

Featuring winning cases from the
New Jersey State Bar Foundation's

Law Adventure

2019 COMPETITION



Mock Trial EXERCISES

FOR GRADES 7-8



njsbf.org

PREFACE



IN 1995–96 THE NEW JERSEY STATE BAR FOUNDATION LAUNCHED A UNIQUE, LAW-RELATED EDUCATION PROGRAM FOR MIDDLE SCHOOL STUDENTS—THE LAW ADVENTURE COMPETITION.

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

Following are the winning cases from the Law Adventure 2019 Competition. The themes for the 2019 contest were (1) plagiarism or (2) cybercrime.

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

content should not be considered technically accurate.

These 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.

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

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

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

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

© 2019 New Jersey State Bar Foundation. All rights reserved.

CONTENTS

Juan Awın v. Robin Ideas: The Hovering Dilemma	1
Melody Soprano v. Jonathan Alto: Strangely Similar Song	6
Plank v. Hayes	10
Nyde v. Capi	18
Elizabeth Wayne v. Philip Fliye	22
Yura T. Hief v. Ino S. Teal	28
Bob Harrison v. Richard Pect	33
Instagram Insanity: State of California v. Stella Steeler	38
Pression v. Telsa Auto Company	43
The Case of the Soulful Song: Selena Soul v. Maine Melody University	48
Paine T. Brush v. Olly Pastel: A Sketchy Sketch	53
Jungle Jumble: Smith v. ToyGorila	58

JUAN AWIN v. ROBIN IDEAS

THE HOVERING DILEMMA

SCHOOL

Bloomfield Middle
Bloomfield
Grade 7
First Place



TEACHER

Lisa Crammer

STUDENTS

Flavia Capet
Jairo Castro Jr.
Sadie Coulter

Justin Gomez
Michael Hamberlin
Austin Joseph

FACTS

Juan Awin was a junior at Thomas Edison High School who aspired to become a famous inventor. He received average grades but often had very innovative ideas. Robin Ideas was a senior at Thomas Edison High and was good friends with Juan. She was a straight-A student with a great reputation in the building. Every year, the high school held an annual Shark Tank Competition for the juniors. The competition was a great way for students to showcase their work.

Juan worked hard on creating a new hoverboard for the competition. His friend Robin helped him develop and build his design. She made edits and gave her own opinions on the invention. She also donated a few pieces of supplies used to build the hoverboard. Robin wasn't allowed to enter the competition because it was only for juniors, but she was a great resource because she previously won the Shark Tank Competition in her junior year.

Juan's invention ended up winning first prize in the contest. After Robin heard this, she grew upset and realized that she should have received some credit for her contribution towards Juan's work. She then decided to create her own hover vehicle, a hoverbike, and changed the way the engine functioned for a Statewide Young Inventors Competition. She also decided to make it eco-friendly because she cared for the Earth. Her idea won second place and she was awarded \$1,000 as well as a partial scholarship to Harvey Business School. Juan found out about the partial scholarship and prize money and accused Robin of stealing his original design.

ISSUE

Did Robin plagiarize Juan's original design of a hoverboard when making her hoverbike?

WITNESSES

For the Plaintiff

Juan Awin
Sienna Tiffic

For the Defense

Robin Ideas
Emma Judge

WITNESS STATEMENTS

Testimony of Juan Awin

My name is Juan Awin, and I'm a junior at Thomas Edison High School in Plagiartown, New Jersey. I have always dreamed of being a famous inventor that would eventually change and influence the world. One day, I was in school and heard about an upcoming school Shark Tank competition. I got so excited and started thinking about something that would blow the judges' minds away. After a lot of creative thinking, I came up with the innovative idea to create a hoverboard. I asked my friend Robin from school, who had actually won the competition the previous year, for some edits and her opinion on my work. I only wanted her to see if my plan would make sense and to give minor feedback on the design. We met after school a few times at my house and she gave me some great advice. She made a few minor changes to my design, and also gave me some of the supplies that were used to build my hoverboard.

Once my project was finished, I was very satisfied with the final product since it took me weeks to complete. I went to school and presented my idea and model of a hoverboard. I was so happy when I found out that I was the winner of the competition. The local paper wrote an article about my hoverboard, and my picture was posted on the district website and was in the newspaper.

A few months later, I was in class one day when I overheard a few students talking about a hoverbike. It intrigued me, so I asked them what they were talking about. They told me that a senior named Robin had created a hoverbike that won second place in the Statewide Young Inventors Competition. When I asked Robin about it, she told me it was true and she was very excited. She went on to explain that she received \$1,000 and a partial scholarship for her design.

I actually thought that the idea was cool, but I was also a little suspicious, since our inventions looked EXTREMELY similar. The design of the two hover vehicles was pretty much identical, and the material used to make them was exactly the same. I did not give Robin credit when I entered my design to the Shark Tank Competition because she barely even helped me and all she did was give me some supplies! There is no way she could have created a hoverbike without using my plans as part of her original design. They were almost identical!

Testimony of Sienna Tiffic

My name is Sienna Tiffic. I am one of the sophomore and junior science teachers at Thomas Edison High School. I have known Juan Awin for two years, as his science

teacher. Although Juan does not always receive straight A's, he has always had a great mind and innovative ideas. One day, he approached me with an idea to create a hoverboard for the Annual Junior Shark Tank Competition. I told him I thought it was a great idea and to let me know if I could help in any way.

Juan often came to me asking for feedback, so I was one of the first people to see his original designs. I was always happy to work with him and was excited to see him so engaged in the contest. I suggested that he reach out to other teachers and students, and specifically mentioned that he should speak with Robin Ideas, the winner of the competition the previous year. I was Robin's teacher last year and knew that she was quiet, but a smart and talented student.

Once Juan won, I was excited because I knew that he worked hard and deserved it. A few months later, I heard that Robin won the Statewide Young Inventors Competition with a hoverbike invention. It was almost exactly the same as Juan's hoverboard. There were so many similarities between the two projects. The materials were the same. It was powered the same way. Even the design looked similar! She only made it eco-friendly so that it would look different. There is absolutely no way that the hoverbike could have been created without all the hard work done by Juan.

Testimony of Robin Ideas

My name is Robin Ideas. I go to Thomas Edison High School. Last year, my switch glasses won first place at the Annual Shark Tank Competition at my school. As a senior, I was not able to enter the competition, so

when my friend Juan Awin approached me and asked for my help, I was excited to be involved.

I helped Juan with his ideas for his hover invention. We met several days after school to work on it. Not only did I donate the majority of supplies for his hoverboard, but I also made major changes to errors in his design. I helped him to figure out the key design to help it hover. When the competition came around, he became selfish with *our* idea. He didn't mention me helping him at all, and didn't say that I gave him the supplies to make this invention. There is no way his hoverboard would have even functioned without my help!

After Juan won the Shark Tank, it gave me a great idea. The hoverboard was awesome, but I had a new idea to create a hoverbike. I spent weeks coming up with new designs and worked tirelessly until I figured it out. Making a bike hover required many advanced scientific formulas. My hoverbike was completely different from Juan's, and much better in my opinion. I changed many things. The engine worked differently, the design was different, and mine was way more original being that it was a BIKE! I was so proud of how it turned out, that I entered it into a Young Inventors Statewide Competition. Luckily, my idea won second place and I received \$1,000 in prize money plus a partial scholarship to Harvey Business School.

Even though it was a different idea, I think Juan became jealous of my design. He felt that he should receive partial credit, but for what? He didn't even say anything or credit me on my crucial help in his project, so why should I? Is a hoverbike not completely different than a hoverboard?

Testimony of Emma Judge

My name is Emma Judge and I am one of the judges in the Statewide Young Inventors Competition. When Robin Ideas, an aspiring scientist, entered her hoverbike into the competition, I thought her idea was brilliant and one of a kind. Her invention was very advanced for a student of her age, and I could tell that she spent a lot of time and effort creating it. Robin submitted all of her original designs and plans as part of the contest. It was a unanimous decision that she won second place.

A few weeks later, I received a call that Robin's invention was actually plagiarized. I asked if I could compare the two designs and I saw that they were very different. Robin designed an eco-friendly hoverbike that had an engine that lasted for hours. Juan's invention was a board that you stood on and hovered. The only things that were the same were the idea of something hovering and some of the materials.

Robin Ideas definitely deserves the prize she was awarded. Everyone knows that inventors must get inspiration from the world around them, and this invention is the next generation of transportation. Do you think that the original inventor of a skateboard filed a lawsuit against the original inventor of the bike? I would think not, and for this reason I do not see any reason why Robin's award should be in jeopardy.

INSTRUCTIONS

The plaintiff must prove by a preponderance of the evidence that Robin Ideas plagiarized the original hoverboard invention made by Juan Awin in order to

win second prize and win \$1,000 and a partial scholarship to Harvey Business School.

SUB-ISSUES

- 1 Did Juan Awin have a patent for his hoverboard?
- 2 Does Robin Ideas have evidence that she had her idea before Juan came up with his?
- 3 How is the hoverbike different from the hoverboard?
- 4 How much did Robin Ideas really contribute to Juan's design?

CONCEPTS

1. Credibility of witnesses.
2. Burden of proof: preponderance of the evidence.
3. Copyright infringement and plagiarism.

LAW

1. To be liable for plagiarism it is not necessary to exactly duplicate another's literary work it being sufficient if unfair use of such works is made by lifting of substantial portion thereof. *O'Rourke v. RKO Pictures*, D.C. Mass., 44 F. Supp. 480, 482, 483. December 17, 1942.
2. Copyright Act of 1976
 - a. All literary musical, dramatic, pantomime and choreographic, pictorial, graphic, sculptural works, architectural works, motion pictures, other audiovisual works, and sound recordings that are copyrighted or original and fixed are protected by the Act.
 - b. Only the author of any of the above has the exclusive rights to reproduce (copy), creative derivative works of

the original, sell, lease, or rent copies of the work, perform the work publicly, and the right to display the work publicly.

- c. The following should be considered when making a decision regarding copyright infringement under the fair use clause for the defense:
 - 1) The purpose and character of the use of the work;
 - 2) The nature of the copyrighted work (*i.e.*, fictional, amount of creativity, etc.);
 - 3) The amount and sustainability of the portion of the original work used; and
 - 4) The effect of the use of the work on the market or the public.

MELODY SOPRANO v. JONATHAN ALTO

STRANGELY SIMILAR SONG



SCHOOL

Bloomfield Middle
Bloomfield
Grade 7
Second Place

TEACHER

Lisa Crammer

STUDENTS

Metin Akcay
Elias Kaufman
Sophie Langton
Karinna Loayza

Alyssandra Montalvo
Victoria Parelli
Keani Williams
Jacob Petrossian

FACTS

Jonathan Alto and Melody Soprano were married for three years. During the time of their marriage, they wrote songs together and would perform them at local establishments. Towards the end of the relationship, they began to grow apart and got divorced on December 28, 2016.

After the divorce, Jonathan decided to pursue his music career further, and eventually met Clef Trebleson, a music producer who would later get him an agent, radio interviews, and #78 on the Billboard Hot 100. Jonathan Alto released the song, “Forever in Love,” with the support of Clef Trebleson and Trebleson Studios.

Melody Soprano first heard the song when she was driving on her way back from work. While listening to Jonathan’s song, Melody felt that the song was similar to one she and he had worked on while they were married. She felt that the lyrics of the chorus were indistinguishable, and the title was also a copy of what she wrote. Melody then contacted Jonathan to clear up the situation. Five missed calls later, she eventually contacted Clef Trebleson himself and his assistant told her that if she didn’t stop calling, Trebleson Studios would call the police. Melody then decided to file a lawsuit against Jonathan Alto for plagiarism on March 4, 2018.

ISSUE

Did Jonathan Alto commit plagiarism when he published the song “Forever In Love” as a solo creation?

WITNESSES

For the Plaintiff

Melody Soprano
Chris Scendo

For the Defense

Jonathan Alto
Clef Trebleson

WITNESS STATEMENTS

Testimony of Melody Soprano

My name is Melody Soprano. A few years ago, before our divorce, my ex-husband and I used to create love songs together. I kept a notebook with all of the lyrics to our songs. Although we never released any albums, we often played songs at local cafes or open mic nights. After a couple years of marriage, things started to go downhill.

By December 2016, we completely stopped talking. In the later days of December, I was getting ready to move out when Jonathan approached me and spoke to me for the first time in months, and we mutually decided it was time to get a divorce.

In late February, I was driving to work when I turned on the radio and heard a song that sounded astoundingly similar to a song Jonathan and I had worked on before our divorce. Then I saw Jonathan's name across the radio. The lyrics of the chorus and the melody were identical to the song that we worked on. I even had my notebook with the title of the song, “Forever In Love,” and the date! Can there be any more evidence than that?

I then called our friend, Chris Scendo, to tell him what I had discovered. He was present during most of our song writing sessions while we were married. Chris knows that Jonathan and I both worked on that song because he was there throughout the process!

After I got off the phone with Chris Scendo, I attempted to get in contact with Jonathan or Trebleson Studios. There was

no response. After five attempts, the secretary of Clef Trebleson threatened to call the police. I was and am furious about this whole situation, so I filed a case for plagiarism to show my ex-husband what he did was absurd and wrong. All I want is credit for the work that I did.

Testimony of Chris Scendo

My name is Chris Scendo and I often worked with Jonathan and Melody on lyrics and other song writing issues that came up back when they were together. I also helped them to book gigs at local restaurants and open mic nights. I am good friends with both of them, and feel disheartened by this whole divorce situation.

When Melody called me to say that she heard “Forever In Love” on the radio, I couldn’t believe it. I remember Melody had a notebook where she wrote all of their songs down. I knew that Melody was a pivotal component to the making of that song. It definitely was created by the two of them. We spent many days trying to create lyrics for the song, and worked on many different versions. The title was definitely her idea. We never fully completed the song prior to their divorce, but Melody definitely deserves some credit for her work.

Testimony of Jonathan Alto

My name is Jonathan Alto, and I am a single artist partnered with Trebleson Studios. My ex-wife and I were married for a couple years and used to write songs as a couple. Many were never finished or produced, and we would rarely perform in small, local spots. When we got the divorce, there was no conversation about who had the rights to the songs we had written because quite honestly, it was mostly for

fun. After the divorce, we never spoke and did not leave on great terms.

After the divorce, I signed a deal with Trebleson Studios. I worked tirelessly to create new and original ideas for my album. One song titled, “Forever In Love,” grew to the top of the billboards. The song is about a couple who claims they will be forever in love until the day they die. This line repeats over and over in the chorus of the song.

As the song grew more and became more popular, I heard that Melody had reached out to Trebleson Studios while I was busy on tour. She claimed that the title of the song was originally her idea. I still fail to see the comparison between the songs other than the typical idea of love. Besides, I one hundred percent created and worked on this song after we were divorced. She has no right to claim it as her own, nor does she deserve any bit of pay for all of my hard work.

Testimony of Clef Trebleson

My name is Clef Trebleson, and I am the producer for Jonathan Alto’s record label, Trebleson Studios. I produced Jonathan’s hit single “Forever in Love” and the rest of the album, titled *Rebirth*. It is a masterpiece, and I knew I wanted to sign him after I heard the demos.

Once I was partnered with Jonathan, he said he had an idea to create a song about a love he dreamed of after going through a terrible divorce. The song fit perfectly on his *Rebirth* album. We worked on the song for weeks. Jonathan decided to title the song “Forever In Love.” I was with Jonathan through every step of the production process, and I can assure you that it was one hundred percent an original idea. On another note, I had no idea that Melody

was calling our studio. We were extremely busy on tour and I told my assistant that she should take a message from anyone who reached out.

INSTRUCTIONS

Melody Soprano must prove by a preponderance of the evidence that Jonathan Alto committed plagiarism by using the chorus and title “Forever in Love” in his song and claiming it as an original solo creation.

SUB-ISSUES

1. Did Jonathan Alto create problems with Melody Soprano so he would become famous as a single artist?
2. Did Melody Soprano do more to help contribute with the song than just the title?
3. Did Jonathan Alto cut off all ties with Melody Soprano because he knew that he had stolen the song?
4. Why didn’t Jonathan Alto tell Chris Scendo the truth about the divorce and the song in one clean slate?

CONCEPTS

1. Burden of proof: preponderance of the evidence.
2. Credibility of the witnesses.
3. 3. Definition of plagiarism.

LAW

1. Plagiarism is the practice of claiming, or implying, original authorship (or incorporating material from) someone else’s written or creative work, in whole or in part, into one’s own without adequate acknowledgment. Unlike cases of forgery, in which the authenticity of

the writing, document, or some other kind of object, itself is in question, plagiarism is concerned with the issue of false attribution. Music plagiarism is the use or close imitation of another author’s music while representing it as one’s original work. Plagiarism can be punishable by fines between \$100–\$50,000 and up to one year in jail. It could also be considered a felony based on a particular state and federal laws. It can ruin your student reputation and also be suspended or expelled.

2. Co-writers, no matter how insignificant, own part of the copyright unless there is an agreement otherwise.
3. Copyright Law of the United States, section 201 states, “Copyright in each separate contribution to a collective work is distinct from copyright in the collective work as a whole, and vests initially in the author of the contribution. In the absence of an express transfer of the copyright or of any rights under it, the owner of copyright in the collective work is presumed to have acquired only the privilege of reproducing and distributing the contribution as part of that particular collective work, any revision of that collective work, and any later collective work in the same series.” Copyright Law of the United States, section 506 states, “Any person who willfully infringes a copyright shall be punished as provided under section 2319 of title 18 if the infringement was committed—for purposes of commercial advantage or private financial gain.”

PLANK v. HAYES

SCHOOL

Clinton Township Middle
Clinton Township
Grade 7
Honorable Mention



TEACHER

Diane Cormican

STUDENTS

Angelo Aralar
Lily Fasciano
Niamh Grumbridge
Whitney Lebbing
Brandon Lee

Alexa Miller
Julia Morrissette
Emma Mullay
Selina Zhang

FACTS

Kathleen (Powell) Hayes was a high school English teacher at Sometown High School in Sometown, NJ, from 1982-2012. She taught Honors English Composition, AP Creative Writing, and Honors English Literature. She married Patrick Hayes in 2012, and retired from teaching soon after that. She began writing and went on to publish three young-adult realistic fiction books under her married name, Kathleen Hayes. She now lives in retirement with her husband in Hilton Head, South Carolina.

Mrs. Hayes' second book, *Sabrina's Journey*, was published in 2014. It was a story about a young girl with a tragic childhood, and how she overcame it successfully. Within the first week of publication, the book got picked up by a *New York Times* reporter, who wrote an extensive review. This boosted the popularity of the book, and it soon became a *New York Times* bestseller. Mrs. Hayes has been contacted by a studio interested in making a movie based on *Sabrina's Journey*.

During the 2009–2010 school year, Rebecca (Becky) Plank was in Miss Powell's AP Creative Writing class. Miss Powell assigned a journal to each student, and the students were encouraged to write their personal thoughts and experiences. Students handed in their journals for monthly review. Becky wrote about the fatal car accident she was in when she was only 10 years old. This led to the death of her father, and left her mother permanently disabled with spinal injuries as well as brain damage. The girls and their handicapped mother were placed in their aunt's care, where they remained for six years. There was a long history of alleged abuse, and the two girls and their mother

had many challenges to overcome.

During the fall of her senior year of high school, Becky successfully applied for social services assistance and moved with her sister and mother into an apartment.

At the end of her senior year in 2010, Becky was absent the day Miss Powell passed back the student journals. Becky emailed Miss Powell, and the teacher told her to stop by her office to pick it up, but Becky never did. She graduated soon after that.

In 2018, Becky decided to enroll in the Sometown Community College, studying child psychology. In one of her classes, she was required to read *Sabrina's Journey*. She recognized many features that were identical to her own story. She looked up the author, Kathleen Hayes, online and realized that it was her former high school creative writing teacher, Kathleen Powell. This, along with other evidence, led her to believe that Mrs. Hayes used Becky's journal to plagiarize and publish as part of *Sabrina's Journey*.

Becky is suing Kathleen Powell Hayes for plagiarizing her personal life story. She is asking for \$100,000 and 20% of royalties that Mrs. Hayes receives from the book and the possible movie.

ISSUE

This issue is whether Kathleen Powell Hayes plagiarized details from the plaintiff's personal journal when writing her best-selling novel.

WITNESSES

For the Plaintiff

Rebecca Plank

Deborah Stevenson

For the Defense

Kathleen Powell Hayes

Jeff Jefferson

WITNESS STATEMENTS

Testimony of Rebecca Plank

I am Rebecca Plank, and I am 26 years old. I am a student at Sometown Community College, getting my bachelor's degree in child psychology.

Mrs. Hayes, or as I knew her, Miss Powell, was my AP Creative Writing teacher for my senior year, 2009-2010. It was an eye-opening experience to be in her class, and it was extremely beneficial to have such an amazing teacher. Miss Powell was very inspirational and extremely understanding about my past. She was one of my favorite teachers, and I felt like she connected with her students.

One of the assignments that Miss Powell required from us was to keep a personal journal. I felt it was therapeutic to write all of my thoughts and feelings down on paper. In my journal, I wrote about the terrifying car accident that occurred when I was 10, in 2003. We were driving to a Midnight Mass on Christmas Eve when my mom's Toyota minivan crashed head-on with a pickup truck. We skidded off the Sometown Bridge and onto the frozen lake below. All I can remember is my seven-year-old sister Ana screaming while I was trying to unbuckle my seatbelt after we hit the water. My father got Ana and me out first, and we crawled out onto the thin ice all the way to shore. He went back down for our mom, but she had been underwater for too long. My mom was permanently disabled, and our father died from complications in the hospital later that night. I wrote extensively about

the tragedy in the journal. This very same tragedy was repeated in *Sabrina's Journey*.

My mother was unable to care for us, so we were sent to live with our aunt, our father's older sister. The first nine months were especially hard, since my mother was in rehabilitation. My aunt was not emotionally well and she had a drinking problem. She was mentally abusive to us and sometimes got physical, too. She blamed us for the death of her brother, who was all she had left since her divorce. After her rehab, my mom moved in with us. It was better with her presence. I was the only one who was able to take care of her, because Ana was too young, and my aunt refused to. This was also in *Sabrina's Journey*.

I had a part-time job at McChickens and I was swamped with all my responsibilities. When I was old enough to care for Ana and my mother, my high school counselor helped me apply for social services. I was given a meager amount of money to support my family and myself, and an apartment fit for three people. My mother got a visiting nurse that came three days a week. Miss Powell's class and my appointments to Mrs. Stevenson's counseling office helped keep me going and deal with my daily challenges. Sabrina's story included these details as well.

As I before stated, I take classes at Sometown Community College, and I was taking a class titled "Child Psychology in Children's Literature." One of the young adult books we were assigned was *Sabrina's Journey*. Within the first couple of chapters, I noticed how perfectly similar it was to my life, that it was too much of a coincidence. I researched the author, Kathleen Hayes, and found a biography and picture. I realized that

the author was indeed my creative writing teacher from high school, Miss Powell.

I would have loved to have co-authored with Mrs. Hayes. I am an avid writer and would have done it in a heartbeat, as I would have found it a pleasure and a rewarding experience. If my life story could motivate other young people to overcome obstacles like my own, then I would have been overjoyed to work with my former teacher on this book. The most disturbing part is, the story of my life was taken and used without my permission.

I really didn't want to believe it at first, because I loved that class and had fond memories of Miss Powell. I am grateful for the journal, writing class, my teachers, and everyone else who supported me in high school. But, this betrayal by one of my favorite teachers felt like a stab in the back. I am suing Mrs. Hayes because her realistic fiction novel, *Sabrina's Journey*, mirrors my story. Now there is even talk of making it a movie! I am certain that she used my senior year creative writing journal to write her best-selling novel, and I will never forgive her.

Testimony of Deborah Stevenson

I am Deborah Stevenson. I am 43 years old, and I am the counselor at Sometown High School in Sometown, New Jersey. I have been a counselor there for 18 years and I worked with Mrs. Powell Hayes, a teacher in the English Department, for 11 years.

Rebecca (Becky) Plank was one of my former students, and I had appointments with her every other week, although I saw her almost every day. I have seen many different students, all with different stories,

but Rebecca's story was so traumatic and detailed, I knew I would never forget it. She is an amazing young lady, and her strength and character at such a young age was incredible. She was an excellent student and graduated with a 3.5 GPA. I remember thinking that I should be helping her to select a college and apply for scholarships, but she informed me that she had other plans.

Becky told me about a lot of things that were going on in high school, but her traumatic childhood and home life often became the focus of our sessions. She told me the details of her accident, such as the rickety bridge, the car her parents drove, and the struggle to get out of the car. She even showed me the scars her aunt gave her. Coincidentally, all of these details were mentioned in Mrs. Powell Hayes' book, *Sabrina's Journey*. When I read the book, it was identical to Becky Plank's story. But there's more.

In the spring of her freshman year, Becky confided to me about her abusive aunt. Of course, I am legally obliged to file a report. The Division of Child Protection and Permanency later made a surprise visit to Becky's aunt. There were visible signs of neglect and abuse, but Becky didn't confirm what she shared with me for fear that her family would be separated. Her goal was to get her sister and her mother out of that dysfunctional household and to start a new life together.

As our rapport grew stronger, she told me more about her living situation, and I helped her get out of her aunt's care. I contacted the Division of Child Protection and Permanency again, and they reopened the investigation into her case. I helped Becky with her emancipation and financial

assistance. Once she finished her application, I read it over and helped her make changes. I wrote a letter of recommendation that was necessary to make her the primary caregiver for both her disabled mother and her younger sister. During her senior year, Becky and her family moved into an apartment and away from her aunt. The same timeline of events are mirrored in the book, *Sabrina's Journey*.

After graduation, Becky started working full-time at McChickens, where I would see her often. She always took the time to talk with me and tell me about her family. I felt honored that Becky trusted me, and was thrilled to find out that she was going to start community college. I encouraged her to study psychology, because I knew that she wanted to be a school counselor.

I deeply respected Miss Powell, and I even remember that she won Teacher of the Year in 1999. I knew that the students who came out of her classroom were very enthusiastic about writing. When Becky informed me of Mrs. Powell Haye's book, I immediately downloaded it on my Kindle, and began reading it that night. As soon as I started it, I could see the many parallels between Sabrina's story and Becky's.

I think that Becky will make a wonderful counselor. On the other hand, I am extremely concerned and surprised that a venerated teacher like Mrs. Powell Hayes would purposely use a student's traumatic experience for personal gain.

Testimony of Kathleen Powell Hayes

My name is Kathleen Powell Hayes and I am 58 years old. I am the author of three books, including *Sabrina's Journey*. Currently, I am a full-time writer and now

live with my husband Patrick on Hilton Head Island, South Carolina.

From 1982-2012, I was a teacher at Sometown High School. I taught Honors English Composition, AP Creative Writing, and Honors English Literature. I retired from teaching early in 2012 in order to pursue my career as an author. Once I was retired, I had the time to fulfill my dreams of writing novels. I have been very successful, and am currently working on my fourth book.

I feel strongly about and understand every aspect of plagiarism. I am a member of the National Writers Union. They have a code of ethics that I follow very closely. When I taught English Composition, I taught all my classes all about the seriousness and forms of plagiarism. I taught them the code of ethics in order to help them to avoid the consequences. As a teacher I would never plagiarize, that would not be setting a good example for all those students that I have taught.

Rebecca was in my AP Creative Writing class in her senior year. I collected all of the student's journals monthly, and mostly just flipped through them to grade their entries. I always made it clear that if students were absent when they were handed back, it was up to them to stop by my office to pick them up. When I was packing up to retire, there was a box of old journals that were never collected, and I threw them out. It is possible that Becky's journal was among them.

As a teacher, I retain a professional demeanor when it comes to writing. I have had a close relationship with every student that has passed through my classes, and I have done my best to help each student

achieve his or her personal goals. Rebecca was a troubled student, so I did my best to support her.

During my time as a teacher, I have read many journals and memoirs. There is no way that I could remember all of my student's journals. They were all connected in some way and it's been so long since I have even seen one. My novel *Sabrina's Journey* was picked up by a local newspaper and was popularized. The newspaper helped me to get onto the *New York Times* Best Seller list of 2015. My book was also picked up by Double World Films and is being considered for a movie.

Also, not everything in *Sabrina's Journey* happened in Rebecca's life. In my book, Sabrina was constantly bullied for the scars on her face from the car crash. As I observed when I had Becky in my class, she seemed to have many friends that supported her and cared for her. I vaguely remember the counselor, Deborah Stevenson, saying that Becky's father died and she and her younger sister, and mother were sent to live with their alcoholic aunt. But, in my book Sabrina never had a father. Rebecca did go through a traumatic accident, and I do feel terrible for her. However, car accidents are very common.

Teaching was my life, and I was inspired by my students to write a story of my own. I most certainly did not plagiarize Rebecca's journal. All of my characters and plot lines are based on my ideas. Any similarities are minor to the overall story. Becky is incorrect about my book. I have taught so many students over so many years, and each one has inspired fragments of each of the characters that I create. There are many similarities in all of our human stories, as

we all face challenges throughout our lives. Those common themes are not copied from each other: they are part of the human condition.

Testimony of Jeff Jefferson

Good morning, my name is Jeff Jefferson and I am 43 years old. I am an editor at the New York Publishing Company, and have been in my current position for seven years. I have been the primary editor of all Kathleen Hayes' books, including *Sabrina's Journey*. I have known Kathleen since she sent me the manuscript of her first novel in 2013.

I like to work closely with new authors, and I have gotten to know Kathleen very well. When I received her first manuscript, I knew she was an author that young adults would appreciate. With her experience as a high school teacher, it was obvious that she both understood and respected her teen readers. Kathleen talks fondly of her years teaching, and her characters are based on many of the students she had. I do recall hearing about some of the students in her creative writing class, and how their enthusiasm and talent inspired her to publish. Kathleen has never mentioned Becky Plank. Hearing Ms. Plank's story I do see some minor similarities, but those similarities are part of our shared human experience.

This story of Sabrina can be similar to many others. Many people have lost their parents at a young age, and many children have been abused. A young adult persevering and overcoming a hardship is a very common theme in teen literature and literature in general.

I've been editing books for many years

now, and we are very conscientious about all forms of plagiarism. In realistic fiction novels we have a clear-cut disclaimer that can be found at the beginning of *Sabrina's Journey*. The disclaimer reads, "This is a work of fiction. Names, characters, business, events and incidents are the products of the author's imagination. Any resemblance to actual persons, living or dead, or actual events is purely coincidental."

The publishing process takes a long time. Publishing *Sabrina's Journey* took more than six months after the final manuscript was submitted. I can say without a doubt that *Sabrina's Journey* is comprised of all original ideas. I should know as segments in Kathleen's book that are suspected of being plagiarized were some of my own suggestions.

Ms. Plank is accusing Mrs. Powell Hayes of plagiarism wrongly. Although, a few parts of *Sabrina's Journey* may sound similar to her life, the vast majority is not. The focal point of the main character's life is the bullying and discrimination she endured because of her severe facial scars. Rebecca had none of those experiences, but without a doubt other young people have. Should a young person with facial scars come forward to sue for plagiarism? Once again, it is part of our shared human experience to have similar experiences.

There is much more to the character of Sabrina than the similarities cherry-picked by Ms. Plank. There are other characters and relationships that Mrs. Powell Hayes has created and woven together as only a master storyteller can. I believe that Ms. Plank cannot accuse us of plagiarism due to the fact that Sabrina in *Sabrina's Journey* is in no way related to her.

INSTRUCTIONS

The plaintiff must prove by a preponderance of evidence that Kathleen Powell Hayes plagiarized Becky's journal and life story.

SUB-ISSUES

1. Could it be a coincidence?
2. What happened to Becky's journal?
3. What percentage of the scenes in the novel parallel Becky's life?
4. Are there scenes in the story that are different from Becky's life?
5. When did Mrs. Powell Hayes begin her book? Was she writing it while teaching Becky?
6. What are the names of her other books?
7. Why did Mrs. Powell Hayes assign a journal to her students?

CONCEPTS

1. Credibility of witnesses.
2. Intent.
3. Plagiarism.

LAW

1. From *plagiarism.org*: "Most cases of plagiarism are considered misdemeanors, punishable by fines of anywhere between \$100 and \$50,000—and up to one year in jail. Plagiarism can also be considered a felony under certain state and federal laws. For example, if a plagiarist copies and earns more than \$2,500 from copyrighted material, he or she may face up to \$250,000 in fines and up to ten years in jail."
2. From <https://www.plagiarismtoday.com>: "Copyright law gives a copyright holder (usually the creator of the work) a set of

rights that they and they alone can exploit legally (save for exceptions such as fair use). Those rights include:

- a. The right to reproduce (copy) a work.
- b. The right to create derivative works based upon it.
- c. The right to distribute copies of the work to the public.
- d. The right to publicly display or perform the work.”

BIBLIOGRAPHY

1. authenticate—what happens when you plagiarize
2. www.Plagiarism.com
3. <https://www.plagiarism.org>
4. <https://www.plagiarismtoday.com/2013/10/07/difference-copyright-infringement-plagiarism/>
5. <https://www.writingthoughts.com/the-freelance-writers-code-of-ethics/>
6. <https://definitions.uslegal.com/p/plagiarism/>

NYDE v. GAPI

SCHOOL

Glen Rock Middle
Glen Rock
Grade 7
Honorable Mention



TEACHERS

Jessica Decker
Melissa Strype

STUDENTS

Ali Baldacchino
Mia Bernstein
Paul Caverly
Jacob Cece
Miriam Inbar
Emma Johnston
Aarav Kochar
Neil Kreibich

Daniel Leder
Jessica Levine
Abigail Manley
Evelyn McGowan
Luca Pappalardo
Ethan Reiman
Peter Renga
Andrew Vincenti

FACTS

Dee Nyde was an undergraduate student at Giannis University who applied to Gilbert Graduate School using a fallibility of memory paper that she wrote while still at Giannis. During her time at Giannis, the student was assigned to analyze data about a study on the fallibility of memory that Professor Luvtah Capi had performed and to write a paper about it. The reason the professor presented his research to the class was because he wanted to teach them the fundamentals of analyzing data and research. After class, the student went to Professor Capi's office to learn more about the data presented.

In the student's paper, she drew conclusions based on the data and included quotes directly from the professor. When Ms. Nyde went to apply to the graduate school, she was surprised to learn that she was denied acceptance because the university claimed her essay was plagiarized. The essay that Ms. Nyde thought she owned the rights to had been published in a prestigious academic journal, *Psychology Weekly*, by Professor Capi. She claimed that she had not plagiarized, and in fact, that the professor had plagiarized her paper.

ISSUE

Did Professor Luvtah Capi plagiarize the work of his former student, Dee Nyde?

WITNESSES

For the Plaintiff

Dee Nyde
Mary Anne Amsterdam

For the Defense

Luvtah Capi
Ed U. Cashun

WITNESS STATEMENTS

Testimony of Dee Nyde

I have been a straight-A student throughout my four-year college career at Giannis University. All my life, I have aspired to become a scientist. However, when I applied to Gilbert Graduate School, I was denied entry due to accusations of plagiarism. I had submitted my application and supplements, which I had spent months working on. One of these supplements included a psychology analysis about fallibility of memory that I had written in my sophomore year of college. I was taking a class under the instruction of Professor Luvtah Capi. He had conducted a study and the class was asked to write an analysis paper about it. I remember the day I received that grade vividly because it was the first 100% I had received in Professor Capi's class, as he was a tough grader. I was very proud of that paper, and that was why I used parts of it in my supplement for my application to Gilbert.

Imagine my surprise and dismay when I read my admissions email which said that my application had been denied due to my supplement being plagiarized. I quickly emailed the admissions counselor back asking about what had been plagiarized and promptly received a link to a psychology study written by my former professor, Luvtah Capi. It was shockingly similar to my supplement. I realized that I was being accused of plagiarizing him, when really he had plagiarized me!

The next day I emailed my old professor asking why he didn't give me credit in his study, as he had used my words. He emailed me back a few days later telling me that the only reason my essay might be similar to his is because I had copied the words that

he had said in class. This, of course, wasn't true. I know for a fact that I had written that paper using my own words, and I wrote a majority of it out of the classroom.

Is it fair that I should be denied access to graduate school to expand my education just because my professor has plagiarized my work?

Testimony of Mary Anne Amsterdam

A few weeks after the papers on the fallibility of memory had been turned in, I was assigned the task of grading some of the students' analyses. I found Ms. Nyde's to be so exceptional to the point where I got out of my seat to show it to Professor Capi. He studied it carefully and then told me that he would continue to look at the paper as I graded the others. I was confused because he had told me he was working on a study, but I left and went back to the table I was grading at. I continued to grade papers and left promptly afterward.

Three years later, I received an email from Dee regarding the psychology paper she had written. In summary, her frantic email explained that she was denied entry into her dream graduate school, Gilbert Graduate School, because of plagiarism. I was heartbroken by the fact that one of my best students couldn't fulfill her lifelong dream. I soon remembered her exceptional analysis that I had graded in Professor Capi's class a few years ago. When she sent her graduate school application form to Gilbert Graduate School, she included the paper she had done in Professor Capi's class. Gilbert denied her request due to an alleged accusation of plagiarism, because the document she had written was incorrectly credited to her college professor in their records. Ms. Nyde was extremely upset and

decided to bring the case to court.

Testimony of Luvtah Capi

I am a veteran professor in the Psychology Department at Giannis University. I have written many articles that have been published in prestigious journals, one of which was truly an accomplishment. I received an email informing me that a certain paper I submitted about fallibility of memory was accepted into the most prestigious psychology journal in the country, *Psychology Weekly*.

In my defense, I have been publishing pieces for over 20 years. Ms. Nyde had been a student of mine while she attended Giannis University. I gave a certain lecture based on my studies in the fallibility of memory, and I assigned my students an analysis essay due in three weeks. Ms. Nyde had been taking notes off of my lecture; word for word she had copied me in some areas of my lecture.

After class, Ms. Nyde came over to my desk to discuss with me some questions about the studies and essay. I explained to her that I wanted her analysis of the study, not a summary of the study itself. My graduate assistant, Mary Anne Amsterdam, had stopped by briefly to grab her backpack. After she asked what we were doing, Ms. Nyde replied that she was asking a few questions. Then Ms. Amsterdam simply left.

Three weeks later, my graduate assistant graded these analysis essays. I myself also looked at these papers and Ms. Nyde's had caught my eye because it was the only grade of 100% that Ms. Amsterdam had given. I also happened to notice how similar Ms. Nyde's essay was to my lecture, which is why I took it to take a closer look at it. Since the essay was so incredibly written and used

practically all the research and hard work that I did, I had come to the conclusion that Ms. Nyde plagiarized my lecture. This was infuriating, why had she copied me? I realized that this was totally unacceptable. This is why I knew that I had a right to use Ms. Nyde's writing and say it was my own. After all, it was my work she copied.

Thus, I had later written my lecture in paper form to submit to *Psychology Weekly*. My paper touched upon the topics I discussed in my lecture, as well as copied into Ms. Nyde's essay. This paper, which was a work of my own, reflected my greatest studies and accomplishments in the field of psychology.

Testimony of Ed U. Cashun

I am Gilbert's Grad School Admissions Counselor, and it is my job to read the student essays that come with the application form. I have to read the essay briefly and then run it through a plagiarism check to make sure it was actually the student's work. If it passes the plagiarism check, I have to thoroughly read through the essay to assign it a grade. If it is higher than a 95, I will then read the rest of the application and evaluate it. Ms. Nyde's essay scored very high on the plagiarism check, and when I investigated further, I saw it was extremely similar to a published paper by Professor Luvtah Capi of Giannis University. Seeing that Ms. Nyde had attended Giannis, I checked in with Professor Capi to clarify. Professor Capi told me that Dee Nyde was in fact his former student and that her essay was based off of his studies and included his opinions, but Ms. Nyde had not cited him.

Professor Capi had a valid point: the published article and the student essay were similar because his work and his words were

included by the student, so the writing still belonged to him. Although Ms. Nyde may have included some of her own opinions, the essay still partially belongs to Professor Capi. Since the student did not give partial credit to Professor Capi, it is still considered plagiarizing. I notified Ms. Nyde that she could not be accepted into Gilbert due to plagiarism.

INSTRUCTIONS

The plaintiff must prove by a preponderance of evidence that the published article, credited to Professor Capi, was the original work of the plaintiff, Dee Nyde.

SUB-ISSUES

1. Has Professor Capi plagiarized other students in the past but it went unnoticed?
2. Which witness should be believed?
3. Was the plagiarized writing piece the only reason for rejection from Gilbert Graduate School?

CONCEPTS

1. Burden of proof: preponderance of the evidence.
2. Credibility of witnesses.
3. Fraud.

LAW

Proper citation is required when using a piece of writing that is not your own creation in an academic or professional setting. Disciplinary action for violations will be deferred to the administration of the institution in question. If the rightful owner of the work has suffered monetary losses because of improper citation, they may sue to obtain proper credit and/or the money they may have lost.

ELIZABETH WAYNE v. PHILIP FLIYE

SCHOOL

Glen Ridge High
Glen Ridge
Grade 7
Honorable Mention



TEACHER

MaryLynn Savio

STUDENTS

Daniel Baur
Sophie Black
Stacy Bloomfield
Ananya Iyer
Elizabeth Kastenmeier
Avery Kim
Juliette Lipari
Adriana Maiotti
Maria Maiotti
Isobel Middleton
Natalie Olenkovsky
Nicholas Overholtzer
Lindsey Piano
Maxwell Rao
Matthew Regazzi
Cyrus Rosenberg
Arnav Saraogi
Lila Sargent
Jasmine Schaber
Jack Scott-Thomas
Neil Singhal
Ethan Stein
Ilana Tipping
Lisa Wan

FACTS

Philip Fliye, a professional sculptor, lives in San Francisco, California. In the fall of 2017, Fliye completed his masterpiece, which he calls *Rise*. It depicts a floating woman supported by her flowing hair, which gathers below her to form the foundation of the sculpture. It is made out of metal. The sculpture is 9 feet tall and 3 feet wide.

Fliye's sculpture was being exhibited in a San Francisco art gallery when Elizabeth Wayne, a better-known sculptor from Norway visited while traveling with her friend, Shenna Etsy. Wayne immediately noticed that *Rise* looks similar to a sculpture she herself had created years earlier called *The Witches*. Wayne's sculpture has *three* floating women with their hair sweeping the ground and also serving to support their bodies above; it is also made of metal and each woman's dimensions are very similar to those of the single woman in Fliye's sculpture.

Both Elizabeth Wayne and Philip Fliye formally acknowledge a third artist Niles Vogel as the inspiration behind their own sculptures. Vogel's sculpture, *Flowing Faucet*, has a similar design concept in that the delicately sculpted water supports the faucet that appears to be floating above. This is similar to the way that the delicately sculpted hair supports the bodies floating above in both Wayne's and Fliye's sculptures.

Elizabeth Wayne claims that because Philip Fliye's sculpture is very similar to part of her prized sculpture, has the same dimensions, and is made of the same material, it is plagiarized. Elizabeth Wayne is suing Philip Fliye for plagiarizing her art work.

ISSUE

Did Philip Fliye plagiarize Elizabeth Wayne's famous sculpture, *The Witches*?

WITNESSES

For the Plaintiff

Elizabeth Wayne
Shenna Etsy

For the Defense

Philip Fliye
Brianna Fliye

WITNESS STATEMENTS

Testimony of Elizabeth Wayne

I was on tour in the U.S. and traveling with my friend Shenna Etsy in October of 2017. As I often do when traveling, we decided to stop by a local art gallery while in San Francisco. I wanted to explore other pieces of art for enjoyment and possible inspiration.

As I walked into the gallery, I was greeted by pieces of all shapes and sizes. While I was enjoying the work of the featured artists, I noticed a piece that looked quite... familiar. The creator was Philip Fliye. The sculpture was named *Rise* and looked quite similar to my sculpture, *The Witches*. In fact, it is almost identical to mine.

The creator of this piece, Philip Fliye, was at the gallery that same day. Apparently he had brought his 15-year-old daughter, Brianna, along with him to enjoy the experience of seeing others appreciate his sculpture. Brianna recognized me and told me that she and her father were fans of my work. As soon as I had the opportunity, I confronted Mr. Fliye about the fact that his sculpture looks just like mine. He had obviously copied my famous sculpture *The Witches*.

I was so upset and soon after Shenna and I left the gallery. She agreed with me that Mr. Fliye's work looked very much like my own and he must have copied my work. Since Shenna is an executive for a publishing company, she brought up the point that his sculpture is a copyright violation since I did not give my permission for him to copy my design idea.

I was still unsettled by this the next day and felt that there must be some form of legal recourse I could take so I consulted my nephew, who is a promising young lawyer. He explained to me that a work of art is considered "intellectual property" and as soon as it is produced it is automatically covered by copyright. I knew that there had to be some legal protection for my work. Philip Fliye copied my precious sculpture and he cannot get away with that!

Testimony of Shenna Etsy

I was excited to go to San Francisco with my friend Elizabeth Wayne because I've never been there before. We visited many galleries and museums in our travels because Elizabeth loves seeing other people's art, especially new artists with a lot of talent and potential. This is how we just so happened to visit the gallery where Mr. Fliye's work was on display.

At the San Francisco gallery, there was a compelling sculpture in the middle of the room and people were admiring it. As we made our way through the crowd, we could see that it was made of metal and portrayed a woman who appeared to be floating. The plaque below the sculpture said it was called *Rise* and had recently been completed by a man named Philip Fliye. I must admit the sculpture was beautiful and I stared at it for

quite a while. It seemed slightly familiar to me, but I couldn't remember where I had seen it—or something very similar to it—before.

Elizabeth stared at the sculpture for a few moments and then became upset. She began explaining how this sculpture looked just like *The Witches*, her most celebrated sculpture. She was most upset about the figure's hair and the way it fell below the body. That part really is almost identical. I hadn't noticed the similarities myself right away, but once I did, they were undeniable.

We soon learned that the artist who had created the piece, Philip Fliye, was there at the gallery that day. His teenage daughter, Brianna, recognized Elizabeth and ran up to us to tell her that they were big fans of her work. The girl ran off to get her father so she could have the two meet. When they returned, I excused myself to go look at some other pieces in the gallery while they talked. From a distance, I could see their exchange was becoming heated so I returned and pulled Elizabeth aside. We saw Mr. Fliye storm out of the gallery shortly after with his daughter.

Afterwards Elizabeth and I discussed how upset she was by this situation and how closely Fliye's sculpture resembled her own. She wanted to know what she could do about it. Since I work in the publishing industry, I told her how this seemed like a copyright violation to me and she decided she would seek some legal advice to find out how to handle the matter.

Testimony of Philip Fliye

My passion is art. Someday I hope to be able to dedicate myself full-time to sculpting, but for now I am an art teacher to

pay the bills and spend most of my free time working on my art. I was proud to be presenting my sculpture *Rise* in the San Francisco gallery. I had truly worked hard on this piece and it was the first time I was being featured in a gallery. I was very pleased to finally be getting some recognition as an artist and enjoyed seeing people admire my work.

One day while I was at the gallery with my daughter, we were excited to learn that Elizabeth Wayne was visiting. I follow trends and news in the art world so I've read about Mrs. Wayne and seen photos of some of her sculptures in magazines and online. It meant a lot to me that she had come to view my sculpture on display. When we spoke, however, she accused me of copying her sculpture *The Witches*. She pointed out some minor similarities, such as the use of metal as the medium and the similar size of the figures. While I can agree there are some similarities, the same could be said for many other large metal sculptures of the human form. I was distraught that she believed I had pirated her work.

My sculpture is a woman with long hair, which is not an uncommon subject. However, my niece modeled for me as I was creating the face of my sculpture so it is truly one of a kind. This is the main reason why I simply cannot understand how Mrs. Wayne could accuse me of plagiarizing.

I tried to explain this to her while she was at the gallery that day, but she was so hysterical we could not have a civilized conversation. I was sorry that she was upset, but she was out of line calling me a thief in front of all the others who were there admiring my work. Eventually a friend of

hers finally dragged her away and I was thankful since she was not able to see the situation clearly and needed some distance to realize that her sculpture and mine were similar, yes, but each unique in their own ways.

If I had been inspired by Mrs. Wayne's work, I would have indicated so on the plaque I have below my sculpture as I have done with Niles Vogel. There is no shame in the art world for being inspired and it is right to give credit where credit is due. I did not credit Elizabeth Wayne as my inspiration because it was not her work that inspired me to create *Rise*. I remember the exact moment I got the vision for my sculpture and it was when I was viewing *Flowing Faucet* by Niles Vogel in the Pasadena Art Museum.

Soon after the incident at the gallery, I found out that Elizabeth Wayne was suing me. This is an outrage as I have done nothing wrong. I created a sculpture that appears to look *something* like her sculpture and now my integrity is in question. That is simply not fair.

Testimony of Brianna Fliye

My father, Philip Fliye, is a well-respected art teacher and a dedicated artist, too. He is always sculpting in our home studio at night and on the weekends and when we have a break from school. I was excited to see him complete his masterpiece *Rise* after many long months of working on it. He was so into this piece that he worked on it 24/7 barely stopping to eat and sleep last summer. When it was done, we knew it was something special and were even more sure of it when it was chosen to display at the art gallery. People seemed to be captivated

by it; we both really enjoyed watching people look at it in the gallery those first few days.

When I saw that Elizabeth Wayne was at the gallery, I was super excited. I ran over to tell her that we were fans of her art. I knew that this was a big opportunity for my father's work to be seen by a famous artist. Soon after I introduced them to each other, Mrs. Wayne started screaming that my father's work wasn't original and calling him a thief right there in front of everyone in the gallery. He tried to explain to her how his sculpture was different and unique, but she wouldn't listen. I saw my father create his sculpture with his own two hands and I know it's his original work.

I know my father has seen Mrs. Wayne's work online and in art books, but he has never seen *The Witches* in person. He spends a lot of his free time flipping through art books or scrolling through hundreds of websites to find inspiration and see what's going on in the art world. Artists are influenced by other artists all the time. I read how Van Gogh made replicas of paintings first made by some other artist and today he is known as one of the greatest painters ever.

We are both so sad that this happened and that someone we so admired is taking him to court. My father has more at stake than that though; his integrity as an artist and as a person is being questioned. I know that when this is all settled, people will see that my father is not only a great artist in his own right, but also a decent and honest man.

INSTRUCTIONS

The plaintiff, Elizabeth Wayne, must prove by a preponderance of the evidence

that Philip Fliye plagiarized her sculpture.

SUB-ISSUES

1. Can a sculpture be plagiarized?
2. Does one piece of art have to be an exact replica of another to be considered plagiarized?
4. Can a person plagiarize another person unknowingly?
5. Can two artists be inspired by the same thing and create genuinely original pieces of art?
6. Is art work entitled to the same copyright protection as published written works?
7. Can a design concept be considered intellectual property?

CONCEPTS

1. Copyright.
2. Fair use doctrine.
3. Intellectual property.
4. Credibility of witnesses.
5. Burden of proof (preponderance of evidence).

LAW

1. US Copyright Law—Formally registering for copyright protects “original works of authorship,” including “pictorial, graphic, and sculptural works.” This includes “two- and three-dimensional works of fine, graphic, and applied art” such as sculpture. Art is considered copyright protected from “the moment it is created and fixed in a tangible form,” however this provides limited protection and does not replace the need for formal copyright. When a work has formal copyright, others cannot reproduce it for their own profit. A work

- must be unique to qualify for copyright.
2. Intellectual property refers to legal rights given to “creations of the mind.” Inventions, innovations, designs, creative works, symbols, images, literary works and artistic works can all be referred to as “intellectual property.” This area of law controls who gets to use these creations in what ways. Intellectual property may receive a patent, trademark or copyright to formally protect the owner’s investment in the creation.
 3. The Fair Use Doctrine “promotes freedom of expression by permitting the unlicensed use of copyright-protected works in certain circumstances” such as for “criticism, comment, news reporting, teaching, scholarship, and research.” Factors such as the purpose of the new work, the degree to which the original work is used, and the impact of the secondary work on the value of the original, and how transformative the secondary work is compared to the original, are taken into consideration when determining “Fair Use.”

the-state-of-the-%E2%80%9Cfair-use%E2%80%9D-defense-in-the-art-world. 10 January 2019

4. *More Information on Fair Use*. United States Copyright Office. September 2015. www.copyright.gov/fair-use/more-info.html. 10 January 2019.
5. *What is Intellectual Property?* WIPO. www.wipo.int/edocs/pubdocs/en/intproperty/450/wipo_pub_450.pdf. 17 January 2019.

BIBLIOGRAPHY

1. *Copyright Registration for Pictorial, Graphic, and Sculptural Works*. United States Copyright Office. September 2015. <https://www.copyright.gov/circs/circ40.pdf>. 17 January 2019.
2. *Copyright Registration Law and Your Art*. ArtBusiness.com. 2017. www.artbusiness.com/register_and_copyright_art_for_artists.html. 17 January 2019.
3. Kaminsky, Michelle. *The State of ‘Fair Use Defense’ in the Art World*. August 2011. www.legalzoom.com/articles/

YURA T. HIEF v. INO S. TEAL

SCHOOL

Bloomfield Middle
Bloomfield
Grade 7
Honorable Mention



TEACHER

Gregory Murray

STUDENTS

Adam Berkel
Mikaela Cabilao
Jemmy Garita
Arnaldo Guerra
Christina Intile
Zamiya Joyner
Sophia Moyet

Shaw Ng
Nkiruka Nwafor
Catherine Parelli
Sylvia Ryan
Mohammad Shabbir
Winona Sorge

FACTS

On January 24, 2010, Yura T. Hief, who attends Montclair University, accused Dr. Ino S. Teal, a well-known science teacher on campus, of plagiarizing her essay and profiting off of her work, but Dr. Teal denies all charges. The plaintiff claims that when she turned in her essay called “Why Do We Sleep?,” she cited her sources on the last page in her bibliography. During the next semester, she found an almost-exact replica of it in the article section of a bookstore, with her former science teacher’s name claiming it as her own. Dr. Teal’s work isn’t an exact copy of Yura T. Heif’s essay, but it does use the same sources and facts and proves the same arguments that the student used in her own essay.

ISSUE

Did Dr. Ino S. Teal plagiarize Yura T. Heif’s science essay?

WITNESSES

For the Plaintiff

Yura T. Heif
Amiyah Fren

For the Defense

Ino S. Teal
Edmond A. Strator

WITNESS STATEMENTS

Testimony of Yura T. Heif

I am Yura T. Hief and I am the plaintiff. It all started the first semester, October 10, 2010, a few weeks after school started. In physiology, Dr. Teal told us we had to write an essay on a topic we were intrigued by. I searched the internet for interesting topics related to science, and I got interested in sleeping. I ended up writing an essay called

“Why Do We Sleep?” I made sure to cite all of my sources because I knew the university’s consequences of plagiarism—unlike Dr. Teal.

After I finished, Amiyah, my friend, asked to proofread it, so I let her. She suggested a few things, but other than that she said it was good. The next morning, I handed in my essay to Dr. Teal. I had worked really hard on it, and I was pretty nervous to find out my grade.

A few classes later, Dr. Teal was conferencing with students individually, and when it was my turn, she personally told me my essay was really well written and said my topic had caught her eye. She even asked if she could keep my essay. At the time, I figured that she just wanted to keep it and show future students as an example or inspiration. I never imagined that she would be keeping it for her own benefit—so *she* could publish it.

Anyway, the next semester, I had almost forgotten about it, until one day I was in Yarns and Lobels looking around. I found an article that seemed familiar, yet interesting, so I took it to my dorm. When I arrived, I showed Amiyah the article, and we read it together. We realized it was extremely similar to my essay, as it covered all of the same points, and even used my exact wording at times. I turned to Amiyah and she said maybe I was credited somewhere, but we looked at who the author was, and the only name on the page was Ino S. Teal.

It’s sad because Dr. Teal used to be my favorite teacher, and never in a million years would I have imagined I’d be taking her to court. I loved her class, but now I’m realizing maybe she wasn’t the person I thought she was. All I’d want to say to her

now, is she should realize her rules apply to her too because no matter who you are, in no case is it ever Ok to plagiarize.

Testimony of Amiyah Fren

I am Amiyah Fren and I am the witness for Yura T. Heif. I was in my dorm working on my homework when Yura, my roommate, walked in. I asked her what she was working on, and she told me that she was writing a new essay for physiology. She told me it was about why humans sleep, but that she hadn't got very far. I asked if I could help, and Yura responded saying I could read it over after she was done. For a while, Yura typed at her desk. Finally, Yura gave me her essay to read. I read the essay and suggested a few changes, but other than that, I said it was good.

The next day, Yura came back to the dorm from her science class and looked really happy. I asked Yura what was up, and she explained to me how the teacher complimented the essay that she wrote. She said that Dr. Teal told her that she thought her essay was very intriguing and well-written. I thought it was a little strange how everyone else got their essay back except Yura, and so I asked her. However, she responded saying just that Dr. Teal had asked to keep it.

The next semester, Yura came back with an article from Yarns and Lobles, and she looked very interested in it. I went over to her and we started to read it. After we finished, we both looked up at each other in surprise, because it sounded a lot like the essay she had written. I then asked her if she had published her essay, but she said no. We checked who the author was, and it said Ino S. Teal. As you can imagine, Yura was at first confused, and then furious. She

told me that when she let Dr. Ino S. Teal keep the essay, she did not give her permission to publish it at all, let alone under her name without giving Yura credit.

Testimony of Dr. Ino S. Teal

My name is Dr. Ino S. Teal and I teach physiology to students. I'm here to prove why I did *not* plagiarize Yura's essay. Let's get right to the point; a little while ago I had conferences with my students about their essays that I had assigned previously. When I met with Yura T. Heif, I thought her topic "Why Do We Sleep?" was extremely interesting, so I decided to research it further. I had asked her if I could keep her essay when we conferenced, and she happily agreed. I used her bibliography to find websites about the topic, and of course, I used a few sources of my own. I wrote my own article to post on my blog. I did not expect my article to become so popular, I only wanted to express my interest in the topic and get others thinking about it too.

On top of that, my article is not identical to that of the student's. Yes, it uses the same sources, but I didn't copy it word for word, and I have a very different writing style than Yura. As far as I am concerned, the only similarities they share are that they are both about the same topic, and that same points are covered. All the sources I used were cited in my article's bibliography anyway, but my student's writing was honestly nothing more than an inspiration to create my article.

Testimony of Edmond A. Strator

My name is Edmond A. Strator and I am the dean of Montclair University, so it is my duty to know what's going on around it. Throughout my years as a school

administrator, I've gotten to know many of the professors very well, including Dr. Teal, because I have found that it makes a good work environment. I've been friends with her for a long time, and I know she would *never* plagiarize anyone's writing.

In fact, Dr. Teal is strict in her class about it, as I'm sure Yura could tell you. Anyway, what Dr. Ino did was perfectly legal, because she didn't copy the essay. All Dr. Teal did was look at Yura's bibliography, visit the websites, and create her own article based on the writing there. Although they cover some of the same points, she never copied her student's writing, and she had her own opinion on things.

INSTRUCTIONS

The plaintiff must prove by a preponderance of the evidence that Ino S. Teal is responsible for plagiarizing Yura T. Heif's work and profiting off of the plaintiff's work.

SUB-ISSUES

1. Is Dr. Ino S. Teal permitted to use a student's work for her personal studies?
2. Did Yura T. Heif technically give permission for Ino S. Teal to keep and use her essay for studies outside of her job?

CONCEPTS

1. Witness credibility/witness bias.
2. Burden of proof: preponderance of the evidence.
3. Plagiarism.

LAW

Plagiarism Law

"Beyond intellectual property issues (*e.g.*, copyright and trademark), the plagiarist

commits fraud. The plagiarist knows that he/she is not the true author of the work, yet the plagiarist willfully and deliberately puts his/her name on the work (thereby concealing the true author's name), then the plagiarist submits the work as an inducement to some kind of reward (*e.g.*, good grade on a term paper, awarding a graduate degree for a thesis or dissertation, obtaining a scholarship, winning a prize in a science fair, etc).

"Plagiarism involves two kinds of wrongs. Using another person's ideas, information, or expressions without acknowledging that person's work constitutes intellectual theft. Passing off another person's ideas, information or expressions as your own to get a better grade or gain some other advantage constitutes fraud.

"The act of copying any portion of another's work and representing it as your own, regardless of whether or not the work is copyrighted or in the public domain. It is unethical to do so, and if a copyrighted work is involved it can also be an infringement of property rights. There are many style guides available that provide instructions for properly crediting and referencing other's works when incorporated into your own. A word of caution—simply reworking the text when the concept is clearly lifted from another's work can still be plagiarism.

"Plagiarism means knowingly copying or imitating the ideas or expressions of another and representing them as one's own. Failure to acknowledge or cite a source which is copied or imitated constitutes the representation that the idea [or] expression is one's own."

BIBLIOGRAPHY

1. CheckForPlagiarism.net. "Plagiarism Law." *Global Cyber Plagiarism & Statistics 2018*, www.checkforplagiarism.net/plagiarism-law
2. "LibGuides: Copyright and Plagiarism: Plagiarism." *About CSE - CSE Style Guide - LibGuides at Indian River State College*, irsc.libguides.com/c.php?g=146543&p=962203
3. "LibGuides: Legal Research and Writing Success: When Is It Plagiarism?" *Researching Foreign Law - Foreign and International Legal Research Guide - LibGuides at The Ohio State University - Moritz College of Law*, moritzlaw.osu.libguides.com/c.php?g=493257&p=3374533
4. "Loyola University New Orleans." *Academic Credit and Placement | University Bulletin 2018-2019 | Loyola University New Orleans*, 2018bulletin.loyno.edu/academic-regulations/academic-honesty-and-plagiarism

BOB HARRISON v. RICHARD PECT

SCHOOL

Valley Middle
Oakland
Grade 8
First Place



TEACHER

Jena Boomhower

STUDENTS

Trey Esak
Luke Jannazzo
Joshua Kim

Jonathan Klein-MacDonald
Joseph LaMonica
Rishi Shekhar

FACTS

Richard Pect and Bob Harrison were two out of 50 architects competing in a competition for the right to design a new library for the city of Newark, New Jersey. Five experts from the Cooper Union for the Advancement of Science and Art were judging the competition. On the day of the decision, Richard Pect won the contest, but when Bob Harrison examined the design, many of the features of the building appeared to be almost exact copies of some of Rishi Harrison's past works. Rishi Harrison was Bob's deceased father and a world-renowned architect who was famous for designing the Citadel Grande. Sadly, Rishi Harrison died a few weeks before the Citadel finished construction. The Citadel Grande's blueprints had been copyrighted by Rishi before its construction and it is still currently under protection. Bob remembers leaving an exact blueprint of the Citadel Grande on his desk after he was done analyzing it on the night of September 7, 2018.

Both Richard and Bob work in the same building for the same company. Dwight Barnee, a coworker of Richard and Bob, reported that Richard had been standing at Bob's desk after Bob had gone home early on September 7, 2018, a few weeks before the end of the contest.

Richard Pect claims that his plan was only influenced by Rishi's past works and insists that he did not plagiarize from the Citadel Grande.

Bob Harrison claims that Richard Pect must have gone to his desk and taken a picture of the plan with a small handheld camera, then disposed of it. Bob Harrison is suing Richard Pect for plagiarizing his father's past design.

ISSUE

Did Richard Pect intentionally plagiarize the architectural design of Rishi Harrison's blueprints for the Citadel Grande, and in doing this, did Richard violate U.S. copyright law?

WITNESSES

For the Plaintiff

Bob Harrison
Dwight Barnee

For the Defense

Richard Pect
Archie Ticon

WITNESS STATEMENTS

Testimony of Bob Harrison

My name is Bob Harrison, and I've been an architect for the past 10 years. I've worked at Valley Architectural Firm for the last seven years. Last summer I had read about a competition to design a new library for the city of Newark, New Jersey, and I decided to enter. Richard Pect had won. I observed his plans and noticed that they were nearly identical to those of the Citadel Grande. For example, the domes on top of the buildings and the column placements are extremely similar. The Citadel Grande was originally designed by my father, a world-renowned architect, and he had originally registered the plans with the U.S. Copyright Office years ago.

Suddenly, it struck me that September 7, a few weeks prior to the end of the competition, my coworker Richard Pect seemed especially nervous. I happened to leave early that evening, and I remember that I was reviewing some of my father's plans and happened to leave them on my

desk. I was working on a project with Richard earlier that day before I left. However, I suspect that Richard went into my office and took a picture of the blueprints, then copied them to form his entry for the competition. I am hurt and upset that something like this could happen to our firm.

Testimony of Dwight Barnee

My name is Dwight Barnee. I have worked at the Valley Architectural Firm for 20 years. During my time at the firm, I have had several opportunities to work with both Richard and Bob. It was through them that I had learned about the contest. After the contest, I heard that Bob accused Richard of copying his father's plans. Hearing this, I recalled September 7th, as it was one of the only times I remember Bob leaving work early. He left because it was his daughter's birthday. On that day, I distinctly remember Richard walking over to Bob's desk and standing there for an extended period of time. At first, this didn't raise any suspicion, as, at the time, they were working together on a joint project. However, upon hearing that Richard could have copied Rishi Harrison's work, this moment came to mind.

Testimony of Richard Pect

I am Richard Pect. I have been working at the Valley Architectural Firm for 16 years. When I registered to compete in the contest for the new library, I was very excited to participate. I spent many long nights working on perfecting my idea. The hard work paid off and my design was put on display at the Cooper Union for Advancement of Science and Art where it

was admired by many.

I had been looking over my plans when I got a call from my lawyer. Bob was suing me for copyright infringement in his father's name. My building had apparently drawn many similarities to another design created by Rishi Harrison, Bob's father. I had heard of this building before, the Citadel Grande. Bob had often talked about it because it was Rishi's masterpiece. The similarities they drew were mere coincidences. I did not steal any ideas from the Citadel Grande. Some comparisons between the two are basic principles of architecture. For example, the façade has some differences, and the arches and windows are in different places.

Some similar aspects are just fundamental elements of architecture such as paneled walls or Corinthian pillars. I can say that, without a doubt, I did not plagiarize or copy from Rishi or Bob Harrison.

Testimony of Archie Ticon

My name is Archie Ticon, and I have a Ph.D. in Architecture from M.I.T. and spend an immense amount of time analyzing works in order to excel at my profession. I was shown both works, Richard Pect's idea for the library and the blueprints of the Citadel Grande. After inspecting both works, I can say with utmost certainty that the Citadel Grande was not plagiarized. First of all, the way the window frames and arches are designed on Mr. Pect's building relates very accurately to Mr. Harrison's building. However, they are both examples of neoclassical architecture that could have easily been influenced by other popular works. While the exterior of

the building is similar in both the Citadel Grande and Mr. Harrison's idea, the interior of the building had noticeable differences. The hallways, room measurements, and window placements are all different, which proves they cannot be plagiarized, just influenced. After comparing the works, I can say that the two plans are undoubtedly the product of creative influence from separate works. I believe that Mr. Pect did not plagiarize from the blueprints of the Citadel Grande.

INSTRUCTIONS

The plaintiff must prove by a preponderance of the evidence that Richard Pect violated the copyright on Rishi Harrison's work, the Citadel Grande.

SUB-ISSUES

1. Can Bob Harrison sue on his late father's behalf?
2. Did Richard Pect knowingly copy Rishi Harrison's work or was he unknowingly influenced by his blueprints?
3. Was there a common design that influenced both architects, Rishi Harrison and Richard Pect?
4. Did Richard Pect, in fact, take a picture of the drawings?
5. At what point is a design considered plagiarism instead of being influenced?
6. To what extent did Rishi Harrison's design influence Richard Pect?

CONCEPTS

1. Burden of proof: preponderance of the evidence.
2. Influence vs. plagiarism.
3. Credibility of the witnesses.

LAW

1. The Copyright Act of 1976: Section 102: "Copyright protection subsists, in accordance with this title, in original works of authorship fixed in any tangible medium of expression, now known or later developed, from which they can be perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device," including architectural works, but "In no case does copyright protection for an original work of authorship extend to any idea, procedure, process, system, method of operation, concept, principle, or discovery, regardless of the form in which it is described, explained, illustrated, or embodied in such work."
 - a. "A design is 'original' if it is the result of the designer's creative endeavor that provides a distinguishable variation over prior work pertaining to similar articles which is more than merely trivial and has not been copied from another source."
2. "Protection under this chapter shall not be available for a design that is—
 - (1) not original;
 - (2) staple or commonplace, such as a standard geometric figure, a familiar symbol, an emblem, or a motif, or another shape, pattern, or configuration which has become standard, common, prevalent, or ordinary;
 - (3) different from a design excluded by paragraph (2) only in insignificant details or in elements which are variants commonly used in the

- relevant trades;
- (4) dictated solely by a utilitarian function of the article that embodies it;
 - (5) embodied in a useful article that was made public by the designer or owner in the United States or a foreign country more than 2 years before the date of the application for registration under this chapter.”

BIBLIOGRAPHY

1. “Association of Collegiate Schools of Architecture.” *How Long Does It Take to Become an Architect*, www.acsa-arch.org/acsa-news/read/read-more/acsa-news/2013/11/11/plagiarism-by-design.
2. “BitLaw.” *Patent Law in the United States (Bitlaw)*, www.bitlaw.com/source/17usc/index.html.
3. Bowser, David H. “Understanding the Scope of Architectural Copyright Protection.” *AIA*, www.aia.org/articles/26591-understanding-the-scope-of-architectural-cop.
4. “Copyrights in Architectural Drawings: Courts Make It Tougher.” *Construction Specifier*, 15 Dec. 2016, www.constructionspecifier.com/copyrights-in-architectural-drawings-courts-make-it-tougher/.
5. “Guidelines on Plagiarism.” *Department of Architecture*, 21 Oct. 2014, www.arct.cam.ac.uk/Downloads/plagiarism.
6. “Is It Architectural Borrowing or Plagiarism?” *Dornob RSS*, dornob.com/is-it-architectural-borrowing-or-plagiarism/.
7. Kastenmeier, and Robert. “H.R.3990 - 101st Congress (1989-1990): Architectural Works Copyright Protection Act of 1990.” *Congress.gov*, 27 Sept. 1990, www.congress.gov/bill/101st-congress/house-bill/3990.
8. “LLP: Owner vs. Architect: Who Owns the Design?” *Findlaw*, corporate.findlaw.com/intellectual-property/llp-owner-vs-architect-who-owns-the-design.html
9. “Plagiarism and Architecture: If You Build It, They Will Copy It.” *Architecture Lab*, 12 Mar. 2018, www.architecturelab.net/plagiarism-and-architecture/.
10. Quirk, Vanessa. “The 10 Things You Must Know About Architectural Copyrights.” *ArchDaily*, VELUX, 6 Feb. 2013, www.archdaily.com/328870/the-10-things-you-must-know-about-architectural-copyrights.
11. Tuchman, Mitch. “What Makes a Copy-Cat a Copy-Cat? The Complex Case of Architectural Copyright.” *ArchDaily*, VELUX, 20 Apr. 2014, www.archdaily.com/497568/what-makes-a-copy-cat-a-copy-cat-the-complex-case-of-architectural-copyright.
12. “U.S. Copyright Office.” Copyright, Library of Congress, www.copyright.gov

INSTAGRAM INSANITY: STATE OF CALIFORNIA v. STELLA STEELER



SCHOOL

Bruriah Middle
Elizabeth
Grade 8
Second Place

TEACHER

Leora Reichenberg

STUDENTS

Atara Ambinder
Chaya Bernhaut
Chani Cohen
Tali Isaacs
Riki Kaminer
Maital Kimmel
Nechama Linfield
Leba Mayefsky

Zahava Moskowitz
Pearlie Ness
Elana Pacher
Paulina Pearlman
Amira Rosenfeld
Maayan Schlissel
Temima Shechter
Leah Susser

FACTS

Julia Johnson, a 21-year-old who was born and raised in Oakland, California, has been modeling matching sets of expensive jewelry online for three years. Over time, she has gained roughly 3.5 million followers on the app Instagram. This is Julia's only job. She posts photos of herself and friends wearing jewelry from various companies including Stephany & Co, Jay Jewelers, Mandora, and Tartier. These companies have become her influence marketers and pay her significantly for her posts. To enhance her business and photo-editing skills, she attends graphic design classes at UCLA on Wednesdays and Fridays from 11:15 a.m. to 12:10 p.m.

On February 26, 2018, Julia was sitting in the computer lab in her graphic design class when the fire alarm began to ring at 12:08 p.m. Julia quickly exited the building and forgot to sign out of her Instagram account which had been open on the computer. Normally, Julia wouldn't open her account on the computer, but since they were learning a new editing skill in class, she was seeing how she might utilize the skills for the pictures on her Instagram page.

After the fire alarm had stopped ringing and everyone was given permission to re-enter the building at 12:45 p.m., Julia went back into the building to pack up her stuff and get ready to leave. Right before she exited the building to go home, she remembered that she hadn't signed off her account after the fire alarm had gone off.

Quickly, she ran back to the computer lab to log off of her account. When Julia got back to the computer lab, her desktop user was logged out, along with the Instagram account. She then began to question if she

had possibly signed out and couldn't remember. Julia then proceeded to ask around the lab. The computer lab was nearly empty and no one had seen anyone log off her account. Julia figured she had logged out and just forgotten, and went home.

Once home, Julia logged onto her Instagram account to check her DMs (direct messages, a texting tool available on the app), and answer fans. She noticed that 10 pictures she had uploaded together in one post were missing. She also realized that most of these pictures included Stella Steeler, another student in her class, who had constantly requested that Julia not post pictures of her online. She immediately suspected that Stella might be the culprit.

Julia, in a panic, called her manager who had just received an email from Stephany & Co., the company who manufactured the jewelry that had been in the deleted photos. They said that they were withdrawing from the business deal with Julia, since their contract stated that any photos deleted without permission and a statement from the company themselves would lead to them bowing out of the deal, as it may cause consumers to think there was a fault in their products. Upon realizing the extent of her monetary loss, she confronted Stella, who admitted to taking down the pictures, but claimed there was nothing illegal about what she had done. Julia will lose a large amount of money because of this, and it also may cause a scandal that could jeopardize potential business dealings in the future. This is her primary source of income, so she made a police report. The state is prosecuting Stella Steeler for a cybercrime.

ISSUE

If Julia did not log out of her account, is it a cybercrime for anyone to access it without her permission?

Is it a cybercrime for a person to take down pictures of themselves used by someone else without permission?

WITNESSES

For the Prosecution

Julia Johnson
Chris P. Bacon

For the Defense

Stella Steeler
I. Teaguy

WITNESS STATEMENTS

Testimony of Julia Johnson

My name is Julia Johnson. On February 26, 2018, I was in school at 11:15 a.m. I was in graphic arts class doing my work. Stella always had it in for me. Ever since I came to UCLA, she's been one-upping me even though we have nothing to do with each other. I was sitting next to her in class and I saw her out of the corner of my eye staring at my computer and giving me dirty looks. I felt a little uncomfortable but I ignored it. Then the fire alarm went off, and I totally forgot to log off my computer. Later that day, I came back to the computer lab, and she seemed a bit happier, but I didn't really give it a second thought. But when I realized that many of my pictures had been deleted after the fire alarm rang, I immediately suspected her. Everyone really knows that Stella doesn't like posting pictures on social media, and she was clearly upset that there were pictures of her on my account. But I told her I would take

it off, so I don't know why she had to do it like this.

When I confronted her, she admitted to doing it, but she felt that she had the right to delete pictures of herself from my account. I am living off of a college student budget and I have no money to lose. I spend my money on food, my car and clothing, the essentials. When the influence marketers found out about the pictures getting deleted, they stopped sending me checks and I had to sell my car to have money. Stella hacked into my account and made changes to it, which not only caused me to lose business, but is also a cybercrime.

Testimony of Chris P. Bacon

On February 26, 2018, Stella went on Julia's account and started deleting pictures. Stella didn't have permission to go on Julia's account and especially delete pictures of the jewelry even though she happened to be in those pictures. According to California law, a person isn't allowed to go on another person's computer without permission. In my opinion, even though the account was open, it's still a violation of privacy to make changes on other people's accounts. Even though the law just says that you can't access someone else's computer, nowadays, in my experience, everybody saves their information on the cloud and online so it doesn't make a difference whether it's on a computer or on Instagram, or any other service where data is stored in the cloud. Julia was advertising for the company and without the pictures of her modeling jewelry, stores like Stephany & Co, Jay Jewelers, Mandora, and Tartier would stop paying Julia.

Testimony of Stella Steeler

On February 26, 2018, at 12:05 p.m., I walked into the school building after the fire alarm for my graphic design class, which is at 12:15 p.m. I was near the school building when the teachers said it was okay to go back. I was one of the first students at my graphic design class, so nobody was really in the room. I saw a computer opened to someone’s Instagram account and after going over to the computer, I realized that it was Julia’s account. When I sat down to log off, I noticed that pictures of me were posted, all of them without my permission. Because of this, I immediately deleted them, since I didn’t want them there, and I was never asked if they could be posted in the first place. I never hacked her account because it was already open, and it’s not fair to say that I deleted *her* pictures because she had them without my permission in the first place.

Testimony of I. Teaguy

My name is I. Teaguy and I have worked at UCLA as an IT for three years. When I heard that Stella was being accused of committing this ridiculous “cybercrime,” I immediately rushed over to help. In my opinion, there are numerous reasons why Stella’s actions are not considered cybercrime. For one, the computer that Stella deleted the photos from was a school computer. These computers are available to any student and it was Julia’s responsibility to log out, so Stella cannot be accused of hacking. Also, the pictures in question had Stella in them, and Stella never gave Julia permission to use them, so she had a right to delete them. Julia left her account open so Stella did not hack it. Additionally, why

didn’t Julia just put the pictures back up? Finally, Instagram is a social media app, and in the law it does not state anything to suggest that hacking extends to social media. So if Stella used a public computer and didn’t break the law, why are we here today?

INSTRUCTIONS

The prosecution must prove beyond a reasonable doubt that Stella Steeler committed a cybercrime by accessing and changing Julia’s Instagram account.

SUB-ISSUES

1. Is Instagram considered a computer, and therefore allowing it to count as hacking into a computer?
2. If a person goes on someone’s account that was already open, is that cybercrime?
3. Does a person have a right to take down personal material from someone else’s site? Does a person need permission before posting pictures of others?

CONCEPTS

1. Burden of proof.
2. Definition of cybercrime/hacking.
3. Credibility of witnesses.

LAW

Code 18 Section 1030 of California law, says that a person is guilty of hacking a computer if he:

1. goes on another person’s computer without the person’s permission, or
2. had permission to go part of the computer but they go on more than the person gave permission for

-
3. purposely goes onto someone else's computer and changes, deletes, damages or destroys any data.

BIBLIOGRAPHY

1. "California Code, Penal Code - PEN § 502." Findlaw, codes.findlaw.com/ca/penal-code/pen-sect-502.html.
2. "Pay Social Media Influencers: What You Need to Know." *IZEA Worldwide*, 23 Mar. 2018, izea.com/2017/12/11/pay-social-media-influencers/.
3. www.facebook.com/wallin.klarich. "The Serious Federal Consequences of Computer Hacking | WK Law." *Wallin & Klarich*, TORBEN RICK, www.wklaw.com/the-serious-federal-consequences-of-computer-hacking/.
4. <https://codes.findlaw.com/ca/penal-code/pen-sect-502.html>.

PRESSION v. TELS.A AUTO COMPANY

SCHOOL

Luis Muñoz Marin School
for Social Justice

Newark

Grade 8

Honorable Mention



TEACHER

Bridget S. Charles

STUDENTS

Marcos Abrams

Mario Hernandez

Amber Moniz

Dayana Moscoso

Adrian Ramirez

Eliel Serna

Jean Siguencia

Arlenys Tineo

Emmanuel Torres

Estefania Urbina-Sartore

FACTS

On June 24, 2018 in midtown New York City, the computer of a Tesla car was hacked, and the car was driven into a crowded area. Many people were injured and one person was killed. The person who was killed was a woman named Lovely X. Pression. After her death, the autopsy revealed that Ms. Pression was five weeks pregnant.

Eon Husk, the company representative, and Warren Peace, the software expert, are denying the accusation of the Tesla's computer malfunctioning. They say that they are not responsible for the death of Ms. Lovely X. Pression, because it is impossible for a Tesla car to be hacked by anyone, due to the security levels in the car.

Lovely's husband, Timothy D. Pression, is suing the Tesla Auto Company for the death of his wife Lovely. He alleges that his wife was the main wage earner in the family, and now they are suffering a severe financial hardship without her salary, because they have a five-year-old son at home who will have to grow up without the loving and nurturing presence of his mother. Mr. Pression also has a 30-year home mortgage to pay. He is suing for \$5 million.

ISSUE

This case is being brought before the court because Mr. Pression alleges that Tesla Auto Company caused the death of his wife by neglecting to safeguard the computer in their automobile marketed as autonomous and hack-free.

WITNESSES

For the Plaintiff

Timothy D. Pression
Bea Stander

For the Defense

Eon Husk
Warren Peace

WITNESS STATEMENTS

Testimony of Timothy D. Pression

My wife Lovely and I were expecting to make a family and live our lives together. Our plans were shattered on June 24, 2018. She went out to the city to shop with her friends, and see all the sights that New York City has to offer. After a few hours of her not returning my calls, I decided to go check on her. I drove up 6th Avenue until I was close to Times Square. That's when I saw the police cars and ambulances. I rushed over to find my beautiful wife on a stretcher being loaded into the ambulance. I could not believe my eyes. I was shocked and devastated.

I followed the ambulance in my car, but when I got to the hospital the doctors said they did everything they could to try to save them, but that they were both gone. I did not know what they meant by "them" until they said my wife had been pregnant. I had always hoped never to have to arrange her funeral. I thought I would be the first to die, but certainly not at this young age. I feel like I failed to protect my family. I have failed as a husband, and as a father to our unborn child and our five-year-old boy. I wish it were me and not her.

I have heard many stories about what happened that day, but one thing is always the same. A car jumped the curb, hit and killed my wife, and injured several other people. I felt that every news story made it seem like my wife died instantly, but I know there is some part that I am not being told. All I could do was imagine what my wife's last minutes were like before being blindsided by that so-called "autonomous"

vehicle, that monster created by Telsa Auto Company. They claim that their vehicles are hack-proof, but somehow they did not have the right cybersecurity in place, and they allowed their system to be hacked. Through their negligence, my wife and child died. Telsa Motor Company took away the most precious thing to me in this world, and they deprived me of ever getting to know my second child. Now I will never be the same again.

Testimony of Bea Stander

My name is Bea Stander and I am 24 years old. I am a witness to the death of Ms. Lovely X. Pression. On June 24, I was just jogging around Times Square, New York, getting a bit of exercise in my day. In the distance I heard people screaming saying, “Watch Out,” or “Get Away!” Being concerned about the screaming, I turned around to see a white Telsa car, going crazy hitting lots of people. I saw the driver for a quick moment, a white male. He looked distressed, as if he didn’t have any control of the vehicle.

As the car started getting closer, I tried running. Unfortunately, after hitting several other people, the car caught up to me and ran over my left leg, breaking it. I fell on the ground and when I looked up, the car hit a woman crossing the street, exploding on impact. This was a biracial woman who seemed to be in her early 30s. I, along with many others, suffered injuries and burn marks from the explosion. After a few minutes of laying on the floor, the police arrived with the ambulances behind them. As they were helping me and the others up, I saw the woman who got run over, laying crumpled like a rag doll on the ground, severely injured. There was no doubt in my

mind that she may have lost her life from the impact.

I was then rushed to the New York Presbyterian Hospital, and got attended to in the emergency room. The next thing I remember was waking up in a hospital room and seeing my leg in a large white cast. After turning on the news, the newscaster reported that the same woman who was severely injured at the scene, was dead. The news reporter also stated that the Federal Bureau of Investigation (FBI) had issued a preliminary report that the car’s computer was hacked, and that is why the occupant could not control the vehicle. The FBI planned to investigate further to find out exactly how this cybercrime could have occurred. I wonder from time to time if Ms. Pression was targeted, since she was the only one who died as a result of that horrendous incident.

Testimony of Eon Husk

I am the president of the Telsa Auto Company. On June 24, 2018 in Times Square, New York City, an incident occurred where a Telsa car was hacked and was driven into a crowded area. This caused the death of Ms. Lovely X. Pression, and injured 13 others.

I want the public to know that there is no way that our car was in any form or shape not up to date with the manufacturing warranties, and with cybersecurity safeguards. Yes, while the general consensus after the tragedy that took place on June 24 was that a Telsa car was responsible, it is not our fault that our car was just simply hacked, and Ms. Pression was standing at the wrong place at the wrong time.

Our cars are made to the highest standard so that they can be used globally.

We have skilled workers with the highest qualifications from all over the world helping us and making our company bigger and better. We have even expanded our knowledge all over the U.S. starting several factories for these cars to be made. We have even used focus groups to anticipate and fix any possible problems. Our experts are constantly planning how to fix any glitches that may arise. To put it simply, if our cars were not adequate after all the high manufacturing standards and extensive testing, they definitely would not be Number 1 on the market. We have even been awarded Safest Car and Most Technologically Advanced Car of 2018.

We give our deepest condolences to the family of Ms. Lovely Pression, but blaming us would not bring her back or bring justice. It would just put the blame on a company that was unfortunately targeted in a massacre. Make no mistake, this was an act of terror, carefully designed to destroy the image of the Telsa Auto Company. I ask for justice to prevail in this case, because Telsa Auto Company meets every requirement of the law, and exceeds them in most cases.

Testimony of Warren Peace

I am a software expert for the Tesla Auto Company. We have been informed that one of our top-of-the-line products, a Telsa automobile, has recently been involved in a mass terror incident in Times Square, New York, injuring many people, and killing one. We believe that this is simply impossible. This incident cannot be our fault, since we ensure that our technology is the greatest of its time. We use only cutting-edge products and systems in our vehicles.

At Telsa, we have professionals working on these products night and day to ensure the consumers' safety and enjoyment. Our vehicles have been tested and regulated to be the safest transportation means ever.

I myself own a Telsa car, and along with many other highly qualified professionals in this field, I have been working on the software of this vehicle. We have installed major cyber-security systems, and taken precautions to ensure safety. There is no possible way for there to be any fault to our product. Subsequently, I must conclude that this accident is simply that: an accident. It cannot be blamed on the Telsa Motor Company.

INSTRUCTIONS

The plaintiff must prove by a preponderance of evidence that Telsa Auto Company failed to comply with a written warranty, implied warranty, or service contract in accordance with the Magnuson-Moss Warranty Act. Consequently, the owners of the company are responsible for Lovely Pression's death.

SUB-ISSUES

1. Are the Telsa cars cybercrime proof, as claimed by the manufacturers?
2. Was the car's computer hacked? If so, who is responsible?
3. What was Ms. Pression's occupation?
4. Was Ms. Pression targeted?
5. Was Ms. Pression acquainted with the occupant of the car?
6. Was the person in the car unable to stop the vehicle, or was it a deliberate act?
7. Have there been other incidents related to the computer in this model of the car malfunctioning?

8. Why was the car suddenly malfunctioning?
9. Have Tesla cars been hacked before?
10. Is this the owner's first time owning a Tesla?
11. Is this car the newest Tesla model?

CONCEPTS

1. Autonomous Automobile Industry Standards.
2. Liability.
3. Credibility of witnesses.

LAW

1. An autonomous vehicle is prohibited from being registered in the state, or tested or operated on a highway within the state, unless it meets certain conditions. The manufacturer of a vehicle that has been converted to be an autonomous vehicle by a third party is immune from liability for certain injuries.
2. Magnuson-Moss Warranty Act: This Act is used when a supplier, warrantor, or contractor fails to comply with a written warranty, implied warranty, or service contract. The act is meant to provide consumers with access to reasonable and effective remedies where there is a breach of warranty on a consumer product. The act provides for informal dispute-settlement procedures and for actions brought by the government and by private parties.
3. The FTC has been mandated by Congress to promulgate rules to encourage the use of alternative dispute resolution, and full warranties may require mediation and/or arbitration as a first step toward settling disputes.
4. In addition, the federal government has the authority to take injunctive action against a supplier or warrantor who fails to meet the requirements of the act.
5. Consumers may seek redress in the courts for alleged violations of the Magnuson–Moss Act. A consumer who has been injured by a supplier's noncompliance may bring an action in federal court if the amount in controversy is over \$50,000 or a class action if the number of class plaintiffs is greater than 100. If the jurisdictional amount, or number of plaintiffs, does not meet these thresholds, an action under the act may be brought only in state court. Moreover, one of the key aids to the effectiveness of the act is that a prevailing plaintiff may recover reasonable costs of suit, including attorney fees.
6. Any warrantor warranting a consumer product to a consumer by means of a written warranty must disclose, fully and conspicuously, in simple and readily understood language, the terms and conditions of the warranty to the extent required by rules of the Federal Trade Commission. The FTC has enacted regulations governing the disclosure of written consumer product warranty terms and conditions on consumer products actually costing the consumer more than \$5. The Rules can be found at 16 C.F.R. Part 700.
7. Service contracts must fully, clearly, and conspicuously disclose their terms and conditions in simple and readily understood language.
8. Under the terms of the Act, ambiguous statements in a warranty are construed **against** the drafter of the warranty.

THE CASE OF THE SOULFUL SONG

SELENA SOUL v. MAINE MELODY UNIVERSITY



SCHOOL

Saint Leo the Great School
Lincroft
Grade 8
Honorable Mention

TEACHER

Jeanmarie Tommolino

STUDENTS

Sophia Almeida
Logan Connor
Erin Fitzgerald
Michael Lawson

Sean Lawson
Molly Mark
Eamon Sullivan
Colleen Yurcisin

FACTS

On November 12, 2016, Selena Soul arrived at her dream school, Maine Melody University, to audition for admission to the school’s top-notch music department. Selena knew that the only way she could attend Maine Melody was if she received a full scholarship. Her family could not afford to send her to such an expensive school due to her father’s death when Selena was a young child.

Selena was nervous for the audition but excited for the chance to fulfill her lifelong dream. She had composed an original song for the audition, entitled “Heart of Hope,” with the assistance of her high school music teacher, Ms. Kelly Key. The song expressed her heartfelt emotions about her challenging childhood experiences growing up without a father and her hopes for a better future.

When Selena was called in for her audition, she was asked to sign a form that allowed the school to record her audition so that it could be reviewed at a later time. Selena quickly signed the form. In her beautiful mezzo-soprano voice, Selena performed her song “Heart of Hope” before the music director, Ms. Ellen Elite, and a panel of other professors. At the end of the audition, Ms. Elite thanked Selena and told her that she would be hearing back from Maine Melody in April.

Unfortunately, after months of waiting, Selena received a rejection letter from Maine Melody University. Due to a lack of finances, she attended her local community college which did not have a musical program.

One year later, Selena’s high school friend Annie Swift came to Selena’s house after attending an open house at Maine

Melody University. Annie was also interested in applying to the school’s music department. Annie showed Selena materials that she received at the open house, which included a booklet and a CD about the music department. The CD contained a music video montage about the school, and it was being sold to raise money for the music department. The video was called “Spirit and Hope.”

While watching the video, Selena was flabbergasted! She recognized the background music as her song, “Heart of Hope.” The song played throughout the entire video while images of the school, the music department, and Maine Melody students singing the song flashed across the screen. She played the video over and over again until she was 100% sure that these were her lyrics. She was shocked that the school had rejected her application but used her talents to promote and raise money for the school.

The next day, Selena contacted a copyright attorney to sue Maine Melody University for using her song without her permission.

ISSUE

Is Maine Melody University liable to Selena Soul for plagiarizing her song and using it to raise money for the music department?

WITNESSES

For the Plaintiff

Selena Soul
Kelly Key

For the Defense

Ellen Elite
Peter Patent

WITNESS STATEMENTS

Testimony of Selena Soul

My name is Selena Soul and I am 19 years old. I live in Columbus, Ohio and I am currently a student at Ohio Community College. I live with my mother and grandmother and I work part-time in a music store. As a child, I was faced with many challenges because my father died when I was five years old. My mother works full time and we live a very modest life. At the age of six, my mother noticed that I enjoyed singing. She believed that music seemed to soothe the grief I felt from my father's loss, so she enrolled me in voice and guitar lessons with a local music instructor.

Throughout my years at Columbus High School, I performed in the school band and I won many awards as the top guitarist in the school. I also performed in numerous school plays. These years of performing contributed to my musical expertise and inspired me to follow my dream of attending a college dedicated to music. When it came time to apply to college, I had my eye on Maine Melody University, the leading music school in the country which requires a formal audition upon acceptance to the school.

I started working on an original song for my audition in my sophomore year. With the help of my high school music teacher, Kelly Key, I composed the lyrics for a song called "Heart of Hope." In October of my senior year, I submitted an application to Maine Melody University. They reviewed my application and asked me to come in for an interview and a live performance. I was so excited to perform my song for the audition.

On November 12, 2016, I arrived at

Maine Melody University for my audition. I was greeted by the Music director, Ellen Elite, and I was escorted into a large auditorium. Before the audition began, Ms. Elite asked me to sign a form which allowed the school to record and review my audition. I quickly signed it. I thought my performance went well and I was confident that the judges were pleased with my performance. However, a few months later, I received a rejection letter explaining why I did not get into Maine Melody University.

A year later, my friend Annie Swift came to my home for a visit after attending an open house at Maine Melody University. Annie is a senior at Columbus High School and she was interested in attending the school. She showed me the materials she received at the open house, which included a booklet and a CD that contained a music video which the school was selling to raise money for the music department. The video was called "Spirit and Hope."

We watched the CD together, which contained a music video montage about the school. I was flabbergasted! I instantly recognized the background music for the video as my song from the audition. My song played throughout the entire video while images of the school, the music department, and Maine Melody students singing the song flashed across the screen. I played the video over and over to make sure that it was the same music and lyrics. The name of the song and a few of the lyrics were different, but I was certain it was my song. I called my high school teacher, Ms. Key, and had her listen to the song. She helped me write it, and confirmed that it was, in fact, my song.

Although, at my audition, I signed a waiver stating that my audition could be

recorded for review purposes in the application process, I never gave the school permission to use my song in its promotional materials. I was devastated that my song was stolen by Maine Melody University. The next day, I contacted a copyright attorney.

Testimony of Kelly Key

My name is Kelly Key and I am a music teacher at Columbus High School. I have been working as a music teacher for 28 years.

I met Selena Soul when she was a freshman at Columbus High School. She is a very talented and bright young woman. She became one of my top music students at Columbus. When she expressed interest in attending Maine Melody University in her sophomore year, I knew it would be a challenge. Maine Melody has the top music department in the country.

Selena decided to write an original song for her audition for admission to Maine Melody. I knew the admission standards were very high, so I believed auditioning with an original song would help Selena stand out amongst her competition. She decided to write about her experiences in life growing up without a father, and how her family struggled financially after his death. Selena wrote a beautiful song about aspiring for a better future, and she called it “Heart of Hope.” I helped her put the finishing touches on it, and it turned out beautifully! I am very proud of her accomplishment. Unfortunately, Selena did not get accepted to the school.

In November 2017, Selena contacted me about a video she watched with her friend Annie Swift. She claimed that Maine

Melody had used her song in a CD they published to raise money for the music department. She was very upset and asked if she could play it for me. Once I heard it, I knew it was her song, even though the title of the song and some of the words were different.

Testimony of Ellen Elite

My name is Ellen Elite and I am currently the music director at Maine Melody University. Prior to becoming the music director, I was a music professor at the college for over 25 years. I am in charge of admissions into our prestigious music program. Maine Melody University is rated the top music school in the United States. Entry into our music department is highly competitive.

I met Selena Soul when she auditioned for admission in 2016 for our music program. When she entered the room for the audition, I knew right away that she wouldn’t fit into our program; she did not possess the same confidence and finesse as the students that attend our school. Maine Melody has very high standards and admission to our school is very competitive. Although she could potentially be a good musician, she didn’t make the cut. The song itself was good, but Selena’s performance was sub-par.

Maine Melody had the right to use the song in its promotional materials. Prior to the audition, I requested that Selena sign a waiver form that is required from all applicants. The waiver states that Maine Melody had the right to record and use the audition for any purpose. Furthermore, we made modifications to the lyrics and title so that the song would relate to our school

rather than to any individual. The school was well within its rights to create this promotional video.

Testimony of Peter Patent

My name is Peter Patent and I am a copyright expert. I graduated from Harvard with a bachelor’s degree in law and business. After graduation, I worked for 12 years as an agent for the United States Copyright Office and I became proficient in the United States Copyright rules and regulations. I now have my own consulting firm and I assist clients with copyright infringement issues.

In this case, Maine Melody University requested that Selena Soul sign a waiver for the recording of her audition. A waiver is a document that allows one party to use another’s original work without the threat of legal action. The waiver, in this case, stated as follows: “I hereby grant Maine Melody University the right to record my audition on November 12, 2016, for the purpose of reviewing my application for their music department and any other related purposes.”

This constitutes a release for the school to use what is contained in the recording as the school sees fit. Unfortunately, Selena signed away her rights to the song, even though she may not have realized it.

INSTRUCTIONS

The plaintiff must prove by a preponderance of the evidence that the defendant Maine Melody University is liable to Selena Soul for plagiarizing her song “Heart of Hope.”

SUB-ISSUES

1. Should Maine Melody University have explained the waiver to Selena before she signed it?
2. Was the language of the waiver specific enough to have granted Maine Melody University the right to use Selena’s song?
3. Should Selena have read the language of the waiver before she signed it?
4. Is Selena entitled to recover the money that the school raised for the music department?

CONCEPTS

1. Plagiarism.
2. Copyright.
3. Waiver.

LAW

Plagiarism is the practice of claiming or implying original authorship of someone else’s original or creative work, without adequate acknowledgment. A person or entity who plagiarizes another’s work is liable to the author for any money derived from the unlawful publication.

P A I N E T . B R U S H v . O L L Y P A S T E L A S K E T C H Y S K E T C H



SCHOOL

Bloomfield Middle
Bloomfield
Grade 8
Honorable Mention

TEACHER

Lisa Crammer

STUDENTS

Mikaella Alcoran
Diego Baez
Jaeden Leus
Jacob Mudd
Ahmad Umar

FACTS

A popular internet Jettuber named Paine T. Brush posts tutorials online teaching individuals how to draw. Paine has over one million followers on his channel. He makes drawing fun and easy for anyone who watches by breaking it down into simple-to-follow steps. The videos teach individuals how to draw and paint common everyday things such as trees, flowers, household items, and animals. Other artists then have the option of sharing the photo of their finished product to compare and showcase their work with other followers.

Most recently, Paine posted a video tutorial on how to draw a kapok tree. The tutorial demonstrates how to draw the tree itself and gives a few other ideas, too. He usually leaves the other details such as the color, shading, and landscape up to the viewer.

Olly Pastel is an aspiring art student who often uses the internet for inspiration. He is a regular follower of Paine’s channel and is constantly searching for new and innovative ways to improve his practice. Olly Pastel followed the tutorial for the kapok tree and was quite impressed with his design. At the conclusion of the video, he added his own unique shading and color. He also added some more detail to the bark of the tree and other kapok trees to the background.

Once his piece was complete, he posted a picture of his work on the comment section of Paine T. Brush’s channel to gain feedback from other viewers. Many of them enjoyed his photo and one individual, Artika Lector, even commented that she would have loved to buy it if it was for sale. The Terms and Conditions of Jettube specifically state that

individuals may not make monetary exchanges of any kind. For this reason, the two then exchanged personal information to be in private contact via email. They agreed on a price of \$1,000.00.

Artika wired him the money using a separate app, and he immediately sent the painting to her. When Paine noticed the comment from Artika, he grew upset that Olly Pastel was making money off a painting that was created of his original drawing of a kapok tree.

ISSUE

Is Olly Pastel liable for plagiarism of Paine’s original painting of the kapok tree?

WITNESSES

For the Plaintiff

Paine T. Brush
Meghan Monet

For the Defense

Olly Pastel
Artika Lector

WITNESS STATEMENTS

Testimony of Paine T. Brush

I am Paine T. Brush, and I run a decently large Jettube channel that teaches people how to paint/draw and improve their skills. I show them how to paint certain objects that look gratifying to the eye with easy step-by-step instructions. I give them tips on how to make it better along the way, too. They all follow the steps that I make by watching and pausing the video, all from the convenience of their very own home. My followers usually post their own versions of my tutorial paintings in the comments section or on my fan website,

and I enjoy seeing the creativity from my viewers.

The most recent lesson that I had painted, was a very specific, detailed, and original version of a kapok tree. Everyone loved the video! The video had a lot of views and likes, so I thought it would be a good idea to see what everyone thought about my design. While I was reading the comments section of the kapok tree video, one of my followers, named Olly Pastel, posted a picture of his completed painting of my kapok tree. I was proud that I was doing a good job of teaching my fans, and decided to read more of the comments.

While I read further into the comments, I saw that a Jettube user named Artika Lector wanted to purchase the painting that Olly Pastel had made and offered him money for it. At first, I didn't know what to think about it, and I just brushed it off. Later on, I realized that it could be classified as plagiarism since he didn't credit me for the painting and copied my original design. It was also a direct violation of the Terms and Conditions of the website.

I appreciate my followers showing me their improvements in their art, but definitely not when they are profiting from my paintings. I reached out to him and politely told him that he should have given me credit for the painting before he sold it, but Olly Pastel had already made the deal. I asked him if he was willing to credit me a portion of the money he earned but he refused. He literally took my kapok tree and added shades to it.

Testimony of Meghan Monet

I am Meghan Monet, the CEO of Jettube. I have been working at Jettube as the CEO

for five years now. I was made aware of an issue when Paine T. Brush emailed me, informing me that his work had been copied and then sold. In our Terms of Service, it states, "I agree not to steal another creators' content without permission." It also states that "individuals may not make monetary exchanges of any kind."

I believe that Olly Pastel broke these rules when he sold his painting of the kapok tree. The original idea of the kapok tree and how to create it was originally posted by Paine and his Jettube channel. Therefore, Olly Pastel violated the Terms and Conditions of the website. Olly should have contacted him prior to agreeing to sell his artwork. That way, Paine would have been notified and aware of the fact that someone else was profiting off of a piece that was inspired by his original idea. Alternatively, he jumped the gun and sold it instantly without thinking about the creator. Paine could have negotiated with Olly Pastel, and then he could have received a portion of the money Olly made off of the picture. Thus, Olly Pastel should give up the money he gained from his painting or give at least a portion of it to Paine.

Testimony of Olly Pastel

I am Olly Pastel, an aspiring art student who often uses the internet to help me get inspiration for my works of art. When I was younger, I never really liked art, but I had started to get interested in it after I began to watch videos from Paine T. Brush, a Jettuber who made videos about how to paint and draw.

One day, I was watching his video on how to draw a kapok tree, and decided to

paint my own version of it. I followed the tutorial and then changed it considerably. For example, I made the tree a bit smaller, made the bark wider, curled the branches, and made the colors lime and orange instead of green and brown. I also added a lot of similar trees in the background that had the same design for the leaves as Paine's. I posted it, and someone said that they liked it and was interested in buying the piece of artwork I posted under Paine's comments.

Artika Lector, a collector of nature paintings, expressed interest in purchasing my painting of the kapok tree. She told me that she wanted to use the painting to decorate her home, which meant that it wasn't going to be sold to anyone else. I agreed, exchanged personal information with Artika, and received \$1,000.00 for my work in a separate app.

I may have gotten my original idea from Paine, but I made the painting my own. Why should it be considered plagiarism if the video is posted on Jettube for everyone to use for their own purposes, especially for someone who runs a channel to inspire others?

Testimony of Artika Lector

I am a collector of nature paintings, and I was looking for a certain painting of a tree to complete my fabulous collection. One day, while browsing various art channels on Jettube, I came upon a painting of a kapok tree made by Paine T. Brush. I started to browse the comments and saw a completed painting of a kapok tree made by another follower named Olly Pastel. I was astounded by the beautiful painting and praised him for it in the comments. I also wrote that I

would have bought it if it was for sale. He soon answered me and said he would sell it for the right price. Olly and I then shared personal information to keep in contact via email.

Eventually, we agreed that he would give me the painting for \$1,000.00. I was aware that Olly Pastel took the painting from the internet, specifically from a Jettuber that does drawing tutorials. I don't think that Olly Pastel plagiarized the painting, but rather used the internet as inspiration. If Paine posted a drawing tutorial for the public to see, then it would not be plagiarism for someone to draw the same thing.

I am aware that the Terms and Conditions on Jettube state not to give out or ask for personal information or make monetary exchanges, however, we did not violate either of these conditions. We exchanged emails and were in contact on a completely different app/website than Jettube. To think that the painting that I have is plagiarism is absurd and shocking.

INSTRUCTIONS

Paine T. Brush must prove by a preponderance of the evidence that Olly Pastel committed plagiarism by selling the painting of the kapok tree as an original and solo creation.

SUB-ISSUES

1. Is it plagiarism if the video is posted online to teach the public how to draw it?
2. Does it count as "giving credit" if the post was under the original drawing tutorial?
3. Did Olly Pastel break the Terms and

Services, by sharing personal info on the website?

4. Is it considered plagiarism if Olly painted the picture himself?

CONCEPTS

1. Preponderance of the evidence.
2. Credibility of witnesses.
3. Definition of plagiarism.

LAW

1. Whoever purposely practices the wrongful appropriation and publication of another's own ideas, expression of ideas, artistic, musical, or mechanical, and publishes said materials for profit, shall be liable to the original author for any monies, royalties, or recognition derived from that publication or sale.
2. Plagiarism is the practice of claiming, or implying, original authorship (or incorporating material from) someone else's written or creative work, in whole or in part, into one's own without adequate acknowledgment. Unlike cases of forgery, in which the authenticity of the writing, document, or some other kind of object, itself is in question, plagiarism is concerned with the issue of false attribution.
3. To be liable for plagiarism, it is not necessary to exactly duplicate another's literary work, it being sufficient if unfair use of such work is made by the lifting of a substantial portion.
4. "Beyond intellectual property issues (e.g., copyright and trademark), the plagiarist committed fraud. The plagiarist knows that he is not the true author of the work, yet the plagiarist willfully and deliberately puts his name

on the work (thereby concealing the true author's name), then the plagiarist submits the work as an inducement to some kind of reward (e.g., good grade on a term paper, awarding a graduate degree for a thesis or dissertation, obtaining a scholarship, winning a prize in a science fair, ...)." <https://www.checkforplagiarism.net/?mobile=0>.

JUNGLE JUMBLE

SMITH v. TOYGORILA

SCHOOL

Millstone Middle
Millstone Township
Grade 8
Honorable Mention



TEACHER

Mary O'Rourke
Suman Kapoor

STUDENTS

Gabriella Biello
Abhilash Bodala
Gianna Giacolona
Adrianna Hagendorf
Eric Iannaccone

Prisha Kupsad
Shane Patel
Dylan Quinn
Brandon Rodriguez

FACTS

Mrs. Smith attempts to go to the toy website called ToyGorilla.com. She misspelled the name of the official website as ToyGorila.com (with only one L). She is purchasing a toddler Ride-On-Rhino for her three-year-old son Timmy Smith. Instead, she ends up purchasing a Ride-On-Rhino from a similar website, ToyGorila (with one L), for \$49.99. This turns out not to be the brand that she thought she was purchasing.

Mrs. Smith assembles the toy according to the instructions. Timmy rides the toy in the house, the front wheel axle breaks and Timmy goes flying into the edge of a coffee table, breaking his nose, causing him to have a complete rhinoplasty, or nose surgery. Mrs. Smith claims that ToyGorila (with one L) cybersquatted. Dictionary.com defines cybersquatting as “The registration of a commercially valuable Internet domain name, as a trademark, with the intention of selling it or profiting from its use.”

ISSUE

Did ToyGorila (with one L) cybersquat, which resulted in the injury of Timmy Smith?

WITNESSES

For the Plaintiff

Mrs. Smith
Robert Walker

For the Defense

Matthew Thompson
Darrel D’Antonio

WITNESSES STATEMENTS

Testimony of Mrs. Smith

For several years, I have been a customer

of ToyGorilla, purchasing toys for my nieces and nephews, and recently for my son Timmy. During that time, I had learned that their products are of the utmost quality. So, one day I decided I wanted to get a Ride-On-Rhino for Timmy’s third birthday. I guess I made a typo while on the search engine, thinking I had typed both of the Ls, when I had only typed one, and I ended up on ToyGorila, the website (with one L). Normally, on a rip-off website, it would be easy to spot whether it was the real site. However, this fake site copied the real site word-for-word. They showed little, if any, hints that they were a different site. When Timmy rode the toy and it broke, I tried to contact customer service and then I realized that this was not the real site. And now, because of a fake company who doesn’t give a care in the world for its customers, my son is permanently injured.

Testimony of Robert Walker

I am the director of Internet Sales for ToyGorrilla. ToyGorilla, Inc. is very well known for our flawless, high-quality toy products. We donate a large amount of our toys to Toys for Tots every holiday season. We have been satisfying our customers with our toys since 1997. Our toymakers craft every product perfectly and our packers take gentle care when packing them up for shipment, to ensure that when they arrive to one of our valued customers, the toy is in pristine condition. We are proud of our handmade toys, with materials from certified suppliers. ToyGorila (with one L) has stolen our famous, reputable company name. They are using a very deceiving domain name, similar to ours, to lure our loyal and/or potential customers away from

our company. They are profiting from our customers who have been swindled into thinking they're buying a product from a company who would never do anything to harm its customers. This knockoff site is compromising quality for profit, something we would never do. And now, their crimes have resulted in a serious injury.

Testimony of Matthew Thompson

I am the website designer for ToyGorila. In all my years of designing websites, I have never run into any problems with my website designs. Every design was specifically tailored to each company. I make sure that every customer is required to read the terms and conditions of their purchase and then agree to it twice to complete their transaction, so they've fully read all of the warnings, risks, and agreements of what they are choosing to buy! Our company, ToyGorila, takes you to our home page when you Google our name. Mrs. Smith typed our website name and bought the Ride-On-Rhino off of our independent and unique website, knowing full well that she was buying from us and not our competitor ToyGorilla (with two Ls). We have our name spelled very clearly in several places in our website. We even have the name plastered on the very top of the home page in bold letters. Mrs. Smith read our name and the complete terms and agreements clearly posted on our website more than once and agreed to continue with the purchase.

Testimony of Darrel D'Antonio

I've ordered from this website various times. I even left a few reviews after purchasing from the website—all 5 stars! I

bought the Ride-On-Rhino for my two-year-old daughter Eva. She uses it constantly around the house - it's her favorite toy! I even recommended it to a few of my colleagues that have younger children. They too purchased the Ride-On-Rhino from ToyGorila.com and have only sent positive reviews back. The quality of ToyGorila's products are exceptionally high. I have had no problems ordering from this website. I've even purchased other items such as the Crocodile-Cradle and a Hippity-Hop Frog Trampoline, both of which arrived in perfect condition. I don't think anyone can honestly say ToyGorila was trying to deceive customers or profit from the competitor's brand, ToyGorilla.com (with two Ls).

INSTRUCTIONS

Mrs. Smith must prove, by a preponderance of the evidence, that ToyGorila (with one L) cybersquatted: "the registration of a commercially valuable Internet domain name, as a trademark, with the intention of selling it or profiting from its use." (Dictionary.com)

SUB-ISSUES

1. Was Timmy supervised?
2. Was the toy assembled according to the directions?
3. Was Timmy wearing all the appropriate safety gear?
4. Were all the safety precautions taken when used?
5. Were all the age/weight/height restrictions followed?
6. Were the two websites easy to distinguish from one another?

CONCEPTS

1. Circumstantial evidence vs. direct proof.
2. Credibility of witnesses.
3. Burden of proof; preponderance of the evidence.
4. Negligence.

LAW

Anticybersquatting Consumer Protection Act (ACPA)- 15 U.S.C. § 1125(d) is a U.S. law enacted in 1999 that established a cause of action for registering, trafficking in, or using a domain name confusingly similar to, or dilutive of, a trademark or personal name.



NEW JERSEY STATE BAR FOUNDATION

One Constitution Square
New Brunswick, NJ 08901-1520
1-800-FREE LAW
njsbf.org

Check out our website
Like us on Facebook
Follow us on Twitter and Instagram

