

Mock Trial Exercises

For grades 3-6



**Featuring Winning Cases from the
New Jersey State Bar Foundation's
Law Fair 2015 Competition**

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Preface

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

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

Following are the winning students' cases from the Law Fair 2015 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 Alluring Backyard Attractions: The Doobles Family v. Mrs. Homebody

SCHOOL

Woodland Elementary
Monroe Township
Grade 3, First Place

TEACHERS

Bethanne Augsbach

STUDENTS

Anthony Alborea, Dylan Caraway, Selena Hughes,
Emma LaDuke, Brody Piscitelli, Isabella Steinke,
Ryan Thomas, Alexa Traina

FACTS

On June 15, 2014, seven-year-old twins Lindsay and Lucy Doobles and their friends Nick and Bella went outside to play in their neighborhood. Together they walked over to their next-door neighbor's home to ask Dude Homebody, son of Mrs. Homebody, if they could play on his Mega Deluxe Adventure Play World. They entered the Homebodies' property from the side, passing through the bushes that surround the property to access the backyard in order to play on the mega play set and to visit the Homebodies' animals in a nearby pen.

The play structure was 12 years old at the time and has a lifetime limited warranty. It has a pirate drawbridge with a single guide rope that leads to one of its three forts. It has two wave slides and a huge corkscrew tunnel slide along with three swings, a rock wall, a climbing ladder, a tire swing, a sand box, a Tarzan rope, and two sets of rocking monkey bars. The mega play set is set on a dirt and pebble base. Next to the mega play set is the Homebodies' animal pen that is the home to two alpacas, three llamas, one horse and a goat. There is a circular red fence surrounding the animal yard and a stable that houses all the animals. The animals are taken care of by a stableman, Mr. Cowpie.

On the day of the incident, the seven-year-old twins Lucy and Lindsay headed to the mega play set drawbridge to climb up to one of the forts. At

the exact same time Nick climbed up on the red fence of the pen to get a closer look at the animals while Bella made a beeline for the swings as she was excited to soar through the air.

Suddenly the alpacas screeched, the llamas spit, the horse reared, and due to all the commotion, Nick was startled and fell backwards off of the fence and screamed. At the exact same time Lindsay and Lucy were climbing on the pirate bridge. Lindsay was holding onto the guide rope while Lucy was holding onto Lindsay's hand. The twins were frightened and turned quickly to see what the commotion was over at the animal pen. They lost their balance and Lucy lost her grip on Lindsay's hand and fell off the bridge.

Bella, who was swinging on the swings, collided with Lucy as she fell to the ground. Bella's feet hit Lucy's face, fracturing her jaw and causing multiple baby teeth to fall out. Mrs. Homebody heard the loud turmoil and investigated the situation. When she saw that Lucy was hurt, she called 911 immediately.

Lucy's face and gums were severely bruised, and she sprained her wrist when she hit the ground. Her adult front teeth grew in grayish in color due to the injury, requiring lifetime caps and dental care. The Doobles Family is suing Mrs. Homebody for the cost of Lucy's medical and dental expenses and all future related cost and services, as well as pain and suffering.

ISSUE

Is Mrs. Homebody liable for Lucy Doobles' injuries due to her negligence; for failing to exercise reasonable care to protect curious, energetic, young children from the dangers of her backyard attractions?

WITNESSES

For the Plaintiff

Tudi Doobles

Ronald X. Door

For the Defendant

Mrs. Homebody

Mr. Cowpie

WITNESS STATEMENTS

Testimony of Tudi Doobles

On June 15, 2014, my responsible, obedient, and well-behaved seven-year-old twin daughters Lindsay and Lucy, along with their friends Nick and Bella, were out in our yard playing when they decided to ask Dude Homebody, their regular babysitter, if they could play on his Mega Deluxe Adventure Play World set. After he gave them permission, they eagerly ran past the pretty rose bushes on Mrs. Homebody's property to play on the play set.

Mrs. Homebody's backyard mega play set is very old and has been neglected and in poor repair for many years and can clearly be seen in her backyard by all the children in the neighborhood. The wood is moldy, has termite damage, and is missing many safety features that should have been replaced or repaired. The pirate bridge is missing one of the guiding ropes and a plank that should have been replaced to keep the mega play set safe. Because of the missing guide rope, my daughter Lucy fell four feet off the side of the bridge and was seriously injured when her friend Bella, swinging right next to the bridge, butted her flying feet right into Lucy's mouth and jaw.

Lucy's jaw was fractured and had to be wired up, she lost many of her baby teeth, and has permanent damage to her new adult front teeth and, on top of all that, she sprained her wrist. Worst of all is this all could have been avoided if Mrs. Homebody had made sure her Mega Deluxe Adventure Play World and backyard animal pen were safe and not accessible to young fearless, fascinated and energetic children.

Mrs. Homebody should have maintained the mega play set and at a minimum she should have placed caution tape around the pirate bridge. In my opinion, the whole unsafe, broken down mega play set should have been repaired or totally disassembled years ago.

I checked and all these mega play sets come with a lifetime warranty that Mrs. Homebody should have used to keep the mega set in good repair. After all, the neighborhood children are all attracted to the gigantic play set with all its forts, slides, rock wall and many other wondrous features...just like bees to honey! Mrs. Homebody knew the children of the neighborhood could see the enormous play set in her yard and loved to play on it, so she had a responsibility to keep them safe. My poor innocent daughter broke her jaw and is permanently disfigured with gray adult teeth because of Mrs. Homebody's hazardous play structure and her negligence in not repairing and keeping the mega play set safe for the children of the neighborhood!

Furthermore, can you believe that the mega play set is sitting on a dirt and stone base? Just what reasonable and sane person would put stones and hard dirt under a children's mega play set? Everyone knows you need at least six inches of mulch under a play area to protect and keep children safe. My daughter sprained her wrist after falling on the hard, rocky dirt.

As for those wild and vicious animals that Mrs. Homebody keeps, well, I believe alpacas, llamas, goats and horses have no business living in our small neighborhood. They should be in a zoo where they belong. Young Nick fell off the fence of the animal pen and was banged up and bruised after those nasty screeching and spitting beasts attacked him. It was Nick's screams that in turn caused

my poor Lucy to fall four feet off the unsafe pirate bridge that then caused the disastrous collision between Lucy's face and Bella's feet. The people of the neighborhood have been pleading with Mrs. Homebody for years to get rid those filthy, dirty, dangerous animals.

Mrs. Homebody had an obligation, as a pet owner and as a responsible citizen, to secure her entire backyard to keep the children away from the old, damaged mega play set and those treacherous animals. The rose bushes she claimed to have planted to keep children off her property were certainly not enough of a deterrent; the children were easily able to get to the "honey" in her backyard.

Moreover, what good is that stable guy, Mr. Cowpie? He is always tending to the animals with no regard to the rest of the property. He did nothing to protect the children even though he was completely aware of the danger they were in – irresponsible, I say! And Mrs. Homebody's son isn't much better. He should never have given the children permission to play in his yard. He is their regular babysitter and they trust his decisions. He knew full well the play set wasn't safe and said nothing to warn the children.

The bottom line here is that Mrs. Homebody knew with certainty that the neighborhood children often played on her son's mega play set near her large and gnarly animals. She had a duty to barricade her property to keep curious and inquisitive children off her yard and away from her animals and to fix, dismantle or block off the unsafe mega play set. A sign most certainly should have been posted and Mr. Cowpie should have, as part of his job, warned off the small children. Our beautiful daughter is now disfigured because of Mrs. Homebody's negligence!

Testimony of Ronald X. Door

On the day of the tragic incident, I was in my backyard with my wife planting a flower garden and we had a clear view of Mrs. Homebody's backyard since there is no fence, just some low rose bushes. We were discussing where to plant our hyacinth bulbs so we did not see the children enter the yard through the shrubbery, but I did see

and hear them playing on the equipment. We were concerned about the kids in her backyard because of the large animals and the old mega play set in disrepair. I was just about to call Mrs. Homebody to let her know about the kids when the commotion started with all the animals screeching, neighing, snorting and spiting, followed by Nick screaming. I saw the little girl fall and get hit in the face so I ran over to see if I could help.

After the ambulance left with little Lucy, out of curiosity, I decided to look over Mrs. Homebody's play equipment. Wow! It was in bad shape, and I'm not surprised someone got hurt. The drawbridge that Lucy fell from wobbled as I walked on it, there was a broken plank, and one of the guide ropes along the side near the swings was missing entirely. I did wonder if Mrs. Homebody had a warranty on the old moldy set and why she didn't use it to fix the rotting mega play set to keep it safe.

I don't know much about playgrounds, but those swings and forts looked awfully high above the ground for such little kids. And don't they make safe rubber turf now that you can put under the play equipment? Mrs. Homebody just had hard ground under the swing set and some landscaping rocks scattered around. I wouldn't want to fall down on that! It seems to me that any reasonable adult would know not to use rocks under a child's play area and to put up a barrier to keep curious children away.

My wife and I have often discussed that Mrs. Homebody should have a fence surrounding her entire property for additional security for the animals and to keep the kids out. We don't want that goat to get out again and eat our new spring flowers like she did last year. And although we don't have children, I wouldn't be comfortable with my kids playing on that equipment. It is definitely in need of serious repair. Something needs to be done about it. She should have known to either fix it or remove it, but if she insists on keeping it, she should put up a tall fence to first and foremost keep the neighborhood children safe.

Testimony of Mrs. Homebody

On the day of the accident I was inside my house looking through the most recent issue of

Farm Animal Monthly magazine when I heard a commotion in my backyard. I couldn't believe my eyes, it was those same children I have asked over and over again to stay off my yard. In fact, I have personally asked all the parents in our neighborhood to please watch their children and keep them off my property. It is their responsibility to supervise their own children while they are playing outdoors, not mine.

I ran outside as soon as the hullabaloo started to see what was going on. I saw a bunch of neighborhood kids, including Lucy and Nick, who were on the ground crying. When I saw the blood on Lucy's face, I called 911 immediately. It breaks my heart the little girl got hurt, but it wasn't my fault or my responsibility to watch over her. They were trespassing and their parents should have kept a better eye on them.

Further, it is ridiculous that the children claim they were given permission to go on our property by my 16-year-old son Dude. He told me that he told the children that they could not use the mega play set, but they didn't listen to him. He is only 16, and not an adult, so they should never have asked him in the first place, they should have asked me. Further, neither of us saw them sneak around the side of the house and under our thorn bushes to get into the backyard. It takes a lot of effort, scrapes, cuts, and ripped clothing to get past the thorn bushes that I planted just to keep the children off my property.

I chose to plant thorn bushes as a barrier around my property instead of a fence to keep the small children out. First of all, a fence is not required by the township since I keep my animals in a pen. Secondly, I do not have the money to have a fence installed around my entire property. I have the thorn bushes, briars to be exact, which surround my property and that are certainly sufficient enough to discourage trespassers. The township police recommended I plant them after I made several complaints about our little neighborhood trespassers.

The play structure does have a lifetime warranty, but I hadn't looked into it because the play equipment isn't used much anymore by Dude. He and his friends will hang out in the forts, once in a

blue moon, without any issue. Besides, believe me, a lifetime warranty isn't what it's cracked up to be. The wood parts, including the bridge planks, are covered for two years and not at all if they are rotted, moldy, or just plain missing. All the non-wood parts are warranted for one year and that includes the guide ropes that my 16-year-old son does not need when using the drawbridge. The mega play set is in fine shape for my son's use, he doesn't need the bridge plank or the guide rope to use the forts.

A while back when my son was younger I used to let the neighborhood kids come over to use the play equipment with him, while Mr. Cowpie or I watched them, but I haven't allowed the younger children to play on the set for the last couple of years since my son rarely plays on it anymore. The lawn under the set has been worn down over the years, but is just fine for Dude and his friends. I honestly don't see what the issue is here. The kids were clearly trespassing on my property. These children were too young to be running around the neighborhood by themselves. I mean really, in this day and age, who lets their seven-year-old kids roam freely?

Mrs. Doobles was a negligent and irresponsible parent – she and the other parents were asked to keep their kids off my property and they did nothing to control their kids.

Testimony of Mr. Cowpie

I am the stableman for Mrs. Homebody's animals. On the day of the accident, I was inside the stable putting out hay for the animals and wrestling garbage out of Nanny's mouth –she's the pygmy goat, lovely thing – though a bit of a rascal! Well next thing I know, I heard the animals making noise and then that boy Nick screaming outside around the animal pen. Naturally, I ran outside to see what was going on. Nick had obviously climbed up on the fence near Fluffy and Cuddles, two of the sweetest alpacas I've ever met, though a bit sensitive, and must have provoked them. Well, they started squawking and making such a fuss, along with Lovely the llama and Honey the horse. I knew that Nick probably poked or kicked at them again; I've seen him do it before!

The last time he trespassed and bothered the animals, we called his mom and told her to keep her son off the property. Well, I could see he wasn't hurt and I was about to tell him to knock it off and go home when I noticed the other kids on the mega play set. But it was too late for me to stop Lucy from falling and getting hit... it all happened so fast!

I saw Mrs. Homebody run out, and that neighbor too, Mr. X. Door, so I just tried to calm the animals down and let the other adults handle the situation.

Well, I've worked for Mrs. Homebody for about three years now and she's always been real nice to me and the neighborhood kids – maybe too nice if you ask me. I have seen her buy ice cream from the ice cream truck for those kids plenty of times. We've talked about the kids trespassing and I'm the one that suggested she call up the parents and warn them because it is the parents' responsibility, after all, to manage their kids. I even helped her make the calls. If those kids were better behaved and more respectful of private property, this wouldn't have happened.

INSTRUCTIONS

The plaintiffs, the Doobles Family, must prove by a preponderance of the evidence that the defendant, Mrs. Homebody, was negligent and that the defendant's negligence caused Lucy's injuries so that Mrs. Homebody must pay for all medical expenses related to this injury and for pain and suffering.

SUB-ISSUES

1. Did Mrs. Homebody have a duty to keep her backyard fenced in or barricaded in light of the fact that the neighborhood children could easily see her backyard attractions and therefore be tempted to enter her yard to play on the play set and/or interact with the animals?
2. "But for" the fact Mrs. Homebody failed to safely secure her backyard attractions from wandering children, would Lucy never have gotten hurt?

3. Were the thorn bushes sufficient enough of a deterrent to keep the children from entering Mrs. Homebody's property and to protect them from potential danger?
4. Was Mrs. Homebody negligent when she did not repair or replace the missing mega play set safety features?
5. Should Mrs. Homebody have used her limited lifetime warranty to fix and upkeep the play set?
6. Was the condition of the ground under the play set the cause of Lucy's wrist injury?
7. Should 16-year-old Dude's permission or lack of consent be considered; is he thought of as an adult in the eyes of the court?
8. What are the parental obligations in this situation?

CONCEPTS

1. Negligence.
2. Liability.
3. Breach of duty.
4. Preponderance of evidence.
5. Parental responsibility.
6. Comparative negligence.
7. Attractive nuisance.
8. Causation.
9. Proximate cause – "But For."
10. Foreseeability.
11. Credibility.

LAW

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.

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%.

Burden of Proof - the defendant has to prove the negligence of a plaintiff or claimant; the burden of proof is on a plaintiff to disprove his or her own negligence. Even if the plaintiff was negligent, the wrongdoer may still be held liable, if he or she had the last clear chance to prevent the injury.

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 injury is connected to the defendant’s negligent actions.

Foreseeability – in the law of negligence, the foreseeability aspect of proximate cause – the event which is the primary cause of the injury – is established by proof that the person of ordinary intelligence and circumstances, should reasonably have foreseen that his or her negligent act would imperil others.

The Case of the Giant Whip Scorpion Attack: The Stone Family v. Animal Adventure Zoo

SCHOOL

Woodland Elementary
Monroe Township
Grade 3, Second Place

TEACHER

Bethanne Augsbach

STUDENTS

Robert DeSalvo, Anna Maria Doss, Kali Esandrio,
Abhilash Lankalapalli, Vrusha Patel, Abigail
Sacco, Shivani Shah, Layla Singer

FACTS

As a surprise for his family, Mr. Rocky Stone Sr. purchased tickets online to the Animal Adventure Zoo, including VIP passes to the Live Interactive Arachnid, Amphibian, and Reptile Show. It was his early holiday gift to his family. The Stones arrived at the zoo at approximately 9:45 a.m. on the morning of December 6, 2014.

The Stone kids, Rocky Jr. and Pepples, were very excited to be attending the popular Live Interactive Show as part of their zoo experience. They were one of the first two families to arrive, and they had VIP passes, so they were able to stand in the front row to get the best view of the show. All guests were standing in a circle around the animal handlers' presentation area that was roped off from the guests.

The live show room was packed to capacity with spectators by the time the show started. At the beginning of the performance and throughout the show, many children were pushing their way up front to see the spider, frog, scorpion, and snake.

There were two animal handlers who presented and controlled the live creatures for the entire interactive portion of the show. One handler, Stella Wiggler, was in charge of the animal containers and took each creature out, one at a time, and handed it to the other handler, her

husband Scott Wiggler. He held and showed each animal to the group as he walked around the entire circle providing facts and information about the arachnids, amphibians, and reptiles.

The crowd of mostly children pushed forward or backwards each time Scott presented a new animal and provided information about their physical features, habitat, survival skills, and diet. When Scott was finished, he handed each animal to Stella, who put it back into its container, a Rubbermaid tub designed for each animal.

The Wigglers began the show by asking all audience members to stand back and to avoid making loud noises and sudden movements so that the live animals would not be startled. When Scott presented the Blue Dart Frog, five-year-old Rocky Jr. got so excited he tried to touch the frog. Scott backed up and asked Rocky Jr. to stay back behind the rope and to "look, but do not touch."

When Scott presented the tarantula, most of the children in the crowd screamed and moved backwards in excited fear. Rocky jumped up and down to get closer to Scott in order to get a bird's eye view of the enormous, hairy, eight-legged, spider.

The show continued and up next was the Giant Whip Scorpion that has pincer-like claws, but doesn't possess a venomous sting. To encounter a Giant Whip Scorpion for the first time can be

an alarming experience! The handlers held it with foam forceps to protect the unpredictable scorpion. After showing the people, Scott handed the scorpion back to Stella to put back into its tub. Stella carefully placed it back in using her forceps.

The final reptile presentation and grand finale was the Rock Python. Stella handed the giant four-foot long python snake to Scott to show the crowd. Adults and children alike gasped and screamed and began moving about in nervous excitement. When the commotion started, the snake constricted itself around Scott's arm, with great pressure, causing Scott to ask Stella for help to unwrap the extremely aggressive snake.

While Scott and Stella worked to control the forceful snake, Rocky slipped under the rope and behind the handlers to find and get a closer look at the Blue Dart Frog. The first tub he opened was the Whip Scorpion. The scorpion's claws exploded out of the box pinching and gripping really tight onto Rocky's hand. Rocky tried to shake the arachnid off, causing it to use its tail, called a flagellum, to spray concentrated acetic acid from the base of its whip-like tail.

Rocky screamed out in pain. His parents reached him just after he had been sprayed by the scorpion. Stella sprayed the Whip Scorpion with cold water that caused it to release its grip on Rocky.

Rocky's hand was bleeding and his entire arm, including his hand, swelled to three times their normal size. His parents took him to the emergency room where he began cramping and vomiting. After several hours in the hospital, blistered burns appeared on his hand and face; he had irritation in both eyes, and developed a nose and upper respiratory tract infection caused by inhaling the vinegar-like acid. Rocky had to spend five days in the hospital and missed one month of school.

The Stone Family is suing the Animal Adventure Zoo for \$632,153 for Rocky's medical expenses, all related expenses, and for pain and suffering.

ISSUE

Is the Animal Adventure Zoo liable for Rocky Stone Jr.'s injuries due to their negligence for not

providing a high degree of care, protection, and safety for the children at the live interactive show?

WITNESSES

For the Plaintiff

Rocky Stone Sr.

Mr. Early

For the Defense

Panda Cage

Scott Wiggler

WITNESS STATEMENTS

Testimony of Rocky Stone Sr.

My name is Mr. Rocky Stone Sr. and I went to the Animal Adventure Zoo on December 6, 2014 with my family, Mrs. Stone, Rocky Jr. and Pepples Stone. I brought them there as an early holiday surprise. We were one of the first two families to arrive, and because we had VIP passes we were able to stand in the front row of the roped-off circle to get the best view of the interactive show. As show time approached, the crowd in the live interactive room grew to capacity. Due to the holiday season, there were a lot more people than I expected. The room was filled with anticipation and the adults and children alike were excited for the show to start. My wife and I both noticed that people without tickets were being allowed to enter the room as the handlers did not seem to be checking tickets carefully.

There were only two handlers, Stella Wiggler and her husband Scott Wiggler. It was surprising to see the zoo only had two trainers presenting and controlling the animals as well as the crowd. I was also shocked to see that the crowd control rope was flimsy and so high up that my son and other children were able to push their way underneath it. There was no crowd control other than the fast directions the handlers gave at the beginning of the show.

On a Saturday during the holiday season, the zoo should have anticipated that more people

would show up and they should have had more staff working, especially security, to control the crowds. In my opinion, the zoo should not have allowed so many families to pack into such a small room with live animals. They should have moved the show to a much larger room to accommodate all the spectators that came, checked tickets carefully, or they should have cancelled the show altogether.

People were pushing and shoving each other to get a bird's eye view of the animals throughout the entire show. It was hot and uncomfortable and very difficult for us to stay together as a family as we all were being shoved and pushed forward and backwards nonstop with the presentation of each new animal.

We were all tremendously excited to see the final animal, the Rock Python. Stella handed the enormous four-foot python snake to Scott. As the animal was presented, the children in the crowd started screaming as they worked themselves into a frenzy. With the big crowd, the room was soon out of control. As a result of the uproar, the snake constricted itself around Scott Wiggler's arm, causing him to scream out to Stella in pain. Stella rushed to his side and worked with him to control the snake.

While the handlers worked together to unwrap the dangerous and unpredictable snake, they did not keep an eye on the smaller animals or the crowd. My wife and I were being pushed by the crowd, away from our son, just as I turned to tell her we should leave as this was clearly an unsafe environment. I instantly noticed Rocky was being pushed under the flimsy, much too high rope, by the crowd. I was frantically making my way towards him when I saw my very inquisitive son, who loves science and all animals, pick up an animal tub to investigate.

He did exactly what any curious five-year-old would do when pushed near animal containers, he started opening one. He was looking for his all-time favorite amphibian, the Blue Dart Frog. Unfortunately, the first tub he quickly and easily opened was the Giant Whip Scorpion. How in the world was a five-year-old boy able to open a scorpion tub? It should have been secured with a locked lid to prevent just this kind of incident.

I heard Rocky Jr. scream out in pain just as I was able to reach him. He was just being clawed and sprayed with acid by the scorpion. Rocky shook his hand to get the scorpion off while its tail sprayed vinegar-like acid into his face and all over his body. I screamed out to the handlers for help as I rushed to grab the scorpion. Just as I moved to grab it, Stella finally saw the scorpion hanging from Rocky's hand, pushed in front of me, and sprayed it with cold water causing it to release its grip. Rocky's hand was bleeding and his entire arm, including his hand, swelled to three times their normal size. I could instantly see that his face, eyes, and hands were red and irritated.

Scott was still working to contain the snake as families were grabbing their terrified children and rapidly exiting the room, shouting for security and a full refund. It was total uncontrolled chaos. I heard several other children were hurt as the crowd stampeded out of the room. As I picked up and started to carry my son out of the room, a zoo security guard finally showed up to help with crowd control; way too little, much too late.

My wife and I took Rocky to the emergency room where he began cramping and vomiting. After several hours in the hospital, he had irritation in both eyes, blistered burns on his hands and face, and he developed a nose and upper respiratory tract infection caused by inhaling the vinegar-like acid from the scorpion. Rocky had to spend five days in the hospital and missed one month of school.

Animal Adventure Zoo was negligent for not having adequate staffing, a large enough room, unsecured pet containers, proper ticketing procedures and animal safety and crowd control procedures in place to ensure the well-being of my son and all the spectators at the Live Interactive Show.

Testimony of Mr. Early

My name is Mr. Early and I also went to the Animal Adventure Zoo with my family. I was surprised, just like Mr. Rocky Stone, that there were only two handlers controlling the whole show including the live animals. I was instantly concerned that the crowd was much too big for

them to handle. It was obvious that the room was way too small for the number of people that were there. The handlers should have called for help before starting the show, in my opinion. It was a nightmare and I will never ever bring my family to the Animal Adventure Zoo again.

I felt terrible about what happened to Rocky Jr. It all went all bad when Rocky Jr. was pushed under the ropes behind Scott and Stella Wiggler, who were busy with the python. I believe that the ropes were much too high; anyone, even an adult, could crawl under the flimsy things. Rocky ended up pushed up against the animal containers and when he opened the one closest to him, it was a frightening sight. The scorpion's claws burst out of the box pinching and gripping onto Rocky's hand. Rocky tried to shake the scorpion off, causing it to spray him badly.

Rocky screamed out in pain as I saw his parents rushing to him yelling out for help. Unfortunately, no one from the zoo was anywhere near him to help. It took several seconds for Stella to see what was happening and to come to Rocky's aid but by then the scorpion had done its damage. It also seemed to me that the handlers were more concerned with the snake and the scorpion than the child as they carefully put the creatures back into their unsecured tubs before checking on how Rocky was doing.

I was shocked to see they put the animals in Rubbermaid tubs like we use for our leftovers with just a few holes in the top. Without a doubt, any reasonable person would know to use containers that have locks on them to keep both the animals and the children safe.

I took my family to the back of the room and held them tightly while the chaos of all the pushing and shoving ensued. It took too long for a single security guard to arrive to help with the frightened crowd. I saw Mr. Stone carry his son Rocky Jr. out of the room as they rushed to the hospital.

I will never bring my family here again after seeing firsthand how the zoo was not prepared for this crowd or emergency. They need an emergency action plan and plenty of training for their employees, if you ask me. The management

of this company is negligent for not anticipating and preparing for the possibility of a large crowd, especially over a holiday weekend, and when you know you will have children and live animals in the same small room packed together like sardines.

Testimony of Panda Cage

My name is Panda Cage, owner and manager of Animal Adventure Zoo. I am responsible for the staff scheduling, ticketing, security, safety rules and procedures for Animal Adventure. My zoo has had a wonderful reputation and a perfect safety record for the past 15 years. All of our Live Interactive Shows have been run flawlessly until the morning of December 6, 2014 when Rocky Stone did not follow zoo rules and caused an unfortunate incident.

The show began at 9:45 a.m. as usual with our two most experienced animal handlers running the show. We run the live shows in a special room designed to keep the animals and our guests safe. The room's capacity is 200 people and it has a circular presentation stage so that all spectators may get a good look at the animals being presented. 150 tickets is the maximum number of tickets that are sold for each show so that the room is always well under capacity. We never oversell tickets and our handlers are careful to check all tickets for admittance to the show. At Animal Adventure Zoo we put safety first.

All of our staff are trained in standard safety measures and must practice our safety procedures periodically as part of our safety drills. All staff must pass our safety tests to work in our zoo.

On the day in question, I heard the screaming and commotion coming from the Live Interactive Show room and I immediately called security to the room to help out. Security followed our safety protocols, carefully guiding families from the room in an orderly fashion. No one other than the mischievous Stone boy was injured and the show was rescheduled for a later time.

There were more safety signs posted than required by law that cautioned the spectators not to touch or startle the live animals. Furthermore, we print the same warnings on all of our tickets. We have been using specially designed Rubbermaid

animal tubs for 15 years with no problems until Rocky Stone Jr. purposely slipped under our security rope and then crept by our handlers in search of his favorite frog. He ignored the Wigglers' instructions to stay away from the animals and went past a second line of ropes into a restricted area to find and open the Rubbermaid animal tub he should never have touched. Mr. Stone and his wife should have held his hand at all times as the signs said all over the room.

At the beginning of the show, there were several announcements made to parents that asked them to please supervise their young children and not to let them touch or startle the animals. If Mr. Stone and his wife had properly taken care of their son Rocky Stone Jr., he would not have had the opportunity to open the scorpion tub and this disaster would not have happened.

What happened to the little boy was an accident. The zoo is not liable because the negligent parents should have had their child by the hand or at a minimum within a hand's reach; they have an obligation to protect their own child.

Testimony of Scott Wiggler

On the morning of December 6, 2014, my wife Stella Wiggler and I were running the Live Interactive Animal Show at the Animal Adventure Zoo. We are certified animal handlers, extremely experienced, and have been presenting this same interactive show with live creatures for over 12 years. As certified animal trainers, my wife and I have been trained on how to handle animals and on how to take precautions to ensure the safety of both the animals and people at our shows in case of an emergency.

Stella was is in charge of the animal containers and took each creature out, one at a time, and handed it to me to show the group as I walked around the entire circle providing facts and information about the arachnids, amphibians, and reptiles.

The crowd of mostly children pushed forward or backwards each time a new animal is shown and this is normal. There is plenty of space in the live room for this to happen. When I finished

presenting each animal, I handed it back to Stella, who put it back into its container. The animal containers are Rubbermaid tubs designed and made especially for each animal. There was no need for locks on the tubs as none of the animals we presented are dangerous or life-threatening.

I began the show by asking all audience members to stand back and away from the animals and to avoid making loud noises and sudden movements so that the live animals would not be startled. I knew immediately that Rocky Stone Jr. was going to cause problems. When I presented the Blue Dart Frog, Rocky Jr. got so excited he reached out and tried to grab the frog from me. I had to back up and sternly ask Rocky Jr. to stay back behind the rope and to "look, but do not touch." I was shocked that his parents did not even try to keep him under control.

Then, when I presented the tarantula, most of the children in the crowd screamed and moved backwards in excited fear, but not Rocky; he jumped up and down to get closer to the spider and again I had to ask him to step back and his parents did nothing.

The show continued and I purposely stayed away from Rocky Jr. to protect the animals. The final reptile presentation was our Rock Python, Pauli. As usual the adults and children alike gasped and screamed and moved backwards when I took him out. As happens with all constrictor snakes, sometimes old Pauli the Python wraps himself around my arm too tightly, like on that day, and I have to ask Stella for a little help to unravel him as she puts him away. At no time were we out of control with the snake or the crowd. We have been doing this alone for a long time, we didn't need more help.

The problem started when Rocky purposely slipped under two sets of ropes and snuck behind us to get a closer look at the animals. Boy was he in for a surprise when the tub he opened was the Giant Whip Scorpion. Rocky Jr. was scared and screamed so loud he startled Sonny the Scorpion, causing him to protect himself by pinching the boy.

To encounter a Giant Whip Scorpion up close and personal for the first time can be an alarming

experience! But what seems like a miniature monster from a horror movie is really a fairly gentle creature. While called a scorpion, this arachnid does not have a venom-filled stinger or bite and will only spray you with the vinegar in his tail if he feels threatened. Rocky's actions were clearly threatening to poor Sonny.

Where were his parents and why didn't they keep their rotten son under control? The zoo rules and signs clearly state that it is the parents' responsibility to know where their child is and keep them at arm's length at all times. The boy should not have been able to leave his parents' side to sneak back to the animal area; responsible parents would have kept their child within hands' reach. So judging by that, I believe that the Animal Adventure Zoo is not liable for the child's injury as his parents were negligent and should have taken better care and watched over him.

INSTRUCTIONS

The Stone Family must prove by a preponderance of the evidence that the Animal Adventure Zoo was negligent and that their negligence caused Rocky's injuries because they did not provide an adequate level of care and safety so therefore must pay for all medical expenses related to this injury and for pain and suffering.

SUB-ISSUES

1. Should Animal Adventure Zoo have kept the animal area secured at all times in light of the fact that this was a public zoo that caters primarily to children?
2. Were the signs put up on the walls and the two sets of ropes sufficient to protect the public, especially children, from danger?
3. Was Animal Adventure Zoo negligent when the handlers left the animal area unsupervised while unraveling the python snake?
4. Did Mr. and Mrs. Stone properly supervise their son? What are the parental responsibilities and duties?

5. Should the Adventure Zoo have anticipated the holiday crowd and scheduled additional staff to work the Live Interactive Animal Show?
6. Was the room too crowded and were there sufficient crowd control and safety procedures in place?
7. Should the specially made and designed Rubbermaid animal tubs have been secured and locked?
8. Were too many guests admitted into the show with and without tickets?
9. Were there proper ticketing procedures in place?

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.

LAW

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.

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%.

Burden of proof means that the defendant has to prove the negligence of a plaintiff or claimant; the burden of proof is on a plaintiff to disprove his or her own negligence. Even if the plaintiff was negligent, the wrongdoer may still be held liable, if he or she had the last clear chance to prevent the injury.

Proximate cause means that the plaintiff must establish that his 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 means 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.

Foreseeability is in the law of negligence, the foreseeability aspect of proximate cause – the event which is the primary cause of the injury is established by proof that a person of ordinary intelligence and circumstances should reasonably have foreseen that his or her negligent act would imperil others.

Attractive nuisance means 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.

The Case of the Broken Ankle: Mrs. Wonka v. Wonder Fun Time Resort

SCHOOL

Woodland Elementary
Monroe Township
Grade 3, Honorable Mention

TEACHER

Bethanne Augsbach and Selime Kaufman

STUDENTS

Jackson Chando, Vienna Diaz, Lance Drake, Kali Esandrio, Angelina Fazzolari, Emma LaDuke, Olivia Minicucci, Lacie Riccardi, Abigail Sacco, Isabella Steinke

FACTS

On Friday, July 20, 2014, the members of the New Jersey Cheerleaders arrived for their annual Cheerleading Competition located in Orlando, Florida. The group checked into the five-star resort, Wonder Fun Time Resort, late that evening, approximately 6:00 p.m. The team members consisted of two parents, two coaches, and 20 young girls ranging from ages eight to ten. The clerk welcomed the party and as she handed their keys to one of the members, she went over some of the rules of the resort. The manager, who also happened to be at the front desk, greeted the children, and reiterated the resort rules and guidelines. The adults picked up the room keys, followed by the bellhop and the girls, and proceeded to their rooms.

The coaches and parents decided they should find a place to eat, because it was already dinner time. They stood in the hallway discussing choices of restaurants in the area. The bellhop suggested Wonder Fun Café, located in the lobby of the hotel. He stated that it was the closest one and offered a great selection of entrées for adults and the children's menu was great as well.

After a quick discussion, they all followed the bellhop to the café. The group was met by a maître'd and was quickly seated. Since it was a large group, they put the girls at one long table and the adults at a circular table next to them. As

they were eating, one of the girls stated that they overheard the manager mention something about a pool being at the resort. The girls convinced the adults to allow them to go for a quick swim before settling in for the night.

Once dinner was finished, the girls quickly rushed back to their rooms to put on their swimsuits. They were chaperoned by the two parents, while the coaches paid their bill.

They all proceeded toward the pool area, walking in small groups. Suddenly a screeching sound was heard and it sounded like one of the girls from the group. Everyone followed the sound and found Cassidy in the water, crying and holding her ankle. Mrs. Doofy, who also was ahead of the rest of the group, tried to yank her out of the water but Mrs. Wonka suddenly pushed Mrs. Doofy out of the way and jumped into the pool. Unconcerned that she had on her jogging outfit, she lifted Cassidy out of the water.

Mrs. Doofy immediately called 911 as everyone looked horrified at Cassidy, who was pointing to her right ankle. It took within five minutes for the paramedics to arrive. Mrs. Wonka went with her daughter to the nearest hospital, riding in the back of the ambulance. The rest of the team waited at the resort lobby patiently. The ambulance headed for Charlotte Hospital. At the hospital Cassidy was diagnosed with having fractures on her right ankle and needed a cast.

ISSUE

Is Wonder Fun Time Resort liable for Cassidy Wonka's medical expenses and related costs due to their negligence?

WITNESSES

For the Plaintiff

Anga Wonka

Olivia Doofy

For the Defense

Lance Jackson

Noland Nosy

WITNESS STATEMENTS

Testimony of Anga Wonka

My name is Anga Wonka, the mother of Cassidy Wonka. We arrived from New Jersey on Sunday night of July 20, 2014 for a cheerleading competition. The competition was scheduled for 8 a.m. at Magic Island, the following Monday morning, July 21, 2014. After arriving late the night of July 20 at Wonder Fun Time Resort, we decided to go the restaurant located at the resort. Shortly after finishing up our dinner, we decided to take the team to the resort swimming pool. I strongly hold the resort responsible for my daughter's injury.

First of all, there was no lifeguard on duty. Next there were no pool safety signs posted and finally the lighting was poorly lit, contributing in causing my daughter's injury. We are holding Wonder Fun Time Resort responsible for Cassidy's medical bills, including her ambulance trip. Due to the negligence of the resort, my daughter Cassidy broke her ankle.

As we were all heading for the pool, a heart clenching scream was heard. We ran to find that it was my daughter Cassidy screaming in pain. I jumped into the pool and swooped Cassidy out of the water. I heard Mrs. Doofy, one of the coaches, dialing 911. Although the paramedics got there quite quickly, it seemed forever for us, waiting

anxiously. I rode with Cassidy in the ambulance as the group waited at the resort.

At Charlotte Hospital, the doctor on duty requested the nurse to take Cassidy to get x-rays. The doctor diagnosed Cassidy with having two small fractures on her right ankle. He informed me that they needed to set Cassidy's right ankle in a cast and told her she should not put too much weight on her ankle. He continued to tell me that she would not be able to remove the cast for at least six weeks.

By this time it was already 10 p.m. and both my daughter and I were exhausted. Luckily, the nurse who treated Cassidy offered us a ride back to the resort; she said she lives five minutes away, and goes past the resort on her way home. We were so exhausted and accepted her offer.

Cassidy was heartbroken. On the ride back to the resort, she did not speak at all, and she looked sad and depressed. She realized that she could not compete in the cheering competition.

Once Cassidy and I arrived back at the hotel, her team gathered around her. They were so worried that they waited patiently in the lobby. Upon approaching the team, I explained to them that Cassidy was obviously not going to be able to compete with her team, but she would accompany them for support. They tried to cheer Cassidy up, but the expression on their faces showed that they were worried.

Several disturbing careless actions of the resort caused her not only to break her ankle, but caused her anguish and heartbreak when she found out that she could not compete in the competition due to the resort's negligence.

There were absolutely no lifeguards on duty at the time to monitor the resort guests; this is unheard of and quite unacceptable, especially in a large resort of this size.

There was also insufficient lighting around the pool. In a resort this size, having insufficient lighting disregards the safety of the resort guests. Due to the insufficient lighting, my daughter jumped into the pool, hitting one of the steps and injuring herself.

Finally, there were no safety rules posted by the pool. I cannot believe that a sign was not posted.

Testimony of Olivia Doofy

My name is Olivia Doofy and I am the coach on Cassidy's cheer team. I witnessed the whole thing; I was a few feet away from Cassidy when the accident happened. She was the first one to jump in to the pool. The water was sort of dark by the side of the pool where she jumped in. Neither one of us noticed the steps. Cassidy did nothing wrong, she was just being an enthusiastic child because she was so excited that she jumped into the pool. There were no lifeguards on duty, which surprised me being that it was a public pool. This resort is quite expensive, and one expects at least one lifeguard on duty to monitor their guests. The lifeguard would have instructed her not to jump in that particular location. I was not familiar with the pool. Who would have guessed that there were large oval-shaped steps from side to side?

If there was sufficient lighting, maybe we all would have seen the pool in better lighting. Cassidy could not see the steps properly because the lighting was poor.

I thought it was the law to have safety signs by the pool areas, especially a public area. There were no visible safety rules posted anywhere, which supports our claim of negligence on the part of the Wonder Fun Time Resort.

As a result, without Cassidy, her cheer team ended up losing the competition.

Testimony of Lance Jackson

My name is Lance Jackson and I am the pool manager at Wonder Fun Time Resort. Our resort is a five-star resort, and we take pride in our five stars. I do a walk-through with the lifeguard once he is finished for the day and he accompanies me. Buddy's hours of duty as a lifeguard are from 9 a.m. to 6:30 p.m. There are no lifeguards after 6:30 p.m. As a matter of fact, as you were registering at the front desk, there was a laminated note framed on the desk stating the hours of the pool. I also mentioned this to the group as they were registering at the front desk on the night of July 20, 2014.

Regarding your accusation of pool lights, I would have to strongly disagree. The lights were all working; I would have noticed if there were any

lights that were out. On the night in question, we did our inspection as usual. I remember commenting to the lifeguard how well the area looked.

Regarding the pool safety sign, of course there was a pool safety sign listing the resort's pool safety rules. We clearly placed the sign where it is possible to be able to see it from all sides of the pool.

Testimony of Noland Nosy

My name is Noland Nosy, and I am the security officer for the Wonder Fun Time Resort. I was asked by Lance Jackson, the manager, to review the video footage of the pool area of the day in question, which was July 20, 2014. After locating the video, I proceeded to take note of the events regarding the pool incident. I would like to share my observation. I would like to comment that an extra copy is available for the court.

I see the resort manager walking into the pool area along with the lifeguard. They are pointing to the pool and they are inspecting the pool as they do every night. The lifeguard was at that point off duty and left for the day. However, I do want to point out to the court that there was a sign stating the lifeguard hours along with other pool rules posted. However, as the group was coming in, it is clearly in view of the camera that one of the cheerleaders throws her towel over the sign, using it as a towel stand and covering the pool safety sign.

All of the pool lights were on that night. The steps of the pool are clearly seen on film, but the girl jumps in the direction of the pool steps, instead of a few feet away from the steps. As I continued to view the footage, it's quite clear that the girl in question hit the third step going in as she made a cannonball splash into the pool. The adult by her side at this moment was instructing the rest of the girls not to run so she lost sight of the actual jump. The rest of the team approaches, with one adult pushing her way to get to the girl in the water who is already screaming. The rest of the team appears to be closely behind.

As Mrs. Doofy, the woman closest to the victim, tries to bend down to pull the girl out of the water, another woman runs and pushes her out of the way and suddenly jumps in to retrieve the girl. The

second woman is Mrs. Wonka, the mother of Cassidy. She is soaking wet in her jogging outfit, as she lays her daughter down gently and screams, "CALL 911."

Mrs. Doofy is seen dialing on her cell phone. Next, paramedics arrive and after inspecting the young girl's right foot, they place her on the gurney and take her out of the pool area followed by the rest of the team.

INSTRUCTIONS

The plaintiff, Mrs. Wonka, must prove by a preponderance of the evidence that the defendant, Wonder Fun Time Resort and management, was negligent and that the defendant's negligence caused Cassidy's injuries. Mrs. Wonka wants them to pay for all medical and transport expenses related to this injury and for pain and suffering.

SUB-ISSUES

1. The guests were informed of the resort rules and regulations, especially the pool guidelines, by the clerk as well as the hotel manager when they checked in.
2. Should the resort provide a lifeguard all night?
3. Should the plaintiff's daughter run into the pool area without following the rules of the pool?
4. Were the guests paying attention to the manager when he went over the rules and regulations of the hotel and when he explained that they had no lifeguard on duty after 6:30 p.m. and if they decided to swim that night, the adults would be responsible for the children?
5. Was the posted pool sign not enough to notify members that they swim at their own risk after 6:30 p.m.?
6. Should the resort be responsible for a guest throwing her towel and covering the pool regulations for the rest of the guests, so the guests do not see pool signs present?
7. Were the four adult supervisors enough to supervise 20 children?

8. Shouldn't the adults have grouped the girls into small groups and kept an eye on their own group, instead of haphazardly all walking at their own leisurely pace?
9. Was the lighting not bright enough to see the pool steps, yet could be clearly seen on the camera footage?

CONCEPTS

1. Negligence.
2. Liability.
3. Preponderance of evidence.
4. Parental responsibility.
5. Comparative negligence
6. Proximate cause.

LAW

1. **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.
2. **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%.
3. **Proximate cause** means that the plaintiff must establish that his injury is connected to the defendant's negligent actions.

The Case of the Spoiled Vacation: Tony and Lamore Lakeland v. Chick-in-a-Haystack Guesthouse

SCHOOL

Radcliffe
Nutley
Grade 4, First Place

TEACHER

Maryann Woods-Murphy

STUDENTS

Farida Abdelaziz, Siri Bhat, Chris Bibbo,
Christopher Jiminian, Natalie Kruse, James
Lambiase, Gianna Lembo, Brandon Lucia, Nick
Della Luna, Isabel Maldonado, Kayla Roberts,
Thomas Sobieski, Sabrina Sperry, Mischa Vaughn,
Natalie Vitiello

FACTS

On December 26, 2014, Tony and Lamore Lakeland took their seven-year-old twins, Sammy and Ella, on a three-day vacation to the Chick-in-a-Haystack Guesthouse, a country farm with an indoor petting zoo in a rural area of southern New Jersey. At the end of the visit, Sammy and Ella became very ill with salmonella and needed to get emergency medical help. Salmonella is an infection that can be caused by eating raw foods, especially eggs.

In August 2014, Hanna Henley, Lamore's mother, had visited with a group of friends from the Legend Dairy. At the end of the stay, Ms. Henley became ill with salmonella and she needed to go to the hospital for immediate medical attention. She called Chick-in-a-Haystack's owner, Ms. Tina Cookman, and complained about the illness that she said she got from Ms. Cookman's underdone eggs. Ms. Cookman denied that Chick-in-a-Haystack Guesthouse had anything to do with her illness, but she told Ms. Henley that she would give her an all-inclusive, three-day gift certificate for a family of four to stay at the guesthouse for the December holiday season. Ms. Henley accepted the gift certificate and gave it to her daughter Lamore and her husband Tony so that they could take their twins, Sammy and Ella, on a weekend holiday.

The family visited the guesthouse as planned, but at the end of the trip, Sammy and Ella became

ill with salmonella poisoning and needed to go to the emergency room on their way home. Tony and Lamore Lakeland are suing Chick-in-a-Haystack for the cost of the time lost from their jobs while they needed to take care of the twins as well as the medical expenses that the family incurred.

ISSUES

Is Chick-in-a-Haystack liable for the Lakeland's Family's medical expenses and loss of family income?

WITNESSES

For the Plaintiff

Tony Lakeland
Hannah Henley

For the Defense

Tina Cookman
Ron E. Corral

WITNESS STATEMENTS

Testimony of Tony Lakeland

My wife and I work very hard. We are almost finished designing our new farmhouse in southern New Jersey. That's why we were so excited when

Grandma Hannah Henley offered us a gift certificate for the four of us – my wife, Lamore and my twins, Sammy and Ella, to spend the weekend away at the Chick-in-a-Haystack Guesthouse. Boy, did we need a break! Granny even showed us a brochure of the red, western-style guesthouse surrounded by a wooden fence. I was excited that the place had its own barn, horses, a petting zoo and a large garden, surrounded by haystacks. Though I confess Chick-in-a-Haystack did look a little run-down, I thought it would be nice to spend some time in the country with my family. Once we decided to go, our twins, Sammy and Ella, were just counting the days. Those seven-year-olds are always a mess, but they even cleaned their room every day as part of the deal we made with them to go. They wanted to earn enough money to buy pet food from vending machines at the guesthouse petting zoo.

One thing that made me nervous about going, though, is when Granny told us the whole story of how she got that free weekend. Last summer in August, she went to Chick-in-a-Haystack Guesthouse with her friends from Legend Dairy and she had a nice time. Unfortunately, she came home sick as could be with salmonella food poisoning. She could barely walk she was so weak. Even though Granny got so sick, Tina Cookman, the owner and cook from over there at Chick-in-a-Haystack, totally convinced her that nothing she had eaten at the guesthouse could have caused any problem at all. Granny even figured it must have been the sushi she had eaten the night before she went away to the country so she accepted the gift certificate for a free weekend for four with a great big smile.

I admit that the time we spent at the guesthouse in December was enjoyable. We slept in extra in the mornings and the children spent every free minute in the petting zoo or on the guesthouse grounds on their bikes. Why on the last day, just before we had breakfast, they didn't even want to come in to eat when I called them for breakfast! On second thought, I should have let them keep playing, because that was the morning that Tina Cookman served us those runny eggs that I am sure made the twins sick as dogs. I should have just let them play with those little baby chicks more.

When we left, everything seemed fine, except Sammy and Ella started feeling funny on the way home. We had to go to rest stops every 15 minutes for them to use the bathroom because their little bellies hurt so much. They even had a fever and were sick for almost a week after we got home. By the time we got back home to northern New Jersey, Sammy and Ella were almost passing out. We went right to the hospital, where they ran some tests and sure enough, it was salmonella, just like Granny had. It cannot be just a coincidence that Granny and my children were sick with the same problem after eating at Chick-in-a-Haystack!

I think that Chick-in-a-Haystack is not running a clean operation and they need to pay for it. Lots of people are getting sick there. Tina Cookman claims Chick-in-a-Haystack Guesthouse had nothing to do with the sickness. I knew this place was bad from the start because Granny got salmonella, but she believed Tina Cookman when she told her that the illness had nothing to do with the guesthouse. I feel sure that my children got sick because Chick-in-a-Haystack Guesthouse's owner did not take care to cook with clean hands. The guesthouse's actions have caused my wife and me loss of income because we had to take care of our children and our jobs don't give us sick days. Chick-in-a-Haystack needs to pay for those days we lost and for our medical expenses.

Testimony of Hannah Henley

Last summer, I went on a long-awaited vacation with my friends to the Chick-in-a-Haystack Guesthouse, a 600-acre, family-owned farm in southern New Jersey. Customer reviews said that the guesthouse gives you the chance to live the farm experience, getting fresh air and eating healthy food. I was especially happy about taking my time to eat some delicious food because I was exhausted. My job at Legend Dairy involves transporting five-gallon jugs of whole creamy milk from one processing area to another. That's why I was so happy to have this break with my friends from work.

After a good night's sleep that first night, I went downstairs to get breakfast from the owner and cook, Ms. Tina Cookman. I asked her for five eggs, sunny-side up, the way I like them. I have a good

appetite. You know, the first three eggs looked properly cooked, but the two others didn't. So I told Ms. Cookman but she said: "Those eggs look perfectly fine to me." I ate the properly cooked eggs first and they tasted delicious, but when I came down to the last two, I thought about what Tina Cookman said to me and then I slowly took a bite. They were very cold and very mushy, and uncooked and runny, but I continued to eat because I was too hungry to stop, and they weren't so bad with a little bit of fresh bread.

After my long weekend, I left the guesthouse and went home, but the next morning I woke up and my stomach rumbled like I was being stabbed. I couldn't get out of bed no matter how hard I tried. I reached for the phone with the little strength I had to call the ambulance. The ambulance came within 10 minutes and they rolled me out in a stretcher. I went to the hospital and they told me I had salmonella poisoning. Right then and there, I thought about those eggs and I realized that they had made me sick.

I had to stay out of work for a whole week. As I was in bed, I was getting madder and madder about those eggs so I called Tina Cookman, the owner and cook of Chick-in-a-Haystack, to tell her just what I thought. I have to say that she was horrified and told me that she was so sorry that this happened to me. Even though she said that my being sick had nothing to do with the guesthouse food, she wanted me to feel good about the place so she offered me a gift certificate for four people to spend a lovely weekend in December at the Chick-in-a-Haystack Guesthouse. She said that by Christmas, the place would have a new petting zoo that the children would love. I was worried about sending the family to Chick-in-a-Haystack, but Tina Cookman just kept insisting that my salmonella had nothing to do with those mushy, uncooked eggs and she promised me that my guests would really love the weekend.

I thought more about how I got so sick, but I remembered that the night before I visited Chick-in-a-Haystack, I had gone out with my friends from the Legend Dairy milk company to have sushi. I figured I had gotten sick at the sushi restaurant and not at Chick-in-a-Haystack. I thought I had been wrong plus Tina Cookman was really great at convincing

me that everything was all right. Plus, I liked the idea of giving Tony and Lamore a nice surprise weekend for free with the kids.

But now, after my darling grandchildren, Sammy and Ella, got terribly sick, I realize that Chick-in-a-Haystack is a place where food is prepared irresponsibly and that this makes people very sick. The more I thought about that weekend last summer I was away, I remembered that Tina had come running in from the petting zoo corral, wiping her hands on her jeans. I don't even think she washed those hands before cooking breakfast. That's the kind of place they run at Chick-in-a-Haystack and that is why I want them to pay for how sick that cooking made my grandchildren and me. I feel just terrible!

Testimony of Tina Cookman

My name is Tina Cookman and I am the owner and cook at Chick-in-a-Haystack Guesthouse. I opened this business a few years ago because I noticed that many people want to get out of the city for a farm experience right in southern New Jersey and they need a place to stay. When I was a child, my parents had a ranch and guesthouse in Nevada so I wanted to share the experience of country living with my guests. You know, everyone who comes here is family to me! I am so proud of what we do and I take my responsibilities and hospitality very seriously. That's why, when Hannah Henley accused me of making her sick, I generously offered her a holiday weekend package for four at no cost at all during the holiday season in December. Even though I hadn't done anything wrong, I wanted her to feel great about Chick-in-a-Haystack so she would tell all of her friends. Little did I know that I would end up in court!

Our guesthouse has a petting zoo and many farm activities. You can do craft projects and touch the animals and even gather eggs for breakfast in the morning. Sammy and Ella Lakeland loved playing with the animals and collecting eggs straight from the henhouse. I had to always remind those children, though, to wash their hands with soap and warm water, but they would always just keep playing. Sometimes, after I insisted, they would quickly wash those dirty hands with a bit of cold water and no soap. I have a sign right over the corral door entrance to

the kitchen that clearly reminds everyone to wash their hands after playing with the farm animals and touching the eggs, but I guess Sammy and Ella just didn't listen. I am not their parents! Tony and Lamore slept in all weekend and they let the children roam free all over the farm. I cannot be responsible for reminding the children to wash up before eating. Their salmonella illness is not the responsibility of Chick-in-a-Haystack because there was nothing wrong with the eggs I served the family. The children probably didn't wash their hands as they were supposed to do and that is just not our fault.

Testimony of Ron E. Corral

I work at Chicken-in-a-Haystack to take care of the animals. When Sammy and Ella Lakeland arrived with their family in December, the first thing they did was to run right into our petting zoo on their own, without mom and dad. I figured that their parents were unpacking at first, but that is how it was all weekend. The children were on their own and had to be supervised by Tina Cookman and me. When the children ran into the corral that first day, they ran over to Pumpkin, one of our horses, to try to get on her back. I'd say that the twins were about seven years old, but they were out of control. They tried to climb the fence next to Pumpkin to hop on and they barely listened to me when I shouted to them to stop. I told them: "You can't take Pumpkin out right now because she needs to be properly brushed and fed," but the second I explained that to them, Sammy and Ella ran straight to the henhouse where they tried to pet the baby chicks and take out some of the eggs. The mama hen got so upset that she chased those children to the gate. With Sammy and Ella, it was one thing after another. The children were into everything in that corral!

I understand that children love animals and Tina Cookman reminded me that it is part of my job to help the children appreciate farm life so I did everything I could to teach them. I constantly reminded them to wash their hands after touching the animals or gathering eggs before eating. We even have a giant sign that reminds our guests to do that, but do you think those kids read the sign or paid any attention? No way! If you ask me,

Chick-in-a-Haystack Guesthouse has really gone out of its way for the Lakeland Family. We have done nothing wrong and I cannot even believe that they are trying to say that we caused the children's illness. I am sorry that they got sick, but that has nothing at all to do with us or Chick-in-a-Haystack.

INSTRUCTIONS

The plaintiffs, Tony and Lamore Lakeland, must prove by a preponderance of evidence that the defendant, Chick-in-a-Haystack Guesthouse, is negligent and responsible for Sammy and Ella's salmonella illness.

SUB-ISSUES

1. Should Chick-in-a-Haystack give all clients a class on the risks related to touching farm animals?
2. Were the Lakelands adequately supervising their children?
3. Is Chick-in-a-Haystack responsible when clients do not follow safety instructions posted?
4. Does the guesthouse have a legal responsibility to protect its visitors from the health problems that contact with animals may cause?
5. Does the fact that Chick-in-a-Haystack gave Hanna Henley a gift certificate after her stay and illness show that they caused her illness?

CONCEPTS

1. Negligence.
2. Contributory negligence.
3. Burden of proof.
4. Parental responsibility.

LAWS

1. Negligence is a legal cause of damage if it directly and in natural and continuous

sequence produces or contributes substantially to producing such damage, so it can reasonably be said that if not for the negligence, the loss, injury or damage would not have occurred.

2. Comparative negligence – If the plaintiff is also negligent, but her negligence is not greater than that of the defendant, the plaintiff may recover damages, but the amount will be reduced by the percentage of the plaintiff's negligence.
3. Damages for personal injury - If the defendant is found to be negligent, the plaintiff is to be compensated for all his/her damages (past, present, and prospective), both special and general. This includes fair and adequate compensation for medical expenses and lost earnings plus amounts for pain and suffering.
4. Premises liability - Owners and occupiers of property are legally responsible for accidents and injuries that occur on the premises.

The Tale of the Dangerous Dolphin: The Coral Family vs. Wonder under the Sea Aquarium

SCHOOL

Washington

Nutley

Grade 4, Second Place

TEACHER

Maryann Woods-Murphy

STUDENTS

Isabelle V. Anderson, Amaree Andujar, Rishi Bhandari, David Butisingh, David C. Christman, Elisabeth Christman, Veronica Cruz, Carli Del Guercio, Silia Dimasi, Sarah Gibney, Kate Hickey, Almira Lewis, Juliette Marron, Maria Mathew, Yuna Mehdizadeh, Sarah Nugiel, Kayla Rodriguez, Ridhi Rohatagi, Victoria Rutnik, Sofia Snoha

FACTS

Maya Coral brought her daughter Anna to the Wonder under the Sea Aquarium on April 23, 2014 during her school's spring break. Anna went to the aquarium to learn more about sea life and to take advantage of the aquarium's "Swim with a Dolphin" program. When Anna, her mother, and Mr. Sebastian Gills, the dolphin's trainer, went into the water with Dolphine the dolphin, the dolphin bit her in the leg, leaving puncture wounds. After the incident, first aid and medical care was offered at the aquarium and the aquarium owner, Ms. Shelby Oceano, invited Anna and her mother for some cake and ice cream in her office, which they appeared to enjoy. A follow-up medical evaluation happened at a clinic the following day to make sure that there was no infection. Medical reports indicate that the wound is healing well and that there is no infection. Anna and the Coral family are suing Wonder under the Sea Aquarium for all of Anna's medical costs as well as for the expenses needed to get her counseling to recover from the nightmares her mother says that Anna suffers from every day since her visit to Wonder under the Sea Aquarium.

ISSUE

Is Wonder under the Sea Aquarium liable for Anna Coral's medical and counseling expenses?

WITNESSES

For the Plaintiff

Maya Coral

Clare Lee Sina

For the Defense

Shelby C. Oceano

Sebastian Gills

WITNESS STATEMENTS

Testimony of Maya Coral

I am Anna's mother, Mrs. Maya Coral. I took Anna to the Wonder under the Sea Aquarium on April 23, during her school's spring break, because Anna has always loved marine life and she reads about all of the many varieties of undersea animals. I agreed to let her swim with the dolphin because I thought it would be safe, but this was far from the truth. As soon as we arrived at the aquarium, I began to have my doubts.

Shelby C. Oceano, the aquarium owner, greeted the children when they arrived, but she never spoke to them about safety instructions. When all of the children who wanted to swim with the dolphin lined up, Ms. Oceano just chatted with them about

school and their hobbies, but never about safety. Mr. Sebastian Gills was the dolphin's trainer and he seemed like a very nice man. Unfortunately, he only greeted the children by saying, "So, you want to swim with dolphin?" and he patted their heads, but he didn't tell them any special safety instructions at all. The atmosphere at the aquarium on that day was like a birthday party and no time was spent at all helping the children understand how to be safe in the water with the dolphin.

While the children were waiting to swim with the dolphin, the aquarium had them watch the animal perform a few tricks. I should have realized that something was very wrong when Dolphine the dolphin jumped out of the water and went for Anna's arm when she saw it over the water. Immediately, I saw that Mr. Gills threw a ball at that dolphin so she would swim away, but I could see that the dolphin was headed for Anna and that if Mr. Gills hadn't distracted her with the ball, we would have all seen that Dolphine was a dangerous dolphin.

Next, it was time for the children to jump into the water with the dolphin. Anna was the first one on line. Mr. Gills got into the water with Anna and me, but he didn't swim. All he said was "off you go" as Anna and I were supposed to swim all the way to the other side of the pool. Unfortunately, around the middle of the swim tank, Anna got nervous and grabbed onto Dolphine's tail. Then the giant and dangerous dolphin spun right around and bit Anna's leg! In the middle of all this, in a panic, Anna tried to swim over to me in the water, but she had trouble. It was a great big mess, right in the middle of the tank. Mr. Gills came right over to shoo Dolphine away by trying to blow his whistle, but Anna kicked it out of his hand. In the end, Anna was able to get herself out of the pool, but she was crying, with bite marks on her leg.

When I thought about all of this later on, I realized that Dolphine the dolphin was very large – too large to play with children. Another thing I remembered is that before Anna went into the pool, when the dolphins were doing a few tricks, Mr. Gills gave her a few commands and Dolphine responded to only one of them and she even jumped out of the water to try to bite Anna's hand

at the edge of the pool! This should have been a sign that this dolphin was not only a bad listener, but she was dangerous! I should never have let her swim with that dolphin! When Dolphine almost nipped Anna, Mr. Gills just laughed and said that Dolphine the dolphin had "a mind of her own." In my opinion, Wonder under the Sea really should have trained this dolphin better before being using it to swim with children.

I also want to share that the children had no special gear to swim in to protect their arms and legs. These children were swimming on their own, in thin swimsuits that would be so easy to bite through. Another thing I noticed is that the dolphin was very hungry. If the aquarium had given the dolphin food, Dolphine would have been full and she would not have bitten Anna's leg. I know that the animal was starving because my husband stayed behind and saw her gobble up a giant basket of fish when we were getting medical help for Anna's bite.

Finally, if there were any special instructions to give like "do not touch the dolphin's tail or fin," the aquarium should have posted these instructions on the wall, given out a packet of information and made sure that the families and children understood everything! That aquarium is not well run! When Anna was bitten, we had to wait for a full 10 minutes for a medical assistant to help out. When Anna and I went back into town, we had to go straight to the emergency room at the hospital to check for an infection and the bill was almost a thousand dollars since I do not have health insurance. The aquarium owner should pay the medical bill and Anna also deserves compensation for all of the pain and suffering she has gone through. The last thing I want to say is that, Anna, who used to love the sea and all the animals in it, is starting to wonder if she likes marine life after all. In fact, she has had nightmares about her dolphin swim every single night since the bite! I had to find her a counselor! This could affect her whole entire life!

Testimony of Clare Lee Sina

I was a customer at Wonder under the Sea Aquarium on April 23. My child Harvey was also on the line to swim with Dolphine the dolphin, right

after Anna. I had visited the Wonder under the Sea Aquarium because my children wanted to observe the sea horses, turtles, and fish, but while we were there, we also went to see the dolphin. When Harvey saw all the children lined up to swim, he decided that he wanted to swim with Dolphine. He never got that chance because before he had a turn, we saw the disaster in the water with poor Anna Coral. Anna was having a terrible time in the water getting bitten and trying to swim to her mother. As a mom, I watched her, horrified, as Dolphine the Dolphin bit Anna's leg. I was trying to get Mr. Gills' attention, but that marine keeper seemed very distracted. You know, dolphins are playful creatures, but any creatures can be dangerous. If you are going to let children do dangerous things, the adults need to really watch them well and teach them everything they need to be safe! That is not what happened at Wonder under the Sea Aquarium at all!

The next thing I want to tell the court is that when Anna got hurt, her mother called for the medical crew at Wonder under the Sea Aquarium, but they took such a long time to arrive that I think that Anna's parents could've taken her to the hospital themselves in the less time! Gosh, if I knew how, I would've helped Anna heal her leg. Another thing is that I really think Mr. Gills should have fed Dolphine before he let Anna get into that tank. Before the children got into the water for the swim, he was just chatting with all of the guests instead of making sure that the dolphin was well fed. Being a keeper means being responsible for the animal's safety, actions and care, but Mr. Gills certainly didn't do his job! Wonder under the Sea Aquarium is responsible for what happened to Anna.

Testimony of Shelby C. Oceano

I am Shelby C. Oceano, the owner of the Wonder under the Sea Aquarium. Many years ago, I decided that children should get the chance to touch sea creatures so that they would understand how wonderful they are and how we need to protect the marine world. That's why we decided to have a petting pool at Wonder under the Sea Aquarium and a dolphin-swimming exhibit. Children can approach creatures like turtles and dolphins to get right up close to them and touch them. We take good care of our

clients and have signs everywhere saying that animals need to be treated with respect and care. Our dolphin pool is one of our most important attractions in the aquarium.

On April 23, there were many children at the Wonder under the Sea Aquarium. There were school groups visiting and everyone was doing their best to keep them entertained. Every child learned about dolphin safety when Mr. Sebastian Gills pointed to a giant sign that was hanging right over the pool and he asked them to read it carefully with their parents telling the children to never grab the dolphin's tail while swimming.

After the children saw the dolphins performing a few tricks, they were lined up nicely to swim with the dolphins. We are very careful and orderly at Wonder under the Sea Aquarium.

When it was Anna's turn to jump into the water with her mother, Mrs. Maya Coral, the little girl got in the water just fine, but she started to get nervous halfway through her trip across the pool. Sometimes this happens. Unfortunately, Anna grabbed Dolphine's tail and the poor dolphin got startled and she nipped Anna's leg a tiny bit. As soon as we saw that Dolphine's mouth was on Anna's leg, we blew a whistle to distract her and got Anna out of the pool to immediately give her first aid for her very small puncture wounds. She also received a medical evaluation at the aquarium and she seemed to be just fine. In fact, she came back to my office for some ice cream and cake that we had leftover from a birthday party. I would say that in spite of everything, that little girl was having the time of her life that day, despite this little problem!

I'm sorry if Dolphine frightened her, but it would have never happened if Anna had just followed instructions. The fault of this incident is entirely with Anna Coral and her mother because she did not read the signs at Wonder under the Sea Aquarium, nor did she listen to what she was told. Her mother should have made sure she did! It was their responsibility and not Wonder under the Sea Aquarium's.

Testimony of Sebastian Gills

I love Dolphine the dolphin and my job at Wonder under the Sea Aquarium. Before we got into the pool to swim on April 23 Anna showed that

she didn't know how to follow instructions. Before we get the children into the water for a dolphin swim experience, I like to let them see how the dolphins can do a few tricks. I also make sure to point out the large sign over the dolphin pool with safety instructions telling the children not to grab the dolphin's tail. It says, "Don't touch dolphin's fin or tails. Only touch her back!" When the dolphins were doing tricks, I told the children not to put their hands over the water at all, but Anna didn't listen to me and she held her hand out to Dolphine, who almost bit it, thinking it was a treat. I distracted Dolphine with a ball so she wouldn't nip Anna, and that dolphin was good and calm before Anna got into the water for her swim.

When she got into the water for her dolphin swim, Anna seemed a little nervous and she told me that she was a slow swimmer. I understand that this can happen and I said "OK" very quietly and I did my best to calm her down. I didn't want to scare the dolphin with Anna's nervousness! When Anna and her mother started swimming, I made the dolphin swim as slow as she could. Unfortunately, this didn't help because Anna touched and grabbed Dolphine's tail even though the sign had told her not to!

That was when Dolphine started going wild and crazy because Anna kept gripping her flapping tail and anyone who is good with dolphins knows that a dolphin's tail is sensitive. I took my dolphin whistle out to calm Dolphine and I yelled across the pool saying, "Calm down, Dolphine!" as I swam over to where Anna and her mother were. But Anna kicked the whistle right out of my hand with her feet! To make matters worse, my whistle fell to the bottom of the pool, just out of my reach. By then, I had gotten Anna and her mother out of the water anyway and Dolphine just swam away.

You know, when I was little, my mom taught me to read every sign I saw. But I guess they don't tell kids that anymore. Kids used to listen and behave! Why didn't Anna pay attention to the warning on the sign? It was right over the pool in plain sight. Anna did not follow our instructions to keep herself safe while swimming in the pool with our dolphin. Her injury and problems are not Wonder under the Sea's fault.

INSTRUCTIONS

The plaintiffs, Clare Lee Sina and Maya Coral, must prove by a preponderance of evidence that the defendants, Wonder under the Sea Aquarium, are liable for Anna's accident with Dolphine the dolphin and that the defendants' negligence in instructing Anna about safety precautions contributed to Anna's injuries.

SUB-ISSUES

1. Should Wonder under the Sea Aquarium have spent more time in instructing the children about safety in the water with dolphins?
2. Should Wonder under the Sea Aquarium have asked more questions about how comfortable the children might be swimming with the dolphins?
3. Should a client at a program like Swim with the Dolphins be expected to understand the risks involved in the activity?
4. Did Anna cause the accident by not paying attention to the safety information on the signs posted at Wonder under the Sea Aquarium?
5. Is Wonder under the Sea Aquarium responsible for the emotions of their clients after an aquarium event?
6. Is Wonder under the Sea Aquarium responsible for making sure that their clients read safety information carefully?
7. What are the parental obligations in supervising Anna and keeping her safe in the water?
8. Should there be a limit on dolphin size for activities that involve children?
9. Should children have special protective gear to wear in a swim-with-a-dolphin activity?
10. Should sea animals be fed before having contact with humans?

CONCEPTS

1. Negligence
2. Burden of proof.
3. Personal injury.
4. Credibility of the witnesses.
5. Parental responsibility.

LAW

1. Negligence is a legal cause of damage if it directly and in natural and continuous sequence produces or contributes substantially to producing such damage, so it can reasonably be said that if not for the negligence, the loss, injury or damage would not have occurred.
2. Comparative negligence – If the plaintiff is also negligent, but her negligence is not greater than that of the defendant, the plaintiff may recover damages, but the amount will be reduced by the percentage of the plaintiff's negligence.
3. Damages for personal injury - If the defendant is found to be negligent, the plaintiff is to be compensated for all his/her damages (past, present, and prospective), both special and general. This includes fair and adequate compensation for medical expenses and lost earnings plus amounts for pain and suffering.
4. Premises liability - Owners and occupiers of property are legally responsible for accidents and injuries that occur on that property.

Baseball Mashup

SCHOOL

Demarest Elementary
Bloomfield
Grade 4, Honorable Mention

TEACHER

Karen Magliacano and Jessica Cappello

STUDENTS

Arpeet Barvalia, Isabella Garzon, Lucas Hususan,
Jonathan John, Alexander Malanaphy, Jaelyn
Oramas, Yemaya Osunniyi, Jake Paccione, Taylor
Sconiers

FACTS

It was a beautiful, April spring day when the Green Sox Little League team was playing against the Bears. The Green Sox were in the top of the 5th inning and their best player, Baiter Upp, was at the plate. Pat Cherr was throwing a 90 mph fastball and BAM! He hit a line drive into left field. At the exact same moment, a small five-year-old child, Yan Rout, walked straight onto the field! The young boy got hit right on his nose with the ball. The Rout family wants the manager, Mann Agger, to pay for the hospital bills for leaving the gates open when it was clearly against league policy.

ISSUE

Is Mann Agger responsible for Yan Rout's injuries and should he pay for all of Yan's medical expenses?

WITNESSES

For the Plaintiff

Michelle Rout

Mike Rout

For the Defense

Mann Agger

Ben Spall

WITNESS STATEMENTS

Testimony of Michelle Rout

My name is Michelle Rout and I am Yan's mother. My case is clear. It is the law that the field gates must be closed during a game. My child is very young. How could you assume that he would be able to read a NO TRESPASSING sign? I went with my husband to buy hotdogs and I thought Yan was following me, but he saw a game going on and wandered onto the field! Young children do stray from time to time. If the manager did his job, my child would have remained safe.

Testimony of Mike Rout

My name is Mike Rout, and I am Yan's father. I agree with my wife completely. This tragedy is not our fault in any way. Mann Agger said he was running a bit late for the game and that caused him to forget about locking the gate for a few minutes. This is no excuse! The manager should have closed the gate because CAUTION is more important than being a bit late! This accident is a perfect example. The damages to my son could have been much worse. Mr. Agger was clearly negligent in leaving the gate wide open and should be responsible for paying all of my son's hospital bills.

Testimony of Mann Agger

My name is Mann Agger and I run the Little League fields. I was in a rush entering the field because I was running late. When I was just parking my car, I saw the players coming in, so I dashed and must have forgotten to close the gate. I am truly sorry for what happened to little Yan

Rout. However, on the gate it clearly states: NO TRESPASSING. Five-year-olds, who are mostly in kindergarten, should know what caution signs look like. Besides, you should be looking back constantly to make sure your child is following you. In this case, I believe the parents had the responsibility to be aware of where their son was. I do not feel I was negligent and I do not feel the child's bills are my responsibility to pay.

Testimony of Ben Spall

My name is Ben Spall, the first baseman. I believe Mann is correct. The parents should have been making sure their child was following them. That line drive was so close to going into my glove but missed and went straight at that kid. Once I saw that happen, it really upset me. I went to the nearest emergency phone and called 911. Once the ambulance came, I immediately shut the gate so no one else could come in. Mr. Agger is a responsible man. Yan Rout should not have been alone on that open field unsupervised.

INSTRUCTIONS

The plaintiff must prove by a preponderance of evidence that the defendant, Mann Agger, the manager, was the cause of Yan Rout's injuries.

SUB-ISSUES

1. Was it the manager's fault for keeping the gate open or the parents' fault for not watching their child?
2. Was Yan old enough to understand the "NO TRESPASSING" sign?
3. Should the parents have looked back to make sure Yan was following them?

CONCEPTS

1. Parental responsibility.
2. Rules and regulations.
3. Causation.

LAW

Parental Responsibility: refers to a set of rights and privileges that children have with their parents and with those adults who have a significant role in the child's life as the basics of their relationship. Usually, parental responsibilities include "parenting time" and "decision making" responsibilities.

Personal Damages: the sum of money that can be claimed by a person from a wrongdoer for injuries or loss caused.

Causation: In order to find the defendant liable, you must prove that the defendant's negligence was a proximate cause of the injury.

Misplaced or Taken?

SCHOOL

Yeshivat Noam
Paramus
Grade 5, First Place

TEACHERS

Margi Saks

STUDENTS

Chava Becker, Maayan Berkowitz, Arianna Chesner, Temima Cohen, Ellie Cukor, Maia Elimeliah, Nava Forman, Hannah Friedman, Sarah Giller, Tobi Herman, Talia Katz, Maya Krause, Ora Lieberman, Tzipora Lifschitz, Chaviva Major, Jordana Marks, Nava Ort, Rachel Safran, Aviva Saks, Kayla-Rachel Singer, Leila Tilem

FACTS

Andrew Quitter and Sally Wright were artists and authors. They decided to start working on a contest to make comic books and send them to CD Comics. The winner of the contest would get their comic published. Andrew drew all the drawings while Sally wrote the accompanying story. After a while, Andrew's college grades were dropping and he told Sally that he needed to quit. He wanted to focus more on his school work. Sally was fine with that decision.

A few days later, Sally found Andrew's drawings in the garbage and decided to continue on the project alone. She entered the contest and a few months later found out she had won first place. A year later, on January 15, 2014, Andrew was reading his favorite magazine when he saw an advertisement for a new comic book being released. The pictures looked exactly like those he had drawn with Sally. Andrew was shocked. He spoke to Sally, who bragged to him that she had won the comic book contest. She told Andrew that she was going to make some big money off her comic book. Andrew said no way is it all her money since he drew the pictures. Andrew is suing Sally for half of the proceeds from the comic book.

ISSUE

Is Sally Wright liable to pay 50% of her earnings from the CD Comics since the drawings in the comic were drawn by Andrew Quitter even though he quit the contest?

WITNESSES

For the Plaintiff

Andrew Quitter
Mrs. Canvas

For the Defense

Sally Wright
Da Boss

WITNESS STATEMENTS

Testimony of Andrew Quitter

My name is Andrew Quitter. I am an art major in college. About a year ago, Sally and I were working on a comic book for a contest. I spent as much time as I could on creating my drawings. After a few months, I saw that my grades were dropping and that I needed to spend more time on my studies. I told Sally I would have to quit our project for the contest. Sally seemed to understand.

I never gave her permission to use my drawings. In fact, I have no idea how Sally even came to use those pictures. I must have misplaced them. Sally never told me that she was continuing on with the contest.

A few months later, I saw an ad advertising a new comic book with my drawings! I went to her house to discuss the comic book. I could not believe that the exact car that I had been saving up for was sitting in HER driveway. She bragged to me that she made lots of money off the comic book

that WE worked on together. How could she be so selfish and take all of the money for herself? I am suing Sally for half of the money that I deserve for my drawings.

Testimony of Mrs. Canvas

My name is Mrs. Canvas. I am Andrew Quitter's art teacher. He is my best student and has won several art contests in the past. I love his drawings. He puts his heart and soul into everything he draws.

Andrew told me he was working with Sally Wright on a comic book contest. I realized that he was having trouble concentrating on his studies and his grades were going downhill. Although I am not a fan of discouraging projects, I persuaded Andrew to quit working on the contest drawings to focus on his schoolwork.

Just because he needed to quit does not make it right for Sally to use his drawings. Andrew would have loved to continue on the project and was never asked for his drawings nor did he give permission for Sally to use his drawings. Drawings make a comic book.

I was furious when I heard what Sally had done. Sally was taking credit for all of Andrew's amazing drawings even if she did not intend to. Andrew deserves credit for his art as well as compensation for his work.

Testimony of Sally Wright

I'm Sally Wright, a young aspiring author. I love writing! Last year my friend, Andrew Quitter, and I were working on a project for a comic book contest for CD Comics. I was so excited about this opportunity. I wrote the entire story and jokes, the most important part of the comic. About a month before the contest, Andrew had to quit to work harder in college. I understood.

A few days later, I found his drawings in the garbage. Once you throw something away, you lose possession of them. I decided to continue on the contest alone. I worked so hard to put together the entire comic book. I should get the profit.

I called Andrew to tell him that I won the contest. Instead of him being happy for me, he became mad. I could not understand why he got so upset at me; he quit the contest. Now Andrew is suing me and we are no longer friends. If people can take food from the garbage without being sued, I can take drawings and not be sued.

Testimony of Da Boss

My name is Da Boss. I am in charge of the CD comic book contest. When I saw Sally Wright's comic, I knew it was a winner. Her story and jokes were beyond amazing. We picked her comic book for the story, not for the artwork. Sally worked very hard to put the comic together. I later found out that the drawings were drawn by a boy named Andrew Quitter. He threw the pictures away; so, why is it a problem for Sally to use them? Sally entered the contest and has every right to keep the money she won.

INSTRUCTIONS

The jury must decide by a preponderance of the evidence that Andrew Quitter abandoned the comic book project and has no rights to his artwork and the proceeds of the comic book.

SUB-ISSUES

1. If Andrew had told Sally that he didn't want her to use the pictures, would that have changed anything?
2. If Andrew did throw the drawings in the garbage, is that considered abandonment?
3. Was it right for Sally to use Andrew's drawings without getting permission?
4. Does it make a difference if Andrew Quitter quit not because he wanted to abandon the project but because his grades were dropping?
5. Did Andrew misplace his artwork or throw it away?
6. Should Sally have given credit to Andrew for his artwork?

7. Would the location of the garbage can where Sally found the artwork make any difference?
8. By Andrew saying he “misplaced” his drawings, does that mean he did not abandon them?
9. Do people buy comic books for the story or the pictures?
10. Does it make a difference that Da Boss chose the comic book for the writing and not the drawings?

CONCEPTS

1. Preponderance of the evidence.
2. Copyright.
3. Intellectual property.
4. Credibility of the witness.
5. Burden of proof.

LAW

Intellectual Property refers to creations of the mind.

Pre-AIA 35 US Code Section 102:

A person should be entitled to a patent unless:

(c) s/he abandons the invention.

In the case of drawings, the law can be analogized to copyrights.

Definition of abandon (according to Merriam Webster Dictionary):

To give up with the intent of never again claiming a right or interest in (abandon property).

The Case of the Catchy Ebola: Ben Ill v. Cure Blue Labs and Starr Suits

SCHOOL

Yavneh Academy
Paramus
Grade 5, Second Place

TEACHER

Cheryl Frankel

STUDENTS

Adir Abramowitz, Eytan Abramowitz, Shira Albert, Chloe Greene, Gabriel Greenfield, Jack Greenfield, Rachel Gutlove, Andy Rosenberg, Johanna Sokolow, Daron Welfeld

FACTS

Ben Ill, a medical student, volunteered to work at Cure Blue Labs, which was doing research on the Ebola virus. He showed up for work and was given protective gear to wear while working in the lab. Although he always wore the clothing he was given, one month after he started working at the lab, he became sick with the Ebola virus. He was hospitalized for a two-month period and continues to feel weak and suffer memory lapses. He has been unable to return to school.

Ben Ill is suing the lab where he worked and the company which manufactured the protective gear he was told to wear, claiming that they are responsible for his catching the Ebola virus.

ISSUE

Was Cure Blue Labs negligent in failing to properly train plaintiff in procedures for working with the Ebola virus and/or was Starr Suit negligent in the manufacture of the protective gear provided to plaintiff?

WITNESSES

For the Plaintiff

Ben Ill

I. Mupset

For the Defense

Simon Tist

Anita Protect

WITNESS STATEMENTS

Testimony of Ben Ill

My name is Ben Ill. On February 27, 2014, I was a medical student at Getwell University Medical School. It has long been my dream to help cure the sick, and particularly to go into medical research and work on discovering a cure for diseases that are killing people. I answered an ad posted at the medical school looking for volunteers to work at Cure Blue Labs. The ad said that Cure Blue Labs was researching a cure for Ebola. I was very excited as this was just the kind of work I wanted to do with my life.

When I showed up for work on the first day, I was handed protective gear. I was told that although the lab did perform tests on blood of patients who had Ebola, if I wore the protective gear, there was little risk that I would get the disease. I wasn't given any training in how to put on or take off the gear. I have since learned that this training is extremely important because you need to make sure that every bit of your skin is protected at all times and that when you take the suit off, it cannot touch anywhere on your skin. Also, the protective gear should have been easier to remove.

It should have been designed in a way that the gear could be opened to fall away from a worker's body without touching skin.

One morning, a month after I started working at the lab, I couldn't get out of bed. I had a severe headache, stomach ache and I hurt all over my body. I was running a fever. I called an ambulance, was rushed to the hospital and was diagnosed with Ebola. I remained in the hospital for two months. I was in terrible pain and couldn't get out of bed.

Today, almost one year after getting the disease, I still feel weak and tire easily. I am often forgetful. I have been unable to return to school and am not sure if I will ever be able to become a doctor. It is all the fault of Cure Blue Labs and Starr Suits.

Testimony of I. Mupset

My name is I. Mupset and I am an employee of Cure Blue Labs. I have worked at Cure Blue for the past two years.

I met Ben Ill when he volunteered to work at Cure Blue. When I first saw him, he was in the locker room and had just put on his protective gear. No one else was around, but I assumed someone had supervised him putting the gear on. I never put on my gear without the presence of a trained observer who carefully checks that all the gear is in perfect condition and is put on properly.

Ben and I became friendly and spent time together after work. He called me the day he got sick and I went to the hospital with him. I couldn't believe how sick he was. I was shocked when he was diagnosed with Ebola and was concerned that somehow the workers in the lab, including me, had all been exposed to the virus. It wasn't until Ben was discharged from the hospital that I learned that he had never been shown how to get in and out of the gear.

Ben was a volunteer, but all the full-time employees of the lab undergo training in this area before they can work with blood that contains the Ebola virus. We have a buddy system both when we get dressed and when we get undressed. The buddy has a checklist to make sure that every item is in perfect condition and that no skin or hair of the worker is exposed. It is especially important to

have a buddy when you take off the gear because no part of it can touch your skin.

I have visited Ben often since he has been released from the hospital. He looks very different than he did when I met him about a year ago. He has lost a lot of weight and all of his hair. He gets tired very easily and can't concentrate on anything for long.

Testimony of Simon Tist

My name is Simon Tist and I am the president of Cure Blue Labs. In February of 2014 Cure Blue Labs was chosen to work on a scientific study to help find a cure for Ebola. Because we needed more workers to help with this project, I advertised at Getwell University Medical School for volunteers. I interviewed several candidates who responded to the ad and informed all them of the risks involved in working on this project.

The plaintiff, Ben Ill, was so anxious to get involved in medical research, he barely listened when I spoke about the risks. I fully explained to him that because he would be exposed to blood samples containing the Ebola virus, it was critically important that he wear the gear properly and be especially careful in removing the gear. Ebola virus is only transmitted when an infected person's blood or other body fluid comes in direct contact with another person's mouth, eyes or opening in their skin. If the protective gear is used correctly, a lab worker cannot get Ebola.

Ben Ill was given a package containing a face shield, gown, pants, gloves and shoe coverings and instructions. Workers in our employee locker room regularly help each other put on and remove the protective gear. I am sorry that Ben got Ebola while volunteering in our lab, but he knew the risk when he applied for the job. If he had followed the proper procedures, he would not have gotten sick.

Testimony of Anita Protect

My name is Anita Protect and I am the founder of Starr Suits. My company has been manufacturing protective gear for use in labs for the past 10 years. Our gear meets all of the government and industry standards for this gear. Before our product leaves

our manufacturing plant, it is checked four separate times to make sure that there is no problem with the equipment. Our clothing is made from a special fabric which does not allow blood to seep through. Each set of clothing is packaged together with a set of written instructions regarding the wearing of our protective gear. A partner is required both when putting on and taking off the suit.

Our packages also include a warning that all people who might be exposed to contagious germs must be properly trained in how to put on the protective gear and how to remove it. The package states: "WARNING: YOU ARE RESPONSIBLE FOR IMPLEMENTING SUFFICIENT PROCEDURES TO PROVIDE FOR THE SAFETY OF YOUR WORKERS." If the plaintiff got Ebola while using our protective gear, it was not because the gear was faulty in any way. He may have been exposed to the virus while removing the gear if he failed to follow the proper procedures.

My lab is working on a new design for our gear to make it easier to remove with less chance of being exposed to the virus. However, the suit as presently manufactured is in complete accord with all standards.

INSTRUCTIONS

The plaintiff must prove, by a preponderance of the evidence, that the defendants were negligent because they didn't follow proper procedures for a lab working with the Ebola virus and/or because the protective gear supplied was defective.

SUB-ISSUES

1. Was it the duty of the lab to help Ben put on and take off his protective gear?
2. Was Starr Suits required to provide a suit that could be removed without touching a worker's skin?
3. Do volunteers working in a lab where they know they will be exposed to live viruses accept a certain amount of risk?

CONCEPTS

1. Negligence.
2. Comparative negligence.
3. Burden of proof: preponderance of evidence.
4. Credibility of witnesses.

LAW

1. Negligence is the failure to exercise the degree of care which a reasonably prudent person would exercise under similar circumstances, resulting in injury to another.
2. A plaintiff may recover even if their own negligence contributed to the damages, provided their negligence was not greater than the negligence of the defendants (not greater than 50%).

Bad Doggy!

SCHOOL

Demarest Elementary
Bloomfield
Grade 5, Honorable Mention

TEACHER

Karen Magliacano and Jessica Cappello

STUDENTS

Arpeet Barvalia, Makenna Fabrazzo, Sheridan Harney, Camila Hurtado, Jenessia Negron, Raiden Pipkins, Ava Sayers, Franchesca Vargas

FACTS

It was a bright, sunny June day. A girl named Chat T. Person brought her dog Chase to the Brookdale Dog Park with her friend Bea Side. On the same day, a boy named Dez Stracted took his dog Bolt, an obnoxious, anxious, unstable dog who doesn't do well with strangers, to the dog park. Dez started skateboarding on the equipment while Bolt wandered freely. At the same time, Chat was chatting with Bea. To stop her dog from annoying her, she threw a red ball for Chase to fetch. Bolt noticed the ball and charged towards it. Suddenly, both dogs collided and Bolt, the unstable dog, started fighting Chase. As a result, both ended up with injuries at Bark Boo's Veterinarian Clinic.

ISSUE

Is Dez responsible for the injuries inflicted upon Chat's dog Chase due to negligence and bringing an unstable dog to the park?

WITNESSES

For the Plaintiff

Chat T. Person

Bea Side

For the Defense

Dez Stracted

Bye Stander

WITNESS STATEMENTS

Testimony of Chat T. Person

I went to the Brookdale Dog Park with my friend Bea Side and my dog Chase. I was chatting with Bea, and Chase kept on barking at me, so I threw his red ball for him to fetch. I knew that would stop the barking. The next thing I knew, some rowdy dog was fighting Chase, while his owner was skateboarding on the equipment! It is clearly stated on the rules and regulations of the dog park that no individual is allowed on the equipment except for the dogs. In addition, they clearly state that unstable, anxious dogs are not allowed in the park as they can cause problems for the other animals. The damages to my dog are clearly the fault of Dez Stracted, and I am asking him to pay the bills for Chase's injuries.

Testimony of Bea Side

I went to the Brookdale Dog Park with my friend Chat T. Person and her dog Chase. I was talking with Chat, while her dog was barking at us. To stop him from barking, Chat threw Chase's red ball for him to fetch. The next thing Chat and I knew, Chase was being attacked by an unstable dog! We looked for the dog's owner, but he was skateboarding on the equipment! The rules clearly stated that no one except for the dogs are allowed on the equipment. On top of that, Dez brought a dog to the park that was clearly violent. Therefore, I believe Dez Stracted should pay for Chase's injuries.

Testimony of Dez Stracted

It was a beautiful summer's day when I decided to take a walk to the Brookdale Dog Park with my dog Bolt. When Bolt is around other people, he is usually a stable dog, so I thought he would be able to handle Brookdale Dog Park, which I knew would be filled with people and other dogs. However, after awhile I noticed my dog was making angry faces, so I skateboarded over the equipment to get to him faster. I found him, but before I could get around the equipment, he was already charging at another dog. He nipped at the dog a few times and then the dog started fighting back. None of this nonsense would have happened if the owner, Chat T. Person, had not thrown the ball. In the rules and regulations of the park it stated that you were not allowed to throw toys because it excites other dogs, which is exactly what happened to Bolt. It also stated that you have to watch your dog, which she was not doing. In conclusion, Chat T. Person should pay for Bolt's medical bills.

Testimony of Bye Stander

I was walking through Brookdale Park, getting in my daily exercise with my dog. We decided to stop at the dog park for him to have some fun. I walked in and spotted some kid trying to get his dog, but with all of the equipment in the way, he wasn't able to get to him quickly enough. The only choice he had was to skateboard over the equipment. It may have looked like he was skateboarding on the equipment for fun, but from my perspective, he wasn't. His dog was chasing after a ball that was thrown. Before I went into the park, I read the rules, and one was that you could not throw toys, which is exactly what the girl did. The dogs got into a big fight, but it was all Chat's fault. It is clear to me that Chat should pay for Bolt's injuries.

INSTRUCTIONS

1. The plaintiff must prove by a preponderance of the evidence that the defendant was negligent by bringing his unstable dog to the park and releasing the leash while skateboarding.
2. The jury must also decide if Chat was exhibiting reckless behavior by tossing the ball inside park grounds.

SUB-ISSUES

1. Should Chat have thrown the ball?
2. Should Dez have brought Bolt to the park, knowing his temperament?
3. Should Dez have been skating on the equipment?
4. Should Chat have been talking and not paying attention to her dog?

CONCEPTS

1. Causation.
2. Damages.
3. Contributory negligence.

LAW

Causation - In order to find the defendant liable, you must make sure that the defendant's negligence was a proximate cause of the injury.

Damages - compensation recovered in the courts by a person who has suffered loss, detriment, and/or injury to his person, property, or rights through the unlawful act of negligence of another.

Contributory Negligence - a doctrine of common law that if a person was injured in part due to his/her contribution to the accident, the injured party would not be entitled to collect any damages (money) from another party who supposedly caused the accident. Under this rule, a badly injured person who was only slightly negligent could not win in court against a very negligent defendant.

The Disease in Disguise: Correl v. Board of Education

SCHOOL

Woodglen Middle
Califon
Grade 6, First Place

TEACHER

James Peralta

STUDENTS

Megan Di Giovanni, Olivia Hankinson, Thomas Menzie, Will O'Brien, Kurtis Pfungst, Abigail Shivers, Stefan Stojanoski, Lily Worster

FACTS

Beginning August 23, 2014, 16-year-old April Correl and her family spent two weeks in Buleria, Africa, helping April's grandparents unpack in their newly renovated house. Her grandparents were perfectly healthy and the country only had a few Ebola cases. They got back from their vacation and started school and work the next day. All family members felt fine and ready to start a new school year and get back to their jobs.

On September 23, 2014, April Correl was in her math class. She started to cough badly, and even after a drink of water, it did not help. The teacher told her to go to the nurse to go check her throat. The nurse asked April while she was checking her how her throat was and inquired how her summer vacation was. April told the nurse that she went to Buleria, Africa, and it was a beautiful place.

The nurse told the principal there is a possible chance of her having Ebola, so she advised to send her for blood tests at a nearby hospital. The school requested that she get a second blood test with negative results before returning to school.

However, even after the blood test came back negative, the school nurse convinced the principal to tell the parents that April needed to stay home for two weeks until she got another blood test in case the Ebola is not fully incubated. The principal and superintendent agreed to keep April out of school temporarily. The Board of Education agreed for the safety of the students. The parents are currently

suing the school for not allowing their child to attend school and get the education she is entitled to.

ISSUE

Did Burkle International High School violate April Correl's right to an education by denying her return to school?

WITNESSES

For the Plaintiff

Glen Correl

April Correl

For the Defense

Amber Holke

John Doris

WITNESS STATEMENTS

Testimony of Glen Correl

My name is Glen Correl and I am here to defend my daughter, April Correl. When we went to see my in-laws to help them move into their new home, April was so excited! She had never been to Africa before. It is a beautiful country and it was a wonderful educational experience for April.

The first week back at Burkle International School was a big disappointment. April had a slight

cold and fever and was sent home by the school nurse. The school nurse suggested she get blood tests to check for other illnesses including Ebola just as precautions. Her mom and I agreed just to be safe. All tests came back negative. We believe it was safe to send her back to school.

The superintendent called and said April was not allowed to return to school for four weeks until a second blood test proved it was negative. The school offered to provide home instruction for her in the meantime. I feel this is unfair and denies my daughter her right to an education. A two-hour day with a tutor doesn't make up for a whole day of school and afterschool activities. I decided to sue the school for denying her right to an education.

Testimony of April Correl

My name is April Correl. I am a 16-year-old girl at Burkle International High School. This summer I visited my grandparents in Buleria, Africa. It is a beautiful place. There were many waterfalls and roads. By the way, my grandparents were as healthy as tigers.

I came back to school on September 1, 2014 and I was fine. Not one cough or snuffle. In a week I felt like I woke up on the wrong side of the bed. I was coughing, sneezing, and had a 100.1 fever. I didn't feel that well, but I felt well enough to go to school. I coughed several times during class and was excused to the nurse's office. The nurse called my parents and I was sent home. I received only a limited amount of instruction by a tutor via Skype. It certainly was not the same as being in class.

Testimony of Amber Holke

My name is Amber Holke, the nurse at Burkle International High School. April came into my office and she looked bad. She then explained that she had been coughing and I took her temperature which was 100.1. This is above normal. She told me where she went over the summer and I was shocked. I couldn't believe what I was hearing; she told me that she visited her grandparents in Buleria, Africa. Just to keep our school safe, I decided that it would be best to send her home, which I think

was the appropriate thing to do. When her mother arrived to pick her up, I suggested that she be sent to the emergency room to be examined and tested as soon as possible.

I notified the principal and the superintendent that April should receive blood tests for Ebola and other diseases common to foreign countries. April's parents were notified and told that this was a requirement prior to her return to school.

Then the next day, I received a phone call from the parents of April asking why it was necessary to excuse her from school for four weeks. I explained it was a precaution to protect April and the other students. April could have been exposed to Ebola or another dangerous disease. Her parents insisted it was just a cold and the test results the following week came back negative. I told them the Ebola might just be in an incubation phase. Her parents got angry and hung up.

Testimony of John Doris

I am John Doris and I am the superintendent of Burkle International High School. On September 23, I was notified by the nurse that we had an ill student who had just returned from Buleria, Africa. The nurse advised us because of her symptoms to send her to get a blood test at the general hospital. We offered to pay all expenses. The tests came back negative, but as a precaution, we asked April's parents to keep her home until a second round of tests could be done in three weeks after the incubation period had expired.

We agreed to provide a free tutor via Skype so she wouldn't miss a lesson. The school would also provide her with a laptop with all the programs installed. The district would allow her to return in three weeks if she received another negative blood test. I thought that this was fair.

INSTRUCTIONS

The jury must decide if the school acted negligently by not allowing April Correl the education she deserves. Also, did the school make a rash decision by keeping her out of school?

SUB-ISSUES

1. Was the school justified in requiring a three-week period before April could return to school?
2. Were the precautions of two blood tests that the nurse advised necessary?
3. Was the school acting on behalf of all the students' safety?
4. Should schools act differently toward people returning from a trip to Africa than they do to people returning from other places?

CONCEPTS

1. Right to an education.
2. Reasonable protection of students in a school environment.
3. Unreasonable search.

LAW

Public schools shall be free to any person domiciled within a school district over five and under 20 years of age. A student shall not be required to submit to a physical examination. A student may be removed from school if he or she shows evidence of departure from normal health or has been exposed to a communicable disease, or whose presence in school has been certified as being detrimental to the health or cleanliness of other pupils. The student's parent or guardian must be notified of the reason for the exclusion.

Is Snow White Always White? Brown v. Board of Education

SCHOOL

Woodglen Middle
Califon
Grade 6, Second Place

TEACHER

James Peralta

STUDENTS

ToniAnn Brezina, Silvana Cantelmi, Ryan Donofrio,
Stephanie Herrera-Monteiro, Ian Love, Anna
Squindo, Owen Tabor, Josie Whitmore

FACTS

On November 4, 2004, at the Outer-Blast High School in Grey Fields, Ohio, there were auditions for the school musical, *Snow White. An African American*, Alex Brown, age 17, tried out for Snow White along with Moxie White, age 16; both are high school students.

Mr. Zac José, the director of the school musical, watched all of the auditions with Mr. Enrique James, the assistant director. Ella Camamen, age 14, a high school freshman, was asked to do the recording for the school musical and to record the auditions for possible review later. After all the auditions were finished, Mr. José and Mr. James discussed the tryouts on the stage. After, all the parts were assigned, except for two, Snow White and the Evil Queen.

While discussing the parts, Ella accidentally left the camera running. When Ella re-watched the auditions, she heard Mr. José telling Mr. James about how Alex didn't look right for the part. Mr. James insisted that he felt Alex was the more talented actress. At Mr. José's insistence, they chose Moxie for the part of Snow White and decided to give Alex the part of the Evil Queen.

When the parts were assigned the next day, Alex was a bit disappointed not to get the lead during her senior year. She had been performing secondary parts for three years in the school plays.

When Ella showed the recording of the discussion of the two directors to Alex, Alex became furious. Alex confronted Mr. José but he

denied that the decision was based on race. Alex filed suit against Mr. José and the school district for racial discrimination, and denial of an educational experience.

ISSUE

Was Alex Brown denied the part in the play due to racial discrimination?

WITNESSES

For the Plaintiff

Alex Brown

Ella Camamen

For the Defense

Enrique James

Zac José

WITNESS STATEMENTS

Testimony of Alex Brown

My name is Alex Brown and I am 17 years old. I am African American and I have lived in Grey Fields, Ohio, all my life. I am in my third year, a junior, at Outer-Blast High School. I have been in plays since I was nine years old. I belong to a highly regarded community theatre and have had many secondary parts. I have never been given the lead in the school play and expected to get it this year.

Last November, precisely November 4, 2004, I tried out for Snow White, but I did not get the lead. I was, of course, mad, but at the same time, I thought Moxie was probably better for the part since they picked her. But when Ella Camamen showed me the recording that she had, I was infuriated.

I confronted Mr. Zac José about the recording, but he said he was talking about the performance, not my race. I asked what he meant. He said I didn't have the right "look." He told me I didn't act like royalty and that is what the part calls for. I have played many parts including royalty in other plays.

Testimony of Ella Camamen

My name is Ella Camamen. I am 16 years old and I live in Grey Fields, Ohio. I have lived here my whole life. I am a freshman at Outer-Blast High School.

I was picked to record all the auditions. I personally loved all the performances. Two of my fellow classmates stood out to me, Alex Brown and Moxie White. I understand why Mr. Zac José chose Moxie. When I had to go call my mom, I left the auditorium for a minute. I guess I accidentally left the recorder on when Mr. José and Mr. James went to the stage to assign the parts.

When I came back, I started to listen to all the auditions, and I came upon a recording of the director and assistant director discussing role assignments.

That made me very mad. I am happy for Moxie, but I ran to tell Alex and show her the footage. Alex was really mad but it is the director's decision and she was not picked. Mr. José and Mr. James were discussing the choices, Moxie or Alex, for the part of Snow White. Even though they said Alex was the better singer, dancer and actress, Mr. José said that Alex was not right for the part.

Testimony of Enriqu  James

My name is Enriqu  James, and I am a drama teacher at Outer-Blast and assistant director of the school play. I have always been close friends with Zac. I believe he is a fine person and a talented director. This year, we wanted to bring the magic of theatre to the stage by doing the musical *Snow White*. Many people tried out for the part of Snow

White, but two people stood out among the others, Moxie White and Alex Brown.

One was better than the other in my opinion. The other one got the part because Zac thought that Alex didn't have the right look for Snow White. I thought he meant she didn't move and act like a princess. He is not prejudiced because he has chosen other African Americans for other parts. Alex was furious that she didn't get the part, but she couldn't do anything about it because it is the director's choice. I voted for Alex but it was a tossup because Moxie is talented, too.

Testimony of Zac Jos 

My name is Zac Jos  and I am 26 years old. I have worked at Outer-Blast High School for four years as the Junior Spanish Teacher. I have lived in Grey Fields, Ohio, my whole life, and I graduated from Outer-Blast in 1994. I have studied drama and directed drama for three years in college. I was holding auditions for the school musical *Snow White*. This was the second musical after my last year's production of *Peter Pan*. That play was a great success and brought the school a profit and great reviews. This year I decided to bring *Snow White* to the stage.

When I held the audition, many tried out for the lead, Snow White. I also asked Ella Camamen to do the voice recording for the auditions, so we could play them back and decide on the roles.

After the auditions, two girls stood out as exceptionally talented – Moxie White and Alex Brown. Enriqu  James, my assistant director, and I went up to the stage to discuss the roles. We got every role picked except for two parts, Snow White and the Evil Queen. It was a difficult decision but I chose Moxie for the part of Snow White. I think Alex has a great voice but Moxie moved about the stage with a bit more grace.

INSTRUCTIONS

The plaintiff must convince the jury by a preponderance of the evidence that Alex Brown was denied the lead because of Zac Jos 's bias and racism. Alex Brown is suing Zac Jos  for denying her an educational opportunity due to her race.

SUB-ISSUES

1. Was keeping Alex out of the play denying her a right to an educational experience?
2. Was Alex best for the part?
3. Did the teachers choose the parts fairly?
4. Did the discussion show bias on the part of Zac José?

CONCEPTS

1. Violation of the right to education because of race.
2. Racial discrimination.

LAW

States prohibit discrimination on account of race, creed, color, national origin, ancestry, age, marital status, military service, sex, sexual orientation, handicap, and atypical hereditary cellular, or blood trait.

Height over Heart: Micro v. Colossal

SCHOOL

Lake Riviera Middle
Brick
Grade 6, Honorable Mention

TEACHER

Jerilyn McCabe

STUDENTS

Robbie Blair, Madyson Brown, Logan Bukowski,
Joseph Cambria, Ryan Duffy, Emily Ford, Simona
Imbrasas, James Kerwin, Max Kovalsky, Lilly
Pardey, Marisa Pino, Tori Rajoppe, Jessica Rizzolo,
Nicholas Scheri, Lauren Solan

FACTS

Thirteen-year-old Max Micro attends Talltown Middle School and he recently tried out for the basketball team. There is one noticeable difference between Max and the other boys; that difference is *height*. Max is only 4 feet, 5 inches tall. Due to his small stature, he has a history of being teased. However, Max has learned to deal with name calling by pretending not to hear it. During tryouts, Max tried to impress the coaches by playing with heart to make up for the height he lacks.

When Max was cut from the team, he felt that he was not treated fairly. Max claims that his coach is a heightist.* He has filed a lawsuit against the coach for discrimination.

ISSUE

The plaintiff must prove that the coach's decision to cut Max was based on discrimination. If the coach is found liable, Max will automatically be placed on the team. Will this case be a slam-dunk for Max or the coach?

*Heightist—a derivative of *heightism* – noun - discrimination or prejudice based on a person's stature, especially discrimination against short people.

WITNESSES

For the Plaintiff

Max Micro
Ron Rolemodel

For the Defense

Coach Colossal
Assistant Coach Saysalot

WITNESS STATEMENTS

Testimony of Max Micro

My name is Max Micro. I moved to Talltown a few months ago, so I don't have many friends. I really wanted to fit in at school, so I tried out for the basketball team. I have been playing since I could walk and when I lived in Shortyville, I played on a couple of teams. One of my coaches told me that for a short kid, I can drive to the basket as well as anyone. At my previous school, I was named MVP because I play with my heart every time I'm on the court.

At Talltown Middle School, all of that changed. The coaches didn't give me a chance to prove myself at tryouts. They made it clear that I'm not big enough to play on their team.

A few days before tryouts, Coach Colossal came into my gym class to recruit players for the team. I overheard him tell Howie Hightower, who is 5'11", that he'd guarantee him a spot on the team if he

showed up at tryouts. Howie told the coach that he didn't know much about basketball. Coach Colossal told him not to worry; he'd teach him everything he needed to know.

Apparently, Coach C believes that when it comes to basketball, height is essential. That's why he cut me and kept the taller guys who can't even play! He barely watched me during tryouts. He was more focused on the big guys. I was judged by my size, not my skill. It's so unfair!

Testimony of Ron Rolemodel

My name is Ron Rolemodel. I really don't know Max very well, but I've seen him around school and at basketball tryouts. Being that I am 5' 10", I was fortunate enough to make the team, but I disagree with some of my coaches' actions. For one thing, I disagree that you have to be tall to be good at basketball. Max may be short, but he has greater speed and agility than some of the tall guys who made the team. I don't understand why the coaches didn't see that. All they saw was a short kid. It's obvious that Coach C favors height because most of my teammates are 5'9" or taller.

Another thing that bothers me is how the coaches never reprimanded the guys for making fun of Max during tryouts. In fact, sometimes the coaches made some inappropriate comments to Max and other players if they messed up a play or missed a layup. At school we are constantly reminded to be kind to one another, but at tryouts and practice, bullying and harassment are tolerated. Max, in particular, took a lot of heat from everyone about his size, but he never let anyone know it bothered him because that would just make them do it more.

On the first day of tryouts, I overheard Coach Colossal and Coach Saysalot talking about Max. One of them said, "I hope Shorty quits so we don't have to cut him." You know, coaches are supposed to be good role models (like me), but good role models aren't rude and they don't discriminate!

Testimony of Coach Colossal

I am Coach Colossal. I have been the head coach of the Talltown Giants for 10 years. Under

my leadership, the Giants have had more victories than any other school in our conference. That proves that I know how to pick a winning team.

Based upon my experience, height is a key physical attribute for a good basketball player. Basketball players should be tall. It's common sense; the taller you are, the closer you are to the hoop vertically, and the harder it is for shorter players to reach you or grab rebounds over you.

The other quality I look for in a player is mental toughness. The boys on my team must know how to deal with constructive criticism; it's part of the game. That's why I come down hard on them when they don't perform well.

At tryouts, I select players I believe have what it takes to score baskets and pull down rebounds. When parents and players start to interfere with that process, it causes problems. Students shouldn't tell a teacher how to teach, so why should players tell a coach how to pick his team? In my opinion, Max didn't measure up to my expectations (no pun intended) and that is why he didn't make the team.

Testimony of Coach Saysalot

I am Coach Saysalot, assistant to Coach C. I have a lot to say about the topic of height. Coach C and I have similar thoughts about selecting taller players to build a more successful team. I would like to offer some reasons why we prefer tall players.

Typically, basketball players tend to be tall, thin athletes, not short and scrawny. Height helps players reach the basketball hoop, which is 10 feet in the air. Being tall also gives players an advantage defending the ball against opponents. Other benefits of height include extended arm reach and bigger hand span. Taller boys have longer arms, which enables them to shoot better and pull down rebounds easier. Taller people have bigger hands. That's a plus when it comes to ball handling. Larger hand span gives a player the ability to control the ball better. As you can see, height really is important to the game of basketball.

Unfortunately, Max does not possess any of the qualities we value. I'm not saying he has no skills. We simply believe that skills can be taught but

height can't. Coach C is not a heightist, nor did he discriminate against Max by not putting him on the team.

INSTRUCTIONS

In order to secure a position on the Talltown Middle School basketball team, the plaintiff, Max Micro, must prove by a preponderance of the evidence that he was the victim of discrimination based on his size because the defendant, Coach Colossal, cut him during tryouts.

SUB-ISSUES

1. Does the size of a person determine how he will perform as an athlete?
2. Is it fair for a coach to place so much emphasis on an athlete's physical traits?
3. Does the fact that Coach Colossal referred to Max as "Shorty" indicate that he is a heightist?
4. During tryouts, did the coach give Max the same opportunity as he gave the other boys?
5. Did the coach have his mind already made up to eliminate any player less than 5'9" inches tall?
6. Do middle school coaches have to abide by a code of ethics, which would make it their duty to prevent harassment and discrimination among coaching staff and athletes?

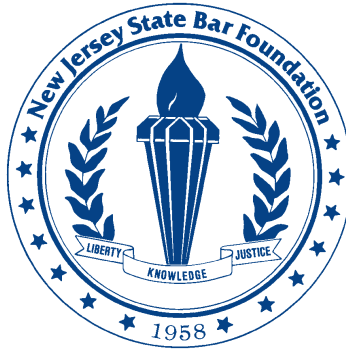
CONCEPTS

1. Burden of proof (preponderance of the evidence).
2. Credibility of the witnesses.
3. Discrimination.
4. Coaches Code of Ethics.

LAW

Discrimination is defined as treating someone as inferior based on their race, gender, national origin, age or other characteristics.

In order for someone to show that they have been discriminated against, they must compare how they were treated to the way a person without their protected characteristic was treated. In reference to this case, Max, who is short, must compare how he was treated by the coach to the way other players, who are not short, were treated.



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