the policy respect a student's constitutional rights?
3. Have the parents and students received the proper notice about the new policy?
4. Does the policy set up a specific discipline procedure and phase-in period to give students time to adjust to the policy?

CONCEPTS

1. The chilling effect on freedom of expression vs. the rights of board of education to establish safe schools.
2. Procedural due process.
3. Preponderance of the evidence.

LAW

On the request of the principal, staff, and parents of students at a school, the local board of education may enact a dress code that includes uniforms, provided that the board finds the policy will improve the school learning environment. The policy, when adopted after a public hearing, must give parents three months' notice. Students who belong to a nationally recognized youth organization must be allowed to wear that organization's uniform to school on days that the organization has a scheduled meeting. Local boards also may create policies that forbid students from wearing gang-related clothing or accessories.

The PowerPoint Pickle

SCHOOL

General Charles G. Harker
Woolwich Township
Grade 5, Second Place

TEACHER

Diane Jablonowski

STUDENTS

Marissa Armandi, David Floyd, Anna Kjellson,
Liam McMonagle, Brooke Owens, Vincent Scian,
Christian Steward

FACTS

Eleven-year-old Dawn Loaded recently moved from Canada to the U.S. She was assigned a PowerPoint presentation for her class at Rekrak Elementary School. She would receive extra credit if she added music to her presentation. She felt she did not have any fitting music for her presentation at home, so she checked a few CDs of her favorite artist, Ray D. O'Singer, out of the local public library and downloaded them onto her computer for her presentation.

Her teacher loved her project and it was displayed at the school Academic Fair. When Manny Jerr, the manager for ColdHart Tunes Music Company, who is a parent of a child at Rekrak Elementary School, heard the music of his rising artist, Ray D. O' Singer, playing at the Academic Fair as part of Dawn Loaded's project, he asked her about it. Dawn told him that she checked the CDs out of her public library and downloaded them onto her computer, like she had done many times before when she lived in Canada. Manny Jerr contacted Ray and told him about the copying of his song. Ray was not pleased and the ColdHart Tunes Music Company has decided to sue Dawn and her parent for copyright infringement.

ISSUE

Is Dawn Loaded guilty of copyright infringement because she made a copy of a song from a CD in her public library's collection or is it a permissible fair use?

WITNESSES

For the Plaintiff

Manny Jerr
Ray D. O'Singer

For the Defense

Dawn Loaded
Don Loaded

WITNESS STATEMENTS

Testimony of Manny Jerr

My name is Manny Jerr. I work for ColdHart Tunes Music Company. I recently attended the Rekrak Elementary School Academic Fair where I heard the music of my client, Ray D. O'Singer, playing. I went over to ask where the music was coming from. I saw a little girl and asked where the music was from. She explained that she downloaded a CD from the library onto her desktop computer and made it part of her PowerPoint presentation.

I immediately contacted Ray. He sounded furious and wanted to sue. I agreed we should sue and here we are before you in court. This girl said she didn't know downloading music from a public library CD was not allowed in the United States, but that does not make it right. She said in Canada she could do that. This is not Canada, little girl!

Testimony of Ray D. O'Singer

My name is Ray D. O' Singer. My manager, Manny Jerr, recently told me about a girl using my music in her PowerPoint presentation by downloading it for free from her public library. I was furious that my music was downloaded for free because I don't get any extra money for unauthorized copies of my music. I don't think it is fair to make copies of my music without my permission because I work hard to make my music and should not have someone keeping me from making profits on it. I know she used it for school, but it still is not fair. If she wanted to get extra credit, she could have bought the CD.

Testimony of Dawn Loaded

My name is Dawn Loaded and I am 11 years old, and in fifth grade attending Rekras Elementary School in Swedesboro, New Jersey. I moved from Canada one year ago. I recently had to do a PowerPoint presentation for a school project. I added music to the background for extra credit. I didn't have any music at home that suited my presentation. Since my grade isn't good in that subject, I needed the extra credit. My teacher liked my project so much, she asked me to display it in the Academic Fair. She also asked me to stand next to it to explain it.

About halfway through the night, a man came up to me and asked me where I got the music. I told him it was a song by Ray D. O'Singer that I got it from my public library, and downloaded it onto my computer. His face turned red. Then he stormed away angrily. Why is it wrong to get music from the public library and download it to your computer? It is allowed in Canada. I can't believe they're suing my parents and me!

Testimony of Don Loaded

My name is Don Loaded. My daughter recently had to do a PowerPoint project for a school Academic Fair. She told me that she wanted to add appropriate music to the project so she could get the extra credit points that her teacher was giving out. I thought she should add music because she needed the extra credit points to raise her grade. In Canada, it was perfectly fine to download music for free from the local public library.

The day after the Academic Fair, I got a letter in the mail saying that Ray D. O' Singer was suing my family for using his music. I think that since I pay municipal taxes to my local library, I can download library music for free, because the library uses my tax money to buy the material for the library. So technically, we do own a portion of the CDs in the library. We own some of Ray D. O'Singer's CDs but none of the songs on the CDs matched what Dawn needed for the project. My daughter and I went to the local public library and checked out some of the music that we thought would match the project, and my daughter used it in her PowerPoint project. Ray D. O'Singer should not be suing my family.



INSTRUCTIONS

The plaintiff must show by a preponderance of evidence that Dawn Loaded is guilty of copyright infringement by making a copy of music and using it in her school project that was on display at the school's Academic Fair and that it was not considered fair use.

SUB-ISSUES

1. Is Dawn Loaded increasing the fan base of Ray D. O'Singer by playing his music at the Academic Fair?
2. Do the parents technically own the CDs in their public library since their taxes pay for the library's CD collection?

CONCEPTS

1. Copyright infringement.
2. Fair use.
3. Preponderance of the evidence.

LAW

United States Copyright Act found in Title 17 of the United States Code contains federal statutes governing copyright law in the United States.

Title 17 Copyright Law Section 106, Exclusive Rights in Copyrighted Works, explains that the owner of a copyright has the exclusive rights to, among other things, transmission of a sound recording publicly.

Title 17 Copyright Law Section 107, Fair Use of a Copyrighted Work, states that the use of a copyright work, including music recordings, for the purposes of scholarship is not an infringement of the copyright.

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An Alarming Situation

SCHOOL

Liberty
Great Meadows
Grade 5, Honorable Mention

TEACHER

William D. Nutt

STUDENTS

Prescilla Acuria, Gage Colucci, Hannah Crisafulli,
Steven Egan, Juliana Humphreys, Jesse Rosario

FACTS

On August 4, homeowner Eva Snapp left her home to vacation at Yodel Park for one week. She left Isaiah Slash (an employee with Building Blox Inc., a construction firm) to build an extension to her house, as well as install a Bak-Off Burglar 3000 alarm system. On August 5, Slash completed installing the alarm. He tested the system, and it worked fine.

On August 10, the house was burglarized. The robber apparently entered the home through an air-conditioning vent. A plasma-screen TV and a Schepis DVD player (two pieces of equipment worth a total of about \$3,000) were stolen. Later the burglar smashed his car into a tree on County Route 5000. In the back of his car were the television and the DVD player, both damaged beyond repair. The burglar was tried, convicted and sent to prison.

Now Eva Snapp is suing Isaiah Slash and Tatiana Inez, the owner of Building Blox, for negligence. Snapp claims that Slash didn't install the alarm properly and that he failed to secure the construction site. Snapp believes that these factors directly contributed to the burglary, so she is suing for the price of the stolen property plus damages to the house, or a total of \$6,500. Slash and Inez claim that they acted properly, that the alarm system was working, and that they are not at fault.

ISSUE

Was the contractor negligent in installing the alarm and securing the construction site, and did this negligence directly contribute to the robbery?

WITNESSES

For the Plaintiff

Eva Snapp
Owen Charley

For the Defense

Isaiah Slash
Tatiana Inez

WITNESS STATEMENTS

Testimony of Eva Snapp

For years, I've wanted an addition to my house. I also wanted a new alarm system, since there's been an increase in crime in our neighborhood. On the strong recommendation of several friends, I decided to hire Building Blox, Inc. I met with Tatiana Inez, the owner, and Isaiah Slash, who was going to supervise the actual construction work. They seemed very capable, and I felt I was leaving my house in good hands. I specifically asked them to install a Bak-Off Burglar 3000 alarm system, since it had received an excellent rating from *Consumer Monthly*.

Because I felt so confident about them, I decided to schedule my vacation while they were working on my house. They assured me that the installation of the alarm system would be completed the first day I was gone. I also asked my neighbor, Owen Charley, to check in on the house while I was away.

The day I returned from my vacation, I went into the house and was shocked to find muddy footprints on the rug. My plasma-screen TV and Schepis DVD player were gone. That was almost \$3,000 in electronics equipment missing!

Owen came over when he heard me pull up. He called the police, and then we started looking around the property. We found a large hole in the air-conditioning vent. It looked like someone had entered the house through this hole. The officers took statements from us. In only about a day, they arrested the burglar; however, the car the burglar was driving crashed into a tree on County Route 5000, and all my equipment was demolished.

I am suing Building Blox for the loss of the equipment and for the damage to my house. I feel that if Isaiah Slash had done his job properly, the alarm would have worked, and the burglar would never have broken into my house.

Testimony of Owen Charley

My neighbor Eva Snapp was going on vacation to Yodel Park for two weeks. She asked me if I would keep an eye on her place. She told me that there would be workers coming and going while she was away, but there would be an alarm system in place. I met with Mr. Slash and the other workers, and I was shown how much noise the Bak-Off Burglar 3000 system makes when it's tripped.

On the night of August 10, I was home all evening. The only time I left my house was when I walked my dog, Peanut, around the neighborhood; Peanut is old, so we didn't go far. The next day I heard Eva's car pull into her driveway, shortly followed by a scream. I ran over and saw that her TV and stereo equipment had been stolen. I immediately called the police on my cell phone. The police arrived quickly and took statements from Eva and from me. I told them that I never heard an alarm at Eva's place while she was away.

The police later found the burglar and arrested him. However, by that time, Eva's TV and DVD player had been demolished. I'm sure if the alarm had been working, I would have heard it, and this would never have happened.

Testimony of Isaiah Slash

I've been involved in construction for 12 years, 10 of them with Tatiana Inez and Building Blox. We have an excellent reputation, and I've received various awards for the work I've done. I take pride in my work and in satisfying our customers.

We were hired by Ms. Snapp to build an addition to her house and install a new alarm system. We usually recommend Pad Protector alarms, but Ms. Snapp insisted that we use the new Bak-Off Burglar 3000 system.

On the first day after Ms. Snapp left for vacation, I installed the alarm. Though I have never worked with this particular model, I have installed previous versions of the Bak-Off Burglar system. I know that I followed the directions and installed it correctly. It took my workers and me a couple of hours to install this system.

The construction work went well, and we completed the addition the day before Ms. Snapp was scheduled to return. At the end of each day that we worked on the house, I personally locked the doors and windows, secured the site, and set the alarm.

When Ms. Snapp returned home, she found that her home had been robbed. Ms. Inez and I were called to the scene. I saw that the burglar must have entered through a hole in the AC vent. The Bak-Off Burglar 3000 system doesn't really cover the AC system as one of the points of entry. When I arrived on the scene, I saw that the alarm had not gone off. However, I tested it, and it worked fine.

I feel bad for Ms. Snapp's property loss, but I don't think it was my fault or the fault of any of our workers. We did our job properly, and we made sure the house was secured. I don't know of any alarm system that would include the AC vent.

Testimony of Tatiana Inez

I started Building Blox 15 years ago. I had been involved in construction 10 years before that. I know what customers want from a contractor, and I have always made sure they get the service they deserve. I'm very careful to hire workers who share my philosophy and are reliable. I've known Isaiah Slash for about 12 years, and he's worked for me for the past 10 years. He has an outstanding reputation; he's received awards from the union, and he's one of my most trustworthy contractors.

Ms. Snapp came to us on the recommendation of several of her friends. She wanted an addition to her home, and she wanted a burglar alarm system, which she had never had before. My company has installed several types of alarm systems, but our preference is for the Pad Protector product. However, she demanded that we use the Bak-Off Burglar 3000 system. This is a brand-new model, but we have worked with earlier versions from the same company. Isaiah was confident that he would be able to install it properly.

I received daily updates from Isaiah during the work, and I visited the site several times while Ms. Snapp was away. I was satisfied with the work my employees were doing, and I even checked the alarm system myself. It worked perfectly. All the construction was completed the day before Ms. Snapp came back from vacation, just as we had promised.

The day of her return, we received a frantic phone call from Ms. Snapp. Her home had been broken into, and her home entertainment system was stolen. Isaiah and I immediately went to her home. We found that the burglar must have entered the house through the AC ventilation duct. That's a very unusual place for a break-in; we later found that the burglar was a rather small individual. I don't know of any alarm system for a home that would cover the AC vent.

I'm sorry that the home was robbed and Ms. Snapp lost her TV and DVD player. However, we did our job. We installed the system properly, and we made sure the home was secure while we were there.

INSTRUCTIONS

The plaintiff must set out a convincing case so that the jury believes by a preponderance of evidence that Isaiah Slash was negligent in installing the alarm system, and this negligence resulted in the robbery.

SUB-ISSUES

1. Did Isaiah Slash install the alarm correctly?
2. Is the newest model of alarm system significantly different to install compared to previous models?
3. Did Slash secure the construction site?
4. Was the failure of the alarm to go off due to a flaw in the system itself, not in the way it was installed?
5. Should the contractor be held liable because the burglar used an unusual entry point to the house?
6. Was Ms. Snapp justified in leaving her house in the care of people whom she had only known for a short time?

CONCEPTS

1. Credibility of witnesses.
2. Burden of proof - preponderance of the evidence.

LAW

If a homeowner leaves another person in charge of his or her house for more than three days, and negligence leads to any damage to the home (including loss from theft), the person in charge has to pay up to 75% of the cost to repair the damage and replace the items stolen.

Monkey See, Monkey Do!

SCHOOL

The Learning Community Charter
Jersey City
Grade 5, Honorable Mention

TEACHER

Christina Meluso

STUDENTS

Bryan Abanilla, Teresa Cartagena, Solomon Crawford,
Juan Ferreira, Aaron Ishmael, Stephanie Jeter,
Devin Malmad, Nalisha Mickens, Nathaniel Morriss,
Michael Moseti, Diana Nichols, Dylan Ozagar,
Keaondra Shannon, Dashanelle Stiles,
Keenan Toussaint, Austin Woo, Mona Zaki

FACTS

On Wednesday, July 16, 2008, Patrick Pitcher went to Zoo Mania, the city zoo, with his babysitter Sue Sitter and his little sister Paige. The Pitcher kids are frequent visitors to the zoo and often come on Wednesday afternoons around lunchtime to watch the animals eat. While exploring the monkey exhibit, Paige needed to use the bathroom. Sue decided that, since the bathrooms were right next to the exhibit, it was all right for her to leave Patrick alone for just a few minutes. Sue knew that Patrick would be on his best behavior seeing that the Zoo Mania manager, Betty Bossing, was talking to a security guard nearby. However, before leaving the exhibit, Sue gave Patrick a banana to snack on because he complained that he was hungry.

While Sue left with Paige to use the bathroom, Keith Z. Keyper, a longtime zookeeper and employee, entered the cage of Bam-Bam, Zoo Mania's most famous monkey. While cleaning the cage and talking to Bam-Bam, Keith noticed that Bam-Bam was acting unusually aggressive. Suddenly, Keith realized that Bam-Bam had not received his regularly scheduled lunch, which should have been provided by another zoo employee. Keith quickly left the cage to get Bam-Bam's bananas, failing to take notice whether the cage door was shut properly behind him.

As he waited for the return of his babysitter and little sister, Patrick decided to playfully act like a monkey as he ate his banana in front of Bam-Bam's cage. Bam-Bam all of sudden became excited and

uncontrollable due to Patrick's behavior. While jumping around his cage erratically, the door opened and Bam-Bam made a quick exit. Bam-Bam climbed the nearest tree branch, swung from it, and forcefully knocked Patrick to the ground.

As a result of the attack, Patrick suffered minor head injuries, a broken wrist, and bruised ribs. The Pitcher family is suing Zoo Mania for Patrick's medical expenses and for his pain and suffering. The Pitcher family claims that Patrick's injuries were a direct result of negligence on the part of Zoo Mania's employee, Keith Z. Keyper. They believe Keith's failure to notice whether the door was shut properly behind him when he left the cage allowed for Bam-Bam the monkey to escape and attack their son Patrick.



ISSUES

1. Is Zoo Mania liable for Bam-Bam's attack on Patrick Pitcher?
2. Should Zoo Mania be held responsible for Patrick Pitcher's medical expenses and for his pain and suffering?
3. Was Keith Z. Keyper negligent for not carefully checking whether Bam-Bam's cage door was shut properly when he exited the cage?

WITNESSES

For the Plaintiff

Patrick Pitcher

Sue Sitter

For the Defense

Keith Z. Keyper

Betty Bossing

WITNESS STATEMENTS

Testimony of Patrick Pitcher

Hi, my name is Patrick Pitcher and I am 11 years old. On Wednesday, July 16, 2008, I went to my favorite zoo, Zoo Mania, with my little sister Paige and our babysitter, Sue Sitter. Sue babysits for us during the weekdays in the summer while our parents are at work. Since Sue knows how much Paige and I enjoy going to the zoo, she tries to bring us there once a week in the early afternoon to watch the animals get fed their lunch. That Wednesday we spent most of our time in the monkey exhibit waiting for the monkeys to be fed, but there was no zookeeper in sight! I did see Betty Bossing, the manager of Zoo Mania, talking to a security guard nearby. I wanted to tell her that the monkeys looked hungry, but she seemed really busy so I decided not to say anything to her.

After some time looking around the exhibit, my stomach started to rumble so I asked Sue if she had anything to eat. Sue searched in her backpack and handed me a banana. As I took the banana, she told me that she was taking Paige to the bathroom and

that I should not leave the monkey exhibit. While Sue and Paige were gone, I walked over to visit Bam-Bam, the most famous monkey at Zoo Mania. When I got there, I noticed that Keith Z. Keyper, the zookeeper, was in the cage but it didn't look like he had Bam-Bam's lunch with him. A moment later, I saw Keith quickly run out of Bam-Bam's cage. I didn't know why, but Bam-Bam seemed upset.

I decided that maybe I could help calm down Bam-Bam by distracting him. I peeled my banana and playfully jumped around acting like a monkey. Bam-Bam started to excitedly jump all around his cage! I figured I was cheering him up, but boy was I wrong! I had no idea that the cage door was left open by Keith Z. Keyper. Before I could run out of the exhibit, Bam-Bam had already escaped from his cage, climbed a tree close by, swung from it, and knocked me to the ground.

As a result of the attack, I suffered minor head injuries, a broken wrist, and bruised ribs. I was really upset over this attack because I am the starting pitcher for my baseball team and I had to miss the championship game due to my injuries. If Keith Z. Keyper had been more careful and checked to see whether Bam-Bam's cage door was shut properly behind him, Bam-Bam would have never escaped and attacked me and most importantly, I would have been there to help my teammates win the championship game.

Testimony of Sue Sitter

Hello, my name is Sue Sitter. I am the babysitter for the Pitcher children. I babysit for Patrick and Paige during the summer when I am home from college. I have been their babysitter since I was in high school, so I know the children well. On Wednesday, July 16, 2008, Patrick and Paige Pitcher asked if I could take them to Zoo Mania. I didn't mind taking the children because I also enjoy going there since I am studying to become a zoologist one day. In fact, I used to work at Zoo Mania as a counselor so I know the staff members and animals pretty well.

That Wednesday the children wanted to spend time in the monkey exhibit because they like to watch the monkeys get fed their bananas. We waited awhile but not one zookeeper came to feed

the monkeys. I started to get worried. I spotted my former boss, Betty Bossing, talking to a security guard nearby and decided to alert her of the situation. Just then Paige told me that she needed to use the bathroom badly and Patrick told me that he was starving. Ahhh, the life of a babysitter! I looked in my backpack, found a banana and gave it to Patrick. I told him I was taking Paige to the bathroom, which was next to the monkey exhibit, and that he should not leave the area. I knew Patrick would be on his best behavior because Betty and a security guard were only feet away from him. Besides, I have left Patrick alone before in exhibits at Zoo Mania in order to take his sister to the bathroom and there have never been any problems with him in the past.

On my way to bathroom I decided to tell Betty that I didn't see the monkeys get fed their lunch and I knew that their feeding time had already past. She thanked me and said that she would take care of the situation. Minutes later when I returned to the monkey exhibit with Paige, I saw Patrick lying unconscious on the ground next to Bam-Bam's cage. Betty Bossing was trying to help Patrick, while Keith Z. Keyper was sedating Bam-Bam the monkey. Although I did not see Bam-Bam actually attack Patrick, I do know that the only way Bam-Bam could have left his cage was if the door was not shut properly. I know from previously working at Zoo Mania that the cage doors only lock automatically if they are completely shut. Due to this, I blame Patrick's attack directly on the carelessness of Zoo Mania's employees for not feeding Bam-Bam sooner and for Keith not checking to see if the cage door was securely shut. His carelessness led the monkey to escape and seriously injure Patrick.

Testimony of Keith Z. Keyper

Hi, my name is Keith Z. Keyper and I am one of the zookeepers at Zoo Mania. I have worked there for many years and have a good, trusting relationship with all of the animals. On July 16, 2008 I was scheduled to clean the cages in the monkey exhibit. It was not my responsibility to feed Bam-Bam or the other monkeys. As I was cleaning Bam-Bam's cage, I noticed that he was behaving quite aggressively. It took me a minute to finally notice

that the reason for his behavior was because he was never fed his lunch! I knew that this was not a good thing, so I quickly rushed out of Bam-Bam's cage to get him and the other monkeys in the exhibit their bananas. It is true that Bam-Bam's cage door was open, but I did not leave it open on purpose. You see, the cage door swings shut and locks automatically since most of the time we zookeepers have our hands full. So it was natural for me to assume that Bam-Bam's cage door was securely shut behind me as I left to go get his lunch.

When I arrived back to the exhibit, I was extremely surprised to see Bam-Bam out of his cage and attacking the Pitcher boy. I quickly took out my sedation needle and gave Bam-Bam a small dose in order to stop the attack and return him to his cage. When I got to the cage, I saw that there was a tree branch holding the door slightly open. Somehow the tree branch must have blocked the door from closing properly, which allowed Bam-Bam to escape! I have known Bam-Bam for years and he has never escaped from his cage or attacked anyone at Zoo Mania. Bam-Bam would only behave this way if he felt threatened by someone or something. Although what happened to Patrick was an unfortunate incident, there has to be a reason why Bam-Bam would have chosen the Pitcher child as the target of his attack.

Testimony of Betty Bossing

My name is Betty Bossing and I have been the manager of Zoo Mania for nearly a decade. On Wednesday, July 16, 2008, I was in the monkey exhibit talking to a security guard about a new security system that was recently installed at the zoo. During my conversation with the guard, Sue Sitter approached me and told me that she was concerned that the monkeys had not been fed their lunch. I thanked her and walked over to the cages to see if what she had told me was true. Sue was right, the monkeys had not been fed! I used my walkie-talkie to contact the zookeepers to alert them of the situation. Keith Z. Keyper responded first and told me he was already on his way getting the monkeys their lunch.

As I walked back to the security guard to continue our conversation, I saw him reprimand a

child for misbehaving in front of a monkey's cage. I realized I recognized the child, it was Patrick Pitcher! Patrick comes to Zoo Mania every week with his babysitter Sue, a former employee of mine, and every week when left unsupervised he fools around and annoys the animals. I've had to talk to him a couple of times about his behavior before the day of the attack.

Anyway, just as the security guard and I were about to continue our talk, he was paged into a nearby exhibit and my cell phone started to ring. As I walked around the monkey exhibit engaged in my phone conversation, I unfortunately failed to see Bam-Bam's quick escape from his cage. By the time I noticed what had happened, Patrick Pitcher was already lying on the floor unconscious. I quickly called an ambulance and began to administer CPR on the Pitcher boy. I noticed Keith nearby sedating Bam-Bam.

It is true that Bam-Bam was able to escape because the cage was left slightly open due to a tree branch. However, my longtime employee Keith was not responsible for the open cage door or Bam-Bam's escape. In all of the years Keith has worked at Zoo Mania, a situation like this has never occurred. What I do know is that Patrick was left unsupervised in the monkey exhibit, and that the last time I noticed him, he was fooling around and annoying other monkeys. Patrick Pitcher must have been annoying Bam-Bam too, which frustrated the monkey, led him to escape, and ultimately attack the Pitcher boy.

INSTRUCTIONS

The Pitcher family must convince the jury by a preponderance of evidence that Patrick Pitcher's injuries and pain and suffering were the direct result of negligence on the part of Zoo Mania's employees.

SUB-ISSUES

1. Was Sue Sitter negligent for leaving an 11-year-old child unsupervised in an exhibit at Zoo Mania?
2. Why were the monkeys not fed on time? Should Betty Bossing have realized that the monkeys were not fed?
3. Should Sue Sitter have given Patrick Pitcher a banana in a monkey exhibit?
4. Was Patrick responsible for his attack (i.e., playfully acting like a monkey in front of Bam-Bam's cage)?
5. Did Bam-Bam attack Patrick Pitcher for his banana because he had not been fed his lunch?
6. Should the monkeys have been kept in cages that were more secure?

CONCEPTS

1. Negligence.
2. Liability.
3. Adult responsibility/duty.
4. Comparative negligence.
5. Park rules and regulations.
6. Credibility of witnesses.
7. Preponderance of evidence.

LAWS

1. Customers are not allowed to eat or drink in any of the zoo exhibits.
2. All animals must be fed according to their scheduled feeding time.
3. All children under the age of 13 should have adult supervision at all times.
4. Zookeepers must make sure that animals are securely locked in their cages before exiting the area.

Dress Code or Stress Code?

SCHOOL

Solomon Schechter Day School of Essex and Union
West Orange
Grade 6, First Place

TEACHER

Marilyn Loewenthal

STUDENTS

Benjamin Cooper, Rebecca Hersch, Steven Langer,
Daniel Markstein, Hayley Nagelberg, Noah Pearlstein,
Aaron Rakib, Noa Shapiro, Samuel Sherman,
Noah Singer

FACTS

On Tuesday, December 23, 2008, Greg Greenberg, an observant Jew, husband and father of three, went to apply for a new job as a waiter at the Grandjour, an upscale restaurant in North Cuisine, New Jersey. He walked into an office where the manager, Mrs. Bonnie A. Petite, interviewed him. After a successful interview, she introduced Greg to the owner of the restaurant, Manny Ewe. Bonnie and Manny asked Greg a lot of questions pertaining to the demands of the job including neatness of appearance, professional behavior toward customers and other employees, and job experience.

Three days later, Greg received a phone call from Bonnie, who said that he had done very well at the interview and congratulated him; he had received the job. Bonnie made an appointment with Greg to meet that day at 4:30 p.m. at the Grandjour. Greg was ecstatic. He proudly told his family and friends the exciting news. He had acquired a position at one of the finest establishments in town. Greg rushed to get ready for the meeting. He was very careful to dress neatly and appropriately, making sure to place his best cap on his head. Even his wife commented as to how professional he looked.

At 4:00 p.m. Greg got into his car and drove to the restaurant. When Greg arrived, Mrs. Petite told him the schedule. The schedule was six days a week for six hours every day except Sunday. Greg asked the manager if it were possible to be off Friday evenings and during the day Saturdays for religious

reasons. If necessary, he would be happy to work Saturday evenings. Bonnie agreed and developed a schedule that worked for both of them. Before the interview ended, Bonnie congratulated Greg and gave him the special Grandjour uniform.

On Monday, December 29, 2008, Greg went to the Grandjour to start his new job, wearing his assigned uniform. Once again, he looked perfect. Greg got a nice new suit and a new black yarmulke to match his bow tie. Greg arrived at the Grandjour and entered the restaurant. Mrs. Petite saw what she thought was a cap on Greg's head. Bonnie A. Petite immediately asked Greg to take off the cap since it was not part of the official Grandjour waiter's outfit. Coincidentally, an employee, Maci Style, was passing by at this time. Maci had been a devoted employee at the Grandjour for 18 years. Maci also told Greg that his head covering was inappropriate. She was proud of the Grandjour's reputation for excellence in both service and appearance of the staff. It was important that the staff dress similarly. Greg was outraged and refused to take the yarmulke off. After all, it was part of his religious beliefs. Mrs. Petite called the owner, Manny Ewe, and explained the situation. He agreed that the yarmulke was unacceptable at the Grandjour. Mrs. Petite proceeded to fire Greg, who still refused to remove the head covering.

At this time, Louis Change, a steady customer at the Grandjour, was finishing his meal and heading toward the register to get change for a tip. He overheard the conversation that was going on at the front of the restaurant. He realized that there was

some kind of trouble. He saw Bonnie A. Petite and Maci Style pointing at Greg Greenberg's yarmulke and Bonnie telling Greg to leave the restaurant. Louis noticed that Greg Greenberg, who appeared quite professional in his waiter's uniform, seemed as if he were in shock. Louis heard the word "fired." As Greg exited the restaurant in a huff, Louis went over to Mrs. Petite and Maci Style and said, "A waiter is a waiter no matter what he or she wears."

Greg was shocked and disappointed. He needed the job and was looking forward to working at the Grandjour. As a religious individual, he was angry and decided to sue the owner of the Grandjour. He felt that his First Amendment rights to practice freedom of religion had been violated.

ISSUE

Did the Grandjour violate Greg Greenberg's First Amendment right to freedom of religion?

WITNESSES

For the Plaintiff

Greg Greenberg

Louis Change

For the Defense

Bonnie A. Petite

Maci Style

Testimony of Greg Greenberg

My name is Greg Greenberg. I practice the Jewish faith. I went to apply for a job at the Grandjour restaurant in Manhattan. The manager, Mrs. Bonnie A. Petite, interviewed me and then introduced me to the owner, Manny Ewe. Mr. Ewe and Mrs. Petite asked me a lot of questions that applied to the job.

Three days later, I received a phone call saying that I did a marvelous job at the interview and the job belonged to me. I was to attend a meeting at 4:30 that day. I proudly told my friends and family that I had received a position at a fine restaurant.

I dressed very neatly and carefully in anticipation of my meeting. It took a long time for me to decide which cap I was going to wear. After all, this was a special occasion. Finally I selected a small cap and drove to the Grandjour. When I entered the Grandjour, Mrs. Petite was already there waiting for me. She greeted me politely and gave me my schedule. When I told Mrs. Petite that I could not work on Friday nights and Saturdays due to religious reasons, she was most cooperative. We worked on a mutually acceptable schedule. I left the Grandjour in a joyful mood, eager to start work in a few days.

On December 29th, I arrived at the restaurant wearing the uniform and a new yarmulke. Once again, I had taken great care to dress appropriately. I must admit, I looked great. Mrs. Petite saw me and apparently didn't agree. She walked over to me and told me that my yarmulke was not part of the official waiter's uniform. Maci Style, a fellow employee, was walking past at the time. She looked at me and became upset. Apparently, she did not like my yarmulke either, claiming that I appeared unprofessional since I had a head covering. A customer, Louis Change, was passing by at the time. He thought I was totally within my rights. After all, what difference does a yarmulke make? The next thing I knew was that I had been fired by Mrs. A. Petite and Manny Ewe, the owner of the establishment. I left the restaurant stressed out and disappointed.

I feel that my First Amendment rights to practice freedom of religion have been violated. I am suing the owner of the Grandjour for taking away these rights.

Testimony of Louis Change

My name is Louis Change. I am 65 years old. On Monday, December 29, 2008, I was at the Grandjour having coffee and dessert. A waiter I had never seen came in wearing a head covering. I saw the manager of the restaurant, Mrs. Bonnie A. Petite, tell him to take it off. The new waiter, Greg Greenberg, refused to take it off. Mrs. Petite then called the owner of the restaurant to ask him what he thought of the situation, while a fellow employee, Maci Style, came over and told Greg to take off the yarmulke.

My table was right next to the whole scene, so I was able to hear very well. I was completely appalled by the way the manager and the other employee acted towards Greg. They took away his right to freedom of religion, so I decided to stand up for the poor guy. I went over to the manager and employee and said, "A waiter is a waiter no matter what he or she wears." Then I walked out of the restaurant.

I have been a faithful customer to the Grandjour ever since I moved to North Cuisine. I have never seen anything like that happen at the Grandjour, but it is definitely enough to make me take my business somewhere else. I was a waiter when I was younger, and I know from a lot of experience that it is very hard work. It shouldn't matter whether you're wearing a head covering, or a headband! I do not support the way the Grandjour acted towards Greg.

Testimony of Bonnie A. Petite

My name is Bonnie A. Petite I am the manager of the Grandjour restaurant. On December 23, Mr. Greg Greenberg came into the restaurant applying for a job. The owner, Manny Ewe, and I interviewed Mr. Greenberg. We both thought that he would be a great candidate for the waiter position at our restaurant because he was neat in appearance and seemed as if he would act professionally toward customers and other employees. After the interview, I told him that if he got the job he would receive a call. When I called Mr. Greenberg, telling him that he had received the job, he was very happy. I told him that he was to return to the restaurant at 4:30 p.m. that day for a meeting about his job responsibilities, work schedule, and his uniform.

During the meeting I told Mr. Greenberg his hours and I gave him a uniform. Mr. Greenberg said that he was not comfortable with the work schedule he had been given and that he could not work on Friday nights and Saturdays due to his religion. Since he was the best candidate for the job, we agreed that he would not need to report to work on these days. On Monday December 29, Mr. Greenberg came into the restaurant wearing his uniform for work, but he also wore what I suspected to be a cap. I kindly told Mr. Greenberg to take off the cap because it was not part of the uniform. Mr. Greenberg seemed surprised. While I was talking

with Mr. Greenberg, another employee, Maci Style, approached and noticed that Mr. Greenberg was in violation of the employee dress code. Maci Style was concerned and told Mr. Greenberg to take off his head covering, his yarmulke. He refused to take it off and told us that wearing the yarmulke was part of his religious beliefs. I then called the owner of the restaurant and asked him what I should do. He told me that I should tell Mr. Greenberg that if he did not take off the covering, he would be fired. He refused to take it off. I then fired Mr. Greenberg.

Meanwhile, a steady customer named Louis Change was standing at the cash register getting change for a tip when he overheard the argument between Mrs. Style, Mr. Greenberg and me. He said, "A waiter is a waiter no matter what he or she wears." Then Mr. Change walked right out of the restaurant, giving me no time to make a comment. I thought to myself that it was none of Mr. Change's business. Obviously, it was Greg's fault since he did not follow the dress code.

Let me assure you that I am not prejudiced in any way. For me this had nothing to do with religion; it was a matter of professional dress and the reputation of a wonderful restaurant. Now, I am being sued by Mr. Greenberg for denying him his First Amendment rights of freedom to practice his religion.

Testimony of Maci Style

My name is Maci Style. I am 32 years old and I'm an employee at the Grandjour restaurant. On Monday, December 29, 2008, I was going to take an order when I heard an argument. I walked over to see what it was about. I realized that my manager, Bonnie A. Petite, and a new employee named Greg Greenberg were involved in a heated discussion. Mrs. Petite asked me to show Greg the proper uniform. As I was pointing out the required clothing items, everything seemed fine. However, when I looked at Greg, I noticed something peculiar on his head. I told him that it was inappropriate and he should take it off. He immediately refused, telling me that it was a religious item called a "yarmulke" and is traditionally to be worn on a man's head at all times. When a customer named Louis Change put in his "two cents," I was really angry. This does

not concern him. I think that Greg's insisting on the head covering was wrong. This would mean that all employees could wear things that aren't part of the uniform and would destroy the professional tone that we set in the restaurant. It creates an environment where "anything goes" and would be really bad for business. Customers deserve the very best at Grandjour! Mrs. Petite and Manny Ewe were within their rights to fire Greg Greenberg.

INSTRUCTIONS

The plaintiff must prove by a preponderance of evidence that the Grandjour violated Greg Greenberg's First Amendment right to freedom of religion.

SUB-ISSUES

1. Was Mrs. Bonnie A. Petite specific enough about what Greg must wear to work?
2. Did Mrs. Bonnie A. Petite and Manny Ewe fully understand Greg's religious customs?
3. Should Greg have stated from the beginning that he needed to wear a head covering?
4. Did Louis Change or Maci Style have the right to interfere in the Grandjour's business?
5. Is there a difference between Greg's wearing either a cap or a yarmulke?
6. Did Mrs. Bonnie A. Petite and Manny Ewe deal with the problem properly?
7. Was either Bonnie A. Petite or Manny Ewe prejudiced?

CONCEPTS

1. Preponderance of the evidence.
2. Witness credibility.
3. Freedom of religion.
4. Employee rights and responsibilities.
5. Employer rights and responsibilities.
6. Dress codes.

LAWS

1. The First Amendment to the Constitution of the United States: "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances."
2. Employers generally have the right to establish an office or business dress code policy that requires their employees to wear work uniforms as conditions of employment.

BIBLIOGRAPHY

http://www.employeeissues.com/dress_code.html

The Case of the Concealed CDS

SCHOOL

Lake Riviera Middle
Brick Township
Grade 6, Second Place

TEACHER

Jerilyn McCabe

STUDENTS

James Alexander, Alana Colabella, Laura Covello,
Sandra Herrera, Taylor Morgan, Travis Nagiewicz,
Erika Nazario, Nicole Pallante, Edmund Pan,
Emily Puff, Jenna Puglisi, Dina Scheri,
Alexa Venice, Courtney Wicker

FACTS

On Monday, September 17, 2008, 14-year-old Lucy Leaf was arrested at school for possession of a CDS (controlled dangerous substance).

That day, her gym teacher, Mr. Lawrence, told Lucy to remove the necklace she was wearing, as students are not permitted to wear jewelry during physical education class. Lucy was argumentative and reluctant to follow the rules. She was told she would not be allowed to participate unless she took the necklace off.

As the class was heading outside to the soccer field, Mr. Lawrence told Lucy he would hold her necklace until the end of the period. Lucy removed the locket and chain and handed it to Mr. Lawrence with attitude. On his way outside, he leaned through the doorway to his office and tossed the necklace toward his desk. On impact, the locket fell open and a tiny plastic bag containing white powder was revealed. Mr. Lawrence suspected it was drugs, so he alerted the principal. A short time later, Lucy Leaf was brought to the principal's office to be questioned.

She was expelled from school and charged with possession of a controlled dangerous substance.

ISSUE

Is Lucy Leaf guilty of knowingly possessing drugs while at school?

WITNESSES

For the Prosecution

Mr. Lawrence
Alicia Jackson

For the Defense

Lucy Leaf
Coach Stacy

WITNESSES STATEMENTS

Testimony of Mr. Lawrence

I have been a high school physical education teacher for 11 years. This is the second time Lucy Leaf has been in my class. It is not uncommon to have the same students year after year. Most of the time, I look forward to having students a second or third time. However, I was less than thrilled when I saw Lucy's name on my class roster again this year.

Lucy has a reputation for challenging authority. She frequently defies rules and has been disrespectful toward me in the past.

On Monday, September 17, I was about to take my class outside to play soccer. I noticed Lucy was wearing a long silver chain with a locket. Wearing jewelry during P.E. is prohibited, so I asked her to remove it before going outside. She insisted on tucking it into her shirt, rather than taking it off. I told her that would not be acceptable. She

complained that the locker room was already locked and she had nowhere to put it. She pleaded with me to let her wear it for safekeeping. At that point, I told Lucy she would not be allowed to participate unless she followed the rules. I even offered to put her necklace in my office until the end of the period.

Rather than being appreciative, Lucy abruptly removed her necklace, muttered something I could not hear and handed it to me.

On my way out of the gym, as I passed by my office, I tossed the necklace on my desk. When the locket hit the surface of the desk, it opened and Lucy's secret stash fell out. I examined the tiny plastic bag with white powder and immediately suspected it was drugs. I notified the principal and brought the necklace and its contents to his office.

Principal Watts called in the school substance abuse counselor and the police. They handled the matter from there.

At the end of class, I told Lucy to see the principal to retrieve her necklace.

Testimony of Alicia Jackson

My name is Alicia Jackson. I have known Lucy since we were 10 years old. At one time, we were best friends, but Lucy changed a lot since then.

Last year, when we started high school, we kind of went our separate ways. Lately, she's been hanging out with a pretty weird crowd. She's had a steady boyfriend all summer. He's older; 17, I think.

I still remember why we stopped hanging out. It was at the beginning of last year. We were both freshmen and had the same lunch period. One day Lucy brought up drugs and started asking me if I ever tried any. I told her I wasn't into that stuff.

I missed the next two weeks of school because I went to Florida to visit my grandmother. When I came back, Lucy kind of dissed me. She was sitting with other girls and guys at lunch and she completely ignored me. I had a lot of school work to catch up on, so I was very busy over the next few days. I didn't give the situation with Lucy much thought. The following week, I tried to IM her several times to try to patch things up. Her away message always said, "out with Mike"... that's her

boyfriend. After that, I just figured she didn't have time for me. She had a boyfriend and new friends at school. I didn't feel like I fit in with her anymore.

Lucy really changed. Her new look, with all that makeup and baggy clothes, kind of creeps me out. Whenever I see her around school, I wonder what she's up to. I hope she's O.K. I still care about her.

Testimony of Lucy Leaf

I would like everyone to know that I do not use drugs! The white powder Mr. Lawrence claims fell out of my locket does not belong to me. I did not put it there. I couldn't have even if I wanted to. The locket was broken. It was jammed closed. Even though I wasn't able to open it up, it was still very special to me. The necklace was a present from my boyfriend Mike. He bought it at a garage sale during the summer. The seller sold it to him for a good price because it was damaged.

Mr. Lawrence has never liked me. He picks on me all the time. He notices if I do the slightest thing wrong.

Frankly, I don't like Mr. Lawrence either. I think he is unfair and I don't trust him. I wouldn't be a bit surprised if he made up the whole story about the tiny bag of drugs spilling out of my locket.

Testimony of Coach Stacy

I have been Lucy Leaf's soccer coach for the past five years. She is a very tough athlete. Lucy plays with extreme intensity and sometimes her passion for the game is misunderstood as cockiness. I don't know how Lucy is in class, but at practice and at games, she plays by the rules. I have never had a problem with her.

I was shocked to hear of her arrest. There must be a sensible explanation for how drugs ended up in her locket. I have known Lucy much longer than Mr. Lawrence. She has never been rude or disrespectful toward me. I can't imagine her behaving the way Mr. Lawrence described. It just doesn't sound like the Lucy Leaf I know.

INSTRUCTIONS

The prosecution must prove beyond a reasonable doubt that Lucy Leaf knowingly concealed a controlled dangerous substance (cocaine) in her locket.

SUB-ISSUES

1. Did the locket already have drugs inside when it was purchased at the yard sale?
2. Could Lucy's boyfriend have hidden the drugs in the locket without her knowing?
3. Did Lucy's reluctance to take off the necklace indicate that she had something to hide?
4. Could Mr. Lawrence have framed Lucy in order to get her out of his class?

CONCEPTS

1. Credibility of the witnesses.
2. Burden of proof – beyond a reasonable doubt.
3. Circumstantial evidence verses direct evidence.

LAW

Federal and state drug possession laws make it a crime to willfully possess illegal controlled substances such as marijuana, methamphetamine, cocaine, LSD, "club drugs," and heroin.

Bullied to the Breaking Point

SCHOOL

Round Valley
Lebanon
Grade 6, Honorable Mention

TEACHER

Pamela Lester

STUDENTS

Siena Chang, Kendra Crawford, Emmaline DiPace,
Rachel Frey, Rikki Goodman, Derek Guenther,
Madeleine Hanley, Hannah Kose, Alyssa Ma,
Jacob Nemeth, Meera Rubinchik, Joshua Varughese

FACTS

On the afternoon of October 17, 2008, A.J. Stratay reported to the afterschool Safe Care program at Fairwood School as he had every school day for two years. A.J. attended the program because both of his parents work and do not get home until 6 p.m. each evening. Since A.J. is only 10 years old, he is legally not allowed to stay home alone. His parents do not have any family members living near them, so they rely on the afterschool program to provide a safe place for A.J.

A.J. is recognized as an honor student at Fairwood School. He has won numerous academic competitions in math and science. His teachers state that he is generally quiet and reserved. He has a clean disciplinary record and has never broken any school rules. A.J. has a small circle of friends at the school, most of whom are also excellent students.

Mrs. N. O’Fare, director of the Safe Care afterschool program, was aware that A.J. was on occasion being bullied by another student in the afterschool program, Brian Bullie. A.J. had spoken personally to the director of the afterschool program about Brian.

Mrs. N. O’Fare had noticed Brian’s behavior and had taken him aside on several occasions to remind him of the afterschool rules. She had also spoken to Brian’s parents, in accordance with the bullying rules of the school district and of the afterschool program. He had received two warnings and was told that if he didn’t change his behavior, he would be suspended from the afterschool program for a

period of one month.

During the afternoon of October 17, three incidents occurred between A.J. and Brian. According to A.J., Brian first pushed him very forcefully into a wall on their way out to the playground. This incident was not seen by any of the afterschool staff. A.J.’s best friend, Bud Frenz, however, did see the incident and advised A.J. to tell Mrs. O’Fare. A.J. did not report the incident.

The second incident occurred during a game of dodge ball. According to A.J., Brian targeted him during the entire game. He barely avoided being hit in the head several times at close range. Even though dodge ball is played with a plastic coated foam ball, A.J. reported feeling trapped and injured. At one point, he left the game and spoke to the assistant, Miss Nohelp, who was supervising the game. She didn’t notice the targeting but she spoke to Brian and promised to keep an eye on him.

The third incident took place on the school track located on school grounds. Students were running laps around the track. When Brian was running alongside A.J., Brian suddenly fell to the track, holding his leg and yelling. Mrs. O’Fare, who was watching the activity, quickly came to Brian’s side and asked what had happened. Brian complained of a pain in his leg and stated that A.J. had tripped him. Mrs. O’Fare helped Brian to his feet, ordered A.J. to go back to the cafeteria with the other students, and helped Brian, who was limping, into the nurse’s office.

When she went back to the cafeteria after getting

assistance for Brian, Mrs. N. O’Fare asked for A.J. and discovered that he was not in the room. She then went to the public address system in the school’s main office and had him paged. There was no reply to the page so she called 911 and reported him missing. She then called A.J.’s parents and reported him missing. Thirty minutes later she received a call from A.J.’s parents, who reported that he was home and safe.

As a result of this incident, Mrs. N. O’Fare notified Mr. and Mrs. Stratay that A.J. would be permanently removed from the afterschool program. Leaving the school property without authority was an offense punishable by suspension. In this case, her decision was made to make A.J.’s suspension permanent.

Mr. and Mrs. Stratay decided to sue the Safe Care afterschool program for the right to have A.J. reinstated into the program on the grounds that the bullying situation which led to his running away was not properly addressed. They also request compensation for the income their family has lost due to the changes they have made in their jobs since A.J. was removed from the program.

ISSUE

1. Is it fair to expel A.J. Stratay from the Safe Care afterschool program because of an action that was the result of a serious bullying situation?
2. Is the Safe Care afterschool program liable for wages the Stratay family has lost since this incident?

WITNESSES

For the Plaintiff

A.J. Stratay
Bud Frenz

For the Defense

Mrs. N. O’Fare
Penelope Principle

WITNESS STATEMENTS

Testimony of A.J. Stratay

My name is A.J. Stratay. I attend Fairwood School, where I am a sixth grader. Two years ago my mother got an extra job to help make ends meet. I am too young to stay home alone afterschool, so I joined the Safe Care afterschool program. I like the program and get along with almost everyone there, everyone other than Brian Bullie.

Everyone at our school knows that Brian Bullie picks on smart kids. Sometimes he calls my friends and me “geeks” or “nerds.” He doesn’t do well in school. I think he is jealous of my good grades. I feel sorry for him, but I don’t like him picking on me and the other students I hang around with. He has been bullying me this entire school year. I thought he was just teasing at first so I put up with it. Then it started getting more intentional and hurtful.

While we’re at the afterschool program, he whispers unkind things to me so that Mrs. O’Fare and the other assistants don’t hear his remarks. He calls me names, laughs at me, and teases me for doing my homework and helping the other kids while we’re there. He does the same things to some of the other kids, too.

I don’t want to have a reputation as a tattletale. Sometimes that makes things worse. I told Mrs. N. O’Fare about the bullying twice. Other kids have complained also. I know she had a talk with him but it didn’t seem to make a difference.

On the day I left the Safe Care program, Brian did three things to me that were very hurtful. It ended up to be the worst day of my life.

First, he came up behind me and pushed me into the concrete wall in the hallway when we were walking from the cafeteria to go to the playground. Mrs. N. O’Fare didn’t see what had happened because she was in the front of the line and we were walking at the back of the line. My friend Bud wanted me to tell her, but I didn’t want to. Brian acted like it was my fault. He looked at me and yelled, “Hey, watch where you’re going.” I knew it wasn’t an accident.

Later that same afternoon we were in the gym playing dodge ball and Brian targeted only me.

He purposely aimed for my head. I tried to stay away, but he continued to follow and hit me with the ball. He threw the ball hard. It really hurt. Bud saw what happened and told Brian to stop. I even told the assistant, Miss Nohelp. She spoke to Brian and told him to stop. Brian told her that it was only a coincidence that he hit me every time. When she turned away, Brian laughed but he did stop targeting me.

A couple of minutes later Mrs. N. O'Fare challenged all of us to run two laps around the track. I tried to keep my distance from Brian, but I could see him running up to pass me. Suddenly, I saw him fall down and grab his leg. He started to yell loudly. Mrs. N. O'Fare came over and Brian started yelling about how I tripped him. Then Mrs. N. O'Fare started to walk Brian to the nurse and told me to go back to the cafeteria immediately. I wanted to tell her what happened at that time, but she was all worried about Brian's leg so I didn't.

I don't know what got into me, but that was it. I had put up with a lot already. I couldn't put up with any more. I felt like no one was listening to me or paying attention. On the way back to the cafeteria I decided to walk out the side door. I was going to walk home, where I could calm down and have time to sort everything out. From there, I planned to call the afterschool program and tell them where I was and why. The school is only five streets away from my house, a distance that I can walk in about 15 minutes. There are sidewalks so I knew I wouldn't have to worry about getting hit by a car.

When my parents came home, they found me alone. They told me that Mrs. N. O'Fare had called them on their cell phones and reported me missing. I told them the entire story. Then they got the phone call from the afterschool program saying that I was not allowed to go back to the program because I had left the school grounds without permission.

My parents called several times to ask if I could go back, but it didn't make any difference. Even when my parents explained that the circumstances about the bullying and the fact that they depended upon the afterschool program because their jobs kept them away from home until 6 p.m., I was not allowed to return to the program.

I think this is very unfair. I know I shouldn't have

run away, but Brian caused me to lose control of myself for a while. Now my dad has to suffer and look for another job so that he can be home when I get home from school. I'm really worried that we won't have enough money because of this. It's just so unfair.

Testimony of Bud Frenz

My name is Bud Frenz. I'm a sixth-grader at Fairwood School and I'm a good friend of A.J. Stratay. On the day that A.J. ran away, I was with him in the afterschool program. We hung out together. A.J. is a straight-A student, and other kids make fun of him a lot. Most of the time the teachers don't see it because most kids are careful not to do anything in front of an adult. One boy in particular, Brian Bullie, always picks on A.J. The day A.J. got kicked out of the Safe Care program, I saw what Brian did.

I was next to A.J. when we were walking to the playground. We were talking. Brian was walking behind us. Then Brian pushed me out of the way and walked next to A.J. I saw Brian push A.J. into the wall. A.J. fell down. I tried to help but Brian pushed me away again and pretended to help A.J. I knew it was not an accident because he was smirking a little bit. He told A.J. to watch where he was going. I wanted A.J. to tell Mrs. N. O'Fare, but he was afraid that Brian would get revenge, so he didn't tell.

During dodge ball A.J. was getting targeted a lot. Brian ran up really close to A.J. and threw the ball directly at his head. It must have been with all his strength because the ball hit A.J. really hard. A.J. told the assistant, Miss Nohelp, who was supervising a group in another part of the gym. She said she'd watch more closely, and she pulled Brian aside and spoke to him. It helped a little, because Brian stopped throwing the ball at A.J. for the rest of the game.

About thirty minutes later we had to run two laps around the track. The first lap I was running with A.J., Brian was behind us. I'm a fast runner, so I started running ahead. When I finished the first lap, I noticed Brian was talking to Mrs. N. O'Fare and crying. He was pointing at A.J. I walked over and asked Mrs. N. O'Fare what had happened. I remember her exact words. "I really need to talk to Brian right now, Bud. He seems to be hurt," she said.

She didn't talk to Brian very long. I saw A.J. start walking back inside. He looked very upset, like he was about to cry. Then I went back inside to the cafeteria. I didn't see A.J., but figured he was with Mrs. N. O'Fare somewhere talking about what had happened.

When I heard he had walked home, I was shocked. He shouldn't be kicked out of the Safe Care program though. A.J. never hurt anyone. It was Brian's fault that he got so upset he had to leave. Brian should be kicked out, not A.J.

Testimony of Mrs. N. O'Fare

I have been the Director of the Safe Care program for over 13 years. We have an excellent program that services more than 50 students.

A.J. has always been a very good and cooperative student. He helps the other students with their homework or works quietly by himself. Why he suddenly decided to walk home without my knowledge still befuddles me. The rules at Safe Care are posted on the wall of the cafeteria and reviewed frequently. Up until October 17, A.J. had no trouble following them.

The consequences for breaking rules are fair and in line with the rules of the school district. If a student breaks a rule, he or she usually first gets a talking to by me. If they break a rule more than once, they are isolated from the group for a period of time so they don't bother the other children. On occasion we speak to a child's parents or to the administrators at Fairwood School. Students can be suspended from our program for short periods of time. This does not happen often. We have never had a student leave the building and walk home before.

I am fully aware of the accusations of teasing and bullying by Brian Bullie and I've been dealing with them properly. Brian has had issues with anger management and getting along with other students. He is currently under threat of suspension and knows if there are any more incidents, he will be suspended for two months. I've spoken to him several times and also to his parents. This case, however, is about A.J., not Brian.

When A.J. walked out of the building and walked home, I was very frightened. I'm glad he

was unharmed, but my only possible recourse was to expel him from the program. This was a very serious infraction that could have resulted in serious injury or worse. We cannot afford to put our entire program in jeopardy. We must set rules for our own protection as well as the protection of the children in our care. Since we are a profit organization, we can permanently suspend a student if we feel it is justified. In this case we thought it was more than justified.

Testimony of Penelope Principle

My name is Penelope Principle and I have served as principal of Fairwood Elementary School for the past five years. I have heard nothing but great things about our afterschool program. The director, Mrs. N. O'Fare, has served in that capacity for the past 13 years and takes her job very seriously. There have never been any bad reports from the students or parents. We have a waiting list of students who want to be part of this program.

A.J. has been a very good student on record. He's very bright and earns excellent grades. He helps other students with their work during school and with homework during the afterschool program. I have no idea why he would break such a serious rule of both our school district and the afterschool program.

When A.J. first joined the afterschool program, he and his parents signed a document which listed all of the rules including the penalty for leaving school grounds. The rule as stated in the document says, "No student is allowed to leave school grounds without the Director's permission." A.J. was in strict violation of that rule. If he had left school during the day, he would be suspended for a period of three days and receive counseling.

I had also been notified that Brian Bullie was bullying A.J. Brian's difficulties have been going on for a while. The staff and I have been dealing with it according to our anti-bullying rules. We have a no tolerance policy about bullying at our school. All students receive bullying awareness and avoidance strategies in health class each year. Brian's parents have been contacted about his past bullying and he is receiving counseling at school.

A.J. should have been more forceful in seeking help from the afterschool staff the day these incidents happened. Walking out of the building was a dangerous and unacceptable solution to his frustration.

INSTRUCTIONS

You as the jury must decide if Mrs. N. O’Fare was justified in expelling A.J. Stratay from the afterschool program.

SUB-ISSUES

1. Is the afterschool staff negligent for not knowing A.J. left the premises of the school?
2. Could the staff of the Safe Care program have dealt with this problem more effectively before it got to this point?
3. Should the Safe Care program compensate the Stratay family for wages lost due to this incident?
4. Should the bullying situation be weighed in making a decision of punishment in this case?

CONCEPTS

1. Negligence.
2. Causation.
3. Burden of proof.
4. Malicious intent.
5. Assumption of risk.
6. Reckless endangerment.

LAWS

1. Comparative negligence- when both sides have a part in the damage that was caused.
2. Fairwood School Policy File Code: 5114 on Suspension and Expulsion. Students may be expelled from school for the following offenses: continued and willful disobedience, open defiance of the authority of any teacher or person having authority over the pupil, inciting other pupils to truancy, leaving school property without permission.
3. NJ Students Rights Law N.J.A.C. 3. :16-7.9 “... School districts must provide support for victims of bullying and require corrective action for documented systemic problems.”
4. NJ Law. *L.W. v. Toms River Regional School Board of Education*. Schools are required to take effective action when students are bullied or harassed by classmates.
5. NJ Students Rights Law N.J.A. 18A:37-13 to 19. Each school district must adopt policies that prohibit bullying both on campus and at school-sponsored functions.

Shop 'Til You Drop

SCHOOL

Mount Pleasant Middle
Livingston
Grade 6, Honorable Mention

TEACHER

Carol Geers

STUDENTS

Gary Burggraf, Anabelle Hanflig, Arianna Hernandez,
Jeremy Knopf, Alex Lee, Morgan Levy, Tal Lipshitz,
Connor McCloskey, Brett Neumann, Andy Ponici,
Melissa Vicente

FACTS

On September 2, 2009, 12-year-old Lucy Vuiton and her best friend, Lucia Frend, went to Shopville Mall located in Shopville, New Jersey. Lucy loved fashion and always cared about what she was wearing. Lucia Frend and Lucy were hoping to find Lucy a cool shirt to wear on the first day of school. While they were at the mall, they decided to shop at Hollercrombie & Stitch. Lucy found a shirt that she thought was perfect, but she knew she had an allergy to adamantane, so she went over to the register and asked Tali Birch, who was working at the store that day. Tali was not sure, so she called over Imin Charge, the manager of Hollercrombie & Stitch. Imin knew that the rules at the store were to never spray anything on the clothing. Just to make sure, he went over to Chet Alot, another one of his employees, who was in charge of the store's stock. Chet Alot told the manager that the shirt was not sprayed with anything. The manager then told Lucy the shirt was adamantane free and was safe to buy, so Lucy bought the shirt.

When she came home, she showed her mom the cool shirt she picked out with her friend. Lucy's mom knew that her daughter was responsible, and always asked before buying anything that could possibly contain adamantane, but she still felt the need to double check with her daughter. Lucy told her mother that the manager asked one of his employees and he informed her that the shirt was safe to buy.

On September 3, 2009 Lucy started her first day of classes. Lucy was enjoying the first day of school, showing off her new shirt until second period when she suddenly fainted. When she fell she severely hurt her head on the hardwood floor. Lucy was rushed to the hospital and her mom was immediately notified.

Lucy and her mother are suing Hollercrombie & Stitch for negligence, giving Lucy incorrect information about the shirt, therefore causing Lucy to faint in the middle of school the next day, and for the medical bills due to the fall.



ISSUE

Was the broken contract the cause of Lucy fainting, which led to her head injury?

WITNESSES

For the Plaintiff

Lucy Vuiton

Louise Vuiton

For the Defense

Imin Charge

Chet Alot

WITNESSES STATEMENTS

Testimony of Lucy Vuiton

My name is Lucy Vuiton. I am 12 years old and I just moved to Shopville, New Jersey. This is my first year at a new school in Shopville. I was really excited for the first day of school because my best friend moved here four years ago. For the past four years we have been emailing to keep in touch. I made plans to go shopping with her at Hollercrombie & Stitch for an outfit to wear on the first day of school. We were looking around until I saw a shirt that I really liked. I am allergic to adamantane, which is found in some perfumes, so I went over to the woman at the register and asked her if the shirt contained the scent. She was not sure so she called over the manager, who guaranteed that there was no scent in the shirt, but when he said it, he sounded a little unsure. I believed the manager so I bought the shirt.

When I got home, my mom asked me several times if I had checked before buying the shirt and I assured her that I did. She believed me and let me wear the shirt the next day.

On the first day of school I loved showing off my new shirt until I noticed I started getting a rash and felt an irritation on my skin. A few minutes later I passed out and woke up lying on the floor with a very bad headache. I was sure that the reason I had

passed out was because the shirt did contain the chemical I am allergic to since my doctor told me I will pass out, which is exactly what happened to me. I am very mad at Imin and Tali because everything caused people to laugh at me when I woke up. The worst part is I got the nickname “Drama Queen” because only my best friend believed that I had an allergic reaction. I did not make a good first impression. After I woke up, I learned that when I fainted I also hit my head on the hard floor in the classroom and severely injured my head.

Testimony of Louise Vuiton

Hello my name is Louise Vuiton, the mother of Lucy Vuiton. Lucy, my husband and I moved here about two months ago and this is Lucy’s first school year in Shopville, New Jersey. Lucy and her friend from our old neighborhood went to Hollercrombie & Stitch to try out t-shirts for the first day of school. My daughter always had a severe allergy problem. We first discovered that she had this problem when her grandmother (my mother) came for a visit when she was only four. Every time my mother left, Lucy would start to cough and have shortness of breath. We did not know what the problem was so we took her to a doctor. He told us that she was allergic to adamantane and that my mother probably had adamantane sprayed on her clothing and that most stores spray their clothes with adamantane to make their clothes smell good. He told us that by the age of 12, Lucy’s age, she would have to be extra careful because the symptoms would get much worse and one of the symptoms he mentioned was passing out.

When she came home from the mall, I noticed that she had bought a bright and colorful new shirt and as usual I asked her if the shirt contained adamantane and she assured me that she asked the manager, who guaranteed that it contained nothing harmful. She has been growing up with this allergy and she knows to always ask someone before buying any clothing or anything that might possibly contain allergens. She is very responsible and realizes the consequences if she doesn’t ask before buying clothing. I assumed she would be fine and I let her wear the shirt to school the next day. I didn’t worry much in the morning because she seemed very enthusiastic for the first day.

During the school day, I received a phone call from the school saying that my daughter had passed out. I didn't know why she passed out or how severe it was, but I panicked and rushed out of my office to the school in the middle of a conference call. I could have lost my job. I assure you that she was very careful before buying the shirt and the store is responsible for my daughter passing out.

Testimony of Imin Charge

My name is Imin Charge. On September 2, 2009 Lucy Vuiton walked in to my store, Hollercrombie & Stitch. I saw her walk into my store after smelling perfumes at a kiosk outside of my store, while I was coming back from my lunch break. She was interested in finding a shirt that she could wear on the first day of school. Tali Birch approached me and informed me that Lucy had an allergy to adamantane. She wanted to be assured that the shirt was not sprayed with it. I went to another employee in my store to double check that there was nothing sprayed in the store all day. We highly value our customers. I have been working here for 10 years and I am aware that there are a lot of perfume allergies. So, we have learned not spray any perfumes on any of the merchandise, but I just wanted to be sure.

He assured me that nothing was sprayed in the store or on the shirt. He has worked for me since I started the job. I have always been happy with the amount of effort he puts into the job and how honest and responsible he is. I assure you that the reason Lucy Vuiton fainted was because she failed to check the ingredients in the perfumes at the kiosk before she smelled them.

Testimony of Chet Alot

My name is Chet Alot and I work as an employee at Hollercrombie & Stitch. I am in charge of making sure that the process of every shirt is correct and that the shirt looks the way it is supposed to. While I was speaking to another customer, trying to help her find clothing, my boss, the manager of Hollercrombie & Stitch, approached me and told me that there was a young girl who had an allergy. He brought the girl over to me and she explained

to me that she was allergic to adamantane. I talked to the manager after the girl had spoken to me and assured the manager that the shirt and the store have never been sprayed with anything.

I have been working at this store for a long time and we have never had a problem like this before. I watch every shirt as it is made and processed and I always warn the workers never to put anything on a shirt without consulting the manager or myself. I watch them constantly and they always follow the directions which I create by myself and review several times, often explaining my ideas to the manager. The shirt that Lucy was going to buy is our most popular shirt; therefore the factory workers have made this shirt many times and are experts.

INSTRUCTIONS

The jury must decide if Hollercrombie & Stitch is liable for the injuries Lucy sustained to her head.

SUB-ISSUES

1. Did the store give Lucy correct information about the shirt?
2. Did Lucy smell perfumes before entering the store?
3. Was the manager lying about the adamantane to make money?
4. Was the girl trying on other shirts at other stores that could contain adamantane before entering the store?
5. Shouldn't the manager have known about the adamantane?
6. Is the manufacturer responsible for the chemical in the shirt?

CONCEPTS

1. Contract terms and provisions.
2. Burden of proof.
3. Witness credibility.

LAWS

1. Breach of Contract – Legal concept in which a binding agreement or bargained-for exchange is not honored by one or more of the parties to the contract by non-performance or interference with the other party's performance.
2. Negligence – When a person fails to exercise the care that a reasonable, prudent person would exercise under the same circumstances, that person is said to be negligent.
3. Damages for Personal Injury – If the defendant is found to be negligent, the plaintiff is to be compensated for all his damages both special and general. This includes fair and adequate compensation for medical expenses and lost earnings plus amounts for pain and suffering.
4. Material Breach – Any failure to perform that permits the other party to the contract to either compel performance or collect damages because of the breach.



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