



# MOCK TRIAL EXERCISES

For grades 7–8

Featuring Winning Cases from the New  
Jersey State Bar Foundation's Law  
Adventure 2013 Competition

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# Preface

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

Students in grades seven and eight and their teachers are invited to create original mock trial cases. Each year the Foundation provides two themes for cases. The cases are judged on the basis of originality and educational value in teaching students about their legal rights and responsibilities. Winners are selected in each grade level. The trials are then conducted before student audiences at special Law Adventure programs in the spring. The seventh- and eighth-grade audiences serve as juries.

Following are the winning cases from the Law Adventure 2013 Competition. Themes for the 2013 contest were as follows: (1) New Jersey Motor Vehicle Law and (2) Social Media.

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

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

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

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

If you would like to participate in the Law Adventure Competition, please call 732-937-7519 or e-mail [sboro@njsbf.org](mailto: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](http://www.njsbf.org).*

# The Treacherous Tweet: Used v. Greenstown Board of Education

## SCHOOL

Glen Rock Middle  
Glen Rock  
Grade 7, First Place

## TEACHER

Mary Morrow

## STUDENTS

Ryan Barron, Nicholas Blount, Will Rabens,  
Ian Stephenson, Jean Walters

## FACTS

Jacob Used is an eighth-grader who attends Badger Middle School in Greenstown, NJ. He is a student in Mr. Ian Structor's history class. Jacob was named in a derogatory Twitter message that originated from Mr. Structor's phone, was tweeted from his class Twitter account and then went viral throughout the eighth-grade class in a matter of hours. The message stated that "... he's a delinquent who is going to jail." Within less than 24 hours of the first tweet being sent, Jacob became the subject of harassment and bullying.

Mr. Structor does acknowledge that the original tweet came from his phone on a Twitter account that he set up for use in his history classes. However, he claims he was falsely impersonated and his personal property was used without his permission. In addition, his strict class rules for the use of the class Twitter account were violated. He claims he can prove that he did not send the original tweet because it is time stamped at a time during which he was attending a meeting with the principal, guidance, and school parents. A group of students were seen going into his empty classroom where he left his phone in his briefcase around the time of the tweet.

Jacob's parents are suing the school for negligence. They feel that the incident and the resulting hardship are due to the careless actions of Mr. Structor. They believe that Mr. Structor is responsible for providing a social media vehicle which the class could use for this kind of abuse,

and that the school failed to provide a safe learning environment for their son by not restricting the use of social media in the schools. They are seeking monetary reimbursement for counseling fees, home instruction, and compensation for the resulting emotional distress. The school and Mr. Structor say they responded to the incident immediately and followed the protocol for all NJ Harassment, Intimidation, and Bullying laws. Furthermore, they have board approved policies for acceptable use of technology in the school and that it was students' failure to follow these strict guidelines that created the situation.

## ISSUE

Is a school liable for its students' misuse of a social media outlet, where the school has established strict policy and rules for allowing the use of such an outlet, but the rules were broken?

## WITNESSES

### *For the Plaintiff*

Jacob Used  
Dr. Howard Dewing

### *For the Defense*

Ian Structor  
Sue Perior

# WITNESS STATEMENTS

## *Testimony of Jacob Used*

When this rumor first started, I was devastated. I had never been involved in a rumor before, and I didn't know how to handle it. At first I thought it was an awful joke so I went to school like normal. But then kids were calling me delinquent, stupid and some other names. It was worse than I imagined. I no longer felt safe and I felt like no one liked me at school so I couldn't go. I practically threw up at the idea of having to go to school. I was so anxious I couldn't eat and I wouldn't talk to anyone, in case they had heard the rumor.

This rumor began on the Twitter account my teacher created for history class, and it spread within hours. I can't believe that some of my friends would post that about me. Since Mr. Structor is everyone's favorite teacher, no one would doubt that what was put on his account was true. Now everyone believes I'm a criminal. After I became so sick and began missing lots of school days, my parents realized how horrible school had become for me. They began taking me to see a psychologist. During those sessions, my parents and I decided it would be best for me to leave school. I hate the thought of having to start all over in a new school but I just can't endure the bullying any longer.

## *Testimony of Dr. Howard Dewing*

I am a psychologist. Jacob Used began seeing me because he was suffering from feelings of anxiety and symptoms of depression. He became a patient of mine shortly after the cyberbullying incident with the Twitter messages sent by his history class. My initial meetings with Jacob revealed that he was struggling with issues of feeling insecure and viewing himself as an outsider. He had difficulty establishing close and lasting friendships with school peers. This made him an easy target for bullying.

Jacob was increasingly exhibiting signs of distress such as gastrointestinal problems, irritability and headaches. Jacob began to shut himself off more and more from his school environment for fear of being ridiculed. He even

avoided accessing technology for fear of seeing posts that would humiliate him.

From his viewpoint the bullying was participated in, not only by his classmates, but it was initiated by his teacher. The use of social media to bully makes it very difficult for a student to recover. The bullying becomes very public, prevalent, and can never be completely eradicated. I supported his parents' decision that it is in Jacob's best interest to resume school in a learning environment where he can leave the bullying behind and feel safer.

## *Testimony of Ian Structor*

I did have a Twitter account for my classes and unfortunately it was used to spread a rumor. However, I made the Twitter account for educational purposes only. Before I even began using the account with my students, I went over many strict rules with them to prevent things like this from happening. Students had to sign a contract saying that they reviewed the rules and understood the consequences for misusing it.

I created the Twitter account because kids are very engaged in technology so I figured this would increase their interest in history. I use the account to send assignments, link up with articles and post questions. Students have become more interested in participating in history class this way. Until this incident, the students were very engaged and learning from what was posted. It's really too bad that the misuse of it by a few students would outweigh all the positive learning that could have come from it.

I know the comment was tweeted on my phone and my account, but I have proven that I am not the source of that tweet. I was in a meeting with the principal, parents and another teacher when that tweet was time stamped, so that proves it was not me. It is also a school rule that students should not enter empty classrooms or take and use teacher's personal property. Many school rules were violated here and that is why the situation got so bad. Rumors are an unfortunate part of middle school life, and we have many rules to address it. However, rumors are spread so quickly these days between cell phones, Facebook and other social media outlets. It's almost

impossible to keep it from getting out of control. You can try to shut students off from one social media account, but they will just find another. The best thing to do is to teach them how to be responsible and that there are consequences if they abuse it. That's exactly what we did.

### ***Testimony of Sue Perior***

I am the school principal. It is always upsetting when a student suffers. This incident was caused by a serious infraction of rules and we have addressed it with the appropriate consequences. As soon as we found out about the rumor that was spread, the offending students were suspended for impersonating a teacher, misusing personal property and for bullying. We tried to stop the rumor as soon as we found out about it, but the rumor spread faster than we could handle. We feel sorry for any student who suffers in our school and that is why we so strongly enforce our school rules. We have instituted school programs about the dangers and wrongs of bullying and how it will not be tolerated. The students are well aware of our zero tolerance rule.

Social media is a part of these children's lives today. No matter how much we can try to keep it outside of our school, students are going to find a way to use it. That is why we allow teachers to explore ways to use it effectively. We want to teach students the benefits of using it correctly and the serious consequences of misusing it. This is a life skill they need and one we cannot delay in teaching them. When used correctly, the potential benefits to student engagement are excellent. Our district technology policy carefully states the expectations of the teachers and the students' use of technology. It was a small group of students who violated that policy.

I understand that Jacob's parents are angry and believe their child has suffered. However, this rumor was not the fault of Mr. Structor. He was misquoted and misrepresented. In fact, his identity was stolen and his reputation was damaged when these students impersonated him and used his phone

to send that Twitter message. Using technology to defraud or assume someone's identity is a crime. What these students did violated both school policy and criminal laws. Our school and our teachers shouldn't be penalized for criminal act of these students. Our district technology policy, our anti-bullying policy, and our school rules and consequences are all in place to effectively guard our students' well-being and to provide a safe learning environment.

I know Jacob has suffered and does not want to return to school. However, the support is there to bring him back and help him feel more comfortable. It is his parents' choice to send him elsewhere.

## **INSTRUCTIONS**

The plaintiff must prove by a preponderance of evidence that the school is liable for failing to provide a safe learning environment by enabling student access to a social media site and therefore failing to take measures to prevent bullying behaviors.

## **SUB-ISSUES**

Does a school fail to take measures for preventing bullying behaviors if the school provides a social media outlet to students and the outlet is used for cyberbullying?

## **CONCEPTS**

1. Preponderance of evidence.
2. Safe learning environment.
3. Reasonable precautions.
4. Cyberbullying.
5. Identify theft.

# LAWS

**The NJ Anti-Bullying Bill of Rights Act PL 2010 c122** prohibits bullying in schools and requires the schools to take measures to prevent and remediate such bullying behaviors.

## **NJSA 18A:37-14. Definitions relative to adoption of harassment and bullying prevention policies**

2. As used in this act:

Electronic communication “means a communication transmitted by means of an electronic device, including, but not limited to, a telephone, cellular phone, computer, or pager.

Harassment, intimidation or bullying means any gesture, any written, verbal or physical act, or any electronic communication, . . . that substantially disrupts or interferes with the orderly operation of the school or the rights of other students and that:

- b. has the effect of insulting or demeaning any student or group of students; or
- c. creates a hostile educational environment for the student by interfering with a student’s education or by severely or pervasively causing physical or emotional harm to the student.

## **NJSA 2C:21-17 Impersonation: Theft of Identity**

- a. A person is guilty of an offense if the person (1) Impersonates another or assumes a false identity and does an act in such assumed character of false identity for the purpose of obtaining a benefit for himself or another or to injure or to defraud another.

## **NJSA 2C:21-17; Bill A2105**

Clarifies that the offense of criminal impersonation includes acts committed by any means including electronic communications or Internet website; creates new disorderly persons offense.

# The Case of the Catastrophic Crosswalk: Walker v. Fault

## SCHOOL

Glen Rock Middle  
Glen Rock  
Grade 7, Second Place

## TEACHER

Mary Morrow

## STUDENTS

Richard Beezley, Alison Erani, Julia Fish,  
Jarod Forer, Ryan Morley, James O'Rourke,  
Michael Passarelli, Alex Walters

## FACTS

Douglas Walker was walking his dog Smash on a leash at 2:25 p.m. on a beautiful clear Friday, the twenty-third of May. He was taking his usual route down the sidewalk of Leash Lane with the intention of crossing at the crosswalk to get to the dog park across the street. The crosswalk is marked at the mid-block of Leash Lane. Mr. Walker always crossed at this particular crosswalk but on this Friday a barricade was covering a pothole in the street which was under repair. The barricade was at the edge of the street and blocked access to the crosswalk from the sidewalk.

Mr. Walker guided his dog around the right side of the barricade outside of the crosswalk and began to cross the road. At that time, Nadia Fault was driving her car down Leash Lane just under the speed limit of 25 mph. It appeared that no one was in the crosswalk when suddenly Smash appeared from behind the construction barricade just beyond the crosswalk. Mrs. Fault did not see Smash in time to stop her car due to the blocked off pothole Mr. Walker was walking around. Mrs. Fault applied the brakes immediately but was not able to stop in time before striking Smash with her car. Douglas Walker was not struck since the dog was on a leash and walking several feet in front of him. The dog survived the accident but sustained injuries that required extensive veterinarian services including surgeries.

Douglas Walker believes that the driver is responsible and claims that Mrs. Fault should reimburse him for the dog's expenses. Mrs. Fault claims she was obeying all motor vehicle laws and tried to stop the moment she saw the dog. However, the barricade obstructed her view and the dog was not in the crosswalk. In addition, she believes that Mr. Walker was in violation of pedestrian safety laws by walking outside of the crosswalk.

## ISSUE

If the crosswalk is obstructed and a pedestrian has no choice but to go around the obstruction, therefore leaving the crosswalk, does the pedestrian yield to oncoming traffic or does oncoming traffic yield to him?

## WITNESSES

### *For the Plaintiff*

Douglas Walker  
Violet Hose

### *For the Defense*

Nadia Fault  
Noah Fault



## WITNESS STATEMENTS

### *Testimony of Douglas Walker*

I live alone and my dog is my sole companion. I love him with all my heart. He is like a child to me, the child I never had. I would do anything I could for Smash but the expenses for his medical care as a result of the accident are beyond what I can manage. They have been economically devastating to me. On the afternoon of May 23, Smash and I were on our daily walk to the dog park. When we got to the crosswalk there was a barricade covering a pothole in the crosswalk. I was glad they were working on the hole because it was getting bigger and becoming hazardous. However, the barricade made crossing the street difficult because I couldn't step into the crosswalk. So I guided Smash around the barricade. We began to cross the street just outside of the crosswalk. Smash was walking in front of me on his leash and so passed the barricade a few steps before I did. Mrs. Fault's car came out of nowhere and struck my Smash.

I stood there in shock for a minute at least. I thought for sure he was dead. Mrs. Fault and her husband got out of the car and helped me. We called the police and then the Faults drove Smash to the vet for me. They were very kind but Smash doesn't need kindness. He needs surgery and lots of medical care and I can't pay for that alone. Smash hasn't been the same since Mrs. Fault hit him, and so it is her responsibility to do everything she can to undo the damage that was done.

### *Testimony of Violet Hose*

Douglas Walker is a wonderful neighbor. Every day he walks past my house on the way to the dog park. His dog Smash is so very well behaved. Mr. Douglas is very dedicated to little Smash and he is the most well behaved-dog that I have ever known. They are such companions. In fact, I've never seen Mr. Walker without Smash at his side. Mr. Walker is very diligent about crossing at the crosswalk. He always approaches the crosswalk and commands Smash to stop at the edge of the crosswalk before they begin to cross. There have been many times

when I have seen the road clear of cars and an opportunity to cross the road, but Mr. Walker always goes to the crosswalk and makes Smash stop. He would never put his dog in harm's way.

I was out on my lawn gardening when I saw what happened. This is the first time I have ever seen them not use the crosswalk, and it was because they couldn't get to it due to the barricade. He had to go around it to cross the street.

Mr. Walker is devastated. His daily walks to the dog park are slow and painful for Smash. I also know that Mr. Walker is unfortunately facing some tough financial times. The bills that need to be paid to cover Smash's veterinarian expenses are draining him financially. Yet, how could he pass on any opportunity to provide his best companion, his child really, with the chance of having the life he did before the accident? It's been difficult to see them suffer so much.

### *Testimony of Nadia Fault*

I was driving on my regular route home. I know Leash Lane well because I live in the neighborhood. I always drive down it cautiously. It is close to the dog park and there are always lots of people with their dogs around that street. I did not see anything in the crosswalk as I was approaching it. Then, all of a sudden, the dog appeared from behind the barricade. I slammed on my brakes, but I couldn't stop in time. When I realized I hit the dog, I got out of the car immediately. It was only then that I saw Mr. Douglas by the barricade.

I feel terribly that I hurt that dog, but I was obeying the speed limit and didn't break any traffic laws. Mr. Douglas and his dog were not in the crosswalk. If they were, or even if they had crossed in front of the barricade instead of behind it, I would have seen them and would have had enough time to stop. If it had been preventable, I would completely understand, but the best driver in the world would never have been able to do anything.

## **Testimony of Noah Fault**

At almost half-past two on Friday the twenty-third of May, Nadia and I were driving down Leash Lane, and were almost to the crosswalk when suddenly I saw the dog behind the barricade. Nadia reacted immediately and slammed on the brakes, but it wasn't enough. There just wasn't sufficient time or distance to stop the car.

Once we realized what had happened, Nadia stopped and got out of the car and made sure everyone was okay, but could never have been able to avoid hitting the dog. Smash is an adorable little thing and was tall enough to hit the fender, but was small enough that we couldn't see him until he came out from behind the barricade. Nadia was not on her cell phone, checking the radio stations, drinking coffee, or involved in any other distractions when the accident occurred. Mr. Walker was not even visible to us until after the accident.

I believe that we do not need to pay for Smash's medical expenses because Smash was not in the crosswalk when it happened, and because he was not visible to us. My wife is careful and has never been reckless. I wish this had never happened, and hope Smash will be okay, but the financial responsibility for all of the treatments Mr. Walker wants for his dog would be very hard on us as well.

## **INSTRUCTIONS**

The plaintiff must prove by a preponderance of evidence that the driver of the vehicle was in violation of motor vehicle laws by failing to stop for a pedestrian who was attempting to cross a road in the vicinity of a marked crosswalk.

## **SUB-ISSUES**

1. Is the pedestrian responsible for being in the crosswalk if the crosswalk is inaccessible?
2. Is a driver guilty of careless or reckless driving if s/he hits a pedestrian who was just outside of the crosswalk and was not visible to the driver?
3. Although pedestrians and drivers both have a duty to exercise ordinary care, is the amount of care required of a driver whose vehicle can inflict injury or death greater than that of a pedestrian?

## **CONCEPTS**

1. Preponderance of the evidence.
2. NJ Motor Vehicle Law definition of a crosswalk.

## **LAW**

### **N.J.S.A. Section 39: 4-36**

The driver of a vehicle shall yield the right-of-way to pedestrians crossing the roadway within marked or unmarked crosswalks at intersections.

No pedestrian shall suddenly leave a curb or other place of safety and walk or run into the path of a vehicle which is so close that it is impossible for the driver to yield.

Every pedestrian upon a roadway at any point other than within a marked crosswalk or within an unmarked crosswalk at an intersection shall yield the right-of-way to all vehicles upon the roadway.

# The Case of the Speedy Seizure: Miles v. Underarrest

## SCHOOL

Readington Middle  
Whitehouse Station  
Grade 7, Honorable Mention

## TEACHER

Emily Bengels

## STUDENTS

Bilal Khan, Julia Moran, Nitya Patlola, Josh Wilk

## FACTS

Maxine Miles is a single mother who works two jobs a day. In the morning, she works as a nanny. In the afternoon, she leaves for her second job as a shelving assistant at a local public library. She earns minimum wage in both of those jobs and struggles to put food on the table in her apartment for her son, Imsick, who has a severe case of epilepsy.

On November 22, 2012, Thanksgiving night, Imsick had a sudden severe epileptic seizure. Ms. Miles put Imsick in the car and drove, in the middle of the night, to the hospital. Due to the time-sensitive nature of her son's need for medical care, the mother sped through many red lights. At 11 p.m., there was nobody else on the road except Police Officer Yu R. Underarrest, who noticed the woman was speeding. He pulled her over. As he approached her window, he noticed the woman driving with a boy in the backseat. He proceeded to have a conversation of several minutes with the woman, who told him that she needed to get to the ICU, for if she didn't, her son could possibly die. Officer Underarrest eventually let the woman go with a \$100 ticket, but when Ms. Miles got to the hospital, Imsick was already in a seizure-induced coma.

Ms. Miles had to pay very expensive hospital bills to keep him alive in the two weeks before he awoke with minimal brain damage. The doctors told her that this could all have been avoided if

she had gotten there earlier; the mother sued the police force for holding her up and causing harm to her son. Ms. Miles argues that she should not have to pay the fine since she was speeding in an emergency situation. She also requests compensation for emotional and physical harm caused by the unnecessary delay. The police officer argues that the law is the law and that he was only doing his job to keep the roads safe from speeders.

## ISSUE

Is the police officer responsible for worsening the boy's medical situation?

## WITNESSES

### *For the Plaintiff*

Maxine Miles  
Dr. Saving Lives

### *For the Defense*

Officer Yu R. Underarrest  
Police Chief Chekowt Mastash

## **WITNESS STATEMENTS**

### ***Testimony of Maxine Miles***

I-I-I was driving, you see, and, well, it was Thanksgiving Day and I . . . um . . . I live in Forest Hills, Brooklyn. I had just enjoyed a wonderful Thanksgiving meal at my house with friends and family. So after . . . um . . . you know, dinner, everyone left and I was left with a big, a big . . . m-m-mess to clean up. I am a single mother and I live with my one son, Imsick Miles. He has epilepsy, and he has had . . . um, I don't know, two no, now three seizures in total. I worry about him all day, and what if something happened to him? Wh-wh-what would I do!

After Thanksgiving Day, I took Imsick to bed as normal. But . . . umm . . . in the middle of the night, Imsick suffered a horrible seizure. Just, just plain horrible! It was just past 11 p.m. and I thought since, since the hospital is like, like twenty minutes from my house, instead of calling an ambulance, and waiting for it to get here, I would drive him to the hospital. Yeah, you know, just drive him to the hospital. Fast! So . . . after that, I rushed Imsick to the hospital . . . I admit I was speeding a tad. But I was only speeding to save my son's health! You see, if your son or daughter was in a near death situation, wouldn't you speed to save their lives?

### ***Testimony of Dr. Saving Lives***

My name is Dr. Saving Lives. I work at the Brooklyn Hospital Center. On Thanksgiving Day, we expect a lot more ICU patients, which is the ward I work in. You see, some people overeat on Thanksgiving and get sick, which can be very serious. However, at 11:30 p.m., I got a young patient named Imsick. He was comatose, which is a very serious condition that can result from a severe seizure from epilepsy and I immediately started working on him. During a few minutes, he unfortunately was in a condition so serious that death may have been the penalty. If Ms. Miles had gotten to the hospital faster, he would have been fine after a proper medication and forty-eight hours or so.

We take our work very seriously here in the ICU. When a young patient has a chronic health concern like epilepsy, we usually advise guardians about

how they can take better care of their children, but this time, it wasn't even Ms. Miles' fault. Fortunately, Imsick Miles survived, but had Ms. Miles been as few as three minutes later, Imsick would not have survived.

It is heartbreaking, but that is my job. I need to help the most extreme situations. Ms. Miles has been through a lot, and I do not think she deserves any of this.

### ***Testimony of Officer Yu R. Underarrest***

My name is Yu Underarrest and I am a police officer in Manhattan. As you know, Thanksgiving is a big day for everybody in the city because of the Macy's Thanksgiving Day Parade that runs through the city. I was ordered by the commander-in-chief to patrol the parade by driving alongside the parade floats.

After a busy and crowded day of driving around, I was headed home to finally go to bed in Brooklyn. It was about 11 p.m. Then, all of a sudden, I spotted a woman speeding down Union Turnpike. I clocked her at eighty-seven miles an hour, which is easily thirty miles over the speed limit, which, as I recall, was fifty miles an hour. I watched as she also blew past several red lights and posed a hazard to anybody else also on the road at the time. I chased her down in my police vehicle that was authorized to go over the speed limit if necessary, and then proceeded to pull her over.

I had a conversation with this crazed woman who kept on telling me that her son was having a seizure in the backseat. She also said that if she did not get to the nearby hospital immediately, her son might die. I then allowed her to go on as long as she took a ticket and went at the speed limit authorized. If the woman had simply stated her situation earlier, I would have let her go right away with a ticket as well. Now she is suing the police force for something she could have easily avoided by just telling me. How unfair.

## Testimony of Police Chief Chekowl Mastash

For the record, my name is Police Chief Chekowl Mastash, and I commandeer the NYPD. One night, I was informed that my most trusted officer and Employee of the Month for twelve years running, Officer Yu R. Underarrest, was heading home after a long day at the same time as I was. As you know, we have to keep track of everybody in the police force since dangerous things can happen in our line of duty.

I was done with a long day of patrolling as it was Thanksgiving that day, and all of us wanted to go home. Then I heard from Officer Underarrest when he radioed me. He said that there was a crazed person driving on the road. This was at about 11 p.m. if I recall correctly. He went to pull the 1998 Mazda over, and after he talked to the lady, he gave her a \$100 dollar ticket and let her go, and thank goodness, she made it to the ICU on time. I really don't see what the problem is. All he did was enforce the law, which is his job, and make it so that the woman is disciplined and put to justice for her actions. The law is the law and we cannot change that.

## INSTRUCTIONS

The jury must come to a decision based on a preponderance of the evidence if Officer Underarrest was responsible for the worsened condition of Imsick Miles.

## SUB-ISSUES

1. Did Yu R. Underarrest worsen Imsick Miles' health condition by pulling over Maxine Miles?
2. Does the officer have a right to pull someone over while off duty?
3. Did the delay in getting to the hospital affect the overall health bill?

## CONCEPTS

1. Unreasonable hypothesis of worsening health condition.
2. Ability to break the law in life-threatening situations.
3. Failure to abide by the law.

## LAWS

1. *Failure to abide by the law* causes legal action by authority and puts one in jeopardy.
2. *Ability to break the law in life-threatening situations* allows one, under desperate circumstances, to break the law for his, her, or other's well-being or safety.
3. *Unreasonable hypothesis of worsening health condition* makes sure doctors or any other medical certified experts do not jump to a conclusion and blame one for fault without factual proof.

# The Case of the Invisible Stranger

## SCHOOL

St. Catherine of Siena  
Cedar Grove  
Grade 7, Honorable Mention

## TEACHERS

Michele Cicchetti

## STUDENTS

Kristin Bresadola, Jessica Cuntrera, Meghan Dwyer,  
Brendan Flynn, Liam Otterbein, Emilia Pedicini,  
Jessica Prinzo, Kaylin Ranges

## FACTS

On July 23, 2012 Elena Thompson was at the mall with her friends. Elena and her friends felt that the same man was following them around the mall as they were shopping. Feeling uncomfortable, the girls left the mall.

Elena was driving alone in her car. As she drove out of the parking lot, Elena thought she noticed a car driving behind her with the same man they had seen at the mall. A few miles later she could still see the same car in her rearview mirror. Elena dialed 911 but before she could press send, she ran a red light at the intersection of Pompton and Bradford Avenues, hitting a car that was going through the intersection. When the police arrived, the driver of the car she hit, Mr. Finnegan, told the police that Elena was on her cell phone upon impact. Elena explained about the man but the officer could not find anyone matching his description at the scene. Elena was charged with using a cell phone while driving and reckless driving.

## ISSUE

Did Elena Thompson really have an emergency while driving that justified her use of a cell phone?



## **WITNESSES**

### ***For the Prosecution***

Robert Finnegan  
Officer Skip Wilson

### ***For the Defense***

Elena Thompson  
Arianna Williams

## **WITNESS STATEMENTS**

### ***Testimony of Robert Finnegan***

I was driving home from work at 8:28 p.m. to pick up my wife to go out to our 10th anniversary dinner. As I approached the Pompton and Bradford Avenue intersection, I saw the light was green so I proceeded to go through it. I glanced to my right and saw a girl driving a car through the intersection on the phone. I tried to brake as I blew my horn, but she slammed into my passenger side, setting off my airbags.

I got out of my car and was startled to see blood and realized my nose was broken. I went over to her car and she seemed alright but frightened. I called 911 and we waited for the police. As a result of that night, my nose was broken, I had \$10,000 worth of damage on my Lexus, and our anniversary was ruined.

### ***Testimony of Officer Skip Wilson***

On July 23, 2012, at 8:22 p.m., I responded to a 911 call about a vehicular accident at the intersection of Pompton and Bradford Avenues. When I arrived on the scene, I saw the defendant, Elena Thompson, sitting on the side of the road and shaking, while Mr. Finnegan was holding a handkerchief on his bleeding nose and on the phone. The front of the defendant's car was imbedded in the side of Mr. Finnegan's car. By the position of the cars, it was clear that Miss Thompson hit Mr. Finnegan's car.

When I reviewed the footage from the traffic camera, it confirmed that she did go through the

red light, hitting Mr. Finnegan's car, while on the phone. As I was investigating the scene, I did find a cell phone on the seat of the defendant's car. Mr. Finnegan told me he saw the defendant on her cell phone just before impact. Miss Thompson agreed she was using her phone, but said it was because of an emergency. She told me someone had followed her from the mall. I asked for a description, searched the area, and found no one answering that description. I issued her a citation for cell phone use while driving and reckless driving. The ambulance arrived to tend to the victims. Later when I checked with the 911 operator about calls that night, there was no record of her call.

### ***Testimony of Elena Thompson***

I was at the mall with my friends shopping. As we walked around, we noticed that same man, in the same store we were in multiple times. We went to the ladies room, and when we came out, he was standing nearby. We felt uncomfortable so we decided to leave the mall.

Since I brought my own car, I had to drive home alone. Once I left the parking lot, I realized the same man was in a car behind me. First I thought it was my imagination, but a few miles later I noticed him in my rearview mirror again. Afraid to pull over, I reached for my cell phone and dialed 911. Before I could hit the send button, my airbag hit into me because I had hit Mr. Finnegan's car.

Mr. Finnegan helped me out of the car; I was stunned but looked around and didn't see the man. Then I noticed Mr. Finnegan's nose was bleeding and I felt worse. Officer Wilson arrived, I told him about the man in the car and that I had tried to call 911. Even though he looked for the man, I don't think the officer believed me.

### ***Testimony of Arianna Williams***

On Monday, July 23, I was with Elena and four other friends at the mall shopping for birthday gifts. Our friend Samantha noticed a tall, heavily built man staring at us. We left that store and went to another store where we noticed the same man. We once again left and went to a lingerie shop this time. When we saw him in there, we became very

nervous. We decided it was best to leave the mall, but had to stop at the ladies room on our way out. As we left the ladies room, he was standing by the elevator pretending to read a newspaper while glancing over the top. We thought about telling mall security, but what could we say? That we kept seeing him? What would that prove? So we left, walking Elena to her car because she was the only one who came alone; the rest of us were together. As she got into her car, she was shaken and pale. As she drove off, I wondered if I should have gone with her.

I have been a passenger in Elena's car many times and never once saw her use her phone. She will even make me change the music while she drives. I have known Elena since kindergarten. She has always been a responsible person, an honor student, and the friend that talks you out of taking chances. I have never known anyone not to believe her.

## INSTRUCTIONS

The jury must decide beyond a reasonable doubt whether the defendant is guilty based on the case the prosecution presents.

## SUB-ISSUES

1. Was Elena imagining that a car was following her?
2. Was Elena calling 911?
3. Was someone really following Elena and her friends at the mall?
4. Was Mr. Finnegan speeding or distracted because he was rushing to get home for his anniversary dinner?
5. Could Elena have pulled her car over to make the call?
6. Was the man at the mall the same man in the car?

## CONCEPTS

1. Burden of proof: beyond a reasonable doubt.
2. Credibility of witnesses.

## LAWS

NJ Cell Phone Law 39:4-97.3

- b. The operator of a motor vehicle may use a hand-held wireless telephone while driving with one hand on the steering wheel only if:
  1. The operator has reason to fear for his life or safety, or believes that a criminal act may be perpetrated against himself or another person.

## REFERENCES

[www.state.nj.us](http://www.state.nj.us)

[www.drivinglaws.org/jerseylaw](http://www.drivinglaws.org/jerseylaw)



# A Speedy Delivery: LaBasso v. Riley

## SCHOOL

Great Meadows Middle  
Great Meadows  
Grade 7, Honorable Mention

## TEACHER

Bill Nutt

## STUDENTS

Hannah Applegate, Madison Cerami,  
Madeline Crisp, Sierra Fezenko, Julia Lenz,  
Shannon Miller, Robin Schmeltzle,  
Andrea Sickels, Grace Slaman, Caitlyn Spuckes,  
Margaret Sullivan, Lauren Tasnady, Emily Wilson

## FACTS

At 12:43 p.m. on January 12, Xavier Riley was driving on Maple Street to the hospital to see his wife, who was in labor. It had been a difficult pregnancy, and he was particularly concerned. He was using a hands-free calling device to contact his mother-in-law and check in on his wife. He had just hung up on his mother-in-law when he was forced to swerve to avoid striking a car that had stopped suddenly in front of him. Xavier Riley sideswiped a parked car that belonged to Antonia LaBasso, causing damage to the fender, the side mirror, and the driver's side of her car. In addition, Ms. LaBasso was sitting in the car, and she suffered injury to her neck.

Riley stopped to check on the damage to the parked car and to exchange insurance information with LaBasso. He noticed that LaBasso's car was parked in a "no-parking" zone, although the sign was partially obscured by overhanging tree limbs.

LaBasso is suing Riley for the damage to the car and for medical bills. Riley refuses to pay, claiming that the accident would not have occurred if LaBasso's car had been legally parked.

## ISSUE

Was Xavier Riley responsible for the damages and the injury to Antonia LaBasso?

## WITNESSES

### *For the Plaintiff*

Antonia LaBasso  
Muriel Axtell

### *For the Defense*

Xavier Riley  
Officer Jennifer Lockwood

## WITNESS STATEMENTS

### *Testimony of Antonia LaBasso*

My name is Antonia LaBasso. On January 12, I had to drop off a package to my new accountant, who lives on Maple Street. This was the first time I had been on that street, and I was a little confused. I pulled over to the side of the road to what I thought was a parking space.

I was sitting in the car, looking over the directions to my accountant's office, when my car was struck on the driver's side by a car. I felt a sharp pain in my neck as I was jolted forward. I got out of my car and saw considerable damage to the driver's side of my car, including the fender and the side mirror. The other car stopped in front of me, and the driver got out of the car. He told me his name was Xavier Riley and that he was rushing to get to the hospital because his wife was in labor. I noticed there was a cell phone next to his driver's seat, and it was lit, as if it had just been turned off.

A police officer named Jennifer Lockwood happened to be passing by, and she stopped to talk with us. I exchanged insurance information with Mr. Riley, who was very agitated. As Officer Lockwood was filling out the accident report, she said to me, "You know you're in a no-parking zone, don't you?" Then I realized that there was a no-parking sign, but it was almost completely covered by branches from an evergreen tree.

The damages to my car cost \$12,000, and I had to pay another \$10,000 as a result of the injuries to my neck. I am suing Xavier Riley for my deductible of \$1,000 and for the medical expenses. He was clearly at fault, particularly since he had apparently been on his cell phone.

### ***Testimony of Muriel Axtell***

My name is Muriel Axtell. I am 68 years old, and I am very active. Almost every afternoon I go on a jog down Maple Street. January 12 was a lovely, crisp winter afternoon. As I was running down Maple Street that day, I noticed that there was a considerable amount of traffic but nothing unusual. Many cars use Maple Street as a shortcut to get to the hospital.

As one red car passed me, I noticed that the driver was taking his hand away from his ear, and it looked like he had something in that hand. Right after that, the red car had to swerve to miss a car that had stopped abruptly in the middle of the street. The red car slammed into a car that was parked on the side of the road and banged the parked car pretty badly. A woman got out of the parked car and walked over to the red car, which had pulled over.

Very soon after that, a police car pulled up, and a female officer began filling out a report. As a witness, I felt obliged to give her my information.

From my point of view, the driver of the red car, Mr. Xavier Riley, was certainly at fault. It looked to me as if he had been on his cell phone, and I think if he hadn't been distracted that way, he would have been able to stop his car without striking the parked car.

### ***Testimony of Xavier Riley***

My name is Xavier Riley. On January 12, my wife Juliet went into labor with our first child. It had been a difficult pregnancy, and I was very concerned. I was driving my car down Maple Street on the way to the hospital. I was talking on my cell phone, but it was on speaker. I was calling my mother-in-law, Harriet Potterdeen, to tell her that her daughter was about to have a child and that she should get to the hospital. However, the sound of the traffic was quite loud, and we had difficulty hearing each other. I told Harriet that I would call her back, and I disconnected the phone. I only had to touch my hand-held phone for a second to disconnect the call.

Shortly after I hung up the phone, the driver in front of me stopped short. In an attempt not to hit this car, I swerved to the right. There was a car parked on the shoulder; I scraped it, tearing off the side mirror and damaging the fender and the side. A woman got out of the driver's seat; I later learned her name was Antonia LaBasso. As we were talking, a policewoman named Officer Jennifer Lockwood pulled up. I explained what had happened and that my wife was having a baby. Officer Lockwood took down the information and actually escorted me the remaining mile to the hospital. But before we left the scene, she pointed out to Ms. LaBasso that her car was illegally parked and that she had to issue her a ticket.

I should stress that I was not speeding down Maple Street. As for the cell phone, the law permits use of a hand-held phone in the case of an emergency. This WAS an emergency because of my wife's pregnancy. In any event, I was using the speaker. Finally, I should point out the fact that Ms. LaBasso's car was illegally parked; if she hadn't been stopped there, she would never have been hit.

### ***Testimony of Officer Jennifer Lockwood***

My name is Officer Jennifer Lockwood. I was patrolling the area around Maple Street on January 12 when I saw two cars pulled over on the side of the road. One car was parked in a no-parking zone; it had considerable damage to its driver's side. In front of it, legally parked, was a red car. Two people were by the cars. I pulled over and ascertained that

the driver of the red car, Xavier Riley, had struck the parked car, which belonged to Antonia LaBasso, who had been in the car.

I noticed that there was a cell phone on the ground by Mr. Riley's car. He said that he had been using a hands-free device and that he had only used the hand-held phone to end a call. I was obliged to write a ticket, although he argued that his wife's pregnancy qualified as an emergency.

After filling out the report, I offered to accompany Mr. Riley to the hospital; I could tell that he was very upset about his wife. Before I left the scene, I mentioned to Ms. LaBasso that she had been illegally parked. She claimed not to have seen the sign. It's true that the "Do Not Park" sign was partly covered by the branches of an evergreen tree. But the sign was still visible, and she should have checked the sign before stopping there. As we often tell people, ignorance of the law is no excuse.

## INSTRUCTIONS

The plaintiff must set out such a convincing case against the defendant that the jury believes by a preponderance of the evidence that the damage to Antonia LaBasso's car was the fault of Xavier Riley.

## SUB-ISSUES

1. Was the situation with Juliet Riley an emergency, and did it justify Xavier Riley's brief use of the hand-held cell phone?
2. Was Xavier Riley distracted by the cell phone?
3. Could Xavier Riley have taken any other steps to avoid striking Antonia LaBasso's car?
4. Was Antonia LaBasso aware of the "no-parking" zone?

## CONCEPTS

Credibility of witnesses.

Burden of proof: preponderance of evidence.

## LAWS

Use of a hand-held cell phone while driving is prohibited, and the driver is subject to a fine of \$100 per incident; however, a hand-held device is permissible in the case of an emergency. Parking in a no-parking zone is subject to a fine of no more than \$500.

# Ms. Georgia Peetch vs. the Town of Meedia

## SCHOOL

Harrington Park  
Harrington Park  
Grade 7, Honorable Mention

## TEACHERS

Joan Dever

## STUDENTS

Sari Abolafia, Jackie Cho, Sarah Hwang,  
Anthony Kim, Gayoun Kim, Michelle Kwon,  
Caroline Sommers, Maansi Srivastava

## FACTS

Ms. Georgia Peetch worked as a secretary for the mayor of the town of Meedia, NJ. Mayor Ted E. Bare hired her when he won his first election four years ago. Ms. Peetch says she was a reliable employee with a solid performance record and a reputation for efficiency.

In his third year as mayor, Mayor Bare decided to run for a second term. Although Ms. Peetch was very fond of the mayor personally, she did not feel that he was the best candidate for the job. After reviewing campaign issues, she felt that the mayor's opponent, Mr. Charlie Brownn, was the better candidate for the job of mayor. Ms. Peetch "liked" Mr. Brownn's Facebook page on several occasions. As the campaign progressed, Ms. Peetch posted various articles on her Facebook page that favored her boss's opponent.

After a hard fought and close campaign, Mayor Bare won reelection. Immediately after the mayor was sworn in for his second term, Ms. Peetch was fired as his secretary. The mayor stated that the office was moving in a new direction and her services were no longer needed.

Ms. Peetch is suing the town of Meedia for wrongful termination. She states that her firing is in direct relation to her Facebook activity and not her performance. Ms. Peetch is asking for monetary compensation and the reinstatement of her position as secretary.

## ISSUE

Was Ms. Georgia Peetch's activity on Facebook a contributing factor to her being wrongfully terminated from her job as the mayor's secretary?

## WITNESSES

### *For the Plaintiff*

Ms. Georgia Peetch  
Mr. Aidian DeFrend

### *For the Defense*

Mayor Ted E. Bare  
Ms. Shirley Ratzout

## WITNESS STATEMENTS

### *Testimony of Ms. Georgia Peetch*

Hey y'all, my name is Ms. Georgia Peetch. Until recently, I was the personal secretary for the current mayor of Meedia, Mayor Ted Bare. The mayor just won his second term and his first order of business was to fire me. I believe that I have been let go because of what I posted on my Facebook wall. To lose your job over the use of social media is just an outrage!

I am known by the good people of this town to be a dependable, loyal and responsible person. The mayor never made one complaint about my

performance and, therefore, he did not give me a single hint that I was going to get fired. There was never an indication that my skills were no longer valuable to the mayor's office. His excuse for such a complaint is just to cover for the real issue he has with me.

During the mayoral campaign, I supported the opposing candidate. I showed my support for the other candidate by "liking" some of his posts. As time progressed and I became more involved, I posted articles that favored the other candidate. My posting was done on my time in my home. I never opened or read Facebook while I was at work. As the election approached, I noticed the mayor's behavior toward me began to change. His manner became kind of curt and cold. I sensed that he was angry with me, but he never told me why.

I was wrongfully terminated for using a social media site to support the other candidate. The mayor simply stated that my services were "no longer needed" in his office. My evaluations of the past four years have been exemplary and the mayor himself secured a substantial raise for me. The mayor is using information from my personal Facebook account to get rid of me. I did not sabotage his campaign, I simply posted articles I found interesting and insightful. I did nothing wrong and I deserve to be reinstated as secretary. The mayor cannot terminate me for what I do on my personal time on my Facebook page. I reckon you would also feel the same way if y'all had been working with the same man for four years and were fired without a real cause.

### ***Testimony of Mr. Aidian DeFrend***

I am Mr. Aidian DeFrend, a member of the town council in Meedia, New Jersey. For four years now, I've been working closely with Ms. Peetch, the mayor's former secretary. Whenever I was in the office, she was working diligently on her computer, and was always focused. She would come to work everyday, immediately sit down at her desk, and begin another hard day of work. I was astonished when I heard that she was relieved of her duties. Ms. Peetch is a very responsible person who puts her work before anything else.

It is obvious to me that Ms. Peetch was let go for reasons other than her work ethic. The mayor must have taken offense to her Facebook activity. Facebook is a "social" place where you can vocalize your opinions; it is not to be the reason for someone losing their job. Is it a coincidence that Mayor Bare let Georgia go after liking and supporting positions taken by the opposing candidate on Facebook? I think not! I too agreed with many of the points raised by the mayor's opponent. I wonder if my job would be in jeopardy if I posted comments about him. No matter, whichever candidate Ms. Peetch favored was her personal business and was unrelated to her ability to do her job. I believe the various reasons the mayor gave for firing Ms. Peetch were untrue and exaggerated.

As a secretary she was very reliable and I don't think the office will run as smoothly without her. She deserves to be reinstated or at least be compensated for wrongful termination. Social media cannot be used by an employer to spy on your personal life and then use that information to wrongfully terminate you!

### ***Testimony of Mayor Ted E. Bare***

I am Mayor Bare, the mayor of Meedia, NJ. Recently, I fired my former secretary, Ms. Peetch. I let Ms. Peetch go because she demonstrated a lack of discipline in the office. I believe that an exemplary employee should be flexible on time, responsible, reliable and organized. Ms. Peetch did not possess these qualities. She was forgetful, unorganized and had difficulty handing in work on time.

For example, last month there was an important town council meeting, but Ms. Peetch, being absent-minded, forgot to put the meeting on my schedule and I missed it. My absence had a negative impact on my reputation as the mayor. When Ms. Peetch first started working for me, everything seemed fine, but as time progressed, she began to become more careless and difficult to work with. So, although it was a tough decision, I decided that I needed to start my new term as mayor with a more reliable person.

I am aware that Ms. Peetch is claiming she was fired due to her social media activity. This is simply not true. I do not spend my time worrying about Facebook and what people might be saying about me. Facebook has nothing to do with Ms. Peetch's dismissal. She is simply no longer the right person for the job and I am within my rights to dismiss her. I can assure you that I have more important things to worry about than social media. I have an office to run and need a more dependable secretary. Who Ms. Peetch supported as mayor in my reelection campaign had no effect on my decision.

### ***Testimony of Ms. Shirley Ratzout***

My name is Shirley Ratzout and I work in the mayor's office as a clerk. I have experienced firsthand how Ms. Peetch did her job. She had a short temper with the other employees in the office. Whenever the mayor wasn't around, she'd take advantage and slack off. She acted as if she was in control of everyone. However, when the mayor showed up, her disagreeable personality flipped back to a sweet and innocent secretary.

Ms. Peetch is one of those people who lives her life through Facebook. I know because I am a Facebook friend and I see her continually posting updates about where she is and what she is doing. Being a friend on Facebook also allowed me to see that she favored the mayor's opponent in the recent election. As a loyal employee, I felt it was my duty to make the mayor aware of her allegiance, or more accurately, her lack of allegiance. I let him know about her online activity and what she was saying about his opponent. Loyalty from an employee is not much to ask for. The mayor and his personal secretary work very closely. The mayor has every right to want a secretary who supports him and believes in the work he is doing.

The week after the reelection I looked over at Ms. Peetch's desk and saw her packing her bags. She seemed angry and shocked. I had not realized that the mayor was going to fire her, but I felt that she deserved it. The mayor is a just person; he would never fire a person solely based on Facebook. He has no time to concern himself with such nonsense. The real reason she lost her job was because the

mayor found someone better qualified. Ms. Peetch is using social media as a cover for the fact that she was not that good at her job.

## **INSTRUCTIONS**

The plaintiff must show by a preponderance of the evidence that Ms. Peetch was fired from her position at the Mayor's Office due to Facebook activity.

## **SUB-ISSUES**

1. Did Ms. Peetch actually post anything on Facebook that was negative or derogatory towards the mayor or his performance?
2. Was Ms. Peetch's posting done on her own time on her personal computer?
3. Does the mayor have documentation of said poor performance in the workplace?
4. Should anything that is posted on Facebook be considered "personal"?

## **CONCEPTS**

1. Credibility of the witnesses.
2. Burden of proof: preponderance of the evidence.
3. Rights of the individuals.
4. Professional ethics.
5. Social media rights.

## **LAWS**

### **Hatch Act for State and Local Employees**

The Hatch Act applies to executive branch state and local employees who are principally employed in connection with programs financed in whole or in part by loans or grants made by the United States Government or a federal agency. Employees who work for educational or research institutions or agencies which are supported in whole or in part by a state or political subdivision of the state are not covered by the provisions of the Hatch Act.

Employees of private nonprofit organizations are covered by the Hatch Act only if the statute through which the organization receives its federal funds contains language which states that the organization shall be considered to be a state or local agency for purposes of the Hatch Act.

An employee's conduct is also subject to the laws of the state and the regulations of the employing agency. Additionally, employees should be aware that the prohibitions of the Hatch Act are not affected by state or local laws.

### **Permitted Activities**

Covered state and local employees may:

- Run for public office in nonpartisan elections.
- Campaign for and hold office in political clubs and organizations.
- **Actively campaign for candidates for public office in partisan and nonpartisan elections.**
- Contribute money to political organizations and attend political fundraising functions.

### **Prohibited Activities**

Covered state and local employees may not:

- Be candidates for public office in a partisan election.
- Use official authority or influence to interfere with or affect the results of an election or nomination.
- Directly or indirectly coerce contributions from subordinates in support of a political party or candidate.

# D.A.R.E to Fire Darren?

## SCHOOL

George G. White Middle  
Hillsdale  
Grade 7, Honorable Mention

## TEACHER

Suzanne Pausz

## STUDENTS

Sarah Daniels, Andrew Kritzler, Emily Lê,  
Giovanni Liguori, Samuel Reiter,  
Sarah Schmoyer, Jessica Snyder

## FACTS

On August 22, 2011, Darren O’Ficcer was interviewed by the chief of police, Noah Lyon, to be hired as a police officer in Coppersburg, Connecticut. During the interview, Noah Lyon asked Darren O’Ficcer to open his InstaBook account, a popular social networking site. He opened the account and positive comments, pictures, and posts were revealed. There was a picture of him receiving top honors at Coppersburg Police Academy. After thoroughly looking over Darren’s account, Noah Lyon was impressed. He answered his interview questions flawlessly. On September 8, 2011, he was hired as a police officer. Because he worked well with the youth in town, Noah put him in D.A.R.E. training. Three months later Darren became a D.A.R.E. officer.

A year later on September 10, 2012, one of Darren’s coworkers, Pat Wiltel, was searching InstaBook looking to add Darren O’Ficcer to his friends’ list. He then came across a picture of his coworker, Darren O’Ficcer, under the name of DarrenDaMan. This account included several comments from friends implying wild parties, and reckless and possibly drunk driving. There were also pictures of trips to the local bar and other various actions that would be deemed “inappropriate for a police officer,” especially for a D.A.R.E officer.

Pat quickly showed the inappropriate account to Noah Lyon, stating he did not want to work with an officer who abused drugs and alcohol and was not

a good role model. After a thorough investigation of Darren O’Ficcer’s other InstaBook page, Noah Lyon fired Darren O’Ficcer, claiming his “conduct was unbecoming of an officer.”

Darren O’Ficcer is suing Noah Lyon and the Coppersburg Police Department for unlawful termination and for his job back.

## ISSUE

Did Noah Lyon wrongfully terminate Darren O’Ficcer from the Coppersburg Police Department?

## WITNESSES

### *For the Plaintiff*

Darren O’Ficcer  
Trey Nehr

### *For the Defense*

Pat Wiltel  
Noah Lyon

## WITNESS STATEMENTS

### *Testimony of Darren O’Ficcer*

I am Darren O’Ficcer. I have been a cop for almost a year now and I take my job very seriously. For me, nothing is more important than my job. When I applied to be a police officer, I showed Noah



Lyon my professional InstaBook account, which is for work purposes only. I also have a second account for my friends only. When I made that account, I did not intend for it be viewed by anyone other than my friends. In order to view this account, I must accept any person's friend request. So the content in this account cannot be viewed by the general public.

People are making false allegations about me because of some of the pictures and comments on my InstaBook account. For example, there is a picture of me holding a beer can while sitting in the front seat of my car. People began saying that I was drinking and driving. This is not true. The car was off, parked in my driveway, and the beer can was not open. I was just joking around with my friends. On my account, someone has posted a picture of me supposedly smoking marijuana. Again, this picture has more to it. It was simply a cigar and I have the right to smoke. There were also comments about the pictures posted by my friends that make it seem that I have done something illegal. Since I am a police officer, my friends like to tease me, and I should not be punished for my friends' immaturity. As I have done nothing illegal, there is no reason why I should have been fired. Therefore, I demand my job back.

### ***Testimony of Trey Nehr***

I, Trey Nehr, have been an instructor at Coppersburg Police Academy for 23 years. In all the time I have been teaching there, I have never seen such a dedicated student as Darren O'Ficcer. Every day, he reported to me on time and left hours after the class ended, practicing maneuvers and techniques he was taught the same day. He always was extremely obedient, doing all the exercises I told him to do with no difficulty. He graduated the police academy with flying colors, in the top of the class. Darren O'Ficcer, by far, was my favorite and the best student I ever had in this class, and I am not surprised he was hired as early as he was.

I was immediately surprised that Darren was fired for "conduct unbecoming of an officer." Smoking marijuana and drunk driving is illegal, and I know it is something Darren wouldn't do. He is a hard-working police officer and wouldn't do anything

to jeopardize his reputation and career. Darren O'Ficcer deserves his job back on the account of being unjustly fired.

### ***Testimony of Pat Wiltel***

I am Pat Wiltel, and I have been working the Coppersburg Police Department for three years. On September 10, 2012, I was on my Instabook account, and I realized that I was not yet friends with one of my colleagues, Darren O'Ficcer. As I was typing in the name "Darren," Darren O'Ficcer's picture showed up under the name of DarrenDaMan. I put in a request to be his friend, and Darren accepted it. Therefore, I was then able to view his profile.

As I scrolled through his page, there were many inappropriate pictures of Darren. The first picture that caught my eye was of Darren in the driver's seat drinking a can of beer. The key was in the ignition, and the car seemed to be turned on and moving. From the angle that the picture was taken, the can of beer appeared to be open. Underneath the picture was a comment from one of DarrenDaMan's friends that had said, "Glad you didn't get caught last night." Along with those comments was another picture of Darren smoking marijuana, an illegal drug that he should not have in his possession. Almost every night, pictures of Darren looking intoxicated at the local bar were being posted on this account. After seeing all of these disturbing photos and comments, I then went to Noah Lyon, the chief of the Police Department, to inform him of Darren's unacceptable behavior.

### ***Testimony of Noah Lyon***

I am Noah Lyon, and I have been the chief of police for 14 years in Coppersburg. During the month of August in 2011, I began to search for a new officer to join the force. I wanted to replace one of our loyal officers who recently retired. Darren O'Ficcer had recently graduated from the police academy, so I decided to interview him. During the interview, I asked him to show me his Instabook account. He agreed and showed me his account under the name of Darren O'Ficcer. On his account, there were

pictures of him doing things that made him appear as a good role model. I was very pleased with what I saw, so after much consideration, I decided to hire him.

He was officially accepted into the police work force on September 8, 2011. In December 2011, he completed his training as a D.A.R.E. officer. As a D.A.R.E officer, his duty was to teach children about safety and the harmful uses of drugs and alcohol. On September 10, 2012, Pat Wiltel, another police officer, came to me with shocking news. Wiltel had been trying to add Darren O’Ficcer to his friends’ list on InstaBook. He found another account for Darren under the name of DarrenDaMan. The pictures on the account were awful. There was a photo of Darren holding a can of beer in his car, while he was driving. There were a few pictures of him holding and inhaling a cigar that looked to be filled with marijuana. There was a comment on the photo that said, “That was a really ‘high’ night.” This led me to believe he was smoking marijuana. There were many more disturbing pictures of him at parties. Some comments accused him of being severely drunk.

After viewing the account, I made a decision to fire Darren O’Ficcer. I will not have someone like Darren on our force. He pledged to be a role model for children and severely broke that oath.

## INSTRUCTIONS

The jury must prove by a preponderance of the evidence that Darren O’Ficcer was unlawfully terminated by the Coppersburg Police Department.

## SUB-ISSUES

1. Can it be proven that Darren was smoking marijuana? Can it be proven he was driving drunk?
2. Is the beer can in Darren’s hand open? Is the car moving or stopped?
3. Can the comments posted on Darren’s account be used as evidence in a case?
4. Did Darren withhold evidence when he did not show his second InstaBook account at his interview?

5. Was there enough evidence for Darren to be justly fired?
6. Should posts and pictures on social media sites be used as legal evidence?
7. Should it matter that Darren spends time at bars even though he is above the legal drinking age?

## CONCEPTS

1. Preponderance of the evidence.
2. Credibility of witnesses.
3. First Amendment: freedom of expression.
4. Rights of an adult.
5. Social media as evidence.

## LAWS

1. **Conduct Unbecoming:** Conduct on the part of a certified professional that is contrary to the interests of the public served by that professional, or which harms the standing of the profession in the eyes of the public.
2. **Wrongful Termination:** a right of an employee to sue his/her employer for damages (loss of wage and “fringe” benefits, and, if against “public policy,” for punitive damages). To bring such a suit: a) the discharge of the employee must have been without “cause” and he/she had an express employment contract or an “implied” contract based on the circumstances of hiring; or b) there is a violation of statutory prohibitions against discrimination due to race, gender, sexual preference or age; or c) the discharge was contrary to “public policy” such as in retribution for exposing dishonest acts of the employer. An employee who believes he/she has been wrongfully terminated may file a lawsuit for damages for discharge, as well as for breach of contract, but the court decisions have become increasingly strict in limiting an employee’s grounds for suit.

# The Social Media Suit: Stew Dent v. the University of New Jersey

## SCHOOL

Valley Middle  
Oakland  
Grade 8, First Place

## TEACHER

Jena Boomhower

## STUDENTS

Tara Candelmo, Margaret Connolly, Matt Connor,  
Jaime Felice, Bradford Kroepke, Shirley Lo,  
Juliana Martello, Douglas Myers

*Any resemblances to characters, names, events and circumstances are intended only for the purpose of education, and all characters, events, and circumstances described herein are fictitious.*

## FACTS

On September 1, 2011, the head coach of the University of New Jersey's football team contacted Stew Dent, a high school senior, and told him about UNJ's football program. He invited Stew Dent to visit UNJ's campus, which he did on September 14. The visit included a walk around the campus, listening to a professor's lecture, an overnight stay, and a viewing of the football practice. After consulting with his guidance counselor, Stew decided the school was a good match for his academic and athletic needs.

On October 18, Stew again visited UNJ for an interview. He answered the admissions counselor's questions and talked to him about his extracurricular activities. Later that week, Stew submitted his finalized application before the November 1 deadline. Stew Dent had exceeded all of the academic requirements that had to be met by the school. He held a 3.5 GPA, received a score of 1950 on the SATs, scored a 29 on the ACTs, and had excellent teacher recommendations.



On January 5, 2012, Stew received a letter of acceptance to UNJ. He also was offered a full athletic scholarship to play football there due to his athletic ability. Stew Dent proudly accepted the offer from the prestigious Division I school.

On July 10, 2012, Stew reported to UNJ to begin his football training. Once there, he was called to a meeting with the athletic director. The director asked for Stew's final high school transcript to be sure that he had kept up with his academics for the remainder of senior year. Stew was then asked for his FaceSpace information as required by UNJ's Code of Conduct for scholarship recipients. FaceSpace is an online social networking service. When Stew refused, the athletic director informed Stew that his scholarship would be revoked if he did not share his FaceSpace information. Stew again refused to share this information. The athletic director then informed Stew that his scholarship was withdrawn, and Stew would no longer be able to play on the football team.

Stew Dent is filing a suit against the University of New Jersey for violating his constitutional rights to privacy based on the First and Fourth Amendments.

## ISSUE

Did the University of New Jersey violate Stew Dent's constitutional right to privacy by requiring him to divulge his FaceSpace username and password?

## WITNESSES

### *For the Plaintiff*

Stew Dent

Professor P. Rye Vacy

### *For the Defense*

Al Sports

Professor Harv Erd

## WITNESS STATEMENTS

### *Testimony of Stew Dent*

My name is Stew Dent, and I graduated in June of 2012 from Einstein High School. In the fall of 2011, Johnny Football, the football coach at University of New Jersey, recruited me to play for the team. I fell in love with the school when I made an official visit and decided to apply Early Decision. In January 2012, I was accepted by UNJ, as well as given a full scholarship to play football. The money was really important to my family, as my father is currently unemployed due to the recession. Without the financial aid, my parents could not afford for me to attend UNJ. Also, having been accepted so early in the year, I did not apply to any other schools, though I had been approached by other coaches and offered scholarships.

In July 2012, I returned to the campus to begin my football training. I had been previously informed that my scholarship was on a conditional basis and my records would be reviewed before the season began. If I met all the criteria, including maintaining a high GPA during my senior year and abiding by UNJ's Code of Conduct, the scholarship would be awarded.

Once I had settled on campus, I met with the athletic director. He asked to see my high school transcript to be sure that I had kept up my academics. All my classes and grades were held at the same standard as they were previous to my admission. I was shocked when the athletic director asked for my FaceSpace username and password. I refused to give it to him as I felt it violated my right to privacy. He told me I would lose my scholarship as well as my spot on the team if I did not give him the information. I truly believe that this request was an invasion of my privacy.

A few days later I was officially informed that my scholarship had been rescinded and I was no longer permitted to participate in athletics at UNJ. As a result of the loss of my scholarship, I was forced to drop out of UNJ.

### **Testimony of P. Rye Vacy**

My name is P. Rye Vacy, and I am an attorney employed by the ACLU, an organization that stands to protect the rights and liberties of our country's citizens. I have litigated constitutional law cases numerous times in state and federal courts. I am a former New Jersey Public Advocate and 2008 recipient of the *New Jersey Law Journal* "Lawyer of the Year" award. I teach the course on Federal Courts and work on constitutional issues at Rutgers' Constitutional Law Clinic.

Stew Dent contacted me on July 16, 2012, immediately after his scholarship to UNJ was revoked. He explained to me that he felt his right to privacy was violated when he declined to provide his FaceSpace password.

The Constitution of the United States allows a reasonable expectation of privacy as determined in the landmark case, *Katz v. U.S.*, 389 U.S. 347, 350 (1967). The Supreme Court ruled that, "What (a person) seeks to preserve as private, even in an area accessible to the public, may be constitutionally protected (by the 4th Amendment)" and a person is entitled to a reasonable expectation of privacy. Stew Dent is not a public figure and is entitled to an expectation of privacy.

In addition, privacy laws don't allow schools to ask for FaceSpace information. In California, two bills were put into law that will protect the privacy of employee and college student social media accounts. These laws generally prohibit employers or schools from requesting or demanding one's password or contents of their personal account. A similar bill was passed in Illinois and Maryland. And, here in New Jersey, the Senate passed a bill (A2879) that would ban colleges and universities from requiring prospective and current students to turn over their usernames and passwords. That bill is on the Governor's desk for signature.

Information Stew Dent placed on FaceSpace was intended only for his friends to view. He limited the publication of his information using the privacy settings. FaceSpace allows for a reasonable expectation of privacy; therefore, in my expert opinion, the University of New Jersey cannot disregard this and ask for Stew Dent's password.

### **Testimony of Al Sports**

My name is Al Sports, and I have been the athletic director at UNJ for the past seven years. The head football coach, Johnny Football, had recruited Stew Dent in the fall of 2011 to become a member of the football team and attend UNJ. After meeting Stew in person and watching videos of his high school football games, members of UNJ's Athletic Department were thrilled that Stew applied to UNJ Early Decision. He is not only a strong athlete, but also an intelligent student. Based on Stew's athletic and academic excellence, the football staff and I decided to offer him a full athletic scholarship.

I informed Stew and his parents that there would be a review of his records, and the scholarship would be on a conditional basis, based on meeting the criteria for student-athletes who were offered scholarships. The criteria included meeting the admissions requirements, as well as following UNJ's Code of Conduct and being a person of high moral character. In today's social media world, we have found that FaceSpace is a good way to check up on students' moral character. Young people often post incriminating pictures of or texts about themselves participating in illegal activities such as underage drinking or worse. Therefore, when I met with Stew at the beginning of the summer training session, I asked him for his FaceSpace account information. To my surprise, he refused to give it to me. Unfortunately, I had no other choice but to kick him off of the football team and revoke his scholarship. He is still welcome to register for classes, but UNJ will not finance his education.

### **Testimony of Professor Harv Erd**

My name is Professor Harv Erd. I am a constitutional law professor and a leading expert on constitutional law and legal philosophy. I am currently a member of the Seton Hall University Law School faculty. Previously, I was a constitutional law professor of First Amendment Rights at Harvard's School of Government.

The University of New Jersey contacted me on July 28, 2012. They told me that Stew Dent was filing a suit against their school for violating his constitutional right to privacy. The reason for

losing his scholarship and getting dismissed from the football team was due to the fact that Stew had refused to provide his FaceSpace account information. UNJ requires that everyone on the football team must be of high moral character. One way UNJ evaluates moral character is by looking at a student's FaceSpace information. UNJ has over 150 student athletes who receive scholarships, and all of those athletes have provided their FaceSpace username and password.

When people put information on the Internet, they give up their right to privacy. In a section of FaceSpace's Terms of Service, the company warns, "We do not guarantee that FaceSpace will always be safe, secure or error free." FaceSpace stores most information one puts onto the site, including anything one has deleted.

Stew Dent should not have had an expectation of privacy for information he had placed on FaceSpace. By putting information on FaceSpace, he made it public and gave up this expectation of privacy. New Jersey does not currently have a law that prohibits colleges from asking for social media account information. The Bill discussed by the plaintiff's witness has not been approved by the Governor and, therefore, is not a law.\* Once personal information is on the Internet, it is available for others to view. The fact that Stew may have had privacy settings in place would not have stopped his friends from sharing the information. If Stew was foolish enough to put incriminating photos and words on his FaceSpace page, then he must face the consequences.

In my expert opinion as a constitutional lawyer, by placing information on FaceSpace, an individual gives up the expectation of privacy in that information. Therefore, the University of New Jersey's request for Stew Dent's FaceSpace information was a reasonable request.

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\*New Jersey Governor Chris Christie signed Bill 2879 on December 7, 2012, after our case had been developed and written.

## INSTRUCTIONS

The plaintiff must prove by a preponderance of the evidence that the University of New Jersey violated Stew Dent's constitutional right to privacy by demanding his FaceSpace username and password.

## SUB-ISSUES

1. Does UNJ have the right to ask for Stew Dent's FaceSpace information?
2. Why doesn't Stew Dent want to give out his FaceSpace information?
3. Did Stew Dent have any inappropriate pictures or content on his FaceSpace page?
4. If Stew Dent had accepted a scholarship to another university, would that university have asked for his FaceSpace information?
5. If Stew Dent had been offered an academic scholarship, would he have been required to give his FaceSpace information?
6. Is viewing someone's social media web page a good way to determine his or her moral character?
7. Are there any underlying causes for Stew Dent to lose his scholarship?
8. Will the Governor of New Jersey sign Bill No. 2879, prohibiting the requirement to disclose personal information for social media by colleges and universities?

## CONCEPTS

1. Burden of proof: by a preponderance of the evidence.
2. Interpreting the Constitution.
3. Reasonable expectation of privacy.
4. Student's right to privacy.
5. First Amendment rights.
6. Fourth Amendment rights.

## LAW

The First Amendment of the United States Constitution: Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

The Fourth Amendment of the United States Constitution: The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

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*Special thanks to Francis J. Battersby, Esq.*

# Lucy Williams v. South Ridge Board of Education

## SCHOOL

Holy Trinity Regional  
Westville Grove  
Grade 8, Second Place

## TEACHER

Elizabeth Bazis

## STUDENTS

Meredith Amato, Nicole Baraban, Fiona Hughes,  
Arianna Mullary, Jenna Nace

## FACTS

Kylee Williams is a 14-year-old student who attends South Ridge High School. Kylee has Asperger's syndrome. Asperger's is a type of pervasive developmental disorder. In Kylee's case her disability affects her socially and mentally. On November 8, 2012, Kylee decided to post a video of herself dancing to her favorite song on YouTube. In school the next day, Mrs. Lynch made a remark about Kylee's video.

Kylee did not understand the statement or the tone of voice. Later that same evening, Kylee logged onto her Facebook and saw some of the students in her class making unkind comments and mocking her video. They were also spreading Mrs. Lynch's remark to other students. More students from the school responded to the video, making derogatory statements to Kylee. Kylee showed the comments to her parents.

Her parents were very upset and thought this bullying should be stopped. They reported their concerns to the school principal, Daniel Philemon. Receiving no satisfaction from Mr. Philemon or the school, the parents contacted Mrs. Lynch. After repeated attempts to contact the principal and teacher, the Williams Family are bringing suit against the South Ridge Board of Education.

The award requested by the Williams Family is for the school board to provide faculty/staff workshops on handling bullying/cyberbullying as well as the autism spectrum. The family also requests student assemblies be held quarterly dealing with bullying.

## ISSUE

Is the school responsible to handle bullying complaints when the bullying incident(s) do not take place on the school's campus?

## WITNESSES

### *For the Plaintiff*

Lucy Williams  
Kylee Williams

### *For the Defense*

Phoebe Lynch  
Daniel Philemon

## WITNESS STATEMENTS

### *Testimony of Lucy Williams*

I am Lucy Williams. My daughter Kylee posted a video on YouTube on November 7, 2012. She was dancing to her favorite song "Gangnam Style." I was aware she had posted the video and my



husband and I thought it was rather cute. On the night of November 9, 2012, Kylee came downstairs very upset. When I asked her what was wrong, she showed me that on her Facebook account several students from her class had posted rude comments about her video. The students also posted a remark her teacher Mrs. Lynch had made that day in school about the video.

The next morning I contacted Daniel Philemon, principal of South Ridge, to ask for his assistance and advice. Mr. Philemon told me that he was sorry, but there was nothing he could do because the incidents of bullying had happened off the school campus. He did say, however, that he would talk with Mrs. Lynch about her comment. Then he said he would talk with Kylee. I was satisfied at first but when Kylee got home, she was still upset because other students seemed to be making comments about her in the hallways and pointing at her and laughing. My daughter has Asperger's syndrome and does not always understand exactly what is happening around her. I asked if the principal had talked with her. When Kylee said no, I again tried to contact the school. Mr. Philemon never returned my calls or e-mails so I called Mrs. Lynch. Mrs. Lynch assured me that she had not meant to embarrass Kylee with her comment and she apologized for any problem she might have caused Kylee.

After not receiving any explanation from Mr. Philemon, I decided to bring suit against the South Ridge Board of Education. Neither Kylee nor I am asking for a monetary settlement. I just want my daughter to feel safe and accepted at school. I request the school board to arrange for mandatory anti-bullying programs for both staff and students. I would also request additional training of staff in understanding and handling students who have been diagnosed with any form of autism.

### ***Testimony of Kylee Williams***

I am Kylee Williams. I am in the ninth grade at South Ridge High School. I usually don't talk about this but I have Asperger's. I sometimes have a hard time understanding what my doctor calls "the subtleties of a conversation." I get confused because I am not sure what some people mean when they are talking.

Anyway, on November 8, 2012, I made up a dance to "Gangnam Style." I liked it so much, I posted it on YouTube. When I went to school the next day, I heard some of the kids talking about the video. They were laughing; I think they liked it. My science teacher Mrs. Lynch said she had seen the video and she said, "You look so...special." After school, I asked my mother what she thought of the teacher's comment. My mom thought it was inappropriate but we just let it go.

Later that night, I logged into Facebook. Every comment was from my classmates about my video. They were making fun of me, my video, and even Mrs. Lynch's comment. I showed my mother; she became as upset as me. I didn't want to go to school the next day but my mom made me. She said she would call the principal and get everything straightened out. Mr. Philemon told mom he couldn't do anything since nothing had happened on the school campus. He did say he would talk with Mrs. Lynch.

I was really worried but no one in school said too much to me; they just kept laughing and said they saw my very special video. The comments online continued for a couple of days. My mother forbade me from going on to Facebook and tried many more times to contact Mr. Philemon. He never returned her calls. Mom and I decided that all we wanted was for me to be able to go to school without worrying about the other kids bullying me and making fun of me. I also would like the kids and the teachers to understand more about autism and Asperger's. Maybe if they understand my problem, they may begin to accept me as a friend.

### ***Testimony of Phoebe Lynch***

I am Phoebe Lynch and I teach ninth-grade science at South Ridge. I first heard about Kylee Williams's video from some students in homeroom. I looked at the video before class began to see what everyone was talking about. When Kylee came into science class that day, I told her that I had watched the video and that she looked very special. Her dancing was very good, but I was worried that some of the students might make fun of it and her. So I told her to sit down and I began class.

Her mother eventually contacted me; it seems as if Mr. Philemon was supposed to have talked with me about my comment, but he is so busy he must have forgotten. I told Mrs. Williams that I had not meant anything negative by my comment and that her daughter was a very good dancer. I apologized if I had caused any problems for Kylee. I never thought the other students would take what I said the wrong way and publish it on Facebook.

### ***Testimony of Daniel Philemon***

I am Daniel Philemon, principal of South Ridge High School. I first heard of the alleged bullying incident on November 10, 2012. Mrs. Williams contacted my office, explaining that her daughter Kylee had been the object of several inappropriate postings on Facebook. The postings dealt with the dance video that Kylee had posted on YouTube. Mrs. Williams also informed me that Mrs. Lynch, Kylee's science teacher, had made a comment that they found offensive, especially considering that Kylee has an IEP and is sometimes referred to as part of the special education department. I assured her I would talk with Mrs. Lynch. I informed Mrs. Williams that I was unable to help her as the bullying had not taken place on school grounds. I did promise to speak with Kylee. I must admit that I forgot that promise and did not speak with Kylee. I apologize for my oversight in this matter.

Mrs. Williams continued to contact the school. I decided that Mrs. Williams misunderstood our original phone conversation so I sent her a letter restating the position. I would be happy to consider any suggestions Mrs. Williams may have to make Kylee more comfortable in school. Unfortunately, there is no school board policy about cyberbullying.

## **INSTRUCTIONS**

The plaintiff must prove by a preponderance of the evidence that Principal Daniel Philemon did not take the steps available to him to guarantee Kylee Williams could attend school without worrying about bullying, either on the campus or through the Internet.

## **SUB-ISSUES**

1. Did the principal and teacher have a duty to protect Kylee from cyberbullying?
2. Did the teacher's comment add to Kylee's embarrassment/depression and open her up to further unwarranted remarks from students?
3. Are Mrs. Williams and Kylee guilty of contributory negligence by posting the dance on YouTube?
4. Was the faculty of South Ridge made aware that Kylee had an IEP (Individual Educational Program)?

## **CONCEPTS**

1. School board's responsibility to provide a safe educational environment for all students.
2. Burden of proof: preponderance of the evidence.
3. Credibility of the witnesses.
4. First Amendment rights.

## **LAW**

First Amendment to the U.S. Constitution:

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press, or of the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

P.L.2010 CHAPTER 122: An Act concerning harassment, intimidation, and bullying in school settings, amending... and supplementing P.L. 2002c.83 and chapter 3B of Title 18A of the New Jersey Statutes.

“Anti-Bullying Bill of Rights Act”

# Swift Account

## SCHOOL

East Amwell Township  
Ringo  
Grade 8, Honorable Mention

## TEACHER

Janet Higgins

## STUDENTS

Julia Dinmore, Laura Ensminger, Cassandra Haney,  
Chandler Hubert, Alex Kane, Hudson Kleber,  
Danielle Rowe, North Runk

*Any resemblances to characters, names, events, and circumstances are intended only for the purpose of education, and all characters, events, and circumstances described herein are fictitious.*

## FACTS

In October of 2012, Kara Mell and Koko Nuttley, 10-year-old best friends, won backstage passes to a Taylor Swift concert at Six Flags in Jackson, NJ. The two girls received the prize in Wyomissing, Pennsylvania, Taylor's hometown, by winning a contest sponsored by the Girl Scouts for performing the most hours of community service during the month of June. When Taylor Swift greeted her young fans, the pair gave her several boxes of Girl Scout cookies as a token of their admiration.

After the performance that night, Taylor brought both girls on stage as thanks for their kind gift. She even invited them to sing a song with her, to enormous applause. After the concert, the video of Taylor and the girls went viral on YouTube. During this time, Kara Mell and Koko Nuttley became minor celebrities. However, soon after the concert, things took a turn for the worse. A Twitter account ostensibly belonging to Taylor Swift posted a tweet saying, "Can u believe those dumb kids gave me cookies?! I'm obvi on a diet." A second tweet claimed, "I can't even eat the cookies cuz I am a vegan. How do u not no that?"

The account garnered thousands of followers, and soon the messages were being discussed all over the internet and on television. Taylor denied responsibility for them and claimed that someone was impersonating her online. She reported the impersonation to the police, who traced the tweets to the laptop of a UCLA pre-med student named Harry Canary. Mr. Canary insisted that the tweets were not meant to harm anyone. He claimed that they were only intended to be a prank for his pledge to a fraternity at UCLA. According to Taylor Swift's manager, the celebrity suffered financial damages due to loss of ticket sales, as well as a tarnished reputation and emotional pain and suffering. As a result of his actions, Mr. Canary was criminally charged with "impersonation for purposes of harming another person" and faces imminent prosecution.

## ISSUE

Is Harry Canary guilty of criminal impersonation with intent to cause harm from the fake Twitter account he created?

## WITNESSES

### ***For the Prosecution***

Taylor Swift

Kara Mell

### ***For the Defense***

Harry Canary

Alfie Brotherhood

## WITNESS STATEMENTS

### ***Testimony of Taylor Swift***

My name is Taylor Allison Swift. I was born in Wyomissing, Pennsylvania, and moved to Hendersonville, Tennessee, at age 14. At one of my concerts last July, there were two little girls named Kara Mell and Koko Nuttley who had backstage passes and were chosen to come to my T-Party (a time where my crew and I hang out and play games with some fans). When I was sitting and talking with the girls, they explained how they were Girl Scouts from my hometown, Wyomissing, and offered me some cookies. I was very touched and enjoyed some Thin Mints with the girls before I went back out on stage. Kara and Koko were so sweet in giving me the boxes of Girl Scout cookies that I decided to repay them by taking them out on stage with me and dedicating their favorite song, "We Are Never Ever Getting Back Together," just to them. The next day, when I looked on my computer, I saw that the video of Kara, Koko and me had gone viral and was all over the internet. Also, I noticed that I had several e-mails in my inbox asking me to appear on TV shows and interview about my experience with the two Girl Scouts. Later that week, Kara, Koko and I appeared on the TV show *Ellen*.

On the Tuesday two weeks after my concert, I once again went online and saw my inbox was loaded with mail, only this time it was all hate mail. People were saying how I was a terrible person and how they were never-ever-ever getting another one of my CDs. I was in tears for the whole day and I wasn't even sure what I had done. At around noon that day, my manager informed me about a fake Twitter account that had been created with my

name. Later that day, I informed the police and they traced the account back to a student at UCLA.

Why would I ever say those terrible things to Girl Scouts when I was one growing up myself? Koko and Kara were from my hometown and nothing but nice to me. I ate at least five Thin Mints with the two of them and then my mom, manager and I finished them off after the show. Throughout my career, I have donated over \$10 million to charity... why would I ruin my reputation by writing those things? I was bullied as a child and would never do to those two little girls what kids did to me. I went to the police because I felt that the tweets harmed my reputation and my income was plummeting. For example, concert sales went from 99.8 % full to less than 50%. Also, I began to receive hate mail and creepy phone calls. The Girl Scouts of America contacted me saying that they were going to boycott my concerts and even plan protests in many cities. I felt threatened and was filled with anxiety and sorrow. I honestly thought that the tweets were not a joke, satire or a parody. I love comedy and have even hosted *Saturday Night Live*. This was a crime that hurt me, the Girl Scouts and my fans, and that was why I reported it to the police.

### ***Testimony of Kara Mell***

My name is Kara Mell. I am a 10-year-old Girl Scout from Wyomissing, PA. I have been a fan of Taylor Swift my whole life. She has been a role model for me ever since I started listening to her music. Recently, my friend Koko and I won backstage passes to one of her concerts taking place at Six Flags in Jackson, NJ. We brought several boxes of Thin Mint cookies to give to Taylor Swift. We sat and talked with her and even ate some cookies together. She was very grateful, and towards the end of the show, she brought my friend Koko and me on stage and sang our favorite song, "We Are Never Ever Getting Back Together." She invited us to a backstage tent where we talked and played video games. Taylor was very friendly and welcoming. We had a great time hanging out with her.

The weeks following, Koko and I were surprised to learn that the video of us at the concert had gone viral and we had become minor celebrities. Koko, Taylor and I were invited onto *Ellen* for an

interview. A few days later, we found out through the news about two tweets, supposedly sent out by Taylor, saying Koko and I were “dumb” and that Taylor couldn’t eat our cookies because she was a vegan. We were shocked and our feelings were hurt! How could she say those things about us? Was she a bully like we learned about in school? We felt embarrassed and wanted to hide from everyone. We were worried about what the kids in school would say to us. However, we had accumulated a group of fans, and we received many sympathy emails and tweets from them. We also received an email from Taylor saying that she didn’t send out those tweets, and that she had reported a possible impersonation to the police. Then we were told that the account was a fake and it was created by Harry Canary, a college student in California. I can’t believe someone would do this to us, Taylor or her fans.

### ***Testimony of Harry Canary***

My name is Harry Canary, and I am a 19-year-old UCLA student majoring in pre-med. I have always been an A student and was voted valedictorian in 2011 when I graduated from Hunterdon Central Regional High School in Flemington, New Jersey. I’ve never done anything this careless before, and I truly don’t want to hurt anyone. In fact, I spent all last year volunteering at St. Jude Children’s Hospital working with the patients. I can’t tell you how sorry I am for the repercussions that my one moment of stupidity caused. However, I am not a criminal.

I met Alfie Brotherhood on my first day at UCLA. He seemed like a great guy – he was really nice, showing me around and helping me out finding my classes. It was my first time at college, and I was grateful to have some guidance and his friendship. So when he asked me to pledge to his fraternity, I was thrilled. And when I heard that all I had to do was create a Twitter account that would go viral, I didn’t hesitate. The first thing I thought of was a fake celebrity account. I did not set out to impersonate Taylor Swift. Tons of people do this – there are hundreds of Justin Bieber Twitter accounts.

Alfie told me that the fraternity had done this stunt many times before, so I assumed it would be fine. I don’t mean to blame him – I am fully responsible for what I did. I only want to express

that I did not expect anything to come of my tweets. One of our brothers is a law student and he told us there should be no problem with the account because it would be viewed as a parody or satire like Weird Al. The law specifies that an impersonation must have malicious intent to be criminal, and I did not impersonate Taylor Swift, nor did I have any malicious intent. It was a stupid way for the new guy to get accepted, and not worth the pain it has caused, not even close. I never would have imagined doing this out of any kind of spite. I can’t tell you how sorry I am for what happened.

### ***Testimony Alfie Brotherhood***

My name is Alfie Brotherhood. I was born in Honolulu, Hawaii, but in the middle of kindergarten I moved to Sacramento, California. In my elementary years, I became a Boy Scout and was always a top scout in my troop. In high school, I was a very active individual, and being a straight A student, I had the opportunity to tutor eighth graders. I continued my boy scouting by helping to lead a troop in my hometown and volunteered for the Red Cross. I think that I acquired my drive for success from my two parents, Jack and Jill. My parents both graduated from Princeton University with doctorates in neurology. I am the oldest of three; my two younger sisters still live in Sacramento with my parents. Perriete is 11 and Rafae is 9. They are both huge fans of Taylor Swift and are both Girl Scouts. After high school I dedicated myself to my college education. I was accepted to UCLA and am currently majoring in astronomy. I was voted to be the head of the fraternity and I plan to maintain my straight A average.

Harry Canary was a newly added member of our fraternity. As president, I know that the pledges we make our members do include making a fake Twitter account that has the potential to get national attention. Harry had an idea to make a Taylor Swift account, and we all agreed that it would be a suitable pledge. When the video of Taylor Swift, Koko Nuttley and Kara Mell went viral, Harry decided that it was the perfect opportunity to fulfill his pledge.

We never thought that people would take such offense. The whole ordeal should have never blown

up into something so big because it was all meant to be a joke. People joke or use parody and satire all the time on TV and in the movies. The law itself says that the impersonation has to be intended to harm another person. No one in my fraternity ever wanted to hurt anybody. Our fraternity has a superior reputation and has never been in trouble with the school for violating any rules. The whole situation was blown out of proportion and should have never been taken so seriously.

## INSTRUCTIONS

The prosecution must prove beyond a reasonable doubt that Harry Canary is guilty of impersonating another person on the internet with intent to cause harm.

## SUB-ISSUES

1. Was the impersonation of Taylor Swift credible?
2. Did the fans believe that the account belonged to Taylor Swift?
3. Did the public overreact to the fake Twitter account?
4. Was it reasonable of Harry Canary to assume the impersonation would not cause harm?
5. Did Harry Canary knowingly impersonate Taylor Swift?
6. Did Harry Canary have consent?
7. Was the Twitter account a form of satire?
8. Was the Twitter account a parody of Taylor Swift?
9. Did the tweets bully or hurt the two young Girl Scouts?

## CONCEPTS

1. Burden of proof: reasonable doubt.
2. Credibility of the witnesses.
3. Intent to harm.
4. Credible sources.
5. Free speech.
6. Satire or parody.

## LAW

### California Senate Bill 1411

... it unlawful to knowingly and without consent credibly impersonate another person through or on an Internet Web site or by other electronic means with the intent to harm, intimidate, threaten or defraud another person. An impersonation is credible where another person would reasonably believe, or did reasonably believe, that the defendant was or is the person who was impersonated. Online impersonation is a standard misdemeanor punishable by a fine not exceeding one thousand dollars (\$1,000) and/or imprisonment in county jail not exceeding one year.

### First Amendment

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

# The Book of Truth

## SCHOOL

Bloomfield Middle  
Bloomfield  
Grade 8, Honorable Mention

## TEACHER

Lauren Barton and Jose Sarmiento

## STUDENTS

Rani Abdulaziz, James Camarillo, Vanessa Daly, Ale D'Andrea, Steven Espinosa, Darryl Gregory, Nalya Hill, Nigel Langley, Melanie Medina, Raj Patel, Emerson Pentecost, Isabella Pico, Peter Ruggiero, Morgan Thompson, Maddie Williams

*Any resemblances to characters, names, events, and circumstances are intended only for the purpose of education, and all characters, events, and circumstances described herein are fictitious.*

## FACTS

Sydney Wright is a 15-year-old student who attends Publish High School. Her elective class is a creative writing class. When Sydney saw this class on her schedule, she was a bit apprehensive because she never took a class like this before. Throughout the course, Sydney's teacher, Ms. T. Cher, really sees a talent in Sydney. She has begun to develop her writing skills and demonstrates creativity.

For one of her writing projects, Sydney has to post a piece of writing on a social media website forum for writers and get constructive criticism from other authors. Ms. Cher recommends a few different websites for the class to use and suggests the students create a new anonymous account for their posting. Sydney chooses the website Life Script to post her assignment. Emma Arthur, a renowned author, frequents Life Script for new inspiration when starting a new book. Ms. Arthur sees Sydney's post and really likes the idea so she decides to make her next book an expansion of the plot. Sydney receives several comments on her writing. Ms. Arthur comments on Sydney's post that she really enjoyed reading her story and that Sydney is a natural writer. Unfortunately, Sydney doesn't read Ms. Arthur's post.

Ms. Arthur takes Sydney's plot idea, changes the names, and makes the story longer. A year later

the manuscript is finished and is being put through the last processes of publication. Once published, Sydney is recommended to read the book by a friend. While reading she notices that the story line is unerringly similar to her own. This triggers Sydney to go back to her Life Script account to compare the book to her own writing. After logging on she sees the comment from Ms. Arthur and makes the connection. She informs her parents about the unnatural coincidence.

Sydney and her parents approach Ms. Arthur through email and Ms. Arthur admits to using the content of the post as an idea. She refuses to give credit as the ideas were not copyrighted as far as she knows. Mad that the author made money off Sydney's ideas without permission, the family sues the author for not giving Sydney the proper credit for the story.

## ISSUE

Did Emma Arthur violate Life Script's copyright terms by using Sydney's plot line that was anonymously posted on a public social media website?

## WITNESSES

### *For the Plaintiff*

Sydney Wright  
T. Cher

## ***For the Defense***

Emma Arthur

Walter Webster

## **WITNESS STATEMENTS**

### ***Testimony of Sydney Wright***

My name is Sydney Wright, I'm 15 years old, and I attend Publish High School. When I received my schedule for school, I noticed that my elective class was creative writing. I've never really written for fun, and never took a course like this before. I didn't really know what to expect going into this class. My teacher, Ms. Cher, gave us a writing assignment to post a short story on one of the websites she suggested for us and I chose Life Script. After I posted it, I emailed my teacher the link and never went back on the website. Ms. Cher told me that I had many positive comments from my post and that Emma Arthur also left me a comment. I couldn't believe someone as famous as Ms. Arthur would even notice my writing.

A year later my friend recommended a book to me and when I read the back of it, the plot seemed very familiar to my short story. Then I remembered my post on Life Script. I logged on and saw the comment from the famous author, Emma Arthur. I realized she had taken my concept for the plot of her new book.

I told my parents about this unusual situation, and we approached Ms. Arthur through email. When we asked where she got the idea, she admitted to using part of my story. I was outraged! We asked her to at least give me the credit for coming up with the general plot of her book. Ms. Arthur denied my request, stating that the idea wasn't copyrighted. We decided to sue Ms. Arthur for not giving me the credit I deserve.

### ***Testimony of Ms T. Cher***

Sydney Wright is a student at Publish High School. She is in my creative writing class. We were coming up on midterms and the class assignment was to post a short story on a social media website forum for writers and take constructive criticism

about their work. I gave the students a list of recommended sites to use.

Sydney chose the social media website Life Script. I checked on all of the students to make sure that they were receiving appropriate criticism. Many people commented on Sydney's post, giving a lot of positive feedback and compliments. I also noticed that Emma Arthur, a professional writer, was browsing the website and she liked Sydney's work a lot. She posted a comment on the website that said, "I really enjoyed your story and you are a natural at writing." I encouraged Sydney to go back to Life Script and check out Ms. Arthur's comment. I explained to Sydney that a compliment from someone of Ms. Arthur's status is very flattering.

I began to use Sydney's writing as examples for my new class once the school year began. I told them how Emma Arthur even commented on this particular story. All of my students are fans of Emma Arthur and couldn't wait for her next book to hit the shelves. One of my students came to school with the book and couldn't believe how similar it was to Sydney's story.

I believe that Ms. Arthur had no right to take credit for Sydney's work, even though it was not copyrighted. It was Sydney's original story, and Ms. Arthur basically plagiarized by stealing her ideas and making money off of them. Ms. Arthur should acknowledge Sydney and give her the credit she deserves.

### ***Testimony of Emma Arthur***

I have been accused of stealing the ideas of Sydney Wright without permission. On May 28, 2012, I published my latest book following my last two highly acclaimed series. The year before its publication I had complete writer's block and my editor had me on a deadline, waiting for my next idea. Ideas would come to me but, written down, they were choppy and confusing. With no hope of finding a good story plot in time for my deadline, I logged into my Life Script account. Searching through posts in the category of "Writing," I found a story written by an anonymous author.

With an incredibly detailed plot and interesting story line, Sydney's post embodied exactly what I



wanted to see in my next book. Thrilled that I was finally getting somewhere, I began jotting down thoughts and ideas. A year later I was submitting the full manuscript to my editor and making last minute adjustments. The book was published for my fans that couldn't wait for my next book. Fans everywhere raved online, through letters, and in person at my book signings.

But I was not expecting the email that I received soon after the book's publication. The email said the story I recently published was very similar to Sydney's anonymous post on Life Script. She would like credit for the idea. If I didn't provide her the credit, she planned to sue me.

### ***Testimony of Walter Webster***

I am a representative of Life Script. One day I got a call from Emma Arthur, one of our regular authors on Life Script, concerning an issue. Ms. Arthur said she was being accused of taking another user's story line and making it her own. There was a story posted by an anonymous author that is very similar to the plot of Ms. Arthur's new book. The original post that was submitted was just a sample. Since the post was anonymous, no one claimed the right to copyright it. According to our terms and conditions, once you upload a story, it is there for everyone to see. In my opinion, and everybody else's at Life Script, Ms. Arthur had every right to use Sydney's short story as an idea. If she did not want Ms. Arthur to use her plot, then she should not have put it on our website.

## **INSTRUCTIONS**

The plaintiff must prove by a preponderance of evidence that Sydney's story line was protected under Life Script's copyright terms.

## **SUB-ISSUES**

1. Should the teacher be held accountable for assigning a project to students that might have caused their work to be copied or used in another form?
2. Does Sydney have original ownership of a document that was posted on a public social media website?

3. Should Emma Arthur have contacted Sydney and asked her for permission to use the idea on Life Script?
4. Should Sydney receive credit and future royalties for any subsequent releases?
5. Did the website have a messaging option that allowed users to message each other?

## **CONCEPTS**

1. Copyright terms.
2. Life Script terms and conditions.
3. Witness credibility.
4. Burden of proof - preponderance of the evidence.

## **LAW**

Life Script.Net hereby grants you permission to access and use the Website as set forth in these Terms of Service, provided that:

- a. You agree not to alter or modify any part of the Website or author stories.
- b. You will not use the service for illegal activity or the promotion of illegal activities.
- c. You will not harass other users or send content to users that would be inappropriate for anyone under the age of 18.
- d. Due to the nature of the service we provide, the content posted by others, for example, users of the services including providers and consumers, can post their own content for which we can take no responsibility. If you post content using our services, you take full responsibility for that content, you warrant that you have the right to use the content and that you grant us the right to use the content free of charge or encumbrance.
- e. Life Script.Net reserves the right to discontinue any aspect of the Life Script.Net Website or member posts at any time.

# Car Carriage Carnage

## SCHOOL

Mount Olive Middle  
Budd Lake  
Grade 8, Honorable Mention

## TEACHER

Becky Hull-Clark

## STUDENTS

Emma Carlson, Andal Ilanko, Brenna Ilg, Nisha Jagadeesh, Anne Marie Melda, Angela Petrizzi, Sara Zampino

## FACTS

Sara Town is a small picturesque town in Brenna County, where people often gather at the intersection of Emma Lane and Nisha Path. People love to visit the quaint little shops, especially during the Christmas season. On the night of December 21, 2012, there was an accident on the narrow street of Emma Lane. It was dusk and foggy out on this particular day. The collision of a car and horse resulted in the devastating loss of a family's horse.

Edward AppleBottom was driving his six-year-old Camry alongside a horse-drawn carriage, when suddenly, an elderly Christmas shopper, Agatha Wrinkles, shuffled into the street. Both instinctively and carefully, Edward AppleBottom honked at the pedestrian, to caution Agatha Wrinkles.

However, the horse, Mr. SparkleMane Rainstorm, pulling the horse-drawn carriage, was alarmed and startled. Bill Joss, the driver of the carriage, had been slowing the carriage, as he had seen Agatha Wrinkles approaching the street. Bill Joss was giving a tour of the quaint Sara Town for his passenger, Mr. Chris Gales. Bill Joss's lights on the carriage had gone out, making it hard to see the carriage and horse. Mr. Gales and Bill Joss were having an amiable conversation and Bill Joss was, as a result, not holding the reins securely. Edward AppleBottom had strayed into the lane of the horse-drawn carriage, while Mr. SparkleMane Rainstorm had swayed into AppleBottom's lane. It was then that Edward AppleBottom's Camry and the anxious Mr. SparkleMane Rainstorm collided.



Bill Joss, seeing that his horse had been badly injured, called a veterinarian, who came immediately to take care of the horse. Chris Gales exited the carriage, startled and concerned, as he had been the passenger in the horse-drawn carriage. However, he remained unharmed. Seriously injured, Mr. SparkleMane Rainstorm, lying limply on the ground, was taken to St. Angela's hospital. The veterinarian took an x-ray that revealed that the stallion had broken his leg. The leg was cast. However, after further observation, as the horse was not doing any better, it was found that the horse was suffering from internal bleeding. Mr. SparkleMane Rainstorm's ribs had been broken and punctured his lungs. The horse would not survive.

To the horrid dismay of the Joss Family, the horse had to be euthanized at 11:37 p.m. Because Mr. SparkleMane Rainstorm was a Clydesdale, this cost over \$3,000. Additionally, as a result of the collision, the carriage was dented and a wheel was destroyed. This caused further economic stress on the family as the Joss Family depended on the income from the horse-drawn carriage. The Joss Family relied on both the horse and the carriage for their livelihood.

Bill Joss is currently seeking compensation for the medical expenses and for loss of income.

## ISSUE

Is Edward AppleBottom responsible for the damage to the carriage and the death of the Clydesdale?

## WITNESSES

### *For the Plaintiff*

Bill Joss

Chris Gales

### *For the Defense*

Edward AppleBottom

Agatha Wrinkles

## WITNESS STATEMENTS

### *Testimony of Bill Joss*

My name is Bill Joss, I am a 35-year-old carriage driver. I have been in the carriage driving business for 15 years. I am an extremely safe driver, who has never been ticketed for my driving and would never do anything to endanger the welfare of my wonderful passengers looking to enjoy a relaxing carriage ride, or my beloved Clydesdale, Mr. SparkleMane Rainstorm.

I was driving my horse-drawn carriage on the night of December 21, 2012 at dusk. The lights on my horse-drawn carriage had been broken and therefore needed replacement. I was planning on replacing the lights after dropping off my jolly passenger, Chris Gales, at his choice location. I was giving Chris Gales a thorough tour, pointing out sights of interest and showing the lovely allures of this town. I do admit that I was waving at some of the people along the streets while driving.

As I was driving my horse and passenger down Emma Lane at a steady trot, and talking to Chris Gales about Sara Town, a silver Camry drove up beside us, keeping a slow, steady pace with the carriage. I suddenly noticed an elderly lady beginning to cross the road without looking in both directions. She started to step into the road. At this moment, Edward AppleBottom, the driver of the silver Camry, honked his horn instead of simply stopping the car and waiting for the woman to cross. At the same time, Mr. AppleBottom swerved towards my horse and carriage. The elderly woman responded to the horn by stepping back onto the sidewalk. Consequently, the honking of the horn spooked Mr. SparkleMane Rainstorm and caused him to panic. I briefly lost control of the reins while slowing down. Startled, Mr. SparkleMane Rainstorm momentarily veered into the silver Camry's lane, while Edward AppleBottom had deviated, coming increasingly closer to the carriage. My beloved Clydesdale and the Camry collided.

An emergency veterinarian arrived shortly after the incident and took my horse to an emergency veterinarian clinic. When Mr. SparkleMane Rainstorm arrived at St. Angela's Equine Hospital,

the x-rays showed several broken ribs and a broken leg. I paid a large veterinary bill to get a cast on his broken leg.

Unfortunately, further examinations revealed that one of Mr. SparkleMane Rainstorm's broken ribs had punctured his lungs. It was doubtful Mr. SparkleMane Rainstorm would survive this injury. The internal bleeding was already very severe. At 11:37 p.m., my best friend, Mr. SparkleMane Rainstorm, was euthanized. Not only had Mr. AppleBottom killed my horse, but he had also damaged my carriage, extraordinarily increasing expenses.

Mr. SparkleMane Rainstorm was the primary source of income for my family, and since his death, we have been struggling to meet our expenses. My family and I have been facing economic and emotional trauma from the death of our thoroughly loved horse. The end of the month is approaching, and I fear for my family, considering our bills from the previous month are still unpaid. I have to take a second mortgage on the house. It will be a struggle to afford necessities we have once taken for granted, such as food. These times of hardship are proving to be a hard adjustment for everyone, especially my kids. My children are having a difficult time coming to terms with the death of this animal that they considered family. I hope my family and I can receive the justice and compensation we need and deserve.

### ***Testimony of Chris Gales***

My name is Chris Gales. On the night of December 21, at dusk, I treated myself to a carriage ride after a long day of Christmas shopping for my family. Mr. Joss was very polite and friendly with me. I was a new resident to this town, so I was getting a tour of Sara Town. Mr. Joss was explaining the various attractions in this charming town.

The horse was trotting down Emma Lane and I found myself contentedly looking out the side of the carriage taking in the sights of the bustling little village. It was then that I was aware of a commotion going on outside. A silver Camry had pulled up along the left of the carriage. When the driver of the car honked to alert an oncoming pedestrian, Agatha Wrinkles, the horse pulling the carriage veered into

the silver Camry's lane and the Camry turned into our lane, causing the dreadful collision.

I jumped out of the carriage immediately after Mr. Joss and saw the carriage horse, lying limply on the ground. An emergency veterinarian vehicle arrived not long after the accident and took the injured horse to a hospital.

I was deeply saddened by this news, as the horse seemed to be very obedient and trustworthy. It's a shame that this beautiful winter day took such a tragic turn of events. It put a damper on everyone's holiday season. While I remain unscathed by the incident, I know that Mr. Joss is suffering greatly. I plan on donating some money for his family, to help them get along.

### ***Testimony of Edward AppleBottom***

I, Edward AppleBottom, have lived in the Sara Town for about 20 years. For this reason I am quite familiar with the county regulations regarding the horse-drawn carriages that travel alongside the roads.

On December 21 at dusk, I was driving home in my silver Camry after a long day of work. As I neared Emma Lane, a horse-drawn carriage was in the car lane next to me. After the tiring day I experienced, I was in a mood to get home hurriedly, and I therefore accelerated to a speed a bit over 35 mph. As I gazed over toward the carriage, I noticed the reins being held loosely in the driver's hands.

Continuing down the lane, I noticed numerous pedestrians running to and fro across walkways, rushing to claim their Christmas gifts before the stores closed. I continued at my slow pace, so I wouldn't hit anyone. Suddenly, to my horror, an elderly woman, Agatha Wrinkles, who must not have been paying attention while carrying her many packages, hobbled right in front of my car.

I quickly slammed my hand on the car horn to alert the woman, as I could not hit the brakes with the long line of traffic trailing behind me. If I had hit the brakes, a car behind could have rear-ended me. I also swerved over to the right to avoid causing injury to the pedestrian. Unfortunately, my honk spooked the nearby carriage horse. At the same time that I swerved towards the right, the horse

stepped to the left. As I had hoped, Agatha heard my warning and scrambled to the safety of the sidewalk, but I had collided with the horse.

The horse fell to the ground and the passenger in the carriage was speechless. The horse seemed to be extremely hurt, while it lay flaccidly upon the ground. An emergency veterinary vehicle arrived before long to take care of the horse.

From what I read in the newspaper the next day, the horse had to be euthanized.

Although I did hit the horse, I am not at fault for his death. I did not, in any way, hit the horse intentionally. If Mr. Joss had control of his horse, he could have prevented the collision. The actions I took were simply made to save the old woman crossing the street, not to cause harm to anyone or anything.

### ***Testimony of Agatha Wrinkles***

My name is Agatha Wrinkles. I've lived in this unique town my entire life. After the 72 Christmases I have experienced, I am well aware of the commotion that occurs this time of year. I was rushing to Anne Marie's Toys on Emma Lane from Andal's Confectionery that was located on Nisha Path.

As it was nearing Christmas, I realized that the streets are always crowded. The sales were over the top this time of year and I was eager to find gifts in time for my beloved grandchildren. It was December 21 at dusk and as I started to cross Emma Lane, I heard a car horn.

I immediately scurried to the sidewalk to avoid being injured by any vehicle. If the car driver, Edward AppleBottom, hadn't honked that horn, I wouldn't have been alive. That man's honk meant the difference between my life and death. However, looking towards Edward AppleBottom to give him my thanks, I witnessed a harrowing accident.

The silver Camry that had honked the horn had collided with the horse pulling a horse-drawn carriage. I didn't see much as I was too focused on getting to the sidewalk safely, but I did see the horse swerve into the driver's lane unknowingly. The Camry, turning in the direction of the horse, had slammed into the horse.

I saw the horse hit the ground like a sack of potatoes. The horse was severely injured from the incident. As Mr. AppleBottom told me, his one and only intention was to avoid hitting me. Although he hit the horse, Mr. SparkleMane Rainstorm, Mr. AppleBottom is not responsible for the horse's demise.

Edward AppleBottom should most certainly not be punished for this inspiring act of heroism. I irresponsibly crossed the street without looking in both directions. Edward AppleBottom did save my life, and I am grateful. I thank him dearly for that.

## **INSTRUCTIONS**

The plaintiff must prove by a preponderance of evidence that Edward AppleBottom is responsible for the injury and death of Bill Joss's horse and the damage to his carriage.

## **SUB-ISSUES**

1. Should Edward AppleBottom be held responsible for the horse's death?
2. Was Bill Joss in full control of his horse?
3. Did Bill Joss violate the law, as the lights on his horse-drawn carriage had not been replaced?
4. Should Agatha Wrinkles be held responsible for Edward AppleBottom honking his horn?
5. Was Edward AppleBottom driving at an acceptable speed limit?
6. Who should be held responsible for the collision?

## **CONCEPTS**

1. Preponderance of the evidence.
2. Credibility of witnesses.
3. Rights of pedestrians on a crosswalk.
4. Rules for motor vehicles when approaching a horse.
5. Rights and duties of persons riding or driving animals.

# LAW

*New Jersey Motor Vehicle Laws:*

## 1. **39:4-33. Use of designated crosswalk; keeping to right**

At intersections where traffic is directed by a police officer or traffic signal, no pedestrian shall enter upon or cross the highway at a point other than a crosswalk. Pedestrians shall move, whenever practicable, upon the right half of crosswalks.

Amended by L.1951, c. 23, p. 74, s. 23.

## 2. **39:4-22. Reins held in hands**

No person shall cease to hold the reins in his hands while riding, driving, or conducting a horse.

## 3. **39:4-25. Lights on animal-drawn vehicles**

Every vehicle drawn by a horse or other beast shall carry, during the period from thirty minutes after sunset and thirty minutes before sunrise, and when fog renders it impossible to see a long distance, at least one lighted lamp on the front of the vehicle. The lamp shall show a white light and shall be of such a nature and so displayed that it may be seen from a point at least five hundred feet distant in the direction toward which the vehicle is proceeding. There shall be attached to the rear of the vehicle two lighted lamps showing a red light visible for a distance of at least five hundred feet in the direction from which the vehicle is proceeding.

Amended by L.1951, c. 23, p. 72, s. 18.

## 4. **39:4-25.1. Rights and duties of persons riding or driving animals**

Every person riding an animal or driving any animal-drawn vehicle upon a roadway shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle by chapter four of Title 39 of the Revised Statutes and all supplements thereto, except those provisions thereof which by their very nature can have no application.

L.1951, c. 23, p. 72, s. 19.

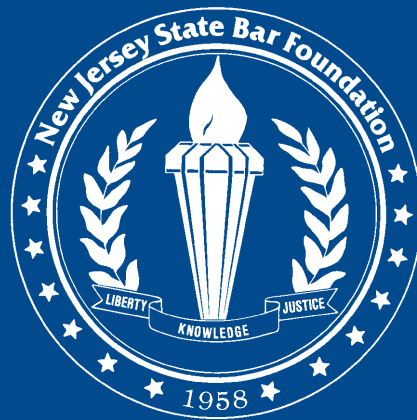
## 5. **39:4-72. Slowing, stopping on signal from driver, rider of a horse; violations, fine.**

39:4-72. a. When approaching or passing a person riding or driving a horse, a person driving a motor vehicle shall reduce the vehicle's speed to a rate not exceeding 25 miles an hour and proceed with caution. At the request of or upon a signal by putting up the hand or otherwise, from a person riding or driving a horse in the opposite direction, the motor vehicle driver shall cause the motor vehicle to stop and remain stationary so long as may be necessary to allow the horse to pass.

b. The administrator shall include in the New Jersey Driver Manual information explaining the requirements of subsection a. of this section and cautioning licensees on the need to exercise caution when operating a motor vehicle near horses.

c. A person who violates subsection a. of this section shall be subject to a fine of \$150.

Amended 2004, c.163, s.1.



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