



MOCK TRIAL EXERCISES



FOR GRADES 3-6

Featuring winning cases from the New Jersey State Bar Foundation's
Law Fair 2018 Competition

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 2018 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 materials are produced for educational purposes only. All characters, names, events and circumstances are fictitious. No resemblance or reference to real individuals, events or circumstances is intended or should be inferred.

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 njsbf.org.

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THE CASE OF THE COUNTERFEIT MONEY: STATE v. FETT



SCHOOL

Edison Intermediate
Westfield
Grade 3
First Place

TEACHER

Esther VanRiper

STUDENTS

Anya Ausiello
Douglas Gee
Zoe Hohlfeld
Flynn Martin
Reece Sharma
William Song

FACTS

On September 13, 2030, Counteer Fett went into the Westfield, NJ Bank of America to deposit \$250 in two \$100 bills and one \$50 bill. The bank teller, Bob A. Nacker, noticed that the two \$100 bills didn't have security features and determined that they were counterfeit. Mr. Nacker called the police.

The police were given consent to search the home by Ingrid T. Wasintmee, as she answered the door when they arrived.

Mr. Fett had sold his bike previously to Ms. Wasintmee, as she needed a form of transportation to find a job. She paid Mr. Fett \$200 for the bike. She is currently without a job. She was an art major. Mr. Fett has a computer science degree and has a job. He allows Ms. Wasintmee to use his computer and printer whenever she needs to, as he understands his friend does not have the money to buy her own. After investigating, the police found a high-quality printer, a computer, a receipt for five 12-ounce packets of high-quality green ink, and three leftover packets of 12-ounce high-quality green ink.

One packet of 12-ounce ink can be used to print a double-sided slip of paper the size of a U.S. bill.

ISSUES

Did Counteer Fett knowingly pass counterfeit bills?

WITNESSES

For the Prosecution

Max Noziey
Bob A. Nacker

For the Defense

Counteer Fett

Ingrid T. Wasintmee

WITNESS STATEMENTS

Testimony of Max Noziey

I was at the police station on September 13, 2030 when my boss told me that there were two counterfeit \$100 bills being deposited at the Bank of America by Counteer Fett and told me to go to the bank. When I got there, the bank teller, Bob A. Nacker, told me that Mr. Fett had tried to deposit \$250 but \$200 were counterfeited.

I asked Mr. Nacker for the counterfeit money. I then went to Mr. Fett's house with some other officers.

When we got there, Ingrid T. Wasintmee answered the door. We assumed she was Mr. Fett's sister so we went in when she let us. In the basement, we found a high-quality printer, a computer, a receipt for five 12-ounce packets of high-quality green ink and three 12-ounce packets of high-quality green ink. We knew that one 12-ounce packet of ink can cover a slip of paper as big as a bill on both sides.

When Mr. Fett got home, he asked us what we were doing and why we were there so we told him that we came to investigate about him counterfeiting money and she let us in. He said that Ms. Wasintmee was just his friend and our search was not lawful.

Testimony of Bob A. Nacker

I'm the bank teller. So I'm walking to the speaker and the guy says, "I am Mr. Counteer Fett. Please take the \$250 straight to my savings account." I thought it was kinda shady the way he said "straight," and figured there was no harm looking closer. And the two \$100 bills were counterfeit! I looked at the window and that Fett guy was already leaving!

So I run over to the speaker and scream, "STOP!" He stops. I went outside and told him

that some of the money was counterfeit. He said he honestly had no idea. Well, someone had to have the idea that they made counterfeit money. We called the cops for that reason. So about five minutes later, a police car pulls up and a uniformed officer hops out. He asks us to show him the counterfeit money. He tells us that recently there has been a lot counterfeit money discovered in circulation. Anyway, he asks for our phone numbers. Then he told me he'd be questioning Mr. Fett. I gave him the \$200 and left. That's all I know.

Testimony of Ingrid T. Wasintmee

I was accused by my neighbor, Counteer Fett, of printing two counterfeit \$100 bills and giving them to him. I'm a starving artist, and I don't have a lot of money. Sometimes I need to use a computer and printer so Counteer lets me use his. He's a very nice person.

My daughter is having a birthday party soon so I use the computer and printer to make invitations. It's faster than having to draw every single invitation and write on it. My daughter's favorite color is green so she insisted on having the whole invitation green. I think the whole invitation is a little too much but it's her birthday. I left the ink at Counteer's house since I still have more invitations to make.

I really needed to find a way of transportation to try to find a job to get money so I asked Counteer if I could buy his bike. He said he would, but I didn't have enough money. That was sad. But a few days later, a wealthy businessman in town decided he really liked one of my paintings and bought it. He gave me \$200. I was so happy. The next day, I asked Counteer if \$200 was enough to buy his bike. He agreed, and I gave him the two \$100 bills.

A few days later, I was told that Counteer was taking money to the bank and the teller saw that the two \$100 bills he was giving him were counterfeit. When the police came to Counteer's house, I let them in. I was using the computer

when I heard the doorbell ring. I called Cunteer, who was at work, and asked if I could let them in. He told me I could.

Later, when I told Cunteer the businessman story, he didn't believe it. Cunteer said that I made it up and printed the bills out and gave them to him for his bike. I couldn't do that. I'm an art major, and I didn't get that title for being able to print out a double-sided slip of paper the size of a dollar bill and make it look like a \$100 bill. I have no idea how to do that! But Cunteer is a computer science major. He could have easily done that and then accused me of printing the bills, if you ask me.

Testimony of Cunteer Fett

On Friday, September 13, I made a deposit of \$250 at the NJ Bank of America. This included \$200 from selling my bike to Ingrid. I had no intention of passing counterfeit bills in my deposit. My friend Ingrid uses my printer whenever she needs to, including when I am not at home and at work. I have no idea what she is doing down there. Last week, she asked for five twelve-ounce packs of green ink, and I said if it would help her with her job hunt, I would help her. Later in the week, she said she needed some transportation, and I sold her my bike for \$200. Where she got the money, I do not know.

Also, without my permission, Ingrid let the police into my home while I was at work. She said she was a friend of mine, and she said it would be okay for them to search the house. Ingrid never asked me if she could let them in! They did not have a warrant. She probably wanted to lead them to believe it was me. I have a computer science degree and a good job. Why would I risk making counterfeit bills when I already make enough money? I certainly did not knowingly pass counterfeit bills!

INSTRUCTIONS

The prosecutor has to prove beyond a reasonable doubt that Mr. Fett knowingly tried to pass the counterfeit bills.

SUB-ISSUES

1. Was Ms. Wasintmee the one using the printer and printing the bills?
2. Was Ms. Wasintmee using the green ink for printing the money or for something else?
3. Police did not have a search warrant. The police were given consent by Ingrid T. Wasintmee, who does not live in the home. Was the search conducted by the police lawful?

CONCEPTS

1. Circumstantial vs. direct evidence—Are the witnesses lying? How truthful or reliable is each person?
2. Exclusionary Rule—where police conduct a search improperly, the court may remedy, due to the constitutional rights being violated, and acknowledge the search was bad and will not let the jury hear the evidence in the courtroom.

LAW

1. Counterfeiting—printing counterfeit money is illegal.
2. Knowingly passing counterfeit bills is also illegal.
3. Searching a house without a warrant or consent by the owner is illegal.

THE CASE OF THE UNFORESEEN CAR CRASH: BROWN v. SPEEDER

FACTS

On January 16, 2020, at 3:30 p.m., Patricia Brown, who had just gotten her driver's license, was backing out of her driveway on Washington Avenue in Cranford, New Jersey. She forgot to look to the left and right for incoming pedestrians and cars. Danny Speeder, who was driving down the road, crashed into Ms. Brown's car. Ms. Brown fractured her arm in the accident and her bumper was hit. Mr. Speeder's car had a very hard scrape but he had no injuries. He was speeding down a blind curve.

Ms. Brown wants Mr. Speeder to pay for the damages done to her car and for her medical expenses. She had injuries and damages to her car, while he only had damages to his car.

Calvin Box, Leona Whistleblower, the paperboy and Spike Meaner all were watching. They were all witnesses. The paperboy doesn't like Mr. Speeder because he wasn't paying the bills for the newspapers. Spike Meaner was a passenger in Mr. Speeder's car and got hurt. He knew that Mr. Speeder has no insurance. Calvin Box was two blocks away, walking his dog on the sidewalk. He insists that Ms. Brown wasn't looking but his eyesight isn't good.

ISSUES

1. Does a preponderance of the evidence show that Mr. Speeder is liable for negligently causing the car crash?
2. Is Ms. Brown comparatively negligent for causing the car crash because she failed to look in both directions?



SCHOOL

Edison Intermediate
Westfield
Grade 3
Second Place

TEACHER

Esther VanRiper

STUDENTS

Sarah Akiyama
Douglas Gee
Zoe Hohlfeld
Liam Kilbourn
Ben Lyons
Grace Matus
Cecilia Wiggins

WITNESSES

For the Plaintiff

Leona Whistleblower

Patricia Brown

For the Defense

Calvin Box

Danny Speeder

WITNESS STATEMENTS

Testimony of Leona Whistleblower

I am a witness for the plaintiff. I have measured the skid marks that Mr. Speeder made and found out that he was speeding on Washington Avenue. I saw the accident and I know for sure that Danny was speeding. I clearly saw that Ms. Brown did not look when she backed out of her driveway. I also saw that Calvin Box saw this, and Spike Meaner was inside the car Danny was driving.

Testimony of Patricia Brown

I was backing out of my driveway at 3:30 p.m. on January 16, 2020. Just then, Danny Speeder came speeding down the road. Before I knew it, I was in hospital room number 103. Mr. Speeder was very negligent. He was speeding down a blind curve!

Testimony of Calvin Box

I am a neighbor who saw that Ms. Brown didn't look and Mr. Speeder wasn't speeding. I also saw the paperboy was there, and he looked very suspicious. I know that I was two blocks down, and am elderly, but I have very good eyesight! I think that Ms. Brown is negligent and Mr. Speeder is not negligent! Also, Ms. Brown and Mr. Speeder never liked each other so she made him crash by distracting him.

Testimony of Danny Speeder

I was driving down Washington Avenue at 3:30 p.m. to visit my friend in Cranford. Suddenly, I saw

a car coming out of a driveway. I could not stop in time. I crashed into the car. I realized that it was Ms. Brown. My expenses are very large so I want her to pay my expenses.

INSTRUCTIONS

The jury must decide by a preponderance of the evidence who is responsible for causing the accident, and, if both are found to be responsible, to what percentage each is responsible.

SUB-ISSUES

1. Was Mr. Speeder going over the speed limit?
2. Did Mr. Speeder see Ms. Brown's vehicle?
3. Did Ms. Brown look both ways before backing out of the driveway?

CONCEPTS

1. Liability—You are responsible for something by law.
2. Comparative negligence—When both people are negligent, you need to compare the percentage of negligence that each person contributed.
3. Damages—The damages you cause in the case need to be made up in monetary value.
4. Proximate cause—The defendant's negligence was a substantial factor in causing the damages/injuries.
5. Credibility of witnesses—The trust given by the jury during the trial.

LAW

Negligence and proximate cause of the accident need to be determined.

THE CASE OF THE BURNING HOUSE: STATE v. MANIAC

FACTS

On June, Friday the 13th, 2014, a neighbor spotted a man walking around the outside of a residential home in the backyard carrying a can of gasoline in Washington D.C. at approximately 9 p.m. The police were called to respond to a house fire at 9:02 p.m. The house burst into flames. Tim D. Damaged, the homeowner, and his family were inside the house at the time and just barely escaped.

At the time that the house caught fire, there was an electrical problem in the home. The man that was spotted by the neighbor was caught by the police. His name was Pyr O. Maniac. Pyr O. Maniac lives in the neighborhood roughly a half mile away. Pyr O. Maniac and Mr. Damaged have been enemies since they were in college together. The source of the anger stems from Mr. Maniac's alleging that Mr. Damaged copied a project idea that affected both of their careers, making Mr. Maniac's career more limited than he had hoped. Mr. Damaged had recently borrowed a lawnmower from Mr. Maniac. However, three houses down from Mr. Damaged there was a mentally disturbed teenager who had appeared to be setting fires in rage a few days ago.

Mr. Maniac was arrested by the police and the prosecutor is taking him to court, charging Pyr O. Maniac with the crime of arson and trespassing. The fire department could not determine the origin of the fire.

ISSUE

Is Pyr O. Maniac guilty beyond a reasonable doubt for the crimes of arson and trespassing?



SCHOOL

Edison Intermediate
Westfield
Grade 3
Honorable Mention

TEACHER

Esther VanRiper

STUDENTS

Emma Blaustein
Owen DuHaime
Liam Kilbourn
Ben Lyons
Grace Matus
Cecilia Wiggins

WITNESSES

For the Prosecution

Tim D. Damaged
Edna B. Ware

For the Defense

Pyr O. Maniac
Thomas T. Truth

WITNESS STATEMENTS

Testimony of Tim D. Damaged

I was in my house going downstairs after putting my children to bed when I felt the house getting warmer. My neighbor Edna B. Ware came to say Pyr O. Maniac was on my lawn with a can of gasoline (I wasn't doing my own electrical work at the time). I wanted to yell at my arch enemy but first I had to rescue my family. I woke up my kids and told my wife the situation. By the time we evacuated, the house was in flames.

I never gave Pyr permission to take his lawnmower back yet, although he needed it. It was his and he let me borrow it. He claims that his grass was growing very tall, he needed it, and that the gasoline was for putting gas into it so that he could ride it home. I never gave Pyr permission to come onto my lawn and I saw Pyr running away without a lawnmower.

Testimony of Edna B. Ware

I am a prosecutor. I prosecute arson cases and I have a tough job. Fingerprints are blurred by soot, arsonists often flee before people notice the flame, and the fire burns so quickly that pinpointing the exact spot where it started is nearly impossible. For an arson prosecutor, piecing together the puzzle to file charges and win a conviction is very hard. I spotted him at the scene of the crime carrying gasoline, which can be used to start a fire. This was suspicious behavior. Pyr O. Maniac also had motive. His motive was revenge because Tim D. Damaged had stolen a project idea that affected both of their careers.

Testimony of Pyro O. Maniac

I am just a residential person in the town. It is true that Tim D. Damaged and I are enemies, but I would never try to set fire to his house! The only reason I had a can of gasoline was because Tim was borrowing my rideable lawnmower and clearly I had to go pick it up from Tim. I had to lend it to him because he just moved in a few months ago, there is no store close by, and I am a good person, even to my enemies. That's why I was going near Tim's house with a can of gasoline, not because I was trying to burn Tim's house down.

Also, there was a shady figure at the crime scene. I saw the raging teenager walking down the block and looking at houses as if he was going to burn the houses down. He probably set fire to Tim's house and ran away to try to put all the blame on me. He should be the one put in jail, not me. Also, Tim always worked on his own electrical system and was always boasting about how smart he was to do his own system. Maybe something got fried while he was working on it and started a fire. The fire probably would have gotten bigger and it would have spread to the rest of the house, not because I purposely set fire to the house.

How am I supposed to be held responsible for the fire if Tim started the fire accidentally? Tim can also be very sneaky and is also smart. Maybe he purposely set fire to the house just to get me in jail and collect punitive damages. Tim was always trying to get me in trouble, too.

I was also there because I wanted to make things up with Tim. He wouldn't even let me in or talk to him. He was so angry. He even slammed the door in my face. I definitely should not be held for the crime of arson or trespassing.

Testimony of Thomas T. Truth

I know Pyr O. Maniac from college. I live three blocks away from Tim D. Damaged and I live next door from Pyr. Pyr told me he was going to Tim's house to pick up his lawnmower. After four minutes, Pyr hadn't returned. I went to investigate. It turns out he was still on the front

doorstep, turning around. It was clear Tim wasn't letting him in. He turned around and maybe a drop or two of gasoline hit the ground. It was an accident, and it also wasn't enough to start such a fire. Of course, he had to use the gasoline, otherwise he wouldn't be able to get his rideable lawnmower home. Still, Tim never gave back the rideable lawnmower to Pyr and now his grass is growing so high that it's hard to get to the front doorstep! Clearly, Pyr had to go get the lawnmower from Tim because he hadn't mowed it in five months! It was I who asked Pyr if he could go over to Tim's house and get his lawnmower back because it was so tiring to have to wade through the tall grass every time I wanted to go visit Pyr.

Also, there was an electrical problem in the house, and usually Tim would try and fix the problems so he wouldn't have to pay an electrician. That was probably what started the fire, not Pyr using a can of gasoline to burn down the house. Even Pyr would never do such a thing. Also, Pyr never would have had any time to start the fire. Pyr shouldn't be held responsible for the crime of arson or trespassing.

INSTRUCTIONS

1. Is there proof beyond a reasonable doubt that Pyr O. Maniac committed the crime of arson?
2. Is there proof beyond a reasonable doubt that Pyr O. Maniac committed the crime of trespassing?

SUB-ISSUES

1. Was Mr. Damaged also somewhat guilty for copying the college project?
2. If Mr. Maniac was innocent, why was he trespassing on Mr. Damaged's property?
3. Was the gasoline Mr. Maniac was carrying used to burn down Mr. Damaged's house?
4. Was the electrical system in Mr. Damaged's house the cause of the fire?
5. Was anyone seriously hurt?
6. Where did the fire originate?

CONCEPTS

1. Damages—A loss of property or actual damages.
2. Liability—You are responsible by law.
3. Negligence—that you were not paying attention and not attentive to your duty to do as a reasonable person.
4. Contributory negligence—when both sides of the case are negligent.
5. Proximate cause—Could the defendant have known that something was going to happen and, if so, was negligence a large factor?

LAW

1. Arson: causing a fire.
2. Trespassing: going on other people's property without permission.

THE CASE OF THE SAME BOOK: VINNY GUNN v. JOHNNY ROCKETS



SCHOOL

Spring Garden
Nutley
Grade 4
First Place

TEACHER

Debra Tiene

STUDENTS

Makayla Albert
Victoria Cabezas
Isabella Fernandez
Rosa Harrington
Eva Ilardi
Brooke Kaliko
Emerson Morales
Radhika Patel
Salvatore Petracco
Madison Rivera
Jenna Zoppi

FACTS

Vinny Gunn recently wrote *The Trip to the Past*, a book he copyrighted but hadn't published. When he went to his local bookstore, he noticed that a book by Johnny Rockets was almost identical to his book. He bought it and later, when he was at home reading it, he noticed it was the same book, his book. The plot revolving around finding a portal in time was exactly the same. The sequence of events was exactly the same. The protagonist had the same characteristics but a different name and gender. Vinny Gunn felt this was just like the book he had written.

Vinny Gunn is suing Johnny Rockets for an intentional tort of conversion.

ISSUE

Is Johnny Rockets responsible for paying Vinny Gunn for damages and profits of the sale of his book?

WITNESSES

For the Plaintiff

Vinny Gunn
Suzie Booker

For the Defense

Johnny Rockets
Ed Ditor

WITNESS STATEMENTS

Testimony of Vinny Gunn

I am the author of many adult and children's books. I noticed my latest book, *The Trip to the Past*, was recently published under a

different title, *The Lost World*, and under the name of Johnny Rockets. I found it by accident.

I go to bookstores all the time to take a look at what is selling, what children want to read. When I went to my local bookstore, I noticed a new book being sold seemed pretty similar to the book I just finished writing. So I bought it. Later when I was at home reading it, I thought this IS my book! I couldn't believe my eyes! I felt mad and confused. The plot of finding a portal in time was exactly the same, the sequence of events was exactly the same, the main character has the same characteristics as mine, but with a different name, and the only other difference was that it was about a boy, instead of a girl. As I read it, I wondered how did someone get my book?

The next day I went to the LakeSide Cafe, after I realized I had left my laptop there, again. I told Suzie Booker, one of my favorite waitresses, about the book I picked up. I told her I did not know how it was possible! I mean it was my book I was staring at! But my name was not listed as the author. I showed her the book. She looked surprised and then worried. She said months before she saw a man who had sat in the booth I usually sit in, start to bring a laptop up to her, then turned around, and went back to his seat. She saw him looking at something on the computer and writing, looking and writing. As I handed her the book, she flipped it over and saw Johnny Rockets' picture on the back. She knew right away Johnny Rockets was the same guy from the booth. That's when she told me about the day she found my computer on the seat after he left. I think that was when he was looking at my computer and read my manuscript. I then searched through my computer and noticed an email had been sent to jrockstar that I didn't remember sending. It was in my deleted files so I couldn't open it.

Testimony of Suzie Booker

I have worked for the LakeSide Cafe for the past two years. Vinny Gunn is sort of a regular at our restaurant and he always leaves a nice tip. He usually comes in on Monday, Wednesday and Friday

mornings. Sometimes he orders coffee and types on his computer. Other days he talks to the staff and other customers while munching on a bagel. Everyone loves him. His jokes aren't very funny but we all laugh anyway.

He comes into our restaurant all the time carrying his black backpack and a computer.

Sometimes Vinny is forgetful and not responsible with his stuff. Often, he leaves things on the table or on a chair and comes back later to get them. So when I notice he has left something behind, I pick it up and put it under the counter. And as I have said, he's a good tipper and I know he appreciates our helping him out.

One day I noticed Vinny Gunn was working on his computer, which wasn't unusual. When I was cleaning the table next to his, I noticed he was smiling so I asked him about it. He told me he was working on his latest kid's book and he was almost done. He said it was a story about a girl who finds a portal to go back in time. It sounded really cool. Later on that day, I saw that a man who had been sitting in the same booth Vinny Gunn sat in, was about to bring a computer up to me, but then he quickly turned around and went back to his seat. It looked like he was reading something very interesting on the computer.

People come in all the time with their computers so I didn't think anything of it. He sat in the booth for another 30 minutes or so. After he left, I went to wash down the table and that's when I noticed a computer on the seat. It looked just like Vinny's computer so I picked it up and put it under the counter.

The next day Vinny Gunn came back to collect his computer. I forgot to tell him about the mystery man who seemed to read something on his computer until just recently when he mentioned that someone stole his idea and made a book about the story he wrote.

Testimony of Johnny Rockets

I am an award-winning author and I have written books for about five years. I always had

hoped to write a book for little kids when I was in high school. So I went to college to learn how to write children’s books. Soon I fulfilled my dream. My favorite part of my books are the themes and what they teach little kids, and how they inspire them. Also, how it makes their own imagination grow. I love writing children stories, especially fiction. Mostly, I get my ideas for my stories from experiences in my life, such as from dreams or from my quirky friends and family. I have also looked at previous authors’ works which inspired me, but I have NEVER copied anyone else’s books.

Recently, I wrote my newest novel, *The Lost World*. I had an idea for a story so I wrote it down. I decided to make my story into a book. I had thought of the idea before, and I discussed it with Ed Ditor. I sent an email to Ed Ditor and asked him to take a look at it. I have known Ed since college. We were actually roommates back then. We have worked together on almost every book I have written. As my editor, he made some changes and slight edits to my story. He thought it was a good idea so I continued to write the book, and three months later, it was done. Ed loved it and agreed to publish it.

I have done some research and found out Vinny Gunn has copied from other authors and has “borrowed” ideas like plots, characteristics and main ideas. If Vinny Gunn is saying that I stole his idea, that is a HUGE LIE! Just ask Ed Ditor! As you can see, I am the real author of *The Lost World*. and Vinny Gunn is not.

Testimony of Ed Ditor

I work for Kaliko and Harrington (K&H) Associates. I have worked there for eight years. I have also known Johnny for 10 years. We are very close friends but sometimes we disagree on book titles, character names or plot sequences. Besides that we are always nice to each other. I published the book *The Lost World*, for him. My company always makes sure that the books we publish are original works, have a lot of detail, and appeal to readers of all ages.

Johnny Rockets and I have discussed the ideas for his stories many times before. As I have already said, he and I are friends, so we talk often about what he is working on. K&H has published many of Johnny Rockets’ books. Johnny has a very good reputation in the literary world.

He has never plagiarized a book. I don’t know why people are now blaming him for copying a book because everyone knows Vinny Gunn has copied ideas for books from other authors. I have seen Johnny Rockets write his books. I know he sometimes sits in a coffee shop and writes down his ideas. He is a gifted writer and has won many awards. He would never plagiarize a book. Just ask Johnny Rockets.

INSTRUCTIONS

The plaintiff, Vinny Gunn, author of *The Trip to the Past*, must prove by a preponderance of evidence that the defendant, Johnny Rockets, the author of *The Lost World*, stole his book idea and claimed it as his own.

SUB-ISSUES

1. Is Vinny Gunn the original author of the book about a girl who finds a portal in time?
2. Did Johnny Rockets have access to Vinny Gunn’s manuscript?
3. Did Johnny Rockets look at Vinny Gunn’s manuscript and convert it for his own use?
4. Should Johnny Rockets have to pay Vinny Gunn \$20,000, which is the amount earned from the sale of the book?
5. Has Johnny Rockets ever been blamed for the tort of conversion or copyright infringement before?
6. Has Johnny Rockets or Vinny Gunn ever copied ideas from others before?
7. Did Johnny Rockets profit from a book originally written by Vinny Gunn?

CONCEPTS

1. Burden of proof.
2. Credibility of witnesses.

LAW

1. Intentional tort of conversion is when someone's property has been permanently interfered with and where one person "takes" someone else's property by using or altering the property in a way that is inconsistent with the rights of the owner and "converts" it to their own use. The item that was stolen must be an item that has made the thief money. If convicted, he would have to pay the full value of the item stolen.
2. Compensatory damages—Being unable to use the property the way he wanted caused damages to the plaintiff. The plaintiff has the option to determine the fair market value at its highest rate.

SCIENCE FAIR GONE WRONG!

THE TOGEDS v. THE SCIENCE FAIR GIRLS



SCHOOL

Joyce Kilmer
Mahwah
Grade 4
Second Place

TEACHER

Melody Townley

STUDENTS

Anjan Adhiyaman
Jeane Chun
David Marcovici
Abigail Murphy
Vidya Prasad
Connor Soha

FACTS

Each year at North Park High School, there is a science fair. The winner of the science fair would earn a \$10,000 scholarship to Mountain Ridge College. At North Park High School, there were two friends named Sara Toged and Dee Stroyed. The girls got along well most of the time. In the auditorium one day, right before the science fair, they got into an argument about whose science fair project was best. When they both angrily left the auditorium, Dee Stroyed shared the disagreement with her friend, Fran Tick. They decided to ruin Sara Toged's project. At the last minute, one of the girls backed out of the plan. But the other followed through.

On the morning of the science fair, Sara Toged went to see her project and it looked fine. When the judge came to look at her demonstration, she turned her project on. Instead of having harmless baby powder come out of the spout, out came a different powder, which caused Sara Toged have an allergic reaction. She broke out in hives and had trouble breathing. Sara Toged was treated immediately by the school nurse. Ultimately, Sara Toged was fine but the judge disqualified her for having a dangerous project.

Sara Toged was dazed and confused about what had happened to her project and she wanted proof that it had been tampered with. With the help of the principal, Mr. Brown, she checked the security footage from the afternoon of her fight with Dee Stroyed. In the footage, she could see two people that looked like Dee Stroyed and Fran Tick. But she could not be sure it was them because the camera angle was bad. Mr. Brown said that was not enough evidence to accuse Dee Stroyed and Fran Tick.

Sara Toged decided to investigate more with Mr. Brown. In the corner of the auditorium, near her failed science fair project, Sara Toged found a shiny earpiece just like the one that Dee Stroyed wore every day. Then Sara Toged, who lived across the street from school, remembered that she saw Dee Stroyed leaving school very

late the night after their fight. With the help of Mr. Brown, Sara checked the outside camera footage. She was able to make out Fran Tick leaving, via the auditorium door, alone. An hour later, Dee Stroyed left alone from the auditorium exit. Mr. Brown and Sara Toged checked the footage for all the other auditorium cameras and found that no other people entered or exited the auditorium until Dee Stroyed entered the auditorium for the science fair the next morning.

A week later, the results of the science fair arrived. Sara Toged had not only been disqualified, but also had been given a letter from the judges that prohibited her from participating in future science fairs. Her parents, Amy and Rick Toged, thought it was unfair how their daughter had been physically hurt and emotionally embarrassed at the science fair. Based on the security footage, they decided to sue Dee Stroyed and Fran Tick for destroying Sara Toged's science fair project and causing physical harm to her. They believe the girls should pay for Sara's emotional trauma and her physical injury.

ISSUE

Did Dee Stroyed and Fran Tick destroy Sara Toged's project? Should they be found negligent for Sara being physically injured, emotionally upset, and being disqualified and banned from the science fair?

WITNESSES

For the Plaintiff

Sara Toged
Owen Brown

For the Defense

Dee Stroyed
Fran Tick

WITNESS STATEMENTS

Testimony of Sara Toged

I am 18 years old. I go to North Park High School and I am a junior. On the day before my

school's science fair, I had an argument discussing whose science fair project was better with my friend, Dee Stroyed, in the auditorium. I had stayed after school to perfect my science fair project. The next day, I looked at my project to see if it was in working order and it looked fine. When it was time to present my project to the judge, Mr. Matata, there was an accident. I turned it on, but instead of baby powder coming out of the spout, some Borax came out! I immediately had an allergic reaction. I had an itchy rash and had trouble breathing. I was treated quickly by the school nurse. By the time I was feeling better, the school day was over.

I was confused about what had happened to the powder in my project and decided to investigate further. I asked Mr. Brown, the principal, to check the security camera footage. We checked the security cameras inside the auditorium and saw two people who looked like Dee Stroyed and her friend Fran Tick. They were near my project, but we couldn't tell if they were just looking at my project or were tampering with my project. Mr. Brown told me that this video alone wasn't proof enough to get Dee or Fran in trouble. I asked Mr. Brown if he would come to the auditorium with me to look things over in person. As soon as we got over to my project, I noticed, out of the corner of my eye, a shiny earpiece. It was in the corner underneath the table where my project was located. It looked just like the one Dee Stroyed wore every day. Mr. Brown agreed that was suspicious.

Then I remembered—I had seen Dee leaving school very late the night before the science fair. I live across the street from school and had been out raking the leaves with my mom. I just assumed Dee had stayed late to work on her science fair project. Mr. Brown agreed to check the security footage for the outside auditorium doors. We were able to clearly see Fran Tick leaving the auditorium alone. About an hour later, Dee exited the auditorium alone. We checked the footage for all the other auditorium door cameras and saw

that, after Dee exited, no one entered or exited the auditorium until I arrived first thing the next morning to make sure my project was ready to go. My project was working just fine when I left the previous day. And, according to security footage, Dee Stroyed and Fran Tick were the only ones in the auditorium after me that day. I know we had a fight but I never imagined that Dee would sabotage my project! What about Fran? Why would *she* sabotage my project? I didn't have an argument with *her*. And what was Dee doing, all alone, for over an hour in the auditorium if she wasn't messing up my project? I just feel surprised and hurt that Dee and Fran would behave this way.

A week later, the results of the science fair arrived. I had not only been disqualified from the science fair for having a "dangerous" project, but also had been given a letter from the judge, Mr. Matata, stating that I was prohibited from participating in future science fairs.

My parents thought it was unfair how I had been physically hurt and emotionally embarrassed at the science fair. Based on the security footage, they decided to sue Dee Stroyed and Fran Tick for destroying my science fair project and causing physical harm to me. They believe the girls should pay for my physical injury, emotional upset and being disqualified and banned from future science fairs. And I agree. I worked really hard on my project...and all I got for my hard work was a rash and banning from future science fairs!

Testimony of Owen Brown

I work as the principal at North Park High School. On the day of my school's big science fair, one of my honors students, Sara Toked, had an allergic reaction from her own project. I was surprised and confused that a dangerous mistake like that had been made. I asked the school nurse to check in multiple times with her because I was worried about her. I was disappointed to hear that Mr. Matata, the judge, did not favorably rank her project.

At the end of the day, she explained her fight with Dee Stroyed to me. And she asked me to

check the security footage for the auditorium, insisting that someone must have tampered with her project. While we did see two people near her project who looked similar to Dee Stroyed and Dee's friend, Fran Tick, it wasn't clear enough footage to prove that Sara's project had been tampered with. She asked me if we could at least check the auditorium for clues and I agreed. Something just didn't feel right to me about the situation. Sara is an honors student. I don't believe she would ever knowingly put something in her project that could hurt herself or other students. When we arrived in the auditorium, Sara spotted under her table a shiny earpiece. It looked just like the one I routinely saw Dee wearing. Now, I was definitely feeling like something wasn't right.

Then Sara, who lives right across the street from school, remembered that she had seen Dee leaving school very late the night before the science fair. She had been out raking leaves when she saw her. She asked me if we could check the security camera footage for the other auditorium door cameras. I agreed. We were able to see clearly Fran Tick leaving the auditorium alone. About an hour later, Dee exited the auditorium alone. We checked the footage for all the other auditorium door cameras and saw that, after Dee exited, no one entered or exited the auditorium until Sara arrived first thing the next morning to make sure her project was ready to go. Sara is an honors student who takes great pride in her work, so I have a hard time believing she would make such a big mistake. I believe, based on what I know about Dee and the security footage, that either one or both of those girls sabotaged Sara's project.

Testimony of Dee Stroyed

I am 18 and am a junior at North Park High School. Science was my all time favorite subject. I was very satisfied with my project. I stayed after school with my best friend, Sara Toked, so we could perfect our science fair projects. While we were talking, she was constantly gloating about her project. It made me angry. Usually, I can

handle these types of things, but it really hurt coming from my best friend. So I yelled, “My project is better than yours!” I definitely knew it was wrong, but felt like I had no other choice. I tried to apologize but she just argued with me instead of listening.

I didn’t want to fight, so I left the auditorium and went to see one of my other friends, Fran Tick. I told her everything. She had the idea to pay Sara back. I don’t know what I was thinking but I agreed to the idea. At the end of the school day, Sara left. Fran and I put her plan into action. At the last minute, I backed out. I hid in the girl’s room at the back of the auditorium, hoping that Fran would just leave. But little did I know, Fran never stopped. She tampered with Sara’s project and before she left, she added something to Sara’s project. After Fran left the auditorium, I stayed for awhile, trying to figure out if I could fix Sara’s project. But, I didn’t know exactly everything Fran had done to it. I finally decided to give up and leave. I went home.

The next day, I saw Sara try to present her project to the judge, Mr. Matata. There was an accident and Sara had an allergic reaction to something in her project. She had an itchy rash and trouble breathing. The school nurse came and treated her, then checked on her several times during the day. I asked Fran, when I saw her, what she had put in Sara’s project. She said Borax. Since I’ve been Sara’s friend since we were kids, I knew she was really allergic to Borax.

Ultimately, Sara got disqualified for having a dangerous project. Even though I was mad at her, I felt bad for her. I never would’ve actually done anything to Sara’s project. But then Fran suggested it...and then wouldn’t stop even when I backed down. I know I should’ve told someone about it, but I was afraid that no one would believe me.

Sara found my silver earpiece on the floor under her project. The school caught all our actions on the security cameras and saw that we were near Sara’s project. Now, Sara’s parents are suing both

of us for causing Sara physical harm, emotional upset and being disqualified and banned from future science fairs. What am I supposed to do? I didn’t even do anything to her project! It was all Fran’s fault.

Testimony of Fran Tick

I go to North Park High and am 18 years old. I didn’t really like science too much, so I didn’t make a project for the science fair. But on the day before the science fair, my good friend Dee Stroyed told me about a fight she had with her friend Sara. Apparently, Sara kept rubbing in Dee’s face how much better her project was than Dee’s. Dee got tired of it and the two of them got into a fight. I said that we could make a few minor changes to Sara’s project so it wouldn’t be so good anymore. I suggested a few harmless ideas for ways we could take her project down a few pegs. Dee agreed. We both gathered supplies and met up in the auditorium to mess with Sara’s project. At the last minute, Dee disappeared! I thought she was going to get some more things and would come back, so I kept going with our plan. I brought in some Borax and replaced the baby powder in her project with it. Dee never came back. As soon as I finished, I was scared that someone would come in and catch me, so I left and went home.

The next day, things went crazy. I heard about it all afterwards from Dee since I wasn’t in the science fair. Sara tried to present her project to a judge, but the Borax I had put in gave her a terrible allergic reaction! I didn’t know she was allergic to Borax! I just figured switching ingredients would mess up her presentation, not give her an itchy rash and make her have trouble breathing! The nurse treated her and she was okay. But she got disqualified for having a dangerous project.

I guess Sara was confused and suspicious about what happened to the baby powder in her project because she and Mr. Brown checked all the security footage around the auditorium, and then Dee and I were in big trouble because they saw us hanging around Sara’s project. Now, Sara’s parents

are suing both of us for causing Dee physical harm, emotional upset and being disqualified and banned from future science fairs. What am I supposed to do? I didn't mean to give her an allergic reaction! It was just a harmless prank that only started because Dee was so mad at Sara. It's all Dee's fault!

INSTRUCTIONS

The Togeds must prove by a preponderance of the evidence that the defendants, Fran Tick and Dee Stroyed, acted in a negligent manner by tampering with Sara's science fair project and must pay for the cost of Sara's physical injury, emotional trauma and being disqualified and banned from future science fairs.

SUB-ISSUES

1. Should Dee still be punished even though she did not help Fran sabotage Sara's project?
2. Should Dee and Fran both be found negligent for not telling a teacher or principal?
3. Should Sara's science fair project be re-judged?
4. Should Dee Stroyed's project be disqualified from the science fair?
5. Should the security camera footage and the earpiece be enough evidence or not?
6. Should Sara's parents sue the judge for not letting Sara participate in future science fairs?
7. Should Sara have brought her science fair project home the night before the science fair?

CONCEPTS

1. Preponderance of the evidence.
2. Negligence.
3. Comparative negligence.
4. Liability.
5. Foreseeability.
6. Proximate cause.
7. Causation.
8. Personal and property damage.

9. Circumstantial evidence.

LAW

1. Preponderance of the evidence: Having the greatest and most believable quantity of evidence.
2. Negligence is established when the defendant had a duty to protect the plaintiff from harm, the defendant fails to fulfill that duty, even if unintentionally, and the defendant's failure causes injury to the plaintiff's person.
3. Comparative negligence: Considers if the plaintiff has contributed to cause the damages by his or her own negligence. If so, the plaintiff's recovery will be reduced by the percentage he or she contributed, so long as his or her negligence is less than 50 percent.
4. Liability: The state of being responsible for something, especially by law.
5. Foreseeability: The event which is the primary cause of the injury is established by proof that the person of ordinary intelligence should have reasonably foreseen that his or her negligent act would imperil others.
6. Proximate cause: Plaintiff must establish by preponderance of the evidence that the defendant's negligence was a proximate cause of accident. In other words, the plaintiff must establish that his or her injury is connected to the defendant's negligent actions.
7. Causation "but for" test: But for the actions of the defendant, the harm would not have occurred.
8. Personal and property damage: Damage is the loss or harm resulting from injury to a person or property. Damage refers to compensation, such as a money judgment, provided to a person who has suffered loss or harm due to an unlawful act or negligence. The person at fault must compensate the injured party.
9. Circumstantial evidence: Evidence in a trial that is not directly from an eyewitness and requires some reasoning to prove a fact.

KNEELING NEIL

FACTS

After four years of hard work and dedication, senior basketball star and straight-A student, Neil Downs (age 17), was offered a \$30,000 yearly scholarship from his dream school, USC, as well as a guaranteed spot as a starter depending on his performance at their championship basketball game. Neil felt very strongly about kneeling during the national anthem, due to his family's feelings on the current issues that have transpired within our country. With the direction of his parents, he decided to kneel during the national anthem at their championship game, even though his coaches said they would be following in the school district's tradition and standing as a sign of respect. They warned the team that any players who did not follow school rules would not receive play time. As a result, Neil was benched the entire game.

USC scouts were anxiously waiting for the game of a lifetime from Neil. It wasn't until after an outstanding game that Neil was supposed to accept the offered scholarship. However, due to his lack of play time during the game, they rescinded their offer. Neil and his family are suing the school district for the missed opportunity and a \$30,000 yearly scholarship due to violation of his freedom of speech and his right to peacefully protest.

ISSUE

Is the school district responsible for the loss of scholarship for violating Neil's rights?

WITNESSES

For the Plaintiff

Neil Downs

Courtney Downs



SCHOOL

Lincoln Elementary
Nutley
Grade 4
Honorable Mention

TEACHERS

Kristamarie Matturo
Michelle Lanfrank

STUDENTS

Nicole Avallone
Carlos Batista
Abigail Carson
Vanessa Dries
Derek Nelson
Monique Ng
Samantha Ramos
Dahlia Salama
Eva Zygakis

For the Defense

Honora Contreras

Tim Stanza

WITNESS STATEMENTS

Testimony of Neil Downs

I have worked hard my whole life towards my dream of getting into USC to play basketball and eventually to play professionally. I practiced everyday, and played on club and school teams. I have been so committed to the sport that my parents even paid for one-on-one training. My dream started to come true when I received a promise of a \$30,000 a year scholarship to USC and a chance to play as a starter on their basketball team. The scholarship depended on my performance in our last championship game where USC scouts would be present.

At the start of the game, Coach Hightower told us that we have to stand for the national anthem. My parents and I have frequent discussions at home regarding politics and the state of our country. We feel as a family that the country is not presently in a good place, and agreed that I would exercise my right to freedom of speech by kneeling during the national anthem. I was not disruptive. I simply knelt instead of standing. I also informed my coach, after he told us to we had to stand, that my parents had advised me not to. I also explained how important it was for me to play, seeing as the scouts for USC would be present and that my scholarship was dependent on it. Because of my family's views and exercising my right to free speech, I lost the scholarship and place on the team as a result of me being benched in the championship game.

Testimony of Courtney Downs

I am Neil's mother. As a family with a grown child ready for college, we often discuss politics and national issues in our home. At this point in time, we do not agree with some of the policies and issues taking place in our country today. We

believe we can do better as a country for our children and their children for years to come. As citizens of the United States of America, we have the right to freedom of speech as well as a right to peacefully protest. We as a family decided it was best for Neil to kneel during the national anthem at all events. The school should respect our rights and feelings about the country and it shouldn't matter if Neil knelt or stood. He is a exceptional basketball player and should have had the opportunity to play. Also, his future college career depended on this game because scouts were there to watch.

The district violated our rights, and as a result, our son lost his dream opportunity/scholarship. Without this scholarship, our son will not be able to attend this college due to our family's financial state.

Testimony of Honora Contreras

I am the district superintendent. Due to heavy controversy in politics and the media, the topic of standing during the national anthem was raised at a board of education meeting on January 4, 2017. At this meeting we, the board of education members and myself, took a vote and made a decision to instruct all coaches within the district to enforce a no-kneeling/sitting rule during the national anthem. All players must stand and show respect for their country. Failure to comply would result in the loss of play time. This information was relayed to all coaches with the expectation to then pass on to their players. Neil was aware of the rule and knew the consequences. We, Coach Hightower and I, were unaware that USC scouts were there to watch Neil play.

Testimony Tim Stanza

I am Neil's teammate. After a long season of hard work, we all knew the significance of this championship game. During our pre-game pep talk, Coach Hightower told us, regardless of our views and controversy in the media, that we must stand during the entire national anthem or we

would lose out on play time. I come from a family that is also not in agreement with our country's views and treatment of its people, but as a team we were all told that play time was only guaranteed if we stood during the national anthem. I respect my teammates and coach and knew this championship game was important for all of us. That's why I was shocked when Neil did not stand with us.

INSTRUCTIONS

The plaintiff, Neil Downs, must prove by not allowing him to play in the championship game, the district violated his freedom of speech and right to peacefully protest. He must prove that by a preponderance of evidence, Honora Contreras, representing the district, is liable for Neil's declined scholarship.

SUB-ISSUES

1. Did the coach and the superintendent know the scouts were there?
2. Has Neil been kneeling the whole season?
3. Were there other players that knelt? Did they play?
4. Did all high school sport teams enforce the standing rule?
5. Were there consequences for the coaches if their players did not stand?

CONCEPTS

1. Violation of rights (free speech and peaceful protest).
2. Credibility of witnesses.

LAW

1. Freedom of speech
2. Right to peacefully protest

THE NEGOTIATION SITUATION: BILL EIVER v. DARGON INC.



SCHOOL

Yeshivat Noam
Paramus
Grade 5
First Place

TEACHER

Margi Saks

STUDENTS

Jacob Abenaim
Jacob Abrahams
Yonah Amos
Yonatan Brothman
Gabe Cohen
Akiva Fox
Netanel Houpt
Dovi Kaplan
Yehuda Katz
Bentzion Keiser
Rafi Koslowe
Yoav Linder
Shalom Miller
Aiden Rauzman
Josh Rothenberg
Zephania Rothstein
Gavriel Rubin
Dovid Saks
Yona Sarett
Avraham Schur
Elie Schwartz

FACTS

Bill Eiver was a poor man who lived in New Jersey. Having just graduated with an MBA and no work experience, Bill was having a hard time finding a job. As a result, the family had little to eat and could not afford the medicine necessary for their illnesses. Finally after several months, Bill found a great job in finance. He was hired by a phone company, Dargon Inc., and was well paid for his job.

Bill worked very hard and won employee of the month, three months in a row. His family had plenty of food and medicine for all of their needs. Things were looking good for Bill and his family.

One day, the head of Dargon, Inc., Mr. Dargon, asked Bill to negotiate a deal with another phone company, AirLight, located in the mall nearby the office. The meeting was set for Friday, December 2, 2016, at 10 a.m. However, the meeting got postponed until 2 p.m. Although Bill worked hours to prepare for the meeting, he needed to leave the meeting after an hour presentation, as he was a Sabbath observer.

In the end, AirLight made a deal with a different phone company. Dargon, Inc. was very angry at Bill for ruining this golden opportunity and demoted him. Bill and his family are once again struggling to make ends meet and his ruined reputation is making finding another job difficult.

ISSUE

Is Dargon Inc. liable for committing religious discrimination and reputation defamation when they demoted Bill from his position because he left a meeting early on Friday as he is a Sabbath observer?

WITNESSES

For the Plaintiff

Bill Eiver
Emmi Ployee

For the Defense

Mr. Dargon

David Gold

WITNESS STATEMENTS

Testimony of Bill Eiver

I am a religious Jew and have been very happy working at Dargon, Inc. for over two years. I was ready to arrange and work out all of the details to make the meeting work with AirLight. They pushed the meeting off for four hours. It is not my fault. I am always on time for meetings. I was prepared! The meeting did not begin until 2 p.m. Sabbath begins at sundown. Since this is the winter, sundown comes very early. That week, the Sabbath began at 4:10. It takes about an hour to get home from my office. I presented my case at the meeting with AirLight and then had to leave.

Unfortunately, Mr. Dargon was not at this meeting either. If he thought it was so important, perhaps he should have been at this important meeting as well.

Mr. Dargon thinks it is my fault that the deal did not go through with AirLight. I was at the meeting for over an hour. Mr. Dargon should have changed the meeting to a different day that would be more accommodating to a Sabbath observer. He feels that since I left early, we demonstrated that we were not serious about the negotiations. Maybe AirLight was not serious about the negotiations. They moved the meeting from 10 a.m. on a Friday morning to 2 p.m., not me. I am not the reason the deal with AirLight did not go through. I was unfairly accused, demoted and suffered a ruined reputation as a result. I should be fairly compensated for my suffering and losses.

Testimony of Emmi Ployee

I am one of Bill's fellow employees. Bill and I were working on the negotiations together. Bill is a very hard worker. I know he is a Sabbath observer. Everyone knew he was a Sabbath observer. We did not lose the deal with AirLight because Bill left early. I heard that we lost the

deal because the other company was willing to pay more. This was not the first time that Mr. Dargon demoted someone because of religious observances. Zack, another employee, was demoted when he would not stay for a meeting that went late on Christmas Eve. I think Mr. Dargon is an atheist and does not like people who put their religious observances above their work.

Testimony of Mr. Dargon

I created this company 10 years ago. I give all of my energy to this company. Bill was a good employee but he let me down. I know Bill thinks I demoted him because of his religious practices but that is not the truth. Bill did not do everything in his power to make this deal with AirLight go through. This was a very important meeting and Dargon, Inc. lost out on a golden opportunity. I saw Bill at the post office at 3 p.m. that Friday afternoon. If he was in such a rush to get home, why would Bill have stopped at the post office? Also, if the meeting was postponed from 10 a.m. until 2 p.m., Bill had plenty of time before the meeting to get to the post office. I did not know that Bill was Jewish, nor do I care. I trust my employees to work to the best of their ability and be completely focused on getting the job done well. Bill did not get the job done!

Testimony of David Gold

I am a co-founder of Dargon, Inc. with Mr. Dargon. After the meeting was postponed for several hours, Bill knew that he was going to have to leave the meeting early. If Bill had told us about this dilemma, he would have had four hours to review his notes with us, and we could have come and negotiated with AirLight when he left. We expected more from Bill. He let us down.

INSTRUCTIONS

The jury must decide by a preponderance of the evidence whether the defendant, Dargon, Inc. demoted Bill Eiver because of religious discrimination and should he therefore be awarded

monies to pay for defamation of his reputation as well as lost wages.

SUB-ISSUES

1. Why was the meeting postponed until 2 p.m.? Does it matter?
2. Did Bill need to leave that early or could he have stayed a little longer?
3. Did Mr. Dargon know that Bill was a Sabbath observer?
4. Why was Bill at the post office?
5. Would Bill have been demoted if he lost the deal but the meeting was on a different day?
6. Did Bill let Mr. Dargon know in advance that he had to leave the meeting early and needed accommodation?
7. Was Emmi Ployee at the meeting with Bill or was he the only representative from Dargon, Inc.?
8. Could an accomodation have been put into place to make Bill's leaving early for Sabbath a non-issue in the meeting with AirLight?
9. How could it be that Mr. Dargon had no idea that Bill was a Sabbath observer if he had been with the company for over two years?

CONCEPTS

1. Civil Rights Act and religious discrimination.
2. Preponderance of the evidence.
3. Credibility of the witnesses.
4. Burden of proof.
5. Federal and state laws.

LAW

1. Federal: Title VII of the Civil Rights Act Copied from the U.S. Equal Employment Opportunity Commission (EEOC) Website: Title VII of the Civil Rights Act of 1964 prohibits employment discrimination based on religion. This includes refusing to accommodate an employee's sincerely held religious beliefs or practices unless the accommodation would impose an undue hardship (more than a minimal burden on operation of the business).
2. State Law: New Jersey State Law: (www.state.nj.us/lps/dcr/downloads/fact-Religious.pdf). New Jersey law protects you against discrimination based on your creed, or religious beliefs, in employment.... It is against the law for an employer, a place of public accommodation, a provider of housing or a party in any business transaction to treat you differently or harass you because of your religion.

THE CASE OF THE SLIPPERY BOULDER: THE EVANS FAMILY v. CAMP ROCKY ROAD

FACTS

On Monday August 7, 2017, at 1:05 p.m., Lilly Evans, her sister Danielle Evans, and her best friend Willy Watcher arrived at the sleepaway camp, Camp Rocky Road. The camp is located in Sedona, Arizona. It was the first day of camp at Camp Rocky Road. The counselor, Bob Wooden, told all the camp rules, which included how to be safe around all wildlife, no running, and how to respect the animals' homes.

After unpacking, Lilly ran down a hill that was below their cabin to get to the lake with Danielle. She slipped on a boulder, broke her arm and sprained her ankle. Danielle ran to get their counselor, Bob Wooden. At that point, the camp owner, Matilda Trippe, heard screams and ran to the scene by the lake. She witnessed Mr. Wooden carrying Lilly to the camp nurse, Helen Healer.

Mrs. Healer called the ambulance. The ambulance took Lilly to the local Sedona Hospital. Dr. Daisy Cooper told them that it will take six months for her arm to heal plus another two months of physical therapy. It would take eight weeks for her sprained ankle to fully recover. This meant Lilly would not be able to attend camp. Lilly Evans and her family are suing Camp Rocky Road for \$4,450 for medical bills, related costs, physical therapy and costs for camp reimbursement.

ISSUE

Is Camp Rocky Road responsible for Lilly's injuries and camp tuition due to their negligence for not providing a safe camp environment?

WITNESSES

For The Plaintiff

Danielle Evans
Willy Watcher

For The Defense

Bob Wooden
Matilda Trippe



SCHOOL

Berkeley Elementary
Bloomfield
Grade 5
Second Place

TEACHER

Katie Koury
Meagan Kowalczyk

STUDENTS

Avery Atexide
Gabriel Caberte
Hailey Castro
Kaliyah Elijah-Pennix
Zion Giles
Ian Gomez
Ella Gulczynski
Samantha Moya
Lianne Tanedo

WITNESS STATEMENTS

Testimony of Danielle Evans

On August 7, 2017, Lilly and I went to Camp Rocky Road for a week in Sedona, Arizona. We had just arrived when Lilly wanted to see our cabin. We walked up the hill with our counselor, Bob Wooden, and Lilly's best friend, Willy Watcher, to unpack our belongings. We had arrived at our cabin when Lilly spotted a lake down the hill. She wanted to go down and swim immediately. I grabbed our swimsuits out of our suitcases.

Lilly didn't want to go down the lake; instead he went inside our cabin and played board games with the other kids. Lilly and I held hands so that I could make sure she didn't fall. We were about to get all the way down to the lake when Lilly let go of my hand, ran down the hill and slipped on a rock. She screamed and could not get up. I ran to get Mr. Wooden, but Willy, who heard Lilly's screams, had already told him. Mr. Wooden came down the hill, picked up Lilly and carried her to the camp nurse. Lilly's left arm was bleeding so much that the nurse had to put three rounds of bandages on it in order to stop the bleeding. The camp nurse, Mrs. Healer, called the ambulance and said that it would arrive right away.

The paramedics let me ride with Lilly in the ambulance to the hospital. When we got there, my parents were waiting for us. Dr. Cooper told my parents and me that Lilly had broken her left arm. I sat with Lilly while my parents spoke to the doctor further.

Testimony of Willy Watcher

On August 7, 2017, I was walking with Lilly, my best friend, and her older sister Danielle. I told Lilly that I wanted to go bird-watching outside the cabin. Lilly didn't want to go and asked if I wanted to go down to the lake instead. I didn't want to go there yet, so I told Lilly that we should play later. I went inside the cabin to play board games with my other friends.

After awhile I got bored and went outside to get a fresh breath of air. As I stepped outside, I heard a

scream coming from the lake and saw Lilly on the ground, holding her arm. I ran to get Mr. Wooden, our counselor. He was still in the cabin, not watching anyone, just on his phone. I told him that Lilly had gotten hurt near the lake. He got off his phone and followed me to Lilly. Mr. Wooden went down to the lake and carefully picked up Lilly. He brought her to the camp nurse. They didn't let me come to the nurse, but I knew this wasn't Lilly's fault. I blame Camp Rocky Road for their counselor not supervising the campers and making sure they don't get hurt. I hope Lilly gets better and hope they close down Camp Rocky Road forever!

Testimony of Bob Wooden

On August 7, 2017, it was the first day of my summer job at Camp Rocky Road in Sedona, Arizona. After I picked up my campers Willy, Danielle, Lilly and other kids, I walked them up to their cabin to unpack. I told them the rules, which included stay together, throw out your garbage, don't litter, ask or notify your counselor before you leave the group, and to be careful of the rocks. I let them know that breakfast is at 8:15 a.m., lunch is at 11:30 a.m., dinner's at 6 p.m., and bedtime is at 9:30 p.m. Last, but not least, no running!

As we got to the cabin, Lilly and Danielle saw a lake and walked down the hill hand in hand. I knew that they were going to be okay, so I went in the cabin and took a short break.

Then Willy told me that Lilly had gotten hurt going down to the lake. I rushed down to the lake, where Matilda Trippe, the camp owner, met us. I carefully picked up Lilly, and brought her to the camp nurse, Helen Healer. Matilda Trippe immediately called Lilly's parents and told them to meet Lilly at the local hospital. Helen Healer called an ambulance. The paramedics put Lilly on a stretcher and told Danielle to get in the ambulance. I stayed behind to supervise the other campers.

Testimony of Matilda Trippe

I have owned this camp for 20 years. Every year we give the parents the camp rules to read to

their kids, which comes with a paper that explains how to stay safe at camp. For the last few years nobody has gotten hurt, partly because of those papers. Every year we try to keep all the new campers safe, but on the night of August 6, it rained. The rain caused the rocks to be very slippery for the first day of camp.

We tried to keep all the campers inside, but for some reason, Bob Wooden’s campers were racing down the hill. I thought Danielle, 13, was old enough to stop this behavior, but instead, she seemed to be an influence on Lilly. I witnessed and followed as Bob carried Lilly up the hill and to the nurse, where I called Mr. and Mrs. Evans. I told them to meet Lilly at the hospital. I stayed at the camp to continue to monitor the camp activities.

I do not believe that Camp Rocky Road is responsible for Lilly’s injuries. Lilly was aware of the rules, but decided not to follow them. Lilly’s family signed a contract that stated Camp Rocky Road is not responsible to refund families due to injury or sickness.

INSTRUCTIONS

The Evans Family needs to prove by a preponderance of the evidence that the defendant, Camp Rocky Road, was negligent and caused Lilly Evans’ injuries due to safety hazards and lack of supervision.

SUB-ISSUES

1. Has an incident like this ever happened at Camp Rocky Road prior to Lilly Evans?
2. What are the camp’s safety protocols?
3. Are the camp rules posted around the camp for campers and counselors to view easily?
4. Did Lilly Evans’ parents go over the rules and safety protocols with Lilly before the first day of camp?
5. Does the camp have a refund policy? If so, what is it?

CONCEPTS

1. Negligence.
2. Camp supervision responsibility.
3. Preponderance of evidence.
4. Eyewitness.
5. Foreseeability.
6. Duty.

LAW

1. Negligence¹ describes a situation in which a person acts in a careless manner, which results in someone else getting hurt or property being damaged.
2. An eyewitness² is a person who has personally seen something happen and can give a firsthand description of it.
3. Duty³ of care is a requirement that a person act toward others and the public with the watchfulness, attention, caution and prudence that a reasonable person in the circumstances would use. If a person’s actions do not meet this standard of care, then the acts are considered negligent, and any damages resulting may be claimed in a lawsuit for negligence.
4. Foreseeability⁴ is a requirement under tort law that the consequences of parties’ action or inaction could reasonably result in the injury. The result of the injury must have been reasonably predictable by a person of ordinary intelligence.
5. Preponderance of evidence⁵ is the greater weight of the evidence required in a civil lawsuit for the trier of fact to decide in favor of one side or the other. It is based on the more convincing evidence presented during the case.

1. [Injury.findlaw.com/accident-injury-law/negligence.html](http://injury.findlaw.com/accident-injury-law/negligence.html)

2. <http://www.dictionary.com/browse/eyewitness>

3. dictionary.law.com/default.aspx?selected=599

4. definitions.uslegal.com/f/foreseeability/

5. dictionary.law.com/default.aspx?selected=1586

THE CASE OF THE TOE-TALLY “RONG” SHOPPING TRIP: ANNE A. RUSH v. SHOPRONG



SCHOOL

Stony Brook
Branchburg
Grade 5
Honorable Mention

TEACHER

Toni Lynn Burke

STUDENTS

Aayush Ajith
Spencer Carran
Katie Curtis
Jake Dunn
Emme Hoarle
Alexis Hogan
Romir Kaul
Daniel Kornspan
Mackenzie Lynch
Tiana Nguyen
Kate Patrick
Henry Ponpipom
Madeline Senate
Maia Vidal
Kelan Vitali
Charles Zhang
Julia Zuklie

FACTS

It was the evening of Saturday, June 17, 2017 at about 7:45 p.m., when Anne A. Rush was paying for her groceries at the supermarket, ShopRong. Anne A. Rush was wearing headphones and was in deep conversation while trying to control her baby, who was beginning to throw a tantrum. As she rocked the baby back and forth in the baby pouch, the baby was beginning to cry very loudly.

The cashier, a 16-year-old girl named Hei V. Paker, was packing Anne’s groceries by placing them in the store-provided plastic T-shirt bags. The cashier had been working at this job for two months, and worked six hour shifts several days a week and sometimes on the weekend. Hei V.’s shift was almost over so she was hurrying to pack Anne’s groceries. When she finished packing the first bag, she saw there were only a few items left to pack. When she went to take the next bag, she saw that there were none left. At that point she put her assistance light on and dialed the courtesy desk to ask for someone to bring her a new set of bags. At this point, when Anne A. Rush saw her do that, she became impatient because all of her efforts to soothe her baby were not working. She was so desperate to get her baby home that she told the cashier that she was in a rush and to “just throw the remaining groceries into the bag.” Hei V., not wanting to cause any arguments, did as she was told by Anne.

Hei V. hurriedly placed the last two items in the bag that Anne already had, and Anne A. Rush left the store for the parking lot with her overstuffed plastic bag. Her baby, still in tow in the front pouch, was escalating the tantrum, and Anne was awkwardly picking up her pace to get to the car to place her baby in the car seat with a bottle. Her bag repeatedly flapped, hitting her leg, and unfortunately due to distraction by the baby, she did not notice that the bag was starting to split. She fumbled to put her baby in the car seat and the bag hit the side of the car.

Anne A. Rush’s bag ripped open and its contents violently fell to the ground, but not before two large cans and a jar of salsa landed on her toe. Not wanting to scare her baby, she held her scream inside and bit her tongue. She hobbled to open the car door and put her baby in the car seat with a bottle. It was only after that she looked down and noticed her toe was a horrific shade of black and blue, and was bleeding. It was swelling by the second. She hobbled around to the back of the car, where the contents of the bag had rolled all over the parking lot. When she got to the back of the car, she was surprised to find Carter Jones, a “helping hands” associate with ShopRong, was picking up the items and putting them in her trunk. He said that he saw what happened and that she was struggling with her baby and the bag.

Anne A. Rush suffered a broken toe and had to get 10 stitches. In addition, her broken toe injury was so severe that she needed surgery to insert a pin in her toe because the toe was not healing correctly. The surgery cost \$10,200, including the hospital stay and treatment, and Anne is suing for \$2,040, her out-of-pocket expenses.

Anne A. Rush was caught by surprise because she did not expect the bag to break, and certainly did not expect the contents to fall out and land on her toe. Anne A. Rush is suing ShopRong for not training the employees correctly in regard to packing bags safely in addition to communicating clearly and assertively with the customers.

ShopRong denies any responsibility and claims Anne A. Rush contributed to the problem because she intimidated and forced the cashier to over pack the bags when she could have waited for more bags and gotten home safely without any injuries.

ISSUE

Who is responsible when a store clerk over packs a plastic grocery bag, and the bag rips from the weight, and the heavy items that spill out cause the shopper to sustain an injury?

WITNESSES

For the Plaintiff

Anne A. Rush
Wate Online

For the Defense

Hei V. Paker
Carter Jones

WITNESS STATEMENTS

Testimony of Anne A. Rush

On the evening of Saturday, June 17, I was shopping at the ShopRong grocery store. When I finished picking up a few things that I needed (although I wound up picking up more than I came for), I quickly walked over to aisle 7 to unload my groceries onto the conveyor belt. I was carrying my baby in one of those front pouches and I knew that my time was limited before my baby became ornery because it was getting to feeding time. As I got toward the front of the line, I realized that this was going to be harder than I thought. As soon as the checkout girl started checking my order, my baby started to fuss.

I promptly started to sway back and forth and for a moment my baby stopped. It was a good thing because I received a phone call from my husband at home and I put my earphones in. He was telling me that he was having some difficulty putting our toddler to bed and that I should come home immediately. Of course, as soon as I got on the phone, my baby started crying loudly. I told my husband I had to get off and that I was finishing up and that I would be home soon. Just when I thought I was going to be on my way, I saw the checkout girl put her manager assistance light on and get on the phone. I already saw that she was done packing my bag so I asked her what the problem was. She immediately told me that she ran out of bags, and was calling her manager for more bags. At this point, my baby was screaming and I began to see that the other shoppers on line were getting uncomfortable. I could feel my face getting

red and I was becoming more and more embarrassed. A good three minutes passed and then this situation proved too much for me. I told the girl that I could not wait anymore for more bags and to just put the other few items in the bag I already had. She hesitated but listened to my request. I then pulled up the bag, paid for my items and hurried out of the store to the parking lot with my groceries and screaming baby.

Making my way to the parking lot was no easy task, but I made my way to my car struggling a bit trying to calm my baby down and juggling the bag that I now realized was heavier and more cumbersome than I expected. I finally reached the car and fumbled with my keys to open the car door so that I could put my baby in the car seat and give her a bottle. I was almost there and almost made it successfully. I struggled getting my baby in the car seat—the bag of groceries was now pushed up to my elbow and I was trying to balance the baby while not hitting the car with the bag of groceries. Just as I got my baby into her car seat, the bag hit the side of the car and gave way. Two large cans and a jar of salsa landed right on my toe, which happened to be in a sandal. I bit my tongue as hard as I could so as not to scare my daughter. The pain was unbearable and I did not want to scream. I also did not want to look down at my foot.

That over-packed bag that I was holding ripped, and the contents landed on my toe. When I looked down, my toe was bleeding and it was getting bigger by the second. I knew something was broken and I was mad. At that point, one of the “helping hands” customer assistance associates was in the parking lot collecting the carts and he came over to help me gather up my groceries that had rolled all over the parking lot. I was so frustrated that I told him to go and tell his manager that the checkout girl had over packed my bag so much that it split and ripped. I told him that he should go in and tell his manager that the store is to blame and negligent because they clearly did not train this young girl properly as to

what is a reasonable amount of groceries to be put in the plastic bag, and she did not even put a paper bag in the plastic to support the cans and jars properly. I also told him that he should tell his manager that I was going to sue the store for any medical bills I incur. I made it clear that they were to blame for my injuries because her sole job was to pack my groceries appropriately and her negligence in over packing them caused the bag to break and injured my toe.

Testimony of Wate Online

I was standing behind Mrs. Rush at aisle 7 in ShopRong on June 17. I originally was going to go to aisle 8, but as I got closer, I saw that my college friend, Anne A. Rush, was on line at aisle 7, so I gathered my groceries and headed to aisle 7 and stood right behind her. When I got there I was so excited to see her, we said hello, but then I immediately saw she was in a huge struggle. And not in the mood for catching up. Her baby was crying and she was talking on the phone to someone on a pair of earphones. I also saw that the girl behind the conveyor belt was becoming frazzled with the baby’s fussing, and she was mindlessly putting cans of groceries in a plastic bag. I thought it was odd that she didn’t put a paper bag in the bottom first but I minded my business. I then noticed that Anne was becoming upset because her baby was becoming inconsolable. She was getting red and then I saw that the packer put her manager assistance light on and picked up the phone. Anne turned to me and apologized that she couldn’t talk and she then shared with me that the girl was calling for more bags and could I believe she ran out of bags? I could tell she was trying to hold it together, but was understandably frustrated with the girl’s lack of preparation of her station. Finally, she could not take it anymore and she told the girl to finish her transaction so that she could leave. We said a quick goodbye and then she hustled out, struggling with the bag that seemed very heavy and very over packed. I felt bad that I couldn’t

help her, but I had a lot of groceries myself, and needed to wait for someone to bring her more bags so she could check me out.

After a good five minutes, as I was getting checked out, a helping hands associate and a manager came over to the girl on aisle 7 and told them that Anne’s bag had broken and all of the contents fell out and fell on her toe. He told them that her foot was bleeding and that she was very upset. Finally, he told them that she would be getting back in touch with the store because she was going to sue for any expenses she incurred for the injury because ShopRong did not train her properly and the over packing of the bag caused the bag to break and therefore her injury.

Testimony of Hei V. Packer

I work as a cashier in ShopRong. On June 17, 2017 at about 8 p.m., a lady came up to my cashier station at aisle 7. As I was packing her groceries up, her baby started crying. I started checking her out and she tried to calm her baby down as best as she could. It worked for a quick second but then she got a phone call. She put her earphones in and became upset by the phone call. The baby started crying again and she began to look very agitated. I had only been on the job for about two months and it was getting near the end of my shift, and she was making me nervous because she was becoming upset by something on the phone and upset by her baby.

As I got near the end of packing one plastic bag, I noticed that there were a few more items that I felt could have fit in the bag, but thought best that I should get another. As I reached underneath, I felt around and there was not another pack of bags. I felt myself get hot because now I had to call for more bags and I don’t like to do that. I should have checked first; the procedure is that the cashier is supposed to check the bags before they sign off of their shift. The person before me clearly did not do their job. I assumed it would have been taken care of. So, I put my manager assistance light on and picked up the phone to call for more bags. As soon

as I did this, I saw that Mrs. Rush became more and more agitated. Her baby was now screaming and it was making ME nervous. After a few minutes, she rudely told me to just “hurry up and put the other items in the bag I have—I can’t wait any longer.”

She looked so nervous and agitated that I quickly did what she said and I packed her remaining groceries in the one bag. I thought to myself that it seemed heavy, but I ignored it because my shift was almost over and the baby was giving me a headache. Mrs. Rush seemed to be okay with the bag, and after she paid, she quickly hurried away from my station toward the exit of the store. After about five minutes, a helping hands associate, Carter Jones, and my store manager approached me at aisle 7 and told me that the woman’s bag had broken, and she was claiming that it was my fault because I over packed her bag. But I clearly told them that it was not my fault because I was only doing what she told me to do because she was in a rush because her baby was out of control, and the phone call had upset her somehow and she said she had to get home.

I feel that it is the shopper’s fault because she was talking on her phone and she was distracted from what I was doing with her bag. What might be too heavy for me may be fine for her. It is not my job to pick up the bags to see how heavy they are and judge if the shopper can carry them. If the shopper were not distracted, she would have been more involved in the packing of the bag and would have asked me for a paper bag inside of the plastic like many of my shoppers do. She also would have asked me to separate the items, but instead she told me to put them all together because she was impatient and did not want to wait for more bags. The shopper also could have asked me to double bag it but she didn’t. Therefore, this whole incident is her fault for not being more attentive to the bagging of her items.

Testimony of Carter Jones

I am a helping hands associate at ShopRong grocery store. In addition to collecting the carts

from the parking lot and bringing them to the front of the store, I also assist customers with multiple carts, bring packages to people's cars and carry heavy items to customer's cars if they are without assistance. On June 17, I was collecting carts in the parking lot of ShopRong. As I was bringing in a long line of carts, I heard a commotion of a baby crying and a crash of glass on the ground. It happened a few cars up from where I was so I immediately pushed the carts in that direction to see if someone needed help. When I arrived on the scene, I noticed that there was a woman struggling to place her baby in a car seat with a mess on the ground around her foot. At first I thought the mess was just the broken jar of salsa, but then I noticed her foot was bleeding. I began to pick up some of the items that rolled past her car and went around to the side of the car where she was. She immediately yelled to me and said for me to go in to the store and tell the manager that the cashier on aisle 7 caused her bag to break. She was fuming! She said that this store does not have their act together and that they don't prepare their cashiers or the stations properly. She said that there were not enough bags at the station, that the girl over packed her bag, she had to wait in excess of five minutes for a bag and no one ever came. Not wanting to escalate the situation further, I told her I would report the incident to my manager and that I was going to go to get some cleaning supplies to pick up the glass. I also told her I would bring the manager outside to see her.

When I got inside the store, I told my manager and we both went to aisle 7 to share the information with the cashier. We then went out to the parking lot to find Mrs. Rush because my manager wanted to speak with her, but she was gone.

INSTRUCTIONS

The plaintiff must prove by a preponderance of the evidence that the ShopRong clerk had over packed her bag and therefore the store should be

liable for her injury. The plaintiff, Anne A. Rush, must prove by a preponderance of the evidence that the grocery store clerk, Hei V. Packer, was negligent in her packing of the bags and therefore her employer, ShopRong, is responsible for the consumer's injuries because they did not train her properly in packing bags and communicating effectively with customers.

SUB-ISSUES

1. Is Anne A. Rush responsible for the broken bag because she failed to realize that the bag was over packed?
2. Should Anne A. Rush have known that the bag was too heavy filled with cans and that it would break?
3. Should Anne A. Rush have paid more attention to the packing of her bag and have asked that a paper bag be put inside of the plastic bag because of the heavy items and cans?
4. Is it reasonable to believe that the cashier should know how heavy a bag should be packed?
5. Was this the supermarket's fault for not effectively training their cashiers in the packing of these bags?
6. Is it reasonable to expect that the supermarket would provide bags to customers that would not rip and break since the sole purpose of this bag is to hold groceries, and it is assumed by the consumer that the bag is "fit for purpose" and of "satisfactory quality."
7. Is it Mrs. Rush's fault because she did not realize that the bag could not take the weight of the items?
8. Is it Hei V. Packer's fault because she did not realize that the bag could not take the weight of the items?
9. Is it the cashier's responsibility to offer or the consumer's responsibility to ask for a brown paper bag to be placed inside the plastic bag for more stability?

10. Ultimately, is it the supermarket’s fault when an employee is found negligent for an action that causes harm to a consumer?
11. When someone is on line at a store and the cashier is packing the bags, the agreement or contract is that the cashier will pack your bags with a reasonable amount of weight. Did she provide this service with reasonable care and skill?
12. Foreseeability: Is it reasonable that the store clerk should have known that the shopper would swing the bag while walking, and therefore—was it “foreseeable” that she should have warned the shopper not to do this?

CONCEPTS

1. Burden of proof: by a preponderance of the evidence.
2. Damages.

3. Negligence.
4. Causation.
5. Contributory negligence.
6. Pain and suffering.

LAW

1. Negligence torts: The breach of duty of care expected of reasonable people.
2. Contributory negligence: If the plaintiff’s negligence contributed to his or her injury and he or she failed to act responsibly for his or her actions, then his or her carelessness may reduce the responsibility of other parties.
3. Damages: The plaintiff is to be compensated for all damages if the defendant is found to be negligent. This includes fair and adequate medical expenses for pain and suffering.



SCHOOL

Brigantine North
Middle
Brigantine
Grade 6

TEACHER

Rita Coyne

STUDENTS

Gianna Ammari
Alexa Angrisani
Charles Barksdale
Mary Grace Geisler
Nyla Derrickson
Josh Heng
Ella Feehan
Emma Feehan
Brielle Hopkins
Ava LaVigna
Brandon Gaines
Ryan McAnally
Kayley Hannan
Antonio Mendez
Matt Hoffman
Ilana Miller
Guy Porpora
Abby Lerro
Alondra Rodriguez-
Perez
Angelisa Paredes
Nick Sage
Nick Sarno
RJ Riley
Ava Schreiber
Lindsay Tate
Abdul Jabbar
Aaron Simpson

STARS, STRIPES AND SUSPENSION: LOTT V. CARSON CITY BOARD OF EDUCATION

FACTS

On October 27, 2017, Neil A. Lott, an African-American eighth-grade varsity football player, was preparing for the big homecoming game. Neil was captain of the team and showed great promise as an athlete. There were going to be high school coaches in the stands for the game, and strong rumors of scholarships to prestigious preparatory high schools. Neil was very excited because if he received a scholarship to a good high school, he would then be set for college. He would be a first-generation college student, since no members of his family had ever attended college before. His family was on a limited low income, and he would have no opportunity for college without a scholarship. He was hoping to make his team and his family proud.

As he was suiting up, he was trying to clear his head and calm his nerves. He started thinking about the discussion that occurred that day in history club. The topic was the Bill of Rights and how NFL players were exercising their First Amendment rights by taking a knee. Neil was president of the history club and took these discussions seriously, especially considering that two years ago his father Noah was injured in an altercation with the police while he was taking part in a protest.

Neil finished suiting up and ran onto the field with the rest of team while the band was tuning their instruments. The band then started playing the national anthem and Neil spontaneously decided to follow in the NFL player's footsteps and knelt down on one knee. His teammates looked confused and a gasp was heard from the fans in the bleachers.

The game started and Neil noticed that his teammates weren't passing him the ball as frequently as they had in the past. After the game ended, his coach pulled him aside in the locker room and told him how disappointed he was in Neil's actions.

On Monday morning, when he returned to school, Neil A. Lott

was called to the principal's office where he was informed that he was suspended for three days due to his actions on the field. He went home and told his parents, who decided to sue the school for violating his First Amendment rights.

ISSUE

Did the Carson City Board of Education violate Neil A. Lott's First Amendment rights by suspending him for expressing his opinion by taking a knee on the football field?

WITNESSES

For the Plaintiff

Neil A. Lott
Noah Lott

For the Defense

Principal Sal Loot
Coach Dean Fence

WITNESS STATEMENTS

Testimony of Neil A. Lott

I am in eighth-grade at Carson City Middle School. I am captain of the varsity football team, and I am president of the history club. I work hard and take my academic and athletic responsibilities seriously. As an extension of that, I also take the current climate of black oppression seriously as well.

On October 27, 2017, I was getting ready for the big homecoming game and was nervous because there were supposed to be scouts for some area prep high schools in the audience. If I received a scholarship to one of these high schools, then I would be set for college as a graduate of one of these feeder schools. I was trying to calm down and started thinking about all the NFL players who have been taking a knee during the national anthem. I think a lot of people misunderstand why they do that. Taking a knee is meant to protest police brutality and racism. It is meant as a respectful gesture against a system that oppresses black people and people of color. It

is not meant to show disrespect to the military. After all, these brave men and women fought and died for our country so that we can live in a society that guarantees our First Amendment right to speak freely.

My own father was a victim of this type of police brutality as he got injured in a police altercation after a peaceful protest so I tend to take this a little personally. Anyway, I was thinking about all of this as I ran out onto the field. The bleachers were packed, the band was tuning up and when the national anthem started, I just spontaneously decided to take a knee, as there was a big audience for it. I didn't expect the reaction that it got, however. As I was kneeling, I heard a gasp from the audience, and the coach gave me a stern look. I just decided that I was being paranoid and shook it off. But after the game started, I felt like I didn't show my full potential because my teammates weren't passing the ball to me as frequently as they usually do. It made me feel like I wasn't a part of the team. This was really frustrating to me especially because there were scouts in the audience, and my chances for a future scholarship were at stake.

After the game, my coach pulled me aside and told me how disappointed he was in my gesture during the national anthem. I got emotional and felt angry but tried to put it behind me. I just don't think he got it; a lot of Caucasians take it the wrong way. On Monday, when I returned to school, my principal called me into his office and told me I had a three-day suspension due to my actions on the field. This consequence is unfair because I had the right to express my feelings in a peaceful way and not be punished for it. I feel I was discriminated against because I was expressing my First Amendment rights!

Testimony of Noah Lott

I have been a bus driver with the Safety Transport Company for the last 14 years. I sing with my church choir and volunteer at the local soup kitchen.

On October 27, 2017, I was running the snack shack at the Carson City Middle School's homecoming game. My son plays on the team and we were both excited about the game since there were supposed to be scouts in the audience. I glanced over during the national anthem and saw my son Neil kneeling in protest. I felt a wave of pride sweep over me since this is a very personal issue. I had a situation occur two years ago when I was participating in a peaceful protest and was harassed by police as a result. I sustained multiple abrasions and contusions and the police were never reprimanded for their actions!

I've discussed this situation multiple times with my son, as well as the role the NFL players are taking by kneeling in reaction to racial oppression. The reaction that both the coach and the principal took will affect my son's chances for a college scholarship. Not only that, but my son's disciplinary record is now marred. He should not be punished for expressing his First Amendment rights!

Testimony of Sal Lott

I have been principal at Carson City Middle School for nine years. Prior to that, I was a social studies teacher at the same school for over a decade. I am a proud military veteran of the armed forces and before I became a teacher, I served in the military for 10 years.

On October 27, 2017, our school's football team was playing in their annual homecoming game. I was in the stands when our school band began playing our national anthem. I looked at our student athletes as they attentively lined up for the anthem and saw Neil A. Lott taking a knee on the field. He drew everyone's attention by this gesture. I actually heard some gasps from the crowd, and I personally felt insulted! I noted some people abruptly left the stadium after the anthem.

As I stated earlier, I served in the military, and under the American Flag, for 10 years, and I'm sure other people in the stadium have also. Disrespecting the American Flag is a grave offense

to current and retired military, police and first responders everywhere. It is also hurtful to all family members who have lost a loved one due to military service. Neil A. Lott disrespected the program, the school and our country! Furthermore, I was afraid his spontaneous gesture would cause disruption in the stands during the game or more importantly at school the following week.

I didn't want to react out of emotion so I went home and thought about it all weekend and decided a suspension was an appropriate consequence. My decision was doubly reinforced when I arrived at school on Monday and heard all the students in the hallway talking about Neil A. Lott and his stunt at the game. I called Neil into my office, discussed the situation with him and issued a three-day suspension, as he seemed to have no remorse. After all, as educators we are responsible to teach students patriotism and proper etiquette toward the flag, such as standing and taking your hat off to show respect. Furthermore, as principal, I can't allow situations like this to disrupt the educational process.

Testimony of Dean Fence

I have taught math at Carson City Middle School for 14 years, and have been the head football coach for that entire period of time as well. We have won several championships and I am proud of my team and our reputation.

When I saw Neil A. Lott kneeling at our homecoming game, I felt offended because my players know better than that. They all know I lost my brother in a deployment in Iraq four years ago, and this is a difficult issue for me personally. In addition, I felt it projected a negative image for our team. Our boys work hard to earn and maintain their position on our championship team, and none of us wants to see that reputation sullied by a lone gesture. Some of our fans were insulted also, judging by their exit after the national anthem.

As to Neil A. Lott's claim that the team wasn't passing the ball to him enough, everyone needs to

understand that I suggest the plays, but I can't control what the quarterback decides in the heat of the moment.

I talked to Neil A. Lott after the game to let him know my feelings and my disappointment in his actions. The flag and the national anthem are unifying symbols for all Americans, and his protest resonated deeply not only with me, but with players and fans alike.

On Monday morning I found out that Principal Lott issued a three-day suspension. Although I had no authority in issuing this disciplinary action, I felt it was appropriate given the circumstances.

INSTRUCTIONS

The plaintiff must prove by a preponderance of evidence that his First Amendment rights as guaranteed in the United States Constitution were violated when the school district suspended him for expressing himself by kneeling down during the playing of the national anthem.

SUB-ISSUES

1. Was the student athletic policy violated?
2. Was the athletic process disrupted for the rest of the team and other fans by the gesture of kneeling before the flag?
3. Was Neil A. Lott just trying to express himself or was he making a statement?
4. Was the school's learning environment affected the following week by Neil A. Lott's gesture?
5. Is kneeling during the national anthem a hate symbol or one of pride and heritage?

CONCEPTS

1. Freedom of speech/expression.
2. School safety.
3. Standard of reasonableness of the athletic code policy.
4. Zero tolerance racial harassment policy.
5. Definition of "appropriate."

6. Credibility of witnesses.
7. Parental responsibility.

LAW

1. United States Constitution—First Amendment: "Congress shall make no law...abridging the freedom of speech."
2. Fraser Standard—*The Fraser Standard (Bethel School District. No. 403 v. Fraser, 1986)* In the case of *Bethel v. Fraser*, the Supreme Court ruled that school officials could punish a student for offensive expression.
3. *Tinker v. Des Moines School District*, U. S. Supreme Court Ruling...upheld that freedom of expression of students is protected under the First Amendment.
4. *Hazelwood School District v. Kuhlmeier*, Supreme Court Ruling..."Speech ... can be regulated by the school if the school has a legitimate...concern in regulating the speech."
5. Carson City Middle School Policy Handbook, Section 5. Disturbances and Demonstrations; Sub Heading: Athletic Events. "School officials are empowered to order unruly or disruptive students to leave the event, or be subject to disciplinary action. Any student who fails to comply with such instructions is subject to suspension or arrest."
6. Carson City Middle School Policy Handbook, Section 8. Conduct Policy: "Any gesture that is offensive or disrupts the educational process will not be tolerated. Offensive or disrespectful gestures will not be permitted. Students should conduct themselves in a suitable manner indicating pride both personally and academically."
8. Title VI of the Civil Rights Act of 1964 prohibits discrimination based on race, color or national origin in programs or activities receiving federal financial assistance.

ROCKHIT V. PITCHER, BALL, AND THE NORTHSIDE SCHOOL DISTRICT



SCHOOL

Luis Munoz Marin
School for Social Justice
Newark
Grade 6
Second Place

TEACHER

Bridget S. Charles

STUDENTS

Marcos Abrams
Alaila Ali
Gabriella Avallone
Mariya Carlo
Mario Hernandez
Ryan Kundan
Roselyn Lopez-Erazo
Adrian Ramirez
Kevin Renjifo

FACTS

On Wednesday, March 15, 2017, there were 22 fifth-grade students on the playground with one supervisor, Mrs. Iris I. Ball, their physical education teacher. There is usually a personal aide present with this particular population of students, but on that day the student was absent so the aide was reassigned. One child, Naught E. Pitcher, allegedly threw a rock and hit another child, Marilyn Rockhit, in the head.

Marilyn fell to the ground and had to be rushed to the hospital emergency room. She was quickly transferred to the nearest trauma center where she was diagnosed with an acute subdural hematoma, and the doctor said she needed surgery immediately to relieve the pressure on her brain. Marilyn Rockhit has since recovered, but she suffers from severe headaches. Her parents believe this is a result of the head injury from the rock, and they seek compensation for stated injuries.

Marilyn's parents are suing for \$2.5 million because their daughter was hurt both physically and psychologically as a result of inadequate supervision on the playground.

ISSUE

Did the school provide adequate supervision for the students on March 15, 2017?

WITNESSES

For the Plaintiff

Marilyn Rockhit
Katy Teller

For the Defense

Naught E. Pitcher
Nowan Stricter

WITNESS STATEMENTS

Testimony of Marilyn Rockhit

I am a fifth-grade student at Northside Elementary. I have been diagnosed with acute subdural hematoma, which is considered as brain damage. I have been like this since Wednesday, March 15, 2017. I have had to face many obstacles since the incident, and some of them have been hard to accept. I have endured many months of physical and mental therapy. It was hard to accept at first, but now I know that this incident is going to affect my entire life, and I just have to deal with it. My permanent injuries are life-altering.

On Wednesday, March 15, 2017, Mrs. Iris I. Ball, the teacher for my physical education class, had taken us outside since my class was suspended from the gym for trashing the gym. Everyone in my class was not guilty. It was Naught E. Pitcher, this young irresponsible student, who actually trashed the gym. He did it on a dare from one of his friends. So the gym teacher took us outside to the concrete playground. I was having a great time at first. Mrs. Ball let us choose an activity to do with our friends, and I was jumping rope for a few minutes. I quickly decided to play hopscotch instead, and that is what I was about to do when the incident occurred.

Another student scraped his knee on the concrete. He was crying and bleeding a lot so the teacher used her cell phone to call the nurse. Some students were playing a football game that day, and Naught E. Pitcher was the captain.

As I was walking to the hopscotch game, I looked at the football game. The ball flew out of bounds so Naught went to pick it up near the rocks. As I was walking by, he picked up a rock and threw it in my direction. I felt a very sharp pain on the side of my head. I put my hand on the side of my head and all I saw was blood gushing. It was the most horrible moment of my life.

I was told that I passed out. I woke up to find myself in the hospital. Later on I found out that I had fainted when the rock hit me. At that point I remember little about what happened. I was taken in for tests, exams and surgery, and then

transferred to the nearest trauma center. That's when the doctor told me that I had acute subdural hematoma. The doctor said I needed surgery immediately to relieve the pressure on my brain. I was kept there for awhile because the doctor wanted to monitor me for blood clots. Still, to this day, I have many headaches. My parents believe this is a result of the head injury from the rock, and that I should be compensated for my injuries. That is why my parents are suing Naught E. Pitcher and the Northside School District.

Testimony of Katy Teller

I am a fifth-grade student attending Northside Elementary School. I witnessed the event where Naught E. Pitcher threw a rock at Marilyn Rockhit on March 15, 2017.

In the first place, we ended up outside because Naught E. Picher trashed the gym. As a result, we were forbidden to use the gym, and that day our classroom was extremely hot due to excessive heat from the heating vents. We had our physical education class on the playground instead. Mrs. Ball was our physical education teacher. That is when Naught E. Pitcher threw a rock and hit Marilyn Rockhit in the head.

In my opinion, Mrs. Iris I. Ball was neglecting a very important duty. She was on her cell phone while she was supposed to be watching our class. At least that is what I saw. She should have been watching everyone, and most likely Marilyn would not have been hurt that day. This event resulted in Marilyn's mother, Mrs. Rockhit, having to sue the Northside School District for negligence.

Before this incident occurred, most boys (including Naughty E. Pitcher) were playing football. Unfortunately, someone threw the ball out of bounds and Naught went to go get the football back. As quick as a wink, Naught picked up a rock, threw it and hit Marilyn Rockhit on the head. She immediately fell to the ground and blacked out, and her head was bleeding. Since Marilyn and Naught were arch enemies, I assumed that he threw the rock at her intentionally. Naught

claims he and his friends were trying to hit a snail with the football, and that the only thing he threw that day was the football.

When Marilyn came to, she said that she felt dizzy. Then she fainted again. Eventually the ambulance came, and she was taken to the hospital. She had to stay there for awhile because she had to have brain surgery. Now that Marilyn is back in school, she is not the same as before. She used to be a happy girl who always wanted to play hopscotch or some other fun game on the playground. Now she is afraid to go outside; she stays mostly to herself, and she suffers from severe headaches.

Testimony of Naught E. Pitcher

I am a fifth-grade student at Northside Elementary School. I think that I am a pretty good student because I get good grades. I don't know why kids and teachers think otherwise.

On March, 15 2017, I was accused of throwing a rock at Marilyn Rockhit and hitting her in the head. That is not true. I did not hit Marilyn. As a matter of fact, I didn't even throw a rock. I am being falsely accused, and I am not going to take the blame for something someone else did.

It all started when we got kicked out of the gym for having fun. At least, that is how it looks from my perspective. I was just having a little fun with my friends, but the teacher said that I trashed the gym. She said that instead of taking us back to the classroom, she would take us outside to the playground to finish the gym period because it was a double period. I was really happy to go outside because I LOVE physical education and I like to have fun. P.E. is my favorite subject. When we get a chance to play outside, I have more freedom to have fun. I always get reprimanded for one thing or another by the regular gym teacher. This can be quite irritating at times so I was happy to have Mrs. Ball as the physical education teacher that day.

When we got outside, most of my friends and I started a game of flag football and, of course, I was captain. I could not believe how much fun we were

having, and then it all fell apart. When my friend David threw the football, it went out of bounds so I went and picked it up. I threw the football to my teammate Joshua and then I was planning to jog back quickly to rejoin the game. That is when I saw Katy Teller standing by the meanest and bossiest girl in the class, Marilyn Rockhit. I heard a thud and saw Marilyn fall on the ground. Katy turned to me and said that I had thrown a rock and hit Marilyn, but that was not true. I don't know who hit her, but it wasn't me. The only thing I threw was the football. I may be playful at times, but I did not hit Marilyn with a rock that day.

Testimony of Nowan Stricter

My employee should not be the one to blame here because she states that she was not using her phone for talking with any friends when the incident occurred between Naught E. Pitcher and Marilyn Rockhit. Mrs. Ball was actually calling the nurse to get help for a student who had a badly scraped knee and needed attention immediately. She was just concluding her call to the school nurse when the rock incident occurred. The children were screaming, but Mrs. Ball stayed calm and acted rationally.

Mrs. I Ball reported that she walked over to where Marilyn lay on the ground, and she immediately called 911 as soon as she realized what had happened to her. Mrs. Ball also reported that she controlled the hysteria by sending Naught E. Pitcher and his fellow "footballers" to the principal's office while she waited for the ambulance to arrive.

I was notified by another staff member—and this was later confirmed by Ms. Ball—that a child named Naught E. Pitcher threw a rock at another child named Marilyn Rockhit. In a meeting with Marilyn's parents the next day, I was told that the rock caused her to have brain damage, and that Marilyn will never be the same again. I tried to tell Marilyn Rockhit's parents that I was very sorry about what happened on the playground, and that my employee was doing the best she could in the

incident with these two kids. However, Marilyn’s mother was very angry.

I told Mrs. Rockhit to please calm down, but she said no. She said I had nothing to say that would interest her, and that I would hear from her lawyer. She ended the meeting abruptly by storming out of my office. As she left, Mrs. Rockhit yelled loudly that she planned to sue for the damages that her daughter had to endure.

I had a meeting with my faculty and staff and asked everyone to write a report about what they knew about the incident. A few weeks later we were notified by Marilyn’s parents’ lawyer that we were being sued along with Naught E. Pitcher’s parents and the Northside School District for \$2.5 million for negligence.

INSTRUCTIONS

The plaintiff must prove by a preponderance of the evidence that there was inadequate supervision on the playground on March 15, 2017.

SUB-ISSUES

1. Was the teacher paying attention to the students?
2. Was Mrs. Ball using her cell phone at the time of the incident?
3. Did the teacher violate the school policy regarding playground supervision?
4. Is the teacher responsible for the student’s action?

CONCEPTS

1. Child supervision/teacher responsibilities.
2. School rules.
3. Intentional neglect.

LAW

1. A school district is liable for the negligent actions of its officers, agents, or servants. The general rule for child supervision is that schools have a duty to protect students in their custody from reasonable foreseeable danger.

2. Negligence of school authorities may arise where the grounds or equipment are unsafe and a student is injured. School authorities have a nondelegable duty to students to ensure that reasonable care is taken for the safety of children at school (*Watson v. Haines* [1987] ATR 80- 094).

Nondelegable—Legal Definition. (adj.) Of a power, that it cannot be assigned or transferred to another to be performed. It is an obligation that cannot be delegated to a third (non-contracting) party under the terms of a contract.

To be successful in an action of negligence the plaintiff must prove all elements of negligence according to the civil standard of proof, which is, on the balance of probabilities. This means the plaintiff must satisfy the court that his or her version of the events is more probable than not. The plaintiff must first prove that he or she was owed a duty of care. It would be extremely difficult for a defendant to successfully argue that a student was not owed a duty of care. Secondly, that a breach of duty of care or the required standard of care was not met and finally that the injury was caused by the breach of duty.

In other words, a person must take reasonable care to avoid acts or omissions which would be likely to injure another person where it is foreseeable that such an injury could occur given the circumstances. A duty of care arises out of the relationship between the student and the school and is well established in education regulations and at common law. In general, a teacher owes to each of his pupils whilst under his control and supervision a duty to take reasonable care for the safety of the pupil. It is not, of course, a duty of insurance against harm, but a duty to take reasonable care to avoid harm being suffered (*Richards v. State of Victoria* [1969]).

DIGGING DISASTER: FURIES v. DIGGORY



SCHOOL

Round Valley
Clinton Township
Grade 6
Honorable Mention

TEACHER

Jennifer Sandorse

STUDENTS

Emily Chapman
Halle Lavigne
Brandon Lee
Nolan McDonough
Alise Neiman
Julia Morrissette
Emma Mullay
Isabelle Sameiro
Brooke Van Doren

FACTS

On April 17, 2017, Doug Diggory, a friend of the Furie Family, was doing a favor for them by building a pool. The family offered to pay him, but he refused to accept it. Doug used to own a company called Diggory Digs Excavating and owned an excavator. That afternoon, Frank Furie and his son Les were outside looking at the excavator. Doug let Les, who is five years old and loves big machines, climb onto his lap in the digger. While Doug was guiding his hands, Les pulled on the levers and made the large machine move. Doug taught Les all about the equipment he worked with. Soon after that, Les went to play in the sandbox with his toy trucks, and his dad went inside to check dinner.

Doug dug for a little while longer, keeping in mind that Les was there. Doug went inside for a quick break so he took the keys out of the ignition and put them into the cupholder. When Les saw that Doug was gone, he climbed into the excavator and spotted the keys in the cupholder. He grabbed the keys and put them in the ignition. Les then pulled a couple levers, just like Doug showed him earlier that day. Les hit the house with the machine, ripping off a section of the roof and a large part of the wall surrounding it. Then Doug ran outside after hearing the loud BOOM of the backhoe hitting the roof and it caving in onto valuable things. The Furies are suing for the damages done to the house.

ISSUE

Is Doug Diggory liable for the damages done to the Furie Family's roof?

WITNESSES

For the Plaintiff

Ruth Furie
Frank Furie

For the Defense

Doug Diggory
Gordon Clipper

WITNESS STATEMENTS

Testimony of Ruth Furie

I am the mother of Les Furie. I have known Doug Diggory since I married my husband Frank seven years ago. When we started this project, I wanted an honest, hard-working, and qualified professional. Instead, I got Doug. He is dishonest, lazy and inept at his job. I was sitting in the living room reading a book when I witnessed Doug Diggory leave the backyard, just after he was showing Les the excavator and how it worked. I then saw Les get out of the sandbox, and I figured that he was coming inside with Doug.

Moments later, I heard a loud crash and looked out the window and saw Les getting dragged out of the cab by Doug. I knew I had to get out of the house as fast as possible to see what had happened. I went outside and saw a large section of the roof and part of the wall around it was torn. When I saw what had happened, I was completely stunned! There were many valuable items inside that ended up destroyed so not only was part of my house ruined, but so were some irreplaceable items.

I was furious at Doug. I told Doug how I was going to sue him for all of the damages. He responded, saying it was Les's fault because he was the one who got on the excavator. Les was taught how to control the excavator by Doug.

Testimony of Frank Furie

I am the father of Les Furie, who is five years old. I have been friends with Doug for over 10 years. I am the head chef of the popular restaurant Eat and Chew. When I am not in the kitchen, I am at home with Les. Our favorite thing to do together is play outside, especially with his toy trucks.

On April 17, 2017, I put a pizza in the oven when Les asked me if we could go play outside

with his toys. Les and I headed outside to look at the backhoe and to say hi to Doug. When Doug saw us coming, he stopped the machine to say hi to his "favorite little man," as he called Les. Les ran over and gave Doug a hug and asked to sit in the machine. Doug asked if it would be Ok and I answered, "Sure." Doug began to show Les the controls. I figured he was in good hands, so I went inside to check on the pizza. After a few minutes, I looked out the window and saw Les in the sandbox playing with his trucks. Doug began to work again. I decided to go back to work on the pizza.

Suddenly, I heard a bang come from the top of the house and I ran outside to check on Les. To my surprise, Doug was just a few steps in front of me, pulling Les out of the excavator. I saw that the roof had been hit by the giant machine. I was shocked that Doug had left Les alone with the excavator. I feel that he is responsible for the damage done to my roof and for putting my son in danger.

Testimony of Doug Diggory

I was building a pool for the Furie Family on April 17, 2017. I used to own a construction company called Diggory Digs Excavating, but then I sold it because I didn't have enough employees. I was doing this favor because Frank is one of my best friends from college and they asked me to build a pool for them. The Furie Family has a five-year-old child named Les. He was really interested in construction tools, especially excavators, which I was using to dig the Furie Family's pool. Les asked if he could come into the cab of the backhoe. With Frank's permission, I agreed. After I showed Les all the controls, he went to play and I continued my work.

I had been working on the pool for awhile and I needed to go to the bathroom. I turned the machine off and left the keys in the cupholder like I usually do. While I was in the restroom I heard a large crash. I immediately ran outside with Frank just behind me. I found that Les had turned on

the machine and driven the excavator into the house. I swiftly ran to the machine and inside the cab I saw Les sobbing for his mom. Les's dad came up to me and asked what had happened.

Les's mom suddenly came out and told me she was going to sue me. After the accident, my friend Gordon Clipper contacted me. Gordon is the Furies' neighbor. He told me that he had tried to stop Les from turning the excavator on, but Les looked over at him and stuck his tongue out. Les should have been watched by his parents and not left outside by himself with me and my machine. Also, Les should have listened to Gordon when he told him not to touch the excavator.

Testimony of Gordon Clipper

I live next door to the Furies. On April 17, 2017, I had been working around the house while Doug was working on the pool. After awhile, I saw Doug turn off the machine and go inside the house. Within a few minutes, I saw little Les climb out of the sandbox and head toward the excavator. As he grabbed the keys, I hollered at him to stop as it is too dangerous for a kid that young to be in a machine that size. All Les did was stick his tongue out at me. I started to head around the fence that separates our properties. Les must have pulled some of the levers because he hit the house. A crash followed and the bucket was about halfway in the second floor. He obviously knew he had done something wrong so he tried to fix it by pulling the bucket of the excavator out the roof. I ran into their yard to make sure everyone was okay. I saw Doug followed by Mr. and Mrs. Furie running to Les and pieces of the roof scattered all across the yard.

The reason I'm supporting Doug is because I saw everything happen and Les should have realized that he should not touch things he doesn't know how to control. Also, I don't think that Mrs. Furie and Mr. Furie should be suing Doug for something he didn't do. I feel that it is wrong,

and that it is their own fault for saying it was okay for Les to go into the excavator in the first place. They should have just made him stay inside until the pool was finished. Les obviously was not told to stay away. I feel that Doug is not liable for Les hitting the house.

INSTRUCTIONS

The plaintiff must prove by a preponderance of the evidence that Doug Diggory was liable for the damages done to the Furie Family's roof. The Furies are suing Doug Diggory for the damage done to their home.

SUB-ISSUES

1. Is it important that the pool was never finished?
2. Should the Furies have been supervising Les?
3. Should Doug Diggory have left the excavator unattended with the keys left in it?
4. Should Les Furie have known that he shouldn't go in the excavator without an adult?
5. Was it irresponsible for Doug to show Les how to work the excavator?
6. Should the parents have let Les play outside while there was a very big and dangerous machine by him?

CONCEPTS

1. Builder's accountability.
2. Negligence.
3. Burden of proof: by a preponderance of evidence.
4. Child's maturity.
5. Child's supervision.

LAW

Negligence— To prove that the defendant was liable for these damages, you must be able to show that he/she is liable of all of the elements of negligence. The elements are duty, breach of duty, cause in fact, proximate cause and damages.



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