

**FOR GRADES 3–6**



# MOCK TRIAL EXERCISES

Featuring Winning Cases from the New Jersey State Bar  
Foundation's Law Fair 2008 Competition



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# Preface

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

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

Following are the winning students' cases from the Law Fair 2008 Competition. They may be used as a guide to prepare a submission to the Law Fair Competition or as a classroom exercise. Please note that some of the cases may contain “laws” created by the students for the purposes of this competition, which may not necessarily be actual laws. Since these mock trials were written by children, the content should not be considered technically accurate.

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

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

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

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

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

# Chloe Closed up in the Cloak Closet

## SCHOOL

Mt. Pleasant Elementary  
Livingston  
Grade 3, First Place

## TEACHER

Cynthia Schwartz

## STUDENTS

Juliet Akcay, Nina Fiore, Lindsay Friedman,  
Jordan Goldberg, Carly Katzeff, Abigail Levy,  
Maya Lipshitz, Arya Mirchandani,  
Kristina Orgueira, Harris Paspuleti,  
Ellie Shahrabani, Aaron Tucker, Jessica Zhang

## FACTS

On October 19, 2007, Lucy Lockup, the teacher at the Tiny Towne School, sent her children to the cloak closet to get their coats for their 1:30 p.m. dismissal. Timmy came up to her and needed his shoe tied. Samantha wanted Miss Lucy to fix her hood. Jackie needed his backpack taken down from a high shelf.

After helping the children, Miss Lucy asked them to line up. She did the line count in the classroom instead of in the parking lot because she was in a rush to get to the dentist.

Kyle was having trouble with the zipper on his jacket so she helped him too. Then she closed the closet doors, turned off the lights and marched the children to the parking lot and dismissed them. After the dismissal, she went back and got her things.

At the same time, Beatrice Wailer, Chloe Wailer's mother, was stuck in traffic and she tried to contact Miss Lucy on her cell phone. The phone call went to voice mail. She left more than six messages instructing the teacher to send Chloe home with Kyle's mom and for her to return her call. When Beatrice finally got to Kyle's house to get Chloe, it was already 4:30 p.m. She panicked when she discovered Chloe wasn't there. She tried to reach the teacher again, but there was still no answer because Miss Lucy had a mouth full of dental instruments and turned off her cell phone.

Beatrice Wailer drove back to the Tiny Towne School and found the custodian. He assured her that he had cleaned the room and nobody was in it. He took her to the room and she saw for herself that

Chloe wasn't there. What they didn't know was that after crying for a long, long time, Chloe finally fell asleep in the cloak closet.

Eventually, a very nervous and upset Beatrice reached Miss Lucy on the phone. Since Miss Lucy had no explanation, Beatrice Wailer called the police. She was afraid her child had been kidnapped.

By midnight, when there were no leads, the police returned to the school. It was dark but they had the custodian open the building. They searched every room with flashlights and Officer Luke Look-infind decided to check the closets. This time he picked up the clothes that were left in the Lost and Found box in back of the closet. Underneath the pile, at the bottom of the box, there was Chloe sound asleep!

The Wailer Family is suing Lucy Lockup and the Tiny Towne School for negligence. They claim that Chloe is afraid to go to school. She has nightmares and believes that there are monsters in the closets. She has started to stutter.

## ISSUE

Were Miss Lucy Lockup and the Tiny Towne School negligent when they dismissed the children?

## **WITNESSES**

### ***For the Plaintiff***

Bea Wailer

Chloe Wailer

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

Lewis Checkworth

Lucy Lockup

## **WITNESS STATEMENTS**

### ***Testimony of Bea Wailer***

My name is Beatrice Wailer and I am Chloe's mom. On the day that Chloe was lost, there was an accident on the bridge and traffic was tied up for hours. As soon as I saw I would be late to pick up Chloe, I called Lucy Lockup to tell her to send Chloe home with Kyle, which is our usual arrangement when there is a problem. The call went to voice mail. I left six messages. I tried to contact someone at the school, but there was only a message machine that answered at the Tiny Town office.

At first I wasn't that worried if I wasn't there on time because I expected Lucy to follow our usual arrangement. I know that the procedure is for the teacher to count the children at dismissal to make sure they are all handed off to an arranged parent.

After hours of searching without any results, Police Officer Luke Lookinfind finally discovered Chloe under a pile of clothes in the cloak closet. She had been locked in the school alone for hours. She cried herself to sleep. She was trapped until midnight, hungry, scared and helpless.

Since that day, Chloe won't go to bed because she is scared of the dark. She wakes up screaming from nightmares. She complains of monsters in the closet and under her bed. Chloe is no longer happy to go to school and clings to me. Worst of all, she has started to stutter. There is no excuse for such carelessness.

### ***Testimony of Chloe Wailer***

I am Chloe and I just turned five. I liked school before I got locked up in the cloak closet. I got in line but then I went back to find my mitten. I guess I forgot to tell Miss Lucy. The next thing I knew, everyone was gone and I was alone.

At first I was brave and I thought my mommy would come for me. I knocked and knocked on the classroom door but it was locked and nobody heard me. Then I started to get scared and I cried my eyes out.

I was cold and hungry. I went back to the closet and found a pile of clothes. I climbed into the box and covered myself with the clothes because I was scared. It got dark and I started to wail. I fell asleep under the clothes.

When I woke up, there was a great big policeman standing over me with a bright light. I never want to ever go to school again!

### ***Testimony of Lewis Checkworth***

My name is Lewis Checkworth and I have been the custodian of the Tiny Towne School for more than 11 years. In all that time we never had a single problem about a child's safety. Lucy Lockup and I have been working together for a long time. She is wonderful with the children and always careful. I saw her counting the children on line. They were all there when she counted them.

I had no idea Chloe was missing until Mrs. Wailer showed up at school. I checked the classroom several times...once with her mother present. I looked in the closet. I didn't see anything or hear a single sound. It never occurred to me to look under the pile of clothes in the Lost and Found box.

## **Testimony of Lucy Lockup**

When the bell rang that day, I had to help Timmy tie his shoe, Samantha fix her hood, and Jackie reach a backpack on a high shelf. I was in a bit of a hurry to make my dentist appointment so I lined the children up and counted them on line.

Chloe did not follow class rules. She went back to the closet to find a mitten without telling me. I took the children to the parking lot and helped each child into their parents' cars. I did not have a note from Mrs. Wailer that she would not be there. Kyle's mom did not ask for Chloe.

After school I went directly to the dentist. Eventually, I arrived at the dentist's office. Before I knew it I had a mouth full of dental instruments and cell phones have to be turned off there anyway! Mrs. Wailer should have called the school or even Mr. Towne personally if she knew there was a problem. She should have called Kyle's mom immediately to alert her as well. I had no idea Chloe went back to the closet after I counted the children.

The custodian and the police searched several times. Unfortunately, it wasn't until midnight that the officer located her asleep under a pile of old clothes in the Lost and Found box. Chloe is a dear child and I am very sorry this happened, but it is her mother's responsibility to follow through if something unexpected delays her. I followed procedures to the best of my ability and did all that a teacher would be expected to do to be sure her students are safe.

## **INSTRUCTIONS**

The plaintiff must prove by a preponderance of the evidence that Miss Lucy Lockup and the Tiny Towne School were negligent in supervising the children at dismissal and therefore liable for Chloe's damages, pain and suffering.

## **SUB-ISSUES**

1. Did Beatrice Wailer do everything she could to notify the school?
2. Was it careless of Miss Lucy to conduct her "count" of the children in the classroom instead of in the parking lot?
3. Can a five-year-old child be blamed for contributing to the problem?
4. Should the school have an assistant to help the teacher at dismissal?
5. Does the school have a duty to provide an emergency number that is manned by a person instead of a machine?

## **CONCEPTS**

1. Burden of proof – preponderance of the evidence.
2. Witness credibility.
3. Negligence and contributory negligence.
4. Damages.

## **LAW**

Negligence is the failure to use that degree of care for the safety of others that a reasonably careful person would use under similar circumstances. To find a party negligent, it is not necessary to prove intent. Contributory negligence happens when both sides have a part in the damage that was caused. For the defendant to be liable, his negligence must be the proximate cause of the injury. Damages include fair and adequate compensation for expenses caused by the negligence

# The Case of the Zoo-y Mess

## SCHOOL

Hillcrest  
Somerset  
Grade 3, Second Place

## TEACHER

Pamela Treut

## STUDENTS

Afuah Aboagye, Meher Bharatiya,  
Hunter Casazza, Shriya Chennuru,  
Chloe Conover, Niya Darby, Sindhu Gowda,  
Kyle Lee, Matthew Li, Tarun Ravi,  
Andrew Seamon, Trevor Shu, Sonam Tailor,  
Jemmie Tsai, Clarissa Vickerie

## FACTS

On May 4, 2007 Mr. Hunter accompanied his daughter's third-grade class at Conover School in Trevortown to the Ravi-Lion Zoo in Afuahville, New Jersey. Little Kyle Hunter attended the trip with his dad, Matthew Hunter. Little Kyle's class was not on the trip. Mr. Hunter took him out of school for the day so he could go along.

Little Kyle was in the Baboon's House at the zoo with his dad during the trip. He was waving to a baboon when another child from the group pushed him away from the center of the viewing ramp to get closer to the baboon. While waving at the baboon, Little Kyle lost his balance, fell off the viewing ramp and broke his leg. Mr. Hunter is now suing the Conover School for all medical bills and related injuries.

## ISSUE

Was the Conover School negligent for not providing adequate supervision on the class trip and therefore responsible for Little Kyle's injuries?

## WITNESSES

### *For the Plaintiff*

Matthew Hunter  
Mrs. Hunter

### *For the Defense*

Mrs. Tailor  
Ms. Shriya

## WITNESS STATEMENTS

### *Testimony of Matthew Hunter*

My daughter is a third-grade student at Conover School in Trevortown, New Jersey. On May 4, the kids were going on a class trip to the zoo, and my wife was supposed to go along as a chaperone. She had a toothache and had to go to the dentist. I told her to go to the dentist last winter to get it taken care of, but she did not listen. She is always saying that she is too busy. Anyway, she could not make it for the trip so I had to take off from work to go along.

I was too busy at work to ride on the bus with the kids so I met the group at the Ravi-Lion Zoo. It is near my work. I was the only parent in the Baboon House with the kids. I am not a teacher. I am not an employee of the school. They should have provided better supervision for the children.

Anyway, I was in the Baboon House with my daughter Clarissa and my little son Kyle, who is also a student at the Conover School. At that point I was on my cell phone talking to the teacher, Mrs. Taylor. She was telling me that I should go to the Picnic Grove on the other side of the zoo park.

The trip was badly organized. I mean, really, who ever heard of the teacher calling to tell me that I should be on my way with the kids to some picnic area. I don't even know how she got my cell phone number. There was no communication ahead of time.

My daughter Clarissa was in my group with her friends, Meher and Jemmie. I was on a cell phone call with the teacher so I let Clarissa go with the other members of the group, Meher and Jemmie, to the zoo's picnic grove. I told the group that I would finish the call and meet them in a few minutes. Mrs. Darby, who was also a chaperone and near us in the Baboon House, agreed to take my three students with her own students, Sindhu and Andrew.

Anyway, as I started to say, Little Kyle was on the viewing stand looking at the baboons and some other kid from the school pushed him. He lost his balance and fell off of the ramp. The next thing that I knew, the zookeeper was hollering at me to help. She was near my son and trying to calm him down.

In a few minutes the first aid squad from the zoo was in the Baboon House, and they were giving him first aid. They thought that Kyle's leg was possibly broken, so they took him to the Hillcrest Hospital, which was only about a 10-minute drive away. He was upset and crying. I did not know what to do. I thought that there was supposed to be a nurse on the trip. I don't know where she was.

### ***Testimony of Mrs. Hunter***

I am so sorry that this happened. I am Clarissa and Kyle Hunter's mother. I was supposed to go on the school's trip to the zoo. I came down with a toothache and had to go to the dentist that day. I was sorry that I could not be there. I am the class-mother of Clarissa's third-grade class, and I am the school's PTO President so I felt it was my responsibility to go on the trip.

When I was not able to go, I sent my husband in my place. I called the school from the dentist's office and gave them my husband's cell phone number. The group had already left so I was not able to talk to the teacher. Anyway, I felt that the trip was not well organized. Too much was left for the last minute. I do not know what went on at the zoo. My husband Matthew took my place, and he is very organized.

The principal is constantly asking for parental involvement. He even arranges for baby-sitting services for the PTO meetings. High school students come over to watch the younger children during the meetings. The high school students come to the Conover School for two hours and play with the children in either the gym or the art room.

I don't know why everyone is so upset with us. The staff of Conover School did not do their job. They were not watching the children in the Baboon House. They left the students there with my husband. There was no teacher there to supervise the children.

### ***Testimony of Mrs. Taylor***

My name is Mrs. Taylor, and I am a third-grade teacher at the Conover School and have been a teacher at that school for 11 years. Every year the PTO sponsors a trip to the zoo. Basically, the whole school goes on the trip.

We are a small country elementary school. We take the children in the first, second, third and fourth grades to the zoo in the spring, and we take them on a different trip every fall. The children in the kindergarten go to an apple-picking orchard and to a farm for their field trips. It is hard to include them in the whole school trip because they have half-day sessions.



I did not know that Mr. Hunter was coming in Mrs. Hunter's place. Furthermore, I did not know that Little Kyle was attending the trip. It is true that he is a kindergartener in our school, but he was not included in the trip roster, and he was not one of the students who were supposed to be on the trip.

All of the teachers, the principal and the PTO have been planning this trip for four months, and we have taken our students to the Ravi-Lion Zoo for the past six years. We have not had any problems in the past. Otherwise we would not have returned this year.

Nevertheless, we gave out all of the final instructions to the parents the morning of the trip. There were the children in four classes, 20 chaperones, four teachers and the nurse in attendance. We waited until the morning of the trip to hand out the information to the parental chaperones, because we were finalizing details until the last minute. The trip was well organized.

Everyone exchanged cell phone numbers so that in the event of an emergency, there would be a way to contact the other people on the trip, or the nurse found them on her school's records. Everyone had the nurse's cell phone number and mine as well. We knew that all of the children could not be in the same place at the same time. That was the plan, to spread out over the zoo and meet for lunch.

It was too bad that Mr. Hunter was not able to meet us at the school and take the bus with us. He met us at the zoo with his young child. Mr. Hunter arrived at the zoo the morning of the trip. I tried to find him but I was busy organizing all of the groups. He was not at the pre-trip meeting for the chaperones a half hour before the trip.

I don't know that he made it to the visitors' center at the zoo either. The guide spoke about safety in the zoo before they allowed the children to enter the zoo-park. As I said, we did not know that he was going to bring his kindergartener son.

### ***Testimony of Ms. Shriya***

I have been a zookeeper in the primate area for five years. I look after the animals and feed them as well. During the day I watch the students who come to the House. Baboons can become quite violent if they are upset. I need to watch to make sure that no one is upsetting them.

There are signs all around asking the visitors to be respectful of the animals. They say something like "DO NOT FEED" and "DO NOT TEASE." The Ravi-Lion Zoo is very safety conscious. We spend a lot of money keeping the animals safe and free from disease. In addition, we keep the grounds and cages safe, well maintained and in good repair. I am proud to work here.

On the morning of May 4, I was standing guard in the Baboon House answering the questions that the boys and girls had about the animals. Mr. Hunter was there with another chaperone, Mrs. Darby. There were about 10 kids in the area. I don't know if they were with the Conover School or not.

Mr. Hunter was talking on the cell phone. He was laughing and not paying attention to his group. He told me later, first he talked to his wife and then to the teacher. He claimed that she was telling him where to meet her with the students for their picnic lunch. It was 12:10 p.m. and they were going to meet in the zoo's picnic grove at 12:15 p.m. He actually talked for quite some time.

The little boy fell off of the viewing ramp while he was waving at the animals. I did not see anyone push him, but then again I was answering questions that some of the children had. The next thing that I knew, he was on the ground crying. I have a radio, so I called for our first aid group for help.

They thought he had a broken leg and called an ambulance to take him to the hospital. Later I asked some of the children what happened and all of them said that they believed it was an accident that Kyle fell off of the ramp. I am sorry that this happened.

## **INSTRUCTIONS**

The plaintiff must prove by a preponderance of the evidence that the school was negligent and therefore responsible for Little Kyle Hunter's injuries.

## SUB-ISSUES

1. What is the legal responsibility of a parent/chaperone on a school trip?
2. Was Matthew Hunter a negligent parent/chaperone?
3. Did the zookeeper provide adequate supervision in the Baboon House?
4. Did anyone see Little Kyle get pushed off of the viewing stand?
5. Was the teacher knowledgeable about the zoo's rules?
6. Was Little Kyle disobedient in not paying attention to his father?
7. Was Little Kyle trespassing?
8. Are the parents asking for reasonable compensation?

## CONCEPTS

1. Age of reason.
2. Burden of proof.
3. Credibility.
4. Negligence.
5. Carelessness.
6. Bullying.
7. Foreseeability.
8. Parental responsibility.
9. Safety in public places.
10. Safety in public schools.
11. Comparative negligence.
12. Assumption of risk.
13. Pain and suffering.

## LAW

1. **Negligence Torts:** The breach of duty of care expected of reasonable people.
2. **Contributory Negligence:** If the plaintiff's negligence contributed to his or her injury, and he or she failed to act responsibly for his or her age, then his or her carelessness may reduce the responsibility of other parties.
3. **Damages:** The plaintiff is to be compensated for all damages. This includes fair and adequate medical expenses for pain and suffering and lost earnings.
4. **Attractive Nuisance:** The law recognizes that schools have special responsibilities to stop children from being attracted to dangerous areas.
5. **School Law:** It is the duty of a principal and other school officials to maintain a safe environment while school is in operation or any extension of the school's activities, i.e., sporting events or field trips. It is the responsibility of the school to provide adequate safety for the total school population.
6. It is the responsibility of children at a certain age to respect the rights and property of others.
7. It is the child's responsibility to adhere to warnings and to listen to those in authority in the school.

# The Case of the Viral Outbreak

## SCHOOL

Spring Garden  
Nutley  
Grade 3, Honorable Mention

## TEACHER

Marcia Napolitano

## STUDENTS

Angeli Bossbaly, Thomas Donohoe, Aaron Dunn,  
Declan Intindola, Makayla Landfair,  
Zachary Sebek, Maggie Spector-Williams,  
Alexander Vaporis, Zachary Vaporis

## FACTS

The Violet Russel Academy is an elementary school in the Germville School District with grades K-6. In January of 2007, many students at the Vi-Russ Academy were getting sick. Their symptoms were runny noses, high fever and sore throats. Two of the students were diagnosed with the MRSA virus.

Second-grader Carol Coughsalot became ill on January 9. On January 11, her parents rushed her to the hospital with a high fever and convulsions. She was admitted to the hospital and had to remain there for seven days. During that time, Carol was diagnosed with the MRSA virus and had to be hooked up to an IV.

Carol Coughsalot's parents are suing the Vi-Russ Academy and the Germville Board of Education for causing the MRSA virus outbreak that made their daughter so sick.

## ISSUE

Are the Germville Board of Education and the Vi-Russ Academy responsible for Carol Coughsalot's medical expenses?

## WITNESSES

### *For the Plaintiff*

Susan Coughsalot  
Ken I. Multiply

### *For the Defense*

Domenick Dampson  
Jean Scout

## WITNESS STATEMENTS

### *Testimony of Susan Coughsalot*

My name is Susan Coughsalot. My daughter Carol is a student at the Vi-Russ Academy. On January 9, Carol came home from school with a fever and a sore throat. I gave her some Tylenol and put her to bed. The next day we took her to see our family physician, Dr. Miller. He said to give her plenty of fluids and keep her home for a few days.

On the night of January 11, Carol's fever began to rise, in spite of the medication we gave her to bring it down. In the middle of the night, my husband and I rushed her to the hospital. She had become extremely ill. She was admitted to the hospital and had to remain there for seven days. During her stay, my poor daughter was hooked up to an IV and given oxygen to help her breathe.

When she was feeling a little better, Carol told me stories about the unsanitary conditions at the Vi-

Russ Academy. The week before she became ill, she had gone into the girls' bathroom with some other girls, only to discover that there was no soap or hot water to wash their hands. Carol was upset about this. We always told her to wash her hands whenever she uses the bathroom.

She did her best with cold water and no soap, but obviously it did not work. Just imagine all the germs that could have been spread in that one bathroom! I was not surprised when I found out that there was a lot of illness at the school, including two other cases of the MRSA virus. Health officials have said that not washing your hands is the main reason germs are spread.

It would be unrealistic to expect a school to be a germ-free environment. But not to provide soap and hot water that are essential for killing germs that spread disease is simply outrageous! There is no question in my mind that these conditions caused my daughter Carol to become ill with the MRSA virus.

My husband and I believe that the Vi-Russ Academy should be held accountable for the spread of illness throughout the school. We believe that the Germville School Board should pay for our daughter Carol's medical bills, as well as the cost of hiring a private tutor for the next two months to help her catch up with all the work she missed during her illness.

### ***Testimony of Ken I. Multiply***

My name is Ken I Multiply. I have been a fourth-grade teacher at the Violet-Russel Academy for 18 years. I am a certified elementary school teacher. I taught in two other school districts before coming to this school.

I am not surprised that all these students became sick at the Vi-Russ Academy. During the past few weeks, I have received many complaints from students that there was no soap in either the girls' or boys' bathrooms. My classroom is located next to the bathrooms. Whenever there is a problem in the bathrooms that needs immediate attention, the students come to my room.

I forwarded each complaint to the school office. I also went into the boys' bathroom on several occasions to check the supplies and found that the soap dispenser was often empty, and the bathroom was very dirty. In my experience in other school districts, I had never seen this problem. I did not notice it in Vi-Russ Academy until this month.

I understand that the custodian has had some family problems recently. I believe his wife has been sick, and he has missed quite a few days of school. I do not know if that is the reason for the unsanitary conditions in the bathrooms. I also do not think that the principal has done anything to help the situation.

It is my opinion that the school has been negligent in providing sanitary conditions in the bathrooms and therefore has risked the health and safety of its students.

### ***Testimony of Domenick Dampson***

My name is Domenick Dampson. I have worked as the head custodian at the Vi-Russ Academy for 15 years. My job is very important and I take my responsibilities seriously. Everyday my fellow custodians and I inspect the bathrooms. I check to make sure that the bathrooms have supplies, such as toilet paper, paper towels and soap. I clean and disinfect all surfaces, and empty the garbage cans three times a day. I do this before, during and after school.

Our custodial team cleans every classroom carefully. We sweep and mop the floors, dump the trash, clean the desktops, and supply tissues. In the kindergarten classrooms, we also clean and disinfect the bathrooms and sinks. We only use regulation cleaning supplies that the Germville Board of Education tells us to use.

I am very sorry for the serious illness that Carol Coughsalot caught, but I do not believe that the condition of the school was unsanitary or that the custodial staff was responsible.

### ***Testimony of Jean Scout***

My name is Jean Scout. I am the Girl Scout leader for troop #24, Carol Coughsalot's troop. The Germville Board of Education has asked me to testify

today, concerning a trip that the scouts took to New York City on Saturday, January 6, approximately three days before Carol came down with the MRSA virus.

On that day, the other troop leader and I took the girls on a sightseeing trip to the city. It seemed hard to believe that we live so close to New York City and yet, some of our scouts had never been there. We started with the boat ride around Manhattan, followed by a subway ride to Times Square. We had lunch at a restaurant on 45th Street, and then went to see the Broadway show *The Lion King*. We had 21 girls with us that day and everyone had a great time. Oh, did I mention that we took public transportation to and from the city?

During the next few days, several of the girls, including Carol, became sick with some kind of a flu or virus. The other girls who became sick do not attend the Vi-Russ Academy. They had symptoms like high fever, runny nose and sore throat. Although none of the others were diagnosed with the MRSA virus, it seems likely that they all were exposed to germs during our trip around the city.

I am sorry to speak against the Coughalots, they are friends of ours, and Carol is a sweet little girl. But in my opinion, it is possible that Carol caught the MRSA virus in a place other than the school.

## INSTRUCTIONS

The plaintiff, Susan Coughsalot, must convince the jury that the Vi-Russ Academy was responsible for spreading the virus germs that caused her daughter Carol to become ill.

## SUB-ISSUES

1. Did the alleged lack of cleanliness lead to a spread of germs and the reported illnesses in the school?
2. Did Carol Coughslot contract the MRSA virus at the Vi-Russ Academy or in another location?

## CONCEPTS

1. Credibility of witnesses.
2. Negligence.
3. Burden of proof.
4. Accountability.
5. Preponderance of the evidence.

## LAWS

1. It is the responsibility of the school to insure the health and safety of its students.
2. If an individual contracts an infection at a health-care facility or other public place, such as a school, that individual has the legal right to be compensated.
3. It is required that the plaintiff (the party bringing a civil lawsuit) show by a “preponderance of evidence” that all the facts necessary to win a judgment are presented and are probably true. At the close of the plaintiff’s presentation, if he/she has not produced any evidence on a necessary fact (e.g., any evidence of damage) then the case may be dismissed.
4. Negligence is established when the defendant has a duty to protect the plaintiff and fails to fulfill that duty, even if unintentionally.
5. Contributory Negligence: If the plaintiff’s acts contribute to the injury, such acts may reduce or eliminate the responsibility of the defendant.
6. Title 59 of the NJ Statutes gives governmental entities immunity from lawsuits unless you meet certain stringent criteria.
7. Schools must use “due care” in supervising their students and keeping them safe. (Case Law)

# The Case of the Roller Coaster Accident

## SCHOOL

Spring Garden  
Nutley  
Grade 3, Honorable Mention

## TEACHER

Marcia Napolitano

## STUDENTS

Richard Bacik, Brian Cadag, Anthony Cassie,  
Mark Charles, Marissa Daly, Nicole DiMaggio,  
Gianna Farro, Ulisses Garcia, Brooke Keena,  
William Odria, Dhruv Patel, AnneMarie Reisch,  
Sophia Rodrigues, Victor Schiavo, Alycia Torres

## FACTS

On July 4, 2007, John B. Wilde went to the Five Batons Amusement Park with his three brothers. After riding all the other rides, the four boys decided to ride the Cosmic Flier, a very fast roller coaster and the most popular attraction at Five Batons.

After waiting in line for almost two hours, the boys boarded the roller coaster. John and his older brother Sam got into the first car. His two other brothers sat two rows behind them.

About halfway through the ride, when the roller coaster began to do a 360° loop, John was ejected from his seat. He landed on the grass, in front of the fence. The roller coaster operator called 911. Emergency workers arrived at the park and rushed John to the VanValley Hospital where he was treated for many injuries, including two broken legs, a bruised liver and a severe concussion.

Mr. and Mrs. Wilde are suing the Five Batons Amusement Park for negligence. They claim that the safety belts were not functioning properly, therefore causing their son's accident.

## ISSUE

Is the Five Batons Amusement Park responsible for John B. Wilde's medical expenses, as well as for the pain and suffering he experienced as a result of the accident?

## WITNESSES

### *For the Plaintiff*

John B. Wilde  
Sam Wilde

### *For the Defendant*

Carlos Coaster  
Susan C. Johnson

## WITNESS TESTIMONY

### *Testimony of John B. Wilde*

My name is John B. Wilde. I am 14 years old. On July 4, 2007, I was injured in an accident at the Five Batons Amusement Park.

My brothers and I arrived at the park early in the afternoon. It was already very crowded because it was a holiday. That is why we ended up waiting about two hours to go on the Cosmic Flier. I did not mind the wait. I was with my older brothers, and we always goof around when we are together. The

Cosmic Flier is my favorite ride, so I was excited to go on it.

When it was finally our turn, my brother Sam and I got into the front car. We carefully fastened our harnesses. The ride is set up so each rider has his own seatbelt, even when sharing a car with someone else. Sam and I each fastened ourselves into the harness for our own seat. We waited patiently as the roller coaster operator checked to make sure we were securely fastened into the car. I thought my harness felt a little loose, but when I asked the operator to check it again, he said it was fine.

As the roller coaster began to go up the hill, I could feel the harness getting even looser, and I started to yell to my brother to fix it. He tried to help, but it was too late. We were already going into the loop. I panicked and screamed for help.

The next thing I knew I was being lifted into an ambulance. I was rushed to the hospital, where I had to remain for three weeks. Even when I went home, I was in a cast for three months. I am still going to physical therapy twice a week.

My parents are suing the amusement park for not operating safe equipment, and causing my injuries. They want Five Batons to pay for all my medical expenses, as well as for the traumatic experience I had that day.

### ***Testimony of Sam Wilde***

My name is Sam Wilde. On the afternoon of July 4, 2007, I was visiting the Five Batons Amusement Park with my three brothers. We enjoy doing things together as a family, but going to an amusement park is one of our favorite. It probably is the one activity where my parents do not join us. So it was just the four of us on that day.

We had saved the Cosmic Flier for our last ride, since it is our favorite. Because the park was so crowded, we waited about two hours to get on the ride, but it was worth it when we finally boarded. John and I were in the first row, and our other two brothers were a couple of rows behind us.

John and I joked and laughed as we sat waiting for the ride to begin. We were excited to be on our

favorite ride. The roller coaster operator checked everyone's harnesses, including ours. I heard John ask the operator to check his harness a second time. Instead of doing that, the operator started yelling at John to stop fooling around. It was not until we were on our way up the first hill that John shouted out to me that his harness had come undone. I did not know what to do.

I tried to tell him to remain calm. But John was in such a panic as we approached the first big loop that he started screaming for help. I tried to hold onto him but it was impossible! The next thing I knew, John was no longer in the car, and the Cosmic Flier was being shut down. My poor brother was rushed to the hospital, where he was treated for his injuries from the fall.

My mom and dad are suing the Five Batons Amusement Park. In my opinion, it is totally the park's fault that my brother was thrown from the ride. Their equipment was not functioning properly, and that is what caused the accident.

### ***Testimony of Carlos Coaster***

My name is Carlos Coaster and I work as a ride operator at the Five Batons Amusement Park. On July 4, 2007, I was scheduled to be at the Cosmic Flier all day, from 9 a.m. when the park opened until 5 p.m. when the night shift comes on duty. I was there at the time of the accident.

One of my responsibilities is to check every rider's harness before the ride begins. John Wilde, the boy who had the accident, and his brother were in the first car of the roller coaster. Many of the kids like to ride in the front of the Flier; it makes the ride a little more exciting.

I went down the row of cars, starting at the front with Mr. Wilde and his brother. I can tell you without a single doubt that his harness was securely fastened before the ride started. I checked it myself, and I have been trained to do it properly. There is also a warning signal that beeps at the control box if any of the harnesses are not fastened. The signal did not go off.

The only way that John Wilde could have fallen out of the Cosmic Flier was to unfasten the harness

himself and slip through the straps after the ride had started. I am not sure how he did it because the harnesses have an automatic locking system. But it would not surprise me if those Wilde boys were planning to do something wild. They were acting very wild and reckless during the seatbelt check, and I had to speak to them several times about their behavior.

When all the passengers were buckled into their seats, I started the ride. As it passed by the control booth, I could see some kind of activity going on in the first car, but it passed me too fast to get a good look. It was too late for me to stop the ride anyway. As the coaster went into the first loop, I saw John fly smoothly through the air like Superman and I heard a thud as he landed on the grass near the fence.

That boy is lucky to be alive. I am very sorry about how badly he was injured. But it was not the fault of the amusement park or our equipment. John Wilde has no one to blame but himself. I certainly hope he has learned his lesson about safety rules.

### ***Testimony of Susan C. Johnson***

My name is Susan C. Johnson. On July 4, 2007, my husband and I went to the Five Batons Amusement Park to enjoy an afternoon on the rides. Yes, I know it may seem strange for an older couple whose children are grown to be spending time at an amusement park. But my husband and I have always enjoyed the excitement and thrill of a fast roller coaster, not to mention the other rides. We actually travel to Disney World twice a year, by ourselves! So you can understand why we were at Five Batons even though it was the most crowded day of the year.

Like everyone else, we waited in line for over an hour to ride the Cosmic Flier, our personal favorite. I must admit I was somewhat disappointed to not get a front row seat, but being in the second row was certainly fine. As we took our seats, I noticed that the two young men in front of us were up to some kind of mischief. The roller coaster operator had to speak to them twice about behaving appropriately as he checked that they had their harnesses securely fastened. After he left, they were fooling around with the lock, laughing and whispering. I thought I saw something in Mr. Wilde's hand.

As the roller coaster began to climb the hill towards its first big drop, it was clear that John Wilde was no longer fastened into his seat. He was standing in his seat, waving his arms and yelling. His brother was holding onto John. Even with my harness on, I was able to lean forward and give the young man a stern warning to buckle up quickly, but he just ignored me.

I am not surprised at the accident that followed. John fell right out of the roller coaster on the first loop. Those boys were up to no good, if you ask me. I am sorry about his accident, but he has no one to blame but himself and his brother. It was not the amusement park's fault.

## **INSTRUCTIONS**

The plaintiff must prove to the jury that the injuries he received are the direct result of the negligence of the Five Batons Amusement Park.

## **SUB-ISSUES**

1. Did the seatbelt/harness that John B. Wilde was using malfunction, causing the accident in which he was injured?
2. Was John B. Wilde partially or fully responsible for the accident?
3. Which one of the witnesses is most credible?

## **CONCEPTS**

1. Credibility of witnesses.
2. Contributory negligence.
3. Burden of proof.
4. Negligence.



# LAW

1. There are inherent risks in the participation in or on any amusement ride, device, or attraction. Patrons of an amusement ride, device, or attraction, by participation, accept the risks inherent in such participation of which the ordinary prudent person is or should be aware. Patrons have a duty to exercise good judgment and act in a responsible manner while using the amusement ride, device, or attraction and to obey all oral or written warnings, or both, prior to or during participation, or both.
2. Patrons have a duty to properly use all ride or device safety equipment provided.
3. The Rider Safety Act, which went into effect on Jan. 1, 2006, requires that riders follow posted safety rules or face a misdemeanor charge.
4. Accidents leading to injuries that are caused because of another's negligence can be grounds for a personal claim or lawsuit. When an amusement park accident leads to injuries, there may be more than one liable party. The amusement park, its parent company, amusement park employees, maintenance workers, amusement park manufacturers, and others may be accountable for personal injury including for premises liability, products liability, and wrongful death.
5. Negligence: Negligence is shown if there is a duty on the defendant's part to act in such a way as to protect the plaintiff from unreasonable risk of injury.
6. Contributory Negligence: If the plaintiff's negligence contributed to his injury and suffering, and if he failed to show the responsibility normally expected of someone his age, then this carelessness could reduce the responsibility of the defendant.

# Was It Tapping or Napping That Scared the Stingray?

## SCHOOL

Hamilton Elementary  
Bridgewater  
Grade 4, First Place

## TEACHER

Patricia Pillon

## STUDENTS

Christine Arcoleo, Patrick Brown,  
Danielle Hoffner, Greg Johnson, Alyssa Natale,  
Brendan Kapp, Andrew Purdom, Ethan Rodgers,  
Abigail Sapp, Maya Tatikola

## FACTS

On August 15, 2006, Imin Pulsive, who is 10 years old, and his father, Evan More Pulsive, were visiting the Dane Gerous Aquarium. Imin was standing in front of the tank where the largest fish and stingrays were kept. Outside divers can pay to swim with the fish in this tank. On this day Newbie Snorkel was swimming in the tank. Imin claims that he saw the diver almost step on a sleeping stingray. He began to knock on the glass to warn him with a metal souvenir shark he was holding.

There is a sign posted in the area that forbids knocking on the glass, but it is posted high on the wall. Imin says that neither he nor his father saw the sign. During this incident, his father, Evan Pulsive, stepped away from his son to take a cell phone call, and was sitting on a bench a few feet away from Imin.

Cara Forfish, the aquarium manager, believes that tapping on the glass disturbed the fish, including the stingray in question and created a disaster. It caused the stingray to kill a number of large fish in the tank, and the diver was stung, although he survived.

The diver claims that he was being careful and that the boy deliberately tapped on the tank to rile up the fish. The aquarium is suing for compensation of the dead fish and Newbie's medical bills, stated at \$9000.

## ISSUE

Were the damages to the fish and the injury to the diver at Dane Gerous Aquarium a direct result of Imin Pulsive's actions when he tapped on the tank or should his parents be held responsible for the damages?

## WITNESSES

### *For the Plaintiff*

Cara Forfish  
Newbie Snorkel

### *For the Defense*

Imin Pulsive  
Evan More Pulsive

## WITNESS STATEMENTS

### *Testimony of Cara Forfish*

My name is Cara Forfish, and I am a manager at the aquarium. My job is to insure that people behave around the fish and don't do anything that will harm them.

On that day, I was walking by the tanks when I saw Imin tapping like crazy on the tank. He used a metal souvenir he had in his hand. He was jumping around, shouting "Hey look at me!" His father,

who has brought his son here many times, was on the phone as usual. It bothers me that parents bring their kids to the aquarium and then expect us to watch out for them.

Anyway, I quickly moved to stop Imin, but it was too late. Our stingrays are particularly sensitive to tapping on the glass. The stingray in question was going crazy, and when it was all over, the shark was dead, the diver was injured and we lost many expensive fish.

Children need to be supervised. In past visits to the aquarium, I have had to warn Imin about many things. I was just waiting for something like this from him. He and his dad need to pay for the damages; it was their fault entirely.

### ***Testimony of Newbie Snorkel***

My name is Newbie Snorkel and I was the diver in the tank that day. I have been diving for about a year, although this was the first time I had tried the new program of diving with the fish in the aquarium.

I was having a good time, and all the fish were calm, until I started to hear tapping that got louder and louder. I finally saw the boy tapping and hopping around and shouting something.

The next thing I knew a stingray swam up under me and stung me on my arm. It was really painful. Everything around me was going crazy. I was terrified. I tried to get out as soon as possible, but there were sharks bumping into things and blood in the water, so it was hard to see.

I cannot believe that this boy's father would allow him to be unsupervised at the big tank when a human being is in there with those fish. They endangered my life, and they caused some big losses to the aquarium. They deserve to pay.

### ***Testimony of Imin Pulsive***

My name is Imin Pulsive, and I am 10 years old. I was standing in front of the big fish tank when I saw the diver inside making a big mistake. He wasn't paying attention to where he was going. I thought he was about to step on the biggest stingray in the tank

that was hiding in the sand right in the spot he was about to place his flipper.

I tried to warn him by tapping on the glass and shouting "hey, look," but he continued on and actually stepped directly on the stingray with his flippers. That caused the stingray to go wild and I will never forget how horrible it was to watch him sting everything in sight. I also saw the shark get trapped in the corner coral, and it couldn't move, so it drowned.

I was told later that there was a sign that said no tapping, but it is hung way above where a kid like me can see it. I can tell you that it wasn't my tapping that caused the problem, it was the diver's careless stepping. I was just trying to stop this disaster!

### ***Testimony of Evan More Pulsive***

My name is Evan More Pulsive, and I am Imin's father. I took my son to the aquarium that day to work on a school project about his love for fish. We have gone to the aquarium many times without any trouble. He is a responsible kid and he would never intentionally hurt someone.

That day I briefly took my attention away from my son to take an important phone call. All of a sudden I heard the attendant screaming at my son that he had created a disaster in the tank and that he was in big trouble. My son looked terrified. I went over to see what happened. The attendant was unreasonably accusing my son of making the fish go crazy from just tapping on the glass.

Isn't it a more reasonable explanation that the inexperienced diver in the tank was at fault? My son says he saw the man step on a fish because he was careless. Also, that sign is placed too ridiculously high up. If it is so important not to tap on the glass, shouldn't the sign be more noticeable? I think the aquarium is just trying to find a scapegoat for this accident, and I can tell you it is not my son!

## INSTRUCTIONS

The Dan Gerous Aquarium must convince the jury by a preponderance of the evidence that Imin Pulsive's tapping on the glass directly caused the damage and injury to the fish and diver, and that Imin and his parents are responsible for the cost to replace the fish and medical costs.

## SUB-ISSUES

1. Was Imin deliberately tapping on the glass to aggravate the fish?
2. Was the sign ineffective for warning patrons of the danger of tapping on the glass?
3. Did Newbie's inexperience cause him to step on a fish and cause the damage?
4. Was Imin's father supervising his son properly?
5. Is the aquarium trying to get out of paying for the damages by blaming Imin?
6. Does the manager dislike Imin for some reason having to do with previous encounters?
7. Did the fish react to the tapping on the glass, or was there another reason that caused the frenzy?

## CONCEPTS

1. Credibility of the witness.
2. Supervision of a minor.
3. Negligence.
4. Preponderance of the evidence.

## LAW

1. In most cases, parents are responsible for all malicious or willful property damage done by their children. Laws vary from state to state regarding the monetary limits on damages that can be collected, age limit of the child and the inclusion of personal injury in the tort claim. Parental liability usually begins when the child reaches the age of majority, defined as when the child reaches an age between 8 and 10.
2. In the legal world damages refer to compensation, such as a monetary judgment, provided to a person who has suffered a loss or harm due to the unlawful act of omission of another. The person at fault, the one who caused the loss or harm, must compensate (or pay) the injured party for his or her losses.

## BIBLIOGRAPHY

<http://family.findlaw.com/parenting-law/parental-liability-basics.html>

[http://injury-law.freeadvice.com/property\\_damage/damage\\_legalese\\_damages.htm](http://injury-law.freeadvice.com/property_damage/damage_legalese_damages.htm)

# Taylor Trouble's Terrible Time

## SCHOOL

Cedar Mountain Primary  
Vernon  
Grade 4, Second Place

## TEACHER

Arleen Hill  
Sharon Ongas

## STUDENTS

Cody Bartsch, Matthew Binshtock,  
Melissa Boniface, Cali Rae Borgess,  
Jeremy Brandt, Stephanie Buck, Tara Cartier,  
Jared Ceol, Brooke DeVincenzi, Lucas Finck,  
James Gramuglia, Abigail Higgins, Simone  
Marchesin, Zachary Moen, Harley-Nicole  
Rubenacker, Brendan Shine, Haley Sparta,  
Ethan Tomasik, Brandon Tullock,  
Brittany Vrindten

## FACTS

On January 18, 2007, the Rush Mountain Ski and Snowboard Club arrived at Slippery Slope Snow Resort for their third session. The group followed their usual routine beginning with their hour-long lessons with certified ski instructors from the resort. Students were grouped according to their ability. When the lessons were over, the students were brought by their club advisors into the lodge to eat dinner. After dinner, the students were again placed in their ability groups for the second session of the day. This time their club advisor monitored their session.

Taylor Trouble was a fourth-grade novice snowboarder who was assigned to the group led by Wanda Watch. The group consisted of six students and Miss Watch. Students were instructed repeatedly to always stay with a buddy snowboarder and their group. They were also told to stop at designated points on the slope and wait for the advisors and the rest of the group before continuing down.

The students then boarded the chair lift in groups of three or four. When they reached the top, each group of students got off the chair lift and waited for the other members of the group. When all were assembled, they began snowboarding down the slope, stopping at designated points.

Suddenly, one of the students, Timmy Tumble, took a fall. Wanda Watch stopped to help the child who had fallen. The other members of the group

also stopped to see if they could help in any way. Only Taylor Trouble continued down the slope alone. He snowboarded to the bottom and waited for his group.

After awhile, he became impatient and grew tired of waiting. That's when he decided to get on the chair lift alone, ride to the top and look for his group. As Taylor reached to pull down the safety bar of the chair lift, he lost his grip and fell out of the chair. The lift operator saw him fall and immediately shut down the chair lift and rushed to help him. A ski patroller skiing down the slope also saw what happened and came to assist.

Taylor Trouble was brought down the slope by a rescue sled to the First Aid Station for further evaluation. It was then decided to transport him to the hospital for further tests. After x-rays were taken, it was determined that Taylor had suffered a broken leg.

Mr. and Mrs. Trouble are suing the Rush Mountain Ski and Snowboard Club for negligence, their son's medical expenses and also for his pain and suffering.

## ISSUE

Is the Rush Mountain Ski and Snowboard Club responsible for Taylor Trouble's injuries and medical bills despite the fact that Taylor did not follow the club's rules and procedures?

## WITNESSES

### *For the Prosecution*

Tammie Trouble  
Ernest M. Tee

### *For the Defense*

Wanda Watch  
Skip Patrol

## WITNESS STATEMENTS

### *Testimony of Tammie Trouble*

My name is Tammie Trouble, and I am Taylor's mother. The most terrifying day our family has ever experienced was the day Taylor fell from the chair lift and severely injured his leg. I still find it hard to believe that my son was permitted to snowboard down the mountain completely unsupervised.

It was my understanding that my child was to have either an advisor, a peer buddy, or an instructor with him at all times. Instead he was left totally alone. No one ever stopped him, and that's why he reached the bottom of the mountain all by himself.

Taylor told me he waited for his advisor and group to come down the slope, but no one ever joined him. He finally decided to go back and look for Wanda Watch and the group. After boarding the chair lift, my poor little boy reached for the safety bar. That's when he slipped and fell off the chair lift. My child suffered a terrible leg injury. He was also very frightened and upset. Taylor was left to snowboard down the mountain alone, and he was also permitted to board the chair lift alone.

His injury was the result of pure negligence on the part of the Rush Mountain Ski and Snowboard Club and they should be held responsible for paying all of my son's medical bills and for his pain and suffering.

### *Testimony of Ernest M. Tee*

My name is Ernest M. Tee, and I am an emergency medical technician. I have worked at Slippery Slope Snow Resort for the past six years. On January 18, 2007, Taylor Trouble was brought to the First Aid building by rescue sled. Taylor was experiencing severe pain in his left leg, and he was crying hysterically. I did my best to calm him down, but he was very frightened and upset.

The ski patroller on duty had stabilized his leg with rolled up blankets. I checked his blood pressure, respiration and pulse. I then notified the ski club advisors and his parents to let them know that Taylor was at the First Aid building and needed to go to the hospital as soon as possible. It was decided that Taylor would be transported by ambulance, and his parents would meet him at the hospital.

I wasn't too surprised when I found out that Taylor had suffered a broken leg. It was a terrifying time for Taylor, and I wonder if he will ever want to snowboard again.

### *Testimony of Wanda Watch*

My name is Wanda Watch, and I have been an advisor for the Rush Mountain Ski and Snowboard Club for the past 15 years. I love this job because it gives me the opportunity to help children learn how to ski and snowboard. This position also allows me to see the students in a recreational setting.

Our club motto has always been "Safety First, Fun Second." This is stressed with our young members. We have specific rules that the members need to follow. If someone in the group falls, we all stop to help out. This also prevents us from getting separated.

On that day, I told all of my young snowboarders to make sure they stayed with their buddies and with me. I was also very clear about the meeting points. When Timmy Tumble fell, all of us stopped

except for Taylor Trouble. The children followed my directions except for him. Rather than stopping, Taylor decided to continue down the slope alone. When he got to the bottom of the slope, he then broke another club rule when he chose to get on the chair lift alone.

I did my job correctly. In all my 15 years as an advisor, we have never had a situation like this occur. I'm truly sorry that Taylor Trouble was injured, but if he had followed the club rules and my instructions, this would never have happened. I'd also like to add that Mr. and Mrs. Trouble signed a contract with our club, which clearly states that in snowboarding, as in any sport, there is a degree of risk of injury present.

### ***Testimony of Skip Patrol***

My name is Skip Patrol, and I am a member of the Slippery Slope Snow Resort Ski Patrol Safety Squad. I've worked at this job for nine years, but I've been skiing and snowboarding there since I was 16 years old.

The Rush Mountain Ski and Snowboard Club is extremely well organized and managed. It is a pleasure to see the way the club advisors take care and instruct their young members. It's a pity that every club that uses our resort isn't as well managed as they are.

On the day that Taylor Trouble was injured, I saw him waiting alone at the bottom of the slope. I knew that he was a member of the Rush Mountain Club, because I recognized his fluorescent yellow armband. All of the club members wear the same armbands. I remember thinking that it was unusual to see one of their members alone. I know for a fact that they are always instructed to stay with a buddy and their advisor.

The next thing I saw was Taylor getting on the chair lift by himself. I noticed that Taylor was waving to someone below and not paying attention to what he was doing. As he was reaching for the safety bar, I saw him fall. The chair lift operator, seeing what happened, immediately shut down the lift and rushed to help him. I also came to his assistance.

We let First Aid know that we needed a rescue sled. Taylor's leg was stabilized, and he was taken to the First Aid Station. I later learned that Taylor's leg

was broken. Unfortunately, accidents will happen when rules are ignored.

## **INSTRUCTIONS**

The plaintiff, Mr. and Mrs. Trouble, must convince the jury that Taylor's injury was a direct result of negligence on the part of the Rush Mountain Ski and Snowboard Club.

## **SUB-ISSUES**

1. Should Mr. and Mrs. Trouble have realized that with snowboarding a degree of risk is present?
2. Did Taylor Trouble understand the importance of remaining with his buddy and/or advisor?
3. Were there enough club advisors for the number of student members?
4. Was it Taylor Trouble's responsibility to realize he was no longer with his snowboarding group?
5. Should Taylor Trouble have been allowed to board the chair lift alone?
6. Should Taylor have waited and looked for his group before boarding the chair lift alone?

## **CONCEPTS**

1. Assumption of risk.
2. Credibility of witnesses.
3. Negligence.
4. Burden of proof.

## **LAW**

1. The main responsibility of a ski and snowboard club is to ensure the safety of its members.
2. Ski and snowboard club members must follow all club rules.

# The Case of the Mangled Mannequin

## SCHOOL

Mount Prospect  
Basking Ridge  
Grade 4, Honorable Mention

## TEACHER

Sloan Scully

## STUDENTS

Lynne Bekdash, Daniele Campbell,  
Tomer Cohen, Jillian Haggard, Amanda Hu,  
Sarah John, Nisha Koppala, Joyce Lee,  
Michael Leong, Sanjana Prasad, Rana Shahani,  
Michael Shao, Aditya Sheth, Isabelle Vezeau,  
Amanda Warshaw, Benjamin Zhou

## FACTS

On December 27, 2007 Anya Dizplay went to Shirts, Shoes & Smiles Department Store in Basking Ridge, New Jersey, with her friend Ima Shopper. Anya and Ima were shopping in the shoe department and wanted to try on some shoes. As there was no place to sit in the shoe area, they sat down to try on shoes on a display that appeared to be a bench.

As Anya was trying on the shoes, a mannequin from the display toppled over and hit her on the head. An ambulance was called and Anya was taken to the hospital where the doctor said she had a concussion. Anya could not go to work for one week and did not get paid.

She is suing Shirts, Shoes and Smiles Department store for the cost of her medical bills and her lost wages. Shirts, Shoes and Smiles Department store claims Anya is partly to blame for her injuries as there was a sign on the display warning customers not to sit there.

## ISSUE

Is the owner of Shirts, Shoes and Smiles Department Store, Noah Complaints, liable for Anya's medical bills and lost wages?

## WITNESSES

### *For the Plaintiff*

Anya Dizplay  
Ima Shopper

### *For the Defense*

Noah Complaints  
Beatrice (Bea) Clerk

## WITNESS STATEMENTS

### *Testimony of Anya Dizplay*

On December 27, 2007, I was shopping at Shirts, Shoes and Smiles Department Store with my friend Ima Shopper. It was just after the holidays and they were having a huge sale. The store was very crowded.

We were shopping in the shoe department because I wanted to get a new pair of shoes. When I decided to try on a pair of shoes, I noticed there was no place to sit. All the couches were taken up. I needed a place to try on the shoes. I looked around and saw what looked like a bench. I sat down and began to try on the shoes.

All of a sudden a mannequin fell on my head! It was awfully painful! My friend Ima Shopper asked the store clerk to call the ambulance and she did.

When I got to the hospital, the doctor told me I had a concussion. I could not go to work for the en-



tire next week and I did not get paid. What an awful shopping trip that turned out to be!

I think that Shirts, Shoes and Smiles Department Store should have provided enough seats for their customers. They also should have warned customers not to sit on that bench. They knew the store would be crowded during the sale. Where else did they expect customers to try on their shoes?

Bea Clerk said there was a sign indicating not to sit on the display. I did not see that sign. It should have been bigger. Shirts, Shoes and Smiles was negligent! They did not take reasonable care to make their store safe. I am suing them for the cost of my medical bills and my lost wages.

### ***Testimony of Ima Shopper***

I was shopping with my best friend Anya Dizplay on December 27, 2007. We were in Shirts, Shoes, and Smiles Department Store. Anya wanted to try on a lovely pair of shoes but all the seats were taken. We noticed there was something that looked like a bench. So Anya and I went there and sat down. As soon as Anya had the shoes on her feet, a mannequin fell over and hit her on the head. I couldn't believe it. We were just sitting down and we had not even touched the mannequin.

I ran over to the checkout and asked the sales-clerk to call 911. She did and I went with Anya to the hospital. The doctor said she had a concussion. Poor Anya!

Shirts, Shoes and Smiles has a responsibility to provide seating for customers who want to buy shoes. They advertised a big sale and they should have expected many shoe customers. Besides, they left a dangerous mannequin in the store. They were negligent. Neither one of us noticed the small sign that said, "Please do not sit here." It was so tiny!

### ***Testimony of Noah Complaints***

My name is Noah Complaints. I have owned Shirts, Shoes and Smiles Department store for many years. We pride ourselves on being a happy place to shop and I work hard to make all our customers happy. Hence, the word "Smiles" in our name.

On December 27, 2007, one of my employees, Bea Clerk, called me because a woman had been injured in the store. A mannequin had fallen on Anya Dizplay. Bea called an ambulance and sat with Anya Dizplay and Ima Shopper while they waited for the ambulance to arrive.

I knew it would be crowded that day because of the sale so I added some extra seats in the shoe department. There were still not enough seats because I could not know exactly how many customers would be in the store. Besides, if I had a seat for each and every customer, there would be no room for the shoes!

When Anya Dizplay could not find a place to sit, she should have been more patient and waited. Eventually there would have been a seat for her. Anya Dizplay should have known better than to sit on a store display. What was she thinking? She should have read the sign that said do not sit on this display.

I think it is terrible that Anya was hurt in my store but it is not my fault. I took reasonable care to ensure my customers were safe by adding extra seats and putting up a sign on the display. Anya Dizplay is responsible for her own injury.

### ***Testimony of Beatrice (Bea) Clerk***

My name is Beatrice Clerk, but everyone calls me Bea. I have worked at Shirts, Shoes and Smiles Department store for many years. On December 27, a customer came running over to tell me someone had gotten hurt. I quickly called 911.

An ambulance arrived and took Anya Dizplay to the hospital. I was very upset. I care about our customers and don't want anyone to get hurt. I found out that Anya Dizplay had actually sat down on a display that was supporting a mannequin. That was not very smart.

Just the week before, I placed a sign warning customers not to sit on that display. Anya Dizplay ignored the sign and sat down anyway. I am sorry she was hurt but it is really her fault. Everyone knows you don't sit on store displays. She was not very smart and now she is hurt. That is her fault.

## **INSTRUCTIONS**

The jury must decide, by a preponderance of the evidence, whether Noah Complaints and Shirts, Shoes and Smiles Department Store were negligent and are responsible for the injury of Anya Dizplay.

## **SUB-ISSUES**

1. Did Anya Dizplay act irresponsibly and carelessly by sitting on a store display?
2. Was the “Do Not Sit” sign put up by Shirts, Shoes and Smiles large enough?
3. Is Shirts, Shoes and Smiles liable for not providing enough seating?
4. Is Shirts, Shoes and Smiles liable for not making their display more stable?

## **CONCEPTS**

1. Negligence.
2. Reasonable care.
3. Preponderance of the evidence.
4. Contributory negligence.
5. Responsibility.

## **LAW**

Store owners can be held liable for injuries that occur on their property if it is determined they did not take reasonable care to ensure the safety of their customers.

# Slipping at 6:30

## SCHOOL

Riker Hill Elementary  
Livingston  
Grade 4, Honorable Mention

## TEACHER

Donna Richter-Maschio

## STUDENTS

Casey Baer, Basia Baldwin, Mikey Cameron,  
Charlie DeFranza, Emily Goldson, Annie Lien,  
Payton Mendez, Lexi Narotzky, Justin Patel,  
Mallika Reddy, Elan Rom, Cole Slavitt, Maria  
Soroka, Olivia Wellington, Delaney Gonik

## FACTS

On January 7, 2007, at approximately 6:30 a.m., the plaintiff, Ms. A. Step, was walking quickly down Snowy Street to catch a bus to the airport. It had hailed and snowed six inches the day before and more snow was predicted. As she was walking past the Forgetful Family's house, she fell on their sidewalk, which was covered with snow and ice. She broke her leg and her iPhone.

She is suing Felix Forgetful for negligence. She claims he failed to shovel his sidewalk within the required time set by the town of Slipingston, leaving it covered with snow and ice, causing her injuries. She is suing for payment of her medical bills, iPhone, airplane ticket, and missed wages.

## ISSUE

Is Felix Forgetful liable for the cost of the medical bills, iPhone, airplane ticket, and missed wages because he neglected to shovel the sidewalk in front of his house within the required 24-hour period after a snowfall, as stated in the town of Slipingston's ordinance?

## WITNESSES

### *For the Plaintiff*

Ms. A. Step  
Ima Shoveler

### *For the Defense*

Felix Forgetful  
Francesca Forgetful

## WITNESS STATEMENTS

### *Testimony of Ms. A. Step*

My name is Ms. A. Step. On the morning of January 7, 2007 I had to catch a bus to the airport. I was on my way to an important interview at my company's main office. The head of my company thought I had a great chance of getting this big promotion. Unfortunately, I never got to the bus, plane, office or interview. I never got the big promotion; instead I had a terrible accident on the sidewalk in front of the Forgetful's house.

It was really difficult trying to walk on the sidewalk past the Forgetful's house. Actually, it was quite impossible! It was covered with snow and ice. My

other two neighbors had already shoveled their sidewalks, as everyone is required to do, so it was very easy to safely walk past their houses. As I tried to make it across the Forgetful's portion of the sidewalk, I slipped and fell. I broke my leg as well as my iPhone.

Everyone is required to shovel his or her front sidewalk within 24 hours after a snowfall. Since I am new to town, I recently checked with the police station to find out the specific requirements of the town. Because the Forgetfuls were too lazy and irresponsible to clear their sidewalk properly, I am now terribly injured. I am not Ok with that.

I am losing money as we speak because I am not at my job and do not have the opportunity to get the promotion. I feel that the irresponsible Felix Forgetful should be made to pay for my injuries. It is his fault that I fell, hurt myself, ruined my iPhone, and missed my plane and meeting. He needs to realize that if he is going to live in this town, he needs to shovel this snow-covered sidewalk within the required time limit.

### ***Testimony of Ima Shoveler***

My name is Ima Shoveler. I live at 34 Snowy Street, in the town of Slipingston across the street from Mr. Forgetful. At approximately 6 a.m. I went out to shovel my snowy sidewalk. I always wake up early to shovel my sidewalk because I do not want any accident to happen to anyone who walks on my sidewalk. Felix Forgetful usually shovels his sidewalk later. He is a nice man, but he needs to be a more responsible neighbor.

I saw Ms. A. Step hurrying down the street. She had a plane to catch for a very important meeting for a possible promotion. I knew all of this information because the day before her interview she was talking to me about how badly she wanted this promotion.

At around 6:30 a.m. on January 7, 2007, as I was shoveling my back steps, I heard a yelp that sounded like a person in trouble. I dropped my shovel and ran to my front yard. I saw poor Ms. A. Step lying on the ground, in agony. She had obviously slipped on the ice and snow in front of Mr. Forgetful's house. Of course, he had not shoveled his sidewalk!

She was in such pain that she couldn't even move. I called the ambulance to take her to the emergency room. She hurt herself badly because Felix Forgetful did not shovel. I know he would probably get around to shoveling eventually, but this time it was just too late. I think he needs to call a snow service or get a good alarm clock. He needs to shovel within the correct time for the sake of his neighbors.

### ***Testimony of Felix Forgetful***

My name is Felix Forgetful. I live at 33 Snowy Street. I feel terrible about all the injuries that happened to Ms. A. Step. I don't want to see anyone hurt himself or herself, especially on my property.

On the morning of January 7, 2007, I was planning to shovel my sidewalk early like I always do, however, when I went to get my snow shovel, I was surprised to find that it was broken! My youngest son confessed that he and his friend, Jacob Step, had accidentally broken the shovel the other day. It fell in the garage and they ran over it with their bikes. When I found out about the broken shovel, I was very upset that my son had not told me about it earlier. I decided that I would try to go to the store after breakfast to buy a new shovel. Unfortunately, Ms. A. Step's accident happened before I had the chance to buy that new shovel.

Actually, I was surprised that anyone was out walking so early in the morning. I think it is very interesting that it was her son, Jacob, along with my son, who broke my shovel! I do not believe that Ms. A. Step knew that her son was partly responsible that I did not having a shovel to clear away the snow!

Anyway, I still think officially I had a little more time left before the town's deadline for shoveling this snowfall. Also, the street had already been plowed; why didn't Ms. A. Step just walk in the plowed street? I don't believe that she would have injured herself if she had just stepped into the street. It's just common sense!

Again, I feel very bad that Ms. A. Step injured herself. However, I do not believe that I should be held responsible for her bad judgment.

## **Testimony of Francesca Forgetful**

My name is Francesca Forgetful. My husband Felix is a very responsible man when it comes to taking care of things to do around our property. I feel that Ms. A. Step caused her own injuries because she could have easily avoided my snowy sidewalk and walked in the plowed street.

Also, I saw that she had been using her cell phone or iPhone when she fell. I could see that it was still on when I went outside to help her right after she fell. On such an early, snowy morning she should have been paying attention to where she was walking. When the weather conditions were this dreadful, she should have had more common sense!

In addition, she was wearing high-heeled leather shoes in such terrible weather! She should have been wearing something more sensible! I couldn't help but notice the beautiful, but inappropriate shoes that that she was wearing that morning!

If she was so concerned with the way her feet looked, she should have carried her beautiful shoes with her instead of wearing them. She caused her own accident!

## **INSTRUCTIONS**

The jury must decide by a preponderance of the evidence that Ms. A. Step's injuries were the result of negligence by Felix Forgetful.

## **SUB-ISSUES**

1. Did Ms. A. Step contribute to her injuries by walking on the snowy and icy sidewalk instead of in the plowed street?
2. Did Ms. A. Step contribute to her injuries by walking on the snowy and icy sidewalk wearing leather high-heeled shoes?
3. Is Ms. A. Step correct in asking for compensation for her medical bills, iPhone, airplane ticket, and missed wages?

## **CONCEPTS**

1. Negligence.
2. Contributory negligence.
3. Burden of proof.
4. Credibility of witnesses.

## **LAW**

1. Negligence is established when:
  - a. The defendant had a duty to protect the plaintiff from harm.
  - b. The defendant fails to fulfill that duty, even if unintentionally, and
  - c. The defendant's failure causes injury to the plaintiff's person.
2. If the plaintiff's acts contribute to the injury, such acts may reduce, but not necessarily eliminate, the responsibility of the defendant.

# The Case of the Hockey Shut Out

## SCHOOL

Yavneh Academy  
Paramus  
Grade 5, First Place

## TEACHER

Elaine Weisfeld

## STUDENTS

Devyn Attias, Jordan Farbowitz,  
Gregory Gabovich, Michael Pollack,  
Ayal Yakobe, Yakir Zwebner

## FACTS

Einstein Middle School is a highly ranked, well-respected academic institution. In addition to excellent academics, the school offers a wide range of extracurricular activities, like a school newspaper, science club, Law Fair, folk dancing, and several sports. Einstein offers boys' and girls' basketball, boys' hockey, boys' and girls' tennis and softball teams. Many students participate, and school spirit is high. Throughout the year the school gym is scheduled three afternoons a week for practice. No practice can be scheduled on Friday since the school closes at 3 p.m.

Last June groups of students and parents asked the principal and the coach for two additional sports activities, a boys' intramural basketball team and a girls' hockey team. For budgetary and scheduling reasons, the students were told that the school could only sponsor one additional sports activity. Therefore, the coach surveyed the students on-line about which sport would attract more participants, and boy's intramural basketball got a greater response.

In the fall, boys' in-house basketball was scheduled for the one day the gym was available and sign-up sheets were posted. By October, Dwayne Gretsky, father of Sue, and Syd Crosby, father of Lily, filed a lawsuit against the administration, the coach and the principal of Einstein Middle School. They charged that the girls were not being given equal opportunities in the school's physical education program. They claimed that the decision to offer intramural boys' basketball is discriminatory and biased against the girls.

## ISSUE

Is the decision to offer boys' intramural basketball rather than girls' hockey as an extracurricular activity at Einstein Middle School sexist and discriminatory? Does it deprive the female students of equal opportunities?

## WITNESSES

### *For the Plaintiff*

Dwayne Gretsky  
Syd Crosby

### *For the Defense*

Coach Pete Puck  
Principal Ian Prince

## WITNESS STATEMENTS

### *Testimony of Dwayne Gretsky*

I am Dwayne Gretsky, father of Sue, who is a seventh-grader at Einstein Middle School. Last June the school did a survey to decide whether to have an intramural boys' basketball team or a girls' hockey team. Sue said that the principal wanted to make the most kids happy, but coincidentally there are more boys in the school than girls, 127 to 97. The boys already have a basketball and a hockey team and the girls only want equal opportunity, no more and no less. Also, many girls are not familiar with hock-

ey. If the sport were offered, more would become involved. The poll was not a valid basis of a decision.

Sue had her heart set on playing hockey. She's actually depressed; physically, she and the other girls feel better when they get out and exercise. Sue is strong and fast, but relatively short; that's why she never liked basketball. However, she and a group of girls practiced all summer with her friend, Lily Crosby, whose father is an NHL player. He volunteered to coach the girls during the summer and to help them during the year when he was available. He also sent the coach a letter, offering to donate equipment and provide uniforms for the girls. Nobody from the school even responded to him.

I think the decision is backwards for our times, since girls' hockey is increasingly popular on a national scale. Likewise, if Einstein had a girls' hockey team, we'd be on our way to a competitive county league; we'd make the fourth school in the county to have a team and we'd need only two more to have a league. If we offer hockey to the girls, other schools might follow our lead. Girls need an equal opportunity to engage in sports and to keep physically fit. It's good for their health, both physically and mentally. The decision to offer another sport to the boys is unfair, imbalanced and discriminates against the girls.

### ***Testimony of Syd Crosby***

I'm Syd Crosby. My daughter Lily is an eighth-grader at Einstein Middle School. As you may know, I play hockey for the NHL and my daughter and I share this interest and this ability. When I came home from a game in Toronto this September, my daughter was shocked and crushed by the decision to offer boys' intramural basketball rather than girls' hockey. She and her friends had worked hard for this opportunity.

First, this is a violation of the Fourteenth Amendment, which guarantees equal protection to all citizens, in this case equal rights to females. The school offers disproportionately more sports to the boys than to the girls. Because of the discriminatory decision by the school, those girls who practiced their skills will not have the appropriate opportunity to play. Nor will the other girls in the county have Einstein players in the competitive league.

Interest in girls' hockey is growing. On a national scale, more than 120,000 students between the ages of 11 and 14 play hockey with an increasing number of girls. Five years ago 5% of the hockey players were female while now it's up to 22%. Let's keep our Einstein girls ahead of the national figures, not lagging behind.

Secondly, I offered to provide special NHL equipment for the girls to practice and play. I wrote to the coach offering to pay for the uniforms as well so any claims about the expense of girls' hockey are invalid. I never received a response to my letter. Lastly, as an athlete I know that young women who participate in sports do better academically than others. Studies have also shown that playing a team sport also prepares women for the business world where decisions are often the result of team effort. I ask you now to reverse Einstein's discriminatory decision and to give the girls the athletic opportunity they deserve.

In addition, this is not the first time Ian Prince has made discriminatory decisions. My older daughter, Sandy, is on the girls' basketball team. Her coach requested that the girls play a competitive league game at Einstein on Saturday night, October 20. Coincidentally the boys' coach asked to play a game at the Einstein gym the same night. With no explanation, the principal said the boys could have the gym; he offered the girls the opportunity to play the next night or the following week. As it turned out the team they were playing against invited them to their gym on the October 20 and they played the game. This was not in itself a big incident, but another example of male bias.

Curiously, the Einstein valedictorian for ten of the twelve years that Ian Prince has been principal has been male. Within the framework of children whose grade point averages qualify them, the administration has input about their leadership abilities and school service. I offer this as further evidence that the Einstein administration discriminates against girls.

### ***Testimony of Coach Pete Puck***

I've been the head coach at Einstein Middle School for seven years. I coach the boys' and girls' basketball teams, the softball teams and sometimes tennis. For hockey we hire an additional coach, which is an expense to the school. Nevertheless, I am always eager to provide the students with healthy exercise and activities that they enjoy.

Both an intramural boys' basketball team and a female hockey team are worthwhile activities. However, in our gym we could schedule only one additional sport so I suggested to the administration that we poll the students to determine the greater interest. With the help of our technology department, we polled the students on-line and overwhelmingly they preferred intramural basketball. Thirty-one boys expressed an interest in basketball while nineteen girls reported an interest in hockey. The survey of student interest was the basis of the decision; there was no bias or discrimination.

I did not answer Mr. Crosby because I do not think his offer of equipment and assistance should play a part in the decision. Just because one parent can be a resource for an undetermined amount of time is no reason to make a decision. My focus is on the children and their interests. I discussed the on-line survey with the administration as a fair basis of a decision. The principal and other administrators agreed and the survey indicated a greater interest in boys' basketball - that was the sole reason for the decision.

### ***Testimony of Ian Prince***

I'm Ian Prince and I've been the principal of Einstein Middle School for 12 years. Charges of discrimination are absurd. I actually supported the beginning of a girls' basketball team and I attend their games whenever I am able. I attend the girls' games to the same extent that I attend the boys'.

In the situation we are discussing, far more boys expressed an interest in intramural basketball than did girls in hockey. If we could offer both sports, we would but we cannot. The Einstein gym is available for practice only one afternoon a week, so we had to make a choice. We made the choice on the basis of the students' expressed interest.

To say that my scheduling a boys' basketball game on a particular night rather than a girls' game is discriminatory is absurd. More people attend the boys' basketball games; therefore, I scheduled boys' basketball on October 20. I offered the girls either the next night or the next week. The decision was sensible, not sexist.

For a parent to offer equipment and uniforms is like bribery. Of course, money is an issue when you run a school and an athletic program, but not the only component. I appreciate the offer of Mr. Crosby, who is a supportive parent, but he can't dictate what we do. Nor is he around to help since he travels a lot. I don't even know anyone who coaches girls' hockey, so we'd have to scout around for a suitable coach.

Right now a girls' hockey league does not even exist. It may take several years to get enough teams to organize a competitive league; perhaps by then we will be in a different position. Perhaps we'll have the resources to bus one of our teams to an available gym for practice, but right now we have a budget crunch so that's unrealistic. Timing is important in making decisions and at this time we don't have significantly widespread female interest, an existing league to join, or the resources to make it happen.

## **INSTRUCTIONS**

The plaintiff must prove by a preponderance of the evidence that the decision to offer boys' intramural basketball as an after school extracurricular activity at Einstein Middle School discriminates against the girls who want a hockey team and deprives them of equal opportunities.

## **SUB-ISSUES**

1. Did the on-line survey of interest in after school sports provide reliable criteria on which to base a decision? Was the sample of students who responded representative of the larger population?
2. Did the principal's decision to hold a boys' basketball game rather than a girls' game on a particular date show a discriminatory predisposition?



3. Since interest in girls' hockey is growing nationwide, should the principal have supported a positive trend in female athletics by supporting a girls' hockey team?
4. Since all other team sports are available to both boys and girls, did the principal's decision deprive the girls of equal opportunities?
5. To what extent are monetary considerations an important factor in making educational decisions?
6. Does the fact that more than 80% of the valedictorians in the school have been male indicate the administration's bias and discriminatory tendencies?

## CONCEPTS

1. Sexual discrimination.
2. Fairness.
3. Educational administrator's responsibility to students.
4. Equal educational opportunities.
5. The role of physical exercise in promoting health.
6. Monetary considerations.
7. Witness credibility.
8. Preponderance of the evidence.

## LAWS

1. The Fourteenth Amendment of the United States Constitution guarantees equal protection of the laws to all citizens.
2. School policy mandates that it is the responsibility of the school administrator and other school officials to treat students fairly and to offer equal opportunities.
3. Title IX is a federal law passed in 1972 that prohibits sex discrimination in any federally funded education program, thus providing athletic opportunities for females.

# Coaster Catastrophe

## SCHOOL

Upper Township Elementary  
Marmora  
Grade 5, Second Place

## TEACHER

Helen Clark

## STUDENTS

Amber Angelucci, Lauren Bowersock,  
Noel Butler, Anna Elmer, Rachel Fosbenner,  
Briar Rose Ginn, Kelly Hanna, Scott Hogan,  
Emma Leeds, Alison Miles, Rachel Stremme

## FACTS

On Tuesday, July 5, 2007 Holden Tite and her mother, went to the Ride N' Roll Amusement Park. When they arrived at the park, Mrs. Tite purchased 20 tickets for Holden. Mrs. Tite handed the tickets to Holden while she read the park map. While Mrs. Tite was reading the park map, the tickets blew out of Holden's hand and into an area marked with a "Do Not Enter" sign. Holden immediately ran after the tickets. Mrs. Tite attempted to grab her daughter by the arm but she was able to slip away and ran after the tickets. Mrs. Tite lost sight of her in the crowd.

Holden saw the tickets lying on the ground behind a sign marked "Do Not Enter." The main wires connected to the roller coaster ride were concealed on the ground, behind the sign. Holden jumped over the sign and got her foot stuck underneath the main wires. She tripped over the wires, which caused the roller coaster ride to shut down.

Unfortunately, several individuals were riding on the roller coaster at the time. The roller coaster stopped at the first loop and the riders were suspended upside down. It took approximately 30 minutes to get the riders down. Russ Tray Ted was a passenger on the roller coaster ride at the time. The sudden stop caused him to hit his head, and he was unconscious in the seat. There were passengers seated behind him who advised that when the ride suddenly stopped, he lurched forward and rammed his head into the seat in front of him.

The manager of Ride N' Roll Amusement Park, Bossa Yue, was inspecting the property when she saw the roller coaster suddenly stop. She observed Russ Tray Ted hit his head on the seat. Bossa Yue found Russ Tray Ted lying unconscious in his seat. The paramedics were called and Russ Tray Ted was transported to the hospital for treatment. Russ Tray Ted was treated at the hospital for a concussion.

There was an employee of the amusement park close by who witnessed Holden running near the wires. The employee saw Holden jump over the sign and trip over the main wires causing the roller coaster to suddenly stop. The employee spoke to his boss, Bossa Yue, and told her what happened. Russ Tray Ted filed a personal injury lawsuit against Mrs. Tite and Ride N' Roll Amusement Park. The lawsuit is asking for money damages for Russ Tray Ted's pain and suffering and unpaid medical bills.

## ISSUE

Who is responsible for Russ Tray Ted's medical bills?

## WITNESSES

### *For the Prosecution*

Russ Tray Ted

Bossa Yue

### *For the Defense*

Holden Tite

Mrs. Tite

## WITNESS STATEMENTS

### *Testimony of Russ Tray Ted*

My name is Russ Tray Ted and I was at the Ride N' Roll Amusement Park over the 4th of July weekend. I was having a great time riding on the rides, which included the park's new roller coaster called the Loop de Loop.

I was riding on the roller coaster and was approaching the first loop when something happened. I looked over to my friends who were taking pictures and suddenly everything went black. The next thing I remember is waking up in the hospital with a concussion.

I was told that a six-year-old girl named Holden Tite jumped over the "Do Not Enter" sign and tripped on the roller coaster's wires. She was apparently running after her tickets and was not able to read the sign. I believe I hit my head on the front seat when the roller coaster shut down.

I am suing Mrs. Tite for parental negligence and the amusement park for not properly securing the area containing the main wires for the roller coaster. I am seeking money damages for my pain and suffering and unpaid medical bills.

### *Testimony of Bossa Yue*

I am the manager of the Ride N' Roll Amusement Park. I am 30 years old, and my job is very important to me. This incident happened on July 5, 2007, when the amusement park was very busy on the holiday weekend. I was inspecting the park near the new roller coaster ride when suddenly it shut off. The roller coaster cars were stopped upside down with

passengers inside. I saw a man seated in one of the cars bang his head against the seat in front of him. He was thrown forward and hit his head when the power went out. The passengers were trapped inside the ride for 30 minutes until an emergency crew got them down. They found Russ Tray Ted, the person who hit his head, sitting unconscious in one of the cars. He was immediately taken to the hospital. I found out later that Mr. Ted suffered a concussion from the head injury.

As the emergency crew was getting the passengers down, I overheard Mrs. Tite commenting about her daughter running after the tickets. I was approached by one of my employees who stated that Holden Tite was the girl we were looking for because she jumped over the sign, tripped on the main wires, and caused the problem. Mrs. Tite and I rushed over to the "no enter" sign and peeked over. We saw a young girl sprawled over the roller coaster's wires. It was Holden Tite.

I later learned that Russ Tray Ted filed a lawsuit against Mrs. Tite and Ride N' Roll Amusement Park seeking money damages for pain and suffering and unpaid medical bills. I think that the amusement park was not negligent in the placement of the main wires and is not responsible for Mr. Ted's injury. The amusement park took precaution to place the "no enter" sign in front of the wires. Mrs. Tite is the one responsible for the accident because she did not carefully supervise Holden. Therefore, Mrs. Tite should pay the damages.

### *Testimony of Holden Tite*

I am Holden Tite and I am six years old. On July 5, 2007, my mother and I went to the Ride N' Roll Amusement Park. My mother usually buys only four to six tickets. This time she purchased 20 tickets. We were passing the new roller coaster, called the Loop de Loop, and I saw how tall it was. I have to admit that I was kind of scared. All of a sudden, the wind blew my tickets out of my hand and over a big yellow sign. I was not able to read the sign. It didn't look very important, so I jumped over it to grab the tickets. I got my foot caught under a bunch of black wires and tripped. My mother came rushing over to me with a woman I didn't know. She didn't look very friendly.

The woman started yelling at me and I didn't know why. I turned around and saw that the roller coaster stopped and the riders were hanging upside down on the first loop. I didn't understand why, but Bossa Yue seemed to think it was my fault. After all, I am only six years old and not able to read.

### ***Testimony of Mrs. Tite***

I am Holden Tite's mother and on July 5, 2007, I took my daughter to the Ride N' Roll Amusement Park. I purchased 20 tickets as a surprise for my daughter. As we passed the new roller coaster ride, I was looking down at the park map to find the location of Holden's favorite ride, The Sugar Rush. I looked up and Holden was not there. I turned and saw Holden running after her tickets that were blowing in the wind. I ran after Holden and lost her in the crowd. Then, I saw the roller coaster shut down, and people were stuck upside down in the cars. I saw Bossa Yue outside and told her I was looking for my daughter. An employee ran up to Miss Yue and told her something. Miss Yue told me that Holden tripped over the wires in the "Do Not Enter" area and caused the roller coaster to shut down.

We ran over to the no enter area and found Holden lying on the ground with her foot stuck in the wires. My daughter is only six years old and unable to read the sign. I do not believe my daughter did anything wrong. I was acting carefully in watching my daughter at the park. The amusement park is liable and responsible for this accident because they did not act properly in securing the "no enter area." The amusement park should pay Mr. Ted's damages.

## **INSTRUCTIONS**

The plaintiff must prove that the injury was the result of negligence caused by the Ride N' Roll Amusement Park and/or Mrs. Tite.

## **SUB ISSUES**

1. Was the Ride N' Roll Amusement Park negligent in placing the roller coaster wires in an area that was not properly secured?
  - a. Should they have put a secured fence around the wires?
  - b. Should they have posted a security guard near the wires?
  - c. Should they have placed the wires underground?
  - d. Should they have placed the wires in a locked building?
  - e. Should they have placed the wires in some other safe location?
2. Did Mrs. Tite carry out her parental responsibilities by carefully watching Holden at the Ride N' Roll Amusement Park?
  - a. Could she have been more careful in watching Holden in the park?
  - b. Could she have held Holden's hand while walking in the park?
  - c. Could she have held on to the tickets until it was time for Holden to go on the ride?

## **CONCEPTS**

1. Negligence.
2. Burden of proof.

## **LAW**

Negligence is established when:

- a. the defendant had a duty to protect the plaintiff from harm,
- b. the defendant fails to fulfill that duty, even if unintentionally, and
- c. the defendant's failure causes injury to the plaintiff's person or property.

# Sometimes I'm a Klutz

## SCHOOL

The Learning Community Charter School  
Jersey City  
Grade 5, Honorable Mention

## TEACHER

Christina Meluso

## STUDENTS

Madeleine Bell, Petra Calderon, Chloe Coffman,  
Noah Dunton, Tariq Elmetwally, John Filak,  
Randy Gapasin, Joseph Giani, Kiara Henry,  
Grace Hill, Abigail Loughlin, Benjamin Mazel,  
Jahleel Morton, Sophie Renker, Scott Rogers,  
V. Rosensweet, Max Solter, Darius Wade

## FACTS

On Friday, July 13, 2007 the Klutz Family was vacationing at Waterfront City. At noon that day in the Riverside Hotel & Casino Ima Klutz was leaving the pool area with her older sister Ura Klutz. While in the lobby the girls noticed that both elevators were temporarily out of order and had to use the nearest stairwell to get back to their family's hotel room.

Minutes before, Jan Itor, the Riverside Hotel & Casino's head custodian, was in the process of mopping the staircase because a hotel guest had spilled some chocolate milk. As the custodian finished mopping the stairs, Melanie Maiden, the hotel's maid, called Jan Itor to help her unlock the supply closet located near the pool area. Jan Itor placed a caution sign at the top of the stairs before he left. He needed to go to the supply closet anyway to get another caution sign for the bottom of the staircase.

Ima Klutz, seeing that the hotel elevators were out of order, decided to race her sister back to the hotel room. Still in their bathing suits and dripping wet, Ima Klutz ran to the staircase that Jan Itor had just mopped. Ima slipped and fell to the bottom of the stairs.

As a result of her fall, Ima broke her leg, sprained her wrist, and bruised her ribs. The Klutz Family is suing the Riverside Hotel & Casino for Ima's medical expenses and for her pain and suffering, which they claim was a direct result of negligence on the part of their employee Jan Itor for neglecting to put up an additional caution sign at the bottom of the staircase.

## ISSUE

1. Is the Riverside Hotel & Casino responsible for Ima Klutz's accident?
2. Should the Riverside Hotel & Casino be held responsible for Ima Klutz's medical expenses and for her pain and suffering?
3. Was Jan Itor negligent in placing the caution sign at the top of the stairs rather than the bottom of the stairs?

## WITNESSES

### *For the Plaintiff*

Ima Klutz

Ura Klutz

### *For the Defense*

Jan Itor

Melanie Maiden

## WITNESS STATEMENTS

### *Testimony of Ima Klutz*

Hello my name is Ima Klutz. I am seven years old. On Friday, July 13, 2007, my 12-year-old sister Ura and I were leaving the swimming pool at the Riverside Hotel & Casino in Waterfront City. We were staying at the Hotel & Casino for a week because I had practice for the Waterfront City's Gymnastic Com-

petition that was to happen on Saturday. The day before my competition my sister and I had spent the morning at the swimming pool. After swimming for two hours we got hungry and decided to go back to our hotel room to eat some snacks. Before we left the pool area, we wanted to dry ourselves but we couldn't find any clean towels so we decided to use the elevators in the lobby to quickly get back to our room, but the elevators were still broken. My older sister Ura and I had to use the stairs nearest to the pool area to get back to our rooms.

My sister and I love to race each other, but since I was wet from the pool, Ura, who is a very caring and responsible older sister and baby-sitter, told me to slow down. Of course, I always listen to my big sister! So when I entered the stairwell I began to walk up the stairs. The stairwell lights were dim and there was no caution sign at the bottom of the stairs to warn me of all the puddles of water that were left behind by Jan Itor. Thank goodness Ura was with me because after my horrible fall, she quickly used her cell phone to call my parents and tell them what had happened to me.

As a result of my accident, we had to leave our vacation at Waterfront City early. I had to miss my first-ever gymnastics competition. If Jan Itor had put a caution sign at the bottom of the stairs, I would not have fallen and broken my leg, sprained my wrist, bruised my ribs and most importantly, I would have been there to help my teammates win the competition.

### ***Testimony of Ura Klutz***

My name is Ura Klutz. I am Ima's 12-year-old sister. On the morning of Friday, July 13, 2007, I went swimming with Ima at the Riverside Hotel & Casino's swimming pool. Ima and I love to swim, but gymnastics is her true passion. After swimming all morning and getting very hungry, Ima and I decided to go back to our hotel room to eat some snacks and wait for our parents who were off running errands. When we were leaving the pool area, we went to grab some towels to dry off, but there were no towels in sight! So off we went dripping wet to the elevators in the hotel's lobby. We noticed that the elevators were still out of order from earlier that morning and had to use the stairwell nearest to the pool area to get back to our hotel room.

Ima, who can be a typical rambunctious seven-year-old, wanted to race me back to our room. As she raced down the hallway, I hollered for her to slow down. Ima is good little sister and always listens to whatever I tell her to do. When she reached the stairwell, she began to walk. As I followed my little sister, my sandal slipped off my foot. As I knelt down to fix my sandal strap, I heard a crash and my little sister's cry for help. When I entered the stairwell, I saw Ima collapsed at the bottom of the stairs. I also noticed water puddles on the stairs that were left behind by Jan Itor's carelessness when mopping. As I tried to calm my sister down, I dialed my parents on my cell phone to tell them what had happened to Ima.

This was not the first time Jan Itor left a mess of puddles on the stairs and had forgotten to put up a caution sign in the appropriate place. Just earlier that week I almost slipped and fell on a water puddle he left behind in the hotel's lobby and, of course, there was no caution sign anywhere to be found. Due to this terrible accident, my little sister had to miss her first gymnastics competition because of her broken leg, sprained wrist, and bruised ribs. Now she has to go through many months of recovery before she can begin practicing her gymnastics again.

### ***Testimony of Melanie Maiden***

My name is Melanie Maiden and I have been working at the Riverside Hotel & Casino for six years. During the week of Friday, July 13, 2007, the Klutz Family was visiting our Hotel & Casino. Throughout the week, as I cleaned the Klutz's hotel room, I have noticed that Mr. and Mrs. Klutz often left their seven- and 12-year-old daughters in their hotel room by themselves while they went to gamble at the hotel's casino!

On the day that Ima's accident occurred, I was going to restock the towels in the hotel's pool area. I went to the supply closet next to the pool area to get the towels, but the door was locked and I forgot my keys. I decided to ask Jan Itor, the hotel's head custodian, to unlock the door for me. Since I have started working at the Riverside Hotel & Casino, I know that Jan Itor has been nothing but cautious. He always attends to his job immediately. That day, when I called

Jan for his assistance, he had just finished mopping a chocolate milk spill on the stairs nearest to the pool area. He didn't mind opening the door for me because he needed to get an additional caution sign for the bottom of the stairs.

As Jan and I walked to the supply closet, Ima and Ura Klutz ran by us. I said, "No running in the hotel!" A few minutes later I heard a BAM! echo from the stairwell. Jan and I ran to the stairwell to see what had happened. Ima was on the floor crying and screaming in pain. Ura, who was nearby, was on her cell phone not paying any attention to her little sister. I decided to quickly call an ambulance.

This accident would have never occurred if Mr. and Mrs. Klutz were supervising their children at all times instead of gambling at the casino like they have been all week. They should be thanking us for our quick thinking for calling an ambulance for their daughter instead of suing us!

### ***Testimony of Jan Itor***

I am Jan Itor, the head custodian at the Riverside Hotel & Casino. I have been working at the Hotel & Casino for the last seven years. During my time working here I have never seen such misbehaved girls. I am a very cautious person and always do my best to ensure that all of our Hotel & Casino's guests have a safe stay during their visit with us. That is up until the Klutz Family came to stay with us.

On Friday, July 13, 2007, I was mopping the stairwell closest to the swimming pool area because one of our guests had caused a spill on the stairs. As I was finishing up, Melanie the maid asked me to open the supply closet for her because she had forgotten her keys and needed to replenish the towels in the pool area. I didn't mind helping Melanie because I needed to get another caution sign for the bottom of the stairs anyway. As Melanie and I walked to the supply closet, I saw Ima and Ura Klutz, dripping wet, exiting the pool area and running towards the hotel lobby's elevators. As the kids rushed past us, I told them to slow down and to be careful. A few minutes after I warned the girls, I heard a crash coming from the stairwell. When Melanie and I arrived there Ima was at the bottom of the stairs

crying and screaming while her older sister Ura was on her cell phone. While I stayed with Ima, Melanie rushed to the lobby to call an ambulance.

This accident could have been prevented had the Klutz parents been supervising their daughters instead of trusting their rambunctious 12-year old-daughter to watch their even more rambunctious seven-year-old. During their stay at the Hotel and Casino, the sisters were often left alone and were caught roughhousing in the hotel's hallways numerous times. Clearly, this accident could have been avoided if Ima had parental supervision at all times.

## **INSTRUCTIONS**

The Klutz Family must convince the jury by a preponderance of evidence that Ima Klutz's injuries and pain and suffering were the direct result of negligence on the part of the Riverside Hotel & Casino's employees.

## **SUB-ISSUES**

1. Should Ima and Ura Klutz be allowed to be on their own without parental supervision?
2. Did the Klutz Family show disregard for the Riverside Hotel & Casino's hotel rules and regulations?
3. Did Jan Itor attend to all custodial duties (i.e., replacing dim light bulbs, properly drying the stairs, elevator maintenance)?
4. Was Ura Klutz paying full attention to her little sister?
5. Did the out-of-service elevators, lack of dry towels, and dim lighting in the stairwell factor into Ima Klutz's accident?
6. Were the stairs wet due to other guests exiting the pool area as opposed to Jan Itor's negligence?

## **CONCEPTS**

1. Negligence.
2. Liability.
3. Parental responsibility/duty.
4. Comparative negligence.
5. Hotel safety regulations.
6. Credibility of witnesses.
7. Preponderance of evidence.

## **LAW**

1. Children under 13 years of age must have parental supervision at all times in the pool area.
2. Towels must be supplied to guests visiting the pool area at all times.
3. Running in the hallways or pool area is prohibited.
4. Elevators must receive maintenance within one hour of being out of service.



# The Case of the Sickening Chocolate

## SCHOOL

Sussex Avenue  
Morristown  
Grade 5, Honorable Mention

## TEACHER

Ellen Brown

## STUDENTS

Lauren Goldman, Nora Mosch, Kate Hess

*This exercise was created by children and is 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.*

## FACTS

On December 17, 2007, Mrs. Sue Candy bought a box of Hershme's Chocolates from Sweet Luvvers' Shoppe as a get well present for her daughter, Ada Candy, who was sick in bed with a bad fever and cough. Mrs. Candy went home and gave the chocolates to her daughter. After Ada ate them, her cough began to get worse. Minutes later she was having trouble breathing and yelled downstairs to her mother, who rushed upstairs when she heard her daughter's hoarse calls. Mrs. Candy then called 911 after seeing what she thought were sure signs of pneumonia. When Ada went to the hospital, Dr. Flugon examined her, and told Mrs. Candy that Ada had bird flu and that he would have to do some blood tests and send the results to the Centers for Disease Control. Ada was hospitalized for two months and is still not fully recovered.

## ISSUE

Was Hershme's Chocolate Factory and/or Sweet Luvvers' Shoppe responsible for causing Ada Candy to get bird flu and if so, which one must pay the \$300,000 medical bill, the \$10,000 for pain and suffering, and \$3.50 for a refund for the box of chocolates?

## WITNESS STATEMENTS

### *For the Plaintiff*

Sue Candy

Dr. Cameron Flugon

### *For the Defense*

Chewe A. Barr

Wanda Sweete

## WITNESS STATEMENTS

### *Testimony of Sue Candy*

My name is Sue Candy. It was a Sunday afternoon when I thought it would be nice to get my daughter Ada a box of Hershme's Chocolates from Sweet Luvvers' Shoppe since she had been sick in bed for a few days. When I gave them to her, she was very happy and started eating them right away. I went downstairs but came rushing back just moments later when I heard Ada calling me in a hoarser voice than normal. When I got to her room, my daughter

was having trouble breathing. I wasn't sure what was happening but thought that the chocolate must be the cause. I became very frightened and called 911.

The paramedics came and rushed Ada to the hospital where Dr. Flugon told us that he thought she had bird flu, the second case he had ever seen. The doctor did a few tests and sent them to the Centers for Disease Control in Atlanta, Georgia. In the meantime, Dr. Flugon told us Ada would have to be put in a room by herself because they had not yet confirmed what she had. A little while later, Dr. Flugon came in to tell us that the results were in and his diagnosis about bird flu was correct. Ada has been at the hospital for two months and is still not back to normal. I am suing for \$300,000 for the medical bill, \$10,000 for pain and suffering, and even \$3.50 for a refund for the box of chocolates.

### ***Testimony of Dr. Cameron Flugon***

My name is Dr. Cameron Flugon, and I was working on a very important project when Ada was wheeled into the emergency room. I examined her and diagnosed that she was very sick with bird flu. I wasn't sure, though, so I put her in a room by herself. I took a few blood tests and sent my results to the Centers for Disease Control and Prevention, where they confirmed my diagnosis.

Mrs. Candy did the right thing by calling 911. I asked Ada what she did before she began feeling sick. She told me that she had eaten a box of chocolates and drank a glass of milk. I assumed that it was the chocolate that had caused the illness and took a CAT Scan of her stomach. Bird flu is carried by birds, and when I walk by Sweet Lovers' Shoppe on Cocolat Avenue, I sometimes see crows and other birds flying around the windows. I think it would be fair to say that the chocolate was infected with the germs that caused Ada's illness.

### ***Testimony of Chewe A. Barr***

My name is Chewe A. Barr and I work in the purifying section of Hershme's Chocolate Factory. Here the liquid chocolate becomes the regular chocolate that you see in stores. I watch the chocolate very carefully at all times. When I am on my lunch break, there are crows that sit on the window sills, but I

have never seen them fly in near the chocolate. They never eat anything I throw to them except the Hershme's chocolate. They wouldn't be tempted to steal any, though, because of all the machines and people around. Anyway, they wouldn't be able to get in with all of the security measures we have. It is also very dark in the factory and I have heard that birds have bad night vision. If a bird of any kind was to get in, it would set off the alarm. I think it was just a coincidence that Ada Candy ate our chocolate and then got ill.

### ***Testimony of Wanda Sweete***

My name is Wanda Sweete. I own Sweet Lovers' Shoppe on Cocolat Avenue. It was a Sunday afternoon when Mrs. Candy came in and said that her daughter Ada was sick and she wanted to buy some chocolate for her. I felt sorry for Ada, who I know well from her frequent visits to my store, so I gave Mrs. Candy the best chocolate I could find for \$3.50, 50% off. Mrs. Candy thanked me and left. Then I closed the store and went home.

As I was leaving, I just happened to notice a crow on the roof of the store. There have been crows near the shop before, but never in my experience has this ever been a problem. The crows have always been up there and never before has my candy been accused of sickening anyone. I don't think that I should have to pay any of the expenses. It is logical to think that Ada's cold just got worse.

## **INSTRUCTIONS**

The jury must decide by a preponderance of the evidence whether or not Hershme's Chocolate Factory and/or Candy Lovers' Shoppe has to pay for the \$300,000 medical bill, the \$10,000 for pain and suffering and the \$3.50 refund for the cost of the box of chocolates. They also must decide if it was the chocolate that caused Ada's bird flu or if it was a just a sudden worsening of her cold.

## **SUB-ISSUES**

1. Was it the chocolate that actually made Ada Sick?
2. If the chocolate made her sick, was it the factory's or the candy shop's fault?
3. If it was Hershe's Chocolate Factory's fault, did they show negligence in making their chocolate?
4. Was Ada's cold part of the problem?

## **CONCEPTS**

1. Negligence.
2. Damages.
3. Parental responsibility.
4. Burden of proof.

## **LAW**

1. Personal Damage - When a personal injury occurs, these damages include reimbursement for medical expenses.
2. Negligence - When an act is committed that is less than would be expected of a normal person. Negligence can also occur when someone does not act as a "reasonable person."

# Distribution Dilemma

## SCHOOL

West Ridge Elementary  
Park Ridge  
Grade 6, First Place

## TEACHER

Kathy Elia

## STUDENTS

Claudia Fendian, Eunkyeong Hwang,  
Michael Mazzie, Kristi Marcopoulos,  
Keith Misciagna, James Smith,  
Daniel Strizhevsky

## FACTS

On the morning of September 18, 2007, a 14-year-old boy, Rob A. Pillertu, woke up late for school. Before running out the door, his mother, Anita Pillertu, asked him to get her medication from the medicine cabinet for her. She needed the painkiller Cottonoxy ever since her car accident several years before, having fractured three vertebrae in her lower back requiring two corrective surgeries. She had been in constant pain ever since. On that particular day, Anita felt more pain than usual. She couldn't even get out of bed to get to the medicine cabinet.

Rob, being in a hurry and had no idea whatsoever how many painkillers his mother needed, grabbed six Cottonoxy. His mother, who only needed two of the round pink tablets, told him to take the rest back to the medicine cabinet. Just then, Rob heard the sound of the bus outside. As he knew the impatient bus driver was waiting, Rob just stuffed the four tablets into his jean pocket and quickly ran outside to the waiting bus.

At lunch, Rob rummaged through his pocket for his lunch money. He absentmindedly dropped his five dollar bill along with the Cottonoxy tablets onto his cafeteria tray. He bought his food, dawdled over to a lunch table, and didn't think much more of the painkillers on his tray. Rob sat down next to a classmate named Tuck M. Broke. They had been best friends from even before they took their first steps into the halls of Overton Division School. Tuck noticed the unusual tablets on Rob's tray. This is when the problems began.

Rob claims that when he turned his head back from talking to another friend, he saw that two of his mother's painkillers had disappeared. He asked if anyone had seen them, but no one said anything. In Tuck's version of the same events, Tuck says that Rob gave Tuck two of the painkillers saying that he took them all the time. Rob had told him that the Cottonoxy would make him feel better than he ever did in his life.

As Tuck was not good at swallowing pills, he broke them in half and swallowed them with his orange juice. Tuck went on with school. However, during science class, he began to feel lightheaded, dizzy, and nauseous. He asked to go to the nurse. Once there, he found himself slipping in and out of consciousness. The nurse immediately told the secretary to call an ambulance and phone Tuck's mother, Maddie N. Broke. Mrs. Broke rushed to the school so quickly that she arrived even before the ambulance. Tuck was able to tell her that Rob Pillertu had given him two of his mom's pain killers. When the paramedics arrived, Tuck was rushed unconscious to the hospital where his stomach was pumped and his blood was tested for drugs. The doctors found that Tuck's condition was caused by an overdose of the same Cottonoxy that Rob had brought to school. Due to the fact that Tuck had broken the pills in half, the Cottonoxy was released into his system much too quickly causing him to overdose. Tuck could have died.

Meanwhile back at Overton, the principal called Anita Pillertu to ask what medications she was taking. She replied that she took Cottonoxy for pain,

and he relayed this information to the authorities. He told her to come to the school immediately. At this point, Rob was called down to the principal's office. He found the office occupied by the principal, a couple of police officers, and his mom. He was questioned about the pills. He admitted bringing them to school, but denied distributing them to anybody. When he produced the two he had left in his pocket, he was suspended from school for three days.

Later that week, Rob and his mom were called down to the police station, where Rob was arrested for possession and distribution of a controlled substance. He was later convicted in Family Court, based on Tuck's testimony, and was sentenced to 100 hours of community service and would also not be allowed to get his driver's license for six months after he turned 17. Mrs. Pillertu was not charged with any crime.

Maddie N. Broke is now suing Anita Pillertu and Rob A. Pillertu on behalf of her son, Tuck M. Broke, for medical bills as well for pain and suffering. From her point of view, Anita Pillertu and her son Rob were negligent and should have been more cautious with storing and handling the powerful painkiller Cottonoxy. Rob should not have had access to the medication, and should not have brought the pills to school and offered them to her son. Due to Anita and Rob's negligent actions, she and her son had suffered financially, physically and emotionally.

Anita Pillertu argues that she was not negligent and is not responsible for Tuck's medical bills or pain and suffering. On the morning of September 18, she was simply in too much pain to get out of bed to get her Cottonoxy, which she kept safely stored in her medicine cabinet. Rob made an innocent mistake when he put the pills into his pocket when the schools bus came. Tuck was the one who had stolen the pills from Rob's lunch tray, broken them in half, and swallowed them of his own free will. Therefore, Tuck was the cause of his own health and financial problems.

## ISSUE

Were Anita Pillertu and her son Rob negligent and therefore liable for the medical expenses and pain and suffering resulting from Tuck M. Broke's overdose?

## WITNESS STATEMENTS

### *For the Plaintiff*

Tuck M. Broke

Maddie N. Broke

### *For the Defense*

Rob A. Pillertu

Anita Pillertu

## WITNESS STATEMENTS

### *Testimony of Tuck M. Broke*

My name is Tuck M. Broke. I am 14 years old and an eighth-grader at Overton Division School. September 18, 2007 started like any ordinary day. The morning passed by swiftly and soon lunch came. I sat down with my lunch tray next to my best friend, Robby Pillertu. I noticed that Rob had four round pink tablets on his tray. I asked him what they were, and he said that they were his mom's painkillers. He told me that he had taken them before and that they would make me feel the best I would ever feel in my life. He offered me some and I took two. Rob said that he going to save his pills for later. They were too big for me to swallow whole, so I broke them in half so that I could swallow them more easily. Then, I swigged them down with my orange juice.

Later, during science class, I felt dizzy and could not see so clearly. My mouth was dry and I felt light-headed and nauseous. I asked my science teacher to go to the nurse. By the time I got to the nurse's office I felt terrible. I could barely get out the words to tell her what was wrong. I must have looked quite ghastly because she had a very concerned look on her face. She told the secretary to call 911 and my mother.

After that I do not remember anything until my mom came. She asked me what was wrong. I told that Rob had given me his mom's painkillers. Just then the paramedics arrived. I must have passed out because the next thing I knew I was in the hospital with tubes running all around me. My mom told me that my stomach had been pumped, but that I would be all right. She said that they found broken pieces of the pink tablets in my stomach and my blood tested positive for Cottonoxy, a highly addictive and extremely powerful painkiller. I also found out that breaking them in half was a huge mistake on my part. The Cottonoxy released much too quickly for my body to handle, and I could have died from an overdose. I was in a great deal of pain, and it took me a while to recover. I still have trouble concentrating. My mom and I have been put through so much.

When the police interviewed me, I told them that Rob had stolen the pills from his mother and had given them to me to take at lunch. I felt bad having to testify against Rob, but he was not telling the truth. It was no innocent mistake like he says. This was just the first time he got caught.

### ***Testimony of Maddie N. Broke***

My name is Maddie N. Broke. On September 18, 2007, my son Tuck left for school on the bus at 6:45 a.m. as usual. Around 1:40 or 1:45, my cell phone rang while I was eating my lunch. When I picked it up, the school secretary told me to come to the school immediately since Tuck was slipping in and out of consciousness. She said she had already called an ambulance. I rushed to the school in panic. When I arrived, Tuck was conscious, but his speech was slurred and he looked really sick. He told me that Rob A. Pillertu had given him some of his mom's painkillers. Tuck passed out before he could tell me anything else. I started to panic again, but thankfully the ambulance arrived just then. I told the paramedics what Tuck had told me.

The paramedics drove him to the hospital, where the doctors pumped his stomach. They found remnants of Cottonoxy, which is the powerful, addictive painkiller that Rob's mom, Anita, was taking. The doctors said that Tuck could have died, and that he might have some type of permanent damage. He

was in so much pain and I was out of my mind with worry.

When I received the bill for Tuck's hospitalization, I looked at the total cost and immediately called the billing office. I told them, "There's a typo on here."

"What is it?" the billing agent asked.

"You put your phone number in the place where you're supposed to write the hospital bill." I responded.

After he told me that that was really the correct amount, I was extremely outraged. Even with my health insurance, I still owe thousands of dollars. Between this bill and the unnecessary pain and suffering we both have gone through, I decided to sue Anita Pillertu. Her negligent behavior caused my son's injuries. It says right on her Cottonoxy label, "Store in a safe place, and keep out of the reach of children. Do not give this medication to anyone other than to the person for whom it is prescribed."

### ***Testimony of Rob A. Pillertu***

My name is Rob A. Pillertu; I am 14 years old and in the eighth grade at Overton Division Middle School. On Tuesday morning, September 18, I had been running late for school. All of a sudden, my mom asked me to grab her some medications. She needs them for her back. Not knowing how many my Mom needed, I grabbed six of them. I ran to my Mom and put my hand out. She took two pills and told me that was all she needed. Suddenly hearing the bus, I remember yelling, "I'm late for school!" I was going to put them back, but that bus driver gets awfully mad if he has to wait for one second.

At lunchtime, I was reaching in my pocket for my five dollar bill for lunch when I felt unfamiliar objects. I pulled them out and put them on my lunch tray. They were the pills that my Mom didn't want. Not thinking much of it, I finished buying lunch, walked towards my table, and sat down next to my best friend, Tuck M. Broke. I turned my head for a few seconds to talk with another friend. When I turned back around to eat my lunch, two of the pills were gone. I asked around if anyone took them, but no one replied.

Later that day, the intercom said, "Rob A. Pillertu, report to the principal's office." I nervously walked to the office, wondering what was going on. When I opened the door, there were two police officers, my mom, and the principal huddled around the desk. The principal said, "Rob, take a seat." I sat down and looked at everyone's worried and angry faces. The principal broke the silence by beginning to explain to me that I am suspected of the distribution of the controlled substance, Cottonoxy, to other students. I had no idea what he was talking about! Seeing my dumbfounded look, he explained that Tuck M. Broke had been given a powerful substance, called Cottonoxy, which forced him to be transported to the hospital. I suddenly remembered about the two pills that had been missing at lunch. It must have been Tuck who had taken them! "But sir, I did not 'distribute' them at all!" I protested. "Tuck just took them when I wasn't looking."

No matter how I pleaded, they wouldn't believe me. The principal said that I should not have even brought the pills to school in the first place, and suspended me for three days. Later, the police charged me with possession and distribution of a controlled substance. At the hearing in Family Court, my supposed friend Tuck testified that I had purposely given him the pills to get high. Because of his false testimony, I was convicted and sentenced to 100 hours of community service, and will not be able to get my driver's license for six months after my 17th birthday.

We should not have to pay for my former friend's medical expenses. Tuck successfully lied to the police so that the situation would work in his favor. If he wins, my mom and I would have to pay for his irresponsible actions. I did not bring the pills to school to give to anybody. It was an innocent mistake. I was late for the school bus, and absent-mindedly put the extra Cottonoxy in my pocket. At lunch, they just came out with my lunch money. Tuck stole the pills from me. He would not have overdosed if he had just taken them and not broken them in half. He brought his problems on himself. I have already had to work 100 hours for the community and won't be able to get my driver's license on time! I have suffered enough for an innocent mistake.

### ***Testimony of Anita Pillertu***

My name is Anita Pillertu. I have a 14-year-old son, Rob. On the morning of September 18, 2007, I woke up in excruciating pain. A few years ago, I was in a terrible car accident. I fractured three vertebrae in my lower back. I had to have two corrective surgeries. Ever since then, I have had to take a powerful medication called Cottonoxy for the pain. That morning, I was in so much pain I couldn't even get out of bed. I called out to Rob to get me some of my Cottonoxy. Rob came back momentarily with six pills in his hands. I took two of the pills and told Rob, "This is all I need, go put the rest back, please." I ingested the pills as Rob left the room to finish getting ready for school.

At close to 2 p.m. that afternoon, I received a call from Overton Division School. It was the principal of the school. He questioned whether I take any pain medications. I wondered why he needed to know such a thing, but I replied, "Why, yes, I do. I take the pain-killer, Cottonoxy, for my back. As you know I got in a car accident three years ago." He responded yes and thanked me. I overheard him relay this information to someone else in the background. Then he told me, "Ms. Pillertu, I need you to come to see me in my office immediately. It's an important matter." In a frantic state, I got in my car and drove up to the school. Walking to the office, I wondered if something bad had happened to my poor little Robby. When I got to his office, the secretary opened the door for me. I walked in to find both the principal and the police waiting.

"Sit down, Ms. Pillertu, please, sit down," the principal said calmly.

"Well," I asked, "what is the problem?"

The principal then elucidated that my son, my Robby, had given some of my Cottonoxy to his friend Tuck Broke, who was now in the hospital with an overdose. Just then, Robby entered the room. When questioned by both the principal and the police officers, he admitted bringing four of my pills to school, but denied giving them to anybody. He did, however, say that someone had taken two from his lunch tray when he wasn't looking. The principal asked Robby for the other two pills. Robby handed them over to the principal saying that he had intended to put them back when he returned home. The

principal said that even if he did not mean to bring the pills to school, having them on campus without permission was against the rules. He suspended Robby for three days.

A few days later, one of the police officers called us down to the police station, and said that Rob would be charged with illegal distribution of a controlled substance. We were shocked. The officer said that Tuck had told them that Robby had given him the two Cottonoxy, and had encouraged him to take them to get high. We tried to tell them that Rob had innocently put that medication onto his tray and that Tuck was the one who stole them, but he told us to tell it to the judge. We did just that. However, because of Tuck's deceit, Robby was convicted in Family Court. He was sentenced to 100 hours of community service and was prohibited from getting his driver's license for six months after he turns 17. I was shocked at the severe actions that the court had chosen to take. Robby had innocently put that medication in his pocket, and Tuck stole it from him. Tuck is the one who should be in trouble, not Robby.

Adding salt to the wound, Maddie N. Broke and Tuck M. Broke are now suing us for Tuck's medical expenses and for their pain and suffering. What about us? Haven't we suffered enough? We didn't even do anything wrong. Tuck stole the pills! Tuck broke them in half! Tuck was the one who put them in his mouth and swallowed them! He caused his own overdose. We are not liable.

## INSTRUCTIONS

To find in favor of the plaintiffs, Maddie N. Broke and Tuck M. Broke, you must find that Anita Pillertu's negligence caused Tuck's injury and so they are liable for medical expenses and for pain and suffering.

## SUB-ISSUES

1. Is it reasonable for Anita to ask Rob to get her medication?
2. Should Anita have kept the medication locked up?
3. Should Rob have taken out the pills and left them among his peers?
4. Should the police and principal have listened to Rob's side of the story?
5. Is Tuck responsible for his own actions because he is the one who decided to take the pills?
6. Was the overdose Tuck's fault because he split them in half himself?
7. Does the fact that Rob was found guilty of possession and distribution of a controlled substance make a difference?
8. Does the way Tuck got hold of the pills make a difference?

## CONCEPTS

1. Civil law.
2. Burden of proof: by a preponderance of the evidence.
3. Negligence.
4. Liability.
5. Damages.
6. Pain and suffering.
7. Criminal law.

## LAW

1. **Negligence law** - Negligence is a purposeful action that does not fulfill one's duty to care for and protect another individual. Therefore, there could be damaged property or an injured person. You could also be found negligent if, because of your actions, somebody else gets hurt.
2. **Damages for Personal Injury** - Plaintiffs are to be compensated for all damages, both special and general. This includes fair and adequate compensation for medical expenses, and pain and suffering.



### **3. Possession and Distribution of a Controlled Substance**

- a. N.J.S.A. 2C:35-10. Anyone convicted of simply having any type of illegal drug in a drug-free school zone will have to do at least 100 hours of community service.
- b. N.J.S.A. 2C:35-2. "Distribute" does not necessarily mean "sell." Passing or attempting to transfer drugs to another may be considered distribution.
- c. N.J.S.A. 2C:35-16. Anyone under seventeen years old who is convicted of any drug offense may not be able to get or her driver's license for at least six months after turning seventeen.

# Is Johnny Dagger the Sharpest Knife in the Locker?

## SCHOOL

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

## TEACHER

Marilyn Loewenthal

## STUDENTS

Harry Brodsky, Mira Davis, Jeremy Freeman,  
Max Gelman, Julia Gottschalk, Joshua Hailman,  
Abigail Katcoff, Evan Klein, Jason Mast,  
Eliana Shapiro, Talia Sion, Sayde Slobodien

## FACTS

On the Morning of Monday, November 12, 2007, Johnny Dagger, Jr., an eighth-grader at Lakeside Middle School, arrived at school with a knife in his jacket pocket. When Johnny was putting his jacket away, Danny Dripp, another eighth-grader whose locker was next to Johnny's, saw the knife sticking out of Johnny's pocket. At that time, Danny did not tell anyone about the knife.

Later on that morning, during third period math class, the students received the math tests they had taken the previous week. Third period is immediately before lunch and recess. The math teacher said that the students had a few minutes to do extra work; there was no specific assignment. Meanwhile, Danny was staring at his paper in disbelief. He was very unhappy when he saw a "C" on his paper. He noticed that Johnny was smiling and showing a classmate that he had an "A." Danny then asked for permission to leave class, and he went straight to the principal's office to tell Mr. Noah Nives, the principal, about Johnny's knife.

Mr. Nives contacted the local police department, who sent over Officer N. Ozy. Johnny was told to go to his locker where he found Mr. Nives and Officer Ozy waiting for him. Johnny was instructed to open his locker and remove his jacket. Then he was told to reach into the top pocket and take out whatever was inside. Johnny pulled out the pocket knife. He nervously told them that he had totally forgotten that it was there. The last time he had used it was the day before when he was out fishing with his parents. He

said he used the knife to cut fishing line and had forgotten to remove it from his pocket.

The school called Johnny's parents, who supported their son's story as to why he had a knife with him. They insisted that it was an innocent mistake, and no action should be taken against their son. Mr. Nives did not agree. He told the parents that he would have to expel Johnny since he had broken the school's zero tolerance law against carrying weapons to school.

Mr. Nives said that if he didn't punish Johnny for having a knife, students would think it was okay to have knives and guns, too. After Johnny was expelled, his parents sued the principal for taking away Johnny's right to a free public education.

## ISSUE

Did Noah Nives violate Johnny Dagger's right to a free public education?

## WITNESSES

### *For the Plaintiff*

Johnny Dagger Jr.  
Johnny Dagger Sr.

### *For the Defense*

Danny Dripp  
Noah Nives

## **WITNESS STATEMENTS**

### ***Testimony of Johnny Dagger Jr.***

My name is Johnny Dagger Jr. I am an eighth-grader at Lakeside Middle School. On the morning of Monday November 12 2007, I arrived at school at 8:29 a.m., one minute before the bell rang. I overslept so I had to rush to school. When I got to my locker, I put my jacket away and I rushed to get to first period language arts. After school, when I got to my locker, I saw Principal Noah Nives and Officer N. Ozy waiting for me. They told me that I had to open my locker and take out what was in my jacket pockets, where I found my fishing knife. I told them that I had gone on a fishing trip with my parents and I arrived home at 11 p.m. because of traffic. That's why I overslept and had to rush. I forgot to take out my knife when I was rushing to get to school.

Mr. Nives said that since I broke the zero tolerance rule about weapons, I would be expelled and my parents would have to pick me up. I thought to myself that this was really dumb to expel a child from school for making an honest mistake. When my parents arrived, I told them what happened. My parents believed the story and then had a long argument with Mr. Nives and Officer Ozy. After they lost the argument, my parents took me home and sued the school board.

I am a straight "A" student and I never break rules or get into trouble. For me the knife is part of my fishing gear. I really think that this entire thing stems from the fact that Danny was jealous that I got a better grade than he did. He is a very competitive person. I know a knife doesn't belong in school, but it was an accident that I had it with me. I want to return to school and have this terrible event erased from my school records. That is why my parents are suing the school board for expelling me.

### ***Testimony of Johnny Dagger Sr.***

My name is Johnny Dagger Sr. and my son goes to Lakeside Middle School and he is an eighth-grader. On November 12, 2007 my son was accused of bringing a pocket knife to school, and was expelled. I believe that this violates Johnny's right to a free public education. During the weekend beforehand, I went fishing with my son and he used his pocket

knife to cut the fishing lines. Unfortunately, he forgot to take it out of his jacket pocket before school. He awoke late and had to rush from the house, forgetting to remove the knife. Johnny didn't know that he still had the knife in his pocket, and he didn't mean any harm with it.

I think Mr. Nives is wrong for accusing my son of bringing a knife to school on purpose. My son is a good boy. I don't know about the other kid, who was probably jealous of Johnny's grade, and went to the principal out of spite. Johnny is an exemplary student and has never been in trouble either in or out of school. My son has been punished unnecessarily and the school board, literally, must pay.

### ***Testimony of Danny Drripp***

My locker is right next to Johnny Dagger Jr.'s locker. Johnny was putting his stuff away. I turned my head toward Johnny and I saw something shimmer in the light. I realized that it was a pocket knife in his coat pocket. I got scared because I thought he might endanger himself or someone else with it. I wanted to go tell the principal, Mr. Nives, what I saw. But I knew I had to get to class because my teacher hates when I am late. I also couldn't go because my teacher goes through a lot of material in a small amount of time. I wanted to tell the principal but I didn't get a chance until third period. Third period is before lunch. We had a few minutes to do extra work until lunch started. Since I had no work to do, I thought this would be the perfect time to go to the principal. I asked the teacher if I could go to Mr. Nives's office to ask him a question and he said yes.

When I got to the principal, he asked me what was wrong, I told him. I said that this morning, while Johnny was putting his coat away, I saw the knife in his coat pocket. Then he asked me how I saw it. I said I turned my head towards Johnny and saw something shimmering in the light and I looked around and I realized it was the pocket knife in his coat pocket. Then the principal asked me why I waited until before lunch to tell him. And I told him we had a few minutes to do extra work until lunch started, and since I had no work to do, I thought this would be the perfect time to go to him. Then he told me to go to lunch. Mr. Noah Nives said not to worry about anything, and he would take care of everything.

## **Testimony of Noah Nives**

My name is Noah Nives and I am the principal of Lakeside Middle School. We have a “zero tolerance” rule on weapons at school. As soon as I heard from Danny Dripp that Johnny Dagger had a knife, I called the police. When Officer N. Ozy arrived, he requested to see Johnny. He made Johnny open his locker and found the knife in Johnny’s jacket pocket. Johnny then told a story that barely resembled an excuse. Of course, his parents supported his story. However, knives are dangerous and don’t belong in school under any circumstances.

I do not think that Danny acted out of jealousy. After all, he is just a kid. Officer N. Ozy felt that Johnny was nervous when he pulled out his knife. I do not take joy in punishing him, as he has received many good grades including the “A” he got today.

The school’s “no weapon rule” was violated, and I expelled him. His parents are protesting that I have taken away the right to a free public education. I did what was necessary to uphold the law and maintain the safety of the school.

## **INSTRUCTIONS**

The plaintiff must prove to the jury that Lakeside Middle School’s Board of Education violated Johnny Dagger Jr.’s right to a free public education.

## **SUB-ISSUES**

1. Did the principal have the right to make Johnny open his locker?
2. Should Johnny have been expelled even though he never took the pocket knife out of his locker?
3. Did Johnny Dagger Jr. break the school’s zero tolerance law for possession of weapons?
4. Was Danny Dripp acting out of jealousy?
5. Did the school board and Noah Nives act responsibly?

## **CONCEPTS**

1. Preponderance of the evidence.
2. Credibility of witnesses.
3. Liability.
4. Reckless endangerment.
5. Limits of parental responsibility.

## **LAWS**

1. It is the responsibility of the parents to oversee the welfare of a minor.
2. All children have the right to a free public school education through the 12th grade.
3. It is the responsibility of the public school to provide a safe environment for students and employees.

# Ouch!

## SCHOOL

J. Mason Tomlin  
Mantua  
Grade 6, Honorable Mention

## TEACHER

Eileen Shaud

## STUDENTS

Jacob Amwake, Krystyn DiLuigi, Sean Groch,  
Zachary Jones, Rose Kerr, Jonathan Norcross,  
Zachary O'Neil, Ivy Phillips

## FACTS

It was a bright, sunny day on August 31, 2007, at Rocky Hill Park in Boulderton, New Jersey. At about 4:05 p.m., Al Chiyucchi had finished his soccer game and was walking over to the ball field to see one of his friends play baseball. On his way there he saw Billy Hertz, sitting on a park bench listening to his iPod. When Billy saw Al, he stared angrily at him and kicked some rocks with his foot. Al slowly walked around behind the bench, hoping to steer clear of trouble. Billy began to make threats saying that he was going to smash Al's head with a rock.

When Al was directly behind the bench, he saw Billy lean down, reaching his arm downward at the same time. Expecting that Billy was probably going to pick up a rock and throw it at him, Al ran at Billy as fast as he could and pushed him with all of his strength, before he could grab a rock. Billy fell forward in an awkward position, hyper-extending his left arm and tearing his UCL (ulnar collateral ligament). Billy cried out in pain as his arm collapsed and then smashed his head onto the rocky ground. He lay there unconscious and bleeding. Al ran for help at the park ranger's office. Billy suffered traumatic brain injury from the fall, which will permanently affect his quality of life.

## ISSUE

Should Al Chiyucchi be liable for assault and battery of Billy Hertz, or was he acting in self defense?

## WITNESSES

### *For the Plaintiff*

Billy Hertz  
Dr. I. Rock

### *For the Defense*

Al Chiyucchi  
Ada Friend

## WITNESS STATEMENTS

### *Testimony of Billy Hertz*

On Saturday, August 31, 2007, at around 4 p.m., I was listening to my iPod at Rocky Hill Park in Boulderton, New Jersey. I saw Al Chiyucchi walking down a trail toward me. He kept walking and when he got to my bench, he walked around behind me. I bent over to tie my shoe. Then for no reason at all, Al pushed me. I fell over and I remember I tried to stop my fall, but my arm gave out and I hit my head on the rocky path. I remember a lot of bleeding and everything after that is a blur. I remember waking up a long while later in the hospital. When I got my MRI, it hurt so much to keep my arm straight. I do not know why Al Chiyucchi treated me this way. I cannot remember ever doing anything mean to him. He should pay for what he did to me.

### ***Testimony of Dr. I. Rock***

My name is Dr. I. Rock. I am a neurologist. Billy Hertz is one of my patients. He is a 12-year-old male who suffered a traumatic brain injury from a fall. He suffers from persistent headaches, mental confusion, slurred speech and long term memory loss. When he fell, he tore his ulnar collateral ligament (UCL). It will require ulnar collateral ligament reconstruction, better known as “Tommy John Surgery” to repair this tear. The injury to his brain is permanent and will affect the quality of his life. I am sorry to say that Billy will probably never be the same again.

### ***Testimony of Al Chiyucchi***

I am Al Chiyucchi and this is my sincere story. I live in the town of Boulderton. On August 31, I was just coming off the soccer field at Rocky Hill Park when the next team was getting ready to play. I decided to go to the baseball game at the other side of the park, where my favorite player, Ada Friend, was playing. It sounded like they were winning from the noise of the crowd and I had promised her that I would be there at her championship game. She was always there for me so I wanted to be there for her as well.

As I was walking over to the baseball fields on the path that winded around the hill, I saw the school bully, Billy Hertz, sitting on a bench listening to his iPod. I tried sneaking around behind him, but he saw me. He said, “I’m going to smash your head in because of what you said about me!” Then, he bent over and I noticed rocks below him. I knew what was coming because last winter Billy hit me with a snowball that had a rock in the center.

I mustered up all my strength and ran at him as hard as I could. I pushed against his back and he fell. I heard him yell and then he got very quiet. I looked and saw that Billy’s head was bleeding and that he was unconscious. I ran over to the park rangers and notified them of Billy’s condition. I led them back to the place of the accident.

Ada was standing there. **THE GAME WAS OVER!** Besides the confrontation with Billy Hertz, I felt like I had also let Ada down. That was the worst day of my life.

### ***Testimony of Ada Friend***

My name is Ada Friend and I was playing baseball at Rocky Hill Park on August 31, 2007. When the game was over, I looked for my friend Al Chiyucchi. I had expected him to be there watching the game like he had promised. He had a soccer game earlier so I started walking toward the soccer field to look for him. I noticed two boys over by the park bench. One was my friend, Al Chiyucchi; the other was the school bully, Billy Hertz. Suddenly I saw Billy lean down and reach for a rock. Then Al pushed him from behind. Billy fell and his arm gave out when he hit the ground and he landed right on his head. There was blood everywhere. He was unconscious for a long time. Al ran for help and the park rangers called 911. By the time the ambulance came, the time was about 4:15 p.m.

## **INSTRUCTIONS**

To prevail on the claim of assault and battery, the plaintiff must prove, by a preponderance of the evidence, that the defendant intentionally and unlawfully struck the plaintiff.

To avoid liability, the defendant must prove the defense of self defense by a preponderance of the evidence by showing that whatever injury the plaintiff received was inflicted by the defendant in defense of an assault being made upon him by the plaintiff.

## **SUB-ISSUES**

1. Did Al Chiyucchi intentionally push Billy Hertz?
2. Did Billy Hertz threaten to strike Al Chiyucchi with a rock?
3. Was Al Chiyucchi reasonable in thinking that Billy Hertz would harm him?
4. Did the amount of force Al used in pushing Billy appear reasonable to him in order to protect himself in light of the circumstances?
5. Which witnesses should be believed?

## CONCEPTS

1. Reasonableness of force used.
2. Credibility of witnesses.
3. Burden of proof: preponderance of the evidence.

## LAW

1. Assault: an attempt or offer to touch or strike another person with unlawful force or violence.
2. Battery: necessarily includes a preceding assault and in addition extends to the actual touching or striking of the person, with the intent to do so, with unlawful force or violence.
3. Self Defense: A person may resist the use or threatened use of force upon him, but he may only use such force as is necessary or reasonably appears to him to be necessary for his own protection, under all circumstances.

# The MRSA Outbreak

## SCHOOL

Chestnut Ridge Middle  
Sewell  
Grade 6, Honorable Mention

## TEACHER

Lori Bathurst

## STUDENTS

Daniel Bertolini, Bridget Bradley, Dana Clemson,  
Parth Desai, Gabrielle Kiliman, Annalisa Lanzalotti,  
Amanda Malandrino, Matthew Mastrogiacomo,  
Samantha Pollere, Haley Sirisky, Danielle Uibel

## FACTS

Johnny Scrapes was a young boy who loved baseball. His parents were divorced and he lived with his mom. Every day, he went outside to practice. On one Sunday evening, he took a bad slide and cut his knee. Johnny showed his mom the wound, but his mom, Ima Sueing, said it wasn't serious enough to go to the hospital. The next day Johnny went to school. As his mom picked him up, Johnny noticed the cut had gotten worse. He was worried, so he told his mom. She then took Johnny to the hospital.

As Johnny was going to the office where his wound was going to get treated, he slipped, fell and collided with a nurse. The floor was wet, but he hadn't noticed because there was no "wet floor" sign. He went on with his check-up and the doctor, Dr. Cheaps, bandaged it. Dr. Cheaps noticed that Johnny was dirty, and Ima had some stains on her, so his inference was that they were poor. Actually, Ima was a painter, who hadn't changed from work, and Johnny just came back from playing at school. They also had an average amount of money. Since Dr. Cheaps guessed the family was poor, he didn't give them the special, expensive medicine required to prevent MRSA for a just-in-case factor.

Over the weeks, Johnny started to get these little marks that looked like spider bites. Johnny was also starting to get ill. They went to Dr. Cheaps to check it out. It turned out to be that Johnny was diagnosed with MRSA! Both Johnny and his mom were scared because his life was threatened.

As Ms. Sueing was waiting for the treatment, she read in a newspaper article that this hospital had had a MRSA outbreak! Many of the patients and nurses carried the deadly MRSA germs on them. Ima was outraged and decided to sue the hospital. She said that the hospital should have been sterilized before patients came in or at the least they should have been informed of the danger. She said the hospital was liable for Johnny's sickness. But the chief executive of the hospital said it was Ima's fault for not bringing Johnny to the hospital right away, and for sending him to school, where many germs are spread.

## ISSUE

Is the hospital liable for Johnny Scrapes contracting MRSA and were they negligent in not prescribing the available medicine?

## WITNESSES

### *For the Prosecution*

Johnny Scrapes  
Ima Sueing

### *For the Defense*

Dr. Cheaps  
Mr. Ownnar



## WITNESS STATEMENTS

### *Testimony of Johnny Scrapes*

My name is Johnny Scrapes. The day I got cut, I remember my mom came and picked me up from my friend's house. I had tripped on a crack in the concrete and cut my leg pretty bad. When I showed it to my mom, she said she was too tired to take me to the hospital. She didn't think it was too bad. She cleaned it a little but I told her to stop cleaning it because the peroxide burned.

Afterwards, my mom went to bed to take a nap. I played baseball in my backyard for the rest of the evening. Later, I went to bed and the next day I went to school and did what I usually do: things like gym, recess, and just hanging in the hallways. After I went straight home. My leg hurt more than ever.

My mom then took me to the hospital. When we arrived, I slipped on a wet floor and ran into a nurse. They cleaned my wound, fixed me up, and sent me home. A couple of weeks later, I noticed red bumps on my leg. I thought it was just dirt because I was playing outside and was all dirty. My mom took me back to the hospital. When I got to the doctor, he diagnosed me with MRSA. He didn't know where I got it, though. My mom thinks I got it at the hospital when I fell into the nurse.

### *Testimony of Ima Sueing*

I got home from work and went to pick up my son Johnny from his friend's house. I was exhausted! Johnny told me he had a cut. I took a look at his cut; it didn't look that serious so I told him to take it easy after he cleaned up. I took a short nap. The next morning I sent Johnny to school. When he got home, the cut looked worse so I took him to the hospital. We arrived at the hospital and, as Johnny was walking down a hallway before his check-up, he slipped and fell on a wet floor. We had no way of knowing the floor was wet considering there was no sign. Anyway, he fell right on top of some nurse. A few weeks later, Johnny grew ill so I took him back to the hospital and he was diagnosed with MRSA. While the doctor was examining Johnny, I was reading an article in the newspaper that said there was a MRSA outbreak in the very hospital we were in! The stupid

nurse didn't know she had MRSA and gave it to my son! How unprofessional!

### *Testimony of Dr. Cheaps*

My name is Doctor Cheaps. A few weeks ago I had little Johnny Scrapes here come in for his deep cut. He said he had fallen while playing baseball in a friend's backyard. His mother, Ima Sueing, said it didn't look bad at the time and cleaned it with water and then put a Band-Aid on it. She sent him to school where the Band-Aid fell off while playing baseball with his friends. When Johnny slid onto home base, he had gotten dirt in his cut. It was hurting him so Mrs. Sueing decided to take him to the hospital to get it checked.

When I looked at it, I didn't see any signs of MRSA, which include small red bumps that resemble pimples, boils or spider bites, which is the beginning of the staph infection. My only concern was that it was pretty deep and dirty. So I cleaned it and stitched it. I was aware at the time that a person had caught MRSA at my hospital, but I didn't think he would have caught it from them. Besides it didn't look like it had MRSA before I stitched it up. That's why I didn't prescribe any medicine. It wasn't because I thought they were poor. Ima had on raggy clothes with paint on them and Johnny had on dirty clothes. I thought they were poor. However, a couple of weeks later Johnny and Ima came back in, declaring that it was my fault he had caught this MRSA of his. I said it couldn't have been my fault because it didn't look like he had MRSA. I said he could have caught it at school where there could have been some kind of germ in the dirt or gymnasium. But still they accused me of him catching MRSA. If the mother noticed how deep the cut actually was, she would have sent him to the hospital before sending him to school where he could get infected even more. I do not think I should be held liable for this case.

### *Testimony of Mr. Ownnar*

One day I was sitting in my office when my flustered-looking assistant rushed in. She said we were being sued by Johnny Scrapes' mother for a MRSA contamination. My assistant said that his mother had heard about a MRSA outbreak in our hospital.

Some of our nurses were diagnosed with MRSA, but I thought it was cured and had departed. Then when I heard that Mrs. Sueing said that we weren't doing enough to restrain our MRSA contamination, I was infuriated! If we treated every kid that came in with the medicine to treat a potential outbreak of MRSA, our bill would be extremely high! Besides, it's mainly Mrs. Sueing's fault anyway. She sent him to school even though she knew he had an open wound; she should have known that germs could spread easily. If she would have brought him here more swiftly, this whole concern could have been avoided.

## INSTRUCTIONS

The plaintiff has to convince the jury by a preponderance of the evidence that Dr. Cheaps is liable for Johnny Scrapes being infected with a MRSA infection because he was negligent in not offering prescription medicine in case of a MRSA infection.

## SUB-ISSUES

1. Is there enough evidence to prove that Johnny Scrapes got MRSA at the hospital?
2. Were there any MRSA infections going around in Johnny Scrapes' school?
3. Why didn't Ima Sueing take her son to the hospital right away?
4. Why didn't Dr. Cheaps give Johnny the prescription that would prevent MRSA and cure his cut?

## CONCEPTS

1. Credibility of witnesses.
2. Burden of proof: by a preponderance of the evidence.
3. Negligence.
4. Parental responsibility.

## LAW

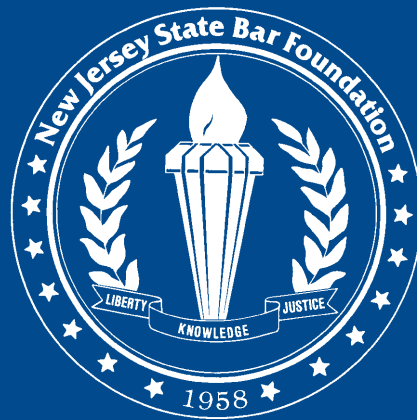
Any building or facility infected with a contagious life-threatening disease must notify any or all individuals that come in contact with the facility regarding the potential threat. If the disease worsens, consideration should be given to shut down the facility so a full decontamination process can occur. The facility should then remain closed until further testing takes place.

*This fictional law was created based upon the information in articles included in the bibliography.*

## BIBLIOGRAPHY

<http://www.cdc.gov/Features/MRSAinSchools/#q5>

[http://www.cdc.gov/ncidod/dhqp/ar\\_mrsa\\_ca\\_public.html](http://www.cdc.gov/ncidod/dhqp/ar_mrsa_ca_public.html)



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