

Featuring Winning Cases from the New Jersey State Bar
Foundation's Law Fair 2011 Competition



For grades 3–6

MOCK TRIAL EXERCISES

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Preface

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

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

Following are the winning students' cases from the Law Fair 2011 Competition. They may be used as a guide to prepare a submission to the Law Fair Competition or as a classroom exercise. Please note that some of the cases may contain “laws” created by the students for the purposes of this competition, which may not necessarily be actual laws. Since these mock trials were written by children, the content should not be considered technically accurate.

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

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

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

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

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

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

The Case of the Crooked Crocs

SCHOOL

Yantacaw School
Nutley
Grade 3, First Place

TEACHER

Marcia Napolitano

STUDENTS

Donald Hunter, Lindsey Knowles, Krishna Desai,
Philip Ruiz, Cameron Schilp, Owen Harris
Pax Ardanz, Mary Mankowich, Gregory Rovinsky,
Gabrielle Mackiewicz, Kayla D'Auria

FACTS

On July 11, 2010, Chloe Crockit and her father were shopping in the Shoestring Mall. They boarded an escalator that would take them down to the lower level. They were at the last step of the escalator when Chloe's shoe got stuck in the escalator. Frantically, her father struggled to free her foot. He was able to get the shoe unstuck, but not before Chloe fell down, badly injuring her knee.

Chloe was rushed to the hospital where the doctors treated her injuries. Mr. Crockit is suing the Up and Down Escalator Company for all medical expenses, as well as for his daughter's ongoing physical therapy on her knee. He claims that the accident happened because of a malfunction in the escalator.

ISSUE

Is the Up and Down Escalator Company responsible for the accident in which Chloe Crockit got her foot stuck in the escalator?

WITNESSES

For the Plaintiff

Robert Crockit
Sam Security

For the Defense

Edward Escalator
Mia Foote

WITNESS STATEMENTS

Testimony of Robert Crockit

On July 11, 2010, I took my daughter Chloe shopping at the Shoestring Mall. She had just gotten a gift card to Build a Bear for her birthday, which was two days earlier, and she was excited to spend it. We never made it to the store. It is located on the basement level of the mall so we were taking the escalator down when the accident happened.

We were just about to get off the escalator when Chloe started yelling, "Ow, ow, my foot!" I looked down in time to see her shoe being sucked into the teeth at the bottom of the escalator, where the stairs



go into the floor. I grabbed her foot and started to pull. Chloe was forced down to her knee by the moving escalator, just as I managed to free her foot. The whole incident probably lasted only one or two seconds. At first I thought Chloe had escaped being injured. But then I saw her knee, it was bleeding hard and my poor daughter was screaming with pain. Chloe had to go directly to the hospital where she had to have knee surgery. Her foot was also bleeding slightly where it was stuck. The flowered crocs she was wearing were completely destroyed.

This accident was caused by the machinery in the escalator. Her shoe was caught in the teeth at the bottom. It is the fault of the Up and Down Escalator Company that my daughter was hurt and they should pay for all the hospital and physical therapy bills.

Testimony of Sam Security

My name is Sam Security. I was at the Shoestring Mall on the day of Chloe Crockit's accident. I was standing nearby when I heard the girl scream. I saw that the escalator had pulled her shoe right into the machinery. Somehow her father managed to pull the shoe free. The poor little girl was injured, however. Her knee and foot were both bleeding and her father took her to the hospital immediately.

After they left, I had time to look over the scene and I tried to figure out what had happened. I am not a mechanic or an engineer, but even I could see what the problem was. The way an escalator is designed at the top and bottom, there are teeth where the stairs disappear into the floor. These teeth can actually pull an open shoe like a croc right into the machinery.

There should be some kind of a safety device that prevents shoes from touching the dangerous parts of an escalator. There should also be a warning sign about certain types of shoes. The plaintiff's attorney has asked me to read the warnings that were on the escalator at the Shoestring Mall. So here they are:

- 1) Stand facing the direction of travel.
- 2) Hold onto the handrail.
- 3) Keep feet away from the sides.
- 4) Small children must be held by the hand.
- 5) Dogs must be carried.

Nowhere on the warning sign did it say "Certain types of sandals get stuck in the escalator machinery!" If it had, this accident might never have happened.

Testimony of Edward Escalator

My name is Edward Escalator and I am the president of the Up and Down Escalator Company. We installed the escalator at the Shoestring Mall and regularly inspect and service it. According to our records, it was inspected on July 6, 2010, less than a week before the accident. At the time, the escalator was in perfect working condition. After the accident, I personally inspected the escalator again and found that it was still functioning perfectly. It also has a spotless record; there has never been an accident reported since it was installed 13 years ago.

I did some research and found out that there have been 77 accidents in the past five years with shoes getting stuck in escalators. According to the Consumer Product Safety Commission, all but two of the accidents involved a certain soft-sided clog type shoe. Chloe Crockit was wearing this type of shoe at the time of her accident. That is why her foot got caught in the escalator. It was the shoe's fault, not the machinery. By the way, the warning sign that Mr. Security read is a standard sign approved by the Consumer Product Safety Commission.

On behalf of the Up and Down Escalator Company, I am very sorry for the pain and suffering Ms. Crockit has experienced, but it is not the fault of our company. We complied with all laws and followed all regulations regarding the operation of the escalator at the Shoestring Mall.

Testimony of Mia Foote

My name is Mia Foote. Two years ago I had the same type of accident that happened to Chloe Crockit, and I was wearing the same type of shoes. I had traveled to San Francisco for a family reunion. I was on the escalator at my hotel, about to step off at the top. There was a small gap at the top where the escalator goes into the floor and my soft-sided sandal got stuck. There was a safety plate covering the opening, but it didn't prevent the shoes from

getting caught in the machinery. I yanked my foot quickly and luckily for me, the sandal came loose. It did cause me to sprain my ankle, but I am glad that I wasn't more seriously hurt.

I have no doubt what caused my accident. It was the shoes that I was wearing. They have a certain design which easily gets stuck in small openings. That is why they are not allowed on certain amusement park rides, and have even been banned by some schools. The type of escalator I was riding was completely different than the one at the Shoestring Mall. But the shoes were exactly the same.

The accident was not the fault of the Up and Down Escalator Company. Ms. Crockit's foot got stuck because of her shoes, not because of the escalator.

INSTRUCTIONS

The jury must decide by a preponderance of the evidence if the Up and Down Escalator Company is responsible for the accident in which Chloe Crockit got her foot caught in an escalator.

SUB-ISSUES

1. Did the escalator machinery malfunction?
2. Was the fact that Chloe was wearing crocs to blame for the accident?
3. Was the escalator properly maintained and inspected?
4. Was the accident the fault of the shoe or the escalator or both?
5. Were the warning signs adequate for the escalator?

CONCEPTS

1. Premise liability.
2. Personal damages.
3. Strict liability.
4. Failure to warn.
5. Preponderance of the evidence.

LAWS

1. **Personal Damages:** Damage is a loss or harm resulting from injury to a person or property. Damage refers to compensation, such as money judgment, provided to a person who has suffered a loss or harm due to an unlawful act or negligence. The person at fault must compensate the injured party.
2. **Failure to Warn:** Liability can be found where the person or company responsible had reason to know that there was a dangerous situation, but neglected to warn the public in a timely and appropriate manner. Many escalators have warnings, yet in a number of cases the courts have found the defendants liable when escalator riders were caught in the mechanism because the defendant should have warned of the danger of being caught.
3. **Strict Liability:** Under this doctrine, liability is established because an escalator is seen as unreasonably dangerous.
4. **Assumption of Risk:** In tort law, that a plaintiff voluntarily accepted or exposed himself to a risk of damage, injury, or loss, after appreciating that the condition or situation was clearly dangerous, and nonetheless made the decision to act.

The Broken Branch Blunder

SCHOOL

Spring Garden
Nutley
Grade 3, Second Place

TEACHER

Marcia Napolitano

STUDENTS

Stella Dabrowski-Wheeler, Nicholas Duca,
Cade Harkins, Laney Heffelfinger,
Antonio Lampon, ClaraMae Mercado,
Marissa Realmuto, Davia Ritacco

FACTS

On July 6, 2010, Joey Baseball and his friends were playing baseball on Ballbranch Drive, near the home of Mrs. Alicia Carbroke. Joey hit a foul ball in the direction of Mrs. Carbroke's driveway, where her brand new car was parked. When Mrs. Carbroke came out to go to the store, she noticed that her car had been damaged. The side view mirror was broken and the windshield was cracked. On the ground next to the car there was a baseball and a tree branch.

Mrs. Carbroke is suing Joey Baseball for the cost of the mirror and the windshield. She claims that the ball he hit caused the damage to her car.

ISSUE

Is Joey Baseball responsible for the damage to Mrs. Carbroke's car and should his parents pay for the cost of the repairs?

WITNESSES

For the Plaintiff

Alicia Carbroke

I. Witless

For the Defense

Joey Baseball

Wally Weatherman

WITNESS STATEMENTS

Testimony of Alicia Carbroke

My name is Alicia Carbroke and I live on Ballbranch Drive. There has been a problem here for years with these boys playing baseball in the street. They should not be using a public space for that type of activity. There is a baseball field in the park two blocks away where they could play. I remember one time when one of the boys was almost hit by a car while playing in the street.

They never pay attention to which way the ball is hit either. That is why the ball flew onto my property and struck the tree. My car was sitting in the driveway like it always is when I am home. It should be a safe place for a car. That branch has been there for years with no problems. If the ball had not struck the branch, the branch would not have fallen. And my car would not have been ruined!

When I came out and saw what had happened, I took my car to a body shop to have it fixed. It was very expensive. I think Joey Baseball's parents should pay for the repairs to my side view mirror and windshield. It is his fault that my car was damaged.

Testimony of I. Witless

On the day of the accident, I was eating my lunch when I heard some kids laughing outside. I looked out the window and saw the three boys

playing baseball in the street. I watched them for a few moments, wondering if they might hit the ball towards my house and possibly break a window. When Joey Baseball was about to bat, I decided to go back and finish my lunch. I heard one of the boys say “Are you ready?” Then I heard the crack of a ball hitting a bat. I quickly returned to the window, in time to see the branch falling and striking Mrs. Carbroke’s car. I did not see the ball hit the branch. But it is obvious that the ball was responsible for making the branch fall.

In my opinion, Joey Baseball’s parents should pay for the repairs to the car. And those boys should stop playing baseball in the street!

Testimony of Joey Baseball

My name is Joey Baseball and I am 12 years old. I live on Ballbranch Drive. My friends and I like to play ball in the street because it is a quiet street that does not have a lot of traffic. The ball has never gone near anyone’s house or broken any windows. We are very careful about that. On July 6, we were playing in the street as usual when I hit the ball in the direction of Mrs. Carbroke’s yard. It was a good shot and it flew right past the trees. We were on our way to find the ball when we heard a crack and the branch in Mrs. Carbroke’s driveway fell onto her car.

That is when Mrs. Carbroke came out of her house and started yelling at us that we.... broke her car. It is not fair that she is blaming us. I am very sorry about her car, but it is not our fault that the branch was loose and fell because of the bad storm.

Testimony of Wally Weatherman

My name is Wally Weatherman. I have lived next door to Mrs. Alicia Carbroke for 10 years. I would be happy to tell you about the weather on the day before the accident. You see, I watch the Weather Channel all the time so I always know all the weather. Anyway, the storm arrived at around 2:00 p.m. on July 5, and it rained hard for two hours and twenty minutes before finally slowing down to a drizzle. The thunder and lightning were very bad, and, according to the weather report, there also were strong winds of about 45 miles per hour.

Oh, yes, about Alicia Carbroke. She has several large trees on her property. Never once in all those years did Alicia do anything to take care of those trees. I told her several times to cut down the dead tree limbs but she never did it. There was one branch that was hanging right over her driveway and it would wobble in the wind. That’s right... wobble! I am not surprised that it finally fell on her car, especially after that terrible storm. There were three other trees damaged in the neighborhood too. Mrs. Carbroke could have avoided the accident if she had taken that branch down before the storm. It is not the fault of Joey Baseball’s baseball.

By the way, you might be interested to know that the storm on July 5 was the worst one we have had in this area since 1996.

INSTRUCTIONS

The jury must decide by a preponderance of the evidence if the ball that Joey Baseball hit was the cause of the damage to Alicia Carbroke’s car.

SUB-ISSUES

1. Did the ball cause the branch to fall?
2. Did the branch fall because of a weakened condition?
3. Is Mrs. Carbroke partially to blame for the branch falling?
4. Was it the branch or the ball that was responsible for the damage to the car?
5. Would the branch have fallen if the ball had not hit it?
6. Should the boys be playing baseball in the street?

CONCEPTS

1. Foreseeability.
2. Property damage.
3. Negligence.
4. Contributory negligence.
5. Preponderance of the evidence.
6. Liability.

LAWS

1. Personal and property damages: Damage is a loss or harm resulting from injury to a person or property. Damage refers to compensation, such as money judgment, provided to a person who has suffered a loss or harm due to an unlawful act or negligence. The person at fault must compensate the injured party.
2. Negligence: A person who, through negligence, causes injury to person or property, is responsible for those injuries. It is the failure to exercise that degree of concern for the safety of others or property that a reasonably prudent person would exercise.
3. Comparative negligence: If you suffered injury or property damage, to the extent it's your fault, you may not be able to recover. That's because you contributed to the loss, and it's not fair to make others pay for your actions.
4. Public Space Doctrine: In a free and democratic society, public spaces should be accessible to everyone only on conditions that they are not engaging in behavior which causes harm to other people's property.

It's the Leash You Can Do

SCHOOL

Lincoln Elementary
Nutley
Grade 3, Honorable Mention

TEACHER

Marcia Napolitano

STUDENTS

Sofia Araujo, Raymond Chen, Alexa DeToma,
Conor Fitzpatrick, Jacob Gonzalez, Nicole Kane,
Nicole Maffucci, Joseph Mastandrea, Alexis Merritt,
Michael Mills-Velez, Gabrielle Posternock,
Sofia Torres, Victoria Ventura, Ariana Vlasakakis,
Iziah Washington

FACTS

On October 23, 2010, Mr. Doug Walker was on the way to the park with his dog Rocky. Rocky was a small, light brown pug with black ears. Both of them enjoyed their daily walk in the park and they traveled the same route everyday to get there. As they walked down Doggone Lane, they passed the home of Ms. Diana Driver. Ms. Driver was pulling out of her driveway when her car ran over Rocky, breaking his leg.

Mr. Walker is suing Ms. Driver for the cost of the veterinarian's bill. He claims that she was not watching where she was going when she ran over his dog.

ISSUE

Is Ms. Diana Driver liable for the injuries to Mr. Walker's dog, and should she pay for the cost of the veterinarian?

WITNESSES

For the Plaintiff

Doug Walker
Eva Seen

For the Defense

Diana Driver
Dale Man

WITNESS STATEMENTS

Testimony of Doug Walker

My name is Doug Walker and I like to walk my dog. I have a wonderful little dog named Rocky. On October 23, Rocky was struck by a car driven by that woman, Ms. Diana Driver. This is what happened. Rocky and I were on our way to the park for our daily walk. We were walking down Doggone Lane when Ms. Driver started backing out of her driveway. I thought she would stop and check in her rear view mirror before leaving the driveway. But she never stopped at all. She backed up and my poor dog disappeared under the car.

I started screaming his name and she finally stopped the car. But not before she had run over his leg. My poor Rocky yelped in pain and I had to carry him all the way to the vet. It is a very painful and expensive process to repair a broken leg on a dog. I think Ms. Driver should pay all the vet's bills because she is a careless driver and is totally to blame for the accident.

Testimony of Eva Seen

My name is Eva Seen. I live next door to Diana Driver on Doggone Lane. On that morning, I was in my yard raking leaves. I saw Mr. Walker walking down the street with his dog. I have seen him many times before, always with his dog. You can just tell by watching them that Mr. Walker loves his dog very much. That is why I feel so bad about what happened.

They were just walking by Ms. Driver's house when I noticed Ms. Driver getting into her car. Mr. Walker had passed the house when she started to pull out of the driveway. This is not the first time that I have seen Ms. Driver drive too fast as she backed out of her driveway. She doesn't even stop when she reaches the end of the driveway to check for cars or pedestrians.

A moment later the dog started yelping and Doug Walker started screaming. I ran out to help but Ms. Driver had stopped the car already and helped him to pick up the poor little dog. Mr. Walker ran down the street with the dog in his arms. As a dog owner, I can imagine what he was going through.

In my opinion, the accident was Diana Driver's fault. She never stopped or slowed down her car as it backed up. Ms. Driver should pay for all the cost of the dog's vet bills.

Testimony of Diana Driver

My name is Diana Driver and I live on Doggone Lane. On the morning of October 23, I was on my way to work. I got into my car, checked the rear view mirror, and started to back out. That is when I hit the dog that belongs to Mr. Walker. As soon as I realized that I had hit him, I jumped out of the car to assist him. But he did not want my help. He just kept screaming, "My poor baby, my poor baby!" and he ran off down the street.

I have never hit an animal or person with my car. I also swear that I did check my rear view mirror and I didn't see anything there. I had seen the man and dog walking down the street. So when I checked in the mirror, and saw that Mr. Walker was in front of the next house, I assumed that his dog was with him. How was I to know that he had one of those fancy leashes that can stretch 10 feet? It is also too bad that the dog was too small for me to see in the rear view mirror.

I am very sorry about my car hitting the dog but it was not my fault. Mr. Walker should get a leash that keeps his dog closer to him. Then this would never have even happened.

Testimony of Dale Man

My name is Dale Man and I am the mailman for Doggone Lane. I have been delivering mail for about 26 years. Part of our training includes how to handle animals, especially dogs. Sometimes a dog will pull at its leash, trying to get loose to chase me. The Post Office has warned us that with the new flexi leashes, dogs can go a lot farther. I don't think Mr. Walker realizes that those leashes are against the law. They are too long!

I was just putting mail in Ms. Seen's mailbox when I saw Mr. Walker and his dog walking down Doggone Lane. The dog started to chase a squirrel, and darted in front of Ms. Driver's driveway. It happened so fast that Mr. Walker didn't even have time to react. The flexi leash was so long that the dog was able to get too far away from him.

I felt bad that the dog was struck by the car... and so did Ms. Driver, but it was not her fault. If Mr. Walker had been using a regulation leash, his dog would not have been near her driveway.

INSTRUCTIONS

The jury must review all the testimony and decide if the accident in which Mr. Walker's dog was injured was the fault of Ms. Diana Driver.

SUB-ISSUES

1. Was the leash in use longer than was allowed by law?
2. Did Ms. Driver check her rear view mirror before backing up?
3. Was the dog too far from its owner?
4. Was the length of the leash a factor in the accident?
5. Was Ms. Driver driving too fast?

CONCEPTS

1. Preponderance of the evidence.
2. Premise liability.
3. Contributory negligence.
4. Burden of proof.
5. Credibility of the witnesses.

LAWS

1. The defendant will be found negligent if the plaintiff can prove the defendant's conduct was the cause of the injuries to the dog.
2. Contributory negligence – If the plaintiff's acts contributed to the injury, such acts may reduce, but not necessarily eliminate the responsibility of the defendant.
3. A dog whose primary purpose is as a pet, must be restrained on a six-foot or shorter length lead when on public property.
4. A leash should be of sufficient strength to restrain the animal should the animal try to run away from the owner or keeper.
5. The responsibility for the dog having suffered an injury depends upon its cause. If the driver was not driving conscientiously, the driver can be made liable.
6. The dog, being the property of the dog owner, was the owner's duty to take all reasonable precautions to keep his property safe.

A Taxing Taxi Trial on a Tuesday!

SCHOOL

School #1
Fort Lee
Grade 4, First Place

TEACHER

Elsa Osso

STUDENTS

Matthew Epstein, Mary Jo Hobeika, Thomas Hum,
Grace Lee, Katherine Park, Natalie Reptak,
Arushi Shrimal, Rebecca Son, Ryan Yum

FACTS

Sam Sung was a marketing consultant and had been working for the Electronics-Are-Us Company for three months when he was assigned the job of traveling out of state for the purpose of delivering a presentation to prospective clients. His flight was scheduled for Tuesday, January 11, 2011.

Sam Sung was a hard worker who took great pride in his position at the company. However, this particular presentation had a tight deadline. This and the fact that his son had required emergency medical attention on the day prior to his scheduled flight prevented Sam from putting the finishing touches on his important presentation.

When Sam's plane landed, he quickly retrieved his luggage and proceeded out of the main entrance of the airport to the waiting taxi cab. Before doing so, however, he stopped at a nearby Skybucks stand to grab a cup of coffee. As the taxi exited the local

area and made its way to the highway, Sam took out his brand new Pear laptop and began to work.

After about fifteen minutes, the taxi driver unexpectedly slammed on his brakes. The sudden stop caused the coffee to spill all over Sam's expensive designer suit and all over the keyboard. When Sam tried to continue with his work, he noticed that the keys were jammed, and he couldn't get them to budge.

As a result of this incident, Mr. Sung could not deliver his presentation. He is suing the Rush Hour Taxi Service Company for the cost of dry cleaning his suit, a new Pear laptop and an additional fee to compensate for the company's lost time because his boss had to reschedule the presentation.

ISSUE

Was the taxi driver negligent and should his company be held liable for the damages?

WITNESSES

For the Plaintiff

Sam Sung
Ella Tronics

For the Defense

Tex E. Kab
Anna Mal



WITNESS STATEMENTS

Testimony of Sam Sung

My name is Sam Sung. I have been employed by Electronics-Are-Us Company for three months. I worked for another company for twenty-five years. Unfortunately, my former company was a much smaller company and went out of business due to the poor economy. I was very lucky to be hired by Ella Tronics. Since I was so grateful to get another job, I was determined to help the company succeed. I was very happy when I was asked to travel out of state to present our new product to new clients.

I worked non-stop to prepare my presentation, and I was proud of the outcome. I had planned to put the finishing touches on the presentation over the weekend prior to my flight, but I had a cold and a slight fever and decided to rest so I would feel 100% fine on the day of the presentation. I was a bit concerned because of the tight schedule, but I planned to do the remainder of the work on Monday. As it turned out, on Monday, the day before my flight, at approximately 2:00 p.m., I received a phone call from the school nurse informing me that my son had fallen while playing on the playground and that he had hit the back of his head. The nurse said that he appeared fine, but suggested that I bring him to the hospital for x-rays just to be sure he did not have a concussion. My wife is an elementary school principal, and I did not want her to worry, so I went to the school and then to the hospital.

Needless to say, it was quite a busy day at the hospital. Luckily, my son was okay, but by the time we got settled in at home, it was getting late. While I had spent some time on the work on Monday morning and Monday night, I still wanted to review it one more time and thought that I would be able to do that during my flight. During the short flight, however, I was distracted by a crying baby and was unable to focus during the last part of my review.

When my plane landed, I had just enough time to stop for a Skybucks coffee. I was relieved to finally be in the taxi cab that my company had waiting for me. At that point, I was eager to get to the hotel, but the driver didn't seem to know where he was going. Since I had a map, I suggested a shortcut. To my surprise, he seemed a bit rude, but

he did follow my directions. I was relaxed then so I thought it would be a good time to review my work. That turned out to be a huge mistake. As soon as I had opened my presentation and made a few minor revisions, I was harshly jolted forward in my seat. The stop was so abrupt that my coffee spilled all over my suit and the keyboard. Just as I was about to press the SAVE button, the computer shut down. I was unable to restart the computer. While I had saved my presentation on a USB, the hotel did not have a compatible laptop.

I felt terrible. I knew that I had let my boss down. She had to reschedule the conference for the following day, which made the company lose money. I don't understand why the taxi driver didn't know the directions to the hotel, or why he was traveling at thirty-five miles per hour instead of the twenty-five miles per hour speed limit. It was a short roadway, but it had several speed limit signs. Clearly, if he had been a responsible driver, none of this would have happened. But ultimately, I blame the taxi company for hiring an incompetent driver.

Testimony of Ella Tronics

My name is Ella Tronics. I started my Electronics-Are-Us company seven years ago because I wanted to sell new technological games that are fun and educational. I have worked very hard to promote my business because I feel strongly that, while there are many electronic toys on the market, most of them do not consider the importance of brain development in children.

When Mr. Sung came to see me for an interview, I knew immediately that he was the best person for the job. He genuinely seemed excited about our products, he came highly recommended by his previous boss, and he had good communication skills, which he would need for the many presentations that he would be delivering. Even though he had only been working for my company for three months, I was confident that he would do a great job at his first formal out-of-state conference, so I did not hesitate to give him that assignment.

Needless to say, I was very unhappy about what happened to Mr. Sung in the taxi cab. I was particularly upset because I had recently switched my taxi cab company to this new one.

I made the switch because it gave better rates and claimed to have the best service. You can imagine how disappointed I was to learn that this driver, who had caused so much trouble by not knowing the directions and by being a negligent driver, had even received a speeding ticket on another occasion. I was sorry to have made the switch, and I went right back to the other taxi cab company the day after this incident.

I know that Mr. Sung never imagined that his first big conference for the company would turn out like this! I could hear the distress in his voice when he phoned me. Due to the circumstances, we had to reschedule the presentation for the following day. While Mr. Kab may not have intended to cause such damages, he is still responsible under the law. His driver's negligence caused Mr. Sung, my company, and all of my prospective clients a lot of grief. His company should be held liable and should compensate Mr. Sung and my company for all of the unnecessary trouble.

Testimony of Tex E. Kab

I am Tex E. Kab, the owner of the Rush Hour Taxi Service Company. I have owned this company for twenty-nine years. I, like Mrs. Tronics, have also worked very hard to run a business which provides quality service to all of its passengers. In twenty-nine years, my company has never been sued. The only few complaints that we have ever received were about the traffic or the inclement weather, which delayed our drivers, but that sort of thing is beyond our control!

According to my knowledge, on Tuesday, January 11, at approximately 11:30 a.m., my driver was at the airport waiting for Mr. Sung. Mr. Sung apparently entered the taxi cab hastily, coffee cup in hand. I don't think that he even bothered to introduce himself. Instead, he asked the driver to please get him to the hotel as soon as possible. The driver proceeded towards the main road, but Mr. Sung insisted that he take a shorter route. I might add that this employee is a very cautious driver, and he did not feel comfortable changing the route. However, he wanted to please his passenger, so he followed Mr. Sung's directions. Unfortunately, these directions took him on a rather isolated road.

When the driver asked if he should turn around, Mr. Sung was too busy working on his computer and didn't even lift his head. Suddenly, a deer sprang out of surrounding forest area, causing the driver to slam on his breaks. Before he knew it, Mr. Sung was yelling at my driver and saying that he was incompetent. Mr. Sung never bothered to ask what had happened. At this point my driver was extremely upset, but he did not yell back because he is a good employee.

Even though the driver in question has only worked for me for two weeks, he is a responsible driver who cares about my company. When I hired him, I knew that he had a speeding ticket on his driver's record, but he had received that ticket nearly three years ago. He told me that he had been speeding to his mother's house because she had hurt her back while working in her garden. His application states that he has never been in an accident.

My trustworthy driver was clearly not the cause of this unfortunate event. On the contrary, it was Mr. Sung who caused this mess from the moment he entered my cab and told my driver to "step on it!" Then he made the driver take a shortcut that was unknown to him. What did Mr. Sung expect the driver to do when he saw the poor, defenseless deer in the road? What would he have done if he were in the driver's seat? Finally, Mr. Sung should have known better than to drink his coffee in a moving vehicle while working on a laptop! What was he thinking? He should have done his work and drank his coffee at home!

Testimony of Anna Mal

My name is Anna Mal. I have been working for A.R.T.A., also known as the Animal Rescue Team Association, for three years. I have loved animals since I was a child. Three years ago, I heard about a hit and run accident that occurred on the same road that the taxi driver was on during the morning of January 11. When I heard that a deer was struck and left to die, I was shocked. I became involved with A.R.T.A. to protect the amazing wildlife that inhabits the park area that surrounds the road. I want to help all of the animals, from the smallest sparrow to the biggest moose!

Unfortunately, there have been several other accidents on that road through the years. The road is short and cuts through a beautiful wooded area. The few cars that travel on this road make it quite dangerous for all of the animals. As of now, it is not illegal to use that road, but I have been working with the mayor of the town to solve that problem by closing the road.

The road does have signs that inform motorists about the deer and that ask them to put on their brakes if they see a deer approaching. Even though it inconvenienced a passenger, the taxi driver did the right thing to brake for the deer and avoid crashing into it. In addition to being hurt or killed itself, a deer crashing into a car can cause severe damage to the car, but worse than that, the impact can seriously injure or even kill the people in the car.

Under the circumstances, perhaps Mr. Sung should not be so upset about his suit or even his presentation. Maybe he should thank the taxi driver for saving his life!

INSTRUCTIONS

The plaintiff must prove by a preponderance of the evidence that the taxi driver's negligence, in causing damage to the passenger's possessions, prevented the passenger from delivering his presentation, which in turn caused his company to lose money. If the ruling is in favor of the plaintiff, the Rush Hour Taxi Service Company is thus liable for compensation.

SUB-ISSUES

1. Who is responsible for the damaged suit and laptop?
2. Should the taxi driver have changed his route?
3. Should Sam Sung have been drinking coffee in the taxi?
4. Should Sam Sung have been doing his work in the taxi?
5. Was the taxi driver speeding?

6. If he wasn't speeding, should the taxi driver have slowed down further when he saw the signs that warned about the deer?
7. Does any responsibility rest with Sam Sung's boss because she switched taxi companies?

CONCEPTS

1. Preponderance of evidence.
2. Burden of proof.
3. Credibility of witnesses.
4. Negligence.
5. Liability.
6. Tangible property.
7. Compensatory damages.

LAWS

1. Property damage refers to injury to personal property through another's negligence. Property damage may include harm to an automobile, a tree, a house or any other possession.
2. Liability is the legal responsibility for a person's acts or omissions. The plaintiff must prove that the defendant failed to fulfill a duty and the connection of that failure to the injury or harm it caused the plaintiff.
3. Negligence is failure to exercise the care toward others which a reasonable person would provide given the circumstances. Negligence also occurs when taking action which such a reasonable person would not take given the circumstances.
4. Compensation is the amount received after an injury or a loss to "make one whole" (or at least better). Compensation refers to the payment made by an insurance company.

Playing or Paying

SCHOOL

Ventnor Educational Community Complex
Ventnor
Grade 4, Second Place

TEACHER

Sharon Weinstein

STUDENTS

Rahaf Abdallah, Patrice Boselli, Ye Chen,
Ryan Christiano, Santino Fuscellaro, Ryan Josephs,
Jay Kapasiawala, Emily Locke, Mukitur Mamun,
Mansi Patel

FACTS

On September 26, 2008, Mrs. Teller, a fourth-grade teacher at Chen Elementary School, informed her class that they will be presenting a Thanksgiving play. The play will be about Native Americans and Pilgrims. Mrs. Teller told her students that they could bring props useful to the play. Brian Smith brought in a BB gun. During lunch period, Tommy Shatterson went into the classroom and took the BB gun from Brian's backpack. During recess, Tommy shot the gun and the bullet hit Emily Roberts' tooth and chipped it.

ISSUE

Should Tommy Shatterson and Brian Smith be responsible for the cost of repairing Emily Robert's chipped tooth?

WITNESSES

For the Plaintiff

Emily Roberts

Mrs. Teller

For the Defense

Brian Smith

Tommy Shatterson

WITNESSES STATEMENTS

Testimony of Emily Roberts

My name is Emily Roberts of the Chen Elementary School. On September 27, 2008, I was talking with my friends and I turned around to get a jump rope. Then a tiny bullet hit my front, adult tooth and chipped it! I had to go to the dentist. The dentist wanted to put a cap on my tooth to repair the damage, but it cost \$600. My family can't afford to fix my tooth. When the bullet hit my tooth, it really hurt and now every time I look in the mirror, I get upset when I see myself!

Testimony of Mrs. Teller

My name is Mrs. Teller and I work at the Chen Elementary School. On September 26, 2008, I told my fourth-grade students that they were allowed to bring in props that would be useful for our Thanksgiving play. The next day, one of my students named Brian Smith brought a BB gun for the play. When I said to bring in useful props, I meant clothing, plastic tools and fake food. During lunch period, Tommy Shatterson snuck into the classroom and took the gun. At recess, when I was speaking to another teacher, Tommy shot the gun and the bullet hit Emily Roberts' front tooth. I never meant for this to happen. I was just looking for some props for the play.

Testimony of Brian Smith

My name is Brian Smith and on September 26, 2008, Mrs. Teller told the class to bring in props useful for our Thanksgiving play. Since the play was about Pilgrims and Native Americans, I brought in a BB gun the next day. The Pilgrims had guns, so I thought it was useful since my part in the play was Miles Standish. I didn't know that my backpack was opened and that someone would steal and shoot the gun! I didn't even know we couldn't bring BB guns to school because I'm new. Mrs. Teller didn't say anything specific. She just said that we could bring in useful props, so I did!

Testimony of Tommy Shatterson

My name is Tommy Shatterson and on September 27, 2008, I saw Brian Smith bring a BB gun to school as a prop for the Thanksgiving play. I wanted to borrow it for recess, so I asked him but he didn't answer. He seemed like a nice kid, so I thought he wouldn't mind if I borrowed it for the period and returned it. I played cops and robbers with my friends during recess and I showed it to my friends. Then, when the game began, I pulled the trigger and a tiny bullet came out and chipped my classmate, Emily Roberts', tooth. I had no idea there was a bullet inside the gun.

INSTRUCTIONS

The plaintiff must prove that through negligence and misuse, damages occurred and the defendants must be responsible for payment and repairs.

SUB-ISSUES

1. Should Brian Smith have brought the BB gun to school?
2. Should Tommy Shatterson have waited until he got an answer from Brian Smith before he used the BB gun?
3. When Brian Smith brought the BB gun to school, should he have given it to Mrs. Teller instead of storing it in his backpack?

4. Should Mrs. Teller have given examples of the props she wanted for the play?
5. Could Mrs. Teller have been keeping a better watch on her students during recess instead of talking with other teachers?
6. Did the Chen Elementary School provide their students with a rule book explaining appropriate school behavior?

CONCEPTS

1. Pain and suffering.
2. Emotional damage.
3. Negligence.
4. Burden of proof by a preponderance of evidence.
5. Assumption of risk.
6. Reckless endangerment.
7. Witness credibility.
8. School safety.

LAW

If negligence and misuse result in personal damage, the defendants are liable for repairing damages, pain and suffering and making the plaintiff whole again.

Roller Coaster Rampage

SCHOOL

Deerfield
Mountainside
Grade 4, Honorable Mention

TEACHER

Suzanne Jenks

STUDENTS

J.D. Armstrong, Andrew Cahill, Madison Fong,
Cailyn Jurczak, Liam Murphy, Drew Rittman,
Darian Sawycky, Jake Schkolnick, Leah Slepoy,
Erin Splaine, Will Tracy

FACTS

On August 17, 2009, Michael Shortstuff went to Cool Coasters Amusement Park with his friend, Tony Tall. Michael was jealous of Tony because he was so tall, and Michael never got to go on Cool Coasters' biggest ride, The Konga Koaster. In order to go on The Konga Koaster, you had to be 54". However, Michael was only 53".

Michael's birthday was a few days prior to going to the amusement park. He had just gotten Heelys. Heelys are shoes with wheels on the bottom. They made Michael about one inch taller. He decided he wanted to wear them to the park because he didn't want to walk. When he went to go see if he was tall enough to ride The Konga Koaster, he found out that he was. Tony and Michael both went on the ride together.

When Michael got to the front of the line, Michelle Mistake, operator of The Konga Koaster, let him on, thinking that he was tall enough. While he was on the ride, Kenny Koaster, owner of Cool Coasters Amusement Park, pressed the emergency brake because a kid threw up. Michael's head hit the safety bar, and he slid under the bar, breaking his leg. Michael's parents are now suing the amusement park for the cost of Michael's medical bills and continuing physical therapy.

ISSUE

Is the amusement park negligent and should they pay for the cost of Michael's medical bills and continuing physical therapy?



WITNESSES

For the Plaintiff

Michael Shortstuff

Tony Tall

For the Defense

Michelle Mistake

Kenny Koaster

WITNESS STATEMENTS

Testimony of Michael Shortstuff

My name is Michael Shortstuff. I am twelve years old. On Monday, August 17, 2009, I went to Cool Coasters Amusement Park with Tony Tall. I wore Heelys because I would rather skate around the park instead of walking. I have been there before, and it is a long walk around the park. I did not realize that Heelys made you that much taller. I was so excited to go on The Konga Koaster because I had always been too short to go on the ride before that day. Michelle Mistake should have seen I was wearing Heelys. I put my heels away when I was second in line, so she must have realized. She quickly measured me before letting me on the ride. Michelle Mistake rolled her eyes at me, I guess because of the Heelys, then she let me on the ride.

Once she rolled her eyes at me, I knew she did not like me. I did not question her because that would be mean. I would not want to tell her she was doing a bad job while working. All of a sudden, Kenny Koaster stopped the ride when we were just coming down from the second loop. I had my hands up, having a good time. When the ride stopped, I slipped under the safety bar and hit my head on it. I also crumpled my leg on the front of the car. Afterwards, my parents told me I was too short to go on the ride. I ended up with a broken leg and concussion. I still have to go to physical therapy three times a week for the next six months.

Testimony of Tony Tall

Hi, I'm Tony Tall. I'm twelve years old. Michael and I have been best friends since kindergarten. On Monday, August 17, 2009, we went to Cool Coasters Amusement Park together. Michael was wearing Heelys because he always has trouble keeping up with me. We were going to ride The Konga Koaster. Michael is in Boy Scouts with me. He earned his Trustworthy Badge and his Loyalty Badge this year. Michael would never have tried to sneak on a ride or lie about his height. I think Michelle Mistake was responsible for his injuries.

When we boarded The Konga Koaster, Michael and I ran to the back car. We were so excited. We were yelling and screaming. I didn't even bother looking at Michael. All of a sudden, the ride stopped. I glanced over at Michael, but I couldn't see him there. I started to worry and looked down at my feet. There was Michael, down at the bottom of the car. He looked extremely hurt. I started screaming "help!" at the top of my lungs.

Testimony of Michelle Mistake

Hello, my name is Michelle Mistake. I am twenty years old, and I just started working here at Cool Coasters Amusement Park this summer when this disaster happened. My job is to let people on to the scariest, tallest roller coaster at Cool Coasters Amusement Park. It is known as The Konga Koaster. You have to be a certain height, 54" to be exact, to be allowed on this ride. I haven't had a problem with height requirements.

It was just another ordinary day, Monday, August 17, 2009, to be precise, at Cool Coasters. Michael Shortstuff, who looked very excited about going on the ride, had just gotten to the front of the long line. I remember him because of the obnoxious shirt he wore that read "The President Stinks!" I rolled my eyes at him because I disagree. I measured him and gave him a quick glance. I watched him get onto the back car with his friend.

Before the ride started, he was on the back car, fooling around, not sitting correctly, putting his hands outside the car, and just being bad in general. I repeatedly asked Michael to stop, but he acted as if I didn't exist.

The ride started and everything was okay. Then my boss, Kenny Koaster, pressed the emergency brake because he saw a kid throw up. Because of the sudden stop, Michael slipped down and hit his head on the safety bar and crushed his leg on the front of the car. I called 911 on my cell phone. An ambulance came and the paramedics said he had a broken leg and possibly a concussion. They pulled him onto a stretcher. I then realized Michael was wearing Heelys. His parents are trying to make Cool Coasters pay for his medical bills and therapy and have named me in their suit. I don't think we were responsible for Michael's injuries.

Testimony of Kenny Koaster

My name is Kenny Koaster. I run Cool Coasters Amusement Park. My father used to run it, but he retired about six years ago, and passed it down to me. I am thirty-seven years old, and started to run this park when I was thirty-one years old. This park and I have gone through a lot together... from broken rides...to budget cuts. I would hate if anything were to happen to it.

I was walking through the park on August 17, 2009. I walk past The Konga Koaster every day on my way to my office. When I was walking by that day, I decided to stop by and take a look. I saw vomit falling off the side before the second loop. I had to hit the emergency brake. When I did, I heard a loud bang. A boy, about eleven years old, hit the safety bar, and crushed his leg on the front of the car. I signaled Michelle to bring the ride down. About an hour later, two irate parents barged into my office. They said I would be working for them by the time they were done with me. I soon knew I was in big trouble!

INSTRUCTIONS

The plaintiff must prove by a preponderance of evidence that the amusement park's negligence caused Michael's injuries.

SUB-ISSUES

1. Is the amusement park responsible for taking into consideration riders' footwear?
2. Were Michael's injuries caused by his body position during the ride?
3. Were Michael's injuries due to his height?

CONCEPTS

1. Liability.
2. Negligence.
3. Burden of proof.

LAW

1. Contributory negligence - If the plaintiff's actions caused or contributed to his/her own injury, his/her carelessness will be taken into consideration and may prevent collecting any money.
2. Negligence is established when:
 - a. the defendant had a duty to protect the plaintiff from harm,
 - b. the defendant fails to fulfill that duty, even if unintentionally, and
 - c. the defendant's failure causes physical trauma to the plaintiff's person.
3. Damages.

Cyber Bullying and the Wimpy Kid

SCHOOL

Yavneh Academy
Paramus
Grade 5, First Place

TEACHER

Elaine Weisfeld

STUDENTS

Ariel Berman, Aviv Davidovich, Shoshi Fogelman,
Jonathan Galandauer David Jaeger,
Zev Kirsch, Ephraim Najman, Noam Putterman

FACTS

PS 86 had scheduled their annual Book Fair one week after the release of the popular children's book, *Diary of a Wimpy Kid*. The book was expected to be a great seller. A picture of the book was on the Book Fair flyer and on the announcement which was e-mailed to each parent.

Billy Bully, a fifth-grade prankster, soccer wannabe who warmed the bench more often than he played, and below average student, thought he had a great idea. When he thought of a "wimpy kid," he thought of EZ Mark, a chubby, clumsy fourth-grader who wore plaid pants and bright shirts to school and often complained that the assigned work was "too easy" for him. One day on the playground, Billy took out his new cell phone and took several photos of EZ. He downloaded the pictures on one of the school computers and distorted EZ's features, giving him big ears, crooked teeth and a silly smile. Billy replaced the "wimpy kid" on the Book Fair flyer with the photo of EZ and e-mailed the flyer to all parents in the school. Billy thought this was hysterically funny and that his prank would meet with the approval of his fellow students.

It didn't take long before students started to call one another about the flyer; they quickly recognized EZ's eyes and expression. Within hours, Mr. and Mrs. Mark called the principal, Arthur Ity, who, with the help of the computer teachers, traced the e-mailed picture to the school computer on which Billy was working. The principal called Billy into

his office with his parents. He reprimanded Billy for harassing EZ, suspended him from the soccer team and assigned him to work for the technology department three days a week during recess.

The next day the Marks accused Billy Bully of cyber bullying and defamation of character. EZ was so embarrassed that he could not attend school. His lawyer asked for payment for tutors for the days EZ could not attend school and for psychological therapy to deal with the embarrassment and humiliation. They also sued the school administration for lack of supervision on the playground and in the computer room.

ISSUE

Is Billy Bully guilty of cyber bullying and defamation of EZ Marks's character? Is the school negligent in providing adequate supervision on the playground and in the computer room? Are either the Bully family and/or the school liable for the tutoring and therapy expenses and for EZ's pain and suffering?

WITNESSES

For the Plaintiff

Ted Mark
Ima Watcher

For the Defense

Arthur Ity

Billy Bully

Testimony of Ted Mark

I'm the father of EZ, a fourth-grade student at PS 86. My son is destroyed by the actions of Billy Bully. He is so embarrassed that he can't attend school and is regularly getting psychological help. On January 2, my son was on the school playground when Billy Bully took his picture with his cell phone. He later distorted his features and at the end of the day, shortly before dismissal, he went into the computer room where he hacked into the school administrator account. On the account, Billy changed the Book Fair flyer, pasted the distorted picture on the flyer and e-mailed the flyer to every family in the school. Then he logged off without any teacher on the playground or in the computer room noticing what he was doing. By the time EZ got home, a few kids called telling him that it was his picture on the Wimpy Kid flyer. EZ saw the e-mail and was so embarrassed and ashamed. He looked ridiculous! This is cyber bullying at its worst!

I am suing the Bully family for what their son did. He invaded EZ's privacy by taking the picture and humiliated him by sending the ridiculous looking picture to everyone in the school. They should pay for the tutors we need until EZ goes back to school regularly and for the therapist he is seeing twice a week. Both the tutoring and the therapy are very expensive.

I'm also suing the school system and principal for negligence. There was not enough supervision on the playground and in the computer room. Nobody was paying attention to what Billy was doing. He was not supposed to be taking EZ's picture. The teachers on duty should have taken away his cell phone. Once in the computer room, the teachers – there were three of them- should have seen Billy putting the ridiculous picture of EZ on the Wimpy Kid flyer. Somebody should have noticed his hacking into the administrative account. The New Jersey anti-bullying law of 2002 emphasizes the importance of disciplinary action for children who bully. Kicking

Billy off the soccer team and having him work in the computer room aren't disciplinary actions. The school should have reported this to the police. What they did is a token compared with my crestfallen EZ's suffering.

Testimony of Ima Watcher

My name is Ima Watcher and I'm a classmate of EZ's. I was on the playground and saw Billy Bully playing around with his new cell phone. I saw he was taking a picture and was laughing. I was trying to glance at the screen. From what I could see, there was a picture of EZ with huge ears, crooked teeth, and a goofy smile. Although I knew that what he was doing was wrong, I wouldn't tell the teachers on the playground because I thought Billy would beat me up. Now that I see how hurt EZ was, I know I should have told them what Billy did. Since this happened, we learned in school how important a bystander can be. I'd act differently now. I feel really bad for EZ because of all his embarrassment and humiliation.

Testimony of Arthur Ity

My name is Arthur Ity. I have been the principal of PS 86 for the last seven years. I have a rule at school that students should not use cell phones during school hours. On the day in question I had three teachers supervising the playground. We were not aware of the incident when Billy Bully took a picture of EZ with his cell phone. I was unaware of what happened until my phone rang about fifteen minutes after school was dismissed. Mrs. Mark called and she was upset and angry. She said her son's photo with distorted features was on the Wimpy Kid book on an e-mailed flyer for the school Book Fair and he was miserable. I went online and it certainly was an embarrassing picture. The phone continued to ring with parents calling about the e-mail. Among them was a call from Mrs. Watcher saying that her daughter Ima told her that Billy took the picture of EZ on the playground. I went to the computer room and the teachers said that Billy was working on a computer near the end of the day. None of them knew what he was doing, but on examining the computer, they were able to tell that

he hacked into an admin account and e-mailed the ridiculous flyer to everyone in the school.

I felt awful and so do the teachers. I called Mr. and Mrs. Bully and told them to bring Billy to my office in the morning. When they came, I told Billy he could not represent our school on the soccer team this season and that he had to do school service in the computer department under strict supervision. The parents had Billy write EZ a note of apology and I thought the issue would pass. I never expected a lawsuit. My staff and I are sorry this incident happened, but we are not responsible for this mishap. I had adequate supervision.

Testimony of Billy Bully

My name is Billy Bully and I feel awful about this whole incident. I was just playing a joke on my schoolmate. People are always picking on him. One day I was playing with my new phone and I took a photo of EZ. When I was messing around on my phone, I figured out how to change the eyes, the nose, and the smile to make him look ridiculous – a real wimp.

Near the end of the afternoon I went to the school computer room. There were a couple of teachers and a group of kids in the computer lab, but they were busy working on a project and weren't paying any attention to me. I played around with the computer and hacked into the school administrator account. I found a USB port that the teachers who went on a school trip had been using, so I used it to download the picture onto the computer. The photo sure was funny looking. I realized that I could put the picture on the *Diary of a Wimpy Kid* book which was on the flyer, and I could e-mail it to every family in the school. So I did it!

I never thought this would wind up in court. It was just supposed to be a joke. I didn't mean to hurt anyone or for anything bad to happen!

INSTRUCTIONS

The plaintiff must prove by a preponderance of the evidence that Billy Bully bullied EZ Mark and caused him mental pain and suffering and/or that the school was negligent in providing adequate supervision on the playground and in the computer room.

SUB-ISSUES

1. Was Billy Bully playing a joke on EZ Mark or bullying him?
2. Was supervision on the playground adequate since the teachers on duty did not see Billy taking photos of EZ? Were the teachers properly trained to recognize bullying?
3. Could the bystander, Ima Watcher, have stopped Billy Bully by reporting him to the teacher(s) on duty?
4. Was the supervision in the computer room adequate since Billy Bully was able to hack into an admin account to send the silly photo of EZ Mark to the families of PS 86?
5. Was the principal negligent in not reporting the incident to the police?
6. Did the computer department try to put enough security on the computer to prevent hacking?
7. Was the principal's punishment, dismissing Billy Bully from the soccer team and assigning him to work in the computer department, adequate and appropriate?
8. Is the Bully family and/or the school liable for the costs of EZ Mark's therapy, tutors and pain and suffering?

CONCEPTS

1. Bullying.
2. Cyber bullying.
3. Bystander role.
4. Defamation of character.
5. Negligence.
6. Witness credibility.
7. Burden of proof.
8. Liability.
9. Damages.
10. Pain and suffering.

LAWS

1. Anti-Bullying Bill of Rights of 2010 (A-3466) – signed into law January 2011.

School employees must be trained to recognize bullying and to respond appropriately.

Students must be educated to recognize bullying and what actions they can and should take.

2. NJSA 18A:37-13-18 (2002)

Children who bully are subject to appropriate disciplinary action.

School bullying incidents must be reported to authorities.

Too Old for Treats?

SCHOOL

Valley View Elementary
Montville
Grade 5, Second Place

TEACHERS

Erin Sullivan
Carolyn Ford

STUDENTS

Justin Adel, Taylor Blicht, Evan Dreher, Ashley Feng, Jessica Fleischer, Graycen Howard, Andy Kim, Kevin Merila, Katie Onello, Madeline Quinn, Brooke Radcliffe, Brian Reynolds, Matt Shupack, Megan Testa, Michael Touma, Matt Trezza, Emily Warshowsky

FACTS

On December 6, 2010, the newly elected mayor of Banderville, Lester Treats, announced that no one over the age of 13 would be allowed to trick-or-treat on Halloween. The town council passed the ordinance prohibiting anyone 13 or older from trick-or-treating, beginning the following Halloween, in 2011. During the previous year's Halloween, a number of vandalism incidents occurred: the town hall was hit with eggs, streets were littered with candy wrappers, a 14-year-old was hit by a car late at night while trick-or-treating with his friends, a small fire was started when a teenager knocked over a lit jack-o'-lantern, and young children were upset by older children in scary and gruesome costumes.

Sue Lantern is suing the town on behalf of her son Jack claiming that his First Amendment right to freedom of expression is being violated.

ISSUE

Is it legal for the mayor and town council of Banderville to ban children 13 years of age and older from trick-or-treating?

WITNESSES

For the Plaintiff

Sue Lantern
Harry Helper

For the Defense

Mayor Lester Treats
Otis L. Derman



WITNESS STATEMENTS

Testimony of Sue Lantern

My name is Sue Lantern. I'm a life-long resident of Banderville and I loved growing up here. My son Jack is 15 and I have a daughter who is 11. It is a family tradition that we all go trick-or-treating together and at this time of the year, it is a good way for a family to bond. By taking away our ability to trick-or-treat, you are forcing us to give up a treasured family tradition. You don't have that right!

For me, this is an issue of the First Amendment to the Bill of Rights. We have the right to express ourselves in this way. Dressing up for Halloween is one way our family likes to express our individuality. This is our belief and you are disrespecting it. I believe that by not allowing certain children to trick-or-treat, you are betraying our freedom of expression. This is because we should be able to say or wear what we want and do what we want as long as it doesn't harm others.

My husband and I feel this is a very special time for our family; we are all involved and enjoy this holiday. It is wrong for you to pass a law that prohibits us from being together.

Testimony of Harry Helper

I'm Harry Helper. Recently, I have been thinking about this really, really unfair law. Halloween is awesome and now I can't celebrate it. This law is age discrimination; it's preventing me from doing something just because of my age. I am 12-1/2 years old. I turn 13 right before Halloween. My friends will be able to go trick-or-treating but I won't.

This law banning 13-year-olds from trick-or-treating is also very unfair for me because I'm a straight A student. I help out with community service voluntarily. I never go out on mischief night. What difference does it make if I was born the day right before Halloween? It's just 24 hours.

Also, what's the big deal about 13? So what if we're growing up? I am going to be a teenager now. That should mean I'm going to act a lot more mature and adults should trust me even more.

The last thing I want to say is this: I also take care of my 16-year-old sister Janie, who has autism;

she thinks and acts like a 4-year-old. My dad died, so I always help my mother take my sister trick-or-treating; this takes a lot of stress off my mom because Janie enjoys it so much. I think that this law violates her civil rights because she has special needs; she is 16 years old but mentally she is immature, or like a child. She is also impulsive and sometimes cannot control herself; she needs me to go trick-or-treating with her to keep her safe. I guess I don't mind if I can't go trick-or-treating, but this law isn't fair to my sister and others with disabilities.

Testimony of Mayor Lester Treats

Hello, I'm Lester Treats - everyone calls me Les - the honorable mayor of Banderville. Due to problems in previous years, the council and I have decided to ban anyone over the age of 13 from trick-or-treating in the town of Banderville.

Last year, there were many incidents of misfortune. For example, a young man got mad at his peers because they excluded him from all the Halloween nonsense. So, he kicked over a resident's jack-o'-lantern and started a small fire. The volunteer firefighters had to be activated and there was quite a commotion. It is costly for the fire department to respond to foolish problems like this.

Also, a teenager was struck by a car at the corner of Main and Maple Streets when he was trick-or-treating at about 10 p.m. There was a street light out on that corner, so the family sued the town for \$6,000 for medical bills. When kids are out late at night, it is a liability for the town; our town cannot afford expenses like that for such ridiculous reasons. No parent with young kids would have their children out that late.

Also, last year our town was a mess after Halloween! There was garbage everywhere and some teenagers even threw eggs at our fine town hall. Do you know how much it cost us as the taxpayers to clean up this mess? I do! And it is too much! I should not have to use your money to clean up after irresponsible teenagers.

The council and I choose the age of 13 as a cut-off because that is when children should mature. At 13, they are no longer children, they are teenagers

and need to begin assuming responsibilities and behaving like adults. They should not be interested in getting dressed up in costumes and begging for candy; it is a children's activity.

So now I'm sure you all understand why we made this decision for the well being and safety of the citizens and to insure that the town's money is not wasted on problems we can avoid with a simple solution.

Testimony of Otis L. Derman

Hi, my name is Otis L. Derman and I am 75 years old. I live at 13 Olde Drive in Banderville. Here's what happens to me every gosh-darn October 31:

I'm sitting on my couch relaxing after dinner and the doorbell rings. I walk over to the door. I see my whole house vandalized with shaving cream on the windows, my trash cans spilled on the driveway, my jack-o'-lantern smashed and toilet paper in the trees. Squirrels don't need toilet paper! I see the candy I bought all over the grass. It's expensive to buy candy, but I like to do it for the little kids... they're so cute in their costumes, just like my grandkids.

But every year the same six-foot tall kids bring more and more friends and cause more and more problems. When the big kids ring my doorbell, sometime they just run away and they do this ALL NIGHT LONG. I have been paying taxes in this town for more years than I can remember; I shouldn't have to put up with this nonsense every year!

I have to spend the next day cleaning up the mess the teenagers make. I have no problem with Halloween for little ones, but these big kids are ruining the day for everyone; they should not be allowed to trick or treat once they grow up. When I was 13, back in the day, I had lots of responsibilities. I went to school and had a job and helped build this town.

INSTRUCTIONS

The plaintiff must prove by a preponderance of evidence that the town of Banderville is violating the rights of children 13 years of age and older with the ordinance that bans them from trick-or-treating on Halloween.

SUB-ISSUES

1. How is this law going to be enforced?
2. Do children have a constitutional right to trick-or-treat?
3. Why don't elderly residents just turn off their lights or not participate?
4. What "age" is a person with mental disabilities?

CONCEPTS

1. Preponderance of evidence.
2. First Amendments rights: freedom of expression- inability to express themselves.
3. Credibility of evidence.
4. Right to pursue happiness - maintain time-honored, family traditions.
5. Discrimination: age and disability.

LAW

In the State of New Jersey, towns are permitted to make laws regulating the public activities of children living in their town. The town of Banderville passed an ordinance that on Halloween night, no one 13 years or older would be allowed to trick-or-treat. This ordinance is based on the Ninth Amendment, allowing local governments to regulate activities not covered by federal or state laws.

Buy, Then Die

SCHOOL

Upper Township Elementary
Marmora
Grade 5, Honorable Mention

TEACHER

Tamela Raye Pittaro

STUDENTS

Kyle Callahan, Haleigh Flukey, Corrina Gallagher,
Abigail Hackney, Jack Halbruner, Grant Howell,
Morgan McLees, Sara Ruth, Alison Sannino

FACTS

On December 22, 2010, Gotta Pup's father went to One Stop Pet Shop and bought his daughter a seven-week-old English Bulldog puppy for Christmas. She had seen it there a few days earlier and begged him to buy it for her. Mr. Pup, Gotta's dad, asked the person working in the store, Givenya Money, if the dog was healthy. She said the puppy was fine. Mr. Pup specifically asked her to bring the manager of the store over to talk to him about the puppy and if it had any digestive problems, because that breed of dog was known for sometimes developing them. The manager, Iluv Dogs, reassured Mr. Pup that the dog was very healthy. He gave him a health certificate that promised that the puppy was in good health and the puppy came from a breeder that the store knew. Mr. Pup read it and signed his name on the certificate that he was buying a healthy puppy. Because of this, Mr. Pup bought the puppy for \$450 for his daughter.

The whole family enjoyed Christmas with the new puppy, whom they named Riley. On December 26, Riley was having difficulty breathing. He wouldn't eat or drink water. On December 27, Riley appeared to be sicker. He started to vomit repeatedly. Riley's belly became swollen and he started to drool. Alarmed, Mr. Pup and Gotta took Riley to the emergency veterinarian. The vet gave him injections of fluids and painkillers and sent him home with the family to rest. Riley died the next morning. Distraught, the Pup family returned to the One Stop Pet Shop and asked for their money

back because Riley had passed away. They also demanded that the store refund them the money for the emergency veterinarian. The manager of the pet store refused. They said that the health guarantee that they were given when they bought the puppy stated that they needed to bring the sick puppy back to the store to get their money back. The manager offered to give the family a new puppy instead, which they refused.

ISSUE

Was the pet shop negligent in selling a sickly puppy to Gotta Pup's family? Does One Stop Pet Shop have to refund \$450 of the purchase price of the dog and pay the veterinary bill that the Pup family spent because the puppy died?

WITNESSES

For the Plaintiff

Gotta Pup
Ima Vet

For the Defense

Givenya Money
Iluv Dogs

WITNESS STATEMENTS

Testimony of Gotta Pup

My name is Gotta Pup and I am nine years old. Last December, I went to the pet shop in town, the One Stop Pet Shop, and fell in love with an English Bulldog puppy. It was the cutest dog I had ever seen. I asked the salesperson if I could play with him and she let me. He was licking my face and was so lively and playful. I knew I had to have him. Since my parents had told me that they knew I would be a responsible pet owner, I decided to ask my dad to get him for me for a special Christmas present.

My dad went to the store and liked him, too. He asked the cashier if the dog was healthy. She wasn't sure how to answer so she asked the manager, Iluv Dogs, to speak to my dad. Mr. Dogs assured my dad that the puppy was 100% healthy and hadn't suffered from any stomach problems, which English Bulldogs sometimes have. He gave him an official certificate that said he was a healthy young puppy.

So he bought the dog and took him home. We were so excited to have a new puppy! We decided to name him Riley. He was so much fun! We loved the way he would beg for treats. He even liked people food! We thought he was adorable. Riley was the best Christmas present ever.

The day after Christmas, Saturday, December 26, Riley seemed to have trouble breathing. My parents weren't that concerned, because bulldogs seem to snort a lot when they breathe. The next day, Riley started to throw up repeatedly. He was drooling and his stomach became very hard. It was a Sunday, so we had to take him to the emergency vet's office in the next town. The vet gave him some fluids and medicine to help his pain. She let us take him home to rest in a quiet house. The next morning, we were shocked to find Riley had died in his sleep! I cried and cried. I can't believe that the store sold my dad a puppy that was sick. They are responsible for this tragedy.

Testimony of Ima Vet

My name is Ima Vet. I was working on Sunday, December 27, 2010, when the Pup family brought Riley, an English Bulldog, in to find out what was

wrong with their seven-week old puppy. He was vomiting and his stomach was hard. I examined him and found he was bloated. Although that doesn't seem like a serious problem, it can be in puppies. Because he was dehydrated, I injected him with fluids. I gave him pain medicine to help him become more comfortable. I offered to have Riley stay overnight in the animal hospital, but the Pup family wanted to take him home because it was quieter there, so they did. I told them to bring him in again in the morning for more tests to see what might be wrong. Unfortunately, Riley passed away that evening in spite of my care. The family was distraught.

I wish they had brought Riley to me before Christmas for a check-up. I could have advised them how to feed him and care for him. I have treated other animals that have come from the One Stop Pet Shop as patients in the past. Most of them have been healthy with minor problems that I could cure easily.

Testimony of Givenya Money

My name is Givenya Money. I have worked at the One Stop Pet Stop for three years. I consider myself a real dog lover. Just before Christmas, Gotta Pup came into our store to see the puppies. She was looking for a dog that was just right for her and her family. She found our male English Bulldog puppy and wanted to play with him in the store, so I let her. She had dog treats in her pocket that she fed the puppy. They seemed to love each other at first sight.

A few days later, her dad, Joe Pup, came into the store to see the puppy. Mr. Pup liked him, too, and told me he wanted to buy him for Gotta for Christmas. He asked me if the dog was healthy. I thought for sure that he was, but I knew it was best if my boss, the store manager, Iluv Dogs, spoke to him. We had no history about that dog having a problem with anything. Mr. Dogs gave him a certificate that said the puppy was in good health in our store. Unfortunately, a few days after Christmas, the puppy became sick and died. I was so sorry to hear about that. That puppy was in good health when he was at our store. I'm sure that something bad happened to him at his new home.

Testimony of Iluv Dogs

My name is Iluv Dogs. I am the owner and manager of One Stop Pet Shop. I have been in business for five years. We are open Monday through Saturdays 10 a.m. until 7 p.m. all year long. I pride myself on running a pet store that sells healthy puppies. We have a veterinarian check out any new puppies that come into our store. The English Bulldog had only been at our store for a week before the Pup family bought him for \$450 for a Christmas present for their daughter Gotta. We got him from a breeder we have used before in the Midwest. Their puppies have always been lively and healthy. Mr. Pup read and signed the health certificate that stated that the dog was in good health in our store. The certificate also stated that if a dog got sick, you could bring him back to our store for a refund.

I wished they had brought Riley back the day after Christmas. We could have had our veterinarian see him right away. Unfortunately, they waited too long to take him to the animal hospital. I really am sorry he passed away. He was a cute little puppy. The puppy was in good health in our store. Who knows what he ate at the Pup home? They could have fed him a lot of chocolate and other holiday treats a puppy shouldn't have. We offered to let them pick out another dog, but they would not even consider this. We are not to blame for the death of this puppy.

INSTRUCTIONS

The plaintiff must prove by a preponderance of the evidence that the One Stop Pet Shop is responsible for the puppy's death and needs to refund the cost of the dog and pay for the veterinary bills.

SUB-ISSUES

1. Did Gotta Pup feed Riley chocolate?
2. Did the dog eat other things that were harmful?
3. Did the One Stop Pet Shop make sure the puppy had no health problems before they sold him to the Pup family?
4. Should the Pup family have taken the puppy back to the One Stop Pet Shop immediately?
5. Was Ima Vet wrong in taking too long to identify the seriousness of the dog's condition?

CONCEPTS

1. Negligence.
2. Responsibility of the pet shop.
3. Credibility of the witnesses.
4. Preponderance of the evidence.
5. Burden of proof.
6. Liability.
7. Caveat emptor - "Let the buyer beware."

LAW

1. Pet dealers and employees must take reasonable care to sell animals free of disease or injury.
2. Retailers and dealers must not "knowingly" sell a cat or dog if the cat/dog requires immediate vet care or surgery.

Is Sheldon Saver a Team Player?

SCHOOL

Upper Township Middle
Petersburg
Grade 6, First Place

TEACHER

Tamela Raye Pittaro

STUDENTS

Hiba Ahmad, Amanda Attiya, Garrett Benvenuti,
Kimberly Brown, Kevin Catanoso, Thomas Olandt,
Jake Smith, Forest Wan

FACTS

Sheldon Saver, a twelve-year-old sixth-grade student at Fair Township Middle School in Fair Township, NJ, was, up until recently, an active member of the Fair Township Flying Tarantulas Field Hockey Team. He is the only male player on the formerly all-girls team. The Flying Tarantulas are coached by Caroline Crush, who is a social studies teacher in Fair Township and has coached the team for the past six years. The team's record during the 2009-2010 school year was 12 wins, 5 losses. There are seventeen schools in the same league as Fair Township, and none of them have any male players except for Sheldon's team. The team won all four games they played before October 15, 2010 during the current 2010-2011 school year.

Just before the Flying Tarantula's fifth game against Knockoutville Middle School on October 15, 2010 was ready to begin, the opposing coach, Crank E. Guy, insisted that Sheldon be made to sit out the game because his team is comprised of all girls. The referee Ref Jeff agreed with Crank E. Guy, which caused Sheldon's coach, Caroline Crush, to pull him out so they wouldn't be forfeiting the game. The Flying Tarantulas lost that game to the Knockoutville Nukes 2 to 7. The school district then notified Coach Caroline that Sheldon could no longer play on the girls' field hockey team and he could no longer practice with the team or participate in the games.

Mr. and Mrs. Saver, Sheldon's parents, are filing a lawsuit against the league to allow Sheldon to play.

ISSUE

Does the field hockey team's policy discriminate against males?

WITNESSES

For the Plaintiff

Caroline Crush

Sheldon Saver

For the Defense

Ref Jeff

Crank E. Guy



WITNESS STATEMENTS

Testimony of Caroline Crush

My name is Caroline Crush. I am a social studies teacher as well as the main coach of the Fair Township Middle School Flying Tarantulas field hockey team. I have been coaching for the past six years at Fair Township Middle School. This is my seventh year as a coach. My team has been somewhat successful over the past years. Last year was our best season up until this year. We won our division championships against Knockoutville with flying colors.

In August, we held tryouts for the 2010-2011 team. Sheldon Saver came out and I was very impressed by his skills. He has plenty of speed, endurance and strength and shows a lot of pure talent. He told me he had been playing field hockey since he was seven years old with his two older sisters and really liked the game. He also plays ice hockey for a recreation league in our area during the winter months. We welcomed him to the team and started practicing for the new season. All of the girls on the team like Sheldon and recognize that he would lead us to success this year. He has been a great team player.

Just recently we were getting ready to play a game against Knockoutville, coached by Crank E. Guy. Crank E. Guy told me that I had to pull out Sheldon because my team had an unfair advantage. He demanded that Sheldon sit out the game. Ref Jeff agreed with Crank E. Guy. Sheldon, being the team player that he is, agreed to sit out. We lost this game in unfair circumstances.

Then we got a notice from the school district that Sheldon had to quit the team immediately. Sheldon and his parents were devastated by this news. It is unfair. When I think of my team, it's not as fifteen girls and one boy, but as a whole team of athletes that work together to succeed. I have 16 players, period. Sheldon is a dedicated and committed member of our team. He should be allowed to play field hockey for the Flying Tarantulas.

Testimony of Sheldon Saver

My name is Sheldon Saver. I'm 12 years old and I'm in sixth grade at Fair Township Middle School.

I decided to try out for the field hockey team this past summer before I began attending the middle school. I've always liked to play sports and I enjoy playing all kinds of hockey. My older sisters played for the high school field hockey team, so I've grown up around the sport. This was Fair Township Middle School's only hockey team for me to join.

Everyone has accepted me on the team. The rest of the team doesn't mind me playing at all. The girls agree that it just makes them play better. I know there are parents that say that it isn't fair to have a boy play on an all girls team, but I believe that field hockey is a sport for everyone. Everything was fine until Coach Crank E. Guy decided that I wasn't allowed to play just because I am a male. He said if I didn't come out of the game, my team would have to forfeit. So unwillingly I came out of the game so my team could continue playing. Unfortunately, we suffered the first loss of the season. Then the school district made me quit the team. It is unfair. I just want to play with my team. All I wanted to do this year was to have fun playing field hockey.

Testimony of Ref Jeff

My name is Ref Jeff. I am a referee for the NJSFHL (New Jersey School Field Hockey League). I have had this job for thirteen years. This is the first time I have ever encountered a boy playing on an all girls' field hockey team. I first observed Sheldon Saver play as I refereed at a game where he played field hockey at the start of the current season. It was at a game between Fair Township Middle School and the Rigorous Middle School Hurricanes. The game was very aggressive and I had to call many penalties. Sheldon was definitely the strongest player on the Flying Tarantulas. The Rigorous parents who were watching their girls play complained to the school league officials that the playing field was uneven with Sheldon on the other team. They wanted him to be removed from that game, but he was allowed to finish. The Hurricanes lost that game 1-9.

On October 12, 2010 I received a phone call from Crank E. Guy, coach of the Knockoutville Middle School girl's field hockey team. He said he was worried about their upcoming game against the Fair Township Flying Tarantulas because their star player was a boy named Sheldon Saver. He thought

it was just wrong to have a boy playing a girl's sport. I looked into the matter. It turns out that twenty years ago, the league ruled against boys playing for girls' teams, and girls playing for boys' teams. So before the game, I talked to Sheldon's coach, Coach Caroline. I told her Sheldon either would have to come off the field or the whole team would forfeit. She didn't like it, but she agreed to pull Sheldon from the game.

It is not my fault that the school district finally enforced their rule about no boys playing on a girls' team. They were just doing what is right. Boys playing field hockey would dominate the games. All of the passes would go to them and they would never have to sit the bench. Also, most boys are much bigger and stronger than the girls. Field hockey is a female sport in the USA and should stay that way, in my opinion. Would this be fair in the sport of basketball? No way! If Sheldon and his parents want him to play field hockey, they should organize a boys' league.

Testimony of Crank E. Guy

My name is Crank E. Guy and I currently coach field hockey at the Knockoutville Middle School. Formerly, I was the field hockey coach for the Rigorous Middle School Hurricanes. I have coached for 12 years and I was always told that boys were never allowed to play field hockey with girls. So when I learned that Fair Township had a boy playing on their team this school year, I immediately thought that this was wrong. I called my friend Ref Jeff about this and he agreed that Sheldon should not be allowed to play. He had seen him play and knew it was an unfair advantage to his team to let him play with the girls.

On October 15, 2010, our team was scheduled to play against Fair Township. Ref Jeff had luckily looked into the league rules and learned that boys were not allowed to play on girls' teams. Ref Jeff told Coach Caroline that if Sheldon did not come out of the game, the Flying Tarantulas would have to forfeit the game. The school district backed him up. Now Coach Caroline, Sheldon's parents and Sheldon want to sue the league because he isn't allowed to play field hockey at all.

I agree that boys don't belong on all-girl hockey teams. How can boys play contact sports with girls? It isn't right. Most boys would rather play football than field hockey. Field hockey should remain a girls' sport like it always has been.

INSTRUCTIONS

The plaintiff must show by a preponderance of evidence that Sheldon Saver should be reinstated on the Fair Township Middle School field hockey team and that it is fair for boys to compete on girls' teams.

SUB-ISSUES

1. What was the criteria to make the team?
2. Did any female players have to be cut from the team to make room for a roster spot for Sheldon?
3. Is it fair to Sheldon to deny him participation in a sport based on gender?
4. Is field hockey considered a contact sport?
5. Are coed field hockey teams becoming more common in other states?

CONCEPTS

1. Preponderance of the evidence – burden of proof.
2. Witness credibility.
3. Gender equity.
4. Equal opportunity in athletics.

LAW

Title IX-

No person in the U.S. shall, on the basis of sex, be excluded from participation in, or denied the benefits of, or be subjected to discrimination under any educational program or activity receiving federal aid.

Task Text

SCHOOL

Brigantine North Middle
Brigantine
Grade 6, Second Place

TEACHER

Rita Coyne

STUDENTS

Emma DeLury, Natalie DiSandro, Rocquel Donofrio,
Duncan Hardiman, Joseph Hartman, Cody Husta,
Nicholas Kabala, Giavanna Mancuso,
Anthony Mullen, Zachary Nestor, Jessie Nikolaev,
Joseph Porpora, Antonio Quinones, John Riordan,
William Stroby

FACTS

On May 5, 2010, at 8:15 a.m., Timmy Texter was on his way to school. He was getting a ride in his mother's van. He arrived at school five minutes early and waited outside. While he waited, he sent an insulting text message about his teacher, Mrs. Reeder, to his friend, Nickie Sickie, who was home sick with the flu.

The message said, "Dude, ur so lucky ur not at school right now. I have 2 take the TASK test with fat Mrs. Reeder. She needs 2 lay off the fries." Timmy Texter was about to walk into the school when he hit the Send button.

By 8:45 a.m., Timmy entered the classroom where the NJ TASK test was being given. At that time, Mrs. Reeder was in the process of collecting all the cell phones, in accordance with the TASK test rules. In order to prevent the students from being disturbed during the test, she was checking to make sure all the cell phones were turned off. When she collected his phone, she attempted to turn the phone off, but she accidentally opened up the sent message. She couldn't help but read the message, since it had her name in it, and she felt it was derogatory towards her.

Mrs. Reeder gave Timmy Texter a 3-day suspension for writing something cruel about her. Timmy's mother sued Mrs. Reeder, on Timmy's behalf, for invasion of privacy and for reading his text message without his consent, thereby violating his Fourth Amendment rights.

ISSUE

Did Mrs. Reeder violate Timmy Texter's Fourth Amendment rights protecting him from unreasonable search and seizure by reading his text message without his permission?

WITNESSES

For the Plaintiff

Timmy Texter
Tammy Texter

For the Defense

Mrs. Reeder
Simon Charge

WITNESS STATEMENTS

Testimony of Timmy Texter

On May 5, 2010, at 8:15 a.m., I got a ride to school in my mother's van. I arrived at school five minutes early. While waiting outside, I sent a text message to Nickie Sickie because he was home sick. I made a harmless joke about Mrs. Reeder. Then the bell rang and I went into school. I went to my locker, but it was jammed, and I didn't want to waste time there since we were taking the TASK test that day. So instead of putting my cell phone in

my locker, I put it in my pocket. When I got to my classroom, Mrs. Reeder collected any cell phones the students had. I handed mine over.

After I gave her my phone, the teacher's aide started distributing the test materials. While this was going on, I saw Mrs. Reeder turning off all of the phones. When she came to mine, she was looking at it for a long time. It was a lot longer than with the other students' phones. After the test, she took me into the hall and asked me about the text message I sent. She asked me questions such as: "Did you send this text message?" "Why did you send the text?" "Who did you send it to?"

At the end of the day, she told me I had a 3-day suspension! I was furious because I was always on the A Honor Roll and I knew this would hurt my school record. I also thought it was unfair because Mrs. Reeder shouldn't have been looking at my text messages. We just studied the Bill of Rights, and I know that under the Fourth Amendment for search and seizure, she shouldn't have searched through my cell phone. It is a Federal crime to read someone else's mail; why isn't it a Federal crime to read someone else's texts? Also, I think I should be able to write whatever I want due to the First Amendment of freedom of speech which we learned about in Mrs. Reeder's class!

Testimony of Tammy Texter

On May 5, 2010, at 8:15 a.m., I took my son to school. I arrived there a little early, so I dropped him off in the schoolyard. He had his cell phone with him, and I noticed him texting as I drove away. Later that day, when I picked him up after school, he told me about his 3-day suspension! I asked him the reason for his suspension. He told me he sent an uncomplimentary text message about a teacher to his friend. I asked him how she knew about a private conversation between him and his friend. That's when he told me Mrs. Reeder had read his text message.

This was a private conversation my son had with his friend. It was not intended for anyone else's eyes. As a newspaper reporter, I know the First Amendment protects freedom of speech. In fact,

Timmy learned about this in Mrs. Reeder's social studies class. More importantly, I think Mrs. Reeder was wrong for reading his text messages. There is no excuse for invading his privacy. It's like reading someone else's mail.

Testimony of Mrs. Reeder

My name is Mrs. Reeder and I am a teacher at Texus Middle School. On May 5, 2010, Timmy Texter entered my classroom. The students were taking the TASK test that day. Texus school policy clearly states that cell phones are not permitted in classrooms and should be left in the student's lockers.

However, the school principal advised all teachers to collect any cell phones, just in case some students neglected to follow the policy. So, that morning, as soon as the students entered the classroom, I collected all cell phones, in accordance with that policy. As my aide was distributing test materials, I checked all phones to make sure they were turned off so the students would not be disturbed during the test. When I got to Timmy Texter's phone, I saw it was still on, so I attempted to turn it off. I accidentally pressed the wrong key. Instead of turning the phone off, I had mistakenly opened his text messages. One message caught my eye since it had my name in it. I couldn't help but read it. The message was highly insulting and disrespectful. I gave Timmy a 3-day suspension as a result.

I work hard at preparing these students for the TASK test, and was just doing my job by collecting the cell phones. Both the school policy and the state policy prohibit the use of cell phones during the TASK test. These policies are in effect so that students will not be disturbed and can concentrate on their tests. We want them all to do their best. If Timmy Texter had just followed school policy and stored his cell phone in his locker or kept it turned off, none of this would have happened.

Testimony of Simon Charge

My name is Simon Charge, and I am the principal of Texus Middle School. Our school administered the TASK test during the week of May 2, 2010. Our school policy states that all cell phones should be stored in the students' lockers. I advised all of our teachers to collect any phones that were not properly stored in the lockers to ensure the students would not be disturbed during the test. In addition, there are strict guidelines that must be enforced with regard to cell phone usage, as stipulated under the TASK test state regulations.

On the afternoon of May 5, 2010, Mrs. Reeder came to my office after dismissal. She advised me that she had collected several cell phones during the TASK test. She further advised me that, while she was turning them off, she accidentally viewed Timmy Texter's text message. She claimed the message was insulting and derogatory to her and she gave Timmy a 3-day suspension.

Technology is advancing so rapidly, some of these new cell phones are difficult to use if you're not familiar with them. Mrs. Reeder is an experienced veteran teacher with over 20 years of experience, and I'm sure Mrs. Reeder's intentions were honorable.

I'm all in favor of freedom of speech, but I don't think this applies when a student disrespects and insults our hard-working faculty. I agree with Mrs. Reeder's decision. Furthermore, all students were specifically advised, in advance of the TASK test, that no cell phones would be permitted in the testing classrooms.

INSTRUCTIONS

The jury must decide if Mrs. Reeder was negligent for reading Timmy Texter's text message in violation of his Fourth Amendment rights regarding search and seizure.

SUB-ISSUES

1. Is Timmy Texter in violation of school policy which prohibits cell phones from being brought to class?
2. Is Timmy Texter in violation of state policy for bringing a cell phone to a testing classroom when he had been specifically advised in advance not to do so?
3. Who determines what is offensive?
4. Is Timmy Texter guilty of libel for writing offensive comments about a teacher?
5. Does Timmy Texter have the right to say and/or write what he wants as protected under the First Amendment right of freedom of speech?
6. Was Mrs. Reeder simply following both school and state policy by trying to minimize classroom disturbances from cell phones?
7. Does Timmy Texter have a lesser expectation of privacy because he is a student?

CONCEPTS

1. Invasion of privacy.
2. Expectation of privacy.
3. Search and seizure.
4. Freedom of speech.
5. Libel.
6. Defamation of character.
7. Negligence.
8. School policy.
9. State policy.

LAW

1. **First Amendment Right for Freedom of Speech** – As protected under the United States Constitution's Bill of Rights First Amendment, US citizens are guaranteed the right of freedom of speech.
2. **Fourth Amendment Right for Search and Seizure** – As protected under the United States Constitution's Bill of Rights Fourth Amendment, US citizens are guaranteed protection from unreasonable search and seizure.
3. **Slander/Libel** – Slander is a legal term that refers to a lie which could harm the reputation of a person. If this lie is published, it is considered libel. In effect, slander is spoken, libel is published.
4. **Texas Middle School Policy** – It is Texas School Policy that all students' cell phones should be turned off and stored in their lockers during school hours.
5. **NJ State Policy** – No student shall be permitted to have a cell phone with them in the classroom during the TASK test, or the results of the test will be invalidated.

The Power's out without a Doubt

SCHOOL

Golda Och Academy
West Orange
Grade 6, Honorable Mention

TEACHER

Jamie Himmelstein

STUDENTS

Emily Blum, Alexander Brodsky, Anne Cannon, Ari Esrig, Shira Kalet, Alexis Kania, Matthew Nadel, Jessica Rips, Kimberly Robins, Hannah Sturm, Nava Wasser, Isabel Young, Samuel Zimerman

FACTS

Goodman Publishing Company, a New Jersey-based organization, was awarding 10 four-year college scholarships to any high school senior residing in and attending a school in New Jersey. To qualify for the scholarship, the students had to take a written test. The students who earned the top 10 scores would receive the scholarships. The test was being administered on December 19, 2010. 5,768 students applied to take the test in the State of NJ. Goodman Publishing needed a variety of facilities with enough appropriate testing space to accommodate all of the students, including those with special needs. The testing facilities were divided by county.

The application forms for three of the students from Unexx County, Kenneth Dewitt, Justin S. Good and Jessica DiSam, made it clear to the organization that they were physically handicapped and that they needed to have a handicapped accessible building. This was not a problem as their testing site was Powaliss High School in Unexx County, which is wheelchair accessible and meets the requirements of the Americans with Disabilities Act of 1990 (ADA).

On the night of December 18, 2010, a tree fell on the electrical lines near Powaliss High School. As a result, some of the building's power was corrupted. Among other things, it involved the heating system on the first floor and the elevator.

As the students arrived, they were directed to rooms on the second and third floors. When the

wheelchair-bound students, Kenneth Dewitt, Justin S. Good and Jessica DiSam, arrived, they found that there was no way to get to the heated floors of the building in their wheelchairs. Jonathan Johnson, the Director of Public Relations for Goodman Publishing, met with the three students and their parents to discuss their options. Because of their individual medical situations, there was no way for them to be carried upstairs. Since this was the only day the test was being offered, Mr. Johnson gave them the option of taking the test in one of the unheated first floor rooms. Their families argued with the organization that if they were taking the test in discomfort because of the lack of heat, their children would be at a great disadvantage. Due to the testing deadline, the tests had to be completed by that afternoon. Since there was no other option, the students took the test on the unheated first floor.

Once the tests were scored, Kenneth Dewitt, Justin S. Good and Jessica DiSam learned that they did not earn one of the top 10 scores, therefore not qualifying for the scholarships. The families of the three handicapped students are suing Goodman Publishing for discrimination because Goodman Publishing did not provide equal access to the testing site for all students.

ISSUE

Is the publisher guilty of discrimination by not providing an equal testing environment for the handicapped students?

WITNESSES

For the Plaintiff

Kenneth Dewitt

Farrah T. All

For the Defense

Jonathan Johnson

Marc Fixalot

WITNESS STATEMENTS

Testimony of Kenneth Dewitt

Hello, my name is Kenneth Dewitt and I am a senior at Fullaxess High School in Unexx County. I was in a terrible car accident when I was seven years old and became paralyzed from my waist down. I have been in a wheelchair since that day, and it has been difficult for me to get around. In addition, my ongoing medical expenses are difficult for my family to pay.

I am a straight “A” student. Throughout my years at Fullaxess High School, I have never gotten below an A. My school mentioned an organization that gives out college scholarships. I decided it was a great opportunity for me, and considering my situation, I felt that it would be a huge help to my family if I was able to receive the scholarship. I went to Goodman Publishing, the company administering the test, and filled out my application form. I specifically mentioned my disability to make sure that they were aware that they had to have access for me. Goodman Publishing had no problem with it and reassured me that I would be provided with what I needed to take the test.

On December 19, 2010, I went into Powaliss High School prepared to take the test when I was approached by Jonathan Johnson. He informed me that there was no heat on the first floor, so they had moved the test to the second floor. I assumed there would be an elevator to get me there. It turned out that it wasn’t working, and I had to take it on the first floor, which happened to be 50 degrees.

I decided to go ahead and take the test on the first floor because I didn’t want to miss out on this amazing opportunity. A few weeks later I got my results back and I found out that I did not receive the scholarship. Based on the top 10 scores I didn’t miss it by that much. I was in a room that was 50 degrees, with Justin S. Good and Jessica DiSam, two other handicapped students from my school. Since it was so cold in the room, it was harder for me to concentrate. If I was in a room that was heated, I am sure I would have done better. I am suing Goodman Publishing for not providing equal accommodations for the test and discriminating against handicapped students. I would like to receive the scholarship I missed out on due to discrimination by Goodman Publishing.

Testimony of Farrah T. All

My name is Farrah T. All and I have been an English teacher at Fullaxess high school for six years. Our school is wheelchair accessible. There has never been a problem with handicapped students having difficulties because of their individual circumstances.

I have been Kenneth’s teacher for two years and he has never received a grade lower than an “A”. Justin and Jessica are former students of mine and are also “A” average students. I am confident that all three could have been awarded scholarships, had they been more comfortable. I, like all teachers, follow the law of the Americans With Disabilities Act (ADA). These children should not have had to work under different circumstances than the other students taking the test because of their medical situations. They should have equal opportunities not only now, but throughout their lives. I feel that the organization showed discrimination because they did not meet the standards of the ADA.

Testimony of Jonathan Johnson

I am Jonathan Johnson, the Director of Public Relations for Goodman Publishing. My company was awarding 10 four-year scholarships to high school students who resided in and attended school in NJ. In order to be awarded this scholarship,

students were required to take a written test. On the night of December 18, 2010, due to a bad storm, a tree fell on the power lines near Powaliss High School in Unexx County where the test was being administered. This caused a partial power outage, resulting in an outage of the first floor heating system and the elevator. We had very little time to make other arrangements such as finding another building to administer the test, as the test was to be given on December 19, 2010. In addition, we had an electrician come to see what he could do in the time given, but there was not very much he could do.

We had done all we could to try to fix the effects of the power outage. The power outage affected only the first floor, so we decided to move the test to the upper floors of Powaliss High School. However, there were three wheelchair-bound students taking the test. These students could not go to the upper floors of the building because the elevator did not work. When these three students arrived at Powaliss High School, we informed them of the issue and we offered to try to transport them upstairs. However, there was no way to do this. Furthermore, we also could not have them take the test on another day for then we would have to create another version of the test and administer it formally just for three students. In the end, the wheelchair-bound students took the test on the first floor.

Goodman Publishing is being sued for discrimination by the families of the handicapped students. We would never discriminate against handicapped people of any sort. We tried to do as much as possible to fix the problems and situate the students. I do not believe that Goodman Publishing should be sued for something that was out of our control.

Testimony of Marc Fixalot

My name is Marc Fixalot. I am a licensed electrician in the state of New Jersey. On December 19, 2010, at 6:30 a.m., Jonathan Johnson called me and told me that he had an emergency. He was holding a big test at Powaliss High School in Unexx County, New Jersey, and the heat on the first floor and elevator were not operating. I went to the school as fast as possible to help. I examined the heating

and elevator and could not find any way to fix them. The parts we needed were from Wisconsin; it would take a minimum of 48 hours to get them shipped and we only had an hour and a half until the test was to begin. There was nothing I or another electrician could do to get the parts.

INSTRUCTIONS

The jury has to decide if Goodman Publishing is guilty of discrimination against the handicapped students.

SUB-ISSUES

1. Would the handicapped students actually have gotten one of the top 10 scores if they had taken the test in a heated environment?
2. Was the electrician not doing his job by not being able to solve the problem?
3. Was Jonathan Johnson negligent by not finding a new space with a working heating system to administer the test that was also accessible for the handicapped students when he found out what had happened to the building?
4. Were the three handicapped students blaming Jonathan Johnson for not doing something that was out of his control?
5. Was Goodman Publishing responsible for fixing what happened to the building as a result of nature?

CONCEPTS

1. Discrimination.
2. Acts of nature.
3. Misunderstandings.
4. Negligence.

LAWS

1. The Americans With Disabilities Act of 1990 (ADA) is designed to protect people with physical or mental disabilities from discrimination in employment, housing, education and all other public services.
2. Rehabilitation Act of 1973 - Section 504 is an anti-discrimination, civil rights statute that requires the needs of students with disabilities to be met as adequately as the needs of the non-disabled are met.
3. The New Jersey Law Against Discrimination (LAD) makes it unlawful to subject people to differential treatment based on race, creed, color, national origin, nationality, ancestry, age, sex (including pregnancy), familial status, marital status, domestic partnership status, affectional or sexual orientation, atypical hereditary cellular or blood trait, genetic information, liability for military service, and mental or physical disability, perceived disability, and AIDS and HIV status. The LAD prohibits unlawful discrimination in employment, housing, places of public accommodation, credit and business contracts. The Division has promulgated regulations that explain that a place of public accommodation must make reasonable modifications to its policies, practices or procedures to ensure that people with disabilities have access to public places. The regulations also explain that under the LAD, these reasonable accommodations may include actions such as providing auxiliary aides and making physical changes to ensure paths of travel.



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