

MOCK TRIAL EXERCISES

For grades 3–6



Featuring Winning Cases from
the New Jersey State Bar Foundation's
Law Fair 2014 Competition

Contents

Preface	2
The Case of the Zippin Zappin Tree House: The Fan Family v. Tree House Chiefs and Home Television Network.....	3
The Case of the Fallen Frankie: The Fallen Family v. Balloon Mania, Mr. Ross D. Boss and Captain Sky Blazer.....	8
The Doggie Disaster: Mr. and Mrs. Bitten v. the Bow Wow Pet Shop.....	13
Our Son Does Arson? State v. Frank N. Fire and Ivan B. Bad	18
Monkey Bar Mayhem	23
The Ski Lift Catastrophe	26
The Unexpected Fall: Calumsky v. Town.....	29
The Case of the Stolen Birthday G-Phone: The State of Michigan v. Billy Birthday.....	32
The Case of the Bomb Scare and a Teacher's Flare: Louise O'John v. Richmon Preparatory School	35
Bullets or Biceps: Burr v. Safe Haven Board of Education	38
Pill Popping Phil: Madeline and Phil Swallowitz v. Hail Bridge Elementary School	42
Earless – Not Fearless.....	45

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 2014 Competition. They may be used as a guide to prepare a submission to the Law Fair Competition or as a classroom exercise. Please note that some of the cases may contain "laws" created by the students for the purposes of this competition, which may not necessarily be actual laws. Since these mock trials were written by children, the content should not be considered technically accurate.

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

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

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

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

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

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

The Case of the Zippin Zappin Tree House: The Fan Family v. Tree House Chiefs and Home Television Network

SCHOOL

Woodland
Monroe Township
Grade 3, First Place

TEACHER

Bethanne Augsbach

STUDENTS

Benjamin Bussiere, Emily D'Angelo, Christopher Judge, Ria Kakar, Cameran Lowery, Emma Muniz, Daniel Varughese, Steven Yuro

FACTS

The Fan Family, Maple, Bark, and their five-year-old triplets Bark Jr., Fern and Hazel, are big fans of “Tree House Chiefs” on the Home Television Network (HTN). They received an invitation to attend a special sale of Tree House Chiefs’ most popular tree houses. On November 29, 2013, the family went to the Tree House Chiefs’ Official Store to look for a custom built tree house with a zip line. The invitation was for Black Friday and the store was extremely crowded.

Tree House Chiefs and HTN were hosting the sale event in order to promote their products. The Fan Family was watching a demonstration when Bark Jr. had to use the restroom. Mr. Fan brought him to the lavatory that was at the opposite end of the store. Mrs. Fan stayed at the demonstration with Fern and Hazel. The demo area became very crowded. Fern became separated from her mom and her sister Hazel.

Fern looked around and saw a tree house with a zip line. She went under the roping and crawled up the five-foot ladder to get inside of the tree house. Next, she climbed up another five-foot ladder to get to the second level of the tree house where the zip line was anchored.

She climbed up on the launching platform and grabbed the T-bar with both hands and flew off. She did not sit on the T-bar or use the safety harness or rope. Fern fell from the zip line from six feet up. She landed on her arm, and then hit her head on the concrete floor which was covered with Astroturf.

Mr. Fan and Bark Jr. saw her fall and came running to her aid. Mrs. Fan and Hazel, who had been looking for Fern, got to her just as she hit the floor. A store employee called 911 and an ambulance brought Fern to the hospital. Fern suffered a broken left arm, a concussion, and needed 28 stitches to close the wound on her head. The Fan Family is suing for \$880,000 for Fern’s medical expenses, physical therapy and pain and suffering.

ISSUE

Are Tree House Chiefs’ Official Warehouse Store and Home Television Network (HTN) liable for Fern Fan’s injuries due to their negligence for not providing a high degree of care, protection and safety for the customers in their warehouse?

WITNESSES

For the Plaintiff

Maple Fan

Ida C. Nalot

For the Defense

I.M. Zee Boss

Leo De Shopper

WITNESS STATEMENTS

Testimony of Maple Fan

My name is Maple Fan. I went to the Tree House Chiefs' store on November 29, 2013, with Bark Sr., my husband, and my five-year-old triplets, Bark Jr., Fern and Hazel. We are big fans of "Tree House Chiefs" on HTN. We wanted to buy a Tree House with a zip line at the Tree House Official Store. It was Black Friday and the store was extremely crowded because of the huge sale.

In order to promote their products, Tree House Chiefs was hosting demos of four different tree houses. My family and I were watching the first demonstration of the Rocking Rock Wall Tree House when Bark Jr. said he had to use the restroom. Bark Sr. took Bark Jr. to the restroom, which was at the opposite end of the store, and there was a long line. I stayed at the demonstration with Fern and Hazel.

The demonstration area became very crowded with adults and children squeezing together to see what was happening. There must have been 500 people watching the demonstration! Fern was pushed by the crowd of people and became separated from Hazel and me. When I looked down and saw her missing, I immediately started screaming her name and looked for her and help. There were no employees anywhere to assist me.

Fern had walked over to the next tree house that had a zip line, and she climbed up to play in it. She easily crawled under the security roping because there was a two-foot gap underneath. Then, as quick as a cricket, she was able to get into the tree house. No staff was around to stop her! She climbed up the child-friendly ladder to get to the second platform,

where she could play like the kids on the TV show. She was attracted to the zip line because she saw other children on zip lines on "Tree House Chiefs," and it looked easy and fun to do!

Fern was easily able to climb up the zip line platform, as it was designed for children to use, and then grab the T-bar. As she grabbed the bar with both hands, it began to slide on the line because it wasn't properly secured in place. I heard Fern scream, and then saw her falling off the zip line from a height of about six feet. I ran to Fern as she was falling but I did not get to her in time. I still didn't see any staff anywhere!

There were no mats or any type of cushioning below her. She fell to the concrete floor which was covered with plastic Astroturf. She hit her head very hard and landed on her left arm. Her head was really bleeding where she got cut. When I got to Fern, I yelled out that she was very hurt and needed an ambulance.

Tree House Chiefs and Home Television Network should not have invited so many people to the demonstrations and should have had better crowd control. They had a duty to safeguard the tree houses so that children could not get near them. It is dangerous to have an unsecured zip line, and they should have known better because they are the experts after all. A flimsy security rope is not sufficient to keep curious kids from sneaking into dangerous areas they should not be able to access. Tree House Chiefs and HTN were negligent for not having adequate safety procedures in place to ensure the safety of their customers, especially the children.

Testimony of Ida C. Nalot

My name is Ida C. Nalot. I am 25 years old. I was at Tree House Chiefs' official store watching the Rocking Rock Wall demonstration with my husband. It was very crowded around the demo area. I was getting pushed as I tried to watch. I noticed the Fan Family because of their triplets. You see, I am a nanny and just love kids, and these triplets were all so cute and so well behaved! I noticed that the father left with his son, and I was concerned for the mom. She was left with two young girls in the midst of all this commotion. The girls were behaving and

enjoying the show, but there was a lot of pushing and shoving in the crowd. It was so rough, even my husband and I got separated a few times!

I watched the demo for a few minutes but then the mom caught my eye. She looked frightened. She was crying and yelling her daughter's name. I looked around, and her daughter was nowhere! I became very concerned and stepped out of the crazy, chaotic crowd to try to help find the missing child.

By the time I got through the sea of people and found Mrs. Fan, it seems that Fern had already made her way to the Zippin Zappin Tree House. We turned around and there she was, climbing up the zip line platform. I couldn't believe that not one store employee stopped her or was anywhere around!

Once again, we had to plow through the pack of people. This really slowed us down. By the time we got to the Zippin Zappin Tree House, it was too late. Fern had started to slide and then fall. It was awful! I saw her father and brother run to her side and her mother followed. The poor child was really hurt! I gave Mrs. Fan my phone number so she could call me. I told her I saw everything!

Testimony of I.M. Zee Boss

My name is I.M. Zee Boss. I was the supervisor in charge of the store on November 29, 2013. This was an invitation-only event and we sent out 500 invites in order to limit the crowd. Our showroom is 35,000 square feet so we can accommodate this amount of people safely. A staff member was assigned to the Zippin Zappin Tree House and was present at the house the whole time. He was stationed there to assist customers and answer their questions. All of our displays that day were blocked by barricades so that no one could go into them without supervision. Signs saying "Keep off. No climbing!" were posted. Our zip line was secured to the side of the tree house and a sign was posted above it stating, "Do Not Touch!"

At the time of the accident, I was hosting the demo at the Rocking Rock Wall Tree House. I noticed the Fan Family in the group. It was easy to spot them because the children were triplets and they were running around everywhere. They were very

rumbustious and kept yelling that they wanted a tree house. Their parents seemed to have little control over the children, and seemed more interested in the demonstration than their children.

I did see the father leave with his son, heading towards the back of the store, leaving his wife with two children. Frankly, I was hoping the whole family would leave because they were such a distraction! Mrs. Fan was completely glued to the demonstration and was not supervising her girls. It's no surprise that one child wandered off without the mom knowing.

Suddenly, I heard a loud scream and then saw a lot of commotion in the store. That is when I saw the little girl fall. I stopped my demo and ran over. The girl was obviously hurt and I called 911 even before Mrs. Fan yelled out. We are not liable for Fern Fan's injuries. We met or exceeded all the required township and state safety code and regulations. Her mother and father should have been more vigilant when watching their children.

Testimony of Leo De Shopper

My name is Leo De Shopper. I was at the Tree House Chiefs' Official Store on November 29, 2013 to shop for a tree house for my daughter. I was immediately drawn to the Zippin Zappin Tree House because we had seen one on our favorite show, "Tree House Chiefs," and I knew my daughter would just love it! Thankfully, there was a staff person present because I had questions to ask about the set-up and pricing.

I wanted to get a closer look and really wanted to walk through it. I kept asking but the staff was adamant that it was against store policy and customers were not allowed on the equipment. I was upset, but in fairness, there were barricades and signs stating "Keep off. No climbing!" He was just doing his job. That Tree House Chiefs' store is really organized and well run!

All of a sudden we noticed a little girl in the Zippin Zappin Tree House! She must have gotten in from the other side and she must have gotten over or under the barricades. She also ignored the signs. Where was her mother? Parents really need to keep a better eye on their kids. By the time we saw her,

she was already climbing the ladder to the second platform. She was having the time of her life! We called to her but she completely ignored us. She wanted that zip line!

The staff member I was speaking with ran to the Ziphouse to try to catch her but she was too fast. Before I knew it, I could see her grabbing the T-bar so she could use the zip line. I didn't see her try to put on the harness or anything. As you know by now, once she started to slide, she fell off and got hurt. It is clear that the parents were negligent and are responsible for this incident because if the child was being properly supervised, this horrible accident would never have occurred. It is not the fault of the warehouse management.

INSTRUCTIONS

The Fan Family must prove by a preponderance of evidence that the defendants, Tree House Chiefs and Home Television Network, were negligent and caused Fern Fan's injuries because they did not provide an adequate level of care and safety.

SUB-ISSUES

1. Were the barricades, ropes and signs adequate for securing the tree houses and demo areas?
2. Should the T-bar have been secured so it could not be used?
3. Did Mr. and Mrs. Fan properly supervise their children?
4. Should Tree House Chiefs' Official Store have put additional staff near the Zippin Zappin Tree House to keep it secure?
5. Was the store too crowded and were there sufficient crowd control procedures in place on the day of the Black Friday event?
6. Were the signs clear, did they include pictures, and were they placed at a height that children could see them?

CONCEPTS

1. Negligence.
2. Comparative negligence.
3. Liability.
4. Causation.
5. Proximate cause.
6. Foreseeability.
7. Parental responsibility.
8. Preponderance of the evidence.
9. Burden of proof.
10. Credibility.
11. Damages.
12. Pain and suffering.

LAWS

Negligence – is the failure of an individual or agency charged with the duty of care to exercise the proper degree of care that a reasonable person would exercise under similar circumstances. It may be the doing of an act which the ordinary prudent person would not have done, or the failure to do that which the ordinary prudent person would have done, under the circumstances. By “a prudent person” it is not meant the most cautious person, but one of reasonable vigilance and caution. There can be no liability in negligence unless the plaintiff establishes both that he or she was owed a duty of care, and that there has been a breach of that duty.

Attractive Nuisance – a possessor of property is subject to liability for physical harm to children trespassing on the property caused by an artificial condition upon the property if: (a) the place where the condition exists is one upon which the possessor knows or has reason to know that children are likely to trespass; (b) the condition is one of which the possessor knows or has reason to know and which he or she realizes or should realize will involve an unreasonable risk of serious bodily harm to such children; (c) the children because of their youth do not discover the condition or realize the risk involved in coming within the area made dangerous

by it; (d) the utility to the possessor of maintaining the condition and the burden of eliminating the danger are slight as compared with the risk to children involved; and (e) the possessor fails to exercise reasonable care to eliminate the danger or otherwise to protect the children.

Comparative Negligence – is considered if the plaintiff has contributed to cause the damages by his or her own negligence. In such a case, plaintiff's recovery will be reduced by the percentage he or she contributed, so long as his or her negligence is less than 50%.

Proximate Cause – plaintiff must establish by a preponderance of the evidence that defendant's negligence was a proximate cause of the accident. In other words, plaintiff must establish that his or her injury is connected to the defendant's negligent actions.

Causation – is the "But For" test: But for the actions of the defendant, the harm would not have occurred. If defendant is found to be a substantial factor, defendant is comparatively liable.

Parental Responsibility – parents have an obligation to properly supervise the activities of their minor children. A parent is liable for injuries to his or her minor child only if the parental supervision or lack of it is willful or wanton. To establish that conduct or inaction is willful or wanton, it is not necessary that the parent recognize his or her conduct as being extremely dangerous; it is sufficient that he or she knew, or had reason to know, of circumstances which would cause a reasonable person to realize the highly dangerous character of his or her conduct.

The Case of the Fallen Frankie: The Fallen Family v. Balloon Mania, Mr. Ross D. Boss and Captain Sky Blazer

SCHOOL

Woodland
Monroe Township
Grade 3, Second Place

TEACHER

Bethanne Augsbach

STUDENTS

Dylan Ciapka, Lilyana Cornell, Caitlyn D'Amore,
Vincent Dilieto, Rachel Kovler, Lia Kurczeski,
Ashley Palmieri, Jaiden Shah

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 August 27, 2013, a breezy day, Mr. and Mrs. Fallen, along with their eight-year-old son, Frankie Fallen Jr., went to the Middlesex County Fair. While at the fair, Frankie won a ticket at a charity raffle game for a free, hot air balloon ride.

The family went to the Balloon Mania stand and handed the raffle ticket to the owner-operator. He asked who was going up in the balloon because the ticket was for one rider only. The ride operator said the balloon basket was filled to capacity and he would allow only one more rider. The booth had an old tattered sign that stated, "Ride at Your Own Risk."

The hot air balloon was tethered to the ground and was only able to ascend 100 feet into the air. The wicker basket is four feet high and holds up to 24 people plus the pilot. It had no warning or safety signs posted on it. A brochure with a property damage waiver explaining the ride was given to all passengers. The balloon company did not require an adult to go on the ride with children.

Mr. and Mrs. Fallen asked the owner-operator of Balloon Mania and the pilot if the ride was safe for



their son to go on alone, and they were informed that children go up all the time and always come back safe and sound.

The pilot lit the burner and a loud boom blasted from the flame as the ride began to rise. As the ride climbed into the air, the basket started to sway slightly in the wind. Frankie Fallen Jr. could be heard screaming as he fell over the side of the basket onto the ground.

The ambulance came quickly and took Frankie to the hospital. Frankie broke his right arm in two places and fractured his shoulder blade. He needed to be sedated while they reset the bone, and he will need long-term physical therapy to regain the full use of his right arm. The Fallen Family is suing Balloon Mania, its owner-operator Ross D. Boss, and the pilot, Captain Sky Blazer, for all of Frankie's medical expenses and for his pain and suffering.

ISSUE

Were Balloon Mania, Ross D. Boss and Captain Sky Blazer negligent and are they liable for Frankie Fallen Jr.'s medical expenses and all related costs?

WITNESSES

For the Plaintiff

Faith Fallen

Chaira Tee

For the Defense

Ross D. Boss

Captain Sky Blazer

WITNESS STATEMENTS

Testimony of Faith Fallen

My name is Faith Fallen. On the day of August 27, 2013, my husband and I, along with our studious, well-behaved, eight-year-old son, Frankie Fallen Jr., went to the Middlesex County Fair. While at the fair, my sweet son won a ticket at a charity raffle game for a free, hot air balloon ride. He thought it was the coolest thing ever.

We went to the Balloon Mania stand and handed the raffle ticket to the owner-operator, Mr. Ross D. Boss. He asked us who was going up in the balloon because the ticket was for one rider. Only one person could ride because they were sold out of tickets and the basket was at full capacity of 25 passengers. My husband and I were concerned about our young son going up alone. As a result, we asked him if it was safe for an eight-year-old child

to go on the ride by himself. He told us that it was perfectly safe and that the balloon was tethered and would gently and slowly ascend and float at around 100 feet. He handed us a brochure with a waiver that stated that the balloon company was not responsible for any loss or destruction of personal property.

The tethered balloon used for the ride was massive as was the enormous wicker basket that was four feet tall with no warning signs posted on it. There was no safety information given and no rules were ever explained to us. They had an old hard-to-read sign about riding at your own risk, but we asked and were told not to worry because the ride was safe.

As we waited for my son to board the ride, I asked the pilot if it was safe for my young son to go up in the balloon without a parent. He responded that it would be calm sailing, even though the wind was blowing and further that children go up all the time and always come back safe and sound. Finally, he then stated that the balloon is tethered, and it would float slowly and gently at 100 feet off the ground. I believed the pilot and owner when they assured me the ride was safe, so I let my son ride.

The ride seemed to have started out fine. Within, I would say, a minute or so something went terribly wrong. I saw the basket shaking and I heard my child screaming in fear as he fell over the side of the basket onto the ground. It was like a nightmare before my eyes. I screamed and ran right for him. For a second I believed he might have been dead! Thank goodness he fell on his arm and not his head.

The ride was definitely not as safe as the pilot or owner said. They didn't tell us that since the balloon is tethered, the wind would shake the basket. I would never have let my son go on if I knew this! I watched the basket shaking wildly in the wind, causing my son to fall off the edge of the basket. If the wind was that strong and turbulent, then the pilot should have known better than to have taken off. My son was not properly supervised or harnessed into the shaking basket, causing him to be thrown out.

Further, no one told us that when the hot air balloon burner, when fired up, would sound like an ear-piercing fiery monster! My son was terrified and panicked; this was the reason he started to climb away from the burner and up the side of the basket.

He wanted to get to my husband and me because he was so frightened. My son couldn't see over the top of the basket so he thought he was close enough to the ground to get out safely on the grass. The pilot never saw him or told him to get down. The sound of the burner was so loud my son could not hear a thing; his ears were ringing for days.

My son would not have fallen out of the basket and gotten hurt if the pilot was watching him. The balloon company should have required an adult to go on the ride with him. The owner and the pilot should have been more specific about the dangers of the ride. If the pilot couldn't be responsible for ensuring the safety of my son, he shouldn't have let him ride the balloon in the first place.

Luckily there was an ambulance at the fair so EMS was there quickly. He screamed the entire way to the hospital. My poor baby was in so much pain. He broke his right arm in two places and fractured his shoulder blade. He needed to be sedated while they reset the bone. He will need long-term physical therapy to hopefully gain full use of his arm again.

Testimony of Chaira Tee

My name is Chaira Tee and I work at the charity raffle booth where we raise money for Children's Hospitals. On the date of August 27, 2013, Mr. and Mrs. Fallen and their little boy Frankie came to my fundraising stand to spin our Lucky Wheel of Charity. Frankie spun the prize wheel and won a free ticket for the hot air balloon ride. The boy was extremely excited and I happily told him I would be going up too! I watched hundreds of balloons go up over the course of the week and I wanted to experience the thrill!

I must say that earlier in the week the sound of the balloon burners firing up startled me even from afar. I was getting used to the sound from my booth, but I was not prepared for the loud exploding boom when I was in the basket up close. It scared the life out of me, and I knew it was coming. That poor little boy had no idea. They really should have warned his parents to expect the roar of the flame so that they could have prepared their child or not have sent him up at all. A child or even an adult could easily think the ride was exploding. I believe they should warn all passengers and offer them ear plugs or at

least post a sign or something. I was not surprised to hear the boy panicked and tried to climb out of the basket. Why doesn't the ride operator harness young children to the basket so that they cannot fall out? That seems reasonable to me.

In addition, the pilot never saw any of this happen because he didn't pay any attention to the child at all. It was his job to make sure that Frankie was safe since they allowed him to go on the ride alone. The basket was crowded and the noise was earsplitting so the pilot never heard him screaming. The owner and pilot knew that it was impossible, under these conditions, to ensure Frankie's safety so they should not have let him go up in the ride without a parent.

I felt the balloon basket jolting in the wind and I was thrown off balance too, but luckily I could grab onto the basket. I was able to see the boy hanging onto the edge of the shaking basket as he was knocked over the side. I couldn't believe my eyes, and it was too late for me to stop it. The boy landed arm first on the ground. I looked over to see if he was okay. An ambulance came and took the child and his mother to the hospital as the father followed behind in his car.

Testimony of Ross D. Boss

My name is Ross D. Boss. I am the owner of Balloon Mania, a family owned and operated small business. I have 30 years of experience and have piloted more than 300,000 rides with a perfect 100% safety record. On August 27, 2013 Frankie Fallen Jr. won a free balloon ride at the charity raffle stand at the Middlesex County Fair. Frankie and his parents came to my sales booth to redeem the raffle ticket they won. The parents were told at that time that we were not responsible for any loss or destruction of personal property and that all passengers "ride at their own risk."

The conditions were perfect for flying on that day. A slight wind will not and did not shake the basket. The wind certainly did not cause the child inside the basket to fall out. A passenger told me Frankie was ill-mannered and did not listen to our pilot's instructions.

Children are not harnessed to the basket because the carrier is four feet tall, preventing small

children from falling over. Even before he got on the ride, Frankie was seen pushing and shoving other passengers on line. His parents ignored his behavior when they should have removed him from the line and not let him ride. I believe the accident was caused by the little boy's mischievous behavior and ultimately his parents are liable for his actions.

The basket of the balloon is designed with the highest safety standards, which include high sides, a locking gate and a first-aid safety kit on board. Our procedures require all pilots to tell all passengers not to climb or lean over the edge before the burner is started and the ride takes off. Frankie could have heard him if he was listening. The parents were also informed by me that the balloon's burner was loud and they said that Frankie was okay with loud noises. If the ride was sold out, the parents should have waited for another day or another fair so that they could ride with him.

We run a safe, respectable balloon business and have a proven 100% safety record; we cannot be held responsible for the poor choice made by Mr. and Mrs. Fallen to allow Frankie to go on the ride unescorted when they knew perfectly well that he is an ill-behaved rascal who is always up to no good.

Testimony of Captain Sky Blazer

My name is Captain Sky Blazer and I was piloting the balloon at the time of the accident. I have been flying balloons for 15 years and I have never had a passenger come to harm.

From the moment all passengers were on board the balloon, Frankie was up to no good. He was pushing and shoving the other passengers and jumping up and down. I instructed all the riders on balloon safety and on how the balloon functions. Before starting the burner, I explained clearly to all passengers how loud it is when first lit. All passengers including Frankie were instructed to keep their arms and belongings inside the basket and told not to climb or lean over the basket. Unfortunately, Frankie was not listening.

At no time did Frankie say that he was frightened of the burner. The boy did not seem scared to me at all and in fact he seemed to be fully enjoying the start of the ride. He was yelling and screaming

the whole time about how "cool" the ride was. You could tell he was impulsive and did not think about his actions. When he was asked to pipe down and stop disturbing the other riders, he responded by climbing up the side of the basket. As I said, passengers are told not to touch or climb on the sides of the basket.

We've never had such a mischievous kid on our ride before; his parents need to spend more time disciplining him. They must have known he would be a problem in the basket unattended by them and they should not have let him ride alone. I have heard he is always in trouble at school and I am not surprised.

Wind conditions and temperatures were perfect for ballooning that day. We had a smooth and flawless ascension. All this tranquility was spoiled by Frankie's behavior. He was upsetting the other passengers. Not once did he listen. Even one of the passengers reprimanded the boy to stop misbehaving to no avail.

I had 25 passengers in my basket. He was not the only child on board, but he was the only one that did not listen to any of the rules. It is not my responsibility to watch him, it is his parent's responsibility. His parents knew that my job is to fly the balloon, not to baby-sit their kid. If I had known that he was such a disruptive and impulsive child, I would not have let him on the balloon in the first place. The parents are liable because they should not have let him go on the ride knowing that he is a disruptive problem child.

INSTRUCTIONS

The plaintiff must prove by a preponderance of the evidence that the defendants, Balloon Mania, Mr. Ross D. Boss and Captain Sky Blazer, were negligent and caused Frankie Fallen's injury.

SUB-ISSUES

1. Did Balloon Mania, Ross D. Boss and Captain Sky Blazer use reasonable care when allowing Frankie to go up in the balloon without an adult?
2. Should Captain Sky Blazer have a duty to supervise Frankie?

3. Should Balloon Mania have harnesses available for children on the balloon?
4. Was Frankie trying to be purposely mischievous or was he really afraid?
5. Should Balloon Mania have put up safety signs within the ballooning area specifying exact rules?
6. Should Frankie's parents have argued and insisted to go on the ride with him?
7. Should Frankie's parents have waited to go on the ride at a different time so that they could have accompanied him?
8. Did Frankie's parents know that Frankie was a mischievous child prone to troublemaking and impulsive actions?

but one of reasonable vigilance and caution. There can be no liability in negligence unless the plaintiff establishes both that he or she was owed a duty of care, and that there has been a breach of that duty.

Comparative negligence is considered if the plaintiff has contributed to cause the damages by his or her own negligence. In such a case, plaintiff's recovery will be reduced by the percentage he or she contributed, so long as his or her negligence is less than 50%.

Contributory negligence applies to cases where plaintiffs/claimants have, through their own negligence, contributed to the harm they suffered.

CONCEPTS

1. Negligence.
2. Comparative negligence.
3. Contributory negligence.
4. Liability.
5. Causation.
6. Proximate cause.
7. Foreseeability.
8. Parental responsibility.
9. Preponderance of the evidence.
10. Burden of proof.
11. Credibility.
12. Damages.
13. Pain and suffering.

Proximate Cause – plaintiff must establish by a preponderance of the evidence that defendant's negligence was a proximate cause of the accident. In other words, plaintiff must establish that his or her injury is connected to the defendant's negligent actions.

Causation is the "But For" test: But for the actions of the defendant, the harm would not have occurred. If defendant is found to be a substantial factor, defendant is comparatively liable.

Foreseeability – in determining whether reasonable care has been exercised, you will consider whether the defendant should have known that the probable consequence of his or her act, or the failure to act, would have been some injury.

LAWS

Negligence is the failure of an individual or agency charged with the duty of care to exercise the proper degree of care that a reasonable person would exercise under similar circumstances. It may be the doing of an act which the ordinary prudent person would not have done, or the failure to do that which the ordinary prudent person would have done, under the circumstances. By "a prudent person" it is not meant the most cautious person,

Parental Responsibility – parents have an obligation to properly supervise the activities of their minor children. A parent is liable for injuries to his or her minor child only if the parental supervision or lack of it is willful or wanton. To establish that conduct or inaction is willful or wanton, it is not necessary that the parent recognize his or her conduct as being extremely dangerous; it is sufficient that he or she knew, or had reason to know, of circumstances which would cause a reasonable person to realize the highly dangerous character of his or her conduct.

The Doggie Disaster: Mr. and Mrs. Bitten v. the Bow Wow Pet Shop

SCHOOL

Woodland
Monroe Township
Grade 3, Honorable Mention

TEACHER

Bethanne Augsbach

STUDENTS

Rebecca Aftel, John Chierchie, Lauren Custodio,
Vito DeMetrio, Jenna Mohamed, Vrunda Patel,
Marcelo Pucci, Kate Salvesen

FACTS

On a stormy Labor Day weekend, Sunday, September 1, 2013, Mr. and Mrs. Bitten brought their four-year-old son Brody to Bow Wow Pet Shop. They went there to buy Brody a Toy Poodle puppy for his birthday. While Mr. and Mrs. Bitten spoke with the salesperson, Jay Bird, their son Brody was walking around the store and picked up a dog treat lying on the floor. He continued walking with it in his hand. Mr. and Mrs. Bitten asked Jay if they could see and play with a Toy Poodle. The store has private rooms in the back where customers can spend time and get to know the puppies.

Jay, the 18-year-old salesperson, went to get the puppy. He went through the door, in the glass partition wall, to get the dog and did not see Brody follow him into the cage area. As Jay took the puppy out and brought him to Mr. and Mrs. Bitten, Brody remained in the puppy cage room. Jay never saw him. Brody still had the treat in his hand when he opened the cage to the six-week-old Rottweiler puppy. As Brody reached into the cage to try and pet the Rottweiler, the dog sniffed the treat in his hand, bit him, and would not let go.

As a result of the dog bite, Brody received 15 stitches on his right hand and suffered a severe infection that got into his muscle. The infection had to be surgically removed and required a three-week stay in the hospital including out-patient, long-term physical therapy. Mr. and Mrs. Bitten are suing Bow

Wow Pet Shop for \$500,000 in punitive damages (pain and suffering) and all of their son's medical expenses.

ISSUE

Is Bow Wow Pet Shop negligent for leaving the puppy cages unlocked and easy to access when they are potentially dangerous to small children like Brody Bitten? Is Bow Wow Pet Shop liable for Brody Bitten's injuries even though he sneaked into the cage room?

WITNESSES

For the Plaintiff

Beverly Bitten

Terry Urr

For the Defense

Abbe Dorr

Jay Bird

WITNESS STATEMENTS

Testimony of Beverly Bitten

My name is Beverly Bitten and I am the mother of four-year-old Brody Bitten. We went to Bow Wow Pet Shop to purchase a puppy Toy Poodle for our son for his birthday. As we entered Bow Wow Pet Shop, we watched Brody walk around the small shop. The young and only salesperson was preoccupied and we had to pull him away from his cell phone to get any help. As we were finally speaking to the salesperson, Jay Bird, about seeing the puppy, Brody was always within our sight. Unknown to us, Brody found a dog treat on the floor. The store really should be more careful and responsible for cleaning up and ensuring there are no treats lying around.

Jay went into the cage room to get the Toy Poodle for us to see and Brody followed him into the small glass enclosed area. We thought Jay was aware that Brody was accompanying him into the puppy room as Brody screamed "I'm coming!" loud enough for the whole store to hear. When Jay came out of the puppy cage area with the Toy Poodle, he did not look to see if he left Brody in the room. There should be a procedure in place that requires employees to always look to be sure no one is in the puppy cage area before walking out and closing the door. Jay was in too big a hurry to get back to his phone and never bothered to check for Brody.

We instantly alerted Jay that Brody was still in the puppy room, but by then he had already been savagely bitten by the vicious Rottweiler. In my opinion, the store should not be selling Rottweiler puppies. Everyone knows that they are brutal, heartless, and just plain mean animals. And if they must sell these awful puppies, they should have trained all their employees on how to properly handle them and should have measures in place to make sure the cages are all locked properly. A four-year-old should not be able to open any of the cages, let alone a ferocious Rottweiler's cage.

Bow Wow Pet Shop could have used more reasonable care by placing the "teething" Rottweiler puppy's cage up higher on the top row of cages. If they had done that, my son could never have opened the cage. When a dog is teething, it will bite anything. The manager should have safety

procedures in place to keep small children out of the cage room and to keep teething dogs away from their customers.

In addition, why were there no signs posted warning customers to stay out of the cage room and further that there are angry, horrifying Rottweilers in the store? They have a responsibility to protect the young children who frequent their store. There wasn't even a manager in the store to help the young, inexperienced salesperson Jay manage the large Labor Day weekend crowd of customers. It was Labor Day. They should have expected and planned for large crowds. It is clear that Bow Wow is at fault for our son's injury and pain and suffering.

Testimony of Terry Urr

My name is Terry Urr and I am a customer of Bow Wow Pet Shop. My daughter and I were very excited to be buying a puppy as our beloved Yorkie passed away. Upon entering the store, I noticed that there was only one employee on the floor and he was very young and a little too preoccupied with other things besides attending to the many customers and caring for the pets. For example, I noticed him chitchatting with a friend and even texting on his cell phone. After the Bitten Family asked him to please help them, he finally got back to work. But he did seem to still be distracted and in a hurry.

My daughter and I walked around the pet shop, looked into the puppy room and knew right away which Yorkie we were taking home with us. We never got a chance to speak with Jay, the salesperson, after Brody was bitten by the Rottweiler. It all happened so fast. I don't understand how this incident happened. I heard the boy shout out, "I'm coming with you" and I was shocked to see that Jay left Brody in the cage room. He is an 18-year-old salesperson and as customers we should be able to expect that he is responsible and mature enough to ensure the safety of the children in the shop. A manager should have been with him on the floor of the pet shop on such a busy weekend. Further, it seems obvious to me that the dog cages should be locked with keys that are stored away from the reach of children in order to prevent children from opening cages.

I also noticed that the dogs had no food or water so my daughter and I assumed that the dogs were hungry, which is why the Rottweiler snapped at Brody's hand so quickly. We found out later he was also teething. We were there for over 20 minutes and none of the cages had water or food and we all know that hungry pets, like people, are gnarly when they haven't eaten.

If there had been enough help and an experienced manager in the store, this would not have occurred; it could have been avoided altogether. My daughter and I got our Yorkie from another pet shop.

Testimony of Abbe Dorr

My name is Abbe Dorr, and I have worked for Bow Wow Pet Shop for five years as store manager. This is the first time that anything like this has ever happened. It was a madhouse and we could not have predicted we would have such a large crowd so quickly. We typically are slow on Labor Day weekend as everyone is at the beach or picnicking. The last minute rain brought the customers in droves that we could not have anticipated.

We have cameras in the store to monitor business and to watch our customers and employees. I was in the store, in my office. When I saw the large number of customers on my monitor and noticed Brody Bitten was teasing and taunting the cute little puppy with a treat, I headed out to the shop right away to help my salesperson. Brody was waving the treat too close to the poor puppy's mouth. I thought to myself, "Where are this ill-behaved child's parents?" It was Mr. and Mrs. Bitten's responsibility to watch over and take care of their child while in our store. Our salespeople are paid to sell puppies, not to look after children.

On busy weekends like this, there are times that food drops on the floor and we cannot immediately attend to it because we are busy with the customers. There are signs in the cage room with pictures that clearly state: "Do Not Open Cages or Feed Animals." If the Bittens did not see the signs, they should have looked more carefully.

All of our animals are healthy and happy animals. The Rottweiler puppy was sweet and adorable. He

had brains, beauty and a loving temperament. We didn't need to lock his cage or put him up high because he never displayed any bad behavior before this child got in his face and teased him with the treat. Rottweilers get a bad rap when in fact they are kind and playful. There is no way we could have foreseen the danger; the puppy's temperament was calm and fun-loving.

It goes without saying that Mr. and Mrs. Bitten should have supervised their son better and should have been holding his hand the entire time they were at the pet shop. Unfortunately, because they were not watching Brody properly, Brody was able to follow Jay into the puppy room, and Jay did not notice him because of Brody's small size. Jay is 6'5" and the Toy Poodle he was retrieving was in one of the highest cages in the room. No matter what, Bow Wow Pet Shop should not be responsible for Mr. and Mrs. Bitten's inadequate supervision of their child.

Testimony of Jay Bird

My name is Jay Bird, I am 18 years old and I have been working at Bow Wow Pet Shop for one year with an additional three months of extensive training. On September 1, 2013, Labor Day weekend, a stormy day, I was working at the shop. It's usually a slow time for our store and the mall. I was shocked to see the large number of people trampling into the store. I noticed Brody Bitten because he was so loud; he was shouting that he was getting a new puppy. It was clear he was happy but unsupervised as he was walked around the store on his own looking at all the different pets. When his parents were asking me to see the Toy Poodle puppy, Brody was on his own. He was banging on cages and fish tanks, and scaring the birds to make them scream. No one was watching him and his bad behavior was disruptive to all the customers.

I noticed him pick the dog treat up from the floor and I asked him to "please throw the treat away." After that Brody Bitten was out of my sight so I could not see if he kept the treat in his hand or not. Isn't it his parents' job to know what is in his hands? His parents should have been paying more attention to him and not to the puppies.

Mr. and Mrs. Bitten were oohing and aahing the Toy Poodle puppy through the glass, ignoring their

son who was in the back of the shop tormenting the animals. I never saw or heard him as he silently tiptoed behind me into the cage room. He is a sneaky little thing. He's only four years old and three feet tall, I never saw him. What were the parents doing at the time? I would think that Brody should have been with them since they were all waiting to see the Toy Poodle. I ask you, how are the Bittens going to take care of and train a puppy when they can't even keep an eye on their own young son?

I heard all the commotion and crying coming out of the puppy cage room and was back in there in a flash. I opened the door so that his parents, the manager and I could get in to help him. I grabbed the puppy as he let go of the child's hand after he realized the treat was gone. His parents were trying to calm him down and look at his wound.

At that point my manager started asking customers to back away from the window to give the family some space and privacy. While I was keeping control of the situation, my manager Abbe Dorr called 911. This accident was absolutely not my fault or the shop's fault. His injuries could have been prevented if his parents had been holding his hand and were carefully watching over him.

INSTRUCTIONS

Mr. and Mrs. Bitten must convince a jury by a preponderance of the evidence that Bow Wow Pet Shop was negligent for not properly securing the Rottweiler puppy that caused Brody Bitten's injury.

SUB-ISSUES

1. Should Brody have been able to get behind the glass partition wall?
2. Was Jay Bird vigilant in keeping careful watch for possible danger?
3. Does the Bow Wow Pet Shop have a duty to ensure children cannot get access to the cages because dogs can be dangerous?
4. Is it reasonable to expect Bow Wow Pet Shop to be cautious and make sure that the cages are secured properly to keep inquisitive children out?

5. Should the Rottweiler cage have been on the top level, out of the reach of children, since the puppy was teething?
6. Should Brody Bitten's parents have been watching him at all times especially in a pet store with animals that can cause harm?
7. Was it Jay Bird's job to ensure Brody's safety while in the store?
8. Should Bow Wow Pet Shop have had more employees supervising the pets and helping customers?
9. Is it reasonable to expect Jay Bird's manager to assist him with the large crowd?
10. Shouldn't the employees clean the treats off the floor?

CONCEPTS

1. Tort.
2. Burden of proof: preponderance of the evidence.
3. Credibility.
4. Liability.
5. Negligence.
6. Doctrine of attractive nuisance.
7. Foreseeability.
8. Proximate cause.
9. Comparative negligence.
10. Parents responsibility.
11. Causation.

LAWS

Parental Responsibility: Parents have an obligation to properly supervise the activities of their minor children. A parent is liable for injuries to his or her minor child only if the parental supervision or lack of it is willful or wanton. To establish that conduct or inaction is willful or wanton, it is not necessary that the parent recognize his or her conduct as being extremely dangerous; it is sufficient that he or she knew, or had reason to know, of circumstances which would cause a reasonable person to realize the highly dangerous character of his or her conduct.

Comparative Negligence: Comparative negligence is considered if the plaintiff has contributed to cause the damages by his or her own negligence. In such a case, plaintiff's recovery will be reduced by the percentage he or she contributed, so long as his or her negligence is less than 50%.

Negligence: Negligence is the failure of an individual or agency charged with the duty of care to exercise the proper degree of care that a reasonable person would exercise under similar circumstances. It may be the doing of an act which the ordinary prudent person would not have done, or the failure to do that which the ordinary prudent person would have done, under the circumstances. By "a prudent person" it is not meant the most cautious person, but one of reasonable vigilance and caution. There can be no liability in negligence unless the plaintiff establishes both that they were owed a duty of care, and that there has been a breach of that duty.

Proximate Cause: Plaintiff must establish by a preponderance of the evidence that defendant's negligence was a proximate cause of the accident. In other words, plaintiff must establish that his or her injury is connected to the defendant's negligent actions.

Causation: "But For" test: But for the actions of the defendant, the harm would not have occurred. If defendant is found to be a substantial factor, defendant is comparatively liable.

Foreseeability: In determining whether reasonable care has been exercised, you will consider whether the defendant should have known that the probable consequence of his or her act, or the failure to act, would have been some injury.

Attractive Nuisance: A possessor of property is subject to liability for physical harm to children trespassing on the property caused by an artificial condition upon the property if: (a) the place where the condition exists is one upon which the possessor knows or has reason to know that children are likely to trespass; (b) the condition is one of which the possessor knows or has reason to know and which he or she realizes or should realize will involve an unreasonable risk of serious bodily harm to such children; (c) the children because of their youth do not discover the condition or realize the risk involved in coming within the area made dangerous by it; (d) the utility to the possessor of maintaining the condition and the burden of eliminating the danger are slight as compared with the risk to children involved; and (e) the possessor fails to exercise reasonable care to eliminate the danger or otherwise to protect the children.

Our Son Does Arson?

State v. Frank N. Fire and Ivan B. Bad

SCHOOL

School No. 1
Fort Lee
Grade 4, First Place

TEACHER

Elsa Osso

STUDENTS

Debora Dragomirov, Ella Hattem, Juman Kim,
Tiffany Kim, Yooeun Lee, Marissa Mitelburg,
Benjamin Mizrahi, Chloe Wu, Natalie Yum

FACTS

Two 13-year-old boys had a previous reputation of being bullies. Since they enjoyed science, they eagerly signed up for a rocket construction and launching challenge to be exhibited at their school's science fair.

On April 21, 2013, the boys were working on their project in the kitchen of one of the boy's apartments. The boy's parents were not home. The boys decided it was a good idea to do a test launch. The rocket flew out of the window of the boy's apartment and into the window of a neighbor's bedroom. The neighbor, a former friend of the two boys, was able to extinguish the fire before it spread out to the entire room, but there was considerable damage to his personal property.

The parents of the boy whose room was set on fire claim that the fire was set intentionally by both boys, and thus deemed to be arson.

ISSUE

Are both boys guilty of arson?

WITNESSES

For the Prosecution

Jack Jock
Cassie Kaching

For the Defense

Frank N. Fire
Izzy Guilty

WITNESS STATEMENTS

Testimony of Jack Jock

My name is Jack Jock. I am a 13-year-old eighth-grade student at Ar Sun Middle School. Science has always been my favorite subject, but ever since I was a little boy, I have also always wanted to play football. Even though I don't think I'm very good, last year, my good friends (they were my good friends then) Frank N. Fire and Ivan B. Bad encouraged me to try out for the team, but I didn't make it. However, to my surprise, the coach told me that if I practiced hard that I could try out again this year. I started to stay after school and get help from the coach and from some of the other players on the team. That's when Frank and Ivan stopped being supportive. In fact, they began teasing me about being a "jock" that just cared about being cool.

Frank, Ivan and I had been friends since fifth grade, and we had always gotten along well. But since I made the football team, I haven't been able

to hang out with them as much. They got mad and started bullying me. In the beginning of this year, we had signed up to work on a science fair project together. I was hesitant about being in their group because I felt that they were just using me since I was good at science, but I decided to do it to prove to them that I had not changed just because I made the football team.

On April 21, 2013, a terrible thing happened. I was sitting in my living room playing my favorite video game when I started to smell something burning. I dropped the video controller and walked into the kitchen. Everything was okay there, but when I entered my bedroom, I saw that my blanket had somehow caught on fire and that the fire was spreading. I ran to get the fire extinguisher. Luckily, I was able to put the fire out.

When I saw the rocket on the bed, I knew that Frank and Ivan had launched it from Frank's kitchen window. I knew that they had done this on purpose. Frank has always had an obsession with fire. In fact, he had started a fire during a camping trip two summers ago just to see how far it would spread. His dad was able to put out the fire with buckets of water, but he was very angry about it.

But that's not all. A week after this incident, one of the football players called me and told me that he came across something about me on Facebook. It was a video of me saying that I only wanted to be on the football team so that I could impress Mary Me. She is a cheerleader and one of the most popular girls in the eighth grade. I have no idea of when they videotaped me, but they somehow changed what I said and posted it without my permission. I'm sure that Frank and Ivan set the fire to scare me and posted the video to embarrass me. That wasn't the first time that they were bad to me. Another day Frank spilled food on my football uniform just before a game. I had taken a lot of abuse, but that was when I decided that I would report the Facebook incident at school. Since the new bullying laws require that reports be filed, I knew I had to complete a formal complaint. I hated to do it, but at that point, I didn't have a choice.

My parents know Frank's parents, and they know all about Frank's tendency to play with anything that is related to fire. They truly felt that the fire in

my room was a serious case of arson and decided to press criminal charges. They are concerned that if Frank doesn't get help with his problem now, he may commit a more serious crime in the future and possibly go to jail.

Testimony of Cassie Kaching

My name is Cassie Kaching. I am the cashier that was working at the Doctor Science Geek Shop in town on April 21, 2013. That's when Frank and Ivan came into the store to buy the materials for the rocket. They asked me to help them find a special explosive compound mixture, wire, a steel pole, a sheet of steel, and some nuts and bolts. I noticed that they made it a point to buy extra of the explosive mixture. As they were leaving the store, Frank said, "He thinks he's better than us!" Ivan laughed and replied, "This will teach him a lesson!" They smiled at each other excitedly and ran out of the shop.

Before closing the store, I always clean up the counter by the cash register. That's when I found a sticky note with the list of materials for building a homemade rocket. At the bottom of the list, I saw a type of secret code that said, "R plan for J." I think that the code meant "Revenge plan for Jack."

I think that Frank and Ivan planned to start a fire in Jack's room. I think that they wanted to scare Jack so that he would keep helping them get good science grades in school, but they need to know that arson is a serious crime. Frank really needs to be stopped and get help for his problem now before it really gets out of hand and he sets a fire that hurts someone.

Testimony of Frank N. Fire

I am Frank N. Fire. I'm here to say that this accusation is absolutely ridiculous. I am being punished for being a regular teenager who happens to be a nerd and the former friend of a now popular football player.

There are many problems with Jack's story of what happened. Ivan and I went to the Doctor Science Geek Shop. Since Jack had football practice, he gave us a list of what to buy. It was Jack's idea to test the rocket by launching it into his window. He thought that was a great way to see if it would work

the way we wanted to program it. He also told us to get the extra explosives to give the rocket more power. He had also done all of the calculations and programming of the rocket to be sure that it would fly up into the window of his room. We all planned for April 21, 2013 to be the big test launching day. That's why Jack's bedroom window was open and he was home. We specifically chose a day when he did not have football practice.

I am very upset at being called an arsonist. The camp fire incident was an accident. I threw a stick with a burnt roasted marshmallow away behind me. I didn't know that it would fall into a pile of leaves and start a fire.

I also still can't believe that Jack filed bullying charges against me when he asked me to post the video on Facebook. He wanted Mary Me to know that he liked her, but was too chicken to tell her in person. He thought this would be a good way to see if she liked him! Of course, we teased him about this, but he never said that our teasing bothered him. The spilling of food on his uniform never happened.

Finally, Cassie Kaching, the cashier, is a football player's older sister, so I'm sure that she is testifying to help the football team's reputation. She doesn't even have the sticky note because she said that her boss must have accidentally thrown it away.

I am not an arsonist. Clearly, something went wrong with the rocket, but that's not my fault. We all built it, but Jack was the one who programmed it to fly into his room. Maybe his parents should sue him! Jack's parents are accusing Ivan and me just to protect their own son so he won't be suspended from school and get kicked off the football team, which is just what he deserves. He did all of this to prove to his new friends that he is not a nerd anymore. That's how badly he wants to fit in with the jocks!

Testimony of Izzy Guilty

My name is Izzy Guilty and I have been the guidance counselor at Ar Sun Middle School for 15 years. I'm not quite sure what happened to change things because to my knowledge, Jack, Frank and Ivan have been friends for quite some time. I know that Jack made the football team this year, but Frank

and Ivan seemed happy for him. In fact, I know that they had encouraged him to try out because they knew he really wanted to play football.

I was surprised when Jack came to my office to file a formal complaint. Cyberbullying is serious and I have to follow the guidelines of the school district and of the law, so I proceeded with the procedure.

I don't know exactly what happened. But it is important to note that even if Frank and Ivan did bully Jack, it doesn't mean that they committed arson. There is nothing in Frank's file to indicate that he has ever had an obsession with fire, and he has never had any such problems in school. While Frank and Ivan have been involved in some bullying incidents in the past, those issues have been resolved, and they have not been in any trouble this year. Being labeled a "nerd" is hard for students, especially at this grade level. It makes sense that their efforts to defend themselves could have been misinterpreted as bullying in the past. I am happy to say that both boys have signed up to be peer mediators, and they have attended all of the training sessions and meetings.

All three boys will be going to high school next year. Of course, I want the very best for all of them. The fact here is that there is no evidence that there was any criminal intent to commit arson.

INSTRUCTIONS

The jury must find beyond a reasonable doubt that the boys in question either intentionally or recklessly set Jack's bedroom on fire.

SUB-ISSUES

1. Was there enough evidence to press arson charges?
2. Was there enough evidence to file a cyberbullying complaint?
3. Which witnesses are most credible?

CONCEPTS

1. Reasonable doubt.
2. Credibility of witnesses.
3. Misdemeanor.
4. Felony.
5. Intent to commit arson.
6. Recklessness.
7. Bullying.

LAWS

1. **Misdemeanor** - a lesser crime punishable by a fine and/or county jail time for up to one year. Misdemeanors are distinguished from felonies which can be punished by a state prison term.

2. **Felony** - 1) a crime sufficiently serious to be punishable by death or a term in state or federal prison, as distinguished from a misdemeanor which is only punishable by confinement to county or local jail and/or a fine.

Crimes classified as felonies include, among others, treason, arson, murder, burglary, robbery, and kidnapping.

3. **Arson Laws**

The information below outlines the elements of arson.

Intention. You can only commit arson if you intend to burn someone else's property without their permission. This essentially means you cannot commit arson if you accidentally set fire to something. You must purposefully set fire to the property or intend that your actions lead to property becoming burned or damaged. However, a prosecutor does not necessarily have to show what you specifically intended to do when you started the fire or burned the property. You can be convicted of arson if the prosecutor can show that the circumstances show you intended to burn the property even if you never say what your intention was.

Recklessness. In some states, you can also commit arson if you damage property as a result of acting recklessly. Acting recklessly means you act knowing that what you are doing is dangerous and could result in fire or property damage, but you do it anyway. In other states, causing property damage by acting recklessly is charged as different crime than arson.

Direct or indirect. It's not necessary to directly set fire to property to be convicted of arson. You can also be convicted of arson if you take actions that indirectly lead to property getting burned. For example, if you use a match to set fire to a home, you have committed arson. On the other hand, if you drop a lit match in a dry area on your property and cause a wildfire which then damages someone else's home, you have also committed arson.

Fire or explosion. In many states, explosions are also included in arson laws. This means that if you use an explosive force to cause damage, you can also be convicted of arson even if that damage is from debris and not from fire. In other states, property damage caused by explosions is charged as a separate crime.

Property damage. To be convicted of arson the prosecution must show that your actions led to someone else's property becoming damaged. If no damage resulted from your actions, no arson occurred. However, the damage can be very slight, and there is no requirement that the fire last any specific amount of time.

Property you own. While most arson crimes involve property that belongs to other people, you can also be charged with arson if you set fire to your own property. However, to be convicted of arson by burning your own property, you must either set the fire for fraudulent purposes, or the fire must lead to someone else's property getting damaged. For example, burning down your home or business with the intent to collect on your insurance

policy is arson. Similarly, if you intentionally set fire to your property and that fire then leads to someone else's property getting damaged, you may also be convicted of arson.

4. **Bullying Law***

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

2. As used in this act:

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

"Harassment, intimidation or bullying" means any gesture, any written, verbal or physical act, or any electronic communication, whether it be a single incident or a series of incidents, that is reasonably perceived as being motivated either by any actual or perceived characteristic, such as race, color, religion, ancestry, national origin, gender, sexual orientation, gender identity and expression, or a mental, physical or sensory disability, or by any other distinguishing characteristic, that takes place on school property, at any school sponsored function, on a school bus, or off school grounds as provided for in section 16 of P.L.2010, c.122(C.18A:37-15.3), that substantially disrupts or interferes with the orderly operation of the school or the rights of other students and that:

- a. a reasonable person should know, under the circumstances, will have the effect of physically or emotionally harming a student or damaging the student's property, or placing a student in reasonable fear of physical or emotional harm to his person or damage to his property;
- b. has the effect of insulting or demeaning any student or group of students; or
- c. creates a hostile educational environment for the student by interfering with a student's education or by severely or pervasively causing physical or emotional harm to the student.

*<http://www.njleg.state.nj.us/2010/Bills/PL10/122.PDF>

Monkey Bar Mayhem

SCHOOL

Joyce Kilmer Elementary
Mahwah
Grade 4, Second Place

TEACHER

Robin Canetti

STUDENTS

Colton Mikolajczyk, Adrian Zaremba,
Gabrielle Montegari, Briana DeMarco

FACTS

On Wednesday, March 7 of the spring of 2009, Bobby Faller, a five-year-old boy in kindergarten, was at school. He was going out for recess to play. There were three different types of playgrounds. One was for preschool to kindergarten. The second one was for grades one and two, and the third one was for grades three to five. There were signs for each and every one of the playgrounds so the kids could identify them and play on the right one. Bobby had to go to the bathroom before he went onto the playground, so he asked one of the aides to take him. The aide took him to the bathroom. When Bobby was just about to go, the aide said “I need to go to the bathroom, too. Stay here if you are finished before me.”

When he finished, he ran back to his best friend, John Watcher, instead of listening to the aide, with the aide still in the bathroom. Bobby had already tried to go on the higher monkey bars before. So when he spotted monkey bars in the grades three to five zone, he decided to go on, like last time. He knew how to use monkey bars, but the monkey bars in the grades three to five zones were higher than what he could handle. He went up to go on the monkey bars and he barely could hold on to the bar, but it was too late to get off. Eventually he fell, screaming. He hit his head and got a major concussion. Now little Bobby Faller didn't go to school for a month and missed a lot of learning. Bobby Faller's parents are suing the school for medical bills and for Bobby's pain and suffering.



ISSUE

Is Jiss Elementary School responsible for Bobby Faller's injury?

WITNESSES

For the Plaintiff

Bill Faller

John Watcher

For the Defense

Nancy Gold

Steve Smith

WITNESS STATEMENTS

Testimony of Bill Faller

My name is Bill Faller. I am the father of Bobby Faller. On March 7 of 2009, I was working nearby when I got a call from Jiss Elementary School. They told me to come there immediately because my son Bobby was injured badly. I arrived there within minutes to see Bobby on the floor lying unconscious. I asked Bobby's friend John Watcher, who was sitting beside him, what happened. He said that there were aides around the playground but not near Bobby. Bobby was only five years old. There were different playgrounds for different grades.

My son went into the older kids' section for grades three to five. If there were any aides around, they would have noticed a kindergartener going into a grade five section. Then, when Bobby saw the monkey bars, he went to play on them. Bobby couldn't get a tight grip onto the monkey bars, so he fell. John said that he was the only one watching Bobby. Now my son has a very bad head injury. I am suing Jiss Elementary for \$10,000 for the medical bills that we now have to pay for his injury that he may have for life, and for lack of proper supervision.

Testimony of John Watcher

I am John Watcher, a six-year-old student at Jiss Elementary School. I was playing in the preschool to kindergarten grades playground, hanging around. Around halfway through recess, I saw Bobby Faller, my five-year-old friend, zoom into my playground. I thought he was going to tell me something. After he zoomed straight past me, I assumed he was asking the aide in the far corner of the playground something. Imagine my surprise when I turned around, after a big thump behind me, as I was walking to the outside water fountain. I turned around to see Bobby lying on the ground. I ran full speed to help him, but it was too late. In about five minutes, the most advanced aide, Mr. Smith, came running to help Bobby with equipment in his hands. With all that equipment, he turned out to be slow, even though he was running. When he finally got there, I already saw the ambulance driving in. Mr. Smith did all he could before the ambulance took over. Soon Bobby's dad came. He asked me to explain what happened. I did. Everything I saw. Obviously, there were not enough aides to watch each playground and save Bobby from this painful injury.

Testimony of Nancy Gold

I am Nancy Gold, principal of Jiss Elementary School. On March 7, 2009, I got a complaint call from Bobby Faller's parents, saying that we need to supervise the children better. I had no clue what they were talking about, so I put them on hold and called in the most advanced aide, Steve Smith. Steve told me that the normally very well-behaved Bobby Faller did not listen to him. Bobby left him in the bathroom and he was not able to get out quickly enough. I checked the video camera inside and was surprised to see Bobby running through the halls, heading towards the wrong playground. I could not believe my eyes; he was running towards the grades three to five playground! Once I saw him get onto the monkey bars, I had to turn off the tape. Bobby has been to the office and gotten into trouble before, but I never would have thought he would take it this far. I had no clue why Mr. and Mrs. Faller were suing the school when it was clearly their son's fault for not obeying the school rules.

Testimony of Steve Smith

I am Steve Smith, an aide at Jiss Public Elementary School. Cute little Bobby Faller is one of the best behaved students in his class, but sometimes he can get into some trouble. It was the afternoon of Wednesday, March 7, and it was one of those days where he got into trouble. I was on the playground with the class. Bobby was on the slide with his friend. I am always fascinated with how well those two played together, considering little boys like to do the wrong thing sometimes. All of a sudden, I turned my head for a second and heard Bobby yell to me, "Can you take me to the bathroom?" Of course, I had to say yes. I said to him, "Stay right here, I have to go to the bathroom, too."

Well, that kid didn't listen to a word I said! He ran off into the grades three to five playground. I chased after him again and then, BAM! He fell off the monkey bars, lying unconscious. Of course I was worried about him, so I called his dad. What I am trying to say here is that it is NOT the school's fault for Bobby's behavior.

INSTRUCTIONS

The plaintiff must prove, by a preponderance of the evidence, that there wasn't enough supervision and the school's negligence caused Bobby's accident.

SUB-ISSUES

1. Were there enough aides around the playground?
2. Was it Bobby's fault for going into the wrong playground?
3. Did the aides know that they had to watch all the playgrounds?

CONCEPTS

1. Age of reason.
2. Attractive nuisance.
3. Foreseeability.
4. Pain and suffering.
5. Negligence.
6. Comparative negligence.
7. Liability.

LAWS

1. **Attractive Nuisance:** The law recognizes that schools have special responsibilities to stop children from being attracted to dangerous areas in schools.
2. **School law:** Children must follow the rules and listen to all teachers on the playground and throughout the school.
3. **Care of Schoolchildren:** All aides of all schools shall watch all children if they are in homeroom, playground or anywhere else throughout the school.

The Ski Lift Catastrophe

SCHOOL

Joyce Kilmer Elementary
Mahwah
Grade 4, Honorable Mention

TEACHER

Robin Canetti

STUDENTS

Joshua Bassin, Krish Chaudhary, Molly Darrow,
Kilee Swofford

FACTS

On February 6, 2012, at Winter Wonderland Ski Park at around 12:15 p.m., Fellin Frost and her friend Ava Lanch, both 21, were heading up to the ski lift. The operator closed the main ski lift due to high winds, however the south ski lift was still operating. As they were approaching the vehicle, a huge crowd was rushing to get to a ski lift, and the two friends were separated. Fellin found herself seated next to Mr. Ice. Right before they got on, the operator said that there will be no mischief while you're on the lift or when you are getting off.

As they were ascending the mountain, the lift tilted backwards because of high wind speeds of 64 mph. The lift bar was set to the highest setting due to Mr. Ice's height. Fellin slid off the lift and hit the ground, damaging her neck vertebra and her head significantly upon landing. Mr. Ice tried to save her, but he fell with her. Mr. Ice was fortunate enough to grab onto a nearby branch dangling in a tree.

Ava witnessed the entire episode, thereby quickly pulling out her cell phone, notifying the ski patrol and town rescue departments. The ski resort manager was surprised to hear Ava's call, because the operator hadn't seen the incident.

When Fellin was being taken by paramedics, the resort manager rushed to the accident scene

to ask Fellin some questions about what happened. However, he found Fellin unconscious and was unable to determine the impact of her injuries. When Fellin finally awoke, she found herself residing in the intensive care wing of a rehabilitation facility. She was unable to remember any of the events or past memories due to her temporary amnesia. She finally regained her memory after two months and five days.

As a result of her injuries, Fellin is suing Winter Wonderland Ski Park for poorly managed ski lift operations and not shutting down the lift when the winds became unmanageable.

ISSUE

Is Winter Wonderland Ski Park responsible for Fellin's injuries?

WITNESSES

For the Plaintiff

Fellin Frost
Ava Lanch

For the Defense

Don Terinery
Max Windy

WITNESS STATEMENTS

Testimony of Fellin Frost

On February 6, 2012, my friend Ava Lanch and I were heading up to Winter Wonderland Ski Park. We were approaching the vehicle when we realized the northern lift was shutting down due to high winds, but the one we were heading towards was still operating. We were about to turn back when a huge crowd swarmed around the man who was controlling the lift. As the crowds pushed forward, we found that we couldn't really do anything but move ahead with everyone else. Everything was out of control and soon Ava and I were separated. I found myself seated next to a large man. As I was about to get off, the lift tilted backwards and I fell into the snow. I was okay at first, but the next lift knocked me over.

I suffered from major concussions and a damaged vertebra. Now that I can remember what happened, I am just so disgusted. I can't believe that Max Windy is qualified to be a ski lift operator. How could a ski park let this happen to someone? "Are you all right?" the manager asked as I lost consciousness.

Ava called the hospital and I was immediately rushed to the emergency room. I woke up to find myself in bed with a huge lump on my head. I went home from the hospital after a month. When I got home, the manager and ski lift operator didn't seem sorry one bit. How could they not care? This is their fault. I am suing them for \$5,000.

Testimony of Ava Lanch

On February 6, 2012, my friend Fellin Frost and I were heading up to the only ski lift open at Winter Wonderland Ski Park. I am 21 years old, studying at Harvard University, and was on break with my fellow classmate, Fellin Frost. We were on the way to our seats when an untamed mob ripped us apart. I was shoved on a bench with Mr. Alec, while Fellin was thrown on the one in front of me with a large man. She got off and was about to start skiing, but the next lift was going too fast and knocked her over. I pulled out my phone. I was going to call the local

rescue team and the ski patrol. The man next to her was lucky enough to be able to grab onto a nearby branch. I continued my call after I watched the spectacle on the ski lift.

As soon as the call was completed, the lift suddenly stopped and I could hear sirens in the distance. I sneaked a look at Fellin. She looked like she was in a coma. The ambulance picked Fellin up. She awoke later on in the hospital. My friend Fellin is suing the Winter Wonderland Ski Park for \$5,000.

Testimony of Don Terinery

I'm Don Terinery, the manager of Winter Wonderland Ski Park. I was sitting in my office at the park when I heard a terrible scream. It sounded like a five-year-old girl without her teddy bear. My assistant came in and told me that a 21-year-old girl named Fellin Frost had injured her head and her neck vertebra. She had to pay \$1,000 to get her head fixed and stitched. Fellin is now suing me for \$5,000 dollars for bad ski lifts and hospital bills. I think that Fellin is lying and that I don't need to pay her anything. She purposely swung the lift to show the man next to her how good her balance was. It was also snowing so it was too slippery and she fell back. These young women were old enough to know better than to fool around like this.

Testimony of Max Windy

I am the operator of the Winter Wonderland Ski Park. I have been going to training sessions for operating ski lifts for over four months. I tried to calm down the vast, rowdy crowd, but I could not stop the people who were on the ski lift. Instead, I was thrown backwards by the crowd and I was too far to reach the controls. I wobbled out of the crazy crowd, tripped on a rock, and my back accidentally hit the speed lever. Then I saw one seat tilt back and I heard a girl scream.

As I was trying to back up, I saw a collapsed seat and a man dangling on a branch. I knew that they had too much weight on the bench. There was a 5% chance the ski lift bench could fall by itself. I immediately went to help when my boss came

to ask questions. I told my boss what happened. My boss said, "The girl lying on the ground is unconscious." I then went to help; first I went to help the man. He was grumbling, "If only the girl wasn't swinging...."

INSTRUCTIONS

The plaintiff must prove by a preponderance of the evidence that Winter Wonderland caused the ski lift to malfunction and that their carelessness and ignorance of the high wind speeds caused the accident.

SUB-ISSUES

1. Should Winter Wonderland allow ski lifts to operate in bad weather?
2. Was the operator of the lift cautious of his operations with lift?

CONCEPTS

1. Negligence.
2. Credibility of the witnesses.
3. Liability.
4. Foreseeability.

LAWS

1. When wind speeds rise above 60 miles per hour, all attractions should be closed.
2. All ski lift operators must be qualified with three months of training and have at least one assistant working with them.

The Unexpected Fall: Calumsky v. Town

SCHOOL

Yeshivat Noam
Paramus
Grade 5, First Place

TEACHER

Margi Saks

STUDENTS

Ezra Baron, Gavriel Buchwald, Rami Cohen,
Daniel Dresdner, Yaakov Faber, David Gellis,
Rami Gertler, Efraim Ginsberg, Isaac Goldin,
Adir Koenig, Ori Levy, Ezra Lubet, David Matheson,
Eitan Mermelstein, Ari Milgram, Daniel Morrison,
Eli Pavel, Asher Rauzman, Jake Resnick,
Aiden Sausen, Uriel Simpson, Eitan Weisrose,
Jordan Zimmerman

FACTS

Tuesday, September 21st, was a beautiful, hot day. Christopher Calumsky, a five-year-old boy, went to the West Anderson Park to play on the monkey bars. He had the day off from school. The park is very old and in disrepair like the rest of the neighborhood. His mom Atara and his baby sister came to the park with him. His mom was very busy talking on the phone and taking care of the baby. She watched Christopher from the bench.

As soon as Christopher got to the park, he enjoyed a delicious hamburger with greasy fries. His hands became all greasy. He went to the sink to wash his hands but it was broken. He wiped his hands on his shirt but they were still a bit greasy. Then he ran to the monkey bars. A bit clumsy, Christopher has been working on swinging from the monkey bars. He went back and forth one time.

Then his friend joined him and they were seeing who could climb across the monkey bars the fastest. They took turns, going one after the other. Christopher swung on the bars, one of the bars shifted, he lost his grip and fell to the ground. He fell from the seven-foot bar and his glasses smashed. He is legally blind and cannot see much without his glasses. He needed a specialized prescription. Since they were special glasses, they needed five months to be made and were extremely expensive.

ISSUE

Is the town negligent for not fixing the monkey bars and the broken sink? Is not having enough money at the time an excuse?

WITNESSES

For the Plaintiff

Atara Calumsky
Jim Johnson

For the Defense

Garbage man George
Owen Parker

WITNESS STATEMENTS

Testimony of Atara Calumsky

I know I live in the run-down part of the city. My husband and I do not have jobs that make much money. We barely have enough to cover the cost of Christopher, his sister and a new one on the way, let alone pay for another pair of Christopher's glasses. I wish we could own our own swing set, but we just do not have the money for it. So, we go to the town park.

It was September 21st and I was watching my daughter who was crying. I told Christopher to practice on the monkey bars. Two weeks ago, I

complained to the town that these monkey bars are unstable, but they never came out to fix them. The mayor said that he would have the bars fixed by Monday so I came on Tuesday. I later found out that they had posted on the website to use a different park since the park had not been fixed, but we do not have a computer. They just painted them to make them look nicer, but that is not fixing the problem. It has been a very difficult time for Christopher without his glasses. Christopher has been legally blind since he was two years old. He had to wear his old glasses that did not fit him properly with his old prescription. It was a tough time for our family.

Testimony of Jim Johnson

I go to the park every week. I saw Christopher eat a hamburger. I saw him try to rinse his hands at the sink, but it was not working. I tried to help him but the sink did not work. I called the parks department and they said they would come and try to fix it. He fell off the bars. I heard those bars creaking. I tried to warn him but I was too late. Christopher fell. Even if the bars were secure, it is the town's fault for not fixing the broken sink. If the sink did work, Christopher would have washed his hands and not fallen.

Testimony of Garbageman George

I go to the park every day to collect the garbage. Mrs. Calumsy had a water bottle that she could have used to wash Christopher's greasy hands with. Christopher is not good at the monkey bars. If I can be honest, he stinks at the monkey bars. I do not know why his mom keeps telling him to go on the monkey bars. If she wanted him to practice, she should help him. I think it was a natural fall. I helped him up when he fell. That boy could barely see.

Testimony of Owen Parker

My name is Owen Parker. I have been mayor of this town for seven years. I received the call from Atara Calumsy. I called one of my construction workers and he told me he would get to it within the month. I told Mrs. Calumsy that the park was in disrepair and that she should not go to that park. I told her we

were going to fix it as soon as we can get the money to cover it. We put a notice on the website that this park was in disrepair and to choose a different park. We also sent out an email to the residents of the town. We are a poor town and we do try our very best for everyone. We did paint the bars right away for her. It rained the day before the accident, causing things to be a bit slippery.

INSTRUCTIONS

The jury must decide by a preponderance of the evidence whether the town is negligent in its maintenance of the park. If so, did the disrepair of the monkey bars and broken sink cause Christopher's fall, causing his glasses to break as well as his pain and suffering?

SUB-ISSUES

1. Did Mr. Parker tell Mrs. Calumsy to use a different park until they had money to fix West Anderson park?
2. Did Christopher Calumsy's greasy hands help him fall?
3. Has Christopher Calumsy fallen a lot in the past?
4. Was the town really going to fix the monkey bars?
5. Why couldn't Christopher get contacts?
6. Did the town advertise enough that the park was in disrepair?
7. Why didn't Christopher's mom help him on the monkey bars if he was not good at them?
8. Why wasn't there a caution sign by the park or by the monkey bars?
9. Does anybody actually look at a website about the park?
10. Was Mrs. Calumsy really able to watch her son, her baby and talk on the phone?
11. Did Christopher Calumsy ask his mom to help him with his greasy hands?
12. Would this accident have occurred if the boys had not been racing?

CONCEPTS

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

LAWS

Negligence: Negligence is established when the defendant has a responsibility to protect the plaintiff. The defendant fails to protect the plaintiff, even unintentionally. This failure causes physical and/or mental trauma to the plaintiff.

The Case of the Stolen Birthday G-Phone: The State of Michigan v. Billy Birthday

SCHOOL

All Saints Academy
Parsippany
Grade 5, Second Place

TEACHER

Tracie Grey

STUDENTS

Matthew Alfred, DJ Bautista, Vianne Bozza,
Zachary Enslin, Juiliana Gonzalez, Kylie Keifer,
Maria Madonna, Sarah Marsh, Anvitha Nekkanti,
Reina Ramos, Rachel Umansky, Peter Usher

FACTS

On October 10, 2013, three friends, Billy Birthday, Emma Friend and Timmy Techno, all of whom were 18 years old, went to the Orange Store. This store is the most popular store in Funville, Michigan. It was Billy's birthday and just prior to going to the store, Billy received a brand new G-Phone as a birthday gift from Timmy Techno. Timmy had bought the phone three days earlier, but was not given a receipt for his purchase.

Once inside the store, Billy and his friends found the new G-Phone section. Billy decided to open the G-Phone box in order to have it activated by customer service. Both Bella Bystander, a customer in the store, and Sally C. Curity, an employed security guard for the store, saw Billy open the box.

After learning that customer service was actually not open, Billy and his friends decided to leave the Orange Store. As they were about to exit, another customer exited immediately before them. During the exit from the Orange Store, the security alarm began to sound. Sally C. Curity stopped the three friends and asked to see a receipt for the G-Phone. The friends were unable to produce the receipt. The store surveillance cameras were being repaired at that time so there was not a recording of the event. As a result, Billy was arrested and charged with shoplifting.



ISSUE

Is there evidence beyond a reasonable doubt to convict Billy Birthday of the offense of shoplifting?

WITNESSES

For the Prosecution

Bella Bystander

Sally C. Curity

For the Defense

Emma Friend

Timmy Techno

WITNESS STATEMENTS

Testimony of Bella Bystander

I was so excited on October 10, 2013. Finally, the G-Phone was available. I went to the Orange Store to purchase a new G-Phone. As I walked into the Orange Store, I saw three teenagers in the G-Phone section. One of the boys had the G-Phone box in his possession. His friends were looking around as if to make sure no one was watching. He then opened the box and took the G-Phone out. I found a security guard, Sally C. Curity, and told her what I had seen.

Testimony of Sally C. Curity

On October 10, 2013, I was working my normal shift as a security guard at the Orange Store. It is a very busy store and on occasion incidents of shoplifting do occur. During my shift, I saw two boys and a girl near the G-Phone section of the store. One of the boys had a G-Phone box and opened that box, taking the phone out. Bella Bystander, another customer, told me she saw the same thing so I proceeded to watch the teenagers while they were in the store. They never went to the cash register to pay for the G-Phone that they had opened.

As they exited the store, the security alarm sounded. I approached Billy Birthday, the teen with the phone, and asked if he could show a receipt for the G-Phone. He was unable to do so. Based on what

I observed, I called the police to report shoplifting at the store. When the police arrived, we discovered the surveillance cameras were still not operating. They were in need of repair, which has happened before. Billy Birthday was placed under arrest for shoplifting.

Testimony of Emma Friend

Timmy Techno and I took our friend Billy Birthday out for lunch on his birthday. Timmy had gotten Billy a great birthday gift, the brand new G-Phone. After lunch, we all went to the Orange Store so Billy could activate his new phone. Billy brought the G-Phone into the store and opened the box in order to take it to customer service. Once we found out that customer service was closed, we decided we would come back another day.

As we were leaving, some other guy walked right in front of us to get to the exit. As we walked through behind him, the security alarm sounded. The security guard stopped us right away. She asked Billy if he had a receipt for the phone. Timmy had never given Billy a receipt since it was a birthday present. Plus, Timmy was never given one from the store originally. Billy wasn't able to show the receipt and the security guard, Sally C. Curity, called the police. Billy was then arrested for shoplifting.

Testimony of Timmy Techno

A few days before my friend Billy's birthday, I purchased a new G-Phone, the best phone on the market, for him. When I bought the phone, the cash register was out of paper and so I did not get a receipt. A few days later, Emma Friend and I took Billy out for lunch where I gave him his present. After lunch, we went to the Orange Store so Billy could activate his phone. Billy brought the phone in with him and opened the box in the G-Phone section of the store, which is right near customer service. After finding out customer service was not open, we decided to leave the store and come back another day.

As we were leaving, some guy raced out ahead of us, almost pushing us out of the way. The security alarm went off when we exited right behind him. The security guard asked Billy for a receipt for the

phone. I explained why there was no receipt, but she did not believe me. Sally C. Curity called the police and Billy was arrested.

INSTRUCTIONS

The State of Michigan must convince the jury beyond a reasonable doubt that the defendant, Billy Birthday, is guilty of the crime of shoplifting.

SUB-ISSUES

1. Was anyone with Timmy Techno when he allegedly purchased the G-Phone?
2. Did anyone tamper with the surveillance cameras?
3. Is it possible that the person who exited the store immediately before the teenagers, set off the security alarm?
4. Can anyone confirm whether the cash register was disabled when Timmy purchased the phone?
5. Were there any witnesses that may have seen Billy Birthday walk into the store that day with the G-Phone?

CONCEPTS

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

LAW

Shoplifting – For any person to take possession of, carry away, transfer or cause to be carried away any merchandise offered for sale by any store or other retail mercantile establishment with the intention of depriving the merchant of the possession, use or benefit of such merchandise or converting the same to the use of such person without paying to the merchant the full retail value thereof.

Burden of Proof – Shoplifting statute requires the State to prove beyond a reasonable doubt that defendant purposely took the merchandise with the intention for his or her own use without paying the full retail value.

The Case of the Bomb Scare and a Teacher's Flare: Louise O'John v. Richmon Preparatory School

SCHOOL

Valley View Elementary
Montville
Grade 5, Honorable Mention

TEACHERS

Patricia Gruszczynski, Carolyn Ford

STUDENTS

Neil Burman, Caroline Defazio, Alex Feng,
Michelle Georgescu, Johnny Jarvie, Elliot Jo,
Samuel Kang, Connor Krculic, Jesse LaMotta,
Matthew McPhail, Annabel Park, Anamaria
Popovska, Thomas Radcliffe, Maheebah Syed,
Jesse Riback, Daniella Vito, Isabella Vito, Michelle
Wang, Christian Zampino

FACTS

An anonymous high school student at Richmon Preparatory School decided to prank the school. The student wrote a bomb threat in lipstick on the boys' bathroom wall. As a result, the school was evacuated and the town of Securacity, NY sent its first responders (police and fire departments) to investigate and make sure the building was safe. Over the following weeks, four more bomb threats were made, requiring the assistance of the first responders each time. The mayor demanded that Richmon Preparatory School take care of the problem. The school administration decided to place a monitor in each bathroom at the school during the day; the monitors will be teachers during their prep time. One of the teachers, Louise O'John, sued the school for breach of contract, claiming that the additional responsibilities are excessive and are against the teacher contract.

ISSUE

Does the school have the right to add responsibilities to the teacher's work schedule after the school year has begun?

WITNESSES

For the Plaintiff

Louise O'John
Will Spent

For the Defense

Dr. Penny Charge
Mayor Justin Case

WITNESS STATEMENTS

Testimony of Louise O'John

My name is Louise O'John, most people call me Lou. I teach all levels of mathematics at Richmon Preparatory School.

When I began the school year at Richmon Prep, there was nothing in the contract I signed that said I would be a bathroom monitor. It clearly states that I was hired as a classroom teacher of mathematics. As we all know, math is a complicated subject to learn. The students need a qualified and well prepared teacher. Because I have to watch the students in the bathroom now, I am not able to prepare as much as I

would like for my class. I'm afraid I'm not able to be as good a teacher because of this distracting new responsibility.

Second, I am not able to give the students as much help as I would like because of this bathroom assignment. I have had to cancel my extra help sessions because now I am monitoring the bathroom at that time. This is negatively affecting my students because if they are having trouble understanding lessons, I am not available to re-teach them. This policy is not just hurting me; it's hurting the students too! Some parents are getting angry because many of the students are not doing as well as before I had to become a bathroom monitor. If they are not performing well, I'm afraid I may get fired. I simply do not have enough time to work with the students because of this policy.

Finally, I am supporting my family, which includes two children, myself and my husband. Recently my husband lost his job because of downsizing at his company. While he tries to find a new job, our only family income is my teaching salary. I know that I need this job right now, and I love teaching at Richmond Prep, but this new assignment is just too much.

I am suing for breach of contract because I believe that my contract with the school does NOT permit the administration to force me to monitor the bathroom during my free periods.

Testimony of Will Spent

My name is Will Spent. My child Jenny attends Richmond Preparatory School and has special learning needs. Our family decided to send Jenny to this school because we felt it would give her the best education, with the extra attention she needs. It's expensive to send her there; the tuition takes a lot of our money. Still, we feel it's worth it because the teachers at Richmond Prep have always been so focused on helping their students succeed.

Since the school has started this new bathroom monitoring policy, Jenny has been struggling with her schoolwork. It seems her teachers no longer have the time to work with her.

This policy resulted from a couple of troublemakers making threats. I think the school

administration should find out who is responsible and punish them instead of the good kids. It is unfair; Jenny is suffering because some kids, or one kid, no one knows really, is pranking the school.

The teachers should do the job they were hired for: teaching the students. Isn't that why I am paying tuition? My money should be paying for good teaching, not bathroom monitors! This policy is unfair and is hurting the quality of education offered at Richmond Prep.

I support Louise O'John because this policy is making it difficult for her to do the job that we, as tuition-paying parents, need her to do.

Testimony of Dr. Penny Charge

I am Dr. Penny Charge, and I am the principal at Richmond Preparatory School. The administration and I feel strongly that this policy is good one. Since we have put this policy in place, there have been no more bomb threats. This has kept our school calm and allowed us to maintain our schedule, keeping our focus on providing first-class academics. Not only are our teachers able to provide the best instruction without being interrupted during class, the students are more focused, too. In fact, as a bonus, the students have become less likely to hang out or linger in the bathroom now because they don't want to be in there with their teachers!

Our school environment has improved because the students are safe and no one has to worry anymore. It's a scientific fact that children learn better in a safe environment, and with this policy we can guarantee their safety. We are proud to be able to offer such a secure place for our students to learn.

Additionally, because our teachers have the time to watch the bathrooms, we do not have to hire bathroom monitors, which saves the school money. Really, it's a win-win situation.

Mrs. O'John's lawsuit is harmful to our school. This policy guarantees our safety and saves our families money. It does not "require" her to do anything in her free time; it just determines where her free time will be spent.

Testimony of Mayor Justin Case

I'm Justin Case; I'm the mayor of Securacity, NY. The township's administration is very pleased with the school's new policy; we fully support their decision. When the school was having the problem with these pranksters, the town's first responders were under stress. Every single time there was a bomb scare, our police department had to respond in full force. We had to safely evacuate the building and get the children and staff to safety. Then we had to complete a careful and time-consuming check of the whole building, a service provided by our fire department. This is a huge investment of the town's resources. Each time this occurs, it costs our town roughly \$25,000.

These expenses are just too much! If these threats continue, it will cost the town a lot of money and there are only two ways to get that money:

1. The town can fine the school which would force the school's tuition to go up or,
2. I will be forced to raise taxes for all town residents.

Neither one is acceptable! Obviously, the school's new bathroom monitoring policy will save the town money and resources. It is a good policy.

INSTRUCTIONS

The plaintiff must prove by a preponderance of the evidence that Richmon Preparatory School is in breach of contract by adding to the job responsibilities of its teachers to include the bathroom monitoring assignment.

SUB-ISSUES

1. Should the school use teaching professionals to monitor the bathrooms?
2. Can bathroom monitoring be considered an "added responsibility?"
2. Can the school determine where the teachers spend their free time?
3. Should the school compensate the teachers for this additional duty?
4. Is the school required to provide extra help to students who need it?
5. Is it fair for the town to charge the school for use of the police and fire department if the school pays taxes?

CONCEPTS

1. Preponderance of the evidence.
2. Credibility of the evidence.
3. Breach of contract- Is a contract "broken" if responsibilities are added?

LAW

In the State of New York, if you have an employment contract for your job and salary, your employer cannot break the contract without adjusting compensation. If it does, you may file a lawsuit against your employer to enforce the contract.

Bullets or Biceps: Burr v. Safe Haven Board of Education

SCHOOL

Brigantine North Middle
Brigantine
Grade 6, First Place

TEACHER

Rita Coyne

STUDENTS

Evan Couval, Ethan Cuthbertson, Dalethia Davis, Kayla Driscoll, Patrick Feehan, Owen Gresham, Oscar Haider, Rohama Imran, Mollie Knoff, Riley Lorenz, Emily Monacello, Olivia Monacello, Kelly Nyman, John O'Neill, Nicholas Pontillo, William Reynolds, Isael Serra, Nick Stroby, Skyler Truesdell, Brooke Volpe, Olivia Zemartis

FACTS

Cal E. Burr is an athlete who plays on Safe Haven Middle School's football team as a running back. The team practices every day after school for two hours on the field. Cal then goes on to lift at the gym for another hour every night after practice to improve his strength, power and position on the team. He drinks protein shakes and follows a nutritional diet. Cal E. Burr plans to pursue football in high school and hopes to earn an athletic scholarship in college, so he takes his training very seriously.

On Saturday, September 28, 2013, after the Safe Haven Eagles defeated their championship rival, the Harmful Haven Cowboys, 49-20, Cal E. Burr's father, Stu Burr, took him and six of his friends from the team to the Shell City boardwalk to celebrate his son's birthday and the team's victory. While there, Stu Burr spotted a T-shirt in one of the souvenir shops he thought his son would like, so he bought it as a birthday gift. The shirt had a saying on it which read: "These guns don't need a permit."

Cal E. Burr really liked the shirt and was proud to wear it, not only because it was a birthday gift from his father, but because it showcased his athletic build for which he trained tirelessly.

On Monday, September 30, Cal E. Burr wore the T-shirt to school. He showed all of his friends who were immensely impressed and asked where he bought it.

Meanwhile, there were two girls in the hallway who noticed Cal's shirt and started talking about

how nervous the shirt made them feel. Ms. Vi Olation, Cal's homeroom teacher, overheard this conversation and became concerned about Cal's attire.

As the bell rang, Denny Donuthin, a student with a history of multiple suspensions, came up to Ms. Vi Olation and said, "Cal has a shirt that says 'guns' on it and it's making me uncomfortable. Do you really think he has a gun?"

Ms. Vi Olation was then on the lookout for Cal when he reported to morning homeroom. She did a double take as she saw the shirt and recalled the girls' conversation in the hallway, as well as Denny's comments. She immediately questioned him about the use of the word "guns" on the shirt. He proudly replied the shirt was a birthday gift from his father. The teacher responded that the shirt was inappropriate for school, especially considering they had just finished School Violence and Awareness Week. In addition, it violated the dress code. Cal E. Burr defended the shirt, saying he was entitled to express himself under the First Amendment; it was a gift from his father who thought it was appropriate, and that the "guns" on the shirt referred to his muscles, not weapons.

Ms. Vi Olation instructed him to change the shirt; Cal refused and he was sent to the principal.

The principal agreed with the teacher in saying the shirt was inappropriate for school and suspended the student for three days for promoting violence in the school and for violating the dress code. When Cal E. Burr returned home that day,

his father went ballistic when he heard about the suspension. Stu Burr then sued the school, in his son's name, for suspending Cal E. Burr and for violating his First Amendment rights.

ISSUE

Did the Safe Haven Middle School violate Cal E. Burr's First Amendment rights of freedom of speech by suspending him for wearing a shirt with the word "guns" on it?

WITNESSES

For the Plaintiff

Cal E. Burr

Jim Nasium

For the Defense

Vi Olation

Dr. Justin Case

WITNESS STATEMENTS

Testimony of Cal E. Burr

My name is Cal E. Burr. I attend Safe Haven Middle School, and am a running back on the Safe Haven Eagles Football Team. On September 28, 2013, my dad brought me and some of my teammates to the Shell City boardwalk to celebrate both my birthday and our team's win that day. While we were there, my dad bought me a T-shirt for my birthday. It said, "These guns don't need a permit." There were two arrows on the shirt pointing to my arms. I liked it because I am an athlete and train hard and the shirt showed off my muscles.

The following Monday, September 30, 2013, I wore the shirt to school. All my friends really liked the shirt and asked where I bought it. When the morning bell rang, I rushed to homeroom and my homeroom teacher, Ms. Vi Olation, started questioning me about my shirt. She told me the shirt was inappropriate for school because the word "guns" was on it. I tried to explain that "guns" meant my muscles, but she didn't listen. She insisted I

change the shirt. I refused because it was a birthday gift from my dad and it should be my right to wear what I want! She then sent me to the principal's office. Dr. Case, the principal, also thought the shirt was inappropriate for school and said I should change. I was really upset by this point. I felt the shirt showed off my athletic ability and how hard I train. Besides, my dad must have thought the shirt was OK to wear or else he wouldn't have bought it for me!

The next thing I knew, the principal suspended me for three days for promoting violence in the school and for violating the dress code. All the dress code states is that clothing must be appropriate. So who is to say what's appropriate?

I didn't think it was fair for the school to tell me I couldn't wear the shirt. After all, it didn't support violence and it didn't harm anyone! My dad told me to be proud of my "guns" and my shirt. I think the school definitely overreacted. I have the right to express myself under the First Amendment, and the school violated that right by punishing me for expressing my opinion.

Testimony of Jim Nasium

My name is Jim Nasium. I graduated from Alla Slamyia University on a football scholarship and have coached football for the last 20 years. I am the football coach for Safe Haven Middle School. Cal E. Burr is a dedicated athlete who trains hard and helps the inexperienced players on the team. He has been on the team for five years and has never missed a practice. He has always been respectful to me and the other coaches, and has never had a discipline problem.

On Monday, September 30, we had our scheduled football practice. For the first time in five years, Cal E. Burr didn't show up. I was concerned because I knew he was in school earlier in the day when he showed me his new shirt his father gave him for his birthday. I complimented him on it because I thought it was a creative shirt that showcased how hard he trained.

Even though football is a violent sport, Cal E. Burr is not a violent student. There was nothing to indicate Cal would do anything violent just because

he had the word “guns” on his shirt. I think the school overreacted in suspending Cal E. Burr.

Testimony of Vi Olation

My name is Vi Olation. I have been teaching at Safe Haven Middle School for 22 years. I graduated from Pencil State University with a master’s degree in education.

On the morning of Monday, September 30, 2013, I overheard two girls talking about something Cal E. Burr was wearing. They said his shirt made them a little nervous. I forgot about their conversation because I got distracted with hall duty. As the morning bell rang, another student, Denny Donuthin, a student with a discipline history, told me Cal’s attire made him uncomfortable. I didn’t know how reliable Denny’s comments were, but still I was anxious to see what Cal E. Burr was wearing when he reported to homeroom. That’s when I saw him wearing a T- shirt which read: “These guns don’t need a permit.”

I thought the shirt was inappropriate and sent a poor message to the other students about weapons. Considering we had just finished School Violence and Awareness Week, it was very insensitive for Cal E. Burr to wear that shirt. In addition, I was highly concerned about the potential violence and disruption it could cause in class.

I asked him to change his shirt. He refused and told me it was a gift from his father. I could not believe what I was hearing! What kind of irresponsible parent would buy a shirt for his son that promoted violence?

Our school has a zero tolerance policy for guns and weapons. Cal E. Burr not only was violating the dress code, but he was promoting violence in the school.

Cal E. Burr explained that, in this case, guns meant muscles, not weapons. I wasn’t sure what to think considering he was always talking about his violent video games in class.

I sent him to the principal’s office for violating our dress code policy and for promoting violence in the school. The principal agreed with me. I was relieved when the situation was addressed. Cal E. Burr said the school overreacted, but I would rather be safe than sorry.

Testimony of Dr. Justin Case

My name is Dr. Justin Case and I have been principal at Safe Haven Middle School for 22 years. I graduated from Kingston University and have a doctorate in education.

On Monday, September 30, Cal E. Burr came into my office with a T-shirt that had the word “guns” printed on it. I thought it was extremely inappropriate for a 13-year-old to wear that shirt to school. He informed me that Ms. Vi Olation had sent him to my office because he had violated the dress code. I highly trust Ms. Vi Olation’s judgment because I have known and worked with her for 22 years and she is a reputable teacher. Cal E. Burr tried to explain that “guns,” as it was used on the shirt, actually meant muscles, not weapons. But that was still like saying “my muscles can hurt you like a gun.” I tried to explain the implication to him, but he was pretty headstrong about wearing the shirt.

I asked him to change his shirt but he refused, so I issued a three-day suspension. As principal, I want the school to be as safe as possible for the students, faculty and staff. This school has a zero tolerance policy toward violence and weapons. There have been too many school shootings in the news recently. The anniversary of the Newtown, Connecticut shootings is quickly approaching, there were school shootings in Colorado and there was just another shooting in New Mexico last week! Because of all these news reports about school violence, the staff and I are very sensitive to the students’ actions. I don’t want to take the slightest chance of anything like that happening here.

I tried to explain to Cal E. Burr that weapons are our enemies and put lives in danger. He thought that Ms. Vi Olation was out to get him because he is a jock, but that is not the case. In fact, several students reported to Ms. Vi Olation their concerns about the shirt and the discomfort it caused them.

I thought the shirt sent the wrong message to the other students about guns, and it is my job to ensure that all students have a safe, healthy learning environment. I just couldn’t take the chance, in light of all the school shootings, that this shirt would send the wrong message.

INSTRUCTIONS

The plaintiff must prove that his First Amendment rights as guaranteed in the United States Constitution were violated when the school district suspended him for expressing himself by wearing a shirt that had the word “guns” on it.

SUB-ISSUES

1. Did Cal E. Burr know he might be promoting violence by wearing the shirt?
2. Was the father irresponsible for buying his son the shirt?
3. Was the dress code policy violated?
4. Was the suspension justified in light of the school’s zero tolerance policy towards guns and weapons in school?
5. Was Cal E. Burr disrespectful to either the teacher or the principal?
6. Was Cal just trying to express himself or was he making a statement?
7. Was a precedent set when Cal E. Burr talked in class about violent video games?
8. Was the learning environment affected by the saying on Cal’s shirt?

CONCEPTS

1. School safety.
2. Standard of reasonableness of the dress code policy.
3. Zero tolerance weapons policy.
4. Definition of “appropriate.”
5. Credibility of witnesses.
6. Parental responsibility.
7. Freedom of speech/expression.
8. Past case law – *Tinker v. Des Moines School District*.

LAW

1. **Safe Haven Middle School – Policy Handbook, Section 5. First Steps in Responding to a School Emergency; Sub-Heading: Threats and Violence.** “If a student is threatened, assaulted or battered, he/she should notify a district staff member who should notify a principal or site administrator.”
2. **Safe Haven Middle School – Policy Handbook, Section 8. Dress Code Policy:** “Any form of attire that attracts attention, disrupts class, or distracts from the learning process is unacceptable. Students should be presentable in an appearance that shows their seriousness of purpose and pride in themselves and their school.”
3. **Safe Haven Middle School – Policy Handbook, Section 10. Weapons Policy:** “A weapon is defined as any object that is used to threaten or inflict harm on another student or staff member. The Safe Haven Middle School has a Zero Tolerance Policy for weapons, even if a student brought the weapon in self-defense. Students are encouraged to notify a school official if they feel threatened.”
4. **“Appropriate”** – suitable or proper in the circumstances.
5. **Credibility of witnesses** – A witness whose testimony is more than likely to be true based on his/her experience, knowledge, training and appearance of honesty and forthrightness.
6. **Parental responsibility** – Parental responsibilities last until the child is age 16 and include the appropriate control, direction and guidance of the child’s education and well-being.
7. **Under the First Amendment to the United States Constitution:** “Congress shall make no law . . . abridging the freedom of speech.”
8. ***Tinker v. Des Moines School District, U. S. Supreme Court Ruling*** . . . “They neither interrupted school activities nor sought to intrude in the school affairs or the lives of others. They caused...no interference with work and no disorder. In the circumstances, our Constitution does not permit officials of the State to deny their form of expression.”

Pill Popping Phil: Madeline and Phil Swallowitz v. Hail Bridge Elementary School

SCHOOL

Folsom
Mays Landing
Grade 6, Second Place

TEACHER

Kristin Santilli

STUDENTS

Michael Bartuccio, Jordyn Brown, Angelina Clancy,
McKenzie Cline, Bobbi Cooke, Anthony Crescenzo,
Sloane Genovese, Ahmir Johnson, Madison Moffa,
Hannah Murphy, Vianne Perez, Jillian Ruggero,
Austin Verderame, Haley Weinberger, Eric Wilson

FACTS

Phil Swallowitz, a ten-year-old who was diagnosed with Attention Deficit Hyperactivity Disorder (ADHD) in 2010, was caught taking pills by his classmate, Taylor Snitcher. Taylor immediately informed her teacher, Mrs. Grabbit. Mrs. Grabbit informed the principal, Connie Fiscator, about this predicament.

During lunch the teachers took action and found the orange, unlabeled pills in Phil's book bag. When the class came back from lunch, Phil Swallowitz searched his bag frantically while searching for his lost pills. Phil received a two-day suspension, a result of his acting out when he couldn't find his medication.

Phil's mother, Madeline Swallowitz, was informed by Connie Fiscator that her son was taking unlabeled pills secretly in class. Principal Fiscator explained that she had every right to check Phil's book bag for drugs per the rules of Hail Bridge Elementary School. Mrs. Swallowitz now is suing the school for confiscating Phil's ADHD medication and thus violating her son's rights.

ISSUE

1. Is Hail Bridge Elementary responsible for Phil Swallowitz Jr.'s outburst during school hours, once he realized his medication was missing?
2. Should Phil Swallowitz Jr. have given his medication to the school nurse?
3. Should the school have acted against Phil so harshly?

WITNESSES

For the Plaintiff

Phil Swallowitz Jr.

Madeline Swallowitz

For the Defense

Taylor Snitcher

Mrs. Grabbit

WITNESS STATEMENTS

Testimony of Phil Swallowitz Jr.

Ever since I was told that I had ADHD, I've been taking my pills. At first, I didn't want to take the pills, but now I know when I need to take them. One day I went to my book bag and my pills were gone. I

started to go crazy. I jumped on desks and screamed. Then, I was sent home early because I had been suspended from school for two days. I overheard my mom as she was on the phone with someone. I asked her who she was talking to and she said, “It is going to be alright.” And the next day my mom told me we were going to court.

Testimony of Madeline Swallowitz

Four years ago, my son Phil was diagnosed with ADHD. Phil’s doctor, Pillar Giver, prescribed Adderall to help Phil stay focused in school. This is so Phil can make friends at school and not be teased. So, I sent a note in with my son on the first day of first grade. Hail Bridge Elementary has known about Phil from the day he began attending. That was three years ago. I never had to send in another note after first grade. But I had no idea that when the school gets a new principal, you need to send in the same doctor note. I received notification from the school that my son had been suspended for two days because he had his medication in his backpack. So, I am fighting for my son’s rights and suing the school.

Testimony of Taylor Snitcher

My name is Taylor Snitcher and I am 10 years old. Phil has been in my class for two years. Last year he always got called to the nurse, but this year he does not get called down anymore. When I noticed Phil sneaking into his book bag and eating these candy-looking things, I knew I had to report it. Before I told an adult, I realized that he was taking pills, so I was even more suspicious. Then, I finally told my teacher, Mrs. Grabbit. She immediately told the principal, Mrs. Fiscator, and Phil got suspended for two days. Even though Phil is my friend, I had to report it to keep him safe.

Testimony of Mrs. Grabbit

I am Mrs. Grabbit, and I am Phil’s fourth-grade teacher. I am aware that he has ADHD, but I thought that he didn’t have to take pills anymore because the years before, he always was called down to the nurse’s office up until this year. I was informed by Taylor Snitcher that Phil Swallowitz was taking medication from his book bag.

During lunch, I asked Mrs. Fiscator, the principal, to come to my classroom and look through his book bag. While we were looking through his bag, we found an unlabeled bottle of pills.

After lunch, he started to panic and searched his book bag, mumbling random words about missing pills. Soon after, he began to hop on the desks and scream out loud. I was unaware that he took his pills after lunch and if he didn’t, he became very hyper.

Later that day, I sent him down the principal’s office with a note about what had happened in my classroom. That evening, I got a call from Mrs. Swallowitz complaining about his two-day suspension. Mrs. Swallowitz seemed very upset about his punishment and threatened to sue me and the school, Hail Bridge Elementary.

INSTRUCTIONS

The plaintiffs, Madeline Swallowitz and Phil Swallowitz Jr., must show by a preponderance of the evidence that Hail Bridge Elementary School and its employees, Principal Fiscator and Mrs. Grabbit, caused Phil to have an outburst which resulted in him being suspended for two days.

SUB-ISSUES

1. Is the school responsible for Phil’s outburst?
2. Should Hail Bridge Elementary have approached the situation without Phil’s consent?
3. Was Mrs. Swallowitz aware that Phil was taking pills without permission?
4. Why was Taylor Snitcher a reasonable witness?
5. Was Phil’s medical record referenced?

CONCEPTS

1. Preponderance of the evidence.
2. Negligence.
3. Credibility of the witnesses.
4. Invasion of privacy.
5. Search and seizure.
6. School policy.

LAW

The Fourth Amendment to the U.S. Constitution protects every citizen's right to be free from unreasonable searches and seizures upon his or her person, house and property — whether in public, or at home, work or school.

A school district should remove a student only after it has made every reasonable effort to address a behavior problem.

One valid reason of suspension or expulsion would be possessing, consuming, or being under the influence of alcohol or drugs while on school premises.

Earless – Not Fearless

SCHOOL

Golda Och Academy
West Orange
Grade 6, Honorable Mention

TEACHER

Marilyn Loewenthal

STUDENTS

Logan Beibelberg, Naomi Esrig, Amy Gaffen,
Sarah Herman, Ben Hirsch, Steven Kurson,
Jagger Wexelman

FACTS

Ernest B. Gon, nicknamed “Ere” B. Gon, age six, is a good boy from a very loving, proud family who always tried to keep themselves neat and well groomed. At an early age, Ere received his haircuts from his mom with whom he felt totally comfortable. His first experience at a real barber shop was when Ere was six years old.

On August 30, 2013, Ere’s parents ushered him into the big chair that a haircutter gestured toward and then walked away to talk to the owner of the barber shop. As they spoke, Mrs. Gon shot a quick glance at her son and winced. He was squirming, looking upset and teary-eyed. Seeing his discomfort, Mrs. Gon whispered to her husband. A minute later, much to Ere’s relief, they were out the door, heading for home - Ere still possessing the hair he had walked in with. Mrs. Gon discussed Ere’s reaction with her husband as they drove home. They decided to do a thorough search on the internet of shops in the area and to find a new hairdresser. Ere stayed quiet in the back seat, never mentioning that it wasn’t the place bothered him, but the cutting. He was terrified of the scissors.

The secret fear had started more than a year before the haircut, when Ere had just turned five. He and his best friend, Dino Sor, were playing in the park. They were cutting little dinosaurs out of paper using a pair of scissors they had found in an alley near their home when they were searching the ground for dinosaur fossils. It was a big pair of scissors, one their parents would certainly not



approve of. They didn't care. They were going to make a family of dinosaurs. This resulted in disaster. Dino was so thrilled with his brontosaurus creations that he excitedly threw his scissors in the air. Suddenly Ere screamed, "Hey!" The scissors whizzed by Ere's head, barely missing him. From that day forward, Ere was terrified of scissors.

Mr. and Mrs. Gon were still determined to get Ere a proper haircut. They did some research on "Koogle" and found a hair salon which was rated as "five combs." After reading the positive reviews about "Trim and Chop," Mrs. Gon made an appointment for her son for Friday, September 13, 2013.

As the family approached the store, they paid little attention to the big sign above the door, welcoming the three new hairdressers. Upon entering the shop they discovered that there were very few customers. However, they just assumed that this was because it was early in the day. Ere's parents escorted him to the first chair on the left where Ere was to receive his cut with a hairdresser named Ila Snipyu. They did not know that she had very little experience. Mr. Gon picked up his only son and placed him in the big chair in front of the mirror. Mr. Gon and his wife then walked to the front desk and began discussing prices with Dee Strak Shun, the owner of the salon who was sitting at her desk. Their backs were turned from Ere, who bravely remained in the seat, sitting as stiff as a plank of wood.

Ila Snipyu was snipping away at Ere's nice, very long, red hair with a pair of scissors, working at a fast pace. It looked as if the hair was simply disappearing. Ere was squirming in the slippery chair, and he was shaking like there was an earthquake beneath his feet. Ila noticed the squirming and thought it was a typical child's response at a hair salon. She assumed that the parents would have alerted her as to any potential problems. Ila continued snipping away until she heard a soft plop on the linoleum floor and heard a piercing shriek from the child. Looking at the floor, Ila winced and screamed in pure terror. A small chunk of Ere B. Gon's ear was on the floor, surrounded by blood. Ere's parents ran over and stared at the ear in utter silence and surprise,

completely paralyzed as Ere yelled at the top of his lungs. A trip to the hospital was necessary. This was an expense that the family could not afford because microsurgery was required. The surgery failed after two attempts, so the hospital had no choice but to let Ere go home earless.

The parents are suing the owners of Trim and Chop for negligence since Trim and Chop did not verbally reveal that Snipyu was inexperienced and, as a result, maimed their child and left him hearing impaired. This incident resulted in a tremendous amount of medical bills as well as emotional trauma by the entire family. Therefore, they are seeking monetary damages based on expenses and long-term pain and suffering, which includes humiliation and hearing loss.

ISSUE

Were Dee Strack Shun and Ila Snipyu responsible for Ere B. Gon's slashed ear and the resulting hearing impairment due to negligence on their parts?

WITNESSES

For the Plaintiff

Mrs. Gon
Ernest "Ere" B. Gon

For the Defense

Ila Snipyu
Dee Strack Shun

WITNESS STATEMENTS

Testimony of Mrs. Gon

My name is Mrs. Gon. I am the wife of Mr. Gon and the mother of Ere B. Gon. My family and I are very proud and we always try to keep ourselves well groomed. When Ere was little, I gave him haircuts. Once he turned six, my husband and I decided to take him to a hair salon for the first time. Our experience at this shop was a disaster. Ere was so upset that we had to leave almost immediately.

The shop was obviously a terrible choice since the surroundings frightened Ere. My husband and I did some research on “Koogle” and found a different salon called “Trim and Chop.” It was rated “five combs,” so we decided to make an appointment for Ere on Friday, September 13, 2013.

When my family and I got to the salon, there was a sign on the door welcoming three new hairdressers. However, I thought nothing of it since people see these signs all the time in front of hair salons. Inside the shop, there were very few customers, so I assumed the reason was that it was early in the day. Looking back, I now feel that it was because the salon is so terrible. We then went to prepare Ere for his haircut with Ila Snipyu. I did not know that she had very little experience. My husband put Ere in the chair, and then we went to talk about prices with the owner of the shop, Dee Strack Shun.

A few minutes later, I heard a loud scream. I turned around and stared in horror – a chunk of my son’s bloody ear was on the floor. Ila immediately blamed Ere for this unfortunate accident since, in her opinion, he was unruly in the chair. What kind of a professional chops a frightened six-year-old’s ear off during a mere haircut?

My husband and I took Ere to the hospital. After two failed attempts at microsurgery, we had to take our son home earless. My husband and I are suing the owners of Trim and Chop for negligence and for the lifetime of pain and suffering due to Ere’s deformed appearance and hearing loss that our son will have to endure.

Testimony of Ere B. Gon

My name is Ernest “Ere” B. Gon, and I am six years old. When I was younger, my mother would cut my hair in our kitchen. When I turned six, she decided I was too old to have her cut my hair. I was terribly upset when my parents announced that we were going for my first “big boy” haircut at a professional shop.

My fear of scissors developed from an incident which occurred when I was five. This is the reason why I am terrified of someone cutting my hair. My friend Dino Sor and I were hunting for dinosaur

remains in an alley near my home. Instead of finding bones, Dino found a large pair of scissors. Dino was fooling around with the scissors when they whizzed past the side of my head. They missed me by barely an inch. I never told my parents, fearing that I would be punished for playing with scissors.

During haircuts, scissors snipping near me are a reminder of the the “dinosaur hunt” where the whizzing scissors almost slashed my face. So, when there are scissors nearby, I desperately try to squirm away from them. My first experience at a salon was a disaster, which upset my parents as well as me. I was so upset that we had to leave before any hair was actually snipped.

Since my parents were determined that I receive a professional cut now that I am a “big boy,” they researched the internet for reviews of a great place for me to get my haircut. Apparently, they thought that it was the specific place that upset me. They did not know that I was terrified of scissors. After reading many reviews online, they decided that Trim and Chop was a suitable place for me to get my hair cut. So, on September 13, 2013, we approached the shop. I went in and was instructed to sit in a chair near one of the hairdressers, Ila Snipyu.

My parents walked to the front desk and began to talk to the owner of Trim and Chop, Dee Strack Shun. I realized my parents forgot to tell Ila about the squirming. I guess they just thought that since she’s a professional, she would be used to having customers who had a variety of reactions. Although I tried to be calm, I was was squirming a lot. Then the dreaded haircut began. As Ila chopped and snipped, I squirmed more and more. Suddenly, a sharp pain started at the left side of my head and traveled all throughout my body. I screamed. I saw my ear lying on the ground in a little puddle of blood. I screamed louder. My parents had to take me to the hospital immediately. I received two expensive microsurgeries, both failures. I was sent home crying, missing my ear.

Now, I am not only earless but also am ashamed that I look different and have trouble hearing. The sight of my little bloody ear on the floor will always be on my mind. This will affect me for the rest of my life!

Testimony of Ila Snipyu

My name is Ila Snipyu. I recently began working at the Trim and Chop Salon. I am one of three new hairdressers there. Although I just graduated from Barbera Beauty School, I was at the top of my class. When Dee Strack Shun visited the school, she selected me for a position at Trim and Chop because my work was so impressive. I have absolutely no doubt that I am an excellent hairdresser who was faced with a very difficult and unusual situation.

Everyone knows cutting a child's hair is difficult. Usually, the parents stand nearby to watch and entertain the child during the cut. Mr. and Mrs. Gon did no such thing. I was surprised to see them leaving Ere's side and walk to the other end of the shop to speak with Dee. I said nothing since I am a new employee and it is not my place to tell parents how to supervise their children.

As I started cutting Ere's hair, I noticed that he was squirming, but I thought it was a typical child's nervous reaction to having a haircut. I tried to cut fast in order to get the cut done and eliminate an obviously stressful situation for the child and me. Also, usually, if a child has special problems, the parent will tell the stylist. Ere B. Gon's parents did not give me any special instructions; they never told me of any previous visits to hairdressers where Ere might have had difficulty.

Ere B. Gon had long red hair. The length of his hair combined with the constant squirming affected my cutting. As I moved the scissors, Ere became more agitated and increased his squirming to a degree I had never witnessed in a client. I tried my best to cut his hair, but as I was cutting the side, he violently squirmed. As a result, my scissors accidentally came in contact with his ear and chopped part of it off.

This issue is NOT my fault! I can't help the fact that I was stuck doing a kid's hair who has issues with scissors - especially this kid who also moves a lot and who was unsupervised by his parents.

Testimony of Dee Strack Shun

My name is Dee Strack Shun and I am 53 years old. I have been the owner of Trim and Chop hair

salon for 21 years. Ever since we opened in 1992, we have hired only the best hairdressers from Barbera Beauty School in New Jersey. My top employee, Besto Ever, had just retired along with two other employees. I had to go Barbera Beauty School and pick three superior hair cutters, one of whom was Ila Snipyu. Ila Snipyu and the two other new employees were doing a great job cutting people's hair at Barbera Beauty School. They were doing so well that I hired the three of them on the spot.

Early in the day, on September 13th, a young boy and his parents entered the shop. While the little boy, Ere B. Gon, was getting his hair cut, I was talking to his parents. In the middle of our conversation, we heard the boy scream. As we turned and looked, we saw a chunk of this little boy's bloody ear on the floor. Everyone was horrified. Ere was immediately rushed to the local hospital for care.

Although I am really upset about the injury, it is obvious that such a catastrophe could never occur under normal conditions. I truly believe that Ila Snipyu would never cut the boy's ear, especially with her credentials from Barbera Beauty School. This child was unruly – squirming about and making a proper cut impossible. When kids squirm, and parents do not watch, disaster will occur. Furthermore, these uncaring parents did not even stop to look at the sign introducing the new employees. Now, the Gons are claiming that my shop and Ila Snipyu are responsible for this situation? I don't think so!

INSTRUCTIONS

The plaintiff must prove by a preponderance of the evidence that Ila Snipyu and Dee Strack Shun were responsible for the injury caused to Ere B. Gon.

SUB-ISSUES

1. Should Ere have told his parents about his fear of scissors?
2. Was the website reliable?
3. Should the parents have carefully read the sign above the store?

4. Should Ila Snipyu or Dee Strack Shun have told the parents that Ila was inexperienced?
5. Should the parents have told Ila Snipyu about Ere's squirming at the previous shop?
6. Should Ila Snipyu have stopped to get the parents to tell them about their son's behavior?
7. Should Ila have stopped cutting when Ere squirmed?
8. Was Ila cutting too fast and being careless?
9. Should Ere's parents have been paying attention to their son?
10. Should Dee Strack Shun have made certain that the Gons were supervising their son's behavior instead of chatting with her?

CONCEPTS

1. Burden of proof – by a preponderance of the evidence.
2. Credibility of witnesses.
3. Job performance.
4. Parental responsibility.
5. Negligence.
6. Safety of premises.

LAW

Negligence: Negligence is a term used to characterize conduct that creates an unreasonable risk of harm to others. In order to prevail on a negligence claim, the party will have to prove several things. First, the person claiming injuries will have to show that the defendant had a duty to act in a certain manner towards the injured person. The general rule is that an individual has a duty towards all persons, at all times, to exercise reasonable care for the person's physical safety and property.

<http://injury.findlaw.com/accident-injury-law/contributory-and-comparative-negligence>.

Contributory Negligence: The concept of "contributory negligence" is used to characterize conduct that creates an unreasonable risk to oneself. The idea is that an individual has a duty to act as a reasonable prudent person. When a person does not act this way and injury occurs, that person may be held entirely or partially responsible for the resulting injury, even though another party was involved in the accident.

<http://injury.findlaw.com/accident-injury-law/contributory-and-comparative-negligence>.

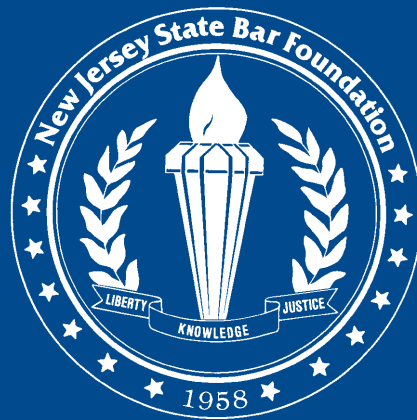
Parental Supervision: Parental supervision means the looking after, or monitoring a child's activities by a parent. The most basic form of parental supervision includes keeping away children from dangerous objects and situations and hurting themselves or others.

<http://definitions.uslegal.com/p/parental-supervision/>

Customer and Worker Safety: It is incumbent upon the owner of a business establishment not only to provide a safe environment for the workers present but also for customers who are purchasing goods or services from that owner.

Damages: A plaintiff in a negligence case must prove a legally recognized harm, usually in the form of physical injury to a person or to property. It is not enough that the defendant failed to exercise reasonable care. The failure to exercise reasonable care must result in actual damages to a person to whom the defendant owed a duty of care.

<http://injury.findlaw.com/accident-injury-law/elements-of-a-negligence-case>



New Jersey State Bar Foundation
One Constitution Square
New Brunswick, NJ 08901-1520
1-800-FREE LAW
www.njsbf.org