



MOCK TRIAL EXERCISES

For grades 7–8



Featuring Winning Cases from the New Jersey State
Bar Foundation's Law Adventure 2012 Competition

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Preface

In 1995-96 the New Jersey State Bar Foundation launched a unique, law-related education program for middle school students – the Law Adventure Competition.

Students in grades seven and eight and their teachers are invited to create original mock trial cases. Each year the Foundation provides two themes for 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 Adventure programs in the spring. The seventh- and eighth-grade audiences serve as juries.

Following are the winning cases from the Law Adventure 2012 Competition. Themes for the 2012 contest were as follows: (1) First Amendment Rights and (2) Product Liability/Consumer Fraud.

The cases may be used as a guide to prepare a submission to the Law Adventure Competition or as a classroom exercise. Please note that some of the cases may contain “laws” created by the students for the purpose 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.

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

Law Adventure won the Award of Excellence in the 2002 Associations Advance America Awards program, a national competition sponsored by the American Society of Association Executives in Washington, D.C. This prestigious award recognizes innovative projects that advance American society in education, skills training, community service and citizenship.

If you would like to participate in the Law Adventure 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.

Brines v. Safe Seating Inc.

SCHOOL

Clinton Township Middle
Clinton
Grade 7, First Place

TEACHER

Diane Cormican

STUDENTS

Brian Barrett, Patrick Brinker, Robert Brinker,
Amanda Clarke, Pauline Jaffe,
Mikkel Laigaard, Ian Mancuso, Dan Rosar,
Jake Sylvestre, Brendan Williams

FACTS

On December 4, 2011 at 8:09 a.m., a school bus from the Blueberry Elementary School, with 24 student passengers, was in a collision accident with a Mail-Ex cargo truck. The school bus had just turned right at an intersection. The truck was attempting to stop at the intersection, skidded on black ice, swerved and hit the bus head on. Everyone appeared to be okay except the bus driver, who was temporarily pinned behind the steering wheel and suffered a broken rib.

Impact from the crash caused the engine to combust, causing an engine fire, and there was a significant amount of smoke. The bus needed to be evacuated immediately. Twenty-three students got out safely through the emergency exit, but one child, Patrick Brines, age 7, had difficulty releasing his seatbelt buckle, according to the other students.

One other student tried to assist him, but the seatbelt buckle would not release. A student yelled to the bus driver that the seatbelt was jammed and Patrick was stuck in his seatbelt, unable to get out. The bus driver grabbed his seatbelt cutter and went to assist Patrick. By the time the bus driver got to the student, Patrick was already unconscious. The bus driver cut the seatbelt and carried the student out of the smoky bus, and exited the bus just as the emergency squad arrived on the scene.

The paramedics took both the bus driver and the student by ambulance to the hospital to be treated. An attending paramedic noticed that the student was wearing a health alert bracelet indicating that

he was asthmatic. On the way to the hospital, the student lapsed into a coma, and he died at 4:15 p.m. the following afternoon, after hospital staff made several attempts to revive him.

The plaintiff, Mr. Brines, is claiming that because the seatbelt buckle was faulty, his son Patrick had a severe asthma attack and died. His family is suing Safe Seating Inc. for \$3 million.



ISSUE

The issue is that the seatbelt buckle was allegedly faulty, preventing it from ejecting properly, which directly led to the death of Patrick Brines.

WITNESSES

For the Plaintiff

Robert Augustine

Ross Stevens

For the Defense

Archie Tect

Sandra Smith

WITNESS STATEMENTS

Testimony of Robert Augustine

I am Robert Augustine and I am a certified technician and a driver. I've done this as an employee for the Skyride Bus Company for the past 23 years. I have many responsibilities. One is the maintenance of the buses and I take that job very seriously, as it affects the safety of my passengers. I have been trained in the New Jersey Department of Education School Bus Safety Program, and follow their maintenance guidelines and suggestions.

As part of my routine maintenance, I noticed one seat that was badly worn and had several tears in it, and we had repaired it for almost two years with temporary fixes such as duct tape. Finally, we had to install new seats, which we did last summer on a number of our buses. Since we had to take the whole seat out, we had to purchase a new seat. We installed the newest model of seat as well as a seatbelt, which was also recommended by the seatbelt company, Safe Seating Inc., whom we have been doing business with for over 25 years.

The morning of December 4 I got to work at approximately 6:30 a.m. I checked in and began my regular morning route. I had picked up about half of my kids, and was heading south on Payne Road. When I stopped at the stoplight on the corner of Payne and Deerfield, I noticed a large orange

Mail-Ex truck coming awfully fast towards the intersection. I made my right-hand turn, and the truck was slowing to stop at the light. Suddenly, the orange truck hit a slick spot of black ice and slid out of control, hitting my bus head on. There was a fierce pain in my rib cage, and the impact of the crash had pinned me behind the steering wheel. I wrestled to get out, even though I was in severe pain.

There was smoke coming from the engine, and I saw some flames, and I turned to see if the kids were all right. Some kids had pushed open the emergency door and were getting out the back safely. There was a lot of screaming; it was chaos. I heard one voice hollering to me that Patrick was stuck and couldn't unbuckle his seatbelt. I grabbed my seatbelt cutter and went to the third from the last seat, the one that had been recently replaced. Patrick seemed to be losing consciousness, but I cut the belt and got him out safely.

When I got out the emergency exit, a paramedic was waiting to take the child from me. As soon as I gave the kid up, I myself cried out from the pain and collapsed on the ground. I guess the adrenaline I had going made me able to get him out.

Since then I have nightmares about it every night. I have driven little Patrick since he was in preschool, and he was such a great kid. I still remember his first day of school with his Spiderman backpack and lunch box. He said, "Hello, sir, my name is Patrick Brines, 22 Hilltop Road." I tried to tell the paramedics he had asthma, but I passed out. Now he's gone, and I could have saved him if only I had been faster.

Testimony of Ross Stevens

Hello, my name is Ross Stevens and I am 43 years old. I am with the New Jersey Safety Commission, and oversee vehicle inspections of all types. Among these inspections are the routine safety inspections for seatbelt safety. When inspecting seatbelts we check for proper closure and quick release, accessibility, and wear and tear damage. I personally have completed several annual inspections of the vehicles from the Skyride Bus Company. They are always in compliance with all their safety and maintenance checks. During an annual bus inspection, every seatbelt buckle is

latched and released as part of the routine review. Their last inspection was on August 21, 2011, and the results were satisfactory.

After the accident on December 4, we were called in to investigate by the local police. We wanted to know why the seatbelt would not come unbuckled, preventing the boy from getting out safely. The belts had passed all safety standards and inspections. Inside the buckle is an ejector and a latch spring, which I examined after the crash. As it turns out, the latch spring on the defective seatbelt buckle was almost one millimeter shorter than the seatbelt buckle design indicated. According to their design, latch springs are 2cm in length, but a variation between 19-21 mm is allowed. We compared the seatbelt buckle that malfunctioned with the seatbelt buckles that worked properly, and there was a 1mm difference. The latch spring was 22 mm. However, it was a big enough difference to prevent the buckle from releasing.

This is not the responsibility of the Skyride Bus Company; it is obviously a mistake of Safe Seating Inc., the manufacturers of the belts. On the manufacturing floor the safety inspectors check the latch springs by first measuring by hand and then by computer to analyze the latch spring length. Although their buckle design allows for a slight variation in latch spring length, 1mm in either direction, this case exceeds that length by almost 1 mm. Their negligence in inspection directly cost this child his life.

Testimony of Archie Techt

My name is Archie Techt and I am 56 years old. My company Safe Seating Inc., has been producing and selling seatbelts for 15 years without any problems. I have been working as a designer in auto parts for over 25 years now. Every day we manufacture at least 200 seatbelts, among other products. We have two full-time inspectors who take the time to examine the manufacturing and durability of each product.

I used to be part of the manufacturing team before I was promoted to manager 16 years into my career. Because of my expertise and experience, I am responsible for disposal of any faulty products, those manufactured on site as well as those we

purchase from suppliers. Seatbelts will usually malfunction when the latch spring is jammed, or won't come loose. For inspection, an inspector must check all belts for frayed, split, torn webbing and/or loose or damaged anchorage of the floor pan.

My company, Safe Seating Inc., is state of the art, and we are surely not responsible for the death of Patrick Brines. Clearly, the seatbelts that we sold to Skyride Bus Company were within the parameters of the design. The latch spring in my design calls for a 2cm, or 20mm length, but a slight variation in length, less than one millimeter is allowed, and does not make a difference in the functioning of the seatbelt buckle.

As we all know, a simple pressure adjustment on a seatbelt buckle that seems stuck will allow the buckle to release. The student may have been somewhat disoriented, and did not release the seatbelt properly. As the bus driver admitted, he did not try to unlatch the seatbelt, but used the seatbelt cutter right away. No adult tried to unlatch the seatbelt. I suspect that the investigation team released it with no problem after the accident, and they are fabricating this as a design issue because of the unfortunate accident. If the bus driver, who was the only adult in this situation, would have tried to release the seatbelt, the focus of this child's death would be more accurately on his asthma and not because of a faulty seatbelt buckle.

Testimony of Sandra Smith

On December 4 we arrived at the scene of the bus accident at 8:13 a.m. We noticed the engine fire right away, and knew that our speed in taking control of this situation was crucial. There were children sitting and standing in the grass and snow along the shoulder of the road, some coughing and vomiting. It was very cold, and some of them did not have proper winter coats on. Our team went to work, caring first for the children who were experiencing the worst side effects from the smoke inhalation. Our team was giving out blankets and assisting the kids to vehicles, and parents were arriving to assist.

I went straight to the bus to make sure that everyone was out safely, and that is where I saw the bus driver carrying the small boy, who appeared to be unconscious. I took him from the bus driver, and

the bus driver collapsed at my feet. I yelled for my partner to get him to an ambulance. The bus driver was trying to say something, but I couldn't make it out.

Once inside the ambulance, our goal was to restore the boy's vitals. He had a weak pulse of 25 beats per minute. I had never seen such a severe reaction to relatively little smoke inhalation, and so I checked for a medical alert bracelet. Sure enough, he was asthmatic, and so it all made sense. He was coughing and wheezing, and had shortness of breath. His lips and fingernails were blue. I applied a face mask for oxygen. The boy seemed not to be improving with his breathing, so I gave him an IV.

In the ambulance we strapped on an oxygen mask and attached the heart monitor, but by the time we arrived at the hospital, he had a very shallow pulse. We put him on a stretcher and rushed him into the ER. That is where I reported to the doctors his asthmatic condition and all his vitals. When I left, he was in intensive care.

The next day at work I was informed that he died. Mr. and Mrs. Brines, I am very sorry for your loss and I wish I could have done more. But, in my professional opinion, Patrick's death had nothing to do with his seatbelt and was entirely asthma-related. He was only three rows from the back of the bus, and very little smoke would have reached him. There are many more asthma triggers to be considered in this situation, and the timing of the seatbelt jam was of little significance. I suspect that Patrick was already having some symptoms before this accident even happened.

INSTRUCTIONS

The plaintiff must prove by a preponderance of evidence that the seatbelt was faulty and led directly to the death of the boy, Patrick Brines.

SUB-ISSUES

1. Did the child who was trying to help Patrick properly release the buckle?
2. What other factors contributed to Patrick's asthma attack? When did it start?
3. Did the bus driver attempt to release the seatbelt buckle?
4. What are the exact specifications for latch spring length in the seatbelt buckle design?

CONCEPTS

1. Product liability.
2. Consumer safety.
3. Burden of proof.
4. "Res ipsa loquitur" states that the elements of duty of care and breach can be sometimes inferred from the very nature of an accident or other outcome, even without direct evidence of how any defendant behaved.

LAWS

1. The National Highway Traffic Safety Administration – N.J. State Ann. 39:3B-10
This law requires all school buses to have lap belts and minimum seat back heights, and relieves schools and bus operators of liability for malfunctioning seatbelts or passengers who do not wear them properly.
2. New Jersey Product Liability Act.
3. Model Uniform Product Liability Act.

Symbol of Peace or Symbol of Death

SCHOOL

Bloomfield Middle
Bloomfield
Grade 7, Second Place

TEACHER

Lauren Barton
José Sarmiento

STUDENTS

Amanda Ayala, Ronnie Aziz, Sarah Bsales,
Alessandra D'Andrea, Darryl Gregory,
Julio Lizardo, Milagros Luna, Vanessa Owusu,
Kajal Patel, Celeste Rosario, Tiffany Sanders,
Colleen Weber

FACTS

Franz Rozenweig Junior High is located in Brooklyn, New York. Rozenweig consists of sixth-, seventh-, and eighth-grade students. The majority of the students in the school are Jewish. The school has been in the neighborhood for over eighty years.

Over the past few years, a small minority of Indian students have started attending Rozenweig. This September, Shanti Aura Pyrar, another new student from India, transferred to Rozenweig. The school starts off the year by having an annual Anti-Bullying Week with a different theme every day. On the second day of Anti-Bullying Week, the students had to wear something showing respect and unity. Many teachers recommended spirit wear, school colors, or symbols of peace.

Shanti wore a shirt the next day with a swastika, one of the peace signs of the Indian culture. Many students were outraged and terrified of the swastika that was thought to represent Nazi Germany. They gave her dirty looks, awkward stares or ignored her. Hannah Walowitz was the most vocal student who expressed her dislike for Shanti and her shirt. Shanti was confused as to why people were treating her so rudely, and she tried to explain the background of the Indian swastika to her peers. No one would listen to her explanation. The students mentioned it to the teachers and principal, complaining that they felt uncomfortable.

Shanti was in math class when she was called down to the principal's office. Mr. Jones, the

principal, explained to her that her shirt was making the other students feel uncomfortable, and told her she had two choices. She could either change the shirt or turn it inside out. Shanti explained the meaning of her shirt to Mr. Jones. Although Mr. Jones understood why she wore it, he explained he had to look out for the safety of his school. She cooperated with Mr. Jones and put on a sweatshirt over her shirt.

Shanti went home that night and told her family what happened. Her parents were extremely upset and decided to get involved. Shanti's parents examined the school's policy regarding dress code in her daily planner. The planner did not list any specific information about symbol wearing in the school.

The next day Shanti, with the support of her parents, wore a swastika necklace and bracelet to continue her involvement in Anti-Bullying Week. Hannah Walowitz again complained about the swastika on the jewelry. When Shanti saw Hannah in the hallway, Hannah screamed out loudly how insensitive she was to the school community and told her she should never wear that to school again. Even though Shanti was angry, she tried to explain the meaning of her necklace to Hannah. Shanti was so angry that she ended up yelling right back at her. Their argument was observed by a teacher, and they were sent to the principal. The two girls argued all the way down to Mr. Jones's office. They were so disruptive that many of the teachers had to shut their classroom doors.

Mr. Jones confiscated the jewelry, sent Hannah off with a warning, and called Shanti's parents into school. Mr. Jones explained to Mr. and Mrs. Pyrar that Shanti was acting out against his warning from the previous day. He explained that the students felt threatened and disturbed by the swastika. Shanti also caused a disturbance in the building while she was arguing with Hannah. He had to keep the safety of the school in mind so he decided to assign her two days of in-school suspension.

Shanti's parents are suing the district for the interference with Shanti's First Amendment rights of freedom of speech and religion and for emotional distress.

ISSUE

Were Shanti's First Amendment rights violated because of her choice of symbols worn to school?

WITNESSES

For the Plaintiff

Shanti Pyrar

Mrs. Pyrar

For the Defense

Mr. Jones

Hannah Walowitz

WITNESS STATEMENTS

Testimony of Shanti Pyrar

It was the second day of school when it all started. I was ready to learn as much as I could because I wanted to be prepared to pass the benchmark test that we were warned about. I was excited to be here, but was shy about fitting in. Then again, who isn't? The first week of school was Anti-Bullying Week, and I felt like that would be a good way to fit in and make new friends. The students were encouraged to wear an outfit showing respect and unity. A lot of my teachers recommended wearing peace signs, spirit wear, or school colors. Since I emigrated from India, I chose to wear a

swastika shirt, which is my country's peace and good luck sign. As I was walking through the halls, I was expecting smiles and hellos but instead I was given dirty looks and awkward stares. Others just ignored me. I began hearing comments about me and what I was wearing. The girl with the most negative comments of all was Hannah Walowitz.

I remember being in math class when I was called down to the principal's office. There I met with the principal, Mr. Jones. That's when he told me that my swastika wasn't allowed in school. I explained to Mr. Jones the meaning of the swastika in my Hindu culture. I have always worn clothes and accessories with this symbol on it. It brings me good luck and helps me get through difficult times. I was completely offended by the request to take it off. Since it was only my second day at Franz Rozenweig Junior High, I cooperated and put on a sweatshirt to cover my shirt. At the dinner table that night I was frustrated and didn't touch my food. My mom noticed something was wrong with me and asked how my day was. I told her what happened with Mr. Jones, and she was just as angry and offended as I was.

My mom thought it was ridiculous that other students could wear the peace sign of their choice but I couldn't. After reviewing the school policy, my mom gave me permission to continue to wear my swastika jewelry that I wear on a daily basis. I felt like I had great support from my parents so I wasn't nervous to proudly wear my swastika jewelry to school the next day. Suddenly when I was walking through the halls, Hannah Walowitz came along and started insulting me. She was screaming how disrespectful and insensitive I was being to the school and the community. I tried to hold back my comments because I knew I would get into more trouble, but Hannah was provoking me and before I knew it we were being escorted to the principal's office. As soon as we got to Mr. Jones' office, he confiscated my jewelry. He sent me to wait in the main office. I saw him on the phone for a while, and his body language showed that he was angry. Soon after, my parents came. After a long conversation with my parents, I was called into the room and informed that I had two days of in-school suspension.

Testimony of Mrs. Pryar

I am the mother of Shanti Aura Pyrar. Having moved from India, we faithfully practice the Hindu religion. My house is filled with Hindu shrines to our gods. We love our holy symbol of the swastika. It is a symbol, in its simplest form, with four right angles, pointing in different directions. It can be more complex, and for us, it represents good luck and peace. We often use it to get through bad situations, or to wish each other good luck in our endeavors. Shanti wore her shirt and necklace to wish herself good luck at Franz Rozenweig Junior High. She also wore it competing in different sporting events. We even have a swastika bumper sticker on our car. Our swastika symbol is much different than the Nazi symbolism.

When I heard about Shanti being banned from wearing the swastika, I was highly offended. When she came home, Shanti was angry, upset, and as offended as I was. She told me that the other students were picking on her and calling her a Nazi. My husband and I looked over the school's policy on dress attire and we did not see anything specific about symbols in the planner. The next day, my husband and I allowed Shanti to wear the swastika necklace that she loved. The next thing I knew, I was getting called to the principal's office because Shanti got into an altercation with another student because of her necklace. I was outraged that Mr. Jones decided to assign her two days of in-school suspension; I decided I had to speak out about this. I know about the Nazi symbolism but the ban was extremely wrong and disrespectful. Most of our neighbors didn't understand why we were wearing swastikas, but after some explaining, they know our situation and accept us. The school may be populated with Jewish students, but they need to understand our culture and background, too. Shanti must be permitted to wear the swastika symbol, be revoked of her suspension, and have the same rights as any other student at Franz Rozenweig Junior High.

Testimony of Mr. Jones

I am the principal of Franz Rozenweig Junior High. I worked here for over 20 years. Every year since 2006, we conduct an Anti-Bullying Week the first week of school. Recently, we had a number

of Indian students enter our school, but I was especially excited when Shanti Pyrar entered Rozenweig due to her extraordinary academic skills. It would benefit our school to have a girl of her caliber among us.

On September 7 Shanti wore a swastika on her shirt. Many students assumed she was supporting Nazi Germany and began exclaiming that they were upset. Several students voiced their complaints and fears of the swastika when they approached me and other staff members about the situation. I am completely aware of the meanings of the Indian Swastika, but most children misunderstood, and were beginning to become hostile toward her. I refuse to have this type of chaos erupt in my school. I wanted to protect Shanti and the well being of the other students so I simply requested that she turn the shirt inside out or change it. She agreed to these conditions. But the next day she went against my wishes by wearing swastika jewelry. It caused more commotion than the day before, and she was getting teased and threatened.

Shanti got into an argument with another student, and I had to confiscate the jewelry. Once this came to my attention, I decided that for her protection it was best to call her parents to address the situation. Since Shanti disobeyed my warning, I had no choice but to assign her in-school suspension.

Testimony of Hannah Walowitz

I am a student at Franz Rozenweig Junior High. For the past few years many Indian students have started to attend my school. Every year we have an annual Anti-Bullying Week. On the second day we had to wear a shirt that showed that we respect our peers. I saw Shanti wearing a shirt with a swastika on it and I felt hurt because this insulted my religion. I explained to a lot of my teachers that my friends and I were outraged and terrified of her shirt because we were Jewish. The swastika is a symbol of hatred and death to my religion. Many family members of the students in this community lost loved ones during the Holocaust.

When I heard her name being called down to Mr. Jones' office, I knew there was going to be justice. I saw her with a sweatshirt on when she returned so I thought everything was going to

get better. I was wrong because the next day she came in with swastika jewelry. I couldn't believe it; I thought if Mr. Jones was not going to solve this problem, I was going to have a talk with her myself. When I saw Shanti in the hallway, I knew the problem had not solved itself so I told her how insensitive she was. I told her that what she was doing was wrong because most of the students that attend this school are Jewish. I was trying to explain to her in a nice way, that she should not wear that shirt or jewelry to school for everyone's sake. I guess I was getting so upset that I started to raise my voice. Shanti also started yelling at me and then Mrs. A came out and brought us to Mr. Jones' office. He sent me back to class with a warning, but I think Shanti got in-school suspension. Shanti thinks I'm hurting her but actually she is hurting me and my culture by wearing such an insensitive shirt and jewelry. All she got was in-school suspension, which, in my opinion, is not enough for the damage that has been done.

INSTRUCTIONS

The plaintiff must prove by preponderance of evidence that Franz Rozenweig Junior High school violated Shanti's right to freedom of speech and religion.

SUB-ISSUES

1. Was Shanti's freedom of speech and religion violated by her suspension?
2. For yelling at Shanti, should Hannah have been suspended, too?
3. If Shanti had known prior to the incident that the swastika was also a Nazi symbol, should she have worn it?
4. Should Mr. Jones be able to suspend Shanti without listening to her side of the story?
5. Since Mr. Jones told Shanti not to wear the shirt to school, should Shanti not have worn the swastika jewelry the next day?

6. If any other Indian student had worn the swastika to school, would he or she have gotten the same consequences as Shanti?
7. Should the other students feel unsafe even though Shanti didn't do anything wrong?

CONCEPTS

1. Freedom of religion.
2. Freedom of speech.
3. Safety of the student body.
4. Burden of proof.
5. Emotional distress.

LAW

U.S. Constitution, First Amendment – 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.

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cEYEber Crash

SCHOOL

South River Middle
South River
Grade 7, Honorable Mention

TEACHER

Renée Ernish
Patricia Crowdell

STUDENTS

Jayde Jackson, Alexander Oliveira,
Kimberly Parra, Alexis Steffaro, Christopher Suh

FACTS

The cEYEber lens is a high-tech contact lens manufactured by cEYEber Corporation that allows the user to download applications, surf the internet, and download music. It projects a holographic image within the user's field of vision and responds to touch within that hologram.

On December 24, 2056, Iva Bindere-Dundat purchased a cEYEber lens from a cEYEber retail store for her stepbrother, Justin A. Krassh. When he received it the next day as a Christmas gift, he read through the Quick Start Manual. At 4:30 p.m., Justin A. Krassh left the house with his stepsister to drive to a family Christmas party. At 4:37 p.m., Justin swerved and crashed into a pole while wearing the cEYEber lens. The airbag deployed in Justin's face and lacerated his eye. Justin claims the cEYEber lens turned on by itself.

Mr. Krassh is seeking compensation for medical bills, car damage, loss of wages, refund for product, and pain and suffering.

ISSUE

Is cEYEber Corporation at fault for Justin A. Krassh's car accident?

WITNESSES

For the Plaintiff

Justin A. Krassh
Iva Bindere-Dundat

For the Defense

Iris Pupil
Daswat Shisaed

WITNESS STATEMENTS

Testimony of Justin A. Krassh

My name is Justin A. Krassh. It was a perfect Christmas Day when I got the cEYEber lens as a Christmas present. My stepsister gave me the cEYEber lens, and I was excited to use it. When I opened the box that contained the cEYEber lens, along with the contact lens was a booklet marked "Quick Start Manual." This manual showed me how to surf the web, download apps, and listen to music. The Quick Start Manual did not show me how to activate the detailed safety instructions which are located in the hard drive of the lens itself, and it didn't say not to wear the lens while driving. I finished reading the Quick Start Manual and put in the lens; then Iva and I left for our annual Christmas family reunion.

I am a very safe driver. It is true that I received points on my license for careless driving when I was a teenager, but that was a long time ago. I've matured a great deal since then. I have never been in a car crash before in my entire life, despite the fact that I drive quite a bit. I drive about 30 miles per day, but sometimes as much as 50 miles a day. I always make sure to pay close attention to the road and the cars around me, so I am a very cautious driver. However, on our way to the reunion, at 4:37 p.m., I was in a car crash.

While I was driving, the cEYEber lens malfunctioned and my EYEbook status update appeared out of nowhere. I swerved into a pole because the EYEbook page obstructed my view of the road and startled me. Once I hit the pole, the airbag went off in my face and the contact lens lacerated my eye. For anyone who's never experienced an eye injury, I can tell you it's the worst pain I've ever felt. I missed two weeks of work and had to wear an eye patch for six weeks.

A few weeks after the accident, I took the cEYEber lens to Chris' Computer Shop. Their motto is, "We can fix anything!" I've brought my EYEpad and laptops to them for repair before, so I trust them. When I checked back a week later, Chris (the manager) told me that my cEYEber lens had a bad circuit board and there was no way to repair the lens.

Overall, I can state that it was not my fault that I hit the pole. The Quick Start Manual did not show me how to access the safety manual in the cEYEber lens nor did it say I should not wear the lens while driving. Second of all, I am a safe driver. Third and last, the cEYEber lens contained a faulty circuit board. It was cEYEber's fault that they did not adequately check the cEYEber lens, or warn me that I shouldn't wear it while driving.

Testimony of Iva Bindere-Dundat

My name is Iva Bindere-Dundat and I'm Justin's stepsister. I bought the cEYEber lens for Justin as a Christmas gift, and he was so excited to get it that he immediately read the enclosed Quick Start Manual. Later that afternoon, Justin was driving us to a family party when he became startled and swerved into a pole. I didn't know what startled him until after the crash. He said the cEYEber lens had turned on

by itself. He was driving perfectly with his eyes on the road until the cEYEber turned on. There was no safety manual mentioned in the Quick Start Manual nor did the Quick Start Manual say not to drive while wearing the lens.

I bought this lens at my local cEYEber retail store on December 24. It would have been easier to buy it from a guy on the street, but I didn't. I brought it home and wrapped it up and gave it to my brother the next day.

We were running late because Justin was reading the Quick Start Manual. The Quick Start Manual didn't mention how to access the in-depth safety manual. I would have thought that safety would be the most important thing, so nobody would get hurt. Neither the Quick Start Manual nor the packaging of the cEYEber lens said it should not be worn while driving.

Justin had his eyes glued to the road. If you had ever seen him drive, you'd know he doesn't even blink. How could he get in an accident with his eyes and attention focused like that?

The Quick Start Manual didn't mention a more complete safety manual or say not to wear the lens while driving. Also, my stepbrother had his eyes glued to the road. I bought this cEYEber lens from a reputable cEYEber retail store, so I expected a quality product. Therefore, the accident was not my stepbrother's fault. Who would expect the lens to turn on automatically?

Testimony of Iris Pupil

I am Iris Pupil, the owner of cEYEber Corporation. Our company produces thousands of high-tech, multi-media contact lenses a day. I can assure you our contact lenses do no harm to anyone when used properly. Therefore, Justin A. Krassh must have been using it incorrectly. I believe Mr. Krassh is at fault because he got the lens that day and didn't know how to use it. Also, he had two careless driving offenses as a teenager, which would make this the third time. In addition, this incident is the only one of its kind out of so many of our customers.

Mr. Krassh had just received the cEYEber lens as a gift that Christmas morning. He was most likely eager to try it out, like all our customers,

but probably didn't take the time to read all the directions. He claims that the lens turned on by itself. Our product has safeguards built in so that the lens won't turn on automatically, but you must activate the safeguards for them to function. He probably didn't activate them because the manual was in the hard drive of the lens in a file labeled "Safety Features." In addition to the safeguards, common sense should tell you not to wear an internet projecting lens while driving a car, just like not using a cell phone to talk or text while driving!

As a teen, Mr. Krassh had two careless driving offenses. Even if he wasn't using the cEYEber lens, this accident could have happened. Since this would be the third time he had a driving incident, how do we know he wasn't just distracted? We don't know, and perhaps that's why he decided to blame my cEYEber lens! My lens is efficient and I know it would not malfunction as he claims it did. I believe Mr. Krassh was carelessly driving, again, and then crashed. In the State of New Jersey, it is against the law to text or talk while driving. Shouldn't Mr. Krassh have been able to figure out that wearing the cEYEber lens would just be as dangerous?

Many people have bought the cEYEber lens, and yet this malfunction hasn't happened to anyone else. We have sold exactly 2,376,024 cEYEber lenses so far. Isn't it just a little suspicious that this accident only happened to this one person out of 2,376,024 people!?

In conclusion, I find Justin A. Krassh's story difficult to believe. I firmly believe in the quality and safety of my cEYEber lens. I am certain that every single one of my cEYEber lenses will work with no problems whatsoever. Maybe Mr. Krassh should take responsibility for his own actions.

Testimony of Daswat Shisaed

Hello, my name is Daswat Shisaed, and I am responsible for quality control of the cEYEber lens product line. I am here to inform you that the cEYEber lens is a perfectly safe technological advancement. We here at cEYEber Corporation go through a long and thorough process to ensure the safety of all our loyal customers. I am certain that the cEYEber lens did not malfunction.

At our corporation, our products undergo a lengthy testing process to ensure safety. We begin by testing the lens on a biological simulator to observe if the lens trips any sensors. Then we adjust the product if necessary, until we are convinced and assured that it has reached its perfection. When we have completed these steps, we conduct a human study to be certain that the lens' comfort and performance excellence are undeniable. None of our test individuals reported any flaws or complaints regarding the product or its performance.

I myself have used the lens while it was a prototype, and I was fully satisfied with the product. The lens has not affected or harmed my eye in any way. I am certain that the lens' performance is so superior that I would let my children wear it.

As head of Quality Control at cEYEber Corporation, I make certain that all of the lenses have gone through all of our inspections and tests to ensure the product's excellence. The lenses are not packaged or shipped until every single lens has been checked and works to its finest ability. We assure every lens is enhanced to function as well as the other, until all of the lenses have reached the peak of their performance. At cEYEber Corporation, we guarantee safety of all products and the happiness of all customers. I am confident and can ensure that there is nothing wrong with the lens, and that the lens was not the cause of Justin A. Krassh's car accident.

I would like to state that at cEYEber Corporation, all of the products undergo a series of tests to ensure quality; that I have personally used the lens to be sure of the level of performance, and that Quality Control inspects and assures safety and the excellence of every lens. This is an elite company, and if a young man with a previous record of car incidents seeks to blame a cEYEber lens for his mistake, we will not go down without a fight to defend our product's reputation.

INSTRUCTIONS

The plaintiff must prove by a preponderance of the evidence that the cEYEber Corporation has strict liability for Mr. Krassh's accident as a

result of a defective lens, and that it failed to warn him that there was a non-obvious inherent risk of wearing the lens while driving. Therefore, Mr. Krassh is seeking compensation for medical bills, car damage, loss of wages, refund for product, and compensation for pain and suffering.

SUB-ISSUES

1. Did cEYEber Corporation's Quality Control Division actually make sure each individual lens met the required standards?
2. Is it possible that the lens became defective after quality control inspection, in the packaging stage?
3. Should Justin have read the complete instruction manual before using the lens?
4. Did the cEYEber Quick Start Manual say not to use the lens while driving?
5. Did Justin A. Krassh accidentally turn on the cEYEber lens while he was driving?
6. Was the cEYEber lens defective before the crash, or was it damaged at the time of impact?

CONCEPTS

1. Preponderance of evidence.
2. Strict liability- manufacturing defect.
3. Product liability- negligent failure to warn (also known as marketing defects).
4. Damages may be awarded for pain and suffering.
5. Credibility of witness: The jury may determine the appropriate value to give each piece of evidence accepted in a trial, also to believe or not believe the testimony of witnesses during a trial.

LAWS

1. Failure to warn defects may come up in products that carry inherent non-obvious risks which could be reduced through adequate warnings to the user. The risks are present regardless of how well the product is manufactured and designed for its intended purpose.
2. Strict liability- (manufacturing defect) - an injured party must prove that the item was defective, proximately caused the injury and the defect rendered the product unreasonably dangerous.

Hijab Hazard?

SCHOOL

George G. White Middle
Hillsdale
Grade 7, Honorable Mention

TEACHER

Suzanne Pausz

STUDENTS

Ariana Aguero, Anna Blair, Kyle Comito,
Anthony Conte, Clarke Deegan, Darien Fiorino,
Lucia Klarin, Caitlin Nielsen, Emilio Quevedo,
Jacob Ricco, Mary Kate Viceconte

FACTS

In late December 2010, Dara Jafari moved from Dearborn, Michigan, to Nomuz, Illinois. Dara is a Muslim in a predominantly Christian town, unlike her old town, which consisted of mostly Muslims. On January 3, 2011, her first day at Christian Owen Lee High School, where she is a sophomore, Dara wore her hijab throughout the entire day. People continually stared at her. When she arrived at her gym class last period that day, the gym teacher, Mr. Jim T. Cher, told her she had to remove her hijab. Dara refused. Mr. Cher asked her once more and Dara refused again, explaining how not wearing her hijab would go against her religious beliefs. Mr. Cher then told her she had to sit out and that she would receive a zero that day for not participating.

After school that day, Dara and her mother purchased an aerobic hijab in order to abide by the physical education dress code. The next day, Dara went to gym class once again, and explained to Mr. Cher that she should be able to participate that day because she had purchased an aerobic hijab. Mr. Cher told her she still could not take part in class that day, insisting that it was a safety hazard and that it violated the school dress code. Realizing it would now affect Dara's grade, her mother, Sabiqqa Jafari, set up a meeting between Mr. Cher and the principal, Ms. Ida Boss, for January 7. When the meeting was held, Sabiqqa Jafari explained that the hijab is a part of their religion and cannot be taken off. She also explained that they made an effort to accommodate the school by purchasing an aerobic hijab.

Ms. Boss defended Mr. Cher's decision due to the physical education class's strict dress code, which prohibits headgear, as well as the possible safety hazards the hijab might cause. Mrs. Jafari is now suing the school for violating her daughter's First Amendment right to freedom of religion. She demands that her daughter be allowed to wear her hijab in class.

ISSUE

Did Mr. Jim T. Cher and Christian Owen Lee School violate Dara Jafari's First Amendment right of freedom of religion by not allowing her to participate in gym class because of her hijab?

WITNESSES

For the Plaintiff

Dara Jafari
Sabiqqa Jafari

For the Defense

Jim T. Cher
Ida Boss

WITNESS STATEMENTS

Testimony of Dara Jafari

My name is Dara Jafari. I am a sophomore at Christian Owen Lee High School. I have recently moved from my hometown of Dearborn, Michigan, to Nomuz, Illinois. I am a Muslim-American who strongly follows my religion. In my old community, my religion was never a problem for me because the community was predominantly Muslim. However, in my new town, I feel uncomfortable being the center of attention because of my hijab. I wore my hijab throughout my first day at Christian Owen Lee School. I felt as though everyone was staring at me and, as a result, I felt like an outcast.

The hijab was never really an issue for me during the day until last period. I had physical education with Mr. Cher and he asked me to remove my hijab. I explained that I could not and would not remove my hijab because of my religious views. He completely ignored my justifications, and told me that I was not allowed to participate and I would get a zero for not complying. That evening, I tried to please the teacher by purchasing an aerobic hijab that would allow me to participate without it being a safety hazard.

The next day, I went to school and when gym eventually came around, Mr. Cher still would not let me take part in class. I explained to him that I had purchased a hijab that was designed for aerobics. Once again, I was not allowed to participate and told my mother that night that I was still not allowed to partake in gym class. The next day, my mom set up a meeting with Mr. Cher and the principal, Ms. Boss, for the 7th. After the meeting with my mom, the principal and the gym teacher still would not allow me to wear my hijab during gym class. I feel deprived of my First Amendment rights.

Testimony of Sabiqah Jafari

My name is Sabiqah Jafari, and I am Dara Jafari's mother. We recently moved from Dearborn, Michigan, to Nomuz, Illinois. My daughter was not allowed to wear her religious hijab during gym class because the gym teacher thought that it was a safety hazard. My daughter had her First Amendment rights violated by this school. We never

had this problem in Dearborn. When Dara told me about the problem after school, I took her shopping to buy an aerobic hijab. The next day, she came home from school and told me that the gym teacher still would not let her wear her hijab and that it was going to bring her grade down. So I decided to make an appointment with the principal.

On January 7, I had a meeting with the school principal, Ms. Ida Boss, about this situation. She defended Mr. Cher even though he was clearly violating my daughter's right to religious freedom. I decided to sue the school. Wearing a hijab is very important in our religion. The school has no right to tell my little girl otherwise.

Testimony of Jim T. Cher

My name is Mr. Jim T. Cher, and I am a physical education teacher at Christian Owen Lee High School in Nomuz, Illinois. On January 3, 2011, I was informed by my employer, Ida Boss, that I would have a new student, Dara Jafari, in my last period physical education class. When she walked into the gymnasium, I was concerned with her attire. According to the dress code, students are not permitted to wear hats or other headgear during the day, which did not give leeway to wearing a hijab. I informed her of the dress code, and asked her to remove her religious garb because of safety hazards. The hijab could get tangled in some of the equipment we use, or could get caught on one of the other students. Dara Jafari could also overheat or even choke, which are major safety hazards. Dara Jafari then told me it was religious garb, and that it was against her religion to take it off. Since she refused to remove it, I told her she must sit out for the period and that she would receive a zero in the grade book.

When Dara Jafari walked in the next day, I noticed she was wearing a different hijab. I informed her she must remove the hijab immediately. She claimed that she went out and purchased a hijab specifically made for sports, and that it was safe for physical activities. I had her sit out once again. On January 7, after school, I was called into the principal's office for a meeting with Dara and her mother. The school's principal, Ms. Boss, agreed with me as to the safety issue in this

situation. Mrs. Jafari was persistent in explaining that the hijab was an important part of their religion and that her daughter would not take it off. I then tried to express that it was not only a hazard to Dara but also to the students around her. My obligation is to keep students safe and that is my priority.

Testimony of Ida Boss

My name is Ida Boss and I am the principal of Christian Owen Lee School. I was informed on January 3, 2011 that Dara Jafari, a new student, arrived at gym class wearing a hijab. She told my employee of fifteen years, Mr. Jim T. Cher, that she had just moved here. I understand that she may not have known the dress code. She was then informed that her hijab wasn't allowed to be worn during gym class because it imposed a safety hazard to herself and her fellow students. She refused to remove the hijab due to religious beliefs. Again, Mr. Cher told her that we strongly enforce our dress code and that we had already made an exception in allowing her to wear it during the day. She still refused and Mr. Cher told her that she would receive a zero for the day.

The next day she came back to class with what she said was an aerobic hijab. Mr. Cher told her that she was not allowed to participate because all headgear violates the dress code. He told Dara that by now, she should know the rules of the school and should comply with them. On the morning of January 7, I received a call from Sabiqah Jafari, Dara's mother. She wanted to have a meeting with Mr. Cher and myself about her daughter's gym class situation. When Mrs. Jafari explained the problem at hand, I strongly stood by my employee Mr. Cher because the physical education dress code allows no exceptions to anyone, regardless of their circumstances. Our dress code is reasonable and we expect students to follow it. Dara's First Amendment rights are not being violated. We are simply making a dress code for all students' safety, as stated in the Illinois policy.

INSTRUCTIONS

The plaintiff must prove by a preponderance of the evidence that Mr. Jim T. Cher's actions violated Dara Jafari's First Amendment right of freedom of religion.

SUB-ISSUES

1. Does the school have the right to make Dara Jafari remove her hijab during physical education?
2. Is the aerobic hijab less of a hazard to Dara and other students than the traditional one?
3. Should religious garb be an exception to the school dress code?
4. Should religion come before safety?
5. Is Dara being treated unfairly because she is a Muslim in a predominantly Christian town?
6. Is the school protected by the Illinois policy that allows school boards to enforce their own dress code?

CONCEPTS

1. First Amendment rights.
2. Rights of students.
3. Authority of school officials.
4. Burden of proof: preponderance of the evidence.
5. Reasonable precautions taken by the school.

LAWS

1. 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. 105 ILCS § 5/10-22.25b. Illinois law permits school boards to adopt a school uniform or dress code policy in some or all of its individual attendance centers that is necessary to:
 - a. maintain the orderly process of a school function; or
 - b. prevent endangerment of student health or safety.

Singh v. Fair Side School District

SCHOOL

Clinton Township Middle
Clinton
Grade 7, Honorable Mention

TEACHER

Diane Cormican

STUDENTS

Brielle Burns, Zoe Chang, Johanna Giordano,
Erin Howard, Alexis Miranda, Andrew O'Connell,
Rayna Paul, Andrew Plinio, Randy Ryan

FACTS

In the spring of 2011, Melodie Singh was in 12th grade and pursuing a scholarship in vocal music. She had been a soloist for many choral ensemble competitions, and was considered the lead soloist at Fair Side High School. The school won the New Jersey State Choral Competition and the Sing It Off Grand Prix; Melodie was the soloist for both. The chorus was invited to a prestigious national competition, the World Choir Games of 2011.

The chorus teacher, Mr. Tempo, had to choose two new songs for the competition; one with a featured soloist and the other in standard four part choral harmony. The featured soloist piece that Mr. Tempo selected was "Moving Forward," which is a gospel song. Melodie was uncomfortable singing this song, since she and her family are atheists. The plaintiff claims that the music teacher selected this song knowing about her religious convictions, which the teacher denies. Melodie and her parents went to the chorus teacher, the principal, the superintendent and the school board, asking that another song be chosen, but they had no success in getting the song changed. Melodie decided not to sing the solo on the grounds that it was in conflict with her own convictions. She claimed that it was overtly religious and it violated her First Amendment rights.

The chorus teacher chose an alternate soloist, and Melodie sat out during the song. During the World Choir Games, talent scouts are welcome to watch the event, and sometimes the soloists are awarded scholarships. There is no guarantee

of scholarships being awarded. At the event, the replacement soloist was awarded a full scholarship to the Andante School of Music, a prestigious private music school in Vermont.

Melodie's family is suing the school for \$350,000 based on their First Amendment rights being violated and preventing Melodie from getting a scholarship.

ISSUE

The plaintiff, Melodie Singh, claims that her First Amendment rights were violated. She claims that Mr. Tempo, the chorus teacher from Fair Side High School, knowingly selected a gospel song, preventing her from receiving a music scholarship awarded at the competition.

WITNESSES

For the Plaintiff

Melodie Singh
Ronald Reed

For the Defense

Mr. Jay Tempo
Dr. Mary Caroll

WITNESS STATEMENTS

Testimony of Melodie Singh

My name is Melodie Singh. I went to the Fair Side High School and was part of the Fair Side Choral Ensemble and the Honors Choir. I am currently a freshman at the local community college, and am 18 years old.

Last year our chorus attended and thrived in several competitions statewide. The honors choir won the New Jersey State Choral Competition, and we were invited to a prestigious national competition where many college scholarships are awarded. I was the shining soloist in the first competition and was rated one of the highest soloists on the state level. Mr. Tempo selected me to be the soloist for the national competition as well. I was so excited, and so were all the other honors choir members. We had to learn two new songs: one with a featured soloist, me.

The day when Mr. Tempo introduced the songs to us, my heart sank. When he told us that we would be singing “Moving Forward” for the soloist piece at the national competition, I was both disappointed and angry. I participated in the first rehearsal, where I was really torn. The soloist part was beautifully written, and it was challenging, too. The opening measures, where I was supposed to do an emotional string scale of two octaves, really showed off my voice. However, the words were disturbing to me. I had to sing “my past is over” and “I have surrendered my life to Christ.” I am not a Christian, and I don’t feel comfortable singing openly religious songs. This one was too personal, written in first person. How could I sing that? Of course, I wanted the solo, but the words of the song go strongly against my own convictions.

I went to Mr. Tempo and told him how I felt. He has known me now for four years, and he knows that I am an atheist. He once asked me to be in his church choir, and I explained that I am not a religious person. I know that there are some kids at school who go to his church, and they always seem to be his favorites. He and I have talked about religion several times before, and he knows that there are some religious songs that I won’t sing. Of course, he explained why the teaching of religious

music is so important in the music curriculum, and I get that. Usually I just sit out, and it’s not a big deal. But this was not a lesson in music history: it was a competition. There are countless secular songs that we could have sung!

I went home and showed the music to my parents, and they agreed. My parents protested to Mr. Tempo, the principal, and even went to the school board. They refused to change the song, even though there was plenty of time before the competition, at least three months. The school board president seemed very reluctant to talk to us, and finally made an appointment with us and their lawyer.

I had to make a decision to sing it or back out, and I knew in my heart that there was no way that I could possibly sing those lyrics. It would be like standing on stage and giving a sermon. What was even worse is that my replacement got a full scholarship to a school that I have been dying to attend. I heard about the prestigious music school, Andante, when I first started singing, and it has been my dream to go there ever since. I have even talked about this to Mr. Tempo. It was not fair. I completely deserved that scholarship. Now I am attending the community college near me, because my family is in no position to send me to a private music school.

On top of this, since the competition was such a big deal at school, everyone heard about it and wondered why I dropped out. After that I was being harassed by lots of kids at school because of my atheism, and I think some teachers even dislike me now. I went to our school counselor to help me deal with this. She listened and was polite to me, but did nothing to help. She suggested that I keep my religious views to myself so as not to offend others. Most people did not know before, but now everyone knows, and they just don’t understand.

Testimony of Ronald Reed

My name is Professor Ronald Reed. I have a law degree from the Princeton University School of Law and have been a partner at Reed & Rithim for nine years. I currently work at Harvard University as a professor, and I specialize in constitutional litigation. I have studied law for fifteen years.

Melodie Singh's case is a blatant violation of the First Amendment. The First Amendment states that there will be no public laws "respecting an establishment of religion, or prohibiting the free exercise thereof." This means that public institutions, and in this case public schools, should not favor one religion over another, or religion over atheism, or promote religious beliefs, as in the case at hand. This is referred to as the Establishment Clause.

Selecting this overtly religious song, where the lyrics would have the soloist proclaim that she has "surrendered [her] life to Christ," is without a doubt favoring Christianity. As Melodie explained, her teacher is a known Christian and favors those students who attend his church. Knowing that Melodie is an atheist, Mr. Tempo selected this song "for her," with no regard to her religious freedom. The lyrics of this song are religiously coercive and engage in proselytizing to the participants: in this case, to high school students as well as the audience and judges. Ms. Singh and her parents addressed the problem with the teacher and the other parties in the school, but they refused to change the song, and they stalled so much that they were able to defer to a time frame. Because they are responsible for carrying out the law in the public schools, they are directly in violation of the United States Constitution. Mr. Tempo was aware of her conviction, and he chose to ignore it without discussing the song choice with his prized soloist.

Furthermore, the school is at fault here for ignoring the harassment and bullying that has taken place since this incident. Students are protected under the law from being bullied based on creed. In this highly religious Christian community, this freedom seems limited to the particular sect of Christianity that a person follows. However, freedom of religion also encompasses the freedom to choose no religion, and this is a segment that is considered impolite to talk about. Our constitutional rights are based on a secular government, and our Founding Fathers took great pains to include the separation of church and state. In my professional opinion, this is an open and shut case.

Testimony of Jay Tempo

My name is Jay Tempo. I am the choral director at Fair Side High School, and have been employed by Fair Side School for 14 years. In my tenure here, my honors choir has participated in many competitions such as Sing it off Grand Prix, and the New Jersey State Choral Competition, and we have done very well. I have become well known in the state.

Every year for the competitions, I must select two songs: a choral ensemble and a featured soloist piece. Our soloist for the past three years has been Melodie Singh. Melodie has been my most reliable and naturally gifted student since she was a freshman in high school. I even tried to recruit her for my church choir, where I am very active and have been the music director for twelve years now.

My job is certainly not the easiest in choosing music that can accommodate everyone's needs. Certainly it is almost impossible to abolish religious music out of our program, since religion has been the basis of inspiration for all music throughout history. By eliminating religious music, you are eliminating the vast majority of choral music and doing a disservice to the students' music education.

When my honors choir was invited to the World Choir Games, I knew that this was a great opportunity, and I had to choose a very special piece of music. I chose the gospel piece, "Moving Forward," for the beautiful range and melismatic dynamics. This selection has superior technical qualities, and rhythmic and harmonic complexities. The soloist's intro was perfect for Melodie's voice, showing off her range, power and technique. This song meets the guidelines and criteria set forth by the competition. Furthermore, "Moving Forward" is a song that I have heard performed at many worship services, and I find it very moving. I chose "Moving Forward" because I knew that with Melodie's impeccable talent and vocal range she certainly could pull off the song and make it stand out among all the other competitors at the competition. It truly was a shame and a loss for us to have her back out as the soloist. She disappointed everyone in the choir.

I would also like to add that the selection of the music is based on so much more than the lyrics. In music, there is also the performance piece, and

the singers are expected to portray the role in the selection. Singers also have to be actors, and the ability to do that is required to be a successful performer. As a result, I was very disappointed when Melodie approached me with the news that she was dropping out due to her strong beliefs that I had not heard her express before.

And finally, it was too late to choose another song. The process of ordering and purchasing the selected song is a timely and costly process. It begins with ordering 30-40 copies from an online catalog. I complete a district purchase order, which is signed by the principal and then sent for processing at the business office. I usually receive my music in about three to four weeks. As with any competition, preparation time is a key factor in our success. I would have listened to Mr. and Mrs. Singh's objections if there were more time. I am very conscientious about this and try very hard to make sure that my own religious convictions don't influence my teaching.

Testimony of Dr. Mary Caroll

My name is Mary Caroll and I am 50 years old. I have been in education for 29 years, and have been employed as the superintendent of Fair Side School District for nine years. I received my undergraduate degree in Music Education from Gurters University, where I also received a Masters in Educational Administration. I worked as a high school principal for twelve years before getting my Ph.D. from Gurters University and becoming the superintendent.

Being a former teacher of instrumental music, I know that religious music is a very large part of music instruction. In order to provide students with a thorough knowledge of music, including styles, history, and appreciation, religion in music has an important place in the public school curriculum, as outlined in the New Jersey Core Curriculum Standards.

Sheet music for the music program is very expensive, it comes out of a limited budget, and copyright laws prevent us from skimping on this expense. Mr. Tempo chooses the music and places the orders. They are approved by the principal and then by me, and the orders are processed at the

board office. It takes from four to eight weeks to complete the process. By the time Melodie's parents came to me and asked to have the song changed, time was running out. If she had an issue with the song, she would have had to voice it at least a month earlier than she did. By the time that we heard about her objections to the chosen music, there were only three weeks left to rehearse the song and fix all the flaws before the competition.

As the superintendent of schools, I make sure that we adhere strictly to the First Amendment rights of our students. Melodie auditioned for this group, which is an honors choir class, but her participation is completely optional. No scholarships are guaranteed, and talent-related scholarships are not predictable, meaning that even the recruiting schools do not have a predetermined criteria, but send talent scouts to various venues. There is no evidence to say that she would have been chosen for the scholarship that was awarded at the event.

INSTRUCTIONS

The plaintiff's lawyers must prove, by a preponderance of evidence, that Melodie Singh's First Amendment rights were violated, preventing her from receiving a music scholarship.

SUB-ISSUES

1. Melodie had the option to quit the chorus at any time, or to sit out for certain songs.
2. What song(s) have caused Melodie to sit out in the past?
3. Did the chorus teacher choose the song knowing that Melodie would sit out?
4. What is Mr. Tempo's relationship with the 2nd soloist and her family?
5. Did the Singhs pursue this matter in a timely fashion, or is this a reaction to the scholarship that was awarded?
6. Did the school respond to the bullying situation according to the anti-bullying legislation?
7. Was Mr. Tempo discriminating against Melodie because of his own religious beliefs?

CONCEPTS

1. Separation of church and state.
2. Personal rights.
3. Burden of proof; preponderance of evidence.
4. Bullying in schools.

LAWS

1. 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...”
2. *Florey vs. Sioux Falls School District* 49-5, 1980.
3. *Bauchman vs. West High School*, 1995.
4. *Lemon vs. Kutzman*, 403 US 602, 1971.
5. Anti-Bullying Bill of Rights Act, NJ, 2011.

The Devil Made Her Do It?

SCHOOL

Bloomfield Middle
Bloomfield
Grade 8, First Place

TEACHER

John Shanagher

STUDENTS

Estefania Avecillas, Oliver Beatty, Enrique Calle, Virginia Cardona, Mauricio Caro, Mariah Cartagena, Jamie Cruz, Luciana Da Silva, Christopher Delmar, John Di Marco, Brianna Elphick, Austin Feliciano, Gabrielle Feraco, Ada Garcia, Jessica Generazio, Gianna Mancini, Nina Martin, Tyler Marwitz, Aaron Mos, Riyadh Moughawech, Denise Rigo, Madeline Rodriguez, Jennifer Salas, DeJ'Anha Simms, Richard Thompson, Mahnaz Yekanifard

FACTS

Lucy Ferr has been working at Gehenna Middle School as a history teacher for the past three years. She is young and very popular with the students and staff. At the end of this year, the school board was scheduled to vote on whether or not to give Miss Ferr tenure. She was sure that would not be a problem since all of her evaluations have been outstanding.

Over the course of the Memorial Day weekend, Miss Ferr and her fiancé went to the beach. While she was at the beach, she was approached by one of her students, Talha Tale and her father, Telly Tale. During their conversation, Mr. Tale noticed that Miss Ferr had a tattoo on the back of her left shoulder. The tattoo featured a picture of the devil and the numbers “666” all surrounded by flames. When he saw the tattoo, Mr. Tale became visibly upset and suddenly walked away from Lucy and her fiancé.

Mr. Tale belongs to a very strict fundamentalist Christian Church. Their membership makes up a substantial percentage of the community. When he reported what he had seen to the members of his church, the congregation became outraged. The situation became much worse when the children of the church members began reporting that Miss Ferr was actually teaching her religion in class. A large number of them attended a board of education

meeting and demanded that Miss Ferr be fired. While some students spoke in Lucy’s defense, most of the crowd was against her. At the conclusion of the meeting, the board of education voted to not grant Lucy Ferr tenure, stating their belief that she had tried to influence the religious beliefs of the students in her classroom.

Lucy is suing the board of education, stating that they fired her because they disagreed with her religious beliefs and were opposed to her tattoo, which she believes is a violation of her freedoms of speech and religion.

ISSUE

Was the Gehenna Board of Education’s refusal to grant Lucy Ferr tenure based on her religious beliefs a violation of her freedoms of speech and religion?

WITNESSES

For the Plaintiff

Lucy Ferr

Talha Tale

For the Defense

Don Zueme

Telly Tale

WITNESS STATEMENTS

Testimony of Lucy Ferr

My name is Lucy Ferr. I have been a teacher at Gehenna Middle School for the past three years. All the teachers and students respect me because of my optimistic attitude and work ethic. My religious beliefs are different from the majority of people in our society. Even though the First Amendment guarantees me the right to practice my religion, out of respect to my students, I keep my religious beliefs to myself. As required by my religion, I received a tattoo on my sixteenth birthday. I knew how society felt about Satan, so I had the tattoo placed on my back where it would not normally be seen. I knew I was going to be a teacher and I knew that the tattoo might keep me from getting a job. That is why I placed it where it couldn't be viewed.

One day my fiancé and I decided to go to the beach with a group of our friends. We went to a beach which was nowhere near the town where I teach. Obviously, that day I wasn't wearing a shirt that covered my back, as I usually do. At one point a student of mine and her parent came up to say hello. We were having a nice conversation when suddenly the father appeared upset and walked away. I later found out it was because he had seen my tattoo.

The next week students began to ask me questions about my religion. I assumed Talha and her father had told everyone about my tattoo. In response to their questions, I explained the basic beliefs of my religion. As part of my curriculum, I had already taught my students the basics of Judaism, Islam, and Christianity. I teach social studies which involves culture and religion. I

don't teach these religions as facts but as part of our culture. When I explained the facts about my religion, I was doing the same thing.

Mr. Tale and his friends are trying to take away my constitutional rights. I have always taught my students that no one can interfere with their religious beliefs. I also taught them the concept of symbolic freedom of speech, which means my tattoo is part of my right to express myself. Whether or not I get tenure should be decided based on my skills as a teacher, not on my religious beliefs. I have earned tenure by my hard work and dedication to my students.

Testimony of Talha Tale

I am a student in Miss Ferr's history class. She is my favorite teacher. One day my father and I were at the beach and I saw Miss Ferr with a group of people. I was very excited to see her and I brought my father over to introduce himself to her. I didn't know why at the time, but all of a sudden my father seemed angry and walked away. Later he told me that he had seen a tattoo on Miss Ferr's back which praised the devil. My dad is a very strict Christian and believes that the devil is out to trick good people into being bad.

He told the other members of our church what he had seen. There was a lot of talk at church about Miss Ferr and her tattoo. Most of my friends love Miss Ferr and couldn't believe that she would do anything evil so we asked her questions about her religion. She answered our questions, but she never tried to convert us. We were all very upset at our parents. The fact that we like Miss Ferr doesn't mean that we are going to give up on our religion. According to our history books and what we learned from Miss Ferr, freedom of speech and freedom of religion mean that you can worship as you please and say what you please even if other people don't like it.

The other students and I had never seen the tattoo before that day, and she never spoke of her religion until we asked her questions about it. She respected all of us and treated everyone the same no matter what their religion. She is the best teacher in the school and she should be rehired next year.

Testimony of Don Zueme

My name is Don Zueme and I am the superintendent of the Gehenna School District. Our town has a large group of fundamentalist Christians and many of our students belong to that group. Three years ago, Miss Lucy Ferr was hired to teach history. The staff and students instantly loved her. She won the “Teacher of the Year” award in her second year.

Recently, a student and her family met Miss Ferr at the beach and noticed that she had a tattoo on her shoulder. The tattoo featured a picture of Satan with the number “666” surrounded by flames. The student didn’t seem to care about it, but her father was deeply offended and complained to the school board.

After word got around, there were numerous accusations against her. At a recent board of education meeting, several hundred parents turned out to voice their concerns about Miss Ferr’s religious beliefs. According to the parents, after Talha Tale told her friends about Miss Ferr’s tattoo, there was a lot of conversation in class about Satanism. They strongly believed that Miss Ferr was actually trying to convert the class to her religious beliefs.

The board of education ordered me to investigate exactly what had been taught in Miss Ferr’s classroom. The students I interviewed said that Miss Ferr told them Satan would grant all their wishes if they followed his teachings. She also told them that the belief about Satan being evil was not true. Finally, the students said that contrary to what they have been taught, hell is actually a pleasant place and not a place to be feared.

I reported back to the board of education that my investigation showed that Miss Ferr was indeed preaching her religion in her history class. Based on my recommendation, the board of education chose not to rehire Miss Ferr.

Testimony of Telly Tale

I was enjoying a wonderful day at the beach with my family when my daughter recognized her history teacher sitting on a blanket with several other people. My daughter was very excited and

wanted me to meet Miss Ferr, who has always been her favorite teacher. Talha and I walked up to Miss Ferr and I introduced myself. While I was speaking to her, she turned to answer a question from the man sitting behind her, and I was shocked to see that she had a tattoo of the devil behind her left shoulder. The numbers “666” were prominent and the whole thing was surrounded by flames. I was so shocked that I could barely speak. I walked away and went back to our blanket where I told my wife what I had seen.

I thought about what I had seen for several days. As a Christian, I am concerned about any influences that might lead my daughter away from God. I talked to a number of my friends and they shared my concerns. All of the parents from my church became concerned when our children told us that Miss Ferr was actually teaching Satanism in her classroom. The First Amendment guarantees that the government cannot impose a religion on its citizens. Because Miss Ferr represents the authority of the school, our children believe that what she told them about Satan is the truth.

INSTRUCTIONS

The plaintiff must prove by a preponderance of the evidence that the Gehenna Board of Education did not grant Lucy Ferr tenure based on her religious beliefs and in violation of her freedoms of speech and religion.

SUB-ISSUES

1. Was Lucy Ferr teaching her religion as an example of culture or was she trying to influence her students’ religious beliefs?
2. Are unpopular religions guaranteed the same protection as the more commonly accepted religions?
3. Did Lucy Ferr’s actions in the classroom violate the Establishment Clause of the First Amendment?
4. Do boards of education have the right to decide whether or not tattoos are acceptable for staff members?

5. Given the fact that Lucy did not have tenure, did the board of education need a reason for not rehiring her?
6. Does the ruling by the Supreme Court in the case of *Tinker v. Des Moines* apply to this case?

CONCEPTS

1. Credibility of the witnesses.
2. Symbolic freedom of speech.
3. Freedom of religion.

LAWS

1. First Amendment to the Constitution of the United States of America.
2. *Tinker v. Des Moines Independent Community School District*.

Chain and Suffering

SCHOOL

Valley Middle
Oakland
Grade 8, Second Place

TEACHER

Jena Boomhower

STUDENTS

Justin Birnbaum, Madeline Gatto, Andrew Gay,
Caitlin Rulli

FACTS

Connie Sumer is a 9-year-old girl from Swingsville, New Jersey, weighing 68 pounds. Her parents recently purchased a swing set for \$1,400 from Sunshine Swing Sets, a local swing set manufacturer and distributor. The company offers an assembly service for its customers. Connie's father, Conner, declined the service, as it cost extra money. He considered himself handy and insisted that he could assemble the swing set.

On April 21, 2011, Conner and his wife, Hanna, went to their backyard to assemble the swing set. Using the detailed instruction booklet, Conner put the pieces together as Hanna read the directions aloud. The swing comes pre-attached to the chain and hook assembly that needs to be screwed into pre-marked locations on the overhead wooden beam. All the assembler needs to do is drill the heavy-duty screws into the wood where the hooks will be screwed in. After four hours, the swing set was completed and ready to use.

On June 12, 2011, Connie was playing on the swings with her neighbor, Terry Peterson, who weighed 82 pounds. Conner was on the backyard porch so that he could have a good view of the children while they played on the swing set. He sat comfortably in the shade reading the newspaper as the children played, occasionally glancing up to check on them. He noticed that both children were playing on one swing, but thought nothing of it. About half an hour after the kids started playing,

Conner heard a cry from one of the children. He looked over to see that Connie was on the ground with a twisted and bloody arm. Terry was not injured.

Conner sent Terry back to his house next door and brought Connie to the hospital. An X-ray revealed that Connie sustained a compound fracture of her radius, a bone in the forearm. The Sumers paid over \$3,000 in hospital and orthopedic costs.



Once Connie was back home, Conner inspected the swing set. He saw that the chain had broken on one of the swings. That particular part of the chain, however, came pre-assembled in the kit; it was not a part of the chain that had been assembled by Conner.

The Sumers contacted the company, asking for financial compensation for the hospital bills, claiming that the company was responsible for their child's injuries. However, Sunshine Swing Sets refused, stating that they were not responsible for the product failure, as one of their employees did not assemble the swing set, and the Sumers must have assembled the swing set incorrectly. The Sumer family is suing Sunshine Swing Sets for the cost of personal injuries and for pain and suffering.

ISSUE

Is Sunshine Swing Sets liable for Connie's injuries caused from her fall from the swing set due to an alleged defect in the product sold?

WITNESSES

For the Plaintiff

Conner Sumer
Enjay Kneer

For the Defense

Manny Jühr
Shane Tester

WITNESS STATEMENTS

Testimony of Conner Sumer

My name is Conner Sumer and I am 47 years old. I am currently working part-time at Hal's Hardware, a hardware store near my home. Previously, I worked at C.C. Construction Company for six years as a framer. However, during one of my construction jobs, I received a minor injury to my back and was no longer able to perform my job at C.C. Construction Company. Two months later, I started working part-time at a Hal's Hardware.

On April 19, 2011, I purchased a swing set from Sunshine Swing Sets. Upon purchasing the swing set, the company had offered an assembly service for \$300. I declined the service because I did not want to have to pay the extra money and I knew I would have no problem assembling the swing set myself. The assembly service is suggested, but nowhere does it state that the swing set will be unsafe if the purchaser does not accept the service. The product literature does, however, provide that the warranty is void if Sunshine Swing Sets does not assemble the product.

On April 21, two days after purchasing the swing set, my wife and I went into our backyard to assemble the swing set. Before beginning, my wife and I laid out all the pieces, making sure everything had been included in the packaging. After checking the included pieces against the list in the instruction manual, we found that everything was in order and began assembling the swing set. My wife read the instructions aloud to me as I put the swing set together. After four hours, the swing set was ready and I had attached all warning labels included in the box. Our daughter, Connie, wanted to play on the swing set immediately after it was assembled. She played on it for at least two hours that day and everything seemed fine.

About two months later, on June 12, Connie was playing on the swings with her friend Terry as they had on several other occasions. Terry and Connie are well-behaved children, and they have never had any issues on the swing set. On this afternoon, I was sitting on the back porch reading the newspaper while Connie and Terry played on the swings. From where I was sitting, I had a good view of the children playing. I glanced up several times and saw both children on one swing. This did not alarm me because their combined weight was well under the weight limit stated on the warning labels. When I briefly looked down to read an article, I heard a scream. I rushed over to the swing set. Connie was lying on the ground, her arm bent in at an unnatural angle and gushing blood. Terry was not injured. Immediately I sent Terry home and took Connie to the hospital. Connie had sustained a compound fracture on her radius. My wife and I paid over \$3,000 for X-rays and medical costs.

Since I only work part-time, I am not covered under the insurance plan at Hal's Hardware. I contacted Sunshine Swing Sets, asking for financial compensation to cover the medical bills. Sunshine Swing Sets refused. I explained to them that the swing had fallen from the chains that held it to the wooden beam. The chain had snapped from the pre-assembled hook, not from the wood where I had to attach the hook to the wood with a screw. They said that they were not responsible for the product's failure, as one of their employees did not assemble the swing set.

I was outraged that they refused, as clearly, Connie's injuries were a result of their faulty swing set. I have hired an expert to prove that the swing set was defective because I am positive that I assembled the swing set correctly, in accordance with the instruction manual.

Testimony of Enjay Kneer

My name is Enjay Kneer, and I have a Master's degree in physical metallurgical engineering from MIT. For the past seven years, I have worked at JAMC Engineering. One of my responsibilities is examining different chains and determining the strength of these chains. In my career, I have been very accurate in determining the strength of chains; all of my estimates have been within 10 pounds of the actual strength of the chain. Some of my other responsibilities include performing tests on several types of metals and trying to enhance these metals to make them stronger.

Conner Sumer hired me on June 14, 2011 to inspect the chain of the swing set after his daughter, Connie, was injured. After I had completed my tests on the broken chain, I came to the conclusion that the chain could not hold the 175 pounds that the warning labels stated, but instead it could only hold 140 pounds.

Chains for the swing sets produced by this company are advertised to be made of steel while this chain was partly made of iron. The Moh's hardness scale is a table listing the strength of elements, with 1 being the softest and 10 being the hardest. Steel is a 5 on the Moh's hardness scale, and iron is a 4. This is a significant difference and would

cause the chain to break with a much lower weight. I examined 10 chains of other swings produced by this company and found that only about half of them were made entirely of steel. I found that the other chains were made mostly of steel, but also of iron and other metals. The swing sets were taken from the showroom in Swingsville, New Jersey. The chains could hold varying weights depending on the percentage of steel in the chains. The chains with greater amounts of steel could hold greater amounts of weight.

The swings sets produced by Sunshine Swing Sets used a chain that was not suitable for a swing set. It was also clear to me that the product failure was not a result of improper assembly because the chain was one of the few pieces that came pre-assembled.

I have performed tests on several different chains, and I believe that the chain used in the swing set is not suitable for the purpose it is being sold for. A swing set chain should be able to hold a significantly larger amount of weight than the weight this chain can support. In my expert opinion, Sunshine Swing Sets is completely at fault for the injuries sustained by Connie Sumer.

Testimony of Manny Juhr

My name is Manny Juhr, regional manager for Sunshine Swing Sets. I am based in Swingsville, New Jersey. I have been the regional manager here for just over 11 years. In becoming the regional manager, I had to learn the assembly and manufacturing process, the packaging and shipping process, and the company warranty.

On June 13, I received an irate phone call from Conner Sumer describing his daughter's accident. He was furious with me, claiming that the swing set he purchased was defective. After looking up the records, I noticed that he had declined our assembly service; therefore, our warranty did not apply to him.

The company warranty follows these guidelines: If the swing set is assembled by a paid professional, the swing set is under a five-year warranty; if assembled by anyone other than a paid professional, the warranty is void. We display

a disclaimer on our packaging and in our stores stating this: “Sunshine Swing Sets only warrants swing sets if it is assembled by one of our trained professionals.” Seeing as Conner Sumer assembled the swing set himself, the warranty is not in effect, because one of our trained professionals did not put it together. In addition, our chains are made out of steel. Steel was selected for the material as it is known to be strong, and it would take more than just two small 9-year-old children to break them. Clearly, the product was misused because, under proper conditions, the chain would not have been damaged. If there were a child exceeding a weight of 175 pounds on the swing, then obviously the chain would break, especially if the swing set was being misused. We have received no complaints of any chains breaking other than when the weight limit was exceeded or in the case of the swings being misused, such as twisting. Our literature indicates the swing can hold up to 175 pounds. Misuse of the product would include having more than one child on one swing.

In the swing set’s packaging, we also include an instruction manual and several warning labels. The warning labels state that a weight limit of 175 pounds should not be exceeded. If these warning labels were acknowledged and followed by the Sumer family, this problem would not have occurred.

We have never received complaints about our product before this. If so, we certainly would have recalled the questioned product. Clearly, the Sumer family had misused our product.

Testimony of Shane Tester

My name is Shane Tester. I received my Master’s degree from Yale. I am an engineer at BRGG in Swingsville, New Jersey, and have worked there for 12 years. In the past, Sunshine Swing Sets has hired me to examine their swing sets and parts. I have also worked with other swing set manufacturers and the design of their swing sets.

Sunshine Swing Sets called me on June 16, 2011 and asked me to examine the chains of the Sumers’ broken swing set. However, after contacting the Sumers, I was informed that the chains had already been sent to another engineer to be tested as per the Sumers’ request. I then contacted Enjay Kneer,

and after a delay of two weeks, he finally sent me the damaged chain.

I examined the chain and began performing several tests on it. I concluded that the total weight the chains could hold was 175 pounds. It was specifically designed for one child to be on at a time. It occurred to me that in order for the swing to break, the Sumer family had to be misusing the swing in some way. If the swing had been used properly, it would not have broken. I have seen instances where the chains have broken due to excessive twisting of the swing or multiple children on a single swing. The swing is clearly designed for one child at a time. The chains used on the swing were adequate and sufficient for the purpose they were designed for.

After testing the weight of the swing, I concluded that the metal being used was steel, a very strong metal typically used in swing set chains. I have performed the same test on several other swing sets from Sunshine Swing Sets and gathered the same result.

INSTRUCTIONS

The plaintiff must prove by a preponderance of the evidence that Sunshine Swing Sets is liable for all injuries sustained by Connie Sumer because it sold a product that was defective in that it was not strong enough to support the weight represented in the advertisement of product.

SUB-ISSUES

1. Was the product used correctly?
2. Was it foreseeable for the manufacturer that two children would be playing on one swing?
3. Did Conner assemble the swing set in a way that would cause it to function incorrectly?
4. Were all warning labels attached and acknowledged by Conner Sumer?
5. Were all warning labels provided sufficient to warn against possible injuries?
6. Can the chain hold the amount of weight for which it is advertised?

7. Were Connie and Terry playing on the swings in a hazardous way?
8. Is this swing set the only one that was defective or do all of the swing sets produced by Sunshine Swing Sets have a defective design?
9. Have accidents such as this happened on other swing sets made by this company?
10. Was the combined weight of the two children over the weight limit of the chains?
11. Does the disclaimer void the warranty even if the material is defective or if the assembly was proper?

CONCEPTS

1. Product liability.
2. Credibility of witnesses.
3. Burden of proof: preponderance of the evidence.

LAWS

1. N.J.S.A. 2A:58C-1: New Jersey Product Liability Act (NJPLA) - Product liability refers to the liability of any or all parties along the chain of manufacture of any product for damage caused by that product. The NJPLA recognizes three types of defects that are actionable in a product liability case: design defect, manufacturing defect and inadequate warnings or instructions. A defective product is defined to be one that is not reasonably fit, suitable or safe for its intended purpose.
2. N.J.S.A. 5.40B (Manufacturing Defect) and 5.40L (Negligence).

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Special thanks to our attorney-mentor, Francis Battersby.

A Football Prayer

SCHOOL

Indian Mills Memorial
Shamong
Grade 8, Honorable Mention

TEACHER

Karen Clementi

STUDENTS

Devon Borkowski, Morgan Calabria,
Samantha Derkas, Owen Dwyer, Grayce Heinemann,
Emily Hoffman, Emma King, Ryan Lawless,
Addison Lee, Sean McGlone, Kasey Mitchell,
Mark Oddo, Alex Perricone, Alivia Siedlecki,
Justin Tuman, Aaron Uscinowicz, Anthony Valenzano,
Ryan Vannella, Carrie Weaver, Melanie Weaver

FACTS

Shallow Township School District is a small public school district in suburban New Jersey. The district has a middle school, Shallow Middle School, which includes grades 5 through 8. Its student body is very active and there are not a lot of serious discipline problems. Like most other teenagers, the students at Shallow Middle School enjoy being on the Internet, Facebook, YouTube, and things like that. The newest thing on YouTube, flash mobs, catches the attention of a group of eighth-grade girls at Shallow Middle. The girls are all a part of an American Cancer Relay for Life team and decide to do a flash mob at their school to raise money for cancer research. A student council assembly is scheduled for that Friday and the girls realize this is a great opportunity to get the attention of the whole school. During the assembly, the girls, about 14 of them, wearing pink t-shirts, run down to the gym floor, perform a dance to a popular song, and pass around a bucket to collect money.

The other students at the assembly clap and cheer for the flash mob. The girls collect about \$200 to donate to the American Cancer Society. After the assembly, the girls are asked to go to the principal's office. Principal Brady tells the girls that they are not in any trouble, but that they should have asked permission before doing the flash mob. He says that while the school rules do not specifically prohibit flash mobs, the girls were collecting money for a charity and the rules do require prior permission. The principal tells the girls that because the flash

mob had a positive outcome, there would be no disciplinary action taken against the girls this time.

The next week, during morning announcements, Principal Brady reminds the student body that any collections for charity at the school must be pre-approved by his office. Eighth-grader Zachariah Roberts decides he has a great idea for a flash mob that does not involve collecting for a charity. At lunch Zachariah gathers together his friends on the football team and plans out a flash mob that involves "Z-bolting," an Internet sensation named after the popular pro-football quarterback, Jim Ziebolt. A devout Christian, Ziebolt has been openly praying on the football field. He drops down to one knee, bows his head, and prays. As Ziebolt has begun winning games that were thought to be unwinnable, football fans have taken up "Z-bolting." Zachariah, being a Christian himself, decides that at the pep rally set for Friday, he and his friends will rush the gym floor, "Z-bolt," and then he might even recite some Bible verses.

At the pep rally that Friday, right in the middle of the activities, Zachariah gives the cue, and he and his football friends run to the center of the gym floor, drop to one knee, bow their heads and begin praying. There is silence in the gym as students are stunned. Zachariah recites a Bible verse and then invites all the students to become Christians and lead a better life. At this point, groups of students start to get up and leave the gym. Some appear to

be barred from leaving by Zachariah's friends.

Mr. Houltz, gym teacher and football coach, takes action and moves Zachariah and his friends off the gym floor and into his office. He decides to separate Zachariah from the other boys and tells him to go to the principal's office. Mr. Houltz talks to the boys and asks them what is going on. They confide in him and tell him that Zachariah pushed them into doing this. They thought it might be fun but they had no idea that Zachariah was going to start preaching. Mr. Houltz sends the boys home and tells them that the principal will speak to them tomorrow.

The next day, the school phones ring off the hook with complaints from parents about the events at the pep rally. Principal Brady has a brief phone conference with the school board that morning and it is decided that Zachariah Roberts will be suspended from school for one week for his actions at the pep rally and that the other boys participating in the flash mob will be put on a one-week probationary period. When Zachariah's parents learn of the suspension, they decide to sue the school district, claiming that their son's suspension was a violation of his First Amendment rights. The Roberts seek to have their son's school record cleared.

ISSUE

Did the Shallow Township School District violate the First Amendment rights of student Zachariah Roberts by suspending him from school for planning and participating in a flash mob at a school function?

WITNESSES

For the Plaintiff

Zachariah Roberts

Roberta Roberts

For the Defense

Charles Houltz

Timothy Brady

WITNESS STATEMENTS

Testimony of Zachariah Roberts

I am an eighth-grade student at Shallow Middle School, a public school in suburban New Jersey. I am on the honor roll and involved in a lot of school activities. I am also the quarterback of the school football team. My favorite football player is Jim Ziebolt. He is a great quarterback and a Christian like I am. During his football games, he gets down on one knee, bows his head and prays. Ziebolt is winning games no one thought he could win. He has become the most popular football player in the country. One week, he had John 3:16 written on his cheeks for the game. It is my favorite Bible verse. His fans have begun "Z-bolting," praying like him.

A few weeks ago, during an assembly, a bunch of girls with pink t-shirts ran down to the gym floor like a flash mob. They did a dance and collected money for cancer research. I thought it was a really good way to get everyone's attention. I had an idea to do a "Z-bolt" flash mob at an upcoming pep rally. I could tell everyone about a cause I feel strongly about, spreading the word of the Lord. I talked to the guys on the football team ahead of time, and everyone agreed to do it. During the football section of the pep rally, we all ran down to the gym floor, we dropped to one knee, bowed our heads, and prayed. I recited some of John 3:16 and invited the kids to learn more about being a Christian.

At that point, Mr. Houltz, our football coach, ran out to the gym floor and led us out of the gym. I was sent to the principal's office and the rest of the guys stayed with him. The principal questioned me about the flash mob and then let me go home, saying he would deal with me tomorrow. The next day, I was told I was being suspended for one week for planning and carrying out the flash mob. As far as I know, the girls did not get in any trouble for doing their flash mob. I do not think that I should have been suspended.

Testimony of Roberta Roberts

I am Zachariah's mother. My husband and I are very proud of our son. He has never given us any trouble. He is a good student and has lots of friends. He attends church regularly and is very involved

in our church's youth group. My family is part of an Evangelistic Christian church and we believe in spreading the word of the Bible.

When my son told me about the flash mob at school and about his suspension, I immediately called the pastor at our church. My pastor got me in touch with an attorney. The attorney spoke to me about my son's First Amendment rights. It is my understanding that even though my son was in school, his First Amendment rights still apply. He has a right to free speech and has the freedom to assemble as long as he is not putting other students in danger. I feel that what my son did was within his rights and he should not be punished. Apparently, the girls who conducted a flash mob a few weeks earlier were not punished.

I can't help but think that my son was punished because he was speaking about his faith. And, really, the whole thing was more about a popular football player than religion. The girls actually took money from other students, isn't that worse? We feel that Zachariah's suspension is a violation of his First Amendment rights. We brought this suit to have his suspension cleared from his record.

Testimony of Charles Houltz

I have been a gym teacher at Shallow Middle School for the past 15 years. I am also the coach of the school football team. I was at the pep rally when the flash mob occurred. When the flash mob started, the students became very quiet. As Zachariah began to quote from the Bible, I could see a lot of students become uneasy. Some got up to leave the gym. Mass confusion started to set in.

At this point, I ran out onto the gym floor and herded the boys into my office, which is right off the main gym area. I had Zachariah go down to the principal's office and I spoke to the remaining boys. I know these boys well as they are all football players and I talked to them about what had just happened. I could tell that they had felt pressured by Zachariah into doing the flash mob. I sent the boys home and told them that the principal would speak to them the next day.

I have known Zachariah the four years he has been at the middle school. He is a great kid and I

understand that religion is a big part of his life, but sometimes it is difficult for the other students to be around him because of his constant discussion of his faith. He can't help but try to convert you to his way and I think that's what happened in this flash mob situation.

I understand there are claims that some of the football players were blocking the exits, but I did not see that. I was busy moving the boys off the gym floor.

Testimony of Timothy Brady

I have been the principal at Shallow Middle School for the past 12 years. I really enjoy working at Shallow Middle and get along well with the faculty and student body. We do not have a lot of disciplinary problems at the school, but we were confronted with the issue of these flash mobs. I do not watch a lot of YouTube, but I understand that a flash mob is a group of people who get together at a public place and perform. The flash mob may or may not have a purpose.

The first flash mob we had at Shallow Middle had the purpose of collecting money for the American Cancer Society. I did not discipline the girls involved in this flash mob as there was no disturbance to the other students. I knew our school handbook did not address flash mobs as it is a new concept. I was waiting for a state recommendation as to what type of rule should be implemented to deal with flash mobs. The day after the first flash mob, I reminded the students during morning announcements that all collections for charity must be pre-approved by my office.

Before I was able to amend the school handbook, the second flash mob occurred. Zachariah Roberts was sent to my office for causing a disturbance at a pep rally. I was not in the gym when it happened. I had Zachariah tell me his version of the events. I sent Zachariah home and told him I would deal with him tomorrow.

I spoke to Mr. Houltz about what had gone on along with a few other teachers that had been at the pep rally. The next day, my office was flooded with phone calls from parents complaining about the flash mob. I found it necessary to arrange a phone

conference with the school board. It was agreed that Zachariah would be suspended from school for one week and the other boys involved would be on a one-week probationary period.

It is my understanding that if a student causes disturbance to other students during their school day, we can take action. Further, if the allegations are true that exits were being blocked, that was certainly a danger to the students.

INSTRUCTIONS

The plaintiff must prove by a preponderance of the evidence that the Shallow Township School Board violated his First Amendment rights by suspending him for taking part in a flash mob at a school function.

SUB-ISSUES

1. Does a student have the protection of the First Amendment while in school?
2. Was Zachariah's flash mob "free speech" protected by the First Amendment?
3. Was Zachariah's right to peaceably assemble violated?
4. Because Zachariah spoke about his faith during the flash mob, was his right to freedom of religion violated?
5. Did Zachariah cause disruption at school by planning and putting on the flash mob?
6. Did the school implement its discipline fairly?
7. Were the students on notice as to the school's position on flash mobs?

CONCEPTS

1. Freedom of expression.
2. In loco parentis.
3. Due process.
4. Burden of proof in a civil case: preponderance of the evidence.

LAWS

1. First Amendment of the United States Constitution: 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. Fourteenth Amendment of the United States Constitution:...No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws....
3. *Tinker v. Des Moines Independent Community School District*, 393 U.S. 503(1969). Supreme Court upheld the right of students to wear black armbands to school to protest the Vietnam War.
4. *Bethel School District No. 403 v. Fraser*, 478 U.S. 675 (1986). Supreme Court held that schools are allowed to prohibit the use of vulgar and offensive speech in public discourse.
5. *Hazelwood School District v. Kuhlmeier*, 484 U.S. 260 (1988). The Supreme Court held that public schools do not possess all the attributes of traditional public forums and, as such, school officials may impose reasonable restrictions.
6. Shallow Middle School Handbook, Section 12(c): Any student(s) intending to conduct on campus money collections for a charitable organization or any organization must obtain pre-approval from the Principal's Office before promoting or conducting the collection.

Repeal the Retake

SCHOOL

Mount Olive Middle
Mount Olive
Grade 8, Honorable Mention

TEACHER

Becky Hull-Clark

STUDENTS

Emily Busby, Cameron Hallihan, Shreya Mahatwo,
Zachary McCreery, Justin Savastano,
Natalie Vermeulen

FACTS

On May 15, 2012, many high-achieving students protested Grape Valley school district's Retake Policy. The recently instituted Retake Policy allows all students with a failing grade on any assignment to retake that assignment for a 70%. Since the Retake Policy was put into effect, Grape Valley has been featured in local papers and news stations all across the county.

As well as publicity, the district has experienced monumental success, with their middle school becoming one of New Jersey's Top 10 Performers. This policy caused many of the higher-achieving students of Grape Valley Middle School to have the following concerns: First, they believed the retakes were less challenging than the original, and secondly, it seemed like all of the retakes were receiving the top grade of a 70%. The protesting students felt as though they were being cheated since they had been doing what they were supposed to in the first place by studying, working hard, and applying themselves. Their perception of the matter was that the other students could slack off, and, as a result, just complete the less challenging retake.

Before staging a full-scale protest, the students created a petition signed by 276 students from all three grade levels. This petition stated the students' concerns. The school's principal refused to consider the petition and told the students that it was not their place to have such a significant influence on the school policy.

After their petition was rejected, 37 high-achieving students organized a picket protest across the street from the school during their lunch period. On the second day of lunch-period protests, their principal threatened to suspend them for five days if they continued protesting. The students ignored the threat, and after they returned from protesting on the third day, they were called to their principal, Dr. Steven Barrens, and were issued five-day suspensions, effective immediately.

Outraged, the students claimed that their principal could not stop them from protesting during their lunch period. Larson Dewey, the student council president, along with other high-achieving students, are filing a civil suit against Grape Valley Middle School and the principal, Dr. Steven Barrens, for violating their First Amendment right to petition and peaceably assemble.

ISSUE

Did Grape Valley Middle School violate the high-achieving students' First Amendment right to peaceably assemble by suspending them for five days?

WITNESSES

For the Plaintiff

Larson Dewey
Mr. Victor Foxworth

For the Defense

Dr. Steven Barrens
Mrs. Marge Smith

WITNESS STATEMENTS

Testimony of Larson Dewey

I am Larson Dewey, the student council president at Grape Valley Middle School. I wrote the petition and organized the protest against the Retake Policy. I believe this policy has made it easier for students to earn a passing grade on their assignments, and they are taking advantage of it. Students do not try hard the first time on an assignment or test, knowing they will be able to take the easier retake of the test or assignment and pass with a 70%.

Many of the students, including myself, believe that this policy was merely a tool to help the school's image. The policy makes it easier to pass, which, in turn, makes the school appear better because far less students are failing.

I was extremely angered by this policy, as were so many of my peers. Therefore, I created a petition with 276 signatures from sixth-, seventh- and eighth-graders. I then proceeded to show our principal the petition and planned on discussing this faulty, unfair policy. He dismissed me and told me that it is not the students' place to influence a change in school policies. I became outraged at the fact that as student body president I could not even discuss an issue with my principal. Mr. Foxworth, our social studies teacher, had recently taught us about our rights as students, and I knew that we were protected by law to protest.

I then spread the word around the school about our plan. We were going to go outside during our lunch period, which is allowed by our school policy, and peacefully protest across the street with signs. We did this for three days, and on the

third day, when we returned inside, we all received the punishment of suspension for five school days because of our peaceful protests. I believe that this action of admonishment violated our First Amendment right to assemble and speak freely.

Testimony of Victor Foxworth

I am Victor Foxworth, the eighth-grade honors social studies teacher at Grape Valley Middle School. This is the second year that the Retake Policy has been in effect, and I truly dislike it. I have been teaching here at Grape Valley for 24 years, and this year's students have been very interesting, to say the least. I have been teaching my students about their First Amendment rights for many years, but this is the first year that my students have actually applied what they have learned to the real world. The students decided to protest the school's Retake Policy because they believe that there are some students who constantly take advantage of the Retake Policy, knowing that they have the opportunity to retake the assignment.

When I discussed this matter with my students to get their point of view, they agreed with me and said that, in fact, their peers are taking advantage of the policy. Then Larson Dewey suggested that the students petition to change, or completely abolish, the Retake Policy. I felt that this was a great idea and voiced my approval. I thought that my students would be able to learn about how democracy works in the real world, first-hand.

Within a few days, the students filled the petition papers with 276 signatures of students who were tired of their peers taking advantage of the policy. After collecting the students' signatures, Larson Dewey went to the principal to discuss this controversial matter. However, Larson later informed me that the principal abruptly dismissed the petition. The students then decided that they needed to take it to the next level, so they organized a full-scale protest across the street. After three days, the principal shut down their protest and assigned all 37 participants of the protest five-day suspensions.

I was disappointed in our principal for not only shutting the protest down without a second thought, but also for punishing our students severely for

a harmless demonstration, exercising their First Amendment rights. I understand that the protests may have been hurting the school's image in some ways, but what message is our school sending about its views on civil rights and democracy by shutting down the students' peaceful protest?

Testimony of Dr. Steven Barrens

I am Dr. Steven Barrens, principal of Grape Valley Middle School. My primary goal is to keep all of my students focused on their work in order that they prepare themselves for their future. I feel that the Retake Policy benefits all students and motivates them to work harder. It gives students a chance to do better on assignments, quizzes or tests the second time, if they cannot get it right the first time around. I think that this fosters learning.

In my opinion, it was rude and selfish of the honors students to protest this policy. Many students who have trouble learning find the Retake Policy a great opportunity to learn material and concepts and to improve their grades. Even though the higher-achieving students may not need to retake assignments, they should not protest against it.

Despite the fact that I did not agree with the reasoning for the protests, this is not the reason for their suspension. They were protesting during school hours and on school grounds, which includes the school building and the areas surrounding it. That is against the school rules. If the students felt the need to protest, they should have addressed this issue in another fashion. Also, because the protests took place so close to the school building, it disrupted the learning process of other students. Although the students protested during their lunch period, some classes were still in session. The image of students standing on the streets, holding signs, and the echo of their chants was very distracting to other students. They could not focus on their work. Therefore, I believe that the students causing the commotion *should* be admonished.

The third day of the protest was featured on the front page of the *Grape Valley Chronicles*. Now, the protesting was both violating school rules, as well as hurting the school's respectable, high-achieving image. My decision to suspend the students for five days was appropriate for multiple reasons. I did not violate their First Amendment rights. They violated school policy.

Testimony of Marge Smith

I am Marge Smith, the seventh-grade math teacher at Grape Valley Middle School. While my students were taking a very important exam, we all heard a commotion coming from outside. All of my students swarmed to the window to look to see what was happening. We saw a group of eighth-grade students across the street protesting the Retake Policy. Being interested in school topics and issues, my students were ultimately distracted from their very important exam. They all reluctantly sat down, but barely any of my students were able to remain focused on the exam with the noise of the protesters outside. At the end of the period, none of the students had finished their exams. To be fair, I decided to allow them the next day to finish their test. I did this thinking that the protest was a one-day occurrence and would be over, but the protesting students were out causing a commotion once again the very next day.

Once again, my students could not concentrate. Even the brightest students scored poorly on the exam. The second day of testing also put my class behind schedule. I feel that the students were abusing their First Amendment right to assemble by protesting on school grounds during school hours. Additionally, they disrupted the learning process of my class, therefore violating school policy. These protesting students are at fault and should accept the consequences for their rebellious action. Dr. Barrens did the responsible thing by punishing these obnoxious students and should be commended for taking charge of the situation.

INSTRUCTIONS

The plaintiff must prove by a preponderance of evidence that the school violated the high-achieving students' First Amendment right to peaceably protest.

SUB-ISSUES

1. Were the students really protesting on school grounds?
2. Were the protests a disruption to the learning process?
3. Was Dr. Barrens wrong to dismiss the petition without looking at it?

CONCEPTS

1. Credibility of witnesses.
2. Rights of students in a public school.
3. Preponderance of evidence.
4. Reasonableness of actions taken against the students.
5. First Amendment right to petition.

LAW

School Rules:

1. Activities should not disturb the learning process of students in the school building. Activities causing any students to lose focus from their classwork will not be permitted during school hours or on school grounds.
2. Students are allowed to go home for lunch as long as they stay within the vicinities of the home and school. They must return to school by the end of their lunch period.

Student Speech Rights

1. *Tinker vs. Des Moines Cnty. Sch. Dist.*, 393 U.S. 503 (1969) states students do not have to "shed their constitutional rights when they enter the school house door."

2. The Universal Declaration of Human Rights, Article 19, states, "Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers."
 - a. The Universal Declaration of Human Rights, Article 20, states, "Everyone has the right to freedom of peaceful assembly and association."
3. The Universal Declaration of Human rights states, "Whereas it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law."

Peaceful Assembly

1. The First Amendment: Guarantees freedom of expression.
2. *Karp vs. Becken* 477 F. 2d 171.
3. "The First Amendment does not require school officials to wait until an actual disruption takes place before they act. Officials may take reasonable action to restrict student expression when there is significant evidence that there is a reasonable likelihood of substantial disorder." *Morse v. Frederick* 551 U.S. 393 (2007).
4. Fighting words are unprotected speech. Only those words which by their utterance invite an immediate breach of peace by another individual are considered "fighting words."
5. The First Amendment: 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.

Grape Valley Chronicles

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ACHIEVING STUDENTS PROTEST MIDDLE SCHOOL

Thirty-seven high achieving students of Grape Valley Middle School led a protest against the “unfair”, as they call it, retake policy, which, according to them, gives students who do not apply themselves an easy 70%. This is a way for kids who have difficulty with tests to have a second chance. The student council president and the leader of this protest, Larson Dewey, said that if the school really wanted to get students to do better, second chances would not be offered. Then, if students did not want to be held back or go to summer school, they would have to work hard the first time. The principal of Grape Valley Middle School, Dr. Steven Barrens, had other ideas. He warned the group the first day of protesting, threatened suspension after the second day, and effectively shut the protest down after the third day, issuing all of the protesters five day suspensions. The protesters claimed that

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the first amendment protected their right to protest, and the administration had no right to shut it down. “This is important to us, and we have the right to protest,” Larson Dewey, leader of the protest said after being suspended, “Shutting down our protest was a violation of our First Amendment rights, and I am suing Grape Valley School district for the actions they took against us.” The principal countered this statement with, “According to the handbook that explains the rights of the students who attend Grape Valley Middle School, they are allowed to protest, but *only* if they are off school property and their protest isn’t disrupting the learning of their fellow students,” he says, “They were very...
See protest, page 6

High School football wins division

After the game, the coach and players lifted the trophy for their first division title in 20 years yesterday at Athens. After a 33-32 last minute comeback win, the Saints fans stormed the field and were presented the Football trophy. “It’s a big win for us and our players,” the proud coach told our reporters. The last minute field goal by Larry Binds sealed the victory as time expired. The quarter back Ronny Capone threw for 200 yards, 2

touchdowns, and an interception. His running back, JaMarcus Pudge was the Most Valuable Player, with 255 total yards and 2 touchdowns. “It was an amazing win, and a great season. Most of all, I’d like to thank our coach, who led us all this way.” *See Sports, page 2*

The Case of Bag the Flag

SCHOOL

Warren Township Middle
Warren
Grade 8, Honorable Mention

TEACHER

Susan Cooper

STUDENTS

Jenna Charko, Claire Chen, Sophie Feldman,
Matthew Guo, Jon He, Alex Hentschel,
Parima Kadikar, Juliet Keselman, Tea Kingley,
Sneha Panackal, Kunwoo Park, Anjali Patel,
Johnny Penek, Angeli Reyes, Caroline Rucker,
Christopher Shao, Lizann Sung, Emily Tang,
Katie Trovato

FACTS

On October 31, 2011 at Civil Township High School (CTHS), located in a small town outside of Birmingham, Alabama, the students were allowed to dress up in costumes to display their Halloween spirit. However, they were only permitted to wear these costumes under certain restrictions, such as no masks, no weapons and no offensive costumes. As long as these rules were followed, it was permissible for students to dress up as whatever they wished.

During this month, the social studies curriculum included learning about the Civil War. A group of six Caucasian students entered the school dressed as Confederate soldiers. Led by Amina Person, known as a “troublemaker” to both her peers and teachers, these six students adorned themselves with Confederate flags, and marched down the hallways displaying their Halloween attire.

Their teacher was Sammy Sociable, who had recently assigned a project on the life of a soldier during the Civil War, either Confederate or Union.

While walking to and from classes, they reenacted scenes from the Civil War and commanded other students to salute the Confederate flag.

CTHS is a predominantly African-American high school, and many of the African-American students witnessed this marching scene and heard the comments made by the “soldiers.” A group of African-American students, including Ima Fendid,

spoke to the principal about this “offensive act.” She claimed that dressing up as Confederate soldiers glorified the idea of slavery and the misery that their ancestors suffered at the hands of white slave owners.

A group of offended students confronted the “Confederates” and asked them to remove their costumes because it upset much of the student body. The Confederate group refused, and Amina Person said the costumes were not about slavery, but history.

Ima Fendid arranged a sit-in during lunch, where a large portion of the school quietly protested by sitting on the floor of the cafeteria in silence. These students refused to leave after the lunch period was over.

The principal, Kent Kontrol, broke up the sit-in and asked Amina Person and her group to remove their costumes. He claimed that, according to school policy, it was a disruption to the learning environment. The majority of the group of Confederates complied with the principal’s request, but Amina Person did not. She refused to comply, stating it was Halloween, and therefore no rules were broken. The principal suspended Amina, claiming she caused a disruption to the school’s environment. Amina’s parents sued the school for violation of their daughter’s First Amendment rights.

ISSUE

Did the principal utilize the school policy appropriately when he commanded that the Confederate students remove their costumes because it caused a disruption to the learning environment? Or did he violate Amina Person's First Amendment right to freedom of speech?

WITNESSES

For the Plaintiff

Amina Person

Sammy Sociable

For the Defense

Ima Fendid

Kent Control

WITNESS STATEMENTS

Testimony of Amina Person

My name is Amina Person. I am a junior at Civil Township High School, and I love social studies. For the past month, we've been learning about the American Civil War. This Halloween, a group of my friends and I decided to honor the memory of the Civil War by dressing up as Confederate soldiers and reenacting a march. We asked our social studies teacher, Mr. Sociable, if that would be okay and he told us that he didn't see anything wrong with us doing this. We thought it would be a tribute to the Civil War soldiers to reenact some historical roles, and the students really loved them and egged us on.

We never thought that something as simple as the remembrance of a historical moment could be so misconstrued as support for slavery. We also never meant to come across as pro-Confederacy. My grandfather recently died, and he would always tell me these fantastic stories about *his* grandfather, my great great grandfather, who was in the Civil War. I love my grandfather and my most treasured memories are of him telling me the stories that his own grandfather had told him. I thought this would

be a great way not only to demonstrate an important part of American history, especially in the South, but also a remembrance of my grandfather.

When I refused to take off my costume, I was not being defiant; I thought it was a ridiculous request. I had followed all the rules for Halloween costumes, and I was not creating a disruption to the learning environment. It was Ima Fendid who caused the disruption by organizing a sit-in and yet she received no punishment. Other students dressed up as fat sumo wrestlers and geeks, which I believe was equally if not more disruptive and offensive than what my friends and I did.

Testimony of Sammy Sociable

I am Samuel Sociable, a social studies teacher at CTHS. I have been teaching at CTHS for 10 years. Before that I was a third-grade teacher at a small elementary school in a neighboring county. I love my job and the curriculum I teach.

This month, we have been learning about the Civil War. One of the projects I had my students do was an in-depth research paper and presentation on either a Confederate or Union soldier. Amina Person chose to do hers on a Confederate soldier. When she presented her project, I thought it was amazing. It was very clear that she had done thorough research and really knew her character. Later on, she asked me if it would be fine if she and a group of her friends dressed as Confederate soldiers for the coming Halloween. I thought nothing of it and replied that it would be fine; in fact, it would very interesting if they could reenact something that would go hand in hand with what we were currently learning in class.

Personally, I think that these reenactments are being blown out of proportion. I am African-American as well, and I understand the bad feelings that the Confederacy evokes for descendants of slaves, but the entire idea of the Confederacy is not completely about slavery. Originally, the North fought the war because some of the states seceded, and became a new country. This was against the Constitution, so they were at first fighting about that, not slavery. The Confederates also fought for states'

rights and I believe that Amina and her friends portrayed that beautifully. These students were only being diligent in their learning, and I don't think we should punish our students for trying to improve their education.

Testimony of Ima Fendid

My name is Ima Fendid, and I go to Civil Township High School. Amina Person is in my social studies class as well as a few of my other classes. I'm not the best of friends with her but I know who she is. She's always been a little out of control. I think that she is an attention grabber. She's always trying to get attention by shocking everybody. One time last year, she came to school with neon blue hair. I guess she dyed it or something, but even that doesn't measure up to the time when she brought her own lunch from home, a fried rattlesnake, because some kids paid her thirty bucks to eat it in front of the entire grade.

I know that Amina likes to be in the spotlight with her outrageous stunts, but I never expected her to pull something of this magnitude. Having her and several others dress up as Confederate soldiers offended me personally and many of my African-American peers. And then they did something even worse: they saluted the Confederate flag during lunch.

I was chosen by my friends to approach Amina and ask her to stop. She said "no" and muttered a few inappropriate, rude, and profane remarks directed at me. I don't think she understands how disturbing her stunt was for those of us whose ancestors had to endure slavery and the wrath of the Caucasian slave owners. When I was little, my grandmother would tell me stories passed down through our family about slavery and the horrible effects it had on our people. Amina has no idea how distressing this is for my African-American friends and me.

I was responsible for arranging the sit-in. To me it was a peaceful way to make a statement that honored the ideas of Martin Luther King, Jr. I just want her to understand the implications of what she has done. She needs to take responsibility for her inappropriate and upsetting actions.

Testimony of Kent Kontrol

I am Kent Kontrol, the principal of Civil Township High School. Our school is predominantly African-American and in the past, I have had to break up fights stemming from racism because at times there have been altercations with students of different races. We believe that the integrity of a safe and productive educational atmosphere must be preserved at our school.

Many students came to school dressed up on Halloween, and although the regular dress code is lax on Halloween, we still apply very specific rules for costumes. I don't believe there is anything wrong with a Confederate costume. However, I felt that it was a controversial choice of costumes because our student body is mostly African-American and we live in the Deep South of Alabama. I know the Civil War is part of our curriculum, yet it still carries a negative connotation to many African-Americans today.

When I saw the group come into school dressed as Confederates, I knew right away that Amina Person was leading the pack. She has a history in our school of conducting herself in dramatic ways such as the time she colored her hair neon blue. She looks for the shock reaction from her peers. So, I am not surprised she conjured up the Confederate troop idea.

At first I was not concerned with the Confederate costumes. However, when Ms. Fendid came to me with complaints against these students stating that they began reenactments, I was forced to ask Ms. Person and her group to remove their costumes. Ms. Person declined to remove her Confederate uniform and I am sad to say that my hand was forced; I had to suspend Amina Person. I was concerned that a riot might break out, and as principal of CTHS, it is my job to make sure that the school atmosphere remains peaceful and undisturbed.

If I had allowed Ms. Person to stay in school, there would have been chaos and disruption and frankly, because of her past actions, she could not be trusted to conduct herself appropriately. However, she refused to remove the attire. I did not violate Ms. Person's First Amendment rights.

I merely preserved the integrity and safety of the learning environment in doing my job as a principal.

INSTRUCTIONS

The plaintiff must prove by a preponderance of the evidence that the principal of Civil Township High School violated Amina Person's First Amendment rights by suspending her for failing to comply with Board of Education policy on disruptions to the academic environment.

SUB-ISSUES

1. Does it matter that the school did not specify examples of offensive or inappropriate costumes allowed on Halloween?
2. Were the "Confederate costumes" worn by the six Caucasian students intended to evoke a racial response to the predominantly African-American student population? Were they looking to make a shocking impact?
3. Is the fact that Amina Person has a history of not conforming to socially acceptable behaviors the reason as to why the principal suspended her and did not suspend Ima Fendid?
4. Should the principal have suspended both Amina Person and Ima Fendid, for both causing a disturbance to the school?
5. Should Sammy Sociable, the social studies teacher, have realized that encouraging students to dress as Confederates might bring back memories of the Civil War which would be very upsetting to some students?
6. Is it relevant that Sammy Sociable, the social studies teacher, is an African-American?
7. Were the students who wore the Confederate costumes trying to show pride in their heritage, or were they trying to antagonize their classmates?
8. Can a Confederate soldier costume be considered offensive in a predominantly African-American school as opposed to a predominantly Caucasian school?

CONCEPTS

1. Preponderance of the evidence.
2. Burden of proof.
3. Freedom of speech in public schools.
4. Board of education policies on dress code and disruptions to the academic environment.
5. Credibility of witnesses.

LAWS

1. The First Amendment of the U.S. Constitution guarantees the right to freedom of speech.
2. Symbolic speech is a type of communication protected under the First Amendment.
3. The Board of Education school dress code policy states that students are expected to dress appropriately; however, the responsibility for the appearance of students rests with the parents and the students. Parents have the right to determine such students' dress providing that such attire is not destructive to school property, complies with the health code, and does not create a safety hazard or distraction for their child or others.
4. The public schools in the State of Alabama are charged with creating a safe, non-hostile environment for students and employees. Any behavior which violates this regulation is punishable by school officials and may have legal implications for students and parents.
5. There is a school rule against costumes that include weapons, masks, or can be construed as offensive.
6. Zero tolerance policy.

FURst Amendment

SCHOOL

Valley Middle
Oakland
Grade 8, Honorable Mention

TEACHER

Jena Boomhower

STUDENTS

Emily Kokush, Caitlyn Lubas, Fredrick Mazzilli,
Kayleigh Roman, Matthew Stillman

FACTS

Fabulous Furs, a high-end store that specializes in fur coats, is located in High Mountain Park, New Jersey, in the Crooked Hill strip mall. Owned by Eli Koats, a 53-year-old man, Fabulous Furs sells a multitude of various animal fur attires. Fabulous Furs is known for selling expensive and popular ermine coats. An ermine is a small animal of the weasel family that is desired when its fur turns a pure white color in the winter. Having been around for many years, Fabulous Furs has acquired a large quantity of frequent, affluent customers that have been essential to its prosperity.

Anna Mulright, a 37-year-old woman, had just moved from Petaluma, California to High Mountain Park, New Jersey with her husband Ernie, on May 4, 2011. Anna is unemployed but she is a strong supporter of PEPA, People for the Protection of Animals. Anna distributed information about the harmful effects of fur coats and asked fellow PEPA supporters to congregate in front of Fabulous Furs starting on August 14, 2011. Anna and her supporters gathered on the public sidewalks, distributed fliers, and held up picket signs, attempting to persuade pedestrians not to shop at the store. The protesters did not camp out in front of the store overnight, but they protested daily. Anna had organized protests previously in California, so she was aware that she was obligated to leave enough room for pedestrians on the sidewalks.

On the other hand, Eli Koats claims that Anna's constant protests are hindering his business and fewer people are shopping there each day. Many of Eli's wealthy customers have stated that they are hesitant to enter the establishment because they do not want to interfere with the intimidating protesters.



In the 2011 autumn season, Eli Koats witnessed shocking decreases in sales. This was devastating news, as the fall season in fashion is usually the most profitable. Eli blames Anna and her fellow protesters for the store's loss of consumers. Furthermore, Eli accuses the protesters of violating the High Mountain Park ordinance concerning loitering.

November 14, 2011, was the 20-year anniversary of the opening of Fabulous Furs, as well as the three-month anniversary of Anna's protest. On this day, Eli Koats unveiled a new product that would attract many of his loyal customers, called the Fantastic Fox coat. However, in honor of their three-month achievement, Anna and some of her followers decided to link arms together and form a human chain across the storefront. Other protesters huddled in a mob and held up picket signs, chanting, "Stop the killing! What's so thrilling?" Also, a red substance was seen splattered around the sidewalk in front of Fabulous Furs. The protesters said that this represented the blood of slaughtered animals.

Fabulous Furs filed a complaint with an order to show cause seeking a temporary restraining order as injunctive relief to immediately stop the unlawful protesting before the upcoming holiday season.

ISSUE

Did the protesters violate the High Mountain Park loitering ordinance and property damage ordinance, or were they simply exercising their First Amendment rights?

WITNESSES

For the Plaintiff

Eli Koats
Ima Richie

For the Defense

Anna Mulright
Cole Cutts

WITNESS STATEMENTS

Testimony of Eli Koats

My name is Eli Koats, and my family has been in the fur business for many generations. I have owned Fabulous Furs for 20 years, and over the years, I have been very successful. I am a contributing business to the town of High Mountain Park, and I have established great relationships with many locals. I support various local charities and schools with excess money from my sales. I have never had an issue with protests.

On August 14, 2011, Mrs. Mulright and many others gathered in front of my store. At first they were just handing out fliers and, occasionally, a pedestrian would pause and talk to the group. I soon realized that they were protesting against my store. The protesters were against my use of animal furs. Fur coats are perfectly legal! Many people enjoy the warmth of luxurious fur coats in the cold season, especially my popular ermine coat.

I prayed and hoped that the protesters would go away, but alas, after months, there was still a mob of protesters appearing in front of my store consistently, day after day. I have tried to reason with the protesters more times than I can remember, but they are stubborn and insist that I close my establishment or face the consequences of their constant protests.

I have done nothing wrong, and yet these protesters are now drastically affecting my business. My customers have told me that they are intimidated by the aggressive protesters. This is preventing them from entering and shopping at Fabulous Furs.

During the months leading up to November 14, 2011, I had been so excited to commemorate my 20th anniversary of Fabulous Furs' opening with the premiere of my newest fur coat, the Fantastic Fox Coat. A multitude of my customers were eager to purchase this new product. However, it was quite an unfortunate stroke of luck that the date of my store's anniversary coincided with the three-month anniversary of the protests.

On this day, the protesters were more aggressive and louder than ever. The horrendous rebels even went as far as to splatter some sort of red substance across the front sidewalk of my store. This spill

resulted in stains that were visible to me during a few of the days that followed. In addition, a human chain of linked arms was made in front of my store entrance. Moreover, picket signs depicting the captivity and abuse of creatures were thrust into the air, and these actions scared away any potential customers.

In my interest to stop the protests, I researched some town ordinances pertaining to protesting, loitering, and property damage. My discoveries brought me valuable information. I learned that protesters couldn't block entrances to buildings. Among other rules, I found that protesters must allow ample space for pedestrians to pass on sidewalks. Clearly, Mrs. Mulright and her followers are violating the town's ordinance against loitering. Moreover, the municipal ordinance concerning property damage, specifically vandalism, brought me this important knowledge: if the substance used in the act lasts for more than 72 hours, then the act is considered vandalism.

The holiday season is rapidly closing in, and I cannot bear the thought of all the business that I will lose if these protests continue. I have already noticed a 35 percent decrease in sales from the months of August through October. The actions on November 14, 2011 had prevented absolutely anyone from coming into my store. I failed in meeting my expectations to sell my new Fantastic Fox Coat. If these protests endure, and my coats are not sold, there will be irreparable damage to my business. In fact, I may not be able to meet required profits, and I may be forced to go out of business! I plead with the court to stop these protesters with a temporary restraining order before the start of the holiday shopping season.

Testimony of Ima Richie

My name is Ima Richie and I am 67 years old. I have lived in High Mountain Park, New Jersey for the past 30 years. My favorite thing to wear is exotic fur. The best source of these furs for the past 20 years has been Fabulous Furs. I have been shopping there ever since they opened in 1991.

From what I can remember, no one had a problem with the fur store until Anna Mulright came to town. She and about 30 protesters from PEPA

started to form a mob around the store's entrance. At first, they weren't too disturbing; however, as time went on, they grew in numbers and got louder. Then, when I went to the store on November 14, 2011, I noticed that the protesters had increased in number, and I think that there were about 50 of them. As I watched, they linked arms and seemed to be blocking the entrance to the store. Upon closer inspection, I saw what looked like blood surrounding the store. This scared me out of my wits, and I nearly fainted because, at the time, I thought that the blood was real. I now know the substance was some sort of red slush drink.

Nevertheless, this image was disturbing to me, and I am certain that it had an impact on others as well. The protesters were chanting, "Stop the killing! What's so thrilling?" Not wanting to get mixed up in all of the commotion, I left and now plan to go back once the protesters leave the premises. I only hope that my favorite store, Fabulous Furs, can persevere through this protest and stay in business providing beautiful fur coats for their loyal and loving customers.

Testimony of Anna Mulright

My name is Anna Mulright. Recently, my husband and I moved from California to High Mountain Park, New Jersey. When I am not organizing protests, I volunteer at a local animal shelter. Back in California I held many protests to fight for what I believe in and to exercise my First Amendment rights. The outcome of these protests usually ended in my favor because of my exceptional leadership abilities and peaceful persuasion tactics.

About two months after we moved to High Mountain Park, I noticed a store that sold expensive ermine and other fur coats. I find it immensely offensive that harmless ermines, my favorite animals, are being killed, so others can use their fur for warmth. There are so many fur alternatives now that killing animals for their fur is unnecessary. These ermine coats utilize anywhere from 180-240 poor ermine creatures per coat.

I decided to contact other animal rights activists in the area and organized the protest. I was pleasantly surprised by how many protesters

ended up participating. We had about 30 protesters each day, gradually building up to a sizable total of roughly 50 participants. Having organized protests before, I was aware that the group was not allowed to restrict movement along the sidewalk or block entrances to buildings. I informed most of my followers of these laws, and especially stressed these rules to people who were new to protesting.

During the protest, we stood outside of the store and chanted, "Stop the killing! What's so thrilling?" I am certain that we followed all of the rules pertaining to peaceful protest. No laws were broken, and the protesters never camped out on the street or sidewalk. Protesters left the site every night and returned to the site of the protest daily. Obviously, we abided by the protesting laws.

On the three-month anniversary of our protest, all of the protesters linked arms in front of the store once we discovered that, on this day, Mr. Koats was unveiling his new product. He was expecting the new Fantastic Fox Coat to be very profitable, but we protesters were determined to persuade people against buying it.

Regarding the red substance that was seen on the ground, I would like to say that it was not dye or paint as suggested. It was merely a cherry red frozen slushy drink that someone had spilled upon tripping when exiting the nearby Cole's Delicatessen. We decided to use this accident to our advantage, so we told passersby that the spilled red drink symbolized the blood of many slaughtered animals. We wanted to make it clear that we weren't giving in and that animal slaughter is wrong. Therefore, people shouldn't be shopping at Mr. Koats's store.

Although many were surprised by our actions, we had gotten our point across peacefully. I am baffled why Mr. Koats has filed a complaint. In our wonderful country, it is our right to peacefully assemble and express freedom of speech. It is my firm belief that the High Mountain Park ordinance restricts our First Amendment rights and should be abolished.

Testimony of Cole Cutts

My name is Cole Cutts. I have been the owner of Cole's Delicatessen for 12 years. I can usually be found in my store from seven in the morning to six in the evening. My deli is located next door to Fabulous Furs. In recent months I have noticed daily protesters speaking out against the Fabulous Furs establishment.

To begin, Anna and her followers handed out fliers. I happened to read one of these fliers, and they simply had multiple pictures of the poor, ermine creatures caged and tortured along with various slogans such as "Let them live!" and "What if this was you?"

On November 14, 2011, even when the protesters formed a human chain across the storefront, I noticed a few customers still had entered Fabulous Furs. However, the few customers that I observed came out of the store empty-handed. Nevertheless, the protesters clearly had not blocked the entrance to the store, since customers had access and I witnessed consumers entering the establishment.

Earlier that day, I also vividly remember selling a cherry red frozen slushy drink to a customer. A few minutes after the customer had left my store, he returned to purchase a replacement drink. He explained to me that he had dropped his drink by accident and it had spilled on the sidewalk outside.

Anna and the other determined protesters are nice, respectable people who simply wish to keep animals alive. Personally, I support Anna because Fabulous Furs has slaughtered so many innocent animals for their success, and this harsh utilization of helpless animals has to stop.

INSTRUCTIONS

The plaintiff must prove by preponderance of the evidence that the protesters violated the High Mountain Park ordinances pertaining to loitering and property damage and there is a reasonable likelihood of irreparable damage and harm to the plaintiff's business if the court doesn't issue a temporary restraining order to immediately stop the protesting.

SUB-ISSUES

1. Did the protesters break any laws?
2. Are the witnesses credible?
3. Should Anna be held responsible if other protesters broke a law?
4. Was the red substance intentionally put on the ground?
5. Did the protesters block the entrances?
6. Did the protesters disturb neighbors?
7. Did the protesters leave room for pedestrians to pass?
8. Does the High Mountain Park Municipal ordinance for loitering conflict with the First Amendment?

CONCEPTS

1. First Amendment right of freedom of speech.
2. First Amendment right of freedom to peacefully assemble.
3. Credibility of witnesses.
4. Right to run a business unimpeded.
5. Loitering in public areas.
6. Property damage.

LAWS

1. First Amendment to the Constitution of the United States of America: 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. High Mountain Park Municipal Ordinance 123-2: Loitering
No person in any place to which the public has access, including any street, or sidewalk, shall remain idle essentially in one location, especially not overnight, so as to:

- a. Create or cause to be created a breach of the peace.
- b. Create or cause to be created any disturbance or annoyance to the comfort and repose of any person to whom or in whose hearing they are made.
- c. Obstruct the free passage of pedestrians or vehicles.
- d. Restrict access to establishments by obstructing entrances.

Violation of this ordinance shall result in fines of no more than \$350 and/or community service for no more than 14 hours.

3. High Mountain Park Municipal Ordinance 166-1: Property Damage; Graffiti
No person in any place to which the public has access, or in a place where property is owned privately, may cause injury to property or malicious destruction of property by the following mediums: permanent paints, dyes, pens, markers, or any substance that could cause a visible marking lasting for more than 72 hours.

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Special thanks to our attorney-mentor, Francis Battersby.

Suspended for Respect?

SCHOOL

Mount Olive Middle
Mount Olive
Grade 8, Honorable Mention

TEACHER

Becky Hull-Clark

STUDENTS

Shriya Bakhshi, Arelys Chaparro, Sahit Chintalapudi, Nicholas Denton, Austin Goll, Kaitlyn Halter, Evan Heller, Amanda Karram, Christopher Keenan, Maxwell McVicar, Jennifer Ojukwu, Grace Previte, Zachary Stanilious

FACTS

Allen Black, a 14-year-old at Frost Hills High School, has played hockey for six years. On January 23, 2009, his hockey coach, Hawk E. King, was diagnosed with melanoma and died on September 18, 2009. Allen was extremely grief-stricken by the death of his longtime friend and mentor. After gathering a large number of students from his hockey team, he and his teammates decided to wear black bandanas in honor of their coach, as black represents melanoma. The next day, the team came into school wearing black bandanas on their heads.

Principal Sue Spend, who had been hired over the summer, was unfamiliar with many of the community's recreation coaches, and was unaware of Coach King's death. Before the school year began, the principal reviewed students' files, especially those who were on the Frost Hills Yetis hockey team last season since they had gained a reputation due to their aggressive nature. Therefore, on September 19, when the principal observed a number of children wearing bandanas, she assumed their attire was gang wear.

Principal Spend called Allen and his hockey team to her office during 4th period and questioned them about their motives for wearing bandanas. Before he could explain his motives to her, Principal Spend ordered Allen and his team to refrain from wearing bandanas to school. She warned them that if they continued, she would have to take more serious action, which might include in or out of school suspension. On September 20 the entire team

wore the same attire wrapped around their heads. Therefore, Principal Sue Spend promptly suspended the whole hockey team. As a result, Allen Black is taking legal action against Principal Spend for violation of his First Amendment right to freedom of expression.

ISSUE

Did Principal Sue Spend violate Allen Black's First Amendment right to freedom of expression when she ordered him to remove the black bandana from his head?

WITNESSES

For the Plaintiff

Allen Black
Polly Ticks

For the Defense

Sue Spend
Sharon Burns

WITNESS STATEMENTS

Testimony of Allen Black

My name is Allen Black, and I am a student at Frost Hills High School. On September 18, 2009, my hockey coach, Hawk E. King, died of melanoma, a type of skin cancer. He had been my coach for six years and was my longtime friend and mentor. Our families spent a lot of time with each other, and he even tutored me when I was having trouble in school.

He helped the team and other students get through difficult times in middle school. Throughout my hockey years, his coaching techniques helped improve my team's skills. My whole team was devastated when he passed. My team wore black bandanas to school in honor of our coach, as black represents melanoma.

During 4th period on September 19, the new principal, Dr. Spend, called us into her office to discuss our attire. She explained how our matching bandanas presented us as a gang. Principal Spend added that the dress code states that gangs and gang wear are not allowed in school, and many students may have become intimidated. My hockey team may not have the best reputation, but we were certainly not trying to create any sort of gang. Furthermore, she told us that we were violating the dress code by wearing the bandanas on our heads. In response, I stated that the dress code only prohibits hats, hoods, and scarves. It does not say anything about headbands, which many other students wear without getting in trouble. As a result, she asked us to stop wearing the bandanas.

My team refused, as we were not forming any type of gang, but rather honoring our coach. I am currently a student in Mrs. Polly Ticks' civics class, and recently we have been learning about the U.S. Constitution and the Bill of Rights. I recall the class discussion in which Mrs. Ticks encouraged us to stand up for our First Amendment rights. Therefore, we carried out our idea to wear black bandanas to school. Mrs. Ticks thought it was an excellent plan and supported our idea to wear the bandanas.

The next day, September 20, when we came to school wearing our black bandanas again, the principal was very upset by our actions and

immediately called us into her office that morning. Principal Spend suspended my team for one full school week. This violates our right to freedom of expression as guaranteed by the First Amendment.

Testimony of Polly Ticks

My name is Polly Ticks, and I am a civics teacher at Frost Hills High School. I have been teaching at Frost Hills High School for 12 years. Allen Black told me that the hockey team was going to wear black bandanas in honor of Coach Hawk E. King. I thought it was a great idea since Hawk was a very caring person and deserved to be honored by his players. He was a positive role model and influential person in their lives.

On September 19, when the hockey team wore the black bandanas, I was quite shocked that Principal Spend ordered the students to take them off. In my class, I teach my students about the U.S. Constitution and the Bill of Rights. I use the "Students' Rights Handbook" as a teaching guide. Therefore, my students are very aware of their rights. I also teach about the *Tinker v. Des Moines Independent Community School District* case. And so, the hockey team is fully aware of their rights granted to them as a result of this case.

The team did not deserve to be suspended; they did not break any rules. The Frost Hills High School Dress Code states that hats, hoods, and scarves are not permitted in the school. The boys wore the bandanas as a headband. Other students who wear headbands to school do not receive any disciplinary consequences. Girl Scouts and Boy Scouts wear their vests to school and do not get punished for representing their group. What are we really teaching these students about democracy if we unfairly and unjustly deny them their precious First Amendment rights granted under the Constitution?

Testimony of Sue Spend

My name is Principal Sue Spend. This is my first year at Frost Hills High School. I had been a principal at three other schools before I transferred to Frost Hills High in August of 2009. I have a doctorate degree in education from Princeton University. In addition, I have received the National Principal

Leadership award for three consecutive years.

When I started at Frost Hills High, I had no knowledge that the inspiring recreation hockey coach, Hawk E. King, had recently passed away. On September 19, 21 students were wearing black bandanas on their heads. I assumed the worst, having seen gangs in my previous schools. Therefore, I pulled all the participants into my office. I gave them an ultimatum: if they wore the bandanas again, there would be serious consequences. They tried to explain to me why they were performing this act of defiance, at which time I showed them the dress code rule that clearly states, “gang related clothing, symbols, and colors are not permitted.” They then left my office annoyed.

The next day they returned with the same apparel. Once again I called the boys into my office. I reminded them of what I had said the previous morning and that I intended to see it through by suspending the entire group immediately. I couldn't let rules be broken. Later that day I received a strongly worded phone call from Mrs. Black, who said she would contact an attorney and legal action would be taken for violating Allen's First Amendment rights.

Testimony of Mrs. Burns

My name is Mrs. Burns, the mother of Raymond Burns. Recently, my son's longtime recreation hockey coach died of melanoma. Raymond told me of the hockey team's plan to wear black bandanas. This alarmed me, as there are several gangs in our area. I am aware that bandanas are associated with gang wear. I don't want my child involved in a gang or gang related activities.

When he returned from school on September 19, Raymond seemed upset. Concerned about his behavior, I made several attempts to find out what was wrong but I failed. The following day he wore the bandana again.

Later that day, I received a phone call from Principal Spend. She explained that my son and his friends were warned that if they wore bandanas once again, there would be serious consequences. Principal Spend told me that Raymond was to be suspended for five days. I understood and agreed

completely with the principal's decision. The dress code prohibits gang wear, and my son and his teammates clearly violated the code. In addition, Raymond defied the principal's authority. Therefore, when Allen Black decided to file a civil suit against Principal Spend, I was shocked. I firmly believe Principal Sue Spend made the right decision.

INSTRUCTIONS

The plaintiff must prove by a preponderance of evidence that Principal Sue Spend violated Allen Black's First Amendment right to freedom of expression when she ordered him to stop wearing the bandana.

SUB-ISSUES

1. Did the hockey team have a right to expect their freedom of expression to be protected by the school?
2. Did Principal Sue Spend act properly on behalf of the school and the students' safety?
3. Should the students be allowed to continue wearing the black bandanas?

CONCEPTS

1. Burden of proof: preponderance of evidence.
2. First Amendment right to freedom of expression.

LAWS

1. The First Amendment of the United States Constitution

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 peacefully to assemble, and to petition the Government for a redress of grievances.

2. *Tinker et al v. Des Moines Independent Community School District et al.* No. 21

Supreme Court of the United States 393 U.S. 503 February 24, 1969, Decided

Student freedom of expression -

- Students have the right of political freedom of expression.
- Involved in wearing armbands (etc.) in peaceful protest.
- Protects expression of social, political, and economic issues by high school and middle school students.

3. *Bivens v. Albuquerque Public Schools* 899 F. Supp 556 (D. New Mexico, 1995)

Prohibition of certain clothing -

- Not all clothing is protected as freedom of expression in the First Amendment.
- “Saggy” pants and other articles of clothing of the sort are not considered speech, and therefore not protected under the First Amendment.

4. *Olsen v. Board of Education of School Dist. No. 228*, 676 F. Supp 820 (N.D. III 1987)

The court upheld the school’s authority to enforce anti-gang rules.

- The anti-gang policy does not violate the students’ right to free speech and expression.
- Free speech and expression does not protect individuality.

5. Frost Hills High School Dress Code

Students may not wear or display headgear in or outside the building during school hours. “Headgear” is defined as hoods, scarves, and hats. Students may wear headgear for religious and medical purposes only.

Gang related clothing, symbols, and colors are not permitted. A gang is stated as a group of three or more persons who have a common group name or identifying symbol, tattoo or other physical marking, style, or dress, or use of hand signs. Also, a gang includes criminal street gangs, who may perform gang related activities and commit crimes and offenses.



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